

New Grants Explore Regulatory Issues from Zika to Water

By Jill Yesko

DEVELOPING A VACCINE TO PREVENT PREGNANT WOMEN FROM GETTING THE ZIKA VIRUS IS A PRIORITY FOR SCIENTISTS WORKING TO STEM THIS GLOBAL PUBLIC HEALTH CRISIS. But finding a vaccine is only the first step, notes Professor Leslie Meltzer Henry, co-investigator on a \$1.7 million grant from the Wellcome Trust to develop ethical guidance for conducting research with pregnant women. “We are talking to a variety of stakeholders about how and when it’s feasible to include pregnant women in research during a public health emergency. Zika presents an opportunity to do this,” adds Henry, who is also a faculty member at the Johns Hopkins Berman Institute of Bioethics.

The rush to develop guidelines to aid public health officials means Henry and her co-investigators are in rapid-response mode. “Pregnant women are at the center of the efforts to stem the Zika epidemic,” says Henry. “We’re looking at the legal and ethical barriers to including pregnant women in medical research.”

Regulatory issues governing the use of a cutting-edge medical treatment called microbiota transplantation is the focus of a two-year National Institutes of Health (NIH) grant awarded to Diane Hoffmann, professor and director of the Law and Health Care Program, most recently ranked fourth in the nation by *U.S. News & World Report*.

The grant looks at regulating current and potential emerging uses of microbiota transplantation that include fecal, vaginal, skin, oral, and whole-body transplants. Working with the Schools

of Pharmacy and Medicine, Hoffmann—whose previous NIH grant assessed regulatory frameworks for probiotics—will use an interdisciplinary team model to examine regulating microbiota.

“The FDA is grappling with how to regulate these new products and procedures. Thus far, the Agency has been regulating fecal microbiota transplants—the only type of microbiota transplant currently being provided—as a drug, but there may be other regulatory paradigms that are more appropriate,” says Hoffmann.

Robert F. Stanton Professor of Law Robert Percival, director of the school’s nationally-ranked Environmental Law Program, and Michael Pappas, an associate professor in the program, will lead the law school team working with the USDA on a \$10 million grant to conduct legal and policy analysis to promote the use of sustainable water in U.S. agriculture. “This is the perfect project to help students understand how to work with other disciplines,” Percival says. The grant includes bioscientists, engineers, economists, and public health experts from several schools at the University of Maryland and other universities.

“Maryland Carey Law is the national leader in the movement toward establishing a legal framework in the field of non-traditional water use,” says Pappas, who will launch a course on climate change in 2017. The team will look first at existing legal and regulatory barriers to producing more sustainable water, and then recommend new policies to remove barriers, encourage farmers’ use, and protect public health. As part of its participation in the project, the Environmental Law Program becomes a member of the CONSERVE team and its Center of Excellence, a multidisciplinary group of researchers.



Business Law:

KEVIN TU

KEVIN TU FLIRTED WITH THE PROSPECT OF A LEGAL CAREER IN HIGH SCHOOL, INSPIRED BY HIS FATHER, WHO HAD STUDIED LAW IN VIETNAM. He discovered his love for business in college and then united his passions at the University of Washington School of Law, where he began to see the power of the profession to realize business goals.

In the decade since earning his JD, Tu honed his transactional and regulatory

skills for five years in the Seattle, Wash., office of Davis Wright Tremaine LLP before launching a successful academic career that eventually took him to Albuquerque, N.M., and the University of New Mexico School of Law.

There, he became fascinated with the questions that he’ll continue to explore at Maryland Carey Law, where he joined the faculty in July as

an associate professor of law: how can we develop a coherent system of law and regulation for emerging payment systems, a term, Tu explains, that covers everything from PayPal, mobile wallets and other digital alternatives backed by traditional, U.S. government-issued currency, to innovators like Bitcoin and Litecoin, which aren’t.

“Business law is always changing because business models and technology are

changing,” observes Tu. “Usually, law has to catch up and adapt to innovation—or risk stifling it with uncertainty and unduly burdensome legal requirements.”

That’s been true for the new payment systems he follows, especially startups that may be forced to comply with federal law as well as dozens of different state regulatory regimes, all trying in different ways to protect the consumer.

As Tu told *The American Banker*, his research showed that some state laws define money transmission so broadly that almost any mechanism of transferring money could be subject to licensing—a hurdle that could stop some startups. To encourage innovation, Tu believes regulatory requirements should focus on “services that pose a real risk of loss” to consumers.

