

SECTION ON AGING & THE LAW NEWSLETTER WINTER 2019



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MESSAGE FROM THE CHAIR – REBECCA MORGAN

Dear Section Members,

Hi everyone. It's been quite a year and an exciting time to be teaching law. My administrative law colleagues are quite pleased to see administrative law in vogue and I'm sure we have all had the chance to talk with our students at some point in the academic year about Medicare for All. Dick Kaplan and Larry Frolik published a new edition of the nutshell (thank you guys) and guardianship law (and reform) continues to make headlines.

With all these and other developments, the topic of the Section's program at the annual meeting, *Emerging Issues in Elder Law*, is timely. We are thrilled that the program has a number of other sections co-sponsoring it: civil rights, criminal justice, family and juvenile law, employee benefits and executive compensation, and

immigration law sections. Mark your calendars to attend this program, scheduled for Friday, January 3 from 8:30-10:15 a.m. Former Section Chair, Mark Bauer, will moderate the program as well as the present Chair. The business meeting will be held at the conclusion of the program, with Naomi Cahn assuming leadership of the section.

Happy grading and here's to a great spring semester!

Section on Aging & the Law Officers

Chair: Rebecca Morgan,
Boston Asset Management Chair in Elder Law
Center for Excellence in Elder Law
Director, Master of Jurisprudence Health Care Compliance
Stetson Law

Chair-Elect: Naomi Cahn
Harold H. Greene Professor of Law
Associate Dean for Faculty Development
GWU Law School
ncahn@law.gwu.edu

Secretary/Newsletter Editor:
Mary Helen McNeal
Professor and Director, Elder and Health Law Clinic
Syracuse University Law School
mhmcneal@law.syr.edu

Treasurer:
Jalila Jefferson-Bullock,
Associate Professor, Duquesne University School of Law
jeffersonbulloj@duq.edu

Executive Committee:
Joan Foley
Associate Professor of Legal Process
Touro College
Jacob D. Fuchsberg Law Center

Alicia Kelley, Associate Dean for Faculty Development and Strategic Initiatives
Professor Law
Delaware Law School of Widener University

Nina A. Kohn
Associate Dean of Online Education
David M. Levy Professor of Law
Syracuse University College of Law

Browne C. Lewis
Professor of Law
Leon and Gloria Plevin Professor of Law
Director, Center for Health Law and Policy
Director, Domestic L.L.M. Program

Kate Mewhinney
Clinical Professor and Managing Attorney
Elder Law Clinic

Panelists:

Naomi R. Cahn, The George Washington University Law School

Jalila Jefferson-Bullock, Duquesne University School of Law

ANNUAL MEETING INFORMATION

AALS 2020

***Aging and the Law Section
Program, Co-Sponsored by
Civil Rights, Criminal Justice,
Family and Juvenile Law,
Employee Benefits and
Executive Compensation,
and Immigration Law
Sections.***

Friday, Jan. 3, 8:30-10:15
(10:15-10:30– Business
Meeting)

This session will look at emerging issues in elder law, including compassionate release and early release; immigration law and policy as it impacts the health of older adults; gray divorce, marriage, and cohabitation; art and older women; and consumer protection.

Moderator: Mark D. Bauer,
Stetson University College of
Law

Browne C. Lewis, Cleveland-Marshall College of Law at Cleveland State University

Rachel E. Lopez, Drexel University Thomas R. Kline School of Law

Wendy E. Parmet, Northeastern University School of Law

SECTION LEADERSHIP

The Section on Aging and the Law will vote on leadership for the 2020-2021 year at a Business Meeting following the AALS Annual Meeting program on January 3, 2020. Duties include working with other leadership to plan the AALS Annual Meeting program and to work on other efforts to promote the role of aging and the law in legal education and beyond. Most meetings occur via conference call.

Nominations for leadership positions will be received until December 30, 2020, and may be made by emailing Mary Helen McNeal at mhmcneal@law.syr.edu. The current slate of nominations for Section positions is as follows: Chair – Naomi Cahn; Vice-Chair – Mary Helen McNeal; Secretary – Open; and Treasurer – Alex Boni-Saenz. Other Executive Committee member nominations are Richard Kaplan, Rebecca Morgan, Alicia Kelley, Joan Foley, Nina Kohn, and Jessica Dixon Weaver.

ANNOUNCEMENTS

Syracuse University College of Law is hosting a one-day Symposium on “*Interdisciplinary Approaches to Elder Justice: Unlocking the Potential of Restorative Justice*,” on Friday, April 3, 2020. Presenters include international experts on restorative justice as well as experts from the fields of medicine, social work, psychiatry, and law. To register, go to law.syr.edu/elder_justice_and_restorative_practice. For more information, contact Professor Mary Helen McNeal at mhmcneal@law.syr.edu.

