

JOSEPH P. BAUER

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EDUCATION: Harvard Law School
Cambridge, Massachusetts
J.D. 1969

University of Pennsylvania
Philadelphia, Pennsylvania
B.A. cum laude December, 1965
Major: Political Science

TEACHING Notre Dame Law School
EXPERIENCE: Notre Dame, IN 46556
1973 to present
Professor of Law (with tenure)
(Associate Dean 1985 - 1988; 1991; 1996)

Department of Law
Hong Kong University
February-March 2010 and
March, 2011
Visiting Lecturer

Emory Law School
Atlanta, GA 30329
Spring, 2004
Visiting Professor

University of North Carolina
School of Law
Chapel Hill, NC 27514
1981-82
Visiting Professor

University of Michigan Law School
Ann Arbor, Michigan 48104
1972-1973
Teaching Fellow

COURSES TAUGHT: Antitrust; Civil Procedure; Copyright & Trademark;
Conflict of Laws; Business Associations; Appellate
Advocacy; Introduction to American Legal System

SUMMER TEACHING: University of Innsbruck
Innsbruck, Austria
1994

University of Bridgeport
Bridgeport, CT
1984

LEGAL PRACTICE EXPERIENCE: Kirkland & Ellis
655 Fifteenth St., N.W., Washington, DC 20005
January - August 2002 (full-time)(leave of
absence)

August 2002 - 2005 (part-time)
Of Counsel in Litigation Department.

Law Clerk to Judge Kenneth F. Ripple,
U.S. Court of Appeals for Seventh Circuit and
Judge Robert L. Miller, Jr., U.S. District
Court for Northern District of Indiana
Spring, 1992 (sabbatical leave).

Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
Summers, 1977 and 1978
Attorney/Consultant. Principal activities in
merger law area.

Kaye, Scholer, Fierman, Hays & Handler
425 Park Avenue, New York, N.Y. 10022
1969 to 1972
Associate in Antitrust-Litigation Department.

Delson & Gordon
230 Park Avenue, New York, N.Y. 10022
Summer, 1968
Summer Law Clerk.

PUBLICATIONS: Volume II of Kintner's "Federal Antitrust Law"
treatise, with William H. Page. Subject:
Practices Prohibited by the Sherman Act. Revised
2d edition. Length: 434 pages. Publisher:
Anderson Publishing Co., Cincinnati. Publication

date: 2002.

PUBLICATIONS: Volume XI of Kintner's "Federal Antitrust Law"
(continued) treatise. Subject: Private Enforcement.
Length: 248 pages. Publisher: Anderson Publishing
Co., Cincinnati. Publication date: 1998.
Volume X of Kintner's "Federal Antitrust Law"
Treatise. Subject: State Action Doctrine, Noerr-
Pennington Doctrine, Miscellaneous Exemptions.
Length: 254 pages. Publisher: Anderson
Publishing Co., Cincinnati. Publication date:
1994.

Volume IX of Kintner's "Federal Antitrust Law"
Treatise, with Earl W. Kintner. Subject: Anti-
trust Exemptions. Length: 351 pages.
Publisher: Anderson Publishing Co., Cincinnati.
Publication date: 1989.

Volume III of Kintner's "Federal Antitrust Law"
Treatise, with Earl W. Kintner. Subject:
Robinson-Patman Act. Length: 748 pages.
Publisher: Anderson Publishing Co., Cincinnati.
Publication date: 1983.

Annual Supplements to Vols. I, II, III, IV, V, VI,
VII, VIII, IX, X and XI of Kintner's "Federal
Antitrust Law" Treatise, with John Lopatka &
William Page. Length: 66, 234, 93, 100, 43, 103,
57, 42, 79, 119 and 123 pages, respectively. Most
recent publication date: 2011.
Note: These Supplements have been prepared and
updated annually since 1985.

"Shedding Light on Shady Grove: Further
Reflections on the Erie Doctrine from a Conflicts
Perspective," 86 Notre Dame Law Review 939-985
(2011).

"Copyright and the First Amendment: Comrades,
Combatants or Uneasy Allies?," 67 Washington & Lee
Law Review 831-914(2010).

"Addressing the Incoherency of the Preemption
Provision of the Copyright Act of 1976," 10
Vanderbilt J. Of Entertainment & Technology
L. 1-119(2007).

