

**Daniel D. Barnhizer**  
**Bradford Stone Faculty Scholar**  
**Professor of Law**  
**Michigan State University College of Law**  
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## Academic Experience

### Michigan State University College of Law

Professor of Law, 2011-present

- Bradford Stone Faculty Scholar
- Director, Conservation Law Program
- Director of Journals Programs
- Director, Institute of Comparative Law & Jurisprudence – MSU College of Law at University of Białystok Faculty of Law

Associate Professor of Law, 2004-2011 (Full Professor, effective July 1, 2011)

- Bradford Stone Faculty Scholar
- Faculty Speaker, Graduation May 2009

Assistant Professor of Law, 2001-2004

- Outstanding Teacher of the Year Award 2003

### American University – Washington College of Law

Adjunct Professor of Law – Legal Method, 2000-2001

## Education

**Harvard Law School**, J.D., June 1995 Cambridge, MA

- *cum laude*
- *Harvard Environmental Law Review* – Managing Editor
- Faculty Committee for Harvard Project on Community
- Environmental Law Society

**Miami University**, B.A. (Classics), December 1991 Oxford, OH

- *summa cum laude*
- Phi Beta Kappa
- Eta Sigma Phi, Classics honorary society

## Publications

Daniel D. Barnhizer, Guest Article, *Contracts and Automation: Exploring the Normativity of Codability in the Context of U.S. Contract Law and E.U. Consumer Protection Directives*, 9 YEARBOOK OF ANTITRUST AND REGULATORY STUDIES 15 (2016) [published by the Center for Antitrust and Regulatory Studies, University of Warsaw, Warsaw, Poland]

Daniel Barnhizer, Review, *Insurance as the Big Bad Wolf of Big Data: Reviewing Max Helveston's Consumer Protection in the Age of Big Data*, CONTRACTS: JOTWELL – THE JOURNAL OF THINGS WE LIKE (LOTS) (forthcoming 2017)

Daniel D. Barnhizer & David R. Barnhizer, Encyclopedia Entry, *Rule of Law*, in FATHALI M. MOGHADDAM, THE SAGE ENCYCLOPEDIA OF POLITICAL BEHAVIOR (forthcoming June 2017)

Daniel D. Barnhizer, *Some Animals Are More Equal Than Others: Sue & Settle, Public Participation and Private Control of Agency Agendas in Environmental Decisionmaking*, in LOCUS STANDI ACROSS LEGAL CULTURES, BIALYSTOK VOLUMES ON LAW & CULTURE (2016)

Daniel D. Barnhizer, *Reassessing Assent-Based Critiques of Adhesion Contracts*, in COMPARATIVE CONTRACT LAW: TRANSATLANTIC PERSPECTIVES (Oxford University Press 2015)

Daniel D. Barnhizer, *Escaping Toxic Contracts: How We Have Lost The War on Assent in Wrap Contracts*, 44 SOUTHWESTERN L. REV. 215 (2015)

CARTER BISHOP & DANIEL D. BARNHIZER, CONTRACTS: CASES AND THEORY OF OBLIGATION (2d ed. 2015)

Daniel D. Barnhizer, *Cultural Narratives of the Legal Profession: Law School, Scamblogs, Hopelessness and the Rule of Law*, 2012 Mich. St. L. Rev. 663

DANIEL D. BARNHIZER, W.H. KNIGHT, JR., KATHLEEN E. PAYNE, CYNTHIA LEE STARNES & BRADFORD STONE, COMMERCIAL TRANSACTIONS UNDER THE UNIFORM COMMERCIAL CODE AND OTHER LAWS BY DONALD B. KING (6<sup>th</sup> ed. 2011)

Daniel D. Barnhizer, *Context as Power: Defining the Field of Battle for Advantage in Contractual Interactions*, 45 WAKE FOREST L. REV. 607 (2010)

DAVID R. BARNHIZER & DANIEL D. BARNHIZER, HYPOCRISY & MYTH: DEFENDING THE HIDDEN ORDER OF THE RULE OF LAW (2009)

Daniel D. Barnhizer, Symposium Commentary, *Bargaining Power in the Shadow of the Law: Commentary on the Contributions of Professors Wright & Engen, Professor Birke, and Joshua Bowers*, 91 Marquette L. Rev. 123 (2007)

Co-author: CARTER G. BISHOP, JAMES F. HOGG, & DANIEL D. BARNHIZER, CONTRACTS: CASES AND THEORY OF OBLIGATION (2007).

