

Yale Law School

LLB, *cum laude*, 1968

- Order of the Coif

Oxford University

BA (Juris.) First Class Honors, 1966

Columbia College

BA, *summa cum laude*, 1964

- Phi Beta Kappa

Great Neck North Senior High School, 1960

EXPERIENCE**University of Chicago Law School**

Interim Dean, *February-June 2001*

James Parker Hall Distinguished Service Professor of Law, *1988-present*

James Parker Hall Professor of Law, *1982-1988*

Professor of Law, *1973-1982*

Visiting Associate Professor of Law, *1972-73*

University of Southern California

Associate Professor of Law, *1970-73*

Assistant Professor of Law, *1968-70*

PROFESSIONAL AFFILIATIONS

Member, California Bar, *1969-present*

Member, American Academy of Arts and Sciences, *1985-present*

Peter and Kirstin Bedford Senior Fellow, Hoover Institution, *since 2000*

Books (Author)

The Case Against the Employee Free Choice Act. Hoover Press, 2009.

Cases and Materials on Torts. 9th ed. Wolters Kluwer/Aspen, 2008.

Overdose: How Excessive Government Regulation Stifles Pharmaceutical Innovation. Yale University Press, 2008.

Supreme Neglect: How to Revive Constitutional Protection for Private Property, Inalienable Rights Series. Oxford Univ. Press, 2008.

Brief of Twenty-eight Law Professors as Amici Curiae in Support of Petitioner: Zoltek Corporation. Cockle Law Brief Printing, 2007 (with Adam Mossoff).

Economics of Property Law, Economic Approaches to Law, no. 9. Edward Elgar, 2007.

How Progressives Rewrote the Constitution. Cato Institute, 2006.

[*Intellectual Property for the Technological Age*](#), The Manufacturing Innovation Series. NAM, 2006.

Overdose: How Excessive Government Regulation Stifles Pharmaceutical Innovation. Yale University Press, 2006.

Skepticism, Faith, and Freedom. Heartland Institute, 2006 (with Robert A. Sirico).

The Structural Unity of Real and Intellectual Property. The Progress and Freedom Foundation, 2006 (keynote address, Aspen Summit).

Affirmative Action: The U.S. Experience and Implications for New Zealand. New Zealand Business Roundtable, 2005.

[*Free Markets Under Siege: Cartels, Politics, and Social Welfare*](#), Hoover Institution Press publication. Hoover Institution Press, 2005 (with Geoffrey Wood and Geoffrey Owens).

Cases and Materials on Torts. 8th ed. Aspen, 2004.

Competition Laws in Conflict: Antitrust Jurisdiction in the Global Economy. AEI Press, 2004 (with Michael Greve).

Cases and Materials on Torts. chinese ed., Casebook Series. CITIC Pub. House, 2003.

Skepticism and Freedom: A Modern Case For Classical Liberalism. University of Chicago Press, 2003.

Torts. chinese ed., Introduction to law series. CITIC Publishing House, 2003.

Class Actions: The Need for a Hard Second Look, Civil Justice Report No. 4. Manhattan Institute for Policy Research, Center for Legal Policy, 2002.

Equal Opportunity or More Opportunity? The Good Thing About Discrimination? Civitas: Institute for the Study of Civil Society, 2002.

On Transitions from Group Care: Homeward Bound. Haworth Press, 2002.

Principles for a Free Society: Reconciling Individual Liberty with the Common Good. paperback ed. Perseus Pub., 2002.

Cases and Materials on Torts. 7th ed. Aspen, 2000.

Torts. 5th ed. Aspen, 1999.

Principles for a Free Society: Reconciling Individual Liberty with the Common Good. Perseus Books, 1998.

Mortal Peril: Our Inalienable Right to Health Care? Addison-Wesley, 1997.

Cases and Materials on Torts. 6th ed. Little, Brown, 1995.

Simple Rules for a Complex World. Harvard University Press, 1995.

