

# MITU GULATI

*Professor of Law*

*University of Virginia Law School | 580 Massie Drive | Charlottesville, VA*

*mgulati@law.virginia.edu*

## **EDUCATION:**

J.D. Harvard Law School, 1994  
M.A. Yale University, 1991  
A.B. University of Chicago, 1988

## **ACADEMIC POSITIONS:**

University of Virginia Law School: 2021-  
Duke University Law School: 2005-2021  
Georgetown Law School: 2001-2005  
UCLA Law School: 1997-2001

## **WORKS IN PROGRESS (by co author):**

### **with Stephen Choi and Robert Scott**

1. *Why Are English Contracts Shorter than New York Ones?* (in draft stage)
2. *Prescription Clauses and the Revenge of the Belgian Dentist* (in data collection stage)

### **with Lee Buchheit and Mihalis Gousgounis**

3. *Nailing the Flag to the Mast - Promises of Super-Priority in Public Debt* (in draft stage)

### **with Tracey George and Albert Yoon**

4. *The Gap at the Top: Gender Disparities in Elite M&A Practice* (in draft stage)

### **with Joseph Blocher, Kim Oosterlinck, and Mark Weidemaier**

5. *Haitian Independence Debt of 1825: A Missing Piece of Sovereign Debt History* (in research stage)

### **with Guy-Uriel Charles and Joseph Blocher**

6. *La Navasse: Does the US Owe Haiti?* (in research stage)

### **with Ugo Panizza and Patrick Bolton**

7. *Sovereign Buybacks* (in data collection stage)
8. *The Finance and Law of Sovereign Restructuring* (in draft stage)

### **with Patrick Bolton, Xueven Fu, and Ugo Panizza**

9. *"Violates the Sanctity of Contract": The Greek Retrofit of 2012* (in draft stage)

### **with Paolo Colla**

10. *The Impact of Bad Intentions on Contract Pricing* (in draft stage)

## **PUBLICATIONS**

### ***Papers (by year and co-author)***

**2022**

#### **with Stephen Choi and Robert Scott**

1. Are M&A Lawyers Better at Contract Drafting? (*forthcoming* University of Toronto Law Journal 2022).

#### **with Marcel Kahan**

2. Contracts of Inattention (*forthcoming* Law and Social Inquiry 2022)

**2021**

#### **with Lee Buchheit**

1. Avoiding the Lost Decade—Sovereign Debt Workouts in the Post-Covid Era in 16 Capital Markets Law Journal 45 (2021)

#### **with Mark Weidemaier**

2. Unlawfully-Issued Sovereign Debt (*forthcoming* Virginia Journal of International Law 2021).

#### **with Ugo Panizza**

3. The Make-Whole Provision in Sovereign Bonds (*forthcoming* Capital Markets Law Journal 2021).
4. Maduro Bonds in SOVEREIGN DEBT IN COLONIAL AND NEO COLONIAL CONTEXTS (Juan Flores & Pierre Penet eds. 2021).

#### **with Patrick Bolton and Ugo Panizza**

5. Legal Air Cover (*forthcoming* Journal of Financial Regulation 2021).

#### **with Elena Carletti, Paolo Colla and Steven Ongena**

6. The Price of Law: The Case of the Eurozone Collective Action Clauses (*forthcoming* Review of Financial Studies 2021).

#### **with Theresa Arnold, Amanda Dixon, Hadar Tanne and Madison Sherrill**

7. Lipstick on a Pig: Specific Performance on the Ground (*forthcoming* Wisconsin Law Review 2021).
8. Damages as a Function of Fault: Willful Breach in M&A Contracts (*forthcoming* Boston College Law Review – E. Supp. 2021).

**2020**

#### **with Stephen Choi and Robert Scott**

1. Revising Boilerplate: Private Company v. Public Company Deals in 2020 Wisconsin Law

- Review 629.
2. Hidden Holdouts: Contract Arbitrageurs and the Pricing of Collective Rights in 100 Boston University Law Review 253 (2020).
  3. Contractual Arbitrage in OXFORD HANDBOOK OF INSTITUTIONS AND INTERNATIONAL ECONOMIC GOVERNANCE AND MARKET REGULATION (Eric Brousseau, Jean-Michel Glachant & Jérôme Sgard eds. 2020)

**with Lee Buchheit**

4. The Argentine Collective Action Clause Controversy in 15 Capital Markets Law Journal 464 (2020).

**with Joseph Blocher**

5. Transferable Sovereignty: Lessons from the History of the Congo Free State in 69 Duke Law Journal 1219 (2020).

**with Joseph Blocher and Kim Oosterlinck**

6. King Leopold's Bonds and the Odious Debts Mystery in 60 Virginia Journal of International Law 487 (2020).
7. Why Did Belgium Pay Leopold's Bonds? in 83 Law and Contemporary Problems 49 (2020).

