

Recent Scholarship 2014-2015

Innovative and influential, the Loyola faculty had another productive year. Our articles won prizes and prestigious placements. Loyola scholarship shaped legislation and public policy at the national, state, and local levels. The media quoted our professors and their work thousands of times.

LAUREN WILLIS's most recent article, *Performance-Based Consumer Law*, 82 U. Chicago L. Rev. (2015), is generating enormous excitement. It received the Best Paper Prize at the Annual Privacy Law Scholar's Conference at Berkeley. JOTWELL called it "thrilling" and "elegant." It is the fourth article in Willis's series of groundbreaking challenges to consumer law, including *When Nudges Fail: Slippery Defaults*, 80 U. Chicago L. Rev. 1155 (2013).



JENNIFER ROTHMAN is offering provocative new paradigms for understanding intellectual property. Her book, providing a fresh perspective on the right of publicity, will be published by Harvard University Press. Her latest article, *Commercial Speech, Commercial Use and the Intellectual Property Quagmire* (forthcoming, Virginia Law Review), challenges the conventional IP approach to defining and disfavoring both commercial speech and uses.



MICHAEL WATERSTONE's recent articles, *Backlash, Courts, and Disability Rights*, 95 Boston U. L. Rev. (2015), and *The Costs of Easy Victory*, 57 Wm. & Mary L. Rev. (2015), analyze the disability rights movement's social and political evolution. Waterstone is co-author of a leading disability law casebook; his previous law review articles have appeared in Harvard, Duke, Vanderbilt, Northwestern, Emory, Notre Dame, and Minnesota.



PRISCILLA OCEN's newest piece, *(E)racing Childhood: Examining the Racialized Construction of Childhood and Innocence in the Treatment of Sexually Exploited Minors*, will appear in the UCLA Law Review. She also co-authored with Kimberlé Crenshaw and Jyoti Nanda, both of UCLA, the influential report *Black Girls Matter*. Ocen's other work has appeared in the California Law Review, UCLA, Hastings, and the Du Bois Review.



KATHLEEN KIM is an influential voice against human trafficking and other immigration abuses. Her most recent article is entitled *Beyond Coercion*, 62 UCLA L. Rev. (2015). In it, she charts the exclusion of immigrants from labor law protections. Author of the first casebook on human trafficking and founder of the Loyola Immigrant Justice Clinic, Kim serves as a consultant on anti-trafficking legislation and advocacy across the country.



ADAM ZIMMERMAN has received a prestigious grant from the Administrative Conference for the United States to study aggregate adjudication in agencies, building on his work in *The Agency Class Action*, 112 Colum. L. Rev. 1992 (2012) and *Presidential Settlements*, 163 U. Pa. L. Rev. 1393 (2015). His work on mass litigation has also appeared in the NYU, Duke, and Virginia law reviews.



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Associate Dean for Research **ALEXANDRA NATAPOFF** has won numerous awards for her scholarship. She recently published *Misdemeanor Decriminalization*, 68 *Vanderbilt L. Rev.* 1055 (2015), *Gideon's Servants and the Criminalization of Poverty*, 12 *Ohio St. J. Crim. L.* 445 (2015), and *Misdemeanors*, 11 *Ann. Rev. L. & Soc. Sci.* (2015). She has been appointed as an Adviser to the American Law Institute's Principles of Law, Police Investigations Project.



JUSTIN LEVITT is a prominent election law scholar. The New York Times Editorial Board quoted his article, *Quick and Dirty: The New Misreading of the Voting Rights Act*, 43 *Florida St. U. L. Rev.* (2015), in evaluating recent Supreme Court voting rights decisions. Levitt has published in such venues as the *Harvard Law Review*, *Yale Law & Policy Review*, and *Georgetown*, as well as the online fora for the *Yale Law Journal* and *NYU Law Review*.



ELIZABETH POLLMAN is a cross-disciplinary scholar of business law. She is an active member of a top-notch group of scholars rethinking the rights and obligations of corporations, with essays forthcoming from Oxford University Press and in numerous symposia. Her prize-winning work has appeared in the *University of Pennsylvania Law Review*, *Minnesota Law Review*, and *William & Mary Law Review*.



