

Appendix B

C.V.

Theodore Eisenberg
Henry Allen Mark Professor of Law &
Adjunct Professor of Statistical Sciences
Cornell University
As of April 19, 2010

Academic Employment

Professor & Henry Allen Mark Professor of Law, Cornell University, 1981—
Adjunct Professor of Statistical Sciences, Cornell University, 2008—
Prof., Ph.D. program: Institutions, Econ. & Law, Fondazione Collegio Carlo Alberto, Turin, 2006—
Center for Advanced Legal Studies, Tel-Aviv University (Spring 2009)
Visiting Professor of Law, NYU School of Law (Fall 2007)
Bruce W. Nichols Visiting Prof. of Law, Harvard Law School (Fall 2004)
Visiting Prof. of Law, Stanford Law School (Spring 1987)
Visiting Prof. of Law, Harvard Law School (1984-85)
Prof., Univ. San Diego's 1983 Oxford summer program (Comparative Civil Liberties)
Prof. & Acting Prof. of Law, UCLA (1977-81)

Prior Employment & Education

Law Clerk to Chief Justice Earl Warren, retired (1973)
Law Clerk, U.S. Court of Appeals for the D.C. Circuit (1972-73)
Debevoise & Plimpton (1974-77)
J.D., University of Pennsylvania Law School, 1972
B.A., Swarthmore College, 1969

Professional Memberships

Law & Soc'y Assoc.; Am. Law & Econ. Assoc.; Soc'y for Empirical Legal Studies; Am. Bankruptcy
Inst.; AAUP; Admitted, N.Y. Bar; Admitted, PA Bar (inactive status); Admitted, CA Bar (inactive
status); Am. Bar Assoc.; Assoc. of the Bar of the City of NY

Fellowships, Grants, Awards, Endowed Lectures, Keynote Speeches

Fellow, American Academy of Arts and Sciences
Keynote Speaker, Asian Law and Economics Association Conference (to be given 2010)
Rosenthal Lectures, Northwestern University School of Law School (to be given 2010)
Keynote Speaker, Conference on Empirical Legal Studies 2009
Fellow, Royal Statistical Society
Cornell Provost's Award for Distinguished Scholarship
Nat'l Science Found'n, 6/1985 to 12/1987 (Study of Civil Rights Cases)
Guy Carpenter (reinsur. co.) (empirical study of employment discrimination litigation)
South Carolina Death Penalty Resource Ctr., 1992 (Study of Jurors in Capital Cases)
Project '87 (joint project American Historical Association, American Political Science Association)
(empirical study of civil rights litigation in the Central Dist. of Calif.)
American Bar Found'n (expand above study in the Central Dist. of CA and the Eastern Dist. of PA).

Editorial Boards and Outside Committees

Editor, Journal of Empirical Legal Studies
Editorial Board, American Law and Economics Review
Advisory Board, Social Science Research Network, Litigation & Procedure Abstracts

Advisory Board, Social Science Research Network, Negotiation & Dispute Resolution Abstracts
 Board of Directors, Society for Empirical Legal Studies
 Board of Directors, American Law and Economics Association (2004-2006)
 AALS representative to Consortium of Social Science Associations
 AALS Research Committee
 Investment Policy Oversight Group, Law School Admission Council (past service)
 Academic Advisor, National Center for State Courts
 Chair, Law and Social Science Section, Association of American Law Schools (1996-97)
 Editorial Board, Law and Society Review (past service)
 Editorial Board, Justice System Journal (past service)
 Nominating Committee, Law and Society Association, 2007, 2008
 Program Committee, Law and Society Association, 2002 Annual Meeting, Vancouver
 ACLU National Committee on Alternative Dispute Resolution (past service)
 Provost's Comm. of Preliminary Inquiry Concerning Computer Worm Launched on National Computer Network, 1988-89
 April to September 1986, Chair, Planning Committee, Workshop on Civil Rights, Association of American Law Schools
 Board of Editors, Commercial Damages (Matthew Bender)
 Chair, University Review Board, 1997-1999

