

Brian C. Murchison

Charles S. Rowe Professor of Law
Washington and Lee University School of Law
Lexington, Virginia 24450

Education

J.D., Yale Law School, 1979.

B.A., Yale University, 1974, Phi Beta Kappa, summa cum laude, distinction in the English major.

Fields of Specialization

Mass Media and the First Amendment, Administrative Law, Torts, Jurisprudence.

Experience

2006-07: Acting Dean, School of Law, Washington and Lee University.

2002-present: Charles S. Rowe Professor of Law, Washington and Lee University School of Law.

1990-2002: Professor of Law, W&L.

1991-1994: Professor of Law and Director of Frances Lewis Law Center, research arm of W&L.

1986-1990: Associate Professor of Law, W&L.

1982-1986: Assistant Professor of Law, W&L.

1979-1982: Associate, Hamel, Park, McCabe & Saunders, Washington, D. C.

1974-1976: Peace Corps, English teacher, Benin, West Africa.

Publications

"The Fact-Conjecture Framework in U.S. Libel Law: Four Problems," 13 Media & Arts L. Rev. 137, University of Melbourne (2008).

"Speech and the Self-Governance Value," 14 Wm. & Mary Bill Rts. J. 1251 (2006).

"Revisiting the American Action for Public Disclosure of Private Facts," book chapter, in *New Dimensions in Privacy Law: International and Comparative Perspectives* (Cambridge University Press) (A. Kenyon & M. Richardson, eds. 2006).

"Due Process, Black Lung, and the Shaping of Administrative Justice," 54 Administrative Law Review 1025 (2002).

"Treating Physicians as Expert Witnesses in Compensation Systems: The Public Health Connection," 90 Kentucky L. J. 891 (2002).

"Law, Belief, and *Bildung*: The Education of Harry Edwards," 29 Hofstra L. Rev. 127 (2000).

"Speech and the Self-Realization Value," 33 Harvard C.R.-C.L. L. Rev. 443 (1998).

- "Interpretation and Independence: How Judges Use the Avoidance Canon in Separation of Powers Cases," 30 Georgia L. Rev. 85 (1995).
- "*Sullivan's Paradox: The Emergence of Judicial Standards of Journalism*," 73 N.C. L. Rev. 7 (1994) (with co-authors from the Iowa Libel Research Project, J. Soloski, R. Bezanson, G. Cranberg, and R. Wissler).
- "The Concept of Independence in Public Law," 41 Emory Law Journal 961 (1992).
- "Resolving Libel Disputes Out of Court: The Libel Dispute Resolution Program," in REFORMING LIBEL LAW (The Guilford Press 1992), co-authored with R. Wissler, R. Bezanson, J. Soloski, G. Cranberg.
- "The Three Voices of Libel," 47 Wash. & Lee L. Rev. 213 (1990) (co-authored with R. Bezanson).
- "On Ripeness and 'Pragmatism' in Administrative Law," 41 Administrative L. Rev. 159 (1989).
- "Moments of Silence in Administrative Law: Notes on Judicial Method in the Deregulation Cases," 60 Tulane L. Rev. 697 (1986).
- "Misrepresentation and the F.C.C.," 37 Federal Communications Law Journal 403 (1985).

Other Writings

"The Black Lung Benefits Program: In Search of Due Process," Administrative & Regulatory News (2003) (short article on new Department of Labor regulations and implications for black lung program).

"Prescription Drugs, Products Liability, and Innovation: Notes on the U.S. Experience," 29 International Business Lawyer 111 (2001).

"A Story of Teaching and Scholarship," short essay in 1993 Washington and Lee University School of Law Dean's Report.

"Two Years in Africa," Education Today, Journal of the National Education Association, 1977.

Professional Activities

2008-present: Editor-in-Chief, Journal of Civil Litigation, quarterly Law Review published by Virginia Association of Defense Attorneys (VADA).

July 2007: Research Visitor, University of Melbourne Law School, Melbourne, Australia. Guest of Centre for Media and Communications Law. Presented paper, "The Fact-Conjecture Framework in U.S. Libel Law: Four Problems," at seminars for media law specialists in Sydney and Melbourne.

1999-present: Member, The American Law Institute.

1996-1999: Co-founder, Black Lung Clinic at Washington and Lee. Supervised students in

representation of disabled coal miners seeking disability benefits under the Black Lung Benefits Act administered by the U.S. Department of Labor. Lead attorney in hearings before federal administrative law judges, e.g., *Terry v. Hobet Mining, Inc.*, 21 Black Lung Reporter (1999), and appeals to the Benefits Review Board. (See www.law.wlu.edu/clinical/blacklung/clearair.html).

- Feb. 1995: Professional in Residence, Administrative Conference of the United States/ United States Information Agency Rule of Law in Africa Program, Ghana, West Africa. Three-week lecture series on legal issues relating to freedom of the press. Lectured at the School of Communications Studies and Faculty of Law, University of Ghana, and other venues in Accra, Ghana.
- 1988-1994: Principal investigator and co-author, The Iowa Libel Research Project. Two projects: (1) Study of judicial creation of norms of journalistic behavior in libel decisions; (2) Implementation of a Libel Dispute Resolution Program offering libel litigants in the U.S. an alternative dispute resolution mechanism for resolving defamation cases.

