

# Breach of Fiduciary Duty

Consumer Protection

ECONOMIC  
LOSS

Bad Faith

Misrepresentation

Promissory Fraud

## DAN B. DOBBS

In five decades of writing, teaching, and practice, Dan B. Dobbs has helped shape the law of torts. He is the author of two leading treatises – *The Law of Torts*, and *The Law of Remedies* – and a coauthor of the treatise *Prosser & Keeton on Torts*. He has guided many casebooks to print, including five editions of *Torts and Compensation Systems*, the last three with co-author Paul T. Hayden. In addition, he has published more than thirty scholarly articles.



Along with his prolific scholarship, Professor Dobbs has taken an active role in teaching and service. He has given numerous presentations to judges, lawyers, faculty, and student groups. He also served as a past Chair of the Association of American Law Schools Torts and Remedies sections, and continues to be an active member of the American Law Institute. In 1992, Professor Dobbs was named a Regents Professor of the University of Arizona – the highest academic distinction that the University can bestow.

Professor Dobbs' work has influenced both national and international audiences. U.S. courts have cited his books and articles in thousands of cases including nearly one hundred United States Supreme Court opinions. His contributions to the international community include work as an American participant in the European Group on Tort Law – the group charged with harmonizing the tort law of the countries in the European Union.

This year he will publish *Economic and Dignitary Torts – Business, Commercial and Intangible Harms* with co-author Ellen M. Bublick.

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presents

## ECONOMIC TORTS

*The Dan B. Dobbs Conference  
on Tort Law*

March 3–4, 2006  
TUCSON, ARIZONA

Sponsors

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and



THE AMERICAN  
LAW INSTITUTE

This year the American Law Institute has embarked upon a new project to draft the Third Restatement of Economic Torts. These torts can include established causes of action such as fraud, misrepresentation, professional malpractice, bad faith, breach of fiduciary duty, intentional and negligent interference with contract and opportunity, unfair competition, misappropriation of trade secrets, and disparagement, as well as emerging torts such as conversion of intangibles.

At this pivotal time, the Economic Torts Conference gathers together more than thirty distinguished academics, judges and practitioners to address the appropriate scope and definition of economic torts. Are economic tort suits desirable? Are they really increasing in number? When should parties be confined to contract alternatives to remedy claims of economic loss?

Our conference examines questions like these, probing the contours and limits of these disparate but often overlapping causes of action.

### Friday, March 3rd

**8:00 a.m. Continental Breakfast and Registration**

**8:30 a.m. Welcome**

- \* **Toni M. Massaro**, Dean  
The University of Arizona James E. Rogers College of Law
- \* **Debora de Hoyos, Esq.**, Managing Partner  
Mayer, Brown, Rowe & Maw, LLP
- \* **Lance Liebman**, Director  
The American Law Institute

**8:45 a.m. Introductory Remarks**

- \* **Ellen M. Bublick**  
The University of Arizona James E. Rogers College of Law

**9:00 a.m. Opening Speaker**

- \* **The Honorable Richard A. Posner**  
U.S. Court of Appeals, Seventh Circuit  
*Economic Loss and Misrepresentation*

**9:30 a.m. Questions & Answers**

**9:45 a.m. Break**

**10:00-11:45 a.m. Panel 1: The Economic Loss Rule and Its Limits**

Moderator: **Dan B. Dobbs**  
The University of Arizona James E. Rogers College of Law

Speakers:

- \* **Mark P. Gergen**  
The University of Texas School of Law  
*Non-Contractual Undertakings of a Duty of Care*
- \* **Anita Bernstein**  
Emory University School of Law and  
New York Law School  
*Why No Liability for Pure Economic Loss?*
- \* **Jean Braucher**  
The University of Arizona James E. Rogers College of Law  
*The Dormant Law of Economic Torts in the  
Shadow of Consumer Protection Statutes*
- \* **Jay M. Feinman**  
Rutgers, The State University of New Jersey School of Law, Camden  
*The Economic Loss Rule and Private Ordering*
- \* Commentator: **Robert L. Rabin**  
Stanford Law School

**12:00 noon**

**Lunch**

- \* **Helmut Koziol**, Executive Director,  
European Centre of Tort and Insurance Law and  
Director of the Research Unit for European Tort Law of the  
Austrian Academy of Sciences  
*Recovery for Economic Loss in the European Union*

**1:30-3:00 p.m.**

**Panel 2: Principles of Recovery in Economic Torts**

Moderator: **The Honorable Andrew D. Hurwitz**,  
Arizona Supreme Court

Speakers:

- \* **Deborah A. DeMott**  
Duke Law School  
*Breach of Fiduciary Duty*
- \* **Ellen Smith Pryor**  
Southern Methodist University Dedman School of Law  
*Bad Faith*
- \* **Ian Ayres**  
Yale Law School and  
**Gregory Klass**  
Georgetown University Law Center  
*New Rules for Promissory Fraud*
- \* Commentator, **Theodore J. Schneyer**  
The University of Arizona James E. Rogers College of Law

**3:00 p.m.**

**Break**

**3:15-4:15 p.m.**

**Panel 3: Economic Torts: A View From Experience**

Moderator: **Herbert Zarov**  
Mayer, Brown, Rowe & Maw, LLP

Speakers:

- \* **Charles J. Kalil**, Corporate Vice President,  
General Counsel and Corporate Secretary,  
The Dow Chemical Company
- \* **Howard Roin**  
Mayer, Brown, Rowe & Maw, LLP
- \* **Deborah R. Hensler**  
Stanford Law School

### Saturday, March 4th

**8:30 a.m. Continental Breakfast and Registration**

**9:00-10:30 a.m. Panel 4: Emerging Influences on Liability – Comparative Apportionment and Technology**

Moderator: **Darian M. Ibrahim**  
The University of Arizona James E. Rogers College of Law

Speakers:

- \* **Andrew R. Klein**, Associate Dean  
Indiana University School of Law – Indianapolis  
*Fraud and Comparative Fault*
- \* **John C. P. Goldberg**  
Vanderbilt University Law School and  
**Anthony J. Sebok**  
Brooklyn Law School  
*Reasonable Reliance*
- \* **Oscar S. Gray**  
University of Maryland School of Law  
*Comparative Apportionment for Economic Torts?*
- \* **Catherine M. Sharkey**  
Columbia Law School  
*Trespass in an Electronic Age*
- \* Commentator, **Michael D. Green**,  
Wake Forest University School of Law

**10:30 a.m.**

**Break**

**10:45 a.m.-**

**12:15 p.m.**

**Panel 5: Integration and Completion – The Torts Restatement Whole**

Moderator: **Elena A. Cappella, Esq.**  
The American Law Institute

Speakers:

- \* **Bernard W. Bell**  
Rutgers, The State University of New Jersey,  
Center for Law & Justice  
*Constitutional Limitations and the Economic Torts*
- \* **David A. Anderson**  
University of Texas School of Law  
*Economic Torts and Defamation Law*
- \* **Lucinda M. Finley**, Vice Provost  
The State University of New York at Buffalo School of Law  
*Developments and Trends in Privacy Torts*
- \* **Kenneth W. Simons**  
Boston University School of Law  
*A Restatement Third of Intentional Torts?*

**12:15-12:30 p.m. Concluding Remarks**

Papers presented at this conference will be collected in the Winter, 2006 issue of *The Arizona Law Review*. To reserve your post-paid copy, please send a separate check for \$12 made payable to: *The Arizona Law Review*.

## Economic Torts Conference

MARCH 3-4, 2006

### CONFERENCE REGISTRATION FORM

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone(s): Bus. \_\_\_\_\_

Home \_\_\_\_\_

Fax \_\_\_\_\_

E-mail: \_\_\_\_\_

**CONFERENCE FEES** (please check one):

- Students (free)
- UA faculty (free)
- UA alumni/donor – \$150
- Public sector/non-profit – \$175
- All others (non-alumni, private sector) – \$225

Make check payable to: **Law College Association  
Economic Torts Conference**

**REGISTRATION DEADLINE:**

February 17, 2006

**PUBLICATION FEES:**

- Issues of the *Arizona Law Review* – \$12 each  
(separate check, payable to *Arizona Law Review*)

**TO RESERVE A PLACE AT THE CONFERENCE:** Please forward this form and a check made payable to the **Law College Association – Economic Torts Conference** and send to: Donna Ream, The University of Arizona, Rogers College of Law, P.O. Box 210176, Tucson, AZ 85721-0176; or contact Donna Ream at 520.626.1629 or ream@law.arizona.edu

**CANCELLATION POLICY:** Cancellations received no later than February 17, 2006 will be honored and fees refunded, less a \$25 cancellation fee.

**CONTINUING LEGAL EDUCATION CREDIT:** Members of the State Bar of Arizona who attend the Conference may be able to receive 9.5 credits of Continuing Legal Education (CLE). If you are an out-of-state bar member, please check about the CLE requirements for your state. We will gladly assist you in seeking approval of CLE credit.