

JOSHUA I. SCHWARTZ

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Born: September 27, 1951, Cincinnati, Ohio

Bar Admissions: New York, District of Columbia, Supreme Court of the United States, and numerous other federal appellate courts.

Member: United States Court of Federal Claims Advisory Council

PROFESSIONAL EMPLOYMENT

- 2008 - present **E.K. Gubin Professor of Law** - George Washington University Law School. present Teaching subjects: Government Contracts, Administrative Law, Legislation, Property. Co-Director of Government Procurement Law LL.M. Program since 1992. Faculty Director of Merit Scholars Program since 2000.
- 2005-2007 **Member, Acquisition Advisory Panel** - This federal advisory committee, established by Act of Congress, was created to report on a wide range of issues about the state of federal government procurement law and policy. The report was published by the Government Printing Office in July 2007. I am the primary author of the chapter of the report devoted to the federal acquisition workforce.
- 1993 - 2008 **Professor of Law** - George Washington University Law School.
- 1985 - 1993 **Associate Professor** - George Washington University Law School (tenured since 1989).
- 1981 - 1985 **Assistant to the Solicitor General** - Office of the Solicitor General, U.S. Department of Justice.
- 1978 - 1981 **Attorney** - Appellate Section, Environment and Natural Resources Division, U.S. Department of Justice.
- 1977 - 1978 **Law Clerk** - to Hon. Marvin E. Frankel, United States District Judge, Southern District of New York.

EDUCATION

- Cornell University, Master of Regional Planning, June 1977
- Cornell Law School, J.D. summa cum laude, June 1976
(Cornell Law Review, Order of the Coif)
- Harvard College, A.B. magna cum laude, June 1973
(Major field: Social Studies; Honors: Phi Beta Kappa)

PUBLICATIONS

- Joshua I. Schwartz, CASES AND MATERIALS FOR A SURVEY OF GOVERNMENT PROCUREMENT LAW, Fall 2011 (and previous editions annually since 1994) (Desktop and intranet published), 929 pages (West Thomson Reuters and Aspen Wolters Kluwer have expressed interest in publication; negotiations ongoing).
- Joshua I. Schwartz, “Procurement in Times of Crisis: Lessons From US Government Procurement in Three Episodes of ‘Crisis’ in the Twenty-first Century,” in Sue Arrowsmith and Robert D. Anderson, eds., THE WTO REGIME ON GOVERNMENT PROCUREMENT: CHALLENGE AND REFORM (Cambridge University Press, Cambridge, U.K., 2011), pp. 803-829.
- Joshua I. Schwartz, “États-Unis/United States of America,” in Rozen Noguellou and Ulrich Stelkens, with Hanna Schröder, eds., DROIT COMPARÉ DES CONTRATS PUBLICS/COMPARATIVE LAW ON PUBLIC CONTRACTS (Bruylant, Bruxelles, 2010), pp. 613-655.
- Joshua I. Schwartz, “Procurement as a Tool for Economic Stimulus: The United States’ Experience—2008-2010,” in PROCEEDINGS OF THE FOURTH INTERNATIONAL PUBLIC PROCUREMENT CONFERENCE—Seoul, Korea 2010 (Published on disk as the Conference Proceedings).
- Joshua I. Schwartz, SUPPLEMENTAL CASES AND MATERIALS FOR ADMINISTRATIVE LAW (Fall 2011, Spring 2007, Fall 2003, and annually earlier since 1990) (Desktop and intranet published), approximately 200 pages.

