PEPPERDINE LAW REVIEW

Volume 46  2018  Number One

CONTENTS

ARTICLES

THE BUSINESS OF GUNS:
THE SECOND AMENDMENT &
FIREARMS COMMERCE ............................................. COREY A. CIOCCHETTI  1

PACTA SUNT SERVANDA
STATE LEGALIZATION OF MARIJUANA
AND SUBNATIONAL VIOLATIONS
OF INTERNATIONAL TREATIES:
A HISTORICAL PERSPECTIVE...........................................BRIAN M. BLUMENFELD  69

NOTES & COMMENTS

STRETCHING THE FIRST
AMENDMENT: RELIGIOUS FREEDOM
AND ITS CONSTITUTIONAL LIMITS
WITHIN THE ADOPTION SECTOR .................................. TRACY SMITH  113

WHEN YOU GIVE A TERRORIST A
TWITTER: HOLDING SOCIAL
MEDIA COMPANIES LIABLE
FOR THEIR SUPPORT OF
TERRORISM .......................................................... ANNA ELISABETH JAYNE GOODMAN  147
PEPPERDINE UNIVERSITY
SCHOOL OF LAW

Administration and Faculty

University Administration
Andrew K. Benton, B.S., J.D., University President
Rick R. Marrs, B.A., Ph.D., M.Div., Provost
Gary A. Hanson, B.S., J.D., Executive Vice President
Keith Hinkle, B.S., J.D., Vice President for Advancement and Public Affairs
Jeff Pippin, B.A., M.B.A., Senior Vice President for Investments

School of Law Administration
Paul L. Caron, A.B., J.D., LL.M., Duane and Kelly Roberts Dean and Professor of Law
Naomi Harlin Goodno, A.B., J.D., Dean of Students and Professor of Law
Victoria Schwartz, B.A., J.D., Associate Dean for Academic Affairs and
Associate Professor of Law
Selina Brandt, B.S., J.D., Associate Dean for Student Success and Associate
Professor of Legal Research and Writing
Danny DeWalt, B.A., M.Div., M.F.T., J.D., Associate Dean for Administration,
Parris Institute for Professional Formation
James Allan Gash, B.A., J.D., Associate Dean for Strategic Planning and
External Relations, Professor of Law and Director of Sudreau Global Justice Program
Michael A. Helfand, B.A., J.D., Ph.D., Associate Dean for Faculty and
Research, Professor of Law and Co-Director, Diane and Guilford Glazer
Institute for Jewish Studies
Phillip Bohl, B.A., J.D., M.L.I.S., Assistant Dean, Information Services
Catherine Kerr Dodds, B.A., M.L.I.S., J.D., Assistant Dean of the Law Library
and Assistant Professor of Law
Shannon Phillips, B.A., Assistant Dean for Admissions, Student Information and
Financial Services

