

# William H.J. Hubbard

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## Employment

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### **The University of Chicago Law School**

*Professor of Law*

July 2016–present

*Assistant Professor of Law and Ronald H. Coase Teaching Scholar*

July 2015–June 2016

*Assistant Professor of Law*

July 2011–June 2015

### **Harvard Law School**

September–December 2015

*Visiting Assistant Professor of Law*

### **The University of Chicago Law School**

July 2010–June 2011

*Kauffman Legal Research Fellow*

### **Mayer Brown LLP, Chicago, IL**

Sept. 2001–July 2006

*Associate*

### **Mayer Brown LLP, Chicago, IL**

July 2006–Dec. 2007

*Independent Contractor*

### **Mayer Brown LLP, Chicago, IL**

June 1998–Sept. 1998, Sept. 1999

*Summer Associate*

### **Miller Shakman LLP, Chicago, IL**

June 1999–August 1999

*Summer Associate*

### **U.S. Court of Appeals for the Fifth Circuit, Dallas, TX**

2000 Term

*Law Clerk to the Honorable Patrick E. Higginbotham*

### **Federal Reserve Bank of Cleveland**

Cleveland, OH

*Intern, Research Department*

June–August 1995

## Education

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**The University of Chicago**, Ph.D. in Economics, August 2011

**The University of Chicago Law School**, J.D., *High Honors*, June 2000

**University of Southern California**, B.A./M.A. Economics, *summa cum laude*, May 1997

Academic Publications

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"Procedural Flexibility in Three Dimensions." With Ronen Avraham. Forthcoming 2020. *University of Chicago Law Review* vol. 87.

"A replication study worth replicating: A comment on Salmanowitz and Spamann." 2019. 58 *Int'l Rev. L. & Econ.* 1 (<https://doi.org/10.1016/j.irle.2018.12.002>).

"The Supreme Court of India: An Empirical Overview of the Institution." 2019. With Aparna Chandra and Sital Kalantry. In *A Qualified Hope: The Indian Supreme Court and Progressive Social Change*, Gerald N. Rosenberg and Sudhir Krishnaswamy, eds. (Cambridge: Cambridge University Press)

"Speedy Adjudication in Hard Cases and Low Settlement Rates in Easy Cases: An Empirical Analysis of Taiwan Courts with Comparison to U.S. Federal Courts." 2019. With Yun-chien Chang. In *Selection and Decision in Judicial Process Around the World: Empirical Inquires*, Yun-chien Chang, ed. (Cambridge: Cambridge University Press)

"What's in a Name? A Taxonomy of Replication." 2019. With David A. Hyman. 60 *Int'l Rev. L. & Econ.* (2019) (<https://doi.org/10.1016/j.irle.2019.105851>)

"From Executive Appointment to the Collegium System: The Impact on Diversity in the Indian Supreme Court." 2018. With Aparna Chandra with Sital Kalantry. 51(3) *VRÜ [Verfassung und Recht in Übersee]* 273 (<https://doi.org/10.5771/0506-7286-2018-3-273>).

"The Supreme Court of India: A People's Court?" 2017. With Aparna Chandra and Sital Kalantry. 1 *Indian Law Review* 145.

"Quantum Economics, Newtonian Economics, and Law." 2017. 2017 *Mich. St. L. Rev.* 425.

"The Effects of *Twombly* and *Iqbal*." 2017. 14 *JELS* 474-526. (Lead article)

"Sinking Costs to Force or Deter Settlement." 2016. 32 *JLEO* 545.

"A Fresh Look at Plausibility Pleading." 2016. 83 *University of Chicago Law Review* 693.

"Yong-Shik Lee: 'Call for a New Analytical Model for Law and Development': A Comment." 2016. 8 *Law and Development Review* 271.

"The Discovery Sombraero and Other Metaphors for Litigation." 2015. 64 *Catholic University Law Review* 867.

"Judicial Noncompliance with Mandatory Procedural Rules under the Private Securities Litigation Reform Act." 2015. With M. Todd Henderson. *Journal of Legal Studies* 44:S87-

S105.

"An Empirical Study of the Effect of *Shady Grove v. Allstate* on Forum-Shopping in the New York Courts." 2013. *Journal of Law, Economics, and Policy* 10:151-172.

