

Richard A. Nagareda

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EMPLOYMENT

- 2001-present **Vanderbilt University Law School**, Nashville, Tennessee
Professor, since 2001
Director, Cecil D. Branstetter Litigation & Dispute Resolution Program,
since 2005
Tarkington Chair in Teaching Excellence (three-year rotating chair), since
2006
Visiting Associate Professor, Fall 2000
Subjects taught: Complex Litigation, Evidence, Administrative Law, Mass
Torts Seminar, Civil Litigation Capstone Seminar
- Fall 2009
(expected) **New York University School of Law**, New York, New York
Visiting Professor
Subjects taught: Complex Litigation
- 1994-2001 **University of Georgia School of Law**, Athens, Georgia
Associate Professor (with tenure), 2000-2001
Associate Professor, 1999-2000
Assistant Professor, 1994-1999
Subjects taught: Administrative Law, Advanced Torts Seminar (Mass
Tort Litigation), Criminal Law, Evidence, Supreme Court Seminar
- Fall 1997 **University of Texas School of Law**, Austin, Texas
Visiting Assistant Professor
Subjects taught: Administrative Law, Mass Torts Seminar
- 1991-1994 **Shea & Gardner**, Washington, D.C.
Associate
Practice areas: Products Liability, Toxic Torts, Insurance Coverage
- 1989-1991 **Office of Legal Counsel**, United States Department of Justice,
Washington, D.C.

Attorney-Advisor
Advised White House and federal administrative agencies on
constitutional and federal statutory matters

1988-1989 **The Honorable Douglas H. Ginsburg**, United States Court of Appeals
for the District of Columbia Circuit, Washington, D.C.
Law Clerk

EDUCATION

J.D. 1988 **The University of Chicago Law School**, Chicago, Illinois
Degree awarded *cum laude*
Executive Editor, *The University of Chicago Law Review*
Order of the Coif
Floyd Russell Mechem Prize Scholarship

A.B. 1985 **Stanford University**, Stanford, California
Degree awarded with honors in Political Science
Firestone Medal for Excellence in Research

PUBLICATIONS

Class Certification in the Age of Aggregate Proof, 84 New York University Law Review 97
(2009)

THE LAW OF CLASS ACTIONS AND OTHER AGGREGATE LITIGATION (Foundation Press 2009)

Pre-publication draft of casebook adopted for courses at University of Arizona – James E. Rogers College of Law, University of Connecticut School of Law, Florida State University College of Law, Harvard Law School, New York University School of Law, Samford University – Cumberland School of Law, and Vanderbilt University Law School

Aggregate Litigation Across the Atlantic and the Future of American Exceptionalism, 62
Vanderbilt Law Review 1 (2009)

Selected for a principal presentation at the New York University School of Law,
American Law Institute & European University Institute conference, *Class Actions in
Europe and North America*, Florence, Italy, June 13, 2008

Foreword to John H. Beisner & Jessica D. Miller, *Litigate the Torts, Not the Mass: A Modest
Proposal for Reforming How Mass Torts are Adjudicated*, Washington Legal Foundation
Monograph (2009), available at <http://www.wlf.org/upload/beisner09.pdf>

Class Settlements under Attack (with Samuel Issacharoff), 156 University of Pennsylvania Law

Review 1649 (2008)

Class Actions in the Administrative State: Kalven and Rosenfield Revisited, 75 *University of Chicago Law Review* 603 (2008)

Public and Private Law Perspectives: Transcript of Professor Richard Nagareda, 37 *Southwestern University Law Review* 677 (2008) (edited remarks from panel discussion on asbestos litigation)

Vioxx and the New World of Settlement for Mass Torts, in AMERICAN LAW INSTITUTE & AMERICAN BAR ASSOCIATION, *MASS LITIGATION* 539-46 (2008) (essay for continuing legal education materials)

MASS TORTS IN A WORLD OF SETTLEMENT (University of Chicago Press 2007)

For essay-length discussions of major themes in this book, see *The Public and Private Faces of Peace for Mass Torts* (January 28, 2008), available at <http://www.pointoflaw.com/columns/archives/004700.php>; *A Question of Settlements*, *Vanderbilt Lawyer*, Summer 2005

FDA Preemption: When Tort Law Meets the Administrative State, 1 *Journal of Tort Law*, issue 1, article 4 (2006) (peer-edited journal from Berkeley Electronic Press), available at <http://www.bepress.com/jtl/vol1/iss1/art4>

Aggregation and its Discontents: Class Settlement Pressure, Class-Wide Arbitration, and CAFA, 106 *Columbia Law Review* 1872 (2006)

Restitution, Rent Extraction, and Class Representatives: Implications of Incentive Awards, 53 *UCLA Law Review* 1483 (2006)

