

## DAVID BLANKFEIN-TABACHNICK

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### EDUCATION

YALE LAW SCHOOL, *M.S.L.*, 2008

UNIVERSITY OF VIRGINIA, PHILOSOPHY, *Ph.D.*, *Legal and Political Philosophy*, 2007

UNIVERSITY OF ROCHESTER, *M.A.*, 1995

ITHACA COLLEGE, *B.A.*, *with honors*, 1993

### ACADEMIC APPOINTMENTS, ADMINISTRATIVE APPOINTMENTS AND EXPERIENCE

#### UNIVERSITY OF MICHIGAN LAW SCHOOL, ANN ARBOR

*Visiting Professor of Law (1L Contracts, large section; Intellectual Property Survey)* 1/2023–6/2023

#### WASHINGTON UNIVERSITY IN ST LOUIS SCHOOL OF LAW

*Visiting Associate Professor of Law (1L Property, large section; 1L Crim.; Copyright)* 2015–2016

#### MICHIGAN STATE UNIVERSITY COLLEGE OF LAW (*Primary Appointment*)

*Associate Dean for Faculty and Intellectual Life* 12/1/2023—Present

*Associate Dean for Research* 8/2023–12/1/2023

*Associate Professor of Law (Tenure as of July 1, 2020)* 2017–Present

*Assistant Professor of Law* 2014–2017

*Faculty Advisor to Michigan State Law Review* 2017–Present

*All-University Teacher-Scholar Award, University Wide Award (2021)*

*Chair, Faculty Appointments Committee (2020-2021; 2021-2022); Co-Chair (2023-2024)*

*College of Law Dean Search Committee (2020-2021)*

#### PENNSYLVANIA STATE UNIVERSITY PENN STATE LAW

*Visiting Assistant Professor of Law* 2011–2014

#### PEKING UNIVERSITY SCHOOL OF TRANSNATIONAL LAW (CHINA)

*Affiliated Transnational Faculty* 2011–Present

*Visiting Assistant Professor of Law* 2009–2011

#### YALE LAW SCHOOL

*Visiting Scholar* 2008–2009

#### UNIVERSITY OF VIRGINIA

*Graduate Instructor* 1996–2007

### PUBLICATIONS

- 1) *On Rawlsian Contractualism and the Private Law*, 108 **VIRGINIA LAW REVIEW** (2022) (with K. Kordana).  
*SIMULTANEOUSLY PUBLISHED IN VIRGINIA LAW REVIEW Print and Online Editions.*  
*REVIEWED:* Gregory Keating, *Shifting the Paradigm in Private Law Theory*, JOTWELL (Sept. 29, 2023).  
[SHIFTING THE PARADIGM IN PRIVATE LAW THEORY - TORTS \(JOTWELL.COM\)](https://www.jotwell.com/shifting-the-paradigm-in-private-law-theory-torts)  
*PUBLISHED RESPONSE* (in a separate volume): Samuel Freeman, 109 **VIRGINIA LAW REVIEW** (*forthcoming*).
- 2) *Maximizing Intellectual Property*, 94 **ST. JOHN'S LAW REVIEW** (2020).
- 3) *Kaplow and Shavell and the Priority of Income Taxation and Transfer*, 69 **HASTINGS LAW JOURNAL** (2017) (with K. Kordana).  
*NOTABLE CITATION/ENGAGEMENT:* Richard L. Revesz, 93 *Regulation and Distribution*, **NEW YORK UNIVERSITY LAW REVIEW** (2018).  
*NOTABLE CITATION/ENGAGEMENT:* Mark A. Geistfeld, *Cost-Benefit Analysis Outside of Welfarism*, **REVUS: JOURNAL OF CONSTITUTIONAL THEORY AND PHILOSOPHY OF LAW** (2018).  
*NOTABLE CITATION:* Robert C. Ellickson, Carol M. Rose and Henry E. Smith, *Perspectives on Property Law*, (5th Edition), (Aspen Coursebook, Wolters-Kluwer 2023).
- 4) *Property, Duress and Consensual Relationships*, 114 **MICHIGAN LAW REVIEW** 1013 (2016) (reviewing Seana Shiffrin, *Speech Matters* (Princeton University Press, 2014)).
- 5) *Intellectual Property Doctrine and Midlevel Principles*, 101 **CALIFORNIA LAW REVIEW** 1315 (2013).  
*PUBLISHED RESPONSE:* Robert P. Merges, *Foundations and Principles Redux: A Reply to Professor Blankfein-*

*Tabachnick*, 101 CALIFORNIA LAW REVIEW 1361 (2013).

