

# University of Colorado Law Review

---

Volume 86 | Issue 1

Article 1

---

Winter 2015

## Table of Contents (vol. 86, issue 1)

Follow this and additional works at: <https://scholar.law.colorado.edu/lawreview>

---

### Recommended Citation

*Table of Contents (vol. 86, issue 1)*, 86 U. COLO. L. REV. (2015).

Available at: <https://scholar.law.colorado.edu/lawreview/vol86/iss1/1>

This Front Matter is brought to you for free and open access by the Law School Journals at Colorado Law Scholarly Commons. It has been accepted for inclusion in University of Colorado Law Review by an authorized editor of Colorado Law Scholarly Commons. For more information, please contact [rebecca.ciota@colorado.edu](mailto:rebecca.ciota@colorado.edu).

UNIVERSITY OF  
**COLORADO LAW REVIEW**

---

*Volume 86, Issue 1*

*2015*

---

**CONTENTS**

ARTICLES

- Playing Cowboys and Iranians: Selective Colorblindness and the Legal Construction of White Geographies*  
John Tehranian.....1
- Congress and Indians*  
Kirsten Matoy Carlson .....77
- Preventing Government Shutdowns: Designing Default Rules for Budgets*  
David Scott Louk & David Gamage.....181

CASENOTES AND COMMENTS

- Getting Even Less than What They Paid for: The Plight of Generic Drug Consumers Under the Levine-Mensing Dichotomy*  
Vikrama Chandrashekar.....259
- Recall Me Maybe? The Corrosive Effect of Recall Elections on State Legislative Politics*  
Zachary J. Siegel.....307
- An Overreaction that Destroyed an Industry: The Past, Present, and Future of U.S. Satellite Export Controls*  
Kurtis J. Zinger.....351

UNIVERSITY OF COLORADO LAW REVIEW

UNIVERSITY OF COLORADO LAW REVIEW (U.S.P.S. 651-080, ISSN 0041-9516)  
Published quarterly by the University of Colorado Law Review,  
320-D Wolf Law Building, 401 UCB, Boulder, CO 80309-0401.

Periodicals postage paid at Boulder, Colorado,  
and at additional mailing offices.

POSTMASTER: Please send address changes to University of Colorado  
Law Review, 320-D Wolf Law Building, 401 UCB,  
Boulder, CO 80309-0401.

Copyright 2014 by the University of Colorado Law Review.  
An association of students, sponsored by the  
University of Colorado Law School.

Published as the ROCKY MOUNTAIN LAW REVIEW from 1928 to 1962.

---

### *Subscriptions*

Current subscription prices: domestic and Canada, \$40.00 per volume; foreign, \$45.00 per volume; single issues, \$15.00. Colorado subscribers must pay sales tax in addition to the purchase price. Contact the Office Manager for the correct payment information before remitting a check.

Subscriptions are entered for an entire volume only and are payable in advance. A check should accompany an order. All subscriptions must be renewed on a yearly basis. Unless a claim for non-receipt of an issue is made within six months after the mailing date, that issue will not be supplied free of charge. Back issues are available.

All subscription correspondence should be addressed to the University of Colorado Law Review, 320-D Wolf Law Building, 401 UCB, Boulder, CO 80309-0401. We may be reached by telephone, 303-492-6145; fax, 303-735-0169; or email, [cololrev@colorado.edu](mailto:cololrev@colorado.edu). The *Colorado Law Review* web page is located at <http://lawreview.colorado.edu>.

### *Manuscripts*

The *Colorado Law Review* welcomes the submission of unsolicited manuscripts. The *Colorado Law Review* uses ExpressO, an electronic submission service run by the Berkeley Electronic Press, which can be reached at <http://www.bepress.com>. If you are not affiliated with a university, you may submit your article through [bepress.com](http://www.bepress.com) directly. The *Colorado Law Review* does not accept direct submissions by mail or e-mail. Manuscripts should be double-spaced and no longer than seventy-five pages. Citations should conform to *The Bluebook: A Uniform System of Citation* (19th ed. 2010).



