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J.D., 1978, University of Texas School of Law
Ph.D., 1976, American Civilization, University of Texas
M.A., 1971, American Literature, University of Texas
B.A., 1969, Calvin College, Grand Rapids, Michigan

EMPLOYMENT

Current: Ben V. & Dorothy Willie Professor of Law and History, Univ. of Iowa
1980-1985: Associate Professor of Law, University of California, Hastings College of the Law
Spring 1986: Visiting Professor, Univ. of Michigan Law School
Summer 1984: Visiting Professor, Univ. of Iowa College of Law
1979-80: Rockefeller Foundation Humanities Fellow, Harvard Law School, Cambridge, MA
1976-79: Lecturer, History and American Studies, University of Texas
1972-76: Assistant Instructor, English and American Studies, University of Texas

ACADEMIC AFFILIATIONS

2007- Fellow, American Academy of Arts and Sciences
1980 Mark DeWolfe Howe Fellow, Harvard Law School
1979-80 Harvard Fellow, Harvard Law School
1979- Fellow, American Council of Learned Societies

Awards/Prizes/Professional Activities

1993 University of Iowa Outstanding Teachers Award
1992 Littleton-Griswold Prize, American Historical Association (for *Enterprise and American Law: 1836-1937*)
1990 Univ. of Iowa Regents Award for Distinguished Faculty Scholars
1988 Univ. of Iowa Faculty Scholars Award
1988-91 Chair, Antitrust Section, AALS
1987-89 Faculty Advisor, *Journal of Corporation Law*
1984-88 Member, Executive Committee, Antitrust Section, AALS
1981-84 Faculty Advisor, *Hastings Law Journal*
1981-98 Board of Editors, *The Journal of Legal History*
1985 Roger J. Traynor Award for Scholarly Publications
1979 Choice Award, *Library Journal* (for *Science and Religion in America: 1800-1860*)

Endowed Lectureships

2008 Meador Lecture, Univ. of Alabama, "Innovation and the Domain of Competition Policy"
2007 Bauer Lecture, Cardozo Law School, "Restraints on Innovation"
2005 Kirkpatrick Lecture, Georgetown, "Do the Antitrust Laws Need Modernization?"
2003 Milton Handler Lecturer, "Antitrust and the Regulatory Enterprise"
2000 Strong Lecturer, Ohio State Univ.: "The Monopolization Offense"
1999 Lockhart Lecturer, Univ. of Minnesota: "Knowledge About Welfare"
1988 Milton Handler Lecturer, "Antitrust's Protected Classes"

1996 Fulton Lecturer, Univ. of Chicago: "Law and Morals in Classical Legal Thought"
1995 Presidential Lecturer, Univ. of Iowa: "The Mind and Heart of Progressive Legal Thought"

PUBLICATIONS:

BOOKS

THE ANTITRUST ENTERPRISE: PRINCIPLE AND EXECUTION (Cambridge, Mass.: Harvard Univ. Press, 2006)

ENTERPRISE AND AMERICAN LAW: 1836-1937 (Cambridge, Mass.: Harvard Univ. Press, 1991)

ANTITRUST LAW (New York: Aspen, with the late P. Areeda & the late D. Turner) (20 volumes + annual supplement + end matter volume, 1978-2008)

IP AND ANTITRUST: AN ANALYSIS OF ANTITRUST PRINCIPLES APPLIED TO INTELLECTUAL PROPERTY LAW (Aspen, with Mark D. Janis & Mark A. Lemley, 2002 & 2003-2008 Supps.)

FUNDAMENTALS OF ANTITRUST LAW (abridgement of ANTITRUST LAW) (Aspen, 2002, 2d ed. 2003) (3d ed., 2004, 2005, 2006, 2007 & 2008 Supps.)

