

JONATHAN R. NASH

Robert Howell Hall Professor of Law

Director of the Emory Center on Federalism and Intersystemic Governance

Emory University School of Law

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Academic Experience and Fellowships

EMORY UNIVERSITY SCHOOL OF LAW, Atlanta, GA

Robert Howell Hall Professor of Law – May 2017 to present

Associate Dean for Research – August 2019 to December 2021, August 2022 to December 2022

Professor of Law - July 2008 to May 2017

- Director, Emory University Center on Federalism and Intersystemic Governance, 2018 to present
- Director, Emory Center for Law and Social Science, 2018 to 2021
- Appointed inaugural David J. Bederman Research Professor, 2014 to 2015; professorship awarded based upon scholarly productivity and engagement.
- Teach courses in Federal Courts, Civil Procedure, Transnational Civil Litigation, Habeas Corpus, Judicial Decision Making, Legislation & Regulation, Environmental Law, International Environmental Law, Land Use, and Colloquium Series Workshop.
- Other courses: Courts, Judges, and Voting; Law and Economics; Property.
- Appointments Committee, 2009-10, 2011-13 (Chair), 2021-23; Colloquium Committee, 2008-09, 2013-17 (Chair); Curriculum Committee, 2008-09, 2018-19; Promotion & Tenure Committee, 2009-10, 2018-19 (Chair); Law School Delegate to Univ. Faculty Council & Senate, 2013-14; Law School Delegate to the Univ. President's Faculty Advisory Council, 2014-17.

UNIVERSITY OF CHICAGO LAW SCHOOL, Chicago, IL

Visiting Professor of Law - Academic Year 2007-2008

TULANE LAW SCHOOL, New Orleans, LA

Robert C. Cudd Professor of Environmental Law - July 2007 to June 2008

Robert C. Cudd Associate Professor of Environmental Law - October 2004 to June 2007

Associate Professor - July 2002 to October 2004

- Tenured, July 2006.
- Visiting Professor, Hofstra Law School, Fall 2006.
- Visiting Scholar, Columbia Law School, Fall 2005.

UNIVERSITY OF CHICAGO LAW SCHOOL, Chicago, IL

Harry A. Bigelow Fellow and Lecturer in Law - September 2000 to July 2002

NEW YORK UNIVERSITY CENTER ON ENVIRONMENTAL AND LAND USE LAW,
New York, NY

Postdoctoral Research Fellow - April 2000 to September 2000

Research Associate - June 1999 to March 2000

Organizational Appointments

Co-Founder, Society for Environmental Law and Economics. Member, Executive Board, Canadian Law and Economics Association, 2009-12, Secretary, 2012-2016, Co-Vice President, 2016-2018; Co-President, 2018-Present; Elected Member, American Law Institute, 2016-present.

Judicial Clerkships

THE HONORABLE DONALD STUART RUSSELL, U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT, Spartanburg, SC

Law Clerk - September 1993 to September 1994

THE HONORABLE NINA GERSHON, CHIEF MAGISTRATE JUDGE, U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, New York, NY

Law Clerk - September 1992 to September 1993

Education EMORY UNIVERSITY SCHOOL OF GRADUATE STUDIES, Atlanta, GA
Ph.D. in Political Science, August 2021

HARVARD LAW SCHOOL, Cambridge, MA
LL.M., June 1999

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY
J.D., *magna cum laude*, May 1992

Honors Order of the Coif

Vanderbilt Medal for Outstanding Contributions to the School of Law

Editor-in-Chief, *Annual Survey of American Law*

Graduate Editor, *New York University Tax Law Review*

COLUMBIA COLLEGE, New York, NY
B.A. in Mathematics, *summa cum laude*, May 1988

Honors Phi Beta Kappa

Dean's List

Van Amringe Columbia Mathematics Prize

Honorable Mention, National Science Foundation Fellowship Competition

Academic Publications

The Unconstitutional Conditions Vacuum in Criminal Procedure, 133 YALE L.J.
(forthcoming 2024) (with Kay Levine & Robert Schapiro)

When Is Legal Methodology Binding?, 109 IOWA L. REV. (forthcoming 2023/2024)

The Summary Judgment Revolution That Wasn't, 65 WM. & MARY L. REV. (forthcoming 2023/2024) (with D. Daniel Sokol)

Personal Jurisdictional Limits Over Plaintiff Class Action Claims, 96 S. CAL. L. REV.
(forthcoming 2023)

Bad Faith Prosecution, 109 VA. L. REV. 835 (2023) (with Ann Woolhandler & Michael G. Collins)

Beliefs, Information, and Institutions: Public Perception of Climate Change Information Provided by Government vs. the Market, 47 WM. & MARY ENVTL. L. & POL'Y REV. 1 (2022) (with Cherie Metcalf)

Measuring Judicial Collegiality Through Dissent, 70 BUFF. L. REV. 1561 (2022)

Protecting State Constitutional Rights From Unconstitutional Conditions, 56 U.C. DAVIS L. REV. 247 (2022) (with Kay Levine & Robert Schapiro)

Promoting Regulatory Prediction, 97 IND. L.J. 203 (2022) (with Jonathan S. Masur)

Secondary Prosecutors and the Separation-of-Powers Hurdle, 77 N.Y.U. ANN. SURV. AM. L. 33 (2022) (invited)

The Certificate of Division and the Early Supreme Court, 94 S. CAL. L. REV. 733 (2021) (with Michael G. Collins)

Courts Creating Courts: Problems of Judicial Institutional Self-Design, 73 ALA. L. REV. 1 (2021)

Special Edition Response, *Personal Jurisdiction in Climate Change Common Law Litigation Post-Ford*, GEO. WASH. L. REV. ON THE DOCKET (Oct. 6, 2021) (invited)