**with Mark Weidemaier**

8. Necessity and the Covid-19 Pandemic in 15 Capital Markets Law Journal 277 (2020)

**with Ugo Panizza**

9. The Hausmann-Gorky Effect in 166 Journal of Business Ethics 175 (2020).
10. Alternative Solutions to the Odious Debt Problem in Annals of the Fondazione Einaudi (2020).

**with Ugo Panizza, Mark Weidemaier, and Gracie Willingham**

11. When Governments Promise to Prioritize Public Debt: Do Markets Care? in 6 Journal of Financial Regulation 41 (2020).

**with Theresa Arnold, Amanda Dixon, and Madison Whalen**

12. The Myth of Optimal Expectation Damages in 104 Marquette Law Review 141 (2020).

**with Theresa Arnold and Ugo Panizza**

13. How to Restructure Euro Area Sovereign Debt in the Era of Covid-19 in 15 Capital Markets Law Journal 322 (2020).

**with Multiple Authors**

14. Born Out of Necessity: A Debt Standstill for Covid-19 (with Patrick Bolton, Lee Buchheit, Pierre-Olivier Gourinchas, Chang-Tai Hsieh, Ugo Panizza, Ugo Panizza, and Beatrice Weder di Mauro) CEPR Policy Insight #103 (2020).

**2019**

**with Stephen Choi and Adam Pritchard**

1. Unpacking the Gender Gap: A Study of SEC Enforcement Lawyers in 62 Journal of Law & Economics 427 (2019).

**with Lee Buchheit**

2. Sovereign Debt Restructuring and U.S. Executive Power in 14 Capital Markets Law Journal 114 (2019).

**with Anna Gelpern and Jeromin Zettelmeyer**

3. If Boilerplate Could Talk: The Work of Standard Terms in Sovereign Bond Contracts in 44 Law and Social Inquiry 617 (2019).

**with Elisabeth de Fontenay and Josefin Meyer**

4. The Sovereign Debt Listing Puzzle in 72 Oxford Economic Papers 472 (2019).

**with Georg Vanberg**

5. Financial Crises and Constitutional Compromise (in LIBERAL CONSTITUTIONALISM IN TIMES OF CRISIS (Tom Ginsburg, Mark Rosen & Georg Vanberg eds. 2019)

**2018**

**with Stephen Choi and Robert Scott**

1. Variation in Boilerplate: Rational Design or Random Mutation in 20 American Law and Economics Review 1 (2018).
2. The Black Hole Problem in Commercial Boilerplate in 67 Duke Law Journal 1 (2018).

**with Lee Buchheit**

3. The Local Law Advantage in Euro Area Sovereign Bonds in 3 University of Bologna Law Review 172 (2018)
4. How to Restructure Venezuelan Debt in Economic & Financial Review, 63 (2018).
5. Detering Holdout Creditors in a Restructuring of PDVSA Bonds and Promissory Notes in 13 Capital Markets Law Journal 148 (2018).
6. Sovereign Debt Restructuring in Europe in 9 Global Policy Review 65 (2018).

**with Mark Weidemaier**

7. Market Practice and the Evolution of Foreign Sovereign Immunity in 43 Law and Social Inquiry 496 (2018).
8. Sovereign Debt and the “Contracts Matter” Hypothesis in Oxford Handbook of Law and Economics (2018).

**with Joseph Blocher**

9. What Does Puerto Rican Citizenship Mean For Puerto Rico’s Legal Status in 67 Duke Law Journal Online 122 (2018).
10. Puerto Rico and the Right of Accession in 41 Yale Journal of International Law 1 (2018).

**with Georg Vanberg**

11. Paper Tigers (or How Much Will Courts Protect Rights in a Financial Crisis?) in *Institutions and the Crisis* (Franklin Allen, Elena Carletti & Mitu Gulati eds. 2018).

