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**Books:**

Editor, *DUAL ENFORCEMENT OF CONSTITUTIONAL NORMS: NEW FRONTIERS OF STATE CONSTITUTIONAL LAW* (Oxford University Press, forthcoming 2009) (with James A. Gardner).

*REGULATORY BARGAINING AND PUBLIC LAW* (Cambridge Univ. Press, 2005).

*ENERGY, ECONOMICS AND THE ENVIRONMENT: CASES AND MATERIALS*, 2d ed. (Foundation Press, 2006) (with Fred Bosselman, Joel Eisen, and Jacqueline Lang Weaver). (First published Foundation Press, 2000, with Fred Bosselman and Jacqueline Lang Weaver). Also *TEACHER'S MANUAL*.

**Chapters:**

*Public Choice Issues in Energy Politics and Regulation: Vertical Integration, Federalism, and Deregulation*, in DANIEL FARBER AND ANNE JOSEPH O'CONNELL, EDS., *PUBLIC CHOICE AND PUBLIC LAW* (forthcoming 2009).

*New Frontiers of State Constitutional Law* in ROSSI AND GARDNER, EDS., *DUAL ENFORCEMENT OF CONSTITUTIONAL NORMS: NEW FRONTIERS OF STATE CONSTITUTIONAL LAW* (Oxford University Press, forthcoming 2009) (with James A. Gardner).

*Dual Constitutions and Constitutional Duels: Separation of Powers and Cooperative Federalism*, in ROSSI AND GARDNER, EDS., *DUAL ENFORCEMENT OF CONSTITUTIONAL NORMS: NEW FRONTIERS OF STATE CONSTITUTIONAL LAW* (Oxford University Press, forthcoming 2009).

*Judicial Review of Issues of Fact*, in John Duffy and Michael Herz, eds., *A GUIDE TO POLITICAL AND JUDICIAL REVIEW OF FEDERAL AGENCIES*, (ABA Section on Administrative Law & Regulatory Practice, 2005).

*Judicial Review*, in *DEVELOPMENTS IN ADMINISTRATIVE LAW AND REGULATORY PRACTICE 2002-2003* (American Bar Association, 2004) (with Mark Seidenfeld and Keith Rizzardi).

*Universal Service in Competitive Retail Electric Markets: Refin(anc)ing the Duty to Serve for a Post-Natural Monopoly Era*, in Peter Grossman and Daniel Cole, eds., *THE END OF A NATURAL MONOPOLY: COMPETITION IN THE ELECTRIC POWER INDUSTRY* (Elsevier Science Ltd., 2003.)

*Judicial Review of Findings of Fact*, in *JUDICIAL AND POLITICAL CONTROL OF AGENCIES* (American Bar Association, 2003).

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*Overview: Tempering Special Interest Politics in Economic Restructuring*, 18 PUBLIC UTILITIES LAW ANTHOLOGY xix (Pt. I, Jan.-June 1995).

### **Law Review and Journal Articles:**

*The Political Economy of Energy and Its Implications for Climate Change Legislation*, 84 TULANE LAW REVIEW \_\_\_\_ (forthcoming 2009).

*The Trojan Horse of Transmission Siting Jurisdiction*, 39 ENVIRONMENTAL LAW \_\_\_\_ (forthcoming 2009).

*While the Filed Rate Doctrine Should Not Imply Blanket Judicial Deference to Regulatory Agencies*, ABA ADMINISTRATIVE & REGULATORY LAW NEWS, Fall 2008.

*Antitrust Process and Vertical Deference: Judicial Review of State Regulatory Inaction*, 93 IOWA LAW REVIEW 185 (2007).

*Essay: Constitutional Isolationism and the Limits of State Separation of Powers as a Barrier to Interstate Compacts*, 90 MARQUETTE LAW REVIEW 721 (2007).

*Politics, Institutions, and Administrative Procedure: What Exactly Do We Know from the Empirical Study of State Level APAs, and What More Can We Learn?*, 58 ADMINISTRATIVE LAW REVIEW 961 (2006).

*State Executive Lawmaking in Crisis*, 56 DUKE LAW JOURNAL 237 (2006).

*Political Bargaining and Judicial Intervention in Constitutional and Antitrust Federalism*, 83 WASHINGTON UNIVERSITY LAW QUARTERLY 523 (2005).

*Transmission Siting in Deregulated Wholesale Power Markets: Re-imagining the Role of Courts in Resolving Federal-State Siting Impasses*, 15 DUKE ENVIRONMENTAL LAW & POLICY FORUM 315 (2005).

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*The Dangerous Allure of Judicial Deference in Deregulated Industries*, ADMINISTRATIVE AND REGULATORY LAW NEWS, Summer 2005, at 3.

*Moving Public Law Out of the Deference Trap in Regulated Industries*, 40 WAKE FOREST LAW REVIEW 617 (2005).

*How the Filed Rate Doctrine Wreaks Havoc with Energy Market Development and Policy . . . And What Courts Can Do about It*, 18 THE ELECTRICITY JOURNAL 60 (April 2005).

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*The New Frontier of State Constitutional Law*, 46 WILLIAM & MARY LAW REVIEW 1231 (2005) (with James Gardner) (symposium foreword).

