

ARIZONA

LAW REVIEW

VOLUME 58

2016

ISSUE 1

CONTENTS

IN MEMORIAM: JEAN BRAUCHER

Elizabeth Warren 1

I REMEMBER JEAN

Stewart Macaulay 3

JEAN BRAUCHER'S CONTRACTS WORLD VIEW

William C. Whitford 13

EXAMINATION AS A METHOD OF CONSUMER PROTECTION

Jean Braucher & Angela Littwin 33

SURVIVAL IN THE FACE OF SCARCITY: THE UNDOCUMENTED IMMIGRANT EXPERIENCE

Nathalie Martin 103

FINANCIAL SCARCITY AND FINANCIAL DECISION-MAKING

A. Mechele Dickerson 137

BRAUCHER'S BUSINESS: FORESEEING RELATIONAL CONTRACT BANKRUPTCY

Jonathan C. Lipson 173

THE SECESSION OF THE SUCCESSFUL: THE RISE OF
AMAZON AS PRIVATE GLOBAL CONSUMER
PROTECTION REGULATOR

Jane K. Winn 193

REMEDY REALITIES IN BUSINESS-TO-CONSUMER
CONTRACTING

Amy J. Schmitz 213

ARIZONA

LAW REVIEW

2015–2016

Editor-in-Chief

CHRISTOPHER SLOOT

Senior Articles Editor

RAISA AHMAD

Senior Managing Editor

MITCHELL TURBENSON

Senior Note Editor

ALEXIS BROOKS

Articles Editors

NATHAN CURTISI

JACQUELINE K. KAFKA

JILL MAHONEY

RAYMUNDO REYES

JESSICA A. SCHULBERG

LEAH TINNEY

Managing Editors

ADAM CIRZAN

CODY WINCHESTER

Case Notes Editor

CREIGHTON DIXON

Note Editors

JAMES D. CARLSON

LACEE COLLINS

GREGGARY E. LINES

ERICA MORRIS

DANIEL ROBERTS

Articles Manager

LINDSEY HUANG

Business Manager

MASON STORM BYRD

Marketing Manager

ELIZABETH ROBERTSON

Events Manager

JILLIAN ANDREWS

Members

RICARDO ROBINSON BOURS

PARKER BUNCH

MARGO CASSELMAN

BRYCE CLARK

DAVID ESTLE

JAMES FLORENTINE

BRETT GILMORE

KATE HERRIOT

NOAH HILGERT

KATHERINE E. HOLLIST

JANET HOWE

MATTHEW HOXSIE

JAMES KEEFE

CLAYTON KRAMER

JOSEPH LEVERENCE

SARA LEVINE

NICHOLAS LUCIE

DAVID LUNDMARK

MICHAEL MOHLER

MICHELLE MOUSSA

BRADLEY R. POLLOCK

RYAN PONT

KATHERINE CURL REITZ

AUDREY ROBERTS

DAVID ROSENTHAL

JOHN SALVATORE

SLADE SMITH

CHELSEA THOMPSON

BERNARDO VELASCO

AMANDA WEAVER

HANNAH WILLETT

JINGYUAN ZHOU

Faculty Advisor

BARAK ORBACH

ARIZONA

LAW REVIEW

EDITORIAL BOARD 2016–2017

Editor-in-Chief

LINDSEY HUANG

Senior Articles Editor

JAMES FLORENTINE

Senior Managing Editor

BRETT GILMORE

Senior Note Editor

JILLIAN ANDREWS

Articles Editors

MASON STORM BYRD

MARGO CASSELMAN

SARA LEVINE

DAVID LUNDMARK

ELIZABETH ROBERTSON

AMANDA WEAVER

Managing Editors

RICARDO ROBINSON BOURS

JANET HOWE

Case Notes Editor

MATTHEW HOXSIE

Note Editors

BRYCE CLARK

NOAH HILGERT

NICHOLAS LUCIE

BERNARDO VELASCO

HANNAH WILLETT

JAMES E. ROGERS COLLEGE OF LAW

THE UNIVERSITY OF ARIZONA

ADMINISTRATION

ANN WEAVER HART, B.S., M.A., PH.D. President, The University of Arizona
ANDREW COMRIE, B.A., PH.D. Senior Vice President for Academic Affairs & Provost
MARC L. MILLER, B.A., J.D. Dean & Ralph W. Bilby Professor of Law
SALLY RIDER, B.A., J.D. Associate Dean for Administration & Chief of Staff
Director, The William H. Rehnquist Center
CATHERINE GAGE O'GRADY, B.B.A., J.D. Associate Dean for Academic Affairs
Professor of Law
