

Theodore H. Frank

Center for Class Action Fairness, 1718 M St. NW No. 23-6, Washington, DC 20036
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Positions

President and Founder, Center for Class Action Fairness, 2009 – present
Resident Fellow, American Enterprise Institute, 2005 – 2009
Director, AEI Legal Center for the Public Interest, American Enterprise Institute, 2007 – 2008
Director, AEI Liability Project, 2005 – 2007
Counsel, O'Melveny & Myers, 2001 – 2005
Associate, Irell & Manella, 1997 – 2001
Associate, Kirkland & Ellis, 1995 – 1997
Law Clerk, Judge Frank H. Easterbrook, United States Court of Appeals for the Seventh Circuit, 1994 – 1995

Education

University of Chicago Law School, J.D., high honors, 1994

- Order of the Coif
- Editor, *University of Chicago Law Review*, 1992 – 1994
- Olin Fellow in Law & Economics
- Public Service Scholarship

Brandeis University, B.A., Economics, *summa cum laude*, 1991

- Phi Beta Kappa
- Wuliger Scholar (full merit scholarship)
- National Merit Scholar

Journal Articles

[Did the Right Make America a Lawsuit Nation? Thomas Geoghegan's See You In Court](#), 12 Tex. R. L. & Pol. 477 (2008).

[West Virginia Supreme Court Strikes Down Learned Intermediary Rule](#), 8(4) Engage 134 (October 2007) (with James M. Beck).

[A Taxonomy of Obesity Litigation](#), 28 U. Ark.-Little Rock L. Rev. 427 (2006).

I Know It When I See It: Defining and Demonstrating Blocking Patents, 16 Antitrust 48 (Summer 2002) (with Ian Simmons and Patrick Lynch).

The Economic Interest Test and Collective Action Problems in Antitrust Tie-in Cases, 61 U. Chi. L. Rev. 639 (1994).

Journal Letter

[Malpractice in Massachusetts: Another View](#), 27 *Health Affairs* 1745 (2008).