**with Andrea Kropp and Mark Weidemaier**

12. How Good is the Public Data on Sovereign Bond Contracts in 4 Journal of Financial Regulation 190 (2018).

**with Marcel Kahan**

13. *Cash America* and the Structure of Bondholder Remedies in 13 Capital Markets Law Journal 570 (2018).

**2017**

**with Stephen Choi**

1. Adjudicating Death: Professionals or Politicians? in 70 Vanderbilt Law Review 1709 (2017).

**with Lee Buchheit**

2. Restructuring Sovereign Debt after *NML v. Argentina* in 12 Capital Markets Law Journal 224 (2017).

**with Joseph Blocher**

3. Competing for Refugees: A Market-Based Solution to a Humanitarian Crisis in 48 Columbia Journal of Human Rights Law 53 (2017).
4. The Market for Sovereign Control in 66 Duke Law Journal 797 (2017).
5. Forced Secessions in 80 Law & Contemporary Problems 215 (2017).
6. Markets and Sovereignty in 54 Osgoode Hall Law Review 465 (2017).

**with Michael Bradley, Elisabeth de Fontenay, and Irving De Lira Salvatierra**

7. Pricing Sovereign Debt: Foreign versus Local Parameters in 24 European Financial Management Journal 261 (2017).

**with Robert Rasmussen**

8. Puerto Rico and the Netherworld of Sovereign Debt Restructuring in 91 Southern California Law Review 133 (2017).

**with Nikki Gutierrez**

9. Custom in Our Courts: Reconciling Theory with Reality in 27 Duke Journal of International & Comparative Law 243 (2017).

**2016**

**with Stephen Choi**

1. Customary International Law: How do Courts do it? (in Custom in Crisis (Curtis A. Bradley ed. 2016)).
2. The Pricing of Non-Price Terms: The Case of the Greek Guarantees in 1 Journal of Law Finance & Accounting 1 (2016).

**with Lee Buchheit**

3. Targeted Subordination of Official Sector Debt in 31 Banking and Finance Law Review 371 (2016).
4. Talking One's Way out of a Debt Crisis (in GAPS IN GOVERNANCE: FINANCIAL REGULATION IN THE EUROPEAN UNION (Franklin Allen, Elena Carletti & Joanna Gray eds. 2016)).

**with Mark Weidemaier and Anna Gelpern**

5. When Governments Write Contracts: Policy and Expertise in Sovereign Debt Contracts (in *LAW AND GLOBALIZATION IN HISTORICAL CONTEXT* (Gregoire Mallard & Jerome Sgard eds. 2016)).

**with Richard Posner**

6. The Management of Staff by Federal Court of Appeals Judges in 69 *Vanderbilt Law Review* 279 (2016).

**with Joseph Blocher and Larry Helfer**

7. Can Greece be Expelled from the Eurozone? Toward a Default Rule for Expulsions (in *GAPS IN GOVERNANCE: FINANCIAL REGULATION IN THE EUROPEAN UNION* (Franklin Allen, Elena Carletti & Joanna Gray eds. 2016)).

**with Tracey George**

8. Courts of Good and Ill Repute: Review in 83 *U. Chicago Law Review* 1683 (2016).

**with Katherine Bartlett**

9. Customer Discrimination in 102 *Iowa Law Review* 223 (2016)

**with Anna Gelpern and Paolo Colla**

10. The PDVSA Pricing Puzzle in 12 *Capital Markets Law Journal* 66 (2016).

**with David Levi and Jack Knight**

11. How Bayesian Are Judges in 16 *Nevada Law Review* 1061 (2016).

**with Elena Carletti, Steven Ongena, and Paolo Colla**

12. Pricing Contract Terms in a Crisis: Venezuelan Bonds in 2016 in 11 *Capital Markets Law Journal* 540 (2016).

**2015**

**with Elena Carletti and Paolo Colla**

1. [Evaluating the 2013 Euro CAC Experiment](#), in *The New Financial Architecture of the Eurozone* 123-136 (Franklin Allen et al eds., 2015)

**with Mark Weidemaier**

2. [The Relevance of Law to Sovereign Debt](#), 11 *Annual Review of Law & Social Science* 395-408 (2015)

