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Professor of Law, Dedman School of Law, Southern Methodist University
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ACADEMIC CREDENTIALS

Yale Law School (J.D. 1985)

Editor, Yale Journal on Regulation (1984 - 85).
Received Honors in over 50% of graded courses taken.

University of Iowa (Ph.D. 1978)

Obtained a Ph.D. degree in Economics with a specialization in microeconomic theory.

George Washington University (M.S. 1974)

Obtained an M.S. degree in Statistics with a specialization in applied statistical methods and sampling design.

Michigan State University (B.S. 1969)

Member, MSU Honors College (1966 - 69).
Graduated with Honors in Social Science.

RECENT EMPLOYMENT EXPERIENCE

Southern Methodist University (1990 - present)

Professor of Law (1998 - present); Associate Professor of Law (1994 - 1998); Assistant Professor of Law (1990 - 1994). Primary responsibilities include research and teaching in the areas of contract law, law and economics, jurisprudence, corporate finance and acquisitions, and business enterprise.

Don M. Smart Teaching Award for Excellence in Teaching (four-time winner: 2009 - 2010, 2004 - 2005, 1998 - 1999, 1993 - 1994).

University of Otago (Spring Semester 2009, Spring Semester 1996)

Visiting Professor of Law. Engaged in research in law and economics and on the comparative aspects of legal education.

Council of Economic Advisers, Executive Office of the President (1988 - 1989)

Senior Counsel and Senior Staff Economist for Law and Economics. Participated in the development of Reagan and Bush Administration legislative initiatives in a number of areas, including disability rights, savings and loan recapitalization, securities regulation, food and drug labeling, and tort law reform.

Debevoise & Plimpton (1986 - 1988)

Associate Attorney in the Washington, D.C. office of a large New York-based law firm. Primary practice areas included securities regulation, commercial litigation and financial services industry regulation.

Davis, Hockenberg, Wine, Brown & Koehn (1985 - 1986)

Associate Attorney with a Des Moines, Iowa law firm. Primary practice areas included banking regulation, real estate transactions, legislative drafting, and secured transaction litigation.

University of Iowa (1980 - 1981)

Visiting Assistant Professor of Economics. Primary responsibilities included research and teaching in the areas of microeconomic theory, energy policy, industrial organization, and statistics.

University of Tulsa (1978 - 1980, 1981 - 1983)

Assistant Professor of Economics. Primary responsibilities included research and teaching in the areas of macroeconomic and microeconomic theory, energy policy, industrial organization, and statistics.

College of Business Teaching Award, 1980.

LEGAL PUBLICATIONS

I. Books

Stockbroker Supervision: Managing Stockbrokers and Surviving Sanctions, Butterworth Legal Publishers (1989) (co-authored with Ralph Ferrara and David Rivkin).

Redeeming Fallen Brokers: Managing the Aftermath of Broker-Dealer Enforcement Proceedings, Butterworth Legal Publishers (1988) (co-authored with Ralph Ferrara).

Directorship Year-End Regulatory Review: January 1988, Directorship Publications (1988) (co-authored with Eric Roiter).

Directorship Year-End Regulatory Review: January 1987, Directorship Publications (1987) (co-authored with Eric Roiter and Gary Kubek).

II. Articles

“Correcting for the Wealth Bias of Cost-Benefit Analysis Through Use of ‘Percentage of Wealth’-Based Valuations,” (forthcoming ___ Creigh. L. Rev. ___ (2013)).

“Teaching Contract Law Through Common Law Analysis: The UC-Irvine Experiment,” (forthcoming 66 SMU L. Rev. ___ (2013)).

“Teaching Contract Law: Introducing Students to a Critical Perspective Through Indentured Servitude and Sharecropper Contracts,” (forthcoming 66 SMU L. Rev. ___ (2013)).

“Who is Liable for Attorney’s Fees under Texas Civil Practice & Remedies Code Section 38.001 in Breach of Contract Litigation?,” 65 SMU L. Rev. 71 (2012).

“Misbehavior and Mistake in Bankruptcy Mortgage Claims,” 45 Creigh. L. Rev. 361 (2012).

“The Underappreciated Importance of the Sequence in Which the Issues are Raised in Contract Litigation,” 46 New England Law Review (On Remand) 37 (2011).

“Cost-Benefit Analysis: Not a Suitable Approach for Evaluating Climate Regulation Policies,” 22 Wash. & Lee J. Energy, Climate and the Env. 227 (2011).

“The Trillion Dollar Problem of Underwater Homeowners: Avoiding a New Surge of Foreclosures by Encouraging Principal-Reducing Modifications,” 51 Santa Clara L. Rev. 153 (2011).

“Green Cards for Foreign House Buyers: A Way to Help Stabilize Housing Prices,” 45 Tul. L. Rev. 471 (2010).

