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EDUCATION

University of California at Berkeley, School of Law (Boalt Hall), J.D., 1973.
Northwestern University, B.A. History (Phi Beta Kappa), 1970.

PROFESSIONAL POSITIONS

Northwestern University Pritzker School of Law. Present: Williams Memorial Professor of Law and Director, Fred Bartlit Center for Trial Strategy; Previous: Professor of Law, 1981-2007; Associate Professor, 1978-1981; Assistant Professor, 1976-1978; Visiting Assistant Professor, 1975-1976; Northwestern University Legal Clinic, 1975-1987. Subjects taught include Legal Ethics, Business Litigation, Trial Advocacy, Narrative Structures, Criminal Procedure, Civil Procedure, Immigration and Nationality Law, Clinical Practice, Negotiation Workshop, Juvenile Law, Client Counseling, and Pretrial Litigation.

Emory University School of Law. Visiting Professor of Law, 1987-1988. Courses include Legal Profession, Negotiation Workshop, Advanced Litigation, and Trial Advocacy.

Editorial Board, *Court Review*. American Judges Association. 1998 - 2002.

National Conference of Bar Examiners. Drafting Committee, Multi-State Professional Responsibility Exam, 1991-1995.

American Judicature Society. Fellow, 1983-87.

National Institute for Trial Advocacy. Director of Expert Witness Programs, 1982-1998; Director of Midwest Deposition Program, 1988-1999; Instructor, Assistant Team Leader and Teaching Team Leader, Midwest Regional Trial Advocacy Program, 1978-1986.

Illinois Office of Education. Special Education Hearing Officer, 1978-1981.

Federal Trade Commission. Designated Consumer Representative, 1977-1978. Served as counsel for consumer interests at rulemaking hearings in Chicago and San Francisco.

DePaul University School of Law. Instructor on legal research and writing, 1974-1975.

Legal Assistance Foundation of Chicago. Staff Attorney, 1973-1975.

AWARDS AND HONORS

Society of Midland Authors Biography Award (Finalist) for *John Brown's Spy*, 2013

Southern California Book Festival Nonfiction Award (Honorable Mention) for *John Brown's Spy*, 2013

Langum Prize in American Legal History (Honorable Mention) for *Fugitive Justice*, 2011

Dean's Teaching Award, Northwestern University Pritzker School of Law, 1999, 2000, 2008

Hon. Prentice Marshall Trial Advocacy Award, National Institute for Trial Advocacy, 1999

Emil Gumpert Award for Trial Advocacy, American Association for Justice, 1995

Association of American Publishers Book Award (Honorable Mention) for *Judicial Conduct and Ethics*, 1990

PUBLICATIONS

Books and Monographs

THE "COLORED HERO" OF HARPER'S FERRY: JOHN ANTHONY COPELAND AND THE WAR AGAINST SLAVERY. Cambridge University Press (2015).

JOHN BROWN'S SPY: THE ADVENTUROUS LIFE AND TRAGIC CONFESSION OF JOHN E. COOK. Yale University Press (2012)

FUGITIVE JUSTICE: RUNAWAYS, RESCUERS, AND SLAVERY ON TRIAL. Harvard University Press (2010).

THE IMPORTANCE OF BEING HONEST: HOW LYING, SECRECY, AND HYPOCRISY COLLIDE WITH TRUTH IN LAW. New York University Press (2008).

JUDICIAL CONDUCT AND ETHICS. Lexis Law Publishing (5th Edition, 2013)(with James Alfini, Jeffrey Shaman and Charles Geyh).

LAWYERS' POKER: 52 LESSONS THAT LAWYERS CAN LEARN FROM CARD PLAYERS. Oxford University Press (2006).

MURDER IN TOMBSTONE: THE FORGOTTEN TRIAL OF WYATT EARP. Yale University Press (2004).

NOTHING BUT THE TRUTH: WHY TRIAL LAWYERS DON'T, CAN'T, AND SHOULDN'T HAVE TO TELL THE WHOLE TRUTH. New York University Press (2001).

MODERN TRIAL ADVOCACY: ANALYSIS AND PRACTICE. National Institute for Trial Advocacy (5th Edition, 2015)(with J.C. Lore).