**with Stephen Choi and Eric Posner**

3. The Role of Competence in Promotions from the Lower Federal Courts, 44 *Journal of Legal Studies* s107-s131 (January 2015)

**with Lee Buchheit and Ignacio Tirado**

4. [Reprofiling Sovereign Debt](#), *Journal of International Banking Law* (2015)

**2014**

**with Patrick Shin and Devon Carbado**

1. [The Diversity Feedback Loop](#), in *A Nation of Widening Opportunities: The Civil Rights Act at 50* 119-143 (Ellen D. Katz & Samuel R. Bagenstos eds., 2015) (and in *Chicago Legal Forum* (2014))

**with Stephen Choi**

2. [From Pigs to Hogs](#) (2014)

**with Melissa Boudreau**

3. [The International Monetary Fund's Imperiled Priority](#), 10 *Duke Journal of Constitutional Law & Public Policy* 119-148 (2014)

**with Benjamin Remy Chabot**

4. [Santa Anna and His Black Eagle: The Origins of Pari Passu?](#), 9 *Capital Markets Law Journal* 216-241 (2014)

**with Stephen Choi and Eric Posner**

5. [Altruism Exchanges and the Kidney Shortage](#), 77 *Law & Contemporary Problems* 289-322 (2014)

**with Patrick Shin**

6. [Cultivating Inclusion](#), 112 *Michigan Law Review First Impressions* 117-123 (2014)

**with Michael Bradley and Irving De Lira Salvatierra**

7. [Lawyers: Gatekeepers of the Sovereign Debt Market?](#), 38 *International Review of Law & Economics* 150-168 (2014)

**with Jeromin Zettelmeyer and Christoph Trebesch**

8. Managing Holdouts: The Case of the 2012 Greek Exchange, in [Sovereign Debt Management](#) 25-38 (Rosa Lastra & Lee Bucheit eds., 2014)

**with Lee Buchheit**

9. Restructuring a Euro Area Sovereign Guarantee, in [Bearing the Losses from Bank and Sovereign Default in the Eurozone](#) 143-164 (Franklin Allen et al eds., 2014)
10. [Sovereign Contingent Liabilities](#), in [Sovereign Debt Management](#) 241-254 (Rosa Lastra & Lee Buchheit eds., 2014)

**with Joseph Blocher**

11. Ukraine and Russia: "You Break It, You Bought It", *Financial History* 28-32 (Fall 2014)

**with Mark Weidemaier**

12. [A People's History of Collective Action Clauses](#), 54 *Virginia Journal of International Law* 1 (2014)

**with Devon Carbado**

13. The Intersectional Fifth Black Woman, 10 *Du Bois Review: Social Science Research on Race* 527-540 (2014)

**with Multiple Authors**

14. [A Winner's Curse?: Promotions from the Lower Federal Courts](#) (2014)

2013

**with Michael Bradley**

1. [Collective Action Clauses for the Eurozone](#), *Review of Finance* 1-58 (2013)

**with Mark Weidemaier**

2. [How Markets Work: The Lawyer's Version \(Studies in Law, Politics, and Society, v. 62\)](#), in *From Economy to Society? Perspectives on Transnational Risk Regulation* 107-134 (Bettina Lange et al. eds, 2013)

**with Mark Weidemaier and Robert Scott**

3. Origin Myths, Contracts, and the Hunt for Pari Passu, 38 *Law & Social Inquiry* 72-105 (2013)

**with Lee Buchheit**

4. [Restructuring a Sovereign Debtor's Contingent Liabilities](#), in *Sovereign Financing and International Law: The UNCTAD Principles on Responsible Lending and Borrowing* 287-294 (Carlos Esposito et al. eds., 2013)

**with Jeromin Zettelmeyer and Christoph Trebesch**

5. [The Greek Debt Restructuring: An Autopsy](#), 28 *Economic Policy* 513-563 (2013)

**with Stephen Choi and Eric Posner**

6. [The Law and Policy of Judicial Retirement](#), 42 *Journal of Legal Studies* 111-150 (2013)
7. [How Well Do Measures of Judicial Ability Translate into Performance?](#), 33 *International Review of Law & Economics* 37-53 (2013)

**with Lee Buchheit and Ignacio Tirado**

8. [The Problem of Holdout Creditors in Eurozone Sovereign Debt Restructurings](#), *Butterworths Journal of International Banking and Financial Law* 191-194 (April 2013)

