

*Curriculum Vitae of*  
**BENJAMIN C. ZIPURSKY**  
James H. Quinn '49 Professor  
Fordham University School of Law  
150 West 62nd Street  
New York, New York 10023  
(212) 636-6106 (w); (914) 584-7837 (c)  
bzipursky@law.fordham.edu

Employment

**FORDHAM UNIVERSITY SCHOOL OF LAW**

Professor of Law, 2001-present

James H. Quinn '49 Chair in Legal Ethics, 2006-present

Faculty Moderator, *Fordham Law Review*, 2010-present

Teacher of the Year Award, 2015

Associate Dean for Research, 2010-13

Associate Dean for Academic Affairs, 2001-2003

Associate Professor of Law, 1995-2001

Teaching Areas: Torts, Products Liability, Defamation & Privacy, Prof. Resp.,  
Jurisprudence, Constitutional Theory, Legal Process

Committee Chairs: Student/Faculty (2017-18); Journals (2011-13); Renewal,

Tenure, Promotion Scholarship Subcommittee (2007-08); Faculty  
Appointments (2006-07); Long-Range Planning (2005-06); Curriculum  
(2004-05)

Member, Dean Search Committee, 2010-11

**HARVARD LAW SCHOOL**

Visiting Professor, Spring 2009

**COLUMBIA LAW SCHOOL**

Visiting Professor, Fall 2008; Spring 2020; Fall 2021

**VANDERBILT LAW SCHOOL**

Visiting Professor, Spring 2008

Abbreviated Seminar on *The Perils of Vioxx*

**UNIVERSITY OF PITTSBURGH**

Visiting Assistant Professor of Law, 1994-95

Affiliated Member, Department of Philosophy

Associate, Center for Medical Ethics

**ARNOLD & PORTER, New York, New York**

Litigation Associate, 1992-94

Principal Areas of Practice: Products Liability, Antitrust, Sec. Litigation

HONORABLE KIMBA M. WOOD, UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
Law Clerk, 1991-92 Term

PAUL, WEISS, RIFKIND, WHARTON & GARRISON, New York, New York  
Summer Associate, 1990

NEW YORK UNIVERSITY, DEPARTMENT OF PHILOSOPHY  
Visiting Assistant Professor, 1988  
Adjunct Assistant Professor, 1987, 1989

UNIVERSITY OF PITTSBURGH, DEPARTMENT OF PHILOSOPHY  
Teaching Fellow, 1982-87

### Education

NEW YORK UNIVERSITY SCHOOL OF LAW, J.D., 1991  
*Magna Cum Laude*  
Order of the Coif  
New York University Law Review (Sr. Note Editor)  
Maurice Goodman Memorial Prize (“outstanding scholarship and character”)  
Paul D. Kaufman Memorial Award (outstanding law review Note (co-winner))  
Judge Aileen Haas Schwartz Award (Children & the Law)  
Leonard M. Henkin Prize (Equal Protection Clause scholarship)

UNIVERSITY OF PITTSBURGH, Ph.D. (Philosophy), 1987  
M.A. (Philosophy), 1985  
Alan Ross Anderson Fellow  
University of Pittsburgh Teaching Fellow

SWARTHMORE COLLEGE, B.A., 1982  
Honors in Philosophy, Mathematics, Linguistics

### Books

RECOGNIZING WRONGS (2020) (with J. Goldberg)

RESEARCH HANDBOOK ON PRIVATE LAW THEORY (edited, with H. Dagan 2020)

TORT LAW: RESPONSIBILITIES & REDRESS (2021) (5th ed.)  
(with J. Goldberg, L. Kendrick & A. Sebok)

TORT LAW: RESPONSIBILITIES & REDRESS (2016) (4th ed.)  
(with J. Goldberg & A. Sebok)

TORT LAW: RESPONSIBILITIES & REDRESS (2012) (3d ed.)  
(with J. Goldberg & A. Sebok)

THE OXFORD INTRODUCTIONS TO U.S. LAW: TORTS (2010) (with J. Goldberg)

TORT LAW: RESPONSIBILITIES & REDRESS (2008) (2d ed.) (with J. Goldberg & A. Sebok)

TORT LAW: RESPONSIBILITIES & REDRESS (2004) (with J. Goldberg & A. Sebok)

