PUBLICATIONS

Articles [50]


A Non-Contentious Account of Article III’s Domestic Relations Exception, 92 NOTRE DAME L. REV. __ (forthcoming 2016) (with Emily Damrau).


In Search of the Probate Exception, 67 VAND. L. REV. 1533-1580 (2014) (invited submission to symposium on federal law in private wealth transfers) (with Michael Downey).


Bivens, the Judgment Bar, and the Perils of Dynamic Textualism, 8 U. ST. THOMAS L. REV. 417-476 (2011-12) (with Neil Aggarwal) (invited submission to symposium on civil liability of federal government).


Rethinking the Supreme Court’s Original Jurisdiction in State-Party Cases, 82 CAL. L. REV. 555-659 (1994).


**Books [5]**


FEDERAL COURTS: CASES, COMMENTS, AND QUESTIONS (7th ed. 2012) (with Redish and Sherry)


PRINCIPLES OF FEDERAL JURISDICTION (Thomson/West) (2d ed. 2011).

**Book Chapters and Encyclopedia Entries [8]**

Suits Against Officeholders in CAMBRIDGE COMPANION TO THE CONSTITUTION (Karen Orren eds. forthcoming 2016)

*Article I Courts* in ENCYCLOPEDIA OF AMERICAN GOVERNANCE (Stephen L. Schechter ed. forthcoming 2016).

*Article III* in ENCYCLOPEDIA OF AMERICAN GOVERNANCE (Stephen L. Schechter ed. forthcoming 2016).

The Story of Bivens v. Six Unknown Named Agents of the Federal Narcotics Bureau (invited chapter in FEDERAL COURTS STORIES 275-99 (V. Jackson & J. Resnik eds. 2010)).


Making Sense of Plurality Judgments, Jotwell (November 2, 2015) (reviewing Ryan Williams, Questioning Marks, [link to article].

How Lower-Court Precedent Affects the Supreme Court, JOTWELL (November 14, 2014) (reviewing Aaron-Andrew Brub, Following Lower-Court Precedent, 81 U. Chi. L. Rev. 851 (2014)), [link to article].

James Wilson, the Committee of Detail, and the Federal Judiciary, JOTWELL (October 8, 2013) (reviewing William Ewald, The Committee of Detail, 28 Const. Comment. 197 (2012)), [link to article].


Court Stripping and Scotland, Chicago Daily L. Bull. (11.23.10).


Two Cultures, Chicago Daily Law Bull. (07.2010).


Reigniting Interest in Corporate Citizenship, Chicago Daily L. Bull. 6 (03.18.10).

One Step Forward, Two Steps Back, Chicago Daily L. Bull. 5 (02.19.10).


Time to Bring Back the Capitol Jail? Chicago Tribune, (08.01.07) (op-ed with Abner J. Mikva).

After You, Says the President, LEGAL TIMES, May 22, 2006 (with Abner J. Mikva).
The Playmate and the Probate Exception, 94 ILL. BAR J. 320 (05.2006).

The Geography of Class Litigation, 94 ILL. BAR J. 148 (03.2006).

Avery Raises Doubts About the Class Action Fairness Act, 93 ILL. BAR J. 648 (12.2005).

Standing on Shaky Ground, 93 ILL. BAR J. 480 (09.2005).

Adding Insult to Overseas Injury: A Failure of the Forum Non Doctrine, 93 ILL. BAR J. 314 (06.2005).

The Substance and Procedure of Class Action Reform, 93 ILL. BAR J. 144 (03.2005).


Charles was First: England’s Charles I Introduced the World to A Terror, LEGAL AFFAIRS (May/June 2004).

The Multiparty, Multiforum Trial Jurisdiction Act of 2002, 48 TRIAL BRIEFS no. 6 at 3 (02.2003).

An Illinois Lawyer in Romania’s Constitutional Court 48 TRIAL BRIEFS, no. 4, at 4 (11.2002).

The House of Terror: Reflection and Reconciliation in the Wake of Hungary’s Recent Election (published in Deci? Law Students Ass’n, Faculty of Law, University of Bucharest).

