

EDWARD J. JANGER

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Associate Dean for Faculty Scholarship and Research
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EMPLOYMENT

- 2019-present **Harris Manchester College, Oxford University**, Oxford, UK.
Visiting Fellow (Hilary term, 2019).
- 1998-present **Brooklyn Law School**, Brooklyn, New York.
Associate Dean for Faculty Scholarship and Research (2019-present); Co-Director,
Center for the Study of Business Law and Regulation (2012-present); David M. Barse
Professor (2008-present); Professor (2003-2008); Associate Professor (1998-2003).
Subjects: Advanced Topics in Bankruptcy and Commercial Law, Business
Reorganizations, Commercial Law, Commercial Paper and Banking, Consumer Welfare,
Political Power and Market Structure, Contracts, Debtor/Creditor Law, International
Bankruptcy, Introduction to the Study of Law, Legal Process, Public Choice Theory,
Sales, Secured Credit, Torts.
Service: Adviser, Business Subcommittee, Federal Bankruptcy Rules Advisory
Committee (2005-2006); Chair (2002), Immediate Past-chair (2003), American
Association of Law Schools, Section on Commercial and Consumer Law; Executive
Committee, American Association of Law School Section on Debtors' and Creditors'
Rights (2004-2005); Board of Directors, Coalition for Debtor Education (2003-2019).
Member, World Bank Task Force on Insolvency and Creditor/Debtor Rights Regimes
(2010-Present); International Insolvency Institute Delegate to UNCITRAL Working
Groups V (Insolvency) and VI (Secured Credit) (July 2012-April 2015); American Bar
Association Delegate to UNCITRAL Working Group V (Insolvency) (December 2015-
present). Member FDIC Expert Group on SIFI Bankruptcies (Single Point of Entry
(2016)).
- 2010, 2012,
2015, 2017 **Yale Law School**, New Haven, Connecticut.
Maurice R. Greenberg Visiting Professor (Spring 2015, 2017)
Visiting Professor (Fall 2012).
Anne Urowsky Visiting Professor (Fall 2010).
Subjects: Bankruptcy, Secured Credit.
- 2009 **New York University Law School/American College of Bankruptcy**, New York, New
York.
Coordinated and co-taught International Bankruptcy course sponsored by the American
College of Bankruptcy at NYU Law School (Spring).
- 2008 **Harvard Law School**, Cambridge, Massachusetts.
Bruce W. Nichols Visiting Professor (Spring).
Subjects: Secured Credit, International Bankruptcy.

- 2005 **University of Pennsylvania School of Law**, Philadelphia, Pennsylvania.
Visiting Professor (Spring). Subjects: Commercial Credit II, Public Choice and Private Law (seminar).
- 2004 **American Bankruptcy Institute**, Alexandria, Virginia.
Robert M. Zinman Scholar-in-Residence (Fall).
- 1997-1998 **Washington University School of Law**, Saint Louis, Missouri.
Visiting Associate Professor. Subjects: Commercial Transactions, Remedies, Sales, and Real Estate Transactions.
- 1996-1997 **Ohio State University College of Law**, Columbus, Ohio.
Visiting Assistant Professor. Subjects: Contracts, Antitrust, and Commercial Paper.
- 1995-1996 **Dickinson School of Law**, Carlisle, Pennsylvania.
Visiting Assistant Professor. Subjects: Contracts, Commercial Paper, and Bankruptcy.
- 1994-1995 **Capital University Law and Graduate Center**, Columbus, Ohio.
Visiting Assistant Professor. Subjects: Secured Transactions, Commercial Paper, and Bankruptcy.
- 1988-1994 **Wilmer, Cutler & Pickering**, Washington, D.C.
Associate specializing in bankruptcy and litigation. Involved in all phases of commercial and bankruptcy litigation, including discovery, motion practice, trial, and appeal. Wrote briefs for parties and amicus curiae in cases before the United States Supreme Court. First-chaired five-day bench trial litigating first amendment claim of retaliatory discharge. Served as counsel to the creditors' committee in bankruptcy of major department store. Negotiated and drafted debtor-in-possession financing, international debt-asset swap, and various corporate and real estate workouts.
- 1987-1988 **United States Court of Appeals, Fifth Circuit**, Dallas, Texas.
Law Clerk to the (late) Honorable Irving L. Goldberg.
- 1987 **Fried, Frank, Harris, Shriver & Jacobson**, New York, New York.
Summer Associate.
- 1986 **Coudert Brothers**, New York, New York.
Summer Associate.
- 1985 **American Civil Liberties Union Foundation**, Washington, D.C.
Summer Law Clerk (National Prison Project). Wrote motions and legal memoranda in prison condition suits, and wrote amicus curiae brief in Albers v. Whitley, 475 U.S. 312 (1986), a constitutional challenge to use of deadly force by prison guards.
- 1983-1984 **Yale Law School**, New Haven, Connecticut.
Research Assistant to Professor Owen M. Fiss. Contributed research for Fiss, Troubled Beginnings of The Modern State, 1888-1910 (the eighth volume of the Oliver Wendell Holmes Devise History of the Supreme Court) and for an essay on Justice David Brewer.

