

**Mark Fenster**

Levin College of Law, University of Florida  
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**Legal Academic Employment**

Levin College of Law, University of Florida, 2001-present  
Marshall M. Criser Eminent Scholar Chair in Electronic Communications and Administrative Law, 2021-present  
Stephen C. O'Connell Chair, 2019-2021  
University Term Professor, 2017-2021  
Cone, Wagner, Nugent, Hazouri & Roth Tort Professor, 2012-2019  
Samuel T. Dell Research Scholar, 2009-2012  
Associate Dean for Faculty Development, 2009-2011  
University of Florida Research Foundation Professor, 2008-2011  
Professor, 2007-present  
Associate Professor, 2004-2007  
Assistant Professor, 2001-04.

Brooklyn Law School  
Visiting Professor, Fall 2024

University of Colorado School of Law  
Visiting Professor, Spring 2008.

**Courses Taught:**

*First-Year Courses:* Contracts; Torts; Property.

*Upper-Division Courses:* First Amendment; Statutory Interpretation/ Legislation; Incarceration Law; Administrative Law; Government Transparency and Secrecy; Land Use; Payment Systems; Intellectual Property Survey.

**Books**

[\*The Transparency Fix: Secrets, Leaks, and Uncontrollable Government Information\*](#) (Stanford University Press, 2017).

[\*Conspiracy Theories: Secrecy and Power in American Culture\*](#) (revised 2nd ed.) (University of Minnesota Press, 2008). First edition published 1999. Excerpts translated into French, Polish, and Slovenian.

*Populism and Transparency* (Mark Fenster, Margaret Kwoka, & Greg Michener eds.) (Cambridge University Press, forthcoming).

## Articles and Essays

- “Populism and Transparency in the U.S.,” in *Populism and Transparency* (Mark Fenster, Margaret Kwoka, & Greg Michener eds.) (Cambridge University Press, forthcoming).
- “What Do Leaks Reveal? Foreign Policy, National Security, and the Contingent Effects of Informational Vigilantism,” in Vigilenca Abazi and Guri Rosen, *FOREIGN POLICY SECRECY IN THE AGE OF TRANSPARENCY* (New York: Oxford University Press, forthcoming).
- “[Breach Agents: The Legal Liability of Third Parties for the Breach of Reputational NDAs](#),” 6 *Journal of Free Speech Law* 47-90 (2025).
- “[Studying Conspiracy Theory After the \(Current\) Rise of Right-Wing Populism](#),” in Michael Butter et al., *POPULISM AND CONSPIRACY THEORY: CASE STUDIES AND THEORETICAL PERSPECTIVES* 344-358 (London and New York: Routledge, 2024).
- “[How Reputational NDAs Fail \(Or, In Praise of Breach\)](#),” 107 *MARQUETTE LAW REVIEW* 325-397 (2023).
- “Feed: State Transparency Amidst Informational Surplus,” in Emmanuel Alloa ed., [THIS OBSCURE THING CALLED TRANSPARENCY: POLITICS AND AESTHETICS OF A CONTEMPORARY METAPHOR](#) 93-118 (Leuven, Belgium: Leuven University Press, 2022).
- “[Bullets of Truth: Julian Assange and the Politics of Transparency](#),” in *CULTURES OF TRANSPARENCY: BETWEEN PROMISE AND PERIL* 63-80, Stefan Berger, Susanne Fengler, Dimitrij Owetschkin, and Julia Sittmann eds. (Abingdon, U.K.: Routledge, 2021).
- “[Populism and Transparency: The Political Core of an Administrative Norm](#),” 89 *UNIVERSITY OF CINCINNATI LAW REVIEW* 286-343 (2021).
- “[A ‘Public’ Journey Through COVID: Donald Trump, Twitter, and the Secrecy of U.S. Presidents’ Health](#),” 8 *CRITICAL ANALYSIS OF LAW* 25-42 (2021).
- “[Transparency and The First](#),” 14 *FLORIDA INTERNATIONAL UNIVERSITY LAW REVIEW* 713-15 (2021) (symposium review essay).
- “[National Security: The Sublime and the Bureaucratic](#),” *NEW RAMBLER REVIEW* (2020) (review essay).
- “[Revealing Secrecy Tools](#),” *HARVARD LAW REVIEW BLOG* (2019) (short essay).
- “[The Dramas of Criminal Law: Thurman Arnold's Post-Realist Critique of Law Enforcement](#),” 53 *TULSA LAW REVIEW* 497-522 (2018).

