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EDUCATION AND DEGREES

A.B., 1967, Dartmouth College
M.B.A., 1968, Dartmouth College, Amos Tuck School of Business Administration
J.D., 1972, Harvard University
M.A. (by resolution), University of Oxford, 2007
Doctor of Laws, *honoris causa*, Wirtschaftsuniversität Wien (Vienna), 2019

PROFESSIONAL POSITIONS

University of Virginia School of Law
David and Mary Harrison Distinguished Professor of Law, from August 2008
John Ewald Distinguished Visiting Professor of Law, 1996

Harvard University, John F. Kennedy School of Government
Frank Stanton Professor of the First Amendment, Emeritus, from 2008
Frank Stanton Professor of the First Amendment, 1990 – 2008
Academic Dean, 1997-2002
Acting Dean, Spring 2001
Affiliated and Visiting Professor, Harvard Law School, 1996 - 2009
Visiting Professor, Edmond J. Safra Foundation for Ethics, 2004-2005
Fellow, Radcliffe Institute for Advanced Studies, 2002-2003
Acting Director, Carr Center on Human Rights Policy, 1999-2001
Acting Director, Shorenstein Center on Press, Politics and Public Policy, 1994-95

University of California at Los Angeles School of Law
Visiting Professor of Law, 2019

Columbia Law School
Visiting Professor of Law, 2012-2013

Oxford University
George Eastman Visiting Professor, 2007-2008
Fellow of Balliol College, 2007-2008

University of Chicago Law School
Daniel R. Fischel & Sylvia M. Neil Distinguished Visiting Professor of Law, 2005
Visiting Professor of Law, 1990

Dartmouth College
Visiting Professor of Government, 1997

William Morton Distinguished Visiting Professor of the Humanities, 1991

University of Michigan Law School
Professor of Law, 1983-1990
Professor of Law and Political Science, 1989

College of William and Mary Law School
James Gould Cutler Professor of Law, 1980-1983
Associate Professor of Law, 1978-1980

Cambridge University
Visiting Scholar, Wolfson College, 1977-1978
Member of the Faculty of Law, 1977-1978

West Virginia University College of Law
Associate Professor of Law, 1976-1978
Assistant Professor of Law, 1974-1976

Fine & Ambrogne, Boston, Massachusetts
Attorney (litigation), 1972-1974

PUBLICATIONS

BOOKS

The Proof: Uses of Evidence in Law, Politics, and Everything Else (Harvard University Press, 2022) (paperback edition, forthcoming 2024) (Portuguese edition, *A Prova: Usos da prova no direito, na política, e em todo o resto*, Editora Jurídica da Bahia, forthcoming 2024)

Oxford Handbook on Freedom of Speech, edited by Adrienne Stone & Frederick Schauer (Oxford University Press, 2021)

The Force of Law (Harvard University Press, 2015) (Italian edition, *La Forza del Diritto*, Milan, Mimesis Edizioni, 2016) (Spanish edition, *Fuerza de Ley*, Lima, Editores Palestra, 2015) (Portuguese edition, Sao Paulo, Martins Fontes, forthcoming 2024)

The Theory of Rules, by Karl Llewellyn, edited and with an introduction by Frederick Schauer (University of Chicago Press, 2011)

Thinking Like a Lawyer: A New Introduction to Legal Reasoning (Harvard University Press, 2009) (paperback edition, 2012) (revised edition, in preparation for 2025 publication) (Spanish edition, *Pensar Como un Abogado*, Madrid, Marcel Pons Ediciones, 2013) (Portuguese edition, Londrina (Brazil), Editora Thoth, 2021) (South Asia edition, New Delhi, Universal Law Publishing Company, 2010) (Chinese edition, China Legal Publishing House, [translation in progress 2016](#)) (Simplified Chinese edition, Law Press China, translation in progress) (French edition, *Penser en Juriste, Nouvelle introduction*

