

# MICHAEL S. GREEN

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## BOOKS

THE OXFORD INTRODUCTIONS TO U.S. LAW: CIVIL PROCEDURE (Oxford University Press, forthcoming)

NIETZSCHE AND THE TRANSCENDENTAL TRADITION (University of Illinois Press, 2002)

## ARTICLES IN STUDENT-RUN LAW REVIEWS

*The Return of the Unprovided-For Case*, 49 GEORGIA LAW REVIEW (forthcoming)

*Vertical Power*, 48 UC DAVIS LAW REVIEW 73-140 (2014)

*Prediction Theories of Law and the Internal Point of View*, 51 SAN DIEGO LAW REVIEW 921-38 (2014)

*Erie's International Effect*, 107 NORTHWESTERN UNIVERSITY LAW REVIEW 1485-1501 (2013)

*The Twin Aims of Erie*, 88 NOTRE DAME LAW REVIEW 1865-1937 (2013)

*Law's Dark Matter*, 54 WILLIAM & MARY LAW REVIEW 845-84 (2013)

*Horizontal Erie and the Presumption of Forum Law*, 109 MICHIGAN LAW REVIEW 1237-91 (2011)

*Erie's Suppressed Premise*, 95 MINNESOTA LAW REVIEW 1111-67 (2011)

*Why Protect Private Arms Possession? Nine Theories of the Second Amendment*, 84 NOTRE DAME LAW REVIEW 131-89 (2008)

*Explaining Tort Law*, 48 WILLIAM & MARY LAW REVIEW 1953-54 (2007)

*Dworkin v. The Philosophers*, 2007 UNIVERSITY OF ILLINOIS LAW REVIEW 1477-1503 (2007)

*Halpin on Dworkin's Fallacy: A Surreply*, 91 VIRGINIA LAW REVIEW 187-201 (2005)

*Legal Realism as Theory of Law*, 46 WILLIAM AND MARY LAW REVIEW 1915-2000 (2005)

*Legal Revolutions: Six Mistakes about Discontinuities in the Legal Order*, 83 NORTH CAROLINA LAW REVIEW 331-409 (2005)

*Dworkin's Fallacy, Or What the Philosophy of Language Can't Teach Us about the Law*, 89 VIRGINIA LAW REVIEW 1897-1952 (2003)

*Hans Kelsen and the Logic of Legal Systems*, 53 ALABAMA LAW REVIEW 365-413 (2003)

*Copyrighting Facts*, 78 INDIANA LAW JOURNAL 919-64 (2003)

*The Paradox of Auxiliary Rights: The Privilege Against Self-Incrimination and the Right to Keep and Bear Arms*, 52 DUKE LAW JOURNAL 113-178 (2002)

*The Privilege's Last Stand: The Privilege Against Self-Incrimination and the Right to Rebel Against the State*, 65 BROOKLYN LAW REVIEW 627-716 (1999)

Note, *Legal Realism, Lex Fori, and the Choice-of-Law Revolution*, 104 YALE LAW JOURNAL 967-94 (1995)

