

# THE LAW OF BIOETHICS: INDIVIDUAL AUTONOMY AND SOCIAL REGULATION

Marsha Garrison  
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*In memory of my mother and grandmother,*

Helen Ware Garrison (1922–1950)

Mary Parker Ware (1891–1984)

*To Joan*

*For thy sweet love remember'd such wealth brings  
That then I scorn to change my state with kings.*

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## Preface

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You may be taking this course for a number of reasons. You may be interested in the kinds of topics with which bioethics deals. You may be planning a practice in health law. You may like the professor who teaches the course. You may find the hours the class meets convenient. But whatever your motive, one thing you should expect of every course in law school is that it will not only teach you the relevant legal doctrines, but that it will also teach you, in the classic phrase, to think like a lawyer. Virtually every law school course does this by asking you to practice reading legal documents and analyzing the legal issues they raise. A central purpose of this casebook is to offer you many such opportunities. But really good lawyers have learned to deepen their skills by thinking systematically about some of the recurring substantive issues in governance through law and some of the recurring questions in shaping legal institutions. In this casebook, we strive to assist you in becoming truly excellent lawyers by emphasizing three themes of this kind.

First, we look systematically at one of the most imposing substantive ideas in American law and, for that matter, American life—the principle of individual autonomy. We make autonomy central in this casebook because it is central to understanding contemporary bioethics and the law that affects it. However, we do not stop with the autonomy principle in bioethics. We also look at the ways American law in general has implemented and limited the principle. For example, one of the primary ways law has promoted autonomy is by attributing rights—especially constitutional rights, but also statutory rights—to people. That has been one of the most common but also most controversial responses to many bioethical issues, notably questions of ending treatment at the end of life and of creating new lives. Finally, we will deepen our understanding of the law of bioethics by putting the legal principle of autonomy into its crucial cultural context.

One aspect of our examination of the autonomy principle deserves special mention. Autonomy is about making decisions. We attribute autonomy to people partly because we think they will make good decisions for themselves. The success of the law's autonomy principles critically depends on the quality of decisions people actually make. The law of bioethics regulates areas in which the decisions people make are intensely important to them. But many of those decisions are also decisions experts might claim to make better than the laity. We will thus pay special attention to the ways individuals make decisions.

A second theme informs this casebook. In pursuing its goal of regulating social behavior, the law may call on a wide range of tools. It may employ the criminal law. It may give citizens a range of rights against each other—especially rights in contract and in tort. Or it may establish

administrative agencies empowered to write and enforce regulations. The law of bioethics deploys all these devices. It matters which tool the law uses, since different tools have different effects. We will therefore regularly ask you to reflect on the kinds of regulatory approaches the law has available, on why it made the choices it did, and what consequences those choices have.

Our third theme grows out of our embarrassed observation that law professors deplorably tend to believe that law's function is to build more stately mansions—to construct beautiful theories that are logically consistent and intellectually elegant. Judges and even lawyers are not immune to this tendency. But law is more than a pleasing system of rules. Law is an attempt to make the world work well. This means we must always ask how rules work out in practice and whether their benefits outweigh their costs. This kind of evaluation is surprisingly difficult because laws rarely work the way we expect:

Some of the most fascinating modern legal scholarship reminds lawyers how removed their talk is from the world's ken. That literature reveals that, to the lawyer's chagrin, businesses resist using contracts, ranchers do not know what rules of liability govern damage done by wandering cattle, suburbanites do not summon the law to resolve neighborhood disputes, engaged couples do not know the law governing how they will own property when they marry, citizens repeatedly reject the due process protections proffered them, and, what is worse, all these people simply don't care what the law says.

Much the same can be said of many of the law's recent bioethical reforms. There is evidence that as few as ten percent of us have made an advance directive, that only a quarter of us have signed an organ donor card (despite the swarms of us who say we want to be donors), that even competent patients are not widely consulted about do-not-resuscitate orders, that doctors have reduced informed consent to one more bureaucratic chore, and that plaintiffs rarely win informed-consent suits.

Carl E. Schneider, *Bioethics in the Language of the Law*, 24 HCR16 (1994). This is the celebrated distinction between the law in books and the law in action. It will be repeatedly be our reminder to ask not just whether legal doctrines are logical, but also whether they meet the test of experience.

