

## MAYA STEINITZ

Charles E. Floete Distinguished Professor of Law  
University of Iowa College of Law

### ACADEMIC APPOINTMENTS (SELECTED)

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**HARVARD LAW SCHOOL**, Cambridge, Mass. 2018

**Visiting Professor of Law.** Taught civil procedure, international business transactions, cross-border tort litigation, and litigation and law firm finance and the legal profession.

**UNIVERSITY OF IOWA COLLEGE OF LAW**, Iowa City, Iowa 2011–Present

**Charles E. Floete Distinguished Professor of Law** (*tenured since 2015*).

**Teaching:** Teach civil procedure, complex litigation, international business transactions, business associations (corporations), international arbitration, and negotiation and mediation.

**Additional teaching interests:** contracts, torts, professional responsibility, trusts & estates.

**Research:** Current research focuses on litigation finance, law firm ownership, and the future of the legal profession; transnational litigation, international adjudication, and international dispute resolution; class actions, mass torts and complex claims administration. My doctoral work focused on the social psychology of law, and since then I have mostly drawn on comparative law and law and economics.

**COLUMBIA LAW SCHOOL**, New York, N.Y. 2006; 2009–2011

**Associate-in-Law.** Taught LLM course “Comparative Introduction to American Law” (with Prof. G. Fletcher). Designed and organized, in association with the Columbia Center on International Investment, a conference on “State and State-Controlled Entities in International Investment Arbitration.”

**Lecturer.** Appointed to co-teach “The Legal Aspects of the Israeli-Palestinian Conflict.”

### ACADEMIC PUBLICATIONS

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#### Books

- *Litigation Finance, Law Firm Ownership & The Future of the Legal Profession* (forthcoming, CAMBRIDGE UNIVERSITY PRESS; expected publication 2024).

An in-depth study of the law, economics, policy implications, and the emerging and desirable practices in the interlocking areas of litigation and law firm finance. Major themes include: the elusive definition of litigation funding; the pricing of legal claims; the beneficial and determinantal effects of litigation funding in different contexts and for different constituencies; what do and should litigation funding deals look like; how should individual deals and the industry as a whole be regulated; what is the relationship between funding a single case, a portfolio of cases, and a whole law firm; what are the likely implications of the undoing of lawyers’ monopoly over the practice of law for lawyers, law firm, and society writ large; what

will happen when lawyers have equal but competing fiduciary duties to clients and to those holding the purse strings (otherwise stated: is the future of law like the present of medicine).

- *Civil Procedure: Cases and Materials* (open source coursebook, forthcoming 2023).

A coursebook for the first-year civil procedure course, containing edited court opinions, scholarly excerpts, and introductory essays by the author. Aimed in part to address multiple barriers to student access to learning materials including cost, multi-platform use, disability, and readability.

- *Rules and Laws for Civil Actions* (with J. Rantanen, et. al) (2022) (open source, funded by an OpenHawks grant).

Rules and Laws for Civil Actions is an open-access resource for law students containing the U.S. Constitution, Federal Rules of Civil Procedure, Federal Rules of Evidence, Federal Rules of Appellate Procedure, and selected federal and state statutes. In addition to containing the official text, each legal source found in Rules and Laws for Civil Actions is accompanied by an introductory section written by an Iowa Law professor explaining its significance and background. The book was created, with the support of an OpenHawks grant, to supplement the study of Civil Procedure, Evidence, Constitutional Law, and other law school courses and to address multiple barriers to student access to these resources, including cost, multi-platform use, disability, and readability.

- *The Case for an International Court of Civil Justice* (CAMBRIDGE UNIVERSITY PRESS 2019).

The book argues that we live in a world in which the victims of cross-border mass torts *de facto* lack a court to turn to in order to pursue legal action against multinational corporations responsible for disasters, atrocities and other harms. And even though tort victims ultimately receive no redress, corporations must nonetheless spend large sums to defend against sprawling, parallel litigations. The best way to provide a fair, legitimate, and efficient process for both victims and corporations is to create an International Court of Civil Justice (ICCJ). The book presents both justice-based and economics-based arguments in favor of an ICCJ. Closely associated with the economic arguments is a broader explanation for why the proposal is not only timely but also, perhaps counterintuitively, politically viable. The book also provides a procedural and institutional design for such a court, addressing such issues as personal and subject-matter jurisdiction, remedies, appeal, preclusion, and judicial independence.

- *Trust: The Unlikely Story of The Temple Mount/Al-Haram Al-Sharif Waqf* (in progress).

The Jerusalem Waqf Administration is a trust arrangement under Islamic law which governs sites holy to both Jews and Muslims: Al-Haram al-Sharif and Temple Mount. *Trust* explores the puzzle of why, in a region where no dispute resolution mechanism seems to work, the compromise of having a waqf govern the holiest sites in Jerusalem does work. In so doing, it contributes to the study of dispute resolution the idea that trusts—those that developed in religious traditions such as Shari'a, Halachic (Jewish) law, and Canon law as well as those used in the Common Law world and semi-equivalents in Civil Law systems—should be added to the dispute management and resolution toolbox into which negotiators reach in devising interim and final peace agreements and in international dispute resolution more broadly.

- *Law and the Self: An Imaginary Exchange of Letters between H.L.A. Hart and G.H. Mead* (in progress).

In this re-working of my doctoral thesis, I present a fictional debate between two titans of the 20th century—the social philosopher Herbert Mead and the legal philosopher Herbert Hart. Using this heuristic/artistic device, I present my own argument that (i) phenomenologically,

whatever else the law is it is patterned interactions between society's Generalized Other (as defined by Mead), performed by legal institutions, and the Self; (ii) that the concept of law co-emerges with the phenomenon of law; and (iii) that important implications follow from the co-emergence of law and its concept for both substantive and methodological legal positivism.

