

TANYA J. MONESTIER

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ACADEMIC APPOINTMENTS

ROGER WILLIAMS UNIVERSITY SCHOOL OF LAW

Professor (with Tenure)

Associate Professor

Bristol, Rhode Island

July 2015 - Present

July 2009 - June 2015

- Courses: Contracts I and Contracts II, Sales Law, Conflict of Laws, Class Actions, Contract Law Practicum
- Honors: Voted “Professor of the Year” by the graduating class of 2018
Named Distinguished Teaching Professor of Law (2018-2019)
Named Distinguished Research Professor of Law (2018-2020)
- Impact: Top 10% of authors on SSRN by all-time downloads
Federal court in Pennsylvania struck down state registration statute as unconstitutional in large part based on my academic critique. *See In re Asbestos Prod. Liab. Litig. (No. VT)*, No. 18-3622, 2019 WL 2399738 (E.D. Pa. June 6, 2019)(article cited 6 times).
Academic articles cited in:
- Dozens of court decisions, including by the Supreme Court of Canada and the Second Circuit Court of Appeals
 - Hundreds of academic articles and other secondary sources, both U.S. and international
 - Over 175 trial court and appellate briefs/motions
 - Legislative bills, policy papers, business and law firm blogs
- Litigation: Assisted in the defense of Chelsea Manning, whose 35 year jail sentence for disclosing classified documents to WikiLeaks was commuted by President Obama (2010-2013).

QUEEN’S UNIVERSITY FACULTY OF LAW

Visiting Assistant Professor

Kingston, Canada

July 2007 - June 2009

- Courses: Conflict of Laws, Civil Procedure, Commercial Law (Sales and Secured Transactions)
- Honors: Recipient of Queen’s Law Students’ Society Award for Excellence in Teaching (2009)

EDUCATION

UNIVERSITY OF CAMBRIDGE (2003-2004)

Cambridge, England

Degree: LL.M. with first class Honors

Honors: Specialty designation in Commercial Law

Awards:

- Foundation Scholarship for first class standing in the LL.M. degree
- Queens’ College Prize for first class standing in the LL.M. degree
- Commonwealth Scholarship for LL.M. studies in the United Kingdom (full academic scholarship)
- Mackenzie King Traveling Scholarship
- The Right Honorable Paul Martin scholarship (declined)

Degree: LL.B., ranked 1st in class of 280

GPA: 3.9/4.0

Other: Studied at University of Bologna, specializing in Comparative Italian Law

Awards:

- Gold Medal for the student standing first in the graduating class
- Harley D. Hallett Renewable Entrance Scholarship (full academic scholarship)
- George Graham Sinclair Memorial Prize
- McCarthy Tétrault Prize for student standing second in the second year
- York University Faculty Association scholarship for the student with the highest cumulative standing in the second year
- McCarthy Tétrault Prize for the student standing first in the first year
- Carswell Prize for the student achieving the highest standing in the first year
- Canadian Italian Business and Professional Association Scholarship
- Subject matter awards for highest standing in: Contract Law, Property Law, Tort Law, Family Law, Criminal Law, Estate Law, and Commercial Law, Business Association Law and Taxation Law (combined)

Degree: B.A., Political Science, with distinction

GPA: 3.8/4.0

Honors: Dean's Sessional Academic List (1997-1999) and Master's Honor Roll (1999)

Awards:

- York University Renewable President's Scholarship (full academic scholarship)
- York University Faculty Association Scholarship
- Carl E. Smith Prize for outstanding achievement in Political Science

SCHOLARLY PUBLICATIONS

LAW REVIEW ARTICLES

Amazon as a Seller of Marketplace Goods Under Article 2, 107 CORNELL LAW REVIEW __ (forthcoming 2022).

Damages for Breach of a Forum Selection Clause, 58 AMERICAN BUSINESS LAW JOURNAL __ (forthcoming 2021) (peer reviewed).

When Forum Selection Clauses Meet Choice of Law Clauses, 69 AMERICAN UNIVERSITY LAW REVIEW 325 (2019).