EDUCATION

- 1984-1987 **University of Chicago Law School**, J.D. 1987.
Senior Comment Editor, University of Chicago Legal Forum;
Grant Recipient, Chicago Law Foundation.
- 1979-1983 **Yale College**, B.A., Political Science, 1983.
Trumbull College Representative, Yale College Council;
Secretary, Yale Political Union.

PUBLICATIONS AND PRESENTATIONS

Books, Chapters in Books:

Asset Sales in Bankruptcy, ELGAR HANDBOOK ON CORPORATE BANKRUPTCY, Barry Adler, ed. (Elgar, forthcoming 2019) (with Melissa Jacoby).

UNDERSTANDING BANKRUPTCY: THIRD EDITION (Lexis/Nexis 2013) (with Jeff Ferriell).

Anonymous Disclosure of Security Breaches: Mitigating Harm and Facilitating Coordinated Response, in SECURING PRIVACY IN THE INTERNET AGE, Margaret Jane Radin, Anupam Chander and Lauren Gelman, eds. (Stanford University Press 2008) (with Paul Schwartz).

Consumer Bankruptcy and the Heuristic Borrower, in LAW AND PSYCHOLOGY, Michael Freeman ed. (Cambridge Univ. Press 2006) (with Susan Block-Lieb).

Brandeis, Business Ethics and Enron, in ENRON: CORPORATE FIASCOS AND LEGAL IMPLICATIONS, N. Rapoport and B.G. Dharan eds. (Foundation 2004).

The Enron Bankruptcy: Financial Engineering, Recharacterization, Substantive Consolidation, and Avoidance, in ENRON: CORPORATE FIASCOS AND LEGAL IMPLICATIONS, N. Rapoport and B.G. Dharan eds. (Foundation 2004).

The Automatic Stay, in BUSINESS REORGANIZATIONS (2D ED.) (Lexis/Nexis 2000) (with M. Gerber, M. Goldstein, and L. Gottesman).

Articles:

Symposium Introduction: The Market for Corporate Control in the Zone of Insolvency, 14 BROOK. J. CORP. FIN. & COM. L. __ (forthcoming, 2019).

Badges of Opportunism: Principles for Policing Restructuring Support Agreements, 14 BROOK. J. CORP. FIN. & COM. L. __ (forthcoming, 2019) (with Adam Levitin).

The Creditors Bargain Reconstituted: Comments on Barry Adler, The Creditors' Bargain Revisited, 166 U. PA. L. REV. ONLINE __ (forthcoming, 2019).

One Dollar, One Vote: Mark-to-Market Governance in Bankruptcy, 104 IOWA L. REV. __ (forthcoming 2019) (with Adam Levitin).

Baby Lehman: A Functional Approach to non-SIFI Resolution, 27 NORTON J. OF BANKR. L. AND PRACTICE 591 (2018).

Constitutive Compliance, 30 LOY. CONSUMER L. REV. 104 (2018).

Tracing Equity: Realizing and Allocating Value in Chapter 11, 96 TEX. L. REV. 673 (2018) (with Melissa Jacoby).

Towards a Jurisprudence of Public Law Bankruptcy Judging, 12 BROOK. J. CORP. FIN. & COM. L. 39 (2017).

