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A. Calder Mackay Professor of Law  
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)  
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

## RELATED ACTIVITIES

Member, Editorial Board, Foundation Press (1984- )  
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, 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) Foundation Press: 9th ed. 2011

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

“Reexamining the Pathways to Reduction in Tobacco-Related Disease,” 15  
Theoretical Inquiries in Law 507 (2014)

“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.  
Comandè & 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 11<sup>th</sup> 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