

**A Roundup of Torts Scholarship,
Developments, & News:
Torts & Compensation Systems
Section Annual Newsletter**

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After 2009-2010
Thomas F. Lambert Jr. Professor of Law
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The January meeting of the Association of American Law Schools (AALS) is fast approaching. I hope you are planning to join us in New Orleans. Last time I booked a trip to the AALS meetings in New Orleans, Hurricane Katrina wiped out our plans. My mother-in-law has not been to her favorite coffee house in New Orleans for a long time. I hope you look forward to this trip as much as she does. We would like to encourage everyone to come to New Orleans this year; the beginning of the conference, on January 6th, also marks 12th night, the beginning of Carnival season in New Orleans. That night, Phorty Phunny Phelows rides the street car lines wearing costumes inspired by current events and the special features of local culture.

The parade begins with a party at the streetcar barn Uptown, with champagne toasts and music by the Storyville Stompers. In case you have not heard, the Roosevelt Hotel has been completely renovated, including detailed faux painting by local artists. The Sazarac Bar is open, the famous murals having survived the storm and their scrumptuous Sunday brunch is in full swing. Come home to New Orleans: Mosca's roast oysters, the Acme, Central Grocery muffalettas, John Besh's August, Galatoire's, Mother's debris po'boys, Tipitina's and Bon Temps Roulez for music and everything else you've been missing.

The content of the New Orleans' AALS program on *Transformative Law* will be of great interest to torts teachers and scholars. Judge Guido Calabresi, who is a mentor to many members of this section, will be awarded the Triennial 2010 AALS Award for his Lifetime Service for Legal Education and the Law. Judge Calabresi will receive his lifetime achievement award at the AALS Luncheon on January 8th from 12:30 – 2:00 p.m.

In the newsletter this year, I have the pleasure not only to introduce you to the outstanding program for this year's section meeting, but also to announce this year's winner of the William L. Prosser Award. This year's Torts & Compensation Systems Section Panel on "Richard Epstein's Legacy in Torts" is not to be missed. Our current chair, John Goldberg, has done the hard work of organizing an 'all-star' panel that critically examines Richard Epstein's bold challenge to conventional thinking about tort law. The entire program showcases Epstein's imaginative scholarship. Both experienced and new tort teachers should be stimulated by the panel in their own teaching and scholarship.

In addition, I have compiled a bibliography of all torts-related symposia, books, and law review articles published since our last section newsletter was assembled in the fall of 2008. Julieanne Stevens, my reference librarian at Stetson University College of Law, where I am spending this year as a visiting professor, contributed to this project by suggesting that I expand this survey to include selected torts articles and books from Commonwealth countries. Julieanne, who is from New Orleans, provided me with Carnival and New Orleans cultural history. Last year's section panel was on foreign tort law so it is a propitious moment to expand our annual survey to include more international tort scholarship. My summer teaching experiences in Mexico City, Mexico; Lund, Sweden; and Budapest, Hungary lead me to believe that tort law is a subject of international interest. I was also assisted by my usual reference librarian at Suffolk University Law School, Diane D'Angelo, who always does a superb job.

This year's long list of articles and books reflects a sampling of Commonwealth scholarship as well as a comprehensive survey of domestic tort law developments. We invite you to attend the section program and presentation of the Prosser Award, and to participate in the election of section officers for next year. Also, if you have thoughts about programs or events that you would like the section to initiate during the coming year, please contact me at the address listed above. I welcome your thoughts and look forward to your participation in the section at our annual meeting and throughout the year.

