

New Legal Realism Readings on Comparative Institutional Analysis

Agrawal, Gail B., Resuscitating Professionalism: Self-Regulation in the Medical Marketplace, 66 *Mo. L. Rev.* 341 (Spring 2001).

Aprill, Ellen P., The Interpretive Voice, 38 *Loy. L.A. L. Rev.* 2081 (December 2005).

Aranda, Ben, Inducing a Remedy or Courting a Solution? A Comparative Institutional Analysis of the P2P Dilemma, 50 *St. Louis L.J.* 851 (Spring 2006).

Barnes, Jeb, In Defense of Asbestos Tort Litigation: Rethinking Legal Process Analysis in a World of Uncertainty, Second Bests, and Shared Policy-Making Responsibility, 34 *Law & Soc. Inquiry* 5 (Winter 2009)

Barton, Benjamin H., An Institutional Analysis of Lawyer Regulation: Who Should Control Lawyer Regulation? Courts, Legislatures, or the Market?, 37 *Ga. L. Rev.* 1167 (Summer 2003).

Bell, Bernard W., Using Statutory Interpretation to Improve the Legislative Process: Can It Be Done in the Post-Chevron Era?, 13 *J. L. & Politics* 105 (Winter 1997).

Bellia, Patricia L., Designing Surveillance Law, 43 *Ariz. St. L.J.* 293, (2011).

Benoiel, Daniel, Cyberspace Technological Standardization: An Institutional Theory Retrospective, 18 *Berkeley Tech. L.J.* 1259 (Fall 2003).

Blackman, Keith, The Uniform Domain Name Dispute Resolution Policy: A Cheaper Way to Hijack Domain Names and Suppress Critics, 15 *Harv. J. Law & Tec.* 211 (Fall 2001).

Block-Lieb, Susan, The Logic and Limits of Contract Bankruptcy, 2001 *U. Ill. L. Rev.* 503 (2001).

Brennan, Troyen A., Environmental Torts, 46 *Vand. L. Rev.* 1 (January 1993).

Buzbee, William W., Asymmetrical Regulation: Risk, Preemption, and the Floor/Ceiling Distinction, 82 *N.Y.U.L. Rev.* 1547 (December 2007).

Buzbee, William W., A Sprawl's Dynamics: A Comparative Institutional Analysis Critique, 35 *Wake Forest L. Rev.* 509 (Fall 2000).

Buzbee, William W., Urban Sprawl, Federalism, and the Problem of Institutional Complexity, 68 *Fordham L. Rev.* 57 (October 1999).

Carstensen, Peter C. and Olszowka, Paul, Antitrust Law, Student-Athletes, and the NCAA: Limiting the Scope and Conduct of Private Economic Regulation, 1995 *Wis. L. Rev.* 545 (May/June 1995).

Cho, Sungjoon, Beyond Rationality: A Sociological Construction of the World Trade Organization, 52 *Va. J. Int'l L.* 321 (Winter, 2012).

Clarke, Donald C., Law Without Order in Chinese Corporate Governance Institutions, 30 *Nw. J. Int'l L. & Bus.* 131 (Winter 2010).

Clune, William H., Courts and Legislatures as Arbitrators of Social Change, 93 *Yale L.J.* 763 (March 1984).

Coan, Andrew B., Judicial Capacity and the Substance of Constitutional Law, 122 *Yale L.J.* 422 (2012).

Coan, Andrew B., Is There a Constitutional Right to Select the Genes of One's Offspring?, 63 *Hastings L.J.* 233, (December, 2011).

Coan, Andrew B., Assisted Reproductive Equality: An Institutional Analysis, 60 *Case W. Res.* 1143 (Summer 2010)

Cole, Daniel H., Taking Coase Seriously: Neil Komesar on *Law's Limits*, 29 *Law & Soc. Inquiry* 261 (Winter 2004).

Cole, Daniel H., The Importance of Being Comparative, 33 *Ind. L. Rev.* 921 (2000).

Cole, Daniel H., From Local to Global Property: Privatizing the Global Environment?: Clearing the Air: Four Propositions about Property Rights and Environmental Protection, 10 *Duke Env. L. & Pol'y F.* 103 (Fall 1999).

Cotter, Thomas F., Legal Pragmatism and the Law and Economics Movement, 84 *Geo. L.J.* 2071 (June 1996).

Crandall, Carla, Comparative Institutional Analysis and Detainee Legal Policies: Democracy as a Friction, Not a Fiction, 2010 *B.Y.U.L. Rev.* 1339.

Cross, Frank B., Shattering the Fragile Case for Judicial Review of Rulemaking, 85 *Va. L. Rev.* 1243 (October 1999).

