

DANIEL A. FARBER
Sho Sato Professor of Law
University of California at Berkeley
894 Simon Hall, Berkeley CA 94720-7200
Voice (510) 642-0340 Fax: (510) 642-3728
E-mail: dfarber@law.berkeley.edu

PUBLICATIONS

BOOKS

1. CLIMATE CHANGE LAW (ELGAR ENCYCLOPEDIA OF ENVIRONMENTAL LAW, VOL. 1) (2016) (Elgar) (co-editor, with Marjan Peters).
2. DISASTER LAW (Elgar 2010) (with M. Faure) (editor).
3. RESEARCH HANDBOOK ON PUBLIC CHOICE AND PUBLIC LAW (Elgar 2010) (with A. O'Connell) (editor).
4. JUDGMENT CALLS: POLITICS AND PRINCIPLE IN CONSTITUTIONAL LAW (Oxford University Press 2008) (with S. Sherry) (Honorable Mention, 2010 Scribes Book Award).
5. SECURITY V. LIBERTY: CONFLICTS BETWEEN CIVIL LIBERTIES AND NATIONAL SECURITY IN AMERICAN HISTORY (Russell Sage 2008) (editor).
6. PUBLIC CHOICE AND PUBLIC LAW (Elgar 2007) (editor).
7. RETAINED BY THE PEOPLE: THE 'SILENT' NINTH AMENDMENT AND THE CONSTITUTIONAL RIGHTS AMERICANS DON'T KNOW THEY HAVE (Basic Books 2007).
8. DISASTER LAW AND POLICY (Aspen Publishers, 2006 [with J. Chen], 2d ed. 2010 [with J. Chen, L. Sun, and R. Verchick], 3d ed. 2015 [with J. Chen, L. Sun, and R. Verchick]).
9. MODERN CONSTITUTIONAL THEORY: A READER (West Pub. Co., 5th ed. 2004)(with J. Garvey and T. Aleinikoff).
10. LINCOLN'S CONSTITUTION (University of Chicago Press, 2003).
11. ECO-PRAGMATISM: MAKING SENSIBLE ENVIRONMENTAL DECISIONS IN AN UNCERTAIN WORLD (University of Chicago Press, 1999).
12. THE FIRST AMENDMENT (Foundation Press, 1998, 2d ed. 2003, 3d ed. 2010, 4th ed. 2014).
13. DESPERATELY SEEKING CERTAINTY: THE MISGUIDED QUEST FOR CONSTITUTIONAL FOUNDATIONS (University of Chicago Press 2002) [with S. Sherry].
14. BEYOND ALL REASON: THE RADICAL ASSAULT ON TRUTH IN LAW (Oxford University Press, 1997) [with S. Sherry] [New York Times "Notable Book of the Year"].
15. CASES AND MATERIALS ON CONSTITUTIONAL LAW: THEMES FOR THE CONSTITUTION'S THIRD CENTURY (West Publishing Co. 1993, 2d ed. 1998; 3d ed. 2003, 4th ed. 2010; with annual Supplements; Teacher's Manuals 1993, 1998, 2003, 2010) [with W. Eskridge and P. Frickey], 5th ed. 2013; with 2014, 2015 Supplements [with W. Eskridge and J. Schacter].

16. LAW AND PUBLIC CHOICE: A CRITICAL INTRODUCTION (University of Chicago Press, 1991) [with P. Frickey].
17. A HISTORY OF THE AMERICAN CONSTITUTION (West Pub. Co., 1st ed. 1989, 2nd ed. 2005, 3d ed. 2013) [with S. Sherry].
18. ENVIRONMENTAL LAW IN A NUTSHELL (West Pub. Co., 1st ed. 1983, 2nd ed. 1988; 3rd ed. 1992; Japanese translation, 1992; 4th ed. 1995; 5th ed. 2000; 6th ed. 2003, 7th ed. 2008, 8th ed. 2010, 9th ed. 2014) [with R. Findley].
19. ENVIRONMENTAL LAW: CASES AND MATERIALS (West Pub. Co., 1st ed. 1981, 2nd ed. 1985, 3rd ed. 1991, 4th ed. 1995, 5th ed. 1999; with 1983, 1988, 1993, and 1997 Supplements; Teacher's Manuals 1992, 1995 and 1999) [with R. Findley], 6th ed. 2003 [with R. Findley and J. Freeman], 7th ed. 2006 [with J. Freeman and A. Carlson] (with 2008 Supplement), 8th ed. 2010 [with J. Freeman and A. Carlson], 9th ed. 2013 [with A. Carlson].

ARTICLES, ESSAYS, AND BOOK CHAPTERS

1. Taking Costs into Account: Mapping the Boundaries of Judicial and Agency Discretion, 40 Harv. Env. L. Rev. 87 (2016).
2. Introduction (p.1) and Concluding Chapter: The Emergence of Global Climate Law (p. 687), in Daniel Farber & Marjan Peters, *Climate Change Law* (2016) (with Peters).
3. Disaster Law in the Anthropocene, in Jacqueline Peel and David Fisher, *The Role of International Environmental Law in Disaster Risk Reduction* (2016).
4. Coping with Uncertainty: Cost-Benefit Analysis, The Precautionary Principle, and Climate Change, 90 Wash. L. Rev. 1659 (2015).
5. Separated at Birth? Addressing the Twin Crises of Biodiversity and Climate Change, 42 *Ecology L.Q.* 841 (2015).
6. Gambling Over Growth: Economic Uncertainty, Discounting, and Regulatory Policy, 44 *J. Leg. Studies* S509 (2015).
7. Back to the Future? Legal Scholarship in the Progressive Era and Today, 100 *Minn. L. Rev.* 1 (2015) (invited article to introduce volume 100 of the Minnesota Law Review).
8. Unpacking EME Homer: Cost, Proportionality, and Emissions Reductions, 4 *Mich. J. Env. & Admin. L.* 2 (2015).
9. Autonomy, Welfare, and the Pareto Principle, in A.N. Hatzis and N. Mercurio (eds.), *LAW AND ECONOMICS: PHILOSOPHICAL ISSUES AND FUNDAMENTAL QUESTIONS* (2015).
10. "Beyond Imagination": Government Blind Spots Regarding Catastrophic Risks, *Issues in Legal Scholarship* 2015 (on-line journal).
11. Legal Formalism, in James D. Wright (ed.), *INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL AND BEHAVIORAL SCIENCES* 740 (2d ed. 2015).
12. The Lost World of Administrative Law (with Anne Joseph O'Connell), 92 *Tex. L. Rev.* 1137 (2014) (winner of the Richard D. Cudahy Award for Scholarship on Regulatory and Administrative Law).
13. International Law and the Disaster Cycle, in David D. Caron, Michael J. Kelly and Anastasia Telesetsky, *THE INTERNATIONAL LAW OF DISASTER RELIEF* (2014).
14. Paying the Price for Environmental Disaster: An Interim Report on Criminal and Civil Liability for the BP Oil Spill, *Ill. L. Rev. Slip Ops.* (2014) (on-line journal).