Daniel D. Barnhizer, Symposium Article, *Propertization Metaphors for Bargaining Power and Control of the Self in the Information Age*, 54 CLEVE. ST. L. REV. 69 (2006)

DANIEL D. BARNHIZER, *Bargaining Power in Contract Theory*, in LARRY A. DiMATTEO, ROBERT A. PRENTICE, BLAKE D. MORANT & DANIEL D. BARNHIZER, VISIONS OF CONTRACT THEORY: RATIONALITY, BARGAINING AND INTERPRETATION (Carolina Academic Press 2006)

Daniel D. Barnhizer, *Inequality of Bargaining Power*, 76 COLO. L. REV. 139 (2005)

Daniel D. Barnhizer, *Givings Recapture: Funding Public Acquisition of Private Property Interests on the Coasts*, 27 HARV. ENVTL. L. REV. 295 (2003)

Daniel D. Barnhizer, Recent Developments, *Joint and Several Liability and Contribution Under CERCLA Sections 107(a)(4)(B) and 113(f)(1)*, 18 HARV. ENVTL. L. REV. 563 (1994)

Daniel D. Barnhizer, Essay, *An American Perspective on Benefits and Costs of Conciliation and Litigation: Resolution of Corporate Governance, Securities, and Commercial Disputes*, (book chapter as part of the proceedings of the Second Law & Culture Conference, “Court Culture – Conciliation culture or Litigation Culture?” University of Bialystok, Anna Piszcz, Izabela Krasnicka & Maciej Etel, eds. (University of Bialystok 2014)

Daniel D. Barnhizer, Book Review, *Ken Adams’ Manual of Style for Contract Drafting* (3d ed. 2013) (2013), *available at*, CONTRACTSPROFBLOG, “Daniel Barnhizer Reviews Ken Adams’ Manual of Style for Contract Drafting (3d ed.), June 10, 2013, [http://lawprofessors.typepad.com/contractsprof\\_blog/2013/06/dan-barnhizer-reviews-ken-adams-manual-of-style-for-contract-drafting-3d-ed.html](http://lawprofessors.typepad.com/contractsprof_blog/2013/06/dan-barnhizer-reviews-ken-adams-manual-of-style-for-contract-drafting-3d-ed.html)

Co-author (with Mary Bedikian), amicus curiae brief in support of petition for certiorari in *Bruni v. Didion* (2008) 160 Cal.App.4th 1272 (petn. for review pending, petn. filed Apr. 17, 2008), Supreme Court Case No. S162755

Daniel D. Barnhizer, Symposium Introduction, *Power, Inequality and the Bargain: The Role of Bargaining Power in the Law of Contract*, 2006 Mich. St. Univ. L. Rev. 841 (2006)

Daniel D. Barnhizer, *CISG as an Alternative System of Default Rules Governing The Sale of Goods*, in RANDY E. BARNETT, *CONTRACTS: CASES AND DOCTRINE* (3d ed. 2003)

Daniel D. Barnhizer, *Mentoring as Duty and Privilege*, MICH. BAR J., January 2003, at 46

Op-Ed: Adam Mossoff & Daniel D. Barnhizer, “Michigan Prohibition on Interstate Shipment of Wine is Unconstitutional Discrimination,” *Detroit Free Press*, December 6, 2004.

Co-author, *amicus curiae* brief (with Adam Mossoff) on behalf of Virginia Wineries Association in *Swedenburg v. Kelly*, 544 U.S. 460 (2005).

### **Works in Progress:**

Daniel Barnhizer & Ken Grady, *Exploring the Normative Implications of Automation of Contract Law and Dispute Resolution*

Daniel Barnhizer, Franklin Snyder, Wayne Barnes, *UNIFORM COMMERCIAL CODE BY WHITE & SUMMERS* (7<sup>th</sup> ed.) (forthcoming 2017-2018)

Daniel D. Barnhizer, *Standing and Collusive Settlements: EPA, Preferred NGOs and Sue-And-Settle-Strategies*

Daniel D. Barnhizer, *Chocolate & Slavery: Using Private Law to Induce Market Failures in Trade for Goods Produced Through Slave Labor*

