

# James Fallows Tierney

University of Nebraska College of Law  
1875 N 42nd St, Lincoln, NE 68503

Office Phone: 402-472-0483

Email: [jtierney4@unl.edu](mailto:jtierney4@unl.edu)

Twitter: [@jamesftierney](https://twitter.com/jamesftierney)

Personal URL: <http://www.jamesftierney.com>

Work URL: <https://law.unl.edu/james-f-tierney/>

## Academic appointment

*University of Nebraska College of Law*

2020 –

Assistant professor of law

## Research interests

Regulation, enforcement, and disclosure in retail securities markets

Structures of capital ownership and intermediation

Behavioral finance and political economy

Contract design and governance

## Academic publications

ARTICLES, ESSAYS, AND BOOK CHAPTERS

2022

*Investment games*, 72 DUKE LAW JOURNAL (forthcoming 2022) ([preprint link](#))

Essay, *On “confetti regulation”: The wrong way to regulate gamified investing*, with Kyle Langvardt, 131 YALE LAW JOURNAL FORUM 747 (Jan. 2022) ([link](#))

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](#))

## SHORTER PIECES

- 2022 *Securities law's effects on wealth inequality: the case of asymmetric investment opportunity*, JOTWELL — CORPORATE LAW (Feb. 4, 2022) ([link](#))
- 2021 *Woke Capital?*, LAW AND POLITICAL ECONOMY PROJECT BLOG (LPE BLOG) (May 2021) ([link](#))
- Anti-administrativism returns to the SEC's doorstep: A response to Alex Platt*, YALE J. ON REG. NOTICE & COMMENT ONLINE (invited response, March 2021) ([link](#))

## WORK IN PROGRESS — ARTICLES

- 2022 Secretly recidivist stockbrokers (with Ben Edwards)  
Equity vibes
- 2021 Reconsidering securities industry bars
- ongoing Monitoring self regulation

## WORK IN PROGRESS — EMPIRICAL PROJECTS

- 2022 Bounding reform: The case of Reg ATS  
Text Mining Stockbroker Recidivism (with Ben Edwards)
- ongoing Stock Ownership: Retail, redux?  
Equity investors and contractual complexity: Evidence from arbitration clauses

## WORK IN PROGRESS — ESSAYS

- ongoing Specifications grading in the law school classroom  
William O. Douglas's "Shotgun Behind the Door"  
Crypto self-regulation?

## SELECTED UNPUBLISHED MANUSCRIPTS

- 2011 The economic theory of bellwether trials ([link](#))  
Popular sovereignty and private ordering in the state of exception ([link](#))
- 2009 Sovereign power, human rights, and hypocrisy costs ([link](#)) (revised MA thesis, won Ignacio Martín Baró prize at University of Chicago)

## Academic presentations<sup>1</sup>

*Secretly recidivist stockbrokers*

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<sup>1</sup>Papers sometimes presented under previous titles.

June 2022	National Business Law Scholars Conference
July 2021	Research accountability group
	<i>Investment Games</i>
June 2022	Harvard/Yale/Stanford Junior Faculty Forum (blind submission, scheduled)
January 2022	AALS annual conference — Emerging Voices in Securities Regulation
October 2021	University of Kentucky faculty workshop (invited)
	Fourth Annual Chicagoland Junior Scholars Conference
May 2021	Research accountability group
	Consumer Federation of America — 55th Annual Consumer Assembly conference (invited)
	<i>Monitoring self-regulation</i>
May 2022	Research accountability group
	<i>Stock Ownership: Retail, redux?</i>
May 2022	Research accountability group
	<i>On “confetti regulation”: The wrong way to regulate gamified investing, with Kyle Langvardt</i>
June 2021	National Business Law Scholars Conference
Apr. 2021	Junior Scholar Workshop Series
	<i>Reconsidering securities industry bars</i>
Mar. 2021	University of Nebraska faculty colloquium
Jan. 2021	ClassCrits Online Junior Scholar Workshop
	AALS annual conference — Emerging Voices in Securities Regulation roundtables
Aug. 2020	Junior Scholar Workshop Series
	<i>Contract Design in the Shadow of Regulation</i>
Oct. 2019	University of Chicago Law School — Legal Scholarship Workshop (invited)
	Midwestern Law and Economics Association annual conference
	<i>Moral Reasoning in International Law</i>
May 2010	University of Chicago Law School — Chicago International Law Society
Nov. 2009	American Society for International Law conference (with Roger Alford)
	<i>Sovereign Power, Human Rights, and Hypocrisy Costs</i>