1. Torts Section Program at the 2010 AALS Annual Meeting in New Orleans.

The Torts and Compensation Systems Section is sponsoring what promises to be an excellent program at this year's annual meeting in New Orleans on "Richard Epstein's Legacy in Torts." This program will be held on January 8 from 8:30 – 10:15 a.m. Many thanks to our current chair, John Goldberg of Harvard University Law School, for creating this spectacular panel, a description of which follows:

Richard Epstein is among the most prominent and influential torts scholars of our time. Perhaps unparalleled in its breadth, his scholarly corpus displays a remarkable command of doctrinal, historical, institutional, and philosophical analysis. A fiercely independent thinker, Professor Epstein has challenged conventional wisdom as to the centrality of fault to modern accident law, the desirability of flexible liability standards over rigid rules, the soundness of *New York Times v. Sullivan*, and the lack of meaningful constitutional limits on tort reform legislation.

The Executive Committee of the Torts and Compensation System is delighted to have assembled for the 2010 Annual AALS Meeting a panel of world-renowned tort scholars consisting of Jules Coleman (Yale), Joshua Getzler (Oxford), Jill Horwitz (Michigan), and Benjamin Zipursky (Fordham). The panel will critically examine various dimensions of Professor Epstein's work, and its potential significance for future tort law and scholarship, including his treatment of defamation and privacy law, his reliance on Roman and common law doctrines and concepts, and his blending of libertarian and utilitarian theory. After Professor Epstein has an opportunity to respond, a question-and-answer session will follow. There will be a presentation of the Prosser Award before the program and a business meeting at the program's conclusion.

2. This Year's William L. Prosser Award Winner – Oscar Gray

The Torts Section has recently revived the William Lloyd Prosser Award which will be conferred each year at our section's annual meeting. When Wex Malone bestowed the first Prosser Award upon Leon Green in 1974, he described the award as "designed to

recognize a lifetime of truly outstanding contribution to the world of Torts." Prosser awardees include Leon Green, Fleming James, Wex Malone, W. Page Keeton, John Wade, and Willard Pedrick. The Prosser Award was not given for a number of years but the Executive Committee decided to revive the award when it honored Robert Rabin in 2008. Last year, we honored Dan Dobbs for his outstanding contributions to tort law. This year's honoree – Professor Oscar Gray, the Jacob A. France Professor Emeritus of Torts at the University of Maryland – also meets the William L. Prosser Award's high standards. He is a "Master of Tort Law." This accolade was first used by Wex Malone in 1975 in his comments when the Prosser Award was bestowed upon Leon Green. Professor Oscar S. Gray is the Jacob A. France Professor Emeritus of Torts at the University of Maryland School of Law, where he first joined the faculty in 1971. He is best known as the far reaching scholar who has edited the definitive, six-volume tort treatise, *Harper, James and Gray on the Law of Torts*, for the past quarter-century. In 2008, at the age of 82, Professor Gray completed the third edition of this classic work.

For 2010, Professor Gray and his colleague Don Gifford, have plans to publish a fifth edition of their torts casebook originally edited by Harry Shulman and Fleming James, Jr. Professor Gray also was the editor of what is believed to be the nation's first environmental law casebook, originally published in 1971. He has been a very active participant in the decade-long debates within the American Law Institute regarding the various components of the Restatement (Third) of Torts. During the early 1990s, he served as Chair of the AALS Section of Torts and Compensation Systems and another year as program chair. During the 1993 program, Professor Jeff O'Connell of the University of Virginia perhaps best captured Gray's contributions to tort law when he remarked, "There is perhaps no person in legal education that better exemplifies the ancient and hallowed term 'scholar' than Oscar S. Gray." This award has particular meaning to Oscar because his mentor and co-author, Fleming James, was a prior Prosser Award recipient. The Executive Committee wishes hearty congratulations to our respected colleague, and would also like to express appreciation to the distinguished selection committee that reviewed the many outstanding nominations we received.

3. Prosser Award Nominations for Next Year

At the 2011 AALS Annual Meeting in Washington D.C. next year, the Torts and Compensation Systems section will once again present the William L. Prosser Award to a law professor who has made outstanding contributions to Torts scholarship, teaching and service. Any law professor is eligible to nominate another law professor for the award. Selection of the recipient will be made by members of the Executive Committee of the Torts and Compensation Systems section based on the recommendations of an appointed special selection committee.