HIRO ARAGAKI's work offers important new frameworks for arbitration jurisprudence. His newest piece is *The Tension Between Autonomy and Freedom of Contract in Modern Arbitration Law*, 91 *Indiana L.J.* (2015). His work has won numerous accolades, including the Stanford/Yale/Harvard Junior Faculty Forum and Honorable Mention in the AALS Scholarly Papers Competition. His articles appear in the *NYU*, *UCLA*, and *Pennsylvania law reviews*.



JUSTIN HUGHES is an influential intellectual property scholar and policy expert whose publications this year include *Cognitive and Aesthetic Functionality in Trademark Law*, 36 *Cardozo L. Rev.* (2015), *Understanding (and Fixing) the Right of Fixation in Copyright Law*, 62 *J. Copy. Soc. of U.S.A.* (2015), and *Fair Use and Its Politics - At Home and Abroad* (chapter in forthcoming book from Cambridge University Press).



KATHERINE PRATT continues her cutting-edge work on anti-obesity junk food regulation and taxation with two new articles: *The Limits of Anti-Obesity Public Health Paternalism: Another View*, 46 *Connecticut L. Rev.* 1903 (2014), and *Lessons from the Demise of the Sugary Drink Portion Cap Rule*, 5 *Wake Forest J. L. & Policy* 39 (2014). Her prior work appears in the *Cornell*, *Vanderbilt*, and *Wisconsin law reviews*.



LEE PETHERBRIDGE's most recent piece, *Gender Disparity in Law Review Citation Rates*, has generated widespread discussion about the gender dynamics of legal scholarship. A scientist, empiricist, and author of over 30 articles and essays, his other work has appeared in such venues as the *Texas Law Review*, *University of Pennsylvania Law Review*, and *Cornell Law Review*.



YXTA MAYA MURRAY is an international cultural and feminist scholar. Her newest piece, *Detroit Looks Toward a Massive, Unconstitutional Blight Condemnation: The Optics of Eminent Domain in Motor City*, *Georgetown J. Pov. L. & Pol.* (2015), is being translated into Japanese. Other recent articles include *Inflammatory Statehood*, 30 *Harvard J. Racial & Ethnic Just.* 227 (2014), and *Law and the Possibilities of Peace*, 13 *Seattle J. Soc. Just.* 251 (2014).



Founder of the Loyola Project for the Innocent, **LAURIE LEVENSON** is a leading expert on the American criminal justice system. She has written numerous law review articles, treatises, and books, including the highly-regarded casebook, *Criminal Procedure*, co-authored with Erwin Chemerinsky. She was recently appointed to a Task Force advising the National Commission on Forensic Science on creating a code of ethics for forensic science.



DANIEL SELMI is a distinguished scholar of land use and environmental law. As a Visiting Scholar at Columbia Law School's Sabin Center for Climate Change Law, he published a widely-quoted rebuttal to Senate Majority Leader Mitch McConnell and the Federalist Society regarding EPA power plant emission regulations. His most recent article is *Takings and Extortion*, 67 Florida L. Rev. (2015).



Climate change and environmental law expert **KATHERINE TRISOLINI**'s newest article, *Decisions, Disasters, and Deference: Rethinking Agency Expertise After Fukushima*, Yale L. & Pol. Rev. (2015), reassesses judicial deference towards the Nuclear Regulatory Commission. In *Holistic Climate Change Governance: Towards Mitigation and Adaptation Synthesis*, 85 U. Colorado L. Rev. 615 (2014), she argues that greenhouse gas regulation must adapt to—not merely mitigate—climate change.



DAVID GLAZIER's work is influencing the war on terror. The former Naval commander's paper, *A Court Without Jurisdiction: A Critical Assessment of the Military Commission Charges Against Omar Khadr*, was relied on by a Canadian court to release Khadr, a child soldier, pending appeal. His most recent publications include *Destined for an Epic Fail: The Problematic Guantánamo Military Commissions*, 75 Ohio St. L.J. 903 (2014).



