

## **WILLIAM H. PAGE**

*Marshall M. Criser Eminent Scholar*

### **EDUCATION:**

LL.M., The University of Chicago 1979

J.D. *summa cum laude*, University of New Mexico 1975

B.A. *cum laude* (English), Tulane University 1973

### **TEACHING APPOINTMENTS:**

#### **University of Florida, Levin College of Law**

*Marshall M. Criser Eminent Scholar in Electronic Communications and Administrative Law*, 2000-present

*Associate Dean for Faculty Development*, 2002-04

#### **Mississippi College School of Law**

*J. Will Young Professor of Law*, 1991-2000

Professor, 1984-91 (tenured); Associate Professor, 1981-84

#### **Boston University School of Law**

Visiting Professor, 1987-88; Associate Professor, 1979-81

### **LAW PRACTICE:**

Antitrust Division, U.S. Department of Justice, Trial Attorney, 1975-78, Attorney General's Program for Honor Law Graduates

### **SELECTED PUBLICATIONS:**

#### **Books:**

2 KINTNER'S FEDERAL ANTITRUST LAW: PRACTICES PROHIBITED BY THE SHERMAN ACT (LEXISNEXIS 2D ED. 2002) (with Joseph Bauer)

PROVING ANTITRUST DAMAGES: LEGAL AND ECONOMIC ISSUES (1996) (general editor and co-author) (ABA Antitrust Section publication)

#### **Articles**

1. *Software Development as an Antitrust Remedy: Lessons from the Enforcement of the Microsoft Communications Protocol Licensing Requirement*, 14 MICHIGAN

- TELECOMMUNICATIONS AND TECHNOLOGY LAW REVIEW \_\_\_\_ (2008) (with Seldon J. Childers)
2. *Communication and Concerted Action*, 37 LOYOLA UNIVERSITY CHICAGO LAW JOURNAL \_\_\_\_ (2007)
  3. *The Ideological Origins and Evolution of Antitrust Law*, NEW DIRECTIONS IN ANTITRUST (ABA Antitrust Section, Wayne Dale Collins, ed., forthcoming 2007)
  4. *Economic Authority and the Limits of Expertise in Antitrust Cases*, 90 CORNELL LAW REVIEW 617 (2005) (with John Lopatka)
  5. *Bargaining and Monopolization: In Search of the “Boundary of Section 2 Liability” between Aspen and Trinko*, 73 ANTITRUST LAW JOURNAL 115 (2005) (with John Lopatka)
  6. *Class Certification in the Microsoft Indirect Purchaser Litigation*, 1 JOURNAL OF COMPETITION LAW AND ECONOMICS 303 (2005); 3 CANADIAN CLASS ACTION REV. 165 (2006); and LITIGATING CONSPIRACY: AN ANALYSIS OF COMPETITION CLASS ACTIONS 165 (Stephen G. A. Pitel ed. 2006).
  7. *Indirect Purchaser Class Actions and the Consumer Interest*, 48 ANTITRUST BULLETIN 531 (2003) (with John Lopatka)
  8. *State Action and the Meaning of Agreement Under the Sherman Act: An Approach to Hybrid Restraints*, 20 YALE J. ON REGULATION 269 (2003) (with John Lopatka)
  9. *Brunswick at 25: Antitrust Injury and the Evolution of Antitrust Law*, 17 ANTITRUST 20 (Fall 2002) (with John Lopatka)
  10. *“Obvious” Consumer Harm in Antitrust Policy: The Chicago School, the Post-Chicago School, and the Courts*, POST-CHICAGO DEVELOPMENTS IN ANTITRUST LAW (Antonio Cucinotta, et al., eds., Edward Elgar Pub. Co. 2002) (with John Lopatka)
  11. *The Price of Unanimity: The D.C. Circuit’s Incoherent Opinion in Microsoft*, in MICROSOFT, ANTITRUST AND THE NEW ECONOMY: SELECTED ESSAYS 221 (DAVID S. EVANS ED. Kluwer Academic Press, 2002) (with John Lopatka), available online in THE ANTITRUST SOURCE, November 2001 <<http://www.abanet.org/antitrust/source/>>, and 35 COMPUTER LAW REPORTER 334 (May 2002)
  12. *Devising a Microsoft Remedy that Serves Consumers*, 9 GEORGE MASON L. REV. 691 (2001) (with John Lopatka)
  13. *Who Suffered Antitrust Injury in the Microsoft Case?*, 69 GEORGE WASHINGTON L. REV. 829 (2001) (with John Lopatka)
  14. *Monopolization, Innovation, and Consumer Welfare*, 69 GEORGE WASHINGTON L. REV. 367 (2001) (with John Lopatka)