Curriculum Vitae for Joshua I. Schwartz

- Joshua I. Schwartz, SUPPLEMENTAL CASES AND MATERIALS FOR PROPERTY (Spring 2011 and previous editions annually since 1990) (Desktop and intranet published), approximately 600 pages.
- Joshua I. Schwartz, “Perspectives on Public Procurement Reform in the United States,” in G. Marcou, L. Folliot-Lalliot, D. Gordon, S. Schooner, J. Schwartz & C. Yukins, eds., LE CONTROLE DES MARCHES PUBLICS (Bibliotheque de L’Institut de Recherche Juridique de la Sorbonne, Paris 2009), pp. 99-126.
- Joshua I. Schwartz “Government Oversight Powers Under U.S. Law” in G. Marcou, L. Folliot-Lalliot, D. Gordon, S. Schooner, J. Schwartz & C. Yukins, eds., LE CONTROLE DES MARCHES PUBLICS (Bibliotheque de L’Institut de Recherche Juridique de la Sorbonne, Paris 2009), pp. 219-234.
- “The Federal Acquisition Workforce,” Chapter 5 of : Acquisition Advisory Panel, REPORT OF THE ACQUISITION ADVISORY PANEL TO THE OFFICE OF FEDERAL PROCUREMENT POLICY AND THE UNITED STATES CONGRESS (U.S. Government Printing Office 2007) (published on the internet at <https://www.acquisition.gov/comp/aap/documents/Chapter5.pdf>).
- Joshua I. Schwartz, “Regulation and Deregulation in Public Procurement Law Reform in the United States” in Gustavo Piga and Khi Thai, ADVANCING PUBLIC PROCUREMENT: PRACTICES, INNOVATION AND KNOWLEDGE-SHARING (PrAcademics Press, Boca Raton, Florida 2007), pp. 177-201.
- Joshua I. Schwartz, “Katrina’s Lessons for Ongoing US Procurement Reform Efforts,” 6 PUB. PROC. L. REV. 363-373 (2006).
- Joshua I. Schwartz, “Feature Comment: Katrina’s Continuing Impact on Procurement,” 47 THE GOVERNMENT CONTRACTOR No. 35, at 2 - 6 (September 21, 2005) (available at <http://ssrn.com/abstract=811265>)
- Joshua I. Schwartz, “Public Contracts Specialization as a Rationale for the Court of Federal Claims,” 71 GEO. WASH. L. REV. 863 (2003).
- Joshua I. Schwartz, “On Globalization and Government Procurement,” in S. Arrowsmith & M. Trybus, eds., PUBLIC PROCUREMENT: THE CONTINUING REVOLUTION (Kluwer Law Int’l, The Hague, 2003), pp. 23-45.
- Joshua I. Schwartz, “The Law of Public Participation in Administrative Decision-

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Making in the United States,” in K. Haller & P. Siroros (eds.), *LEGAL FOUNDATIONS FOR PUBLIC CONSULTATION IN GOVERNMENT DECISION-MAKING* (Executive Public Administration Foundation, Bangkok, 2003), pp. 13-31.

- Joshua I. Schwartz, “Learning from the United States' Procurement Law Experience: On "Law Transfer" and Its Limitations,” 2002 *PUB. PROCUREMENT L. REV.* 15 (2002).
- Joshua I. Schwartz, “Administrative Law Lessons Regarding Politically-Responsible Officials' Role in Default Terminations,” 30 *PUB. CON. L.J.* 143 (2001).
- Joshua I. Schwartz, “The Status of the Sovereign Acts and Unmistakability Doctrines After *Winstar*: An Interim Report,” 51 *ALA. L. REV.* 1177 (2000).
- Joshua I. Schwartz, “Assembling *Winstar*: Triumph of the Ideal of Congruence in Government Contracts Law?,” 26 *PUB. CON. L.J.* 481 (1997).
- Joshua I. Schwartz, “Liability for Sovereign Acts: Congruence and Exceptionalism in Government Contracts Law,” 64 *GEO. WASH. L. REV.* 633 (1996).
- Joshua I. Schwartz, “The Irresistible Force Meets the Immovable Object: Estoppel Remedies for An Agency's Violation of Its Own Regulations or Other Misconduct,” 44 *ADMIN. L. REV.* 653 (1992).
- Joshua I. Schwartz, “The President's Lawyer as Frie(n)d,” 60 *GEO. WASH. L. REV.* 1081 (1992).
- Joshua I. Schwartz, “Nonacquiescence, *Crowell v. Benson* and Administrative Adjudication,” 77 *GEO. L.J.* 1815 (1989).
- Joshua I. Schwartz, “Two Perspectives on the Solicitor General's Independence,” 21 *LOY. L.A.L. Rev.* 1119 (1988).
- Joshua I. Schwartz, “Smallpox Immunization: Controversial Episodes,” in D. Nelkin (ed.), *CONTROVERSY: POLITICS OF TECHNICAL DECISIONS* (Sage Publications, Beverly Hills, 1979), pp. 181-193.
- Joshua I. Schwartz, *PUBLIC HEALTH: CASE STUDIES ON THE ORIGINS OF GOVERNMENT RESPONSIBILITY FOR HEALTH SERVICES IN THE UNITED STATES* (Cornell University Program in Urban and Regional Studies, Ithaca, New York 1977).

