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Eli Goldston Professor of Law  
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## EMPLOYMENT

<b>Harvard Law School</b> Eli Goldston Professor of Law Professor	2012- 2008-
<b>Vanderbilt University Law School</b> Professor (as of 9/00) Associate Dean for Research (5/05 - 6/08)	1995 - 2008
<b>Harvard Law School</b> Visiting Professor	Fall 2007
<b>New York University School of Law</b> Visiting Professor	Fall 2003
<b>Hill and Barlow, Boston, MA</b> Associate	1993 - 1995
<b>Hon. Byron R. White, U.S. Supreme Court</b> Law Clerk	1992 - 1993
<b>Hon. Jack B. Weinstein, E.D.N.Y.</b> Law Clerk	1991 - 1992

## EDUCATION

<b>New York University School of Law</b> J.D. Editor-in-Chief, N.Y.U. Law Review; Frank H. Sommer Award; Paul D. Kaufman Award (co-recipient); Order of the Coif	1991
<b>Princeton University</b> M.A. Politics	1989
<b>Oxford University</b> M.Phil. Politics, St. Antony's College	1985
<b>Wesleyan University</b> B.A., High Honors, College of Social Studies	1983

## WORKS IN PROGRESS

RECOGNIZING WRONGS (with B. Zipursky) (book ms.).

*Wrongful Fusion: Equity and Tort* (with H. Smith) (ms. for chapter in proposed book under consideration with Cambridge U. Press).

*Hohfeld, Rights, and Realism* (with B. Zipursky) (ms. for chapter in proposed book)

## PUBLICATIONS (including pending publications)

### Books

TORT LAW: RESPONSIBILITIES AND REDRESS (4th ed. 2016) (with A. Sebok & B. Zipursky).

OPEN BOOK: THE INSIDE TRACK TO LAW SCHOOL SUCCESS (2d ed. 2016) (with B. Friedman).

THE OXFORD INTRODUCTIONS TO U.S. LAW: TORTS (2010) (with B. Zipursky).

### Book Chapters

*Triangular Torts and Fiduciary Duties*, in CONTRACT, STATUS, AND FIDUCIARY LAW (A. Gold & P. Miller, eds. forthcoming 2016) (with B. Zipursky).

*Tort Law's Missing Excuses*, in DEFENCES IN TORT (A. Dyson, J. Goudkamp & F. Wilmot-Smith, eds. 2015).

*Tort Law and Responsibility*, in PHILOSOPHICAL FOUNDATIONS OF THE LAW OF TORTS (J. Oberdiek, ed. 2014) (with B. Zipursky).

*Rights and Responsibility in the Law of Torts*, in RIGHTS AND PRIVATE LAW 251-274 (D. Nolan & A. Robertson, eds. 2012) (with B. Zipursky).

*Tort*, in THE OXFORD HANDBOOK OF LEGAL STUDIES 21-47 (P. Cane & M. Tushnet, eds. 2003).

### Articles, Essays

*The Strict Liability in Fault and the Fault in Strict Liability*, 85 FORDHAM L. REV. 743-788 (2016) (with B. Zipursky).

*The Myths of MacPherson*, 9 J. TORT LAW \_\_\_\_ (2016) (with B. Zipursky).

### Articles, Essays (con't)

*The Supreme Court's Stealth Return to the Common Law of Torts*, 64 DEPAUL L. REV. 433-456 (2016) (with B. Zipursky) (annual Clifford Symposium).

*Inexcusable Wrongs*, 103 CALIF. L. REV. 467-512 (2015).

*Judging Responsibility, Responsible Judging*, 64 DEPAUL L. REV. 475-494 (2015) (annual Clifford Symposium).

*War for the Wrong Reasons: Lessons from Law*, 11 JOURNAL OF MORAL PHILOSOPHY 454-475 (2014) (with G. Blum) (symposium on Frances Kamm's ETHICS FOR ENEMIES).

*The Fraud-on-the-Market Tort*, 66 VAND. L. REV. 1755-1805 (2013) (with B. Zipursky), reprinted in 56 CORP. PRAC. COMMENTATOR 355-407 (2014).

