

## JOHN B. KIRKWOOD

William C. Oltman Professor  
of Teaching Excellence  
Professor of Law  
Seattle University School of Law  
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### Education

J.D. 1974, *cum laude*, Harvard Law School

Civil Rights - Civil Liberties Law Review.

Research assistant to Phillip Areeda, 1972-74 (principal task: revising and expanding economics section of his casebook).

Research assistant to E. Allan Farnsworth, 1970-71 (included writing note for his casebook on economics of contract breach).

M.P.P. 1974, *cum laude*, John F. Kennedy School of Government, Harvard University

Full tuition fellowship.

Master's thesis published by School as model for future classes and by Harvard Task Force on Massachusetts Higher Education.

Principal author of Task Force report.

A.B. 1970, *magna cum laude*, Yale University

Phi Beta Kappa; Honors of Exceptional Distinction in Economics.

Editor, Alternative magazine; Varsity Debate Team.

Executive Committee of Yale College.

Andrew D. White Prize (third place) (for history essay in freshman honors program).

Charles H. Dickerman Prize (for best senior thesis in economics); thesis later published in the Journal of Money, Credit and Banking, whose referee commented:

Mr. Kirkwood's prize essay (from Yale) is, without exception, the best undergraduate paper in economics that I have yet seen. It would rank in the upper decile of the graduate M.A. and Ph.D. theses I have read.

## Employment

Seattle University School of Law

William C. Oltman Professor of Teaching Excellence, 2024-present.

Professor of Law, 2011-present.

Associate Dean for Strategic Planning and Mission, 2011-2014.

Committees: Strategic Planning (Chair) (3 years); Budget (Co-Chair);  
Curriculum and Pedagogy (Chair); Dean's Advisory (Co-Chair);  
Personnel Review (multiple years); Appointments (multiple years).

Courses: Antitrust Law; Administrative Law; Administrative Law Clinic  
(with Lisa Brodoff); Business Entities; Law and Economics.

Associate Professor, 2006-2011 (Tenure: August 2008).

Associate Dean for Faculty Development, 2009-2011.

Award: Dean's Medal (May 2007).

Courses: Antitrust Law; Business Entities; Administrative Law; Law and  
Economics.

Committees: Ad Hoc Committee on Legal Writing Status (Chair); Strategic  
Planning; Personnel Review; Faculty Appointments.

Assistant Professor, 2002-2006.

Award: Outstanding Faculty Award (May 2006).

Courses: Antitrust Law; Business Entities; Administrative Law; Law and  
Economics (with Thomas Holdych).

Committees: Appointments; Budget; Legal Writing Hiring; Legal Writing  
Review.

Adjunct Professor, 1998-2001.

Courses: Antitrust Law; Law and Economics (with Thomas Holdych).

University of Washington School of Law

Part-Time Lecturer, 1992-2002 (five quarters).

Courses: Antitrust Law; Law and Economics.

Federal Trade Commission (Seattle, WA)

Senior Attorney, 1987-2002.

Lead counsel on Commission litigation against major book publishers for discriminating against independent bookstores.

Managed team of up to ten professionals (including accountant and two economic experts) prosecuting litigation and negotiating proposed settlements.

Senior counsel on precedent-setting hospital merger case.

Senior attorney on numerous merger investigations.

Nominated for Paul Rand Dixon Award for outstanding performance.

Federal Trade Commission (Washington, D.C.)

Assistant Director for Evaluation, 1982-87, Assistant Director for Planning, 1977-82, Bureau of Competition. Senior Executive Service.

Commission official principally responsible for antitrust policy planning.

Prepared or supervised preparation of major analyses of enforcement policy issues (virtually all published; see "Publications" and "Publications Supervised" below).

As Assistant Director for Evaluation, managed large office with numerous responsibilities, including the government's premerger notification program.

Bergson, Borkland, Margolis & Adler (Washington, D.C.)

Associate in antitrust firm, 1974-77.

Represented corporate defendants in government and private antitrust litigation.

Helped oversee preparation of ABA Antitrust Section monographs on enforcement policy issues.

**Positions**

Member, American Law Institute.

Chair, Executive Committee, Antitrust and Economic Regulation Section, Association of American Law Schools (2022-2023).

Member, Board of Advisers, Institute for Consumer Antitrust Studies, Loyola University Chicago School of Law.