Nontraditional Criminal Prosecutions in Federal Court, 53 ARIZ. ST. L.J. 143 (2021)

Filibuster Change and Judicial Appointments, 17 J. EMPIRICAL LEG. STUD. 646 (2020) (with Joanna Shepherd)

The Rules and Standards of Personal Jurisdiction, 72 ALA. L. REV. 465 (2020)

State Standing for Nationwide Injunctions Against the Federal Government, 94 NOTRE DAME L. REV. 1985 (2019) (invited contribution to annual Federal Courts issue)

National Personal Jurisdiction, 68 EMORY L.J. 509 (2019)

Aligning Incentives and Cost Allocation in Discovery, 71 VAND. L. REV. 2015 (2018) (with Joanna Shepherd) (symposium contribution)

The Case for Tipping and Unrestricted Tip-Pooling: Promoting Intrafirm Cooperation, 59 B.C. L. REV. 1 (2018) (with Samuel Estreicher)

Sovereign Preemption State Standing, 112 NW. U. L. REV. 201 (2017)

The Production Function of the Regulatory State: How Much Do Agency Budgets Matter?, 102 MINN. L. REV. 695 (2017) (with J.B. Ruhl & James Salzman) (reprinted in LAND USE & ENVIRONMENT L. REV. (2020), as one of the best articles in environmental law)

Judicial Laterals, 70 VAND. L. REV. 1911 (2017) (symposium contribution)

Unearthing Summary Judgment's Concealed Standard of Review,
50 U.C. DAVIS L. REV. 87 (2016)

Doubly Uncooperative Federalism and the Challenge of U.S. Treaty Compliance,
55 COLUM. J. TRANSNAT'L L. 3 (2016)

Institutionalizing Pro Bono, in *BEYOND ELITE LAW: ACCESS TO CIVIL JUSTICE IN AMERICA*
285 (Samuel Estreicher & Joy Radice eds., Cambridge U. Press 2016)
(with Samuel Estreicher)

A Functional Theory of Congressional Standing, 114 MICH. L. REV. 339 (2015)

Interparty Judicial Appointments, 12 J. EMPIRICAL LEG. STUD. 664 (2015)

Environmental Law in Austerity, 32 PACE ENVTL. L. REV. 481 (2015) (essay; symposium
contribution) (with James Salzman & J.B. Ruhl)

Standing Doctrine Notwithstanding, 93 TEX. L. REV. SEE ALSO 189 (2015) (response to
Richard Fallon's *The Fragmentation of Standing*)

*Expertise and Opinion Assignment on the Courts of Appeals: A Preliminary
Investigation*, 66 FLA. L. REV. 1599 (2014)

Standing's Expected Value, 111 MICH. L. REV. 1283 (2013)

Rethinking the Principal-Agent Theory of Judging,
99 IOWA L. REV. 331 (2013) (essay) (with Rafael I. Pardo)

Legal Defeasibility in Context and the Emergence of Substantial Indefeasibility, in *THE
LOGIC OF LEGAL REQUIREMENTS: ESSAYS ON LEGAL DEFEASIBILITY* 377 (Jordi
Ferrer & Giovanni B. Ratti eds., Oxford U. Press 2013)

On the Efficient Deployment of Rules and Standards to Define Federal Jurisdiction,
65 VAND. L. REV. 509 (2012)

The Supreme Court and the Regulation of Risk in Criminal Law,
92 B.U. L. REV. 171 (2012)

Does Ideology Matter in Bankruptcy? Voting Behavior on the Courts of Appeals,
53 WM. & MARY L. REV. 919 (2012) (with Rafael I. Pardo)

The Curious Landscape of the Extra-Territoriality of US Environmental Laws, in
*BEYOND TERRITORIALITY: TRANSNATIONAL LEGAL AUTHORITY IN AN AGE OF
GLOBALIZATION* 163 (Gunther Handl, Joachim Zekoll & Peer Zumbansen eds.,
Martinus Nijhoff 2012)

Prosecuting Federal Crimes in State Courts, 97 VA. L. REV. 243 (2011) (with
Michael G. Collins)

Mark to Ecosystem Service Market: Protecting Ecosystems Through Revaluing Conservation Easements, in REBUILDING THE ARK: NEW PERSPECTIVES ON ESA REFORM 117 (Jonathan H. Adler ed., AEI Press 2011)

The Institutional Dynamics of Transition Relief, 85 N.Y.U. L. REV. 391 (2010) (with Jonathan S. Masur)

Null Preemption, 85 NOTRE DAME L. REV. 1015 (2010)

Property Frames, 87 WASH. U. L. REV. 449 (2010) (with Stephanie M. Stern)

The Curious Legal Landscape of the Extraterritoriality of U.S. Environmental Laws, 50 VA. J. INT'L L. 997 (2010) (essay)

Allocation and Uncertainty: Strategic Responses to Environmental Grandfathering, 36 ECOLOGY L.Q. 809 (2009)

The Majority That Wasn't: Stare Decisis, Majority Rule, and the Mischief of Quorum Requirements, 58 EMORY L.J. 831 (2009)

Packaging Property: The Effect of Paradigmatic Framing of Property Rights, 83 TUL. L. REV. 691 (2009) (symposium contribution)

Judicial Election versus Judicial Appointment: Evaluating the Potential for a Race to the Bottom, 64 N.Y.U. ANN. SURV. AM. L. 617 (2009) (symposium contribution)

Identitarian Anxieties and the Nature of Inter-Tribunal Deliberations, 9 CHI. J. INT'L L. 613 (2009) (with Adeno Addis) (symposium contribution)

Precautionary Standing, 34 ADMIN. & REG. NEWS 10 (2009)

Public Choice over Efficiency: The Case of Road Traffic Management, in 6 CRITICAL ISSUES IN ENVIRONMENTAL TAXATION 307 (Jacqueline Cottrell et al. eds., Oxford U. Press 2009)

