INDIANA UNIVERSITY
MAURER SCHOOL OF LAW
Bloomington

October 26, 2010

Lester A. Heltzer
Executive Secretary
Office of the Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570-0071

RE:	Lamons Gasket Co.	Case 16-RD-1597, and
	UGL-Unico Service Co.	Case 1-RC-22447, and
	Grocery Haulers, Inc.	Case 3-RC-11944

Dear Mr. Heltzer,

I respectfully submit this amicus brief letter in response to the National Labor Relations Board's August 31, 2010 invitations to file amicus briefs in the above captioned cases. I have a PhD in economics as well as a Juris Doctorate and been a professor of labor and employment law for 25 years. During my academic career I have served as the Chair of the Labor Law Group and the Secretary for the ABA's Section on Labor and Employment Law. I have also written seven books and fifty-five articles, most on labor law and the economic analysis of law, and almost a third involving empirical analysis. A copy of my curriculum vitae is enclosed for your reference.

As stated in the Board's invitation, " 'The Board must hold fast to the objectives of the statute using an empirical approach to adjust its decisions to the evolving realities of industrial progress and the reflection of that change in organizations of employees.' The Board continues to believe that it is its obligation under the Act to continually evaluate whether its decisions and rules are serving their intended purposes." (quoting *American Cyanamid Co.*,131 NLRB 909 (1961)). I write this amicus brief letter because I think that some of my research on the theory of American labor law can shed some light on both the theoretical and empirical questions raised in these cases. In particular I believe that my work demonstrates the importance of stability in bargaining relationships and the presumption of continuing majority status to promoting cooperative labor relations and industrial peace.

In my article, *A Bargaining Analysis of American Labor Law and the Search for Bargaining Equity and Industrial Peace*,[1] I construct a simple game theoretic model of

[1] Kenneth G. Dau-Schmidt, *A Bargaining Analysis of American Labor Law and the Search for Bargaining Equity and Industrial Peace*, 91 MICH. L. REV. 419 (1992)(here-in-after "Dau-Schmidt"). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712741

211 S. Indiana Avenue Bloomington, IN 47405-7001 fax (812) 855-0555

collective bargaining and discuss the existing empirical literature on how the process of collective bargaining can be regulated to encourage cooperation and promote industrial peace. I model collective bargaining as a dilemma game in which the parties suffer a divergence between their individual interests in being intransigent and benefiting at the expense of the other side, with the possible outcome being a strike, and their collective interest in being cooperative and settling their differences without recourse to industrial strife. I survey the empirical literature on ways to promote cooperation between the parties in dilemma games like collective bargaining and outline several possible means by which the government might regulate the process of collective bargaining to encourage cooperative labor relations; each of which corresponds to existing doctrine in American labor law. Of greatest relevance to the issues in these cases I find both theoretical and empirical support for the idea that promoting stability in bargaining relationships encourages cooperative bargaining and industrial peace. Accordingly I conclude that in balancing the interests involved in deciding whether to reinstate a full voluntary recognition bar and successor bar, or to reaffirm the later precedents of *Dana Corp.* and *MV Transportation*, the Board should weigh heavily the parties' and state's interests in fostering stability in collective bargaining relationships to promote cooperative bargaining and fulfill the NLRA's purpose of promoting industrial peace.

A Simple Game Theoretical Model of Collective Bargaining

The problem of promoting cooperation in collective bargaining and industrial peace can be represented by a simple bargaining game in which the employer and the union can each individually benefit from being recalcitrant in bargaining.[2] Take a simple example in which an employer and a union have to decide how to divide a surplus of $10 after all costs are paid and each party has two possible bargaining strategies: cooperation or intransigence. Assume that if both parties are cooperative, they split the surplus at $5. This "split the difference" assumption comports with common ideas of fairness and cooperation. Assume that intransigence can yield individual benefits for each party in that, if one side is intransigent while the other is cooperative, the intransigent side gets $8 of the surplus while the cooperative side gets $2. This is a plausible assumption that is consistent with common experience that one side can benefit at the expense of the other through hard bargaining. However, also assume that if both sides are intransigent, the result is a strike that wastes a portion of the surplus ($4) and then the parties divide the remaining surplus cooperatively at $3 each. This is also a plausible assumption consistent with common experience that mutual intransigence leads to the breakdown of negotiations and industrial strife. The actual representative dollar amounts assigned above are not important to the implications of the model, the implications are driven only by the very plausible assumption that the parties can individually benefit from intransigence, but that intransigence can lead to waste through industrial strife. The payoffs to the parties associated with each possible bargaining situation are depicted in Matrix 1.

[2] The analysis presented in this amicus brief letter is based on Dau-Schmidt, at 442-50, 483-490, 492-505.

Matrix 1: Employer and Union Payoffs in Dividing $10		Employer Strategies	
		Cooperation	Intransigence
Union Strategies	Cooperation	5 / 5	8 / 2
	Intransigence	2 / 8	3 / 3

The payoffs presented in Matrix 1 present the "dilemma" of collective bargaining and the problem of regulating collective bargaining to promote industrial peace. In Matrix 1 we see that each side has an individually "dominant strategy" of being intransigent in bargaining. Regardless of what the other side does, each party always does better by being intransigent. If the employer decides to be cooperative, the union does better by being intransigent (8 > 5) and if the employer decides to be intransigent the union still does better by being intransigent (3 > 2). Similarly the employer's dominant individual strategy is also to be intransigent. The problem, or "dilemma," in this bargaining game is that if both parties follow their individually dominant strategy and are intransigent, they end up in a strike that wastes a portion of the surplus, and they end up with less money than if they had acted on their collective interest in cooperating (3 < 5). Dilemma games like that outlined above are endemic to collective bargaining and arise in a variety of contexts including organizing, negotiating the collective agreement and enforcing the agreement. The problem in regulating collective bargaining is how to get the parties to act on their collective interest in cooperation, rather than acting on their individual interest in being intransigent; in other words how to move the parties from an equilibrium in the southeast quadrant of Matrix 1 (payoffs 3, 3) up into a solution in the northwest quadrant of Matrix 1 (payoffs 5, 5).

Empirical Evidence on the Means for Encouraging Cooperation in Collective Bargaining and Industrial Peace

Social scientists have done a variety of empirical studies to learn how best to help parties engaged in dilemma games, like those found in collective bargaining, to act on their collective interest in cooperation rather than their individual interest in intransigence. They have found that cooperation between the parties in dilemma games can be promoted by: promoting homogeneity among the constituencies of the players of the game; limiting the number of players; requiring exchanges of information; prohibiting certain bargaining strategies, including lying, committing to third parties, or cutting off negotiations; promoting repeated play and stability in the dilemma game; and enforcing explicit private agreements to refrain from undertaking intransigent strategies.[3] Promoting homogeneity and reducing the number of players simplifies the game so

[3] Dau-Schmidt, at 485, citing HENRY HAMBURGER, GAMES AS MODELS OF SOCIAL PHENOMENA 114-16, 121-22, 126-27, 173, 190, 241-42 (1979); HOWARD RAIFFA, THE ART AND SCIENCE OF NEGOTIATION 12-19 (1982); Jules L.

that the players are more likely to see their collective interest in cooperation. Reducing the number of players also prevents a few uncooperative players from free riding on the cooperative efforts of others. Requiring exchanges of information on the game allows the parties to see their collective interest in avoiding escalation and promotes trust. Bargaining strategies such as lying, committing to third parties, and cutting off negotiations are themselves strategic acts that can jeopardize the larger game. Repeated play and stability in the parties helps engender trust, lowers the costs of bargaining and increases the costs of intransigence by making such behavior a threat not only to current negotiations but also to future negotiations. Finally, making explicit private armistices enforceable encourages the parties to negotiate such armistices and changes the payoffs of the game to make cooperation individually rational.