1993 Supplement. Epstein, Cases and Materials on Torts. Little, Brown, 1993.

Bargaining with the State. Princeton University Press, 1993.

Torts Supplement. Little, Brown, 1993 (supplement for *Cases and Materials on Torts*, by Richard A. Epstein).

Forbidden Grounds: The Case Against Employment Discrimination Laws. Harvard University Press, 1992.

Cases and Materials on Torts. 5th ed. Little, Brown, 1990.

Gregory, Kalven and Epstein on Torts, Supplement to 4th ed. Little, Brown, 1987.

Supplement to Cases and Materials on Tort. Little, Brown, 1987.

The New Right v. the Constitution. Cato Institute, 1986.

Takings: Private Property and the Power of Eminent Domain. Harvard University Press, 1985.

Cases and Materials on Torts. 4th ed. Little, Brown, 1984.

Cases and Materials on Torts. Little, Brown, 1981.

Modern Products Liability Law. Quorum Books, 1980.

Cases and Materials on Torts. 3rd ed. Little, Brown, 1977.

Books (Editor)

[*Economics of Constitution Law*](#). Edward Elgar Publishing Limited, 2009.

Federal Preemption: States' Powers, National Interests. AEI, 2007 (with Michael Greve).

The Vote: Bush, Gore, and the Supreme Court. University of Chicago Press, 2001 (with Cass Sunstein).

Liberty, Property, and the Law. Garland Press, 2000 (5 volumes, with series introduction and volume introductions).

The Bill of Rights in the Modern State. University of Chicago Press, 1992.

Liberty, Property, and the Future of Constitutional Development. Edited by Ellen Frankel Paul and Howard Dickman. Vol. 173, State University of New York Press, 1990.

Labor Law and the Employment Market. New Brunswick Transaction Press, 1985 (with Jeffrey Paul).

Book Foreword

"Foreword." In *Law, Liberty and the Competitive Market—Essays of Bruno Leoni* edited by Carlo Lottieri. Transaction Publishers, 2009.

"The Perils of Setting a Constitutional Order", Foreword to *An Analysis of Proposals for Constitutional Change in New Zealand*, by Penelope Brook Cowen, Tyler Cowen, and Alexander Tabarrok. The Roundtable, 1992.

Book Sections

"Introduction: The Law and Economics of Constitutionalism" in *The Economics of Constitutional Law*, 2009 (R. Epstein edited).

"Health Care One More Time." In *Reacting to the Spending Spree: Policy Changes We Can Afford*, edited by Terry Anderson and Richard Sousa. Hoover Institution Press, 2009.

"What Broadcast Licenses Tell Us about Net Neutrality: *Cosmopolitan Broadcasting Corporation v. FCC*." In *New Directions in Communications Policy*, edited by Randolph. Carolina Academic Press, 2009.

"What's Wrong with the Employee Free Choice Act." In *Reacting to the Spending Spree: Policy Changes We Can Afford*, edited by Terry Anderson and Richard Sousa. Hoover Institution Press, 2009.

"Altruism and Valuable Consideration in Organ Transplantation." In *When Altruism Isn't Enough: The Case for Compensating Kidney Donors*, edited by Sally Satel. AEI Press, 2008.

"Unilateral Practices and the Dominant Firm: The European Community and the United States." In *The Legal Foundations of Free Markets*, edited by S. Copp. IEA, 2008.

"Conclusion: Preemption Doctrine and Its Limits." In *Federal Preemption: States' Powers, National Interests*, edited by Richard A. Epstein and Michael Greve, 2007 (with Michael Greve).

"Introduction: Preemption in Context." In *Federal Preemption: States' Powers, National Interests*, edited by Richard A. Epstein and Michael Greve. AEI, 2007.

"Contract, not Regulation: UCITA and High-Tech Consumers Meet Their Consumer Protection Critics." In *Consumer Protection in the Age of the 'Information Economy'*, edited by Jane K. Winn. Ashgate, 2006.