- “FOIA as an Administrative Law,” in [TROUBLING TRANSPARENCY: THE FREEDOM OF INFORMATION ACT AND BEYOND](#) 52-70, David Pozen & Michael Schudson eds. (Columbia University Press, 2018).
- “The Elusive Ethics of Leaking,” *GEORGETOWN JOURNAL OF INTERNATIONAL AFFAIRS* 18(3): 112-119 (Fall 2017).
- “Transparency in Trump’s America,” 30 *GOVERNANCE* 173-175 (2017) (invited essay).
- “Mr. Peabody’s Improbable Legal Intellectual History,” 64 *BUFFALO LAW REVIEW* 101-120 (2016) (symposium essay).
- “Opportunities for Law’s Intellectual History,” 64 *BUFFALO LAW REVIEW* i-iv (2016) (with John Henry Schlegel) (symposium introduction).
- “[The Informational Ombudsman: Fixing Open Government by Institutional Design](#),” 2 *INTERNATIONAL JOURNAL OF OPEN GOVERNMENTS/ REVUE INTERNATIONALE DES GOVERNMENTS OUVERTS* 275-296 (2016).
- “Competing Narratives of 9/11 Truth / Récits en concurrence sur la vérité du 11-Septembre,” *Diogenes* (2016) (edited and translated excerpt of *Conspiracy Theories: Secrecy and Power in the United States*).
- “Transparency in Search of a Theory,” 18 *EUROPEAN JOURNAL OF SOCIAL THEORY* 150-167 (2015).
- “Regulating in the Post-Koontz World,” 67 *FLORIDA LAW REVIEW FORUM* 26-29 (2015) (brief online response).
- “The Implausibility of Secrecy,” 65 *HASTINGS LAW JOURNAL* 309-363 (2014).
- “Substantive Due Process by Another Name: *Koontz*, Exactions, and the Regulatory Takings Doctrine,” 30 *TOURO LAW REVIEW* 403-419 (2014) (symposium essay).
- “Dziś wszyscy jesteśmy zwolennikami teorii spiskowych” and “Teorie spiskowe, studia kulturne i kłopoty z populizmem,” in *Spuktura Teorii Spiskowych* [*The Structure of Conspiracy Theories*], Franciszka Czecha ed. (Kraków, Poland: Zakład Wydawniczy “NOMOS,” 2014). Translated excerpts of Introduction and Afterword, *Conspiracy Theories: Secrecy and Power in American Culture*.
- “Land Use Exactions Takings & the Impact of *Koontz* (133 S. Ct. 2586),” 2013 *EMERGING ISSUES* 7061 (LexisNexis).
- “Against the Cure,” in *Conspiracy Theories in the United States and the Middle East: A Comparative Approach*, Michael Butter & Maurus Reinkowski eds. (Berlin: Water de Gruyter, 2013), 333-344.

- “Disclosure’s Effects: WikiLeaks and Transparency.” 97 IOWA LAW REVIEW 753-807 (2012) (with online responses from Mary-Rose Papandrea, Roy Peled, and Christine Wells, in 97 IOWA LAW REVIEW BULLETIN (2012), <http://www.uiowa.edu/~ilr/bulletin.shtml>).
- “The Transparency Fix: Advocating Legal Rights and Their Alternatives in the Pursuit of a Visible State,” 73 UNIVERSITY OF PITTSBURGH LAW REVIEW 443-503 (2012).
- “Failed Exactions.” 36 VERMONT LAW REVIEW 623-647 (2012) (symposium article).
- “Exactions Takings - Looking Ahead to Supreme Court Review of *Koontz v. St. Johns River Water Management District*,” 77 So.3d 1220 (Fla. 2011), 2012 EMERGING ISSUES 6802 (LexisNexis).
- “Foreword,” to Victoria Pagán, *Conspiracy Theories in Latin Literature* (Austin: University of Texas Press, 2012).
- “Teoriziranje konspirativne politke,” *Dialogi: Revija Za Kulturoin Družbo* Vol. 47, No. 3-4 (2011): 22-51. Translation into Slovenian of Chapter 2, *Conspiracy Theories: Secrecy and Power in American Culture*.
- “Seeing the State: Transparency as Metaphor.” 62 ADMINISTRATIVE LAW REVIEW 617-672 (2010).
- “The Stubborn Incoherence of Regulatory Takings.” 28 STANFORD JOURNAL OF ENVIRONMENTAL LAW 525-576 (2009) (symposium article).
- “When Theorists Conspire: An Inter(re)view Between Mark Fenster and Jack Bratich” (with Jack Bratich & Hye-Jin Lee), *International Journal of Communication*, Vol. 3 (2009): Feature 961-972, available at <http://ijoc.org/ojs/index.php/ijoc/article/view/662/378>.
- “Dialogues in Communications Research” (with Jack Z. Bratich), review essay/ interview, *Journal of Communication Inquiry* 33 (2009): 278-286.
- “Designing Transparency: The 9/11 Commission and Institutional Form.” 65 WASHINGTON & LEE LAW REVIEW 1239-1321 (2008).
- “Regulating Land Use in a Constitutional Shadow: The Institutional Contexts of Exactions.” 58 HASTINGS LAW JOURNAL 729-776 (2007), reprinted in ZONING AND PLANNING HANDBOOK (2008).
- “The Folklore of Legal Biography.” 105 MICHIGAN LAW REVIEW 1265-1282 (2007) (review essay).
- “Takings, Version 2005: The Legal Process of Constitutional Property Rights.” 9 UNIVERSITY OF PENNSYLVANIA JOURNAL OF CONSTITUTIONAL LAW 667-744 (2007).

- “Coolhunting the Law.” 12 HARVARD NEGOTIATION LAW REVIEW 157-173 (2007) (symposium essay).
- “On Idiocratic Theory: A Reply.” 19 CRITICAL REVIEW 147-55 (2007).
- “The Opacity of Transparency.” 91 IOWA LAW REVIEW 885-949 (2006).
- “Murray Edelman: Polemicist of Public Ignorance.” 17 CRITICAL REVIEW 367-391 (2005).
- “The Birth of a Logical System: Thurman Arnold and the Making of Modern Administrative Law.” 84 OREGON LAW REVIEW 69-146 (2005).
- “Takings Formalism, Regulatory Formulas: Exactions and the Consequences of Clarity.” 92 CALIFORNIA LAW REVIEW 609-681 (2004), reprinted in ZONING AND PLANNING HANDBOOK (2005) and LAND USE & ENVIRONMENTAL LAW REVIEW (A. Dan Tarlock & David Callies, eds., 2005) (collecting “best land use and environmental law articles” published in 2004).
- “The Symbols of Governance: Thurman Arnold and Post-Realist Legal Theory.” 51 BUFFALO LAW REVIEW 1053-1118 (2003).
- “Consumers’ Guides: The Political Economy of the Music Press and the Democracy of Critical Discourse,” in *Pop Music and the Press*, edited by Steve Jones (Philadelphia: Temple University Press, 2002), 81-92.
- “Community by Covenant, Process, and Design: Cohousing and the Contemporary Common Interest Community,” 15 JOURNAL OF LAND USE & ENVIRONMENTAL LAW 3-54 (1999).
- Note, “‘A Remedy on Paper’: The Role of Law in the Failure of City Planning in New Haven, 1907-1912,” 107 YALE LAW JOURNAL 1093-1123 (1998).
- “New Directions in Law and Humanities: An Introduction,” 10 YALE JOURNAL OF LAW & THE HUMANITIES 383 (1998) (with Wendie Schneider and Mark Weiner).
- “Commercial (and/or?) Folk: The Bluegrass Industry and Bluegrass Tradition,” *South Atlantic Quarterly* 94 (1995): 81-108 [refereed journal]. Reprinted in *Reading Country Music*, edited by Cecilia Ticchi (Durham: Duke University Press, 1998).
- “Interpreting and Incorporating Rap: The Articulation of Alternative Popular Musical Practices within Dominant Practices and Institutions,” *Howard Journal of Communications* 5 (1995): 223-244 [refereed journal].
- “Where Exactly is ‘The Local’?” in *Popular Music—Style and Identity*, edited by Will Straw, Stacey Johnson, Rebecca Sullivan, and Paul Friedlander (Montreal: The Centre for Research on Canadian Industries and Institutions, 1995), 83-88.