The results of these empirical studies can be summarized in two basic strategies that Congress, the courts and Board might adopt to promote labor and management cooperation and industrial peace: directly prohibiting costly strategic behaviors that undermine cooperation, for example lying, committing to third parties or refusing to meet; or formulating the game of collective bargaining in such a way that it facilitates the parties' ability to see and act on their collective interest in cooperation rather than their individual interest in being intransigent, for example limiting the number of players to each game, requiring exchanges of information and promoting stability in bargaining relationships. In reading the results of the empirical studies, an astute practitioner of American labor law cannot help but identify various results that find representation in our doctrines under the NLRA. For example, the empirical findings that homogeneity in constituents and limiting the number of players to a game simplifies bargaining and improves the chances of cooperation is consistent with the congressional mandates of section 9 of the NLRA that employees be organized in "appropriate bargaining units" and represented by unions who are their "exclusive representative." Similarly, the empirical findings that exchanges of information promote comprehension and trust which in turn engender cooperation between the parties, are consistent with the Supreme Court's holding in *Truitt* and other cases that good faith bargaining requires certain exchanges of information. Indeed, all of the empirical results outlined above find some representation in American labor law as part of a doctrine that is designed to help achieve the NLRA's purpose of promoting industrial peace.[4] Of particular importance to the cases being considered by the Board today are the findings that promoting stability in the bargaining relationship promotes the parties' ability to cooperate in collective bargaining and thus furthers that NLRA's purpose of promoting industrial peace.

Coleman *et al.*, *A Bargaining Theory Approach to Default Provisions and Disclosure Rules in Contract Law*, 12 HARV. J.L. & PUB. POLY. 639, 671-89 (1989); Jules L. Coleman, *Afterword: The Rational Approach to Legal Rules*, 65 CHI.-KENT L. REV. 177, 187 (1989); Peter Huber, *Competition, Conglomerates, and the Evolution of Cooperation*, 93 YALE L.J. 1147, 1164-67 (1984); John Fox & Melvin Guyer, *Group Size and Others' Strategy in an N-Person Game,* 21 J. CONFLICT RESOL. 323 (1977); Henry Hamburger, *Dynamics of Cooperation in Take-Some Games, in* MATHEMATICAL MODELS FOR SOCIAL PSYCHOLOGY (Wilhelm F. Kempf & Bruno H. Repp eds., 1977); MANCUR OLSON, THE LOGIC OF COLLECTIVE ACTION 9-15 (1971); ANATOL RAPOPORT & ALBERT M. CHAMMAH, PRISONER'S DILEMMA 87-102 (1965); John Fox & Melvin Guyer, *"Public" Choice and Cooperation in N-Person Prisoner's Dilemma,* 22 J. CONFLICT RESOL. 469 (1978); Lester B. Lave, *An Empirical Approach to the Prisoners' Dilemma Game,* 76 Q.J. ECON. 424 (1962).

[4] Dau-Schmidt, at 493-505.

Promoting Industrial Peace Through Stability in Bargaining Relationships

An important benefit of fostering stability in collective bargaining relationships is that it facilitates cooperative bargaining and thus promotes industrial peace. If the employer thinks that the union is about to become defunct, she has little incentive to bargain cooperatively, and indeed has incentive to make an "end game defection" on past cooperation and grab whatever she can in negotiations. Alternatively, if the employer believes that the union's position is secure, he has incentive to bargain cooperatively because he would reasonably believe that current cooperation might be rewarded by present and future union cooperation and current intransigence might bring present and future union retaliation. Stability in bargaining relationships also facilitates exchanges of information and trust between the parties. Lester B. Lave, in his pioneering study of dilemma games, found that the parties to such games are much more likely to reach a cooperative solution when there is a reasonable prospect of "repeat play" or continuity in the relationship than when the parties think their negotiations are a one-time thing.[5] Empirical work by Robert M. Axelrod and others is consistent with this finding.[6] More recently, Duvall has argued that, in bargaining relationships where there is an expectation of continuity, the parties are more likely to engage in "integrative bargaining" rather than "adversarial bargaining."[7] As demonstrated in her case study of the negotiations over the Kaiser-Permanente collective bargaining agreement, under integrative bargaining the parties are more likely to disclose information and seek solutions for their mutual benefit than to engage in adversarial bargaining where one side wins at the expense of the other. As a result, the integrative bargaining found in continuing bargaining relationships is more likely to result in cooperative negotiations and industrial peace.

The presumption of continuing majority status for a reasonable period of good faith bargaining that underlay the Board's voluntary recognition bar doctrine prior to *Dana Corp.,* 351 NLRB 434 (2007), and the Board's successor bar doctrine prior to *MV Transportation*, 337 NLRB 770 (2002), served the important purpose of promoting stability in the collective bargaining relationship which theoretical and empirical work suggests will promote cooperative bargaining and fulfill the NLRA's purpose of promoting industrial peace.[8] Such stability in the bargaining relationship would seem particularly important to cooperative bargaining when the bargaining relationship has just begun, as in the case of voluntary recognition, or when the employer is in some turmoil, as is the case in sucessorship. Accordingly in weighing the different issues involved in deciding whether to reinstate a full voluntary recognition bar and successor bar, the Board should weigh heavily the parties' and states' interest in stability in the bargaining relationship because such stability will encourage cooperation in collective bargaining and help to fulfill the NLRA's purpose of promoting industrial peace.

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[5] Lester B. Lave, *An Empirical Approach to the Prisoners' Dilemma Game,* 76 Q.J. ECON. 424 (1962).

[6] ROBERT M. AXELROD, THE EVOLUTION OF COOPERATION 12 (1984); HENRY HAMBURGER, GAMES AS MODELS OF SOCIAL PHENOMENA 114-158, 126, 233 (1979); Robert D. Cooter, The Structural Approach to Adjudicating Social Norms 17 (Univ. Cal. Berkeley Working Paper No. 90-5, 1990); Robert Cooter, *The Cost of Coase,* 11 J. LEGAL STUD. 1, 19 (1982).

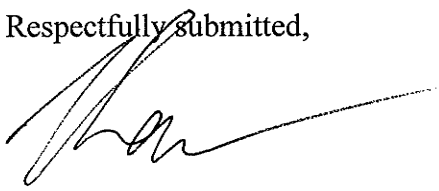
[7] Carly Duvall, *Making Friends of Foes: Bringing Labor and Management Together Through Integrative Bargaining*, 2009 J. DISP. RESOL. 197.

[8] Dau-Schmidt, at 504-05.

Conclusion

Theoretical and empirical work in game theory suggests that stability in collective bargaining relationships is important to promoting cooperation in bargaining and fulfilling the NLRA's purpose of promoting industrial peace. In the absence of stability in the bargaining relationship, employers have little incentive to bargain cooperatively and indeed have some incentive to act strategically and exploit the situation. This is particularly true in the situations in which there is already some uncertainty because the bargaining relationship is new or because the employer is in flux due to successorship. Accordingly a strong presumption of continuing majority status is important to promoting cooperative collective bargaining and industrial peace in these cases and the Board should act to reinstate full voluntary recognition and successorship bars overturning the recent Board precedents in *Dana Corp.* and *MV Transportation.*

Respectfully submitted,



Kenneth G. Dau-Schmidt, JD, PhD
Willard and Margaret Carr
Professor of Labor and Employment Law

CURRICULUM VITAE

OF

KENNETH G. DAU-SCHMIDT

ADDRESS: Indiana University--Bloomington
Maurer School of Law
211 S. Indiana Avenue
Bloomington, Indiana 47405-7001
(812) 855-0697
Fax: (812) 855-0555
kdauschm@indiana.edu
SSRN Page:
http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=13179

BORN: October 12, 1956
Des Moines, Iowa

EDUCATION:

Ph.D., Economics, University of Michigan, 1984
J.D., University of Michigan Law School, 1981
M.A., Economics, University of Michigan, 1981
B.A., Econ. and Poli.Sci., Univ. of Wisconsin, 1978

SPECIALIZATION:

Research Interests -- law and economics, labor and employment law, antitrust

Courses Taught -- Law and Economics, Labor Law, Antitrust, Employment Law, Criminal Law, Collective Bargaining, Labor Economics

