

DAVID A. DANA

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EDUCATION:

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

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

CURRENT EMPLOYMENT:

NORTHWESTERN UNIVERSITY SCHOOL OF LAW, 1999-Present

Associate Dean for Faculty Research, 2010-2012 and 2016-2018

Kirkland & Ellis Professor of Law, 2013-present (previously Professor of Law)

Director, Energy and Environmental Research Program, Searle Center on Regulation

Founder and Co-Director, Climate Change Governance Working Group, Buffett Institute

Professor of Strategy (by courtesy), Kellogg School of Management

Courses Taught:

Property, Environmental Law, Professional Responsibility, Law of Real Estate Finance and Development (at Kellogg); Intellectual Property (Survey), Water Law, Climate Change Seminar, Environmental and Energy Law Colloquium, Environmental Advocacy Seminar

Dean's Teaching Award, 2011

OTHER PROFESSIONAL EXPERIENCE:

HARVARD LAW SCHOOL, Visiting Professor of Law, Fall 2003

TEL-AVIV UNIVERSITY, Visiting Professor of Law, Summer 1999

BOSTON UNIVERSITY SCHOOL OF LAW, Associate Professor of Law, then Professor of

Law, 1993-1999,

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Visiting Associate Professor of Law, Fall 1993

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

WILMER, CUTLER & PICKERING, Washington, D.C., Associate, Securities Litigation and General Litigation Practice Areas (1989-1991)

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

PUBLICATIONS:

Soda Taxes as a Legal and Social Movement, 13 *Northwestern Journal of Law and Social Policy* 84 (2018) (with J. Nadler)

Escaping the Abdication Trap When Cooperative Federalism Fails: Legal Reform After Flint, 44 *Fordham Urban Law Journal* 1329 (2017)

Invisible Crises in Plain Sight: The Eviction Cycle, Causes, and Reform in Legal Regulation and Education, 115 *Michigan Law Review* 935 (2017) [book review essay]

After Flint: Environmental Justice as Equal Protection, 111 *Northwestern Law Review* 93 (2017) [online] (with D. Turkheimer)

A “Switching Costs” Approach: EPA’s Clean Power Plan As A Model for Allocating the Burden of Carbon Emissions Reductions Among Nations, 7 *San Diego J Climate & Energy Law* 1 (2016) (with M. Barsa)

Incentivizing Municipalities to Adapt to Climate Change, 43 *Boston College Env’t. Aff. Law Review* 281 (2016)

Why Do We Have The Parcel As A Whole Rule?, 39 *Vermont Law Review* 617 (2015)

Public, By Necessity, 13 *Seattle J Social Justice* (2015) (with N. Shoked)

“Does Learning about Climate Change Adaptation Change Support for Mitigation?” 41 *Journal of Environmental Psychology* 19-29 (2015) (w. three co-authors)

A Market Approach To Regulating The Energy Revolution: Assurance Bonds, Insurance, And The Certain and Uncertain Risks Of Hydraulic Fracturing, 99 *Iowa Law Review* 1523 (2014) (w. H. Wiseman)

A Climate Change Lens On The Dormant Commerce Clause, Lifecycle GHG Taxes, And In-State RPSS Requirements, 5 San Diego J Climate & Energy Law (2014) (with M. Barsa)

Sole Editor and Contributor (three chapters), *THE NANOTECHNOLOGY CHALLENGE* (Cambridge Press, 2014)

The Case For An Information-Forcing Definition of “Nanomaterials,” 30 Pace Env't. Law Review 441 (2013)

One Green America?: Continuities And Discontinuities In Environmental Federalism In The United States, 34 Fordham Env't. Law Review 103 (2013)

Why Mortgage “Formalities Matter,” 24 Loyola Consumer Law Review 05 (2012)

Reconceptualizing NEPA To Avoid The Next Preventable Disaster, 38 Boston College Env't. Aff. Law Review 219 (2011) (with M. Barsa)

Where The Extraction Frontier Meets The Safety Frontier: Deepwater Horizon, Safety Cases, and NEPA-as-Contract, U Houston Env't. & Energy L & Policy Journal (2011) (with M. Barsa)

A Simple Approach To Preventing The Next Housing Crisis, 38 Fordham Urban Law Journal 271 (2011)

Three Obstacles to the Promotion of Corporate Social Responsibility by Means of the Alien Tort Claims Act, 21 Fordham Env't. Law Review 79 (2010) (w. M. Barsa)

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

The Foreclosure Crisis and the Anti-Fragmentation Principle in State Property Law, 77 U Chicago Law Review 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 Env't. Law Review 153 (2010)

The Mismatch Between Public Nuisance and Global Warming, 18 Supreme Court Economic Review 9 (2010)

Exclusionary Eminent Domain, 17 Supreme Court Economic Review 7 (2009)

