

Form Name:  
Submission Time:

Citizens Commission  
March 5, 2019 3:48 pm

**Name** Lawrence Friedman

**Address**

**Phone**

**Email**

**Citizenship Affirmation**

I am a U.S. Citizen

**Residency Affirmation**

I am a resident of the Commonwealth of Massachusetts

**Statement of Intent**

I intend to comply with and advance the policy established by this Act.

**Statement of Interest**

As a constitutional scholar and teacher, it seems clear to me that, while the rulings of the U.S. Supreme Court interpreting the U.S. Constitution are entitled to respect, the court is not infallible. The Citizens United decision reflects a fundamental misunderstanding of the First Amendment's freedom of speech, a misunderstanding, given the nature of constitutional law, that can only be corrected through an amendment.

The effort must ensure that the rights of people -- of actual human beings -- are prioritized. For it is individuals the framers intended to protect under the First Amendment, by ensuring that the state and federal governments could not undermine their ability either to speak or to be heard. At the same time, any amendment effort must be sensitive to the gravity of such an undertaking. We should take steps to make sure that any addition to a constitution which has been amended just 27 times in 200 plus years is as clear in its scope and reach as we can make it, so that the amendment itself causes as little future misunderstanding as it is possible for us to prevent today.

In addition to teaching constitutional law for the better part of the past two decades, I have written or co-written numerous books and articles about state and federal constitutions. This work includes a constitutional law casebook for law students; I also serve as the series editor of the Oxford Commentaries on the State Constitutions of the United States.

**Résumé or Summary of Qualifications Upload**

[https://s3.amazonaws.com/files.formstack.com/uploads/3282862/71887710/483418007/71887710\\_lmfcv.pdf](https://s3.amazonaws.com/files.formstack.com/uploads/3282862/71887710/483418007/71887710_lmfcv.pdf)

<b>Political Party Affiliation, if any, over the previous five years</b>	Democratic
<b>City or Town where you reside</b>	BOSTON
<b>Employment Status</b>	Employed
<b>Occupation</b>	Law Professor
<b>Employer</b>	New England Law   Boston

**Lawrence Friedman**  
New England Law | Boston



## Appointments

**New England Law | Boston**, Boston, MA.

*Professor of Law*, August 2009-present; *Associate Professor of Law*, August 2007-July 2009; *Assistant Professor of Law*, August 2004-July 2007. Courses include: constitutional law, civil procedure, information privacy law, national security law, and state constitutional law. Service includes: faculty advisor to the *Law Review*, chairing faculty development committee, chairing adjunct faculty recruitment committee, liaison to career services office.

**Oxford University Press**, New York, NY.

*Series Editor*, "The Oxford Commentaries on the State Constitutions of the United States," January 2017-present. Work with OUP to ensure each volume meets certain standards of accuracy, consistency and reliability; direct conceptual development of the series; recruit and retain suitable authors; and review proposed drafts.

**Irish Centre for Human Rights, National University of Ireland**, Galway, Ireland.

Summer, 2014; Summer, 2008. Co-taught course on separation of powers with Associate Justice Antonin Scalia, United States Supreme Court.

**Boston College Law School**, Newton, MA.

*Visiting Assistant Professor of Law*, Spring 2004; *Adjunct Professor of Law*, July 2001-December 2003. Courses included: constitutional law, information privacy law, and state constitutional law.

**Harvard Law School**, Cambridge, MA.

*Climenko/Thayer Lecturer on Law*, July 2001-December 2003.

## Professional Experience

**Choate, Hall & Stewart**, Boston, MA.

*Associate*, September 1997-May 2001; *Special Counsel*, May-July 2001. Involved in all aspects of environmental, land use, privacy, and government enforcement litigation. Member, Hiring Committee, June 1999-May 2001. Significant representations included:

- *Murphy v. Department of Correction*, 711 N.E.2d 149 (Mass. 1999) (addressing privacy issues in respect to DNA searches under Massachusetts Constitution).
- *United States Telecom Assoc. et al. v. Federal Communications Commission*, 227 F.3d 450 (D.C. Cir. 2000) (addressing scope of telecommunications privacy issues under statutory and constitutional standards).
- *Leisure Time Cruise Corporation v. Town of Barnstable, et al.*, 62 F. Supp.2d 202 (D. Mass. 1999) (first case in circuit addressing the legality of local restrictions on off-shore gaming).

**The New Hampshire Supreme Court**, Concord, NH.

*Law Clerk to the Honorable John T. Broderick, Jr.*, December 1995-August 1997; *Law Clerk to the Honorable William F. Batchelder*, August-November 1995.

**The New Hampshire Superior Court**, Manchester, NH.

*Senior Law Clerk*, August 1994-August 1995; *Law Clerk*, August 1993-August 1994.

## Education

**Harvard Law School**, Cambridge, MA; LL.M., 2000.

*Executive Editor*, HARVARD HUMAN RIGHTS JOURNAL, 1999-2000.

**Boston College Law School**, Newton, MA; J.D., *cum laude*, 1993.

*Executive Editor*, BOSTON COLLEGE THIRD WORLD LAW JOURNAL, 1992-93.

**Connecticut College**, New London, CT; B.A. 1989.

Honors: Frederick R. Sykes Scholarship for academic excellence; Dean's List every semester.

