

# RICHARD MOBERLY

Associate Dean for Faculty and Professor of Law  
University of Nebraska College of Law  
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## CURRENT POSITION

**University of Nebraska College of Law**, Lincoln, Nebraska

*Associate Dean for Faculty*

*Professor of Law*

*Associate Professor of Law*

*Assistant Professor of Law*

May 2011-present

2012-present

2009-2012

2004-2009

## EDUCATION

**Harvard Law School**, J.D., *magna cum laude*, 1998

*Harvard Law Review*

Co-Chair, Volume 111 Supreme Court Issue

Co-Chair, 1997 Editorial Board Transition

Editor, Volumes 110, 111

Best Appellee Brief, First-Year Ames Moot Court Competition (Case A)

**Emory University**, B.A. in History, *summa cum laude*, 1991

Phi Beta Kappa

Robert W. Woodruff Scholar: Four-year academic scholarship; included tuition, fees, books, room, and board, as well as summer study-abroad at Oxford University, U.K.

James Z. Rabun Prize: Faculty award to the Outstanding Senior in American History

## PUBLICATIONS

### Books

INTERNATIONAL HANDBOOK ON WHISTLEBLOWING RESEARCH (co-editor) (Edward Elgar Publishing 2014)

PROBLEMS AND MATERIALS IN EVIDENCE & TRIAL ADVOCACY (5<sup>th</sup> ed. 2010) (co-authored two volume set of teaching materials with a Teacher's Manual)

EVIDENCE IN CONTEXT (4<sup>th</sup> ed. 2010) (co-authored with a Teacher's Manual)

### Book Chapters

'To Persons Or Organisations That May Be Able To Effect Action': *Whistleblowing Recipients*, in INTERNATIONAL HANDBOOK ON WHISTLEBLOWING RESEARCH 273-97 (Edward Elgar Publishing 2014)

*Whistleblowing, Its Importance, and the State of Research, in* INTERNATIONAL HANDBOOK ON WHISTLEBLOWING RESEARCH 1-34 (Edward Elgar Publishing 2014) (co-authored)

*Strategic Issues in Whistleblowing Research, in* INTERNATIONAL HANDBOOK ON WHISTLEBLOWING RESEARCH 522-30 (Edward Elgar Publishing 2014) (co-authored)

*An Empirical Study of Whistleblower Policies in United States Corporate Codes of Ethics, in* WHISTLEBLOWING AND DEMOCRATIC VALUES 27-55 (David B. Lewis & Wim Vandekerckhove, eds., 2011) (co-authored)

- Excerpted in Hartman, DESJARDIN AND MACDONALD, BUSINESS ETHICS: DECISION MAKING FOR PERSONAL INTEGRITY & SOCIAL RESPONSIBILITY (3d ed. 2013)

### Articles

*De-Facto Gag Clauses: The Legality of Employment Agreements that Undermine Dodd-Frank's Whistleblower Provisions*, 30 ABA J. LAB. & EMP. L. (2014) (co-authored)

*Sarbanes-Oxley's Whistleblower Provisions – Ten Years Later*, 64 S.C. L. REV. 1 (2012)

*Whistleblowers and the Obama Presidency: The National Security Dilemma*, 16 EMPLOYEE RTS. & EMP. POL'Y J. 51 (2012)

*The Supreme Court's Antiretaliation Principle*, 61 CASE W. RES. L. REV. 375 (2010)

*Protecting Whistleblowers By Contract*, 79 U. COLO. L. REV. 975 (2008)

*Unfulfilled Expectations: An Empirical Analysis of Why Sarbanes-Oxley Whistleblowers Rarely Win*, 49 WM. & MARY L. REV. 65 (2007)

- Selected for inclusion in PROCEEDINGS OF THE 60<sup>TH</sup> ANNUAL NYU CONFERENCE ON LABOR LAW (2009)
- Selected for inclusion in 40 SECURITIES LAW REVIEW 276 (Donald C. Langevoort, ed., 2008)

*Sarbanes-Oxley's Structural Model to Encourage Corporate Whistleblowers*, 2006 BYU L. REV. 1107

