

**PROFESSIONAL HISTORY**

**ACADEMIC POSITIONS**

2014 – Present	Carolina Distinguished Professor of Law Emeritus
1997 – 2014	Carolina Distinguished Professor of Law & Director, Office of Tort Law Studies University of South Carolina
Spring 2008	Visiting Professor of Law University of Navarra, Pamplona, Spain
2002 & 2006	Visiting Professor of Law Santa Anna University, Pisa, Italy
Winter–Spring 1999	Distinguished Fulbright Chair in Law and Economics Santa Anna University, Pisa, Italy
1993 – 1997	James Byrnes Scholar & Professor of Tort Law University of South Carolina
Spring 1992	Visiting Fellow, University College University of Oxford, England
Winter 1992	Visiting Fellow, Corpus Christi College University of Oxford, England
Fall 1991	Sparkman Distinguished Visiting Professor of Law University of Alabama
1989 – 1993	Webster Professor of Tort Law University of South Carolina
Fall 1985	Visiting Professor of Law University of Michigan
Summer 1984	Visiting Professor of Law Indiana University
Summer 1978	Visiting Professor of Law University of Texas
1977 – 1978	Visiting Associate Professor of Law University of Nebraska

1973 – 1989            Assistant, Associate, & Full Professor of Law  
University of South Carolina

### **COURSES TAUGHT**

Torts; Advanced Torts; Tort Theory Seminar; Products Liability; Products Liability Research Problems; Law, Science, & Technology Seminar; American Tort Law; Products Liability Law in America and Europe

### **OTHER PROFESSIONAL EXPERIENCE**

1976 – Present            Consultant to litigants, insurers, financial institutions, the A.L.I., and governments (U.S., E.U., various states, British Law Commission, Scottish Law Commission) on tort reform, products liability, punitive damages, and other tort law matters

1972 – 1973            Law Clerk, Chief Justice Frank Kenison  
New Hampshire Supreme Court

1971 – 1972            Private Practice, Holland & Hart, Denver

### **PUBLICATIONS**

#### **BOOKS**

**PRODUCTS LIABILITY IN A NUTSHELL** (West, 10th ed. 2023)

**PRODUCTS LIABILITY LAW** (West hornbook, 4th ed. 2022)

**PRODUCTS LIABILITY AND SAFETY – CASES AND MATERIALS** (Foundation Press, 8th ed. 2020, with M. Davis), & annual supplements

**PRODUCTS LIABILITY IN A NUTSHELL** (West, 9th ed. 2015)

**PRODUCTS LIABILITY LAW** (West hornbook, 3d ed. 2015)

**PRODUCTS LIABILITY AND SAFETY – CASES AND MATERIALS** (Thomson/Foundation Press, 7th ed. 2015, with M. Davis); & Teacher’s Manual

**OWEN & DAVIS ON PRODUCTS LIABILITY (4 VOLUMES)** (Thomson Reuters, 4th ed. 2014, with M. Davis), & annual supplements

**PRODUCTS LIABILITY LAW** (Thomson/West, 2d ed. 2008)

**PRODUCTS LIABILITY IN A NUTSHELL** (Thomson/West, 8th ed. 2008),  
Chinese translation (Chunhua Dong trans., Press of China University of Political  
Science and Law, 2012)

**PRODUCTS LIABILITY AND SAFETY – CASES AND MATERIALS** (Thomson/Foundation  
Press, 5th ed. 2007, with Montgomery & Davis); & Teacher’s Manual

**PRODUCTS LIABILITY LAW** (Thomson/West hornbook treatise, 2005)

**PRODUCTS LIABILITY IN A NUTSHELL** (with J. Phillips, Thomson/West, 7th ed. 2005)

**PRODUCTS LIABILITY AND SAFETY – CASES AND MATERIALS** (Foundation Press, 4th ed.  
2004, with J. Montgomery & M. Davis); & Teacher’s Manual

**MADDEN & OWEN ON PRODUCTS LIABILITY** (3 vols.) (West, 3d ed. 2000, with S.  
Madden & M. Davis)

**PRODUCTS LIABILITY AND SAFETY – CASES AND MATERIALS** (Foundation Press, 3d ed.  
1996, with J. Montgomery & W.P. Keeton); Teacher’s Manual (with M. Davis);  
Problems Supplement (with P. LeBel & M. Davis)