FEDERAL ANTITRUST POLICY: THE LAW OF COMPETITION AND ITS PRACTICE (West Hornbook Series, 1994; 2d ed. 1999; 3d ed. 2005)

ANTITRUST LAW, POLICY AND PROCEDURE (Michie, 1st ed. 1984; 2d ed. 1989; 3d ed. 1994; 4th ed. 1999; 5th ed. 2003; teachers' manual; 2004, 2005, 2006, 2007 Supps.) (with E. Thomas Sullivan) (5th ed., 2008 with Howard Shelanski, in progress)

ECONOMICS AND FEDERAL ANTITRUST LAW (West Pub. 1985)

AMERICAN PROPERTY LAW (West Casebook Series, with Sheldon F. Kurtz, 1st ed. 1987; 2d. ed. 1993; 3d ed. 1999; 4th ed. 2003; 5th ed. 2007) (with teacher's manual)

THE LAW OF PROPERTY: AN INTRODUCTORY SURVEY (West Hornbook Series, 6th ed. 2005) (with Kurtz)

SCIENCE AND RELIGION IN AMERICA: 1800-1860 (Philadelphia: Univ. of Pennsylvania Press, 1978).

ARTICLES AND CHAPTERS IN BOOKS

Innovation and the Domain of Competition Policy, ___ Ala.L.Rev. ___ (2008) (in press)

The Legal Periphery of Dominant Firm Conduct, Lisbon Conference on Competition Law and Economics (Nov. 2007) (in press)

Restraints on Innovation, 29 Cardozo L.Rev. 247 (2007)

The Chicago and Harvard Schools and the Dominant Firm, in *Conservative Influences on Antitrust Policy* (Robert Pitofsky, ed., Oxford Univ. Press 2007) (in press)

A Brief Overview of the IP/Antitrust Interface, in *Issues in Competition Law and Policy* (2007) (in press)

Signposts of Anticompetitive Exclusion: Restraints on Innovation and Economies of Scale, 2006 *International Antitrust Law & Policy* 409 (2006 Corporate Law Institute, Fordham Univ. School of Law), ch. 18.

Standards Ownership and Antitrust, 48 *Boston College L.Rev.* 87 (2007)

Unilateral Refusals to License, 2006 *Oxford J.Competition L. & Econ* 1 (2006) (with Mark D. Janis and Mark A. Lemley)

Discounts and Exclusion, 2006 *Utah L.Rev.* 841 (2006)

Federalism and Antitrust Reform, 40 *USF Law Review* 627 (2006)

The Law of Exclusionary Pricing, 2 *Competition Policy International* 21 (2006)

Introduction: Antitrust Enterprise Conference, 31 *J.Corp.L.* 287 (2006)

Unilateral Refusals to License in the U.S. (With Mark D. Janis and Mark A. Lemley), in *Antitrust, Patents and Copyright: EU and US Perspectives* (Francois Leveque & Howard Shelanski, eds). Cheltenham, UK, 2005

Exclusion and the Sherman Act, 72 *Univ. Chicago L.Rev.* 147 (2005)

Sensible Antitrust Rules for Pharmaceutical Competition, 39 *USF L. Rev.* 11 (2004)

United States Antitrust Policy in an Age of IP Expansion, *International Antitrust Law & Policy* 225-241 (2004 Corporate Law Institute, Fordham Univ. School of Law)

Antitrust and the Regulatory Enterprise, 2004 *Columbia Bus. L.Rev.* 335 (2004)

Balancing Ease and Accuracy in Assessing Pharmaceutical Exclusion Payments, 88 *Minn.L.Rev.* 712 (2004) (with Mark D. Janis & Mark A. Lemley)

Antitrust Violations in Securities Markets, 28 *J.Corp.L.* 607 (2003)

Anticompetitive Settlements of Intellectual Property Disputes, 87 *Minn.L.Rev.* 1719 (2003) (with Mark D. Janis & Mark A. Lemley)

Antitrust as Extraterritorial Regulatory Policy, 48 *Antitrust Bull.* 629 (2003)

Bargaining in Coasian Markets: Servitudes and Alternative Land-Use Controls, 27 *J.Corp.L.* 519 (2002)

The Reckoning of Post-Chicago Antitrust, in *Post-Chicago Developments in Antitrust Law* (Edward Elgar, 2003)

IP Ties and Microsoft's Rule of Reason, 47 *Antitrust Bull.* 369 (2002)

Post-Chicago Antitrust: A Review and Critique, 2001 *Columbia Business Law Review* 257 (2001)

Antitrust Policy after Chicago: Problems of Administrability and Management" (European Institute, 2001)

The Monopolization Offense, 61 *Ohio St. L.J.* 1035 (2000)

Knowledge About Welfare: Legal Realism and the Separation of Law and Economics, 84 *Minn.* 805 (2000)

