

## Table of Contents

Follow this and additional works at: <http://digitalcommons.law.umaryland.edu/mlr>

---

### Recommended Citation

*Table of Contents*, 71 Md. L. Rev. 1 (2012)

Available at: <http://digitalcommons.law.umaryland.edu/mlr/vol71/iss2/1>

This Front Matter is brought to you for free and open access by the Academic Journals at DigitalCommons@UM Carey Law. It has been accepted for inclusion in Maryland Law Review by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact [smccarty@law.umaryland.edu](mailto:smccarty@law.umaryland.edu).

# MARYLAND LAW REVIEW

---

---

VOLUME 71

2012

NUMBER 2

© Copyright Maryland Law Review 2012

---

---

## TABLE OF CONTENTS

### ARTICLES

- Woman Scorned?: Resurrecting Infertile  
Women's Decision-Making Autonomy  
*Jody Lynée Madeira* 339
- Applying Federal Constitutional Theory to the  
Interpretation of State Constitutions:  
The Ban on Special Laws in Maryland  
*Dan Friedman* 411

### ESSAY

- The Constitutional Inevitability of  
Same-Sex Marriage  
*Laurence H. Tribe* 471  
*and Joshua Matz*

### COMMENT

- When the Child's Best Interest Calls For It: Post-Adoption  
Contact by Court Order in Maryland 490

### NOTES

- The Supreme Court of the United States**  
*Michigan v. Bryant*: Returning to an Open-Ended Confrontation  
Clause Analysis 545
- Abbott v. Abbott*: Reviving Good Faith and Rejecting Ambiguity  
in Treaty Jurisprudence 575
- The Court of Appeals of Maryland**  
*Garner v. State*: Maryland's Implied Retreat from Implied  
Assertions 619

---

MARYLAND LAW REVIEW (ISSN: 0025-4282)

Published quarterly by MARYLAND LAW REVIEW, University of Maryland Francis King Carey School of Law, 500 W. Baltimore Street, Baltimore, Maryland 21201-1786 (410-706-7414). Copyright 2012 by MARYLAND LAW REVIEW.

Published in cooperation with the University of Maryland Francis King Carey School of Law. The views expressed by the authors in this issue are not necessarily those of the LAW REVIEW or the University of Maryland Francis King Carey School of Law.

Subscription rate: \$30 per year. The LAW REVIEW is supplied to members of the Maryland State Bar Association and the Bar Association of Baltimore City at a discount rate of \$17.50 per year. Please email subscription requests to [mdlr@law.umaryland.edu](mailto:mdlr@law.umaryland.edu). Subscribers are responsible for notifying the LAW REVIEW of address changes. Subscribers must report nonreceipt of an issue within three months of publication of the next issue. Otherwise, the LAW REVIEW will not be able to provide a replacement issue.

Postage paid at Baltimore, Maryland, and additional mailing offices. POSTMASTER: Send address changes to MARYLAND LAW REVIEW.

Back issues of the LAW REVIEW may be obtained from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209-1987 (1-800-828-7571). Issues of the REVIEW may also be accessed on Hein Online, Lexis, and Westlaw.

For microfilm copies, contact: ProQuest, 300 North Zeeb Road, Ann Arbor, MI 48106 (313-761-4700).

All articles copyright 2012 by the MARYLAND LAW REVIEW, except where otherwise provided. Except as otherwise expressly provided, the author of each article in this issue has granted permission for copies of that article to be reproduced and distributed, in whole or in part, by nonprofit institutions for educational purposes, including distribution to students, provided that (1) the copies are distributed at or below cost; (2) copies identify the author, the MARYLAND LAW REVIEW, the volume, the number of the first page, and the year of the work's publication; and (3) proper notice of copyright is affixed to each copy. For articles in which it holds the copyright, the MARYLAND LAW REVIEW grants permission for copies to be made for classroom use or for any other educational purpose under the same conditions.

The Great Seal of Maryland is used on the cover of the LAW REVIEW with permission of the Office of the Secretary of State of Maryland.

The LAW REVIEW invites the submission of unsolicited manuscripts. Send all manuscripts to [mdlr@law.umaryland.edu](mailto:mdlr@law.umaryland.edu).

