HASTINGS CONSTITUTIONAL LAW QUARTERLY

VOLUME 46 FALL 2018 NUMBER 1

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Separating Fact From Fiction: The First Amendment Case for Addressing "Fake News" on Social Media
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"Fake news" or disinformation that appropriates the look and feel of real news stories continues to spread across social networks, suppressing informed dialogue and sowing civil discord. After revelations that influential media websites like Facebook and Twitter were used to spread fake news during the 2016 presidential election, these companies vowed to take remedial action, but have failed to contain the spread of fake news. This essay makes the case that First Amendment principles mandate that the government has a duty to preserve democratic deliberation and democratic decision-making institutions, even if that means overriding private interests. It explores some prospective measures to address fake news, including a judicial reexamination of §230 of the Communications Decency Act, and a statutory remedy for corrective action. This essay argues that such prospective measures are much needed to help preserve informed discussion on public affairs, which the First Amendment seeks to sustain, both as an end and as a means to achieve a self-governing republic.

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Most people can state who the first lady is, but no one can clearly explain what the first lady is. This silence, which stretches across all three branches of government, speaks volumes and leaves the first lady's official constitutional status as an open question. Most discussions of this matter arose during the Clinton presidency in the context of Hillary Rodham Clinton's role in her husband's administration. The few legal academics who touched on the topic then have not revisited it despite the changing political and social landscape. This paper explores how the evolution of

first ladies has made the legal ambiguities in their status increasingly at odds with the expectations and work of the women who fill the role. Part I briefly discusses how the first lady's role in American life and politics became increasingly prominent. Part II analyzes the lone statutory text governing the First Lady. Part II also addresses the few judicial and executive branch writings addressing the first ladyship as a federal job. Part III builds on this and argues that the First Lady qualifies as a federal officer both by definition and by function, but formal analysis excludes her from such status. Part IV notes assorted consequences of this ambiguous status but acknowledges the potential benefits these undefined limits carry with them. The paper concludes that, for all the constitutional complexities created by the First Lady's unofficial status, rectifying that status would prove equally fraught.

The Putative Problem of Pestersome Paupers: A Critique of the Supreme Court's Increasing Exercise of Its Power to Bar the Courthouse Doors Against *In Forma Pauperis* Petitioners
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The Supreme Court has increasingly adopted the practice of categorically and prospectively barring its more prolific petitioners from proceeding in forma pauperis—that is, without paying a filing fee. The optics of closing the courtroom doors to those who cannot afford to pay are not particularly seemly; nonetheless, the Court has persevered in and expanded this practice dramatically over the years. In the beginning, however, the Court grappled thoughtfully with the wisdom of this practice in a series of disputatious decisions. The article revisits these arguments in light of American tradition and legal precedent of unfettered access to the courts and concludes that, although concerns about the burden of reviewing frivolous petitions are legitimate, the gravity of the self-inflicted wound to public confidence in judicial fairness by institutionalizing discrimination against the poor means the Court should reconsider its use of prospective proscriptions against pestersome paupers.

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The U.S. Supreme Court has held that the Due Process Clause protects defendants from Outrageous Government Conduct ("OGC") via the OGC defense, but the Court has not yet been presented with a set of facts it believes warrants its application. As a result, the Court has not set forth such criteria for application of the OGC defense, leaving the lower courts to apply their own standards. While some critics contend there is no use for the OGC defense due to the availability of the entrapment defense, this Note will uncover why this is not the case. More specifically, this Note will (i) advocate for the application of the OGC defense to appropriate facts and circumstances, (ii) outline the facts and circumstances where the lower federal, as well as state, courts have applied the OGC defense, and (iii) argue for the Supreme Court's clarification of standards to guide lower courts' application of the facts and circumstances that constitute OGC, i.e., where law enforcement action rises to the level of a violation of Fifth Amendment Due Process protection.

The President's Role in the Administrative State: Rejecting the Illusion of "Political Accountability"
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Direct presidential control of executive agencies is a contentious issue in administrative law. This note first presents an overview of Constitutional basics, before exploring the unique twist on traditional presidential control theories that now-Justice Elena Kagan proposed in her 2001 article "Presidential Administration." Kagan's justification for enhanced presidential control rests a novel statutory interpretation perspective and the notion that the President is uniquely qualified to impose his will on agency decision-making as he is politically accountable to the American electorate at-large. This note highlights the criticisms, from other prominent academics in the field, of relying on political accountability to justify such an expansive view of presidential power. Finally, this note begins to explore the legal and political trends that may have influenced the evolution of presidential control models, and may provide context to the recent

shunning of further concentrated executive power, as articulated in "Presidential Administration."

Judges of Color: Examining the Impact of Judicial Diversity in the Equal Protection Jurisprudence of the United States Court of Appeals for the Ninth Circuit
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From slavery to civil rights to affirmative action, America's history has been plagued with the issue of race. The federal bench is no exception. For almost two centuries, the highest court of the nation did not represent the public that it served. This Note aims to determine how the presence of minority judges on the United States Court of Appeals for the Ninth Circuit impacts Equal Protection doctrine. This Note shows that a Ninth Circuit judge's race is important in providing procedural and substantive contributions to the federal bench. Diverse judges use their life experiences to ensure that every person is heard and treated fairly, thereby instilling public confidence in the legitimacy of the court and educating their colleagues on the panel on the unique issues that minority groups encounter. However, this Note also proves that race alone does not influence the court's equal protection jurisprudence due to two major factors: the Ninth Circuit, as an appellate court, is bound by the decisions of the U.S. Supreme Court, and judges are committed to their duty to "faithfully and impartially" uphold the Constitution.

No "Market" for Truth: The Weaknesses of Free Speech-Based Defenses to Credit Rating Industry Liability
by Andy Carr 245

Credit rating agencies are essential components of the global financial systems. The major CRAs primarily serve the financial systems as "gatekeepers," in that their ratings determine whether a financial instrument is "investment grade" under federal and state laws, and as information-facilitators for the complicated instruments being bought and sold within the system. Because of their systemic significance, CRAs faced especially harsh scrutiny in the aftermath of the financial crisis and Great Recession a decade ago. Initial public scrutiny was followed by waves of litigation which resurfaced long-dormant questions about the CRAs' exposure to liability and decades-old defenses of their rating "opinions." Accordingly, this Note reexamines the nexus between the CRAs' profound importance as financial institutions and their defenses against claims for liability

in fueling the last recession, focusing especially on their decades-old claims of First Amendment protections–a resurgent issue in recent litigation in both state and federal courts around the country.