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**EDUCATION**

- 1981 - 1987 **Cornell University**  
Department of Government  
**Ph.D.**, May 1987  
**M.A.**, 1985
- 1977 - 1981 **University of Hamburg** (Germany)  
Political Science, Philosophy  
**Diploma**, 1981

**EMPLOYMENT**

- 2000 - present **American Enterprise Institute for Public Policy Research**  
John G. Searle Scholar  
Director, AEI Transatlantic Law Forum (2008-present)  
Director, AEI Federalism Project (2004-2008)  
Co-Director, AEI Liability Project (with Jonathan Klick, 2003-2005)

Research and writing for academic and general-audience publications.  
Organize scholarly conferences and panel discussions on recent scholarship and events related to federalism and civil liability. Published series of essays on American federalism (*Federalist Outlook*), with emphasis on constitutional law and regulatory policy.

- 2004 - present **Boston College**  
Visiting Professor, Political Science
- Courses Taught: Constitutional Design (Graduate Seminar)  
Litigation as Political Strategy (Graduate Seminar)  
American Federalism (Graduate Seminar)

- 1989 - 2000    **Center for Individual Rights**  
Co-founder and Director  
Founded and directed non-profit constitutional law firm. Principally responsible for fundraising, administration, public affairs, case selection, and litigation management. Litigated cases (selection):
- BMC Marketing Corp. v. Fair Employment Council*, 28 F.3d 1268 (D.C. Cir. 1994)  
*Hopwood v. State of Texas*, 78 F.3d 932 (5<sup>th</sup> Cir., 1996), *cert. denied*, 518 U.S. 1033 (1996)  
*Rosenberger v. Univ. of Virginia*, 515 U.S. 819 (1995)  
*United States v. Morrison*, 529 U.S. 598 (2000)  
*Gratz v. Bollinger*, 539 U.S. 244; *Grutter v. Bollinger*, 539 U.S. 306 (2003)
- 1994            **Cornell University**  
Cornell-in-Washington  
Adjunct Professor, Government
- Course Taught: Civil Rights and Civil Liberties (with Jeremy A. Rabkin)
- 1988 - 1989    **Washington Legal Foundation**  
Resident Scholar
- 1986 - 1988    **Smith Richardson Foundation**  
Program Officer
- 1986 - 1987    **Hunter College**  
Adjunct Professor of Political Science
- Courses Taught: American Government  
European Government
- 1987            **John Jay College**  
Adjunct Professor of Political Science
- Courses Taught: United States Supreme Court  
American Government
- 1985            **Institute for Educational Affairs**  
Program Officer

## RESEARCH & PUBLICATIONS

### IN PROGRESS

OUR COMPETITIVE CONSTITUTION. Forthcoming, 2009.

### BOOKS

CITIZENSHIP IN AMERICA AND EUROPE: BEYOND THE NATION-STATE? MICHAEL S. GREVE AND MICHAEL ZÖLLER, EDS. AMERICAN ENTERPRISE INSTITUTE, 2009.

FEDERAL PREEMPTION. RICHARD A. EPSTEIN AND MICHAEL S. GREVE, EDS. American Enterprise Institute, 2006.

HARM-LESS LAWSUITS? WHAT'S WRONG WITH CONSUMER CLASS ACTIONS. American Enterprise Institute, 2005.

COMPETITION LAWS IN CONFLICT: ANTITRUST JURISDICTION IN THE GLOBAL ECONOMY. Richard A. Epstein and Michael S. Greve, eds. American Enterprise Institute, 2004.

SELL GLOBALLY, TAX LOCALLY: SALES TAX REFORM FOR THE NEW ECONOMY. American Enterprise Institute, 2003.

REAL FEDERALISM: WHY IT MATTERS, HOW IT COULD HAPPEN. American Enterprise Institute, 1999.

THE DEMISE OF ENVIRONMENTALISM IN AMERICAN LAW. American Enterprise Institute, 1996.

