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Stanford Law School
Stanford, California 94305
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PROFESSIONAL BACKGROUND

A. Calder Mackay Professor of Law, Stanford Law School (since 1984)
Visiting Professor, New York University School of Law (1999-2000, 2007-08,
2009-10, 2011-12, 2013-14, 2015-16, fall semester 2017, 2019)
Jack N. Pritzker Distinguished Visiting Professor,
Northwestern University School of Law (fall semester (1994)
Visiting Professor, Harvard Law School (1987-88)
Fellow, Center for Advanced Study in the Behavioral Sciences (1982-83)
Visiting Fellow, Centre for Sociolegal Studies, Wolfson College, Oxford
University (summer, 1982)
Senior Environmental Fellow, U.S. Environmental Protection Agency (1979-80)
Professor of Law, Stanford Law School (1973-1984)
Associate Professor of Law, Stanford Law School (1971-73)
Visiting Associate Professor of Law, Stanford Law School (1970-71)
Associate Professor of Law, University of Wisconsin (1969-70)
Assistant Professor of Law, University of Wisconsin (1966-69)

TEACHING AREAS

Torts
Protection of Personality
Toxic Harms
Dealing with Disasters

RELATED ACTIVITIES

Member, Editorial Board, Tort Law Review (1992-)
Member, Advisory Board, Torts, Products Liability and Insurance Abstracts
(1998-)
Member, Advisory Board, Journal of Tort Law (Berkeley Electronic Press),
(2006-)
Member, American Law Institute (2016-)

Member, Editorial Board, Foundation Press (1984-2021)
Member, Advisory Committee, Restatement of the Law, Third, Torts: General Principles, 1997-2012)
Consultant, China Law Center, Yale Law School, (Chinese Tort Law)(2002-07)
Advisor, Asia Foundation (Chinese Tort Law) (2005)
Member, Institute of Medicine, Committee on Reducing Tobacco Use (2004-07)
Member, Advisory Committee, Restatement of the Law, Third, Torts: Products Liability (1992-97)
Senior Program Consultant, Substance Abuse Policy Research Program, Robert Wood Johnson Foundation (1996-2002)
Program Director, Tobacco Policy Research and Evaluation Program, Robert Wood Johnson Foundation (1992-1996)
Associate Reporter, ALI Project on Compensation and Liability for Product and Process Injuries (1988-91)
Reporter, ABA Action Commission to Improve the Tort Liability System (1985-87)
Member, Editorial Advisory Board, Law and Policy (1985-2005)
Member, Advisory Committee, Journal of Legal Education (1985-88)
Visiting Committee, American Bar Foundation, 1984-85
Member, Board of Editorial Advisors, American Bar Foundation Research Journal (1983-86)
University Fellow, Stanford University (1982-85)
Member, Board of Advisors, Law and Society Review (1979-82)
Chair, Section on Administrative Law, Assoc. of American Law Schools (1979-80)
Member, Law and Government Studies Group, National Institute of Education (1977-80)
Consultant, Ford Foundation, Division of Resources and the Environment (1971-81)
Consultant, Administrative Conference of the United States (1970-72)
Associate Counsel, National Welfare Rights Organization, Washington, D.C. (Summer, 1969)

PUBLICATIONS

A. Books

Tort Law and Alternatives: Cases and Materials (with M. Franklin, M. Green, M. Geistfeld, & N. Engstrom) Foundation Press: 11th ed. 2021

Torts Stories (with S. Sugarman) Foundation Press: 2003

Regulating Tobacco (with S. Sugarman) Oxford Univ. Press: 2001

Perspectives on Tort Law
Aspen: 4th ed. 1995

Smoking Policy: Law, Politics and Culture (with S. Sugarman)
Oxford Univ. Press: 1993

Perspectives on the Administrative Process
Little, Brown: 1979

B. Articles, Book Chapters, and Review Essays

“Stand Alone Emotional Harm: Old Wine in New Bottles,” 73 DePaul L. Rev. 733 (2024)

