

Peter C. Carstensen

CURRICULUM VITAE

Born June 6, 1942

Married

Four Children

Office:

401 Law School
University of Wisconsin
Madison, WI 53706
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Home:

720 Orton Court
Madison, WI 53703
(608) 255-5931

EDUCATION

Yale University, LL.B., M.A. (Econ.) 1968
University of Wisconsin, B.A. (Honors) 1964

EMPLOYMENT

Trial Attorney, Antitrust Division, United States Department of Justice,
1968-1973

Assistant Professor of Law, University of Wisconsin, 1973-1978

Visiting Assistant Professor of Law, Cornell University, Spring 1977

Associate Professor of Law, University of Wisconsin, 1978-1981

Professor of Law, University of Wisconsin, 1981-present

Robert W. and Irma M. Arthur-Bascom Professor of Law, 1991-1997

Associate Dean for Research and Faculty Development, 1993-2002

George Young-Bascom Professor of Law, 1997-present

RESEARCH SUPPORT

University of Wisconsin Graduate School Research Committee, Summer 1974

University of Wisconsin Graduate School Research Committee, Summer 1978

Smongeski Research Professorship, Spring Semester 1979

Legal History Fellow, Univ. of Wisc. Legal History Program, Summer 1982

NSF, Summer 1984, 1985 (one grant spread over two summers)

Sabbatical (competitive), Univ. of Wisconsin, Spring 1990

Robert Wood Johnson Foundation Research Grant (co-PI) Fall 1994 to Fall 1997

University of Wisconsin Graduate School Research Committee, Summer 2006

Food Systems Research Group, Summer 2007

TEACHING EXPERIENCE

Antitrust

Torts

Selected Problems in Trade Regulation (seminar)

Unfair Trade Practices (Business Torts)

Regulated Industries: Energy Regulation

Business Organizations II: Publicly Held Corporations

Securities Regulation

Insurance Law

EDITORSHIP

Editor, MAJOR CASES IN ANTITRUST LAW: BRIEFS AND OPINIONS FROM FEDERAL AND STATE COURTS, Major Case Series, University Publications, 1984

Co-Chair Drafting Committee, FEDERAL STATUTORY EXEMPTIONS FROM ANTITRUST LAW, MONOGRAPH 24, 2007 (for the ABA Section on Antitrust Law) (with Chris Sagers)(lead author of four chapters).

Co-Editor, COMPETITION POLICY AND MERGER ANALYSIS IN DEREGULATED AND NEWLY COMPETITIVE INDUSTRIES, 2008 (with Susan Beth Farmer) (wrote two chapters and co-authored another).

PUBLICATIONS: ARTICLES AND CHAPTERS

"Vertical Restraints and the Schwinn Doctrine: Rules for the Creation and Dissipation of Economic Power," *26 Case Western Reserve Law Review* 771-860 (1976).

"Antitrust," *53 Chicago-Kent Law Review* 167-189 (1977).

"Annual Survey of Antitrust Developments," *35 Washington and Lee Law Review* 1-89 (1978).

"The Use of Section 5 of the Federal Trade Commission Act to Attack Large Conglomerate Mergers," *63 Cornell Law Review* 841-878 (1978) (with Nina Questal) reprinted in *Corporate Counsel's Annual-1979* (S. Spires, E. Burchell, ed.) 515-54 and in *13 Reprint for Antitrust Law and Economics* 367-406 (1982).

"Regulation of Banking in the Public Interest: The Case for an Open Approach to Chartering and Branching," *57 Texas Law Review* 1085-1126 (1979).

"Antitrust Law, Competition, and the Macroeconomy," *14 Univ. of Mich J. of Law Reform* 173-201 (1981).

"Antitrust Problems and Policy in a North American Economic Community," *44 Law and Contemp. Prob.*, No. 3, 81-103 (1981).