ENVIRONMENTAL POLITICS: PUBLIC COSTS, PRIVATE REWARDS. Michael S. Greve and Fred L. Smith, eds. Praeger, 1992.

### ARTICLES

“Federalism and the Welfare State in the United States.” 4 *Revue française des affaires sociales* (2008).

“The Dormant Commerce Clause as an Ex Ante Rule.” 3 *Journal of Law, Economics, and Policy* 41 (2007).

“Why Roe Won’t Go.” 51 *St. Louis University Law Journal* 701 (2007).

“Preemption in the Rehnquist Court: A Preliminary Empirical Assessment.” (With Jonathan Klick). 14 *Supreme Court Economic Review* 43 (2005).

“Federal Preemption: James Madison, Call Your Office.” 33 *Pepperdine Law Review* 77 (2005).

“Cartel Federalism? Antitrust Enforcement by State Attorneys General.” 72 *University of Chicago Law Review* 99 (2005).

“The Term the Constitution Died.” 2 *Georgetown Journal of Law & Public Policy* 227 (2004).

“Consumer Law, Class Actions, and the Common Law.” 7 *Chapman Law Review* 155 (2004).

“The Intractable Problem of Antitrust Jurisdiction.” (With Richard A. Epstein). In: COMPETITION LAWS IN CONFLICT (Epstein & Greve, eds.) American Enterprise Institute, 2004.

“In Defense of Small Steps.” (With Richard A. Epstein). In: COMPETITION LAWS IN CONFLICT (Epstein & Greve, eds.) American Enterprise Institute, 2004.

“If It Ain’t Broke, Why Is Everybody Trying to Fix It? E-Commerce Taxation in a Destination-Based World.” In: WHO RULES THE NET? INTERNET GOVERNANCE AND JURISDICTION (Clyde Wayne Crews & Adam Thierer, eds.) Cato Institute, 2003.

“Compacts, Cartels, and Congressional Consent.” 68 *Missouri Law Review* 285 (2003).

“Federalism’s Frontier.” 7 *Texas Review of Law and Politics* 93 (2002).

“Business, the States, and Federalism’s Political Economy.” 25 *Harvard Journal of Law & Public Policy* 895 (2002).

“Against Cooperative Federalism.” 70 *Mississippi Law Journal* 557 (2002).

“Federalism Values and Foreign Relations.” 2 *Chicago Journal of International Law* 355 (2001).

“Friends of the Earth, Foes of Federalism.” 11/12 *Duke Environmental Law and Policy Forum* (2001).

“Free Speech and Liberal Education.” *Academic Questions* Vol. 10 No. 3 (Summer 1997), p. 24.

“Hopwood and Its Consequences.” 17 *Pace Law Review* 1 (1997).

“Federalism and Judicial Mandates.” 28 *Arizona State Law Journal* 112 (1996) (contribution to panel discussion; comments).

“Sexual Harassment: Telling the Other Victim’s Story.” 23 *Northern Kentucky Law Review* 523 (1996).

“Environmental Justice or Political Opportunism?” 9 *St. John's Journal of Legal Commentary* 475 (1994).

“Civil Rights, Uncivil Speech.” 1994 *Public Interest Law Review* 1.

“Factions and the Environment.” 21 *Ecology Law Quarterly* 528 (1994).

“Hate Crimes and Hypocrisy.” 1992/1993 *Annual Survey of American Law* 563.

“Introduction: Environmental Politics Without Romance.” In: ENVIRONMENTAL POLITICS: PUBLIC COSTS, PRIVATE REWARDS (Greve & Smith, eds.) Praeger, 1992.

“How to Reform the Endangered Species Act.” Claremont Institute Monograph, 1992. 25pp.

“Property Rights at the Bicentennial: Course Correction or Constitutional Revolution?” 25 *Beverly Hills Bar Association Journal* 114 (1991).

“The Private Enforcement of Environmental Law.” 65 *Tulane Law Review* 339 (1990).

