

## **PROFESSOR TODD J. ZYWICKI**

GEORGE MASON UNIVERSITY FOUNDATION PROFESSOR OF LAW  
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### **PUBLICATIONS**

#### **BOOKS**

Editor, UNPROFITABLE SCHOOLING: EXAMINING CAUSES OF, AND FIXES FOR, AMERICA'S BROKEN IVORY TOWER (with Neal McCluskey), (Cato Press, 2019).

LAW AND ECONOMICS: PRIVATE AND PUBLIC (with Maxwell Stearns and Tom Micelli), (West, 2018).

TEACHERS MANUAL TO LAW AND ECONOMICS: PRIVATE AND PUBLIC PUBLIC (with Maxwell Stearns and Tom Micelli), (West, 2018).

Editor, RESEARCH HANDBOOK ON AUSTRIAN LAW AND ECONOMICS (with Peter J. Boettke), (Edward Elgar, 2017).

CONSUMER CREDIT AND THE AMERICAN ECONOMY (with Thomas Durkin, Gregory Elliehausen, and Michael Staten), (Oxford University Press, 2014).

PUBLIC CHOICE CONCEPTS AND APPLICATIONS IN LAW (with Maxwell Stearns) (West Publishing, 2009).

Editor, *The Rule of Law, Freedom, and Prosperity*, 10 SUPREME COURT ECONOMIC REVIEW (Chicago: University of Chicago Press, 2003). 278 pp. ISBN: 0-226-99962-9).

- Reviewed by Professor William A. Fischel, 14(6) LAW AND POLITICS BOOK REV. 493-97 (June 2004).

#### **ARTICLES AND BOOK CHAPTERS**

*Simple Rules for a Complex Regulatory World: The Case of Financial Regulation* (with Christopher Mufarrige), \_\_ EUROPEAN J. OF L. & ECON. \_\_ (Forthcoming 2020), working paper available [here](#).

*Bruce Yandle and the Art of Economic Communication*, in THE LEGACY OF BRUCE YANDLE 67-98 (Donald J. Boudreaux and Roger Meiners, eds., 2020), available [here](#).

*Friedrich A. Hayek* (with Edward Peter Stringham), in ENCYCLOPEDIA OF LAW & ECONOMICS (Alain Marciano and Giovanni Battista Ramello, eds.) (2019).

*A Chip Off the Old Block or a New Direction for Payment Card Security? The Law and Economics of the U.S. Transition to EMV* (with James Cooper), 2018 MICH. ST. L. REV. 869 (2018).

*The Behavioral Economics of Behavioral Law & Economics*, 5 REVIEW OF BEHAVIORAL ECONOMICS 439 (2018).

*The Chrysler and General Motors Bankruptcies*, in RESEARCH HANDBOOK ON CHAPTER 11 REORGANIZATION 298 (Barry Adler, ed., 2020).

*The Changing of the Guard: The Political Economy of Administrative Bloat in Higher Education* (with Christopher Koopman), in UNPROFITABLE SCHOOLING: EXAMINING CAUSES OF, AND FIXES FOR, AMERICA'S BROKEN IVORY TOWER 147 (Todd J. Zywicki and Neal McCluskey, eds., 2019).

*Introduction* (with Neal McCluskey), in UNPROFITABLE SCHOOLING: EXAMINING CAUSES OF, AND FIXES FOR, AMERICA'S BROKEN IVORY TOWER 1 (Todd J. Zywicki and Neal McCluskey, eds., 2019).

*Law and Economics: The Contributions of the Austrian School of Economics* (with Peter J. Boettke), in RESEARCH HANDBOOK ON AUSTRIAN LAW AND ECONOMICS 3 (Todd J. Zywicki and Peter J. Boettke, eds., 2017).

*Austrian Law and Economics and Efficiency in the Common Law*, in RESEARCH HANDBOOK ON AUSTRIAN LAW AND ECONOMICS 192 (Todd J. Zywicki and Peter J. Boettke, eds. 2017).

*Bankruptcy Judge as Central Planner* (with Shruti Rajagopalan), in RESEARCH HANDBOOK ON AUSTRIAN LAW AND ECONOMICS 371 (Todd J. Zywicki and Peter J. Boettke, eds., 2017).

*Conclusion: The Future of "Austrian" Law and Economics* (with Peter J. Boettke), in RESEARCH HANDBOOK ON AUSTRIAN LAW AND ECONOMICS 423 (Todd J. Zywicki and Peter J. Boettke, eds., 2017).

*Behavioral Law & Economics Goes to Court: The Fundamental Flaws in the Behavioral Law & Economics Arguments Against No-Surcharge Laws*, 82 MISSOURI L. REV. 770 (2017) (Symposium on behavioral law & economics).

*Punishing Rewards: How Clamping Down on Credit Card Interchange Fees Can Hurt the Middle Class* (with Julian Morris, Geoffrey A. Manne, and Ian Lee), Macdonald-Laurier Institute (Nov. 2017).

*Unreasonable and Disproportionate: How the Durbin Amendment Harms Poorer Americans and Small Businesses* (with Geoffrey A. Manne and Julian Morris), International Center for Law & Economics Working Paper (April 25, 2017).

*Dodd-Frank at Five Years: Its Impact on Freedom and the Rule of Law*, 43 J. OF FINANCIAL TRANSFORMATION 62 (2016).

*Do Americans Really Save Too Little and Should We Nudge Them to Save More? The Ethics of Nudging Retirement Savings*, 16 GEORGETOWN J. OF LAW & PUBLIC POLICY 877 (2017).

*Market-Reinforcing versus Market-Replacing Consumer Finance Regulation*, in REFRAMING FINANCIAL MARKET REGULATION: ENHANCING STABILITY AND PROTECTING CONSUMERS (Hester Peirce and Benjamin Klutsey eds. 2016).

*Market Based Nudges: How Financial Markets Improve Their Own Choice Architecture*, in NUDGE THEORY IN ACTION: BEHAVIORAL DESIGN IN POLICY AND MARKETS (2016).

*The Rule of Law During Times of Economic Crisis*, in ECONOMIC AND POLITICAL CHANGE AFTER CRISIS: PROSPECTS FOR GOVERNMENT, LIBERTY, AND THE RULE OF LAW 36 (Stephen H. Balch and Ben Powell, eds., 2016).