MODERN TRIAL ADVOCACY: LAW SCHOOL EDITION. National Institute for Trial Advocacy (4th Edition, 2016)(with J.C. Lore).

MODERN TRIAL ADVOCACY: CANADA. National Institute for Trial Advocacy (3rd Edition, 2010)(with Sheila Block and Cynthia Tape).

EXPERT TESTIMONY: A GUIDE FOR EXPERT WITNESSES AND THE LAWYERS WHO EXAMINE THEM. National Institute for Trial Advocacy (3rd Edition, 2014)(with Elizabeth Boals).

MOCK TRIALS: PLANNING, PRESENTING, AND WINNING YOUR CASE. National Institute for Trial Advocacy (2nd Edition, 2014)(with Jill Koster).

MODERN TRIAL ADVOCACY: REPUBLIC OF CHINA (Taiwan). Cite Publishing House, Taipei (Traditional Characters)(2002).

EVIDENCE IN CONTEXT: A TRIAL EVIDENCE WORKBOOK. National Institute for Trial Advocacy (1998)(with Robert Burns and James Seckinger).

ARBITRATION ADVOCACY. National Institute for Trial Advocacy (1997)(with John Cooley); ADVOCACIA DE ARBITRAGEM, Editora Universidade de Brasilia (Portuguese edition, 2001).

OMANUT HAPRACLITUT (THE ART OF ADVOCACY). Nevo Publishing, Jerusalem (volume one 1996; volume two 2001) (with Yosef Ben-Or and Yonatan Misheiker).

PROBLEMS AND MATERIALS IN EVIDENCE AND TRIAL ADVOCACY. National Institute for Trial Advocacy (2d Edition 2001) (with Robert Burns).

EXERCISES AND PROBLEMS IN PROFESSIONAL RESPONSIBILITY. National Institute for Trial Advocacy (2d Edition 2001) (with Robert Burns and Thomas Geraghty).

CRANBROOKE V. INTELLEX: PROBLEMS AND CASE FILE. National Institute for Trial Advocacy (2d edition, 2009) (with Robert Burns and others).

ADVANCED DEPOSITION PRACTICE: DAMAGES AND EXPERT TESTIMONY. National Institute for Trial Advocacy (1991).

VENDING OPERATOR, INC. V. NITA DEPARTMENT OF TRANSPORTATION: PROBLEMS AND CASE FILE. National Institute for Trial Advocacy (Second Edition, 1993).

FINANCIAL DISCLOSURE BY JUDGES: FUNCTIONAL ANALYSIS AND CRITIQUE. American Judicature Society (1989) (with Judith Rosenbaum).

BEYOND REPROACH: ETHICAL RESTRICTIONS ON THE EXTRAJUDICIAL ACTIVITIES OF STATE AND FEDERAL JUDGES. American Judicature Society (1984).

CHUTZPAH: A JEWISH LIBERATION ANTHOLOGY. New Glide Press (1977) (ed. with Jeffrey Mallow and others).

Articles, Essays, and Chapters

“Investigator Bias and the PACE Trial, *Journal of Health Psychology* (forthcoming, 2017).

“Langston Hughes’s Shawl: Our Objects Tell Amazing Stories, Not All of Them True,” *Humanities* (Summer 2016)(with Rachel Maines).

“Strength in ‘Oberlitionism,’” *Slate*, September 22, 2015.

“Ethnography on Trial,” *The New Republic*, July 15, 2015.

“Ethics On The Run,” *The New Rambler*, May 26, 2015.

“Stupid Jury Questions?” 37 *American Journal of Trial Advocacy* 315 (2014)(with Kevin Chang)

“Execution in Virginia, 1859: The Trials of Copeland and Green,” 91 *North Carolina Law Review* 1785 (2013)

“Stonewalling, Leaks, and Counter-Leaks: SCOTUS Ethics in the Wake of *NFIB v. Sebelius*,” 47 *Valparaiso Law Review* 883 (2013) (with Clare Diegel)

“Clarence Darrow, Neuroscientist: What Trial Lawyers Can Learn from Decision Science,” 36 *American Journal of Trial Advocacy* 61 (2012) (with Sara Whitaker)

“Escape from Harper’s Ferry,” *North & South* (September 2012)

“The Oberlin Fugitive Slave Rescue: A Victory for the Higher Law,” *North & South* (April 2011)

“Why the Dreyfus Affair Does and Doesn’t Matter,” 13 *Green Bag 2d* 329 (2010)

“It Takes a Court,” 60 *Syracuse Law Review* 221 (2010).