Awards/Recognitions:

- 2008-09: Law Alumni Association Fellow in Teaching Excellence, W&L School of Law.
- 2008: Daniel C. Coffey Award, presented by the Student Bar Association for service to the University.
- 2007: William W. Pusey III Award, presented annually by the Executive Committee of the Washington and Lee student body "to the faculty member or administrator who has made the greatest contribution to the University."
- 2004-05: Student Bar Association Professor of the Year, as chosen by W&L law student body.
- 2003-04: Inducted into W&L Chapter of Omicron Delta Kappa.
- 2000-2001, 1996-97, 1995-96, 1993-94, 1992-93, 1990-91: Student Bar Association Outstanding Professor, as chosen by the first-year class, W&L.
- 2001-02, 2000-2001: Student Bar Association Outstanding Professor, as chosen by second and third year classes, W&L.
- 1995-96, 1991-92, 1984: Outstanding Professor Award, W&L Chapter of Phi Delta Phi (law fraternity).
- 1988: Outstanding Faculty Award, Virginia Council of Higher Education, award presented by Va. Governor Gerald Baliles.

University Service

Faculty Participant, Board of Trustees meetings, 2008-09 (elected by law faculty to participate in meetings of committees of the W&L Board).

Member, University Committee on Inclusiveness, 2009.
Chair, Faculty Inclusiveness Committee, 2007-present.

Member, CAIR (Confidential and Informal Resolution program for student complaints of sexual misconduct).

Chair, Presidential Search Committee, Washington and Lee University, 2005-06. Headed 32-member committee of trustees, faculty, staff, students, and alumni, in national search which resulted in selection of Kenneth P. Ruscio as W&L's twenty-sixth President.

University committees, including President's Advisory Committee (elected by faculty) (2000-03, including Presidential Search and Screening Committee), University Commons Committee (1997-98, 1999-2001, planning group for new University Commons).

Law School committees: Appointments (Chair, 2001-2004), and at various times: Dean Search, Clinical, Law Center, Admissions, Appointments, Educational Planning and Curriculum, Tenure, Faculty Support, Law School Renovation.

Faculty Advisor, Washington and Lee Law Review (1995-1999).

Assisted student groups (in various capacities), including Media Law Forum, BLSA, Moot Court Board.

Occasional guest speaker in Summer Scholars program, undergraduate journalism and ethics courses.

Other Activities

Oct. 2008: Panelist, Supreme Court Preview, Washington and Lee.

Jan. 2008: Discussion Leader, W&L Institute for Honor.

July 2007: Presenter, "The Courts and the Media," conference at University of Melbourne Law School, sponsored by the Australian Press Council and the Centre for Media and Communications Law. Discussed U.S. cases involving reporter's privilege and contempt.

Mar. 2005: Presenter, "Developments in Media Law: The New York Times Privilege Case," 39th Institute on Ethics and Journalism, Washington and Lee.

May 2004: Speaker, "The *Sidis* Case: Invasion of Privacy Then and Now," Virginia Association of Law Libraries, Washington and Lee.

Mar. 2004: Presenter, "Developments in Media Law: Journalistic Behavior as Evidence in Libel Litigation," 37th Institute on Ethics and Journalism, Washington and Lee.

July 2003: Lecturer, Washington and Lee Alumni College: "Media and Law Since Watergate." Lectures: "The Press in Wartime," "Libel Law and the Richard Jewell Case," "The *Sidis* Case: Invasion of Privacy Then and Now," "The F.C.C.'s New Ownership Rules: Too Much Concentration?"

Mar. 2002: Presenter, "Developments in Media Law: Libel Law," 34th Institute on Ethics and Journalism, Washington and Lee.

- Oct. 2000: Panelist, "Media Coverage of High Profile Cases," Capital Defense Workshop, Virginia Bar Association, Richmond VA.
- Sept. 2000: Lecturer, "Evidence and Justice in Administrative Adjudications," for annual Seminar of the Federal Administrative Law Judges Conference (FALJC).
- July 2000: Lecturer, "The Lindbergh Kidnaping Case," Washington and Lee University Alumni College on Great Trials of the Twentieth Century.
- April 1996: Panelist, annual conference of Office of Administrative Law Judges, U.S. Dept. of Labor. Analysis of proposed rules to alter the federal black lung claims process.
- Oct. 1994: Participant, "Weaving Virginia's Stories," humanities festival sponsored by the Virginia Foundation for the Humanities and Public Policy, in conjunction with the National Endowment for the Humanities' National Conversation. Moderated "The National Conversation."
- Oct. 1993: Lecturer, Washington and Lee Law School Alumni Weekend. "Law, Billy Budd, and Bartleby the Scrivener."
- June 1993: Lecturer, Washington and Lee Alumni College, "Shakespeare for the '90s: Two Plays" ("The Merchant of Venice" and "Antony and Cleopatra").
- Mar.1990: Participant, Washington and Lee Symposium, "Offensive and Libelous Speech: What Do The 1990s Hold for Defamation?" Responded to paper by Prof. David Anderson.
- Feb. 1989: Panelist, Annenberg Washington Project on Libel Reform, Washington, D.C. Conference on proposed libel reform legislation.
- Summer 1988: Lecturer, Washington and Lee Institute for Business Executives. Ethical dimensions of "Antony and Cleopatra" (Shakespeare), "The Displaced Person" (Flannery O'Connor), and problems in business ethics.
- Summer 1986: Lecturer, Washington and Lee Institute for Business Executives. "The Bear" (Faulkner), "Master Harold and the Boys," and "A Lesson From Aloysius" (Athol Fugard).
- April 1985: Lecturer, meeting of editors and reporters, Roanoke Times and World-News, Roanoke, Virginia. "Libel Law Developments."
- Mar.1985: Lecture, "Privacy, Ethics and Law," Eleventh Annual Institute on Journalism, Washington and Lee.
- Summer 1984: Discussion Leader, 1984 Washington and Lee Alumni College, "Society and the Media."

Professional Memberships

Personal

ALI
D. C. Bar
American Bar Association

Born May 25, 1952
Married to Ann E. Murchison, three children