

**ANDREW F. POPPER**

American University  
Washington College of Law  
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**American University, Washington College of Law (1978–present)**

Faculty Member:

Ann Loeb Bronfman Distinguished Professor Law and Government, January 2017 – present.

Professor of Law (1983–2016), Associate Professor (1980–1983), Assistant Professor (1978–1980)

Courses:

*Current:* Torts, Administrative Law, Government Litigation Seminar, advanced Administrative Law; *Former:* Antitrust, Conflict of Laws, Trade Regulation, Law and Economics, Advanced Antitrust.

Overseas teaching: Distinguished Visiting Faculty, Chuo University, Tokyo, Japan; Taught standard courses and CLE classes in a number of countries including Greece, Italy, Chile, Columbia, and Panama.

Director, Integrated Curriculum Program: Using the conventional array of first-year courses, developed and implemented a 1L curriculum program designed to teach the interdisciplinary nature of the practice of law.

Chair, Committee on Law School Admissions – 1999-present: Developed admissions strategy and for the last two decades ran the law school's faculty admissions committee. Responsibilities include recruitment, applicant review, diversity, and related matters.

Chair, ADMINISTRATIVE LAW REVIEW (ALR) Faculty Board: Developed and maintained a partnership with the American Bar Association, Section on Regulatory and Administrative Law. By virtue of that relationship, American University has been the contract partner with the ABA for publication of the ALR since 1996.

Continuing fund raising responsibilities: Following fund raising and alumni work as associate dean, I have been involved regularly in alumni and bar contact since 1995. I recently concluded a targeted fund raising effort resulting in a named and funded student scholarship (The Collins-Popper Scholarship).

Associate Dean for Faculty and Academic Affairs (1988–1995):

Responsible for curriculum, course scheduling, and faculty,

Chaired the committee responsible for the development of a law school complex (including litigation, zoning review, coordination of architects and planners, negotiation with community groups, construction management, and oversight of space allocation).

Fund raising: Direct responsibility for both annual giving and a limited building campaign that met its target of \$12 million

Oversight of administrative staff of the law school

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Acting Associate Dean and Chief of Staff (1979–1981): General administrative, budgetary, and personnel responsibilities.

**Honors**

First Incumbent, Endowed Chair, Ann Loeb Bronfman Professor of Law and Government, 2017

Law School Faculty Member of the Year for 2015-2016

American Bar Association Section of Administrative Law and Regulatory Practice Annual Award in Administrative Law (2015)

American University Washington College of Law Faculty Award for Outstanding Service, 2012

American University Scholar/Teacher of the Year, 2010 (selected from all colleges within the university)

Baldwin-Wallace University Alumni Merit Award, 2010

Maryland Writer's Association First Prize for Mainstream Fiction, 2005

American University Faculty Award for Outstanding Academic Program Development, 2005

American University Faculty Award for Outstanding Teaching, 1999

American Bar Association Section on Torts and Insurance Law Robert B. McKay Law Professor Award for Outstanding Contributions in Tort and Insurance Law, 1996

Federal Bar Association President's Award for Outstanding Service as Chair of the Administrative Law Section, 1995

Federal Bar Association Outstanding Contribution to the Administrative Process Award, 1992

American University Faculty/Administrator Award for Outstanding Service to the American University Community, 1991

Washington College of Law Nominee for Outstanding Service to the American University Community, 1990

American University Faculty Award for Outstanding Contribution to Academic Program Development, Spring 1985

Pauline Ruyle Moore Scholar of Public Law (WCL professorship awarded annually for research in administrative law), 1984–1985.

**University and Institutional Boards and Memberships**

Director, National Association of Jobs and Information (2012–present)

Member, Authors Guild (2010–present)

Board of Advisors, Bureau of National Affairs PRODUCT SAFETY AND LIABILITY REPORTER (1990–present)

Board Member, CENTER FOR JUSTICE AND DEMOCRACY (2002–present)

Member, American Bar Association/Association of American Law Schools Accreditation Site

Visits: Pepperdine University School of Law (2010)

University of Akron School of Law (2009)

Hofstra University School of Law (2008)

Valparaiso University School of Law (2006)

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University of Kentucky, AALS Reporter (2006)

University of Mississippi School of Law (2005)

University of Miami School of Law (Chair,  
2000) Cleveland State University (1999)

University of Montana School of Law (1995)

Emory University School of Law (1994)

University of Southern California (1993)

Regent University School of Law (1993)

Member, Association of American Law Schools Committee for the Annual Meeting of the Local Government Section (2007–2008)

Member, Association of American Law Schools Committee on Sections and the Annual Meeting (2006–2008)

Vice-Chair, Committee on Government Relations, American Bar Association Section on Legal Education and Admission to the Bar (2001–2002)

Member, American Bar Association Administrative Law Section Committee on Public Interest (1996–1999)

Member, American Bar Association Section on Legal Education and Admission to the Bar Law (1996–1999)

Member, American Bar Association Section on Legal Education and Admission to the Bar Committee on Law School Administration (1994–1996)

Chair, Federal Bar Association Administrative Law Section (1993–1995)

Washington College of Law Representative, American University Decennial Review, Middle States Accreditation Committee (1993)

Chair, Federal Bar Association Committee on Associations (1988–1993)

Antitrust Editor, Interstate Commerce Commission ICC PRACTITIONERS JOURNAL (1982–1986)

Editor, TRANSPORTATION ANTITRUST REPORTS (newsletter) (1982–1986).

