

FREDERICK TUNG

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CURRENT EMPLOYMENT

Professor of Law, Emory University School of Law (since July 2005).

Research and teaching interests: Business Associations, Bankruptcy, Securities Regulation, Corporate Reorganization, Advanced Corporate Governance Seminar, International Trade, International Regulatory Competition and Coordination.

Appointments Committee ('05-); Chair, Colloquium and Scholarship Committee ('07-); Transactional Program Committee ('07-); Faculty Advisor, Emory Bankruptcy Developments Journal ('05-); Founding Member, Program on Global Public Health Law and Policy ('07-); Woodruff Scholars Selection Committee ('06); University Search Committee for Senior Vice Provost of Diversity and Community Development ('06-'07).

EDUCATION

- Harvard Law School, Cambridge, Massachusetts.
J.D. *cum laude* 1987.
- Cornell University, Ithaca, New York (January 1981 - May 1983).
A.B. 1983 *cum laude* in Computer Science
and with Distinction in All Subjects.
Phi Beta Kappa,
Phi Kappa Phi.
- Jiao Tong University, Shanghai, China. Summer China Program 1982.
Intensive eight week study-tour program co-sponsored by the Chinese government and the Jiao Tong University System.
- University of California, Berkeley, California. (September 1979 - December 1980).
UC Honor Student, UC Alumni Scholar,
Edward Frank Kraft Prize.

PUBLICATIONS

- *What Else Matters for Corporate Governance?: The Case of Bank Monitoring*, 88 B. U. L. REV. __ (forthcoming 2008) (with Joanna Shepherd and Albert Yoon).
- *The New Death of Contract: Creeping Corporate Fiduciary Duties for Creditors*, 57 EMORY L.J. 809 (2008).
- *Gap Filling in the Zone of Insolvency*, 1 U. MD. J. BUS. & TECH. L. 607 (2007) (Symposium: *Twilight in the Zone of Insolvency: Fiduciary Duty and the Creditors of Troubled Companies*); reprinted in 3 ICFAI J. BANKING L. 25 (2007).
- *Before Competition: Origins of the Internal Affairs Doctrine*, 32 J. CORP. L. 33 (2006).
- *Lost in Translation: From U.S. Corporate Charter Competition to Issuer Choice in International Securities Regulation*, 39 GA. L. REV. 525 (2005).
- *From Monopolists to Markets?: A Political Economy of Issuer Choice in International Securities Regulation*, 2002 WISC. L. REV. 1363, reprinted in 45 CORPORATE PRACTICE COMMENTATOR 327 (2003), reprinted in SECURITIES LAW REVIEW (2004).
- *Passports, Private Choice, and Private Interests: Regulatory Competition and Cooperation in Corporate, Securities, and Bankruptcy Law*, 3 CHI. J. INT'L L. 369 (2002).
- *After Orange County: Reforming California Municipal Bankruptcy Law*, 53 HASTINGS L.J. 885 (2002).
- *Skepticism about Universalism: International Bankruptcy and International Relations* (April 2, 2002). Berkeley Olin Program in Law & Economics, Working Paper Series. Paper 43 (available at <http://repositories.cdlib.org/blewp/43>).
- *Is International Bankruptcy Possible?*, 23 MICH. J. INT'L L. 31 (2001).
- *Fear of Commitment in International Bankruptcy*, 33 GEO. WASH. INT'L L. REV. 555 (2001) (Symposium: *Global Trade Issues in the New Millennium*).
- *Limited Liability and Creditors' Rights: the Limits of Risk Shifting to Creditors*, 34 GA. L. REV. 547 (2000), cited extensively in *Badger State Bank v. Taylor*, 688 N.W. 2d 439 (Wis. 2004).
- *The Future Claims Representative in Mass Tort Bankruptcy: A Preliminary Inquiry*, 3 CHAPMAN L. REV. 43 (2000) (*Chapman Bankruptcy Law Symposium*).

