

# NEW YORK UNIVERSITY LAW REVIEW

---

VOLUME 79

APRIL 2004

NUMBER 1

---

Copyright © 2004 New York University Law Review

## CONTENTS

### COMMENTARIES

DIGITAL SPEECH AND DEMOCRATIC CULTURE:  
A THEORY OF FREEDOM OF EXPRESSION  
FOR THE INFORMATION SOCIETY

*Jack M. Balkin* 1

SHAPING COMMUNITY PROBLEM SOLVING  
AROUND COMMUNITY KNOWLEDGE

*Gerald P. López* 59

### ARTICLES

ENVIRONMENTAL PROTECTION IN THE INFORMATION AGE

*Daniel C. Esty* 115

COPYRIGHT AND PRODUCT DIFFERENTIATION

*Christopher S. Yoo* 212

### NOTES

ON THE SEPARATION OF POWERS CHALLENGE  
TO THE CALIFORNIA COASTAL COMMISSION

*David R. Carpenter* 281

UNEQUAL TREATMENT IN STATE SUPREME COURTS:  
MINORITY AND CITY SCHOOLS IN EDUCATION  
FINANCE REFORM LITIGATION

*Yohance C. Edwards & Jennifer Ahern* 326

LEGISLATIVE DUE PROCESS AND SIMPLE  
INTEREST GROUP POLITICS: ENSURING  
MINIMAL DELIBERATION THROUGH  
JUDICIAL REVIEW OF CONGRESSIONAL PROCESSES

*Victor Goldfeld* 367

---

FEDERAL COURT ABSTENTION AND  
THE HAGUE CHILD ABDUCTION CONVENTION

*Ion Hazzikostas* 421

IN DEFENSE OF *HOLMES V. VORNADO*:  
ADDRESSING THE UNWARRANTED CRITICISM

*Ravi V. Sitwala* 452

---

---

NEW YORK UNIVERSITY LAW REVIEW  
(ISSN 0028-7881) (USPS 016181)

All articles copyright © 2004 by the *New York University Law Review*, except when otherwise expressly indicated. For permission to reprint an article or any portion thereof, please address your written request to the *Law Review*.

Except as otherwise provided, the author of each article in this issue has granted permission for copies of that article to be made for classroom use, provided that: (1) copies are distributed to students at or below cost; (2) the author and journal are identified on each copy; and (3) proper notice of copyright is affixed to each copy.

\* \* \* \* \*

Published by the *New York University Law Review* at 110 W. Third Street, New York, New York 10012, in April, May, June, October, November, and December. Editorial and General Offices are located at 110 W. Third Street, New York, New York 10012. Inquiries also are accepted by telephone at (212) 998-6350 and by FAX at (212) 995-4032. Periodicals postage is paid at New York, New York and at additional mailing offices.

Current subscriptions: \$40.00 (plus \$6.00 for foreign mailing). Single issues: \$10.00 each (plus \$1.00 for optional first class mailing). Please enclose check with order. For single volumes, bound sets, and microfilm, contact William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209-1987, (800) 828-7571.

Subscriptions are renewed automatically upon expiration unless the subscriber sends timely notice of termination. All notifications of change of address should include both old and new addresses, including zip codes. Please notify one month in advance to ensure prompt delivery.

Unless a claim is made for nonreceipt of issues within one year of the mailing date, the *Law Review* cannot replace those issues free of charge.

For information regarding subscriptions, please contact (212) 998-6590.

Postmaster: Send address change to the *New York University Law Review*, 110 W. Third Street, New York, New York 10012.

The *Law Review* invites the submission of unsolicited manuscripts. We regret that such manuscripts cannot be returned except if accompanied by a self-addressed, stamped envelope.

The *New York University Law Review* is printed on recycled paper.

---

# NEW YORK UNIVERSITY LAW REVIEW

Digital Speech and Democratic Culture:  
A Theory of Freedom of Expression for the Information Society  
*Jack M. Balkin*

Shaping Community Problem Solving Around  
Community Knowledge  
*Gerald P. López*

---

Environmental Protection in the Information Age  
*Daniel C. Esty*

Copyright and Product Differentiation  
*Christopher S. Yoo*

---

On the Separation of Powers Challenge to the  
California Coastal Commission  
*David R. Carpenter*

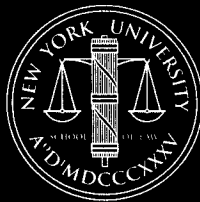
Unequal Treatment in State Supreme Courts:  
Minority and City Schools in Education Finance Reform Litigation  
*Yohance C. Edwards & Jennifer Ahern*

Legislative Due Process and Simple Interest Group Politics:  
Ensuring Minimal Deliberation Through Judicial Review  
of Congressional Processes  
*Victor Goldfeld*

Federal Court Abstention and the  
Hague Child Abduction Convention  
*Ioia Hazzikostas*

In Defense of *Holmes v. Vornado*:  
Addressing the Unwarranted Criticism  
*Ravi V. Sitwala*

Volume 79



Number 1

April 2004