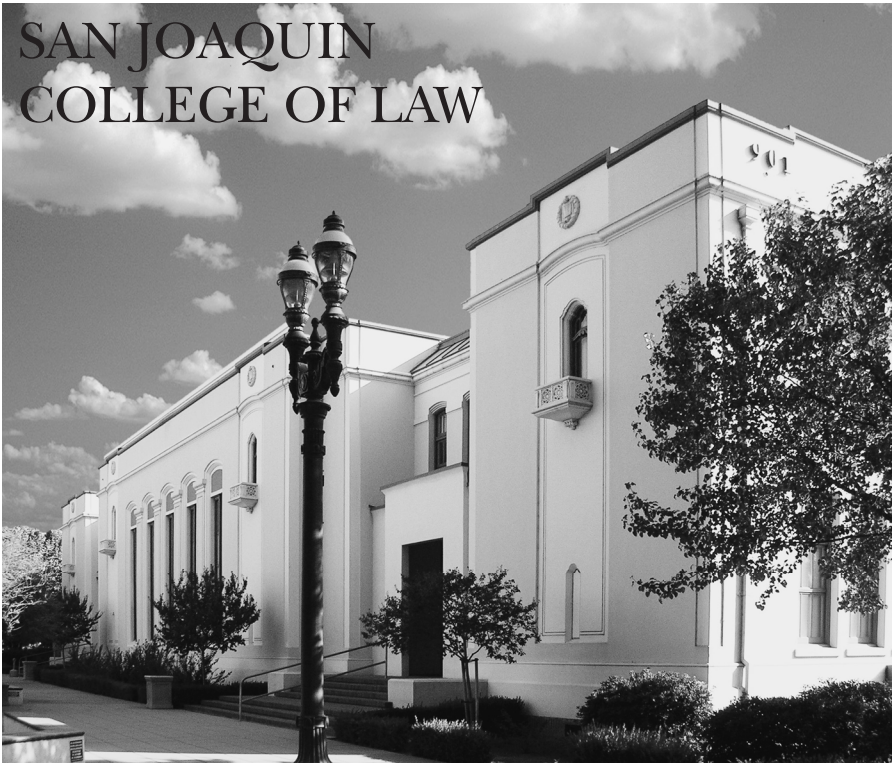


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## FOREWORD

KYLE R. ROBERSON

*Editor-in-Chief*

The *San Joaquin Agricultural Law Review* is proud to continue to provide a forum for students and legal professionals to explore the various legal issues that either impact the various stakeholders within agricultural industry or legal disputes connected to agriculture. To this end, the *San Joaquin Agricultural Law Review* would like to present Volume 21. Thanks to the outstanding effort of our staff members, outside student submissions and professional contributions, this volume provides of a number of Articles and Comments that discuss a wide variety of legal issues. The topics discussed range from childhood obesity, takings concerns, tax and issuance consequences that face agricultural producers, free speech concerns, regulatory issues, and numerous others. This variety in topics demonstrates that the *San Joaquin Agricultural Law Review* will continue to evolve to meet the demands of providing timely and scholarly discourse on agriculturally focused legal issues.

In our first lead article, *The Pitfalls and Dangers of the Additional Insured Vendor*, Brynjar A. Peterson, Corporate Counsel for Growers Express, LLC, explores the importance of evaluating if an additionally insured will be afforded insurance coverage from the policy of the named insured given the current jurisdictional split on this issue. Mr. Peterson examines how this impacts producers and suppliers of agricultural goods. He concludes by emphasizing the importance determining whether the majority or minority approach governs the applicability of the exclusionary provisions of the named insured's policy govern.

Our second lead article is co-authored by Elizabeth R. Rumley and Rusty W. Rumley, both staff attorneys at the National Agricultural Law Center at the University of Arkansas, and is titled *Enforcing Animal Welfare Statutes: In Many States, It's Still the Wild West*. In their article, they examine the differences in authority that various states grant to members or officers of that state's humane societies and the liability concerns that arise from this grant of authority. This article highlights that the authority granted to private citizens, under the auspices of a local humane society, ranges from the power to arrest, the ability to seize and destroy private property, and, in some states, the ability to carry a gun.

In *A National School Garden Program: A Holistic and Sustainable Approach to Combating Food Deserts*, Angelica Ambrose gives an overview of the problem of "food deserts," areas effectively void of affordable access to fresh and nutritious food, as well as the government incentives meant to eradicate the health problems associated with these areas by bringing in supermarkets. Her Comment suggests that in order to be completely effective and sustainable, these incentives should be supplemented by a National School Garden Program, by which experiential agricultural education will equip children within food deserts with hands-on experience with fresh, nutritious produce and the knowledge they need to make healthy choices now and in the future.

Lisa Craig, in *Childhood Obesity, the Unhealthy School Lunch and School Liability Under 42 U.S.C. § 1983*, similarly address the consequences of the consumption of unhealthy food has on U.S. children. Her Comment examines the nexus between school lunches and childhood obesity and explores the legal action that may be taken against school districts under 42 U.S.C. § 1983 for the unhealthy meals that are served in cafeterias. She concludes that legal liability may exist for school districts that continue to serve unhealthy food.