Tu is also interested in business formation and the

New Faculty

growing number of possible business entities, and whether the proliferation of choices under state law serves the needs of businesses.

“Kevin understands the intersection of evolving regulatory regimes, complex banking transactions and new technology,” says Professor Michelle Harner, director of Maryland Carey Law’s Business Law Program. “He’s also a gifted teacher, an experienced practitioner, and a terrific addition to the faculty. We’re delighted to have him on board.”

Tu is equally pleased. “Maryland Carey Law has a great national reputation as a law school that’s doing things the right way—it’s student-focused, has outstanding faculty, and a strong working relationship with the Maryland bench and bar. I’m excited to be part of such an accomplished academic community.”

Law School Professor & Associate Dean:

SIMON CANICK

Law School Professor and Associate Dean for Law Library and Technology

BA, Hamilton College
JD, Boston University School of Law
MLIS, University of Washington
Information School



Professional highlights:

- Associate dean of information resources, director of the Warren E. Burger Library, and professor of law at Mitchell Hamline School of Law
- Associate director for library services at University of Connecticut School of Law
- Head of public services and reference librarian at Columbia Law School
- “Infusing Technology Skills into the Law School Curriculum,” *CAPITAL UNIVERSITY LAW REVIEW*
- “Library Services for the Self-Interested Law School: Enhancing the Visibility of Faculty Scholarship,” *LAW LIBRARY JOURNAL*

Honors



Danielle Citron

Lois K. Macht Research Professor of Law Danielle Citron was named a Distinguished Dean's Scholar in Residence at Washington University School of Law and an Interdisciplinary Studies Institute Scholar in Residence at University of Massachusetts Amherst. During 2016, she was appointed a member of the: ADL Task Force on Hate Speech & Journalism; Law Committee, IEEE Standards Association on the Global Initiative for Ethical Considerations in the Design of Autonomous Systems; Board of Directors, Electronic Privacy Information Center; and Advisory Board, SurvJustice.



Donald Tobin

The Daily Record named Donald B. Tobin, dean and professor of law, a 2015 Leader in Law.



Martha Ertman

Love's Promises: How Formal and Informal Contracts Shape All Kinds of Families, by Martha Ertman, Carole & Hanan Sibel Research Professor of Law, was named a finalist for Indie Book's Next Generation Book Award (LGBT category).



Michael Greenberger

Michael Greenberger, law school professor and Center for Health and Homeland Security founder and director, was appointed to the Maryland Cybersecurity Council by Attorney General Brian Frosh.



Jason Hawkins

"Faced with Crisis: The Importance of Establishing a Comprehensive Crisis Management Plan," co-authored by Jason Hawkins, research librarian, won the American Association of Law Libraries Spectrum Article of the Year Award.



Sherrilyn Ifill

Sherrilyn Ifill, professor of law and president and director-counsel of the NAACP Legal Defense and Educational Fund, Inc., was elected to the Board of Trustees of the National Constitution Center.



Michael Millemann

Jacob A. France Professor of Public Interest Law Michael Millemann received the Maryland State Bar Association's 2016 Robert C. Heeny Award for his accomplishments in criminal law.

Jacob A. France Professor of Public Interest Law **Michael Millemann**, Professor Emeritus **Clinton Bamberger**, and Senior Adjunct Professor **Peter Holland** were honored by the Pro Bono Resource Center of Maryland.



Maureen Sweeney

Maureen Sweeney, law school associate professor, received the Benjamin L. Cardin Distinguished Service Award from the Maryland Legal Services Corporation. The award recognizes outstanding public interest attorneys who are regularly involved in providing, promoting, or managing civil legal services.



Eleven Maryland Carey Law faculty members—**Barbara Bezdek**, **Deborah Eisenberg**, **Leigh Goodmark**, **Michael Greenberger**, **Toby Guerin**, **Diane Hoffmann**, **Renée Hutchins**, **Sherrilyn Ifill**, **Susan Leviton**, **Michael Pinard**, and **Deborah Weimer**—received a special recognition award from the University of Maryland, Baltimore during a 2016 ceremony marking the observance of Black History Month and Martin Luther King, Jr.'s achievements for their work in developing the course "Freddie Gray's Baltimore."