- “Genre and Form: The Development of the Country Music Video,” in *Sound and Vision: a Music Video Reader*, edited by Simon Frith, Andrew Goodwin and Lawrence Grossberg (New York: Routledge, 1993).
- “Boxing In, Opening Out: The Boxed Set and the Politics of Musical Production and Consumption,” *Stanford Humanities Review* 3 (1993): 145-152 [non-refereed journal].
- “Queer Punk Fanzines: Identity, Community, and the Articulation of Homosexuality and Hardcore Music,” *Journal of Communication Inquiry* 17 (1993): 73-94 [refereed journal]. Reprinted in *Deviance and Deviants*, edited by Richard Tewkesbury & Patricia Gagne (Los Angeles: Roxbury Publishing, 2000).
- “Two Highways? Alison Krauss and the Contemporary-Traditional Conflict in Bluegrass,” in *All That Glitters: Country Music in America*, edited by George H. Lewis (Bowling Green, OH: Bowling Green University Popular Press, 1992), 323-334.
- “Containment, Excess, Ambivalence: The Adaptation of *Less Than Zero*,” *Velvet Light Trap*, No. 27 (1991): 51-65 [non-refereed journal].
- “The Problem of Taste Within the Problematic of Culture,” *Communication Theory* 1 (1991): 87-105 [refereed journal].
- “Popular Music and the Struggle for Discursive Control: Buck Owens and Country Music,” *Popular Music* 9 (1990): 275-289 [refereed journal].
- “The (Ab)uses of Pop Music History,” *ONETWOTHREEFOUR: A Popular Music Journal*, No. 8 (1990): 7-22 [non-refereed journal].
- “Preparing the Audience, Informing the Performers: John A. Lomax and Cowboy Songs and Other Frontier Ballads,” *American Music* 7 (1989): 260-277 [refereed journal].
- “Constructing the Image of Authorial Presence: David O. Selznick and the Marketing of *Since You Went Away*,” *Journal of Film and Video* 41 (1989): 1-15 [refereed journal].
- “Under His Spell: How Buck Owens Took Care of Business,” *Journal of Country Music* 12 (1989): 18-27 [non-refereed journal].
- “Country Music Video,” *Popular Music* 7 (1988): 285-302 [refereed journal].

### **Works in Progress**

*Populism and Transparency* (Mark Fenster, Margaret Kwoka, & Greg Michener, eds.), currently under review.

“Populism and Transparency in the U.S.,” in *Populism and Transparency*.

“Severed and Paranoid Spaces: Visions of The Workplace in the Contemporary Managerial Conspiracy Narrative,” in *Conspiracy Theory and Audiovisual Media*, Michael Butter, Tobias Pontara, & Holly Rogers eds. (London: Routledge, forthcoming).

### **Invited Presentations and Conference Papers**

“Severed and Paranoid Spaces: Visions of The Workplace in the Contemporary Managerial Conspiracy Narrative.” Visual Culture of Conspiracy Theories, Marburg, Germany, June 2025.

“Transparency and Populism.” 8<sup>th</sup> Global Conference on Transparency Research, Brussels, May 2024.

“[Nondisclosure Agreements with Mark Fenster and Dave Hoffman](#).” Taboo Trades Podcast, July 2023.

“How Reputational NDAs Fail (Or, In Praise of Breach).” USC Faculty Workshop Series, Los Angeles, October 2022.

“Studying Conspiracy Theory After the (Current) Rise of Right-Wing Populism.” Second International Conference of the “Populism and Conspiracy Theory” Project, Tübingen, Germany, September 2022 (keynote).

“Transparently Disenchanted.” 7th Global Transparency Research Conference, Copenhagen, May 2022.

“A ‘Public’ Journey Through COVID: Donald Trump, Twitter, and the Secrecy of U.S. Presidents’ Health.” Transparency in the Digital Environment, Zoom Conference (hosted by University of Toronto), May 2021.

“What Do Leaks Reveal? Foreign Policy, National Security, and the Contingent Effects of Informational Vigilantism.” University Association for Contemporary European Studies Virtual Conference, September 2020.

“What Is Government Information During a Pandemic?” What Is Information? University of Oregon, May 2020.

“Transparency, Populism, and the Politics of Administrative Norms.” University of Denver Law School, November 2019.

“Conspiracy Theories Don’t Kill People?!” Comparative Approaches to Conspiracy Theory, COST (European Cooperation in Science and Technology), Prague, Czech Republic, September 2019.