The Uneasy Case for Transjurisdictional Adjudication, 94 VA. L. REV. 1869 (2008)

An Empirical Investigation into Appellate Structure and the Perceived Quality of Appellate Review, 61 VAND. L. REV. 1745 (2008) (with Rafael I. Pardo)

Standing and the Precautionary Principle, 108 COLUM. L. REV. 494 (2008) (essay)

Economic Efficiency versus Public Choice: The Case of Property Rights in Road Traffic Management, 49 B.C. L. REV. 673 (2008)

Beyond Kyoto: The Treatment of Outliers, 15 U.C. DAVIS J. INT'L L. & POL'Y 31 (2008) (symposium contribution)

Examining the Perceived Quality of Appellate Review in the Bankruptcy System, NORTON BANKR. L. ADVISER, Aug. 2008, at 1 (with Rafael I. Pardo)

- Taxes and the Success of Non-Tax Market-Based Environmental Regulatory Regimes*, in 5 CRITICAL ISSUES IN ENVIRONMENTAL TAXATION 735 (Nathalie J. Chalifour et al. eds., Oxford U. Press 2008)
- Grandfathering and Environmental Regulation: The Law and Economics of New Source Review*, 101 NW. U. L. REV. 1677 (2007) (with Richard L. Revesz)
- Trading Species: A New Direction for Habitat Trading Programs*, 32 COLUM. J. ENVTL. L. 1 (2007) (reprinted in 38 ENVTL. L. REP. NEWS & ANALYSIS 10,539 (2008), as one of the best articles on legal and policy solutions to pressing environmental problems)
- Prejudging Judges*, 106 COLUM. L. REV. 2168 (2006) (essay)
- The Illusion of Devolution in Environmental Law*, 38 URB. LAW. 1003 (2006) (essay)
- Framing Effects and Regulatory Choice*, 82 NOTRE DAME L. REV. 313 (2006)
- Resuscitating Deference to Lower Federal Court Judges' Interpretations of State Law*, 77 S. CAL. L. REV. 975 (2004)
- A Context-Sensitive Voting Protocol Paradigm for Multimember Courts*, 56 STAN. L. REV. 75 (2003)
- Examining the Power of Federal Courts to Certify Questions of State Law*, 88 CORNELL L. REV. 1672 (2003)
- Environmental Superliens and the Problem of Mortgage-Backed Securitization*, 59 WASH. & LEE L. REV. 127 (2002)
- The Design of Marketable Permit Schemes to Control Local and Regional Pollutants*, in AN INTRODUCTION TO THE LAW AND ECONOMICS OF ENVIRONMENTAL POLICY: ISSUES IN INSTITUTIONAL DESIGN 331 (Timothy Swanson ed., Elsevier Science 2002) (with Richard L. Revesz)
- Markets and Geography: Designing Marketable Permit Schemes to Control Local and Regional Pollutants*, 28 ECOLOGY L.Q. 569 (2001) (with Richard L. Revesz)
- Too Much Market? Conflict Between Tradable Pollution Allowances and the "Polluter Pays" Principle*, 24 HARV. ENVTL. L. REV. 465 (2000)
- Pendent Party Jurisdiction Under the Foreign Sovereign Immunities Act*, 16 B.U. INT'L L.J. 71 (1998)

Book Reviews

- Book Review of SAUL BRENNER & JOSEPH M. WHITMEYER, STRATEGY ON THE UNITED STATES SUPREME COURT (2009), POLITICAL SCIENCE QUARTERLY, vol. 125, no. 1, Spring 2010, at 141

Book Review of NANCY SCHERER, SCORING POINTS: POLITICIANS, ACTIVISTS, AND THE LOWER FEDERAL COURTS APPOINTMENT PROCESS (2005), PERSPECTIVES ON POLITICS, vol. 4, no. 2, June 2006, at 397

Book ENVIRONMENTAL LAW AND POLICY: THE ESSENTIALS (Aspen Publishers 2010)

Edited Book PROCEEDINGS OF THE FIFTY-EIGHTH ANNUAL NYU CONFERENCE ON LABOR LAW—WORKPLACE PRIVACY: HERE AND ABROAD (Kluwer 2010)

Note *An Economic Approach to the Availability of Hazardous Waste Insurance*, 1991 ANN. SURV. AM. L. 455

Amicus Curiae Briefs

Brief for Amicus Curiae Professor Jonathan R. Nash in Support of Respondents in *Ford Motor Co. v. Montana Eighth Judicial District Court*, 141 S. Ct. 1017 (2021)

Brief of Professors Jonathan R. Nash, Aziz H. Huq, Matthew I. Hall, and 22 Other Legal Scholars as Amicus Curiae in Support of Plaintiff-Appellee in *Committee on Judiciary of U.S. House of Representatives v. McGahn*, 968 F.3d 755 (D.C. Cir. 2020)

Brief for Amicus Curiae Professor Jonathan R. Nash in Support of Respondent in *Plumhoff v. Rickard*, 572 U.S. 765 (2014)

Op-Eds *Trump's Remaking of the Judicial System*, THE HILL, Nov. 23, 2020

Here's How Senators Can Overcome Their Hyperpartisanship with Judicial Nominees, THE HILL, Aug. 12, 2019

Chief Justice Roberts Will be the New 'Swing' Vote, THE HILL, June 30, 2018

Trump Reshapes the Lower Federal Courts with Little Progressive Scrutiny, THE HILL, June 23, 2017

Gorsuch on Supreme Court Might Impact Federal Agencies Most of All, THE HILL, Feb. 2, 2017

What Kind of Judges Will Trump Appoint?, THE HILL, Nov. 13, 2016

New Court Ruling May Lead to Citizens Challenging Executive Overreach, THE HILL, Oct. 8, 2016