15. Lessons from the BP Oil Spill, 6 *Revista de Estudos Constitucionais Hermenaeutica e Teoria de Direito (RECHTD)* (Brazil) 232 (2014).
16. Climate Policy and the United States System of Divided Powers: Dealing with Carbon Leakage and Regulatory Linkage, 3 *Transnat'l Env. L.* 31 (2014) (peer reviewed).
17. Breaking Bad: The Uneasy Case for Breakeven Analysis, 102 *Cal. L. Rev.* 1469 (2014).
18. Social, Economic, and Ethical Concepts and Methods (ch. 3), in *Intergovernmental Panel on Climate Change, Working Group III – Mitigation of Climate Change* (2014) (contributing author).
19. Catastrophic Risk, Climate Change, and Disaster Law, 16 *Asia Pac. J. Env. L.* 37 (2013) (peer reviewed).
20. The 14th Amendment and the Unconstitutionality of Secession, in Neil Cogan, UNION AND STATES' RIGHTS: A HISTORY AND INTERPRETATION OF INTERPOSITION, NULLIFICATION, AND SECESSION 150 YEARS AFTER SUMTER (University of Akron Press 2013).
21. The Thirty Years War Over Federal Regulation, 92 *Tex. L. Rev.* 413 (2013) (review essay).
22. Carbon Leakage Versus Policy Diffusion: The Perils and Promise of Subglobal Climate Action, 13 *Chi. J. Int'l Law* 359 (2013).
23. Beyond the North-South Dichotomy in International Climate Law: The Distinctive Adaptation Responsibilities of the Emerging Economies, 22 *Review of European Community & International Environmental Law [RECIEL]* 42 (2013).
24. Pollution Markets and Social Equity: Analyzing the Fairness of Cap and Trade, 39 *Ecology L.Q.* 3 (2012).
25. Introduction: Legal Scholarship, the Disaster Cycle, and the Fukushima Accident, 23 *Duke Env. L & Pol'y Rev.* 1 (2012)
26. Sustainable Consumption, Energy Policy, and Individual Well-Being, 65 *Vand. L. Rev.* 1479 (2012).
27. The BP Blowout and the Social and Environmental Erosion of the Louisiana Coast, 13 *Minn. J. of L., Sci. & Tech.* 37 (2012).
28. Climate Justice, 110 *Mich. L. Rev.* 985 (2012) (review essay); (Chinese translation, published as “The Criticism of Economics of Climate Justice” in *J. of Poyang Law*, 2015).
29. A Fatal Loss of Balance: Dred Scott Revisited, 39 *Pepp. L. Rev.* 13 (2011).
30. Symposium Introduction: Navigating the Intersection of Environmental Law and Disaster Law, 2011 *BYU L. Rev.* 1783 (2011).
31. Issues of Scale in Climate Governance, in Dryzek, Norgaard, and Schlosberg, OXFORD HANDBOOK OF CLIMATE CHANGE AND SOCIETY (2011).
32. The Challenge of Climate Adaptation: Learning from National Planning Efforts in Britain, China, and the USA, 23 *J. Env. L. (U.K.)* 359 (2011).
33. Clean Technology: Challenges for the Legal System and Legal Education (Korea Legislation Research Inst. 2011) (monograph in English and Korean translation).
34. State Climate-Change Regulation: Will It Survive the Federal Challenge?, in Schlager, Engel and Rider, NAVIGATING CLIMATE CHANGE POLICY (2011).

35. Legal Guidelines for Cooperation Between the EU and American State Governments, in Vogel and Swinnen, *TRANSATLANTIC REGULATORY COOPERATION: THE SHIFTING ROLES OF THE EU, THE U.S., AND CALIFORNIA* (2011).
36. Using Environmental Property Rights to Shape Constitutional Law, in James May, *PRINCIPLES OF CONSTITUTIONAL ENVIRONMENTAL LAW* 359 (2011).
37. The Birth of U.S. Climate Change Law, *COJ Comp. L.J.* (Thailand) 1 (Aug. 2009).
38. “Cadenzas” Constitucionais, in George Leite, Ingo Sarlet, and Miguel Carbonell (eds.), *DIREITOS, DEVERES E GARANTIAS FUNDAMENTALIS* (2011).
39. Uncertainty, 99 *Geo. L.J.* 901 (2011).
40. Indirect Land Use Change, Uncertainty, and Biofuels Policy, 2011 *U. Ill. L. Rev.* 381 (2011).
41. Climate Change: A U.S. Perspective, 2 *Yonsei (Korea) L. J.* 1 (2011).
42. The UNCC as a Model for Climate Compensation, in Cymie Payne & Peter Sand (eds.), *GULF WAR REPARATIONS AND THE UN COMPENSATION COMMISSION* (2011).
43. Introduction (with M. Faure), in D. Farber and M. Faure (eds.), *DISASTER LAW* (Elgar 2010).
44. Introduction: “Practical Reason” and the Scholarship of Philip P. Frickey, 98 *Cal. L. Rev.* 1111 (2010).
45. Climate Change and U.S. Law, in F. Fracchia and M. Occhiena (eds.), *CLIMATE CHANGE: LA RISPOSTA DEL DIRITTO* (Editoriale Scientifica 2010).
46. Introduction: A Brief Trajectory of Public Choice and Public Law, in D. Farber and A. O’Connell (eds.), *RESEARCH HANDBOOK ON PUBLIC CHOICE AND PUBLIC LAW* (Elgar 2010).
47. Adaptation and Climate Justice, in T. Bonhady, A. Macintosh and J. McDonald (eds.), *ADAPTATION TO CLIMATE CHANGE: LAW AND POLICY* (Federation Press 2010).
48. Taking Responsibility for the Planet, 89 *Tex. L. Rev.* 147 (2010).
49. Owning Up to the Environment, 40 *Env. L. Rep.* 10994 (2010).
50. Building a Better Judiciary, in David Klein and Gregory Mitchell, *THE PSYCHOLOGY OF JUDICIAL DECISION MAKING* (Oxford Univ. Press. 2010).
51. Justice Stevens, Habeas Jurisdiction, and the War on Terror, 43 *U. Davis L. Rev.* 945 (2010).
52. The Story of McCulloch: Banking on National Power, in Michael Dorf (ed.), *CONSTITUTIONAL LAW STORIES* (2d ed. 2009) (Chinese translation , published in *Trial Techniques*, 2015).
53. Climate Adaptation and Federalism: Mapping the Issues, 1 *San Diego J. of Climate & Energy L.* 259 (2009).
54. Review Essay: Rethinking the Role of Cost-Benefit Analysis, 76 *U. Chi. L. Rev.* 1355 (2009).
55. Compensation for Victims of Climate Change, *Jurist* (# 1392, Feb. 2, 2009) (in Japanese)
56. The Monsanto Lecture in Tort Law -- Tort Law in the Era of Climate Change, Katrina, and 9/11: Exploring Liability for Extraordinary Risks, 43 *Val. U. L. Rev.* 1075 (2009).