Popular Journal, Magazine, Newspaper, and Web-Magazine Articles

T. Frank, 2009. [A Stimulus You Can Believe In](#). *The American*, May 28.

T. Frank, 2009. [The Truth Is Out There](#). *The American*, March 11.

T. Frank, 2009. [The TARP Trojan Horse](#). *American Spectator*, February 16.

S. Cole & T. Frank, 2008. [The Current State of Consumer Arbitration](#). *Dispute Resolution Magazine*, Fall.

T. Frank, 2008. [Jackpot Justice Gets New Meaning](#). *Examiner*, August 19.

T. Frank, 2008. [The Trouble with the Civil Gideon Movement](#). *Liability Outlook*, August.

T. Frank, 2008. [The Era of Big Punitive Damage Awards is Not Over](#). *Wall Street Journal*, July 10.

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- T. Frank, 2008. [What is the Role of the Courts?](#) *NewTalk*, July 8-10.
- T. Frank, 2008. [Prosecutors Gone Wild](#). *American Spectator*, July/August.
- T. Frank, 2008. [The Inverted Federalism of *Grider v. Compag*](#). *State Court Docket Watch*, Summer.
- T. Frank, 2008. [How Bipartisan is Obama?](#) *Examiner*, May 27.
- T. Frank, 2008. [Blame Port Authority](#). *New York Sun*, May 1.
- T. Frank, 2008. [Battling Zombies](#). *National Review Online*, April 16.
- T. Frank, 2008. [Zombie Litigation: Revivers and Retroactive Lawsuits Are Bad Ideas](#). *Liability Outlook*, April.
- T. Frank, 2008. [Cy Pres Awards](#). *Class Action Watch*, April 2008
- T. Frank, 2008. [Riverboat Poker and Paradoxes: The Vioxx Mass Tort Settlements](#). *Washington Legal Foundation Legal Backgrounder*, March 21.
- T. Frank, 2008. [A Closer Look at John Edwards](#). *The American*, February 21.
- T. Frank, 2008. [There Is a Role for Congress in Patent Reform](#). *Liability Outlook*, February.
- T. Frank, 2008. [Enron: Extortion, Interrupted](#). *New York Sun*, January 23.
- T. Frank, 2007. [Defending the Public Interest](#). *The American*, December 5.
- T. Frank, 2007. [A Billion-Dollar "Harm-Less" Lawsuit](#). *Liability Outlook*, October.
- T. Frank, 2007. [Should Trial Lawyers Make Terror Policy?](#) *Liability Outlook*, September.
- T. Frank, 2007. [Omission in FACTA Might Be Windfall for Plaintiff's Bar](#). *Class Action Watch*, September.
- T. Frank, 2007. [Pro Se's Outlandish Menu](#). *The American*, August 23.
- T. Frank, 2007. [Sicko's Box Office Numbers Are Fuzzy, Too](#). *The American*, August 8.
- T. Frank, 2007. [The Roberts Court and Liability Reform](#). *Liability Outlook*, July 23.
- T. Frank, 2007. [Will the Bush Administration Cave in to Political Pressure from Trial Lawyers?](#) *AEI On the Issues*, June 8.
- T. Frank, 2007. [Arbitrary and Unfair](#). *Wall Street Journal*, May 31.
- T. Frank, 2007. [Prime Target](#). *Wall Street Journal*, April 25.
- T. Frank, 2007. [Evil Is Always with Us](#). *Washington Post*, April 19.
- T. Frank, 2007. [Fen-Phen Zen](#). *The American*, April 4, 2007
- T. Frank, 2007. [The Vioxx Litigation](#). *Class Action Watch*, March.
- T. Frank, 2007. [The Class Action Fairness Act Two Years Later](#). *Liability Outlook*, March.
- T. Frank, 2007. [Mississippi Fails to Learn From History](#). *The American*, February 16.
- T. Frank, 2007. [Rollover Economics](#). *Liability Outlook*, January.
- T. Frank, 2006. [Rule of Law: Follow the Money](#). *Wall Street Journal*, October 28.
- T. Frank, 2006. [Big Tobacco and the Supreme Court](#). *Business and Media Institute*, October 25.
- T. Frank, 2006. [End Open-Ended Litigation](#). *Washington Post*, September 7.
- T. Frank, 2006. [All Wet](#). *National Review Online*, August 29.
- T. Frank, 2006. [The Lieberman Purge](#). *National Review Online*, August 16.
- T. Frank, 2006. [Justice Scams](#). *New York Sun*, August 8.
- T. Frank & M. Grace, 2006. [Faulty Studies from Center for Justice & Democracy Are Stunting the Medical-Malpractice Debate](#). *Liability Outlook*, April.
- T. Frank, 2006. [Making the FAIR Act Fair](#). *Liability Outlook*, March 3.
- T. Frank, 2005. [Ernst v. Merck—One More View](#). *Medical Progress Today*, September 1.
- T. Frank, 2005. [Unable Danger](#). *National Review Online*, August 26.
- T. Frank, 2005. [How Important Is Habeas?](#) *Legal Affairs*, August 1-4.

Working Papers

- T. Frank, 2005. [The Vioxx Litigation](#). *AEI Working Papers*, December 15.

Books (as contributor)

- American Bar Association, *Market Power Handbook: Competition Law and Economic Foundations* (2005).
- American Bar Association, 2002 *Annual Review of Antitrust Developments* (2003).
- J. Sheehan, C. Davenport, and G. Huckabay, Eds. *Baseball Prospectus '97* (1997).

Congressional Testimony

[March 31, 2009](#). Immigration, Citizenship, Refugees, Border Security, and International Law Subcommittee and Constitution, Civil Rights, and Civil Liberties Subcommittee of the House Judiciary Committee, "Joint Hearing on James Zadroga 9/11 Health and Compensation Act."

[March 16, 2009](#). Senate Republican Conference, "Protecting Main Street from Lawsuit Abuse."

[April 1, 2008](#). Immigration, Citizenship, Refugees, Border Security, and International Law Subcommittee and Constitution, Civil Rights, and Civil Liberties Subcommittee of the House Judiciary Committee, "Joint Hearing on Paying With Their Lives: The Status of Compensation for 9/11 Health Effects."

[June 28, 2006](#). Capital Markets, Insurance, and Government Sponsored Enterprises Subcommittee of the House Banking Committee, "Investor Protection: A Review of Plaintiffs' Attorney Abuses in Securities Litigation and Legislative Remedies."

Speaking Engagements

October 14, 2009, University of Miami Law School Federalist Society, TBD

October 13, 2009, Barry University School of Law Federalist Society, "The Law of McDonald's: Hot Coffee, Obesity, and Prank Phone Calls."

October 12, 2009, Stetson University Law School Federalist Society, "The Law of McDonald's: Hot Coffee, Obesity, and Prank Phone Calls."

