

January 2018

## Vol. 95, no. 3: Table of Contents

Denver Law Review

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

---

### Recommended Citation

Table of Contents, 95 Denv. L. Rev. [i] (2018).

This Front Matter is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact [jennifer.cox@du.edu](mailto:jennifer.cox@du.edu), [dig-commons@du.edu](mailto:dig-commons@du.edu).

ARTICLES

Preparing Tomorrow’s Lawyers to Tackle Twenty-First Century Health and Social Justice Issues .....	<i>Jennifer Rosen Valverde</i>	539
Beyond Dakota Access Pipeline: Energy Development and the Imperative for Meaningful Tribal Consultation .....	<i>Troy A. Eid</i>	593
The Biology of Inequality .....	<i>Lucy A. Jewel</i>	609
“Finding” a Way to Complete the <i>Ring</i> of Capital Jury Sentencing .....	<i>Maria T. Kolar</i>	671
Climate Change Challenges for Land Conservation: Rethinking Conservation Easements, Strategies, and Tools .....	<i>Jessica Owley, Federico Cheever, Adena R. Rissman, M. Rebecca Shaw, Barton H. Thompson, Jr. &amp; W. William Weeks</i>	727

COMMENTS

<i>Moore v. Texas</i> : The Continued Quest for a National Standard.....	<i>Bridget C. DuPey</i>	781
<i>Peña-Rodriguez v. Colorado</i> : A Critical, but Incomplete, Step in the Never-Ending War on Racial Bias .....	<i>Natalie A. Spiess</i>	809



Denver Law Review (ISSN 2469-6463)

Spring 2018

The *Denver Law Review* is published quarterly by the University of Denver Sturm College of Law through the Denver Law Review Association.

Denver Law Review  
2255 East Evans Avenue, Suite 425  
Denver, Colorado 80208  
(303) 871-6172

Cite as: 95 DENV. L. REV. \_\_\_\_ (2018).

**Subscriptions:** Subscriptions to the *Denver Law Review* are \$40.00 per volume (add \$5.00 for mailing addresses outside the United States). All subscriptions will be renewed automatically unless the subscriber provides timely notice of cancellation.

**Single and Back Issues:** Single issues of the current volume are available from the Association at \$15.00 per issue. All previous volumes and issues of the *Denver Law Review* are available exclusively from William S. Hein & Co., Inc., 2350 North Forest Road, Getzville, NY 14068, (800) 828-7571, [www.heinonline.org](http://www.heinonline.org).

**Copyright:** All articles copyright © 2018 by their respective authors. The University of Denver (Colorado Seminary) Sturm College of Law holds perpetual, unlimited, and nonexclusive rights to reproduce, distribute, and display all articles contained in this issue. The *Denver Law Review* holds the exclusive right to be the first to publish these articles in a law journal. Please contact the *Denver Law Review* for permissions.

**Form:** The *Denver Law Review* generally conforms to *The Bluebook: A Uniform System of Citation* (Columbia Law Review Ass'n et al. eds., 20th ed. 2015) and to *The Chicago Manual of Style* (16th ed. 2010). It is the general policy of the *Denver Law Review* not to keep unpublished sources used in articles, notes, or comments beyond their use for verification of citations. Inquiries as to the location of an unpublished source should be directed to the author of the article, note, or comment in which it is cited.

**Manuscripts:** Please address manuscripts to the Senior Articles Editor, *Denver Law Review*, 2255 East Evans Avenue, Suite 425, Denver, Colorado 80208. Manuscripts should be double-spaced and cannot be returned unless accompanied by a self-addressed, postage-paid envelope. Manuscripts may also be submitted electronically in Word format via e-mail to [lawrev@law.du.edu](mailto:lawrev@law.du.edu).

**Previous Nomenclature:** Published as the *Denver Bar Association Record* from 1923 to 1928, *Dicta* from 1928 to 1965, *Denver Law Journal* from 1966 to 1984, and *Denver University Law Review* from 1985 to 2015.

**Postmaster:** Please send all address changes to *Denver Law Review*, 2255 East Evans Avenue, Suite 425, Denver, Colorado 80208.

**Denver Law Review Online:** Recent *Denver Law Review* articles and additional *Denver Law Review* content, including information on past and upcoming *Denver Law Review* symposia, may be accessed online at <http://www.denverlawreview.org/>.

