

BROOK E. GOTBERG

Brigham Young University
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ACADEMIC EXPERIENCE

Brigham Young University, J. Reuben Clark Law School

Professor (2020 – present)

University of Chicago Law School

Visiting Professor (Autumn 2023)

University of Missouri School of Law

Associate Professor (2016 – 2020)

Brigham Young University, J. Reuben Clark Law School

Academic Fellow (2012 – 2014)

Brigham Young University, Marriott School of Business

Instructor (Spring 2014)

LEGAL EXPERIENCE

United States Bankruptcy Court for the Central District of California

Law Clerk to the Honorable Thomas Donovan (2011-2012)

United States Court of Appeals for the Ninth Circuit

Law Clerk to the Honorable Milan D. Smith, Jr. (2008-2009)

Sullivan & Cromwell LLP, Los Angeles, CA

Litigation Associate (2009-2011)

SELECTED PUBLICATIONS

“Employment, Stability, and Dignity: Pillars of Corporate Bankruptcy Policy” in *ESG AND BANKRUPTCY*, Oxford University Press (forthcoming)

Governing Debt’s Dominion: Then and Now, Here and Abroad, 51 *BYU L. REV.* 637 (2026)

Defending “Second-Party” Releases in Mass Tort Bankruptcies, 41 *EMORY BANKR. DEV. J.* 195 (2025) (with Annette Jarvis)

The Forest and the Trees of Preferential Transfers, 86 OHIO ST. L.J. ONLINE 1 (2025)

UNDERSTANDING SECURED TRANSACTIONS (6th ed.), Carolina Academic Press (2024) (co-authored with William H. Henning & R. Wilson Freyermuth)

The Market for Bankruptcy Courts: A Case for Regulation, Not Obliteration, 49 BYU L. REV. 647 (2024)

The Social Cost of Unpaid Student Loans, 101 DENV. L. REV. (2024) (co-authored with Evan Miller)

Small Business Disaster Relief and Restructuring, 131 YLJ FORUM 338 (2021)

Reluctant to Restructure: Small Businesses, the SBRA, and COVID-19, 95 AM. BANKR. L.J. 389 (2021)

Poking at Preference Actions: SBRA Amendments Signal the Need for Change, 95 AM. BANKR. L.J. 285 (2020)

A No-Contest Discharge for Uncollectable Student Loans, 91 U. COLO. L. REV. 183 (2020) (co-authored with Matthew Bruckner, Dalie Jimenez, and Chrystin Ondersma)

Preference Law Perpetuates Preferences in Chapter 11, 38 AMER. BANKR. INST. J. 30 (Sept. 2019)

Moving Beyond Medical Debt, 27 ABI L. REV. 93 (2019) (co-authored with Michael D. Sousa)

Relational Preferences in Chapter 11 Proceedings, 71 OKLA. L. REV. 1013 (2019)

Optimal Deterrence and the Preference Gap, 2018 B.Y.U. L. REV. 559 (2018)

Technically Bankrupt, 48 SETON HALL L. REV. 111 (2017)

Conflicting Preferences in Business Bankruptcy: The Need for Different Rules in Different Chapters, 100 IOWA L. REV. 51 (2014)

Preferences Are Public Rights, 2013 WIS. L. REV. 1355

Restructuring the Bankruptcy System: A Strategic Response to Stern v. Marshall, 87 AM. BANKR. L.J. 191 (2013) (peer reviewed)

The End of Conquest: Consolidating Sovereign Equality, in
INTERNATIONAL NORMS AND CYCLES OF CHANGE (Wayne Sandholtz &
Kendall Stiles, eds. Oxford University Press 2008)

GRANTS

American Bankruptcy Institute Anthony H.N. Schnellling Endowment Fund

Consumer Bankruptcy and The Patient Protection and Affordable Care Act: Placebo or Panacea? with Michael D. Sousa, University of Denver Sturm School of Law (2017 – present)

SELECTED PRESENTATIONS

BYU/University of Chicago Winter Bankruptcy Conference
Snowbird, Utah; *The Finality of Future Claims* (December 12, 2025)

Frank W. Koger Bankruptcy Symposium
Kansas City, Missouri; *Avoidance Issues: Why I Came Around on Preferences* (June 6, 2025)

NVRII/NACIIL Annual Meeting
Amsterdam, Netherlands; *Looking Backward, and Preference Liability in Reorganization Bankruptcies* (June 3, 2025)

Tomorrow's Corporate Insolvency Law
Frankfurt, Germany; *Born-to-Die Corporations* (October 11, 2024)

Wharton-Harvard Insolvency & Restructuring Conference
Cambridge, Massachusetts; *Avoidable Preferences and Creditor Quasi-Property Rights* (September 21, 2024)