## OTHER ARTICLES, ESSAYS AND BOOK CHAPTERS

- L'américanisation de Kelsen*, in Thomas Hochmann, Xavier Magnon, & Régis Ponsard (eds.), UN CLASSIQUE MÉCONNU: HANS Kelsen (forthcoming)
- Legal Monism: An American History*, in VIENNA LECTURES IN LAW AND PHILOSOPHY (Hart Publishing, forthcoming)
- Logic and Legal Realism*, in Dieter Krimphove & Florian Simon (eds.), RESEARCH HANDBOOK IN LAW AND LOGIC (Duncker & Humblot, forthcoming)
- A Puzzle about Hart's Theory of Internal Legal Statements*, in Francesca Poggi & Alessandro Capone (eds.), PRAGMATICS AND LAW: PRACTICAL AND THEORETICAL PERSPECTIVES 195-221 (Springer Verlag 2017)
- Marmor's Kelsen*, in D. A. Jeremy Telman (ed.), HANS Kelsen IN AMERICA 45-84 (Springer Verlag 2016)
- Was Afrikan Spir a Phenomenalist? And What Difference Does It Make for Understanding Nietzsche?*, 46 JOURNAL OF NIETZSCHE STUDIES 152-76 (2015)
- Eternal Recurrence in a Neo-Kantian Context*, 54 KRITERION: REVISTA DE FILOSOFIA 459-73 (2014)
- On Hart's Category Mistake*, 19 LEGAL THEORY 347-69 (2013)
- Felix Cohen on Legislation*, 1 THE THEORY AND PRACTICE OF LEGISLATION 113-28 (2013)
- Choice of Law as General Common Law: A Reply to Professor Brilmayer*, in Donald Earl Childress III (ed.), THE ROLE OF ETHICS IN PRIVATE INTERNATIONAL LAW 125-35 (Cambridge U. Press 2012)
- Leiter on the Legal Realists*, 30 LAW & PHILOSOPHY 381-418 (2011)
- Two Fallacies about Copyrighting Factual Compilations*, in Robert Brauneis (ed.), INTELLECTUAL PROPERTY PROTECTION OF FACT-BASED WORKS: COPYRIGHT AND ITS ALTERNATIVES 169-204 (Edward Elgar Press 2009)
- Kelsen, Quietism, and the Rule of Recognition*, in Matthew D. Adler & Kenneth E. Himma (eds.), THE RULE OF RECOGNITION AND THE UNITED STATES CONSTITUTION 351-78 (Oxford University Press, 2009)
- Does Dworkin Commit Dworkin's Fallacy?*, 28 OXFORD JOURNAL OF LEGAL STUDIES 33-55 (2008)
- White and Clark on Nietzsche and the Transcendental Tradition: A Response*, 36 INTERNATIONAL STUDIES IN PHILOSOPHY 169-99 (2005)
- Nietzsche's Place in Nineteenth Century German Philosophy*, 47 INQUIRY: AN INTERDISCIPLINARY JOURNAL OF PHILOSOPHY 168-88 (2004)
- Nietzsche on Pity and Ressentiment*, 24 INTERNATIONAL STUDIES IN PHILOSOPHY 63-70 (1992)

## ON-LINE PIECES

- 2016 *The New Eliminativism*, in JOTWELL, THE JOURNAL OF THINGS WE LIKE (LOTS)  
• <http://juris.jotwell.com/the-new-eliminativism/>
- 2014 *International Law and Dworkin's Legal Monism*, in JOTWELL, THE JOURNAL OF THINGS WE LIKE (LOTS)  
• <http://juris.jotwell.com/international-law-and-dworkins-legal-monism/>
- 2013 *The Real Legal Realism*, in JOTWELL, THE JOURNAL OF THINGS WE LIKE (LOTS)  
• <http://juris.jotwell.com/the-real-legal-realism/>
- 2012 *Erie's International Effect*, 107 NORTHWESTERN UNIVERSITY LAW REVIEW COLLOQUY 165-79  
• <http://www.law.northwestern.edu/lawreview/colloquy/2012/17/>  
• republished at 107 NORTHWESTERN UNIVERSITY LAW REVIEW 1485-1501 (2013)
- Erie, Swift, and Legal Positivism*, in JOTWELL, THE JOURNAL OF THINGS WE LIKE (LOTS)  
• <http://juris.jotwell.com/erie-swift-and-legal-positivism/>
- 2011 *Particularism, Telishment, and Three Strikes Laws*, in JOTWELL, THE JOURNAL OF THINGS WE LIKE (LOTS)  
• <http://juris.jotwell.com/particularism-telishment-and-three-strikes-laws/>
- 2010 *Against the Conventionalist Turn in Legal Theory: Dickson on Hart on the Rule of Recognition*, in JOTWELL, THE JOURNAL OF THINGS WE LIKE (LOTS)  
• <http://juris.jotwell.com/against-the-conventionalist-turn-in-legal-theory-dickson-on-hart-on-the-rule-of-recognition/>

## BLOGS

- Michael Green's CivPro Blog  
• <http://michaelstevengreen.typepad.com/blog/>

## EDUCATION

- 1993-1996 **YALE LAW SCHOOL**  
• J.D. 1996
- 1983-1989 **YALE UNIVERSITY**  
• Ph.D. in Philosophy 1990
- 1979-1982 **UNIVERSITY OF CALIFORNIA, BERKELEY**  
• B.A. in Humanities, *summa cum laude*, 1982
- 1978-1979 **SANTA ROSA JUNIOR COLLEGE**

## **EMPLOYMENT & ACADEMIC APPOINTMENTS**

### **COLLEGE OF WILLIAM & MARY**

- Since 2012* • Dudley W. Woodbridge Professor of Law
- 2006-2012* • Professor of Law