School of Law Faculty
Robert Anderson, B.A., J.D., Ph.D., Associate Professor of Law
Jeffrey Baker, B.A., J.D., Director of Clinical Education and Associate Clinical
Professor of Law
Stephanie Blondell, B.A., J.D., Associate Director, Straus Institute of Dispute
Resolution and Assistant Professor of Law and Practice
Babette E. Bolick, B.A., J.D., Ph.D., Professor of Law
Selina Brandt, B.S., J.D., Associate Dean for Student Success and Associate Professor of Legal Research and Writing
Mireille Butler, J.D., J.D., Associate Professor of Legal Research and Writing
Harry M. Caldwell, B.A., J.D., Director of Trial Advocacy and Professor of Law
Carol A. Chase, B.A., J.D., Professor of Law
Donald Earl Childress III, B.A., M.A., J.D., LL.M., Professor of Law
Robert F. Cochran, Jr., B.A., J.D., Louis D. Brandeis Professor of Law
Jack J. Coe, Jr., B.A., J.D., LL.M., Ph.D., Professor of Law
Tanya Asim Cooper, B.A., M.A., J.D., LL.M., Director of the Restoration and Justice Clinic and Assistant Clinical Professor of Law
Richard L. Cupp, B.A., J.D., John W. Wade Professor of Law
Catherine Kerr Dodds, B.A., M.L.S., J.D., Assistant Dean of the Law Library and Assistant Professor of Law
James Allan Gash, B.A., J.D., Associate Dean for Strategic Planning and External Relations, Professor of Law and Director of Sutro Global Justice Program
Chris Chambers Goodman, B.A., J.D., Professor of Law
Naomi Harlin Goodno, A.B., J.D., Dean of Students, Professor of Law and Co-Director Byrne Judicial Clerkship Institute
Colleen P. Graffy, B.A., M.A., LL.M., Associate Professor of Law
David S. Han, B.A., J.D., Associate Professor of Law and Straus Research Professor
Michael A. Helfand, B.A., J.D., Ph.D., Associate Dean for Faculty and Research, Professor of Law and Co-Director, Diane and Guilford Glazer Institute for Jewish Studies
Nancy Hunt, B.A., J.D., Director, Washington DC Externship Experience and Assistant Professor of Law and Practice
Bernard James, B.G.S., J.D., Professor of Law
Khrista Johnson, A.B., J.D., Associate Professor of Law
Douglas W. Kmiec, B.A., J.D., Caruso Family Chair in Constitutional Law and Professor of Constitutional Law
Kristine S. Knaplund, B.A., J.D., Professor of Law
Mark Kubisch, B.A., J.D., Assistant Professor of Law
Edward J. Larson, B.A., M.A., Ph.D., J.D., University Professor and Hugh & Hazel Darling Chair in Law
Amy B. Levin, B.A., J.D., M.S.W., Co-Director, Byrne Judicial Clerkship Institute and Associate Professor of Legal Research and Writing
Barry P. McDonald, B.A., J.D., 2018-2019 Straus Research Professor of Law
James M. McGoldrick, Jr., B.A., J.D., Professor of Law
Gregory S. McNeal, B.A., M.P.A., J.D., Ph.D., Professor of Law and Public Policy
Anthony Miller, B.A., M.A., J.D., Professor of Law
Derek Muller, B.A., J.D., Associate Professor of Law
Grant Nelson, B.A., J.D., William H. Rehnquist Professor of Law Emeritus
Gregory L. Ogden, B.A., J.D., LL.M., LL.M., Professor of Law
Brittany Stringfellow Otey, B.A., J.D., Director, Pepperdine Legal Aid Clinic
and Associate Clinical Professor of Law
Ronald F. Phillips, B.S., J.D., Senior Vice Chancellor, School of Law Dean
Emeritus, and Ronald F. Phillips Professor of Law
Robert Popovich, B.S., M.B.T., J.D., Professor of Law
Robert J. Pushaw, B.A., J.D., James Wilson Endowed Professor of Law
Peter Robinson, B.A., J.D., Professor of Law
Shelley Ross Saxter, B.S., J.D., Laure Sudreau-Rippe Endowed Professor of Law
Mark S. Scarberry, A.B., J.D., Professor of Law
Steven M. Schultz, B.A., J.D., Assistant Professor of Law
Victoria L. Schwartz, B.A., B.A., B.S., J.D., Associate Dean for Academic
Affairs
Sukhsmranjit Singh, L.L.B., LL.M., Managing Director of the Straus Institute
and Assistant Professor of Law and Practice
Thomas J. Stipanowich, B.A., M.A., J.D., Associate Dean Straus Institute for
Dispute Resolution, William H. Webster Chair in Dispute Resolution, and
Professor of Law
Deanell Reece Tacha, B.A., J.D., School of Law Dean Emeritus
Ahmed Taha, B.A., B.S., Ph.D., J.D., Professor of Law
Robert A. Uhl, B.A., J.D., Director, Investor Advocacy Clinic and Adjunct
Professor of Law
Peter T. Wendel, B.S., M.A., J.D., Professor of Law and Director Augsburg
Exchange Program
Maureen Arellano Weston, B.A., J.D., Professor of Law and Co-Director, LLM
and Certificate Programs in Entertainment, Media and Sports Law