August 5, 2009, [The Heritage Foundation, Washington, DC](#), "[Hurting or Helping Consumers? Destroying Federal Preemption One Industry At A Time](#)"

July 8, 2009, [American Constitution Society/Center for American Progress, Washington, DC](#), "[Narrowing the Justice Gap](#)"

June 22, 2009, [Federalist Society, Washington, DC](#), "Justice Delayed, Justice Denied"

January 27, 2009, George Washington University Law School Federalist Society, "The Rule of Law and Wealth Creation"

December 4, 2008, Institutional Investor Educational Foundation Global Shareholder Activism Conference, "Class Action Lawyers, Is the System Out of Control?"

October 23, 2008, Stetson University Law School Federalist Society, "The Supreme Court and Punitive Damages"

October 21, 2008, Florida State University College of Law Federalist Society, "Grand Theft Auto: Class Action"

October 16, 2008, Chicago-Kent College of Law Federalist Society, "Obesity Litigation"

October 16, 2008, University of Chicago Law School Federalist Society, "Grand Theft Auto: Class Action"

October 15, 2008, John Marshall Law School Federalist Society, "Obesity Litigation"

October 15, 2008, DePaul University College of Law Federalist Society, "Obesity Litigation"

July 29, 2008, Mayer Brown (Washington, DC) "Grand Theft Auto: Class Action"

June 14, 2008, American Constitution Society, "Guaranteeing Justice in the Civil Justice System"

May 28, 2008, AEI, "The Milberg Weiss Prosecution: No Harm, No Foul?"

May 21, 2008, AEI, "Off-Label Uses of Approved Drugs: Medicine, Law and Policy"

April 22, 2008, New York City Bar Association, "Vioxx Settlement"

March 13, 2008, University of Alberta Faculty of Law, "Obesity Litigation"

March 13, 2008, University of Alberta Faculty of Law, "Vioxx Litigation"

February 21, 2008, Federalist Society, "Supreme Court Press Briefing"

February 21, 2008, AEI, "Federal Preemption and the Supreme Court"

January 7, 2008, AEI, "The Vioxx Settlement"

October 17, 2007, American Bar Association CLE, "Business and the Supreme Court"

October 5, 2007, AEI, "*Stoneridge v. Scientific-Atlanta*"

September 28, 2007, AEI, "Annual Supreme Court Briefing"

September 25, 2007, AEI, "*Biotechnology and the Patent System: The Economic Implications of the Proposed Patent Reform Act of 2007*"

September 20, 2007, Federalist Society, Chicago, IL, "Class Action Settlements"

June 29, 2007, AEI, "Medical Malpractice Insurance Studies"

June 21, 2007, Federalist Society, Houston, TX, "Class Action Settlements"

June 20, 2007, Federalist Society, Austin, TX, "Class Action Settlements"

June 4, 2007, AEI, "Corporate Image Advertising and the Future of Free Enterprise"

April 23, 2007, AEI, "Expert Witnesses, Adversarial Bias, and the (Partial) Failure of the *Daubert* Revolution"

February 14, 2007, Federalist Society, Washington, DC, "Class Action Fairness Act: Two Years Later"

January 25, 2007, Washington Legal Foundation, "Legal Reform 2007: The Ongoing Fight for Justice"

December 8, 2006, AEI, "Is There a Constitutional Right to Medical Self-Defense?"

December 4, 2006, Georgetown Law School, "Class Actions"

November 28, 2006, AEI, "*Watters v. Wachovia Bank*"

October 24, 2006, American Constitution Society, "*Philip Morris USA v. Williams*"

June 17, 2006, American Constitution Society, "Habeas Developments"

May 23, 2006, AEI, "*Myths, Lies, and Downright Stupidity*"

May 12, 2006, AEI, "Judge and Jury: American Tort Law on Trial"

April 24, 2006, AEI, "The U.S. Senate Takes on Medical Malpractice Reform"

April 14, 2006, AEI, "*The Cutter Incident*"

April 5, 2006, AEI, "Medical Malpractice Liability and Physician Supply"

March 28, 2006, AEI, "Abortion Legalization and Crime Rates"

March 13, 2006, AEI, "Sarbanes-Oxley: What Have We Learned?"

February 11, 2006, CPAC, "Asbestos Reform"

January 19, 2006, AEI, "Will the FAIR Act Fix the Asbestos Mess?"

December 19, 2005, AEI, "The Medical Malpractice Myth?"

October 12, 2005, AEI, "Can Tort Reform Save Lives?"

October 3, 2005, AEI, "Katrina's Liability Implications"

September 27, 2005, AEI, "HR 2990: Improving the Credit Rating Industry"

September 7, 2005, AEI, "The \$253 Million Vioxx Verdict: What Does It Mean?"