"Antitrust Law and the Paradigm of Industrial Organization," *16 U.C.Davis Law Rev.* 487-525 (1983).

"Restricting the Power to Promote Competition in Banking: A Foolish Consistency among the Circuits," *1983 Duke Law J.* 580-609.

"Commentary: Reflections on Hay, Clarke, and the Relationship of Economic Analysis and Policy to Rules of Antitrust Law," *1983 Wisc. Law Rev.* 953-988.

"Predatory Pricing in the Courts: Reflections on Two Decisions," *61 Notre Dame Law Review* 928-971 (1986) (symposium on monopoly law).

"Vertical Restraints in Beer Distribution: A Study of the Business and Legal Justifications for Restricting Competition," *1986 Wisconsin Law Review* 1-81 (with Richard Dahlson).

"Legal and Economic Analysis of Vertical Restraints: A Search for Reality or Myth Making," in *Issues After A Century of Federal Competition Policy*, Wills, Culbertson, Caswell, ed., 95-101

(1987).

"Two Causes for the Predictable Failure of Contemporary Tort "Reform": Naive Analysis and Ignorance of Institutional Interaction," 1987 *Det. Col. L. Rev.* 975-986.

"Public Policy Toward Interstate Bank Mergers: The Case for Concern," 49 *Ohio State L. J.* 1397-1437 (1989).

"Evaluating "Deregulation" of Commercial Air Travel: False Dichotomization, Untenable Theories, and Unimplemented Premises," 46 *Wash. & Lee L. Rev.* 109-150 (1989).

"How to Assess the Impact of Antitrust on the American Economy: Examining History or Theorizing," 74 *Iowa Law Review* 1175-1217 (1989).

"The Content of the Hollow Core of Antitrust: The Chicago Board of Trade Case and the Meaning of the "Rule of Reason" in Restraint of Trade Analysis," 15 *Research in Law and Economics* 1-88 (1992) excerpt reprinted in A. Gavil, ed., *An Antitrust Anthology*, 121-132 (Anderson, 1996)

"The Evolving Duty of Mental Health Professionals to Third Parties: A Doctrinal and Institutional Examination," 17 *International J. Law & Psychiatry* 1-42 (1994)

"Antitrust Law, Student Athletes, and the NCAA: Limiting the Scope and Conduct of Private Economic Regulation," (with Paul Olszowka) 1995 *Wisconsin Law Rev.* 545-598

"While Antitrust Was Out to Lunch: Lessons from the 1980s for the Next Century of Enforcement," 48 *SMU Law Review* 1881-1916 (1995)

"The Reconstruction of Legal-Economic Relations in Health Care: Achieving Workable Competition," 8 *Loyola Consumer Law Reporter* 153-166 (1995-96)

"A Time to Return to Competition Goals in Banking Policy and Antitrust Enforcement: A Memorandum to the Antitrust Division," 41 *Antitrust Bulletin* 489-504 (1996)

"Director and Levi After 40 Years: The Anti-Antitrust Agenda Revisited," 17 *Mississippi College Law Review* 37-42 (1996)

"The So-Called Global Tobacco Settlement: Its Implications for Public Health and Public Policy—An Executive Summary of a Conference at the University of Wisconsin Law School," 22 *University of Southern Illinois Law Review* 705-724 (1998) (with Galanter and Thain)

"Rule of reason in antitrust," *The New Palgrave Dictionary of Economics and the Law* (1998)

“Remedying the Microsoft Monopoly: Monopoly, the Rights of Buyers, and the Enclosure Movement in Intellectual Property,” 64 *The Antitrust Bulletin* 577-618 (1999)

“The Per Se Legality of Some Naked Restraints: A [Re]Conceptualization of the Antitrust Analysis of Cartelistic Organizations,” 45 *Antitrust Bulletin* 349-435 (2000)(with Bette Roth)

“Concentration and the Destruction of Competition in Agricultural Markets: The Case for Change in Public Policy,” 2000 *Wis L. Rev.* 531-546

