

## **BRIAN SHEPPARD**

Seton Hall University School of Law  
One Newark Center, Newark, NJ 07102  
Email: brian.sheppard@shu.edu  
Phone: (617) 276-5035

### **LAW TEACHING:**

#### **Seton Hall University School of Law**

*Associate Dean*

*Professor of Law*

*Associate Professor*

*Newark, NJ*

*July 1, 2018-present*

*May 2016-present*

*July 2010-May 2016*

#### Research

Centers: Institute for Privacy Protection, Gibbons Institute of Law, Science and Technology

Courses: Torts, Professional Responsibility, Advanced Torts, Entertainment Law, Lawyering, Law and Literature (guest lecturer on jurisprudence), Justice Initiative, Sports and Entertainment Externship Supervisor, LEO Program

Committees: Admissions (Co-Chair), Budget, Facilities, Curriculum, Clerkships, Orientation, Charter Day, Praxis Pilot, Generalized Empirical Method Fellowship

#### **Harvard Law School**

*Climenko Fellow*

Course: Legal Research and Writing

*Cambridge, MA*

*June 2008-May 2010*

*Coordinator, Law Teaching Colloquium*

*August 2007-May 2008*

### **EDUCATION:**

#### **Harvard Law School**

*Doctor of Juridical Science (Empirical Legal Philosophy)*

Dissertation, "Rules Versus Standards, Naturalized: Using Philosophy and Behavioral

Experimentation to Identify the Determinants of Constraint in a Legal Context" (defended May, 2012)

*Supervisors: Lewis Sargentich, Harvard Law School; Dan Simon, University of Southern*

*California; Matthew Stephenson, Harvard Law School*

#### Specialized Fields (Supervisors):

- Professional Responsibility (Daniel Coquillette, Harvard Law School)
- Analytic Legal Philosophy (Frederick Schauer, University of Virginia School of Law)
- Contemporary Jurisprudence (Lewis Sargentich, Harvard Law School)
- Natural Law (Richard Tuck, Harvard University, Department of Government)

*Master of Laws (completed and waived)*

*2004-2005*

LL.M. Thesis, "A Critique of Joseph Raz's Attempt to Transcend H.L.A. Hart's Legal Positivism," supervised by Lewis Sargentich

#### **Boston College Law School**

*Juris Doctor, Cum Laude*

*Newton, MA*

*1998-2001*

#### **College of the Holy Cross**

*Bachelor of Arts, Philosophy and Studio Art*

*Worcester, MA*

*1994-1998*

### **ACADEMIC PUBLICATIONS:** (continued on the following page)

Co-Author, *Cell Skepticism: The Digital Divide and Increased Scrutiny of Parental Decision-Making Concerning Cell Phone Use* (under review, peer reviewed).

Author, *The Ethics Resistance*, GEO. J. LEGAL ETHICS (forthcoming).

Author, *Warming Up to Inscrutability*, 68 U. TOR. LAW. J. 36 (2018) (peer reviewed).

Author, *Incomplete Innovation and the Premature Disruption of Legal Services*, 2015 MICH. ST. L. REV. 1797 (2016).

Author, *Norm Supercompliance and the Status of Soft Law*, 62 BUFF. L. REV. 787 (2014).

Lead Author, *For the Sake of Argument: A Behavioral Analysis of Whether and How Legal Argument Matters to Decisionmaking*, 40 FLA. ST. U. L. REV. 537 (2013).

Author, *Judging Under Pressure: A Behavioral Examination of the Relationship Between Legal Decisionmaking and Time*, 39 FLA. ST. U. L. REV. 931 (2012).

Co-author, *Report to the Commission on Truth and Reconciliation of Honduras: Constitutional Issues* (2011, with Noah Feldman and David Landau).

Author, *Calculating the Standard Error: Just How Much Should Empirical Studies Curb Our Enthusiasm for Legal Standards?*, 124 HARV. L. REV. F. 92 (2011).

