

GREGORY C. KEATING

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EMPLOYMENT

UNIVERSITY OF SOUTHERN CALIFORNIA LAW SCHOOL

Los Angeles, California

William T. Dalessi Professor of Law and Professor of Philosophy, 2006-present

Vice Dean for Faculty and Academic Affairs, 2014-2016

Associate Dean for Academic Affairs, 2007-2009

William T. Dalessi Professor of Law, 2001-2006

Professor of Law, 1996-2001

Associate Professor of Law, 1993-1996

Assistant Professor of Law, 1991-1993

Subjects: Torts, Law and Philosophy, Legal Profession, Products Liability, Restitution

YALE LAW SCHOOL

New Haven, Connecticut

Florence Rogatz Visiting Professor, Fall 2013

UNIVERSITY OF BRESCIA, FACULTY OF JURISPRUDENCE

Brescia, Italy

Visiting Professor of Law, December 2010

TEL AVIV UNIVERSITY, BUCHMANN FACULTY OF LAW

Tel Aviv, Israel

Visiting Professor of Law May 2009

HARVARD LAW SCHOOL

Cambridge, Massachusetts

Visiting Professor of Law, Fall 2003

PALMER & DODGE

Boston, Massachusetts

Associate Attorney, 1987-1990

FOLEY, HOAG & ELIOT

Boston, Massachusetts

Associate Attorney, 1985-1987

EDUCATION

HARVARD LAW SCHOOL

Juris Doctor, 1985

Magna cum laude

PRINCETON UNIVERSITY, Department of Politics
Doctor of Philosophy, 1993
(Program in Political Philosophy)
Master of Arts, 1981
(Fields: Political Philosophy, Public Law and Jurisprudence, American Politics)

AMHERST COLLEGE
Bachelor of Arts, 1979
Summa cum laude, Phi Beta Kappa

BOOKS

CASES AND MATERIALS ON TORT AND ACCIDENT LAW, 4TH Ed.
(with Robert E. Keeton and Lewis D. Sargentich) (West Group, 2004)

Teacher's Manual to Accompany Tort and Accident Law, 4th ed. (with Robert Keeton & Lewis Sargentich) (West Group, 2005)

CASES AND MATERIALS ON TORT AND ACCIDENT LAW, 3RD Ed.
(with Robert E. Keeton and Lewis D. Sargentich) (West Group, 1998)

Teacher's Manual to Accompany Tort and Accident Law, 3rd ed. (with Robert Keeton & Lewis Sargentich) (West Group, 1998)

ARTICLES AND BOOK CHAPTERS

Products Liability as Enterprise Liability, Forthcoming JOURNAL OF TORT LAW (2017).

Comment on Gardner: Duty and Right in Private Law, Forthcoming JERUSALEM JOURNAL OF LEGAL STUDIES (2017)

Comment on Goldberg and Zipurksy: Liability Without Regard to Fault, Forthcoming FORDHAM LAW REVIEW ONLINE (2017)

Comment on Avraham and Yuracko: Torts and the Paradox of Conservative Justice, Forthcoming OHIO STATE LAW JOURNAL ONLINE (2017)

Must the Hand Formula Not Be Named? 163 U. Pa. L. Rev. 367 (2015)

The Ambiguous Standing of Suffering in Negligence Law, Austin Sarat (ed.) KNOWING THE SUFFERING OF OTHERS: LEGAL PERSPECTIVES ON PAIN AND ITS MEANINGS, 78 - 121 University of Alabama Press (2014)

Strict Liability Wrongs, John Oberdiek (ed.), PHILOSOPHICAL FOUNDATIONS OF TORT LAW, 292 - 311 Oxford University Press (2014)

When is Emotional Distress Harm?, Stephen G.A. Pitel, Jason W. Neyers and Erika Chamberlain (eds.), TORT LAW: CHALLENGING ORTHODOXY, Hart Pub. (2013)

The Priority of Respect over Repair, 18 LEGAL THEORY 293 (2012)

Is the Role of Tort Law to Correct Wrongful Losses?, D. Nolan & A. Robertson, (eds.), RIGHTS IN PRIVATE LAW, Hart Pub. (2012)

