

**DAVID A. DANA**  
357 East Chicago Avenue  
Chicago, Illinois 60611  
(312) 503-0240  
d-dana@law.northwestern.edu

**EDUCATION:**

HARVARD LAW SCHOOL, Cambridge, MA; J.D. *magna cum laude*, 1988

HARVARD UNIVERSITY, Cambridge, MA; B.A. (Social Studies) *summa cum laude*, 1985

**PROFESSIONAL EXPERIENCE:**

NORTHWESTERN UNIVERSITY SCHOOL OF LAW, Chicago, IL  
July 1999-Present: Stanford Clinton, Sr. and Zylpha Killbride Clinton Research Professor of Law  
Associate Dean for Faculty Research (2004-2010)  
Faculty Associate, Institute for Policy Research; Co-Director and Founder, Northwestern Institute for Sustainable Practices; Affiliated Faculty, Kellogg School of Management.

HARVARD LAW SCHOOL, Cambridge, MA  
Fall 2003. Visiting Professor of Law.

TEL-AVIV UNIVERSITY, Tel-Aviv, Israel  
Summer 1999. Visiting Professor of Law.

BOSTON UNIVERSITY SCHOOL OF LAW, Boston, MA  
July 1993-May 1999: Associate Professor of Law, then Professor of Law.

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Charlottesville, VA  
September 1997- December 1997: Visiting Associate Professor of Law.

U.S. DEPT. OF JUSTICE, ENVIRONMENTAL & NATURAL RESOURCES DIV., Washington, D.C.  
August 1991-June 1993: Trial Attorney, Environmental Defense Section.

WILMER, CUTLER & PICKERING, Washington, D.C.  
October 1989-July 1991: Associate, Securities Litigation and General Litigation Practice Areas.

UNITED STATE COURT OF APPEALS FOR THE NINTH CIRCUIT, Chambers of Hon. Betty Fletcher, Seattle WA  
August 1988-August 1989: Judicial Law Clerk.

**PUBLICATIONS:**

**Environmental/Land Use/Property:**

David A. Dana, ed., THE NANOTECHNOLOGY CHALLENGE: *Creating Legal Institutions for Uncertain Risks* (Cambridge University Press, forthcoming 2011)

*NEPA as Contract*, BOSTON COLLEGE ENVTL AFFAIRS L REV (forthcoming 2011) (with M. Barsa)

*Transforming Corporate Culture Through Safety Cases: Promise, Reality, Illusion?*, U HOUSTON ENERGY L REV (forthcoming 2011) (with M. Barsa)

*Three Obstacles to the Promotion of Corporate Social Responsibility by Means of the Alien Tort Claims Act: The "Purposive" Action Requirement for Aiding and Abetting, the State Action Requirement for Primary Liability, and the Sosa Court's Incoherent Conception of the Law of Nations*, 21 FORDHAM ENVTL L REV 79 (2010) (with M. Barsa)

*Reforming Section 10 of the Endangered Species Act and Habitat Conservation Plans*, in Jonathan Adler, ed., RESTORING THE ARK (AEI Press, forthcoming 2010)

*The Foreclosure Crisis and the Anti-Fragmentation Principle in State Property Law*, 77 U CHICAGO L REV 97 (2010)

*Valuing Foreign Lives and Settlements: The Case of the United States and Climate Change*, J. BENEFIT-COST ANALYSIS, VOL 1, ISSUE 1 (2010)

*When Less Liability May Mean More Precaution: The Case of Nanotechnology*, 28 UCLA ENVT L REV 153 (2010)

*The Mismatch Between Public Nuisance and Global Warming*, 18 SUPREME CRT ECON REV 9 (2010)

*Exclusionary Eminent Domain*, 17 SUPREME CRT ECON REV 7 (2009)

*The Contextual Rationality of the Precautionary Principle*, 35 QUEENS L J 67 (2009)

*Re-framing Eminent Domain*, 32 VERMONT L REV 129 (2007)

*The Law and Expressive Meaning of Condemning the Poor after Kelo*, 101 NORTHWESTERN L REV 365 (2007)

*WTO, Trade and the Environment*, Report of the Environmental Law and Policy Center (Chicago, IL), September 2005

*State Brownfields Programs as Laboratories of Democracy?*, 14 NYU ENVTL. L. REV. 86 (2005)

*Existence Value and Federal Preservation Regulation*, 28 HARV. ENVTL. L. REV. 343 (2004)

*A Behavioral Economic Defense of the Precautionary Principle*, 97 NW. U. L. REV. 1315 (2003)

TAKINGS (Foundation Press, 2002) (with T. Merrill)

*Public Interest and Private Lawyers: Toward a Normative Evaluation of Parens Patriae Litigation by Contingency Fee*, 51 DEPAUL L. REV. 315 (2001)

*Rethinking the Puzzle of Escalating Penalties for Repeat Offenders*, 101 YALE L. J. 1 (2001)

*The New “Contractarian” Paradigm in Environmental Law*, 2000 U. ILL. L. REV. 35

*The Uncertain Merits of Environmental Enforcement Reform: The Case of Supplemental Environmental Projects*, 1998 WISC. L. R. 1181