**NOTABLE CITATION:** Shyamkrishna Balganes, 117 *Causing Copyright* 31 COLUMBIA LAW REVIEW (2017).

**NOTABLE CITATION:** Thomas W. Merrill, Henry E. Smith and Maureen E. Brady, *Property: Principles and Policies (4th Edition)*, (University Casebook Series, Foundation Press, 2023).

- 6) *On Belling the Cat: Rawls and Tort as Corrective Justice*, 92 VIRGINIA LAW REVIEW 1279 (2006) (with K. Kordana).

**PUBLISHED RESPONSE:** Steven D. Walt, *Eliminating Corrective Justice*, 92 VIRGINIA LAW REVIEW 1311 (2006).

**REPRINTED IN:** *Rawls and Law* (Ashgate Publishing, 2012).

**SUBJECT OF ROUNDTABLE:** *Relationships Among Distributive, Retributive, and Corrective Justice*, Sponsored by Law & Philosophy Institutes of Universities of Illinois, Pennsylvania, Rutgers and San Diego Schools of Law (2007).

**SCHOLARLY ENGAGEMENT/DISCUSSION:** Samuel Freeman, *Liberalism and Distributive Justice* (Oxford University Press, 2018).

- 7) *Does Intellectual Property Have Foundations?*, 45 CONNECTICUT LAW REVIEW 995 (2013) (reviewing Robert Merges, *Justifying Intellectual Property* (Harvard University Press, 2011)).

- 8) *The Rawlsian View of Private Ordering*, 25 SOCIAL PHILOSOPHY & POLICY 288 (Cambridge University Press, 2008) (with K. Kordana) (peer reviewed).

**REPRINTED IN:** *Freedom of Association* (Cambridge University Press, 2008).

**NOTABLE CITATION:** Samuel Scheffler, *H.L.A. Hart Memorial Lecture* at the University of Oxford; published as *Distributive Justice, the Basic Structure, and the Place of Private Law* 35 OXFORD JOURNAL OF LEGAL STUDIES 1 (2015).

**NOTABLE CITATION:** Monica Bhandari, *Philosophical Foundations of Tax Law* (Oxford University Press, 2017).

- 9) *Taxation, the Private Law, and Distributive Justice*, 23 SOCIAL PHILOSOPHY & POLICY 142 (Cambridge University Press, 2006) (with K. Kordana) (peer reviewed).

**REPRINTED IN:** *Taxation, Economic Prosperity, and Distributive Justice* (Cambridge University Press, 2006).

**NOTABLE CITATION:** Samuel Scheffler, *H.L.A. Hart Memorial Lecture* at the University of Oxford; published as *Distributive Justice, the Basic Structure, and the Place of Private Law* 35 OXFORD JOURNAL OF LEGAL STUDIES 1 (2015).

- 10) *Rawls and Contract Law*, 73 GEORGE WASHINGTON LAW REVIEW 598 (2005) (with K. Kordana).

**NOTABLE CITATION:** Samuel Scheffler, *H.L.A. Hart Memorial Lecture* at the University of Oxford; published as *Distributive Justice, the Basic Structure, and the Place of Private Law* 35 OXFORD JOURNAL OF LEGAL STUDIES 1 (2015).

**NOTABLE CITATION:** Todd D. Rakoff, *The Five Justices of Contract Law* 2016 WISCONSIN LAW REVIEW 733 (2016).

**SCHOLARLY ENGAGEMENT/DISCUSSION:** Josse Klijnsma, *Contract Law as Fairness* 28 RATIO JURIS 68 (2015) (peer reviewed).

