

# Missouri Law Review

---

Volume 79  
Issue 1 *Winter 2014*

Article 1

---

Winter 2014

## Table of Contents - Issue 1

Follow this and additional works at: <https://scholarship.law.missouri.edu/mlr>



Part of the [Law Commons](#)

---

### Recommended Citation

*Table of Contents - Issue 1*, 79 MO. L. REV. (2014)

Available at: <https://scholarship.law.missouri.edu/mlr/vol79/iss1/1>

This Front Matter is brought to you for free and open access by the Law Journals at University of Missouri School of Law Scholarship Repository. It has been accepted for inclusion in Missouri Law Review by an authorized editor of University of Missouri School of Law Scholarship Repository. For more information, please contact [bassettcw@missouri.edu](mailto:bassettcw@missouri.edu).

# MISSOURI LAW REVIEW

---

VOLUME 79

WINTER 2014

NUMBER 1

---

## CONTENTS

### ARTICLES

- Fisher v. University of Texas at Austin:*  
*Grutter (Not) Revisited* ..... *R. Lawrence Purdy* 1
- It's Not Over 'Til It's Over:  
Mandating Federal Pretrial Jurisdiction  
and Oversight in Mass Torts ..... *Tanya Pierce* 27
- Rethinking the Testamentary  
Capacity of Minors ..... *Mark Glover* 69
- Federalism, Diversity, Equality, and  
Article III Judges: Geography,  
Identity, and Bias ..... *Sharon E. Rush* 119

### NOTES & COMMENTS

- The Doctrine of Substantial  
Overbreadth: A Better Prescription  
for "Strong Medicine" in Missouri ..... *Keith H. Holland* 185
- From Keyboard to Schoolhouse:  
Student Speech in an Age of  
Pervasive Technology ..... *Erin M. Leach* 205
- Amendment 2 and Its Effect on  
Missourians' Free Exercise of Religion ..... *Mishelle Martinez* 237

**SCHOOL OF LAW  
UNIVERSITY OF MISSOURI**

**ADMINISTRATIVE OFFICERS**

TIMOTHY M. WOLFE, BS, *President, University of Missouri System*  
R. BOWEN LOFTIN, BS, MA, PhD, *Chancellor, University of Missouri*  
KENNETH D. DEAN, BA, MA, JD, *Interim Provost, Director of Professional Programs and Associate Professor of Law*  
GARY MYERS, BA, MA, JD, *Dean and Earl F. Nelson Professor of Law*  
RAFAEL GELY, BA, AM, JD, PhD, *Associate Dean for Academic Affairs and James E. Campbell Missouri Endowed Professor of Law*  
RIGEL C. OLIVERI, BA, JD, *Associate Dean for Faculty Research and Development and Associate Professor of Law*  
ROBERT G. BAILEY, BA, JD, *Director of the Center for the Study of Dispute Resolution and Assistant Dean*  
ELIZABETH E. KEY, BSW, JD, *Assistant Dean for Career Development and Student Services*  
RANDY J. DIAMOND, BA, JD, MLS, *Director of Library and Technology Resources and Professor of Legal Research*  
ALISHA L. RYCHNOVSKY, BS, MBA, *Manager of Business and Fiscal Operations*  
MARK LANGWORTHY, BS, JD, *Senior Director of Advancement*  
CASEY BAKER, BA, *Director of External Relations*  
MICHELLE L. HECK, BSBA, MED, *Director of Admissions*