Referee/Reviewer

Am. Econ. Rev., NSF, Law & Soc'y Rev., Justice System J., Rev. of Econ. & Statistics, Econ. Inquiry, Oxford Univ. Press, Harvard Univ. Press, Cornell Univ. Press, Yale Univ. Press, Alfred P. Sloan Found'n; Social Science & Medicine; J. Legal Studies, Internat'l Rev. Law & Econ., The Rockefeller Found'n, Social Sciences & Humanities Research Council of Canada, J. Law & Econ., Smith Richardson Found'n, Univ. of Chicago Press, NeuroToxicology, RAND Institute for Civil Justice; Louisiana Board of Regents; Harvard Law Review; Harvard School of Public Health; Law & Social Inquiry; American Political Science Review; Political Research Quarterly; Law & Society Review; Am. Law & Econ. Review, Archives of Internal Medicine, Stanford Law Review

Books or Chapters in Books

Editor-in-Chief, Debtor-Creditor Law (Matthew Bender's 13 volume treatise)
 Summary Judgment Rates Over Time, Across Case Categories, and Across Districts: An Empirical Study of Three Large Federal Districts (with C. Lanvers), in Empirical Studies of Judicial Systems 2008 (K.C. Huang ed., Institutum Jurisprudentiaw, Taipei 2009)
 The Relation Between Punitive and Compensatory Awards: Combining Extreme Data With the Mass of Awards, in Civil Juries and Civil Justice (B. Bornstein, R. Wiener, R. Schopp, S. Willborn eds. 2008) (with V. Hans & M. Wells)
 Victim Characteristics and Victim Impact Evidence in South Carolina Capital Cases, in Wounds That Do Not Bind: Victim-Based Perspectives on the Death Penalty 297-321 (James R. Acker & David R. Karp eds. 2006) (with S. Garvey & M. Wells)
 Lessons from the Capital Jury Project, in Beyond Repair? America's Death Penalty (Stephen P. Garvey ed. 2002).
 Empirical Methods and the Law, in Statistics for the 21st Century (Chapman and Hall/CRC Press 2001)
 Editor, chapter 6, in Risk Behaviour and Risk Management in Business Life (Bo Green ed. 2000) (Kluwer Academic Publishers: Dordrecht, The Netherlands)
 Bankruptcy & Debtor-Creditor Law (3rd ed. 2004)
 1986 Supplement to Debtor-Creditor Law (1st ed.)

Commercial and Debtor-Creditor Law: Selected Statutes (Foundation Press 1984) (also annual editions 1986-2009) (Co-editor with D. Baird & T. Jackson)

Debtor-Creditor Law (revision of Chapters 7 (Fair Credit Reporting), 28 (Attachment) of Matthew Bender's treatise)

Konkurs eller Rekonstruktion (SNS Förlag 1995), also published in English as Creating An Effective Reconstruction Law, SNS Occasional Paper No. 75 (December 1995)

Should We Abolish Chapter 11? The Evidence from Japan, in, Current Developments in International and Comparative Insolvency Law, (Oxford Univ. Press 1994, Jacob Ziegel ed.), also in: Corporate Bankruptcy: Economic and Legal Perspectives (Cambridge Univ. Press 1996, Jagdeep S. Bhandari & Lawrence A. Weiss eds.) and in Empirical Studies on Wagi Proceeding pp. 329-359 (Aoyama ed., Commercial Law Centre, Inc.) (in Japanese).

Anthony McLeod Kennedy, in Justices of the Supreme Court of the United States (Chelsea House 1995)

Civil Rights Legislation (LexisNexis 2004) (5th ed. 2004)

2000, 1996, 1993, 1986, 1983, 1989-90, Supplements to Civil Rights Legislation

Bender's Federal Tax Service, Chapter I:19, Collapsible Corporations (1988)

Civil Rights and Employment Discrimination Law: Select Statutes and Regulations (LexisNexis 1991, 1996, 2004)

Articles

Attorneys' Fees and Expenses in Class Action Settlements: 1993-2008, 7 J. Empirical Legal Stud. (2010) (forthcoming) (with G. Miller)

Punitive Damages in Securities Arbitration: An Empirical Study, J. Legal Stud.(2010) (forthcoming) (with S. Choi)

The Decision to Award Punitive Damages: An Empirical Study, J. Legal Analysis (2010) (forthcoming) (with M. Heise, N. Waters & M. Wells)

Variability in Punitive Damages: Empirically Assessing *Exxon Shipping Co. v. Baker*, 166 J. Institutional & Theoretical Econ. 5 (2010) (with M. Heise & M. Wells)

The Need for a National Civil Justice Survey of Incidence and Claiming Behavior, 37 Fordham Urban L.J. 17 (2010)

