
Volume 128 | Issue 1

Fall 2023

Front Matter

Follow this and additional works at: <https://ideas.dickinsonlaw.psu.edu/dlr>

Recommended Citation

Front Matter, 128 DICK. L. REV. (2023).

Available at: <https://ideas.dickinsonlaw.psu.edu/dlr/vol128/iss1/1>

This Front Matter is brought to you for free and open access by the Law Reviews at Dickinson Law IDEAS. It has been accepted for inclusion in Dickinson Law Review (2017-Present) by an authorized editor of Dickinson Law IDEAS. For more information, please contact lja10@psu.edu.



PennState
Dickinson Law

DICKINSON LAW REVIEW

VOLUME 128, ISSUE 1 • FALL 2023

PUBLISHED SINCE 1897

Table of Contents

ARTICLES

The Presumption of Constitutionality and the Demise of Economic Liberties.....	<i>James Huffman</i>	1
A Theory of Federalization Doctrine.....	<i>Gerald S. Dickinson</i>	75
Using the Common Law of Contracts to Police Abusive Terms in Hospital Admissions Agreements: Balancing Freedom of Contract with Fairness	<i>George A. Nation III</i>	153
The Israel-Lebanon Maritime Border Agreement: Does Lebanon Implicitly Recognize the State of Israel?.....	<i>Mireille Rebeiz</i>	197

ESSAYS

Training is Everything: Artificial Intelligence, Copyright, and “Fair Training”	<i>Andrew W. Torrance & Bill Tomlinson</i>	233
--	--	-----

BOOK REVIEWS

The Paradox of <i>The Paradox of Democracy</i> ...	<i>Raymond H. Brescia</i>	257
Industrial Jurisdiction.....	<i>Daniel Z. Epstein</i>	305

COMMENTS

Emergency Room to the Courtroom: Providing Abortion Care Under EMTALA and State Abortion Bans	<i>Natasha Rappazzo</i>	325
Expungement in Pennsylvania After Pardon: Excluded by Clean Slate Limited Access	<i>Joseph H. O’Donnell</i>	359
“What’s Brewin’ with <i>Bruen</i> ?” Why, and How, We Must Permit Certain Felons to Possess Firearms	<i>Samuel Roos</i>	379



PennState
Dickinson Law

DICKINSON LAW REVIEW

VOLUME 128, ISSUE 1 • FALL 2023

PUBLISHED SINCE 1897

2023–2024 EDITORIAL BOARD

Editor-in-Chief

SOPHIA M. ADAMS

Managing Editor

JOSEPH H. O'DONNELL

Executive Articles Editor

JAKOB HAWS

Executive Book Review Editor

JONAH MALLOW

Executive Comments Editor

ROBIN PLATTE

Articles Editors

ANTHONY AUSTIN
MARIA E. GERMANETTI
SAMUEL ROOS
THOMAS R. STARKS

Executive Research Editor

BRANDON T. SHEPHERD

Executive Editor for Digital Media

BRENT POWERS

Comments Editors

SARA HENRY
RACHEL JAMES
PAUL V. MACKEY
HANNAH M. PASCO

Executive Symposium Editor

NIKOLAJS V. GAIKIS

*Executive Diversity, Equity, and
Inclusion Editor*

NATASHA RAPPAZZO

Senior Editors

JONATHAN BIEDLER
AYANNA J. BYERS
FARBOD FIROUZKOUHI
TYLER GORBETT
MAGGIE HUANG

Associate Editors

ETHAN KINCAID
SARA KLINGE
ANA MARIA MATOVIC
J. PATRICK MOLL
BENJAMIN MOYER
NICHOLAS JAMES NIZINSKI
CHANDLER PENN
ISAAC PRASEEDOM

ALYSSA BOOB
BETHANY A. CARTER
STEFFANIE CRAIG
MARK FRANCHAK
LUKE GORMAN
JOSHUA HANSON
HUNTER JENSEN

CHAD ROSANDER
ALEX ROTH
JAMES V. SCAGLIONE
LLEWELLYN SEARING
JAKE TOTH
NATHAN WHITE
YI WU

Publication Managers

DORIS ORNER
JESS BURD
JEANNIE PEREZ

Faculty Advisor

SABRINA SONDHI

Publication Assistant

BRENDA GARLAND

Dickinson Law Review

formerly published as The Forum (1897-1908), the
Dickinson Law Review (1908-2003), and the Penn State Law Review (2003-2017)