The law of bioethics deals with some of the most consequential and meaningful questions people face in their lives. We have tried to make this study of those questions as engaging and inspiring as possible. We wish you much joy and many rewards in your study.

This leaves us to make only one comment about this volume. We have tried to strike a blow for freedom from the inanities of the *Bluebook*. Thus, for the reasons given in Richard A. Posner, *Goodbye to the Bluebook*, 53 U Chicago L Rev 1343 (1986), we follow the *University of Chicago Manual of Legal Citation* (Lawyers Co-operative, 1989). In addition, we have used the following abbreviations:

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Annals of Internal Medicine:	AnIM
Archives of Family Medicine:	ArFM
Archives of Internal Medicine:	ArIM
British Medical Journal:	BMJ
Family Practice News:	FP News
Hastings Center Report:	HCR
Health Affairs:	HA
Journal of the American Medical Association:	JAMA
Journal of Health Politics, Policy & Law:	JHPPL
Kennedy Institute of Ethics Journal:	KIEJ
Mortality & Morbidity Weekly Report:	MMWR
New England Journal of Medicine:	NEJM
Public Health Reports:	PHR

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*An Alert and Incompetent Self*, 28 HCR 28 (Jan 1998). Copyright © 1998, The Hastings Center. Reprinted with the permission of the Hastings Center.

Agrawal, Gail, *Resuscitating Professionalism: Self-Regulation in the Medical Marketplace*, 66 Missouri L Rev 341, 377–397 (2001). Copyright © 2001, Missouri Law Review. Reprinted with permission.

AMA Council on Ethical and Judicial Affairs, *Ethical Issues in Health Care System Reform: The Provision of Adequate Health Care*, 272 JAMA 1056 et seq. (1994). Copyright © 1994, American Medical Association. Reprinted with the permission of the American Medical Association.

Blacksher, Erika, *On Ova Commerce*, 30 HCR 29–30 (Sept 2000). Copyright © 2000, The Hastings Center. Reprinted with the permission of the Hastings Center and Erika Blacksher.

Bosk, Charles L., *Forgive and Remember: Managing Medical Failure* 168–192 (U Chicago Press, 1979). Copyright © 1979, University of Chicago Press. All rights reserved.

Burt, Robert, *The Suppressed Legacy of Nuremberg*, 26 HCR 30, 31–33 (Sept 1996). Copyright © 1996, The Hastings Center. Reproduced with the permission of the Hastings Center and Robert Burt.

Cassell, Eric J., *The Principles of the Belmont Report Revisited*, 30 HCR 12–21 (July 2000). Copyright © 2000, The Hastings Center. Reproduced with the permission of the Hastings Center and Eric J. Cassell.

Chasnoff, Ira J., *Silent Violence: Is Prevention a Moral Obligation?*, 102 Pediatrics 145 (1998). Copyright © 1998, Pediatrics. Reproduced by permission of Pediatrics.

Devlin, Patrick, *Morals and the Criminal Law*, in Devlin, Patrick, *The Enforcement of Morals*. Copyright © 1965, Oxford University Press. Reprinted from *The Enforcement of Morals* by Patrick Devlin (1965) by permission of Oxford University Press.

Diamond, Sondra & Bonisteel, Roy, “I Am Not What You See,” *A Film Dialogue Between Sondra Diamond and Roy Bonisteel*, in Chester A. Swinyard (ed.), *Decision Making and the Defective Newborn* 465, 466–76 (1978). Reprinted courtesy of Charles C. Thomas, Publisher, Ltd., Springfield, Illinois.

Dresser, Rebecca, *Missing Persons: Legal Perceptions of Incompetent Patients*, 46 Rutgers L Rev 609 (1994). Copyright © 1994, Rutgers Law Review. Reprinted with permission.

Dworkin, Gerald, *Paternalism*, 56 *Monist* 64, 77–82 (1972). Copyright © 1972, The Monist, Peru, Illinois, USA 61354. Reprinted by permission.

Dwyer, James G., *Parents' Religion & Children's Welfare*, 82 *Cal L Rev* 1371, 1427–30, 1432–35 (1994). Copyright © 1994, California Law Review, Inc. Reprinted from 82 *California Law Review* No. 6 by permission of the University of California, Berkeley & James G. Dwyer.