Reversal, Dissent, and Variability in State Supreme Courts: The Centrality of Jurisdictional Source, 89 Boston Univ. L. Rev. 1451 (2009) (with G. Miller)

U.S. Chamber of Commerce Liability Survey: Inaccurate, Unfair, and Bad for Business, 6 J. Empirical Legal Stud. 969 (2009)

Taking a Stand on Taking the Stand: The Effect of a Prior Criminal Record on the Decision to Testify and on Trial Outcomes, 94 Cornell L. Rev. 1353 (2009) (with V. Hans)

Statins, cholesterol, women and primary prevention: evidence-based medicine or wishful thinking?, 5 Future Cardiology 1 (2009) (with M. Wells)

Plaintiphobia in State Courts? An Empirical Study of State Court Trials on Appeal, 38 J. Legal Studies 121 (2009) (with M. Heise)

What Is the Settlement Rate and Why Should We Care?, 6 J. Empirical Legal Stud. 111 (2009) (with C. Lanvers)

A New Look at Judicial Impact: Attorneys' Fees in Securities Class Actions After *Goldberger v. Integrated Resources, Inc.*, 29 Wash. U. J. Law & Policy 5 (2009) (with M. Perino & G. Miller)

Statins and Adverse Cardiovascular Events in Moderate Risk Females: A Statistical and Legal Analysis with Implications for FDA Preemption Claims, 5 J. Empirical Legal Stud. 507 (2008) (with M. Wells)

The Flight to New York: An Empirical Study of Choice of Law and Choice of Forum Clauses in Publicly-Held Companies' Contracts, 30 Cardozo L. Rev. 1475 (2009) (with G. Miller)

The Market for Contracts, 30 *Cardozo L. Rev.* 2073 (2009) (with G. Miller)

Mandatory Arbitration for Customers But Not for Peers: A Study of Arbitration Clauses in Consumer and Non-Consumer Contracts, 92 *Judicature* 118 (Nov.-Dec. 2008) (with G. Miller & E. Sherwin)

Arbitration's Summer Soldiers: An Empirical Study of Arbitration Clauses in Consumer and Nonconsumer Contracts, 41 *U. Mich J. L. Reform* 871 (2008) (with G. Miller & E. Sherwin), reprinted in 4 *Icfai University J. of Alternative Dispute Resolution* 51 (2008)

CAFA Judicata: A Tale of Waste and Politics, 156 *U. Pa. L. Rev.* 1553 (2008) (with K. Clermont)

Do Juries Add Value?: Evidence from an Empirical Study of Jury Trial Waiver Clauses in Large Corporate Contracts, 4 *J. Empirical Legal Stud.* 539 (2007) (with G. Miller)

Foreigners' Fate in America's Courts: Empirical Legal Research, *Academia Sinica L.J.* 237 (March 2007) (with K. Clermont)

Xenophilia or Xenophobia in American Courts? Before and After 9/11, 4 *J. Empirical Legal Stud.* 441 (2007) (with K. Clermont)

Comment, Evidence of the Need for Aggregate Litigation, 163 *J. Institutional & Theoretical Economics* 158 (2007)

The Flight from Arbitration: An Empirical Study of Ex Ante Arbitration Clauses in Publicly-Held Companies' Contracts, 56 *DePaul L. Rev* 335 (2007) (with G. Miller)

Ex Ante Choices of Law and Forum: An Empirical Analysis of Corporate Merger Agreements, 59 *Vanderbilt L. Rev* 1975 (2006) (with G. Miller), also published in 49 *Corporate Practice Commentator* 323 (2007)

Juries, Judges, and Punitive Damages: Empirical Analyses Using the Civil Justice Survey of State Courts 1992, 1996, and 2001 Data, 3 *J. Empirical Legal Stud.* 263 (2006) (with others)

Employment Arbitration and Litigation: An Empirical Comparison, in *ADR & The Law* 8-35 (20th ed. 2006) (with E. Hill)

Use It or Pretenders Will Abuse It: The Importance of Archival Legal Information, 75 *UMKC L. Rev.* 1 (2006)

Incentive Awards to Class Action Plaintiffs: An Empirical Study, 53 *UCLA L. Rev.* 1303 (2006) (with G. Miller)

Assessing the SSRN-Based Law School Rankings, 81 *Indiana L. Rev.* 285 (2006)