15. *Internet Regulation and Consumer Welfare: Innovation, Speculation, and Cable Bundling*, 52 HASTINGS LAW JOURNAL 891 (2001) (with John Lopatka)
16. *The Dubious Search for “Integration” in the Microsoft Trial*, 31 CONNECTICUT L. REV. 1251 (1999) (with John Lopatka)
17. *An Offer Netscape Couldn’t Refuse?: The Antitrust Implications of Microsoft’s Proposal*, 44 ANTITRUST BULL. 679 (1999) (with John Lopatka)
18. *Antitrust on Internet Time: Microsoft and the Law and Economics of Exclusion*, 7 SUPREME COURT ECON. REV. 157 (1999) (with John Lopatka)
19. *Microsoft and the Public Choice Critique of Antitrust*, 44 ANTITRUST BULL. 5 (1999), available at [http://special.northernlight.com/microsoft/public\\_choice.htm](http://special.northernlight.com/microsoft/public_choice.htm)
20. *The Limits of State Indirect Purchaser Suits: Class Certification in the Shadow of Illinois Brick*, 67 ANTITRUST L. J. 1 (1999)
21. *Areeda, Chicago, and Antitrust Injury: Economic Efficiency and Legal Process*, 41 ANTITRUST BULL. 909 (1996)
22. *The Role of Economics in the Definition of Antitrust Injury*, 17 MANAGERIAL AND DECISION ECON. 127 (1996) (with Roger Blair)  
Reprinted in ECONOMIC INPUTS, LEGAL OUTPUTS: THE ROLE OF ECONOMISTS IN MODERN ANTITRUST (Fred S. McChesney, ed. 1998)
23. *Antitrust Injury, the Competitor Plaintiff, and Merger Policy*, 82 IOWA L. REV. 127 (with John Lopatka) (1996)
24. *Microsoft, Monopolization, and Network Externalities: Some Uses and Abuses of Economic Theory in Antitrust Decisionmaking*, 40 ANTITRUST BULL. 317 (1995) (with John Lopatka)
25. *Posner’s Program for the Antitrust Division: A Twenty-Five Year Perspective*, 48 SMU L. REV. 1713 (1995) (with John Lopatka)
26. *“Speculative” Antitrust Damages*, 70 WASHINGTON L. REV. 423 (1995) (with Roger Blair)  
Reprinted in AN ANTITRUST ANTHOLOGY (Andrew Gavil, ed. 1996)
27. *Legal Realism and the Shaping of Modern Antitrust*, 44 EMORY L.J. 1 (1995)
28. *Controlling the Competitor Plaintiff in Antitrust Litigation*, 91 MICHIGAN L. REV. 111 (1992) (with Roger Blair)  
Reprinted in 25 J. REPRINTS FOR ANTITRUST L. & ECON. 711 (1995)

29. *State Regulation in the Shadow of Antitrust: FTC v. Ticor Title Insurance Co.*, 3 SUPREME COURT ECON. REV. 189 (1993) (with John Lopatka)
30. *Ideological Conflict and the Origins of Antitrust Policy*, 66 TULANE L. REV. 1 (1991)  
Reprinted in AN ANTITRUST ANTHOLOGY (Andrew Gavil, ed. 1996)
31. *Optimal Antitrust Penalties and Competitors' Injury*, 88 MICHIGAN L. REV. 2151 (1990)  
Reprinted in 25 J. REPRINTS FOR ANTITRUST L. & ECON. 807 (1995)
32. *The Chicago School and the Evolution of Antitrust: Characterization, Antitrust Injury, and Evidentiary Sufficiency*, 75 VIRGINIA L. REV. 1221 (1989)  
Reprinted in AN ANTITRUST ANTHOLOGY (Andrew Gavil, ed. 1996)
33. *Interest Groups, Antitrust, and State Regulation: Parker v. Brown in the Economic Theory of Legislation*, 1987 DUKE L. J. 618
34. *The Scope of Liability for Antitrust Violations*, 37 STANFORD L. REV. 1445 (1985)  
Quoted in *Atlantic Richfield Co. v. USA Petroleum Co.*, 495 U.S. 328, 344 (1990); cited in *Cargill, Inc. v. Monfort of Colorado, Inc.*, 479 U.S. 104, 110 n.5 (1986); reprinted in 25 J. REPRINTS FOR ANTITRUST L. & ECON. 547 (1995)
35. *Constitutionalism and Judicial Rulemaking*, 3 MISS. C. L. REV 1 (1982)
36. *Antitrust, Federalism and the Regulatory Process: A Reconstruction and Critique of the State Action Exemption After Midcal Aluminum*, 61 BOSTON UNIVERSITY L. REV 1099 (1981)
37. *Antitrust Damages and Economic Efficiency: An Approach to Antitrust Injury*, 47 U. CHICAGO L. REV. 467 (1980)  
Reprinted in 25 J. REPRINTS FOR ANTITRUST L. & ECON. 507 (1995)