April 18, 2005, Knight Center, "Law and the Courts: Tort Reform"

March 3, 2005, AEI, "Who Is to Blame for Obesity?"

Television Appearances

March 16, 2009, C-SPAN, "Legal System Reform"

June 7, 2008, *Good Morning America*, ABC, "How Bipartisan Is Obama?"

January 8, 2008, C-SPAN, "The Vioxx Settlement"

October 8, 2007, *Politics and Money*, Bloomberg TV (regarding *Stoneridge v. Scientific-Atlanta*)

August 30, 2007, RNN-TV News (regarding Virginia Tech shootings)

November 28, 2006, C-SPAN, "Federal Regulatory Actions"

April 14, 2006, C-SPAN, "The Cutter Incident"

February 28, 2006, *The Neil Cavuto Show*, Fox News (regarding tobacco litigation)

January 23, 2006, C-SPAN, "The Medical Malpractice Myth"

October 3, 2005, C-SPAN, "Katrina's Liability Implications"

July 20, 2005, *The World*, BBC4 (regarding John Roberts Supreme Court nomination)

July 19, 2005, ABC News Now (regarding Supreme Court nominations process)

Radio Appearances

June 3, 2009, WOR (New York, NY) (costs of tort system)
June 1, 2009, WEBY (Florida) (class action lawsuits)
November 21, 2008, WMBI (Chicago, IL) (eHarmony discrimination settlement)
October 6, 2008, *Marketplace* (national) (opening of Supreme Court term)
November 5, 2007, KPFA Talk Radio (San Francisco, CA Pacifica) (Mukasey nomination)
October 9, 2007, *Heading Right Radio* (national) (*Stoneridge v. Scientific-Atlanta*, Sarbanes-Oxley)
October 1, 2007, *Hugh Hewitt Show* (national) (*Stoneridge v. Scientific-Atlanta*, tort reform)
October 9, 2006, *The Buzz*, WBAL (Baltimore, MD) (punitive damages)
August 19, 2006, BBC World Service (international) (midterm elections)
January 5, 2006, NPR (national) (Judge Alito)
November 4, 2005, *Bob Barr's Laws of the Universe* (national) (Judge Alito nomination)
October 31, 2005, *Dennis Prager Show* (national) (Judge Alito nomination)
July 20, 2005, *AirTalk*, KPCC (Los Angeles, CA) (Supreme Court nomination)
March 16, 2004, WIBA Talk Radio (Madison, WI) (tort reform)

Bar Memberships

California, 1998
District of Columbia, 1996
Illinois, 1994 (currently inactive)

Podcasts

July 1, 2008, Federalist Society SCOTUScast, *Exxon v. Baker*
February 28, 2008, Federalist Society SCOTUScast, *Exxon v. Baker*
March 21, 2007, American Conversations

Select Professional Activities

Elected Member, American Law Institute, 2008 – present
Executive Committee, Federalist Society, Litigation Practice Group, 2007 – present
Contributor, *Point of Law* weblog (pointoflaw.com), 2004 – present
Contributor, *Overlawyered* weblog (overlawyered.com), 2003 – present
Contributor, NPR *Justice Talking* weblog, 2008
Contributor, National Review Online *Bench Memos* weblog, 2009 – present
Numerous *amicus* briefs in Supreme Court and lower courts.

Selected Media Interviews and Quotes

Newspapers

New York Times
Wall Street Journal
Financial Times
Chicago Tribune
Los Angeles Times
Legal Times
National Law Journal
New York Sun
Boston Globe
Christian Science Monitor
New York Law Journal
New Jersey Law Journal
The Recorder
New Orleans Times-Picayune
Washington Examiner
Investors Business Daily
Chronicle of Higher Education
Congress Daily
Seattle Times
Memphis Commercial Appeal
Portland (Maine) Press Herald
Roanoke Times
Northeast Pennsylvania Business Journal
Madison County Record
West Virginia Record
CQ Healthbeat

Magazines

Forbes
Fortune
New York Times Sunday Magazine
National Review
Weekly Standard
National Journal
ABA Journal
American Spectator
Inside Counsel
IP Law & Business
Mealey's Litigation Report
Medical Marketing & Media

Other Media

Associated Press, WSJ.com, CBSNews.com,
A.M. Best BestWire, FoxNews.com, Forbes.com,
BusinessWeek Online, TNR.com,
MotherJones.com, Law.com, National Journal
Hotline, Politico.com, Newsbusters.org, Business
and Media Institute, Legal Newsline,
Law360.com, National Journal's Technology
Daily, HumanEvents.com, AboveTheLaw.com,
DealBreaker.com