



Celebrating Western Law Faculty Research (September 2017 – February 2018)

This newsletter celebrates faculty research related to the September 2017 – February 2018 time period. There is much to celebrate: during that time frame, collectively **the faculty published 17 articles, book chapters and books; 22 articles or book chapters were accepted for publication;** and faculty undertook **42 presentations at conferences and other events across the globe.** Faculty negotiated **2 book contracts** and were also successful in garnering **\$98,976 in grant funding.**

The newsletter is listed alphabetically by topic area.

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Business and Tax Law

Publications

Christopher Nicholls, *Securities Law*, 2nd ed (Toronto: Irwin, 2018).

Accepted for Publication:

Alfonso Nocilla, "Canada", chapter in Jason Chuah & Eugenio Vaccari, eds., *Treatment of Executory Contracts in Insolvency Law* (Cheltenham: Edward Elgar), forthcoming.

Alfonso Nocilla, Book review of Louise Gullifer & Orkun Akseli, eds., *Secured Transactions Law Reform: Principles, Policies and Practice* (Oxford: Hart Publishing, 2016), forthcoming in *Banking and Finance Law Review*.

Alfonso Nocilla, Book review of Bo Xie, *Comparative Insolvency Law: The Pre-pack Approach in Corporate Rescue* (Cheltenham: Edward Elgar, 2016), forthcoming in *Canadian Business Law Journal*.

Presentations

Thomas Telfer. Panellist, "Deemed Trusts in the *Companies' Creditors Arrangement Act*" *Annual Review of Insolvency Law Conference*, University of British Columbia (February 2018).

Thomas Telfer. Panellist, "Temporality Interrupted: Limitation Periods & Insolvency Law" *Second Annual Commercial Law Symposium*, University of Saskatchewan (September 2017).

Grants and Awards

Jennifer Farrell. Teaching Support Centre's Mentoring Micro Grant of \$1800 (awarded January, 2018)

Jennifer Farrell. Western Social Sciences and Humanities Review Board (SSHRC) seed grant of \$21,292 for "Blockchain and Taxation" research (awarded December, 2017).

Other

Alfonso Nocilla, "Is 'Corporate Rescue' Working in Canada?" (2012) 53 Can Bus LJ 382 was recently cited in two decisions: *Arrangement relatif à Bloom Lake General Partner Limited*, 2017 QCCS 4057 at para 160 (Quebec Superior Court) and *8640025 Canada Inc. (Re)*, 2018 BCCA 93 at para 45 (British Columbia Court of Appeal).

Thomas Telfer. PhD External Examiner. University of Alberta, Faculty of Law, *Control vs. Registration: Contemplating a Potential Paradigm Shift in the PPSA's Governance of Security Interests in Deposit Accounts*, (October, 2017)

Contracts and Torts

Publications

Zoë Sinel, *What's Your Damage? The Elimination of the Expert-Recognized Psychiatric Illness Requirement in the Canadian Law of Negligence: Saadati v Moorhead*, [2017] 1 SCR 543 (2017) 24 Torts Law Journal 205-217.

Accepted for Publication:

Erika Chamberlain, "Affirmative Duties of Care: A Distinctly Canadian Contribution to the Law of Torts" (2018) *Supreme Court Law Review* (forthcoming).

Erika Chamberlain, Book review of Ken Oliphant, ed, *Public Authority Liability in Comparative Perspective* (Intersentia, 2016) (2018) 61:2 *Canadian Business Law Journal* (forthcoming).

Presentations

Erika Chamberlain, "Recent Developments in Negligence Affecting Crown Liability" presented at Osgoode Professional Development's 14th Annual Conference on Crown Liability (Toronto: 21 March 2018).

Jason Neyers, "Deceit and Rights" presented at the *Society of Legal Scholars (UK) Tort Law Section*, University College Dublin (September 2017).

Stephen G.A. Pitel. Presentation entitled "Recent Supreme Court of Canada Decisions: Tort and Contract" at Joint Education Seminar for the Courts of Appeal of Manitoba and Saskatchewan in Saskatoon on September 28, 2017.