**with Anna Gelpern**

9. The Wonder-Clause, 41 *Journal of Comparative Economics* 367-385 (2013)

**with Frank Smets**

10. The Evolution of Euro Area Sovereign Debt Contract Terms, 11 *Journal of Institutional Comparisons* 1-5 (2013)

**with Multiple Authors**

11. [Revisiting Sovereign Bankruptcy](#) (Brookings Institute 2013) (with Lee Buchheit, Anna Gelpern, Ugo Panizza, Beatrice Weder di Mauro, Jeromin Zettelmeyer)
12. [The Role of the IMF in Future Sovereign Debt Restructurings: Report of the Annenberg House Expert Group](#) (November 25, 2013) (with Douglas G. Baird, Nicole Bollen, Lee Buchheit, Anne O. Krueger, Fridrik Mar Balursson, Robert K. Rasmussen, David A. Skeel Jr., Sergei Storchak, Jeromin Zettelmeyer)



2012

**with Lee Buchheit**

1. [A Eurozone Debt Crisis: The Options Now](#), 8 *Capital Markets Law Journal* 54-61

**with Stephen Choi and Eric Posner**

2. [The Evolution of Contractual Terms in Sovereign Bonds](#), 4 *Journal of Legal Analysis* 131-179 (2012)
3. [The Dynamics of Contract Evolution](#), 2012 (2012) (John M. Olin Law & Economics (2d Series) Working Paper No. 605, 2012) (with Stephen J. Choi, Eric A. Posner)

**with Jeromin Zettelmeyer**

4. [Engineering an Orderly Greek Debt Restructuring](#), 2012 (2012)
5. [Making a Voluntary Greek Debt Exchange Work](#), 7 *Capital Markets Law Journal* 169-183 (2012) (reprinted in *Sovereign Insolvency* (Christoph Paulus ed., 2014))

**with Anna Gelpern**

6. [CDS Zombies](#), 13 *European Business Organization Law Review* 347-390 (2012)

**with Curtis Bradley**

7. [Foreword: The Duke Project on Custom and Law](#), 62 *Duke Law Journal* 529-533 (2012)

**with Guy-Uriel Charles and Daniel Chen**

8. [Sonia Sotomayor and the Construction of Merit](#), 61 *Emory Law Journal* 801-861 (2012)

2011

**with Mark Weidemaier**

1. Book Review, 36 *PoLAR: Political and Legal Anthropology Review* 190-192 (2013) (reviewing Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (2011))

**with Lee Buchheit**

2. [Greek Debt: The Endgame Scenarios](#) (2011)
3. [Drafting A Model Collective Action Clause For Eurozone Sovereign Bonds](#), 6 *Capital Markets Law Journal* 317-325 (2011)

**with Curtis Bradley**

4. [Mandatory Versus Default Rules: How Can Customary International Law Be Improved?](#), 120 *Yale Law Journal Online* 421-454 (2011)

**with Robert Scott**

5. [Foreword: The Three and a Half Minute Transaction: Boilerplate and the Limits of Contract Design](#), 40 *Hofstra Law Review* 1-9 (2011)

**with Stephen Choi, Mirya Holman, and Eric Posner**

6. [Judging Women](#), 8 *Journal of Empirical Legal Studies* 504-532 (2011)

**with Stephen Choi and Eric Posner**

7. [Political Risk and Sovereign Debt Contracts](#), 2011 (2011) (John M. Olin Law &

- Economics (2d Series), Working Paper No. 583, 2011)
8. [Pricing Terms in Sovereign Debt Contracts: A Greek Case Study with Implications for the European Crisis Resolution Mechanism](#), 6 *Capital Markets Law Journal* 163-187 (2011)

**with Patrick Shin**

9. [Showcasing Diversity](#), 89 *North Carolina Law Review* 1017-1053 (2011)

**with Tracey George, Ann McGinley**

10. [The New Old Legal Realism](#), 105 *Northwestern University Law Review* 689-735 (2011)

**with Anna Gelpern**

11. [Foreword: Of Lawyers, Leaders, and Returning Riddles in Sovereign Debt](#), 73 *Law & Contemporary Problems* i-xii (2011)

