

**BENJAMIN P. COOPER**

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

**ACADEMIC EXPERIENCE**

**UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW, University, MS**

**Senior Associate Dean (July 2017-Present)**

**Associate Dean for Academic Affairs (January 2016-June 2017)**

**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: Academic 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](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](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](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](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](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](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](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](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](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](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](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](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 2<sup>nd</sup>- and 3<sup>rd</sup>-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,” 42<sup>nd</sup> 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,” 40<sup>th</sup> 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, “Earwigging” (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).