Environmental and Natural Resources Law

Publications

David Grinlinton, "The Use of Biodiversity Offsets in Mining and Energy Development: A View from 'Down Under' " (2017) 19(4) *Environmental Law Review*, 244-265.

Accepted for Publication

David Grinlinton, "Opportunities for Sustainable Energy in Conflict Zones: The Role of International Organisations and Military Forces" (2017) *IUCN Academy of Environmental Law eJournal* (forthcoming)

P. M. Salmon & **D. P. Grinlinton** (Eds.) *Environmental Law in New Zealand* (2nd ed., Thomson Reuters, Wellington) (forthcoming 2018)

David Grinlinton, "Defining the nature and boundaries of environmental law", Ch 1; "The context of environmental law", Ch 2; "Sustainability in New Zealand environmental law and policy", Ch 4; and "The role of the common law", Ch 5, in Salmon & Grinlinton (eds) *Environmental Law in New Zealand* (2nd ed., Thomson Reuters, Wellington) (forthcoming 2018).

Grants and Awards

Chios Carmody, awarded \$43,500 from the Centre for International Governance Innovation (CIGI), *Legal Framework in Canada and the United States for the cap-and-trade system* (to create a Manual for entities interested in participating in the cap and trade scheme for carbon emissions under the Western Climate Initiative (WCI)).

Indigenous Law

Publications

Michael Coyle. "Recognizing Indigenous Legal Orders: Their Content, Embeddedness in Distinct Indigenous Cultures, and Implications for Reconciliation", SSHRC Knowledge Synthesis Report, September 11, 2017.

Presentations

Michael Coyle. "Historic Treaties as Technologies of Justice", presented at *Technologies of Justice Symposium*, University of Ontario Institute of Technology, Oshawa, January 26, 2018.

Michael Coyle. “La terre et la promesse de médiation et les peuples autochtones: gérant des conflits de normes et de modes de connaître” (“The Land, the Promise of Mediation and Indigenous Peoples: Dealing with Conflicts of Norms and Ways of Knowing”), presented at the invitation of SAGE, the Research Group on Environmental Governance, Faculty of Law, University of Sherbrooke, November 17, 2017.

Michael Coyle. “Reimagining the Relationship: The Implications of Historical Treaties and Developments in Indigenous Law”, presented to the Indigenous Bar Association Annual Conference, Halifax, October 21, 2017.

Michael Coyle. “Recognizing Indigenous legal orders: Their content, embeddedness in distinct Indigenous epistemologies, and implications for reconciliation”, draft report of SSHRC research presented at “Imagining Canada’s Future: A Successful Shared Future With First Nations, Inuit And Métis Peoples”, a colloquium organized by the Social Sciences and Humanities Research Council, Ottawa, September 25-26, 2017.

Michael Coyle. “Recognizing Indigenous Legal Orders: Implications for Reconciliation”, invited paper presented at “Reconciliation: *Wahkohtowin*”, a conference organized by the Centre for Constitutional Studies and the University of Alberta Faculty of Law, Enoch River First Nation, September 21-23, 2017.

Other

Stephen G.A. Pitel. Blog post: “Conflicts – Between Domestic and Indigenous Legal Systems?” on www.conflictoflaws.net.

Intellectual Property, Information and Technology Law

Publications

Margaret Ann Wilkinson, “Copyright and Schools in Canada,” Chapter 10 in David Young (ed) *Education Law in Canada: A Guide for Teachers and Administrators* (Toronto: Irwin Law, 2017), 287-337.

Accepted for Publication:

Margaret Ann Wilkinson, “What is the role of new technologies in tensions in Intellectual Property?” in Tana Pistorius (ed) *Intellectual Property Perspectives on the Regulation of Technologies* [ATRIP Intellectual Property Law Series] (Cheltenham, UK: Edward Elgar). Forthcoming.

Presentations

Margaret Ann Wilkinson, “Copyright Update,” *OLA [Ontario Library Association] Superconference*, Toronto, January 31, 2018.

Margaret Ann Wilkinson, “Genealogy and DNA,” London Genealogical Society, October 14, 2017.

