

## The American Law Institute to Complete Restatement of the Law Third, Torts

### FOR IMMEDIATE RELEASE

Contact: Jennifer Morinigo  
jmorinigo@ali.org; 215.243.1655

PHILADELPHIA – The American Law Institute (ALI) announced today that it will begin three new Torts projects, which will complete the ongoing Restatement Third, Torts project. The three projects are Defamation and Privacy, Remedies, and Concluding Provisions.

The revision of the Restatement Second of Torts began in the early 1990s. Portions of the Restatement Second have been superseded by the Restatement Third of Torts: Products Liability, Apportionment of Liability, and Liability for Physical and Emotional Harm. Economic Harm was approved by ALI members at the 2018 Annual Meeting, and will be published later this year. Two additional torts categories are being covered in current projects: Intentional Torts and Property Torts.

“Restatement of the Law, Torts was one of the first projects launched in 1923, when ALI was founded,” said ALI Director Richard L. Revesz. “To date, the Torts publications are ALI’s most cited work in court opinions, including the U.S. Supreme Court. I am excited that we are now on the path to completing the Restatement Third, which we hope will continue to be as influential, and I am particularly pleased that such a distinguished group of professors has agreed to serve as Reporters to guide ALI through these projects.”

The project on Defamation and Privacy will address torts dealing with personal and business reputation and dignity, including defamation, business disparagement, and rights of privacy. Among other issues, the updates will cover the substantial body of new issues relating to the internet. The Reporters for Defamation and Privacy will be Lyrisa Lidsky, dean of the University of Missouri School of Law, and Robert C. Post of Yale Law School.

The Remedies project will address tort damages and other remedies. It will include issues related to identifying the types of recoverable damages, such as past and future lost wages, medical expenses, disfigurement, and pain and suffering, as well as measuring damages, including discounting future earnings to present value, the effect of taxes, and structured settlements. The Reporter on Remedies will be Douglas Laycock of The University of Texas at Austin School of Law and the University of Virginia School of Law.

The Concluding Provisions project will address topics not covered in another part of the Restatement Third of Torts that either require updating since publication of the Restatement Second or were not previously addressed but should be covered in a modern torts Restatement. These topics will include medical liability and vicarious liability, among others. The Reporters for Concluding Provisions will be Nora Freeman Engstrom of Stanford Law School, Michael D. Green of Wake Forest University School of Law, and William C. Powers, Jr. of The University of Texas at Austin School of Law. Mark Hall of Wake Forest University School of Law and School of Medicine has been named Associate Reporter.

ALI will appoint additional Associate Reporters as well as a group of Advisers with diverse professional experiences. ALI members may join the Members Consultative Group. All ALI projects go through the

Institute's deliberative process. Reporters prepare and present drafts to Advisers, ALI Council, and ALI members for discussion, debate, and approval. The first project drafts are expected in Fall 2019 or early 2020.

### **Short Biographies of the Reporters:**

**Nora Freeman Engstrom** is a Professor of Law and Deane F. Johnson Faculty Scholar at Stanford Law School. She is a nationally recognized expert in both tort law and legal ethics. Her work explores the day-to-day operation of the tort system and particularly the tort system's interaction with alternative compensation mechanisms, such as no-fault automobile insurance, the Vaccine Injury Compensation Program, and workers' compensation. Professor Engstrom has also written extensively on attorney advertising, contingency fee practice, tort reform, and law firms she calls "settlement mills"—high-volume personal injury law practices that heavily advertise and mass-produce the resolution of claims.

**Michael D. Green** is the Bess and Walter Williams Distinguished Chair at Wake Forest University School of Law. He is a nationally and internationally recognized torts teacher and scholar. In August 2018, Professor Green received the Robert B. McKay Award from the ABA Tort Trial and Insurance Practice Section for his "commitment to the advancement of justice, scholarship and the legal profession, demonstrated by outstanding contributions to the fields of tort, trial practice or insurance law." In January 2015 he received the AALS William L. Prosser Award for "outstanding contributions . . . in scholarship, teaching and service in torts and compensation systems." He served as Co-Reporter for the Restatement Third, Torts: Liability for Physical and Emotional Harm and for Restatement Third, Torts: Apportionment of Liability. Professor Green and his Co-Reporter, Professor William C. Powers, Jr. of The University of Texas, were jointly honored with the John G. Fleming Memorial Prize for Torts Scholarship in 2012.

