

PRENTISS COX

University of Minnesota Law School
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EMPLOYMENT

University of Minnesota Law School, Minneapolis, Minnesota

Professor of Law (2019-present); Associate Professor of Law- tenured (2012-2019);
Vaughan G. Papke Professor of Clinical Law (2010-2012); Associate Professor of Clinic Law
(2005-2010).

Co-Director, Law Clinics (2020-present); Co-Director, Law in Practice (2010-2018)

University of Minnesota Outstanding Community Service Award (2008)

Stanley V. Kinyon Clinical Teacher of the Year (2009 and 2015).

Minnesota Attorney General's Office, Saint Paul, Minnesota

Special Assistant Attorney General (2019-present).

Manager, Consumer Enforcement Division (2001-05); Assistant Attorney General (1991-
2005). See below for representative litigation.

United States District Court for the Northern District of Illinois, Chicago, Illinois

Judicial Clerk, Honorable P. H. Marshall (1990-1991).

Selected Consulting Activities/Professional Service

Consultant to: Federal Trade Commission; Pew Charitable Trusts; Namibian Competition
Commission; Gambian Consumer Protection and Competition Commission; Swaziland
Competition Commission; Minneapolis Legal Aid Society; Housing Preservation Project;
Tobacco Control Legal Consortium.

Expert Witness for: U. S. Attorney's Office for the District of Minnesota, Southern
Minnesota Regional Legal Services, and putative class in *Woolley v. Ygrene Energy Fund*

Inaugural Member of Consumer Advisory Board, United States Consumer Financial
Protection Bureau (CFPB)

Board of Directors, State Center for Antitrust and Consumer Protection Enforcement
Advisory Board Member, Institute for Foreclosure Legal Assistance

Advisory Board Member, Public Health Law Center

PUBLICATIONS

Books and Book Contributions

LAW IN PRACTICE (West Publishing 2014 and 2d Ed. 2018) (with Laura Thomas).

CONSUMER FRAUD AND DECEPTIVE TRADE PRACTICES IN MINNESOTA (M.S.B.A. 2007 and 2d Ed.
2009) (principal author and editor).

Statutory Fraud, chapter in MINNESOTA BUSINESS TORTS (2011).

Contributor, FORECLOSURES and COST OF CREDIT (National Consumer Law Center).

Contributor (Teacher's Manual), Haydock, Herr and Stempel, FUNDAMENTALS OF PRETRIAL
LITIGATION (West Publishing 2010).

Law Review Articles

- Credit Market v. Borrower Rights: Reforming Student Loans*, HARV. J. ON LEGISLATION (forthcoming 2021) (with Kathleen Engel)
- Forgotten Borrowers: Protecting Private Student Loan Borrowers Through State Law*, 11 U.C. IRVINE L. REV. 43 (2020) (with Judith Fox & Stacey Tutt)
- Strategies of Public UDAP Enforcement*, 55 HARV. J. ON LEGISLATION 37 (2018) (with Amy Widman and Mark Totten).
- Public Enforcement Compensation and Private Rights*, 100 MINN. L. REV. 2313 (2016)
- State Attorneys General Use of Concurrent Public Enforcement Authority in Federal Consumer Protection Laws*, 33 CARDOZO L. REV. 53 (2011) (with Amy Widman).
- Keeping PACE?: The Case Against Property Assessed Clean Energy Financing Programs*, 83 U. COLO. L. REV. 83 (2011).
- The Invisible Hand of Preacquired Account Marketing*, 47 HARV. J. ON LEGISLATION 425 (2010).
- The Importance of Deceptive Practice Enforcement in Financial Institution Regulation*, 30 PACE L. REV. 279 (2009) (symposium contribution).
- Foreclosure Reform Amid Mortgage Lending Turmoil: A Reasonably Radical Proposal*, 45 U. HOUSTON L. REV. 683 (October 2008).
- Goliath Has the Slingshot: Public Benefit and Private Enforcement of Minnesota Consumer Protection Laws*, 33 WM. MITCHELL L. REV. 163 (2006).
- Foreclosure Equity Stripping: Legal Theories and Strategies to Attack a Growing Problem*, CLEARINGHOUSE REVIEW JOURNAL OF POVERTY LAW AND POLICY (March-April 2006).

Other Publications

- Keeping the Baby- If Not The Bathwater: Learning the Right Lessons from the Subprime Crisis*, Communities & Banking Magazine, Federal Reserve Bank of Boston (Spring 2011)
- Will Consumer Protection Actually, if Partially, Prevail?*, American Bar Association Antitrust Section, 15 Consumer Protection Update (Spring 2010) and Insurance and Financial Services Committee Newsletter (Spring 2010)
- Preacquired Account Marketing and the OCC*, The Advocate (National Association of Consumer Advocates) (January 2010).
- Regulatory Perspectives & Initiatives: State Attorney General Case Selection and Investigation*, Practising Law Institute, Vol. 2 Consumer Financial Services Litigation Institute 379 (2006); Vol. 2 Consumer Financial Services Litigation Institute 491 (2005).
- Lead Author, Comments to CFPB (Legal Academic Comments on Civil Investigative Demands RFI, 2018; Consumer Clinical Law Professor Comments on Arbitration Rule, 2017).
- Op-Eds: StarTribune: *Why We Must Not Gut Consumer Protections* (June 12, 2017) (with Jose Quinonez and William Bynum); *Hillary Clinton's VP Pick Should Be Rich Cordray*, (June 14, 2016); *Help Banks, One Last Time, And Help Us All* (December 4, 2010) (with Claire Hill).

