

ADAM J. HIRSCH**ADDRESS:**

University of San Diego
School of Law
San Diego, California 92110
Phone: (619) 260-8858
Fax: (619) 260-2748
Email: ahirsch@san Diego.edu

EDUCATION:

Yale Law School, J.D. 1982.

Yale Graduate School, Ph.D. (History) 1987, M. Phil. 1982, M.A. 1979.

Vassar College, A.B., 1976 (Departmental Honors in History and General Honors).

PRIZES, FELLOWSHIPS, AND RECOGNITION:

George Washington Egleston Prize for the best doctoral dissertation in American history at Yale University, 1986-87.

Roger Traynor Research Professor (fellowship awarded to one scholar biennially), University of California, Hastings College of the Law, summer, 1997.

Florida Historical Commission (gubernatorial appointment, two year term, 2012-2014).

Florida National Register Review Board (gubernatorial appointment, two year term, 2012-2014).

Thorsnes Prize for outstanding legal scholarship by a member of the USD law faculty, 2016-2017.

Ranked *first* among the most cited professors of Wills, Trusts, and Estates in Brian Leiter's Law School Rankings (Most Cited Professors by Specialty, 2000-2007), available at: www.leiterrankings.com/faculty/2007faculty_impact_areas.shtml

EMPLOYMENT:

Fall 2013-present	<p>University of San Diego School of Law</p> <p>Professor, since 2013</p> <p>Visiting Professor, 2012-2013</p> <p><i>Courses currently taught:</i> Wills, Trusts, and Estates; Estate and Tax Planning Seminar. <i>Courses previously taught:</i> Property; Debtor-Creditor Law; Bankruptcy Policy Seminar; American Legal History.</p>
Fall, 1983 to 2013	<p>Florida State University College of Law</p> <p>William and Catherine VanDercreek Professor, 2005-2013</p> <p>David M. Hoffman Professor, 2002-2005</p> <p>Professor, 1995-2002</p> <p>Associate Professor, 1988-1995</p> <p>Assistant Professor, 1983-1988</p>
Fall 2006	Visiting Professor, George Washington University Law School
Fall 2005	Visiting Professor, Boston College Law School
Fall 2003-Spring 2004	Visiting Professor, Southern Methodist University Dedman School of Law
Summer 1994	Visiting Professor, University of Colorado School of Law
Fall 1991	Visiting Professor, Tulane University School of Law
Summer 1990	Visiting Professor, University of Texas School of Law
Fall 1989	Visiting Professor, University of California Hastings College of the Law
Summer 1982	Summer Associate, Milbank, Tweed, Hadley & McCloy

PUBLICATIONS:

Books:

THE RISE OF THE PENITENTIARY: PRISONS AND PUNISHMENT IN EARLY AMERICA (Yale University Press 1992, second printing 2008); cited by the U.S. Supreme Court in *Overton v. Bazzetta*, 539 U.S. 126 (2003).

CALIFORNIA PROBATE CODE ANNOTATED (annual eds. 2017–2019 Thomson Reuters) (with William McGovern).

Articles:

From Pillory to Penitentiary: The Rise of Criminal Incarceration in Early Massachusetts, 80 *Michigan Law Review* 1179–269 (1982); cited by the U.S. Supreme Court in *Smith v. Doe*, 538 U.S. 84 (2003); reprinted in POLICE, PRISON AND PUNISHMENT: MAJOR HISTORICAL INTERPRETATIONS (Kermit Hall ed. 1987); and in CRIME AND JUSTICE IN AMERICAN HISTORY, vol. 6 (Eric Monkkonen ed. 1990).

The Collision of Military Cultures in Seventeenth-Century New England, 74 *Journal of American History* 1187–212 (1988); reprinted in, ESSAYS IN NORTH AMERICAN INDIAN HISTORY (Michael Gillis ed. 1990).

The Problem of the Insolvent Heir, 74 *Cornell Law Review* 587–654 (1989); cited by the U.S. Supreme Court in *Drye v. United States*, 528 U.S. 49 (1999).

A Qualitative Theory of the Dead Hand, 68 *Indiana Law Journal* 1–58 (1992) (with William Wang).

Inheritance and Bankruptcy: The Meaning of the “Fresh Start,” 45 *Hastings Law Journal* 175–248 (1994); excerpted in BANKRUPTCY ANTHOLOGY (Charles Tabb ed. 2002).

Spendthrift Trusts and Public Policy: Economic and Cognitive Perspectives, 73 *Washington University Law Quarterly* 1–95 (1995).