Bootstrapping in Choice of Law after the Class Action Fairness Act, 74 *University of Missouri Kansas City Law Review* 661 (2006)

The Allocation Problem in Multiple-Claimant Representations (with Paul H. Edelman and Charles Silver), 14 *Supreme Court Economic Review* 95 (2006) (peer-edited journal)

Gun Litigation in the Mass Tort Context, in *SUING THE GUN INDUSTRY: A BATTLE AT THE CROSSROADS OF GUN CONTROL AND MASS TORTS* 176 (Timothy D. Lytton, ed., University of Michigan Press 2005)

Administering Adequacy in Class Representation, 82 *Texas Law Review* 287 (2003)

Closure in Damage Class Settlements: The Godfather Guide to Opt-Out Rights, 2003 *University of Chicago Legal Forum* 141

The Preexistence Principle and the Structure of the Class Action, 103 Columbia Law Review 149 (2003)

Tobacco Litigation, in THE OXFORD COMPANION TO AMERICAN LAW 801 (Kermit L. Hall, ed. 2002) (entry for legal encyclopedia)

Autonomy, Peace, and Put Options in the Mass Tort Class Action, 115 Harvard Law Review 747 (2002)

Punitive Damage Class Actions and the Baseline of Tort, 36 Wake Forest Law Review 943 (2001)

Future Mass Tort Claims and the Rule-Making/Adjudication Distinction, 74 Tulane Law Review 1781 (2000)

Compulsion “To Be a Witness” and the Resurrection of Boyd, 74 New York University Law Review 1575 (1999)

Cited and followed in *United States v. Hubbell*, 530 U.S. 27, 50-51 (2000) (Thomas, J., concurring, joined by Scalia, J.)

Reconceiving the Right to Present Witnesses, 97 Michigan Law Review 1063 (1999)

Outrageous Fortune and the Criminalization of Mass Torts, 96 Michigan Law Review 1121 (1998)

In the Aftermath of the Mass Tort Class Action, 85 Georgetown Law Journal 295 (1996)

Turning from Tort to Administration, 94 Michigan Law Review 899 (1996)

Comment, *Ex Parte Contacts and Institutional Roles: Lessons from the OMB Experience*, 55 University of Chicago Law Review 591 (1988)

Comment, *The Appellate Jurisprudence of Justice Antonin Scalia*, 54 University of Chicago Law Review 705 (1987)

WORK IN PROGRESS

Associate Reporter (with Reporter Samuel Issacharoff), American Law Institute, *Principles of the Law of Aggregate Litigation* (Council Draft No. 2, Nov. 18, 2008)

ACADEMIC CONFERENCES, WORKSHOPS, AND OTHER PRESENTATIONS

Panelist, Conferences on Aggregate Litigation and Torts, Renmin University of China School of Law & American Law Institute, Beijing, China, July 11-12, 2009 (expected)

Faculty Workshop, *FDA Preemption: When Tort Law Meets the Administrative State*, UCLA School of Public Health, Los Angeles, California, April 23, 2009 (expected)

Mass Litigation and Settlement Workshop, *Class Certification in the Age of Aggregate Proof*, Benjamin N. Cardozo School of Law, New York, New York, March 4, 2009

Panelist, *Agency Preemption of Tort Law*, New York University School of Law, New York, New York, February 27, 2009, video available at http://www.law.nyu.edu/news/ANNUAL_SURVEY_SYMPOSIUM_TORT_LAW_PREEMPTION#videos

Faculty Workshop, *Steven P. Croley's "Civil Justice Reconsidered,"* Albany Law School, Albany, New York, November 13, 2008

Principal Presenter, *Class Actions in Europe and North America*, New York University School of Law, American Law Institute & European University Institute, Florence, Italy, June 13, 2008

Panelist, *The Attorney-Client Relationship in the Mass Litigation Field*, American Law Institute & American Bar Association, Charleston, South Carolina, May 31, 2008

Panelist, *The Historical Significance of Class Actions*, American Constitution Society, Public Justice & Benjamin N. Cardozo School of Law, New York, New York, March 28, 2008

Panelist, *Public and Private Law Perspectives on Asbestos Litigation*, Southwestern University Law School, Los Angeles, California, January 18, 2008

Panelist, *The Vioxx Settlement*, American Enterprise Institute, Washington, D.C., January 7, 2008, transcript and video available at http://www.aei.org/events/filter.all,eventID.1626/event_detail.asp

Panelist, *Fairness to Whom? Perspectives on the Class Action Fairness Act of 2005*, University of Pennsylvania Law School, Philadelphia, Pennsylvania, December 1, 2007

Faculty Workshop, *Class Actions in the Administrative State: Kalven and Rosenfield Revisited*, James E. Rogers College of Law, University of Arizona, Tucson, Arizona, August 30, 2007

