

# JONATHAN C. LIPSON

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*Current Position*      **Professor of Law--Temple University - James E. Beasley School of Law (2004-present)**

*Courses:* Commercial Law (combined payments and secured transactions); Contracts, Corporations; Payment Systems; Secured Transactions; Transactional Skills Workshop (corporate law simulation); “Debt and Democracy” (seminar on bankruptcy and constitutional law); Comparative Insolvency Systems (US/UK law).

*Committees and Other Service (Current):* Co-Chair, Upper Level Curriculum Review Committee; Faculty Review; Ad Hoc Committee on Law Journals; Ad Hoc Committee on Business Law Curriculum

*Prior Committees and Other Service:* Temple: Executive Committee, Law School Environment, Faculty Selection (for business-related positions); University of Baltimore: Provost Search, Dean’s Advisory Committee, Self-Study, Curriculum, and Baltimore Scholars Committees. Co-Chair, Strategic Planning Committee. Fellow, University of Baltimore Center for International and Comparative Law.

*Recent Publications*

*Cost-Benefit Analysis and Closing Opinion Practice*, 63 Bus. L. 1 (2008)

*Courting the Suicide King: Closing Opinions and Lawyer Liability*, 17 BUS L. TODAY 59 (Mar/Apr. 2008)(with Donald Glazer)

*Debt and Democracy: Towards a Constitutional Theory of Bankruptcy*, 83 NOTRE DAME L. REV. 101 (2008)

*Where’s the Beef? A Few Words About Paying for Performance in Bankruptcy*, 156 UNIV.PA. L. REV. PENNUMBRA 64 (2007) (invited contribution to UNIVERSITY OF PENNSYLVANIA LAW REVIEW online, available at <http://www.pennumbra.com/>).

*The Expressive Function of Directors’ Duties to Creditors*, 12 STAN. J. L. FIN. & B. 224 (2007).

*Twilight in the Zone of Insolvency*, \_\_ J. BUS. & TECH. L. \_\_ (2007)(invited panel remarks).

*When Churches Fail: The Diocesan Debtor Dilemmas*, 79 S. CAL. L. REV. 363 (2006).

*Religious Organizations Filing for Bankruptcy*, 13 AM. BANKR. INST. L. REV. 25 (2005)(invited panel remarks).

*Price, Path & Pride: Third-Party Closing Opinion Practice Among U.S. Lawyers (A Preliminary Investigation)*, 3.1 BERKELEY BUS. L.J. 59 (2005) (selected for presentation at 2005 Yale/Stanford Junior Faculty Forum & 2005 Harvard/Texas Commercial Realities Workshop).

*Secrets and Liens: The End of Notice in Commercial Finance Law*, 21 EMORY BANKR. DEV. J 421 (2005).

*Doing Deals in school: A prof talks about teaching transactional law*, 15 BUS. L. TODAY [] (Sept/Oct 2005).

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*Directors' Duties to Creditors: Power Imbalance and the Financially Distressed Corporation*, 50 UCLA L. REV. 1189 (2003) (cited in *N. Am. Catholic Educ. Programming Found., Inc. v. Rob Gheewalla*, \_\_\_ A.2d \_\_\_, 2007 WL 1453705 (Del. May 18, 2007); *In re RSL Com Primercall Inc.*, 2003 Bankr. LEXIS 1635 (Bankr. S.D.N.Y. Dec. 11, 2003)).

*Remote Control: Revised Article 9 and the Negotiability of Information*, 63 OHIO ST. L.J. 1327 (2002).

*Enron, Securitization and Bankruptcy Reform: Dead or Dormant?* 11 WEST J. BANKR. L. & PRAC. 1 (2002) (cited in *Trenwick America Litigation Trust v. Ernst & Young, L.L.P.*, \_\_\_ A.2d \_\_\_, 2006 WL 2434228, Del.Ch., Aug 10, 2006.)

*Financing Information Technologies: Fairness and Function*, 2001 WIS. L. REV. 1067.

*Fighting Fiction with Fiction: The New Federalism in (a Tobacco Company) Bankruptcy* 78 WASH. U.L.Q. 1271 (2000) (cited in *In re Mayes*, 294 B.R. 145 (10<sup>th</sup> Cir. 2003)).

*On Balance: Religious Liberty and Third-Party Harms*, 84 UNIV. MINN. L. REV. 589 (2000).

*First Principles and Fair Consideration: The Developing Clash Between the First Amendment and the Constructive Fraudulent Conveyance Laws*, 52 UNIV. MIAMI L. REV. 247 (1997).

