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BOOKS

FIVE RECOMMENDATIONS



G. Edward White[†] & Sarah A. Seo^{}*

Jill Elaine Hasday
Intimate Lies and the Law
(Oxford University Press 2019)

In the song “Natalie Cook” from the musical podcast “36 Questions,” a married couple deals with the fallout from the husband’s discovery that his wife is really an individual named Judith, who “built a past / Made up a history / Details that fit this person named / Natalie.” When the husband accuses the wife, “You’re the one who made her up,” Natalie/Judith responds, “It was a bit more collaborative than you’re remembering.” Deception in intimate relationships is complex and pervasive, ranging from innocent white lies (“you look great, honey”) to outright fraud. It’s difficult for the individuals involved to unpack the layers of dishonesty upon layers of emotion, let alone for those on the outside to make sense of those layers. But time and again, people deceived have petitioned for legal redress and, as a result, deception among the ties that bind is profoundly shaped by law. This is the point of Jill Hasday’s fascinating book *Intimate Lies and the Law*, which explores the history, psychology, and social practices of intimate deception, which all intersect with the law. The book provides seemingly made-for-TV stories of fathers inventing

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careers, mothers withholding the truth about paternity, siblings misrepresenting financial arrangements, and partners lying about their education, marital status, sexuality, or even race, and more. Most of the cases involve lovers, betrotheds, and married couples, so the book is also a study of gender and American law's complicated relationship between women's rights and the need to protect women (although, to be clear, men are not the only deceivers).

Hasday argues that the law inadequately protects the deceived and that legislators and judges should extend them the same protections that apply to deception outside intimate relationships. Those skeptical of this proposal might contend that bestowing more protections would intrusively insert the law into private relationships and that doing so would amount to a radical change. But Hasday shows that the law has not always been so resistant to intimate deception claims and that our current laws, by making deception easy to carry out, do not leave our relationships untouched. In other words, the question is not *whether* the law should regulate intimate deception; rather, the question is *how* we want the law to govern our personal lives.

Eric P. Perramond

Unsettled Waters: Rights, Law, and Identity in the American West
(University of California Press 2018)

This book is not an easy read. It is a detailed analysis of the process by which the state of New Mexico, pursuant to the enactment of a "water code" in 1907, has sought to account for all existing uses of water in all the watersheds of the state. That process is called "general stream adjudications." It begins with state engineers mapping out land parcels with water rights, the points where flows of water diverge, the crops grown on the parcels, the first date there was "beneficial use" of water on the parcels ("beneficial use" being equated with the utilization of water to the advantage of humans), and the water use of the parcels, in acre-feet, each year. The adjudication process presumes that although the state of New Mexico owns all the water in it, individuals have private rights in portions of that water and may treat those portions as commodities to buy or sell. Although the adjudication of water use began shortly after New Mexico enacted the 1907 water code, it has been completed only in a few areas and is expected to continue for many more generations.

State officials involved with the adjudication process think of it as benign. The state is not seeking to appropriate any of the water it surveys; it is simply attempting to map it, recording where it exists and what private individuals are involved in water use in particular areas. The theory of adjudication, from the perspective of those officials, is to give the state a good understanding of