

BENJAMIN P. COOPER

University of Mississippi School of Law, University, MS 38677
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(Updated August 2017)

ACADEMIC EXPERIENCE

UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW, University, MS

Associate Dean for Academic Affairs (January 2016-present)

Associate Professor of Law (with tenure) (2013-present)

Frank Montague, Jr. Professor of Legal Studies and Professionalism (2015-present)

Jessie D. Puckett, Jr., Lecturer (2013-2015)

Assistant Professor of Law (2007-2013)

- Courses: Legal Profession, Civil Procedure II. Previous Courses: Civil Procedure I, Property, Higher Education Law, Contract Drafting and Negotiation, Advanced Legal Ethics Seminar.
- Law School Service: Assistant Chair, Strategic Planning Committee (2015-2016); Member, Admissions Committee (2014-2015); Faculty Appointments Committee (Chair 2013-2014, Member 2008-2013); Member, Honor Board Review Committee (2007-2012); Chair, Placement and Judicial Clerkships Committee (2010-2012); Coach, National Professional Responsibility Moot Court Competition (2013-2015) (2014 Champion); Coach, Mercer University School of Law Legal Ethics and Professionalism Moot Court Competition (2010-2013).
- University Service: Grade Appeal Committee (2016-present); Dean Search Committee (2016-2017); Academic Discipline Committee (2012-2014); Faculty Senate (2008-09); Academic Suspension Appeals Committee (2008-09).

PROFESSIONAL ACTIVITIES

Reporter, American Bar Association Commission on the Future of Legal Services (2015-2016)
(Final Report Available at: <http://abafuturesreport.com/#1>)

Member, Mississippi Supreme Court Advisory Committee on Rules (2015-present)

Member, Mississippi Bar Ethics Committee (2014-present)

United States Reporter, Reports, Comments and Notes Section, *Legal Ethics* (2012-present)

Southeastern Association of Law Schools (SEALS)

- Program Format Committee (Chair 2014-present; Member 2009-2013);
- Resource Team for Legal Ethics & Legal Profession (2016-present)
- New Scholars Committee (2012-2015)

American Association of Law Schools (AALS) Section on Professional Responsibility

- Executive Committee (2009-2012; 2015-present);
- Chair, Website Committee (2013-2016).

Lecturer, Kaplan Bar Review (2014-present) (Professional Responsibility and Civil Procedure)

Pro Se Committee, Mississippi Access to Justice Commission (2011-2014)

PUBLICATIONS

Professional Responsibility In Focus (Wolters Kluwer—Aspen Casebook Series, under contract, forthcoming 2017) (with R. Michael Cassidy, John P. Sahl & Margaret C. Tarkington)

The Curious Case of Advance Conflicts Waivers: Correspondent's Report from the United States, Legal Ethics, Vol. 18, No. 2 (2015)
(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2698897)

When Clients Sue Their Lawyers for Failing to Disclose Their Own Malpractice, 44 Hofstra Law Review 441 (Winter 2015) (invited article for symposium on “Lawyers as Targets”)
(http://www.hofstralawreview.org/wp-content/uploads/2016/03/DD.7.Cooper.final1_.pdf)

Judges and Social Media: Disclosure as Disinfectant, 17 SMU Science & Technology Law Review 521 (2015) (invited article for SMU Social Media Law Symposium)
(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2570613)

Social Media and the Lawyer's Evolving Duty of Technological Competence: Correspondent's Report from the United States, Legal Ethics, Vol. 17, No. 3 (2014)
(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2523603)

Judges and Social Media: 'Friends' with Costs and Benefits, The Professional Lawyer (ABA Center for Professional Responsibility), Vol. 22, Number 3, 2014
(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2451094)

Saving Face – Ethical Considerations for American Judges Using Facebook: Correspondent’s Report from the United States, Legal Ethics Vol. 17, No. 1 (2014)
(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2438068)

Predictive Coding and the Changing Legal Marketplace: Correspondent’s Report from the United States, Legal Ethics, Vol. 16, No. 2, 380-383 (2014)
(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2401695)

Access to Justice Without Lawyers, 47 Akron Law Review 205 (2014) (invited article for Miller-Becker Center Symposium at University of Akron School of Law)
(<http://www.uakron.edu/dotAsset/a30dee88-519c-4547-bbe8-c0b77cc9a777.pdf>)

