

Anita Bernstein

Anita and Stuart Subotnick Professor of Law
Brooklyn Law School
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EDUCATION

YALE LAW SCHOOL, New Haven, Connecticut J.D., 1985
Article and Book Review Editor, Yale Law Journal (1984-85)
Editor, Yale Law Journal (1984)
After graduation: Class Co-Secretary, 1990-1995; Social Co-Chair, 2010 Reunion

QUEENS COLLEGE, Flushing, New York B.A., 1981
Phi Beta Kappa. Political science major. Honors in philosophy and history.
The John Golden Prize and the Clinton Oliver Memorial Prize for writing
After graduation: Distinguished Alumna award, Political Science Department,
May 2014

LAW SCHOOL FACULTY POSITIONS

BROOKLYN LAW SCHOOL, Brooklyn, New York
Anita and Stuart Subotnick Professor of Law September 2007-present
Visiting Professor Fall 2006

AUSTRALIAN NATIONAL UNIVERSITY and UNIVERSITY OF SYDNEY, Australia
Visiting Professor Spring 2009

EMORY UNIVERSITY SCHOOL OF LAW, Atlanta, Georgia
Sam Nunn Professor of Law September 2000-August 2007
Visiting Professor July 1999-August 2000

NEW YORK LAW SCHOOL, New York, New York
Wallace Stevens Professor of Law February 2005-June 2007
Visiting Professor Fall 2004

CORNELL LAW SCHOOL, Ithaca, New York
Visiting Professor Fall 2003

UNIVERSITY OF IOWA COLLEGE OF LAW, Iowa City, Iowa
Mason Ladd Distinguished Visiting Professor Spring 2002

CHICAGO-KENT COLLEGE OF LAW, Chicago, Illinois
Professor of Law 1997-2000

Norman & Edna Freehling Scholar	1995-1998
Associate Professor (with tenure)	1995-1997
Assistant Professor	1989-1995
Elected Teacher of the Year by the student body, 1992	

UNIVERSITY OF MICHIGAN LAW SCHOOL, Ann Arbor, Michigan

Visiting Professor

August 1998-May 1999

Summer teaching at Christ Church College, Oxford University/University of San Diego, 2005; Fordham University School of Law, 2002; Seton Hall University School of Law, 2001; Chicago-Kent College of Law, 1995, 1996, and 1997.

Courses: Torts, Legal Profession, Family Law, Products Liability, Marriage and the Law, Justice and the Legal System. *Seminars:* Gender and Law, Marriage, A Feminist Revisit to the First-Year Curriculum, Comparative Tort Law.

Committees: Appointments, Lateral Appointments, Entry-Level Appointments, Curriculum, Long Range Planning (elected by colleagues at Brooklyn), Dean's Advisory (elected by colleagues at Emory), Dean Search (elected twice by colleagues at Chicago-Kent), Librarian Search, Speakers/Workshops (Chicago-Kent; chaired at Brooklyn and Emory), Experiential Learning, Status (Brooklyn name for the promotion and tenure committee), Sabbatical (chaired at Brooklyn), Professional Development/Faculty Development.

OTHER EMPLOYMENT

DEBEVOISE & PLIMPTON, New York, New York

October 1986-June 1989

Associate. Concentrated in products liability litigation and mergers & acquisitions.

CHIEF JUDGE JACK B. WEINSTEIN, United States District Court,

Eastern District of New York, Brooklyn: Law Clerk

September 1985-August 1986

ASSEMBLYMAN SAUL WEPRIN, Bayside, New York

District office manager

January-June 1982

PUBLICATIONS

2023

The Common Law Inside Social Media, JOTWELL (reviewing Leslie Y. Garfield Tenzer, *Social Media and the Common Law*, 88 Brooklyn Law Review 227 (2022))
<https://torts.jotwell.com/the-common-law-inside-social-media/>.

TORTS: QUESTIONS AND ANSWERS (5th ed., Carolina Academic Press)

UNDERSTANDING TORTS (7th ed., Carolina Academic Press)
(with John L. Diamond and Lawrence C. Levine)

An Ally Can Connect Tort Theory to International and Comparative Law, 59 TEX. INT'L L.J.

The Torts Scholar as Disaggregator, in
REFLECTING ON TORT LAW: CELEBRATING JANE STAPLETON (Oxford University Press)

2022

Privity 2.0 May Be Even Better for Tort Defendants,
49 FLORIDA STATE UNIVERSITY LAW REVIEW 765-823

"Tampa Voters Respect a Pregnant Minor," Tampa Bay Times, August 30

Alito's Draft Opinion Obsesses Over 17th Century Abortion Law – And Gets It Completely Wrong, Slate, June 9
<https://slate.com/news-and-politics/2022/06/alito-draft-opinion-abortion-common-law-wrong.html>

2021

Without Religion, W(h)ither Family Law?,
2021 MICHIGAN STATE LAW REVIEW 1489-1527

Q: What is Tort? A: Categorical Hurt, 14 JOURNAL OF TORT LAW 261-78 (published online November 30) <https://www.degruyter.com/journal/key/jtl/0/0/html>

Are You There, Law? It's Me, Semen, 41 COLUMBIA JOURNAL OF GENDER AND LAW 1-10
(symposium on menstruation and the law)

Three Deft Kicks to the Problem of Cyberbullying, JOTWELL (February 15) (reviewing Ronen Perry, *Civil Liability for Cyberbullying*, 10 U.C. IRVINE L. REV. 1219 (2020)), <https://torts.jotwell.com/three-deft-kicks-to-the-problem-of-cyberbullying/>

Private Law as Unjust Enrichment, in THE OXFORD HANDBOOK OF THE NEW PRIVATE LAW 195-210 (Andrew S. Gold et al. eds.)

2020

Tort as Yet Another Locus of Gender Injustice in the Distribution of Money, in RESEARCH HANDBOOK ON PRIVATE LAW THEORY 303-20 (Hanoch Dagan & Benjamin Zipursky eds.)

