

## **PRENTISS COX**

University of Minnesota Law School  
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### **EMPLOYMENT**

#### **University of Minnesota Law School, Minneapolis, Minnesota**

Vaughan G. Papke Professor of Clinical Law (2010-current); Associate Professor of Clinic Law (2005-2010).

Courses: Consumer Protection Clinic (created and supervise); Environmental Sustainability Clinic (created and supervise); Practice and Professionalism (co-director); Civil Procedure I, Civil Procedure II, Comparative Consumer Protection Law; Pretrial Skills; Consumer Protection/Transactions.

Committee Work: Adjunct Appointments; Honor Code Council; Admissions; Career Development.

Awards: Stanley V. Kinyon Clinical Teacher of the Year; University of Minnesota Outstanding Community Service Award

#### **Minnesota Attorney General's Office, Saint Paul, Minnesota**

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).

### **PUBLICATIONS**

#### Book and Book Contributions

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 (2008, 2d ed. 2009 and 3d Ed. 2011).

Contributor, National Consumer Law Center, FORECLOSURES (2008 Suppl.) and COST OF CREDIT (2008 Suppl.)

Contributor (Teacher's Manual), Haydock, Herr and Stempel, FUNDAMENTALS OF PRETRIAL LITIGATION (6th Ed. West 2010).

## Law Review Articles

*State Attorneys General Use of Concurrent Public Enforcement Authority in Federal Consumer Protection Laws*, CARDOZO L. REV. (forthcoming 2012) (with Amy Widman)

*Keeping PACE?: The Case Against Property Assessed Clean Energy Financing Programs*, U. COLO. L. REV. (forthcoming 2011)

*The Invisible Hand of Preacquired Account Marketing*, 47 HARV. J. ON LEGISLATION 425 (Summer 2010)

*Consumer Protection and 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).

*Social Security Netting Regulations*, 73 MINN. L. REV. 1143 (1989) (student note)

## Other Publications

*Keeping the Baby- If Not The Bathwater*, Communities & Banking Magazine, Federal Reserve Bank of Boston (Spring 2011) (article on state FHA mortgage loan programs).

*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) (article on legislation to create the Consumer Financial Protection Bureau).

*Help Banks, One Last Time, And Help Us All*, Op-Ed, StarTribune (December 4, 2010) (with Claire Hill).

*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).

## **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 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 in 2001-2002 that resulted in the amendments to the Telemarketing Sales Rule, 16 C.F.R. part 310.4, regulating preacquired account marketing transactions.

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 (Minn. Stat. § 47.207) and regulation of deceptive travel club offers (Minn. Stat. § 325G.505). Supervised student attorneys in Consumer Clinic in drafting overhaul of Minnesota debt management law (Minn. Stat. ch. 332A), reforms to Minnesota payday lending law (Minn. Stat. § 325G.505) and a bill to require transparent and accountable loan modification review prior to foreclosure.

### 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 more than once per session in each of the last six legislative sessions on mortgage lending, consumer protection 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 (Georgia 1978)

## **SELECTED PRESENTATIONS**

### Academic

“Case Law and Statutes,” Symposium on Case Method, Renmin Law School (2010)  
“View from the Clinics,” University of Houston Teaching Consumer Law conference (2010)  
“The Past: Did Capitalism Fail?,” (Moderator), Minnesota Law Review Symposium (2010)  
“Consumer Protection and Financial Institution Regulation,” Pace University Symposium (2009)  
“Housing Forum,” Center for Urban and Regional Affairs (2007)

### Government and Elected Officials

“Effects of Financial Crisis,” Field Hearing by U. S. Senator Al Franken (2010)  
“Competition and Consumer Protection Regulation,” Training for Caribbean Competition Commission (2010)  
“Current State of Foreclosures,” Hennepin County Foreclosure Task Force (2010)  
“Preacquired Account Marketing Enforcement Actions,” National Association of Attorneys General Consumer Protection Section (2010)  
“Foreclosure Law Reform,” American Association of Residential Mortgage Regulators (2008)  
“Forum on False Advertising,” (Moderator) Federal Trade Commission (2008)  
“State Foreclosure Laws: The Meaning of Difference” and “Ideas for Reform,” Federal Reserve Board Forum: Fixing the Foreclosure System (2007)  
*Presentations on Foreclosure Crisis to County Elected Officials:* Hennepin Board of Commissioners (2007); Ramsey Board of Commissioners (2007); Anoka County Local Government Officers (2008)  
*Press Conferences with U. S. Senator Amy Klobuchar—* Deceptive Cell Phone Charges (2010); Unfair Charges by E-Merchants (2009); Unsafe Toys Imported From China (2007)  
*Policy Forums with U. S. Representative Keith Ellison:* “Financial Regulatory Reform” (2010); “Credit Justices Issues” (2007)

### Bar, Practice and Public

“The Consumer Financial Protection Agency Act,” American Bar Association Antitrust Section (2010)  
“New Wall Street Reform Act,” University of Minnesota Law School Summer CLE Program (2010)