*Civil Recourse Theory Defended: A Reply to Posner, Calabresi, Rustad, Chamallas and Robinette*, 88 IND. L.J. 569-609 (2013) (with B. Zipursky) (civil recourse theory symposium).

*Torts and Estates: Remediating Wrongful Interference with Inheritance*, 65 STANFORD L. REV. 335-397 (2013) (with R. Sitkoff).

*Convergence and Contrast in Tort Scholarship: An Essay in Honor of Robert Rabin*, 61 DEPAUL L. REV. 467-502 (2012) (annual Clifford Symposium) (with B. Zipursky).

*Do Promises Distinguish Contract from Tort?*, 45 SUFFOLK. U. L. REV. 873-895 (2012) (with C. Bridgeman) (symposium in honor of Charles Fried's CONTRACT AS PROMISE).

*Pragmatism and Private Law*, 125 HARV. L. REV. 1640-1663 (2012) (symposium introduction).

*Tort Law at the Founding*, 39 FLA. ST. U. L. REV. 85-105 (2011).

*Civil Recourse Revisited*, 39 FLA. ST. U. L. REV. 342-371 (2011) (with B. Zipursky) (response to symposium devoted to civil recourse theory).

*OPA and Economic Loss: A Reply to Professor Robertson*, 28 MISS. C.L. REV. 203-216 (2011).

*The Easy Case for Products Liability: A Response to Professors Polinsky and Shavell*, 123 HARV. L. REV. 1919-1948 (2010) (with B. Zipursky).

*Liberal Responsibility: A Comment on Justice for Hedgehogs*, 90 B.U. L. REV. 677-689 (2010).

*Torts as Wrongs*, 88 TEX. L. REV. 917-986 (2010) (with B. Zipursky).

## **Articles, Essays (con't)**

*Intervening Wrongdoing in Tort: The Third Restatement's Unfortunate Embrace of Negligent Enabling*, 44 WAKE FOREST L. REV. 1211-1246 (2009) (with B. Zipursky).

*Ten Half-Truths About Tort Law*, 42 VALPARAISO U. L. REV. 1221-1276 (2008) (Monsanto Lecture).

*Tort Law and Moral Luck*, 92 CORNELL L. REV. 1123-1175 (2007) (with B. Zipursky).

*The Place of Reliance in Fraud*, 48 AZ. L. REV. 1001-1026 (2006) (with A. Sebok & B. Zipursky).

*Seeing Tort Law from the Internal Point of View: Holmes and Hart on Legal Duties*, 75 FORDHAM L. REV. 1563-1592 (2006) (essay for symposium) (with B. Zipursky).

*What Are We Reforming?: Tort Theory's Place in Debates Over Malpractice Reform*, 59 VAND. L. REV. 1075-1084 (2006) (essay for symposium).

*What Nobody Knows*, 104 MICH. L. REV. 1461-1499 (2006) (review of Don Herzog's CUNNING).

*Shielding Duty: How Attending to Assumption of Risk, Attractive Nuisance, and Other 'Quaint' Doctrines Can Improve Decision-Making in Negligence Cases*, 79 S. CAL. L. REV. 329-361 (2006) (invited reply article) (with B. Zipursky).

*Two Conceptions of Tort Damages: Fair v. Full Compensation*, 55 DEPAUL L. REV. 435-468 (2006) (annual Clifford Symposium).

*The Constitutional Status of Tort Law: Due Process and the Right to a Law for the Redress of Wrongs*, 115 YALE L.J. 524-627 (2005).

*Accidents of the Great Society*, 64 MD. L. REV. 364-408 (2005) (with B. Zipursky) (article for symposium issue).

*Tort Law for Federalists (and the Rest of Us): Private Law in Disguise*, 28 HARV. J. L. & PUB. POLICY 3-16 (2004).

*Comment: Rethinking Injury and Proximate Cause*, 40 SAN DIEGO L. REV. 1315-43 (2003) (comment on S. Perry, *Harm, History, and Counterfactuals*, 40 SAN DIEGO L. REV. 1315 (2003)).

