

Syracuse University College of Law
Dineen Hall, 950 Irving Ave., Room 422
Syracuse, New York 13244-6070
(315) 569-7602, F: (315) 443-4141
ddriesen@syr.edu

J.D. Yale Law School, 1989
Olin Fellow
Editor, International Law Journal
M. Mus., Yale School of Music, 1983
B. Mus., Oberlin, 1980.

EXPERIENCE

University Professor, Syracuse University (highest honor available at the university; the 13th person to hold this post in the university's history)

Member, Editorial Board, Journal of Environmental Law (Oxford University Press).

Member, Editorial Board, Carbon and Climate Change Law Review (Lexxion, Berlin)

Affiliate, Maxwell School of Citizenship Center for Environmental Policy and Administration

Member Scholar, Center for Progressive Reform.

Visiting Scholar, Harvard Law School (Spring 2019)

November 2017: Visiting Professor, Buchman School of Law, Tel Aviv University, Israel.

2006-2008: Angela S. Cooney Professor, Syracuse University College of Law.

Fall, 2006: Visiting Professor, University of Michigan Law School.

2004-2005: Professor, Syracuse University College of Law.

1999-2004: Associate Professor, Syracuse University College of Law.

1995-1999: Assistant Professor, Syracuse University College of Law.

1994-1995: Senior Project Attorney, Natural Resources Defense Council, Air and Energy Program, Washington, D.C.

1992-1994: Project Attorney, Natural Resources Defense Council, Air and Energy Program, Washington, D.C.

1993-1995: Member, National Pollution Control Techniques Advisory Committee.

1990-1991: Assistant Attorney General, Washington State Attorney General's Office, Special Litigation Division.

1989-1990: Law Clerk, Justice Robert Utter, Washington State Supreme Court.

1980-1986: Freelance Trumpet Performer and Teacher, Including: Professor, Curso Internacional de Verão, Brasília, Brazil; Visiting Instructor, University of Virginia; Co-Principal Trumpet, Orchestra Mexican de la Joventud.

Courses Taught: Constitutional Law, Environmental Law, Climate Change Law and Policy, International Environmental Law, Natural Resources Law, Public Law Processes, Civil Procedure, The Law of Economic Incentives, The Constitutionality of Environmental Law, Citizen Suits, and Law Firm.

HONORS

Fulbright Distinguished Chair in Law and Economics, University of Ottawa Smart Prosperity Institute (Fall 2022)

Distinguished Summer Scholar for 2008, Vermont Law School.

The American Political Science Association's Lynton Keith Caldwell Award for the best book published in 2003 in science, technology, and environmental studies.

PUBLICATIONS

BOOKS

THE SPECTER OF DICTATORSHIP: JUDICIAL ENABLING OF PRESIDENTIAL POWER (Stanford University Press 2021)

ENVIRONMENTAL LAW: A CONCEPTUAL AND PRAGMATIC APPROACH, 3rd ed. (Aspen/Kluwer 2016) (with Robert Adler and Kirsten Engel)

TEACHER'S MANUAL to ENVIRONMENTAL LAW: A CONCEPTUAL AND PRAGMATIC APPROACH, 3rd ed. (Aspen/Kluwer 2016) (with Robert Adler with Kirsten Engel).

THE ECONOMIC DYNAMICS OF LAW (Cambridge University Press 2012, Chinese translation Fudan University Press, 2015)

ENVIRONMENTAL LAW: A CONCEPTUAL AND PRAGMATIC APPROACH, 2nd Edition (Aspen/Kluwer 2011) (with Robert Adler & Kirsten Engel).

ECONOMIC THOUGHT AND U.S. CLIMATE CHANGE POLICY (MIT Press 2010) (edited volume).

BEYOND ENVIRONMENTAL LAW (Cambridge University Press 2010) (edited volume with Alyson Flournoy).

ENVIRONMENTAL LAW: A CONCEPTUAL AND PRAGMATIC APPROACH (Aspen/Kluwer 2007) (with Robert Adler).

THE ECONOMIC DYNAMICS OF ENVIRONMENTAL LAW (MIT Press 2003).

ARTICLES

The Law and Economics of Subsidies (with David Popp) (forthcoming)

Pricing, Decarbonization, and Green New Deals (with Michael Mehling) (forthcoming)

Does the Separation of Powers Justify the Major Questions Doctrine (forthcoming, U. Illinois L. Rev. 2024)

Does a Removal Power Exist?: Joseph Story and Selective Living Originalism (forthcoming 2024)

Feasibility Analysis and the Climate Crisis, 39 YALE J. REG. 533 (2022) (solicited contribution).

Appointment and Removal, 74 ADMIN. L. REV. 422 (2022).

Making Appointment the Means of Presidential Removal of Officers of the United States, 26 LEWIS & CLARK L. REV. 315 (2022).