**INTERNATIONAL SCHOLARLY ENGAGEMENT/DISCUSSION:** Stefan Arnold, *Vertrag und Verteilung: Die Bedeutung der iustitia distributiva im Vertragsrecht* (Mohr Siebeck, Tübingen, Germany: 2014).

**SCHOLARLY ENGAGEMENT/DISCUSSION:** Samuel Freeman, *Liberalism and Distributive Justice* (Oxford University Press, 2018).

- 11) *Tax and the Philosopher's Stone*, 89 VIRGINIA LAW REVIEW 647 (2003) (with K. Kordana) (reviewing Liam Murphy & Thomas Nagel, *The Myth of Ownership: Taxes and Justice* (Oxford University Press, 2002)).

**NOTABLE CITATION:** Adam Lawton, *Taxing Private Equity Carried Interest Using an Incentive Stock Option Analogy*, 121 HARVARD LAW REVIEW 846 (2008).

**NOTABLE CITATION:** David Gamage and Darien Shanske, *Three Essays on Tax Salience: Market Salience and Political Salience*, 65 TAX LAW REVIEW 19 (2011) (peer reviewed).

**SCHOLARLY ENGAGEMENT/DISCUSSION:** James Repetti and Diane Ring, *Horizontal Equity Revisited*, 13 FLORIDA TAX REVIEW 135 (2012) (peer reviewed).

**NOTABLE CITATION:** Robert C. Ellickson, Carol M. Rose and Henry E. Smith, *Perspectives on Property Law (4th Edition)*, (Aspen Coursebook, Wolters-Kluwer 2014).

**NOTABLE CITATION:** Monica Bhandari, *Philosophical Foundations of Tax Law* (Oxford University Press, 2017).

## **TEACHING AWARDS AND HONORS**

MICHIGAN STATE UNIVERSITY, University-Wide Award for Excellence in Teaching and Scholarship: *2021 All-University Teacher-Scholar Award* (the first College of Law faculty member to receive the award).

[MSU LAW PROFESSOR DAVID BLANKFEIN-TABACHNICK RECOGNIZED AS TEACHER-SCHOLAR: MICHIGAN STATE UNIVERSITY COLLEGE OF LAW](#)

UNIVERSITY OF VIRGINIA, Honoree for the University-Wide *Seven Society Fellowship for Superb Teaching* (“*In recognition of excellent teaching and exceptional skill in motivating and inspiring students*”).

YALE UNIVERSITY, YALE LAW SCHOOL, *Student Marshal*, Graduation, 2008.

## **COURSES TAUGHT**

(“*large section*” indicates enrollment greater than 70 students)

*Law Courses:* Bankruptcy; Criminal Law *large section*; Contracts *large section*; Copyright; Federal Income Tax *large section*; Intellectual Property; Property *large section*; Property II *large section*; Remedies *large section*; Legal and Political Theory; Private Law Theory; Tax Policy; Trusts and Estates *large section*

*Philosophy Courses:* Ethics & International Relations; Legal Philosophy; Political Philosophy

## **LAW JOURNAL EXPERIENCE**

*Faculty Advisor, Michigan State Law Review, 2017–Present* (during this time, the Law Review has come into national prominence, climbing 50 places in the W&L Ranking of flagship U.S. law journals)

*Creator, Michigan State Law Review Visionary Scholar Article Program*

*Creator, (with Michael Sant’Ambrogio), Michigan State Law Review Symposium / Faculty Workshop Series*

*Creator and Innovator (with Kevin Kordana), 2006 Virginia Law Review Symposium, Contemporary Political Theory and the Private Law* (widely referenced).

