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15 *Attorneys for Plaintiffs*

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 SHAHRIAR JABBARI and KAYLEE
20 HEFFELFINGER, on behalf of themselves and all
21 others similarly situated,

22 Plaintiffs,

23 v.

24 WELLS FARGO & COMPANY AND WELLS
25 FARGO BANK, N.A.,

26 Defendants.

No. 15-cv-02159-VC

**DECLARATION OF LYNN A. BAKER IN
SUPPORT OF PLAINTIFFS' NOTICE OF
MOTION, MOTION, AND
MEMORANDUM IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: March 22, 2018
Time: 10:00 a.m.
Courtroom: 4, 17th Floor

Judge: Hon. Vince Chhabria

1 I, Lynn A. Baker, declare as follows:

2 **I. SUMMARY OF OPINIONS**

3 1. Plaintiffs have retained me to provide an expert opinion on whether the allocation of the
4 Settlement Fund between the two Net Settlement Pools complies with Class Counsel's professional
5 responsibilities. For the reasons set out below, I conclude that it does.
6

7 **II. CREDENTIALS AND QUALIFICATIONS**

8 2. I hold the Frederick M. Baron Chair in Law at the University of Texas School of Law,
9 where I have taught as a tenured professor since 1997, and where I also serve as Co-Director of the
10 Center on Lawyers, Civil Justice, and the Media. I have also been a professor at the University of
11 Arizona College of Law (1992-1997), and have been a visiting professor at Columbia University Law
12 School (1997) and at Rutgers (Camden) University Law School (1997). I began my academic career
13 teaching at the University of Virginia School of Law from 1986 to 1992. Prior to that, I served as a law
14 clerk to Judge Amalya L. Kearse on the United States Court of Appeals for the Second Circuit in
15 Manhattan (1985-86). I am a 1985 graduate of Yale Law School, where I served as Article & Book
16 Review Editor of the YALE LAW JOURNAL. I am a member of the Bars of the States of Texas
17 (active) and Arizona (inactive) and of the United States Supreme Court. I am an elected Member of the
18 American Law Institute.
19

20 3. As a law professor, one of my principal academic interests has been ethical issues in
21 group litigation and settlement, including issues surrounding the allocation of settlement proceeds. I
22 regularly teach a survey course on Professional Responsibility, which includes substantial discussion of
23 these issues. I also often teach a seminar (titled "Mega-settlements") which focuses on large-dollar,
24 complex settlements, and which involves extended, in-depth discussion of allocation issues in both class
25 action and mass tort settings. I have frequently appeared as an invited speaker on these issues at
26 symposia, conferences, and continuing legal education programs. My scholarly publications on these
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1 issues include: *I Cut, You Choose: The Role of Plaintiffs' Counsel in Allocating Settlement Proceeds*,
2 84 VA. L. REV. 1465 (1998) (with Charles Silver); *Aggregate Settlements and Attorney Liability: The*
3 *Evolving Landscape*, 44 HOFSTRA L. REV. 291 (2016); *Mass Lawsuits and the Aggregate Settlement*
4 *Rule*, 32 WAKE FOREST L. REV. 733 (1997) (with Charles Silver); and *The Aggregate Settlement*
5 *Rule and Ideals of Client Service*, 41 S. TEX. L. REV. 227 (1999) (with Charles Silver). These
6 publications have been cited by numerous commentators and courts, and in leading treatises including
7 the ALI's PRINCIPLES OF AGGREGATE LITIGATION (2010).

9 4. I have served as an expert or consultant on ethical and/or allocation issues in dozens of
10 large-dollar, large-group settlements, including the BP class action settlement in the U.S. District Court
11 for the Eastern District of Louisiana, the \$4.85 billion nationwide Vioxx settlement in 2007, and the
12 \$1.27 billion nationwide Fen-Phen class action settlement (Seventh Amendment) in 2006, numerous
13 settlements involving various other pharmaceuticals and medical devices (including trans-vaginal mesh,
14 Fosamax, NuvaRing, Risperdal, hip replacement products, Prozac, Yaz/Yasmin, hormone replacement
15 therapy, Paxil, Avandia, Seroquel, Gadolinium, Rezulin, Zyprexa, Ortho Evra, Bextra, Celebrex,
16 Infuse), and many settlements involving asbestos, silica, MTBE, and other toxins. I have also served as
17 an expert in various settlements involving the General Motors ignition switch defect and in various
18 settlements in connection with *In re WorldCom, Inc. Securities Litigation*.

21 5. I previously testified in the United States District Court for the Middle District of
22 Pennsylvania as an expert regarding the fairness and reasonableness of the \$17.75 million settlement
23 fund allocation plan in connection with the class settlement, involving more than 3,000 class members,
24 with the Mericle Defendants, approved by that Court on December 14, 2012. See *Wallace v. Powell*,
25 288 F.R.D. 347, 371 (M.D. Pa. 2012). See also *Wallace v. Powell*, 301 F.R.D. 144, 163 (M.D. Pa. 2014)
26 (related \$2.5 million class settlement with the Provider Defendants, in which I provided an expert report
27 regarding the fairness and reasonableness of the settlement fund allocation plan).

1 F. Stipulation and Administrative Motion re Settlement Reserve and Schedule;
2 [Proposed Order] (Doc 172; filed Oct. 7, 2017).

3 **IV. RELEVANT BACKGROUND**

4 10. I take the following facts from the above-listed documents.

5 11. On March 25, 2017, the parties initially reached a \$110 million settlement that covered a
6 Class Period running from January 1, 2009 through April 20, 2017 (ASA, ¶¶ 1.20, 2.9; Doc. 102, ¶15).

7 12. After this initial settlement was reached and new information became public, Class
8 Counsel negotiated an enlarged \$142 million settlement that covered a Class Period running from May
9 1, 2002 through April 20, 2017 (ASA ¶ 1.21; Doc. 102, ¶¶ 17-18).

10 13. The parties' Settlement creates a total non-reversionary Settlement Fund of \$142 million.
11 After certain fees, costs, and expenses are deducted from the Settlement Fund, the resulting Net
12 Settlement Fund is divided, per the Settlement Agreement, into two pools: Net Settlement Pool 1 and
13 Net Settlement Pool 2 (ASA ¶¶ 2.37-2.39, 2.55).

14 14. Net Settlement Pool 1 is 77.46% of the Net Settlement Fund and will go to pay damages
15 related to the period running from January 1, 2009 through April 20, 2017 (the "2009-2017 period")
16 (ASA ¶ 2.38). Net Settlement Pool 2 is 22.54% of the Net Settlement Fund and will primarily go to pay
17 damages related to the period running from May 1, 2002 through December 31, 2008 (the "2002-2008
18 period") (ASA ¶ 2.39).

19 15. The funds in Net Settlement Pool 1 will first be allocated to pay Compensatory Damages
20 arising out of Unauthorized Accounts or Unauthorized Applications opened or submitted from January
21 1, 2009 through April 20, 2017 (ASA ¶¶ 9.7-9.7.2). The remainder of Net Settlement Pool 1 is paid pro
22 rata as Non-Compensatory Damages, according to each Class member's share in the number of 2009-
23 2017 Unauthorized Accounts and Unauthorized Applications. Authorized enrollment in Identity Theft
24 Protection Services or an Automatically-Enrolled Claimant who does not separately submit a Claim, will
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1 each count, for purposes of Non-Compensatory Damages, as one Unauthorized Account (ASA ¶¶ 9.8-
2 9.8.1).