**THE FACULTY OF LAW**

DOUGLAS E. ABRAMS, BA, JD, *Associate Professor of Law*  
ANNE GARDNER ALEXANDER, BA, MS, JD, *Associate Professor of Legal Research and Writing*  
ROBERT G. BAILEY, BA, JD, *Director of the Center for the Study of Dispute Resolution and Assistant Dean*  
ROYCE DE R. BARONDES, SB, SM, JD, *Associate Professor of Law*  
MARY M. BECK, BSN, MSN, JD, *Director of the Domestic Violence Clinic and Clinical Professor of Law*  
MELISSA MCGONIGAL BERRY, BA, JD, *Visiting Associate Professor of Law*  
FRANK O. BOWMAN III, BA, JD, *Floyd R. Gibson Missouri Endowed Professor of Law*  
MICHELLE ARNOPOLO CECIL, BA, JD, *William H. Pittman Professor of Law and Curators' Teaching Professor*  
MIRIAM A. CHERRY, BA, JD, *Visiting Professor of Law*  
CARLI N. CONKLIN, BS, MAE, JD, MA, PhD, *Associate Professor of Law*  
DENNIS D. CROUCH, BSE, JD, *Associate Professor of Law*  
MELODY RICHARDSON DAILY, BA, MA, JD, *Director of Legal Research and Writing and Professor of Legal Research and Writing*  
KENNETH D. DEAN, BA, MA, JD, *Interim Provost, Director of Professional Programs and Associate Professor of Law*  
BRAD M. DESNOYER, BA, JD, *Associate Professor of Legal Research and Writing*  
R. LAWRENCE DESSEM, BA, JD, *Timothy J. Heinz Professor of Law*  
RANDY J. DIAMOND, BA, JD, MLS, *Director of Library and Technology Resources and Professor of Legal Research*  
MARTHA DRAGICH, BA, MA, JD, LL.M., *James S. Rollins Professor of Law*  
ANGELA K. DRAKE, BS, JD, *Instructor and Supervising Attorney*  
DAVID M. ENGLISH, BA, JD, *William Franklin Fratcher Missouri Endowed Professor of Law*  
CARL H. ESBECK, BS, JD, *Isabelle Wade & Paul C. Lyda Professor of Law and R.B. Price Professor of Law*  
R. WILSON FREYERMUTH, BS, JD, *John D. Lawson Professor of Law and Curators' Teaching Professor*  
RAFAEL GELY, BA, AM, JD, PhD, *Associate Dean for Academic Affairs and James E. Campbell Missouri Endowed Professor of Law*  
ERIN MORROW HAWLEY, BS, JD, *Associate Professor of Law*  
JOSHUA D. HAWLEY, AB, JD, *Associate Professor of Law*  
CHUCK HENSON, BA, JD, *Trial Practice Professor of Law*  
KANDICE JOHNSON, BS, JD, *Director of Clinical Programs, Director of the Criminal Prosecution Clinic and Clinical Professor of Law*  
PAUL LADEHOFF, MS, JD, *Director of the LL.M. in Dispute Resolution Program and Director of Campus Mediation Service*  
THOMAS A. LAMBERT, BA, JD, *Wall Chair in Corporate Law and Governance*  
JOHN LANDE, AB, JD, MS, PhD, *Isidor Loeb Professor of Law*  
ILIIYUNG LEE, BA, MA, JD, *Edward W. Hinton Professor of Law*  
JAMES LEVIN, BA, JD, *Associate Director of the Center for the Study of Dispute Resolution and Adjunct Professor of Law*  
PAUL J. LITTON, BA, JD, PhD, *Associate Professor of Law*  
MICHAEL A. MIDDLETON, BA, JD, *Deputy Chancellor and Professor of Law*  
S. DAVID MITCHELL, BA, MA, JD, *Associate Professor of Law*  
GARY MYERS, BA, MA, JD, *Dean and Earl F. Nelson Professor of Law*  
CAROL NEWMAN, BA, PhD, JD, *Associate Professor of Law*  
RIGEL C. OLIVERI, BA, JD, *Associate Dean for Faculty Research and Development and Associate Professor of Law*  
PHILIP G. PETERS JR., BA, JD, *Ruth L. Hulston Professor of Law*  
RICHARD C. REUBEN, BA, BA, JD, JSM, JSD, *James Lewis Parks Professor of Law*  
TROY A. RULE, BS, JD, *Associate Professor of Law*  
S. I. STRONG, BA, MPW, JD, PhD, DPHIL, *Associate Professor of Law*  
BEN L. TRACHTENBERG, BA, MA, JD, *Associate Professor of Law*  
RODNEY J. UPHOFF, BA, MS, JD, *Elwood L. Thomas Missouri Endowed Professor of Law and Director of the University of Missouri South Africa Educational Program*  
CHRISTINA E. WELLS, BA, JD, *Enoch H. Crowder Professor of Law*