Nominations, accompanied by a brief supporting statement, should be submitted to John White, UNLV William S. Boyd School of Law, Secretary of the Executive Committee, either by regular mail or e-mail, at the following address: John White, William S. Boyd School of Laws, 4505 S. Maryland Parkway, Las Vegas, Nevada, 89154-1003 E-mail: john.white@unlv.edu. Nominations must be received no later than 5 p.m. Eastern Time (U.S.) on July 2, 2010. All nominations must be accompanied by a letter of support.

Professors who previously nominated a candidate who has not been chosen for the award are welcome to renew their nominations by sending a copy of their prior nominating letter to Professor White.

4. Announcements - Election of Section Officers

The section will elect officers for the coming year during a business meeting after our Saturday panel. You are invited to participate in the election vote. The current members of the Executive Committee will propose a slate of candidates for election at the meeting. The proposed slate is:

Chair: Catherine Sharkey, New York University School of Law
Chair-Elect: Michael L. Rustad, Suffolk University Law School
Secretary: John White, UNLV William S. Boyd School of Law
Treasurer: Jennifer Wriggins, University of Maine School of Law

5. Additional Announcements

Bill Childs of Western New England College of Law, Christopher J. Robinette of Widener, and Sheila Scheuerman of the Charleston School of Law continue to develop the TortsProf blog as a rich resource for the

torts professoriate. The blog features information on teaching torts, case law developments, legislative developments, conferences, torts scholarship, and announcements from the section. This past spring, the TortsProfs live-blogged at the ALI-Conference on the Restatement (Third) of Torts. For those who could not attend, this feature provided a daily summary of each panel including commentary during the Q&A session. Weekly features include the Personal Injury Roundup posted every Friday. In the Roundup, the editors gather tort stories from the past week. Coverage includes legislation and reform items, new lawsuits and verdicts, as well as stories on damages and evidentiary rulings. Another weekly feature is "Guest Blogger Monday." The Guest Blogger series features posts by notable torts professors on a tort-related topic of his or her choice. In August, Jeffrey O'Connell wrote on "Tort Liability as Social Insurance," and Keith Hylton posted on "Is Tort Law Economically Efficient?". In September, Tony Sebok addressed "Health Insurance Reform and Tort Reform, while Mike Rustad looked at how we teach torts in "Unstuffing the Dog: Training Better Attorneys By Introducing Real-World Concerns in the Teaching of Torts." Upcoming guest bloggers include Ken Abraham, Alan Calnan, Jonathan Cardi, Martha Chamallas, John Goldberg, Mike Green, Andy Klein, Tim Lytton, John Oberdiek, David Owen, Adam Scales, Jason Solomon, Jane Stapleton, Frank Vandall, Jenny Wriggins, and Ben Zipursky, among others.

You can access this treasure trove at <http://lawprofessors.typepad.com/tortsprof/>.

6. Recent Torts Symposia

1. Roger Williams Law Review Symposium Issue on Genuine Tort Reform, 13 ROGER WILLIAMS U. L. REV. (2008).

Bogus, Carl T., *Introduction: Genuine Tort Reform*, 13 ROGER WILLIAMS U. L. REV. 1-7 (2008).

Hensler, Deborah R., *Jurors in the Material World: Putting Tort Verdicts in Their Social Context*, 13 ROGER WILLIAMS U. L. REV. 8-38 (2008).

Hans, Valerie P., *Empowering the Active Jury: A Genuine Tort Reform*, 13 ROGER WILLIAMS U. L. REV. 39-72 (2008).

Schuck, Peter H., *FDA Preemption of State Tort Law in Drug Regulation: Finding the Sweet*

Spot, 13 ROGER WILLIAMS U. L. REV. 73-114 (2008).

Sanders, Joseph, *Reforming General Damages: A Good Tort Reform*, 13 ROGER WILLIAMS U. L. REV. 115-153 (2008).