"Optimal Class Size, Dukes, and the Funny Thing about *Shady Grove*." 2013. *DePaul Law Review* 62:693-709.

"Testing for Change in Procedural Standards, with Application to *Bell Atlantic v. Twombly*." 2013. *Journal of Legal Studies* 42(1):35-68.

"Another Look at the Eurobarometer Surveys." 2013. *Common Market Law Review* 50:187-206.

"The Market for College Graduates and the Worldwide Boom in Higher Education of Women." 2010. With Gary S. Becker and Kevin M. Murphy. *American Economic Review: Papers and Proceedings* 100(2):229-233.

"The Phantom Gender Difference in the College Wage Premium." 2011. *Journal of Human Resources* 46(3):568-586.

"Explaining the Worldwide Boom in Higher Education of Women." With Gary S. Becker and Kevin M. Murphy. 2010. *Journal of Human Capital* 4(3):203-241.

"Civil Settlements During Rape Prosecutions." 1999. 66 *University of Chicago Law Review* 1231. (Student Comment.)

## Other Publications and Miscellaneous Contributions

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"Brief of Civil Procedure Scholars as *Amici Curiae* in Support of Petitioner." With Stephen B. Burbank; Geoffrey C. Hazard, Jr.; Thomas D. Rowe, Jr.; Michael E. Solimine; Jay Tidmarsh; and Tobias Barrington Wolff. *Microsoft Corp. v. Baker*, No. 15-457 (U.S., filed March 18, 2016).

"Preservation Costs Survey Final Report." Submitted February 19, 2014 as a public comment to Preliminary Draft of Proposed Amendments to the Federal Rules of Civil Procedure, regulations.gov ID number ID: USC-RULES-CV-2013-0002-2201.

"Letter to the Hon. David G. Campbell regarding preservation costs." Submitted November 3, 2011 to the Advisory Committee on the Civil Rules.

"Preservation under the Federal Rules: Accounting for the Fog, the Pyramid, and the Sombrero." Version dated November 3, 2011 submitted to the Advisory Committee on

the Civil Rules.

“Preliminary Report on the Preservation Costs Survey of Major Companies.” Submitted to the Discovery Subcommittee of the Advisory Committee on the Civil Rules, September 8, 2011. Commissioned work prepared for the Civil Justice Reform Group.

*The Sedona Principles: Best Practices, Recommendations & Principles for Addressing Electronic Document Production.* Contributing writer. 2004. Sedona Conference Working Group Series. (Legal Monograph.)

“Just a Peek: Sampling of Backup Tapes.” With Ashish S. Prasad. June 2004. *For The Defense*. Defense Research Institute. (Legal Magazine.)

### Unpublished Working Papers

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“Does the Priest and Klein Model Travel? Testing Litigation Selection Hypotheses with Foreign Court Data.” With Yun-chien Chang. First version June 2017.

“Stalling, Conflict, and Settlement.” (Portions originally circulated as part of “Stalling and Stonewalling in Litigation,” first version May 2015.)

“Costly Signaling, Pleading, and Settlement.” First version July 2016.

“The Fourfold Credibility Problem in Law and War.” First version May 2015.

### Presented

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“The Supreme Court of India: Controversy and Reform.” American Bar Foundation Speaker Series, Northwestern University Law School (Mar. 11, 2020).

“Toward a New Theory of Civil Procedure.” Law and Economics Colloquium, Northwestern University Law School (Feb. 6, 2020).

“The Supreme Court of India: An Empirical Overview.” Workshop on Access to Data from Indian Courts, Finance Research Group, Indira Gandhi Institute for Development Research (August 25, 2018).

“New Directions in the Empirical Study of Courts.” Lecture. China University of Political Science and Law (June 2, 2018).

“Procedural Flexibility in Three Dimensions.” New Directions in Litigation Panel, ALEA Annual Meeting (May 12, 2018).

“Does the Priest and Klein Model Travel? Testing Litigation Selection Hypotheses with Foreign Court Data.” Workshop and Lecture Series in Law & Economics, ETH Zürich (March 14, 2018).

“Procedural Flexibility in Three Dimensions.” Notre Dame Law School Faculty Colloquium (February 1, 2018).