FORTHCOMING PUBLICATIONS

- Joshua I. Schwartz, “International Protection of Foreign Bidders Under GATT/WTO Law: Plurilateral Liberalization of Trade in the Public Procurement Sector” forthcoming in Mathias Audit & Stephan Schill, *THE INTERNATIONALIZATION OF PUBLIC CONTRACTS* (Bruylant, Bruxelles, 2012), ch. 3.
- Joshua I. Schwartz, “Litigating State Secrets in Public Procurement Disputes: A Comparative Perspective,” forthcoming in the *PROCEEDINGS OF THE FIFTH INTERNATIONAL PUBLIC PROCUREMENT CONFERENCE*, Seattle, Washington, August 2012.
- Joshua I. Schwartz, “State Secrets in Contract Performance Disputes: The A-12 Litigation and the Supreme Court’s 2011 Decision in *General Dynamics Corp. v. United States*.”

SELECTED RECENT SCHOLARLY PAPERS AND PRESENTATIONS

- “Record Review,” presented at the Court of Federal Claims Judicial Conference, October 27, 2010.
- “Procurement as a Tool for Economic Stimulus: The United States’ Experience—2008-2010,” presented at the Fourth International Public Procurement Conference, Seoul, South Korea, August 28, 2010.
- “The Evolution of Federal Acquisition Reform.” Presented May 14, 2008 at the Judicial Conference of the United States Court of Appeals for the Federal Circuit, Washington, D.C.
- “Perspectives on Public Procurement Reform in the United States.” Presented October 22, 2007 at the Conference on Oversight Over Public Procurement: European and International Perspectives, at The Sorbonne, Paris, France.
- “Government Oversight Powers Under United States Law.” Presented October 23, 2007 at the Conference on Oversight Over Public Procurement: European and International Perspectives, at The Sorbonne, Paris, France.
- “Federal Acquisition Reform.” Presented August 13, 2007 at the American Bar Association’s Public Contract Section Conference at San Francisco, California.
- “Could The United States be “Just Another Commercial Contractor? (And Should It, If It Could?)” Presented June 29, 2007 at the Federal Circuit Bench and Bar Conference, Cambridge, Maryland.

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- “Katrina’s Lessons for Ongoing US Procurement Reform Efforts.” Presented June 19, 2006 at the Global Revolution III Conference at the University of Nottingham, U.K.
- “The Centrality of Military Procurement: Explaining the Exceptionalist Character of the United States’ Federal Procurement System.” Presented June 20, 2006 at the Global Revolution III Conference at the University of Nottingham, U.K.
- “Regulation and Deregulation in Public Procurement Reform in the United States.” Presented September 22, 2006 at the International Public Procurement Conference II, at the University of Rome Tor Vergata, Villa Mondragone, Frascati, Italy.
- “The Federal Acquisition Workforce Findings and Recommendations of the Acquisition Advisory Panel.” Presented March 2, 2007 at the biennial meeting of the American Bar Association’s Public Contracts Section in Annapolis, MD.
- “A Balanced Presumption of Good Faith.” Presented December 8, 2006 at the Nash & Cibinic Roundtable Conference, Washington, D.C.
- “Rethinking the Presumption of the Good Faith of the U.S. Government in the Performance of Its Government Contracts.” Presented October 25, 2006 at the Court of Federal Claims Judicial Conference Symposium, Washington, D.C.
- “The Acquisition Advisory Panel and Its Recommendations Regarding 1) Interagency and Government-Wide Contracting and 2) Commercial Practices.” Presented October 10, 2006 to the Procurement Reform Seminar at the George Washington University School of Law, Washington, D.C.
- “The SCRAP Decision in Its Time and Today: Aspects of the Problem of Standing in Environmental Cases.” Presented September 26, 2006 at a Symposium in honor of the publication of *TO A HIGH COURT*, by Neil Proto, at the George Washington University School of Law, in Washington, D.C.
- “Is It Time for A Pendulum Swing Back to Re-regulation of Government Procurement,” presentation to the National Association of Purchasing Management – National Capital Area (Nov. 16, 2004).
- “The Centrality of Military Procurement: A Comparative Perspective on the Exceptionalist Character of United States Government Procurement Law,” presented at the International Public Procurement Conference, Ft. Lauderdale, Florida, (October 21, 2004).

