

# Roseanna Sommers

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## Education

Ph.D. in Psychology, Yale University (2012 - 2018)

Dissertation: *Deformed Consent*

Approved with Distinction

Committee: Tom Tyler, Gideon Yaffe, Tess Wilkinson-Ryan, John Bargh, Paul Bloom

J.D., Yale Law School (2012 - 2018)

*Yale Law Journal* editor, Vols. 123 & 124

Israel H. Peres Prize: Best student publication appearing in the *Yale Law Journal*

Margaret Gruter Prize: Best paper concerning behavioral science and law

B.A. in Psychology, Swarthmore College (2006 - 2010)

Highest Honors

Oak Leaf Award: Most outstanding woman in the graduating class

Solomon Asch Award: Most distinguished senior thesis in Psychology

Flack Achievement Award: Most outstanding member of the junior class

## Publications

1. The Voluntariness of Voluntary Consent: Consent Searches and the Psychology of Compliance. 128 *YALE LAW JOURNAL* (with Vanessa K. Bohns) (Essay). Forthcoming 2019.
2. Why Do We Hate Hypocrites? Evidence for a Theory of False Signaling. 28 *PSYCHOLOGICAL SCIENCE* 356 (2017) (with Jillian J. Jordan, David G. Rand, & Paul Bloom). [[Link](#)]
3. Will Putting Cameras on Police Officers Reduce Polarization? 125 *YALE LAW JOURNAL* 1150 (2016) (Student Note). [[Link](#)]
4. The Psychology of Punishment and the Puzzle of Why Tortfeasor Death Defeats Liability for Punitive Damages. 124 *YALE LAW JOURNAL* 1295 (2015) (Student Comment). [[Link](#)]
5. Exploring Public Attitudes Toward Approaches to Discussing Costs in the Clinical Encounter. 29 *JOURNAL OF GENERAL INTERNAL MEDICINE* 1 (2014) (with Marion Danis, Jean Logan, Beverly Weidmer, Shirley Chen, Susan Goold, Steven Pearson, Greer Donley, & Elizabeth McGlynn). [[Link](#)]
6. Forgoing Debriefing in Deceptive Research: Is it Ever Ethical? 23 *ETHICS & BEHAVIOR* 98 (2013) (with Franklin G. Miller). [[Link](#)]
7. Focus Groups Highlight that Many Patients Object to Clinicians' Focusing on Costs, 32 *HEALTH AFFAIRS* 338 (2013) (with Susan Dorr Goold, Elizabeth A. McGlynn, Steven D. Pearson & Marion Danis). [[Link](#)]
8. Affective Forecasting and Well-Being, *THE OXFORD HANDBOOK OF COGNITIVE PSYCHOLOGY* (2013) (with Barry Schwartz). [[Link](#)]

## Popular Press

The “Reasonable” Way to Respond to Being Sexually Harassed. *THE BEHAVIORAL SCIENTIST* [Link].

The Real Problem with Hypocrisy. *THE NEW YORK TIMES* (with Jillian J. Jordan & David G. Rand) [Link].

## Working Papers (Drafts Available)

### **Commonsense Consent**

In a series of psychological experiments, I investigate people’s commonsense understanding of consent. Results show that, contrary to the canonical view that fraud vitiates consent, most laypeople generally think consent is compatible with significant forms of deception. For instance, participants judged a scenario in which a doctor lies about a fact he knows is material to his patient’s willingness to undergo an elective surgery. The majority of survey respondents reported that the patient consented to the surgery, despite being deceived, and refused to find the doctor liable for battery. The same finding holds true for a woman whose prospective sexual partner lies to her about something she previously announced is material to her willingness to consent to sex. Whether the lie is about marital status or HIV status, a substantial proportion of respondents view the deceived party as engaging in sexual relations consensually, willingly, voluntarily, and of her own free will. These results extend to police officers searching homes without warrants, to scientists conducting clinical research on human subjects, and to private parties drawing up contracts. Yet respondents react differently when one party uses coercion, as opposed to deception, to induce the other party to acquiesce, suggesting that there is something special about deception that makes it seem uncorrupting of consent. I present several possible explanations for this finding and argue that the incongruity between the lay and legal conceptions of consent carries ramifications for the public: for their performance as fact-finders in legal cases involving consent, and for their willingness to assert their own rights when they are exploited, manipulated, or deceived.

### **When Fine Print Meets Deception** (with Meirav Furth-Matzkin)

Furth-Matzkin and I study a common form of deception in consumer contracts: a seller says one thing but the written terms of the contract say another, and the consumer signs the contract in reliance on the seller’s false representation, without reading the terms or noticing the discrepancy. Across three studies, we find that laypeople are rigid contractual formalists: even though they believe it is unfair to hold consumers to terms they were deceived into signing, they nonetheless believe that the law will enforce such agreements as written. In fact, we find that in many cases, laypeople do not give *any* weight to the fact that the consumer was deceived prior to signing. These findings, we argue, suggest that consumers may be unlikely to challenge contracts induced by fraud, because their formalistic intuitions lead them to believe that they will be held to whatever they sign.

