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LAW TEACHING EXPERIENCE

University of Cincinnati College of Law, Cincinnati, Ohio

Professor of Law (2009–Present); *Associate Professor of Law* (2007–2009);

Assistant Professor of Law (2004–2007)

- Courses: Civil Procedure I; Civil Procedure II; International Business Transactions; International Trade
- Jerome Goldman Prize for Excellence in Teaching (2007)
- Harold C. Schott Publication Prizes (2006, 2007)
- Co-Editor, CIVIL PROCEDURE & FEDERAL COURTS BLOG

Georgetown University Law Center, Washington, D.C., LL.M., 2001

Teaching Fellow & Supervising Attorney, Appellate Litigation Program (1999–2001).

- Co-taught course on appellate litigation, with classroom and clinical components

EDUCATION

Yale Law School, New Haven, Conn., J.D., 1997

Yale University, New Haven, Conn., B.A. (Economics & International Studies) *cum laude*, 1994

SCHOLARSHIP

The Pleading Problem, 62 STANFORD L. REV. ____ (forthcoming 2010) (current draft available at <http://ssrn.com/abstract=1442786>)

What Is the Erie Doctrine? (And What Does It Mean for the Contemporary Politics of Judicial Federalism?), 84 NOTRE DAME L. REV. 245 (2008)

An Ounce of Prevention: Solving Some Unforeseen Problems with the Proposed Amendments to Rule 56 and the Federal Summary Judgment Process, 103 NORTHWESTERN UNIVERSITY L. REV. COLLOQUY 230 (2008)

Reinventing Appellate Jurisdiction, 48 BOSTON COLLEGE L. REV. 1237 (2007)

- Awarded the Eisenberg Prize by the American Academy of Appellate Lawyers for the year's best scholarly article on appellate practice and procedure

"Less" is "More"? Textualism, Intentionalism, and a Better Solution to the Class Action Fairness Act's Appellate Deadline Riddle, 92 IOWA L. REV. 1183 (2007)

The Irrepressible Myth of Celotex: Reconsidering Summary Judgment Burdens Twenty Years after the Trilogy, 63 WASHINGTON & LEE L. REV. 81 (2006)

SCHOLARSHIP (CONT'D)

Sausage-Making, Pigs' Ears, and Congressional Expansions of Federal Jurisdiction: Exxon Mobil v. Allapattah and its Lessons for the Class Action Fairness Act, 81 WASHINGTON L. REV. 279 (2006)

A Constitution for Judicial Lawmaking, 65 UNIVERSITY OF PITTSBURGH L. REV. 545 (2004)

Reconceptualizing Federal Habeas Corpus for State Prisoners: How Should AEDPA's Standard of Review Operate After Williams v. Taylor?, 2001 WISCONSIN L. REV. 1493

OTHER PUBLICATIONS

The Multiparty, Multiforum Trial Jurisdiction Act's Impact on Major Accident Litigation, 34 THE BRIEF, A.B.A. Section on Tort Trial & Insurance Practice, no. 1 at 16 (Fall 2004) (with Thomas J. McLaughlin)

The Multiparty, Multiforum Trial Jurisdiction Act of 2002, 1 MASS TORTS, A.B.A. Section on Litigation (Mass Torts Litigation Committee), no. 2 at 9 (2003) (with Thomas J. McLaughlin)

WORKS IN PROGRESS

On the Function of Appellate Courts: A Unified Theory of Review, Deference, and Judicial Lawmaking

What Is Federal Common Law?

LAW PRACTICE EXPERIENCE

Perkins Coie LLP, Seattle, Wash.

Associate (2001–2004). Complex civil litigation, principally product liability, commercial, and international matters. Appellate litigation, including representing *amici curiae* in the U.S. Supreme Court. Member of Pro Bono and Community Service Committees.

Georgetown University Law Center, Washington, D.C.

Teaching Fellow & Supervising Attorney, Appellate Litigation Program (1999–2001). Co-taught course on appellate litigation. Briefed and argued cases in the U.S. Courts of Appeals for the D.C. Circuit and Fourth Circuit.

Judge Emilio M. Garza, U.S. Court of Appeals (5th Cir.), San Antonio, Tex.

Law Clerk (1998–1999)

Chief Judge Jerry Buchmeyer, U.S. District Court (N.D. Tex.), Dallas, Tex.

Law Clerk (1997–1998)

Yale Law School, Lowenstein International Human Rights Clinic, New Haven, Conn.

Student Attorney (1995–1997). Litigation on behalf of victims of human-rights violations.

LAW PRACTICE EXPERIENCE (CONT'D)

Latham & Watkins, Washington, D.C.

Davis Polk & Wardwell, New York, N.Y.

McCutchen Doyle Brown & Enersen, San Francisco, Cal.

Summer Associate (Summers 1996 & 1997)

Florida Rural Legal Services, Belle Glade, Fla.

Legal Intern (Summer 1995)

International Trade Commission, Office of General Counsel, Washington, D.C.