"Group Report: What Is the Role of Heuristics in Making Law?" In *Heuristics and the Law*, edited by Engel and Gigerenzer. MIT Press, 2006 (with Jonathan Haidt).

"Mandatory Retirement for Supreme Court Justices." In *Reforming the Court: Term Limits for Supreme Court Justices*, edited by Roger C. Cramton and Paul D. Carrington. Carolina Academic Press, 2006.

"The Optimal Complexity of Legal Rules." In *Heuristics and the Law*, edited by Engel and Gigerenzer. MIT Press, 2006.

"*ProCD v. Zeidenberg*: Do Doctrine and Function Mix." In *Contract Stories*, edited by Douglas Baird. Foundation Press, 2006.

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"Second-Order Rationality." In *Behavioral Public Finance*, edited by E. J. McCaffery and J. Slemrod. Russell Sage, 2006.

"Weak and Strong Conceptions of Poverty: An Essay in Memory of Jim Harris." In *Properties of Law: Essays in Honour of Jim Harris*, edited by T. Endicott, Joshua Getzler, and Edwin Peel. Oxford University Press, 2006.

"Why Libertarians Shouldn't Be Too Skeptical on Intellectual Property." In *Progress on Point*. The Progress and Freedom Foundation, 2006.

"An Economist in Spite of Himself." In *The Origins of Law and Economics: Essays by the Founding Fathers*, edited by Francisco Parisi and Charles K. Rowley, 2005.

"The Historical Variation in Water Rights." In *The Evolution of Markets for Water: Theory and Practice in Australia*, edited by Jeff Bennett, 2005.

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"Libertarianism and Character." In *Varieties of Conservatism in America*, edited by Peter Berkowitz. Hoover Institution Press, 2004.

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"Steady the Course: Property Rights in Genetic Material." In *Perspectives on Properties of the Human Genome*, edited by F. Scott Kieff. Academic Press, 2002 (also published as a University of Chicago John M. Olin Law & Economics Working Paper).

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"On Limiting the Scope for Scientific Evidence." In *Science and Technology Advice to the President, Congress, and Judiciary*, edited by William T. Golden. Pergamon Press, 1988.

"Legal Liability for Medical Innovation." In *Medical Innovation and Bad Outcomes*, edited by M. Siegler. Health Administration Press, 1987.

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"The Uneasy Quest for Welfare Rights." In *Constitutionalism and Rights*, edited by G. Bryner and N. Reynolds. SUNY Press, 1987.

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"Agency Costs, Employment Contracts, and Labor Unions." In *Principals and Agents: The Structure of Business*, edited by John W. Pratt and Richard Zeckhauser. Harvard Business School Press, 1985.

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"Private Property and the Public Domain: The Case of Anti-Trust Law." In *Ethics, Economics, and the Law, Nomos XXIV*, edited by J. Pennock and J. Chapman. New York University Press, 1982.

"Crime and Tort: Old Wine in Old Bottles." In *Assessing the Criminal: Restitution, Retribution, and the Legal Process*, edited by Randy E. Barnett and John Hagel. Ballinger Publishing Company, 1977.

"Medical Malpractice: Its Cause and Cure." In *The Economics of Medical Malpractice*, edited by S. Rottenberg. AEI, 1977.

"Voting Theory, Union Elections, and the Constitution." In *Nomos XVIII: Due Process*, edited by J. Roland Pennock and John W. Chapman. New York University Press, 1977.

Electronic Articles

["The Employee Free Choice Act: Free Choice or No Choice for Workers Civil Justice Forum 45."](#) The Manhattan Institute for Policy Research, 2009.

["Maverick in the Courtroom."](#) In *Hoover Digest*. Hoover Institute, 2009.

["Not so Private Takings: A Response to Abraham Bell's Private Takings."](#) In *The Legal Workshop*. University of Chicago Law Review, 2009.

["Protect Us, Lord, from Title VII: A Response to Gelbach, Klick, and Wexler."](#) In *The Legal Workshop*. University of Chicago Law Review, 2009.