Adjunct Faculty
The Honorable Gregory Alarcon, B.A., J.D.
Phil Armstrong, B.S., J.D.
Sean Aughey, B.A., LL.M., London Program
Arnold Barba, B.A., J.D.
Lucas Bastin, B.L., B.A., B.C.L., London Program
Zachary Briers, B.A., J.D.
Paul E. Burns, B.S., J.D.
Rebecca Callahan, B.A., J.D., LL.M.
John Allen Chalk, Sr., B.S., M.A., J.D.
Maria Chedid, B.A., J.D.
Frederick Brian Cox, B.S., M.Div., M.D.R.
Jim Craven, B.A., J.D., LL.M.
Steve Cron, B.A., J.D.
Darryl Darden, A.B., M.A., J.D., M.D.R.
Daniel DeWalt, B.A., M.Div., M.F.T., J.D.
David Doto, B.A., J.D., LL.M.
William Eddy, B.A., M.S.W., J.D.
Bruce Einhorn, B.A., J.D.
Casey Elford, B.A., J.D., M.D.R., LL.M.
Max Factor III, B.A., J.D.
Jo Anne Frankfurt, B.A., J.D.
Debra Gerardi, B.A., J.D., R.N., M.P.H.
Howard Gadlin, B.A., Ph.D.
Robert Goff, B.A., J.D.
Marc P. Goodman, B.A., M.A., J.D.
Matthieu Gregoire, B.A., M.A., LL.M., London Program
Robert Gumer, B.A., J. D.
Jerry Hager, B.A., J.D.
Gary Haugen, B.A., J.D.
Stacie Hausner, B.A., J.D., LL.M.
Susan Hill, B.A., J.D.
John Hurney, B.A., J.D., C.D.R.
Laurel Kaufer, B.A., J.D.
Curtis Kin, B.A., J.D.
Randy Kiser, B.A., J. D.
Nicholas M. Kubicki, B.A., J.D., LL.M.
Amy Longo, B.A., J.D.
Steve Lurie, B.A., J.D.
Denise Madigan, B.A., M.P.P., J.D.
Nina Meierding, B.S., M.Ed., C.D.R., J.D.
The Honorable Lawrence J. Mira, B.S., J.D.
William Nix, A.B., M.A., J.D., LL.M.
Douglas Noll, B.A., J.D., M.A.
Judith Hale Norris, B.A., J.D.
Amanda Padoan, B.A., J.D., London Program
Patti L. Paniccia, B.A., J.D.
Jeff Paquin, B.A., J.D.
Steven W. Paul, B.A., J.D.
Leslie Petersil, B.A., J.D.
David Peterson, B.S., J.D.
Donald Philbin, LL.M., J.D., M.B.A.
Brian Philpott, B.S., J.D.
Rob Rader, B.A., M.A., J.D.
Marcelo Rosadilla, U.D., LL.M.
Jeremy Rosen, B.A., J.D.
Steve Rottman, B.A., J.D.
Colin Rule, B.A., M.A.
Lester Savit, B.S., J.D.
Jan Schau, B.A., J.D.
Donna Silverberg, B.A., J.D.
David Talbot, B.A., M.D.R., J.D.
Wendy Trachte-Huber, B.S., J.D.
Mark Travis, B.S., J.D., LL.M.
Alexander Turk, LL.B., LL.M., Ph.D., London Program
Marco Turk, B.A., J.D.
Daniel Van Ness, B.A., J.D.
The Honorable Alexander Williams, B.A., LL.B.
Charles Wiggins, J.D., LL.M.
Donald Wolfe, B.A., J.D., LL.M.
Michael Zacharia, B.A., J.D.
Zena Zumeta, B.D, J.D.