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Education

J.D., *summa cum laude*, University of Iowa, 1969

- Valedictorian, Class of 1969
- Order of Coif
- Editor-in-Chief, *Iowa Law Review*, Volume 54

B.A., *maxima cum laude*, University of Notre Dame, 1965

- Valedictorian, Class of 1965

Career History

Law Teaching

Professor, Southern Illinois University School of Law, since 1984, teaching Torts, Legislation, Jurisprudence, Legal Ethics, State and Local Government Law, Products Liability, Insurance Law

Associate Professor, Southern Illinois University School of Law, 1981-84

Tenured Associate Professor, Washington University School of Law, St. Louis, Missouri, 1975-79

Assistant Professor, Washington University School of Law, St. Louis, Missouri, 1971-75

Private Law Practice

Husch, Eppenberger, Donohue, Elson & Cornfeld, St. Louis, Missouri, 1979-81

Sidley & Austin, Chicago, Illinois, 1969-71

Publications

1) On Torts

The First Restatement of Torts: Reform by Descriptive Theory, 32 SIU L.J. 93 (2007)

Introduction to Symposium: Did the First Restatements Adopt a Reform Agenda? 32 SIU L.J. 1 (2007)

The Medical Malpractice Insurance Crisis: What Can be Done, 21 Health Care Lawyer 5 (March 2005)

Infancy, Insanity, and Infirmary in the Law of Torts, 48 Am. J. Jur.179 (2003)

What Judges Tell Juries About Negligence: A Review of Pattern Jury Instructions (with Laurel Wendt), 77 CHICAGO-KENT LAW REVIEW 587 (2002)

Restating Duty, Breach and Proximate Cause in Negligence Law: Descriptive Theory and the Rule of Law, 74 VAND.L.REV. 1039 (2001)

The Carroll Towing Company Case and The Teaching of Tort Law, 45 St.L.U.L.J 731 (2001)

Causation in Tort Law, in ENCYCLOPEDIA OF LEGAL PHILOSOPHY (ed. C. Gray) (1999)

Tort Reform, in NATURAL LAW & CONTEMPORARY PUBLIC POLICY (ed. D. Forte) Georgetown University Press (1998)

New Developments in the Illinois Law of Contribution Among Joint Tortfeasors (with K. Kandaras), 23 LOY. U. CHI. L.J. 407 (1992)

Jurisdiction and Immunity in Suits Against State Employees After Healy v. Vaupel (with K. Beyler), 79 ILL. B.J. 612 (1991)

Who Decides? Community Safety Conventions at the Heart of Tort Liability, 38 CLEVE. ST. L. REV. 315 (1991)

Proximate Cause in Negligence Law: History, Theory, and the Present Darkness, 69 WASH. U.L.Q. 49 (1991)

1989 Illinois Tort Survey, 14 S. ILL. U.L.J. 1259 (1990)

Illinois Tort Developments (1987), 12 S. ILL. U.L.J. 1085 (1988)

Illinois Torts Survey: 1986 Developments (with D. Smith), 11 S. ILL. U.L.J. 1001 (1987)

Large Damage Awards and the Insurance Crisis: Causes, Effects, and Cures (with K. Beyler), 75 ILL. B.J. 140 (Nov. 1986)

A Critical Analysis of Holmes's Theory of Torts, 61 WASH. U.L.Q. 681 (1983)

Wrongful Life, Wrongful Birth, and Justice in Tort Law, 1979 WASH. U.L.Q. 919 (1979), reprinted in 1 BIOETHICS REPORTER 224 (1983)

Genetic Counseling and Tort Liability, in GENETIC COUNSELING, THE CHURCH AND THE LAW (G. Atkinson & A. Moraczewski, eds., 1980), at 175

Causation and Justice: A Comment, 1978 WASH. U.L.Q. 635 (1978)

The Discovery Rule for Personal Injury Statutes of Limitations: Reflections on the British Experience, 24 WAYNE L. REV. 1641 (1978)

Statutes of Limitations in the Era of Compensation Systems: Workmen's Compensation Limitations Provisions for Accidental Injury Claims, 1974 WASH. U.L.Q. 541 (1974), reprinted in 3 WORKMEN'S COMP. LAW REV. 35 (1976)

Student Note, *Economic Duress after the Demise of Free Will Theory: A Proposed Tort Analysis*, 53 IOWA L. REV. 892 (1968)

2) On Oliver Wendell Holmes, Jr.