The Robinson-Patman Act: Unfinished Business, 68 *Antitrust L.J.* 125 (2000)

Competitor Collaboration after California Dental, 2000 *Univ. of Chicago Legal Forum* 149 (2000)

Antitrust Remedies for Intellectual Property Bottlenecks, in *European Competition Law Annual 1998: Telecommunications Policy* (C.D. Ehlermann & L. L. Laudati, eds. Oxford, 1999)

Economic Experts in Antitrust Cases, in *Modern Scientific Evidence: the Law and Science of Expert Testimony* (D. Faigman, D. Kaye, M. Saks, J. Sanders, eds., West Group, 1999) (2d. ed. 2002)

Private Property and the State, in *The Fundamental Interrelationships Between Government and Property* 109 (N. Mercuro & W.J. Samuels, eds. 1999)

Intellectual Property Rights and Antitrust Policy: Introduction, 24 *J.Corp.L.* 477 (1999)

The Takings Clause and Improvident Regulatory Bargains, 108 *Yale L.J.* 801 (1999)

United States Antitrust Law: Implementation of its Varied Goals, in *European Competition Law Annual 1997: Objectives of Competition Policy* 416 (C.D. Ehlermann & L. L. Laudati, eds. Oxford, 1998).

Judicial Restraint and Constitutional Federalism: the Lopez and Seminole Tribe Decisions, 96 *Columbia L. Rev.* 2213 (1996)

The Areeda-Turner Treatise in Antitrust Analysis, 41 *Antitrust L. Rev.* 815 (1996)

Law and Morals in Classical Legal Thought, 82 *Iowa L. Rev.* 1427 (1997) (Univ. of Chicago Working Paper in Legal History (1996).

Law and Economics in the United States: A Brief Historical Survey, 19 *Cambridge J. Econ.* 331 (1995)

- Exclusive Joint Ventures and Antitrust Policy*, 1995 Columbia Bus.L.Rev. 1 (1995)
- The Mind and Heart of Progressive Legal Thought*, 81 Iowa L. Rev. 149 (1995)
- The Limits of Preference Based Legal Policy*, 89 Nw.Univ.L.Rev. 4 (1994)
- "Introduction," to John Chipman Gray, *the Nature and Sources of Law* (new ed., 1994)
- The Marginalist Revolution in Legal Thought*, 46 Vand. L. Rev. 305 (1993)
- Market Power in Aftermarkets: Antitrust Policy and the Kodak Case*, 40 UCLA L. Rev. 1447 (1993)
- Antitrust Policy and the Social Cost of Monopoly*, 78 Iowa L. Rev. 371 (1993)
- Market Efficiency and the Domain of the Firm*, 18 J.Corp.L. 173 (1993).
- Mergers and Buyers*, 77 Va. L. Rev. 1369 (1991)
- Rationality in Law & Economics*, 60 Geo. Wash. L. Rev. 293 (1992)
- Legal Policy and the Endowment Effect*, 20 J. Legal Studies 225 (June, 1991)
- Positivism in Law & Economics*, 78 Calif. L. Rev. 815 (1990)
- The First Great Law & Economics Movement*, 42 Stan. L. Rev. 993 (1990)
- The Indirect Purchaser Rule and Cost-Plus Sales*, 103 Harv. L. Rev. 1717 (1990)
- Legislation, Well-Being and Public Choice*, 57 Univ. Chicago L. Rev. 63 (1990)
- Marginal Utility and the Coase Theorem*, 75 Cornell L. Rev. 783 (1990)
- Arrow's Theorem: Ordinalism and Republican Government*, 75 Iowa L. Rev. 949 (1990)
- Antitrust Policy, Federalism, and the Theory of the Firm: an Historical Perspective*, 59 ABA Antitrust L. J. 75 (1990)
- Antitrust Analysis of Market Power, With Some Thoughts About Regulated Industries*, in *Market Dominance Industries*, book chapter, in *Telecommunications Deregulation: Market Power and Cost Allocation Issues* (J.R. Allison & D. L. Thomas, eds. New York: Quorum Books, 1990).
- The Measurement of Market Power: Policy and Science*, book chapter, in *The Law and Economics of Competition Policy* (F. Mathewson, M. Trebilcock, & M. Walker, eds.) (Vancouver: Fraser Institute, 1990).
- Antitrust's Protected Classes*, 88 Mich. L. Rev. 1 (1989), reprinted in 32 Corporate Practice Commentator 29 (1990)

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The Political Economy of Substantive Due Process, 40 Stanford L. Rev. 379-447 (1988)

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Derek Bok and the Merger of Law and Economics, 21 J. L. Reform 515 (1988).