3 16. The funds in Net Settlement Pool 2 will first be allocated to pay Compensatory Damages
4 arising out of Unauthorized Accounts or Unauthorized Applications opened or submitted from May 1,
5 2002 through December 31, 2008 (ASA ¶¶ 9.7-9.7.2). The remaining funds in Net Settlement Pool 2
6 will then be allocated in one of two ways, depending on the amount of funds remaining:
7

8 A. If there are sufficient remaining funds in Net Settlement Pool 2, those funds will
9 allocated as Non-Compensatory Damages for the 2002-2008 period, using the same pro-rata
10 amount as was allocated as Non-Compensatory Damages for the 2009-2017 period out of Net
11 Settlement Pool 1 (ASA ¶¶ 9.8, 9.8.2). For example, if each Unauthorized Account or
12 Unauthorized Application from the 2009-2017 period was allocated \$10, then each Unauthorized
13 Account or Unauthorized Application from the 2002-2008 period will be allocated \$10. If, after
14 that allocation, Net Settlement Pool 2 still has funds left, the balance is allocated pro rata as
15 further Non-Compensatory Damages to the entire Class, according to the total classwide number
16 of Unauthorized Accounts and Unauthorized Applications (ASA ¶ 9.82). Once again, for this
17 purpose authorized enrollment in Identity Theft Protection Services or an Automatically-
18 Enrolled Claimant who does not separately submit a Claim is counted as one Unauthorized
19 Account (ASA ¶ 9.8).
20

21 B. If Net Settlement Pool 2 lacks sufficient funds to pay the same per-Account or
22 per-Application amount as was allocated for the 2009-2017 period, its remaining funds are
23 instead allocated pro rata according to the number of 2002-2008 Unauthorized Accounts and
24 Unauthorized Applications (ASA ¶ 9.8.3). Authorized enrollment in Identity Theft Protection
25 Services or an Automatically-Enrolled Claimant who does not separately submit a Claim is
26 counted for this purpose as one Unauthorized Account (ASA ¶ 9.8).
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1 have received under the initial Settlement; and (2) ensuring that the recovery going to the 2002-2008
2 claims would not in any way diminish the compensation for the 2009-2017 claims. I will describe each
3 of these aspects in turn.

4 22. First, the Settlement protects the recovery initially negotiated for the 2009-2017 claims
5 by creating two Net Settlement Pools. Net Settlement Pool 1, the Pool that will pay damages for the
6 2009-2017 claims, is created by multiplying the Net Settlement Fund by a fraction equal to 110/142.
7 That fraction represents the share of the total Settlement Fund (\$142 million) represented by the initial
8 Settlement (which was \$110 million). Thus, under the extended Settlement, the funds dedicated solely to
9 the original 2009-2017 period claims *are equal to the funds under the initial Settlement*, minus a
10 proportional share of the extended Settlement's costs, fees, and expenses. This is how the extended
11 Settlement's allocation protects the recovery initially negotiated for the 2009-2017 claims, in accordance
12 with Class Counsel's ethical duties.

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15 23. Second, the Settlement ensures that the extension of the Class Period back to 2002 will
16 not in any way harm, and may ultimately benefit, those persons already covered by the initial
17 Settlement. It does this by ensuring that after Compensatory Damages are allocated, Non-Compensatory
18 Damages for each Unauthorized Account or Unauthorized Application for the 2002-2008 period will not
19 exceed those for each Unauthorized Account or Unauthorized Application for the 2009-2017 period. At
20 most, Non-Compensatory Damages for each Unauthorized Account or Unauthorized Application from
21 the 2002-2008 period will equal Non-Compensatory Damages for each Unauthorized Account or
22 Unauthorized Application from the 2009-2017 period. *See supra* ¶ 16.A. In addition, the entire Class,
23 including those persons covered by the initial Settlement, will share in any funds remaining in Net
24 Settlement Pool 2 after the Non-Compensatory Damages for the 2002-2008 period are paid. *See supra* ¶
25 16.A.
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1 24. Finally, the Settlement’s “guarantees” benefit the claims in the original 2009-2017 period
2 according to the proportion of the \$142 million Settlement represented by the initial \$110 million
3 Settlement. For the Class as a whole, the Settlement provides a \$25 million guaranteed “cushion” for
4 Non-Compensatory Damages. Of that \$25 million, \$19,366,000 is allocated to the claims in the 2009-
5 2017 period. That figure was reached by multiplying \$25 million by the fraction 110/142. The
6 proportional share of the cushion to be received by the 2009-2017 period claims will not change even if
7 the total number of Unauthorized Accounts, Unauthorized Applications, and instances of authorized
8 enrollment in Identity Theft Protection exceed 3.5 million, and, as a result, the cushion itself becomes
9 larger. *See supra* ¶ 18.

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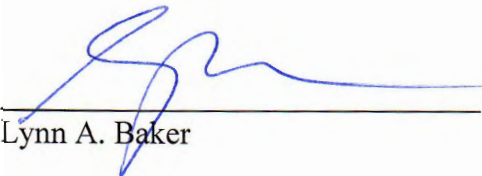
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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 Executed this 8th day of January, 2018, at AUSTIN, TEXAS.

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Lynn A. Baker

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CERTIFICATE OF SERVICE

I, Derek W. Loeser, hereby certify that on January 19, 2018, I electronically filed DECLARATION OF LYNN A. BAKER IN SUPPORT OF PLAINTIFFS’ NOTICE OF MOTION, MOTION, AND MEMORANDUM IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT with the Clerk of the United States District Court for the Northern District of California using the CM/ECF system, which shall send electronic notification to all counsel of record.

/s/ Derek W. Loeser
Derek W. Loeser

Exhibit 1

January 1, 2018

LYNN A. BAKER

University of Texas School of Law
727 East Dean Keeton Street
Austin, Texas 78705
512.232.1325 (phone)
LBaker@law.utexas.edu

EMPLOYMENT

UNIVERSITY OF TEXAS SCHOOL OF LAW, Austin, TX

- Frederick M. Baron Chair in Law (2002 - present)
- Co-Director, Center on Lawyers, Civil Justice, and the Media (2001 - present)
- Thomas Watt Gregory Professor (1997-2002)
- Visiting Professor (Fall 1996)
- Primary teaching areas: Professional Responsibility; Mega-settlements (seminar); State and Local Government Law; Property
- Dean's commendation for "especially high student evaluations" in Property (Fall 1999; 120 First Year students)

UNIVERSITY OF ARIZONA COLLEGE OF LAW, Tucson, AZ

- Professor (1994 - 1997)
- Streich Lang Research Fellow (Summer 1993)
- Associate Professor (1992 - 1994)
- Teacher of the Year (1995-96) -- chosen by law school student body

RUTGERS UNIVERSITY LAW SCHOOL, Camden, NJ

Visiting Professor (Spring 1997)

COLUMBIA UNIVERSITY LAW SCHOOL, New York, NY

Visiting Professor (Adjunct) (Spring 1997)

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Charlottesville, VA

Assistant Professor (1986 - 1992)

HON. AMALYA L. KEARSE, U.S. Court of Appeals for the Second Circuit, NY, NY

Law Clerk (1985-86 Term)

SUMMER ASSOCIATE

Paul, Weiss, Rifkind, Wharton & Garrison, NY, NY (1985)
Miller, Cassidy, Larroca & Lewin, Washington, DC (1984)
Lord, Day & Lord, NY, NY (1983)
Hastings Center, Hastings-on-Hudson, NY (1983)

DAVIS, POLK & WARDWELL, NY, NY

Legal Assistant (1979-80)

EDUCATION

YALE LAW SCHOOL, New Haven, CT

J.D. 1985

Yale Law Journal, Article & Book Review Editor (1984-85), Editor (1983-84)

Yale Law & Policy Review, Editor (1982-83)

OXFORD UNIVERSITY (Somerville College), Oxford, England

Honours B.A. (Philosophy, Psychology & Physiology) 1982

Marshall Scholar (1980-82)

YALE UNIVERSITY, New Haven, CT

B.A. 1978

Magna cum Laude, Distinction in Psychology

John Courtney Murray Traveling Fellowship (1978-79)

Independent research in East and West Germany. Awarded by Yale University.

