

DAVID A. HOFFMAN

**NOTABLE EMPLOYMENT**

UNIVERSITY OF PENNSYLVANIA LAW SCHOOL

*Professor of Law* (2017-Present)

*Visiting Professor of Law* (2015-2016)

TEMPLE UNIVERSITY, BEASLEY SCHOOL OF LAW

*Murray H. Shusterman Professor in Transactional and Business Law* (2014-2016); *James E. Beasley Professor* (2012-2014) and *Professor of Law* (2011); *Associate Professor* (2007-2011); *Assistant Professor* (2004-2007); Secondary Appointment as a Professor in the Department of Public Health (2013-2016)

Awards: Friel-Scalan Award For Faculty Research (2012), George P. Williams Memorial Award for the Outstanding Professor of the Year (2013)

CORNELL LAW SCHOOL

*Visiting Associate Professor of Law* (2009)

CRAVATH, SWAINE & MOORE LLP

*Litigation Associate* (2002 - 2004)

**EDUCATION**

HARVARD LAW SCHOOL, J.D., June 2001, *cum laude*

YALE UNIVERSITY, B.A. in Archaeology and History, May 1998, *cum laude*

**CLERKSHIP  
and  
FELLOWSHIP**

THE HONORABLE NORMA L. SHAPIRO  
Eastern District of Pennsylvania

2001-2002

VISITING RESEARCH FELLOW  
University of Alabama School of Law

Fall, 2002

## PUBLICATIONS

### Books and Book Chapters

ROBERT S. SUMMERS, ROBERT A. HILLMAN AND DAVID A. HOFFMAN, *CONTRACT AND RELATED OBLIGATION: THEORY, DOCTRINE, AND PRACTICE* (7<sup>TH</sup> EDITION 2016)

*Are There Really Plenty of Shapiros Out There? A Comment on the Courage of Normal L. Shapiro*, IN *ESSAYS ON NOTABLE AMERICAN JUDGES* (Kevin Peppers, ed., UVA Press 2018) (with Weisbord)

### Articles

*Relational Contracts of Adhesion*, 85 U. CHI. L. REV. \_\_\_\_ (forthcoming)

*The Use and Reliability of Federal Nature of Suit Codes*, 2017 MICH. ST. L. REV. \_\_\_\_ (with Boyd) (forthcoming invited Symposium issue)

*Law and Psychology Grows Up, Goes Online, and Replicates*, 15 J. EMP. LEG. STUD. 1 (2018) with Irvine and Wilkinson-Ryan)

*From Promise to Form: How Contracting Online Changes Consumers*, 91 N.Y.U. L. REV. 1595 (2017)

*Contract Consideration and Behavior*, 85 GEO. WASH. L. REV. 351 (2017) (with Eigen)

*“Ideology” or “Situation Sense”: An Experimental Investigation of Motivated Reasoning and Professional Judgment*, 164 U. PENN. L. REV. 349 (2016) (with Kahan, Evans, Devins, Lucci and Cheng)

*The Common Sense of Contract Formation*, 67 STAN. L. REV. 1269 (2015) (with Wilkinson-Ryan)

*Whither Bespoke Procedure?* 2014 U. ILL. L. REV. 389

*Empirical Analysis of Data Breach Litigation*, 11 J. EMP. LEG. STUD. 74 (2014) (peer reviewed)

*Litigating Toward Settlement*, 29 J. L. ECON. ORG. 898 (2013) (with Boyd) (peer reviewed)

*Building a Taxonomy of Civil Litigation: Clusters of Causes of Action in Federal Complaints*, 171 J. EMP. LEG. STUD. 253 (2013) (with Boyd, Ritovski, Obradovic) (peer reviewed)

*The Psychology of Contract Precautions*, 80 U. CHI. L. REV. 395 (2013) (with Wilkinson-Ryan)

*Instructing Juries on Noneconomic Contract Damages*, 81 FORDHAM L. REV. 1221 (2012) (with Radus)

