

# James Fallows Tierney

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SSRN: [link](#) | Google Scholar: [link](#)

## Academic appointments

*Chicago-Kent College of Law, Illinois Institute of Technology*

2023–present Assistant professor of law

*University of Nebraska College of Law*

2020–2023 Assistant professor of law

*Rutgers Law School – Camden*

Spring 2023 Part-time lecturer

## Research interests

Securities law: trading, markets, and retail financial advice

Administrative law: adjudication, rulemaking, and self-regulation

Law and political economy of capitalism

Legal analytics and law-as-data empirical analysis

## Academic publications and forthcoming work<sup>1</sup>

### Articles and long essays

2025 *Trading Acres*, with Jessica Shoemaker, YALE LAW JOURNAL (**forthcoming**) ([preprint](#))

Jarkesy’s *Stakes for the SEC*, DUKE LAW JOURNAL (**forthcoming**) ([preprint](#), [replication data](#), [code](#))

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<sup>1</sup>Includes papers circulated under earlier titles

*Fair arbitration for investment advisers*, with Adam Gana and Zahra Hodjat, CASE WESTERN RESERVE LAW REVIEW (**forthcoming**) ([preprint](#))

*Overseeing Private Rulemaking: Evidence from SEC review of SRO rulemaking*, UNIVERSITY OF PENNSYLVANIA JOURNAL OF BUSINESS LAW (**forthcoming**) ([preprint link](#), [replication data](#), code)

*Grade insurance*, 73 JOURNAL OF LEGAL EDUCATION 421 (Spring) ([link](#))

2024 *Reg BI+: Conflicted Sales Practices in Algorithmic Financial Advice*, 2024 MICHIGAN STATE LAW REVIEW 947 ([link](#))

*Stockbroker secrets*, with Benjamin P. Edwards, 26 UNIVERSITY OF PENNSYLVANIA JOURNAL OF BUSINESS LAW 793 ([link](#))

*Reconsidering securities industry bars*, 29 STANFORD JOURNAL OF LAW, BUSINESS, AND FINANCE 134 ([link](#), [replication data](#), code)

2022 *Investment games*, 72 DUKE LAW JOURNAL 353 ([link](#), code)<sup>2</sup>

*On “confetti regulation”: The wrong way to regulate gamified investing*, with Kyle Langvardt, 131 YALE LAW JOURNAL FORUM 747 (Jan.) ([link](#))

2020 *Contract Design in the Shadow of Regulation*, 98 NEBRASKA LAW REVIEW 874 ([link](#))

2010 *Comment, Summary Dismissals*, 77 UNIVERSITY OF CHICAGO LAW REVIEW 1841 ([link](#))

2009 *The Polar Bear Treaty and the Changing Geography of the High Arctic*, 3 JOURNAL OF ANIMAL LAW & ETHICS 141 ([link](#))

## Book chapters

2025 *Retail investors and capital markets intermediation*, in Deborah DeMott and Cheng Han Tan, eds., AGENCY AND INTERMEDIATION (Edward Elgar, **forthcoming**) ([preprint](#))

*The SEC’s approach to compliance*, in James Fanto, ed., ENCYCLOPEDIA OF COMPLIANCE (Edward Elgar, **forthcoming**)

*Nonprofit compliance*, with Bryce Shuffler, in Fanto, ed., ENCYCLOPEDIA OF COMPLIANCE (**forthcoming**)

2011 *Moral Reasoning in International Law*, with Roger P. Alford, in THE ROLE OF ETHICS IN INTERNATIONAL LAW (Donald Earl Childress III, ed., Cambridge University Press) ([abstract](#))

## Short essays and blog posts

2025 *Absentee ownership and the “Berle-Means Farm”*, with Jessica Shoemaker, in JOURNAL OF EUROPEAN ECONOMIC HISTORY (**forthcoming**, essay)

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<sup>2</sup>Selected for inclusion in the 2024 volume of Securities Law Report, for the annual list of best securities law articles.