Daniel D. Barnhizer, *Legal Myths and Bargaining Power*

Daniel D. Barnhizer, *Robber Barons, Organized Labor, and the Death of Freedom of Contract: The History of Inequality of Bargaining Power in American Contract Law*

### **Conferences, Workshops & Lectures**

Participant, *LEC Workshop for Law Professors on Elinor Ostrom and the Spontaneous Order Tradition*, Law & Economics Center, Henry G. Manne Program in Law & Economic Studies, Arlington, VA, Oct. 26-28, 2017

Participant and Colloquium Co-Developer (with Prof. Todd Zwyicki, George Mason University Antonin Scalia School of Law and Prof. Adam Candeub, Mich. St. U. College of Law), *Liberty and the Rule of Law*, Federalist Society / Liberty Fund Colloquium, Charlotte, NC, October 13-14, 2017

Moderator, *Challenges to the Rule of Law*, sponsored by the Federalist Society at the 2017 American Political Science Association Annual Meeting, August 31-Sept. 3, 2017.

Participant, Marine Corps Officer Selection Officer Educators' and Key Leaders' Workshop, Marine Corps Base Quantico, Virginia, June 5-9, 2017

Lecturer, International Business Transactions, Vytautas Magnas University Law Faculty, Kaunas, Lithuania, May 15-24, 2017

Respondent and commentator, *The Left's War on Free Speech* (Comments to presentation by Dr. Maxwell Goss), sponsored by the Federalist Society, Michigan State University College of Law, April 18, 2017

Presenter (with Ken Grady), *Exploring the Normative Implications of Automation of Contract Law and Dispute Resolution*, Empirical Legal Studies and Legal Analytics: Shall the Twain Meet?, Michigan State Law Review Symposium, Michigan State University College of Law, E. Lansing, MI, March 23-24, 2017

Respondent and commentator, *Libertarian Originalism versus Conservative Originalism* (Comments to presentation by Prof. Lee J. Strang, John W. Stoepler Professor of Law & Values, University of Toledo College of Law), sponsored by the Federalist Society, Southern Illinois University School of Law, March 10, 2017

Guest Lecturer, *Inequality of Bargaining Power*, Southern Illinois University School of Law, Invited by Professor George Mocsary to present to the 1L class on contracts, March 10, 2017

Presenter, *Exploring the Normative Implications of Automation of Contract Law and Dispute Resolution*, Twelfth Annual International Conference on Contracts, Southwestern Law School, Los Angeles, CA, February 23-25, 2017

Respondent and commentator, *Natural Law: The Necessary base for Just Positive Law*, (Comments to presentation by Prof. Jeffrey Brauch, Regent University School of Law), Michigan State University College of Law, Nov. 7, 2016

Respondent and commentator, *Property Law and Conservation*, (Comments to presentation by Prof. Donald Kochan, Chapman University, Dale E. Fowler School of Law), Michigan State University College of Law, Oct. 27, 2016

Participant, *LEC Workshop for Law Professors on Public Choice Economics*, Law & Economics Center, Henry G. Manne Program in Law & Economic Studies, Arlington, VA, Oct. 5-7, 2016

Discussion leader and participant, *Environmental Protection and Free Markets*, Federalist Society / Templeton Foundation Colloquium, Annapolis, MD, Aug. 20-21, 2016.

Presenter, *Contracts and Automation: Exploring the Normativity of Codability in the Context of E.U. Consumer Protection Directives*, at 4<sup>th</sup> Annual Polish-Portuguese PhD Students' Conference on Competition Law, University of Białystok Faculty of Law, Białystok, Poland, June 10, 2016

Lecturer, Comparative Contract Theory, Vytautas Magnas University Law Faculty, Kaunas, Lithuania, May 16-25, 2016

Respondent and commentator, Presentation by Professor William Wagner, Abortion and the Constitution, March 22, 2016

Guest Lecturer, *Inequality of Bargaining Power*, Southern Illinois University School of Law, Invited by Professor George Mocsary to present to the 1L class on contracts, March 2016

Presenter, *Contracts and Automation: Exploring the Normativity of Codability*, 11<sup>th</sup> International Conference on Contracts, St. Mary's University School of Law, San Antonio, TX, February 26-27, 2016

Lecturer, International Business Transactions, Vytautas Magnas University Law Faculty, Kaunas, Lithuania, November 30-December 9, 2015