### **GEORGE MASON UNIVERSITY**

- 2003-2005* • Associate Professor of Law
- 1998-2003* • Assistant Professor of Law

### **PAUL, WEISS, RIFKIND, WHARTON, & GARRISON, NEW YORK**

- 1997-1998* • Associate
- Summer 1995* • Summer Associate

### **RICHARD A. POSNER, U. S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

- 1996-1998* • Law Clerk

### **SIDLEY & AUSTIN, WASHINGTON, D.C.**

- Summer 1996* • Summer Associate

### **OFFICE OF LEGAL COUNSEL, NEW YORK UNIVERSITY**

- Summer 1994* • Law Clerk

### **TUFTS UNIVERSITY**

- 1991-1993* • Assistant Professor of Philosophy (Tenure-Track)
- Position renewed for 1993-1995

### **UNIVERSITY OF ALABAMA, HUNTSVILLE**

- 1990-1991* • Instructor in Philosophy

### **WESLEYAN UNIVERSITY**

- Fall 1989* • Visiting Instructor in Philosophy

### **YALE UNIVERSITY**

- Fall 1989* • Instructor in Philosophy

## PRESENTATIONS & CONFERENCES (ALL BY INVITATION)

- University of Lisbon, September 2017  
TBA, Second Conference on Topics in Pragmatics and Philosophy
- Duke University School of Law, April 2017  
Roundtable on Theoretical Disagreement
- University of Virginia School of Law, April 2016  
Annual Conference on Analytic Legal Philosophy
- Wirtschaftsuniversität Wien, Vienna, Austria, April 2016  
“Monism and the Conflict of Laws,” Vienna Lectures on Law and Philosophy (Inaugural Lecture), organized by the Institute for Austrian and European Public Law (Wirtschaftsuniversität Wien) and the Department of Legal Philosophy (University of Vienna)
- Washington, DC, July 2015  
“A Puzzle about Internal Legal Statements,” Workshop on the Normativity of Law, 27th World Congress of Philosophy of Law and Social Philosophy
- Chicago, IL, Valparaiso University School of Law Hyde Park Campus, June 2014  
“Marmor’s Kelsen,” Conference on Hans Kelsen in America
- Hamilton, Ontario, McMaster University, May-June 2014  
“Dworkin’s Legal Monism,” Conference on the Legacy of Ronald Dworkin
- College of William and Mary, Williamsburg, VA, March 2014  
Graduate Research Symposium on the Ethics and Morality of Strong Artificial Intelligence
- Portsmouth, VA, Second Tuesday Forum, January 2014  
“Why Constitutionally Protect Private Arms Possession?”
- University of San Diego School of Law, September 2013  
“Prediction Theories of Law and the Internal Point of View,” Conference on Laurence Claus, *Law’s Evolution and Human Understanding* (Oxford, 2013), Institute for Law & Philosophy
- Universidade Federal de Minas Gerais, Belo Horizonte, Brazil, July 2013  
“Monism in the Philosophy of Law,” Workshop on Kelsen and Normativity, 26th World Congress of Philosophy of Law and Social Philosophy
- University of Miami School of Law, March 2013  
Annual Conference on Analytic Legal Philosophy
- Universidade Federal de Minas Gerais, Belo Horizonte, Brazil, October 2012  
“Eternal Recurrence in a Neo-Kantian Context,” Conference on Nietzsche and the Kantian Tradition
- Seattle, WA, April 2012  
“Phenomenalism and Antinaturalist Theories of Cognition in Nietzsche and Afrikan Spir,” North American Nietzsche Society, American Philosophical Association
- College of William & Mary School of Law, February 2012  
“Law’s Dark Matter,” Symposium on Law without a Lawmaker: *Erie* and the General Common Law
- University of San Diego School of Law, February 2012  
“Law’s Dark Matter”

## **PRESENTATIONS & CONFERENCES (CONT.)**

Washington D.C., January 2012

Panelist, Choice of Law and the General Common Law, AALS Section on Conflict of Laws

University of San Diego School of Law, April 2011

Annual Conference on Analytic Legal Philosophy

San Francisco, January 2011

Panelist, Choice of Law in Complex Litigation, AALS Section on Conflict of Laws

Oxford University, Faculty of Law, September 2010

“Is Kelsen the Frege of Legal Theory?,” Legal Science and Legal Theory: A Commemoration of the 50<sup>th</sup> Anniversary of the Second Edition of Hans Kelsen’s *Pure Theory of Law*

