

FAIGMAN, DAVID L.

Books

MODERN SCIENTIFIC EVIDENCE: THE LAW AND SCIENCE OF EXPERT TESTIMONY, Vols. 1-5 (Thomson/West 2008) (with Michael J. Saks, Joseph Sanders & Edward Cheng).

FEDERAL RULES OF EVIDENCE (Thomson/West 2006-2007).

MODERN SCIENTIFIC EVIDENCE: THE LAW AND SCIENCE OF EXPERT TESTIMONY, Vols. 1-4 (Thomson/West 2006-2007) (with David Laurence).

ANNOTATED REFERENCE MANUAL ON SCIENTIFIC EVIDENCE (Thomson/West 2006) (with Michael J. Saks, David H. Kaye & Joseph Sanders).

MODERN SCIENTIFIC EVIDENCE (student ed., Thomson/West 2006).

MODERN SCIENTIFIC EVIDENCE: FORENSICS (student ed., Thomson/West 2006).

MODERN SCIENTIFIC EVIDENCE: STANDARDS, STATISTICS, AND RESEARCH METHODS (student ed., Thomson/West 2006).

MODERN SCIENTIFIC EVIDENCE, Vols. 1-4 (Thomson/West 2005-2006) (with Michael J. Saks, David H. Kaye & Joseph Sanders).

LABORATORY OF JUSTICE (Henry Holt, 2004).

SCIENCE IN THE LAW: STANDARDS, STATISTICS AND RESEARCH ISSUES; SCIENCE IN THE LAW: SOCIAL AND BEHAVIORAL SCIENCE ISSUES; SCIENCE IN THE LAW: FORENSIC SCIENCE ISSUES (West Pub. Co. 2002) (with David H. Kaye, Michael J. Saks & Joseph Sanders) (reprinted chapters from M.S.E. for student edition).

MODERN SCIENTIFIC EVIDENCE: THE LAW AND SCIENCE OF EXPERT TESTIMONY (2d ed., West Group 2002 & Supp. 2003) (with David H. Kaye, Michael J. Saks and Joseph Sanders).

LEGAL ALCHEMY: THE USE AND ABUSE OF SCIENCE IN THE LAW (W.H. Freeman & Co. 1999).

MODERN SCIENTIFIC EVIDENCE: THE LAW AND SCIENCE OF EXPERT TESTIMONY, Vol. 3 (West Group 1999) (with David H. Kaye, Michael J. Saks and Joseph Sanders).

MODERN SCIENTIFIC EVIDENCE: THE LAW AND SCIENCE OF EXPERT TESTIMONY (West Group 1997 & Supps. 1999-2001) (with David H. Kaye, Michael J. Saks and Joseph Sanders).

Articles

Scientific Realism in Constitutional Law, 73 BROOKLYN L. REV. 1067 (2008).

Judges as “Amateur Scientists”, 86 B.U.L. REV. 1207 (Dec. 2006).

Expert Evidence After Daubert, 1 ANN. REV. L. & SOC. SCI. 105 (2005) (with Michael J. Saks)

Psychological Evidence at the Dawn of the Law’s Scientific Age, 56 ANN. REV. PSYCHOL. 631 (2005) (with John Monahan).

Expert Evidence in Flatland: The Geometry of a World Without Scientific Culture, 34 SETON HALL L. REV. 255 (2003).

The Limits of the Polygraph, 20 ISSUES IN SCI. & TECH. 40 (2003) (with Stephen E. Fienberg & Paul C. Stern).

Making Moral Judgments Through Behavioural Science: The “Substantial Lack of Volitional Control” Requirement in Civil Commitments, 2 LAW PROBABILITY & RISK 309 (2003).

Is Science Different for Lawyers?, 297 SCI. 339 (July 19, 2002).

Embracing the Darkness: Loperquist v. McVey and the Doctrine of Ignorance of Science is an Excuse, 33 ARIZ. ST. L.J. 87 (2001).

The Tipping Point in the Law’s Use of Science: The Epidemic of Scientific Sophistication that Began with DNA Profiling and Toxic Torts, 67 BROOK. L. REV. 111 (2001).

How Good Is Good Enough? Expert Evidence under Daubert and Kumho (with David H. Kaye, Michael J. Saks, & Joseph Sanders) 50 CASE W. RES. L. REV. 645 (2000).

The Law’s Scientific Revolution: Reflections and Ruminations on the Law’s Use of Experts in Year Seven of the Revolution, 57 WASH. & LEE L. REV. 661 (2000).

Looking for Policy in All the Wrong Places: A Comment on the Strategies of “the Race and Gender Crowd” Toward Evidence Law, 28 SW. U. L. REV. 289 (1999).

Truth, with a Small “t”, 49 HASTINGS L.J. 1185 (1998).

Appellate Review of Scientific Evidence Under Daubert and Joiner, 48 HASTINGS L.J. 969 (1997).

The Battered Woman Syndrome in the Age of Science, 39 ARIZ. L. REV. 67 (1997) (with Amy J. Wright).

Making the Law Safe for Science: A Proposed Rule for the Admission of Expert Testimony, 35 WASHBURN L.J. 401 (1996).