*Overcoming the Political Tragedy of the Commons: Lessons Learned from the Reauthorization of the Magnuson Act*, 24 ECOLOGY LQ 833 (1997)

*Land Use Regulation in an Age of Heightened Scrutiny*, 75 N. C. L. REV. 1243 (1997)

*The Perverse Incentives of Environmental Audit Immunity*, 81 IOWA L. REV. 969 (1996)

*The Case for Unfunded Environmental Mandates*, 69 S. CAL. L. REV. 1 (1995)

*Natural Preservation And The Race To Develop*, 143 U. PA. L. REV. 655 (1995)

#### **Legal Ethics/Class Actions/Litigation:**

*Democratizing Preemption*, 102 NORTHWESTERN L REV 507 (2008)

*Adequacy of Representation after Stephenson*, 55 EMORY LAW JOURNAL 279 (2006)

*Secret Settlements and Practice Restrictions Aid Lawyer Cartels and Cause Other Harms*, 2003 U. OF ILL. L. REV. 1217 (with S. Koniak)

*Bargaining in the Shadow of Democracy*, 148 U. PA. L. REV. 473 (1999) (with S. Koniak)

*Environmental Lawyers and the Public Service Model of Lawyering*, 74 OR. L. REV. 57 (1995)

#### **OPINION PIECES:**

*A Simple Approach to Preventing the Next Housing Crisis?*, Huffington Post, December 31, 2010

*How Washington Abetted the Bank Job*, New York Times, April 13, 2010

*The Feudal Mistake*, Huffington Post, Dec. 8, 2010

*Getting Green Light: Global Emissions Data Can Make Consumers a Force*, Chicago Tribune, June 10, 2007

*Clean Water is symbol of the power of the people*, San Francisco Chronicle, July 23, 2006

#### **SELECTED PRESENTATIONS/WORKSHOPS:**

*Regulating Nanotechnology*, University of Arizona (December 2010); University of Minnesota Faculty Workshop (Sept 2008); UCLA Frankel Center Law and Public Health Workshop (April 2009)

*Overcoming Excessive Fragmentation of Property in Mortgages*, University of Chicago Conference on Urban Redevelopment (June 2010); University of Colorado Workshop on Institutional Economics (June 2010)

*Valuing Foreign Lives and Civilizations, and the Costs of Climate Change to the United States*, University of Chicago Olin Center Law & Economics Workshop (January 2009); Midwest Law & Economics Assn Meeting (Oct 2008)

*Exclusionary Eminent Domain*, Law and Society Annual Meeting (May 2010), UCLA Law Faculty Workshop (February 2009), Federalist Society Conference, NYC (Jan. 2008)

*Brownfields, Community Participation, and the Laboratories of Democracy Ideal*, NYU LAW School Faculty Workshop (March 2005)

*Emissions Trading, Innovation, and Allowance Banking*, Boalt Hall/UC-Berkeley Environmental Law Workshop (March 2005)

*Public Use After Kelo*, University of Colorado Law School (June 2007), Duke Law School (March 2007), American Association of Law Schools Annual Meeting (January 2005), Debate with Richard Epstein, University of Chicago Law School Forum (November 2004)

*Adequacy of Representation After Stephenson*, Cardozo/Brooklyn Mass Tort Seminar (March 2005), University of Michigan Faculty Workshop (February 2005), Georgetown Law School Faculty Workshop (December 2004); Boston University School of Law Faculty Workshop (November 2004)

*Where Were the Lawyers in Enron?*, Chicago Bar Association CLE Program (March 2007), Endowed Ethics Lecture, Notre Dame Law School (Sept. 2004)

*Non-Use Values in Environmental Law and Regulation*, Harvard Law School Faculty Workshop (November 2003)

#### **SELECTED PROFESSIONAL CONSULTING:**

*Anderson vs. Chesley*, No. 2:10-116-DCR (E.D. KY.); *Citadel Investment Group, LLC v. Matthew Hinerfeld*, AAA Case No. 51-116-979-09 (2011) [qualified as an expert and testified]; *In re Enron Corp. Sec. Litig. Case*, No. H-01-3624 (S.D.N.Y.); *U.S. ex rel Winslow v. Pepsico et. al*, No. 05 Civ. 9274 (CLB) (MDF) (S.D.N.Y.); *Hiatt v. Lois Business Development Corp.*, No. 01-0403 (First Circuit Court, Honolulu, Hawaii) [qualified as expert witness and testified]; *Pentech Pharmaceuticals Inc. v. Par Pharmaceutical, Inc.*, No. 04C3149 (N.D. Ill); *Maslin v. Breakwater Capital, LLC*, No. 06 CH 14839 (Cook County Circuit Court, IL); *South Branch LLC v. River Village*, No. 02CH 656 (Cook County Circuit Court, Illinois).

#### **PROFESSIONAL AFFILIATIONS:**

Member, American Association of Law and Economics and Law and Society Association; American Bar Association; Property and Environmental Law Sections, American Association of Law Schools; New York Bar (inactive); District of Columbia Bar (active)