- Excerpted in STEVEN L. WILLBORN, STEWART J. SCHWAB, JOHN F. BURTON, JR. & GILLIAN LESTER, EMPLOYMENT LAW: CASES AND MATERIALS 154-56 (LexisNexis Pub., 4<sup>th</sup> ed. 2007)
- Excerpted in MARION CRAIN, PAULINE KIM, & MICHAEL SELMI, WORKLAW: CASES AND MATERIALS 249-50 (LexisNexis Pub., 2d ed. 2010)
- Selected for inclusion in ENRON AND OTHER CORPORATE FIASCOS: THE CORPORATE SCANDAL READER (Nancy B. Rapoport & Jeffrey D. Van Niel, eds., 2009) (website edition)

*The Americans With Disabilities Act in Cyberspace: Applying the "Nexus" Approach to Private Internet Websites*, 55 MERCER L. REV. 963 (2004)

*Long-Term Employment Agreements With In-House Counsel: Employment Security or Ethical Quagmire?*, 9 GA. B.J. 20 (2003) (co-authored article)

*Third Circuit Holds That Prayer at Graduation Is Unconstitutional Even If It Results from a Student Vote*, 110 HARV. L. REV. 781 (1997)

### Shorter Works

*Remember the Recipients*, will be published as part of Conference Proceedings for *A Challenge for Czech Republic: Whistleblowing - the Way to Protect the Financial Interests of the EU*, Prague, Czech Republic (2015)

Numerous Posts on the blog, *Law of Secrecy*: lawofsecrecy.tumblr.com

*No Democratic Hero, He Subverted the Process*, NYTIMES.COM (June 11, 2013), available at <http://www.nytimes.com/roomfordebate/2013/06/11/in-nsa-leak-case-a-whistle-blower-or-a-criminal/edward-snowden-subverted-the-democratic-process>

*Obama's Whistleblowing Dilemma*, NEB. TRANSCRIPT (Nov. 2011)

*Why Sarbanes-Oxley Whistleblowers Don't Win*, 15 THE CORPORATE GOVERNANCE ADVISOR 18 (November/December 2007)

Written Testimony, *Private Sector Whistleblowers: Are There Sufficient Protections?*, Before the Subcommittee on Workforce Protections, Committee on Education and Labor, U.S. House of Representatives, 110<sup>th</sup> Congress (May 15, 2007)

*SOX and Whistleblowing: The Concerns*, www.theracetothetbottom.org (Mar. 1, 2007) (guest blogger)

*SOX and Whistleblowing*, www.theracetothetbottom.org (Feb. 28, 2007) (guest blogger)

## **AWARDS, HONORS**

2014 Alumni Council Distinguished Faculty Award  
"Professor of the Year" Award (2010-11)  
Cline Williams Research Chair (2007-08)  
College Award for Distinguished Teaching (2006-07)  
"Professor of the Year" Award (2005-06)

## **PRESENTATIONS**

*CLE: Whistleblowing and Ethics*, Kutak Rock 2015 Employment Law Seminar, Omaha, Nebraska (Nov. 19, 2015)

*External and Internal 'Safety' Methods of Reporting*, A Challenge for Czech Republic: Whistleblowing - the Way to Protect the Financial Interests of the EU, Prague, Czech Republic (Sept. 17, 2015)

Panelist, *Implementing Whistleblowers Protection into National Laws, A Challenge for Czech Republic: Whistleblowing - the Way to Protect the Financial Interests of the EU*, Prague, Czech Republic (Sept. 17, 2015)

Presenter, *Roundtable Discussion: Is There a War on Whistleblowers?*, Lincoln, Nebraska (Feb. 17, 2015)

CLE: *Whistleblowing and Ethics*, McGrath North Speaker Series, Omaha, Nebraska (Nov. 12, 2014)

Moderator, *Developments and Trends in SOX and Dodd-Frank Whistleblower Litigation*, 8<sup>th</sup> Annual Meeting of American Bar Association Labor and Employment Law Section, Los Angeles, California (Nov. 6, 2014)

*National Security Whistleblowing*, Workshop on National Security Law, Southeastern Association of Law Schools Conference, Amelia Island, Florida (August 5, 2014)

CLE: *Everything You Wanted to Know About the Snowden Leaks, but (Because of NSA Surveillance) Were Afraid to Ask*

- Norfolk, NE (May 12, 2014)
- Columbus, NE (May 12, 2014)
- Omaha, NE (Apr. 24, 2014)
- University of Nebraska College of Law (Apr. 15, 2014)