# DENVER LAW REVIEW

95 Years of Excellence

---

---

## VOLUME 95 BOARD OF EDITORS 2017–2018

### EXECUTIVE BOARD

*Editor in Chief*

CORY WROBLEWSKI

*Managing Editor*

KRISTIN ARTHUR

*Senior Online Editor*

MATTHEW BENNETT

*Senior Articles Editor*

ERIK CARLSON

*Production Editors*

MICHELLE KEAST-NACHTRAB

ANTHONY LALLY

JUSTIN MARTIN

*Online Editor*

NICOLE CHANEY

*Articles Editors*

CHARLES FINE

THOMAS GERWICK

EMILY HORN

*Case Note and Comment Editors*

TONY ARIAS

JEFFREY WERMER

*Symposium Editor*

GABRIELLE BAKER

*Outreach Editor*

HANIE KIM

### ASSOCIATE EDITORS

HANNAH FIKAR

MARISSA KAZEMI

JOSHUA MANGIAGLI

RODERICK O'DORISIO

ASHLEY SMITH ROBERTS

MARK TOPPEN

JOEL HAMNER

ALEXANDER KLOSTER

ALEC MARTINEZ

JANE RUGG

MARK STAINES

AUDREY JOHNSON

TIMOTHY LUETKEMEYER

JENNIFER NELSON

RUDY SCHMIDT

KEVIN TIBOLT

ALEXANDRA VALLS

### STAFF EDITORS

JILL BEATHARD

SEAN CUFF

BRYSTON GALLEGOS

ANGELA HYGH

OLIVIA KOHRS

KATHERINE MADDEN

HEATHER OLIN

ZOE VERHOEVEN

ALEXANDRA BERGER

MITCHOL DUNHAM

KAYLA GEHRINGER

AUSTIN JENSEN

JOHN KYED

LAURA MARTINEZ

ALEXANDRA PARROTT

SHANNON WARREN

AMANDA BLISS

BRIDGET DUPEY

ALISON HEINEN

RACHEL KENNEDY

ZACH LASS

CHELSEA MARX

SARAH SCHULTE

MARIHAM YAFT

ALLISON CRENNEN-DUNLAP

MARK FEERO

MEGAN HERR

JOSEPH KMETZ

SUSIE LLOYD

J. KIRK MCGILL

NATALIE SPIESS

### ADVISORS AND SUPPORT STAFF

PROF. JUSTIN MARCEAU

DEAN VIVA MOFFAT

PROF. MICHAEL G. MASSEY

PROF. NANCY LEONG

PROF. IAN FARRELL

PROF. ELI WALD

**UNIVERSITY OF DENVER**  
**STURM COLLEGE OF LAW**

**ADMINISTRATIVE OFFICERS**

Rebecca Chopp, Ph.D., *Chancellor*  
Gregg Kvistad, B.A., M.A., Ph.D., *Provost and Executive Vice Chancellor*  
Craig Woody, B.B.A., M.Acc., *Vice Chancellor for Business & Financial Affairs*  
Renell Wynn, B.A., *Vice Chancellor of Communications & Marketing*  
Paul H. Chan, B.A., J.D., *University Counsel*  
Bruce P. Smith, B.A., M.A., J.D., Ph.D., *Dean of the Sturm College of Law*  
Viva Moffat, B.A., M.A., J.D., *Associate Dean of Academic Affairs and Professor of Law*  
Rebecca Aviel, B.A., J.D., *Associate Dean of Faculty Scholarship and Associate Professor of Law*  
Catherine E. Smith, B.A., M.A., J.D., *Associate Dean for Institutional Diversity and Inclusiveness and Professor of Law*  
Eric Bono, B.A., J.D., *Assistant Dean for Career Opportunities*  
Jessica Boynton, B.S., J.D., *Assistant Dean for Student Affairs*  
Iain Davis, M.S., *Assistant Dean of Student Financial Management and Admissions*

**FACULTY**

Robert Anderson, B.A., J.D., *Professor of the Practice*  
Rachel S. Arnow-Richman, B.A., J.D., LL.M., *Director, Workplace Law Program and Chauncey Wilson Memorial Research Professor*  
Debra Austin, B.M.E., J.D., Ph.D., *Professor of the Practice*  
Tanya Bartholomew, B.A., J.D., *Associate Professor of the Practice*  
Jerome Borison, B.S., J.D., LL.M., *Associate Professor of Law*  
Stacey Bowers, B.S., J.D., MLIS, Ph.D., *Associate Professor of the Practice*  
J. Robert Brown, Jr., B.A., M.A., Ph.D., J.D., *Director, Business & Commercial Law Program and Professor of Law*  
Phoenix Cai, B.A., J.D., *Associate Professor of Law*  
John Campbell, B.A., J.D., *Assistant Professor of the Practice*  
Bernard Chao, B.S., J.D., *Associate Professor of Law*  
Alan K. Chen, B.A., J.D., *Professor of Law*  
Roberto L. Corrada, B.A., J.D., *Mulligan Burleson Chair in Modern Learning and Professor of Law*  
Patience Crowder, B.A., J.D., *Associate Professor of Law*  
Susan D. Daggett, B.A., J.D., *Executive Director, Rocky Mountain Land Use Institute and Assistant Professor of the Practice*  
K.K. DuVivier, B.A., J.D., *Professor of Law*  
Nancy S. Ehrenreich, B.A., J.D., LL.M., *Professor of Law*  
Ian Farrell, L.L.B., L.L.M., *Associate Professor of Law*  
Alexi Freeman, B.A., J.D., *Director, Externships and Public Interest Initiatives and Associate Professor of the Practice*  
Samantha Galvin, B.A., J.D., LL.M., *Assistant Professor of the Practice of Taxation*  
César Cuauhtémoc García Hernández, A.B., J.D., *Associate Professor of Law*  
Rashmi Goel, B.A., LL.B., J.S.M., J.S.D candidate, *Associate Professor of Law*  
Robert M. Hardaway, B.A., J.D., *Professor of Law*  
Gregory J. Hobbs, Jr., B.A., J.D., *Co-Director, Environmental and National Resources Law Program and*