“War is *Not* in the Error Term: Costly Litigation and Conflict under Complete Information.” Workshop and Lecture Series in Law & Economics, ETH Zürich (March 13, 2018).

“The Supreme Court of India: An Empirical Overview.” With Aparna Chandra and Sital Kalantry. Empirical Inquiries into the Indian Judicial System (mini-conference), UChicago Center in Delhi (December 9, 2017).

“Testing Litigation Selection Hypotheses with Taiwanese Court Data.” With Yun-chien Chang. 12th Conference on Empirical Legal Studies, Cornell Law School (October 13, 2017).

“Testing Litigation Selection Hypotheses with Taiwanese Court Data.” Law and Economics Workshop, Georgetown University Law Center (October 6, 2017).

“Testing Litigation Selection Hypotheses with Taiwanese Court Data.” Law and Economics Colloquium, Antonin Scalia Law School, George Mason University (October 5, 2017).

“Testing Litigation Selection Hypotheses with Taiwanese Court Data.” Work-in-Progress Lunch, University of Chicago Law School (August 10, 2017).

“The Empirical Study of Laws, Judges, and Lawyers.” College Pathway Program in Economics, University of Chicago (July 11, 2017).

“Studying the Impact of Laws, Judges, and Lawyers.” Research Experience for Undergraduates, Becker Friedman Institute for Research in Economics, University of Chicago (June 26, 2017).

“The Supreme Court of India: An Empirical Overview.” First Conference on Empirical Legal Studies – Asia, Academia Sinica, Taiwan (June 15, 2017).

“Testing Litigation Selection Hypotheses with Taiwanese Court Data.” With Yun-chien Chang. Symposium: Do Courts Rule Efficiently? Empirical Inquiries, 4th Empirical Studies of Judicial Systems Int’l Conference, Academia Sinica, Taiwan (June 13, 2017).

"Quantum Economics, Newtonian Economics, and Law." University of Texas School of Law, Law and Economics Seminar (March 6, 2017).

"The Unintended Consequences of Case-by-Case Rescue: An Empirical Study of Indian Supreme Court Cases from 2010 to 2014." Columbia Law School Colloquium on Courts and Legal Process, and Legal Theory Seminar (February 27, 2017).

"A Different Kind of Supreme Court? Empirical Study of the Supreme Court of India." Chicago's Best Ideas, University of Chicago Law School (January 17, 2017).

"The Fourfold Credibility Problem in Law and War." Faculty Workshop, Cornell Law School (August 24, 2016).

"Costly Signaling, Pleading, and Settlement." 2016 Workshop on Law and Economics at the Stony Brook Center for Game Theory (July 14, 2016).

"Access to Justice, Error Correction, and Unintended Consequences: An Empirical Study of the Modern Indian Supreme Court." Work-in-Progress Lunch, University of Chicago Law School (June 2, 2016).

"The Empirical Effects of *Twombly* and *Iqbal*." Faculty Workshop, University of Virginia Law School (March 4, 2016).

"Roundtable on Empirical Study of the Supreme Court of India: A Consultation with Experts." With Aparna Chandra and Sital Kalantry. University of Chicago Center in Delhi (January 16, 2016).

"Examining the Empirical Effects of *Twombly* and *Iqbal*." Courts and Litigation Panel I, Conference on Empirical Legal Studies, Washington University Law School (October 30, 2015).

"The Empirical Effects of *Twombly* and *Iqbal*." Faculty Workshop, Harvard Law School (October 29, 2015).

"The Discovery Sombbrero and Other Metaphors for Litigation." Law and Economics Seminar, Harvard Law School (September 29, 2015).

"The Supreme Court of India: An Institutional Overview." Conference: The Supreme Court of India and Progressive Social Change, Columbia University Law School (September 25, 2015).

"Examining the Empirical Effects of *Twombly* and *Iqbal*." Journal of Empirical Legal Studies Junior Workshop, Cornell University Law School (September 12, 2015).

"The Fourfold Credibility Problem in Law and War." Work-In-Progress workshop, University of Chicago Law School (June 11, 2015).

"The Fourfold Credibility Problem in Law and War." Law and Economics Workshop, Hebrew University Faculty of Law (May 27, 2015).