Judges Must Be Politically Impartial, Period, THE HILL, Aug. 14, 2016

How the FBI Director Followed in Chief Justice Marshall's Footsteps, THE HILL, July 6, 2016

When a Supreme Court Tie Produces More Guidance, Not Less, THE HILL, May 4, 2016

Supreme Court Reaffirms Supremacy Over State Courts, and Why That Matters Now, THE HILL, Feb. 4, 2016

Technology, Search Costs and the Standard for Effective Assistance of Counsel,
THE HILL, Oct. 9, 2015

Michigan v. EPA and the Future of Chevron Deference, THE HILL, July 16, 2015

The Broader Lessons from the ObamaCare Decision, THE HILL, June 30, 2015

Obama's Curious Take on ObamaCare Case and Supreme Court Docket,
THE HILL, June 16, 2015

Article III Protectionism, THE HILL, June 2, 2015

A Slim Victory for Judicial Campaign Speech Codes, THE HILL, May 7, 2015

The 'Judicially Unadministrable' Statute and Why It Matters, THE HILL, April 6, 2015

If Not a Historic Agreement, Then a Historic Step – Obama, China, and Climate Change,
THE HILL, Nov. 17, 2014

High-Speed Police Pursuits and Deadly Force, THE HILL, Aug. 19, 2014

The Muddied Future of ObamaCare, THE HILL, Aug. 1, 2014

Pork-Barrel Politics at the EPA, THE HILL, June 16, 2014

Keeping Cooperation in Cooperative Federalism, THE HILL, May 30, 2014

The Fifth Circuit's Curious About-Face, NAT'L L.J., Nov. 12, 2012, at 39

*More Appellate Judges Shouldn't Yield Less Appellate Review: The Fifth Circuit's
Shameful Disappearing Act in Comer*, NAT'L L.J., July 12, 2010, at 34

Resolution Oversight, NAT'L L.J., May 31, 2010, at 34 (with Rafael I. Pardo)

Work in Progress

FEDERAL COURTS (casebook project with Michael G. Collins)

Presentations

Culture and Private Enforcement: An Experiment, Midwestern Law and Economics
Association Annual Meeting, Bloomington, IN, October 2023 (with Daniel
Klerman, Cherie Metcalf & Diego Zambrano)

Diversity Jurisdiction and Out-of-State Bias: An Experiment, Canadian Law and
Economics Association Annual Meeting, Toronto, Canada, October 2023 (with
Daniel Klerman)

Expertise, Ideology, and Dissent, Canadian Law and Economics Association Annual
Meeting, Toronto, Canada, October 2023 (with Paul Gugliuzza & Jason Rantanen)

Do Federal Judges Appoint Magistrate Judges Based on Merit?, Conference on Empirical Legal Studies, Chicago, IL, October 2023

Are Trump Judges Less Collegial?, Symposium on Judicial Decision-Making, St. Louis, MO, September 2023

Expertise, Ideology, and Dissent, American Political Science Association Annual Meeting, Los Angeles, CA, August 2023 (with Paul Gugliuzza & Jason Rantanen)

The Determinants of Bilateral Forum Selection, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2023

Panelist, “International Environmentalism: A Global Approach to Global Challenges”, William & Mary Environmental Law & Policy Review 2023 Symposium (online), February 2023

Panelist, “Major Questions at the Supreme Court: Implications for Risk Analysis”, Society for Risk Analysis Annual Conference, Tampa, FL, December 2022

When Does Legal Methodology Constitute Binding Precedent?, Notre Dame Law School Faculty Colloquium, South Bend, IN, November 2022

An Experimental Examination of the Bias Rationale for Federal Diversity Jurisdiction, Notre Dame Law & Economics Workshop, South Bend, IN, November 2022 (with Daniel Klerman)

The Determinants of Bilateral Forum Selection, Conference on Empirical Legal Studies, Charlottesville, VA, November 2022

An Experimental Examination of the Bias Rationale for Federal Diversity Jurisdiction, Conference on Empirical Legal Studies, Charlottesville, VA, November 2022 (with Daniel Klerman)

The Determinants of Bilateral Forum Selection, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, October 2022

An Experimental Examination of the Bias Rationale for Federal Diversity Jurisdiction, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, October 2022

The Determinants of Bilateral Forum Selection, Midwestern Law and Economics Association Annual Meeting, Chicago, IL, October 2022

Measuring Judicial Collegiality Through Dissent, American Law and Economics Association Annual Meeting, New York, NY, August 2022

An Experimental Examination of the Bias Rationale for Federal Diversity Jurisdiction, Law & Society Association Annual Meeting, Lisbon, Portugal, July 2022

A Subject-Matter Specific Empirical Investigation into the Impact of the Summary Judgment Trilogy, Society for Institutional and Organizational Economics Annual Meeting, Toronto, Canada, June 2022

An Experimental Examination of the Bias Rationale for Federal Diversity Jurisdiction, Civil Procedure Workshop, New York, NY, May 2022 (with Daniel Klerman)

Polarization, Environmental Risks and Governance Strategies, Sustainability Conference of Legal Educators, Phoenix, AZ, May 2022

An Experimental Examination of the Bias Rationale for Federal Diversity Jurisdiction, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2022

A Subject-Matter Specific Empirical Investigation into the Impact of the Summary Judgment Trilogy, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2022

An Experimental Examination of the Bias Rationale for Federal Diversity Jurisdiction, Conference on Empirical Legal Studies (hosted virtually by the University of Toronto Law School), March 2022 (with Daniel Klerman)

A Subject-Matter Specific Empirical Investigation into the Impact of the Summary Judgment Trilogy, Conference on Empirical Legal Studies (hosted virtually by the University of Toronto Law School), March 2022 (with D. Daniel Sokol)