57. Adaptation Planning and Climate Impact Assessments: Learning From NEPA's Flaws, 39 *Env. Law. Rptr.* 10605 (2009).
58. The Birth of U.S. Climate Law, *Comparative L. J.* [Thailand] 1 (Aug. 2009)
59. Confronting Uncertainty Under NEPA, *Issues in Legal Scholarship*, Vol. 8: Iss. 3 (Balancing the Risks: Managing Technology and Dangerous Climate Change), Article 3, available at <http://www.bepress.com/ils/vol8/iss3/art3.2009>.
60. Climate Compensation, *Jurist* (Tokyo), Feb. 15, 2009 (in Japanese translation).
61. The Categorical Approach to Protecting Speech in American Constitutional Law, 84 *Ind. L.J.* 917 (2009).
62. Climate Change, Federalism, and the Constitution, 40 *Ariz. L. Rev.* 879 (2008).
63. The Case for Climate Compensation: Justice Climate Change Victims in a Complex World, *Utah L. Rev.* 377 (2008)
64. A Place-Based Theory of Standing, 55 *UCLA L. Rev.* 1505 (2008).
65. Five Lessons from the REACH Directive, in Law Research Institute, EU LAW AND EAST ASIA IN THE AGE OF GLOBALIZATION: AGENDA FOR THE FUTURE 173 (2008) (in English and Korean translation).
66. Constitutional Cadenzas, 56 *Drake L. Rev.* 833 (2008).
67. Modeling Climate Change and Its Impacts: Law, Policy, and Science, 86 *Tex. L. Rev.* 1655 (2008).
68. L'approche de la liberté d'expression par catégories d'expression en droit constitutionnel américain, in Elisabeth Zoller (ed.), LA LIBERTÉ D'EXPRESSION AUX ÉTATS-UNIS ET EN EUROPE (2008).
69. El 'Rule of Law' y el Derecho de los Precedents, 3 *Palestra del Tribunal Constitution I* (Peru) 77 (2008)
70. Apportioning Climate Change Costs, 26 *UCLA J. Env. L. & Pol'y* 21 (2007/2008).
71. California Leadership in American Environmental Law, 6 *Studies in Cultural Symbiotics* (Okayama University) 1 (2008) (Japanese translation by Yuichiro Tsuji)
72. Basic Compensation for Victims of Climate Change, 155 *U. Pa. L. Rev.* 1605 (2007) (reprinted 2008-2009 *Land Use and Environmental Law Review* 415; reprinted in revised form with responses from other scholars, 38 *Env. L. Rep.* 10521 (2008).)
73. Bringing Environmental Assessment into the Digital Age, in Jane Holder and Donald McGillivray, TAKING STOCK OF ENVIRONMENTAL ASSESSMENT (2007)
74. Adapting to Climate Change: Who Should Pay?, 23 *J. Land Use & Env. L.* 1 (2007)
75. The Supreme Court, the Law of Nations, and Citations of Foreign Law: The Lessons of History, 95 *Cal. L. Rev.* 1335 (2007).
76. When the Court Has a Party, How Many 'Friends' Show Up? A Note on the Statistical Distribution of Amicus Brief Filings, 24 *Const. Comm.* 19 (2007).
77. Reinventing Flood Control, 81 *Tul. L. Rev.* 1085 (2007) (with R. Bea, K. Roberts, E. Wenk, and K. Inkabi).

78. Environmental Trading Schemes and the Constitutional Leverage Effect, in Jody Freeman and Charles D. Koostad, *MOVING TO MARKETS IN ENVIRONMENTAL REGULATION* (2007).
79. Legislative Constitutionalism in a System of Judicial Supremacy, in Richard W. Bauman and Tsvi Kahana, *THE LEAST EXAMINED BRANCH: THE ROLE OF LEGISLATURES IN THE CONSTITUTIONAL STATE* (2007).
80. Another View of the Quagmire: Unconstitutional Conditions and Contract Theory, 33 *FSU L. Rev.* 913 (2006)
81. Access and Exclusion Rights in Electronic Media: Complex Rules for a Complex World, 33 *N. Ky. L. Rev.* 459 (2006)
82. Backward-Looking Laws and Equal Protection: The Case of Black Reparations, 74 *Fordham L. Rev.* 2271 (2006)
83. The Independent Counsel Case: A Tale of Two Conservatives, in Craig Bradley, ed., *THE REHNQUIST LEGACY* (2006).
84. The Rule of Law and the Law of Precedents, 90 *Minn. L. Rev.* 1173 (2006).
85. The “War Against Terrorism” and the Rule of Law, *Transcript*, Summer 2005, at 28.
86. Environmental Enforcement and Compliance: An American Perspective, 1 *Daito Bunka L. Rev.* (Tokyo) 7 (2005) (published in English & Japanese)
87. Controlling Pollution by Individuals and Other Dispersed Sources, 35 *Env. L. Rep.* 10745 (2005).
88. Conflicting Visions and Contested Baselines: Intellectual Property and Free Speech in the “Digital Millennium”, 89 *Minn. L. Rev.* 1318 (2005).
89. Supreme Court Selection and Measures of Past Judicial Performance, 32 *FSU L. Rev.* 1175 (2005).
90. Did Roe v. Wade Pass the Arbitrary and Capricious Test?, 70 *Mo. L. Rev.* 1231 (2005).
91. Unlawful Combatants: Military Detention, Terrorism, and the Rule of Law, 58 *Current Legal Problems* 1 (2005).
92. Modular Environmental Regulation, 54 *Duke L.J.* 795 (2005)
93. The Story of *Boomer*: Pollution and the Common Law, 32 *ELQ* 113 (2005).
94. The Story of *Boomer*: Pollution and the Common Law, in Richard Lazarus and Oliver Houck, eds., *ENVIRONMENTAL LAW STORIES* (2005).
95. Conflicting Visions and Contested Baselines: Intellectual Property and Free Speech in the “Digital Millennium,” 89 *Minn. L. Rev.* 1318 (May 2005).
96. Earthquakes and Tremors in Statutory Interpretation: An Empirical Study of the Dynamics of Interpretation, 89 *Minn. L. Rev.* 848 (Feb. 2005).
97. Is There a Text in This Class? The Conflict Between Textualism and Antitrust, 14 *Journal of Contemporary Legal Issues* 620 (2005) (with Brett H. McDonnell).

98. The Story of *McCulloch*: Banking on National Power, 20 *Const. Comm.* 679 (2004).
99. Are Efficient Antitrust Rules Always Optimal?, *Antitrust Bulletin* 807 (Fall 2003) (with Brett McDonnell).
100. Probabilities Behaving Badly: Complexity Theory and Environmental Uncertainty, 37 *U.C. Davis L. Rev.* 145 (2003).
101. Review Essay: What (If Anything) Can Economics Say About Equity? 101 *Mich. L. Rev.* 1791 (2003).
102. From Here to Eternity: Environmental Law and Future Generations, 2003 *U. Ill. L. Rev.* 289 (2003).
103. Dollars and Sense: A “New Paradigm” for Campaign Finance Reform?, 37 *Rich. L. Rev.* 979 (2003).
104. Judicial Review and Its Alternatives: An American Tale, 38 *Wake Forest L. Rev.* 415 (2003).
105. Why (and How) Fairness Matters at the IP/Antitrust Interface, 87 *Minn. L. Rev.* 1817 (2003) (with Brett H. McDonnell).
106. Building Bridges over Troubled Waters: Eco-pragmatism and the Environmental Prospect, 87 *Minn. L. Rev.* 851 (2003).
107. Rethinking Regulatory Reform After *American Trucking*, 23 *Pace L. Rev.* 43 (2002).
108. Rights as Signals, 31 *Journal of Legal Studies* 83 (2002).
109. Speaking in the First Person Plural: Expressive Associations and the First Amendment, 85 *Minn. L. Rev.* 1483 (2001).
110. Review Essay: Toward a New Legal Realism, 68 *U. Chi. Rev.* 279 (2001).
111. Disarmed by Time: The Second Amendment and the Failure of Originalism (Symposium on the Second Amendment: Fresh Looks), 76 *Chi.-Kent L. Rev.* 167 (2000).
112. Economic Efficiency and the Ex Ante Perspective, in Jody Kraus and Steven Walt, eds., *THE JURISPRUDENTIAL FOUNDATIONS OF CORPORATE AND COMMERCIAL LAW* (2000).
113. Of Coase and the Canon: Reflections on Law and Economics, in J.M. Balkin & Sanford Levinson, *LEGAL CANONS* (2000).
114. Environmental Litigation After *Laidlaw*, 30 *Env. L. Rep.* 10516 (2000).
115. Do Theories of Statutory Interpretation Matter? A Case Study, 94 *Nw. L. Rev.* 1409 (2000).
116. Triangulating the Future of Reinvention: Three Emerging Models of Environmental Protection, 2000 *U. Ill. L. Rev.* 61 (2000).
117. Freedom of Expression, in American Bar Assoc., *COMMON LAW/COMMON RIGHTS* (2000).
118. Courts, Statutes, and Public Policy: The Case of the Murderous Heir, 53 *SMU L. Rev.* 31 (2000).
119. Pledging a New Allegiance: An Essay on Sovereignty and the New Federalism, 75 *Notre Dame L. Rev.* 1133 (2000).