THE EMERITUS FACULTY OF LAW

PETER N. DAVIS, BA, LLB, SJD, *Isidor Loeb Professor Emeritus of Law*  
WILLIAM B. FISCH, AB, LLB, MCL, DR JUR, *Isidor Loeb Professor Emeritus of Law*  
DAVID A. FISCHIER, BA, JD, *James Lewis Parks and Isidor Loeb Professor Emeritus of Law*  
PATRICIA BRUMFIELD FRY, JD, MA, *Edward W. Hinton Professor Emerita of Law*  
PHILIP J. HARTER, AB, MA, JD, *Earl F. Nelson Professor Emeritus of Law*  
WILLIAM H. HENNING, BA, JD, LL.M., *R.B. Price Professor Emeritus of Law*  
EDWARD H. HUNVALD JR., AB, JD, *Earl F. Nelson and John D. Lawson Professor Emeritus of Law*  
HENRY T. LOWE, AB, JD, *C.A. Leedy and Earl F. Nelson Professor Emeritus of Law*  
ALFRED S. NEELY IV, AB, LLB, *Edward W. Hinton Professor Emeritus of Law*  
GRANT S. NELSON, BA, JD, *Earl F. Nelson and Enoch H. Crowder Professor Emeritus of Law*  
LEONARD L. RISKIN, BS, JD, LL.M., *C.A. Leedy and Isidor Loeb Professor Emeritus of Law*  
JAMES E. WESTBROOK, BA, JD, LL.M., *Earl F. Nelson and James S. Rollins Professor Emeritus of Law*  
DALE A. WHITMAN, BES, LLB, *James E. Campbell Missouri Endowed Professor Emeritus of Law*

THE ADJUNCT FACULTY OF LAW

MICHAEL T. CARNEY, BS, MA, JD, *Adjunct Associate Professor of Law*  
NIMROD T. CHAPEL JR., BS, JD, LL.M., *Adjunct Professor of Law*  
JOSEPH P. DANDURAND, BS, JD, *Adjunct Professor of Law*  
SANDRA DAVIDSON, BA, MA, JD, PH.D., *Professor of Journalism and Adjunct Professor of Law*  
CJ DYKHOUSE, BS, JD, *Adjunct Associate Professor of Law*  
ROGER C. GEARY, BS, JD, *Adjunct Professor of Law*  
CONNIE S. HADEN, BS, BSBA, JD, *Adjunct Associate Professor of Law*  
DANIEL Y. HALL, BA, JD, *Adjunct Associate Professor of Law*  
RON HOLLINGER, BS, JD, *Adjunct Professor of Law*  
NATHAN A. JONES, BSBA, JD, *Adjunct Associate Professor of Law*  
BRIDGET CROWLEY KEVIN-MYERS, BA, BSN, JD, LL.M., *Adjunct Associate Professor of Law*  
MISSOURI SOLICITOR GENERAL JIM LAYTON, BS, JD, *Adjunct Professor of Law*  
LORI J. LEVINE, BS, JD, *Adjunct Professor of Law*  
HAROLD L. LOWENSTEIN, BA, JD, *Adjunct Professor of Law*  
SARAH R. MAGUFFEE, BA, JD, *Adjunct Associate Professor of Law*  
J. DANIELLE MCAFEE, BA, JD, *Adjunct Associate Professor of Law*  
LARRY L. MCMULLEN, BA, LLB, *Adjunct Professor of Law*  
DAVID D. NOCE, AB, JD, *Adjunct Professor of Law*  
WALTER RAY PHILLIPS, BA, JD, LL.M., *Adjunct Professor of Law*  
JOEL POOLE, BS, JD, *Adjunct Professor of Law*  
SARAH J. READ, BA, JD, *Adjunct Professor of Law*  
JAYME SALINARDI, BA, JD, *Adjunct Associate Professor of Law*  
LESLIE A. SCHNEIDER, BA, JD, *Adjunct Professor of Law*  
JEFFREY J. SIMON, BA, JD, *Adjunct Associate Professor of Law*  
TROY K. STABENOW, BSFS, JD, *Adjunct Associate Professor of Law*  
SANDRA R. STIGALL, BBA, JD, *Adjunct Professor of Law*  
GAYLE GRISSUM STRATMANN, BS, MED, JD, *Adjunct Professor of Law*  
JAYNE T. WOODS, BS, JD, *Adjunct Associate Professor of Law*