Communicating Risk Across the Political Divide, Midwestern Law and Economics Association Annual Meeting, Provo, UT, October 2021 (with Cherie Metcalf)

A Subject-Matter Specific Empirical Investigation into the Impact of the Summary Judgment Trilogy, Midwestern Law and Economics Association Annual Meeting, Provo, UT, October 2021 (with D. Daniel Sokol)

An Experimental Examination of the Bias Rationale for Federal Diversity Jurisdiction, Midwestern Law and Economics Association Annual Meeting, Provo, UT, October 2021

A Subject-Matter Specific Empirical Investigation into the Impact of the Summary Judgment Trilogy, Law & Economics Workshop (hosted virtually by the University of Michigan, University of Southern California, and University of Virginia), August 2021 (with D. Daniel Sokol)

A Subject-Matter Specific Empirical Investigation into the Impact of the Summary Judgment Trilogy, Civil Procedure Workshop (hosted virtually by the University of Alabama), August 2021

Filibuster Change and Judicial Appointments, West Virginia Bar Association Annual Meeting, White Sulphur Springs, WV, July 2021

Communicating Risk Across the Political Divide, Society for Environmental Law and Economics Annual Meeting (hosted virtually by Notre Dame Law School), June 2021 (with Cherie Metcalf)

Communicating Risk Across the Political Divide, Sustainability Conference of Legal Educators (hosted virtually by Arizona State University Sandra Day O'Connor School of Law), May 2021 (with Cherie Metcalf)

Evaluating District Judges' Incentives to Appoint Magistrate Judges on the Basis of Merit Instead of Ideology, Emory Center for Law and Social Science Conference on Magistrate Judges (virtual), April 2021

Communicating Risk Across the Political Divide, Midwest Political Science Association Annual Meeting (virtual), April 2021 (with Cherie Metcalf)

Aligning Diversity Jurisdiction With Its Bias Rationale, Emory Center for Federalism and Intersystemic Governance Conference on Federal Diversity Jurisdiction (virtual), March 2020 (with Daniel Klerman)

Communicating Risk Across the Political Divide, Sustainability Conference of Legal Educators, Law & Economics Workshop (hosted virtually by the University of Florida, University of Michigan, and University of Virginia), January 2021 (with Cherie Metcalf)

The Problem of Regulatory Prediction, Association of American Law Schools Annual Meeting (virtual), January 2021

Aligning Diversity Jurisdiction With Its Bias Rationale, Annual Civil Procedure Workshop (hosted virtually by Northwestern University Pritzker School of Law), October 2020 (with Daniel Klerman)

Filibuster Change and Judicial Appointments, Annual Conference on Empirical Legal Studies, Claremont, CA, November 2019

Reciprocity and the Capacity of States to Sue and to Be Sued, Civil Procedure Workshop, Austin, TX, October 2019

Filibuster Change and Judicial Appointments, Midwestern Law and Economics Association Annual Meeting, Villanova, PA, October 2019

Filibuster Change and Judicial Appointments, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2019

Public Perception of Climate Change Information Provided by the Government Versus the Market, Southeastern Environmental Law Scholars Conference, Smithville, TN, July 2019

Filibuster Change and Judicial Appointments, Society for Institutional and Organizational Economics Annual Meeting, Stockholm, Sweden, June 2019

The Problem of Predictive Regulation, American Law and Economics Association Annual Meeting, New York, NY, May 2019

The Problem of Predictive Regulation, Sustainability Conference of Legal Educators, Phoenix, AZ, May 2019

Filibuster Change and Judicial Appointments, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2019

Filibuster Change and Judicial Appointments, Northwestern University Conference on Text Analysis and Law, Chicago, IL, April 2019

Prediction Markets for Climate Adaptation, Society for Environmental Law and Economics Annual Meeting, Santiago, Chile, March 2019

Can and Should Courts Create Courts? Problems of Judicial Institutional Self-Design, George Mason Law School Faculty Workshop, Arlington, VA, January 2019

Can and Should Courts Create Courts? Problems of Judicial Institutional Self-Design, Annual Civil Procedure Workshop, Palo Alto, CA, November 2018

The Collegiality of Dissent, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2018

The Problem of Predictive Regulation, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2018

The Collegiality of Dissent, Midwestern Law and Economics Association Annual Meeting, Tuscaloosa, AL, September 2018

The Problem of Predictive Regulation, Midwestern Law and Economics Association Annual Meeting, Tuscaloosa, AL, September 2018

The Collegiality of Dissent, Society for Institutional and Organizational Economics Annual Meeting, Montreal, Canada, June 2018

The Problem of Predictive Regulation, Society for Environmental Law and Economics Annual Meeting, Chicago, Illinois, June 2018

Discovery Cost Allocation, Incentives, and Signaling, American Law and Economics Association Annual Meeting, Boston, MA, May 2018

Public Perception of Climate Change Information Provided by the Government Versus the Market, Annual Sustainability Conference of Legal Educators, Phoenix, AZ, May 2018

The Collegiality of Dissent, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2018

Examining Federal District Judges' Referrals to Magistrate Judges, Annual Law and Economics Theory Conference, Houston, TX, December 2017

Discovery Cost Allocation, Incentives, and Signaling, Midwestern Law and Economics Association Annual Meeting, Milwaukee, WI, October 2017

Discovery Cost Allocation, Incentives, and Signaling, Vanderbilt Law Review Symposium, Nashville, TN, October 2017 (with Joanna Shepherd)

Rules, Standards, and General Jurisdiction, Annual Civil Procedure Workshop, Tucson, AZ, October 2017

Certification of Division Under Marshall and Taney: An Examination, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2017

Judicial Laterals, Society for Institutional and Organizational Economics Annual Meeting, New York, NY, June 2017