- au raisonnement juridique*, Éditions Dalloz, 2018) (Italian edition, *Il ragionamento giuridico*, Bologna, Carocci Editore, 2016) (Korean edition, Ghil publishing, 2019)
- Profiles, Probabilities, and Stereotypes* (Harvard University Press/Belknap Press, 2003) (paperback edition, 2006) (Italian edition, *Di Ogni Erba un Fascio: Generalizzazioni, Profili, Stereotipi nel Mondo della Giustizia*, Bologna, il Mulino, 2008)
- Playing By the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and in Life* (Oxford University Press/Clarendon Press, 1991) (paperback edition, 1992) (Italian edition, *La Regole del Gioco*, Bologna, il Mulino, 2000) (Spanish edition, *Las Reglas en Juego*, Madrid, Marcel Pons Ediciones, 2004) (Chinese edition, translation in progress)
- The Philosophy of Law: Classic and Contemporary Readings with Commentary* (with Walter Sinnott-Armstrong) (Harcourt Brace/Oxford University Press, 1996)
- Constitutional Law* (with Choper, Fallon, & Dorf) (West Publishing, 12th ed., 2015, 13th ed., 2019)(14th ed., 2023)
- The First Amendment* (with Choper & Shiffrin) (West Publishing, 6th ed., 2015); 7th ed., (with Choper), 2019; 8th ed., 2023
- Leading Cases in Constitutional Law* (with Choper, Fallon, & Dorf) (West Publishing, 2023)
- Supplements to Gunther, Constitutional Law* (Foundation Press, 1983-1996)
- Law and Language* (editor) (Dartmouth/Gower/Ashgate Publishing Company, 1992)
- The First Amendment: A Reader* (with John H. Garvey) (West Publishing Company, 1992, Second edition, 1995)
- Free Speech: A Philosophical Enquiry* (Cambridge University Press, 1982) (paperback edition, 1982) (Turkish edition, *İfade Özgürlüğü: Felsefi Bir İnceleme*, Ankara, Liberal Düşünce Topluluğu, 2002)
- The Law of Obscenity* (BNA Books, 1976)

ARTICLES AND REVIEW ESSAYS

- “Disestablishing the Establishment Clause,” *The Supreme Court Review* 2023, 219-42
- “Statistical Evidence and the Problem of Specification,” *Episteme*, 20 (2023), 367-76
- “On the Rightful Deprivation of Rights,” *Notre Dame Law Review*, 98 (2023), 671-98
- “Precedent and Similarity,” in Timothy Endicott et al., eds., *Philosophical Foundations of Precedent* (Oxford, 2023), 240-51 (with Barbara A. Spellman)

- “The Restatements as Law,” in Andrew Gold & Robert Gordon eds., *The American Law Institute: A Centennial History* (Oxford, 2023), 425-40
- “Constitutional Avoidance as Constitutional Conformation,” in Matthias Klatt ed., *Constitutionally Conforming Interpretation – Comparative Perspectives* (Hart 2023), 267-80
- “Unoriginal Textualism,” *George Washington Law Review*, 90 (2022), 825-65
- “A Frame Without a Picture: On the Relevance of Law to the Decision of Hard Cases,” *Faroese Law Review*, 10 (2022), 37-56
- “Freedom of Thought,?” *Social Philosophy and Policy*, 37 (2021), 72-89
- “On the Relationship between Law and Legal Reasoning,” in Mark McBride & James Penner eds., *New Essays on the Nature of Legal Reasoning* (Hart 2022), 5-22
- “Kelsen, Kletzer, and the Differentiation of Law,” *American Journal of Jurisprudence*, 66 (2021), 269-78
- “Lon Fuller and the Rule of Law,” in Michael Sevel ed., *Routledge Handbook on the Rule of Law* (Routledge, forthcoming 2024)
- “Hohfeld on Legal Language,” in Shyam Balganes, Ted Sichelman, & Henry Smith, eds., *Wesley Hohfeld: A Century Later* (Cambridge, 2022), 99-111
- “Normative Legal Positivism,” in Patricia Mindus & Torben Spaak eds., *Cambridge Companion to Legal Positivism* (Cambridge, 2021), 61-78
- “The Role of Rules in the Law of Evidence,” in Christian Dahlman, Alex Stein, & Giovanni Tuzet. Eds., *Philosophical Foundations of Evidence Law* (Oxford, 2021), 69-82
- “Ruleness,” in Dupret Baudouin, Julie Colemans & Max Travers, eds., *Legal Rules in Practice* (Routledge, 2021), 13-25
- “On the Regulative Function of Constitutive Rules,” in Paolo Di Lucia & Edoardo Fittipaldi, Eds., *Revisiting Searle on Derving Ought from Is* (Palgrave, 2021), 107-20
- “Constructing Interpretation,” *Boston University Law Review*, 101 (2021), 103-32
- “Free Speech Overrides,” *University of Chicago Legal Forum*, vol. 2020 (2020), 255-71
- “Probabilistic Causation in the Law,” *Journal of Institutional and Theoretical Economics*, 176 (2020), 4-17 (with B. Spellman)
- “Fuller and Kelsen – Fuller on Kelsen,” *Archiv für Rechts- und Sozialphilosophie*, 163 (2020), 309-17