## **LAW SCHOOL ADMINISTRATIVE APPOINTMENTS AND SERVICE**

### **MICHIGAN STATE UNIVERSITY COLLEGE OF LAW**

*Associate Dean for Faculty and Intellectual Life, 12/1/2023—Present*

*Co-Chair, Faculty Appointments Committee, 2023-2024* (tenure system hiring (ongoing) as of 3/1/24; entry level: Professors Yuval Abrams, Charity Fort, Elise Bernlohr Maizel, Laura Ford Savarese, and Quinn Yeargain)

*Associate Dean for Research, 8/2023—12/2023*

*Chair, Academic Programs and Law Faculty Workshop Committee, 2022-2023*

*Chair, Tenure Advisory Committee, Professor Charles Delmotte, 2022-Present*

*Chair, Faculty Appointments Committee, 2021-2022* (tenure system hiring: Professor Charles Delmotte; Professor Daniel Rosenbaum)

*Chair, Faculty Appointments Committee, 2020-2021* (tenure system hiring: Professor Jacob Bronsther)

*Dean Search Committee, 2020-2021 (appointment of Dean Linda S. Greene)*

*Ad Hoc Committee, 2019–2020*

*Faculty Appointments Committee, 2019–2020*

*Faculty Advisor, Michigan State Law Review, 2017–Present*

*College of Law Representative to the University Council and University Senate, Fall 2018*

*Academic Standards Committee, 2017–2018*

*Faculty Appointments Committee, 2016–2017*

*Faculty Secretary, 2016–2017*

*Faculty Appointments Committee, 2015–2016*

*Faculty Programs and Development Committee, 2015–2016*

*Faculty Programs and Development Committee, 2014–2015*

*Faculty Appointments Committee, 2014–2015*

*Admissions Office Recruitment (providing mock lectures to prospective students), 2014–2015*

*Intellectual Property, Information and Communications Law Program, Faculty Member, 2014-Present*

#### **PENNSYLVANIA STATE UNIVERSITY PENN STATE LAW**

*Diversity Committee, 2013–2014*

*Admissions Office Recruitment (providing mock lectures to prospective law students), 2011–2014*

#### **PEKING UNIVERSITY SCHOOL OF TRANSNATIONAL LAW**

*Advanced Legal Studies Program, JD/JM Thesis Supervisor & Thesis Examiner, 2009–Present*

*Summer Honors Program Recruitment, (providing recruitment-oriented lectures to prospective law students in the summer honors program), 2009–2011*

#### **WORKSHOPS, LECTURES AND PRESENTATIONS**

- 1) Harvard Law School, Private Law Workshop: March 1, 2023.
- 2) New York University School of Law, Classical Liberal Institute: June 2021.
- 3) “Maximizing Intellectual Property: Optimality, Synchronicity and Distributive Justice,” Competitively Selected, Harvard Law School, 2020 Obligations Conference: Spring 2021.
- 4) “Methods in Legal Academia,” Invited Lecture to the Newly Accepted *Michigan State Law Review* Membership: September 2019.
- 5) “Maximizing Intellectual Property,” Michigan State University College of Law, Law Faculty Workshop: January 2019.