Wertheimer, Ellen, *Calling It a Leg Doesn't Make It a Leg: Doctors, Lawyers, and Tort Reform*, 13 ROGER WILLIAMS U. L. REV. 154-188 (2008).

Feinman, Jay M., *Incentives for Litigation or Settlement in Large Tort Cases: Responding to Insurance Company Intransigence*, 13 ROGER WILLIAMS U. L. REV. 189-231 (2008).

Cherit, Ross E., *Tort Litigation, Transparency, and the Public Interest*, 13 ROGER WILLIAMS U. L. REV. 232-284 (2008).

2. Southwestern University Law Review Asbestos Symposium Issue, 37 SW. U.L. REV. (2008)

Calnan, Alan & Byron Stier, *Perspectives on Asbestos Litigation: Overview and Preview*, 37 SW. U. L. REV. 459-478 (2008).

Behrens, Mark A. & William L. Anderson, *The "Any Exposure" Theory: An Unsound Basis for Asbestos Causation and Expert Testimony*, 37 SW. U. L. REV. 479-510 (2008).

Freedman, Helen E., *Selected Issues in Asbestos Litigation*, 37 SW. U. L. REV. 511-530 (2008).

Green, Michael D., *Second Thoughts About Apportionment in Asbestos Litigation*, 37 SW. U. L. REV. 531-532 (2008).

Harley, Phil, *Judicial and Practical Perspectives: Transcript of Phil Harley*, 37 SW. U. L. REV. 533-556 (2008).

Owen, David G., *Against Priority*, 37 SW. U. L. REV. 557-574 (2008).

Hylton, Keith N., *Asbestos and Mass Torts with Fraudulent Victims*, 37 SW. U. L. REV. 575-594 (2008).

Henderson, James A., *Sellers of Safe Products Should Not Be Required to Rescue Users From Risks Presented by Other, More Dangerous Products*, 37 SW. U. L. REV. 595-622 (2008).

Keating, Gregory C., *The Heroic Enterprise of the Asbestos Cases*, 37 SW. U. L. REV. 623-658 (2008).

Nagareda, Richard, *Public and Private Law Perspectives: Transcript of Professor Richard Nagareda*, 37 SW. U. L. REV. 659-664 (2008).

Erichson, Howard, *Public and Private Law Perspectives: Transcript of Professor Howard Erichson*, 37 SW. U. L. REV. 665-670 (2008).

Sanders, Joseph, *Medical Criteria Acts: State Statutory Attempts to Control the Asbestos Litigation*, 37 SW. U. L. REV. 671-690 (2008).

Bernstein, Anita, *Asbestos Achievements*, 37 SW. U. L. REV. 691-716 (2008).

Vidmar, Neil, *Social and Cultural Perspectives: Transcript of Professor Neil Vidmar*, 37 SW. U. L. REV. 717-730 (2008).

Sloan, Judy, *Perspectives on Asbestos Litigation: Introduction to the Keynote Address*, 37 SW. U. L. REV. 731-732 (2008).

Rothstein, Barbara, *Perspectives on Asbestos Litigation: Keynote Address*, 37 SW. U. L. REV. 733-739 (2008).

3. Loyola of Los Angeles Symposium Issue, *The Frontiers of Tort Law*. 41 LOY. L. A. L. REV. 1143 (2008).

Nockleby, John T., *Introduction*, 41 LOY. L. A. L. REV. 1143-1148 (2008).

Coleman, Jules L., *Doing Away with Tort Law*, 41 LOY. L. A. L. REV. 1149-1170 (2008).

Simons, Kenneth W., *Tort Negligence, Cost-benefit Analysis, and Tradeoffs: A Closer Look at the Controversy*. 41 LOY. L. A. L. REV. 1171-1224 (2008).

Esper, Dilan A. & Gregory C. Keating, *Putting "Duty" In Its Place: A Reply to Professors Goldberg and Zipursky*, 41 LOY. L. A. L. REV. 1225-1294 (2008).

