

# Faculty Publications

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## Howard B. Abrams

### Law Review Articles

*Eldred, Gideon and their Aftermath*, 60 J. COPYRIGHT SOC'Y OF U.S.A. 491 (Summer 2013)

[Westlaw](#)

*Copyright's First Compulsory License*, 26 SANTA CLARA COMPUTER & HIGH TECH. L.J. 215 (2010)

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*The Role of the Copyright Office: An Introduction*, 13 CARDOZO ARTS & ENT. L.J. 27 (1994)

[Westlaw](#)

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*Standards of Qualification for the Protection of Literary and Artistic Property*, Academie Internationale de Droit Compare, Rapports Generaux, XIVE Congress International, Institut Hellenique de Droit International et Etranger, AthSnes (International Academy of Comparative Law, General Reports, XIVth International Congress, Hellenic Institute of International and Foreign Law, Athens) 449-456 (1994).

*Originality and Creativity in Copyright Law*, 55 LAW & CONTEMP. PROBS. 3 (1992)

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*Authors' Rights in Light of New Technologies*, 38 AM. J. COMP. L. SUPP. 283 (1990)

[HeinOnline](#)

*Putting Erie on the Right Track*, 49 U. PITT. L. REV. 937 (1988) (with Gregory Gelfand)

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*Who's Sorry Now--Termination Rights and the Derivative Works Exception*, 62 U. DET. J. URB. L. 181 (1984-1985)

[HeinOnline](#)

*Copyright, Misappropriation, and Preemption: Constitutional and Statutory Limits of State Law Protection*, 1983 SUP. CT. REV. 509 (1983)

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*The Historic Foundation of American Copyright Law: Exploding the Myth of Common Law Copyright*, 29 WAYNE L. REV. 1119 (1982-1983)

[HeinOnline](#)

*Goldstein v. California: Sound, Fury, and Significance*, 1975 SUP. CT. REV. 147 (1975) (with Robert H. Abrams)  
[HeinOnline](#)

## **Books and Book Chapters**

THE LAW OF COPYRIGHT (Thomson Reuters 2016)

[Westlaw](#)

*United States* in INTELLECTUAL PROPERTY AND PRIVATE INTERNATIONAL LAW – CONTEMPORARY PERSPECTIVES 1103 (Toshiyuki Kono ed., Hart Publishing 2012)

COPYRIGHT (West 1992) (with Sheldon Halpern & David Shipley)

*Current Developments in Copyright Law: The Subject Matter Issues*, in CURRENT DEVELOPMENTS IN COPYRIGHT LAW 1985 11-73 (Practising Law Institute 1985)

*Legal Rights in Musical Compositions*, in LAW AND THE ARTS (various editions 1974-1977)

## **Wissam Aoun**

### **Law Review Articles**

*Constructivism, Embedded Liberalism and Anti-Dumping - Canadian Public Interest Inquiry as Case Study of Embedded Liberalism*, 41 CAN.-U.S. L.J. \_\_\_\_ (forthcoming 2017).

*Canadian Patent Agent Regulation Reform Pt. 2: Governance, Self-Regulation and Canada's Patent Professional Identity Crisis*, 99 J. PAT. & TRADEMARK OFF. SOC'Y \_\_ (forthcoming Sept. 2017)  
Draft available at [SSRN](#).

*Canadian Patent Agent Regulation Reform Pt. 1: (In)validity Issues Surrounding the Canadian Patent Agent Exam*, 99 J. PAT. & TRADEMARK OFF. SOC'Y 151 (June 2017).

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## **Erin Archerd**

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*Restoring Justice in Schools*, 85 U. CIN. L. REV. \_\_\_\_ (forthcoming 2017)

*Response to Intervention: A Rising Tide or Leaky Boat?* 30 OHIO ST. J. ON DISP. RESOL. 233 (2015)

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*The Ohio State University Dispute Resolution in Special Education Symposium Panel*, 30 OHIO ST. J. ON DISP. RESOL. 89 (2014-2015) (with others)

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*An Idea for Improving English Language Learners' Access to Education*, 41 FORDHAM URB. L.J. 351 (2013-2014)

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*Spanish-Language Test Accommodations: Recommended or Required by NCLB*, 9 HARV. LATINO L. REV. 163 (2006)

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## Catherine Archibald

### Law Review Articles

*Transgender Bathroom Rights*, 24 DUKE J. GENDER L. & POL'Y 1 (Fall 2016).