## Publications

### Books

MODERN CONSTITUTIONAL LAW: CASES, PROBLEMS AND PRACTICE, 2<sup>ND</sup> EDITION (Wolters Kluwer 2019)

MODERN CONSTITUTIONAL LAW: CASES, PROBLEMS AND PRACTICE TEACHER'S MANUAL (Wolters Kluwer 2017)

MODERN CONSTITUTIONAL LAW: CASES, PROBLEMS AND PRACTICE (Wolters Kluwer 2017)

THE NEW HAMPSHIRE STATE CONSTITUTION, SECOND EDITION (Oxford 2015).

STATE CONSTITUTIONAL LAW CASES AND MATERIALS, 5<sup>TH</sup> EDITION (Carolina 2015) (w/ Robert F. Williams).

LAW AND THE MODERN CONDITION: LITERARY AND HISTORICAL PERSPECTIVES (Talbot 2013) (editor and contributor).

Reviewed by Shannon L. Kemen, 106 LAW LIBRARY JOURNAL 449 (2014).

THE MASSACHUSETTS STATE CONSTITUTION (Oxford 2011) (w/ Lynnea Thody).

Cited in *Commonwealth v. Gentle*, 952 N.E.2d 426 (Mass. App. 2011); reviewed by Scott Kafker, *Surveying Constitutional Territory: Book Review of Lawrence Friedman and Lynnea Thody's The Massachusetts State Constitution*, 42 RUTGERS LAW JOURNAL 913 (2011).

THE CASE FOR CONGRESS: SEPARATION OF POWERS AND THE WAR ON TERROR (Ashgate 2009) (w/ Victor Hansen).

Nominated in 2009 for the Palmer Civil Liberties Prize, awarded each year by the ITT Chicago-Kent College of Law "to honor a work of scholarship exploring the tension between civil liberties and national security in contemporary American society."

### Articles, Essays, Book Chapters

*Foreword: The Varieties of Constitutional Change*, 51 NEW ENGLAND LAW REVIEW 447 (2017).

*The Potentially Unamendable State Constitutional Core*, 69 ARKANSAS LAW REVIEW 317 (2016) (invited contribution)

*Privacy as an Unenumerated Constitutional Right*, in *Privacy Rights in the Digital Age* at 560 (Christopher T. Anglim, ed.) (Grey House 2016).

*Massachusetts Constitution, 1780*, in 3 AMERICAN GOVERNANCE at 253 (Stephen L. Schecter et al., eds.) (Macmillan 2016).

*Constitutions of the States*, in THE BLOOMSBURY ENCYCLOPEDIA OF THE AMERICAN ENLIGHTENMENT at 286 (Mark G. Spencer, ed.) (Bloomsbury 2015).

*Testing the Limits: Judicial Enforcement of Positive State Constitutional Rights*, 53 DUQUESNE LAW REVIEW 437 (2015) (invited contribution).

*Commonwealth v. Augustine and the Future of the Third-Party Doctrine*, 20 NEW ENGLAND JOURNAL ON CRIMINAL AND CIVIL CONFINEMENT 701 (2015) (invited contribution).

*The Endurance of State Constitutions: Preliminary Thoughts and Notes on the New Hampshire Constitution*, 60 WAYNE LAW REVIEW 203 (2014) (invited contribution).

*Common Law Decisionmaking, Constitutional Shadows, and the Value of Consistency: the Jurisprudence of William F. Batchelder*, 12 UNIVERSITY OF NEW HAMPSHIRE LAW REVIEW 1 (2013).

*State Courts and Public Justice: New Challenges, New Choices*, 100 KENTUCKY LAW JOURNAL 857 (2011-2012) (w/ John T. Broderick, Jr.).

*The Value of the Military Commissions Act as Nonjudicial Precedent in the Context of Litigation Over National Security Policymaking*, 53 SOUTH TEXAS LAW REVIEW 1 (2012) (w/ Victor Hansen).

*Secrecy, Transparency, and National Security*, 38 WILLIAM MITCHELL LAW REVIEW 1610 (2012) (w/ Victor Hansen).

*Not Everyone Works for BigLaw: A Response to Neil J. Dilloff*, 71 MARYLAND LAW REVIEW ENDNOTES 41 (2012) (w/ Louis Schulze).

*Path Dependence and the External Constraints on Independent State Constitutionalism*, 115 PENN STATE LAW REVIEW 783 (2011) (invited contribution).

*Response: There Is a Case for Congress*, 46 NEW ENGLAND LAW REVIEW ON REMAND 10 (2011) (w/ Victor Hansen).

*Introduction: Symposium on The Law of American State Constitutions*, 45 NEW ENGLAND LAW REVIEW 797 (2011).

*Who Are We Fighting? Conceptions of the Enemy in the War on Terror*, 37 OHIO NORTHERN UNIVERSITY LAW REVIEW 11 (2011).

*Criminal Law – Emphasizing Privacy of the Home and Limiting Third Party Consent Under the State Constitution*, 93 MASSACHUSETTS LAW REVIEW 357 (2011) (w/ David Siegel).

*Not the Usual Suspects: Suspect Classification Determinations and Same-Sex Marriage Prohibitions*, 50 WASHBURN LAW JOURNAL 61 (2010) (invited contribution).

*Law, Force and Resistance to Disorder in Herman Melville's Billy Budd*, 33 THOMAS JEFFERSON LAW REVIEW 61 (2010).

*Liberty and Privacy Interests Through the Political Question Lens*, 19 TEMPLE POLITICAL & CIVIL RIGHTS LAW REVIEW 189 (2009).