"Antitrust Implications of Aftermarkets," 52
Antitrust Bulletin 31-51 (2007).

PUBLICATIONS:
(continued)

"Refusals to Deal with Competitors by Owners of
Patents and Copyrights: Reflections on the Image
Technical and Xerox Decisions," 55 DePaul Law
Review 1211-1246 (2006).

"An American Perspective: Comment on Articles on
Canadian Antitrust Class Actions," 3 Canadian
Class Action Review 317-323 (2006).

"Reflections on the Manifold Means of Enforcing
the Antitrust Laws: Too Much, Too Little, or Just
Right?," 16 Loyola Consumer Law Review 303-327
(2004).

"The Stealth Assault on Antitrust Enforcement:
Raising the Barriers for Antitrust Injury and
Standing," 62 Univ. Pittsburgh Law Review 437-452
(2001).

"The Erie Doctrine Revisited: How A Conflicts
Perspective Can Aid the Analysis," 74 Notre Dame
Law Review 1235-1300 (1999).

"South Bend, Indiana: A Case Study of the
Possibilities and Realities of Hospital
Cooperation," 8 Loyola Consumer Law Reporter 143-
152 (1996)(invited symposium issue).

"Antitrust and Sports: Must Competition on the
Field Displace Competition in the Market?," 60
Tennessee Law Review 263-294 (1993).

"A Judicial Clerkship Twenty-Four Years After
Graduation: Or, How I Spent My Sabbatical Last
Spring," 42 Journal of Legal Education 427-431
(1992).

"Schiavone: An Un-Fortune-Ate Illustration of the
Supreme Court's Role As Interpreter of the Federal
Rules of Civil Procedure," 63 Notre Dame Law
Review 720-732 (1988)(symposium issue).

"Competition at the Teller's Window?: Altered
Antitrust Standards for Banks and Other Financial
Institutions," 35 Univ. Kansas Law Review 657-695

(1987)(co-authored with Earl W. Kintner).

PUBLICATIONS: "May a Federal Court Remand a Case to State Court
continued) After Federal Claims Have Been Deleted?," Preview
of United States Supreme Court Cases, 1987-88
Term, Issue No. 4 (1987).

"The Robinson-Patman Act: A Look Backwards, A View
Forward," 31 Antitrust Bulletin 571-609 (1986)(co-
authored with Earl W. Kintner).

"Foreword: Developments in Section Two of the
Sherman Act," 61 Notre Dame Law Review 885-897
(1986)(symposium issue).

"Application of the Antitrust Laws to the
Activities of Insurance Companies: Heavier Risks,
Expanded Coverage, and Greater Liability," 63
North Carolina Law Review 431-491 (1985)(co-
authored with Earl W. Kintner and Michael J.
Allen).

"A Federal Law of Unfair Competition: What Should
Be the Reach of Section 43(a) of the Lanham Act?,"
31 UCLA Law Review 671-753 (1984), (reviewed in 75
Trademark Rep. 216 (1985)); reprinted in 17
Intellectual Property Law Review 227 (1986).

Antitrust Exemptions for Private Requests for
Governmental Action: A Critical Analysis of the
Noerr-Pennington Doctrine," 17 UC-Davis Law Review
549-589 (1984)(co-authored with Earl W. Kintner),
reprinted in Corporate Counsel's Annual--1985 543-
583 (Matthew Bender & Co.).

"Government Enforcement Policy of Clayton Act
Section 7: Carte Blanche for Conglomerate
Mergers?," 71 California Law Review 348-375
(1983)(solicited symposium issue).

"A Simplified Approach to Tying Arrangements: A
Legal and Economic Analysis," 33 Vanderbilt Law
Review 283-342 (1980).

"Per Se Illegality of Concerted Refusals to Deal:
A Rule Ripe for Reexamination," 79 Columbia Law
Review 685-717 (1979)(cited, inter alia, in
Northwest Wholesale Stationers v. Pacific

Stationery & Printing Co., 472 U.S. 284, 289 (1985)).

PUBLICATIONS: "Challenging Conglomerate Mergers Under Section 7
(continued) of the Clayton Act: Today's Law and Tomorrow's
Legislation," 58 Boston Univ. Law Review 199-245
(1978), reprinted in 13 Journal of Reprints for
Antitrust Law and Economics 469-517 (1982).

