

# James Fallows Tierney

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## Current position

*University of Nebraska College of Law*

2020 –

Assistant professor of law

## Research interests

Law and political economy of capitalism (securities and capital markets regulation)

Structures of capital ownership and intermediation (investment advice, investment funds, sovereign and social wealth funds, and universal owners)

Governance in for-profit businesses and not-for-profit organizations

Behavioral corporate finance and contract design

Computational methods and “law as data”

## Academic publications

### ARTICLES AND BOOK CHAPTERS

- 2020 *Contract Design in the Shadow of Regulation*, 98 NEBRASKA LAW REVIEW 874 ([link](#))
- 2011 *Moral Reasoning in International Law*, with Roger P. Alford, in THE ROLE OF ETHICS IN INTERNATIONAL LAW (Donald Earl Childress III, ed., Cambridge University Press) ([abstract](#))
- 2010 Comment, *Summary Dismissals*, 77 UNIVERSITY OF CHICAGO LAW REVIEW 1841 ([link](#))
- 2009 *The Polar Bear Treaty and the Changing Geography of the High Arctic*, 3 JOURNAL OF ANIMAL LAW & ETHICS 141 ([link](#))
- 2006 *Why suspected terrorists should be granted habeas corpus review: A response to Posner’s security-liberty balancing scheme*, 4 DARTMOUTH COLLEGE UNDERGRADUATE JOURNAL OF LAW 6

## WORK IN PROGRESS — ARTICLES

Reconsidering securities industry bars

Agency costs in universal ownership theory

Contract design in the retail investment advisory relationship: An empirical study

SEC no-action relief: Evidence from machine learning

Law as data: The case of the SEC's changing administrative docket

## WORK IN PROGRESS — SHORT PIECES

An error cost theory of FINRA expungement (with Ben Edwards)

Anti-administrativism at the SEC's doorstep: A response to Alex Platt

*Beware the un-woke CEO*: Managers, universal ownership, and climate change risk

Equity investors and contractual complexity: Evidence from arbitration clauses

## Selected popular writing

- 2015 *The Line Between Wiretapping and Quality Assurance*, with Donald M. Falk, DAILY JOURNAL (Cal.), Jan. 28, 2015
- 2013 *Supreme Court Reaffirms that Forum-Selection Clauses are Presumptively Enforceable*, with J. Paul Forrester et al., HARVARD LAW SCHOOL FORUM ON CORPORATE GOVERNANCE & FINANCIAL REGULATION, Dec. 19, 2013 ([link](#))
- 2011 Guest blog posts about editing law reviews, OPINIO JURIS blog, May 2011 ([link to index of posts](#))
- 2008 *Massachusetts lawmakers are pushing to criminalize Salvia. Is this a test-run for marijuana-law reform?*, BOSTON PHOENIX, Apr. 23, 2008
- Echoes of Rodney King*, with Harvey Silverglate, BOSTON PHOENIX, Feb. 21, 2008
- Preventing police oversight*, with Harvey Silverglate, MASSACHUSETTS LAWYERS WEEKLY, Jan. 26, 2008
- To the editors*, NEW YORK TIMES, Jan. 9, 2008
- 2007 *Using the ban on pretrial publicity to avoid embarrassing prosecutors, judges*, with Harvey Silverglate, MASSACHUSETTS LAWYERS WEEKLY, Nov. 5, 2007

## Academic presentations

*Reconsidering Securities Industry Bars*

Jan. 2021 AALS annual conference — Emerging Voices in Securities Regulation roundtables (scheduled)

Aug. 2020 Junior Scholar Workshop Series

*Contract Design in the Shadow of Regulation*

Oct. 2019 University of Chicago Law School — Legal Scholarship Workshop (invited)  
Midwestern Law and Economics Association annual conference

*Moral Reasoning in International Law*

May 2010 University of Chicago Law School — Chicago International Law Society  
Nov. 2009 American Society for International Law conference (with Roger Alford)

*Sovereign Power, Human Rights, and Hypocrisy Costs*

Jan. 2010 University of Chicago — Law Culture & Society workshop

## Teaching

*Nebraska College of Law*

Future years  
(planned) Nonprofit organizations  
Investment management law  
Mergers & acquisitions

Spring 2021  
(scheduled) Business associations  
Corporate finance

Fall 2020 Securities regulation

### ADDITIONAL TEACHING EXPERIENCE

*University of Chicago*

2010 Reason and Passion: The Strange Alchemy of Life and Law  
Teaching assistant to Justice (retired) Albie Sachs, Constitutional Court of South Africa

*Brown University*

2005, 2006 Introductory Biology  
Teaching assistant to Professor Kenneth Miller

## Service to the university

2020 – Student honors committee

## Service to the profession and the community

### MEMBER

2020 – American Association of Law Schools, various business law sections  
Society of American Law Teachers (SALT)

ClassCrits

American Bar Association — Business Law Section

## Amicus briefs, pro bono, and other public engagement

- 2012 – 2018 Various pro bono engagements in Washington D.C., including eviction defense before District of Columbia courts, and representing incarcerated persons before federal courts of appeals in challenging state-court criminal convictions and immigration removal orders
- 2014 Amicus brief in the U.S. Supreme Court in *Holt v. Hobbs*, on behalf of Americans United for Separation of Church and State supporting Muslim inmate’s religious exemption from prison facial-hair grooming policy ([link](#))
- 2013 Amicus brief in the U.S. Supreme Court in *Schuette v. Coalition to Defend Affirmative Action* (2013), on behalf of historians and scholars in defense of affirmative action in public university admissions ([link](#))

## Education

- 2011 *University of Chicago Law School*, JD with honors  
Executive Articles and Book Reviews Editor, UNIVERSITY OF CHICAGO LAW REVIEW  
Faculty Appointments Committee student interviewer  
American Civil Liberties Union chapter president
- 2007 *University of Chicago*, MA (Division of the Social Sciences — International Relations)
- 2006 *Brown University*, AB (Political Science)

## Honors & awards

- University of Nebraska College of Law*
- 2020 Order of the Coif (elected faculty member, Nebraska chapter)
- University of Chicago*
- 2009 Joseph Henry Beale prize for outstanding work in IL research and writing  
Ignacio Martín Baró prize for best masters/professional student paper (Human Rights Program)

## Professional experience

- 2015 – 2020 Securities and Exchange Commission  
Senior counsel, Office of the General Counsel
- 2012 – 2015 Mayer Brown LLP  
Associate, Supreme Court and appellate litigation
- 2011 – 2012 The Honorable Mary Schroeder, U.S. Court of Appeals for the Ninth Circuit

Judicial clerk

2010 Mayer Brown LLP  
Summer associate

2009 Committee for Public Counsel Services  
Summer intern, appeals unit of Massachusetts state public defender

2007 – 2008 Law Office of Harvey Silverglate  
Research assistant and paralegal

## Admissions

### STATE BARS

2012 – Massachusetts

2012 – District of Columbia

Not admitted in Nebraska; practice limited to federal matters

### FEDERAL COURTS

U.S. Supreme Court

U.S. Courts of Appeals for the Second, Seventh, Eighth, Ninth, Tenth and Federal Circuits

U.S. District Courts for the District of Columbia and the District of Massachusetts

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2012 – Massachusetts

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## Skills

### PROGRAMMING

Python

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Bash

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## **Omitted sections**

“References,” various “service” categories, and “representative litigation experience” omitted from this version of CV