Tenth Circuit Bench & Bar Conference
Colorado Springs, Colorado; *Student Loan Discharge: In and Out of Bankruptcy* (September 6, 2024)

University of California Los Angeles Business Law Workshop
Los Angeles, California; *Voluntary Bankruptcy for Solvent Corporations* (April 11, 2024)

University of Chicago Law & Economics Workshop
Chicago, Illinois; *Bankruptcy Without Distress* (October 24, 2023)

National Conference of Bankruptcy Judges
Austin, Texas; *Subchapter V Reorganization Plans and Local Legal Culture* (October 12, 2023)

Wharton-Harvard Insolvency & Restructuring Conference
Philadelphia, Pennsylvania; *The False Gatekeeper of Financial Distress*
(September 8, 2023)

Strengthening Insolvency Systems in Asia and the Pacific
Manila, Philippines; *Avoidance Actions* (December 15, 2022)

BYU Law Winter Deals Conference
Park City, UT; *The Sound and the Fury: Bankruptcy Venue Reform*
(March 11, 2022)

Rocky Mountain Bankruptcy Conference
Denver, CO; *Avoidance Actions – Emerging Theories and Recent Case Law* (January 28, 2022)

National Business Law Scholars Conference
Delivered Online; *Reluctant to Restructure: Small Businesses, the SBRA, and COVID-19* (June 17, 2021)

Midwestern Virtual Bankruptcy Institute, Frank W. Koger Memorial Lecture
Delivered Online; *Bankruptcy as a Social Safety Net: Policy Considerations in a Time of Pandemic* (October 29, 2020)

National Business Law Scholars Conference
Delivered Online; *Bankruptcy & COVID-19: Saving Small Businesses*
(June 19, 2020)

BYU Law Winter Deals Conference
Park City, UT; *Creditor Voting in Chapter 11* (March 5, 2020)

Southeastern Association of Law Schools New Scholars Workshop
Boca Raton, FL; *Creditor Voting* (July 31, 2019)

2019 Annual Bankruptcy Institute for the Missouri Bar
Columbia, MO; *Case Law Update and Current Developments* (March 20, 2019)

St. Louis Chapter of the JRCLS Meeting
St. Louis, MO; *Bibles and Bankruptcy* (February 22, 2019)

Iowa Law School Faculty Colloquium
Iowa City, IA; *Relational Preferences in Chapter 11 Proceedings*
(February 8, 2019)

Young Scholars' Bankruptcy Workshop

New York, NY; *Relational Preferences in Chapter 11 Proceedings* (October 12, 2018)

Chicagoland Junior Scholars Works in Progress Conference

Chicago, IL; *It Cuts Both Ways: How Preference Avoidance Actions Can Harm Business Relationships Between Debtors and Creditors* (October 5, 2018)

Washburn University School of Law Faculty Colloquium

Topeka, KS; *It Cuts Both Ways: How Preference Avoidance Actions Can Harm Business Relationships Between Debtors and Creditors* (September 27, 2018)

2018 Annual Bankruptcy Institute for the Missouri Bar

Columbia, MO; *Case Law Update and Current Developments* (March 23, 2018)

University of Missouri-Kansas City Law School Faculty Colloquium

Kansas City, MO; *Optimal Deterrence and the Preference Gap* (Feb. 2, 2018)

Saint Louis University School of Law Faculty Colloquium

St. Louis, MO; *Optimal Deterrence and the Preference Gap* (Nov. 10, 2017)

Southeastern Association of Law Schools New Scholars Workshop

Boca Raton, FL; *Well-Behaved Creditors: How Bankruptcy Law Can Positively Shape Debtor/Creditor Interactions* (Aug. 4, 2017)

J. Reuben Clark Law Society Faculty Conference

San Francisco, CA; *Deterring Bad Behavior in Trade Creditors Through Preference Litigation* (Jan. 3, 2017)

20th Annual Rocky Mountain Bankruptcy Conference

Denver, CO; *Constitutional/Jurisdictional/Standing Issues* (Jan. 22-23, 2015)

American Bankruptcy Institute 32nd Annual Spring Meeting

Washington, DC; *Student Loan Update* (Apr. 26, 2014)

**CONGRESSIONAL
TESTIMONY**

U.S. Senate Committee on the Judiciary

Washington, D.C.; *23 and You: The Privacy and National Security Implications of the 23andMe Bankruptcy* (June 11, 2025)

**OTHER PUBLIC
OUTPUT**

Law360

Fixing Ch.11 For Small Biz: SBRA Has Room for Improvement (February 12, 2021)

Harvard Law School Bankruptcy Roundtable

What Small Businesses Need Most is a Little More Time (June 23, 2020)

