

Torts and Compensation Systems Section

Annual Newsletter

December 2021

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This newsletter was compiled by the research team at the Stanford Law School Library and Nora Freeman Engstrom, Ernest W. McFarland Professor of Law at Stanford Law School and Co-Director, Stanford Center on the Legal Profession.

Annual Meeting Programs

Annual Meeting
January 7, 2022
2:00 – 2:45 EST

At this annual meeting, we will honor our William T. Prosser Award recipient, Professor Martha Chamallas, and we will also elect the 2022 – 2023 Executive Board.

The Rising Tide of Climate Torts
January 7, 2022
3:10 – 6:00 EST

This will be a joint session, along with the Section on Natural Resources and Energy Law, and also co-sponsored by the Section on Environmental Law.

A growing number of tort lawsuits against energy companies seek remedies for responding to climate change. This litigation raises a host of issues at the intersection of tort, environmental, energy, and natural resources law. This session convenes scholars for discussion in two panels. The first panel addresses the litigation history, the bases of liability and challenges to those theories, the regulatory use of tort adjudication in similar large-scale contexts (e.g. tobacco), preemption, remedies, and transnational concerns. Session Two will drill down into the environmental and social justice implications. A roundtable format will permit broad discussion and interaction.

First panel: Michael Burger, Columbia Law, moderator

Elbert de Jong, Utrecht Law College

Catherine M. Sharkey, NYU Law

Second panel: Tracy Hester, Houston Law, moderator

Elizabeth Chamblee Burch, University of Georgia Law

Katrina Kuh, Pace Law

Clifford Villa, New Mexico Law

Tseming Yang, Santa Clara Law

William L. Prosser Award **Winner: Prof. Martha** **Chamallas**

The 2022 Prosser Award winner is Professor Martha Chamallas, Robert J. Lynn Chair in Law,

The Ohio State University, Moritz College of Law.

Professor Chamallas graduated first in her class at Louisiana State University Law Center and served as the first female editor-in-chief of the Louisiana Law Review. After graduation, she clerked for Judge Charles Clark on the Fifth Circuit Court of Appeals. She then began teaching at her alma mater. Over the following quarter-century, she taught at Harvard, Iowa, Washington University in St. Louis, the University of Pittsburgh, Duke, the University of Richmond, the University of Tennessee, Suffolk, and abroad at Tel Aviv University, and the University of Ghent. In 2002, she became the Robert J. Lynn Chair in Law at the Moritz College of Law.

Professor Chamallas pioneered the study of gender and race issues in tort law. She applied feminist legal principles to tort law long before it was acceptable to mention gender issues in the classroom or in the academy. All the while, she garnered widespread respect and recognition in our traditionally male-dominated field. She has powerfully critiqued legal education, including the ways in which scholars explicitly or implicitly reinforce bias and hierarchy through their casebooks, classrooms, and construction of the torts canon.

In the area of torts remedies, Professor Chamallas focused attention on the effects of using racialized and gendered economic damages tables. She also urged that judicial reluctance to award emotional distress damages negatively impacted women. In her foundational 1990 Michigan Law Review article, *Women, Mothers and the Law of Fright* (with Linda K. Kerber), she wrote, “the law has often failed to compensate women for recurring harms—serious though they may be in the lives of women—for which there is no precise masculine analogue.” Her articles and book, *Measure of Injury: Race, Gender and Tort Law* (with Jennifer B. Wriggins) (2010), on those topics have been widely cited by scholars and judges,

including Special Master Ken Feinberg in support of not using gender-based tables in calculation of damages in the 9/11 Victim Compensation Fund.

She also posed difficult but important questions about race and gender of the parties and jurors in tort suits, forging a pathway for applying social science methods to tort law. She recently co-edited, with Lucinda Finley, the forthcoming Torts volume of Cambridge University Press’s Feminist Judgments series. Professor Chamallas has extended her feminist scholarship beyond tort law with her field-defining treatise, *Introduction of Feminist Legal Theory*, now entering its fourth edition.