(Almost) No Bad Drugs: Near-Total Products Liability Immunity for Pharmaceuticals Explained, 77 WASHINGTON & LEE LAW REVIEW 3-96

Tort Meets Abortion! June Medical Services LLC v. Russo Oral Argument on Wednesday March 4, The Faculty Lounge blog, March 2
<https://www.thefacultylounge.org/2020/03/tort-meets-abortion-june-medical-services-llc-v-russo-oral-argument-on-wednesday-march-4.html>

There's Feminism in These Judgments, 61 BOSTON COLLEGE LAW REVIEW: E. SUPP. I-112-24

Three Cohorts' Vulnerabilities on the Issue of Sexual Consent, 73 OKLAHOMA L. REV. 1-14

2019

THE COMMON LAW INSIDE THE FEMALE BODY (Cambridge University Press)

Minding the Gaps in Lawyers' Rules of Professional Conduct,
72 OKLAHOMA LAW REVIEW 125-48

"Particularity Pleading for Judiciary Law § 487 Complaints That Allege Attorney Deceit," New York Law Journal, January 30, p. 4 (with John Crain)

"Who's the Snowflake? We Tenured Professors, That's Who," Philadelphia Inquirer, March 15

Negative Liberty Meets Positive Social Change,
114 NORTHWESTERN UNIVERSITY LAW REVIEW ONLINE 195-211

2018

TORTS: QUESTIONS AND ANSWERS (4th ed., Carolina Academic Press)

UNDERSTANDING TORTS (6th ed., Carolina Academic Press)
(with John L. Diamond and Lawrence C. Levine)

Here's a Good Judiciary Law § 487 Question for the Second Circuit to Certify in 'Bounkhoun',
New York Law Journal, December 2 p. 4 (with John Crain)

American Tort Law Tells Us How It Really Feels About Law and Economics,
Law and Political Economy blog, November 7
<https://lpeblog.org/2018/11/07/american-tort-law-tells-us-how-it-really-feels-about-law-and-economics/>

2017

Rape is Trespass, 10 JOURNAL OF TORT LAW 317-41

Working Sex Words, 24 MICHIGAN JOURNAL OF GENDER AND LAW 221-63

"Treble Damages in New York: A Field Guide," New York Law Journal, April 13, p. 4

"Vicarious Liability for Judiciary Law § 487 Violations," New York Law Journal,
January 25, p. 4 (with Lauren Boulbol)

2016

The Reciprocal of MacPherson v. Buick Motor Company, 9 JOURNAL OF TORT LAW 5-42

Just Jobs, 45 UNIVERSITY OF BALTIMORE LAW REVIEW 209-51

"First Department Rolls Its Own Criteria for a Judiciary Law § 487 Claim,"
New York Law Journal, December 8, p. 4

"Damages of Legal Malpractice That Go Unrecovered," New York Law Journal,
March 4, p. 4

"Legal Malpractice in Defending Civil Actions," New York Law Journal, January 29,
p. 4

2015

Common Law Fundamentals of the Right to Abortion, 63 BUFFALO LAW REVIEW 1141-1210

The Feminist Jurisprudence of Jack B. Weinstein, 64 DE PAUL LAW REVIEW 341-72

"Legal Malpractice Liability for Criminal Defense: Rare, Yet Possible," New York Law Journal, December 30, p. 4

"Judiciary Act § 487 Claims for Attorney Misconduct," New York Law Journal, November 24, p. 4

"Matrimonial Malpractice Before, During and After a Client's Divorce," New York Law Journal, October 30, p. 4

"Avoidable and Actionable Errors by Personal Injury Lawyers," New York Law Journal, September 17, p. 4

"Nine Easy Ways to Breach Your Duty to a Real Estate Client," New York Law Journal, August 11, p. 4

2014

QUESTIONS & ANSWERS: TORTS (3d ed.)

Gender in Asbestos Law: Cui Bono? Cui Pacat?, 88 TULANE LAW REVIEW 1211-1257

Abuse and Harassment Diminish Free Speech, 35 PACE LAW REVIEW 1-30

Themes, Doctrine, and Pedagogy in the 2013-14 National Health Law Moot Court Competition Problem, 35 AMERICAN JOURNAL OF LEGAL MEDICINE 345-84 (includes problem)

Restatement Of ..., 79:2 BROOKLYN LAW REVIEW (edited symposium)

Onlookers Tell an Extraordinary Entity What to Do, 79 BROOKLYN LAW REVIEW 381-96

Toking on Rule 1.2(d), LegalEthicsForum.com, January 8, 2014

<http://www.legalethicsforum.com/blog/2014/01/toking-on-rule-12d.html>

2013

UNDERSTANDING TORTS (with John L. Diamond & Lawrence C. Levine) (5th ed.)

The Trouble with Regulating Microfinance, 35 U. HAWAI'I LAW REVIEW 1-49

Voluntary Recalls, 2013 UNIVERSITY OF CHICAGO LEGAL FORUM 359-407

What's Wrong with Stereotyping?, 55 ARIZONA LAW REVIEW 655-721 (2013) (cited in G.M.M. ex rel. Hernandez-Adams v. Kimpson, 116 F. Supp. 3d 126 (E.D.N.Y. 2015))

2012

Real Remedies for Virtual Injuries, 90 NORTH CAROLINA LAW REVIEW 1457-90

"*Real Remedies*" revised and abbreviated for the alumni magazine *BLS Law Notes*, fall 2012, p. 28

Diversity May Be Justified, 64 HASTINGS LAW JOURNAL 201-55 (2012) (cited in G.M.M. ex rel. Hernandez-Adams v. Kimpson, 116 F. Supp. 3d 126 (E.D.N.Y. 2015))

LegalEthicsForum.com, Symposium on Legal Education's Response to the Economic Realities Facing the Profession: two essays: *Downturn Awareness in Class* (February 6) <http://www.legalethicsforum.com/blog/2012/02/downturn-awareness-in-class.html> and *American Law Professors as the 99%, Fortunate Division* (February 8) <http://www.legalethicsforum.com/blog/2012/02/american-law-professors-as-the-99-fortunate-division-.html>

2011

Toward More Parsimony and Transparency for "the Essentials of Marriage,"
2011 MICHIGAN STATE LAW REVIEW 83-137

The 2x2 Matrix of Tort Reform's Distributions,
60 DE PAUL LAW REVIEW 278-310

Reparations, Microfinance, and Gender: A Plan, With Strategies for Implementation,
44 CORNELL INTERNATIONAL LAW JOURNAL 75-113 (with Hans Dieter Seibel)

2010

UNDERSTANDING TORTS (with John L. Diamond & Lawrence C. Levine) (4th ed.)