Presenter, *The Two-Minute Hate, Cecil the Lion, and the Rule of Law*, Presentation to at University of Białystok Faculty of Law, November 26, 2015

Discussion Leader, Federalist Society / Templeton Foundation Colloquium, "*Theory of the Firm*", Philadelphia, PA, Nov. 6-7, 2015

Presenter, *The Two-Minute Hate, Cecil the Lion, and the Rule of Law*, at Hunting for Answers about Sustainable Use Conservation Conference, University of California, Hastings College of Law, San Francisco, CA, October 30, 2015

Presenter, *Some Animals Are More Equal Than Others: Sue & Settle, Public Participation and Private Control of Agency Agendas in Environmental Decisionmaking*, Locus Standi Across Legal Cultures, University of Białystok Faculty of Law, May 14-15, 2015.

Lecturer, Comparative Contract Theory, Vytautas Magnas University Law Faculty, Kaunas, Lithuania, May 19-29, 2015

Lecturer, Rule of Law Jurisprudence, University of Białystok Faculty of Law, Poland (June 2014)

Presenter, *Assent in Adhesion Contracts: Reassessing Assent-Based Critiques of Online Contracts of Adhesion*, 9<sup>th</sup> International Conference on Contracts, St. Thomas University School of Law, Miami, Florida, February 21, 2014

Presenter, *Assent in Adhesion Contracts: Reassessing Assent-Based Critiques of Online Contracts of Adhesion*, Transatlantic Perspectives on Commercial Contract Law II Conference, University of Edinburgh, Aug. 30-Sept. 2, 2013

Lecturer, Rule of Law Jurisprudence, University of Bialystok Faculty of Law, Poland (June 2013)

Lecturer, Comparative Contract Theory, Vytautas Magnus University Law Faculty, Kaunas, Lithuania, May 20-29, 2013

Presenter, *An American Perspective on Benefits and Costs of Conciliation and Litigation: Resolution of Corporate Governance, Securities, and Commercial Disputes*, Second Law & Culture Conference, "Court Culture – Conciliation culture or Litigation Culture?" University of Bialystok Widzial Prawa, Bialystok, Poland, May 16-17, 2013

Participant, Freedom of Contract Colloquium, Presented by The Federalist Society and the John Templeton Foundation, April 12-13, 2013

Presenter, "*Chocolate & Slavery: Using Private Law to Induce Market Failures in Trade for Goods Produced Through Slave Labor*," Eighth International Conference on Contracts, Texas Wesleyan University School of Law, February 22-23, 2013

Lecturer, University of Bialystok Faculty of Law, Poland (June 2012)

Symposium Organizer & Presenter, "Lawyers as Conservators: Will 21<sup>st</sup> Century Business, Regulatory, and Educational Challenges Destroy the Lawyer's Role As Guardian of Legal Institutions and the Rule of Law?," Michigan State Univ. College of Law, (Sept. 8-9, 2011)

Lecturer, Bialystok University Faculty of Law, Poland (June 2011)

Lecturer, University of Lodz Faculty of Law, Poland (May 2011)

Presenter, *Liability waivers, exculpatory clause, releases and the oddball injury: foreseeability at the Intersection of Contract and Tort*, Spring Conference on Contracts, Stetson Law School (February 2011)

Lecturer, Bialystok University, Poland (July 2010)

Commentator and Rapporteur, Moderator, Opening Remarks, *Regulating and Deregulating Lawyers in the 21<sup>st</sup> Century Conference*, London, England, June 3-4 (2010)

Panel Moderator, Moving Beyond "Racial Blindsight"? The Influence of Social Science Evidence After the North Carolina Racial Justice Act, Michigan State Univ. College of Law, April 7-8, 2010.