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Rhetoric and Skepticism in Antitrust Argument, 84 Mich. L. Rev. 1721 - 1729 (1986).

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Municipal Regulation and Federal Antitrust Policy, 32 UCLA L. Rev. 719 - 783 (1985) (with John A. MacKerron III).

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Technology, Politics and Regulated Monopoly: An American Historical Perspective, 62 Tex.L.Rev. 1263 - 1312 (1984).

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Predatory Pricing and the Ninth Circuit, 1983 Ariz. St. L.J. 443 - 482 (with Avarelle Silver-Westrick).

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Market Power and Secondary-Line Differential Pricing, 71 Georgetown L.J. 1157 - 1177 (1983).

Distributive Justice and the Antitrust Laws, 51 Geo. Wash. L.Rev. 1 - 31 (1982),
reprinted in 26 Corp. Practice Commentator 345 - 376 (1984).

Personal Jurisdiction and Venue in Private Antitrust Actions in the Federal Courts: A Policy Analysis, 67 Iowa L.Rev. 485 - 523 (1982).

Pragmatic Realism and Proximate Cause in America, 3 J. Leg. Hist. 3 - 30 (1982).

Sovereign Immunities Act Jurisdiction and Antitrust Policy, 15 U.C. Davis L. Rev. 839 - 872 (1982).

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Insanity and Criminal Responsibility in Progressive America, 57 N. Dak. L. Rev. 541 - 575 (1981).

Tying Arrangements in the Real Estate Market: Federal Antitrust and Local Land Development Policy, 33 Hastings L.J. 325 - 356 (1981).

Can a Foreign Sovereign Be an Antitrust Defendant? 32 Syracuse L. Rev. 879 - 911 (1981).

BOOK REVIEWS

Review of Handbook of Research in Trans-Atlantic Antitrust (Philip Marsden, ed.), 33 European L.Rev. ____ (2007)

Review of The Evolution of European Competition Law: Whose Regulation, Which Competition? (Hanns Ullrich, ed.), 32 European L.Rev. 773 (2006)

Review of Damien Gerardin, Modernisation and Enlargement: Two Major Challenges for EC Competition law, 30 European L.Rev. 910 (2005)

Review of Wouter P.J. Wils, *Principles of European Antitrust Enforcement* (2005), 30 European L. Rev. 593 (2005)

Review of Dale D. Murphy, *The Structure of Regulatory Competition: Corporations and Public Policies in a Global Economy* (2004), 29 European L. Rev. 730 (2004)

Review of Wyatt Wells, *Antitrust and the Formation of the Postwar World* (2002), 22 Law & Hist. Rev. 438 (2004)

Review of Christopher Harding and Julian Joshua, *Regulating Cartels in Europe: A Study of Legal Control of Corporate Delinquency*, 28 European L. Rev. 269 (2004)

"The Rationalization of Antitrust" (Reviewing R. Posner, *Antitrust Law* (2001), 116 Harv. L. Rev. 917 (2003)

Review of "Transcontinental Railroad" (PBS Film Series), 90 J. Am. Hist. 1126 (2003)

Review of Bruno Zanettin, *Cooperation Between Antitrust Agencies at the International Level*, 28 European L.Rev. 570 (2003)

Review of Jonathan W. Singer, *Broken Trusts: the Texas Attorney General and the Oil Industry*, 69 J. Southern Hist. 952 (2003)

Review of Barbara Young Welke, *Recasting American Liberty: Gender, Race, Law, and the Railroad Revolution, 1865-1920*, 89 J.Am.Hist. 1530 (2003)

Review of Edward A. Purcell, Jr., *Brandeis and the Progressive Constitution: Erie, the Judicial Power, and the Politics of the Federal Courts in Twentieth-Century America* (2000), 106 Am. Hist. Rev. 193 (2001)

Review of William G. Thomas, *Lawyering for the Railroad: Business, Law, and Power in the New South*, 74 Bus. Hist. Rev. 323 (2000)