Dau-Schmidt, Kenneth G., Employment Security: A Comparative Institutional Debate, 74 *Tex. L. Rev.* 1645 (June 1996).

Dau-Schmidt, Kenneth G., Meeting the Demands of Workers into the Twenty-First Century: The Future of Labor and Employment Law, 68 *Ind. L.J.* 685 (Summer 1993).

Devins, Neal, A, Congressional Factfinding and the Scope of Judicial Review: a Preliminary Analysis, 50 *Duke L.J.* 1169 (March 2001).

Doherty, Benjamin A., Creative Advocacy in Defense of Affirmative Action: A Comparative Institutional Analysis of Proposition 209, 1999 *Wis. L. Rev.* 91 (1999).

Drees, Marilyn F., Do State Legislatures Have a Role in Resolving the _Just Compensation_ Dilemma? Some Lessons from Public Choice and Positive Political Theory, 66 *Fordham L. Rev.* 787 (December 1997).

Driesen, David M. and Ghosh, Shubha, The Functions of Transaction Costs: Rethinking Transaction Cost Minimization in a World of Friction, 47 *Ariz. L. Rev.* 61 (Spring 2005).

Duarte, Cristina, The Family and Medical Leave Act of 1993: Paying the Price for an Imperfect Solution, 32 *U. of Louisville J. of Fam. L.* 833 (Fall 1994).

Duke, Joshua M. And Csoboth, Laura A., Increased Scientific Capacity and Endangered Species Management: Lessons from the Red Wolf Conflict, 8 *Drake J. Agric. L.* 539 (Fall 2003).

Dunoff, Jeffrey L. and Trachtman, Joel P., Economic Analysis of International Law , 24 *Yale J. Int'l L.* 1 (Winter 1999).

Edgar, Christopher R., The Traditional State Function Doctrine: A Comparative Institutional Perspective, 1 *NYU J.L. & Liberty* 856 (2005).

Eskridge Jr., William N. , Philip P. Frickey & Elizabeth Garrett, Cases and Materials on Legislation: Statutes and the Creation of Public Policy 818-30 (4th ed. 2007)

Estin, Ann Laquer, Love and Obligation: Family Law and the Romance of Economics, 36 *Wm. and Mary L. Rev.* 989 (Winter 1995).

Fagin, Matthew, Pasquale, Frank and Weatherall, Kim, Beyond Napster: Using Antitrust Law to Advance and Enhance Online Music Distribution, 8 *B.U. J. SCI. & TECH. L.* 451 (Summer 2002).

Fennell, Lee Anne, Homeownership 2.0, 102 *Nw. U.L. Rev.* 1047 (Summer 2008).

Fennell, Lee Anne, Taking Eminent Domain Apart, 2004 *Mich. St. L. Rev.* 957 (Winter 2004).

Fenster, Mark, Litigating Takings Challenges to Land Use and Environmental Regulations: 14th Annual Conference - November 18, 2011: Vermont Law School & Georgetown University Law Center: Failed Exactions, 36 *Vt. L. Rev.* 623, (Spring 2012).

Fisch, Jill E., Measuring Efficiency in Corporate Law: The Role of Shareholder Primacy, 31 *Iowa J. Corp. L.* 637 (Spring 2006).

Fisch, Jill E., The Peculiar Role of the Delaware Courts in the Competition for Corporate Charters, 68 *U. Cin. L. Rev.* 1061 (Summer 2000).

Fitzpatrick, Daniel, Evolution and Chaos in Property Rights Systems: The Third World Tragedy of Contested Access, 115 *Yale L.J.* 996 (March, 2006).

Freiwald, Susan, Comparative Institutional Analysis in Cyberspace: The Case of Intermediary Liability for Defamation, 14 *Harv. J. Law & Tec.* 569 (Spring 2001).

Friebus, David M., A New Uncertainty in Local Land Use: A Comparative Institutional Analysis of *State v. Outagamie County Board of Adjustment*, 2003 *Wis. L. Rev.* 571 (2003).

Frischmann, Brett and Waller, Spencer Weber, Revitalizing Essential Facilities, 75 *Antitrust L.J.* 1 (2008).

Fuentes-Rohwe, Luis, Looking for a Few Good Philosopher Kings: Political Gerrymandering as a Question of Institutional Competence, 43 *Conn. L. Rev.* 1157, (May 2011).

Garrett, Elizabeth and Vermeule, Adrian, Institutional Design of a Thayerian Congress, 50 *Duke L.J.* 1277 (March 2001).