“The Endogeneity Problem in Cost-Benefit Analysis: Valuing Policies That Alter Preferences or Genetic Identities,” 8 George. J. L. & Pub. Pol. 91 (2010).

“How Recognizing the Endogeneity of Identity Renders the Discounting Debate Largely Irrelevant,” 30 J. Land, Res. & Env. L. 75 (2010).

“Further Reflections on Post-Realist Legal Scholarship and Teaching: A Brief Response to Professor Scordato,” 50 S. Clara L. Rev. 281 (2010).

“A Brief Reflection on the Problem of Person-Altering Consequences,” 2 J. App. Economy 13 (2009).

“Incorporating Endogenous Preferences in Cost-Benefit Analysis,” 17 Penn. St. Env. L. Rev. 157 (2009).

“The Fatal Flaw of Cost-Benefit Analysis: The Problem of Person-Altering Consequences,” 38 Env. L. Rep. 10703 (2008).

“Choice of Law in Veil Piercing Litigation: Courts Should Discard the Internal Affairs Rule and Embrace General Choice of Law Principles,” 64 NYU Ann. Surv. 85 (2008).

“Would It be Unethical to Dump Radioactive Wastes in the Ocean? The Surprising Ethical Implications of the Person-Altering Consequences of Policies,” 1 Ecology Law Currents 1 (2008) (reprinted as Chapter 2 of Waste Management: Environmental Impact (L. Lakshmi, ed., 2008)).

“Clarifying the Boundary Between the Parol Evidence Rule and the Rules Governing Subsequent Oral Modifications,” 34 Ohio No. L. R. 71 (2008).

“What’s Wrong With Dumping Radioactive Wastes in the Ocean? The Surprising Ethical Implications of the Problem of Person-Altering Consequences,” 37 Env. L. Rep. 10873 (2007).

“Maximizing the Wealth of Fictional Shareholders: Which Fiction Should Directors Embrace?,” 32 J. Corp. L. 381 (2007).

“Should the Business Judgment Rule Apply to Corporate Officers, and Does it Matter?,” 31 Okla. City L. Rev. 237 (2006).

“Valuation in Cost-Benefit Analysis: Choosing Between Offer Prices and Asking Prices as the Appropriate Measure of Willingness to Pay,” 39 J. Mar. L. Rev. 429 (2006).

“The Proposed Abolition of Inherent Agency Authority by the Restatement (Third) of Agency: An Incomplete Solution,” 45 S. Clara L. Rev. 337 (2005).

"Measuring 'Actual Harm' for the Purposes of Determining the Enforceability of Liquidated Damages Clauses," 41 Hous. L. Rev. 1579 (2005).

"Judicial and Law Review Citation Frequencies for Articles Published in Different 'Tiers' of Law Journals: An Empirical Analysis," 44 S. Clara L. Rev. 897 (2004).

"Standards of Conduct and Standards of Review in Corporate Law: The Need for Closer Alignment," 82 Neb. L. Rev. 671 (2004).

"Is a Signed Offer Sufficient to Satisfy the Statute of Frauds?," 80 N. Dak. L. Rev. 1 (2004).

"The Influence of Two Decades of Contract Law Scholarship on Judicial Rulings: An Empirical Analysis," 57 SMU L. Rev. 105 (2004).

"Redefining the Fiduciary Duties of Corporate Directors in Accordance with the Team Production Model of Corporate Governance," 36 Creigh. L. Rev. 623 (2003).

"Rethinking Corporate Fiduciary Duties: The Inefficiency of the Shareholder Primacy Norm," 46 SMU L.R. 141 (2002).

"Selling Structured Settlements: The Uncertain Effect of Anti-Assignment Clauses," 28 Pep. L.R. 787 (2001).

"The Enforcibility of Fixed-Term Employment Contracts that Conflict with Corporate Bylaws," 36 Tul. L.J. 583 (2001).

"The Influence of a Decade of Statutory Interpretation Scholarship on Judicial Rulings: An Empirical Analysis," 53 SMU L.R. 9 (2000).

"Ranking Specialized Law Reviews: A Methodological Critique," 26 Fla. St. U. Rev. 837 (1999).

"Ranking the Environmental Law, Natural Resources Law, and Land Use Planning Journals: A Survey of Expert Opinion," 23 Wm. & Mary Env. L. & Pol. Rev. 273 (1998).

"Exploring the Complicationist Gambit: An Austrian Approach to the Economic Analysis of Law," 73 Notre Dame L. Rev. 316 (1998).

"Ranking International and Comparative Law Journals: A Survey of Expert Opinion," 31 Int'l. Law. 869 (1997).

"Does the Chicago School Need to Expand its Curriculum?," (review of Law and Economics: New and Critical Perspectives (Robin Paul Malloy & Christopher Braun, editors)), 22 Law & Soc. Inq. 149 (1997).