- “Rules, Defeasibility, and the Psychology of Exceptions,” in Lorand Bartels & Federica Paddeu eds., *Exceptions in International Law* (Oxford 2020), 55-64
- “Social Science and the Philosophy of Law,” in John Tasioulas ed., *Cambridge Companion to the Philosophy of Law* (Cambridge 2020), 95-114
- “Sanctions for Acts or Sanctions for Actors,?” in Jordi Ferrer Beltran & Carmen Vazquez, *Evidential Legal Reasoning: Crossing Civil Law and Common Law Traditions* (Cambridge, forthcoming 2023), and, in Spanish, *El Razonamiento Probatorio* (Marcel Pons, forthcoming 2023)
- “Oliver Wendell Holmes, The *Abrams* Case, and the Origins of the Harmless Speech Tradition,” *Seton Hall Law Review*, 51 (2020), 205-24
- “Stare Decisis: Rhetoric and Reality in the Supreme Court,” *2018 Supreme Court Review* (2019), 121-43
- “One Small Step Towards a Metatheory of Evidence and Proof,” *International Journal of Evidence and Proof*, 23 (2019), 176-83
- “Every Possible Use of Language?” in Geoffrey R. Stone & Lee C. Bollinger eds., *The Free Speech Century* (Oxford 2019), 33-47
- “Friedrich Waismann, Language Strata, and the Problem of Technical Language,” in Dejan Makovec & Stewart Shapiro eds., *Friedrich Waismann: The Open Texture of Analytic Philosophy* (Palgrave Macmillan 2019), 261-78
- “Dialogue and Its Discontents,” in Geoffrey Sigalet, Gregoire Webber & Rosalind Dixon eds., *Constitutional Dialogue* (Cambridge 2019), 423-35
- “Costs and Challenges of the Hostile Audience,” *Notre Dame Law Review*, 94 (2019), 1671-98
- “Intentions in Tension,” in Heidi M. Hurd ed., *Moral Puzzles and Legal Perplexities* (Cambridge 2019), 206-20
- “Recipes, Plans, Instructions, and the Free Speech Implications of Words That Are Tools,” in Susan Brison & Katharine Gelber eds., *Free Speech in the Digital Age* (Oxford 2019), 74-87
- “Sanzioni per Azioni o Sanzioni per Attori,” (Sanctions for Acts or Sanctions for Actors?), *Cassazione penale*, 59 (2019), 4518-30
- “Statistical (and Non-Statistical) Discrimination,” in Kasper Lippert-Rasmussen ed., *Routledge Handbook of the Ethics of Discrimination* (Routledge, 2018), 41-52
- “Rights, Constitutionalism, and the Perils of Panglossianism” (the H.L.A. Hart Memorial

- Lecture), *Oxford Journal of Legal Studies*, 38 (2018), 635-52
- “On Treating Unlike Cases Alike,” *Constitutional Commentary*, 33 (2018), 437-50
- “Law as a Malleable Artifact,” in L. Burazain, K. Himma & C. Roversi eds., *Law as an Artifact* (Oxford 2018), 29-43
- “Response: A Continuing Conversation,” *Jurisprudence*, 9 (2018), 385-93
- “The Occasions of Law (and the Occasions of Interpretation),” *Argumenta* 4 (2018), 41-50
- “Positive Rights, Negative Rights, and the Right to Know,” in David Pozen & Michael Schudson eds., *Troubling Transparency: The History and Future of Freedom of Information* (Columbia 2018), 34-51
- “American Legal Realism – Theoretical Aspects,” in M. Sellers & S. Kirste eds., *Encyclopedia of the Philosophy of Law & Social Philosophy* (Springer 2018), doi.org/10.1007/978-94-007-6730-0_67-3
- “Law’s Boundaries,” *Harvard Law Review*, 130 (2017), 2434-62
- “Analogy, Expertise, and Experience” (with Barbara A. Spellman), *University of Chicago Law Review*, 84 (2017), 249-68
- “Preferences for Law,” *Law & Social Inquiry*, 42 (2017), 87-99
- “Second-Order Vagueness in Law,” in Geert Keil & Ralf Poscher, eds., *Vagueness in Law: Philosophical and Legal Approaches* (Oxford, 2017), 177-88
- “The Annoying Constitution: Implications for the Allocation of Interpretive Authority,” *William & Mary Law Review*, 58 (2017), 1689-1712
- “Free Speech, the Search for Truth, and the Problem of Collective Knowledge,” *SMU Law Review*, 70 (2017), 231-52
- “Commercial Speech and the Perils of Parity,” *William & Mary Bill of Rights Law Journal*, 256 (2017), 965-79
- “Free Speech and Obedience to Law,” *Constitutional Commentary*, 32 (2017), 661-74
- “Source Formality in International Law,” in Samantha Besson & Jean d’Espremont eds., *Oxford Handbook of the Sources of International Law* (Oxford 2017), 384-98
- “On the Nature of Legal Reasoning,” *Materiali per Una Storia Della Culture Giuridica*, 47 (2017), 277-92
- “What Counts as Law?” (The Seegers Lecture) *Valparaiso University Law Review*, 52 (2017), 1-23