## Law Review Articles

- *An End to Class Actions?* (in progress).

This article explores the ways both plaintiffs and defendants have devised in recent years to circumvent the class action device and offers another novel way to aggregate cases without the need to go through the increasingly-difficult class certification process.

- *The Partnership Mystique: Law Firm Finance and Governance in the 21<sup>st</sup> Century*, 63 WM & MARY L. REV., 939 (2022).

The article identifies and analyzes the de facto and de jure end of lawyers' exclusivity over the practice of law in the U.S.. First, the article argues that various financial products that have recently flooded the legal market are functionally equivalent to investing in and owning law firm and create all the same governance challenges as does allowing nonlawyers to directly own stock in law firms. Second, the article analyzes Arizona's groundbreaking legalization of nonlawyer participation in law firms and the effects it will have nationally. Third, the article explains that the drawbacks of liberalizing the practice of law are rooted in the conception of shareholder primacy. This principle would encourage lawyers to prioritize profit-maximization for the benefit of their investors over the interests of clients and the courts. Fourth, despite the apparent dangers there are reasons to celebrate the end of the era of the legal practice as the exclusive purview of lawyers. Lawyers' monopoly hinders inclusion and diversity and, counterintuitively, undermines practitioners' dignity and wellbeing. Fifth, the apparent dangers of liberalization can be avoided if states follow Arizona in allowing nonlawyer participation in the practice of law but condition it on organization as 'legal benefit entity' which will be required to privilege the interests of clients and the courts over those of investors.

- *Follow the Money? A Proposed Approach for Disclosure of Litigation Finance Agreements*, 53 U.C. DAVIS L. REV. 1073 (2019).

Congress, state legislatures, state and federal courts, bar associations, and others are proceeding along dozens of parallel tracks, engaging in fierce debates about how best to regulate the disclosure of litigation finance. This essay aims to turn those debates inside out. The thrust of the argument is that the quest for a bright-line rule by which to regulate disclosure of litigation funding is fundamentally misguided because it fails to account for the near-infinite variability of funding scenarios—scenarios that implicate widely different interests, pose different risks, and affect different constituencies to varying degrees. Instead of a bright line rule, this Essay proposes a shift to a standard-based approach and, specifically, a balancing test. After explaining the stakes, and laying out the reasons why finding a uniform approach has proved so controversial and elusive, the Essay culminates with a suggestion for a specific balancing test, including factors and interests to be weighed by courts on an ad hoc basis.

- Republished, in edited form, in Harvard's *The Practice* (September-October 2019).
- Republished in David Siffret et. al (eds.), *Mandatory Disclosure Rules in Dispute Financing* (forthcoming 2020).

- *Transnational Litigation as Prisoners Dilemma* (with P. Gowder) 94 NORTH CAROLINA L. REV. 751 (2016).

In this article we use game theory to argue that perceptions of widespread corruption in the judicial processes in developing countries create *ex ante* incentives to act corruptly. Therefore, contrary to judicial narratives in individual cases—such as the (in)famous Chevron-Ecuador dispute used as illustration—the problem of corruption in transnational litigation is structural and as such calls for structural solutions. The article offers one such solution: the establishment of an international court of civil justice.

- *Back to Basics: Public Adjudication of Corporate Atrocities Mass Torts*, HARVARD JOURNAL OF INTERNATIONAL LAW (2016) (invited symposium essay).

Arguing that the international tort cases arising out of corporate atrocity crimes should be adjudicated in an international court, not in international arbitration.

- *Incorporating Legal Claims*, 90 NOTRE DAME L. REV. 1155 (2015).

This article proposes a new paradigm which would replace litigation-finance-as-champerty (the ‘legal ethics paradigm’) as the organizing idea in the literature and jurisprudence of litigation finance with litigation-finance-as-finance (the ‘incorporation paradigm’). It first argues that the problems created by litigation finance are all facets of the classic problem of the separation of ownership and control. It then suggests incorporating legal claims: conceiving of a claim as an asset with an existence separate from the plaintiff by issuing securities tied to litigation proceed rights. Such securities can be issued with or without the use of various business entities. The incorporation paradigm also opens up the possibility of applying practices of corporate governance to litigation governance. The theoretical argument is buttressed by an analysis of previously-overlooked deals that used securities tied to litigation proceed as well as corporate governance mechanisms.

- *The Case for an International Court of Civil Justice*, 67 STAN. L. REV. 74 (2014).

An essay in which the main argument in the book by the same name (above) was presented.

- *A Model Litigation Finance Contract*, (with A. C. Field) 99 IOWA L. REV. 711 (2014).

This article steps into the gap created by the absence of information about or discussion of litigation finance contracting by providing an annotated model contract. We (i) set out the efficiency and justice case for a model contract; (ii) build on previous work to make the case for using venture capital contracts as analog; (iii) describe the ethical and economic challenges constraining parties to litigation finance contracts and narratively explain the contractual solutions we have devised; (iv) provide a model contract; and (v) conclude by mapping a research agenda for the new field of litigation finance contracting.

- See also *online research project*: [litigationfinancecontract.com](http://litigationfinancecontract.com)

In this first-ever instance of ‘crowd-sourced’ legal research I offered a model litigation finance contract, provision by provision, for discussion and debate. I linked our provisions to background essays we authored and hosted and edited guest commentary, which served as original research in their own right. Where persuaded by the commentary we revised our draft model. The final model contract was published as a section in the *A Model Litigation Contract*.

