

THE JOURNAL OF LAW AND COMMERCE

NOTICE TO CONTRIBUTORS

1. The *Journal* invites the submission of unsolicited manuscripts. Submissions and correspondence concerning publications should be addressed to Editor-in-Chief, *Journal of Law and Commerce*, University of Pittsburgh School of Law, Barco Law Building, 3900 Forbes Avenue, Pittsburgh, PA 15260.
2. The *Journal* requests that manuscripts be accompanied by an abstract of not more than 200 words describing the contents of the article.
3. Footnotes should conform to *The Bluebook: A Uniform System of Citation* (20th ed. 2015).
4. All manuscripts, including footnotes and abstracts, should be typed and submitted directly to the website.

Published twice yearly: Fall, Spring

Annual Subscription Rate: U.S. - \$20.00; Foreign - \$25.00

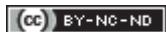
Internet Address: <http://jlc.law.pitt.edu/>

E-mail Address: jlc.law@mail.pitt.edu

Single copies of Volume 38 are \$11.00 and may be ordered from the Business Manager, *Journal of Law and Commerce*, University of Pittsburgh School of Law, Barco Law Building, 3900 Forbes Avenue, Pittsburgh, PA 15260.

Volumes 1 through 36 may be ordered from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209; (800) 828-7571.

If subscription is to be discontinued at expiration, notice to that effect should be sent to the Journal office, otherwise it will be renewed.



This work is licensed under a Creative Commons Attribution-Noncommercial-No Derivative Works 3.0 United States License.



This site is published by the University Library System of the University of Pittsburgh as part of its D-Scribe Digital Publishing Program, and is cosponsored by the University of Pittsburgh Press.

Citations in this issue generally conform to *The Bluebook: A Uniform System of Citation* (20th ed. 2015), unless otherwise noted.

Cite this volume as: 38 J.L. & COM. __ (Fall 2019–Spring 2020).

Views expressed in articles are to be attributed to their authors and not to the *Journal*, its editors, or the University of Pittsburgh.

**UNIVERSITY OF PITTSBURGH
ADMINISTRATION AND FACULTY
OF THE SCHOOL OF LAW**

KEVIN DEASY, Associate Dean of Students and Associate Professor of Legal Writing. B.A., Pennsylvania State University; M.S.W., J.D., University of Pittsburgh.

HAIDER ALA HAMOUDI, Vice Dean and Professor of Law. B.S., Massachusetts Institute of Technology; J.D., J.S.D., Columbia University.

VINCENT O. JOHNSON, Interim Director of Equity and Inclusive Excellence. B.A., Harvard University; M.B.A., Waynesburg University.

CHARMAINE McCALL, Assistant Dean for Admissions and Financial Aid. B.A., M.B.A., University of Pittsburgh.

ROCHELLE R. McCAIN, Interim Executive Director of the Professional Development Office. B.A., University of Chicago; J.D., University of Houston.

LORI E. McMASTER, Interim Executive Director of External Relations. B.A., Allegheny College; J.D., University of Pittsburgh.

AMY J. WILDERMUTH, Dean and Professor of Law. A.B., B.S., Washington University; M.S., J.D., University of Illinois.

FACULTY AND LIBRARIANS

KEVIN C. ABBOTT, Professor of Practice. B.A., Indiana University of Pennsylvania; J.D., University of Pittsburgh.

JESSIE ALLEN, Associate Professor of Law. B.F.A., New York University; J.D., Brooklyn University; J.S.D., Columbia University.

CHAZ P. ARNETT, Assistant Professor of Law. B.A., Morehouse College; J.D., Harvard University.

KEVIN D. ASHLEY, Professor of Law. B.A., Princeton University; J.D., Harvard University; M.A., Ph.D., University of Massachusetts.

ELENA A. BAYLIS, Professor of Law. B.A., University of Oregon; J.D., Yale University.

DEBORAH L. BRAKE, Professor of Law, Associate Dean of Research and Faculty Development, and John E. Murray Faculty Scholar. B.A., Stanford University; J.D., Harvard University.

RONALD A. BRAND, Chancellor Mark A. Nordenberg University Professor, Director of the Center for International Legal Education, and John E. Murray Faculty Scholar. B.A., University of Nebraska; J.D., Cornell University.