- “Being a Reason, Having a Reason, Giving a Reason,” *Analisi e Diritto*, 2017 (2017), 101-11
- “Jeremy Bentham, Tom Campbell, and the Normative Positivist Tradition,” *Australian Journal of Legal Philosophy*, 42 (2017), 204-13
- “Calibrating Legal Judgments” (with Barbara A. Spellman), *Journal of Legal Analysis*, 9 (2016), 125-51
- “A Reply to Five Friends,” *Ratio Juris*, 29 (2016), 348-63
- “Not Just About License Plates: *Walker v Sons of Confederate Veterans*, Government Speech, And Doctrinal Overlap in the First Amendment,” *The Supreme Court Review 2014* (2016), 265-99
- “How (and If) Law Matters,” *Harvard Law Review Forum*, 129 (2016), F350-59
- “Defeasibilities,” *Notre Dame Philosophical Reviews*, February 25, 2016
- “Why the Declaration of Independence is Not Law – and Why It Could Be,” *Southern California Law Review*, 89 (2016), 619-36
- “Fuller’s Fairness: *The Case of the Speluncean Explorers*,” *University of Queensland Law Review*, 35 (2016), 1-12.
- “Free Speech on Tuesdays,” *Law and Philosophy*, 34 (2015), 119-40
- “Out of Range: On Patently Uncovered Speech,” *Harvard Law Review Forum*, 128 (2015), F346-58
- “On the Distinction between Speech and Action,” *Emory Law Journal*, 65 (2015), 427-54
- “Legal Fictions Revisited,” in Maksymilian Del Mar & William Twining, eds., *Legal Fictions in Theory and Practice* (Springer, 2015), 113-30
- “Testing the Marketplace of Ideas” (with Daniel Ho), *New York University Law Review*, 90 (2015), 1160-1228
- “The Politics and Incentives of First Amendment Coverage,” *William & Mary Law Review*, 56 (2015), 1613-36
- “The Path Dependence of Legal Positivism,” *Virginia Law Review*, 101 (2015), 957-76
- “On the Relationship Between Legal and Ordinary Language,” in Lawrence Solan, Janet Ainsworth, & Roger Shuy, eds., *Speaking of Language and Law* (Oxford, 2015), 35-38
- “Twining on Llewellyn and Legal Realism,” in Christopher McCrudden ed., *Law’s Theoretical and Global Contexts: Essays in Honour of William Twining* (Cambridge, 2015), 265-79

- “Is Law a Technical Language?” *San Diego Law Review*, 52 (2015), 1-14
- “Constitutions of Hope and Fear,” *Yale Law Journal*, 124 (2014), 528-62
- “Our Informationally Disabled Courts,” *Daedalus* 143 (2014), 105-14
- “Analogy in the Supreme Court: *Lozman v City of Riviera Beach*,” *The Supreme Court Review* 2012 (2014), 405-32
- “Modeling Tolerance,” *Journal of Institutional and Theoretical Economics*, 170 (2014), 83-95
- “Memorial to John Mansfield,” *Harvard Law Review*, 128 (2014), 533-37
- “The Mixed Blessings of Financial Transparency,” *Yale Journal on Regulation*, 31 (2014), 809-23
- “Legal Realism Untamed,” *Texas Law Review* 91 (2013), 749-80
- “On the Open Texture of Law,” *Grazer Philosophische Studien*, 87 (2013), 195-213
- “Official Obedience and the Politics of Defining ‘Law,’” *Southern California Law Review*, 58 (2013), 1165-94
- “Is Expert Evidence Really Different?” *Notre Dame Law Review*, 88 (2013), 1-26 (with B. Spellman)
- “Hart’s Anti-Essentialism,” in L. Duarte d’Almeida, J. Edwards, & A. Dolcetti, eds., *Reading H.L.A. Hart’s “The Concept of Law”* (Hart Publishing, 2013), 237-46
- “The Ubiquity of Prevention,” in Andrew Ashworth, Lucia Zedner, & Patrick Tomlin, eds., *Prevention and the Limits of the Criminal Law* (Oxford University Press, 2013), 10-22
- “Necessity, Importance, and the Nature of Law,” in Jordi Ferrer, et al., eds., *Neutrality and Theory of Law* (Marcial Pons (Spanish); Springer (English), 2013), 17-31
- “Foreword,” to Edward H. Levi, *An Introduction to Legal Reasoning* (University of Chicago Press, 2013 reissue of 1949 book), v-xvi
- “The Jurisprudence of Custom,” *Texas International Law Journal*, 48 (2013), 523-34
- “Constitutionalism and Coercion” (Clough Distinguished Lecture in Jurisprudence), *Boston College Law Review*, 54 (2013), 1881-1908
- “The *Miranda* Warning,” *Washington Law Review*, 88 (2013), 155-70
- “The Decline of ‘The Record’: A Comment on Posner,” *Duquesne Law Review*, 51 (2013), 51-66

