

Mark Spottswood
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Academic Appointments:

Associate Professor (with tenure), Florida State University (2016-present)

Assistant Professor, Florida State University (2011-2016)

Visiting Assistant Professor, Northwestern University School of Law (2009-2011)

Education:

Northwestern University School of Law, J.D., *Summa Cum Laude* (2007)

Northwestern University, B.S. (2002)

Clerkships:

Hon. Jeffrey S. Sutton, United States Court of Appeals for the Sixth Circuit (2008-2009)

Hon. Rebecca R. Pallmeyer, United States District Court for the Northern District of Illinois (2007-2008)

Primary Research Interests:

Evidence and Civil Procedure

Papers:

On the Limitations of a Unitary Model of the Proof Process, _ Int. J. of Evid. & Proof _ (forthcoming 2019) (invited response essay)

Truth, Lies, and the Confrontation Clause, 89 Colorado Law Review 565 (2018)

Unraveling the Conjunction Paradox, 15 Law, Probability & Risk 259 (2016) (peer-reviewed)

Ordering Proof: Beyond Adversarial and Inquisitorial Trial Structures, 83 Tennessee Law Review 291 (2015) (selected by blind peer review for inclusion in the 2015 New Voices in Civil Justice Workshop at Vanderbilt Law School)

Signal vs. Noise: Some Comments on Professor Stein's Theory of Evidential Efficiency, 66 Alabama Law Review 471 (2015) (invited response essay)

Emotional Fact-Finding, 63 University of Kansas Law Review 41 (2014)

The Perils of Productivity, 48 New England Law Review 503 (2014) (invited symposium essay)

Bridging the Gap Between Bayesian and Story-Comparison Models of Juridical Inference, 13 Law, Probability & Risk 47 (2014) (peer-reviewed)

The Hidden Structure of Fact-Finding, 64 Case Western Reserve Law Review 131 (2013)

Evidence-Based Litigation Reform, 51 U. Louisville Law Review 25 (2012)

Live Hearings and Paper Trials, 38 Florida State University Law Review 827 (2011)

Falsity, Insincerity, and the Freedom of Expression, 16 William and Mary Bill of Rights Journal 1203 (2008)

Free Speech and Due Process Problems in the Regulation and Financing of Judicial Election Campaigns, 101 Northwestern University Law Review 331 (2007) (student comment)

Presentations & Workshops:

“Impeachment by Non-Dishonest Felony Convictions: An Idea Whose Time Has Gone?,” Hot Topics in Evidence Seminar, The Florida Bar Code and Rules of Evidence Committee, Orlando, Florida (May 2018)

“Daubert vs. Frye: What is at Stake?,” Hot Topics in Evidence Seminar, The Florida Bar Code and Rules of Evidence Committee, Orlando, Florida (June 2017)

“Truth, Lies, and the Confrontation Clause,” Ira C. Rothgerber Jr. Conference on Constitutional Law, University of Colorado School of Law (April 2017)

“Shaping Moods to Improve the Accuracy of Legal Fact-Finding,” Symposium on Cognitive Models of Evidential Reasoning, International Conference on Thinking, Brown University (August 2016)

“Unraveling the Conjunction Paradox,” New Voices in Civil Justice Workshop, Vanderbilt Law School (May 2016)

“Ordering Proof,” Southeastern Law Schools Junior-Senior Workshop, Florida State University College of Law (October 2014)

“Emotional Fact-Finding,” Seventeenth Annual Meeting of the Association for the Study of Law, Culture, and the Humanities, Panel on *Hearts and Minds: Evidence, Emotion and Epistemology*, University of Virginia School of Law (March 2014)

“Emotional Fact-Finding,” Faculty Workshop, University of Florida Levin College of Law (February 2014)

“The Perils of Productivity,” Benchmarks: Evaluating Measurements of Judicial Productivity, New England Law Review Symposium, Boston, Massachusetts (November 2013)

“The Hidden Structure of Fact-Finding,” International Conference on Artificial Intelligence and Law 2013, Workshop on Formal Argument and Evidential Inference, Consiglio Nazionale delle Ricerche, Italy (June 2013)

“Emotional Fact-Finding,” Faculty Workshop, University of Kentucky College of Law (April 2013)

