

ANTHONY JAMES SEBOK

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EDUCATION

Princeton University, Ph.D. (Politics) 1993

Yale Law School, J.D. (Law) 1991

University of Oxford, M.Phil. (Politics) 1986

Cornell University, B.A. *magna cum laude* (Philosophy) 1984

EMPLOYMENT

Professor of Law and Co-Director, Jacob Burns Center for Ethics in the Practice of Law, Benjamin N. Cardozo School of Law, New York, NY, 2007 – present

Visiting Professor of Law, Cornell Law School, Ithaca, NY, Spring 2018

Visiting Professor of Law, Haifa University, Haifa, Israel, Spring 2016

Distinguished Research Professor of Law, Swansea University, Wales, UK, 2013 – 2016

Joseph F. Cunningham Visiting Professor of Commercial and Insurance Law, Columbia Law School, New York, NY, Fall 2011

Visiting Professor of Law, Tsinghua University School of Law, Beijing, China, Summer 2010

Visiting Professor of Public and International Affairs, Princeton University, 2007-08

Associate Dean for Research, Brooklyn Law School, Brooklyn, NY, 2006-07

Centennial Professor of Law, Brooklyn Law School, Brooklyn, NY, 2005-2007

Fellow, Program in Law and Public Affairs and **Visiting Professor of Public and International Affairs**, Princeton University, 2005-06

Professor of Law, Brooklyn Law School, Brooklyn, NY, 1997-2005

DAAD Visiting Professor of Law, Freie Universität, Berlin, 2001

Berlin Prize Fellow, The American Academy in Berlin, 1999

Visiting Associate Professor of Law, Benjamin N. Cardozo School of Law, New York, NY, Spring 1997

Assistant Professor of Law, Brooklyn Law School, Brooklyn, NY, 1992-95

Law Clerk, Chief Judge Edward Cahn, U.S. District Court, Philadelphia, PA, 1991-1992

TEACHING

Torts, Professional Responsibility, Jurisprudence, Advanced Torts, Remedies, Insurance Law, Mass Torts and Social Justice (seminar), Tort Theory (seminar), Litigation Finance (seminar), Comparative Products Liability, Constitutional Law

BOOKS AND ESSAYS

TORT LAW: GLOBAL PERSPECTIVES (with Mauro Bussani) (Oxford University Press, forthcoming 2019)

“Sources of Attorney’s Duties to Third Parties in the Litigation Funding Context,” *in* HANDBOOK ON THIRD-PARTY FUNDING IN INTERNATIONAL ARBITRATION (Nikolaus Pitkowitz, ed., Juris Publishing, 2018)

“Actual Causation in the Second and Third Restatements: Or, the Expulsion of the Substantial Factor Test,” *in* CAUSATION IN EUROPEAN TORT LAW (Marta Infantino & Eleni Zervogianni, eds., Cambridge University Press, 2017)

TORT LAW: RESPONSIBILITIES AND REDRESS, FOURTH EDITION
(with John C.P. Goldberg & Benjamin Zipursky) (Wolters
Kluwer, 2016)

COMPARATIVE TORT LAW: GLOBAL PERSPECTIVES (edited with
Mauro Bussani) (Edward Elgar Publishing, 2015)

“Normative Theories of Punitive Damages: The Case of
Deterrence,” *in* PHILOSOPHICAL FOUNDATIONS OF THE LAW OF
TORTS (John Oberdieck, ed., Oxford University Press, 2014)

“The U.S. Supreme Court’s Theory of Common Law Punitive
Damages: An Inauspicious Start,” *in* THE POWER OF PUNITIVE
DAMAGES: IS EUROPE MISSING OUT, (Lotte Meurkens and Emily
Nordin, eds., Intersentia Press, 2012)

“Adversarial Legalism and the Emergence of a New European
Legality: A Comparative Perspective” *in* IMAGINING NEW
LEGALITIES: PRIVACY AND ITS POSSIBILITIES IN THE 21ST
CENTURY (Austin Sarat, Lawrence Douglas, and Martha Merrill
Umpfrey, eds., Stanford University Press, 2012) (with Lars
Trägårdh)

“Comment on ‘Law as a Means’” *in* THE HART/FULLER DEBATE
AT FIFTY (Peter Cane, ed., Hart Publishing, 2009)

“United States” and “Aggravated Damages” *in* UNIFICATION OF
TORT LAW: PUNITIVE DAMAGES (Helmut Koziol and
Vanessa Wilcox, eds., Research Unit for European Tort Law,
2009)

“Legal Positivism,” *in* ENCYCLOPEDIA OF LEGAL HISTORY
(Stanley Katz, ed., Oxford University Press, 2009)