Ghosh, Shubha, A Copyright as Privatization: The Case of Model Codes, 78 *Tul. L. Rev.* 653 (February 2004).

Ghosh, Shubha, A Deprivatizing Copyright, 54 *Case W. Res.* 387 (Winter 2003).

Gold, Andrew S., A Decision Theory Approach to the Business Judgment Rule: Reflections on Disney, Good Faith, and Judicial Uncertainty, 66 *Md. L. Rev.* 398 (2007).

Goldberger, David, The Power of Special Interest Groups to Overwhelm Judicial Election Campaigns: The Troublesome Interaction Between the Code of Judicial Conduct, Campaign Finance Laws, and the First Amendment, 72 *U. Cin. L. Rev.* 1 (Fall 2003).

Goodwin, Michele, *Black Markets: The Supply & Demand of Body Parts* (Cambridge U Press, 2006).

Goodwin, Michele, Altruism's Limits: Law, Capacity, and Organ Commodification, 56 *Rutgers L. Rev.* 305 (Winter 2004).

Grunow, J. Otto, Wisconsin Recognizes the Power of the Sun: *Prah v. Maretti* and the Solar Access Act, 1983 *Wis. L. Rev.* 1263 (September 1983/October 1983).

Hall, Mark A., *MAKING MEDICAL SPENDING DECISIONS: THE LAW, ETHICS, AND ECONOMICS OF RATIONING MECHANISMS* (Oxford 1997).

Hanewicz, Wayne O., Director Primacy, Omnicare, and the Function of Corporate Law, 71 *Tenn. L. Rev.* 511 (Spring 2004).

Hanewicz, Wayne O., When Silence is Golden: Why the Business Judgment Rule Should Apply to No-Shops in Stock-for-Stock Merger Agreements, 28 *Iowa J. Corp. L.* 205 (Winter 2003).

Hemingway, Joan MacLeod, Rock, Paper, Scissors: Choosing the Right Vehicle for Federal Corporate Governance Initiatives, 10 *Fordham J. Corp. & Fin. L.* 225 (2005)

Henderson, Jr., James A., Contracts Constitutive Core: Solving Problems by Making Deals, 2012 *U. Ill. L. Rev.* 89. (2012).

Higgs, Robert and Close, Carl P., *RE-THINKING GREEN: ALTERNATIVES TO ENVIRONMENTAL BUREAUCRACY* (Paperback - Jul 15, 2005).

Hirshman, Linda R., Trends in the Law: Postmodern Jurisprudence and the Problem of Administrative Discretion, 82 *Nw. U.L. Rev.* 646 (Spring 1988).

Hyman, David A. and Hall, Mark, Two Cheers For Employment-Based Health Insurance, Fall, 2 *Yale J. Health Pol'y L. & Ethics* 23 (Fall 2001).

Kendall, Walter, Reflections on Judicial Review and the Plight of the Poor in a World Where Nothing Works, 37 *J. Marshall L. Rev.* 555 (Winter 2004).

Keyes, Lisa Janovy, Rethinking the Aim of the _War on Drugs_: States= Roles in Preventing Substance Abuse by Pregnant Women, 1992 *Wis. L. Rev.* 197 (January 1992/February 1992).

Knauer, Nancy J., Aging in the United States: Rethinking Justice, Equality, and Identity across the Lifespan, 21 *Temp. Pol. & Civ. Rts. L. Rev.* 305 (Spring, 2012).

Knauer, Nancy J., The Recognition of Same-Sex Relationships: Comparative Institutional Analysis, Contested Social Goals, and Strategic Institutional Choice, 28 *Hawaii L. Rev.* 23 (Winter 2005).

Knauer, Nancy J., Domestic Partnership and Same-sex Relationships: A Marketplace Innovation and a less than Perfect Institutional Choice, 7 *Temp. Pol. & Civ. Rts. L. Rev.* 337 (Spring 1998).

Knauer, Nancy J., Reinventing Government: The Promise of Institutional Choice and Government Created Charitable Organizations, 41 *N.Y.L. Sch. L. Rev.* 945 (1997).

Komesar, Neil K., In Search of a General Approach to Legal Analysis: A Comparative Institutional Alternative, 79 *Mich. L. Rev.* 1380 (1981).

Komesar, Neil K., The Revolution in Landlord-Tenant Law: A Comparative Institutional View, 69 *Cornell L. Rev.* 612 (1984).

Komesar, Neil K., Taking Institutions Seriously -- Introduction to a Strategy for Constitutional Analysis, 51 *U. Chi. L. Rev.* 366 (1984).

Komesar, Neil K., Lawyering Versus Continuing Relations in the Administrative Setting, 1985 *Wis. L. Rev.* 751.

