

Indiana Law Review



Volume 26 No. 2 1993

ARTICLES

Qualified Immunity: A User's Manual
Karen M. Blum

**The Reasonable Woman Test in Sexual Harassment Law—
Will It Really Make a Difference?**
Toni Lester

The Teaching of Legal Classics
Christian C. Day

NOTES

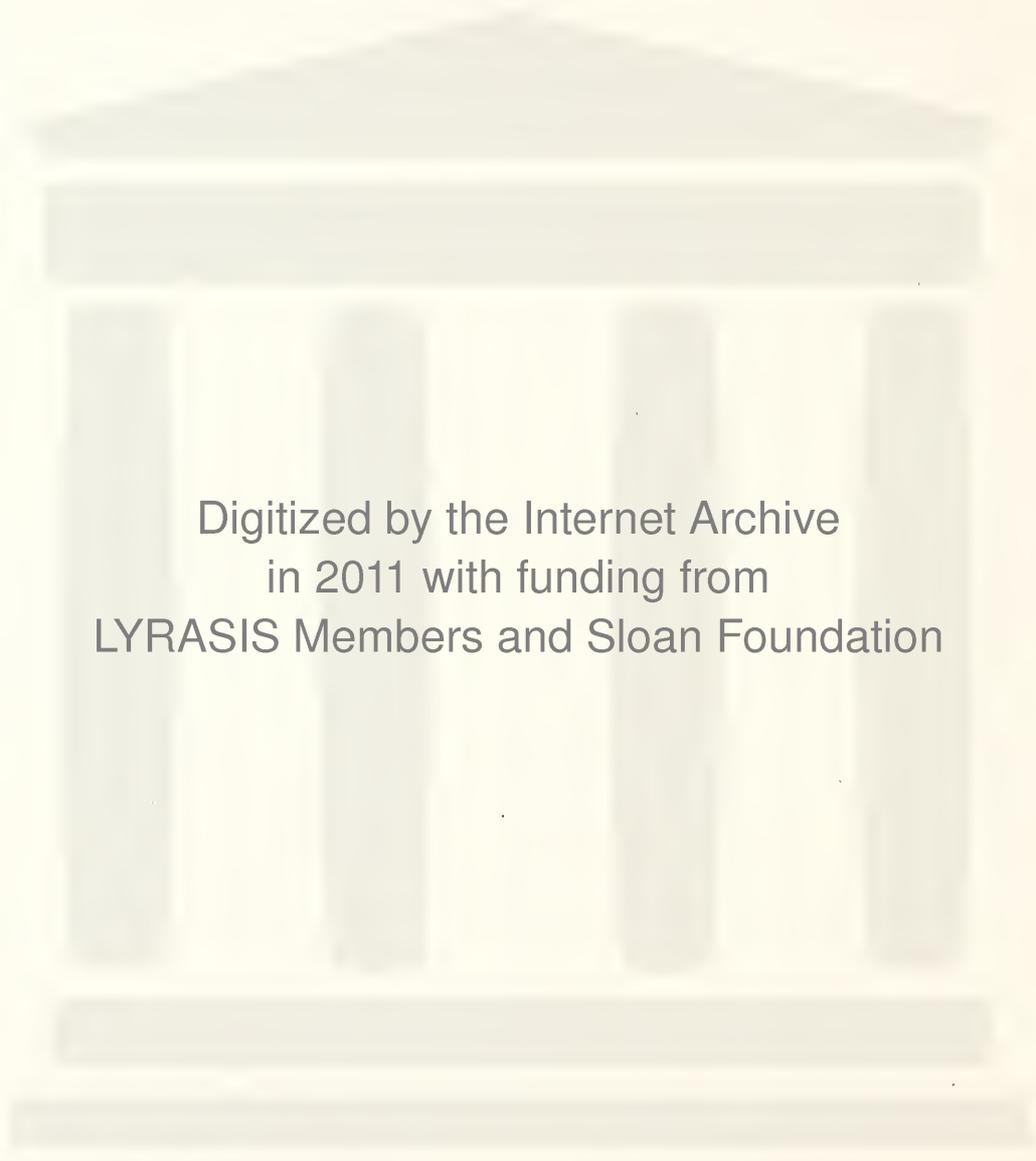
**Operation Rescue's Anti-Abortion Rescue Blockades and
42 U.S.C. § 1985(3) (a/k/a the Ku Klux Klan Act)**
Elizabeth A. Roberge

