ADAM J. HIRSCH

ADDRESS:

University of San Diego School of Law
5998 Alcala Park
San Diego, California 92110
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EMPLOYMENT:

Fall 2013 to present	University of San Diego School of Law
	Napoleon A. Jones, Jr. Professor, since 2022
	Professor, 2013–2022
	Visiting Professor, 2012–2013
	Courses currently taught: Wills, Trusts, and Estates; Estate Planning Seminar. *Courses previously taught:* Property; Debtor-Creditor Law; Bankruptcy Policy Seminar; American Legal History; Introduction to U.S. Law (for foreign LL.M students).
Fall, 1983 to 2013	Florida State University College of Law
	William and Catherine VanDercreek Professor, 2005–2013
	David M. Hoffman Professor, 2002–2005
	Professor, 1995–2002
	Associate Professor, 1988–1995
	Assistant Professor, 1983–1988
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 Law
Summer 1982	Summer Associate, Milbank, Tweed, Hadley & McCloy

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).

PROFESSIONAL ASSOCIATIONS:

Member, American Law Institute (ALI) (elected 2026)

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

PRIZES, FELLOWSHIPS, AND RECOGNITION:

George Washington Egleston Prize for the best doctoral dissertation in American history at Yale University, 1986–1987.

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.

Herzog Endowed Scholar, University of San Diego, 2023–2024.

University Professor, University of San Diego, 2026-2027.

Cited in four opinions by the U.S. Supreme Court (noted below in "Publications").

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

Ranked *ninth* among the most cited professors of Property (including Wills & Estates) in 2016-2020 according to the Sisk citations study, available at: https://leiterlawschool.typepad.com/leiter/2021/09/10-most-cited-property-faculty-in-the-us-2016-2020.html

Over 2,700 citations on Google Scholar

Over 11,750 downloads on SSRN.

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); and in *United States v. Haymond*, 139 S. Ct. 2369 (2019).

CALIFORNIA PROBATE CODE ANNOTATED (annual editions, 2017–present, Thomson Reuters) (with the late William M. 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); and in THE MILITARY-STATE-SOCIETY SYMBIOSIS (Peter Karsten ed. 1998).

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, Trusts & Estates*, Oct. 29, 2013.

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

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

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, Trusts & Estates*, Sept. 15, 2015.

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, Trusts & Estates*, 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); excerpted in 32 *Minnesota Family Law Journal* 101–25 (2019); reviewed in *Jotwell, Trusts & Estates*, May 10, 2018.

Defective Catastrophe Clauses in Wills: Paths to Reform, 52 *Real Property, Trust and Estate Law Journal* 339–67 (2018); excerpted in *GPSOLO*, Jan./Feb. 2020, at 51–52.

Technology Adrift: In Search of a Role for Electronic Wills, 61 *Boston College Law Review* 827–903 (2020).

Waking the Dead: An Empirical Analysis of Revival of Wills, 53 *U.C. Davis Law Review* 2269–311 (2020) (symposium on "Empirical Analysis of Wealth Transfer Law").

Electronic-Will Legislation: The Uniform Act versus Australian and Canadian Alternatives, 34 *Probate and Property* 42–48 (Sept./Oct. 2020) (with Julia Kelety).

Models of Electronic-Will Legislation, 56 *Real Property, Trust and Estate Law Journal* 163–235 (2021); reviewed in *Jotwell, Trusts & Estates*, Oct. 27, 2021.

When Beneficiaries Predecease: An Empirical Analysis, 72 *Emory Law Journal* 307–83 (2022); reviewed in *Jotwell, Trusts & Estates*, Mar. 21, 2023.

Intercategorical Analysis of Law, 16 *Washington University Jurisprudence Review* 45–74 (2023).

A Battle of Wills: The Uniform Probate Code Versus Empirical Evidence, 33 *Southern California Interdisciplinary Law Journal* 277–328 (2023).

Beyond Privity of Blood: Intestacy and Charity, 76 *UC Law Journal* 353–407 (2025) (formerly *Hastings Law Journal*); reviewed in *Jotwell, Trusts & Estates*, Dec. 9, 2024.

Will as Thing, 59 *UC Davis Law Review* 1933–95 (2026).

Advances on Inheritances: Policy, Empirical Evidence, and the Quest for Consistency. 2027 *University of Illinois Law Review* (forthcoming 2027).

Review Essays:

Searching Inside Justice Holmes, *reviewing* G. EDW+ARD 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 issue: "My Favorite Law Article").

Other Essays:

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

Introduction, Symposium: Empirical Analysis of Wealth Transfer Law, 53 *U.C. Davis Law Review* 2083–85 (2020).

Article Review, Revisiting the Law of Charitable Transfers (reviewing Eric Kades, The Charitable Continuum), *Jotwell, Trusts & Estates* (June 10, 2024).

Article Review, Dead Hand Control (reviewing Lawrence M. Friedman, Immortal Longings: Perpetuity in Context), *Jotwell, Trusts & Estates* (July 22, 2025).

