

JOHN M. GREABE
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CURRENT EMPLOYMENT

Professor of Law, University of New Hampshire School of Law (formerly Franklin Pierce Law Center), Concord, NH 03301

Courses Taught

- Constitutional Law
- Civil Procedure
- First Amendment
- Judicial Opinion Writing

Research Interests

- Constitutional Law
- Civil Procedure
- Conflict of Laws
- Election Law
- Federal Courts and Jurisdiction
- Appellate Practice and Procedure
- Civil Rights
- Habeas Corpus

Service

- Judicial Clerkship Committee (Chair)
- Appointments Committee
- Curriculum Committee
- Library Committee
- Daniel Webster Scholar Selection Committee

John M. Greabe, Attorney at Law, Hopkinton, NH 03229

Recent Cases

- *Jones v. Harris Associates*, U.S. Supreme Court, No. 08-586 (argued November 2, 2009, decided March 30, 2010). On brief for petitioners, who are mutual fund shareholders claiming multiple breaches of fiduciary duty by their fund adviser in violation of the federal Investment Company Act of 1940. The Supreme Court ruled in favor of petitioners by a 9-0 vote. Also, was the principal author of appellate briefs filed with the U.S. Court of Appeals for the Seventh Circuit both before and after the Supreme Court's remand.

- *Gallus v. Ameriprise Financial, Inc.*, U.S. Court of Appeals for the Eighth Circuit, No. 07-2945. Principal author of appellate briefs challenging a summary judgment entered against mutual fund shareholders claiming that they were charged excessive advisory fees in violation of the fiduciary duty imposed on investment advisers by the Investment Company Act of 1940. The Eighth Circuit

reversed and remanded for trial. *See* 561 F.3d 816 (8th Cir. 2009), *vacated for reconsideration in light of Jones v. Harris*, No. 08-586 (U.S. Sup. Ct. March 30, 2010). The case constitutes the first time that a claim for breach of fiduciary duty under the '40 Act has survived a motion for summary judgment.

- *IMS Health Inc. v. Ayotte*, U. S. Court of Appeals for the First Circuit, Nos. 07-1945 and 07-2287, Served as a moot court judge to help prepare counsel for oral argument on whether the New Hampshire Prescription Confidentiality Act violates the First Amendment.

PRIOR TEACHING EXPERIENCE

Associate Professor of Law, Vermont Law School, South Royalton, VT 05068 (1997-2010) (also was Adjunct Professor of Law, Visiting Assistant Professor of Law, and Assistant Professor of Law during this time frame)

Courses Taught

- Constitutional Law I
- Constitutional Law II
- Civil Procedure I
- Civil Procedure II
- Conflict of Laws
- Judicial Opinion Writing
- Lawyering Process

EDUCATION

Harvard Law School, Cambridge, MA

- J.D., 1988
- Research assistant to Albert M. Sacks, Late Dean and Dane Professor of Law

Dartmouth College, Hanover, NH

- B.A., Classics, 1985
- Class of 1846 Latin Prize

LAW REVIEW ARTICLES AND ESSAYS

Rights as Sources of Law, work-in-progress

A Federal Baseline for the Right to Vote, forthcoming 111 COLUM. L. REV. SIDEBAR ____ (2012)

Objecting at the Altar: Why the Herring Good Faith Principle and the Harlow Qualified Immunity Doctrine Should Not Be Married, forthcoming 111 COLUM. L. REV. SIDEBAR ____ (2011)

Iqbal, al-Kidd and Pleading Past Qualified Immunity: What the Cases Mean and How They Demonstrate a Need to Eliminate the Immunity Doctrines from Constitutional Tort Law, 20 WM. & MARY BILL RTS. J. 1 (2011)

A Better Path for Constitutional Tort Law, 25 CONST. COMMENT. 189 (Summer 2008) (peer selected and edited)

Moving Beyond Gartenberg: A Process-Based and Comparative Approach to Section 36(b) of the Investment Company Act of 1940, 28 REV. BANKING & FIN. L. 133 (Fall 2008) (with Michael Brickman, James Bradley, and Nina Fields) (solicited article)

Mirabile Dictum! The Case for “Unnecessary” Constitutional Rulings in Civil Rights Damages Actions, 74 NOTRE DAME L. REV. 403 (1999)

Spelling Guilt Out of a Record? Harmless-Error Review of Conclusive Mandatory Presumptions and Elemental Misdescriptions, 74 B.U. L. REV. 819 (1994)

OTHER PUBLICATIONS

Amicus Curiae Brief on behalf of the University of New Hampshire School of Law’s Franklin Pierce for Intellectual Property Amicus Brief Clinic, United States v. Alvarez, United States Supreme Court, No. 11-210 (with Susan Richey and Keith Harrison)

Amici Curiae Brief on behalf of Environmental Law Professors in Support of State of North Carolina, State of North Carolina v. Tennessee Valley Authority, United States Court of Appeals for the Fourth Circuit, No. 09-1623 (Nov. 6, 2009) (with Patrick Parenteau, William H. Rodgers, Jr., William L. Andreen, Robin Kundis Craig, Victor Flatt, Jennifer S. Hendricks, Donald Hornstein, Oliver A. Houck, Ryke Longest, James R. May, Robert V. Percival, and Zygmunt J.B. Plater)

Judicial Opinion Writing: Teach It in Law School, op-ed, NAT’L LAW J. (Sept. 25, 2006)

Can Congress Constitutionally Declare the World to be Flat? op-ed, BURLINGTON FREE PRESS (May 30, 2007)