LEGAL PUBLICATIONS

BOOKS

LOCAL GOVERNMENT LAW: CASES AND MATERIALS

- 5th ed. (2014) – Foundation Press: NY, NY (with Clayton P. Gillette & David Schleicher)
- 4th ed. (2010) and 3rd ed. (2004) – Foundation Press: NY, NY (with Clayton P. Gillette)
- 2nd ed. (1999) – Little, Brown/Aspen: NY, NY (with Clayton P. Gillette)

TEACHER'S MANUAL, LOCAL GOVERNMENT LAW: CASES AND MATERIALS

- 5th ed. (2015) – Foundation Press: NY, NY (with Clayton P. Gillette & David Schleicher)
- 4th ed. (2010) and 3rd ed. (2006) – Foundation Press: NY, NY (with Clayton P. Gillette)
- 2nd ed. (1999) – Little, Brown/Aspen: NY, NY (with Clayton P. Gillette)

ARTICLES, ESSAYS, AND BOOK CHAPTERS

Mass Torts and the Pursuit of Ethical Finality, 85 **FORDHAM L. REV.** 1943 (2017) (Stein Center for Law and Ethics Symposium on “Civil Litigation Ethics at a Time of Vanishing Trials”)

Aggregate Settlements and Attorney Liability: The Evolving Landscape, 44 **HOFSTRA L. REV.** 291 (2016) (Symposium on “Lawyers as Targets: Suing, Prosecuting and Defending Lawyers”)

- Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions*, 115 **COLUMBIA L. REV.** 1371 (2015) (with Michael A. Perino & Charles Silver)
- Selected among “Top 10 Corporate and Securities Articles of 2016” by *Corporate Practice Commentator*; 23rd annual poll of teachers in corporate and securities law regarding list of more than 490 articles published and indexed in legal journals during 2016
- Alienability of Mass Tort Claims*, 63 **DEPAUL L. REV.** 265 (2014) (Clifford Symposium, “Brave New World: The Changing Face of Litigation and Law Firm Finance”)
- Models of Closure in Mass Torts: A Comment on “The Mass Tort Bankruptcy: A Pre-History,”* 5 **J. TORT LAW** 85 (2014; backdated to 2012) (“The Public Life of the Private Law: The Logic and Experience of Mass Litigation -- A Conference in Honor of Richard A. Nagareda”)
- The Spending Power After NFIB v. Sebelius*, 37 **HARV. J.L. & PUB. POL’Y** 71 (2013) (2013 Federalist Society Annual Student Symposium: “The Federal Leviathan: Is There Any Area of Modern Life to Which Federal Government Power Does Not Extend?”)
- excerpted in **LOCAL GOVERNMENT LAW: CASES AND MATERIALS** 90 (L.A. Baker, et al., eds. 5th ed., 2015)
- Setting Attorneys’ Fees in Securities Class Actions: An Empirical Assessment*, 66 **VAND. L. REV.** 1677 (2013) (with Michael A. Perino & Charles Silver) (“The Economics of Aggregate Litigation,” 19th Annual Symposium of the Institute for Law and Economic Policy)
- The Politics of Legal Ethics: Case Study of a Rule Change*, 53 **ARIZ. L. REV.** 425 (2011) (“The Ted Schneyer Ethics Symposium: Lawyer Regulation for the 21st Century”)
- Fiduciaries and Fees: Preliminary Thoughts*, 79 **FORDHAM L. REV.** 1833 (2011) (with Charles Silver) (symposium on “Civil Procedure and the Legal Profession”)
- Constitutional Home Rule and Judicial Scrutiny*, 86 **DENV. U. L. REV.** 1337 (2009) (with Daniel B. Rodriguez) (symposium on “Home Rule”)
- excerpted in **LOCAL GOVERNMENT LAW: CASES AND MATERIALS** 320 (L.A. Baker, et al., eds. 5th ed., 2015)
 - excerpted in **STATE AND LOCAL GOVERNMENT IN A FEDERAL SYSTEM** (D. Mandelker, et al., eds. 2012)
 - excerpted in **LOCAL GOVERNMENT LAW: CASES AND MATERIALS** 317 (L.A. Baker & C.P. Gillette, eds. 4th ed., 2010)
- Constitutional Ambiguities and Originalism: Lessons from the Spending Power*, 103 **NW. U.L. REV.** 495 (2009) (symposium on “Original Ideas about Originalism”)
- Twenty-Year Legacy of South Dakota v. Dole: Dole Dialogue*, 52 **S.D. L. REV.** 468 (2007) (with Sanford Levinson) (symposium on “*South Dakota v. Dole*”)

- Federalism and Redistribution: Lessons from the U.S. Experience*, in **PATTERNS OF REGIONALISM AND FEDERALISM: LESSONS FOR THE U.K.** 173 (J. Fedtke & B. Markesinis, eds.) (2006, Hart Publishing; Clifford Chance Lecture Series) (proceedings of conference on "Patterns of Federalism and Regionalism: Lessons for the U.K.")
- Federalism and the Spending Power from Dole to Birmingham Board of Education*, in **THE REHNQUIST LEGACY** 205 (C. Bradley, Ed.; 2006) (Cambridge University Press)
- The Future of Federalism?: Pierce County v. Guillen as a Case Study*, 50 **N.Y.L.S. L. REV.** 699 (2005-2006) (proceedings of conference on "From Warren to Rehnquist and Beyond: Federalism as Theory, Doctrine, Practice, and Instrument")
- Lochner's Legacy for Modern Federalism: Pierce County v. Guillen as a Case Study*, 85 **B.U. L. REV.** 727 (2005) (proceedings of conference on "Lochner's Centennial")
- Preferences, Priorities, and Plebiscites*, 13 **J. CONTEMP. LEG. ISSUES** 317 (2004) (symposium on "Direct Democracy")
- Getting off the Dole: Why the Court Should Abandon Its Spending Doctrine, and How a Too-Clever Congress Could Provoke It to Do So*, 78 **IND. L.J.** 459 (2003) (with Mitchell N. Berman) (symposium on "Congressional Power in the Shadow of the Rehnquist Court: Strategies for the Future")
- Facts about Fees: Lessons for Legal Ethics*, 80 **TEX. L. REV.** 1985 (2002) (symposium on "What We Know and Do Not Know about the Impact of Legal Services on the American Economy and Polity")
- Introduction: Civil Justice Fact and Fiction*, 80 **TEX. L. REV.** 1537 (2002) (with Charles Silver) (symposium on "What We Know and Do Not Know about the Impact of Legal Services on the American Economy and Polity")
- Should Liberals Fear Federalism?*, 70 **U. CIN. L. REV.** 433 (2002) (William Howard Taft Lecture Symposium on "The Practical Impact of the Supreme Court's Federalism Revolution")
- Federalism and the Double Standard of Judicial Review*, 51 **DUKE L.J.** 75 (2001) (with Ernest A. Young) (symposium on "The Constitution in Exile")
- Putting the Safeguards Back into the Political Safeguards of Federalism*, 46 **VILL. L. REV.** 951 (2001) (symposium on "New Voices on the New Federalism")
- The Spending Power and the Federalist Revival*, 4 **CHAPMAN L. REV.** 195 (2001) (symposium on "The Spending Clause: Enumerated Power or Blank Check?")
- Conditional Federal Spending and States' Rights*, 574 **ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCES** 104 (2001) (symposium on "The Supreme Court's Federalism: Real or Imagined?")