- 6) Invited Participant, Elinor Ostrom Workshop, George Mason University School of Law, Arlington, VA: October 2017.
- 7) Invited Commentator, Colloquium on Philosophical Approaches to Intellectual Property, George Mason University School of Law, Arlington, VA: May 2017.
- 8) Law Faculty Workshop, American University, Washington College of Law, Washington, D.C.: March 28, 2017.
- 9) Invited Commentator, Discussing: Ronit Levine-Schnur and Gideon Parchomovsky, "Is the Government Fiscally Blind? An Empirical Examination of the Effect of the Compensation Requirement on Eminent Domain Exercises," 10th Annual Conference on Empirical Legal Studies, Washington University in St. Louis School of Law: October 2015.
- 10) "Distributive Goals and Private Law Rules" Law Faculty Workshop, Washington University in St. Louis School of Law: September 2015.
- 11) Invited Commentator, Floyd Abrams Institute for Freedom of Expression, Third Freedom of Expression Scholars Conference, Yale Law School: May 2015.
- 12) "Distribution and Private Law Rules," Legal Theory Workshop, University of Maryland School of Law: October 2014.
- 13) "Taxing the Tort-Crime Divide: Crimes of Consensual Indignity," Private Law and the Basic Structure of Society, Invited Conference Presenter, Center for the Study of European Contract Law, University of Amsterdam: January 2014.
- 14) Invited Participant, "*The Limits of Liability: Defences in Tort Law*," All Souls College, University of Oxford, Faculty of Law: January 2014.
- 15) Invited Discussant, Research Roundtable on Law's Information Revolution, George Mason University School of Law, Arlington, VA: September 2013.
- 16) Invited Keynote Lecture, *Penn State Law Review*, Annual *PSLR* Orientation / Kick-off Event, Penn State Law (Nominated by *PSLR* student editors), State College, PA: August 2013.
- 17) "*Myriad*, Distribution and Midlevel Principles of IP," Invited Lecture, Intellectual Property, Information & Communications Law Program, Michigan State College of Law, East Lansing, MI: January 2013.
- 18) "Experiences Teaching American Law in China," Invited Lecture, *Connecticut Law Review Symposium*, Are Law Schools Passing the Bar, Hartford, Connecticut: November 2012.
- 19) Invited Discussant, Migration of Criminal Law Principles from National to International Law, The Institute for Advanced Study, Hebrew University, Israel: Winter 2011.
- 20) "A Property Law Perspective on the Tax and Transfer Preference," Big Ten Untenured Conference, Indiana University School of Law: August 2011.
- 21) Next Generation Legal Scholarship, Yale Law School, "Private Ordering, Voluntary Associations & Rawls's *Political Liberalism*," Commentator: Anthony Kronman, Former Dean Yale Law School and Sterling Professor of Law: March 2008.
- 22) "Private Ordering and Voluntary Associations," Roundtable: *New Voices in Legal Theory*, Cardozo School of Law: May 2008.
- 23) Invited Participant, Conference on Non-Profit Law and Philanthropy, *Taxing Philanthropy*, held by Dean David M. Schizer at Columbia Law School: November 2007.
- 24) *On Belling the Cat: Rawls and Tort as Corrective Justice*, 92 VA. L. REV 1279 (2006) (with K. Kordana), was the subject of a *Roundtable on the Relationship Between Distributive, Retributive, and Corrective Justice*, co-sponsored by the Law and Philosophy Institutes at the University of Illinois, University of Pennsylvania, Rutgers University and the University of San Diego, Tapatio Springs, Texas: June 2007.

- 25) "Distributive Justice and Contractual Associations," Law Faculty Workshop, University of Virginia School of Law: March 2007.
- 26) "Distributive Justice and Contractual Associations," Social Philosophy and Policy Center Conference: *Freedom of Association*, La Jolla, CA: June 2007.
- 27) "Rawls and Tort as Corrective Justice," Law Faculty Workshop, University of Miami School of Law: April 2006.
- 28) "Rawls and Torts," Law Faculty Workshop, University of Illinois College of Law: April 2006.
- 29) "On Belling the Cat: Rawls and Tort as Corrective Justice," Virginia Law Review Symposium: *Contemporary Political Theory and The Private Law*, University of Virginia, School of Law: February 2006.
- 30) "Taxation, Private Law and Distributive Justice," Social Philosophy and Policy Center, Conference: *Taxation, Economic Prosperity and Distributive Justice*, La Jolla, CA: June 2005.
- 31) "Rawls and Tort Theory," "Bird Wood" Law Faculty Research Conference, University of Virginia School of Law: January 2005.
- 32) "Rawls, Bankruptcy and Contracts," Law Faculty Workshop, University of Virginia School of Law: April 2004.
- 33) "Rawls, Bankruptcy and Contracts," Law Faculty Workshop, George Washington University School of Law: March 2004.
- 34) "Fried, Kronman, and the Philosophy of Contract Law," Invited Lecture to First Year Law Students, George Washington University School of Law: Spring 2004.
- 35) "Tax and the Philosopher's Stone," Law Faculty Workshop, George Washington University School of Law: November 2002.
- 36) "The Philosophy of Contract Law," Invited Lecture to First Year Law Students, University of Virginia School of Law: Fall 2001.