The Significant Association Between Punitive and Compensatory Damages in Blockbuster Cases: A Methodological Primer, 3 *J. Empirical Legal Stud.* 169 (2006) (with M. Wells)

Expert Testimony in Capital Sentencing: Juror Responses, 33 *J. Am. Acad. Psychiatry & the Law* 509 (2005) (with J. Montgomery, J.R. Ciccone, and S. Garvey)

Overlooked in the Tort Reform Debate: The Growth of Erroneous Removal, 2 *J. Empirical Legal Stud.* 551 (2005) (with T. Morrison)

Judge-Jury Agreement in Criminal Cases: A Partial Replication of Kalven & Zeisel's *The American Jury*, 2 *J. Empirical Legal Stud.* 171 (2005) (with others)

The Fate of Firms: Explaining Mergers and Bankruptcies, 2 *J. Empirical Legal Stud.* 49 (2005) (with C. Bergström, S. Sundgren, and M. Wells)

Death Sentence Rates and County Demographics: An Empirical Study, 90 *Cornell L. Rev.* 347 (2005)

The Role of Opt-Outs and Objectors in Class Action Litigation: Theoretical and Empirical Issues, 57 *Vanderbilt L. Rev.* 1529 (2004) (with G. Miller)

Was Arthur Andersen Different?: An Empirical Examination of Major Accounting Firms' Audits of Large Clients, 1 *J. Empirical Legal Stud.* 263 (2004) (with J. Macey)

On the Design of Efficient Priority Rules for Secured Creditors: Empirical Evidence from A Change in Law, 18 *European J. Law & Econ.* 273 (2004) (with C. Bergström & S. Sundgren)

The Merciful Capital Juror, 2 *Ohio St. J. Crim. L.* 165 (2004) (with S. Garvey)

Attorney Fees in Class Action Settlements: An Empirical Study, 1 *J. Empirical Legal Stud.* 27 (2004) (with G. Miller)

Why Do Empirical Legal Scholarship?, 41 *San Diego L. Rev.* 1741 (2004)

Appeal Rates and Outcomes in Tried and Non-Tried Cases, 1 *J. Empirical Legal Stud.* 659 (2004)

Implicit Attitudes of Death Penalty Lawyers, 53 *DePaul L. Rev.* 1539 (2004) (with S. Johnson), also published in *Critical Race Realism: Intersections of Psychology, Race, and Law* (G. Parks, S. Jones, W. Card eds. 2008)

Explaining Death Row's Population and Racial Composition, 1 *J. Empirical Legal Stud.* 165 (2004) (with J. Blume & M. Wells).

Employment Arbitration and Litigation, 58 *Dispute Resolution J.* 44-55 (Nov. 2003-Jan. 2004) (with E. Hill), full version published in *ADR & the Law* (20th ed. 2006)

The Government as Litigant: Further Tests of the Case Selection Model, 5 *Am. L. & Econ. Rev.* 94-133 (2003) (with H. Farber).

The Reliability of the Administrative Office of the U.S. Courts Database: An Initial Empirical Analysis, 78 *Notre Dame L. Rev.* 1455-1496 (2003) (with M. Schlanger)

Victim Impact Evidence in South Carolina Capital Cases, 88 *Cornell L. Rev.* 306 (2003) (with S. Garvey)

Litigation Realities, 88 *Cornell L. Rev.* 119-154 (2002) (with K. Clermont)

Reconciling Experimental Incoherence with Real-World Coherence in Punitive Damages, 54 *Stanford L. Rev.* 1239 (2002) (with J. Rachlinski & M. Wells)

Judge Harry Edwards: A Case in Point!, 80 *Wash. U.L.Q.* 1275 (2002) (with K. Clermont)

Plaintiphobia in the Appellate Courts: Civil Rights Really Do Differ from Negotiable Instruments, 2002 *Illinois L. Rev.* 947 (with K. Clermont).