The Aggregate Settlement Rule and Ideals of Client Service, 41 **S. TEX. L. REV.** 227 (1999) (with Charles Silver) (symposium on "Emerging Professional Responsibility Issues in Litigation")

Getting from Here to There: The Rebirth of Constitutional Constraints on the Special Interest State, 40 **WM. & MARY L. REV.** 515 (1999) (with Samuel H. Dinkin) (symposium on "Supermajority Rules as a Constitutional Solution")

The Revival of States' Rights: A Progress Report and a Proposal, 22 **HARV. J.L. & PUB. POL'Y** 95 (1998) (symposium on "The Revival of the Structural Constitution")

I Cut, You Choose: The Role of Plaintiffs' Counsel in Allocating Settlement Proceeds, 84 **VA. L. REV.** 1465 (1998) (with Charles Silver) (symposium on "The Law and Economics of Lawyering")

Federalism: The Argument from Article V, 13 **GA. ST. L. REV.** 923 (1997) (Henry J. Miller Distinguished Lecture Series/Symposium on "New Frontiers of Federalism")

Mass Lawsuits and the Aggregate Settlement Rule, 32 **WAKE FOREST L. REV.** 733 (1997) (with Charles Silver) (symposium on "Legal Professionalism")
■ excerpted in **FOUNDATIONS OF THE LAW AND ETHICS OF LAWYERING** 213 (G.M. Cohen & S.P. Koniak, eds. 2004)

The Senate: An Institution Whose Time Has Gone?, 13 **J.L. & POL.** 21 (1997) (with Samuel H. Dinkin)
■ excerpted in **CONSTITUTIONAL LAW** (G. Stone, et al., eds. 2009)

The Missing Pages of the Majority Opinion in Romer v. Evans, 68 **U. COLO. L. REV.** 387 (1997) (symposium on "Gay Rights and the Courts: The Amendment Two Controversy")

Interdisciplinary Due Diligence: The Case for Common Sense in the Search for the Swing Justice, 70 **S. CAL. L. REV.** 187 (1996)

"They the People": A Comment on U.S. Term Limits v. Thornton, 38 **ARIZ. L. REV.** 859 (1996) (symposium on "Major Issues in Federalism")

Conditional Federal Spending After Lopez, 95 **COLUM. L. REV.** 1911 (1995)

Bargaining for Public Assistance, 72 **DEN. U. L. REV.** 949 (1995) (symposium on "The Unconstitutional Conditions Doctrine")

Constitutional Change and Direct Democracy, 66 **U. COLO. L. REV.** 143 (1995) (symposium on "Governing By Initiative")
■ excerpted in **STATE CONSTITUTIONAL LAW: CASES AND MATERIALS** (R. Williams, ed. 2012)

When Every Relationship Is Above Average: Perceptions and Expectations of Divorce at the Time of Marriage, 17 **LAW & HUM. BEH.** 439 (1993) (with R.E. Emery)

- excerpted in **FAMILY LAW IN ACTION: A READER** 73 (M. F. Brinig, et al. eds. 1999)

Direct Democracy and Discrimination: A Public Choice Perspective, 67 **CHI.-KENT L. REV.** 707 (1992) (with replies by Julian Eule and William Riker) (symposium on “The Law and Economics of Local Government”)

“Just Do It”: *Pragmatism and Progressive Social Change*, 78 **VA. L. REV.** 697 (1992) (with reply by Richard Rorty)

- excerpted in **JURISPRUDENCE: CONTEMPORARY READINGS, NARRATIVES, AND PROBLEMS** 492 (N. Levit & R. Hayman eds. 1994)
- earlier version published in **PRAGMATISM IN LAW AND SOCIETY** 99 (M. Brint & W. Weaver eds. 1991)

The Myth of the American Welfare State, 9 **YALE L. & POL’Y REV.** 110 (1991) (reviewing T. MARMOR, J. MASHAW & P. HARVEY, *AMERICA’S MISUNDERSTOOD WELFARE STATE: PERSISTENT MYTHS, ENDURING REALITIES* (1990))

The Prices of Rights: Toward a Positive Theory of Unconstitutional Conditions, 75 **CORNELL L. REV.** 1185 (1990)

Webster and Incomplete Judicial Review, 6 **J.L. & POL.** 549 (1990) (symposium on “Judicial Review in a Democratic Society”)

Promulgating the Marriage Contract, 23 **U. MICH. J.L. REF.** 217 (1990)

- excerpted in **D. WESTFALL, FAMILY LAW** 227 (1994)

“I Think I Do”: *Another Perspective on Consent and the Law*, 16 **LAW, MED. & HEALTH CARE** 256 (1988) (festschrift for Jay Katz, Elizabeth K. Dollard Professor of Law, Medicine, and Psychiatry, Yale University)

Unnecessary and Improper: The Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, 94 **YALE L.J.** 1117 (1985) (student note)

OTHER ACADEMIC

South Dakota v. Dole, entry in 4 **ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES** 431 (D. Tanenhaus, ed.) (2008, Macmillan)

South Dakota v. Dole, entry in 2 **FEDERALISM IN AMERICA: AN ENCYCLOPEDIA** 578 (J. Marbach, E. Katz & T. Smith, eds.) (2006, Greenwood Press)

The City in the 21st Century, 32 **URB. LAW.** 365 (2000) (Introduction to symposium on “The City in the 21st Century”)

OPINION PIECES

Commentary: Improve Market Integrity by Standardizing Attorneys' Fees, **AUSTIN AMERICAN-STATESMAN**, Jan. 13, 2016 (with Charles Silver)

- reprinted as *Attorney Fees Key to Fighting Wall Street Fraud*, **HOUSTON CHRONICLE**, Jan. 16, 2016
- reprinted as *Attorney Fees Key to Fighting Wall Street Fraud*, **SAN ANTONIO EXPRESS-NEWS**, Jan. 16, 2016

Trademark Protection, Letter to the Editor, **N.Y. TIMES**, June 22, 1996, at A14

SELECTED PROFESSIONAL HONORS AND PRO BONO ACTIVITIES

Elected Member, American Law Institute (2017 – present)

Academic Advisor, Louisiana Supreme Court Committee on Class Actions, Mass Torts, Complex Litigation, Multi District Litigation and New Rules of Prof. Conduct (2017)

Referee, **JOURNAL OF EMPIRICAL LEGAL STUDIES** (2016)

Editorial Board, **CATO SUPREME COURT REVIEW** (2001 – present)

Board of Scholars, Initiative and Referendum Institute, Univ. of Southern California (2004-11)

Panel of academic contributors, **BLACK'S LAW DICTIONARY** (8th ed. 2004)

Pierce County v. Guillen, 537 U.S. 129 (2003), Amicus Brief in Support of Respondent (2002 WL 1964091) (with Mitchell N. Berman)

Resource Witness, Texas House Select Committee on Constitutional Revision, Hearing on Proposed Changes in Gubernatorial Power, April 1999.