Komesar, Neil K., On Liberty--An Institutional View, 1 *J. of Law, Ethics, & Public Policy* 851 (1985).

Komesar, Neil K., Back to the Future: An Institutional View of Making and Interpreting Constitutions, 81 *N.W. L. Rev.* 657 (1987).

Komesar, Neil K., Paths of Influence: Beard Revisited, 56 *G.W. L. Rev.* 124 (1987).

Komesar, Neil K., A Job for the Judges: The Judiciary and the Constitution in a Massive and Complex Society, 86 *Mich. L. Rev.* 657 (1988).

Komesar, Neil K., Privatization and Institutional Choice, 71 *Marq. L. Rev.* 534 (1988).

Komesar, Neil K., Injuries and Institutions: Tort Reform, Tort Theory and Beyond, 65 *N.Y.U. L. Rev.* 23 (1990).

Komesar, Neil K., "Politics and the Constitution," *Ency. of the Amer. Const.: Supplement* (1992), 370-373.

Komesar, Neil K., *Slow Learning in Constitutional Analysis*, 88 *N.W.L. Rev.* 212 (1993).

Komesar, Neil K., *Imperfect Alternatives -- Choosing Institutions in Law, Economics, and Public Policy* (U. of Chicago Press, 1994).

Komesar, Neil K., *Exploring the Darkness: Law, Economics and Institutional Choice*," 1997 *Wisc. L. Rev.* 465.

Komesar, Neil K., *The Perils of Pandora*, *Law and Social Inquiry* 801(1998).

Komesar, Neil K., "Law's Laws: The Supply and Demand of Rights" in *Beyond the Republic: Meeting the Challenges to Constitutionalism* (2000).

Komesar, Neil K., *Law's Limits-- The Rule of Law and the Supply and Demand of Rights* (Cambridge University Press, 2001).

Komesar, Neil K., *Reflections on The Essence of Economics, the Character of Courts, the Role of Ideology and the Reform of Legal Education*, *Law and Social Inquiry*

Komesar, Neil K., "Constitutionalism and the Reality of Rights" SSRN

Komesar, Neil K., *The Essence of Economics: Law, Participation and Institutional Choice (Two Ways)*, in *ALTERNATIVE INSTITUTIONAL STRUCTURES: EVOLUTION AND IMPACT* (Sandra Batie & Nicholas Mercurio eds., 2008)

Komesar, Neil K., *Stranger in a Strange Land: An Outsider's View of Antitrust and the Courts*, 41 *Loyola University Chicago L. J.* 443 (2010).

Kramer, Karl J., *The Most Dangerous Branch: An Institutional Approach to Understanding the Role of the Judiciary in American Indian Jurisdictional Determinations*, 1986 *Wis. L. Rev.* 989 (1986).

Ku, Julian and Yoo, John, *Beyond Formalism in Foreign Affairs: A Functional Approach to the Alien Tort Statute*, 2004 *Sup. Ct. Rev.* 153 (2004).

Leal-Arcas, Rafael, *The EU Institutions and Their Modus Operandi in the World Trading System*, 12 *Colum. J. Eur. L.* 125 (Winter 2005-2006).

Luigs, David A., *Book Review*, 93 *Mich. L. Rev.* 1559 (May 1995).

Lytton, Timothy D., *Lawsuits Against the Gun Industry: A Comparative Institutional Analysis*, 32 *Conn. L. Rev.* 1247 (Summer 2000).

Maduro, Miguel Poiaras, *WE, THE COURT* (Hardcover - Feb 1, 1998).

Maduro, Miguel Poiares, Three Claims of Constitutional Pluralism, in *Constitutional Pluralism and Beyond*, Matej Avbelj and Jan Komarek (eds), Hart Publishing, Oxford, 2012. Also published in Greek in *Efarmoges Dimosiou Dikaiou*.

Maduro, Miguel Poiares, Courts and pluralism: essay on a theory of judicial adjudication in the context of legal and constitutional pluralism, in *Ruling the World? Constitutionalism, International Law, and Global Governance*, Jeffrey Dunoff, and Joel Trachtman (eds), Cambridge University Press, 2008

Maduro, Miguel Poiares, Interpreting European Law: Judicial Adjudication in a Context of Constitutional Pluralism (2007) *EJLS*, Vol.1 No. 2 (an amended version has been published as *Interpreting European Law – On Why and How Law and Policy Meet at the European Court of Justice*, in Koch, Hagel-Sørensen, Haltern and Weiler, *Europe – The New Legal Realism, Essays in Honour of Hjalte Rasmussen*, Copenhagen, Djøf Publishing, 2010.

