



## Samuel Issacharoff

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### Biography

Samuel Issacharoff is the Reiss Professor of Constitutional Law. His wide-ranging research deals with issues in civil procedure (especially complex litigation and class actions), law and economics, constitutional law, particularly with regard to voting rights and electoral systems, and employment law. He is one of the pioneers in the law of the political process, where his *Law of Democracy* casebook (co-authored with Stanford's Pam Karlan and NYU's Rick Pildes) and dozens of articles have helped to create a vibrant new area of constitutional law. He is also a leading figure in the field of procedure, both in the academy and outside. He served as the reporter for the Principles of the Law of Aggregate Litigation of the American Law Institute.

Issacharoff is a 1983 graduate of the Yale Law School. After clerking, he spent the early part of his career as a voting rights lawyer. He then began his teaching career at the University of Texas in 1989, where he held the Joseph D. Jamail Centennial Chair in Law. In 1999, he moved to Columbia Law School, where he was the Harold R. Medina Professor of Procedural Jurisprudence. His published articles appear in every leading law review, as

well as in leading journals in other fields. Issacharoff is a fellow of the American Academy of Arts and Sciences.

## Publications

### BOOKS

- [\*The Law of Democracy: Legal Structure of the Political Process\*](#) (Foundation Press 5th ed., 2016) (with Pamela S. Karlan, Richard H. Pildes and Nathaniel Persily)
- [\*Fragile Democracies: Contested Power in the Era of Constitutional Courts\*](#) (Cambridge University Press, 2015)
- [\*Civil Procedure\*](#) (Foundation Press; Thomson/West 3d ed., 2012)
- [\*The Law of Democracy: Legal Structure of the Political Process\*](#) (Foundation Press; Thomson Reuters 4th ed., 2012) (with Pamela S. Karlan and Richard H. Pildes)
- [\*Principles of the Law of Aggregate Litigation\*](#) (American Law Institute, 2010)
- [\*Civil Procedure\*](#) (Foundation Press; Thomson/West 2d ed., 2009)
- [\*The Law of Democracy: Legal Structure of the Political Process\*](#) (Foundation Press; Thomson/West 3d ed., 2007) (with Pamela S. Karlan and Richard H. Pildes)
- [\*Party Funding and Campaign Finance In International Perspective\*](#) (Hart Publishing, 2006) (ed. with Keith Ewing)
- [\*Civil Procedure\*](#) (Foundation Press, 2005)
- [\*The Law of Democracy: Legal Structure of the Political Process\*](#) (Foundation Press 2d ed., 2002) (with Pamela S. Karlan and Richard H. Pildes)
- [\*When Elections Go Bad: The Law of Democracy and the Presidential Election of 2000\*](#) (Foundation Press rev. edition, 2001) (with Pamela S. Karlan and Richard H. Pildes)
- [\*The Law of Democracy: Legal Structure of the Political Process\*](#) (Foundation Press, 1998) (with Pamela S. Karlan and Richard H. Pildes)

### ARTICLES

- "[Constitutional Implications of the Cost of War](#)," 83 *U. Chi. L. Rev.* 169 (2016) (with Lucas Issacharoff)
- "[Living to Fight Another Day: Judicial Deferral in Defense of Democracy](#)," 2016 *Wis. L. Rev.* 683 (2016) (with Rosalind Dixon)
- "[Panel 3: Litigation Funding as a Tool for Collective Actions and Arbitrations](#)," 12 *N.Y.U. J.L. & Bus.* 569 (2016) (with Brian Fitzpatrick, et al.)