“Taking the Mystery Out of the Mortgage Mess,” “New Wall Street Reform Act,” University of Minnesota Law School Summer CLE Program (2009)  
 “State and Local Responses to the Mortgage Meltdown,” National Consumer Law Center (2008)  
 “The Foreclosure Crisis Hits Home,” Featured Speaker, University of Minnesota Headliners Program, (2008)  
 “State and Local Responses to the Mortgage Meltdown,” National Consumer Law Center (2008)  
 “Mortgage Foreclosures: The Recent Bloody Past and Possible Future,” Minnesota Real Estate Institute (2008)  
 “Identifying Mortgage Fraud,” Minnesota Real Estate Institute (2007)  
 “Foreclosure and Subprime Lending,” American Constitutional Society (2007)  
 “Privacy and Law: The Road So Far and Ahead,” U. of Minnesota Food Industry Center (2007)  
 “Regulatory Perspectives & Initiatives: State Attorney General Case Selection and Investigation,” Practising Law Institute (2005-2007)  
 “State of the Foreclosure Crisis,” Hennepin County Bar Association (2007), Minnesota Mortgage Foreclosure Prevention Association (2007), Sensible Land Use Coalition (2007), Jewish Community Action Forum (2007), Foreclosure Funders Council (2007) and Ramsey County Bar Association (2008).  
 “Foreclosure Equity Stripping,” California Legal Services Corporations (2006), Volunteer Lawyer’s Network (2006 and 2007), National Association of Consumer Advocates (2007 and 2008), the Institute for Foreclosure Legal Assistance (2008).  
 “Understanding the FDCPA,” Minnesota Legal Services Corporation (2006) and Volunteer Lawyer’s Network (2006)  
 “Consumer Protection Beyond the Feds: Lessons Learned from State Enforcement Actions,” American Conference Institute on Consumer Financial Services (2005 and 2006)  
*Numerous Minnesota CLE (Minnesota State Bar Association) presentations include the following:* “Wall Street Reform Act” (2010) (with former U. S. Senator Norm Coleman), “Advising the Disadvantaged” (2007 and 2008); “Foreclosures in Minnesota” (2006 and 2007); “Consumer Fraud and Deceptive Trade Practices” (2007 and 2009) (Course Chair); “Bankruptcy Institute” (2007)

## **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* (2010); and Joe Nocera and Bethany McLean, *All the Devils Are Here: The Hidden History of the Financial Crisis* (2010)) 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 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, and 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 federal court actions and matters related to insurance, banking and securities regulation, 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 (8<sup>th</sup> 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).

## **SELECTED MEDIA**

*New York Times*: "Letting the Banks off the Hook" (April 18, 2011); "Talking Business: An Advocate Who Scares Republicans" (March 19, 2011); "The States Take on Foreclosures" (October, 29, 2010).

*Wall Street Journal*. "States to Probe Mortgage Mess" (October 12, 2010); "Countrywides' Pressures Mount" (June 26, 2008); "Mortgage Brokers" Friend or Foe?" (May 24, 2007).

National Public Radio: "Proposed Minnesota Law Would Delay Foreclosures," Morning Edition ( May 7, 2008).

*New Republic* "No Account: The Nefarious Bureaucrat Who's Helping Banks Rip You Off." (August 27, 2007).

*American Banker*: "Is No Servicing Deal The Better Way for Banks" (March 18, 2011); "Check is in the Mail; Is Reputation on the Line?" (March 14, 2008); "In Leveraged Loan Market, Steps Toward Equilibrium" (June 20, 2008).

Other Print Publications: *Business Week*, *Forbes*, *USA Today*, *Mother Jones*, *Money*, *National Journal*, *Governing*, *The Hill*, *Los Angeles Times*, *Philadelphia Inquirer*, *Seattle Post-Intelligencer*, *Milwaukee Journal Sentinel*, *Houston Press*, *Houston Chronicle*, *Denver Post*, *Kansas City Star*, *Portland Oregonian*, *Newsday*, *Omaha World-Herald*, *Detroit Free Press* and Froma Harrop nationally syndicated *Miami Herald* column.

Other Broadcast Media: ABC-TV, Canadian Broadcasting Corporation (radio call-in and television documentary), Fox Business News and MSNBC.

### Minnesota Media (2006-2011)

Quoted in approximately 24 news stories on Minnesota Public Radio (MPR).

Quoted in more than 35 *StarTribune* or *Pioneer Press* news stories.

Quoted or mentioned in 5 *StarTribune* editorials.

Guest on 7 MPR call-in programs (Midday and Midmorning).

Guest at least once per year on *Almanac*, a Twin Cities Public Television public affairs show.

Appeared in news stories or public affairs shows on all major television stations, many radio stations and most Minnesota regional or business newspapers.

### **SELECTED CONSULTING ACTIVITIES**

Program Evaluation Consultant, Pew Charitable Trusts

Consultant on Rulemaking, Federal Trade Commission

Attorney, Tobacco Control Legal Consortium

Consulting Expert, Minneapolis Legal Aid Society

Consulting Expert, Housing Preservation Project

Expert Witness, U. S. Attorney's Office for the District of Minnesota

### **VOLUNTEER PROFESSIONAL SERVICE**

Member, Board of Directors, The State Center.

National Advisory Board Member, Institute for Foreclosure Legal Assistance.

National Advisory Board Member, Study of Self-Regulation of Children's Food Marketing, Public Health Law Center.

*Pro bono* Attorney, National Association of Consumer Advocates

### **OTHER EMPLOYMENT**

General Manager, Central States Cooperatives

Member, Board of Directors, Universal Cooperatives, Inc.

Assistant Director, Self Reliance Center

Staff, Clergy and Laity Concerned

Project Manager, Adult Guardianship Program, HELP/Legal Aid of Davenport, Iowa

### **COURT AND BAR ADMISSIONS**

- State of Minnesota
- U.S. District Court for the District of Minnesota
- U.S. Court of Appeals for the Eighth Circuit