“Felons, Outlaws, and Tort’s Troubling Treatment of the “Wrongdoer” Plaintiff,” (with Nora Engstrom) 16 J. of Tort Law 43 (2023)

“Corporate Responsibility in Mass Disaster Cases,” 72 DePaul L. Rev. 495 (2022)

“The Search for Strategies to Reduce Medical Error,” 62 Jurimetrics J. 331 (2022)

“The Road Not Taken: Perspectives on No-Fault Compensation for Tobacco and Opioid Victims,” (with Nora Freeman Engstrom), 70 DePaul L. Rev. 395 (2021)

“Stephen Sugarman and the World of Responsibility for Injurious Conduct,” 109 Cal. L. Rev. 369 (2021)

“Pursuing Public Health Through Litigation: Lessons from Tobacco and Opioids (with Nora Freeman Engstrom), 73 Stan. L. Rev. 285 (2021)

“Some Thoughts on Compensation and Remedial Relief for Disasters in the American Legal System,” 115 NU. L. Rev. Online 306 (2020)

“Reassessing the Regulation of High-Risk Medical Device Cases,” (with A. Picard), 68 DePaul L. Rev. 309 (2019)

“Automated Vehicles and Manufacturer Responsibility for Accidents: A New Legal Regime for a New Era,” (with K. Abraham) 105 Va. L. Rev. 127 (2019)

“The Future is Almost Here: Inaction is Actually Mistaken Action,” (with K. Abraham) 105 Va. L. Rev. Online 91 (2019)

“Dov Fox on Reproductive Negligence: A Commentary,” 117 Colum. L. Rev. Online 228 (2017)

- “Accommodating Tort Law: Alternative Remedies for Workplace Injuries,” 69 Rutgers L.Rev. 1119 (2017)
- “Perspectives on Privacy, Data Security and Tort Law,” 66 DePaul L. Rev. 313 (2017)
- “Pathways to Auto Safety: Assessing the Role of NHTSA” in N. Parrillo, ed., *Administrative Law from the Inside Out: Essays on Themes in the Work of Jerry L. Mashaw*, (2017)
- “Intangible Damages in American Tort Law: A Roadmap,” Stanford Public Law Working Paper No. 2727885; <http://ssrn.com/abstract=2727885> (2016)
- “Judge Jack Weinstein and the World of Tort: Institutional and Historical Perspectives,” 64 DePaul L. Rev. 641 (2015)
- “Non-Pecuniary Damages in American Tort and Contract Law,” 3 Chinese Journal of Comparative Law 226 (2015)
- “Reexamining the Pathways to Reduction in Tobacco-Related Disease,” 15 Theoretical Inquiries in Law 507 (2014)
- “Jeffrey O’Connell and the Compensation Principle in Accident Law: Institutional and Intellectual Perspectives,” 6 J. Tort Law 3 (2013)
- “Reflections on Tort and the Administrative State,” 61 DePaul L. Rev. 239 (2012)
- “The John G. Fleming Lecture: A Brief History of Accident Law—Tort and the Administrative State,” 20 Tort L. Rev. 11 (2012)
- “The Pervasive Role of Uncertainty in Tort Law: Rights and Remedies,” 60 DePaul L. Rev. 431 (2011)
- “Harms from Exposure to Toxic Substances: The Limits of Liability Law,” 38 Pepperdine L. Rev. 419 (2011)
- “Tort as a Litigation Lottery: A Misconceived Metaphor” (with T. Lytton & P. Schuck), 52 Boston College L. Rev. 267 (2011)
- “The Vaccine No-Fault Act: An Overview,” 8 Indiana Health L. Rev. 269 (2011)
- “Emotional Distress in Tort Law: Themes of Constraint,” 44 Wake Forest L. Rev. 1197 (2009)
- “Territorial Claims in the Domain of Accident Law: Conflicting Conceptions of Tort