Taking Rules Seriously: The Rise of Lawyer Rules as Substantive Law and the Public Policy Exception in Contract Law, 35 Cardozo Law Review 267 (2013)
(<http://www.cardozolawreview.com/content/35-1/COOPER.35.1.pdf>)

Regulatory Barriers to Justice in Mississippi, 82 Miss. L.J. Supra 61 (2013) (invited article for Mississippi Law Journal Symposium on Access to Justice) (http://mississippilawjournal.org/wp-content/uploads/2013/02/2_Cooper_Final.pdf)

The ABA’s Modest Changes to the Rules of Professional Conduct: Correspondent’s Report from the United States, Legal Ethics, Vol. 15, No. 2, 386-391 (2012)
(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2162190)

Mandatory Pro Bono for New York Bar Applicants: Why Not? The Professional Lawyer (Vol. 21, No. 3, 2012) (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2126792)

Mandatory Pro Bono Redux: Correspondent’s Report from the United States, Legal Ethics, Vol. 15, No. 1, 2012: 135-139 (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2063187)

Iqbal’s Retro Revolution, 46 Wake Forest Law Review 937 (2011)
(<http://wakeforestlawreview.com/iqbal%E2%80%99s-retro-revolution>)

Attorney Self-Disclosure, 79 University of Cincinnati Law Review 697 (Winter 2010)
(<http://scholarship.law.uc.edu/cgi/viewcontent.cgi?article=1037&context=uclr>)

The Lawyer’s Duty to Inform His Client of His Own Malpractice, 61 Baylor Law Review 174 (2009) (<http://www.baylor.edu/content/services/document.php/116819.pdf>)

Truth in Sentencing: The Prospective and Retroactive Application of Simmons v. South Carolina, 63 University of Chicago Law Review 1573 (1996) (student comment), cited in *O’Dell v. Netherland*, 521 U.S. 151, 173 n.7 (1997) (Stevens, J. dissenting)
(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1344097).

WORKS IN PROGRESS

Reconsidering Small Claims Courts

Lawyer Solicitation in the Digital Age

EDUCATION

UNIVERSITY OF CHICAGO LAW SCHOOL, Chicago, Illinois
Juris Doctor with honors, June 1997

- UNIVERSITY OF CHICAGO LAW REVIEW, Topic Access Editor
 - Served as editor to 2nd- and 3rd-year students seeking to “write on” to the Law Review by assisting them in selecting article topics, overseeing their research, and editing their drafts.
- MacArthur Justice Center
 - Worked on impact litigation involving prisoner rights, death penalty, and other criminal justice issues.

AMHERST COLLEGE, Amherst, Massachusetts
Bachelor of Arts in History and Russian with honors, May 1994.

WORKSHOPS, SPEECHES AND MEDIA APPEARANCES

- Presenter, “Reflections on the 2016 ABA Report on the Future of Legal Services in the United States,” Southeastern Association of Law Schools Annual Meeting, Boca Raton, FL (August 3, 2017)
- Presenter, “Hot Topics in Legal Ethics,” Family Law CLE, Jackson, MS (July 21, 2017), Oxford, MS (July 28, 2017), Biloxi, MS (August 4, 2017 (by video))
- Presenter: “Ethical Use of Social Media,” Coahoma County Bar Association, Clarksdale, MS (June 13, 2017)
- Presenter: “Ethical Use of Social Media” (CLE for Law Alumni Weekend), University, MS (March 24, 2017)
- Presenter: “Summary of Recent Mississippi Law” (CLE), Jackson, MS (February 10, 2017), Oxford, MS (February 24, 2017), Biloxi, MS (March 3, 2016) (lectured on Professional Responsibility and Evidence)
- Presenter: Commission on the Future of Legal Services Final Report, ABA Annual Meeting, San Francisco, CA (August 6, 2016)
- Presenter: “Ethical Withdrawal” (Family Law CLE), Oxford, MS (July 8, 2016), Biloxi, MS (July 22, 2016), Jackson, MS (August 5, 2016 (by video))
- Presenter: “Hot Topics in Legal Ethics” (CLE for law firms sponsored by Plancorp) St. Louis, MO (June 27-29, 2016)
- Presenter: “Knowing When to Say When & What to Do: The Ethical Withdrawal,” 42nd ABA National Conference on Professional Responsibility, Philadelphia, PA (June 3, 2016)