120. Beyond the Formalism Debate: Expert Reasoning, Fuzzy Logic, and Complex Statutes, 52 *Vand. L. Rev.* 1243 (1999) (with Edward S. Adams).
121. Afterword: Property and Free Speech, 93 *Nw. U. L. Rev.* 1239 (1999).
122. Stretching the Adjudicative Paradigm: Another Look at Judicial Policy Making and the Modern State, 24 *Law & Soc. Inquiry* 751 (1999).
123. Beyond All Criticism? 83 *Minn. L. Rev.* 1735 (1999) (with S. Sherry).
124. Taking Slippage Seriously, 23 *Harv. Env. L. Rev.* 297 (1999).
125. Adjudication of Things Past: Reflections on History as Evidence, 49 *Hastings L. Rev.* 1009 (1998).
126. Environmental Federalism in a Global Economy, 83 *Va. L. Rev.* 1283 (1997).
127. Parody Lost/Paradigm Regained: The Ironic History of the Coase Theorem, 83 *Va. L. Rev.* 397 (1997).
128. Is the Supreme Court Irrelevant? Reflections on the Judicial Role in Environmental Law, 81 *Minn. L. Rev.* 547 (1997).
129. The Pariah Principle, 13 *Const. Comm.* 257 (1996) (with S. Sherry).
130. The Geographic Nexus in Environmental Law, 48 *Stan. L. Rev.* 1247 (1996).
131. Legal Storytelling and Constitutional Law: The Medium and the Message, in Gewirtz & Brooks, *LAW'S STORY*, (Yale University Press, 1996) (with S. Sherry).
132. Review Essay: Statutory Interpretation and the Idea of Progress, 94 *Mich. L. Rev.* 1546 (1996).
133. The Ages of American Formalism, 90 *Nw. U. L. Rev.* 89 (1995).
134. Positive Theory as Normative Critique, 68 *So. Cal. L. Rev.* 1565 (1995).
135. The Constitution's Forgotten Cover Letter: An Essay on the New Federalism and the Original Understanding, 94 *Mich. L. Rev.* 615 (1995).
136. GATT Legal Restrictions on Domestic Environmental Regulations, in R. Hudec & J. Bhaguati, *POLICY HARMONIZATION AND INTERNATIONAL TRADE* (1995) (with R. Hudec).
137. Is the Radical Critique of Merit Anti-Semitic?, 83 *Cal. L. Rev.* 853 (1995) (with S. Sherry).
138. Reinventing Brandeis: Legal Pragmatism for the 21st Century, *U. Ill. L. Rev.* 163 (1995).
139. Missing the "Play of Intelligence," 36 *Wm. & Mary L. Rev.* 147 (1994).
140. Free Trade and the Regulatory State: A GATT's-Eye View of the Dormant Commerce Clause, 47 *Vand. L. Rev.* 1401 (1994) (with R. Hudec).
141. The 200,000 Cards of Dimitri Yurasov: Further Reflections on Scholarship and Truth, 45 *Stan. L. Rev.* 807 (1994) (with S. Sherry).
142. The Outmoded Debate Over Affirmative Action, 82 *Cal. L. Rev.* 893 (1994).

143. Discrimination Issues and Genetic Screening, in *PRESCRIBING OUR FUTURE: ETHICAL CHALLENGES IN GENETIC COUNSELING* (D. Bartels, B. LeRoy, and A. Caplan, eds., 1993).
144. Telling Stories Out of School: An Essay on Legal Narratives, 45 *Stan. L. Rev.* 807 (1993) (with S. Sherry).
145. The Shadow of the Future: Discount Rates, Later Generations, and the Environment, 46 *Vand. L. Rev.* 267 (1993) (with P. Hemmersbaugh).
146. Public Choice and Just Compensation, 9 *Const. Comm.* 279 (1992) [previously published in part, 12 *Int'l Rev. of L. & Econ.* 125 (1992)].
147. The Inevitability of Practical Reason: Statutes, Formalism, and the Rule of Law, 45 *Vand. L. Rev.* 533 (1992).
148. Politics and Procedure in Environmental Law, 8 *J. L. Econ. & Org.* 59 (1992).
149. Foreword: Positive Political Theory in the Nineties, 80 *Geo. L. J.* 457 (1992) [with P. Frickey].
150. Free Speech Without Romance: Public Choice and the First Amendment, 105 *Harv. L. Rev.* 554 (1992).
151. Is *Carolene Products* Dead? Reflections on Affirmative Action and the Dynamics of Civil Rights Legislation, 79 *Cal. L. Rev.* 695 (1992) (with P. Frickey).
152. Risk Regulation in Perspective: *Reserve Mining* Revisited, 21 *Env. L.* 1332 (1991).
153. Legislative Deals and Statutory Bequests, 75 *Minn. L. Rev.* 667 (1991).
154. Review Essay: Playing the Baseline: Civil Rights, Environmental Law, and Statutory Interpretation, 91 *Colum. L. Rev.* 676 (1991).
155. In the Shadow of the Legislature: The Common Law in the Age of the New Public Law, 89 *Mich. L. Rev.* 875 (1991) (with P. Frickey).
156. Beyond the *Roe* Debate: Judicial Experience with the 1980's Reasonableness Test, 76 *Va. L. Rev.* 519 (1990) (with J. Nowak).
157. Statutory Interpretation and Legislative Supremacy, 78 *Geo. L.J.* 281 (1989).
158. Review Essay: Environmentalism, Economics and the Public Interest, 41 *Stan. L. Rev.* 1021 (1989).
159. The Originalism Debate: A Guide for the Perplexed, 49 *Ohio St. L.J.* 1085 (1988).
160. Statutory Interpretation, Legislative Inaction, and Civil Rights, 87 *Mich. L. Rev.* 2 (1988).
161. Legal Pragmatism and the Constitution, 72 *Minn. L. Rev.* 1331 (1988).
162. Public Choice and Legislative Intent, 74 *Va. L. Rev.* 423 (1988) (with P. Frickey).
163. Reassessing *Boomer*: Justice, Efficiency, and Nuisance Law, in *ESSAYS ON THE LAW OF PROPERTY AND LEGAL EDUCATION, IN HONOR OF JOHN E. CRIBBET*. (University of Illinois Press, 1988).
164. Practical Reason and the First Amendment, 34 *U.C.L.A. L. Rev.* 1615 (1987) (with P. Frickey).
165. Brilliance Revisited, 72 *Minn. L. Rev.* 367 (1987).

