

Cass R. Sunstein: Curriculum Vitae

EDUCATION

Harvard Law School

J.D., 1978, *magna cum laude*

Executive Editor, *Harvard Civil Rights-Civil Liberties Law Review*

Winning Team, Ames Moot Court Competition

Harvard College

A.B., 1975, *magna cum laude*

Board of Editors, Harvard Lampoon

Varsity Squash

EXPERIENCE

Harvard University

Robert Walmsley University Professor, 2013-present

Harvard Law School

Felix Frankfurter Professor of Law, 2012-2013

United States Government

Administrator, White House Office of Information and Regulatory Affairs, 2009-2012

Harvard Law School

Felix Frankfurter Professor of Law, 2008-2011

Visiting Professor of Law, *Winter 2005*

Visiting Professor of Law, *Spring 1987*

University of Chicago

Karl N. Llewellyn Distinguished Service Professor of Jurisprudence, Law School and Department of Political Science, *1993 - 2008*

Karl N. Llewellyn Professor of Jurisprudence, Law School and Department of Political Science, *1988-1993*

Professor of Law, Law School and Department of Political Science, *1985-1988*

Assistant Professor, Law School and Department of Political Science, *1983-1985*

Assistant Professor of Law, Law School, *1981-1983*

Columbia Law School

Samuel Rubin Visiting Professor of Law, Fall 1986

Office of Legal Counsel, U.S. Department of Justice

Attorney-Advisor, 1980-1981

Honorable Thurgood Marshall, Supreme Court of the United States

Law Clerk, 1979-1980

Honorable Benjamin Kaplan, Supreme Judicial Court of Massachusetts

Law Clerk, 1978-1979

Books

The Ethics of Influence: Government in the Age of Behavioral Science (Cambridge Studies in Economics, Choice, and Society, Cambridge University Press, forthcoming 2016)

The Economics of Nudge (Critical Concepts in Economics) (Routledge, forthcoming 2016) (with Lucia Reisch, eds.)

The World According to Star Wars (Harper Collins, 2016)

Choosing Not to Choose: Understanding the Value of Choice (Oxford University Press, 2015).

Constitutional Personae: Heroes, Soldiers, Minimalists, and Mutes (Inalienable Rights) (Oxford University Press, 2015)

Wiser: Getting Beyond Groupthink to Make Groups Smarter (Harvard Business Review Press, 2015)

Valuing Life: Humanizing the Regulatory State (University of Chicago Press, 2014)

Conspiracy Theories and Other Dangerous Ideas (Simon and Schuster, 2014)

Why Nudge?: The Politics of Libertarian Paternalism (Yale University Press, 2014)

Simpler: The Future of Government (Simon and Schuster, 2013)

Nudge (with Richard Thaler) (international edition; Penguin United Kingdom, 2009)

A Constitution of Many Minds (Princeton University Press, paperback 2011; hardcover 2009)

Going to Extremes (Oxford University Press, paperback 2011; hardcover 2009)

Law and Happiness (University of Chicago Press, 2010) (editor, with Eric Posner)

On Rumors (Farrar, Straus, and Giroux, 2009)

Nudge (Yale University Press 2008) (with Richard H. Thaler)

Worst-Case Scenarios (Harvard University Press 2007).

Republic.com 2.0 (Princeton University Press 2007).

Are Judges Political? An Empirical Investigation of the Federal Judiciary (Brookings Institution Press 2006) (with David Schkade, Lisa Ellman, and Andres Sawicki).

Infotopia: How Many Minds Produce Knowledge (Oxford University Press 2006).

The Second Bill of Rights: Franklin Delano Roosevelt's Unfinished Revolution and Why We Need It More Than Ever (Basic Books 2006) (paperback edition).

Radicals in Robes: Why Extreme Right-Wing Courts Are Wrong for America (Basic Books 2005).

Constitutional Law 5th ed. (Aspen 2005) (with G. Stone, L.M. Seidman, P. Karlan, and M. Tushnet).

The Laws of Fear: Beyond the Precautionary Principle (based on the Seeley Lectures 2004 at Cambridge University) (Cambridge University Press 2005).

The Second Bill of Rights: Franklin Delano Roosevelt's Unfinished Revolution and Why We Need It More Than Ever (Basic Books 2004).

Why Societies Need Dissent (Harvard University Press 2003).

Animal Rights: Current Controversies and New Directions (Oxford University Press 2004) (edited with Martha Nussbaum).

Risk and Reason (Cambridge University Press 2002) (translations forthcoming in Spanish, Chinese, and Farsi) (paperback 2004).

The Cost-Benefit State (American Bar Association 2002).

Punitive Damages: How Juries Decide (University of Chicago Press 2002) (with Reid Hastie, John Payne and David Schkade).

Republic.com (paperback edition 2002, with a new afterword) (multiple translations, including Spanish, Italian, Japanese, and Chinese) (paperback with new afterword, 2002).

Administrative Law and Regulatory Policy (1999; new edition 2002) (with Stephen Breyer, Richard B. Stewart, and Matthew Spitzer).

Free Markets and Social Justice (2002) (Chinese edition with new foreword, Japanese edition) (Japanese translation, 2002; Chinese translation, 2002).

Designing Democracy: What Constitutions Do (Oxford University Press 2001).

[*The Vote: Bush, Gore & the Supreme Court*](#), University of Chicago Press (2001) (editor, with Richard Epstein).

Constitutional Law (4th ed. 2001) (with Stone, Seidman, and Tushnet).

Behavioral Law and Economics (editor, Cambridge University Press, 2000; reprinted 2003).

One Case At A Time: Judicial Minimalism on the Supreme Court (Harvard University Press 1999; paperback 2001; Chinese translation forthcoming, 2001).

The Cost of Rights (1999), (W.W. Norton paperback 2000; translations forthcoming 2001) (with Stephen Holmes).

Clones and Clones: Facts and Fantasies About Human Cloning (with Martha Nussbaum, W.W. Norton 1998) (paperback 1999, multiple translations forthcoming).

Legal Reasoning and Political Conflict (Oxford University Press 1996; paperback 1998).

Free Markets and Social Justice (Oxford University Press 1997; reprinted twice in hardcover; paperback 1999).

Democracy and the Problem of Free Speech (The Free Press 1993; paperback with a new afterword 1995).

The Partial Constitution (Harvard University Press 1993; paperback 1994, reprinted 1997).

After the Rights Revolution: Reconceiving the Regulatory State (Harvard University Press 1990 paperback 1993).

Constitutional Law (Little, Brown & Co. 1st edition 1986; 2d edition 1991; 3d edition 1995) (co-author).

The Bill of Rights and the Modern State (University of Chicago Press 1992) (co-editor with Geoffrey R. Stone and Richard A. Epstein).

Feminism and Political Theory (editor) (University of Chicago Press 1990).

Articles and Essays (Selected)

“Antonin Scalia, Living Constitutionalist,” Harvard Law Review (forthcoming 2016).

“People Prefer System 2 Nudges (Kind Of),” 66 *Duke Law Journal* (forthcoming 2016).

“The Most Knowledgeable Branch,” *University of Pennsylvania Law Review* (forthcoming 2016).

“Behaviorally Informed Health Policy? Patient Autonomy, Active Choosing, and Paternalism,” in *“Nudging Health: Health Law and Behavioral Economics”* (I. Glenn Cohen, Holly Fernandez Lynch & Christopher T. Robertson, eds., John Hopkins University Press, forthcoming 2016).

“Cost-Benefit Analysis and Arbitrariness Review,” *Harvard Environmental Law Review* (forthcoming 2016) (Harvard Public Law Working Paper No. 16-12, Mar. 20, 2016).

“Deliberative Democracy in the Trenches,” *Daedalus* (forthcoming 2016).

“Do Europeans Like Nudges?” *Judgment and Decision Making* (forthcoming 2016) (with Lucia A. Reisch).

“Do People Like Nudges?” *Administrative Law Review* (forthcoming 2016).

“Historical Explanations Always Involve Counterfactual History,” *Journal of the Philosophy of History* (forthcoming 2016).

“The New Coke: On the Plural Aims of Administrative Law,” *Supreme Court Review* (2016) (with Adrian Vermeule).

“‘Practically Binding’: General Policy Statements and Notice-and-Comment Rulemaking,” *Administrative Law Review* (forthcoming 2016)

“The Principle of the Malevolent Hiding Hand; or, the Planning Fallacy Writ Large,” *Social Research* (forthcoming 2016) (with Bent Flyvbjerg).

“The Unbearable Rightness of Auer,” *University of Chicago Law Review* (forthcoming 2016) (with Adrian Vermeule).

“Are Choosers Losers? The Propensity to Under-Delegate in the Face of Potential Gains and Losses,” (Feb. 15, 2016) (with Sebastian Bobadilla-Suarez & Tali Sharot).

“Behaviorally Green: Why, Which and When Defaults Can Help” in *“New Perspectives for Environmental Policies Through Behavioral Economics”* 161 (Frank Beckenbach & Walter Kahlenborn, eds., 2016) (with Lucia Reisch).

“Cost-Benefit Analysis, Who’s Your Daddy?,” 7 *Journal of Benefit-Cost Analysis* 107 (2016).

“The Council of Psychological Advisers,” 67 *Annual Review of Psychology* 713 (2016).

"Fifty Shades of Manipulation," 1 Journal of Marketing Behavior 213 (2016).

"Garbage in, Garbage Out? Some micro sources of macro errors," 11 Journal of Institutional Economics 561 (2015) (with Reid Hastie).

"In Praise of Law Books and Law Reviews (and Jargon-Filled Academic Writing)," 114 Michigan Law Review 833 (2016).

"Institutional Flip-Flops," 94 Texas Law Review 485 (2016) (with Eric A. Posner).

"The Rise of Behavioral Economics: Richard Thaler's 'Misbehaving'" (Jan. 14, 2016).

"Beyond Cheneyism and Snowdenism," 83 University of Chicago Law Review 271 (2015).

"Does Active Choosing Promote Green Energy Use? Experimental Evidence," Ecology Law Quarterly (2016)

"The Ethics of Nudging," 32 Yale Journal on Regulation 413 (2015).

"Financial Regulation and Cost-Benefit Analysis," 124 Yale Law Journal Forum 263 (2015).

"How Star Wars Illuminates Constitutional Law" (May 11, 2015).

"Libertarian Administrative Law," 82 University of Chicago Law Review 39 (2015) (with Adrian Vermeule).

"Manipulation, Welfare, and Dignity: A Reply," 1 Journal of Marketing Behavior 351 (2015).

"Nudges, Agency, and Abstraction: A Reply to Critics," 6 Review of Philosophy and Psychology 511 (2015).

"Nudges Do Not Undermine Human Agency," 38 Journal of Consumer Policy 207 (2015).

"Nudging Smokers," 372 New England Journal of Medicine 2150 (2015).

"Partyism," University of Chicago Legal Forum (2015).

"On Interesting Policymakers," 10 Perspectives on Psychological Science 764 (2015).

"Regulation as Delegation," 7 Journal of Legal Analysis 1 (2015)(with Oren Bar-Gill).

"Regulating Internalities," 34 Journal of Policy Analysis and Management 698 (2015) (with Hunt Allcott).

“A Theory of Civil Disobedience” (NBER Working Paper Series, July 2015) (with Edward Glaeser).

“There is Nothing That Interpretation Just Is,” 30 *Constitutional Commentary* 193 (2015).

“Unanimity and Disagreement on the Supreme Court,” 100 *Cornell Law Review* 769 (2015).

“*Unhelpful Abstractions and the Standard View*,” 12 *Econ Journal Watch* 68 (2015).

“Which Nudges Do People Like? A National Survey,” (June 23, 2015).

“Automatically Green: Behavioral Economics and Environmental Protection,” 38 *Harvard Environmental Law Review* 127 (2014) (with Lucia A. Reisch).

“Choosing Not to Choose,” 64 *Duke Law Journal* 1 (2014).

“Constitutional Personae,” 2013 *Supreme Court Review* 433 (2014).

“Cost-Benefit Analysis and the Knowledge Problem,” (Oct. 13, 2014).