Symposium Introduction: Treatment of Financial Contracts in Bankruptcy and Bank Resolution, 10 BROOK. J. CORP. FIN. & COM. L. 1 (2015).

Implementing Symmetric Treatment of Financial Contracts in Bankruptcy and Bank Resolution, 10 BROOK. J. CORP. FIN. & COM. L. 155 (2015) (with John Pottow).

The Logic and Limits of Liens, 2015 ILL. L. REV. 589.

Silos: Establishing the Distributional Baseline in Cross-Border Bankruptcies, 9 BROOK. J. CORP. FIN. & COM. L. (2014).

Ice Cube Bonds: Allocating the Price of Process in Chapter 11 Bankruptcy, 123 YALE L.J. 862 (2014) (with Melissa Jacoby) (Winner of the Grant Gilmore Award, Presented by the American College of Commercial Finance Lawyers).

Reforming Regulation in the Markets for Home Loans, 38 FORDHAM URB. L.J. 681 (2011) (with S. Block-Lieb).

Reciprocal Comity, 46 TEX. INT'L L.J. 441 (2010).

Locating Data Privacy and Data Security?, 5 BROOK. J. CORP., FIN. & COMM. L. 97 (2010).

Consumer Credit and Competition: The Puzzle of Competitive Credit Markets, 6 EUR. COMP. J. 68 (2010) (with Susan Block-Lieb).

Virtual Territoriality, 48 COLUM. J. TRANSNAT'L L.J. 401 (2010).

The Costs of Liquidity Enhancement, 3 BROOK. J. CORP., FIN. & COMM. L. 39 (2009).

Demand Side Gatekeepers in the Market for Home Mortgages, 82 TEMPLE L. REV. 465 (2009) (with Susan Block-Lieb).

Universal Proceduralism, 32 BROOK. J. INT'L L. 819 (2007).

Notification of Security Breaches, 58 MICH. L. REV. 913 (2007) (with Paul M. Schwartz).

The Myth of the Rational Borrower: Rationality, Behaviorism, and the Misguided 'Reform' of Bankruptcy Law, 84 TEX. L. REV. 1481 (2006) (with Susan Block-Lieb).

Genetic Information, Privacy and Insolvency, 33 JOURNAL OF LAW, MEDICINE AND ETHICS 79 (2005).

The Death of Secured Lending, 25 CARDOZO L. REV. 1759 (2004).

The Reliance Interest in Insolvency Law: A Reply to Harris and Mooney, 25 CARDOZO L. REV. 1895 (2004).

Privacy Property, Information Costs and the Anticommons, 54 HASTINGS L. REV. 899 (2003).

Muddy Property: Generating and Protecting Information Privacy Norms in Bankruptcy, 44 WILLIAM AND MARY L. REV. 1801 (2003).

The Gramm-Leach-Bliley Act, Information Privacy, and the Limits of Default Rules, 86 MINN. L. REV. 1219 (2002) (with Paul Schwartz).

Muddy Rules for Securitization Transactions, 7 FORDHAM J. OF CORP. AND FIN. L. 301 (2002).

Crystals and Mud in Bankruptcy Law: Judicial Competence and Statutory Design, 43 ARIZ. L. REV. 559 (2001) (Stanford/Yale Jr. Faculty Forum Research Paper No. 01-09).

The Public Choice of Choice of Law in Software Transactions: Jurisdictional Competition and the Dim Prospects for Uniformity, 26 BROOK. J. INT. L. 187 (2000).

The Locus of Lawmaking: Uniform State Law, Federal Law, and Bankruptcy Reform, 74 AM. BANKR. L.J. 97 (2000).

Brandeis Progressivism and Commercial Law: Rethinking Benedict v. Ratner, 37 BRANDEIS L.J. 63 (1999).

Predicting When the Uniform Law Process Will Fail: Article 9, Capture and the Race to the Bottom, 83 IOWA L. REV. 569 (1998).

Bankruptcy Law and the Supreme Court's New Federalism: The Trustee's Avoidance Powers After Seminole Tribe, 23 OHIO N.U. L. REV. 1431 (1997) (originally presented as part of a joint session of the AALS Antitrust, Bankruptcy and Federal Courts Sections of the AALS at the 1997 Annual Meeting).