The Specter of Dictatorship: Judicial Enabling of Presidential Power: Special Issue, 73 SYRACUSE L. REV. 1419 (2022) (introduction to symposium issue on my *Specter of Dictatorship* book).

The Political Remedies Doctrine, 71 EMORY L. J. 1 (2021).

Political Removal and the Plebiscitary Presidency: An Essay on Seila Law, LLC v. Consumer Financial Protection Board, 76 NYU ANN. SURVEY OF AM. L. 707 (2021).

The Unitary Executive Theory in Comparative Context, 72 HASTINGS L. J. 1 (2020).

Implied Presidential and Congressional Powers, 41 CARDOZO L. REV. 1301 (2020) (with Bill Banks).

Toward a Populist Political Economy of Climate Disruption, 49 ENVTL. L. 379 (2019).

President Trump's Executive Orders and the Rule of Law, 87 UMKC L. REV. 489 (2019).

Judicial Review of Executive Orders' Rationality, 98 B.U. L. REV. 1013 (2018).

Half A Century of Supreme Court Clean Air Act Interpretation: Purposivism, Textualism, Dynamism, and Activism, 75 WASHINGTON & LEE L. REV. 1781 (2018) (with Thomas Keck and Brandon Thomas Metroka).

Inactivity, Deregulation, and the Commerce Clause: A Thought Experiment, 53 WAKE FOREST L. REV. 479 (2018).

The Economic Dynamics of Climate Disruption and the Need for a Better Legal Theory, 8 CLIMATE LAW 172 (2018).

Emissions Trading Versus Pollution Taxes: Playing Nice with Other Instruments, 48 ENVTL. L. 29 (2018).

The Means and Ends of Pollution Control: Towards a Positive Theory of Environmental Law, 2017 UTAH L. REV. 57.

The Changing Climate for U.S. Law: Extreme Weather Events, 11 CARBON & CLIMATE L. REV. 191 (2017).

The Economic/Noneconomic Activity Distinction under the Commerce Clause, 67 CASE WESTERN RESERVE L. REV. 337 (2016).

Must the States Discriminate Against their Own Producers under the Dormant Commerce Clause, 54 HOUSTON L. REV. 1 (2016).

Legal Theory Lessons from the Financial Crisis, 40 J. CORP. L. 55 (2015).

Putting a Price on Carbon: The Metaphor, 44 ENVTL. L. 695 (2014).

The Limits of Carbon Pricing, 4 CLIMATE L. 107 (2014).

Phasing Out Fossil Fuels, 38 NOVA L. REV. 523 (2014).

Will Latin's Scheme Replace Fossil Fuels More Quickly than Existing Approaches?, 25 VILLANOVA ENVTL. L. J. 83 (2014).

Cost-Benefit Analysis and the Precautionary Principle: Can They be Reconciled?, 2013 MICH. ST. L. REV. 771.

Cap Without Trade: A Proposal for Resolving the Emissions Trading Problem Under CAA § 111, 43 ENVTL. L. REP. (Envtl. L. Inst.) 10555 (2013).

Purposeless Construction, 48 WAKE FOREST L. REV. 97 (2013).

What Does Sustainability Mean in the Age of Climate Disruption?, 43 ENVTL. L. REP. (Envtl. L. Inst.) 10351 (2013).

Economic Thought and Climate Disruption: Neoclassical and Economic Dynamic Approaches in the USA and the EU, 25 J. ENVTL. L. 463 (2013) (with Sanja Bogojevic).

Climate Disruption: An Economic Dynamic Approach, 42 ENVTL. L. REP. (Envtl. L. Inst.) 10639 (2012).

Contract Law's Inefficiency, 6 VA. L. & BUS. REV. 302 (2011).

Two Cheers for Feasible Regulation: A Response to Masur and Posner, 35 HARV. ENVTL. L. REV. 313 (2011).

An Environmental Competition Statute, 2 SAN DIEGO J. CLIMATE & ENERGY L. 199 (2010).

Meaningful Technology Transfer for Climate Disruption, 64 J. INT'L AFF. 1 (2010) (with David Popp).

Capping Carbon, 40 ENVTL. L. 1 (2010).

Toward a Duty-Based Theory of Executive Power, 78 *FORDHAM L. REV.* 71 (2009).

Duty's Promise and the Unitary Executive's Terror, 37 *SYRACUSE J. INT'L L. & COMM.* 7 (2009).

The Missing Instrument: Dirty Input Limits, 22 *HARV. ENVTL. L. REV.* 65 (2009) (with Amy Sinden).

Linkage and Multilevel Governance, 19 *DUKE J. OF COMP. & INT'L L.* 389 (2009).

Sustainable Development and Air Quality: The Need to Replace Basic Technologies with Cleaner Alternatives, 18 *WIDENER L. J.* 883 (2009).

Firing U.S. Attorneys: An Essay, 60 *ADMIN. L. REV.* 707 (2008).