**PHILOSOPHICAL FOUNDATIONS OF TORT LAW**, editor and author (Oxford Univ. Press:  
Clarendon, 1995), chapters translated into Spanish by Professor Pablo Suárez of  
Palermo University, Buenos Aires, Argentina

**PRODUCTS LIABILITY AND SAFETY – CASES AND MATERIALS** (Foundation Press, 2d ed.  
1989, with W.P. Keeton, J. Montgomery, and M. Green); Teacher’s Manual (with  
Green, 1990); Problems Supp. (with P. LeBel, 1995)

**PROSSER AND KEETON ON THE LAW OF TORTS**, 5th edition of **PROSSER ON TORTS**  
(West Publishing Co., 1984, with W.P. Keeton, D. Dobbs, and R. Keeton); 1988  
Supp. (with D. Dobbs & R. Keeton)

**PRODUCTS LIABILITY AND SAFETY – CASES AND MATERIALS** (Foundation Press, 1980,  
with W.P. Keeton & J. Montgomery)

#### **JOURNAL ARTICLES, BOOK CHAPTERS, ESSAYS**

*Products Liability Law in America and Europe*, in **HANDBOOK OF RESEARCH ON  
INTERNATIONAL CONSUMER LAW**, ch. 9 (with G. Howells) (Elgar, Great Britain,  
2d ed. 2018)

*Punitive Damages as Restitution*, in **THE POWER OF PUNITIVE DAMAGES—IS EUROPE  
MISSING OUT?** 119 (L. Meurkens & E. Nordin, eds.) (Intersentia, Antwerp, 2012)

*Expectations in Tort*, 44 **ARIZ. ST. L. REV.** 1287 (2011)

*Epstein's Razor*, 4 J. Tort Law (2010), <http://www.bepress.com/jtl/vol3/iss1/art2/>

*Bending Nature, Bending Law*, 62 FLA. L. REV. 569 (2010)

*Aggravating Punitive Damages*, 158 U. PA. L. REV. PENNUMBRA 181 (2010),  
<http://www.pennumbra.com/responses/02-2010/Owen.pdf>

*Dangers in Prescription Drugs: Filling a Private Law Gap in the Healthcare Debate*,  
42 Conn. L. Rev. 733 (2010)

*Products Liability Law in America and Europe*, in HANDBOOK OF RESEARCH ON  
INTERNATIONAL CONSUMER LAW, ch. 9 at 224 (with G. Howells) (Elgar, Great  
Britain 2010)

*Figuring Foreseeability*, 44 WAKE FOREST L. REV. 1277 (2009)

*Design Defect Ghosts*, 74 BROOK. L. REV. 927 (2009)

*Design Defects in Prescription Drugs: Intersections of Law and Science in American  
Products Liability Law*, in MEDIZIN UND HAFTUNG: FESTSCHRIFT FÜR ERWIN  
DEUTSCH zum 80. Geburtstag 389 (Ahrens, von Bar, Fischer, Spickhoff, Taupitz,  
Hrsg., Springer-Verlag Heidelberg, Berlin Heidelberg 2009)

*Against Priority*, 37 SW. U. L. REV. 557 (2008)

*Design Defects*, 73 MO. L. REV. 291 (2008)

*The Five Elements of Negligence*, 35 HOFSTRA L. REV. 1671 (2007)

*The Evolution of Products Liability Law*, 26 REV. LITIG. 955 (2007)

*Special Defenses in Products Liability Law*, 70 MO. L. REV. 1 (2005)

*Proof of Product Defect*, 93 KY. L.J. 1 (2005), reprinted 55 DEFENSE L.J. 487 (2006)

*Information Shields in Tort Law*, in EXPLORING TORT LAW, ch. 9 at 295 (S. Madden ed.,  
Cambridge Univ. Press, Great Britain, 2005)

*Inherent Product Hazards*, 93 KY. L.J. 377 (2004)

*Proving Negligence in Products Liability Litigation*, 36 ARIZ. ST. L. REV. 1003 (2004)

*The Puzzle of Comment j*, 55 HASTINGS L.J. 1377 (2004)

*Federal Preemption of Products Liability Claims*, 55 S.C. L. REV. 411 (2003)