- Presenter: “Ethical Use of Social Media” (CLE for New Lawyers), Jackson, MS (May 19, 2016)
- Guest: “In Legal Terms” radio show on Mississippi Public Broadcasting (May 10, 2016)
- Presenter: “Summary of Recent Mississippi Law” (CLE), Oxford, MS (February 19, 2016), Biloxi, MS (March 4, 2016), Jackson, MS (March 11, 2016) (lectured on Professional Responsibility and Evidence)
- Presenter: “The Curious Case of Advance Conflict Waivers” at Business Ethics Discussion Group, Southeastern Association of Law Schools Annual Meeting, Boca Raton, FL (August 2, 2015)
- Presenter, “Reconsidering Small Claims Courts,” Access to Justice Discussion Group, Southeastern Association of Law Schools Annual Meeting, Boca Raton, FL (July 31, 2015)
- Presenter (by video), Family Law CLE, Jackson, MS (July 17, 2015), Oxford, MS (July 24, 2015), Biloxi, MS (July 31, 2015)
- Presenter: “Hot Topics in Legal Ethics” (CLE for law firms sponsored by Plancorp) St. Louis, MO (June 22-25, 2015)
- Presenter: “Reconsidering Access to Justice,” Texas A&M University School of Law, Ft. Worth, TX (May 1, 2015)
- Presenter: “Lawyers as Targets: Suing, Prosecuting, and Defending Lawyers,” Maurice Deane School of Law at Hofstra University, Hempstead, NY (April 1, 2015)
- Presenter: “Summary of Recent Mississippi Law” (CLE), Oxford, MS (February 13, 2015), Jackson, MS (February 20, 2015), Biloxi, MS (February 27, 2015) (lectured on Professional Responsibility and Evidence)
- Presenter: “Judges and Social Media: Disclosure as Disinfectant,” SMU Science and Technology Law Review Social Media Law Symposium, Dallas, TX (October 17, 2014)
- Panelist: “Discussion Group: Crossing the Bar: Current Character and Fitness Issues in Admission to the Profession,” Southeastern Association of Law Schools Annual Meeting, Amelia Island, FL (August 2, 2014)
- Presenter: “Technological Competence” (Family Law CLE), Jackson, MS (July 18, 2014), Oxford, MS (July 25, 2014), Biloxi, MS (August 1, 2014)
- Presenter: “Hot Topics in Legal Ethics” (CLE for law firms sponsored by Plancorp) St. Louis, MO (June 24-26, 2014)
- Panelist: “Navigating Troubled Waters: Pitfalls & Perils in Handling Potential Claims of Current Clients,” 40th ABA National Conference on Professional Responsibility, Long Beach, CA (May 29, 2014)
- Guest: “In Legal Terms” radio show on Mississippi Public Broadcasting (May 13, 2014)
- Presenter: “Computers Do Not Practice Law (Yet),” University of Mississippi Law Faculty Workshop (April 21, 2014)
- Presenter: “Summary of Recent Mississippi Law” (CLE), Oxford, MS (February 14, 2014), Biloxi, MS (February 21, 2014), Jackson, MS (February 28, 2014) (lectured on Professional Responsibility and Evidence)
- Quoted in: *The Columbus Dispatch*: “Judge’s Facebook Posts May Violate Judicial Code,” (November 7, 2013)
- Presenter: “Ethical Considerations for Judges Using Social Media,” Mississippi Trial and Appellate Judges Fall Conference, Olive Branch, MS (October 24, 2013)