*Response: The Fourth Amendment in the Digital Age*, 79 MISSISSIPPI L.J. MISSING SOURCES: LIMITED EDITION 59 (2009) ([http://mslj.law.olemiss.edu/mlj\\_online/volume79/responses/Friedman.pdf](http://mslj.law.olemiss.edu/mlj_online/volume79/responses/Friedman.pdf)).

*Justice Martha B. Sosman and the Jurisprudence of Rights and Remedies*, 42 NEW ENGLAND LAW REVIEW 397 (2008) (invited contribution).

*Reconsidering Rational Basis: Equal Protection Review Under the Wisconsin Constitution*, 38 RUTGERS LAW JOURNAL 1071 (2007).

*Reactive and Incompletely Theorized State Constitutional Decision-making*, 77 MISSISSIPPI LAW JOURNAL 265 (2007).

Cited in *Doe v. Alaska*, 189 P.3d 999 (Alas. 2008).

*The Case Against Secret Evidence*, 12 ROGER WILLIAMS UNIVERSITY LAW REVIEW 772 (2007) (w/ Victor Hansen).

*Zuckerman v. Town of Hadley: The New Substantive Due Process Challenge to Regulating Municipal Growth in Massachusetts*, in MUNICIPAL LAW CONFERENCE 2007 at 551 (MCLE 2007) (with Lynnea Thody).

*Domestic Electronic Surveillance and the Constitution*, 24 JOHN MARSHALL JOURNAL OF COMPUTER AND INFORMATION LAW 177 (2006) (w/ Renée M. Landers).

Reprinted in SURVEILLANCE: TECHNOLOGY AND LAW at 1 (Ramakistaiah Jilla, ed. 2009).

*Ordinary and Enhanced Rational Basis Review in the Massachusetts Supreme Judicial Court: A Preliminary Investigation*, 69 ALBANY LAW REVIEW 415 (2006).

*Reckoning with Dissonance: Thoughts on State Constitutional Law and Constitutional Discourse*, 40 NEW ENGLAND LAW REVIEW 437 (2006).

*Hess v. Indiana*, in THE ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES at 762 (Paul Finkelman, ed. 2006).

*Invidious Discrimination*, in THE ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES at 830 (Paul Finkelman, ed. 2006).

*The Virtues of Uncertainty*, 68 ALBANY LAW REVIEW 373 (2005) (invited contribution).

*Proposal for an Accessible Conception of Cyberspace*, 3 JOURNAL OF INFORMATION, COMMUNICATIONS & ETHICS IN SOCIETY 15 (2005) (with David H. Gleason).

*The (Relative) Passivity of Goodridge v. Department of Public Health*, 14 BOSTON UNIVERSITY PUBLIC INTEREST LAW JOURNAL 1 (2004) (invited contribution).

*Public Opinion and Strict Scrutiny Equal Protection Review: Higher Education Affirmative Action and the Future of the Equal Protection Framework*, 24 BOSTON COLLEGE THIRD WORLD LAW JOURNAL 267 (2004).

*Municipal Impact Fees in Massachusetts*, 88 MASSACHUSETTS LAW REVIEW 131 (2004) (w/ Eric W. Wodlinger).

*Toward an Accessible Conception of Cyberspace*, 28 VERMONT LAW REVIEW 299 (2004) (w/ David H. Gleason).

*Digital Communications Technology and New Possibilities for Private Ordering*, 9 ROGER WILLIAMS UNIVERSITY LAW REVIEW 57 (2003).

*Establishing Information Privacy Violations: The New York Experience*, 31 HOFSTRA LAW REVIEW 651 (2003).

*Unexamined Reliance on Federal Precedent in State Constitutional Interpretation: The Potential Intra-State Effect*, 33 RUTGERS LAW JOURNAL 1031 (2002) (invited contribution).

Baker v. State and the Promise of the New Judicial Federalism, 43 BOSTON COLLEGE LAW REVIEW 125 (2001) (w/ Charles H. Baron).

Cited in *State v. Short*, 851 N.W.2d 474 (Iowa 2014).

*Privacy Protection for Electronic Communications and the “Interception-Unauthorized Access” Dilemma*, 19 JOHN MARSHALL JOURNAL OF COMPUTER AND INFORMATION LAW 435 (2001) (w/ Carlos Perez-Albuerne).

*Gathering, Transmitting or Losing Defense Information*, in A. HUGH SCOTT & KATHLEEN A. BURDETTE, COMPUTER AND INTELLECTUAL PROPERTY CRIME: FEDERAL AND STATE LAW at 339 (2001).

*The Constitutional Value of Dialogue and the New Judicial Federalism*, 28 HASTINGS CONSTITUTIONAL LAW QUARTERLY 93 (2000).

Cited in *People v. Caballes*, 851 N.E.2d 26 (Ill. 2006); *In re Lakisha M.*, 882 N.E.2d 570 (Ill. 1008); *People v. Bailey*, 874 N.E.2d 940 (Ill. App. 2007); *People v. Leggions*, 890 N.E.2d 700 (Ill. App. 2008); *People v. Bryant*, 889 N.E.2d 710 (Ill. App. 2008).

*In Defense of Corporate Criminal Liability*, 23 HARVARD JOURNAL OF LAW AND PUBLIC POLICY 833 (2000).

Excerpted in PAUL H. ROBINSON, CRIMINAL LAW: CASE STUDIES & CONTROVERSIES 1139-41 (3d ed. 2012).

*Questions of Intent: Environmental Crimes and “Public Welfare” Offenses*, 10 VILLANOVA ENVIRONMENTAL LAW JOURNAL 1 (1999) (w/ H. Hamilton Hackney III).