**2010**

**with Stephen Choi and Eric Posner**

1. [Professionals or Politicians: The Uncertain Empirical Case for an Elected Rather Than Appointed Judiciary](#), 26 *Journal of Law, Economics, & Organization* 290-336 (2010)
2. [Judicial Ability and Securities Class Actions](#), 2010 (2010) (John M. Olin Law & Economics (2d Series), Working Paper No. 519, 2010)

**with Lee Buchheit**

3. Restructuring a Nation's Debt, 29 *International Financial Law Review* 46-49 (2010) reprinted in, *Managing Risk in the Financial System* 168-178 (John Raymond LaBrosse et al. eds., 2010)
4. [Responsible Sovereign Lending and Borrowing](#), 2010 63-92 (2010) (UNCTAD, Discussion Paper No.198 April, 2010) (with Lee C. Buchheit) also published in, 73 *Law & Contemporary Problems* 63-92 (Fall 2010)

**with Jack Knight**

5. [Talking Judges](#), 2010 *The Legal Workshop - Duke Law Journal* (2010) [republished 67 *Duke Law Journal* (2018)]

**with David Klein and David Levi**

6. [Evaluating Judges and Judicial Institutions: Reorienting the Perspective](#), 2010 *The Legal Workshop - Duke Law Journal* (2010) [republished 67 *Duke Law Journal* (2018)]

**with Sarah Ludington and Alfred Brophy**

7. [Applied Legal History: Demystifying The Doctrine Of Odious Debts](#), 11 *Theoretical Inquiries in Law* 247-281 (2010)

**with Curtis Bradley**

8. [Customary International Law and Withdrawal Rights in an Age of Treaties](#), 21 *Duke Journal of Comparative & International Law* 1-30 (2010)
9. [Withdrawing from International Custom](#), 120 *Yale Law Journal* 202-275 (2010)

**with Michael Bradley and James Cox**

10. [The Market Reaction to Legal Shocks and Their Antidotes: Lessons From The Sovereign](#)

[Debt Market](#), 39 *Journal of Legal Studies* 289-324 (2010)

2009

**with Lee Buchheit**

1. The Coroner's Inquest: Ecuador's Default and Sovereign Bond Documentation, 28 *International Financial Law Review* 22-25 (2009) (authors' manuscript)

**with Scott Baker**

2. "Make or Buy" and International Law, 165 *Journal of Institutional and Theoretical Economics JITE* 134-141 (2009)

**with David Levi**

3. ["Only Connect": Toward a Unified Measurement Project](#), 58 *Duke Law Journal* 1181-1190 (2009)

**with Stephen Choi and Eric Posner**

4. [Are Judges Overpaid?: A Skeptical Response to the Judicial Salary Debate](#), 1 *Journal of Legal Analysis* 47-117 (Winter 2009)
5. [Judicial Evaluations and Information Forcing: Ranking State High Courts and Their Judges](#), 58 *Duke Law Journal* 1313-1382 (2009)
6. [What do Federal District Judges Want?: An Analysis of Publications, Citations, and Reversals](#) (2009) (John M. Olin Law & Economics (2d Series), Working Paper No. 508, 2009), republished in, 27 *Journal of Law Economics & Organization* (2011)

**with Anna Gelpern**

7. [Feel-good Formalism](#), 35 *Queen's Law Journal* 97-116 (2009)
8. [Innovation after the Revolution: Foreign Sovereign Bond Contracts Since 2003](#), 4 *Capital Markets Law Journal* 85-103 (2009)

**with Stuart Benjamin**

9. [Mr. Presidential Candidate: Whom Would You Nominate?](#), 42 *Loyola of Los Angeles Law Review* 293-334 (2009)

2008

**with Sarah Ludington**

1. [A Convenient Untruth: Fact and Fantasy in the Doctrine of Odious Debts](#), 48 *Virginia Journal of International Law* 595-639 (2008)

**with Devon Carbado and Catherine Fisk**

2. [After Inclusion](#), 4 *Annual Review of Law & Social Science* 83-102 (2008) (

**with Stephen Choi**

3. [Bias in Judicial Citations: A Window into the Behavior of Judges?](#), 37 *Journal of Legal Studies* 87-129 (2008)
4. [Trading Votes For Reasoning: Covering In Judicial Opinions](#), 81 *Southern California Law Review* 735-779 (2008)

**with David Levi**

5. [Judging Measures](#), 77 *UMKC Law Review* 381-413 (2008)