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- “Recent Developments in Government Contracts Law,” presented to the United States Court of Federal Claims’ 16th Judicial Conference (October 14, 2003).
- “U. S. Government Contracts Principles and Laws: U.S. Laws, Regulations and Principal Contract Types,” presented to the Thai-U.S. Forum on Government Contracts: Sharing International Experience on Government Contracts and the Role of the Courts, organized by the Thai Administrative Court and by Kenan Institute Asia for US AID (March 12, 2003)
- “U.S. Law on Government Contract Formation,” presented to the Thai-U.S. Forum on Government Contracts: Sharing International Experience on Government Contracts and the Role of the Courts, organized by the Thai Administrative Court and by Kenan Institute Asia for US AID (March 12, 2003).
- “U.S. Law on Government Contracts Performance,” presented to the Thai-U.S. Forum on Government Contracts: Sharing International Experience on Government Contracts and the Role of the Courts, organized by the Thai Administrative Court and by Kenan Institute Asia for US AID (March 12, 2003).
- “Basic Statutes and Regulations on United States Government Procurement Law,” presented to the Thai-U.S. Forum on Government Contracts: Sharing International Experience on Government Contracts and the Role of the Courts, organized by the Thai Administrative Court and by Kenan Institute Asia for US AID (March 12, 2003).
- “U.S. Law on Public Participation in Government Decision-Making,,” Presentation to a Study Tour Delegation of the Environment Committee of the Thailand Senate (at GW Law School, Washington, D.C., June 10, 2002).
- “Public Participation in Administrative Decision-Making in the United States: Some Key Lessons,” Presentation to the Thai Council of State Conference on Proposed "Listening to the Public Act," (at the Thai Council of State, Bangkok, Thailand, August 2 & 3, 2001).
- “The Law of Public Participation in Administrative Decision-Making in the United States,” Presentation to a Study Tour of the Thai Council of State (at George Washington University Law School, Washington, D. C., June 11, 2001).
- Report on the Government Procurement Law of the People's Republic of China (with Wolfgang Kirchoff, Fredrick Lees, Daniel Mitterhoff, and Nigel Shipman), Report Presented to the Financial and Economic Committee of the National People's Congress at the International Forum on the Government Procurement Law (at Beijing, China, May 2001).
- “Comments on Draft Government Procurement Legislation-Chapters 3 and 4,” Presentation

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to the International Forum on 'the Government Procurement Law' sponsored by the Financial and Economic Committee of the National People's Congress with support from the International Republican Institute (at Beijing, China, May 16, 2001).

- "Static and Evolutionary Models, 'Congruence,' and 'Exceptionalism' in Designing a Government Procurement System," Presentation to a Working Group of the National People's Congress of the People's Republic of China (at George Washington University Law School, Washington, D.C., April 25, 2001).
- "Contract Claims as an Alternative Vehicle for Redress for Exotic Takings," presented to the Georgetown University Law Center Conference on Regulatory Takings (October 28, 1999).
- "The Status of the Sovereign Acts and Unmistakability Doctrines in the Wake of *Winstar*: An Interim Report," first delivered as a paper at the Spring Symposium of the Court of Federal Claims (April 30, 1999).