## **University of Denver College of Law (July 1976–July 1978)**

First Incumbent to MCLA Chair in Transportation Law;

Director, Transportation Law Program; Faculty Advisor, TRANSPORTATION LAW JOURNAL

Courses: Administrative Law; Antitrust Law; Trade Regulation; Torts; Conflict of Laws; Transportation Law; Law and Economics.

## **George Washington University National Law Center (September 1974–May 1976)**

Graduate Law Teaching Fellow

Courses: Legal research and writing course including appellate advocacy and ethics; taught portions of upper level courses in conjunction with senior faculty.

Activities: Instructor, Foreign Legal Studies Program; Supervising Attorney, Community Legal Service Clinic.

### **Military and Governmental Service**

U.S. Marine Corps, Honorable Discharge, October 1, 1968; Subsequent related service, November 1, 1968 – January 17, 1971 (foreign and domestic intelligence; data analysis and review).

### **Bar Admission**

Illinois Bar (1973); District of Columbia Bar (1975); Admitted to practice in the United States Supreme Court, United States Court of Appeals, District of Columbia, United States District Court for the District of Columbia, Illinois Supreme Court, and District of Columbia Court of Appeals.

### **Expert Testimony**

Testimony on more than forty occasions before committees of the U.S. Senate, U.S. House of Representatives, presidential study commissions, state legislatures, and various state and federal regulatory agencies on different aspects of law, pricing policy, data dissemination, antitrust immunity, tort and product liability, and consensual decision-making (select hearings set forth below).

### **Law Practice and Consulting**

Representation and work on behalf of various public and private sector interests in the areas of torts, administrative law, antitrust, trade regulation, and dispute resolution, including Consumers Union of America, Microsoft, American Association for Justice, nuclear power interests, and other groups.

U.S. Department of Justice Antitrust Division and U.S. Federal Trade Commission:  
Mediator/Neutral for resolution of interagency disputes (2003–2007).

U.S. Staff Attorney, Honors Program, Antitrust Section, U.S. Nuclear Regulatory Commission, Office of the General Counsel (initial appointment at the Atomic Energy Commission, 1973) followed by contract and consulting work in the field through the early 1980's). Primary role: Administrative antitrust litigation related to nuclear facility licensing in conjunction with the U.S. Department of Justice Antitrust Division; periodic consultation on antitrust and nuclear power, 1979-present.

### **Employment During Law School**

Legal Intern, Chicago Legal Aid Society (1971–1973) Included representation of indigent clients in civil and criminal matters; Legal Intern, Federal Defender Project, Northern District of Illinois (1971) Research, client contact, and courtroom contact; Law Clerk, Bradshaw, Speranza, Ververka, and Brumlik, Chicago, Illinois (1971).

### **Related Professional Experience**

Social Worker, Chicago Youth Centers, Bridgeport Homes Housing Project (1970);  
Social Worker, Brooklyn Y.M.C.A., Cleveland, Ohio (1968–1970).

### **Publications**

#### Casebooks and Teaching Manuals

ADMINISTRATIVE LAW: A CONTEMPORARY APPROACH, 3D EDITION, lead author, with Harter, McKee, Niles, Pasquale, and Varona (West Publishing, 2016). Traditional West casebook, with a comprehensive interactive online version and statutory supplement.

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ADMINISTRATIVE LAW: A CONTEMPORARY APPROACH, 2D EDITION, lead author, with Harter, McKee, and Varona (West/Thomson-Reuters, 2010).

ADMINISTRATIVE LAW: A CONTEMPORARY APPROACH, First Edition, lead author with McKee (West/Thomson-Reuters, 2008).

Teaching Manual for, ADMINISTRATIVE LAW: A CONTEMPORARY APPROACH, 3D EDITION, (West 2016).

TEACHING MANUAL FOR ADMINISTRATIVE LAW: A CONTEMPORARY APPROACH, 2D EDITION, with Harter, McKee, and Varona (West/Thomson-Reuters, 2010).

TEACHING MANUAL FOR ADMINISTRATIVE LAW: A CONTEMPORARY APPROACH, FIRST EDITION, with McKee (West/Thomson-Reuters, 2008).

### **Text and source books**

MATERIALS ON TORT REFORM, 2<sup>nd</sup> Edition (West 2017). A comprehensive revision of the first edition. See below.

MATERIALS ON TORT REFORM (West/Thomson-Reuters, 2010). A textbook on tort reform, including essays, a fictional narrative, cases, articles, and comments.

A COMPANION TO BORDERING ON MADNESS: CASES, SCHOLARSHIP AND CASE STUDIES, with Avitabile and Salkin (Carolina Academic Press, 2008). Cases, commentary, and scholarship on land use generally as well as legal materials to be used in conjunction with the novel BORDERING ON MADNESS.

### **Novels**

SUNRISE AT THE AMERICAN MARKET (Carolina Academic Press, 2016) Novel- literary/legal fiction with documented readers guide including case and other references.

REDISCOVERING LONE PINE (West/Thomson-Reuters, 2009): Manuscript awarded Maryland Writer's Association First Prize for Mainstream Fiction, finalist, Outstanding Novel, Washington Writer's Association. Includes a documented readers guide with case and other references.

