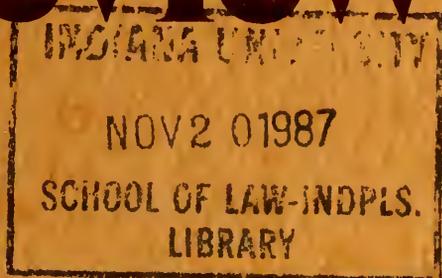


Periodical
Collection

Indiana Law Review



Volume 20 No. 4 1987



ARTICLE

*Dun & Bradstreet, Inc. v. Greenmoss
Builders, Inc., Philadelphia Newspapers, Inc.
v. Hepps*, and Speech on Matters of Public
Concern: New Directions in First Amendment
Defamation Law
Don Lewis

NOTES

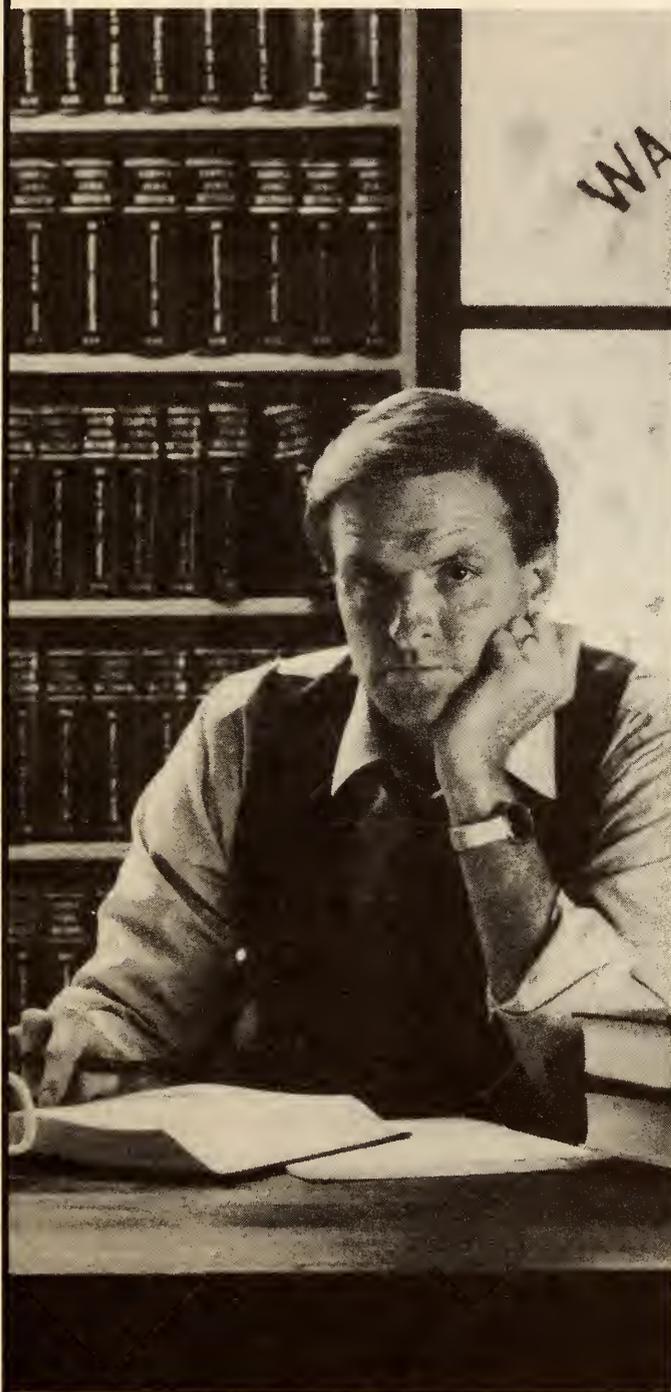
The Retroactive Effect of *Wilson v. Garcia*

Frequent Flyer Benefits: Substantive
and Procedural Tax Consequences

A Time to be Born and a Time to
Die: A Pregnant Woman's Right to Die

Surrogate Motherhood Legislation: A
Sensible Starting Point

The Master's Tools



Fine tools. In the hands of a master they can shape a quality instrument, bring life to a slab of stone or coax a new rose from a handful of earth.

You find masters in every profession. They're the ones at the top or on their way. They've mastered their craft and the tools they use.

For an attorney, those tools are on the shelves of his library.

That's where you'll find *Corpus Juris Secundum*. The last word in legal encyclopedias. The first place to look.

A contemporary statement of American law derived from reported cases and legislation, *Corpus Juris Secundum* is the authority recognized by every American judiciary.

Corpus Juris Secundum[®]
... for the masters.

You can't master your craft until you master the tools.

CJS Corpus
Juris
Secundum

West Publishing Company
P.O. Box 64526, Saint Paul,
Minnesota 55164-0526

© 1986 West Publishing Co.