Member, Board of Advisers, American Antitrust Institute, Washington, D.C.

Selection Committee, Jerry S. Cohen Scholarship Award, 2012- present.

Author:

“Mergers of Buyers” section, “Views of the American Antitrust Institute on the Proposed Horizontal Merger Guides,” Jun. 4, 2010.

“Comments of the American Antitrust Institute on the European Commission’s Proposed Block Exemption Regulation and Guidelines on Vertical Restraints,” Sept. 27, 2009.

“The Robinson-Patman Should be Reformed, Not Repealed: Comments of the AAI Working Group on the Robinson-Patman Act to the Antitrust Modernization Commission,” Jul. 1, 2005.

Editor, Research in Law and Economics: A Journal of Policy (with Richard O. Zerbe) (2005-12).

## **Publications**

### *Books Edited*

Antitrust Law and Economics, 21 Res. L. & Econ. (2004).

Impact Evaluations of Federal Trade Commission Vertical Restraints Cases (1984) (with Ronald N. Lafferty & Robert H. Lande); reprinted in 19 J. Reprints Antitrust L. & Econ. (1989).

### *Articles and Book Chapters*

“The New Limits on Antitrust,” Fla. St. U. L. Rev. (forthcoming 2025).

“Microsoft v. Apple,” in Harry First Liber Amicorum (forthcoming 2025) (invited chapter).

“Three Goals for the Future of the Neo-Brandeisian Movement,” ProMarket (forthcoming 2025) (invited article).

“How Big Tech’s AI Startup Alliances Could Harm Competition,” ProMarket, Aug. 28, 2024 (invited essay) (more than 20,000 views).

“Common Ownership in the Merger Guidelines,” CPI Antitrust Chronicle, May 2024 (invited article) (endorsed and tweeted by Einer Elhauge of Harvard Law School).

“Antitrust and Output,” 53 U. Balt. L. Rev. 426 (2024) (invited article).

Presented at the Symposium in Honor of Prof. Robert H. Lande, University of Baltimore Law Center, Mar. 10, 2023.

“The Antitrust Agencies Should Take a More Muscular Approach to Common Ownership,” The Sling, Nov. 22, 2023 (invited article).

“Predation and Discrimination,” in Research Handbook on Abuse of Dominance and Monopolization (Pinar Akman, ed., 2023) (invited chapter).

“Reforming the Robinson-Patman Act,” CPI Antitrust Chronicle, Jan. 2023 (invited article).

“Tech Giant Exclusion,” 74 Fla. L. Rev. 63 (2022).

Winner of the Jerry S. Cohen Award for the Best Antitrust Article of 2022 on Platforms.

Presented at the Law and Society Conference, Lisbon, July 16, 2022; the University of Cambridge and University of Florida Virtual Antitrust Workshop, Oct. 22, 2020; the Seattle University School of Law Faculty Workshop, Oct. 1, 2020; and the panel on “Antitrust Reform” sponsored by the Antitrust and Economic Regulation Section of the Association of American Law Schools, Wash., D.C., Jan. 5, 2020.

Ranked in SSRN’s Top Ten list of downloaded papers in Antitrust.

“The Paradox of Predatory Pricing,” CPI Antitrust Chronicle (Jan. 2022) (invited article).

“Taming the Tech Giants,” SeattleU Lawyer 24 (Fall 2021) (invited article).

“Buyer Power Today,” in Albert Foer Liber Amicorum (2020) (invited chapter).

Ranked in SSRN’s Top Ten list of downloaded papers in Mergers.

“Antitrust and Two-Sided Platforms: The Failure of *American Express*,” 41 Cardozo L. Rev. 1805 (2020).

Winner of the Jerry S. Cohen Award for the Best Antitrust Article of 2020 on Platforms.

Presented at the Antitrust Scholars Roundtable, UC Irvine Law School, Mar. 8, 2019; and the panel on “Antitrust for Two-Sided Markets” sponsored by the Antitrust and Economic Regulation Section of the Association of American Law Schools, New Orleans, Jan. 5, 2019.

Ranked in SSRN’s Top Ten list of downloaded papers in Monopolies.

“Market Power and American Express,” 26 U. Miami Bus. L. Rev. 17 (2018) (invited article).

“Market Power and Antitrust Enforcement,” 98 B.U. L. Rev. 1169 (2018) (lead article).