The FDIC's Fraudulent Conveyance Power Under the Crime Control Act of 1990: Bank Insolvency Law and the Politics of the Iron Triangle, 28 CONN. L. REV. 67 (1995).

Expert Negotiation Brings New Approach to Prison Litigation in Hawaii, 6 NAT'L PRISON PROJECT J., WINTER 1985, at 6.

Selected Presentations and Programs:

Allocating Enterprise Value in Corporate Restructuring, Oxford University Business Law Workshop, January 30, 2019.

Value Extraction and Priority in the Vicinity of Insolvency: A US Perspective, Joint Conference: Recoveries in the Vicinity of Insolvency, sponsored by The University of Oxford Commercial

Law Center and the National University of Singapore Centre for Law and Business, January 11, 2019.

Organizer, Young Bankruptcy Scholars' Work-in-Progress Workshop (2014-2018) (Co-Sponsored by the American Bankruptcy Institute and Brooklyn Center for the Study of Business Law and Regulation).

The Model Law on Enforcement of Judgments, International Insolvency Institute Annual Meeting Joint Session of the Academics Committee/Judicial Committee, September 23, 2018.

The Political Economy of Instrument Choice, University of Michigan: Transnational Law Conference: The Role of "Soft Law" in International Insolvency and Commercial Law, September 21, 2018.

Does Article 9 Capture Going Concern Value?, ALI-CLE Advanced Commercial Finance 2018: Critical Issues Below the Surface, May 11, 2018.

2018 Insolvency and Creditor/Debtor Regime Task Force Meeting (MSMEs), May 4, 2018.

Financial Institutions Panel, American Bankruptcy Institute Spring Meeting, April 29, 2018.

Goodwill Hunting: Liens on Going Concern Value, Panel Discussion of Jacoby and Janger, *Tracing Equity: Allocating and Realizing Value in Chapter 11 Cases*, American College of Bankruptcy Annual Meeting, March 17, 2018.

Organizer and Presenter, *The Market for Corporate Control in the Zone of Insolvency*, Brooklyn Journal of Corporate, Financial and Commercial Law Annual Symposium (February 2018).

Baby Lehman: A Functional Approach to Financial Contracts, Texas Law Review Symposium in Honor of Jay Westbrook (February 2018).

The Creditors Bargain Reconstituted: Comments on Barry Adler, The Creditors' Bargain Revisited, University of Pennsylvania Law Review Symposium, Bankruptcy's New Frontiers (October 2017).

Cross-Border Bankruptcy Practice After Brexit, [13th International Insolvency & Restructuring Symposium](#) sponsored by the American Bankruptcy Institute, Dublin (October 2017).

A Global Architecture for Resolution of Financial Institutions, Presented at Congress celebrating the 50th Anniversary of UNCITRAL, Vienna (July 2017) (proceedings available here: http://www.uncitral.org/pdf/english/congress/17-06783_ebook.pdf).

Cross-Border Bankruptcy Practice After Brexit, Symposium at Brooklyn Law School, sponsored by the International Insolvency Institute (May 2017).

Cross-Border Bankruptcy Practice After Brexit, Symposium at Humboldt University in Berlin, sponsored by the International Insolvency Institute (April 2017).

The John C. Akard Lecture -- Realization: Allocating Bankruptcy-Created Value in Chapter 11 Cases, University of Texas Law School (November 2015).

Convener/Moderator, *Barry L. Zaretsky Roundtable Discussion – International Harmonization of*

Bankruptcy and Secured Credit: Security v. Rescue (November 2015).

BAPCPA and Loss Mitigation: A Case Study, Hudson Valley Bar Association, New Deal for Consumer Bankruptcy Conference (September 2015).

NCBJ/ACB Joint International Program: The Emerging Architecture for Coordinated Restructuring of International Corporate Groups, National Conference of Bankruptcy Judges Annual Meeting, Miami Beach (September 2015).

Financial Contracts in Bankruptcy and Bank Insolvency: Towards Symmetric Treatment, International Insolvency Institute Annual Meeting in Naples, Italy (June 2015).

Contorting Consumer Financial Protection, Program on Comparative Perspectives on Overindebtedness at the Annual Meeting of the Law and Society Association (Seattle, May 2015) (with Susan Block-Lieb).