- Stock Exchange Rulemaking after the Fifth Circuit's AFBR Decision*, COLUMBIA BLUE SKY BLOG (Jan. 7, 2025) ([link](#))
- 2024 *How Loper Bright and the End to the Chevron Doctrine Impact the SEC*, PROMARKET (University of Chicago Booth School of Business) (Sept. 2024) ([link](#))
- Jarkesy's first-order consequences*, YALE J. ON REG. NOTICE & COMMENT ONLINE (July 2, 2024) ([link](#))
- 2023 *FINRA Faces Uphill Battle in Case Challenging Its Enforcement*, with Benjamin P. Edwards, COLUMBIA BLUE SKY BLOG (Aug. 1, 2023) ([link](#))
- 2022 *Securities law's effects on wealth inequality: the case of asymmetric investment opportunity*, JOTWELL — CORPORATE LAW (Feb. 4, 2022) ([link](#))
- 2021 *Woke Capital?*, LAW AND POLITICAL ECONOMY PROJECT BLOG (LPE BLOG) (May 2021) ([link](#))
- Anti-administrativism returns to the SEC's doorstep: A response to Alex Platt*, YALE J. ON REG. NOTICE & COMMENT ONLINE (invited response, March 2021) ([link](#))

## Work in Progress

### Upcoming cycle submissions

*Radical Securities Law* (book review)

### Empirical projects

*Regulatory filings in the Federal Register (2000-2023)* (target for SCIENTIFIC DATA, peer-review)

*Stock Exchanges as For-Profit Regulators*, with Geeyoung Min

Untitled big-data project on the CFPB, with Jeremy McClane

*The public in self-regulation: Evidence from FINRA rulemaking*, with Nicole Iannarone

*The effect of corporate farming laws: Evidence from border counties*

### Long-term projects

*Big Data and Securities Regulation*

*Equity vibes*

*Delegations to Wall Street*, with Ben Edwards and John Nichols

### Selected unpublished manuscripts

- 2011 *The economic theory of bellwether trials* ([link](#))

Popular sovereignty and private ordering in the state of exception ([link](#))  
 Threshold constraints and the laws of war ([link](#))  
 Institutional design and distrust in federal Indian law (not on SSRN, email for draft)  
 2009 Sovereign power, human rights, and hypocrisy costs ([link](#)) (revised MA thesis, won Ignacio Martín Baró prize at University of Chicago)

## Academic presentations

### Paper talks<sup>3</sup>

*The effect of corporate farming laws: Evidence from border counties*  
 2026 University of Nebraska workshop  
 (tentative)  
*Stock Exchanges as For-Profit Regulators*  
 June 2025 National Business Law Scholars Conference  
 May 2025 Law and Society Association (scheduled)  
*Jarkesy's Stakes for the SEC*  
 Mar. 2025 Duke Law Journal administrative law symposium  
*Big Data and Securities Regulation*  
 Jan. 2025 AALS annual conference — AI and Data in Securities Regulation: Prospects and Projects  
*Trading Acres*  
 Nov. 2024 University of Nebraska faculty workshop  
 May 2024 The Future of Capitalism: Neo-Feudalism?, University of Chicago  
 July 2023 Who Owns the Land? Interdisciplinary Land & Water Workshop, University of Nebraska College of Law  
*Overseeing Private Rulemaking: Evidence from SEC review of SRO rulemaking*  
 June 2024 Ninth Annual New Administrative Law Scholarship Roundtable, Notre Dame Law School  
 May 2024 ABA Administrative Law Conference  
 Jan. 2024 AALS annual conference — Emerging Voices in Securities Regulation

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<sup>3</sup>Includes presentations under earlier working paper titles.

Oct. 2023	Midwestern Law and Economics Association
Sept. 2023	Law and Economics seminar, Washington & Lee School of Law (invited)
Aug. 2023	Data Science & the Law Conference
June 2023	National Business Law Scholars Conference
May 2023	Securities Regulation Junior Scholars Group
May 2022	Junior Scholars Legal Research Workshop
	<i>Grade insurance</i>
June 2024	Chicago-Kent College of Law faculty pedagogy workshop
	<i>Reconsidering securities industry bars</i>
Oct. 2023	Chicago-Kent College of Law faculty colloquium
Mar. 2021	University of Nebraska faculty colloquium
Jan. 2021	ClassCrits Online Junior Scholar Workshop
	AALS annual conference — Emerging Voices in Securities Regulation roundtables
Aug. 2020	Junior Scholar Workshop Series
	<i>Investment Games</i>
Dec. 2022	CFA Institute, Capital Markets Policy Council meeting (invited)
Oct. 2022	University of Rhode Island economics seminar (invited)
June 2022	Harvard/Yale/Stanford Junior Faculty Forum (blind, peer reviewed)
Jan. 2022	AALS annual conference — Emerging Voices in Securities Regulation
Oct. 2021	University of Kentucky faculty workshop (invited)
	Fourth Annual Chicagoland Junior Scholars Conference
May 2021	Junior Scholars Legal Research Workshop
	<i>Equity Vibes</i>
Oct. 2022	ClassCrits XIII conference
	<i>Stockbroker Secrets</i>
Oct. 2022	Midwestern Law and Economics Association
Sept. 2022	Corporate and Securities Litigation Workshop
June 2022	National Business Law Scholars Conference