Lead Author, *Evaluating Norms: An Empirical Analysis of the Relationship Between Norm-Content, Operator, and Charitable Behavior*, 63 VAND. L. REV. (2010, with Fiery Cushman).

Author, "Josiah Quincy, Jr.," in YALE BIOGRAPHICAL DICTIONARY OF AMERICAN LAW, (Roger Newman ed., Yale Press 2009).

Author, *Attitude Issues: The Difficulty of Using Personal and Ideological Characteristics to Predict Justice Martha B. Sosman's Decision in Goodridge v. Department of Public Health*, 42 NEW ENG. L. REV. 407 (2008, invited submission).

## **GENERAL PUBLICATIONS:**

Author, *Skill Fade: The Ethics of Lawyer Dependence on Algorithms and Technology*, THOMSON REUTERS, 19 Leg. Solutions 2 (January, 2018).

Author, *Bring the Guantanamo Detainees to Trial*, BOSTON GLOBE (December 19, 2016).

Co-author, #POPJUSTICE, VOL. 3: CULTURE, PERCEPTIONS, AND SOCIAL CHANGE (2016) (through Liz Manne Strategy with Rachel D. Godsil and Jessica MacFarlane in association with Perception Institute).

Co-author, #POPJUSTICE, VOL. 1: SOCIAL JUSTICE AND THE PROMISE OF POP CULTURE STRATEGIES (2016) (through Liz Manne Strategy with Liz Manne, Rachel D. Godsil, Mik Moore, Meredith Osborne, Joseph Phelan, Thelma Adams, and Michael Ahn).

Author, *Perspective: The Divide at the Heart of Legal Tech*, BLOOMBERG (March 29, 2016).

Author, *Can This Tech Company Save Legal Education?*, BLOOMBERG (February 3, 2016).

Co-author, *How to Fix Latin America's 'Strongman' Problem*, NEW YORK TIMES (Dec. 17 2015) (with David Landau and Rosalind Dixon).

Author, *Why Digitizing Harvard's Law Library May Not Improve Access to Justice*, BLOOMBERG (November 12, 2015).

Co-author, *Why Honduras's Judiciary Is Its Most Dangerous Branch*, NEW YORK TIMES (June 25, 2015) (with David Landau).

Co-author, *Fixing Honduras*, LOS ANGELES TIMES (June 7, 2011, with Noah Feldman and David Landau).

#### **REFEREEING:**

Peer Reviewer, MELBOURNE J. INT. L. (2019).

Peer Reviewer, LAW & SOCIAL INQUIRY (2015).

#### **BLOGGING:**

Guest Blogger, I-CONNECT: BLOG OF THE INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW AND CONSTITUTIONMAKING.ORG (2015).

Guest Blogger, CONCURRING OPINIONS (2013).

#### **CLERKSHIPS:**

**United States Court of Appeals for the First Circuit** *Boston, MA*  
*Law Clerk to Hon. Levin H. Campbell, Senior Circuit Judge* September 2003-August 2004

**Supreme Judicial Court of Massachusetts** *Boston, MA*  
*Law Clerk to Hon. Martha B. Sosman, Associate Justice* September 2002-August 2003

#### **LEGAL WORK EXPERIENCE:**

**Expert in Legal Ethics** *August 2017-present*  
Serve as an expert witness for issues of legal duty and breach in legal malpractice cases.

**United States Court of Appeals for the First Circuit** *Boston, MA*  
*Staff Attorney* September 2004-May 2008

Drafted numerous opinions, judgments, and memoranda in conjunction with cases before First Circuit Duty Panel. Performed research in numerous areas of law, especially criminal law, criminal procedure, sentencing, immigration law, and administrative law. Participated in consultations with judges concerning court policy on such issues as standards of review, briefing, and jurisdiction.