- *How Much is that Lawsuit in the Window? Pricing Legal Claims* 67 VANDERBILT L. REV. 1889 (2013).

How should parties to litigation finance and contingency fee agreements deal with the inherent difficulty in pricing legal claims? The answer lies in “staged funding” which allows all of the claim owners to minimize the effects of uncertainty, optimize the distribution of the proceeds, and increase the value of the option to settle—described here as a compound call option—by accounting for real options i.e., lawyers’ and funders’ option of adjusting their investments in response to new information. The article concludes with practical suggestions on how to adapt staged funding, common in other areas of finance, to third party litigation funding.
- *The Litigation Finance Contract*, 54 WM & MARY L. REV. 455 (2012).

Whereas the literature and case-law on litigation funding (“LF”) is based on an analogy between LF and contingency fees this article breaks away from that tradition and instead posits an analogy to venture capital (“VC”). The article explains the resemblance between the economics of LF and the well-understood economics of VC, both of which are characterized by extreme (1) uncertainty, (2) information asymmetry, and (3) agency costs. It discusses which contractual arrangements developed in VC directly apply to LF, which need adaptation, and how to adapt. The analogy turns most of the conventional wisdom on its head arguing that funders should be viewed as real parties in interest and should be allowed to purchase control over the litigation. Various policy implications of the conceptual shift are explored.
- *Whose Claim is This Anyway? Third-Party Litigation Funding*, 95 MINNESOTA L. REV. 1268 (2011).

The article identifies and describes the emerging secondary market in legal claims and the prospect of securitization of legal claims. It applies a bargaining analysis to understanding the systemic effects of the litigation finance industry and offers a three-step argument for a move away from a prohibition of litigation funding towards nuanced regulation of the industry. The article concludes with a five-pronged framework for the suggested regulatory regime.

  - Republished in *Transnational Dispute Management Journal* (2012).
- *Internationalized Pro Bono and a New Global Role for Lawyers in the 21st Century: Lessons from Nation Building in Southern Sudan*, YALE HRDL JOURNAL (Spring 2009).

This Note From the Field draws on the author’s experience leading a team of fifty attorneys in representing the Sudanese Peoples Liberation Movement in drafting and negotiating the National Interim Constitution of Sudan, the Interim Constitution of Southern Sudan, and the Constitutions of two “transitional” states. It provides some counter-intuitive observations on the role *pro bono* private practitioners play, in contrast with public sector attorneys and foreign aid providers, as they enter the ‘market’ of global affairs.
- *The International Criminal Tribunal for Rwanda as Theater: The Social Negotiation of the Moral Authority of International Law*, 5 U. PENN. JILP 1 (2006).

This article explores the philosophical notion advanced by some positivists that law *qua* law claims legitimate and supreme authority through ethnographic research conducted at the international criminal tribunal for Rwanda (ICTR). It examines the means through which moral authority is constructed and communicated by the ICTR and by extension by the International Criminal Courts (ICCs). It advances the argument that the ICCs seek to personify the Generalized Other (as the term is used in social-psychology) and demonstrates how they claim to embody the universal authority and morality of the international community.

- *‘The Milosevic Trial - Live!’: An Iconic Analysis of International Law’s Claim of Legitimate Authority*, 3 OXFORD J. OF INT’L. CRIM. J. 103 (2005) (peer-reviewed).

It has been argued that in order for a normative system to qualify as law it must claim to possess legitimate authority and to be supreme to other normative systems. This article examines criminal war trials from an ethnographic perspective, trying to discern whether and how international law claims legitimate authority and supremacy. Specifically, it focuses on the deeply symbolic example of the Milosevic trial. It offers a sociological reading of the symbolism of the interpersonal dynamics at the trial to show how a claim of supreme, legitimate authority is socially constructed and explores the sub-textual claims of the trial.

- *The Ad Hoc International Criminal Tribunals and a Jurisprudence of the Deviant*, 7 INT’L LAW FORUM DU DROIT 129 (2005) (invited, peer-reviewed).

This short article is a synopsis of a doctoral thesis entitled “Law as Communication: A Concept of International Law,” described below.

- *Law as Communication: A Concept of International Law*, J.S.D. DOCTORAL THESIS (NYU 2005).

The thesis seeks to defend Razian positivism, specifically the claim that “whatever else the law is, it either claims legitimate authority, is held to possess it, or both” in two ways. One, is by using concepts from the social philosophy of G. H. Mead and his intellectual disciples (principally Erving Goffman) to explain the emergence of law and the co-emergence of the concept of law. The other, is a dramaturgical ethnography of the international criminal courts. The ethnography is used as an illustration of how one normative system claiming to be ‘law’—the international legal system—is claiming legitimate, supreme, authority.

### **Edited Volumes**

- *Transnational Mass Tort Litigation*, in RESEARCH HANDBOOK ON CIVIL JUSTICE (David Engel & Richard Jolly eds.) (forthcoming, Edward Elgar Publishing).
- Contributor, RESTATEMENT OF THE LAW, THE U.S. LAW OF INTERNATIONAL COMMERCIAL AND INVESTOR-STATE ARBITRATION, (George A. Bermann et. al) (forthcoming, The American Law Institute).
- *Third-Party Litigation Funding of International Investment Arbitration* in the MAX PLANK INSTITUTION ENCYCLOPEDIA OF CIVIL PROCEDURE (OXFORD UNIVERSITY) (2021).
- *Follow the Money? A Proposal for the Regulation of Disclosure of Litigation Finance* in MANDATORY DISCLOSURE RULES IN DISPUTE FINANCING (David Siffret et. al, eds.) (2020 NYU PRESS).
- *Transnational Litigation Process Theories* in THE INTERNATIONAL ADJUDICATION HANDBOOK (C. Romano et. al, eds.) (OXFORD UNIVERSITY PRESS 2014).
- *Foreign Direct Investment by State-Controlled Entities—Do the Rules Need Changing?* in FDI BY STATE-CONTROLLED ENTITIES (Karl P. Sauvant and Lisa Sachs, eds.) (OXFORD UNIVERSITY PRESS 2012).