DAVID W. LITTLE
3303 Browncliff Lane
Bloomington, IN 47401
Phone: 812/336-6686

JOHN M. WALSH
P.O. Box 6278
South Bend, IN 46660
Phone: 219/272-5307

The latest in the law from BNA

Securities Regulation & Law Report

When you need to keep up with rapidly changing financial market regulations, rely on BNA's *Securities Regulation & Law Report*. This weekly information service offers concise coverage of federal and state securities law and regulation; corporate governance and attorney responsibility; enforcement activities; commodity futures regulation; and accounting standards and practice.

Corporate Practice Series

Designed for corporate lawyers, BNA's *Corporate Practice Series* is a time-saving service offering a series of portfolios, prepared by practitioners, treating specific areas of corporation law.

The Family Law Reporter

Keep up with the rapidly expanding field of family law with BNA's *Family Law Reporter*. Each week, you'll get nationwide coverage of precedent-setting cases in divorce, alimony, child custody, juvenile court cases, and tax aspects of family law. Reference file includes full text of federal laws, selected state statutes, and a quick scan summary of state divorce codes.

Antitrust & Trade Regulation Report

If you must stay abreast of significant antitrust and trade regulation developments, rely on BNA's *Antitrust & Trade Regulation Report*. You'll receive weekly notification of key federal, state, and local news. Coverage includes the Department of Justice, the Federal Trade Commission, state and federal courts, and private enforcement.

The United States Law Week

For more than 50 years, *The United States Law Week* has been helping lawyers prepare briefs, argue points, and win cases. You can turn to this weekly information service for news and analysis of legal developments, precedent-setting cases, and full text of selected federal statutes. You'll also receive same-day notification of all Supreme Court decisions, in full text.

Media Law Reporter

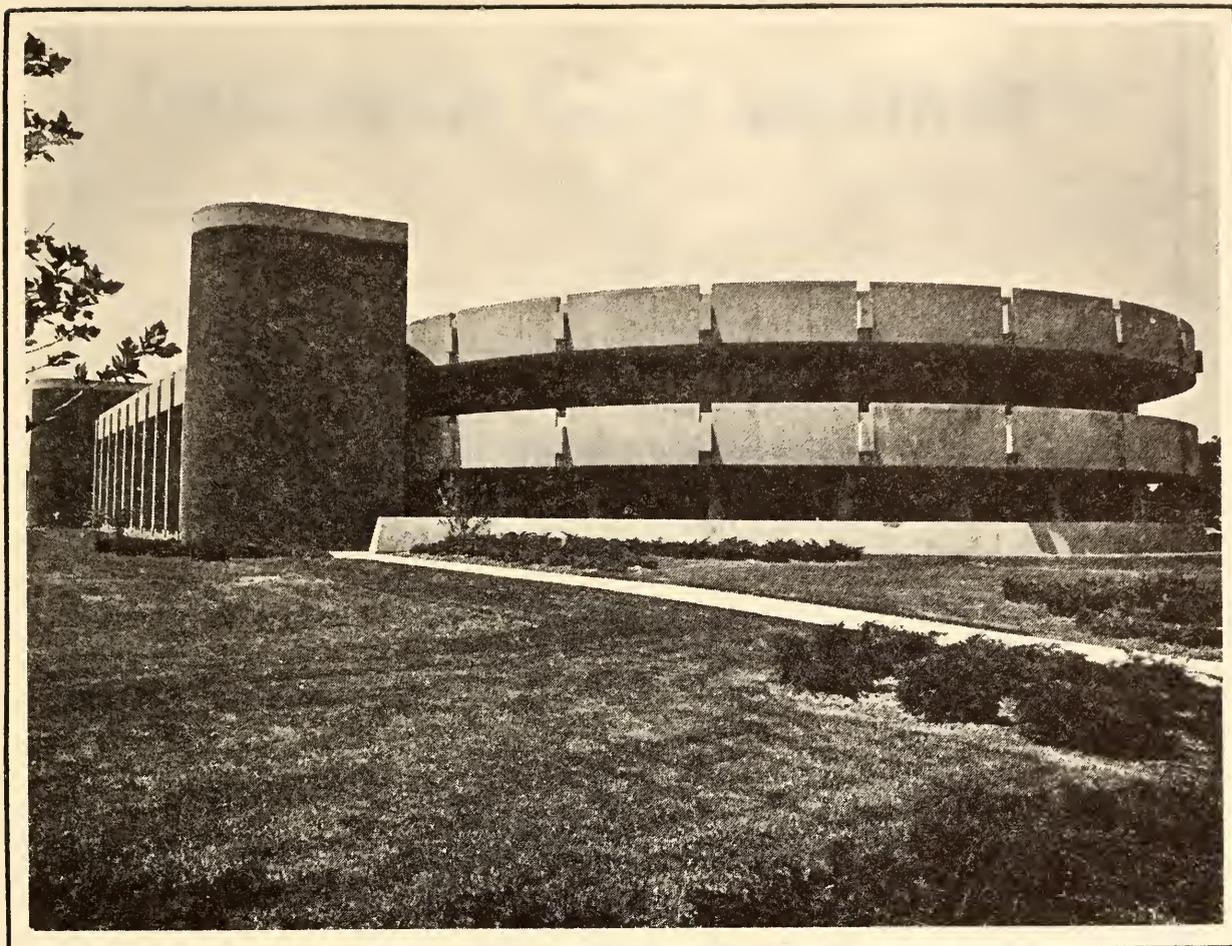
For the latest decisions affecting the full range of communications law issues—including interpretations of the First Amendment, copyrights, and FOIA, turn to BNA's *Media Law Reporter*. Weekly coverage includes full text and digests of federal and state media law decisions on both print and electronic communications.

