

A. Benjamin Spencer

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ACADEMIC APPOINTMENTS

Harvard Law School, Cambridge, MA. Bennett Boskey Visiting Professor of Law, 2019–2020. (Civil Procedure, Federal Courts, Seminar in Federal Civil Litigation).

University of Virginia School of Law, Charlottesville, Virginia (2014–Present). Justice Thurgood Marshall Distinguished Professor of Law, 2018–Present; Professor of Law, 2017–2018; Earle K. Shawe Professor of Law, 2014–2017; Visiting Professor of Law, May 2011–May 2012. Subjects: Civil Procedure, Advanced Civil Procedure, Federal Civil Litigation, Military Law.

The George Washington University School of Law, Washington, D.C., Visiting Professor of Law, Spring 2017 (Civil Procedure II).

Washington & Lee University School of Law, Lexington, Virginia (2007–2014). Associate Dean for Research & Frances Lewis Law Center Director, 2012–2014; Professor of Law, 2010–2014; Assoc. Professor of Law (Tenured) and Alumni Faculty Fellow, 2008–2010 & 2013–2014; Visiting Professor of Law, 2007–2008. Subjects: Civil Procedure; Federal Civil Litigation Seminar.

University of Richmond School of Law, Richmond, Va. (2004–2008) Associate Professor of Law, 2007–2008; Assistant Professor of Law, 2004–2007. Subjects: Civil Procedure, Complex Litigation, Seminar in Advanced Civil Litigation, Administrative Law.

OTHER PROFESSIONAL EXPERIENCE

Captain, *United States Army, Judge Advocate General's Corps (Reserve)*, 2015–Present. Assigned to the Government Appellate Division (GAD), briefing and arguing appeals on behalf of the Army.

Member, *U.S. Judicial Conference Advisory Committee on Civil Rules*, 2017–Present. By appointment of Chief Justice John Roberts, serving on committee charged with amending the Federal Rules of Civil Procedure.

Special Assistant U.S. Attorney, *U.S. Attorney's Office, Western District of Virginia*, Charlottesville, Virginia, 2009–2014. Area of Practice: Appellate.

Litigation Associate, *Shearman & Sterling*, Washington, D.C., 2002–2004. Area of Practice: Commercial Litigation.

Judicial Law Clerk, *The Honorable Judith W. Rogers, United States Court of Appeals for the District of Columbia Circuit*, Washington, D.C., 2001–2002.

Research Consultant, *British Home Office & London Borough of Southwark*, London, United Kingdom, 1997–1998. Developed local policy for the control of public drunkenness in South London neighborhood; conducted evaluation research of police diversity strategy funded by the British Home Office.

EDUCATION

Harvard Law School, Juris Doctor, 2001

Articles Editor, *Harvard Law Review*

Winner, Judge John R. Brown Award for Excellence in Legal Writing

Winner, ABA Section of Antitrust Law Student Writing Competition

Best Oralist, Semi-Finals, Ames Moot Court Competition

Best Brief, First-Year Ames Moot Court Competition

NAACP Legal Defense Fund Earl Warren Scholarship

Research Assistant, Professors Daniel Meltzer & Philip Heymann

London School of Economics, Master of Science, 1997

British Marshall Scholar

Degree awarded *With Distinction* in Criminal Justice Policy

Morehouse College, Bachelor of Arts, 1996

Degree awarded *Summa Cum Laude* in Political Science

Valedictorian

Phi Beta Kappa Society (Junior-Year Inductee)

BOOKS & BOOK CHAPTER

5A WRIGHT, MILLER & SPENCER, *FEDERAL PRACTICE & PROCEDURE* (4th ed. 2018).

CIVIL PROCEDURE: A CONTEMPORARY APPROACH, 5th ed. (Casebook) (West Academic 2018).

WRIGHT, MILLER & SPENCER, 5–5C, 14C *FEDERAL PRACTICE & PROCEDURE* (2016–2019 SUPPLEMENTS).

ACING CIVIL PROCEDURE: A CHECKLIST APPROACH TO SOLVING PROCEDURAL PROBLEMS, 5th ed. (West Academic 2019).

Obtaining Mareva-type Provisional Relief in New York State and Federal Courts, in *COMMERCIAL INJUNCTIONS* (Steven Gee, QC, ed., 5th ed. 2004) (with Jonathan Greenblatt).