“Trial Advocacy,” in *Child Welfare Law and Practice*, edited by Donald Duquette & Ann Haralambie (Bradford Press 2010)(with John Myers).

“Ducks Redux,” *Judicature* (March, 2008).

Judicial Campaign Speech and the Third Law of Motion,” *22 Notre Dame Journal of Law, Ethics, and Public Policy* 425 (2008).

"In Facetiis Veritatis: How Improv Comedy Can Help Lawyers Get Some Chops," *7 Texas Review of Entertainment and Sports Law* 1 (with Thomas Hankinson) (2006).

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“Questioning Ethics,” *Yale Law Journal Online* (January 2006).

“Tilt,” *58 Maine Law Review* 129 (2006).

“The Triage Trilemma,”³⁴ *Hofstra Law Review* 673 (2006).

“Politics and Poker,” *American Heritage* (November/December 2006).

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“Trial Theory and Blind Poetics,” *100 Northwestern University Law Review* 295 (2006).

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“How Cross Examination Really Won the West,” *Litigation*, Winter 2005, page 51.

“The Importance of Being Honest,” *8 The Green Bag 2d* 163 (2005).

“Like a Surgeon,” *88 Cornell Law Review* 1178 (2003).

“Slavery on Trial: The Case of the Oberlin Rescuers,” *54 Alabama Law Review* 785 - 829 (2003).

“Showing Your Hand: A Counter-Intuitive Strategy for Deposition Defense,” *Litigation* Winter 2003, page 38.

“Lawyers’ Poker,” *57 University of Miami Law Review* 283 (2003).

“Division of Authority between Attorney and Client: The Case of the Benevolent Otolaryngologist,” *2003 University of Illinois Law Review* 1275 (with Robert Burns).

“Poker Courtroom: What Litigators Can Learn from Card Players,” *6 The Green Bag 2d* 203 (2003).

“Document Destruction after Enron: Is It Still Housekeeping or Is It a Crime?” *4 Journal of Appellate Practice and Process* 323 (2002).

“Rethinking Deposition Defense: The Case for Strategic Disclosure,” *26 American Journal of Trial Advocacy* 13 (2002).

“Political Activities of Supreme Court Spouses,” *18 Virginia Journal of Law and Politics* 635 (2002).

“Judicial Campaign Conduct Committees: Some Reservations about an Elegant Solution,” *35 Indiana Law Review* 807 (2002).

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“When Free Speech and Ethical Standards Collide,” *Engage*, Spring 2002.

“Slap Leather! Legal Culture, Wild Bill Hickock, and the Gunslinger Myth,” *48 UCLA Law Review* 1545 (2001).

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“Story Framing,” *74 Temple Law Review* 59 (2001).

“Free Speech and Judicial Neutrality: A Reply to Monroe Freedman,” *Court Review*,

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“Storytelling and Trials: Playing the ‘Race Card’ in Nineteenth Century Italy,” 31 *Stetson Law Review* 49 (2001).

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“Judicial Kidnaping, Then and Now: The Case of Edgardo Mortara,” 93 *Northwestern University Law Review* 961 (1999).

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“The Ten Commandments in Alabama, 15 *Constitutional Commentary* 471 (1998).