LEGISLATIVE AND POLICY WORK

Statutory and Regulatory Reform

Primary drafter of Minnesota anti-predatory lending law. This law was recognized as a model for federal legislation in an editorial by the *New York Times* (“Common Sense Lending,” March 7, 2009), and noted by the *Huffington Post* as a Top Ten Legislative Initiative of 2007.

Primary drafter of Minnesota law restricting foreclosure rescue and equity stripping scams, Minnesota Statutes chapter 325N. This law has been substantially adopted in over twenty other states, including Illinois, Maryland and New York.

Drafted and advocated for legislative bill passed by the 2008 Minnesota Legislature (but vetoed) that would have allowed certain homeowners in foreclosure to defer foreclosure while making partial monthly payments. See Amy Merrick, *Foreclosure Bill Puts Governor on Heat Seat*, Wall Street Journal, May 28, 2008.

Substantially participated in and consulted on F.T.C. proceedings to amend Telemarketing Sales Rule, 16 C.F.R. part 310.4 (2002) to regulate preacquired account marketing transactions, and on F.T.C. Mortgage Assistance Relief Services rule, 16 C.F.R. part 322 (2010).

Led multi-state attorneys general effort to reform interstate compact proposal of the National Association of Insurance Commissioners.

Drafted and advocated for other state consumer protection legislation, including laws relating to private mortgage insurance cancellation, regulation of deceptive travel club offers, payday lending regulation, state debt collection, enforcement authority of commerce commissioner, and numerous other laws. Supervised student attorneys in Consumer Clinic in drafting overhaul of state debt management law.

Drafted consumer protection legislative reform proposals for multiple African nations.

Legislative Testimony

Written and Oral Testimony, United States Senate Committee on Commerce, Science and Technology, “Unauthorized Charges on Internet by Membership Club Sellers” (Nov. 2009).

Written and Oral Testimony, United States House of Representatives Committee on Energy and Commerce, Subcommittee on Consumer Protection, “The Proposed Consumer Financial Protection Agency: Implications for Consumers and the FTC” (July 2009).

Written and Oral Testimony, United States Senate Committee on Commerce, Science and Technology, “Consumer Protection and the Credit Crisis” (Feb. 2009).

Oral Testimony, FTC Regulatory Forum on Telemarketing Sales Rule (2002)

Testified at Minnesota Legislature hearings on more than twenty occasions regarding mortgage lending, payday lending, public enforcement authority, debt collection and other matters.

EDUCATION

J.D., University of Minnesota, 1990
Magna Cum Laude
Articles Editor, *Minnesota Law Review*

B.A., Oberlin College, 1980
Phi Beta Kappa
Harry S. Truman Scholar (1978)

SELECTED LITIGATION

Initiated and served as lead attorney in multi-state attorneys general actions against Ameriquest Mortgage Corporation. Participated in leadership (negotiating committee) of case against Household International. Total recovery of over \$840 million in two cases. Prosecuted first state attorney general predatory lending lawsuit against First Alliance Mortgage Corporation ("FAMCO") in 1998. My work on subprime mortgage issues has been described in two books about the mortgage crisis (Mike Hudson, *The Monster*; and Joe Nocera and Bethany McLean, *All the Devils Are Here: The Hidden History of the Financial Crisis*) and in "The Financial Crisis Inquiry Report" of the National Commission on the Causes of the Financial and Economic Crisis in the United States.

Led state attorneys general actions to limit abuses with preacquired account marketing practices, including action against Fleet Mortgage Corp that raised novel issues of F.T.C. jurisdiction over non-bank operating subsidiaries of national banks. *State v. Fleet Mortgage Corp.*, 158 F.Supp.2d 962 and 181 F.Supp.2d 995 (D. Minn. 2001).

Directed and served as lead attorney in a series of high profile cases against companies and individuals engaged in practices that stripped the equity from homeowners in foreclosure. Assisted numerous homeowners who had lost legal ownership of their properties to recover title.

Initiated, supervised or litigated cases involving a wide range of consumer transactions. Notable cases include first public enforcement actions on the following matters: credit card issuer default rate re-pricing (Capitol One Bank); liability of a payment processor for aiding and abetting liability with respect to fraudulent transactions (First Premier Bank); public agency use of invasion of privacy tort (Cross Country Bank); and violations of firm offer requirements of federal Fair Credit Reporting Act (Brookdale Motors).

