

ARTICLES

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ARTICLES

INTRODUCTION TO A FESTSCHRIFT HONORING PROFESSOR RHONDA WASSERMAN

Deborah L. Brake*

Rhonda Wasserman joined the faculty of the University of Pittsburgh School of Law in 1986, after graduating from Yale Law School and practicing law in New York City for three years. She has been a powerhouse on the Pitt Law faculty for three and a half decades. In that time, she served in many roles, including Associate Dean for Academic Affairs and, outside the law school, Reporter to the Local Rules Committee of the United States District Court for the Western District of Pennsylvania. She has been recognized with numerous titles and honors, such as John E. Murray Faculty Scholar, Buchanan, Ingersoll & Rooney Faculty Scholar, Distinguished Public Interest Professor, and elected member of the American Law Institute. She is well known to be one of Pitt Law's finest teachers, as her many teaching awards will attest; she received the University of Pittsburgh Chancellor's Distinguished Teaching Award in 2000, and the Pitt Law Student Bar Association's Excellence in Teaching Award in 1990, 2005, and again in 2018. Her national and international prominence led to invitations to teach as a visiting law professor at Harvard Law School, Wuhan University School of Law in Hubei Province, China, and the University of Latvia Faculty of Law in Riga, Latvia. Her service contributions to the Law School are legendary and too numerous to fully list, but they include unwavering devotion to three student organizations, the Pitt Law

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Women's Association, the Pitt Legal Income Sharing Foundation (PLISF), and the Jewish Law Students' Association. In her long tenure as faculty advisor to these groups, Professor Wasserman made a lasting mark and touched many students' lives. As a colleague, she has been unfailingly collegial, admirably courageous when the rubber hits the road, and endlessly generous with her time and wisdom. But it is Rhonda Wasserman as eminent legal scholar whom we celebrate in this festschrift symposium issue of the *University of Pittsburgh Law Review*.

Rhonda Wasserman is a procedural scholar par excellence, with over twenty law journal articles and a leading treatise on procedural due process.¹ In this body of work, complex litigation and the challenges posed by class actions figure prominently. She has tackled a wide range of urgent topics in this space, including the controversial ascertainability requirement imposed by several circuit courts for certifying a class;² the promise and peril of *cy pres* mechanisms for distributing unclaimed class settlement proceeds;³ the unfairness of class action waivers in arbitration agreements;⁴ the challenges of binding future class action claimants;⁵ the complications that arise when claimants exercise back-end opt-out rights;⁶ the implications of secret class action settlements;⁷ interjurisdictional preclusion in transnational classes;⁸ and the effects of multiple related class action lawsuits.⁹ While procedural in its subject matter, this scholarship is animated by a deep commitment to substantive justice, fair legal recourse, and the rule of law. Another strand of

¹ RHONDA WASSERMAN, *PROCEDURAL DUE PROCESS: A REFERENCE GUIDE TO THE UNITED STATES CONSTITUTION* (2004). A listing of all of Rhonda Wasserman's law journal articles would make for a very unwieldy footnote, but can be found in her CV on the faculty webpage of the Pitt Law website, <https://www.law.pitt.edu/people/Rhonda-Wasserman>.

² See Rhonda Wasserman, *Ascertainability: Prose, Policy, and Process*, 50 CONN. L. REV. 695 (2018).

³ See Rhonda Wasserman, *Cy Pres in Class Action Settlements*, 88 S. CAL. L. REV. 97 (2014).

⁴ See Rhonda Wasserman, *Legal Process in a Box, or What Class Action Waivers Teach Us About Law-making*, 44 LOY. U. CHI. L.J. 391 (2012).

⁵ See Rhonda Wasserman, *Future Claimants and the Quest for Global Peace*, 64 EMORY L.J. 531 (2014).

⁶ Rhonda Wasserman, *The Curious Complications with Back-End Opt-Out Rights*, 49 WM. & MARY L. REV. 373 (2007).

⁷ See Rhonda Wasserman, *Secret Class Action Settlements*, 31 REV. LITIG. 889 (2012).

⁸ See Rhonda Wasserman, *Transnational Class Actions and Interjurisdictional Preclusion*, 86 NOTRE DAME L. REV. 313 (2011).