An Economic Dynamic Approach to the Infrastructure Commons, 35 *ECOLOGY L. Q.* 215 (2008).

Sustainable Development and Market Liberalism's Shotgun Wedding: Emissions Trading Under the Kyoto Protocol, 83 *INDIANA L. J.* 21 (2008).

The Changing Climate for United States Law, 1 *CARBON & CLIMATE L. REV.* 35 (2007).

Regulatory Reform: The New Lochnerism?, 36 *ENVTL. L.* 603 (2006).

Is Cost-Benefit Analysis Neutral?, 77 *U. COLORADO L. REV.* 335 (2006).

Environmental Protection, Free Trade, and Democracy, 603 *ANNALS AM. ACAD. POL. & SOC. SCI.* 252 (2006).

Trading and Its Limits, 14 *PENN STATE ENVTL. L. REV.* 169 (2006).

The Functions of Transaction Costs: Rethinking Transaction Cost Minimization in a World of Friction, 47 *ARIZONA L. REV.* 61 (2005) (with Shubha Ghosh).

Distributing the Costs of Environmental, Health and Safety Protection: The Feasibility Principle, Cost-Benefit Analysis, and Regulatory Reform, 32 *B. C. ENVTL. AFF. L. REV.* 1 (2005).

Efficiency, Economic Dynamics, and Climate Change: A Critical Look at the Neoclassical Paradigm for Environmental Law, 13 *THE DIGEST L. J.* 1 (2005) (with Charles Hall).

Standing for Nothing: The Paradox of Demanding a Concrete Context for Formalist Adjudication, 89 *CORNELL L. REV.* 808 (2004).

The Economic Dynamics of Environmental Law: Cost-Benefit Analysis, Emissions Trading, and Priority Setting, 31 *B. C. ENVTL. AFF. L. REV.* 501 (2004).

Markets are Not Magic, 20 *ENVTL. FORUM* 19 (Nov.-Dec. 2003).

- Thirty Years of International Environmental Law: A Retrospective and a Plea for Reinvigoration*, 30 SYR. J. INT'L L. 101 (2003).
- Does Emissions Trading Encourage Innovation?*, 33 ENVTL. L. REP. (Envtl. L. Inst.) 10094 (2003).
- Loose Canons: Statutory Construction and the "New" Nondelegation Doctrine*, 66 PITT. L. REV. 1 (2002).
- Sustainable Development and Air Quality: The Need to Replace Basic Technologies with Cleaner Alternatives*, 32 ENVTL. L. REP. (Env't L. Inst.) 10277 (2002).
- Sustainable Development and Air Quality: The Need to Replace Basic Technologies with Cleaner Alternatives*, 10 BUFF. ENVTL. L. J. 25 (2002).
- What is Free Trade?: The Real Issue Lurking Behind the Trade and Environment Debate*, 41 VA. J. INT'L L. 279 (2001).
- Getting Our Priorities Straight: One Strand of the Regulatory Reform Debate*, 31 ENVTL. L. REP. (Envtl. L. Inst.) 10003 (2001).
- Choosing Environmental Instruments in Transnational Legal Context*, 27 ECOLOGY L. Q. 1 (2000).
- Free Lunch or a Cheap Fix?: The Emissions Trading Idea and the Climate Change Convention*, 26 B. C. ENVTL. AFF. L. REV. 1 (1998).
- Is Emissions Trading an Economic Incentive Program?: Replacing the Command and Control/Economic Incentive Dichotomy*, 55 WASH. & LEE L. REV. 289 (1998).
- Should Congress Direct the EPA to Allow Serious Harms to Public Health to Continue?: Cost-Benefit Tests and NAAQS Under the Clean Air Act*, 11 TULANE ENVTL. L. J. 217 (1998).
- The Societal Cost of Environmental Regulation: Beyond Administrative Cost-Benefit Analysis*, 29 LAND USE & ENVIRONMENT L. REV. 369 (1998) (reprinted as one of the year's ten best law review articles addressing land use or environmental law on the basis of peer review).
- The Societal Cost of Environmental Regulation: Beyond Administrative Cost-Benefit Analysis*, 24 ECOLOGY L. Q. 545 (1997).
- Five Lessons From Clean Air Act Implementation*, 14 PACE ENVTL. L. REV. 51 (1996).
- The Congressional Role in International Environmental Law and its Implications for Statutory Interpretation*, 19 B. C. ENVTL. AFF. L. REV. 287 (1991).
- Brazil's Transition to Democracy: Agrarian Reform and the New Constitution*, 8 WIS. INT'L L. J. 150 (1990).