**Essays, Reviews, Commentary, Supplements, Notes, etc.:**

38. KINTNER'S FEDERAL ANTITRUST LAW, 2002-05 supplements (with Joseph Bauer and John Lopatka)
39. *The Paper Trail: Working Papers and Recent Scholarship*, department of THE ANTIRUST SOURCE, 2001-05 (with John Woodbury)
40. *Thurmon Arnold's International Antitrust Legacy*, THE ANTITRUST SOURCE, July 2003, <http://www.abanet.org/antitrust/source/july03/pagereview.pdf> (review of WYATT WELLS, ANTITRUST AND THE FORMATION OF THE POSTWAR WORLD (Columbia Univ. Press 2002))

41. *AT&T Litigation*, in OXFORD COMPANION TO AMERICAN LAW 46 (Kermit L. Hall, ed. 2002)
42. *Antitrust and Trade Regulation*, (with John Lopatka, Steven Vieux, & Thomas Arthur) chapter in DEVELOPMENTS IN ADMINISTRATIVE LAW AND REGULATORY PRACTICE 1999-2000, at 161 (Jeffrey S. Lubbers, ed. 2001) (ABA Administrative Law & Regulatory Practice Section publication)
43. *Network Externalities*, in 1 ENCYCLOPEDIA OF LAW AND ECONOMICS 952 (Boudwijn Bouckaert & Gerrit De Geest, eds., 2000) (with John Lopatka), available online at <<http://encyclo.findlaw.com/lit/0760art.htm>>
44. *Antitrust and Trade Regulation*, (with John Lopatka, Michael Brockmeyer, & Thomas Arthur) chapter in DEVELOPMENTS IN ADMINISTRATIVE LAW AND REGULATORY PRACTICE 1998-99 (Jeffrey S. Lubbers, ed. 2000) (ABA Administrative Law & Regulatory Practice Section publication)
45. *A (Cautionary) Note on Remedies in the Microsoft Case*, 13 ANTITRUST 25 (Summer 1999) (with John Lopatka)
46. *Antitrust Review of Mergers in Transition Economies: A Comment, With Some Lessons from Brazil*, 66 U. CINCINNATI L. REV 1113 (1998)
47. *Foreword: Reconsiderations of Director and Levi's Law and the Future*, 17 MISS. C. L. REV. 1 (1996)
48. Letter to Ian Ayres and Discussion in *The Past and Future of Antitrust: Reconsiderations of Director and Levi's Law and the Future after Forty Years*, 17 MISS. C. L. REV. 92 et seq. (1996)
49. *State Action and "Active Supervision": An Antitrust Anomaly*, 35 ANTITRUST BULL. 745 (1990)  
Reprinted in 2 THE ANTITRUST IMPULSE (Theodore Kovaleff, ed. 1994)
50. *Yoknapatawpha's Literary Lawyer*, 6 CARDOZO STUDIES IN LAW AND LITERATURE 225 (1994)  
Review of Jay Watson's FORENSIC FICTIONS: THE LAWYER FIGURE IN FAULKNER (1993)
51. *Ideology and the Strictures of Legal Narrative*, 68 TULANE L. REV. 1029 (1994)  
Essay reviewing Ronnie Po-Chia Hsia's TRENT 1475: STORIES OF A RITUAL MURDER TRIAL (1993)
52. *The Ideology of Law and Literature*, 68 BOSTON UNIVERSITY L. REV. 805 (1988)  
Essay reviewing Brook Thomas's CROSS-EXAMINATIONS OF LAW AND LITERATURE: COOPER, HAWTHORNE, STOWE, AND MELVILLE (1987)