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*Transgender Student in Maine May Use Bathroom That Matches Gender Identity - Are Co-Ed Bathrooms Next?*, 83 UMKC L. REV. 57 (2014-2015)

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*Is Full Marriage Equality for Same-Sex Couples Next? The Immediate and Future Impact of the Supreme Court's Decision in the United States v. Windsor*, 48 VAL. U. L. REV. 695 (2013-2014)

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*What Kind of Life? Why the Canadian Charter's Guarantees of Life and Security of the Person Should Include the Right to a Healthy Environment*, 22 TUL. J. INT'L & COMP. L. 1 (2013-2014)

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*Two Wrongs Don't Make a Right: Implications of the Sex Discrimination Present in Same-Sex Marriage Exclusions for the Next Supreme Court Same-Sex Marriage Case*, 34 N. ILL. U. L. REV. 1 (2013)

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*De-Clothing Sex-Based Classifications - Same-Sex Marriage Is Just the Beginning: Achieving Formal Sex Equality in the Modern Era*, 36 N. KY. L. REV. 1 (2009)

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*Forbidden by the WTO? Discrimination against a Product When Its Creation Causes Harm to the Environment or Animal Welfare*, 48 NAT. RESOURCES J. 15 (2008)

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## Julia Belian

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*Law on the Front Lines: Pushing the Boundaries of "Marriage,"* 26 J. C.R. & ECON. DEV. 591 (2012)

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*Hubris*, 3 EST. PLAN. & COMMUNITY PROP. L.J. 1 (2010)

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*State Implementation of the Optional Provisions of the Deficit Reduction Act*, 9 MARQ. ELDER'S ADVISOR 63 (2007)

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*Medicaid, Elective Shares, and the Ghosts of Tenures Past*, 38 CREIGHTON L. REV. 1111 (2005)

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*Deference to Doctors in Dutch Euthanasia Law*, 10 EMORY INT'L L. REV. 255 (1996)

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### Bar Journals and Short Articles

*Saving Us From Ourselves: Reforming the Fiduciary Duty of Loyalty*, <http://trustest.jotwell.com/saving-us-from-ourselves-reforming-the-fiduciary-duty-of-loyalty/> (2010) (book review)

### Books and Book Chapters

ELDER LAW: READINGS, CASES, AND MATERIALS (Lexis Advance 3d ed. 2007) (with A. Kimberley Dayton & Molly Wood)

ELDER LAW: STATUTES AND REGULATIONS (Lexis Advance 3d ed. 2007) (with A. Kimberley Dayton & Molly Wood)

*Simon Ockley*, in *Eighteenth-Century British Historians*, in 336 DICTIONARY OF LITERARY BIOGRAPHY (E.J. Jenkins ed., Gale Press 2007)

*Appendix: Availability of Child Care Options*, in ESTATE, TAX, AND LIFE PLANNING FOR MINORS (Carmina D'Aversa, ed., ABA Publishers 2006)

*Survey of Minnesota Employment Libel Law*, in LDRC 50-STATE SURVEY: EMPLOYMENT LIBEL AND PRIVACY LAW 442-450 (Libel Defense Resource Center 1999-2001)

*Survey of Minnesota Employment Privacy Law*, in LDRC 50-STATE SURVEY: EMPLOYMENT LIBEL AND PRIVACY LAW 451-460 (Libel Defense Resource Center 1999-2001)

## **Khaled Beydoun**

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*Acting Muslim*, 52 HARV. C.R.-C.L. L. REV. \_\_\_\_ (forthcoming 2017)

*Executive Disorder: Muslims Bans, Emergency Advocacy, and the Fires Next Times*, 22 MICH. J. RACE & L. \_\_\_\_ (forthcoming 2017)

*“Muslims Bans” and the (Re)Making of Political Islamophobia*, 2017 U. ILL. L. REV. \_\_\_\_ (forthcoming 2017).  
Draft available at [SSRN](#).