Winner of the Jerry S. Cohen Award for the Best Market Power Analyses Article of 2018.

Presented at the 17th Annual Loyola Antitrust Colloquium, Loyola University Chicago School of Law, Apr. 21, 2017.

Ranked in SSRN’s Top Ten list of downloaded papers in Antitrust.

“Online RPM,” in Cambridge University Press Handbook of Antitrust, Intellectual Property and High Tech (2017) (invited chapter).

“Buyer Power and Healthcare Prices,” 91 Wash. L. Rev. 253 (2016).

Presented at Health Care in the 21st Century: The Role of Competition, Seattle University School of Law, Sept. 18, 2015.

Ranked in SSRN’s Top Ten lists of downloaded papers in Mergers, Health Economics, and Health Care Law & Policy.

“Buyer Power,” in American Antitrust Institute, Transition Report on Competition Policy to the 45th President of the United States (with Warren Grimes) (in draft).

Presented at the AAI 16th Annual Conference, Jun. 18, 2015.

“Reforming the Robinson-Patman Act to Serve Consumers and Control Powerful Buyers,” 60 Antitrust Bull. 358 (2015) (invited article).

“Collusion to Control a Powerful Customer: Amazon, E-Books, and Antitrust Policy,” 69 U. Miami L. Rev. 1 (2014) (lead article).

Presented at the 32nd Annual Antitrust and Consumer Protection Seminar, Washington State Bar Association, Nov. 4, 2015; at the Technology, Innovation and Intellectual Property Workshop, University of Connecticut School of Law, Mar. 18, 2015; and at the D.C. Alumni CLE, Seattle University School of Law, Steptoe & Johnson, Oct. 23, 2014.

Ranked in SSRN's Top Ten lists of downloaded papers in Antitrust, Corporate Law, and other subjects. Has now been downloaded over 16,000 times.

"The Essence of Antitrust: Protecting Consumers and Small Suppliers from Anticompetitive Conduct," 81 Fordham L. Rev. 2425 (2013).

Presented at the Goals of Antitrust Symposium, George Washington University School of Law, Oct. 26, 2012.

Ranked in SSRN's Top Ten list of downloaded papers in Antitrust.

"Powerful Buyers and Merger Enforcement," 92 B.U. L. Rev. 1485 (2012).

Winner of the Jerry S. Cohen Award for the best antitrust scholarship published in the United States in 2012 (along with one other article).

Presented as the keynote address at the AAI Private Antitrust Enforcement Conference, Dec. 3, 2013. Also presented at the Conference on Buyer Power in Competition Law, Oxford University, May 15, 2012, and at the 11th Annual Loyola Antitrust Colloquium, Loyola University Chicago School of Law, Apr. 29, 2011.

Ranked in SSRN's Top Ten lists of downloaded papers in Antitrust; Corporate Law; Law & Finance; and many other subjects.

"The Robinson-Patman Act and Consumer Welfare: Has *Volvo* Reconciled Them?" e-Competitions, Sept. 20, 2012 (Special Issue on U.S. Supreme Court) (summarizing 2007 article cited below).

"Darth Vader," 35 Seattle U. L. Rev. vii (2012).

"The Predictive Power of Merger Analysis," 56 Antitrust Bull. 543 (2011).

Presented at the AAI Invitational Symposium on Prediction and Antitrust, June 23, 2010.

Ranked in SSRN's Top Ten list of downloaded papers in Entry & Exit.

"A Prudent Approach to Climate Change," 1 Seattle J. Envtl. L. 137 (2011).

Presented at a debate with John Kunich, Professor of Law at the University of North Carolina and author of Betting the Earth, held at Seattle University and sponsored by the Federalist Society and the Seattle Journal of Environmental Law, Feb. 23, 2011.

Ranked in SSRN's Top Ten list of downloaded papers in Energy Law & Policy.

"Rethinking Antitrust Policy Toward RPM," 55 Antitrust Bull. 423 (2010).

Ranked in SSRN's Top Ten list of downloaded papers in Antitrust.

"The Path to Profitability: Reinvigorating the Neglected Phase of Merger Analysis," 17 George Mason L. Rev. 39 (2009) (with Richard O. Zerbe, Jr.).

Presented at the 7th Annual Loyola Antitrust Colloquium, Loyola University Chicago School of Law, Apr. 13, 2007.