Resource Witness, Texas Senate State Affairs Committee, Hearing on Proposed Constitution, March 1999

Burrow v. Arce, 997 S.W.2d 229 (Tex. 1999), Amicus Brief (1998 WL 35336105), Supplemental Amicus Brief (1999 WL 35047216), and Supplemental Letter Brief (1999 WL 35047216) in support of David Burrow (all with Charles Silver)

Task Force on Pima County (Arizona) Charter Government (1996-97), legal counsel

Judicial College of Arizona, Legal Institute for Non-Law Trained Judges, faculty member (Property Law) (1993-1996)

BAR ADMISSIONS

Texas, 2003

U.S. Supreme Court, 2002

Arizona, 1992 (inactive)

INVITED PRESENTATIONS

- “Current Issues in Multijurisdiction Litigation,” invited panelist, Conference on “Contemporary Issues in Complex Litigation,” Northwestern Pritzker School of Law, Chicago, IL, November 29-30, 2017
- “Ethical Conundrums,” invited panelist and moderator, 17th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 10, 2017
- “Ethical Considerations in Settling Mass Torts,” invited panelist, 26th Annual Spring CLE Meeting, “Hot Topics in Toxic and Environmental Law,” ABA Toxic Torts & Environmental Law Committee, Tort Trial & Insurance Practice Section, Phoenix, AZ, April 7, 2017
- “Ethical Finality in Mass Tort Settlements,” invited presentation, TTLA 4th Annual Pharmaceutical and Medical Device Seminar, Austin, TX, February 10, 2017
- Law School Outreach Summit, Pound Civil Justice Institute, invited participant, San Francisco, CA, January 7, 2017
- “Mass Torts and the Pursuit of Ethical Finality,” invited paper and presentation, Law & Economics Workshop, Tel Aviv University Law School, Tel Aviv, Israel, December 7, 2016
- “Ethics, Ethics, and More Ethics,” invited panelist and moderator, 16th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 11, 2016
- “Mass Torts and the Pursuit of Ethical Finality,” invited paper and presentation, Symposium on “Civil Litigation Ethics at a Time of Vanishing Trials,” Stein Center for Law and Ethics and the *Fordham Law Review*, NY, NY, October 21, 2016
- “Mass Torts and the Pursuit of Ethical Finality,” invited presentation, panel on “Aggregate Litigation Ethics,” 7th International Legal Ethics Conference, NY, NY, July 16, 2016
- “Ethical Finality in Mass Tort Litigation,” invited speaker, HarrisMartin's "MDL Conference: 'Bet-the-Company' Mass Tort Litigation," Chicago, IL, May 25, 2016
- “Does Complex Litigation Complicate Ethics?,” invited panelist, 15th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 13, 2015
- “Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions,” invited presentation (with Michael A. Perino) to *Columbia Law Review* editors, New York, NY, November 9, 2015

- “Aggregate Settlements and Attorney Liability: The Evolving Landscape,” invited presentation, Kentucky Justice Association Annual Convention and Seminar, French Lick, IN, September 10, 2015
- “Riding the Aggregate Settlement Bronco,” invited panelist, 41st Annual National Conference on Professional Responsibility, ABA Center for Professional Responsibility, Denver, CO, May 28, 2015
- “Aggregate Settlements and Attorney Liability: The Evolving Landscape,” invited presentation and paper, Conference on “Lawyers as Targets: Suing, Prosecuting and Defending Lawyers,” Maurice A. Deane School of Law at Hofstra University, Hempstead, NY, April 1, 2015
- “Federalism: *Garcia*’s Ghost,” invited presentation, Symposium on “The Rehnquist Court: Ten Years Later,” University of Arizona James E. Rogers College of Law, Tucson, AZ, February 6, 2015
- “Ethics, Aggregate Settlements, and Exit Strategies,” invited speaker, 14th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 21, 2014
- “Recent Developments in Legal Ethics,” invited presentation, University of Texas Law School Annual Reunion, Austin, TX, April 12, 2014
- “Private Ordering Versus Judicial Regulation of Attorneys’ Fees in Securities Class Actions: An Empirical Assessment,” invited paper and presentation (with Michael A. Perino & Charles Silver), Corporate & Securities Litigation Workshop, University of Illinois at Urbana-Champaign, Chicago, IL, November 8, 2013
- “The Public Life of the Private Law: The Logic and Experience of Mass Litigation,” invited commentator, “A Conference in Honor of Richard A. Nagareda,” Vanderbilt Law School, Nashville, TN, September 28, 2013
- “Setting Attorneys’ Fees in Securities Class Actions: An Empirical Assessment,” invited paper and presentation (with Michael A. Perino & Charles Silver)
- Faculty Colloquium, University of Texas Law School, Austin, TX, August 29, 2013
 - 19th Annual Symposium of the Institute for Law and Economic Policy, “The Economics of Aggregate Litigation,” Naples, FL, April 2013
- “Mass Torts as Quasi-Class Actions: The Role of Judicial Oversight,” invited panelist, ABA’s 2013 National Conference on Professional Responsibility, San Antonio, TX, May 2013
- “Alienability of Mass Tort Claims,” invited paper and presentation, the Clifford Symposium, “Brave New World: The Changing Face of Litigation and Law Firm Finance,” DePaul Law School, Chicago, IL, April 2013

“Setting Attorneys’ Fees in Securities Class Actions: An Empirical Assessment,” invited paper and presentation (with Michael A. Perino & Charles Silver), 19th Annual Symposium of the Institute for Law and Economic Policy, “The Economics of Aggregate Litigation,” Naples, FL, April 2013

“The Business of Law,” invited panelist, Mass Torts Made Perfect, Las Vegas, NV, April 2013

“Limitations Attached to Federal Money,” invited panelist, Federalist Society National Student Symposium on “The Federal Leviathan,” Austin, TX, March 2013

Invited presentation, “The Opportunities and Challenges of Metro Government: A Conversation at Vanderbilt Law School to Celebrate 50 Years of Consolidated Government in Nashville,” Nashville, TN, February 2013

“Governance from the State Perspective,” panel moderator, conference on “Is America Governable?,” University of Texas School of Law, Austin, TX, January 2013

“The NFIB Medicaid Decision: Interpretation and Implications,” invited panelist, a Hot Topic Program at the AALS Annual Meeting, New Orleans, LA, January 2013

“Fee Caps,” invited paper and presentation (with Charles Silver), 5th International Legal Ethics Conference, Banff, Alberta, Canada, July 2012

“The Quasi Class Action and Judicial Regulation of Attorneys’ Fees,” invited paper and presentation, Conference on “The Future of Class Actions and Its Alternatives,” Loyola University Chicago School of Law, Chicago, IL, April 2012

“Ethical Issues Surrounding Fees and Settlements in Mass Torts,” invited presentation, Symposium on “Mass Torts in the Federal Courts,” Charleston School of Law, Charleston SC, February 2012

“Federalism in the 21st Century: Balancing States’ Rights with Federal Power,” invited panelist, 2011 Ninth Circuit Judicial Conference, Carlsbad, CA, August 2011

“Fiduciaries and Fees: Puzzles for Plaintiffs’ Attorneys,” invited speaker, Mass Torts Made Perfect, Las Vegas, NV, April 2011

“The Politics of Legal Ethics: Case Study of a Rule Change,” invited paper and presentation “Ted Schneyer Ethics Symposium: Lawyer Regulation for the 21st Century,” James E. Rogers College of Law, University of Arizona, Tucson, AZ, January 2011

“Fiduciaries and Fees: Preliminary Thoughts,” invited paper, symposium on “Civil Procedure and Legal Ethics,” Fordham Law Review, Fordham University School of Law, New York, NY, November 2010 (with Charles Silver)

“Fee Caps” (paper co-authored with Charles Silver), invited paper and presentation

- Colloquium, University of Houston Law Center, Houston, TX, April 2010
- Faculty Workshop, University of Kansas School of Law, Lawrence, KS, April 2010

