

CURRICULUM VITAE: *Robert F. Nagel*

PERSONAL: Born January 17, 1947; married, four (grown) children

UNDERGRADUATE EDUCATION

COLLEGE: Swarthmore College

DEGREE: B.A., June 1968

ACADEMIC DISTINCTIONS

- a. Phi Beta Kappa
- b. Degree awarded with High Honors

LEGAL EDUCATION: Yale Law School, J.D., June, 1972

EMPLOYMENT

Department of Justice, Commonwealth of Pennsylvania: Deputy Attorney General, Human Services Division, August, 1972 - April, 1975

University of Colorado School of Law, Associate Professor, 1975-1980, Professor, 1981-1987, Moses Lasky Professor, 1987-1989, Ira C. Rothgerber Jr., Professor of Constitutional Law, 1989-2016, Professor Emeritus, 2017-present, Director, Byron R. White Center for the Study of American Constitutional Law, 1999–2002

Courses: Constitutional Law, Constitutional Theory, First Amendment, Law of Corrections, Property

Visiting appointments: Cornell Law School, 1980-81; University of Michigan Law School, summer, 1984, Marshall-Wythe School of Law, William and Mary College, spring, 1989 (Lee Distinguished Visiting Professor); Duke Law School, spring, 1999; University of San Diego Law School, spring, 2005; Ann and Herbert W. Vaughan Visiting Fellow, James Madison Program in American Ideals and Institutions, Princeton University, fall, 2016.

PUBLICATIONS

A. Books

Constitutional Cultures: The Mentality and Consequences of Judicial Review (University of California Press 1989, paperback edition 1993)

Judicial Power and American Character: Censoring Ourselves in An Anxious Age (Oxford University Press 1994, paperback edition 1996)

(ed.) Intellect and Craft: The Contributions of Justice Hans Linde to American Constitutionalism (Westview Press 1995)

The Implosion of American Federalism (Oxford University Press, 2001, paperback edition 2002)

Unrestrained: Judicial Excess and the Mind of the American Lawyer (Transaction Publishers, 2008)

B. Chapters in Books

“Nationhood and Judicial Supremacy,” C. Wolfe (ed.) That Eminent Tribunal: Judicial Supremacy and the Constitution (Princeton U. Press, 2004)

“Principle, Prudence, and Judicial Power,” in Ward, Castillo, eds., The Judiciary and American Democracy: Alexander Bickel, the Countermajoritarian Difficulty, and Contemporary Constitutional Theory 9 (SUNY Press, 2005)

“Limiting the Court by Limiting Life Tenure,” in Cramton, Carrington, eds., Reforming the Court 127 (Carolina Academic Press, 2006)

“Judicial Power and Cultural Damage,” in Bigwood, ed., Public Interest Litigation 101 (Buttersworth/Lexis Nexis, 2006)

“American Judicial Review in Perspective,” in Goldsworthy, ed., Protecting Rights Without a Bill of Rights, Institutional Performance and Reform in Australia 225, in the series “Law, Justice, and Power” (Sarat, ed., Ashgate, 2006)

“Printz v. United States” in Tanenbaum, ed., Encyclopedia of the Supreme Court of the United States, vol. 4 at 104 (MacMillan, 2008)

“Federalism,” in Tanenbaum, ed., Encyclopedia of the Supreme Court of the United States, vol. 2 at 181 (MacMillan, 2008)

“Judicial Power” in Katz, ed., The Oxford Encyclopedia of Legal History Vol. 3 at 406 (Oxford, 2009)

“William Rehnquist and the American Concept of Sovereignty,” in Wilson, ed., The Constitutional Legacy of William H. Rehnquist at 79 (West Academic Pub., 2015)

C. Articles and Reviews

Note, “Legislative Purpose, Rationality, and Equal Protection,” 82 Yale Law Journal 123 (1972)

“Separation of Powers and the Scope of Federal Equitable Remedies,” 30 Stanford Law Review 661 (1978)

“Judicial Immunity and Sovereignty,” 6 Hastings Constitutional Law Quarterly 237 (1979)

Book Review (American Constitutional Law by Laurence Tribe), 127 University of Pennsylvania Law Review 1174 (1979)