Editor, *Forms Under Revised Article 9 of the Uniform Commercial Code*, BUSINESS LAW SECTION, AMERICAN BAR ASSOCIATION (2002).

*Proceeds Under Revised Article 9 of the UCC*, MARYLAND INSTITUTE FOR CONTINUING PROFESSIONAL EDUCATION OF LAWYERS (April, 2000 & September 2001).

Contributor (with J. Levin, M. Ginsburg and T. Freedman) *MERGERS, ACQUISITIONS & BUYOUTS* (Aspen) (fraudulent conveyance issues) (1992 to 2006).

Guest Blogger: [Creditslips.org](http://Creditslips.org) & [concurringopinions.org](http://concurringopinions.org),

*Works in  
Process*

**Articles**

*Understanding Failure: Examiners in the Reorganization of Large Public Companies*

*Atrophy and Catastrophe: The Death of Commercial Law (and Everything Else)*

*Nature of the Infirm: A Theory of Not-for-Profit Insolvency*

**Books**

DEBT AND DEMOCRACY: TOWARD A CONSTITUTIONAL THEORY OF BANKRUPTCY

*Recent  
Professional  
and  
Community  
Activities*

**American Bar Association:** *Co-Chair*, Business Law Education Committee of Business Law Section (2003-2007); *Co-Chair*: Law School Initiative (2003-2006); *Vice-Chair*, Business Law Section Publications Board (\$2.2 million publications program) (2004-present).

**American College of Commercial Financial Lawyers,** *Member*, inducted 2008

**American Law Institute:** *Member*, elected 2005.

**Association of American Law Schools:** *Chair*, Section on Commercial and Related Consumer Law (2003-2004).

Board of Advisors, *Commercial Law Center*, Gonzaga University School of Law.

Lead Author, *Brief of Amicus Curiae Law Professors*, in *In re Cybergenics Corp.* (Docket No. 01-3805, U.S. Ct. App. 3d Cir, December 13, 2002) (signatories include Professors Ken Klee,

Elizabeth Warren and William Woodward). Opinion published at 330 F.3d 548 (2003).  
National Conference of Bankruptcy Judges: *Fellow* (October 2002).  
Baltimore Scholars Program: Mentor pre-law students at historically black Maryland colleges and universities.  
Member, Board of Directors and Secretary, Baltimore Ronald McDonald House, Inc (1999-2002).  
Member, Greater Baltimore Committee Education Subcommittee (2000-2004).  
Baltimore Jewish Council: Reading tutor for elementary-age school children.  
Boston Athenaeum, Associates' Council. Member of council responsible for activities of young members of one of the nation's oldest private libraries (1997-99).  
Member and general counsel to Massachusetts Citizens Against the Death Penalty, Inc. Pro-bono counsel to 501(c)(4) organization opposed to institution of death penalty in Massachusetts (1998-99).  
Boston Law Firm Group. Mentor to Boston-area minority law students (1997-99).

*Expert Work*     **In re Enron Corp. (Bankr. S.D.N.Y.)**, consulting expert to Official Committee of Unsecured Creditors on matters of transaction characterization and legal opinions (2005-2007).  
**In re Dexter Distributing (Bankr. D. Az)**, consulting expert to Debtor in Possession on claims of breach of fiduciary duty by corporate directors (pending).

*Education*     J.D. (1990) University of Wisconsin; Note and Comment Editor, WISCONSIN LAW REVIEW. Dean's List (1988).  
B.A., *cum laude* (1986), University of Wisconsin (history and philosophy); Trewartha Scholar (research grant for outstanding honors thesis); History department prize for best history essay.

*Prior Academic Positions*     Visiting Professor of Law – University of Pennsylvania Law School (Spring 2007);  
Associate Professor of Law -- University of Baltimore School of Law (1999-2004).  
Adjunct Professor of Law -- Northeastern University School of Law (1995 – 1998).

*Prior Professional Experience*     Hill & Barlow, Boston, MA; Senior Associate, corporate and commercial departments (1995-1999).  
Kirkland & Ellis, New York, NY; Associate, commercial department (1992-1995).

*Admitted to Practice*     Milbank, Tweed, Hadley & McCloy, New York, NY; Associate (1990-1992).  
New York (inactive); Massachusetts; Wisconsin (inactive).