Dissertation -- The Effect of Consumption Commitments on Labor Supply

Ph.D. Fields -- Labor, Industrial Organization

ADMINISTRATIVE EXPERIENCE:

Associate Dean of Faculty Research, School of Law, Indiana University at Bloomington. Responsible for promoting law school faculty research, promoting applications for grants, mentoring untenured faculty, advising the Dean, sitting ex-officio on the law school's Promotion and Tenure Committee and Speakers Committee and representing the Law School in the greater University on matters of research. (August 2005 - August 2007)

Director, Center for Law, Society and Culture, School of Law, Indiana University at Bloomington. Responsible for running the law school's law & society program including our annual symposium and university wide workshop series. Responsible for founding and editing several SSRN electronic journals for working papers in law & society research. August 2002 - 2007. (Director August 2002- August 2004, Co-Director August 2004 - August 2007)

TEACHING AND RESEARCH EXPERIENCE:

Willard and Margaret Carr Professor of Labor and Employment Law, School of Law, Indiana University at Bloomington. Courses taught: Law and Economics, Labor Law, Employment Law, Employee Benefits Law, Antitrust, Poverty Law. August 1992 - Present (Visiting Professor August 1991-August 1992; Professor August 1992- August 1999; Appointed to the Carr Professorship in August of 1999)

Professor, School of Law, University of Wisconsin - Madison. Courses taught: Law and Economics, Bargaining Theory and American Labor Law, Employment Law and Criminal Law. August 1994 - August 1997.

Professor, College of Law, University of Cincinnati. Courses taught: Law and Economics, Labor Law, Antitrust, Collective Bargaining. August 1986 - August 1992 (Assistant Professor, August 1986-August 1989; Associate Professor August 1989-August 1991).

Instructor, Department of Economics, University of Cincinnati. Course taught: Collective Bargaining. August 1987 - August 1992.

Instructor, Industrial Relations Center, University of Minnesota. Course taught: Labor Economics. July 1984 - August 1984 (Summer Session).

Visiting Professor, Institut Für Internationales Recht, Christian-Albrechts-Universität zu Kiel, Kiel, Germany, May - June 1994, May - June 2000; Juristische Facultät, Friedrich-Alexander-Universität Erlangen-Nürnberg, Erlangen, Germany, May - June 2002; Faculté de Droit, Université Panthéon-Assas (Paris II), Paris, France, November - December 2002, November 2003, February – March 2008; University of San Diego's Summer Law Study Abroad Program, College of Law for England and Wales, London, England, June - July 2004; Peking University, School of Transnational Law, Shezhen, China, April – May 2010; and the Indiana Graduate Program for Judges, Nashville, Indiana, June 2004.

PRACTICE EXPERIENCE:

Arbitrator, Private and Public Sector Labor and Employment Law Cases, 1991-Present.

Associate with Previant, Goldberg & Uelmen, Milwaukee, Wisconsin. Counsel to the IBT, IAM, IBEW, AIW and the Wisconsin State AFL-CIO. Primary duties: represented union clients in litigation, arbitration, and negotiation. March 1985 - August 1986.

Counsel for the Labor-Management Relations Committee, Minnesota House of Representatives, Minneapolis, Minnesota. Primary duties: legal and economic analysis of state laws and programs, recodified Minnesota's Public Employee Labor Relations Act, and drafted major bills in the areas of workers' compensation and unemployment compensation. September 1982 - March 1985.

Clerk, UAW Legal Department, Solidarity House, Detroit, Michigan. Primary duties: drafted legal memos and briefs for union counsel. May 1980 - August 1980.

SCHOLASTIC HONORS:

The Industrial Relations Research Association Excellence in Education Award (2004)

The Leon H. Wallace Teaching Award (2003) (This is the Indiana University School of Law's top teaching award).

Sylvia Bowman Award for Teaching Excellence, Indiana University (2003) (This is a University-wide award, only one is granted a year).

Willard and Margaret Carr Professor of Labor and Employment Law (1999 - present).

Teaching Excellence Recognition Award (Indiana University School of Law, 1998)

John S. Hastings Faculty Fellowship for Scholarly Achievement (Indiana University School of Law, 1998)

Leonard D. Fromm Public Interest Faculty Award (Indiana University School of Law 1997)

John S. Hastings Faculty Fellowship for Scholarly Achievement (Indiana University School of Law, 1997)

Ira C. Batman Faculty Fellowship for Scholarly Achievement (Indiana University School of Law, 1996)

Charles L. Whistler Faculty Fellowship for Scholarly Achievement (Indiana University School of Law, 1995)

Louis F. Niezer Faculty Fellowship for Scholarly Achievement (Indiana University School of Law, 1993)

Winner of the Association of American Law Schools' 1990 Scholarly Paper Competition

Commendation for Teaching Excellence (Goldman Committee, University of Cincinnati College of Law, 1990)

Parker Award for the best paper in labor economics (Michigan Dep't of Economics, 1984)

Ely Award for Academic Achievement (Wisconsin Dep't of Economics, 1978)

Davis Award for Work in Constitutional Law (Wisconsin Dep't of Political Science, 1978)

Graduated with honors from the University of Michigan Rackham Graduate School, University of Michigan Law School and the University of Wisconsin

Coif, Phi Beta Kappa, Phi Kappa Phi, and Omicron Delta Epsilon Honor Societies

GRANTS AND FELLOWSHIPS:

Law School Admissions Council Grant-$163,503 (for work on *The Production, Content, and Consumption of Legal Scholarship: A Longitudinal Analysis*, 2006-09) (with William Henderson, Andrew Morriss and Olufunmilayo Arewa)

Law School Admissions Council Grant-$163,503 (for work on *Gender and the Legal Profession*, 2004-07) (with Marc Galanter and Kathleen Hull)

President's Council on International Programs Grant-$500 (Indiana University, 1994)

Center for West European Studies Grant-$500 (Indiana University, 1994)

Fund for Labor Relations Grant-$1,300 (for work on *A Bargaining Analysis of American Labor Law* .... 1991)

Humphrey and Sharfman Fellow-$10,000 (University of Michigan's Joint Program in Law and Economics, 1978-82)

BOOKS:

LEGAL PROTECTION OF INDIVIDUAL EMPLOYEES (West Publishing Co. 4th ed. 2011) (with MATTHEW W. FINKIN & ROBERT N. COVINGTON).

LABOR AND EMPLOYMENT LAW AND ECONOMICS (Elgar Publishing Co. 2009) (with SETH D. HARRIS & ORLY LOBEL).

LABOR LAW IN THE CONTEMPORARY WORKPLACE (West Publishing Co. 2009) (with MARTIN H. MALIN, ROBERTO L. CORRADA, CHRISTOPHER DAVID RUIZ CAMERON & CATHERINE L. FISK).

LEGAL RIGHTS AND INTERESTS IN THE WORKPLACE (Carolina Academic Press 2007) (with CLYDE W. SUMMERS & ALAN HYDE).

LEGAL PROTECTION OF INDIVIDUAL EMPLOYEES (West Publishing Co. 3rd ed. 2002) (with MATTHEW W. FINKIN, ALVIN L. GOLDMAN & CLYDE W. SUMMERS).

LABOR AND EMPLOYMENT LAW: CASES AND MATERIALS (West Publishing Co. 3rd ed. 2002) (with ROBERT J. RABIN, EILEEN SILVERSTEIN AND GEORGE SCHATZKI).

LAW AND ECONOMICS ANTHOLOGY (Anderson Publishing Co. 1998) (with THOMAS S. ULEN).

ARTICLES AND PAPERS:

Promoting Employee Voice in the American Economy: A Call for Comprehensive Reform, work in progress for the Marquette Law Review Distinguished Speakers Series.

Review of Labor and Employment Decisions from the Supreme Court's 2008-2009 Term, 25 ABA J. LAB. & EMP. L. 107 (2010) (with Todd Dvorak), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1595049.

The Relative Bargaining Power of Employers and Unions in the Global Information Age: A Comparative Analysis of the United States and Japan, 20 IND. INT'L & COMP. L. REV. 1 (2010) (with Benjamin C. Ellis).