- A Decade of Daubert*, 80 DENVER U. L. REV. 345 (2003), reprinted 52 DEFENSE L.J. 411 (2003)
- Figuring Responsibility and Fault*, 13 KINGS COLLEGE (UNIV. OF LONDON) L.J. 227 (2002)
- Manufacturing Defects*, 53 S.C. L. REV. 851 (2002)
- Duty Rules*, 54 VAND. L. REV. 767 (2001)
- Products Liability: User Misconduct Defenses*, 52 S.C. L. REV. 1 (2000)
- Tort Liability for Medical Experimentation*, in FREEDOM & CONTROL OF BIOMEDICAL RESEARCH 357 (Deutsch & Taupitz eds., Springer: Berlin, 2000)
- Products Liability Law in America*, 11 DANNO E RESPONSABILITA 1999 (Italian trans. by Giovanni Comandé)
- “Strict” Products Liability in America & Europe*, in FESTSCHRIFT FÜR ERWIN DEUTSCH 305 (Springer-Verlag: Berlin, 1999)
- Products Liability*, in 2 THE PHILOSOPHY OF LAW: AN ENCYCLOPEDIA 689 (Gray ed., Garland Publishing: New York, 1999)
- Products Liability Law Restated*, 49 S.C. L. REV. 273 (1998); *American Products Liability Law Restated*, 6 CONSUMER L.J. 161 (1998) [European version, Belgium]
- Toward a Proper Test for Design Defectiveness: “Micro-Balancing” Costs and Benefits*, 75 TEX. L. REV. 1661 (1997)
- Risk-Utility Balancing in Design Defect Cases*, 30 U. MICH. J.L. REFORM 239 (1997)
- Defectiveness Restated: Exploding the “Strict” Products Liability Myth*, 1996 U. ILL. L. REV. 743
- Philosophical Foundations of Fault in Tort Law*, in PHILOSOPHICAL FOUNDATIONS OF TORT LAW 201 (D. Owen ed., Oxford University Press: Clarendon, 1995), in Spanish translation by Professor Pablo Suárez, Palermo University, Buenos Aires, Argentina for publication in Colección *Nuevo Pensamiento Jurídico* of Universidad de Los Andes Law Review, Bogotá, Colombia
- Why Philosophy Matters to Tort Law*, in PHILOSOPHICAL FOUNDATIONS OF TORT LAW 1 (D. Owen ed., Oxford University Press: Clarendon, 1995)
- Products Liability as a Narrative Portrait*, 17 J. PROD. & TOX. LIAB. 359 (1995)

- The Graying of Products Liability Law: Paths Taken and Untaken in the New Restatement*, 61 TENN. L. REV. 1241 (1994)
- A Punitive Damages Overview: Functions, Problems and Reform*, 39 VILL. L. REV. 363 (1994)
- The Moral Foundations of Products Liability Law: Toward First Principles*, 68 NOTRE DAME L. REV. 427 (1993)
- The Fault Pit*, 26 GA. L. REV. 703 (1992)
- Products Liability: Principles of Justice for the 21st Century*, 11 PACE L. REV. 63 (1990), revised as *Products Liability Principles of Justice*, 20 ANGLO-AM. L. REV. 238 (Great Britain, 1991)
- Engineering Against Products Liability: Principles and Problems*, 2 FORENSIC ENG'G 39 (1990)
- The Moral Foundations of Punitive Damages*, 40 ALA. L. REV. 705 (1989)
- Products Liability and the Engineer: Principles, Problems, and Reform*, 17 THE BRIDGE 8 (Summer 1987) (National Academy of Engineering)
- Respect for Law & Man: The Tort Law of Chief Justice Kenison*, 11 VT. L. REV. 389 (1986)
- The Intellectual Development of Modern Products Liability Law: A Comment on Priest's View of the Cathedral's Foundations*, 14 J. LEGAL STUD. 529 (1985)
- Deterrence and Desert in Tort: A Comment*, 73 CAL. L. REV. 665 (1985)
- Civil Punishment and the Public Good*, 56 S. CAL. L. REV. 103 (1982)
- Problems in Assessing Punitive Damages Against Manufacturers of Defective Products*, 49 U. CHI. L. REV. 1 (1982)
- Rethinking the Policies of Strict Products Liability*, 33 VAND. L. REV. 681 (1980)
- The Highly Blameworthy Manufacturer: Implications on Rules of Liability and Defense in Products Liability Actions*, 10 IND. L. REV. 769 (1977)
- Punitive Damages in Products Liability Litigation*, 74 MICH. L. REV. 1257 (1976)
- Reflections on the Theory and Administration of Strict Tort Liability for Defective Products*, 27 S.C. L. REV. 803 (1976) (with J. Montgomery)