⁹ See, e.g., Rhonda Wasserman, *Tolling: The American Pipe Tolling Rule and Successive Class Actions*, 58 FLA. L. REV. 803 (2006); Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461 (2000).

Rhonda Wasserman's scholarship examines the intersection of procedural justice and family law, including jurisdictional and conflict of law disputes.¹⁰ She was among the first legal scholars to analyze the obligation of states to recognize family status determinations, such as adoption, marriage, and divorce, made by courts in other states for non-traditional families and same-sex couples. One of her articles in this area was awarded the prestigious Dukeminier Award conferred by the Williams Institute of UCLA School of Law.¹¹

As is true for legal scholarship generally, the reach and influence of Rhonda Wasserman's scholarship cannot be fully captured by a citation count. Nevertheless, it would be remiss not to mention what a highly cited scholar indeed Rhonda Wasserman is! She has long been among our most-cited legal scholars in leading citation metrics. But it is her record of judicial citations that is perhaps most striking. As Professor Sandstrom Simard notes in her contribution to this issue, Rhonda Wasserman's very first article¹² was cited by the Second Circuit Court of Appeals and two state appellate courts.¹³ Her subsequent articles have continued to attract the attention of state and federal judges; our WestLaw research found forty-five judicial opinions citing to her work.¹⁴ Two of her articles have found their way into two of the opinions of the United States Supreme Court.¹⁵

¹⁰ See, e.g., Rhonda Wasserman, *Divorce and Domicile: Time to Sever the Knot*, 39 WM. & MARY L. REV. 1 (1997); Rhonda Wasserman, *Parents, Partners and Personal Jurisdiction*, 1995 U. ILL. L. REV. 813.

¹¹ Rhonda Wasserman, *Are You Still My Mother?: Interstate Recognition of Adoptions by Gays and Lesbians*, 58 AM. U. L. REV. 1 (2008), reprinted in 8 THE DUKEMINIER AWARDS: BEST SEXUAL ORIENTATION AND GENDER IDENTITY LAW REVIEW ARTICLES 249 (2009). For a follow-up article on a related topic, the interstate recognition of same-sex relationships, see Rhonda Wasserman, *DOMA and the Happy Family: A Lesson in Irony*, 41 CAL. W. INT'L L.J. 275 (2010).

¹² Rhonda Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37 (1989).

¹³ See Linda Sandstrom Simard, *Rule 23: What it Reveals About How, and When, Courts Should Ascertain the Identities of Individual Class Members*, [note to law review eds. cite to pages corresponding to text at notes 3-6]. The three citing opinions are: *Eli Lilly & Co. v. Gottstein*, 617 F.3d 186 (2d Cir. 2010); *In re Colorado Mills v. Sunopta Grains & Foods, Inc.*, 269 P.3d 731 (Colo. 2012) (en banc); *Thompson v. Fairfax Cnty. Dep't of Family Servs.*, 747 S.E.2d 838 (Va. Ct. App. 2013).

¹⁴ See Appendix.

¹⁵ See *China Agritech, Inc. v. Resh*, 138 S. Ct. 1800, 1811 (2018) (citing *Dueling Class Actions*, 80 B.U. L. REV. 461 (2000)); *id.* at 1814 (Sotomayor, J., concurring) (also citing and quoting *Dueling Class Actions*, 80 B.U. L. REV. 461 (2000)); *Grupo Mexicano e Desarrollo v. Alliance Bond Fund*, 527 U.S. 308, 329, 331, 338, 340 n.5 (1999) (citing and quoting *Equity Renewed: Preliminary Injunctions to Secure Potential Money Judgments*, 67 WASH. L. REV. 257 (1992)).

This festschrift issue of the *University of Pittsburgh Law Review* is dedicated to the scholarship of Rhonda Wasserman. It is celebratory in tone, but also substantive and weighty in its contribution to legal scholarship. It is a testament to Rhonda Wasserman's influence that this issue was able to attract such a distinguished group of legal scholars. The contributions connect to Professor Wasserman's scholarship in varying ways; some focus primarily on Professor Wasserman's published work, while others develop the authors' own legal theories and arguments, with themes similar to and in dialogue with, Professor Wasserman's work. Each is an important piece of scholarship in its own right.