Represented Minnesota Commissioner of Commerce in complex matters related to insurance, securities regulation and banking, 1991-1995. Litigated a series of inter-related administrative, state court and federal court cases to restrain entities offering workers' compensation and health insurance from evading state insurance regulation under federal ERISA multiple employer welfare arrangement provisions. *See, e.g., Fuller v. Ulland*, 76 F.3d 957 (8th Cir. 1994); *State by Ulland v. Intl. Assn. of Entrepreneurs of America*, 858 F.Supp. 937 (D.Minn.1994); *State by Ulland v. Intl. Assn. of Entrepreneurs of America*, 527 N.W.2d 133 (Minn.App.1995).

Supervised law clinic cases resulting in decisions on novel legal issues and with public policy implications. *See Hagen v. Messerli & Kramer, P.A.*, 85 F. Supp. 3d 1028, 1029 (D. Minn. 2015); *Wall Street Journal* (“Automatic Payments Make Cancelling Charges Difficult”, February 22, 2006); *RESPA News* (“Coldwell Banker Burnet: The Broader Implications Of A Big Picture Case,” March 27, 2007); and *City Pages* (“Seward Residents: Xcel’s Smelly Poles,” March 9, 2009).

Lead attorney, *Engstrom v. Whitebirch, Inc.*, 931 N.W.2d 786 (Minn. 2019)

SELECTED MEDIA

New York Times: “Letting the Banks off the Hook,” “Talking Business: An Advocate Who Scares Republicans;” “The States Take on Foreclosures”

Wall Street Journal: “Global Finance: New York Spars in Foreclosure Talks;” “States to Probe Mortgage Mess;” “Countrywide’s Pressures Mount;” “Mortgage Brokers” Friend or Foe?”

National Public Radio (NPR): “Proposed Minnesota Law Would Delay Foreclosures,” Morning Edition; “Protecting Yourself from Fraud Protection,” Marketplace

Other Print/Internet Publications: *Atlantic, American Banker, New Republic, Business Week, Daily Beast, Forbes, USA Today, Mother Jones, Money, National Journal, Governing, The Hill, Bloomberg, Huffington Post, Los Angeles Times, Philadelphia Inquirer, Seattle Post-Intelligencer, Milwaukee Journal Sentinel, Houston Press, Houston Chronicle, Denver Post, Kansas City Star, Portland Oregonian, Newsday, Quartz, Christian Science Monitor, Omaha World-Herald, Detroit Free Press, and Miami Herald.*

Other National Broadcast Media: ABC-TV, Canadian Broadcasting Corporation, CNBC, Fox Business News and MSNBC.

Minnesota Media: Quoted in dozens of stories and editorials on Minnesota Public Radio (MPR) StarTribune and Pioneer Press; recurring guest on TPT Almanac public affairs show, and MPR public affairs shows “Daily Circuit” and Mid-Morning. Appeared in news stories or public affairs shows on all major television stations, many radio stations and regional newspapers.

SELECTED PRESENTATIONS

Academic: Kluge Center, Library of Congress (2019); Teaching Consumer Law Conference by University of Houston (2014, 2016, 2018); Loyola Consumer Law Symposium (2016); AALS Clinical Legal Education Conference (2015); Berkeley Consumer Law Scholars Conference, Discussant (2019 and 2020); Renmin Law School- Beijing (2010); Minnesota Law Review Symposium (2010); Pace University Symposium (2009); Center for Urban and Regional Affairs (2007).

Government and Elected Officials. United States: External Keynote Speaker, CFPB Leadership Summit (2017); Convener, State Attorney General Workshop on Student Loan Servicing Practices (2017); Press Conferences with U. S. Senator Amy Klobuchar (2007, 2009, 2010, 2013, 2020); Policy Forums with U. S. Representative Keith Ellison (2007, 2010, 2018); Consumer Financial Protection Bureau public forums (2011); Field Hearing by U. S. Senator Al Franken (2010); Hennepin County Foreclosure Task Force (2010); National Association of

Attorneys General Consumer Protection Section (2010); Keynote, American Association of Residential Mortgage Regulators (2008); (Moderator) Federal Trade Commission (2008); Federal Reserve Board Forum (2007); Saint Paul City Council (2012); Hennepin Board of Commissioners (2007); Ramsey Board of Commissioners (2007); Anoka County Local Government Officers (2008). *International*: Gambian Government Officials and Stakeholders (2011 and 2017); Swaziland Government Officials and Stakeholders (2016); Namibian Government Officials and Stakeholders (2015); Caribbean Competition Commission (2010).

Bar, Practice and Public: American Bankruptcy Institute (2015); Pew Charitable Trusts (2011); ABA Antitrust Section (2010); National Consumer Law Center (2008); University of Minnesota Headliners Program (2008); American Constitutional Society (2007); Food Industry Center (2007); Practising Law Institute (2005-2007); California Legal Services Corporations (2006), National Association of Consumer Advocates (2007-2008), American Conference Institute on Consumer Financial Services (2005-2006). Dozens of programs with the Minnesota State Bar Association and various CLE Institutes.