- CALIFORNIA MUNICIPAL BANKRUPTCY LEGISLATION: A REPORT PREPARED FOR THE CALIFORNIA LAW REVISION COMMISSION (Palo Alto, CA: California Law Revision Commission, 2000) (available at <http://www.clrc.ca.gov/pub/BKST/BKST-811-ungMuniBk.pdf>).
- *Taking Future Claims Seriously: Future Claims and Successor Liability in Bankruptcy*, 49 CASE W. RES. L. REV. 435 (1999).
- *Future Claims and Successor Liability in Bankruptcy*, 73d ANNUAL MEETING OF THE NATIONAL CONFERENCE OF BANKRUPTCY JUDGES 10-25 (1999).
- *Distributions in Bankruptcy*, Center for Commercial Law & Economics, Bukit Jimbaran, Bali, Indonesia (July 1999).
- *Confirmation and Claims Trading*, 90 NW. U. L. REV. 1684 (1996).

WORKS IN PROGRESS

- [Law, Agency Costs and Project Finance: An Empirical Analysis](#), with Krishnamurthy Subramanian and Xue Wang.
- *Creditors and the New Corporate Governance*.

BLOG

[Conglomerate](#) (permanent blogger since 2006). *Conglomerate*, one of the most popular blogs authored by law professors, focuses on issues relating to business, law, economics, and society. *Conglomerate* has been quoted in various media outlets, including *The New York Times* and *The Financial Times*, and has been recognized by the *ABA Journal* as one of the Top 100 Blawgs.

PRESENTATIONS

- *Law, Agency Costs and Project Finance: An Empirical Analysis*.
 American Law and Economics Association 2008 Annual Meeting. Columbia Law School. May 17, 2008 (with Krishnamurthy Subramanian).

 Conference on Empirical Legal Studies 2007. New York University School of Law. November 10, 2007 (with Krishnamurthy Subramanian).

- *The New Death of Contract: Creeping Corporate Fiduciary Duties for Creditors.*
 Fourth International Conference on Contracts. University of the Pacific, McGeorge School of Law. February 9, 2008.

 Eugene P. and Delia S. Murphy Conference on Corporate Law. Fordham University School of Law. October 19, 2007.

 Midwestern Law and Economics Association 2007 Annual Meeting. University of Minnesota. October 12, 2007.

 Canadian Law and Economics Association 2007 Annual Meeting. University of Toronto. September 29, 2007.
- *Reforming Ethiopian Bankruptcy Law.*
 Ethiopia Ministry of Justice. Addis Ababa, June 27, 2007.
- *U.S. and Ethiopian Commercial Law: A Comparative Analysis.*
 Ethiopia Supreme Court. Addis Ababa, June 29, 2007.
- *What Else Matters for Corporate Governance?: The Case of Bank Monitoring.*

 University of Michigan School of Law, Law and Economics Workshop, Ann Arbor, MI. February 1, 2007.

 Canadian Law and Economics Association 2006 Annual Meeting. University of Toronto. September 29, 2006.

 Southeastern Association of Law Schools 2006 Annual Meeting. Palm Beach, FL. July 17, 2006.

 New Looks at Corporate Regulation and Corporate Governance; Law and Society Association 2006 Annual Meeting. Baltimore, MD. July 7, 2006.
- *Gap Filling in the Zone of Insolvency*
 University of Maryland School of Law. Symposium: Twilight in the Zone of Insolvency: Fiduciary Duty and the Creditors of Troubled Companies. November 4, 2005.
- *The 2005 Amendments to the Bankruptcy Laws*
 Business Law Institute (Institute of Continuing Legal Education for the State Bar of Georgia). Atlanta, GA. October 20, 2005.

- *Origins of the Internal Affairs Doctrine*

Law and Society Association 2005 Annual Meeting. Las Vegas, NV. June 3, 2005.

University of Minnesota Law School, Faculty Workshop. March 23, 2005.

Association of American Law Schools 2005 Annual Meeting. Section on Business Associations. San Francisco, CA. January 8, 2005.

UCLA School of Law, Faculty Colloquium. November 8, 2004.