Overlapping Class Actions and the Proposed Amendments to Rule 23, 47 TRIAL BRIEFS, no. 3 (11.2001).

Y2K Legislation Alters Class Action Jurisdiction, 45 TRIAL BRIEFS, no. 2 (10.1999).

Fessin’ Up Didn’t Hurt Lincoln, CHICAGO TRIBUNE, (09.01.99), at 13 (op-ed page).

The Eleventh Amendment, Seminole Tribe, and the Litigation of Federal Question Claims before the Illinois Court of Claims, 43 Trial Briefs, no. 4 (03.1998).


Accident Reconstruction: Further Turns in the Road, 42 TRIAL BRIEFS, no. 1 (07.1996).


Amicus Briefs [2]

Brief in Support of Respondents, Simmons v. Himmelreich, Supreme Court of the United States (Docket No. 15-109)


Works in Progress

The Contested History of Article III’s Case or Controversy Requirement
Constitutional Torts and the War on Terror (book under contract with Oxford University Press)

Select Academic and Professional Presentations

Remedies and the Supreme Court’s New Equity, Remarks to the Section on Federal Courts, Association of American Law Schools (1.5.16)

Standing to Sue: Lessons from Scotland’s Actio Popularis

Tel Aviv University Faculty of Law, Tel Aviv, Is (12.21.15)
American Society for Legal History, Washington, D.C. (10.30.15)


Festschrift in Honor of Henry Monaghan, Villanova Law School, Philadelphia, PA (10.16.15)

Litigation U.S.-Style and the Prospects for Cross-Border Harmonization

Charles University Faculty of Law, Prague, CZ (8.13-14.15)

Principle and Pragmatism in the Federal Judiciary of the Early Republic

Judicial Conference of the U.S. Court of Appeals for the Second Circuit (6.11.15).

The Contested History of Article III’s Case-or-Controversy Requirement

American Bar Foundation, Chicago, IL (2.18.15)
University of San Diego, Conference on Originalism (2.20.15).
Georgetown University Law Center (3.30.15)

Non-Contentious Jurisdiction and Inquisitorial Judging in the United States

University College Dublin, Ireland (12.03.14)
University of Edinburgh, Scotland (11.25.14)
Disaggregating Sovereign Immunity: Lessons from the Commonwealth

University of Auckland Faculty of Law, Auckland, New Zealand, (05.13.14)
University of Otago Faculty of Law, Dunedin, New Zealand, (05.05.14)

Article III, the Adverse-Party Requirement, and Non-Contentious Jurisdiction

University of Virginia School of Law, Charlottesville, VA (04.18.14)
Cardozo University School of Law, New York NY (03.19.14)
University of Nevada-Las Vegas School of Law (03.13.14)

In Search of the Probate Exception

Vanderbilt Law Review symposium on private wealth transfers, Nashville, TN (02.21.14)

The Anti-Injunction Act and the Problem of Federal-State Jurisdictional Overlap

University of Missouri School of Law, Columbia, MO (09.13.13)
Loyola LA College of Law, Los Angeles, CA (03.26.13)
University of Pennsylvania School of Law, Philadelphia, PA (10.02.13)
St. Louis University School of Law, St. Louis, MO (09.20.13)

The Chief Justice, the Appointment of Inferior Officers, and the “Court of Law” Requirement

Florida International University, Miami, FL (01.17.12)

Defining Judicial Power in the Early Republic: Civil Law and the Limits of Article III

American Society for Legal History, Atlanta, GA (10.12.11)

Developments in Class Action Law, Federal Bar Association, Chicago (09.08.11)

Bivens, the Judgment Bar, and the Perils of Dynamic Textualism

University of Kansas School of Law, Lawrence, KS (04.22.11)
University of St. Thomas, Minneapolis, MN (conference on the civil liability of the federal government) (03.18.11)

Resolving the Qualified Immunity Dilemma: Constitutional Tort Claims for Nominal Damages, Brooklyn Law School, Brooklyn, NY (04.14.11)

Qualified Immunity and the Roberts Court

Conference, Fordham Law School, New York, NY (04.08.11)
Section on Federal Courts of the Association of American Law Schools, San Francisco, CA (01.08.11)
Article III and the Scottish Judiciary