- Preemption,” 74 Brooklyn L. Rev. 987 (2009)
- “Tobacco Control Strategies: Past Efficacy and Future Promise,” 41 Loyola (LA) L. Rev. 1721 (2008)
- “Dissembling and Disclosing: Physician Responsibility on the Frontiers of Tort Law,” 57 DePaul L. Rev. 281 (2008)
- “The Case for Specially Compensating the Victims of Terrorist Acts: An Assessment” (with S. Sugarman), 35 Hofstra L. Rev. 901 (2007)
- “Controlling the Retail Sales Environment,” in Institute of Medicine, Ending the Tobacco Problem: A Blueprint for the Nation (2007), Appendix L
- “Poking Holes in the Fabric of Tort: A Comment,”
56 DePaul L.Rev. 293 (2007)
- “Respecting Boundaries and the Economic Loss Rule in Tort,”
48 Arizona L.Rev. 857 (2006)
- “Pain and Suffering and Beyond: Some Thoughts on Recovery for Intangible Loss,” 55 DePaul L.Rev. 359 (2006)
- “September 11 Through the Prism of Victim Compensation,”
106 Columbia L.Rev. 464 (2006)
- “Financial Compensation for Victims of Catastrophes: United States”
(with S. Bratis), in M. Faure & T. Hartlief, eds. Financial Compensation for Victims of Catastrophes: A Comparative Legal Approach, 2006
- “Tobacco Tort Litigation in the United States: Fifty Years of Inconclusive Warfare,” (Italian trans. G. Ponzanelli) in Vol. LXX Responsabilita Civile e Previdenza at 938 (2005)
- "Past as Prelude: The Legacy of Five Landmarks of Twentieth Century Injury Law for the Future of Torts"
in M. Stuart Madden, ed., Exploring Tort Law, 2005
- "The Renaissance of Accident Law Plans Revisited," 64 Maryland L.Rev. 699 (2005)
- "Three Perspectives on Medical Injury: A Commentary,"
54 DePaul L.Rev. 527 (2005)
- “Reliance on Scientific Evidence in Tort Litigation: The U.S. Experience,” in G.

Comande & G. Ponzanelli, *Scienza e diritto nel prisma del diritto comparator* (2004)

"*Rowland v. Christian*: Hallmark of an Expansionary Era," in Robert L. Rabin & Stephen D. Sugarman, eds., *Torts Stories* (2003)

"The September 11th Victim Compensation Fund: A Circumscribed Response or an Auspicious Model?," 53 *DePaul L.Rev.* 769 (2003)

"The Fault of Not Knowing," 4 *Theoretical Inquiries in Law* 427 (2003)

"Indeterminate Future Harm in the Context of September 11," 88 *Virginia L. Rev.* 1831 (2002)

"The Tort History Scholarship of Gary Schwartz: A Commentary," 50 *U.C.L.A. L. Rev.* 461 (2002)

"The Quest for Fairness in Compensating Victims of September 11," 49 *Clev. State L. Rev.* 573 (2001)

"The Tobacco Litigation: A Tentative Assessment," 51 *DePaul L. Rev.* 331 (2001)

"The Duty Concept in Negligence Law: A Comment," 54 *Vand. L. Rev.* 787 (2001)

"Reassessing Regulatory Compliance," 88 *Georgetown L. Journ.* 2049 (2000)

"Enabling Torts," 49 *DePaul L. Rev.* 435 (1999)

"The Uncertain Future of Tobacco Tort Litigation in the United States," 7 *Tort Law Rev.* 91 (1999)

"Tort Recovery for Enhanced Risk in the U.S. Supreme Court: Some Thoughts on *Metro North Commuter Railroad Co. v. Buckley*," (Italian trans. G. Ponzanelli), 8 *Danno e Responsibilita* 757 (1998)

"Tobacco Policy Research" (with M. Gutman and D. Altman), in S. Isaacs & J. Knickman, *To Improve Health and Health Care, 1998-1999: The Robert Wood Johnson Anthology* (1998)

"Damages for Personal Injury in the United States," (Italian trans. G. Ponzanelli), 4 *Danno e Responsibilita* 318 (1998)

"Federalism and the Tort System," 50 *Rutgers L. Rev.* 1 (1997)