Emanuel, Linda L. & Ezekiel J., *Medical Directive Form*. Copyright © 1990. This form was originally published as part of an article by Linda L. Emanuel and Ezekiel J. Emanuel, *The Medical Directive: A New Comprehensive Advance Care Document*, 261 *JAMA* 3290 (1989). It does not reflect the official policy of the American Medical Association. Reprinted with permission.

Fox, Renee C. & Swazey, Judith P., *Leaving the Field*, 22 *HCR* 9 (Sept 1992). Copyright © 1992, The Hastings Center. Reproduced with the permission of the Hastings Center, Renee C. Fox & Judith P. Swazey.

Garrison, Marsha, *Law Making for Baby Making: An Interpretive Approach to the Determination of Parentage*, 113 *Harv L Rev* 835, 855–58 (2000). Copyright © 2000, the Harvard Law Review Association. Reprinted with the permission of the Harvard Law Review Association.

Gill, Carol J., *Health Professionals, Disability, and Assisted Suicide*, 6 *Psychol, Pub Pol'y, & L* 526–533 (2000). Copyright © 2000, American Psychological Association. Adapted with permission.

Gilles, Steven G., *Hey, Christians, Leave Your Kids Alone!*, 16 *Const Commentary* 149, 161–69 (1999). Copyright © 1999. Reprinted with the permission of Constitutional Commentary and Steven G. Gilles.

Greely, Henry T., *Direct Financial Incentives in Managed Care: Unanswered Questions*, 6 *Health Matrix* 53, 55–59, 69–70 (1996). Copyright © 1996, Health Matrix: Journal of Law-Medicine. All rights reserved.

Griffiths, John, *Assisted Suicide in the Netherlands: The Chabot Case*, 58 *Modern L Rev* 232, 232–235, 237–239 (1995). Copyright © 1995, The Modern Law Review. Reprinted with permission of Blackwell Publishing.

Hall, Mark A. & Schneider, Carl E., *Response to Braddock et al (Letter to the Editor)*, 283 *JAMA* 2290–91 (2000). Reprinted with the permission of the American Medical Association, Mark A. Hall and Carl E. Schneider.

Hansmann, Henry, *The Economics and Ethics of Markets for Human Organs*, 14 *JHPPL* 62–79. Copyright © 1989, Duke University Press. All rights reserved. Reprinted with the permission of Duke University Press.

Hart, H.L.A., *Immorality and Treason*, *The Listener* 162–63 (July 30, 1959). Reprinted with the permission of the British Broadcasting Corp. and Jenifer Hart.



Henderson, James A., Jr. & Aaron D. Twerski, *Doctrinal Collapse in Product Liability: The Empty Shell of Failure to Warn*, 65 NYU L Rev 265, 290, 269–301, 303–309 (1990). Copyright © 1990, New York University Law Review. Reprinted with permission.

Hendin, Herbert, *Physician-Assisted Suicide: Reflections on Oregon's First Case*, 14 Issues L & Med 243 (1998). Copyright © 1998, National Legal Center for the Medically Dependent & Disabled, Inc. Reprinted with permission.

Hendin, Herbert, *Seduced by Death: Doctors, Patients and the Dutch Cure* 26–30 (W.W. Norton, 1997). Copyright © 1998, 1997, Herbert Hendin, M.D. Used by permission of W.W. Norton & Company, Inc.

Hoffman, Diane E. & Schwartz, Jack, *Proxy Consent to Participation of the Decisionally Impaired in Medical Research—Maryland's Policy Initiative*, 1 J Health Care L & Pol'y 123–32 (1998). Copyright © 1998, Journal of Health Care Law & Policy. Reprinted with the permission of the Journal of Health Care Law & Policy.

Hyman, David A., *Drive-Through Deliveries: Is "Consumer Protection" Just What the Doctor Ordered?*, 78 NC L Rev 5 (1999). Copyright © 1999, North Carolina Law Review. Reprinted with permission.

Hyman, David A., *Regulating Managed Care: What's Wrong with a Patient Bill of Rights*, 73 SC L Rev 221, 230–233, 237–239, 241–243 (2000). Copyright © 2000, Southern California Law Review. Reprinted with permission.

Jackson, David L. & Youngner, Stuart J., *Patient Autonomy and "Death with Dignity"*, 301 NEJM 404, 405–406 (1979). Copyright © 1979, Massachusetts Medical Society. Reprinted with the permission of the Massachusetts Medical Society. All rights reserved.