UNIVERSITY OF  
**COLORADO LAW REVIEW**

---

*Volume 86, Issue 1*

*2015*

**BOARD OF EDITORS**

*Editor-in-Chief*

KATHLEEN SNOW

*Managing Editor*

KURTIS J. ZINGER

*Executive Editor*

ZACHARY J. SIEGEL

*Production Editors*

STACY BROWNHILL

ANDREW GOMEZ

CAREY DeGENARO

*Articles Editors*

ROBERT H. STEINHOFF

ALEXANDER D. WHITE

EMILYN G. WINKELMEYER

*Casenote & Comment Editors*

MICHAEL BOHAN

KARL HOFFMAN

JOHN MICHAEL GUEVARA

ALEXANDRA KINSELLA

*Resource Editor*

KATIE AHLES

**ASSOCIATE EDITORS**

CASSADY ADAMS

VIKRAMA CHANDRASHEKAR

ALEXANDER HAYNES

AMY MOORE

DAN WEISS

VANYA AKRABOFF

CAYLA CRISP

SHANNON KERR

K. CASEY STRONG

GABRIEL BOUVET-BOISCLAIR

WILL DAVIDSON

WILL KIDNEY

LIZ SULLIVAN

**MEMBERS**

KAITLIN CLARK

ALLISON DALEY

SAMANTHA FORD

REID GALBRAITH

ABBY HARDER

HOLLY LEESER

LARRY MYERS

JOSHUA PENS

DUSTIN RICKETT

CHRISTOPHER SYLVAIN

LAUREN CONCEPCION

STARLA DOYAL

EMILY FOSTER

AMBER GONZALES

MARY KAPSAK

E. CABELL MASSEY

WILLIAM NEMIROW

JESSICA PINGLETON

MICHAEL SIMPSON

KARTHIK VENKATRAJ

CAITLIN M. CRONIN

NICHOLAS EATON

B. AUSTIN GADDIS

AMELIA GUNNING

JENNIFER KNIGHT

CAITLIN MILLER

GURNEY PEARSALL

JACOB REY

ANN STANTON

LISA C. WILLCOX

**OFFICE MANAGER**

SARA SCHNITTGRUND

**FACULTY ADVISOR**

HAROLD BRUFF

UNIVERSITY OF COLORADO LAW REVIEW

# THE UNIVERSITY OF COLORADO LAW SCHOOL

## FACULTY, 2014–2015

### ***Deans***

PHILIP J. WEISER, *Dean, Charles Inglis Thompson Professor of Law, and Faculty Director and Founder of the Silicon Flatirons Center for Law*. B.A., Swarthmore College; J.D., New York University.

MARK LOEWENSTEIN *Associate Dean for Faculty Development and Professor of Law*. A.B., University of Illinois; J.D., University of Illinois;

PAUL OHM, *Associate Dean for Academic Affairs and Associate Professor of Law*. B.S./B.A., Yale University; J.D., University of California, Los Angeles.

KRISTEN A. CARPENTER, *Associate Dean for Research and Professor of Law*. B.A., Dartmouth College; J.D., Harvard Law School.

WHITING LEARY, *Senior Assistant Dean for Students*. B.A., Williams College; J.D., University of Colorado.

MARCI FULTON, *Assistant Dean for Outreach, Engagement, and Alumni Relations*. B.A., University of Colorado; J.D., University of Colorado.

KRISTINE M. JACKSON, *Assistant Dean for Admissions and Financial Aid*. B.S., University of North Carolina; J.D., George Mason University.

TODD ROGERS, *Assistant Dean for Career Development*. B.S., Trinity University; J.D., University of Texas.

### ***Emeritus Faculty***

NORMAN F. AARONSON, *Clinical Professor Emeritus, Legal Aid and Defender Program*. A.B., Brandeis University; J.D., Boston University.

EMILY M. CALHOUN, *Professor Emeritus*. B.A., M.A., Texas Tech University; J.D., University of Texas.

HOMER H. CLARK, JR., *Professor Emeritus*. A.B., LL.D., Amherst College; LL.B., LL.M., Harvard University.

JAMES N. CORBRIDGE, JR., *Professor Emeritus*. A.B., Brown University; LL.B., Yale University.

TED J. FIFLIS, *Professor Emeritus*. B.S., Northwestern University; LL.B., Harvard University.

H. PATRICK FURMAN, *Clinical Professor Emeritus, Legal Aid and Defender Program, and Director of Clinical Programs*. B.A., J.D., University of Colorado.

DAVID S. HILL, *Professor Emeritus*. B.S., J.D., University of Nebraska.

