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## **PUBLICATIONS**

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### **Articles [53]**

*The Contested History of Article III's Case-or-Controversy Requirement*, 65 UCLA L. REV. \_\_\_ (forthcoming 2018)

*Adverse Interests and Article III: A Reply*, 111 Nw. U. L. Rev. \_\_\_ (forthcoming 2017) (with Daniel D. Birk).

*Standing to Sue: Lessons from Scotland's Actio Popularis*, 66 DUKE L.J. \_\_\_ (forthcoming 2017).

*Scalia's Legacy: Originalism and Change in the Law of Standing*, 6 BRIT. J. AM. LEG. STUD. \_\_\_ (forthcoming 2017) (invited submission to special issue on Justice Scalia's legacy).

*A Non-Contentious Account of Article III's Domestic Relations Exception*, 92 NOTRE DAME L. REV. 117 (2016) (with Emily Damrau).

*A Declaratory Theory of State Accountability*, 102 VA. L. REV. 153 (2016) (with Jessica Dwinell).

*Article III Judicial Power, the Adverse-Party Requirement, and Non-Contentious Jurisdiction*, 124 YALE L.J. 1346-1474 (2015) (with Daniel D. Birk).

*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).

*Morris v. Allen and the Lost History of the Anti-Injunction Act*, 108 Nw. U. L. REV. 187-242 (2014) (with Nassim Nazemi).

*The Anti-Injunction Act and the Problem of Federal-State Jurisdictional Overlap*, 92 TEX. L. REV. 1-73 (2013) (with Nassim Nazemi).

*W(h)ither Bivens?* 161 U. PA. L. REV. Online (2013) (with David Baltmanis).

*The Chief Justice, the Appointment of Inferior Officers, and the "Court of Law" Requirement*, 107 Nw. U.L. REV. 1125-1180 (2013).

*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).

*Interlocutory Review by Agreement of the Parties: A Preliminary Analysis*, 105 Nw. U.L. REV. 1043-1095 (2011-12) (with Dave Pekarek Krohn).

*Article III and the Scottish Judiciary*, 124 HARV. L. REV. 1613-87 (2011) (with Daniel D. Birk).

*Resolving the Qualified Immunity Dilemma: Constitutional Tort Claims for Nominal Damages*, 111 COLUM. L. REV. 1601-1639 (2011).

*Collateral Review of Remand Orders: Reasserting the Supervisory Role of the Supreme Court*, 159 U. PA. L. REV. 493-542 (2011).

*Public Wrongs and Private Bills: Indemnification and Government Accountability in the Early Republic*, 85 N.Y.U.L. REV. 1862-1939 (2010) (with Jonathan L. Hunt).

*Iqbal, Bivens, and the Role of Judge-Made Law in Constitutional Litigation*, 114 PENN. STATE L. REV. 1387-1417 (2010) (invited submission to a conference on *Ashcroft v. Iqbal*).

*Reclaiming the Immigration Constitution of the Early Republic: Prospectivity, Uniformity, and Transparency*, 96 VA. L. REV. 359-441 (2010) (with Theresa Wardon).

*Rethinking Bivens: Legitimacy and Constitutional Adjudication*, 98 GEO. L.J. 117-151 (2009) (with David Baltmanis).

*Triangulating Standing*, 53 ST. LOUIS U. L.J. 829-842 (2009) (invited submission to a symposium on Federal Courts).

*Judicial Compensation and the Definition of Judicial Power in the Early Republic*, 107 MICH. L. REV. 1 (2008).

*Forum Shopping and the Infrastructure of Federalism*, 17 TEMP. POL. & CIV. RTS. L. REV. 355-370 (2008) (invited submission to symposium on federalism).

*Removing Federal Judges*, 74 U. CHI. L. REV. 1227-1250 (2007).

*Protective Jurisdiction, Aggregate Litigation, and the Limits of Article III*, 95 CAL. L. REV. 1423-1472 (2007) (invited submission to the symposium in honor of Paul Mishkin).

*Federal Supremacy, State Court Inferiority, and the Constitutionality of Jurisdiction Stripping*, 101 NW. U.L. REV. 191-238 (2007).

*Köbler v. Austria: Expositional Supremacy and Member State Liability*, 17 EUR. BUS. L. REV. 275-97 (2006) (submission invited by British Institute on International and Comparative Law).

*Brown II: Ordinary Remedies for Extraordinary Wrongs*, 24 J. L. & INEQ. 47-79 (2006) (invited submission to University of Minnesota conference marking the fiftieth anniversary of *Brown II*).

*The Limits of Habeas Jurisdiction and the Global War on Terror*, 91 CORNELL L. REV. 497-540 (2006) (invited submission to *Cornell Law Review* symposium).