“A Comment on the Burger Court and ‘Judicial Activism,’” 52 University of Colorado Law Review 223 (1981)

“Federalism as a Fundamental Value: National League of Cities in Perspective,” 1981 Supreme Court Review 81

“Invisible Teachers: A Comment on Perception in the Classroom,” 32 Journal of Legal Education 357 (1982)

“Interpretation and Importance in Constitutional Law: A Re-assessment of Judicial Restraint,” XXV NOMOS Liberal Democracy 181 (Pennock and Chapman, eds. 1983)

“How Useful Is Judicial Review in Free Speech Cases?” 69 Cornell Law Review 302 (1984)

“On Complaining About the Burger Court,” (reviewing The Burger Court, edited by V. Blasi) 84 Columbia Law Review 2068 (1984)

“Controlling the Structural Injunction,” 7 Harvard Journal of Law and Public Policy 395 (1984)

“The Formulaic Constitution,” 84 Michigan Law Review 165 (1985)

“The Legislative Veto, the Constitution, and the Courts,” 3 Constitutional Commentary 61 (1986) (a version appears in J. Garvey, T. Aleinikoff (eds.), Modern Constitutional Theory 224 (West, third edition, 1989))

“Rationalism in Constitutional Law,” 4 Constitutional Commentary 9 (1987)

“A Comment on Democratic Constitutionalism,” 61 Tulane Law Review 1027 (1987); a version appears in 73 Cornell Law Review 380 (1988)

“Federalism as a Subject of Interpretation,” in Federalism and the Constitution: A Symposium on Garcia 23 (Advisory Commission on Intergovernmental Relations publications M-152, July 1987)

“Teaching Tolerance” (reviewing The Tolerant Society by Lee C. Bollinger), 75 California Law Review 1571 (1987)

“A Comment on the Rule of Law Model of Separation of Powers,” 30 William and Mary Law Review 355 (1989)

“The Selling of Jury Deliberations,” 8 Criminal Justice Ethics 31 (1989)

“Forgetting the Constitution,” 6 Constitutional Commentary 289 (1989)

“Political Law, Legalistic Politics: A Recent History of the Political Question Doctrine,” 56 University of Chicago Law Review 643 (1989)

“The Myth of the General Right to Bail,” 98 Public Interest 84 (1990)

“Advice, Consent, and Influence,” 84 Northwestern Law Review 858 (1990) (a version appears in S. Bloch, T. Krattenmaker (eds.), Supreme Court Politics 95 (West, 1994))

“Meeting the Enemy” (reviewing The Tempting of America by Robert Bork), 57 University of Chicago Law Review 633 (1990)

“Political Pressure and Judging in Constitutional Cases,” 61 University of Colorado Law Review 685 (1990)

C. Haskel, J. Otto, eds., A Time for Choices (First Amendment Congress, 1991), pp. 5, 14, 19-20, 23, 29-30, 36, 41-42, 47-48, 53-54, 59, 63-64, 69-70

Review of The Mind and Faith of Justice Holmes (by Max Lerner), and Honorable Justice (by Sheldon Novick), 8 Constitutional Commentary 208 (1991)

“Liberals and Balancing,” 63 University of Colorado Law Review 319 (1992)

“Unfocused Governmental Interests,” 55 Albany Law Review 573 (1992) (a version appears in S. Gottlieb (ed.), Public Values in Constitutional Law 45 (University of Michigan Press, 1993))

“The Thomas Hearings: Watching Ourselves,” 63 University of Colorado Law Review 945 (1992)

“Federalism’s Slight Revival,” Public Interest Law Review 25 (1993)

“Disagreement and Interpretation,” 56 Law and Contemporary Problems 11 (1993)

“Name-calling and the ‘Clear Error Rule,’” 88 Northwestern Law Review 193 (1993)

“Progressive Free Speech and the Uneasy Case for Campus Hate Codes,” 64 University of Colorado Law Review 1055 (1993)

“Is ‘Rationality Review’ Rational?” 116 Public Interest 75 (1994)

“Terminator 2,” 65 University of Colorado Law Review 843 (1994)