- Moderator and Organizer: “Professional Responsibility Pecha Kucha: The Sequel,” Southeastern Association of Law Schools Annual Meeting, Palm Beach, FL (August 3, 2013)
- Quoted in: Jody R. Westby, “Cybersecurity & Law Firms: A Business Risk,” 39 No. 4 Law Prac. 46 (July/August 2013)
- Presenter: “Unbundling and Virtual Practice,” (Family Law CLE), Jackson, MS (April 26, 2013), Oxford, MS (May 3, 2013), Biloxi, MS (May 10, 2013)
- Presenter: “Ethical Considerations for Lawyers Using Social Media” (CLE), Panola County Bar Association Meeting, Batesville, MS (May 9, 2013)
- Presenter: “Ethical Considerations for Lawyers Using Social Media” (CLE for Law Alumni Weekend), Oxford, MS (April 19, 2013)
- Presenter: “Access to Justice Without Lawyers,” Miller-Becker Center Symposium on “Navigating the Practice of Law in the Wake of Ethics 20/20 – Globalization, New Technologies and What it Means to be a Lawyer In These Uncertain Times,” Akron, OH (April 5, 2013)
- Presenter: “Summary of Recent Mississippi Law” (CLE), Oxford, MS (February 8, 2013), Biloxi, MS (February 22, 2013), Jackson, MS (March 1, 2013) (lectured on Professional Responsibility and Evidence)
- Presenter: “Regulatory Barriers to Justice in Mississippi,” Poverty & Access to Justice Symposium sponsored by the Mississippi Law Journal, Oxford, MS (February 8, 2013)
- Quoted in: Bloomberg/BNA, “New York Adopts Court Rule Detailing Pro Bono Requirement for Bar Admission” (September 26, 2012)
- Presenter: “Mandatory Pro Bono for New York Bar Applicants: Why Not?” Southeastern Association of Law Schools Annual Meeting, Amelia Island, FL (July 29, 2012)
- Presenter: “Lawyer Rules as Substantive Law,” University of Mississippi Law Faculty Workshop (April 18, 2012)
- Panelist: “A Question of Integrity: Politics, Ethics and the Supreme Court” (discussing film produced by Alliance for Justice), University of Mississippi School of Law (March 26, 2012)
- Presenter: “Summary of Recent Mississippi Law” (CLE), Oxford, MS (February 10, 2012), Biloxi, MS (February 24, 2012), Jackson, MS (March 2, 2012) (lectured on Professional Responsibility and Evidence)
- Quoted in Stateline.Org, “Mississippi Republicans Challenge Powers of Attorney General” (February 3, 2012)
- Quoted in *NE Mississippi Daily Journal*, “Integrity, Service Crucial for Would-be Lawyers” (August 19, 2011)
- Presenter: “Iqbal’s Retro Revolution,” Southeastern Association of Law Schools Annual Meeting, Hilton Head, SC (July 29, 2011)
- Presenter: Ethics Update, Lafayette County Bar Association Luncheon (CLE), Oxford, MS (June 15, 2011)
- Quoted in *NE Mississippi Daily Journal*, “Necessary Evil? Money becomes potential problem in judges’ races” (November 7, 2010)
- Presenter: “Iqbal’s Retro Revolution,” University of Mississippi Law Faculty Workshop (October 20, 2010)

- Quoted in *NE Mississippi Daily Journal*, “Mills’ death case order sets off legal reactions” (September 16, 2010)
- Presenter and Organizer: “*Caperton* in the Lower Courts,” Southeastern Association of Law Schools Annual Meeting, Palm Beach, FL (August 2010).
- Quoted in *NE Mississippi Daily Journal*, “Judicial scandals affect law students” (November 29, 2009).
- Quoted in *NE Mississippi Daily Journal*, “Two years after indictments, state’s legal community tries to fix Scruggs case damage” (November 29, 2009).
- 2009 Fellow, National Institute for Teaching Ethics and Professionalism (a consortium of The Louis Stein Center for Law & Ethics at Fordham University, The Mercer University School of Law Center for Legal Ethics and Professionalism, The Nelson Mullins Riley & Scarborough Center on Professionalism at the University of South Carolina, The Stanford Center on Ethics, and The W. Lee Burge Endowment for Law & Ethics at Georgia State University), Red Top Mountain State Park, Cartersville, GA (November 2009).
- Quoted in *Commercial Dispatch*, “Experts: Leaders’ move in change of venue petition ‘creative,’ but not unethical” (October 13, 2009).
- Presenter: “Attorney Self-Disclosure,” Southeastern Association of Law Schools Annual Meeting, Palm Beach, FL (August 2009).
- Presenter: “Ethics for Administrative Law Judges,” National Association of Unemployment Insurance Appellate Boards Annual Conference, Oxford, MS (June 2009).
- Presenter: “Ethics and Employment Law,” Mississippi Employment Law Seminar (CLE), Ridgeland, MS (May 2009).
- Panelist, “The Billable Hour,” Phi Delta Phi Ethics Panel, University of Mississippi School of Law (April 2009).
- Presenter: “Update on Richard Scruggs judicial bribery case,” American Constitution Society, University of Mississippi School of Law (April 2009).
- Presenter: “The Lawyer’s Duty to Inform His Client of His Own Malpractice,” 2008 Jurisgenesis Conference (conference for junior scholars co-sponsored by Washington University School of Law and St. Louis University School of Law) (June 2008).
- Quoted in *Oxford Eagle*, “Judicial panel discusses ethics in law at UM” (April 23, 2008).
- Panelist, “Earwiggling” (panel at the University of Mississippi School of Law concerning the Richard Scruggs judicial bribery case) (April 2008).
- Quoted in *NE Mississippi Daily Journal*, “Legal eagles feel pain from bribery cases.” (January 23, 2008).
- Television interview with Fox 27 (Tupelo) re: Richard Scruggs judicial bribery case (January 2008)

