

NORTHERN KENTUCKY LAW REVIEW



NORTHERN KENTUCKY LAW REVIEW

Volume 35

General Issue

Number 1

COPYRIGHT © NORTHERN KENTUCKY UNIVERSITY
Cite as 35 N. KY. L. REV. (2008)

Northern Kentucky Law Review is published four times during the academic year by students of Salmon P. Chase College of Law, Northern Kentucky University, Highland Heights, Kentucky 41099. Telephone: 859/572-5444. Facsimile: 859/572-6159. Member, National Conference of Law Reviews. All sections which appear in this issue are indexed by the H.W. Wilson Company in its Index to Legal Periodicals. Northern Kentucky Law Review articles are also available on microfilm and microfiche through University Microfilms International, Ann Arbor, Michigan.

Subscription rates are \$35.00 per volume, \$10.00 per individual issue. If a subscriber wishes to discontinue a subscription at its expiration, notice to that effect should be sent to the Northern Kentucky Law Review office. Otherwise, it will be assumed that renewal of the subscription is desired.

Please send all manuscripts to the address given above. No manuscript will be returned unless return is specifically requested by the author.

NORTHERN KENTUCKY LAW REVIEW

Volume 35

General Issue

Number 1

Editor-in-Chief

REBECCA CULL

Executive Editor

GARRETT BACKER

Research Editor

TODD HILGEMAN

Student Articles Editor

PAUL LINDEN

Lead Articles Editor

ANTHONY JAGODITZ

Symposium Editor

JAMIE JONES

Spring Symposium Editor

KRISTYN ELLENA

General Law Editor

MATTHEW HEMMER

Kentucky Survey Issue Editor

MARISA PALMIERI

Technical Editor

BRADLEY AUTREY

Special Topics Editor

MATT NAKAJIMA

Associate Editors

**SARA CAUDILL
TROY DANIELS
DAWN DANLEY-NICHOLS
ASHLEY ENGLAND HUFF
ALEX EWING
ERIC FOSTER
ANGELA GOAD**

**JENNIFER HEDGE
JOSEPH JUENGER
DANIELLE LORENZ
AMANDA MCFARLAND
SARAH MITCHELL
KATIE MORGAN
MISTY NALL**

**JAMES OWEN
BRYCE RHOADES
RHONDA SCHECHTER
AARON STACK
MICHAEL VANCE
NICOLE WILLET-JONES**

Faculty Advisor

PROFESSOR DAVID ELDER

Technical Advisor

PROFESSOR RICHARD BALES

SALMON P. CHASE COLLEGE OF LAW

DENNIS HONABACH, A.B., J.D.
Dean & Professor of Law

LAWRENCE ROSENTHAL, B.A., J.D., LL.M.
Associate Dean of Academic

JENNY YOUNG
Registrar of the College of Law

LISA MOORE, B.A., J.D.
Director of Career Services

MOLLY TAMI
Associate Dean for Student Affairs and Admissions & Director of Pro Bono Services

ASHLEY GRAY, B.A., J.D.
Director of Admissions

KAREN OGBURN, B.A., M.P.A.
Associate Dean for Administration

SHERRIE TURNER, B.S.
Budget Analyst

DAVID H. MACKNIGHT, B.S., J.D.
Associate Dean for Law School Advancement

ADRIENNE NOBLE NACEV, B.A., J.D.
*Interim Director of Academic Support
Visiting Assistant Professor of Legal Writing*

FACULTY

IRENE ALLARD
Career Development Coordinator

JUSTIN AROMAS-JANOSIK
Admissions Officer

RICHARD A. BALES, B.A., J.D.
Professor of Law & Associate Dean of Faculty Development

IAIN BARKSDALE, B.A., M.PHIL., M.L.S., J.D.
*Assistant Professor of Library Services
Assistant Director of Information Technology*

DONNA S. BENNETT, A.B., M.A., M.S.L.S.
*Professor of Library Services & Assistant
Assistant Director for User Services*