QUESTIONS & ANSWERS: TORTS (2d ed.) (with David P. Leonard)

Civil Rights Violations = Broken Windows: De Minimis Curet Lex,
62 FLORIDA LAW REVIEW 895-950

"*A Little Happier*": David Leonard as Co-Author,
43 LOYOLA L.A. LAW REVIEW 727-31 (tribute)

Teaching Torts: Rivalry as Pedagogy, 18 TORTS LAW JOURNAL 187-201 (peer reviewed)

Distributive Justice Through Tort (And Why Legal Sociologists Should Care),
35 LAW AND SOCIAL INQUIRY 1099-1135 (essay discussing *Fault Lines: Tort Law
as Cultural Practice* (David M. Engel & Michael McCann eds., 2009) and Tsachi
Keren-Paz, *Torts, Egalitarianism and Distributive Justice* (2007))

Bernstein on Pervading, Torts Prof blog, February 22, 2010 (solicited essay, about
integrating professional responsibility issues into a torts course)
<http://lawprofessors.typepad.com/tortsprof/2010/02/bernstein-on-pervading.html>

2009

Pitfalls Ahead: A Manifesto for the Training of Lawyers, 94 CORNELL LAW REVIEW 479-517
(featured in *ABA Journal Weekly Newsletter*, abajournal.com, Sept. 25, 2009:
"Law Prof Says Students Should Be Forewarned About Practice Perils")

Editorial, *Telling Law Students What's Ahead*, LEGAL WORKSHOP, May 14, 2009
<http://legalworkshop.org/2009/05/14/telling-law-students-whats-ahead>

*Pecuniary Reparations Following National Crisis: A Convergence of Tort Theory, Microfinance,
and Gender Equality*, 31 U. PENNSYLVANIA JOURNAL INTERNATIONAL LAW 1-51

Fellow-Feeling and Gender in the Law of Personal Injury, 17 J. LAW & POLICY 295-381

Implied Reverse Preemption, 74 BROOKLYN LAW REVIEW 669-705 (symposium on the
tenth anniversary of *Restatement (Third) of Torts: Products Liability*)

Tort Theory, Microfinance, and Gender Equality Convergent in Pecuniary Reparations, in THE
GENDER OF REPARATIONS: UNSETTLING SEXUAL HIERARCHIES WHILE REDRESSING
HUMAN RIGHTS VIOLATIONS 291-323 (Ruth Rubio-Marín ed., Cambridge U. Press)

2008

Editor, *Lawyers With Disabilities*, 69:3 UNIVERSITY OF PITTSBURGH LAW REVIEW
(symposium)

Lawyers With Disabilities: L'Handicapé C'est Nous,
69 UNIVERSITY OF PITTSBURGH LAW REVIEW 389-411

Sanctioning the Ambulance Chaser, 41 LOYOLA L.A. LAW REVIEW 1545-83

Asbestos Achievements, 37 SOUTHWESTERN UNIVERSITY LAW REVIEW 691-715

2007

Subverting the Marriage-Amendment Crusade with Law and Policy Reform,
24 WASHINGTON UNIVERSITY JOURNAL OF LAW AND POLICY 79-120

Introduction to Symposium on the Plaintiffs' Bar, 51 NEW YORK LAW SCHOOL LAW
REVIEW 209-212 (with Marc Galanter and Tanina Rostain)

An Information Prescription for Prescription Drug Regulation, MEDICAL PROGRESS TODAY,
Aug. 31, 2007 (with Joseph Bernstein, M.D. (shorter version of 2006 *Buffalo Law
Review* article))

Enhancing Drug Effectiveness and Efficacy Through Personal Injury Litigation, 15 JOURNAL
OF LAW AND POLICY 1051-1101 (cited in *Lance v. Wyeth*, 85 A.3d 434 (Pa. 2014))

2006

Editor, MARRIAGE PROPOSALS: QUESTIONING A LEGAL STATUS
(New York University Press)

Introduction: Questioning Marriage and Afterword: Narrowing the Status of Marriage, in
MARRIAGE PROPOSALS: QUESTIONING A LEGAL STATUS 1-25, 217-35

The Zeal Shortage, 34 HOFSTRA LAW REVIEW 1165-1205

On Nourishing the Curriculum with a Transnational Law Lagniappe,
56 JOURNAL OF LEGAL EDUCATION 578-95 (peer-reviewed)

An Information Prescription for Prescription Drug Regulation,
54 BUFFALO LAW REVIEW 569-618 (with Joseph Bernstein, M.D.)