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- "Persuasion at Trial," 21 *American Journal of Trial Advocacy* 325 (1998).
- "A 'Public Assets' Theory of Lawyers' *Pro Bono* Obligations," 145 *University of Pennsylvania Law Review* 1245 (1997)(with Cathryn Stewart).
- "Is Legal Theory Good for Anything?" 1997 *University of Illinois Law Review* 193.
- "Reply to Critics of 'Into Evidence,'" 91 *Northwestern University Law Review* 662 (1997).
- "Duke Yer Rabbi," 107 *Ethics* 203 (1997).
- "Judicial Independence and Independent Judges," 25 *Hofstra Law Review* 745 (1997).
- "Bulls," 7 *Pretrial Practice & Discovery* 18 (Fall 1997).
- "Judicial Conduct: Speech and Consequences," 4 *The Long Term View* 71 (1997).
- "Malpractice Alert: No Conflict, but a Conflict of Interest," *Business Law Today*, January-February 1997, page 30; reprinted 1997 *Best of ABA Sections* 6.
- "Notes on the Bedouin Horse Trade or Why Won't the Market Clear, Daddy," 74 *Texas Law Review* 1039 (1996).
- "Disqualification of Supreme Court Justices: The Certiorari Conundrum," 80 *Minnesota Law Review* 657 (1996).
- "Lessons From Petticoat Lane," 75 *Nebraska Law Review* 916 (1996).
- "Into Evidence," 81 *Cornell Law Review* 154 (1995).
- "The Rush to Remedies: Some Conceptual Questions About Nonrefundable Retainers," 73 *North Carolina Law Review* 271 (1994).
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"American Law Schools and Closed Minds," 75 *Cornell Law Review* 949 (1990).

"Advice and Consent: Questions and Answers," 84 *Northwestern University Law Review* 879 (1990).

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"Confirmation Ethics: President Reagan's Nominees to the United States Supreme Court," 13 *Harvard Journal of Law and Public Policy* 229 (1990).

"The 1990 Code of Judicial Conduct: An Overview," 74 *Judicature* 21 (1990) (with Jeffrey Shaman and James Alfini).

"Prospects for Implementation of the Genocide Convention Under United States Law," 93 *Proceedings of the American Society of International Law* 323 (1989).

"A Theory of University Climate," 39 *Journal of Legal Education* 51 (1989).

"Some Early Observations on an Experiment with Mandatory Mediation," 4 *Ohio State Journal of Dispute Resolution* 235 (1989).

"Professor Polonius Advises Judge Laertes: Rules, Good Taste, and the Scope of Public Comment," 2 *Georgetown Journal of Legal Ethics* 665 (1989).

"Extradition Unbound: A Reply to Professors Bassiouni and Blakesley," 24 *Texas International Law Journal* 47 (1989).

"Simulation: The Other Side of Clinical Teaching," Fall 1989 *The Northwestern Reporter* 15 (with Robert Burns).

"Judges' Business and Financial Activities: Passive Investment," 10/4 *Judicial Conduct Reporter* 1 (1989).

"Judges' Business and Financial Activities: Business Involvement and Active Management," 11/1 *Judicial Conduct Reporter* 1 (1989).

"International Criminal Law and the 'Ice-Nine' Error: A Discourse on the Fallacy of Universal Solutions," 28 *Virginia Journal of International Law* 963 (1988).

"Financial Disclosure by Judges: Functional Analysis and Critique," 40 *University of Florida Law Review* 241 (1988) (with Judith Rosenbaum).

"Regulation of Judges' Business and Financial Activities," 37 *Emory Law Journal* 1 (1988).

"Judicial Impropriety and Reversible Error," 3 *Criminal Justice* 26 (1988).

"I Teach Legal Ethics," 13 *Journal of the Legal Profession* 133 (1988).

"Taking the Terror Out of Political Terrorism: The Supplemental Treaty of Extradition Between the United States and the United Kingdom," 19 *Connecticut Law Review* 863 (1987).

"The Search for Analysis in Judicial Ethics or Easy Cases Don't Make Much Law," 66 *Nebraska Law Review* 430 (1987).

"What We Should Teach (But Don't) When We Teach Trial Advocacy," 37 *Journal of Legal Education* 123 (1987).

"Judicial Impropriety: Love, Friendship, Free Speech, and Other Intemperate Conduct," 1986 *Arizona State Law Journal* 379 (1986).

"Extradition of Nazis From the United States to Israel: A Survey of Issues in Transnational Criminal Law," 22 *Stanford International Law Journal* 1 (1986) (with Jan Stern Reed).

"When Good People Do Good Things: The Ethical Dimension of Judicial Involvement in Victim Assistance Programs," 69 *Judicature* 199 (1986).

"Judicial Ethics and Private Lives," 80 *Northwestern University Law Review* 301 (1985).

"Participation by Judges in Civic and Charitable Activities: What Are the Limits?" 69 *Judicature* 68 (1985).

"Extradition Reform: Executive Discretion and Judicial Participation in the Rendition of Political Terrorists," 15 *Cornell International Law Journal* 247 (1982).