**Kirkpatrick & Lockhart, LLP (now K&L Gates)** *Boston, MA*  
*Associate* September 2001-August 2002

Drafted pleadings, motions, interrogatories, document requests, briefs, and legal memoranda in various cases. Served as second-chair and drafted trial brief in defense against SEC enforcement action. Coordinated and executed adversary proceedings against debtors in Bankruptcy Court. Supervised numerous document productions and court filings. Interviewed and prepared clients for depositions and trial.

**Bowditch & Dewey, LLP***Summer Associate**Worcester, MA**Summer 2000*

Worked in Litigation, Employment, Higher Education, Real Estate, and Trust departments. Researched and drafted numerous legal memoranda, motions, oppositions, and interrogatories. Drafted opposition to preliminary injunction concerning misappropriation of stock in an international joint venture. Reviewed college's "Health Services and Pharmaceutical Policy" and drafted letter to client recommending modifications.

**SELECTED PUBLIC SERVICE, AFFILIATIONS, GRANTS & AWARDS:****NJ Leep Organization***Volunteer Mentor, 2018-present***Departmental Teacher of the Year Award and Grant***Seton Hall University, 2017***Liz Manne Strategy***Consultant, 2015*

In conjunction with work for Unbound Philanthropy.

**Perception.Org (formerly The American Values Institute)***Empirical Researcher and Consultant, 2014-present*

In conjunction with work for the Kellogg Foundation.

**Summer Research Grant***Seton Hall University School of Law, 2010, 2011, 2012, 2013, 2014, 2015.***Generalized Empirical Method Fellow***Seton Hall University, 2013-present***Last Resort Exoneration Project***Empirical Researcher and Consultant, 2011-present***Honduras Truth and Reconciliation Commission***Sponsored Legal Analyst, 2010-11***Law & Society Association***Member, 2009-2010***Mind/Brain/Behavior Interfaculty Initiative at Harvard University***Recipient of Research Grant, 2007*

Funded in connection with my empirical analysis of norm types.

**Harvard Law School***Graduate Fellowship, 2006-2007, 2007-2008***Massachusetts Bar***Member, 2002-present***The Colonial Society of Massachusetts***Recipient of Research Grants, 2001 & 2002*

Funded in connection with my work on new edition of Josiah Quincy, Jr.'s law reports.

**Volunteer Lawyers for the Arts of Massachusetts***Recipient of Stipend, 1999*

Funded by the Public Interest Law Foundation of Boston College Law School.

**SELECTED PRESENTATIONS:** (continued on the following pages)

“The Automation of the Reasonably Prudent Person Test,” *29th World Congress of the International Association for the Philosophy of Law and Social*, UNIVERSITY OF LUCERNE, Lucerne, Switzerland (July 2019).

“The Automation of the Reasonably Prudent Person Test,” *(Im)Perfect Enforcement*, YALE LAW SCHOOL, New Haven, CT (April 2019).

“The Future of Law,” DREXEL UNIVERSITY, Philadelphia, PA (October, 2018).

“The Future of Law,” *National Association of Pre-Law Advisors Conference*, YALE LAW SCHOOL, New Haven, CT (August 2018).

Moderator, “AI and Tort Law,” *Artificial Intelligence and the Law Conference*, SETON HALL UNIVERSITY SCHOOL OF LAW, Newark, NJ (April 2018).

“The Pursuit of Falsity: Defamation in the Age of Trump,” CITY UNIVERSITY OF NEW YORK, BARUCH COLLEGE, New York, NY (April 2018).

“AI & Access to Legal Information: The Allure of Answers,” TEXAS A&M, College Station, TX (October 2017).

“The Ethics Resistance,” MASSACHUSETTS SUPREME JUDICIAL COURT LAW CLERKS SOCIETY, Boston, MA (June 2017).

“The Relationship Between Careers in Law and Computer Science,” LEHIGH UNIVERSITY, Bethlehem, PA (May 2017).

“How Will Technology Challenge our Concept of Law?” *Artificial Intelligence, Technology and the Future of Law Conference*, UNIVERSITY OF TORONTO, Toronto, ON (March 2017).