ARTICLES & OTHER PUBLICATIONS

Out of the Quandary: Personal Jurisdiction Over Absent Class Member Claims Explained, 39 THE REVIEW OF LITIGATION __ (forthcoming 2019), at <https://ssrn.com/abstract=3461113>.

Pleading Conditions of the Mind: Rule 9(b) Rightly Understood, 41 CARDOZO L. REV. __ (forthcoming 2019).

The Territorial Reach of the Federal Courts, [71 FLORIDA L. REV. 979](#) (2019).

Substance, Procedure, and The Rules Enabling Act, [66 UCLA L. REV. 654](#) (2019).

A Father's Lament, NATIONAL LAW JOURNAL, Sept. 29, 2017 (op-ed).

Understanding the Department of Defense's Policy Regarding Transgender Servicemembers, [THE ARMY LAWYER](#), Feb. 2017.

Chief Justice John Roberts and the Loss of Access to Justice, [THE RICHMOND TIMES DISPATCH](#), Jan. 14, 2016 (op-ed).

Rationalizing Cost Allocation in Civil Discovery, 34 THE REVIEW OF LITIGATION 769 (2015).

The Forms Had A Function: Rule 84 and the Appendix of Forms as Guardians of the Liberal Ethos in Civil Procedure, [15 NEVADA LAW JOURNAL 1113](#) (2015).

Supporting and Promoting Scholarly Life in Turbulent Times, 31 TOURO L. REV. 25 (2015).

Pleading and Access to Justice: A Response to Twiqbal Apologists, [60 U.C.L.A. L. REV. 1710](#) (2013).

Class Actions, Heightened Commonality, and Declining Access to Justice, [93 BOSTON U. L. REV. 441](#) (2013).

The Law School Critique in Historical Perspective, [69 WASH. & LEE L. REV. 1949](#) (2012).

The Judicial Power and the Inferior Federal Courts: Exploring the Constitutional Vesting Thesis, [46 GA. L. REV. 1](#) (2011).

The Preservation Obligation: Regulating And Sanctioning Pre-Litigation Spoliation In Federal Court, [79 FORDHAM L. REV. 2005](#) (2011).

The Restrictive Ethos in Civil Procedure, [78 GEO. WASH. L. REV. 822](#) (2010).

Pleading in State Courts after Twombly and Iqbal, Pound Civil Justice Institute 2010 Forum for State Appellate Court Judges, available at <http://ssrn.com/abstract=2038349>.

Nationwide Personal Jurisdiction for our Federal Courts, [87 DENVER L. REV. 325](#) (2010), (Symposium on Civil Justice Reform).

Iqbal and the Slide Toward Restrictive Procedure, [14 LEWIS & CLARK L. REV. 185](#) (2010) (Symposium on *Ashcroft v. Iqbal*).

Understanding Pleading Doctrine, [108 MICHIGAN L. REV. 1](#) (2009).

Pleading Civil Rights Claims in the Post-Conley Era, [52 HOWARD L.J. 99](#) (2008) (Symposium Issue entitled "Civil Rights and Civil Procedure: The Legacy of *Conley v. Gibson*").

Plausibility Pleading, [49 BOSTON COLLEGE L. REV. 431](#) (2008).

Anti-Federalist Procedure, [64 WASH. & LEE L. REV. 233](#) (2007).

Due Process and Punitive Damages: The Error of Federal Excessiveness Jurisprudence, [79 SOUTHERN CALIFORNIA L. REV. 1085](#) (2006).

Jurisdiction to Adjudicate: A Revised Analysis, [73 U. CHICAGO L. REV. 617](#) (2006).

Jurisdiction and the Internet: Returning to Traditional Principles to Analyze Network-Mediated Contacts, [2006 UNIVERSITY OF ILLINOIS L. REV. 71](#) (2006).

Mistretta v. United States, in THE ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES (Routledge 2006) (solicited entry for legal encyclopedia).

Terminating Calder: "Effects" Based Jurisdiction in the Ninth Circuit after Schwarzenegger v. Fred Martin Motor Co., [26 WHITTIER L. REV. 197](#) (2004).

Street Drinking in Camberwell: A Preliminary Assessment (and subsequent reports). London: Prepared for the London Borough of Southwark Grants & Community Safety Unit by The London School of Economics and South Bank University (2003) (cited heavily in goo.gl/gzjJLd).

Antitrust and the Information Age: Section 2 Monopolization Analyses in the New Economy, [114 HARVARD L. REV. 1623](#) (2001).