**The Warranty of Sperm: A Modest Proposal to Increase the
Accountability of Sperm Banks and Physicians in the
Performance of Artificial Insemination Procedures**
Anita M. Hodgson

**Personal Liability for Bank Directors Who Violate Lending
Limit Statutes: Has Indiana Followed Congress' Lead?**
Mitchel A. Mick

COMMENT

Fighting Racism: Hate Speech Detours
Thomas W. Simon



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

Career Move.

No doubt you plan to start a successful legal career soon, so here's a tip:

Start reading *Law Week* now. While you're still in law school.

Why? Because top attorneys nationwide read *Law Week* every week, and as you know, it's never a bad idea to follow in the footsteps of the best. But more importantly—

Law Week gives you complete coverage of today's most important cases, with immediate notification of precedent-setting court decisions in every legal field, plus unparalleled Supreme Court reporting.

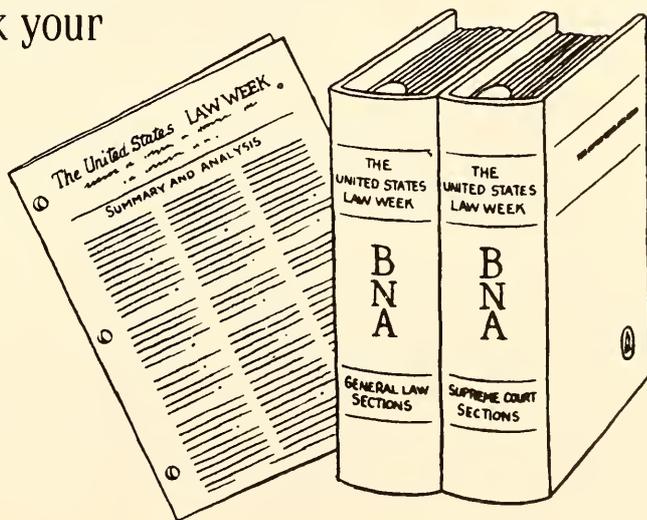
Indeed, *Law Week* puts *you* on the cutting edge of American law.

What better way to start a successful legal career.