Legal Intern (Summer 1995)

PRESENTATIONS

Panelist, “The Future of Summary Judgment.” Association of American Law Schools Annual Meeting, New Orleans, Louisiana, Section on Litigation (forthcoming Jan. 2010)

Panelist, “Revisiting Discovery.” Association of American Law Schools Annual Meeting, New Orleans, Louisiana, Section on Civil Procedure (forthcoming Jan. 2010)

Panelist, “Civil Pleading Standards After *Iqbal*.” 12th Annual Federalist Society Faculty Conference, New Orleans, Louisiana (forthcoming Jan. 2010)

“The Pleading Problem.” Ohio State University Moritz College of Law (Nov. 2009); University of Cincinnati College of Law, Summer Scholarship Series (Aug. 2009); Boston College Law School, Faculty Workshop (March 2009)

“What Is Federal Common Law?” Junior Faculty Federal Courts Conference, Michigan State University College of Law (Oct. 2009)

Panelist, “Ohio Supreme Court Oral Argument Program: *Roe v. Planned Parenthood Southwest Ohio Region*.” University of Cincinnati College of Law (Nov. 2008)

“Deference and Review.” University of Cincinnati College of Law, Summer Scholarship Series (July 2008)

“*Erie*’s Past, *Erie*’s Future: What is the *Erie* Doctrine and What Does It Mean for the Twenty-First Century Politics of Judicial Federalism?” Indiana University (Bloomington) School of Law, Faculty Workshop (Sept. 2007)

“Our Class Action Federalism.” University of Cincinnati College of Law, Summer Scholarship Series (June 2007)

“‘Less’ is ‘More’? Textualism, Intentionalism, and a Better Solution to the Class Action Fairness Act’s Appellate Deadline Riddle.” Chicago-Kent College of Law, Faculty Workshop (Jan. 2007)

PRESENTATIONS (CONT'D)

“A Federal Common Law for the Age of Textualism.” University of Cincinnati College of Law, Summer Scholarship Series (Aug. 2006)

“*Exxon Mobil v. Allapattah* and its Lessons for the Class Action Fairness Act.” University of Kansas School of Law, Faculty Workshop (April 2006)

Panelist, “Fueling the Creative Economy: Workforce Development.” University of Cincinnati (April 2006)

“Reconsidering Summary Judgment Burdens Twenty Years after the Trilogy.” University of Cincinnati College of Law, Summer Scholarship Series (July 2005)

“Optimizing Appellate Jurisdiction.” St. Louis University School of Law, Faculty Workshop (March 2005)

“The Multiparty, Multiforum Trial Jurisdiction Act of 2002.” Washington State Bar Association, Continuing Legal Education Program (Nov. 2003)

“Reconceptualizing Federal Habeas Corpus.” Georgetown University Law Center, Summer Faculty Workshop (June 2001)

REPORTED CASES

Powerex Corp. v. California, 551 U.S. 224 (2007) (joined amicus brief in support of respondents on behalf of civil procedure professors): Civil procedure; appellate jurisdiction; applicability of 28 U.S.C. § 1447(d) to order remanding a case to state court for lack of jurisdiction under the Foreign Sovereign Immunities Act.

Day v. McDonough, 547 U.S. 198 (2006) (joined amicus brief in support of petitioner on behalf of civil procedure professors): Civil procedure; habeas corpus; authority of federal district court to raise statute of limitations defense *sua sponte* against a state prisoner seeking federal habeas relief.

Blakely v. Washington, 542 U.S. 296 (2004) (authored amicus brief in support of petitioner on behalf of National Association of Criminal Defense Lawyers and Washington Association of Criminal Defense Lawyers): Constitutionality of Washington State’s procedures for imposing upward departures from statutory sentencing guidelines

Krug v. Lutz, 329 F.3d 692 (9th Cir. 2003) (argued and briefed): Constitutionality of prison’s mail exclusion procedures; procedural due process; qualified immunity

Rhoads v. FDIC, 257 F.3d 373 (4th Cir. 2001) (argued and briefed): Americans with Disabilities Act; Family and Medical Leave Act; appeal from grant of summary judgment

REPORTED CASES (CONT'D)

United States v. Johnson, 254 F.3d 279 (D.C. Cir. 2001): Application of Fed. R. Civ. P. 58 to federal prisoner's motion to vacate sentence under 28 U.S.C. § 2255; certificates of appealability under the Antiterrorism and Effective Death Penalty Act (AEDPA)

United States v. Sanders, 247 F.3d 139 (4th Cir. 2001): Retroactive application of *Apprendi v. New Jersey* to federal drug conviction; AEDPA's statute of limitations

United States v. Feuer, 236 F.3d 725 (D.C. Cir. 2001) (argued and briefed): Timeliness of appeal under Federal Appellate Rule 4 and Federal Civil Rule 58

Warren v. Baskerville, 233 F.3d 204 (4th Cir. 2000) (argued and briefed): Habeas corpus; Ex Post Facto Clause

United States v. Witherspoon, 231 F.3d 923 (4th Cir. 2000): Ineffective assistance of counsel; entitlement to an evidentiary hearing to support collateral attack on criminal sentence

United States v. Whisonant, 229 F.3d 1145 (Table), No. 99-6284 (4th Cir. August 22, 2000): Ineffective assistance of counsel; plea agreement waiver provision; admissibility of statements elicited by government informant; federal sentencing guidelines

Linder v. NSA, 94 F.3d 693 (D.C. Cir. 1996): Subpoena of National Security Agency documents regarding human rights violations during the Nicaraguan Civil War

LAW SCHOOL & UNIVERSITY SERVICE

Law School Committees:

- Committee on Committees (elected by faculty) (2009–present)
- Academic Policy & Curriculum Committee (2004–present); Chair (2008–2009)
- Faculty Research & Development Committee (2007–present)
- Faculty Appointments Committee (2006–2007)
- Ad Hoc Bar Passage Committee (2008–2009)
- Ad Hoc Committee on Developing an International L.L.M. Program (2006)

Other Service:

- University Faculty Senate (2004–2006)
- Faculty Advisor, Moot Court Program (2006–present)
- Faculty Advisor, Immigrant Community Legal Advocacy Project (2005–present)

BAR ADMISSIONS

State courts: New York; Washington (inactive status)

Federal courts: U.S. Courts of Appeals for the D.C. Circuit, Fourth Circuit, and Ninth Circuit;
U.S. District Court for the Western District of Washington