"The Fundamental Goal of Antitrust: Protecting Consumers, not Increasing Efficiency," 84 Notre Dame L. Rev. 191 (2008) (with Robert H. Lande).

Ranked in SSRN's Top Ten list of downloaded papers in Antitrust. This article, the following book chapter, and "The Essence of Antitrust," cited above, all on the goals of antitrust, have together been downloaded more than 15,000 times.

"Chicago's Foundation is Flawed: Antitrust Protects Consumers, Not Efficiency," in How the Chicago School Overshot the Mark: The Effect of Conservative Economic Analysis on U.S. Antitrust (Oxford Univ. Press, Robert Pitofsky ed. 2008) (with Robert H. Lande).

"Controlling Above-Cost Predation: An Alternative to *Weyerhaeuser* and *Brooke Group*," 53 Antitrust Bull. 369 (2008).

Presented at the Department of Justice/Federal Trade Commission Hearings on Predatory Pricing, June 22, 2006, and at the AAI Invitational Symposium on Buyer Power, June 20, 2007.



“The New Kid on the Block: Buyer Power,” in The Next Antitrust Agenda: The American Antitrust Institute’s Transition Report on Competition Policy to the 44th President (Albert A. Foer, ed. 2008) (principal author and editor of this chapter).

Presented at the AAI Tenth Annual Conference, June 2008.

“The Robinson-Patman Act and Consumer Welfare: Has *Volvo* Reconciled Them?” 30 Seattle U. L. Rev. 349 (2007).

Presented at the 2006 Spring Meeting of the ABA Antitrust Section.

“Buyer Power and Exclusionary Conduct: Should *Brooke Group* Set the Standards for Buyer-Induced Price Discrimination and Predatory Bidding?” 72 Antitrust L.J. 625 (2005).

Quoted and cited by the Supreme Court in *Weyerhaeuser Co. v. Ross-Simmons Hardwood Lumber Co., Inc.*, 549 U.S. 312 (2007). Also quoted and cited in *Confederated Tribes of Siletz Indians v. Weyerhaeuser Co.*, 411 F.3d 1030 (9th Cir. 2005).

Finalist for the Jerry S. Cohen Award for the best antitrust scholarship published in 2005.

Presented at the AAI Conference on Buyer Power and Antitrust, June 2004; and at the University of California, Berkeley Conference on Socio-Economics, Jan. 2005.

“Network Industries,” in Market Power Handbook: Competition Law and Economic Foundations (ABA Section of Antitrust Law) (2005) (part of chapter).

“Consumers, Economics, and Antitrust,” in 21 Res. L. & Econ., Antitrust Law and Economics, 1 (John B. Kirkwood ed., 2004).

"Robinson-Patman Enforcement at the FTC: Promoting a Level Playing Field While Protecting Consumers," 7 Trade Reg. Rep. (CCH) ¶ 50,151 (1995) (with K. Shane Woods).

Presented at the 1995 Spring Meeting of the ABA Antitrust Section.

"Resale Price Maintenance and Antitrust Policy," 3 Contemp. Policy Issues 9 (1985) (with William S. Comanor).

"Antitrust Implications of the Recent Experimental Literature on Collusion," in Strategic, Antitrust and Predation Analysis (Steven C. Salop, ed., 1981).

Presented at the Federal Trade Commission conference on Strategic, Antitrust, and Predation Analysis in 1980.

"Monopolization Reform Proposals: Their Potential for Expediting Litigation," 49 Antitrust L.J. 1233 (1981).

Presented at an ABA Antitrust Section conference.

"Comments on Emerging Antitrust Issues Affecting the Conduct of Dominant Firms," 49 Antitrust L.J. 953 (1981).

Presented at an ABA Antitrust Section conference, on a panel with Phillip Areeda.

"Elimination of the Conduct Requirement in Government Monopolization Cases," 37 Wash. & Lee L. Rev. 83 (1980) (with Alfred F. Dougherty & James D. Hurwitz).

Presented to the National Commission for the Review of Antitrust Laws and Procedures. Earlier version published in 48 Antitrust L.J. 869 (1980), 10 Antitrust L. & Econ. Rev. 37 (1978), and Legal Times of Washington, Oct. 23, 1978, at 24.

"Market Power: The Central Concern of the Bureau of Competition," Legal Times of Washington, Oct. 8, 1979, at 23.