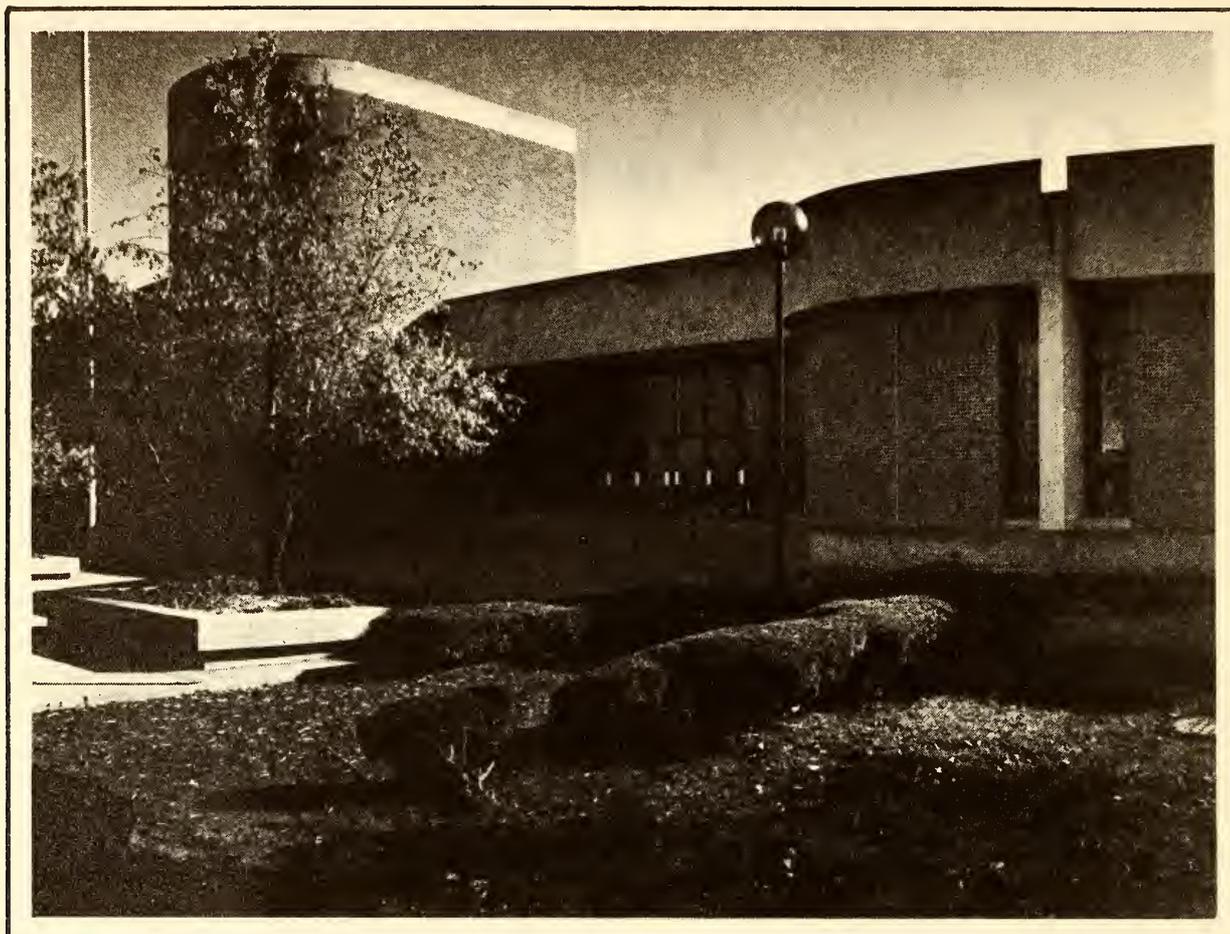
Make your move now. Ask your professor for details on *Law Week's* low student rates today.



The Bureau of National Affairs, Inc.
1231 25th Street, N.W.
Washington, D.C. 20037
202/452-4200



The United States
Law Week



**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, \$25; Foreign, \$28; Student, \$17 (4 issues)

Single Issue, \$8; Survey Issue \$17

Indiana Law Review

Volume 26

1992-93

Editor-in-Chief
Michael J. Mitchell

*Executive Managing
Editor*
Gary C. Messplay

*Executive Editor
Articles*
Amy L. Ficklin

*Executive Editor
Notes and Topics*
Anne H. Murray

Articles Editors
Scott D. Alfree
Elizabeth Sherman Cox
Christopher J. Dull
Brent E. Kidwell
Mitchel A. Mick
Elizabeth A. Roberge
Gary R. Welsh

Note Development Editors
Adel James Chareq
Anita Hodgson
Tom Scifres
Michael Ray Smith

Associate Editors

John H. Allie
Adam Arceneaux
Shanda Beach
Chris Belch
Jeff Decker
Charles P. Edwards
Karen L. Fisher

Victoria Gorczyca
Craig Lawson
Don McGuire
Catherine M. Morrison
Dan L. O'Korn
Ann L. Theobald
Gregg M. Wallander
Samantha Williams

Editorial Assistant
Amy Morrison Grubbs

Faculty Advisor
Debra A. Falender

INDIANA LAW REVIEW

(ISSN 0090-4198)

Published four times a year by Indiana University. Editorial and Business Offices are located at:

Indiana Law Review
735 W. New York Street
Indianapolis, IN 46202
(317) 274-4440

Subscriptions. The current subscription rates are \$25.00 per four-issue volume (domestic mailing) and \$28.00 (foreign mailing). Unless the Business Office receives notice to the contrary, all subscriptions will be renewed automatically. Address changes must be received at least a month prior to publication to ensure prompt delivery and must include old and new addresses and the proper zip code.