“A Comment on ‘Constitutional Rights as Public Goods,’” 72 University of Denver Law Review 889 (1995)

“The Last Centrifugal Force,” 12 Constitutional Commentary 187 (1995) (a version appears in W. Eskridge, Jr., S. Levinson (eds.), Constitutional Stupidities, Constitutional Tragedies 71 (New York University Press, 1998))

“The Future of Federalism,” 46 Case Western Reserve Law Review 643 (1996) (a version appears in J. Garvey, T. Aleinikoff (eds.), Modern Constitutional Theory 276 (West, fourth edition, 1999))

“Progress and Constitutionalism” (reviewing Progressive Constitutionalism by Robin West), 94 Michigan Law Review 1495 (1996)

“The Term Limits Dissent: What Nerve,” 38 Arizona Law Review 843 (1996)

“Utilitarianism Left and Right: A Response to Professor Armor, 18 University of Colorado Law Review 1201 (1997)

“Real Revolution,” 13 Georgia State Law Review 985 (1997)

“Playing Defense,” 6 William & Mary Bill of Rights Journal 167 (1997)

“Judicial Supremacy and the Settlement Function,” 39 William & Mary Law Review 849 (1998)

“Lies and Law,” 22 Harvard Journal of Law & Public Policy 605 (1999)

“Privacy and Celebrity: An Essay on the Nationalization of Intimacy,” 33 University of Richmond Law Review 1121 (1999)

“Judges and Federalism: A Comment on 'Justice Kennedy's Vision of Federalism',” 31 Rutgers Law Journal 539 (2000)

“Indirect Constitutional Discourse: A Comment on Meese,” 63 Law and Contemporary Problems 101 (2000)

“Judicial Power and the Restoration of Federalism,” 574 Annals of the American Academy of Political and Social Science 52 (2001)

“Nationalized Political Discourse,” 69 Fordham Law Review 101 (2001)

“Marbury v. Madison and Modern Judicial Review,” 38 Wake Forest Law Review 613 (2003)

“Six Opinions by Mr. Justice Stevens: A New Methodology for Constitutional Cases?” 78 Chicago-Kent Law Review 509 (2003)

“Diversity and the Practice of Interest Assessment,” 53 Duke Law Journal 1515 (2004)

“States and Localities: A Comment on Nisbet’s Communitarianism,” Publius, 125 (fall, 2005)

“A Response to Professor Bix,” Symposium, “The Meaning of Marriage,” 42 San Diego L. Rev. 835 (2005)

“Marriage and Practical Knowledge,” 50 South Texas Law Review 37 (2008)

“A Response to Professor Bezanson,” Denver University Law Review Online, May 17, 2010.

“Partiality and Disclosure in Supreme Court Opinions,” 7 Northwestern J. of Law & Soc. Policy 116 (2012)

“Promoting Religious Freedom: Lessons from the American Experience,” (unpublished manuscript on file with the Witherspoon Institute)

“Same-Sex Marriage, Federalism, and Judicial Supremacy,” 64 Case Western Reserve Law Review 1119 (2014)

“Conservatives and the Court,” 30 National Affairs 37 (winter, 2017)

D. Commentary

“A Plague of Judges,” Washington Monthly, November, 1980, reprinted in VII Human Life Review 110 (1981)

“Reagan and the Supreme Court,” Newsday, January 19, 1981, at page 37

“The Right Learns to Love Earl Warren,” Washington Monthly, October, 1982

“America’s West: Big Skies, Blunt Politics,” Newsday, February 24, 1984 at 79

“How To Stop Libel Suits and Still Protect Individual Reputations,” Washington Monthly, November, 1985

“Law and the Courts,” in A New Road for America: The Neoliberal Movement 19 (C. Peters ed., Madison Books (1985))

“An Age of Innocence” (reviewing The Rise of Modern Judicial Review by Christopher Wolfe), National Review 55 (November 21, 1986)

Review, A Chilling Effect by Lois Forer, Washington Monthly, January 1988

“Constitutional Scholarship: What Next?” 5 Constitutional Commentary 46 (1988)

“The No Bail Solution,” New Republic 13 (April 24, 1989)

“Constitutional Doctrine and Political Direction,” 25 Trial 72 (1989)