Inheritance and Inconsistency, 57 *Ohio State Law Journal* 1057–162 (1996).

Bequests for Purposes: A Unified Theory, 56 *Washington and Lee Law Review* 33–110 (1999).

Trusts for Purposes: Policy, Ambiguity, and Anomaly in the Uniform Laws, 26 *Florida State University Law Review* 913–57 (1999).

Inheritance Law, Legal Contraptions, and the Problem of Doctrinal Change, 79 *Oregon Law Review* 527–73 (2000).

Revisions in Need of Revising: The Uniform Disclaimer of Property Interests Act, 29 *Florida State University Law Review* 109–87 (2001).

The Uniform Disclaimer of Property Interests Act: Opportunities and Pitfalls, 28 *Estate Planning* 571–80 (2001).

Cognitive Jurisprudence, 76 *Southern California Law Review* 1331–70 (2003).

Perfecting Disclaimer Reform: Suggestions for a Revised Uniform Act, 31 *Estate Planning* 185–93 (2004) (with Richard Gans).

Default Rules in Inheritance Law: A Problem in Search of Its Context, 73 *Fordham Law Review* 1031–101 (2004).

Evolutionary Theories of Common Law Efficiency: Reasons for (Cognitive) Skepticism, 32 *Florida State University Law Review* 425–41 (2005) (symposium on “Behavioral Analysis of Legal Institutions: Possibilities, Limitations and New Directions”).

Disclaimer Reform: New Developments and Additional Reflections, 32 *Estate Planning* 16–25 (June, 2005) (with Richard Gans).

Fear Not the Asset Protection Trust, 27 *Cardozo Law Review* 2685–711 (2006) (symposium on “Trust Law in the 21st Century”); digested in 57 *Monthly Digest of Tax Articles* 1–12 (June, 2007).

Disclaimer Reform and UDPIA: The Disappointing Amendments of 2006, 33 *Estate Planning* 24–31 (Dec., 2006) (with Richard Gans).

The Uniform Acts’ Loophole in Fraudulent Conveyance Law, 34 *Estate Planning* 20–27 (Dec., 2007).

Law and Proximity, 2008 *University of Illinois Law Review* 557–98 (2008) (with Gregory Mitchell).

Text and Time: A Theory of Testamentary Obsolescence, 68 *Washington University Law Review* 609–63 (2009).

Disclaimer Law and UDPIA’s Unintended Consequences, 36 *Estate Planning* 34–40 (Apr., 2009).

Delaware Unifies the Law of Charitable and Noncharitable Purpose Trusts, 36 *Estate Planning* 13–22 (Nov., 2009).

Freedom of Testation / Freedom of Contract, 95 *Minnesota Law Review* 2180–253 (2011).

The Code Breakers: How States Are Modifying the Uniform Disclaimer of Property Interests Act, 46 *Real Property, Trust and Estate Law Journal* 325–75 (2011).

Incomplete Wills, 111 *Michigan Law Review* 1423–80 (2013); reviewed in Jotwell, Oct. 29, 2013.

Formalizing Gratuitous and Contractual Transfers: A Situational Theory, 91 *Washington University Law Review* 797–865 (2014); reviewed in Jotwell, Feb. 4, 2015.

Teaching Wills and Trusts: The Jurisdictional Problem, 58 *St. Louis University Law Journal* 681–87 (2014) (annual teaching issue on “Teaching Trusts and Estates”); reviewed in Jotwell, Sept. 15, 2015.

Disclaimers and Federalism, 67 *Vanderbilt Law Review* 1871–929 (2014) (symposium on “The Role of Federal Law in Private Wealth Transfer”).

Airbrushed Heirs: The Problem of Children Omitted from Wills, 50 *Real Property, Trust and Estate Law Journal* 175–266 (2015); excerpted in *GPSOLO*, Mar./Apr. 2017, at 56–57; reviewed in Jotwell, Aug. 15, 2016.

Testation and the Mind, 74 *Washington and Lee Law Review* 285–367 (2017).

Inheritance on the Fringes of Marriage, 2018 *University of Illinois Law Review* 235–79 (2018); reprinted in *Minnesota Family Law Journal*, May/June 2019, at (forthcoming); reviewed in Jotwell, May 10, 2018.

Defective Catastrophe Clauses in Wills: Paths to Reform, 52 *Real Property, Trust and Estate Law Journal* 339–67 (2018).

Technology Adrift: In Search of a Role for Electronic Wills, 61 *Boston College Law Review* (forthcoming 2020).