“The Competitive Dynamics of Distribution Restraints: The Efficiency Hypothesis Versus the Rent Seeking, Strategic Alternatives,” 69 *Antitrust Law Journal* 569-609 (2001)

“The Competitive Dynamics of Distribution Restraints: Efficiency Versus Rent Seeking,” CUCINOTTA, PARDOLESI, & VAN DEN BERGH, EDS., POST-CHICAGO DEVELOPMENTS IN ANTITRUST (2002), 280-295 (a short version of the article in 69 *Antitrust L. Journal*)

“The 2002 Senate Farm Bill: The Ban On Packer Ownership of Livestock,” 7 *Drake Journal of Agricultural Law* 267-304 (2002)(with Roger McEowen and Neil Harl)

“Kahning the Court: How the Antitrust Establishment Obtained an Advisory Opinion Legalizing “Maximum” Price Fixing,” 34 *University of Toledo Law Review* 241-307 (2003) (with David Hart)

“Transparency in Antitrust—Do What We Say and Not What We Do: Some Reflections on Professor Grime’s Quest,” 51 *Buffalo Law Review* 1001-1015 (2003)

“Creating Workably Competitive Wholesale Markets in Energy: Necessary Conditions, Structure and Conduct,” 1 *Environmental & Energy Law & Policy J.* 85-144 (2006).

“The Transformation of Economic Regulation: Market Dynamics and Legal Lag—Comments on Professor Bush’s “Mission Creep”,” 2006 *Utah L. Rev.* 663-677.

“Post-Sale Restraints via Patent Licensing: A “Seedcentric” Perspective,” 16 *Fordham Intel Prop. Media & Entertainment L. J.* 1053-1080 (2006).

“Using *Dagher* to Refine the Analysis of Mergers and Joint Ventures in Petroleum Industries and Beyond,” 19 *Loyola Consumer L. Rev.* 447-467 (2007)

“Rambling Through Economic Theory: *Topco*’s Closer Look,” in ANTITRUST STORIES (2007)(Dan Crane, Eleanor Fox, eds) (with Harry First).

“Professor Leslie’s Reluctant Embrace of Patent Fraud Victims: Reflections on Patent Fraud, Compensation, and Deterrence: The Role of Consumers in Walker Process Litigation,” 13

Southwestern J. L. & Trade in the Americas 313-324 (2007)

“The Prospects and Limits of Anti-Trust and Competitive-Market Strategies” in *FOOD AND THE MID-LEVEL FARM: RENEWING AGRICULTURE-OF-THE MIDDLE* (Thomas A Lyson, G.W. Stevenson, & Rick Welsh, eds.) 227-251 (2008 MIT Press).

“False Positives in Identifying Liability for Exclusionary Conduct: Conceptual Error, Business Reality, and *Aspen*,” *2008 Wisconsin Law Review* 295-329.

“Buyer Power, Competition Policy, and Antitrust: The Competitive Effects of Discrimination among Suppliers,” *53 Antitrust Bulletin* 271-332 (2008).

“The Poor Financial Performance of Deregulated Airlines: Competition as Causation or Only Correlation? Reflections of Professor Dempsey’s Article,” *45 Houston L. Rev.*487-507(2008).

Contributed to *THE NEXT ANTITRUST AGENDA: THE AMERICAN ANTITRUST INSTITUTE’S TRANSITION REPORT ON COMPETITION POLICY TO THE 44TH PRESIDENT OF THE UNITED STATES* (2008) (primary drafter of chapter on agricultural issues).

“Lost in (Doctrinal) Translation: The Misleading Retelling of the Supreme Court’s Antitrust Decisions on Restraints of Trade,” *62 SMU L. Rev.* 525-556 (2009).