Scholarship

Promotions



Patricia Campbell

Law School Professor Director, Intellectual Property Law Program Director, Maryland Intellectual Property Legal Resource Center

BA, Carnegie Mellon University MA, University of Pittsburgh JD, Univ. of Pittsburgh School of Law LLM, Santa Clara Univ. School of Law

Professional highlights:

- Associate general counsel at Kajeet, Inc., in Bethesda, Md.
- Litigator and transactional attorney with Fish & Neave IP Group at Ropes & Gray, in Palo Alto, Calif. and Washington, D.C.
- Associate professor at the Maryland Technology Enterprise Institute
- "University Classroom Presentations as Prior Art Disclosures: Are Engineering Capstone Teams Unknowingly Giving Away the Fruits of Their Labor?" forthcoming from NORTH CAROLINA JOURNAL OF LAW AND TECHNOLOGY



Sherri Lee Keene

Law School Associate Professor Director, Legal Writing Program

BA, Spelman College JD, New York University

Professional highlights:

- Staff attorney at the Office of the Federal Public Defender for the District of Maryland
- Judicial clerk to the Hon. James T. Giles of the U.S. District Court for the Eastern District of Pennsylvania
- Co-chair of the Legal Writing Institute's (LWI's) Bar Outreach Committee and member of LWI's Discipline Building Working Group
- Co-editor: "The Second Draft," LEGAL WRITING INSTITUTE
- "Are We There Yet? Aligning the Expectations and Realities of Gaining Competency in Legal Writing," DUQUESNE LAW REVIEW



Russell McClain

Law School Associate Professor Director, Academic Achievement and Bar Preparation Program

BA, Howard University JD, Univ. of Maryland Francis King Carey School of Law

Professional highlights:

- Recently elected to second term as vice president for diversity, Association of Academic Support Educators
- "Helping Our Students Reach Their Full Potential: The Insidious Consequences of Ignoring Stereotype Threat," RUTGERS RACE & LAW REVIEW
- Former civil litigator in Los Angeles, Calif.
- University of Maryland Chapter of the Black Law Students Association: 2006-2007 Alumnus of the Year and 2011 Professor of the Year

Congressional Testimony



Rena Steinzor

Rena Steinzor, professor of law, testified before the U.S. Senate Superfund, Waste Management and Regulatory Oversight Committee at its hearing to review the Environmental Protection Agency's regulatory impact analyses. She was also honored as a Distinguished Visitor by the National Resources Law Institute at Lewis & Clark Law School.

Grants



Kathleen Hoke

The Legal Resource Center for Public Health Policy and the Network for Public Health Law, under the leadership of Kathleen Hoke, director and law school professor, secured more than \$1 million in grants for fiscal year 2016 through the Robert Wood Johnson Foundation, the Centers for Disease Control and Prevention, and the Maryland Department of Health and Mental Hygiene.

Books



Leigh Goodmark

Comparative Perspectives on Gender Violence: Lessons from Efforts Worldwide, co-edited by Leigh Goodmark, professor of law, was published by Oxford University Press.

“WHAT YOU HAVE HERE ARE REGULATORS PROVIDING FALSE INFORMATION. IT’S HIGHLY UNUSUAL FOR AGENCY PERSONNEL CHARGED WITH ENFORCING A LAW TO BE FOUND TAMPERING WITH EVIDENCE TO THE LEVEL AT WHICH A CITY’S WATER SUPPLY ENDS UP BEING POISONED.”

Jane Barrett

Law School Professor and Director, Environmental Law Clinic
Time Magazine article, “Why the Criminal Case Against Flint Water Regulators is So Unusual”
April 20, 2016



“THE CLAIM THAT OTHER COUNTRIES WILL NOT CONTROL THEIR EMISSIONS HAS NOW BEEN LAID TO REST IN PARIS WITH A NEW GLOBAL AGREEMENT REQUIRING ALL COUNTRIES TO DO SO. NOW THAT THE ENTIRE WORLD HAS RECOGNIZED THAT ALL NATIONS MUST ACT TO COMBAT CLIMATE CHANGE, IT WOULD BE THE HEIGHT OF FOLLY FOR A NEW PRESIDENT AND CONGRESS TO REVERSE COURSE.”