From Stetson’s Center for Excellence in Elder Law:

In conjunction with Florida Attorney General Ashley Moody, the Stetson Center hosted a webinar series for law enforcement and prosecutors on a variety of topics in handling financial exploitation cases. For more information, see <https://www.stetson.edu/law/academics/elder/home/webinar-series.php>

The Stetson Center completed a grant project funded by the May and Stanley Smith Charitable Trust. Two of the funded projects included a series of short videos for beneficiaries of special needs trusts and their families and a best practices guide for parents.

Both webinars are available at <https://www.stetson.edu/law/academics/elder/home/life-pass-project.php>

Naomi Cahn is the Reporter for the Uniform Law Commission's Drafting Committee on the Economic Rights of Unmarried Cohabitants. If anyone is interested in joining the Committee as an Observer, please sign up here: <https://www.uniformlaws.org/followulc>

Kenney Hegland and Larry Frolik are writing an advice book for seniors, *The Book of Concerns*. It should be out by January, and Kenny describes it as “funny, readable and helpful.” Kenney has just produced a short video for families considering hospice and for families with a loved one in hospice, *Go Gentle into that Goodnight*. It's on YouTube. (He writes that “Hopefully, it will mean that many will not die, hooked to a machine, in ICU.”)

Lynn Kohm received the Faculty Award for Excellence in outstanding contributions to scholarship at Regent University Fall 2019.

Nina Kohn was elected to the American Law Institute in December 2019. She will be visiting at Yale Law School in the spring, 2020 semester.

Kate Mewhinney of Wake Forest University School of Law was invited to participate in an international conference on “The Future of Gerontology” at Ben-Gurion University and the University of Haifa, Israel. She will be one of the international scholars in different fields of aging (law, psychology, sociology, geriatrics, anthropology and more) from the USA, Canada, India, UK, and Australia. Mewhinney will participate in both closed (invitees only) sessions and open public events, and also taught a unit on “Consumer Issues in Long Term Care” for the Master of Studies in Law (MSL) program. To learn more about these innovative on-line courses, go to <https://msl.law.wfu.edu/certificate/>.

Kate Mewhinney will be retiring in the summer of 2020 from her position as the Wake Forest University School of Law Elder Law Clinic's managing attorney.

Rebecca Morgan along with Jason Palmer of Stetson University became the faculty advisors for the *Journal of Comparative and International Aging, Law & Policy*. The 10th volume is now available, and the 11th volume will be published late in the spring. We are now taking submissions for volume 12. For more information, see <https://www.stetson.edu/law/agingjournal/index.php>

NEWS AND NEWSWORTHY

Naomi Cahn, *The Golden Years, Gray Divorce, Pink Caretaking, and Green Money*, 52 *Fam. L.Q.* 57 (2018).

Richard Kaplan - Publications:

Book:

- ELDER LAW IN A NUTSHELL (7th ed. 2019) (with Lawrence A. Frolik).

Articles/book chapters:

- *Property Transfers to Caregivers: A Comparative Analysis*, 103 *IOWA L. REV.* 1997 (2018) (with Adam Hofri-Winogradow).
- *Family Caregiving and the Intergenerational Transmission of Poverty*, 46 *JOURNAL OF LAW, MEDICINE AND ETHICS* 629 (2018).
- *What Rights to Insurance Policies Do Divorced Spouses Have?* *MONITOR ON PSYCHOLOGY*, Jan. 2019, at 33 (with Jennifer K. Robbennolt).
- *Les assurances sociales du point de vue des Etats Unis d'Amérique* ("Social Insurance from an American Perspective") in *LA SÉCURITÉ SOCIALE UNIVERSALITÉ ET MODERNITÉ* ["*Social Security Universality and Modernity*"] (Isabelle Daugarelilh & Maryse Badel, eds. 2019) at 363.

Presentations:

- *Evaluating Three Models for Compensating Family Caregivers*, Asian Conference on Aging & Gerontology, Kobe, Japan.
- *The New Pass-Through Tax Benefit and Elder Law Attorneys*, National Academy of Elder Law Attorneys Annual Summit, Chicago.
- *What Actually Happened When Tax Reform Finally Happened*, Indiana Tax Institute, Indianapolis.

Lynne Marie Kohm – Publications:

- Kathleen E. Akers and Lynne Marie Kohm, *Solving Millennial Marriage Evolution*, 48 *U. BALT. L. REV.* 1 (2018), <https://ssrn.com/abstract=3293263>.
- Lynne Marie Kohm, *Reflections on a Christian Perspective on Studying Family Law*, 15 *THE CHRISTIAN LAWYER* 13 (Spring 2019), at <https://ssrn.com/abstract=3373946>.
- Lynne Marie Kohm and Ashley Michelle Williams, *The Tragic Tapestry of Father Absence and National Strength*, 13 *LIBERTY U. L. REV.* 1 (2018), <https://ssrn.com/abstract=3326881>.