---

## UNIVERSITY OF MARYLAND FRANCIS KING CAREY SCHOOL OF LAW

### OFFICERS OF ADMINISTRATION

WILLIAM E. KIRWAN, B.S., M.S., PH.D., *Chancellor & Chief Executive Officer, University System of Maryland*  
JAY A. PERMAN, M.D., *President*  
PHOEBE A. HADDON, B.A., J.D., LL.M., *Dean and Professor of Law*  
DIANE E. HOFFMANN, A.B., M.S., J.D., *Associate Dean for Academic Programs, Professor of Law, and Director, Law and Health Care Program*  
JOSÉ BAHAMONDE-GONZÁLEZ, B.S., J.D., *Associate Dean for Administrative Affairs and Student Services*  
MARK GRABER, A.B., M.A., PH.D., J.D., *Associate Dean for Research and Faculty Development and Professor of Law and Government*  
DANA MORRIS, B.A., J.D., *Assistant Dean for Career Development*  
TERESA K. LAMASTER, B.A., M.A., J.D., *Assistant Dean for Planning and External Affairs and Lecturer in Law*  
BARBARA CONTRUM, B.A., M.S., J.D., *Assistant Dean for Library and Technology and Law School Professor*  
DAWNA COBB, B.A., J.D., *Assistant Dean for Student Affairs, Lecturer in Law*  
CONNIE BEALS, B.S., J.D., *Assistant Dean for Admissions, Student Recruiting & Pre-Law Counseling*

### FACULTY OF THE FRANCIS KING CAREY SCHOOL OF LAW

E. CLINTON BAMBERGER, JR., B.S., J.D., *Professor Emeritus of Law*  
TAUNYA BANKS, B.A., J.D., *Jacob A. France Professor of Equality Jurisprudence*  
JANE F. BARRETT, B.A., J.D., *Law School Professor and Director, Environmental Law Clinic*  
BARBARA BEZDEK, B.A., J.D., LL.M., *Professor of Law*  
BRENDA BRATTON BLOM, B.A., M.P.S., J.D., PH.D., *Law School Professor*  
DAVID BOGEN, B.A., LL.B., LL.M., *T. Carroll Brown Scholar and Professor Emeritus of Law*  
RICHARD BOLDT, A.B., J.D., *Professor of Law*  
CHRISTOPHER BROWN, B.A., M.A., J.D., *Professor Emeritus of Law*  
ALICE BRUMBAUGH, B.A., J.D., *Robert Stanton Distinguished Service Professor Emeritus of Law*  
PATRICIA CAMPBELL, B.A., M.A., J.D., LL.M., *Law School Associate Professor and Director, Maryland Intellectual Property Law Resource Center*  
PAMELA CHANEY, B.S., J.D., *Clinical Law Instructor*  
MAXWELL CHIBUNDU, B.A., M.A., J.D., *Professor of Law*  
DANIELLE CITRON, B.A., J.D., *Lois K. Macht Research Professor of Law*  
DOUGLAS COLBERT, B.A., J.D., *Professor of Law*  
ROBERT CONDLIN, B.A., J.D., LL.M., *Professor of Law*  
KAREN CZAPANSKI, B.A., J.D., *Francis & Harriet Iglehart Research Professor of Law*  
KATHLEEN DACHILLE, B.A., J.D., *Law School Associate Professor, Director, Legal Resource Center for Tobacco Regulation, Litigation & Advocacy and Director, Regional Public Health Law Network*  
PETER G. DANCHIN, B.A., LL.B., LL.M., J.S.D., *Professor of Law and Director, International & Comparative Law Program*  
ABRAHAM A. DASH, B.S., J.D., *Professor Emeritus of Law*  
JEROME DEISE, B.A., J.D., *Law School Professor*  
N. JEREMI DURU, B.A., M.P.P., J.D., *Visiting Associate Professor of Law*  
DEBORAH THOMPSON EISENBERG, B.A., J.D., *Assistant Professor of Law and Director, Center for Dispute Resolution*  
MARTHA ERTMAN, B.A., J.D., *Carole & Hanan Sibel Research Professor of Law*  
JOHN FADER, B.S., J.D., *Senior Judicial Fellow and Visiting Law School Professor*  
LARRY GIBSON, B.A., LL.B., *Professor of Law*  
DONALD GIFFORD, B.A., J.D., *Edward M. Robertson Research Professor of Law*  
SARA GOLD, B.A., J.D., *Visiting Law School Assistant Professor*  
DANIEL GOLDBERG, A.B., J.D., *Professor of Law*  
DAVID GRAY, B.A., M.A., J.D., PH.D., *Associate Professor of Law*  
OSCAR S. GRAY, B.A., J.D., *Jacob A. France Professor Emeritus of Torts*  
I. MICHAEL GREENBERGER, A.B., J.D., *Law School Professor and Director, Center for Health and Homeland Security*  
SUSAN HANKIN, B.A., J.D., M.P.H., *Law School Associate Professor*  
MICHELLE HARNER, B.A., J.D., *Professor of Law and Co-Director, Business Law Program*  
DEBORAH HELLMAN, B.A., M.A., J.D., *Jacob A. France Research Professor of Law*  
LESLIE MELTZER HENRY, B.S., J.D., M.Sc., PH.D.(C), *Assistant Professor of Law*  
PETER HOLLAND, B.A., M.A., J.D., *Visiting Law School Assistant Professor*  
ALAN HORNSTEIN, B.A., M.A., J.D., *Professor Emeritus of Law*  
RENÉE C. HUTCHINS, B.A., J.D., *Associate Professor of Law*  
SHERRILYN IFILL, B.A., J.D., *Professor of Law*  
SHERRI LEE KEENE, B.A., J.D., *Law School Assistant Professor and Director, Legal Writing Program*  
ROBERT KELLER, B.S., LL.B., *Professor Emeritus of Law*  
ANDREW KING, B.A., LL.B., PH.D., *Professor Emeritus of Law*  
LEE KOVARSKY, B.A., J.D., *Assistant Professor of Law*  
SHELDON KRANTZ, B.S., J.D., *Distinguished Visiting Professor of Law*  
SUSAN LEVITON, B.S., J.D., *Law School Professor*  
RUSSELL McCLAIN, B.A., J.D., *Law School Assistant Professor and Director, Academic Achievement Program*