“Buyer Cartels versus Buying Groups: Legal Distinctions, Competitive Realities, and Antitrust Policy,” *1 William & Mary Business Law Review* 1 - 46 (2010)

“Replacing Antitrust Exemptions for Transportation Industries: The Potential for a ‘Robust Business Review Clearance’, *Oregon Law Review*, forthcoming 2011.

“Where is Attorney General “Waldo”? Attorneys General and Unjustified, Anticompetitive State and Local Regulation,” *Antitrust Bulletin* ___, forthcoming 2011

PUBLICATIONS: REVIEW ESSAYS AND MAJOR REVIEWS

"Book Review" of R. Posner, Economic Analysis of Law, 19 *The Antitrust Bulletin* 867-880 (1974).

"Book Review" of J. Rubin, Economics, Mental Health, and the Law, 3 *Internat. J. of Law and Psychiatry* 474-479 (1980).

Review Essay: "Law and Economics Through History: McCraw's Prophets of Regulation," 1986 *American Bar Foundation Research Journal* 881-902.

"Explaining Tort Law: The Economic Theory of Landes and Posner" review essay on The Economic Structure of Tort Law, 86 *Mich. L. Rev.* 1161-1184 (1988).

"Book Review" of W. Samuels, A. Miller, eds., Corporations and Society, 33 *Antitrust Bulletin* 779-801 (1988)

"Blurred Visions and False Dycotomies" [A Review Essay on M.Sklar, The Corporate Reconstruction of American Capitalism, 1890-1916], 17 *Reviews in American History* 404-411 (1989)

Book Review [Tony Freyer, Antitrust and Global Capitalism 1930-2004], 49 *Canadian Business Law Journal* 309-322 (2010).

Book Review [Michael Carrier, Innovation for the 21st Century], __ *Antitrust Bulletin*, forthcoming.

MISCELLANEOUS

Revisor of section on "Bank Mergers" in *Antitrust Law Developments* 87-95 (prepared by Section of Antitrust Law of the American Bar Association, 1975)

Discussant in *Conference on Bank Structure and Competition*, 157-158 (Fed. Res. Bank of Chicago, ed., 1974)

Speech, "Bank Holding Companies--A View from the Department of Justice" presented to Conference on Holding Companies and Consumer Relations, Institute of Continuing Legal Education, LSU Law School, Baton Rouge, La., Sept. 21, 1972, printed in *Proceedings* (Boland, et.al. ed., 1973), excerpts reprinted in *American Banker*, Sept. 28, 1972

Speech, "The Justice Department's Current Efforts in the Bank Merger Field" to Briefing Conference on New Developments in the Regulation of Banking, March 26, 1970, Washington.

Commentator on Legal-Economic Issues at the Annual Conference of the Wisconsin Psychiatric Association, June 1985.

Participant, Conference on Bank Structure and Competition, Federal Reserve Bank of Chicago, May 1986. "Public Policy Toward Interstate Bank Mergers: The Case for Concern," in *Proceedings of a Conference on Bank Structure and Competition* (Fed. Res. Bank Chicago, 1986) 621-651 [revised and expanded version published in *Ohio St. L.J.*].

Participant, Workshop on the Legal History of the Corporation: Contexts and Conceptualization, Sponsored by the ABA Research Foundation and the Institute for Legal Studies, Chicago, May 1986

Draftsman of Proposed Questions for the California, Alaska, Illinois and Connecticut Bar Examinations on Torts and Corporations

Invited Expert Witness before the Senate Antitrust Subcommittee, August 4, 1987, testimony printed in Hearings Before the Subcommittee on Antitrust, Monopolies and Business Rights of the Judiciary Committee, Senate, 100th Cong., 1st Sess. on S.567 (The Malt Beverage Interbrand Competition Act) (Serial No. J-100-33) 262-284, 395-403.

Commentator, Panel on Economics of Not For Profit Businesses, American Economics Association, Annual Meeting, Chicago, December, 1987.