International Law (including Conflict of Laws/Private International Law)

Publications

Michael Lynk. Report of the Special Rapporteur to the United Nations General Assembly, October 2017, UN Doc. A/72/556.

Valerie Oosterveld, “Forced Marriage”, in Naomi Cahn, Dina Haynes, Fionnuala Ni Aolain and Nahla Valji (eds.), *Gender and Conflict Handbook* (Oxford University Press, 2017) 240-252.

Valerie Oosterveld, “The ICC Policy Paper on Sexual and Gender-Based Crimes: A Crucial Step for International Criminal Law” (2018) 24(3) *William & Mary Journal of Women and the Law* 1-15.

Valerie Oosterveld, “The Special Court for Sierra Leone: Initial Structural and Procedural Decisions on Sexual and Gender-Based Violence” (2015-16) 46 *Cambrian Law Review* 131-150 [published in 2017].

Accepted for Publication:

Michael Lynk. “The Challenge for Europe: Making International Law Work for Middle East Peace”, *Global Affairs* (2018, forthcoming)

Michael Lynk. “International Law and the Israel-Palestinian Conflict: Closer to Power than Justice”, book on the Middle East Conflict (University of Toronto Press, forthcoming).

Margaret Martin, “The International Criminal Court: The New Leviathan?” In *Legal Authority beyond the State*, Patrick Capps & Henrik Palmer Olsen (eds) (CUP, forthcoming March 2018).

Valerie Oosterveld, “Gender, Enslavement and War Economies: A Case Study from the Special Court for Sierra Leone” in Olga Jurasz and Solange Mouthaan (eds.), *Gendered Experiences of Transitional Justice* (Intersentia, forthcoming 2018).

Presentations

Michael Lynk. Presentation, “Illegal Occupancy under International Law”, United Nations Committee on Palestine, NY, November 2017

Michael Lynk. Presentation, “International Law and the Middle East Conflict”, European Union, Brussels, November 2017.

Michael Lynk. James Graff Memorial Lecture, “International Law and the Middle East Conflict”, Toronto, November 2017.

Michael Lynk. Presentation, “Illegal Occupancy under International Law”, Faculty of Law, Columbia University, NY, October 2017

Valerie Oosterveld, “The Politics Surrounding the International Criminal Court”, Roundtable Speaker, *The Politics of International Criminal Justice*, International Policy Center, Gerald R Ford School of Public Policy, University of Michigan, January 19, 2018 (Ann Arbor).

Valerie Oosterveld, “The Special Court for Sierra Leone’s Best Practices on Conflict-Related Sexual Violence”, at “Prosecution of Sexual and Gender-Based Violence at the Special Court for Sierra Leone” side-event to the International Criminal Court Assembly of States Parties sponsored by the Permanent Missions of Canada and Sierra Leone to the United Nations, UN Women and the Canadian Partnership for International Justice, December 13, 2017 (New York).

Valerie Oosterveld, “Canada’s 2017 National Action Plan on Women, Peace and Security”, on “Canadian Responses to Mass Atrocities” panel, *Canada at 150: The Return of History for International Law*, Canadian Council on International Law, November 2-3, 2017 (Ottawa).

Valerie Oosterveld, “The Application of International Criminal Law to Violations Against Women and Girls in Conflict-Related Resource Extraction”, *Resource Extraction and the Human Rights of Women and Girls*, University of Ottawa, October 26-28, 2017 (Ottawa).

Valerie Oosterveld, “Justice for Crimes against Women and Girls”, *Rotary “Be the One” Annual Conference*, September 29, 2017 (Collingwood, ON).

Grants and Awards

Valerie Oosterveld - name included on the *Gender Justice Legacy Wall* (Women’s Initiatives for Gender Justice; International Criminal Court).

Other

Valerie Oosterveld, Panelist on the International Criminal Court, TVO’s *The Agenda* with Steve Paikan (November 27, 2017)

Valerie Oosterveld, Interviewed by CBC News Network Tonight on the *Ratko Mladic* verdict at the International Criminal Tribunal for the Former Yugoslavia (November 21, 2017).