BRENT T. WHITE, B.A., J.D. Associate Dean for Programs & Global Initiatives
Professor of Law
CHRISTOPHER ROBERTSON, B.A., M.A., PH.D., J.D. Associate Dean for Research & Innovation
Professor of Law
MICHAEL G. CHIORAZZI, B.A., J.D., M.L.L. Associate Dean for Information Services
Beverly & James E. Rogers Professor of Law
RHONDA DWYER, B.S.B.A., M.B.A. Assistant Dean for Finance and Administration
WILLIE M. JORDAN-CURTIS, B.A., M.A., PH.D., J.D. Assistant Dean for Student Affairs
Associate Clinical Professor of Law
KAREN M. KOWALSKI, B.A., J.D., LL.M. Assistant Dean for Career Development
TRACY MUELLER, B.A. Assistant Dean for External Communications & Marketing
NANCY A. STANLEY, B.A., J.D. Assistant Dean for Strategic Relations
JONELLE VOLD, B.A., J.D. Senior Director of Development
VANESSA BUCH, B.A., J.D. Director, Wrongful Conviction Clinic
CRISTINA CASTANEDA, LL.B., LL.M. Director, Global Programs
DON S. DE AMICIS, B.A., J.D. Director, National Law Center for Inter-American Free Trade
Professor of Practice
KELLY HOLT, B.A. Director of Development
KRISTINE HUSKEY, B.A., J.D. Director, Veterans' Advocacy Clinic
NEGAR KATIRAI, B.A., J.D. Director, Public Interest Law Group
JOHN LACY, B.A., J.D. Director, Global Mining Law Center
JOANNA MEDRANO, B.A., J.D. Director, Mortgage & Consumer Finance Law Group
NAJWA NABTL, B.A., J.D. Director, Undergraduate Program
ALLAN STERNSTEIN, B.S.A.A.E., M.S.E., J.D. Director, Quarles & Brady Intellectual Property Clinic
MICHAEL WAGENHEIM, B.A. Director of Information Technology
LEAH WON, B.A., J.D. Director, Career Development Office
LISSETTE CALDERON, B.A. Registrar
PAUL KEALEY, B.S., LL.M. Web Developer
LEUDELL TRIPP Assistant Director for Finance and Administration

FACULTY

S. JAMES ANAYA, B.A., J.D. Regents' Professor
James J. Lenoir Professor of Human Rights Law & Policy
DEREK BAMBAUER, B.A., J.D. Professor of Law
JANE BAMBAUER, B.A., J.D. Associate Professor of Law
KATHERINE BARNES, B.A., M.S., J.D., PH.D. Professor of Law
PAUL D. BENNETT, B.A., J.D. Clinical Professor of Law
Director of Clinics
ELLEN M. BUBLUCK, B.A., J.D. Dan B. Dobbs Professor of Law
ANDREW COAN, B.A., J.D. Professor of Law
Director, The William H. Rehnquist Center
KIRSTEN H. ENGEL, B.A., J.D. Charles E. Ares Professor of Law
DAVID A. GANTZ, A.B., J.D., J.S.M. Samuel M. Fegtly Professor of Law
LORRAINE C. GIN, B.A., J.D. Assistant Professor of Legal Writing
ROBERT J. GLENNON, A.B., J.D., M.A., PH.D. Regents' Professor
Morris K. Udall Professor of Law & Public Policy
Director, Environmental Law, Science & Policy Programs
ROBERT ALAN HERSHEY, B.S., J.D. Director, Indigenous Peoples Law Clinic
Professor of Practice
JAMES C. HOPKINS, B.A., J.D., LL.M. Associate Clinical Professor of Law
MONA L. HYMEL, B.A., J.D., C.P.A. Arthur W. Andrews Professor of Law
BORIS KOZOLCHYK, D.C.L., LL.B., LL.M., S.J.D. Evo A. DeConcini Professor of Law
JASON KREAG, B.A., M.A., J.D. Associate Professor of Law
DAVID MARCUS, B.A., J.D. Professor of Law