Expert Witness in a Wisconsin Public Service Commission proceeding on competitive policy issues raised by combined disconnection of telephone service (compensated) (summer 1989).

"Private Colleges Have No Special Right to Fix Prices or to Restrict Competition," 36, No 14 *The Chronicle of Higher Education* B-1, B-2 (Dec. 6, 1989) (opinion essay on collusive behavior among private colleges).

Participant, 26th International Congress on Law and Mental Health, Toronto, June 1990; presented paper: "The Evolving Duty of Mental Health Professionals to Third Parties: A Doctrinal and Institutional Examination."

Commentator, Annual Meeting, Social Science Historical Association, New Orleans, Oct. 31-Nov. 3, 1991 (invited commentator at session devoted to the history of the corporation)

Presenter, Annual Meeting, American Association of Law Schools, San Antonio, January 1992, section on financial institutions and consumer finance, on the Community Reinvestment Act.

Member, Ad Hoc Committee on Vegetable Trade Practices, Wisconsin Department of Agriculture and Consumer Protection, August to December 1991.

Member, Ad Hoc Committee to Study Medical Malpractice, Office of the Wisconsin Commissioner of Insurance 1989-1993.

Commentator at the NAAG (National Association of Attorneys General) annual antitrust meeting, Milwaukee, September, 1992

"A Cure Worse than the Disease: Health Care Regulation in Wisconsin," [26 page paper prepared for the Wisconsin Hospital Association, 1993]

Book Review [of *The Struggle for Auto Safety* by Jerry Mashaw and David Harfst], 66 *Bus. Hist. Rev.* 191-193 (1992)

Book Review [of *The Political Economy of the Sherman Act* edited by E. Thomas Sullivan], 66 *Bus. Hist. Rev.* 584-586 (1992)

Judge Breyer and the Price-Squeeze Problem: Using Economic Theory to Deny Realities, 25 *Antitrust Law & Economic Rev.*, No. 3, 105-110 (1994)

Presented a paper (Antitrust Law, Student-Athletes, and the NCAA: Limiting the Scope and Conduct of Private, Economic Regulation) at *A Sports Law Symposium: The NCAA and the Student-Athlete*, sponsored by the Wisconsin Law Review, University of Wisconsin, Feb. 11, 1995 (published in the *Wisconsin Law Review*)

Participant, Tobacco Litigation Roundtable, Law and Society Meetings, June 2, 1995, Toronto, Canada

The Reconstruction of Legal-Economic Relations in Health Care: Achieving Workable Competition and the Limits of Antitrust Law as a Tool for Reform, paper presented at *Consumerism & Competition--Striking a Balance*, a conference sponsored by the Institute for Consumer Antitrust Studies, Loyola University Chicago, School of Law, October 12, 1995 (published in *Loyola Consumer Law Reporter*)

A Time to Return to Competition Goals in Banking Policy and Antitrust Enforcement, address delivered at *Antitrust & Banking: Emerging Issues in the New Banking Environment*, conference sponsored by Office on Comptroller of the Currency, Nov. 16, 1995, Washington, D.C. (published in the *Antitrust Bulletin*)

Director and Levi After 40 Years: The Anti-Antitrust Agenda Revisited, comments at the Antitrust & Economic Regulation Section, AALS, San Antonio, Texas, January 5, 1996 (published in the *Mississippi College Law Review*)

Participant, Tobacco Litigation Roundtable, Law and Society Meetings, July 10, 1996, Glasgow, Scotland

The Cigarette Caused Fire, Avoidable Harms, and Innocent victims: An Analysis of Judicial Protectionism, paper presented at Law and Society Meetings, May 29, 1997, St. Louis, Mo.

Book Review [of Rudolph Peritz, *Competition Policy in America, 1888-1992*], 38 *Labor History* 105-106 (1996-97)

The Problem of Characterizing Price-Fixing and other Restraints: The Functional Approach to Coherent Analysis, paper presented to the annual meeting of the New Zealand Conference on Competition Law and Policy, August 1997.