*On Human Rights, the United States and the People’s Republic of China at Century’s End*, 4 JOURNAL OF INTERNATIONAL LEGAL STUDIES 241 (1998).

*Welcome to the Third World: Reflections on the Anniversary of the Third World Law Journal*, 15 BOSTON COLLEGE THIRD WORLD LAW JOURNAL 77 (1995) (w/ Rodolfo Mata).

*The Limitations of Labeling: Justice Anthony M. Kennedy and the First Amendment*, 20 OHIO NORTHERN UNIVERSITY LAW REVIEW 225 (1993).

*Regulating Hate Speech at Public Universities After R.A.V. v. City of St. Paul*, 37 HOWARD LAW JOURNAL 1 (1993).

### Book Reviews

Review of Sarah E. Igo, *THE KNOWN CITIZEN: A HISTORY OF PRIVACY IN MODERN AMERICA*, 49 JOURNAL OF INTERDISCIPLINARY HISTORY 40 (2019) (invited contribution).

*Game of Spies*, 49 NEW ENGLAND LAW REVIEW ON REMAND 1 (2014) (reviewing KENNETH A. DAIGLER, SPIES, PATRIOTS AND TRAITORS: AMERICAN INTELLIGENCE IN THE REVOLUTIONARY WAR).

*Rights in Front of Our Eyes: Positive Rights and the American Constitutional Tradition*, 44 RUTGERS LAW JOURNAL 609 (2014) (reviewing EMILY ZACKIN, LOOKING FOR RIGHTS IN ALL THE WRONG PLACES: WHY STATE CONSTITUTIONS CONTAIN AMERICA’S POSITIVE RIGHTS).

Noted by Lawrence Solum in *Legal Theory Blog*, Nov. 4, 2014 (<http://lsolum.typepad.com/legaltheory/2014/11/friedman-on-positive-rights-the-american-constitutional-tradition.html>)

Review of Sanford Levinson, *FRAMED: AMERICA'S 51 CONSTITUTIONS AND THE CRISIS OF GOVERNANCE*, 62 JOURNAL OF LEGAL EDUCATION 359 (2013) (invited contribution).

*The Once and Future Constitutional Law: On The Law of American State Constitutions*, 74 ALBANY LAW REVIEW 1671 (2010/2011) (reviewing Robert F. Williams, *THE LAW OF AMERICAN STATE CONSTITUTIONS*).

*The Terror Government: Reconciling National Security Imperatives and the Rule of Law*, 44 NEW ENGLAND LAW REVIEW ON REMAND 1 (2009) (reviewing NATSU TAYLOR SAITO, *FROM CHINESE EXCLUSION TO GUANTÁNAMO BAY: PLENARY POWER AND THE PREROGATIVE STATE*).

*Pursuing Justice*, 41 NEW ENGLAND LAW REVIEW 287 (2007) (reviewing Michael Meltsner, *THE MAKING OF A CIVIL RIGHTS LAWYER*).

*Subnational Treasure*, 28 SUFFOLK TRANSNATIONAL LAW REVIEW 261 (2005) (reviewing G. Alan Tarr, Robert F. Williams and Josef Marko, *FEDERALISM, SUBNATIONAL CONSTITUTIONS, AND MINORITY RIGHTS*).

*Turning to the Courts: Human Rights Before the Bench*, 13 HARVARD HUMAN RIGHTS JOURNAL 315 (2000) (reviewing Mark Gibney and Stanislaw Frankowski, eds., *JUDICIAL PROTECTION OF HUMAN RIGHTS: MYTH OR REALITY?*).

*Preserving the Republic: The Essence of Constitutionalism*, 76 BOSTON UNIVERSITY LAW REVIEW 1019 (1996) (reviewing Daniel Lazare, *THE FROZEN REPUBLIC: HOW THE CONSTITUTION IS PARALYZING OUR DEMOCRACY*) (with Neals-Erik William Delker).

Review of Franklyn S. Haiman, *"SPEECH ACTS" AND THE FIRST AMENDMENT*, 29 UNIVERSITY OF RICHMOND LAW REVIEW 1347 (1994).

*Where Angels Fear to Tread: Religion and the "Public Square,"* 14 BOSTON COLLEGE THIRD WORLD LAW JOURNAL 163 (1994) (reviewing Stephen L. Carter, *THE CULTURE OF DISBELIEF: HOW AMERICAN LAW AND POLITICS TRIVIALIZE RELIGION*).

### Other Publications

*Congress is right to strike down national emergency declaration*, THE HILL, March 5, 2019, at <https://thehill.com/opinion/judiciary/432608-congress-is-right-to-strike-down-national-emergency-declaration>.

*The risk of upending settled doctrinal expectations*, THE INTERDEPENDENT THIRD BRANCH, March 3, 2019, <https://interdependentcourts.com/2019/03/03/the-risk-of-upending-settled-doctrinal-expectations/>.

*The argument for caution: Justice Kavanaugh's dissent in June Medical Services, L.L.C. v. Gee*, THE INTERDEPENDENT THIRD BRANCH, Feb. 13, 2019, at <https://interdependentcourts.com/2019/02/13/the-argument-for-caution-justice-kavanaughs-dissent-in-june-medical-services-l-l-c-v-gee/>.

*Mitch McConnell has shown the nation his version of power grab*, THE HILL, Feb. 8, 2019, at <https://thehill.com/opinion/judiciary/429125-mitch-mcconnell-has-shown-the-nation-his-version-of-power-grab>.