“Deciding by Default,” 162 *University of Pennsylvania Law Review* 1 (2013).

“Disclosure: Psychology Changes Everything,” 6 *Annual Review of Economics* 391 (2014) (with George Loewenstein & Russell Golman).

“From Technocrat To Democrat,” 128 *Harvard Law Review* 488 (2014).

“The Law of “Not Now”: When Agencies Defer Decisions,” 103 *Georgetown Law Journal* 157 (2014) (with Adrian Vermeule).

“The Limits of Quantification,” 102 *California Law Review* 1369 (2014; the Brennan Lecture).

“Making Dumb Groups Smarter,” 93 *Harvard Business Review* 91 (2014) (with Reid Hastie).

“Nudging: A Very Short Guide,” 37 *Journal of Consumer Policy* 583 (2014).

“Nudges vs. Shoves: the benefits of preserving choice,” 127 *Harvard Law Review* 210 (2014).

“The Real World of Cost-Benefit Analysis: Thirty-Six Questions (and Almost as Many Answers),” 114 *Columbia Law Review* 167 (2014).

“Redesigning Cockpits,” 37 *Journal of Consumer Policy* 333 (2014).

“The Office of Information and Regulatory Affairs: Myths and Realities,” 126 *Harvard Law*

Review 1838 (2013).

“Originalism v. Burkeanism: A Dialogue Over Recess,” 126 *Harvard Law Review Forum* 126 (2013).

“The Storrs Lectures: Behavioral Economics and Paternalism,” 122 *Yale Law Journal* 1826 (2013).

“Valuation of Statistical Lives: Some Clarifications and Puzzles,” 4 *Journal of Benefit-Cost Analysis* 237 (2013).

“Choice Architecture,” in *The Behavioral Foundations of Policy* (Princeton University Press, 2013, Eldar Shafir ed.) (with Richard Thaler).

“If Misfearing Is the Problem, Is Cost-Benefit Analysis the Solution,” in *The Behavioral Foundations of Policy* (Princeton University Press, 2013, Eldar Shafir ed.).

“Empirically Informed Regulation,” 78 *University of Chicago Law Review* 1394 (2011)

“Humanizing Cost-Benefit Analysis,” 1 *European Journal of Risk Regulation* 3 (2011)

“Overreaction to Fearsome Risks.” 48 *Environmental and Resource Economics* 435 (2011) (with Richard Zeckhauser).

“Irreversibility” 9 *Law, Probability and Risk* 227 (2010).

"Should Greenhouse Gas Permits Be Allocated on a Per Capita Basis?" 97 *California Law Review* 51 (2009) (with Eric Posner).

"Trimming," 122 *Harvard Law Review* 1049 (2009).

“Some Effects of Moral Indignation on Law.” 33 *Vermont Law Review* (2009).

"Introduction to the Conference on Law and Happiness," 37 *Journal of Legal Studies* 1 (2008) (with Eric A. Posner).

"Illusory Losses," 37 *Journal of Legal Studies* 157 (2008).

[Obama the visionary minimalist.](#) *The Colorado Independent* (November 11, 2008).

"Second Amendment Minimalism: Heller as Griswold," 122 *Harvard Law Review* 246 (November 2008).

["Misery and Company."](#) *The New Republic* (October 22, 2008).

"Is Osha Unconstitutional?" 94 *Virginia Law Review* 1407 (October 2008).

"[The Empiricist Strikes Back](#)," *The New Republic* (September 10, 2008).

"The World vs. the United States and China? The Complex Climate Change Incentives of the Leading Greenhouse Gas Emitters," 55 *UCLA Law Review* 1675 (August 2008).

"[Disclosure is the Best Kind of Credit Regulation](#)," *Wall Street Journal* A17 (August 13, 2008) (with Richard Thaler).

"Judicial Partisanship Awards," *Washington Independent* (July 31, 2008).

"[Throwing precaution to the wind](#)," *Boston Globe* C1 (July 13, 2008).

"Climate Change Justice," 96 *Georgetown Law Journal* 1565 (June 2008) (with Eric Posner).

"The Psychology of the Housing Mess: Human Behavior Has Compounded the Current Crunch—But Changed Behavior Can Guide Us Out of It," *USA Today* 11A (April 24, 2008) (with Richard H. Thaler).

"Economic Policy for Humans," *Boston Globe* A13 (April 17, 2008, 3rd ed.) (with Richard H. Thaler).

"[A gentle prod to go green](#)," *Chicago Tribune* (April 6, 2008) (with Richard Thaler).

"[Designing better choices](#)," *Los Angeles Times* (April 2, 2008) (with Richard Thaler).

"[The Obama I know](#)," *Chicago Tribune* (March 14, 2008).

"The Visionary Minimalist," *The New Republic* 13 (January 30, 2008).

"How the rise of the Daily Me threatens democracy," *Financial Times* 9 (January 11, 2008).

"Caste and Disability: The Moral Foundations of the ADA," 157 *University of Pennsylvania Law Review* PENNumbra 101 (2008).

"[The Polarization of Extremes](#)," *The Chronicle Review* 9 (December 14, 2007)

"Climate Change and Animals," 155 *University of Pennsylvania Law Review* 1695 (2007) (with Wayne Hsiung).

"What Happened on Deliberation Day?" 95 *California Law Review* 915 (2007) (with David Schkade and Reid Hastie).

"The Myth of the Balanced Court," 18 *The American Prospect* 28 (September, 2007).

"Animal Rights Without Controversy" 70 *Law & Contemporary Problems* 117 (2007) (with Jeff Leslie).

["Pay China to cut greenhouse gas emissions,"](#) *Financial Times* 11 (August 6, 2007) (with Eric Posner).

"Clear Statement Principles and National Security: *Hamdan* and Beyond," 2006 *Supreme Court Review* 1.

"Tribute to Bernard Meltzer," 74 *University of Chicago Law Review* 443 (2007).

["Minimalists vs. Visionaries,"](#) *WashingtonPost.com* (June 28, 2007).

"Where are the liberal visionaries on the Supreme Court?" *TNR Online* (June 15, 2007).

"Second-Order Perfectionism," 75 *Fordham Law Review* 2867 (2007).

"The Thin Line," *The New Republic* 51 (May 21, 2007).

"The Law and Economics of Company Stock in 401 (k) Plans," 50 *Journal of Law & Economics* 45 (2007) (with Shlomo Benartzi, Richard H. Thaler and Stephen P. Utkus).

"On Discounting Regulatory Benefits: Risk, Money, and Intergenerational Equity," 74 *University of Chicago Law Review* 171 (2007) (with Arden Rowell).

"Introduction: Symposium on Intergenerational Equity and Discounting," 74 *University of Chicago Law Review* 1 (2007) (with David A. Weisbach).

"Response - On Learning From Others," 59 *Stanford Law Review* 1309 (2007) (with Eric A. Posner).

"Debate: Chevronizing Foreign Relations Law," 116 *Yale Law Journal* 1170 (2007) (with Eric A. Posner).

"Incompletely Theorized Agreements in Constitutional Law," 74 *Social Research* 1 (2007).

["Ginsburg's dissent may yet prevail,"](#) *Los Angeles Times* A31 (April 20, 2007).

"Of Montreal and Kyoto: A Tale of Two Protocols," 31 *Harvard Environmental Law Review* 1 (2007).

"The Survival of the Fattest," *The New Republic* 59 (March 19, 2007) (with Richard H. Thaler).

"Church, state and taxpayers," *The Boston Globe* D9 (March 11, 2007).

"Ideological Amplification," 14 *Constellations* 273 (2007).

"Essay: On the Divergent American Reactions to Terrorism and Climate Change," 107 *Columbia Law Review* 503 (2007).

"[A Brave New Wikiworld](#)," *The Washington Post* A19 (February 24, 2007).

"The Real Judicial Activists," *The American Prospect* 9 (January 2007) (with Thomas Miles).

"Celebrating God, Constitutionally," 83 *University of Detroit Mercy Law Review* 567 (2006) (McElroy Lecture).

"The Case for Fear," *The New Republic* 29 (December 11, 2006).

"Idea: Timing Controversial Decisions," 35 *Hofstra Law Review* 1 (2006).

"Book Review: Of Snakes and Butterflies: A Reply," 106 *Columbia Law Review* (2006).

"Climate change: Why U.S., China are key," *San Jose Mercury News*, OP2 (August 20, 2006).

"It Could Be Worse," *The New Republic* 32 (October 16, 2006).

"U.S. and China must be persuaded to get in the game," *Guelph Mercury* (Ontario, Canada) A10 (August 21, 2006).

"Limiting Climate Change: The Neglected Obstacle," *The Washington Post* A21 (August 18, 2006).

"Defining executive privilege," *The Boston Globe* A9 (July 12, 2007).

"The Availability Heuristic, Intuitive Cost-Benefit Analysis, and Climate Change," 77 *Climatic Change* 195 (2006).

"The Law of Other States," 59 *Stanford Law Review* 131 (2006) (with Eric Posner).

"Problems With Minimalism," 58 *Stanford Law Review* 1899 (2006).

"Deliberation and Prediction Markets," in *Information Markets: A New Way of Making Decisions* 67 (Robert Hahn & Paul Tetlock eds., 2006).

"Costing Mead," 116 *Yale Law Journal Pocket Part* 79 (2006).

"The Virtues of Simplicity," 116 *Yale Law Journal Pocket Part* 70 (2006).

"Irreversible and Catastrophic: Global Warming, Terrorism, and Other Problems," 23 *Pace Environmental Law Review* 3 (2005) (Eleventh Annual Lloyd K. Garrison Lecture on Environmental Law).

"The Precautionary Principle as a Basis for Decision Making," *The Economists' Voice*: Vol. 2: No. 2, Article 8 (2005) (with Robert Hahn).

"Ranking Law Schools: A Market Test?" 81 *Indiana Law Journal* 25 (2006).

"Do Federal Judges Make Regulatory Policy? An Empirical Study," 73 *University of Chicago Law Review* 823 (2006) (with Thomas Miles).

"Burkean Minimalism," 105 *Michigan Law Review* 353 (2006).

"Misfearing: A Reply," 119 *Harvard Law Review* 1110 (2006).

"The Law of Implicit Bias," 94 *California Law Review* 969 (2006) (with Christine Jolls).

"Beyond Marbury: The Executive's Power to Say What the Law Is," 115 *Yale Law Journal* 2580 (2006).

"A New Progressivism," 17 *Stanford Law & Policy Review* 197 (2006).

"Boundedly Rational Borrowing," 73 *University of Chicago Law Review* 249 (2006).

"Irreversible and Catastrophic," 91 *Cornell Law Review* 841 (2006).

"Two Conceptions of Procedural Fairness," *Social Research* (2006).

"Debiasing Through Law," 35 *Journal of Legal Studies* 199 (2006) (with Christine Jolls).

"Justice Breyer's Pragmatic Constitutionalism," 115 *Yale Law Journal* 1719 (2006).

"Chevron Step Zero," 92 *Virginia Law Review* 187 (2006).

"Precautions Against What? The Availability Heuristic and Cross-Cultural Risk Perception," 57 *Alabama Law Review* 75 (2005).

"Correspondence: Testing Minimalism: A Reply," 104 *Michigan Law Review* 123 (2005).

"On Moral Intuitions and Moral Heuristics: A Response," 28 *Behavioral and Brain Sciences* 565 (2005).

"Moral Heuristics," 28 *Behavioral and Brain Sciences* 531 (2005).

"Deterring Murder: A Reply," 58 *Stanford Law Review* 847 (2005) (with Adrian Vermeule).

"Is Capital Punishment Morally Required? The Relevance of Life-Life Tradeoffs," 58 *Stanford Law Review* 703 (2005) (with Adrian Vermeule).

"Group Judgments: Deliberation, Statistical Means, and Information Markets," 80 *New York University Law Review* 962 (2005).

"Why Does the American Constitution Lack Social and Economic Guarantees?," in *American Exceptionalism*, Michael Ignatieff, ed. (2005).

"Sexual Freedom and Political Freedom," in *On Nineteen Eighty Four: Orwell and Our Future*, Abbott Gleason, Jack Goldsmith, Martha Nussbaum, eds. (Princeton University Press 2005).