### **Folk Formalism**

This paper observes that the findings from Furth-Matzkin & Sommers align with a growing empirical literature showing that laypeople tend to focus on the existence of a signature on a written document, rather than on the process of negotiation and communication that led to the agreement. Here I contemplate the consequences of this general phenomenon, which I call “folk formalism.”

I apply a folk formalism lens to question the efficacy of reform efforts that seek to protect vulnerable parties by getting their consent in writing. Consent forms are problematic, I argue, because they resemble contracts. Administering consent forms risks activating people’s intuitive schemas about contracts—schemas that view contracts as rigid and irrevocable. Moreover, as I have argued elsewhere, consent forms do little to mitigate the psychological pressure that people feel to comply with face-to-face requests. Thus, mandating the use of consent forms may ultimately backfire, because seeking consent in writing does little to change compliant behavior, while simultaneously leading people to feel less empowered to assert their rights after signing.

## Papers in Progress

### **A Psychological Critique of the Reasonable Person Standard**

This paper draws on social science research, including my dissertation research, to interrogate the reasonable person standard. The paper first lays out the empirical case that fact-finders are inaccurate at determining what behavior is typical in certain situations. Specifically, it argues that fact-finders are likely to overestimate people's willingness to violate social scripts by acting confrontationally or assertively. The paper then demonstrates that this social perception bias poses a problem for the reasonable person standard. To the extent that the standard is supposed to compare litigants' behavior to what an ordinary person would do, the standard is likely to be misapplied by fact-finders, thanks to their inaccurate assumptions about what behavior is ordinary. The paper concludes by arguing for a new understanding of what lies "beyond the ken of the jury."

### **Trapped in Marriage: A Randomized Controlled Trial of Pro Bono Legal Services Offered to Low-Income Philadelphians Seeking Divorce** (with D. James Greiner, Ellen Degnan, Thomas Ferris, and Cassandra Wolos Pattanyak)

The access-to-justice movement aspires to "achieve 100 percent access to effective legal assistance for essential civil legal needs." Divorce is a constitutional right that can be effectuated only by resort to the courts. It is thus a quintessential example of the kind of civil legal process that must be made accessible to people who cannot afford lawyers.

This paper will report the results of a randomized controlled field study evaluating the difference a lawyer makes in obtaining a divorce in Philadelphia County. We have randomized individuals seeking legal assistance in pursuing divorce to one of two groups: the *treatment group*—which receives an effort by a legal aid provider to find a pro bono attorney to represent her—or the *control group*—which receives a referral to self-help or "lo bono" resources coupled with an offer to answer questions by telephone. We hypothesize that the number of people who receive a divorce after 36 months will be higher in the treatment group than in the control group, even when the divorces in question are as simple as they come. Ultimately, we seek to demonstrate that randomized controlled trials are a promising method for measuring court "accessibility."

## Grants

### **National Science Foundation (NSF) (2018), with Vanessa K. Bohns**

Law and Social Science (LSS) Grant  
*Psychological Assessment of Voluntary Consent*  
 \$250,855

### **University of Chicago Booth Center for Decision Research (2018)**

Thaler-Tversky Independent Research Grant  
*Getting Consent in Writing*  
 \$3,000

### **Yale Institute for Social Policy Studies (2018)**

Graduate Policy Research Grant  
*The Psychological Effect of Ineffective Disclosures*  
 \$1,500

### **American Psychological Association (2017)**

American Psychology-Law Society (Division 41) Grant-in-Aid  
*The Actor-Observer Gap in the Fourth Amendment: Assessing the Voluntariness of Consent Searches*  
 \$750

### **Harvard Program on Negotiation (2017), with Meirav Furth-Matzkin**

Next Generation Grant  
*Negotiating the Fine Print*  
 \$4,000

**Yale Law School (2016)**

Oscar M. Ruebhausen Grant  
*Diverse Populations Study*  
 \$6,000

**Yale Law School (2015)**

Oscar M. Ruebhausen Grant  
*When Does Yes Mean Yes?*  
 \$6,500

## Presentations

### 2018

1. Society for Philosophy and Psychology (SPP) Annual Meeting, "On the Folk Theory of Consent"
2. Faculty of Law at Ruhr University Bochum, Experimental and Naturalistic Perspectives on the Philosophy of Law, "On the Folk Theory of Consent"
3. Conference on Empirical Legal Studies in Europe, "How Consumers and Lawyers Perceive the Fine Print in Deception Cases"
4. American Law and Economics Association (ALEA) Annual Meeting, "The Voluntariness of Voluntary Consent"
5. Yale Law School, Seminar in Law and Psychology, "Consent and Rape: An Experimental Jurisprudence Approach"
6. Public Dissertation Defense, "Deformed Consent"
7. Yale Psychology, Social Psychology Brown Bag, "Judging the Voluntariness of a Consent Search by Police"