LYNN MARCUS, B.A., J.D. Director, Immigration Law Clinic
 Professor of Practice

TONI M. MASSARO, B.S., J.D. Regents' Professor
 Milton O. Riepe Chair in Constitutional Law

THOMAS A. MAUET, A.B., J.D. Milton O. Riepe Professor of Law
 Director, Trial Advocacy

ROBERT MUNDHEIM, B.A., J.D. Professor of Corporate Law and Finance

LESLYE AMEDE OBIORA, LL.B., LL.M., J.S.D. Professor of Law

BARAK ORBACH, LL.B, B.A., LL.M., S.J.D. Professor of Law

LAWRENCE PONOROFF, B.A., J.D. Samuel M. Fegtly Chair in Commercial Law

SERGIO PUIG, LL.B., J.S.M., J.S.D. Director, International Trade Law Program
 Associate Professor of Law

SUZANNE M. RABÉ, B.A., J.D. Clinical Professor of Law
 Director, Legal Writing

NINA RABIN, B.A., J.D. Clinical Professor of Law
 Director, Bacon Immigration Law and Policy Program

JAMIE R. RATNER, A.B., M.A., J.D. Professor of Law

SUSAN SALMON, B.A., J.D. Assistant Director of Legal Writing
 Clinical Professor of Law

SIMONE M. SEPE, J.D., LL.M., PHD, M.Sc., J.S.D. Professor of Law

WILLIAM K. SJOSTROM, B.S., J.D. Professor of Law

ROY G. SPECE JR., B.A., J.D. John D. Lyons Professor of Law

JOHN A. SWAIN, A.B., J.D. Chester H. Smith Professor of Law

MELISSA L. TATUM, B.A., J.D. Research Professor of Law

ROBERT A. WILLIAMS JR., A.B., J.D. E. Thomas Sullivan Professor of Law & American Indian Studies
 Director, Indigenous Peoples Law & Policy Program

EMERITI FACULTY

ARTHUR W. ANDREWS, B.A., LL.B., LL.M. Rosenstiel Distinguished Professor of Law Emeritus

CHARLES E. ARES, J.D. J. Byron McCormick Professor of Law Emeritus

BARBARA ATWOOD, B.A., J.D. Mary Anne Richey Professor of Law Emerita

WILLIAM E. BOYD, A.B., J.D., LL.M. Chester H. Smith Professor of Law Emeritus

DAN B. DOBBS, B.A., LL.B, LL.M., J.S.D. Regents' & Rosenstiel Distinguished
 Professor of Law Emeritus

KENNEY F. HEGLAND, B.A., LL.B., LL.M. James E. Rogers Professor of Law Emeritus

ROGER C. HENDERSON, B.B.A., LL.B., LL.M. Ralph W. Bilby Professor of Law Emeritus

KAY KAVANAGH, B.A., J.D. Professor of Law Emerita

CAROL M. ROSE, B.A., M.A., PH.D., J.D. Lohse Chair in Water and Natural Resources Emerita
 Professor of Law Emerita

THEODORE J. SCHNEYER, A.B., LL.B., J.S.M. Milton O. Riepe Professor of Law Emeritus

ANDREW SILVERMAN, J.D. Joseph M. Livermore Professor of Law Emeritus

JOHN STRONG, B.A., J.D. Rosenstiel Distinguished Professor of Law Emeritus

ELLIOTT J. WEISS, B.A., LL.B. Charles E. Ares Professor of Law Emeritus

DAVID B. WEXLER, B.A., J.D. Distinguished Research Professor of Law Emeritus

WINTON D. WOODS, A.B., J.D. Professor of Law Emeritus



PROFESSOR JEAN BRAUCHER
(1950–2014)