Private Control Over Regulatory Dockets Through Lawsuits to Compel Agency Action: An Examination, Society for Environmental Law and Economics Annual Meeting, Oxford, United Kingdom, May 2017

Judicial Laterals, American Law and Economics Annual Meeting, New Haven, CT, May 2017

The Production Function of the Regulatory State, Annual Sustainability Conference of Legal Educators, Phoenix, AZ, May 2017

Certification of Division Under Marshall and Taney: An Examination, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2017

Judicial Laterals, Vanderbilt Law Review Symposium, Nashville, TN, March 2017

The Production Function of the Regulatory State, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2016

Certification of Division Under Marshall and Taney: An Examination, Midwestern Law and Economics Association Annual Meeting, Atlanta, GA, September 2016

Unearthing Summary Judgment's Concealed Standard of Review, Annual Civil Procedure Workshop, Seattle, WA, July 2016

The Production Function of the Regulatory State, Society for Institutional and Organizational Economics Annual Meeting, Paris, France, June 2016

The Case for Tipping and Unrestricted Tip-Pooling: Promoting Intrafirm Cooperation, Society for Institutional and Organizational Economics Annual Meeting, Paris, France, June 2016

The Production Function of the Regulatory State, Society for Environmental Law and Economics Annual Meeting, Austin, TX, May 2016

Public Perception of Climate Change Information Provided by the Government Versus the Market, Society for Environmental Law and Economics Annual Meeting, Austin, TX, May 2016 (with Cherie Metcalf)

The Production Function of the Regulatory State, American Law and Economics Association Annual Meeting, Cambridge, MA, May 2016

Public Perception of Climate Change Information Provided by the Government Versus the Market, American Law and Economics Association Annual Meeting, Cambridge, MA, May 2016 (with Cherie Metcalf)

Panelist, “States’ Standing to Sue the United States”, National Association of Attorneys General 2016 Southern Region Meeting, Atlanta, GA, April 2016

An Empirical Investigation of the Effect of Collegiality on Judicial Decision-Making, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2016

An Empirical Investigation of the Effect of Collegiality on Judicial Decision-Making, Society for Empirical Legal Studies Annual Meeting, St. Louis, MO, October 2015

An Empirical Investigation of the Effect of Collegiality on Judicial Decision-Making, Midwest Law and Economics Association Annual Meeting, Lawrence, KS, October 2015

An Empirical Investigation of the Effect of Collegiality on Judicial Decision-Making, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2015

Examining Federal District Judges’ Referrals to Magistrate Judges, International Society for New Institutional Economics Annual Meeting, Cambridge, MA, June 2015

Climate Science, Prediction Markets, and Public Opinion, International Society for New Institutional Economics Annual Meeting, Cambridge, MA, June 2015

Climate Science, Prediction Markets, and Public Opinion, Society for Environmental Law and Economics Annual Meeting, Groningen, Netherlands, May 2015

Examining Federal District Judges’ Referrals to Magistrate Judges, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2015

Interparty Judicial Appointments, Society for Empirical Legal Studies Annual Meeting, Berkeley, CA, November 2014

Interparty Judicial Appointments, University of Notre Dame Law and Economics Workshop, South Bend, IN, November 2014

Examining Federal District Judges’ Referrals to Magistrate Judges, Midwestern Law and Economics Association Annual Meeting, Indianapolis, IN, October 2014

Examining Federal District Judges' Referrals to Magistrate Judges, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2014

Interparty Judicial Appointments, International Society for New Institutional Economics Annual Meeting, Durham, NC, June 2014

A Formal Model of Federal Court Certification of Questions of Law, International Society for New Institutional Economics Annual Meeting, Durham, NC, June 2014

Interparty Judicial Appointments, American Law and Economics Association Annual Meeting, Chicago, IL, May 2014

Examining the Fate of Interparty Judicial Appointments, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2014

The Benefits and Costs of Standing to Sue to Override Agency Priorities, Conference on the Democratization of Risk Governance, Tel Aviv, Israel, December 2013

Expertise and Opinion Assignment on the Courts of Appeals, University of Chicago Law School Workshop on Judicial Behavior, Chicago, IL, November 2013

Rethinking the Principal-Agent Model of Judging, American Law and Economics Association Annual Meeting, Nashville, TN, May 2013 (with Rafael I. Pardo)

Disentangling Institutional Constraints on Judging, Southern Economics Association Annual Meeting, New Orleans, LA, November 2012 (with Rafael I. Pardo)

Disentangling Institutional Constraints on Judging, Midwest Law and Economics Association Annual Meeting, St. Louis, MO, October 2012 (with Rafael I. Pardo)

Expertise and Judicial Opinion Assignment on the Courts of Appeals, International Society for New Institutional Economics Annual Meeting, Los Angeles, CA, June 2012

Environmental Regulation through the Looking Glass: The Curious Political Economy of Conservation Easements and Tradable Degradation Permits, Society for Environmental Law and Economics Annual Meeting, Bloomington, IN, June 2012

Expertise and Judicial Opinion Assignment on the Courts of Appeals, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2012

Disentangling Institutional Constraints on Judging, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2012

Expertise and Judicial Opinion Assignment on the Courts of Appeals, Florida State University Law School Faculty Workshop, Tallahassee, FL, January 2012

Expertise and Judicial Opinion Assignment on the Courts of Appeals, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2011

The Cathedral of Transition Relief in Environmental Law, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2011

The Cathedral of Transition Relief in Environmental Law, Midwestern Law and Economics Association Annual Meeting, Bloomington, IN, September 2011

Expertise and Judicial Opinion Assignment on the Courts of Appeals, University of Florida Law School Faculty Workshop, Gainesville, FL, September 2011

The Cathedral of Transition Relief in Environmental Law, Society for Environmental Law and Economics Annual Meeting, Amsterdam, Netherlands, June 2011