“Transparency and/as Populism.” Volkswagen Foundation Herrenhäuser Konferenz, Berlin, Germany, June 2018.

“FOIA, Privacy, Free Speech, and National Security,” Conference on Technology, Media, and Privacy Law, Levin College of Law, University of Florida, April 2018.

“Conspiracy Theorist in Chief/ Russia in the US Imaginary,” Russian Studies Program invited lecture, University of Leeds, UK, November 2017.

“The Difficult Paths to a Right to Know,” International Colloquium on the Democratic Legitimacy of State Secrecy, Leiden University, Netherlands, September 2017.

“Transparency and/as Populism.” Fifth Global Conference on Transparency Research, University of Limerick, June 2017.

“From Hiss to Trump: Russian Conspiracy in the American Imaginary.” Protagonists of Political Mythology: How do Individuals and Collectives become History? British Association for Slavonic and Eastern European Studies, London, March 2017.

“Foreign Policy and the Effects of Disclosure: Megaleaks as a Natural Experiment.” Transparency in Foreign Policy Conference, University of Agder, Kristiansand, Norway, March 2017.

“Individual Rights, Administrative Rules, and the Problem of Enforcing Information Access.” MANCEPT Political Theory Workshop, Manchester UK, September 2016.

“FOIA as an Administrative Law.” FOIA@50 Conference, Columbia Law School & Columbia Graduate School in Journalism, New York, June 2016.

“State Secrecy, State Transparency, and the State in Theory.” Politics and Practices of Secrecy Conference, King’s College, London, May 2015.

“The Ombudsman Fix.” International Symposium on Freedom of Information, and Governmental Transparency in the Open Government Era, University of Paris 1 Panthéon-Sorbonne, March 2015.

“Attempted Doctrine.” Opportunities for Law’s Intellectual History, Baldy Center for Law and Social Policy, SUNY Buffalo Law School, October 2014. I also served as conference co-organizer.

“Substantive Due Process by Another Name: *Koontz*, Exactions, and the Regulatory Takings Doctrine.” American Planning Association National Conference, Atlanta, April 2014.

“Of Pyramids and Pools: Prophecy, Theory, and Policy in the Work of Simon Frith.” Studying Music – An International Conference in Honour of Simon Frith, University of Edinburgh, April 2014

“Opening Transparency.” 3<sup>rd</sup> Global Conference on Transparency Research, HEC Paris, Paris, October 2013.



“Substantive Due Process by Another Name: *Koontz*, Exactions, and the Regulatory Takings Doctrine.” 40<sup>th</sup> Anniversary of *The Takings Issue* Symposium, Touro Law School, Islip, NY, October 2013.

Moderator, “The Good, the Bad, and the Ugly: Responses to the Changing Market for Legal Education.” Southeastern Association of Law Schools annual meeting, Palm Beach, August 2013.

Moderator, “*Koontz v. SJRWMD*: Implications for Florida Environmental, Land Use, and Real Property Lawyers & Their Clients.” Environmental and Land Use Law Section of the Florida Bar, July 2013.

“Historicizing the ‘Right to Know.’” Conference on the Right to Know, Center for European Studies, University of Florida, April 2013.

“The Improbability of Secrecy.” Workshop on Organizational Transparency—Practices, Meanings, and Tensions, Copenhagen Business School, Denmark, December 2012.

“The Improbability of Secrecy.” Transatlantic Conference on Transparency, Utrecht University, Netherlands, June 2012.

“The Improbability of Secrecy.” University of Tennessee Law School Faculty Workshop, February 2012.

“Negotiating Regulatory Takings.” 14<sup>th</sup> Annual Litigating Regulatory Takings Challenges to Land Use and Environmental Regulations, Georgetown Law School, November 2011.

“Transparency Advocacy, From Rights and Freedoms to Wikis and Bureaucracy.” First Global Conference on Transparency Research, Rutgers University - Newark, May 2011.

“Varieties of Deference to ‘Extraordinary Needs’: CIA and Secrecy in the Courts.” Landscapes of Secrecy Conference: The CIA and the Contested Record of U.S. Foreign Policy (invited speaker), University of Nottingham, April 2011.

“Wikileaks and the Desire for Perfect Transparency.” Conference on Conspiracy Theories in the Middle East and the United States (invited keynote speaker), Freiburg Institute for Advanced Studies, Albert-Ludwigs-Universität, Freiburg, Germany, January 2011.

“Seeing the State: Transparency as Metaphor.” Law & Society Association, Chicago, May 2010.

“The Aging of Small-Scale Limited Common Property Arrangements: First Generation Cohousing Communities Today.” Association for Law, Property, and Society Meeting, Georgetown Law Center, March 2010.

- “After *Lingle*.” 11<sup>th</sup> Annual Georgetown Environmental Law & Policy Institute Litigating Takings Conference, Stanford Law School, November 2008.
- “Democratic Property Ownership and the Commodification of Community.” Property Works in Progress Early Stage Paper, University of Colorado Law School, June 2008.
- “The Dilemmas of Local Transparency.” Law & Society Association Annual Meeting. Montreal, May 2008.
- “The Dependency of Independence: 9/11 and the Independent Commission Form.” University of Colorado School of Law, Boulder. February 2008.
- “The Dilemmas of Local Transparency.” Governing in the Sunshine Conference, The Municipal Law Institute and the Center for State and Local Government Law. University of California - Hastings College of the Law, San Francisco, October 2007.
- “Thurman Arnold and Legal Theory.” American Studies Association Annual Meeting. Philadelphia, October 2007.
- “A Transparent Narrative: The Lives of *The 9/11 Commission Report*.” Law & Society Association Annual Meeting. Berlin, July 2007.
- “A Transparent Narrative: The Lives of *The 9/11 Commission Report*.” Association for the Study of Law, Culture and Humanities Annual Meeting. Washington, March 2007.
- “The Dependency of Independence: 9/11 and the Independent Commission Form.” Brooklyn Law School Faculty Workshop, January 2007.
- “Takings, Version 2005: The Legal Process of Constitutional Property Rights.” Florida State University Law School Faculty Workshop, September 2006.
- “Regulating Land Use in a Constitutional Shadow: The Institutional Contexts of Exactions.” Law & Society Association Annual Meeting. Baltimore, July 2006.
- “The ‘Naked’ Brand: Transparency and the Branded IPO.” *Harvard Negotiation Law Review* Symposium: The MasterCard IPO: Protecting the Priceless Brand. Cambridge, April 2006.
- “Data Security and Intellectual Property” (panel moderator and respondent). Data Devolution: Corporate Information Security, Consumers and the Future of Regulation, Center for Information Research, University of Florida, February 2006.
- “When Does Dicta Become Law? Land Use Bargaining in Law and Practice under the Court’s Functional Equivalence Approach to Takings.” Richard E. Nelson Symposium, Levin College of Law, University of Florida. November 2005.

