

# PIERRE SCHLAG

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## PROFESSIONAL EXPERIENCE

**University Distinguished Professor (since 2012)**  
**Byron R. White Professor of Law (since 1997)**  
**Nicholas Rosenbaum Professor of Law (1995-1997)**  
**Professor of Law (since 1989)**  
University of Colorado Law School

**Assistant and Associate Professor (1982-1989)**  
University of Puget Sound  
School of Law

**Visiting Professor**  
UC Hastings College of Law (Fall 2013)  
Cardozo School of Law (Spring 2008)  
UC Hastings College of Law (Fall 1996)

**Attorney (1979-1982)**  
Covington & Burling

**Research Fellow (grant from BAEF/Spaak  
Foundations, 1978-1979)**  
Institut d'Études Européennes, Université Libre  
de Bruxelles, Belgium

## EDUCATION

**J.D., June 1978**  
Article Editor, UCLA Law Review,  
UCLA School of Law

**B.A., cum laude, Philosophy, June 1975**  
Yale University

# PIERRE SCHLAG

## PUBLICATIONS

### Forthcoming

*Consider Buffalo*, \_\_ BUFF L. REV. \_\_ (2024) (Review Essay on John Henry Schlegel's *WHILE WAITING FOR RAIN* (2022))

### Books and Monographs

*TWILIGHT OF THE AMERICAN STATE* (U. Michigan Press 2023)

*HOW TO DO THINGS WITH LEGAL DOCTRINE* (Co-authored with Amy Griffin—University of Chicago Press 2020)

*THE ENCHANTMENT OF REASON* (Duke University Press, 1998)

*LAYING DOWN THE LAW – MYSTICISM, FETISHISM AND THE AMERICAN LEGAL MIND* (New York University Press, 1996)

*AGAINST THE LAW* (Duke University Press, 1996) (co-authored with Paul Campos and Steven Smith)

*TACTICS OF LEGAL REASONING* (Carolina Academic Press, 1986) (co-authored with David Skover)

### Articles, Essays, Review-Essays, and Other Publications

*Theory and Scholasticism* in Symposium on Alexander Somek's *KNOWING WHAT THE LAW IS—LEGAL THEORY IN A NEW KEY* (Routledge 2023).

*Hohfeldian Analysis, Liberalism and Adjudication* in *THE LEGACY OF WESLEY HOHFELD: EDITOR MAJOR WORKS, SELECT PERSONAL PAPERS, AND ORIGINAL COMMENTARIES* (Shyam Balganes, Ted Sichelman & Henry Smith, eds., Cambridge University Press 2022)

*Critical Legal Agency* in *DE LEGE 2020: VOICES ON LAW AND ACTIVISM* (Maria Grahn-Farley, ed. Iustus Forlag 2021)

*Reason* in *FUNDAMENTAL CONCEPTS IN INTERNATIONAL LAW*, (Jean D'Aspremont and Sahib Singh, eds., Edward Elgar 2019)

*Textualist and Purposive Interpretation* in *TRANSFORMATION OR RECONSTITUTION OF EUROPE* (Tamara Persin & Sinisa Rodin, eds. Hart Publishing 2018)

*The Knowledge Bubble—Something Amiss in Expertopia* in *IN SEARCH OF CONTEMPORARY LEGAL THOUGHT* (Justin Desautels-Stein and Christopher Tomlins eds., Cambridge University Press 2017)

*How to Do Things with Hohfeld*, 78 *LAW & CONTEMP. PROBS.* 185 (2015)

