

GEORGE B. SHEPHERD

Office: Emory University School of Law, Gambrell Hall, Atlanta, Georgia 30322-2770 (tel. (404) 606-2856; fax (404) 727-6820; gshep@law.emory.edu).

Home: 1027 Oxford Road, Atlanta, GA 30306 (tel. (404) 606-2856).

Born September 15, 1960.

EDUCATION:

Stanford University. Ph.D. in Economics, 2009. Dissertation: theoretical and empirical examination of the pretrial discovery process.

Harvard Law School. J.D., Cum Laude, 1986.

Yale University. B.A. (Honors) in economics, Summa Cum Laude, Phi Beta Kappa, 1982.

University of Michigan Music School, studied operatic vocal technique, 1983.

Stätliche Hochschule für Musik, Munich, Germany, operatic technique, lieder, 1982.

HONORS:

1997 Annual Award for Scholarship for year's best article, American Bar Association Section of Administrative Law and Regulatory Practice (awarded for "Fierce Compromise").

Summa Cum Laude, Phi Beta Kappa, Yale University.

Yale University Dickerman Memorial Prize for Best Economics Senior Thesis: "The Economics of Singing," 1982.

LEGAL PRACTICE AND EMPLOYMENT:

Assistant Professor, 1995-98; Associate Professor, 1998 - 2002; Professor, 2002 - present; tenured in 1999, Emory University School of Law, Atlanta, Georgia.

Visiting Professor of Law, University of Dresden, Dresden, Germany, Spring-Summer 2001, 2005, 2013, 2014, 2015.

Visiting Professor of Law, University of Warsaw, Warsaw, Poland, Spring 2018.

Lecturer for Kaplan Bar Review, 2010-2019.

Attorney at Howard, Rice, Nemerovski, Canady, Robertson & Falk, San Francisco, California, 1987 - 1990. Commercial litigation and bankruptcy. Lead attorney on several trials and federal appeals. Admitted to California Bar, 1987.

Law Clerk to Alicemarie H. Stotler, California Federal District Judge, 1986.

RESEARCH FIELDS:

Corporate law and securities regulation. Law and economics, with focus on empirical and statistical studies. Empirical and theoretical analysis of the economics of the litigation process, especially discovery. Economic examination of legal rules, including investigation of rules' causes and economic impacts; special focus on civil procedure. The legal history of administrative law and procedure. The law and economics of education. Antitrust economics and policies. Criminal law and the disabled.

COURSES TAUGHT:

Business Associations, Corporate Finance, Securities Regulation, Corporate Seminar, Evidence, Civil Procedure, and Law & Economics.

BOOKS PUBLISHED:

Business Structures, with David G. Epstein, Richard D. Freer, Michael J. Roberts (5th ed., Minnesota: West Group, 2019).

Teacher's Manual for Business Structures, 5th ed., with David G. Epstein, Richard D. Freer, Michael J. Roberts (Minnesota: West Group, 2019).

Business Structures, with David G. Epstein, Richard D. Freer, Michael J. Roberts (4th ed., Minnesota: West Group, 2015).

Teacher's Manual for Business Structures, 4th ed., with David G. Epstein, Richard D. Freer, Michael J. Roberts (Minnesota: West Group, 2015).

Business Structures, with David G. Epstein, Richard D. Freer, Michael J. Roberts (3rd ed., Minnesota: West Group, 2010).

Teacher's Manual for Business Structures, 3rd ed., with David G. Epstein, Richard D. Freer, Michael J. Roberts (Minnesota: West Group, 2010).

Editor, Rejected: Leading Economists Ponder the Publication Process (Arizona: Thomas Horton & Daughters, 1995) (essays by 71 economists, including 16 Nobel Prize winners, on instances when journals rejected their work; responses by four journal editors; foreword by Kenneth J. Arrow; includes my 60-page analysis; favorably reviewed in Wall Street

Journal, September 27, 1995).

JOURNAL AND OTHER PUBLICATIONS:

“Not Just Profits: The Duty of Corporate Leaders to the Public, Not Just Shareholders,” *U. Penn. J. Bus. Law* (forthcoming).