July 2021	Junior Scholars Legal Research Workshop
	<i>Stock ownership: Retail, redux?</i>
May 2022	Junior Scholars Legal Research Workshop
	<i>On “confetti regulation”: The wrong way to regulate gamified investing</i>
June 2021	National Business Law Scholars Conference
Apr. 2021	Junior Scholar Workshop Series
	<i>Contract Design in the Shadow of Regulation</i>
Oct. 2019	University of Chicago Law School — Legal Scholarship Workshop (invited) Midwestern Law and Economics Association annual conference
	<i>Moral Reasoning in International Law</i>
May 2010	University of Chicago Law School — Chicago International Law Society
Nov. 2009	American Society for International Law conference (with Roger Alford)
	<i>Sovereign Power, Human Rights, and Hypocrisy Costs</i>
Jan. 2010	University of Chicago — Law Culture & Society workshop
	<b>Non-paper talks</b>
Jan. 2025	Panelist, AALS section on Scholarship (co-sponsored by Legal Writing, Reasoning, and Research), <i>Supporting the student scholar</i> (invited) Panelist, AALS section on Internet and Computer Law, <i>Financial Regulation in Cyberspace</i> (invited)
Jan. 2024	Co-panelist (invited), AALS section on securities regulation plenary panel on three years of the Gensler administration at the SEC
Sept. 2023	Discussant (invited), Second London Law and Finance Symposium, Notre Dame Law School Discussant on cryptocurrency regulation, <i>Securities Regulation</i> , UC Berkeley School of Law
Sept. 2022	Panelist, <i>The State of Fiduciary Advice 2022</i> , Institute for the Fiduciary Standard
Apr. 2022	Association for the Promotion of Political Economy and the Law (APPEAL) and Law and Political Economy (LPE) Project “Office Hours,” mentor for graduate student and aspiring scholars

- Sept. 2021 Future Business Law Professors Conference (hosted by Villanova Law), panelist and presenter
- May 2021 Panelist, *Can Regulators Keep Pace with New Investors and the Fintech Firms that Cater to Them?*, Consumer Federation of America — 55th Annual Conference ([link](#))

## Education

- University of Chicago Law School*
- 2011 JD with honors  
Executive Articles and Book Reviews Editor, UNIVERSITY OF CHICAGO LAW REVIEW  
American Civil Liberties Union chapter president
- University of Chicago, Division of the Social Sciences*
- 2007 MA, Committee on International Relations  
Thesis: “The torture archipelago: Extrajudicial CIA detention of suspected terrorists and the international rule of law” (adviser: Prof. Eric Posner)
- Brown University*
- 2006 AB, Political Science

## Honors & awards

- University of Nebraska College of Law*
- 2020 Order of the Coif (elected)
- University of Chicago*
- 2009 Joseph Henry Beale prize for outstanding work in 1L research and writing  
Ignacio Martín Baró prize for best masters/professional student paper (Human Rights Program)

## Teaching

### Core doctrinal courses

- Chicago-Kent College of Law*
- ×3 Business organizations
- ×2 Corporate finance

Administrative law

*University of Nebraska College of Law*

×4 Business associations

×3 Securities regulation

×3 Corporate finance

Corporate governance seminar

*Rutgers Law School*

Securities Regulation

### **Additional teaching experience**

*University of Nebraska College of Law*

2022 Nonprofit board externship pilot program (co-taught with Dean Richard Moberly and Prof. Brett Stohs)

2021 – 2022 Contemporary legal literature (zero credit hour course, co-taught with Profs. Gus Hurwitz and Kyle Langvardt)

*University of Chicago*

2010 Teaching assistant to Justice (retired) Albie Sachs, Constitutional Court of South Africa (undergraduate seminar “Reason and Passion: The Strange Alchemy of Life and Law”)