“And to the Republic for Which It Stands”: *Guaranteeing a Republican Form of Government*, 23 HASTINGS CONST. L.Q. 1057 (1996) (with Catherine A. Rogers).

The Syndromic Lawyer Syndrome: A Psychological Theory of Evidentiary Munificence, 67 U. COLO. L. REV. 817 (1996).

The Evidentiary Status of Social Science Under Daubert: Is it “Scientific,” “Technical,” or “Other” Knowledge?, 1 PSYCH., PUB. POL. & LAW 960 (1995).

Mapping the Labyrinth of Scientific Evidence, 46 HASTINGS L.J. 555 (1995).

Measuring Constitutionality Transactionally, 45 HASTINGS L.J. 753 (1994).

Check Your Crystal Ball at the Courthouse Door, Please: Exploring the Past, Understanding the Present, and Worrying About the Future of Scientific Evidence, 15 CARDOZO L. REV. 1799 (1994) (with Elise Porter and Michael J. Saks).

Madisonian Balancing: A Theory of Constitutional Adjudication, 88 NW. U. L. REV. 641 (1994).

Constitutional Adventures in Wonderland: Exploring the Debate Between Rules and Standards Through the Looking Glass of the First Amendment, 44 HASTINGS L.J. 829 (1993).

Reconciling Individual Rights and Government Interests: Madisonian Principles Versus Supreme Court Practice, 78 VA. L. REV. 1521 (1992).

Struggling to Stop the Flood of Unreliable Expert Testimony, 76 MINN. L. REV. 877 (1992).

“Normative Constitutional Fact-finding”: *Exploring the Empirical Component of Constitutional Interpretation*, 139 U. PA. L. REV. 541 (1991).

By What Authority?: Reflections on the Constitutionality and Wisdom of the Flag Protection Act of 1989, 17 HASTINGS CONST. L.Q. 353 (1990); *reprinted in THE CONSTITUTION AND THE FLAG, VOL. 2: THE FLAG BURNING CASES* 457 (Michael Kent Curtis ed., 1993).

Confronting the Tyranny of the Majority, 8 S.F. BARRISTER L.J. 3 (1989).

To Have and Have Not: Assessing the Value of Social Science to the Law as Science and Policy, 38 EMORY L.J. 1005 (1989).

Bayes' Theorem in the Trial Process: Instructing Jurors on the Value of Statistical Evidence, 12 L. & HUM. BEHAV. 1 (1988) (with A.J. Baglioni, Jr.).

The Battered Woman Syndrome and Self-defense: A Legal and Empirical Dissent, 72 VA. L. REV. 619 (1986).

Chapters in Books

The Limits of Science in the Courtroom, in BEYOND COMMON SENSE: PSYCHOLOGICAL SCIENCE IN THE COURTROOM 303 (Eugene Borgida & Susan T. Fiske eds., Blackwell Pub. 2008).

Fact-Finding in Constitutional Cases, in HOW LAW KNOWS 156 (Austin Sarat et al eds., Stanford Univ. Press 2007).

Expert Evidence: The Rules and the Rationality the Law Applies (or Should Apply) to Psychological Expertise, in HANDBOOK OF PSYCHOLOGY IN LEGAL CONTEXTS 367 (David Carson & Ray Bull eds., J. Wiley 2003).

Should Forensic Science be "Scientific"?, in POLICE, TECHNIQUES MODERNES D'ENQUÊTE OU DE SURVEILLANCE ET DROIT DE LA PREUVE: ACTES DU COLLOQUE, (Édition R.D.U.S. 1998).

Like Socrates, But Hold the Hemlock: Teaching Law, in FULL DISCLOSURE: DO YOU REALLY WANT TO BE A LAWYER? 95 (Susan J. Bell ed., Peterson's Guides 2d ed.1992).

Book Reviews

Discerning Justice When Battered Women Kill, 39 HASTINGS L.J. 207 (1987) (reviewing CHARLES PATRICK EWING, BATTERED WOMEN WHO KILL: PSYCHOLOGICAL SELF-DEFENSE AS LEGAL JUSTIFICATION (1987)).

Other Publications

"*Expert Testimony*," "*Expert Testimony, Qualifications of*," "*Expert Testimony, Forms of*," in ENCYCLOPEDIA OF PSYCHOLOGY AND LAW (Brian L. Cutler ed., Sage Publications 2008).

Brief of Constitutional Law Professors David L. Faigman and Ashutosh A. Bhagwat, et al., as Amici Curiae in Support of Respondents in Gonzales v. Carhart and Gonzales v. Planned Parenthood, Nos. 05-830, 05-1382 (Introduction and Published Brief to United States Supreme Court), 34 HASTINGS CONST. L.Q. 69 (2006) (with Ashutosh Bhagwat & Kathryn M. Davis).

A Flow Chart of the Federal Rules of Evidence, in FEDERAL RULES OF EVIDENCE FOR UNITED STATES COURTS AND MAGISTRATES (West Pub. Co. 1992-2003).

Masters Thesis

Setting the Odds on Justice: Statistics and Probabilities in the Trial Process (1984) (unpublished Masters Thesis, University of Virginia) (on file with Brown Library, University of Virginia).