Invited speaker, Cecil D. Branstetter Litigation & Dispute Resolution Program, workshop on “The Regulation of Attorneys’ Fees in Aggregate Litigation,” Vanderbilt University Law School, Nashville, TN, February 2010

“Constitutional Home Rule and Judicial Scrutiny,” invited speaker, panel on “The City as a Political Actor: Powers, Boundaries, Responsibilities,” Section on State and Local Government Law, AALS Annual Meeting, New Orleans, LA, January 2010

“Judicially Imposed Fee Caps and Other Recent Developments: Ethical Issues in Mass Tort Litigation,” invited speaker, Mass Torts Made Perfect, Las Vegas, NV, October 2009
“Breaking Developments in Pharmaceutical Litigation,” invited panelist on ethical issues, Texas State Bar, Austin, TX, April 2009

“Constitutional Home Rule and Judicial Scrutiny,” Invited Paper and Presentation, Randall-Park Faculty Colloquium, University of Kentucky College of Law, Lexington, KY, April 2009

“Liberty, Responsibility and the Legal Profession,” invited colloquium participant, Liberty Fund Colloquium, San Diego, CA, March 2009

Invited Paper and Presentation, Conference on “Municipal Home Rule,” Byron R. White Center for the Study of American Constitutional Law, University of Colorado, Denver, CO, January 2009

“Fee Caps,” Paper and Presentation, Drawing Board Lunch, University of Texas School of Law, Austin, TX, October 2008

“Constitutional Ambiguities and Originalism: Lessons from the Spending Power,” Invited Paper and Presentation, Conference on “Original Ideas on Originalism,” Northwestern University School of Law, Chicago, IL, April 2008

“Ethical and Liability Issues in Group Litigation: Vioxx and Beyond,” Invited Presentation, Mass Torts Made Perfect, Las Vegas, NV, April 2008

“Ethical Considerations,” Invited Presentation, Mealey’s VIOXX Litigation Conference, New Orleans, LA, December 2007

“Ethical Aspects of the Nationwide Vioxx Settlement,” Invited Presentation

- Los Angeles, CA, November 2007
- Philadelphia, PA, November 2007

“Aggregate Settlements: Critical Considerations for Both Plaintiff and Defense Counsel – Recent Developments and New Concerns,” Invited Speaker, Seventh Annual Class Action/Mass Tort Symposium, Louisiana State Bar, New Orleans, LA, October 2007

“Group Settlements in the New Era: Ethical and Liability Issues,” Invited Presentation

- “Hot Topics in Pharmaceutical Litigation,” Miami, FL, June 2007
- Mass Torts Made Perfect, Las Vegas, NV, March 2007

- “Comparative Domestic Constitutional Law: Federalism and Localism as a Case Study,”
Drawing Board Lunch Presentation, Univ. of Texas School of Law, Austin, TX, April
2007 (with Dan Rodriguez)
- “Solving the Problem of the Modern Spending Power,” Invited Paper and Presentation, Legal
Theory Colloquium, University of California at Davis School of Law, Davis, CA, March
2007
- “Do the Ethics Rules Governing Group Litigation Disadvantage Plaintiffs?,” Invited
Presentation, The Review of Litigation Symposium on “Products Liability: Litigation
Trends on the 10th Anniversary of the Third Restatement,” Austin, TX, March 2007
- “*Dole* Dialogue,” Invited Speaker, Conference on *South Dakota v. Dole*, Univ. of South Dakota
Law School, January 2007
- “Aggregate Settlements: Rules, Strategies, and Pitfalls,” Invited Panelist, Association of
Professional Responsibility Lawyers Annual Meeting, Chicago, IL, August 2005
- “Federalism and the Spending Power from *Dole* to *Birmingham Board of Education*,” Invited
Paper and Presentation, Conference on “The Rehnquist Legacy,” Indiana University Law
School, Bloomington, IN, April 2005
- “When Can Mass Torts Have Mass Settlements?,” Invited Panelist, ABA Section of Dispute
Resolution, 7th Annual Conference on “The Golden State of ADR,” Los Angeles, CA,
April 2005
- “The Future of Federalism? *Pierce County v. Guillen* as a Case Study,” Invited Paper and
Presentation, Panel on “From Warren to Rehnquist and Beyond: Federalism as Theory,
Doctrine, Practice, and Instrument,” Section on Federal Courts, AALS Annual Meeting,
San Francisco, CA, January 2005
- “*Lochner*’s Legacy for Modern Federalism: *Pierce County v. Guillen* as a Case Study,” Invited
Paper and Presentation, Faculty Colloquium, UCLA Law School, Los Angeles, CA,
November 2004
- “Ethical Issues and Sources of Potential Liability for Attorneys in Group Settlements,” Invited
Speaker, Fifth Annual Class Action/Mass Tort Symposium, Louisiana State Bar, New
Orleans, LA, October 2004
- “*Lochner*’s Legacy for Modern Federalism: *Pierce County v. Guillen* as a Case Study,” Invited
Paper and Presentation, Conference on the “*Lochner* Centennial,” Boston University
Law School, Boston, MA, October 2004
- “Ethical Issues and Sources of Potential Liability for Attorneys in Group Settlements,” Invited
Speaker, Houston Bar Association, CLE Seminar, Houston, TX, August 2004
- “Ethical Issues and Sources of Potential Liability for Attorneys in Group Settlements,” Invited
Speaker, Andrews Silica Litigation 2004 Conference, New Orleans, LA, May 2004

- “Toward a Federalism for the Twenty-First Century: A Role for Non-Parametric Judicial Review under the Spending Clause?” (with Samuel H. Dinkin), Invited Paper and Presentation, Faculty Colloquium, Florida State Law School, Tallahassee, FL, April 2004
- “Ethical Issues in Group Settlements,” Invited Presentation, ABA Toxic Tort & Environmental Law Round Up: Preparing for Litigation Beyond the Asbestos Horizon, Phoenix, AZ, March 2004
- “A Primer on Federalism Law and Policy,” Invited Presentation, ABA Section of Environment, Energy & Resources, 33rd Annual Conference on Environmental Law, Keystone, CO, March 2004
- “Federalism, Redistribution, and Judicial Review: Lessons from the U.S. Experience,” conference on “Patterns of Federalism and Regionalism: Lessons for the U.K.,” University College London, London, England, November 2003
- “Sources of Potential Liability for Attorneys in Group Settlements,” Invited Speaker, Mealey’s/LexisNexis “Asbestos 101” Conference, Dallas, TX, June 2003
- “Preferences, Priorities, and Plebiscites,” Invited Paper and Presentation, Symposium on “Direct Democracy,” University of San Diego School of Law, San Diego, CA, June 2003
- “Sources of Potential Liability for Attorneys in Group Settlements,” Invited Speaker, meeting of Capital Area Trial Lawyers Association, Austin, TX, March 2003
- “Constitutional Origins, Structure, and Change: A Global Dialogue on Federalism in the 21st Century,” Invited Speaker, conference sponsored by the Forum of Federations and the International Association of Centers for Federal Studies, held at Center for State Constitutional Studies, Rutgers University, Camden, NJ, November 2002
- “Sources of Potential Liability for Attorneys in Group Settlements,” Invited Speaker, Third Annual “Masters of Trial” Seminar, Houston Trial Lawyers Association, Houston, TX, November 2002
- “Professional Responsibility: Critical Mass Tort Settlement Considerations,” Invited Speaker, Third Annual Class Action/Mass Tort Symposium, Louisiana State Bar, New Orleans, Louisiana, October 2002
- “Toward a Federalism for the Twenty-First Century: A Role for Non-Parametric Judicial Review under the Spending Cause?” (with Samuel H. Dinkin), Invited Paper and Presentation:
- Law, Economics, and Politics Workshop jointly sponsored by the University of San Diego Law School and the University of California at San Diego Political Science Department, San Diego, California, March 2002
 - 2002 Annual Meeting of the Public Choice Society, San Diego, California, March 2002
- “Facts about Fees: Lessons for Legal Ethics,” Invited Paper and Presentation, Symposium on “What We Know and Don’t Know about the Impact of Legal Services on the American Economy and Polity,” University of Texas School of Law, Austin, Texas, February 2002