### **Edited Journal Issues**

- “Contingent Fees and Third-Party Funding in Investment Arbitration Disputes,” TRANSNATIONAL DISPUTE MANAGEMENT (2011) (with J. Matthews).
- “International Round Table on Law and Semiotics,” INT’L J. LAW AND SEMIOTICS (Spring 2007) (with J. Brigham and A. Patakchi).

Last updated February 2023.

## Unpublished Works in Circulation

- *Written testimony on lawsuit lending before the New York State Senate Standing Committee on Consumer Protection*, May 2018, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3178963](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3178963).
- *Letter to the Hon. Sen. Orrt (NYS Senate) Regarding Lawsuit Lending*, May 2018, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3238148](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3238148) (a follow-up research memorandum provided the New York State Senate Standing Committee on Consumer Protection at its request following up on the testimony).
- *Experiential Teaching in Theory and Practice: An Annotated International Business Transaction Syllabus*, U. IOWA LEGAL STUDIES RESEARCH PAPER NO. 15–22 (with O. Shalomson and N. Steinitz – Edelman).

## OpEds and Short Pieces

- *To Heal the Nation, Hold Even the Politically Powerful Accountable*, Washington Post (October 2022).
- *The Sanctions Against Russia – A Game Changer for Israel*, Haaretz (April 2022) (Hebrew).
- *Pissarro Goes to Washington: Nazi-looted art litigation in the U.S. Supreme Court*, Haaretz (January 2022) (Hebrew).
- *The Abraham Accords Honeymoon May lead to Arbitration Impasses*, Globes (October 2021) (Hebrew).
- *The Identity Crisis of American Identity Politics*, Haaretz (August 2021) (Hebrew).
- *The Significance of Bill Cosby’s Release*, Haaretz (July 2021) (Hebrew).
- *The Unholy Status Quo*, Haaretz (June 2021) (Hebrew).
- *Israel Can Learn from Police Reform in America*, Globes (May 2021) (Hebrew).
- *The Party Is Over*, Haaretz (April 2021) (Hebrew).
- *How to Accomplish Compensation for the Victims of the Mediterranean Tar Spill*, Haaretz (March 2021) (Hebrew).
- *Tar Disaster: Domestic Courts will Struggle to Provide Redress*, Globes (March 2021) (Hebrew).
- *Profits May Tip Scales of Justice*, Arizona Republic (Feb. 2021) (with V. Sahani).
- *New Ariz. Law Practice Rules May Jump-Start National Reform*, Law360 (January 2021) (with V. Sahani).

## Scholarly Blog Posts

- *Navigating the Sea Change in Law Firm Finance and Ownership in the U.S.*, Kluwer Arbitration Blog (November 2021) (with V. Sahani).
- *The Model Contract Project Overview*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Jan. 14, 2013).
- *The Case for Staged Funding of Litigation*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Jan. 14, 2013).
- *Litigation Proceed Rights*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Jan. 16, 2013).

- *Sale and Purchase of Litigation Proceed Rights*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Jan. 18, 2013).
- *Pricing Litigation Proceed Rights: Initial Claim Value and Risk Discount Factors*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Jan. 21, 2013).
- *Milestones Generally and in the Model Contract*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Jan. 25, 2013).
- *Introducing Conflicts of Interest*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Jan. 28, 2013).
- *Funding Through to Milestones: Accelerated and Supplemental Investments*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Jan. 30, 2013).
- Maya Steinitz, *Re-Pricing Litigation Proceed Rights*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Feb. 1, 2013).
- *Champerty*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Feb. 6, 2013).
- *Discoverability of Funding Contracts*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Feb. 8, 2013).
- *Final Funding Provisions*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Feb. 13, 2013).
- *Attorney Waste*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Feb. 15, 2013).
- *Using Securities as the Financing Instrument*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Feb. 21, 2013).
- *The Need for Independent Counsel*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Feb. 27, 2013).
- *Disclosing Conflicts of Interest*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Mar. 1, 2013).
- *Funder Influence, Not Control: Settlement Decisions in the Model Contract*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Mar. 6, 2013).
- *Funder Influence, Not Control: Choosing Litigation Counsel*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Mar. 8, 2013).
- *Funders as Lawyers*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Mar. 13, 2013).
- *The Duty to Cooperate*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Mar. 15, 2013).
- *Funder as Fiduciaries*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Mar. 20, 2013).
- *Defining the Award*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Mar. 22, 2013).
- *Confidential Information*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Mar. 27, 2013).
- *Dealing with Investigations*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Mar. 29, 2013).
- *Attorney-Client Privilege and Litigation Funding in New York*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Apr. 3, 2013).
- *Attorney-Client Privilege and the Model Contract Part 1: Common Legal Interest*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Apr. 5, 2013).
- *Privilege II: Securities Fraud and Information Shared as of Contract Execution*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Apr. 10, 2013).

