

INDIANA UNIVERSITY

FEB 12 1987
SCHOOL OF LAW-INDPLS.
LIBRARY

Periodical
Collection

Indiana Law Review



Volume 19 No. 3 1986

Article

**42 U.S.C. Section 1988: A Congressionally-Mandated
Approach to the Construction of Section 1983**

Jennifer A. Coleman

Notes

**Computer Simulations: How They Can Be Used
at Trial and the Arguments for Admissibility**

Liability for Greenmailers: A Tort is Born

**The Effect of the Statute of Limitations on Compulsory
Counterclaims: An Analysis of Present Indiana Law**

**The Negligent Infliction of Emotional Distress: A Critical
Analysis of Various Approaches to the Tort in Light of
*Ochoa v. Superior Court***

**The Psychotherapist-Patient Privilege: Are Patients Victims
in the Investigation of Medicaid Fraud?**



**Please enter my subscription to the
INDIANA LAW REVIEW**

NAME _____

ADDRESS _____

Enclosed is \$ _____ for _____ subscriptions.

Bill me for _____ subscriptions.

Mail to:

INDIANA LAW REVIEW
INDIANA UNIVERSITY
SCHOOL OF LAW—INDIANAPOLIS
735 West New York Street
Indianapolis, Indiana 46202

Subscription Rates (one year):

Regular, \$18.00; Foreign, \$21.50; Survey, \$10.00;
Single Issue, \$5.00

INDIANA LAW REVIEW

We are pleased to announce that Volume 19, Number 4

**FINANCING AND REGULATING HEALTH
CARE SERVICES: HARD CHOICES AND
ETHICAL CONCERNS**

will be available Spring, 1987

Price: \$5.00

Send orders to: Business Editor
Indiana Law Review

Indiana University School of Law—Indianapolis
735 W. New York Street, Indianapolis, Indiana 46202

Indiana Law Review

Volume 19

1986

Number 3

Copyright © 1986 by the Trustees of Indiana University

TABLE OF CONTENTS

Article

- 42 U.S.C. Section 1988: A Congressionally-Mandated Approach to the Construction of Section 1983 *Jennifer A. Coleman* 665

Notes

- Computer Simulations: How They Can Be Used at Trial and the Arguments for Admissibility 735
- Liability for Greenmailers: A Tort is Born 761
- The Effect of the Statute of Limitations on Compulsory Counterclaims: An Analysis of Present Indiana Law 787
- The Negligent Infliction of Emotional Distress: A Critical Analysis of Various Approaches to the Tort in Light of *Ochoa v. Superior Court*..... 809
- The Psychotherapist-Patient Privilege: Are Patients Victims in the Investigation of Medicaid Fraud?..... 831

Volume 19

Fall 1986

Number 3

The INDIANA LAW REVIEW (ISSN 0090-4198) is the property of Indiana University and is published quarterly by the Indiana University School of Law—Indianapolis, which assumes complete editorial responsibility thereof. Subscription rates: one year \$18.00; foreign \$21.50. Please notify us one month in advance of any change in address and include both old and new addresses with zip codes to ensure delivery of all issues. Send all correspondence to Editorial Assistant, Indiana Law Review, Indiana University School of Law—Indianapolis, 735 West New York Street, Indianapolis, Indiana 46202. Publication office: 735 West New York Street, Indianapolis, Indiana 46202. Second class postage paid at Indianapolis, Indiana 46201.

POSTMASTER: Send address changes to INDIANA LAW REVIEW, 735 West New York Street, Indianapolis, Indiana 46202.

THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

OF

SCOTLAND

IN

SEVEN VOLUMES

THE SECOND

VOLUME

AND

THE SECOND PART

OF

THE SECOND VOLUME

Indiana Law Review

Volume 19

1986

Editor-in-Chief
Debra D. McVicker

Executive Editors

Articles and Production
Mary Arlien Findling

Notes and Topics
Dennis F. Cantrell

Articles Editors

Jerry A. Garau
Douglas Westfall Holly

Cathleen Johnson Perry
Michael B. Watkins

Brian L. Woodward

Business Editor
John Gardner

Note and Development Editors

David C. Bransdorfer
Mary Beth Claus
Herbert O. Hintze, Jr.