What We Talk About When We Talk About Workplace Privacy,
66 LOUISIANA LAW REVIEW 923-43

Keep It Simple: An Explanation of the Rule of No Recovery for Pure Economic Loss,
48 ARIZONA LAW REVIEW 773-811 (cited in *LAN/STV v. Martin K. Eby
Const. Co., Inc.*, 435 S.W. 3d 234 (Tex. 2014))

2005

Whatever Happened to Law and Economics?, 64 MARYLAND LAW REVIEW 303-36
(excerpted and discussed in Emma Coleman Jordan & Angela P. Harris, *Economic Justice: Race, Gender, Identity and Economics* 324-35 (2005); cited in *In re Titanium Dioxide Antitrust Litigation* (U.S.D.C., D. Md., May 1, 2013))

Question Autonomy, With an Asterisk, 54 EMORY LAW JOURNAL 239-59

2004

TORTS: QUESTIONS & ANSWERS (with David P. Leonard)

The Enterprise of Liability, 39 VALPARAISO U. LAW REVIEW 27-63 (Monsanto Lecture)

Muss es Sein? Not Necessarily, Says Tort Law, 67 LAW & CONTEMP. PROBLEMS 7-26

2003

For and Against Marriage: A Revision, 102 MICHIGAN LAW REVIEW 129-212 (2003)

Editor, *What Do Clients Want?*, 52 EMORY LAW JOURNAL, No. 5 (symposium)

What Clients Want, What Lawyers Need, 52 EMORY LAW JOURNAL 1053-63

Hymowitz v. Eli Lilly and Co.: Markets of Mothers, in TORTS STORIES 151-78
(Robert L. Rabin & Stephen D. Sugarman eds.)

2002

Products Liability in the United States Supreme Court: A Venture in Memory of Gary Schwartz, 53 SOUTH CAROLINA LAW REVIEW 1193-1223

The Communities That Make Standards of Care Possible,
77 CHICAGO-KENT LAW REVIEW 735-69

Review of *Philosophy and the Law of Torts* (Gerald J. Postema ed., 2001)
12 PHILOSOPHY IN REVIEW 354-56

2001

Reciprocity, Utility, and the Law of Aggression, 54 VANDERBILT LAW REVIEW 1-67

Engendered by Technologies, 80 NORTH CAROLINA LAW REVIEW 1-113, revised, abridged, and reprinted in *THE TECHNOLOGY OF HUMANITY: CAN TECHNOLOGY CONTRIBUTE TO THE QUALITY OF LIFE?* 37-49 (M. Ellen Mitchell ed.)

Restatement (Third) of Torts: General Principles and the Prescription of Masculine Order, 54 VANDERBILT LAW REVIEW 1367-1411

Conjoining International Human Rights Law with Enterprise Liability for Accidents, 40 WASHBURN LAW JOURNAL 382-412

2000

Editor, *Unfinished Feminist Business*, 75:3 CHICAGO-KENT LAW REVIEW (symposium)

Foreword: Still Unfinished, Ever Unfinished, 75 CHICAGO-KENT LAW REVIEW 641-57

Complaints, 32 MCGEORGE LAW REVIEW 37-62 (Distinguished Speakers series)

1999

The Representational Dialectic (With Illustrations from Obscenity, Forfeiture, and Accident Law), 87 CALIFORNIA LAW REVIEW 305-70

The New-Tort Centrifuge, 49 DE PAUL LAW REVIEW 413-33

Precaution and Respect, in *PROTECTING PUBLIC HEALTH AND THE ENVIRONMENT* 148-58 (Carolyn Raffensperger & Joel Tickner eds.)

1998

An Old Jurisprudence: Respect in Retrospect, 83 CORNELL LAW REVIEW 1231-44

1997

Treating Sexual Harassment with Respect, 111 HARVARD LAW REVIEW 445-527 (excerpted in Katharine T. Bartlett & Deborah L. Rhode, *Gender and Law* 418 (4th ed. 2006); cited in *Butler v. Ysleta Independent School District*, 161 F.3d 263 (5th Cir. 1998))

Formed by Thalidomide: Mass Torts as a False Cure for Toxic Exposure, 97 COLUMBIA LAW REVIEW 2153-76 (cited in *Johnson v. SmithKline Beecham Corp.*, 724 F.3d 337 (3d Cir. 2013))

How to Make a New Tort: Three Paradoxes, 75 TEXAS LAW REVIEW 1539-65

1996

Better Living Through Crime and Tort, 76 BOSTON UNIVERSITY LAW REVIEW 169-92

"*Weightier Than a Mountain*": *Duty, Hierarchy, and the Consumer in Japan*,
29 VANDERBILT JOURNAL OF TRANSNATIONAL LAW 45-73 (with Paul Fanning)

A Feminist Revisit to the First-Year Curriculum,
46 JOURNAL OF LEGAL EDUCATION 217-32 (peer reviewed)

For What Has One Profited?, CHICAGO BAR ASSOCIATION RECORD, September 1996, p. 39
(review of Leo Katz, *Ill-Gotten Gains*)

1995

Editor, A PRODUCTS LIABILITY ANTHOLOGY (Anderson Publishing Company)

How Can a Product Be Liable?, 45 DUKE LAW JOURNAL 1-83

Restatement Redux, 48 VANDERBILT LAW REVIEW 1663-95
(essay discussing Jane Stapleton, *Product Liability* (1994) and *Restatement (Third) of Torts: Products Liability*)

1994

Law, Culture, and Harassment, 142 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1227-1311

Heirs of Leonardo: Cultural Obstacles to Strict Products Liability in Italy,
27 VANDERBILT JOURNAL OF TRANSNATIONAL LAW 1-32 (with Paul Fanning)

1993

Perspectives on a Torts Course, 43 JOURNAL OF LEGAL EDUCATION 289-300 (peer reviewed)

A Model of Products Liability Reform, 27 VALPARAISO UNIVERSITY LAW REVIEW 639-85

1992

A Letter to a Female Colleague, 68 CHICAGO-KENT LAW REVIEW 317-29

Product Dynamism and the Law, in MEANING, MEASURE, AND MORALITY OF MATERIALISM
113-20 (Floyd Rudmin & Marsha Richins eds.)