DOUGLAS M. BRANSON, Professor Emeritus of Law. B.A., University of Notre Dame; J.D., Northwestern University; LL.M., University of Virginia.

BENJAMIN E. BRATMAN, Professor of Legal Writing. B.A., University of Washington; J.D., Vanderbilt University.

TERESA K. BROSTOFF, Director of the Legal Writing Program and Professor of Legal Writing. B.S., J.D., University of Pittsburgh.

JOHN M. BURKOFF, Professor Emeritus of Law. A.B., J.D., University of Michigan; LL.M., Harvard University.

NANCY M. BURKOFF, Professor Emerita of Law. A.B., University of Michigan; J.D., University of Pittsburgh.

WILLIAM M. CARTER, JR., Professor of Law and John E. Murray Faculty Scholar. B.S., Bowling Green State University; J.D., Case Western Reserve University.

PAT K. CHEW, Judge J. Quint Salmon and Anne Salmon Chair. A.B., Stanford University; J.D., M.Ed., University of Texas.

CHARLES C. COHEN, Professor of Practice. A.B., Dartmouth College; J.D., University of Michigan.

WILLIAM A. CONGELIO, Visiting Clinical Professor of Law. B.A., California University of Pennsylvania; M.P.M., Carnegie Mellon University; J.D., Duquesne University.

LEIGH COOGAN, Visiting Professor of Legal Writing. A.B., Harvard College; J.D., University of Pittsburgh.

MARY CROSSLEY, Professor of Law and John E. Murray Faculty Scholar. B.A., University of Virginia; J.D., Vanderbilt University.

VIVIAN CURRAN, University Distinguished Professor. B.A., University of Pennsylvania; Ph.D., J.D., Columbia University.

STEPHANIE A. J. DANGEL, Professor of Practice. B.S., B.A./M.A., University of Pennsylvania; B.A., University of Oxford; J.D., Yale University.

RICHARD DELGADO, Distinguished Professor Emeritus of Law. A.B., University of Washington; J.D., University of California, Berkeley.

GERALD S. DICKINSON, Assistant Professor of Law. A.B., College of the Holy Cross; LL.M., University of the Witwatersrand; J.D., Fordham University.

GREER DONLEY, Assistant Professor of Law. B.A., Claremont McKenna College; J.D., University of Michigan.

THE HON. MICHAEL FISHER, Distinguished Jurist in Residence. B.A., J.D., Georgetown University.

THE HON. JUDITH K. FITZGERALD, Professor of Practice. B.S., J.D., University of Pittsburgh.

HARRY MARSHALL FLECHTNER, Professor Emeritus of Law. A.B., M.A., J.D., Harvard University.

CYRIL A. FOX, JR., Professor Emeritus of Law. A.B., College of Wooster; J.D., University of Pittsburgh.

LAWRENCE A. FROLIK, Professor Emeritus of Law. B.A., University of Nebraska; J.D., LL.M., Harvard University.

JOSHUA GALPERIN, Visiting Assistant Professor of Law. B.A., University of Delaware; M.E.M., Yale University; J.D., Vermont Law School.

JASMINE B. GONZALES ROSE, Associate Professor of Law. B.A., University of Oregon; J.D., Harvard University.

PHILIP T. HACKNEY, Associate Professor of Law. B.A., Southern Methodist University; J.D., Louisiana State University; LL.M., New York University.

ROBERT BERKLEY HARPER, Professor Emeritus of Law. B.S., J.D., University of Pittsburgh.

DAVID A. HARRIS, Sally Ann Semenko Endowed Chair and John E. Murray Faculty Scholar. B.A., Northwestern University; J.D., Yale University; LL.M., Georgetown University.

ARTHUR D. HELLMAN, Professor Emeritus of Law. B.A., Harvard University; J.D., Yale University.

BERNARD J. HIBBITTS, Professor of Law. B.A., Dalhousie University; M.A., Carleton University; B.A., M.A., Oxford University; LL.B., Dalhousie University; LL.M., University of Toronto; LL.M., Harvard University.

DAVID J. HICKTON, Director, Institute for Cyber Law, Policy and Security. B.A., Pennsylvania State University; J.D., University of Pittsburgh.