"Media Concentration," ABA Antitrust Section Newsletter, Spring 1978.

"The Role of Tax Policy in Federal Support for Higher Education," 39 L. & Contemp. Prob. 117 (1975) (with David Mundel).

Policies for the Near Future, Report of the Harvard Task Force on Massachusetts Higher Education (1974) (principal author).

Tax Incentives for Higher Education, Teaching and Research Materials No. 20T, Public Policy Program, Kennedy School of Government, Harvard University (1974).

Reprinted as a staff report of the Harvard Task Force on Massachusetts Higher Education (1974).

"The Role of Competition: Analytic Model and Useful Tendency," in Antitrust Analysis (Phillip E. Areeda, 2d ed. 1974) (drafted much of this subchapter).

"The Great Depression: A Structural Analysis," 4 J. Money, Credit & Banking 811 (1973).

Abstracted in 3 C.F.A. Digest 25 (1973).

"Cash Deposits - Burdens and Barriers in Access to Utility Services," 7 Harv. Civil Rights-Civil Liberties L. Rev. 630 (1972).

"The Economics of Breach," in Contracts (E. Allan Farnsworth, William F. Young, and Harry W. Jones, 2d ed. 1972) (drafted this note).

### **Publications Supervised**

R. Marks, "Labor and Antitrust: Striking a Balance Without Balancing," 35 Am. Univ. L. Rev. 699 (1986).

R. Marks, "Can Conspiracy Theory Solve the 'Oligopoly Problem'?" 45 Maryland L. Rev. 387 (1986).

J. Hurwitz, "Abuse of Governmental Processes, the First Amendment, and the Boundaries of Noerr," 74 Geo. L.J. 65 (1985).

A. Fisher & R. Lande, "Efficiency Considerations in Merger Enforcement," 71 Cal. L. Rev. 1580 (1983).

D. Clark, "Price-Fixing without Collusion: An Antitrust Analysis of Facilitating Practices After Ethyl Corp.," 1983 Wis. L. Rev. 887.

W. Kovacic, "The Federal Trade Commission and Congressional Oversight of Antitrust Enforcement," 17 Tulsa L. J. 587 (1982).

R. Lande, "Wealth Transfers as the Original and Primary Concern of Antitrust: The Efficiency Interpretation Challenged," 34 Hastings L.J. 65 (1982).

J. Hurwitz & W. Kovacic, "Judicial Analysis of Predation: The Emerging Trends," 35 Vand. L. Rev. 63 (1982).

N. Averitt, "The Meaning of 'Unfair Acts or Practices' in Section 5 of the Federal Trade Commission Act," 70 Geo. L.J. 225 (1981).

A. Dougherty & K. Davidson, "Limitation Without Regulation: The FTC's Bureau of Competition Approach to Conglomerate Mergers," 1980 Utah L. Rev. 95.

N. Averitt, "The Meaning of 'Unfair Methods of Competition' in Section 5 of the Federal Trade Commission Act," 21 B.C. L. Rev. 227 (1980).

M. Pertschuk & K. Davidson, "What's Wrong with Conglomerate Mergers?" 48 Fordham L. Rev. 1 (1979).

N. Averitt, "Structural Remedies in Competition Cases Under the Federal Trade Commission Act," 40 Ohio St. L.J. 781 (1979).

### **Amicus Briefs Authored**

Amicus Curiae Brief of John B. Kirkwood, filed in the Washington State Supreme Court on Nov. 30, 2023, in *Greenberg v. Amazon.com* (cited and quoted by the Court) (Keenan, J., dissenting).

Brief of 27 Professors of Antitrust, Economics, or Business as Amici Curiae in Support of Respondent, filed in the Fifth Circuit on Aug. 2, 2023, in *Illumina, Inc. v. Federal Trade Commission*.

Brief for Amicus Curiae 46 Professors of Law, Economics, Business, and Medicine in Support of Appellant, filed in the Second Circuit on Jun. 17, 2022, in *Regeneron v. Novartis*.

Brief of Amici Curiae Professors of Law, Economics, and Business in Support of Appellant/Cross-Appellee, filed in the Ninth Circuit on Jan. 27, 2022, in *Epic v. Apple*.

Brief of Amicus Curiae Law Professors in Support of Appellant, filed in the Ninth Circuit on Jun. 2, 2021, in *PLS.Com v. National Association of Realtors*.