Michael Patrick Maxwell
Ellen C. Siakotos
Andrew P. Wirick

Associate Editors

Vivian K. Aichele
Mark A. Bailey
Curtis Alan Baldwin
Arthur R. Baxter
Jan Barteau Berg
Philip A. Book
Hilary A. Bowe
Laura L. Bowker
Susan D. Burke
Gregory M. Cole
Kathryn J. Cook
Robert T. Drew
Lucy A. Emison
Michael J. Gabovitch

Elizabeth R. Gingerich
Douglas E. Greer
Brian K. Hugen
Larry R. Jackson
Todd J. Kaiser
Mark A. Kapouralos
Sally A. Kendall
Andrew A. Kleiman
Gary W. Larson
Susan D. Rafferty
Jeffrey A. Riggs
Patricia L. Sosbe
Lori A. Torres
Judy L. Woods

Peter C. Wright

Editorial Assistant
Mary J. Deschler

Faculty Advisor
Paul J. Galanti

Indiana University School of Law—Indianapolis

1985-86 ADMINISTRATIVE OFFICERS AND FACULTY

Administrative Officers

- JOHN W. RYAN, *Ph.D.*, *President of the University*
GLENN W. IRWIN, JR., *M.D.*, *Vice-President*
GERALD L. BEPKO, *LL.M.*, *Dean*
JAMES F. BINDLEY, *J.D.*, *Assistant Dean for Administration*
G. KENT FRANSDEN, *J.D.*, *Associate Dean for Student Affairs*
JEFFREY W. GROVE, *J.D.*, *Associate Dean for Academic Affairs*

Faculty

- THOMAS B. ALLINGTON, *Professor. B.S., University of Nebraska, 1964; J.D., 1966; LL.M., New York University, 1971.*
EDWARD P. ARCHER, *Professor. B.M.E., Rensselaer Polytechnic Institute, 1958; J.D., Georgetown University, 1962; LL.M., 1964.*
JAMES F. BAILEY, III., *Associate Professor and Director of Law Library. A.B., University of Michigan, 1961; J.D., 1964; M.A.L.S., 1970.*
GERALD L. BEPKO, *Dean and Professor. B.S., Northern Illinois University, 1962; J.D., IIT/Chicago-Kent College of Law, 1965; LL.M., Yale University 1972.*
JAMES F. BINDLEY, *Assistant Dean for Administration and Lecturer in Law. B.A., Loyola University, 1969; J.D., University of Kentucky, 1972.*
PAUL N. COX, *Visiting Professor. B.S., Utah State University, 1971; J.D., University of Utah, 1974; LL.M., University of Virginia, 1980.*
CLYDE HARRISON CROCKETT, *Professor. A.B., University of Texas, 1962; J.D., 1965; LL.M., University of London (The London School of Economics and Political Science), 1972.*
DEBRA A. FALENDER, *Professor. A.B., Mount Holyoke College, 1970; J.D., Indiana University, 1975.*
G. KENT FRANSDEN, *Associate Dean for Student Affairs and Associate Professor. B.S., Bradley University, 1950; J.D., Indiana University, 1965.*
DAVID A. FUNK, *Professor. A.B., College of Wooster, 1949; J.D., Case Western Reserve University, 1951; M.A., The Ohio State University 1968; LL.M., Case Western Reserve University, 1972; LL.M., Columbia University, 1973.*
PAUL J. GALANTI, *Professor. A.B., Bowdoin College, 1960; J.D., University of Chicago, 1963.*
HELEN P. GARFIELD, *Professor. B.S.J., Northwestern University, 1945; J.D., University of Colorado, 1967.*
HAROLD GREENBERG, *Associate Professor. A.B., Temple University, 1959; J.D., University of Pennsylvania, 1962.*
JEFFREY W. GROVE, *Associate Dean for Academic Affairs and Professor. A.B., Juniata College, 1965; J.D., George Washington University, 1969.*
WILLIAM F. HARVEY, *Carl M. Gray Professor of Law. A.B., University of Missouri, 1954; J.D., Georgetown University, 1959; LL.M., 1961.*
W. WILLIAM HODES, *Professor. A.B., Harvard College 1966; J.D., Rutgers Newark, 1969.*
LAWRENCE A. JEGEN, III., *Thomas F. Sheehan Professor of Tax Law and Policy, 1982. A.B., Beloit College, 1956; J.D., The University of Michigan 1959; M.B.A., 1960, LL.M., New York University, 1963.*
HENRY C. KARLSON, *Professor. A.B., University of Illinois, 1965; J.D., 1968; LL.M., 1977.*
WILLIAM ANDREW KERR, *Professor. A.B., West Virginia University, 1955. J.D., 1957, LL.M., Harvard University, 1958; B.D., Duke University, 1968.*
ELEANOR D. KINNEY, *Assistant Professor. A.B., Duke University, 1969; M.A., University of Chicago, 1970; J.D., Duke University, 1973.*
WALTER W. KRIEGER, *Associate Professor. A.B., Bellarmine College, 1959; J.D., University of Louisville, 1962; LL.M., George Washington University, 1969.*
DAVID P. LEONARD, *Associate Professor. B.A., University of California at San Diego, 1974; J.D., UCLA School of Law, 1977.*
ROBIN PAUL MALLOY, *Assistant Professor. B.S., Purdue University, 1971; J.D., University of Florida, 1980; LL.M., University of Illinois, 1983.*
WILLIAM E. MARSH, *Professor. B.S., University of Nebraska, 1965; J.D., 1958.*