Nuisance as a Strict Liability Wrong, JOURNAL OF TORT LAW, Vol. 4, Iss. 3, Article 2 (2012)

Recovering Rylands, 61 DEPAUL LAW REVIEW 543 (2012)

Is Negligent Infliction of Emotional Distress a Freestanding Tort?, 44 WAKE FOREST LAW REVIEW 1131 (2009) (symposium on the Third Restatement of Torts)

Putting Duty in its Place, with Dilan A. Esper, 41 LOYOLA OF LOS ANGELES LAW REVIEW 1225 (2008) (symposium on Frontiers of Tort Liability)

The Heroic Enterprise of Asbestos Adjudication, 37 SOUTHWESTERN LAW REVIEW 623 (2008) (symposium on Asbestos Litigation)

Personal Inviolability and Private Law, JOURNAL OF TORT LAW, Vol. 1, Iss. 2, Article 4 (2007)

Strict Liability and the Mitigation of Moral Luck, JOURNAL OF ETHICS & SOCIAL PHILOSOPHY Vol. 1, No. 4 (2006)

Abusing "Duty," with Dilan A. Esper, 79 SOUTHERN CALIFORNIA LAW REVIEW 265 (2006)

Property Right and Tortious Wrong in Vincent v. Lake Erie, ISSUES IN LEGAL SCHOLARSHIP, Article 6 (2005) (symposium on Vincent v. Lake Erie Transportation Co. and the Doctrine of Necessity)

Pricelessness and Life: An Essay for Guido Calabresi, 64 MARYLAND LAW REVIEW 159 (2005) (symposium on Guido Calabresi, THE COSTS OF ACCIDENTS)

Rawlsian Fairness and Regime Choice in Tort Theory, 72 FORDHAM LAW REVIEW 1857 (2004) (symposium on Rawls and the Law)

Pressing Precaution Beyond the Point of Cost-Justification, 56 VANDERBILT LAW REVIEW 653 (2003)

Irreparable Injury and Fair Precaution: The "Safety" and "Feasibility" Norms in American Accident Law, 4 THEORETICAL INQUIRIES IN THE LAW 1 (2003)

The Theory of Enterprise Liability and Common Law Strict Liability, 54 VANDERBILT LAW REVIEW 1285 (2001)(symposium on the Third Restatement of Torts)

A Social Contract Conception of the Tort Law of Accidents, in PHILOSOPHY AND THE LAW OF TORTS, Gerald J. Postema, (ed.), Cambridge University Press, (2001).

Distributive and Corrective Justice in the Tort Law of Accidents, 74 SOUTHERN CALIFORNIA LAW REVIEW 193 (2000)

The Idea of Fairness in the Law of Enterprise Liability, 95 MICHIGAN LAW REVIEW 1266 (1997)

Reasonableness and Rationality in Negligence Theory, 48 STANFORD LAW REVIEW 311 (1996)

Fidelity to Preexisting Law and the Legitimacy of Legal Decision, 69 NOTRE DAME LAW REVIEW 1 (1993)

Justifying Hercules: Ronald Dworkin and the Rule of Law, 1987 ABF RESEARCH JOURNAL 585 (review essay) (1987)

OTHER WORKS

"The New ABA Model Rule 1.6 and the Expansion of Duties of Mandatory Disclosure," with Christine Kawasaki, *Proceedings of the ABA Forum on Air and Space Law*, ABA Annual Meeting, Fall 2004

"Vexing Situations: Ethics and International Practice," with Neil Millard and Robert E. Lutz, *The California International Practitioner*, Vol. 13, No. 2, p. 10 (2004)

"Fairness and Two Fundamental Questions in the Tort Law of Accidents," *Social Science Research Network Working Paper Series*, Spring 2000

“Restating or Misstating the Law of Products Liability?” *USC Law* 16, Spring 1999

ONLINE CONTRIBUTIONS

Is Cost-Benefit Analysis the Only Game in Town? (December 5, 2016). USC CLASS Research Paper No. CLASS16-33; USC Law Legal studies Paper No. 16-37, available at SSRN. (posted only).