*They Saw a Protest: Cognitive Illiberalism and the Speech-Conduct Distinction*, 64 STAN. L. REV. 851 (2012) (with Kahan, Braman, Rachlinski, Evans)

*Disputing Limited Liability*, 104 NW. U. L. REV. 853 (2010) (with Boyd)

*A Core of Agreement*, 77 U. CHI. L. REV. 1655 (2010) (with Braman and Kahan)

*Some Realism About Punishment Naturalism*, 77 U. CHI. L. REV. 1531 (2010) (with Braman and Kahan)

*Breach Is For Suckers*, 63 VAND. L. REV. 102 (2010) (with Wilkinson-Ryan)

*Whose Eyes Are You Going to Believe? Scott v. Harris and the Perils of Cognitive Illiberalism*, 122 HARV. L. REV. 837 (2009) (with Kahan and Braman)

*Wikitruth Through Wikiorde*, 59 EMORY L. J. 151 (2009) (with Mehra)

*Docketology, District Courts and Doctrine*, 85 WASH U. L. REV. 681 (2007) (with Izenman and Lidicker)

*Self-Handicapping and Managers' Duty of Care*, 42 WAKE FOREST L. REV. 803 (2007) (invited symposium essay)

*The Best Puffery Article Ever*, 91 IOWA L. REV. 1395 (2006) (reprinted in SECURITIES LAW REVIEW 2007 as one of the top 10 securities law articles of 2006)

*The "Duty" To Be a Rational Shareholder*, 90 MINN. L. REV. 537 (2006)

*Nullificatory Juries*, 2003 WISC. L. REV. 1115 (with Wenger)

*How Relevant is Jury Rationality?*, Review Essay, 2003 U. ILL. L. REV. 507

*Can Law and Economics Be Both Practical and Principled?*, 53 ALA. L. REV. 335 (2002) (with O'Shea)

## **WORKS IN PROGRESS**

*Coin-Operated Capitalism*

*Trumping Cooperation*

*Hushing Contracts*

*Innovation in Corporate Governance Contracting*

*Cultural Cognition* (various)

## **PRESENTATIONS and INVITED CONFERENCES**

**2018**

“Relational Contracts of Adhesion”

Presented at Boston University Law School, Hastings Law School, Villanova Law School, University of Chicago, and the 2<sup>nd</sup> Annual Empirical Contracts Workshop

## 2017

Black Holes, Duke Law School April 2017, Invited Commentator.

“From Promise to Form: How Contracting Online Changes Consumers,” Contracts Conference at Southwestern Law School, February 2017.

“From Promise to Form: How Contracting Online Changes Consumers,” Fordham Corporate Law Workshop Studies, February 2017.

## 2016

“From Promise to Form: How Contracting Online Changes Consumers,” Conference on Empirical Legal Studies, November 2016.

“From Promise to Form: How Contracting Online Changes Consumers,” Private Law Theory Workshop, Oslo June 2016.

“From Promise to Form: How Contracting Online Changes Consumers,” ALEA, May 2016.

“From Promise to Form: How Contracting Online Changes Consumers,” University of Pennsylvania Faculty workshop, Feb. 9, 2016.

## 2015

“A Fuller Understanding of Contractual Commitment,” American Law and Economics Association Annual Meeting. Columbia Law, May 2015

“Who Knows? Law in an Information Society,” Festschrift in Honor of Dick Craswell, Stanford Law, February 6-7, 2015.

## 2014

“Testing Consideration and Form Online”  
Ninth Annual Conference on Empirical Legal Studies, Berkeley, California, November 7, 2014.

“Testing Consideration and Form Online”  
University of Illinois Faculty Workshop, October 2, 2014

“Contract Law”  
NALS of Philadelphia, September 11, 2014.