Ideological Voting in Bankruptcy, Midwest Political Science Association Annual Meeting, Chicago, IL, April 2011 (with Rafael I. Pardo)

The Cathedral of Transition Relief in Environmental Law, University of Toronto Law and Economics Workshop, Toronto, Canada, November 2010

The Cathedral of Transition Relief in Environmental Law, Emory University School of Law Faculty Workshop, Atlanta, GA, November 2010

Ideological Voting in Bankruptcy, Society of Empirical Legal Studies Annual Meeting, New Haven, CT, November 2010 (with Rafael I. Pardo)

The Cathedral of Transition Relief in Environmental Law, Midwestern Law and Economics Association Annual Meeting, Boulder, CO, October 2010

Environmental Regulation Through the Looking Glass: The Curious Political Economy of Conservation Easements and Tradable Degradation Permits, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, October 2010

Ideological Voting in Bankruptcy, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, October 2010 (with Rafael I. Pardo)

Tradable Environmental-Degradation Permits and the Takings Clause, Association of American Law Schools Midyear Workshop on Property, New York, NY, June 2010

The Institutional Dynamics of Transition Relief, American Law and Economics Association Annual Meeting, Princeton, NJ, May 2010

Prediction-Forcing Regulation, Emory University Center on Federalism and Intersystemic Governance Conference on “Financial Regulation and Reform”, Atlanta, GA, April 2010

Ideological Voting in Bankruptcy, Emory University School of Law Faculty Workshop, Atlanta, GA, April 2010

The Institutional Dynamics of Transition Relief, Society for Environmental Law and Economics Annual Meeting, Atlanta, GA, March 2010

Tradable Environmental-Degradation Permits and the Takings Clause, Association for Law, Property, and Society Annual Meeting, Washington, DC, March 2010

Instrument Choice in Federal Court Jurisdiction: Rules, Standards, and Discretion,
Midwestern Law and Economics Association Annual Meeting, South Bend, IN,
October 2009

The Institutional Dynamics of Transition Relief, Canadian Law and Economics
Association Annual Meeting, Toronto, Canada, October 2009

*Mark to Ecosystem Service Market: Repricing Conservation Easements to Protect
Ecosystems*, American Enterprise Institute Symposium on “Rebuilding the Ark:
New Perspectives on ESA Reform”, Washington, DC, September 2009

The Institutional Dynamics of Transition Relief, Emory University School of Law Faculty
Workshop, Atlanta, GA, September 2009

Property Frames, International Society for New Institutional Economics Annual
Meeting, Berkeley, CA, June 2009

Scott v. Harris: Lessons for, and from, Environmental Law, American Law and
Economics Association Annual Meeting, San Diego, CA, May 2009

Medellin v. Texas: The Judiciary and the Joints of Intersystemic Governance, Emory
University Center on Federalism and Intersystemic Governance Conference on
“Layering Governance: Multi-Level Regulation under Bush and Beyond”,
Atlanta, GA, May 2009

*Environmental Regulation Through the Looking Glass: The Curious Political Economy
of Conservation Easements and Tradable Degradation Permits*, Property and
Psychology Roundtable, Syracuse, NY, May 2009

On Judicial Deliberation, Emory Workshop on Law, Politics, and Human Rights,
Atlanta, GA, March 2009 (with Adeno Addis)

Null Preemption, Tulane Law School Faculty Workshop, New Orleans, LA,
February 2009

Allocation and Uncertainty: Strategic Responses to Environmental Grandfathering,
International Society for New Institutional Economics Annual Meeting, Toronto,
Canada, June 2008

Property Frames, Property Works in Progress Conference, Boulder, CO, June 2008 (with
Stephanie Stern)

The Uneasy Case for Transjurisdictional Adjudication, Law and Society Association
Annual Meeting, Montreal, Canada, May 2008

Allocation and Uncertainty: Strategic Responses to Environmental Grandfathering, American Law and Economics Association Annual Meeting, New York, NY, May 2008

Property Frames, Loyola Chicago Law School Faculty Workshop, Chicago, IL, May 2008 (with Stephanie Stern)

Trading Species: A New Direction for Habitat Trading Programs, Environmental Law and Policy Annual Review Conference, Washington, DC, April 2008

Legal Defeasibility in Context, Workshop on Defeasibilism, Oxford, UK, March 2008

Packaging Property: The Effect of Paradigmatic Framing of Property Rights, American Psychology-Law Society Annual Conference, Jacksonville, FL, March 2008

Allocation and Uncertainty: Strategic Responses to Environmental Grandfathering, University of Chicago Faculty Workshop, Chicago, IL, February 2008

Packaging Property: The Effect of Paradigmatic Framing of Property Rights, Second Annual Conference on Empirical Legal Studies, New York, NY, November 2007

An Empirical Investigation into Appellate Structure and the Perceived Quality of Appellate Review, Second Annual Conference on Empirical Legal Studies, New York, NY, November 2007

Public Choice over Efficiency: The Case of Road Traffic Management, Eighth Annual Global Conference on Environmental Taxation, Munich, Germany, October 2007

Environmental Law through the Looking Glass: The Curious Political Economy of Conservation Easements and Tradable Degradation Permits, Midwestern Law and Economics Association Annual Meeting, Minneapolis, MN, October 2007

The Majority That Wasn't: Stare Decisis, Majority Rule, and the Mischief of Quorum Requirements, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2007

Allocation and Uncertainty: Strategic Responses to Grandfathering, Law and Society Association Annual Meeting, Berlin, Germany, July 2007

An Empirical Investigation into Appellate Structure and the Perceived Quality of Appellate Review, Law and Society Association Annual Meeting, Berlin, Germany, July 2007 (with Rafael I. Pardo)