*Reverse Passing*, 64 U.C.L.A. L. REV. 282 (Feb. 2017) (with Erika K. Wilson)

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*Islamophobia: Toward a Legal Definition and Framework*, 116 COLUM. L. REV. ONLINE 108 (2016)

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*Boxed In: Reclassification of Arab Americans on the U.S. Census as Progress or Peril?*, 47 LOY. U. CHI. L. J. 693 (Spring 2016)

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*Beyond the Paris Attacks: Unveiling the War within French Counterterrorism Policy*, 65 AM. U. L. REV. 1273 (July, 2016)

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*Between Indigence, Islamophobia and Erasure: Poor and Muslim in “War on Terror” America*, 104 CAL. L. R. 1463 (December 2016)

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*Islam Incarcerated: Religious Accommodation of Muslim Prisoners Before Holt v. Hobbs*, 84 U. CIN. L. REV. 99 (2015-2016)

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*Why Ferguson is Our Issue: A Letter to Muslim America*, 31 HARV. J. RACIAL & ETHNIC JUST. 1 (2015)

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*A Demographic Threat? Proposed Reclassification of Arab Americans on the 2020 Census*, 114 MICH. L. REV. FIRST IMPRESSIONS 1 (2015)

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*Antebellum Islam*, 58 HOW. L. J. 141 (2014)

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*Between Muslim and White: The Legal Construction of Arab American Identity*, 69 N.Y.U. ANN. SURV. AM. L. 29 (2013)

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*Fast Tracking Women into Parliamentary Seats in the Arab World*, 17 SW. J. INT'L L. 63 (2011)

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*Laïcité, Liberalism and the Headscarf*, 10 J. OF ISLAMIC L. & CULTURE 188 (2008)

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*Without Color of Law: The Losing Race Against Colorblindness in Michigan*, 12 MICH. J. RACE & L. 465 (2007)

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*The Trafficking of Ethiopian Domestic Workers into Lebanon: Navigating Through a Novel Passage of the International Maid Trade*, 24 BERK. J. INT'L L. 1009 (2006)

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*Dar Al-Islam Meets "Islam as Civilization": An Alignment of Politico-Theoretical Fundamentalisms and the Geopolitical Realism of this Worldview*, 4 UCLA J. ISLAMIC & NEAR EASTERN LAW (2004-2005)

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*Re-segregation by Referendum*, 19 HARV. J. OF HISP. POL. 73 (2006)

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## **J. Richard Broughton**

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*Of Puppets and Terrorism*, 62 S.D. L. REV. \_\_\_\_ (forthcoming 2017)

*The Death Penalty, and Justice Scalia's Lines*, 50 AKRON L. REV. 203 (2016)

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*Hate Crimes, the Death Penalty, and Criminal Justice Reform*, 37 MITCHELL HAMLINE J. PUB. L. & POL'Y 185 (Fall, 2016)

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*Jones, Lackey, and Teague*, 48 J. MARSHALL L. REV. 961 (Summer, 2015)

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*The Snowden Affair and the Limits of American Treason*, 3 LINCOLN MEMORIAL U. L. REV. 6 (2015)

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*The Ineludible (Constitutional) Politics of Guns*, 46 CONN. L. REV. 1345 (2014)

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*The Criminalization of Consensual Adult Sex After Lawrence*, 28 NOTRE DAME J.L. ETHICS & PUB. POL'Y 125 (2014)

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*Capital Prejudice*, 43 U. MEM. L. REV. 135 (2012)

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*Politics, Prosecutors, and the Presidency in the Shadows of Watergate*, 16 CHAP. L. REV. 161 (2012)

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*Congressional Inquiry and the Federal Criminal Law*, 46 U. RICH. L. REV. 457 (2012)

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*Federalism, Harm, and the Politics of Leal Garcia v. Texas*, 62 SYRACUSE L. REV. 199 (2012)

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*The Loudness of Justice Thomas*, 88 U. DET. MERCY L. REV. 737 (2011)

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*On Straddle Crimes and the Ex Post Facto Clauses*, 18 GEO. MASON L. REV. 719 (2011)

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*Some Reflections on Conservative Politics and the Limits of the Criminal Sanction*, 4 CHARLESTON L. REV. 537 (2010)

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*The Inaugural Address as Constitutional Statesmanship*, 28 QUINNIPIAC L. REV. 265 (2010)

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*Kennedy and the Tail of Minos*, 69 LA. L. REV. 593 (2009)

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*The Roberts Court and the Death Penalty Code*, 12 JONES L. REV. 145 (2008)

[Westlaw](#)

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*Judicializing Federative Power*, 11 TEX. REV. L. & POL. 283 (2007)

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*The Second Death of Capital Punishment*, 58 FLA. L. REV. 639 (2006)

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*Every Day More Wicked: Reflections on Culture, Politics, and Punishment by Death*, 22 J.L. & POL. 113 (2006)

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*Rethinking the Presidential Veto*, 42 HARV. J. ON LEGIS. 91 (2005)

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*Off the Rails on a Crazy Train?: The Structural Consequences of Atkins and Modern Death Penalty Jurisprudence*, 11 WIDENER L. REV. 1 (2004)