PENN STATE DICKINSON LAW

The *Dickinson Law Review* is one of the oldest legal journals in the nation and is the flagship publication of Penn State Dickinson Law. Published in Carlisle since 1897, the *Dickinson Law Review* features articles, essays, and book reviews by leading professors, judges, and practitioners from around the country and the world, as well as student-authored comments. Views expressed in the *Dickinson Law Review* are those of the authors and do not necessarily reflect the policies or opinions of the *Dickinson Law Review*, its editorial board, Penn State Dickinson Law, or The Pennsylvania State University.

Dickinson Law is proud of its four core principles and the way in which the *Dickinson Law Review* advances those principles. The *Dickinson Law Review* serves as a tool to advance the law school's scholarly mission, sharing knowledge and wisdom with students, the legal profession, scholars, policy makers, and others, consistent with Penn State's role as a world-class research university. An additional purpose of the *Law Review* is to provide students at Dickinson Law with opportunities to acquire important lawyering skills. The *Dickinson Law Review* advances the law school's service mission through its efforts to improve global understanding and the lives and wellbeing of its students and the world in which they will live. The *Law Review* is also committed to Dickinson Law's fourth core principle: To strive on a daily basis to foster a sense of community and mutual support between and among faculty, students, staff, and those outside the Dickinson Law community.

Submissions: The *Dickinson Law Review* invites the submission of unsolicited manuscripts for future publication in the *Law Review*. Electronic submissions via Scholastica are preferred. The *Dickinson Law Review* also accepts submissions sent via electronic mail to DickinsonLRev@psu.edu. As a matter of policy, the *Dickinson Law Review* encourages the use of gender-neutral language in legal scholarship. Citations substantially conform to *The Bluebook: A Uniform System of Citation* (21st ed. 2020), copyright by the Columbia Law Review Association, the Harvard Law Review Association, the *University of Pennsylvania Law Review*, and the *Yale Law Journal*.

Reprint permission: For reprint permission, please contact the *Law Review's* office at the address below.

Subscriptions: The subscription price of the *Dickinson Law Review*, ISSN 2574-2604, which is published three times per year, is \$35.00 per annum. Address all subscription and business inquiries, including changes of address, to the *Dickinson Law Review* at the address listed below. Unless notice to the contrary is received at the editorial office, it is assumed that a renewal of subscription to the *Dickinson Law Review* is desired.

Known Office of Publication: Dickinson Law Review
Penn State Dickinson Law
150 S. College St., Carlisle, PA 17013
Email: DickinsonLRev@psu.edu
Web Site: ideas.dickinsonlaw.psu.edu/dlr

THIS PUBLICATION IS AVAILABLE IN ALTERNATIVE MEDIA ON REQUEST.

NOTICE OF NON-DISCRIMINATION

The University is committed to equal access to programs, facilities, admission, and employment for all persons. It is the policy of the University to maintain an environment free of harassment and free of discrimination against any person because of age, race, color, ancestry, national origin, religion, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, sexual orientation, marital or family status, pregnancy, pregnancy-related conditions, physical or mental disability, gender, perceived gender, gender identity, genetic information, or political ideas. Discriminatory conduct and harassment, as well as sexual misconduct and relationship violence, violates the dignity of individuals, impedes the realization of the University's educational mission, and will not be tolerated. Direct all inquiries regarding the nondiscrimination policy to the Affirmative Action Office, The Pennsylvania State University, 328 Boucke Building, University Park, PA 16802-5901, Email: aao@psu.edu, Tel 814-863-0471.