*Rent-Seeking, Crony Capitalism, and the Crony Constitution*, 23 SUPREME CT. ECON. REV. 77 (2016).

*The Law and Economics of Consumer Debt Collection and Its Regulation*, 28 LOYOLA CONSUMER L. J. 167 (2016).

*The CFPB's Arbitration Study: A Summary and Critique* (with Jason Scott Johnston), 35(5) BANKING AND FINANCIAL SERVICES POLICY REPORT 9 (May 2016).

*Consumer Credit and the American Economy: An Overview* (with Thomas A. Durkin and Gregory Elliehausen), 11 J. L. ECON. & POL'Y 279 (2015).

*Dodd-Frank at Five Years: Implications for Consumers and the Economy*, 34(11) BANKING AND FINANCIAL SERVICES POLICY REPORT 1 (Nov. 2015).

*The Consumer Financial Protection Bureau and the Return of Paternalistic Command-and-Control Regulation*, 16(2) ENGAGE 48 (2015).

*Hayek's Jurisprudence: And Ratnapala's Hayek*, 33(2) UNIVERSITY OF QUEENSLAND LAW JOURNAL 311 (2015).

*Bruno Leoni's Legacy and Continued Relevance*, 30(1) J. OF PRIVATE ENTERPRISE 131-41 (2015).

*Behavior, Paternalism, and Policy: Evaluating Consumer Financial Protection* (with Adam C. Smith), 9 NYU J. OF LAW & LIBERTY 201 (2015).

*An Assessment of Behavioral Law and Economics Contentions and What We Know Empirically About Credit Card Use by Consumers* (with Thomas A. Durkin and Gregory Elliehausen), 22 SUPREME COURT ECON. REV. 1 (2014).

*Commentary on CFPB Report: Data Point: Checking Account Overdraft* (with G. Michael Flores) (2014).

*Price Controls on Payment Card Interchange Fees: The U.S. Experience* (with Geoffrey Manne and Julian Morris), ICLE Financial Regulatory Research Program White Paper 2014-2 (2014).

*Keynote Address: Is There a George Mason School of Law and Economics?* 10 J. LAW, ECONOMICS & POLICY 543 (2014).

*Uncertainty, Evolution, and Behavioral Economic Theory* (with Geoffrey Manne), 10 J. OF LAW, ECONOMICS & POLICY 555 (2014).

*Overdraft Protection and Consumer Protection: A Critique of the CFPB's Analysis of Overdraft Programs* (with G. Michael Flores and Brian M. Deignan), 33(3) BANKING AND FINANCIAL SERVICES POLICY REPORT 10 (March 2014).

*The Consumer Financial Protection Bureau*, in PERSPECTIVES ON DODD-FRANK AND FINANCE (2014, MIT Press).

*The Behavioral Law and Economics of Fixed-Rate Mortgages (And Other Just-So Stories)*, 21 SUPREME COURT ECON. REV. 157 (2014).

*Payday Lending, Bank Overdraft Protection, and Fair Competition at the Consumer Financial Protection Bureau* (with Robert L. Clarke), 33 REVIEW OF BANKING AND FINANCIAL LAW 235 (2013-2014).

*Commentary: CFPB Study of Overdraft Programs* (with G. Michael Flores), MERCATUS RESEARCH (Nov. 4, 2013).

*Credit Where It's Due: How Payment Cards Benefit Canadian Merchants and Consumers, and How Regulation Can Harm Them* (with Ian Lee, Geoffrey A. Manne, and Julian Morris), MacDonald-Laurier Institute (Oct. 2013).

*The Economics and Regulation of Network Branded Prepaid Cards*, 65 FLORIDA L. REV. 1477 (2013).

*The Consumer Financial Protection Bureau: Savior or Menace?*, 81 GEORGE WASHINGTON L. REV. 856 (2013).

*Libertarianism, Law and Economics, and The Common Law*, 16 CHAPMAN L. REV. 309 (2013) (symposium on "Libertarian Legal Theory").

*The Bankruptcy Clause*, in THE HERITAGE GUIDE TO THE CONSTITUTION (2d ed. 2013).

*The Coinage Clause*, in THE HERITAGE GUIDE TO THE CONSTITUTION (2d ed. 2013).

*Senate Vacancies*, in THE HERITAGE GUIDE TO THE CONSTITUTION (2d ed. 2013).

*Auto Bailout or UAW Bailout? Taxpayer Losses Came from Subsidizing Union Compensation*, HERITAGE FOUNDATION BACKGROUNDER #2700 (June 13, 2012).

*The Senate and Hyper-Partisanship: Would the Constitution Look Different if the Framers Had Known that Senators Would be Elected in Partisan Elections?* 10 GEORGETOWN J. L. & PUB. POL'Y 375 (2012).

*The Economics and Regulation of Bank Overdraft Protection*, 69 WASHINGTON & LEE L. REV. 1141 (2012).

*Economic Uncertainty, The Courts, and The Rule of Law*, 35 HARVARD J. OF L. & PUB. POL'Y 195 (2012).

*The Balancing of Markets, Litigation, and Regulation*, 7 J. OF LAW, ECONOMICS, AND POL'Y 351 (2010).

*Perspectives on Dodd-Frank Wall Street Reform and Consumer Protection Act*, 7 J. OF LAW, ECONOMICS, AND POL'Y 307 (2010).

*Protecting the Public Health: Litigation and Obesity*, 7 J. OF LAW, ECONOMICS, AND POL'Y 259 (2010).

*The Auto Bailout and the Rule of Law*, NATIONAL AFFAIRS, Issue 7, p. 66 (Spring 2011).

*Does Increased Litigation Increase Justice in a Second-Best World?*, in THE AMERICAN ILLNESS (Frank Buckley, ed., 2013, Yale University Press).

*Hayekian Anarchism* (with Edward Peter Stringham), 78 J. ECON. BEHAVIOR & ORGANIZATION 290 (2011).

*Rivalry and Superior Dispatch: An Analysis of Competing Courts in Medieval and Early Modern England* (with Edward Peter Stringham), 147 PUBLIC CHOICE 497 (2011).