BOOK CHAPTERS

- Climate Finance* (with Cinnamon Carlane) in RESEARCH HANDBOOK ON CLIMATE CHANGE MITIGATION LAW (Leonie Reins & Jonathan Vershuuren eds., 2022).
- Instrument Choice*, in THE OXFORD HANDBOOK OF INTERNATIONAL ENVIRONMENTAL LAW (Lavanya Rajamani & Jacqueline Peel eds. 2nd ed. 2021).
- Critiques of Law and Economics*, in OXFORD HANDBOOK OF LAW AND ECONOMICS (Francesco Parisi ed. 2017) (with Robin Malloy).
- Decisions about Emissions Trading Design*, in II DECISION MAKING IN ENVIRONMENTAL LAW (LeRoy C. Paddock et al. eds. 2016).
- Traditional Regulation's Role in Greenhouse Gas Abatement*, in CLIMATE CHANGE LAW (Daniel Farber & Marjan Peeters eds. 2016).
- The Sleeping Giant Awakes?: US Actions to Mitigate Climate Disruption*, in LEGAL REGIMES FOR ENVIRONMENTAL PROTECTION: GOVERNANCE FOR CLIMATE CHANGE AND OCEAN RESOURCES (Hans Yoachim Koch et al. eds. 2015).
- Sustainability, Climate Mitigation, and the Economic Dynamics of Law*, in RETHINKING SUSTAINABILITY TO MEET THE CLIMATE CHANGE CHALLENGE (Jessica Owley and Keith H. Hirokawa eds. 2015).
- The Economics of Climate Disruption and the Law Aiming to Reduce Greenhouse Gas Emissions*, in II PUBLIC ECONOMICS IN THE UNITED STATES: HOW THE FEDERAL GOVERNMENT ANALYZES AND INFLUENCES THE ECONOMY (Steven Payson ed. Praeger 2014).
- Alternatives to Regulation?: Market Mechanisms and the Environment*, in THE OXFORD HANDBOOK ON REGULATION (Robert Baldwin, Martin Cave, and Martin Lodge eds. Oxford University Press 2010).
- Neoliberal Instrument Choice*, in ECONOMIC THOUGHT AND U.S. CLIMATE CHANGE POLICY (David M. Driesen, ed. MIT Press 2010).
- Toward Sustainable Development*, in ECONOMIC THOUGHT AND U.S. CLIMATE CHANGE POLICY (David M. Driesen, ed. MIT Press 2010).
- An Environmental Competition Statute*, in BEYOND ENVIRONMENTAL LAW (Alyson Flournoy and David M. Driesen eds. Cambridge University Press 2010).
- Air Quality: The Need to Replace Basic Technologies with Cleaner Alternatives*, AGENDA FOR A SUSTAINABLE AMERICA (John Dernbach ed. Environmental Law Institute 2009).
- Renewable Energy Under the Kyoto Protocol: The Case for Mixing Instruments*, in A GLOBALLY INTEGRATED CLIMATE POLICY FOR CANADA (Steven Bernstein et al. eds. University of Toronto Press 2008).

Economic Dynamics and Progressive Lawyering, in PROGRESSIVE LAWYERING, GLOBALIZATION AND MARKETS: RETHINKING IDEOLOGY AND STRATEGY (Clare Dalton ed. William S. Hein & Co. 2007).

Design, Trading, and Innovation, in MOVING TO MARKETS IN ENVIRONMENTAL PROTECTION: LESSONS FROM 20 YEARS OF EXPERIENCE (Jody Freeman and Charles Kolstad eds. Oxford University Press 2006).

Economic Instruments for Sustainable Development, in ENVIRONMENTAL LAW FOR SUSTAINABILITY: A CRITICAL READER (Stepan Wood, Benjamin J. Richardson eds. Hart Publications 2006).

What is Free Trade?: The Rorschach Test at the Heart of the Trade and Environment Debate, in HANDBOOK OF INTERNATIONAL TRADE VOLUME II: ECONOMIC AND LEGAL ANALYSIS OF TRADE POLICY AND INSTITUTIONS (E. Kwan Choi & James C. Hartigan, ed. Blackwell Press 2005).

WHY POLLUTION TAXES CANNOT REPLACE COMMAND AND CONTROL REGULATION (BUT SHOULD HAVE A *Bright Future Nonetheless*), in I CRITICAL ISSUES IN INTERNATIONAL ENVIRONMENTAL TAXATION – INTERNATIONAL AND COMPARATIVE PERSPECTIVES (Richmond Law & Tax, 2003).

Sustainable Development and Air Quality: The Need to Replace Basic Technologies with Cleaner Alternatives, in STUMBLING TOWARD SUSTAINABILITY (John Dernbach ed. 2002) (Environmental Law Institute).

Air Pollution Control in POWELL, TREATISE ON PROPERTY (1994).

SELECTED BOOK REVIEWS, OP-EDS, BLOGS, AND LETTERS

Jailing Trump Won't Keep him from Power—Exclusion Will, THE HILL, December 21, 2022

How the 14th Amendment Can Reinforce the January 6 Committee's Trump Subpoena, THE HILL, October 24, 2022.