Trial Outcomes and Demographics: Is There A Bronx Effect?, 80 *Texas L. Rev.* 1839-75 (2002) (with M. Wells)

Juries, Judges, and Punitive Damages: An Empirical Study, 87 *Cornell L. Rev.* 743-82 (2002) (with N. LaFountain, B. Ostrom, D. Rottman & M. Wells)

Secured Debt and the Likelihood of Reorganization, 21 *International Review of Law and Economics* 359-372 (2002) (with C. Bergström & S. Sundgren)

Damage Awards in Perspective: Behind the Headline-Grabbing Awards in *Exxon Valdez* and *Engle*, 36 *Wake Forest L. Rev.* 1129 (2001)

Forecasting Life and Death: Juror Race, Religion, and Attitude Toward the Death Penalty, 30 *J. Legal Studies* 277-311 (2001) (with S. Garvey & M. Wells)

The Deadly Paradox of Capital Jurors, 74 *South. Cal. L. Rev.* 371 (2001) (with S. Garvey & M. Wells)

Appeal from Jury or Judge Trial: Defendants' Advantage, 3 *American Law & Economics Review* 125 (2001) (with K. Clermont)

State Attorney General Actions, the Tobacco Litigation, and the Doctrine of *Parens Patriae*, 74 *Tulane L. Rev.* 1859 (2000) (with R. Ieyoub)

Anti-Plaintiff Bias in the Federal Appellate Courts, 84 *Judicature* 128 (2000) (with K. Clermont)

Empirical Methods and the Law, 95 *J. American Statistical Association* 665 (2000)

Inbreeding in Law School Hiring: Assessing the Performance of Faculty Hired from Within, 29 *J. Legal Studies* 369-88 (2000) (with M. Wells)

Methodological Issues in Bankruptcy Prediction, in *Risk Behaviour and Risk Management in Business Life* (Bo Green ed. 2000) (Kluwer Academic Publishers: Dordrecht, The Netherlands)

Judicial Decisionmaking in Federal Products Liability Cases, 1978-1997, 49 *DePaul L. Rev.* 323-33 (1999)

An Important Portrait of Affirmative Action, 1 *American Law and Economics Review* 471-80 (1999) (review of Bowen & Bok, *The Shape of the River*)

The Government as Litigant: Further Tests of the Case Selection Model, NBER Working Paper Series 7296 (August 1999) (with H. Farber)

The Predictability of Punitive Damages Awards in Published Opinions, the Impact of *BMW v. Gore* on Punitive Damages Awards, and Forecasting Which Punitive Awards Will Be Reduced, 7

Supreme Court Economic Review 59-86 (1999) (with M. Wells)

Judicial Politics, Death Penalty Appeals, and Case Selection: An Empirical Study, 72 South. Calif. L. Rev. 465-504 (1999) (with J. Blume)

Shopping for Judges: An Empirical Analysis of Venue Choice in Large Chapter 11 Reorganizations, 84 Cornell L. Rev. 967-1003 (1999) (with L. Lopucki)

But Was He Sorry? The Role of Remorse in Capital Sentencing, 84 Cornell L. Rev. 1599-1637 (1998) (with S. Garvey & M. Wells)

Post-*McCleskey* Racial Discrimination Claims in Capital Cases, 84 Cornell L. Rev. 1771-1810 (1998) (with J. Blume & S. Johnson)

Measuring the Deterrent Effect of Punitive Damages, 87 Georgetown L.J. 347-357 (1998)

Larger Board Size and Decreasing Value in Small Firms, 48 J. Financial Economics 35-54 (1998) (with S. Sundgren & M. Wells)

Ranking and Explaining the Scholarly Impact of Law Schools, 27 J. Legal Studies 373-413 (1998) (with M. Wells)

Punitive Awards After *BMW*, a New Capping System, and the Reported Opinion Bias, 1998 Wisconsin L. Rev. 387 (with M. Wells)

Do Case Outcomes Really Reveal Anything About the Legal System? Win Rates and Removal Jurisdiction, 83 Cornell L. Rev. 581-607 (1998) (with K. Clermont)

Is Chapter 11 Too Favorable to Debtors? Evidence from Abroad, 82 Cornell L. Rev. 1532-1567 (1997) (with S. Sundgren)

The Predictability of Punitive Damages, 26 J. Legal Studies 623-661 (1997) (with J. Goerdt, B. Ostrom, D. Rottman & M. Wells)

The Litigious Plaintiff Hypothesis: Case Selection and Resolution, 28 RAND J. of Economics S92-S112 (1997) (with H. Farber)

Xenophilia in American Courts, 109 Harvard L. Rev. 1120-43 (1996) (with K. Clermont)

Jury Responsibility in Capital Cases: An Empirical Study 44 Buffalo. L. Rev. 339-380 (1996) (with S. Garvey & M. Wells)