“Legal Process and the Practices of Principle,” *in* TOPICS IN
CONTEMPORARY PHILOSOPHY, VOL. 3 (Michael O’Rourke, ed.,
MIT Press, 2006)

“A Brief History of Mass Restitution Litigation in the United
States,” *in* CALLING POWER TO ACCOUNT: LAW’S RESPONSE TO
PAST INJUSTICE (D. Dyzenhaus & M. Moran, eds., University of
Toronto Press, 2005)

“Should We Care About Fairness in Tort Damages? An Inquiry
into American Exceptionalism,” *in* AMERICAN AND GERMAN
LEGAL CULTURES: CONTRAST, CONFLICT, CONVERGENCE?

(Krakau, Knud & Streng, eds., Carl Winter Universitätsverlag, 2003)

“The Invisible Borderlines of Tort on the Internet” *in* SELECTED LEGAL ISSUES OF E-COMMERCE (Y. Kono, C. Paulus, & H. Rajak, eds., Kluwer Law Int’l, 2002)

“Legal Positivism and American Slave Law: The Case of Chief Justice Shaw,” *in* RECRAFTING THE RULE OF LAW: THE LIMITS OF ORDER (D. Dyzenhaus, ed., Hart Pub., 1999)

LEGAL POSITIVISM IN AMERICAN JURISPRUDENCE (Cambridge University Press, 1998)

Co-editor with J. Coleman, PHILOSOPHY OF LAW: A COLLECTION OF ESSAYS (Garland Press, 1994)

ARTICLES

An Empirical Investigation of Third Party Consumer Litigation Funding, 104 CORNELL L. REV. __ (forthcoming 2018) (with Ronen Avraham)

Selling Attorneys’ Fees, 2018 U. ILL. L. REV. ____ (forthcoming)

Private Dollars For Public Litigation, 12 NYU J.L. & BUS. 809 (2016) (Symposium Litigation Funding, Center for Civil Justice, NYU School of Law)

The Unwritten Federal Arbitration Act, 65 DEPAUL L. REV. 1301 (2016) (Symposium on the Supreme Court, Business and Civil Justice)

Should the Law Preserve Party Control? Litigation Investment, Insurance Law and Double Standards, 56 WILLIAM & MARY L. REV. 837 (2015)

What Do We Talk About When We Talk About Control? 82 FORDHAM L. REV. 2939 (2014) (Symposium on the Legal Profession's Monopoly on the Practice of Law)

Litigation Investment and Legal Ethics: What are the Real Issues?, 55 CANADIAN BUSINESS LAW JOURNAL 111 (2014)

“*Operation Arbitration*”: *Massing Individual Arbitrations in a Post-Class Action Era*, 63 DEPAUL L. REV. 447 (2014) (with

Myriam Gilles) (Symposium on the Changing Face of Litigation and Law Firm Finance)

Jeffrey O'Connell and the Market in Tort Claims, 6 JOURNAL OF TORT LAW 115 (2013) (Symposium in Memory of Jeffrey O'Connell)

Characterizing the Parties' Relationship in Litigation Investment: Contract and Tort Good Faith Norms, 66 VAND. L. REV. 1832 (2013) (with W. Bradley Wendel)

The Failed Promise of a General Theory of Pure Economic Loss: An Accident of History? 61 DEPAUL L. REV. 615 (2012) (Symposium on the Work of Robert Rabin)

What is Wrong About Wrongdoing?, 38 FLA. ST. U.L. REV. 209 (2011)

The Inauthentic Claim, 64 VAND. L. REV. 61 (2011)

Betting on Tort Suits After the Event: From Champerty to Insurance, 60 DEPAUL L. REV. 453 (2011) (Symposium on Uncertainty in Tort Law)

What Do We Talk About When We Talk About Mass Torts? 106 MICH. L. REV. 1213 (2008) (Annual Symposium Issue on Books in Law) (reviewing Richard Nagareda, MASS TORTS IN A WORLD OF SETTLEMENT)

Taking "Tort" Seriously in the Alien Tort Statute, 33 BROOK J. INT'L L. 871 (2008) (Symposium on Corporate Liability for Grave Breaches of International Law)

After Philip Morris v. Williams: What is Left of the "Single Digit" Ratio?, 2 CHARLESTON L. REV. 287 (2008) (Symposium on the Future of Punitive Damages)

Teaching Tort Law From a Comparative Perspective, 57 J. LEG. EDUC. 562 (2007)

Punitive Damages: From Myth to Theory, 92 IOWA L. REV. 957 (2007)

Dispatches from the Tort Wars: A Review Essay 85 TEX. L. REV. 1465 (2007) (review essay on three recent books on tort reform and civil litigation)