“Theory of Choice” (with Jack H. Nagel), New Republic 15 (July 23, 1990)

“Judicial Usurpation,” XXIII St. Croix Review 43 (1990)

“No Show Show,” New Republic 20 (October 7, 1991)

“The Supreme Court’s Bad Language,” Wall Street Journal A13 (February 17, 1993)

“Shifting Status,” Rocky Mountain News 113 (March 21, 1993)

“Interpretation or Amendment?” Rocky Mountain News 9A (October 10, 1993)

“Rough Justice,” Rocky Mountain News 94A (November 21, 1993)

“Let’s Kill All the Lawyers,” Washington Monthly 45 (January 1995)

Review, The High Priests of American Politics (by Mark C. Miller), Washington Monthly 54 (May 1996)

“Our Destructive Drive for Political Revenge,” Wall Street Journal A18 (October 16, 1996)

“Playing Defense in Colorado,” First Things 34 (May 1998)

“The High (and Mighty) Court,” Wall Street Journal A14 (June 30, 2000)

“From U.S. v. Nixon to Bush v. Gore,” Weekly Standard 20 (December 25, 2000)

“Justice Stevens’ Religion Problem,” First Things 9 (June/July, 2003)

“Common Sense and Common Law,” First Things, 42 (February, 2004)

“Law Schools Are Bad for Democracy,” Wall Street Journal A16 (November 2, 2004)

“Supreme Chaos,” Wall Street Journal A18 (March 7, 2005)

“The Problem with the Court,” National Review 43 (November 21, 2005)

“Selective Justice,” Claremont Review of Books 58 (fall, 2005)

“On the Decline of Federalism,” Daedalus 127 (winter, 2005)

“Bowing to Precedent,” Weekly Standard 24 (April 17, 2006)

“Journalists and Judges,” Weekly Standard 14 (December 4, 2006).

“Conservative Judicial Activism?” Weekly Standard 25 (February 5, 2007).

“R-E-S-P-E-C-T,” Weekly Standard, 16 (October 13, 2008).

“The Hot Seat” (reviewing The Supreme Court and the American Elite by Lucas A Powe, Jr), National Review 46 (June 8, 2009)

“Questioning Sotomayor,” Weekly Standard 8 (July 13, 2009)

“A Painfully Labored Analysis,” <http://roomfordebate.blogs.nytimes.com/2009/04/03>

“Voting Rights and Wrongs,” Claremont Review of Books 40 (2008/09)

“The Incivility Epidemic,” Weekly Standard 11 (December 7, 2009)

“Stevens, the Radical,” Weekly Standard 11 (April 26, 2010)

“Against Judicial Supremacy,” National Review Online (May 17, 2010)

“Loose Lips Sink Ships,” 11 Claremont Review of Books 38 (Winter 2010/Spring 2011)

“Judges to Voters: Drop Dead,” Weekly Standard 12 (August 23, 2010)

“Reply to Randy Barnett,” The Corner, National Review Online, May 18, 2010

“The Constitutional Argument for Gay Marriage,” Debate Club, U.S. News and World Report Opinion (October 7, 2011)

“What Do the Justices Think They Are Doing?” XXXVIII Human Life Review 13 (spring, 2012)

“Unreliable Ally,” Weekly Standard 11 (July 16, 2012)

“Devil's in the Small Print,” Wall Street Journal A17 (December 21, 2012)

“The Conscience of a Smut Artist,” Wall Street Journal A13 (November 11, 2013)

“The Force of Law,” National Review 43 (March 10, 2014)

“America Behind Bars,” Weekly Standard 30 (April 15, 2014)

“Predicting Justice Kennedy,” Weekly Standard 10 (June 15, 2015)

PROFESSIONAL

Member (inactive), Bar of the Supreme Court of Pennsylvania
Member, Bar of the Supreme Court of Colorado
Admitted to practice before the United States Court of Appeals for the Third Circuit and
the United States Supreme Court