Policing Diversity: Lessons From Lambeth, British Home Office, Policing and Reducing Crime Unit, Paper 121 (2000), at <http://scholarlycommons.law.wlu.edu/wlufac/198/>.

Recent Case Comment, *Inter Medical Supplies, Ltd. v. EBI Medical Systems, Inc.*, [113 HARVARD L. REV. 627](#) (1999).

SELECTED ACADEMIC CONFERENCES, WORKSHOPS & PRESENTATIONS

Panelist, *Rulemaking Responses to Iqbal*, Cardozo Law Review Symposium: Ten Years after *Iqbal*, March 15, 2019.

Faculty Workshop, Boston University School of Law, *The Territorial Reach of Federal Courts*, Feb. 14, 2019.

Instructor, 80th Training Command Legal Assets CLE, *Fiscal & Contract Law Update*, January 26, 2019.

Faculty Workshop, Kansas University School of Law, *The Territorial Reach of Federal Courts*, Oct. 5, 2018.

Speaker, Occupational Safety and Health Review Commission Judicial Conference, *Developments in Civil Procedure*, September 13, 2018.

Speaker, *The Uniformed Services Employment and Re-Employment Act*, 80th Training Command, September 8, 2018.

Panelist, *Managing and Protecting Restricted/Endowed Funds as a Law School Administrator*, Associate Deans of Color Retreat, Fort Lauderdale, FL, Aug. 4, 2018.

Speaker, *The Importance of Civil Procedure*, Newport News Rotary, July 10, 2018.

Speaker, *The Law of Armed Conflict & Detainee Operations*, 80th Training Command, Dec. 3, 2017.

Panelist, U.S. Army JAG Corps Worldwide CLE, *The Future of the JAG Corps*, Sept. 21, 2017.

Panelist, Federalist Society Teleforum, *Changing the Rules of Discovery*, August 19, 2016, <http://www.fed-soc.org/multimedia/detail/changing-the-rules-of-discovery-podcast>.

Panelist, Second Annual Southeast Associate Deans Retreat, *The Role of the Associate Dean for Research*, July 31, 2016.

Commentator, Seventh Annual John Mercer Langston Writing Workshop, University of Miami School of Law, July 8, 2016.

Featured Speaker, Fourth Circuit District Judges Association Meeting, Judicial Conference of the Fourth Circuit, *Update on Amendments to the Federal Rules of Civil Procedure*, May 23, 2016.

Panelist, ACS Convention, *Changing the Rules on Access to Justice*, June 12, 2015.

Speaker, UVA Alumni Council/Foundation Board Luncheon, *The Importance of Civil Procedure for Access to Justice*, May 8, 2015, video available to view at <https://www.youtube.com/watch?v=Q6RRlIGrk6s>.

Lecturer, Western District of Missouri Judges' Retreat, *2015 Amendments to the Federal Rules of Civil Procedure*, March 6, 2015.

Scholar-in-Residence, Texas Southern University Thurgood Marshall School of Law, Jan. 14, 2015.

Faculty Workshop, Florida State University School of Law, *Rationalizing Cost Allocation in Civil Discovery*, Nov. 21, 2014.

Commentator, Fifth Annual John Mercer Langston Writing Workshop, University of Las Vegas, Nevada, July 10, 2014.

Panelist, Through a Glass Darkly: A Symposium in Honor of Stephen Subrin, Northeastern University School of Law, April 11–12, 2014.

Participant, Third-Party Litigation Finance Roundtable, Washington & Lee University School of Law, Nov. 7–8, 2013.

Panelist, Promoting Diversity in Law School Leadership Workshop, October 11–12, 2013.

Panelist, *Form Over Substance?: The Impact of Recent Civil Procedure Cases and Proposed Federal Rules Changes on Civil Rights Practice*, NAACP Legal Defense and Education Fund Civil Rights Training Institute, October 10, 2013.

Senior Commentator, Sixth Annual Junior Faculty Federal Courts Workshop, Brooklyn Law School, October 3–5, 2013.

Discussant, *Student Evaluation Through Multiple-Choice Questions: Good Practice and New Ideas and Research Deans Talk About What Works (and What Doesn't) on Encouraging Faculty Research and Scholarship*, Southeast Association of Law Schools Annual Meeting (2013).

Commentator, Fourth Annual John Mercer Langston Writing Workshop, Denver, Colorado, July 12, 2013.

Presenter, West Law School Innovation Summit, Minneapolis, MN, July 9, 2013.