*Common Law and Economic Efficiency* (with Edward Peter Stringham), in 7 ENCYCLOPEDIA OF LAW AND ECONOMICS: THE PRODUCTION OF LEGAL RULES (2d ed., Francesco Parisi, ed., 2012).

*The Economics of Payment Card Interchange Fees and the Limits of Regulation*, ICLE FINANCIAL REGULATORY PROGRAM WHITE PAPER SERIES (June 2, 2010).

*Expansion of Liability Under Public Nuisance* (with Henry N. Butler), 18 SUPREME COURT ECONOMIC REVIEW 1 (2010).

*Money To Go*, 33(2) REGULATION 32 (2010).

*Subprime Mortgages: What We Have Learned From a New Class of Homeowners* (with Satya Thallam), in LESSONS FROM THE FINANCIAL CRISIS: CAUSES, CONSEQUENCES, AND OUR ECONOMIC FUTURE 181 (2010).

*Anna Nicole Smith Goes Shopping: The New Forum Shopping Problem in Bankruptcy*, 2010 UTAH L. REV. 511 (2010).

*Consumer Use and Government Regulation of Title Pledge Lending*, 22 LOYOLA CONSUMER L. REV. 425 (2010).

*Three Problematic Truths About the Consumer Financial Protection Agency Act of 2009* (with Joshua D. Wright), 1 LOMBARD STREET, No. 12 (2009).

*The Market for Information and Credit Card Regulation*, 28(1) BANKING AND FINANCIAL SERVICES POLICY REPORT 13 (2009).

*The Law and Economics of Subprime Lending* (with Joseph Adamson), 80 UNIVERSITY OF COLORADO L. REV. 1 (2009).

*Spontaneous Order and the Common Law: Gordon Tullock's Critique*, 135 PUBLIC CHOICE 35 (2008).

*Posner, Hayek, and the Economic Analysis of Law* (with Anthony B. Sanders), 93 IOWA L. REV. 559 (2008).

*Bankruptcy*, in THE CONCISE ENCYCLOPEDIA OF ECONOMICS (2d ed., David Henderson ed. 2008).

*Consumer Bankruptcy, Doctrinal Issues in*, in ENCYCLOPEDIA OF LAW AND SOCIETY: AMERICAN AND GLOBAL PERSPECTIVES (2008).

*Evolutionary Psychology*, in ENCYCLOPEDIA OF LAW AND SOCIETY: AMERICAN AND GLOBAL PERSPECTIVES (2008).

*Institutional Review Boards as Academic Bureaucracies: An Economic and Experiential Analysis*, 101 NORTHWESTERN L. REV. 861 (2007).

*The U.S. Federal Trade Commission and Competition Advocacy: Lessons for Latin American Competition Policy* (with James C. Cooper), in LATIN AMERICAN ANTITRUST DEVELOPMENTS (D. Daniel Sokol ed.) (2007).

*Group Selection*, in INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL SCIENCES, 2<sup>ND</sup> ED. (2007).

*Institutional Review Boards and Academic Bureaucracies*, 101 NORTHWESTERN L. REV. 861 (2007).

*Is Forum-Shopping Corrupting America's Bankruptcy Courts?* 94 GEORGETOWN L. J. 1141 (2006) (Review essay of Lynn M. LoPucki, *Courting Failure: How Competition for Big Cases is Corrupting the Bankruptcy Courts*).

*Institutions, Incentives, and Consumer Bankruptcy Reform*, 62 WASHINGTON & LEE L. REV. 1071 (2005).

*An Economic Analysis of the Consumer Bankruptcy Crisis*, 99 NORTHWESTERN L. REV. 1463 (2005).

*Wine, Commerce, and the Constitution* (with Asheesh Agarwal), 1 NYU J. LAW & LIBERTY 609 (2005).

*The Original Meaning of the 21st Amendment* (with Asheesh Agarwal), 8 GREEN BAG 2d 135 (2005).

*Wine Wars: Uncorking E-Commerce?* (with Asheesh Agarwal and Jerry Ellig, 27(4) REGULATION 10 (Winter 2004-2005).

*Obesity and Advertising Policy* (with Debra Holt and Maureen Ohlhausen), 12 GEORGE MASON L. REV. 979 (2004) (Symposium on Obesity, Health Claims, and Advertising).

*The Theory and Practice of Competition Advocacy at the FTC* (with James Cooper and Paul Pautler), 72 ANTITRUST L. J. 1091 (2005) (Symposium on 90<sup>th</sup> Anniversary of FTC).

*The FTC and State Action: Evolving Views on the Proper Role of Government* (with John T. Delacourt), 72 ANTITRUST L.J. 1075(2005) (Symposium on 90<sup>th</sup> Anniversary of FTC).

*The Bankruptcy Clause*, in THE HERITAGE GUIDE TO THE CONSTITUTION 112 (2005).

*The Coinage Clause*, in THE HERITAGE GUIDE TO THE CONSTITUTION 114 (2005).

*Senate Vacancies*, in THE HERITAGE GUIDE TO THE CONSTITUTION 415 (2005).

*Reconciling Group Selection and Methodological Individualism*, 7 ADVANCES IN AUSTRIAN ECONOMICS 267 (2004).

*The Past, Present, and Future of Bankruptcy Law in America*, 101 MICHIGAN L. REV. 2016 (2003).

*The Rise and Fall of Efficiency in the Common Law: A Supply-Side Analysis*, 97 NORTHWESTERN L. REV. 1551 (2003).

*The Rule of Law, Freedom, and Prosperity*, 10 SUPREME COURT ECONOMIC REVIEW 1 (2003), reprinted and translated *El Estado De Derecho, La Libertad y La Prosperidad*, 4(2) APUNTES DE ECONOMIA Y POLITICA: ANALISIS ECONOMICO DE LAS DECISIONES PUBLICAS 2 (2005).

*Baptists? The Political Economy of Environmental Interest Groups*, 53 CASE WESTERN RESERVE LAW REVIEW 315 (2002) (symposium on BJORN LOMBORG, THE SKEPTICAL ENVIRONMENTALIST: MEASURING THE REAL STATE OF THE WORLD (2001)).

*Competition Policy and Regulatory Reforms: Means and Ends*, in HOW SHOULD COMPETITION POLICY TRANSFORM ITSELF? DESIGNING THE NEW COMPETITION POLICY (2003).