*Why the Second Amendment is problem for the Supreme Court*, THE HILL, January 28, 2019, at <https://thehill.com/opinion/judiciary/427280-why-the-second-amendment-is-problem-for-the-supreme-court>.

*The Importance of Being Chief Justice*, THE INTERDEPENDENT THIRD BRANCH, Jan. 15, 2019, at <https://interdependentcourts.com/2019/01/15/the-importance-of-being-chief-justice/>.



*Testing the limits of the pardon power*, THE HILL, Jan. 5, 2019, at <https://thehill.com/opinion/judiciary/424003-testing-the-limits-of-pardon-power>.

*The Senate Strikes Back: Checking Trump's Foreign Policy*, JUST SECURITY, Dec. 14, 2018, at <https://www.justsecurity.org/61867/senate-strikes-back-checking-trumps-foreign-policy/> (with Victor Hansen).

*Turning Toward the Courts in New Hampshire*, OXFORD CONSTITUTIONAL LAW, Nov. 8, 2018, at <http://oxcon.oupplaw.com/page/Turning-Toward-the-Courts>.

*Little buzz on ballot question with wide impact; referendum on Citizens United and campaign finance affects everyone*, COMMONWEALTH MAGAZINE, Oct. 26, 2018, at <https://commonwealthmagazine.org/opinion/little-buzz-on-ballot-question-with-wide-impact/>.

*The risks and rewards of this conservative Supreme Court*, THE HILL, October 8, 2018, <https://thehill.com/opinion/judiciary/410394-the-risks-and-rewards-of-this-conservative-supreme-court>.

*Brett Kavanaugh's conservatism*, WASHINGTON TIMES, Sept. 4, 2018, at B1.

*Aftermath of 9/11 attacks shows American justice system at work*, THE HILL, Aug. 29, 2018, <http://thehill.com/opinion/judiciary/404044-aftermath-of-9-11-attacks-shows-american-justice-system-at-work> (with Victor Hansen).

*Supreme Court recognizes digital age with win for cellphone privacy*, THE HILL, June 26, 2018, <http://thehill.com/opinion/judiciary/394202-supreme-court-recognizes-digital-age-with-win-for-cellphone-privacy>.

*In weighing religion versus equality, Supreme Court takes the cake*, THE HILL, June 6, 2018, <http://thehill.com/opinion/judiciary/391038-in-weighing-religion-versus-equality-the-supreme-court-takes-the-cake>.

*The millionaire's tax is unconstitutional*, BOSTON BUSINESS JOURNAL, May 18, 2018, at 30.

*Academic and Free Speech in the Digital Age*, BRIDGEWATER REVIEW, April 2018, at 32.

*The Supreme Court and Its Big Second Amendment Problem*, THE HILL, March 1, 2018, <http://thehill.com/opinion/judiciary/376284-the-supreme-court-and-its-big-second-amendment-problem>.

*Congress needs to take a look at constitutional use of military force*, THE HILL, January 11, 2018, <http://thehill.com/opinion/judiciary/368386-congress-needs-to-look-at-the-reality-of-using-military-force> (w/ Victor Hansen).

*The Millionaires Tax Initiative in Massachusetts*, BLOOMBERG BNA DAILY TAX REPORT: STATE, November 21, 2017, [http://taxandaccounting.bna.com/btac/T11200/split\\_display.adp?fedfid=123968005&vname=tmenot&jd=aon3w4w7n0&split=o](http://taxandaccounting.bna.com/btac/T11200/split_display.adp?fedfid=123968005&vname=tmenot&jd=aon3w4w7n0&split=o) (w/ Eric Lustig).

*Constitutional Resistance to Executive Power*, OXFORD UNIVERSITY PRESS BLOG, October 29, 2017, <https://blog.oup.com/2017/10/constitutional-resistance-executive-power/>.

*John Roberts Has Tough Job of Keeping Faith in Supreme Court*, THE HILL, October 26, 2017, <http://thehill.com/opinion/judiciary/357392-john-roberts-has-task-of-keeping-americas-faith-in-supreme-court>.

*Kansas Politics By Other Means*, JURIST - Academic Commentary, July 1, 2015, at <http://jurist.org/academic/2015/07/lawrence-friedman-kansas-politics.php>.

*Punishing Companies Serves a Crucial Purpose*, NYTIMES.COM (original publication November 10, 2013), at <http://www.nytimes.com/roomfordebate/2013/11/10/prosecuting-executives-not-companies-for-wall-street-crime/punishing-companies-serves-a-crucial-purpose>.

*Lawmakers infringing upon courts with CACR 26*, NASHUA TELEGRAPH (original publication October 14, 2012), at <http://www.nashuatelegraph.com/opinion/commentary/979313-465/broderickfriedman-lawmakers-infringing-upon-courts-with-cacr.html> (w/ John T. Broderick).

*Abstained Review Process at Guantanamo*, JURIST (original publication Feb. 4, 2011), at <http://jurist.org/forum/2011/02/abstained-review-process-of-guantanamo.php> (w/ Victor Hansen).

*Procedure Matters: Mass. High Court Sends Important Message in Property Rights Case*, ACS BLOG (original publication Jan. 11, 2011), at <http://www.acslaw.org/acsblog/node/18018>.

*The Ghailani Trial: Justice Served*, JURIST (original publication Nov. 24, 2010), at <http://jurist.org/forum/2010/11/the-ghailani-trial-justice-served.php> (w/ Victor Hansen), reprinted as *Making the Case Against Questionable Interrogation Techniques*, THE BRIDGE, Spring 2011, at 38.