- “Stare Decisis and the Selection Effect,” in Christopher J. Peters, ed., *Precedent in the United States Supreme Court* (Springer, 2013), 121-34
- “Harm(s) and the First Amendment,” *The Supreme Court Review 2011* (2012), 81-111
- “The Political Risks (If Any) of Breaking the Law,” *Journal of Legal Analysis*, 4 (2012), 83-101
- “On the Nature of the Nature of Law,” *Archiv für Rechts- und Sozialphilosophie*, 98 (2012), 457-67
- “Precedent,” in Andrei Marmor ed., *Routledge Companion to Philosophy of Law* (Routledge, 2012), 123-36
- “Is Defeasibility an Essential Property of Law?” in Jordi Ferrer & Giovanni Ratti, eds., *The Logic of Legal Requirements: Essays on Defeasibility* (Oxford University Press, 2012), 77-88
- “Must Virtue Be Particular?” in Amalia Amaya & H.L. Ho, eds., *Law, Virtue, and Justice* (Oxford: Hart Publishing, 2012), 265-276
- “Social Epistemology, Holocaust Denial, and the Post-Millian Calculus,” in Michael Herz & Peter Molnar, eds., *The Content and Context of Hate Speech* (Cambridge University Press, 2012), 129-43
- “Is the Rule of Recognition a Rule?” *Transnational Legal Theory*, 3 (2012), 1-7
- “Comparative Constitutional Compliance,” in Maurice Adams & Jacco Bomhoff, eds., *Practice and Theory in Comparative Law* (Cambridge, 2012), 212-229
- “The Possibility of a Free Speech Principle,” *American Philosophical Association Newsletter On Philosophy and Law*, 12 (2012), 10-13
- “Bentham on Presumed Offenses,” *Utilitas*, 23 (2011), 363-79
- “Positivism Before Hart,” *Canadian Journal of Law and Jurisprudence*, 24 (2011), 455-71
- “Is Legality Political?” *William and Mary Law Review*, 53 (2011), 481-506
- “The Trouble with Cases,” in Daniel Kessler, ed., *Litigation versus Regulation* (National Bureau Of Economic Research/University of Chicago Press, 2011), 45-70 (with R. Zeckhauser)
- “Transparency in Three Dimensions,” *University of Illinois Law Review* (the David Baum Memorial Lecture), 2011 (2011), 1339-57
- “On the Relation Between Chapters One and Two of John Stuart Mill’s *On Liberty*,” *Capital University Law Review*, 39 (2011), 571-92
- “The Best Laid Plans,” *Yale Law Journal*, 120 (2010), 586-621

- “Can Bad Science Be Good Evidence? Neuroscience, Lie-Detection, and Beyond” *Cornell Law Review*, 95 (2010), 1191-1220
- “When and How (If at All) Does Law Constrain Official Action?” *Georgia Law Review* (the John Sibley Lecture), 44 (2010), 769-801
- “Facts and the First Amendment,” *UCLA Law Review* (the Melville Nimmer Memorial Lecture), 57 (2010), 897-919
- “Neuroscience, Lie-Detection, and the Law: A Contrarian View,” *Trends in Cognitive Sciences*, 14 (3) (2010), 101-03
- “Is There a Psychology of Judging?” in David E. Klein & Gregory Mitchell, eds., *The Psychology of Judicial Decision Making* (Oxford University Press, 2010), 103-20
- “Was Austin Right After All? On the Role of Sanctions in a Theory of Law,” *Ratio Juris*, 23 (2010), 1-21
- “Balancing, Subsumption, and the Constraining Role of Legal Text,” *Law & Ethics of Human Rights*, 4 (2010), 34-45, and in Matthias Klatt, ed., *Institutional Reason: The Jurisprudence of Robert Alexy* (Oxford University Press, 2012), 307-16, and, in Spanish, as “Ponderación, subsunción y el rol restringente del texto jurídico,” in Gustavo Beade & Laura Clérico, eds., *Desafíos a la ponderación* (Universidad Externado de Colombia, 2011)
- “Is it Important to be Important? Evaluating the Supreme Court’s Case Selection Process,” *Yale Law Journal Online*, 119 (2009), 77-86
- “Paltering,” in Brooke Harrington, ed., *Deception: From Ancient Empires to Internet Dating* (Stanford University Press, 2009), pp. 38-54 (with R. Zeckhauser)
- “Rules, Rationality, and the Significance of Standpoint,” *Queen’s Law Journal*, 35 (2009), 305-26
- “Artists’ Moral Rights and the Psychology of Ownership,” *Tulane Law Review*, 83 (2009), 661-78 (with B. Spellman)
- “Is It Better to Be Safe Than Sorry? Free Speech and the Precautionary Principle,” *Pepperdine Law Review*, 36 (2009), 301-15
- “Rules of Recognition, Constitutional Controversies, and the Dizzying Dependence of Law On Acceptance,” in Matthew Adler & Kenneth Himma, eds., *The Rule of Recognition and the U.S. Constitution* (Oxford University Press, 2009), 175-92 (with L. Alexander)
- “Institutions and the Concept of Law: A Reply to Ronald Dworkin (with Some Help from Neil MacCormick),” in Maksymilian Del Mar, ed., *Law as Institutional Normative Order: Essays in Honour of Sir Neil MacCormick* (Ashgate Publishing, 2009), 35-44