Review of Victoria Woeste, *The Farmer's Benevolent Trust: Law and Agricultural Cooperation in Industrial America, 1865-1945*, 43 Am.J.Legal History 89 (1999)

Review of Barbara H. Fried, *The Progressive Assault on Laissez Faire: Robert Hale and the First Law and Economics Movement*, 104 Am.Hist.Rev. 1701 (1999)

Review of Anthony J. Sebok, *Legal Positivism in American Jurisprudence*, 86 J.Am.History 1837 (2000)

Review of Gregory Alexander, *Commodity and Propriety: Competing Visions of Property in American Legal Thought, 1776-1970*, 103 Amer. Historical Rev. 1678 (Dec. 1998)

Review of Heath Pearson, *Origins of Law and Economics: the Economists' New Science of Law, 1830-1930* (1997), 17 L. & Hist. Rev. 201 (1998)

Review of Peter Karsten, *Heart Versus Head: Judge-Made Law in Nineteenth Century America* (1997) and M. H. Hoeflich, *Roman & Civil Law and the Development of Anglo-American Jurisprudence in the Nineteenth Century*, 85 J. Amer. Hist. 666 (1998)

Review of Paul Kens, *Justice Stephen Field: Shaping Liberty from the Gold Rush to the Gilded Age*, 10 J. Policy History 351 (1998)

The Organization of Capital Against Labor (reviewing D. Ernst, *Lawyers Against Labor*), 25 Rev. Amer. Hist. 294 (1997)

Review of Novak, *The People's Welfare* (1996), 71 Bus. Hist. Rev. 323 (1997)

Review of Ruldoph J. R. Peritz, *Competition Policy in America, 1888-1992*, 28 J. Interdisciplinary History 158 (1997)

Review of Ronen Shamir, *Managing Legal Uncertainty: Elite Lawyers in the New Deal*, 102 Am. Hist. Rev. 209 (1997)

"The Cultural Crises of the Fuller Court" (reviewing Owen Fiss, vol. 8, *Holmes Devise History of the Supreme Court*), 104 Yale L.J. 2309 (1995).

Review of Tinsley E. Yarbrough, *Judicial Enigma: the First Justice Harlan* (1995), 45 J. Legal Educ. 610 (1995)

Review of D. Armor, *Forced Justice: School Desegregation and the Law* (1995); and D. Douglas, *Reading, Writing, & Race: the Desegregation of the Charlotte Schools* (1996), 82 J. Am. Hist. 1643 (1996)

"Regulation History as Politics or Markets (reviewing *The Regulated Economy: A Historical Approach to Political Economy* (C. Goldin & G. Libecap, eds.), 12 Yale J. Reg. 549 (1995).

"The Non-Progressive Federal Income Tax" (Robert Stanley, *Dimensions of Law in the Service of Order: Origins of the Federal Income Tax, 1861-1913*), 23 Reviews in American History 256 (1995)

Review of Lester G. Lindley, *Contract, Economic Change, and the Search for Order in Industrializing America* (1993), 39 Am. J. Legal. Hist. 103 (1995).

Review of Tony Freyer, *Producers Versus Capitalists: Constitutional Conflict in Antebellum America*, 81 J. Am. Hist. 230 (1995)

Review of Berk, *Alternative Tracks: the Constitution of American Industrial Order, 1854-1917*, 14 L. & Hist. Rev. 193 (1995)

Review of Richard A. Epstein, *Bargaining With the State*, 100 Am. Hist. Rev. 956 (1995)

Review of Sellers, *The Market Revolution: Jacksonian America, 1815-1846*, 6 J. Policy History 272 (1994)

Review of Gillman, *The Constitution Besieged: the Rise and Demise of Lochner Era Police Powers Jurisprudence* (1993), 11 Const. Commentary 255 (1994)

"The Corporation's Split Personality" (reviewing Phillip I. Blumberg, *The Multinational Challenge to Corporation Law: the Search for a New Corporate Personality*), 92 Mich. L. Rev. 1792 (1994)

Review of Monroe, *The Wheeling Bridge Case: its Significance in American Law and Technology* (1992), 80 J. Amer. Hist. 1088 (1993)