She also has participated on Gender and Race Bias Task Forces for the states of Iowa and Pennsylvania; chaired the Association of American Law Schools (AALS) Section on Employment Discrimination; and served for nearly two decades on American Association of University Professors Committee on the Status of Women in the Academic Profession.

Over her esteemed career, Professor Chamallas has authored more than 40 articles and essays and has been recognized as an outstanding scholar, gifted teacher, and generous colleague. In 2006, she received the Ohio State’s highest award for teaching, the Distinguished Lecturer Award, and in 2013 the University Distinguished Scholar Award.

The Prosser Award will be presented at this year’s annual meeting. The Torts and Compensation Systems Section Executive Committee congratulates Professor Martha Chamallas on this well-deserved honor.

2023 Prosser Award Nominations

At the 2023 Annual Meeting, the Torts and Compensation Systems Section will once again present the William L. Prosser Award to a law professor who has made outstanding contributions of scholarship, teaching, and

service in tort law. Any law professor is eligible to nominate another law professor for the award.

Selection of the recipient for the 2023 Prosser Award will be made by the members of the Executive Committee of the Torts and Compensation Systems Section, based on the recommendation of an appointed special selection committee.

Nominations should be submitted to Thomas Kadri, Executive Board Member, at tek@uga.edu. Nominations must be accompanied by a brief letter of support. Nominations must be received no later than June 30, 2022.

Election of Section Officers

As noted above, the Section on Torts and Compensation Systems will elect officers at the 2022 annual meeting. You are invited to participate in the election. The current members of the Executive Committee will propose the following slate of candidates for election at the business meeting:

Chair: Timothy Lytton, Georgia State University Law

Vice Chair: Nora Freeman Engstrom, Stanford Law School

Secretary: Elizabeth Weeks, Georgia Law

Treasurer: Thomas Kadri, Georgia Law

Executive Board Member: Melissa Mortazavi, University of Oklahoma Law

Executive Board Member: Mary J. Davis, Immediate past-Chair, UK Rosenberg Law,

TBD, Executive Board Member

A call for nominations and applications for the vacant Executive Board member position will be sent out to the list in early December. Please respond to that call if you are interested in serving on the Executive Board, or to nominate someone for the position.

Recent Law Review Symposia

Federal Courts, Practice and Procedure: The Fiftieth Anniversary of *Bivens* (Notre Dame Law Review):

Andrew Kent, *Lessons for Bivens and Qualified Immunity Debates from Nineteenth-Century Damages Litigation Against Federal Officers*, 96 NOTRE DAME L. REV. 1755 (2021).

Stephen I. Vladeck, *The Inconsistent Originalism of Judgemade Remedies against Federal Officers*, 96 NOTRE DAME L. REV. 1869 (2021).

Katherine Mims Crocker, *A Scapegoat Theory of Bivens*, 96 NOTRE DAME L. REV. 1943 (2021).

Joanna C. Schwartz, Alexander Reinert, & James E. Pfander, *Going Rogue: The Supreme Court's Newfound Hostility to Policy-Based Bivens Claims*, 96 NOTRE DAME L. REV. 1835 (2021).

Carlos M. Vázquez, *Bivens and the Ancien Régime*, 96 NOTRE DAME L. REV. 1923 (2021).

Ann Woolhandler & Michael G. Collins, *Was Bivens Necessary?*, 96 NOTRE DAME L. REV. 1893 (2021).

The Public Valuation of Private Assets (Notre Dame Law Review):

Colleen M. Baker, *The Federal Reserve as Collateral's Last Resort*, 96 NOTRE DAME L. REV. 1381 (2021).

Robert T. Miller, *Stock Market Value and Deal Value in Appraisal Proceedings*, 96 NOTRE DAME L. REV. 1403 (2021).

Thomas W. Merrill, *The Compensation Constraint and the Scope of the Takings Clause*, 96 NOTRE DAME L. REV. 1421 (2021).