In *Timber Piracy, Statutory Interpretation, and Legislative Intent: The Louisiana Supreme Court's Decision in Sullivan v. Wallace*, Mirais M. Holden, a student at Loyola University New Orleans College of Law, highlights the problem of timber piracy in the state of Louisiana. Her

Comment focuses on the issue of remedies available to private owner of property when a co-owner wrongfully removes timber from the property, which is explored in her analysis of the Louisiana Supreme Court's decision in *Sullivan v. Wallace*.

In *Cultivating the Next Generation: Why Farming Internships Should Be Legal*, Jennifer J. Kalyuzhny, a student at University of St. Thomas School of Law, discusses how agricultural internships play a critical role in educating the next generation of food producers to continue to ensure adequate food production. In her Comment, she argues that federal and state labor laws must be revised to allow farm operators the ability to provide mutually beneficial internship experiences for a new generation of farmers.

In *Pruning Direct Shipping Barriers for Optimal Yield: How The Dormant Commerce Clause Limits The Twenty-first Amendment*, Seth Mehrten explores how the Supreme Court's recent decision in *Granholm v. Heald* has narrowly defined the scope of the states' authority to regulate the sale of out of state wine under the Twenty-first Amendment by tethering all regulation of wine to the nondiscriminatory principles of the Supreme Court has established under the Commerce Clause of the Federal Constitution. Finally, he examines the split of authority this decision has created and the validity of this split based on the dormant commerce clause.

Jesse Molina addresses the weaknesses in the Mandatory Mediation Conciliation Program and its ineffective hybrid of mediation and arbitration procedures the California legislature provided to help resolve labor disputes in the agricultural industry in *Broken Promises, Broken Process: Repairing the Mandatory Mediation Conciliation Process in Agricultural Labor Disputes*. His Comment focuses on discussing the ethical issues created by the current iteration of this program and how the core principles of mediation have been removed from this process, which he specifically addresses as confidentiality, self-determination, and prompt resolution.

In *Is a Grape Just a Grape? California Table Grape Commission's Mandatory Assessment Funded Generic Advertising Scheme vs. Grower's First Amendment Rights*, Jeremiah Paul takes a critical look at the application of the government speech doctrine in the context of First Amendment challenges to the California Table Grape Commission mandatory assessment program. His analysis is based on the challenge of a table grape producer, Delano Farms, to the validity of mandatory assessments that fund the generic advertising scheme of the California Table Grape Commission on the grounds that Delano Farms' did not agree with the advertising message.

Mary Raterman-Doidge, in *Un-Just Compensation: How Severance Damages and Inverse Condemnation Will Affect California High-Speed Rail Takings*, discusses whether or not noise and vibrations created by the California High-Speed Rail will constitute a taking from farmers, and whether farmers will be entitled to compensation under theories of inverse condemnation or severance damages.

Conlin Reis evaluates the applicability of inverse condemnation to lands impacted by water releases associated with the San Joaquin River Restoration Project, in *A River Reclaiming: Application of Inverse Condemnation to the San Joaquin River Restoration*. His Comment advocates changes in the method used to identify impacts to landowners. He concludes by promoting additional legislation to facilitate compensation for lands that has been impacted by the restoration project.

In "*USDA Certified Legal Producers: A Program to Give Consumers a Voice and a Choice in Immigration Reform*", Michael S. Shaddix proposes a "USDA Certified Legal Producers" program, which would involve the federal and state governments, agribusinesses, immigrant farm workers, and U.S. consumers, all working together collectively toward a viable, sustainable reform to the immigration of farm workers into the U.S. Through his proposed program, agribusinesses voluntarily conforming to established immigration employment laws would be government

certified as legal producers, thereby enabling those same producers to promote and label their products accordingly.

Raj Sungu, in his Comment *Growing Energy: Amending the Williamson Act to Protect Prime Farmland and Support California's Solar Energy Future*, proposes that solar energy farms be specified in the Williamson Act as a compatible use on non-prime farmland and incompatible on prime farmland. His Comment discusses how land use planning for solar projects affects the various stakeholders in California, and recommends an amendment to the Williamson Act and proposes specific solutions by which prime farmland will continue to be protected, while enabling expansion of the solar energy industry on non-prime farmland.

George Vasquez also discusses changes to the Williamson Act in his Comment entitled, *The Need for Consistent Assessments of Williamson Act Contract Properties*. His Comment examines the effect of California's budget crisis on the Williamson Act and likely reasons for the history of improper assessment practices, the passage of Proposition 13, and its effect on the Williamson Act. He concludes by providing a recommendation to amend the Williamson Act using the conceptual framework of Proposition 13 to protect property owners and ensure proper assessment practices.

Jonna Williams explores the use of methane digesters by the dairy industry as a clean energy solution and the regulatory challenges surrounding the use of methane digesters, in her Comment *California Cow Power: The Regulatory Challenges Facing Dairy Manure Biogas Production Projects in the San Joaquin Valley*. Her Comment argues for a change in regulatory framework that restricts the use of methane digesters on dairies by focusing on the decision in *Massachusetts v. EPA* and the 2006 California Global Warming Solutions Act.

These Articles and Comments are offered to provide information, provoke discussion, and reflect the increasing complexity of legal issues facing agricultural interests across the nation. These are but a few of the varied and diverse issues confronted by those whose lives and interests are touched by agriculture.



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