Professor Richard Freer uses a 2012 law review article by Rhonda Wasserman on class action waivers in arbitration clauses¹⁶ as a launching point to explore how the themes identified in that article have continued to animate the U.S. Supreme Court's interpretation of the Federal Arbitration Act (FAA) in the ensuing decade. Tracing the evolution of several themes touched upon in that article, Professor Freer points out the places where Rhonda Wasserman's analysis was prescient and accurately foreshadowed future developments under the FAA, and examines how these themes have continued to evolve in the decade since the article was published. Like Rhonda Wasserman, Professor Freer is critical of the path the Court has charted, which favors arbitration when it serves business interests, but not when it might be used for aggregating "negative-value claims"—those claims for which the cost of securing a remedy exceeds the maximum possible recovery. Professor Freer's analysis exposes the high cost of the Court's recent FAA precedents for injured consumers, employees, shareholders, and other individuals' access to justice. Through its incisive critique, the article aims to spark a reconsideration and correction of the Court's path.

Professor Linda Mullenix's festschrift contribution takes a deep dive into class action settlement litigation and judicial approval of class settlements, an issue that has received the scholarly attention of Rhonda Wasserman as well. In the same spirit as Professor Wasserman's expressed concern for the fairness of class settlements,¹⁷ Professor Mullenix considers the growing use of expert witnesses in judicial approval of settlement classes, which she shows has vastly expanded in the wake of the 2003 and 2018 amendments to Rule 23. Professor Mullenix develops an insightful metaphor to explain how and why expert witnesses have become the evidentiary equivalent of the architectural "flying buttresses," a now outdated device

¹⁶ Rhonda Wasserman, *Legal Process in a Box, or What Class Action Waivers Teach Us About Law-Making*, 44 LOY. U. CHI. L.J. 391 (2012).

¹⁷ See, e.g., Rhonda Wasserman, *Cy Pres in Class Action Settlements*, 88 S. CAL. L. REV. 97 (2014); Rhonda Wasserman, *Secret Class Action Settlements*, 31 REV. LITIG. 889 (2012).

intended to bolster physical structures, in their support for class settlement approval. The article sets forth a typology of the various modes of class settlement expert testimony and critically examines the courts' turn to external experts—particularly mediators—in class settlement approval proceedings. It is a fitting tribute to Professor Wasserman's scholarly agenda of protecting the interest of fairness to all parties in class settlements.

Professor Linda Sandstrom Simard explores several key strands of Professor Wasserman's class action scholarship in her article, *Rule 23: What it Reveals About How, and When, Courts Should Ascertain the Identities of Individual Class Members*. Both professors Sandstrom Simard and Wasserman have a longstanding shared scholarly interest in the appropriate contours and consequences of class action litigation. Professor Sandstrom Simard notes that their scholarly paths first converged while they were both researching the prelusive effects of transnational class action litigation, which led them to different but complementary articles developing legal theories to support a framework for transnational class litigation in U.S. courts. Another shared scholarly interest highlighted by Professor Sandstrom Simard centers on “negative value class litigation” and the ability of claimants to use the class action device to aggregate claims that would otherwise be too low in value to warrant individual litigation. As Professor Sandstrom Simard explains, the ability to certify a Rule 23 class for negative value claims is instrumental to legal and social movements to address economic inequality because large corporations profit from and exploit the inability of consumers to seek redress for small economic harms. In her discussion of Professor Wasserman's scholarship on secret class action settlements, unclaimed settlement monies due to difficulty identifying or notifying absent class members, the promise and pitfalls of *cy pres* remedies, and the controversy over assessing the ascertainability of a class, Professor Sandstrom Simard traces the economic justice threads at the center of Professor Wasserman's class action scholarship. She then responds to Professor Wasserman's call for further attention to ascertainability by elaborating her own proposal to tie administrative feasibility to the nature of the class under Rule 23(b), rather than as a Rule 23(a) prerequisite for certifying a class.