Valerie Oosterveld, Invited expert at the Prime Minister's Sherpa Consultations on the G7, Laval University (November 16, 2017).

Stephen G.A. Pitel. 5 posts to e-mail list for Canadian private international law scholars commenting on recent developments.

Stephen G.A. Pitel. Blog post: "UKSC on Traditional Rules of Jurisdiction: *Brownlie v Four Seasons Holdings Incorporated*" on www.conflictoflaws.net.

Legal Ethics

Publications

Stephen G.A. Pitel & Liam Ledgerwood, "Judicial Confidentiality in Canada" (2017) 43:1 Queen's L.J. 123.

Accepted for Publication

Stephen G.A. Pitel & Liam Ledgerwood, "Judicial Notice and the Internet" [forthcoming in Annual Review of Civil Litigation 2018].

Presentations

Stephen G.A. Pitel. Presentation entitled "When to Take Jurisdiction?" at Joint Education Seminar for the Courts of Appeal of Manitoba and Saskatchewan in Saskatoon on September 28, 2017.

Stephen G.A. Pitel. Presentation entitled "Ethical Issues for Judges Attending and Presenting at Conferences" at Canadian Association for Legal Ethics conference, Dalhousie University, October 27-28, 2017.

Legal History

Publications

Colin Campbell. (co-authored) "The 1917 *Income War Tax Act*: Origins and Enactment", *Income Tax at 100 Years*". Toronto, Canadian Tax Foundation, 2017 at pp. 2:1 to 2:96.

Presentations

Colin Campbell. “Corporate Surplus Issues 1917-1948”, at the Spiegel Sohmer Colloquium “100 Years of Tax Law in Canada”, Faculty of Law, McGill University, October 2, 2017.

Thomas Telfer. “The New Bankruptcy ‘Detective Agency’? The Origins of the Superintendent of Bankruptcy in Great Depression Canada”; *Osgoode Society Legal History Seminar*, University of Toronto, Faculty of Law (February 2018).

Grants and Awards

Rande Kostal, Shimizu Visiting Fellow, London School of Economics, May 2018.

Thomas Telfer. Appointed as a Senior Fellow, Melbourne Law School, 2018.

Property Law

Publications

David Grinlinton, “The Continuing Relevance of Common Law Property Rights and Remedies in Addressing Environmental Challenges” (2017) 62(3) McGill Law Journal 633-686.

Book Contracts

David Grinlinton, *Residential Tenancies: The Law and Practice* (2nd ed, LexisNexis, Wellington, forthcoming).

David Grinlinton, *Housing Law and Policy* (LexisNexis, Wellington, forthcoming).

Grants and Awards

David Grinlinton, granted \$25,000 NZD (\$22,384 CDN) by the New Zealand Law Foundation towards organising an international legal conference entitled "New Horizons for Torrens: Current reforms, emerging issues" to be held at the University of Auckland, 29-31 August 2018.

Public Health Law

Publications

Justine Horne, Colleen O'Connor, Janet Madill, **Jacob J. Shelley** & Jason Gilliland, (2018) "A systematic review of genetic testing and lifestyle behaviour change: Are we using high quality genetic interventions and considering behaviour change theory?" 2018 *Lifestyle Genomics*.

Raine, K., Atkey, K., Olstad, D., Ferdinands, A., Beaulieu, D., Buhler, S., . . . **Jacob J. Shelley**, Street, J. (2018). "Healthy food procurement and nutrition standards in public facilities: Evidence synthesis and consensus policy recommendations" (2018) 38(1) *Health Promotion and Chronic Disease Prevention in Canada: -Research Policy and Practice* 6-17, doi:10.24095/hpcdp.38.1.03.

Robert Solomon & Erika Chamberlain, "The Road to Traffic Safety: Mandatory Breath Screening and Bill C-46" (2018) 23 *Canadian Criminal Law Review*, 1-42.

Accepted for Publication

N.M. Ries & **Jacob J. Shelley**, "Public Health Law" in Ben White, Lindy Willmott & Fiona McDonald, *Health Law in Australia*, 3rd ed (Thomson Reuters, 2018), in press - release date is July 2nd.