Parading the Horribles in Administrative Law: Some Thoughts on the Oral Argument in West Virginia v. EPA, Center for Progressive Reform, March 8, 2022.

How Courts Can Protect Democracy from Abuse of Emergency Powers, LAWFARE BLOG, February 22, 2022.

Major Questions and the Juristocracy, THE REGULATORY REVIEW, January 31, 2022.

The Death of Law and Equity: A Comment on Two COVID Cases, VERFASSUNGSBLOG, January 19, 2022.

Justices' FHFA Ruling a Small Step in a Dangerous Direction, LAW360, June 24, 2021.

Autocracy is Bad for Business, THE HILL, June 4, 2021 (with Eric Orts).

The Seila Law Case: Liberty and Political Firing, THE HILL, July 1, 2020

SCOTUS Aids Trump's Drive to Autocracy, VERFASSUNGSBLOG: ON MATTERS CONSTITUTIONAL, July 1, 2020.

Executive Privilege and Impeachment, AMERICAN CONSTITUTION SOCIETY BLOG, October 3, 2019.

Review of *Design and Diffusion: The Evolution of Carbon Markets* (Jørgen Wettestad & Lars H. Gulbrandsen eds. 2018), 12 CARBON AND CLIMATE L. REV. 338 (2018).

Kavanaugh is the Wrong Choice to Check Autocratic Power, LAW 360, August 1, 2018.

Lead Letter to the New York Times on Whether America Remains Independent (July 4, 2018).

Sessions and Comey, THE HUFFINGTON POST, June 16, 2017.

100 Days, Trump, and Precaution, THE HUFFINGTON POST, April 28, 2017 (with Bill Banks).

Ruling by Decree, THE HILL, March 3, 2017.

Does Regulation Kill Jobs?: The Limits of Quantification (reviewing DOES REGULATION KILL JOBS? (Cary Coglianese, Adam Finkel, and Chris Carrigan eds. 2014), 9 REG. & GOVERNANCE 193 (2015)).

Review of *Corporate Responses to EU Emissions Trading: Resistance, Innovation, or Responsibility?* (John Birger Skjærseth & Per Ove Eikeland eds. 2013), 9 CARBON & CLIMATE L. REV. 91 (2015).

Review of Jonas Dreger, *The European Commission's Energy and Climate Policy: A Climate for Expertise* (2014), 9 CARBON AND CLIMATE LAW REVIEW 356 (2015).

Complexity and Simplicity in Law: A Review Essay (CASS R. SUNSTEIN, SIMPLER: THE FUTURE OF GOVERNMENT (2013)), 45 ENVTL. L. 181 (2015).

Review of *Emissions Trading Design: A Critical Overview* (Stephen E. Weishaar 2014), 7 CARBON AND CLIMATE L. REV. 231 (2014).

A Broad Look at US Climate Change Policy and the Lamentation of Fragmentation, 7 CARBON & CLIMATE L. REV. 79 (2013) (reviewing GARY BRYNER WITH ROBERT J. DUFFY, INTEGRATING CLIMATE, ENERGY, AND AIR POLLUTION POLICY (2012)).

Letter to the Editor on Fiscal Policy Debate, N.Y. TIMES, October 4, 2012 at A24.

Capping and Trading, 4 CARBON AND CLIMATE LAW REVIEW 498 (2011) (reviewing SCOTT D. DEATHERAGE, CARBON TRADING LAW AND PRACTICE, (2011)).

Post-Kyoto International Climate Policy: Summary for Policymakers, 9 PERSPECTIVES ON POLITICS 123 (2011) (reviewing POST-KYOTO INTERNATIONAL CLIMATE POLICY: SUMMARY FOR POLICYMAKERS (Joseph E. Aldy and Robert N. Stavins, eds. 2009)).

Letter to the Editor on Withdrawn Ozone Standard, N.Y. TIMES, September 5, 2011, at A28.

Cost-Benefit Analysis on Shifting Sand, 3 REG. AND GOVERNANCE 48 (2009) (with Amy Sinden and Douglas Kysar) (reviewing MATTHEW D. ADLER & ERIC A. POSNER, NEW FOUNDATIONS OF COST-BENEFIT ANALYSIS (2006)).

Trading and Institutions, 2 CARBON & CLIMATE L. REV. 225 (2009) (reviewing EMISSIONS TRADING: INSTITUTIONAL DESIGN, DECISION MAKING, AND CORPORATE STRATEGIES (Ralph Antes, Bernd Hansjürgens and Peter Letmathe eds. 2008)).

Giving Away Allowances, 2 CARBON & CLIMATE L. REV. 224 (2008) (reviewing NATIONAL ALLOCATION PLANS IN THE EU EMISSIONS TRADING SCHEME: LESSONS AND IMPLICATIONS FOR PHASE II (Michael Grubb, Regina Betz and Karsten Neuhoff eds. 2007)).