Review of Victoria Sake Woeste, *The Farmer's Benevolent Trust: Law and Agricultural Cooperation in Industrial American, 1865-1945*, 2000 *Law and History Review* 698-700

The Competitive Dynamics of Distribution Restraints: The Efficiency Hypothesis Versus the Rent Seeking, Strategic Alternatives, paper presented at a conference, Post Chicago Developments in Antitrust Analysis: United States and Europe, Taormina, Italy, Oct. 26-28, 2000.

Mega-mergers put consumers in the doghouse, Oped Piece, *Wisconsin State Journal*, June 10, 2001 at B2; also carried in *The Business Journal* (Milwaukee), June 29, 2001, p.51; *Madison Times*, and other papers in Wisconsin

“Colleges and Student Aid: Collusion or Competition?” *Chronicle of Higher Education* (August 10, 2001)

Oped piece on financial aid competition, *USA Today* (August 13, 2001)

Applying Competition Law and Policy to Agricultural Issues: General Rules and Special Circumstances, paper presented at 23rd Annual Meeting of the American Agricultural Law Association, October 13, 2001

Proposed Legislative Ban on Packer Ownership Of Livestock Mischaracterized by Economists (Jan. 25, 2002) (paper prepared and circulated to Senators and distributed over the web)(with Harl and McEowen)

Non-party Brief in Olstad v. Microsoft, Wisconsin Supreme Court (case presented issue of application of state antitrust law to harms arising from interstate transactions) (with Susan LaCava and Steve Meili)

Amicus Brief in Pickett v. Tyson Fresh Meats, 11th Circuit Court of Appeals (case involves the application of the Packers and Stockyards Act to captive supply) (with Roger McEowen and Neil Harl on behalf of ourselves and 50 agricultural organizations)

Presented at the American Agricultural Law Association meeting in Omaha, October 8-9, 2010

Presented at the Organization for Competitive Markets meeting in Omaha, August 8-11, 2010

Presented at the American Antitrust Institute meeting in Washington, DC, June 23-24, 2010

Presented at the Dairy Workshop (USDA-DOJ workshops on agricultural competition) Madison, June 25, 2010

WORK IN PROGRESS

Busting the Beer Barons: A History of Antitrust Enforcement in the Beer Industry, 1954-1984 (monograph).

Explaining Restraint of Trade Law: Judicial Rationality and a General Model of Antitrust Standards (monograph)

Where is AG Waldo? (Presentation at the National Association of Attorneys General Centennial Antitrust Symposium, Oct. 9, 2007, St. Louis, Mo.) (Forthcoming in the *Antitrust Bulletin*).

Defining the Relevant Metrics for Analysis of Buyer Power in Mergers (article based in part on my 2004 presentation at the FTC-DOJ workshop on mergers).

A condominium approach to bottlenecks creating market power (with Darren Bush of Houston).

Replacing Antitrust Exemptions for Transportation Industries: The Potential for a "Robust Business Review Clearance" (presented at the AAI annual meeting in June, 2010 and forthcoming in the *Oregon Law Review*).

PUBLIC SERVICE

Lecturer in Antitrust Law, Advanced Training Seminar of State Bar of Wisconsin, Feb. 19, 1975.

Faculty member in ALI-ABA Course of Study: "Legal Aspects of the Regulation and Operation of Pay Television Systems and Leased Cable television Channels," (Chicago, April 19-20, 1974).

Lecturer at State Securities Commission Office Seminar, April 2-4, 1974 (corporate law) and Jan. 21-22, 1974 (antitrust law).

Consultant, Wisconsin Department of Justice on antitrust matters, (unpaid) 1974 to date.

Director, Common Wealth (neighborhood redevelopment corporation), 1980 to 1986, Vice President, 1985 to 1986.