- “A Critical Guide to Vehicles in the Park,” *New York University Law Review*, 83 (2008), 1109-34
- “Why Precedent in Law (and Elsewhere) is Not Totally (or Even Substantially) About Analogy,” *Perspectives on Psychological Science* 3 (2008), 454-60
- “Authority and Authorities,” *Virginia Law Review*, 95 (2008), 1931-61
- “In Defense of Rule-Based Evidence Law – and Epistemology Too,” *Episteme*, 5 (2008), 295-305
- “Abandoning the Guidance Function: *Morse v. Frederick*,” *Supreme Court Review*, 2007 (2008), 316-48
- “Hohfeld’s First Amendment,” *George Washington Law Review*, 76 (2008), 914-32
- “Has Precedent Ever Really Mattered in the Supreme Court?” (The Henry J. Miller Lecture), *Georgia State Law Review*, 25 (2008), 217-36
- “Regulation By Generalization,” *Regulation & Governance*, 1 (2007), 68-87 (with R.Zeckhauser)
- “Expression and Its Consequences,” *University of Toronto Law Journal*, 57 (2007), 705-20
- “Ambivalence About the Law” (J. Byron McCormick Lecture), *Arizona Law Review*, 49 (2007), 11-28
- “Institutions as Legal and Constitutional Categories,” *UCLA Law Review*, 54 (2007), 1747-66
- “Pitfalls in the Interpretation of Customary Law,” in Amanda Perreau-Saussine & James Bernard Murphy, eds., *The Nature of Customary Law* (Cambridge University Press, 2007), 13-34
- “Should Presidents Obey the Law (And What Is “The Law,” Anyway),” in Terry L. Price & J. Thomas Wren, eds., *The Values of Presidential Leadership* (Palgrave Macmillan, 2007), 183-98
- “Foreword: The Court’s Agenda – And the Nation’s,” *Harvard Law Review*, 120 (2006), 4-62
- “Do Cases Make Bad Law?” *University of Chicago Law Review*, 73 (2006), 883-918
- “On the Supposed Jury-Dependence of Evidence Law,” *University of Pennsylvania Law Review*, 155 (2006), 165-202
- “(Re)Taking Hart,” *Harvard Law Review*, 119 (2006), 852-83
- “Legislatures as Rule-Followers,” in Richard W. Bauman & Tsvi Kahana, eds., *The Least Examined Branch: The Role of Legislatures in the Constitutional State* (Cambridge University Press, 2006), 468-79
- “Is There a Right to Academic Freedom,” *University of Colorado Law Review*, 77 (2006),

- “Legal Information as Social Capital,” *Law Library Journal*, 99 (2006), 267-83 (with V. Wise)
- “The Social Construction of the Concept of Law: A Reply to Julie Dickson,” *Oxford Journal of Legal Studies*, 25 (2005), 493-501
- “Towards an Institutional First Amendment,” *Minnesota Law Review*, 89 (2005), 1256-79
- “Imposing Rules,” *San Diego Law Review*, 42 (2005), 85-90
- “The Exceptional First Amendment,” in Michael Ignatieff, ed., *American Exceptionalism and Human Rights* (Princeton University Press, 2005), 29-56
- “Freedom of Expression Adjudication in Europe and America: A Case Study in Comparative Constitutional Architecture,” in Georg Nolte, ed., *European and U.S. Constitutionalism* (Council of Europe and Cambridge University Press, 2005), 47-64
- “On the Migration of Constitutional Ideas,” *Connecticut Law Review*, 37 (2005), 907-19
- “The Tyranny of Choice and the Rulification of Standards,” *Journal of Contemporary Legal Issues*, 14 (2005), 803-14
- “On the Relationship Between Press Law and Press Content,” in Timothy Cook, ed., *Freeing the Presses: The First Amendment in Action* (Louisiana State University Press, 2005), 51-68
- “Deferring,” *Michigan Law Review*, 103 (2005), 1567-77
- “The Wily Agitator and the American Free Speech Tradition,” *Stanford Law Review*, 58 (2005), 2157-70
- “La Categorizacion, en el Derecho y en el Mundo,” *Cuadernos de Filosofia del Derecho*, 28 (2005), 307-20
- “The Boundaries of the First Amendment: A Preliminary Exploration of Constitutional Salience,” *Harvard Law Review*, 117 (2004), 1765-1809
- “The Limited Domain of the Law,” *Virginia Law Review*, 90 (2004), 1909-56
- “Judicial Supremacy and the Modest Constitution,” *California Law Review*, 92 (2004), 1045-67
- “The ‘Speech-ing’ of Sexual Harassment,” in Catharine MacKinnon & Reva Siegel, eds., *Directions in Sexual Harassment Law* (Yale University Press, 2004), 347-64
- “Intentions, Conventions, and the First Amendment: The Case of Cross-Burning,” *Supreme Court Review*, 2003 (2004), 197-230
- “The Failure of the Common Law” (The Willard Pedrick Lecture), *Arizona State Law Review*,