- ["Voter Welfare: An Emerging Rule of Reason in Voting Rights Law,"](#) 92 *Ind. L.J.* 299 (2016)
- ["Ballot Bedlam,"](#) 64 *Duke L.J.* 1363 (2015) Abstract
- ["The Australian Alternative: A View from Abroad of Recent Developments in Securities Class Actions,"](#) 38 *U. New S. Wales L.J.* 179 (2015) (with Thad Eagles) Abstract
- ["Voting Rights at 50,"](#) 67 *Ala. L. Rev.* 387 (2015)
- ["Constitutional Courts and Consolidated Power,"](#) 62 *Am. J. Comp. L.* 585 (2014) Abstract
- ["Litigation Funding and the Problem of Agency Cost in Representative Actions,"](#) 63 *DePaul L. Rev.* 561 (2014) Abstract
- ["Market Intermediaries in the Post-Buckley World,"](#) 89 *N.Y.U. L. Rev. Online* 105 (2014)
- ["The BP Oil Spill Settlement and the Paradox of Publication Litigation,"](#) 74 *La. L. Rev.* 397 (2014) (with D. Theodore Rave) Abstract
- ["An Information-Forcing Approach to the Motion to Dismiss,"](#) 5 *J. Legal Analysis* 437 (2013) (with Geoffrey P. Miller) Abstract
- ["Assembling Class Actions,"](#) 90 *Wash. U. L. Rev.* 699 (2013) Abstract
- ["Beyond the Discrimination Model on Voting,"](#) 127 *Harv. L. Rev.* 95 (2013) Abstract
- ["Federalized America: Reflections on \*Erie v. Tompkins\* and State-Based Regulation,"](#) 10 *J.L. Econ. & Pol'y* 199 (2013) Abstract
- ["Special Interests After \*Citizens United\*: Access, Replacement, and Interest Group Response to Legal Change,"](#) 9 *Ann. Rev. L. Soc. Sci.* 185 (2013) (with Jeremy Peterman) Abstract
- ["Targeted Warfare: Individuating Enemy Responsibility,"](#) 88 *N.Y.U. L. Rev.* 1521 (2013) (with Richard H. Pildes) Abstract
- ["The Governance Problem in Aggregate Litigation,"](#) 81 *Fordham L. Rev.* 3165 (2013) Abstract
- ["10 x 10,"](#) 10 *Int'l J. Cons. L.* 778 (2012) Abstract
- ["Class Actions and State Authority,"](#) 44 *Loy. U. Chi. L.J.* 369 (2012) Abstract
- ["Fairness in Aggregation,"](#) 9 *US-China L. Rev.* 477 (2012)
- ["Constitutional Courts and Democratic Hedging,"](#) 99 *Geo. L.J.* 961 (2011) Abstract
- ["Disclosure, Agents, and Consumer Protection,"](#) 167 *J. Inst. & Theoretical Econ.* 56 (2011) Abstract
- "Il caso *Citizens United v. Federal Election Commission*: il finanziamento dei partiti nel diritto americano (*Citizens United and the American Law of Party Funding*)," 30 *Quaderni costituzionali* 392 (2010)

- ["Judging in Times of the Extraordinary,"](#) 47 *Hous. L. Rev.* 533 (2010) Abstract
- ["On Political Corruption,"](#) 124 *Harv. L. Rev.* 118 (2010) Abstract
- ["Pragmatic Originalism?,"](#) 4 *N.Y.U. J.L. & Liberty* 517 (2010) Abstract
- ["Political Safeguards in Democracies at War,"](#) 29 *Oxford J. Legal Stud.* 189 (2009) Abstract
- ["The Constitutional Logic of Campaign Finance Regulation,"](#) 36 *Pepp. L. Rev.* 373 (2009) Abstract
- ["The Public Value of Settlement,"](#) 78 *Fordham L. Rev.* 1177 (2009) (with Robert H. Klonoff) Abstract
- ["Will Aggregate Litigation Come to Europe,"](#) 62 *Vand. L. Rev.* 179 (2009) (with Geoffrey P. Miller) Abstract
- ["Class Actions Settlements Under Attack,"](#) 156 *U. Pa. L. Rev.* 1649 (2008) (with Richard A. Nagareda) Abstract
- ["Democracy and Collective Decisionmaking,"](#) 6 *Int'l J. Const. L.* 231 (2008) Abstract
- ["Meriwether Lewis, the Air Force, and the Surge: The Problem of Constitutional Law,"](#) 12 *Lewis & Clark L. Rev.* 649 (2008) Abstract
- ["Private Claims, Aggregate Rights,"](#) 2008 *Sup. Ct. Rev.* 183 (2008) Abstract
- ["Fragile Democracies,"](#) 120 *Harv. L. Rev.* 1405 (2007) Abstract
- ["Protected from Politics: Diminishing Margins of Electoral Competition in U.S. Congressional Elections,"](#) 68 *Ohio St. L.J.* 1121 (2007) (with Jonathan Nagler)
- ["Regulating After the Fact,"](#) 56 *DePaul L. Rev.* 375 (2007)
- ["The Law of Politics: Concluding Remarks by Professor Issacharoff,"](#) 95 *Geo. L.J.* 1369 (2007)
- ["Backdoor Federalization,"](#) 53 *UCLA L. Rev.* 1353 (2006) (with Catherine M. Sharkey)
- ["Credit Card Accountability,"](#) 73 *U. Chi. L. Rev.* 157 (2006) (with Erin F. Delaney)
- ["Getting Beyond Kansas,"](#) 74 *UMKC L. Rev.* 613 (2006)
- ["Settled Expectations in a World of Unsettled Law,"](#) 106 *Colum. L. Rev.* 1839 (2006)
- ["Law, Rules and Presidential Selection,"](#) 120 *Pol. Sci. Q.* 113 (2005) Abstract
- ["Between Civil Libertarianism and Executive Unilateralism: An Institutional Process Approach to Rights During Wartime,"](#) 5 *Theoretical Inquiries L.* 1 (2004) (with Richard H. Pildes) Abstract
- ["Collateral Damage: The Endangered Center in American Politics,"](#) 46 *Wm. & Mary L. Rev.* 415 (2004) Abstract
- ["Constitutionalizing Democracy in Fractured Societies,"](#) 82 *Tex. L. Rev.* 1861 (2004) Abstract