### **Presentations**

For presentations of my published scholarship, see Publications above.

"The Overturning of *Chevron* Deference – Implications for Compliance and Risk Management," Seattle University School of Law CLE, Sept. 17, 2024.

"Is the FTC Really Going to Dust Off the Robinson-Patman Act?" King County Bar Ass'n, Business Law Section, CLE, Mar. 20, 2024.

"The Rise of Antitrust Leadership by State AGs," panel discussion at the Democratic Attorneys General Ass'n, West Coast Conference, Feb. 15, 2024 (panel members included Colorado AG Phil Weiser, Connecticut AG William Tong, and Pennsylvania AG Michelle Henry).

"*Chevron* and the Major Questions Doctrine," American Constitution Society roundtable, Seattle University School of Law, Nov. 7, 2023.

“Food Regulation and Constitutional Questions,” Federalist Society panel, Seattle University School of Law, 2023.

“Common Ownership,” Symposium on the New Merger Guidelines, University of Utah School of Law, Oct. 27, 2023.

“Controlling Tech Giant Exclusionary Conduct: Legislation, Regulation, or Antitrust Enforcement,” Temple Law Review Symposium, Beagley School of Law, Temple University, Oct. 19, 2023.

“At the Courthouse Steps: The Oral Argument in *Illumina v. Grail*,” national teleforum sponsored by the Federalist Society and the Scalia School of Law at George Mason University, Oct. 17, 2023.

Comments on Steven C. Salop & Jennifer E. Sturiale, “Fixing ‘Litigating the Fix,’” 23rd Annual Loyola Antitrust Colloquium, Loyola University Chicago School of Law, Apr. 14, 2023.

Moderator, “New Threats to Antitrust Enforcement,” panel presented by the Antitrust and Economic Regulation Section of the Association of American Law Schools, Jan. 7, 2023.

“*West Virginia v. EPA* and the Major Questions Doctrine,” panel sponsored by the Environmental Law Society, Seattle University School of Law, Feb. 17, 2022.

“Regulating Emerging Technologies,” panel sponsored by the Federalist Society, Seattle University School of Law, Feb. 15, 2022.

“The Robinson-Patman Act as a Tool for Controlling Buyer Power,” panel discussion on “Robinson-Patman Enforcement: Dead Letter or Dormant Anti-Monopoly Sword,” sponsored by the Antitrust Section of the American Bar Association, Jan. 15, 2022 (virtual).

Moderator, “Antitrust and Big Tech,” panel presented by the Antitrust and Economic Regulation Section of the Association of American Law Schools, Jan. 9, 2022 (virtual).

“The Buyer Power Merger Cases,” 16th Annual Conference of the Global Competition Law Center, College of Europe, Bruges, Belgium, Feb. 5, 2021 (virtual).

“Trump and the Environment,” Social Justice Monday panel, Seattle University School of Law, Oct. 7, 2019.

“Justice Stevens and the ‘Quick Look’,” Constitution Day panel on “The Legacy of Justice John Paul Stevens,” Seattle University School of Law, Sept. 17, 2019.

“Regulating High Tech,” panel discussion sponsored by Crosscut, Seattle, Wa., Mar. 21, 2019.

“Apple v. Pepper,” 10th Annual Supreme Court Watch, Seattle University School of Law, Oct. 19, 2108, and SCOTUS Watch, American Constitution Society, Seattle University School of Law, Oct. 24, 2018

“The American Express Case,” Washington State Bar Association Antitrust Section CLE, May 10, 2018.

Moderator and Speaker, “Antitrust and Politics,” panel discussion sponsored by the Antitrust and Economic Regulation Section of the Association of American Law Schools, Jan. 4, 2018.

“Antitrust and Inequality,” Tenth Annual ClassCrits Conference, Tulane University Law School, New Orleans, La., Nov. 10, 2017.

“Janus v. AFSCME: Agency Fees and the First Amendment,” 9th Annual Supreme Court Watch, Seattle University School of Law, Oct. 20, 2017.

Keynote Address: “The Gig Economy: Making It Work for Everyone,” 2016 Oregon LERA Conference, Portland, Or., Nov. 10, 2016.

Panel: Seattle’s Ordinance Authorizing For-Hire Drivers to Organize, 2016 Oregon LERA Conference, Portland, Or., Nov. 10, 2016.