Single and Back Issues. Current single regular issues may be obtained from the *Law Review* Business Office for \$8.00. Current Survey issues may be purchased for \$17.00. Please enclose payment with order. Complete sets and single issues of prior volumes are also available from the *Law Review* Business Office. Unless a claim is made for nonreceipt of issues within one year of the mailing date, we cannot guarantee supplying the issues without charge.

Manuscripts. The *Indiana Law Review* invites submission of unsolicited manuscripts. All citations should conform to *A Uniform System of Citation* (15th ed. 1991). Manuscripts should be triple-spaced with wide margins. The *Indiana Law Review*, as a matter of policy, promotes the use of gender-neutral language, and alternate use of the female or male pronoun is intended to refer to both female and male.

Copyright. All articles Copyright 1993 by The Trustees of Indiana University, except where otherwise indicated. All rights reserved. Opinions expressed are those of the contributor and are not presented as the views of the *Indiana Law Review*, its editors, or Indiana University School of Law-Indianapolis.

Indiana Law Review

Volume 26

1993

Number 2

Copyright © 1993 by the Trustees of Indiana University

TABLE OF CONTENTS

ARTICLES

- Qualified Immunity: A User's Manual.....*Karen M. Blum* 187
- The Reasonable Woman Test in Sexual Harassment Law—Will It Really Make a Difference?*Toni Lester* 227
- The Teaching of Legal Classics.....*Christian C. Day* 263

NOTES

- Operation Rescue's Anti-Abortion Rescue Blockades and 42 U.S.C. § 1985(3) (a/k/a the Ku Klux Klan Act) .*Elizabeth A. Roberge* 333
- The Warranty of Sperm: A Modest Proposal to Increase the Accountability of Sperm Banks and Physicians in the Performance of Artificial Insemination Procedures*Anita M. Hodgson* 357
- Personal Liability for Bank Directors Who Violate Lending Limit Statutes: Has Indiana Followed Congress' Lead?*Mitchel A. Mick* 387

COMMENT

- Fighting Racism: Hate Speech Detours*Thomas W. Simon* 411

Volume 26

1993

Number 2



The entire text of this Law Review is printed on recycled paper.

Indiana University School of Law—Indianapolis

1992-93 ADMINISTRATIVE OFFICERS AND FACULTY

Administrative Officers

- THOMAS M. EHRLICH, *President of the University and Professor of Law*. LL.B., Harvard University.
- GERALD L. BEPKO, *Vice-President, Indiana University; Chancellor, Indiana University-Purdue University at Indianapolis and Professor of Law*. J.D., IIT/Chicago-Kent College of Law; LL.M., Yale University.
- NORMAN LEFSTEIN, *Dean and Professor of Law*. LL.B., University of Illinois; LL.M., Georgetown University.
- THOMAS B. ALLINGTON, *Associate Dean for Academic Affairs and Professor of Law*. J.D., University of Nebraska; LL.M., New York University.
- ARLENE G. ANDERSON, *Assistant Dean for Student Affairs*. J.D., Indiana University-Indianapolis.
- JONNA M. KANE, *Assistant Dean for External Affairs*. J.D., Indiana University-Indianapolis.
- JONI D. THOMPSON, *Assistant Dean for Development*. M.S., Ball State University.
- ANGELA M. ESPADA, *Assistant Dean for Admissions*. J.D., Indiana University-Bloomington.