ANTHONY C. INFANTI, Christopher C. Walthour, Sr. Endowed Professor of Law. B.A., Drew University; J.D., University of California, Berkeley; LL.M., New York University.

SUSANNA M. LEERS, Electronic Research and Technology Services Librarian. B.A., Columbia University; M.A., Clark University; M.L.I.S., M.L.S., M.S.L., University of Pittsburgh.

JACQUELINE D. LIPTON, Visiting Professor of Law. B.A., La Trobe University; LL.B., B.A., University of Melbourne; LL.M., Monash University; M.F.A., Vermont College of Fine Arts; Ph.D., Griffith University; Ph.D., LL.M., Cambridge University.

JULES LOBEL, Bessie McKee Walthour Endowed Chair. B.A., New York University; J.D., Rutgers University.

WILLIAM V. LUNEBURG, JR., Professor Emeritus of Law. B.A., Carleton College; J.D., Harvard University.

GRANT MacINTYRE, Assistant Clinical Professor of Law. B.S., Cornell University; J.D., University of Pittsburgh.

MICHAEL J. MADISON, Professor of Law, Faculty Director of the Innovation Practice Institute, and John E. Murray Faculty Scholar. B.A., Yale University; J.D., Stanford Law School.

MARGARET M. MAHONEY, Professor Emerita of Law. B.A., LeMoyne College; J.D., University of Michigan.

MARTHA M. MANNIX, Gloria McDermott Hickton Professor of Elder Law. B.A., University of Vermont; J.D., University of California, Hastings.

THE HON. LAURIE MARIN, Visiting Professor of Practice. B.A., Dartmouth College; J.D., Brooklyn Law School.

ALAN MEISEL, Professor Emeritus of Law and Psychiatry. B.A., J.D., Yale University.

MARILY NIXON, Professor of Practice. B.A., Duke University; J.D., University of Virginia.

MARK A. NORDENBERG, Chair of the Institute of Politics, Chancellor Emeritus of the University, and Distinguished Service Professor of Law. B.A., Thiel College; J.D., University of Wisconsin.

PETER B. OH, Professor of Law and John E. Murray Faculty Scholar. B.A., Yale University; J.D., University of Chicago.

TOMAR NICOLE PIERSON-BROWN, Assistant Clinical Professor of Law. B.A., Denison University; J.D., Case Western Reserve University; LL.M., University of the District of Columbia.

PATRICIA A. RONCEVICH, Acquisitions/Serials Librarian. B.A., M.L.S., M.S., University of Pittsburgh.

THOMAS ROSS, Professor Emeritus of Law. B.A., J.D., University of Virginia.

RICHARD HARRY SEEBURGER, Professor Emeritus of Law. A.B., Dickinson College; LL.B., LL.M., Harvard University.

KAREN SHEPHARD, Information Services Librarian. B.A., Grove City College; M.L.I.S., University of Pittsburgh.

MARC B. SILVERMAN, Director of the Barco Law Library. B.F.A., Ohio University; M.L.S., M.A., University of Pittsburgh.

ANN SINSHEIMER, Professor of Legal Writing. B.A., M.A., University of Michigan; J.D., University of Pittsburgh; Ph.D., Carnegie Mellon University.

MATIANGAI SIRLEAF, Assistant Professor of Law. B.A., New York University; M.A., University of Ghana (Legon); J.D., Yale University.

STELLA L. SMETANKA, Clinical Professor Emerita of Law. B.A., Carlow College; J.D., University of Pittsburgh.

JEAN STEFANCIC, Research Professor Emerita of Law. B.A., Maryville College; M.A., University of San Francisco.

ALICE L. STEWART, Visiting Clinical Associate Professor. B.S.B.A., Robert Morris University; J.D., Duquesne University.

LINDA TASHBOOK, Foreign, International and Comparative Law Librarian. B.S., Texas Woman's University; M.L.S., J.D., University of Pittsburgh.

GEORGE H. TAYLOR, Professor Emeritus of Law. B.A., Brown University; M.A., University of Chicago; J.D., Harvard University.

JUDITH A. TEETER, Visiting Assistant Professor. B.A., University of Wisconsin; J.D., Boston University; Master's Certificate in Conflict Resolution, Duquesne University.