Litigation Outcomes in State and Federal Courts: A Statistical Portrait, 19 Seattle L. Rev. 433-453 (1996) (with J. Goerdt, B. Ostrom & D. Rottman)

Trial by Jury or Judge: Which is Speedier?, 79 Judicature 176 (Jan.-Feb. 1996) (with K. Clermont)

Courts in Cyberspace, 46 J. Legal Educ. 94-100 (1996) (with K. Clermont)

Politics and the Judiciary: The Influence of Judicial Background on Case Outcomes, 24 J. Legal Studies 257-81 (1995)

Exorcising the Evil of Forum Shopping, 80 Cornell L. Rev. 1507-35 (1995) (with K. Clermont)

Negotiation, Lawyering, and Adjudication: Kritzer on Brokers and Deals, 19 Law & Social Inquiry 275-99 (1994)

Differing Perceptions of Attorney Fees in Bankruptcy Cases, 72 Wash. U.L.Q. 979-95 (1994)

Should We Abolish Chapter 11? The Evidence from Japan, 23 J. Legal Studies 111-157 (1994) (with S. Tagashira), published in Japanese in 25 Kokusai Shōji Hōmu, No. 1 (1997) (Journal of the Japanese Institute of International Business Law)

Deadly Confusion: Juror Instructions in Capital Cases, 79 Cornell L. Rev. 1 (1993) (with M. Wells)

Products Liability Cases on Appeal: An Empirical Study, 16 The Justice System Journal 117-138 (1993) (with J. Henderson)

Baseline Problems in Assessing Chapter 11, 43 Univ. Toronto L.J. 633-77 (1993)

Inside the Quiet Revolution in Products Liability, 39 UCLA L. Rev. 731-810 (1992) (with J. Henderson)

Trial by Jury or Judge: Transcending Empiricism, 77 Cornell L. Rev. 1124 (1992) (with K. Clermont), reprinted in National Trial Lawyer (January, March, May 1993)

The Effects of Intent: Do We Know How Legal Standards Work?, 76 Cornell L. Rev. 1151-1197 (1991) (with S. Johnson)

The Individual Versus Business in the Courts, in *The World and I* 489-504 (June 1991) (with T. Dunworth)

The Relationship Between Plaintiff Success Rates Before Trial and At Trial, 154, Part 1, *Journal of the Royal Statistical Society, Series A* 111 (1991)

The Quiet Revolution in Products Liability, 20 *Anglo-American L. Rev.* 188-203 (1991) (with J. Henderson) (modified version of similar article in *UCLA*, *infra*)

The Quiet Revolution in Products Liability: An Empirical Study of Legal Change, 37 *UCLA L. Rev.* 479-553 (1990) (with J. Henderson)

Testing the Selection Effect: A New Theoretical Framework with Empirical Tests, 19 *Journal of Legal Studies* 337-58 (1990)

What Shapes Perceptions of the Federal Court System?, 56 *U. Chicago L. Rev.* 501-539 (1989) (with S. Schwab)

Litigation Models and Trial Outcomes in Civil Rights and Prisoner Cases, 77 *Georgetown L.J.* 1567-1602 (1989)

Comment, Bankruptcy and Bargaining, 75 *Virginia L. Rev.* 205 (1989)

The Importance of Section 1981, 73 *Cornell L. Rev.* 596-604 (1988) (with S. Schwab)

Explaining Constitutional Tort Litigation: The Influence of the Attorney Fees Statute and the Government as Defendant, 73 *Cornell L. Rev.* 719-784 (1988) (with S. Schwab)

The Reality of Constitutional Tort Litigation, 72 *Cornell L. Rev.* 641-695 (1987) (with S. Schwab)

The Reality of Constitutional Tort Litigation, in *Civil Rights and Attorney Fees Annual Handbook* 3-27 (J. Lobel & B. Wolvovitz eds. 1987) (with S. Schwab) (preliminary, condensed version of above Cornell article)

A Bankruptcy Machine That Would Go of Itself, 39 *Stanford L. Rev.* 1519-1535 (1987) (book review)

Bankruptcy in the Administrative State, 50 *Law & Contemporary Problems* 3-52 (Spring 1987), reprinted in *10 Public Utilities Law Anthology* (1988)

The Undersecured Creditor in Reorganizations and the Nature of Security, 38 *Vanderbilt L. Rev.* 931-973 (1985)