Holmes and the Common Law: Mid-Nineteenth Century Positivism in Legal Theory and Judicial Practice (Book Draft, 2008)

Holmes, Langdell, and Formalism, 15 RATIO JURIS 26 (2002)

Objective Interpretation and Objective Meaning in Holmes and Dickerson: Interpretive Practice and Interpretive Theory 1 Nev.L. Rev. 112 (2001)

A Critical Analysis of Holmes's Theory of Contract, 75 Notre Dame Law Rev. 1681 (2000)

Holmes's Early Constitutional Law Theory and Its Application in Takings Cases on the Massachusetts Supreme Judicial Court, 18 S.ILL.U.L.J. 357 (1994)

Holmes on the Supreme Judicial Court: The Theorist As Judge, in THE HISTORY OF THE LAW IN MASSACHUSETTS: THE SUPREME JUDICIAL COURT 1692-1992 at 275. (Osgood, ed. 1992)

Was Holmes a Pragmatist? Reflections on a New Twist to An Old Argument, 14 S. ILL. U.L.J. 245 (1990)

The Life of Oliver Wendell Holmes, Jr., 68 WASH. U.L.Q. 429 (1990)

Oliver Wendell Holmes, Utilitarian Jurisprudence, and the Positivism of John Stuart Mill, 30 AM. J. JURIS. 189 (1985)

A Critical Analysis of Holmes's Theory of Torts, 61 Wash. U. L. Q. 635 (1978)

3) On Statutory and Constitutional Interpretation

The Original Understanding of State Action in the Fourteenth Amendment, THE HERITAGE GUIDE TO THE CONSTITUTION (ed. D. Forte) (2005)

Teaching Materials for Legislative and Administrative Processes (2006) (Teaching

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materials published solely for student use)

Objective Interpretation and Objective Meaning in Holmes and Dickerson: Interpretive Practice and Interpretive Theory See above, section 3

An Alternative Originalist Opinion for Brown v. Board of Education, 20 S.Ill.U.L.J. 75 (1995)

Advice from the Consummate Draftsman: Reed Dickerson on Statutory Interpretation (1998)

4) Introduction to U.S. Law

Delegation of Governmental Power to Cities in the United States and Judicial Review of the Constitutionality of Governmental Action in the United States: Theory and Practice, in S. Chernev, ed., LAW IN A FAST CHANGING SOCIETY (Sofia, Bulgaria: St. Kliment Ohridski University Press, 1994)

Law and Courts in the United States and Judicial Decisionmaking in Civil Cases in the United States, in THE LEGAL SYSTEM AND AMERICAN CONSTITUTIONAL DEMOCRACY (Frankowska & Melone, eds.) (1993) (St. Kliment Ohridski Press, Sofia, Bulgaria) (in English and Bulgarian)

Judicial Review of the Constitutionality of Governmental Action in the United States: Theory and Practice, 1992 PRAVNA MYCHL [LEGAL THOUGHT] no. 2, p. 91 (1992) (Bulgarian Academy of Science) (in Bulgarian)

Community Service

Chair, Illinois State Appellate Defender Commission, 1996-2002

Board of Directors, Southern Illinois Enforcement Group (a local cooperative drug law enforcement agency), 1983-1987, 1999-

- Secretary, 1985-1987

Member, Merit Commission, Jackson County Sheriff's Department, since 1998

Chair, Mayoral/Presidential Task Force on Halloween in Carbondale, 1995

Carbondale United Way Board of Directors, 1985, 1989-1993

Member, Carbondale Science Center Board of Directors, 1999-2004; President, 2001-2003.

Councilman, Carbondale, Illinois City Council, 1983-1987

- Mayor *Pro Tem*, 1986-1987

Councilman, University City, Missouri, City Council, 1978-1981

Missouri Supreme Court, Ad Hoc Committee on Judicial Immunity, 1975

Law School Service

Chair, Ad Hoc Committee on Faculty Research, 2000 - 2003

Chair, Curriculum Committee, 1996-97

Chair, Appointments Committee, 1985-86, 1991-92, 1992-93, 1995-96, 1997-98

Chair, Dean Search Committee, 1989-90, 1995-96

Chair, Skills Training Task Force, 1992-93, 1993-94

Chair, Ad Hoc Committee to Revise Student Conduct Code and Procedure, 1984-85

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Coordinator, Law School Academic Symposia:

- 1989 Symposium on the History of The Bill of Rights
- 1993 Symposium on Oliver Wendell Holmes, Jr.: The Judging Years
- 1994 Symposium on 40th Anniversary of Brown v. Board of Education

Fellowships

Salvatori Fellow, The Heritage Foundation, 1998

NEH Fellow in Law and the Humanities, Harvard Law School, 1976-77

Political Activity

Republican Candidate for Congress, 22d Congressional District, 1988

Republican Political Commentator, WSIU-TV, Carbondale, since 1998

Co-Coordinator, Jackson County, Ralph Dunn State Senate Campaign, 1984,1992

Co-Coordinator, Southern Illinois, Jim Ryan for Attorney General, 1990

Coordinator, Jackson County, Jim Ryan for Attorney General, 1990

Faculty Advisor, SIU College Republicans, 1988-1994

Faculty Advisor, SIU School of Law Federalist Society, since 1986

Personal

Born: 7/24/43

Seven Children: Anna, Dan, Tim, Elizabeth, Mary, Claire, and Michael

Presentations since 1990

- 4/16/08 Fordham University Department of Philosophy and School of Law, Natural Law Law Colloquium, The Moral Basis for Tort Liability: A Convention-based, Natural Law Theory and Its Implications for Tort Reform
- 1/4/07 AALS Panel on “Did the First Restatements Implement a Reform Agenda,” *The First Restatement of Torts: Reform by Descriptive Theory*. (Presented at an “open source” panel that Patrick J. Kelley put together and moderated.)
- 11/25/05 Weil, Gotshal Attorneys and Helsinki Foundation Attorneys, Warsaw, Poland, *Class Actions as a Rights-Enforcement Tool*
- 11/24/05 The Constitutional Tribunal of Poland *Tort Reform in the United States: Political, Social, and Economic Considerations*
- 11/22/05 University of Warsaw School of Law, *Three Waves of Tort Reform in the United States in the 20th Century*
- 6/28/05 University of San Diego School of Law Faculty Forum, *Theories of Legislation*
- 6/21/05 California Western School of Law Faculty Forum, *The Early Philosophical Commitments of Oliver Wendell Holmes, Jr.: Why Louis Menand Was Wrong in The Metaphysical Club*

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- 3/24/05 California Western School of Law Faculty Forum, *Torts Scholars and the First Restatement: The Temptations of Power*
- 5/22/04 Southern Illinois Mayors' Association, *The Medical Malpractice Insurance Crisis: What Can Be Done?*
- 5/6/04 Graduation, Murphysboro Young Offenders Boot Camp, Illinois Department of Corrections, *The Example of Doug Murrie and The Meaning of Success*
- 10/30/03 St. Louis University School of Law, Faculty Forum, *The Restatement Project and Torts Scholars of the Twenties and Thirties*
- 11/21/02 Notre Dame Law School, Olin Distinguished Lecture Series, *Childhood, Insanity, and Infirmary in the Law of Torts: The Line Between Justification and Excuse*
- 4/09/02 University of Illinois College of Law, Faculty Forum, *The Influence of the Civil War Experience on the Philosophical Commitments of Oliver Wendell Holmes, Jr.: A Response to Louis Menand*
- 3/21/01 SIU School of Law, Faculty Debate, *The Supreme Court, The ADA, and the States*
- 11/20/00 Installation of Stanley Paulson as Chaired Professor, Washington University School of Law, St. Louis, MO., *An Appreciation of Stanley Paulson*
- 10/21/00 American Society for Legal History Conference, Princeton, N.J., *Holmes , Langdell and Legal Formalism*
- 10/12/00 Carbondale ACLU Forum on Campaign Finance Reform, *Desirable, Constitutional Campaign Finance Reform*
- 9/15/00 Vanderbilt Conference on the 3rd Restatement of Torts, General Principles, *Comment on Duty and Proximate Cause in the Third Restatement*
- 9/13/00 SIU School of Law Federalist Society, Debate with Roger Pilon, Cato Institute, *Atavism, Original Intent and Federalism*
- 3/12/99 Law, Culture, and the Humanities Conference, Wake Forest School of Law, *Interpretive Theory and Interpretive Practice in Holmes and Dickerson*
- 2/5/99 John Marshall Law School Faculty Forum, *Langdell and Holmes: A Complicated Relationship*
- 11/14/97 Iowa Judicial Conference, Des Moines, Iowa, *Statutory Interpretation For Judges*