The Place of Reliance in Fraud, 48 ARIZ. L. REV. 1001 (2006)
(coauthored with John C.P. Goldberg and Benjamin C. Zipursky)
(Symposium on Economic Torts)

Translating the Immeasurable: Thinking About Pain and Suffering Comparatively, 55 DEPAUL L. REV. 379 (2006)
(Symposium on Measuring Pain and Suffering); *translated into Italian and reprinted in Danni Dollari e Dolori* (Marta Infantino & Mauro Bussani, eds., Editoriale Scientifica, 2016)

Deterrence or Disgorgement? Reading Ciruolo After Campbell, 63 MD. L. REV. 541 (2005) (Symposium on Guido Calabresi's *The Cost of Accidents*)

Two Concepts of Justice in Slavery Reparations, 84 B.U.L. REV. 1405 (2004) (Symposium on the Jurisprudence of Slavery Reparations)

Pretext, Transparency and Motive in Mass Restitution Litigation, 57 VAND. L. REV. 2177 (2004) (Symposium on Lawyers as Activists: Achieving Social Change through Civil Litigation)

What's Law Got to Do with It? Designing Compensation Schemes in the Shadow of the Tort System, 53 DEPAUL L. REV. 501 (2003) (Symposium on The September 11th Compensation Fund and the Future of Civil Justice)

Deutsche Firmen vor US-Gerichten, NEUE JURISTISCHE WOCHENSCHRIFT, S. 3244 - 3246 (November 3, 2003) (co-authored with Dr. Reiner Geulen)

The Fall and Rise of Blame in American Tort Law, 68 BROOK. L. REV. 1031 (2003) (Symposium on Responsibility & Blame: Psychological and Legal Perspectives)

Introduction: What Does It Mean To Say That a Remedy Punishes? 78 CHI-KENT L. REV. 3 (2003) (Symposium Editor, Private Law, Punishment, and Disgorgement)

What Did Punitive Damages Do? Why Misunderstanding the History of Punitive Damages Matters Today, 78 CHI-KENT L. REV. 163 (2003) (Symposium on Private Law, Punishment, and Disgorgement)

Reparations, Unjust Enrichment, and the Importance of Knowing the Difference Between the Two, 58 N.Y.U. ANN. SURV. AM. L. 651 (2003) (Symposium on A Dream Deferred: Comparative and Practical Considerations for the Black Reparations Movement)

A Road Not Taken: Harry Wellington, Legal Process and Adjudication, 44 N.Y.L.S. L. REV. 207 (2001) (Symposium on the Scholarship of Harry Wellington)

Purpose, Knowledge and Recklessness: Pruning The Restatement (Third)'s Definition of Intent, 54 VAND. L. REV. 1165 (2001) (Symposium on the Third Restatement of Torts: General Principles)

Liability Without Cause? Further Ruminations on Cause-in-Fact as Applied to Handgun Liability, 32 CONN. L. REV. 1379 (2000) (co-authored with Aaron Twerski) (Symposium on Guns and Liability in America)

Finding Wittgenstein at the Core of the Rule of Recognition, 52 SMU L. REV. 75 (1999)

Is the Rule of Recognition a Rule?, 72 NOTRE DAME L. REV. 1539 (1997)

The Insatiable Constitution, 70 S. CAL. L. REV. 601 (1997)

Reading THE LEGAL PROCESS, 94 MICH. L. REV. 2701 (1996)

Does an Objective Theory of Self-Defense Demand Too Much?, 57 U. PITT. L. REV. 725 (1996)

Misunderstanding Positivism, 93 MICH. L. REV. 2054 (1995) (reprinted in Tom Campbell, ed., THE INTERNATIONAL LIBRARY OF ESSAYS IN LAW AND LEGAL THEORY, 2ND SERIES (Ashgate Publishing, 1999))

Judging the Fugitive Slave Acts, 100 YALE L. J. 1835 (1991) (reprinted in D. Dyzenhaus & A. Ripstein, eds., LAW AND MORALITY: READINGS IN LEGAL PHILOSOPHY (University of Toronto Press, 1996))

REPORTS

ABA Commission on Ethics 20/20, *White Paper on Alternative Litigation Finance* (2012) (Academic Co-reporter with W. Bradley Wendel)

White Paper on Mandatory Disclosure in Third Party Litigation Finance, American Alliance for Justice (2018) (forthcoming)

SHORT PIECES

Book Review, 8 J. EUR. TORT L. 372 (2017) (reviewing Eoin Quill & Raymond J. Friel (eds.), *Damages and Compensation Culture: Comparative Perspectives* (2016))