"The Role of the American Judiciary in the Extradition of Political Terrorists," 71 *Journal of Criminal Law and Criminology* 193 (1980) (with Morris Czaczkes).

"Eyewitness Identification in War Crimes Trials," 2 *Cardozo Law Review* 71 (1980) (with Debra Nesselson).

"Trial Preparation -- A Systematic Approach, 1 *American Journal of Trial Advocacy*," 229 (1978) (with Mark K. Schoenfield). Reprinted, 12 *Trial Lawyers Quarterly* 16

(1978), and 10 *American Journal of Trial Advocacy* 1 (1987).

Opinion, Short Reviews, and Humor

“How a Study about Chronic Fatigue Syndrome Was Doctored, Adding to Pain and Stigma,” *The Conversation*, March 22, 2017; *San Francisco Chronicle*, March 23, 2017; *Houston Chronicle*, March 23, 2017.

“Alito and the Code,” *Slate*, March 14, 2017.

“In Defense of Kellyanne Conway,” *Slate*, February 27, 2017; “Free Kellyanne Conway from Misguided Law Professors,” *Chicago Tribune*, March 3, 2017.

“Does Jason Chaffetz Understand His Job?” *CNN.com*, February 11, 2017 (with Andrew Koppelman).

Review of *The Parker Sisters: A Border Kidnapping*, by Lucy Maddox. *American Historical Review* (February, 2017).

“Why This Lifelong White Sox Fan Will Root for the Cubs,” *Chicago Tribune*, October 25, 2016.

“In Defense of Judge Turner (sort of),” *Chicago Tribune*, August 23, 2016.

“Court Rightly Embraced a ‘Living’ Constitution in Death Penalty Case,” *The National Law Journal*, June 27, 2016.

“Why Isn’t Trump Using the Law to Back Up His Mouth?” *The New Republic*, June 6, 2016 (with Charles Gardner Geyh).

“Bernie or Bust? The Lesson of 1968,” *CNN.com*, May 24, 2016 (with Jim Bendat).

“What Would Nino Do with Garland’s Nomination?” *National Law Journal*, May 7, 2016 (with Charles Gardner Geyh).

“Here’s Betting That a Computer Can’t Play Poker,” *Chicago Tribune*, April 7, 2016.

“Move Forward on Filling Scalia’s Supreme Court Seat,” *Chicago Tribune*, February 16, 2016.

“Ted Cruz Must Recuse Himself on Scalia Replacement,” *CNN.com*, February 15, 2016.

“Ben Carson, a Paternity Case and the Death Penalty,” *Chicago Tribune*, November 13, 2015.

“It’s Time, U of I; Offer Controversial Scholar Steven Salaita a Job,” *Chicago Tribune*, August 11, 2015.

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“Alice Goffman’s Denial of Murder Conspiracy Raises Even More Questions,” *The New Republic*, June 3, 2015.

“Did This Acclaimed Sociologist Drive the Getaway Car in a Murder Plot?” *The New Republic*, May 27, 2015.

“Pamela Geller Is Not ‘Morally Responsible’ for the Terrorist Attack in Texas,” *The New Republic*, May 7, 2015.

“Let Us Pour Some Cold Water on That California Sunshine,” *Chicago Tribune*, April 6, 2015.

“Respecting Palestinians or Demonizing Israel,” *Chicago Tribune*, January 29, 2015.

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“Ted Cruz’s Origins Continue to Haunt Him,” *Salon*, September 20, 2013.

“Ted Cruz’s Ironic Birther Predicament,” *Salon*, August 22, 2013.

“What if We Demanded Ted Cruz’s Papers?” *Salon*, June 19, 2013.

Review of *Prigg v. Pennsylvania: Slavery, the Supreme Court, and the Ambivalent Constitution*, by H. Robert Baker. *Journal of the Civil War Era*, September, 2013.

Review of *Antislavery and Abolition in Philadelphia: Emancipation and the Long Struggle for Racial Justice in the City of Brotherly Love*, edited by Richard Newman and James Mueller. *Journal of the Early Republic*, Spring 2013.

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"Haley Barbour, Slavery, and the Citizenship Test," *Salon*, March 29, 2011.

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