

MICHAEL S. GREEN

College of William and Mary — Marshall-Wythe School of Law
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REPRESENTATIVE WORKS

CIVIL PROCEDURE AND THE CONFLICT OF LAWS

- The Return of the Unprovided-For Case*, 51 GEORGIA LAW REVIEW 761-804 (2017)
- Vertical Power*, 48 UC DAVIS LAW REVIEW 73-140 (2014)
- Law's Dark Matter*, 54 WILLIAM & MARY LAW REVIEW 845-84 (2013)
- Erie's International Effect*, 107 NORTHWESTERN UNIVERSITY LAW REVIEW 1485-1501 (2013)
• previously published at <http://www.law.northwestern.edu/lawreview/colloquy/2012/17/>
- The Twin Aims of Erie*, 88 NOTRE DAME LAW REVIEW 1865-1937 (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)

PHILOSOPHY OF LAW

- 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)
- On Hart's Category Mistake*, 19 LEGAL THEORY 347-69 (2013)
- Leiter on the Legal Realists*, 30 LAW & PHILOSOPHY 381-418 (2011)
- 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)
- Dworkin's Fallacy, Or What the Philosophy of Language Can't Teach Us about the Law*, 89 VIRGINIA LAW REVIEW 1897-1952 (2003)

NIETZSCHE

- NIETZSCHE AND THE TRANSCENDENTAL TRADITION (University of Illinois Press 2002)
- Was Afrikan Spir a Phenomenalist? And What Difference Does It Make for Understanding Nietzsche?*, 46 JOURNAL OF NIETZSCHE STUDIES 152-76 (2015)
- Nietzsche's Place in Nineteenth Century German Philosophy*, 47 INQUIRY: AN INTERDISCIPLINARY JOURNAL OF PHILOSOPHY 168-88 (2004)

OTHER

- Why Protect Private Arms Possession? Nine Theories of the Second Amendment*, 84 NOTRE DAME LAW REVIEW 131-89 (2008)
- 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 (2003)

OTHER WORKS (INCLUDING FORTHCOMING)

- THE OXFORD INTRODUCTIONS TO U.S. LAW: CIVIL PROCEDURE (Oxford University Press, forthcoming)
- The Semantic Thesis*, in Torben Spaak & Patricia Mindus (eds.), CAMBRIDGE COMPANION TO LEGAL POSITIVISM (Cambridge University Press, forthcoming)
- L'anglo-américanisation de Kelsen*, in Thomas Hochmann, Xavier Magnon, & Régis Ponsard (eds.), UN CLASSIQUE MÉCONNU: HANS KELSEN (Editions Mare et Martin, forthcoming)
• English version posted at SSRN
- Legal Monism: An American History*, in Christoph Bezemek, Michael Potacs and Alexander Somek (eds.), VIENNA LECTURES ON LEGAL PHILOSOPHY 23-48 (Hart Publishing 2018)
- Logic and Legal Realism*, in Dieter Krimphove & Florian Simon (eds.), RESEARCH HANDBOOK IN LAW AND LOGIC 81-94 (Duncker & Humblot 2017)
- Marmor's Kelsen*, in D. A. Jeremy Telman (ed.), HANS KELSEN IN AMERICA 45-84 (Springer Verlag 2016)
- Prediction Theories of Law and the Internal Point of View*, 51 SAN DIEGO LAW REVIEW 921-38 (2014)
- Eternal Recurrence in a Neo-Kantian Context*, 54 KRITERION: REVISTA DE FILOSOFIA 459-73 (2014)
- 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)
- 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)
- 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)
- White and Clark on Nietzsche and the Transcendental Tradition: A Response*, 36 INTERNATIONAL STUDIES IN PHILOSOPHY 169-99 (2005)
- Hans Kelsen and the Logic of Legal Systems*, 53 ALABAMA LAW REVIEW 365-413 (2003)
- 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)
- Nietzsche on Pity and Ressentiment*, 24 INTERNATIONAL STUDIES IN PHILOSOPHY 63-70 (1992)

ON-LINE PIECES

- 2017 *Interauthority Relationships*, in JOTWELL, THE JOURNAL OF THINGS WE LIKE (LOTS)
• <http://juris.jotwell.com/interauthority-relationships/>
- 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)

Stockholms Universitet, Stockholm, Sweden, November 2018

“The Semantic Thesis in Positivism,” Conference on Fundamentals of Legal Positivism: Main Tenets, Normativity and Values

Universidade de Lisboa, Lisbon, Portugal, September 2018

“The Pragmatics of Internal Legal Statements,” Second Conference on Topics in Pragmatics and Philosophy

University of Akron School of Law, September 2018

“The *Erie* Doctrine: A Flowchart,” Conference on *Erie* at Eighty: Choice of Law across the Disciplines

Uniwersytet Jagielloński, Krakow, Poland, June 2018

“Authority, Interest Analysis, and the Conflict of Laws”

Universität Paderborn, Paderborn, Germany, November 2017

“Logic and Legal Realism,” Conference on Law and Logic

Duke University School of Law, April 2017

Roundtable on Theoretical Disagreement

Politeia, Università degli Studi di Milano, Milan, Italy, February 2017

Roundtable on PRAGMATICS AND LAW (Springer Verlag 2016/17)

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, 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

PRESENTATIONS & CONFERENCES (CONT.)

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”

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, Oxford, UK, September 2010

“Is Kelsen the Frege of Legal Theory?,” Legal Science and Legal Theory: A Commemoration of the 50th 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, UK, May 2009

Annual Conference on Analytic Legal Philosophy

Uppsala Universitet, Faculty of Law, Uppsala, Sweden, 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

PRESENTATIONS & CONFERENCES (CONT.)

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

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, Cambridge, UK, September 2001

"Nietzsche, Spir 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, George Mason University School of Law, and 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, Berlin, Germany, May 1990

"Intensionalism and Natural Kind Terms"

HONORS AND AWARDS

- 2017-18 • Cabell Research Professor, William and Mary Law School
- 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

Cambridge University Press
Palgrave Macmillan
MANZ'sche Verlags- und
Universitätsbuchhandlung
Springer Verlag

JOURNALS

HARVARD LAW REVIEW
LAW & PHILOSOPHY
LEGAL THEORY
OXFORD JOURNAL OF LEGAL
STUDIES
RES PUBLICA
YALE LAW JOURNAL

SERVICE

COLLEGE OF WILLIAM & MARY SCHOOL OF LAW

Clerskhip Committee (2017-18)
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

Civil Procedure
Conflict of Laws
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