RESPONSE ARTICLE (SOLICITED)

- Kevin M. Clermont, *Reconciling Forum-Selection and Choice-of-Law Clauses*, 69 AMERICAN UNIVERSITY LAW REVIEW FORUM 174 (2020).

Fixer Upper: Buyer Deposits in Residential Real Estate Transactions, 80 OHIO STATE LAW JOURNAL 1149 (2019).

Forum Selection Clauses and Consumer Contracts in Canada, 36 BOSTON UNIVERSITY INTERNATIONAL LAW JOURNAL 177 (2018).

You're It! Tag Jurisdiction Over Corporations in Canada, 50 VANDERBILT JOURNAL OF TRANSNATIONAL LAW 583 (2017).

Whose Law of Personal Jurisdiction? The Choice of Law Problem in the Recognition of Foreign Judgments, 96 BOSTON UNIVERSITY LAW REVIEW 1729 (2016).

CITATIONS

- AO Alfa-Bank v. Yakovlev, 230 Cal. Rptr. 3d 214 (Ct. App. 2018)

Registration Statutes, General Jurisdiction, and the Fallacy of Consent, 36 CARDOZO L. REV. 1343 (2015).

CITATIONS

- *Brown v. Lockheed Martin Corp.*, 814 F.3d 619 (2d Cir. 2016)
- *In re Asbestos Prod. Liab. Litig. (No. VI)*, No. 18-3622, 2019 WL 2399738 (E.D. Pa. June 6, 2019)
- *Lanham v. BNSF Ry. Co.*, 305 Neb. 124 (2020)
- *In re Aso*, No. 19MC190JGKJLC, 2019 WL 3244151 (S.D.N.Y. July 19, 2019)
- *Aybar v. Aybar*, 2019 WL 288307 (N.Y. App. Div. Jan. 23, 2019)
- *Am. Dairy Queen Corp. v. W.B. Mason Co.*, 2019 WL 135699 (D. Minn. Jan. 8, 2019)
- *Rodriguez v. Ford Motor Co.*, 2018 WL 6716038 (N.M. Ct. App. Dec. 20, 2018)
- *Murray v. Am. LaFrance, LLC*, 2018 PA Super 267 (Sept. 25, 2018)
- *DeLeon v. BNSF Ry. Co.*, 392 Mont. 446 (2018)
- *Dennis v. JPMorgan Chase & Co.*, 343 F. Supp. 3d 122 (S.D.N.Y. 2018)
- *Gorton v. Air & Liquid Sys. Corp.*, 303 F. Supp. 3d 278 (M.D. Pa. 2018)
- *Mischel v Safe Haven Enterprises, LLC*, 2017 WL 1384214 (Sup. Ct. Apr. 17, 2017)
- *Amelius v. Grand Imperial LLC*, 64 N.Y.S.3d 855 (N.Y. Sup. Ct. 2017)
- *Wilderness USA, Inc. v. DeAngelo Bros. LLC*, 265 F. Supp. 3d 301 (W.D.N.Y. 2017)
- *Gulf Coast Bank v. Designed Conveyor Sys., LLC*, 2017 WL 120645 (M.D. La. Jan. 12, 2017)
- *Serov ex rel. Serova v. Kerzner Int'l Resorts, Inc.*, 52 Misc. 3d 1214(A) (N.Y. Sup. Ct. 2016)
- *Genuine Parts Co. v. Cepec*, 137 A.3d 123 (Del. 2016)
- *In re: Zofran (Ondansetron) Prod. Liab. Litig.*, No. 2016 WL 2349105 (D. Mass. May 4, 2016)
- *In re Asbestos Litig.*, 2015 WL 5016493 (Del. Super. Aug. 25, 2015)

RESPONSE ARTICLE

- Oscar G. Chase, *Consent to Judicial Jurisdiction: The Foundation of "Registration" Statutes*, 73 N.Y.U. ANN. SURV. AM. L. 159, 196 (2018).