J. DENNIS HYNES, *Professor Emeritus*. B.A., LL.B., University of Colorado.

HOWARD C. KLEMME, *Professor Emeritus*. B.A., LL.B., University of Colorado; LL.M., Yale University.

WILLIAM T. PIZZI, *Professor Emeritus*. A.B., Holy Cross College; J.D. Harvard University; M.A. University of Massachusetts.

PETER N. SIMON, *Professor Emeritus*. B.S., M.D., University of Wisconsin; J.D., University of California, Berkeley.

NORTON L. STEUBEN, *Professor Emeritus*. A.B., J.D., University of Michigan.

ARTHUR H. TRAVERS, JR., *Professor Emeritus*. B.A., Grinnell College; LL.B., Harvard University.

MICHAEL J. WAGGONER, *Professor Emeritus*. A.B., Stanford University; LL.B. Harvard University.



***Tenured and Tenure-Track Faculty***

- J. BRAD BERNTHAL, *Associate Professor of Law, Faculty Director of the Silicon Flatirons Entrepreneurship Initiative, and Director of LL.M Program in Entrepreneurial Law*. B.A., University of Kansas; J.D., University of Colorado.
- FREDERIC BLOOM, *Associate Professor of Law*. B.A., Washington University in St. Louis; J.D., Stanford University.
- WILLIAM BOYD, *Associate Professor of Law and Director of the Governor's Climate and Forests Task Force Project*. B.A., University of North Carolina, Chapel Hill; J.D., Stanford University; Ph.D., University of California, Berkeley.
- HAROLD H. BRUFF, *Nicholas Rosenbaum Professor of Law*. B.A., Williams College; J.D., Harvard University.
- PAUL F. CAMPOS, *Professor of Law*. A.B., M.A., J.D., University of Michigan.
- DEBORAH J. CANTRELL, *Associate Professor of Law and Director of Clinical Programs*. B.A., Smith College; M.A., University of California, Los Angeles; J.D., University of Southern California.
- MING CHEN, *Associate Professor of Law*. B.A., Harvard University; J.D., New York University; Ph.D., University of California, Berkeley.
- RICHARD B. COLLINS, *Professor of Law*. B.A., Yale College; LL.B., Harvard University.
- JUSTIN DESAUTELS-STEIN, *Associate Professor of Law*. B.A., University of North Carolina, Asheville; J.D., University of North Carolina, Chapel Hill; LL.M., Harvard University.
- KRISTELIA GARCIA, *Associate Professor of Law, Faculty Director of the Content Initiative at the Silicon Flatirons Center for Law*. B.A., Columbia University; J.D., Yale University.
- WAYNE GAZUR, *Associate Professor of Law*. B.S., University of Wyoming; J.D., University of Colorado; LL.M., University of Denver.
- ERIK GERDING, *Associate Professor of Law*. A.B., Duke University; J.D., Harvard University.
- AYA GRUBER, *Professor of Law*. B.A., University of California at Berkeley; J.D., Harvard University.
- LAKSHMAN D. GURUSWAMY, *Nicholas Doman Professor of International Environmental Law*. LL.B., Sri Lanka; Ph.D., University of Durham, U.K.
- MELISSA HART, *Professor of Law and Director of the Byron R. White Center for the Study of American Constitutional Law*. B.A., Harvard-Radcliffe College; J.D., Harvard University.
- DAVID HASEN, *Associate Professor of Law*. B.A., Reed College; Ph.D. Harvard University; J.D. Yale University.
- JENNIFER S. HENDRICKS, *Associate Professor of Law and Co-Director of the Juvenile and Family Law Program*. B.A., Swarthmore College; J.D., Harvard University.
- PETER HUANG, *Professor of Law and DeMuth Chair*. A.B., Princeton University; S.M., Harvard University; J.D., Stanford University; Ph.D., Harvard University.
- SHARON JACOBS, *Associate Professor of Law*. B.M., Cleveland Institute of Music, M.M., Julliard/Columbia University Exchange Program; J.D. Harvard Law School.
- SARAH A. KRAKOFF, *Professor of Law and Schaden Chair in Experiential Learning*. B.A., Yale University; LL.B., University of California, Berkeley.
- ALEXIA BRUNET MARKS, *Associate Professor of Law*. B.A., Colgate University; M.S., Purdue University; Ph.D., Purdue University; J.D., Northwestern University.