Wright, Richard W., *Liability for Possible Wrongs: Causation, Statistical Probability, and the Burden of Proof*, 41 LOY. L. A. L. REV. 1295-1344 (2008).

Hanson, Jon & Michael McCann *Situationist Torts*, 41 LOY. L. A. L. REV. 1345-1454 (2008).

Witt, John Fabian, *Form and Substance in the Law of Counterinsurgency Damages*, 41 LOY. L. A. L. REV. 1455-1482 (2008).

Bublick, Ellen M., *Upside Down? Terrorists, Proprietors, and Civil Responsibility for Crime Prevention in the Post-9/11 Tort-Reform World*, 41 LOY. L. A. L. REV. 1483-1544 (2008).

Bernstein, Anita, *Sanctioning the Ambulance Chaser*, 41 LOY. L. A. L. REV. 1545-1584 (2008).

Croley, Steven, *Summary Jury Trials in Charleston County, South Carolina*, 41 LOY. L. A. L. REV. 1585-1624 (2008).

Sharkey, Catherine M., *Drug Advertising Claims: Preemption's New Frontier*, 41 LOY. L. A. L. REV. 1625-1652 (2008).

Klass, Alexandra B., *State Innovation and Preemption: Lessons from State Climate Change Efforts*, 41 LOY. L. A. L. REV. 1653-1720 (2008).

Rabin, Robert L., *Tobacco Control Strategies: Past Efficacy and Future Promise*, 41 LOY. L. A. L. REV. 1721-1768 (2008).

4. Arizona Journal of International and Comparative Law—2009 AALS Symposium Panel-Foreign Tort Law: Beyond Europe, 26 ARIZ. J. INT'L & COMP. L. 269 (2009).

Donovan, Megan K., *Editorial Foreword*, 26 ARIZ. J. INT'L & COMP. L. 269-270 (2009).

Bublick, Ellen M., *Foreword*, 26 ARIZ. J. INT'L & COMP. L. 271-278 (2009).

Blecher-Prigat, Avelet & Benjamin Shmueli, *The Interplay Between Tort Law and Religious Family Law: The Israeli Case*, 26 ARIZ. J. INT'L & COMP. L. 279-302 (2009).

Davies, Julie A. & Dominic N. Dagbanja, *The Role and Future of Customary Tort Law in Ghana: A Cross-Cultural Perspective*, 26 ARIZ. J. INT'L & COMP. L. 303-334 (2009).

Goh, Yihan, *Tort Law in the Face of Land Scarcity in Singapore*, 26 ARIZ. J. INT'L & COMP. L. 335-392 (2009).

Osaka, Eri, *Reevaluating the Role of the Tort Liability System in Japan*, 26 ARIZ. J. INT'L & COMP. L. 393-426 (2009).

Christopher J. Roederer, *Working the Common Law Pure: Developing the Law of Delict (Torts) in Light of the Spirit, Purport and Objects of South Africa's Bill of Rights*, 26 ARIZ. J. INT'L & COMP. L. 427-504 (2009).

5. Brooklyn Law Review Symposium: Symposium: The Products Liability Restatement: Was It a Success? 74 BROOK. L. REV. 633 (2009).

Ausness, Richard C., *Product Liability's Parallel Universe: Fault-Based Liability Theories and Modern Products Liability Law*, 74 BROOK. L. REV. 635-668 (2009).

Bernstein, Anita, *Implied Reverse Preemption*, 74 BROOK. L. REV. 669-706 (2009).

Bublick, Ellen M., *The Tort-Proof Plaintiff: The Drunk in the Automobile, Crashworthiness Claims, and the Restatement*, 74 BROOK. L. REV. 707-726 (2009).

Cupp, Jr., Richard L., *Preemption's Rise (And a Bit of a Fall) as Products Liability Reform: Wyeth, Riegel, Altria, and the Restatement (Third)'s Prescription Product Design Defect Standard*, 74 BROOK. L. REV. 727-806 (2009).

