

3-1-2011

Frontmatter

Follow this and additional works at: <https://digitalcommons.law.byu.edu/lawreview>



Part of the [Law Commons](#)

Recommended Citation

Frontmatter, 2011 BYU L. Rev. (2011).

Available at: <https://digitalcommons.law.byu.edu/lawreview/vol2011/iss1/16>

This Frontmatter is brought to you for free and open access by the Brigham Young University Law Review at BYU Law Digital Commons. It has been accepted for inclusion in BYU Law Review by an authorized editor of BYU Law Digital Commons. For more information, please contact hunterlawlibrary@byu.edu.

SECOND ANNUAL SURVEY OF THE NINTH AND TENTH CIRCUITS

Student Note Contributors

Eric B. Ashcroft

Jackie Bosshardt

Brandon S. Boulter

Edan Burkett

Michael Q. Cannon

Nathan R. Curtis

James C. Dunkelberger

Dustin M. Glazier

Richard Hyde

Steven Michael Lau

Joseph Leavitt

D. Evan Pack

Phillip R. Sumpter

Joseph G. Walker

Nathan White

Brigham Young University Law Review

VOLUME 2011

NUMBER 1



BRIGHAM YOUNG UNIVERSITY LAW REVIEW (ISSN 0360-151X) will publish six issues in 2011 (February, March, April, October, November, and December). Business Office: J. Reuben Clark Law School, Office of Accounting, 460 JRCB, Provo, Utah 84602-8000.

SUBSCRIPTIONS: The subscription rate for subscribers in the United States is \$36 for one year, \$65 for two years, and \$90 for three years. Foreign subscriptions are \$44 for one year, \$81 for two years, and \$114 for three years. All claims on issues not received must be made within three months of publication if within the United States, or within six months for foreign subscriptions. Subscriptions are entered for an entire year only and are payable in advance. All subscriptions are renewed automatically unless timely notice of cancellation is given. Please send all correspondence regarding subscriptions to Office of Accounting, 460 JRCB, Provo, Utah 84602-8000. Issues older than one year may be obtained for \$16.00–\$20.00 from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209-1987, phone number: (800) 828-7571. Back issues are also available at HeinOnline, <http://heinonline.org>.

SUBMISSIONS: The Law Review is pleased to accept electronic submissions for publication through ExpressO or by email to lawrev@lawgate.byu.edu. The Law Review no longer accepts hardcopy submissions for publication. All other communications pertaining to articles should be sent to the attention of the Managing Editor of Administration: 471F JRCB, Brigham Young University, Provo, Utah 84602-8000.

CONTENT: All citations conform to *The Bluebook: A Uniform System of Citation* (19th ed. 2010) and the *Chicago Manual of Style* (16th ed. 2010). Views expressed herein are to be attributed to their authors and not to the Brigham Young University Law Review or Brigham Young University, unless otherwise indicated.

COPYRIGHT: Except as otherwise noted, the Law Review is pleased to grant permission for copies of articles to be made for noncommercial classroom use, provided that (1) a proper notice of copyright is affixed to each copy, (2) the author and source are identified, (3) copies are distributed at or below cost, and (4) the Brigham Young University Law Review is notified of the use.

Copyright © 2011 Brigham Young University Law Review

Brigham Young University Law Review

VOLUME 2011

NUMBER 1

Editor-in-Chief
NATHAN CURTIS

Managing Editor of Administration
JONATHAN HEATON

Managing Editor of Publication
ALLISON BELNAP

Managing Editor of Technology
DUSTIN GLAZIER

Lead Articles Editors
STEPHANIE BARCLAY
JAMES DUNKELBERGER
MARCUS HINTZE
STEPHEN LAU
ROBERT STANDER

Lead Note & Comment Editors
BRANDON BOULTER
COREY BOYD
CARLA CRANDALL
JOSEPH EDMONDS
WILLIAM M. HAINS