New Orleans, LA, January 2010

Seminar on the Second Amendment and the Criminology of Firearms, organized by Don Kates

University of San Diego School of Law, October 2009

“Horizontal *Erie* and the Presumption of Forum Law”

Thomas Jefferson School of Law, San Diego, CA, October 2009

“Horizontal *Erie* and the Presumption of Forum Law”

King’s College London, May 2009

Annual Conference on Analytic Legal Philosophy

University of Uppsala, Sweden, Faculty of Law, August 2008

“Kelsen, Quietism, and the Rule of Recognition”

“Why Protect Private Arms Possession? Nine Theories of the Second Amendment”

University of Pennsylvania Law School, May 2008

“Kelsen, Quietism, and the Rule of Recognition,” Conference on the Rule of Recognition and the U.S. Constitution

George Washington University Law School, September 2007

“Copyright, Collective Facts, and the Fallacy of Division,” Symposium on Copyright in Factual and Functional Works

UC Berkeley School of Law (Boalt Hall), April 2007

Annual Conference on Analytic Legal Philosophy

University of Pennsylvania Law School, March 2007

“Natural Rights Arguments for the Second Amendment,” Institute for Law and Philosophy

Princeton University, October 2006

Respondent, Conference on Joseph Raz’s *Morality of Freedom: 20 Years Later*, James Madison Program

UCLA School of Law, April 2006

Annual Conference on Analytic Legal Philosophy

Washington University in St. Louis School of Law, March 2006

“Kelsen and the English,” Workshop on Hans Kelsen’s Legal Theory

University of San Diego School of Law, November 2005

Conference on Conceptual Issues in Constitutional Law, Institute for Law & Philosophy

## PRESENTATIONS & CONFERENCES (CONT.)

Idyllwild, Ca., September 2005

Roundtable on Modern Analytic Jurisprudence sponsored by the Program in Law & Philosophy, University of Illinois, and the Institute for Law & Philosophy, University of San Diego

University of Texas School of Law, April 2005

Annual Conference on Analytic Legal Philosophy

College of William & Mary School of Law, September 2004

“The Challenge of Legal Realism”

San Francisco, Ca., March 2003

“Author Meets Critics: *Nietzsche and the Transcendental Tradition*,” North American Nietzsche Society, American Philosophical Association

University of London, November 2001

“Anarchic Rights in the United States Constitution,” Institute for Advanced Legal Studies

Cambridge University, September 2001

“Nietzsche, Spinoza and the Concept of Force,” Friedrich Nietzsche Society

University of Virginia School of Law, August 1999

“Emotivism, Utility Maximization, and the Incommensurability of Values”

Brooklyn Law School, February 1998

“Social Contract Theory and the Privilege Against Self-Incrimination”

University of Arizona College of Law, January 1998

“Social Contract Theory and the Privilege Against Self-Incrimination”

George Mason University School of Law, January 1998

“Social Contract Theory and the Privilege Against Self-Incrimination”

College of William & Mary School of Law, January 1998

“Social Contract Theory and the Privilege Against Self-Incrimination”

Tufts University, April 1993

“Schacht on Nietzsche’s Epistemology,” Symposium on Nietzsche

Chicago, Ill., April 1991

“Nietzsche on Pity and *Ressentiment*,” North American Nietzsche Society, American Philosophical Association

Tufts University, Department of Philosophy, February 1991

“Nietzsche on Hedonism and the Meaning of Life”

Technische Universität Berlin, May 1990

“Intensionalism and Natural Kind Terms”