- “Making Sense of Federal Constitutional Takings After the 2004-05 U.S. Supreme Court Term.” Ninth Annual Conference of Florida Eminent Domain Attorneys, Tampa. October 2005.
- “The Spaces of Government Secrecy.” Concordia University. Montreal, September 2005.
- “Murray Edelman and the Study of Political and Legal Symbols.” Law & Society Association Annual Meeting. Las Vegas, June 2005.
- “The Spaces of Government Secrecy.” International Roundtable for the Semiotics of Law. McGill University, Montreal, Canada, April 2005.
- “The Opacity of Transparency.” Stetson Law School, St. Petersburg, Florida, January 2005.
- “The Opacity of Transparency.” Association for the Study of Law, Culture and the Humanities Annual Meeting, Hartford, Connecticut, March 2004.
- “Takings Formalism, Regulatory Formulas: Exactions and the Consequences of Clarity.” Southern Methodist University, Dallas, December 2003.
- “The Opacity of Transparency.” Levin College of Law, University of Florida, August 2003.
- “Takings Formalism, Regulatory Formulas: Exactions and the Consequences of Clarity.” Southeastern Association of Law Schools, Amelia Island, Florida, July 2003.
- “Disclosure’s Promise and Secrecy’s Peril: Government Information Policy in American Political and Popular Culture.” America Institute, Ludwig Maximilians University and the Bavarian American Academy, Munich, Germany, June 2003.
- “Information Does Not Wish to Be Free: Secrecy and the Desire for Transparent Governance.” Law & Society Association Annual Conference: Pittsburgh, PA, June 2003.
- “The Glorious Symbols of Administration: Thurman Arnold, Legal Realism, and an Alternative History of Administrative Law.” Law & Society Association Annual Conference: Pittsburgh, PA, June 2003.
- “Disclosure’s Promise and Secrecy’s Peril: Government Information Policy in American Political and Popular Culture.” Institute of English and American Studies, Friedrich Alexander University, Nuremberg, Germany, January 2003.
- “Balancing Takings and Givings: Rethinking Land Use Bargaining under Heightened Scrutiny.” Faculty Workshop, Levin College of Law, University of Florida: November 2002.
- “Constructing the Shape and Image of the Local.” American Studies Association: Houston, November 2002.

“The Symbols of Governance: Thurman Arnold and Cultural (Legal) Realism.” American Bar Foundation Seminar Series: Chicago, October 2002.

“The Symbols of Governance: Thurman Arnold and the Cultural Study of Law.” Columbia, USC & Georgetown Law & Humanities Interdisciplinary Junior Scholar Workshop: Los Angeles, June 2002.

“The Folklore of Populist Symbols: Thurman Arnold Meets Cultural Studies.” Law & Society Association Annual Conference: Chicago, June 1999.

“Community by Contract and Design: Cohousing, Community Associations, and Property Relations.” Law & Society Association Annual Conference: Aspen, Colorado, June 1998.

### **Short Writings**

Review of *Rules of the Road: The Automobile and the Transformation of American Criminal Justice* by Spencer Headworth, 51 INTERNATIONAL JOURNAL OF COMMUNICATIONS 137-139 (2024).

Review of *FDR's Gambit: The Court Packing Fight and the Rise of Legal Liberalism* by Laura Kalman, 51 HISTORY: REVIEWS OF NEW BOOKS 137-139 (2023).

Review of *Secret Government: The Pathologies of Publicity* by Brian Kogelmann, 85 REVIEW OF POLITICS 262-64 (2023).

Reporter on *Food Marketing Institute v. Argus Leader Media* (argument preview, argument analysis, opinion analysis), SCOTUSBLOG (2019).

Review of *American Conspiracy Theories* by Joseph Uscinski and Joseph Parent (Oxford University Press, 2014) in 15 PERSPECTIVES ON POLITICS (March 2017): 54-55.

“Alternative Country” and “New Country,” in *The Continuum Encyclopedia of Popular Musics of the World, Part III: Genres*, John Shepherd, David Horn, and Dave Laing, eds. (2007).

“Buck Owens” and various other entries, in *The Encyclopedia of Country Music*, Paul Kingsbury ed. (Oxford University Press, 1998).

Reviews of *Performing Rites: On the Value of Popular Music*, by Simon Frith, and *Rhythm and Noise: An Aesthetics of Rock*, by Theodore Gracyk, *Journal of Communication*, 46 (1997): 152-55.

Review of *Dissonant Identities: The Rock 'n' Roll Scene in Austin, Texas*, by Barry Shank, *American Studies* Vol. 36 (1995): 177-79.