Maduro, Miguel Poiares, From Constitutions to Constitutionalism: A Constitutional Approach for Global Governance, in *Global Governance and the Quest for Justice – Volume I: International and Regional Organisations*, D. Lewis (ed), Hart Publishing, Oxford, 2006.

Maduro, Miguel Poiares, Europe and the Constitution: What If This Is As Good As It Gets?, in Marlene Wind and Joseph Weiler (eds), *Constitutionalism Beyond the State*, (Cambridge: Cambridge University Press, 2003) pp. 74-102.

Maduro, Miguel Poiares, Contrapunctual Law: Europe's Constitutional Pluralism in Action, in Neil Walker (ed.), *Sovereignty in Transition*, (Oxford: Hart Publishing, 2003) pp. 502-537. Also published in German: *Der Kontrapunkt im Dienste eines europäischen Verfassungsp pluralismus*, in *EUR Europarecht*, 2007, *Nomos*, p. 3-31.

Massa, Salvatore, The Standards of Review for Agency Interpretations of Statutes in Wisconsin, 83 *Marq. L. Rev.* 597 (Spring 2000).

Mayer, Lloyd Hitoshi and Wilson, Brendan M., Regulating Charities in the Twenty-First Century: An Institutional Choice Analysis, 85 *Chi.-Kent L. Rev.* 479 (2010).

McDonnell, Brett, Esops' Failures: Fiduciary Duties When Managers of Employee-owned Companies Vote to Entrench Themselves, 2000 *Colum. Bus. L. Rev.* 199 (2000).

McGarity, Thomas O. And Wagner, Wendy E., *BENDING SCIENCE: HOW SPECIAL INTERESTS CORRUPT PUBLIC HEALTH RESEARCH* (Hardcover - May 31, 2008).

Mezell, Emily Hammond, Scientific Avoidance: Toward More Principled Judicial Review of Legislative Science, 84 *Ind. L.J.* 239 (Winter 2009).

Mehta, Jason, The Development of Federal Professional Responsibility Rules: The Effect of Institutional Choice on Rule Outcomes, 6 *Cardozo Pub. L. Pol'y & Ethics J.* 57 (Fall, 2007).

Merrill, Thomas W., Institutional Choice and Political Faith, 22 *Law & Soc. Inquiry* 959 (Fall 1997).

Moran, Beverly I. and Schneider, Daniel M., Spring, The Elephant and the Four Blind Men: The Burger Court and Its Federal Tax Decisions, 39 *How. L.J.* 841 (1996).

Nard, Craig Allen, A Theory of Claim Interpretation, 14 *Harv. J. Law & Tec.* 2 (Fall 2000).

Nourse, Victoria and Shaffer, Gregory, Varieties of New Legal Realism: Can a New World Order Prompt a New Legal Theory?, 95 *Cornell L. Rev.* 61 (November 2009).

Nourse, Victoria, The Vertical Separation of Powers, 49 *Duke L.J.* 749 (December 1999).

Nourse, Victoria, Toward a Due Foundation for the Separation of Powers: The Federalist Papers as Political Narrative, 74 *Tex. L. Rev.* 447 (February 1996).

Overby, A. Brooke, An Institutional Analysis of Consumer Law, 34 *Vand. J. Transnat'l L.* 1219 (November 2001).

Palmer, Larry I., Disease Management and Liability in the Human Genome Era, 47 *Vill. L. Rev.* 1 (2002).

Palmer, Larry I., Patient Safety, Risk Reduction, and the Law, 36 *Hous. L. Rev.* 1609 (1999).

Palmer, Larry I., Life, Death, and Public Policy 81 *Cornell L. Rev.* 161 (November 1995).

Perez, Antonio F., The International Recognition of Judgments: The Debate Between Private and Public Law Solutions, 19 *Berkeley J. Int'l L.* 44 (2001).

Pierce, Jr., Richard J., A Comment on Imperfect Alternatives: Choosing Institutions in Law, Economics, and Public Policy, 83 *Calif. L. Rev.* 941 (May 1995).

Pierce, Jr., Richard J., Public Utility Regulatory Takings: Should the Judiciary Attempt to Police the Political Institutions?, 77 *Geo. L.J.* 2031 (August 1989).

Pierce, Jr., Richard J., The Role of Constitutional and Political Theory in Administrative Law, 64 *Tex. L. Rev.* 469 (November 1985).