Panelist, *Resolving Mass Tort Products Liability Claims*, American Conference Institute, New York, New York, March 28, 2007

Complex Litigation and Dispute Resolution Workshop, *Aggregation and its Discontents: Class Settlement Pressure, Class-Wide Arbitration, and CAFA*, University of Pennsylvania Law School, Philadelphia, Pennsylvania, October 23, 2006

Panelist, *Does Procedure Dominate Substance? Of Class Actions and Pretrial Motions*, Federalist Society and eSapience Center for Law & Business, New York University School of Law, New York, New York, September 14, 2006

Faculty Workshop, *FDA Preemption: When Tort Law Meets the Administrative State*, Florida State University College of Law, Tallahassee, Florida, August 31, 2006

Panelist, *The Impact of Tort Litigation on Public Policy and Government Regulation*, Law & Society Association Annual Meeting, Baltimore, Maryland, July 6, 2006

Panelist, *Aggregation and its Discontents: Class Settlement Pressure, Class-Wide Arbitration, and CAFA*, Institute for Law & Economic Policy, Paradise Island, Bahamas, May 5, 2006

Panelist, *Due Process and Class Actions: The 20th Anniversary of Phillips Petroleum v. Shutts*, University of Missouri-Kansas City, Kansas City, Missouri, April 7, 2006

Civil Justice Workshop, *Mass Torts in a World of Settlement, Introduction & Chapter 11: Peacemaking as Governance*, Boalt Hall School of Law, University of California, Berkeley, California, February 23, 2006

Commentator, *Emerging Issues in Class Action Law*, UCLA School of Law, Los Angeles, California, January 26, 2006

Panelist, *Preclusion, Due Process, and Adequacy of Representation*, American Bar Association, Tort Trial & Insurance Practice Section, Washington, D.C., November 11, 2005

Continuing Legal Education Presentation, *Recent Developments on the Confrontation Clause After Crawford v. Washington*, Office of the Federal Public Defender, Nashville, Tennessee, July 12, 2005

Faculty Workshop, *Mass Torts in a World of Settlement, Chapter 12: Peacemaking as Governance*, Vanderbilt University Law School, Nashville, Tennessee, May 3, 2005

Panelist, *Assessing the Medical, Regulatory, and Legal Landscape: The Past, Present, and Future of Cox-2 Inhibitors*, Academic Programs Committee, Vanderbilt University Board of Trust, Nashville, Tennessee, April 28, 2005

Faculty Workshop (with Samuel Issacharoff), *American Law Institute, Principles of the Law of Aggregate Litigation, Chapter 2: Judicial Resolution of Overlapping Common Issues*, Vanderbilt University Law School, Nashville, Tennessee, September 23, 2004

Faculty Workshop, *Gun Litigation in the Mass Tort Context*, Albany Law School, Albany, New York, November 6, 2003 (working conference for book chapter authors)

Faculty Workshop, *Administering Adequacy in Class Representation*, Benjamin N. Cardozo School of Law, New York, New York, October 13, 2003; Northwestern University Law School, Chicago, Illinois, September 25, 2003; Vanderbilt University Law School, Nashville, Tennessee, September 2, 2003

Panelist, *Mass Tort Class Settlements after Amchem and Ortiz*, Association of American Law Schools, Joint Session for Conferences on Civil Procedure and Torts, New York, New York, June 18, 2003

Panelist, *The Right to "Opt-Out" of Class Action Suits*, University of Chicago Law School, Chicago, Illinois, November 1, 2002

Faculty Workshop, *The Preexistence Principle and the Structure of the Class Action*, Vanderbilt University Law School, Nashville, Tennessee, July 23, 2002

Panelist, *Engle v. R.J. Reynolds Tobacco Co.: Lessons in State Class Actions, Punitive Damages, and Jury Decision-Making*, Wake Forest University School of Law, Winston-Salem, North Carolina, September 28, 2001

Panelist, *Self-Incrimination and Document Subpoenas*, Colorado Bar Association Annual Meeting, Section on Criminal Law, Vail, Colorado, September 21, 2001

Panelist, *Toxic Torts: Issues of Mass Litigation, Case Management, and Ethics*, Marshall-Wythe School of Law, College of William & Mary, Williamsburg, Virginia, March 24, 2001

Faculty Workshop, *Coordinating Substance and Procedure in the Mass Tort Class Action*, Vanderbilt University Law School, Nashville, Tennessee, October 31, 2000

Panelist, *Class Actions in the Gulf South*, Tulane University School of Law, New Orleans, Louisiana, March 31, 2000

Panelist, *Insurance Class Actions*, Section on Insurance Law, Association of American Law Schools Annual Meeting, Washington, D.C., January 7, 2000