Review of Tony Freyer, *Regulating Big Business: Antitrust in Great Britain and America: 1880-1990* (1992), 11 L. & Hist. Rev. 455 (1993)

Review of David P., Currie, *The Constitution in the Supreme Court: the Second Century, 1888-1986*, 90 Mich. L. Rev. 1384 (1992)

Review of Michael Conant, *The Constitution and the Economy: Objective Theory and Critical Commentary* (1991), 78 J. Amer. History 642 (Sep. 1992)

Review of Jennifer Nedelsky, *Private Property and the Limits of American Constitutionalism: the Madisonian Framework and Its Legacy*, 10 L. & History Rev. 178 (1992)

Review of Cass R. Sunstein, *After the Rights Revolution: Reconceiving the Regulatory State*; and Daniel A. Farber & Philip P. Frickey, *Law and Public Choice: A Critical Introduction*, 8 Const. Comm. 470 (1991)

Review of Ellen Frankel Paul and Howard Dickman, eds., *Liberty, Property, and the Future of Constitutional Development* (1990); Paul Kens, *Judicial Power and Reform Politics: the Anatomy of Lochner v. New York* (1990), 8 Const. Commentary 274 (1991)

Review of Bernard Schwartz, *The Ascent of Pragmatism: the Burger Court in Action* (1990), 8 Const. Commentary 512 (1991)

Review of R. Loss, ed., *Corwin on the Constitution. Volume Three: On Liberty Against Government* (1988); M. Kammen, *Spheres of Liberty: Changing Perceptions of Liberty in American Culture* (1989); E. Paul & H. Dickman, eds., *Liberty, Property, and Government: Constitutional Interpretation Before the New Deal* (1989), 7 Const. Commentary 410 (1990)

Review of William Lasser, *The Limits of Judicial Power: the Supreme Court in American Politics*, 7 Const. Commentary 123 (1990)

Review of S. Levinson, *Constitutional Faith*, 6 Const. Commentary 502 (1989)

Review of G. Wacker, *Augustus H. Strong and the Dilemma of Historical Consciousness* (1985), 91 Amer. Historical Review 482 (1986).

Review of G. Gawalt, Ed., *The New High Priests: Lawyers in Post-Civil War America* (1984), 71 J. Amer. History 884 - 85 (1985).

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Review of T. Kovaleff, *Business and Government during the Eisenhower Administration* (1980), 33 Hastings L.J. 755 - 768 (1982).

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Review of Presser & Zainaldin, *Law and American History*, 32 Hastings L.J. 553 - 560 (1980).

Review of Marcus, *Antitrust Law and Practice*, 38 Business Lawyer 1411 - 1414 (1981).

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Review of Gill, *Possibility of Religious Knowledge*, 2 Christian Scholar's Review 349 - 352 (1973).

Review of Kintner, *A Treatise on the Antitrust Laws of the United States* (vols. I & II, 1980), 15 U.C. Davis L.Rev. 521 - 526 (1981).

OTHER MISCELLANEOUS PUBLICATIONS

"Antitrust," Encyclopedia of the Supreme Court (Macmillan/Thomson, forthcoming 2008)

ABA Roundtable on Supreme Court's *Trinko* decision, 2004 The Antitrust Source 1 (July, 2004).

"Phillip Areeda," "John Sherman," in *Yale Biographical Dictionary of American Law* (New Haven: Yale University Press, 2004)

"Sherman Act," "Clayton Act," "Federal Trade Commission Act," in *Major Acts of Congress* (New York: Macmillan, 2004)

"Capitalism," in *Oxford Companion to the Supreme Court* (New York: Oxford Univ. Press, 1991; 2d ed. 2004)

"Business Associations," in *Oxford Encyclopedia of Legal History* (New York: Oxford Univ. Press, 2007)

ANTITRUST (West Black Letter Series, 1986; 2d ed. 1993; 3d ed. 1999; 4th ed., 2005)

"Substantive Due Process" and "Economics and Law," *Oxford Companion to American Law* (James Ely of Vanderbilt, ed. 2001)

#2 Review of Kaiser Steel v. Mullins, 1981 Preview of United States Supreme Court Cases

Correspondence, on Public Choice, 57 Univ. Chicago L. Rev. 840 (1990)

Tribute to Lawrence Sullivan, 79 Calif. L. Rev. 1224 (1992)