*Corporate Law Practice*, in THE OXFORD COMPANION TO AMERICAN LAW (Kermit Hall ed.) (2002).

*Bankruptcy Law As Social Legislation*, 5 TEX. REV. L. & POLITICS 393 (2001).

*The Law of Presidential Transitions and the 2000 Election*, 2001 BYU L. REV. 1573 (2001).

*Evolutionary Psychology and the Social Sciences*, 13 *Humane Studies Review*, Issue 1 (Fall 2000) (On-Line Journal available at <http://www.humanestudiesreview.org/index.html>)

*With Apologies to Screwtape: A Response to Professor Alexander*, 9 J. BANKR. L. & PRACTICE 613 (2000).

Book Review Essay, BRUCE G. CARRUTHERS & TERENCE C. HALLIDAY, RESCUING BUSINESS: THE MAKING OF CORPORATE BANKRUPTCY LAW IN ENGLAND AND THE UNITED STATES, 16 BANKR. DEV. J. 361 (2000).

*The Economics of Credit Cards* 3 CHAPMAN L. REV. 79 (2000) (Selected to participate in Chapman Law School "Rising Stars in Bankruptcy" symposium).

*Talk is Cheap: The Existence Value Fallacy* (with Donald J. Boudreaux and Roger E. Meiners), 29 ENVIRONMENTAL LAW 765 (1999).

*Was Hayek Right about Group Selection After All?* 13 REV. OF AUSTRIAN ECON. 81 (2000).

*Industry and Environmental Lobbyists: Enemies or Allies?* in THE COMMON LAW AND THE ENVIRONMENT: RETHINKING THE STATUTORY BASIS FOR MODERN ENVIRONMENTAL LAW 185 (Roger E. Meiners and Andrew P. Morris eds. 2000).

*Finding the Constitution: An Economic Analysis of Tradition's Role in Constitutional Decision-Making* (with A.C. Pritchard) 77 N. C. L. REV. 409 (1999).

*Constitutions and Spontaneous Orders: A Response to McGinnis's "In Praise of Decentralized Traditions and their Preconditions"* (with A.C. Pritchard), 77 N. C. L. REV. 537 (1999).

*Environmental Externalities and Political Externalities: The Political Economy of Environmental Regulation and Reform*, 73 TULANE L. REV. 845 (1999).

*Rewrite the Bankruptcy Code, Not the Scriptures: Protecting a Debtor's Right to Tithe in Bankruptcy*, 1998 WISCONSIN L. REV. 1223 (1998).

*It's Time for Means Testing* (with Judge Edith H. Jones), 1999 BYU L. REV. 177 (1999).

*The Nature of the State and the State of Nature: A Comment on Grady and McGuire's "The Nature of Constitutions,"* 1 J. BIOECONOMICS 241 (1999) (The State and the Ethnic Group: The Bioeconomics of Economic Organizations).



*Mend It, Don't End It: The Case for Retaining the Disinterestedness Requirement for Debtor in Possession's Counsel*, 18 MISS. COL L. REV. 291 (1998) (Symposium on Bankruptcy Law).

*Of Bubbling Pots and Bankruptcy Conflicts: A Reply to Smith and Wolfram*, 18 MISS. COL L. REV. 399 (1998).

*Beyond the Shell and Husk of History: The History of the Seventeenth Amendment and Its Implications for Current Reform Proposals*, 45 CLEVELAND ST. L. REV. 165 (1997) (solicited article).

*Epstein & Polanyi on Simple Rules, Complex Systems, and Decentralization*, 9 CONST. POL. ECON. 143 (1998).

*A Unanimity-Reinforcing Model of Efficiency in the Common Law: An Institutional Comparison of Common Law and Legislative Solutions to Large-Number Externality Problems*, 46 CASE WESTERN RESERVE L. REV. 961 (1996).

*Senators and Special Interests: A Public Choice Analysis of the Seventeenth Amendment*, 73 OREGON L. REV. 1007 (1994).

*Federal Judicial Review of State Ballot Access Regulation: Escape from the Political Thicket*, 20 T. MARSHALL L. REV. 87 (1994).

*Cramdown and the Code: Calculating Cramdown Interest Rates Under the Bankruptcy Code*, 19 T. MARSHALL L. REV. 241 (1994).

*Foreword to Symposium on Bankruptcy Law*, 18 MISS. COL. L. REV. 281 (1998).

*The Bankruptcy Rules: 1994*, in 1995-96 ANNUAL SURVEY OF BANKRUPTCY LAW 1111 (William L. Norton, Jr. ed., 1995) (co-authored with Matthew W. Levin).

Book Review, ROBERT WRIGHT, NONZERO: THE LOGIC OF HUMAN DESTINY, 51 IDEAS ON LIBERTY 61 (2001).

Book Review, GREGORY S. ALEXANDER, COMMODITY AND PROPRIETY: COMPETING VISIONS OF PROPERTY IN AMERICAN LEGAL THOUGHT, 4 INDEPENDENT REV. 147 (1999).

Book Review, JEREMY SHEARMUR, BEYOND HAYEK, 11 CONST. POL. ECON. 205 (2000).

Book Review, BRUCE YANDLE, COMMON LAW AND COMMON SENSE FOR THE ENVIRONMENT, 9 CONST. POL. ECON. 349 (1998).

Book Review, CASS R. SUNSTEIN, LEGAL REASONING AND POLITICAL CONFLICT, 8 CONST. POL. ECON. 355 (1997).

Book Review, C.H. HOEBEKE, THE ROAD TO MASS DEMOCRACY: ORIGINAL INTENT AND THE SEVENTEENTH AMENDMENT, 1 INDEPENDENT REVIEW 439 (1996).

## **WORKING PAPERS**

*Wine Wars: The 21<sup>st</sup> Amendment and Discriminatory Bans to Direct Shipment of Wine*, available in [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=604803](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=604803).

*Why So Many Bankruptcies and What to Do About It: An Economic Analysis of Consumer Bankruptcy Law and Bankruptcy Reform*, available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=454121](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=454121)

## **EXPERIENCE**

### **CHAIR, CONSUMER FINANCIAL PROTECTION BUREAU TASKFORCE ON FEDERAL CONSUMER FINANCIAL LAW, WASHINGTON, DC 2020-21**

Chaired a federal taskforce that produced a 2 volume, 900 page comprehensive report on the consumer financial protection system and recommendations for reforms.