DAVID THAW, Associate Research Professor of Law and Assistant Research Professor of Computing & Information. B.S., B.A., University of Maryland; M.A., Ph.D., J.D., University of California, Berkeley.

CHRISTOPHER R. TODD, Cataloguing/Systems Librarian. B.A., University of Louisville; M.L.I.S., University of Pittsburgh; M.A., Adams State University.

SHEILA I. VÉLEZ MARTÍNEZ, Director of Clinic Programs and Jack and Lovell Olander Professor of Asylum, Refugee & Immigration Law. B.A., J.D., University of Puerto Rico.

LU-IN WANG, Professor of Law. B.A., University of Pittsburgh; B.S., Pennsylvania State University; J.D., University of Michigan.

RHONDA WASSERMAN, Professor of Law and John E. Murray Faculty Scholar. A.B., Cornell University; J.D., Yale University.

ADJUNCT FACULTY

SARA BURHAN ABDULLAH, Adjunct Professor of Law. J.D., LL.M., University of Pittsburgh; L.L.B., University of Sulaymania, Iraq.

JOHN ADAMCZYK, Adjunct Professor of Law. B.A., West Virginia University; J.D., University of Dayton.

RODNEY R. AKERS, Adjunct Professor of Law. B.A., University of Virginia; J.D., Harvard University.

LYNN J. ALSTADT, Adjunct Professor of Law. B.S., B.A., J.D., University of Pittsburgh.

JACLYN M. BELCZYK, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

THOMAS M. BELINE, Adjunct Professor of Law. B.A., Quinnipiac University; J.D., University of Pittsburgh.

THE HON. CATHY BISSOON, Adjunct Professor of Law. B.A., Alfred University; J.D., Harvard University.

C. ALLEN BLACK, JR., Adjunct Professor of Law. B.A., University of Alabama; Ph.D., University of Newcastle (Australia); J.D., University of Pittsburgh.

PAUL D. BOAS, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

THE HON. EDWARD J. BORKOWSKI, Adjunct Professor of Law. B.A., J.D., Duquesne University; M.S.W., University of Pittsburgh.

EDUARDO H. BOZZO, Adjunct Professor of Law. B.A., National School of Commerce (Buenos Aires, Argentina); J.D., University of Argentina.

SAMUEL W. BRAVER, Adjunct Professor of Law. B.A., University of Pittsburgh; J.D., Duquesne University.

CHRISTOPHER S. CHANNEL, Adjunct Professor of Law. B.A., West Virginia Wesleyan College; J.D., College of William and Mary.

JULIE R. COLTON, Adjunct Professor of Law. B.A., Gannon University; J.D., University of Pittsburgh.

JAMES V. CORBELL, Adjunct Professor of Law. B.A., University of Maryland; J.D., University of Pittsburgh.

DANIEL JAMES CORBETT, Adjunct Professor of Law. B.S., Ohio University; J.D., University of Pittsburgh.

MARY NELL CUMMINGS, Director of the Graduate Certificate Program in Health Care Compliance and Adjunct Professor of Law. B.A., University of Arizona; J.D., University of Buffalo.

ELLIOT DATER, Adjunct Professor of Law. B.A., J.D., University of Michigan.

MARSHALL L. DAYAN, Adjunct Professor of Law. B.A., University of Georgia; J.D., Antioch University.

ELIZABETH DeLOSA, Adjunct Professor of Law. B.A., University of Pittsburgh; J.D., Duquesne University.

CHARLES A. De MONACO, Adjunct Professor of Law. B.A., University of Notre Dame; J.D., Ohio Northern University.

CECILE C. M. DESANDRE, Adjunct Professor of Law. Baccalaureate A2, The Sorbonne, Paris.

STEVEN A. DIAZ, Adjunct Professor of Law. B.A., San Francisco State University; J.D., Santa Clara University.

LOUIS A. DiNARDO, Adjunct Professor of Law. B.S., Pennsylvania State University; J.D., Duquesne University.

MATTHEW R. DIVELBISS, Adjunct Professor of Law. B.A., Grove City College; J.D., University of Pittsburgh.

MELISSA DOUGHERTY, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

T. MATTHEW DUGAN, III, Adjunct Professor of Law. B.S., Villanova University; J.D., Duquesne University.

CHRISTIAN D. EHRET, Adjunct Professor of Law. B.S., American University; J.D., University of Pittsburgh.