### Book Chapters

1. *A Precedent-Based Critique of Legal Positivism*, in PHILOSOPHICAL FOUNDATIONS OF PRECEDENT (T. Endicott, H. Kristjansson, S. Lewis, eds. 2022) (forthcoming)
2. *Hohfeldian Analysis and the Separation of Rights and Powers*, in THE LEGACY OF WESLEY HOHFELD: EDITED MAJOR WORKS, SELECT PERSONAL PAPERS, AND ORIGINAL COMMENTARIES (Shyam Balganesh, Ted Sichelman & Henry Smith) (2022) (forthcoming)
3. *Civil Recourse Theory*, in OXFORD HANDBOOK IN NEW PRIVATE LAW THEORY (A. Gold, J. Goldberg, D. Kelly, P. Miller, E. Sherwin, H. Smith eds 2020)
4. *From Law to Moral Philosophy in Theorizing About Negligence*, in AGENCY, NEGLIGENCE, AND RESPONSIBILITY (Veronica Rodrigues-Blanco and George Pavlakos eds.) (Cambridge University Press 2021)
5. *Introduction: The Distinction Between Private Law and Public Law* 1-20 (in RESEARCH HANDBOOK ON PRIVATE LAW THEORY (eds. H. Dagan & B. Zipursky 2020))
6. *Torts as Wrongs and Civil Recourse Theory* 356-71 (in RESEARCH HANDBOOK ON PRIVATE LAW THEORY (eds. H. Dagan & B. Zipursky 2020))
7. *Thoroughly Modern Tort Theory*, 134 HARV. L. REV. F. 184-99 (2021) (with J. Goldberg)
8. *Austerity, Compassion, and the Rule of Law*, in IMAGINATION, VIRTUE AND EMOTION IN LAW AND LEGAL REASONING (A. Amaya & M. Del Mar eds. 2020)

9. *From Riggs v. Palmer to Shelley v. Kraemer: the Continuing Significance of the Law-Equity Distinction*, in PHILOSOPHICAL FOUNDATIONS OF THE LAW OF EQUITY (D. Klimchuk, I. Samet, H. Smith eds. 2020)(with J. Goldberg)
10. *Vosburg v. Baxendale: Recourse in Tort and Contract*, in CIVIL WRONGS AND JUSTICE IN PRIVATE LAW (J. Oberdiek & P. Miller eds. 2020)(with J. Goldberg)
11. *Thomas MacIntyre Cooley (1824-98) and Oliver Wendel Holmes (1941-1935): The Arc of American Tort Theory*, in SCHOLARS OF TORT LAW (J. Goudkamp & D. Nolan, eds. 2019)(with J. Goldberg)
12. *Triangular Torts and Fiduciary Duties*, in CONTRACT, STATUS AND FIDUCIARY LAW (A. Gold & P. Kelly eds., 2016) (with J. Goldberg)
13. *Torts and the Rule of Law*, in PRIVATE LAW AND THE RULE OF LAW (L. Austin & D. Klimchuk eds., 2014)
14. *Tort Law and Responsibility*, in PHILOSOPHICAL FOUNDATIONS OF TORT LAW (J. Oberdiek, ed., 2014) (with J. Goldberg)
15. *Legal Pragmatism and Legal Pragmaticism*, in PRAGMATISM, LAW AND LANGUAGE (G. Hubbs & D. Lind eds., 2013)
16. *Anti-Empathy and Dispassionateness in Adjudication*, in *NOMOS LV: PASSIONS AND EMOTIONS* (J. Fleming ed., 2012)
17. *Torts*, in INTERNATIONAL ENCYCLOPEDIA OF ETHICS (H. LaFollette ed., 2012)
18. *Proximate Cause in the Law of Torts*, in THE ROUTLEDGE COMPANION TO PHILOSOPHY OF LAW (A. Marmor ed., 2012)
19. *Rights and Responsibilities in the Law of Torts*, in RIGHTS IN PRIVATE LAW (D. Nolan & A. Robertson eds., 2011) (with J. Goldberg)
20. *Rights, Responsibilities, and Reflections Upon the Sanctity of Life*, in THE PHILOSOPHERS: RONALD DWORKIN (A. Ripstein ed., 2007) (with J. Fleming)
21. *Pragmatism, Positivism, and the Conventionalistic Fallacy*, in LAW AND SOCIAL JUSTICE (J. Campbell, M. O'Rourke, & D. Shier, eds., 2005)
22. *The Philosophy of Tort Law*, in BLACKWELL GUIDE TO THE PHILOSOPHY OF LAW AND LEGAL THEORY (M. Golding & W. Edmundson eds., 2004)

23. *The Philosophy of Private Law*, in THE OXFORD HANDBOOK OF JURISPRUDENCE AND PHILOSOPHY OF LAW (J. Coleman & S. Shapiro eds., 2002)
24. *Corrective Justice in an Age of Mass Torts*, in PHILOSOPHY AND THE LAW OF TORTS (G. Postema ed., 2002) (with A. Ripstein)
25. *Pragmatic Conceptualism*, in TORT LAW (E. Weinrib, ed., 2002) (reprinted)
26. *Rights, Wrongs, and Recourse in the Law of Torts*, in TORT LAW (E. Weinrib, ed., 2002) (reprinted)
27. *The Model of Social Facts*, in HART'S POSTSCRIPT (J. Coleman ed., 2001)