--- Partially reprinted with comments in: Robert L. Fischman, Maxine L. Lipeles, and Mark S. Squillace, eds., AN ENVIRONMENTAL LAW ANTHOLOGY (Anderson Publishing Co., 1996), pp. 164 - 182.

“Public Law and Judicial Review.” 6 *The Journal of Law and Politics* 559 (1990).

“Environmentalism and Bounty Hunting.” *The Public Interest* No. 97 (Fall 1989), pp. 15-29.

“The Non-Reformation of Administrative Law: Standing to Sue and Public Interest Litigation in West German Environmental Law.” 22 *Cornell International Law Journal* 197 (1989).

“The Private Enforcement of Environmental Law.” Part I and II. Washington Legal Foundation, Working Papers Nos. 29 and 30 (1989). 41pp. and 32pp.

*Environmentalism and the Rule of Law: Administrative Law and Movement Politics in West Germany and the United States* (Diss., Cornell University, 1987).

“Terminating School Desegregation Lawsuits.” 7 *Harvard Journal of Law and Public Policy* 303 (1984).

## SHORT PUBLICATIONS, EDITORIALS, & BOOK REVIEWS

“Bad Business: A Review of the Supreme Court’s Term.” *AEI Constitutional Outlook*, July 16, 2009.

“Preemption Strike.” *National Review Online*, March 23, 2009.

“If We are Going to Do It, Do It Right.” *National Review Online*, December 8, 2008.

“As Arizona Goes, So Goes the Nation: How Medicaid Ruins the States' Fiscal Health.” (With Phil Wallach.) *AEI Health Policy Outlook*, July 17, 2008.

“Does the Court Mean Business?” *AEI Federalist Outlook*, September 20, 2007.

“What Does DOJ Need Now?” *Legal Times* (Washington), September 5, 2007.

“Federal Preemption: Principles and Politics.” (With Richard A. Epstein.) *AEI Federalist Outlook*, June 4, 2007.

“How to Pay the Piper.” (With Russell R. Wheeler.) *The Brookings Institute: Issues in Governance Studies*, April 1, 2007.

“Interstate Comity: Cheers for Texas.” *AEI Federalist Outlook*, March 30, 2007.

“Germany’s Bad Example for Iraq.” *Wall Street Journal*, October 3, 2005.

“The German Problem.” *Weekly Standard*, September 19, 2005.

“How to Think about Constitutional Change, Part II.” *AEI Federalist Outlook*, August 2, 2005.

“How to Think about Constitutional Change, Part I.” *AEI Federalist Outlook*, June 1, 2005.

“Liberals in Exile.” *Legal Times* (Washington), May 2, 2005.

“Three-Piece Suits and Black Robes.” *National Review*, January 31, 2005.

“Liability Reform: Carpe Diem.” *Federalist Outlook*, December 1, 2004.

“The Justices at Home Abroad.” *Federalist Outlook*, August 1, 2004.

“Foreign Headaches.” (With Richard A. Epstein) *National Law Journal*, July 12, 2004.

“Same-Sex Marriage: Commit It to the States.” *Federalist Outlook*, March 1, 2004.

“Subprime, but not Half-Bad: Mortgage Regulation as a Case Study in Preemption.” *Federalist Outlook*, September 1, 2003.

“The Term the Constitution Died.” *Federalist Outlook*, Friday, August 1, 2003.

“The Court Decides Anything Goes.” *The Chronicle Review*, July 4, 2003.

“A Conservative View of the Court.” *National Review*, June 16, 2003.

“Full Faith and Credit: Eulogy for a Lost Clause.” *National Law Journal*, May 26, 2003.

“Washington and the States: Segregation Now.” *Federalist Outlook*, May 1, 2003.

“Choice and the Constitution.” *Federalist Outlook*, March 1, 2003.

“Commerce and the Constitution.” Sunday, December 1, 2002.

“A Poorly Traveled Road.” *National Law Journal*, November 25, 2002.