Grader, Wisconsin Bar Exam, 1984, 1986, 1987, 1989, 1993, 1995, 1996, 2002

Lecture on Restraint of Trade Law to Wisconsin Antitrust Lawyers Group, Milwaukee, May 1990.

Lecture on Antitrust Issues and Analysis in Health Care, Wisconsin Hospital Association, Board Retreat, Kohler, Wisconsin, August 1990.

Member, Board of Directors, Center for Public Representation, (1991 to 1998).

Antitrust Concerns in a Competitive Energy Services Industry, October 13, 1994 (talk to a conference sponsor by the Wisconsin Public Utility Institute: Public Policies toward Competition in the Electric Power Industry).

Evaluation of an antitrust decision of Justice Bryer, presented at the Senate confirmation hearing by Ralph Nader, July 15, 1994. Reprinted in *Antitrust Law & Economics Rev.*

Antitrust Law and Regulated Industries, September 25, 1995 (talk to a conference sponsor by the Wisconsin Public Utility Institute).

Chair, 1998-1999, Chair-Elect, 1997-1998, Member, Executive Committee 1996-97, Section on Antitrust and Economic Regulation, AALS .

Discussant, *Wisconsin's Certificate of Public Advantage Legislation: Policy Forum on Implementation and Oversight Issues*, January 30, 1996, Madison, Wisconsin.

Antitrust Law and the Energy Industries, annually 1996 to 2002 (primary presenter to a workshop for lawyers, administrators and executives on how antitrust law will affect energy industries undergoing deregulation) co-sponsored by the Wisconsin Public Utility Institute and the UW Law School.

Antitrust Law and the Telecommunications, annually 1996-2001 (primary presenter to a workshop for lawyers, administrators and executives on how antitrust law will affect telecommunications companies undergoing deregulation) co-sponsored by the Wisconsin Public Utility Institute and the UW Law School.

Participant (speaker) in Town Meeting on Competition and Agriculture, Cedar Rapids, Iowa (sponsored by Senators Grasley, Harkin and Wellstone, September, 1999).

Consultant to the National Farmers Union on antitrust legislative policy issues, October 1999.

Consultations with the staff of Senators Leahy and Dacshel on antitrust and agriculture, fall 1999 and spring 2000, resulting in S. 2 411 .

Presentation to the Energy and Telecommunications Section of the Wisconsin Bar Association, January 2000

Address to the Agricultural Forum, February 24, 2000, Washington D.C. (national conference on agricultural policy sponsored by the USDA)

Member Editorial Board, *Law and Social Inquiry*, 2000-2002

Member, Advisory Board, American Antitrust Institute, 2000 to present

Member, Advisory Board, Institute for Consumer Antitrust Studies, Loyola University Chicago School of Law, 2001 to present

Member, Committee to Review Competition in Telecommunications in Wisconsin, appointed by the State Public Service Commission

Testified on agricultural competition issues, Senate Democratic Policy Committee, Washington, DC, April 5, 2000

Testified on agricultural competition issues, Senate Agriculture Committee, April 27, 2000

Presenter on competition issues in agriculture, Millennium Conference, sponsored by USDA, Kansas City, May 2000

Participant, Organization for Competitive Markets retreat to develop proposal on agricultural policy, Kansas City, May 2000

Wisconsin Week TV interview (WHA-TV) on Microsoft case, June 2000

“Regulation in the Public Interest,” presentation at Dairy Compacts and Congress: State Legislative Sponsors’ Seminar, August 28, 2000, Nashville, Tennessee.

Testified on competition issues in agriculture, Senate Antitrust Subcommittee, Sept 28, 2000

Testimony for the Public Forum on Captive Supplies, held by USDA, Denver, Sept. 21, 2000

Member, advisory board, American Antitrust Institute, appointed October, 2000

Rocky Mountain Farmers Union Convention, talk on state role in antitrust enforcement, Nov. 17, 2000 Denver Colo.

