

ELLEN WERTHEIMER

VILLANOVA UNIVERSITY SCHOOL OF LAW
299 NORTH SPRING MILL ROAD
VILLANOVA, PA 19085
(610) 519-7064
wertheim@law.villanova.edu

EDUCATION

Yale Law School, New Haven, Connecticut, J.D.
Activities: Editor, YALE LAW JOURNAL
Moot Court Semi-finalist, fall 1978

Yale College, New Haven, Connecticut, Intensive English major, B.A.
Honors: Summa cum laude
Phi Beta Kappa
Distinction in English

CURRENT ACADEMIC APPOINTMENT

August 1986 to present Villanova University School of Law
Villanova, Pennsylvania
Professor of Law
Courses: Contracts, Torts, Law and Medicine (Malpractice and Bioethics), Products Liability, Supreme Court (seminar), Comparative Bioethics, Bioethics (seminar), Advanced Torts

Prior and Additional Academic Appointments

August 2009 to December 2009 James E. Beasley School of Law
Philadelphia, Pennsylvania
Adjunct Professor of Law
Course: Torts

August 2008 to December 2008 James E. Beasley School of Law
Philadelphia, Pennsylvania
Adjunct Professor of Law
Course: Torts

May 2008 to June 2008 James E. Beasley School of Law
Rome, Italy
Visiting Professor
Course: Comparative Bioethics

September 2006 to February 2007 Drexel College of Law
Philadelphia, Pennsylvania
Adjunct Professor of Law
Course: Torts

August 1983 to August 1986 Villanova University School of Law
Villanova, Pennsylvania
Associate Professor of Law

August 1982
to August 1983

Villanova University School of Law
Villanova, Pennsylvania
Assistant Professor of Law

Professional Legal Experience

August 1981
to August 1982

The Honorable James Hunter III, United States Circuit Judge
United States Court of Appeals for the Third Circuit
Law Clerk

October 1980
to July 1981

Pepper, Hamilton & Scheetz
Philadelphia, Pennsylvania
Associate

June 1979
June 1980

The Honorable Frank A. Kaufman, United States District Judge
States District Court for the District of Maryland
Law Clerk

PUBLICATIONS

Books

Torts: Cases and Problems (Fourth Edition, Carolina Academic Press 2018)(co-authored with Professors Frank Vandall and Mark C. Rahdert)

Teacher's Manual for the above (Carolina Academic Press 2018)

Torts: Cases and Problems (Third Edition, Lexis/Nexis 2012)(co-authored with Professors Frank Vandall and Mark C. Rahdert)

Teacher's Manual for the above (Lexis/Nexis 2012)

Torts: Cases and Problems (Second Edition, Michie/LexisNexis 2003)(co-authored with Professors Frank Vandall and Mark C. Rahdert)

Teacher's Manual for the above (Michie/LexisNexis 2003)

Products Liability: Cases, Materials, Problems (Second Edition, Michie Company 2002) (co-authored with Professors Nicolas Terry, Jerry Phillips, and Frank Vandall)

Teacher's Manual for the above (Michie Company 2002)

Torts: Cases and Problems (Michie Company 1997) (co-authored with Professor Frank Vandall)

Teacher's Manual for the above (Michie Company 1997)

Appeals to the Third Circuit (Butterworth Legal Publishers, 1986) (2 Vols.) (Supplements 1987, 1990)