Richard A. Epstein, *Valuation Blunders in the Law of Eminent Domain*, 96 NOTRE DAME L. REV. 1441 (2021).

Kip Viscusi, *Efficient Ethical Principles for Making Fatal Choices*, 96 NOTRE DAME L. REV. 1461 (2021).

Catherine M. Sharkey, *Valuing Black and Female Lives: A Proposal for Incorporating Agency VSL into Tort Damages*, 96 NOTRE DAME L. REV. 1479 (2021).

Leandra Lederman, *Valuation as a Challenge for Tax Administration*, 96 NOTRE DAME L. REV. 1495 (2021).

Andrew T. Hayashi, *Dynamic Property Taxes and Racial Gentrification*, 96 NOTRE DAME L. REV. 1517 (2021).

Arden Rowell, *Quantitative Valuation in Environmental Law*, 96 NOTRE DAME L. REV. 1539 (2021).

Jason Scott Johnston, *Environmental Permits: Public Property Rights in Private Lands and the Extraction and Redistribution of Private Wealth*, 96 NOTRE DAME L. REV. 1559 (2021).

Adam Mossoff, *The Injunction Function: How and Why Courts Secure Property Rights in Patents*, 96 NOTRE DAME L. REV. 1581 (2021).

Henry E. Smith, *Putting the Equity Back into Intellectual Property Remedies*, 96 NOTRE DAME L. REV. 1603 (2021).

New Frontiers in Torts: The Challenges of Science, Technology, and Innovation (Southwestern Law Review):

Mark A. Behrens & Andrew J. Trask, *The Rule of Science and the Rule of Law*, 49 SW. L. REV. 436 (2021).

Alan Calnan, *Holistic Tort Theory*, 49 SW. L. REV. 362 (2021).

Michael Green, *The Education of the Judiciary: The Sciences Addressing Disease Causation*, 49 SW. L. REV. 492 (2021).

Richard Marcus, *Brave New World: Technology and Tort Practice*, 49 SW. L. REV. 455 (2021).

Francis McGovern, *New Developments in Tort Litigation: Presentation of Francis McGovern*, 49 SW. L. REV. 487 (2021).

Linda S. Mullenix, *Outgunned No More?: Reviving a Firearms Industry Mass Tort Litigation*, 49 SW. L. REV. 390 (2021).

Brian Panish, *Torts: Past, Present, and Future*, 49 SW. L. REV. 478 (2021).

Christopher J. Robinette & Shannon N. Costa, *Incorporating an Actual Malice Exception to Section 230 of the Communications Decency Act*, 49 SW. L. REV. 462 (2021).

Victor E. Schwartz, *Rendering Justice in Key Areas of Tort Law in the next Decade*, 49 SW. L. REV. 378 (2021).

Victor Schwartz, *Torts: Past, Present, and Future*, 49 SW. L. REV. 483 (2021).

Anthony Sebok, *New Means of Financing Tort Lawsuits and Law Firms*, 49 SW. L. REV. 504 (2021).

Byron G. Stier, *New Frontiers in Tort Law and the Challenges of Science, Technology & Innovation: An Introduction*, 49 SW. L. REV. 349 (2021).

Recent Law Journal Articles

Kenneth S. Abraham, *Police Liability Insurance After Repeal of Qualified Immunity, and Before*, 56 TORT TRIAL & INS. PRAC. L.J. 31 (2021).

Ashleigh Adams, Comment, *Cleaning Up the Past: Abuse of the Citizen Suit Provision in Order to Circumvent the Prescriptive Period of Legacy Litigation*, 9 LSU J. ENERGY L. & RESOURCES 203 (2021).

Alena M. Allen, *The Emotional Woman*, 99 N.C. L. REV. 1027 (2021).

Theodore Thomas Appel, Note, *Do Legislators under Iowa's Golden Dome Know Better?: Surveying Jury-Trial Constitutional Challenges on Damage Caps and Application to the Iowa Constitution*, 106 IOWA L. REV. 813 (2021).