JACK ELLIOTT, Adjunct Professor of Law. B.S., J.D., Wake Forest University.

THOMAS J. FARRELL, Adjunct Professor of Law. B.A., Yale University; J.D., New York University.

RALPH G. FISCHER, Adjunct Professor of Law. B.S., Case Western Reserve University; J.D., University of Pittsburgh.

PAIGE FORSTER, Adjunct Professor of Law. B.A., Yale University; J.D., University of Pittsburgh.

SUSAN FRIETSCH, Adjunct Professor of Law. A.B., Bryn Mawr College; J.D., Temple University.

CRAIG FRISCHMAN, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

MICHAEL GEORGE, Adjunct Professor of Law. B.A., Bowling Green University; J.D., Duquesne University.

AMANDA GERSTNECKER, Adjunct Professor of Law. B.S., Youngstown State University; J.D., University of Pittsburgh.

MYLES S. GETLAN, Adjunct Professor of Law. B.A., Lafayette College; J.D., University of Pittsburgh; LL.M., Georgetown University.

JOHN P. GISMONDI, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

BRET GROTE, Adjunct Professor of Law. B.A., Washington and Lee University; J.D., University of Pittsburgh.

K. MARK HALL, Adjunct Professor of Law. B.S., Michigan State University; J.D., University of Pittsburgh.

JOHN F. HAMMOND, Adjunct Professor of Law. A.B., Harvard College; M.St., Oxford University; J.D., Cornell University.

KEVIN C. HARKINS, Adjunct Professor of Law. B.A., Pennsylvania State University; J.D., University of Pittsburgh.

TINA BATRA HERSEY, Adjunct Professor of Law. B.A., Villanova University; MPH, J.D., The George Washington University.

CRAIG S. HERYFORD, Adjunct Professor of Law. B.F.A., The Ohio State University; J.D., Duquesne University.

LEO N. HITT, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh; LL.M., New York University.

JOSEPH S. HORNACK, Director of the Graduate Certificate Program in Human Resources and Adjunct Professor of Law. A.B., Miami University; J.D., Rutgers, The State University of New Jersey.

TIFFANY A. JENCA, Adjunct Professor of Law. B.S., University of Akron; J.D., Duquesne University.

JOHN E. IOLE, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

IRA M. KAROLL, Adjunct Professor of Law. B.A., Yeshiva University; J.D., Northwestern University.

STEPHEN R. KAUFMAN, Adjunct Professor of Law. B.A., Allegheny College; J.D., Harvard University.

ADAM F. KELSON, Adjunct Professor of Law. B.A., University of Pennsylvania; J.D., Boston University.

OLIVER KIM, Adjunct Professor of Law. B.A., Indiana University; J.D., University of Minnesota; LL.M., Georgetown University.

MILES A. KIRSHNER, Adjunct Professor of Law. B.A., George Washington University; J.D., University of Pittsburgh.

GEORGE M. KONTOS, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

JAMES E. KOPELMAN, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

CHARLES T. KOTUBY, JR., Adjunct Professor of Law. B.A., University of Durham; J.D., University of Pittsburgh.

DANIEL KOVALIK, Adjunct Professor of Law. B.A., University of Dayton; J.D., Columbia University.

JOSHUA D. LAMANCUSA, Adjunct Professor of Law. B.A., Denison University; J.D., Case Western Reserve University.

THE HON. BETH A. LAZZARA, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

LAWRENCE M. LEBOWITZ, Adjunct Professor of Law. B.A., University of Pennsylvania; J.D., University of Pittsburgh.

RICHARD C. LEVINE, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

THE HON. JOHN KENT LEWIS, Adjunct Professor of Law. B.A., St. Vincent College; J.D., Duquesne University.

PENINA K. LIEBER, Adjunct Professor of Law. B.A., M.A., J.D., University of Pittsburgh.

BLAINE A. LUCAS, Adjunct Professor of Law. B.A., University of Pittsburgh; J.D., University of Virginia.

BEVERLY WEISS MANNE, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

LISA ZEIDNER MARCUS, Adjunct Professor of Law. B.A., Duke University; J.D., Columbia University.

LISA A. MARTINELLI, Adjunct Professor of Law. B.Ph., J.D., University of Pittsburgh; M.A., Duquesne University.