166. Toxic Causation, 71 *Minn. L. Rev.* 1219 (1987).
167. The Jurisprudence of Public Choice, 65 *Tex. L. Rev.* 873 (1986) (with P. Frickey).
168. State Regulation and the Dormant Commerce Clause, 3 *Const. Comm.* 395 (1986); reprinted in 18 *Urban Lawyer* 567 (1986).
169. The Case Against Brilliance, 70 *Minn. L. Rev.* 917 (1986).
170. From Plastic Trees to Arrow's Theorem, 1986 *U. Ill. L. Rev.* 337.
171. Beyond Promissory Estoppel: Contract Law and the "Invisible Handshake," 53 *U. Chi. L. Rev.* 903 (1985) (with Matheson).
172. Justice Harlan and the First Amendment, 2 *Const. Comm.* 425 (1985) (with J. Nowak).
173. The Misleading Nature of the Public Forum Debate, 71 *Va. L. Rev.* 1219 (1984) (with J. Nowak).
174. The Ideological Origins of the Fourteenth Amendment, 1 *Const. Comm.* 235 (1984) (with J. Muench).
175. Equitable Discretion, Legal Duties, and Environmental Injunctions, 45 *U. Pitt. L. Rev.* 513 (1984); reprinted in 16 *Land Use & Env't L.J.* 317 (1985).
176. Contract Law and Modern Theory, 78 *Nw. U.L. Rev.* 101 (1983).
177. The Supreme Court and the Rule of Law: *Cooper v. Aaron* Revisited, *U. Ill. L. Rev.* (1982).
178. National Security, The "Right to Travel," and the Court, *Sup. Ct. Rev.* 263 (1981).
179. Reappraising the Economic Efficiency of Compensatory Damages for Breach of Contract, 66 *Va. L. Rev.* 1443 (1980).
180. Civilizing Public Discourse: An Essay on Professor Bickel, Justice Harlan, and the Enduring Significance of *Cohen v. California*, *Duke L.J.* 283 (1980).
181. Content Regulation and the First Amendment: A Revisionist View, 68 *Geo. L.J.* 727 (1980).
182. Commercial Speech and First Amendment Theory, 74 *Nw. U.L. Rev.* 372 (1979); reprinted, 22 *Corp. Prac. Comm.* 68 (1980).

REVIEWS AND COMMENTS

1. Discount Rates and Infrastructure Safety: Implications of the New Economic Learning, in Paulo Gardoni et al., *Risk Analysis of Natural Hazards: Risk, Governance and Society* (2016).
2. Keynote Address: Harm to Nature as a Legal Concept, *Proceedings of the Korean Environmental Law Association* (May 28, 2016) (in English & Korean translation).
3. Public Participation in Science-Based Policy (2016) (Japanese translation of English MS)
4. California Climate Law—Model or Object Lesson?, 32 *Pace Env. L. Rev.* 492 (2015).
5. Facing the Facts, 30 *Env. Forum* 31 (2012).

6. Lincoln, FDR, and the Growth of Federal Power, in Karl Weber ed., *LINCOLN: A PRESIDENT FOR THE AGES* (2012).
7. Editorial: Transnational Dimensions of Climate Governance, in 1 *Transnat'l Env'tl. L.* 235 (2012).
8. Uncertainty, 42 *Env'tl. L. Rep.* 10725 (2012).
9. Foreword, in Maxwell L. Stearns and Todd J. Zywicki, *PUBLIC CHOICE CONCEPTS AND APPLICATIONS IN LAW* (2009).
10. John Paul Stevens, in Roger K. Newman, *THE YALE BIOGRAPHICAL DICTIONARY OF AMERICAN LAW* (Yale Press, 2009).
11. Will the Waxman-Markey Bill Harm the Economy?, *CQ Researcher* 637 (July 24, 2009).
12. A Legal Framework for Adaptation to Climate Change, *Resources for the Future Issue Brief* (9-14, December 2009).
13. The Law, Then and Now, in *A NEW BIRTH OF FREEDOM: ABRAHAM LINCOLN'S BICENTENNIAL*, Newsdesk Media, Washington D.C. (2009).
14. The Ninth Amendment and Individual Rights: A Reply to Professor McCaffee, 9 *Nev. L.J.* 243 (2008).
15. California's Leadership in American Environmental Law, 8 *Meiji Gakuin University Graduate Law School Law Review* 89 (2008) (w/ Y. Tsuji).
16. Global Warming and the United States: Will America Act?, 8 *Meiji Gakuin University Graduate Law School Law Review* 97 (2008) (w/ Y. Tsuji).
17. California's Leadership in American Environmental Law, 8 *Meiji Gakuin University Graduate Law School Law Review* 105 (2008) (w/ Y. Tsuji).
18. The Role of Precedent in the Evolution of American Abortion Law, in *FAMILY AND THE LAW IN THE 21ST CENTURY: FESTSCHRIFT IN HONOR OF KOJI ONO* (2007) (in English and Japanese translation).
19. Introduction: The Role of Lawyers in a Disaster-Prone World, 31 *Nova L. Rev.* 403 (2007).
20. Disaster Law and Inequality, 25 *J. L. & Inequality* 297 (2007).
21. Review of Deak Nabers, Victory of Law, *Am. Hist. Rev.* 1182 (Oct. 2007).
22. 'Much Older than the Constitution': Lincoln's Theory of Nationhood, *OAH Magazine of History*, Jan. 2007, at 14.
23. Completing the Work of the Framers: Lincoln's Constitutional Legacy, 27 *J. Abraham Lincoln Ass'n* 1 (2006).
24. Moving the Supremes to the Heartland: The Case for Omaha, 22 *Const. Comm.* 1 (2005).
25. Uncertainty as a Basis for Standing, 33 *Hofstra L. Rev.* 1121 (2005).
26. Environmental Enforcement and Compliance: An American Perspective, 1 *Daito Bunka L. Rev.* (Tokyo) 7 (2005).