Men and Women of the Bar: An Empirical Study of the Impact of Gender on Legal Careers, 16 MICH. J GENDER & L. 49 (2009) (with Marc Galanter, Kaushik Mukhopadhaya & Kathleen E. Hull), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1017362.

"Old and Making Hay:" The Results of the Pro Bono Institute Firm Survey on the Viability of a "Second Acts" Program to Transition Attorneys to Retirement Through Pro Bono Work, 7 COLUM. J. ETHICS LEGAL PROF. 321 (2009) (with Esther F. Lardent, Reena N. Glazer and Kellen Ressmeyer), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1215190.

Regulating Unions and Collective Bargaining, in LABOR AND EMPLOYMENT LAW AND ECONOMICS (Kenneth Glenn Dau-Schmidt, Seth D. Harris & Orly Lobel eds., 2009) (with Arthur R. Traynor), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1215185.

A Conference on the American Law Institute's proposed Restatement of Employment Law, 13 EMP. RTS & EMP. POL. J. 1 (2009), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1396696.

Solving the Employee Reference Problem: Lessons From the German Experience, 57 AM. J. COMP. L. 387 (2009) (with Matthew Finkin), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1215189.

The Kid Factor, THE AMERICAN LAWYER (April 2008) at 89 (with Marc Galanter, Kathleen E. Hull & Kaushik Mukhopadhaya).

Income and Career Satisfaction in the Legal Profession: Survey Data from Indiana Law Graduates, 4 J. EMP. LEGAL STUD. 939 (2007) (with Jeffrey E. Stake & Kaushik Mukhopadhaya), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1268991.

The Changing Face of Collective Representation: The Future of Collective Bargaining, 29th Annual Piper Lecture Chicago-Kent University School of Law *in* 82 U. CHI.-KENT L. REV. 903 (2007), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=967454.

Governance of the Workplace: The Contemporary Regime of Individual Contract, 28 COMP. LAB. L. & POL. J. 313 (2007) (with Timothy A. Haley), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=967473.

Economic Models, *in* THE ENCYCLOPEDIA OF LAW AND SOCIETY: AMERICAN AND GLOBAL PERSPECTIVES (David S. Clark ed., 2007).

Economic Analysis of Labor Law, *in* THE ENCYCLOPEDIA OF LAW AND SOCIETY: AMERICAN AND GLOBAL PERSPECTIVES (David S. Clark ed., 2007) (with Jack P. Gibbs).

The American Experience with Union Exclusive Representation in Industrial Relations: Implications for the Debate over Korean Labor Law Reform and Plural Unionism, 3 YOUNGSAN L. J. 103 (2006) (with Ryan Vann), prepared for a Conference on "Seeking a Vision of Labor-Management Reform to Enhance Competitiveness," Korean Institute for Industrial Economics and Trade (KIET), Seoul, Korea (November 3, 2005), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=837406.

"The Pride of Indiana": An Empirical Study of the Law School Experience and Careers of Indiana University School of Law--Bloomington Alumni, 81 IND. L. J. 1427, 1427-78 (2006) (with Jeffrey E. Stake, Kaushik Mukhopadhaya & Timothy A. Haley), *available at* http://ssrn.com/abstract=875908.

Protecting Families in a Global Economy, 13 IND. J. GLOBAL LEGAL STUD. 165 (2006) (with Carmen L. Brun). This article was written for a symposium on "Globalization and the New Politics of Labor" held at the Indiana University Maurer School of Law–Bloomington, February 11-12, 2005, *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=837424.

Lost in Translation: The Economic Analysis of Law in the United States and Europe, *in* WELTINNENRECHT LIBER AMICORUM JOST DELBRÜCK, Veröffentlichungen des Walther-Schücking-Instituts für Internationales Recht an der Universität Kiel, Band 155, Seiten 131–46 (Klaus Dicke, Stephan Hobe, Karl-Urich Meyn, Anne Peters, Eibe Riedel, Hans-Joachim Schütz & Christian Tietje (Hrsg.), Berlin 2005) (with Carmen L. Brun). This essay also appears at 44 CO. J. TRANSNAT'L L. 602 (2006), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=884250.

The Story of NLRB v. Truitt Manufacturing Co. and NLRB v. Insurance Agents' International Union: The Duty to Bargain in Good Faith, *in* LABOR LAW STORIES 107 (Laura Cooper & Catherine Fisk eds., 2005), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=661643.

An Alternative Economic Analysis of the Regulation of Unions and Collective Bargaining, *in* LAW & ECONOMICS: ALTERNATIVE ECONOMIC APPROACHES TO LEGAL AND REGULATORY ISSUES (Margaret Oppenheimer & Nicholas Mercuro eds., 2004), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=661621.

The Definition of "Employee" in American Labor and Employment Law, 53 BULL. COMP. LAB. REL. 59 (2004) (with Michael D. Ray). This article was written as the USA National Paper for an International Seminar on Comparative Labour Law hosted by the Japan Institute for Labour Policy and Training, *available at*

http://www.jil.go.jp/english/index.html. It is reprinted as Chapter 8 in LABOUR LAW IN MOTION: DIVERSIFICATION OF THE LABOUR FORCE & TERMS AND CONDITIONS OF EMPLOYMENT 59-70 (Roger Blanpain, Takashi Araki & Shinya Ouchi eds., 2005).

Individual Bargaining, Collective Bargaining and Protective Legislation: Determining the Terms and Conditions of Employment in the Modern American Employment Relationship, 53 BULL. COMP. LAB. REL. 183 (2004) (with Carmen L. Brun). This article was written as the USA National Paper for an International Seminar on Comparative Labour Law hosted by the Japan Institute for Labour Policy and Training, *available at* http://www.jil.go.jp/english/index.html. It is reprinted as Chapter 16 in LABOUR LAW IN MOTION: DIVERSIFICATION OF THE LABOUR FORCE & TERMS AND CONDITIONS OF EMPLOYMENT 183-203 (Roger Blanpain, Takashi Araki & Shinya Ouchi eds., 2005).

High Velocity Labor Economics: A Review Essay of "Working in Silicon Valley: Economic and Legal Analysis of a High-Velocity Labor Market" by Alan Hyde, 6 U. PA. J. LAB. & EMP. L. 847 (2004).

Teaching in a Larger Social Context: Using Simulations to Demonstrate Socio-economic Principles and Their Relevance to Law, 41 SAN DIEGO L. REV. 75 (2004) (with Jeffrey E. Stake).

Models in Social Science: A Review of "Law and Public Policy: A Socioeconomic Approach" by Lynne Dallas, 41 SAN DIEGO L. REV. 441 (2004).

Pittsburgh, City of Bridges: Developing a Rational Approach to Interdisciplinary Discourse on Law, 38 L. & SOC. REV. 199 (2004). (Invited Comment on Lauren Edelman's 2003 Presidential Address to the Law and Society Association).

Law and Economics, in LEGAL SYSTEMS OF THE WORLD: A POLITICAL, SOCIAL AND CULTURAL ENCYCLOPEDIA 856-60 (Herbert Kritzer ed., 2002).

Law and Economics, Empirical Dimensions, in THE INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL AND BEHAVIORAL SCIENCES (Neil J. Smelser & Paul B. Baltes eds., 2001).

Employment in the New Age of Trade and Technology: Implications for Labor and Employment Law, 76 IND. L. J. 1 (2001). Published as part of the Indiana University Symposium "New Rules for a New Game: Regulating Employment Relationships in the 21st Century" celebrating the gift of the Willard and Margaret Carr Professorship in Labor and Employment Law, Bloomington, Indiana (September 23-24, 1999). Portions of this article have been reprinted in MARION G. CRAIN, MICHAEL L. SELMI AND PAULINE T. KIM, WORK LAW CASES AND MATERIALS (2005), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=718161.

Labor Law and Industrial Peace: A Comparative Analysis of the United States, the United Kingdom, Germany and Japan Under the Bargaining Model, 8 TULANE J. INT'L & COMP. L. 117 (2000). This article has been reprinted in the Working Papers Series of New York University's Center for Labor and Employment Law (Samuel Estreicher & Michael J. Yelnosky eds., 2001), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712211.