Mahrukh Badar, Note, *Calling the Shots: Balancing Parental and Child Rights in the Age of Anti-Vax*, 28 IND. J. GLOBAL LEGAL STUD. 325 (2021).

Rachel Bayefsky, *Remedies and Respect: Rethinking the Role of Federal Judicial Relief*, 109 GEO. L.J. 1263 (2021).

Hillel J. Bavli, *Cause and Effect in Antidiscrimination Law*, 106 IOWA L. REV. 483 (2021).

Jeffrey Bellin, *Pure Privacy*, 116 NW. U. L. REV. 463 (2021).

Curtis A. Bradley & Ernest A. Young, *Unpacking Third-Party Standing*, 131 YALE L.J. 1 (2021).

Maureen E. Brady, *Turning Neighbors into Nuisances*, 134 HARV. L. REV. 1609 (2021).

Khiara M. Bridges, *Beyond Torts: Reproductive Wrongs and the State*, 121 COLUM. L. REV. 1017 (2021) (book review).

Vincent S. J. Buccola & Joshua C. Macey, *Claim Durability and Bankruptcy's Tort Problem*, 38 YALE J. ON REG. 766 (2021).

Dan L. Burk, *Algorithmic Legal Metrics*, 96 NOTRE DAME L. REV. 1147 (2021).

Stephanie Roman Caban, Note, *Human Trafficking in the Age of the New Sharing Economy: Why Victims Should be Able to Pursue Civil Remedies against Airbnb through the Traditional Tort Framework*, 30 J. TRANSNAT'L L. & POL'Y 181 (2020-2021).

Julie L. Campbell, *A Reliability Check on Expert Witness Testimony in Medical Malpractice Litigation: Mandatory Medical Simulation*, 31 HEALTH MATRIX 1 (2021).

Chapter Three the Legal Infrastructure of Childbirth, 134 HARV. L. REV. 2209 (2021).

Terence J. Centner, *Pesticide Registration Fails to Protect Human Health: Damages from*

Exposure to Glyphosate-Based Herbicides, 36 J. ENVTL. L. & LITIG. 69 (2021).

Bernard Chao, *Privacy Losses as Wrongful Gains*, 106 IOWA L. REV. 555 (2021).

Zachary D. Clopton & D. Theodore Rave, *MDL in the States*, 115 NW. U. L. REV. 1649 (2021).

Ruth Colker, *Uninformed Consent*, 101 B.U. L. REV. 431 (2021).

Katherine Mims Crocker, *Reconsidering Section 1983's Nonabrogation of Sovereign Immunity*, 73 FLA. L. REV. 523 (2021).

Marc O. DeGirolami, *Reconstructing Malice in the Law of Punitive Damages*, 14 J. TORT L. 193 (2021).

Mihailis E. Diamantis, *Algorithms Acting Badly: A Solution from Corporate Law*, 89 GEO. WASH. L. REV. 801 (2021).

Gregory M. Dickinson, *Rebooting Internet Immunity*, 89 GEO. WASH. L. REV. 347 (2021).

Margaret E. Dillaway, Note, *The New "Web-Stream" of Commerce: Amazon and the Necessity of Strict Products Liability for Online Marketplaces*, 74 VAND. L. REV. 187 (2021).

J. Shahar Dillbary, *The Case against Collective Liability*, 62 B.C. L. REV. 391 (2021).

J. Shahar Dillbary, Cherie Metcalf, & Brock Stoddard, *Incentivized Torts: An Empirical Analysis*, 115 NW. U. L. REV. 1337 (2021).

Tom Dougherty, *Sexual Consent Without Passivity*, 14 J. TORT L. 27 (2021).

Kate Sablosky Elengold & Jonathan D. Glater, *The Sovereign in Commerce*, 73 STAN. L. REV. 1101 (2021).

Kate Sablosky Elengold & Jonathan D. Glater, *The Sovereign Shield*, 73 STAN. L. REV. 969 (2021).