“Evidence-Based Litigation Reform,” International Conference on Law and Society (June 2012)

“A Dual-Process Model of Fact-Finding Inference,” International Conference on Quantitative Justice and Fairness, University of Lisbon (May 2012)

“Evidence-Based Litigation Reform,” Junior Faculty Federal Courts Workshop, FIU College of Law (February 2012)

Works in Progress:

Towards a Continuous Burden of Proof (this paper explores the historical reasons that burdens of proof are structured to be discontinuous, shows how this cuts against the strong grain of modern evidence theory, suggests some ways that continuous burdens might improve litigation dynamics, reduce the impact of juridical error, and better deter wrongful behavior, and consider some of the challenges of implementing continuous burdens in civil and criminal cases).

Testing the Diagnosticity of Judges and Juries in Criminal Cases (this empirical project will use a novel experimental design to measure and compare the factual accuracy of judge and jury verdicts)

Malleable Memories and the Law of Proof (this paper argues that modern discovery rules and hearsay doctrine create undue risks that witness’s memories will be degraded and corrupted by the time that they testify at trial, and proposes modifications to discovery and hearsay rules that

would work together to preserve early recordings of witness statements and require advocates to present them to jurors prior to direct or cross-examination)

Jury Trials in the Information Age (building off of work in my prior paper, *Live Hearings and Paper Trials*, this book-length project will outline an alternative mode of trying cases to juries, in which a live trial is replaced by the reading of a hypertext narrative drafted collaboratively by the parties, which may significantly improve on existing procedures by preserving the jury's democratic role while substantially improving the accuracy and fairness of its fact-finding)

Media Quotations and Appearances:

Appeared on the Excited Utterance podcast, "Unraveling the Conjunction Paradox," September 26, 2016

Quoted in Jim Piggot, "Black Ministers Demand Judge Accused of Racist Remarks Resign," News4JAX, July 21, 2016

Quoted in Tom Kludt, "How Does Gawker Survive Hogan Verdict?," CNN Money, March 19, 2016

Quoted in Skyler Swisher, "Despite \$23.1 Million Award, Man Paralyzed in Deputy Shooting Faces Uphill Battle," Sun Sentinel, February 4, 2016

Quoted in Kate Payne, "Out of the Fryeing Pan, Into the Fire With Expert Witness Testimony," WFSU-FM News, December 11, 2015

Quoted in Mike Springer, "New Bill Aims to Protect Testimony of Child Sex Abuse Victims," WCTV Eyewitness News, March 15, 2013

Quoted in Steve Nohlgren, "Culpepper Kurland Law Firm Long on Image, Short on Trials," Tampa Bay Times, January 26, 2013

Courses Taught (Current and Recent):

Evidence

Civil Procedure

Scientific Evidence

Advanced Civil Procedure

Complex Litigation

Federal Jurisdiction

Legislation and Regulation

Service:

Member, FSU College of Law Appointments Committee, 2018-2019

Chair, FSU College of Law Clerkships Committee, Spring 2017

Member, FSU College of Law Clerkships Committee, 2011-2017, 2018-2019

Member, FSU College of Law Admissions & Recruitment Committee, 2013-2014, 2015-2018

Member, FSU College of Law Academic Enrichment Committee, 2014-2015

Member, FSU College of Law Student Affairs Committee, 2012-2013

Moot Court Coach, Various Teams, 2012-present

Mock Trial Judge/Scorer, various local competitions and team practices, 2012-present

Faculty Peer Reviewer, FSU Law Review

Peer Reviewer, Journal of Philosophy, Science & Law

Grants, Honors and Awards:

University Graduate Teaching Award, Florida State University, 2016-2017

First-Year Assistant Professor Grant, Florida State University, Summer 2012

Stevens Prize, Northwestern University School of Law (first in graduating law class)

Senior Research Honors, Northwestern University School of Law (for draft of *Falsity, Insincerity, and the Freedom of Expression*)

Other Legal Experience:

Northwestern Univ. Law Review, Colloquy Editor (2006-2007)

Jenner & Block, L.L.P., Chicago, IL, Summer Associate (2006)

Cook County Public Guardian, Chicago, IL, Law Clerk (2005)

Bar Admissions:

Illinois, 2007

U.S. Court of Appeals, Sixth Circuit, 2008