- *Privilege III: Information Sharing During the Funding of the Suit*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Apr. 12, 2013).
- *Securitizing Claims*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Apr. 17, 2013).
- *Securitization and Secondary Financing Under the Model Contract*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Apr. 19, 2013).
- *Choosing a Forum for Dispute Resolution*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Apr. 26, 2013).
- *Funding Terms, Conflicts and the Model Contract, a Response*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 1, 2013).
- *Terminating Funding Contracts*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 3, 2013).
- *Rights of Funder to Terminate for Cause*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 6, 2013).
- *Termination for Cause by Plaintiff*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 8, 2013).
- *Consequences of Termination for Cause*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 10, 2013).
- *Executed Litigation Finance Contract from Canada*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 15, 2013).
- *Comparing the Financial Terms in the Dugal Contract to the Model*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 17, 2013).
- *Information Sharing in the Dugal Contract V. The Model*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 20, 2013).
- *Conflicts and Buyer's Remorse in the Dugal Contract V. The Model*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 22, 2013).
- *Termination and Control in the Dugal Contract and the Model*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 24, 2013).
- *Incorporating the Claim*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (May 31, 2013).
- *Dugal Versus the Model; Final Odds and Ends*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (June 3, 2013).
- *Securities Interest in the Model Contract*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (June 5, 2013).
- *Protecting the Claim from Impairment*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (June 7, 2013).
- *Proceeds and Costs*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (June 10, 2013).
- *Proceeds and Taxes*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (June 12, 2013).
- *The Role of Representations, Warranties and Covenants*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (June 14, 2013).
- *Capping Funder's Investment and Contractual Fiduciary Duties: A Response To Professors Sebok And Wendel*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (June 20, 2013).

- *Contracting for Funding in “Access to Justice Cases” Versus “Corporate Finance Cases”*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (June 24, 2013).
- *Good Faith Duty as Alternative to Fiduciary Duty*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (June 27, 2013).
- *The Third Wave of Litigation Finance: Litigation Finance as Corporate Finance*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (July 1, 2013).
- *The Need for and the Potential Role of Reputation Markets in Litigation Finance*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (July 4, 2013).
- *Aligning Incentives by Requiring Plaintiff to Shoulder Part of the Costs*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (July 11, 2013).
- *The Model and the Securities Laws, Coda*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (July 29, 2013).
- *Litigation Finance Brokers*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (August 1, 2013).
- *Some Thoughts About Plaintiff’s Due Diligence*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (August 5, 2013).
- *Pricing Legal Claims Part I: The Valuation Challenge*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Aug. 15, 2013).
- *Pricing Legal Claims Part II – Valuation Biases and Heuristics*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Aug. 19, 2013).
- *Pricing Legal Claims III-Staged Funding and the Link to Options Analysis*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Aug. 21, 2013).
- *Pricing Legal Claims IV: Staged Funding Addresses the Nonmonotonic Trajectory of Claim Value*, Model Litig. Fin. Cont.: Litig. Funding Theory Prac. (Aug. 29, 2013).

**Refereeing (*selected*)**

- European Journal of International Law
- Oxford University Press (multiple)
- Oxford University Press Yearbook on International Investment Law
- Oxford Journal of International Criminal Justice
- Dutch Research Council
- Israel Science Foundation
- Aspen Publication

## **LEGAL EXPERIENCE**

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### **JUDICIAL CLERKSHIPS**

**INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA**, Rwanda & Tanzania 2003

*Judicial Intern.* Assisted judges in Trial Chamber with all aspects of judicial duties.

**HON. E. HAYUT, TEL AVIV APPELLATE COURT**, presently **CHIEF JUSTICE OF THE SUPREME COURT OF ISRAEL** 1998–1999

*Judicial Clerk.* Served on one of five penultimate national courts of appeal, considered second in importance only to the Supreme Court of Israel. Assisted in all aspects of judicial duties of the Hon. E. Hayut. Also assisted panel chaired by the Hon. A. Grunis, former Chief Justice of the Supreme Court of Israel, in all judicial tasks.

### **LITIGATION**

**LATHAM & WATKINS, LLP**, New York, NY 2003–2009

*Associate.* Originated and led representation of the Government of Southern Sudan in the negotiation and drafting of peace agreements and post-conflict constitutions following more than 20 years of civil war. Represented companies and governments in all aspects of pre-claim, pre-hearing, and arbitral proceedings in arbitrations under the rules of the ICC, LCIA and UNCLOS, in enforcement actions in New York courts and in securities and antitrust investigations and litigation. Litigated multi-billion dollar post-merger and cross-border finance disputes on behalf of Fortune 100 and Fortune Global 500 companies.

**FLEMMING, ZULACK & WILLIAMSON, LLP**, New York, NY 2001–2002

*Law Clerk.* Participated in every aspect of sophisticated commercial trial practice for this Wall Street boutique law firm. Researched and wrote memoranda on issues including insurance, product liability, construction and contract law.

### **ARBITRATION AND ADJUDICATION**

***Court Member & Arbitrator*** 2009–Present

Served as chair, sole arbitrator, and co-arbitrator in dozens of international and domestic arbitrations. Authored dozens of arbitration decisions and awards (judgements) on topics of public and private international law, securities law, contracts, and torts. Selected to serve as one of nine Members of the inaugural bench of the ICC's Jerusalem Arbitration Center, a joint venture of the Israeli and Palestinian chambers of commerce, which resolves commercial disputes between Israelis and Palestinians. Member of the rosters of arbitrators of the ICC Court of Arbitration (ICC), the International Centre for Dispute Resolution (ICDR), the United Nations World Intellectual Property Organization (WIPO), the Singapore International Arbitration Center (SIAC), and the Financial Industry Regulatory Authority (FINRA). Serve as a Member of the ICC Commission on Arbitration and the Academic Council of the Institute for Transnational Arbitration.