Pierdominici, Leonardo, "Constitutional Adjudication and the 'Dimensions' of Judicial Activism. Comparative Legal and Institutional Heuristics", in *Transnational Legal Theory*, Volume 3, Number 2, 2012 (forthcoming)

Pollis, Andrew S., The Need for Non-discretionary Interlocutory Appellate Review in Multidistrict Litigation, 79 *Fordham L. Rev.* 1643 (March, 2011).

Posner, Richard A., Reply: The Institutional Dimension of Statutory and Constitutional Interpretation, 101 *Mich. L. Rev.* 952 (February 2003).

Pugliese, III, Sebastian C., Environmental Justice: Lowering Barriers to Participation, 1995 *Wis. L. Rev.* 1177 (1995).

Rai, Arti K., AEngaging Facts and Policy: A Multi-institutional Approach to Patent System Reform, 103 *Colum. L. Rev.* 1035 (June 2003).

Rai, Arti K., Alntellectual Property Rights in Biotechnology: Addressing New Technology, 34 *Wake Forest L. Rev.* 827 (Fall 1999).

Rebell, Michael A., Poverty, Meaningful Educational Opportunity, and the Necessary Role of the Courts, 85 *N.C.L. Rev.* 1467 (June 2007).

Reeves, Steven Y., Speech-zilla Meets Trademark Kong?: How the Hollywood Circuit Got It Wrong in the Barbie Battle, *Mattel, Inc. v. MCA Records, Inc.*, 4 *Minn. Intell. Prop. Rev.* 285 (2003).

Richardson, L. Song, Convicting the Innocent in Transnational Criminal Cases: A Comparative Institutional Analysis Approach to the Problem, 26 *Berkeley J. Int'l L.* 62 (2008).

Robertson, Cassandra Burke, Transnational Litigation and Institutional Choice, 51 *B.C. L. Rev.* 1081 (September 2010).

Rosen, Mark D., The Surprisingly Strong Case for Tailoring Constitutional Principles, 153 *U. Pa. L. Rev.* 1513 (May 2005).

Rosen, Mark D., Should Un-American Foreign Judgments Be Enforced?, 88 *Minn. L. Rev.* 783 (April 2004).

Rubin, Edward L., *Beyond Camelot: Rethinking Politics and Law for the Modern State* (2007).

Rubin, Edward L. and Feeley, Malcolm M., Judicial Policy Making and Litigation Against the Government, 5 *U. Pa. J. Const. L.* 617 (April 2003).

Rubin, Edward L., The New Legal Process, the Synthesis of Discourse, and the Microanalysis of Institutions, 109 *Harv. L. Rev.* 1393 (April 1996).

Rubin, Edward L., Institutional Analysis and the New Legal Process, 1995 *Wis. L. Rev.* 463 (March/April 1995).

Rudd, Jeffrey, Regulating the Impacts of Engineered Nanoparticles under TSCA: Shifting Authority from Industry to Government, 33 *Colum. J. Envtl. L.* 215 (2008).

Sarumida, Hiroshi, Comparative Institutional Analysis of Product Safety Systems in the United States and Japan: Alternative Approaches to Create Incentives for Product Safety, 29 *Cornell Int'l L.J.* 79 (1996).

Schacter, Jane S., Metademocracy: The Changing Structure of Legitimacy in Statutory Interpretation, 108 *Harv. L. Rev.* 593 (January 1995).

Schneyer, Ted, Foreword: Legal Process Scholarship and the Regulation of Lawyers, 65 *Fordham L. Rev.* 33 (October 1996).

Schroeder, Christopher H., Cool Analysis Versus Moral Outrage in the Development of Federal Environmental Criminal Law, 35 *Wm. and Mary L. Rev.* 251 (Fall 1993).

Schwartz, David S., Mandatory Arbitration and Fairness, 84 *Notre Dame L. Rev.* 1247 (March 2009).

Segall, Eric J., The Skeptic's Constitution, 44 *UCLA L. Rev.* 1467 (June 1997).

Serkin, Christopher, Big Differences for Small Governments: Local Governments and the Takings Clause, 81 *N.Y.U.L. Rev.* 1624 (November 2006).

Shaffer, Gregory & Trachtman, Joel, Interpretation and Institutional Choice at the WTO, 52 *Va. J. Int'l L.* 103 (Fall 2011).

Shaffer, Gregory, A Structural Theory of WTO Dispute Settlement: Why Institutional Choice Lies at the Center of the GMO Case, 41 *N.Y.U. J. Int'l L. & Pol.* 1 (Fall, 2008).

Shaffer, Gregory, Globalization and Social Protection: The Impact of EU and International Rules in the Ratcheting Up of U.S. Privacy Standards, 25 *Yale J. Int'l L.* 1 (Winter 2000).