"Newtonian Law and Economics, Quantum Law and Economics, and the Search for a Theory of Relativity." 2015 Coase Lecture, University of Chicago Law School (April 14, 2015) (available online at [https://chicagounbound.uchicago.edu/coase\\_lectures/3](https://chicagounbound.uchicago.edu/coase_lectures/3)).

"Measuring the Empirical Effects of *Twombly* and *Iqbal*." Law and Economics Workshop, University of Michigan Law School (April 2, 2015).

"Measuring the Empirical Effects of *Twombly* and *Iqbal*." Law and Economics Workshop, Boston University Law School (March 24, 2015).

"A General Model of Nuisance Suits." Law & Economics Workshop, University of Toronto Faculty of Law (February 24, 2015).

"Theory and Data on Plausibility Pleading." Chicago Junior Faculty Workshop, Chicago-Kent College of Law (January 30, 2015).

"Nuisance Litigation." Law & Economics Workshop, Tel Aviv University Faculty of Law (May 19, 2014).

"Nuisance Litigation." Law & Economics Workshop, Berkeley Law School (April 14, 2014).

"Two Models of Pleading." Law & Economics Workshop, Columbia University Law School (November 4, 2013).

"The Discovery Sombrero." Work-in-Progress Workshop, University of Chicago Law School (October 10, 2013).

"Pushing on a String? An Empirical Test of Congressional Control over Judicial Behavior." With M. Todd Henderson. Conference: A Rational Choice Approach to Judging. University of Chicago Law School (October 4, 2013).

"Federal Rules Committees and E-Discovery." Panelist at Ninth Annual Meeting, American College of Business Court Judges. George Mason University School of Law (September 16, 2013).

"The Paradoxes, Real and Imagined, of *Twombly* and *Iqbal*." Law, Behavior, and Social Science Colloquium. University of Illinois Law School (April 22, 2013).

"Two Models of Pleading." Northwestern University Law and Economics Colloquium (November 29, 2012).

"Another Look at the Eurobarometer Contract Law Survey Data." European Contract Law: A Law-and-Economics Perspective. University of Chicago Law School and the Institute for Law and Economics (April 27, 2012).

"Too Big Not to Fail?" The 22nd Annual DePaul Law Review Symposium: *Class Action Rollback? Wal-Mart v. Dukes and the Future of Class Action Litigation*. DePaul University College of Law (February 24, 2012).

"The Problem of Measuring Legal Change, with Application to *Bell Atlantic v. Twombly*." Law and Economics Seminar, Harvard Law School (January 31, 2012).

"Testimony for the Hearing on the Costs and Burdens of Civil Discovery." United States House of Representatives, Committee on the Judiciary, Subcommittee on the Constitution (December 13, 2011).

"The Problem of Measuring Legal Change, with Application to *Bell Atlantic v. Twombly*." Civil Procedure: Motions to Dismiss Panel, Conference on Empirical Legal Studies, Northwestern School of Law (November 4, 2011).

"The Problem of Measuring Legal Change, with Application to *Bell Atlantic v. Twombly*." Center on Law, Economics, and Organization Workshop, USC Gould School of Law (October 17, 2011).

"*Twombly* and the Problem of Measuring Legal Change." Work-in-Progress Workshop, University of Chicago Law School (March 10, 2011).

"The Market for College Graduates and the Worldwide Boom in Higher Education of Women." New Directions in the Economic Analysis of Human Capital, AEA Annual Meetings, Atlanta, Georgia (January 4, 2010).

"Explaining the Worldwide Boom in Higher Education of Women." New Directions in the Economic Analysis of Education, Conference presented by the Milton Friedman Institute for Research in Economics and the Center for Human Capital at SUNY Buffalo, University of Chicago (November 21, 2009).

"The Phantom Gender Difference in the College Wage Premium." Workshop in Applications of Economics, University of Chicago (March 16, 2009).

"Regulatory Retention Requirements: The Crucial Role of Effective Records Retention Plans." Information Systems Security Association, New Jersey chapter (April 20, 2005).