## MISCELLANEOUS PUBLICATIONS

- Foreword*, THE LAW OF PRODUCT LIABILITY (Howells, ed., Butterworths, 2d ed. 2007)
- Book Review, The Law of Product Liability* (Howells, ed.), 11 TORTS L.J. 97 (2003)
- Defective Food and Drink*, 158 PRODUCTS LIABILITY ADVISORY 1 (April 2002)
- Manufacturing Defect Tests*, 157 PRODUCTS LIABILITY ADVISORY 1 (March 2002)
- Warnings Don't Trump Design: The Rise and Fall of §402A Comment J*,  
PRODUCTS LIABILITY ADVISORY 1 (Nov. 2001)
- Publications and Products Liability*, 141 PRODUCTS LIABILITY ADVISORY 1 (Nov. 2000)  
(with M. S. Madden and M. Davis)
- Product Outlaws*, Transcript of Remarks, *Symposium, The Restatement (Third) of  
Torts: And the Future of Tort Law*, 10 KANS. J.L. & PUB. POL'Y 126 (2000)
- Musings on Modern Products Liability Law: A Foreword*, 17 SETON HALL L.  
REV. 505 (1987)
- Foreword: The Use and Control of Punitive Damages*, 11 WM. MITCHELL L. REV.  
309 (1985)
- Products Liability Defenses Based on User Misconduct*, in PROCEEDINGS OF THE  
SOUTHERN METHODIST UNIVERSITY INSTITUTE ON PRODUCTS LIABILITY, ch. 11 at  
11–1 (Matthew Bender 1983)
- Products Liability: Proposals for Reform*, CAROLINA LAW. 7 (Vol. 3 1982)
- Countersuits Against Attorneys: A Preface*, 33 S.C. L. REV. 313 (1981)
- Crashworthiness Litigation and Punitive Damages*, 4 J. PROD. LIAB. 221 (1981)
- Restructuring Products Liability Law*, 16 TRIAL 58 (Nov. 1980)
- Products Liability: Substantive Developments*, 73 LAW LIBR. J. 958 (1980)
- Rethinking Accident Law Goals—Compensation, Loss Shifting, Loss Spreading*, 3  
INS., NEGLIGENCE & WORKMEN'S COMP. REP. 1, S.C. Bar (1979)
- Punitive Damages in Strict Tort Products Liability Actions*, THE BULLETIN 3, S.C. Trial  
Lawyers Ass'n (June 1975)

## AWARDS

2022 – *Robert B. McKay Law Professor Award*, ABA Tort Trial & Insurance Practice Section  
2013 – *G.G. Dowling Faculty Award*, USC Law School  
2006 – *Book Award* for PRODUCTS LIABILITY LAW (Thomson/West 2005), USC Law School  
1999 – *Fulbright Distinguished Chair in Law and Economics*, Santa Anna University, Pisa, Italy  
1996 – *Research & Scholarship Prize* (Professional Schools), USC  
1996 – *Outstanding Research Award*, USC Law School