### 2017

8. Society for Judgment and Decision Making, "Judging Consent for Self, Other, and the Reasonable Person"
9. Yale Law School, Workshop on Experimental Jurisprudence, "Toward a Folk Theory of Consent"
10. Cornell Law School, Conference on Empirical Legal Studies, "Judging the Voluntariness of Consent: A Psychological Critique of the Fourth Amendment Reasonable Person Standard"
11. National Consumer Law Center, "Consumer Law and Advocacy: Insights from Psychological Research"
12. Boston University, Morality Lab, "The Moral Psychology of Consent"
13. Cornell University ILR School, Micro OB Lab, "Lay Intuitions About Consent and Voluntariness"
14. Cornell University, Ferguson Automaticity Lab, "Social Prediction Errors and the Law of Consent"
15. Harvard Kennedy School, Behavioral Insights Student Group, "Behavioral Insights and Access to Justice"

### 2016

16. Brown University, Social Cognitive Science Brown Bag, "Commonsense Consent"
17. Harvard University, Moral Psychology Research Lab, "Consent and Voluntariness: Legal vs. Lay Views"
18. University of Pennsylvania, Character Lab, "What is Consent? A Psychological Perspective"

19. Carroll School of Management at Boston College, Boston Judgment and Decision Making Day, “Endurance Framing and Limited Resources: Implications for Health, Law, and Policy” (data blitz)
20. Boston Area Moral Cognition Group, “Deception and Commonsense Consent”
21. Harvard Business School, BX2016, “Law and Behavioral Insights”
22. Law and Society Association, 2016 Annual Meeting, “Folk Theories of Consent”
23. Harvard Law School, Student Association for Law & Mind Sciences, “The Psychology of Consent”
24. Swarthmore College, Symposium in Honor of Barry Schwartz, “No Means No, But When Does Yes Mean Yes?”
25. Society for Personality and Social Psychology, 2016 Annual Meeting, “Will Putting Cameras on Police Reduce Polarization?” (poster)

### 2015

26. Washington University School of Law in St. Louis, Conference on Empirical Legal Studies, “Perplexing Public Attitudes Toward Consent”
27. Yale Law School, Doctoral Scholarship Conference, “Lay Versus Legal Theories of Consent”
28. Society for Personality and Social Psychology, 2015 Annual Meeting, “Discrimination in Hiring via Motivated Reasoning” (poster)

### Pre-2015

29. UC Berkeley School of Law, Conference on Empirical Legal Studies, “Jury Instructions and Biased Perceptions of Video Evidence”
30. American Society for Bioethics and the Humanities, “Discussing Costs in the Clinical Encounter”
31. Advancing Ethical Research Conference, “Truth in Advertising: Research Participants May Be Deceived”

## Honors & Awards

Graduate Policy Fellowship at the Yale Institute for Social Policy Studies (2017-2018)

Yale Graduate School of Arts & Sciences Conference Travel Award (2016)

SPSP Graduate Travel Award (2016)

SPSP Diversity Fund Travel Award (2016)

Lucretia Mott Fellowship (2012)

Phi Beta Kappa (2010)

Sigma Xi Scientific Research Society (2010)

Deans' Award (2010): Awarded for significant contribution to the Swarthmore College community

Outstanding Research Award (2009): NSF Research Experience for Undergraduates at the Florida Mental Health Institute

Philip Evans Scholarship (2006 - 2010): Awarded for integrity, intelligence, and a commitment to community service

Susan Kawaichi Appreciating Diversity Award (2006)

National Merit Scholar (2006)

## Work Experience

San Francisco Affirmative Litigation Project (SFALP), 2017 - 2018  
Research assistant for Profs. Douglas Kysar, Reva Siegel, and John Witt, 2015 - 2017  
National Consumer Law Center (NCLC), Summer 2017  
Temporary Restraining Order Project, 2016 - 2017  
American Psychological Association (APA) Office of the General Counsel, Summer 2013  
Ethics Bureau at Yale (EBAY), 2013  
Research Fellow & Ethics Consultant, NIH Department of Bioethics, 2010 - 2012

## Teaching

Legal Research and Writing (Harry A. Bigelow Teaching Fellow and Lecturer in Law), University of Chicago Law School  
Torts (Teaching Assistant), Yale Law School  
Empirical Research Methods (Teaching Assistant), Yale Law School  
Psychology and the Good Life (Teaching Fellow), Yale Psychology \*  
Developmental Psychology (Teaching Fellow), Yale Psychology \*  
\* Teaching evaluations available

## Service

Advisory Board, Access to Justice Lab at Harvard Law School  
Organizer, Workshop on Experimental Jurisprudence, Yale Law School Center for Law & Philosophy  
Co-Chair, YLS Student Advisory Committee on Faculty Recruitment  
Diversity Committee, *Yale Law Journal*, Vols. 123 - 125  
Academic Chair, Women of Color Collective at Yale Law School

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