“Getting off the *Dole*: Why the Court Should Abandon Its Spending Doctrine, and How Congress Could Provoke It to Do So,” Invited Paper and Presentation (with Mitchell N. Berman), Symposium on “Congressional Power in the Shadow of the Rehnquist Court: Strategies for the Future,” Indiana University School of Law, Bloomington, Indiana, February 2002

Invited Speaker, Panel on "Separation of Powers in State Government," Annual Meeting of the National Council of State Legislatures, San Antonio, Texas, August 2001

“Toward a Federalism for the Twenty-First Century: A Role for Non-Parametric Judicial Review under the Spending Clause?” (with Samuel H. Dinkin), Invited Paper and Presentation:

- Oxford University (St. John’s College), Oxford, England, June 2001
- University of Chicago Law School, Chicago, Illinois, April 2001

"Should Liberals Fear Federalism?," Invited Paper and Presentation, Taft Lecture Symposium, University of Cincinnati College of Law, Cincinnati, Ohio, February 2001

"The Spending Power and the Federalist Revival," Invited Paper and Presentation, Symposium on "The Spending Power: Enumerated Power or Blank Check?," Chapman University School of Law, Orange, California, January 2001

"Putting the Safeguards Back into the Political Safeguards of Federalism," Invited Paper and Presentation, Symposium on "New Voices on the New Federalism," Villanova University School of Law, Villanova, Pennsylvania, October 2000

"Federalism and the Double Standard of Judicial Review" (with E. Young), Invited Paper and Presentation, Symposium on "The Constitution in Exile -- Is It Time to Bring It in from the Cold?," Duke University School of Law, Durham, North Carolina, October 2000

“States’ Rights and the Promise of Liberty: Toward a Federalism for the Twenty-First Century,” Invited Presentation, Reunion Weekend 2000, University of Texas School of Law, Austin, Texas, April 15, 2000

“Toward a Federalism for the Twenty-First Century: The Case for Non-Parametric Judicial Review under the Spending Clause” (with Samuel H. Dinkin), Invited Paper and Presentation:

- University of Virginia School of Law, Charlottesville, Virginia, March 2000
- Cornell University Law School, Ithaca, NY, February 2000

Invited Commentator, Conference on “Deliberating About Deliberative Democracy,” University of Texas Government Department, Austin, Texas, February 5, 2000

Invited Speaker, Panel on “Federalism,” Conference of Chief Justices of State Supreme Courts, University of Texas School of Law, Austin, Texas, February 1, 2000

"Class Auctions" (with Samuel H. Dinkin & Charles Silver), Invited Presentation, Section on Insurance Law's Program on "Insurance Class Actions," Annual Meeting of the Association of American Law Schools, Washington, DC, January 7, 2000

“The Role of States’ Rights in Protecting the Rights of Minorities: Lessons from the U.S. Experience, Invited Paper and Presentation, Symposium on "Comparative Constitutional Law: Defining the Field," Georgetown University Law Center, Washington, D.C., Sept. 17, 1999

"Toward a Federalism for the Twenty-First Century: The Case for Non-Parametric Judicial Review" (with Samuel H. Dinkin), Invited Paper and Presentation, American Political Science Association, Annual Meeting, Atlanta, GA, Sept. 4, 1999

Ethics Panel Discussion, Invited Presentation, 9th Annual Conference on State and Federal Appeals, University of Texas School of Law (CLE Program), Austin, Texas, June 1999

“Toward a Federalism for the Twenty-First Century: The Case for Non-Parametric Judicial Review under the Spending Clause” (with Samuel H. Dinkin), Invited Paper and Presentation:

- Vanderbilt University Law School, Nashville, Tennessee, April 1999
- University of Iowa College of Law, Iowa City, Iowa, April 1999

“Getting from Here to There: The Rebirth of Constitutional Constraints on the Special Interest State” (with Samuel H. Dinkin), Invited Paper, Symposium on “Supermajority Rules as a Constitutional Solution,” William and Mary Law Review, Spring 1999

“Ethical Issues for the Personal Injury Attorney” (with Charles Silver), Invited Presentation, 22nd Annual Page Keeton Products Liability & Personal Injury Law Conference, University of Texas School of Law (CLE Program), Austin, Texas, October 1998

“The Revival of States’ Rights: A Progress Report and a Proposal,” Invited Paper and Presentation, Symposium on “The Revival of the Structural Constitution,” Federalist Society’s Seventeenth National Symposium, New York University School of Law, New York, NY, March 1998

“I Cut, You Choose: The Role of Plaintiffs’ Counsel in Allocating Settlement Proceeds” (with Charles Silver), Invited Paper and Presentation, Symposium on “The Law and Economics of Lawyering,” Univ. of Virginia School of Law, Charlottesville, VA, February 1998

Invited Commentator, “What Cities and Suburbs Owe Each Other,” Joint Program of Sections on State and Local Government Law and Minority Groups, Association of American Law Schools, Annual Meeting, San Francisco, CA, January 1998

“Mass Lawsuits and the Aggregate Settlement Rule” (with Charles Silver), Invited Paper, Symposium on “Legal Professionalism,” Wake Forest Law Review, Fall 1997

"Federalism: The Argument from Article V," Invited Paper and Presentation, Henry J. Miller Distinguished Lecture Series/Symposium on “New Frontiers of Federalism,” Georgia State University College of Law, Atlanta, GA, February 1997

"The Missing Pages of the Majority Opinion in *Romer v. Evans*," Invited Paper and Presentation, Ira Rothgerber Conference on "Gay Rights and the Courts: The Amendment Two Controversy," University of Colorado School of Law, Boulder, CO, October 1996

"They the People": A Comment on *U.S. Term Limits v. Thornton*, Invited Paper and Presentation, Conference on "Major Issues in Federalism," University of Arizona College of Law, Tucson, AZ, March 1996

"The Senate: An Institution Whose Time Has Gone?," Invited Paper and/or Presentation:

- Georgetown University Law Center, Washington, D.C., Law & Economics Workshop, February 1996
- University of Texas School of Law, Austin, TX, February 1996
- Rutgers University Law School, Camden, NJ, February 1996
- University of Minnesota Law School, Minneapolis, MN, January 1996
- University of Pennsylvania Law School, Philadelphia, PA, January 1996
- George Washington University National Law Center, Washington, DC, Dec. 1995
- University of San Diego Law School, San Diego, CA, November 1995

"Bargaining for Public Assistance," Invited Paper and Presentation, Conference on "The Unconstitutional Conditions Doctrine," University of Denver College of Law, Denver, CO, March 1995

"Constitutional Change and Direct Democracy," Invited Paper and Presentation, Conference on "Governing By Initiative," University of Colorado Law School, Boulder, CO, September 1994

Invited Presentation, Conference on Richard Epstein's **BARGAINING WITH THE STATE**, George Mason University Law School, Law and Economics Center, Arlington, VA, March 1994