The Structure of Tort Law, Revisited: The Problem of Corporate Responsibility, *The Journal of Things We Like Lots*, available at torts.jotwell.com

Is Negligence Law Less Objective Than We Think? *The Journal of Things We Like Lots*, available at torts.jotwell.com

Liability as Compensation, *The Journal of Things We Like Lots*, available at torts.jotwell.com

Redressing the Harm of Death, *The Journal of Things We Like Lots*, available at torts.jotwell.com.

The Misalignment Debate, *The Journal of Things We Like Lots*, available at torts.jotwell.com.

Founding Editor for the Torts Section, THE JOURNAL OF THINGS WE LIKE LOTS (Jotwell), www.jotwell.com available at torts.jotwell.com.

Jotwell’s mission is to fill a gap in legal scholarship by creating a space where legal academics can go to identify, celebrate, and discuss the best new legal scholarship.

DISSERTATION

“Legal Rationality and the Rule of Law,” accepted by the Faculty of Politics, Princeton University, 1993

SELECTED SCHOLARLY PRESENTATIONS

Products Liability as Enterprise Liability, presented at the Obligations VII Conference, Downing College, Cambridge University, England, July 19-22, 2016.

Is Duty the Master Concept of Private Law? Comment on John Gardner's From Personal Life to Private Law, presented at the "Symposia on Arthur Ripstein's Private Wrongs and John Gardner's From Personal Life to Private Law," Department of Philosophy, Hebrew University in Jerusalem, June 26-27, 2016.

The Priority of Avoiding Harm, presented at the North American Workshop on Private Law Theory III, University of Toronto Law School, October 23-24, 2015.

Also Presented to the Legal Philosophy Group and the Institute of European and Comparative Private Law, University of Girona, Spain, March 11, 2016.

Is Cost-Benefit Analysis the Only Game in Town? presented to the New York City Tort Theory Group at NYU Law School, September 28, 2015.

Presented to a USC Faculty Workshop, November 5, 2015.

Also Presented as the Third Annual Howard and Judith Udell Distinguished Lecture on the Law to the Buchmann Faculty of Law, Tel Aviv University, Israel, June 22, 2016.

Comment on Alan Schwartz, *Regulating for Rationality*, presented at "Who Knows? Law in an Information Society, a Festschrift in Honor of Richard Craswell," February 6-7, Stanford Law School.

The Idea of Enterprise Liability, presented to the University of California at Irvine Colloquium on Law and Philosophy, November 13, 2014.

Prudence or Rationality? Comment on Ben Zipursky, "Reasonableness in and Out of Negligence Law," University of Pennsylvania School of Law, Conference on "The New Doctrinalism," Philadelphia, Pennsylvania, October 24-25.

Responsibility in Tort for Innocent and Justified Wrongs, presented to the William and Mary Private Law Theory Workshop, William and Mary Law School, Williamsburg, Virginia, August 14-15.

The Idea of Enterprise Liability, presented to the Obligations VII Conference: The Common Law of Obligations: Divergence and Convergence, University of Hong Kong Faculty of Law, Hong Kong July 15-18, 2014.

The Priority of Avoiding Harm, presented to the Faculty Workshop at the University of California at Irvine Law School, April 11, 2014

Strict Liability Wrongs, presented to the Yale Law School Law and Philosophy Speaker Series, December 12, 2013.

When is Emotional Distress Harm? presented to the Fordham Law School Legal Theory Workshop, December 4, 2013

The Justice of Strict Liability, presented to the NYC Torts Group at New York University Law School, November 7, 2013

Rights, Wrongs and Harms in Strict Liability, presented to the Harvard Law School Private Law Speaker Series, November 4, 2013.

Strict Liability in Anglo-American Tort Theory” Keynote Address, IX EnCuentro Internacional de Responsabilidad Civil – IARCE 2- Anos. Medellin, Colombia, September 5, 2013

Strict Liability Wrongs, presented to the University of Toronto Law School Legal Theory Workshop, November 30, 2012, and to the Conference on the Philosophical Foundations of the Law of Torts, Rutgers School of Law, Camden, NJ, November 2-3, 2012.