“Reviewing Tort Law.” *National Law Journal*, September 16, 2002.

“States' Rights on Steroids.” *Federalist Outlook*. Sunday, September 1, 2002

“The Supreme Court Term That Was and the One That Will Be.” *Federalist Outlook*, Monday, July 1, 2002.

“Reform Free-For-All.” *National Law Journal*, June 17, 2002.

“Free Eliot Spitzer!” *Federalist Outlook*, May 1, 2002.

“Compacts and Collusion.” *Federalist Outlook*, March 31, 2002.

“New Insights from the Old Continent. *Federalist Outlook*, January 1, 2002.

“Federalism on the Bench.” *The Weekly Standard*, December 3, 2001.

“A Post Sept 11 Agenda.” *Los Angeles Times*, November 18, 2001.

“Washington Goes to War.” *The Weekly Standard*, November 12, 2001.

“National Power, Post-9/11.” *Federalist Outlook*, November 1, 2001.

“E-Taxes: Between Cartel and Competition.” *Federalist Outlook*. September 1, 2001.

“Federalism, Yes. Activism, No.” *Federalist Outlook*, July 1, 2001.

“School Reform Leads to Politics.” *Los Angeles Times*, June 24, 2001.

“The End of Education Reform.” *The Weekly Standard*, May 21, 2001.

“Affirmative Action Is on the Rocks, Thanks to College Leaders.” *Chronicle of Higher Education*, April 20, 2001.

“Laboratories of Democracy: Anatomy of a Metaphor.” *Federalist Outlook*, March 31, 2001.

“Big Government Federalism.” *Federalist Outlook*, March 1, 2001.

“A Federalism Worth Fighting For.” *The Weekly Standard*, January 29, 2001.

“The Real Division in the Court.” *The Weekly Standard*, December 25, 2000.

“Justice for the NOTA Vote.” *National Review Online*, December 12, 2000.

“The Equal Protection Card.” *National Review Online*, December 11, 2000.

“Federalism after the Election.” *Federalist Outlook*, December 1, 2000.

“Cooperation Does Not Work.” *Federalist Outlook*, September 1, 2000.

“The Supreme Court's Federalism.” *Federalist Outlook*, August 1, 2000.

“Collision Court.” *Legal Times*, June 12, 2000.

“Yes, Tax the Net.” *Weekly Standard*, May 15, 2000.

“The Court and its Key Project.” *National Review* May 1, 2000.

“Federalism Is More Than States' Rights.” *Wall Street Journal* July 1, 1999.

“A River Runs Dry.” (Review of William G. Bowen & Derek Bok, *THE SHAPE OF THE RIVER*.) *Policy Review*, March-April 1999.

“The Demise of Race-Based Admission Policies.” *The Chronicle of Higher Education*, March 19, 1999.

“The Vanity of Diversity.” *The Weekly Standard* July 20, 1998.

“Vexed By The Text.” (Review of Antonin Scalia, *A MATTER OF INTERPRETATION*.) *Reason*, December 1997.

“Prop 209: A Graceful Exit for the Courts.” *Los Angeles Times*, February 14, 1997.

“Remote Control Tuning For Speech.” (Reviewing Owen M. Fiss, *THE IRONY OF FREE SPEECH*.) *Washington Times*, November 10, 1996.

“Ruling Out Race: A Bold Step to Make Colleges Colorblind.” *The Chronicle of Higher Education*, March 29, 1996.

“Segregation, 90s Style, And How To Fight It.” *The Weekly Standard*, December 25, 1995.

“Forcing Free Speech.” *Reason*, July 1995.

“The Delegation Dilemma” (Book Review). *Reason*, January 1995.

“Speech Impediments.” *National Review*, October 10, 1994.

“Call It What It Is--Censorship.” *ABA Journal*, February 1994.

“The Importance of Property Rights.” *National Cattleman*, October 1993.

“Rolling Back the Red Carpet.” *Coal Voice*, September/October 1993.

