

John Goldberg

Deputy Dean & Carter Professor of General Jurisprudence · Harvard Law School
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EMPLOYMENT

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

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 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

EDUCATION

New York University, School of Law, J.D., 1991
Awards: 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. Anthony's College, M. Phil Politics, 1985

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

PUBLICATIONS AND WORKS IN PROGRESS

Books (Author):

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

RECOGNIZING WRONGS (with B. Zipursky) (Harvard Univ. Press 2020).

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):

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).

Books (Chapters):

Reflections of The Way Things Used to Be, in PRIVATE LAW AND PRACTICAL REASON (S. Steel & H. Psarras eds., forthcoming 2022) (with B. Zipursky).

Hobfeldian 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., forthcoming Cambridge Univ. Press) (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 PRIVATE LAW SCHOLARS: TORT (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:

The Unable or Unwilling Doctrine: A View from Private Law, 63 HARV. INTL. L.J. ___ (forthcoming 2021) (with G. Blum).

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: 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).

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).

BRIEFS

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

Amici Curiae Brief, *Merck Sharp & Dohme Corp. v. Albrecht*, 139 S. Ct. 1668 (2019) (with B. Zipursky) (arguing for restrained approach to implied preemption analysis).

HONORS

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

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)
Constitutional Law
Contracts (Hall-Hartman Award, Fall 2000)
Criminal Law
Torts (Hall-Hartman Award, Fall 2002)

Representative 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
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, 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-present)
 Lateral Appointments Committee (Co-Chair 2021-22; Chair 2009-2012; Member 2012-15; 2016-19)
 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

Advisory Board, RAND Center for Catastrophic Risk Management and Compensation (2013-2017)
 American Law Institute, Associate Reporter, Restatement (Fourth) of Property (2015-present)
 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 Tort Law, Editorial Board Member (2015-present); Editor in Chief (2009-15)
Legal Theory, Editorial Board Member
 Torts Jotwell, Contributing Editor