BORDERING ON MADNESS: AN AMERICAN LAND USE TALE, 2D EDITION (Carolina Academic Press, 2008): Novel, literary/legal fiction. (Companion casebook and teaching materials for this novel listed above). [The first edition of this novel was published by Vandeplass Publishing and distributed by William S. Hein & Company].

### **Articles and Other Publications**

"The Misuse of Product Misuse: Victim Blaming at its Worst," with co-author Commissioner Robert Adler, USCPSC, forthcoming in WILLIAM & MARY BUS. LAW REV. (2018)

"On the Necessity of Preserving Access to Civil Justice: Rediscovering Federalism and Debunking "Fraudulent" Joinder," 44 Rutgers L. Rec. 160 (2017)

"The Affordable Care Act Is Not Tort Reform," 65 CATHOLIC UNIVERSITY LAW REVIEW 1 (2015)

"More than the Sum of All Parts: Taking on IP and IT Theft through a Global Partnership," 12 NORTHWESTERN JOURNAL OF TECHNOLOGY AND INTELLECTUAL PROPERTY 253 (2014)

"*In Personam* and Beyond the Grasp: In Search of Jurisdiction and Accountability for Foreign Defendants," 63 CATHOLIC UNIVERSITY LAW REVIEW 155 (2013)

"Beneficiaries of Misconduct: A Direct Approach to IT Theft," 17 MARQUETTE INTELLECTUAL

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PROPERTY LAW REVIEW 29 (2013)

“In Defense of Deterrence,” 75 ALBANY LAW REVIEW 181 (2012)

“Capping Incentives, Capping Innovation, Courting Disaster: The Gulf Oil Spill and Arbitrary Limits on Civil Liability,” 60 DEPAUL LAW REVIEW 975 (2011)

“The Two Trillion Dollar Carve-Out: Foreign Manufacturers of Defective Goods and the Death of H.R. 4678 in the 111th Congress,” 26 TOXIC LAW REPORTER 105 (2011)

Blog: “Leaping Forward—or Not—With the 2010 Foreign Manufacturer Legal Accountability Act” (September 13, 2010) (<http://lawprofessors.typepad.com/tortsprof/2010/09/guest-blogger-andy-popper-leaping-forward-or-not-with-the-2010-foreign-manufacturer-legal-accountabi.html>)

“Defective Foreign Products in the United States: Issues and Discussion,” 37 PRODUCT SAFETY AND LIABILITY REPORTER 45 (January 2009)

“Unavailable and Unaccountable: A Free Ride for Foreign Manufacturers of Defective Goods,” 36 PRODUCT SAFETY AND LIABILITY REPORTER 219 (March 3, 2008)

Introductory Chapter, INTERNATIONAL ELECTION PRINCIPLES: DEMOCRACY AND THE RULE OF LAW, American Bar Association Sections on Administrative Law & Regulatory Practice, State & Local Government and International Law, and Standing Committee on Election Law (Fall 2008)

“Giving a Break to the Producers of Unsafe Durable Goods: A Criticism of the United States House of Representatives Bill 3509,” 4 SABERES (2006)

“A Perspective on Independent Judicial Review in Vietnam and the United States” 3 SABARES (Fall 2005)

“The Unpredictable Scope of Judicial Review,” 2 SABARES (January 2005)

“U.S. Tort Reform,” 27 CIVIL AND COMMERCIAL LAW REV. OF HONG KONG 379 (2003)

“Restatement, Third, Goes to Court,” TRIAL (April 1999)

“Tort Reform Policy More Than State Law Dominates Section 2 of the Third Restatement,” 8 KANSAS JOURNAL OF LAW & PUBLIC POLICY 38 (1998)

“Averting Malpractice Through Information: Informed Consent in the Pediatric Treatment Environment,” 47 DEPAUL LAW REVIEW 819 (1998)

“A One Term Tort Reform Tale: Victimizing the Vulnerable,” 35 HARVARD JOURNAL ON LEGISLATION 123 (1998)

“What’s the Scoop on Tobacco?” 20 *Legal Times* 29 (October 27, 1997). Modified and republished in “What’s the Scoop on Tobacco?” 150 NEW JERSEY LAW JOURNAL 715 (November 24, 1997); “Media Coverage of Tobacco Cases: More Smoke Than Light,” *Texas Lawyer* (November 3, 1997); “Trying to Read the Tobacco Leaves: News Coverage of Tobacco Sheds Little Light,” *Fulton Co. Daily Report*, October 28, 1997; “The War is Far From Over,” CONNECTICUT L. TRIB. (November 3, 1997)

“Preserve Rate Making Immunity,” JOURNAL OF COMMERCE, p. 6A (October 3, 1997)

“Tobacco’s Black April,” 21 *Legal Times* 23 (May 5, 1997); modified and republished in 148 N.J. LAW J. 579 (May 1997); *Texas Lawyer* (May 26, 1997); CONNECTICUT L. TRIB. (May 12, 1997).