Bankruptcy Law in Perspective: A Rejoinder, 30 *UCLA L. Rev.* 617-636 (1983)

Section 1983: Doctrinal Foundations and An Empirical Study, 67 *Cornell L. Rev.* 482-556 (1982)

Bankruptcy Law in Perspective, 28 *UCLA L. Rev.* 953-999 (1981)

The Ordinary and the Extraordinary in Institutional Litigation, 93 *Harvard L. Rev.* 465-517 (1980) (with S. Yeazell)

State Law in Federal Civil Rights Cases: The Proper Scope of Section 1988, 128 *U. Pennsylvania L. Rev.* 499-543 (1980)

Disproportionate Impact and Illicit Motive: Theories of Constitutional Adjudication, 52 *N.Y.U.L. Rev.* 36-171 (1977)

Congressional Authority to Restrict Lower Federal Court Jurisdiction, 83 *Yale L.J.* 498-533 (1974)

Encyclopedia Entries

Article on Remedies/Damages, Legal Aspects, in "International Encyclopedia of the Social and Behavioral Sciences" (Elsevier 2001)

Articles on Civil Rights in "Civil Rights in the United States" (MacMillan forthcoming)

Numerous (9) articles on Civil Rights and Constitutional Law in "The Oxford Companion to the Supreme Court of the United States" (K. Hall ed. 1992)

Articles on Civil Rights in "Encyclopedia of the American Constitution" (Supplements I and II)

Numerous (approximately 80) articles on Bankruptcy, Civil Rights, and Constitutional Law in "Encyclopedia of the American Constitution" (L. Levy, K. Karst, & D. Mahoney eds. 1986)

Articles on Civil Rights and Constitutional Law in Civil Rights in "Civil Rights and Equality" (1989)

(Intro. by K. Karst) (selections from the above Encyclopedia)

Miscellaneous Works

- Failure to differentiate between men and women in primary prevention, *Annals of Internal Medicine*, Feb. 4, 2010 (online correspondence) (with M. Wells), available at, http://www.annals.org/content/152/2/69/reply#annintmed_el_123978
- Analysis of Proposed Pennsylvania Civil Justice Reforms and Projected Economic Impact of Such Reforms, June 7, 1999 (with S. Schwab)
- Simplifying the Choice of Forum: A Reply (with K. Clermont), 75 *Wash U. L.Q.* 1551-1559 (1997)
- A Review of the Law and Economics Literature on Creditor Priority in Bankruptcy, prepared for Förmånsrättskommittén (Ju 1996:02), the Swedish Commission on the Priority System
- The Eleventh Amendment & Section 1983 Litigation, in Update of 42 U.S.C. § 1983 Law, Institute of Continuing Legal Education in Georgia (1996)
- The Value of Obvious Empirical Results and the Omniscient Mr. Palans: Response to Mr. Palans' Comments, 72 *Wash. U.L.Q.* 1001-04 (1994)
- Action Under Color of Law, in Update of 42 U.S.C. § 1983 Law, Institute of Continuing Legal Education in Georgia (1994)
- Damages in Section 1983 Cases, in Update of 42 U.S.C. § 1983 Law, Institute of Continuing Legal Education in Georgia (1994)
- The Eleventh Amendment & Section 1983 Litigation, in Update of 42 U.S.C. § 1983 Law, Institute of Continuing Legal Education in Georgia (1993)
- State Law in Section 1983 Cases, in Update of 42 U.S.C. § 1983 Law, Institute of Continuing Legal Education in Georgia (1993)
- Is the Quiet Revolution in Products Liability Reflected in Trial Outcomes?, *Cornell Law Forum*, July 1990 (with J. Henderson)
- Punitive Damages and the Constitution, *Commercial Damages Reporter*, Vol. 4, #6, September 1989 (Matthew Bender)
- Oral comments on Commissioner Allen's Analysis of *Runyon v. McCrary*, 41 *Rutgers L. Rev.* 905-909 (1989)
- Attorneys, Attorney Fees, and Prisoner Civil Rights Cases, *Cornell Law Forum*, June 1989, at 6 (with S. Schwab)
- The Evidence is Clear: Reversing Anti-Bias Case Would Cause Hardship, *Legal Times* (and related newspapers), Feb. 20, 1989, at 20 (with S. Schwab) (based on § 1981 article above)
- Texaco and Pennzoil Revisited, *Commercial Damages Reporter*, Vol. 2, #5, July-August 1987 (Matthew Bender)
- The Texaco-Pennzoil Case, *Commercial Damages Reporter*, Vol. 1, #6, Sept. 1986, at 167 (Matthew Bender)
- The Realities of Constitutional Tort Litigation, *Cornell Law Forum*, June 1986, at 7 (with S. Schwab)
- Some Costs of Bankruptcy Reform, *Cornell Law Forum*, Feb. 1983, at 2
- Book Review of G. McDowell, *Equity and the Constitution* (1982), 67 *Cornell L. Rev.* 1016 (1982)
- Comment, Reflections on A Unified Theory of Motive, 15 *San Diego L. Rev.* 1147 (1978)