Presenter, *Context as Power: Defining the Field of Battle for Advantage in Contractual Interactions*, Wake Forest School of Law, Symposium – Contracts in Context: Identity, Power, and Contractual Justice, March 26, 2010

Panel Moderator, *Vive la Difference!: Comparative Contract Theory*, Spring Conference on Contracts, UNLV Law School (February 2010)

Seminar Presentation, *Context as Power*, William & Mary Law School (November 2009)

Presenter, *Context as Power*, Central States Law Schools Association, Annual Meeting, (October 2009)

Lecturer, University of Lodz, Lodz, Poland (May 2009)

Presenter, *Myth and the Rule of Law*, Central States Law Schools Association, Annual Meeting, (October 2008)

Presenter, *Postmodernism and the Rule of Law: A Critique*, Central Michigan University Ethics Center (April 2008)

Presenter, *The Legal Mythology of Bargaining Power*, Central States Law Schools Association, Annual Meeting, (October 2007)

Panel Commentator/Respondent, “Bargaining in the Shadow of the Law (or Not),” Marquette University Law School (April 2007)

Guest Lecturer, Jinan University Law School, Guangzhou, China (May 2006)

Organizer and Moderator, Symposium, *Power, Inequality & the Bargain: The Role of Bargaining Power in the Law of Contract* (March 2006)

“Manufacturing the Appearance of Assent through Click-Wrap Technology,” Central States Law Schools Association, Annual Meeting (November 2005)

Panelist, “Should a Free Society Allow Affirmative Action Preferences in Higher Education?” Toward a Fair Michigan – Intercollegiate Studies Institute, November 14, 2005

Panel Moderator, “Transparency, Corporate Social Responsibility, and the Role of the Civil Society,” 1st Annual Conference on International Trade in the Americas – Trade and Foreign Investment in the Americas: The Impact on Indigenous Peoples and the Environment (October 2005)

“The History of Bargaining Power as a Legal Concept,” The Association for the Study of Law, Culture and the Humanities (March 2005)

“Bargaining Power in Contract Theory,” Central States Law Schools Association, Annual Meeting (November 2004)

“The Structure of American Corporate Law and Potential Impacts of the Proposed Sarbanes-Oxley Act,” Broad College of Business Broad Business Student Summer Camp, June 2002

**Honors:**

- Metų žmogus [“Man of the Year Award”] by Vytautas Magnus University Law Faculty, June 2017

**Courses:**

- Basic Income Tax
- International Commercial ADR: Negotiation, Mediation, Arbitration
- Contract Negotiation

- Contracts
- Contract Theory
- Comparative Contract Theory
- Sales & Leases
- Commercial Transactions
- International Business Transactions
- Rule of Law Jurisprudence
- Business Enterprises
- Securities Litigation
- American Legal History
- Land Use Planning

#### **Legal Experience:**

**NanoLogix, Inc.**, Hubbard, OH, 2010-2015  
*Director & Chief Networking Officer (2009-June 2015)*  
*Acting General Counsel (2010-2011)*

**Practical Strategies Institute, LLC**, Chagrin Falls, OH, 2007-present  
*Legal Consultant*

**Coalition for the Advancement of Sino-American Relations**, E. Lansing, MI, 2006-2007, *Founding Member*

**Hogan & Hartson, L.L.P.**, Washington, D.C., 1997-2001  
*Associate*

**Cadwalader, Wickersham & Taft**, Washington, D.C., 1996-1997  
*Associate*

**Squire, Sanders & Dempsey**, Cleveland, OH, Summer 1993, Summer 1994  
*Summer Associate*

#### **Judicial Clerkships**

**The Hon. Richard L. Nygaard**, United States Court of Appeals, 3d Circuit, 1996  
*Law Clerk*

**The Hon. Robert B. Krupansky**, United States Court of Appeals, 6th Circuit; United States District Court, N.D. Ohio (by designation), 1995-1996  
*Law Clerk*

#### **Bar Admissions:**



District of Columbia, 1997 (inactive)

Ohio, 1996

### **Other Positions and Activities**

Member, Editorial Board, *Societas et Jurisprudentia*, Trnava University Faculty of Law (2016-present)

Outside peer reviewer and Board member for Center for Direct Democracy Studies, University of Bialystok, Poland, European Integration and Democracy Series (2014-present)

Program Director, Michigan State Univ. College of Law Poland Summer Study Abroad Program, University of Bialystok Faculty of Law, Bialystok, Poland (2010-present)

Faculty Advisor, Michigan State Law Review (2005-present)

Faculty Advisor, Christian Legal Society, Mich. St. Univ. College of Law Chapter (2009-present)

Faculty Advisor, VIS Arbitration Moot Competition Team (2008-'09, 2009-'10)

Director, Capital City Rifle Club (2008-2010)

Director, NanoLogix, Inc. (January 2009-July 2015)