CONSULTING AND REFEREEING

Consumer's Union, Inc., 1979
Empire Savings and Loan Assoc., 1980
Independent Petroleum Association of America, 1980-83
Advisory Commission on Intergovernmental Relations, 1985-
1987 Justice Resources, Inc., 1985-87
Horowitz and Wake (P.C.), 2001-2004
Cornell University Press
Harvard University Press
National Endowment for the Humanities
Oxford University Press

Duke University Press
University of Kansas Press
New York University Press
University of California Press
Catholic University of America
Press University of Chicago Press
Woodrow Wilson Center
Penn State University Press
University of Michigan Press
State University of New York Press
Harvard Law School
Palgrave MacMillan
University of Missouri Press
Routledge Press
Counsel of Record, “Brief of Thirty-seven Scholars of Federalism and Judicial Restraint as *Amici Curiae* in Support of Petitioners,” Supreme Court of the United States, Hollingsworth v. Perry (2013)

SELECTED ACADEMIC PRESENTATIONS

Fourth Annual Austin Scott Memorial Lecture, November 30, 1977, “Separation of Powers and the Scope of Federal Equitable Remedies,” University of Colorado School of Law

Presented “Federal Pre-emption: Historical Over-view,” National Conference of State Legislators, July 6, 1978

Participant, panel discussion at Conference on Judicial Power, American Enterprise Institute, October 1-2, 1981

Speaker, “The Constitution Outside the Courts,” at the Annual Meeting of the Association of American Law Schools, January, 1986

Participant, panel discussion on “The Nation, the States, and the Constitution,” at the Attorney General’s Conference on Federalism, Williamsburg, Virginia, January 24-26, 1986

Presented “The Formulaic Constitution” at Legal Theory Workshop of Northwestern Law School, February 1986, and at faculty symposium at University of Michigan Law School, April 4, 1986

Presented “Federalism as a Subject of Interpretation” at University of Indiana, April 15, 1986; delivered an expanded version of this paper at the annual meeting of the American Political Science Association, August 1986

Speaker at Federalist Society’s Sixth Annual National Symposium on Law and Public Policy (“The Crisis in Legal Theory and the Revival of Classical Jurisprudence,” April 3-5, 1987)

Speaker, “Judicial Appointments, the President, and the Senate,” Conference on Appointments to the Supreme Court of the United States, sponsored by the Law and Social Science Program of Northwestern University, March 17, 18, 1989

Presented “Political Pressure and Judging in Constitutional Cases,” First Annual Rothgerber Conference on Constitutional Law, April 1990

Presented “Unfocused Governmental Interests,” Albany Law School Conference on Compelling Governmental Interests, September 27, 1991

Presented “Disagreement and Interpretation,” Legal Theory Workshop, New York University Law School, October 1992

Presented “Name-Calling and the Clear Error Rule,” The Thayer Centennial Symposium, Northwestern Law School, spring 1993

Speaker, American Association of Law Schools Conference on Constitutional Law, June 1993, Ann Arbor, on federalism

Visiting scholar, James Madison Center on Constitutional Law, Drake University, September 21- 24, 1994

Commentator, Conference on Unconstitutional Conditions, March 17-18, 1995, University of Denver Law School

Presented “The Future of Federalism,” Conference on Federalism at Case Western Reserve Law School, November 10, 1995

Participant, First Amendment Scholars’ Conference, Thomas Jefferson Center, November 17, 1995

Participant, Georgetown Constitutional Law Conference, December 8, 1995

Presented “The Term Limits Dissent,” Conference on Federalism, University of Arizona Law School, March 22, 1996, and at a Federalist Society forum, University of Chicago Law School, May 15, 1996

Participant, Liberty Fund Seminar on the Supreme Court and the Power of Congress, June 1996

Commentator, “Utilitarianism Left and Right,” Affirmative Action Conference, University of Colorado Law Review, February 1997

Presented “Real Revolution,” Conference on New Frontiers in Federalism, Georgia State Law School, March 1997

Participant, Liberty Fund Seminar on Federalism, June 1997

Speaker, “Will the Brennan Legacy Endure?” Brennan Center for Justice Conference on The Constitutional Vision of Justice William J. Brennan, Harvard Law School, March 14, 1998

Presented “Lies and Law” at the Sixth Annual Ira Rothgerber Conference, University of Colorado, November 6, 1998