MOSHE Z. MARVIT, Adjunct Professor of Law. B.A., Pennsylvania State University; A.M., University of Chicago; M.A., Carnegie Mellon University; J.D., Chicago-Kent College.

JASON E. MATZUS, Adjunct Professor of Law. B.A., Gettysburg College; J.D., University of Pittsburgh.

KATHLEEN S. McALLISTER, Adjunct Professor of Law. B.A., J.D., University of Notre Dame.

REGIS M. McCLELLAND, Adjunct Professor of Law. B.A., J.D., Duquesne University.

JOHN W. McILVAINE, III, Adjunct Professor of Law. B.S., Pennsylvania State University; J.D., Pepperdine University.

KEMAL A. MERICLI, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

REID P. MEYER, Adjunct Professor of Law. B.S., Pennsylvania State University; J.D., University of Pittsburgh.

G. CLAYTON NESTLER, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

TIMOTHY O'BRIEN, Adjunct Professor of Law. J.D., Duquesne University.

DAVID R. OVERSTREET, Adjunct Professor of Law. B.S., Pennsylvania State University; J.D., Villanova University.

STEPHEN P. PASCHALL, Adjunct Professor of Law. B.A., M.S., Oklahoma City University; M.S.W., University of Pittsburgh; J.D., Duquesne University.

MARIAH L. PASSARELLI, Adjunct Professor of Law. B.A., J.D., Duquesne University; M.A., Indiana University of Pennsylvania.

JEFFERY D. PETERS, Adjunct Professor of Law. B.A., State University of New York at Albany; J.D., University of Pittsburgh.

ORLANDO G. PORTELA-VALENTIN, Adjunct Professor of Law. B.A., J.D., University of Puerto Rico; LL.M., Ph.D., University of the Basque Country, Spain.

WILLIAM C. PRICE, Adjunct Professor of Law. B.S.B.A., J.D., University of Pittsburgh.

J. MATTHEW PRITCHARD, Adjunct Professor of Law. B.S., Carnegie Mellon University; J.D., University of Pittsburgh.

THENA ROBINSON-MOCK, Adjunct Professor of Law. B.A., Hampton University; J.D., Loyola University.

MICHAEL H. ROSENZWEIG, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

JOHN S. ROZEL, Assistant Professor of Psychiatry and Adjunct Professor of Law. A.B., M.D., Brown University; M.S.L., University of Pittsburgh.

JAROMÍR ŠAVELKA, Adjunct Professor of Law. Ph.D., University of Pittsburgh; Graduate Degree in Law, Masaryk University.

ERIC A. SCHAFFER, Adjunct Professor of Law. B.A., University of Virginia; J.D., University of Pittsburgh.

STEPHANIE WINER SCHREIBER, Adjunct Professor of Law. B.A., Kent State University; J.D., University of Pittsburgh.

STEPHANIE L. SCIULLO, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

STEVE SEEL, Adjunct Professor of Law. B.A., J.D., University of Pittsburgh.

JOSEPH W. SELEP, Adjunct Professor of Law. B.A., Indiana University of Pennsylvania; J.D., Ohio Northern University.

MATTHEW E. SHAMES, Adjunct Professor of Law. B.A., University of Pennsylvania; J.D. University of Pittsburgh.

RACHAEL T. SHAW, Adjunct Professor of Law. B.S., J.D., University of Pittsburgh.

LARRY A. SILVERMAN, Adjunct Professor of Law. B.A., University of Pittsburgh; J.D., Duquesne University.

JENNIFER A. SMOKELIN, Adjunct Professor of Law. B.S.E., University of Pennsylvania; J.D., University of Pittsburgh.

MARCY SMOREY-GIGER, Adjunct Professor of Law. B.S., Westminster College; M.Sc., J.D., Duquesne University.

STEVEN M. STADTMILLER, Adjunct Professor of Law. B.B.A., University of Notre Dame; J.D., University of Pittsburgh.

KRISTA-ANN M. STALEY, Adjunct Professor of Law. B.U.P.D., Ball State University; J.D., University of Pittsburgh.

NATALYA STEPANOVA-SIPPER, Adjunct Professor of Law. J.D., Tashkent State Law Institute; LL.M., University of Pittsburgh.