“The New Civil Rights Agenda.” *Wall Street Journal*, September 8, 1993.

“What's Wrong With Hate-Crime Laws.” *Wall Street Journal*, April 21, 1993.

“When the Feds Weigh In On PC.” (With Joseph A. Shea.) *Legal Times* (Washington), January 25, 1993.

“Law School Enrollment Goals.” *ABA Journal*, January 1993.

“The Newest Move in Law Schools' Quota Game.” *Wall Street Journal*, October 5, 1992.

“Recommended Reading: Richard Epstein's FORBIDDEN GROUNDS” (Book Review). *The Federalist Paper*, April 1992.

“Campaigning for Dollars.” *Coal Voice*, January/February 1992.

“The EPA Rediscovered the Environment.” *The American Enterprise* (November-December 1991).

“What If the IRS Played by the EPA's Rules?” *Wall Street Journal* April 11, 1990. (Reprinted in several trade journals).

“Clean Break: Enough Superfund Money.” *Legal Times* (Washington), January 8, 1990. (Reprinted under different titles in several other legal trade journals).

“Congress' Environmental Buccaneers.” *Wall Street Journal* September 18, 1989.

“Making the Law Help the Poor.” *Philanthropy*, July/August 1989.

“Overruling Runyon?” *ABA Journal*, August 1988.

“Runyon Decision Doesn't Deserve to Stand.” *Wall Street Journal* June 29, 1988.

“Taking the Constitution Seriously” (Book Review). *The Public Interest* No. 85 (Fall 1985), p.127.

“Willi Brandt and the Sandinistas.” *The National Interest* Vol. 1:4 (Summer 1986), pp. 100-103.

“Nuclear Decommissioning: Revenge of the Tortoise.” *Regulation*, July/August 1985.

“Germany: The Untouchable Welfare State.” (Book Review). *The Public Interest* No. 80 (Summer 1985), 104.

“Greens Against the West.” *National Review*, December 1984.

### CONGRESSIONAL TESTIMONY

“Federal Consent Decree Fairness Act (S. 489).” Testimony before the Senate Committee on the Judiciary. July 19, 2005.

### SPEAKING ENGAGEMENTS

“Commerce, Competition, and the Court: An Agenda for a Constitutional Revival.” AEI. March 2, 2009.

“Financial Re-Regulation: A Conversation Among Stakeholders.” American Constitution Society. February 2, 2009.

“*The Law Market*.” (Book forum). AEI. January 29, 2009.

“The Supreme Court's Business.” AEI. October 27, 2008.

“Transatlantic Law Forum: Citizenship in Europe and the United States.” AEI. October 16-17, 2008.

“The Future of Federalism.” AEI. September 12, 2008.

“A Bill of Rights for the 21st Century.” American Constitution Society. June 12, 2008.

“The Future of the American Conservative Movement.” Rothermere American Institute, Oxford University. May 8-10, 2008.

"*The Rise of the Conservative Legal Movement.*" (Book forum). AEI. March 24, 2008.

"Federal Preemption and the Supreme Court." AEI. February 21, 2008.

"Business, the Supreme Court, and the Constitution." AEI. December 10, 2007.

"*Stoneridge v. Scientific-Atlanta.*" AEI. October 5, 2007.

"Annual Supreme Court Briefing." AEI. September 28, 2007.

"*Federal Preemption: States' Powers, National Interests.*" (Book forum.) AEI. June 12, 2007.

"*Antitrust Consent Decrees in Theory and Practice.*" (Book forum.) AEI. May 16, 2007.

"*Terror in the Balance: Security, Liberty, and the Courts.*" (Book forum.) AEI. April 27, 2007.

"Is Excessive Regulation and Litigation Eroding U.S. Financial Competitiveness?" AEI. April 20, 2007.

"*Massachusetts v. Environmental Protection Agency.*" AEI. November 21, 2006.

"Religion and the Law." AEI. October 26, 2006.