*Jones Act Claims Against the States After Alden v. Maine: The Surprisingly Strong Case for a Compulsory State Forum*, 36 J. MAR. L. & COM. 1-20 (2005).

*Article I Tribunals, Article III Courts, and the Judicial Power of the United States*, 118 HARV. L. REV. 643-776 (2004).

*The Tidewater Problem: Article III and Constitutional Change*, 79 NOTRE DAME L. REV. 1925-1980 (2004) (invited submission to issue honoring David Shapiro).

*Government Accountability in Europe: A Comparative Perspective*, 35 GEO. WASH. INT'L L. REV. 611-652 (2003) (invited submission to symposium held in connection with the Judicial Conference of the United States Court of Federal Claims).

*Member State Liability and Constitutional Change in the United States and Europe*, 51 AM. J. COMP. L. 237-274 (2003).

*The Simmering Debate Over Supplemental Jurisdiction*, 2002 U. ILL. L. REV. 1209-1231.

*Waiver of Sovereign Immunity in the "Plan of the Convention,"* 1 GEO. J. L. & PUB. POL. 13-28 (2002) (invited submission to inaugural issue).

*Fifty Years (More or Less) of Federal Courts: An Anniversary Review*, 77 NOTRE DAME L. REV. 1083-1120 (2002) (invited submission to annual Federal Practice and Procedure issue).

*Marbury, Original Jurisdiction, and the Supreme Court's Supervisory Powers*, 101 COLUM. L. REV. 1515-1612 (2001).

*Jurisdiction-Stripping and the Supreme Court's Power to Supervise Inferior Tribunals*, 78 TEXAS L. REV. 1433-1512 (2000) (invited submission to *Texas Law Review* symposium on jurisdiction stripping under the AEDPA).

*Once More Unto the Breach: Eleventh Amendment Scholarship and the Court*, 75 NOTRE DAME L. REV. 817-842 (2000) (invited submission to symposium on state sovereign immunity after *Alden v. Maine*).

*Restoring the Petition Clause*, 94 NW. U. L. REV. 219-226 (1999) (reply to Lawson & Seidman, *Downsizing the Petition Clause*, 93 NW. U. L. REV. 739 (1999)).

*Supplemental Jurisdiction and Section 1367: The Case for a Sympathetic Textualism*, 148 U. PA. L. REV. 109-161 (1999).

*So Help Me God: Religion and Presidential Oath-Taking*, 16 CONST. COMM. 549-553 (1999) (invited submission to symposium on constitutional change).

*An Intermediate Solution to State Sovereign Immunity: Federal Appellate Court Review of State Court Judgments After Seminole Tribe*, 46 UCLA L. REV. 161-229 (1998).

*History and State Suability: An "Explanatory" Account of the Eleventh Amendment*, 83 CORNELL L. REV. 1269-1382 (1998).

*On the Meaning of Congressional Silence: Using Federal Common Law*, 107 YALE L.J. 393-426 (1997) (with Abner J. Mikva).

*Sovereign Immunity and the Right to Petition: Toward a First Amendment Right to Pursue Judicial Claims Against the Government*, 91 NW. U. L. REV. 899-1014 (1997).

*Introduction to Henry Wheaton, The Dangers of the Union*, 12 CONST. COMM. 243 (1995).

*Were the Framers of the Constitution PC?*, 11 CONST. COMM. 13-14 (1994).

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

*Federal Jurisdiction over Union Constitutions After Wooddell*, 37 VILL. L. REV. 443-531 (1992).

*Judicial Purpose and the Scholarly Process*, 69 WASH. U.L.Q. 243-315 (1991).

## **BOOKS [6]**

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CONSTITUTIONAL TORTS AND THE WAR ON TERROR (Oxford University Press 2017).

CIVIL PROCEDURE: A MODERN APPROACH (6<sup>th</sup> ed. 2013) (with Marcus, Redish, & Sherman).

FEDERAL COURTS (Thomson/West/Gilberts 5<sup>th</sup> ed. 2013) (with William A. Fletcher).

FEDERAL COURTS: CASES, COMMENTS, AND QUESTIONS (7<sup>th</sup> ed. 2012) (with Redish & Sherry)

ONE SUPREME COURT: SUPREMACY, INFERIORITY, AND THE JUDICIAL POWER OF THE UNITED STATES (Oxford University Press 2009).

PRINCIPLES OF FEDERAL JURISDICTION (West Academic) (3d ed. 2017).

## **BOOK CHAPTERS AND ENCYCLOPEDIA ENTRIES [9]**

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*Suits Against Officeholders* in CAMBRIDGE COMPANION TO THE U.S. CONSTITUTION (Karen Orren & John Compton eds. forthcoming 2017).

*Non-Contentious Jurisdiction in the Courts of the United States* in VOLUNTARY (NON-CONTENTIOUS) JURISDICTION AROUND THE WORLD (Alexey Argounov ed. forthcoming 2017)

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

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

*Jurisdiction* in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (MacMillan/Thomson Gale 2008).