Shaffer, Gregory, *When Cooperation Fails: The International Law and Politics of Genetically Modified Foods* (Oxford University Press, 2009), with Mark Pollack.

Shaffer, Gregory, "International Law and Global Public Goods in a Legal Pluralist World," *European Journal of International Law* (2012).

Shaffer, Gregory, "Varieties of New Legal Realism: Can a New World Order Spur a New Scholarly Agenda," 95 *Cornell Law Review* 61-138 (2009).

Shaffer, Gregory, A Structural Approach to WTO Jurisprudence: Why Institutional Choice Lies at the Center of the GMO Case," *NYU Journal of International Law and Politics* 1-102 (2008).

Shaffer, Gregory, "Power, Governance and the WTO: A Comparative Institutional Approach," in *Power in Global Governance*, Michael Barnett and Bud Duvall, eds., 130-160 (Cambridge University Press, 2005).

Shaffer, Gregory, "Transnational Mutual Recognition Regimes: Governance Without Global Government," with Kalypso Nicolaidis, 68:3 *Law and Contemporary Problems* 267-322 (2005).

Shaffer, Gregory, "Recognizing Public Goods in WTO Dispute Settlement: Who Decides Who Decides?: The Case of TRIPS and Pharmaceutical Patent Protection," *Journal of International Economic Law* vol. 7:2, 459-482 (2004).

Shaffer, Gregory, "Institutional Choice in the GSP Case: Who Decides the Conditions for Trade Preferences: The Law and Politics of Rights," *Journal of World Trade*, Vol. 39, No. 5 (December 2005), pp. 977-1008, with Yvonne Apea.

Shapiro, Scott B., Who Decides: Institutional Choice in Determining a Performance Enhancing Drug Policy for the NFL, 7 *Wyo. L. Rev.* 183 (2007).

Shapo, Marshall S., Tort Reform: The Problem of the Missing Tsar, 19 *Hofstra L. Rev.* 185 (Fall 1990).

Shores, David F., Deferential Review of Tax Court Decisions: Taking Institutional Choice Seriously, 55 *Tax Law.* 667 (Spring 2002).

Skeel, Jr., David A., Public Choice and the Future of Public-choice-influenced Legal Scholarship, 50 *Vand. L. Rev.* 647 (April 1997).

Smith, D. Gordon, Independent Legal Significance, Good Faith, and the Interpretation of Venture Capital Contracts, 40 *Willamette L. Rev.* 825 (Fall 2004).

Sokol, D. Daniel, Monopolists Without Borders: The Institutional Challenge of International Antitrust in a Global Gilded Age, 4 *Berkeley Bus. L.J.* 37 (Spring 2007).

Solan, Lawrence M., Statutory Inflation and Institutional Choice, 44 *Wm. and Mary L. Rev.* 2209 (April 2003).

Stancil, Paul J., Assessing Interest Groups: A Playing Field Approach, 29 *Cardozo L. Rev.* 1273 (January 2008).

Sunstein, Cass R. and Vermeule, Adrian, Interpretation and Institutions, 101 *Mich. L. Rev.* 885 (February 2003).

Tai, Stephanie, Uncertainty about Uncertainty: the Impact of Judicial Decisions on Assessing Scientific Uncertainty, 11 *U. Pa. J. Const. L.* 671 (February 2009).

Trachtman, Joel P. and Moremen, Philip M., Costs and Benefits of Private Participation in WTO Dispute Settlement: Whose Right Is It Anyway?, 44 *Harv. Int'l L.J.* 221 (Winter 2003).

Trachtman, Joel P., Economic Analysis of Prescriptive Jurisdiction, 42 *Va. J. Int'l L.* 1 (Fall 2001).

Trachtman, Joel P., The Theory of the Firm and the Theory of the International Economic Organization: Toward Comparative Institutional Analysis, 17 *Nw. J. Int'l L. & Bus.* 470 (Winter 1996/Spring 1997).

Vermeule, Adrian, JUDGING UNDER UNCERTAINTY: AN INSTITUTIONAL THEORY OF LEGAL INTERPRETATION (Hardcover - May 15, 2006).

Vermeule, Adrian, Interpretive Choice, 75 *N.Y.U.L. Rev.* 74 (April 2000).

Wagner, Wendy, When All Else Fails: Regulating Risky Products Through Tort Litigation, 95 *Geo. L.J.* 693 (March 2007).

Wagner, Wendy E., Commons Ignorance: The Failure of Environmental Law to Produce Needed Information on Health and the Environment, 53 *Duke L.J.* 1619 (April 2004).