MICHAEL MILLEMANN, B.A., J.D., *Jacob A. France Professor of Public Interest Law and Director, Leadership, Ethics & Democracy Initiative*  
PAULA MONOPOLI, B.A., J.D., *Professor of Law and Founding Director, Women, Leadership, & Equality Program*  
BARBARA OLSHANSKY, B.A., J.D., *Visiting Professor of Law*  
ROBERT PERCIVAL, B.A., M.A., J.D., *Robert F. Stanton Professor of Law and Director, Environmental Law Program*  
MICHAEL PINARD, B.A., J.D., *Professor of Law and Director, Clinical Law Program*  
GARRETT POWER, B.A., LL.B., LL.M., *Professor Emeritus of Law*  
AMANDA C. PUSTILNIK, B.A., J.D., *Assistant Professor of Law*  
PETER QUINT, A.B., LL.B., *Jacob A. France Professor of Constitutional Law*  
SHRUTI RANA, B.A., M.B.A., J.D., *Associate Professor of Law*  
SHARON REECE, B.A., M.A., J.D., LL.M., *Visiting Associate Law School Professor*  
WILLIAM REYNOLDS, A.B., J.D., *Jacob A. France Professor of Judicial Process*  
ROBERT JOONHO RHEE, B.A., M.B.A., J.D., *Marbury Research Professor of Law and Co-Director, Business Law Program*  
KAREN ROTHENBERG, B.A., M.P.A., J.D., *Marjorie Cook Professor of Law*  
BRIAN SAWERS, A.B., J.D., *Visiting Assistant Professor of Law*  
JANA SINGER, A.B., J.D., *Professor of Law*  
MAXWELL STEARNS, B.A., J.D., *Marbury Research Professor of Law*  
RENA STEINZOR, B.A., J.D., *Professor of Law*  
ROBERT SUGGS, B.A., J.D., *Professor of Law*  
LAWRENCE SUNG, B.A., PH.D., J.D., *Senior Lecturer and Director, Intellectual Property Law Program*  
MAUREEN SWEENEY, B.A., J.D., *Clinical Law Instructor*  
EDWARD TOMLINSON, A.B., M.A., J.D., *Professor Emeritus of Law*  
MICHAEL VAN ALSTINE, B.A., J.D., M.JUR.COMP., DR.JUR., *Professor of Law*  
KATHERINE VAUGHNS, B.A., J.D., *Professor of Law*  
URSKA VELIKONJA, J.D., LL.B., LL.M., *Assistant Professor of Law*  
ELLEN M. WEBER, B.A., J.D., *Professor of Law*  
DEBORAH WEIMER, B.A., J.D., *Carol & Hanan Sibel Research Law School Professor*  
MARLEY WEISS, B.A., J.D., *Professor of Law*  
ROGER WOLF, B.A., J.D., *Law School Professor Emeritus*  
GORDON YOUNG, B.A., J.D., LL.M., *Professor of Law*