## HONORS AND AWARDS

- 2014-15 • Plumeri Award for Faculty Excellence, College of William and Mary
- 2012 • Chair, American Association of Law Schools Section on Conflict of Laws (Chair-Elect 2011)
- 2011-12 • Plumeri Award for Faculty Excellence, College of William and Mary
- 2010-12 • Robert E. and Elizabeth S. Scott Research Professor, William and Mary Law School
- 2009-12 • Member, American Philosophical Association Committee on Philosophy and Law
- 2009-10 • Blackstone Lecturer, William and Mary Law School
- Since 2009 • Contributing Editor, Jurisprudence Section of JOTWELL, THE JOURNAL OF THINGS WE LIKE (LOTS)
- 2007-08 • Cabell Research Professor, William and Mary Law School
- 2001-02 • Visiting Research Fellow, University of London, King's College School of Law
- 1995-96 • Olin Fellow at Center for Studies in Law, Economics, and Public Policy, Yale Law School
- 1994-96 • Senior Editor, *Yale Law Journal*
- 1994-95 • Elliott Goldstein Scholar, Yale Law School
- 1995 • Israel H. Peres Prize, awarded by Yale Law School faculty for best note in *Yale Law Journal*
- 1990 • Stiftung Luftbrückendank (Berlin Airlift Memorial Foundation) Fellow, Technische Universität, Berlin
- 1987-88 • Deutscher Akademischer Austauschdienst (German Academic Exchange Service) Fellow, Freie Universität, Berlin
- 1983-87 • University Fellow, Yale University (Philosophy)
- 1982 • Awarded Highest Distinction in General Scholarship, UC Berkeley
- 1982 • Phi Beta Kappa, UC Berkeley
- 1981-82 • Alumni Scholar, UC Berkeley
- 1979-81 • Regents Scholar, UC Berkeley
- 1978-79 • Doyle Scholar, Santa Rosa Junior College

## REFEREEING

### TENURE/PROMOTION

Brown Univ, (Philosophy)  
Kings College London (Law)  
Portland State Univ. (Philosophy)  
Valparaiso Univ. (Law)  
Case Western Univ. (Law)  
Univ. of Minnesota (Law)

### PRESSES/JOURNALS

Cambridge University Press  
Palgrave Macmillan  
LAW & PHILOSOPHY  
LEGAL THEORY  
MANZ'sche Verlags- und  
Universitätsbuchhandlung  
RES PUBLICA  
Springer Verlag  
YALE LAW JOURNAL



## SERVICE

### COLLEGE OF WILLIAM & MARY SCHOOL OF LAW

Dean's Advisory Committee (Chair) (2016-17)  
Appointments Committee (2006-09, 2010-12, 2013-14)  
Curriculum Committee (2012-14)  
Dean's Advisory Committee (2012-13)  
Chair, Faculty Research and Enrichment Committee (2008-09)  
Liberal Arts University Steering Committee (University-Wide, 2009-10)  
Temporary Replacement Member on Provost Search Committee (University-Wide, 2009)

### GEORGE MASON UNIVERSITY SCHOOL OF LAW

Admissions Committee (2004-05)  
Building Committee (1999-2000)  
Clerkship & Placement Committee (2004-05, Chair 1998-99)  
Curriculum Committee (Chair, 2003-04)  
Faculty Selection Committee (1999-2000)  
Faculty Workshop Committee (2002-03, 1999-2000)  
Law Review Advisory Committee (1998-99)  
Library Committee (1998-99)

### TUFTS UNIVERSITY

Search Committee (1991-92)  
Tenure Committee (1992-93)  
Committee on Fraternity and Sorority Life (University-wide, 1992-93)  
Committee for the Protection of Human Subjects in Experimentation (University-wide, 1992-93)

## TEACHING

### WILLIAM & MARY SCHOOL OF LAW

Conflict of Laws  
Civil Procedure  
Philosophy of Law  
Professional Responsibility  
Special Topics in Civil Procedure (*Erie*  
Doctrines)  
Special Topics in Jurisprudence (Philosophical  
Anarchism)

### COLLEGE OF WILLIAM & MARY

Nietzsche (seminar)

### GEORGE MASON UNIVERSITY SCHOOL OF LAW

Civil Procedure  
Jurisprudence  
Professional Responsibility

### TUFTS UNIVERSITY

Introduction to Philosophy  
Modern Philosophy  
Phenomenology & Existentialism  
Kant  
19th Century Philosophy  
Wittgenstein and Moral Realism (seminar)

### YALE UNIVERSITY

Advanced First-Order Logic (graduate-level)

### UNIVERSITY OF ALABAMA, HUNTSVILLE

Ethics  
Introductory Logic  
Ethical Issues in Engineering

### WESLEYAN UNIVERSITY

Introductory Logic

## REFERENCES

Matthew Adler  
Duke Law School  
(919) 613-7172

Larry Alexander  
University of San Diego School of Law  
(619) 260-2317

Brian Bix  
University of Minnesota Law School  
(612) 624-2505

Veronica Rodriguez-Blanco  
University of Birmingham Law School  
(0121) 414-3631

Kim Roosevelt  
University of Pennsylvania Law School  
(215) 746-8775