Articles

- The Force Awakens: *Tincher*, Section 402A, and the Third Restatement in Pennsylvania**, 27 WIDENER COMMONWEALTH LAW REVIEW 157 (2018) (co-authored with Professor Mark Rahdert)
- Calling It a Leg Doesn't Make It a Leg: Doctors, Lawyers and Tort Reform**, 13 ROGER WILLIAMS LAW REVIEW 154 (2008)
- Of Apples and Trees: Adoption and Informed Consent**, 25 QUINNIPIAC LAW REVIEW 601 (2007) (selected for inclusion in the University of La Verne Law Review Selective Bibliographic Index of Juvenile Law Publications, 30 UNIVERSITY OF LA VERNE LAW REVIEW 216 (2007-08))
- "[We] Shall Not Look Upon His Like Again:" The Career of Jerry Phillips**, 72 TENNESSEE LAW REVIEW 871 (2005)
- The Biter Bit: Unknowable Dangers, The Third Restatement, and the Reinstatement of Liability Without Fault**, 70 BROOKLYN LAW REVIEW 889 (2005)
- The Bitter Pill of Empiricism: Health Maintenance Organizations, Informed Consent, and the Reasonable Psychotherapist Standard of Care**, 46 VILLANOVA LAW REVIEW 260 (2001) (co-authored with Geoffrey Marczyk)
- Death by Definition: The Exclusion of Product Category Liability from the Third Restatement**, 10 KANSAS JOURNAL OF LAW AND PUBLIC POLICY 122 (2000)
- Shakespeare in Law: The Use of History in Shattering Student Credulity**, 45 VILLANOVA LAW REVIEW 463 (2000)
- Liability Without Defect: The Final Frontier**, 29 TOLEDO LAW REVIEW 667 (1998)
- Calabresi's Razor: A Return to Responsibility**, 28 STETSON LAW REVIEW 105 (1998)
- Ockham's Scalpel: A Return to a Reasonableness Standard**, 43 VILLANOVA LAW REVIEW 321 (1998)
- Pandora's Humidor: Tobacco Producer Liability in Tort**, 24 NORTHERN KENTUCKY LAW REVIEW 397 (1997)
- The Products Liability Shell Game: A Response to Victor E. Schwartz and Mark A. Behrens**, 64 TENNESSEE LAW REVIEW 627 (1997)
- Unavoidably Unsafe Products: A Modest Proposal**, 72 CHICAGO KENT LAW REVIEW 189 (1996)
- The Third Restatement of Torts: An Unreasonably Dangerous Doctrine**, 28 SUFFOLK LAW REVIEW 1235 (1994)
- The Smoke Gets in Their Eyes: Alternative Feasible Design and Strict Products Liability in the Third Restatement**, 62 TENNESSEE LAW REVIEW 1429 (1994) (excerpted in Owen, Montgomery and Keeton, *Products Liability and Safety* 3d ed.(Foundation Press 1996) and Henderson and Twerski, *Products Liability* 3d ed. (Aspen 1997))

- Punitive Damages and Strict Products Liability: An Essay in Oxymoron**, 39 VILLANOVA LAW REVIEW 505 (1994)
- Azzarello Agonistes: Bucking the Strict Products Liability Trend**, 66 TEMPLE LAW REVIEW 419 (1993)
- Foreword: The Supreme and Superior Courts of Pennsylvania in 1992**, 66 TEMPLE LAW REVIEW 491 (1993)
- Unknowable Dangers and the Death of Strict Products Liability: The Empire Strikes Back**, 60 CINCINNATI LAW REVIEW 1183 (1992) (excerpted in Vetri, *Tort Law and Practice* (Matthew Bender 1998))
- AIDS: At the Limits of the Law**, 34 VILLANOVA LAW REVIEW 755 (1989)
- Award of the Costs of Taking an Appeal in the Third Circuit**, 31 VILLANOVA LAW REVIEW 1005 (1986)
- Comparative Negligence and Persons under a Disability**, Chapter 10 (64 pp.) in *Comparative Negligence* (Matthew Bender, 1984) (3 Vols.)
- Informed Consent**, 43 CONNECTICUT MEDICINE 31 (1979)
- Note, **Interactions Between Memory Refreshment Doctrine and Work Product Protection Under the Federal Rules**, 88 YALE LAW JOURNAL 390 (1978) (student note)