"*Spoiling for a Fight: The Rise of Eliot Spitzer.*" (Book forum.) AEI. August 7, 2006.

"Federal Preemption: Law, Economics, and Politics." AEI. April 27-28, 2006.

"The U.S. Senate Takes On Medical Malpractice Reform." AEI. April 24, 2006.

"Antitrust and the New Economy: Transatlantic Turmoil." AEI. December 7, 2005.

"Proportional Representation: Path to Democracy?" AEI. December 6, 2005.

"Annual Supreme Court Review." AEI. June 29, 2005.

"Government by Consent Decree?" AEI. June 9, 2005.

"State Tax Incentives for Business." AEI. May 2, 2005.

"The Supreme Court: *Lochner* at 100." AEI. April 22, 2005.

"Who Is to Blame for Obesity?" AEI. March 3, 2005.

"Class Action Reform." AEI. January 25, 2005.

“The Sickness of the U.S. Vaccine Market.” AEI. December 7, 2004.

“Federalism under the Influence.” AEI. November 10, 2004.

“Can States Reform Torts?” AEI. October 5, 2004.

“Terror, Torts, and Telecom.” AEI. June 29, 2004.

“Competition Laws in Conflict: Antitrust Jurisdiction in the Global Economy.” AEI. May 13, 2004.

“Preemption in the Rehnquist Court.” AEI. April 2, 2004.

“Class Action Reform.” AEI. October 30, 2003.

“European Constitution.” AEI. October 28, 2003.

“When Federalism Works-Why Kill It?” AEI. October 9, 2003.

“Is Medical Malpractice Reform Good for Your Health?” AEI. September 24, 2003.

“Gaining Traction: Understanding the Mechanisms of Slippery Slope Arguments.” AEI. September 23, 2003.

“The New World of E-Commerce Taxation.” AEI. September 5, 2003.

“Passing the Buck on Medicaid.” AEI. August 5, 2003.

“States, Corporations, and Citizens: Do the Justices Care?” AEI. June 27, 2003.

“Obesity, Individual Responsibility, and Public Policy.” AEI. June 10, 2003.

“Environmental Federalism?” AEI. May 13, 2003.

“The New Antitrust Paradox.” AEI. April 21-22, 2003.

“Making Tort Law.” AEI. March 26, 2003.

“Competitive Federalism for Securities Regulation.” AEI. February 25, 2003.

“Democracy by Decree.” AEI. January 13, 2003.

“Do Consolidated Trials Favor Plaintiffs in Litigation?” September 18, 2002.

“Is Federalism Passé?” AEI. July 8, 2002.

“The New Pharmaceutical Litigation.” AEI. June 18, 2002.

“What Direction for the European Union?” AEI. May 29, 2002.

“What Now, Old Continent?” AEI. April 16, 2002.

“Torts and Terror.” AEI. December 4, 2001.

“Free Trade vs. States' Rights.” AEI. June 26, 2001.

“American Sovereignty.” AEI. April 3-4, 2001.

“Our Parallel Government, or, Why the Litigation Industry Will Beat All Others.” AEI. June 18, 2002.

### **HONORS, AWARDS, & GRANTS**

Earhart Foundation Research Grant (1997, 1988)

Sicca Grant (1984)

Telluride Scholarship (1982-83 and 1983-84)

Fulbright Fellow (1981-82)

### **MEMBERSHIPS & ACTIVITIES**

Competitive Enterprise Institute (Chairman, Board of Directors)

Telluride Association (Member; Chairman, Board of Custodians, 1987-1992)

Federalist Society (Member)

### **PROFESSIONAL ACTIVITIES & EXPERIENCE**

Extensive experience in non-profit management

Numerous speaking engagements (law schools and colleges; professional and scholarly associations)

Frequent radio and television appearances

Litigation services and management in over 30 cases, including U.S. Supreme Court proceedings

Congressional testimony

State legislative testimony

Lobbying and consulting in federal agency proceedings