CONSULTING

- Served as expert on behalf of defendant seeking disqualification based on joint client conflict
- Served as expert on behalf of plaintiff seeking disqualification based on former client conflict of interest

- Served as expert on behalf of plaintiff in legal malpractice case alleging incompetent representation.
- Advised law firm on elements of shareholders' agreement.
- Advised organizational client concerning conflict of interest and provided affidavits in support of bar complaints.
- Served as expert on behalf of plaintiff in legal malpractice suit alleging that attorney failed to act competently and diligently to protect the interests of infirm client.
- Served as expert on behalf of plaintiff in legal malpractice suit alleging incompetent representation.
- Served as expert on behalf of plaintiffs in lawsuit challenging lawyer's fee-splitting with non-lawyer.
- Provided affidavit in support of motion for disqualification based on conflict of interest.
- Served as expert on behalf of plaintiff in legal malpractice suit alleging that former lawyers failed to disclose their malpractice to their clients.
- Advised law firm on ethics of settlement proposal.
- Advised law firm on client confidentiality issues in connection with discovery requests.
- Served as expert on behalf of plaintiff in legal malpractice suit concerning violation of duty to communicate.
- Provided affidavit in support of motion for sanctions for lawyer's improper contact with represented witness.
- Advised law firm concerning duty to report opposing counsel who had directed expert witness to alter his reports.

PREVIOUS WORK EXPERIENCE

PEPPER HAMILTON LLP, Philadelphia, Pennsylvania
Commercial Litigation Department, Partner (January 2007-June 2007); Associate (September 2004-December 2006). Represented clients in a variety of commercial litigation, higher education, and pro bono matters. Member of firm's Professional Responsibility Committee.

KIRKLAND & ELLIS LLP, New York, New York
Litigation Department, Partner (October 2003-August 2004), Associate (October 2001-September 2003). Represented clients in a variety of commercial litigation and pro bono matters.

UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.
Civil Division, Federal Programs Branch, Trial Attorney (October 1998-August 2001). Selected for Honor Program. Defense of federal statutes, regulations and programs against constitutional and statutory challenges. Representative matters:

- Briefed and argued *United States v. Kalb*, 234 F.3d 827 (3d Cir. 2000), in which court upheld constitutionality of U.S. Forest Service's restrictions on group use of public lands against First Amendment challenge.
- Examined witnesses in court as member of trial team in *Griffin & Taylor v. United States* (C.A. No. 80-3227 D.D.C.), in which estate of former President Nixon sought compensation for seizure of his Presidential materials.

- Briefed and argued *Kong v. Min De Parle*, 2001 WL 1464549 (N.D. Cal. Nov. 13, 2001), upholding Medicare and Medicaid funding of Religious Nonmedical Healthcare Institutions against Establishment Clause challenge.

HONORABLE ANTHONY J. SCIRICA, Philadelphia, Pennsylvania
United States Court of Appeals for the Third Circuit, Law Clerk (September 1997-September 1998).