The Conversation

What do struggling small businesses need most? Time – and bankruptcy can provide it (June 18, 2020)

Patently-O

Maximizing Licensee Interests to the Detriment of the Bankruptcy Estate (May 21, 2019)

Harvard Law School Bankruptcy Roundtable

Optimal Deterrence and the Preference Gap (June 12, 2018)

The CLS Blue Sky Blog

Toys ‘R’ Us and Bankruptcy: Death by Disruption, Not Debt (April 23, 2018) (co-authored with Anthony J. Casey)

Oxford Business Law Blog

Optimal Deterrence and the Preference Gap: Preference law doesn’t do what you think it does (March 12, 2018)

**MEDIA
APPEARANCES**

Corporate Law Center at Fordham University Law School – Bite Sized Business Law

New York City, NY; *Purdue Pharma II: The Sacklers Strike Out at SCOTUS* (September 24, 2024)

Corporate Law Center at Fordham University Law School – Bite Sized Business Law

New York City, NY; *The Price of “Global Peace” in Purdue Pharma: The Sackler Family’s Release from Mass Tort Liability* (June 20, 2023)

BYU Radio – Top of Mind

Provo, UT; *Sackler/Purdue* (June 10, 2021)

KBIA – Conversation

Columbia, MO; *The Check-In: How Are We Paying For Our Health?* (April 29, 2021)

American Bankruptcy Institute Podcast Series

abi.org; *Podcast Examines ABI Endowment-Funded Research that Found Individuals with Gap in Medical Coverage Twice as Likely to File for Bankruptcy* (September 30, 2019)

BYU Radio – Top of Mind

Provo, UT; *Puerto Rico Bankruptcy* (November 5, 2015)

BYU Radio – The Morning Show

Provo, UT; *The Morality of Bankruptcy* (June 2, 2014)

**AWARDS AND
HONORS**

American College of Bankruptcy Inductee

Recognition for professional excellence and exceptional contributions to the bankruptcy and insolvency practice. (March 19, 2026)

BYU Law Alumni Association 2024 Professor of the Year

Presented in recognition of outstanding teaching that provides a foundation for a successful legal career. (August 27, 2024)

Student Bar Association Second/Third Year Professor of the Year

Award presented by BYU law students to recognize excellence in teaching. (March 30, 2023)

Francis R. Kirkham Professorship

One-year professorship appointment to recognize exceptional achievements in scholarship, teaching, or citizenship. (May 9, 2022)

Shook, Hardy & Bacon LLP Excellence in Research Award

Presented each year to the full-time faculty member who demonstrates excellence research based on a published article from the previous year (Feb. 28, 2020)

ABI 40 Under 40

Selected as one of 40 top industry professionals under age 40 and recognized at the American Bankruptcy Institute’s Annual Leadership Conference (December 5, 2019)

**UNIVERSITY AND
COMMUNITY
SERVICE**

Community Partner – Community Justice Advocate (CJA) Program

Advise on the development of a program to train social workers and other human service professionals to provide legal assistance in debt collection litigation to underserved populations across Utah. (2024 – present)

External Speakers Committee – BYU Law School

Host outside academics; facilitate exchanges with other law schools (2024 – present)

Area Organizer – American Law & Economics Association (ALEA)

Review and rank scholarly submissions for inclusion in the conference (2026)

Clerkship Committee – BYU Law School

Liaison between students and judges; conduct mock interviews (2020 - 2024)

Admissions Committee – BYU Law School

Review law school applications; attend recruitment conferences (2020 – 2023)

J. Reuben Clark Law Society Student Chapter – Missouri Law School

Faculty Advisor (2016 – 2020)

Credit Abuse Resistance Education Program (C.A.R.E.)

Faculty Advisor and Presenter to college and high school student groups (2016 – 2017)

EDUCATION

Harvard Law School, J.D., 2008 *cum laude*

Solicitations Co-Editor, Harvard Negotiation Law Review

Research Fellow, Program on Negotiation: Thesis - *Bias in the UN: A Case for Establishing the International Mediator* (2008)

Massachusetts Department of Unemployment Assistance, Intern: *The Inner Workings of Unemployment Hearings in Massachusetts: A Statistical Approach* (2008)

Assistant Coordinator, International Negotiation Initiative

President, Harvard Law Latter-Day Saints

Music Director, Scales of Justice

Brigham Young University, B.A. in Political Science, 2005 *magna cum laude*

Valedictorian, Department of Political Science; Arabic Minor

Honors Program: Thesis – *Suicide Bombing/Life Sacrifice: Reasons Behind Support for Palestinian Resistance Among Muslim Arabs* (2005)

Heritage Scholarship, full tuition (2001-2005)

Phi Kappa Phi Honor Society

Pi Sigma Alpha Political Science Honors Society