*Brown University*

2005, 2006 Teaching assistant to Prof. Kenneth Miller (undergraduate “Introductory Biology”)

*Kaplan Test Preparation*

2005 Instructor for Medical College Admission Test (MCAT)

### **Service to the university**

*Chicago-Kent College of Law*

2024 – 2025 Dean search committee, curriculum committee

2023 – 2024 Visiting Assistant Professor hiring/renewal committee, Speakers committee



### *University of Nebraska College of Law*

- 2022 – 2023 Faculty Appointments Committee (entry level), Learning Outcomes Committee, Ad Hoc Committee on AI and ChatGPT  
Faculty advisor, People’s Parity Project chapter
- 2021 – 2022 Faculty Appointments Committee (business law)
- 2020 – 2021 Student awards committee

### *University of Chicago*

- 2010 Appointments committee, student interviewer
- 2006 – 2007 Division of the Social Sciences graduate student activities council, departmental representative

### *Brown University*

- 2005 – 2006 University disciplinary committee, undergraduate representative  
Brown Outdoor Leadership Training, trip leader/trainer
- 2004 – 2005 Student activities advisory council, at-large representative  
Brown Outing Club, president

## **Service to the profession and the community**

### **Conference and workshop organization**

- 2025 Executive committee, AALS Section on Business Associations
- 2024, 2025 Executive committee, AALS Section on Securities Regulation
- Spring 2023 Co-organizer, Junior Scholars Legal Research Workshop

### **Academic journal peer reviewer**

- 2021 – Columbia Law Review

### **Sponsored programs and grant development**

- 2021 – 2022 Research Development Fellows Program (UNL ORED), program fellow and participant

## **Nonprofit board and related service**

*DSA Fund, Inc.*<sup>4</sup>

2024 – Treasurer; Chair of board Budget & Finance committee

2023 – Member, board of directors

*Lincoln DSA, Inc.*<sup>5</sup>

2021 – 2023 Treasurer; member, board of directors

*Securities & Exchange Commission Historical Society*

2021 – 2023 Member, board of advisers

## **Miscellaneous**

2025 Collaborator on the “Bluebook Law Review” citation style language (CSL) template for Zotero

2006 Volunteer intern, Deval Patrick for Governor

2004 Participant, National Outdoor Leadership School (Alaska Mountaineering)

2001 – 2002 Elected representative from my high school to city Board of Education, Newton, Massachusetts

## **Professional and affinity group membership**

American Bar Association Business Law Section, Federal Regulation of Securities — Subcommittee on Trading and Markets

Association for the Promotion of Political Economy and the Law (APPEAL)

ClassCrits

Society of American Law Teachers (SALT)

## **Labor organizations**

2023 PTLFC-AAUP-AFT, Local 6324 (Rutgers University)

2015 – 2020 National Treasury Employees Union, Local 293 (Securities and Exchange Commission)

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<sup>4</sup>A New York nonprofit and 501(c)(3).

<sup>5</sup>A Nebraska nonprofit and 501(c)(4).

## Public engagement

### Regulatory presentations

June 2023 Panelist, SEC Investment Advisory Committee panel on gamification and digital engagement practices

### Comment letters, amicus briefs, and representations

- 2023 Comment letter on SEC's proposed rule on gamification (data analytics in retail investment advice), File No. S7-12-23 (Oct. 10, 2023) (drafting and corresponding author, with two co-signatories) ([link](#))
- 2022 Brief of amici curiae corporate and securities law scholars in support of defendant-appellee and affirmance, *National Center for Public Policy Research v. Weber*, No. 22-15822 (9th Cir. filed Nov. 10, 2022) (counsel of record, primary author, amicus) ([link](#))
- Comment letter on SEC's amendments to Exchange Act Rule 3b-16 regarding the definition of "exchange" (Reg ATS reform), File No. S7-02-22 (June 13, 2022) (sole author)
- 2021 Comment letter on SEC's request for information on digital engagement practices, File No. S7-10-21, filed Oct. 1, 2021 (sole author) ([link](#))
- 2020 Comment letter, with Benjamin P. Edwards, on FinCEN's advance notice of proposed rulemaking, *Anti-Money Laundering Program Effectiveness*, Docket No. FINCEN-2020-0011, filed Nov. 16, 2020 (primary author) ([link](#))
- 2014 Amicus brief in the U.S. Supreme Court in *Holt v. Hobbs*, No. 13-6827 (2014), on behalf of Americans United for Separation of Church and State supporting Muslim inmate's religious exemption from prison facial-hair grooming policy, 2014 WL 2361896 (counsel) ([link](#))
- 2013 Amicus brief in the U.S. Supreme Court in *Schuette v. Coalition to Defend Affirmative Action*, No. 12-682 (2013), on behalf of historians and scholars in defense of affirmative action in public university admissions, 2013 WL 4737192 (counsel) ([link](#))
- 2012 – Various pro bono engagements, including FINRA arbitrations, eviction defense, and representing incarcerated and detained persons in federal appeals