- ["Emergency Contexts Without Emergency Powers: The United States' Constitutional Approach to Rights During Wartime,"](#) 2 *Int'l J. Const. L.* 296 (2004) (with Richard H. Pildes) Abstract
- ["Is Section 5 of the Voting Rights Act a Victim of Its Own Success?,"](#) 104 *Colum. L. Rev.* 1710 (2004) Abstract
- ["The American Law of Repose,"](#) 23 *Civ. Just. Q.* 324 (2004)
- ["The Elusive Search for Constitutional Integrity: A Memorial for John Hart Ely,"](#) 57 *Stan. L. Rev.* 727 (2004)
- ["The Inevitability of Aggregate Settlements: An Institutional Account of American Tort Law,"](#) 57 *Vand. L. Rev.* 1571 (2004) (with John Fabian Witt) Abstract
- ["Throwing in the Towel: The Constitutional Morass of Campaign Finance,"](#) 3 *Election L.J.* 259 (2004)
- ["Where to Draw the Line: Judicial Review of Political Gerrymanders,"](#) 153 *U. Pa. L. Rev.* 541 (2004) (with Pamela S. Karlan) Abstract
- ["Gerrymanders and Political Cartels,"](#) 116 *Harv. L. Rev.* 593 (2002) Abstract
- ["Private Parties with Public Purposes: Political Parties, Associational Freedoms, and Partisan Competition,"](#) 101 *Colum. L. Rev.* 274 (2001)
- ["Governance and Legitimacy in the Law of Class Actions,"](#) 1999 *Sup. Ct. Rev.* 337 (1999) Abstract
- ["Politics as Markets: Partisan Lockups of the Democratic Process,"](#) 50 *Stan. L. Rev.* 643 (1998) (with Richard Pildes) Abstract

## CHAPTERS

- [Drones and the Dilemma of Modern Warfare,](#) in *Drone Wars: Transforming Conflict, Law, and Policy* 388 (Peter Bergen and Daniel Rothenberg, eds., Cambridge University Press, 2015) (with Richard H. Pildes)
- [Due Process in Law,](#) in *International Encyclopedia of the Social & Behavioral Sciences* 696 (James D. Wright, ed., Elsevier 2d ed., 2015)
- [Epilogue: Bush v. Gore and the Constitutional Right to Vote,](#) in *Election Administration in the United States: The State of Reform after Bush v. Gore* 221 (R. Michael Alvarez and Bernard M. Grofman, eds., Cambridge University Press, 2014) (with Richard H. Pildes)
- [The Majoritarian Threat to Democracy: Constitutional Courts and the Democratic Pact,](#) in *Majority Decisions: Principles and Practices* 236 (Stéphanie Novak and Jon Elster, eds., Cambridge University Press, 2014)