*L'Autonomie des Avocats (Une Conception Problématique Parmi Des Développements*

## PIERRE SCHLAG

- Démoralisants*) (Jean Louis Assier, Ed. L'AUTONOMIE DES AVOCATS 2015)
- On Creativity in Constitutional Interpretation*, журнал высшей школы экономики  
Издательство: Национальный исследовательский университет Высшая  
школа экономики (Москва) ISSN: 2072-8166. - 2014. - №2. - С. 142-148
- Coase Minus the Coase Theorem—Some Problems with Chicago Transaction Cost Analysis*, 99  
IOWA LAW REV. 175 (2013).
- The Faculty Workshop*, 60 BUFFALO LAW REVIEW 807 (2012)
- Four Conceptualizations of the Relations of Law to Economics (Tribulations of a Positivist Social  
Science)* 33 CARDOZO LAW REVIEW 2357 (2012)
- Nudge, Choice Architecture and Libertarian Paternalism (Review-Essay of Sunstein & Thaler,  
“Nudge”)*, 108 MICHIGAN LAW REVIEW 913 (2010)
- Formalism and Realism in Ruins (Mapping the Logics of Collapse)*, 95 IOWA LAW REVIEW 195  
(2010)
- Spam Jurisprudence, Air Law, and the Rank Anxiety of Nothing Happening (A Report on the  
State of the Art)*, 97 GEORGETOWN LAW JOURNAL 803 (2009)
- The Dedifferentiation Problem*, 42(1) CONTINENTAL PHILOSOPHY REVIEW 35 (Special Issue on  
Continental Philosophy of Law) (2009)
- Law and Philosophy in the Hyperreal*, in FRANCIS J. MOOTZ III, ON PHILOSOPHY IN  
AMERICAN LAW 257 (Cambridge University Press 2008)
- Kandinsky or Hart? THE CRIT: A CRITICAL LEGAL STUDIES JOURNAL*,  
<http://thecritui.com/wp-content/uploads/2011/02/pierre.pdf>
- The Anxiety of the Law Student at the Socratic Impasse—An Essay on Reductionism in Legal  
Education*, 31 NEW YORK UNIVERSITY REVIEW OF LAW & SOCIAL CHANGE 575  
(2007)
- A Brief Survey of Deconstruction*, 27 CARDOZO LAW REVIEW 741 (2005)
- My Dinner at Langdell's*, 52 BUFFALO LAW REVIEW 851 (2004)
- A Reply – The Missing Portion* (Response to Symposium, “Beyond Right and Reason—Pierre  
Schlag, The Critique of Normativity and The Enchantment of Reason”), 57 UNIVERSITY  
OF MIAMI LAW REVIEW 1029 (2003)
- Ten Thousand Cases—Maybe More: An Essay on Centrism in Legal Education*, 2 Stanford  
Agora (an online journal): [http://agora.stanford.edu/agora/volume 3/](http://agora.stanford.edu/agora/volume%203/) (2003)
- The Aesthetics of American Law*, 115 HARVARD LAW REVIEW 1047 (2002)
- Jurisprudence Noire* (Review-essay on Lawrence Joseph's *Lawyerland*), 101 COLUMBIA LAW  
REVIEW 1733 (2001)
- Politics and Denial*, 22 CARDOZO LAW REVIEW 1135 (2001)
- U.S. C.L.S.*, 10 LAW & CRITIQUE 199 (1999)