### Additional engagement as signatory

- 2023 Brief of First Amendment and securities law scholars in support of respondent, *National Center for Public Policy Research v. SEC*, No. 23-60230 (5th Cir. filed Sept. 2023)
- 2022 Brief of amicus curiae corporate and securities law scholars in support of defendant and appellee Shirley Weber and affirmance, *Meland v. Weber*, No. 22-15149 (9th Cir. filed Apr. 4, 2022) (drafting contributor)

## Legal employment and relevant professional experience

### *Securities and Exchange Commission*

2015 – 2020 Senior counsel, Office of the General Counsel

Wrote dozens of opinions of the Commission comprising final agency action, and advised the Commission on disposition of appeals from administrative proceedings and self-regulatory organization (SRO) actions. As a federal administrative agency appellate adjudications lawyer, acted as a securities law generalist, proposing and drafting interpretations of novel and complex questions involving all aspects of the federal securities laws. Worked directly with Commissioners, their counsel, and operating division staff to develop analyze programmatic effects of proposed interpretations of the securities laws. Developed subject matter specialization in broker-dealer and investment adviser regulation, as well as SRO (stock exchange and FINRA) rules.

### *Mayer Brown LLP*

2012 – 2015 Associate — Supreme Court and appellate litigation

Summer 2010 Summer associate

Litigation practice involved handling appeals and critical pretrial motions for clients in capital markets, financial services, telecommunications, and other sectors.

- Principal or contributing author of seventeen filings before U.S. Supreme Court and other appellate courts, and dozens of other dispositive and critical motions in trial court and arbitration.
- Represented residential mortgaged-backed securities (RMBS) trustee in litigation nationwide.
- Persuaded Second Circuit to hold that RMBS are exempt from the Trust Indenture Act.
- Represented banks against claims brought by SEC and CFTC relief defendants and receivers to recover proceeds of third parties' Ponzi schemes and securities frauds.
- Coauthored merits briefs for petitioner before the Supreme Court in *Hana Financial v. Hana Bank* (2015).
- Oral argument before two federal courts of appeals.
- Represented charitable foundation in litigation related to class-action lawsuit asserting claims against the United States based upon wrongs committed against Native Americans whose land was held in trust by the U.S. Dep't of Interior.
- Represented business trade groups before Second Circuit in case involving Microsoft's challenge to an extraterritorial warrant from U.S. law enforcement to obtain data stored on non-U.S. servers.
- As a summer associate, prepared arguments in amicus brief offering novel defense of the Patient Protection and Affordable Care Act's ("Obamacare's") indi-

vidual mandate as a valid exercise of Congress's taxing power, which arguments the Supreme Court ultimately accepted in upholding the mandate.

Besides appellate and critical motions litigation, my policy and regulatory practice involved assisting clients in shaping administrative and legislative policy related to Dodd-Frank implementation, private securities litigation, arbitration, class actions, and contract design. Drafted and submitted agency comment letters related to contract design in capital markets and consumer finance. Wrote speeches, Congressional hearing testimony (and QFRs and answers), and PowerPoint decks. Prepared policy white paper featuring empirical data analysis.

#### *U.S. Court of Appeals for the Ninth Circuit*

2011 – 2012     Judicial Clerk to the Honorable Mary Schroeder

#### *Committee for Public Counsel Services*

Summer 2009     Summer intern, appellate public defender's office

Supported the Massachusetts state appellate public defender's office by researching law, preparing memos, and drafting briefs in direct appeals and post-conviction proceedings in state court, and in a federal habeas action. Drafted an amicus brief that successfully persuaded the state Supreme Judicial Court to overturn precedent and require police to suspect dangerousness before pat-frisking citizens during otherwise consensual street encounters.