Distinguished Visiting Senior Scholar, New Voices in Civil Justice Workshop, Vanderbilt Law School, May 7, 2013.

CLE Presentation, *Pleading in the Age of Twombly and Iqbal*, Virginia Association of Defense Attorneys (Oct. 11, 2012), Virginia Trial Lawyers Association, (March 22, 2013), Roanoke Federal Bar Association (April 25, 2013).

Panelist, UCLA Law Review Symposium, *Twombly, Iqbal, and the Future of Pleading*, Los Angeles, California, January 23, 2013.

Panelist, Appellate Judges Education Institute 2012 Summit, *Access to Justice: What Process is Due?* New Orleans, Louisiana, November 15, 2012.

Panelist, Inaugural National Symposium on Experiential Education in Law, *Who Are We, Where Are We Going, and How Do We Get There?* Northeastern University, Boston, Massachusetts, October 27, 2012.

Presenter, Third Annual John Mercer Langston Writing Workshop, *Heightened Commonality*, Boston, Massachusetts, June 29, 2012.

Panelist, 20th Anniversary Conclave on the Education of Lawyers, *How are Law Schools Addressing Major Changes in the Practice of Law and Accrediting Standards for Legal Education?* Charlottesville, Virginia, April 22, 2012.

Faculty Workshop, University of Virginia School of Law, *The Law School Critique in Historical Perspective*, March 2, 2012.

Panelist, Increasing Diversity in the Legal Profession Conference, *Is the Law School Experience Rigged Against Success for Students of Color?*, University of Virginia School of Law, November 11, 2011.

Faculty Workshop, Cardozo School of Law, *Beyond Langdell*, November 7, 2011.

Panelist, Third National People of Color Legal Scholarship Conference, *The Impact of Civil Procedural Mechanisms on Civil Rights Enforcement*, September 11, 2010.

Panelist, Southeastern Association of Law Schools Annual Meeting, *Federal Civil Pleading after Iqbal/Twombly*, August 3, 2010.

Faculty/Presenter, Pound Civil Justice Institute: *Back to the Future: Pleading Again in the Age of Dickens*, July 10, 2010.

Faculty, Third Annual Advanced Business Litigation Institute, *Twombly, Iqbal, and the New Heightened Pleading Standard*, May 20, 2010.

Participant, Advisory Committee on Civil Rules 2010 Civil Litigation Conference, Duke University School of Law, May 10–11, 2010.

Faculty Workshop, University of Illinois College of Law, *The Restrictive Ethos in Civil Procedure*, Apr. 21, 2009.

Panelist, DePaul University College of Law's Fifteenth Annual Clifford Symposium on Tort Law and Social Policy, *Rising Stars: A New Generation of Scholars Looks at Civil Justice*, April 2009.

Emory University School of Law, Faculty Colloquium Series, *Deconstructing Pleading Doctrine*, Oct. 16, 2008.

Presentation, *Maximizing Student Understanding of Civil Procedure*, Southeast Association of Law Schools (SEALS) Annual Conference, August 1, 2008.

University of California Hastings College of Law, Faculty Colloquium, *Pleading Civil Rights Claims in the Post-Conley Era*, April, 23, 2008.

Washington University in St. Louis School of Law, Faculty Colloquium, *Plausibility Pleading*, Oct. 12, 2007.

Presentation, *Casebooks: The Next Generation*, 2007 Computer Assisted Legal Instruction (CALI) Conference, University of Nevada Las Vegas, June 19, 2007.

Work-in-Progress Presentation, *The Procedural Dialectic*, Mid-Atlantic People of Color Conference, January 27, 2007.

CLE Presentation, *E-Discovery: How to Practice Under the 2006 Amendments to the Federal Rules of Civil Procedure*, Washington Metropolitan Area Corporate Counsel Association, November 9, 2006.

Presenter, *Due Process and Punitive Damages: The Error of Federal Excessiveness Jurisprudence*, Vanderbilt Law School, Nashville, Tennessee, April 14, 2006 (workshop entitled "The Next Generation of Scholarship on Civil Litigation and Dispute Resolution").