*Jeppesen: A Cry for Congressional Help on State Secrets*, JURIST (original publication Sept. 30, 2010), at <http://jurist.org/forum/2010/09/jeppesen-a-cry-for-congressional-help-on-state-secrets.php> (w/ Victor Hansen).

*Terrorism Suspects Can and Should Be Tried in Federal Courts and Civilian Courts Present Several Advantages*, PUBLICSQUARE.NET (original publication July 26, 2010), at <http://publicsquare.net/terrorism-suspects-in-civilian-courts-a-threat-to-national-security/terrorism-suspects-can-and-should-be-tried-in-federal-courts> (with Victor Hansen).

*The Case for Trying Terrorism Suspects in Federal Court*, JURIST (original publication May 10, 2010), at <http://jurist.org/forum/2010/05/the-case-for-trying-terrorism-suspects-in-federal-court.php> (w/ Victor Hansen).

*Supervising Intelligence: A Checked and Balanced Approach to National Security*, JURIST (original publication March 22, 2010), at <http://jurist.law.pitt.edu/forumy/2010/03/supervising-intelligence-checked-and.php> (w/ Victor Hansen).

*Indefinite Detention: Campaign Promises Meet Political Realities*, JURIST (original publication January 28, 2010), at <http://jurist.law.pitt.edu/forumy/2010/01/indefinite-detention-campaign-promises.php> (w/ Victor Hansen).

*A Risk Worth Taking: Civilian Trials for Guantanamo Terror Suspects*, JURIST (original publication November 16, 2009), at <http://jurist.law.pitt.edu/forumy/2009/11/risk-worth-taking-civilian-trials-for.php> (w/ Victor Hansen).

*Obama's Terrorism Policy: Change If Necessary, But Not Necessarily Change*, JURIST (original publication September 25, 2009), at <http://jurist.law.pitt.edu/forumy/2009/09/obamas-terrorism-policy-change-if.php> (w/ Victor Hansen).

*Civilians Can Keep Secrets Too: Trying Terror Suspects in Federal Courts*, JURIST (original publication August 4, 2009), at <http://jurist.law.pitt.edu/forumy/2009/08/civilians-can-keep-secrets-too-trying.php> (w/ Victor Hansen).

*New "Diversity" Needed for Supreme Court Nominees*, JURIST (original publication June 25, 2009), at <http://jurist.law.pitt.edu/forumy/2009/06/new-diversity-needed-for-supreme-court.php> (w/ Renée M. Landers).

*National Security and the War on Terror in President Obama's First One Hundred Days*, MASS DISSENT, June 2009, at 5 (w/ Victor Hansen).

*The "Torture Memos": Learning That Ends Do Not Justify Means*, JURIST (original publication April 28, 2009), at <http://jurist.law.pitt.edu/forumy/2009/04/torture-memos-learning-that-ends-do-not.php> (w/ Victor Hansen).

*Closing Time: Presidential Power and Emergencies*, JURIST (original publication Jan. 28, 2009), at <http://jurist.law.pitt.edu/forumy/2009/01/after-bush-taking-meaningful-steps.php> (w/ Victor Hansen).

*After Bush: Taking Meaningful Steps Toward Accountability*, JURIST (original publication Jan. 14, 2009), at <http://jurist.law.pitt.edu/forumy/2009/01/after-bush-taking-meaningful-steps.php> (w/ Victor Hansen).

*Limit Emergency Power*, THE NATIONAL LAW JOURNAL, Dec. 15, 2008, at 22 (w/ Victor Hansen).

*The End of History: The Vice President and the Presidential Records Act*, JURIST (original publication Sept. 25, 2008), at <http://jurist.law.pitt.edu/forumy/2008/09/end-of-history-vice-president-and.php> (w/ Victor Hansen).

*The Taguba Revelations: Lessons(?) from Abu Ghraib*, JURIST (original publication June 22, 2007), at <http://jurist.law.pitt.edu/forumy/2007/06/taguba-revelation.php> (w/ Victor Hansen).

*Executive Power, Congress, and Iran*, JURIST (original publication Jan. 10, 2007), at <http://jurist.law.pitt.edu/forumy/2007/01/executive-power-congress-and-iran.php> (w/ Victor Hansen).

*The Supreme Court Recognizes the Availability of Unpublished Decisions*, BOSTON BAR JOURNAL, January/February 2007, at 12.

*Law's Arc*, THE LAW TEACHER, Fall 2006, at 1.

*Congress Should Champion the Advice of Military Lawyers*, JURIST (original publication Sept. 5, 2006), at <http://jurist.law.pitt.edu/forumy/2006/09/congress-should-champion-advice-of.php> (w/ Victor Hansen).

*The Army and the Constitution: Time for Congress to Step In*, JURIST (original publication March 21, 2006), at <http://jurist.law.pitt.edu/forumy/2006/03/army-and-constitution-time-for.php> (w/ Victor Hansen).

*Two Views on Court's Indecision on Ten Commandments*, THE JEWISH ADVOCATE, July 8-14, 2005, at 15.

*The Constitutional Jurisprudence of the Marshall Court: The First Half Decade*, BOSTON BAR JOURNAL, March/April 2005, at 10 (w/ Charles H. Baron).

*Prohibition on Same-Sex Marriage Violates State Constitution: Civil Union Insufficient*, BOSTON BAR JOURNAL, May/June 2004, at 6.

*State Constitutional Developments: Massachusetts*, STATE CONSTITUTIONAL CHRONICLE, Winter 2004, at 2 (w/ Charles H. Baron).

