

## John Goldberg

Carter Professor of General Jurisprudence · Harvard Law School  
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### EMPLOYMENT

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**Harvard Law School**, Cambridge MA 2008-present  
Carter Professor of General Jurisprudence, 2018-present  
Deputy Dean, 2017-2022  
Eli Goldston Professor of Law, 2012-18

**Vanderbilt University Law School**, Nashville, TN 1995-2008  
Professor, 2000-2008  
Associate Dean for Research, 2005-2008

**Harvard Law School**, Cambridge, MA 2007  
Visiting Professor

**New York University School of Law**, New York, NY Fall 2022; Fall 2003  
Visiting Professor

**Hill and Barlow**, Boston MA 1993-1995  
Associate

**Hon. Byron R. White**, U.S. Supreme Court 1992-1993  
Law Clerk

**Hon. Jack B. Weinstein**, E.D.N.Y. 1991-1992  
Law Clerk

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### EDUCATION

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**New York University**, School of Law, J.D., 1991  
Editor-in-Chief, NYU Law Review  
Frank H. Sommer Award  
Paul D. Kaufman Award (co-recipient)

**Princeton University**, M.A. in Politics, 1989

**Oxford University**, St. Antony's College, M. Phil Politics, 1985

**Wesleyan University**, College of Social Studies, B.A., *high honors*, 1983

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PUBLICATIONS AND WORKS IN PROGRESS: AUTHORED, CO-AUTHORED OR EDITED

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Books

TORT LAW: RESPONSIBILITIES AND REDRESS (5th ed. 2021) (with L. Kendrick, A. Sebok & B. Zipursky).

RECOGNIZING WRONGS (2020) (with B. Zipursky) (2023 NCJI Civil Justice Scholarship Award).

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).

Books (Editor)

A RESEARCH AGENDA FOR TORT LAW (E. Bublick & J. Goldberg eds., forthcoming).

UNDERSTANDING PRIVATE LAW: ESSAYS IN HONOUR OF STEPHEN A. SMITH (E. Fox-Decent, J. Goldberg & L. Smith eds., forthcoming).

INTERSTITIAL PRIVATE LAW (S. Bray, J. Goldberg, P. Miller & H. Smith eds., forthcoming).

THE OXFORD HANDBOOK OF NEW PRIVATE LAW (A. Gold, J. Goldberg, D. Kelly, E. Sherwin & H. Smith eds., 2021).

EQUITY AND LAW: FUSION AND FISSION (J. Goldberg, P. Turner & H. Smith eds., 2019).

Book Chapters

*Trying and Succeeding*, in UNDERSTANDING PRIVATE LAW: ESSAYS IN HONOUR OF STEPHEN A. SMITH (E. Fox-Decent, J. Goldberg & L. Smith eds., forthcoming) (with B. Zipursky) (nonfinal draft available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4591201](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4591201)).

*Recklessness in Tort: Interstitial Law as Doctrinal Fine-Tuning*, in INTERSTITIAL PRIVATE LAW (S. Bray, J. Goldberg, P. Miller & H. Smith eds., forthcoming) (with B. Zipursky) (nonfinal draft available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4591130](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4591130)).

*The Place of Philosophy in Private Law Scholarship*, in METHODOLOGY IN PRIVATE LAW THEORY: BETWEEN NEW PRIVATE LAW AND RECHTSDOGMIK (T. Kuntz & P. Miller eds., forthcoming) (with B. Zipursky) (nonfinal draft available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4591115](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4591115)).

*Torts in the American Law Institute*, in AMERICAN LAW INSTITUTE CENTENNIAL HISTORY (A. Gold & R. Gordon eds., 2023).

*A Precedent-Based Critique of Legal Positivism*, in PHILOSOPHICAL FOUNDATIONS OF PRECEDENT (T. Endicott, H. Kristjansson & S. Lewis eds. 2023) (with B. Zipursky).