Green, Michael D., *The Unappreciated Congruity of the Second and Third Torts Restatements on Design Defects*, 74 BROOK. L. REV. 807-838 (2009).

Noah, Lars, *This is Your Products Liability Restatement on Drugs*, 74 BROOK. L. REV. 839-927 (2009).

Owen, David G., *Design Defect Ghosts*, 74 BROOK. L. REV. 927-962 (2009).

6. DePaul Law Review: The Challenge of Preparing a Civil Justice Reform Agenda for the Coming Decade. Fourteenth Annual Clifford Symposium on Tort Law and Social Policy.

Landsman, Stephan, *Introduction*, 58 DEPAUL L. REV. 259-262 (2009).

Marcus, Richard L., *The Electronic Lawyer*, 58 DEPAUL L. REV. 263-310 (2009).

Rose, Mary R. and Shari Seidman Diamond, *Offstage Behavior: Real Jurors' Scrutiny of Non-Testimonial Conduct*, 58 DEPAUL L. REV. 311-342 (2009).

Holderman, Chief Judge James F. and S. Ann Walls, *As Generations X,Y and Z Determine the Jury's Verdict, What is the Judge's Role?* 58 DEPAUL L. REV. 343-356 (2009).

Lempert, Richard, *Low Probability High/Consequences Events: Dilemmas of Damage Compensation*, 58 DEPAUL L. REV. 357-392 (2009).

Johnson, Jr., Earl, *Justice for America's Poor in the Year 2020: Some Possibilities Based on Experiences Here and Abroad*, 58 DEPAUL L. REV. 393-424 (2009).

Abel, Richard, *Forecasting Civil Litigation*, 58 DEPAUL L. REV. 425-450 (2009).

Friedman, Lawrence M., *Benchmarks: Judges on trial, Judicial Section and Election*, 58 DEPAUL L. REV. 451-471 (2009).

Feinberg, Kenneth, *Transparency and Civil Justice: The Internal and External Value of Sunlight*, 58 DEPAUL L. REV. 472-478 (2009).

Scheindlin, Shira, *We Need Help: The Increasing Use of Special Masters in Federal Court*, 58 DEPAUL L. REV. 479-486 (2009).

Weinstein, Jack B., *The Lincoln Index of Government, of, by and for the People*, 58 DEPAUL L. REV. 487-490 (2009).

7. Hastings Law Journal. 2008 Creating Children with Disabilities: Commentaries on Parental Tort Liability for Preimplantation Genetic Interventions. 60 HASTINGS L.J. 297 (2008)

Smolensky, Kirsten Rabe, *Creating Children With Disabilities: Parental Tort Liability for Preimplantation Genetic Interventions*, 60 HASTINGS L.J. 299-346 (2008).

Cohen, I. Glenn, *Intentional Diminishment, The Non-Identity Problem, and Legal Liability*, 60 HASTINGS L.J. 347-376 (2008)

King, Jaime, *Duty to the Unborn: A Response to Smolensky*, 60 HASTINGS L.J. 377-496 (2008).

Oullette, Alicia R., *Insult to Injury: A Disability-Sensitive Response to Smolensky's Call for Parental Tort Liability for Parental Tort Liability for Preimplantation Genetic Interventions*, 60 HASTINGS L.J. 397-410 (2008).

Smolensky, Kirsten Rabe, *Parental Tort Liability for Preimplantation Genetic Interventions: Technological Harms, The Social Model of Disability, and Questions of Identity*. 60 Hastings L.J. 411-429 (2008).

8. Widener Law Journal-Symposium CrimTorts 17 WIDENER L.J. 705

Robinette, Christopher J., *Introduction* 17 WIDENER L.J. 705-718 (2008)

Simons, Kenneth W., *The Crime/Tort Distinction: Legal Doctrine and Normative Perspectives*, 17 WIDENER L.J. 719-732 (2008)

Koenig, Thomas H., *Crimtorts: A Cure for Hardening of the Categories*, 17 WIDENER L.J. 733-782 (2008).