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*Habeas Corpus and the Safeguards of Federalism*, 2 GEO. J.L. & PUB. POL'Y 109 (2004)

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*What is it Good For? War Power, Judicial Review, and Constitutional Deliberation*, 54 OKLA. L. REV. 685 (2001)

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*"On Horror's Head Horrors Accumulate": A Reflective Comment on Capital Child Rape Legislation*, 39 DUQ. L. REV. 1 (2000)



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*The Jurisprudence of Tradition and Justice Scalia's Unwritten Constitution*, 103 W. VA. L. REV. 19 (2000)

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*Boerne Down the House: The Religious Liberty Protection Act and the Separation of Powers*, 2000 L. REV. MICH. ST. U. DET. C.L. 317 (2000)

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*Paying Ambition's Debt: Can the Separation of Powers Tame the Impetuous Vortex of Congressional Investigations?*, 21 WHITTIER L. REV. 797 (2000)

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*Unforgettable, Too: The (Juris)Prudential Legacy of the Second Justice Harlan*, 10 SETON HALL CONST. L.J. 57 (1999)

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*"Business Curtilage" and the Fourth Amendment: Reconciling Katz with the Common Law*, 23 DEL. J. CORP. L. 513 (1998)

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## Margaret Costello

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*Contaminated Water at Camp Lejeune: Remedies for Affected Veterans*, 9 CHARLESTON L. REV. 1 (2014)

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*Fulfilling the Unfulfilled Promise of Gideon: Is Litigation a Viable Strategy to Secure Adequate Representation for Indigent Criminal Defendants?*, 99 IOWA L. REV. 1951 (2014)

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*Women in the Legal Profession: You've Come a Long Way - or Have You?*, 1997 DET. C.L. REV. 909 (1997)

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*Longstreth v. Gensel: Expanding Liability of the Social Host*, 1986 DET. C.L. REV. 581 (1986)

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## Bar Journals and Short Articles

*The Globalization of Legal Education*, 92 MICH. B.J. 40 (Nov. 2013) (with Andrew Moore & Cara Cunningham)

[Westlaw](#)  
[Lexis Advance](#)  
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*Retaining Diversity Through Mentoring: Theory and Practice*, 18 (1) A.B.A. Products Liability Newsletter of the Section of Litig. Committee on Products Liability Litig. (Winter 2007)

*Methodology is the Key to Exclusion of Expert Testimony: Allgood v. General Motors*, 22 (7) LEGAL BACKGROUNDER 1 (Feb. 2007) (with Krista L. Lenart), available at <http://www.wlf.org/upload/2-23-07costello.pdf>

*Vehicles for Helping Large Law Firms Approach Pro Bono on a Large Scale*, 78 MICH. B.J. 1116 (Oct. 1999) (with David A. Antonelli)

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*Arguing in the Hague*, 73 MICH. B.J. 1094 (Oct. 1994) (with Ted T. Amsden)

[Westlaw](#)  
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## Phyllis L. Crocker (Dean)

### Law Review Articles

*Not to Decide is to Decide: The U.S. Supreme Court's Thirty-Year Struggle with One Case About Competency to Waive Death Penalty Appeals*, 49 WAYNE L. REV. 885 (2004) (lead article) (cited by the U.S. Supreme Court in *Ryan v. Gonzales*, 133 S. Ct. 696, 705 n.7 (2013))

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*Is the Death Penalty Good for Women?*, 4 BUFF. CRIM. L. REV. 917 (2001); reprinted in *MACHINERY OF DEATH: THE REALITY OF AMERICAN'S DEATH PENALTY REGIME* 195 (David R. Dow and Mark Dow eds., 2002)

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*Crossing the Line: Rape-Murder and the Death Penalty*, 26 OHIO N.U. L. REV. 689 (Symposium Issue 2000)

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*Childhood Abuse and Adult Murder: Implications for the Death Penalty*, 77 N.C. L. REV. 1143 (1999)

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*Feminism and Defending Men on Death Row*, 29 ST. MARY'S L.J. 981 (Symposium Issue 1998)

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*Concepts of Culpability and Deathworthiness: Differentiating Between Guilt and Punishment in Death Penalty Cases*, 66 FORDHAM L. REV. 21 (1997)

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*The Meaning of Equality for Battered Women Who Kill Men in Self Defense*, 8 HARV. WOMEN'S L.J. 121 (1985)