“Can Robots be Lawyers?” (Debate with Andrew Arruda, founder of ROSS Intelligence), 109<sup>TH</sup> ANNUAL AALL CONFERENCE, Chicago, IL (June 2016).

“The Future of Law: Disruptive Innovation and Ethics” DREXEL UNIVERSITY, Philadelphia, PA (April 2015).

“Leadership and Ethics: the Case of Disruptive Innovation,” SETON HALL UNIVERSITY, DEPARTMENT OF VOCATION AND SERVANT LEADERSHIP, South Orange, NJ (April 2015).

Moderator, “The Rules of Professional Conduct and Beyond,” *Symposium on Legal Ethics and Malpractice*, SETON HALL UNIVERSITY SCHOOL OF LAW Newark, NJ (February 2015).

“Disruptive Innovation and Legal Ethics, SAINT JOSEPH’S UNIVERSITY, Philadelphia, PA, (October 2014).

“Justice at Orientation,” Speaker to the Incoming Class, Orientation, SETON HALL UNIVERSITY SCHOOL OF LAW, Newark, NJ (August 2014).

“Careers in Doctrinal Law Teaching,” BOSTON COLLEGE LAW SCHOOL, Newton, MA, (April 2014).

“Norm Overcompliance,” ANNUAL LAW AND SOCIETY ASSOCIATION CONFERENCE, Boston, MA (June 2013).

“General Empirical Method and Legal Education,” SETON HALL UNIVERSITY, DEPARTMENT OF VOCATION AND SERVANT LEADERSHIP, South Orange, NJ (April 2013).

Memorandum on Honduras, U.S. DEPARTMENT OF STATE, Washington, D.C. (December 2012).

“Legal Argument v. Constraint,” HARVARD LAW SCHOOL, GRADUATE PROGRAM, Cambridge, MA (March 2012).

Consultation with Lisa Kubiske, U.S. Ambassador to Honduras, U.S. DEPARTMENT OF STATE, Washington, D.C. (July 2011).

“A Constitutional Analysis of the Honduran Crisis,” THE TRUTH AND RECONCILIATION COMMISSION OF HONDURAS, Guatemala City, Guatemala (March 2011).

“Capturing Constraint,” MARQUETTE UNIVERSITY SCHOOL OF LAW, Milwaukee, Wisconsin (February 2011).

“A Behavioral Study of Judicial Decisionmaking,” Winter 2009-10.

- SETON HALL UNIVERSITY SCHOOL OF LAW
- TEMPLE UNIVERSITY LAW SCHOOL
- FLORIDA STATE UNIVERSITY LAW SCHOOL
- UNIVERSITY OF CINCINNATI LAW SCHOOL
- HARVARD LAW SCHOOL
- BOSTON COLLEGE LAW SCHOOL

“Advice for 1Ls,” HARVARD LAW SCHOOL, Cambridge, MA (Spring 2008).

Coordinator and Moderator, Law Teaching Colloquium Series, HARVARD LAW SCHOOL Cambridge, MA (Fall 2007-Spring 2008):

- “Well-Rounded Teaching” (2008, with Mary Bilder, Paul Weiler, and Florrie Darwin)
- “The Law Teaching Market” (2008, with Jack Goldsmith, Daryl Levinson, and Akiba Covitz)
- “Structured Tracks to Legal Academia” (2008, with Jed Shugerman and Gail Hupper)
- “Socratic Method” (2008, with Elizabeth Warren)
- “Research Agenda” (2007, with Ran Hirschl, Gabriella Blum, and I. Glenn Cohen)
- “Getting Published” (2007, with Adriaan Lanni and Rachel Brewster)

“Developments in Legal Positivism and Natural Law,” Legal Theory and Methodology Doctoral Seminar, HARVARD LAW SCHOOL, Cambridge, MA, (Spring 2006).

Judicial Clerks Roundtable, Harvard Law School Graduate Forum, HARVARD LAW SCHOOL, Cambridge, MA (Winter 2006).