## PIERRE SCHLAG

- No Vehicles in the Park*, SEATTLE UNIVERSITY LAW REVIEW 381 (1999)
- Day, Berry & Howard Visiting Scholar Lecture – Authorizing Interpretation*, 30 UNIVERSITY OF CONNECTICUT LAW REVIEW 1065 (1998)
- The Empty Circles of Liberal Justification*, 96 MICHIGAN LAW REVIEW 1 (1997)
- Law as a Continuation of God by Other Means*, 85 CALIFORNIA LAW REVIEW 427 (1997)
- Law and Phrenology*, 110 HARVARD LAW REVIEW 877 (1997)
- Hiding the Ball*, 71 NEW YORK UNIVERSITY LAW REVIEW 1681 (1996)
- This Could Be Your Culture – Junk Speech in the Age of Decadence* (Review of *Death of Discourse* by Ron Collins & David Skover), 109 HARVARD LAW REVIEW 1801 (1996)
- Rights in the Postmodern Condition*, in SARAT & KEARNS, LEGAL RIGHTS: HISTORICAL AND PHILOSOPHICAL PERSPECTIVES (University of Michigan Press, 1996)
- Anti-Intellectualism*, 16 CARDOZO LAW REVIEW 1111 (1995)
- Values*, 6 YALE JOURNAL OF LAW & HUMANITIES 195 (1994)
- Clerks in the Maze*, 91 MICHIGAN LAW REVIEW 2053 (1993)
- How to Do Things with the First Amendment*, 64 UNIVERSITY OF COLORADO LAW REVIEW 1095 (1993)
- Pre-figuration and Evaluation*, 80 CALIFORNIA LAW REVIEW 965 (1992)
- Writing for Judges*, 63 UNIVERSITY OF COLORADO LAW REVIEW 419 (1992)
- The Problem of the Subject*, 69 TEXAS LAW REVIEW 1627 (1991)
- Normativity and the Politics of Form*, 139 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 801 (1991)
- Foreword: Postmodernism and Law*, 62 UNIVERSITY OF COLORADO LAW REVIEW 439 (1991)
- Normative and Nowhere to Go*, 43 STANFORD LAW REVIEW 167 (1990)
- “Le Hors de Texte, C’est Moi” – The Politics of Form and the Domestication of Deconstruction*, 11 CARDOZO LAW REVIEW 1631 (1990)
- Missing Pieces: A Cognitive Approach to Law*, 67 TEXAS LAW REVIEW 1195 (1989)
- The Problem of Transaction Costs*, 62 SOUTHERN CALIFORNIA LAW REVIEW 1661 (1989)
- Contradiction and Denial* (Review-essay of Mark Kelman’s *A Guide to Critical Legal Studies*), 87 MICHIGAN LAW REVIEW 1216 (1989)
- Cannibal Moves: The Metamorphoses of the Legal Distinction*, 40 STANFORD LAW REVIEW 929 (1988)
- Fish v. Zapp: The Case of the Relatively Autonomous Self*, 76 GEORGETOWN LAW JOURNAL 37 (1988)
- The Brilliant, the Curious and the Wrong*, 39 STANFORD LAW REVIEW 917 (1987)

## PIERRE SCHLAG

*An Appreciative Comment on Coase's The Problem of Social Cost: A View from the Left*,  
[1986] WISCONSIN LAW REVIEW 919

*Freedom of Speech as Therapy* (Review-essay of Lee Bollinger's, *The Tolerant Society*) 34  
UCLA LAW REVIEW 265 (1986)

*Rules and Standards*, 33 UCLA LAW REVIEW 379 (1985)

Review essay of *Interpretations of the First Amendment*, by W. Van Alstyne, 2  
CONSTITUTIONAL COMMENTARY 519 (1985)

*Framers' Intent: The Illegitimate Uses of History*, 8 UNIVERSITY OF PUGET SOUND LAW  
REVIEW 283 (1985)

*An Attack on Categorical Approaches to Freedom of Speech*, 30 UCLA LAW REVIEW 671  
(1983)

*Assaults on the Exclusionary Rule: Good Faith Limitations and Damage Remedies*, 73 JOURNAL  
OF CRIMINAL LAW & CRIMINOLOGY 875 (1982)

*A Theoretical Analysis of Know-how Licensing Under EEC Competition Law: Territorial  
Restrictions*, 26 ANTITRUST BULLETIN 347 (1981)

### Encyclopedia Entries

*Critical Legal Studies*, in *Oxford Encyclopedia of Legal History* (Stanley Katz et al., eds.), New  
York: Oxford University Press (2008)

*Interpretation, Legal, Essentialism, and Deconstruction*, in *Encyclopedia of Law and Society*  
(David S. Clark, ed.), Thousand Oaks: Sage Publications (2007)

*The First Amendment*, in *Levy & Karst supplement to Encyclopedia of the American  
Constitution* (1991)

### Reprintings, Excerpts and Translations (French, Russian, Danish, Italian, Spanish, Ukrainian)

*Il Diritto, un Intrigante Gioco di Prestigio?* translation of "Hiding the Ball," in *FIDUCIA E  
SICUREZZA. UN CONFRONTO PLURIDISCIPLINARE* (ed. Lorenzo Scillitani 2012)

Загальнолюдські цінності у пост сучасному світі (К. Самохіна пер.) translation of  
"Values," 1 *Філософія права і загальна теорія права*. 137 (2012)

*Mi Cena en lo de Langdell*, translation of "My Dinner at Langdell's," forthcoming in 12  
*REVISTA JURÍDICA DE LA UNIVERSIDAD DE PALERMO* 159 (2011)

Эстетика американского права, translation of "The Aesthetics of American Law," 3  
*RUSSIAN JOURNAL OF LEGAL THEORY* 112 (2011)

## PIERRE SCHLAG

Pierre Schlag, *Normativitet og formens politik*, RETSFILOSOFI-CENTRALE TEKSTER OGLEMAER 553-170 (redigeret af Ole Hammerslev og Henrik Palmer Olsen 2011).