Rustad, Michael L., *The Supreme Court and Me: Trapped in Time with Punitive Damages* 17 WIDENER L.J. 783-834 (2008).

O'Connell, Jeffrey, *The Large Cost Savings and Other Advantages of an Early Offers "Crimtorts" Approach to Medical Malpractice Claims* 17 WIDENER L.J. 835-876 (2008).

Vandall, Frank J., *Should Manufacturers and Sellers of Lethal Products Be Subject to Criminal Prosecution?* 17 WIDENER L.J. 877-892 (2008).

Stier, Byron G., *Crimtorts, Class Actions, and the Emerging Mass Torts Method* 17 WIDENER L.J. 893-926 (2008).

Hylton, Keith N., *A Theory of Wealth and Punitive Damages*, 17 WIDENER L.J. 926-948 (2008).

Scheuerman, Sheila B., *The Road Not Taken: Would Application of the Excessive Fines Clause to Punitive Damages Have Made a Difference?* 17 WIDENER L.J. 949-972 (2008).

9. Symposium. Case Western Reserve Law Review: Common Law Environmental Protection. 58 CASE W. RES. L. REV. 575 (2008).

Adler, Jonathan H. and Andrew P. Morriss, *Introduction*, 58 CASE W. RES. L. REV. 575-582 (2008).

Eagle, Steven J., *The Common Law and the Environment*, 58 CASE W. RES. L. REV. 583-620 (2008).

Buck, Stuart, *The Common Law and the Environment in the Courts*, 58 CASE W. RES. L. REV. 621-646 (2008).

Yandle, Bruce, *The Common Law and the Environment in the Courts: Discussion of Code Law and Common Law*, 58 CASE W. RES. L. REV. 647-662 (2008).

Antolini, Denis, *Attacking Bananas and Defending Environmental Common Law*, 58 CASE W. RES. L. REV. 663-672 (2008).

Hylton, Keith N., *The Economic Theory of Nuisance Law and Implications for Environmental Regulation*, 58 CASE W. RES. L. REV. 673-704 (2008).

Butler, Henry N., *A Defense of Common Law Environmentalism: The Discovery of Better Environmental Policy*, 58 CASE W. RES. L. REV. 705-753 (2008).

Ruhl, J.B., *Making Nuisance Ecological*, 58 CASE W. RES. L. REV. 753-786 (2008).

Nagle, John Copeland, *From Swamp Drainage to Wetlands Regulation to Ecological Nuisances to Environmental Ethics*, 58 CASE W. RES. L. REV. 787-812 (2008).

Huffman, James L., *Beware of Greens in Praise of the Common Law*, 58 CASE W. RES. L. REV. 813-862 (2008).

Schoenbrod, David, *Unsettled Expectations: Reflections on Four Views of Common Law and the Environment*, 58 CASE W. RES. L. REV. 863-880 (2008).

7. Upcoming Symposiums

1. Food, Drug & Cosmetic Act to be Explored at Law Review Symposium

The 2009 Hamline Law Review Symposium, "The Food, Drug and Cosmetic Act: Searching for the Crossroads of Safety and Innovation." Topics include "Prescription Drug and Medical Device Preemption: Where We Are and Where We May Be Headed;" "Congressional Oversight of Supreme Court Preemption Decisions;" Preemption in Pharmaceutical Litigation after Levine;" "Agency Accountability: Federation Preemption's Future;" "Preemption of Product Liability Claims Against Drug and Medical Device Manufacturers;" "FDA Preemption, Wyeth, Congress and a Crystal Ball;" and "Name Brand Exposure for Generic Drug Use: Prescription for Liability." Presenters included James Beck, counsel, Dechert, LLP; Richard Samp, chief counsel, Washington Legal Foundation; Robert Weiner, partner, Arnold & Porter, LLP; Catherine Sharkey, professor, NYU School of Law; David Prince, professor, William Mitchell College of Law; and David Vladeck, professor, Georgetown University Law Center.