"Administrative Law Goes to War," 118 *Harvard Law Review* 2663 (2005).

"Dollars and Death," 72 *University of Chicago Law Review* 537 (2005) (with Eric Posner).

"Environmental Protection and Cost-Benefit Analysis," 115 *Ethics* 2 (January 2005).

"The Right to Marry," 26 *Cardozo Law Review* 2081 (2005).

"Constitutive Commitments and Roosevelt's Second Bill of Rights: A Dialogue" (with Randy Barnett), 53 *Drake Law Review* 205 (2005).

"The Precautionary Principle as a Basis of Decisionmaking," *The Economists' Voice* Vol. 2 Issue 2 (2005; with Robert Hahn).

["Cost-Benefit Analysis and the Environment,"](#) 115 *Ethics* 351 (2005).

"Liberty after Lawrence," 65 *Ohio State Law Journal* 1059 (2004).

"Market Efficiency and Rationality: The Peculiar Case of Baseball," 102 *Michigan Law Review* 1390 (2004) (with Richard Thaler).

"Lives, Life-Years and Willingness to Pay," 104 *Columbia Law Review* 205 (2004).

"Minimalism at War," 2004 *Supreme Court Review* 47 (2004).

Empirical projects on voting behavior of federal judges, under the auspices of the Chicago Judges Project

"Deliberation, nouvelle technologies, et extrémisme," 2 *Raison Publique* 9 (2004).

"On the Psychology of Punishment," 11 *Supreme Court Economic Review* 171 (2004).

"Valuing Life: A Plea for Disaggregation," 54 *Duke Law Journal* 385 (2004).

["Fear and Security,"](#) 71 *Social Research* 4 (2004).

"Ideological Voting on Federal Courts of Appeals: A Preliminary Investigation," 90 *Virginia Law Review* 301 (2004) (with David Schkade and Lisa Ellman).

["Are Poor People Worth Less Than Rich People? Disaggregating the Value of Statistical Lives."](#) University of Chicago Law & Economics, Olin Working Paper No. 207; AEI-Brookings Joint Center Working Paper No. 04-05 (2004).

["Black on Brown."](#) 90 *Virginia Law Review* 1649 (2004).

"Lives or Life Years?" 104 *Columbia Law Review* 205 (2004).

"Moral Heuristics and Moral Framing," 88 *Minnesota Law Review* 1556 (2004).

"Statistics, Not Memories: What Was the Standard of Care in Administering Antenatal Steroids to Women in Preterm Labor Between 1985 and 2000?," 102 (no. 2) *Obstetrics and Gynecology* (August, 2003) (with William Meadow and Anthony Bell).

"Lochnering," 82 *Texas Law Review* 65 (2003).

"What Did Lawrence Hold? Of Autonomy, Desuetude, Sexuality, and Marriage," *Supreme Court Review* 27 (2003).

"Libertarian Paternalism," 93 *American Economic Review* 175 (2003) (with Richard Thaler).

["Libertarian Paternalism Is Not An Oxymoron."](#) *University of Chicago Law Review* (2003) (with Richard Thaler).

"Interpretation and Institutions," 101 *Michigan Law Review* 885 (2003) (with Adrian Vermeule).

"Interpretive Theory in Its Infancy: A Reply to Posner," 101 *Michigan Law Review* 972 (2003) (with Adrian Vermeule).

["Why Does the American Constitution Lack Social and Economic Guarantees?"](#) University of Chicago Public Law Working Paper No. 36 (January 2003).

"A Hand in the Matter: Has the Rehnquist Court Pushed Its Agenda on the Rest of the Country?" *Legal Affairs* 26 (March/April 2003).

"Manhattan," 55 *Federal Communications Law Journal* 585 (2003).

"Terrorism and Probability Neglect," 26 *Journal of Risk and Uncertainty* 121 (2003), reprinted in *The Risks of Terrorism* (W. Kip Viscusi ed. 2003) .

"Hazardous Heuristics," Review of Thomas Gilovich, Dale Griffin, and Daniel Kahneman, *Heuristics and Biases: The Psychology of Intuitive Judgment*, 70 *University of Chicago Law Review* 751 (2003).

"The Laws of Fear," *Harvard Law Review* (2002).

"Military Tribunals and Legal Culture: What a Difference Sixty Years Makes," 19 *Constitutional Commentary* 261 (2002) (with Jack Goldsmith).

"The Arithmetic of Arsenic," 90 *Georgetown Law Review* 2255 (2002).

"In Praise of Numbers: A Reply," 90 *Georgetown Law Review* 2379 (2002).

"On a Danger of Deliberative Democracy," *Daedalus* 120 (Fall 2002).

"Is There a Constitutional Right to Clone?," 53 *Hastings Law Journal* 987 (2002).

"The Paralyzing Principle," 25 *Regulation* 32 (2003).

"The Rights of Animals," 70 *University of Chicago Law Review* 387 (2003).

"Predictably Incoherent Judgments," 54 *Stanford Law Review* 1153 (2002) (with Daniel Kahneman, David Schkade, and Ilana Ritov).

"Enforcing Existing Rights," 8 *Animal Law i* (2002).

"Is Incoherence Outrageous?" 54 *Stanford Law Review* 1293 (2002) (with Daniel Kahneman, David Schkade and Ilana Ritov).

"Probability Neglect: Emotions, Worst Cases, and Law," 112 *Yale Law Journal* 61 (2002).

"Beyond the Precautionary Principle," 151 *University of Pennsylvania Law Review* 1003 (2003).

"Avoiding Absurdity? A New Canon of Regulatory Law (with notes on what's wrong with contemporary interpretive theory)," *Env. L. Rep.* (2002).

"State Action Is Always Present," 3 *Chicago Journal of International Law* 465 (2002).

"[Inequality and Indignation](#)," 30 *Philosophy and Public Affairs* 337 (2002) (with Edna Ullmann-Margalit).

"The Law of Group Polarization," 10 *Journal of Political Philosophy* 175 (2002).

"Lawless Order and Hot Cases," in *A Badly Flawed Election*, Ronald Dworkin, ed. (2002).

"The Laws of Fear," Review of Paul Slovic, *The Perception of Risk*, 115 *Harvard Law Review* 1119 (February 2002).

["Social and Economic Rights? Lessons from South Africa,"](#) University of Chicago, Public Law Working Paper No. 12; University of Chicago Law & Economics, Olin Working Paper No. 124 (2001).

"A New Executive Order for Improving Federal Regulation," 150 *University of Pennsylvania Law Review* 1489 (2002) (with Robert Hahn).

"Does the Constitution Enact the Republican Party Platform? Beyond Bush v. Gore," in *Bush v. Gore: The Question of Legitimacy*, Bruce A. Ackerman, ed. (2002).

"The Equal Chance to Have One's Vote Count," 21 *Law and Philosophy* 121 (2002).

"The Future of Free Speech," in *Eternally Vigilant*, Lee Bollinger and Geoffrey Stone eds. (2002).

"Regulating Risks After ATA," 2002 *Supreme Court Review* 1.

"Switching the Default Rule," 77 *N.Y.U. Law Review* 106 (2002).

"Why They Hate Us: The Role of Social Dynamics," 25 *Harvard Journal of Law and Public Policy* 429 (2002).

"Cost-Benefit Default Principles," 99 *Michigan Law Review* 1651 (June 2001).

"Human Behavior and the Law of Work," 87 *Virginia Law Review* 205 (April 2001).

"On Academic Fads and Fashions," 99 *Michigan Law Review* 1251 (2001).

"Of Artificial Intelligence and Legal Reasoning," 8 *University of Chicago Law School Roundtable* 29 (2001).

"Statistics, Not Experts," 51 *Duke Law Journal* 629 (2001) (with William Meadow).

Order Without Law, *University of Chicago Law Review* (2001).

"Is Cost-Benefit Analysis for Everyone?," 53 *Administrative Law Review* 299 (2001).

"Freedom of Expression in the United States: The Future," in Thomas R. Hensley, ed., *The Boundaries of Freedom of Expression and Order in American Democracy* 319 (2001).

"Social and Economic Rights? Lessons from South Africa," 11:4 *Constitutional Forum* 123 (2000-2001).

"Solidarity Goods," *J. Polit. Philosophy* (2001) (with Edna Ullmann-Margalit).

"The Future of Free Speech," 2 *The Little Magazine* 9 (2000).

"Deliberating About Dollars: The Severity Shift," 100 *Colum. L. Rev.* 1139 (2000) (with David Schkade and Daniel Kahneman).

"On Philosophy and Economics," 19 *Quinnipiac L. Rev.* 333 (2000).

[Cognition and Cost-Benefit Analysis](#)," in Mathew Adler and Eric Posner eds., *Cost-Benefit Analysis* (2001), also in 29 *Journal of Legal Studies* 1059 (2000).

"Standing for Animals," 47 *UCLA Law Review* 1333 (2000).

"Cost-Benefit Analysis and Relative Position," *University of Chicago Law Review* (2001) (with Robert H. Frank).

"Human Behavior and the Law of Work," *Virginia Law Review* (2001).

"Deliberative Trouble? Why Groups Go To Extremes," 110 *Yale Law Journal* 71 (2000).

"Television and the Public Interest," *California Law Review* (2000).

["Do People Want Optimal Deterrence?,"](#) *Journal of Legal Studies* (2000) (with David Schkade and Daniel Kahneman).

"Group Dynamics," in *Aftermath* (forthcoming book on Clinton Impeachment) (2000).

"American Advice and New Constitutions," *Chicago Journal of International Law* (2000).

"Agreements Without Theory," in *Democracy and Difference*, Stephen Macedo ed. (1999).

"Should Sex Equality Law Apply to Religious Institutions?," in *Is Multiculturalism Bad for Women?*, Joshua Cohen and Martha Nussbaum, eds. (1999).

" [Deliberating About Dollars: The Severity Shift](#)," 100 *Columbia Law Review* 1139 (2000) (with David Schakde and Daniel Kahneman).

" [Nondelegation Canons](#)," *University of Chicago Law Review* (2000).

["Is the Clean Air Act Unconstitutional?,"](#) *Michigan Law Review* (1999).

"An Incompletely Theorized Conviction," *Harvard Law Review* (1999).

["Availability Cascades and Risk Regulation,"](#) *Stanford Law Review* (1999) (with Timur Kuran), also forthcoming in *Behavioral Law and Economics* (Cambridge University Press 2000).

["Must Formalism Be Defended Empirically?,"](#) *University of Chicago Law Review* (1999).

["Second-Order Decisions,"](#) *Ethics* (1999) (with Edna Ullmann-Margalit), also forthcoming in *Behavioral Law and Economics* (Cambridge University Press 2000).

"Impeaching the President," *University of Pennsylvania Law Review* (1999).

"Informational Standing," *University of Pennsylvania Law Review* (1999).

"From Impeachment to Reform," *Florida Law Review* (1999).

["Assessing Punitive Damages \(With Notes on Cognition and Valuation in Law\),"](#) *Yale Law Journal* (1998) (with Daniel Kahneman and David Schkade) (also forthcoming in revised form in *Behavioral Law and Economics* (Cambridge University Press 2000).

["A Behavioral Approach to Law and Economics,"](#) *Stanford Law Review* (1998) (with Christine Jolls and Richard Thaler), also in *Behavioral Law and Economics* (2000).

"Controlling Public Power in the United States," in *Administrative Justice in Southern Africa*, H. Corder and T. Maluwa, eds. (1997).

"Shared Outrage and Erratic Awards: The Psychology of Punitive Damages," *J. of Risk and Uncertainty* (1998) (with Daniel Kahneman and David Schkade).

["Is Tobacco A Drug?,"](#) *Duke Law Journal* (1998).

"Bad Incentives and Bad Institutions," *Georgetown Law Journal* (1998).

"A Note on Voluntary and Involuntary Risks," (1998).

"Practical Reason and Incompletely Theorized Agreements," forthcoming in *Reasoning Practically*, Edna Ullmann-Margalit, ed. (Oxford University Press 1998).