“Administrative Law in the 21st Century,” 49 ADMINISTRATIVE LAW REVIEW 137 (1996)

“In Defense of Antitrust Immunity for Collective Ratemaking: Life After the ICC Termination Act

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- of 1995,” 35 *TRANS. JOURNAL* 26 (1996) (peer-reviewed publication of the American Society of Transportation and Logistics)
- “The Uneasy Integration of Adjunct Law Professors Into American Legal Education,” 47 *JOURNAL OF LEGAL EDUCATION* 83 (Spring 1997)
- “Federal Tort Reform Is Still a Bad Idea: A Comment on Senate Bill 687,” 16 *JOURNAL OF PRODUCTS AND TOXICS LIABILITY* 105 (1994)
- “Tort Reform—Commentary,” 25 *MARYLAND BAR JOURNAL* 31 (1992)
- “*Haslip* on Punitive Damages: A Political and Consumer Perspective,” *BUREAU OF NATIONAL AFFAIRS PRODUCT SAFETY AND LIABILITY REPORTER*, p. 353 (March 22, 1991) (reprinted in *BUREAU OF NATIONAL AFFAIRS TOXIC LAW REPORTER*, p. 1359 (March 27, 1991))
- “Contract Rules Advance Public Policies,” *Transportation Executive Update*, p. 19 (January/February 1991)
- “A Tort Law Perspective Regarding Victims of Crime,” Chapter in American Bar Association publication on the rights of crime victims (1987)
- “Antitrust Commentary,” 53 *TRANSPORTATION PRACTITIONERS JOURNAL* 183 (1986)
- “Antitrust Commentary: Southern Motor Carriers,” 52 *TRANSPORTATION PRACTITIONERS JOURNAL* 529 (1985)
- “Antitrust Commentary,” 52 *TRANSPORTATION PRACTITIONERS JOURNAL* 263 (1984)
- “Antitrust Commentary,” 52 *TRANSPORTATION PRACTITIONERS JOURNAL* 117 (1984)
- “Antitrust Editorial Comment: The 1984 Supreme Court,” 51 *I.C.C. PRACTITIONERS JOURNAL* 609 (1984)
- “The Profoundly Injured Child: How to Assess the Damages to the Family Unit,” 20 *TRIAL* 28 (July 1984)
- “Antitrust Commentary,” 51 *I.C.C. PRACTITIONERS JOURNAL* 287 (1984)
- “The Antitrust System: An Impediment to the Development of Negotiation Models,” 32 *AMERICAN UNIVERSITY LAW REVIEW* 1201 (1983)
- “Comment: *American Trucking Associations, Inc. v. ICC; United States v. Southern Motor Carriers Rate Conference*; Ex Parte No. MC-166,” 50 *I.C.C. PRACTITIONERS JOURNAL* 79 (November/December 1983)
- “Eliminating Immunity: The Antitrust Presumption,” 50 *I.C.C. PRACTITIONERS JOURNAL* 440 (1983)
- “An Administrative Law Perspective On Consensual Decision Making,” 35 *ADMINISTRATIVE LAW REVIEW* 255 (1983)
- “Case Comment: Ex Parte No. MC-156,” 50 *I.C.C. PRACTITIONERS JOURNAL* 326 (December 1982)
- Chapter, “Shipper Antitrust Liability in a Rate-Deregulated Market; Fundamental Inquiries and Analysis,” *COLLECTIVE RATEMAKING IN THE MOTOR CARRIER INDUSTRY: IMPLICATIONS TO THE PUBLIC*, Grant Davis, author (1980)
- “Did the Motor Carrier Act Alter Antitrust Immunity for Collective Ratemaking?” 26 *Your Letter of the Law*, No. 6 at 25 (March 1980)
- Manual, “Trying an Antitrust Case, Overview of Antitrust Law, Evidence, Settlement and Negotiation and New Developments,” with Barbara Entwistle, L.E.A.A. Department of Justice Grant Publication (1979)

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- “Collective Ratemaking: A Case Analysis of the Eastern Central Region and a Hypothesis for Analyzing Competitive Structure,” 10 *TRANSPORTATION LAW JOURNAL* 365 (1978)
- “Workshop on Computerized Legal Research,” 1978 *TRANS. LAW INST.* 307
- “Antitrust Considerations in Motor Carrier Regulation,” 1978 *Trans. Law Conf. Papers* (Series 78-5) at 70-106
- “In the Matter of Consumers Power: Applying the Antitrust Laws to the Nuclear Electric Utility Industry,” 4 *OHIO NORTHERN LAW REVIEW* 499 (1977)
- “Finance Transactions—Jurisdictional Requirements,” 1977 *TRANS. LAW INST.* 1
- Book Review of *A TREATISE ON INTERNATIONAL CRIMINAL LAW, CRIMES AND PUNISHMENT, JURISDICTION AND COOPERATION*, by Cherif Bassiouni and Ved Nanda, 51 *DENVER LAW REVIEW* 297 (1974)
- “A 1971-1972 Survey of Foreign Law in the United States Courts,” *The Globe*, Illinois State Bar Association, International Law Section, Vol. XI, No. 2 (September 1973)