K. Latuskie & **Jacob J. Shelley**, "Food Safety and the Law" in Heather McLeod-Kilmurray, Nathalie J Chalifour & Angela Lee, eds, *Food Law in Canada* (Toronto: Thomson Reuters, 2018), forthcoming.

M.L. McPhail & **Jacob J. Shelley**, "Restrictions on the Marketing and Advertising of Food Products" in Heather McLeod-Kilmurray, Nathalie J Chalifour & Angela Lee, eds, *Food Law in Canada* (Toronto: Thomson Reuters, 2018), forthcoming.

Robert Solomon et al., "Police documentation of drug use in injured drivers: Implications for monitoring and preventing drug-impaired driving." *Accident Analysis and Prevention*.

Presentations

Margaret Martin, "The Use of Novel fMRI Technology to Detect Covert Awareness: A Case Study" Presented at The Technologies of Justice Conference, UOIT. Oshawa ON, January 26, 2018.

Jacob J. Shelley, "My Academic Journey" (2018) *Dream, Design & Discover: Health & Rehabilitative Science Graduate Research Conference*, London, Ontario, January 31- February 1, 2018, Invited Keynote Address.

Jacob J. Shelley, “A Duty to Warn Consumers about the Risk of Overconsumption” (2018) *Nutrition information as a tool of consumer empowerment and public health protection?* (Lausanne, Switzerland, January 25-26, 2018).

Jacob J. Shelley & Melanie McPhail, “Rethinking Marketing to Kids: What’s Necessary and is it Possible?” (2017) *Taking Stock: The State of Food Law and Policy in Canada* (Ottawa, Ontario, November 3, 2017).

Michelle Driedger, Frank Welsh, Maya Goldenberg, Alison Thompson & **Jacob J. Shelley**, “Expert Panel” (2017) *Ontario Vaccine Deliberation*, University of Guelph (Waterloo, Ontario, October 29, 2017), Invited.

Robert Solomon, “Documentation, Confidentiality and Disclosure: A Primer for Addictions Staff”, Workshop for the Halton Alcoholic, Drug and Gambling Assessment Prevention & Treatment Services, Oakville, 3 November 2017.

Robert Solomon, “*BILL C-45: Pot, Politics & Public Health*”. Presented at the *Canadian Youth and Justice Congress 2017*, Toronto, 27 October 2017.

Robert Solomon, “Consent, Capacity, Documentation, and Confidentiality: Providing Integrated Services to Youth in an Era of Heightened Privacy Concerns”. Workshop for the Champlain Youth Justice Service Collaborative, Kingston, 16 October 2017.

Robert Solomon, “*BILL C-45, Canada’s New Federal Cannabis Law: No Good Choices*”. Presented at *MADD Canada’s 2017 National Leadership Conference*, Toronto, 23 September 2017.

Robert Solomon, “*BILL C-46, Revamping Canada’s Federal Impaired Driving and other Traffic Laws*”. Presented at *MADD Canada’s 2017 National Leadership Conference*, Toronto, 23 September 2017.

Robert Solomon, “*Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances)*”. Presented at Hearings of the House of Commons Standing Committee on Justice and Human Rights, 18 September, 2017.

Thomas Telfer. Panellist: “The Career-Long Goal - Managing Stress and Mental Health as Lawyers” *Western University* (January 2018).

Thomas Telfer. “Mindfulness in Law School and Beyond” *Mental Health and Wellness Professionalism Orientation Session, Western University* (September 2017).

Grants and Awards

L. Minaker (NPA), J. Dean, J. Lee, **Jacob J. Shelley**, S. Doherty, C. Mah, M. Widener, J. Gilliland, R. Mazumder, C. Woudsma, M. Hatzopoulou & D. Olstad. Canadian Institutes of Health Research (CIHR), Planning and Dissemination Grants – Institute of Population and

Public Health, “SMART PREVENTION: Developing smart city enabled precision public health research infrastructure for disease and injury prevention” (2018) \$10,000.