Where is Home Depot "At Home"? Daimler v. Bauman and the End of Doing Business Jurisdiction, 66 HASTINGS LAW JOURNAL 233 (2014).

CITATIONS

- *Amerisure Ins. Co. v. Auchter Co.*, No. 1:15CV235-MW/GRJ, 2016 WL 9506024 (N.D. Fla. Apr. 4, 2016)
- *Burdette v Marriott Intern.*, 2016 WL 9107119 (Md.Cir.Ct. Sep. 22, 2016)

- *Kinsman v. Florida State Univ. Bd. of Trustees*, 2015 WL 11110542 (M.D. Fla. Apr. 27, 2015)
- *Presby Patent Trust v. Infiltrator Sys., Inc.*, 2015 WL 3506517 (D.N.H. June 3, 2015)

Jurisdiction and the Enforcement of Foreign Judgments, 42 THE ADVOCATES' QUARTERLY 107 (2013).

CITATIONS

- *Chevron Corp. v. Yaiguaje*, 2015 SCC 42

(Still) A "Real and Substantial" Mess: The Law of Jurisdiction in Canada, 36 FORDHAM INTERNATIONAL LAW JOURNAL 396 (2013).

CITATIONS

- *Lapointe Rosenstein Marchand Melançon LLP v. Cassels Brock & Blackwell LLP*, 2016 SCC 30
- *Chevron Corp. v. Yaiguaje*, 2015 SCC 42
- *Goldbar v. Haaretz.com*, 2016 ONCA 515
- *Trillium v. General Motors of Canada*, 2013 ONSC 2289

Is Canada the New Shangri-La of Global Securities Class Actions?, 32 NORTHWESTERN JOURNAL OF INTERNATIONAL LAW AND BUSINESS 305 (2012).

CITATIONS

- *Benamor c. Air Canada*, 2020 QCCA 1597
- *Paniccia v. MDC Partners Inc.*, 2017 ONSC 7298

Transnational Class Actions and the Illusory Search for Res Judicata, 86 TULANE LAW REVIEW 1 (2011).

HONORS

- Recipient of the John Minor Wisdom Award for Academic Excellence in Legal Scholarship for best piece in current volume.

A "Real and Substantial" Improvement? Van Breda Reformulates the Law of Jurisdiction in Ontario, eds. T. Archibald and R. Echlin, ANNUAL REVIEW OF CIVIL LITIGATION (2010).

CITATIONS

- *Club Resorts Ltd. v. Van Breda*, 2012 SCC 17
- *Marciano v. Guess ? Inc.*, 2015 QCCS 3481
- *West Van Inc. v. Daisley*, 2014 ONCA 232 (Can. Ont. C.A.)

Personal Jurisdiction Over Non-Resident Class Members: Have We Gone Down the Wrong Road?, 45 TEXAS INTERNATIONAL LAW JOURNAL 537 (2010).

CITATIONS

- *Airia Brands Inc. v. Air Canada*, 2017 ONCA 792

A "Real and Substantial" Mess: The Law of Jurisdiction in Canada, 33 QUEEN'S LAW JOURNAL 179 (2007)(peer reviewed).

CITATIONS

- *Lapointe Rosenstein Marchand Melançon LLP v. Cassels Brock & Blackwell LLP*, 2016 SCC 30
- *Chevron Corp. v. Yaiguaje*, 2015 SCC 42
- *Fernandes v Wal-Mart Canada Corp.*, 2017 MBCA 96
- *Goldbar v. Haaretz.com*, 2016 ONCA 515
- *Van Breda v. Village Resorts Limited*, 2010 ONCA 84
- *Stanway v. Wyeth Pharmaceuticals Inc.*, 2009 BCCA 592
- *Bouch v. Penny*, 2009 NSCA 80
- *Fewer v. Ellis*, 2010 NLTD 35
- *Universal Helicopters Newfoundland Ltd. v. Rolls-Royce Corporation*, 2009 NLTD 125
- *Josephson v. Balfour Recreation Commission*, 2010 BCSC 603
- *Black v. Breeden*, [2009] 309 D.L.R. (4th) 708 (Ont. S.C.J.)