COPYRIGHT © 2023 BY
THE PENNSYLVANIA STATE UNIVERSITY, UNIVERSITY PARK, PA 16802
ALL RIGHTS RESERVED

PENN STATE DICKINSON LAW

ADMINISTRATION

Danielle M. Conway, B.S., J.D., LL.M., *Dean, Dickinson Law; Donald J. Farage Professor of Law; and Director of Antiracist Development Institute*

Jeffrey A. Dodge, B.A., J.D., *Associate Dean for Academic Affairs, Assistant Professor of Law, and Joseph H. Goldstein Faculty Scholar*

Laura H. Williams, B.A., J.D., *Associate Dean for Administration, Career Services, and Policy & Planning*

Giselle Santibañez-Bania, B.A., J.D., *Associate Dean of Academic & Student Services*

Bekah Saidman-Krauss, B.A., J.D., *Associate Dean for Admissions and Financial Aid*

Laura Ax-Fultz, B.A., M.S.L.S., J.D., *Associate Dean for Library & Information Services*

Daryl Lim, BSc. Econs. & Mgt., LL.M., LL.B., J.S.M., *H. Laddie Montague Jr. Chair in Law; Associate Dean for Research & Innovation; Director of the Intellectual Property Law & Innovation Initiative; Co-hire, Institute for Computational and Data Sciences, Penn State University; and Affiliate, Center for Socially Responsible Artificial Intelligence, Penn State University*

Shaakirrah R. Sanders, B.S., J.D., *Associate Dean for Antiracism and Critical Pedagogy, Professor of Law, and Lewis H. Vovakis Distinguished Faculty Scholar*

FACULTY

Laura Ax-Fultz, B.A., M.S.L.S., J.D., *Associate Dean for Library & Information Services*

William B. Barker, B.A., J.D., *Distinguished Professor of Law and Polisher Family Faculty Scholar*

Stanley M. Brand, B.A., J.D., *Distinguished Fellow in Law & Government and On-site Director of Semester-in-Washington, D.C. Program*

William E. Butler, B.A., J.D., LL.D., LL.M., M.A., Ph.D., *John Edward Fowler Distinguished Professor of Law*

Lance Cole, B.S., J.D., *Professor of Law, Hon. W. Richard and Mary M. Eshelman Faculty Scholar, and Director of the Center for Government Law & Public Policy Studies*

Danielle M. Conway, B.S., J.D., LL.M., *Dean, Dickinson Law; Donald J. Farage Professor of Law; and Director of Antiracist Development Institute*

Julie Tedjeske Crane, B.A., M.L.S., M.S.I.S., J.D., *Professor of Legal Research and Assistant Law Librarian*

Jeffrey A. Dodge, B.A., J.D., *Associate Dean for Academic Affairs, Assistant Professor of Law, and Joseph H. Goldstein Faculty Scholar*

Tonya M. Evans, B.A., J.D., *Professor of Law and co-hire, Institute for Computational and Data Sciences, Penn State University*

Amy C. Gaudion, B.A., J.D., *Associate Professor of Law*

Sara Gerke, Dipl.-Jur. Univ., M.A., *Assistant Professor of Law*

Gary S. Gildin, B.A., J.D., *Professor of Law, Hon. G. Thomas & Anne G. Miller Chair in Advocacy, Director of the Center for Public Interest Law & Advocacy, and Emeritus Dean*

Dermot M. Groome, B.A., J.D., *Professor of Law, Harvey A. Feldman Distinguished Faculty Scholar, Director of International Justice Program, and Associate Director of Antiracist Development Institute*

Christopher S. Havasy, Sc.B., J.D., M.A., *Assistant Professor of Law*

Titichia M. Jackson, B.A., M.A., J.D., *Assistant Professor of Law and Director of Academic Success & Bar Passage*

Lucy Johnston-Walsh, B.S., J.D., M.S.W., *Assistant Professor of Law, Director of the Children's Advocacy Clinic, and Director of the Center on Children & the Law*

Nicholas Kahn-Fogel, B.A., J.D., *Professor of Law*

Daryl Lim, BSc. Econs. & Mgt., LL.M., LL.B., J.S.M., *H. Laddie Montague Jr. Chair in Law; Associate Dean for Research & Innovation; Director of the Intellectual Property Law & Innovation Initiative; Co-hire, Institute for Computational and Data Sciences, Penn State University; and Affiliate, Center for Socially Responsible Artificial Intelligence, Penn State University*

Alison Flowers Lintal, B.A., J.D., *Visiting Assistant Professor of Law*

Medha D. Makhlof, B.A., J.D., *Elsie De R. And Samuel P. Orlando Distinguished Professor; Director of the Medical Legal Partnership Clinic; and Assistant Professor Department of Public Health Sciences, Penn State College of Medicine*