Robert Percival

Robert F. Stanton Professor of Law and Director, Environmental Law Program
Newrepublic.com op-ed, “Can Obama’s Climate Pledges Survive Republican Opposition?”
December 14, 2015

“MANY FEMINISTS HAVE THROWN THEIR LOT IN WITH THE STATE, BELIEVING THAT THE CARCERAL SYSTEM CAN AND WILL DELIVER JUSTICE. I BELIEVE, THOUGH, THAT THE FEMINIST FAITH IN THE STATE, AND PARTICULARLY THE CARCERAL STATE, TO END GENDER VIOLENCE IS PROBLEMATIC AT BEST AND MISPLACED AT WORST. THE CRIMINAL LEGAL SYSTEM OFTEN DOES NOT HOLD THOSE WHO DO HARM ACCOUNTABLE AND WOMEN ARE NOT ALWAYS SAFER WHEN THEY TURN TO THAT SYSTEM. RESTORATIVE JUSTICE OFFERS US A RADICALLY DIFFERENT WAY—AND I WOULD ARGUE, A FEMINIST WAY—TO THINK ABOUT ACHIEVING JUSTICE FOR PEOPLE SUBJECTED TO HARM.”

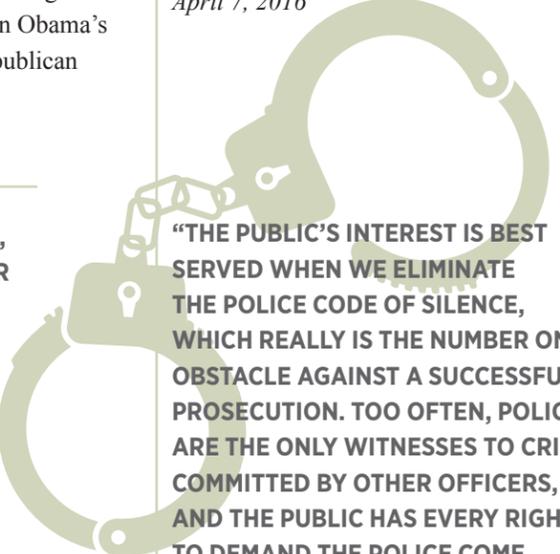
Leigh Goodmark

International Restorative Conference keynote address, “Making the Case for Restorative Justice as a Feminist Approach to Gender-Based Harms”
June 27, 2016

“BUSINESS INTERESTS HAVE LARGELY PREVAILED IN THEIR RESISTANCE TO EFFORTS TO MODERNIZE THESE WORKPLACE SAFETY AND HEALTH LAWS, WHICH DATE FROM THE 1970S AND, OVER THE INTERVENING DECADES, HAVE GROWN STALE IN THE FACE OF EMERGING HAZARDOUS TECHNOLOGIES. CONGRESS SHOULD AMEND THE MINE SAFETY AND OCCUPATIONAL SAFETY ACTS TO RANK SYSTEMATIC VIOLATIONS BY TOP EXECUTIVES AS FELONIES AND TO INCREASE THE SENTENCES AVAILABLE TO JUDGES FOR WHITE-COLLAR CRIMINALS...”

Rena Steinzor

Professor of Law
New York Times op-ed, “Judgment Day for Reckless Executives”
April 7, 2016



“THE PUBLIC’S INTEREST IS BEST SERVED WHEN WE ELIMINATE THE POLICE CODE OF SILENCE, WHICH REALLY IS THE NUMBER ONE OBSTACLE AGAINST A SUCCESSFUL PROSECUTION. TOO OFTEN, POLICE ARE THE ONLY WITNESSES TO CRIMES COMMITTED BY OTHER OFFICERS, AND THE PUBLIC HAS EVERY RIGHT TO DEMAND THE POLICE COME FORWARD AND SPEAK THE TRUTH ABOUT WHAT OCCURRED.”

Doug Colbert

Professor of Law
Washington Post article, “Prosecutors in Freddie Gray cases faced an uphill battle from the very beginning”
July 27, 2016

Yesko: Faculty & Scholarship

“THE MEDICAL COMMUNITY IS GENERALLY A RISK AVERSE POPULATION, ONE EASILY PUT OFF BY THE THREAT OF GOVERNMENT INVESTIGATION OR SANCTIONS. FEAR OF CRIMINAL LIABILITY IS ONLY ONE SIDE OF THE LEGAL PRESSURES PHYSICIANS MAY FACE. PHYSICIANS WHO UNDER-TREAT A PATIENT’S PAIN HAVE ALSO BEEN SUED FOR MEDICAL MALPRACTICE OR HAVE BEEN SUBJECT TO DISCIPLINARY ACTION BY STATE MEDICAL BOARDS — PUTTING MANY DOCTORS BETWEEN A ROCK AND A HARD PLACE WHEN IT COMES TO WORKING WITH THEIR PATIENTS.”