Senior Symposium Editor
PATRICK SOLOMON

Senior Editors

PIERCE ANDREWS
EDAN BURKETT
JAKE GORRINGE
MATT HALL
JEFFREY HANDY
JACOB HART
DANIELLE JONES

KIRK MELTON
DALLIN MORROW
DEREK MUAINA
ALLEN QUIST
ROBERT SELFAISON
M. ADAM TATE
CASEY UNWIN

Associate Editors

TRENT ANDREWS
ERIC ASHCROFT
GENEVA P. BARRETT
JACKIE BOSSHARDT
J. RANDALL BOYER
AMBER C. BUECHTER
MICHAEL Q. CANNON
BRANDON T. CROWTHER
REBECCA A. EREKSON
M. PRESTON GARDNER
KYLE L. GRANT
MELANIE GRANT
CHRIS HARRIS
BRYAN HOLM
JUSTIN D. HUNTER
SAMANTHA HUNTER
RICHARD HYDE
ELSA JACOBSEN
TYLER M. JEFFS
JONATHAN B. KOTTER

ELI MCCANN
DANIEL S. MEHR
JEFF MILES
TIMOTHY J. NALLY
SARA MEG NIELSON
D. EVAN PACK
LAUREN SHAW
JULIE A. SLATER
W. DEVIN SNOW
TYLER STOEHR
PHILLIP R. SUMPTER
CURTIS THOMAS
JOSHUA J. TRAYNER
JOSEPH G. WALKER
NATHANIEL WARD
KEVIN WHITE
NATHAN WHITE
CHRIS WHITTAKER
MATT WILLIE

BRIGHAM YOUNG UNIVERSITY
J. REUBEN CLARK LAW SCHOOL FACULTY

- AUGUSTINE-ADAMS, KIF (1995), Associate Dean and Charles E. Jones Professor of Law. B.A., 1988, Brigham Young University; J.D., 1992, Harvard Law School.
- BACKMAN, JAMES H. (1974), Stephen L. Richards Professor of Law. B.A., 1969, Harvard University; J.D., 1972, University of Utah.
- BARADARAN, MEHRSA (2010), Assistant Professor of Law. B.A., 2002, Brigham Young University; J.D., 2005, New York University.
- BARADARAN, SHIMA (2010), Associate Professor of Law. B.S., 2001, Brigham Young University; J.D., 2004, Brigham Young University.
- BOYER, BROOKE CLAYTON (2010), Visiting Assistant Professor of Law. B.A., 2000, Brigham Young University; J.D., 2005, Harvard Law School.
- CAMERON, SCOTT W. (1989), Associate Dean. A.B., 1970, M.A., 1971, Stanford University; J.D., 1976, Brigham Young University.
- DANIELS, BRIGHAM (2010), Associate Professor of Law. M.P.A., 2000, University of Utah; J.D., 2003, Stanford Law School; Ph.D., 2010, Duke University.
- DOMINGUEZ, DAVID (1989), Professor of Law. B.A., 1977, Yale University; J.D., 1980, University of California, Berkeley.
- DOXEY, GARY B. (2005), Associate Director of International Center for Law and Religion Studies. B.A., 1980, Brigham Young University; J.D., 1984, Brigham Young University, Ph.D., 1992, Cambridge University.
- DURHAM, W. COLE, JR. (1976), Gates University Professor of Law and Director, International Center for Law and Religion Studies. A.B., 1972, J.D., 1975, Harvard University.
- ECHOHAWK, LARRY (1995), Professor of Law. B.S., 1970, Brigham Young University; J.D., 1973, University of Utah.
- FARMER, LARRY C. (1974), Marion G. Romney Professor of Law. B.S., 1968, University of Washington; Ph.D., 1975, Brigham Young University.
- FEE, JOHN E. (2000), Professor of Law. B.A., 1992, Brigham Young University; J.D., 1995, University of Chicago.
- FLEMING, J. CLIFTON, JR. (1974), Ernest L. Wilkinson Professor of Law. B.S., 1964, Brigham Young University; J.D., 1967, George Washington University.
- GEDICKS, FREDERICK M. (1990), Guy Anderson Chair and Professor of Law. B.A., 1977, Brigham Young University; J.D., 1980, University of Southern California.
- GERDY, KRISTIN (1995), Teaching Professor and Director, Rex E. Lee Advocacy Program. B.A., 1992, J.D., 1995, Brigham Young University.
- GORDON, JAMES D. III (1984), University Assistant to the President for Planning and Assessment, and Marion B. and Rulon A. Earl Professor of Law. B.A., 1977, Brigham Young University; J.D., 1980, University of California, Berkeley.
- HANSEN, H. REESE (1974), Howard W. Hunter Professor of Law. B.S., 1964, Utah State University; J.D., 1972, University of Utah.
- HERNANDEZ, CARL III (2001), Assistant Dean. A.A., 1985, College of the Sequoias; B.A., 1988, J.D./M.P.A., 1992, Brigham Young University.
- HOAGLAND, MARY H. (1994), Assistant Dean. B.A., 1978, Brigham Young University; M.A., 1982, San Diego State University; J.D.; 1984, San Joaquin College of Law; Ph.D., 2007, Brigham Young University.
- JONES, RONNELL ANDERSEN (2008), Associate Professor of Law. B.S., 1995, Utah State University; J.D., 2000, The Ohio State University.