“*O’Bannon v. NCAA*: Exploiting Athletes or Preserving Amateurism?” 33rd Annual Antitrust and Consumer Protection Seminar, Washington State Bar Association, Nov. 2, 2016.

“*O’Bannon v. NCAA*: Exploiting Athletes or Preserving Amateurism?” 8th Annual Supreme Court Watch, Seattle University School of Law, Oct. 21, 2016.

“Ordinance Authorizing For-Hire Drivers to Organize: Problems with Antitrust Immunity,” Conference on Seattle’s On Demand Economy, BIA Kelsey, Seattle, WA, Feb. 18, 2016.

Comments on “Five Reasons Why Patent Disclosure in SSOs Doesn’t Work and What to Do About It,” Pacific Intellectual Property Scholars Conference, University of Washington School of Law and Seattle University School of Law, Feb. 6, 2015.

Moderator, Panel on Antitrust and Healthcare, 31st Annual Antitrust, Consumer Protection and Unfair Business Practices Seminar, Washington State Bar Association, Nov. 13, 2014.

“*North Carolina State Board of Dental Examiners v. FTC*,” 6th Annual Supreme Court Watch, Seattle University School of Law, Oct. 10, 2014.

Comments on “Law and the Art of Modeling: Are Models Facts?” 14th Annual Loyola Antitrust Colloquium, Loyola University Chicago School of Law, Apr. 25, 2014.

Testimony before the House Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law, concerning “The Standard Merger and Acquisition Reviews Through Equal Rules Act (“SMARTER Act”) of 2014,” Washington, D.C., Apr. 3, 2014.

“Old Agency in New Bottle? Contemplating the 100th Birthday of the Federal Trade Commission,” panel discussion sponsored by the Antitrust and Economic Regulation Section of the Association of American Law Schools, Jan. 3, 2014.

“Merger Retrospective Program Design,” Symposium on Retrospective Analysis of Agency Determinations in Merger Transactions sponsored by the ABA Antitrust Section, OECD, and George Washington University School of Law, Jun. 28, 2013.

“IP and the New Regulatory Regime for Telecommunications,” 18th Annual Comprehensive Conference on Telecommunications Law, Apr. 5, 2013.

“Is Market Definition on the Way Out?” 29th Annual Antitrust, Consumer Protection and Unfair Business Practices Seminar, Washington State Bar Association, Nov. 8, 2012.

“Constitutional and Administrative Issues in Appeals from Civil Penalties Imposed for Nonpayment of Highway Tolls,” Washington State Office of Administrative Hearings, Mar. 30, 2012.

“Bundled Pricing: When is it Anticompetitive? When is it Illegal?” 28th Annual Antitrust, Consumer Protection and Unfair Business Practices Seminar, Washington State Bar Association, Nov. 3, 2011.

“Antitrust Law and Sports,” 2011 Sports Law CLE, sponsored by Foster Pepper PLLC to benefit the Leukemia & Lymphoma Society, Jun. 3, 2011.

“Antitrust Issues in *Brady v. NFL*,” a panel discussion sponsored by the Entertainment & Sports Law Association, Seattle University School of Law, Apr. 20, 2011.

“New Horizontal Merger Guidelines,” 27th Annual Antitrust and Consumer Protection Seminar, Washington State Bar Association, Nov. 3, 2010.

“Enhancing Access and Controlling Costs: What Have We Achieved?,” part of “Navigating the Waters of Healthcare Reform: What Every Lawyer Needs to Know,” 2010 Distinguished Speaker Series, Seattle University School of Law, Apr. 23, 2010.

“*American Needle v. NFL*,” Supreme Court Watch, Seattle University School of Law, Oct. 2, 2009.

“Antitrust and Sports: When Does Collusion Benefit Sports Fans?” 2009 Sports Law CLE, sponsored by Foster Pepper PLLC to benefit the Leukemia & Lymphoma Society, Apr. 30, 2009.

“The Macroeconomic Response to the Financial Crisis,” 2009 Distinguished Speaker Series, Seattle University School of Law, Apr. 25, 2009.

“The Future of Private Antitrust Actions,” 25th Annual Antitrust and Consumer Protection Seminar, Washington State Bar Association, Nov. 6, 2008.