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

#### WORKSHOP PARTICIPATION

2021– Research Accountability Group  
APPEAL/ClassCrits workshops and reading groups  
Online Workshop on the Computational Analysis of Law  
Junior securities law scholars meeting group  
2020 Junior Scholar Workshop series  
Summer corporate and securities law workshop

### Teaching

#### CORE DOCTRINAL COURSES

##### *University of Nebraska College of Law*

2022–23 Business associations, securities regulation, corporate finance, corporate governance seminar  
(planned)  
2021–22 Business associations (×2), securities regulation, corporate finance  
2020–21 Business associations, securities regulation, corporate finance

#### ADDITIONAL TEACHING EXPERIENCE

##### *University of Nebraska College of Law*

Ongoing Supervisor for externships and independent study  
2022 Nonprofit board externship pilot program (co-taught with Dean Richard Moberly and Prof. Brett Stohs)  
2021–22 Contemporary legal literature (zero credit hour course, co-taught with Profs. Gus Hurwitz and Kyle Langvardt)

##### *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**

### *University of Nebraska College of Law*

2021 – Faculty Appointments Committee

2020 – 2021 Student awards committee

### *University of Chicago*

2010 Appointments committee  
Student interviewer

2006 – 2007 Division of the Social Sciences graduate student activities council  
Departmental representative

### *Brown University*

2005 – 2006 University disciplinary committee  
Undergraduate representative

Brown Outdoor Leadership Training  
Trip Leader/Trainer

2004 – 2005 Student activities advisory council  
At-large representative  
Brown Outing Club  
President

## **Service to the profession and the community**

### ACADEMIC JOURNAL PEER REVIEWER

2021 – Columbia Law Review

### ACADEMIC AND RESEARCH PROFESSIONAL ENGAGEMENT

2021 – 2022 Research Development Fellows Program (UNL ORED)  
Program fellow and participant

2022 Association for the Promotion of Political Economy and the Law (APPEAL) and Law and Political Economy (LPE) Project “Office Hours”  
Mentor for graduate student and aspiring scholars

2021 Future Business Law Professors Conference (hosted by Villanova Law)  
Panelist and presenter

### NONPROFIT BOARD AND RELATED SERVICE

- 2022 – DSA Fund  
Planning committee
- 2021 – Lincoln DSA, Inc., a Nebraska 501(c)(4)  
Member, board of directors / steering committee
- 2021 – 2023 Securities & Exchange Commission Historical Society  
Member, board of advisers

#### MEMBERSHIP IN PROFESSIONAL AND RELATED AFFINITY GROUPS

- 2021 – American Law and Economics Association  
Association for the Promotion of Political Economy and the Law (APPEAL)  
Nebraska State Bar Association  
Scholars Strategy Network
- 2020 – Securities & Exchange Commission Historical Society  
American Association of Law Schools — various business law sections  
Society of American Law Teachers (SALT)  
ClassCrits  
American Bar Association — Business Law Section
- 2017 – DSA
- 2016 – Ninth Judicial Circuit Historical Society

#### Public engagement: Comment letters and amicus briefs

- 2022 Comment letter on SEC’s amendments to Exchange Act Rule 3b-16 regarding the definition of “exchange” (Reg ATS reform), File No. S7-02-22 (June 13, 2022) (sole author, link coming)  
Brief of amicus curiae corporate and securities law scholars in support of defendant and appellee Shirley Weber and affirmance, *Meland v. Weber*, No. 22-15149 (9th Cir. filed Apr. 4, 2022) (drafting contributor, signatory as amicus)
- 2021 Comment letter on SEC’s request for information on digital engagement practices, File No. S7-10-21, filed Oct. 1, 2021 (sole author, [SSRN link](#))
- 2020 Comment letter, with Benjamin P. Edwards, on FinCEN’s advance notice of proposed rule-making, *Anti-Money Laundering Program Effectiveness*, Docket No. FINCEN-2020-0011, filed Nov. 16, 2020 (primary author, [SSRN link](#))
- 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 (counsel, [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 (counsel, [link](#))