- Citizens United y la Regulacion del Financiamiento a Partidos Politicos en los Estados Unidos de American, in *Sentencias Relevantes de Cortes Extranjeras* 153 (Tribunal Electoral del Poder Judicial de la Federacion, Mexico, 2013)
- [Courts, Constitutions, and the Limits of Majoritarianism](#), in *Power Sharing in Deeply Divided Places* 214 (Joanne McEvoy and Brendan O'Leary, eds., University of Pennsylvania Press, 2013)
- [Antidiscrimination in Employment: The Simple, the Complex, and the Paradoxical](#), in *Research Handbook on the Economics of Labor and Employment Law* 385 (Cynthia L. Estlund and Michael L. Wachter, eds., Edward Elgar Publishing, 2012) (with Erin Scharff)
- Fairness in Aggregation, in *Procesos Colectivos/Class Actions: Proceedings of 1st International Conference on Procedural Law* 31 (2012)
- [Managing Conflict Through Democracy](#), in *Rights in Divided Societies* 33 (Colin Harvey and Alex Schwartz, eds., Hart Publishing, 2012)
- [Will Aggregate Litigation Come to Europe?](#), in *The Law and Economics of Class Actions in Europe: Lessons from America* 37 (Jürgen Backhaus, Alberto Cassone and Giovanni Ramello, eds., Edward Elgar Publishing, 2012) (with Geoffrey Miller)
- [Judging Democracy's Boundaries](#), in *Race, Reform, and Regulation of the Electoral Process: Recurring Puzzles in American Democracy* 150 (Guy-Uriel E. Charles, Heather K. Gerken and Michael S. Kang, eds., Cambridge University Press, 2011)
- [On Political Corruption](#), in *Money, Politics, and the Constitution: Beyond Citizens United* 119 (Monica Youn, ed., Century Foundation Press, 2011)
- Aggregating Private Claims, in *Litigation in England and Germany: Legal Professional Services, Key Features and Funding* 63 (Peter Gottwald, ed., Giesecking Verlag, 2010)
- [Democracy and Electoral Processes](#), in *Research Handbook on Public Choice and Public Law* 173 (Daniel A. Farber and Anne Joseph O'Connell, eds., Edward Elgar Publishing, 2010) (with Laura Miller)
- Facts, Investigation, and the Role of Discovery, in *Litigation in England and Germany: Legal Professional Services, Key Features and Funding* 39 (Peter Gottwald, ed., Giesecking Verlag, 2010)
- [Party Funding and Campaign Finance Law in the United States](#), in *Supervising Electoral Processes* 29 (European Commission for Democracy Through Law, ed., Manhattan Publishing, 2010)
- [The Institutional Dimension of Consumer Protection](#), in *New Frontiers of Consumer Protection: The Interplay Between Private and Public Enforcement* 47 (Fabrizio Cafaggi and Hans-W. Micklitz, eds., Intersentia, 2009) (with Ian Samuel)

- [2008 Supplement](#), in *The Law of Democracy: Legal Structure of the Political Process* (Foundation Press, 2008) (with Pamela S. Karlan and Richard H. Pildes)
- Reporter. Tentative Draft No. 1, in *Principles of the Law of Aggregate Litigation* (American Law Institute Publishers, 2008)
- [A Cosmopolitan Judge for a Cosmopolitan Era: An Essay in Honor of Carl Baudenbacher](#), in *Economic Law and Justice in Times of Globalization: Festschrift for Carl Baudenbacher* 131 (Jay Westbrook, Mario Monti, Bo Versterdor, Luzius Wildhaber and Nikolaus von und zu Liechtenstein, eds., Stämpfli Verlag, 2007)
- [Supreme Court Preemption: The Contested Middle Ground of Products Liability](#), in *Federal Preemption: States' Powers, National Interest* 194 (Richard A. Epstein and Michael S. Greve, eds., AEI Press, 2007) (with Catherine M. Sharkey)
- [2005 Supplement](#), in *The Law of Democracy: Legal Structure of the Political Process* (Foundation Press 2d ed., 2005) (with Pamela S. Karlan and Richard H. Pildes)
- [Between Civil Libertarianism and Executive Unilateralism: An Institutional Process Approach to Rights During Wartime](#), in *The Constitution in Wartime: Beyond Alarmism and Complacency* 161 (Mark Tushnet, ed., Duke University Press, 2005) (with Richard H. Pildes)
- [Legal Responses to Conflict of Interest](#), in *Conflicts of Interest: Challenges and Solutions in Law, Medicine, and Public Policy* 189 (Max H. Bazerman, George Loewenstein and Don A. Moore, eds., Cambridge University Press, 2005)
- [2004 Supplement](#), in *The Law of Democracy: Legal Structure of the Political Process* (Foundation Press 2d ed., 2004) (with Pamela S. Karlan and Richard H. Pildes)
- [Story of Baker v. Carr](#), in *Constitutional Law Stories* 297 (Michael C. Dorf, ed., Thomson/West, 2004) (with Stephen Ansolabehere)

## Presentations and Lectures

- Oxford University, The Hart Memorial Lecture: Democracy in Times of War
- Lewis & Clark Law School, Higgins Lecture: Meriwether Lewis, the Air Force, and the Surge: The Problem of Constitutional Settlement
- Julius Rosenthal Foundation Series Lectures, Northwestern University School of Law: Fragile Democracies, and Contested Visions of Democracy
- Astor Visiting Lecture, Oxford University: When Rights Break Down: U.S. Constitutional Responses in Times of National Security Crisis.