*Original Jurisdiction* in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (MacMillan/Thomson Gale 2008).

*Judicial Power and Jurisdiction* in THE OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES (Kermit L. Hall ed.) (2d ed. 2005) (contributing editor).

*Environmental Federalism in Europe and the United States: A Comparative Assessment of Regulation Through the Agency of Member States* in ENVIRONMENTAL POLICY WITH ECONOMIC AND POLITICAL INTEGRATION: THE EUROPEAN COMMUNITY AND THE UNITED STATES 59-131 (Elgar 1996).

## ESSAYS AND OP-EDS [43]

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*Leading Cases: United States*, 6 INT'L J. PROC. L. (2016) (reviewing *Spokeo v. Robins*).

*Leading Cases: United States*, 6 INT'L J. PROC. L. (2016) (reviewing changes to the rules governing federal discovery).

*Leading Cases: United States*, 5 INT'L J. PROC. L. 324 (2015) (reviewing recent developments in the law of judicial jurisdiction).

*Making Sense of Plurality Judgments*, Jotwell (November 2, 2015) (reviewing Ryan Williams, Questioning Marks, <http://courtslaw.jotwell.com/making-sense-of-plurality-decisions/>).

*How Lower-Court Precedent Affects the Supreme Court*, JOTWELL (November 14, 2014) (reviewing Aaron-Andrew Bruhl, *Following Lower-Court Precedent*, 81 U. Chi. L. Rev. 851 (2014)), <http://courtslaw.jotwell.com/how-lower-court-precedent-affects-the-supreme-court/>.

*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)), <http://courtslaw.jotwell.com/james-wilson-the-committee-of-detail-and-the-federal-judiciary/>.

*Why Judges Leave the Bench*, JOTWELL (November 19, 2012) (reviewing Stephen Burbank, S. Jay Plager, & Greg Ablavsky, *Leaving the Bench*, 161 U. Pa. L. Rev. 1 (2012)), <http://courtslaw.jotwell.com/why-judges-leave-the-bench/>.

*Rethinking Jurisdictionality*, JOTWELL (October 24, 2011) (reviewing Scott Dodson, *Hybridizing Jurisdiction*, 99 Calif. L. Rev. 1439 (2011), available on SSRN; Scott Dodson, *Mandatory Rules*, 61 Stan. L. Rev. 1 (2008)), <http://courtslaw.jotwell.com/rethinking-jurisdictionality/>.

*Legal Scholarship and Law Reform*, JOTWELL (June 23, 2011) (reviewing Herbert Wechsler, *Federal Jurisdiction and the Revision of the Judicial Code*, 13 *Law & Contemp. Probs.* 216 (1948)), <http://classic.jotwell.com/legal-scholarship-and-law-reform/>.

*The Costs and Benefits of Law School*, Chicago Daily L. Bull. (01.24.11).

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

*Law School Deanships*, Chicago Daily L. Bull. (09.2010).

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

*Common Law Schizophrenia*, Chicago Daily L. Bull. (05.16.10).

*Detention and the Common Law Method*, Chicago Daily L. Bull. (04.16.10).

*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).

*Payment of Back Wages to Alien Physicians Hired Under the H-1B Visa Program*, Lexis-Nexis (2008) (<http://law.lexisnexis.com/practiceareas/Insights>).

*Book Review*, Global Issues in Civil Procedure, 56 AM. J. COMP. L. 506 (2008).

*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).

*Judicial Ping-Pong*, 92 ILL. BAR J. 652 (12.2004).

*Charles was First: England's Charles I Introduced the World to ATerror*, 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).

*Measuring the Tension Between Lawyers and the Media: The 1996 Allerton House Conference*, 84 ILL. BAR J. 576 (1996).

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

*Reconstruction Evidence After Zavala v. Powermatic, Inc.*, 41 TRIAL BRIEFS, no. 5 (1996).

*Learned Intermediaries in Illinois*, 41 TRIAL BRIEFS, no. 1 (1995).

*Admission of Expert Reconstruction Testimony: An Update*, 41 TRIAL BRIEFS, no. 1 (1995).

*Kotecki v. Cyclops Welding Corp. -- An Update*, 40 TRIAL BRIEFS, no. 3 (1995).

*The 1994 Allerton House Conference on Expert Witnesses*, 82 ILL. BAR J. 500 (1994).

#### **AMICUS BRIEFS [4]**

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Brief in Support of Petitioners, *Hernandez v. Mesa*, Supreme Court of the United States (Docket No. 15-118) (December 9, 2016).

Brief in Support of Respondents, *Simmons v. Himmelreich*, Supreme Court of the United States (Docket No. 15-109) (February 4, 2016).

