

GROVE CITY COLLEGE

JOURNAL OF LAW & PUBLIC POLICY



ARTICLES

Sorrell v. IMS Health, Inc. *Brandon M. Herring*

Kyllo v. The United States:
Innovative or Originalist? *Kristie L. Eshelman*

Patents and Innovation in the
Pharmaceutical Industry *Kyle A. Marchini*

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The Ambiguous Role
of PGD in Society:
An analysis of preimplantation
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Volume 4

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The editors strongly prefer articles under 15,000 words in length, the equivalent of 50 *Journal* pages, including text and footnotes. The *Journal* will not publish articles exceeding 20,000 words, the equivalent of 60 *Journal* pages, except in extraordinary circumstances.

To facilitate our anonymous review process, please confine your name, affiliation, biographical information, and acknowledgements to a separate cover page. Please include the manuscript's title on the first text page.

Please use footnotes rather than endnotes. All citations and formatting should conform to the 18th edition of *The Bluebook*.

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GROVE CITY COLLEGE

Grove City College was founded in 1876 in Grove City, Pennsylvania. The College is dedicated to providing high quality liberal arts and professional education in a Christian environment at an affordable cost. Nationally accredited and globally acclaimed, Grove City College educates students through the advancement of free enterprise, civil and religious liberty, representative government, arts and letters, and science and technology. True to its founding, the College strives to develop young leaders in areas of intellect, morality, spirituality, and society through intellectual inquiry, extensive study of the humanities, and the ethical absolutes of the Ten Commandments and Christ's moral teachings. The College advocates independence in higher education and actively demonstrates that conviction by exemplifying the American ideals of individual liberty and responsibility.

Since its conception, Grove City College has consistently been ranked among the best colleges and universities in the nation. Recent accolades include: The Princeton Review's "America's Best Value Colleges," Young America's Foundation "Top Conservative College," and U.S. News & World Report's "America's Best Colleges."

GROVE CITY COLLEGE
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The *Grove City College Journal of Law & Public Policy* was organized in the fall of 2009 and is devoted to the academic discussion of law and public policy and the pursuit of scholarly research. Organized by co-founders James Van Eerden '12, Kevin Hoffman '11, and Steven Irwin '12, the *Journal* was originally sponsored by the Grove City College Law Society. The unique, close-knit nature of the College's community allows the *Journal* to feature the work of undergraduates, faculty, and alumni, together in one publication.

Nearly entirely student-managed, the *Journal* serves as an educational tool for undergraduate students to gain invaluable experience that will be helpful in graduate school and their future careers. The participation of alumni and faculty editors and the inclusion of alumni and faculty submissions add credence to the publication and allow for natural mentoring to take place. The *Journal* continues to impact educational communities around the country and can now be found in the law libraries of Akron University, Regent University, Duquesne University, the University of Pittsburgh, and Pennsylvania State University. The *Journal* has been featured by the Heritage Foundation and continues to be supported by a myriad of law schools, law firms, and think tanks around the nation.

EDITOR'S PREFACE

Here we are. Another edition of the *Grove City College Journal of Law & Public Policy*. Another compilation of excellent articles on a diverse array of topics. Another letter from a proud editor in chief whose words cannot hope to encapsulate the efforts of her staff or the value of the text following these introductory pages. The *Journal* has achieved an established place in Grove City College and on the desks of its students, faculty, alumni, and friends. That privilege should be enough for us to breathe our sighs of relief and comfortably rest in our accomplishment.

Of course, for the kind of students who were daring enough to found an undergraduate law journal, this was not enough. We inherited their persistence. Our goal as successors is to realize their dreams while generating ideas of our own. This year, we redesigned our production schedule, introduced an online preview, and welcomed student authors from outside the College. The enclosed articles share a wide range of perspectives on as wide a range of topics, some familiar to many, some unnoticed by all but a few. All, however, are thoughtful discussions of law and public policy by students with genuine concerns and insights. These students' efforts are truly admirable, and I am honored to share them with you.

I am equally honored to serve alongside my capable, untiring peers who staff the *Journal*. Although you may not read their words, their work is represented by each page. My gratitude extends to the beneficence of our Editorial Board and our sponsors. Thank you for validating our purpose. Thank you for allowing us to enter the discussion of law and public policy. These students' voices deserve to be heard. Dear readers, thank you for listening.



Julia L. Haines '14
Editor in Chief

FOREWORD

Dear Reader,

It brings me great joy to present you with Volume Four of the *Grove City College Journal of Law & Public Policy*. The task of preparing a student-edited academic journal is not one for the faint of heart. This time-honored process includes painstaking efforts spent to secure quality articles as well as endless hours of editing and source-checking.

These tasks are not what most would consider “fun.” The students responsible for what you are about to read did not get paid or receive academic credit for their work. Their labors were completed for the joy of learning and for the sake of knowledge, and that is what makes the *Journal* one of the purest examples of academic success remaining in America’s undergraduate institutions.

In this edition, the *Journal* expands its reach to include submissions from student colleagues at other premier institutions. At the same time, the editors have continued the tradition of addressing timely and important topics, and this time with a special focus on current issues within the pharmaceutical industry.

Brandon Herring, Duquesne University School of Law ’13, begins this edition with a discussion of the 2011 U.S. Supreme Court ruling that overturned a Vermont statute banning the practice of “detailing.” Mr. Herring supports the Court’s holding in *Sorrell v. IMS Health, Inc.* that restricting the sale of pharmaceutical information amounts to a violation of the First Amendment.

Kristie Eshelman ’13 presents an updated look at the evolution of the right to privacy within the Supreme Court’s jurisprudence. Ms. Eshelman’s analysis peaks at the 2001 case of *Kyllo v. United States* and praises the majority opinion of Justice Scalia for upholding both the intent of the American founders and the fundamental rights of individuals.

Kyle Marchini ’14 argues for a revolution in how intellectual property is treated within the pharmaceutical industry. His discussion asserts that the current system is holding back progress and that a pharmaceutical market free from the limitations of modern patent law would be more adaptable and innovative as a whole.

Samuel Williams ’14 delves deeply into the Supreme Court’s interpretation of the First Amendment through the case of *Good News*

Club v. Milford Central School. Mr. Williams supports the idea that once the government creates a “limited public forum,” all viewpoints must be accepted, even if that acceptance may be incorrectly perceived as a violation of the Establishment Clause.

Catherine Ettman, Princeton University '13, examines the difficulties arising from the medical procedure known as Preimplantation Genetic Diagnosis. This procedure is intended to rule out specific genetic diseases during in vitro fertilization; however, it failed in the case of Gabriel Bergero. Miss Ettman uses this case to analyze the social impact of the procedure.

Each of these articles makes a fine addition to the legacy of the *Journal*. As someone who was “in the room” the day that the idea for this publication was born, I am quite proud to see what it has become. Far beyond that however, I am most excited by the fact that this edition is the last one that will ever be published with an original student member on the staff, meaning that next year, as the *Journal* continues to improve, it will have taken on a life of its own. A life that is all thanks to the tremendous hard-working students of Grove City College who continue to make me so proud to call myself a Grover.

With much respect and admiration,

Kevin A. Hoffman '11
Regent University School of Law
J.D. Candidate, 2014

-ARTICLES-