DAYNA BOWEN MATTHEW, *Professor of Law*. A.B., Harvard-Radcliffe College; J.D., University of Virginia.

SCOTT A. MOSS, *Associate Professor of Law*. B.A., M.A., Stanford University; J.D., Harvard University.

CHRISTOPHER B. MUELLER, *Henry S. Lindsley Professor of Procedure and Advocacy*. A.B., Haverford College; J.D., University of California, Berkeley.

ROBERT F. NAGEL, *Ira C. Rothgerber Professor of Constitutional Law*. B.A., Swarthmore College; J.D., Yale University.

HELEN NORTON, *Associate Professor of Law*. B.A., Stanford University; J.D., University of California, Berkeley.

SCOTT R. PEPPET, *Professor of Law*. B.A., Cornell University; J.D., Harvard University.

CAROLYN B. RAMSEY, *Professor of Law*. B.A., University of California, Irvine; A.M., J.D., Stanford University.

PIERRE J. SCHLAG, *University's Distinguished Professor and Byron White Professor of Constitutional Law*. B.A., Yale University; J.D., University of California, Los Angeles.

AMY J. SCHMITZ, *Professor of Law*. B.A., Drake University; J.D., University of Minnesota.

ANDREW SCHWARTZ, *Associate Professor of Law*. Sc.B., Brown University; J.D., Columbia University.

ANNA SPAIN, *Associate Professor of Law*. B.A., Denison University; J.D., Harvard University.

MARK SQUILLACE, *Professor of Law*. B.S., Michigan State University; J.D., University of Utah.

HARRY SURDEN, *Associate Professor of Law*. B.A., Cornell University; J.D., Stanford University.

MARIANNE WESSON, *Professor of Law and Wolf Nichol Fellow*. A.B., Vassar College; J.D., University of Texas.

AHMED WHITE, *Professor of Law*. B.A., Southern University and A&M College; J.D., Yale University.

CHARLES F. WILKINSON, *University's Distinguished Professor and Moses Lasky Professor of Law*. B.A., Denison University; LL.B., Stanford University.

### ***Clinical Faculty***

DEBORAH J. CANTRELL, *Associate Professor of Law and Director of Clinical Programs*. B.A., Smith College; M.A., University of California, Los Angeles; J.D., University of Southern California.

VIOLETA CHAPIN, *Associate Clinical Professor of Law*. B.A., Columbia College; J.D., New York University.

ANN ENGLAND, *Clinical Professor, Legal Aid and Defender Program*. B.A., University of Michigan; J.D., University of Denver.

CARLA FREDERICKS, *Associate Clinical Professor and Co-Director of the American Indian Law Program*. B.A., University of Colorado; J.D., Columbia Law School.

AUDREY HUANG, *Associate Professor of Law and Director of the Getches-Green Natural Resources, Energy and Environmental Law Clinic*. B.A., Johns Hopkins University; J.D., University of Southern California.

BLAKE REID, *Assistant Clinical Professor*. B.A., University of Colorado; J.D., University of Colorado.

COLENE ROBINSON, *Clinical Professor, Juvenile and Family Law*. B.A., Valparaiso University; J.D., Loyola University School of Law, Chicago.

### ***Legal Writing and Appellate Advocacy Faculty***

- AMY BAUER, *Legal Writing Professor*. B.A., Duke University; J.D., William & Mary School of Law.
- AMY GRIFFIN, *Legal Writing Professor and Student Legal Writing Engagement Coordinator*. B.A. Boston College; J.D. University of California, Berkeley.
- DEREK H. KIERNAN-JOHNSON, *Legal Writing Professor*. A.B., Princeton University; J.D., University of Michigan.
- NATALIE MACK, *Legal Writing Professor*. B.S., University of South Carolina; J.D., University of Colorado.
- CORIE ROSEN FELDER, *Legal Writing Professor*. B.A., University of California, Berkeley; J.D., University of California, Los Angeles, School of Law.
- GABRIELLE M. STAFFORD, *Legal Writing Professor*. B.A., University of Pennsylvania; J.D., Boston University.
- TODD M. STAFFORD, *Legal Writing Professor*. B.A., Southern Methodist University; J.D., Duke University.

