

STEPHEN L. PEPPER

University of Denver, Sturm College of Law
2255 East Evans Avenue
Denver, Colorado 80208
(303) 871-6259 spepper@law.du.edu

CURRENT POSITION

University of Denver College of Law

Professor of Law (1986 – present)

Associate Professor (1982 – 1986)

Subjects Taught: Torts; Legal Profession; Professional Ethics Seminar; Constitutional Law; Family Law; Constitutional Law Seminar (religion clauses of the First Amendment).

Honors: Selected "Professor of the Year" by the student body four times. Special award for teaching excellence presented by students of all three classes, spring 2002.

EDUCATION

Yale Law School, J.D. 1973

Honors: First Prize, Thurman Arnold Appellate Moot Court Prize Argument (judged by Justice Potter Stewart, U.S. Supreme Court; Judge Joseph Lord, Chief Judge, U.S. District Court, Third District of Pennsylvania; and Judge John Oaks, U.S. Second Circuit Court of Appeals).

Finalist, Benjamin Cardozo Moot Court Brief Writing Competition.

Stanford University, A.B. with great distinction, 1969

Honors Program in Social Thought and Institutions; Phi Beta Kappa, junior year selection; 3.9 overall grade point average (of possible 4.0).

PRIOR EMPLOYMENT

Visiting Professor of Law, Cornell Law School, 1987-88.

Assistant Professor of Law, University of Arkansas School of Law, Fayetteville, 1977-82.

Practice of Law, Associate, Holland & Hart, Denver, Colorado, 1973-77; general civil practice, specializing in civil litigation.

PUBLICATIONS AND PAPERS

“Three Dichotomies in Lawyers’ Ethics (With Particular Attention to the Corporation as Client)” 28 *Georgetown Journal of Legal Ethics* 1069-1134 (2015).

“The Lawyer Knows More than the Law,” 90 *Texas Law Review* 691-708 (2012).

“Integrating Morality and Law in Legal Practice: A Reply to Professor Simon,” 23 *Georgetown Journal of Legal Ethics* 1011-1039 (2012).

“How to do the Right Thing: A Primer on Ethics and Moral Vision,” Chapter 2 in James O’Toole and Don Mayer, eds., Good Business (Routledge 2010) 19-28.

“A Short Primer on Ethics and Moral Vision,” 30 *Directors Monthly* 19 (2006).

"Lawyers' Ethics in the Gap Between Law and Justice," 40 *South Texas Law Review* 181-205 (1999) (symposium issue).*

"Resisting the Current," 52 *Vanderbilt Law Review* 1015-1023 (1999).

"Access to What?" 2 *Journal of the Institute for the Study of Legal Ethics* 269-288 (1999) (symposium issue).

"Why Confidentiality?" 23 *Law & Social Inquiry* 331-337 (1998).

"Applying the Fundamentals of Lawyers' Ethics to Insurance Defense Practice," 4 *Connecticut Insurance Law Journal* 27-74 (1997-1998) (publication of the papers from the symposium on "Insurance Conflicts and Professional Responsibility," sponsored by the Insurance Law Center of the University of Connecticut School of Law, October 1997.)

"Counseling at the Limits of the Law: An Exercise in the Jurisprudence and Ethics of Lawyering," 104 *Yale Law Journal* 1545-1610 (1995) (lead article).**

* Quoted in Cases and Materials on the Professional Responsibility of Lawyers, J. Sutton & J. Dzienkowski, 13, 378 (2nd ed., 2002).

** Republished in part in M. Regan and J. Bauman, Legal Ethics and Corporate Practice 920-932, 947 (2005 Thomson/West); G. Cohen and S. Koniak, The Law and Ethics of Lawyering 109-125 (2004 Foundation Press); J. Noonan and R. Painter, Professional and Personal Responsibilities of the Lawyer, 509-515 (1997 Foundation Press); Dale A. Nance, Law and Justice: Cases and Readings on the American Legal System, 650-673 (2d ed., 1999, Carolina Academic Press); James L. Winokur, R Wilson Freyermuth et al., Property and Lawyering, 83-84 (West Group, 2002), R. O’Dair, Legal Ethics Text and Materials 348-362 (Butterworths 2001); quoted in R. Cochran and T. Collett, Cases and Materials on the Legal Profession, 65 (West Publishing Co., 2003).