Faculty

- THOMAS B. ALLINGTON, *Associate Dean and Professor of Law*. B.S., J.D., University of Nebraska; LL.M., New York University.
- EDWARD P. ARCHER, *Professor of Law*. B.M.E., Rensselaer Polytechnic Institute; J.D., LL.M., Georgetown University.
- JAMES F. BAILEY, III, *Professor of Law and Director of Law Library*. A.B., J.D., M.A.L.S., University of Michigan.
- GERALD L. BEPKO, *Vice President, Chancellor and Professor of Law*. B.S., Northern Illinois University; J.D., IIT/Chicago-Kent College of Law; LL.M., Yale University.
- ROBERT BROOKINS, *Associate Professor of Law*. B.S., University of Southern Florida; J.D., Ph.D., Cornell University.
- DANIEL H. COLE, *Assistant Professor of Law*. A.B., Occidental College; A.M., University of Chicago; J.D., Lewis and Clark College; J.S.M., Stanford Law School.
- PAUL N. COX, *Professor of Law*. B.S., Utah State University; J.D., University of Utah; LL.M., University of Virginia.
- CLYDE HARRISON CROCKETT, *Professor of Law*. A.B., J.D., University of Texas; LL.M., University of London (The London School of Economics and Political Science).
- DEBRA A. FALENDER, *Professor of Law*. A.B., Mount Holyoke College; J.D., Indiana University-Indianapolis.
- DAVID A. FUNK, *Professor of Law*. A.B., College of Wooster; J.D., Case Western Reserve University; M.A., The Ohio State University; LL.M., Case Western Reserve University; LL.M., Columbia University.
- PAUL J. GALANTI, *Professor of Law*. A.B., Bowdoin College; J.D., University of Chicago.
- HELEN P. GARFIELD, *Professor of Law*. B.S.J., Northwestern University; J.D., University of Colorado.
- HAROLD GREENBERG, *Professor of Law*. A.B., Temple University; J.D., University of Pennsylvania.
- JEFFREY W. GROVE, *Professor of Law*. A.B., Juniata College; J.D., George Washington University.
- FRANCES W. HARDY, *Clinical Assistant Professor of Law*. B.S., Ball State University; J.D., Indiana University-Indianapolis.
- WILLIAM F. HARVEY, *Carl M. Gray Professor of Law & Advocacy*. A.B., University of Missouri; J.D., LL.M., Georgetown University.
- PAUL T. HAYDEN, *Assistant Professor of Law*. B.A., Yale University; J.D., University of California, Los Angeles.
- W. WILLIAM HODES, *Professor of Law*. A.B., Harvard College; J.D., Rutgers Newark.
- LISA C. IKEMOTO, *Assistant Professor of Law*. B.A., University of California, Los Angeles; J.D., University of California, Davis; LL.M., Columbia University.
- LAWRENCE A. JEGEN, III, *Thomas F. Sheehan Professor of Tax Law and Policy*. A.B., Beloit College; J.D., M.B.A., The University of Michigan; LL.M., New York University.
- HENRY C. KARLSON, *Professor of Law*. A.B., J.D., LL.M., University of Illinois.
- WILLIAM ANDREW KERR, *Professor of Law*. A.B., West Virginia University; J.D., LL.M., Harvard University; D.B., Duke University.

ELEANOR D. KINNEY, *Professor of Law and Director of the Center for Law and Health*. B.A., Duke University; M.A., University of Chicago; J.D., Duke University; M.P.H., University of North Carolina.

WALTER W. KRIEGER, *Associate Professor of Law*. A.B., Bellarmine College; J.D., University of Louisville; LL.M., George Washington University.

NORMAN LEFSTEIN, *Dean and Professor of Law*. LL.B., University of Illinois; LL.M., Georgetown University.

DEBORAH MCGREGOR, *Lecturer in Law*. B.A., University of Evansville; J.D., Georgetown University.

WILLIAM E. MARSH, *Professor of Law*. B.S., J.D., University of Nebraska.

SUSANAH M. MEAD, *Professor of Law*. B.A., Smith College; J.D., Indiana University-Indianapolis.

MARY H. MITCHELL, *Professor of Law*. A.B., Butler University; J.D., Cornell Law School.

JAMES P. NEHF, *Assistant Professor of Law*. B.A., Knox College; J.D., University of North Carolina.

THOMAS R. NEWBY, *Lecturer in Law*. A.B., J.D., Indiana University-Bloomington.

LESLYE A. OBIORA, *Assistant Professor of Law*. LL.B., University of Nigeria; LL.M., Yale Law School; J.S.D. Candidate Stanford Law School.

KIMBERLY E. O'LEARY, *Clinical Assistant Professor of Law*. B.A., Oberlin College; J.D., Northwestern University.