Professor Tobias Barrington Wolff uses the occasion of this festschrift to tackle the thorny jurisdictional and remedial problems that arise when a dispute occurs over compliance with a federal court's consent decree in a district other than the one where the decree was issued. The problem is perplexing because of the hybrid nature of a consent decree, which straddles the disparate realms of contracts, judgments, and courts' remedial powers to issue injunctive relief. Discerning the appropriate jurisdictional and legal framework governing the enforcement of consent decrees requires engaging with such complexities as the scope and source of federal common law, the boundary between enforcing contracts and enforcing injunctions, and the nuances of forum selection and venue. Professor Wolff's article emerges from his

experience as appellate counsel in litigation to enforce the consent decree that resulted from a legal challenge to the Trump administration's separation of children from parents who are immigrants and asylum-seekers detained at the U.S. border. Professor Wolff and his colleagues won a Third Circuit Court of Appeals ruling recognizing original subject-matter jurisdiction in federal district court to enforce the consent decree in another district than the one where the consent decree was issued. As a result, children subject to the consent decree were able to have their rights vindicated in the federal district court in the district in which they were being detained. The issues Professor Wolff discusses—relating to judicial power and jurisdiction, remedies, forum selection, and choice of law—have also figured prominently in Rhonda Wasserman's scholarship. The article reflects both scholars' shared concern for the real-world impact of procedural law and its implications for substantive justice.

Professor Patrick Woolley's contribution to the festschrift begins by highlighting two of Professor Wasserman's articles on class actions as a launching point for his own analysis of an issue of interest to both scholars: the implications of the U.S. Supreme Court's recent personal jurisdiction precedents for the ability of courts to exercise personal jurisdiction over class action defendants. Professor Woolley takes up the concern that, in light of the Court's decision in *Bristol-Meyers Squibb Co. v. Superior Court*,¹⁸ specific jurisdiction may no longer exist in any forum in a class suit involving a nationwide class action. After rejecting two possible arguments for salvaging specific jurisdiction in such cases—that only the Fifth (and not the Fourteenth) Amendment applies to absent class members' claims in federal court, and that only named class plaintiffs need meet the constitutional requirements for specific jurisdiction—Professor Woolley theorizes a third way out of the *Bristol-Meyers* dilemma. Focusing on the nature of, and relationship between, class members' claims, Professor Woolley argues, can supply the necessary connection between the forum state and the claim to support specific jurisdiction. Professor Woolley explains why, under certain conditions that he elaborates, class members' "negative-value claims" that are not worth the cost of suing individually should be treated as the "same claim" for purposes of personal jurisdiction. It is a theory likely to find a receptive audience with Professor Wasserman, whose scholarship also aims to protect the rights of class members and their access to court.

This extraordinarily high-quality set of articles from these five top-notch scholars in their field stands as an enduring tribute to the scholarly legacy of

¹⁸ 137 S. Ct. 1733 (2017) (holding that a territorial connection linking some class action plaintiffs to the forum state does not in itself suffice to create specific jurisdiction over the defendant with respect to the claims of all other class plaintiffs in the action).

Professor Wasserman. It is a celebration worthy of a truly great legal scholar, one of Pitt Law's all-time finest, my dear friend, colleague, and mentor, Rhonda Wasserman.

Appendix: List of Judicial Citations to Publications by Rhonda Wasserman (last updated Feb. 2023)

United States Supreme Court

China Agritech, Inc. v. Resh, 138 S. Ct. 1800, 1811, 1814 (2018) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 472 (2000)).

Grupo Mexicano de Desarrollo S.A. v. All. Bond Fund, Inc., 527 U.S. 308, 329, 331, 338, 340 (1999) (citing Rhonda Wasserman, *Equity Renewed: Preliminary Injunctions to Secure Potential Money Judgments*, 67 WASH. L. REV. 257, 337 (1992)).

Lower Federal Courts

Eli Lilly & Co. v. Gottstein, 617 F.3d 186, 192 n.4 (2d Cir. 2010) (citing Rhonda Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 67 n.135 (1989)).

Snapper, Inc. v. Redan, 171 F.3d 1249, 1254 (11th Cir. 1999) (citing Rhonda Wasserman, *Rethinking Review of Remands: Proposed Amendments to the Federal Removal Statute*, 43 EMORY L.J. 83, 103 n.86 (1994)).

Hous. Bus. J., Inc. v. Off. of Comptroller of Currency, U.S. Dep't of Treasury, 86 F.3d 1208, 1213 n.7 (D.C. Cir. 1996) (citing Rhonda Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 160–62 (1989)).

Trans Penn Wax Corp. v. McCandless, 50 F.3d 217, 222–23 (3d Cir. 1995) (citing Rhonda Wasserman, *Rethinking Review of Remands: Proposed Amendments to the Federal Removal Statute*, 43 EMORY L.J. 83, 112 (1994)).