Andrea J. Martin, B.A., M.B.A., J.D., *Assistant Professor of Law*

Brent E. Newton, B.A., J.D., *Practitioner in Residence*

Katherine C. Pearson, B.A., J.D., *Professor of Law and Arthur L. & Sandra S. Piccone Faculty Scholar*

Samantha J. Prince, B.S., J.D., LL.M., *Assistant Professor of Law and Director of Legal Analysis & Writing Program*

Mae C. Quinn, B.A., J.D., LL.M., *Professor of Law*

Megan Riesmeyer, B.A., J.D., *Clinical Professor of Law and Director of the Community Law Clinic*

Shaakirrah R. Sanders, B.S., J.D., *Associate Dean for Antiracism and Critical Pedagogy, Professor of Law, and Lewis H. Vovakis Distinguished Faculty Scholar*

Martin Skladany, B.A., M.Phil., M.P.A., J.D., *Professor of Law and Samuel Weiss Faculty Scholar*

Sabrina Sondhi, B.A., M.L.I.S., J.D., *Director of Law Library and Professor of Legal Research*

Emily Spottswood, B.S., J.D., *Visiting Professor of Law*

Sarah J. Williams, B.A., J.D., *Assistant Professor of Law*

LIBRARY FACULTY

Laura Ax-Fultz, B.A., M.S.L.S., J.D., *Associate Dean for Library & Information Services*

Julie Tedjeske Crane, B.A., M.L.S., M.S.I.S., J.D., *Professor of Legal Research and Assistant Law Librarian*

Sabrina Sondhi, B.A., M.L.I.S., J.D., *Director of Law Library and Professor of Legal Research*

EMERITI FACULTY AND LIBRARIANS

James R. Fox, B.A., M.S., J.D., *Professor of Law, Emeritus*

Cecily A.H. Giardina, B.A., M.L.S., J.D., *Associate Law Librarian, Emerita*

Peter G. Glenn, B.A., J.D., *Dean, Emeritus*

Christine H. Kellett, B.A., J.D., *Professor of Law, Emerita*

Leslie M. MacRae, B.A., J.D., LL.M., LL.M., *Professor of Law, Emeritus*

Camille C. Marion, B.A., J.D., *Professor of Law, Emerita*

Michael Mogill, B.A., J.D., LL.M., *Professor of Law, Emeritus*

Richard O. Paone, B.A., M.S., J.D., *Assistant Law Librarian, Cataloging, Emeritus*

Gail A. Partin, B.S., M.S.L.S., J.D., *Law Librarian, Emerita and Associate Dean, Emerita*

Thomas Place, B.A., J.D., *Professor of Law, Emeritus*

Mark W. Podvia, A.B., M.S.L.S., M.A., J.D., *Associate Librarian and Archivist, Emeritus*

Mary Kaye Polacheck, B.A., J.D., *Writing Specialist, Emerita*

Robert Rains, B.A., J.D., *Professor of Law, Emeritus*

Jane Rigler, B.A., J.D., LL.M., *Professor of Law, Emerita*

Judy Swarthout, B.S., M.S., M.L.S., J.D., *Associate Law Librarian, Emerita*

Laurel S. Terry, B.A., J.D., *Professor of Law, Emerita, and H. Laddie Montague Jr. Chair in Law, Emerita*

ADJUNCT & AFFILIATE FACULTY

Hon. Meghan Adams	Steven A. Gariepy	Roger Pao
Jennifer Allison	Hubert X. Gilroy	Melanie Reid
Mohamed Rali Badissy	Hon. Kuyomars “Q” Golparvar	Andrew S. Rusniak
Ann M. Bartow	Ana Paulina Gomez	Nilam Sanghvi
Jared S. Childers	James M. Gould	Thomas B. Schmidt
Starlin Colon	Petra K. Gross	Katrina N. Shank
Katie Dang	Abi Abegaz-Hassen	Mark A. Smith
Angela Dean	Darlene Hemerka	Jonathan B. Stepanian
Ana Enriquez	Robert Lapowsky	Rhodia D. Thomas
John A. Feichtel	Marissa S. LaWall	Melanie Lynn Vanderau
Heidi Freese	Mala Malhotra-Ortiz	Derrick P. Williamson
Karen M. Galbraith	Timothy J. Nieman	Samantha K. Wolfe
	Tonya R. Noldon-Randall	