Brief in Support of Appellants, *Meshal v. Higgenbotham*, United States Courts of Appeals for the District of Columbia Circuit (Docket No. 14-5194)

Brief in Support of Appellees, *Vance v. Rumsfeld*, United States Court of Appeals for the Seventh Circuit (Docket Nos. 10-1687, 10-2442)

#### **WORKS IN PROGRESS**

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*Maitland's Castle: Federal Equity in the Supreme Court*

*Standing by the Rules: A New Synthesis After Lexmark*

#### **SELECT ACADEMIC AND PROFESSIONAL PRESENTATIONS**

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*Constitutional Torts and the War on Terror* (Oxford University Press 2017)

Pennsylvania State University Law School, State College, PA (10.27.16)

University of Minnesota School of Law, Minneapolis, MN (10.13.16)

Northwestern Pritzker law faculty workshop series, Chicago, IL (7.12.16)

*Commentator*, Am Society of Comp Law Work-in-Progress Workshop, Champaign, IL (04.15.16)

*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*

Scottish Legal History Group, Edinburgh (10.1.16)

Tel Aviv University Faculty of Law, Tel Aviv, Is (12.21.15)

American Society for Legal History, Washington, D.C. (10.30.15)

*Duke Roundtable on Historical Practice and the Federal Judicial Power*, Durham, N.C. (10.23.15)

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

*Litigation US-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)

King's College, London, England (11.26.14)

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, Ass’n 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)

*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*, 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*, 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)

*Empirical Research and Civil Procedure*, Annual meeting of the section on Civil Procedure of the Association of American Law Schools, Washington, D.C. (01.04.03)

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

*Class Actions: A Federal-State Perspective*, Federal and State Judges' Seminar, Fall Judicial Conference, West Virginia Supreme Court of Appeals, Charleston, W.Va. (10.24.02)

*Government Accountability: A Comparative Perspective*, Judicial Conference, United States Court of Federal Claims, Washington, D.C. (10.04.02)

*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)

*State Sovereignty after Alden v. Maine* (Program Chair, Federal Courts Section of the Association of American Law Schools, Washington, D.C. January 2000)

*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

*The Commerce Clause After Lopez*, Workshop for Judges of the Eleventh Circuit, Federal Judicial Center, Point Clear, Alabama, (09.1996)

*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)

### **REFEREE (SELECTED)**

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American Political Science Review	Northwestern Law Review
Czech Science Foundation	Romanian Fulbright Commission
Harvard Law Review	Stanford Law Review
Law & History Review	University of Chicago Press
Law and Social Inquiry	Yale Law Journal
Journal of Empirical Legal Studies	

### **AWARDS AND HONORS**

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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).  
American Bar Association Gavel Award, Certificate of Merit, 1992.  
Law Clerk to Levin H. Campbell, United States Court of Appeals for the First Circuit

### **PRIOR APPOINTMENTS**

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Fall 2015	Visiting Professor of Law, Tel Aviv University
Fall 2009	Charles Fairchild Visiting Professor of Law, Harvard Law School
Fall 2008	Visiting Professor, Radzyner School of Law, Herzliya, Israel
2001 - 2007	Prentice H. Marshall Professor, University of Illinois College of Law
Spring 2001	Visiting Professor, Columbia University Law School, New York
1994 - 2001	Professor, University of Illinois College of Law
1988 - 1994	Assistant-Associate Professor, University of Illinois College of Law

### **TEACHING EXPERIENCE**

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Civil Procedure I	1988-97, 2006-09, 2011-13, 2014-16
Civil Procedure II	1988-2005, 2014
Conflicts of Law	1990-96, 2010, 2015, 2017
Constitutional History	1999
Constitutional Law	1996-99, 2003, 2007
Constitutional Law Colloquium	2009-11, 2013-16
European Union Law	2000-04
Federal Courts	1990-2005, 2007-17
International Civil Litigation	2006, 2012
Seminar on Brown v. Board	2004
Seminar on Gov't Accountability	2006, 2015
Seminar on Legal Education	1999, 2001, 2003, 2005, 2008

## **SERVICE TO THE SCHOOL OF LAW**

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Faculty Advisor, Northwestern U. Law Review (2015 to present)  
Member, Workshop Committee (2016-17)  
Chair, Ad Hoc Personnel Committee (2016-17)  
Member, Curriculum Working Group (2013-14)  
Chair, Strategic Planning Committee (2012-13)  
Chair, Personnel Committee (2011-12) (elected by vote of the faculty)  
Chair/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; 2014-15)  
Chair/Member, Judicial Clerkship Committee (2008-09, 2010-11, 2016-17)  
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**

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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**

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

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

MEMBER, BOARD OF DIRECTORS, CHICAGO LAWYERS' CHAPTER, AMERICAN CONSTITUTION SOCIETY (2015 to present)

## EDUCATION

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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