Looking at Europe for the Difference Between Strict and Fault-Based Liability,
14 JOURNAL OF PRODUCTS LIABILITY 207-15 (peer reviewed)

1991

L'Harmonie Dissonante: Strict Products Liability Attempted in the European Community,
31 VIRGINIA JOURNAL OF INTERNATIONAL LAW 673-715

A Duty to Warn: One American View of the EC Products Liability Directive,
20 ANGLO-AMERICAN LAW REVIEW 224, reprinted in PRODUCT LIABILITY 42
(Geraint G. Howells & Jerry J. Phillips eds., 1991) (peer-reviewed)

1990

Statesmanship, 58 GEORGE WASHINGTON LAW REVIEW 802-19
(review of Russell L. Caplan, *Constitutional Brinkmanship:
Amending the Constitution by National Convention* (1988))

1989

How to Assess Litigation Exposure, PRACTICAL LAWYER, April issue, p. 13

1985

Executive Targeting of Congressmen as a Violation of the Arrest Clause,
94 YALE LAW JOURNAL 647-69

AWARDS, GRANTS, TITLES, FELLOWSHIPS

William L. Prosser Award, Association of American Law Schools Section on Torts and
Compensation Systems, January 2020

International Research: Visiting Scholar, University of Köln, Cologne, April 2023;
Visiting Professor, Freie Universität, Berlin, March 2023; Visiting Scholar in
Residence, Paul-André Crépeau Centre for Private and Comparative Law, McGill
University Faculty of Law, February 2017; Fulbright Scholar, European Community
Affairs Research Program, European University Institute, Florence, 1992-93; Jean
Monnet Fellow, European University Institute, 1992-93

First Prize, Association of American Law Schools Call for Scholarly Papers,
October 1993

International Exchange: Elected Associate Member of the Common Room, Christ Church College, Oxford, September-October 2015; Guest of the Rector, Wissenschaftskolleg zu Berlin (Institute for Advanced Study), Berlin, December 1992; Fellow, Salzburg Seminar, Salzburg, Austria, July-August 1993; Berlin Seminar, March-April 1993 (selected among Fulbright scholars)

PROFESSIONAL ACTIVITIES

Admitted to the Bar of New York and of the United States District Court,
Southern District of New York

American Law Institute, elected member since 1995.
Adviser, Intentional Torts, 2014-2021; Adviser, Remedies, since 2019

Monday Night Law (volunteer lawyer program that meets at the New York City Bar for legal assistance to participants of low and moderate means)

Advisory Board, Torts and Products Liability Law and Legal Ethics & Professional Responsibility eJournals, Legal Scholarship Network

LegalEthicsForum.com (one of its "Who We Are" occasional co-bloggers)

Contributing Editor, Torts, Jotwell (torts.jotwell.com)

New York State Bar Association, Committee on Standards of Attorney Conduct (2015-2018) Chair, confidentiality subcommittee; Subcommittee on the intersection of confidentiality and lateral moves for lawyers

Community Member, Institutional Animal Care and Use Committee,
Long Island University, 2017-2019

New York City Bar, Ethics Committee, 2010-2012;
Professional Responsibility Committee, 2008-2010

Editorial Board, *Journal of Legal Education*, 2010-2013

Chair, Executive Committee, Association of American Law Schools,
Section on Torts and Compensation Systems, 2003-2004

COLLOQUIA, WORKSHOPS, and other PRESENTATIONS

“Renewing Products Liability with Semen,” Clifford Symposium on New Torts,
De Paul College of Law, June 9, 2023

“Women Are Disadvantaged in Tort Law,” guest lecture to students in Certificate in
United States Law program, University of Cologne, April 25, 2023

Panelist, “What’s Next After *Dobbs v. Jackson Women’s Health Organization?*,”
Brooklyn Law School, September 19, 2022 (over Zoom)

“The Torts Scholar as Disaggregator,” *Reflecting on Law: Essays in Honour of Jane
Stapleton Workshop*, Wadham College, Oxford, July 29, 2022 (over Zoom)

“Semen in Its Place,” Nathaniel R. Jones Center for Race, Gender and Social Justice,
University of Cincinnati College of Law, April 11, 2022; University of Sheffield
School of Law, March 10, 2022; Mason Institute, Edinburgh Law School, March 15,
2022

“Diversity, Equity, and Inclusion in the ABA Model Rules of Professional Conduct,”
Gender and Racial Equity Speaker Series, Penn State Dickinson Law, April 7, 2022

“Without Religion, W(h)ither Family Law?,”
New York Area Family Law Scholars workshop, October 15, 2021

“Are You There, Law? It’s Me, Semen,” Symposium, Are You There, Law? It’s Me,
Menstruation, Columbia Journal of Gender and Law, April 9, 2021 (over Zoom);
Medical Law and Ethics Discussion Group, University of Oxford, March 9, 2022

“Tort as Yet Another Locus of Gender Injustice in the Distribution of Money,”
Michigan State College of Law, February 26, 2020

“(Almost) No Bad Drugs,” Widener University Commonwealth Law School,
February 19, 2020; Stetson University College of Law, January 24, 2019

Panel moderator at conference, “Drawing the Line: Modern Sexual Conflicts and the
Law,” University of Oklahoma College of Law, October 18, 2019

“The Common Law Inside the Female Body,” City University Center for Worker
Education, March 29, 2019; University of Windsor Faculty of Law, February 4, 2019

Panelist, “Free Speech on Campus: Where Should Universities Draw the Line?,”

National Constitution Center, March 18, 2019

“Private Law as Unjust Enrichment,” conference on The Landscape of Private Law, Harvard Law School, March 15, 2019; University of Mississippi School of Law, February 14, 2019

“Minding the Gap in Lawyers’ Rules of Professional Responsibility,” Conference on Lawyering in the Age of Artificial Intelligence, University of Oklahoma College of Law, February 9, 2019

“Elimination of Bias in the Monday Night Law Clinic and Family Law Settings,” New York City Bar Association, September 24, 2018

Moderator and panel organizer, “Torts Intersections,” Southeastern Association of Law Schools annual meeting, August 9, 2018

Panelist, “The Future of Free Speech,” National Constitution Center, December 15, 2017

“Rape is Trespass,” Florida International University College of Law, September 26, 2017

“The Common Law Inside the Female Body: Saying No to What We Don’t Want,” University of Ottawa & Carleton University (joint presentation), March 22, 2017; McGill University Faculty of Law, March 20, 2017; Seton Hall University School of Law, February 8, 2017; University of British Columbia School of Law, February 2, 2017; University of Washington School of Law, February 1, 2017