Knowles, Lori P., *Hubris in the Courts*, 31 HCR 50–52 (Jan 2001). Copyright © 2001, The Hastings Center. Reproduced with the permission of the Hastings Center and Lori P. Knowles.

Landor, Michael, *A Hidden Agenda*, 338 NEJM 46–48 (1998). Copyright © 1998, Massachusetts Medical Society. Reprinted with the permission of the Massachusetts Medical Society. All rights reserved.

Levinsky, Norman G., *Truth or Consequences*, 338 NEJM 913–14 (1998). Copyright © 1998, Massachusetts Medical Society. Reprinted with the permission of the Massachusetts Medical Society. All rights reserved.

London, Alex John, *A Separate Peace*, 31 HCR 49–50 (Jan 2001). Copyright © 2001, The Hastings Center. Reproduced with the permission of the Hastings Center and Alex John London.

Lynn, Joanne, *Why I Don't Have a Living Will*, 19 L, Med & Health Care 101, 101–104 (1991). Copyright © 1991. Reprinted with the permission of the American Society of Law, Medicine & Ethics. All rights reserved.

Matas, Arthur J. et al, *A Proposal for Cadaver Organ Procurement: Routine Removal with Right of Refusal*, 10 JHPPL 231, 237-242. Copyright © 1985, Duke University Press. All rights reserved. Reprinted with the permission of Duke University Press.

Mathieu, Deborah, *Preventing Prenatal Harm: Should the State Intervene?* 36-39; 46-51; 54-55; 57-59 (Georgetown Univ. Press, 2d ed. 1996). Copyright © 1991, 1996, Georgetown University Press. Reprinted with the permission of Georgetown University Press.

Mead, Rebecca, *Annals of Reproduction: Eggs for Sale*, New Yorker, Aug. 9, 1999, at 56. Copyright © 1999, Rebecca Mead. Reprinted with the permission of Rebecca Mead.

Meisel, Alan Meisel & Roth, Loren H., *Toward an Informed Discussion of Informed Consent: A Review and Critique of the Empirical Studies*, 25 Ariz L Rev 265 (1983). Copyright © 1983, by the Arizona Board of Regents. Reprinted by permission.

Menikoff, Jerry, *Organ Swapping*, 28 HCR 26-32 (Nov 1999). Copyright © 1999, The Hastings Center. Reproduced with the permission of the Hastings Center and Jerry Menikoff.

Pellegrino, Edmund D., *The Metamorphosis of Medical Ethics: A 30 Year Retrospective*, 269 JAMA 1158-62 (1993). Copyright © 1993, American Medical Association. Reprinted with the permission of the American Medical Association.

Quill, Timothy E., *Death and Dignity: Making Choices and Taking Charge* 9-22 (W.W. Norton, 1993). Copyright © 1993, Timothy E. Quill. Used by permission of W.W. Norton & Company, Inc.

Radcliffe-Richards, Janet, et al, *The Case for Allowing Kidney Sales*, 351 Lancet 1950-52 (1998). Copyright © 1998 by The Lancet, Ltd. Reprinted with the permission of the Lancet, Ltd.

Reagan, Peter, *Helen, Dying Patient Requests Suicide Assistance from Doctor*, 353 Lancet 1265-67 (1999). Copyright © 1999 by The Lancet Ltd. Reprinted with the permission of the Lancet, Ltd. and Elsevier-Science.

Robertson, John A., *Two Models of Human Cloning*, 27 Hofstra L Rev 609, 617 et seq. (1999). Copyright © 1999, Hofstra Law Review Association. Reprinted with the permission of the Hofstra Law Review Association.

Rodwin, Marc A., *Strains in the Fiduciary Metaphor: Divided Physician Loyalties and Obligations in a Changing Health Care System*, 21 Am J L & Med 241, 242-249 (1995). Copyright © 1995, American Society of Law, Medicine & Ethics. Reprinted with the permission of the American Society of Law, Medicine & Ethics and Boston University. All rights reserved.

Roth, Philip, *Patrimony* 205-206, 232-233 (Simon & Schuster, 1991). Copyright © 1991, Philip Roth. Reprinted with permission by Simon & Schuster.