EDWARD VAN STEVENSON, JR., Adjunct Professor of Law. B.A., Kentucky State University; J.D., University of Kentucky.

STEPHEN C. TANZILLI, Adjunct Professor of Law. B.S., Duquesne University; J.D., University of Pittsburgh.

THE HON. DAVID B. TORREY, Adjunct Professor of Law. A.B., West Virginia University; J.D., Duquesne University.
CHATÓN T. TURNER, Adjunct Professor of Law. B.A., University of Virginia; J.D., University of South Carolina.
JONATHAN P. VALLANO, Associate Professor of Psychology and Adjunct Professor of Law. B.S., M.A., Ball State University; Ph.D., Florida International University.
ELIZABETH F. BJRKE VAN NOSTRAND, Adjunct Professor of Law. B.A., J.D., Tulane University.
JOSHUA C. VAUGHN, Adjunct Professor of Law. B.S., Grove City College; J.D., Duquesne University.
THE HON. CHRISTINE WARD, Adjunct Professor of Law. B.A., Washington and Jefferson College; J.D., University of Pittsburgh.
WILLIAM F. WARD, Adjunct Professor of Law. B.A., College of the Holy Cross; J.D., Temple University.
PETER M. WATT-MORSE, Adjunct Professor of Law. B.A., Carleton College; J.D., Northwestern University.
HEATHER WEINER, Adjunct Professor of Law. B.B.A., East Tennessee State University; J.D., Syracuse University.
ROBERT G. WIBLE, Director of Academic Success and Bar Exam Services and Adjunct Professor of Law. B.A., Waynesburg College; J.D., Duquesne University.
PATRICIA HARRINGTON WYSOR, Legal Writing Center Director. B.A., Wheaton College; M.Ed., M.F.A., University of Pittsburgh.
CHALON C. YOUNG, Adjunct Professor of Law. J.D., Tulane University.

ADMINISTRATIVE STAFF

AMY COCO, Program Director, Pitt Legal Services Incubator. B.A., Indiana University (Bloomington); J.D., University of Pittsburgh.
STEPHEN M. CONWELL, Financial Manager. B.S.B.A., Robert Morris College; B.S.I.S., University of Pittsburgh, CPA, CGMA.
LuANN M. DRISCOLL, Office Manager and Director of the Document Technology Center.
KIM GETZ, Director of Information Technology. B.S., M.S., Robert Morris University.
MEME JEFFRIES, Director of Financial Aid and Assistant Director of Admissions. B.S., Pennsylvania State University; M.Ed., University of Pittsburgh.
BETH T. LIBERATORE, Registrar.
ALEXANDRA LINSENMEYER, Director of Admissions. A.B., The College of William and Mary; M.Ed., George Washington University.
JAMES MENTZER, Assistant Director, J.D. Advantage Careers. B.A., Westminster College; J.D., University of Akron.
CORI PARISE, Director of Communications and Marketing. B.F.A., West Virginia University; M.P.W., Chatham University.
RICHARD G. THORPE, Executive Director of the Center of International Legal Education and Adjunct Professor of Law. A.B., University of Chicago; Ph.D., Princeton University; J.D., Yale University.
SARAH WEISSMAN, Assistant Director, Private Sector Careers. B.A., University of Pittsburgh; J.D., Duquesne University.
LAUREN WIATER, Manager of Constituent Relations. B.A., University of Akron.

**THE
JOURNAL OF
LAW AND
COMMERCE**

Volume 38

Fall 2019–Spring 2020

Editor in Chief
NICHOLAS BENCSCS

Lead Executive Editor
MALLARD GEORGE

Lead Managing Editors
ASHLEY CRANE
KATLYN STONE

Lead Articles Editor
MARY SHAHVERDIAN

Lead Notes & Comments Editor
JESSICA BOVE

Lead Business Manager
CAMERON WOLFSON

Managing Editors
JACOB CLINE
KRISTA EBBERT
STEPHANIE MOORE
DEBRA PARMA
CAILEE ST. JEAN
JARED SHEINBERG
TYLER SIMINSKI
JOHNATHAN WHALEN