**Federal and State Testimony**

- United States Senate, Committee on the Judiciary, Briefing on: “Protecting the Rights of Injured Patients: How Medical Malpractice ‘Reform’ Proposals Eliminate Rights and Threaten Patient Safety – A Commentary on HR 1215,” May 10, 2017.
- U.S. House of Representatives, Judiciary Committee, Briefing on the “Innocent Party Protection Act” (H.R. 725) and the “Lawsuit Abuse Reduction Act” (H.R. 720), March 2017.
- U.S. House of Representatives, Judiciary Committee, Briefing on H.R. 5, “The Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act” (H.R. 5) April, 2011.
- “The Foreign Manufacturer Legal Accountability Act, H.R. 4678,” Testimony Before the U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Commerce, Trade, and Consumer Protection (June 16, 2010)
- “Holding Foreign Manufacturers Accountable for Defective Products,” U.S. House of Representatives Committee on the Judiciary, Subcommittee on Commercial and Administrative Law (November 15, 2007)
- “The Nonprofit Athletic Organization Act of 2006,” U.S. House of Representatives, used in December 5, 2006 floor debate on H.R. 1176 (full text without footnotes appeared in *Congressional Record*, H8691, E2214, Extensions, December 8, 2006)
- “The Workplace Goods Job Growth and Competitiveness Act of 2005, H.R. 3509,” Hearing and Statement Before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Commercial and Administrative Law (March 14, 2006)
- “Increasing Volunteers by Reducing Legal Fears: Hearings on H.R. 1084, H.R. 3369, and H.R. 1787,” U.S. House of Representatives Committee on the Judiciary (July 20, 2004)
- “Academic Critique and Comments in Section 5a Application No. 118 (amendment 1),” Filed Before the U.S. Department of Transportation Surface Transportation Board (August 1998); Reply (February 1999)
- “Commentary on H.R. 911 and H.R. 1167: Should Volunteers and Charitable Organizations Be Immunized From Tort Liability?” Statement and Testimony Before the U.S. House of Representatives Committee on the Judiciary (April 23, 1997)
- “Commentary on Proposed Changes in Tort Law Regarding Bio-materials and Related Topics,”



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Formal Statement and Testimony Before the U.S. House of Representatives Committee on Commerce, Subcommittee on Telecommunications, Trade, and Consumer Protection (April 8, 1997)

“Commentary on H.R. 1910, The Fairness in Product Liability Act of 1993,” Hearing and Statement Before the U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Commerce, Consumer Protection, and Competitiveness (April 21, 1994)

“Commentary on S. 687, a Bill to Regulate Interstate Commerce by Providing for a Uniform Product Liability Law,” Written Statement Before the U.S. Senate Committee on the Judiciary (March 15, 1994)

“Commentary on Senate Bill 283,” Hearing and Statement Before the Senate Judiciary Committee of the State of Maryland (March 8, 1994)

“Commentary on House Bills 511 and 661,” Written Statement Before the House Judiciary Committee of the State of Maryland (February 15, 1994)

“Commentary on Ex Parte No. MC-211 and Docket Nos. 40887 and 40888, a Revision of Tariff Regulations and —Indexes,” U.S. Interstate Commerce Commission (March 12, 1993)

“Commentary on H.R. 3030, a Bill to Establish Uniform Product Liability Standards,” Hearing and Statement Before the U.S. House of Representatives Committee on Science, Space, and Technology (August 4, 1992)

“Commentary on S. 640, a Bill to Regulate Interstate Commerce by Providing for a Uniform Product Liability Law,” Statement Before the U.S. Senate Committee on Commerce, Science, and Transportation (September 16, 1991)

“Commentary on Ex Parte No. MC-196, an Investigation of Motor Carrier Collective Ratemaking and Related Procedures and Practices,” U.S. Interstate Commerce Commission (August 24, 1990)

“Statement in Support of S. 464, The Government Workplace Safety Act,” Hearing and Statement Before the U.S. Senate Committee on the Judiciary, Subcommittee on Courts and Administrative Practice (February 20, 1990)

“Commentary on S. 1400, a Bill to Regulate Interstate Commerce by Providing for a Uniform Product Liability Law,” Hearing and Statement Before the U.S. Senate Committee on the Judiciary (July 31, 1990)

“Commentary on Ex Parte No. MC-37 (Sub. No. 40), the Expansion of Commercial Zones,” U.S. Interstate Commerce Commission (July 16, 1987)

“An Analysis of Senate Bill 2805,” Hearing and Statement Before the New Jersey Senate Judiciary Committee (December 15, 1986)

“The Residual Negligence System in S. 1999,” Hearing and Statement Before the U.S. Senate Committee on Commerce, Science and Transportation, Subcommittee on Consumer Affairs (February 27, 1986)

“An Analysis of the Proposed Use of Criminal Sanctions in Product Liability Cases,” Hearing and Statement Before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Criminal Justice (July 25, 1985)

“An Analysis of Product Liability Compensation,” Hearing and Statement Before the U.S. Senate Committee on Commerce, Science and Transportation (June 25, 1985)

“Wrongful Non-Disclosure of Product Safety Information: First Amendment and Public Policy Imperatives,” Hearing and Statement Before the U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Health and the Environment (May 6, 1985)