**JONATHAN C. LIPSON,**  
**PROFESSOR OF LAW, TEMPLE UNIVERSITY,**  
**JAMES E. BEASLEY SCHOOL OF LAW**

Selected Presentations and Media Quotes

*Selected Presentations:*

1. Panelist, American Constitution Society, *Global Financial Climate Change: Bankruptcy, Bailouts, and the Law*, presented by the ACS Philadelphia Lawyer Chapter (Feb. 24, 2009)
2. Panelist, American Bar Association, Committee on Affordable Housing and Community Development, *Ethical Issues in Third Party Closing Opinions Practice*, Washington, DC, May 23, 2008.
3. Discussant, *Law, Economics and Neuroscience*, University of Southern California, Los Angeles, CA, May 14, 2008 (commenting on Berns, et al, *Adolescent Engagement in Dangerous Behaviors . . .*).
4. Presenter, *Conference on Globalizing Secured Transactions*, Thomas Jefferson University School of Law, Mar. 14, 2008 (presenting *Atrophy and Catastrophe: Designing and Protecting Rights-Creating Information Systems in Global Secured Credit*).
5. Presenter, Joint meeting of American Association of Law Schools Debtor/Creditor Section and National Conference of Bankruptcy Judges, October, 2007 (draft of empirical study of use of bankruptcy examiners).
6. Panelist, American Bar Association, Committee on Legal Opinions, Annual Meeting (“Crossing the Threshold”), August 12, 2007, San Francisco, CA (repeated as Webcast November 11, 2007).
7. Presenter, Harvard/Texas Commercial Realities Workshop (proposal for a study of UCC-1 and corporate chartering systems) (April, 2007).
8. Presenter, Middle Eastern Partnership Institution (United States State Department/University of Pennsylvania), *U.S. Commercial and Bankruptcy Law* (April 9, 2007).
9. Presenter, Association of Commercial Finance Attorneys, Presentation, *Ethical Issues in Negotiating and Drafting Opinion Letters* (March 26, 2007).
10. Presenter, Harvard/Texas Commercial Realities Workshop (proposal for an empirical study of examiners in large chapter 11 bankruptcies) (April, 2006).
11. Moderator, *Teaching, Training and Growing M&A Lawyers*, Business Law Section, American Bar Ass’n (April 7, 2006).
12. Presenter, Temple Institute for International Law and Public Policy, November 7, 2005 (presented draft of *The Expressive Function of Directors’ Duties to Creditors*)

13. Panelist, *Twilight in the Zone of Insolvency*, University of Maryland School of Law, November 3, 2005 (presented draft of *The Expressive Function of Directors' Duties to Creditors*)
14. Panelist, American Association of Law Schools - Joint Meeting of Commercial and Contracts Sections (intellectual property panel) (June 15, 2005) (presented draft of *Not.com: Commercial Law at the Cross-Codes?*).
15. Presenter, 2005 Yale/Stanford Junior Faculty Forum (working draft of *Price and Pride: Third-Party Closing Opinion Practice Among U.S. Lawyers (A Preliminary Investigation)*) (May 27, 2005)
16. Presenter, 2005 Harvard/Texas Commercial Realities Workshop (working draft of *Price and Price: Third-Party Closing Opinion Practice Among U.S. Lawyers (A Preliminary Investigation)*) (April 8, 2005)
17. Panelist, American Association of Law Schools, Debtor-Creditor Section, *Catholic Church Bankruptcies* (January 7, 2005)
18. Presenter, Midwest Law and Economics Ass'n, University of Iowa. Present working draft of *Why do Lawyers ask for and Give Third-Party Closing Opinions?* (October 8, 2004)
19. Presenter, Villanova Law School Workshop Series. Present working draft of *Why do Lawyers ask for and Give Third-Party Closing Opinions?* (September 22, 2004).
20. Presenter, Canadian Law and Economics Ass'n, University of Toronto. Present working draft of *Why do Lawyers ask for and Give Third-Party Closing Opinions?* (September 17, 2004).
21. Moderator and program chair, American Bar Association, *Train in Vain: Ethics Training for Business Lawyers and Law Students* (April 2004).
22. Moderator and organizer: *Who's the Consumer? The Changing Identity of Consumers in Commercial Law*, Association of American Law Schools annual meeting (January, 2004).
23. Moderator, Eastern District of Pennsylvania Bankruptcy Bar annual continuing legal education program (January 2004).
24. Moderator and director, American Bar Association, *Questions from the Perplexed -- Common Drafting Issues Under Revised Article 9* (November 2003) (nationwide teleconference of UCC Article 9 program).
25. Presenter, Midwest Law and Economics Association, *Contract, Notice and the Privatization of Property: Verification and Measurement in Commercial Finance Law* (working paper) (October 2003).
26. Presenter, Canadian Law and Economics Association: *Contract, Notice and the Privatization of Property: Verification and Measurement in Commercial Finance Law* (working paper) (September 2003).
27. Moderator and Presenter, American Bar Association, *Training Lawyers and Law Students to do Deals* (April 2003).
28. Moderator and director, American Bar Association, *Questions from the Perplexed -- Common Drafting Issues Under Revised Article 9* (April 2003).