### **ANTONIN SCALIA LAW SCHOOL, GEORGE MASON UNIVERSITY, ARLINGTON, VA 1998-PRESENT.**

Executive Director, Law and Economics Center, 2015-2017. George Mason University Foundation Professor of Law, 2009-present; Professor of Law, 2002-2009; Associate Professor, 2000-2002; Assistant Professor, 1998-2000. Editor, *Supreme Court Economic Review*, 2006-present, 2002-2003. Senior Scholar, Mercatus Center; Senior Fellow, F.A. Hayek Program for Advanced Study in Philosophy, Politics, and Economics.

### **SENIOR FELLOW, CATO INSTITUTE, WASHINGTON, DC (2018-PRESENT).**

### **VANDERBILT UNIVERSITY LAW SCHOOL, NASHVILLE, TN 2007.**

Visiting Professor of Law.

### **GEORGETOWN UNIVERSITY LAW CENTER, WASHINGTON, DC 2004-2005.**

Visiting Professor of Law, August 2004-May 2005.

### **DIRECTOR, OFFICE OF POLICY PLANNING, FEDERAL TRADE COMMISSION, WASHINGTON, DC MAY 2003-JULY 2004.**

Director of Federal Trade Commission's policy office (SES Appointment). Responsible for helping to conceive and execute policies and priorities of Commission on issues of Consumer Protection, Competition, and Competition Advocacy.

### **BOSTON COLLEGE SCHOOL OF LAW, BOSTON, MA 2002.**

Visiting Professor.

### **MISSISSIPPI COLLEGE SCHOOL OF LAW, JACKSON, MISSISSIPPI, 1996-1998.**

Assistant Professor of Law.

### **ALSTON & BIRD, ATLANTA, GEORGIA, 1994-1996.**

Representations included SportsTown, Inc., Chapter 11 Debtor in Possession; Sonic Communications, Inc., Chapter 11 Operating and Chapter 7 Trustee; Krystal Corp.,

Unsecured Creditors Committee; and a variety of secured and unsecured creditors in federal bankruptcy and state collection proceedings.

**LAW CLERK TO HON. JUDGE JERRY E. SMITH, UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, HOUSTON, TEXAS, 1993-1994.**

**SUMMER LAW CLERK FOR HON. JUDGE ALEX KOZINSKI, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, PASADENA, CALIFORNIA, 1991.**

## **HONORS AND AWARDS**

Chair, Section on Law & Economics, Association of American Law Schools (2019).

Winner (with Edward Stringham), 2012 Society for Development of Austrian Economics Prize for Best Article in Austrian Economics.

Invited Lecture, Dean Lindsey Cowen Lecture in Business Law and Regulation Presented by the Center for Business Law and Regulation at Case Western Reserve University School of Law (March 3, 2011).

George Mason Foundation Professor of Law (2009-present).

Institute for Humane Studies Charles G. Koch Outstanding IHS Alum Award (2009).

Searle Fellow, George Mason University (Fall 2008).

Senior Fellow, Goldwater Institute (2008-2015).

W. Glenn Campbell and Rita Ricardo-Campbell National Fellow and the Arch W. Shaw National Fellow at the Hoover Institution on War, Revolution and Peace (Fall 2008).

Senior Scholar, Mercatus Center at George Mason University (2005-present).

Senior Fellow, James M. Buchanan Center for the Study of Political Economy (2005-present).

Honorable Mention American College of Consumer Financial Services Lawyers 2006 writing competition for *An Economic Analysis of the Consumer Bankruptcy Crisis*, 99 NORTHWESTERN L. REV. 1463 (2005).

Recipient of 2001 “Win Whittaker Award for Student Development” as Professor of the Year at George Mason University School of Law.

Recipient of grant from The John Templeton Foundation Freedom Project to teach a course on “The Rule of Law, Freedom, and Prosperity.” (Co-taught with Peter Boettke, Department of Economics, George Mason University). Fall 2001.

Recipient of grant from The John Templeton Foundation Freedom Project to teach a course on “The Rule of Law and the Legal Foundations of a Free Society.” (Co-taught with Peter Boettke, Department of Economics, George Mason University). Fall 1999.

### **TEACHING INTERESTS**

Bankruptcy, Contracts, Secured Transactions, Business Associations, Mergers and Acquisitions, Corporate Finance, Commercial Law, Electronic Commerce, Payment Systems, Consumer Law, Law & Economics, Public Choice & The Law, Evolutionary Analysis of Law, Law & Behavioral Economics. *Currently Teaching (2002-03):* Bankruptcy, Contracts, Law & Behavioral Economics.

### **RESEARCH INTERESTS**

Bankruptcy, Contracts, Law and Economics, Evolutionary Analysis of Law, Law & Behavioral Economics, Consumer Law, Environmental Law and Economics, Public Choice, Constitutional Economics, Business Associations, Electronic Commerce.

### **LAW SCHOOL AND UNIVERSITY SERVICE**

Member of Dean Search Committee (2014-2015).  
Editor, *Supreme Court Economic Review* Volume 1 (2001-2002), Volume 17-23 (2011-2017).  
Member of Dean Retention Committee (Spring 2001).  
Member of Faculty Appointments Committee (1999-2002, 2004-current); Clerkship Committee (2000-02, 2005-current).  
Faculty Advisor, St. Thomas More Catholic Law Students Society (1999-2007).  
Member of several dissertation committees for Economics Department PhD Candidates.

### **EDUCATION**

#### **UNIVERSITY OF VIRGINIA SCHOOL OF LAW**

J.D., 1993  
Executive Editor, *Virginia Tax Review*.  
John M. Olin Scholar in Law and Economics.

#### **CLEMSON UNIVERSITY**

M.A. Economics, 1990.  
H.W. Close Fellow in College of Commerce and Industry.  
Only Student Member of Clemson Law and Economics Workshop.  
Training in Statistics, Econometrics, and Computer Analysis.

#### **DARTMOUTH COLLEGE**

A.B. cum Laude with High Honors in Government Major, 1988.  
Rufus Choate Scholar.  
Three Citations for Exceptional Class Performance.