Presented “Nationhood and Judicial Supremacy” at the Conference on Reining in Judicial Imperialism, American Public Philosophy Institute, Washington, DC, October 1, 1998

Howard H. Rolapp Distinguished Visiting Scholar, University of Utah College of Law, October 22, 1998

Presented “Privacy and Celebrity,” Conference on Aggressive Newsgathering and the First Amendment, University of Richmond Law School, February 19, 1999

Presented “A Comment on Indirect Constitutional Discourse,” Conference on The Constitution under Clinton, Duke Law School, September 23–25, 1999

Presented “Judges and Federalism,” Conference on Federalism, Rutgers Law School, October 15–16, 1999

Participant, Liberty Fund Seminar on Religious Freedom, June 10-12, 1999

Presented “Nationalized Political Discourse,” Conference on The Constitution and the Good Society, Fordham Law School, September 22, 2000

Presented “The Implosion of American Federalism,” American Legal Theory Workshop, Brooklyn Law School, September 21, 2000

Participant, Liberty Fund Seminar on Liberty, Sovereignty, and Federal Power, May 17-20,

2001 Presented “Marbury v. Madison and Modern Judicial Review” at Symposium on the Bicentennial on Marbury v. Madison, Wake Forest Law School, October 4, 5, 2002 and at a faculty colloquium, University of San Diego Law School, November 8, 2002

Presented “Six Opinions of Mr. Justice Stevens: A New Methodology for Constitutional Cases?” at the Conference on Law and Cultural Conflict, Chicago-Kent Law School September 26, 27, 2002

Participant, Liberty Fund Seminar, “Brown v. Board of Education,” Freeport, Maine, May 13-16, 2004

Presented “States and Localities: A Comment on Nisbet’s Communitarianism,” at a workshop on “Federalism and Conservative Thought,” American Enterprise Institute, May 21, 2004

Participant, Liberty Fund Seminar, “Martin Diamond and the Foundations of the American Regime,” St. Paul, Minn., October 21-24, 2004

Presented “American Judicial Review in Perspective,” at the Conference on Protecting Human Rights in Australia. St. Kilda, Australia, December 10, 11, 2003 (Monash University)

Presented “Judicial Power and Cultural Damage: Lessons from America,” at the Conference on Law, Social Policy, and the Courts, August 5-6, 2005, Auckland, New Zealand (The Law Foundation)

Presented “Limiting the Court by Limiting Life Tenure,” at the Conference on Reforming the Court,” Duke Law School, April 8-9, 2005

Participant, “Supreme Court Review,” American Enterprise Institute, Federalism Project, June 21, 2005

Presented, “Comment on Claeys,” American Enterprise Institute, Federalism Project, Nov. 3, 2005

Presented Lying and Law,” Religious Association of Law Schools Annual Conference, Baylor University, March 30, 2006

Presented “Unrestrained: Judicial Excess and the Mind of the American Lawyer,” University of Minnesota Law Faculty, Sept. 21, 2007 and the University of Colorado Work in Progress Series, Sept. 27, 2007

Speaker, “The United States Supreme Court: Contested Constitutional Doctrines,” Symposium on Science, Reason, and Modern Democracy,” Michigan State University, March 28, 2008

Speaker, “The Contributions of William Rehnquist to American Constitutional Jurisprudence,” Princeton University, February 8, 2008

Speaker, “Is Gay Marriage Conservative?” South Texas Law School, February 15, 2008

Faculty member, Jack Miller Summer Institute, Center for Teaching America’s Founding Principles, August 5-8, 2008.