**ISRAEL DEFENSE FORCES**, Israel

1992–1995

**Lieutenant.** Served as an adjudication officer, adjudicating hundreds of cases including cases that carried a penalty of jail time; platoon commander on the Israeli - Jordanian border during handover of the Jericho military post to the Palestinian Authority in implementation of the Oslo Accords. Prior to becoming an officer, served as media relations coordinator for the IDF spokesman.

## **EDUCATION**

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**NEW YORK UNIVERSITY SCHOOL OF LAW**, LL.M., 2000; J.S.D. 2005.

*Honors:* Emile Noel Fellow, Jean Monnet Center for and Regional Economic Law and Justice; Dean's merit scholarships (multiple); Slavitt Postgraduate Fellowships; AVI foundation scholarship; Advanced Doctoral Research Fellowship, University College, Oxford.

**HEBREW UNIVERSITY FACULTY OF LAW**, Jerusalem, Israel, LL.B. 1999.

*Honors:* Minerva Human Rights Inaugural Fellowship. *Teaching Assistant:* Introduction to Israeli Law; Introduction to Common Law.

*Lecturer:* Introduction to Legal Philosophy, 1998–1999.

## **BAR ADMISSIONS**

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Admitted to the New York State Bar (2004); Southern District of NY; Eastern District of NY.

## **PRESS APPEARANCES**

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Interviewed and cited by scores of leading news outlets globally, including CBS 60 Minutes, the New York Times, the Washington Post, the Wall Street Journal, NBC, NPR, The Atlantic, The Chicago Tribune, Reuters, Bloomberg, and the American Lawyer.

## **LECTURES AND PRESENTATIONS**

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- Commentator, *Recent Developments in Litigation Finance*, Tel Aviv University (June 2023).
- Co-organizer and Presenter, *Frontiers in Law Firm Ownership*, NYU Law School Center for Civil Justice (February 2023).
- Co-organizer and Presenter, *Recent Developments in Arbitration*, NYU Law School Center for Civil Justice (November 2022).
- Presenter, *Sixteenth Annual Judicial Symposium on Civil Justice Issues*, George Mason's Law and Economics Center (October 2022).
- Presenter, *Complex Litigation Ethics*, Hastings Law School (October 2022).
- Participant, expert roundtable held by the U.S. Government Accountability Office (GAO) on the topic of addressing data/information gaps in in the U.S. third-party litigation finance market (September 2022).

- Presenter, *Alternative Business Structures: Accessing Justice Through a different Model*, Baylor Law School (September 2022).
- Invited Speaker, *The Abraham Accords - Discussion with Prof. Maya Steinitz*, Freshfields (July 2022).
- Organizer and moderator, *Practical Insights into Commercial Arbitration in the Abraham Accords Economy*, Tel Aviv/Dubai/London (virtual) (June 2022).
- Panelist, *Litigation Funding Disclosure*, Baylor Law School (May 2022).
- Investiture Lecture, *The Great Transformation of the American Courtroom and Two Possible Futures of the Legal Profession*, University of Iowa School of Law (April 2022).
- Moderator, *Recent Developments in International Arbitration Finance*, NYU Law School (February 2022).
- Presenter, *Third Party Litigation Funding - A Necessity or Deterrence of Justice?*, the European Law Institute, Vienna, Austria (virtual) (December 2021).
- Presenter, *The Role of Third-Party Financing in the Litigation Ecosystem*, Fifteenth Annual Judicial Symposium on Civil Justice, George Mason's Law and Economics Center (November 2021).
- Presenter, *New Issues in Litigation Funding*, Berkeley Law School (October 2021).
- Discussant, *The Mysterious Market for Post-Settlement Litigant Finance*, Berkley Law School (March 2021).
- Presenter, *Israeli-Arab Commercial Arbitration in the Wake of the Abraham Accord*, Boston University Law School (March 2021).
- Keynote speaker, *Harnessing the law to protect the planet: The case for an International Court for the Environment*, International Bar Association's Human Rights Institute, London (virtual) (February 2021).
- Panelist, *Careers in International Law*, University of Iowa College of Law (February 2021).
- Panelist, *Careers in International Law*, Boston University School of Law (February 2021).
- Presenter, *The Partnership Mystique: Law Firm Finance and Governance in the 21st Century*, Boston University Law School (January 2021).
- Presenter, *The Growth of Third-Party Litigation Finance: Promise or Peril?* Association of American Law Schools (AALS) (January 2021).
- Presenter, *Arizona's Pioneering World of Non-Lawyer Investment in Law*, Cardozo Law School (December 2020).
- Presenter, *The Case for an International Court of Civil Justice*, Northwestern Law School's Sixth Annual Civil Procedure Workshop (October 2020).
- Discussant, *Avraham et al.'s "The Mysterious Market for Post-Settlement Litigant Finance,"* Northwestern Law School's Sixth Annual Civil Procedure Workshop (October 2020).
- Discussant, *Professor Mark Osiel's "The Right to Do Wrong,"* Iowa Law (October 2020).
- Presenter, *Funding International Collective Proceedings*, Global Class Actions Symposium, London (virtual) (September 2020).
- Moderator, *The Future of Dispute Financing*, NYU Center for Civil Justice (June 2020).