"When Should a Person's Name be Removed from a Monument? A Proposed Standard and Its Application to the Yerkes National Primate Research Center," *51 University of Toledo Law Review* 249 (2020).

"Still a Failure: Broad Pretrial Discovery and the Superficial 2015 Amendments," *51 Akron Law Review* 817 (2018).

“The Judge Who Saved Trump’s Campaign,” CNN Online, November 17, 2016, <http://www.cnn.com/2016/11/17/opinions/judge-curiel-trump-case/index.html> .

“Homeschooling: Choosing Parental Rights Over Children’s Interests,” with Martha Fineman, *46 University of Baltimore Law Review* 57 (2016).

“Homeschooling’s Harms: Lessons from Economics” *49 Akron Law Review* 339 (2016).

“The Administrative Procedure Act, Its Legislative History, and Courts’ Deference to Agencies’ Legal Interpretations,” written testimony before the U.S. House Judiciary Committee, Subcommittee on Regulatory Reform, Commercial and Antitrust Law, in a hearing entitled “The Chevron Doctrine: Constitutional and Statutory Questions in Judicial Deference to Agencies.” Washington, D.C., March 15, 2016, and on the U.S. House of Representatives Judiciary Committee’s website: <https://judiciary.house.gov/wp-content/uploads/2016/03/Shepherd-Testimony.pdf> .

“Trump’s Accusers May See Him in Court,” with Morgan Cloud, *Wall Street Journal*, March 17, 2016 (op-ed piece suggesting that Trump will have to testify in fraud lawsuit against him).

“Failed Experiment: *Twombly*, *Iqbal*, and Why Broad Pretrial Discovery Should Be Further Eliminated,” *Indiana Law Review* (forthcoming 2016).

“Law Deans in Jail,” with Morgan Cloud, *77 Missouri Law Review* 1 (2013).

“David Bederman as Mentor and Model,” *61 Emory Law Journal* 1067 (2012).

"Lawyers, Ignorance, and the Dominance of Delaware Corporate Law," with William Carney and Joanna Shepherd Bailey, *2 Harvard Business Law Review* 123 (2012).

"Baseball's Accidental Racism: The Draft, African-American Players, and the Law," with Joanna

Shepherd Bailey, 44 Connecticut Law Review 197 (2011).

“Delaware Corporate Law: Failing Law, Failing Markets,” with William Carney & Joanna Shepherd, in *The Law and Economics of Corporate Governance: Changing Perspectives* 23 (Alessio M. Paces ed., 2010).

“The Mystery of Delaware Law’s Continuing Success,” with Bill Carney. 2009 University of Illinois Law Review 1 (2009).

“Accreditation, the Bar Exam, and Antitrust,” published in proceedings of the conference, “Leading Legal Innovation,” sponsored by the University of Southern California Gold School of Law. San Diego, CA, December 12-13, 2008.

Written testimony for the U.S. Senate Committee on the Judiciary (full committee), in Hearing Record of S. 442, “The John R. Justice Prosecutors and Defenders Incentive Act of 2007.” Washington, D.C., February 27, 2007, and on the U.S. Senate Committee on the Judiciary’s website: http://judiciary.senate.gov/testimony.cfm?id=2546&wit_id=6100.

“Make It All Optional,” Vol. 28, no. 36 Legal Times (September 5, 2005) republished on Law.com website (September 5, 2005) (arguing that attendance at an ABA-accredited law school should no longer be a requirement for practicing law).

“The Impacts of the European Rule for Fee-Shifting on Litigation Behavior,” in Han-Eric Rasmussen-Bonne et al., eds., *Balancing of Interests: Amicorum Peter Hay zum 70 Geburtstag* (2005).

“A Biography of Carl McFarland,” in Roger K. Newman, ed., *Yale Biographical Dictionary of American Law* (forthcoming 2005) (brief biography of drafter of Administrative Procedure Act).

“Defending the Aristocracy: ABA Accreditation and the Filtering of Political Leaders,” 12 Cornell Journal of Law and Public Policy pp. 637-663 (2003) (analysis of how ABA accreditation excludes many African-Americans from politics).