“Working Sex Words,” Universidad Torcuato di Tella, Buenos Aires, March 6, 2017

Senior Commentator, Works in Progress panel, Professional Responsibility section, Association of American Law Schools annual meeting, January 4, 2017

“Ethical Implications of Monday Night Law Representation,” New York City Bar Association, September 19, 2016

Panelist, “Changing Jobs and Changing Roles: Perspectives on the Arc of a Legal Academic Career, SEALS Annual Meeting, Amelia Island, Florida, August 8, 2016

“Women Too May Say No to What They Don’t Want,” NYC Area Family Law Scholars, June 20, 2016

“Legal Malpractice in New York,” Grotius/Law Faculty Association of Leiden University, April 5, 2016 (lecture delivered in New York)

-
- “Regulation of Prostitution” (seminar) and “Abuse and Harassment Diminish Free Speech” (lecture), Women & Gender Studies Program, University of Montana, March 24, 2016
- “Good Enough for a Brandeis Brief,” Louis D. Brandeis: An Interdisciplinary Retrospective: Touro Law Center, March 31, 2016; University of Louisville School of Law, January 12, 2016
- “The Reciprocal of *MacPherson v. Buick Motor Co.*,” Torts and Compensation Section, Association of American Law Schools Annual Meeting, January 8, 2016
- “Common Law Fundamentals of Abortion ... and Beyond,” Keele University Faculty of Law, October 29, 2015; Oxford University Medical Law and Ethics Discussion Group, October 28, 2015
- “Gender in United States Law,” New York University-Tel Aviv, October 14, 2015
- “Two Cases,” Conference on New Thinking in Law and Economics, SUNY Buffalo Law School, June 23, 2015
- “Just Jobs,” Eighth Annual Feminist Legal Conference: Applied Feminism and Work, University of Baltimore Center on Applied Feminism, March 6, 2015
- “The Diversity Rationale for Affirmative Action: A Conversation with Justice Anthony Kennedy,” McGeorge School of Law, February 5, 2015
- “A Common Law Defense of Abortion,” University of California at Davis School of Law, February 4, 2015; University of Nevada at Las Vegas School of Law, January 26, 2015; New York Area Family Law Scholars, July 30, 2014
- Moderator/organizer, panel on “The Fifty Years’ War: Can Legislation Ameliorate Poverty?” AALS Annual Meeting, January 5, 2015
- “Ethical Implications of MNL Representation,” New York City Bar, September 8, 2014
- “The Feminist Jurisprudence of Jack B. Weinstein,” Conference on Judge Weinstein’s Impact on Civil Justice in America, De Paul College of Law, April 25, 2014
- “Abuse and Harassment Diminish Free Speech,” Conference on Social Media and Social Justice, Pace Law School, March 28, 2014

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- Panelist, "Exculpatory Evidence in Disciplinary Proceedings: Should *Brady* Apply to Us?," National Organization of Bar Counsel biannual meeting, Chicago, February 8, 2014
- "Gender in Asbestos Law: *Cui Bono? Cui Pacat?*," Temple Law School, January 29, 2014
- Problem author/Associate Justice at the final round, National Health Law Moot Court Competition, Southern Illinois University School of Law, November 2, 2013
- Panelist, "The Online World," Federal Criminal Practice Institute, New York County Lawyers' Association, October 18, 2013
- "What's Wrong with Stereotyping?," Washington University School of Law, April 15, 2013; Southern Methodist University Dedman School of Law, February 27, 2013; Florida State University College of Law, February 14, 2013; University of Arizona College of Law, January 15, 2013; Arizona State University College of Law, January 14, 2013
- "Voluntary Recalls," University of Missouri-Columbia, April 12, 2013; Pace Law School, February 6, 2013; Conference on Frontiers of Consumer Protection, University of Chicago Legal Forum, November 2, 2012
- "Shapo Does Disapprove (But You Have to Look)," Conference on Marshall Shapo's *An Injury Law Constitution*, Northwestern University Law School, March 15, 2013
- "Bootleg Data," Continuing Legal Education lecture (with Michael S. Ross), Phi Delta Phi, Brooklyn Law School, March 7, 2013
- Induction ceremony speaker, Phi Delta Phi chapter at Brooklyn Law School (chosen by the chapter as faculty honorary inductee), February 26, 2013
- Organizer-host, "Restatement Of ...," January 25, 2013 (symposium co-sponsored by *Brooklyn Law Review* and the American Law Institute)
- "The Trouble with Regulating Microfinance," Touro Law Center, September 5, 2012; University of Maine School of Law, April 27, 2012; University of Missouri-Kansas City School of Law, March 22, 2012
- "Real Remedies for Virtual Injuries," conference on Social Networking Sites: Law, Policy, and Practical Strategies, Suffolk Law School, April 13, 2012; Harvard Law School, Private Law Workshop, February 6, 2012; University of Colorado Law School, January 20, 2012; University of North Carolina School of Law, Conference on Social Networks and the Law, November 18, 2011

“Diversity May Be Justified,” University of San Diego School of Law, March 2, 2012; University of New Mexico School of Law, February 29, 2012; Charleston School of Law, February 27, 2012; Brooklyn Law School, November 23, 2011 (brown bag series)

“More Parsimony and Transparency for the ‘Essentials of Marriage,’” Hastings College of Law, January 17, 2012; Michigan State University College of Law, Conference on E-Marriage, November 12, 2010

“Supervising Dissemblance While Representing a Client,” Association of Professional Responsibility Lawyers annual meeting, Toronto, August 5, 2011

“Online Remedies for Online Defamation,” panel on Defamation, Association of American Law Schools Annual Meeting, San Francisco, January 8, 2011

“Gender Bias in Litigation,” Minimum Continuing Legal Education lecture, Latham & Watkins, San Francisco, January 7, 2011; also Continuing Legal Education webinar, Littler Mendelson, December 17, 2010 (lecture delivered in the New York office and simulcast)