“Intuitions About Contract Formation”

International workshop on Behavioral Legal Studies at Hebrew University, and Bar-Ilan University Faculty of law, June 9-12, 2014

“Intuitions About Contract Formation”

Second Private Law Consortium, University of Pennsylvania Law School, May 11-12, 2014

“Legal Scholarship, Online?”

Law 4.0 Conference , Northeastern Law School, March 14, 2014

### **2013**

“Whither Bespoke Procedure”

Midwestern Law and Economics Association, University of Illinois, October 12, 2013.

"Instructing Juries on Noneconomic Contract Damages"

Contracts Panel, Association of American Law Schools Annual Meeting, January 5, 2013.

### **2012**

"Building a Taxonomy of Litigation: Clusters of Causes of Action in Federal Complaints”

Faculty Workshop, Rutgers-Camden Law School, November 26, 2012.

"Building a Taxonomy of Litigation: Clusters of Causes of Action in Federal Complaints”

Seventh Annual Conference on Empirical Legal Studies, Stanford, California, November 9, 2012.

"Building a Taxonomy of Litigation: Clusters of Causes of Action in Federal Complaints”

Faculty Workshop, University of North Carolina at Chapel Hill, Sept. 13, 2012.

"Building a Taxonomy of Litigation: Clusters of Causes of Action in Federal Complaints"

Invited Presentation to the Federal Judicial Center and Administrative Office of U.S. Courts, May 19, 2012.

Participant at the Conference on Contractual Innovation, NYU Law School, May 3-4, 2012.

"Instructing Juries on Noneconomic Contract Damages", Faculty Workshop

Elon Law School, April 2, 2012.

"The Secret Life of Trial Dockets", Friel-Scanlan Lecture

Temple Law School, March 16, 2012.

"The Psychology of Contract Precautions", Faculty Workshop

University of Washington Law School, Feb. 2, 2012.

"The Psychology of Contract Precautions", Faculty Workshop,

William and Mary Law School, Jan. 27, 2012.

"The Psychology of Contract Precautions", Faculty Workshop

Vanderbilt Law School, Jan. 20, 2012.

### **2011**

Invited Commentator, Empirical Legal Studies Conference, Experimental Panel,  
Northwestern Law School, November 5, 2011.

"They Saw a Protest: Cognitive Illiberalism and the Speech Conduct Description," Faculty  
Colloquium, University of Richmond Law School, July 21, 2011

"Whose Eyes Are You Going to Believe?," Empirical Workshop  
Cornell Law School, April 11, 2011

Empirical Desert Panel, Discussant 4th International Congress on Psychology and Law  
March 4, 2011.

"Litigating Toward Settlement," Faculty Colloquium  
University of Houston Law Center, Feb 10, 2011

### **2010**

"Litigating Toward Settlement," Empirical Legal Studies Conference  
Yale, November 5-6, 2011.

"Litigating Toward Settlement," Faculty Workshop  
Syracuse Law School, October 14, 2010.

"Illiberal Interrogations," Law and Society  
Chicago, May 30, 2010.

### **2009**

"Breach Is For Suckers," Empirical Legal Studies Conference,  
USC (November 20-23, 2009) (invited participant in panel on Law and Psychology)

"The Endowment Effect and Legal Policy," invited presentation at an Endowment Effect  
Workshop at Georgetown Law School (November 13, 2009)

Invited participant, Law, Innovation and Growth workshop at the Kauffman Foundation Summer  
Program, Laguna Beach, CA (July 16-19, 2009)

"Disputing Limited Liability," Law and Society  
Denver (May 31, 2009)

"Disputing Limited Liability," Faculty Workshop  
University of Southern California Law School, March 2, 2009.

"Disputing Limited Liability," Faculty Workshop

Indiana University – Bloomington, February 13, 2009.

"Disputing Limited Liability," Faculty Workshop  
Cornell Law School, January 26, 2009.

## 2008

"A Closer Look at Veil-Piercing in Federal District Courts," The Canadian Law and Economics Ass'n, University of Toronto School of Law, Toronto, Canada, September 27, 2008.