The Contextual Rationality of the Precautionary Principle, 35 Queens Law Journal 67 (2009)

Democratizing Preemption, 102 Northwestern Law Review 507 (2008)

Re-framing Eminent Domain, 32 Vermont Law Review 129 (2007)

The Law and Expressive Meaning of Condemning the Poor after Kelo, 101 Northwestern Law Review 365 (2007)

Adequacy of Representation after Stephenson, 55 Emory Law Journal 279 (2006)

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 Env't. Law Review 86 (2005)

Existence Value and Federal Preservation Regulation, 28 Harvard. Env't. Law Review. 343 (2004)

A Behavioral Economic Defense of the Precautionary Principle, 97 Northwestern Law Review REV. 1315 (2003)

Secret Settlements and Practice Restrictions Aid Lawyer Cartels and Cause Other Harms, 2003 U. of Illinois Law Review 1217 (with S. Koniak)

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. Review. 315 (2001)

Rethinking the Puzzle of Escalating Penalties for Repeat Offenders, 101 Yale Law Journal. 1 (2001)

The New "Contractarian" Paradigm in Environmental Law, 2000 U. Ill. Law Review. 35

Bargaining in the Shadow of Democracy, 148 University of Pennsylvania Law Review 473 (1999) (w. S. Koniak)

The Uncertain Merits of Environmental Enforcement Reform: The Case of Supplemental Environmental Projects, 1998 Wisconsin Law Review 1181

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

Land Use Regulation in an Age of Heightened Scrutiny, 75 North Carolina Law Review 1243 (1997)

The Perverse Incentives of Environmental Audit Immunity, 81 Iowa Law Review 969 (1996)

The Case for Unfunded Environmental Mandates, 69 Southern California Law Review (1995)

Natural Preservation And The Race To Develop, 143 University of Pennsylvania Law Review 655 (1995)

Environmental Lawyers and the Public Service Model of Lawyering, 74 Oregon Law Review REV. 57 (1995)

FORTHCOMING AND WORKING PAPERS:

Judicial Review in an Age of Hyperpartisanship (with M. Barsa) (forthcoming 2018)

Relative Just Compensation (forthcoming 2018)

Geoengineering as a Moral Hazard (with three co-authors) (forthcoming 2018)

Regulation, Private Governance and Public Attitudes (w. J. Nadler) (under submission)

Property's Edges (w. N. Shoked)

ADVOCACY AND OPINION PIECES:

Secret court settlements are a scourge on society, Washington Post, Dec 14, 2017 (w. S. Koniak)

Author and Counsel of Record, Brief for Property Law Professors, *Murr v. Wisconsin*, No. 15-214 (2016-1017 Supreme Court Term)

Trump and Big Auto hit self destruct, Chicago Sun Times, April 4, 2027 (w. M.Barsa)

The Hidden Costs of Cutting Regulatory Costs, Chicago Tribune, Feb. 24, 2017 (w. M. Barsa)

The Mess in Illinois and the Public Trust Case for Pension Reform, Huffington Post, April 25, 2016

After the Fracking Is Done, Chicago Tribune, June 12, 2012

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 (with three co-authors)

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:

The McDonalds Effect: Corporate Governance and Animal Welfare, U. Arkansas, UCSD, Conference on Empirical Legal Studies (November 2017)

Private Property's Edges, PWIP Annual Meeting, Northeastern Law School (Sept. 2017)

Climate Change in Three Frames, Arizona State (May 2017)

A Research Agenda For Understanding The Relationship Between Law and The Shortage of Affordable Urban Housing, Fordham (April 2017)

Cooperative Federalism After Flint, Fordham (February 2017)

A Property Law for a Changing Climate, Suffolk (March 2016)

Takings, Municipalities, Adaptation, Boston University (June 2015) and Boston College (November 2015)

Almost Equal Costs and the Clean Power Plan, San Diego (November 2015)

Understanding The Parcel As A Whole Rule, Vermont (October 2014), Georgia (April 2015)

Climate Change and the Dormant Commerce Clause, UCSD (November 2013)

A Market Approach To Regulating The Energy Revolution, U. of Illinois (October 2013), Minnesota (November 2013), Vanderbilt/ELI (April 2015)

Mortgage Formalities Matter, Notre Dame (October 2013), Loyola (March 2012)

Climate Change Adaptation, UCLA (October 2012)

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)

PROFESSIONAL AFFILIATIONS:

Consultant (Pro Bono), Environmental Defense, Washington, DC; Consultant (Pro Bono), Environmental Law & Policy Center, Chicago, IL; Member, American Association of Law and Economics and Law and Society Association; American Bar Association; Property, Environmental Law, and Professional Responsibility Sections, American Association of Law Schools; Reviewer of submissions to CELS, Oxford U Press, Cambridge U Press, Energy Policy, and ALEA Annual Meeting