### **CONGRESSIONAL TESTIMONY**

Testimony before the Senate Committee on Banking, Housing and Urban Affairs, “Assessing the Effects of Consumer Credit Regulations” (Apr. 5, 2016).

Testimony before the House Committee on Financial Services, “The Dodd-Frank Act Five Years Later: Are We Freer?” (Sept. 17, 2015).

Testimony before the House Committee on Financial Services, “The Dodd-Frank Act Five Years Later: Are We More Stable?” (July 9, 2015).

Testimony before the House Committee on Oversight and Government Relations, Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs, “The Administration's Auto Bailouts and the Delphi Pension Decisions: Who Picked the Winners and Losers?” (July 10, 2012).

Testimony before the House Committee on Oversight and Government Relations, Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs, “Who's Watching the Watchmen?” (May 24, 2011).

Testimony before United States House of Representatives, Committee on Financial Services and Committee on Small Business, “The Condition of Small Business and Commercial Real Estate Lending in Local Markets,” (Feb. 26, 2010).

Testimony before United States House of Representatives, Committee on Financial Services, “Banking Industry Perspectives on the Obama Administration's Financial Regulatory Reform Proposals” (July 15, 2009).

Testimony before United States House of Representatives, Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, “Circuit City Unplugged: Why Did Chapter 11 Fail to Save 34,000 Jobs?” (March 11, 2009).

Testimony before the United State Senate Committee on Banking, Housing, and Urban Affairs, “Modernizing Consumer Protection in the financial Regulatory System: Strengthening Credit Card Protections” (February 12, 2009).

Testimony before the United States House of Representatives, Financial Services Committee, Subcommittee on Financial Institutions and Consumer Credit, “Credit Card Practices: Current Consumer and Regulatory Issues” (April 26, 2007).

Testimony before the United States House of Representatives, Judiciary Committee, Subcommittee on Commercial and Administrative Law, “Hearing on Working Families in Financial Crisis: Medical Debt and Bankruptcy” (July 17, 2007).

Testimony before United States Senate, Committee on the Judiciary, Subcommittee on Administrative Oversight and the Courts, “Oversight of the Implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act” (December 5, 2006).

Testimony before United States Senate, Committee on the Judiciary, “Bankruptcy Reform” (February 10, 2005).

Testimony before United States House of Representatives, Committee on Commerce, Trade, and Consumer Protection, “E-Commerce: The Case of Online Wine Sales and Direct Shipment” (October 30, 2003).

Testimony before Federal Judicial Conference Committee on Bankruptcy Rules, “Proposed Amendments to the Bankruptcy Rules” (January 26, 2001).

Testimony before United States House of Representatives, Committee on Government Reform, Subcommittee on Government Management, Information, and Technology, on “Transitioning to a New Administration: Can the Next President Be Ready?” (December 4, 2000).

Testimony before United States House of Representatives, Committee on the Judiciary, Subcommittee on Commercial and Administrative Law on “Perspectives on Consumer Bankruptcy and the Bankruptcy Reform Act of 1999” (March 17, 1999).

Testimony before Joint Hearing of the United States Senate, Committee on the Judiciary, Judiciary Subcommittee on Administrative Oversight and the Courts and House of Representatives, Committee on the Judiciary, Subcommittee on Commercial and Administrative Law on “The Bankruptcy Reform Act of 1999” (March 11, 1999).

Testimony before United States Senate, Committee on the Judiciary, Judiciary Subcommittee on Administrative Oversight and the Courts on “Bankruptcy Issues in Review: The Bankruptcy Code’s Effect on Religious Freedom and A Review of the Need for Additional Bankruptcy Judgeships” (September 22, 1997).

## **PROFESSIONAL ACTIVITIES**

Consumer Representative, Debt Buyers Association Certification Council (2013-2015).

Board of Directors, Competitive Enterprise Institute (2013-2016; 2019-present), Chairman (2014-2016).

Senior Fellow, F.A. Hayek Program on Politics, Philosophy, and Economics (2012-present).

Board of Trustees, Center for Excellence in Higher Education (2010-present).

Board of Trustees, Yorktown University (2009-2016).

Board of Trustees, Institute for Humane Studies (2009-present).

Editor, *Supreme Court Economic Review* (2001-2003, 2006-present).

Board of Directors (2007-2015) and Advisory Council (2006-2015), Financial Services Research Program.

Board of Directors (2008-present) and Chair of Academic Advisory Council (2000-present), The Bill of Rights Institute.

Senior Fellow, Goldwater Institute (2007-2012).

Board of Trustees, Foundation for Research on Economics and the Environment (2009-present).

Member, United States Department of Justice Study Group on "Identifying Fraud, Abuse and Errors in America's Bankruptcy System" (2006-2007).

Alumni Trustee, Dartmouth College Board of Trustees (2005-2009).

Chair, Academic Advisory Panel, McCormick-Tribune Foundation Freedom Museum, Chicago, Illinois (August 2004-present).

Advisory Board, *American Bankruptcy Institute Law Review* (2003-present).

Chair, Academic Advisory Panel, "We the People in IMAX," IMAX Film with accompanying educational material.

Referee, *American Political Science Review*; *Contemporary Economic Policy*; *Review of Austrian Economics*; *Journal of Institutional and Theoretical Economics*; *Philosophy, Politics, and Economics*; *Journal of Bioeconomics*; *Public Choice*; *Supreme Court Economic Review* (2000-present).

Research Fellow, International Center for Economic Research (ICER), Turin, Italy (May-June, 2002).

Advisory Council, Centro para el Analisis de las Decisiones Publicas, Universidad de Francisco Marroquin, Guatemala City, Guatemala (2000-c.2008).

Consejo Consultivo of the Centro de Opcion Publica, Universidad de Francisco Marroquin, Guatemala (Academic Advisory Council of Public Choice Center at University of Francisco Marroquin in Guatemala) (2000-c.2008).

Senior Research Fellow, Program on Markets and Institutions, James Buchanan Center for Political Economy at George Mason University (2001-2012).

Contributing Editor, NORTON BANKRUPTCY TREATISE Chapter 51, Property of the Estate (1997-present).