Chicago Legal History Seminar, American Bar Foundation, Chicago, IL (01.31.11)
University of Illinois constitutional law and history colloquium, Champaign, IL (11.15.10)

Democracy and the Qualifications of Article III Judges

Loyola University, How Democratic is the Constitution, Chicago, IL (11.05.10)

Iqbal, Bivens, and the Role of Judge-Made Law in Constitutional Litigation

Conference on Iqbal at Penn State School of Law, Carlisle, PA (03.26.10)

Public Wrongs and Private Bills: Indemnification and Government Accountability in the Early Republic

Faculty workshop at Harvard Law School, Cambridge, MA (11.19.09)
American Society for Legal History, Dallas, TX (11.14.09)

Roundtable on Third Party Financing of Litigation, Searle Center, Chicago, IL (09.24.09)

Disaggregating Sovereign Immunity: Lessons from the Commonwealth

Tel Aviv University Buchmann Faculty of Law (12.31.08)
University of Haifa Faculty of Law (11.12.08)
Radzyner School of Law, IDC, Herzliya, Israel (11.11.08)

Establishing a (More) Uniform Rule of Naturalization, University of California, Hastings School of Law, San Francisco, CA (09.23.08)

Judicial Compensation and the Definition of Judicial Power

Chicago Legal History Seminar, American Bar Foundation, Chicago, IL (09.18.08)
American Society for Legal History, Tempe, AZ (10.25.07)
Northwestern University School of Law (08.28.07)

Moderator, Panel on Originalism and Precedent, Northwestern Law Review Conference on Originalism, (04.24.08)

Forum Shopping and the Infrastructure of Federalism, keynote address to the symposium on federalism, Temple Political and Civil Rights Law Review, (10.20.07)

Moderator, Panel on Administrative Preemption, Northwestern University Law Review conference on Preemption (04.2007)

Federal Supremacy, State Court Inferiority, and the Constitutionality of Jurisdiction Stripping

University of Georgia Law School, Athens, GA (03.09.07)
University of Chicago Law School, Chicago, IL (11.09.06)
Northwestern University School of Law (11.02.06)
Washington University School of Law, St. Louis, MO (02.10.06)

*Public Law Issues*, Conference on Chinese Reforms in Comparative Perspective, University of Illinois, Champaign, IL (03.08.07)

*Territorialism and the Resolution of Jurisdictional Conflict*, Comparative Law Workshop, University of Illinois, Champaign, IL (02.10.07)

*Protective Jurisdiction, Minimal Diversity, and Aggregate Litigation*, Conference in honor of Paul Mishkin at Boalt Hall, Berkeley, CA (10.28.06)

*Presidential Power and Foreign Relations*, Cline Symposium Roundtable Discussion, Department of Political Science, University of Illinois, Champaign, IL (04.18.06)

*The Limits of Habeas Jurisdiction and the Global War on Terror*

  Faculty workshop, Northwestern University School of Law, (09.14.05)
  *Cornell Law Review*, Developments in the Law of Habeas Corpus, Ithaca, NY (04.02.05)

*The Historical Underpinnings of Judicial Independence*, Address to the Illinois Advanced Judicial Academy, Champaign, IL (06.06.05)

*Balancing Freedom and Security: The Use of Habeas Corpus to Challenge Overseas Detention*, Cline Symposium, Department of Political Science, University of Illinois, Champaign, IL. (04.14.05)

*Article I Tribunals, Article III Courts, and the Judicial Power of the United States*

  Capital University Law School, Columbus, OH (11.10.04)
  University of Missouri Law School, Columbia, MO (09.30.04)

*Disaggregating Sovereign Immunity: Lessons from Australia*, Centre for Comparative Constitutional Law, University of Melbourne, Australia (08.23.04)

Köbler v. Austria: *Europe’s Evolving Conception of Member State Liability*

  British Institute of International and Comparative Law, London, England (03.31.04)
  Chicago-Kent College of Law colloquium on comparative law, Chicago, IL (03.05.04)

*Article I Tribunals, Article III Courts, and the Judicial Power of the United States*

