

JAMES E. PFANDER
Owen L. Coon Professor of Law
375 East Chicago Avenue • Chicago, Illinois 60611 • 312-503-1325
j-pfander@law.northwestern.edu

PUBLICATIONS

Articles [58]

- The Common Law Origins of Ex parte Young*, 72 STAN. L. REV. ___ (forthcoming 2020) (with Jacob Wentzel).
- The Myth of Personal Liability: Who Pays When Bivens Claims Succeed*, 72 STAN. L. REV. ___ (forthcoming 2020) (with Alexander Reinert and Joanna Schwartz).
- Constructive Constitutional History and Habeas Corpus Today*, 107 CAL. L. REV. 1005 (2019).
- Dicey's Nightmare: An Essay on the Rule of Law*, 107 CAL. L. REV. 737 (2019).
- Judge Frank Johnson and the Past and Future of Equitable Remedies*, 71 ALA. L. REV. ___ (2020) (invited submission to centennial conference on Judge Johnson) (with Wade Formo).
- The Contested History of Article III's Case-or-Controversy Requirement*, 65 UCLA L. REV. 170-230 (2018).
- Adverse Interests and Article III: A Reply*, 111 NW. U.L. REV. 1067-1095 (2017) (with Daniel D. Birk).
- Standing to Sue: Lessons from Scotland's Actio Popularis*, 66 DUKE L.J. 1493-1563 (2017).
- Scalia's Legacy: Originalism and Change in the Law of Standing*, 6 BRIT. J. AM. LEG. STUD. 85-107 (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. 117-165 (2016) (with Emily Damrau).
- A Declaratory Theory of State Accountability*, 102 VA. L. REV. 153-235 (2016) (with Jessica Dwinnell).
- 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(b)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. 1-52 (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).

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 on 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 symposium on jurisdiction stripping).

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]

CIVIL PROCEDURE: A MODERN APPROACH (7th ed. 2018) (with Marcus, Redish, & Sherman).

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

FEDERAL COURTS (Thomson/West/Gilberts 6th ed. 2019) (with William A. Fletcher).

FEDERAL COURTS: CASES, COMMENTS, AND QUESTIONS (8th ed. 2018) (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 [11]

Overseeing Military Tribunals in COURTS AT WAR (R. Chesney & S. Vladeck eds. Cambridge U. Press 2020)

Seminole Tribe v. Florida: Sovereignty and the Eleventh Amendment Imag(in)ed in PAINTING
CONSTITUTIONAL LAW: XAVIER CORTADA'S IMAGES OF CONSTITUTIONAL RIGHTS (Matthew C. Mirow & Howard M. Wasserman eds. forthcoming 2020 Brill Press).

Suits Against Officeholders in CAMBRIDGE COMPANION TO THE U.S. CONSTITUTION (Karen Orren & John Compton eds. 2018).

Non-Contentious Jurisdiction in the Courts of the United States in VOLUNTARY (NON-CONTENTIOUS) JURISDICTION AROUND THE WORLD (Alexey Argounov ed. 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 in *ENVIRONMENTAL POLICY WITH ECONOMIC AND POLITICAL INTEGRATION: THE EU AND THE US* 59-131 (Elgar 1996).

ESSAYS, OP-EDS & PODCASTS [51]

Due Process and National Injunctions JOTWELL (December 2019) (reviewing Mila Sohoni, *The Lost History of the "Universal" Injunction*, 133 Harv. L. Rev. (forthcoming 2020) (available at <https://courtslaw.jotwell.com/due-process-and-national-injunctions/>).

Enhancing the Role of States in Making Constitutional Law JOTWELL (January 2019) (reviewing Jeffrey S. Sutton, 51 *Imperfect Solutions: States and the Making of American Constitutional Law* (2018) (available at <https://courtslaw.jotwell.com>).

Unqualified Immunity, Weekly Appellate Report, *Daily Journal* (4.13.18) (podcast on qualified immunity) (available at <https://www.dailyjournal.com/articles/347038-unqualified-immunity>).

Leading Cases: United States, 7 INT'L J. PROC. L. (2017) (*Ziglar v. Abbasi*).

Statutory Interpretation for Courts and Lawyers, JOTWELL (March 2018) (reviewing Victoria Nourse, *Misreading Law, Misreading Democracy* (2016)) (available at <http://courtslaw.jotwell.com>).