Andrew Elmore & Kati L. Griffith, *Franchisor Power as Employment Control*, 109 CAL. L. REV. 1317 (2021).

- Nora Freeman Engstrom & Robert L. Rabin, *Pursuing Public Health through Litigation: Lessons from Tobacco and Opioids*, 73 STAN. L. REV. 285 (2021).
- Daniel Farber & Mark Gergen, *Our Colleague Stephen Sugarman: Teacher, Scholar, and Policy Entrepreneur*, 109 CAL. L. REV. 393 (2021).
- Alex Geisinger, *Does Saying “Yes” Always Make It Right? The Role of Consent in Civil Battery*, 54 UC DAVIS L. REV. 1853 (2021).
- Mark A. Geistfeld, *Tort Law and Civil Recourse*, 119 MICH. L. REV. 1289 (2021) (book review).
- Elissa Philip Gentry & Benjamin J. McMichael, *Contaminated Relationships in the Opioid Crisis*, 72 HASTINGS L.J. 827 (2021).
- Randy Gerlach, Note, *Out of the Rough: How the PGA Tour Can Be Held Accountable for Fan Safety*, 2021 U. ILL. L. REV. 229 (2021).
- Abbe R. Gluck & Elizabeth Chamblee Burch, *MDL Revolution*, 96 N.Y.U. L. REV. 1 (2021).
- John C. P. Goldberg, *Taking Responsibility Personally: On John Gardner's from Personal Life to Private Law*, 14 J. TORT L. 3 (2021).
- Michele Goodwin, *Women on the Frontlines*, 106 CORNELL L. REV. 851 (2021).
- Frank Griffin, *Artificial Intelligence and Liability in Health Care*, 31 HEALTH MATRIX 65 (2021).
- Nicholas Hallock, *Removing Interpretative Barnacles: Counterclaims and Civil Forfeiture*, 88 U. CHI. L. REV. 937 (2021).
- Daniel Harris, *The Rival Rationales of Vicarious Liability*, 20 FLA. ST. U. BUS. REV. 49 (2021).
- Hannah Harris, Comment, *Intrusion upon Seclusion and Data Privacy: Shifting the Analysis for a New Problem*, 23 TUL. J. TECH. & INTELL. PROP. 101 (2021).
- Woodrow Hartzog, *What Is Privacy? That's the Wrong Question*, 88 U. CHI. L. REV. 1677 (2021).
- Courtney Hinkle, *The Modern Lie Detector: Ai-Powered Affect Screening and the Employee Polygraph Protection Act (EPPA)*, 109 GEO. L.J. 1201 (2021).
- Interpreting Congress's Creation of Alternative Remedial Schemes*, 134 HARV. L. REV. 1499 (2021).
- Christopher Brett Jaeger, *The Empirical Reasonable Person*, 72 ALA. L. REV. 887 (2021).
- Eric A. Johnson, *Dividing Risks: Toward a Determinate Test of Proximate Cause*, 2021 U. ILL. L. REV. 925 (2021).
- Thomas E. Kadri, *Digital Gatekeepers*, 99 TEX. L. REV. 951 (2021).
- Allan Kanner, *Tortious Interference with Public Trust*, 36 J. ENVTL. L. & LITIG. 39 (2021).
- Ahmed J. Kassim & Laura Lawless, *The ADA and Website Accessibility Post-Domino's: Detangling Employers' and Business Owners' Web and Mobile Accessibility Obligations*, 56 TORT TRIAL & INS. PRAC. L.J. 53 (2021).
- Gregory C. Keating, *Form and Substance in the "Private Law" of Torts*, 14 J. TORT L. 45 (2021).
- Scott A. Keller, *Qualified and Absolute Immunity at Common Law*, 73 STAN. L. REV. 1337 (2021).
- Joshua Knobe & Scott Shapiro, *Proximate Cause Explained: An Essay in Experimental Jurisprudence*, 88 U. CHI. L. REV. 165 (2021).
- Mollie Krent, Note, *Remediating Racism for Rent: A Landlord's Obligation under the FHA*, 119 MICH. L. REV. 1757 (2021).
- Nicolas N. LaBranche, Note, *The Economic Loss Doctrine & Data Breach Litigation: Applying the “Venerable Chestnut of Tort Law” in the Age of the Internet*, 62 B.C. L. REV. 1665 (2021).