HONORS

- Reprinted in Patrick Borchers (ed.), JURISDICTION AND PRIVATE INTERNATIONAL LAW, Edward Elgar (2014) as one of the most influential articles on the topic of personal jurisdiction in the common law world.

RESPONSE

- Vaughan Black & Mat Brechtel, “Revising *Muscutt*: The Ontario Court of Appeal Takes Another Look” (2009) 36 ADV. Q. 35.

Foreign Judgments at Common Law: Rethinking the Enforcement Rules, 28 DALHOUSIE LAW JOURNAL 163 (2005)(peer reviewed).

Nothing Comes of Nothing ...Or Does it? A Critical Re-Examination of the Doctrine of Separability in American Arbitration, 12 AMERICAN REVIEW OF INTERNATIONAL ARBITRATION 223 (2001).

BOOK REVIEWS AND SHORTER ARTICLES

Book Review, *Cross-Border Torts, Canadian-U.S. Litigation Strategies*, by Wyatt Pickett, 51 CANADIAN YEARBOOK OF INTERNATIONAL LAW (2013).

Lépine v. Canada Post: Ironing Out the Wrinkles in the Inter-provincial Enforcement of Class Judgments, 34 THE ADVOCATES’ QUARTERLY 499 (2008).

A Win-Win Proposition: The Viability of a Rule 23(B)(1)(b) Class Action in the American Mass Tort Context, CLASS ACTION: A JOURNAL DEVOTED TO CLASS PROCEEDINGS, PROCEDURE AND LEGISLATION, Vol. I, No. 3, 2002.

OTHER PROFESSIONAL EXPERIENCE

PURDUE PHARMA LP
Associate Attorney

Jan. 2005 – June 2007

UNIVERSITY OF CAMBRIDGE
Research Assistant to Professor Richard Fentiman

Sept. 2004 – Dec. 2004

SUPREME COURT OF CANADA
Law Clerk to the Honorable Justice Frank Iacobucci

July 2002 – July 2003

SULLIVAN & CROMWELL LLP
Summer Associate (London, England)

June 2002 – July 2002

SIMPSON THACHER & BARTLETT LLP
Summer Associate (New York, New York)

May 2001 – Aug. 2001

Blake, Cassels & Graydon LLP
Summer Student (Toronto, Ontario)

May 2000 – Aug. 2000

MEDIA AND COMMENTARY

Solicited guest blogger for Contracts Prof Blog, two part guest post available at: https://lawprofessors.typepad.com/contractsprof_blog/2021/04/guest-post-by-tanya-monestier-on-amazon-as-a-seller-of-marketplace-goods-part-i.html.

“Supreme Court Clamps Down on State-Court Forum Shopping,” Rhode Island Lawyer’s Weekly (July 13, 2017) (discussing potential impact of *Bristol Myers Squibb* decision).

“Freeze Order on Omar Khadr Payout Needs Proof of Risk: Experts,” The Globe and Mail, (July 11, 2017) (discussing the enforceability of a Utah civil judgement against former Guantanamo detainee in Canada).

“Lawsuit over Fatal Motorcycle Crash Not Barred by Settlement,” Rhode Island Lawyer’s Weekly (Jan. 7, 2016) (discussing Rhode Island case in which court found that there was no valid offer and acceptance in settlement negotiations).

“Suit vs Kansas Employer can Proceed in 1st Circuit,” Rhode Island Lawyer’s Weekly (Oct. 9, 2015) (discussing First Circuit judgment finding that court had personal jurisdiction in contract dispute over employer based in Kansas).

“The Global Lawyer: *Daimler v. Bauman* One Year Later,” The American Lawyer (Jan. 4, 2015) (discussing ways for litigators to avoid the *Daimler* decision).

“Canadian co. subject to state’s jurisdiction,” Rhode Island Lawyer’s Weekly (Nov. 20, 2014) (discussing First Circuit ruling finding that Massachusetts court had personal jurisdiction over Canadian corporate defendant).