"Health-Health Tradeoffs," forthcoming in *Deliberative Democracy*, Jon Elster, ed. (Cambridge University Press 1998).

"Behavioral Analysis of Law," *U. Chicago Law Review* (1997).

["Foreword: Leaving Things Undecided,"](#) *Harvard Law Review* (1996).

["Bad Deaths,"](#) *Journal of Risk and Uncertainty* (1997).

"Incommensurability in Law," in *Incommensurability: Philosophy, Law, Policy*, Ruth Chang, ed. (Harvard University Press forthcoming 1998).

["Selective Fatalism,"](#) *Journal of Legal Studies* (forthcoming 1998).

"From Theory to Practice," *Arizona State Law Journal* (1997).

["Social Norms and Social Roles,"](#) *Columbia Law Review* (1996).

"The Expressive Function of Law," *University of Pennsylvania Law Review* (1996).

"Academic Freedom and the Law: Liberalism, 'Speech Codes,' and Related Problems," in *The Future of Academic Freedom*, L. Menand, ed. (1996).

"What the Civil Rights Movement Was and Wasn't," in *Reassessing the 1960s*, S. Macedo, ed. (1996).

"Which Risks First?," in *University of Chicago Legal Forum* (1997).

["The Right to Die,"](#) *Yale Law Journal* (1997).

["The Cost-Benefit State,"](#) in *Rethinking Regulation*, Robert Hahn, ed. (Cambridge University Press forthcoming 1997).

"Against Tradition," in *The Communitarian Challenge to Liberalism*, E. Paul, ed. (1996); also published in *Social Philosophy and Policy* (1996).

["Health-Health Tradeoffs,"](#) *University of Chicago Law Review* (1996).

"Political Deliberation and the Supreme Court," *California Law Review* (1996).

"Congress, Constitutional Moments, and the Cost-Benefit State," *Stanford Law Review* (1995).

"Incompletely Theorized Agreements," *Harvard Law Review* (1995).

"Political Conflicts and Legal Agreements," 1996 *The Tanner Lectures in Human Values* (1996).

"The First Amendment in Cyberspace," *Yale Law Journal* (1995).

"Problems With Rules," *California Law Review* (1995).

"The Idea of A Useable Past," *Columbia Law Review* (1995).

"Rights and Their Critics," *Notre Dame Law Review* (1995).

"Reinventing the Regulatory State," 62 *University of Chicago Law Review* 1 (1995) (with Richard Pildes).

"Well-Being and the State," 107 *Harvard Law Review* (1994).

"The Anticaste Principle," *Michigan Law Review* (1994).

"Conflicting Values in Law," *Fordham Law Review* (1994).

"Homosexuality and the Constitution," *Indiana Law Journal* (1994).

"The Politics of Constitutional Amendment in Eastern Europe," (with Stephen Holmes) in *Constitutional Amendment*, S. Levinson, ed. (Princeton University Press).

"Economic Incentives, Environmental Law, and Democracy," *Ecology Law Quarterly* (1994).

"Standing Injuries," 1994 *Supreme Court Review* .

"Liberal Constitutionalism and Liberal Justice," *Texas Law Review* (1994).

"Incommensurability and Valuation in Law," *Michigan Law Review* (1994).

"Gender, Caste, Law," in *Human Capabilities*, J. Glover & M. Nussbaum, eds. (Cambridge University Press 1996).

"The President and the Administration," 94 *Columbia Law Review* (1994).

"Article III Revisionism," 92 *Michigan Law Review* (1993).

"Academic Freedom and Law: Liberalism, Speech Codes, and Related Problems," *Academe* (1993) and in *Academic Freedom*, Louis Menand, ed. (1994).

"Information, Please," *Eastern European Constitutional Review* (1993).

"The Enduring Legacy of Republicanism," in *A New Constitutionalism*, K. Soltan & S. Elkin, eds. (University of Chicago Press 1993).

"On Legal Theory and Legal Practice," *NOMOS: Theory and Practice* (forthcoming 1995).

"Endogenous Preferences, Environmental Law," *J. Legal Studies* (1993).

"Environmental Economics," *The American Prospect* (1993).

"Words, Conduct, Caste," *University of Chicago Law Review* (1993).

"In Defense of Liberal Education," *J. Legal Educ* . (1993).

"On Analogical Reasoning," 106 *Harvard Law Review* (1993).

"Truisms and Constitutional Duties: A Reply," *Texas Law Review* (1993) (with David A. Strauss).

"Presidential Power and the Council on Competitiveness," *Am. Univ. J. of Ad. Law* (1993).

"On Finding Facts," in *Questions of Evidence*, James Chandler, Arnold Davidson, and Harry Harootunian, eds (1994).

"What's Standing After Lujan? Of Citizen Suits, Injuries, and Article III," *Michigan Law Review* (1992).

"Federalism in South Africa? Lessons From the American Experience," *American University J. of International Law* (1993) and in *From Apartheid to Democracy*, N. Kittrie, ed. (1994).

"Democracy and Shifting Preferences," in *The Idea of Democracy*, David Copp, Jean Hampton, and John Roemer, eds. (Cambridge University Press 1993).

"Half-Truths of the First Amendment," *Univ. Chi. Legal Forum* (1993).

"Against Interest-Group Theory: A Comment," *Journal of Law & Economics* (1993).

"Informing America," *Fla. State L.J.* (1993).

"On Marshall's Conception of Equality," 44 *Stanford L. Rev.* 1267 (1992).

"The Negative Constitution: Transition in Latin America," *University of Miami Law Review* (1993), reprinted in *Transition to Democracy in Latin America: The Role of the Judiciary*, I. Stotzky, ed. (1993).

"Public Choice," Endogenous Preferences," *International Review of Law and Economics* (1992).

"The Senate, the Constitution, and the Confirmation Process," 103 *Yale L. J.* (1992) (with David A. Strauss).

"Economics and the Environment: Trading Debt and Technology for Nature," 14 *Colum. J. Env. L.* (1992) (with Catherine O'Neill), published in 24 *Land Use and Environment Law Review* (1993) as one of best articles on environmental and land use law in 1992.

"On Property and Constitutionalism," *Cardozo L. Rev.* (1992).

"Free Speech Now," 59 *Univ. Chicago L. Rev.* (1992).

"Neutrality in Constitutional Law" (with special reference to pornography, abortion, and surrogacy), 92 *Columbia L. Rev.* (1992).

"Constitutionalism, Prosperity, Democracy: Transition in Eastern Europe," *Constitutional Political Economy* (1991).

"Democratizing America Through Law," 20 *Suffolk L. Rev.* (1991).

"Constitutionalism and Secession," 58 *University of Chicago Law Review* 633 (1991).

"Ideas, Yes; Assaults, No," *The American Prospect* (1991).

"Politics and Preferences," 20 *Philosophy and Public Affairs* 3 (1991), reprinted in *Democracy: Theory and Practice*, J. Arthur, ed. (1992).

"Three Civil Rights Fallacies," 79 *California Law Review* 751 (1991).

"Political Economy, Administrative Law: A Comment," *Journal of Law, Economics, and Organizations* (1991).

"Law and Administration After Chevron," 90 *Columbia Law Review* (1991).

"The Limits of Compensatory Justice," *NOMOS: COMPENSATORY JUSTICE* (1991).

"What Judge Bork Should Have Said," *Connecticut Law Review* (1991).

"Republicanism, Rights: A Comment on Pangle," *Chicago-Kent Law Review* (1991).

"Republicanism and the Preference Problem," *Chicago-Kent Law Review* (1991).

"Why Markets Won't Stop Discrimination," 8 *Social Philosophy and Policy* 21 (1991), and in *Reassessing Civil Rights*, E. Paul, ed. (Basil Blackwell 1991).

"Why the Unconstitutional Conditions Doctrine Is An Anachronism," 70 *Boston University Law Review* (1991).

"Political Self-Interest in American Public Law," in *Beyond Self-Interest*, J. Mansbridge, ed. (U. of Chi. Press 1990).

"Administrative Substance," 1990 *Duke Law Journal* .

"Remaking Regulation," 3 *The American Prospect* 73 (1990).

"Principles, Not Fictions," 57 *University of Chicago Law Review* (1990).

"Norms in Surprising Places: The Case of Statutory Construction," *Ethics* (1990).

"Paradoxes of the Regulatory State," 57 *University of Chicago Law Review* (1990).

"Constitutional Politics and the Conservative Court," *The American Prospect* (1990).

"Interpreting Statutes in the Regulatory State," 103 *Harvard Law Review* (1989), recipient of 1990 award of American Bar Association for best annual scholarship in administrative law.

"Unity and Plurality: The Case of Compulsory Oaths," 2 *Yale Journal of Law and Humanities* (1989).

"Disrupting Voluntary Transactions," in *NOMOS: Markets and Justice* (1989).

"On the Costs and Benefits of Aggressive Judicial Review of Administrative Action," *Duke Law Journal* (1989).

"The First Amendment and Cognition," *Duke Law Journal* (1989).

"Low Value Speech Revisited," *Northwestern L. Rev.* (1989).

"Introduction: Notes on Feminist Political Thought," *Ethics* (1989).

"Is There An Unconstitutional Conditions Doctrine?," *San Diego L. Rev.* (1989).

"Six Theses on Interpretation," *Constitutional Commentary* (1989).

"Beyond the Republican Revival," *98 Yale Law Journal* (1988).

"The Beard Thesis and the New Deal," *George Washington Law Review* (1988).

"Standing and the Privatization of Public Law," *88 Columbia Law Review* (1988).

"Sexual Orientation and the Constitution: A Note on the Relationship Between Due Process and Equal Protection," *55 University of Chicago Law Review* (1988).

"Changing Conceptions of Administration," *Brigham Young Law Review* (1988).

"Compelling Government Action: The Problem of Affirmative Rights," in *The Cambridge Lectures* (1988).

"Pornography and Free Speech," in *Civil Liberties in Conflict*, L. Gostin, ed. (1988).

"Protectionism, National Markets, and the American Supreme Court," in volume on *National Integration and the Future of the European Economic Community* (European University Institute 1988).

"Constitutions and Democracies: An Epilogue," in *Constitutionalism and Democracy*, J. Elster & R. Slagstaad, eds. (Cambridge University Press 1988).

"Constitutionalism After the New Deal," *101 Harvard Law Review* 421 (1987).

"Lochner's Legacy," *87 Columbia Law Review* 893 (1987), reprinted in *Law and Liberalism in the 1980s*, V. Blasi, ed. (Columbia University Press 1991).

"Routine and Revolution," *Northwestern Law Review* (1987), reprinted in *Critique and Construction*, R. Lovin & M. Perry, eds. (Cambridge University Press 1990).

"Lochner's Misunderstood Legacy," *Columbia Observer* (1987).

"Judicial Review of Administrative Action in a Conservative Era," *Administrative Law Review* (1987).

"Legal Interference with Private Preferences," *53 University of Chicago Law Review* 1127 (1986).

"Two Faces of Liberalism," *University of Miami Law Review* (1986).

"The Role of the President in Informal Rulemaking," *Administrative Law Review* (1986) (with Peter Strauss).

"Government Control of Information," *California Law Review* (1986).

"Pornography and the First Amendment," 1986 *Duke Law Journal* (1986).

"Madison and Constitutional Equality," 9 *Harvard Journal of Law and Public Policy* 146 (1986).

"Notes on Pornography and the First Amendment," 3 *Journal of Law and Inequality* (1986).

"Factions, Self-Interest, and the APA: Four Lessons Since 1946," 62 *Virginia Law Review* (1986).

"Deregulation and the Courts," 5 *Journal of Public Policy and Management* (1986).

"Interest Groups in American Public Law," 38 *Stanford L. Rev.* 29 (1985), recipient of American Bar Association award for distinguished scholarship in administrative law.

"Reviewing Agency Inaction After Heckler v. Chaney," 51 *U. Chi. L. Rev.* 636 (1985).

"Naked Preferences and the Constitution," 84 *Colum. L. Rev.* 1689 (1984), reprinted in book of readings on constitutional law (Foundation Press).

"In Defense of the Hard Look: Judicial Activism and Administrative Law," 7 *Harvard Journal of Law and Public Policy* 51 (1984).

