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Symposium on the Right to Privacy

Articles

The "Inviolable Personality"—Warren and Brandeis After One Hundred Years: Introduction to a Symposium on the Right of Privacy

Sheldon W. Halpern 387

An analytical groundwork for a discussion of the right to privacy, is provided by this introduction. It presents an overview of the other articles which follow, and it provides commentary on the positions of the other authors who have contributed to this symposium.

Privacy and the Other Miss M

Dorothy Glancy 401

By contrasting the lawsuits of Marion Manola and Bette Midler, this article demonstrates that the property right, often called the right of publicity, is theoretically based in the right to privacy, as extolled by Warren and Brandeis. The author concludes that it is important to understand the theoretical framework of these rights, and how they fit together, in order to appreciate the reasons for the law's protection of these particular interests.

How Privacy Got Its Gender

Anita L. Allen and Erin Mack 441

This article suggests that the right to privacy, as it was originally described by Warren and Brandeis, reflects their era's gender bias. The authors describe the social, economic and legal background for the original, gender-biased pronouncement of the right, as well as its subsequent development, and how this bias affects legal scholarship in the area today. The authors suggest that legal scholars need to be more sensitive to the gender bias that exists in privacy law, and that alternative analyses which recognize this bias already exist.

Legacy of the Warren and Brandeis Article: The Emerging Unencumbered Constitutional Right to Informational Privacy

Richard C. Turkington 479

The development of the right to privacy into a constitutional right independent of the fourth amendment is examined from its philosophical and jurisprudential bases. The article also explores the application of the constitutional right to dissemination by the government of intimate or personal information.

Protecting Informational Privacy in the Information Society
 George B. Trubow 521

The ways in which technology has affected the right to privacy, through the mass compilation of personal information in public and private databases, are discussed in this article. Further, it suggests ways in which courts and legislatures should respond to the problems created by such compilations, in order both to protect the right to privacy and to promote the beneficial use of technology.

Comments

Hedonic Damages: Emerging Issue in Personal Injury and Wrongful Death Claims
 Gretchen L. Valentine 543

This comment provides an overview of hedonic damages by reviewing how they have been measured, when they have been awarded, and what objections have been raised to their recovery. The relationship between hedonic damages and more traditional tort damages is considered. This comment concludes that hedonic damages are a distinct form of injury that may be adequately represented and argued to a jury within the categories of disability or pain and suffering in personal injury claims. In addition, this comment urges that limited hedonic damages be awarded to the victim who is deceased or comatose.

Whether Insurers Must Defend PRP Notifications: An Expensive Issue Complicated by Conflicting Court Decisions
 Joanna L. Johnson 579

This comment examines conflicting court interpretations of CGL policy language in the context of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Potentially Responsible Party notification defense litigation. The author concludes that the lack of uniformity combined with excessive litigation costs indicate the need for channeling defense conflicts into negotiation.

Quotations and Actual Malice: Bridging the Gap Between Fact and Fiction
 Mark A. Byrd..... 617

*An overview of libel law is presented as a backdrop for an examination of how the law of libel is applied to purported quotations which are inaccurate. The author discusses the approach which was taken by the Ninth Circuit in *Masson v. New Yorker Magazine*, and concludes that the court applied an inappropriate test. The comment concludes with a recommendation for an appropriate test for libel when the allegedly libelous material is a purported quotation.*

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