- 36 (2004), 765-82
- “Neutrality and Judicial Review,” *Law and Philosophy*, 23 (2003), 217-40
- “The Convergence of Rules and Standards,” *New Zealand Law Review*, [2003], 303-28
- “The Heroes of the First Amendment,” *Michigan Law Review*, 101 (2003), 2118-33
- “The Dilemma of Access,” in Nancy Palmer, ed., *Terrorism, War, and the Media* (Hollis Publishing, 2003), 259-69
- “The Dilemma of Ignorance: PGA Tour v. Casey Martin,” *Supreme Court Review*, 2001 (2002), 267-97
- “First Amendment Opportunism,” in Lee C. Bollinger & Geoffrey R. Stone, eds., *Eternally Vigilant: Free Speech in the Modern Era* (University of Chicago Press, 2002), 174-97
- “Bundling, Boundary Setting, and the Privatization of Legal Information” (with V. Wise), in John Donahue & Joseph Nye, eds., *Market Based Governance* (Brookings, 2002), 129-42
- “Free Speech and the Social Construction of Privacy,” *Social Research*, 68 (2001), 221-32
- “Defending Judicial Supremacy: A Reply,” *Constitutional Commentary*, 17 (2001), 455-82 (with L. Alexander)
- “Non-Legal Information and the Delegalization of Law,” *Journal of Legal Studies*, 29 (2000), 495-515 (with Virginia J. Wise)
- “Can Public Figures Have Private Lives?” *Social Philosophy and Policy*, 17 (2000), 293-309
- “The Generality of Rights,” *Legal Theory*, 6 (2000), 323-36
- “Incentives, Reputation, and the Inglorious Determinants of Judicial Behavior” (The Robert Marx Lecture), *University of Cincinnati Law Review*, 68 (2000), 615-36
- “The Cost of Communicative Tolerance,” in Raphael Cohen-Almagor ed., *Liberal Democracy and the Limits of Tolerance* (University of Michigan Press, 2000), 28-42
- “Speech, Behaviour, and the Interdependence of Fact and Value,” in David Kretzmer & Francine Hazan eds., *Freedom of Speech and Incitement Against Democracy* (Kluwer, 2000), 28-42
- “Electoral Exceptionalism and the First Amendment,” *Texas Law Review*, 77 (1999), 1803-36 and in J. Rosencranz ed., *If Buckley Fell* (Century Foundation, 1999), 103-20 (with R. Pildes)
- “Talking as a Decision Procedure,” in Stephen Macedo ed., *Deliberative Politics: Essays on Democracy and Disagreement* (Oxford University Press, 1999), 17-27

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“Obscenity and the Conflict of Laws,” *West Virginia Law Review*, 77 (1975), 377-400

HONORS, AWARDS, ETC.

Fellow (Corresponding) of the British Academy (elected 2020)

Fellow, American Academy of Arts and Sciences (elected 1993)

Guggenheim Fellowship, 2001-2002

George Eastman Visiting Professor and Professorial Fellow of Balliol College, Oxford University, 2007-2008

Phi Beta Kappa (honorary), Dartmouth College, 2017

Winner of SCRIBES award, 2023, for *The Proof* as the “best work of legal scholarship published during the previous year”

Hart-Dworkin Award in Legal Philosophy (“lifetime achievement”), Section on Jurisprudence, Association of American Law Schools, 2022

Chair, Committee on Philosophy and Law, American Philosophical Association, 2006-08

Board of Governors, MacArthur Foundation Law and Neuroscience Project, 2006 – 2010

Vice-President, American Society for Political and Legal Philosophy, 1996-98

Chair, Section on Constitutional Law, Association of American Law Schools, 1985-87

Co-Founder and Co-Editor, *Legal Theory*, 1995-2000, Editorial Board, since 2000

Board of Electors, Chair of Jurisprudence, University of Oxford, 2016-2017

Board of Advisors, Julius Stone Institute, University of Sydney, 2017-

International Advisory Board, Safra Institute for Ethics at Tel Aviv University, 2018-

Editorial Board, *Ethics*, 1991-2006

Editorial Board, *American Journal of Jurisprudence*, 2019-

Advisory Board, Yeoh Tiong Lay Centre for Politics, Philosophy and Law, King’s College London, 2015-