  University of Houston Law Center, Houston, TX (02.12.04)
  Indiana University School of Law, Indianapolis, IN (02.05.04)

*Member State Liability and Constitutional Change in the United States and Europe*

  University of Illinois College of Law, Champaign, IL (05.09.03)
  Case Western Reserve School of Law, Cleveland, OH (11.11.02)
Free Speech and Social Responsibility, Moderator of campus-wide panel discussion convened by Office of Chancellor, University of Illinois at Urbana-Champaign (04.03.03)


Civil Liberty and National Security, Moderator of panel discussion, Center for Advanced Study, University of Illinois (12.04.02)


The Law and September 11, host of Afternoon Magazine, on WILL AM 580, Urbana, IL (09.12.02)

Constitutional Courts in Comparative Perspective

Orientalism and Occidentalism, University of Bucharest, Romania (06.08.02)
Second Annual Cultural Passages Conference, Lucian Blaga University of Sibiu, Romania, (05.24.02)

Fifty Years of Federal Courts, AALS workshop on Federal Courts (05.18.02)

Marbury and Judicial Review in Comparative Perspective, Faculty of Law, University of Bucharest

Liberty, Equality, and Individual Rights Under the Law, Plenary session of joint conference of the University of Bucharest American Studies Program and the Romanian-American Fulbright Commission, Bucharest, Romania (01.31.02)

Overlapping and Duplicative Class Actions, Chair of a panel discussion at the Class Action Conference of the Advisory Committee on Civil Rules of the Judicial Conference of the United States, University of Chicago Law School, Chicago, IL. (10.23.01)

Academic Lawyers, lecture as Prentice H. Marshall Professor of Law, Champaign, IL (10.2001)

Marbury, Original Jurisdiction, and the Supreme Court’s Supervisory Power

Columbia University School of Law, New York, NY (03.29.01)
University of Arizona College of Law, Tucson, AZ (01.12.01)

Class Actions and Judicial Federalism: Who Should Decide? Annual Meeting of the National Conference of State Legislatures, Chicago, Illinois (07.19.00)

Mass Tort Litigation in Federal Courts: Forum Selection, Annual Meeting of the Second Judicial Circuit of the United States, Lake George, New York (06.16.00)
Jurisdiction Stripping and the Supreme Court’s Power to Supervise Inferior Tribunals

Notre Dame Law School, South Bend, IN (03.03.00)

Texas Law Review symposium on jurisdiction stripping; Austin, TX (10.16.99)


Devolution: The Role of Congress and the Court (with Abner J. Mikva) (recorded audio tape commentary on federalism for the program, Policy Soundings, IGPA, University of Illinois; (11.30.99)

Civil Liability Provisions of the Global Tobacco Settlement, Invited testimony before the House Judiciary Committee, (02.05.98)

The Congressional Subpoena of Sensitive Tobacco Industry Documents, Invited testimony before the House Judiciary Committee, (03.31.98)

The Etiquette of Intergovernmental Relations: Recent Developments in Constitutional Federalism, The New Federalism, University of Illinois, Chicago, IL, Fall 1996


Sovereign Immunity and the Right to Petition: Toward a First Amendment Right to Pursue Judicial Claims Against the Government, University of Illinois College of Law, (10.1995)

The Judicial Role in Health-Care Reform, Conference on Health Care Reform and the Role of the States, Chicago, Illinois (04.1994)

Rethinking the Supreme Court’s Original Jurisdiction in State-Party Cases, University of Illinois College of Law, Champaign, IL Summer 1993

Environmental Federalism in Europe and the United States: A Comparative Assessment, Conference on Environmental Policy, University of Illinois, Champaign, IL (10.1993)

Section 301 Preemption: Recent Developments, NLRB Conference, Peoria, IL (12.1990)

REFEEEREE (SELECTED)

American Political Science Review
Czech Science Foundation
Harvard Law Review
Law & History Review
Law and Social Inquiry
Journal of Empirical Legal Studies

Northwestern Law Review
Romanian Fulbright Commission
Stanford Law Review
University of Chicago Press
Yale Law Journal
Awards and Honors