"Conflicting Paradigms of Religious Freedom: Liberty Versus Equality," 1993 Brigham Young University Law Review 7-62 (symposium issue).

"Autonomy, Community, and Lawyers' Ethics," 19 Capital University Law Review 939-966 (1990) (lead article, symposium issue).***

"The Lawyer's Amoral Ethical Role: A Defense, A Problem, and Some Possibilities," 1986 American Bar Foundation Research Journal 613-635 (lead article; topic article of symposium, with comments by Professors David Luban and Andrew Kaufman; selected as winning submission, 1985 American Law Schools Call for Scholarly Papers Competition).****

"A Rejoinder to Professors Kaufman and Luban," 1986 American Bar Foundation Research Journal 657-673.

"A Brief for the Free Exercise Clause," 8 Journal of Law and Religion 323-362 (publication of the papers from the April 1989 Georgetown University Bicentennial symposium.)

"Some Thoughts on Perspective," 4 Notre Dame Journal of Law, Ethics & Public Policy 301-311 (1989) (symposium issue).

"Taking the Free Exercise Clause Seriously," 1986 Brigham Young University Law Review 299-336 (symposium issue).*****

"The Constitution and Religious Pluralism," published in The Embattled Constitution, pp 92-115 (A. Grundman, ed.) (Robert Kreiger 1986).

"Jensen v. Quaring: Will the Supreme Court Clarify Freedom of Religion Doctrine?" National Law Journal, April 8, 1985, pp. 24-26.

"The Conundrum of the Free Exercise Clause -- Some Reflections on Recent Cases," 9 Northern Kentucky Law Review 265-303 (1982) (solicited for symposium issue: "The Religion Clauses: Significant Issues in the Eighties").*****

*** Republished in part in R. O'Dair, Legal Ethics Text and Materials, 49-55 (2002 Butterworths).

**** Republished in A. Kaufman and D Wilkins, Problems in Professional Responsibility for a Changing Profession, 219-234 (2002, Carolina Academic Press); David Luban (ed.) The Ethics of Lawyers, 57-81 (1994 Dartmouth Publishing Co.); republished in part in J. Sutton & J. Dzienkowski, Cases and Materials on the Professional Responsibility of Lawyers, 374-378, (West Publishing Co. 2nd ed., 2002); R. O'Dair, Legal Ethics Text and Materials, 137-143 (Butterworths 2001), H. Lesnick, Being a Lawyer, 44-49 (West Publishing Co., 1992).

***** Excerpted in G. Stone, L. Seidman, C. Sunstein and M. Tushnet, Constitutional Law 1989 Supplement at 237-238.

***** Cited by Justice Brennan in dissent, Lyng v. Northwest Indian Cemetery Protective Association, 108 S. Ct. 1319, 1338 (1988).

"The Case of the Human Sacrifice," 23 Arizona Law Review 893-934 (1981) (lead article).

"Reynolds, Yoder, and Beyond: Alternatives for the Free Exercise Clause," 1981 Utah Law Review 309-378.

"One L.," Book Review, 31 Arkansas Law Review 529-537 (1977).

Books:

THE LAWYER'S AMORAL ETHICAL ROLE, COUNSELING AND THE RESPONSIBILITY OF THE CLIENT (Chuo University Press 2000)(Japanese translation by Professor Hiroshi Sumiyoshi of Chuo University of five of the articles listed above).

NEW DIRECTIONS IN LEGAL EDUCATION (McGraw-Hill, 1972), Carnegie Commission on Higher Education study of legal education, Authors: Herbert Packer and Thomas Ehrlich, assistant to the authors while a law student (title page credit).

PAPER PRESENTATIONS AND PANEL APPEARANCES

[Paper and panel presentations have not been updated since 2012. Usually one to three such presentations each year.]

International Legal Ethics Conference V, Banff, Alberta, Canada, July 2012. Chair, Presenter and Organizer of primary panel presentation: "Individual, Corporation—Is There a Difference in the Fundamental Ethical Obligations Depending Upon the Nature of the Client?"