*On the Justifications for Constitutional Amendment Concurrent Resolution 5*, NEW HAMPSHIRE BAR JOURNAL, September 2002, at 46.

*The Continued Importance of Basic Legal Analysis in the Digital Age*, LAW LIBRARY LIGHTS, Spring 2002, at 22.

*Permitting Lawyers to Prevent Physical and Economic Harm*, BOSTON BAR JOURNAL, January/February 2002, at 30 (w/ Thomas F. Maffei).

*Application of the Discovery Rule to the Consumer Protection Act: A Case Study in Statutory Construction*, NEW HAMPSHIRE BAR JOURNAL, March 1996, at 26.

*The Contract With America: Assault on the Fourth Amendment*, THE HILL, January 18, 1995, at 17.

### **Honors and Awards**

Lawyers' Committee for Civil Rights Under Law Recognition Award, 1999.

### **Presentations and Commentary**

Quoted on various constitutional law and privacy issues in national and local publications, including THE NEW YORK TIMES, THE CHRISTIAN SCIENCE MONITOR, THE BOSTON GLOBE, BLOOMBERG BNA DAILY TAX REPORT, SLATE MAGAZINE, COMMONWEALTH, THE CONCORD MONITOR, THE LAWRENCE EAGLE-TRIBUNE, THE KANSAS CITY STAR, and COMPLIANCE WEEK; featured guest on New England Cable News, Southern California Public Radio, Wisconsin Public Radio.

Panelist, “*Korematsu* After *Trump v. Hawaii*,” panel sponsored by Boston College Law School APALSA, January 30, 2019.

Panelist, “Justice Kavanaugh: A Round Table Discussion for New Lawyers,” sponsored by Boston Bar Association’s New Lawyers Forum, Boston, MA, November 19, 2018.

Presenter, “Separation of Powers: Framework for Freedom,” North Shore Community College Law Day Lecture, Danvers, MA, April 26, 2018.

Moderator, “Constitutional Battlegrounds: Civil Rights in a Changing Landscape,” panel sponsored by the Boston Bar Association’s Public Interest Leadership Program and Civil Rights & Civil Liberties Section, at the Boston Bar Association, Boston, MA, September 25, 2017.

Panelist, “State Constitutional Change: Traditions, Trends, and Theory,” symposium sponsored by the *Arkansas Law Review*, at the University of Arkansas School of Law, Fayetteville, AR, January 22, 2016.

Panelist, “Symposium on the Development and Future of Marriage Equality in the United States,” panel sponsored by the New England Law | Boston OUTLaws and American Constitution Society, at New England Law | Boston, March 24, 2015.

Panelist, “Crime, Privacy, and Technology: The 21st Century Wild West,” symposium sponsored by the *New England Journal on Criminal and Civil Confinement*, at New England School of Law, October 16, 2014.

Moderator, “Drone Home: Constitutional, Regulatory and Policy Issues Pertaining to Unmanned Aerial Surveillance,” panel discussion sponsored by the Boston Lawyers Chapter of the American Constitution Society, at the Social Law Library, Boston, MA, May 28, 2014.

Panelist, “Having an Impact: The Constitution, the Daily Mechanics of Government, and You,” Boston Bar Association Leadership Retreat, Chatham, MA, October 19, 2013.

Presenter, “The Endurance of State Constitutions,” at “A Wave of Change: Celebrating the 50<sup>th</sup> Anniversary of Michigan’s Constitution and the Evolution of State Constitutionalism,” symposium sponsored by the *Wayne Law Review*, Wayne State University School of Law, Detroit, MI, October 11, 2013.

Moderator, Panel Discussion of “In Our Name: A Play of the Torture Years,” Northeastern University School of Law, Boston, MA, January 29, 2013.

Moderator, “The Chief Justices Speak: The Judiciary’s Budget Crisis and How the Bar Can Help,” panel discussion sponsored by the Law Clerks’ Society of the Supreme Judicial Court, at the Social Law Library, Boston, MA, February 15, 2012.

Presenter, Amnesty International Northeast Regional Conference Death Penalty Workshop, at Boston University, Boston, MA, November 12, 2011.

Guest Blogger, Prawfsblawg, August 2011.

Presenter, “The United States Supreme Court and Its Impact on State Constitutional Jurisprudence,” Massachusetts Appellate Judges Conference, at Suffolk University Law School, Boston, MA, June 30, 2011.

Panelist (with former Massachusetts Governor Michael Dukakis), “Why Health is Different: Health Care Reform at the State and Federal Level,” panel sponsored by the American Constitution Society Boston Lawyer and Northeastern University School of Law Chapters, at Northeastern University, Boston, MA, May 23, 2011.

Presenter, “Path Dependence and the External Constraints on Independent State Constitutionalism,” at “State Constitutionalism in the 21<sup>st</sup> Century,” symposium sponsored by the *Penn State Law Review* and the Penn State Center for Government Law and Public Policy Studies, Penn State University Dickinson School of Law, University Park, PA, September 22, 2010.

Panelist, “Fiction After 9/11: Novel Takes on the War on Terror, Civil Rights, and Privacy,” Association for the Study of Law, Culture and the Humanities Conference, Providence, RI, March 20, 2010.

Presenter (with Victor Hansen), “Separation of Powers and the War on Terror,” discussion sponsored by the New England School of Law chapter of the American Constitution Society, at New England School of Law, November 10, 2009.