*Judging Reputation: Realism and Common Law in Justice White's Defamation Jurisprudence*, 74 U. COL. L. REV. 1471-1522 (2003) (summarized in THE WILSON QUARTERLY, Periodical Observer, Winter 2004).

**Articles, Essays (con't)**

*What Clients are Owed: Cautionary Observations on Lawyers and Loss of a Chance*, 52 EMORY L.J. 1201-13 (2003).

*Twentieth-Century Tort Theory*, 91 GEORGETOWN L.J. 514-83 (2003) (translated into Chinese and reprinted in 5 PRIVATE LAW REVIEW 268-344 (2005) (Peking University Press)).

*Unrealized Torts*, 88 VA. L. REV. 1625-1719 (2002) (with B. Zipursky).

*Unloved: Tort in the Modern Legal Academy*, 55 VAND. L. REV. 1501-1519 (2002).

*The Restatement (Third) and the Place of Duty in Negligence Law*, 54 VAND. L. REV. 657-750 (2001) (with B. Zipursky).

*Concern for Cause: A Comment on the Twerski-Sebok Plan for Administering Negligent Marketing Claims Against Gun Manufacturers*, 32 CONN. L. REV. 1411-23 (2000) (with B. Zipursky).

*Rights and Wrongs*, 97 MICH. L. REV. 1828-1856 (1999) (review of ARTHUR RIPSTEIN, EQUALITY RESPONSIBILITY, AND THE LAW).

*The Life of the Law*, 51 STAN. L. REV. 1419-1475 (1999) (review of ANDREW L. KAUFMAN, CARDOZO).

*The Moral of MacPherson*, 146 U. PA. L. REV. 1733-1847 (1998) (with B. Zipursky).

*Let Liberals Be Liberals*, 61 MODERN L. REV. 899-915 (1998) (reviewing David Dyzenhaus, LEGALITY AND LEGITIMACY: CARL SCHMITT, HANS KELSEN AND HERMANN HELLER IN WEIMAR).

*Misconduct, Misfortune, and Just Compensation: Weinstein on Torts*, 97 COLUM. L. REV. 2034-2063 (1997) (comment).

*Style and Skepticism in The Path of the Law*, 63 BROOK. L. REV. 225-278 (1997).

Note: *Community and the Common Law Judge: Reconstructing Cardozo's Theoretical Writings*, 65 N.Y.U. L. REV. 1324-1372 (1990).

**Book Notices, Encyclopedia Entries, and Other Writings**

*Ronald Dworkin*, 127 HARV. L. REV. 494-498 (2013).

*Doing Justice in the Face of A Disaster*, 45 AKRON L. REV. 583-589 (2012).

“Liability for Economic Loss in Connection with the Deepwater Horizon Spill,” Report Prepared for Gulf Coast Claims Facility (2010).

Comment on Meir Dan-Cohen, *Skirmishes on the Temporal Boundaries of States*, 72 L. & CONTEMP. PROBS. 115-122 (2009).

*Wrongs Without Recourse: A Comment on Jason Solomon’s Judging Plaintiffs*, 61 VAND. L. REV. EN BANC 9-28 (2008).

Entries on “William L. Prosser” and “Warren A. Seavey” for the YALE BIOGRAPHICAL DICTIONARY OF AMERICAN LAW (R. Newman, ed. 2009).

*The Law Student’s Bill of Rights*, 21 CONST. COMM. 633-640 (2004) (humor for “But cf.”).

Participant, Roundtable on Tort Litigation and the Public Good, 12 J.L. & POLICY 149 (2003).

“Easy Cases, Hard Questions,” 33 VAND. LAWYER 30 (2003).

Book Review, 65 MODERN L. REV. 954-958 (2002) (reviewing TORTURE AS TORT (Craig Scott (ed.), 2001)).

Entries on “Blackstone’s Commentaries,” “*Palsgraf v. Long Island R.R.*,” and “Roger Traynor” in THE OXFORD COMPANION TO AMERICAN LAW (K. Hall ed., 2002).

*Introduction*, Wade Conference on the Third Torts Restatement, 54 VAND. L. REV. 639-652 (2001).