Book Review, 5 J. EUR. TORT L. 137 (2014) (reviewing John Bell and David Ibbetson, *European Legal Development: The Case of Tort* (2012))

Book Review, JURIST, Vol. 2, Number 8, October 1999 (reviewing Richard Posner, *The Problematics of Moral and Legal Theory* (1999))

Book Review, 11 CAN. J. L. & JURIS. 457 (1998) (reviewing Dennis Patterson, *Law and Truth* (1997))

MEDIA

Regular Columns

1. Jotwell (www.Jotwell.com):

Doing Away With Battery (Review of Stephen D. Sugarman, *Restating the Tort of Battery*) (December 20, 2017)

What Is It Like To Think Like A Pre-Modern? (Review of Kenneth S. Abraham & G. Edward White, *The Transformation of the Civil Trial and the Emergence of American Tort Law*) (February 13, 2017)

What Happens If We Call Discrimination a Tort? (Review of Sandra Sperino, *Let's Pretend Discrimination is a Tort*) (December 17, 2015)

Why Answer? (Review of Nils Jansen, *The Idea of Legal Responsibility*) (January 10, 2014)

Does Tort Law Empower? (Review of Ori J. Herstein, *How Tort Law Empowers*) (December 19, 2014)

Are Risks Wrong? (Review of John Oberdiek, *The Moral Significance of Risking*) (February 27, 2013)

2. New Private Law (<http://blogs.law.harvard.edu/nplblog/>):

Naked Came the Assignment (May 19, 2015)

A Frolic Of His Own (June 17, 2015)

Can Tort Damages Discriminate? (August 17, 2015)

3. Writ

Between 2000 – 2009 I wrote over 150 columns about litigation and society for *Writ*, an on-line legal journal. An archive of the columns can be found at: <http://writ.news.findlaw.com/sebok>.

4. Occasional Media Publications

Lawsuit Lending Gets a Bad Rap: Killing the Industry With Regulation Would Hurt Accident Victims Again, CRAINS NEW YORK BUSINESS, June 11, 2018

Insight: Procedural, Substantive Concerns About The Litigation Funding Transparency Act of 2018, BLOOMBERG BNA, June 7, 2018

Americans Should Have The Proper Protections When Bringing Lawsuits, THE HILL, March 29, 2018 (with Ronen Avraham)

Mythic Pizza, THE NEW YORK TIMES, January 7, 2007 (with Samuel K. Murumba)

The Asbestos Mess, WALL ST. JOURNAL, March 8, 2006 (with Peter H. Schuck)

Menschenrechtsklagen in den USA, AUFBAU: DAS JÜDISCHE MONATSMAGAZIN, February 2006

Hearing On 9-11 Tort Cases Raises Difficult Questions Of Who Owed Duty To Whom, 21 No. 5 ANDREWS AVIATION LITIG. REP. 5 (May 13, 2003)

Prosaic Justice, LEGAL AFFAIRS 51 (Sept./Oct. 2002)

Disaster Plan, LEGAL TIMES, March 25, 2002

Is This Deal Good or Raw? NEWSDAY, January 27, 2002

Litigation Management: Sneaky Tort Reform, NATIONAL LAW JOURNAL, January 14, 2002

Television: The Oprah Winfrey Show, CBS Evening News, CNN, BBC World Business Report, Reuters TV, and RNN

Radio: NPR, WNYC, PRI's Marketplace. BBC Radio, Bavaria Radio and South African Radio

AWARDS AND FELLOWSHIPS

Berlin Prize Fellow, The American Academy in Berlin, 1999
Research Fellow, Humboldt Universität, Berlin, Germany, 1999
Fellow, Program in Law and Public Affairs, Princeton University, Princeton, NJ, 2005-06

PROFESSIONAL ACTIVITIES

American Bar Association

American Law Institute

American Association of Law Schools (Sections on Insurance Law, Remedies, Torts and Compensation Systems (President, 2014-15), and Jurisprudence)

Ethics Consultant, Burford Group (U.K. and USA)

Co-Reporter, ABA Commission on Ethics 20/20, Third-Party Financing Of Litigation Working Group (2011 – 2012)

Drafter, Section on Principles of Procedural Justice, ABA Litigation Section Project, "The Rule of Law in Times of Calamity" (2006)

Products Liability Committee, Association of the Bar of the City of New York (2000-03) (2005 – 2007)

Civil Rights Committee, Association of the Bar of the City of New York (1998 – 1999)

Lectures and Continuing Education Committee, Association of the Bar of the City of New York (1995 – 96)

TESTIMONY

New York Senate Standing Committee on Consumer Protection, Public Hearing on Lawsuit Lending, May 16, 2018, (written and oral)