Review Essays:

Searching Inside Justice Holmes, reviewing G. EDWARD WHITE, JUSTICE OLIVER WENDELL HOLMES: LAW AND THE INNER SELF, 82 *Virginia Law Review* 385–411 (1996).

Gulliver & Tilson, ‘The Classification of Gratuitous Transfers’—A Belated Review, 35 *University of Queensland Law Journal* 127–34 (2016) (special edition: “My Favorite Law Article”).

Other Essays:

Inheritance: United States Law, 3 OXFORD INTERNATIONAL ENCYCLOPEDIA OF LEGAL HISTORY 235–40 (Stanley N. Katz ed., 2009).

Book Review Notes:

Book Review: EDWARDS AYERS, VENGEANCE AND JUSTICE – CRIME AND PUNISHMENT IN THE 19TH CENTURY AMERICAN SOUTH, 3 *Law and History Review* 207–09 (1985).

Book Review: PIETER SPIERENBURG, THE PRISON EXPERIENCE: DISCIPLINARY INSTITUTIONS AND THEIR INMATES IN EARLY MODERN EUROPE, 13 *Law and History Review* 417–20 (1995).

Book Review: MICHAEL MERANZE, LABORATORIES OF VIRTUE: PUNISHMENT, REVOLUTION, AND AUTHORITY IN PHILADELPHIA, 1760-1835, 103 *American Historical Review* 276–77 (1998).

Book Review: SCOTT CHRISTIANSON, WITH LIBERTY FOR SOME: FIVE HUNDRED YEARS OF IMPRISONMENT IN AMERICA, 105 *American Historical Review* 916 (2000).

Book Review: JEN MANION, LIBERTY’S PRISONERS: CARCERAL CULTURE IN EARLY AMERICA, 79 *The Historian* 862–63 (2017).

Works in Progress:

Waking the Dead: An Empirical Analysis of Revival of Wills.

**PROFESSIONAL
ASSOCIATIONS:**

Academic Fellow, American College of Trust and Estate Counsel (ACTEC) (elected 2002).

State Laws Committee
Uniform Laws Subcommittee
Asset Protection Committee
Legal Education Committee

Member, San Diego County Bar Association.

**EDITORIAL
ACTIVITIES:**

Book Review Editor, *Law & History Review* (scholarly publication of the American Society for Legal History), 1985-1993

Article Referee, *Yale Law Journal*

Article Referee, *Journal of the American Academy of Psychiatry and the Law*

Article Referee, *William and Mary Quarterly*

Article Referee, *Journal of the History of Ideas.*

Article Referee, *Journal of American History*

Book Manuscript Referee, Northeastern University Press

Casebook Manuscript Referee, Aspen Publishers

Casebook Manuscript Referee, Wolters Kluwer Law & Business

**OTHER
ACTIVITIES:**

Cases:

Consultant to the Florida Legislature, *In re* Governor's Request to the Supreme Court of Florida for an Advisory Opinion on the Constitutionality of the Services Tax, 1987.

Legislation:

Consultant to the Estate and Trust Tax Planning Committee of the Real Property, Probate and Trust Law Section of The Florida Bar, assigned to draft the Florida Disclaimer of Property Interests Act, 2003-2005.

Advisor to Bar committees and gubernatorial task forces drafting legislation in:

Alaska: disclaimer statute
 Colorado: disclaimer statute
 Delaware: noncharitable purpose trust statute
 Iowa: disclaimer statute
 Minnesota: disclaimer statute
 South Dakota: disclaimer statute and statute of frauds
 Texas: disclaimer statute
 Wisconsin: disclaimer statute

Model Legislation:

Co-Chair, Ad Hoc Subcommittee of Asset Protection Committee of ACTEC, drafting the Model Self-Settled Spendthrift Trust Act, 2018-present.

Referee of promotion and tenure candidates:

University of California, Hastings College of Law, 1994
 Cornell Law School, 1996
 Nova Southeastern University, Broad Law Center, 1996
 SUNY Buffalo School of Law, 1998
 Stanford Law School, 1999
 Tulane Law School, 2006, and 2010
 Washington University School of Law, 2007

Chair, FSU College of Law Promotion and Tenure Committee, 2002-03, and 2011-12

Co-organizer, academic symposium on “The Role of Federal Law in Private Wealth Transfer,” Vanderbilt Law School, 2014 (sponsored by ACTEC).

Co-organizer, academic symposium on “Empirical Analysis of Wealth Transfer Law,” University of California at Davis School of Law, 2019 (sponsored by ACTEC).