- Presenter, *The Case for an International Court of Civil Justice*, Boston University Law School (May 2020).
- Presenter, *The Case for an International Court of Civil Justice*, Stanford Law School (March 2020).
- Panelist, *Litigation Finance Ethics*, Berkeley Law School (September 2019).
- Moderator, *E-discovery and Civil Procedure*, Harvard Law School (September 2019).
- Panelist, *The Future of Dispute Finance: Pricing, Profits, and Policy*, NYU Law School (October 2019).
- Panelist, *Follow the Money? A Proposed Approach for Disclosure of Litigation Finance Agreements*, Hebrew University of Jerusalem (November 2019).
- Panelist, "The Erosion of the Rule of Law in Nazi Germany and How It Informs Challenges of Today," Latham & Watkins, New York (June 2019).
- Panelist, "The Past, Present and Future of Litigation and Law Firm Finance," Western Bar Associations Annual Meeting, Hawaii (March 2019).
- Panelist, "Disclosure of Litigation Finance, Pool Financing, and Fee Sharing," New York City Bar Association Task Force on Litigation Finance (March 2019).
- Panelist, "The Case for an International Court of Civil Justice," International Institute on Sustainable Development Geneva (February 2019).
- Panelist, "The Case for an International Court of Civil Justice," British Institute of International and Comparative Law (February 2019).
- Panelist, "The Case for an International Court of Civil Justice," Max Planck Institute Luxembourg for Procedural Law (January 2019).
- Panelist, "The Case for an International Court of Civil Justice," Paris Institute of Political Studies (Sciences Po) (January 2019).
- Panelist, "The Case for an International Court of Civil Justice," Amsterdam University School of Law (January 2019).
- Panelist, "The Case for an International Court of Civil Justice," The Hague Academy of International Law (January 2019).
- Panelist, "Alternative Litigation Funding in the Federal Courts," George Washington Law School (November 2018).
- Moderator, "Litigation or Arbitration?" Harvard Law School (October 2018).
- Panelist, "The Case for an International Court of Civil Justice," Harvard Law School (September 2018).
- Panelist, "Law Firm Finance and Governance in the 21<sup>st</sup> Century," Harvard Law School (April 2018).
- Panelist, "The Case for an International Court of Civil Justice," Harvard Law School (March 2018).
- Moderator, "Women in Arbitration and Gender Issues," Harvard Law School (February 2018).
- Panelist, "Facing the Future in International Arbitration: Evolving Issues, Practices and Solutions" Fordham Law School (November 2017).
- Panelist, "Third-Party Funding in Investor-State Dispute Settlement," Columbia Law School (October 2017).

- Panelist, “*The Case for an International Court of Civil Justice*,” Haifa University, Israel (October 2017)
- Panelist, “*The Case for an International Court of Civil Justice*,” College of Law and Management, Israel (October 2017)
- Panelist, “*International Arbitration finance*,” Three Crowns, London (July 2017).
- Panelist, “*The Case for an International Court of Civil Justice*,” Northwestern Colloquium on law and global capitalism (May 2017).
- Commentator, comment on “Do Courts Matter for Firm Value? Evidence from the U.S. Court System,” American Law and Economic Association, Harvard Law School (May 2016).
- Panelist, *Litigation Finance*, Hebrew University of Jerusalem (June 2016).
- Panelist, “*The Case for an International Court of Civil Justice*,” Hebrew University of Jerusalem (May 2016).
- Panelist, *Back to Basics: Public Adjudication of Corporate Atrocities Mass Torts*, Harvard Law School (April 2016).
- Moderator, *Litigation funding*, NYU School of Law Center on Civil Justice (November 2015).
- Panelist, “*Lex arbitri Israel and Palestine: Current Status and Recent Developments*,” ICC International Court of Arbitration, Paris, France (October 2015).
- Panelist, “*The Jerusalem Arbitration Center*,” multiple presentations in Tel Aviv and Ramallah (June 2015).
- Panelist, “*The Case for an International Court of Civil Justice*,” NYU School of Law (July 2015).
- Panelist and Commentator, “*The Case For an International Court of Civil Justice*,” Midwest Regional Colloquium on International Law/International Organization, Northwestern Law School/American Bar Foundation (May 2015).
- Panelist, “*The Color of Money: Ethical Issues in Alternative Litigation Funding*,” California Bar Association Annual Ethics Symposium, San Diego, CA (April 2015).
- Panelist, “*Transnational Litigation as Prisoner’s Dilemma*,” Washington & Lee School of Law Faculty Seminar (March 2015).
- Panelist, “*Litigation Finance*,” 66th Annual Oil & Gas Law Conference of the Institute for Energy Law, Houston, Texas (February 2015).
- Panelist, “*Corruption and the Transnational Litigation Prisoner’s Dilemma*,” Florida International University Law School (November 2014).
- Moderator, “*Rethinking Litigation*,” Centennial Symposium Honoring the Work of Professor Hovenkamp, Iowa City, Iowa (October 2014).
- Panelist and Commentator, “*Corruption and the Transnational Litigation Prisoner’s Dilemma*,” Midwest Regional Colloquium on International Law/International Organization, Northwestern Law School/American Bar Foundation (May 2014).
- Panelist, “*Litigation Finance: Contracts and Ethics*,” American Bar Association, 2014 National Conference on Professional Responsibility (May 2014).
- Panelist, *Fraud in Transnational Litigation*, Stanford Law School (May 2014).

