

Robert E. Scott Publications

Books and Book Chapters

[THE 3 ½ MINUTE TRANSACTION: BOILERPLATE AND THE LIMITS OF CONTRACT DESIGN](#), University of Chicago Press, 2013
(with Mitu Gulati)

CONTRACT LAW AND THEORY, LexisNexis, 5th ed. 2013
(with Jody S. Kraus)

FOUNDATIONS OF COMMERCIAL LAW, Foundation Press 2010
(with George G. Triantis)

Text versus Context: The Failure of the Unitary Law of Contract, in *THE AMERICAN ILLNESS: ESSAYS ON THE RULE OF LAW*, Yale University Press, F.H. Buckley, ed. 2013

The Promise and Peril of Relational Contract Theory, in *REVISITING THE CONTRACTS SCHOLARSHIP OF STEWART MACAULAY*, Hart Publishing, J. Braucher & W.C. Whitford, eds., 2013

PAYMENT SYSTEMS AND CREDIT INSTRUMENTS, Foundation Press, 2nd ed. 2007
(with Clayton P. Gillette and Alan Schwartz)

THE LIMITS OF LEVIATHAN -- CONTRACT THEORY AND THE ENFORCEMENT OF INTERNATIONAL LAW, Cambridge Univ. Press, 2006
(with Paul B. Stephan)

The Law and Economics of Incomplete Contracts, in *SECOND ANNUAL REVIEW OF LAW AND SOCIAL SCIENCE*, J. Hagan, ed. (2006).

Rethinking the Uniformity Norm in Commercial Law, in *THE JURISPRUDENTIAL FOUNDATIONS OF CORPORATE AND COMMERCIAL LAW*, Cambridge University Press, J.S. Kraus & S.D. Walt, eds. (2000)

A Contract Theory of Marriage, in *THE FALL AND RISE OF FREEDOM OF CONTRACT*, Duke University Press, F.W. Buckley, ed. (1999)
(with Elizabeth S. Scott).

CONTRACT LAW AND THEORY, The Michie Co., 2d ed. 1993
(with Douglas L. Leslie)

COMMERCIAL TRANSACTIONS: PRINCIPLES AND POLICIES, Foundation Press, 2d ed. 1991
(with Alan Schwartz)

SALES LAW AND THE CONTRACTING PROCESS, Foundation Press, 2d. ed. 1991
(with Alan Schwartz)

Articles

[*Contract Design and the Shading Problem*](#), 99 Marquette L. Rev. 1 (2015)
(Boden Memorial Lecture)

[*Third Party Beneficiaries and Contractual Networks*](#), 7 J. Legal Analysis 325 (2015)
(with Alan Schwartz)

[*Ex Ante Choice of Jury Waiver Clauses in Mergers*](#), 17 Am. L. & Econ. Rev. 566 (2015)
(with Darius Palia)

[*From Contract to Status: Collaboration and the Evolution of Novel Family Forms*](#), 115 Colum. L. Rev. 293 (2015)
(with Elizabeth S. Scott)

[*Text and Context: Contract Interpretation as Contract Design*](#), 100 Cornell L. Rev. 23 (2014)
(with Ronald J. Gilson & Charles F. Sabel)

[*Contract and Innovation: The Limited Role of Generalist Courts in the Evolution of Novel Contractual Forms*](#), 88 NYU L. Rev. 170 (2013)
(with Ronald J. Gilson & Charles F. Sabel)

[*Origin Myths, Contracts, and the Hunt for Pari Passu*](#), 38 L. & Soc. Inquiry 72 (2013)
(with Mark Weidenmaier & Mitu Gulati)

[*Braiding: The Interaction of Formal and Informal Contracting in Theory, Practice and Doctrine*](#) 110 Colum. L. Rev. 1377 (2011)
(With Ronald J. Gilson & Charles F. Sabel)

[*Rethinking the Good Faith Purchase*](#), 111 Colum. L. Rev. 1332 (2011)
(with Alan Schwartz)

[*Contract Interpretation Redux*](#), 119 Yale L. J. 926 (2010)
(with Alan Schwartz)

[Hoffman v. Red Owl Stores and the Limits of the Legal Method](#), 61 Hastings L. J. 859 (2010)

[Contract Design and the Structure of Contractual Intent](#), 84 N.Y.U. L. Rev. 1023 (2009)
(with Jody S. Kraus)

[In \(Partial\) Defense of Strict Liability in Contract](#), 107 Mich. L. Rev. 1381 (2009)

[Contracting for Innovation: Vertical Disintegration and Interfirm Collaboration](#), 109 Colum. L. Rev. 431 (2009)
(with Ronald Gilson and Charles Sabel)

[Market Damages, Efficient Contracting and the Economic Waste Fallacy](#), 108 Colum. L. Rev. 1610 (2008)
(with Alan Schwartz)

[Precontractual Liability and Preliminary Agreements](#), 120 Harv. L. Rev. 661 (2007)
(with Alan Schwartz)

[Hoffman v. Red Owl Stores and the Myth of Precontractual Reliance](#), 68 Ohio St. L. J. 71 (2007) (Commercial Calamities Symposium), *reprinted in* CONTRACT STORIES, Foundation Press, D. Baird, ed. (2007)

[Anticipating Litigation in Contract Design](#), 115 Yale L. J. 814 (2006)
(with George G. Triantis)

Incomplete Contracts and the Theory of Contract Design, 56 Case W. Res. L. Rev. 187 (2005)
(essay with George G. Triantis)