Panelist, *Law, Policy and Ethics Governing Whistleblowing*, Conference on Strategies for Investigating and Pleading Securities Fraud Claims, Loyola University Chicago School of Law's Institute for Investor Protection and Institute for Law and Economic Policy (Oct. 25, 2013)

Panelist, *Human Rights and the Boundaries of Speech: Whistleblowing, Leaks, Threats, Violent Videos, and Hate Speech*, New York University School of Law Center for Human Rights and Global Justice (Nov. 28, 2012)

*The Need for (Some) National Security Leaks*, University of Nebraska College of Law (Sept. 27, 2012)

*Sarbanes-Oxley at 10*, Seventh Annual Labor and Employment Law Colloquium, Loyola-Chicago Law School (Sept. 14, 2012)

*Sarbanes-Oxley at 10*, International Whistleblower Research Network Conference, Seattle University School of Law (March 24, 2012)

*A Whistleblowing Overview*, CLE: Whistleblowing: Law, Compliance & the Public Interest, Seattle, Washington (March 23, 2012)

*Sarbanes-Oxley at 10*, University of Tasmania Law School, Tasmania, Australia (March 2, 2012)

*Sarbanes-Oxley at 10*, Griffith University Law School, Gold Coast, Australia (Feb. 22, 2012)

*Whistleblowing and Retaliatory Discharge: Significant Developments in 2011*, Bureau of National Affairs Webinar (Nov. 16, 2011)

*Obama and National Security Whistleblowers*, University of Nebraska College of Law (Oct. 6, 2011)

*A Perfect Storm: National Security, Civil Liberties and Ethics in a Post 9/11 World*, University of Nebraska College of Law (Sept. 27, 2011)

*Obama's Whistleblowing Dilemma*, Sixth Annual Colloquium on Current Scholarship in Labor and Employment Law, Southwestern Law School (Sept. 16, 2011)

*Whistleblower Protection in U.S. Corporate Codes of Conduct*, International Whistleblower Research Network Conference, Middlesex University, London, United Kingdom (June 24, 2011)

*Antiretaliation Protection for Whistleblowers*, Washington University (Sept. 24, 2010)

*Crawford and the Supreme Court's Antiretaliation Principle*, Southeastern Association of Law Schools Conference (Aug. 6, 2009)

*Strategies for Whistleblower Protection*, Seton Hall Law School Faculty Colloquium Series (Oct. 14, 2007)

*Contract Protection for Whistleblowers*, Second Annual Colloquium on Current Scholarship in Labor and Employment Law, Denver University Law School (Sept. 28, 2007)

Testimony, *Private Sector Whistleblowers: Are There Sufficient Protections?*, Before the Subcommittee on Workforce Protections, Committee on Education and Labor, U.S. House of Representatives, 110<sup>th</sup> Congress (May 15, 2007)

*Sarbanes-Oxley's Anti-retaliation Protections: An Empirical Perspective*, First Annual Colloquium on Current Scholarship in Labor and Employment Law, Marquette University Law School (Oct. 28, 2006)

## **TEACHING ASSIGNMENTS**

Employment Law, Evidence, Law of Secrecy, Civil Clinic

## **UNIVERSITY ADMINISTRATIVE COMMITTEES**

Faculty Planning Committee; Chair (2014 – present)  
Faculty Appointments Committee (2005-present); Chair (2009 – present)  
Assistant Dean for Students Search Committee; Chair (2013)  
College of Law Dean Search Committee (2009)  
University of Nebraska-Lincoln Teaching Council (2007-2009)  
Curriculum Committee (2008 – 2009, 2011– present)

Classroom Technology Committee (2008 – 2009)  
Committee on Committees (2006 – 2009)  
Building Committee (2004 – 05)

## **PROFESSIONAL ORGANIZATIONS**

Robert Van Pelt Inns of Court (2011 – present)  
The American Law Institute (2009 – present)  
New Law Professors Section, AALS (Executive Committee Member, 2006)  
Member, Labor and Employment Section, AALS  
Member, Lincoln Bar Association  
Member, Employment Section, Nebraska Bar Association  
Member, Labor and Employment Section, American Bar Association