Invited Commentator, Conference on Empirical Legal Studies  
Cornell Law School, Ithaca, NY, September 11-13, 2008.

"Wikitruth through Wikiorder," Law, Innovation and Growth workshop at the Kauffman Foundation Summer Program, Laguna Beach, CA (July 10-13, 2008)

Invited Commentator, Neuroeconomics, Innovation and Law Conference, hosted by The Southern California Innovation Project, University of Southern California, CA (May 14-15, 2008)

"Docketology, District Courts and Doctrine." Faculty Workshop  
Emory Law School, Atlanta, GA, February 12, 2008.

## 2007

Invited Commentator, The Eugene P. and Delia S. Murphy Conference on Corporate Law  
Fordham Law School, New York, NY (October 18 and 19, 2007)

"Docketology, District Courts and Doctrine." The Canadian Law and Economics Ass'n,  
University of Toronto School of Law, Toronto, Canada (September 29, 2007)

"Docketology, District Courts and Doctrine." Internal Faculty Workshop  
Beasley School of Law, Philadelphia PA, September 24, 2007.

"Blogging for Lawyers." Panel Presentation at the Law Technology Committee of the  
Philadelphia Bar Association, Law Practice Management Division, July 19, 2007.

"Regret and Corporate Governance." Symposium: Duties of the Modern Corporate Executive,  
Wake Forest Law School, Winston-Salem, NC (March 30, 2007)

"Predicting When Judges Will Write Opinions." Faculty Workshop  
Boston College Law School, Boston, MA, March 2, 2007.

## 2006

Roundtable Discussion on the Milberg Weiss Indictment, Invited Participant in Discussion,  
Fordham Law School, New York, NY, October 20, 2006.

The Law and Economics of Contracts, Participant in Discussion  
Columbia Law School, New York, NY, April 7-8, 2006.

"Behavioral Law and Economics and the Rebirth of Paternalism." Conference: Eastern  
Economics Association, Philadelphia, PA, February 24, 2006.

### **2005**

"The 'Duty' To Be a Rational Shareholder." Internal Faculty Workshop  
Beasley School of Law, Philadelphia PA, February, 2005.

### **2003**

"Free Content and the Commodification of Law." Conference: The Association for the Study of  
Law, Culture, and the Humanities, 6th Annual, New York, NY, March, 2003.

### **2002**

"Law and Economics and the New Paternalism." Faculty Workshop  
University of Alabama, Tuscalosa, AL, Sept. 2002.

Federalism and Division of Powers II, Indian Country and the Supreme Court, Moderator,  
Symposium: Native Americans and the Constitution, University of Pennsylvania  
Journal of Constitutional Law, Philadelphia, PA, February, 2002.

## **BLOGGING**

Founder and blogger, *Concurring Opinions*, <http://www.concurringopinions.com> (November 2005 – present)

Blogger, *Prawfsblawg*, <http://www.prawfsblawg.blogspot.com> (July 2005 – October 2005)

Blogger, *The Conglomerate*, <http://theconglomerate.org> (Sept. 2010-May 2010) (invited to be a  
“Conglomerate Master” for regular symposia on current events)

## **OTHER**

Admitted to the Bar of New York State (2002) and the Southern District of New York (2003)

Referee for the JOURNAL OF EMPIRICAL LEGAL STUDIES

Member of the Cultural Cognition Project, <http://research.yale.edu/culturalcognition/>

Member of the American Law Institute (2011-Present)

Appointed to the United Way of Southeastern Pennsylvania's task force on ethics for the School  
District of Philadelphia (2012)



Member of the Board of Lighthouse Academics, Inc. (2010-2015)

Member of the LegalStat Taskforce, a data-sharing and analysis project in created by Philadelphia VIP in conjunction with Community Legal Services and Philadelphia Legal Assistance.

Founding Editor, JOTWELL Contracts Section (2016 – Present)