*Debilitating Doctrine*, PUBLIC UTILITIES FORTNIGHTLY, November 2004, at 16.

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*Lowering the Filed Tariff Shield: Judicial Enforcement for a Deregulatory Era*, 56 VANDERBILT LAW REVIEW 1591 (2003).

*Beyond Goldwasser: Ex Post Enforcement in Deregulated Markets*, 2003 LAW REVIEW OF MICHIGAN STATE UNIVERSITY DETROIT COLLEGE OF LAW 717.

*Bargaining in the Shadow of Administrative Procedure: The Public Interest in Rulemaking Settlement*, 51 DUKE LAW JOURNAL 1015 (2001).

*Overcoming Parochialism: State Administrative Procedure and Institutional Design*, 53 ADMINISTRATIVE LAW REVIEW 551 (2001).

*Respecting Deference: Conceptualizing Skidmore Within the Architecture of Chevron*, 42 WILLIAM AND MARY LAW REVIEW 1105 (2001).

*Does the Solicitor General Advantage Thwart the Rule of Law in the Administrative State?*, 28 FLORIDA STATE UNIVERSITY LAW REVIEW 459 (2000).

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*The False Promise of the "New" Nondelegation Doctrine*, 76 NOTRE DAME LAW REVIEW 1 (2000) (with Mark Seidenfeld).

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*Universal Service in Competitive Retail Electric Markets: Whither the Duty to Serve?* 21 ENERGY LAW JOURNAL 27 (2000).

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*Institutional Design and the Lingering Legacy of Antifederal Separation of Powers Ideals in the States*, 52 VANDERBILT LAW REVIEW 1167 (1999).

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*The Common Law “Duty to Serve” and Protection of Consumers in an Age of Competitive Retail Public Utility Restructuring*, 51 VANDERBILT LAW REVIEW 1233 (1998).

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*Waivers, Flexibility, and Reviewability*, 72 CHICAGO-KENT LAW REVIEW 1359 (1997).

*Participation Run Amok: The Costs of Mass Participation for Deliberative Agency Decisionmaking*, 92 NORTHWESTERN UNIVERSITY LAW REVIEW 173 (1997).

*The 1996 Revised Florida Administrative Procedure Act: A Rulemaking Revolution or Counter-Revolution?* 49 ADMINISTRATIVE LAW REVIEW 345 (1997).

*The 1996 Revised Florida Administrative Procedure Act: A Survey of Major Provisions Affecting Florida Agencies*, 24 FLORIDA STATE UNIVERSITY LAW REVIEW 283 (1997).

*Making Policy Through the Waiver of Regulations at the Federal Energy Regulatory Commission*, 47 ADMINISTRATIVE LAW REVIEW 255 (1995). Reprinted in 18 PUBLIC UTILITIES LAW ANTHOLOGY 231-71 (Pt. I, Jan.-June 1995).

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### **Book Reviews:**

*The Puzzle of State Constitutions*, 54 BUFFALO LAW REVIEW 211 (2006) (reviewing James A. Gardner, INTERPRETING STATE CONSTITUTIONS: A JURISPRUDENCE OF FUNCTION IN A FEDERAL SYSTEM (Univ. of Chicago Press, 2005)).

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*The Irony of Deregulatory Takings*, 77 TEXAS LAW REVIEW 297 (1998) (reviewing J. Gregory Sidak and Daniel F. Spulber, *DEREGULATORY TAKINGS AND THE REGULATORY CONTRACT: THE COMPETITIVE TRANSFORMATION OF NETWORK INDUSTRIES IN THE UNITED STATES* (Cambridge Univ. Pr., 1997)).

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*Some Recent Ideas in Substantive Moral Philosophy and Their Relevance to Law*, 12 LAW & PHILOSOPHY 407-16 (1993) (reviewing *LIABILITY AND RESPONSIBILITY*, R.G. Frey & Christopher W. Morris, eds. (Cambridge Univ. Pr., 1991)).

#### **Other Publications:**

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*Florida's 1996 Revised APA*, ABA ADMINISTRATIVE & REGULATORY LAW NEWS (Fall 1996) at 9.

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Editorial: *Competition Could Shake Up the Electric-Utility Industry to the Consumer's Advantage, But First the Public Service Commission Must Lead the Way*, TALLAHASSEE DEMOCRAT, May 5, 1996, at 3F.

*Can the FERC Overcome Special Interest Politics?* PUBLIC UTILITIES FORTNIGHTLY, Oct. 15, 1995, at 31.

*Avoiding a Mistake With Corrections Day*, LEGAL TIMES, Apr. 3, 1995 (with Harold Krent); also appeared as "*Corrections Days*" *Obscure the Need for Accountability*, NEW JERSEY LAW JOURNAL, Apr. 3, 1995, at 25 (with Harold Krent).

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Editorial, *Electricity Laws Need a Reality Check*, CHICAGO TRIBUNE, Feb. 6, 1995, at 11.

Comment, *An Empirical Examination of the Iowa Bar's Approach to Regulating Lawyer Advertising*, 77 IOWA LAW REVIEW 179 (1991) (with Mollie Weighner).