#### *Law Office of Harvey Silverglate*

2007 – 2008     Paralegal and research assistant

Assisted a criminal defense and civil-liberties attorney by preparing memoranda on factual and legal issues related to pending cases, and reviewing evidence in a federal criminal conspiracy trial. Co-authored or assisted with dozens of blog posts, columns, op-eds, and articles in the BOSTON GLOBE, BOSTON PHOENIX alt-weekly, MASSACHUSETTS LAWYERS WEEKLY, and other publications. Helped research and edit his book THREE FELONIES A DAY (2008), and provided support for his work with the Foundation for Individual Rights in Education (FIRE), which he co-founded.

### **Podcast appearances**

2024     Interviewed by Dave Lauer and Pink, LET'S TALK MARKETS, Urvin.Finance (Jan. 12, 2024) ([link](#))

2023     Interviewed by Kurt Wolfe and Chris Ekimoff, *Addressing the 'Netflix Problem' in Securities Regulation*, INSECURITIES PODCAST, Practicing Law Institute (Sept. 7, 2023) ([link](#))

- 2022 Panelist with Kyle Langvardt, interviewed by Gus Hurwitz, *What's Happening with Twitter and FTX?*, TECH REFACTORED, Nebraska Governance and Technology Center (Nov. 18, 2022) ([link](#))
- 2021 Interviewed by Kurt Wolfe and Chris Ekimoff, *Cheers! Regulatory Resolutions & More at the inSecurities NYE Party*, INSECURITIES PODCAST, Practicing Law Institute (Dec. 30, 2021) (interviewed with others including SEC Commissioner Hester Peirce, securities lawyers, and several other law professors; [link](#))
- Interviewed by Kurt Wolfe and Chris Ekimoff, *Play It Again: An Expert's Take on Gamification and Stock Trading*, INSECURITIES PODCAST, Practicing Law Institute (Nov. 18, 2021) (solo interview; [link](#))
- Interviewed by Thomas H. Bickel, BROWN UNDERGRADUATE LAW REVIEW, "Alumni Spotlight" series (Oct. 22, 2021) ([link](#))
- Interviewed by Gus Hurwitz, *Tech Refactored*, "Episode 8: Gamestop, RobinHood, and Stonks: Oh my!" Nebraska Governance and Technology Center (Feb. 9, 2021) ([link](#))
- Interviewed by Andrew Jennings, *Business Scholarship Podcast*, "Symposium: Financial and Corporate Regulation in the Biden Administration" (Jan. 4, 2021) ([link](#))

## Selected media appearances

- 2024 Kim Clark, *Is Your Investment App Making You Trade Too Much?*, KIPLINGER PERSONAL FINANCE (Dec. 2024) ([link](#))
- 2023 Jesse Westbrook and Robert Schmidt, *Ex-SEC Official Who Studies Predictive Data Discusses Brokers' 'Netflix Problem'*, CAPITOL ACCOUNT (Nov. 3, 2023) ([link](#))
- Dan Shaw, *FINRA fights for life in 'existential threat' D.C. court case*, FINANCIAL PLANNING (Nov. 1, 2023) ([link](#))
- Patrick Donachie, *Robinhood's Loss Could Embolden States Still on the Fiduciary Fence*, WEALTH MANAGEMENT, Sept. 19, 2023 ([link](#))
- Patrick Donachie, *Legal Battle Between FINRA and Frequent Foe Could Be a 'Headshot' For the Regulator*, WEALTH MANAGEMENT, Aug. 11, 2023 ([link](#))
- Imani Moise, *Bond Investing Gets the Robo-Adviser Treatment*, WALL STREET JOURNAL, June 7, 2023 ([link](#))
- 2022 Paul Hammel, *Nebraska AG's report warns against 'threat' in environmental, social and governance investing*, NEBRASKA EXAMINER, Dec. 9, 2022 ([link](#))
- Sarah Posner, *The Right-Wing Plan to Bring Down the Regulators Reaches the Supreme Court*, TALKING POINTS MEMO, Nov. 4, 2022 ([link](#))
- Ali Breland, *"It's Potentially Illegal": As Crypto Crashed, Coinbase Stopped Some Notifications*, MOTHER JONES, Aug. 10, 2022 ([link](#))

Heike Buchter & Leon Koß, *Generation auf Pump*, DIE ZEIT, July 25, 2022 (article in German) ([link](#))

Scott Nover, *GameStop trading nearly destroyed Robinhood*, QUARTZ, July 2, 2022 ([link](#))