Cherry v. Dometic Corp., 986 F.3d 1296, 1301 (11th Cir.) (citing Rhonda Wasserman, *Ascertainability: Prose, Policy, and Process*, 50 CONN. L. REV. 695, 697–99 (2018)).

Adjei v. Mayorkas, 59 F.4th 659 (4th Cir. 2023) (citing Rhonda Wasserman, *Divorce and Domicile: Time to Sever the Knot*, 39 WM. & MARY L. REV. 1, 17 (1997)).

Hines v. Equifax Info. Servs., LLC, No. 19-CV-6701, 2022 WL 2841909, at *27 (E.D.N.Y. July 16, 2022) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 542 (2000)).

In re Blue Cross Blue Shield Antitrust Litig., 2020 WL 8256366, at *34 n.4 (N.D. Ala. Nov. 30, 2020) (citing Rhonda Wasserman, *The New, Improved Class Action Rule: The December 2018 Amendments to Rule 23*, PA. BAR. ASS'N Q. 182 (2019)).

In re Toyota Hybrid Brake Litig., No. 20-CV-127, 2020 WL 6161495, at *7, *8 (E.D. Tex. Oct. 21, 2020) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 520, 508 (2000)).

Galvan v. Mnuchin, No. 20-CV-4511, 2020 WL 8259110, at *3 (N.D. Ill. Oct. 15, 2020) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 483–94 (2002 [sic] [2000])).

Fusco v. Ocwen Loan Servicing, LLC., No. 20-CV-80090, 2020 WL 2519964, at *4 (S.D. Fla. May 8, 2020) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 542 (2000)).

Prime Steakhouse v. Mowi ASA, No. 19-CV-00207, 2020 WL 1443759, at *5 n.2 (D. Me. Mar. 25, 2020) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461 (2000)).

Ward v. Flagship Credit Acceptance LLC, No. CV-17-2069, 2020 WL 759389, at *5 (E.D. Pa. Feb. 13, 2020) (citing Rhonda Wasserman, *The New, Improved Class Action Rule: The December 2018 Amendments to Rule 23*, PA. BAR. ASS'N Q. 182, 186 (2019)).

Bartolucci v. 1–800 Contacts, Inc., 245 F. Supp. 3d 38, 51 (D.D.C. 2017) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 486–87 (2000)).

Willcox v. Lloyds TSB Bank, PLC, No. 13-00508, 2016 WL 8679353, at *9 n.8 (D. Haw. Jan. 8, 2016) (citing Rhonda Wasserman, *Transnational Class Actions and Interjurisdictional Preclusion*, 86 NOTRE DAME L. REV. 313 (2011)).

Smith v. SEECO, Inc., No. 14-CV-00435, 2016 WL 10586286, at *3 (E.D. Ark. Apr. 11, 2016) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461 (2000)).

Willcox v. Lloyds TSB Bank, PLC, No. 13-00508, 2016 WL 917893, at *5 (D. Haw. Mar. 7, 2016) (citing Rhonda Wasserman, *Transnational Class Actions and Interjurisdictional Preclusion*, 86 NOTRE DAME L. REV. 313, 313 (2011)).

Kulig v. Midland Funding, LLC, No. 13–CV–4715, 2014 WL 6769741, at *5 (S.D.N.Y. Nov. 20, 2014) (citing Rhonda Wasserman, *Tolling: The American Pipe Tolling Rule and Successive Class Actions*, 58 FLA. L. REV. 803, 858 (2006)).

Martin v. Cargill, Inc., 295 F.R.D. 380, 389, 86 Fed. R. Serv. 3d 1593, 2013 WL 5806165 (D. Minn. 2013) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 542 (2000)).

F.D.I.C. v. Countrywide Fin. Corp., No. 12–CV–4354, 2012 WL 5900973, at *12 (C.D. Cal. Nov. 21, 2012) (citing Rhonda Wasserman, *Tolling: The American Pipe Tolling Rule and Successive Class Actions*, 58 FLA. L. REV. 803, 824 (2006)).

Dukes v. Wal-Mart Stores, Inc., No. C 01-02252, 2012 U.S. Dist. LEXIS 135554, at *23–24 (N.D. Cal. Sept. 21, 2012) (citing Wasserman, *Tolling: The American Pipe Tolling Rule and Successive Class Actions*, 58 FLA. L. REV. 803, 858 (2006)).