U.S. C.L.S. reprinted in CRITICAL LEGAL THEORY (Costas Douzinas & Colin Perrin eds. 2011)

*Le Hors de Texte—C'est Moi: The Politics of Form and the Domestication of Deconstruction* reprinted in DERRIDA AND LAW (Pierre Legrand, ed. 2009)

*Normativity and the Politics of Form* excerpted in Robert L. Hayman, Jr. & Nancy Levit, eds. "Jurisprudence: Contemporary Readings, Problems and Narratives" 554-61 (1994)

*An Attack on Categorical Approaches to Freedom of Speech* excerpted in Donald E. Lively, Dorothy E. Roberts, Russell L. Weaver, eds., "First Amendment Anthology" (1994)

*The Problem of the Subject* excerpted in Robert L. Hayman, Jr. & Nancy Levit, eds. "Jurisprudence: Contemporary Readings, Problems and Narratives" 534-39 (1994)

*The Problem of the Subject* reprinted in Dennis Patterson, ed., "Postmodernism" (1994)

### SELECTED LEGAL THEORY AND FACULTY WORKSHOPS

Uppsala (2019); McGill (2019); Uppsala (2017); Zagreb (2013); U. Washington (2012); St. Louis (2011); Tel Aviv (2010); Georgetown (2010); Nova (2010); Georgetown (2009); Tulsa (2009); Iowa (2006); Cardozo (2003); Arizona (2002); Colorado (1997); Berkeley (California Law Review 1996); Hastings (1996); Brooklyn (1996); Yale (1993); Columbia (1992); Miami (1992); Michigan (1992); Vanderbilt (1992); Toronto (1991); Harvard (1989); Indiana-Bloomington (1988)

### SELECTED PROFESSIONAL LECTURES AND CONFERENCE PRESENTATIONS

Speaker & Organizer, Symposium on "Why the Decline of Law Matters" AALS San Francisco, January 2017

Speaker, Hohfeld Conference, Yale Law School, New Haven, October 2016

Keynote Speaker, "The Aesthetics of American Law" (Sciences Po, École de Droit, Paris, France, June 2016)

Keynote Speaker, "Law and Boundaries Conference" (Sciences Po, École de Droit, Paris, France, June 2015)

Speaker, "La Forme et le Sens, Dire, Écrire, Interpréter le Droit," Paris I, Paris, France June 2015

Speaker, *The Critical Legal Studies Perspective on the Role of Courts in the European Union* Zagreb, Croatia, June 2015

## PIERRE SCHLAG

- Speaker, “*Nova Europa–Stare Vrijednosti?*” Jean Monnet Center, U. of Rijeka, Opatje, Croatia June 2013
- Speaker, “*Constitutional Interpretation*” National Research University Higher School of Economics, St. Petersburg, Russian Federation March 2012
- Speaker, “*Fantasy and Markets Symposium*” Cardozo Law School, October 2011
- Speaker, “*L’Indépendance des Avocats*” Sciences Po, École de Droit, November 2011
- Speaker, “*Les Juristes Inquiets*” Harvard Law School June 2011
- Conference Rapporteur, *Centennial Conference on Levinas and Law*, Montreal, Canada, September 17–18, 2006
- Speaker, *Harvard Teaching from the Left Conference*, March 2006
- Speaker, *Derrida/America NYU/Cardozo Conference*, February 2005
- Respondent, University of Miami School of Law Conference on Pierre Schlag’s *The Enchantment of Reason*, Miami, Florida, February 2002
- Participant & Organizer, Columbia Law School Conference on Lawrence Joseph’s *Lawyerland*, March 2002
- Participant and Organizer, University of Miami School of Law Conference on Duncan Kennedy’s *A Critique of Adjudication, Fin de Siècle*, Miami, Florida, March 2000
- Organizer and Moderator, *Lawyerland, Law and Interpretation Section of the AALS Conference*, Washington D. C., January 2000
- Keynote Speaker, *Critical Legal Studies 2000 – Retro and Prospect*, Birbeck College, University of London, September 1999
- Lecture, *No Vehicles in the Park*, Seattle University School of Law, Tacoma, Washington, April 1999
- Author Meets Critic on Pierre Schlag’s *The Enchantment of Reason*, Law and Interpretation Section of AALS Conference, New Orleans, January 1999
- Participant, Harvard Conference on *Private Law Theory*, sponsored by the Graduate Studies Program and the European Law Research Center, Cambridge, Massachusetts, March 1997
- Lecture at University of California (Berkeley), sponsored by the California Law Review, November 1996
- Presentation, *The Indeterminacy of Social Integration: Postmodernist Approaches to Law and Society*, at the Institut für Rechtsphilosophie und Rechtstheorie, Vienna, Austria, Fall 1995
- Panelist, AALS Jurisprudence Section Workshop on Law and Rationality, Los Angeles, California, Fall 1995
- Panelist, *Critique of Legal Normativity*, Law and Society Conference, Toronto, Canada, Spring 1995