Annual David Weiner Center Lecture, The David Weiner Center for Lawyers Ethics and Professional Responsibility, "Three Dichotomies in Lawyers' Ethics." May, 2012, Haim Striks School of Law, College of Management Academic Studies, Rishon LeZion, Israel.

Society of Corporate Secretaries and Governance Officials (formerly known as the American Society of Corporate Secretaries), 65th, 61st, 57th and 55th National Conferences. Designed, presented and led three hour pre-conference workshop on "Ethics and the Law", June, 2011, 2007 and 2001, Colorado Springs; June 2003, Salt Lake City. (Approximately two-thirds of those holding the office of corporate secretary are lawyers, often the general counsel; approximately one-third are not lawyers.)

Japan Law Foundation, International Symposium on Professional Responsibility: Professional Responsibility in the Era of Expansion and Specialization. Keynote Lecture: "How Should Lawyers Deal with the Gap Between Law and Justice," February, 2011, Tokyo, Japan.

32nd Legal Ethics Institute, Washington and Lee University. Keynote Scholar, and Keynote Lecture, "Three Dichotomies in Lawyers' Ethics." March, 2010.

International Legal Ethics Conference IV, Stanford California, July 2010.

Plenary Roundtable Paper Presentation and Panel Participation: Philosophical Legal Ethics: Ethics, Morals and Jurisprudence. "Locating Morality in Legal Practice: Lawyer? Client? The Law?"

Paper presentation: "Three Dichotomies in Lawyers' Ethics."

Panel presentation and participation: "Legal Ethics as a Required Course?"

Mississippi College School of Law, symposium: Corporations, Courtrooms, and the Constitution: Shades of Gray in the World of Legal Ethics, Panel Presentation, "The Intersection Between Attorney Speech, Personal Morality, Religion and the Rules of Ethics." February 2009.

Robert Zicklin Center for Corporate Integrity, Baruch College, The City University of New York: "Money, Politics, and Corporate Risk," panelist on lead panel, "The Directors' Role." February, 2008.

National Association of Corporate Directors, Houston Chapter, November 2007: Lecture and leading of discussion, "Board Conduct and Board Deliberation: A Primer on Ethics and Moral Vision."

University of Canterbury, Christchurch, New Zealand. Legal Ethics Colloquium, Keynote Presentation: "Three Dichotomies in Lawyers' Ethics," February, 2005.

University of Texas Law School, "Ethics & Attorney-Client Intimacy," April, 2002, Panelist.

South Texas College of Law symposium, "The Lawyer's Duty to Promote the Common Good," September, 1998. Principal paper presentation, "Lawyers' Ethics in the Gap Between Law and Justice."

Hofstra University School of Law conference on "Legal Ethics: Access to Justice," April 1998. Presentation of paper, "Access to What?"

Association of American Law Schools 1997 Annual Meeting, Washington, D.C. Joint Program of Sections on Insurance Law and Professional Responsibility, presentation of paper on the ethics of insurance defense.

University of Connecticut School of Law, Insurance Law Center program on "Insurance Conflicts and Professional Responsibility." Presentation of paper, "Applying the Fundamentals of Lawyers' Ethics to Insurance Defense Practice," Hartford, Conn., October, 1997.

Hofstra University School of Law conference on "Legal Ethics: The Core Issues," March 1996. Comment on paper presentation and panelist.

American Bar Association, Family Law Section annual meeting, September 1995. Panelist on the ethics of withdrawing from representation.

Eastern Washington University annual public affairs symposium, September 1995, "Religion and the Public Order." Primary paper presentation and panelist.

Brigham Young University Law School symposium on New Directions in Religious Liberty, January 1993. Principal paper presentation, Conflicting Paradigms of Religious Freedom: Liberty Versus Equality.

Association of American Law Schools' Workshop on Professional Responsibility, Washington, D.C., October 1993. Panelist, lead panel on "Adversarial Zealousness." Publication of seven page textual outline as part of workshop materials.