Ryan, Cornelius & Kathryn Morgan, *A Private Battle* (Simon & Schuster, 1979). Copyright © 1979. Reprinted with the permission of McIntosh & Otis.

Schneider, Carl E., *From Consumer Choice to Consumer Welfare*, 25 HCR S25 (Nov 1995). Copyright © 1995, Carl E. Schneider. Reprinted with permission.

Schneider, Carl E., *Law at the End of Life* 12–15 (University of Michigan Press, 2000). Copyright © 2000, University of Michigan Press. Reprinted with permission.

Schneider, Carl E., *Making Sausage*, 27 HCR 27 (Jan 1997). Copyright © 1997, Carl E. Schneider. Reprinted with permission.

Schneider, Carl E., *Rights Discourse and Neonatal Euthanasia*, 76 Cal L Rev 151, 159, 164–65 (1988). Copyright © 1988, California Law Review, Inc. Reprinted from 76 California Law Review No. 1 by permission of the University of California, Berkeley & Carl E. Schneider.

Schuck, Peter, *Rethinking Informed Consent*, 103 Yale LJ 899, 921–922, 924–925, 927–932, 938–939, 941 (1994). Copyright © 1994, The Yale Law Journal. Reprinted with permission.

Soules, M. R., *Commentary: Posthumous Harvesting of Gametes—A Physician's Perspective*, 27 J L, Med & Ethics 362–65. Copyright © 1999. Reprinted with the permission of the American Society of Law, Medicine & Ethics and Michael R. Soules. All rights reserved.

Spital, Aaron, *Mandated Choice: A Plan to Increase Public Commitment to Organ Donation*, 273 JAMA 504–06 (1995). Copyright © 1995, American Medical Association. Reprinted with the permission of the American Medical Association.

Stinson, Robert & Peggy, *On The Death Of A Baby*, 244 Atlantic Monthly, July 1979, at 64. Copyright © 1979, Robert and Peggy Stinson, as first published in The Atlantic Monthly. Reprinted with the permission of Robert & Peggy Stinson.

Strong, Carson, *Ethical and Legal Aspects of Sperm Retrieval after Death or Persistent Vegetative State*, 27 J L Med & Ethics 347–58 (1999). Copyright © 1999. Reprinted with the permission of the American Society of Law, Medicine & Ethics and Carson Strong. All rights reserved.

Suter, Sonia M., *The Allure and Peril of Genetics Exceptionalism: Do We Need Special Legislation?*, 79 Wash U L Rev 669 (2001). Copyright © 2001, Washington University Law Review. Reprinted with permission.

Swire, Peter P. & Steinfeld, Lauren B., *Security and Privacy After September 11: The Health Care Example*, 86 Minn L Rev \_\_\_\_ (2002). Copyright © 2002, Minnesota Law Review. Reprinted with permission.

Ubel, Peter A., *Pricing Life: The Controversial Role of Cost-Effectiveness* 142–44; 149–50 (MIT Press, 2000). Copyright © 2000, MIT Press. Reprinted with the permission of MIT Press.

Wesley, Patricia, *Dying Safely*, 8 Issues L & Med 467, 473–484 (1993). Copyright © 1993, National Legal Center for the Medically Dependent & Disabled, Inc. Reprinted with permission.

White, Patricia D., *Appointing a Proxy Under the Best of Circumstances*, 1992 Utah L Rev 849, 850–857. Copyright © 1992, Patricia D. White. Reprinted with permission.

Zussman, Robert, *Intensive Care: Medical Ethics and the Medical Profession* 53–61, 109–110, 177–184 (U Chicago Press, 1992). Copyright © 1992, University of Chicago Press. All rights reserved.

# Table of Cases

The principal cases are in bold type. Cases cited or discussed in the text are roman type. References are to pages. Cases cited in principal cases and within other quoted materials are not included.