#### Articles and Essays

1. *Replies to Commentators*, 41 LAW AND PHILOSOPHY 122 (2022) (with J. Goldberg)
2. *Tort Theory, Private Attorneys General, and State Action: From Mass Torts to Texas S.B. 8*, 14 J. TORT LAW 469 (2021) (with J. Goldberg)
3. *Case-Linked Jurisdiction & Busybody States*, 105 MINN. L. REV. HEADNOTES 54 (2020) (with H. Erichson & J. Goldberg)
4. *Loyalty and Disclosure in Legal Ethics*, 65 AMER. J. OF JUR. 83 (2020)
5. *Ziglar v. Abbasi and the Decline of the Right to Redress*, 86 FORD. L. REV. 2167 (2018)
6. *Foreword: Access to Justice and the Legal Profession in an Era of Contracting Civil Liability*, 86 FORD. L. REV. 2107 (2018)
7. *The Cathedral Through the Looking Glass: A Commentary on Dagan and Dorfman's Just Relationships*, COLUMBIA LAW REVIEW SIDEBAR (2017) (online)
8. *Online Defamation, Legal Concepts, and the Good Samaritan*, 51 VAL. L. REV. 1 (2016) (endowed lecture)
9. *Thinking in the Box in Legal Scholarship: The Good Samaritan and Internet Libel*, 66 J. Leg. Ed. 55 (2016-17)
10. *The Strict Liability in Fault and the Fault in Strict Liability*, 85 FORD. L. REV. 743 (2016) (with J. Goldberg)

11. *The Myths of MacPherson*, 9 J. TORT LAW (2016) (with J. Goldberg)
12. *The Supreme Court's Stealth Return to the Common Law of Torts*, 65 DEPAUL L. REV. 433 (2016) (with J. Goldberg)
13. *Reasonableness in and out of Negligence Law*, 163 U. PA. L. REV. 2131 (2015)
14. *Civil Recourse and the Plurality of Wrongs*, 2014 NEW ZEALAND L. REV. 145-69
15. *The Fraud-on-the-Market Tort*, 66 VAND. L. REV. 1755 (2013) (with J. Goldberg) (reprinted in 56 CORPORATE PRACTICE COMMENTATOR 355 (2014))
16. *The Inner Morality of Private Law*, 58 AM. J. OF JURIS. 27 (2013)
17. *Civil Recourse Defended: A Reply to Posner, Calabresi, Rustad, Chamallas, and Robinette*, 88 IND. L. REV. 569 (2013) (with J. Goldberg)
18. *Palsgraf, Punitive Damages, and Preemption*, 125 HARV. L. REV. 1757 (2012)
19. *Convergence and Contrast in Tort Scholarship: An Essay in Honor of Robert Rabin*, 61 DEPAUL L. REV. 467 (2012) (with J. Goldberg)
20. *Substantive Standing, Civil Recourse, and Corrective Justice*, 39 FLA. ST. UNIV. L. REV. 299 (2011)
21. *Snyder v. Phelps, Outrageousness, and the Open Texture of Tort Law*, 60 DEPAUL L. REV. 473 (2011)
22. *Consent v. Closure* 96 CORNELL L. REV. 265 (2011) (with H. Erichson)
23. *Legal Positivism and the Good Lawyer: Rev. of Wendel's Lawyers and Fidelity to Law*, 24 GEO. J. OF LEG. ETH. 1156 (2011)
24. *Richard Epstein and the Cold War in Torts*, 3 J. OF TORT LAW 5 (2010)
25. *The Easy Case for Products Liability: A Response to Polinsky & Shavell*, 123 HARV. L. REV. 1919 (2010) (with J. Goldberg)
26. *Integrity and the Incongruities of Justice: A Review of DANIEL MARKOVITS, A MODERN LEGAL ETHICS: ADVERSARY ADVOCACY IN A DEMOCRATIC AGE*, 119 YALE L. J. 194 (2010)
27. *Two Takes on Truth in Normative Discourse*, 90 B.U. L.Rev. 525 (2010)

28. *Torts as Wrongs*, 88 TEX. L. REV. 917 (2010) (with J. Goldberg)
29. *Foreseeability in Duty, Breach, and Proximate Cause*, 44 WAKE FOREST L. REV. 1247 (2009)
30. *Intervening Wrongdoing in Tort: The Third Restatement's Unfortunate Embrace Of Negligent Enabling*, 44 WAKE FOREST L. REV. 1211 (2009) (with J. Goldberg)
31. *Punitive Damages After Philip Morris USA v. Williams*, 44 COURT REVIEW 134 (2008-09)
32. *Coming Clean on Getting Even: Murphy on Hatred and Criminal Justice*, 27 CRIM. JUSTICE & ETHICS 34 (2008)
33. *Practical Perfectionism versus Practical Positivism: The Hart/Fuller Debate at Fifty*, 83 N.Y.U. L. REV. 1170 (2008)
34. *Two Dimensions of Responsibility in Crime, Tort and Moral Luck*, 9 THEORETICAL INQ. 97 (2007)
35. *Tort Law and Moral Luck*, 92 CORNELL L. REV. 1123 (2007) (with J. Goldberg)
36. *Minimalism, Perfectionism, and Common Law Constitutionalism: Reflections on Sunstein's and Fleming's Efforts to Find the Sweet Spot in Constitutional Theory*, 75 FORDHAM L. REV. 2997 (2007)
37. *Sleight of Hand*, 48 WM. & MARY L. REV. 1999 (2007)
38. *Legal Obligations and the Internal Aspect of Rules*, 75 FORDHAM L. REV. 1229 (2006)
39. *Seeing Tort Law from the Internal Point of View: Holmes and Hart on Legal Duties*, 75 FORDHAM L. REV. 1563 (2006) (with J. Goldberg)
40. *The Place of Reliance in Fraud*, 48 ARIZONA L. REV. 1001 (2006) (with J. Goldberg & A. Sebok)
41. *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 (2006) (with J. Goldberg)
42. *Coming Down to Earth: Why Rights-Based Tort Theories Can and Must Consider Cost-Based Arguments for Damages Reform*, 55 DEPAUL L. REV. 469 (2006)