Panelist, “Thinking About *Billy Budd*,” Association for the Study of Law, Culture and the Humanities Annual Conference, Boston, MA, April 4, 2009.

Presenter, “Liberty and Privacy Interests Through the Political Question Lens,” Oklahoma City University School of Law Faculty Workshop, February 13, 2009.

Discussant, “Massachusetts State Constitutional Law and Government,” British-American Parliamentary Group 2008 meeting, at WorldBoston, Boston, MA, September 16, 2008.

Discussant, “From Chinese Exclusion to Guantanamo Bay,” Law and Society Association 2008 Annual Conference, Montreal, Quebec, May 29, 2008.

Reporter of Massachusetts developments for chapter on state constitutional law in the 2007 and 2008 editions of *BOOK OF THE STATES*, published by the Council of State Governments, Lexington, KY.

Moderator, “The Constitution’s Unfinished Business,” panel sponsored by the Boston Bar Association’s Civil Rights & Civil Liberties Section, at the Boston Bar Association, Boston, MA, November 5, 2007.

Presenter, “Reactive and Incompletely Theorized State Constitutional Decision-Making,” National Judicial College Program: “The Fourth Amendment: Contemporary Issues for Appellate Judges,” at University of Mississippi School of Law, March 30, 2007.

Presenter, “*Zuckerman v. Town of Hadley*: The New Substantive Due Process Challenge to Regulating Municipal Growth in Massachusetts,” Massachusetts Continuing Legal Education Conference 2007, March 16, 2007.

Panelist, “*Civil Gideon*—The Fight for a Civil Right to Counsel,” panel sponsored by the Center for Law and Social Responsibility at New England School of Law, at New England School of Law, February 8, 2007.

Moderator, “What Did He Say? A Discussion of Justice Scalia’s Jurisprudence,” panel sponsored by the New England School of Law Student Bar Association, at New England School of Law, March 13, 2006.

Panelist, “*Rumsfeld v. FAIR*: Exploring the Solomon Amendment Challenge,” panel sponsored by the Coalition for Equality at Boston College Law School, at Boston College Law School, Newton, MA, November 11, 2005.

Presenter, “Developments in State Constitutional Law,” Vermont State Trial Judges Conference, Middlebury, VT, June 15, 2005.

Discussant, “Scrutinizing Scrutiny: New Perspectives on Strict Scrutiny and Tiered Review,” Law and Society 2005 Annual Conference, Las Vegas, NV, June 3, 2005.

Presenter, “Individual Rights Under State Constitutions: *Goodridge* and the Future of Equal Protection Doctrine,” Federalist Society Speaker Series, at New England School of Law, April 20, 2005.

Panelist, “Same Sex Marriage in Massachusetts: The Meaning and Implications of *Goodridge v. Department of Public Health*,” conference sponsored by Southern New England School of Law, at Southern New England School of Law, North Dartmouth, MA, June 11, 2004.

Presenter, “Individual Rights Jurisprudence Under State Constitutions,” American Constitution Society Spring Lunch Series, at Boston College Law School, Newton, MA, February 26, 2004.

Panelist, “Massachusetts Makes Legal History: The *Goodridge* Marriage Decision,” panel sponsored by the American Constitution Society, at Boston College Law School, Newton, MA, December 3, 2003.

Moderator, “*Bollinger, Brown & the Supreme Court*: A Critical Perspective on the Future of Racial Equality in America,” panel sponsored by the *Harvard Civil Liberties-Civil Rights Law Review*, the Harvard Black Law Students Association, and the American Constitution Society, at Harvard Law School, Cambridge, MA, October 15, 2003.

Panelist, “Separation of Powers: Checks and Balances in State Government,” conference sponsored by the New Hampshire Judicial Council, the Institute of Politics – St. Anselm College, and the Center for State Constitutional Studies, the State University of New Jersey – Rutgers, at St. Anselm College, Manchester, NH, December 12, 2002.

Presenter, “The Constitutional Value of Dialogue and the New Judicial Federalism,” Harvard Law School Visiting Scholar/Researcher Colloquium, at Harvard Law School, Cambridge, MA, November 20, 2000.

Participant, “Debate on the Purpose of Corporate Criminal Liability,” Harvard Law School, Cambridge, MA, April 18, 2000.

### **Memberships, Professional and Civic Affiliations**

Admitted to practice before the United States Supreme Court, the United States Court of Appeals for the District of Columbia Circuit, the United States Court of Appeals for the First Circuit, the United States District Court for the District of Massachusetts, and the Massachusetts Supreme Judicial Court.

*Boston Bar Association*, 1998-present. Member, Administration of Justice Steering Committee, 2011-2014; Future of the Profession Task Force, September 2010-September 2011; Civil Rights Steering Committee, 2007-2011; Boston Bar Council, September 2006-August 2009; Strategic Planning Committee, 2008-2009; BOSTON BAR JOURNAL Board of Editors, July 2001-July 2007; Diversity Committee, May 1998-June 2001.

*Holleran Center for Community Action and Public Policy Advisory Board (at Connecticut College)*, 2017-present. Chair.

*Robert F. Kennedy Children's Action Corps Board of Directors*, 2011-2018. Member, Executive Committee, 2014-2018.

*New Hampshire Supreme Court Society*, 2012-2018.

*Massachusetts Appleseed Center for Law and Justice Board of Directors*, 2001-2018. Board President, September 2009-August 2011.

*Connecticut College Board of Trustees*, 1989-92. Chair, Trustee-Student Liaison Committee, 1991-92; member, Finance, Development, and Social Responsibility Committees.