## Media

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Santosh Paul, "'Judges Seeking Future Govt Appointments May Result In Indirect Political Influence': In Conversation With Prof William Hubbard," Live Law (Sept. 16, 2018) (link: <https://www.livelaw.in/judges-seeking-future-govt-appointments-may-result-in-indirect-political-influencein-conversation-with-prof-william-hubbard/>.) Interviewed.

Santosh Paul, "Interview with Professor William Hubbard," 3 *SCBA Times* 6 (March 2018). Interviewed for Supreme Court Bar Association (India) newsletter.

Jay Tidmarsh, "And the Deposition Goes to the Gentleman in the Blue Pinstripe Suit," *JOTWELL* (March 12, 2018) (reviewing Ronen Avraham, William Hubbard & Itay E. Lipschits, "Procedural Flexibility in Three Dimensions" (2018), available at SSRN) (link: <https://courtslaw.jotwell.com/and-the-deposition-goes-to-the-gentleman-in-the-blue-pinstripe-suit/>.) Reviewed.

Ed Silverstein, "Settling Ashley Madison Data Breach Lawsuit Was Likely 'Inevitable'," Law.com, (July 18, 2017) (link: <http://www.law.com/sites/almstaff/2017/07/18/settling-ashley-madison-data-breach-lawsuit-was-likely-inevitable>.) Quoted.

Elizabeth G. Thornburg, "A Well-Pleaded Argument," *JOTWELL* (April 24, 2017) (reviewing Lonny Hoffman, "Plausible Theory, Implausible Conclusions," 83 *U. Chicago L. Rev. Online* 143 (2016), reviewing William H.J. Hubbard, "A Fresh Look at Plausibility Pleading," 83 *University of Chicago Law Review* 693 (2016)) (link: <https://courtslaw.jotwell.com/a-well-pleaded-argument/>.) Reviewed.

The Economist, "The Criminalisation of American Business." (Cover Story, print edition, August 30, 2014). Cited.

E-Discovery Beat (Exterro blog), "Surprising Revelations About E-Discovery Preservation Costs." (July 14, 2014) (link: <http://www.exterro.com/e-discovery-beat/2014/07/14/trends-e-discovery-preservation/>.) Interview.

Nelson Mullins Encompass blog, "Pioneering Preservation Cost Survey Results." (March 18, 2014) (link: <http://www.encompassdiscovery.com/insight/blogs/pioneering-preservation-cost-survey-results>.) Quoted, worked covered and linked to.

Mark Fainaru-Wada and Steve Fainaru, "Lawyers fight over settlement details,"

ESPN.com (January 24, 2014) (link: [http://espn.go.com/espn/otl/story/\\_/id/10346091/lead-negotiator-facing-strong-opposition-concussion-settlement](http://espn.go.com/espn/otl/story/_/id/10346091/lead-negotiator-facing-strong-opposition-concussion-settlement).) Quoted.

Mark Fainaru-Wada and Steve Fainaru, "Concerns over lawyer pay in NFL deal," ESPN.com (Dec. 16, 2013) (link: [http://espn.go.com/espn/otl/story/\\_/id/10146287/nfl-settlement-awaits-preliminary-approval-concern-arises-attorneys-double-billing-plaintiffs](http://espn.go.com/espn/otl/story/_/id/10146287/nfl-settlement-awaits-preliminary-approval-concern-arises-attorneys-double-billing-plaintiffs)). Quoted.

Joe Palazzolo, "Firms Push for Protection over Preserving Documents," Wall Street Journal (Nov. 25, 2013). Quoted.

Lonny Hoffman, "A Modest Proposal on Preservation," JOTWELL (February 27, 2012) (reviewing William Hubbard, "Preservation Under the Federal Rules: Accounting for the Fog, the Pyramid, and the Sombrero") (link: <https://courtslaw.jotwell.com/a-modest-proposal-on-preservation/>.) Reviewed.

