

## MARCELLO GABOARDI

Angelo Sraffa Department of Legal Studies, Bocconi University  
Via Roentgen n. 1 – Milan (Italy)  
(+39) 02.5836.5590, marcello.gaboardi@unibocconi.it  
Date of Birth: December 25, 1979

### ACADEMIC EXPERIENCE

**Associate Professor of Law, Bocconi University** (from 2019 to present)

- Courses: Italian Civil Procedural Law; European and Italian Insolvency Law; Legal Writing
- Faculty Member of the Ph.D in Legal Studies, Bocconi University
- Delegate of the Law School Dean for Moot Competitions, Bocconi University

**Assistant professor of Law, Bocconi University** (from 2012 to 2019)

**Visiting Researcher, Ludwig-Maximilian-Universität of Munich** (2017)

### EDUCATION

**Bocconi University**, Ph.D Degree in Law of Business and Commerce (2011)

**Università Cattolica del Sacro Cuore of Milan (Italy)**, School of Specialization for Legal Professions, Degree (2007)

**Università Cattolica del Sacro Cuore of Milan (Italy)**, Degree in Law (2003)

### BOOK

**Il concorso di azioni. I. Contratto, impresa e tutela giurisdizionale dei diritti**, EGEA (2018)

### ARTICLES, ESSAYS, AND REVIEWS

#### ENGLISH

**The Role of Consent in Cross-Border Insolvency Proceedings: European and Comparative Perspectives From the Unilateral Undertaking Under Article 36 EIRR**, *Global Jurist*, forthcoming 2021

**Is Federal Rule of Civil Procedure 19(b) too Discretionary? Comparative Reflections on the Compulsory Joinder of Indispensable Parties** (with Cesare Cavallini), *Akron Law Review*, forthcoming, 2021

**Should We Teach (a Bit of) U.S. Civil Procedure in the European Law Schools?** (with Cesare Cavallini), *2 Courts & Justice Law Journal* 109-152 (2020)

**How to Reduce the Gap? A Comparative View on the Policies behind Intervention Rules** (with Cesare Cavallini), *39 Review of Litigation* 1-30 (2019)

**Enforcing the Italian Consumer and Capital Market Law Within the European Legal Context**, in *ENFORCING CONSUMER AND CAPITAL MARKET LAW IN EUROPE. THE DIESEL EMISSION SCANDAL*, Thomas M.J. Möllers & Beate Gsell eds. (Intersentia, Cambridge – Antwerp – Portland, 2020)

**New Ways of Protecting Collective Interests: Italian Class Litigation & Arbitration Through a Comparative Analysis**, *2020 Journal of Dispute Resolution* 61-108 (2020)

**How Judges Can Think: The Use of Expert's Knowledge as Proof in Civil Proceedings**, *Global Jurist* 1-30 (2018)

## ITALIAN

**Spunti sulla legge delega per la riforma organica delle procedure concorsuali: profili processuali**, 1 *Rivista delle società* 137-70 (2018)

**Mutamento del precedente giudiziario e tutela dell'affidamento della parte**, 2 *Rivista di diritto processuale* 435-58 (2017)

**Trasferimento del processo in sede arbitrale e ruolo della volontà nell'atto processuale**, 3 *Rivista di diritto processuale* 659-82 (2016)

**Arbitrato e azione di classe**, 4-5 *Rivista di diritto processuale* 987-1010 (2014)

**La rappresentanza processuale della società**, 4 *Rivista delle società* 785-830 (2014)

**Accertamento giudiziale e «interesse sociale»**, 4-5 *Rivista di diritto processuale* 934-55 (2013)

**La provvisoria esecutorietà della sentenza nelle procedure concorsuali**, 6 *Il fallimento e le altre procedure concorsuali* 633-44 (2010)

## CASE NOTES

**Contraddittorio e diritto di difesa nel giudizio prefallimentare (e un intervento nomofilattico della Corte)** (comment on the decision no. 34109 of the Italian Supreme Court, December 19, 2019), 11 *Il fallimento e le altre procedure concorsuali* 1437-1447 (2020)

**Pregiudizialità in senso logico e comando giuridico: il rilievo del giudicato nel giudizio di legittimità** (comment on the decision no. 11754 of the Italian Supreme Court, May 15, 2019), in 1 *Rivista di diritto processuale* 414-433 (2020)

**L'art. 2409 c.c. nella prospettiva dell'oggetto del processo** (comment on the decision of the Italian First Instance Tribunal of Venice, February 6, 2019), in 1 *Le società* 73-81 (2020)

**Concordato preventivo e principio di autoresponsabilità del debitore insolvente** (comment on the decision no. 29740 of the Italian Supreme Court, November 19, 2018), 11 *Il fallimento e le altre procedure concorsuali* 1366-1376 (2019)