JOHN M. BICKERS, A.B., J.D., LL.M.
Assistant Professor of Law

ROGER D. BILLINGS, JR., A.B., J.D.
Professor of Law

GINA BRAY
Admissions Specialist

CAROL BREDEMEYER, A.B., M.S.L.S.
*Professor of Law Library Services &
Assistant Director of Faculty Services*

EDWARD C. BREWER III, B.A., J.D.
Professor of Law

ANNETTE BURKEEN, B.A., J.D.
Assistant Professor of Law

ALEA BROWN, B.A., J.D.
Professor of Law

JUDY BRUN
Faculty Secretary

ZAN BURKHARDT
Faculty Secretary

DAVID A. ELDER, A.B., J.D., LL.M.
Professor of Law

NANCY L. FIRAK B.S., J.D., LL.M.
Professor of Law

CAROL FURNISH, B.A., M.L.S.
*Professor of Library Services &
Assistant Director for Instruction & Outreach*

CHRISTOPHER GULINELLO, B.A., J.D., LL.M.
Associate Professor of Law

JAY HAEHLEN
Computer Support Specialist

THOMAS E. HEARD, B.A., M.L.S., J.D.
*Associate Professor of Library Services &
Associate Director for Library Services*

DAVIDA H. ISAACS, B.A., J.D.
Associate Professor of Law

JANICE ISON
Faculty Secretary

EMILY JANOSKI-HAEHLIN, B.S., J.D., M.L.S.
*Assistant Professor of Library Services
Assistant Director for Research and Online Services*

KATHLEEN JOHNSON, B.A., J.D.
*Assistant Professor &
Associate Director of the Chase Center for
Excellence in Advocacy*

JENNIFER JOLLY-RYAN, B.A., J.D.
Professor of Legal Writing

HEATH ERIC JONES
Library Acquisitions

KENNETH D. KATKIN, A.B., J.D.
Professor of Law

DONALD K. KAZEE, B.A., M.A., J.D.
Associate Professor of Legal Writing

KERRY KIRK
Webmaster

JENNIFER KREDER, B.A., J.D.
Associate Professor of Law

WENDY LANE
Communications Coordinator

SHARLENE LASSITER-BOLTZ, B.A., J.D.
Associate Professor of Law

ALBERTO LOPEZ, B.S., M.S., J.D., J.S.M.
Professor of Law

MICHAEL J.Z. MANNHEIMER, B.A., J.D.
Associate Professor of Law

BARBARA MCFARLAND
*Acting Director of Student Success Initiatives
Assistant Professor*

LJUBOMIR NACEV, B.A., J.D., LL.M.
Professor of Law

LOWELL F. SCHECHTER, B.A., J.D.
Professor of Law

BILLY SCOTT
Faculty Secretary
DAVID SINGLETON, B.A., J.D.
Visiting Professor of Law
WILLIAM SJOSTROM, B.A., J.D.
Associate Professor of Law
PHILLIP SPARKES, B.S., J.D., LL.M.
*Assistant Professor of Law &
Director of Chase Local Government Law
Center*
MARK M. STAVSKY, B.A., J.D., LL.M.
Professor of Law
HENRY L. STEPHENS, JR., B.A., J.D.
*Executive Director of Chase Center for
Excellence in Advocacy*
Professor of Law
DENISE TAYLOR
Academic Specialist

BRAD THOMAS
LIT Lab Manager and Technology Specialist
DONNA TRENKAMP
*Library Specialist for Care and Control
Library Acquisitions and Serials Specialist*
EILEEN UTZ
Assistant to the Dean
JOHN T. VALAURI, B.A., J.D.
Professor of Law
MICHAEL WHITEMAN, B.A., M.S.L.I.S., J.D.
*Associate Dean for Library Services and
Information Technology & Professor of Law
Professor of Law*
CARYL A. YZENBAARD, A.B., J.D.
Professor of Law
CLAUDIA ZAHER, B.A., M.S.L.S.
*Associate Professor of Library Services
Assistant Director for Collection Development,
Acquisitions and Serials*