Book Review of Thomas E. Baker, *Rationing Justice on Appeal: The Problems of the United States Courts of Appeals* (West 1994), N.H. BAR NEWS (Dec. 7, 1994) (book review)

JUDICIAL CLERKSHIPS

Senior Law Clerk, Honorable Jeffrey R. Howard, United States Court of Appeals for the First Circuit (2002 – 2007)

Senior Law Clerk, Honorable Norman H. Stahl, United States Court of Appeals for the First Circuit (1990-94; 1997-2001)

Law Clerk, Honorable Hugh H. Bownes, United States Court of Appeals for the First Circuit (1994-95)

Law Clerk, Honorable Paul J. Barbadoro, United States District Court for the District of New Hampshire (2001-02)

Law Clerk, Honorable W. Arthur Garrity, Jr., United States District Court for the District of Massachusetts (1995-96)

Law Clerk, Magistrate Judge James R. Muirhead, United States District Court for the District of New Hampshire (1996-97)

RECENT PANELS AND PRESENTATIONS

Constitutional Constraints on State Privacy & Health Care Regulation after *Sorrell v. IMS Health*, Symposium Jointly Sponsored by the UNH and Vermont Law Reviews, October 14, 2011 (symposium organizer and panel moderator)

United States District Court for the District of Puerto Rico, CLE Seminar, May 13, 2011 (presented to federal judges and members of the federal bar on the Supreme Court's decision in *Ashcroft v. Iqbal* and appellate practice before the First Circuit)

The Charles C. Doe American Inn of Court, CLE Presentation, May 4, 2011 (presented to Inn of Court on the pending constitutional challenges to the federal health care law)

New Hampshire Public Radio, "The Exchange," February 17, 2011 (guest commentator on radio talk show) (discussed the constitutionality of the recently enacted federal health care law)

The Burt Cohen Show, February 1, 2011 (guest commentator on radio show) (discussed constitutionality of recently enacted federal health care law)

University of New Hampshire School of Law, *The Impact of Ashcroft v. Iqbal*, October 4, 2010 (moderated panel discussion by Hon. Gustavo Gelpi, United States District Court for the District of Puerto Rico, and Hon. Landya McCafferty, United States District Court for the District of New Hampshire)

Keene State College, *Got Rights? A Panel Discussion of Recent Developments in the Law of Individual Constitutional Rights*, September 17, 2010 (panelist)

Vermont Law School, *The Work of a United States District Court Judge*, October 5, 2009 (moderator of presentation by Hon. Gustavo Gelpi, United States District Court for the District of Puerto Rico)

Vermont Law School, *The Legacy of Hon. David H. Souter*, September 17, 2009 (moderator of Constitution Day panel presentation by Hon. Norman Stahl, United States Court of Appeals for the First Circuit, Hon. Joseph Laplante, United States District Court for the District of New Hampshire, and Prof. Jack Tuholske, Vermont Law School)

Vermont Bar Association, *Overview of the Supreme Court's 2007-08 Term*, September 2008 (panelist)

New Hampshire Bar Association, Federal Practice Institute Seminar, *Persuasive Written Advocacy in the Federal Court*, September 2007 (panel co-chair)

Vermont Law School, *Who's Afraid of the Roberts Court?* September 2007 (panelist)

Vermont State House, *Colloquium on Vermont's Proposed Constitutional Amendment to Lengthen the Term Limits of State Officeholders*, December 2006 (presented to Vermont lawmakers on constitutional issues raised by proposed term-limit amendment)

Vermont Judicial College, *Judicial Opinion Writing*, June 2005 (faculty) (taught writing seminar to Vermont state judges)

ASSOCIATIONS & MEMBERSHIPS

Admitted to practice before the Massachusetts Supreme Judicial Court (December 13, 1988); the New Hampshire Supreme Court (July 8, 2008); the United States Supreme Court (November 3, 2008); the United States Court of Appeals for the First Circuit (April 4, 2002); the United States Court of Appeals for the Seventh Circuit (April 27, 2007); the United States Court of Appeals for the Eighth Circuit (September 17, 2007); the United States District Court for the District of New Hampshire (August 18, 1993); and the United States District Court for the District of Massachusetts (May 17, 2007)

Member, American Bar Association (since 2007)

COMMUNITY SERVICE & HONORS

UNH School of Law American Association of Law Schools Teacher of the Year, 2010-11 (by vote of the 2L and 3L students at UNH School of Law)

Chair, Board of Trustees, Capital Region Food Program, Concord, NH (2009 to present)

Member, Board of Trustees, Capital Region Food Program, Concord, NH (2000-04 & 2008-09)

Member, Board of Trustees, Hopkinton Youth Sports Association (2004-07)

Elected to *Who's Who Among America's Teachers* (2005)

Baseball Manager, Hopkinton Middle School baseball team (2010 to present)

Baseball Manager & Coach, (managed and coached teams ranging from adult over-30 team to high school varsity team playing in fall wood bat league to youth league teams of all ages) Hopkinton, NH (2004-present), Concord, NH (1998-2003) & Belmont, MA (1988)

PRIOR PROFESSIONAL EXPERIENCE

Faculty, St. Paul's School, Concord, NH (fall 1996) (taught Law & Government); Taft School, Watertown, CT (summer 1989) (taught history & study skills); Tabor Academy, Marion, MA (1998-90) (taught classics & history; supervised dormitory of 14 boys; coached football, basketball & baseball; & advised speech and debate team)