*Corrective Justice and the Right to Hold on to What One Has*, in PRIVATE LAW AND PRACTICAL REASON (S. Steel & H. Psarras eds., 2023) (with B. Zipursky).

*Hohfeldian Analysis and the Separation of Rights and Powers*, in THE LEGACY OF WESLEY HOHFELD: EDITED MAJOR WORKS, SELECT PERSONAL PAPERS, AND ORIGINAL COMMENTARIES (S. Balganes, T. Sichelman & H. Smith eds., 2022) (with B. Zipursky).

*Torts*, in THE OXFORD HANDBOOK OF NEW PRIVATE LAW (A. Gold, J. Goldberg, D. Kelly, E. Sherwin & H. Smith eds., 2021).

*Vosburg v. Baxendale: Recourse in Tort and Contract*, in CIVIL WRONGS AND JUSTICE IN PRIVATE LAW (P. Miller & J. Oberdiek, eds., 2020) (with B. Zipursky).

*From Riggs v. Palmer to Shelley v. Kraemer: Judicial Power and the Law-Equity Distinction*, in PHILOSOPHICAL FOUNDATIONS OF THE LAW OF EQUITY (D. Klimchuk, I. Samet & H. Smith eds., 2020) (with B. Zipursky).

*Thomas M. Cooley and Oliver Wendell Holmes*, in SCHOLARS OF TORT LAW (J. Goudkamp & D. Nolan eds., 2019) (with B. Zipursky).

*The Fiduciary Duty of Care*, in THE OXFORD HANDBOOK OF FIDUCIARY LAW (E. Criddle, P. Miller, & R. Sitkoff eds., 2019).

*Wrongful Fusion: Equity and Tort*, in EQUITY AND LAW: FUSION AND FISSION (J. Goldberg, P. Turner & H. Smith eds., Cambridge University Press 2019) (with H. Smith).

*Triangular Torts and Fiduciary Duties*, in CONTRACT, STATUS, AND FIDUCIARY LAW 239-267 (A. Gold & P. Miller eds., 2016) (with B. Zipursky).

*Tort Law's Missing Excuses*, in DEFENCES IN TORT 53-64 (A. Dyson, J. Goudkamp & F. Wilmot-Smith eds., 2015).

*Tort Law and Responsibility*, in PHILOSOPHICAL FOUNDATIONS OF THE LAW OF TORTS 17-37 (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 and Essays

*On Being a Nuisance*, 99 N.Y.U. L. REV. \_\_\_\_ (2024) (nonfinal draft available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4648285](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4648285)).

*Getting the Law Right: An Essay in Honor of Aaron Twerski*, 18 BROOKLYN J. CORP., FIN. & COMM. L. \_\_\_\_ (forthcoming) (with B. Zipursky) (nonfinal draft available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4591143](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4591143)).

*A Tort for the Digital Age: False Light Invasion of Privacy Reconsidered*, 73 DEPAUL L. REV. \_\_\_\_ (forthcoming) (with B. Zipursky) (annual Clifford Symposium) (nonfinal draft available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4591188](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4591188)).

Sherman v. Department of Public Safety: *Institutional Responsibility for Sexual Assault*, 16 J. TORT L. \_\_\_\_ (2023) (with B. Zipursky), available at <https://www.degruyter.com/document/doi/10.1515/jtl-2023-0034/html> (license required).

*Legal Wrongs Between the Prescriptive and the Positive: Replies to Commentators on Recognizing Wrongs*, 27 JERUSALEM REV. LEG. STUDIES 99-125 (2023) (with B. Zipursky).

*Introduction: The Nature of the Judicial Process at 100*, 34 Yale J. L. & H. 1-8 (2023) (with C. Barzun).

*Rediscovering The Nature of the Judicial Process: A Comment on Professor Abraham's and White's Doctrinal Forks in the Road*, 34 Yale J. L. & H. 99-112 (2023).

*The Unable or Unwilling Doctrine: A View from Private Law*, 63 HARV. INTL. L.J. 63-134 (2022) (with G. Blum).