Co-Chair, Bankruptcy Subcommittee, Federalist Society Financial Services and E-Commerce Practice Group (1999-present).

Co-Authored several proposals and position papers for the National Bankruptcy Review Commission (1997).

Member, American Bankruptcy Institute (1999-present).

## **SELECTED MEDIA**

### **TELEVISION**

“The Larry Parks Show” (June 7, 2012) discussing “The Rule of Law.”

Fox Business, Freedom Watch with Andrew Napolitano (January 13, 2012) discussing “Food Advertising Regulation.”

Fox Business, "The Willis Report" (Oct. 5, 2011) discussing “The Dick Durbin Bank Fees.”

Fox Business, "The Willis Report" (Jan. 4, 2011) discussing “Dodd-Frank and the Return of the Loan Shark.”

Fox News, John Stossell's “Top 10 Politicians' Promises Gone Wrong” (Dec. 17, 2010).

NBC Nightly News (Oct. 17, 2010) discussing public employee pensions.

ABC World News Tonight (June 3, 2009) discussing General Motors bankruptcy.

Fox Business, “Neil Caputo Show” (May 14, 2009) to discuss “Chrysler and the Rule of Law.”

Fox News, “Fox and Friends” (December 19, 2008) discussing reorganization of automotive industry.

PBS, “The Newshour with Jim Lehrer” (October 17, 2005) discussing bankruptcy reform legislation.

CNN, “Lou Dobbs Tonight” (March 2005) discussing bankruptcy reform legislation.

CNBC, (July 2002) discussing WorldCom Bankruptcy.

CNBC, “Business Center” (February 6, 2002) discussing Congressional Hearings on Enron matter.

CNBC, “Business Center” (February 1, 2002) discussing Enron bankruptcy.

ABC World News Tonight, “Bankruptcy Reform” (February 2001).

Bloomberg News, “Bankruptcy Reform” (February 2001).

CNNfn, “Bankruptcy Reform” (February 2001).

Bloomberg News (November 2000).

### **RADIO**



The Bob Zadek Show, "Repeal the 17th Amendment?" (June 24, 2012), listen [here](#).

WTOP Radio, "Obama Acts Alone in Picking Head of Consumer Protection Bureau" (Jan 4, 2011), listen [here](#).

John Batchelor Show, "The Auto Bailouts and the Rule of Law" (April 25, 2011), listen [here](#).

"To The Point," NPR, "The Supreme Court and the Bankrupt: Is Debt the American Way?" (Jan. 14, 2011), listen [here](#).

"On Point," NPR, "Pension Envy, Pension Crisis" (July 28, 2010) discussing public employee pensions, listen [here](#).

Lou Dobbs Show to Discuss "Chrysler and the Rule of Law" (May 14, 2009).

Jerry Doyle Show to discuss "Chrysler and the Rule of Law" (May 13, 2009).

The Diane Rehm Show to discuss "Credit Card Holders' Bill of Rights" (May 5, 2009).

California Commerce (with John McCauley), "Regulation of Consumer Credit," listen [here](#).

California Commerce (with John McCauley), "Modifying Mortgages in Bankruptcy," listen [here](#).

Econtalk (with Russ Roberts), "Zywicki on Debt and Bankruptcy," Podcast, listen [here](#).

The Exchange, New Hampshire Public Radio, "Bankruptcy Law Reform," listen [here](#).

American Radioworks Documentary, "Bankrupt: Maxed Out in America," listen [here](#).

Appearance on "The Conversation" to discuss "New Consumer Bankruptcy Laws," KUOW Radio Seattle (Sept. 20, 2005), Audio available [here](#).

Regular Commentator on "The Laura Ingraham Show"

Appearance on "The Connection," National Public Radio, to discuss Bankruptcy Reform (March 2002).

Appearance on NPR "The Diane Rehm Show" to discuss Bankruptcy Reform (May 25, 2000).

Appearance on CNN "Burden of Proof" to discuss AOL-Time Warner merger (March 2000).

Appearance on PBS "The Newshour with Jim Lehrer" to discuss bankruptcy reform (June 14, 1999).

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*The CFPB Could Be a Force For Good*, WALL ST. J. (Feb. 19, 2018).

*Durbin's Debit-Card Price Controls Hit the Poor Hardest* (with Julian Morris), WALL ST. J. (May 1, 2017).

*The Constitution Says Nothing About Behavioral Economics* (with Geoffrey A. Manne), WALL ST. J. (Jan. 9, 2017).

*Credit is a Powerful Tool for American Families* (with Thomas A. Durkin), WASHINGTON POST (April 17, 2015).

*Overdraft Protection Rules Could Hurt Consumers More Than They Help* (with G. Michael Flores), AMERICAN BANKER (November 24, 2014).

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*The new EU price controls that will hold back a cashless future--and hit the poor* (with Geoffrey Manne and Julian Morris), CITY A.M. (London, England) (June 9, 2014).

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*America's Taxpayers Lost Big in UAW Bailout* (with James Sherk), DETROIT NEWS (June 26, 2012).

*Obama's United Auto Workers Bailout* (with James Sherk), WALL STREET JOURNAL, page A19 (June 13, 2012).

*Spongebob Squarepants' Last Stand*, WALL STREET JOURNAL, page A11 (April 13, 2012).

*Set Interac Free: Burdensome Federal Regulations Discourage Innovation*, NATIONAL POST (Dec. 19, 2011).

*The Dick Durbin Bank Fees*, WALL STREET JOURNAL, page A15 (Sept. 30, 2011).

*Lender Punishment Mustn't Reward Defaulters: Forced Principal Reduction is the Wrong Solution to the Foreclosure Fiasco*, WASHINGTON TIMES, p. B3 (June 9, 2011).

*Bureau of Consumer Protection Must Put Consumers First*, WASHINGTON TIMES, page B3 (May 6, 2011).

*Roar of the Lion Father: Parenting for Creativity Beats Parenting for Performance*, WASHINGTON TIMES, page B1 (Jan. 25, 2011).

*Anna Nicole Smith Case Offers Court Opportunity to Limit Forum-Shopping in Bankruptcy Cases*, NATIONAL LAW JOURNAL (Jan. 11, 2011).

*Dodd-Frank and the Return of the Loan Shark*, WALL STREET JOURNAL, page A17 (Jan. 4, 2011).