Other

Jacob J. Shelley Ontario Vaccine Deliberation, University of Guelph (Waterloo, Ontario, October 14 & 15 and October 28 & 29, 2017), attended as Expert.

R. Solomon & Erika Chamberlain, *Submission re: Bill C-46 and Mandatory Alcohol Screening* to the Senate Standing Committee on Legal and Constitutional Affairs, 12 pages, filed with the Committee on February 10, 2018.

Robert Solomon & Erika Chamberlain, *Submission to the Senate Committee on Legal and Constitutional Affairs on Bill C-46: An Act to amend the Criminal Code (offences relating to Conveyances)* (8 February 2018).

Public Law (including Constitutional, Criminal, Labour, Social Justice)

Publications

Kate Glover, “The Principles and Practices of Procedural Fairness” in Colleen Flood & Lorne Sossin, *Administrative Law in Context*, 3d edition (Toronto: Emond Montgomery, 2018).

Accepted for Publication

Kate Glover, “The Impact of Constitutional References on Institutional Reform” in Emmett Macfarlane, ed, *Policy Change, Courts and the Canadian Constitution* (Toronto: University Press, 2018) [forthcoming].

Presentations

Kate Glover, “The Future of the Supreme Court”, Featured lecture delivered as part of Western University’s Canada 150 Lecture Series, London, ON, 22 November 2017.

Kate Glover, “Chief Justice McLachlin’s Legacy: A Panel Discussion on the Supreme Court of Canada”, Invited Panelist, *Distinguished Speakers Series*, Department of Political Science, University of Guelph, 27 October 2017.

Kate Glover, “The Constitutional Status of the Administrative State”, Paper delivered at “Re-writing the Canadian Constitution” Conference, Boston College Law School, Boston, MA, 19-20 October 2017.

Melanie Randall. #AfterMeToo Project, Invited Townhall Panelist, December 5, 2017.

Wade Wright, “Dividing Paramountcy, Not Jurisdiction: Two Proposals for a Rewritten Division of Powers,” “Rewriting the Canadian Constitution” Conference, Boston College Law School, October 19-20, 2017.

Other

Douglas Ferguson. *Access to Justice Part 2: Legal Aid*, Report of the Standing Committee on Justice and Human Rights, House of Commons October 2017. (Report quotes extensively from submission as Chair of the Access to Justice Subcommittee for the Canadian Bar Association) <https://www.ourcommons.ca/DocumentViewer/en/42-1/JUST/report-16/page-ToC>.

Kate Glover, Wade Wright (Conference Co-convenors), “Re-writing the Canadian Constitution” (Boston College Law School and the Clough Center for the Study of Constitutional Democracy, in partnership with the Public Law Research Groups of Western University and the University of Ottawa, 19-20 October 2017) (Convened with Richard Albert, and Michael Pal).

Kate Glover, “The Constitutional Status of the Administrative State” (20 February 2018), online: Double Aspect <<https://doubleaspectblog.wordpress.com>> and Administrative Law Matters <<https://administrativelawmatters.com>> (Invited contribution as part of the “Dunsmuir Decade” online symposium).

Michael Lynk. Revising Editor, Chapters 9 and 10, National Labour Law Casebook (Irwin Law, 2018).

Melanie Randall. #AfterMeToo Project - Project Development, <http://aftermetoo.com/about/>.

Melanie Randall “Sexual assault in spousal relationships: The right to say no,” (with Jennifer Koshan) *Lawyers Daily*, January 17, 2018.

Melanie Randall #AfterMeToo, Participant in Police Reporting Roundtable, December 5, 2017.

Melanie Randall #AfterMeToo, Participant in Criminal Justice System Roundtable, Dec 5, 2017.

Melanie Randall “Safety on campus shouldn’t require the muzzling of ideas,” Op-Ed, *Globe and Mail*, November 23, 2017 (online and national print edition).

Melanie Randall “Marital rape myths have no place in Canadian law,” Op-Ed with Jennifer Koshan, and Elizabeth Sheehy, *Globe and Mail*, October 27, 2017.

Other

Publications

Randal Graham. *Beforelife*. (Toronto: ECW Press, 2017).