[The Political Economy of International Sales Law](#), 25 Int'l Rev. L. & Econ. 446 (2005)
(with Clayton P. Gillette)

[Embedded Options and the Case Against Compensation in Contract Law](#), 104 Colum. L. Rev. 1428 (2004)
(with George G. Triantis)

The Death of Contract Law, 54 U. of Toronto L. J. 369 (2004)
(Wright Memorial Lecture)

[Self-Enforcing International Agreements and the Limits of Coercion](#), 2004 Wis. L. Rev. 551 (with Paul B. Stephan)

[*Contract Theory and the Limits of Contract Law*](#), 113 Yale L. J. 541 (2003)
(with Alan Schwartz)

[*A Theory of Self-Enforcing Indefinite Agreements*](#), 103 Colum. L. Rev. 1641
(2003)

Rethinking the Default Rule Project, 6 Va. J. 84 (2003) (essay)

[*The Rise and Fall of Article 2*](#), 63 La. L. Rev. 1109 (2002) (Hawkland
Symposium)

Is Article 2 the Best We Can Do?, 52 Hastings L. J. 677 (2001) (essay)

[*The Limits of Behavioral Theories of Law and Social Norms*](#), 86 Va. L. Rev. 1603
(2000)

[*The Case for Formalism in Relational Contract*](#), 94 Nw. U. L. Rev. 847 (2000)

Marriage as Relational Contract, 84 Va. L. Rev. 1225 (1998)
(with Elizabeth S. Scott)

[*The Truth About Secured Financing*](#), 82 Cornell L. Rev. 1436 (1997)

Parents as Fiduciaries, 81 Va. L. Rev. 595 (1995)
(with Elizabeth S. Scott)

The Political Economy of Private Legislatures, 143 U. Pa. L. Rev. 595 (1995)
(with Alan Schwartz)

The Mythology of Article 9, 79 Minn. L. Rev. 853 (1995) (comment)

The Politics of Article 9, 80 Va. L. Rev. 1783 (1994)

Chaos Theory and the Justice Paradox, 35 W&M L. Rev. 329 (1993) (George
Wythe Lecture)

Plea Bargaining as Contract, 101 Yale L. J. 1909 (1992)
with William J. Stuntz)

Imperfect Bargains, Imperfect Trials, and Innocent Defendants, 101 Yale L. J.
2011 (1992) (with William J. Stuntz)

The Case for Market Damages: Revisiting the Lost Profits Puzzle, 57 U. Chi. L.
Rev. 1155 (1990)

A Relational Theory of Default Rules for Commercial Contracts, 19 J. Legal Studies 597 (1990)

Sharing the Risks of Bankruptcy: Timbers, Ahlers and Beyond, 1989 Colum. Bus. L. Rev. 183

Rethinking the Regulation of Coercive Creditor Remedies, 89 Colum. L. Rev. 730 (1989)

On the Nature of Bankruptcy: An Essay on Bankruptcy Sharing and the Creditors' Bargain, 75 Va. L. Rev. 155 (1989)
(with Thomas H. Jackson)

Conflict and Cooperation in Long-Term Contracts, 75 Calif. L. Rev. 2005 (1987)

A Relational Theory of Secured Financing, 86 Colum. L. Rev. 901 (1986)

Through Bankruptcy with the Creditors' Bargain Heuristic, 53 U. Chi. L. Rev. 690 (1986) (review essay)

Error and Rationality in Individual Decisionmaking: An Essay on the Relationship Between Cognitive Illusion and the Management of Choice, 59 S. Cal. L. Rev. 329 (1986)

The Limits of Expanded Choice: An Analysis of the Interactions Between Express and Implied Contract Terms, 73 Calif. L. Rev. 261 (1985)
(with Charles J. Goetz)

The Mitigation Principle: Toward a General Theory of Contractual Obligation, 69 Va. L. Rev. 967 (1983)
(with Charles J. Goetz)

Principles of Relational Contract, 67 Va. L. Rev. 1089 (1981)
(with Charles J. Goetz)

Enforcing Promises: An Examination of the Basis of Contract, 89 Yale L. J. 1261 (1980) (with Charles J. Goetz)

Measuring Sellers Damages: The Lost Profits Puzzle, 31 Stan. L. Rev. 323 (1979)
(with Charles J. Goetz)

Liquidated Damages, Penalties and the Just Compensation Principle: Some Notes on an Enforcement Model and a Theory of Efficient Breach, 77 Colum. L. Rev. 554 (1977)
(with Charles J. Goetz)

Constitutional Regulation of Provisional Creditor Remedies: The Cost of Procedural Due Process, 61 Va. L. Rev. 807 (1975)

Abusive Debt Collection: A Proposed Model Statute, 15 W. & M. L. Rev. 567 (1974)
(with Diane M. Strickland)

The Reality of Procedural Due Process: A Study of the Implementation of Fair Hearing Requirements by the Welfare Caseworker, 13 W. & M. L. Rev. 725 (1972)

The Regulation and Administration of the Welfare Hearing Process: The Need for Administrative Responsibility, 11 W & M. L. Rev. 291 (1970)

Work in Progress

The Common Law of Contract and the Default Rule Project, forthcoming 102 Va. L. Rev. 2016 (with Alan Schwartz)

Contractual Arbitrage, forthcoming in *Oxford Handbook of International Governance* (2016) (with Steven Choi & Mitu Gulati)

The Cost of Encrusted Contract Terms (with Steven Choi & Mitu Gulati)

Spiderless Networks (with Ariel Porat)