43. *A Theory of Punitive Damages*, 84 TEX. L. REV. 105 (2005)
44. *Tempering Supremacy*, 73 FORDHAM L. REV. 1463 (2005)
45. *Accidents of the Great Society*, 64 MD. L. REV. 1463 (2005) (with J. Goldberg)
46. *Rawls in Tort Theory: Themes and Counter-Themes*, 72 FORDHAM L. REV. 1923 (2004)
47. *Conflicts of Integrity*, 72 FORDHAM L. REV. 395 (2003)
48. *Civil Recourse, Not Corrective Justice*, 91 GEORGETOWN L. J. 695 (2003)
49. *Unrealized Torts*, 88 VIRGINIA L. REV. 1625 (2002) (with J. Goldberg)
50. *Regulation and Responsibility for Lawyers in the Twenty-First Century*, 70 FORDHAM L. REV. 1949 (2002)
51. *The Restatement (Third) and the Place of Duty in Negligence Law*, 54 VAND. L. REV. 657 (2001) (with J. Goldberg)
52. *Concern for Cause: A Comment on the Twerski-Sebok Plan for Administering Negligent Marketing Claims Against Gun Manufacturers*, 32 CONN. L. REV. 1411 (2000) (with J. Goldberg)
53. *Pragmatic Conceptualism*, 6 LEGAL THEORY 457 (2000)
54. *The Moral of MacPherson*, 146 U. PA. L. REV. 1733 (1998) (with J. Goldberg)
55. *Legal Malpractice and the Structure of Negligence Law*, 67 FORDHAM L. REV. 649 (1998)
56. *Rights, Wrongs, and Recourse in the Law of Torts*, 51 VAND. L. REV. 1 (1998)
57. *Cyberlibel*, AALS Newsletter in Defamation & Privacy, Spring 1998
58. Foreword, *Urban Bioethics*, 24 FORDHAM URB. L. J. 663 (1997) (with E. Cooper)
59. Introduction, *Physician-Assisted Suicide: Rights and Risks to Vulnerable Communities*, 24 FORDHAM URB. L. J. 777 (1997)
60. *Legal Coherentism*, 50 SMU L. REV. 1679 (1997)



61. *Self-Defense, Domination, and the Social Contract*, 57 U. PITT. L. REV. 579 (1996)
62. *The Pedigrees of Rights and Powers in Scalia's Cruzan Concurrence*, 56 U. PITT. L. REV. 283 (1994)
63. *Deshaney and the Jurisprudence of Compassion*, 65 N.Y.U. L. REV. 1101 (1990)

#### Opinion Pieces

*How to Reform Police Liability Without Involving McConnell or Trump*, Washington Post, Aug. 17, 2020 (with I. Bennett Capers & John C.P. Goldberg)

*Unseal the Eric Garner – Daniel Pantaleo Grand Jury Documents*, N.Y. Daily News, Feb. 5, 2015

#### Internet Publications

*Getting Reacquainted with Constitutional Torts*, JOTWELL (February 4, 2020) (reviewing Richard Fallon, Jr., *Bidding Farewell to Constitutional Torts*, 107 **Cal. L. Rev.** 933 (2019)), <https://torts.jotwell.com/getting-reacquainted-with-constitutional-torts/>.

*Benjamin C. Zipursky, Cardozo's Great Proximate Cause Decision?*, JOTWELL (March 28, 2019) (reviewing Kenneth S. Abraham & G. Edward White, *Recovering Wagner v. International Railway Company*, 34 **Tuoro L. Rev.** 21 (2018)), <https://torts.jotwell.com/cardozos-great-proximate-cause-decision/>.