Recipient, Resolution in Recognition of Service to Committee on Federal-State Jurisdiction (2014)
Dean’s Teaching Award, Northwestern University School of Law (2008; 2010).
Outstanding First-Year Course Professor, Northwestern University School of Law (2007).
Carroll P. Hurd Award for Excellence in Faculty Scholarship, University of Illinois (2005).
Fulbright Senior Scholar, University of Bucharest, Bucharest, Romania (Spring 2002).
Law Clerk to Levin H. Campbell, United States Court of Appeals for the First Circuit

Prior Appointments

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<tr>
<th>Term</th>
<th>Position</th>
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<tr>
<td>Fall 2009</td>
<td>Charles Fairchild Visiting Professor of Law, Harvard Law School</td>
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<tr>
<td>Fall 2008</td>
<td>Visiting Professor, Radzyner School of Law, Herzliya, Israel</td>
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<tr>
<td>2001 - 2007</td>
<td>Prentice H. Marshall Professor, University of Illinois College of Law</td>
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<tr>
<td>Spring 2001</td>
<td>Visiting Professor, Columbia University Law School, New York</td>
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<tr>
<td>1994 - 2001</td>
<td>Professor, University of Illinois College of Law</td>
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<td>1988 - 1994</td>
<td>Assistant-Associate Professor, University of Illinois College of Law</td>
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Teaching Experience

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<th>Course</th>
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<tr>
<td>Constitutional History</td>
<td>1999</td>
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<td>Constitutional Law Colloquium</td>
<td>2009-11</td>
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<td>European Union Law</td>
<td>2000-04</td>
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<td>International Civil Litigation</td>
<td>2006, 2012</td>
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<td>Seminar on Brown v. Board</td>
<td>2004</td>
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<tr>
<td>Seminar on Gov’t Accountability</td>
<td>2006, 2015</td>
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Service to the School of Law

Member, Curriculum Working Group (2013-14)
Chair, Strategic Planning Committee (2012-13)
Chair, Personnel Committee (2011-12) (elected by vote of the faculty)
Member, Faculty Advisory Committee (2011-12; 2014-16) (elected by vote of the faculty)
Member, Ad Hoc Committee on Use of GMAT in Admissions (2011)
Chair, Tenure and Promotion Subcommittee (2009-10)
Chair, Judicial Clerkship Committee (2008-09, 2010-11)
Member, Communication Task Force (2008-09)
Member, Personnel Committee (2007-08, 2010-11, 2014-15)
Member, Ad Hoc Voting Rules Committee (2007-08)
Member, Ad Hoc Committee on Law Journals (2014)
PROFESSIONAL ASSOCIATIONS

AMERICAN LAW INSTITUTE (MEMBER SINCE 1999)

ASSOCIATION OF AMERICAN LAW SCHOOLS

Member, Federal Courts Prize Committee (2013-14)
Member, Section on Committees and the Annual Meeting
Member, Executive Committee, Section on Federal Courts (1998-00, 2003-16)
Program Chair, Section on Federal Courts (1999-2000)
Chair, Section on Federal Courts (2000-01)
Chair, Section on Civil Procedure (2002-03)
Member, Executive Committee, Section on Civil Procedure (2001-03)

BAR ASSOCIATIONS AND ADMISSIONS

American Bar Association (1988)
Admitted to practice: District of Columbia Court of Appeals, 1983; Supreme Court of Illinois, 1990 (inactive); Supreme Court of the United States, 1987.

PUBLIC AND PROFESSIONAL SERVICE

REPORTER/CONSULTANT, Federal-State Jurisdiction Committee of the Judicial Conference of the United States (since 1998)

MEMBER, BOARD OF DIRECTORS, CHICAGO APPLEASEED (2013 to present)

EDUCATION

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Charlottesville, Virginia; J.D.
Articles Editor, Virginia Law Review
Law School Alumni Award for Academic Excellence
Order of the Coif; Raven Society; Shannon Award

UNIVERSITY OF MISSOURI, COLUMBIA, Missouri; B.A. Economics
Vice President, Missouri Students Association
QEBH; Mortar Board; Omicron Delta Kappa; Sigma Rho Sigma