DAVID R. PAPKE, *Professor of Law and American Studies*. A.B., Harvard College; J.D., Yale University; M.A. in American Studies, Yale University; Ph.D. in American Studies, The University of Michigan.

RONALD W. POLSTON, *Professor of Law*. B.S., Eastern Illinois University; LL.B., University of Illinois.

JOAN M. RUTHENBERG, *Director of Legal Writing*. B.A., Mississippi University for Women; J.D., Indiana University-Indianapolis.

ANDREW T. SOLOMAN, *Lecturer in Law*. A.B., University of Michigan; J.D., Boston University.

KENNETH M. STROUD, *Professor of Law*. A.B., J.D., Indiana University-Bloomington.

JAMES W. TORKE, *Professor of Law*. B.S., J.D., University of Wisconsin.

JOANNE ORR VAN PELT, *Visiting Assistant Professor*. J.D., California Western.

JAMES PATRICK WHITE, *Professor of Law and Consultant on Legal Education to the American Bar Association*. A.B., University of Iowa; J.D., LL.M., George Washington University.

LAWRENCE P. WILKINS, *Professor of Law*. B.A., The Ohio State University; J.D., Capital University Law School; LL.M., University of Texas.

MARY T. WOLF, *Director of Clinical Programs*. B.A., Saint Xavier College; J.D., University of Iowa College of Law.

Emeriti

AGNES P. BARRETT, *Associate Professor Emerita*. B.S., J.D., Indiana University.

CLEON H. FOUST, *Professor Emeritus*. A.B., Wabash College; J.D., University of Arizona.

JOHN S. GRIMES, *Professor of Jurisprudence Emeritus*. A.B., J.D., Indiana University.

MELVIN C. POLAND, *Cleon H. Foust Professor of Law Emeritus*. B.S., Kansas State University; LL.B., Washburn University; LL.M., University of Michigan.

R. BRUCE TOWNSEND, *Cleon H. Foust Professor of Law Emeritus*. A.B., Coe College; J.D., University of Iowa.

Adjunct Faculty

CYNTHIA M. ADAMS, J.D., Indiana University-Indianapolis.
RICHARD P. GOOD, J.D., Indiana University-Indianapolis.
RALPH F. HALL, J.D., University of Michigan.
GRANT W. HAWKINS, J.D., Indiana University-Indianapolis.
THOMAS Q. HENRY, J.D., Indiana University-Indianapolis.
SWADESH S. KALSI, LL.M., George Washington University.
JON D. KRAHULIK, J.D., Indiana University-Indianapolis.
LARRY A. LANDIS, J.D., Indiana University-Indianapolis.
JANE MAGNUS, J.D., Indiana University-Indianapolis.
SHARON F. MURPHY, J.D., Indiana University-Indianapolis.
LAURA C. NEHF, J.D., University of Georgia.
GARY P. PRICE, J.D., Indiana University-Indianapolis.
THOMAS R. RUGE, J.D., Valparaiso University.
GEOFFREY SEGAR, J.D., Indiana University-Bloomington.
JOHN R. VANWINKLE, J.D., Indiana University-Bloomington.
PATRICIA P. WAGNER, J.D., Indiana University-Indianapolis.

Law Library Faculty

JAMES F. BAILEY III, *Professor and Director of Law Library*. A.B., J.D., M.A.L.S., University of Michigan.
MINDE C. GLENN, *Assistant Director for Readers' Services*. B.A., Western Michigan University; M.L.S., Indiana University.
WENDELL E. JOHNTING, *Catalog Librarian*. A.B., Taylor University; M.L.S., Indiana University.
MAHNAZ K. MOSHFEGH, *Acquisition/Serials Librarian*. B.A., National University of Iran; M.S., Tehran University; M.A., Ball State University; M.L.S., Ph.D., Indiana University.
KIYOSHI OTSU, *Computer System Specialist and Catalog Librarian*. A.A., Parkland College; A.B., M.S., C.A.S., University of Illinois.
TERENCE L. ROSE, *Reference Librarian*. B.G.S., M.L.S., University of Michigan.