David Isenberg, *Industry's 'Can-Do' Lawyering Needs Reform: SEC Commish*, IGNITES, Mar. 7, 2022 (a Financial Times publication, tear sheet on file)

Robin Kaiser-Schatzlein, *Robinhood struck it rich by turning stock trades into a game. But now its own stock has plunged 80% — and it needs to start copying its old-school rivals if it wants to survive.*, BUSINESS INSIDER, Feb. 27, 2022 ([link](#))

David Isenberg, *Worse Than Confetti: The Casino Tricks of Robos and Online Brokers*, IGNITES, Feb. 22, 2022 (video interview) (a Financial Times publication, tear sheet on file)

Daren Fonda, *Brokers, Casinos, and Social Media Are Reconditioning Our Brains — Turning Us Into Digital Addicts*, BARRON'S, Feb. 11, 2022 ([link](#))

2021 Matt Egan, *Robinhood reveals new regulatory probes on the eve of its blockbuster IPO*, CNN BUSINESS, July 28, 2021 ([link](#))

David Isenberg, *US regulator fines UBS \$8m over volatility ETP*, FINANCIAL TIMES, July 21, 2021 ([link](#))

David Isenberg, *Shops Caught Up in SEC Data Breach Probe*, IGNITES, June 24, 2021 (a Financial Times publication, tear sheet on file)

David Isenberg, *SEC to Weigh Whether Algorithms Are Recommendations*, IGNITES, May 20, 2021 (a Financial Times publication, tear sheet on file)

Hannah Levintova, *Robinhood Promises Free Trades. Did Alex Kearns Pay With His Life?*, MOTHER JONES, Apr. 29, 2021 ([link](#))

Matt Egan, *Robinhood's CEO is not licensed by a powerful Wall Street regulator*, CNN BUSINESS, Feb. 4, 2021 ([link](#))

Aaron Keller, *Law Prof Who Wrote Textbook on Securities Regulation Explains 'WallStreet-Bets': Retail Investors Have 'Revolted and Stormed the Bastille'*, LAW & CRIME, Jan. 28, 2021 ([link](#))

## Selected non-academic writing

2015 *The Line Between Wiretapping and Quality Assurance*, with Donald M. Falk, DAILY JOURNAL (Cal.), Jan. 28, 2015

2013 *Supreme Court Reaffirms that Forum-Selection Clauses are Presumptively Enforceable*, with J. Paul Forrester et al., HARVARD LAW SCHOOL FORUM ON CORPORATE GOVERNANCE & FINANCIAL REGULATION, Dec. 19, 2013 ([link](#))

2011 Guest blog posts about editing law reviews, OPINIO JURIS blog, May 2011 ([link to index](#))

[of posts](#))

- 2008 *Massachusetts lawmakers are pushing to criminalize Salvia. Is this a test-run for marijuana-law reform?*, BOSTON PHOENIX, Apr. 23, 2008
- Echoes of Rodney King*, with Harvey Silverglate, BOSTON PHOENIX, Feb. 21, 2008
- Preventing police oversight*, with Harvey Silverglate, MASSACHUSETTS LAWYERS WEEKLY, Jan. 26, 2008
- To the editors*, NEW YORK TIMES, Jan. 9, 2008
- 2007 *Using the ban on pretrial publicity to avoid embarrassing prosecutors, judges*, with Harvey Silverglate, MASSACHUSETTS LAWYERS WEEKLY, Nov. 5, 2007
- 2006 *Why suspected terrorists should be granted habeas corpus review: A response to Posner's security-liberty balancing scheme*, 4 DARTMOUTH COLLEGE UNDERGRADUATE JOURNAL OF LAW 6, 2006

## Conceptual art

- 2021 *The Value of NFTs: a response to Bryan L. Frye* (Oct. 2021) ([link](#))

## Admissions

### State bars

- 2021 – Nebraska (inactive status)
- 2012 – District of Columbia
- 2012 – Massachusetts

### Federal courts

U.S. Supreme Court

U.S. Courts of Appeals for the First, Second, Seventh, Eighth, Ninth, Tenth and Federal Circuits

U.S. District Courts for the District of Columbia and the District of Massachusetts

## Skills

- Proficient R,  $\text{\LaTeX}$
- I dabble Python, Markdown, Bash, Zsh, TOML, YAML, GitHub (link to [my repository](#))

This version: May 9, 2025