MOORE, DAVID H. (2008), Professor of Law. B.A., 1992, J.D., 1996, Brigham Young University.

NÚÑEZ, D. CAROLINA (2007), Associate Professor of Law. B.A., 2001, J.D., 2004, Brigham Young University.

PRESTON, CHERYL BAILEY (1989), Edwin M. Thomas Professor of Law. B.A., 1975, J.D., 1979, Brigham Young University.

RASBAND, JAMES R. (1995), Dean and Hugh W. Colton Professor of Law. B.A., 1986, Brigham Young University; J.D., 1989, Harvard Law School.

SCHARFFS, BRETT G. (1997), Francis R. Kirkham Professor of Law. B.S.B.A., 1986, M.A., 1987, Georgetown University; B.Phil., 1989, Oxford University; J.D., 1992, Yale Law School.

SMITH, D. GORDON (2007), Associate Dean and Glen L. Farr Professor of Law. B.S., 1986, Brigham Young University; J.D., 1990, University of Chicago Law School.

STAHEL, KORY D. (2007), Director, Law Library. B.A., 1984, J.D., 1987, M.L.I.S., 1991, Brigham Young University.

SUN, LISA GROW (2008), Associate Professor of Law. B.S., 1994, University of Utah; J.D., 1997, Harvard Law School.

TARKINGTON, MARGARET C. (2006), Associate Professor of Law. B.A., 1999, J.D., 2002, Brigham Young University.

WARDLE, LYNN D. (1978), Bruce C. Hafen Professor of Law. B.A., 1971, Brigham Young University; J.D., 1974, Duke University.

WELCH, JOHN W. (1980), Robert K. Thomas University Professor of Law. B.A., 1970, M.A., 1970, Brigham Young University; J.D., 1975, Duke University.

WORTHEN, KEVIN J (1987), University Advancement Vice President, and Hugh W. Colton Professor of Law. B.A., 1979, J.D., 1982, Brigham Young University.