The Habeas Privilege and Enemy Combatants (Dec. 5, 2017) (available at <https://www.lawfareblog.com/habeas-privilege-enemy-combatants/>

Erie and Equity, JOTWELL (March 2017) (reviewing Michael T. Morley, *The Federal Equity Power*) (available at SSRN) <http://courtslaw.jotwell.com/erie-and-equity/>

Leading Cases: United States, 7 INT'L J. PROC. L. (2017) (national injunctions)

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 discovery rules).

Leading Cases: United States, 5 INT'L J. PROC. L. 324 (2015) (reviewing jurisdiction developments).

Making Sense of Plurality Judgments, JOTWELL (November 2015) (reviewing Ryan Williams, Questioning Marks) (available <http://courtslaw.jotwell.com/making-sense-of-plurality-decisions/>)
How Lower-Court Precedent Affects the Supreme Court, JOTWELL (November 2014) (reviewing Aaron-Andrew Bruhl, *Following Lower-Court Precedent*, 81 U. Chi. L. Rev. 851 (2014)) (available <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 2012) (reviewing Stephen Burbank, S. Jay Plager, & Greg Ablavsky, *Leaving the Bench*, 161 U. Pa. L. Rev. 1 (2012)) (available at <http://courtslaw.jotwell.com/why-judges-leave-the-bench/>).

Rethinking Jurisdictionality, JOTWELL (October 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)) (available at <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)) (available at <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 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).

Measuring the Tension Between Lawyers and the Media: 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 [7]

Brief in Support of Petitioners, *West v. Winfield*, Supreme Court of the United States (Docket No. 19-899 (February 20, 2020)).

Brief in Support of Petitioners, *Hernandez v. Mesa*, Supreme Court of the United States (Docket No. 17-1678) (August 8, 2019)

Brief in Support of Petitioners, *McDonough v. Smith*, Supreme Court of the United States (Docket No. 18-485) (March 4, 2019)

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

CASES WITHOUT CONTROVERSIES: NON-CONTENTIOUS JURISDICTION IN THE FEDERAL COURTS (under contract with Oxford University Press, forthcoming 2021)

Standing by the Rules: A New Synthesis After Lexmark

SELECT ACADEMIC AND PROFESSIONAL PRESENTATIONS

Cases Without Controversies: Non-Contentious Jurisdiction in the Federal Courts

University of Pennsylvania Law School, Philadelphia, PA (2.06.20)

Duke University School of Law, Durham, NC (3.08.18)

Cornell Law School, Ithaca, NY (10.05.18)

Commentator, Annual Civil Procedure Workshop, Austin, TX, October 25-6, 2019

Commentator, Chicago Legal History Workshop, ABF, Chicago, IL, May , 2019

The Common Law Origins of Ex parte Young

Northwestern Pritzker Faculty Workshop (11.4.19)

American Society for Legal History (11.23.19)

Notre Dame Roundtable on Equity (9.14.19)

- Scotland and the Judicial Institutions of the United States*
British Legal History Conference, St. Andrews, UK (7.10.19)
- Judge Johnson and Equitable Remedies*,
Notre Dame Roundtable on Remedies (6.20.19)
Conference on Judge Frank Johnson, Tuscaloosa, AL (1.25.19)
- The Myth of Personal Liability: Who Pays When Bivens Claims Succeed*

Northwestern Pritzker Faculty Workshop (10.19.18)
Institute for Justice, Washington, D.C. (10.18.18)
- The Individual Right to Petition the US Supreme Court*, Conference Sponsored by the Constitutional Court of the Kingdom of Morocco, Marrakech, Morocco (9.26-28.18)
- Certified Questions in the Federal Courts*, U.S. Court of Appeals for the Second Circuit (4.19.18)
- Symposium on Habeas Corpus in Wartime*, Berkeley Law (4.6.18)
- Dicey's Nightmare: An Essay on the Rule of Law*

Law & Society Annual Meeting, Toronto, CA (6.8.18)
University of California-Berkeley, CA (02.08.18)
University of Texas-Austin, TX (09.14.17)
- Remedies Against the Executive*, AALS Section on Federal Courts, San Diego, CA (01.05.18)
- The Contested History of Article III's Case-or-Controversy Requirement*, UNC, Chapel Hill, NC (09.28.17)
- Commentator*, American Society of Comparative Law Workshop, Champaign, IL (04.15.16)
- Remedies and the Supreme Court's New Equity*, Section on Federal Courts, AALS, New York (1.5.16)
- 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)
- 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, 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 government liability) (03.18.11)