- Panelist, *Litigation Finance: Contracts and Ethics*, American Bar Association, 2014 National Conference on Professional Responsibility (May 2014).
- Panelist and Commentator, *Corruption and the Transnational Litigation Prisoner's Dilemma*, Midwest Regional Colloquium on International Law/International Organization, Northwestern Law School/American Bar Foundation (May 2014).
- Selected Paper Presentation, *A Model Litigation Finance Contract*, Legal Scholarship 4.0 Conference, Northeastern University School of Law, Boston (March 2014) (Paper selected based on national competition).
- Panelist, *Financing International Arbitration*, Columbia Law School, NY (February 2014).
- Moderator, *Crowdsourcing Litigation Finance*, SFU School of Law, SF (January 2014)
- Moderator, *The Jerusalem Arbitration Center*, NYU Law School, NY (November 2013).
- Panelist, Roundtable on Third Party Funding of Litigation and Arbitration, Washington & Lee School of Law (November 2013).
- Panelist, *Alternative Finance of Securities Litigation?* Annual Institute for Investor Protection Conference, Chicago (October 2013).
- Panelist, *Financing International Arbitration*, Columbia Law School, NY (September 2013).
- “Incorporating Legal Claims,” University of Pennsylvania (Fall 2013).
- Panelist, *The Litigation Finance Contract*, Windsor Law, Windsor, Ontario, Canada (July 2013).
- Panelist, *The Jerusalem Arbitration Center: The Promise and the Challenges*, Center for Law and Business, Tel Aviv (June 2013).
- Panelist, *Rights and Obligations in Litigation Finance*, Institute for Law & Economic Policy, Naples, Fl. (April 2013).
- Panelist, *Litigation finance*, the ABA Litigation Section Annual Meeting, Chicago, IL (April 2013).
- Panelist, *Financing the Chevron / Ecuador Litigation*, Stanford Law School, Stanford, CA (February 2013).
- Panelist, *The Jerusalem Arbitration Center in a Comparative Perspective*, Israel Social Avenues Conference, Sapir College, Sderot, Israel (December 2012).
- Panelist, *International Arbitration*, Herzog, Fox & Ne’eman, Tel Aviv (July 2012).
- Trainer, *International Arbitration*, co-teach 4-day training program for lawyers, arbitrators and judges, Palestine Chamber of Commerce, Ramallah (July 2012).
- Trainer, *International Arbitration*, teach 2-day training program for lawyers, arbitrators and judges, Israel Chamber of Commerce, Tel Aviv (June 2012).
- Speaker, *The Litigation Finance Contract*, University of Wisconsin School of Law, Madison (March 2012).
- Panelist, *Third Party Funding of International Arbitration*, Third Annual ICC Asia Pacific Conference, San Francisco (March 2012).
- Moderator and Panelist, *Third Party Funding of International Arbitration*, 10th Annual International and Arbitration Conference, Miami (February 2012).

- Panelist, *Women in Public Service*, 2nd Annual Duke University School of Law Women in the Law Conference Durham (January 2012).
- Panelist, *Third Party Funding of International Arbitration Claims*, Fordham University School of Law (June 2011).
- Panelist, *Ethics in International Arbitration*, Israel Bar Association/American Bar Association, Israel (May 2011).
- Panelist, *Nuts and Bolts of Academic Publishing*, New York University School of Law (April 2011).
- Moderator, *Law, Religion and Politics Unbounded: Contemporary Perspectives on the Recent Developments in the Middle East and North Africa*, Columbia University School of Law (March 2011).
- Panelist, *Newbies Speak: What I Wished I Had Known or Thought Harder About Before I Went on the Market*, Columbia University School of Law (March 2011).
- Panelist, *Financing International Arbitration: Contingency Fees and Third-Party Funding*, Northern Kentucky University Symposium (February 2011).
- Panelist, *Whose Claim Is It Anyway? Third Party Litigation Funding*, UCLA School of Law (December 2010).
- Panelist, *Comparative Conflict Studies: A New Approach to International Conflict Resolution*, Conference on Law in the Service of Peace: A New Method for Teaching the Legal Dimensions of the Israeli-Palestinian conflict, Columbia Law School (October 2010).
- Organizer and Panelist, *Forum Selection and Parallel Proceedings Involving States and State Controlled Entities in International Investment Arbitration*, Columbia Law School & Earth Institute (March 2010).
- Rapporteur, *FDI, the Global Crisis and Sustainable Recovery*, Columbia Law School & Earth Institute (November 2009).
- Panelist, *Foreign Direct Investment by State-Controlled Entities—Do the Rules Need Changing?* Eight World Free Zone Convention, Charleston, South Carolina (December 2008).
- Panelist, *Foreign Direct Investment by State-Controlled Entities—Do the Rules Need Changing?* Columbia Law School & Earth Institute (October 2008).
- Panelist, *The Legacy of the Eichmann Trial*, Hebrew University Faculty of Law, Jerusalem (January 2008).
- Panelist, *Internationalized Pro-Bono and the Attorney-Client Relationship: Lessons from Nation Building in Southern Sudan*, International Law Committee of the New York City Bar Association (March 2007).
- Panelist, *Internationalized Pro-Bono and the Attorney-Client Relationship: Lessons from Nation Building in Southern Sudan*, Duke Law School (February 2007).
- Panelist, *An International ‘Generalized Other’“? The Social Negotiation of the Moral Authority at the International Criminal Tribunal for Rwanda*, American Sociological Association Annual Meeting, Montreal, Canada (June 2006).
- Panelist, *An International ‘Generalized Other’“? The Social Negotiation of the Moral Authority at the International Criminal Tribunal for Rwanda*, International Round Table for the Semiotics of Law, Université du Littoral Côte d’Opale, France (May 2006).

- Panelist, *International Law and the Israeli-Palestinian conflict*, Carnegie Mellon University Middle East Peace Forum (January 2006).
- Panelist, *The Milosevic Trial - Live!*, NYU School of Law (January 2004).