Invited Participant, Conference on "Emanations from *Rust*: The Impact on the Nonprofit Sector of the Unconstitutional Conditions Doctrine," New York University School of Law, The Program on Philanthropy and the Law, NY, NY, October 1992

Invited Commentator, Task Force Report and Recommendations, American Bar Association Task Force on Initiatives and Referenda (Section on Torts and Insurance Practice), Annual Meeting, San Francisco, CA, August 1992

"Direct Democracy and Discrimination: A Public Choice Perspective," Invited Paper and Presentation

- John M. Olin Foundation Conference on "The Law and Economics of Local Government," University of Virginia School of Law, Charlottesville, VA, Nov. 1991
- New York Law School, NY, NY, October 1991 (presentation)
- University of Arizona College of Law, Tucson, AZ, October 1991 (presentation)
- University of Illinois College of Law, Champaign, IL, February 1992 (presentation)

"Just Do It': Pragmatism and Progressive Social Change," Invited Paper and Presentation, Conference on "Pragmatism in Law and Society," University of Virginia, Charlottesville, VA, November 1990

“*Webster* and Incomplete Judicial Review,” Invited Paper and Presentation, Symposium on “Judicial Review in a Democratic Society: Lessons from the American and French Experiences,” University of Virginia School of Law, Charlottesville, VA, Nov. 1989

“‘I Think I Do’: Another Perspective on Consent and the Law,” Invited Paper, **LAW, MEDICINE AND HEALTH CARE** Festschrift for Jay Katz, Elizabeth K. Dollard Professor of Law, Medicine, and Psychiatry, Yale University, Fall 1988

Invited Panelist, Conference on “Free Speech and Advertising: Who Draws the Line?,” Institute for Democratic Communication, Boston University, Boston, MA, April 1987

COMMITTEE SERVICE

University of Texas School of Law (1997 - present)

Budget: 2017-18 (Chair); 2015-17; 2012-14; 2011-12 (Chair); 2005-06; 2000-01
 Faculty Appointments: 2014-16; 2007-08 (Chair); 2005-06 (Chair of Entry-Level Subcommittee); 2004-05 (Chair), 2003-04 (Chair), 2002-03, 1999-2001, 1997-98
 Strategic Planning: 2013-14 (Co-Chair)
 Governance: 2010-11 (Chair)
 Lateral Appointments: 1999-2001, 1997-98
 Tenure: 2006-07; 1997-98
 Faculty Colloquia: 2006-07 (Coordinator); 1999-2001 (Co-coordinator, 2000-2001, Fall 1999; Coordinator, Spring 2000)
 Endowed Lectures: 2006-07 (Coordinator); 1999-2001 (Co-coordinator, 2000-2001; Fall 1999; Coordinator, Spring 2000)
 Scheduling: 2006-07 (Chair)
 Computer Services: 2008-09
 Dean’s Advisory Council: 2004-05
 Long-Term Planning Committee (Working Group): 2001-02
 Dean’s Ad hoc Budget Committee: 2002-03
 Ad hoc Committee on Appointments Voting Rules (Chair): 2008
 Ad hoc Committee on the Sunflower Ceremony: 1999-2000

University of Texas (1997 – present)

System-Wide Committees

Chancellor’s Blue Ribbon Panel on Professionalism and Citizenship (2012)
 (appointed by Chancellor)
 Committee to Frame UT Policies on Conflict of Commitment (2012)

University Committees

University Faculty Gender Equity Council, Law School representative (2014-17)
 University Gender Equity Council, member (2013-14)
 Committee to Select Rhodes and Marshall Scholarship Candidates from the University of Texas, Member (2010)
 Selection of Dean of LBJ School of Public Affairs, Consultative Committee to the Provost, Member (2009-10) (appointed by University Provost)
 Faculty Grievance Panel Pool, Member (2008-10; 2006-08; 2003-05) (appointed by University President)
 Chair, University Hearing Panel on Termination for Cause (2003) (appointed to Panel by University President)

Association of American Law Schools

Section on Professional Responsibility: Executive Committee (2012-15)
 Section on State and Local Government Law: Executive Committee (1994-2000);
 Chair (1999-2000); Chair-Elect (1998-99); Secretary (1997-98)
 Section on Constitutional Law: Executive Committee (2003-04)

University of Arizona College of Law (1992 - 1996)

Faculty Appointments: 1995-96, 1993-94
 Dean Search: 1994-95 (appointed by University Provost)
 Workshops/Speakers: 1995-96, 1994-95 (Chair), 1993-94
 Admissions: 1992-95
 Judicial Clerkships: 1992-93

University of Virginia School of Law (1986 - 1992)

Admissions: 1987-92
 Judicial Clerkships: 1987-91
 McCorkle Lecture: 1987-88
 Faculty Secretary: 1986-87

SELECTED OTHER HONORS AND ACTIVITIES**World Bridge Championships**

- World Champion – 2015
- Silver Medalist – 2009

2014 – Sanya, China – McConnell Cup (1st place); Women’s Pairs (18th place)
 2010 – Philadelphia, PA – McConnell Cup (5th place (tie)); Women’s Pairs (8th place)
 2009 – Sao Paulo, Brazil – Venice Cup (2nd place) (one of 12 women selected to represent the USA)
 2006 – Verona, Italy – McConnell Cup (9th place (tie)); Women’s Pairs (13th place);
 2002 – Montreal, Canada – McConnell Cup (5th place (tie)); Women’s Pairs (17th place)
 2001 – Paris, France – Venice Cup (5th place (tie)) (one of 12 women selected to represent the USA)

North American Bridge Championships

- 16-time North American Champion

First place -- Life Master Women’s Pairs – Fall 2007, 2003
 Women’s Swiss Teams – Spring 2015, 2007, 2001, 1998
 Women’s Board-a-Match Teams – Fall 2008, 2006, 2005, 1999
 Women’s Knock Out Teams – Summer 2015, 2010, 2008, 2005, 2003
 Mixed Board-a-Match Teams -- Summer 1999
 Second place – Women’s Knock Out Teams – Summer 2014
 Women’s Swiss Teams – Spring 2008, 1999
 Women’s Board-a-Match Teams – Fall 2002
 Third place -- Women’s Knock Out Teams – Summer 2013, 2004, 2002, 2001, 1997
 (all 3rd place tie)
 Women’s Swiss Teams – Fall 2013
 Life Master Women’s Pairs – Fall 2013

European Open Bridge Championships

- European Champion – 2015
- Silver Medalist – 2017

2017 – Montecatini, Italy – Women’s Teams (2nd place)

2015 – Tromso, Norway – Women’s Teams (1st place)

U.S. Women’s Bridge Championships (USBF Women’s Team Trials)

First place – Summer 2009, 2001

Second place – Summer 2008, 2016

Third place -- Summer 2003, 2000 (tie)

Beijing Hua Yuan Cup World Women Elite Bridge Tournament (2013) (one of six women selected to represent the USA) Hua Yuan Cup Teams (7th place); Capital Cup Pairs (15th)

Beijing Hua Yuan Cup World Women Elite Bridge Tournament (2011) (one of six women selected to represent the USA) Hua Yuan Cup Teams (6th place); Yang Guang Sheng Da Cup Pairs (6th place)

WBP Pairs -- Third place – 2003

World Grand Master, World Bridge Federation

Diamond Life Master, American Contract Bridge League

Selected to U.S. Olympic Rowing Team Camp (1976)

Selected to National Rowing Team Camp (1978, 1977, 1975)

Yale Varsity Women’s Crew (1974-78)

PERSONAL

Married to Samuel H. Dinkin, Ph.D.

One child, Mahria Alexandra Baker (born 1998)