International Regulation of the Employment Relationship in the New Age of Trade and Technology: International Labour Organization Standards and the Decline of Lifetime Employment, 43 GERMAN Y.B. INT'L L. 149 (2000).

The First Century of Department of Justice Antitrust Enforcement, 17 REV. INDUS. ORG. 75 (2000) (with Joseph C. Gallo, Joseph L. Craycraft & Charles J. Parker). This article has been reprinted in CRITICAL WRITINGS IN ECONOMICS, VOLUME II: CARTELS (Stephen Salant & Margaret Levenstein eds., 2005) *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712745.

Family Gatherings and a Dirty Little Secret of the Law and Society Movement, 33 L. & SOC. REV. 1081 (1999).

The Fruits of Our Labors: An Empirical Study of the Distribution of Income and Job Satisfaction Over the Legal Profession, 49 J. LEGAL EDU. 342 (1999) (with Kaushik Mukhopadhaya), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712222.

Preference Shaping by the Law, in 3 THE NEW PALGRAVE DICTIONARY OF ECONOMICS AND THE LAW 84 (Peter Newman ed., 1998).

Laboring in the Academic Marketplace: The Case for Tenure, 1 EMP. RTS. & EMP. POL'Y J. 293 (1997).

Economics and Sociology: The Prospects for an Interdisciplinary Discourse on Law, 1997 WIS. L. REV. 389 (1997), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712702.

Smoking in the Washroom of the Chicago School: A Reply to Crespi, 22 L. & SOC. INQUIRY 171 (1997).

On Game Theory and the Law, 31 L. & SOC. REV. 613 (1997) (with Jeffrey E. Stake, Eric Rasmusen, Robert H. Heidt & Michael Alexeev).

An Empirical Study of the Effect of Liquidity and Consumption Commitment Constraints on Intertemporal Labor Supply, 23 J. ECON. 89 (1997).

Dividing the Surplus: Will Globalization Give Women a Larger or Smaller Share of the Benefits of Cooperative Production?, 4 IND.J. GLOBAL L. STUD. 51 (1996). This comment was written at the invitation of the Indiana Journal of Global Legal Studies as part of a symposium on feminism and globalization.

Employment Security: A Comparative Institutional Debate, 74 TEX. L. REV. 1645 (1996). This comment was written at the invitation of the University of Texas Law Review as part of a symposium on employment law.

The Labor Market Transformed: Adapting Labor and Employment Law to the Rise of the Contingent Workforce, 52 WASH. & LEE L. REV. 879 (1995). This essay was written at

the invitation of the Washington and Lee Law Review as part of a symposium on contingent workers.

Legal Prohibitions as More Than Prices: The Economic Analysis of Preference Shaping Policies in the Law, *in* LAW AND ECONOMICS: NEW AND CRITICAL PERSPECTIVES 153 (Robin Paul Malloy & Christopher K. Braun eds., 1995).

Criminal Penalties Under the Sherman Act: A Study in Law and Economics, 16 RES. L. & ECON. 25 (1994) (with Joseph Gallo, Joseph Craycraft & Charles Parker), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712721.

Meeting the Demands of Workers Into the Twenty-First Century: The Future of Labor and Employment Law, 68 IND. L. J. 685 (1993), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=718181. This essay was written at the invitation of the Indiana Law Journal as part of an issue celebrating the sesquicentennial of the Indiana University School of Law.

A Bargaining Analysis of American Labor Law and the Search for Bargaining Equity and Industrial Peace, 91 MICH. L. REV. 419 (1992), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712741. Portions of this article have been reprinted in FOUNDATIONS OF LABOR AND EMPLOYMENT LAW (Samuel Estreicher & Stewart J. Schwab eds., 2000) and MICHAEL C. HARPER AND SAMUEL ESTREICHER, LABOR LAW: CASES AND MATERIALS (1996).

The Effect of Consumption Commitments and the Liquidity Constraint on Labor Supply, 18 J. ECON. 49 (1992).

An Agency Cost Analysis of the Sentencing Reform Act: Recalling the Virtues of Delegating Complex Decisions, 25 U.C. DAVIS L. REV. 659 (1992), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712742. This essay was written at the invitation of the U.C. Davis Law Review as part of a symposium on the complexity of the U.S. Sentencing Guidelines.

Relaxing Traditional Economic Assumptions and Values: Towards a New Multidisciplinary Discourse on Law, 42 SYRACUSE L. REV. 181 (1991). This essay was written at the invitation of the Syracuse Law Review as part of a symposium on law, economics and semiotics.

An Economic Analysis of the Criminal Law as a Preference Shaping Policy, 1990 DUKE L.J. 1. This article was reprinted in MORALITY, RATIONALITY, AND EFFICIENCY: NEW PERSPECTIVES ON SOCIO-ECONOMICS (Richard M. Coughlin ed., 1991), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712227.

Union Security Agreements Under the NLRA: the Statute, the Constitution, and the Court's Opinion in Beck, 27 HARV. J. ON LEGIS. 51 (1990), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712162. An edited version of this article is reprinted in THE INTERNAL GOVERNANCE AND ORGANIZATIONAL EFFECTIVENESS OF LABOR UNIONS: ESSAYS IN HONOR OF GEORGE BROOKS (Samuel Estreicher, Harry C. Katz & Bruce E. Kaufman eds., 2001).

Comments on Commercial Speech, Constitutionalism, Collective Choice, 56 U. CIN. L. REV. 1383 (1988). This comment was written at the invitation of the University of Cincinnati Law Review as part of a symposium on commercial speech and the First Amendment.

Sentencing Antitrust Offenders: Reconciling Economic Theory with Legal Theory, 9 WM. MITCHELL L. REV. 75 (1984), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712167.

Minnesota's Workers' Right to Know Act of 1983, 40(9) BENCH & BAR OF MINN. 12 (1983).

CONFERENCE PROCEEDINGS
PUBLISHED PRESENTATIONS:

Economic Analysis of Labor and Employment Law in the New Economy: Proceedings of the 2008 Annual Meeting, Association of American Law Schools, Section on Law and Economic, Law and Economics Section, Annual Meeting of the Association of American Law Schools, New York, NY (January 5, 2008). Published in 12(2) EMP. RTS. & EMP. POL'Y J. 350 (2008).

Round Table Discussion: What the Experiences of the Recent Past Tell Us About the Labor and Employment Law Issues of the Future, Indiana University Symposium "New Rules for a New Game: Regulating Employment Relationships in the 21st Century" celebrating the gift of the Willard and Margaret Carr Professorship in Labor and Employment Law, Bloomington, Indiana (September 23-24, 1999). A transcript of my comments can be found at 76 IND. L .J. 177 (2001).

Bargaining Theory and Canadian Labour Law, Annual Meeting of the Canadian Industrial Relations Association, Learned Societies Conference, Charlottetown & Prince Edward Island, Canada (June 6, 1992). Published in 2 THE INDUSTRIAL RELATIONS SYSTEM: PROCEEDINGS OF THE XXIXTH CONFERENCE OF THE CANADIAN INDUSTRIAL RELATIONS ASSOCIATION 753 (T.S. Kuttner ed., 1993).

The Lavigne Case: Comments on Presented Papers from an American Perspective, Annual Meeting of the Canadian Industrial Relations Association, Learned Societies Conference, Charlottetown, Prince Edward Island, Canada (June 5, 1992). Published in 1 THE INDUSTRIAL RELATIONS SYSTEM: PROCEEDINGS OF THE XXIXTH CONFERENCE OF THE CANADIAN INDUSTRIAL RELATIONS ASSOCIATION 241 (T.S. Kuttner ed., 1993).

Comments on Presented Papers on Labor Law, Corporate Law Symposium, University of Cincinnati College of Law (March 9, 1989). A transcript of my comments can be found at 58 U. CIN. L. REV. 438 (1989).