*Distinguished Jurist in Residence*

Mark Hughes, A.B., J.D., *Assistant Teaching Professor*

Danielle Jefferis, B.A., J.D., *Visiting Assistant Professor of the Practice*

Scott Johns, B.A., J.D., *Director, Bar Passage Program and Professor of the Practice*

José Roberto Juárez, Jr., A.B., J.D., *Professor of Law*

Sam Kamin, B.A., J.D., Ph.D., *Vicente Sederberg Professor of Marijuana Law and Policy*

Martin Katz, A.B., J.D., *University Chief Innovation Office and Senior Advisor for Academic Innovation and Design and Professor of Law*

Tamara L. Kuennen, B.A., J.D., LL.M., *Professor of Law*

Margaret Kwoka, B.A., J.D., *Associate Professor of Law*

Jan G. Laitos, B.A., J.D., S.J.D., *John A. Carver, Jr. Professor of Law*

Christopher Lasch, B.A., J.D., *Associate Professor of Law*

Nancy Leong, B.A., B.Mus., J.D., *Professor of Law*

Isaac Lodico, B.A., J.D., LL.M., *Assistant Professor of the Practice of Taxation*

Kevin Lynch, B.A., J.D., *Assistant Professor of Law*

Justin Marceau, B.A., J.D., *Animal Legal Defense Fund Professor of Law*

Lucy A. Marsh, B.A., J.D., *Professor of Law*

G. Kristian McDaniel-Miccio, B.A., M.A., J.D., LL.M., J.S.D., *Professor of Law*

Viva Moffat, B.A., M.A., J.D., *Associate Dean of Academic Affairs and Professor of Law*

Suzanna Moran, B.A., M.S., J.D., *Hartje & Reese LP Chair and Associate Professor of the Practice*

Ved P. Nanda, B.A., M.A., LL.B., LL.M., *Thompson G. Marsh Professor of Law*

Stephen L. Pepper, A.B., J.D., *Professor of Law*

Justin Pidot, B.A., J.D., *Associate Professor of Law*

Edward J. Roche, Jr., B.B.A., J.D., *Professor of Law*

Tom I. Romero, II, B.A., J.D., Ph.D., *Assistant Provost of IE Research and Curriculum Initiatives and Associate Professor of Law*

Laura L. Rovner, B.A., J.D., LL.M., *Ronald V. Yegge Clinical Director and Professor of Law*

Nantiya Ruan, B.A., J.D., *Professor of the Practice of Law*

Thomas Russell, B.A., M.A., J.D., Ph.D., *Professor of Law*

David Schott, B.S., J.D., *Director, Trial Advocacy Program and Professor of the Practice*

Michael Siebecker, B.A., J.D., LL.M., M.Phil., Ph.D., *Professor of Law*

Catherine E. Smith, B.A., M.A., J.D., *Associate Dean for Institutional Diversity and Inclusiveness and Professor of Law*

Don C. Smith, B.S., J.D., LL.M., *Associate Professor of the Practice*

Michael Sousa, B.A., J.D., *Associate Professor of Law*

Erin Stearns, B.A., M.P.H., J.D., LL.M., *Assistant Professor of the Practice of Taxation*

Kathryn Stoker, B.A., J.D., *Associate Professor of the Practice*

Celia R. Taylor, B.A., J.D., *Director, International Legal Studies Program, Professor of Law and Nanda Chair*

David I. C. Thomson, B.A., J.D., *Professor of the Practice and John C. Dwan Professor for Online Learning*

Ann Vessels, B.A., J.D., *Director, Veterans Advocacy Project and Professor of the Practice*

Robin Walker Sterling, B.A., J.D., LL.M., *Associate Professor of Law*

Eli Wald, B.A., LL.B., LL.M., S.J.D., *Charles W. Delaney, Jr. Professor of Law*

Lindsey Webb, B.A., J.D., LL.M., *Assistant Professor of Law*

Annecoos Wiersema, B.A., LL.B., LL.M., S.J.D., *Professor of Law*

John R. Wilson, B.S., J.D., *Director, Graduate Tax Program and Professor of the Practice of Taxation*