Reviews of *Singing Cowboys and Musical Mountaineers*; *The Stonemans: An Appalachian Family and the Music That Shaped Their Lives*; and *Travelling the High Way Home: Ralph Stanley and the World of Traditional Bluegrass Music*, *Popular Music* Vol. 14 (1994): 265-71.

“Authorizing Memory, Remembering Authority: A Review of Michael Schudson’s *Watergate in American Memory: How We Remember, Forget, and Reconstruct the Past*, and Barbie Zelizer’s *Covering the Body: The Kennedy Assassination, the Media, and the Shaping of Collective Memory*,” *Postmodern Culture* 4, no.1, n.p, 1993.

“Writing the Suburb: Review of *The Written Suburb*, by John Dorst,” *Journal of Communication* 40 (1990): 142-44.

### **Other Invited Presentations and Conference Papers**

“*Koontz v. SJRWMD*: Implications for Florida Environmental, Land Use, and Real Property Lawyers & Their Clients.” Webinar for Environmental and Land Use Law Section of the Florida Bar, July 2014.

“Making Sense of Federal Constitutional Takings After the 2004-05 U.S. Supreme Court Term.” Florida Eminent Domain Institute Conference: Tampa, May 2005.

“Why There Isn’t a Crisis in Intellectual Property (But Should Be).” International Communication Association: Montreal, Quebec, May 1997.

“Pathology, Seduction, Populism: Conceptualizing Conspiracy Theory as a Popular Political Practice.” Discerning the Right Conference: University of Wisconsin-Milwaukee, March 1996.

“A Hi Sound: The Political Economy of Sound and the Crisis of Intellectual Property.” International Association for the Study of Popular Music: Glasgow, Scotland, June 1995.

“Class, Culture, and the Problem of Country Music.” American Studies Association: Nashville, TN, October 1994.

“Space and Identity in the Transnational Cultural Economy of Popular Music.” International Association for the Study of Popular Music Conference: Stockton, California, June 1993.

“Sensing the End: Popular Christian Eschatology, Historiography, and the Struggle Over History.” International Communication Association: Washington, D.C., May 1993.

“‘The Paranoid Style’: Historical Counter-Narrative and the Cinematic Representation of Conspiracy.” Society for Cinema Studies: New Orleans, February 1993.

“The Problem of the Local in the International Music Industry.” Indiana University Department of Telecommunications Research Colloquium: Bloomington, IN, October 1992.

- “Incorporating Rap: The Mainstream Media’s Response to an Emergent Form of Popular Music.” Union for Democratic Communications: Peterborough, Ontario, May 1992
- “Breaking Traditions: Cultural Studies and Philosophy Meet Country Music.” American Philosophical Association, Middle States Division: Louisville, April 1992.
- “Consumers’ Guides: Pop Music Criticism and Pop Music Practice.” Popular Culture Association: Louisville, March 1992.
- “Boxing In, Opening Out: The Boxed Set and the Politics of Musical Production and Consumption.” International Association for the Study of Popular Music: Chicago, October 1991.
- “Flow and Devour: Post-Fordism as a Landscape for the Economic and Institutional Restructuring of the International Popular Music Industry.” International Communication Association: Chicago, May 1991.
- “Homocore and Homopunks: The Articulation of Homosexuality and Punk Rock.” International Communication Association: Chicago, May 1991.
- “Excess, Containment, Ambivalence: *Less Than Zero* as a Teen Film.” Society for Cinema Studies, Washington, D.C.: May 1990.
- “Whose Flow, Flowing Where?: Television Studies in Search of a Text.” Ohio University/ Wide Angle Film Conference, Athens, Ohio: November 1989.
- “The Problem of Taste, The Problematic of Culture: A Re-evaluation of Taste Cultures.” International Communication Association, San Francisco: May 1989 (Top Four Paper, Philosophy of Communication Division).
- “Elvis: The Popular Figure in a Consumptive Society.” International Communication Association, New Orleans: June 1988.
- “Country Music Videos: Development, Maturity, Crossover.” International Association for the Study of Popular Music, Pittsburgh: April 1987.

### **Manuscript and Grant Reviewer**

*American Political Science Review*  
*Anthropologie et Sociétés*  
*Columbia Law Review*  
*Critical Studies in Mass Communications*  
*Cultural Studies*  
*Democracy and Security*  
*Election Law Journal*

*Ethics and International Affairs*  
*Frontiers in Communication*  
*Genealogy*  
*Globalizations*  
*Governance*  
*Housing and Society*  
*International Journal of Communication*  
*International Review of Administrative Sciences*  
*Journal of International Political Theory*  
*Journal of International Relations & Development*  
*Journal of Planning Education and Research*  
*Land Use & Environmental Law Review* (editorial review board member)  
*Law & Society Review*  
*Open Cultural Studies*  
*Patterns of Prejudice*  
*Philosophy East and West*  
*PLOS One*  
*Poetics: Journal of Empirical Research on Culture, the Media and the Arts*  
*Regulation and Governance*  
*Routledge Open Research*  
*Security Dialogue*  
*Social Theory and Practice*  
*Stanford Law Review*  
*Theory, Culture and Society*  
*University of Toronto Quarterly*  
*Yale Law Journal*  
Bloomsbury Academic Press (U.K.)  
Cambridge University Press  
Camden House  
Cornell University Press  
Johns Hopkins University Press  
MIT University Press  
Oxford University Press  
Palgrave Macmillan  
Routledge  
University of Alabama Press  
University of Chicago Press  
University of Georgia Press  
University of Michigan Press  
University of Minnesota Press  
Council for the Humanities of the Netherlands Organization for Scientific Research  
Dutch Research Council, Social Sciences and Humanities Domain  
European Research Council  
European Science Foundation  
Independent Social Research Foundation (U.K.)  
Institut d'études avancées de Paris

Israel Science Foundation  
 Netherlands Institute for Advanced Study in the Humanities and Social Sciences

## **Media Appearances**

**VIDEO:** Bloomberg Quicktake; CNBC; CNN; CBC News with Michael Serapio (Canadian Broadcasting Company); *The National* (Canadian Broadcast Company); France 24; The World (Australian Broadcasting Company); The News with Brian Williams (CNBC/ MSNBC); Vox Media (explainer); Connect with Mark Kelley (CBC News Network); History Channel; ZDF German Television; KBDI-TV Denver (Public Television); KMSP-TV Minneapolis-St. Paul (Fox Affiliate); Russia Today (Latin America); Voice of America (Russia); WVUE-TV (Fox Affiliate).