*Expressivism, Corrective Justice, and Civil Recourse*, Jotwell on Torts (February 20, 2018)

*Tort Theory in Copyright Law: Thinking about Patrick Goold's Unbundling the "Tort" of Copyright Infringement*, Jotwell on Torts (March 15, 2017)

*Junk Food and Assumption of Risk*, Jotwell on Torts (March 24, 2016)

*Missing the Mark on Duty, Again: Regents v. Superior Court*, Harvard New Private Law Blog (November 5, 2015) (with J. Goldberg)

*A School's Duty of Care to its Students: Munn v. Hotchkiss School*, Harvard New Private Law Blog (August 26, 2015) (with J. Goldberg)

*Contractualism and Tort Law*, Jotwell on Torts (April 6, 2015)

*Federal Preemption and Products Liability*, Jotwell on Torts (March 2014)

*Moore on Intent in Battery*, Jotwell on Torts (April 2013)

*Honor and Civil Recourse: A Response to Nathan Oman's The Honor of Private Law* (2012). Res Gestae. Paper 9.  
[http://ir.lawnet.fordham.edu/res\\_gestae/9](http://ir.lawnet.fordham.edu/res_gestae/9)

*The Upcoming Supreme Court Case of Wyeth v. Levine and the Preemption Temptation (Part One in a Two-Part Series)* (with A. Sebok) (September 23, 2008) at <http://writ.news.findlaw.com/sebok/20080923.html> **and**  
*More on the Upcoming Supreme Court Case of Wyeth v. Levine and the Preemption Temptation: (Part Two of a Two-Part Series)* (with A. Sebok) (Oct. 7, 2008) at <http://writ.news.findlaw.com/sebok/20081007.html>

*Getting With the Program: The Vioxx Settlement Agreement*, (with A. Sebok) (November 20, 2007) at [http://writ.news.findlaw.com/commentary/20071120\\_zipursky.html](http://writ.news.findlaw.com/commentary/20071120_zipursky.html)

*Evidence, Unfairness, and Market-Share Liability: A Comment on Geistfeld*, 156 U. PA. L. REV. PENNUMBRA 126 (Sept. 2007), at <http://www.pennumbra.com/responses/09-2007/Zipursky.pdf>

### Selected Presentations

*Benjamin Cardozo and American Natural Law Theory*, Yale Law School Conference celebrating 100<sup>th</sup> Anniversary of Cardozo's THE NATURE OF THE JUDICIAL PROCESS (co-sponsored by Fordham, Harvard, and University of Virginia) (March 2022)

*An Ideational Theory of Reputation*, UC Irvine Law & Philosophy Conference on Philosophical Foundations of Defamation Law (March 2022)

*New York Defamation Law*, New York State Judicial Institute (October 2021)

*A Precedent-Based Critique of Legal Positivism*, Oxford University Conference on the Philosophical Foundations of Precedent (with J. Goldberg) (October 2021)

Commentary on Ignazio Cofone, *Private Standing*, Yale/Harvard Workshop on Private Law and Emergency Technology (September 2021)

Commentary on Sophia Z. Lee, *Making Employment Law Private*, NYU Symposium on Private Law Meets the Law of Work (September 2021)

*Reflections on the Way Things Used to Be*, Oxford University Conference on Gardner and Private Law (with J. Goldberg) (April 2021)

*Hot Topics in Tort Law: COVID, Qualified Immunity and Police Violence*, Public Nuisance, University and School Duties to Protect (Wolters Kluwer National Webcast March 2021)

*Responsibility and Recognizing Wrongs*, Seminar of Prof. Christopher Kutz at U.C. Berkeley Law and Philosophy (with J. Goldberg) (March 2021)

*Recognizing Wrongs Replies*, Annual Meeting of Eastern Division of American Philosophical Association devoted to RECOGNIZING WRONGS) (January 2021)

*The Importance of MacPherson v. Buick* (Museum of Tort Law Recording) (with J. Goldberg) (October 2020)

*Qualified Immunity, Race, and Policing* (Fordham Panel) (September 2020)

*The Realist-Responsibility Argument in Opioid Litigation* (Clifford Conference)(with J. Goldberg)(May 2020)

*Civil Recourse Theory*, Faculty Workshop, Columbia Law School (March 2020)

Comments on *Hernandez v. Mesa* and *Ford v. Bandemer*, Supreme Court Overview Panel of ILEP Conference at Fordham Law School (Feb. 2020)

*From Law to Moral Philosophy in Theorizing About Negligence*, Cornell Law School Faculty Workshop (Feb. 2020)

*Recognizing Wrongs*, Book Launch, Fordham Law School (Feb. 2020)

*Recognizing Wrongs*, Book Launch, Harvard Law School (Feb. 2020)

Comments on Felipe Jimenez, *Two Questions for Private Law Theory*, North American Workshop in Private Law Theory, University of Western Ontario, London, Ontario, Canada (Oct. 2019)

*From Law to Moral Philosophy in Theorizing About Negligence*, Targeted Workshop at Fordham Law School (October 2019)

Justice for Hedgehogs: *Metaphysical, not Judicial* (presented at NYU Symposium on

Ronald Dworkin's later works) (Sept. 2019)

Response to Prof. Mark Greenberg on *Natural Law and Legal Interpretation*, Fordham Natural Law Colloquium (Sept. 2019)

Comments on *Redressive Justice*, Book Workshop at Brooklyn Law School, concerning Andrew Gold's *Redressive Justice* (July 2019)