Jill Wieber Lens, *Medical Paternalism, Stillbirth, & Blindsided Mothers*, 106 IOWA L. REV. 665 (2021).

Jonathan G. Lester, Note, *The True Benefit of the Bargain: How Emotional Distress Damages Make Fraud Victims Whole*, 62 B.C. L. REV. 703 (2021).

Richard P. Lewis, Lorelie S. Masters, Scott D. Greenspan, & Chris Kozak, *Couch's "Physical Alteration" Fallacy: Its Origins and Consequences*, 56 TORT TRIAL & INS. PRAC. L.J. 621 (2021).

Madison Lo, *A Domestic Violence Dystopia: Abuse Via the Internet of Things and Remedies Under Current Law*, 109 CAL. L. REV. 277 (2021).

Kharis Lund, Note, *One or Many? Critiquing New York's "Unfortunate Event" Test for Determining Occurrences in Light of the Passage of the New York Child Victims Act*, 42 CARDOZO L. REV. 1077 (2021).

Joseph Manning, Note, *Climate Torts: It's a Conspiracy!*, 62 B.C. L. REV. 941 (2021).

Kim V. Marrkand, *A Tort Without a Cause: Section 12 of the Restatement of the Law, Liability Insurance*, 56 TORT TRIAL & INS. PRAC. L.J. 1 (2021).

Austin Martin, Note, *A Gatekeeper Approach to Product Liability for Amazon*, 89 GEO. WASH. L. REV. 768 (2021).

John J. Martin, Note, *Hacks Dangerous to Human Life: Using JASTA to Overcome Foreign Sovereign Immunity in State-Sponsored Cyberattack Cases*, 121 COLUM. L. REV. 119 (2021).

Agnieszka McPeak, *Platform Immunity Redefined*, 62 WM. & MARY L. REV. 1557 (2021).

Rose Mooney, Note, *We Still Have Lessons to Learn from Woburn, and Flint Is a Good Place to Start*, 96 NOTRE DAME L. REV. 1319 (2021).

Luther T. Munford, *Protecting Informed Physician Choice Among Medical Device Alternatives*, 56 TORT TRIAL & INS. PRAC. L.J. 641 (2021).

Julian Nyarko, *Stickiness and Incomplete Contracts*, 88 U. CHI. L. REV. 1 (2021).

Ronen Perry, *The Law and Economics of Online Republication*, 106 IOWA L. REV. 721 (2021).

Amanda Peters, *The Case for Replacing the Independent Intermediary Doctrine with Proximate Cause and Fourth Amendment Review in § 1983 Civil Rights Cases*, 48 PEPP. L. REV. 1 (2021).

Ryan Plasencia, Note, *Suing the Aiders and Abettors of Torture: Reviving the Torture Victim Protection Act*, 105 MINN. L. REV. 2055 (2021).

Brendan Joseph Pratt, Comment, *Cages and Compensatory Damages: Suing the Federal Government for Intentional Infliction of Emotional Distress*, 68 UCLA L. REV. 288 (2021).

Michael Pressman, *Hedonic-Loss Damages That Optimally Deter: An Alternative to "Value of a Statistical Life" That Focuses on Both Decedent and Tortfeasor*, 72 HASTINGS L.J. 1511 (2021).

Robert L. Rabin, *Stephen Sugarman and the World of Responsibility for Injurious Conduct*, 109 CAL. L. REV. 369 (2021).

Douglas R. Richmond, *A New Perspective on Communicable Disease Exclusions in Liability Insurance Policies*, 56 TORT TRIAL & INS. PRAC. L.J. 67 (2021).

