

## DAVID H. BLANKFEIN-TABACHNICK

MSU College of Law • 648 N. Shaw Lane • East Lansing, MI • 48824 • (917) 327-0759 • [dbt@law.msu.edu](mailto:dbt@law.msu.edu)

### 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 AND EXPERIENCE

MICHIGAN STATE UNIVERSITY COLLEGE OF LAW

*Associate Professor of Law*

2017-Present

*Faculty Advisor to Michigan State Law Review*

2017-Present

*College of Law Representative to the University Council & University Senate*

2018-2019

*Assistant Professor of Law*

2014-2017

WASHINGTON UNIVERSITY IN ST LOUIS SCHOOL OF LAW

*Visiting Associate Professor of Law*

2015-2016

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) *Kaplow and Shavell and the Priority of Income Taxation and Transfer*, 69 HASTINGS LAW JOURNAL 1 (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).

- 2) *Property, Duress and Consensual Relationships*, 114 MICHIGAN LAW REVIEW 1013 (2016) (reviewing Seana Shiffrin, *Speech Matters* (Princeton University Press, 2014)).

- 3) *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 Balganesh, 117 *Causing Copyright* 31 COLUMBIA LAW REVIEW (2017).

*INTERNATIONAL SCHOLARLY ENGAGEMENT/DISCUSSION*: Bernd Justin Jütte, *Reconstructing European Copyright Law for the Digital Single Market* (Hart Publishing, *Luxemburger Juristische Studien*, Baden-Baden, Germany 2017).

- 4) *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).

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

- 6) *The Rawlsian View of Private Ordering*, 25 SOCIAL PHILOSOPHY & POLICY 288 (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).

- 7) *Taxation, the Private Law, and Distributive Justice*, 23 SOCIAL PHILOSOPHY & POLICY 142 (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).

- 8) *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).

- 9) *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 Hasen, *Liberalism and Ability to Pay Taxation*, 85 TEXAS LAW REVIEW, 1079 (2007).

**NOTABLE CITATION:** David Gamage and Darien Shanske, *Three Essays on Tax Saliency: Market Saliency and Political Saliency*, 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 AWARD**

UNIVERSITY OF VIRGINIA, Honoree for the University-wide *Seven Society Graduate Fellowship for Superb Teaching*.

### **COURSES TAUGHT**

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

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

### **LAW SCHOOL SERVICE**

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

College of Law Representative to the *University Council and University Senate*, 2018-2019

Faculty Advisor, *Michigan State Law Review*, 2017-present

*Faculty Appointments Committee*, 2014-2015, 2015-2016, 2016-2017

*Faculty Programs and Development Committee*, 2014-2015, 2015-2016

*Academic Standards Committee*, 2017-2018

*Faculty Secretary*, 2016-2017

*Admissions Office Recruitment*, 2014-present (providing mock lectures to prospective law students)

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

*Diversity Committee*, 2013-2014

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

#### **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 AND LECTURES**

- 1) Invited Participant, Elinor Ostrom Workshop, George Mason University School of Law, Arlington, VA: October 2017.

- 2) Invited Commentator, Colloquium on Philosophical Approaches to Intellectual Property, George Mason University School of Law, Arlington, VA: May 2017.
- 3) Law Faculty Workshop, American University, Washington College of Law, Washington, D.C.: March 28, 2017.
- 4) 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.
- 5) "Distributive Goals and Private Law Rules" Law Faculty Workshop, Washington University in St. Louis School of Law: September 2015.
- 6) Invited Commentator, Floyd Abrams Institute for Freedom of Expression, Third Freedom of Expression Scholars Conference, Yale Law School: May 2015.
- 7) "Distribution and Private Law Rules," Legal Theory Workshop, University of Maryland School of Law: October 2014.
- 8) "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.
- 9) Invited Discussant, Research Roundtable on Law's Information Revolution, George Mason University School of Law, Arlington, VA: September 2013.
- 10) 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.
- 11) "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.
- 12) "Experiences Teaching American Law in China," Invited Lecture, *Connecticut Law Review Symposium*, Are Law Schools Passing the Bar, Hartford, Connecticut: November 2012.
- 13) Invited Discussant, Migration of Criminal Law Principles from National to International Law, The Institute for Advanced Study, Hebrew University, Israel: Winter 2011.
- 14) "A Property Law Perspective on the Tax and Transfer Preference," Big Ten Untenured Conference, Indiana University School of Law: August 2011.
- 15) 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.
- 16) "Private Ordering and Voluntary Associations," Roundtable: *New Voices in Legal Theory*, Cardozo School of Law: May 2008.
- 17) Invited Participant, Conference on Non-Profit Law and Philanthropy, *Taxing Philanthropy*, held by Dean David M. Schizer at Columbia Law School: November 2007.
- 18) *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.
- 19) "Distributive Justice and Contractual Associations," Law Faculty Workshop, University of Virginia School of Law: March 2007.

- 20) "Distributive Justice and Contractual Associations," Social Philosophy and Policy Center Conference: *Freedom of Association*, La Jolla, CA: June 2007.
- 21) "Rawls and Tort as Corrective Justice," Law Faculty Workshop, University of Miami School of Law: April 2006.
- 22) "Rawls and Torts," Law Faculty Workshop, University of Illinois College of Law: April 2006.
- 23) "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.
- 24) "Taxation, Private Law and Distributive Justice," Social Philosophy and Policy Center, Conference: *Taxation, Economic Prosperity and Distributive Justice*, La Jolla, CA: June 2005.
- 25) "Rawls and Tort Theory," "Bird Wood" Law Faculty Research Conference, University of Virginia School of Law: January 2005.
- 26) "Rawls, Bankruptcy and Contracts," Law Faculty Workshop, University of Virginia School of Law: April 2004.
- 27) "Rawls, Bankruptcy and Contracts," Law Faculty Workshop, George Washington University School of Law: March 2004.
- 28) "Fried, Kronman, and the Philosophy of Contract Law," Invited Lecture to First Year Law Students, George Washington University School of Law: Spring 2004.
- 29) "Tax and the Philosopher's Stone," Law Faculty Workshop, George Washington University School of Law: November 2002.
- 30) "The Philosophy of Contract Law," Invited Lecture to First Year Law Students, University of Virginia School of Law: Fall 2001.