"Hard Defamation Cases," 25 *William & Mary L. Rev.* 877 (1984).

"Rights, Minimal Terms, and Solidarity," 51 *U. Chi. L. Rev.* (1984).

"Legislative Attacks on School Desegregation," in *Civil Rights in the Eighties: A Thirty Year Perspective* (1984).

"Deregulation and the Hard-Look Doctrine," 1983 *Supreme Court Review* 177.

"Is Cost-Benefit Analysis a Panacea for Administrative Law?," *University of Chicago Law School Record* (1983).

"Politics and Adjudication," 94 *Ethics* 126 (1983) (review-essay).

"Public Employees, Executive Discretion, and the Air Traffic Controllers," 50 *University of Chicago Law Review* 731 (1982) (with Bernard Meltzer).

"Participation, Public Law, and Venue Reform," 49 *University of Chicago Law Review* 976 (1982).

"Public Programs and Private Rights," 95 *Harvard Law Review* 1193 (1982) (with Richard Stewart).

"Section 1983 and the Private Enforcement of Federal Law," 49 *University of Chicago Law Review* 394 (1982).

"Public Values, Private Interests, and the Equal Protection Clause," 1982 *Supreme Court Review* 127.

"Cost-Benefit Analysis and the Separation of Powers," 23 *Arizona Law Review* 1267 (1981).

Short Essays and Reviews (Selected)

"Sanders Writes a Chapter in the Behavioral Science Textbook," *Bloomberg View* (June 9, 2016).

"Trump Is No Legal Expert. But He's Right About This One Thing," *Bloomberg View* (June 8, 2016).

"At Last, A Supreme Court That Does Less," *The Wall Street Journal* (Online) (June 3, 2016).

"'Star Wars' and separation of powers," *The Volokh Conspiracy* (June 2, 2016).

"What company do you keep? On 'Star Wars' and more," *The Volokh Conspiracy* (June 2, 2016).

"Why is success so hard to predict?" *The Volokh Conspiracy* (June 1, 2016).

"Star Wars is Really About Feminism. And Jesus," *Bloomberg View* (May 31, 2016).

"'Star Wars' is About Freedom of Choice," *The Volokh Conspiracy* (May 31, 2016).

"I Am Your Father," *The Atlantic* (May 27, 2016).

"What Makes People Queasy About Engineered Foods," *Bloomberg View* (May 26, 2016).

“Money Doesn’t Buy as Long a Life as It Used To,” *Bloomberg View* (May 20, 2016).

“Government Just Got More Power, Which is Good,” *Bloomberg View* (May 17, 2016).

“We’ve Entered the Age of Partyism—It Might Get Worse Than Racism,” *Heatstreet* (May 13, 2016).

“Clinton Thinks, Trump Feels, Voters Decide,” *Bloomberg View* (May 4, 2016).

“The One Mistake That Most Traders Keep Making,” *Bloomberg View* (April 29, 2016).

“Some Crimes Can Be Forgotten,” *Bloomberg View* (April 28, 2016) (with Peter Orszag).

“Hamilton’s New York Values Deserve Recognition,” *Bloomberg View* (April 21, 2016).

“Here’s How to Fix All That Federal Regulation,” *Bloomberg View* (April 18, 2016).

“The Real Reason Women Still Get Paid Less,” *Bloomberg View* (April 11, 2016).

“Ending Obama’s Climate Rules Harder Than It Looks,” *Bloomberg View* (April 5, 2016).

“New Research Confirms You’re Not an Automaton,” *Bloomberg View* (March 30, 2016).

“Obama’s Pick Could Soothe a Bruised Supreme Court,” *Bloomberg View* (March 16, 2016).

“There’s a Better Way to Dissuade Trump Supporters,” *Bloomberg View* (March 10, 2016).

“Supreme Court Needs Minimalism Now, Not Heroes,” *Bloomberg View* (March 4, 2016).

“The Economic Advantage of Democratic Presidents,” *Bloomberg View* (February 24, 2016).

“Calorie Labeling Works Better Than We Thought,” *Bloomberg View* (February 19, 2016).

“In Praise of Jargon,” *Chronical of Higher Education* (February 19, 2016).

“The Antonin Scalia I Knew Will Be Greatly Missed,” *Bloomberg View* (February 13, 2016).

“How Pro Golf Explains the Stock Market Panic,” *Bloomberg View* (February 12, 2016).

“Clinton and Sanders Focus on the Wrong Percent,” *Bloomberg View* (February 8, 2016).

“What Millennials Like About Bernie Sanders,” *Bloomberg View* (February 1, 2016).

“Low Growth Means Trouble for U.S. Politics,” *Bloomberg View* (January 27, 2016).

“Five Smart Ways to Cut Government Red Tape,” *Bloomberg View* (January 20, 2016).

“Parking the Big Money,” *The New York Review of Books* (January 14, 2016)(reviewing Gabriel Zucman’s “The Hidden Wealth of Nations: The Scourge of Tax Havens” and Harold Crooks’ film, “The Price We Pay”).

“Is Ted Cruz a “Natural-Born” Citizen? Well, Maybe,” *Bloomberg View* (January 12, 2016).

“How Facebook Spreads Falsehoods and Paranoia,” *Bloomberg View* (January 8, 2016).

“Political Incorrectness is Scientifically Bogus,” *Bloomberg View* (December 30, 2015).

“The Year’s Best Movies (for Behavioral Economics),” *Bloomberg View* (December 28, 2015).

“She Was Houdini’s Greatest Challenge,” *The New York Review of Books* (December 17, 2015)(reviewing David Jaher’s “The Witch of Lime Street: Séance, Seduction, and Houdini in the Spirit World”).

“Election Highlights Taiwan’s Fragile Success,” *Bloomberg View* (December 14, 2015).

“Best Books of 2015 on Blunder, Bias and Phools,” *Bloomberg View* (December 14, 2015).

“Political Speech is Nonsense Because It Works,” *Bloomberg View* (December 7, 2015).

“Islamic State’s Challenge to Free-Speech Laws,” *Bloomberg View* (November 23, 2015).

“What Obama’s Immigration Lawsuit is Really About,” *Bloomberg View* (November 17, 2015).

“Republicans Who Fault the Media Show Their Bias,” *Bloomberg View* (November 16, 2015).

“Following the Law Isn’t Exxon’s Only Obligation,” *Bloomberg View* (November 9, 2015).

“Don’t Give Up Yet on Fast-Food Calorie Labels,” *Bloomberg View* (November 3, 2015).

“Why Republicans Killed Their Own Health-Care Idea,” *Bloomberg View* (October 29, 2015).

“Let the SEC Fight Conflict Minerals,” *Bloomberg View* (October 26, 2015).

“Why Free Markets Make Fools of Us,” *The New York Review of Books* (October 22, 2015).

“Ben Carson’s Take on the Constitution Is Odd,” *Bloomberg View* (October 21, 2015).

“Nobel Winner Shows We’re Helping the Wrong People,” *Bloomberg View* (October 12, 2015).

“How the Gun Lobby Rewrote the Second Amendment,” *Bloomberg View* (October 7, 2015).

“What Critics Get Wrong About the EPA’s Smog Rule,” *Bloomberg View* (October 2, 2015).

“On Climate, the Duty to Poor Nations Isn’t Clear,” *Bloomberg View* (September 29, 2015).

“What Jeb Bush Gets Right on Regulatory Reform,” *Bloomberg View* (September 23, 2015).

“The Pope's Tricky Message on Climate Change,” *Bloomberg View* (September 21, 2015).

“Making Government Logical,” *The New York Times* (September 20, 2015).

“‘Group Polarization’ - A Downside of Free Speech,” *Jefferson City News-Tribune* (September 9, 2015).

“Larry Lessig's Capraesque Campaign for President,” *Bloomberg View* (September 9, 2015).

“Rule of Law Wins One for Tom Brady,” *Bloomberg View* (September 4, 2015).

“Black Lives Matter Reclaims the 14th Amendment,” *Bloomberg View* (September 1, 2015).

“No, Democrats, the American System Isn't Rigged,” *Bloomberg View* (August 25, 2015).

“Amazon is Right that Disagreement Results in Better Decisions But it Can Be Without Humiliating People,” *HBR Blog Network* (August 18, 2015).

“Behavioral Science Explains Iran Debate,” *Bloomberg View* (August 20, 2015).

“Poverty-Buster That's Not a Liberal Fantasy,” *Bloomberg View* (August 13, 2015).

“Trump and Bush, Thinking Fast and Slow,” *Bloomberg View* (August 5, 2015).

“How New Rules for Coal Plants Are a Net Plus,” *Investor's Business Daily* (August 5, 2015).

“Obama's New Greenhouse-Gas Rules Will Pay Off,” *Bloomberg View* (August 3, 2015).

“U.K. Finds Easy and Timely Ways to Fix Government,” *Bloomberg View* (July 27, 2015).

“David Cameron's Clear-Eyed Diagnosis of Extremism,” *Bloomberg View* (July 21, 2015).

“Finding Humanity in ‘Gone With the Wind’,” *The Atlantic* (July 16, 2015).

“A Reasonably Good Price on U.S. Carbon Emissions,” *Bloomberg View* (July 14, 2015).

“Thank Justice Scalia for the Cost-Benefit State,” *Bloomberg View* (July 7, 2015).

“Picking the Right Words for Campus Bans,” *Bloomberg View* (June 29, 2015).

“Same-Sex Marriage Shows Supreme Court at Its Best,” *Bloomberg View* (June 26, 2015).

“A Catch in the Court's Obamacare Ruling,” *Bloomberg View* (June 25, 2015).

“When America Says Yes to Government,” *The New York Times* (June 19, 2015).

“Taliban Marriage Case Hints at Liberty's Limits,” *Bloomberg View* (June 15, 2015).

“Questioning New Standards for Civil Disobedience,” *Bloomberg View* (June 9, 2015).

“The Mischievous Science of Richard Thaler,” *The New Rambler Review* (June 8, 2015))(reviewing Richard H. Thaler’s “Misbehaving: The Making of Behavioral Economics”).

“Make Voting a Birthright,” *Bloomberg View* (June 5, 2015).

“The Supreme Court’s Top Five Opinions of All Time,” *Bloomberg View* (June 2, 2015).

“Nudging Smokers,” *New England Journal of Medicine* (May 28, 2015).

“Everyone on Earth Can Be Frank Sinatra’s Cousin,” *Bloomberg View* (May 25, 2015).

“The Danger of Thinking Trains Are Now Dangerous,” *Bloomberg View* (May 15, 2015).

“Born to Be a Wild Card,” *The Atlantic* (April 29, 2015).

“Marriage Bans Violate the Law as Segregation Did,” *Bloomberg View* (April 27, 2015).

“Same-Sex Marriage Is an Easier Sell Than Abortion,” *Bloomberg View* (April 20, 2015).

“What, Exactly, Do You Want?,” *The New York Times* (April 20, 2015).

“How Star Wars Illuminates Constitutional Law (and Authorship),” *The New Rambler Review* (April 20, 2015))(reviewing Chris Taylor’s “How Star Wars Conquered the Universe: The Past, Present, and Future of a Multibillion Dollar Franchise”).

“What Conservatives Care About That Liberals Don’t,” *Bloomberg View* (April 13, 2015).

“Republicans’ Senate Drama Over Lynch Nomination,” *Bloomberg View* (April 3, 2015).

“John & Harriet: Still Mysterious,” *The New York Review of Books* (April 2, 2015))(reviewing Friedrich Hayek’s “Hayek on Mill: The Mill–Taylor Friendship and Other Writings”).

“The First Amendment Has Become a Corporate Shield,” *Bloomberg View* (March 30, 2015).

“Endless Options Can Be Exhausting, We Need to Know When Choice Matters,” *The Observer* (March 29, 2015).

“Oregon’s Opt-Out System Will Expand Voter Rolls,” *Bloomberg View* (March 19, 2015).

“Thomas Repeatedly Rejects the Court’s Precedents,” *Bloomberg View* (March 16, 2015).

“Sometimes All Nine Supreme Court Justices Agree,” *Bloomberg View* (March 20, 2015).