Testimony & Expert Appointments

- Richard Fresco, et al., v. R.L Polk & Company & Acxiom Corporation, Case No.:07-60695-Civ-Martinez/Brown, United States District Court, Southern District of Florida, December 2010
- "Empirical Evidence Concerning Performance of the Civil Justice System," Has the Supreme Court Limited Americans' Access to Courts?, Senate Committee on the Judiciary, December 2, 2009 (written testimony)

The Bank of New York and Montana Board of Investments, High Court of Justice, Chancery Division, London, United Kingdom, July 2008

“Uncertain and Certain Litigation Abuses,” Oversight Hearing, “Safeguarding Americans from a Legal Culture of Fear: Approaches to Limiting Lawsuit Abuse,” House Committee on the Judiciary, June 22, 2004

Court Appointed Mediator (2001-2002), Bennett Funding Group Chapter 11 Bankruptcy, Northern District of New York

State v. Simpson: Expert witness on the effect of race in homicide prosecutions in the 16th Judicial Circuit, South Carolina (Dec. 2001)

Testimony on Proposed Pennsylvania Civil Justice Reforms before Pennsylvania legislative committee (Sept. 1999)

Simpson v. City of Hampton, Court-appointed statistical expert, voting rights case (with O. Ashenfelter)

Bell v. Evatt: Expert witness on the effect of race in homicide prosecutions in Anderson County, South Carolina (January 1996)

State v. Elmore: Expert witness on the effect of race in homicide prosecutions in Greenwood County, South Carolina (February 1995)

Truesdale v. Evatt: Expert witness on the effect of race in homicide prosecutions in the Sixth Judicial Circuit of South Carolina (December 1993)

Civil Rights Act of 1990: Hearings on H.R. 4000 Before a Joint House Comm. on Education and Labor and the Judiciary, 101st Cong. 2d Sess. (March 13, 1990)

Effectiveness of the Current Product Liability System and the Potential Effect of Federal Preemption: Hearings on S. 1400 Before the Consumer Subcomm. of the Senate Comm. on Commerce, Science, and Transportation, 101st Cong. 2d Sess. (February 22, 1990) (with J. Henderson)

Bankruptcy Code Amendments: Hearings on S. 544 Before the Subcomm. on Labor of the Senate Comm. on the Judiciary, 101st Cong. 1st Sess. (March 1989) (testimony as bankruptcy expert on proposed legislation spawned by the Eastern Airlines strike)

The Human Life Bill: Hearings on S. 158 Before the Subcomm. on the Separation of Powers of the Sen. Comm. on the Judiciary, 97th Cong. 1st Sess., at 576-609 (1981), reprinted in part in P. Brest & S. Levinson, *Processes of Constitutional Decisionmaking* 993-99 (2d ed. 1983)

In re Application of New Orleans Public Service Inc. for an Increase of Its Electric Rates, Docket No. CD-85-1, Before the Council of the City of New Orleans, October 1986 (testimony about considering bankruptcy before granting rate increases attributable to imprudently incurred costs)

In re Application of Gulf States Utilities to Change Rates, Docket No. U-17282, Before the Public Serv. Comm. of Louisiana, May-June 1987 (testimony about considering bankruptcy before granting rate increases attributable to imprudently incurred costs)

Courses Taught

Business Reorganizations Under the Bankruptcy Code
 Civil Rights Legislation/Constitutional Remedies
 Constitutional Law
 Corporate Taxation
 Bankruptcy & Debtor-Creditor Law
 Federal Income Taxation
 Empirical Studies of the Legal System Seminar
 International and Comparative Insolvency Law
 Employment Discrimination Seminar