

JOHN M. GREABE

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CURRENT EMPLOYMENT

Associate Professor of Law, Vermont Law School, South Royalton, VT 05068

Courses Taught at VLS

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

Research Interests

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

Visiting Professor of Law, Franklin Pierce Law Center, Concord, NH 03301

Courses Taught at Pierce

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

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

Services

- Briefs, motions, and legal memoranda
- Case consultations
- Oral arguments
- Moot courts

Recent Cases

- *Jones v. Harris Associates*, U.S. Supreme Court, No. 08-586 (set for argument November 2, 2009). On brief for petitioners, who are mutual fund shareholders claiming multiple breaches of fiduciary duty by their fund adviser in violation of the Investment Company Act of 1940.

- *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). 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.
- *Take It Away, Inc. v. The Home Depot, Inc.*, U. S. Court of Appeals for the First Circuit, No. 09-1336. Coauthor of appellate briefs challenging a summary judgment entered against a corporation alleging misappropriation of trade secrets and breach of contract.
- *IMS Health Inc. v. Ayotte*, United States 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.

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, *magna cum laude*
- Class of 1846 Latin Prize

LAW REVIEW ARTICLES

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

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)

Mirabile Dictum! The Case for "Unnecessary" Constitutional Rulings in Civil Rights Damages Actions, 74 NOTRE DAME LAW 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

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

Can Congress Constitutionally Declare the World to be Flat? 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)

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

Vermont Law School, *The Legacy of Hon. David H. Souter*, September 2009 (moderator)

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)

Vermont Judicial College, *Judicial Opinion Writing*, June 2005 (faculty)

ASSOCIATIONS AND MEMBERSHIPS

Admitted to practice before the Massachusetts Supreme Judicial Court; the New Hampshire Supreme Court; the United States Supreme Court; the United States Courts of Appeals for the First, Seventh, and Eighth Circuits; and the United States District Court for the Districts of New Hampshire and Massachusetts

Chair, Board of Trustees, Capital Region Food Program, Concord, NH

Elected to *Who's Who Among America's Teachers*

PRIOR PROFESSIONAL EXPERIENCE

Faculty, St. Paul's School, Concord, NH (1996)

Faculty, Tabor Academy, Marion, MA (1988-90)

REFERENCES

Gil Kujovich, Vice Dean for Academic Affairs and Professor of Law, Vermont Law School (802) 831-1297

N. Bruce Duthu, Professor of Native American Studies, Dartmouth College, Former Vice Dean for Academic Affairs and Professor of Law, Vermont Law School (603) 643-3530

Honorable Norman Stahl, United States Court of Appeals, First Circuit (617) 748-4596

Honorable Jeffrey Howard, United States Court of Appeals, First Circuit (603) 225-1525

Honorable Michael Boudin, United States Court of Appeals, First Circuit (617) 748-4431

Honorable Paul Barbadoro, United States District Court, District of New Hampshire (603) 226-7303

Honorable James Muirhead, United States District Court, District of New Hampshire (603) 225-1493