Moderator, panel on “The Expressive Power of Marriage,” Southeastern Association of Law Schools annual meeting, Palm Beach, August 3, 2010

“Using ‘Pitfalls’ to Understand Professional Responsibility,” College of Management, Israel, May 25, 2010

“Security, Freedom, Predictability, Unpredictability: A 2x2 Matrix of Tort Reform’s Distributions,” Conference on the Limits of Predictability and the Value of Uncertainty, De Paul College of Law, April 8, 2010

Panelist, “Gender-Based Violence and Justice in Conflict and Post-Conflict Areas,” Inaugural conference of the Avon Global Center for Women and Justice, Washington, D.C., March 12, 2010

Moderator, panel on “Using Pro Bono to Teach Doctrine and Skills,” AALS Annual Meeting, New Orleans, January 7, 2010

Panelist, Criminal Law, Procedure and Evidence Seminar, Brooklyn Law School, December 5, 2009

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- Moderator, panel on Compliance with the Law,
Conference on the Duty of Good Faith, New York Law School, November 13, 2009
- “The James Baldwin Approach to Wrongful Death and Consortium,”
Panel on Torts Issues, Lavender Law conference, Brooklyn, September 12, 2009
- “Microfinance as Reparations,” Conference on Gender, Race, and Reparations,
University of Sydney, April 3, 2009
- “United States Tort Law as Comparative Law,” Tort Law Academic Workshop,
University of Sydney, March 20, 2009
- “Tort Theory, Microfinance, and Gender Equity Convergent in Pecuniary Reparations,”
Australian National University College of Law, March 13, 2009;
New York Tort Theory Reading Group, March 12, 2007
- Roundtable discussant, conference on [Australian] Federal Recognition of Nonmarital
Families, University of Technology Sydney Law Faculty, February 20, 2009
- “Implied Reverse Preemption,” Tort Theory Reading Group, February 5, 2009
- “Gender Bias in the Courts: Getting Better, Not Gone,” Brooklyn Law School
Professional Ethics Series, Dewey & LeBoeuf, November 18, 2008
- Co-organizer and panelist, *The Products Liability Restatement: Was It a Success?*,
Brooklyn Law School, November 13-14, 2008
- Panelist, Teaching the Theoretical Foundations of Torts to 1Ls, Southeastern Association
of Law Schools annual meeting, July 27, 2008
- “Asbestos and Gender,” Cleveland-Marshall College of Law, April 3, 2008
- “Sanctioning the Ambulance Chaser,” *Frontiers of Tort Law*, Loyola Law School,
January 25, 2008
- “Asbestos Liability Underlain by Gender,” *Perspectives on Asbestos Litigation*,
Southwestern Law School, January 18, 2008
- Moderator, panel on Alien Tort liability, Corporate Liability for Grave Breaches of
International Law, Brooklyn Law School, November 16, 2007
- “Torts and Domestic Violence,” Brooklyn Law School faculty forum,
Domestic Violence Awareness Month, October 12, 2007

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- Organizer, *Lawyers and Disability, Conference on Ethics & Professionalism* (quadrennial CLE and scholarly event), Emory School of Law, September 7-8, 2007
- "The Pitfalls Approach to Lawyers' Professional Responsibility: Forewarned, Forearmed, Ethical," University of Hawai'i School of Law, August 27, 2007
- "Enhancing Drug Effectiveness and Efficacy Through Personal Injury Litigation," Public Law Theory Seminar, Washington University School of Law, January 18, 2007
- Panelist, "The Future of Marriage and Family Life," Center for the Study of Law and Religion, Emory University, January 17, 2007
- "Obtaining Information Through Drug Regulation," Science for Judges VIII (Brooklyn Law School), November 3, 2006
- "Micro-Principles for Reparations," Washington University School of Law, September 15, 2006; Emory University School of Law, July 13, 2006
- "Afterword," Conference on Examining Privacy in the Workplace, Louisiana State University Law Center, February 10, 2006
- "Keep It Simple: An Explanation of the Rule of No Recovery for Pure Economic Loss," Emory University School of Law, May 31, 2006; Lewis & Clark College of Law, February 2, 2006
- "On Nourishing the Curriculum with a Transnational-Law Lagniappe," Workshop on Integrating Transnational Perspectives Into the First-Year Curriculum, AALS Annual Meeting, January 4, 2006
- "Zeal," Conference on Lawyers' Ethics in an Adversary System, Hofstra Law School, November 1, 2005
- "Professional Responsibility in Gift, Estate, and Elder-Law Practice," Continuing Legal Education for IRS Estate Tax Attorneys, Atlanta, September 29, 2005
- "A Teacher's Perspective on Zeal," ABA Conference on Professional Responsibility, Chicago, June 2, 2005
- "Market Prescriptions for Drug Regulation," University of Denver College of Law, March 29, 2005; University of Kentucky College of Law, March 24, 2005; Ohio State College of Law, March 15, 2005

“Whatever Happened to Law and Economics?”

Rutgers (Newark) School of Law, September 30, 2004; Indiana University (Indianapolis) School of Law, August 27, 2004; Conference on Calabresi’s *The Cost of Accidents: A Generation of Impact on Law and Scholarship*, University of Maryland School of Law, April 23, 2004

“Collaborative and Cooperative Learning in Emory’s Professional Responsibility Class,” Professionalism Committee panel, ABA Annual Meeting, August 7, 2004

“Teaching Neglect and Competence,” Association of Professional Responsibility Lawyers Annual Meeting, August 7, 2004

Commentator on Professor Martha Fineman, Woodruff Symposium on The Foundations of Law, March 25, 2004

Commentator on Professor Linda Mullenix, Thrower Symposium on The Future of Tort Reform, Emory University School of Law, February 19, 2004

“Ineffective Prescription Drugs: Causes and Cures,” Valparaiso University School of Law, January 30, 2004