- "Restating the Law: The Dilemmas of Products Liability,"
30 U. of Mich. Journ. of Law Reform 197 (1997)
- "Some Thoughts on the Ideology of Enterprise Liability,"
55 Md. L. Rev. 1190 (1996)
- "Law for Law's Sake," 105 Yale Law Journ. 2261 (1996)
- "Continuing Tensions in the Resolution of Mass Toxic Harm
Cases: A Comment," 80 Cornell L. Rev. 1037 (1995)
- "Tobacco Tort Litigation in the United States," Centro di
Studi e Ricerche di Diritto Comparato e Straniero,
Roma, Conference Paper No. 17 (1995)
- "Some Thoughts on the Efficacy of a Mass Toxics Administrative
Compensation Scheme," 52 Md. L. Rev. 951 (1993)
- "Enterprise Responsibility for Personal Injury: Further Reflections"
(With K. Abraham and P. Weiler), 30 San Diego L. Rev. 333 (1993)
- "A Sociolegal History of the Tobacco Tort Litigation,"
44 Stan. L. Rev. 853 (1992)
- "The Politics of Tort Reform," 26 Valpo. L. Rev. 709 (1992)
- "*Vosburg v. Putney* in Three-Part Disharmony," 1992 Wis. L. Rev. 863
- "Administrative Compensation Schemes," in Reporters' Study,
Enterprise Responsibility for Personal Injury, American
Law Institute (1991)
- "Some Thoughts on Smoking Regulation," 43 Stan. L. Rev.
475 (1991)
- "The Administrative State and Its Excesses: Reflections
on *The New Property*", 24 U.S.F. L. Rev. 273 (1990)
- "Deterrence and the Tort System," in M. Friedland (ed.), Sanctions
and Rewards in the Legal System: A Multi-disciplinary
Approach (1989)
- "EPA Regulation of Chlorofluorocarbons: A View of the Policy Formation
Process," in K. Hawkins & J. Thomas, Making Regulatory Policy (1989)

- "Tort System on Trial: The Burden of Mass Toxics Litigation,"
98 Yale Law Journ. 813 (1989)
- "Some Reflections on the Process of Tort Reform," 25 San Diego L. Rev. 13 (1988)
- "Tort Law in Transition: Tracing the Patterns of Sociolegal Change,"
23 Valpo. L. Rev. 1 (1988)
- "Environmental Liability and the Tort System," 24 Houston
L. Rev. 27 (1987)
- "Federal Regulation in Historical Perspective," 38 Stan. L.
Rev. 1189 (1986)
- "Characterisation, Context and the Problem of Economic Loss in American
Tort Law," in M. Furmston (ed.), *The Law of Tort: Policies and Trends
in Liability for Damage to Property and Economic Loss* (1986)
- "Indeterminate Risk and Tort Reform: Comment on Calabresi &
Klevorick," 14 Journal of Legal Studies 633 (1985)
- "Tort Recovery for Negligently Inflicted Economic Loss: A
Reassessment," 37 Stan. L. Rev. 1513 (1985)
- "Some Thoughts on the Dynamics of Continuing Relations in the
Administrative Process," 1985 Wisc. L. Rev. 741
- "Legitimacy, Discretion and the Concept of Rights," 92 Yale
Law Journal 1174 (1983)
- "The Historical Development of the Fault Principle: A
Reinterpretation," 15 Ga. L. Rev. 925 (1981)
- "Ozone Depletion Revisited: EPA Regulation of
Chlorofluorocarbons," *Regulation*, pp. 32-38,
Mar./Apr. 1981
- "The Preservation Ethic and the National Parks," 90 Yale
Law Journal 1896 (1981)
- "Impact Analysis and Tort Law: A Comment," 13 Law & Soc.
Rev. 987 (1979)
- "Some Thoughts on the Relationship Between Fundamental Values
and Procedural Safeguards in Constitutional Right