“No African-American Lawyers Allowed: The Inefficient Racism of the ABA’s Accreditation of Law Schools,” 53 Journal of Legal Education 103-156 (2003) (extensive analysis of how ABA accreditation of law schools excludes African-Americans and other disadvantaged groups from the legal profession).

“Words Without Meaning: The Constitution, Confessions, and Mentally Retarded Suspects,” with Morgan Cloud, Alison Barkoff, and Justin Shur, 69 University of Chicago Law Review pp. 495-624 (2002) (extensive theoretical and empirical study showing that the developmentally disabled do not understand the *Miranda* warning, and how this threatens the whole *Miranda* system).

- “Low I.Q. and the Death Penalty,” with Morgan Cloud, New York Times, February 22, 2002, A21 (op-ed piece recommending prohibition on executing mentally retarded people).
- “Antitrust and Market Dominance,” with William G. Shepherd and Joanna M. Shepherd, 46 Antitrust Bulletin 835-878 (Winter 2001) (53-page evaluation of antitrust approaches, specifically Microsoft case).
- “ABA Damages Black Law Schools,” National Law Journal, May 14, 2001, A23 (commentary on why ABA accreditation harms African-Americans; in response, ABA’s head of accreditation published own editorial.)
- “Sharper Focus: Market Shares in the Merger Guidelines,” with William G. Shepherd and Helen S. Shepherd, 45 Antitrust Bulletin pp. 835-885 (Winter 2000) (thorough critique of the DOJ’s and FTC’s merger guidelines, suggesting that guidelines’ vagueness causes rent-seeking, economic distortions, and inefficiency; proposing streamlined guidelines).
- “Cartels and Controls in Legal Training,” 45 Antitrust Bulletin pp. 437-466 (Summer 2000) (focused economic analysis of American Bar Association’s system for accrediting law schools).
- “An Empirical Study of the Economics of Pretrial Discovery,” 19 International Review of Law and Economics pp. 245-263 (June 1999) (empirical econometric examination of the pretrial process and discovery). Reprinted in Economics of Evidence, Procedure and Litigation, Chris W. Sanchirico ed. (Cheltenham: Edward Elgar, 2007).
- “Time and Money: Discovery Leads to Hourly Billing,” with Morgan Cloud, 1999 University of Illinois Law Review pp. 91-180 (economic and historical analysis of how discovery contributed to change to hourly billing).
- “The Causes and Effects of Liability Reform: Some Empirical Evidence,” with Thomas J. Campbell and Daniel P. Kessler, 1998 Brookings Papers on Economic Activity, Microeconomics pp. 107-148 (1999) (empirical examination of tort reforms’ impact on states’ economies and of the factors that cause states to adopt the reforms).
- Review, Economics and the Law: From Posner to Post-Modernism, by Nicholas Mercurio and Steven G. Medema, 9 Constitutional Political Economy 255-258 (1998).
- “Scholarly Restraints? ABA Accreditation and Legal Education,” with William G. Shepherd, 19 Cardozo Law Review pp. 2091-2257 (1998) (extensive legal and economic critique of the American Bar Association’s system for accrediting law schools) (featured in [cite New York Times article]).
- “Fierce Compromise: The Administrative Procedure Act Emerges From New Deal Politics,” 90 Northwestern Law Review pp. 1557-1683 (1996) (revisionist history of APA’s adoption, examining social and political influences) (winner of 1997 Annual Award for Scholarship)

for year's best article, American Bar Association Section of Administrative Law and Regulatory Practice).

"Overlap and Antitrust: Fixing Prices in a Smoke-filled Classroom," 40 *Antitrust Bulletin* pp. 859-884 (Winter 1996) (economic analysis of Overlap agreement among leading universities to control students' financial aid).

"Liability Reforms and Economic Performance," with Thomas J. Campbell and Daniel P. Kessler, in Ralph Landau, et al., eds., *The Mosaic of Economic Growth* pp. 267-280 (Stanford, CA: Stanford University Press, 1996) (empirical study of tort reforms' economic impact; research featured in *Wall Street Journal*, September 18, 1995).