## SELECTED ADDRESSES AND TESTIMONY

**ADDRESSES:** *Foreseeability in Morals and Tort*, Wake Forest Law; *Design Defect Ghosts*, Brooklyn Law; *American Tort Law Lectures*, Pamplona, Spain; *Against Priority*, Southwestern Univ., L.A.; *The Third Restatement*, Univ. Texas; *Comparative Products Liability Law Lectures*, Barcelona, Spain and Pisa, Italy; *Impact of Daubert*, AALS, D.C., and SEALS, Palm Beach; *Products Liability Law in the U.S. – Trends and Controversies*, British Institute for International and Comparative Law, London; *Information Shields in Tort Law*, Pace Law School, White Plains, NY; *Damages in American Tort Law*, Univ. Florence, Italy; *American Tort Law*, Santa Anna Univ., Pisa, Italy; *Global Products Liability Law*, Santa Anna Univ.; *Medical Experimentation Liability & American Products Liability Law*, Univ. Göttingen, Germany; *Restating Products Liability Law*, Univ. Tenn. & Texas, BIICL, London, ABA Appellate Judges Conf., Nova Scotia, Univ. Tokyo, Waseda Univ., Japan; *Design Defectiveness and Design Defect Ghosts*, Univ. Texas and Brooklyn Law; *Micro-Balancing Costs and Benefits*, Univ. Mich. and Univ. Texas; *Tort Reform in the Late 20th Century*, The Conference Board, Wash., D.C.; *Punitive Damages—History, Purposes, Moral Foundations, and Problems*, Univ. Oxford, Univ. Mich., Univ. Tenn., & Villanova Univ.; *U.S. Products Liability*, and *Moral Foundations of Products Liability Law*, Univ. Ga., Indiana Univ., Univ. London (Kings College), Univ. Oxford, Univ. Birmingham, Univ. Manchester, Univ. Sheffield, England, National Univ., Galway, Ireland, Univ. Göttingen, Santa Anna Univ., Pisa, Univ. Brescia, Univ. Luiss Guido Carli, Rome; *Prenatal Harm & Products Liability Reform*, La. Judicial College, New Orleans; *The Fault Pit*, Univ. Ga.; *Products Liability Principles of Justice*, Dyson Lecture, Pace Univ.; *Tort Law in the 21st Century*, Clifford Lecture, DePaul Univ.; *Duty Rules*, Vanderbilt Univ.; various tort law, products liability law, and punitive damages addresses at the National Academy of Eng'g, D.C.; Technical Inst. of Vienna, Austria; National Innovation Workshop, La. Judiciary; Conference on Public Participation in Risk Management, Yale Univ.; Emory Univ. Law & Econ. program, Amer. Ass'n of Law Libraries, Fourth Circuit Court of Appeals Judicial Workshop, ABA, and AALS.

**TESTIMONY:** 1974 – c. 2003, on reform of tort law, products liability, and punitive damages: U.S. Senate Commerce Comm., U.S. Senate Judiciary Comm., U.S. House of Representatives Commerce Comm., U.S. House of Representatives Judiciary Comm., and various state legislative committees

## EDUCATION

J.D. *cum laude*, University of Pennsylvania Law School, 1971  
Duke Law School, 1967 – 1969, interrupted by military service  
B.S. (Econ.), University of Pennsylvania (Wharton), 1967

## MILITARY SERVICE

1968 – 1974, NY Army Nat'l Guard; US Army Reserve; US Air Force Reserve, Staff Sergeant

## BAR MEMBERSHIPS

Colo. (1971) (inactive); NY (1981—present); SC (1981—present); NH (1972 – 1998)

## OTHER ACTIVITIES & MEMBERSHIPS

### American Law Institute

*Adviser* (1997 – 2012), RESTATEMENT (3D) OF TORTS: LIABILITY FOR PHYSICAL AND EMOTIONAL HARM

*Editorial Adviser* (1996 – 1998), RESTATEMENT (3D) OF TORTS: PRODUCTS LIABILITY

*Member*, Consultative Groups, RESTATEMENT OF TORTS: LIABILITY FOR ECONOMIC LOSS; RESTATEMENT OF TORTS: APPORTIONMENT; UNIFORM COMMERCIAL CODE ARTICLE 2 (SALES) revision project

### Association of American Law Schools

*Chair*, Torts Section, 1988 – 1989

### National Conference of Bar Examiners

*Member*, Tort Law Exam Drafting Committee, late 1980s until 1993

### Member, *Order of the Coif*

### Member, *Editorial Boards*, past and present

OPINIO JURIS IN COMPARATIONE (Studies in Comparative and National Law), Pisa, Italy  
JOURNAL OF TORT LAW (refereed journal)  
JOURNAL OF PRODUCTS & TOXIC LIABILITY  
PRODUCTS LIABILITY LAW JOURNAL  
RISK – ISSUES IN HEALTH & SAFETY

### *Consultant*

United States Congress (various committees, 1979 – 2003)  
State legislatures, various (1974 – present)  
British & Scottish Law Commissions (1992 – 1998; 2008)  
European Union (2000 – 2001)

### *Honorary Member*

British Institute of International and Comparative Law, Product Liability Forum