When is Emotional Distress Harm? presented to the Obligations VI Conference: Challenging Orthodoxy, Western University Law School, Ontario, Canada, July 18-20, 2012.

Beyond Efficient Precaution: The Asymmetry of Harm and Benefit, talk presented to the Association of American Law Schools Midyear Workshop on Torts, Environment and Disaster, Berkeley, CA, June 9 & 10, 2012.

The Ambiguous Standing of Suffering in Negligence Law, paper presented to the Symposium, Knowing the Suffering of Others, University of Alabama Law School, March 30, 2012.

Recovering Rylands, paper presented to the 17th Annual Clifford Symposium on Tort Law and Social Policy, DePaul University, Festschrift for Robert Rabin.

Nuisance As a Strict Liability Wrong, paper presented to the Conference on Property, Tort and Private Law Theory, USC Gould School of Law, October 22-23, 2010.

Is the Role of Tort Law to Repair Wrongful Losses?, paper presented to the Obligations V Conference, St. Anne’s College, Oxford University, July 2007.

Is Tort a Remedial Institution?, paper presented to the USC Faculty Workshop, January 2010; to the UCLA Legal Theory Workshop, February 2010; and to the New York City Tort Law Group, March 2010

Existence of Obligation and Extent of Liability in the Law of Negligent Infliction of Emotional Distress, paper presented to the Symposium on the Third Restatement of Torts, Wake Forest University School of Law, April 2-3, 2009.

Putting Duty in its Place, paper presented to the Conference on "Frontiers of Tort Liability," Loyola of Los Angeles Law School, January 2008. Earlier versions presented to faculty workshops at Boston College Law School and Boston University Law School.

Comment on Geistfeld, presentation to the Symposium on Asbestos Liability at Southwestern Law School, January 2008.

Must Liberal Tort Law Be "Private"?, paper presented to the Conference on Tort Law and the Modern State, Columbia Law School, September 15-16, 2006.

Strict Liability and the Mitigation of Moral Luck, paper presented to the USC Center for Law and Philosophy Conference on "The Morality of Fortune," March 24-25, 2006.

Property Right and Tortious Wrong in Vincent v. Lake Erie, paper presented to the University of Southern California Law School Faculty Workshop, February 3, 2006.

Abusing "Duty": The Emerging Torts Jurisprudence of the California Courts, (co-authored with Dilan A. Esper) paper presented to the University of Southern California Law School Faculty Workshop, January 26, 2004; to the New York Law and Philosophy Group at NYU School of Law, March 12, 2004; and to the Florida State University Law School Faculty Workshop, February 3, 2005.

Sacrificing Lives: An Essay for Guido Calabresi, paper presented to "A Symposium on Calabresi's *The Costs of Accidents: A Generation of Impact on Law and Scholarship*," University of Maryland School of Law, April 23-24, 2004.

Rawlsian Fairness and Regime Choice in the Law of Accidents, paper presented at "A Conference on Rawls and the Law," Fordham University School of Law, November 7-8, 2003.

Fairness, Reciprocity of Risk and Regime Choice in the Law of Accidents, paper presented to the Harvard Law School Faculty Workshop, October 29, 2003.

Commentary on Ravit Reichman, "Let us Not Desert One Another': The Lessons of Torts," USC, Columbia & Georgetown, Humanities Junior Scholars Workshop, USC School of Law, June 16, 2002.

Beyond Cost-Justified Precaution, paper presented to the International Conference on "Negligence in the Law," Cegla Institute for Comparative and Private International Law, Tel Aviv University, Buchmann Faculty of Law, Tel Aviv, Israel, April 5, 2001, and to the Northwestern University Law School Faculty Workshop, April 26, 2001.

Devastating Injury and Due Care, paper presented to the University of Southern California Law School Faculty Workshop, March 15, 2001.

The Worker's Compensation Acts and Common Law Strict Liability, paper presented to the John W. Wade Conference on the "Third Restatement of Torts: General Principles," Vanderbilt University Law School, September 15-16, 2000.

Legal Ethics and Strategic Litigation, paper presented to the Conference on "Professionalism in the Age of Self-Interest," Institute for Ethics and Public Policy, Cal Poly Pomona, April 29, 1999.