- SUSANAH M. MEAD, *Associate Professor. B.A., Smith College, 1969; J.D., Indiana University, 1976.*
- MARY H. MITCHELL, *Associate Professor. A.B., Butler University, 1975; J.D., Cornell Law School, 1978.*
- DAVID R. PAPKE, *Associate Professor. A.B., Harvard College, 1969; J.D., Yale Law School, 1973; M.A. in American Studies, Yale University, 1973; M. Phil., in American Studies, The University of Michigan, 1980; Ph.D., 1983.*
- DAVID E. PIERCE, *Assistant Professor of Law. B.A., Pittsburgh State University, 1974; J.D., Washburn University, 1977; LL.M., University of Utah, 1982.*
- RONALD W. POLSTON, *Professor. B.S., Eastern Illinois University, 1953; LL.B., University of Illinois, 1958.*
- KENNETH M. STROUD, *Professor. A.B., Indiana University, 1958; J.D., 1961.*
- JAMES W. TORKE, *Professor. B.S., University of Wisconsin, 1963; J.D., 1968.*
- JAMES PATRICK WHITE, *Professor (on special assignment). A.B., University of Iowa, 1953; J.D., 1956; LL.M., George Washington University, 1959.*
- LAWRENCE P. WILKINS, *Professor. B.A., The Ohio State University, 1968; J.D., Capital University Law School, 1973; LL.M., University of Texas School of Law, 1974.*
- MARY WOLF, *Visiting Assistant Professor of Law, B.A., Saint Xavier College, 1969; J.D., University of Iowa College of Law, 1974.*
- HAROLD R. WOODARD, *Professorial Lecturer. B.S., Harvard University, 1933; J.D., 1936.*