27. Implementing Equality, 3 *Election L.J.* 371 (2004) (review of Richard Hasen, THE SUPREME COURT AND ELECTORAL LAW).
28. The Importance of Being Final, 20 *Const. Comm.* 359 (2004).
29. Who Killed *Lochner*? 90 *Geo. L.J.* 985 (2002) (review of G. Edward White, THE CONSTITUTION AND THE NEW DEAL).
30. The Headnote, 5 *The Green Bag* 157 (2002) (under the name of “Gil Grantmore”).
31. “Nor Long Remember,” 18 *Const. Comm.* 423 (2001) (review of George P. Fletcher, OUR SECRET CONSTITUTION: HOW LINCOLN REDEFINED AMERICAN DEMOCRACY).
32. E Pluribus Unum? Book Review, 18 *Const. Comm.* 243 (2001) (review of Forrest McDonald, STATES’ RIGHTS AND THE UNION: IMPERIUM IN IMPERIO, 1776-1876).
33. A Tale of Two Cases, 20 *Va. Env. L.J.* 33 (2001).
34. Book Review, *Trial Magazine*, January 2001 (review of Peter Irons, A PEOPLE’S HISTORY OF THE SUPREME COURT).
35. Mark My Words, 3 *The Green Bag* 121 (2000) (with Jim Chen) (under the name of “Gil Grantmore”).
36. Response: Green Scholarship – An Oxymoron?, 3 *The Green Bag* 231 (2000).
37. Book Review, 19 *J. of Policy Analysis and Management* 650 (2000) (review of Jerry L. Mashaw, GREED, CHAOS, AND GOVERNANCE: USING PUBLIC CHOICE TO IMPROVE PUBLIC LAW).
38. Economic Regulation (Update), in *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION* (2nd ed. 2000).
39. The Death of Contra, 52 *Stan. L. Rev.* 889 (2000) (with Jim Chen) (under the name of “Gil Grantmore”).
40. Book Review, 17 *Const. Comm.* 137 (2000) (review of Stanley Fish, THE TROUBLE WITH PRINCIPLE).
41. Measuring First Amendment Value: Rebraf’s First Chronicle, 17 *Const. Comm.* 3 (2000).
42. Book Review, 69 *Law & Soc. Inquiry* 507 (1999) (review of Richard A. Posner, LAW AND LITERATURE: A MISUNDERSTOOD RELATION) [with Bernard Farber].
43. Book Review, Shocking the Conscience: Pragmatism, Moral Reasoning, and the Judiciary, 16 *Const. Comm.* 675 (1999) (review of Richard A. Posner, THE PROBLEMATICS OF MORAL AND LEGAL THEORY).
44. The Trouble With *Tarble’s*: An Excerpt from an Alternative Casebook, 16 *Const. Comm.* 517 (1999).
45. The Legal 100, 35-May *Trial* 90.
46. Is American Law Inherently Racist? 15 *Cooley L. Rev.* 361 (1999) (with Richard Delgado).
47. Models of Reinvention, *Boston Review* (Oct./Nov. 1999) (reprinted in Charles Sabel, Archon Fung, and Bradley Karkkainen, BEYOND BACKYARD ENVIRONMENTALISM, 2000).
48. Legal Formalism and the Red-Hot Knife, 597 *U. Chi. L. Rev.* 597 (1999).

49. *Reserve Mining Revisited*, 83 *Minn. L. Rev.* 219 (1998).
50. Book Review, 15 *Const. Comm.* 571 (1998) (review of D. Rabban, *FREE SPEECH IN ITS FORGOTTEN YEARS*).
51. *Public Choice Revisited*, 96 *Mich. L. Rev.* 1715 (1998) (with P. Frickey) (review of Maxwell L. Stearns, *PUBLIC CHOICE AND PUBLIC LAW: READINGS AND COMMENTARY*).
52. *Constitutional Oddities*, 15 *Const. Comm.* 211 (1998).
53. *Saving Overton Park: A Comment on Environmental Values*, 146 *U. Penn. L. Rev.* 1671 (1998).
54. *Whither Socialism (Symposium: The New Private Law)*, 73 *Denv. L. Rev.* 1011 (1996).
55. *The Coase Theorem and the Eleventh Amendment*, 13 *Const. Comm.* 141 (1996).
56. *The Hermeneutic Tourist*, 81 *Cornell L. Rev.* 513 (1996) (review of D. MacCormick and R. Summers, *INTERPRETING STATUTES: A COMPARATIVE STUDY*).
57. *The Dead Hand of the Architect*, 19 *Harv. J. of L. & Pub. Pol'y* 245 (1996).
58. *The Ages of American Formalism*, 90 *Nw. U. L. Rev.* 89 (1995).
59. *Poverty and Discrimination: Notes on AMERICAN APARTHEID*, 11 *Const. Comm.* 455 (1994-95).
60. Book Review, 11 *Const. Comm.* 613 (1994-95) (review of Swain, *BLACK FACES, BLACK INTERESTS*).
61. Comment, 21 *Ecology L.Q.* 549 (1994).
62. *Environmental Law as a Learning Experience*, 27 *Loy. L.A. L. Rev.* 791 (1994).
63. Review Essay: *Revitalizing Regulation*, 91 *Mich. L. Rev.* 1278 (1993).
64. *Wayne LaFave in the Classroom*, *U. Ill. L. Rev.* 177 (1983).
65. Book Review, 10 *Const. Comm.* 510 (1993) (review of Innes, *PRIVACY, INTIMACY, AND ISOLATION*).
66. Book Review, 76 *Pub. Choice* 384 (1993) (review of Paul, Miller, and Paul, *ECONOMIC RIGHTS*).
67. *The Scholarly Attorney as Lawyerly Judge: Stevens on Statutes*, 1992/1993 *Annual Survey of American Law* xxxviii (1993).
68. *The Jurisprudential Cab Ride*, 1992 *BYU L. Rev.* 363 (reprinted in *Trial*, July, 1992 at 102).
69. "Terminator 2 1/2": *The Constitution in an Alternate World*, 9 *Const. Comm.* 59 (1992).
70. *Environmental Regulation, and Taking of Property*, in *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION* (Supp., 1991).
71. *The Deconstructed Grocery List*, 7 *Const. Comm.* 213 (1990).
72. Book Review, 7 *Const. Comm.* 492 (1990) (review of B. Grofman & D. Wittman, *THE FEDERALIST PAPERS AND THE NEW INSTITUTIONALISM*).

73. Recurring Misses, 19 *J. Leg. Studies* 727 (1990).
74. The Man Who Mistook His Life For a Plant, 63 *Tul. L. Rev.* 1445 (1989).
75. *Richmond* and Republicanism, 41 *U. Fla. L. Rev.* 623 (1989).
76. Democracy and Disgust: A Comment on Public Choice, 65 *Chi. Kent L. Rev.* 161 (1989).
77. Book Review, 6 *Const. Comm.* 564 (1989) (review of W. Nelson, THE FOURTEENTH AMENDMENT).
78. The Constitution and the U.C.C., 6 *Const. Comm.* 217 (1989).
79. The Bush Court, 6 *Const. Comm.* 13 (1989).
80. Integrating Public Choice and Public Law: A Reply to DeBow and Lee, 66 *Tex. L. Rev.* 1013 (1988) (with P. Frickey).
81. The Zapp Complex, 5 *Const. Comm.* 13 (1988).
82. Constitutional Scholarship: What Next?, 5 *Const. Comm.* 71 (1988).
83. Post-Modern Dental Studies, 4 *Const. Comm.* 219 (1987).
84. Two Cheers for Warren Burger, 4 *Const. Comm.* 1 (1987).
85. The Law and Economics Movement, in 4 RESEARCH IN SOCIAL PROBLEMS AND PUBLIC POLICY 21 (M. Lewis & J. Miller, eds., 1987).
86. Gresham's Law of Legal Scholarship, 3 *Const. Comm.* 307 (1986).
87. Economic Analysis of Abortion, 3 *Const. Comm.* 1 (1986); reprinted in *The New Republic*, July 14, 1986 at 15.
88. Book Review, 3 *Const. Comm.* 282 (1986) (review of G. Calabresi, IDEALS, BELIEFS, ATTITUDES AND THE LAW).
89. Murray's Modest Proposal--Abolishing Welfare and Affirmative Action, 2 *Const. Comm.* 287 (1985).
90. Poverty, Earnings, and Discrimination, 2 *Const. Comm.* 13 (1985).
91. Book Review, 1 *Const. Comm.* 376 (1984) (review of J. Baer, EQUALITY UNDER THE CONSTITUTION).
92. Book Review, 67 *Minn. L. Rev.* 1328 (1983) (review of P. Bobbitt, CONSTITUTIONAL FATE).
93. Book Review, 77 *Nw. U. L. Rev.* 729 (1982) (review of A. Cox, FREEDOM OF EXPRESSION, and F. Haiman, SPEECH AND LAW IN A FREE SOCIETY).
94. Book Review, 66 *Minn. L. Rev.* 561 (1982) (review of C. Fried, CONTRACT AS PROMISE).
95. Commercial Speech and First Amendment Theory: A Critical Exchange, 75 *Nw. U. L. Rev.* 307 (1980).
96. Comment, Executive Privilege at the State Level, 1974 *U. Ill. L. F.* 631.
97. Comment, Federal Regulation of Pyramid Sales Schemes, 1974 *U. Ill. L. F.* 137.