**VISITING
 FELLOWSHIPS:**

Visiting Fellow, Hughes Hall, Cambridge University, summer 1984

Guest of the Faculty, Juridiska Institutionen, Uppsala Universitet, summer, 1985

Visiting Lecturer, St. Andrews University, May, 1986

Visiting Scholar, Max-Planck Institut Fur Ausländisches und Internationalisches Strafrecht, summer, 1986

Visiting Professor (non-teaching), Faculty of Law, University of British Columbia, summer, 1991; summer, 1992; Visiting Scholar, summer, 2010; summer, 2012; summer, 2013; summer 2014

Visiting Scholar, University of Colorado School of Law, summer, 1993

Visiting Scholar, University of Oregon School of Law, summer, 1996

Visiting Scholar, University of San Diego School of Law, spring-summer, 1998

Visiting Scholar, University of California at Berkeley School of Law, summer, 2000, summer, 2001, summer, 2004

Visiting Scholar, University of Siena, June, 2011

Visiting Scholar, University of Queensland, TC Beirne School of Law, May, 2015

SPEECHES AND PRESENTATIONS:

Television Appearances:

Commentator on probate issues concerning the estate of Anna Nicole Smith, MSNBC, Feb. 21, 2007

Web Appearances:

American Bar Association webinar, “Airbrushed Heirs: The Problem of Children Omitted from Wills,” May 16, 2017

Academic Symposia:

The Behavioral Analysis of Legal Institutions: Possibilities, Limitations, and New Directions, Florida State University College of Law, 2004

Trust Law in the 21st Century, Benjamin N. Cardozo School of Law, 2005

The Law of Succession in the 21st Century, UCLA, 2008

The Role of Federal Law in Private Wealth Transfer, Vanderbilt Law School, 2014

Presentations at Professional Societies:

American Society for Legal History, Annual Meeting, 1984

American Culture Association, Annual Meeting, 1986

American Society for Legal History, Annual Meeting, 1986

Social Science History Association, Annual Meeting, 1993

American Bar Association, Annual Meeting, 2000

American College of Trust and Estate Counsel, Legal Education Committee, Annual Meeting, 2004

American College of Trust and Estate Counsel, State Laws Committee, Annual Meeting, 2006

American College of Trust and Estate Counsel, Asset Protection Committee, Summer Meeting, 2007

American College of Trust and Estate Counsel, State Laws Committee, Fall Meeting, 2007

7th Annual Estate and Tax Planning Seminar, 2008

Fiduciary Law Institute, 2008

American College of Trust and Estate Counsel, Asset Protection Committee, Fall Meeting, 2008

American College of Trust and Estate Counsel, State Laws Committee, Annual Meeting, 2009

American College of Trust and Estate Counsel, State Laws Committee, Annual Meeting, 2011

American College of Trust and Estate Counsel, Legal Education Committee, Fall Meeting, 2013

American College of Trust and Estate Counsel, Asset Protection Committee, Annual Meeting, 2014

American College of Trust and Estate Counsel, Legal Education Committee, Summer Meeting, 2015

American College of Trust and Estate Counsel, State Laws Committee, Annual Meeting, 2016

American College of Trust and Estate Counsel, Asset Protection Committee, Fall Meeting, 2018

American College of Trust and Estate Counsel, State Laws Committee, Annual Meeting, 2019

Faculty Workshops and Colloquia:

University of California, Hastings College of the Law, 1989

Stanford Law School, 1989

Tulane Law School, 1991

University of British Columbia Law School, 1992

University of Denver College of Law, 1993

University of Colorado School of Law, 1994

University of California, Hastings College of the Law, 1994

University of San Diego School of Law, 1995

University of California at Davis School of Law, 1995

Samford University, Cumberland School of Law, 1996

University of California, Hastings College of the Law, 1998

University of California at Berkeley School of Law, 2000

University of California, Hastings College of the Law, 2001

University of San Diego School of Law, 2002

Southern Methodist University Dedman School of Law, 2004

Washington University School of Law, 2004

New England School of Law, 2005

University of Connecticut School of Law, 2005

Boston College Law School, 2005

University of Pittsburgh School of Law, 2006

George Mason University School of Law, 2006

George Washington University Law School, 2006

Vanderbilt University Law School, 2007

University of San Diego School of Law, 2008

Texas Wesleyan University School of Law, 2010

University of Tulsa College of Law, 2010

Arizona State University College of Law, 2011

University of San Diego School of Law, 2011

Loyola Law School (Los Angeles), 2013

University of California at Davis School of Law, 2013

Tulane Law School, 2014

University of Washington School of Law, 2015

University of Queensland, TC Beirne School of Law, 2015