PRESENTATIONS:

"The Economic and Political Environment for Labor under Barak Obama: The Economy, Can Obama Bail Out Workers?," Discussant, Maurer School of Law Symposium on Labor and Employment Law Under Obama, Indiana University, Bloomington, IN (November 12, 2010).

"You're not Welcome Here: NLRA Preemption and Removal," Moderator and Discussant, ABA Section on Labor Law annual Meeting, Chicago, IL (November 5, 2010).

"Promoting Employee Voice in the American Economy: A Call for Comprehensive Reform," Distinguished Speaker, Marquette University Law School, Milwaukee, WI (October 1, 2010).

"Labor Rights--Collective Labor Law: Crossing Boundaries Within and Between the Nation-State," Chair-Discussant, Annual Meeting of the Law and Society Association, Chicago, IL (May 28, 2010).

"Fathers in Law: The Impact of Children and Childcare on Men's Legal Careers," Annual Meeting of the Law and Society Association, Chicago, IL (May 27, 2010).

Session on "Managing the Law Firm Labor Force," First Questioner, Conference on the Study of the Legal Profession, Georgetown Center for the Study of the Legal Profession, Washington, D.C. (March 22, 2010).

"Interdisciplinary Interpretation: The Role of Economic Analysis in the Study and Practice of Law," Annual Meeting of the Association of American Law Schools, Section on Legal Interpretation, New Orleans, LA (January 8, 2010).

"Review of Supreme Court Cases on Labor and Employment Law from the 2008-09 Term," Annual Meeting of the ABA Section on Labor and Employment Law, Washington, D.C. (November 5, 2009).

"Bankruptcy, Consumers and Tax," Chair and Discussant, Midwest Law and Economics Association Annual Meeting, Notre Dame Law School, South Bend, IN (October 10, 2009).

"Review of U.S. Supreme Court Labor and Employment Law Cases from the 2008-09 Term," Los Angeles Bar Association, Los Angeles, CA (July 15, 2009).

"Review of U.S. Supreme Court Labor and Employment Law Cases from the 2008-09 Term," Twenty-Sixth Annual Carl A. Warns, Jr. Labor and Employment Law Institute, University of Louisville, Brandeis School of Law, Louisville, KY (June 18, 2009).

"Teaching Collective Bargaining as a Simulation," Innovations in Teaching, AALS Midyear Meeting on Transactions Law, Long Beach, CA (June 12, 2009).

"Work, Family and Gender: The Impact of Childcare on Legal Careers," After the JD: An International Conference on Research on Legal Careers in Transition, Program on the Legal Profession, Harvard Law School, Cambridge, MA (May 1, 2009).

"A Conference on the American Law Institute's Proposed Restatement of Employment Law," Chair and Organizer, University of California—Hastings, School of Law, San Francisco, CA (February 7, 2009).

"Labor and Employment Law," Chair, Law and Society Association Mid-year Retreat, University of Wisconsin—Madison, Law School, Madison, WI (September 18, 2008).

"The Relative Bargaining Power of Employers and Unions in the Global Information Age: A Comparative Analysis of the United States and Japan," Corporate Stake-holder's Project, Research Institute of Economy, Trade & Industry, Tokyo, Japan (July 15, 2008).

"The Impact of Childcare on Legal Careers," Annual Meeting of the Law and Society Association, Montréal, Que. (May 30, 2008).

"Gender and the Legal Profession: The Michigan Law School Alumni Data Set 1967-2004," Annual Meeting of the American Law and Economics Association, Columbia Law School, New York, NY (May 16, 2008).

"Gender and the Legal Profession: The Michigan Law School Alumni Data Set 1967-2004," Institute for Legal Studies Colloquium, University of Wisconsin, School of Law, Madison, WI (April 23, 2008).

"The Use of Simulations to Improve Student Engagement: 'Labor Law I, Inc.'," Faculty Colloquium, Northern Kentucky University, Chase College of Law, April 8, 2008.

"Empirical Data on Individual and Collective Employment Contracts," Conference on Teaching Contract Law, Madison, WI (February 14, 2008).

"The Economic Analysis of Labor and Employment Law in the Global Economy," Session Chair and Discussant, Law and Economics Section, Annual Meeting of the Association of American Law Schools, New York, NY (January 5, 2008).

"Employment Law and Implied Covenants of Good Faith," Session Chair and Commenter, Conference on Wood v. Lucy, Lady Duff Gordon, Pace University, School of Law, White Plains, NY (November, 9-10, 2007).

"Gender and the Legal Profession: The Michigan Law School Alumni Data Set 1967-2004," Faculty Colloquium, University of Minnesota, School of Law, Minneapolis, MN (November 1, 2007).

"Teaching Labor Law," Annual Meeting of the Lawyer's Coordinating Committee, AFL-CIO, Chicago, IL (April 27, 2007).

"Gender and the Legal Profession: The Michigan Law School Alumni Data Set 1967-2004," Law and Economics Colloquium, University of California–Berkeley, School of Law, Berkeley, CA (April 24, 2007).

"'The Pride of Indiana': An Empirical Study of the Law School Experience and Careers of Indiana University School of Law--Bloomington Alumni," First Annual Conference on Empirical Legal Studies, University of Texas, School of Law, Austin, TX (October 27, 2006).

"Gender and the Legal Profession," Annual Meeting of the Law and Society Association, Baltimore, MD (July 8, 2006).

"Teaching Labor Law," Meeting of the Labor Law Group, Saratoga Springs, NY (June 25, 2006).

"Opportunities for Active and Engaged Learning: The Case of Labor Law I, Inc.," Association of American Law Schools, Mid-Year Meeting, Conference on New Ideas for Law School Teachers: Teaching Intentionally, Vancouver, Can. (June 12, 2006).

"The Income and Job Satisfaction of Practitioners in Small firms: A Study of the Indiana Law Alumni Data Set," Indiana State Bar Association, Annual Solo and Small Firm Conference, Bloomington, IN (June 3, 2006).

"The Changing Face of Collective Representation: The Future of Collective Bargaining," Kenneth M. Piper Memorial Lecture in Labor Law, Institute for Law and the Workplace, Chicago-Kent College of Law (March 28, 2006).

"The American Experience with Exclusive Representation: Implications for the Issue of Plural Unionism in South Korea," Conference on "Seeking a Vision of Labor-Management Reform to Enhance Competitiveness," Korean Institute for Industrial Economics and Trade (KIET), Seoul, S. Korea (November 3, 2005).

"Income and Job Satisfaction in the Legal Profession: Is the Grass Always Greener for Other Lawyers?," Continuing Legal Education Seminar, Indiana University–Bloomington, Bloomington, IN (September 9, 2005).

"What Do Unions Do? Workforce Governance, Worker Rights and Union Democracy," Annual Meeting of the Law and Society Association, Las Vegas, NV (June 2, 2005).

"Federal Labour Standards," Academic Consultation on 'New Challenges for the Regulation of Labour Standards: Developments Shaping the Environment of the Canadian Workplace,' Ministry of Labour and Housing, Government of Canada, Montreal, Can. (March 18-19, 2005).

"Labor Law in the Contemporary Workplace," Legal Advisory Committee, Office of the General Counsel, AFL-CIO, Washington, D.C. (February 16, 2005).

"Protecting Families in a Global Economy," Conference on Globalization and the New Politics of Labor, Indiana Journal of Global Legal Studies, Indiana University –Bloomington, Bloomington, IN (February 11, 2005).

"Empirical Research and Law School Curriculum: What Do the Results of the 'ABA Curriculum Study' and the 'After the JD Survey' Tell Us About What We Should Be Teaching in Law Schools?," Committee on Curriculum and Research, Annual Meeting of the Association of American Law Schools, San Francisco, CA (January 5, 2005).

"Gender and the Legal Profession: Some Initial Results, " Law and Economics Colloquium, Georgetown University Law Center, Washington, D.C. (November 12, 2004).

"Lost in Translation: the Economic Analysis of Law in the United States and Europe," Annual Meeting of the Midwestern Law and Economics Association, Iowa City, IA (October 9, 2004).

"Lawyers, Institutions and the Pursuit of Justice," Session Chair, Annual Meeting of the Law and Society Association, Chicago, IL (May 29, 2004).