53. *Capture, Clear Articulation, and Legitimacy: A Reply to Professor Wiley*, 61 SOUTHERN CALIFORNIA L. REV. 1343 (1988)
54. *The Place of Law and Literature*, 39 VANDERBILT L. REV. 391 (1986)  
Essay reviewing Robert A. Ferguson's LAW AND LETTERS IN AMERICAN CULTURE (1984), Richard H. Weisberg's THE FAILURE OF THE WORD: THE LAWYER AS PROTAGONIST IN MODERN FICTION (1994), and James Boyd White's WHEN WORDS LOSE THEIR MEANING: CONSTITUTIONS AND RECONSTITUTIONS OF LANGUAGE, CHARACTER, AND COMMUNITY (1984)
55. *Foreword: The Law and Southern Literature*, 4 MISS. C. L. REV. 165 (1984)

**WORKS IN PROGRESS:**

KINTNER'S FEDERAL ANTITRUST LAW (12 VOLS), new volumes and revisions (with Joseph Bauer)

**ACADEMIC HONORS AND RECOGNITIONS:**

Named Marshall M. Criser Eminent Scholar, University of Florida, 2000

Named in list of "The Most Prolific Law Professors in the 10 and 20 Most-Cited Law Reviews," in James Lindgren & Daniel Seltzer, *The Most Prolific Law Professors and Faculties*, 71 CHI.-KENT L. REV. 781, 801 (1996).

Named J. Will Young Professor of Law, Mississippi College, 1991

Baker & McKenzie Scholarship for LL.M., University of Chicago, 1978-79

Named on Meek Plaque of J.D. graduates with highest GPA, University of New Mexico (3.86 GPA), 1975

Comment and Note Editor, New Mexico Law Review, 1973-75

Order of the Coif, 1975

**TEACHING AWARDS:**

Professor of the Year, Mississippi College, 1983

First Year Professor of the Year, 1983 and 1982 (co-recipient)

**COURSES TAUGHT:**

Antitrust (basic course and seminar)

Civil Procedure

Administrative Law

Telecommunications Law (seminar)

Local Government Law

Intellectual Property (Trademark/Copyright and Patent/Copyright courses)

Constitutional Law

Energy Policy (seminar)

**ADMINISTRATIVE WORK:**

Associate Dean for Faculty Development, 2002-04

Chair: Promotion and Tenure, Faculty Development, and Student Affairs Committees

Member: All of the above, plus Faculty Recruitment, Strategic Planning, Community Relations Admissions, and Curriculum Committees

Co-author of AALS and ABA self-studies

**RECENT PROFESSIONAL ACTIVITIES**

Contributing Author, *Comments of the Section of Antitrust Law and the Section of International Law of the American Bar Association in Response to the Request for Public Comment of the Commission of the European Communities on Damage Actions for Breaches of EU Antitrust Rules*, April 2006, <http://www.abanet.org/antitrust/at-comments/2006/04-06/amc-comity.shtml>

Contributing Editor, *The Antitrust Source* (online journal), ABA Section of Antitrust Law, 2001-date, <<http://www.abanet.org/antitrust/source/>>

Vice Chair, Civil Practice and Procedure Committee, ABA Section of Antitrust Law, 2004-

Editor, *The Antitrust Practitioner*, newsletter of Civil Practice and Procedure Committee, ABA Section of Antitrust Law, 2004-

Executive Committee, Jewish Law Section, AALS, 2004-

Chair, Antitrust Committee, ABA Section of Administrative Law, 1998-2001 (Commendation for outstanding service, 2000)

Chair, Antitrust and Trade Regulation Section, AALS, 1995-96

Executive Committee, Antitrust and Trade Regulation Section, AALS, 1992-95

Chair, Jewish Law Section, AALS, 2000-01

Chair, Project Committee on Antitrust Damages, Economics Section, ABA Section of Antitrust Law, 1992-96

Reporter, Subcommittee on Rules of Civil Procedure, Mississippi Supreme Court Advisory Committee on Rules, 1998-2000

**SELECTED PRESENTATIONS:**

“Software Development as an Antitrust Remedy: Lessons from the Failure of the *Microsoft* Communications Protocol Licensing Program,” DOJ/FTC Hearings on Single-Firm Conduct, Washington, DC, 2007

“Communication and Concerted Action,” Loyola University Chicago School of Law, Institute for Consumer Antitrust Studies Conference, *Matsushita* at 20: Proof of

Conspiracy, Summary Judgement, and the Role of the Economist in Price Fixing Litigation, Chicago, 2006

“Policy Choices in Defining the Measure of Antitrust Damages,” Organization for Economic Cooperation and Development, Competition Committee, Working Party No. 3 on Private Remedies: Passing on Defense; Indirect Purchaser Standing; Definition of Damages, Paris, 2006