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*America's Debt Paranoia*, 59(8) THE FREEMAN (October 2009).

*Check that Checkbook: A Guide to Smarter Alumni Giving*, NATIONAL REVIEW, page A43 (Oct. 5, 2009),

*Let's Treat Borrowers Like Adults: The Problems with a Financial Products Safety Panel*, WALL STREET JOURNAL, page A17 (July 8, 2009),

*Chrysler and the Rule of Law*, WALL STREET JOURNAL, page A19 (May 13, 2009).

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*Bankruptcy is the Perfect Remedy for Detroit*, WALL STREET JOURNAL, page A21 (December 16, 2008).

*The Two-Income Tax Trap*, WALL STREET JOURNAL (August 2007).

*Junk Social Science Index* (with Gail Heriot), WASHINGTON TIMES, page A16 (July 26, 2007), available [here](#).

*A Great Mind? Miers Might Vote Right, But What the Court Truly Needs Is Intellectual Leadership*, LEGAL TIMES (October 10, 2005).

*Reforming Bankruptcy Laws: Changes Will Help Everyone*, SAN DIEGO UNION-TRIBUNE (March 17, 2005).

Op-Ed, “Deadbeats Cost All of Us Dearly,” USA TODAY, page 17A (June 22, 2000).

I have also been quoted regularly in major media outlets on issues of bankruptcy law and consumer credit, including *Forbes*, *Fortune*, *Business Week*, *The New York Times*, *The Wall Street Journal*, *Washington Post*, *Washington Times*, *Chronicle of Higher Education*, *Boston Globe*, *Christian Science Monitor*, *Houston Chronicle*, *Dallas Morning News*, *Toronto Star*, and many other leading newspapers and magazines. Quoted in “Washington Whispers,” *U.S. News & World Report* (Aug. 5, 2002). I have also been quoted in several foreign publications, including the BBC (Britain), the *Daily Yomiuri* (Japan), and *RP Online* (Germany).

I have been profiled in *The Daily Deal* for my views on Bankruptcy Reform and other bankruptcy-related issues, as well as a recurrent commentator for *The Daily Deal*. See <http://www.thedeal.com/NASApp/cs/ContentServer?pagename=FutureTense/Apps/XceleRate/Render&c=TDDArticle&cid=TDD6A64S8MC>

## INTERNET

Member of the “Volokh Conspiracy,” [www.volokh.com](http://www.volokh.com)

*From Kelo With Love: Revisiting Kelo's Flawed Economics and Vacuous Constitutionalism*, LIBERTY FORUM (Nov. 4, 2012), available [here](#).

*The Banality of Bailouts, Special-Interests, and Political Corruption*, LIBERTY LAW (Oct. 29, 2012), available [here](#).

*The Revenge of Richard Nixon: The Consumer Financial Protection Bureau Spreads Its Tentacles*, LIBERTY LAW (Oct. 20, 2012), available [here](#).

*The Rule of Law and the Auto Bailouts: A Conversation with ToddG Zywicki*, LIBERTY LAW TALK PODCAST (June 3, 2012), available [here](#).

*Milton Friedman and Friedrich Hayek: Fifty Years Later*, LIBERTY LAW (May 4, 2012), available [here](#).

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*The Robo-Signing Settlement: Seeds of Recovery or Chaos?*, FORBES.COM (Feb. 20, 2012), available [here](#).

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*Deutsche Bank a Scapegoat for Bad Housing Policy*, FORBES.COM (May 11, 2011), available [here](#).

Reason.tv, "The Next Great Leap Backwards for Consumer 'Rights'" (August 2009), available [here](#).

*Obama's Ailing Popularity*, FORBES.COM (August 21, 2009), available [here](#).

*My Favorite President: Calvin Coolidge*, NATIONAL REVIEW ON-LINE (February 16, 2009), available [here](#).

*Rebalancing the Bankruptcy Code*, JURIST, August 18, 2005, available [here](#).

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*Bankrupt Criticisms*, NATIONAL REVIEW ON-LINE (March 15, 2005), available [here](#).

## **EXPERT TESTIMONY**

*Hawkins v. First Tennessee Bank*, Shelby County Circuit Court, Tennessee, 13<sup>th</sup> Judicial District, Case No. CT-004085-11, Div. VII (2011).

*Consumer Financial Protection Bureau v. CashCall, Inc., et al.*, United States District Court for the Central District of California, Case No. 2:15-cv-07522-JFW (RAOx) (2015).

*In re: HSBC USA, N.A., Debit Card Overdraft Fee Litigation*, Civil Action No. 2:13-MD-02451 (2013).

*James v. National Financial*, Delaware Court of Chancery, C.A. No. 8931-VCL (2014).

*Morgan Drexen, Inc. and Kimberly A. Pisinski v. Consumer Financial Protection Bureau*, United States District Court for the District of Columbia, Civil Action No. 13-01112 (CKK) (2013).

*Cox v. Community Loans of America*, United States District Court, Middle District of Georgia, Case No. 4:11-cv-177 (CDL) (2013)

*Hammer v. Sam's East, Inc.*, United States District Court, Western District of Missouri, Case No. Case No. 4:08-cv-00788-HFS (2012).

*Experian Information Solutions, Inc. v. Lifelock, Inc.*, United States District Court, Central District of California, Case No. SACV08-00165 AB (2009).

*Anthony V. Valaitis v. Third Federal Saving & Loan Association of Cleveland*, Court of Common Pleas, Lake County, OH, Case No. 07 CV 002329 (2008).

*Bhandari v. Nilsestuen, et al.*, Dane County, Wisconsin, Case No. 07-CV-2226 (2008).

*Charles Brown, et al. v. David Hovatter, et al.*, United States District Court for the District of Maryland, Case No. 1:06-CV-00524-RDB (2007).

*Smith v. PNC Mortgage Corp. of America (In re Smith)*, United States Bankruptcy Court, Southern District of Alabama, Southern Division, Case No. 98-11129, Adv. No. 99-1138 (2002).

*Rocky Dwayne Sheffield v. Homeside Lending, Inc. (In re Sheffield)*, United States Bankruptcy Court for the Southern District of Alabama, Southern Division, Case No. 97-10511-MAM (2000).