Grant Gilmore Award: Acceptance Speech/Dinner Presentation, American College of Commercial Finance Lawyers Annual Meeting, Recipient (with Melissa Jacoby) of the Grant Gilmore Award for *Ice Cube Bonds: Allocating the Price of Process in Chapter 11 Bankruptcy* (April 2015).

Financial Contracts in Bankruptcy and Bank Insolvency: Towards Symmetric Treatment, ABA International Section Annual Meeting, Washington, DC (April 2015).

Safeguards: Assuming and Assigning Financial Contracts in Enterprise Bankruptcies, Brooklyn Journal of Corporate, Financial and Commercial Law Annual Symposium – Treatment of Financial Contracts in Bankruptcy and Bank Insolvency Law (February 2015).

Convener/Moderator, *Barry L. Zaretsky Roundtable Discussion - Bankruptcy Sales: Credit Bidding and Successor Liability* (November 2014).

Discussion Paper: Treatment of Financial Contracts in Insolvency – Analysis of the ICR Standard, for World Bank Insolvency and Creditor/Debtor Regimes Task Force Meeting, World Bank HQ, 24 October 2014 (with Riz Mokhal and Robin Phelan).

Loss Mitigation in the Southern District of New York Bankruptcy Courts, Program on Comparative Perspectives on Overindebtedness at the Annual Meeting of the Law and Society Association (Boston, May 2014) (with Susan Block-Lieb and Chrystin Ondersma).

Logic and Limits of Liens, ABI Illinois Symposium on Chapter 11 Reform, Chicago, Ill. (April 2014).

Silos: Establishing the Distributional Baseline in Cross-Border Bankruptcies, Brooklyn Journal of Corporate, Financial and Commercial Law Annual Symposium – Choice of Law in Cross-Border Bankruptcies (March 2014).

Choice of Law in Cross-Border Insolvency Cases, Fourth UNCITRAL International Insolvency Law Colloquium, Vienna (December 2013) (available here: https://uncitral.un.org/en/colloquia/insolvency/fourth_uncitral_international_insolvency_law_collouquium).

Convener/Moderator, *Barry L. Zaretsky Roundtable Discussion: Avoiding Chapter 22 –*

Predicting Success in Chapter 11 (November 2013)

The Matrix of Enforcement: Consumer Financial Protection in the US and the EU, Program on Comparative Perspectives on Overindebtedness at the Annual Meeting of the Law and Society Association (Boston, May 2013) (with Susan Block-Lieb).

Ponzi Schemes, Eastern District of Pennsylvania Bankruptcy Conference (January 2013).

Ice Cube Bonds and The Price of Process in Chapter 11 Bankruptcy (with Melissa Jacoby), Vanderbilt University Law School Faculty Workshop (December 2012).

Debtors in Play: Insider Trading, Claims Regulation, and Safe Harbors in Chapter 11, Zaretsky Roundtable, Brooklyn Law School (June 2012).

Contorting Consumer Financial Protection, Brooklyn Journal of Corporate, Financial and Commercial Law Symposium – The CFPB After a Year (March 2012).

Ice Cube Bonds (with Melissa Jacoby), Pace University Law School Faculty Workshop (January 2012).

The Long and Short of It: Financial Engineering in Chapter 11, National Conference of Bankruptcy Judges Annual Meeting (plenary session) (October 2011).

Strapped Cities – The State of Chapter 9, Zaretsky Roundtable, Brooklyn Law School (April 2011).

The Empty Creditor Hypothesis (with Adam Levitin), World Bank Insolvency and Creditor/Debtor Regimes Task Force Meeting (panel on The Bankruptcy Treatment of Financial Contracts: Lessons for Emerging and Developing Markets) (January 2011).

Reciprocal Comity, Yale Faculty Workshop (October 2010).

Reforming Regulation of the Market for Home Loans, Program on Comparative Perspectives on Overindebtedness at the Annual Meeting of the Law and Society Association (May 2010) (with Susan Block-Lieb).

Reciprocal Comity, International Insolvency Symposium: The Priority Dilemma, sponsored by the Texas International Law Journal (May 2010).