An Empirical Investigation into Appellate Structure and the Perceived Quality of Appellate Review, International Society for New Institutional Economics Annual Meeting, Reykjavik, Iceland, June 2007

Allocation and Uncertainty: Strategic Responses to Grandfathering, Harvard-Boalt-UCLA Workshop for Junior Environmental Scholars, Cambridge, MA, June 2007

An Empirical Investigation into Appellate Structure and the Perceived Quality of Appellate Review, Stanford-Yale Junior Faculty Forum, Palo Alto, CA, May 2007 (with Rafael I. Pardo)

Taxes and the Success of Non-Tax Market-Based Environmental Regulatory Regimes, Seventh Annual Global Conference on Environmental Taxation, Ottawa, Canada, October 2006

An Empirical Investigation into Appellate Structure and the Perceived Quality of Appellate Review, Midwestern Law and Economics Association Annual Meeting, Lawrence, KS, October 2006 (with Rafael I. Pardo)

Allocation and Uncertainty: Strategic Responses to Grandfathering, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2006

The Illusion of Devolution in Environmental Law, Association of American Law Schools Annual Meeting, Washington, DC, January 2006

Allocation and Uncertainty: Strategic Responses to Grandfathering, Columbia Law School Faculty Workshop, New York, NY, November 2005

Allocation and Uncertainty: Strategic Responses to Grandfathering, Midwestern Law and Economics Association Annual Meeting, Chicago, IL, October 2005

Packaging Property: The Effect of Paradigmatic Framing of Property Rights, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2005

The Law and Economics of New Source Review, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2005

The Law and Economics of New Source Review, Cornell Law School Faculty Workshop, Ithaca, NY, August 2005

Packaging Property: The Effect of Paradigmatic Framing of Property Rights, American Law and Economics Association Annual Meeting, New York, NY, May 2005

Packaging Property: The Effect of Paradigmatic Framing of Property Rights, Tulane Law School Faculty Workshop, New Orleans, LA, April 2005

Allocation and Uncertainty: Strategic Responses to Grandfathering, Tulane Law School Faculty Workshop, New Orleans, LA, October 2004

The Law and Economics of New Source Review, Midwestern Law and Economics Association Annual Meeting, Iowa City, IA, October 2004

Economic Efficiency versus Public Choice: The Case of Property Rights in Road Traffic Management, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2004

The Law and Economics of Tipping: The Laborer's Perspective, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2004

The Uneasy Case for Transjurisdictional Adjudication, Southeastern Association of Law Schools Annual Meeting, Kiawah Island, SC, August 2004

The Uneasy Case for Transjurisdictional Adjudication, May Gathering of Junior Law Faculty, Washington, DC, May 2004

Framing Effects and Regulatory Choice: The Case of Environmental Regulation, American Law and Economics Association Annual Meeting, Chicago, IL, May 2004

Economic Efficiency versus Public Choice: The Case of Property Rights in Road Traffic Tulane Law School Environmental Conference, New Orleans, LA, April 2004

Economic Efficiency versus Public Choice: The Case of Property Rights in Road Traffic Management, Tulane Law School Energy and Environment Seminar, New Orleans, LA, October 2003

The Uneasy Case for Transjurisdictional Adjudication, Tulane Law School Faculty Workshop, New Orleans, LA, October 2003

Economic Efficiency versus Public Choice: The Case of Property Rights in Road Traffic Management, Midwestern Law and Economics Association Annual Meeting, Indianapolis, IN, October 2003

Trading Species: A New Direction for Habitat Trading Programs, American Law and Economics Association Annual Meeting, Toronto, Canada, September 2003

Framing Effects and Regulatory Choice: The Case of Environmental Regulation, Tulane Law School Faculty Workshop, New Orleans, LA, March 2003

Environmental Superliens and the Problem of Securitization, American Law and Economics Association Annual Meeting, Cambridge, MA, May 2002

Property Baselines and the Choice of Environmental Regulatory Instrument, Northwestern University School of Law Faculty Workshop Series in Property Law, Chicago, IL, October 2001

Property Baselines and the Choice of Environmental Regulatory Instrument, University of Chicago Law School Faculty Workshop, Chicago, IL, August 2001

Markets and Geography: Designing Marketable Permit Schemes to Control Local and Regional Pollutants, American Law and Economics Association Annual Meeting, Washington, DC, May 2001

Markets and Geography: Designing Marketable Permit Schemes to Control Local and Regional Pollutants, University of Chicago Law School Environmental Law Society Workshop, Chicago, IL, October 2000

Markets and Geography: Designing Marketable Permit Schemes to Control Local and Regional Pollutants, Canadian Law and Economics Association Annual Meeting, Toronto, Canada, September 2000 (with Richard L. Revesz)

Reviewer

Cambridge University Press; Oxford University Press; UC-Berkeley Press; Wolters Kluwer Press; *American Journal of Political Science*; *Behavioural Public Policy*; *Economic Change and Restructuring*; *International Review of Law & Economics*; *Journal of Empirical Legal Studies*; *Law and Biosciences*; *Social Science Quarterly*; *Stanford Law Review*; *Transnational Environmental Law*; *University of Chicago Law Review*; *Yale Law Journal*

Other Legal Experience

SQUADRON, ELLENOFF, PLESENT & SHEINFELD, LLP, New York, NY
Associate Attorney, Litigation Department - October 1999 to March 2000

GIBSON, DUNN & CRUTCHER LLP, New York, NY
Associate Attorney, Litigation Department - January 1997 to July 1998

DEWEY BALLANTINE, New York, NY
Associate Attorney, Tax Department - October 1994 to December 1996
Summer Associate - Summer 1991

Bar Admissions

New York, 1993; U.S. Court of Appeals for the Fourth Circuit, 1994; U.S. District Courts for the Southern and Eastern Districts of New York, 1997; U.S. Supreme Court, 1998.