"Sentencing and Prison Reform," Session Chair, Annual Meeting of the Law and Society Association, Chicago, IL (May 28, 2004).

"The Definition of "Employee" in American Labor and Employment Law," USA National Paper, International Seminar on Comparative Labour Law, Japan Institute for Labour Policy and Training, Tokyo, Japan (March 10, 2004) .

"Individual Bargaining, Collective Bargaining and Protective Legislation: Determining the Terms and Conditions of Employment in the Modern American Employment Relationship," USA National Paper, International Seminar on Comparative Labour Law, Japan Institute for Labour Policy and Training, Tokyo, Japan (March 9, 2004).

"Three Decades of Women in the Legal Profession: The Michigan Alumni Data Set 1967-2000," Annual Meeting of the Mid-west Law and Economics Association, Indianapolis, IN (October 11, 2003).

"The Implications of Behavioral Law and Economics for Labor and Employment Law," Meeting of the Labor Law Group, Alton, Ont. (June 14, 2003).

"Labor Law in Comparative and Historical Perspectives," Session Chair, Annual Meeting of the Law and Society Association, Pittsburgh, PA (June 5, 2003).

"Socio-Economics and the Future of Interdisciplinary Research and Teaching," Annual Meeting of the Association of American Law Schools, Washington, D.C. (January 3, 2003).

"Teaching Law and Socio-Economics," Annual Meeting of the Association of American Law Schools, Washington, D.C. (January 3, 2003).

"Globalization of the Economy and the New Information Technology: Implications for Problems in Labor and Employment Law," Faculty Colloquium, Rechtswissenschaftliche Fakultät, Friedrich - Schiller - Universität zu Jena, Jena, F.R.G. (June 10, 2002).

"Law and Economics, Sociology and Socio-Economics," Annual Meeting of the Association of American Law Schools, San Francisco, CA (January 3, 2001).

"Employment in the New Age of Trade and Technology: Implications for American and German Labor and Employment Law," Institute Colloquium, Institute Für Internationales Recht, Christian-Albrechts-Universität zu Kiel, Kiel, F.R.G. (June 14, 2000).

"A Comparative Analysis of German and American Labor Law Under the Bargaining Model," Faculty Colloquium, Juristische Facultät, Friedrich-Alexander-Universität Erlangen-Nürnberg, Erlangen, F.R.G. (May 29, 2000).

"Important Values in Labor and Employment Law," Annual Meeting of the Association of American Law Schools, Washington, D.C. (January 8, 2000).

"Securing Employees' Rights in the Workplace: Three Perspectives," panel moderator, The Labor Law Group, Phoenix, AZ (December 11, 1999).

"The Fruits of Our Labors: An Empirical Study of the Distribution of Income and Job Satisfaction Over the Legal Profession," Faculty Colloquium, University of Arizona College of Law (December 9, 1999).

"Employment in the New Age of Trade and Technology: Implications for Labor and Employment Law," Inaugural lecture for the Willard and Margaret Carr Professorship of Labor and Employment Law, Indiana University School of Law, Bloomington, IN (September 23, 1999).

"Income and Job Satisfaction Among Practitioners in Large Private Practices," Vanderbilt Law Review Symposium on "Attorney Well-Being in Large Firms: Choices Facing Young Lawyers," Vanderbilt University Law School, Nashville, TN (September 14, 1999).

"The Fruits of Our Labors: An Empirical Study of the Distribution of Income and Job Satisfaction Over the Legal Profession," Annual Meeting of the Law and Society Association, Chicago, IL (May 29, 1999).

"Labor Law and Industrial Peace: A Comparative Analysis of the United States, the United Kingdom, Germany and Japan Under the Bargaining Model," Annual Meeting of the American Law and Economics Association, Yale Law School, New Haven, CT (May 7, 1999).

"Bargaining Theory and Alternative Systems of Industrial Relations: A Comparative Study of the Labor Law of the United States, the United Kingdom, Germany and Japan," New York University School of Law Center for Labor and Employment Law Colloquium, New York, NY (March 10, 1999).

"The Fruits of Our Labors: An Empirical Study of the Distribution of Income and Job Satisfaction Over the Legal Profession," Annual Meeting of the Association of American Law Schools, New Orleans, LA (January 8, 1999).

"Other Paradigms in Economic Thought," Session Commentor, Annual Meeting of the Association of American Law Schools, New Orleans, LA (January 7, 1999).

"A Bargaining Theory Analysis of Recent Precedents in American Labor Law," Labor Round Table, Law and Economics Institute, University of Pennsylvania, Philadelphia, PA (November 6, 1998).

"The Dirty Little Secret of the Law and Society Movement," Institute for Legal Studies Conference on "Do the 'Haves' Still Come Out Ahead?," University of Wisconsin Law School, Madison, WI (May 2, 1998).

"Sociological Insights for the Economic Analysis of Law," The Business Economics & Public Policy Workshop, Kelly School of Management and Business, Indiana University, Bloomington, IN (April 3, 1998).

"An Empirical Study of the Effect of Liquidity and Consumption Commitment Constraints on Intertemporal Labor Supply," Annual Meeting of the Missouri Valley Economic Association, St. Louis, MO (February 28, 1997).

"Economics and Sociology: The Prospects for an Inter-disciplinary Discourse on Law," Symposium on "Law and Society and Law and Economics: Common Ground, Irreconcilable Differences, New Directions," University of Wisconsin Law School, Madison, WI (February 15, 1997).

"The Impact of Globalization on the Economic Problems of Women," Symposium on Feminism and Globalization, Indiana University School of Law, Bloomington, IN (March 22, 1996).

"The Socio-Economics of Criminal Law," Annual Meeting of the Association of American Law Schools, San Antonio, TX (January 5, 1996).

"The Use of Economic Analysis in Teaching and Researching Labor Law," Meeting of the Labor Law Group, Tucson, AZ (December 2, 1995).

"Recent Developments in Labor and Employment Law Scholarship," Participant in Symposium on Labor and Employment Law, University of Texas Law School, Austin, TX (November 10-12, 1995).

"The Labor Market Transformed: Adapting Labor and Employment Law to the Rise of the Contingent Workforce," Washington and Lee Law School, Lexington, VA (March 10, 1995).

"The Importance of Tenure to the Efficient Operation of Modern Universities," Forum on Tenure at the University of Michigan, University of Michigan, Ann Arbor, MI (February 9, 1995).

"A Bargaining Analysis of Industrial Relations in Great Britain and Germany," Institute Colloquium, Institut Für Internationales Recht, Christian-Albrechts-Universität zu Kiel, Kiel, F.R.G. (June 22, 1994).

"The Economic Analysis of Anti-Discrimination Laws: Theory and Evidence," Chair of Session, Annual Meeting of the Law and Society Association, Chicago, IL (May 27, 1993).

"Instructing the Legislature on the Benefits of Collective Bargaining in Public Education," Key-Note Address, Annual Conference of the Indiana Federation of Teachers, Bloomington, IN (May 1, 1993).

"Comparative Labor Law Under the Bargaining Model," Law and Economics Colloquium, University of Michigan Law School, Ann Arbor, MI (April 22, 1993).

"Expanding the Economic Model of Law: Toward a New Multidisciplinary Dialogue," Institute for Legal Studies Colloquium, University of Wisconsin Law School, Madison, WI (March 16, 1993).

"Criminal Penalties Under the Sherman Act: A Study of Law and Economics," Annual Meeting of the American Economic Association, Anaheim, CA (January 5, 1993) (with Joseph C. Gallo, Joseph L. Craycraft and Charles J. Parker, presentation by Professor Gallo).

"A Bargaining Analysis of American Labor Law and the Search for Bargaining Equity and Industrial Peace," Faculty Colloquium, Vanderbilt University School of Law, Nashville, TN (December 4, 1992).

"A Bargaining Analysis of American Labor Law and the Search for Bargaining Equity and Industrial Peace," Annual Meeting of the American Law and Economics Association, Yale Law School, New Haven, CT (May 15, 1992).