NON-SCHOLARLY WRITINGS (Partial Listing)

1. The Court Revisits Preemption, *Environmental Forum* (April/May 2011).
2. White Paper, Making Good Use of Adaptive Management (Center for Progressive Regulation, 2011) (with Holly Doremus et al.).
3. A Typical Day of Environmental Suits, *Environmental Forum* (March/April 2011).
4. Changing Property, Changing Climate, *Environmental Forum* (Jan./Feb. 2011).
5. White Paper, California at the Cross-Roads: Proposition 23, A.B. 32, and Climate Change (Center for Law, Energy and Environment, UC Berkeley, 2010) (with Dan Kammen, et al.).
6. Litigating Climate Change Endangerment, *Environmental Forum* (Nov./Dec. 2010)
7. Proposition 23 and the Damage It would Do to California, *Los Angeles Times* (Oct. 4, 2010) (with R. Frank).
8. A Legal Framework for Climate Adaptation Assessment, *Resource for the Future Issue Brief* (2009).
9. Litigating Clean Air Endangerment, *The Environmental Forum*, Nov./Dec. 2010.
10. The “War Against Terrorism” and the Rule of Law, *Boalt Hall Transcript* 28 (Summer 2005).
11. And Welfare for All? *The Washington Monthly*, Sept. 2004, at 54.
12. Eco-Pragmatism: Environmental Regulation for the New Century, *University of Minnesota Law Alumni News* (Fall, 1999).
13. Book Review, *New York Times*, Apr. 19, 1999, at 18 (review of S. Holmes & C. Sunstein, THE COST OF RIGHTS).
14. The Miasma in Minnesota, *Trusteeship*, May/June, 1997, at 6.
15. Book Review, *New York Times*, Feb. 13, 1994, at 28 (review of R. Epstein, BARGAINING WITH THE STATE).
16. Supreme Court Columnist, *Trial Magazine* (1989-1992).
17. Corporate Punishment, *The New Republic*, Dec. 26, 1988, at 16.
18. Taking’ Liberties, *The New Republic*, June 27, 1988, at 19.
19. Book Review, *The New Republic*, Jan. 4, 1988, at 36 (review of M. Kelman, A GUIDE TO CRITICAL LEGAL THEORY).
20. A Case of Conflict: Religious Belief, Medicine and Civil Liability, 5 *Second Opinion* 58 (1987).
21. Book Review, *The Washington Monthly*, May 1987, at 52 (review of H. Schwartz, THE BURGER YEARS).
22. Environmental Law: Disdain for 17-Year-Old Statute Evident in High Court's Rulings, *National Law Journal*, May 4, 1987, at 18.

23. The Supreme Court in 2007: Charles Darwin Washoe III v. National Institute of Mental Health, *Minnesota*, March/April 1987, at 9; reprinted in R. Hardet, R. Cullen & L. Hardet, *SOCIOLOGICAL CONCEPTS: A LITERARY READER* (1986).
24. Too Clever By Half, *The New Republic*, Sept. 1, 1986, at 11.
25. Book Review, *Bench & Bar*, January 1986, at 37 (review of S. Ervin, *PRESERVING THE CONSTITUTION*).
26. Illinois Venue Law and the Consumer, 63 *Ill. B. J.* 440 (1975) (with H. Harper).

SELECTED PRESENTATIONS

1. "The Implementation Gap in Environmental Law," Conference on Pathways to a Clean Environmental, Peiking University (June 14, 2016) (by Skype).
2. "Judicial Humility and *Chevron*," Public Policy Conference on Revising Judicial Deference: History, Structure, and Accountability, George Mason University (June 1, 2016).
3. "The Implementation Gap in Environmental Law," Seoul National University, May 30, 2016.
4. "Harm to Nature as Legal Injury," Korean Environmental Law Society, May 28, 2016.
5. "The BP Oil Spill and Corporate Liability," Conference for Judges and Prosecutors, Porto Alegre, Brazil (April 29, 2016).
6. "Climate Change and International Disaster Law," UNSINOS (Brazil) (at two different campuses, Porto Alegre on April 26 and Sao Leopoldo on April 27)).
7. "Agencies as Adversaries," George Mason University (March 16, 2016)
8. The Implementation Gap in U.S. Law, University of Chicago (March 4, 2016).
9. Visiting Professor, University of Parma (Feb. 15-28, 2016).
10. Disaster Law and Climate Change, Meigun Gaijun University (Tokyo) (Jan. 23, 2016)
11. Master Class for Graduate Students, Tskuba University (Tokyo) (Jan. 21, 2016)
12. "Back to the Future: Issue 1 and the Evolution of American Legal Scholarship," Standing on the Shoulders of Giants: Celebrating 100 Volumes of the *Minnesota Law Review* (Keynote Address) (October 2, 2015).
13. "Disaster Law in the Anthropocene," at conference on "How Can International Environmental Law Reduce Disaster Risk?" Stanford Law School (May 21, 2015).
14. Guest Lecturer on Energy Law, University of Calgary (March 22, 2015).
15. "Citizen Participation in Environmental Decisions: A U.S. Perspective," International Workshop on Environmental Policy-Making Instruments Based on Citizen Participation, Osaka University (March 8, 2015).
16. "From Sources to Systems," at conference on "Reconceptualizing the Future of Environmental Law," Pace Law School (March 30, 2015).

