

**PROFESSIONAL HISTORY**

**Academic Positions**

1997 – Present	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
Spring 2006	Visiting Professor of Law Santa Anna University, Pisa, Italy
Spring 2002	Visiting Professor of Law Santa Anna University, Pisa, Italy
Winter – Spring 1999	Distinguished Fulbright Chair in Law and Economics Santa Anna University, Pisa, Italy
Winter 1992	Visiting Fellow, Corpus Christi College University of Oxford, England
Spring 1992	Visiting Fellow, University College University of Oxford, England
Fall 1991	Sparkman Distinguished Visiting Professor of Law University of Alabama
1993 – 1997	James Byrnes Scholar & Professor of Tort Law University of South Carolina
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, governments, etc. (U.S., E.U., various states, ALI, British 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**

**OWEN & DAVIS ON PRODUCTS LIABILITY TREATISE** (3 volumes) (with M. Davis, West, 4th ed. 2013) (forthcoming)

**PRODUCTS LIABILITY IN A NUTSHELL** (West, 9th ed. 2013) (forthcoming)

**PRODUCTS LIABILITY LAW** (West, 3d ed. 2013) (forthcoming)

**PRODUCTS LIABILITY AND SAFETY – CASES AND MATERIALS** (Thomson Reuters/Foundation Press, 6th ed. 2010); Teacher’s Manual to same (with J. Montgomery & M. Davis)

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

**PRODUCTS LIABILITY IN A NUTSHELL** (Thomson Reuters/West, 8th ed. 2008)

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

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

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

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

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

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

**PHILOSOPHICAL FOUNDATIONS OF TORT LAW**, editor and contributor (Oxford Univ. Press: Clarendon, 1995), portions presently being translated into Spanish by Professor Pablo Suárez of Palermo University, Buenos Aires, Argentina for publication in *Colección Nuevo Pensamiento Jurídico* of the Universidad de Los Andes Law Review, Bogotá, Colombia

**PRODUCTS LIABILITY AND SAFETY – CASES AND MATERIALS** (Foundation Press, 2d ed. 1989, with annual supplements, with W.P. Keeton, J. Montgomery, and M. Green); *Teacher's Manual* (with Green, 1990); 1993 Supp. (with Green); *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); 1983 & 1985 Supps. (with J. Montgomery)

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

*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***, ch. 9 in HANDBOOK OF RESEARCH ON INTERNATIONAL CONSUMER LAW 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), reprinted 55 DEFENSE L.J. 307 (2006)
- Proof of Product Defect***, 93 KY. L.J. 1 (2005), reprinted 55 DEFENSE L.J. 487 (2006)
- Information Shields in Tort Law***, chapter 9 in EXPLORING TORT LAW (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), reprinted 53 DEFENSE L.J. 203 (2004)
- 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), reprinted, 52 DEFENSE L.J. 199 (2003)
- 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.)
- “Strict” Products Liability in America & Europe*, in FESTSCHRIFT FÜR ERWIN DEUTSCH 305 (Springer-Verlag: Berlin, Germany, 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
- Why Philosophy Matters to Tort Law*, in PHILOSOPHICAL FOUNDATIONS OF TORT LAW 1 (D. Owen ed., Oxford University Press: Clarendon 1995)
- Philosophical Foundations of Fault in Tort Law*, in PHILOSOPHICAL FOUNDATIONS OF TORT LAW 201 (D. Owen ed., Oxford University Press: Clarendon 1995), presently being translated into Spanish 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
- 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 & 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 John Montgomery)

## MISCELLANEOUS

*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 (Australia) (2003)

*Manufacturing Defect Tests*, 157 PRODUCTS LIABILITY ADVISORY 1 (March 2002)

*Defective Food and Drink*, 158 PRODUCTS LIABILITY ADVISORY 1 (April 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 (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)

*Punitive Damages in Strict Tort Products Liability Actions*, THE BULLETIN 3, S.C. Trial Lawyer's Ass'n (June 1975)

## **AWARDS**

2006 – BOOK AWARD, for PRODUCTS LIABILITY LAW (Thomson Reuters/West, 2005), University of South Carolina Law School