Johnson v. Big Lots Stores, Inc., 251 F.R.D. 213, 221–22, 2008 WL 1977507 (E.D. La. 2008) (citing Rhonda Wasserman, *The Subpoena Power: Pennoyer’s Last Vestige*, 74 MINN. L. REV. 37 (1989)).

Indep. Cmty. Bank v. Wortley, No. 05-80681-CIV, 2006 WL 8435505, at *2 (S.D. Fla. Feb. 6, 2006) (citing Rhonda Wasserman, *Equity Renewed: Preliminary Injunctions to Secure Potential Money Judgments*, 67 WASH. L. REV. 257, 293 (1992)).

In re Vioxx Prods. Liab. Litig., 438 F. Supp. 2d 664, 667 (E.D. La. 2006) (citing Rhonda Wasserman, *The Subpoena Power: Pennoyer’s Last Vestige*, 74 MINN. L. REV. 37, 43–46 (1989)).

Corley v. Entergy Corp., 297 F. Supp. 2d 915, 918 (E.D. Tex. 2003) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 473–74 (2000)).

State Courts

In re F.S.T.Y., 374 N.C. 532, 539 (2020) (citing Rhonda Wasserman, *Parents, Partners, and Personal Jurisdiction*, 1995 U. ILL. L. REV. 813, 874–79)).

Carlson v. Renkes, No. S–11492, 2005 WL 1316923, at *643 n.2 (Alaska June 3, 2005) (citing Rhonda Wasserman, *Equity Transformed: Preliminary Injunctions to Require the Payment of Money*, 70 B.U. L. REV. 623, 630 n.23 (1990)).

Anderson v. Dep’t of Admin., Div. of Motor Vehicles, 440 P.3d 217 (Alaska 2019) (quoting Rhonda Wasserman, *Equity Transformed: Preliminary Injunctions to Require the Payment of Money*, 70 B.U. L. REV. 623, 630 n.23 (1990)).

Estate of Lott v. O’Neill, 165 A.3d 1099, 1105 n.4 (Vt. 2017) (citing R. Wasserman, *Equity Renewed: Preliminary Injunctions to Secure Potential Money Judgments*, 67 WASH. L. REV. 257, 271–75 (1992)).

B.B. v. Mell, 243 A.2d 680, 684 (N.J. Super. Ct. App. Div. 2020) (citing Rhonda Wasserman, *Equity Renewed: Preliminary Injunctions to Secure Potential Money Judgments*, 67 WASH. L. REV. 257, 283–84 (1992)).

Lawrence *ex rel.* Lawrence v. St. Augustine High Sch., No. 2007–CA–0263, 2007 WL 1176792, at *21 (La. App. 4 Cir., Mar. 21, 2007) (citing RHONDA WASSERMAN, PROCEDURAL DUE PROCESS: A REFERENCE GUIDE TO THE UNITED STATES CONSTITUTION 31 (2004)).

Denham Springs Econ. Dev. Dist. v. All Taxpayers, Prop. Owners and Citizens of Denham Springs Econ. Dev. Dist., 945 So. 2d 665, 681–82 (La. 2006) (citing RHONDA WASSERMAN, PROCEDURAL DUE PROCESS: A REFERENCE GUIDE TO THE UNITED STATES CONSTITUTION 31 (2004)).

Del. River and Bay Authority v. York Hunter Const., Inc., 344 N.J. Super. 361, 370 n.3 (2001) (citing Rhonda Wasserman, *Equity Renewed: Preliminary Injunctions to Secure Potential Money Judgments*, 67 WASH. L. REV. 257 (1992)).

Gurriere v. Bloomfield Condo Assocs., LLC, No. C-101-15, 2015 N.J. Super. Unpub. LEXIS 2137, at *46 (Aug. 28, 2015) (citing Wasserman, *The Curious Complications with Back-End Opt-Out Rights*, 49 WM. & MARY L. REV. 373, 410 (2007)).

Falk v. Children's Hosp. L.A., 237 Cal. App. 4th 1454, 1470 (2015) (citing Wasserman, *Tolling: The American Pipe Tolling Rule and Successive Class Actions*, 58 FLA. L. REV. 803 (2006)).