*Loyalty and Disclosure in Legal Ethics* (Symposium on Legal Ethics and Fiduciary Duties), Kylemore Abbey, Ireland (June 2019)

*Vosburg v. Baxendale* (Rutgers Law & Philosophy Institute conference on Civil Justice and Private Law) (October 2018)

SCOTUS Preview (Fordham Law School) (October 2018)

*Learned Hand and Miss Wyoming* (Fordham Law Review symposium on Gender Equality and the First Amendment) (November 2018)

*Recognizing Wrongs Workshop* (Safra Center, Harvard, December 2018)

*Specific Jurisprudence* (AALS Panel on *Jurisprudence* and Goldberg/Zipursky *Recognizing Wrongs*) (January 2019)

*Federal Preemption and Erie at the Supreme Court* (NYC Tort Theory Group) (March 2019)

*Ziglar v. Abbasi and the Decline of the Right to Redress*, Fordham Stein Colloquium Access to Justice (October 2017)

*Dual Constructivism* (from *Recognizing Wrongs*), North American Workshop in Private Law Theory, USC Gould School of Law (December 2017)

*Dual Constructivism* (from *Recognizing Wrongs*), University of Virginia School of Law Faculty Workshop (February 2018)

*Cooley, Holmes, and the Arc of American Tort Theory*, Oxford University Symposium on Scholars of Tort Law (April 2018)

*New York Law of Defamation*, New York Judicial Institute, White Plains, New York (March 2016)

- The Active/Passive Distinction in Internet Libel Law*, Workshop on Negligence, Omissions, and Responsibility, University of Birmingham (March 2016)
- Where There's a Right, There's a Remedy*, Fordham Faculty Workshop (March 2016)
- Civil Recourse and Pragmatic Conceptualism in Tort Theory: the Case of Online Defamation*, The Monsanto Lecture, Valparaiso Law School, Valparaiso Indiana (February 2016); Tort Law Research Group Public Lecture, University of Western Ontario, London, Canada (February 2016)
- The Myths of MacPherson*, Annual Meeting of Assoc. of American Law Schools (Torts Section), New York, NY (January 2016) (with J. Goldberg)
- Triangular Torts and Fiduciary Duties*, Conference on Contract, Status, and Fiduciary Duties, McGill University Faculty of Law (November 2015) (with J. Goldberg)
- Civil Rights, Civil Recourse*, Harvard Law School, Cambridge, MA (H.Smith/A. Gold seminar on Private Law Theory) (September 2015)
- Compassion, Austerity, and the Rule of Law*, XXVII World Congress of Philosophy of Law and Social Philosophy, Georgetown Law Center, Washington, D.C. (July 2015); University of Connecticut School of Law (September 2015)
- The Supreme Court's Stealth Return to the Common Law of Torts*, Clifford Symposium on Tort Law, DePaul Law School (April 2015) (with J. Goldberg)
- Reasonableness in and out of Negligence Law*, University of California, Irvine (Law and Philosophy) (March 2015); University of Pennsylvania (September 2014)
- The Fault in Strict Liability*, Yale Law School Colloquium on Private Law Theory (February 2015)
- Negligent Infliction of Emotional Distress and Tort Orthodoxy*, Obligations VI Conference at University of Western Ontario, London, Canada (July 2012) (with J. Goldberg)
- Civil Recourse and the Plurality of Wrongs: Why Torts are Different*, Mapping the Common Law, Public Lecture in Auckland, New Zealand (June 2012)
- Palsgraf, *Punitive Damages, and Preemption*, Harvard Law Review Symposium on "The New Private Law," Harvard Law School (October 2011)

*Substantive Standing, Civil Recourse, and Corrective Justice*, Univ. of Toronto Legal Theory Workshop (September 2011)

*Fair Use and the Defenses of Defamation Law*, Conference on Intellectual Property and the Common Law, University of Pennsylvania Law School (May 2011)

*Free Speech After Snyder v. Phelps*, Federalist Society/Am. Const. Society Debate with Prof. Eugene Volokh, Columbia Law School (April 2011)

*Relational Duties and Civil Recourse*, Conference on Duty in Negligence Law, University of Melbourne Faculty of Law (February 2011)

*Civil Recourse Theory – Responses* (and *Relational Duties and Civil Recourse*), Florida State University School of Law Conference on Civil Recourse Theory (February 2011)

*Consent versus Closure: Recent Developments in Legal Ethics*, Practicing Law Institute, New York, New York (February 2011)

*Reasonableness in and out of Nuisance Law*, Legal Theory in Property and Tort Law, Gould School of Law, USC (speaker and conference co-organizer) (October 2010)

*Legal Ethics in Aggregate Litigation*, NAACP Legal Defense Fund Annual Conference in Airlie, Virginia (October 2010) (with Howard Erichson)

*Rights and Responsibilities in the Law of Torts*, Plenary Speaker at Torts and Rights: 2010 Obligations V Conference at Oxford University (July 2010) (with J. Goldberg)