Indiana University School of Law, Faculty Workshop. October 14, 2004.

Emory University School of Law, Faculty Workshop. October 1, 2004.

William and Mary School of Law, Faculty Workshop. September 24, 2004.

Canadian Law and Economics Association 2004 Annual Meeting. University of Toronto. September 17, 2004.

- *Distress and the Rule of Law*

University of Texas School of Law, Conference on Commercial Law Realities. April 9, 2005.

- *Lost in Translation: From U.S. Corporate Charter Competition to Issuer Choice in International Securities Regulation.* Law and Society Association 2004 Annual Meeting. Chicago, IL. May 28, 2004.

- *Mixed Metaphors: The Disconnect between U.S. Corporate Charter Competition and Issuer Choice in International Securities Regulation.* American Law and Economics Association Thirteenth Annual Meeting, University of Toronto. September 20, 2003.

- *Race of the Diligent: Ethnicity, Economic Development, and International Bankruptcy Reform.* Association of American Law Schools 2003 Annual Meeting. Section on Creditors' and Debtors' Rights. Washington, DC. January 2, 2003.

- *From Monopolists to Markets? A Political Economy of Issuer Choice in International Securities Regulation.*

University of Cincinnati College of Law, Faculty Workshop. September 20, 2002.

Loyola Law School, Faculty Workshop. September 5, 2002.

University of Virginia School of Law, Legal Studies Workshop. March 22, 2002.

Association of American Law Schools 2002 Annual Meeting. Section on Securities Regulation. New Orleans, Louisiana. January 5, 2002.

▪ *Is International Bankruptcy Possible?*

USC/UCLA Corporate Law Roundtable 2001. Center for Law, Economics and Organization, University of Southern California Law School. November 9, 2001.

University of Texas School of Law, Arthur Moller Workshop. November 2, 2001.

University of California, Hastings College of the Law, October 5, 2001.

▪ *Skepticism about Universalism: International Bankruptcy and International Relations.* Boalt Hall School of Law, Law & Economics Workshop, University of California at Berkeley. February 26, 2001.

▪ *Successor Liability in Bankruptcy.* Federal Judicial Center, Workshop for Judges of the First Circuit. Martha's Vineyard, Massachusetts. October 11, 2000.

▪ *Fear of Commitment in International Bankruptcy.* George Washington University Law School. Symposium: Global Trade Issues in the New Millennium. September 22, 2000.

▪ *The Future Claims Representative in Mass Tort Bankruptcy: A Preliminary Inquiry.* Chapman University School of Law. The Chapman Bankruptcy Law Symposium. January 31, 2000.

▪ *Limited Liability and Creditors' Rights: the Limits of Risk Shifting to Creditors.* University of Georgia School of Law. Symposium: Teaching Corporate Law. October 15, 1999.

▪ *Future Claims and Successor Liability in Bankruptcy.* National Conference of Bankruptcy Judges, San Francisco, CA. October 8, 1999.

▪ *Distribution of Assets under US and Indonesian Bankruptcy Law.* Center for Commercial Law and Economics, Bukit Jimbaran, Bali, Indonesia. July 29-31, 1999.

▪ *Selling the Going Concern: Future Claims and Successor Liability in Bankruptcy.* Bar Association of San Francisco, Commercial Law and Bankruptcy Section. May 11, 1999.

▪ *Recent Developments with Credit Cards: Dischargeability and Related Issues.* Alameda County Bar Association, Bankruptcy and Commercial Law Section. September 19, 1996.

- *Issues in the Courtroom: Beyond the Law.* USF Asian Pacific American Law Student Ass'n. March 15, 1996. Moderator for panel discussion with Hon. Ken M. Kawaichi, Hon. Lenard Louie, and Hon. Julie Tang.
- *An Analysis of the Bankruptcy Reform Act of 1994.* Bar Association of San Francisco, Commercial Law and Bankruptcy Section. October 26, 1994. Panelist with Hon. Thomas Carlson (N.D. Cal.) and Penn Ayers Butler, Esq.
- *Whither China? The Consequences of the Tiananmen Incident on China Today.* UCLA School of Law. October 23, 1989. Panelist with Professor William Alford (then of UCLA School of Law; currently Director of East Asian Legal Studies, Harvard Law School), Professor Richard Baum (UCLA Department of Political Science) and Ellen Eliasoph, Esq.