Emeriti

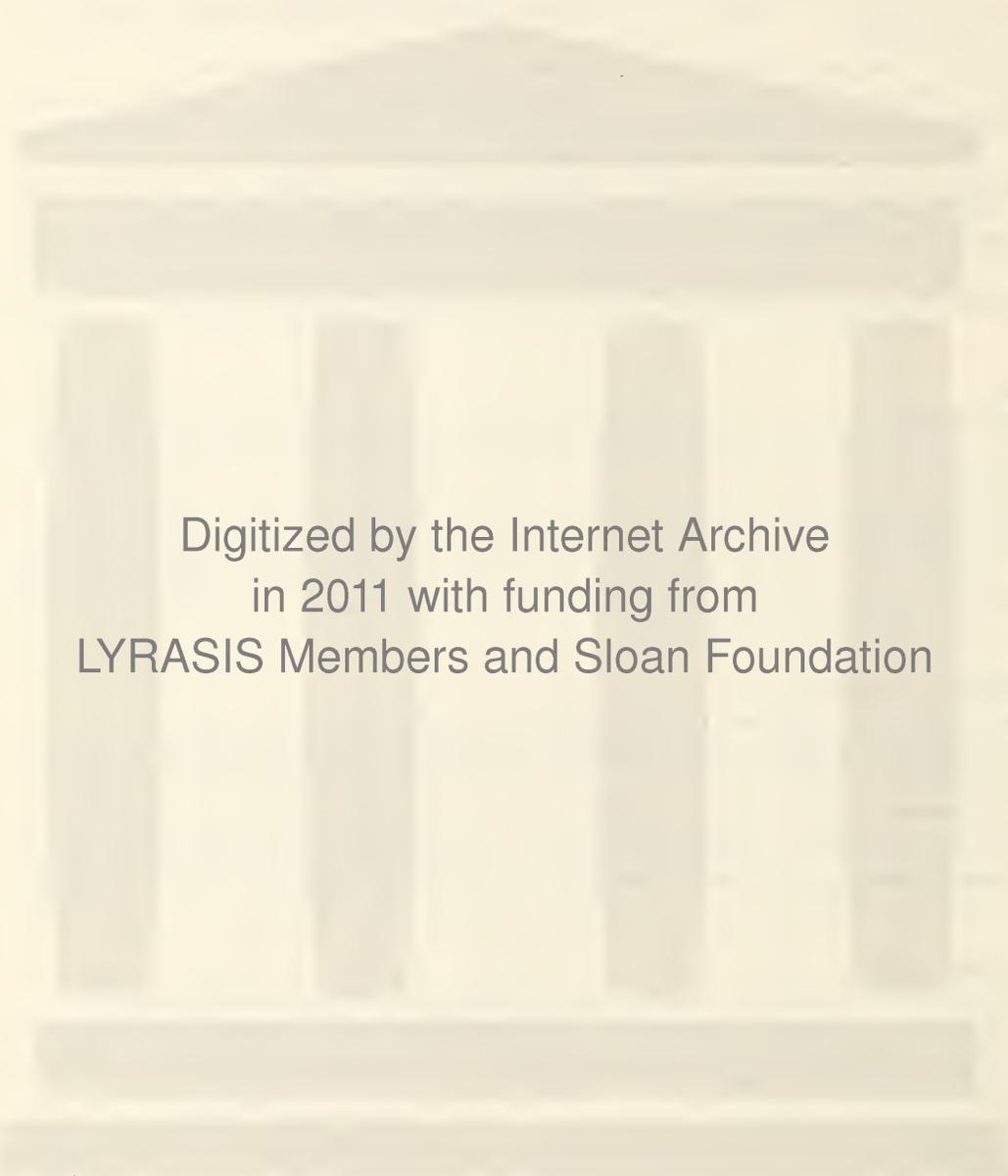
- AGNES P. BARRETT, *Associate Professor Emeritus. B.S., Indiana University, 1942; J.D., 1964.*
- CLEON H. FOUST, *Professor Emeritus. A.B., Wabash College, 1928; J.D., University of Arizona, 1933.*
- JOHN S. GRIMES, *Professor Jurisprudence Emeritus. A.B., Indiana University. 1929; J.D., 1931.*
- MELVIN C. POLAND, *Cleon H. Foust Professor of Law Emeritus, B.S. Kansas State University, 1940; LL.B., Washburn University, 1949; LL.M., The University of Michigan, 1950.*
- R. BRUCE TOWNSEND, *Cleon H. Foust Professor of Law Emeritus, A.B., Coe College, 1938; J.D., University of Iowa, 1940.*

Legal Writing Instructors

- JEFFREY BEEN, *A.B., Wabash College, 1981; J.D., Indiana University, 1984.*
- MICHAEL MULLETT, *Lecturer. B.A., University of Michigan, 1966; M.A., 1973; J.D., Indiana University, 1982.*
- VICKIE RENFROW, *Lecturer. B.A., University of Northern Iowa, 1970; M.A., 1971; Ph.D., Indiana University, Bloomington, 1976; J.D., Indiana University, Bloomington, 1981.*
- JOAN RUHTENBERG, *Lecturer. B.A., Mississippi University for Women, 1959; J.D., Indiana University, 1980.*

Law Library Staff

- TERRI LEA HARDIN, *Affiliate Librarian, B.A., Indiana University, 1982; M.L.S., 1983.*
- MARY P. HUDSON, *Assistant Librarian, B.A., Ball State, 1969; M.L.S., Indiana University, 1973.*
- WENDELL E. JOHNTING, *Technical Services Librarian. A.B., Taylor University, 1974; M.L.S., Indiana University, 1975.*
- CONSTANCE MATTS, *Associate Librarian. B.A., 1973, Case Western Reserve University; M.S.L.S., 1974, Case Western Reserve University; M.A.I.R., 1976, Creighton University.*
- KIYOSHI OTSU, *Assistant Librarian, Parkland College, A.A., 1976; A.B., University of Illinois, 1980; M.S., 1982; C.A.S., 1983.*



Digitized by the Internet Archive
in 2011 with funding from
LYRASIS Members and Sloan Foundation