29. Fellow, National Conference of Bankruptcy Judges (October 2002).
30. Presenter, American Bar Association, Presenter, *Special Purposes Entities and Enron* (August 2002).
31. Presenter, Law and Society Conference, *Directors' Duties to Creditors: Power Imbalance and the Financially Distressed Corporation* (May 2002).
32. Presenter, American Association of Law Schools, *Remote Control: Revised Article 9 and the Negotiability of Information* (January 2002)
33. Presenter, Arthur Moller Workshop (University of Texas), *Remote Control: Revised Article 9 and the Negotiability of Information* (November 2001)

*Selected Quotes:*

1. Tradingmarkets.com, *Update: Bankruptcy Experts Discuss AIG's Legal Options* (available at <http://www.tradingmarkets.com/.site/news/Stock%20News/2199796/>), Feb. 27, 2009
2. Bloomberg.com, *Madoff Trustee Picard May Take Five Years to Pay Back Investors*, (available at <http://www.bloomberg.com/apps/news?pid=20601087&sid=a6JDlygKnj8k&refer=home>), Jan. 21, 2009.
3. *How Hollywood gets money wrong* (<http://articles.moneycentral.msn.com/SavingandDebt/LearnToBudget/HowHollywoodGetsMoneyWrong.aspx?page=all>), May 29, 2008
4. *Waiting for a subprime perp walk* ([http://money.cnn.com/2008/04/18/real\\_estate/bottom\\_line.moneymag/index.htm?postversion=2008042105](http://money.cnn.com/2008/04/18/real_estate/bottom_line.moneymag/index.htm?postversion=2008042105)), April 18, 2008
5. *Judge backs landmark priest-abuse settlement*, The Oregonian, 4/14/2007
6. *Complex issues will accompany settlement* (San Diego Diocese bankruptcy), San Diego Union-Tribune, 2/28/2007
7. *Parishioners Welcome Settlement*, The Oregonian, 12/20/2006
8. *Bill aims to protect post-bankruptcy titling* Albany-Times Union, 10/3/06
9. *No place for church in state of bankruptcy*, Albany Times-Union, September 14, 2006
10. *None of your business? No – Law schools need to bring their business law teaching up to date*, Business Law Today, September/October 2006
11. *In Delta Bankruptcy, Judge's Ruminations are Legal Sideshow*, Wall Street Journal, November 18, 2005, p. B1
12. *'Unpredictable' Judge Running Delta Case*, Fulton County Daily Report, October 10, 2005 (available at <http://www.law.com/jsp/article.jsp?id=1128675915080&rss=newswire>)

13. Newscast: *MCI entering hearings on bankruptcy*, Minnesota Public Radio: Marketplace Morning Report (Sept. 8, 2003)(transcript available at 2003 WL 6866224).
14. *MCI (ex-WorldCom) sort de la faillite...*  
<http://archives.webfin.com/dcforum/analyse/12510.html>
15. Bloomberg News, *Enron Bankruptcy Judge Approves \$137. Mln in Fees* (May 8, 2003)
16. *Washington Technology* [http://www.washingtontechnology.com/news/1\\_1/telecom/18616-1.html](http://www.washingtontechnology.com/news/1_1/telecom/18616-1.html).
17. *The Seattle Times*  
[http://seattletimes.nwsourc.com/html/business/technology/134518985\\_ebbersranch22.html](http://seattletimes.nwsourc.com/html/business/technology/134518985_ebbersranch22.html).
18. *Cox Newspapers, Washington*  
<http://www.coxnews.com/washingtonbureau/staff/emling/030102ENRON-COURT01.html>.
19. *Washingtonpost.com*: [http://discuss.washingtonpost.com/wpsrv/zforum/02/technews\\_lipson072202.htm](http://discuss.washingtonpost.com/wpsrv/zforum/02/technews_lipson072202.htm).
20. *National Law Journal* <http://www.counterpunch.org/pipermail/counterpunch-list/2002-January/017981.html>.
21. *New York Times*, *A Law Firm's 2 Roles Risk Suit by Enron* (Jan. 29, 2002).
22. *National Law Journal*, *Enron Woes Spur Calls for Reform*, (Jan. 28, 2002).