EMERITI FACULTY

CAROL B. ALLRED, B.A., M.S.L.S., J.D.
ROBERT M. BRATTON, A.B., M.A., J.D.
EDWARD P. GOGGIN, J.D., LL.M.
W. JACK GROSSE, B.S.C., M.B.A., J.D.
MARTIN J. HUELSMAN, B.B.A., J.D.
WILLIAM R. JONES, B.S., M.A., J.D.
KAMILLA M. MAZENAC, A.B., J.D., LL.M.
FREDERICK R. SCHNEIDER, B.A., J.D.
ROBERT L. SEAVER, A.B., J.D.
DAVID C. SHORT, B.A., J.D., LL.M.

ADJUNCT FACULTY

TRACEY R. ADAMS, B.A., J.D.
HON. GREGORY M. BARTLETT, A.B., M.A., J.D.
HON. WILLIAM O. BERTELSMAN, B.S., J.D.
BRYANT BREWER, B.A., J.D.
SHAWN P. BURTON
KELLY CANTRALL, B.A., J.D.
LISA DAVIDSON, B.A., J.D.
KRISTI DAVIDSON, B.A., J.D.
RANBOW FORBES, B.A., J.D.
DOREENA FOX, B.S., J.D.
ROBERT A. GOERING, B.A., J.D.
HON. DANIEL T. GUIDUGLI, B.A., J.D.
MICHAEL HAWKINS, B.A., J.D.
HON. STEVEN R. JAEGER
RICHARD KATZ, B.A., J.D.
JENNIFER LAWRENCE, B.S., J.D.
HENRY E. MENNINGER, B.A., J.D.
THERESA MOHAN, B.A., J.D.
ROBERT MONFORT, B.A., J.D.

WENDY MORRIS CROSS, B.A., J.D.
T. STEPHEN PHILLIPS, A.B., LL.B.
STEPHEN L. RICHEY, B.A., M.Ed., J.D.
KEVIN ROONEY, B.A., J.D.
E. ROBERT SANDERS, B.A., B.S., J.D.
HON. KAREN A. THOMAS, B.A., J.D.
BERNADINE C. TOPAZIO, B.A., M.B.A., J.D.
MARIE TURNER, B.A., J.D.
JAY R. VAUGHN, B.S., J.D.
SYLVIVUS VONSAUCKEN, B.A., J.D.
MARY WAGNER, B.S./B.A., M.S.L.I.S.
HON. WILLIAM J. WEHR, B.A., J.D.
HON. J. GREGORY WEHRMAN, B.A., J.D.
DAVID WHELAN, B.A., J.D.
JUSTICE DONALD C. WINTERSHEIMER, A.B., M.A., J.D.
J. STEPHEN WIRTHLIN, JR., B.A., J.D.
ERIC YOUNG, B.A., M.L.S., J.D.

NORTHERN KENTUCKY LAW REVIEW

Volume 35

General Issue

Number 1

2008 General Issue

ARTICLES

- Aristotle, Law and Justice: The Tragic Hero
Eric Engle..... 1
- Two Sides of the Same Coin: The Memory of the Holocaust at War With a Survivor
Kristen Messer..... 19
- The Show Must Go On: An Egalitarian Approach to Descendibility as Applied to a Prospective
Federal Personaright Statute
Justin Pats 37
- Ignoring Justice: Prosecutorial Discretion and the Ethics of Charging
Mitchell Stephens 53
- Spheres of Sovereignty: Church Autonomy Doctrine and the Theological Heritage of the Separation
of Church and State
Robert Joseph Renaud & Lael Daniel Weinberger 67

NOTES

- In Light of Ahlborn – Designing State Legislation to Protect the Recovery of Medicaid
Expenses from Personal Injury Settlements
Joseph D. Juenger 103
- Pleading Through Hoops – Respondeat Superior in § 1962(c) RICO Suits
Matthew D. Hemmer 127