"How Are The Mighty Fallen: Rejected Classic Articles By Leading Economists," with Joshua S. Gans, 8 *Journal of Economic Perspectives* pp. 165-179 (Winter 1994) (description and analysis of accounts from leading economists about publication rejection experiences). Reprinted in Joshua Gans, ed., *Publishing Economics: Analyses of the Academic Journal Market in Economics* (Cheltenham, UK: Edward Elgar: 2000).

"Insurance Plan's Illusory Choice," *The American Lawyer*, January/February 1993, with Daniel P. Kessler (commentary on Bush administration insurance reform proposal).

"Cartel On Campus: The Economics and Law of Academic Institutions' Financial Aid Price-Fixing," with Donald R. Carlson, 71 *Oregon Law Review* pp. 563-629 (1992) (legal and economic analysis of the agreement among leading universities to control financial aid).

WORKING PAPERS:

"Not Only for the Rich: Private Dispute Resolution and Judicial Vouchers (proposing program of judicial vouchers; showing how they might cure some of present legal system's ills).

"A Theoretical Model of the Pretrial Litigation Process and Discovery," Emory University, School of Law, 2001 (theoretical economic model of pretrial litigation process to explore litigants' amounts of discovery).

OUTSIDE PRESENTATIONS:

I presented "The Offensiveness of Drag: Male Physical and Vocal Impersonation of Women is as Bad as Blackface," August 7, 2019, Emory University School of Law.

I presented "When Should a Person's Name be Removed from a Monument? A Proposed Standard and Its Application to the Yerkes National Primate Research Center," August 8, 2018, Emory University School of Law.

I presented "Still a Failure: Broad Pretrial Discovery and the Superficial 2015 Amendments," at Akron Law School, April 6, 2018.

I presented "Not Just Profits: The Duty of Corporate Leaders to the Public, Not Just shareholders," at A Workshop on Professionalism and Vulnerability, Leeds University, Leeds, Great Britain, October 28, 2017.

I presented the "Methods of Legal Interpretation, Applied to the New Testament," July 12, 2017, Emory University School of law.

"Methods of Legal Interpretation, Applied to the New Testament: What Law Has to Say about whether Acts or Beliefs are More Important for Being a Christian," April 30 and May 7, 2017, presented to the New Class at Glenn Memorial United Methodist Church.

I presented "Homeschooling's Harms: Lessons from Economics," January 4, 2017, at the AALS Annual Meeting, Section on Socio-Economics.

Testimony before the U.S. House Judiciary Committee, Subcommittee on Regulatory Reform, Commercial and Antitrust Law, in a hearing entitled "The Chevron Doctrine: Constitutional and Statutory Questions in Judicial Deference to Agencies." Washington, D.C., March 15, 2016.

Presented "Home Schooling" at A Workshop on Vulnerability and Education, Amherst College, Amherst, Mass., April 25, 2015.

Presented "Home Schooling" at American Association of Law Schools, Annual Meeting, Socio-Economics Sessions, New Orleans, LA, January 3, 2013.

Presented "Accreditation, the Bar Exam, and Antitrust," at a conference, "Leading Legal Innovation," sponsored by the University of Southern California Gold School of Law. San Diego, CA, December 12-13, 2008.

Made presentation at Federalist Society Faculty Conference, January 4, 2008, New York, NY, in session entitled, "*Are Law Schools Operating as a Cartel?*"

Testimony before the U.S. Senate Committee on the Judiciary (full committee). Hearing on S. 442, "The John R. Justice Prosecutors and Defenders Incentive Act of 2007." Washington, D.C., February 27, 2007.

Presented "Failed Experiment" (see above) at George Washington University Law School (October 2005).

Presented "US. Labor Market Regulation" (see above) at University of Kentucky Law School (November 18, 2004).

Presented "No African-Americans Allowed" at William & Mary Law School (October 20, 2003).

Presented "U.S. Labor Market Regulation" (see above) at annual meetings of American Law & Economics Association, Toronto, Canada (September 20, 2003).

Panelist, AALS Conference on Civil Procedure, Plenary Session, “The Discovery Wars: Combat on the Products Liability Front,” New York, NY (June 20, 2003).

Presented “Defending the Aristocracy” (see above) at Cornell Law School, Symposium, Policy at the Intersection of Law and Politics, organized by Cornell Journal of Law and Public Policy (November 1-2, 2002).