## Professional Activities

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Editor, *Journal of Legal Studies* (July 2013–present)

Editorial Board, *Law and Development Review* (July 2018–present)

Board Member, Society for Empirical Legal Studies (2016–present)

Board Member, American Law and Economics Association (2017–present)

Area Organizer, ALEA Conference 2015

Area Organizer, ALEA Conference 2017

Area Organizer, ALEA Conference 2018

Area Organizer, ALEA Conference 2020

Area Organizer, CELS Asia Conference 2017

Reviewer, CELS 2017

Programming Committee, CELS 2019

Referee for *Journal of Law and Economics*

Referee for *Journal of Legal Studies*

Referee for *Journal of Political Economy*

Referee for *Journal of Law, Economics, and Organization*

Referee for *American Law and Economics Review*

Referee for *International Journal of the Economics of Business*

Referee for *Industrial Relations*

Referee for Harvard University Press

Referee for *International Review of Law and Economics*

Referee for *Stanford Journal of Complex Litigation*  
Referee for *Journal of Legal Analysis*  
Referee for *Supreme Court Economic Review*  
Referee for *Journal of Institutional Economics*  
Reviewer for *Annual Review of Law and Social Science*  
Reviewer for *Harvard Law Review*  
Reviewer for *Law and Social Inquiry*  
Reviewer for Israel Science Foundation

Search committee for D'Angelo Law Library Director, 2012–2013  
Diversity Committee co-chair (with Emily Buss), 2016–2019

### Professional Affiliations

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American Law and Economics Association, 2014–present  
CREDO (Catholic Research Economics Discussion Organization), 2013–present  
Society for Empirical Legal Studies, 2012–present  
American Economic Association, 2009–present  
Illinois Bar, 2002–present  
American Bar Association, 2002–present

### Bar Admissions

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Illinois (2002)  
U.S. District Court for the Northern District of Illinois (2002)  
U.S. Court of Appeals for the Fifth Circuit (2002)  
U.S. Court of Appeals for the Seventh Circuit (2002)

### Teaching

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#### Committees:

JSD: Rishad Chowdury (2016), Adi Leibovitch (2017), Weijia Rao (2019)  
JSD Candidate: Ramon Feldbrin (2016–), Ziv Schwartz (2017–), Krithika Ashok (2018–)  
PhD (Economics): Elizabeth Chorvat (2013), Maria Maciá (2019)

University of Lucerne:

Class Actions in the United States Courts.

National Law University, Delhi:

Empirical Methods in Legal Research.

Harvard Law School:

Civil Procedure.

Reading Group: The Supreme Court, the Lower Courts, and Society.

University of Chicago Law School:

Civil Procedure I.

Civil Procedure II.

Advanced Civil Procedure.

Workshop on Law and Economics.

Critical Legal Studies versus Law & Economics (seminar).

Advanced Law & Economics: Theory and Practice (seminar).

Greenberg Seminar: Law and Disaster (with Omri Ben-Shahar).

Canonical Ideas in American Legal Thought (with Nicholas Stephanopoulos).

Pre-Orientation Program: Introduction to Critical Race Theory.

Guest Lecture: Pathways in Law (David Lyons, instructor).

University of Chicago Department of Economics:

Elements of Economics (lecturer).

Elements of Economics (teaching assistant to Victor Lima).

Price Theory I (teaching assistant to Gary Becker and Kevin Murphy).

Price Theory II (teaching Assistant to Gary Becker, Kevin Murphy, and Roger Myerson).

Price Theory III (teaching assistant to Hugo Sonnenschein and Phil Reny).

## Honors and Awards

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Institute for Humane Studies, Humane Studies Fellowship, 2010-2011; Knight Fellowship, 2009-2010; Honors, Labor and Human Capital Field Exam, 2008; Rosen Fellowship, 2007-2009; Lee Prize, Price Theory, 2007; The Tony Patiño Fellowship, 2000; Order of the Coif, 2000; Floyd Russell Mechem Scholarship; Bradley Foundation Fellowship; USC Trustees' Award (first in class of 2500); Phi Beta Kappa; Phi Kappa Phi; Golden Key honors society; Omicron Delta Epsilon economics honor society; Robert C. Byrd Honors Scholarship; National Merit Scholarship; USC Trustee Scholarship.

## Grants, Research, and Consulting

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University of Chicago Center in Delhi, "Empirical Analysis of Indian Supreme Court Decisions," 2015–2016, 2017–2018

Civil Justice Reform Group, "Preservation Costs Survey," 2011–2015

Discovery Services LLC, Research on electronic discovery, preservation, and government investigations, 2010–2011