- A.C., In re**, 573 A.2d 1235 (D.C.1990), **769**  
 Addington v. Texas, 441 U.S. 418, 99 S.Ct. 1804, 60 L.Ed.2d 323 (1979), 538  
 Akron, City of v. Akron Center for Reproductive Health, Inc., 462 U.S. 416, 103 S.Ct. 2481, 76 L.Ed.2d 687 (1983), 585  
**Application of (see name of party)**  
**Arato v. Avedon**, 23 Cal.Rptr.2d 131, 858 P.2d 598 (Cal.1993), **87**  
 Arena v. Gingrich, 305 Or. 1, 748 P.2d 547 (Or.1988), 53  
 A.Z. v. B.Z., 431 Mass. 150, 725 N.E.2d 1051 (Mass.2000), 836
- Baby K., Matter of, 16 F.3d 590 (4th Cir. 1994), 214, 941  
 Baby M., Matter of, 109 N.J. 396, 537 A.2d 1227 (N.J.1988), 867  
 Bellah v. Greenson, 73 Cal.App.3d 911, 141 Cal.Rptr. 92 (Cal.App. 1 Dist.1977), 169  
 Bellamy v. Bradley, 729 F.2d 416 (6th Cir. 1984), 754  
 Bellotti v. Baird, 443 U.S. 622, 99 S.Ct. 3035, 61 L.Ed.2d 797 (1979), 395, 585  
 Board of Regents of State Colleges v. Roth, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972), 667  
 Boggs v. New York City Health and Hospitals Corp., 132 A.D.2d 340, 523 N.Y.S.2d 71 (N.Y.A.D. 1 Dept.1987), 540  
 Bouvia v. Riverside General Hospital, No. 159780 (Cal.Sup.Ct.1983), 260  
**Bouvia v. Superior Court**, 179 Cal. App.3d 1127, 225 Cal.Rptr. 297 (Cal. App. 2 Dist.1986), **240**  
 Boynton v. Burglass, 590 So.2d 446 (Fla. App. 3 Dist.1991), 166  
 Brotherton v. Cleveland, 141 F.Supp.2d 894 (S.D. Ohio 2001), 683  
 Brotherton v. Cleveland, 923 F.2d 477 (6th Cir.1991), 667, 682  
 Browning, In re Guardianship of, 568 So.2d 4 (Fla.1990), 283  
**Buzzanca, In re Marriage of**, 72 Cal. Rptr.2d 280 (Cal.App. 4 Dist.1998), **861**
- California Dental Ass'n v. F.T.C.**, 526 U.S. 756, 119 S.Ct. 1604, 143 L.Ed.2d 935 (1999), **1026**  
**Canterbury v. Spence**, 464 F.2d 772, 150 U.S.App.D.C. 263 (D.C.Cir.1972), **28**  
 Carson v. Here's Johnny Portable Toilets, Inc., 698 F.2d 831 (6th Cir.1983), 668  
 Cincinnati Radiation Litigation, In re, 874 F.Supp. 796 (S.D. Ohio 1995), 627  
 C., In re, 1 F.L.R. 384 (1998), 942  
**City of (see name of city)**  
 Cleburne, Tex., City of v. Cleburne Living Center, 473 U.S. 432, 105 S.Ct. 3249, 87 L.Ed.2d 313 (1985), 478, 543  
 Cobbs v. Grant, 104 Cal.Rptr. 505, 502 P.2d 1 (Cal.1972), 45  
**Commonwealth v. \_\_\_\_\_ (see opposing party)**  
**Compassion in Dying v. State of Washington**, 79 F.3d 790 (9th Cir.1996), **370**  
**Conroy, Matter of**, 98 N.J. 321, 486 A.2d 1209 (N.J.1985), **486**  
**Conservatorship of Wendland**, 110 Cal. Rptr.2d 412, 28 P.3d 151 (Cal.2001), **518**  
 Crocker v. Pleasant, 727 So.2d 1087 (Fla. App. 4 Dist.1999), 683  
**Cruzan v. Director, Missouri Dept. of Health**, 497 U.S. 261, 110 S.Ct. 2841, 111 L.Ed.2d 224 (1990), 193, 282, **350**  
 Cruzan v. Harmon, 760 S.W.2d 408 (Mo. 1988), 193, 506  
 Curran v. Bosze, 141 Ill.2d 473, 153 Ill.Dec. 213, 566 N.E.2d 1319 (Ill.1990), 672
- Dampier v. Wayne County, 233 Mich.App. 714, 592 N.W.2d 809 (Mich.App.1999), 683  
 Danforth v. Missouri, 428 U.S. 52, 96 S.Ct. 2831, 49 L.Ed.2d 788 (1976), 584  
 Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993), 1034  
**Davis v. Davis**, 842 S.W.2d 588 (Tenn. 1992), **826**  
 Diamond v. Chakrabarty, 447 U.S. 303, 100 S.Ct. 2204, 65 L.Ed.2d 144 (1980), 667