8. Recent Torts Law Review Articles

Abel, Laura K., *Toward a Right to Counsel in Civil Cases in New York State: A Report of the New York State Bar Association*. 25 TOURO L. REV. 31 (2009).

Abraham, Kenneth S., *The Common Law Prohibition on Party Testimony and the Development of Tort Liability*. 95 VA. L. REV. 489 (2009).

Adams, William E., Jr., *Tort Law: 2005-08 Review of Florida Case Law*, 22 NOVA L. REV. 21 (2008).

Adler, Jeremy T., *Comment. Losing the Procedural Battle but Winning the Substantive War: How Philip Morris v. Williams Reshaped Reprehensibility Analysis in Favor of Mass-Tort Plaintiffs. (Philip Morris USA v. Williams, 127 S. Ct. 1057, 2007.)* 11 U. PA. J. CONST. L. 729 (2009).

Alberstein, Michal, *ADR and Collective Trauma: Constructing the Forum for the Traumatic Fuss*, 10 CARDOZO J. CONFLICT RESOL, 11 (2008).

Allen, Neil, *Saving Life and Respecting Death: A Savage Dilemma*. 17 MED. L. REV. 262 (2009).

Alsup, Daniel M., *Comment. New Mexico's Economic Loss Rule, Unconscionability Doctrine, and the Gap*

- Between Them: Concepts, Realities, and How to Mend the Gap*, 38 N.M. L. REV. 483 (2008).
- Andre, Wendy, *Note, Undocumented Immigrants and Their Personal Injury Actions: Keeping Immigration Policy out of Lost Wage Awards and Enforcing the Compensatory and Deterrent Functions of Tort Law*, 13 ROGER WILLIAMS U. L. REV. 530 (2008).
- Anzivino, Ralph C, *The Disappointed Expectations Test and the Economic Loss Doctrine*, 92 MARQ. L. REV. 749-778 (2009).
- Auerbach, Shira, *Screening Out Cyberbullies: Remedies for Victims on the Internet Playground*, 30 CARDOZO L. REV.1641 (2009).
- Balganesh, Shyamkrishna, *Foreseeability and Copyright Incentives*, 122 HARV. L. REV. 1569 (2009).
- Barker, The Honorable Sarah Evans, *Beyond Decision Templates: The Role of Imaginative Justice in the Trial Court*, 92 MARQ. L. REV. 667 (2009).
- Barnes, Jeb, *In Defense of Asbestos Tort Litigation: Rethinking Legal Process Analysis in a World of Uncertainty, Second Bests, and Shared Policy-Making Responsibility*, 34 LAW & SOC. INQUIRY 5-29 (2009).
- Basedow, Jurgen, *Transjurisdictional Codification*, 83 TUL. L. REV. 973 (2009).
- Baumann, Florian and Tim Friehe, *On the Superiority of Damage Averaging in the Case of Strict Liability*, 29 INT. REV. L. & ECON. 138 (2009).
- Beatty, Philip, *Comment, The Deer Valley Aftermath: Manufactured Digits Thwart Original Purpose of Arizona's Claims-Notice Statute. (Deer Valley Unified School District No. 97 v. Houser*, 152 P.3d 490, 2007), 40 ARIZ. ST. L.J. 1031-1055 (2008).
- Behrens, Mark A., *What's New in Asbestos Litigation?*, 28 REV. LITIG. 501 (2009).
- Bell, Juliana, *Privacy at Risk: Patients Use New Web Products to Store and Share Personal Health Records*, 38 U. BALT. L. REV.485 (2009).
- Bell, Neil R, *Note. Can I Buy Your Lawsuit? A Proposed Solution to the Unstated Problem in . . . (Gulf Insurance Co. v. Cottone*, 148 P.3d 814, 2006.) 38 N.M. L. REV. 511-528 (2008).
- Benedict, Jennifer. *Comment, Deafening Silence: the Quest for Remedy in Internet Defamation*, 39 CUMB. L. REV. 475 (2008-2009).
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