"The Effect of Consumption Commitments and the Liquidity Constraint on Labor Supply," Annual Meeting Eastern Economic Association, New York, NY (March 27, 1992).

"The Effect of Consumption Commitments and the Liquidity Constraint on Labor Supply," Annual Meeting of the Missouri Valley Economic Association, St. Louis, MO (February 27, 1992).

"A Bargaining Analysis of American Labor Law and the Search for Bargaining Equity and Industrial Peace," Faculty Colloquium, University of Iowa College of Law, Iowa City, IO (November 22, 1991).

"New Perspectives on Law and Economics," Chair of Session, Annual Meeting of the Law and Society Association, Amsterdam, Netherlands (June 29, 1991).

"A Bargaining Theory of American Labor Law," Session on "Bargaining and the Law," Annual Meeting of the Law and Society Association, Amsterdam, Neth. (June 29, 1991).

"Cars, Crime and Victimization," Chair of Session, Annual Meeting of the Law and Society Association, Amsterdam, Neth. (June 27, 1991).

"Optimal Antitrust Penalties: An Economic Perspective of the Law as a Preference Shaping Policy," Faculty Workshop on Law and Economics, George Mason University School of Law, Arlington, VA (December 5, 1990).

"A Preliminary Investigation of the First Century of Federal Antitrust Enforcement," Annual Meeting of the Western Economic Association, San Diego, CA (July 2, 1990) (with Joseph C. Gallo, Joseph L. Craycraft and Charles J. Parker, presentation by Professor Gallo).

"Preference Shaping, Socialization and Rehabilitation: An Interdisciplinary Discussion of the Role of Criminal Law in Reinforcing Normative Values," Chair of Roundtable Discussion, Annual Meeting of the Law and Society Association, Berkeley, CA (May 31, 1990).

"Opportunity Shaping, Preference Shaping, and the Theory of the Criminal Law," Session on "Law and Economics: A Post-Posner Perspective," Second Annual International Conference on Socio-Economics, Washington, D.C. (March 17, 1990).

"An Economic Analysis of the Criminal Law as a Preference Shaping Policy," Scholarly Paper Presentation, Annual Meeting of the Association of American Law Schools, San Francisco, CA (January 6, 1990).

"An Economic Analysis of Social Norms, Preference Shaping, and the Criminal Law," Annual Meeting of the Law and Society Association, Madison, WI (June 8, 1989).

"The Future of the Labor Movement in America," National Spring Meeting of the Industrial Relations Research Association, Cincinnati, OH (March 24, 1988).

SYMPOSIA ORGANIZED:

"Labor and Employment Law Under the Obama Administration," Indiana University, Maurer School of Law, Bloomington, IN (November 11-12, 2010).

"A Conference on the American Law Institute's Proposed Restatement of Employment Law," University of California—Hastings, School of Law, San Francisco, CA (February 7, 2009).

"The Second Big 10 Aspiring Scholars Conference," Indiana University School of Law, Bloomington, IN (August6-7, 2007).

"The First Big 10 UnTENured Conference," Indiana University School of Law, Bloomington, IN (August1-2, 2006).

"First Annual Meeting of the Midwestern Law and Economics Association (MLEA)," Indiana University School of Law, Bloomington, IN (October 12-13, 2001).

"New Rules for a New Game: Regulatory Employment Relationships in the 21st Century," Indiana University School of Law, Bloomington, IN (September 23-24, 1999).

"The Corporation as Employer," Corporate Law Symposium, University of Cincinnati College of Law, Cincinnati, OH (March 8-9, 1989).

"Commercial Speech and the First Amendment," Corporate Law Symposium, University of Cincinnati College of Law, Cincinnati, OH (October 14-15, 1987).

SERVICE:

Law School and University

I have served on the following committees for the faculties of the University of Cincinnati College of Law (1986-'91), the Indiana University at Bloomington, School of Law (1991-1994, 1995 - present), and the University of Wisconsin Law School (1994-1995):

Dean Search (elected 1989-90, selected 2002-03)
Committee on Committees (elected 1989-90, 1990-91)
Policy Committee (elected 1998-99)
Appointments (1987-88, 1990-91, Chair 1996-97,Chair 1997-98, Chair 1998-99, 1999-00, 2000-01, Chair 2001-02 , 2007-08, Chair 2008-09)
Promotion and Tenure (1995-96, 1996-97, 1997-98, 2000-01, Chair 2004-05, Ex-Officio 2005-06, Chair 2006-07)
Law and Society (Chair 1992-94, Chair 1998-99, Chair 2002-04)
Center for Law Society and Culture (Director 2002-04, Co-Director 2004- 2007)
Self-Study Committee (2001-02, 2002-03)
Faculty Development (1987-88, Chair 1990-91, 1994-95)
Educational Policy (Chair 2010-11)
Speakers Committee (2005-2007)
Admissions (2002-03, 2003-04)
Teaching (2009-10, Chair)
Honor Council (1988-89, 1989-90)
Petitions (1986-87, 1992-93)
Library (1986-87, 1988-89)
Orientation (1988-89, 1989-90)
Graduate Legal Studies (1992-93, 1993-94, 1995-96)
Foreign Programs Committee (1994-95)

I have also served as the College or Law School representative on: University Tenure Committee (2009-10, 2010-11); the AAUP Executive Committee Indiana University-Bloomington Chapter (1996-98, 2009-

2010); the AAUP Committee A Indiana University - Bloomington Chapter (2003-4); Indiana University's Employee Benefits Committee (2000-03); Indiana University's Ad Hoc Review Committee on Pay Equity (1998-99, 1999-00); the Business School's Ad Hoc Committee on Pay Equity (1997-98); the Faculty of the Industrial Relations Research Institute (1994-97); the Law School's Ad Hoc Committee on Clinical Faculty Tenure (1996-97); Faculty Senate (elected 1990-92, 1994-95); Indiana University Diversity Workshops (1992-93); the President's Athletic Advisory Committee (1990-91); and the University Judicial Council (1986-87).

National

I have served as a member of the: Executive Committee of the Labor Law Group (2000-present, Treasurer 2001-05, Chair 2005-2011); ABA Section on Labor and Employment Law (Secretary 2008-2010); LSAC Grant Committee (2007-2010); Executive Committee of the AALS Section on Law and Economics (2006, Chair 2007, 2008); National Workers' Right Board (2003-2008); Law and Society Association's Jacobs Prize Committee (2003-04, 2006-07); Luis Jackson Paper Award Committee (2005, 2006, 2007); Law and Society Association's Program Planning Committee (2004-05); Executive Committee of the AALS Section on Law and Socio-economics (2000-04, Chair 2002-03); Executive Committee of the AALS section on Labor and Employment Law (1990-91, 1998-99); Executive Committee of the IRRA Section on Labor and Employment Law (1998-99); AAUP National Council (elected 1993-96); AAUP National Executive Committee (1994-96); AAUP Litigation Committee (1993-02); AALS Scholarly Paper Award Committee (1991). In addition, I have been the editor of several SSRN electronic Law and Society Journals, served on the Editorial Board of the **Law & Soc Rev.** (2003-2008) and served as a referee for the **Rev. of Econ. & Stat., Int'l Rev. of Law & Econ., Pub. Fin. Q., Law & Soc. Rev., Law and Soc. Inquiry, J. Legal Educ.**, Yale University Press, New York University Press, Oxford University Press, Little Brown, West Publishing, Anderson Publishing, Scott Foresman Co., Harper Collins Publishers, Prentice Hall Publishing, Aspen Publishing and the National Science Foundation. Finally, I served as an Academic Consultant on 'New Challenges for the Regulation of Labour Standards: Developments Shaping the Environment of the Canadian Workplace,' Ministry of Labour and Housing, Government of Canada (2005).

PROFESSIONAL ASSOCIATIONS:

The Labor Group, American Bar Association, Indiana Bar Association, Association of American University Professors, Law and Society Association, American Law and Economics Association, American Economic Association, Society for the Advancement of Socio-Economics, Labor and Employment Relations Association.