1999 – Fulbright Distinguished Chair in Law and Economics, Pisa, Italy

1996 – RESEARCH & SCHOLARSHIP PRIZE (Professional Schools), University of South Carolina

1996 – OUTSTANDING FACULTY RESEARCH AWARD, University of South Carolina Law School

## SELECTED ADDRESSES & TESTIMONY

*ADDRESSES* (since 1990): *Foreseeability in Morals and Tort*, Wake-Forest; *Design Defect Ghosts*, New York; *American Tort Law Lectures*, Pamplona, Spain; *Against Priority*, Sw. U., Los Angeles, Cal.; *The Third Restatement*, Brooklyn Law School and U. Texas; *Comparative Products Liability Law Lectures*, Barcelona, Spain and Pisa, Italy; *Impact of Daubert*, AALS, D.C., 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*, U. Florence, Italy; *American Tort Law*, Santa Anna U., Pisa, Italy; *Global Products Liability Law*, Santa Anna U., Pisa, Italy; *Medical Experimentation Liability & American Products Liability Law*, U. Göttingen, Germany; *Restating Products Liability Law*, London, England, ABA Appellate Judges Conf., Nova Scotia, & U. Tenn.; *Design Defectiveness*, U. Texas; *Micro-Balancing Costs and Benefits*, U. Mich.; *Tort Reform in the Late 20th Century*, The Conference Board, Wash., D.C.; *Punitive Damages--History, Purposes, and Problems*, U. Mich., & Villanova U.; *U.S. Products Liability*, London, Pisa, Brescia, Rome, & Waseda U., Tokyo; *Moral Foundations of Products Liability Law*, U. of Birmingham, London, Manchester, Oxford, Sheffield, Engl., Nat'l U. of Ireland, Galway, U. Ga., & Indiana U.; *Prenatal Harm & Products Liability Reform*, La. Judicial College, New Orleans; *The Fault Pit*, U. Ga.; *Moral Foundations of Exemplary Damages*, Oxford U.; *Products Liability Principles of Justice*, Dyson Lect., Pace U.; *Tort Law in the 21st Century*, Clifford Lecture, DePaul U.; *Duty Rules*, Vanderbilt U.; *Doctrine and Principle at War*, Pace U., N.Y.

*ADDRESSES* (1980 – 1989) on doctrinal, policy, & philosophical aspects of tort law, products liability law, and punitive damages law at the National Academy of Engineering, Technical Institute of Vienna, Austria, National Innovation Workshop, Louisiana Judiciary, Conference on Public Participation in Risk Management, Yale University, Emory University, American Association of Law Libraries, Fourth Circuit Court of Appeals Judicial Workshop, ABA, and AALS

*TESTIMONY* (1974 – 2003) on reform of tort law, products liability, and punitive damages, before U.S. Senate Commerce Committee, U.S. Senate Judiciary Committee, U.S. House of Representatives Commerce Committee, U.S. House of Representatives Judiciary Committee, and before various state legislatures

## EDUCATION

J.D. *cum laude*      University of Pennsylvania Law School, 1971  
Duke Law School, 1967 – 1969, interrupted by military service

B.S. in Economics      University of Pennsylvania (Wharton), 1967

## BAR MEMBERSHIPS

Colorado (1971) (inactive); New York (1981); South Carolina (1981); New Hampshire (1972 – 1998)

## OTHER ACTIVITIES & MEMBERSHIPS

### American Law Institute

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

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

Member, Consultative Group, APPORTIONMENT RESTATEMENT & UNIFORM COMMERCIAL CODE ARTICLE 2 (SALES) revision project

### Association of American Law Schools

*Chair*, Torts Section, 1988 – 1989

### National Conference of Bar Examiners

*Member* (with 5 others), Tort Law Exam Drafting Committee, 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 (1979 – 2003)

State legislatures, various (1974 – present)

British Law Commission (1992 – 1998)

European Union (2000 – 2001)

### *Honorary member*

British Institute of International and Comparative Law, Product Liability Forum