“The Enterprise of Liability,” New York Law School, November 16, 2004; University of Alabama School of Law, November 8, 2004; Monsanto Lecture, Valparaiso University School of Law, January 29, 2004;

Emory University School of Law, January 14, 2004

“Professional Responsibility in Pretrial Litigation,” CLE program at Kilpatrick Stockton, Atlanta, January 22, 2004

“The Harridan’s Harangue and the Closed Clubhouse Door,” Panel on Law & Sports, AALS Annual Meeting, January 5, 2004

Moderator, Panel on Institutional Liability for Sexual Abuse, Section on Torts, AALS Annual Meeting, January 3, 2004

“The Communities That Make Standards of Care Possible,” Cornell Law School, “Discourses” (student forum), October 2003; University of Iowa College of Law, March 7, 2002; Pepperdine University School of Law, August 24, 2001; Chicago-Kent College of Law, August 12, 2001

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- "For and Against Marriage: A Revision," Conference on Sex, Marriage and Family and the Religions of the Book, Emory University, March 28, 2003; University of Houston Law Center, February 27, 2003; Wayne State University Law School, December 4, 2002; Fordham University School of Law, September 27, 2002
- Organizer, "What Do Clients Want?" Conference on Ethics & Professionalism (quadrennial CLE and scholarly event), Emory School of Law, March 14-15, 2003
- Panelist, ACLU Student Union at Emory, "Drug Testing @ Emory: A Forum on Employee Drug Testing and Why You Should Care," February 20, 2003
- "*Muss es Sein? Not Necessarily, Says Tort Law,*" Cornell Law School, September 19, 2003; Fourth Public Law Conference, "The Constitution and Other Legal Systems: Are There Progressive and Conservative Versions?," Duke Law School, Dec. 14, 2002
- Panelist, "Problems in Document Production," conference on Problems in Discovery and Professionalism, University of Georgia School of Law, November 15, 2002
- Panelist, roundtable on law review publishing, SEALS Annual Meeting, July 29, 2002
- "The Neglect of Neglect: How to See, and Then Remedy, the Biggest Disciplinary Violation That Lawyers Commit," University of Iowa College of Law, April 4, 2002
- "Character, Conflict, Color and the Legal Profession," Great Teachers Lecture Series, Emory University, January 31, 2002
- "In Praise of Complaints," Inaugural Lecture, The Sam Nunn Professor of Law, Emory University School of Law, February 22, 2001; Distinguished Lecture Series, McGeorge School of Law, October 21, 1999
- "Engendered by Technologies," Conference on The Technology of Humanity, Illinois Institute of Technology, April 5, 2002; Albany Law School, December 1, 2000; Case Western Reserve University Law School, April 3, 2000
- "What Can American Defamation Law Vindicate?" Conference on Reconciling the Irreconcilable: Holocaust Denial, Historical Truth and Jewish Identity, Emory University School of Law, November 2, 2000

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- “Human Rights and Torts,” Ahrens Advanced Torts Seminar,
Washburn University School of Law, October 27-28, 2000
- “*Restatement (Third) of Torts: General Principles and the Prescription of Masculine Order*,” John W. Wade Conference on Restatement (Third) of Torts,
Vanderbilt Law School, September 16, 2000
- “Corporate Clients, Large Firms: A Survey of Attorney Obligations,”
Continuing Legal Education for partners of Baker Botts, Chateau Elan, April 8, 2000
- “Technologies of Misogyny,” Loyola Law School, Los Angeles, February 28, 2000
- “The Jurisprudential Status of Complaints,”
Law & Philosophy Discussion Group, Chicago-Kent, December 3, 1999
- “Reciprocity, Utility, and the Law of Aggression,” Florida State University
College of Law, Sept. 27, 1999; University of Michigan Law School, February
12, 1999
- “The New-Tort Centrifuge,” Clifford Symposium on Tort Law and Social Policy,
De Paul University College of Law, April 17, 1999
- “Feminism by Way of the Common Law,” University of Michigan Law School,
October 20, 1998
- “Duty, Hierarchy, and the Consumer in Japan: An Interim Assessment,”
Changing Legal Cultures: Adaptations of Legal Cultures, International Institute
for the Sociology of Law, Oñati (Spain), June 25, 1998 (with Paul Fanning)
- “The Representational Dialectic,” University of Minnesota Law School, April 23, 1998;
Brooklyn Law School, March 6, 1998
- “Precaution and Respect,” Wingspread Conference on Strategies for
Implementing the Precautionary Principle,
Racine, Wisconsin, January 24, 1998
- “Treating Sexual Harassment with Respect,” Northwestern University School of Law,
April 24, 1997
- “How to Promote Scholarship,” Section on Scholarship, AALS Annual Meeting,
Washington, D.C., January 5, 1997

"How to Make a New Tort: Three Paradoxes,"

The W. Page Keeton Symposium on Tort Law, University of Texas, Nov. 10, 1996

"Swedish Perspectives on Products Liability," Law & Society Association

Annual Meeting, Glasgow, July 13, 1996 (with Paul Fanning)

"Gender Issues and Feminism in a Products Liability Course," AALS Conference
on Torts, Washington, D.C., June 7, 1996

"Weightier Than a Mountain: Duty, Hierarchy, and the Consumer in Japan,"

Law & Society Association Annual Meeting, Toronto, June 3, 1995 (with Paul
Fanning)

"Better Living Through Crime and Tort," Boston University School of Law,

Conference on the Intersection Between Tort and Criminal Law, April 1, 1995

"The Respectful Person: An Alternative to 'Reasonableness' in Sexual

Harassment Law," Chicago-Kent Women in Law, April 5, 1994 (with Carolyn
Raffensperger)

Law, Culture, and Harassment," Northwestern University School of Law, March 29,
1994; Stanford Law School, February 16, 1994; AALS Annual Meeting, Orlando,
January 8, 1994

"Sexual Harassment in the European Community," Chicago-Kent Women in

Law, January 26, 1993

"Product Dynamism and the Law," Queens University, Kingston, Ontario,

June 26, 1992