# MISSOURI LAW REVIEW

A publication by the School of Law  
University of Missouri-Columbia

Volume 79

Winter 2014

Number 1

**EDITOR IN CHIEF**

ELIZABETH HATTING

**MANAGING EDITOR**

AMANDA N. JOHNSON

**SENIOR LEAD ARTICLES EDITOR**

STEPHANIE BRADSHAW

**ASSOCIATE EDITOR IN CHIEF**

PETER BAY

**LEAD ARTICLES EDITORS**

JOHN FREESE

BREANNA HANCE

NICHOLAS THEODORE

**ASSOCIATE MANAGING EDITORS**

SARAH HASKINS

MISHELLE MARTINEZ

JACOB THESSSEN

**SENIOR NOTE AND COMMENT EDITOR**

BRIAN STAIR

**NOTE AND COMMENT EDITORS**

DANIEL COFFMAN

RACHEL LAWRENCE

MICHAEL OWENS

ZACK SHKLAR

**LAYOUT AND DESIGN EDITOR**

ERIN LEACH

**SENIOR ASSOCIATE EDITOR**

SCOTT APKING

**ASSOCIATE EDITORS**

KYLE BUMBERRY

JAMES GALBRAITH

JOEL HANE

KEITH HOLLAND

MELESA JOHNSON

CHRIS LESINSKI

KACI PETERSON

SHELLY ROSENFELDER

---

**ASSOCIATE MEMBERS**

TARA BAILES  
CAMERON BEAVER  
COLE CAMERON  
KELLY COLLINS  
JOSEPH CONLON  
GARRETH COOKSEY  
JILLIAN DENT  
KIRSTEN DUNHAM  
WHITNEY FAY  
DAVID FERGUSON

KELLY GORMAN  
TIMOTHY GUNTLI  
LESLEY HALL  
ALICE HASELTINE  
KIMBERLY HUBBARD  
ALEXANDER HURST  
EMILY KISSEE  
LIZ LAFOE  
HUGO LOPEZ  
TYLER McELROY

SEAN MILFORD  
JUSTIN MOODY  
ANDREW PEEBLES  
KRISTEN SHIVELY  
KEITH STARR  
AUSTIN VAN'TINE  
CARA STUCKEL  
CALEB WAGNER  
KRISTEN WAGNER  
JONATHAN WHITFIELD

**FACULTY ADVISOR**

PAUL J. LITTON

**COMPUTERS**

DARRELL E. JAEGER

Publication of signed contributions does not signify adoption  
by the *Missouri Law Review* or its Editors of the views expressed.

---

---

The *Missouri Law Review* publishes one volume per academic year. Each volume consists of four issues. Subscriptions are accepted only on a volume basis, starting with the first issue of the volume. Current subscription price: \$40.00 (Foreign subscriptions – \$45.00). Payment for renewal subscriptions is due within thirty days of the invoice date. Any entity or individual invoiced for four or more renewal subscriptions will be charged \$5.00 per subscription for failure to pay within thirty days. Refunds will not be made for cancellations made after the publication of the first issue of any volume.

Subscribers must report non-receipt of an issue within six months of its mailing or one month of receipt of a succeeding issue, whichever is shorter, in order to receive that issue without additional charge.

All notifications of change of address should include old and new addresses with zip codes. Notice of a change of address must reach the *Review* one month in advance of publication to ensure delivery. The Post Office will not forward issues to a new address. The *Review* will forward issues missed because of address changes only upon written claim of non-receipt and prepayment of \$2.00 to cover the cost of postage and processing.

Complete sets, odd volumes, or issues of the *Missouri Law Review* can be obtained from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209.

---

---

Published quarterly by the School of Law, University of Missouri-Columbia, Missouri 65211, telephone: 573-882-7055. Entered as second class matter February 7, 1936, at the Post Office in Columbia, Missouri, under the Act of March 3, 1879. Periodicals postage paid at Columbia, Missouri, and additional mailing offices, *Missouri Law Review* (USPS 355-300) (ISSN 0026-6604). Postmaster: Send change of address to *Missouri Law Review*, School of Law, Hulston Hall, Room 201, University of Missouri-Columbia, Columbia, Missouri 65211.

---

---

**Copyright:** Copyright 2014 by the Curators of the University of Missouri. Articles herein may be duplicated for classroom use, provided that (1) each copy is distributed at or below cost, (2) the author and the *Missouri Law Review* are identified, (3) proper notice of copyright is affixed to each copy, and (4) the *Missouri Law Review* is notified of the use.

**Production:** The citations of the *Review* conform to THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (19th ed. 2010), copyright by the *Columbia*, *Harvard*, and *University of Pennsylvania Law Reviews* and *The Yale Law Journal*.

<http://www.law.missouri.edu/lawreview>