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*Sexual Harassment in Education*, 10 CAP. U. L. REV. 541 (1981) (with Anne E. Simon)

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### **Bar Journals and Short Articles**

*O'Connor's Firsts*, 48 AKRON L. REV. 79 (2015)

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*The Paradox of Being an Interim Dean: The Permanent Nature of a Transitory Position*, 44 U. TOL. L. REV. 319 (2013) (Leadership in Legal Education Symposium XII 2013)

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*Appointed But (Nearly) Prevented from Serving: My Experiences as a Grand Jury Foreperson*, 2 OHIO ST. J. CRIM. L. 289 (2004)

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*An Analysis of University Definitions of Sexual Harassment*, 8 SIGNS: A JOURNAL OF WOMEN IN CULTURE AND SOCIETY 696 (1983); *reprinted in* RECONSTRUCTING THE ACADEMY: WOMEN'S EDUCATION AND WOMEN'S STUDIES 24 (Elizabeth Minnich et al. eds., 1988)

*Annotated Bibliography of Sexual Harassment in Education*, 7 WOMEN'S RTS. L. REP. 91 (1982)

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### **Books and Book Chapters**

LEWIS R. KATZ ET AL., BALDWIN'S OHIO PRACTICE: CRIMINAL LAW (3d ed. 2009 and yearly supplements) (co-author since 2006)

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*Sexual Harassment on the Job*, in EVERY WOMAN'S LEGAL GUIDE 317 (Barbara A. Burnett ed., 1983) (with Anne E. Simon)

## Cara Cunningham Warren

### Law Review Articles

*An American Reset--Safe Water & a Workable Model of Federalism*, 27 DUKE ENVTL. L. & POL'Y F. 51 (2016)  
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*Achieving the American Bar Association's Pedagogy Mandate: Empowerment in the Midst of a Perfect Storm*, 14 CONN. PUB. INT. L.J. 67 (2014)

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*The Methodology of Persuasion: A Process-Based Approach to Persuasive Writing*, 13 LEGAL WRITING: J. LEGAL WRITING INST. 159 (2007) (with Michelle Streicher)

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*The Globalization of Legal Education*, 92 MICH. B.J. 40 (Nov. 2013) (with Margaret Costello & Andrew Moore)

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## Lawrence A. Dubin

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*Commission on Lawyer Assistance Programs Panel on Best Practices engaging Law Schools*, 21 AM. U.J. GENDER, SOC. POL'Y & L. 609 (2012) (with others)

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*Fieger, Civility and the First Amendment: Should the Mouth That Roared Be Silenced*, 82 U. DET. MERCY L. REV. 377 (2004-2005)

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*Virgil Hawkins: A One-Man Civil Rights Movement*, 51 FLA. L. REV. 913 (1999)

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*Client Beware: The Need for a Mandatory Written Fee Agreement Rule*, 51 OKLA. L. REV. 93 (1998)

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*Recent Changes in Michigan Disciplinary Procedure: A Job Unfinished*, 66 U. DET. L. REV. 411 (1988-1989) (with Michael Alan Schwartz)

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*Sex and the Divorce Lawyer: Is the Client off Limits*, 1 GEO. J. LEGAL ETHICS 585 (1987-1988)

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*Survey and Analysis of Michigan's Disciplinary System for Lawyers*, 61 U. DET. J. URB. L. 1 (1983-1984) (with Michael Alan Schwartz)

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*The Role of Law School in Balancing a Lawyer's Personal and Professional Life*, 10 J. PSYCHIATRY & L. 57 (1982)

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*The Use of the Legal System as a Mental Health Service for Children*, 7 J. PSYCHIATRY & L. 7 (1979) (with Lee H. Haller & Martin Buxton)

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*Family Court Judges are Only People: But More is Required*, 1 WHITTIER L. REV. 177 (1978-1979) (with Martin Buxton)

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*Teaching Psychiatry to Law Students: Towards a Replicable Model*, 13 NEW ENG. L. REV. 233 (1977-1978) (with Martin Buxton)

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*Improving the Relationship Between Mental Health Workers and Lawyers*, 2(1) PSYCHOLOGY, PSYCHIATRY & BEHAVIOR (Oct. 1977) (with Martin Buxton & Lee Haller)

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*The Legal Profession's Hidden Secret: Substance Abuse*, 83 MICH. B.J. 44 (Sept. 2004)

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*Non-Refundable Retainer Agreements*, 74 MICH. B.J. 182 (Feb. 1995) (with Lawrence I. McKay)

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