**with Lee Buchheit**

6. [Odious Debts and Nation-Building: When the Incubus Departs](#), 60 *Maine Law Review* 477-485 (2008)

**with Stephen Choi and Eric Posner**

7. [Which States Have the Best \(and Worst\) High Courts?](#), 2008 (2008)(2d Series), Working Paper No. 405, 2008

**2007**

**with George Triantis**

1. [Contracts Without Law: Sovereign Versus Corporate Debt](#), 75 *University of Cincinnati Law Review* 977-1004 (2007)

**with Devon Carbado and Catherine Fisk**

2. [Foreword: Making Makeup Matter](#), 14 *Duke Journal of Gender Law & Policy* 1-11 (2007)

**with Omri Ben-Shahar**

3. [Partially Odious Debts?](#), 70 *Law & Contemporary Problems* 47-81 (Autumn 2007)

**with Stephen Choi**

4. [Ranking Judges According to Citation Bias](#), 82 *Notre Dame Law Review* 1279-1309 (2007)

**with Lee Buchheit and Robert Thompson**

5. [The Dilemma of Odious Debts](#), 56 *Duke Law Journal* 1201-1262 (2007)

**2006**

**with Anna Gelpern**

1. [Public Symbol in Private Contract: A Case Study](#), 84 *Washington University Law Review* 1627-1715 (2006)

**with James Coleman Jr.**

2. [A Response to Professor Sander: Is It Really All About the Grades?](#), 84 *North Carolina Law Review* 1823-1839 (2006)

**with Stephen Choi**

3. [An Empirical Study of Securities Disclosure Practice](#), 80 *Tulane Law Review* 1023-1108 (2006)
4. [Contract as Statute](#), 104 *Michigan Law Review* 1129-1173 (2006)

**with Laura Beth Nielsen**

5. Introduction: A New Legal Realist Perspective On Employment Discrimination, 31 *Law & Social Inquiry* 797-799 (2006)

**with Stephen Choi and Scott Baker**

6. [The Rat Race as an Information Forcing Device](#), 81 *Indiana Law Journal* 53-82 (2006)

**with Multiple Authors**

7. The Story of *Jespersion v. Harrah's: Makeup and Women at Work*, in [Employment Discrimination Stories](#) 105-152 (Joel Wm. Friedman ed., 2006)

**2005**

**with Paul Edwards**

1. [Foreword: The Klein Criteria Project](#), 2 *Berkeley Business Law Journal* 1-11 (2005)

**with David Vladeck**

2. [Judicial Triage: Reflections on the Debate over Unpublished Opinions](#), 62 *Washington and Lee Law Review* 1667-1708 (2005)

**with Stephen Choi**

3. [Mr. Justice Posner?: Unpacking the Statistics](#), 61 *NYU Annual Survey of American Law* 19-43 (2005)
4. [Which Judges Write Their Opinions \(And Should We Care?\)](#), 32 *Florida State University Law Review* 1077-1122 (2005)

**with Devon Carbado**

5. [Race to the Top of the Corporate Ladder: What Minorities Do When They Get There](#), 61 *Washington and Lee Law Review* 1645-1693 (2005)

**2004**

**with Stephen Choi**

1. [A Tournament of Judges?](#), 92 *California Law Review* 299-322 (2004)
2. [Choosing the Next Supreme Court Justice](#), 78 *USC Law Review* 23 (2004)

**with William Klein**

3. [Economic Organization in the Construction Industry: A Case Study of Collaborative Production Under High Uncertainty](#), 1 *Berkeley Business Law Journal* 137-174 (2004)

**with Lee Buchheit**

4. [Sovereign Bonds and the Collective Will](#), 51 *Emory Law Journal* 1317 (2004)(reprinted in *Bank of England Proceedings of Conference on Sovereign Debt* (2004))

**with William Bratton**

5. [Sovereign Debt Reform and the Best Interest of Creditors](#), 57 *Vanderbilt Law Review* 1-79 (2004)

**with Donald Langevoort**

6. [The Muddled Duty to Disclose Under Rule 10b-5](#), 57 *Vanderbilt Law Review* 1639 (2004)

**with Multiple Authors**

7. [Fraud by Hindsight](#), 98 *Northwestern Law Review* 773 (2004)