- Diet Drugs, In re, 2001 WL 454586 (E.D.Pa. 2001), 1033
- DiNino v. State ex rel. Gorton, 102 Wash.2d 327, 684 P.2d 1297 (Wash.1984), 783
- Doe v. Johnson, 817 F.Supp. 1382 (W.D.Mich.1993), 171
- Doe v. Roe, 93 Misc.2d 201, 400 N.Y.S.2d 668 (N.Y.Supp.1977), 154
- Doe, In re, 19 S.W.3d 346 (Tex.2000), 585
- Doe, In re, 57 Ohio St.3d 135, 566 N.E.2d 1181 (Ohio 1991), 585
- Duarte v. Chino Community Hospital**, 85 Cal.Rptr.2d 521 (Cal.App. 4 Dist. 1999), 283
- Dubreuil, Matter of**, 629 So.2d 819 (Fla. 1993), 271
- E.G., In re, 133 Ill.2d 98, 139 Ill.Dec. 810, 549 N.E.2d 322 (Ill.1989), 580
- Eisenstadt v. Baird, 405 U.S. 438, 92 S.Ct. 1029, 31 L.Ed.2d 349 (1972), 753
- Estate of (see name of party)**
- Estrada v. Jaques, 70 N.C.App. 627, 321 S.E.2d 240 (N.C.App.1984), 133
- Ferguson v. City of Charleston, 532 U.S. 67, 121 S.Ct. 1281, 149 L.Ed.2d 205 (2001), 797
- Firestone Tire and Rubber Co. v. Bruch, 489 U.S. 101, 109 S.Ct. 948, 103 L.Ed.2d 80 (1989), 953
- Florida v. Powell**, 497 So.2d 1188 (Fla. 1986), 678
- Forbes v. Woods, 71 F.Supp.2d 1015 (D.Ariz.1999), 846
- Fuller v. Frank, 916 F.2d 558 (9th Cir. 1990), 912
- Gallant v. Board of Medical Examiners, 159 Or.App. 175, 974 P.2d 814 (Or.App. 1999), 338
- G.E.B. v. S.R.W., 422 Mass. 158, 661 N.E.2d 646 (Mass.1996), 866
- George, Application of, 630 S.W.2d 614 (Mo. App. W.D.1982), 177
- Georgia v. McAfee, 259 Ga. 579, 385 S.E.2d 651 (Ga.1989), 245
- Georgia Lions Eye Bank, Inc. v. Lavant, 255 Ga. 60, 335 S.E.2d 127 (Ga.1985), 682
- Gerber v. Hickman, 264 F.3d 882 (9th Cir. 2001), 754
- Gillick v. West Norfolk & Wisbech AHA, 1 A.C. 112 (1986), 580
- Goldfarb v. Virginia State Bar, 421 U.S. 773, 95 S.Ct. 2004, 44 L.Ed.2d 572 (1975), 1024
- Green, In re, 452 Pa. 373, 307 A.2d 279 (Pa.1973), 586
- Green, In re**, 448 Pa. 338, 292 A.2d 387 (Pa.1972), 560
- Grimes v. Kennedy Krieger Institute, Inc.**, 366 Md. 29, 782 A.2d 807 (Md. 2001), 618
- Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965), 751
- Guardianship of (see name of party)**
- Hall v. Anwar, M.D.**, 774 So.2d 41 (Fla. App. 2 Dist.2000), 1031
- Hamilton, Matter of, 657 S.W.2d 425 (Tenn. Ct.App.1983), 568
- Hanna v. United States, 845 F.Supp. 1390 (E.D.Cal.1993), 52
- Hart v. Brown**, 29 Conn.Supp. 368, 289 A.2d 386 (Conn.Super.1972), 569
- H.B. v. Wilkinson, 639 F.Supp. 952 (D.Utah 1986), 585
- Head v. Colloton, 331 N.W.2d 870 (Iowa 1983), 175
- Hecht v. Superior Court (Kane)**, 20 Cal. Rptr.2d 275 (Cal.App. 2 Dist.1993), 661
- Heinrich ex rel. Heinrich v. Sweet, 49 F.Supp.2d 27 (D.Mass.1999), 627
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