Colonialism's Climate, 9 INT'L STUDIES REV. 484 (2007) (reviewing J. TIMMONS ROBERTS & BRADLEY C. PARKS, A CLIMATE OF INJUSTICE: GLOBAL INEQUALITY, NORTH-SOUTH POLITICS, AND CLIMATE POLICY).

Criminal Enforcement of Environmental Law in the European Union, 6 INT'L ENVTL. AGREEMENTS 321 (2006) (book review).

Science and Regime Formation, 4 INT'L ENVTL. AGREEMENTS 100 (2004) (reviewing EDWARD A. PARSON, PROTECTING THE OZONE LAYER: SCIENCE AND STRATEGY (2003)).

What's Property Got to Do With It?, 30 ECOLOGY L. Q. 1003 (2003) (reviewing Daniel Cole, POLLUTION & PROPERTY: COMPARING OWNERSHIP INSTITUTIONS FOR ENVIRONMENTAL PROTECTION (2002)).

Keep Activism on the Other Side of the Bench, CHRISTIAN SCIENCE MONITOR, November 6, 2000, at 9.

WTO and the Environment (letter to the editor), N.Y. TIMES, December 1, 1999, at A 22.

Don't Allow Dirty Air to be the Victor, CHRISTIAN SCIENCE MONITOR, March 3, 1997, at 19.

AMICUS BRIEFS AND CONGRESSIONAL TESTIMONY

Brief of Constitutional Law Professors William Banks et al., *Fish and Wildlife Service v. People for the Ethical Treatment of Property Owners* (10th Cir. 2015).

Brief of Economists Frank Ackerman et al., *Entergy v. Riverkeepers* (Supreme Court 2008) (with Douglas Kysar).

Brief of Senators Hillary Rodham Clinton et al., *New York v. EPA*, No. 02-1387 (D.C. Cir. 2004) (with Chris Schroeder).

Brief of American Academy of Pediatrics (California District) et al., *Engine Mfr. Ass'n & W. States Petroleum Ass'n v. S. Coast Air Quality Mgmt. Dist.* (Supreme Court 2003).

The Accomplishments of the 1990 Amendments to the Clean Air Act, Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce, House of Representatives, 107th Cong., 2nd Sess., Serial No. 107-106, May 1, 2002.

Brief of United States Public Interest Research Group Education Fund, *American Trucking Ass'n v. Browner* (Supreme Court 2000).

SELECTED PRESENTATIONS

An Environmental Competition Statute, IUCN AEL Colloquium, Eastern Finland University, Joensuu, Finland, August 2, 2023.

Executive Power and National Security, Democracy and the Chief Executive Podcast, Peter Shane, NYU Law School, December 9, 2022.

Pricing, Decarbonization, and Green New Deals, Smart Prosperity Institute, University of Ottawa, November 22, 2022; American Association of Law Schools, January 5, 2022; Society for Environmental Law and Economics, Cambridge University, Cambridge, England, June 15, 2023.

West Virginia v. EPA and the Inflation Reduction Act, Rock Environment and Energy Institute, September 7, 2022 (Podcast hosted in Singapore and broadcast to China).

Podcast for Carbon and Climate Law Review (Berlin) on my Climate and Democracy Preservation Work.

Book Panels on the Specter of Dictatorship Judicial Enabling of Presidential Power, ICON-S Conference Wroclaw, Poland, July 5, 2022, Law and Society, Lisbon Portugal, July 16, 2022.

Feasibility Analysis and the Climate Crisis, Society for Environmental Law and Economics, NYU Law School, June 10, 2022.

The Specter of Dictatorship, Harvard Law School, Cambridge, MA., March 28, 2019; ICON-S Annual Conference, University of Wroclaw, Wroclaw, Poland, July 5, 2022; Law and Society, Lisbon, Portugal, July 16, 2022.

The Unitary Executive in Comparative Context, Ipse Dixit: A Podcast on Legal Scholarship, May 13, 2020.

The Unitary Executive Theory in Comparative Context, Sakip Sabanci Center, Columbia University (via Zoom), April 6, 2020.

Common Law Evolution of American Separation of Powers Jurisprudence, Conference on American Legal, Political, and Economic Thought, Adam Mickiewicz University, Poznan Poland, May 10, 2019.

The Head of State's Role in Undermining Democracy: Poland, Hungary, and the United States, Oxford University Discussion Group on EU Law, Oxford University, November 22, 2019.

The Green New Deal and the Populist Political Economy of Climate Disruption, Oxford University Environmental Law Workshop, November 20, 2019.

Enhancing Presidential Power by Declining to Adjudicate Ultra Vires Claims Challenging Presidential Decisions, Conference of State Liability under Private, Public, and International Law, London School of Economics and Political Science, November 9, 2019.