SELECTED LAW-RELATED ACTIVITIES

- Elected to Membership, American Law Institute, fall 2018
- Adviser, ALI Restatement of the Law Third, Torts: Intentional Torts to Persons, summer 2013-present
- Panelist on “The Future of Healthcare Practice in the United States in light of the Affordable Care Act,” Pennsylvania Zeta Chapter of the AED [pre-med] Society, November 7, 2012
- Speaker, “Wrongful Immunity: Wrongful Birth and Wrongful Life Suits in Pennsylvania,” 2010 Lehigh County Bench-Bar Conference, October 16, 2010
- Speaker, “*Why Doctors Hate Lawyers*,” Update for Feminist Law Professors, Feb.7, 2009
- Speaker, “*The Restatement (Third) of Torts (Products Liability) and the Bugosh Case*,” 2009 Lehigh County Bench-Bar Conference, September 20, 2008
- Speaker, “*Calling It a Leg Doesn’t Make It a Leg: Doctors, Lawyers, and Tort Reform*,” Roger Williams Symposium on Genuine Tort Reform, April 20, 2007
- Presenter, “*Of Apples and Trees: Adoption and Informed Consent*,” Villanova University School of Law Faculty Colloquium Series on Law and Social Science
- Presenter, “*Of Apples and Trees: Adoption and Informed Consent*,” Delaware Valley Law Women Annual Conference, February 3, 2007

Co-Planner and Moderator, Panel on Privacy, Medicine, and Bioethics, VILLANOVA LAW REVIEW Symposium on Privacy Law in the New Millenium: A Tribute to Richard C. Turkington, October 29, 2005

Invited Participant, Workshop on Globalizing the Law School Curriculum, sponsored by the Pacific/McGeorge Institute for Global Business of the Center for Global Business and Development, August 2005 (Proceedings reported in "*Report Regarding the Pacific McGeorge Workshop on Globalizing the Law School Curriculum*," 19 PACIFIC MCGEORGE GLOBAL BUSINESS & DEVELOPMENT JOURNAL 1 (2005))

Speaker, Conference on "*The Restatement (Third) of Torts and the Future of Tort Law*," University of Kansas, June 1-3, 2000, "Death By Definition: The Exclusion of Product Category Liability from the Third Restatement"

Speaker, Symposium on "*Tobacco Regulation: Personal Rights v. Public Welfare*," University of Toledo College of Law, March 20, 1998

Lecturer, Distinguished Lecture Series, Stetson College of Law, February 11, 1998, "*Calabresi's Razor: A Return to Reason[ableness]*"

Faculty Advisor, Moderator and Panelist, 1997 VILLANOVA LAW REVIEW Symposium, "*Pursuing Health in an Era of Change: Emerging Legal Issues in Managed Care*"

Speaker, Symposium on "*Tobacco: A Growing Controversy*," Salmon P. Chase College of Law, Northern Kentucky University, April 4-5, 1997

Conference Leader, Consumers in the Civil Justice System: a New Audit, Suffolk Law School, October 20, 1995

Keynote Speaker, Medical College of Pennsylvania Quarterly Conference on Law, Ethics and Health Care, April 13, 1995, "*Decisionmaking for Incompetent Patients*"

Speaker, Two New Products Liability Courses, Pennsylvania Trial Lawyers Association, "*Parties to Section 402A Actions*" and "*Elements of a Section 402A Action*," March 2, 1995

Panelist, Symposium on the Third Restatement of Products Liability, University of Tennessee School of Law, August 1994

Paper Presented, "*Home Health Aides: Keepers of HIV Secrets*," written jointly with Professor Alexander of Bryn Mawr College and Professor Michal-Johnson of Villanova University, November 1993

Speaker and Faculty Advisor, 1993 VILLANOVA LAW REVIEW Symposium on Strict Products Liability and Punitive Damages

Moderator and Advisor, 1988 VILLANOVA LAW REVIEW Symposium, "*AIDS: At the Limits of the Law*"

Chair and Course Planner, panel on Death and Life-Prolonging Measures, Health Care Law Symposium (December 6 and 7, 1984)

Course Planner and Panelist, program on Model Rules of Professional Responsibility, Villanova Continuing Legal Education Program, November 1983

Speaker on Dental Malpractice, program on Continuing Dental Education, 338th Medical Group, United States Army Reserves, November 1982

MEMBER

Bar of the Supreme Court of Pennsylvania
Bars of the United States Courts of Appeals for the Third and Fourth Circuits
Bars of the United States District Courts for the Eastern District of Pennsylvania and for the District of Maryland

American Bar Association
American Law Institute
Order of the Coif
Phi Beta Kappa