### ***Law Library Faculty***

- ERIK BECK, *Digital Librarian. Digital Services Librarian*. B.A., University of Wisconsin; M.S.I.S., University of Texas.
- GEORGIA K. BRISCOE, *Associate Director and Head of Technical Services*. B.S., Washington State University; M.A., University of San Diego; M.L.S., University of Michigan.
- NICKHOLAS HARRELL, *Student Services and Outreach Librarian*. B.B.A. Temple University; J.D. Lewis & Clark; M.L.I.S. University of Washington.
- ROBERT LINZ, *Head of Public Services and Associate Director of Law Library*. B.A., Wake Forest University; J.D., University of Florida; M.L.I.S., Florida State University.
- SUSAN NEVELOW MART, *Associate Professor and Director of the Law Library*. B.A., University of California, Santa Cruz; J.D., University of California, Berkeley; M.L.I.S., San Jose State University.
- JOAN POLICASTRI, *Collection Services and Research Librarian*. B.A., University of Colorado, Denver; M.A., University of Colorado, Denver; M.A., University of Denver; Certificate, Denver Paralegal Institute.
- LISA SCHULTZ, *Instructional Services Librarian*. B.A., University of Nebraska-Lincoln; J.D., University of Nebraska-Lincoln; M.L.S., University of Missouri-Columbia.
- KAREN SELDEN, *Catalog Librarian*. B.S., Pennsylvania State University; M.L.S., Simmons College.
- JANE E. THOMPSON, *Head of Faculty Services*. B.A., University of Missouri; M.A., J.D., University of Denver.

## ABOUT THE CONTRIBUTORS

JOHN TEHRANIAN, *Playing Cowboys and Iranians: Selective Colorblindness and the Legal Construction of White Geographies*, is the Irwin R. Buchalter Professor of Law at Southwestern Law School and the Biederman Entertainment and Media Law Institute in Los Angeles, California. His research focuses on racial identity and discrimination, as well as intellectual property.

KIRSTEN MATOY CARLSON, *Congress and Indians*, teaches American Indian Law and Civil Procedure at Wayne State University. Her research combines traditional legal analysis with social science methodologies to examine legal advocacy and reform, focusing particularly on strategies for Indian nations and Indigenous groups.

DAVID SCOTT LOUK, *Preventing Government Shutdowns: Designing Default Rules for Budgets*, is a Ph.D. Candidate in the Jurisprudence & Social Policy Program at University of California, Berkeley and a Juris Doctor Candidate at Yale Law School. He is a Policy Fellow at Yale University's Institution for Social and Policy Studies. His research interests include tax law and policy, distributive justice, constitutional law, international law and relations, and property law.

DAVID GAMAGE, *Preventing Government Shutdowns: Designing Default Rules for Budgets*, focuses his research and teaching on taxation, budget policy, public finance, health care, contract law, and consumer protection law. In addition to his research and teaching, he served as Special Counsel and the Senior Stanley S. Surrey Fellow at the U.S. Department of the Treasury in the Office of Tax Policy.

VIKRAMA CHANDRASHEKAR, *Getting Even Less than What They Paid for: The Plight of Generic Drug Consumers Under the Levine-Mensing Dichotomy*, is a Juris Doctor candidate at the University of Colorado Law School and an Associate Editor for the *University of Colorado Law Review*. Mr. Chandrashekar grew up in Houston, Texas and received a B.A. in both Plan II

Honors and Spanish, as well as a Minor in Philosophy from the University of Texas at Austin.

ZACHARY J. SIEGEL, *Recall Me Maybe? The Corrosive Effect of Recall Elections on State Legislative Politics*, is a Juris Doctor candidate at the University of Colorado Law School and the Executive Editor of the *University of Colorado Law Review*. Mr. Siegel grew up in Colorado and received a B.A. from the University of Colorado, with a double major in International Affairs and Political Science, and Certificates in Leadership and Jewish Studies.

KURTIS J. ZINGER, *An Overreaction that Destroyed an Industry: The Past, Present, and Future of U.S. Satellite Export Controls*, is a Juris Doctor candidate at the University of Colorado Law School and the Managing Editor of the *University of Colorado Law Review*. Mr. Zinger grew up in Tempe, Arizona and earned a B.S. in Economics, a B.S. in Finance, and a B.A. in German Language from Arizona State University.