17. "The Lost World of Administrative Law," Association of American Law Schools Panel on Administrative Law (January 1, 2015).
18. "Measuring the Shadow of Future Disasters: Discounting, Inequality and Catastrophic Risks," Copenhagen University (December 11, 2014).
19. Commentator, Harvard/Stanford/Yale Junior Faculty Forum, Stanford Law School (June 27, 2014).
20. "Discounting, Inequality, and Catastrophic Risks," University of Illinois (April 7, 2014).
21. "Climate Change and Property Rights," Florida State University (Feb. 28, 2014) (endowed lecture).
22. "The Lost World of Administrative Law," Florida State University (Feb. 27, 2014).
23. "'Beyond Our Imagination': Combatting Blindspots Regarding Catastrophic Risks," University of Michigan Law School (Feb. 10, 2014).
24. "The Evolution of U.S. Climate Law," JDS International Seminar (January 23, 2014).
25. "Climate Law in a System of Divided Powers," Meijing Gakuin University (Tokyo).
26. "The Use of Foreign Law in Constitutional Interpretation," Conference on Legal Scholarship, Peking University (Nov. 14, 2013).
27. "Key Note Address: Constitutional Law in the 21st Century," Loyola (Chicago) Law School (Nov. 2, 2012)
28. "Key Note Address: Climate Change as an Extreme Sport," University of Sydney, Dec. 10, 2012.
29. "Disaster Law," AALS Workshop on Torts, Environment and Disaster, Oakland, CA, June 9, 2012.
30. "Cadenças Constitucionais," 9th Congresso Internacional De Direito Constitucional, Natale, Brazil, Apr. 29, 2011.
31. "Citizenship, Secession, and the Fourteenth Amendment," Panel on Legal History, American Association of Law Schools, Jan. 8, 2011.
32. "Preemption Overview," Uniform Law Commissioners Conference on Federalism and State Law, Wash., D.C., Oct. 2010.
33. "Tightening the Focus for Adaptation Planning," Journal of Environmental Law Lecture, London, Dec. 6, 2010.
34. "Developments in the Law of Preemption." Uniform Law Commissioners, D.C., Oct. 29, 2010.
35. "Uncertainty," Cornell Law School, April 30, 2010.
36. "Uncertainty and Indirect Land Use Change," Conference on Biofuels and the Law, Energy Biosciences Institute, University of Illinois, April 9, 2010.
37. "Uncertainty," University of Chicago Law School, April 1, 2010.
38. "Climate Change Adaptation and Federalism," Association of American Law Schools Session on Environmental Law, New Orleans, Jan. 10, 2010.

39. "Global Warming in the Law," Office of the Judiciary, Thailand, August 6, 2009.
40. "Climate Adaptation: Issues of Governance Scale," University of Oslo, Sept. 25, 2009.
41. "American Climate Law," University of Oslo, Sept. 23, 2009.
42. "Energy Justice Research at Berkeley," Conference on Energy Justice, University of Colorado Center for Environment and Energy Security, Oct. 12, 2009.
43. "Introduction," Festschrift in Honor of Philip Frickey, UC Berkeley Law School, April 24, 2009.
44. "Habeas, the War on Terror and the Constitution," UC Davis Law School, Conference on the Honorable John Paul Stevens, March 6, 2009.
45. "Who had the Greater Impact on American Law: Lincoln or Darwin?," Pepperdine Law School, Feb. 2, 2009.
46. "The Authors' Perspective," Sherry-Farber Book Panel, Vanderbilt Law School, Oct. 23, 2009.
47. "Climate Change and Water Planning," 27th Annual ABA Water Law Conf., Feb. 29, 2009
48. "Climate Adaptation and Federalism," San Diego Climate and Energy Law Symposium, Feb. 20, 2009.
49. "Financing Adaptation and Innovation," University of Hastings College of Law, April 3, 2008
50. "Defining the Terms of Engagement," conference on "The American Presidency at War," UC Berkeley, Sept. 19, 2008.
51. "Disaster Law," Universidade Federal Do Parana-UFPR-Brazil, June 4, 2008.
52. "Tort Law and Catastrophic Risks," Waseda University (Tokyo), March 16, 2008
53. "Apportioning the Costs of Climate Change," UCLA Conference on Changing Climates, Jan. 25, 2008
54. "Constitutional Limits on State Climate Regulation," University of Arizona Rehnquist Center, Feb. 11, 2008
55. "Tort Law in the Age of Climate Change, 9/11, and Katrina," Quincy Endowed Lecture, University of Utah Law School, Feb. 12, 2008
56. "Environmental Cooperation and U.S. Federalism," in UC Berkeley Conference on EU-California Regulatory Cooperation, Feb. 23, 2008
57. "Bong Hits 4 the Constitution: Free Speech Rights of Students Today," Constitution Day Speakers Forum, Free Speech Movement Café, Sept. 18, 2007
58. "First Amendment Basics and Free Speech Issues at Large-Scale Events," Minnesota Civil Liberties Union, July 19, 2007
59. "Compensating the Victims of Climate Change," Okayama University, Oct. 13, 2007
60. "Rebuilding after Disasters," KGU University, Kobe, Japan Oct. 27, 2007

61. "Global Warming and the United States: Will America Act?," MGU University, Tokyo, Oct. 18, 2007
62. "Does Musharraf's Comparison to Lincoln Hold Up?," Op. Ed., National Public Radio, Nov. 6, 2007.
63. "State Initiatives: California and Regional Greenhouse Gas Initiatives," UC Berkeley Conference on "Cap and Trade as a Tool for Climate Change Policy: Design and Implementation," Feb. 23, 2007.
64. "Basic Compensation for Victims of Climate Change," University of Pennsylvania Law School, November 17, 2006.
65. "Ecosystems and Natural Disasters", ABA Standing Committee on Environmental Law, June 9, 2006.
66. "Reinventing Flood Control," Loyola University (New Orleans), August 25, 2006.
67. "The Need for Resilience," Conference on California Delta and Levee Risk, Sept. 28, 2006.
68. "Reinventing Flood Control," Tulane Law School, Oct. 13, 2006.
69. "Environmental Slippage," Tel Aviv University, Dec. 17, 2006.
70. "Equal Protection and Backward-Looking Statutes: The Case of Black Reparations," Fordham Law School, October 1, 2005.
71. "The Legal Dimensions of Hurricane Katrina," William Mitchell Law School, Dec. 8, 2005.
72. "Was *Roe v. Wade* Arbitrary and Capricious?" Vanderbilt University Law School, April 21, 2005.
73. "Desperately Seeking Certainty: The Misguided Quest for Constitutional Foundations," Institute for Governmental Studies (Berkeley), April 8, 2005.
74. "The Independent Counsel Case," Conference on the Rehnquist Legacy, Indiana University (Bloomington), April 2, 2005.
75. "Historical Perspectives on the War on Terror," Russell Sage Foundation, March 22, 2005.
76. "Environmental Enforcement and Compliance: An American Perspective," Daito Bunka Law School, Tokyo, March 21, 2005.
77. "Another View of the Quagmire: An Economic Perspective on the Unconstitutional Conditions Doctrine," Florida State University, March 15, 2005.
78. "Was *Roe v. Wade* Arbitrary and Capricious?" University of Missouri Law School, February 25, 2005.
79. "Lincoln's Constitutional Legacy," before the Abraham Lincoln Society, Springfield, Illinois, February 12, 2005.
80. "The Rule of Law and the War Against Terrorism," University College London, January 27, 2005.
81. "Conflicting Visions and Contested Baselines: Intellectual Property and Free Speech in the 'Digital Millenium,'" Symposium on Law, Information and Freedom of Expression, University of Minnesota Law School, October 22, 2004.
82. "Full Court Press," Boalt All-Alumni Reunion, October 2, 2004.

83. "U.S. Supreme Court, 2003-2004 Term: Review of Environmental Decisions," Environmental Law Section of the Bar of San Francisco, Sept. 30, 2004.
84. Visiting Lecturer: Catholic University, Lisbon (2007-2008); Bocconi University, Milan. (2005-2013)