

CURRICULUM VITAE**Donald J. Smythe**

Chief Justice Roger J. Traynor Professor of Law

California Western School of Law
225 Cedar Street
San Diego, CA 92101
(619) 515-1562
DSmythe@cwsl.edu

EDUCATION: B.A., 1982, M.A. (Economics), 1983, Carleton University; M.Phil., Ph.D. (Economics), 1992, Yale University; J.D., 1999, University of Virginia.

RESEARCH AND TEACHING FIELDS:

Property, Sales, Secured Transactions, Community Property, Corporations, Legal Analysis, Empirical Legal Studies, Law and Economics, and Legal History.

PUBLICATIONS:

- *Exacting Inclusion: Property Theory, the Character of Government Action, and Implicit Takings*, 25 CHAPMAN L. REV. 127 (2022).
- *SCOTUS in the Strait of Messina: Steering the Course Between Private Rights and Public Powers*, 25 TEX. REV. L. & POL. 437 (2021).
- *The Power to Exclude and the Power to Expel*, 66 CLEV. ST. L. REV. 367 (2018).
- *The Illiberty of Contract*, 35 QUINNIPIAC L. REV. 461 (2017).
- *Reasonable Standards for Contract Interpretation under the CISG*, CARDOZO J. INT'L & COMP. L. 1 (2016).
- *Clearing the Clouds on the CISG's Warranty of Title*, 36 NW. J. INT'L LAW & BUS. 509 (2016).
- *Liberty at the Borders of Private Law*, 49 AKRON L. REV. 1 (2015).
- *Consideration for a Price: Using the Contract Price to Interpret Ambiguous Contract Terms*, 34 N. ILL. U. L. REV. 109 (2013).

- *Social Network Theory and the Diffusion of the Search and Seizure Exclusionary Rule Among State Courts Between Weeks and Wolf*, 27 *BYU J. PUB. L.* 101 (2012) (with Larry Benner and Robert Bird).
- *Social Network Analysis and the Diffusion of the Strict Liability Rule for Manufacturing Defects, 1963-87*, 37 *LAW & SOC. INQUIRY* 565 (2012) (with Robert Bird).
- *The Rise of the Corporation, the Birth of Public Relations, and the Foundations of Modern Political Economy*, 50 *WASHBURN L. J.* 635 (2011).
- *The Road to Nowhere: Caterpillar v. Usinor and CISG Claims by Downstream Buyers against Remote Sellers*, 2 *GEO. MASON U. J. OF INT'L COM. L.* 123 (2011).
- *Impossibility and Impracticability*, in *ENCYCLOPEDIA OF LAW AND ECONOMICS*, Second Edition, edited by Boudewijn Bouckaert and Gerrit De Geest (2011).
- *A Schumpeterian View of the Great Merger Movement in American Manufacturing*, 4 *CLIOMETRICA* 141 (2010).
- *The Scope of a Bargain and the Value of a Promise*, 60 *S.C.L. REV.* 203 (2008).
- *The Structure of American Legal Institutions and the Diffusion of Wrongful-Discharge Laws, 1978-99*, 42 *LAW & SOC'Y. REV.* 833 (2008) (with R. Bird).
- *Transaction Costs, Neighborhood Effects, and the Diffusion of the Uniform Sales Act, 1906-47*, 4 *REV. L. & ECON.* 16 (2008).
<http://www.bepress.com/rle/vol4/iss1/art16>
- *Commercial Law in the Cracks of Judicial Federalism*, 56 *CATH. U. L. REV.* 451 (2007).
- *Shareholder Democracy and the Economic Purpose of the Corporation*, 63 *WASH. & LEE L. REV.* 1407 (2007).
(Symposium: Understanding Corporate Law through History).
- *A Note on the Welfare Effects of Horizontal Mergers in Asymmetric Linear Oligopolies*, 7 *ANNALS ECON. & FIN.* 29 (2006) (with S. Heubeck and J. Zhao).
- *The Complete Welfare Effects of a Cost Reduction by Cournot Firms*, 87 *J.*

ECON. (ZEITSCHRIFT FUR NATIONALOKONOMIE) 181 (2006) (with J. Zhao).

- *The Supreme Court and the Trusts: Antitrust and the Foundations of Modern American Business Regulation from Knight to Swift*, 39 U.C. DAVIS L. REV. 85 (2005).
- *Bounded Rationality, the Doctrine of Impracticability, and the Governance of Relational Contracts*, 13 S. CAL. INT. L. J. 227 (2004).
- *The Role of Contractual Enforcement and Excuse in the Governance of Relational Agreements: An Economic Analysis*, GLOBAL JURIST FRONTIERS: Vol. 2: No. 2, Article 3 (2002).
<http://www.bepress.com/gj/frontiers/vol2/iss2/art3>
- *Daubert, Expert Economic Testimony, and Antitrust Litigation*, Proceedings of the Conference on Expert Evidence, Causation, Proof and Presentation at the International Institute for Forensic Studies, Prato, Italy, July, 2002.
- *The Great Merger Movement and the Diffusion of Electric Power Utilization in American Manufacturing, 1899-1909: A Simple Test of the Schumpeterian Hypothesis*, 27 EAST. ECON. J. 253 (2001).
- *The Dynamics of Oligopoly Behavior: A Study of the U.S. Cigarette Industry, 1955-90*, 3 INT. J. ECON. BUS. 185 (1996).
- *Book review of Specialization and Economic Organization* by X. Yang and Y.K. Ng, 32 J. ECON. LIT. 691 (1994).

OTHER MANUSCRIPTS AND WORKING PAPERS:

- *Estimating Law Schools' Cumulative Passage Rates on the California Bar Exam: Some Observations and Conjectures.*
- *Why was the Uniform Sales Act Adopted in Some States but not Others?*
- *Ranking Law Schools Using Reported California Bar Exam Results: Some Observations and Conjectures.*