**La tutela del contraddittorio nell'istruttoria prefallimentare** (comment on the decision no. 20957 of the Italian Supreme Court, August 22, 2018), 1 *Il fallimento e le altre procedure concorsuali* 33-44 (2019)

**Procedimento ex art. 2409 c.c. ed efficacia immediata del decreto camerale** (comment on the decision of the Italian First Instance Tribunal of Turin, October 4, 2017), in 5 *Le società* 629-40 (2018)

**La domanda di reclamo prefallimentare e la garanzia del giusto processo** (comment on the decision no. 11541 of the Italian Supreme Court, May 11, 2017), in 12 *Il fallimento e le altre procedure concorsuali* 1292-1302 (2017)

**Procedimento di revoca del concordato e principio del contraddittorio** (comment on the decision of the Italian Court of Appeal of Venice, April 18, 2016), in 4 *Il fallimento e le altre procedure concorsuali* 467-75 (2017)

**Ordinanza provvisoria di rilascio dell'immobile locato e procedure concorsuali** (comment on the decision of the Italian First Instance Tribunal of Rome, July 9, 2015), 8-9 *Il fallimento e le altre procedure concorsuali* 974-84 (2016)

**Delibera assembleare negativa e tutela cautelare d'urgenza** (comment on the decision of the Italian First Instance Tribunal of Milan, November 28, 2014), 6 *Le società* 711-22 (2015)

**Fallimento sociale e interesse del socio a far valere la nullità del contratto** (comment on the decision of the Italian First Instance Tribunal of Milan, September 11, 2012), 12 *Il fallimento e le altre procedure concorsuali* 1488-97 (2013)

**Fallimento e tutela del promissario acquirente di bene immobile** (comment on the decision of the Italian First Instance Tribunal of Turin, September 7, 2011), 8 *Il fallimento e le altre procedure concorsuali* 989-99 (2012)

**La provvisoria esecutorietà dei (soli) capi condannatori della sentenza revocatoria fallimentare** (comment on the decision no. 16737 of the Italian Supreme Court, July 29, 2011), 12 *Il fallimento e le altre procedure concorsuali* 1400-6 (2011)

**Riassunzione del processo e sospensione «integrale» della liquidazione** (comment on the decision of the Italian First Instance Tribunal of Rome, February 7, 2011), 7 *Il fallimento e le altre procedure concorsuali* 869-75 (2011)

#### WORKING PAPERS

**Rights & Remedies: A Choice of Policies** (with Cesare Cavallini)

**Inquiry into the Role Played by Agreements in Class Litigation: A comparative Analysis between American and Italian Legal System**

**An Unnatural Selection: The Supreme Courts Agenda Setting Through the Lens of Comparative Analysis**

#### CONFERENCES

*Private versus Public Enforcement in the European Union*, International Conference at the University of Augsburg – May 23-24, 2019 (*Enforcing Consumer and Capital Market Law in Italy*)

*The European and International Insolvency Regulation: A Critical Overview*, Seminar at the Institut für Internationales Recht – Ludwig-Maximilians-Universität of Munich – July 10, 2018

*The Italian Civil Proceedings: A Comparative Perspective*, Seminar at the Institut für Internationales Recht – Ludwig-Maximilians-Universität of Munich – July 12, 2018

*Collective Litigation and Arbitration as Collective Actions. Comparative Perspectives of Civil Procedure. International Conference at Bocconi University of Milan – May 3, 2018 (The Class Action Arbitration in Italy: A Viable Alternative?)*

*Le nuove prospettive europee del diritto fallimentare*. Conference at Bocconi University of Milan – September 21, 2017 (*Early Warning e ristrutturazione preventiva nel diritto fallimentare europeo*)

*Early Warning Proceedings in European Insolvency Law*. Seminar at Ludwig-Maximilians-Universität of Munich – July 3, 2017

*U.S. Supreme Court Oral Arguments. Gendered and Ideological Interruptions of Justices*. International Conference at Bocconi University of Milan – June 28, 2017 (*Gendered and Ideological Interruptions of Justices: An Italian Perspective*)

*Le fasi di gravame e le sventure della virtù*. Conference at Bocconi University of Milan – April 12, 2016 (*Filtro in appello e regime di impugnabilità dell'ordinanza di inammissibilità*)

*Preclusioni, decadenze e principio di non contestazione nel processo civile e del lavoro*. Conference organized by the Italian Superior School of the Judiciary – Genoa, October 9, 2014 (*Eccezioni in senso stretto ed in senso lato in primo ed in appello*)

#### OTHER ACTIVITIES

Member of the **Italian Association between the Experts of Italian Civil Procedure Law** (2017 to present)

Milan, November 2020