AWARDS & FELLOWSHIPS

Atlantic Coastal Conference (ACC) Academic Leaders Network Fellow, 2018–2019
Army Achievement Medal, 2016, 2017
The National Defense Service Medal, 2015
Law Alumni Faculty Fellowship for Scholarship, Washington & Lee Univ., 2009 & 2013
Virginia Outstanding Faculty Award, Rising Star Category, 2007
Center for Civic Engagement Quest Collaborative Research Fellowship, 2007 (funding for student research entitled *The Impending Judicial Crisis*)
British Marshall Scholarship, 1996–1998

LAW SCHOOL SERVICE

University of Virginia:

School Representative, AALS House of Representatives, 2019
Center for the Study of Race and Law Committee, 2018–Present
Ritter Award Selection Committee, 2018–Present
Faculty Workshop Committee, 2018–Present
Faculty Appointments Committee, 2016–2018
Steering Committee Representative, Southeast Ass'n of Law Schools, 2018, 2015
McCorkle Lecture Committee, 2016
Academic Review and Public Service Committees, 2015–2016
Adjunct Instructors Committee, 2014–2015
Faculty Advisor, Black Law Students Association, 2014–Present
Faculty Advisor, Saint Thomas More Society, 2014–Present

Washington & Lee:

Dean's Cabinet, 2012–2014
Faculty Appointments Committee, 2008–2013
Associate Director of the Law Library Search Committee, 2013
Task Force on the Value of Law School, 2013
Faculty Advisor, Black Law Students Association, 2007–2014
Clerkship Committee, 2009–2011, 2013–2014
Law Center Committee, 2009–2010, 2012–2014
Academic Standards Committee, 2008–2011
Chair, Library Committee, 2009–2011
University Board of Appeals, 2009–2010

University of Richmond:

School Representative, AALS House of Representatives, 2007
Curriculum Committee, 2005–2007
Administrative Support Committee, 2006–2007
Student Services Committee, 2006–2007
Diversity Committee, 2006–2007
Faculty Advisor, Honor Court, 2005–2007
Faculty Advisor, Black Law Students Association, 2005–2007
Faculty Advisor, Patrick Henry Chapter, Phi Alpha Delta Law Fraternity, 2005–2007
Rule of Law Conference Advisory Committee, 2005–2006

Associate Dean for Career Services Search Committee, 2005
Faculty Secretary, Spring 2005

PROFESSIONAL AND OTHER ASSOCIATIONS & ACTIVITIES

Chair, British Marshall Scholarship Selection Committee (Washington, D.C.)
Ambassador's Advisory Council, British Ambassador to the United States of America
Member, Nat'l Conference of Bar Examiners Civil Procedure MBE Question Drafting Cmte.
Member, American Law Institute (elected 2013)
Member, West Academic Publishing's Law School Advisory Board
American Bar Association Accreditation Site Visit Team, visiting and reporting on the University of Southern California Gould School of Law, 2015
Virginia State Bar (VSB)

- Bar Council, At-Large Member, 2014–Present
- VSB Special Committee on the Future of Law Practice, 2014–2018
- VSB Bench-Bar Relations Committee, 2014–2017
- Chair, VSB Section on the Education of Lawyers, 2010–2014
- Member, Military Law Section

Virginia Bar Association (VBA)

- Law School Representative, Board of Governors, 2015–2017
- VBA Civil Litigation Section Council 2010–Present
- Boyd-Graves Conference (advisory group focused on Virginia civil procedure reform)
- Chair, B-G Committee for Study of Dollar-Based Provisions in the Virginia Code (2009)

Permanent Member, Fourth Circuit Judicial Conference
Board of Directors, Virginia Poverty Law Center, 2017–2019
Board of Directors, Piedmont Court Appointed Special Advocates (CASA), 2012–2018;
Secretary of the Board, 2015–2018; Finance Committee, 2012–2017
Board of Directors of the Association of Marshall Scholars, 2007–2017; Vice President,
2012–2014; Chair, Governance Committee, 2007–2018
Governance Committee, Board of Directors, International School of Charlottesville, 2013
John Marshall Chapter, American Inns of Court, 2007–2012
Finance Council, Incarnation Catholic Church, Charlottesville, VA, 2009–2011
Board of Directors, Comfort Zone Camp, 2007–2011
Vice President, Board of Directors, Girl Scouts Commonwealth Council of Va., 2005–2007
Supreme Court of Virginia Court Records Privacy Task Force, 2006
United States Senate Youth Alumni Association
Phi Beta Kappa Society, 1995–Present
Omega Psi Phi Fraternity, 2000–Present

BAR ADMISSIONS

Virginia State Bar, 2001
District of Columbia Bar, 2002
United States Court of Appeals for the Fourth Circuit, 2001
United States Court of Appeals for the District of Columbia Circuit, 2002
United States Court of Appeals for the Third Circuit, 2003

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