2012 – Various pro bono engagements

## Education

2011 *University of Chicago Law School*, JD with honors  
Executive Articles and Book Reviews Editor, UNIVERSITY OF CHICAGO LAW REVIEW  
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 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

## Podcast appearances

2021

Interviewed by Kurt Wolfe and Chris Ekimoff, *Cheers! Regulatory Resolutions & More at the inSecurities NYE Party*, INSECURITIES PODCAST, Practicing Law Institute (Dec. 30, 2021) (interviewed with others including SEC Commissioner Hester Peirce, securities lawyers, and several other law professors; [link](#))

Interviewed by Kurt Wolfe and Chris Ekimoff, *Play It Again: An Expert's Take on Gamification and Stock Trading*, INSECURITIES PODCAST, Practicing Law Institute (Nov. 18, 2021) (solo interview; [link](#))

Interviewed by Thomas H. Bickel, BROWN UNDERGRADUATE LAW REVIEW, "Alumni Spotlight" series (Oct. 22, 2021) ([link](#))

Interviewed by Gus Hurwitz, *Tech Refactored*, "Episode 8: Gamestop, RobinHood, and Stonks: Oh my!" Nebraska Governance and Technology Center (Feb. 9, 2021) ([link](#))

Interviewed by Andrew Jennings, *Business Scholarship Podcast*, "Symposium: Financial and Corporate Regulation in the Biden Administration" (Jan. 4, 2021) ([link](#))

## Selected media appearances

2022

Quoted in David Isenberg, *Industry's 'Can-Do' Lawyering Needs Reform: SEC Commish*, IGNITES, Mar. 7, 2022 (a Financial Times publication, tear sheet on file)

Quoted in Robin Kaiser-Schatzlein, *Robinhood struck it rich by turning stock trades into a game. But now its own stock has plunged 80% — and it needs to start copying its old-school rivals if it wants to survive.*, BUSINESS INSIDER, Feb. 27, 2022 ([link](#))

Quoted in David Isenberg, *Worse Than Confetti: The Casino Tricks of Robos and Online Brokers*, IGNITES, Feb. 22, 2022 (video interview) (a Financial Times publication, tear sheet on file)

Quoted in Daren Fonda, *Brokers, Casinos, and Social Media Are Reconditioning Our Brains — Turning Us Into Digital Addicts*, BARRON'S, Feb. 11, 2022 ([link](#))

2021

Quoted in Matt Egan, *Robinhood reveals new regulatory probes on the eve of its blockbuster IPO*, CNN BUSINESS, July 28, 2021 ([link](#))

Quoted in David Isenberg, *US regulator fines UBS \$8m over volatility ETP*, FINANCIAL TIMES, July 21, 2021 ([link](#))

Quoted in David Isenberg, *Shops Caught Up in SEC Data Breach Probe*, IGNITES, June 24, 2021 (a Financial Times publication, tear sheet on file)

Quoted in David Isenberg, *SEC to Weigh Whether Algorithms Are Recommendations*, IGNITES, May 20, 2021 (a Financial Times publication, tear sheet on file)

Quoted in Hannah Levintova, *Robinhood Promises Free Trades. Did Alex Kearns Pay With His Life?*, MOTHER JONES, Apr. 29, 2021 ([link](#))



Quoted in Matt Egan, *Robinhood's CEO is not licensed by a powerful Wall Street regulator*, CNN BUSINESS, Feb. 4, 2021 ([link](#))

Quoted in Aaron Keller, *Law Prof Who Wrote Textbook on Securities Regulation Explains 'WallStreetBets': Retail Investors Have 'Revolted and Stormed the Bastille'*, LAW & CRIME, Jan. 28, 2021 ([link](#))

## Selected popular and non-academic 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

## Conceptual art

- 2021 *The Value of NFTs*: a response to Bryan L. Frye (Oct. 2021) ([link](#))

## Admissions

### STATE BARS

- 2021 – Nebraska (# 27242)
- 2012 – Massachusetts (# 682712)
- 2012 – District of Columbia (# 1011395)

### 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

## Skills

Proficient

R

L<sup>A</sup>T<sub>E</sub>X

Basic Python  
Markdown, Bash, TOML, YAML

## Miscellaneous

### COMMUNITY COLLABORATION

GitHub

Archival of old concert recordings (*Archive.org* [link](#)) for Miracle Orchestra

## Omitted sections

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

[Current version of CV](#)

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