Fifth Annual Symposium on Law, Religion, and Ethics; Hamline University School of Law, October 1992. Closing Plenary Session Presentation, "Counseling at the Limits of the Law: An Exercise in the Jurisprudence and Ethics of Lawyering."

Program in Professional Ethics and Responsibility, Boston University School of Law, January 1990. Panelist, concluding panel of week long course for second and third year students. Co-panelists William Simon of Stanford Law School and David Wilkins of Harvard Law School.

Association of American Law Schools 1990 Annual Meeting. Law and Religion Section Meeting Panelist, "Free Exercise after Lyng."

Central States Law School Association 1989 Annual Meeting, Branson Missouri. Feature paper presentation, "The Lawyer's Amoral Ethical Role: A Defense, A Problem, and Some Possibilities."

Georgetown University Bicentennial Conference, Religion and the Constitution: Exemptions Based On Conscience, April 1989. Principal paper presentation, "A Brief for the Free Exercise Clause," (moderator, David Little, University of Virginia; comments by Stanley Hauerwas, Duke University and John Yoder, Notre Dame University).

Notre Dame Law School, Thomas D. White Center, Conference on the Religion Clauses, March 1989. Comment on principal paper by Ellis West.

Indianapolis Bar Association, monthly luncheon, November 1988. Presentation: "The Lawyer's Amoral Ethical Role."

Cornell Law School, faculty workshop, May 1988. Paper presentation, "The Professional Ethics of Legal Advice to the Client: The Problem of Facilitating Conduct Contrary to Law."

Association of American Law Schools 1986 Annual Meeting. Feature paper presentation, Scholarly Papers Competition: "The Lawyer's Amoral Role: A Defense, A Problem, and Some Possibilities" (selected as winning submission, 1985 AALS Call for Scholarly Papers Competition).

Brigham Young University Law School, January 1986, symposium on Perspectives on the Religion Clauses of the First Amendment. Presentation of principal paper: "Taking the Free Exercise Clause Seriously."

LOCAL PRESENTATIONS AND PANEL APPEARANCES

Approximately eighty local Colorado appearances. A few representative examples are listed (but none of the presentations occurring after 2006 have been included):

Colorado Chapter of the Academy of Matrimonial Lawyers, "Generic Ethics, Role Ethics and Lawyer's Ethics," December 2006.

Voices of Experience Series, Daniels' College of Business, "Board Leadership: Courage, Candor & Conscience," panelist and commentator, April 2005.

Federal Bar Association, Colorado Chapter, "Two Theories of Professional Ethics," February 2002, primary speaker.

American Bar Association, Family Law Section Annual Meeting, September 1995, panelist on the ethics of withdrawing from representation, Beaver Creek, Colorado.

Colorado Annual Judicial Conference, keynote program on "Judicial Professionalism," September 1992, panelist.

Orientation For Attorneys New to Corrections, National Academy of Corrections, U.S. Department of Justice, sole presenter, two hour session on ethics and professionalism, May 1992.

Frank H. Ricketson Lawyers Film Festival, University of Denver College of Law continuing legal education program, October, 1988, panelist on lawyers' ethics.

ACLU Continuing Legal Education program, "The Religious Right and Civil Liberties," December, 1986, primary speaker and panelist.

ACLU of Colorado, "Civil Liberties Update," November 1984 and 1985, speaker.

COURSE MATERIALS

Materials for a seminar on Professional Ethics, photocopied, 2014.

"Supplementary Readings" for the Legal Profession course, 93 pages, photocopied (rev. ed. 2012).

Materials for a seminar on the religion clauses of the First Amendment, 493 pages, photocopied (1987).

CONTINUING LEGAL AND PROFESSIONAL EDUCATION

Designer and sole presenter: "Can a Good Person Be a Good Lawyer? The Underlying Ethics of the Lawyer-Client Relation," a three-hour program with approximately twenty-five pages of readings pre-assigned, presented at various law firms and corporate law departments.

Co-designer and co-presenter: "The Meaning and Practice of Professional Ethics," a full day program for approximately eight physicians, eight lawyers, and eight business executives to examine and discuss ethics in the context of professional practice, presented at the University of Denver in 2004, 2006 and 2008.