*Richard Epstein and the Cold War in Torts*, Association of American Law Schools Annual Meeting (Torts section), New Orleans (January 2010)

*Wrongs and Corrective Justice: A Response to Coleman/Mendlow and Gardner*, American Philosophical Association, Eastern Division, New York (December 2009)

*Wrongs, Not Accidents: Wrongs and Recourse in the Law of Torts*, NYU Law School Colloquium, in Legal, Social and Political Philosophy (October 2009); Queens University Faculty of Law (November 2009); University of Pennsylvania School of Law Institute of Law and Philosophy (November 2009)

*Foreseeability in Duty, Breach, and Proximate Cause*, Wake Forest Law School Symposium on Restatement (Third) of Torts (March 2009)

*Preemption and Institutional Competence: First Things First*, NYU Law School Symposium on Torts and Preemption (Feb. 2009)

*Punitive Damages and the Nonparty Harm Rule*, Boston Univ. School of Law (Jan. 2009); Harvard Law School (March 2009); New Eng. Law School (April 2009)

*Vioxx and Some Problems in Legal Ethics*, Fordham Law School Legal Ethics Roundtable (May 2008); Vanderbilt Conference on Plaintiffs' Settlement Agreements (Feb. 2009)

*Responsibility in Tort for Harm Inflicted by Others*, Analytic Legal Philosophy Conference at Yale Law School (April 2008); Columbia Faculty Workshop (November 2008)

*Coming Clean on Getting Even: Murphy on Hatred and Criminal Justice*, American Philosophical Association, Pacific Div. Mtg. in Pasadena Cal. (March 2008)

*Practical Positivism Versus Practical Perfectionism: The Hart/Fuller Debate at Fifty*, Vanderbilt Law School (March 2008)

*Mischief Under the Penumbra* (Hart/Fuller at 50 Conf.), NYU Law (Feb. 2008) (conference co-organizer)

*Two Dimensions of Responsibility*, Rutgers Law School (Camden) (Jan. 2008)

*Legal Obligations and the Internal Aspect of Rules*, UNAM, Mexico City (May 2007)

*Crime, Tort and Moral Luck*, Hebrew University (Jerusalem) & Tel Aviv Univ. (Jan. 2007)

*Neither Minimalism nor Perfectionism: Reflections on Sunstein's and Fleming's Efforts to Find the Sweet Spot in Constitutional Theory*, symposium on books of Cass Sunstein and James Fleming, Fordham Law School (December 2006)

*Tort Law and Moral Luck*, Law and Philosophy Seminar, Oxford University (October 2006)

*Social Host Liability*, Rutgers (Camden) Law & Philosophy Conference on Rights and Responsibilities (Spring 2006)

*The Wrongs of Tort*, USC Conference on the Morality of Fortune (Spring 2006)

*Sleight of Hand*, William & Mary Law School Symposium on Law and Morality (Winter 2006)

*The Internal Point of View in Law and Ethics*, Fordham Law School Symposium  
Organizer and Speaker (Winter 2006)

*Theoretical Perspectives on the Distinctiveness of Asbestos Litigation*, University of  
Connecticut School of Law (November 2005)

*A Theory of Punitive Damages*, Yale Law School (November 2005)  
Cornell Law (September 2005); UCLA Law (November 2004)

*Critique of Leiter on Naturalism in Jurisprudence*, Rutgers Institute of Law and Philosophy,  
Rutgers Law School, Camden (June 2005)

*Response to Soper on Natural Law*, Fordham Law School  
Natural Law Colloquium (March 2005)

*Coming Down to Earth: Why Rights-Based Tort Theories Can and Must Consider  
Cost- Based Arguments for Damages Reform*, Clifford Symposium on Tort Law  
and Policy, DePaul Law School (April 2005)

*Not So Fast: Stopping to Think About the Seemingly Obvious Shift From Contributory to  
Comparative Negligence*, AALS Annual Meeting, Torts Panel, San Francisco  
(January 2005)

*Pragmatic Conceptualism in Jurisprudence*, University of Texas Law School Conference on  
Methodology in Jurisprudence (November 2004)

*Rawls in Tort Theory: Themes and Counter-themes*, Fordham University Symposium on  
Rawls and the Law (Winter 2004)

*Medical Malpractice Reform: State v. Federal*, Association of the Bar of the  
City of New York (February 2004)

*Conflicts of Integrity*, Symposium on Law and Ethics, Fordham Law School (Fall 2003)

*BMW v. Gore: In Praise of a New Chestnut*,  
Association of American Law Schools, Torts Section (June 2003)

*Unrealized Torts*, John M. Olin Conference for Inchoate and Future Loss,  
University of Virginia (February 2002)



*Defamation of Corporations: Some Surprising Questions*, AALS Annual Meeting,  
New Orleans (January 2002)

*Lawyering in the Interests of Justice*, Fordham Law Colloquium on Legal Ethics  
New York (November 2001)