Jurist: Books-on-Law, <http://jurist.law.pitt.edu> (review of Nan Goodman, SHIFTING THE BLAME: LITERATURE, LAW AND THE THEORY OF ACCIDENTS IN NINETEENTH-CENTURY AMERICA).

*On The Merits: A Response to Professor Sherry*, 50 VAND. L. REV. 537-553 (1997).

## HONORS

Sibley Lecture, University of Georgia School of Law (2014).

American Association of Law Schools Annual Meeting, Section on Torts & Compensation Systems, Panel on Civil Recourse Theory (2012), proceedings published in 88 IND. L. J. 419-610 (2013).

Symposium on Civil Recourse Theory, 39 FLA. ST. U. L. REV. 1-371 (2011).

Monsanto Lecture, Valparaiso University School of Law (2007).

## TEACHING

Four-time Recipient of Hall-Hartman Teaching Award, voted by Vanderbilt Law School students

Visiting Professor, Harvard Law School (Fall 2007)  
4.92 / 5 for overall effectiveness in teaching (Torts)

Visiting Professor, NYU School of Law (Fall 2003)  
6.8 / 7.0 for overall effectiveness in teaching (Torts)

### First-Year Courses

*Civil Procedure* (Hall-Hartman Award, Fall 1997)  
*Contracts* (Hall-Hartman Award, Fall 2000)  
*Criminal Law*  
*Torts* (Hall-Hartman Award, Fall 2002)

### Upper-Level Courses

*Law and Philosophy Colloquium* (co-taught)  
*Philosophy of Law* (Hall-Hartman Award, Spring 2005)  
*Private Law Workshop* (co-taught)  
*Products Liability and Mass Torts*  
*Responsibility, Liability and Punishment* (co-taught)  
*Torts at the Supreme Court*

### Specialized/Short Courses

*Democracy and Conviction* (team taught)  
*Global Justice* (co-taught)  
*Legal Problems of Y2K* (team taught)  
*Political Science and the Courts* (co-taught)  
*Rawls' Legacy* (team-taught)

## SERVICE

### *Harvard University*

Member, Provost Advisory Committee (2015-16; 2016-17)  
Chair, Electronic Communications Oversight Committee (2014-15; 2016-17)  
Member, Electronic Communications Policy Task Force (2013-14)  
Member, Academic Appointments Advisory Group (2010-12)  
Member, Provost Search Advisory Committee (2011)  
Member, Dean Search Advisory Group (2009)

### *Harvard Law School*

Lateral Appointments Committee (Chair 2009-2012; member 2012-15; 2016-17)  
Chair, Title IX Policy Implementation Committee (2014-15)

### *Vanderbilt University*

Committee on Ethics Courses (Fall 2005)  
Committee on the Integration of Professional Schools (2002-2004)  
Committee on Moral Reasoning (2002-2004)  
Committee on NCAA Certification, Co-Chair of Governance sub-committee (2002-03)

### *Vanderbilt Law School*

Ad Hoc Tenure Committee (Chair) (2002-03)  
Admissions Committee (Fall 1998)  
Clerkship Advisor / Clerkship Committee (Class of 1998 / 1996-1997; 1995-1996)  
Faculty Appointments Committee (Chair 2000-01; member 2007-08; 2006-07, 2005-06, 2004-05; Spring, 2004; Fall 2002; 1999-2000; 1997-98)  
Faculty Self-Study Committee for A.B.A. Re-accreditation (2001)  
Faculty Sponsor of Colloquy (student scholarship organization)

## PROFESSIONAL ACTIVITIES

Advisory Board, RAND Center for Catastrophic Risk Management and Compensation (2013 - )

American Law Institute, Associate Reporter, Restatement (Fourth) of Property (2015 - )

American Law Institute, Members Consultative Group, Restatement (Third) of Torts (ongoing)

AALS Section on Torts and Compensation Systems

Chair (2009); Exec. Comm. Member (2004-08); Section Conference Organizer (June 2003)

Editor-in-Chief, Journal of Tort Law (2009-15)

Editorial Board, Legal Theory