- LYNN D. WARDLE, MARK S. STRASSER, LYNNE MARIE KOHM, AND TANYA WASHINGTON, FAMILY LAW FROM MULTIPLE PERSPECTIVES 2D ED. (West 2019).
- LYNNE MARIE KOHM AND KATHLEEN E. AKERS, JANE AUSTEN'S LAW & ECONOMICS (forthcoming Lexington 2019).

Nina Kohn - Publications:

Book:

- Nina A. Kohn, ELDER LAW: PRACTICE, POLICY, & PROBLEMS (2d ed., forthcoming 2020).

Articles:

- Nina A. Kohn, *For Love and Affection: Elder Law and the Law's Denial of Intra-Family Contracts*, 54 HARV. CIVIL RIGHTS-CIVIL LIBERTIES L. REV. 211 (2019).
- Nina A. Kohn, *Fiduciary Principles in Surrogate Decision-Making*, in OXFORD HANDBOOK OF FIDUCIARY LAW (R. Sitkoff et al., eds.). Oxford University Press (2019).
- Nina A. Kohn, *Old Age in an Era of Migrant Elder Care*, 15 INTERNATIONAL J. OF LAW IN CONTEXT 234 (2019).

Mary Helen McNeal and Maria Brown, *Elder Restorative Justice*, 21 Cardoza Journal of Conflict Resolution, forthcoming, Winter 2020.

Tara Sklar - Publications:

- *Will the Law Let You Age Well? Digital Health Privacy in Senior Living*, J. Active Aging (2019) (co-author, with Richard Carmona et al.)
- *Affordability Boards: The States' New Fix for Drug Pricing*, New Engl. J. Med. Perspective (2019) (co-author, with Christopher Robertson) ([SSRN](#))
- *Book Review: Pandemics and Polarization: Implications of Partisan Budgeting for Responding to Public Health Emergencies*, 1 Global Biosecurity 2 (2019) ([article](#))
- *Characteristics of Lawyers who are Subject to Complaints and Misconduct Findings*, 17 J. Empirical Legal Stud. 2 (2019) (co-author, with Yamna Taouk, et al.) ([SSRN](#))
- *Elderly Gun Ownership and the Wave of State Red Flag Laws: An Unintended Consequence That Could Help Many*, 27 Elder L. J. 1 (2019) ([SSRN](#))
- *Preparing to Age in Place: The Role of Medicaid Waivers in Elder Abuse Prevention*, 28 Ann. of Health L. 2 (2019) (co-author, with Rachel Zuraw) ([SSRN](#))

Presentations:

- *Digital Health Privacy and Age: Legal and Ethical Considerations in Long-Term Care*, Arizona Bioethics Network, Webinar, November 20, 2019.
- *Digital Privacy and Age: Evolving Role of Wearables in Long-term Care*, 2019 American Public Health Association Annual Conference, Philadelphia, November 4, 2019.
- *Will the Law Let You Age Well?* International Council on Active Aging, executive forum at 2019 Annual Conference, Orlando, October 10, 2019.
- *Digital Health Privacy and Age: Quality and Safety Improvement in Long-term Care*, Banner Health Bioethics, University of Arizona, August 19, 2019.
- *Personal Data Protection in Clinical Research and the Road Ahead for Regulatory Harmonization*, ASLME Health Law Professors Conference: Panel on Research, Privacy, and Consent, Loyola University Chicago College of Law, June 7, 2019.
- *Drug Pricing Reform Efforts: What's Ahead for Arizona?* 2019 Arizona State of Reform Health Policy Conference: Panel on Road Ahead for Federal Health Policy, May 23, 2019.
- *Personal Data Protection in Clinical Research and the Road Ahead for Regulatory Harmonization*, Governance of Emerging Technologies & Science Conference: Panel on Technology, Trust, and Transparency, Arizona State University College of Law, May 22, 2019.
- *Privacy Considerations In Clinical Trials*, 2019 Food And Drug Law Institute's Annual Conference: Panel on Privacy & Cybersecurity, Washington Dc, May 3, 2019.
- *Research Participants' Rights In The Era Of Clinical Trial Transparency*, 25th Annual Clifford Symposium on Tort Law And Social Policy: Rising Stars, DePaul Law School, April 26, 2019.
- *Personal Data Protection In Clinical Research*, National Academies Of Sciences, Engineering, And Medicine, Roundtable On Law & Medical Devices, Washington Dc, March 25, 2019.
- *Preparing To Age In Place: Role Of Medicaid Waivers In Elder Abuse Prevention*, 2019 Association Of American Law Schools, New Law And Medicine Scholars, New Orleans, January 3, 2019

[Thank you! We hope to see you in January at the Annual Meeting!](#)