Wagner, Wendy E., Restoring Polluted Waters with Public Values, 25 *Wm. & Mary Env'tl. L. & Pol'y Rev.* 429 (2000).

Wagner, Wendy E., Congress, Science, and Environmental Policy, 1999 *U. Ill. L. Rev.* 181 (1999).

Wagner, Wendy E., Choosing Ignorance in the Manufacture of Toxic Products, 82 *Cornell L. Rev.* 773 (May 1997).

Waller, Spencer Weber, The Future of Monopoly and Monopolization Symposium: Areeda, Epithets, and Essential Facilities, 2008 *Wis. L. Rev.* 359 (2008).

Whitford, William C., Contract Law and the Control of Standardized Terms in Consumer Contracts: An American Report, 3 *European Review of Private Law* 193 (1995).

Wiener, Jonathan Baert, Global Environmental Regulation: Instrument Choice in Legal Context, 108 *Yale L.J.* 677 (January 1999).

Wiseman, David, A Competence Concerns in Charter Adjudication: Countering the Anti-Poverty Incompetence Argument, 51 *McGill L.J.* 503 (Autumn, 2006).

Wiseman, David, The Charter and Poverty: Beyond Injusticiability, 51 *Univ. of Toronto L.J.* 425 (Fall 2001).

Wyman, Katrina Miriam, From Fur to Fish: Reconsidering the Evolution of Private Property, 80 *N.Y.U.L. Rev.* 117 (April 2005).

Young, Ernest A., Making Federalism Doctrine: Fidelity, Institutional Competence, and Compensating Adjustments, 46 *Wm. and Mary L. Rev.* 1733 (March 2005).

Young, Ernest A., The Rehnquist Court's Two Federalisms, 83 *Tex. L. Rev.* 1 (November 2004).

Zabrowski, Patrick M., The Standard of Review of Administrative Rules in Wisconsin, 1982 *Wis. L. Rev.* 691 (July 1982/August 1982).

MCGARITY, THOMAS & WENDY WAGNER, BENDING SCIENCE: HOW SPECIAL INTERESTS CORRUPT PUBLIC HEALTH RESEARCH at Chapter 10 (Harvard University Press 2008).

Wagner, Wendy E., Katherine Barnes & Lisa Peters, *Rulemaking in the Shade: An Empirical Study of EPA's Air Toxic Emission Standards*, 63 *ADMINISTRATIVE LAW REVIEW* 99 (2011).

Wagner, Wendy E., *Administrative Law, Filter Failure, and Information Capture*, 59 DUKE L. J. 1321 (2010).

Wagner, Wendy E., *Emerging Science, Adaptive Regulation, and the Problem of Rulemaking Ruts*, 86 TEXAS L. REV. 1701 (2008) (with Lynn Blais).

Wagner, Wendy E., *Using Competition-Based Regulation to Bridge the Toxics Data Gap*, 83 INDIANA L. J. 629 (2008).

Book:

- *When Cooperation Fails: The International Law and Politics of Genetically Modified Foods* (Oxford University Press, 2009), with Mark Pollack.

-

Articles

- "Interpretation and Institutional Choice at the WTO," *Virginia Journal of International Law* (2011) (with Joel Trachtman)
- "International Law and Global Public Goods in a Legal Pluralist World," *European Journal of International Law* (2012).
- "Varieties of New Legal Realism: Can a New World Order Spur a New Scholarly Agenda," 95 *Cornell Law Review* 61-138 (2009).
- "A Structural Approach to WTO Jurisprudence: Why Institutional Choice Lies at the Center of the GMO Case," *NYU Journal of International Law and Politics* 1-102 (2008).
- "Power, Governance and the WTO: A Comparative Institutional Approach," in *Power in Global Governance*, Michael Barnett and Bud Duvall, eds., 130-160 (Cambridge University Press, 2005).
- "Transnational Mutual Recognition Regimes: Governance Without Global Government," with Kalypso Nicolaidis, 68:3 *Law and Contemporary Problems* 267-322 (2005).
- "Recognizing Public Goods in WTO Dispute Settlement: Who Decides Who Decides?: The Case of TRIPS and Pharmaceutical Patent Protection," *Journal of International Economic Law* vol. 7:2, 459-482 (2004).
- "Institutional Choice in the GSP Case: Who Decides the Conditions for Trade Preferences: The Law and Politics of Rights," *Journal of World Trade*, Vol. 39, No. 5 (December 2005), pp. 977-1008, with Yvonne Apea.
- "Globalization and Social Protection: The Impact of Foreign and International Rules in the Ratcheting Up of U.S. Privacy Standards," 25 *Yale Journal of International Law* 1-88 (Winter 2000).