Commenter, Panel on “Buyer Power,” AAI Conference on the Future of Monopoly and Monopolization, June 21, 2007.

Participant, Conference on Conservative Economic Influence on U.S. Antitrust Policy, Georgetown University Law Center, Apr. 16-17, 2007.

Moderator and participant, Panel on “The U.S. Supreme Court: An Update and Predictions,” 23rd Annual Antitrust and Consumer Protection Seminar, Washington State Bar Association, Nov. 17, 2006.

“Should the Robinson-Patman Act be Repealed or Modified?” Conference on the Antitrust Modernization Commission sponsored by the ABA Antitrust Section, Georgetown University Law Center, Jun. 8, 2006.

Moderator, Panel on “Patent Settlements: How Should Courts Evaluate Settlements in Which the Patent Holder Pays the Challenger to Exit?” Conference on Antitrust and Intellectual Property Law sponsored by the Seattle University Law Review and the Northwest Regional Office of the Federal Trade Commission, Apr. 7, 2006.

“Refining the Rules for Dominant Firms: Implications of *Dentsply*, *LePage’s* and *Weyerhaeuser*,” 22nd Annual Antitrust and Consumer Protection Seminar, Washington State Bar Association, Dec. 2, 2005.

Moderator, Panel on Prescription Drug Access, Conference on Corporate Ethics and Health Care, Seattle University Law School, Feb. 28, 2004.



“Internet Mergers: Same Old Analysis or Something New?” Conference and Teleconference sponsored by the ABA Antitrust Section and the Washington State Bar Association, Dec. 5, 2002.

“Antitrust: Issues and Answers,” Quarterly Educational Meeting of the Northwest Medical Directors & Pharmacy Benefit Managers, Sept. 20, 2002.

“Antitrust and Innovation,” Intellectual Property and Innovation Seminar sponsored by the Shidler Center for Law, Commerce and Technology and the Center for Advanced Study and Research on Intellectual Property, University of Washington Law School, Mar. 14, 2002.

“Trends in FTC Antitrust Enforcement,” Conference on the Internet sponsored by the Shidler Center for Law, Commerce and Technology, University of Washington Law School, and the Washington Software Alliance, Apr. 21, 2001.

“Disgorgement in Competition Cases,” Conference on Premerger Notification and Remedies sponsored by the Washington Attorney General’s Office and the Washington State Bar Association, Sept. 22, 2000.

“Preparing Economic Experts,” Common Ground Conference, Western States/Federal Trade Commission/Department of Justice, May 21, 1999.

“Econometric Evidence in Hospital Merger Cases,” Conference on Antitrust in the Healthcare Field, National Health Lawyers Association, Feb. 19-20, 1998.

"The Search for Solutions," panel discussion on relationships with competitors, 13th Annual Antitrust, Consumer Protection & Unfair Business Practices Conference, Washington State Bar Association, Nov. 8, 1996.

"What Every Association Industry Member Should Know About the Antitrust Laws," Washington Aggregates and Concrete Association, Nov. 30, 1989.

"Antitrust During the Reagan Years," panel discussion, Tenth Annual Research Conference of the Association for Public Policy Analysis and Management, Oct. 29, 1988.

"The Per Se Rule Against Resale Price Maintenance: A Time for Change?" Sherman Act Committee, ABA Antitrust Section, Aug. 11, 1981.

"FTC Antitrust Enforcement in the 1970's: A Response to the Clarkson-Muris Critique," University of Miami Conference on the FTC, Apr. 25, 1981.

"Structural Monopoly Actions and Section 5 of the Federal Trade Commission Act," seminars at the FTC, George Washington University Law School, and an AALS conference, 1979-80.

"No Conduct Monopoly and Aggressive Competition," Federal Bar Association Conference on Antitrust and Trade Regulation Law, Oct. 12, 1979.

"Trademarks and Competition," Association of the Bar of the City of New York, June 6, 1979.

"Dominant Firms," Allegheny County Bar Association, May 25, 1978.

Presentations on antitrust topics to faculty or students at the University of Washington Law School, the University of Utah Law School, the George Washington University Economics Department, the Rice University Business School, the University of North Carolina Business School, the Albers School of Business at Seattle University, South Seattle Community College, and Franklin High School.

## **Family**

Married to Heather Kirkwood (Harvard Law School 1973).  
Three children.

March 4, 2025