**PUBLIC RADIO:** *Here and Now* (NPR); “World Tonight” (BBC Radio 4); Australian Broadcasting Company; Background Briefing with Ian Masters (KPFK-FM, Los Angeles and syndicated); *The Current* (Canadian Broadcasting Company); CBC affiliate stations (Edmonton, Halifax, Kelowna, St. Johns, Saskatoon, Thunder Bay, Toronto, Vancouver, Whitehorse, Winnipeg, Yellowknife); German Radio (Cologne); 103.2 Dublin (Ireland) City FM; *On the Media* (NPR syndicated show); *RadioWest*, KUER-FM, Salt Lake City (syndicated to XM Satellite Radio); *To the Point*, KCRW-FM, Santa Monica (also syndicated via Public Radio International); *Todd Mundt Show* (syndicated to NPR stations); *Odyssey*, WBEZ-FM, Chicago (also syndicated to NPR stations); *Brian Lehrer Show*, WNYC-FM, New York; *Marc Cooper Show*, KCRW-FM, Santa Monica; *Against the Grain*, KPFA-FM, Berkeley (also syndicated to Pacifica stations); WANC-FM, Albany, NY; *Colin McEnroe Show*, WNPR-FM, Hartford Connecticut; Alabama Public Radio (state-wide news show); Minnesota Public Radio (state-wide morning talk show); Wisconsin Public Radio (state-wide morning talk show).

**COMMERCIAL RADIO:** “Eddie and Rocky,” WLW-AM- Cincinnati; “Clout!” (Air America Radio network); WGN-AM, Chicago (Milt Rosenberg Show); 570-AM News, Toronto; “Fieger Time” (Detroit-based syndicated radio talk show); WSJS-AM, Winston-Salem, NC; KCOL-AM, Loveland, CO; WBAL-AM, Baltimore; WTOP-AM, Washington, DC; KSSZ-FM, Columbia, MO; WFLA-AM/FM/ iHeart Radio, Tampa.

**MAGAZINES (PRINT AND ONLINE):** *The Atlantic*; *Bloomberg Businessweek*; *Chronicle of Higher Education*; *Florida Trend*; *The Forward*; *Men’s Health*; *Miller-McCune*; *New York Times Sunday Magazine*; *Newsweek*; *New Yorker*; *People*; *Psychiatric News*; *Spin*; *U.S. News & World Report*; *The Week*; *Wired*.

**NATIONAL U.S. NEWSPAPERS AND WIRE SERVICES:** Associated Press; *Bloomberg News*; *Christian Science Monitor*; Forum Communications (regional US wire service serving newspapers in the upper Midwest); *New York Times* (multiple stories and columns, including in “Room for Debate” forum, some reproduced in local and regional newspapers); *Los Angeles Times*; *The Nation*; *Reuters*; *USA Today*; *Wall Street Journal*; *Washington Post*.

**LOCAL DAILY U.S. NEWSPAPERS:** *Atlanta Journal-Constitution*; *Arizona Republic*; Associated Press; *Atlanta Journal-Constitution*; *Baltimore Sun*; *Boston Globe*; *Columbus Dispatch*; *Gainesville (FL) Sun*; *Hartford Courant*; *Houston Chronicle*; *Florida Today* (Brevard County); *Kansas City Star*; *Miami Herald*; *Milwaukee Journal-Sentinel*; *New York Newsday*; Newhouse News Service (wire story picked up by numerous newspapers); Newark



(NJ) *Star-Ledger*; Northport (FL) *Sun*; Orlando *Sentinel*; Palm Beach *Post*; Richmond *Times-Dispatch*; Rocky Mountain *News*; Sacramento *News & Review*; Scripps-Howard News Service (multiple wire stories picked up by dozens of newspapers); South Florida *Sun-Sentinel*; St. Paul (MN) *Pioneer Press*; Tampa Bay (FL) *Times*; *Treasure Coast* (FL) *Newspapers*/TCPalm.com; San Francisco *Chronicle*; *Valley News* (Upper River Junction, VT and Hanover, NH); Washington *Times*.

LOCAL MAGAZINES: Boulder *Weekly*; Jacksonville *Business Journal*; Minneapolis/ St. Paul *City Pages*; Ventura County (CA) *Reporter*; *Village Voice*.

INTERNATIONAL MAGAZINES: *Galileu* (Brazil); *Infobae* (Argentina); *Maclean's* (Canada); *New Internationalist* (England); *Respekt* (Czech Republic); *Der Spiegel* (Germany).

INTERNATIONAL NEWSPAPERS: *Asahi Shimbun* (Japan); *The Australian*; *El Confidencial* (Spain); *Financial Times*; *Frankfurter Allgemeine Zeitung* (Frankfurt, Germany); *The Independent* (U.K.); *Libération* (France); *The National* (United Arab Emirates); *Mittelbadische Presse* (Offenburg, Germany); *National Post* (Canada); *Observador* (Portugal); *news.de* (German news website); *Público* (Spain); *la Repubblica* (Italy); *Telegraph* (India); *Telengana Today* (India); Toronto *Star*.