Associate Editors

AARON AHLGREN
CHRISTOPHER ANDERSON
NICHOLAS ANDREWS
SEAN ASHOFF
MATTHEW BORGES
NADIA BROOKS
EMMA CARSON
TRISTAN DIETRICK
KENNETH HELD
CASEY HEMPHILL

PAUL McDONNELL
ALEXA MCKINLEY
ALEKSA OSTOJICH
JUSTICE POWLUS
KIERSTEN REINHOLD
CHRISTIAN ROBERTS
MORGAN SMITH
NATALIA VIGNEVICH
MICHAEL WISE
ALYSSA ZOTTOLA

Faculty Advisor
PROFESSOR PETER OH

Director of Administrative Services
LUANN M. DRISCOLL

Document Technology Staff
VICKI DiDOMENICO
KAREN KNOCHEL
DARLEEN A. MOCELLO
BARB SALOPEK

TABLE OF CONTENTS

TRIBUTES

- | | | |
|---|---------------------------|---|
| 1 | <i>Mark A. Nordenberg</i> | Harry Flechtner: Teacher, Scholar and Friend |
| 3 | <i>Stefan Kröll</i> | I Have the Blues—A Tribute to the Harry Flechtner |
| 7 | <i>Ronald A. Brand</i> | Harry Flechtner—A True Teacher/Scholar, with Rhythm |

ARTICLES

- | | | |
|-----|---|--|
| 11 | <i>Nina Tepeš and Hrvoje Markovinović</i> | The CISG and the Good Faith Principle |
| 35 | <i>Harry M. Flechtner</i> | The Past, Present and Future of the CISG (and other Uniform Commercial Law Initiatives) |
| 47 | <i>Alejandro Osuna González</i> | The Expert Witness and the CISG |
| 65 | <i>John F. Coyle</i> | The Role of the CISG in Canadian Contract Practice: An Empirical Study |
| 83 | <i>Johan Erauw</i> | Time-Limitations Limiting Uniformity Under CISG Even for the Cut-Off-Term of Article 39(2) |
| 113 | <i>Susanne Cook</i> | Practical Considerations in Opting-In (or not) the CISG |
| 123 | <i>Chiara Giovannucci Orlandi</i> | Burden of Proof, Standard of Proof, and Evidence Issues Under the CISG |

137 <i>Ronald A. Brand</i>	The CISG: Applicable Law and Applicable Forums
155 <i>Mark Walter</i>	The CISG and Cross-Border Access to Commercial Justice
179 <i>Francesco G. Mazzotta</i>	Uniform Interpretation: Notice of Nonconformity
189 <i>Nevena Jevremović</i>	CISG and Contracting Practice: Facilitating Negotiation of Contract Terms
207 <i>Petra Butler</i>	The CISG as the Tool for Successful MSME Participation in Global Trade
245 <i>Francesca Ragno</i>	The CISG and the Choice of Law: Two Worlds Apart?
273 <i>Marco Torsello</i>	Sales Law Beyond Sales Contracts: Applicability and Applications of the CISG to Non-Sales Transactions (The Case of Countertrade and Barter Transactions)
305 <i>Professor Doctor Ingeborg Schwenzer, Julian Ranetunge, and Fernando Tafur</i>	Service Contracts and the CISG
333 <i>Henry Gabriel</i>	The Misplaced Reliance on Default Rules in International Sales Contracts
359 <i>Ulrich Magnus</i>	Opting In and Opting Out: Can There be Uniform Interpretation or Does <i>Variatio Delectat</i> Govern?
387 <i>Dr. Vjosa Osmani-Sadriu</i>	Domestication of the CISG: Examples from a Few Jurisdictions

407 *Janet C. Checkley*

The Role of the CISG and
International Legal Education: A
Model for Future Promotion of the
CISG

NOTES

433 *Cameron Wolfson*

Won't You (Pay to) Be My
Neighbor—*How Businesses Could
Benefit from Investing in Community
Land Trusts*

447 *Mary A. Shahverdian*

The Constitutionality of Criminal
Law in the United States' Territories
as Compared to the States and
Foreign Countries

463 *Debra Parma*

At Ticketmaster, Scalpers Score and
Fans Come Last

481 *Jessica Bove*

Where the Rubber Meets the Road:
The Use of Condoms to Satisfy the
Federal Nexus Requirement in Sex
Trafficking of Minors Prosecutions