“Should the EC Adopt the American System of Private Antitrust Remedies,” University of Notre Dame Law School faculty workshop, South Bend, Indiana, 2006

“The Ideological Origins and Evolution of Antitrust Law,” New York University, Department of Economics, Colloquium on Market Institutions and Economic Processes, 2005

“Class Certification in the Microsoft Indirect Purchaser Litigation,” University of Western Ontario Symposium, Litigating Conspiracy: A Symposium on Competition Class Actions, London, Ontario, 2005

“Economic Authority and the Limits of Expertise in Antitrust Cases,” Florida State University College of Law faculty workshop, Tallahassee, 2004

“Indirect Purchaser Class Actions and the Consumer Interest,” Univ. of Florida Levin College of Law faculty workshop, 2003

“Who Suffered Antitrust Injury in the Microsoft Case,” George Washington University School of Law Conference, Pyrric Victories?: Reexamining the Effectiveness of Antitrust Remedies in Restoring Competition and Detering Misconduct, Washinton, DC, 2001

“Obvious Consumer Harm in Antitrust Policy,” European Association of Law & Economics Conference on Post-Chicago Developments in Antitrust Analysis: United States and Europe, Taormina, Sicily, 2000

“Identifying Integration and Exclusion in the *Microsoft* Trial,” 1999 Wiggin & Dana Symposium, University of Connecticut School of Law, Hartford, 1999; video available at <<http://cyber.law.harvard.edu/people/edelman/ctlawreview.html>>

“Microsoft, Antitrust, and Public Choice,” University of Florida College of Law Conference, Antitrust: On the Cutting Edge, Gainesville, 1998

“Closing Arguments,” Charles Clark American Inn of Court, Jackson, MS, 1998

“Class Certification in State Indirect Purchaser Suits,” ABA Antitrust Section Annual Meeting, Washington, DC, 1998

“Antitrust Review of Mergers in Transition Economies: A Comment, With Some Lessons from Brazil,” University of Cincinnati Corporate Law Symposium on International Aspects of Mergers and Acquisitions, Cincinnati, 1998

- “Proving Antitrust Damages,” ABA Antitrust Section Annual Meeting, Atlanta, GA, 1995
- “Teaching Antitrust Injury,” AALS Section of Antitrust and Economic Regulation, Annual Meeting, New Orleans, 1995
- “Speculative Antitrust Damages: A Legal and Economic Analysis,” Eastern Economic Association, Boston, 1994
- “Legal Realism and Antitrust Law,” George Mason University, Law & Economics Workshop, 1993
- “Defining, Proving, and Measuring Antitrust Damages,” American Bar Association, Section of Antitrust Law, Atlanta 1991
- “State Action and Federalism,” AALS Section of Antitrust and Economic Regulation, Annual Meeting, 1988

#### SELECTED CONFERENCES

- Moderator, “Class Certification: Is There a Trend Toward More Rigorous Analysis,” ABA Antitrust Section Spring Meeting, Washington, DC, 2007
- Moderator, “Social Norms in Religious Communities,” AALS Section on Jewish Law, Annual Meeting, San Francisco, 2001
- Discussant, “Beyond Microsoft: Antitrust, Technology, and Intellectual Property,” Berkeley’s Center on Law and Technology Conference, 2001
- Commentator on Lemley & McGowan’s “Does Java Change Everything?” Southern Economic Association, Baltimore, 1998
- Moderator, electronic forum on Director & Levi’s *Law and the Future: Trade Regulation*, published in 17 MISS. C. L. REV. 91 (1996)
- Moderator, “Director & Levi’s *Law and the Future*: Reconsiderations after Forty Years,” AALS Section of Antitrust and Economic Regulation, Annual Meeting, San Antonio, 1996
- Discussant, Law & Economics Center Conferences, “Privatization,” Arlington, VA, 1987 (published in 71 MARQUETTE L. REV. 583 (1988)); “The First Amendment and Securities Regulation,” Arlington, VA, 1987, published in 20 CONN. L. REV. 383 (1988)
- Organizer and Moderator, “The Law and Southern Literature,” The Law and Humanities Institute, Jackson, MS, 1983, published in 4 MISS. C. L. REV. 165 (1984)

#### MEMBERSHIPS

- State Bar of New Mexico (inactive status)
- American Bar Association, Antitrust Section & Administrative Law and Regulatory Practice Section
- Order of the Coif
- American Inn of Court

American Law and Economics Association

**PERSONAL INFORMATION:**

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Born: March 21, 1951, New Orleans, LA