*Certification, Removal and Remand and the Federal Abstention Doctrine*  
A Tale of Two Systems: The State and Federal Courts in New York  
New York State-Federal Judicial Council/Fordham Law Review Symposium  
Fordham University School of Law (November 2000)

*Comments on Kaplow and Shavell's Principles of Fairness v. Human Welfare*  
Columbia University School of Law (October 2000)

*The Third Restatement and the Place of Duty in Negligence Law* (with J. Goldberg)  
Wade Conference on the Third Restatement of Torts (General Principles), Vanderbilt  
University (September 2000) (conference co-organizer)

*Neglect of Duty* (with John Goldberg), Fordham Faculty Workshop (September 2000)

*The Many Faces of Foreseeability*, University of Kansas Symposium on the Restatement  
(Third) of Torts, (June 2000)

*Corrective Justice in an Age of Mass Torts* Columbia University  
Legal Theory Workshop (April 2000)

*Civil Recourse, Not Corrective Justice*, Columbia University Tort Theory  
Seminar (Spring 2000)

*Pragmatic Conceptualism as a Middle Path: Comment on W. Lucy on Honore*, Law and  
Philosophy Conference on Tony Honore's RESPONSIBILITY AND LUCK, Columbia  
University (Spring 2000)

*The Role of Forgiveness in the Law: Forgiveness and Justice* (Moderator) Fordham  
University (Winter 2000)

*Pragmatic Conceptualism, Civil Recourse, and Corrective Justice*  
Plenary Address, Fourth Annual Analytic Legal Philosophy Conference, Institute for  
Law and Philosophy, University of Pennsylvania (Spring 1999);  
Columbia Law School; Hofstra Law School; Fordham Law School; University of  
Toronto Faculty of Law; Yale Law School

*Kumho Tire: Remaking Daubert As a Tort Reform Case: Roundtable on Product Liability And Evidence Law*, Fordham Law School (April 1999)

*The Moral of MacPherson*, Fordham University School of Law Work-in-Progress Colloquium (February 1998)

*Corrective Justice in an Age of Mass Torts* (with A. Ripstein), University of North Carolina Workshop on Law and Philosophy, National Humanities Center, North Carolina (September 1997)

*Physician-Assisted Suicide: Rights and Risks to Vulnerable Communities*, Moderator and Faculty Co-Organizer, Fordham University School of Law, Sixth Annual Stein Center Symposium on Urban Challenges, Urban Bioethics: Health Care Poverty, and Autonomy (Spring 1997)

*Triangular Torts and the Idea of Civil Recourse*, Fordham University School of Law Work-in-Progress Colloquium (January 1997)

*Legal Coherentism*, SMU School of Law, Symposium on Dennis Patterson's *Law and Truth* (December 1996)

*Self-Defense, Domination, and the Social Contract*, Respondent to George Fletcher, and Co-Organizer, University of Pittsburgh School of Law/Dep't of Philosophy, Symposium on Self-Defense and Relations of Domination (April 1995)

#### Selected Professional Activities

Advisor, Restatement (Fourth) of Property

Advisor, Restatement (Third) of Torts

Chair, Assoc. of Am. Law Schools Section on Jurisprudence (2011-12)

Senior Editor/co-founder of *Journal of Tort Law*, peer-reviewed tort journal

Editorial Board member of *Legal Theory*

Editorial Board member of *Law and Philosophy*

Reviewer of book and article manuscripts for numerous presses and journals, including Oxford University Press, Cambridge University Press, *Law and Philosophy*

Interviewed on The NewsHour, August 22, 2005 (segment on Vioxx litigation)  
BBC WorldNews, August 19, 2005 (segment on Vioxx litigation)

Interviews with New York Times, Newsweek, Washington Post, National Public  
Radio, Associated Press, Reuters, Nature, Bloomberg Radio, on variety of issues  
in tort, products liability, legal ethics, and defamation law

Adjunct Professor, Brooklyn Law School (Fall 2005)

Principal Organizer of New York City Torts Group (2003- )

Co-Director of Fordham Law Project in Support of Martin Luther King, Jr. High School for  
Law, Advocacy, and Social Justice (2001-04)

#### Admitted to Practice

New York State Bar, 1992  
S.D.N.Y., 1993; E.D.N.Y., 1993

#### Memberships

##### American Law Institute

Advisory Committee Member: Restatement (Third) of Torts: Intentional  
Torts; Restatement (Fourth) of Property; Restatement (Third) of Torts: Defamation  
and Privacy; Restatement (Third) of Torts: Concluding Provisions

Consultative Group Member: Restatement (Third) of Torts: Liability for Physical  
and Emotional Harm; Restatement (Third) of Torts: Remedies; Principles of  
Aggregate

Litigation: Policing Project

##### Association of American Law Schools

Defamation and Privacy (Exec. Comm. 1999-2002)  
Jurisprudence (Chair, 2011-12; Exec. Comm. 2008-12)  
Tort and Insurance Law

##### Association of the Bar of the City of New York

Product Liability Committee, 1999-2000  
Federal Legislation Committee, 2003-2006