Presentation on competition policy, national convention, Farmers Union, Rochester, NY, March 2001

Testimony on competition issues in agriculture, Senate Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, May 17, 2001

Prepared and submitted for myself and 7 other scholars as well as the National Farmers Union and the Organization for Competitive Markets, a comment on the proposed settlement of the antitrust case challenging ADM’s acquisition of Minnesota Corn Processors. Filed 12/27/02. Subject of major article in Minneapolis Star Tribune, 1/27/03

Talk on concentration and livestock markets to the 3ard Annual Convention of R-Calf, Billings, Montana, Jan. 25, 2002

Presentation on competition policy issues in meat packing at session on packer ownership ban of the American Farm Bureau leadership in Kansas City, MO, Aug. 20, 2002

Testified, Senate Judiciary Committee Hearing: Ensuring Competitive and Open Agricultural Markets: Are Meat Packers Abusing Market Power, Sioux Falls, South Dakota, August 23, 2002 (statement and testimony to be published as hearing report)

Testified, Senate Judiciary Committee Hearing: Monopsony in Markets for Agricultural Products: A Serious Problem in Need of a Remedy, October 30, 2003

Presentation to the Department of Justice and Federal Trade Commission, Workshop on Merger Enforcement: Buyer Power and Merger Analysis–The Need for Different Metrics, February 17, 2004.

Testified and presented written statement to the Antitrust Modernization Commission in connection with antitrust exemptions, December 1, 2005.

Presented a discussion of patent licensing issues at the annual symposium of the Fordham Journal of Intellectual Property, Entertainment and Media, November 2005.

Presentation to the intellectual property and competition seminar at NYU, March 3, 2006.

Participant in a panel on statutory exemptions at conference, The Antitrust Modernization Commission at Mid-Course, sponsored by the Antitrust Section of the ABA, June 9, 2006.

Lead counsel for defendants, County of Milwaukee v. Williams, 301 Wis.2d 134, 732 N.W.2d 770, 2007 WI 69 (5-2 vote overturned Milwaukee County ordinance forbidding taxis from meeting pre-arranged passengers at the airport).

Presentation on competition law and policy in agriculture, symposium on Power in the Global Food System, Tufts University, School of Nutrition Science and Policy, Ap. 5, 2007

Invited testimony to the U.S. Senate Ag. Committee, Ap. 7, 2007.

Invited Testimony, U.S. Senate Antitrust Subcommittee, May 7, 2008

Participant, USDOJ-USDA Workshops on Agricultural Competition, Dairy Workshop, Madison, Wisconsin, June, 2010.

Helped draft an amicus brief for the American Antitrust Institute seeking reconsideration of a decision in the 9th Circuit: *Shames v. California Travel and Tourism Commission*. Penal

reversed itself following submission of briefs. 2010.

Helped draft a cert petition in *Terry v. Tyson*,)involving interpretation of the Packers and Stockyards Act, pro bono. Petition pending. 2010.

Submitted comments to the FTC and Antitrust Division on the proposed revision of the Merger Guidelines. My comments focused on mergers creating anticompetitive buyer power. The revised Guidelines now contain a section devoted to expressing a commitment to review mergers creating buyer power. 2010

Submitted comments to the USDA and Antitrust Division relating to the competition workshops. 2010

Submitted comments to the USDA related to the proposed new rules to facilitate enforcement of the Packers and Stockyards Act. 2010

HONORS

Phi Kappa Phi (1963)

Phi Beta Kappa (1964)

Vilas Medal (forensics award) (1964)

Beansch Award (best undergraduate essay on Wisconsin history) (1964)

Outstanding Performance Award (U.S. Dept. of Justice) (1969)

Robert W. and Irma M. Arthur-Bascom Professor of Law (1991)

George Young Bascom Professor of Law (1997)

Teacher of the Year (2008)

John Helmuth Award, Organization for Competition Markets (2010)