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- 2/27/97 Carbondale ACLU Forum on "The Religious Right versus The Constitution," *In Defense of The Religious Right and The Constitution*
- 5/1/96 Franklin County Bar Association Law Day Speaker, *The U.S. Constitution: The Original American Dream*
- 4/19/96 Cleveland-Marshall College of Law Symposium on Natural Law and Contemporary Public Policy, *Tort Reform and Natural Law*
- 8/5/95 ABA Annual Meeting, Section of Legal Education and Admission to the Bar, *Curriculum Assessment in Light of MacCrate*
- 11/15/94 SIU Public Issues Forum, *Local Government Consolidation in Illinois*
- 11/7/94 SIU Law School Faculty Forum, *Holmes's Theory of Contract*
- 11/4/94 Naturalization Ceremonies, United States District Court, Southern District of Illinois, Speech to newly-sworn citizens, *The American Dream and the American Character*
- 10/7/94 SIU School of Law Conference Celebrating 40th Anniversary of Brown v. Board of Education, *An Originalist Alternative Majority Opinion for Brown v. Board of Education*
- 4/20/94
5/4/94 University of Illinois College of Law Faculty Exchange Forum & Northern Illinois University School of Law Faculty Exchange Forum, *When Should a Court Do Something With a Statute Besides Interpret It? Implied Preemption, Statutory Negligence, and the Mandatory-Directory Distinction*
- 4/13/94 Speaker, SIU School of Law Federalist Society Faculty Forum, *The 1994 Omnibus Crime Bill*
- 10/13/93 Speaker, SIU School of Law Federalist Society Faculty Forum, *The Clinton Health Care Plan: Too Good to be True*
- 7/6/93
7/28/93
8/4/93 Speaker, USIA Summer Institute in the American Political System, *The United States Constitution; Civil Law in the United States; and Legislative Powers of Local Governments in the United States*
- 4/2/93 SIU School of Law Symposium, Oliver Wendell Holmes, Jr.: The Judging Years, *Holmes's Nascent Constitutional Law Theories on the Massachusetts Supreme Judicial Court*
- 3/22/93 Illinois Redistricting Process Review Commission Hearing, Carbondale, *Redistricting as a Constitutional Decision*

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- 3/2/93 SIU Public Issues Forum, *Restructuring the Governance of Public Higher Education in Illinois*
- 2/3/93 SIU School of Law Federalist Society, *The Conflict Between the Federalists' First Principle and Judicial Activism: If The People Are Sovereign, The Judges Can't Be*
- 2/2/93 SIU Public Issues Forum, *Meeting the Challenge of the New Global Economy*
- 5/28/92 Bulgarian/American Law Day Conference, Carbondale, Illinois, *Judicial Decisionmaking in Civil Cases in the United States*
- 5/26/92 Bulgarian/American Law Day Conference, Carbondale, Illinois, *Law and Courts in the United States*
- 5/1/92 Franklin County Bar Association Law Day Speaker, *The Struggle for Justice and the Rule of Law*
- 4/9/92 SIU Subscription Series Faculty Forum, *The Federal Budget: What Can Be Done*
- 2/20/92 SIU Subscription Series Faculty Forum, *Reforming Congress*
- 8/29/91 & 8/30/91 Illinois Judicial Conference, *Recent Developments in Contribution and Indemnity Law*
- 5/29/91 Bulgarian/American Law Day Conference, Varna, Bulgaria, *Judicial Review of the Constitutionality of Governmental Action in the United States: Theory and Practice*
- 5/29/91 Bulgarian/American Law Day Conference, Varna, Bulgaria, *Delegation of Governmental Powers to Cities in the United States*
- 2/22/91 Commentator, *The Kantian Influence on Kelsen*, by Stanley Paulson, at SIU School of Law/Philosophy Department Symposium
- 10/27/90 Massachusetts Supreme Judicial Court, Scholarly Colloquium Honoring the Tercentenary of the Supreme Judicial Court, *Holmes on the Supreme Judicial Court*
- 10/6/90 & 10/18/90 League of Women Voters Seminars, Collinsville and Carbondale, *Reforming Illinois County Government*