“Expert: Facebook Lawsuit Has Better Chance than Others,” GoLocalProv.com (May 26, 2010) (interview discussing the likely fate of a proposed class action brought in Rhode Island by users of the social networking site Facebook).

PROFESSIONAL PRESENTATIONS

Panelist, Brooklyn Law School International Litigation Conference, Topic: Damages for Breach of a Forum Selection Clause (invited to participate, October 2021).

Panelist, *Evolving Constraints on Liquidated Damages*, Professors Corner, American Bar Association Section on Real Estate (July 2021) (presented “Fixer Upper” paper where I argued that deposits in most residential real estate transactions function as penalty provisions).

Panelist, “Toward a New Equilibrium in Personal Jurisdiction,” Discussion Group: Procedural Hurdles and the Day in Court, Southeast Association of Law Schools conference (August 2014) (presented “Where is Home Depot at Home? *Daimler v. Bauman* and the End of Doing Business Jurisdiction”).

Panelist, Rhode Island Bar Association, *The Future of Law School Education* (2013) (discussed salient differences between law schools in Canada and the United States).

SERVICE

PROFESSIONAL

Peer reviewer for the *American Business Law Journal* (solicited to serve on standing list of reviewers for the country’s only peer-reviewed business law journal).

Ad hoc peer reviewer for *Yale Law Review*; *Osgoode Hall Law Journal*; *Alberta Law Review*; *University of British Columbia Law Review*; *Queen’s Law Journal*; *University of Ottawa Law Journal* (various occasions)

Member, Planning Committee, Federal Judicial District Court Conference (2017).

Member, Ontario Law Reform Commission’s Working Group of Specialists in Private International Law on codification of judicial jurisdiction in Ontario (2008).

Member, Organizing Committee, Ontario Chief Justice Advisory Committee’s 12th Annual Colloquium on Professionalism (2008).

ROGER WILLIAMS UNIVERSITY SCHOOL OF LAW

Director of the Honors Program (2014-2020)

Faculty Advisor, Tax & Business Law Society (2021)

Co-Coach of the Trial Team (2016-2018)

Academic Advisor for 1L students (2009-present)

Supervisor for Directed Research and Law Review Notes (2009-present)

Mock Class Presenter for Accepted Students Day (various occasions)

Instructor for Bar Exam Preparation Class on Contracts and Sales (2020)

Honor Board Hearing Chair (2018) and Honor Board Hearing Panelist (2019)

Judge, National Moot Court Competition (2018)

Brief Grader, Esther Clark Moot Court Competition (2017-2020)

Participant in student events (non-exhaustive):

- Member of the faculty team for Student-Faculty Jeopardy (various years)
- Donor, Champions for Justice Public Interest Auction (2009-2020)
- Host, Honors Program Annual Dinner (2014-2020)
- Host, Honor Program Accepted Student Dinner (2014-2020)
- Host, Advising Lunches for 1L Students (2009-present)
- Faculty Ambassador, Accepted Students Day (various years)
- Faculty Ambassador, Women in Robes Dinner (various years)

Law School Committees:

- Admissions Committee (2010-2020)
- Outcomes and Assessments Committee (2010-2011)
- Library and Technology Committee (2010-2011)
- Curriculum Committee (2011-2014)
- Legal Writing Committee (2012-2014)
- Honor Board Committee (2014-2017)
- Appointments Committee (2017-2018)
- Contract Faculty Evaluation Committee (2018-2019)
- Dean's Council (2018-present)
- Adjunct Faculty Evaluation Committee (2019-present)
- Retention, Promotion, Tenure Committee (2015-present)

QUEEN'S UNIVERSITY FACULTY OF LAW

Coach, Vis International Commercial Arbitration Moot (2007-2009)

Chair, Subcommittee on Mature Student Admissions (2007-2009)

Supervisor, Independent Study Projects (2007-2009)

BAR ADMISSIONS

New York (2006)