## PIERRE SCHLAG

Presentation, *Subject Formations*, Law and the Post-Modern Mind Conference, sponsored by Cardozo Law School and the Jacob Burns Institute, New York, Fall 1993

Presentation, *How to Do Things with the First Amendment*, Ira C. Rothgerber Conference on The First Amendment and Private Power, University of Colorado, Boulder, Colorado, Spring 1993

Speaker, *Values*, Law and Humanities Section of AALS Conference, San Francisco, California, Winter 1993

Speaker, *Rights in the Postmodern Condition*, The Paradoxes of Rights Conference, sponsored by the Amherst College Program in Law, Jurisprudence & Social Thought, Participant and Organizer of Panel on *The Subject*, Critical Networks Conference, Cambridge, Massachusetts, Spring 1992

Speaker, *Writing for Judges*, Ira C. Rothgerber Conference on Constitutional Theory and the Practice of Judging, University of Colorado, Boulder, Colorado, Fall 1991

Moderator and Organizer, Postmodernism and Law Conference, University of Colorado, Boulder, Colorado, Spring 1991

Panelist, International Association for Philosophy and Literature, Atlanta, Georgia, Spring 1991

Participant, Systems Theory and the Law Conference, Annapolis, Maryland, Spring 1991

Participant, Georgetown Constitutional Law Scholars Conference, Washington, D.C., Fall 1991

Presentation, *Le Hors de Texte, C'est Moi – The Politics of Form and the Domestication of Deconstruction*, Law and Society Conference, San Francisco, California, Spring 1990

Participant, Systems Theory and the Law Conference, San Diego, California, Summer 1990

Participant, Georgetown Constitutional Law Scholars Conference, Washington, D.C., Fall 1989

Presentation, *Missing Pieces: A Cognitive Approach to Law*, Critical Legal Studies Conference, Washington, D.C., Fall 1988

### HONORARY LECTURES & AWARDS

Goldstein Award (Law School Scholarship Award) (2010)

Milstein Award (Law School Research Leave Award) (2010)

CRCW (University Research Leave Award) (2003)

Day, Berry & Howard Visiting Scholar, University of Connecticut School of Law (1997)

Austin Scott Lecture, University of Colorado School of Law, Boulder (1994)

### COURSES

Jurisprudence



# PIERRE SCHLAG

Constitutional Law

Torts

Modern Legal Theory

Law and Economics

Legal Reasoning

## SEMINARS

Fascism and the Liberal State

Constitutional Theory

Critical Law and Economics

Power, Ethics, and Professionalism

Law, Power, and Politics

First Amendment Theory

Law and Violence

Media, Popular Culture, and  
Law

## UNIVERSITY AND LAW SCHOOL SERVICE

Associate Dean for Research

Member, Law School Strategic Planning Committee

Member, Vice Chancellor's Advisory Committee (University Tenure and Promotion)

Chair & Member, Appointments Committees

Chair & Member, Evaluation Committees

Member, Curriculum Committees

Member, Dean Search Committee

Member, Byron R. White Search Committee

Member, Silicon Flatirons Search Committee

Member, Library Committees

Member, Scholarship Committee

Member, Academic Affairs Committees

Chair and Member Grievance Committee