Table of Contents

Annual Meeting Program 1
William L. Prosser Award Winner 1
2018 Prosser Award Nominations 2
Election of Section Officers 2
Recent Tort Law Symposia 3
Recent Tort Law Journal Articles 3
Recent Tort Law Book Chapters 9
Recent Book Reviews 10
Selected Commonwealth Scholarship 10
Recent Tort Law Books 11

This newsletter was edited by the following individuals at the University of Michigan Law School: Scott Hershovitz, Professor of Law and Professor of Philosophy; Virginia Neisler, Faculty Services Librarian; Sarah Slinger, Reference Librarian; and Joshilyn Hoisington, Research Assistant.

Section Program:
“Tort Law and Health Law: Intersections and Opportunities”
AALS Annual Meeting
New Orleans, Louisiana
Friday, January 4, 2019
1:30 to 3:15 p.m.

This panel will explore the relationship between the fields of tort law and health law, including: (1) the potential of tort law to perpetuate healthism (i.e., differential treatment based on health status) through various doctrines, including the active versus passive distinction, contributory negligence, assumption of the risk, and damages rules; (2) the duty to warn of health care providers; (3) the availability of governmental immunity for public hospitals; and (4) the availability of assumption of the risk in cases in which patients select care that falls outside the standard of care. Papers from the program will be published in the Journal of Tort Law.

Speakers include:

Mark Rothstein, Herbert F. Boehl Chair of Law and Medicine and Founding Director, Institute for Bioethics, Health Policy and Law, University of Louisville School of Medicine;

Nadia Sawicki, Georgia Reithal Professor of Law and Academic Director, Beazley Institute for Health Law and Policy, Loyola University Chicago School of Law;

John Valery White, Ralph Denton Professor of Law, UNLV William S. Boyd School of Law; and

Elizabeth Weeks Leonard, Associate Dean for Faculty Development and J. Alton Hosch Professor of Law, University of Georgia School of Law.

William L. Prosser Award Winner:
Kenneth W. Simons

The 2019 Prosser Award winner is Kenneth W. Simons, Chancellor’s Professor of Law, University of California, Irvine School of Law. At UCI Law, Professor Simons teaches Torts, Criminal Law, and other courses touching on topics in law and philosophy.

Professor Simons is a leading scholar of tort and criminal law. He has served since 2014 as a Reporter for the American Law Institute’s Restatement Third of Torts: Intentional Torts to Persons. He has published influential scholarship concerning assumption of risk and contributory negligence; the nature and role of mental states in criminal, tort and constitutional law; and negligence as a moral
and legal concept. He has also explored such topics as bias crimes, corrective justice, the logic of egalitarian norms, mistake and impossibility in criminal law, and strict criminal liability.

Before joining UC Irvine School of Law, Professor Simons was Professor of Law and The Honorable Frank R. Kenison Distinguished Scholar in Law at Boston University School of Law. He was Associate Dean for Research and Associate Dean for Academic Affairs there.

Professor Simons was a law clerk to U.S. Supreme Court Justice Thurgood Marshall and to Judge James L. Oakes, U.S. Court of Appeals for the Second Circuit. Professor Simons also worked as an associate at Goodwin, Procter & Hoar in Boston, in the field of civil litigation, including commercial law, tort, contracts, and prisoners’ rights.

Professor Simons received his J.D. from the University of Michigan Law School, magna cum laude, and graduated from Yale University, summa cum laude, with a B.A. in philosophy.

The Prosser Award will be presented during the Torts Section program at the AALS annual meeting in January. The Torts Section Executive Committee congratulates Professor Simons on this well-deserved honor.

2020 Prosser Award Nominations

The 2020 AALS Annual Meeting will be held January 2-5, 2020, in Washington, DC. At the 2020 Annual Meeting, the Torts and Compensation Systems Section will once again present the William L. Prosser Award to a law professor who has made outstanding contributions of scholarship, teaching, and service in the area of tort law. Any law professor is eligible to nominate another law professor for the award.

Selection of the recipient will be made by the members of the Executive Committee of the Torts and Compensation Systems Section, based on the recommendation of an appointed special selection committee.

Nominations should be submitted to Timothy Lytton, Incoming Secretary of the Executive Committee, at tlytton@gsu.edu. Nominations must be accompanied by a brief letter of support.

Professors who previously nominated a candidate who was not chosen for the award are welcome to renew their nominations by sending a copy of the prior nominating letter to Professor Timothy Lytton. Nominations must be received no later than Friday, July 12, 2019.

Election of Section Officers

The Section on Torts and Compensation Systems will elect officers for the coming year during the business meeting following the 2019 AALS program. You are invited to participate in the election. The current members of the Executive Committee will propose a slate of candidates for election at the business meeting. The proposed slate is:

Chair: Adam Scales
Chair Elect: Scott Hershovitz
Secretary: Mary Davis
Treasurer: Timothy Lytton
Member: Nora Engstrom
Recent Symposium

Appraising the Restatement (Third) of Torts: Intentional Torts to Persons (Journal of Tort Law):

Anita Bernstein, Rape is Trespass, 10 J. TORT LAW (2017).


Mark A. Geistfeld, Conceptualizing the Intentional Torts, 10 J. TORT LAW (2017).


Christopher J. Robinette, Appraising the Restatement (Third) of Torts: Intentional Torts to Persons, 10 J. TORT LAW (2017).


Stephen D. Sugarman, Restating the Tort of Battery, 10 J. TORT LAW (2017).

Glen Wright, Risky Business: Enterprise Liability, Corporate Groups and Torts, 10 J. TORT LAW (2017).

Journal Articles


Karena Hester, Martin Mullins, Robert Ford, and Finbarr Murphy, The ELD: Applicability to Nanotechnology Risk and the Liability Implications of Environmental Damage, 8 EUR. J. RISK REG. 140 (2017).


Alex Kaiserman, Partial Liability, 23 LEGAL THEORY 1 (2017).

Alex Kaiserman, Partial Liability – Corrigendum, 23 LEGAL THEORY 141 (2017).


Leslie Kendrick, Tort Law as Regulatory Tool, 10 J. TORT L. 1 (2017)


Kevin C. Staed, *Open Source Download Mishaps and Product Liability: Who is to


Alexander Volokh, Medical Malpractice as Workers’ Comp: Overcoming State Constitutional Barriers to Tort Reform, 67 Emory L. J. 975 (2018).


Book Chapters


Tracy Hester, Liability and Compensation in Climate Engineering and the Law (Michael


Book Reviews


Selected Tort Law Scholarship from Commonwealth Countries

Ardavan Arzandeh, The English Court’s Service-Out Jurisdiction in International
Tortious Disputes, 133 L. Q. REV. 144 (2017).


Selected Recent Tort Law Books – U.S. and International


Causation in European Tort Law (Marta Infantino and Eleni Zervogianni, eds.) Cambridge, UK: Cambridge University Press 2017.