["Foreword: The Role of Property Rights and Voluntary Exchange for Economic Development."](#) In *International Property Rights Index*. Property Rights Alliance, 2008.

["Cambridge v. Chicago: An Answer to Dr. Arnold Relman's New Republic Review of Overdose."](#) In *Point of law.com*, 2007.

["Don't Trust Me: How We Guard Our Guardians."](#) In *Hoover Digest*. Hoover Institute, 2007.

["Net Neutrality and Spectrum Auctions."](#) In *Perspectives from FSF Scholars*. The Free State Foundation, 2007.

"You Do the Math!". In *The New Republic*, 2006.

"Mad Scientists: Go Away, Ethics Police. Leave the NIH Alone.". In *Slate*, 2005.

"A Short History of Product Liability Law." In *Pointoflaw.com*, 2005.

"Supreme Court Discussion with Stephen Presser." In *Pointoflaw.com*, 2005.

["Why NZ, and Everybody Else, Needs a Flat Tax."](#) In *New Zealand Center for Political Research*, 2005.

"Life of Liberty: Robert Nozick, R. I. P.". In *National Review Online*, 2002.

"Rawls Remembered: An Appreciation from the Right." In *National Review Online*, 2002.

["Respect Bayer's Patent."](#) In *OpinionJournal.com*, 2001.

Journal Articles

"Of Pleading and Discovery: Reflections on Twombly and Iqbal with Special Reference to Antitrust." 2011 *University of Illinois Law Review* (2011).

"Toward a General Theory of Tort Law: Strict Liability in Context." 3 *Journal of Tort Law* (2010).

"A Big Year for the First Amendment: Church and State at the Crossroads: *Christian Legal Society v. Martinez*." 2009-10 *Cato Supreme Court Review* 105 (2010).

"The Classical Liberal Alternative to Progressive and Conservative Constitutionalism." 77 *University of Chicago Law Review* 887 (2010).

"*NRA v. City of Chicago*: Does the Second Amendment Bind Frank Easterbrook?" 77 *University of Chicago Law Review* 997 (2010).

"Academic Fraud Today: Its Social Causes and Institutional Responses." 21 *Stanford Law and Policy Review* 135 (2010).

"Carbon Dioxide: Our Newest Pollutant." 43 *Suffolk University Law Review* 797 (2010).

"How to Undermine Tax Increment Financing." 77 *University of Chicago Law Review* 121 (2010).

"Obama's Constitution: The Passive Virtues Writ Large (Symposium: Conservative and Libertarian Reactions to the Obama Administration)." 12 *Constitutional Commentary* 183 (2010).

"Why I Will Never Be a Keynesian." 33 *Harvard Journal of Law and Public Policy* 387 (2010).

"What Tort Theory Tells Us about Federal Preemption: The Tragic Saga of *Wyeth v. Levine*." 65 *New York University Annual Survey of American Law* 485 (2010).

"Executive Power in Political and Corporate Contexts." 12 *University of Pennsylvania Journal of Constitutional Law* 277 (2010).

"The Disintegration of Intellectual Property? A Classical Liberal Response to a Premature Obituary." 62 *Stanford Law Review* 455 (2010).

"A Speech on the Structural Constitution and the Stimulus Program." 4 *Charleston Law Review* 395 (2010).

"Lessons from the Common Law of Reasonable Expectations." 24 *University of California Berkeley Technology Law Journal* 1199 (2009).

"The Reflections and Responses of a Legal Contrarian " 44 *Tulsa (U.) Law Review* 647 (2009).

"The Going Private Phenomenon: Causes and Implications." 76 *University of Chicago Law Review* 1 (2009) (with M. Todd Henderson).

"Public Use in a Post-Kelo World." 17 *The University of Chicago Supreme Court Economic Review* 151 (2009).

"Against Permits: Why Voluntary Organizations Should Regulate the Use of Cancer Drugs." 94 *Minnesota Law Review* (2009).

"The Ominous Employee Free Choice Act." 48 *Regulation* (2009).

