

Emily Spottswood
FSU College of Law
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Academic Appointments:

Penn State Dickinson Law, Visiting Professor of Law (2023-24)

Florida State University, David & Deborah Fonvielle Professor (2020-present); Professor (2022-present); Associate Professor (with tenure, 2016-2022); Assistant Professor (2011-2016)

Northwestern University School of Law, Visiting Assistant Professor (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 Law, Judge and Jury Decision-Making, Pre-trial and Trial Procedure

Articles and Essays (as Mark Spottswood):

Paradoxes of Proof, in Philosophical Foundations of Evidence Law, at 317-31 (Oxford Univ. Press, 2021)

Burdens of Proof, in Philosophical Foundations of Evidence Law, at 108-22 (Oxford Univ. Press, 2021)

Continuous Burdens of Proof, 21 Nevada Law Journal 779 (2021)

Proof Discontinuities and Civil Settlements, 22 Theoretical Inquiries in Law 201 (2021)

On the Limitations of a Unitary Model of the Proof Process, 23 *Int. J. of Evid. & Proof* 75 (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:

“Victims as Fact-Finders,” Evidence Summer Workshop, Vanderbilt University (May 2023)

“Commentary on ‘Minimal Rationality and the Law of Evidence’ by Allen et al.,” Evidence Summer Workshop, Vanderbilt University (May 2023)

“Paradoxes of Proof,” Philosophical Foundations of Evidence Law Seminar Series, North Sea Group (Online Event, April 2021)

Panel Discussion, “The Proper Judicial Standards for Evaluating and Ensuring Quality in Expert Testimony,” Fourteenth Annual Judicial Symposium on Civil Justice Issues, Law & Economics Center of the Antonin Scalia Law School (Online Event, November 2020)

“Proof Discontinuities and Civil Settlements,” Legal Discontinuities Conference, Tel Aviv University, Tel Aviv, Israel (December 2019)

“Eyewitness Reliability: Problems and Potential Solutions,” Hot Topics in Evidence Seminar, The Florida Bar Code and Rules of Evidence Committee, Orlando, Florida (June 2019)

“Towards a Continuous Burden of Proof,” Evidence Summer Workshop, Vanderbilt Law School, Nashville, Tennessee (May 2019)

“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)

Major Works in Progress:

Malleable Memories and the Law of Proof (under contract with New York University Press) (this book project 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 incentivize and preserve early recordings of witness statements and require advocates to present them to jurors prior to direct or cross-examination)

Victims as Fact-Finders (analyzing and critiquing conventional practices regarding the ability of abuse victims to serve on juries, including the appropriate way to inquire regarding such experiences in *voir dire*, the use of for-cause and preemptory strikes to exclude such jurors from service, and post-trial inquiries into failures to disclose past abuse).

Media Quotations and Appearances:

Quoted in Annie Martin, “Transcript details ‘ghost’ candidate’s aid in probe of spoiler scheme,” Orlando Sentinel, October 13, 2022

Appeared on the Excited Utterance podcast, “Proof Discontinuities and Civil Settlements,” December 14, 2020

Appeared on the Excited Utterance podcast, “Towards a Continuous Burden of Proof,” September 9, 2019

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):

Criminal Law

Evidence

Civil Procedure

Scientific Evidence

Advanced Civil Procedure

Complex Litigation

Federal Jurisdiction

Legislation and Regulation

Service:

Member, FSU Faculty Grievance Committee, 2021-Present

Chair, FSU College of Law Curriculum Committee, 2020-22 & Fall 2019

Member, FSU College of Law Appointments Committee, Fall 2018 - Fall 2019, 2022-Present

Member, FSU College of Law Admissions & Recruitment Committee, 2020-21, 2015-18, 2013-2014

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

Chair, FSU College of Law Clerkships Committee, Spring 2017

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

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*)

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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