PROFESSIONAL ACTIVITIES

- Referee for REVIEW OF LAW AND ECONOMICS, LAW AND SOCIETY REVIEW.
- Consumer Law Task Force, Atlanta Legal Aid Society (2008-).
- Consultant (2007-). Ministry of Justice, Ethiopia. Retained to assist in comprehensive reform of Ethiopian Commercial Code.
- Board of Trustees, Institute of Continuing Legal Education for the State Bar of Georgia (2005-).
- Loyola Law School, Los Angeles. Professor of Law and Dean's Fellow (2003-2005). Subjects: business associations, securities regulation. Chair, Lateral Appointments Committee; Chair, Faculty Workshops Committee.
- Hastings College of the Law, University of California (Fall 2001). Visiting Professor of Law. Subjects: corporations, bankruptcy.
- University of San Francisco School of Law. Professor of Law (1999-2003), Associate Professor (1994-99). Subjects: corporations, bankruptcy, corporate reorganization, international business transactions, international economic relations.
- Consultant/ Team Leader (1999-). Center for Commercial Law and Economics, Indonesia. Retained to design and implement seminar series for Indonesian government officials, academics and lawyers on corporate reorganization law. Sponsored by USAID through the Partnership for Economic Growth.
- Consultant (1998-). California Law Revision Commission. Retained to study and recommend legislation concerning authorization for California political subdivisions to seek bankruptcy protection under municipal bankruptcy provisions of federal bankruptcy law.

- McGeorge School of Law, University of the Pacific. Assistant Professor of Law (1993-94). Subjects: corporations, bankruptcy.
- Gibson, Dunn & Crutcher (1989-93). Los Angeles, San Francisco. Corporate and bankruptcy groups, specializing in corporations, corporate reorganization and debt restructuring.
- Lecturer in Law, Peking University (1988-89). Beijing, China. Taught courses in American corporation law, American commercial law; pursued independent research in economic development and comparative law issues.
- Interpreter, ABC News (May 1989). Beijing, China. Conducted on-camera interviews by simultaneous interpretation (English and Mandarin) for ABC News coverage of Democracy Movement.
- Federal Court Law Clerk (1987-88). Honorable Stanley A. Weigel, United States District Court, San Francisco, California.
- Overseas Private Investment Corporation (Summer 1987). Office of the General Counsel, Washington, D.C.
- Signetics Corporation (1983-84). Software systems analyst. Sunnyvale, California.

PROFESSIONAL AFFILIATIONS

- Conference of Asian Pacific American Law Faculty (1994-).
- American Law and Economics Association (1998-).
- Law and Society Association (2003-).
- Canadian Law and Economics Association (2004 -).
- Midwestern Law and Economics Association (2005 -).
- Harvard Club of Northern California; (1987-2003); Board of Directors (1999-2002).
- Harvard Law School Association of Northern California (1987-2003); Treasurer (1999-2002).
- Debtor-Creditor Relations and Bankruptcy Committee of the Business Law Section of the State Bar Ass'n of California (1996-97).
- Commercial Law and Bankruptcy Committee of the Barristers Club of the Bar Association of San Francisco: Vice Chair (1992-93).

- Harvard Mediation Program: Board of Directors, Mediation Training Instructor, Mediator (1985-87).
- Phi Beta Kappa of Northern California: Teaching Excellence Committee (1995-96).
- Team in Training, Leukemia Society of Northern California (1997): Runner and Mentor for fundraising arm of Leukemia Society, which raises funds by training runners for local marathons and assisting runners in obtaining private sponsorship for same. Completed the San Francisco Marathon, July 1997.

SPECIAL SKILLS

Proficient in Mandarin Chinese; private pilot; experienced in civil mediation and mediation training.

5.9.2008