ADJUNCT FACULTY

AFFLECK, ADAM S.	KIMBALL, DALE A.	PETERSON, JANET G.
BATES, MARTIN W.	KIRKHAM, DAVID M.	PHILLIPS, GREGORY D.
BENSON, DEE V.	LAMBERT, SAM	PULLAN, DEREK
BENSON, RANDALL	LEE, THOMAS R.	RICE, VERNON
CAMP, CAROLYNN	LEITHEAD, HEIDI	RICH, BRETT
CUNDICK, TED	LINDQUIST, SHAWN	ROBERTS, CHARLES L.
CURTIS, LEGRAND R., JR.	LINDSAY, KAY A.	RUNYAN, NATE
DAVIS, MARK D.	LINTON, MORRIS D.	SANDBERG, STEVE
DEERE, MONTE M.	LOVELESS, A. SCOTT	SCHOFIELD, ANTHONY W.
DURHAM, PAUL M.	MADSEN, GORDON A.	SEWELL, ELIZABETH
FACKRELL, TAMARA	MANGELSON, MICHAEL E.	SILVA, JOSE
FERRIN, SCOTT	MCCLEVE, SHEILA K.	SMITH, ROBERT T.
GALLI, CRAIG	MCCULLOUGH, LEE S.	TENNEY, RYAN
GLADE, KEVIN	MURRAY, KEVIN R.	THOMAS, SUSANNAH
GLADE, LEEANN	NIELSON, HOWARD C., JR.	TIPPETT, RUST
GRIFFITH, SUSAN W.	NIGHTINGALE, GEORGE	TODD, DAVID R.
GRIFFITH, THOMAS B.	NORMAN, KIRSTIN H.	VAN WOERKOM, DANIEL
GUYNN, JOHN	NUFFER, DAVID	WALKER, JEFFREY N.
HAMILTON, KEITH	NYDEGGER, CHAD	WARNER, PAUL M.
HULET, KAYCEE	OLDHAM, J. LAVAR	WELCH, MEGAN
JANIS, BLAIR E.	OWEN, STANFORD B.	WINN, SARAH GUBLER
JENSEN, MARY O.	PARKER, ELISABETH	WISE, JANE H.
JENSON, EMILY M.	PEARSON, JOI GARDNER	WRIDE, BRENT D.
JONES, GREGORY D.		

Brigham Young University Law Review

VOLUME 2011

NUMBER 1

NOTES

Distilling <i>Ashcroft</i> : The Ninth Circuit's Application of National Community Standards to Internet Obscenity in <i>United States v. Kilbride</i> <i>Eric B. Ashcroft</i>	1
Modifying the Restrictions on Sentence Modification: <i>United States v. Cobb</i> <i>Jackie Bosshardt</i>	17
Goldilocks and the Three-Judge Panel: <i>Spencer v. World Vision, Inc.</i> and the Religious Organization Exemption of Title VII <i>Brandon S. Boulter</i>	33
<i>United States v. Wise</i> : Is Failure to Stop for the Police a Sentence-Enhancing Crime of Violence? <i>Edan Burkett</i>	49
<i>Greenwood v. CompuCredit Corp.</i> : The Ninth Circuit's Misdirected Interpretation of the Credit Repair Organizations Act <i>Michael Q. Cannon</i>	67
Statutory Cosmetic Surgery: Misinterpretation of the Copyright Act's Registration Requirement in <i>Cosmetic Ideas, Inc. v. IAC/InteractiveCorp</i> <i>Nathan R. Curtis</i>	83
Missed Opportunity or Dodged Bullet? The Tenth Circuit's Non-decision in <i>Rocky Mountain Christian Church v.</i> <i>Board of County Commissioners</i> <i>James C. Dunkelberger</i>	99

A Game of Old Maid: The Ninth Circuit Establishes when the Owner-Operator is Determined for CERCLA Liability in <i>California v. Hearthside Residential Corp.</i> <i>Dustin M. Glazier</i>	117
Preserving Access to Tattoos: First Amendment Trumps Municipal Ban in <i>Anderson v. City of Hermosa Beach</i> <i>Richard Hyde</i>	131
Ignoring Purpose, Context, and History: The Tenth Circuit Court in <i>American Atheists, Inc. v. Duncan</i> <i>Steven Michael Lau</i>	149
Sidestepping Deference: How <i>United States v. Ressa</i> Encourages Overly Stringent Review of Sentencing Decisions <i>Joseph Leavitt</i>	171
Substantially Burdened, Substantially in Conflict, or Substantially Unneeded? A Discussion of <i>Abdulhaseeb v. Calbone</i> <i>D. Evan Pack</i>	189
Is Big Brother Watching You? <i>United States v. Pineda-Moreno</i> and the Ninth Circuit's Dismantling of the Fourth Amendment's Protections <i>Phillip R. Sumpter</i>	209
Tase Me One More Time: An Analysis of the Ninth Circuit's Interpretation of the Fourth Amendment, Qualified Immunity, and Tasers in <i>Brooks v. City of Seattle</i> <i>Joseph G. Walker</i>	227
Arguments Not Raised: How the Plaintiffs' Missed Opportunity Led to the Tenth Circuit's Decision in <i>June v. Union Carbide Corp.</i> <i>Nathan White</i>	245