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- “An Analysis of the Legal Implications of S. 44, The Uniform Product Liability Act,” Hearing and Statement Before the U.S. Senate Committee on Commerce, Science and Transportation, Subcommittee on Consumer Affairs (March 5, 1984)
- “An Analysis of H.R. 2367: Disclosure of Product Safety Data and Reauthorization of the Consumer Product Safety Commission,” Hearing and Statement Before the U.S. House of Representatives Committee on Commerce and Energy, Subcommittee on Health and the Environment (April 6, 1983)
- “Data Dissemination and Disclosure Issues Under Section 6(b) of the Consumer Product Safety Act,” Hearing and Statement Before the U.S. Senate Committee on Commerce, Science and Transportation, Subcommittee on Consumer Affairs (February 25, 1983)
- “An Analysis of Administrative Law and Antitrust Issues for Consensual Decision Making from a Legal and Political Science Perspective” (with Neil Kerwin), Hearing and Two-Volume Analysis Before the U.S. House and U.S. Senate Special Study Commission on Collective Ratemaking (March 19, 1982)
- “An Analysis of the Antitrust Immunity Provisions of the Omnibus Maritime Regulatory Reform Act, H.R. 6899,” Hearing and Statement Before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Antitrust and Monopolies (June 5, 1980)
- “General Administrative Law and Antitrust Law Implications of Deregulating Concentrated Markets,” Joint Hearings Before the U.S. Senate Committee on Commerce, Science and Technology, and the U.S. House of Representatives Committee on Public Works, Subcommittee on Surface Transportation (November 17, 1979)
- “Independent Action and Antitrust Consequences in the Common Carrier Price Establishment Arena,” Hearing Before the U.S. Senate Committee on the Judiciary, Subcommittee on Antitrust and Monopolies (March 22, 1978); reprinted in Congressional Record at S. 11548 (October 16, 1981)

### **Select Amicus Briefs**

- Brief, *Amicus Curiae* in the United States Supreme Court, *TXO Production Corp. v. Alliance Resources Corp.* (Fourteenth Amendment analysis of punitive damages), Counsel for Consumers Union, *pro bono*, S. Ct. Doc. No. 92-479 (March 31, 1993)
- Brief, *Amicus Curiae* in the United States Supreme Court, *Pacific Mutual Life Insurance Company v. Haslip* (Fourteenth Amendment analysis of punitive damages), Lead Counsel for Consumers Union, *pro bono*, S. Ct. Doc. No. 89-1279 (October 4, 1990)
- Brief, *Amicus Curiae* in the United State Supreme Court, *Browning-Ferris Indus. v. Kelco* (historical and policy analysis of punitive damages), Counsel for seven consumer groups, *pro bono*, S. Ct. Doc. No. 88-556 (February 14, 1989)
- Brief, *Amicus Curiae* in the United States Supreme Court, *Bankers Life v. Crenshaw* (historical analysis of Eighth Amendment concerns regarding punitive damages), Counsel for Consumers Union, Consumers League, Consumer Federation of America, *pro bono*, S. Ct. Doc. No. 85- 1765 (July 13, 1987)

### **Select Speeches and Presentations**

Since coming to American University, I have delivered about 300 different presentations in a broad range of programs. I give an annual presentations on administrative law and on tort reform as part of my role as director of the integrated curriculum program. In the last few years, I have spoken

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on liability for medical device manufacturers, public choice/republicanism and the electoral process, gun violence and the 2<sup>nd</sup> Amendment, human rights and tort law, curricular integration, and, most recently, on the importance of maintaining a non-partisan environment in law schools. Thus, the listing below is limited and does not include most speeches given at the Washington College of Law.

**Remaining Scheduled Presentations for 2017:**

- “The Role of Narrative Theory in the Practice of Law,” Washington, DC November 2017
- “Revisiting Agency Intervention in Adjudicatory Proceedings,” Washington, DC December 2017
- “Continuity and Expertise in Agency Decision-Making – Why Centralized Panels are a Mistake,” Washington, DC December 2017
- “Advocacy and *In Limine* Motions,” Quantico, VA, December 2017

**Previously:**

- “A Celebration of Civil Justice and American Tort Law,” DAR Constitution Hall, “Breaking Through Power,” September 29, 2016
- “Tort Law, Government Regulation, and Your Future of the U.S. Legal System,” Brinkley Lecture, Landon School, November 2015.
- “The Special Place of Tort Law in the U.S. Legal System,” Convocation, American Tort Law Museum, Winsted, CT (September 2015)
- “Comments on Forced Arbitration and the Fate of the 7th Amendment,” Roscoe Pound Civil Justice Institute, Baltimore, MD (July 2014)
- “A Colloquy on Tort Reform,” American University Washington College of Law (November 2013)
- Congressional Briefing, “An Overview of the Legal Issues: H.R. 5, A Medical Malpractice Tort Reform Bill,” presented to select Representatives and Staff of the U.S. House of Representatives Committee on the Judiciary (April 4, 2011)
- “Regulatory Failures: The Toyota Example,” American Bar Association and Administrative Law Review Symposium on Regulatory Failures (January 2011)
- “Tort Law and Human Rights,” American University Washington College of Law (September, 2010)
- “Commentary on the Regulatory State,” American University Washington College of Law (October 2010)
- “Commentary on Tort Reform: Narrowing the Gap Between Scholarship and Theory,” Civil Justice Task Force Director, American Legislative Exchange Council (December 2010)
- “Scholar-Teacher Fall Commencement Address to the University Entering Class,” American University (August 2010)
- “Commentary: Teaching With Interactive Casebooks—Distractions and Opportunities,” Association of American Law Schools Annual Meeting (January 2010)
- “Comments on Scholarship of Professor Ericka Kelsaw,” LatCrit Conference, Washington College of Law (Fall 2009)
- “Human Rights and Tort Law—Connection,” Washington College of Law Celebration of International Legal Studies (September 2009)
- “Commentary: Accessing Original Sources Using the Interactive Casebook in Administrative Law,” Association of American Law Schools Annual Meeting (January 2009)