Alex S. Rifkind, Note, *Dyroff v. Ultimate Software Group, Inc.: A Reminder of the Broad Scope of § 230 Immunity*, 51 GOLDEN GATE U. L. REV. 49 (2021).

Shane Roberts, Note, *Drugs and Racketeering Don't Mix: The Potential Achilles' Heel of the*

- National Prescription Opiate Litigation*, 89 GEO. WASH. L. REV. 173 (2021).
- Chaim Saiman, *The Law Wants to Be Formal*, 96 NOTRE DAME L. REV. 1067 (2021).
- Peter H. Schuck, *Professor Sugarman's Contribution to Public Health Scholarship*, 109 CAL. L. REV. 381 (2021).
- Joanna C. Schwartz, *Qualified Immunity's Boldest Lie*, 88 U. CHI. L. REV. 605 (2021).
- Matthew A. Shapiro, *Distributing Civil Justice*, 109 GEO. L.J. 1473 (2021).
- Catherine M. Sharkey, *Modern Tort Law: Preventing Harms, Not Recognizing Wrongs*, 134 HARV. L. REV. 1423 (2021) (book review).
- Aric Short, *Not My Problem? Landlord Liability for Tenant-Tenant Harassment*, 72 HASTINGS L.J. 1227 (2021).
- Gregory Sisk, *Recovering the Tort Remedy for Federal Official Wrongdoing*, 96 NOTRE DAME L. REV. 1789 (2021).
- Troy Sims, *Guidance Documents: How Administrative Law Created the Sirens of the Cannabis Odyssey*, 56 TORT TRIAL & INS. PRAC. L.J. 665 (2021).
- Henry E. Smith, *Equity as Meta-Law*, 130 YALE L.J. 1050 (2021).
- Lauren N. Smith, Note, *The Constitution and the Campaign Trail: When Political Action Becomes State Action*, 70 DUKE L.J. 1473 (2021).
- Noah Smith-Drelich, *The Constitutional Tort System*, 96 IND. L.J. 571 (2021).
- Benjamin L. W. Sobel, *A New Common Law of Web Scraping*, 25 LEWIS & CLARK L. REV. 147 (2021).
- Jeffrey W. Stempel, *What Is the Meaning of "Plain Meaning"?*, 56 TORT TRIAL & INS. PRAC. L.J. 551 (2021).
- Jonathan Steinberg, *The False Promise of MDL Bellwether Reform: How Mandatory Bellwether Trial Consent Would Further Mire Multidistrict Litigation*, 96 N.Y.U. L. REV. 809 (2021).
- Mark Strasser, *Prenatal Tort Slippage*, 31 HEALTH MATRIX 221 (2021).
- Stephen D. Sugarman & Caitlin Boucher, *Re-Imagining the Dignitary Torts*, 14 J. TORT L. 101 (2021).
- Karen M. Tani, *Compensation, Commodification, and Disablement: How Law Has Dehumanized Laboring Bodies and Excluded Nonlaboring Humans*, 119 MICH. L. REV. 1269 (2021).
- David B. Torrey & Donald T. DeCarlo, *Mental Stress Causing Mental Disability Under Workers' Compensation Laws: A Short History, the Competing Arguments, and A 2021 Inventory*, 56 TORT TRIAL & INS. PRAC. L.J. 91 (2021).
- Justin C. Trimachi, Note, *Dent v. NFL LMRA 301 Preemption—The Ninth Circuit Court of Appeals Throws a Penalty Flag on the NFL*, 51 GOLDEN GATE U. L. REV. 25 (2021).
- Shine Sean Tu & Nicholas F. Stump, *Free Speech in the Balance: Judicial Sanctions and Frivolous SLAPP Suits*, 54 LOY. L. A. L. REV. 623 (2021).
- W. Jackson Vallar, Note, *Can the Reasonable Person Be Religious? Accommodation and the Common Law*, 107 VA. L. REV. 189 (2021).
- Brandon Vallie, Comment, *Civil Rights Law—Excessive Force Found When Tasing Section 12 Patient, Police Officer Granted Qualified Immunity—Gray v. Cummings*, 917 F.3d 1 (1st Cir. 2019), 26 SUFFOLK J. TRIAL & APP. ADVOC. 123 (2020-2021).
- Mark Verstraete & Tal Zarsky, *Optimizing Breach Notification*, 2021 U. ILL. L. REV. 803 (2021).
- W. Kip Viscusi & Scott Jeffrey, *Damages to Deter Police Shootings*, 2021 U. ILL. L. REV. 741 (2021).