Panelist, *Defining Injury: Mass Torts and the Courts in the Popular Imagination*, Law & Society Association Annual Meeting, Chicago, Illinois, May 29, 1999

Faculty Workshop, *Reconceiving the Right to Present Witnesses*, George Mason University School of Law, Arlington, Virginia, March 2, 1999

Faculty Workshop, “*Switching Institutions*” in *Mass Tort Litigation*, Marshall-Wythe School of Law, College of William & Mary, Williamsburg, Virginia, November 9, 1998

Faculty Workshop, *Outrageous Fortune and the Criminalization of Mass Torts*, University of Texas School of Law, Austin, Texas, October 24, 1997

PROFESSIONAL SERVICE

Advisory Board, *Journal of Tort Law*, Berkeley Electronic Press, 2006-present

Special Advisor, Executive Committee, Litigation Practice Group, Federalist Society, 2006-present

Member, Planning Committee, Workshop on Civil Procedure, Association of American Law Schools, 2009-present

Member, Executive Committee, Section on Evidence, Association of American Law Schools, 2001-2004

SERVICE – VANDERBILT UNIVERSITY LAW SCHOOL

Director, Cecil D. Branstetter Litigation & Dispute Resolution Program, 2005-present

Member, Promotion and Tenure Review Committee (university-wide committee), 2008-present

Member, Advisory Board, Center for Teaching (university-wide board), 2007-present

Member, Dean Search Committee (by appointment of university provost), Fall 2004 & Spring 2009

Chair, Faculty Appointments Committee (Entry-Level), 2007-2008; member, 2006-2007 and fall 2002

Member, Student-Faculty Relations Committee, 2001-2002

Chair, Tenure Committee for Associate Professor Herwig Schlunk, 2003-2004

Member, Committee to Review Assistant Professor Christopher Yoo, 2001-2002

Faculty Advisor, Federalist Society, 2002-present

SERVICE – UNIVERSITY OF GEORGIA SCHOOL OF LAW

Member, Student Affairs Committee, 1994-2001 (Chair, Subcommittee on Judicial Clerkships,

1995-2001)

Member, Faculty Seminars and Special Programs Committee, 1994-1999, 2000-2001

Member, Faculty Recruitment Committee, 1999-2000

Member, Ad Hoc Committee to Review Student Honor Code, 1996-1999

Faculty Advisor, *Georgia Law Review*, 2000-2001

Faculty Advisor, Federalist Society, 1994-2001

LEGISLATIVE TESTIMONY

Finding Solutions to the Asbestos Litigation Problem: The Fairness in Asbestos Compensation Act of 1999, Hearing on S. 758 Before the Subcomm. on Administrative Oversight and the Courts of the Senate Comm. on the Judiciary, 106th Congress 115-123 (1999)

DEPOSITION TESTIMONY

Larson v. AT&T Mobility LLC, No. 07-05325(JLL) (D.N.J.) (June 4, 2008) (expert witness in support of motion to compel arbitration)

Cruz v. Cingular Wireless LLC, No. 2:07-cv-00714-JES-DNF (M.D. Fla.) (January 14, 2008) (expert witness in support of motion to compel arbitration)

In re Federal-Mogul Global, Inc., No. 01-10578 (JFK) (Bankr. D. Del.) (May 24, 2007) (expert witness on asbestos-related reorganization plan)

Coneff v. New Cingular Wireless Services, Inc., No. C06-0944 RSM (W.D. Wash.) (January 29, 2007) (expert witness in support of motion to compel arbitration)

Hercules, Inc. v. OneBeacon America Ins. Co. et al., No. 02C-11-237 SCD (Super. Ct., New Castle County, Del.) (July 23, 2004) (expert witness in asbestos insurance coverage litigation)

In re Pittsburgh Corning Corp., No. 00-22876 JFK (Bankr. W.D. Pa.) (April 2, 2004) (expert witness on asbestos-related reorganization plan)

ASARCO, Inc. et al. v. Allstate Ins. Co. et al., No. 01-2680-D (105th Jud. Dist. Ct., Nueces County, Tex.) (October 21, 2003) (expert witness in asbestos insurance coverage litigation)

AWARDS

Hartman Outstanding Professor Award (Vanderbilt University Law School, second- and third-year classes, 2001-2002 academic year)

Student Bar Association Faculty Book Award “to the faculty member who most effectively conveys his knowledge and understanding of what the law is and inspires his students to think analytically and critically about what the law can become” (University of Georgia School of Law, Class of 2000)

Phi Delta Phi and John C. O’Byrne Memorial Faculty Award “in appreciation of significant contributions furthering student-faculty relations” (University of Georgia School of Law, Class of 1996)