Toward a Populist Political Economy of Climate Disruption, Annual Meeting of the Society for Environmental Law and Economics, University of Texas Law School, Austin, Texas, May 27, 2016; CEVRO Institut, Prague, Czech Republic, April 13, 2018; University of Wroclaw ISINI Conference, Wroclaw, Poland, August 31, 2018.

Neoliberal Environmental Policy, Gosnell Lecture Series, Rochester Institute of Technology, Rochester, NY, September 20, 2017.

Climate Disruption, Populism, Nationalism, and Retrenchment, The Future of the Global Order in a World of Populism, Nationalism, and Retrenchment, University of Pennsylvania, September 25, 2017.

Cost-Benefit Analysis in the Trump Administration, Hebrew University, Jerusalem, Israel, November 27, 2017.

Emissions Trading Versus Pollution Taxes: Playing Nice with Other Instruments, Society for Environmental Law and Economics, Oxford University, May 27, 2017; European Association of Law and Economics, London, September 14, 2017; Annual Global Conference on Environmental Taxation, Groningen, the Netherlands, September 22, 2016;

Webinar on *Clean Power Plan Oral Argument Before the D.C. Circuit on Generation Shifting*, sponsored by Center for Progressive Reform and the Hoover Institute, October 6, 2016.

Testimony for Hearing on Assessing the Obama Years, OIRA and Regulatory Impacts on Jobs, Wages, and Economic Recovery before The House Judiciary Committee, Subcommittee On Regulatory Reform, Commercial And Antitrust Law, July 6, 2016.

The Economic Dynamics of Law and Climate Disruption, Hong Kong University Law School, March 7, 2016; East China University of Political Science and Law, Shanghai, March 11, 2016; The Beijing Center, March 14, 2016; Tsinghua University School of Policy and Management, Beijing, March 16, 2016; China University of Political Science and Law, Beijing, March 17, 2016; University of International Business and Economics Law School, Beijing, March 18, 2016.

Emissions Trading and Climate Disruption, Columbia University Law School, New York, NY, April 22, 2015.

Putting a Price on Carbon: The Metaphor, Annual Meeting of the European Association for Law and Economics, Aix-en-Provence, France, September 19, 2014; Annual Meeting on Environmental Taxation, September 25, 2014, Copenhagen, Annual Meeting of the Society for Environmental Law and Economics, Chicago, May 24, 2014.

Legal Theory Lessons from the Financial Crisis, Canadian Association of Law and Economics Annual Meeting, Osgoode Hall Law School, Toronto, Canada, September 28, 2013.

The Sleeping Giant Awakes? US Mitigation of Climate Disruption, Bucherius Law School, Hamburg, Germany, September 12, 2013.

The Economic Dynamics of Law, University of Pennsylvania Law School, Philadelphia, Pa., April 12, 2013.

Cost-Benefit Analysis and its Competitors, University of California at Irvine Law School, Irvine, CA., March 15, 2013.

Climate Disruption and the Climate of Ideas, Johns Hopkins University, Washington, D.C., February 27, 2013.

Rethinking Law and Economics in Light of the Financial Crisis and Climate Disruption and the Climate of Ideas, George Washington University Law School, Washington, D.C., February 26, 2013.

The Economic Dynamics of Intellectual Property and Financial Regulation, Boalt Hall Law School, University of California at Berkeley, December 12, 2012.

Recommendations for the Obama Administration's Second Term: Some Thoughts on Climate Disruption Policy, Society for Risk Analysis, San Francisco, December 10, 2012.

The Economic Dynamics of Law and Guido Calabresi, Cevro Institut, Prague, Czech Republic, October 27, 2012.

The Economic Dynamics of Law, Bocconi School of Law, Milan, Italy, October 29, 2012.

The Economic Dynamics of Law: An Introduction, Stateless Law Conference, McGill University, Montreal, September 29, 2012.

Free Market Environmentalism, Cornell Law School, March 27, 2012.

Jobs and the Environment, Annual Meeting of the Association for Law Property and Society, Georgetown University Law School, March 3, 2012.

Financial and Climate Regulation, Macro or Micro?, Society of Governmental Economists, Washington, D.C., November 17, 2011.

A Conceptual Approach to Environmental Law, Rocky Mountain Mineral Law Foundation, Stevenson, Washington, May 26, 2011.

Property: A Macroeconomic View, Association of Law Property and Society, Georgetown University Law School, Washington, D.C., March 3, 2011.

Technology Transfer under the Kyoto Protocol, School of International and Public Affairs, Columbia University, New York, New York, December 6, 2010.

Instrument Choice, Innovation, and Competitiveness, McGill University, Montreal, Canada, June 28, 2010.

The Economic Dynamics of Property; Multilevel Governance, the Kyoto Protocol, and Copenhagen, Association of Law Property and Society, Georgetown University Law School, Washington, D.C., March 5-6, 2010.

The Economic Dynamics of Law, University of Wisconsin, Madison, Wisconsin, October 18, 2009.