**Mark Hall** is Director of Health Law and Policy Program and the Fred D. & Elizabeth L. Turnage Professor of Law and Public Health at Wake Forest University. He is one of the nation's leading scholars in the areas of health care law, public policy, and bioethics. He is currently engaged in research in the areas of health care reform, access to care by the uninsured, and insurance regulation. He also teaches in the University's Graduate Programs for Bioethics and its MBA program, and is on the research faculty at the Medical School. He regularly consults with government officials, foundations and think tanks about health care public policy issues and is a member of National Academy of Medicine.

**Douglas Laycock** is perhaps the nation's leading authority on the law of religious liberty and also on the law of remedies. He has taught and written about these topics for four decades at the University of Chicago, the University of Texas, the University of Michigan, and the University of Virginia. Professor Laycock has testified frequently before Congress and has argued many cases in the courts, including the U.S. Supreme Court, where he has served as lead counsel in six cases. He is the author of the leading casebook *Modern American Remedies*, the award-winning monograph *The Death of the Irreparable Injury Rule*, and many articles in the leading law reviews. He co-edited a collection of essays, *Same-Sex Marriage and Religious Liberty*.

**Lyrissa Lidsky** is Dean and Judge C.A. Leedy Professor of Law at the University of Missouri School of Law. Before becoming dean of the School of Law in July 2017, she served in a variety of leadership roles at the University of Florida. There she was associate dean for graduate and international programs and associate dean for faculty development. She also held the Stephen C. O'Connell Chair in Law and received a number of teaching awards during her 23-year tenure at UF. Dean Lidsky's scholarship focuses on the intersection of Torts and the First Amendment, with a particular emphasis on defamation and other free speech issues in social media contexts.

**Robert C. Post** is a Sterling Professor of Law at Yale Law School, and served as the School's 16th dean, from 2009 until 2017. Before coming to Yale, he taught at the University of California at Berkeley School of Law. Professor Post's subject areas are constitutional law, First Amendment, legal history, and equal protection. He has written and edited numerous books, including *Citizens Divided: A Constitutional Theory of Campaign Finance Reform* (2014), which was originally delivered as the Tanner Lectures at Harvard in 2013. Other books include, *Democracy, Expertise, Academic Freedom: A First Amendment Jurisprudence for the Modern State* (2012); *For the Common Good: Principles of American Academic Freedom* (with

Matthew M. Finkin, 2009); *Prejudicial Appearances: The Logic of American Antidiscrimination Law* (with K. Anthony Appiah, Judith Butler, Thomas C. Grey & Reva Siegel, 2001); and *Constitutional Domains: Democracy, Community, Management* (1995).

**William C. Powers Jr.** was the second-longest serving president in University of Texas history when he stepped down in 2015. He is a University Distinguished Teaching Professor and holds the Hines H. Baker and Thelma Kelley Baker Chair in Law at the School of Law, where he served as Dean from 2000-2005. Other university appointments have been with the Southern Methodist University School of Law, the University of Michigan School of Law, and the University of Washington School of Law. He served as Chair of the Special Investigation Committee, Enron Corp., which in 2002 produced the “Powers Report.” He was Co-Reporter (with Michael Green) for the Restatement Third, Torts: Liability for Physical and Emotional Harm and the Restatement Third, Torts, Apportionment of Liability.

### **About The American Law Institute**

The American Law Institute is the leading independent organization in the United States producing scholarly work to clarify, modernize, and improve the law. The ALI drafts, discusses, revises, and publishes Restatements of the Law, Model Codes, and Principles of Law that are enormously influential in the courts and legislatures, as well as in legal scholarship and education.

By participating in the Institute’s work, its distinguished members have the opportunity to influence the development of the law in both existing and emerging areas, to work with other eminent lawyers, judges, and academics, to give back to a profession to which they are deeply dedicated, and to contribute to the public good.

For more information about The American Law Institute, visit [www.ali.org](http://www.ali.org).