Call toll-free 800/372-1033

(In Maryland: 800/352-1400; Washington, D.C.: 258-9401) or write for our free catalog.



The Bureau of National Affairs, Inc.
Suite S-514
1231 25th Street, N.W.
Washington, D.C. 20037



**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 21, Number 1

**1987 Survey of Recent
Developments in Indiana Law**

will be available in February, 1988
Price \$12.00

Send orders to
Indiana Law Review
Indiana University School of Law—Indianapolis
735 W. New York Street, Indianapolis, Indiana 46202

* * * * *

The Board of Editors of the *Indiana
Law Review* expresses its appreciation to
Professor Thomas Allington
for his invaluable production assistance.

* * * * *

Indiana Law Review

Volume 20

1987

Number 4

Copyright © 1987 by the Trustees of Indiana University

TABLE OF CONTENTS

Article

- Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc., Philadelphia Newspapers, Inc. v. Hepps*, and Speech on Matters of Public Concern: New Directions in First Amendment Defamation Law.....Don Lewis 767

Notes

- The Retroactive Effect of *Wilson v. Garcia*..... 795
- Frequent Flyer Benefits: Substantive and Procedural Tax Consequences 823
- A Time to be Born and a Time to Die: A Pregnant Woman's Right to Die 859
- Surrogate Motherhood Legislation: A Sensible Starting Point .. 879

Volume 20

Fall 1987

Number 4

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.

Indiana Law Review

Volume 20

1987

Editor-in-Chief
Gayle Reindl

Executive Editors

Articles and Production
John Joseph Tanner

Notes and Topics
Richard Allen Kempf

Articles Editors

Don Anderson
Elaine M. Chaney

Ronald d'Avis
Mary Dreyer

Victoria J. Kincke

Business Editor

Barbara Arnold Harcourt

Note and Development Editors

Denise Clare Andresen
Joseph Wayne Foye
James C. McKinley

Laura S. Reed
Carla Cowles van Dongen
James E. Utterback

Associate Editors

Timothy Shawn Durham
Mark Eiler Flexter
Paul D. Fredrick
John R. Gaskin
Thomas R. Haley III
Alan D. Hutchinson
James D. Johnson
Lori F. Kaplan
Cheryl Knodle
Kathleen Pollock Mills

Scott S. Morrisson
Lannette J. Moutos
Jeffrey James Neal
Reed S. Oslan
Scot W. Overdorf
Nana M. Quay-Smith
Marcia Cox Templeton
Linda Walker
Judy L. Woods
Christopher B. Young

Editorial Assistant

Amy Morrison Grubbs

Faculty Advisor

Paul J. Galanti

Indiana University School of Law—Indianapolis

1986-87 ADMINISTRATIVE OFFICERS AND FACULTY

Administrative Officers

JOHN W. RYAN, *Ph.D.*, *President of the University*
GERALD L. BEPKO, *L.L.M.*, *Vice-President*
JEFFREY W. GROVE, *J.D.*, *Acting Dean*
JAMES F. BINDLEY, *J.D.*, *Assistant Dean for Administration*
G. KENT FRANSDEN, *J.D.*, *Associate Dean for Student Affairs*
JAMES W. TORKE, *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.*
JAMES F. BINDLEY, *Assistant Dean for Administration and Director of Placement & Development, B.A., Loyola University, 1969; J.D., University of Kentucky, 1972.*
PAUL N. COX, *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, *Acting Dean. 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; Ph.D. in American Studies, The University of Michigan, 1984.*
- 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, *Acting Associate Dean. B.S., University of Wisconsin, 1963; J.D., 1968.*
- JOE A. TUCKER, *Assistant Professor, B.A., Houston, 1977; J.D., University of Texas, 1981.*
- JAMES PATRICK WHITE, *Professor of Law. 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 of 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., Case Western Reserve University, 1973; M.S.L.S., Case Western Reserve University, 1974; M.A.I.R., Creighton University, 1976.*
- KIYOSHI OTSU, *Assistant Librarian, Parkland College, A.A., 1976; A.B., University of Illinois, 1980; M.S., 1982; C.A.S., 1983.*