Ethical Issues in the "New Corporate Tax Shelters, with Michael Knoll; paper presented to the USC Tax Institute, January 1999.

Freedom and Fairness in the Tort Law of Accidents, paper presented to the University of Michigan Law School Workshop in Legal Theory, November 1998.

Accident Law as a Realm of Equal Freedom and Mutual Benefit, paper presented to the University of North Carolina Workshop in Law and Philosophy, National Humanities Center, Chapel Hill, North Carolina, September 26-28, 1997.

Economic and Non-Economic Conceptions of Damages, paper presented to the Conference on Law, Risk and Risk Management at the Gruter Institute, University of California at Berkeley, September 26-30, 1996.

Freedom and Fairness in the Law of Enterprise Liability, paper presented to the University of Southern California Faculty Workshop, April 1994.

The Economic Interpretation of the Hand Formula, paper presented to the University of Southern California Faculty Workshop, December 1993.

The Rule of Law and the Legitimacy of Legal Decision, paper presented to the USC-Oxford Legal Theory Institute, Balliol College, Oxford University, July 31, 1992, and to the University of Southern California Law School Faculty Workshop, May 21, 1992.

COURSES

Torts (required first-year course); Advanced Accident Law; Torts II; Legal Profession (required first-year course); Law, Language & Values (required first-year course); Restitution; Seminars on topics in political and legal philosophy.

CONFERENCES AND WORKSHOPS

Commentator and Co-Referee for Jurisprudence Section Papers at the Harvard/Stanford/Yale Junior Faculty Forum, June Jurisprudence Section of the Harvard-Stanford-Yale Junior Faculty Forum, June 27-28 2014.

Commentator and Co-Referee for Torts Section Papers at the Stanford/Yale Junior Faculty Forum, June 24-25, 2011.

Organized Conference on Property, Tort and Private Law Theory, held at the USC Gould School of Law, October 22-23, 2010.

Co-Moderator with Dr. Ezekiel Emanuel, Director of the Division of Bioethics at the National Institutes of Health, The Aspen Institute, Socrates Seminar "Professional Roles and Individual Integrity," February 18-20, 2006

PROFESSIONAL SERVICE

USC Law School:

Member, ex officio, Academic Affairs Committee, Administration and Finance Committee, Faculty Appointments Committee 2014-15
USC Gould School of Law Dean Search Committee, 2014-15
Chair, Faculty Appointments Committee, 2012-13
Chair, Administration and Finance Committee, 2012-13
Chair, Faculty Recognition Committee, 2011-2013
Chair, Promotion and Tenure Committee, 2011-12

Chair, Subcommittee on Promotion of Jonathan Barnett, 2011-12
Chair, Administration and Finance Committee, 2010-11
Faculty Representative to Academic Senate, 2010-11
Member Academic Affairs Committee, Spring 2010
Chair, Subcommittee on Promotion of Kim Shayo Buchanan,
Fall 2009
Chair Clinical and Service Learning Committee 2007-2009
Chair, Academic Affairs Committee 2007-2009
Faculty Appointments Committee 2006-2009
Chair, Administration and Finance Committee, Fall 2006
Board of Review, 2005-2006
USC Gould School of Law Dean Search Committee, 2005-2006
University Committee Advising the Provost on Tenure, 2000-2004
Administration and Finance Committee, 1998-1999
Promotion and Tenure Subcommittee for Ariela Gross, 1997-1998
Faculty Appointments 1997-2003, 2005-2006
Clerkship Committee, 1996-1997, 2003-2005
Faculty Workshop Coordinator, 1996-1997, 2004-2005
Academic Affairs Committee, 1993-1994
Admissions and Financial Aid, 1991-1993; 1994-1996

Editorial Boards:

Journal of Legal Theory, 2009-present
Journal of Tort Law, 2007-present
Law and Philosophy, 2013-present

MEMBERSHIPS

Phi Beta Kappa, American Law Institute, AALS Section of Jurisprudence
(Treasurer, 1995), Los Angeles Law and Philosophy Discussion Group.

OTHER

Married (Dr. Carol McCleary); two children (Lindsay McCleary Keating
and Emily McCleary Keating).