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- “Defective Foreign Products—Current Issues,” American Association for Justice/Washington College of Law Program, Dangerous Products: From Lead Toys to Tainted Drugs, A Discussion for Consumer Protection Professionals and the Media (November 14, 2008)
- “ADR in Administrative Practice: Overview,” National Association of Administrative Law Judiciary (October, 2007)
- “Integrated and Transcurricular Legal Education,” Monash University, Melbourne, Australia (August 2007)
- “Unlocking the Door: Law School Admissions in 2007,” Council on Legal Education Opportunities, Washington, DC (July 2007)
- “An Overview and Comparison, the Japanese and U.S. Legal System,” Chuo University Exchange Program, Washington, DC (July 2007)
- “Should There Be Uniform Standard for Election Observers?” American Bar Association Section on Administrative Law Roundtable, Washington, DC (October 26, 2006)
- “Questions Candidates Should—And Should Not—Ask,” Association of American Law Schools Conference (November 10, 2005)
- “Is Judicial Review in Vietnam Sufficiently Independent to Meet WTO Fairness Requirements?” ASEAN/U.S. Agency for International Development Forum (August 3, 2005)
- “Courts, Legislatures, and a Response to Walter Dellinger,” Brookings/American Enterprise Institute Judicial Symposium (April 29, 2005)
- “Scope of Review and Agency Discretion,” U.S. Embassy Seminar, Mexico City, Mexico (October 10, 2003)
- “The Restatement (Third): An Unfortunate Homage to Tort Reform Politics,” Organization of Economic and Legal Policy, Lawrence, KS (June 26, 1998)
- “Political, Emotional, and Technical Challenges Associated with the Construction of a New Law School Facility,” American Bar Association Section on Legal Education and Admission to the Bar, Conference on Bricks and Bytes III, St. Louis, MO (March 1997)
- “The Necessity of Punitive Damages,” University of Wisconsin School of Law, Institute for Legal Studies, Madison, WI (October 27, 1996)
- “Core Issues Regarding Hiring, Training, and Evaluation of Law School Adjuncts,” American Bar Association Section on Legal Education and Admission to the Bar, Jackson Hole, WY (June 6, 1996)
- “Protecting Speech, Free Exercise, and Avoiding Establishment All With ‘No Law’: Who Were the Founders Trying to Kid?” United Methodist Church Educational Program, Bethesda, MD (April 28, 1996)
- “Antitrust Immunity After the ICC Termination Act of 1996,” Eastern Central–Middle Atlantic Conference Board Meeting (April 10, 1996)
- “Teaching and Testing: Guidelines and Suggestions for Prospective Law Faculty,” American Intellectual Property Association, Washington, DC (October 28, 1995)
- “Unlocking the Secrets of the Employment Market: Lawyers CAN be Teachers,” American Intellectual Property Association, Washington, DC (October 24, 1994)
- “The Most Delicate Task: Hiring, Re-Evaluating, and Dismissing Adjunct Law Faculty,” Association of American Law Schools Law School Administration Workshop, Washington, DC (October 1994)

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- “The Clinton Administration After One Year, The First Annual Checkup,” Federal Bar Association Senator Robert Byrd Conference (January 27, 1994)
- “The Federal Administrative Judiciary,” A Critique of the Administrative Conference Report, Federal Bar Association (August 1992)
- “The Impact of Law Schools on Incivility in the Practice of Law,” D.C. Inns of Court (April 1992)
- “Product Liability Laws and Malpractice,” National Press Foundation (July 17, 1991)
- “Expanding the Resource Pool: Families as Plaintiffs in Traumatic Head Injury Cases,” Joint Program of the Maryland Trial Lawyers Association and the Maryland Head Injury Foundation (May 31, 1991)
- “Tort Reform: A Masterpiece of Public Deception,” Irving A. Levine Memorial Lecture, Montgomery Continuing Legal Education Institute (April 17, 1991)
- “Post-Maislin Legislative Options,” Northeastern Transportation Association (October 10, 1990)
- “Coincident Pricing and Common Carriage on a Collision Course,” Regular Route Common Carriers Conference (February 12, 1990)
- “A Policy Analysis of Trigger Tariffs and Other Forms of Nonstandard Pricing,” Southeast Transportation Association (April 14, 1989)
- “Is There a Clear Policy Directing Discounting or Adoption of the Master Tariff Based on Supreme Court Decisions?” Eastern Central Motor Carrier Association (July 16, 1988)
- “Freedom of Speech: First Amendment Concerns for a Censors Conscience,” National Issues Forum (September 30, 1987)
- “Legal Considerations of the Family Unit as Litigant,” Maryland Head Injury Foundation (April 25, 1987)
- “Panel and Commentary: A Tort Reform Perspective for Journalists,” Foundation for American Communication (November 9, 1986)
- “Corporate Responsibility and Tort Reform,” Bureau of National Affairs (September 22, 1986)
- “Legal Implications of Catastrophic Injury: Case Study on Depressed Skull Fractures,” Bryn Mawr Rehabilitation Conference (March 15, 1986)
- “Criminal Responsibility and Toxic Torts: Overview,” Bureau of National Affairs CLE Program (November 7, 1985)
- “Product Liability Reform: A Critical Analysis of Compensation Alternatives,” U.S. Senate Seminar Series, Dodd Seminar (October 24, 1985)
- “Traumatic Injury to Children and Compensable Familial Distress,” Association of Trial Lawyers of America (June 7, 1985)
- “The New Libel Law: Reputational Panacea or Constitutional Affront?” Maryland Continuing Legal Education Institute (May 23, 1985)
- “Federal Standards for Product Liability: Preemption Without Valid Purpose,” American Enterprise Institute (June 16, 1984)
- “The D.C. Circuit and Regulatory Policy: A Judicial Condemnation of Administrative Inaction,” Federal Executive Seminar Series (May 8, 1984)
- “The Profoundly Injured Child: The Damages and Challenges to the Child and Family Unit,” Association of Trial Lawyers of America (March 31, 1984)
- “Environmental Policy and Toxin Control, 1980-1983: The New EPA,” Bureau of National Affairs