“Hillary Clinton’s E-Mail and the Public Interest,” *Bloomberg View* (March 5, 2015).

“Where Do Norms Come From?,” *The New Rambler Review* (March 4, 2015))(reviewing Edna Ullmann-Margalit’s “The Emergence of Norms”).

“Asian-Americans Will Soon Be Wealthiest Americans,” *Bloomberg View* (March 2, 2015).

“Teachers Can Discourage Girls From Studying Math,” *Bloomberg View* (February 23, 2015).

“How the Judge Misread Obama's Immigration Program,” *Bloomberg View* (February 17, 2015).

“Wiser: Getting Beyond Groupthink to Make Groups Smarter,” *Management Next (India)* (February 13, 2015).

“Brian Williams Suffers the ‘Denominator Problem’,” *Bloomberg View* (February 11, 2015).

“We Have to Pay Something to Slow Climate Change,” *Bloomberg View* (February 9, 2015).

“A Gay-Rights Argument Justice Scalia Could Love,” *Bloomberg View* (February 2, 2015).

“Rand Paul's Novel Conservative Judicial Activism,” *Bloomberg View* (January 26, 2015).

“A ‘Living’ Constitution and the Right to Marry,” *Bloomberg View* (January 20, 2015).

“Gambler's Fallacy Makes Baseball and Life Unfair,” *Bloomberg View* (January 19, 2015).

“‘Happy Talk’ and the Dangers of Groupthink,” *Time.com* (Jan. 16, 2015) (with Reid Hastie).

“Obama's Last Years Will Be His Most Interesting,” *Bloomberg View* (January 12, 2015).

“The Daily Show with John Stewart,” (January 6, 2015).

“Fox News Really Does Make People Vote Republican,” *Bloomberg View* (January 6, 2015).

“New Year's Really Is Best for Making Resolutions,” *Bloomberg View* (December 30, 2014).

“Salute to the Graceful Silence of George W. Bush,” *Bloomberg View* (December 22, 2014).

“How Mumps Grew Strong Enough to Hurt Pro Hockey,” *Bloomberg View* (December 18, 2014).

“The Year-End Movie Awards You've Been Waiting For,” *Bloomberg View* (December 15, 2014).

“Why Free Marketeers Don't Accept Climate Science,” *Bloomberg View* (December 10, 2014).

“The Refounding Father,” *The New York Review of Books* (December 4, 2014)(reviewing John Paul Stevens’ “Six Amendments: How and Why We Should Change the Constitution”).

“Who Knows If You’re Happy,” *The New York Review of Books* (December 4, 2014)(reviewing Paul Dolan’s “Happiness by Design: Change What You Do, Not How You Think,” and Arthur A. Stone and Christopher Mackie, eds., “Subjective Well-Being: Measuring Happiness, Suffering, and Other Dimensions of Experience”).

“The Backstory of Obama's New Climate Regulations,” *Bloomberg View* (December 3, 2014).

“Restaurant Calorie Counts Will Change How We Eat,” *Bloomberg View* (November 28, 2014).

“The Immigration Argument That Everyone's Ignoring,” *Bloomberg View* (November 25, 2014).

“Winter Will Undermine Concern for Climate Change,” *Bloomberg View* (November 24, 2014).

“A Near-Convincing Case Against Same-Sex Marriage,” *Bloomberg View* (November 17, 2014).

“New Republican Senate Will Grill the White House,” *Bloomberg View* (November 6, 2014).

“Victorious Republicans Should Now Re-Read Hayek,” *Bloomberg View* (November 3, 2014).

“Hidden Tax You Pay When You Must Wait,” *Bloomberg View* (October 27, 2014).

“Nudges: Good and Bad,” *The New York Review of Books* (October 23, 2014).

“Why Ebola Is So Much Scariest Than It Needs to Be,” *Bloomberg View* (October 20, 2014).

“Weather Makes People Buy Things They Don't Want,” *Bloomberg View* (October 13, 2014).

“Justices Decide on Silence in Gay Marriage Cases,” *Bloomberg View* (October 6, 2013).

“My Brief Moment of Glory on the Pro Squash Court,” *Bloomberg View* (October 6, 2013).

“This Is the Best Column You Will Read This Month,” *Bloomberg View* (October 3, 2014).

“The Simple Trick to Not Picking the Wrong iPhone,” *Bloomberg View* (September 29, 2014).

“What if?,” 245 *The New Republic* 16 (Sept. 29, 2014) (reviewing Richard Evans's “Altered Pasts: Counterfactuals in History”).

“Home-Run Hitters of the Supreme Court,” *Bloomberg View* (September 23, 2014).

“Political Party Prejudice Is Bigger Than Racism,” *Bloomberg View* (September 22, 2014).

“A Treasure-Trove Beyond Words,” *Chicago Tribune* (September 17, 2014).

“Obama Has the Authority to Attack Islamic State,” *Bloomberg View* (September 15, 2014).

“Apple Pay's Convenience Could Make You Poorer,” *Bloomberg View* (September 10, 2014).

“Americans Missed \$5.4 Billion by Not Refinancing,” *Bloomberg View* (September 9, 2014).

“Greatest Win for Gay Marriage Is Just Two Words,” *Bloomberg View* (September 5, 2014).

“Extremists Reinforce One Another's Radical Views,” *Bloomberg View* (September 1, 2014).

“Regulatory Review for the States,” *National Affairs* (Summer 2014) (with Edward Glaeser).

“How to Deregulate Cities and States; Cost-Benefit Analysis and “Lookbacks” Could Lift the Unnecessary Burdens of Occupational Licensing,” *The Wall Street Journal (Online)* (August 25, 2014) (with Edward Glaeser).

“Economists Like Immigration Reform But Who Cares?,” *Bloomberg View* (August 25, 2014).

“Shopping Made Psychic,” *The New York Times* (August 20, 2014).

“Reagan Devilishly Steals Perlstein Show,” *Bloomberg View* (August 18, 2014).

“Nixon Impeachment Plan Followed the Constitution,” *Bloomberg View* (August 8, 2014).

“Three Ways to Get Washington Working After 2016,” *Bloomberg View* (August 4, 2014).

“Paul Ryan's Good Ideas for Reforming Regulation,” *Bloomberg View* (July 28, 2014).

“Smart Shoppers Choose Cheaper Store-Brand Aspirin,” *Bloomberg View* (July 21, 2014).

“Boehner v. Constitution Would Have Clear Winner,” *Bloomberg View* (July 11, 2014).

“When Government Is Too Open, It Can't Work Well,” *Bloomberg View* (July 9, 2014).

“On Recess Appointments, Scalia Loses, Breyer Wins,” *Bloomberg View* (July 2, 2014).

“Front-Runner in 2016 Race May Be Obama's Opposite,” *Bloomberg View* (June 30, 2014).

“Supreme Court Hides Poison Pill in Its EPA Ruling,” *Bloomberg View* (June 24, 2014).

“Why Republicans Will Overreact to Cantor's Loss,” *Bloomberg View* (June 23, 2014).

“Does It Matter If the Supreme Court Splits 5-4?,” *Bloomberg View* (June 17, 2014).

“The Supreme Court Will Always Split 5-4,” *Bloomberg View* (June 16, 2014).

“Federal Officials Have a Right to Procrastinate,” *Bloomberg View* (June 9, 2014).

“Now Who Wants to Change the U.S. Constitution?,” *Bloomberg View* (June 2, 2014).

“How to Navigate Charity's Fast and Slow Lanes,” *Bloomberg View* (May 27, 2014).

“Tea Party Constitutionalism,” *The New Republic* (May 26, 2014) (reviewing Richard A. Epstein’s “The Classical Liberal Constitution: The Uncertain Quest for Limited Government”(2014)).

“How Easy Is It to Indoctrinate Students? Easy,” *Bloomberg View* (May 20, 2014).

“Why Is Society So Preoccupied With Inequality?,” *Bloomberg View* (May 13, 2014).

“Why I Don't Tell Reporters Everything I Know,” *Bloomberg View* (May 7, 2014).

“EPA’s Latest Rule on Mercury Standards Will Save Lives,” *The Providence Journal* (May 6, 2014) (with Francesca Dominici and Michael Greenstone).

“How Gary Becker Can Explain Your Dinner Check,” *Bloomberg View* (May 5, 2014).

“How Debit Cards Reduce Cash as Well as Crime,” *Bloomberg View* (April 29, 2014).

“We Should be Nudging People, Not Shoving: Nudges Won’t Tackle Climate Change or Poverty, But a Society That Respects its Citizens Doesn’t Need to Rely on Coercion,” *The Guardian* (April 25, 2014).

“How Do We Know What’s Moral?,” *The New York Review of Books* (April 24, 2014)(reviewing David Edmond’s “Would You Kill the Fat Man? The Trolley Problem and What Your Answer Tells Us About Right and Wrong”).

“Supreme Court Justice Hugo Black Was Overrated,” *Bloomberg View* (April 22, 2014).

“Nudging Taxpayers Do the Right Thing,” *Bloomberg View* (April 15, 2014).

“Bad Judgment and Bad Investing Go Hand in Hand,” *Bloomberg View* (April 9, 2014).

“A Cost-Benefit Analysis of Making Safer Cars,” *Bloomberg View* (April 8, 2014).

“Cass Sunstein On Conspiracy Theories,” *Here & Now, WBUR* (April 2, 2014).

“Ranking the Supreme Court's Home-Run Hitters,” *Bloomberg View* (April 1, 2014).

“Why Political Partisans Don't Like Messy Facts,” *Bloomberg View* (March 31, 2014).

“Libel Protection's Troubling Dark Side,” *Bloomberg View* (March 25, 2014).

“There's Conspiracy Wherever You Look,” *Bloomberg View* (March 18, 2014).

“Academic Jargon Is Often Precise, Not Pompous,” *Bloomberg View* (March 11, 2014).

“Avoiding the Cost of Needless Fear: Obama’s Former Regulatory Czar Explains How to Avoid Bad Rules,” *Boston Globe* (March 9, 2014).

“Regulators Should Take Job Loss Into Account,” *Bloomberg View* (March 4, 2014).

“Baseball Umpires' Bias Is Sign of Human Mercy,” *Bloomberg View* (February 26, 2014).

“Slavery and Lost Meaning of Equal Protection,” *Bloomberg View* (February 25, 2014).

“Noise Will Make People Unhappy, Cancer May Not,” *Bloomberg View* (February 18, 2014).

“Is It Better to Win Olympic Bronze Than Silver?,” *Bloomberg View* (February 11, 2014).

“Pope Francis's FAQs on Browsing for Centrists,” *Bloomberg View* (February 11, 2014).

“Paranoid Libertarians and a 'Paranoid Bureaucrat’,” *Bloomberg View* (February 11, 2014).

“Spurn Siren's Call of Constitution Originalism,” *Bloomberg View* (February 4, 2014).

“Five Steps to Spotting Paranoid Libertarians,” *Bloomberg View* (January 30, 2014).

“What Exactly Are These Obama 'Executive Orders’?,” *Bloomberg View* (January 29, 2014).

“Economic Mobility in America, Stuck in Neutral,” *Bloomberg View* (January 28, 2014).

“Consumer Guide to 7 Types of Political Snark,” *Bloomberg View* (January 21, 2014).

“Here Are 7 Crucial Points in Obama NSA Speech,” *Bloomberg View* (January 17, 2014).

“Robert Gates, Honorable Man's Act of Dishonor,” *Bloomberg View* (January 13, 2014).

“Your Operating System Just Isn't That Into You,” *Bloomberg View* (January 12, 2014).

“For New War on Poverty, First Get Facts Right,” *Bloomberg View* (January 9, 2014).

“Warring Dogmas Block Climate-Change Progress,” *Bloomberg View* (January 7, 2014).

“Fight Inertia and Keep New Year's Resolutions,” *Bloomberg View* (December 31, 2013).

“A Pardon for War Hero Convicted of Being Gay,” *Bloomberg View* (December 26, 2013).

“Play Moneyball to Test Charity Effectiveness,” *Bloomberg View* (December 24, 2013).

“Behind a New Principle for National Security,” *Bloomberg View* (December 19, 2013).