Iskanian v. CLS Transp. L.A., LLC, 59 Cal. 4th 348, 402–403 (2014) (citing Wasserman, *Legal Process in a Box, or What Class Action Waivers Teach Us About Law-making*, 44 LOY. U. CHI. L.J. 391, 395 (2012)).

Ulloa v. CMI, Inc., 133 So. 3d 914, 921 (Fla. 2013) (citing Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 88 (1998)).

Thompson v. Fairfax Cnty. Dep't of Family Servs., 747 S.E.2d 838, 383 n.18 (Va. Ct. App. 2013) (citing Rhonda Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 39 (1989)).

In re Colo. Mills v. Sunopta Grains & Foods, Inc., 269 P.3d 731, 734 n.4 (Colo. 2012) (en banc) (citing Rhonda Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 39 (1989)).

Barrett v. Henrys, 56 V.I. 75, 79, (Sup. Ct. 2012) (citing Rhonda Wasserman & Frederick B. Goldsmith, *Third Circuit Court Practitioners Guide to Twombly and Iqbal*, 12 LAWS. J. 8, 9–10 (2010)).

Jefferson v. Bay Isles Assocs., L.L.L.P., 59 V.I. 31 (Sup. Ct. 2011) (citing Rhonda Wasserman & Frederick B. Goldsmith, *Third Circuit Court Practitioners Guide to Twombly and Iqbal*, 12 LAWS. J. 8, 9–10 (2010)).

Davenport v. State, 289 Ga. 399, 400 (2011) (citing Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 88 (1989)).

In re R.W., 2011 VT. 124 (2011) (citing Rhonda Wasserman, *Parents, Partners, and Personal Jurisdiction*, 1995 U. ILL. L. REV. 813, 874–79).

Yeary v. State, 289 Ga. 394, 395 (2011) (citing Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 88 (1989)).

Ex Parte Diefenbach, 64 So. 3d 1091, 1097 (Ala. Ct. Civ. App. 2010) (citing Rhonda Wasserman, *Parents, Partners and Personal Jurisdiction*, 1995 U. ILL. L. REV. 813, 878).

Netezza Corp. v. Intelligent Integration Sys., 27 Mass. L. Rep. 551 (Sup. Ct. 2010) (citing R. Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 67–75).

State v. McGee, 347 Ore. 261, 266 n.5 (2009) (citing Rhonda Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 44 (1989)).

Matter of Sebastian, 25 Misc. 3d 567, 691 (N.Y. Surr. Ct. 2009) (citing Rhonda Wasserman, *Are You Still My Mother? Interstate Recognition of Adoptions by Gays and Lesbians*, 58 AM. U. L. REV. 1 (2008)).

Weinstein v. Aisenberg, 58 So. 2d 705 (Fla. Dist. Ct. App. 2007) (citing Rhonda Wasserman, *Equity Renewed: Preliminary Injunctions to Secure Potential Money Judgments*, 67 WASH. L. REV. 257, 292–93 at n.141-42 (1992)).

N.Y. Career Guidance Servs., Inc. v. Wells Fargo Fin. Leasing, Inc., No. BER-L-1705-03, 2006 WL 224000, at *5 (N.J. Super. Ct. Jan. 27, 2006) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 470 (2000)).

Cerbo v. Ford of Englewood, Inc., No. BER-L-2871-03, 2006 WL 177586, at *10 (N.J. Super. Ct., Law Div., Jan. 26, 2006) (citing Rhonda Wasserman, *Dueling Class Actions*, 80 B.U. L. REV. 461, 470 (2000)).

Tammie J.C. v. Robert T.R. (*In re* Thomas J.R.), 262 Wis. 2d 217, 235–36 (2003) (citing Rhonda Wasserman, *Parents, Partners, and Personal Jurisdiction*, 1995 U. ILL. L. REV. 813, 816 n.15).

Taylor v. Jarrett, 191 Ariz. 550, 552 (Ct. App. 1998) (citing Rhonda Wasserman, *Parents, Partners, and Personal Jurisdiction*, 1995 U. ILL. L. REV. 813, 813–14).

El Pueblo De P.R. Allende, 135 D.P.R. 357, 359 (P.R. 1994) (citing Wasserman, *The Subpoena Power: Pennoyer's Last Vestige*, 74 MINN. L. REV. 37, 153–55 (1989)).