["Political Bankruptcies: How Chrysler and GM Have Changed the Rules of the Game."](#) 59 *The Freeman* (2009).

"Privacy and the Third Hand: Lessons from the Common Law of Reasonable Expectations." 24 *Berkeley Technology Law Journal* (2009).

"Response: Activity Levels under the Hand Formula." 108 *Michigan Law Review* 36 (2009).

"An American Icon Speaks Out." Review of *A Time to Speak: Selected Writings and Arguments*, by Robert Bork. 32 *Regulation* 4 (2009).

"The Case for Field Preemption of State Laws in Drug Cases." 103 *Northwestern University Law Review* 463 (2009).

"Happiness and Revealed Preferences in Evolutionary Perspective." 33 *Vermont Law Review* 559 (2009).

"The Many Faces of Fault in Contract Law: Or, How to Do Economics, without Really Trying." 107 *Michigan Law Review* 1461 (2009).

"Monopolization Follies: The Dangers of Structural Remedies under Section 2 of the Sherman Act." 76 *Antitrust Law Journal* 205 (2009).

"The Ominous Antitrust Act." 32(1) *Regulation* 48 (2009).

"Overtreated, or Overregulated." Review of *Overtreated: Why Too Much Medicine Is Making Us Sicker and Poorer*, by Shannon Brownlee. 28 *Health Affairs* 920 (2009).

"The Regulation of Sovereign Wealth Funds: The Virtues of Going Slow." 76 *University of Chicago Law Review* 111 (2009).

"In Memoriam: David P. Currie." 75 *University of Chicago Law Review* 5 (2008).

"Property Rights, State of Nature Theory, and Environmental Protection." 4 *New York University Law and Liberty Journal* (2008).

"The AT&T Consent Decree: In Praise of Interconnection Only." 61 *Federal Communications* 149 (2008).

["Cybersecurity in the Payment Card Industry."](#) 75 *University of Chicago Law Review* 203 (2008) (with Thomas P. Brown).

"The Dangers of 'Investor Protection' in Securities Markets." 12 *Texas Review of Law and Politics* 412 (2008).

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"Federal Preemption, and Federal Common Law, in Nuisance Cases." 102 *Northwestern University Law Review* 551 (2008).

"The Human and Economic Dimensions of Altruism: The Case of Organ Transplantation." 37 *Journal of Legal Studies* 459 (2008).

"Is Group Selection Necessary? An Alternative Interpretation of Homogenous Middleman Groups: Comments on Janet Landa's Paper." 10 *Journal of Bionomics* 279 (2008).

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"Property Rights, Public Use, and the Perfect Storm: An Essay in Honor of Bernard H. Siegan." 45 *San Diego Law Review* 612 (2008).

"Should Antidiscrimination Laws Limit Freedom of Association? The Dangerous Allure of Human Rights Legislation." 25 *Social Philosophy & Policy* 123 (2008).

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"Introduction to the Italian Edition of Overdose." 38 *Cumberland Law Review* (2007-08).

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["David Josiah Brewer Addresses Yale Law School."](#) 10 *The Green Bag* 483 (2007).

["Defanging IRBs: Replacing Coercion with Information."](#) 101 *Northwestern University Law Review* 735 (2007).

["From Penn Central to Lingle: The Long Backwards Road."](#) 40 *John Marshall Law Review* 593 (2007).

["How to Create -- or Destroy -- Wealth in Real Property."](#) 58 *Alabama Law Review* 741 (2007).

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"Introduction: Our Ignorance About Intelligence." 17 *Stanford Law Review* 233 (2006).

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["Executive Power, the Commander in Chief, and the Militia Clause."](#) 34 *Hofstra Law Review* 347 (2005).

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"Intuition, Custom, and Protocol: How to Make Sound Decisions with Limited Knowledge." 2 *New York University Journal of Law and Liberty* 1 (2005).

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"The Monopolistic Vices of Progressive Constitutionalism." 2004-2005 *Cato Supreme Court Review* 11 (2005).

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