Participant, Legal Services Markets International Symposium, Lord Chancellor’s Department, London, England (one of approximately 15 invited participants in seminar to provide guidance about reforming legal system)(October 24-25, 2002).

Presented “No African-American Lawyers Allowed” paper at George Mason University School of Law (November 5, 2001); Indiana University School of Law, Indianapolis (January 24, 2002); Indiana University School of Law, Bloomington (January 25, 2002).

Presentation on the economics of break-up of Microsoft, in “The Microsoft Case: An Overview of the Issues,” Institute for Continuing Legal Education in Georgia, Antitrust in the Twenty-First Century (organized by Antitrust Law Section, State Bar of Georgia), Atlanta, GA (November 30, 2000).

Presented “The Impacts of the European Rule for Fee-Shifting on Litigation Behavior” at conference organized by Claus M. Halle Institute for Global Learning, "Securing Rights in an Integrated Europe," at Central European University, Budapest, Hungary (May 25-26, 2000).

Presentation on benefits of break-up of Microsoft, in “Point/Counterpoint: Should Microsoft Be Broken Up?”, Computer Law Section, Georgia State Bar, Atlanta, GA (August 24, 2000).

Served as panelist and discussed my "Scholarly Restraints" paper at a "Presidential Showcase" session on ABA accreditation at the 1999 Summer Annual Meeting of the American Bar Association, Atlanta, GA. Other panelists included Stanford's Deborah Rhode. (August 7, 1999).

Co-author presented the paper "The Macroeconomic Impact of Liability Reforms: Some Empirical Evidence" at the Annual Meetings of the Brookings Institution on June 19-20, 1998, in Washington, D.C.

Presented “Time and Money” paper at annual meetings of the American Law and Economics Association, Berkeley, California (May 8, 1998).

Presented a paper and was in residence at Cornell Law School April 23-30, 1998, as a fellow in Cornell’s John M. Olin Program in Law and Economics.

Presented “Time and Money” working paper at Boston University Law School (January 1998) and Vanderbilt Law School (December 1997).

Panel discussant at annual meetings of the Southern Economics Association (November 22, 1997).

Presented paper on the law and economics of ABA accreditation at annual meetings of the American Law and Economics Association, Toronto, Canada (May 9, 1997).

Analyzed legal issues for panel discussion of Tuskegee Syphilis Study at Grand Rounds, Grady Hospital, Atlanta, GA (May 1, 1997).

Presented paper on economics of tort reforms at Emory University Department of Economics (October 11, 1996).

Presented paper on the economics of the discovery process at annual meetings of the American Law and Economics Association, Chicago, Illinois (May 10, 1996).

Presented paper on economics of tort reforms at University of Chicago, School of Business (February 14, 1996).

Addresses and seminars at various other institutions, including Williams College and Stanford University, Center for Economic Policy Research.

Served as a discussant on panels at various conferences, including the annual meeting of the American Law and Economics Association and Southern Economic Association.

NSF GRANT:

I was co-principal investigator on a grant of approximately \$3 million from the National Science Foundation, Integrative Graduate Education and Research Traineeship Program. The funds have been used to create TI:GER, a multidisciplinary program in promoting innovation. The program creates teams of graduate students that include engineering and science students from Georgia Tech and Emory, business students from Georgia Tech, and law students and economics students from Emory.

OTHER PROFESSIONAL ACTIVITIES:

Serving as Reporter for the State Bar of Georgia's 20th anniversary revision of the Georgia Business Corporation Code. Involves coordinating first major revision of Georgia's corporate code in 20 years, writing commentary, and assisting and participating in subcommittees and working groups (2009-2011).

Participant, Halle Faculty Seminar, Claus M. Halle Institute for Global Learning at Emory University (1999-2000).

Co-Chair, 1999 Annual Meeting, A.B.A. Section of Administrative Law and Regulatory

Practice.

Co-Chair, Education Committee, A.B.A. Section of Administrative Law and Regulatory Practice, 1998-99.

Established and administered Emory Law & Economics Program Free-Lunch Colloquium Series, 1996-present.

Refereeing of articles for economics and political science journals, including Rand Journal, Review of Industrial Organization, and American Journal of Political Science.