"Professional Activities and the Antitrust Laws,"
50 Notre Dame Lawyer 570-602 (1975).

"Corporate Antitrust Audit--Establishing a
Document Retention Program," co-authored with
Sheldon Toll, 19 Practical Lawyer 15-28 (1973),
reprinted in 1 Barrister 17-21 (1974), reprinted
in Manual for Trade Regulation (1985).

Book Review, "Handbook on the Law of Antitrust,"
by Prof. Lawrence Sullivan, 65 Georgetown Law
Journal 1079-87 (1977).

Book Review, "With Justice for Some," by Bruce
Wasserstein and Mark Green, eds., 38 Brooklyn L.
Rev. 542-545 (1971).

Respondent's Brief in Northwest Wholesale
Stationers v. Pacific Stationery & Printing Co.,
472 U.S. 284 (1985).

Petitioner's Brief and Reply Brief in Lee v.
United States, 432 U.S. 23 (1977)(principal co-
author).

Numerous Other Briefs in Cases Before U.S. Court
of Appeals for the Seventh Circuit, 1975-81.

WORKS IN
PROGRESS: Volume XII of Kintner's "Federal Antitrust Law"
treatise, with Profs. John Lopatka & William Page.
Subjects: Class Actions, Attorneys Fees,
Settlements.

Revised Vol. II of Kintner's "Federal Antitrust
Law," with Profs. John Lopatka & William Page.
Subjects: Vertical Price and Non-Price Restraints;
Exclusive Dealing Arrangements; Tying
Arrangements.

BAR
ADMISSIONS: New York State, 1970
United States Court of Appeals for the Seventh
Circuit, 1974
United States Supreme Court, 1977
United States District Court for the Northern
District of Indiana, 1979
District of Columbia, 2002

APPELLATE
LITIGATION: Wrote brief and presented oral argument to the
appellate court in:
Northwest Wholesale Stationers v. Pacific
Stationery & Printing Co., 472 U.S. 284 (1985).
Lee v. United States, 432 U.S. 23 (1977).
Zykan v. Warsaw Community School Corp., 631 F.2d
1300 (7th Cir. 1980).
United States v. Bradberry, 517 F.2d 498 (7th Cir.
1975).

HONORS: Special Presidential Award, U. Notre Dame, 1996.
Winner, Teacher of the Year Award, 1981.
Co-winner, Teacher of the Year Award, 1977.

SELECTED
PROFESSIONAL
ACTIVITIES: Member, Advisory Board, American Antitrust
Institute, 2000-present.
Member, Executive Committee, A.A.L.S. Section on
Antitrust and Economic Regulation (1983-1990);
chairman, 1987-1989.
Member, AALS Committee on Research & Curriculum,
1988-1991.
Member, AALS Special Committee on Legal Matters,
1991-1992.
Site team member, ABA/AALS Reaccreditation
Inspection Visits (4 times).
Testified before various Senate and House
committees and subcommittees.
Numerous talks to government, business,
professional and educational groups.

LAW SCHOOL
ADMINISTRATIVE DUTIES: Associate Dean, 1985-1988; 1991; 1996.
Responsibilities included curriculum reform,
supervision of graduate degrees, long-range
planning, preparation for ABA/AALS reinspec-
tion, and other special projects.
Director, Notre Dame Law School's Year Abroad
Program in London, England. 1975-76; 1989-90.

UNIVERSITY AND LAW SCHOOL SERVICE: Member, University Provost Advisory Committee, 1993-1996; 1996-1999 (elected).
Member, Law School Appointments and Promotions Committee, 1978-81.
Member, Law School Appointments Committee, 1982-1989; 1990-1992; 1993-1997; 2000-2001 (elected).
Member, Law School Promotions Committee, 2002-2003, 2005-present (elected).
Vice-Chairman, Law School Appointments and Promotions Committee, 1979-1981.
Vice-Chairman, Law School Appointments Committee, 1982-1989; 1994-1995.
Vice-Chairman, Law School Promotions Committee, 2009-2010, 2011-2012.
Various other committees.

MEMBER: American Bar Association
A.B.A. Antitrust Section
American Antitrust Institute