Timothy Zick, *The Costs of Dissent: Protest and Civil Liabilities*, 89 GEO. WASH. L. REV. 233 (2021).

Selected Commonwealth Scholarship

John Bell, *Tort Law and the Moral Law: Anglo-French Divergences*, 80 CAMBRIDGE L.J. s33 (2021).

Rachel G. Childers, *Tort Reform: Do Details Matter?*, 16 HEALTH ECON. POL'Y & L. 308 (2021).

Juana De Leon, *The Public Interest in Private Law: Re-Calibrating the Law of Tort*, 2021 OXFORD U. UNDERGRADUATE L.J. 212.

Eric Descheemaeker, *The Standardisation of Tort Damages*, 84 MOD. L. REV. 2 (2021).

Paula Giliker, *Codification, Consolidation, Restatement? How Best to Systemise the Modern Law of Tort*, 70 INT'L & COMPAR. L.Q. 271 (2021).

Paula Giliker, *Is There a Duty to Prevent Harm in Tort? A Common Law Perspective*, 12 J. EUR. TORT L. 116 (2021).

Jelena Gligorijevic, *A Common Law Tort of Interference with Privacy for Australia: Reaffirming ABC v Lenah Game Meats*, 44 U.N.S.W.L.J. 673 (2021).

Ugljesa Grusic, *Tort Law and State Accountability for Overseas Violations of International Human Rights Law and International Humanitarian Law: The UK Perspective*, 36 UTRECHT J. INT'L & EUR. L. 152 (2021).

Pinchas Huberman, *Tort Law, Corrective Justice and the Problem of Autonomous-Machine-Caused Harm*, 34 CAN. J. L. & JURIS. 105 (2021).

Emerson Hynard & Aiden Lerch, *The Tort of Collateral Abuse of Process*, 44 U.N.S.W.L.J. 714 (2021).

Iyad Mohammad Jadalhaq & Enas Mohammad Alqodsi, *Tort Law Makes a Quantum Leap: A Review of the Civil Liability Regime for Nuclear Operators in UAE Law*, 13 J. PROP., PLAN. & ENV'T L. 17 (2021).

Aiden Lerch, *The Judicial Law-Making Function and a Tort of Invasion of Personal Privacy*, 43 SYDNEY L. REV. 133 (2021).

Shailaja Nadarajah, *Student Suicide on-Campus: Tort Liability of Canadian Universities and Determining a Duty of Care*, 26 APPEAL: REV. CURRENT L. & L. REFORM 97 (2021).

Sandy Steel, *On the Moral Necessity of Tort Law: The Fairness Argument*, 41 OXFORD J. LEGAL STUD. 192 (2021).

Arthur Tan, *The Tort of Conversion - Are Electronic Certificates Chattels?*, 2021 SING. COMPAR. L. REV. 182 (2021).

Recent Tort Law Book Chapters

Alena Allen, *Tort Norms in Context*, in INTEGRATING DOCTRINE AND DIVERSITY: INCLUSION AND EQUITY IN THE LAW SCHOOL CLASSROOM (Nicole Dyszlewski, Raquel J. Gabriel, Suzanne Harrington-Steppen, Anna C. B. Russell, & Genevieve B. Tung, eds., 2021).

Jose Daniel Amado, Jackson Shaw Kern, & Martin Doe Rodriguez, *Elevating Corruption to an International Tort*, in INVESTORS' INTERNATIONAL LAW (Jean Ho & Mavluda Sattorova, eds., 2021).

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