“Winners of 2013's Behavioral Economics Oscars,” *Bloomberg View* (December 17, 2013).

“Surge of 1 Percent Is 40 Years in the Making,” *Bloomberg View* (December 10, 2013).

“Quants Gone Wild,” *The New Republic* (December 9, 2013).

“The Battle of Two Hedgehogs,” *The New York Review of Books* (December 5, 2013)(reviewing Paul Sabin’s “The Bet: Paul Ehrlich, Julian Simon, and Our Gamble Over Earth’s Future”).

“Why Nudging Is Better for You Than Pushing,” *Bloomberg View* (December 5, 2013).

“Left and Right Are Both Wrong About Regulation,” *Bloomberg View* (December 3, 2013).

“Why Healthier Eating Takes More Than Willpower,” *Bloomberg View* (November 26, 2013).

“Shhh, Republicans May Like Filibuster Reform,” *Bloomberg View* (November 22, 2013).

“Beatles' Luck Shows Success Isn't Pre-Ordained,” *Bloomberg View* (November 19, 2013).

“How People Lie About Gay Sex and Homophobia,” *Bloomberg View* (November 12, 2013).

“Epic Battle of Whittaker Chambers Versus Ayn Rand,” *Bloomberg View* (November 5, 2013).

“Tea Party Anti-Elitism Starts With Alger Hiss,” *Bloomberg View* (October 29, 2013).

“Popular Asthma Medicines Lose to Ozone Treaty,” *Bloomberg View* (October 22, 2013).

“Michigan's Race Case Tests Rights of Majority,” *Bloomberg View* (October 17, 2013).

“Obama, Boehner Use Weakness to Gain Strength,” *Bloomberg View* (October 14, 2013).

“Small Changes Have a Big Impact on People's Lives,” *Bloomberg View* (October 8, 2013).

"Government Shutdown Has a Simple Explanation," *Bloomberg View* (October 1, 2013).

"Supreme Court's Heroes, Soldiers, Burkeans, Mutes," *Bloomberg View* (September 30, 2013).

“It Captures Your Mind,” *The New York Review of Books* (September 26, 2013)(reviewing Sendhil Mullainathan and Eldar Shafir’s “Scarcity: Why Having Too Little Means So Much”).

Office of Information and Regulatory Affairs: Myths and Realities, *Administrative & Regulatory Law News* (Summer 2013).

"American Exceptionalism Requires Diverse Views," *Bloomberg View* (September 23, 2013).

"How Poverty Affects People's Minds, Abilities," *Bloomberg View* (September 17, 2013).

"Aristotle Explains Republican Immigration Bind," *Bloomberg View* (September 09, 2013).

"Most Important Economist You Have Never Heard Of," *Bloomberg View* (September 05, 2013).

"Does Obama Have Right to Strike Syria on His Own?," *Bloomberg View* (September 03, 2013).

"People Just Aren't Afraid of Climate Change Yet," *Bloomberg View* (August 27, 2013).

"A Better Understanding of the Wisdom of Crowds," *Bloomberg View* (August 19, 2013).

“Like a Virgin,” *The New Republic* (August 19, 2013).

"We Lose Serendipity If Bezos Personalizes News," *Bloomberg View* (August 12, 2013).

"Why Is U.S. Economic Mobility Worse in the South?," *Bloomberg View* (August 08, 2013).

"Summers's Critics Distort His Regulatory Views," *Bloomberg View* (August 06, 2013).

"Could Bowling Leagues and the PTA Breed Nazis?," *Bloomberg View* (July 30, 2013).

"Flip-Flopping on Filibuster Makes Congress a Mess," *Bloomberg View* (July 23, 2013).

"Why American Students Don't Major in Science," *Bloomberg View* (July 17, 2013).

"Reasonable Doubt Is Central to Zimmerman Verdict," *Bloomberg View* (July 15, 2013).

"Stop the Presses, Obamacare Haters Hate Obamacare," *Bloomberg View* (July 09, 2013).

"History Lives in the Things My Father Carried," *Bloomberg View* (July 03, 2013).

"How Not to Misunderstand Scalia's Originalism," *Bloomberg View* (July 01, 2013).

"Gay-Marriage Ruling Safeguards Human Dignity," *Bloomberg View* (June 26, 2013).

"Minimalist Wisdom Prevails on Affirmative Action," *Bloomberg View* (June 24, 2013).

"Health Promotion and the State," *New England Journal of Medicine* (June 20, 2013) (with Meredith B. Rosenthal).

"Republicans and Democrats Actually Agree on Facts," *Bloomberg View* (June 17, 2013).

"Uber Cab App Threatens Death of Taxi Dinosaurs," *Bloomberg View* (June 10, 2013).

"Biggest Supreme Court Ruling You Haven't Heard Of," *Bloomberg View* (May 29, 2013).

"An Original Thinker of Our Time," *New York Review of Books* (May 23, 2013).

"Why Second-Term Scandals Are Almost Inevitable," *Bloomberg View* (May 22, 2013).

"Wing Nuts Can Use Fewer Facts, More Humility," *Bloomberg View* (May 20, 2013).

"Don't Mandate Labeling for Gene-Altered Foods," *Bloomberg View* (May 12, 2013).

"iPad Model Can Make Health Law Sign-Up Simpler," *Bloomberg View* (May 06, 2013).

"Gun-Control Foes and Slippery-Slope Fallacies," *Bloomberg View* (April 29, 2013).

"Why People Stay Scared After Sudden Tragedies," *Bloomberg View* (April 22, 2013).

"Cass Sunstein: "Simpler: The Future of Government"," *The Diane Rehm Show, NPR* (April 16, 2013).

"Why Well-Informed People Are Also Close-Minded," *Bloomberg View* (April 15, 2013).

"Happy Taxes," *The New York Times* (April 14, 2013).

"Check Here to Tip Taxi Drivers, Save for 401(k)," *Bloomberg View* (April 9, 2013).

"With Clean-Energy Default Rules, It's Easy Being Green," *Business Week* (April 8 – April 14, 2013).

"Go Simple," *The New York Times* (April 13, 2013).

"Moneyball for Judges," *The New Republic* (April 8, 2013)(reviewing Lee Epstein, William M. Landes, and Richard Posner, "The Behavior of Federal Judges: A Theoretical & Empirical Study of Rational Choice" (2013)).

"Why Supreme Court Silence Is Sometimes Golden," *Bloomberg View* (April 01, 2013).

"Same-Sex Marriage Law Has Four Paths," *Bloomberg View* (March 27, 2013).

"An Original Thinker of Our Time," *The New York Review of Books* (March 23, 2013)(reviewing Jeremy Adelman's "Worldly Philosopher: The Odyssey of Albert O. Hirschman").

"Are Republicans Abusing Filibuster on Nominees?," *Bloomberg View* (March 18, 2013).

"Cut Global Red Tape to Promote Economic Growth," *Bloomberg View* (March 11, 2013).

"It's For Your Own Good," *The New York Review of Books* (March 7, 2013)(reviewing Sarah Conly's "Against Autonomy: Justifying Coercive Paternalism").

"Same-Sex Marriage and the Long Arc of History," *Bloomberg View* (March 4, 2013).

"The Best and the Good," *The New Republic* (February 25, 2013) (reviewing Robert E. Goodin, "On Setting" (2012)).

"When Presidents Can't Wait and Act on Their Own," *Bloomberg View* (February 24, 2013).

"Step Aside, Oscars, Here Are the Becon Winners," *Bloomberg View* (February 22, 2013).

"Most Important Legal Philosopher of Our Time," *Bloomberg View* (February 15, 2013).

"Reduce Obesity by Offering More Choices," *Bloomberg View* (February 13, 2013).

"Can Boy Scouts Overrule Supreme Court Ruling?," *Bloomberg View* (February 04, 2013).

"Obama, Roosevelt and the Second Bill of Rights," *Bloomberg View* (January 28, 2013).

"U.S. Should Act Unilaterally on Climate Change," *Bloomberg View* (January 23, 2013).

"How to Resolve Disputes, Maybe Even Gridlock," *Bloomberg View* (January 14, 2013).

"If Judges Aren't Politicians, What Are They?," *Bloomberg View* (January 07, 2013).

"End of the World As We Know It and I Feel Fine," *Bloomberg View* (December 31, 2012).

"People Hate Losses and That Affects Budget Fix," *Bloomberg View* (December 24, 2012).

"Commerce Claus," *The New Republic* (December 20, 2012) (with George Loewenstein).

"Gun Debate Must Avoid Crazy 2nd Amendment Claims," *Bloomberg View* (December 17, 2012).

"Krugman, Krauthammer and Their Implied Authors," *Bloomberg View* (December 10, 2012).

"Why Holiday Gifts Get More 'Ughs' Than 'Oohs,'" *Bloomberg View* (November 27, 2012).

"Terrible, Horrible, No-Good Confirmation Process," *Bloomberg View* (November 19, 2012).

"Lincoln, the Justices and Same-Sex Marriage," *Bloomberg View* (November 12, 2012).

"Climate Change: Lessons From Ronald Reagan," *The New York Times* (November 10, 2012).

"The Obama I Know," *Independent Online (U.K.)* (November 5, 2012).

"Next Administration Is Sure to Break the Rules," *Bloomberg View* (November 04, 2012).

"Stay Alive, Imagine Yourself Decades From Now," *Bloomberg View* (October 23, 2012).

"Does the Constitution Echo Republican Views?," *Bloomberg View* (October 16, 2012).

"Presidents Create "Regulatory Due Process" for the Public," *Transport Topics* (October 15, 2012).

"In Praise of Turncoats, Nixon to John Roberts," *Bloomberg View* (October 08, 2012).

"Why Should Regulators Have to Listen to You?," *Bloomberg View* (October 03, 2012).

"Sugar Man's Lesson for Markets and Politicians," *Bloomberg View* (September 25, 2012).

"Breaking Up the Echo," *The New York Times* (September 17, 2012).

"The Stunning Triumph of Cost-Benefit Analysis," *Bloomberg View* (September 12, 2012).

"How Voters Can Escape From Information Cocoons," *Bloomberg View* (September 03, 2012).

"White House vs. Red Tape; A New Executive Order Will Help Harmonize U.S. Regulations With Foreign Ones, Reducing Costly Redundancies While Preserving Public Safety," *The Wall Street Journal (Online)* (April 30, 2012).

"Why Regulations Are Good – Again," *Chicago Tribune* (March 19, 2012).

“Washington Is Eliminating Red Tape: New Reforms Will Save Americans Billions Without Sacrificing Public Health or Safety,” *The Wall Street Journal (Online)* (August 23, 2011).

“A Smarter Approach to Cutting Red Tape,” *Washington Post* (July 1, 2011).

“21st-Century Regulation: An Update on the President’s Reforms; Federal Agencies Are Eliminating Unnecessary Rules to Save Businesses Money,” *The Wall Street Journal (Online)* (May 26, 2011).

“To Become an Extremist, Hang Around With People You Agree With,” *The Spectator* (July 4, 2009).

“The Enlarged Republic—Then and Now,” *The New York Review of Books* (March 26, 2009).

“Exploiting the Shame Meter,” *Scientific American Earth 3.0* (December 2008) (with Richard H. Thaler).

“Misery and Company,” *The New Republic* (October 22, 2008).

“The Empiricist Strikes Back,” *The New Republic* (September 10, 2008).

“Enclave Extremism and Journalism’s Brave New World,” *Nieman Reports* (Summer 2008).

“Disclosure is the Best Kind of Credit Regulation,” *The Wall Street Journal* (August 13, 2008).

“How a Single Fly Cleaned an Entire Bathroom and Cameron and Obama Were United with Just a...NUDGE NUDGE,” *Mail on Sunday (U.K.)* (July 27, 2008).

“Death Penalty’s Murky Evidence,” *Virginia Pilot and Ledger-Star* (July 7, 2008) (with Justin Wolfers).

“The Psychology of the Housing Mess,” *USA Today* (April 24, 2008)(with Richard H. Thaler).

“Economic Policy for Humans,” *Boston Globe* (April 17, 2008) (with Richard H. Thaler).