Editorial Board, *Communication Law and Policy*, 1994-2002

Editorial Board, *Journal of Legal Analysis*, 2009-

Editorial Board, *Recht en Methode*, 2011-

Editorial Board, *Argumenta*, 2013-

Board of Visitors, Faculty of Law, University di Tella, Buenos Aires, 2004 –

Board of Visitors, Nelson Rockefeller Center for Public Policy, Dartmouth College, 2000-2008

Fellow, Radcliffe Institute for Advanced Study, Harvard University, 2002-2003

Recipient of the Marshall-Wythe Medallion, College of William and Mary, 2011

H.L.A. Hart Lecture, Oxford University, 2017

Allen & Overy Lecture, University of Surrey, 2018

Roy R. Ray Lecture, SMU School of Law, 2017

Seegers Lecture, Valparaiso University, 2016

Nathaniel Nathanson Memorial Lecture, University of San Diego, 2015

Julius Stone Address, University of Sydney, 2014

Clough Distinguished Lecture in Jurisprudence, Boston College, 2013

Daniel Meador Lecture, University of Alabama, 2013

Hartman Hotz Lecture, University of Arkansas, 2012

John Randolph Tucker Lecture, Washington and Lee University, 2011

David C. Baum Memorial Lecture, University of Illinois College of Law, 2010

Sibley Lecture, University of Georgia School of Law, 2009

Melville Nimmer Memorial Lecture, UCLA School of Law, 2009

‘Or ‘Emet Lecture, Osgoode Hall Law School, York University, 2009

Ben Beinart Memorial Lecture, University of Cape Town, South Africa, 2008

Henry J. Miller Lecture, Georgia State University, 2007

Radio Telefis Eireann Broadcasting, Society and the Law Lecture, 2007

J. Byron McCormick Lecture, University of Arizona, 2006

Willard Pedrick Lecture, Arizona State University, 2004

Florence Davis Dean Lecture, University of Vermont, 2004

Robert S. Marx Lecture, University of Cincinnati, 2000

Donley Lecture, West Virginia University, 2000

James Moffett '29 Lecture, Princeton University, 1999

Propter Honoris Respectum, Notre Dame Law School, 1996 (*Notre Dame Law Review*, 72 (1997), 1309-1596)

Honoree, Symposium on Legal Reasoning and the Work of Frederick Schauer, Quinnipiac Law School, 1997 (published as Linda Meyer ed., *Rules and Reasoning: Essays in Honour of Fred Schauer* (Hart Publishing, 1999))

George Rudolph Distinguished Lecture, University of Wyoming, 1994

Martha Boaz Distinguished Lecture, University of Michigan School of Information, 1993

Phelps Lecture, Tulane University, 1993

Clason Lecture, Western New England College of Law, 1993

Philip Hart Memorial Lecture, Georgetown University, 1992

Day, Berry, and Howard Lecture, University of Connecticut, 1992

Rothgerber Speaker, University of Colorado, 1990, 1993

Cutler Lecture, College of William and Mary, 1989

Bush Foundation Lecture, Hamline University, 1987

Rubin Forum Lecture, Columbia University, 1987

Ohio Humanities Council Speaker, University of Dayton, 1987

Legacy of George Mason Lecture, George Mason University, 1983

Visiting Professor, Faculty of Law, University of Western Ontario, 2010

Visiting Professor, Interdisciplinary Center Herzliya, Israel, 2010

Distinguished Visitor, New York University School of Law, 2003

Distinguished Visiting Professor, University of Toronto Faculty of Law, 2001

Visiting Professor, National University of Singapore, 2000

Visiting Professor, University of the North, Pietersburg, South Africa, 1995

Visiting Fellow, Research School of Social Sciences, Australian National University, 1993, 1998

Visiting Fellow, University of Sydney, 2016

Chair, American Bar Association Central and East European Law Initiative, Working Group on Mass Demonstration Law in Belarus, 1993

Legal Advisor, Asia Foundation (Mongolia, 1993), United Nations Development Program (Vietnam 2000, 2004), United States State Department (Estonia, 1992), Constitutional Committee of the Faroe Islands (2001)

Distinguished Teaching Award, Harvard University (one of 20 university-wide), 2004

Professor of the Year, College of William and Mary, 1979

Commissioner, Attorney General's Commission on Pornography, United States Department of Justice, 1985-96

American Bar Association Certificate of Merit for *Free Speech: A Philosophical Enquiry*, 1983

National Endowment of the Humanities Fellowship, 1980

Private First Class (Artillery) Massachusetts Army National Guard, active duty, November 1970-April 1971, Honorable Discharge, June 1972

Member of the Bar of the Commonwealth of Massachusetts and the Supreme Court of the United States