8. [Innovation in Boilerplate Contracts: The Case of Sovereign Bonds](#), 53 *Emory Law Journal* 929 (2004)(revised version, with separate responses by Lee Buchheit and Sergio Galvis, in *Essays on Sovereign Debt* (Joseph Stiglitz & Jose Ocampo eds., forthcoming))

## 2003

### with Stephen Choi

1. Why Lawyers Need to Take a Closer Look at Exit Consents, 15 *International Financial Law Review* 15-18 (2003)

### with Stephen Bainbridge

2. [How Do Judges Maximize? \(The Same Way Everybody Else Does - Boundedly\): Rules of Thumb in Securities Fraud Opinions](#), 51 *Emory Law Journal* 83-152 (2003), reprinted in *Securities Law Handbook* (2003)

### with Devon Carbado

3. [Tenure](#), 53 *Journal of Legal Education* 157 (2003)
4. [The Fifth Black Woman](#), 11 *Journal of Contemporary Legal Issues* 701 (2003)( reprinted in *Critical Feminist Theory Reader* (Adrienne Wing, ed. 2003))
5. [The Law and Economics of Critical Race Theory](#), 112 *Yale Law Journal* 1757-1828 (2003) (reviewing Francisco Valdes et. al., *Crossroads, Directions and a New Critical Race Theory* (2002))
6. [What Exactly is Racial Diversity?](#), 91 *California Law Review* 1149-1165 (2003) (reviewing Andrea Guerrero, *Silence at Boalt Hall: The Dismantling of Affirmative Action* (2002))

### with Multiple Authors

7. [The Happy Charade: An Empirical Examination of the Third Year of Law School](#), 52 *Journal of Legal Education* 235 (2003)

## 2002

1. [Incorporating Labor](#), *Journal of Comparative Labor Law and Policy Journal* 171 (2002)
2. [What are Larry's Criteria For Good Corporate Law](#), 70 *George Washington University Law Review* 886 (2002)

### with Veronica Sanchez

3. [Giants in a World of Pygmies? Testing the Superstar Hypothesis with Judicial Opinions in Casebooks](#), 87 *Iowa Law Review* 1141-1212 (2002)

## 2001

### with Devon Carbado

1. [Interactions at Work: Remembering David Charny](#), 17 *Harvard Blackletter Law Journal* 13 (2001)

### with Kenneth Klee

2. [Sovereign Piracy](#), 56 *The Business Lawyer* 635 (2001)

**with David Wilkins**

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**Books – Edited and Authored (by year)**

**2022**

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**2019**

2. EUROPEAN FINANCIAL INFRASTRUCTURE IN THE FACE OF NEW CHALLENGES (edited with Franklin Allen, Elena Carletti and Jeromin Zettelmeyer 2019)
3. JUDGES ON JUDICIAL INSTITUTIONS AND BEHAVIOR (edited with Maggie Lemos and Jack Knight) (Law and Contemporary Problems 2019)

**2018**

4. EVALUATING THE PERFORMANCE OF EUROPEAN INSTITUTIONS DURING THE CRISIS (edited with Franklin Allen and Elena Carletti) (European University Institute 2018)



**2017**

5. THE CHANGING GEOGRAPHY OF FINANCE AND REGULATION IN EUROPE (edited with Franklin Allen, Elena Carletti and Joanna Gray) (European University Institute 2017)

**2016**

6. FILLING THE GAPS IN GOVERNANCE: THE CASE OF EUROPE (edited with Franklin Allen, Elena Carletti and Joanna Gray) (European University Institute 2016)

**2015**

7. THE NEW FINANCIAL ARCHITECTURE OF THE EUROZONE (edited with Franklin Allen, Elena Carletti, and Joanna Gray) (European University Institute 2015)
8. ACTING WHITE: RETHINKING RACE IN POST-RACIAL AMERICA (with Devon W. Carbado) (Oxford University Press, 2nd ed. 2015)

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***JOURNALS AND OTHER ACTIVITIES***

***Journal Editorship***

1. Capital Markets Law Journal: Regional Editor – 2010-current
2. Law & Social Inquiry: Editorial Board – 2016-19
3. Law and Contemporary Problems – 2005-2020 (periodically)

***Podcast***

Clauses and Controversies -- with Mark Weidemaier (co host) and Leanna Doty (producer)  
<https://podcasts.apple.com/us/podcast/clauses-controversies/id1528208049>

***Blog***

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