AARON CAPLAN does creative work at the intersection of civil procedure and constitutional law. His article, *Free Speech and Civil Harassment Orders*, 64 Hastings L.J. 781 (2013), has been cited by courts—including the Supreme Court of Wisconsin—on the underappreciated risks that injunctions pose to free speech. His casebook, *An Integrated Approach to Constitutional Law*, was recently released by Foundation Press.



CESARE ROMANO is an innovator on international courts and tribunals. Co-editor of the comprehensive *Oxford University Press Handbook of International Adjudication* (2013), he has created a unique database summarizing the decisions of the Inter-American Court of Human Rights, <https://iachr.ils.edu>, making these important decisions available to scholars and lawyers around the world. Romano has authored numerous additional books and articles in multiple languages.



ERIC MILLER is a theorist of policing and race. His newest work includes *Police Encounters with Race and Gender*, U.C. Irvine L. Rev. (2015), *Challenging Police Discretion*, 58 Howard L. Rev. (2015), and *The Ends of Policing* (book chapter forthcoming from Cambridge University Press). His previous work has appeared in the California Law Review, Ohio State Journal of Criminal Law, Connecticut Law Review, and the Stanford Law & Policy Review.



GEORGENE VAIRO recently published *Is the Class Action Really Dead? Is that Good or Bad for Class Members?*, 64 Emory L.J. 477 (2014), and *Lessons Learned by the Reporter: Is Disaggregation the Answer to the Asbestos Mess?*, 88 Tulane L. Rev. 1039 (2014). Author of countless publications and a long-established expert on federal procedure, Vairo is currently writing a book about the Chevron-Ecuador transnational litigation.



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Jennifer Rothman, *Commercial Speech, Commercial Use and the*

Intellectual Property Quagmire, **VIRGINIA LAW REVIEW** • Michael

Waterstone, *Backlash, Courts, and Disability Rights*, **BOSTON UNIVERSITY**

LAW REVIEW • Hiro Aragaki, *The Tension Between Autonomy and*

Freedom of Contract in Modern Arbitration Law, **INDIANA LAW JOURNAL**

• Lauren Willis, *Performance-Based Consumer Law*, **UNIVERSITY OF**

CHICAGO LAW REVIEW • Katherine Trisolini, *Holistic Climate Change*

Governance: Towards Mitigation and Adaptation Synthesis, **UNIVERSITY**

OF COLORADO LAW REVIEW • Eric Miller, *Police Encounters with*

Race and Gender, **U.C. IRVINE LAW REVIEW** • Kathleen Kim, *Beyond*

Coercion, **UCLA LAW REVIEW** • Justin Hughes, *Cognitive and Aesthetic*

Functionality in Trademark Law, **CARDOZO LAW REVIEW** • Michael

Waterstone, *The Costs of Easy Victory*, **WILLIAM & MARY LAW REVIEW** •

Yxta Maya Murray, *Detroit Looks Toward a Massive, Unconstitutional Blight*

Condemnation: The Optics of Eminent Domain in Motor City, **GEORGETOWN**

JOURNAL OF POVERTY LAW & POLICY • Adam Zimmerman, *Aggregate*

Litigation Goes Private, **EMORY LAW JOURNAL** • Alexandra Natapoff,

Misdemeanor Decriminalization, **VANDERBILT LAW REVIEW** • Katherine

Pratt, *The Limits of Anti-Obesity Public Health Paternalism: Another*

View, **CONNECTICUT LAW REVIEW** • Dan Selmi, *Takings and Extortion*,

FLORIDA LAW REVIEW • Alexandra Natapoff, *Gideon's Servants and*

the Criminalization of Poverty, **OHIO STATE JOURNAL OF CRIMINAL**

LAW • Katherine Trisolini, *Decisions, Disasters, and Deference:*

Rethinking Agency Expertise After Fukushima, **YALE LAW & POLICY**

REVIEW • Priscilla Ocen, *(E)racizing Childhood: Examining the Racialized*

Construction of Childhood and Innocence in the Treatment of Sexually

Exploited Minors, **UCLA LAW REVIEW** • Georgene Vairo, *Is the Class Action*

Really Dead? Is that Good or Bad for Class Members? **EMORY LAW JOURNAL**