"Putting the Chicago School Debate in Proper Perspective," 22 Law & Soc. Inq. 201 (1997).

"Comparing American and New Zealand Legal Education: Are American Law Schools Too Good?," 30 Vand. J. Trans'l. L. 31 (1997).

"Filling a Gap in New Zealand Legal Education: The Economic Analysis of Law," 8 Otago L. Rev. 559 (1996).

"Recovering Pre-Contractual Expenditures as an Element of Reliance Damages," 49 SMU L. Rev. 43 (1995).

"Good Faith and Bad Faith in Contract Law: Reflections on 'A Cautionary Tale' And 'Border Wars'," 72 Tex. L. Rev. 1277 (1994).

"Teaching the New Law and Economics," 25 U. Tol. L. Rev. 713 (1994).

"Overcoming the Legal Obstacles to the Creation of a Futures Market in Bodily Organs," 55 Ohio St. L. J. 1 (1994).

"Microeconomics Made (Too) Easy: A Casebook Approach to Teaching Law and Economics," (review of Cases and Materials on Law and Economics (David Barnes & Lynn Stout, authors)), 91 Mich. L. Rev. 1560 (1993).

"The Adequate Assurances Doctrine After U.C.C. §2-609: A Test of the Efficiency of the Common Law," 38 Vill. L. Rev. 179 (1993).

"Market Magic: Can the Invisible Hand Strangle Bigotry?," (review of Forbidden Grounds (Richard Epstein, author)), 72 B. U. L. Rev. 991 (1992).

"The Mid-Life Crisis of the Law and Economics Movement: Confronting the Problems of Nonfalsifiability and Normative Bias," 67 Notre Dame L. Rev. 231 (1991).

"If Pigs That Could Fly Could Reply: A Response to Daniel Posin," 38 Wayne L. Rev. 75 (1991).

"The Reverse Pierce Doctrine: Applying Appropriate Standards," 16 J. Corp. Law 33 (1990).

"Efficiency Rejected: Evaluating 'Undue Hardship' Claims Under the Americans with Disabilities Act," 26 Tulsa L. J. 1 (1990).

"The Reach of the Federal Registration Requirements for Broker-Dealers and Investment Advisers," 17 Sec. Reg. L. Jour. 339 (1990).

"Broker-Dealer Supervision of Registered Representatives and Branch Office Operations," 44 Bus. Law. 1361 (1989) (principal draftsman for an ABA Task Force Report).

"The Availability After Carpenter of Private Rights of Action Under Rule 10b-5 Based Upon the Misappropriation of Information Concerning Acquisitions," 26 Am. Bus. L. Jour. 709 (1989).

"The Uniform Limited Offering Exemption: The Need for Amendment of its Disqualification Provisions," 16 Sec. Reg. L. Jour. 370 (1989).

"Laying Out the Basics: A Close-up View of the Supreme Court Decision in Basic v. Levinson," 26 Am. Bus. L. Jour. 325 (1988) (co-authored with Ralph Ferrara).

"Private Rights of Action for Option Position Holders under Section 20(d) of the Securities Exchange Act," 16 Sec. Reg. L. Jour. 21 (1988).

"Security Interests in Book-Entry Government Securities: The Unsettled Status of Clearing Agent Liens under Article 8," 20 UCC. L. Jour. 159 (1987).

"The 1985 Iowa Mortgage Foreclosure Moratorium Law: A Preliminary Analysis and Proposed Changes," 35 Drake L. Rev. 545 (1987) (co-authored with Frank Camp).

III. Government Publications

Regulatory Impact Analysis of the Department of Justice Proposed Regulation Implementing Title III of the Americans with Disabilities Act of 1990 (1992) (consultant report prepared for the Civil Rights Division of the Department of Justice).

Regulatory Impact Analysis of the Department of Justice Proposed Regulation Implementing Subtitle A of Title II of the Americans with Disabilities Act of 1990 (1992) (consultant report prepared for the Civil Rights Division of the Department of Justice).

"Rethinking Regulation," published as Chapter 5 of the Economic Report of the President (1989) (Council of Economic Advisers annual publication) (co-authored with Robert Hahn and Thomas Moore).

RECENT UNIVERSITY AND PROFESSIONAL SERVICE

Chairman, Admissions Committee, Southern Methodist University School of Law, 1997 - present, 1994 - 1995, Member, 1995 - 1996, 1992 - 1994.

Faculty Adviser, Journal of Air Law and Commerce, Southern Methodist University School of Law, 1996 - present.

Chairman, Honor Council, Southern Methodist University School of Law, 2010 - 2011, 2004 - 2005, 2000 - 2001, Member, 2002 - 2004, 2007 - 2010.

Chairman, Athletic Council, Southern Methodist University, 2001- 2005.