ONLINE PUBLICATIONS: Al Jazeera Stream (web-streamed news discussion show); alternet.org (news story); Atlas Obscura (news story); BTRread (news story); Business Insider; Common Dreams; Colorado Times-Recorder (news story); Concurring Opinions (guest blogger); Daily Beast (news story); DCist (news story); Florida Bulldog (news story); Florida Current (multiple news stories); Huffington Post (columns and news stories); iMedia (blog op-ed); Law & Crime: A Dan Abrams Production (news story); MSNBC (new story); National Public Radio website (news story); NBCNews.com (news story); *New York Times* Room for Debate (invited contributor to online forum); Opposing Views; Politifact, Poynter Institute (news story); Prawfsblawg (recurring guest blogger); Pando Daily (news story); ROROTOKO (interviewee); Salon (news story); SCOTUSBLOG (case reporter); Slate (news stories and podcast); Spotlight Delaware (news story); Spotlight PA (news story) Talking Points Memo (news story and public chat session); TechNewsWorld (news story); *Texas Tribune* (new story); ThinkProgress (news story); *The Verge* (news story); *Vice Magazine* online (news story); *Vice Motherboard Germany* (news story); Vocativ (news story); Vox.com (explainer); *Washingtonian* (website interview); WLJA-TV (Washington) news website.

PODCASTS: Culture Machine Live (culturemachine.net); Daily Zeitgeist; New Books Network: National Security; Salon.com podcast with Amanda Marcotte; Taboo Trades.

## **Citations by Courts**

*Osen LLC v. United States Central Command*, 969 F.3d 102 (2d Cir. 2020) (concurrence) (citing “The Opacity of Transparency”).

*State v. Daniel B.*, 201 A.3d 989 (Conn. 2019) (dissent) (citing “The Dramas of Criminal Law”).

*Phillips v. Montgomery County*, 442 S.W.3d 233 (Tenn. 2014) (citing “The Stubborn Incoherence of Regulatory Takings”).

*Smith v. Township of Richmond*, 82 A.3d 407 (Pa. 2013) (citing “The Opacity of Transparency”).

*St. Johns River Water Management Dist. v. Koontz*, 5 So.3d 8 (Fla. Dist. Ct. App. 2009) (both majority and dissent citing “Takings Formalism and Regulatory Formulas: Exactions and the Consequences of Clarity”).

### **Professional Organizations**

Member, Bars of New York (active status) and California (inactive status)  
American Association of Law Schools  
American Bar Association  
Law & Society Association

### **Law School and University Service**

Associate Dean for Faculty Development, 2009-11  
Promotion and Tenure Committee, 2018-19 (chair), 2011-2012, 2019-2021 (member), 2023 (member), 2025 (member)  
Academic Standards Committee 2023-24 (chair)  
Advisor, *Florida Law Review*, 2016-2021  
Non-Tenure Track Appointments and Promotion and Tenure Committee, 2017-18  
Chair, Judicial Clerkship Committee, 2015-2016  
International Programs Committee, 2013-2016  
Law School Appointments Committee, 2006-07, 2009-11  
Oversaw Development of Real Estate Transactions Curriculum, 2008-09  
Law School Curriculum Committee, 2005-06, 2008-09  
Law School Representative, Joint Appointments Committee of Law School and Department of Urban and Regional Planning, 2006-07  
Dean’s Ad Hoc Committee on Technology, 2005  
Law School Representative, University of Florida Community Campaign, 2005-06  
Academic Standards Committee, 2003-05  
Adviser, Intellectual Property and Technology Law Association, 2005-06  
Environmental and Land Use Law Program Committee member, 2001-07  
Adjunct Faculty Committee, 2001-03, 2014

### **Professional Legal Experience**

Pre-litigation expert retained in dispute regarding application of Florida’s Sunshine Law and Public Records Act to performing arts center, July 2016-July 2017.

Co-author of brief for the Florida Association of Criminal Defense Lawyers in support of petitioner in *Asay v. State*, Florida Supreme Court, February 2016.

Co-author (with John Echeverria) of brief for the State and Local Legal Center, the National Governors’ Association (and others) in support of Respondent in *Koontz v. St. Johns Water Management District*, U.S. Supreme Court, October 2012 Term; and for the Florida Leagues

of Cities and Counties' amicus brief in *St. Johns Water Management District v. Koontz*, 77 So.3d 1220 (Fl. 2011), on the side of petitioner.

Retained as expert by the City of Miami regarding Fifth Amendment regulatory takings litigation in *MCZ/Centrum Flamingo II, LLC v. City of Miami Beach*, in U.S. District Court, Southern District of Florida, 2009 (settled out of court in city's favor).

Land Use and Environmental Law Fellow, Shute, Mihaly & Weinberger, San Francisco, California, 1999-2001. Represented environmental groups and local governments in Northern California in litigation, legislative, and regulatory efforts to control development and to conserve natural resources and open space.

Law Clerk, Judge Carlos F. Lucero, U.S. Court of Appeals of the Tenth Circuit, Denver, Colorado, 1998-99.

Member, Committee for Democratic Communications, 1996-2001. Assisted in efforts to defend illegal microradio broadcasters and to establish legal low power radio broadcasting.

### **Other Academic Employment**

Assistant Professor, Mass Communications, Shenandoah University, 1993-95.

Visiting Assistant Professor, Telecommunications Department, Indiana University (Bloomington), 1991-93.

Teaching Assistant, Civil Procedure (Professor Judith Resnik), Yale Law School, Fall 1997.

Conference Coordinator, Critical Race Theory conference, Yale Law School, 1997.

### **Education**

J.D. Yale Law School, June 1998.

Ph.D. University of Illinois at Urbana-Champaign, Institute of Communications Research, May 1992.

M.A. University of Texas at Austin, May 1988 (media and cultural studies).

B.A. University of Virginia, May 1985.