- to Hearing Cases," 16 San Diego L. Rev. 1201 (1979)
- "Dealing with Disasters: Some Thoughts on the Adequacy of the Legal System," 30 Stan. L. Rev. 28 (1978)
- "Administrative Law in Transition: A Discipline in Search of an Organizing Principle," 72 NW. U. L. Rev. 120 (1977)
- "Job Security and Due Process: Monitoring Administrative Discretion Through a Reasons Requirement," 44 U. of Chi. L. Rev. 60 (1976)
- "Lawyers for Social Change: Perspectives on Public Interest Law," 29 Stan. L. Rev. 207 (1976)
- "Preclusion of Judicial Review in the Processing of Claims for Veterans' Benefits: A Preliminary Analysis," 27 Stan. L. Rev. 905 (1975)
- "Abandoning Our Illusions: An Evaluation of Alternative Approaches to Law Reform," 27 Stan. L. Rev. 191 (1974)
- "Agency Criminal Referrals in the Federal System: An Empirical Study of Prosecutorial Discretion," 24 Stan. L. Rev. 1036 (1972)
- "Making Political Institutions Responsive to Societal Needs," 24 Stan. L. Rev. 592 (1972)
- "Implementation of the Cost of Living Adjustment for AFDC Recipients: A Case Study in Welfare Administration," 118 U. Pa. L. Rev. 1143 (1970)
- "The Poverty of Administrative Law," 22 Stan. L. Rev. 421 (1970)
- "A Strange Brand of Selectivity: Administrative Law Perspectives on the Processing of Registrants in the Selective Service System," 17 U.C.L.A. L. Rev. 1005 (1970)
- "Some Thoughts on Tort Law from a Sociopolitical Perspective," 1969 Wisc. L. Rev. 51
- "Do You Believe in a Supreme Being--The Administration of the Conscientious Objector Exemption," 1967 Wisc. L. Rev. 642

"When is a Religious Belief Religious: *U.S. v. Seeger* and the Scope of Free Exercise," 51 Cornell L.Q. 231 (1966)

C. Published Reports, Working Papers, and Recent Public Policy Notes

"What Prop. 46 Would Fix," L.A. Times, Op-Ed, Oct. 28 (2014) (with Nora Engstrom and Michelle Mello)

"Raise the Cap on Malpractice Awards," L.A. Times, Op-Ed, Aug. 13, 2013 (with Nora Engstrom)

"The Legacy of *New York Times v. Sullivan*: Time for a Reassessment?" (commenting on *Snyder v. Phelps*), Torts Profs Blog, May 2011
Testimony, Hearing on the Tobacco Settlement Proposal: Civil Liability Provisions, House Judiciary Committee (1998)

"No-fault Compensation for Tobacco-related Disease," Univ. of Wisconsin Conference on the Global Tobacco Settlement (1997)

"Report of the A.B.A. Action Commission to Improve the Tort Liability System" (1986) (Reporter)

D. Awards and Endowed Lectures

Francis McGovern Writing Award, Academy of Court Appointed Masters, 2012

John G. Fleming Prize and Lecture, Univ. of California, Berkeley School of Law, 2011

Festschrift (dedicated to my academic work), Clifford Symposium on Tort Law and Social Policy, 2011

William Prosser Award for Scholarship, Teaching and Service, AALS Torts and Compensation Section, 2008

Robert B. McKay Award, American Bar Association, Contributions to Tort and Insurance Fields, 1997

Brescia Lectures on the American Tort System, Brescia Law School, 2011

Cleveland-Marshall College of Law Visiting Scholar and Lecturer, 2002

Food, Drug and Law Institute 1999 Law Professors Symposium, Keynote Speaker

Pisa Lectures on the American Tort System, Scuola Superiore, Santa Anna, 1999

Ahrens Advanced Tort Seminar Lecturer, Washburn Law School, 1997

Pfizer Lecture, Rutgers Law School, 1996

E. S. Gallon, Scholar-in-Residence and Lecturer, Univ. of
Dayton Law School, 1992

Monsanto Lecture, Valparaiso Law School, 1992

Monsanto Lecture, Valparaiso Law School, 1987

E. EDUCATION

Northwestern University, Ph.D. (Political Science), 1967

Northwestern University School of Law, J.D., 1963

Northwestern University, B.S. 1960