Commentator, White Conference, “Government Speech: A Reply to Professor Bezanson,” January 22, 2010

Speaker, “Promoting Religious Freedom,” Witherspoon Institute, May 7, 2011

Speaker, “Formalism and Legalism in American Constitutional Interpretation,” Annual Conference, Canadian Political Science Assoc., May 16, 2011

Panelist, “Separation of Powers and Judicial Supremacy in Canada,” Annual Conference, Canadian Political Science Assoc., May 16, 2011

Speaker, “Same-sex Marriage, Federalism, and Judicial Supremacy,” Case Western Reserve School of Law, October 25, 2013

Participant, “Academic Freedom Seminar,” Institute for Human Studies, July 22-24, 2015

SELECTED PUBLIC APPEARANCES

Testified before the Senate Subcommittee on Separation of Powers regarding S. 158 (“The Human Life Bill”), June 1981

Testified before the Senate Subcommittee on Separation of Powers regarding S. 3018 (“The Judicial Reform Act”), June 10, 1983

Testified before the Senate Subcommittee on the Constitution regarding the Judicial Power to Tax, June 1990

Speaker, “Judicial Protection and Defamation,” Tenth Circuit Judicial Conference, July 26,

1990 Debate (with Burt Neuborne), Colorado Judicial Conference, September 23, 1991

Debate (with Nadine Stroessen, Director, ACLU), Society of Fellows Symposium, Aspen

Institute, August 1992

Testified before the Senate Judiciary Subcommittee on the Constitution, Federalism, and Property Rights, regarding the Conference of the States, March 24, 1994

Guest, “Talk of the Nation,” NPR radio, on U.S. v. Lopez, May 2, 1995

Testified before the House Sub-Committee on the Constitution regarding proposed Flag-burning Amendment, May 24, 1995

Speaker, Western Governor’s Conference on federalism, June 24, 1995

Speaker, Heritage Foundation, on controlling judicial power, March 21,

1996

Guest, “Liz Lane Show,” KGNU public radio, on Evans v. Romer, May 31, 1996

Guest, “Conversations 2000: What it means to be an American,” Colorado Endowment for the Humanities, KUNC public radio, October 10, 1996

Participant, Judicial Reform Conference, Heritage Foundation, April 3, 1997

Speaker, Law and Civility, Steering Committee of the Center for the Arts and Humanities, University of Colorado, December 2, 1997

Guest, “Independent Thinking,” KBDI public television, April 22, 1998

Panel, “Judicial Activism,” Republican Leadership Program, Colorado Springs, January 14, 2000

Interview, “The Supreme Court’s Current Term,” Liz Lane Show, KGNU Public Radio, June 30, 2000

Interview, “The 2000 Presidential Election,” KGNU Public Radio, November 16, 2000

Speaker, Recent Trends in Federalism, Law and Justice Section, National Conference of State Legislators, July 24, 2002

Speaker, “American Federalism,” Milwaukee Federalist Society, June 27, 2002

Interview, “The Supreme Court and Liberty,” Liz Lane Show, KGNU Public Radio, July 5, 2002

Panelist, Conference, “From Text to Performance,” University of Texas Law School, February 28- March 9, 2002

Guest, “Drawing the Line” (Reggie Rivers’ show, KBDI Public Television) on anti-terrorism issues, Feb 5, 19, June 25, 2003; and on the Supreme Court, November 24, 2004

“The Citizen and the Constitution,” We the People Conference, Center for Education in Law and Democracy, D.U. Law School, June 9, 2004

“Supreme Court Update,” National Conference of State Legislators, Annual Meeting in Salt Lake City, July 21, 2004

“Judicial Activism,” Education for Citizenship Conference, Center for Education in Law and Democracy, Denver, December 3, 2004

Panelist, “Supreme Court Review,” American Enterprise Institute, Federalism Project, June 21, 2005

Panelist, “The Progressive Era and Modern Federalism,” American Enterprise Institute, Federalism Project, November 3, 2005

The Caplin & Silverman Show, KHOW Radio, July 12, 2005

The Mike Rosen Show, KOA Radio, August 23, 2005, December 28, 2005

Speaker, “The Roberts Court,” 21st Annual Education for Citizenship Conference, Denver, December 2, 2005 (The Center for Education in Law and Democracy)

John Andrew’s radio show (“Backbone America”), Nov. 20, 2005

Commentator, “What’s Next for Academic Freedom?” White Center, February 4, 2006

Speaker, “Judicial Nominations,” Rotary Club, Boulder, May 23, 2006

Panelist, “Freedom of Speech and War,” University of Colorado Alumni College, June 17, 2006
Speaker, First Amendment Workshop, Colorado Press Women, Denver, Sept. 9, 2006

Participant, Constitutional Interpretation Debate, Constitution Day, University of Colorado, Sept 21, 2006

Debate (with Clint Bollock) “Conservative Judicial Activism,” Arizona Federalist Society, Phoenix, AZ, May 8, 2007

Speaker, “The Future of the Robert’s Court,” C.U. Directors’ Club, January 26, 2008

Panelist, “Affirmative Action: Eliminating or Institutionalizing Racism?” Norlin Library Current Events Series, Feb. 20, 2008

Guest, “Supreme Court Review,” Liz Lane Show, KGNU public radio, July 4, 2008

Guest, Mike Rosen Show, KOA radio, September 27, 2008.