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(September 26, 1983)

- “Impact of Antitrust Jurisprudence on the Development of Intermodal Systems,” National Academy of Sciences Transportation Research Board, Washington, DC (January 18, 1983)
- “Developments in Tort Law in the District of Columbia,” Georgetown University Law Center, Program Address delivered October 9, 1982; paper published in “Proceedings, The Trial of a Personal Injury Case,” Georgetown University Program for Continuing Legal Education.
- “Dividing Up Airport Slots—FAA Allocation of Economic Resources as a Pure Regulatory Exercise,” Federal Bar Association (June 3, 1982)
- “A Commentary on Federal Decision Making in Various Deregulated Markets,” DANA Foundation Symposium at Stanford University (December 9, 1981)
- “Taking Stock of the Antitrust Liability Question after the Staggers Act and the Motor Carrier Act,” National ITOFCA Conference, Clearwater, FL (April 2, 1981)
- “*Asbury Graphite, Inc. v. Dehyco*, and the New Title 49, Section 10706—An Antitrust Free-For-All?” Tri-State Traffic Management Association, New York, NY (September 17, 1980)
- “Antitrust Practice in a Newly Deregulated Market,” American Institute for Shippers Associations, Phoenix, AZ (May 1, 1980)
- “Deregulation and the Regulatory Attorney,” National Association of Regulatory Utility Commissioners, Columbus, OH (May 8, 1979)
- “Antitrust Enforcement: The Role of the States,” LEAA Grant Training Program/Manual—Chief Lecturer, Washington, DC (1979), Columbia, SC (1978)
- “Antitrust Reform in Congress—Has the Judiciary Committee Decided in Advance of Its Hearings the Fate of Antitrust Immunity?” Motor Carrier Lawyers Association, San Diego, CA (April 1978)
- “Illinois Brick and Arlington Heights, a Common Political Thread?” Wright-Ingraham Institute Legal Perspective Lecturer, Castle Rock, CO (July 1977)
- “Proposed Changes in ICC Rules of Practice—Commentary,” Motor Carrier Lawyers Association, Tuckers Town, Bermuda (April 1977)

## **Media**

Among other news sources, I have been quoted in the THE WASHINGTON POST, THE CHICAGO TRIBUNE, THE NEW YORK TIMES, THE NEW YORKER, THE ST. LOUIS POST-DISPATCH, USA TODAY, FORBES, THE DETROIT FREE PRESS, THE DENVER POST, THE PHILADELPHIA INQUIRER, as well as National Public Radio, ABC News, and other online and conventional media outlets.

## **Published Poems**

- “But for the Goshawk,” PYROKINECTION (March 2013)
- “The Mountain Singer,” PYROKINECTION (March 2013)
- “Arringham’s Market” PYROKINECTION (July 2012)
- “First Class” GREENSILK POETRY JOURNAL (Summer 2012)
- “The Rocker” MILLER’S POND POETRY JOURNAL (Summer 2012)
- “82 and Cloudy,” GREY SPARROW REVIEW (2012)

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“Ingashaw,” FORGE POETRY JOURNAL (April 2012)

“Stone and Bone,” THE HUDSON VIEW (Summer 2011) [also published under the title “On Frozen Ground,” BLUE LAKE REVIEW (April 2011)]

“The Bear,” CHRONOGRAM (July 2011)

“The Painter from Acumbaro,” TIPTON POETRY JOURNAL, No. 22 (Summer 2011)

“My Solid Evanesce,” RED RIVER REVIEW (2011).

## **Personal**

### **Education**

LL.M. (With Highest Honors), George Washington University, National Law Center

J.D. (With Honors), DePaul University School of Law

B. A., Baldwin-Wallace College

### **Personal Life**

Married, three adult children and recently, three grandchildren; active member of the Bethesda United Methodist Church; beyond law and politics, I enjoy reading almost anything including in particular the works of Malcolm Gladwell, Scott Turow, John Cheever, John Updike, Billy Collins, and F. Scott Fitzgerald (with a special interest in that unintentional epic poem, THE GREAT GATSBY).

### **References**

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