Resolving the Qualified Immunity Dilemma, 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)

Judge-Made Law in Constitutional Litigation, 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)

Conference on Chinese Reforms in Comparative Perspective, UIUC, Champaign, IL (03.08.07)

Territorialism and Jurisdictional Conflict, Comparative Law Workshop, UIUC, Champaign, IL (02.10.07)

Protective Jurisdiction, Minimal Diversity, and Aggregate Litigation, Conference in honor of Paul Mishkin, University of California, Berkeley, CA (10.28.06)

Presidential Power and Foreign Relations, Cline Symposium Roundtable Discussion, Department of Political Science, UIUC, 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 Judicial Academy, Champaign, IL (06.06.05)

Balancing Freedom and Security: Cline Symposium, 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 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, UIUC (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)

Cultural Passages Conference, Lucian Blaga University 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, University of Bucharest American Studies Program and the Romanian-American Fulbright Commission, Bucharest, Romania (01.31.02)

Overlapping and Duplicative Class Actions, Class Action Conference of the Federal Advisory Committee on Civil Rules, 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, UIUC (11.30.99)

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

Sensitive Tobacco Industry Documents, Testimony before the House Judiciary Committee, (03.31.98)

The Etiquette of Intergovernmental Relations: Recent Developments in Constitutional Federalism, The New Federalism, UIC, Chicago, IL, (Fall 1996)

The Commerce Clause After Lopez, Federal Judicial Center, Point Clear, Alabama, (09.1996)

Sovereign Immunity and the Right to Petition, UIUC 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, UIUC College of Law, Champaign, IL (06.93)

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

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

REFEREE (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

Invited Lecture, Baum Lecture on Civil Rights, University of Illinois College of Law (Fall 2019)
Recipient, Resolution in Honor of Service to Committee on Federal-State Jurisdiction (2014)
Dean's Teaching Award, Northwestern Pritzker 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.

PRIOR POSITIONS

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
1983-88	Associate, Rogovin, Huger & Lenzner, Washington, D.C.
1982-83	Law Clerk to Levin H. Campbell, U.S. Court of Appeals for the First Circuit

TEACHING EXPERIENCE

Civil Procedure I	1988-97, 2006-09, 2011-13, 2014-16, 2019
Civil Procedure II	1988-2005, 2014
Conflicts of Law	1990-96, 2010, 2015, 2017, 2018
Constitutional History	1999
Constitutional Law	1996-99, 2003, 2007, 2019
Constitutional Law Colloquium	2009-11, 2013-18
European Union Law	2000-04
Federal Courts	1990-2005, 2007-2020
International Civil Litigation	2006, 2012
Remedies	2019
Seminar on Brown v. Board	2004
Seminar on Gov't Accountability	2006, 2015
Seminar on Legal Education	1999, 2001, 2003, 2005, 2008
Suing the State	2009, 2015

SERVICE TO THE PRITZKER SCHOOL OF LAW

Chair, Personnel Committee (2011-12) (elected by vote of the faculty); (2017-18)
Faculty Advisor, Northwestern 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/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, 2016-2020)
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)
Director, Academic Placement (2019-2020)

PROFESSIONAL ASSOCIATIONS

AMERICAN LAW INSTITUTE (MEMBER SINCE 1999)

ASSOCIATION OF AMERICAN LAW SCHOOLS

Chair, Program Committee (2019-20)
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
Admitted to practice: D.C. Court of Appeals, Supreme Court of the United States.

PUBLIC AND PROFESSIONAL SERVICE

MEMBER, Advisory Committee on Project to Study State Courts' Role in Administering Federal Law, National Center on State Courts (Fall 2019 and continuing)

WITNESS, Invited Testimony at a Hearing on Snap Removal Before the House Judiciary Committee, Subcommittee on Courts, Intellectual Property and the Internet, November 14, 2019.

REPORTER/CONSULTANT, Federal-State Jurisdiction Committee of the Judicial Conference of the United States (1998-2018)

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

MEMBER, BOARD OF DIRECTORS, CHICAGO LAWYERS' CHAPTER, AMERICAN CONSTITUTION SOCIETY (2015 to 2018)

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