Diane Hoffmann

Professor of Law and Director, Law & Health Care Program
New York Times op-ed, “Erroneous Prosecutions Have a Chilling Effect on Physicians Who Treat Chronic Pain”
February 17, 2016

“A RECORD MIGHT CONFIRM A STEREOTYPE ABOUT AN APPLICANT BASED ON RACE AND SOCIOECONOMIC STATUS. GIVEN ALL WE KNOW ABOUT BIAS, STEREOTYPE, NOTIONS OF CRIMINALITY, IT’S REALLY IMPORTANT FOR MANY EMPLOYERS AND LANDLORDS TO LOOK BEYOND A CRIMINAL RECORD WHEN DEALING WITH A PERSON OF COLOR.”

Michael Pinard

Professor of Law and Co-Director, Clinical Law Program
New York Times column, “Have You Ever Been Arrested? Check Here”
May 24, 2016

“CITIZENS OF THIS COUNTRY LARGELY EXPECT THE FREEDOM TO MOVE ABOUT IN RELATIVE ANONYMITY, WITHOUT THE GOVERNMENT KEEPING AN INDIVIDUALIZED, TURN-BY-TURN ITINERARY OF OUR COMINGS AND GOINGS.”

Renée Hutchins

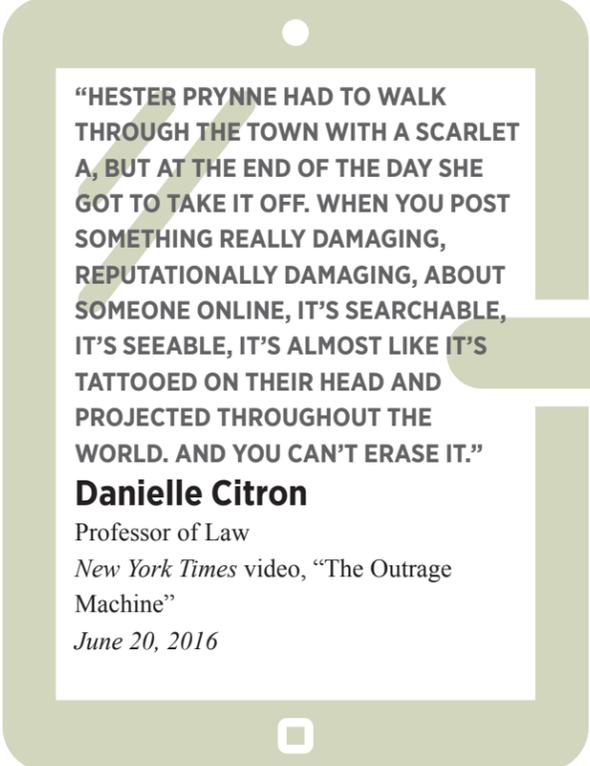
Professor of Law and Co-Director, Clinical Law Program
The Atlantic article, “Do Police Need a Warrant to See Where a Phone Is?” as cited by The Hon. Andre Davis ’78, senior judge of the U.S. Court of Appeals for the Fourth Circuit in his opinion on the ruling in *Graham v. U.S.* Professors David Gray and Danielle Citron were also cited.
August 8, 2015

SEEN HEARD

“IF THERE IS A FORUM TO RESOLVE BUSINESS DISPUTES IN A TIMELY AND EFFICIENT MANNER, THAT CAN BE BENEFICIAL IN ENCOURAGING BUSINESSES TO COME TO AND STAY IN THE STATE.”

Michelle Harner

Professor of Law and Director, Business Law Program
Pew Charitable Trusts article “‘Business Courts’ Take on Complex Corporate Conflicts”
October 28, 2015



“HESTER PRYNNE HAD TO WALK THROUGH THE TOWN WITH A SCARLET A, BUT AT THE END OF THE DAY SHE GOT TO TAKE IT OFF. WHEN YOU POST SOMETHING REALLY DAMAGING, REPUTATIONALLY DAMAGING, ABOUT SOMEONE ONLINE, IT’S SEARCHABLE, IT’S SEEABLE, IT’S ALMOST LIKE IT’S TATTOOED ON THEIR HEAD AND PROJECTED THROUGHOUT THE WORLD. AND YOU CAN’T ERASE IT.”

Danielle Citron

Professor of Law
New York Times video, “The Outrage Machine”
June 20, 2016