## **SERVICE AND OUTREACH**

Member, OSHA Whistleblower Protection Advisory Committee (Jan. 2012 to present) (appointed by U.S. Secretary of Labor in 2012 and reappointed in 2014)  
Senior Scholar Commentator, Fifth Annual Seton Hall Employment and Labor Law Scholars' Forum (Oct. 2010)  
Faculty, NITA Houston Deposition Program, Houston, Texas (March 2010)  
Faculty, NITA Northwest Deposition Program, Seattle, Washington (Aug. 2009)  
Obama for President Expert Policy Committees: Government Reform Policy Committee and Labor, Employment and Workforce Policy Committee (2008)  
Trial Team Coach (2005 – 2010; 2007 Regional Champions)  
Judicial Clerkship Coordinator (2006 – 2007)  
Volunteer Judge for Animal Rights Competition (2005 – 2008)  
Group Leader, Professionalism and Ethics Orientation for First Year Students (2004 – present)  
Faculty Advisor for group of First Year Students (2004 – present)  
Served as a Mentor for students in the Pre-Law Summer Institute (Summers 2005 – 2008)

## **MEDIA**

Conducted interviews on whistleblowing, secrecy, employment law and evidence topics with:  
Reuters (November 2015)  
KFOR 1240 – Lincoln Live with Dale Johnson (May 2015)  
Wall Street Journal (April 2015)  
KPCC – NPR in Los Angeles; AirTalk with Larry Mantle (January 2015)  
USA Today (January 2015)  
Washington Examiner (January 2015)  
Wall Street Journal (December 2014)  
Reuters (October 2014)  
Washington Post (July 2014)  
USA Today (July 2014)  
Wall Street Journal (May 2014)  
Law360.com (May 2014)  
Business Insurance (March 2014)  
KLIN (Lincoln, NE) Radio (Jan. 2014)

Canadian Lawyer – InHouse Magazine (December 2013)  
Bloomberg Law Radio Show (July 2013)  
France TV (July 2013)  
Voice of America (July 2013)  
JOL Press (France) (July 2013)  
ABC News (June 2013)  
KLIN Radio – Jack and Dave Show (June 2013)  
Business Insurance (May 2013)  
USA Today (March 2013)  
Security Management (March 2013)  
Kiplinger's Personal Finance Magazine (March 2013)  
Agenda – A Financial Times Service (Feb. 2013)  
Wall Street Journal (Jan. 2013)  
Daily Nebraskan (Jan. 2013)  
Nerdwallet.com (Sept. 2012)  
Progressive Radio Network (Aug. and Oct. 2012)  
Corporate Counsel Magazine (Aug. 2012)  
Compliance Week (July 2012)  
CBS News (May 2012)  
Wall Street Journal (November 2011)  
Lawyers USA (October 2011)  
The Economist (June 2011)  
Center for Public Integrity (June 2011)  
Los Angeles Daily Journal (May 2011)  
Thompson Reuters (March 2011)  
Bloomberg News (October 2010)  
New York Times (December 2009)  
Washington Post (October 2009)  
Corporate Board Member Magazine (March 2009)  
Dow Jones Newswires (March 2009)  
Safety + Health Magazine (November 2008)  
HR Executive Magazine (October 2008)  
The Associated Press (September 2008)  
London Financial Times (September 2008)  
Boston Globe (September 2008)  
Wall Street Journal (August & September 2008, November 2009)  
IT Business Edge (August 2008)  
Lawyers USA Magazine (August 2008)  
Inside OSHA (August 2008)  
Bloomberg News (April 2008)  
The Associated Press (January 2008)  
BusinessWeek (November 2007)  
London Financial Times (September 2007)  
Corporate Crime Reporter (September 2007)  
Investment News (September 2007)  
Treasury and Risk Magazine (September 2007)  
CFO.com (June & November 2007)  
BNA, Inc. Daily Labor Report (May 2007)

The Oregonian (April 2007)  
The Associated Press (October 2006)

## PREVIOUS LEGAL EXPERIENCE

<b>McKenna Long &amp; Aldridge LLP</b> , Atlanta, Georgia <i>Senior Associate, Employment Law Team and Litigation Team</i>	1999 – 2004
<b>The Honorable N. Carlton Tilley, Jr.</b> , United States District Court Judge Middle District of North Carolina, Greensboro, North Carolina <i>Law Clerk</i>	1998-1999
<b>Massachusetts Attorney General's Office</b> , Boston, Massachusetts <i>Legal Intern, Civil Rights Division</i>	Spring 1998
<b>United States Attorney's Office</b> , Boston, Massachusetts <i>Legal Intern, Drug Enforcement Task Force</i>	Summer 1996