Capping Carbon, University of Colorado Law School, Boulder, Colorado, August 7, 2009 and Lewis and Clarke Law School, Portland, Oregon, April 23, 2010.

On Reforming Regulatory Impact Analysis, Resources for the Future, Washington, D.C., March 31, 2009.

Neoliberal Instrument Choice, First Annual Workshop of the Society of Environmental Law and Economics, University of British Columbia, Vancouver, Canada. March 28, 2009.

Linkage and Multilevel Governance, International Dimensions of Climate Policies, Bern University, Bern Switzerland, January 22, 2009; Duke Journal of International and Comparative Law Symposium, Duke University Law School, Durham, North Carolina, January 30, 2009.

The Economic Dynamics of Climate Change, Oberlin College, Oberlin Ohio, April 14, 2008 and Vermont Law School, South Royalton, Vermont, July 15, 2008.

Renewable Energy under the Kyoto Protocol: The Case for Mixing Instruments, University of Toronto Law School, Toronto, Canada, November 1, 2007.

The Tension Between Cost Effectiveness and Technological Advancement under the Kyoto Protocol, University of North Carolina Law School, Chapel Hill, North Carolina, October 29, 2007.

An Economic Dynamic Approach to the Infrastructure Commons, Law and Society Annual Meeting, Humboldt University, Berlin, Germany, July 28, 2007.

Can Market Instruments Save the Planet? The U.S. Experience with Emissions Trading and The United States: Oblivious Laggard or Covert Activist?, Summer Academy Energy and Environment 2007, Central European University, Budapest, Hungary, July 25, 2007.

The Missing Instrument, Fawley Workshop, University of Michigan Law School, January 10, 2007.

Sustainable Development and Market Liberalism's Shotgun Wedding: Emissions Trading Under the Kyoto Protocol, University of Michigan Law School Legal Theory Workshop, Ann Arbor, Michigan, November 30, 2006.

Massachusetts v. EPA, Interview on Living on Earth, Ann Arbor, Michigan, November 17, 2006.

Emissions Trading and Innovation, The Gerald Ford School of Public Policy, University of Michigan, Ann Arbor, Michigan, November 15, 2006.

Massachusetts v. EPA, University of Michigan Law School, Ann Arbor, Michigan, November 9, 2006.

The Elections' Impact on Climate Change, School of Natural Resources and the Environment, University of Michigan, Ann Arbor, Michigan, October 30, 2006.

Using Fiscal Incentives to Address Climate Change, Conference on Environmental Taxation, Ottawa, Canada, October 23, 2006.

Emissions Trading and Innovation under the Kyoto Protocol, University of Michigan Climate Change Seminar, Ann Arbor, Michigan, September 25, 2006.

Links Between European Emissions Trading and CDM Credits for Renewable Energy and Energy Efficiency Projects, Symposium: Strengthening Climate Cooperation, Compliance, and Coherence, McGill Law Faculty, Montreal, December 2, 2005.

Regulatory Reform: The New Lochnerism?, UCLA Law School, November 18, 2005.

The Economic Dynamics of Climate Change, University of California, Irvine, Department of Environmental Studies, November 17, 2005.

Emissions Trading and Industrial Ecology, Industrial Ecology for a Sustainable Future: The 3rd International Conference of the International Society for Industrial Ecology, Royal Institute for Technology, Stockholm, Sweden, June 12, 2005.

Energy, Efficiency, and Economic Dynamics, Cornell Law School, Ithaca, NY, March 3, 2004.

The Economic Dynamics of Environmental Law, Marsh Distinguished Lecture, Marsh Institute, Clark University, Worcester, MA, November 13, 2003.

Design, Trading, and Innovation: Workshop on Twenty Years of Market Based Instruments for Environmental Protection: Has the Promise Been Realized?, Donald Bren School of Environmental Science and Management, University of California, Santa Barbara, August 25-26, 2003.

Thoughts on Sustainability and Global Environmental Governance, Yale School of Forestry, April 6, 2002.

Reviews of Contributions to the Yale Global Governance Project's book on Strengthening Global Environmental Governance, Author's Workshop on Global Environmental Governance, Yale University, April 5, 2002.

Global Versus National Instrument Choice, Conference on the Human Dimensions of Global Environmental Change: Global Environmental Change and the Nation State, Berlin, Germany, December 8, 2001.

The Economic Dynamics of Environmental Law, Environmental Law Institute, Washington, D.C., April 27, 2000.

Free Lunch or Cheap Fix: The Emissions Trading Idea and the Climate Change Convention, Georgetown University Law Center, Washington, D.C., September 25, 1998.

Should Congress Tell the Environmental Protection Agency not to Protect Public Health?, Tulane University Conference on the New National Ambient Air Quality Standards for Ozone and Particulate Matter, New Orleans, Louisiana, March 7, 1998.

LANGUAGES: German, Spanish, Portuguese.