Too Big to Fail: Bankruptcy and Bailouts, Zaretsky Roundtable, Brooklyn Law School (April 2010) (with Michael Gerber).

Locating Data Privacy and Data Security., Symposium: Data Privacy and Data Security in the Payment System, sponsored by the Brooklyn Journal of Corporate Financial and Commercial Law (March 2010).

Dealing with Troubled Trading Partners, University of Cincinnati (November 2009).

Consumer Credit and Competition: The Puzzle of Competitive Credit Markets, Antitrust Marathon IV, British Institute of International and Comparative Law and the Loyola University, Chicago, Center for Consumer Antitrust Studies (October 2009).

Demand Side Gatekeepers in the Market for Home Mortgages, Faculty Workshop, Fordham University Law School (August 2009) (with Susan Block-Lieb).

Demand Side Gatekeepers in the Market for Home Mortgages, Symposium, Overindebtedness in Modern Society, University of Chemnitz (March 2009)(with Susan Block-Lieb).

The Costs of Liquidity Enhancement, Symposium: Claims Trading and Securities Regulation, Brooklyn Law School (March 2009).

Virtual Territoriality, Faculty Workshop, Brooklyn Law School (January 2009).

Third Party Releases, Eastern District of Pennsylvania Bankruptcy Conference (January 2009).

Virtual Territoriality, Faculty Workshop, Indiana University School of Law (January 2008).

Virtual Territoriality, Faculty Workshop, Rutgers, Camden School of Law (October 2007).

The Myth of the Rational Borrower: A Found Experiment, Law and Society Conference, Berlin (July 2007)

Virtual Territoriality, INSOL Academics Group, Capetown South Africa (March 2007).

Universal Proceduralism, Faculty Workshop, University of Georgia (January 2007).

The Myth of the Rational Borrower: A Found Experiment, Oklahoma City Bar Association Symposium: BAPCPA One Year Later (December 2006).

Universal Proceduralism, Symposium, Bankruptcy in the Global Village: The Second Decade (October 2006).

The Myth of the Rational Borrower, Symposium, The Future of Consumer Law, British Institute for International and Comparative Law and the University of Hull (April 2006).

The Myth of the Rational Borrower, Symposium, Psychology and the Law, University College, London (July 2005).

Anonymizing Disclosure Intermediaries, Faculty Workshop, University of Pennsylvania School of Law (April 2005).

Anonymous Disclosure of Security Breaches: Mitigating Harm and Facilitating Coordinated Response, Symposium, Securing Privacy in the Internet Age, Stanford University School of Law (March 2004).

The Death of Secured Lending, Symposium, Threats to Secured Lending and Securitization, Benjamin Cardozo School of Law (April 2003).

Muddy Property: Generating and Protecting Information Privacy Norms in Bankruptcy, American Association of Law Schools Annual Meeting, Joint Session of the Section on Debtors' and Creditors' Rights and the Section on Remedies (January 2003).

Privacy Property, Information Costs and the Anticommons, Symposium, Enforcing Privacy Rights, University of California and Hastings College of Law (November 2002).

The Gramm-Leach-Bliley Act, Information Privacy, and the Limits of Default Rules, Symposium, Modern Studies in Privacy Law, University of Minnesota Law School (January 2002).

Crystals and Mud in Bankruptcy Law: Judicial Competence and Statutory Design, Yale-Stanford Junior Faculty Forum (June 2001).

The Locus of Lawmaking: Uniform State Law, Federal Law and Bankruptcy Reform, AALS Annual Meeting, Section on Debtors' and Creditors' Rights (January 1999).

NYU Bankruptcy Workshop, Basic Program (2006-2012).

Eastern District of Pennsylvania Bankruptcy Conference (1998-2007, 2009-2012).

Practising Law Institute, *Emerging Issues in Bankruptcies and Workouts* (2002-2005).

American Bankruptcy Institute, Nuts and Bolts Program, New York (2005, 2006).

MISCELLANEOUS

Bar Admissions: Connecticut, District of Columbia.

Organizational Memberships: American Law Institute, American College of Bankruptcy, and International Insolvency Institute.

Award: Grant Gilmore Award, American College of Commercial Finance Lawyers (with Melissa Jacoby).