*Tort Theory, Private Attorneys General, and State Action: From Mass Torts to Texas S.B. 8*, 14 J. TORT. LAW 469-491 (2022) (with B. Zipursky).

*Replies to Commentators*, 41 LAW & PHIL. 127-166 (2021) (with B. Zipursky) (for symposium issue on RECOGNIZING WRONGS).

*Taking Responsibility Personally: On John Gardner's From Personal Life to Private Law*, 14 J. TORT. LAW 3-26 (2021).

*Case-Linked Jurisdiction and Busybody States*, 105 MINN. L. REV. HEADNOTES (Oct. 23, 2020) (with H. Erichson & B. Zipursky).

*History, Theory, and Tort: Four Theses*, 11 J. TORT LAW 17-38 (2018).

*Benjamin Cardozo and the Death of the Common Law*, 34 TOURO L. REV. 147-158 (2018) (symposium).

*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 91-122 (2016) (with B. Zipursky)

*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: Remedying 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).

*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).

*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 (1998)).

*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](#)

Review of ALLAN BEEVER, A THEORY OF TORTS (2016), 80 MODERN L. REV. 1183-1186 (2017).

Review of R.H. HELMHOLZ, NATURAL LAW IN COURT: A HISTORY OF LEGAL THEORY IN PRACTICE (2015), THE NEW RAMBLER, <http://newramblerreview.com/book-reviews/law/law-naturally>

*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).

Review of CRAIG SCOTT, ED., TORTURE AS TORT (2001), 65 MODERN L. REV. 954-958 (2002).

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).

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

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#### BRIEFS

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*Amicus Curiae* Brief of Professors Anthony J. Sebok and John C. P. Goldberg, *Taylor v. The Devereux Foundation, Inc.*, 888 S.E.2d 671 (Ga. 2023).

Brief of *Amici Curiae* Law Professors, *Milan Supply Chain Solutions, Inc. v. Navistar, Inc.*, 627 S.W.3d 125 (Tenn. 2021).

*Amici Curiae* Brief, *Merck Sharp & Dohme Corp. v. Albrecht*, 139 S. Ct. 1668 (2019) (with B. Zipursky).

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#### HONORS

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AALS Jurisprudence Section, Hart-Dworkin Award (co-recipient with B. Zipursky) (2024).

AALS Torts and Compensation Systems Section, William L. Prosser Award (co-recipient with B. Zipursky) (2023).

National Civil Justice Institute 2023 Scholarship Award (for *Recognizing Wrongs*)

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

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



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TEACHING

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

**First-Year Courses**

*Civil Procedure*  
*Constitutional Law*  
*Contracts*  
*Criminal Law*  
*Torts*

**Representative Upper-Level Courses**

*Global Justice* (co-taught)  
*Law and Philosophy Colloquium* (co-taught)  
*Philosophy of Law*  
*Private Law Workshop* (co-taught)  
*Torts at the Supreme Court*

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SERVICE

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**Harvard University**

Member, University Discrimination and Harassment Steering Committee (2021)  
 Member, Provost Advisory Committee (2015-18)  
 Chair, Electronic Communications Oversight Committee (2014-15; 2016-18)  
 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**

Deputy Dean (2017-2022)  
 Lateral Appointments Committee (Co-Chair 2021-22; Chair 2009-2012; Member 2012-15; 2016-19; Fall 2023)  
 Chair, Title IX Policy Implementation Committee (2014-16; 2017-18)

**Vanderbilt University**

Committee on Ethics Courses (Fall 2005)  
 Committee on the Integration of Professional Schools (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)

PROFESSIONAL ACTIVITIES

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Advisory Board, RAND Center for Catastrophic Risk Management and Compensation (2013-2017)

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

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)

Journal of Legal Analysis, Co-Editor-In-Chief (2024-)

Journal of Tort Law, Editorial Board Member (2015-present); Editor in Chief (2009-15)

Legal Theory, Editorial Board Member

Torts Jotwell, Contributing Editor

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