Article Review, Muddled Charity Law (reviewing Nancy A. McLaughlin, Donor Standing to Enforce Charitable Gifts in the 21st Century), *Jotwell, Trusts & Estates* (Sept. 21, 2026).

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:

(1) Should Altering Rules Be Alterable?

(2) Stand-Alone Writings Revoking Wills

(3) Nameless Law: The Mysterious Rule Against Perpetual Purpose Trusts

EDITORIAL ACTIVITIES:

Co-editor, *Jotwell, Trusts & Estates* (electronic publication reviewing scholarship in the field), 2021–present

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

Article Referee, *Yale Law Journal*

Article Referee, *Journal of Empirical Legal Studies*

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

ADMINISTRATIVE ACTIVITIES:

On-site administrator, FSU College of Law Summer Program at St. Edmund Hall, Oxford, 1999 and 2010

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

Chair, Empirical Studies Subcommittee of the State Laws and Legal Education Committees, ACTEC, 2024–present

Organizer, faculty workshops (visiting speakers and internal talks), University of San Diego School of Law, 2022-present

Faculty Advisor, Probate Law Club (USD student organization), 2025-present

OTHER ACTIVITIES:

External 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
Rutgers Law School (Newark), 2022
University of California Davis, School of Law, 2026

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 Florida Bar, drafting the Florida Disclaimer of Property Interests Act, 2003–2005

Member, Domestic Asset Protection Trust Subcommittee of the Asset Protection Committee of ACTEC, drafting model act for domestic asset protection trusts, 2024–present

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

Alaska: disclaimer statute, 2009
California: electronic-wills legislation, 2020-present
Colorado: disclaimer statute, 2010
Delaware: noncharitable purpose trust statute, 2007
Iowa: disclaimer statute, 2009
Minnesota: disclaimer statute, 2011
South Dakota: disclaimer statute, 2014, and statute of frauds, 2016
Texas: disclaimer statute, 2015
Wisconsin: disclaimer statute, 2013

Bar Review Materials:

Outline materials on Decedents' Estates for AccessLex Institute, 2020, 2025

Symposia:

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

Co-organizer, academic symposium on "Empirical Analysis of Wealth Transfer Law," University of California Davis School of Law, 2019 (sponsored by ACTEC Foundation)

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 Auslandisches und Internationalisches Strafrecht, summer, 1986

Visiting Professor (non-teaching), Faculty of Law, University of British Columbia, summer, 1991; summer, 1992; Visiting Scholar, summer, 2008; summer, 2011

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, 2012

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

Visiting Scholar, University of Auckland Law School, March, 2023

SPEECHES AND PRESENTATIONS:

Television Appearances:

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

Continuing Legal Education:

American Bar Association/Real Property, Trust & Estate Law Section webinar, CLE on pretermitted child statutes, May 16, 2017 (with Ronald Scalise and Phyllis Taite)

American Bar Association/Real Property, Trust & Estate Law Section webinar, CLE on electronic wills, September 14, 2021 (with Daniel Ebner, Ray Prather, and John Rogers)

Podcasts:

ACTEC, presentation on electronic wills, April 15, 2022

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

Empirical Analysis of Wealth Transfer Law, University of California Davis School of Law, 2019

Presentations at Professional Societies:

American Society for Legal History, Annual Meeting, 1984; Annual Meeting, 1986

American Culture Association, Annual Meeting, 1986

Social Science History Association, Annual Meeting, 1993

American Bar Association, Annual Meeting, 2000

7th Annual Estate and Tax Planning Seminar, 2008

Fiduciary Law Institute, 2008

ACTEC, Legal Education Committee, Annual Meeting, 2004; Fall Meeting, 2013; Summer Meeting, 2015; Fall Meeting, 2022

ACTEC, State Laws Committee, Annual Meeting, 2006; Fall Meeting, 2007; Annual Meeting, 2009; Annual Meeting, 2011; Annual Meeting, 2016; Annual Meeting, 2019; Annual Meeting, 2020; Fall Meeting, 2022; Fall Meeting, 2023; Summer Meeting, 2025; Annual Meeting, 2026; Fall Meeting, 2026

ACTEC, Asset Protection Committee, Summer Meeting, 2007; Fall Meeting, 2008; Annual Meeting, 2014; Fall Meeting, 2018

ACTEC, Digital Property Committee, Annual Meeting, 2022

Faculty Workshops and Colloquia:

University of California, Hastings College of the Law, 1989; 1994; 1998; 2001

Stanford Law School, 1989

Tulane Law School, 1991; 2014

University of British Columbia Law School, 1992

University of Denver College of Law, 1993

University of Colorado School of Law, 1994

University of San Diego School of Law, 1995; 2002; 2008; 2011

University of California at Davis School of Law, 1995; 2013

Samford University, Cumberland School of Law, 1996

University of California at Berkeley School of Law, 2000

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

Texas Wesleyan University School of Law, 2010
University of Tulsa College of Law, 2010

Arizona State University College of Law, 2011

Loyola Law School (Los Angeles), 2013

University of Washington School of Law, 2015

University of Queensland, TC Beirne School of Law, 2015

University of Auckland Law School, 2023