Speaker, “Justice Rehnquist and the American Concept of Sovereignty,” State Solicitors and Appellate Chiefs Conference, Colorado Springs, June 18, 2009.

Panelist, “Replacing Justice Souter: The Future of the Supreme Court,” American Constitution Society for Law & Policy, Denver, July 9, 2009

Participant, Liberty Fund Seminar, “Restoring the Last Constitution,” Indianapolis, March 30, 2009

Speaker “Legal Education,” Arizona Judicial Conf., October 22, 2010

Panelist, “Citizens United,” White Center, March 15, 2010

Commentator, “Czars in the Obama Administration,” C.U. Federalist Society, October 20, 2011
Interview, “Recent Supreme Court Decision,” Greg Neft Show, KPDB radio November 15, 2011

Panelist, “History and Interpretation,” Keller Center, University of Colorado Political Science Department, April 14, 2012

Interview, Tom Lucero Radio Show (KFKA), April 30, 2012, June 18, 20120

Statement, “Intellectual Homogeneity at the University of Colorado,” CU Board of Regents Meeting, June 20, 2013

SERVICE

Member, Committee on Academic Freedom and Tenure, American Association of Law Schools, 1984-86

Member, Executive Committee, Constitutional Law Section American Association of Law Schools, 1986, 1996. Chair-elect, 1996; Chair, 1997-98

Member, Board of Editorial Contributors, Rocky Mountain News, 1993
Advisor, Senator Hank Brown (Judiciary Committee), September, 1991; June, 1993

Advisor, Office of Attorney General, State of Colorado, 1993

Legal Advisory Board, Senator Wayne Allard, 1997-2004

Member, Ad Hoc Committee to Evaluate Robert Natelson, University of Montana Law School, 2005

Member, Camera Editorial Advisory Board, February, 2007- February 2008

Member, Board of Litigation, Mountain States Legal Foundation 2011-15

University and Law School Committees:

University Privilege and Tenure Committee (three years)

Vice Chancellor's Advisory Committee (three years)

Law School Dean Search (three years)

Law School Appointments (five years, three as Chair)

Curriculum Committee (four years, one as Chair)

Petitions Committee (one year as Chair)

Library Committee (two years)

Academic Resources Committee (four years, one as Chair)

Peer Review (three years)

Long-Range Planning Committee (two years)

Byron White Center Advisory Committee (two years)

Director of Colloquium Series (three years)

Search Committee for Director of the Center for the Arts and Humanities, 1997-98

Dean's Advisory Committee, 1997-98, 2002

University Teaching Evaluation Committee, 1997-98

Arbitrator, Law School Salary Arbitration Panel, 1997

Ad Hoc Committee on Law School Salaries, 1998

Ad Hoc Committee on Student Fees, 2002

Faculty Resources Committee (2 years)

Evaluation Committee (3 years)

Chancellor Search Committee, 2005-6

Academic and Student Affairs Committee 2008-9

Member, Law School Loan Payment Assistance Committee, 2011-15

HONORS

Moses Lasky Professor, 1987-89

Ira Rothgerber Chair in Constitutional Law, 1990-2016

Lee Distinguished Visiting Professor, William & Mary, spring 1988

Faculty Essay Award from the Graduate Committee on Arts and Humanities, University of Colorado, 1987

Certificate of Appreciation, Minority Law Students Assoc., 1990

Fellow, American Academy of Arts and Sciences, from 2003

Ann and Herbert W. Vaughan Visiting Fellow, James Madison

Program in American Ideals and Institutions, Princeton University, fall, 2016.