“Easy Does It,” *The New Republic* (April 9, 2008) (with Richard H. Thaler).

“A Gentle Prod to Go Green,” *Chicago Tribune* (April 6, 2008) (with Richard H. Thaler).

“Designing Better Choices: Libertarian Paternalism Give You Options While Achieving Society’s Goals,” *Los Angeles Times* (April 2, 2008) (with Richard H. Thaler).

“The Obama I Know: Terrific Listener Goes Wherever Reason Takes Him,” *Chicago Tribune* (March 14, 2008).

“The Visionary Minimalist,” *The New Republic* (January 30, 2008).

“Staring Down the Barrel,” *Boston Globe* (December 2, 2007).

“The Polarization of Extremes,” *Chronical of Higher Education* (December 14, 2007).

“The Most Mysterious Right,” *The New Republic* (November 19, 2007).

“Making Judgments About the Justices,” *Star-Ledger* (October 26, 2007).

“The Myth of the Balanced Court,” *American Prospect* (September 2007).

“Defining Executive Privilege,” *Boston Globe* (July 12, 2007).

“The Thin Line,” *The New Republic* (May 21, 2007).

“Ginsburg’s Dissent May Yet Prevail,” *Los Angeles Times* (April 20, 2007).

“The Survival of the Fattest,” *The New Republic* (March 19, 2007).

“Church, State and Taxpayers,” *Boston Globe* (March 11, 2007).

“The Real Judicial Activists,” *American Prospect* (January/February 2007) (with Thomas J. Miles).

“When Crowds Aren’t Wise,” *Harvard Business Review* (September 2006).

“Obama and Clinton: Superstars,” *Guardian.co.uk* (December 12, 2006).

“The Case for Fear,” *The New Republic* (December 11, 2006).

“The Smoking Dragon,” *Guardian.co.uk* (November 13, 2006).

“Pricing the Midterms,” *Guardian.co.uk* (November 3, 2006).

“It Could Be Worse,” *The New Republic* (October 16, 2006).

“Run, Barack, Run,” *Guardian.co.uk* (October 16, 2006).

“All Together Now,” *Guardian.co.uk* (October 11, 2006).

“When Crowds Aren’t Wise,” *Harvard Business Review* (September 1, 2006).

“Climate Change: Why U.S. and China Are Key,” *San Jose Mercury News* (August 20, 2006).

“A Broader Consensus in Narrower Rulings: Minimalist Court Avoids Putting Chains on the Future,” *Star-Ledger* (May 30, 2006).

“Verdicts and Virtues,” *The New Republic* (May 22, 2006).

“War Costs Cause a Climate Change,” *Albany Times Union* (May 13, 2006).

"It's Only \$300 Billion; If We Can Fund the War in Iraq, Why Can't We Fund the Kyoto Protocol?" *The Washington Post* (May 10, 2006).

"Risk Management," *The New Republic Online* (April 24, 2006).

"Wiretap Program Falls in Legal Gray Area," *San Jose Mercury News* (February 5, 2006).

"Acceptable Use," *The New Republic Online* (January 21, 2006).

"The 9/11 Constitution," *The New Republic* (January 16, 2006).

"Same Difference," *The New Republic Online* (January 9, 2006).

"The People's Court: Our Legal Guardians," *Los Angeles Times* (January 8, 2006).

"Voting Pattern," *The New Republic Online* (November 11, 2005).

"Courting Division," *The New York Times* (October 6, 2005).

"Fighting for the Supreme Court: How Right-Wing Judges Are Transforming the Constitution," *Harper's Magazine* (September 2005).

"The Philosopher-Justice," *The New Republic* (September 19, 2005).

"Dual Purpose," *The New Republic Online* (September 6, 2005).

"Old School," *The New Republic Online* (September 1, 2005).

"Minimal Appeal," *The New Republic* (August 1, 2005).

"Super Freak," *The New Republic* (July 25, 2005).

["A diversity of minds, not biology,"](#) *Los Angeles Times* (July 23, 2005).

["Role Reversal and the High Court,"](#) *The Washington Post* (July 10, 2005).

["Why We Must Strive for Balance,"](#) *Chicago Tribune* (July 6, 2005).

["O'Connor's Balancing Act,"](#) *Los Angeles Times* (July 3, 2005).

["Constitution and the law now under attack,"](#) *The Times Union* (April 24, 2005).

["Latest Assault on Judges Threatens Rule of Law,"](#) *Los Angeles Times* (April 15, 2005).

"The Rhenquist Revolution," *The New Republic* (December 27, 2004).

"Power Base," *The New Republic Online* (October 27, 2005).

["Economic Security: A Human Right; Reclaiming Franklin Delano Roosevelt's second bill of rights,"](#) *The American Prospect* (October 2004).

["A Bench Tilting Right,"](#) *Washington Post* (October 30, 2004) (with David Schkade).

["The Power of Dissent,"](#) *Los Angeles Times* (September 17, 2003).

["Judging By Where You Sit,"](#) *New York Times* A31 (June 11, 2003).

["FDR's Wise Take On U.S. Security,"](#) *Los Angeles Times* B13 (May 27, 2003).

["Fear Factor: Truth Is, Sunbathing is Probably More Dangerous Than Terrorism,"](#) *Los Angeles Times* B11 (May 10, 2003).

"Sober Lemmings," *The New Republic* (April 14, 2003).

["The Right-Wing Assault,"](#) 14 *The American Prospect* 66 (2003).

["Taking Over the Courts,"](#) *New York Times* A19 (November 9, 2002).

"Politics By Other Means," *The New Republic* (October 21, 2002).

["A Conservative Nominee Liberals Should Love,"](#) *Wall Street Journal* (September 17, 2002).

"A Narrowed Right to Challenge the States," *The New York Times* (May 31, 2002).

"Keeping Up with the Clonses," *The New Republic* (May 6, 2002) (book review).

"Rights of Passage," *The New Republic* (February 25, 2002) (book review).

"Not Deciding," *The New Republic* (October 29, 2001) (book review)

"Chicago Diarist: The Juror," *The New Republic* (August 20, 2001).

"The Stifled Society," *The New Republic* (July 9, 2001) (book review).

"Slaughterhouse Jive," Review of Gary Francione, *An Introduction to Animal Rights*, *New Republic* 40 (January 29, 2001).

"One Fine Mess- Why Bush, Gore, and Florida Law Aren't to Blame," *The New Republic* 40 (January 29, 2001).

"What we'll remember in 2050: 9 views on Bush v. Gore," *The Chronicle of Higher Education* B15 (January 5, 2001).

"Ad Hominem," *The New Republic* 24 (December 11, 2000).

"The Broad Virtue in a Modest Ruling," *The New York Times* A29 (December 5, 2000).

"The Return Of States' Rights," 24 *The American Prospect* 11 (November 20, 2000).

"Is Nature Good," reviewing Alan McHughen, Pandora's Picnic Basket: The Potential and Hazards of Genetically Modified Foods, *The New Republic* 38 (October 23, 2000).

"Chipping Away at Buckley," *The American Prospect* 23 (September 25, 2000).

"The Human Variables," reviewing Truman F. Bewley, *Why Wages Don't Fall During a Recession*, (August 7, 2000).

"Vanity Fair," *The New Republic* (1999) (reviewing Robert Frank, *Luxury Fever*).

"A Constitutional Disgrace," *The New Republic* (1999). (reviewing Janet Halley, *Don't*).

"Let's Hear It For Bureaucrats," *The New York Times* (1997) (reviewing J. Mashaw, *Greed, Chaos, and Governance*).

"Rebuilding the Wall of Privacy," *New York Times* (1997) (op-ed).

"Government and Markets," *The New Republic* (1997) (reviewing F. Hayek, *Socialism and War*).

"Earl Warren is Dead," *The New Republic* (1996) (reviewing R. Dworkin, *Freedom's Law*).

"Children and Television," *The New Republic* (1996) (reviewing N. Minow, *Abandoned in the Wasteland*).

"Equality and Free Expression," *The New Republic*, " (1995) (reviewing N. Strossen, *Defending Pornography*).

"Founders, Keepers," *The New Republic* (1993) (reviewing Samuel Beer, *To Make A Nation*).

"Valuing Life," *The New Republic* (1993) (reviewing W. Kip Viscusi, *Smoking*, and W. Kip Viscusi, *Fatal Tradeoffs*).

"Against Positive Rights," 2 *Eastern European Constitutional Review* (1993).

"Where Politics Ends," *The New Republic* (1992).

"Hans," *University of Chicago Law Review* (1992).

"Something Old, Something New," 1 *Eastern European Constitutional Review* (1992).

"New Deals," *The New Republic* (1992) (reviewing B. Ackerman, *We the People*).

"Is The Court Independent?," *The New York Review of Books* (1992) (reviewing W. Rehnquist, *Grand Inquests*," and G. Rosenberg, *The Hollow Hope*).

"The Spirit of the Laws," *The New Republic* (1991). (reviewing L. Tribe and M. Dorf," Reading the Constitution).

"Righttalk," *The New Republic* (1991) (reviewing M. Glendon, *Rights Talk*).

"Feminism and Legal Theory," 101 *Harv. L. Rev.* (1988). (book review of MacKinnon, *Feminism Unmodified*).

Review of John Keane, *Public Life and Late Capitalism*, 96 *Ethics* (1986).

Review of Baer, *Equality Under the Constitution*, 95 *Ethics* (1984).

"Judicial Remedies and the Public Tort Law," 92 *Yale Law Journal* 450 (1983) (book review of Schuck, *Suing Government*).

Awards and Activities (selected)

Regulatory Innovation Award, 2012 (Burton Foundation) ("to honor an academic or non-elected public official whose innovative ideas have made a significant contribution to the discourse on regulatory reform")

Henderson Prize, Harvard Law School, 2002, for Free Markets and Social Justice (awarded for best book on law and government in preceding five years).

Goldsmith Book Award, Harvard University, 1994, for Democracy and the Problem of Free Speech (awarded for best book on free speech)

Certificate of Merit Award of American Bar Association for contribution to public understanding of American legal system, 1991, for *After the Rights Revolution*

Award of American Bar Association for best scholarship in administrative law, 1987, for *Interest Groups in American Public Law*, 38 *Stanford Law Review*

Award of American Bar Association for best scholarship in administrative law, 1989, for *Interpreting Statutes in the Regulatory State*, 102 *Harv. L. Rev.*

Award of American Bar Association for best scholarship in administrative law, 1999, for *Is the Clean Air Act Unconstitutional?*, *Michigan Law Review*, and *Informational Regulation and Informational Standing*, *U. Pa. L. Rev.*

[Graduate Teaching Award, 2003](#)

Member, Institute of Medicine Committee, Reducing Tobacco Use: Strategies, Barriers, and Consequences, *2004-2005*

Member, Presidential Advisory Committee on the Public Service Obligations of Digital Television, *1997-1998*

Co-Director, Center on Constitutionalism in Eastern Europe, University of Chicago, *1990-1997*

Contributing Editor, *The New Republic*, *1999-2009*

National Council, World Wildlife Fund, *1994*

Commissioner, American Bar Association Commission on the future of the Federal Trade Commission and of economic regulation, *1988*

Associate Editor, *Ethics*, *1986-1988*

Board of Editors, *Studies in American Political Development*, *1989-2009*

Board of Editors, *Journal of Political Philosophy*, *1991-2009*

Board of Editors, *Constitutional Political Economy*, *1991-2009*

Contributing Editor, *The American Prospect*, *1989-2009*

Chair, Administrative Law Section, Association of American Law Schools, *1989-1990*

Vice-Chair, American Bar Association Section on Governmental Organization and Separation of Powers, *1986-1987*

Council, American Bar Association Section on Administrative Law, *1987-1988*

Member, American Academy of Arts and Sciences, elected 1992

Visiting Scholar, University of Minnesota Law School, Rutgers University, George Washington University

Testified on numerous legal subjects, usually involving separation of powers, administrative law, regulatory policy, and constitutional law, before a number of national and local government bodies, including Senate Judiciary Committee, Senate Government Affairs Committee, House Rules Committee, Attorney General's Commission on Pornography, and Illinois House of Representatives