

FRANCIS J. MOOTZ III
WILLIAM S. BOYD SCHOOL OF LAW, UNIVERSITY OF NEVADA, LAS VEGAS
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APPOINTMENTS

William S. Boyd School of Law, University of Nevada Las Vegas

William S. Boyd Professor of Law (with tenure), 2008-present

Courses taught: Sales, Payment Systems, Jurisprudence Seminar

Penn State University, Dickinson School of Law (Carlisle, PA)

Samuel Weiss Distinguished Faculty Scholar, 2007 – 2008

Associate Dean for Academic Affairs, 2004 – 06

Professor of Law (with tenure), 2000 – 2008

Visiting Professor of Law, Spring 2000

Courses Taught: Contracts, Sales, Insurance Law, Payment Systems, Legislative and Administrative Process & Interpretation, Seminar on Statutory Interpretation, International Commercial Transactions, and Equal Rights Law (Summer Scholars undergraduate course)

Dickinson College (Carlisle, PA)

Adjunct Professor of Political Science, Spring 2006

Course Taught: Judges and Democracy

College of William and Mary, Marshall-Wythe School of Law (Williamsburg, VA)

Visiting Professor of Law, Fall 2002

Courses Taught: Sales, Payment Systems

Western New England College School of Law (Springfield, MA)

Professor of Law (with tenure), 1995 – 2000

Associate Professor, 1993-95

Assistant Professor, 1990-93

Courses Taught: Contracts, Sales, Insurance Law, Employment Law, and Jurisprudence (Law and Literary Theory; Habermas Seminar)

EDUCATION

Duke University School of Law

J.D. *with high honors*, 1986

Editor, LAW AND CONTEMPORARY PROBLEMS, 1985-86

International Trial Lawyers Student Advocacy Prize

Duke University Graduate School

A.M., Philosophy (with thesis), 1986

University of Notre Dame

B.A., History *with high honors*, 1983

PROFESSIONAL SERVICE

Commissioner, Uniform Law Commission (formerly NCCUSL)

(Pennsylvania, 2006-08; appointed by Governor Edward G. Rendell)

(Nevada, 2008-present; appointed by Legislative Commission)

Amicus Brief, *Aircraft Network, L.L.C. v. Associated Aviation Underwriters, Inc.*

(Supreme Court of Texas; Filed February 2008).

SCHOLARSHIP

Books

LAW, HERMENEUTICS AND RHETORIC (Ashgate Publishing, forthcoming 2010).

RHETORICAL KNOWLEDGE IN LEGAL PRACTICE AND CRITICAL LEGAL THEORY
(University of Alabama Press, 2006) (Part of the series: *Rhetoric, Culture
and Social Critique*).

COMMERCIAL CONTRACTING: AN INTEGRATION OF SALES, LEASES AND COMPUTER
INFORMATION TRANSACTIONS LAW (with Peter Alces and David Frisch).
(LexisNexis Publishing, 2004; 2nd ed. 2008).

Edited Books

1 APPELMAN ON INSURANCE, KEY INSURANCE LAW AND PRACTICE TOPICS
(Lexis-Nexis, 2010) (Editor of first volume of the Library Edition that
will update the leading 70-volume treatise on insurance law).

ON PHILOSOPHY IN AMERICAN LAW (Cambridge University Press, 2009)

NIETZSCHE AND LAW (Ashgate Publishing, 2008) (with Peter Goodrich)

GADAMER AND LAW (Ashgate Publishing, 2007)

Book Contributions

Chapter 12: Interpretation, in THE COMPANION TO LAW AND THE HUMANITIES.
(Austin Sarat, Mathew Anderson and Catherine Franke eds., Cambridge
Univ. Press, forthcoming 2009).

Natural Law and the Cultivation of Legal Rhetoric, in REDISCOVERING FULLER:
IMPLICIT LAW AND INSTITUTIONAL DESIGN (Willem Witteveen and Wibren
van der Berg eds., 1999).

Insurance Coverage of Discrimination Claims, in MERRICK T. ROSSEIN,
EMPLOYMENT DISCRIMINATION (1997) [Chapter 34].

Postmodern Constitutionalism as Materialism, in POSTMODERNISM AND LAW
(Dennis Patterson ed., 1994) [reprinting 91 MICH. L. REV. 515 (1992)].

Solicited Symposium Contributions

- Faithful Hermeneutics*, LAW AND RELIGION SYMPOSIUM, 2008 MICH. ST. L. REV. (Forthcoming 2009).
- Symposium Editor, *Introduction*, RECALLING VICO'S LAMENT: THE ROLE OF PRUDENCE AND RHETORIC IN LAW AND LEGAL EDUCATION, 83 CHI-KENT L. REV. 1097-1105 (2008).
- Vico's "Ingenious Method" and Legal Education*, 83 CHI-KENT L. REV. 1261-1302 (2008).
- Symposium Editor, *Introduction*, BOOK REVIEW SYMPOSIUM, 110 PENN STATE L. REV. 905-06 (2006).
- Argument, Political Friendship and Rhetorical Knowledge: A Review of Garver's For the Sake of Argument*, 110 PENN STATE L. REV. 907-23 (2006).
- Nietzschean Critique and Philosophical Hermeneutics*, 24 CARDOZO L. REV. 967-1042 (2003).
- The Sounds of Silence: Waiting for Courts to Acknowledge that Public Policy Justifies Awarding Damages to Third Party Claimants when Liability Insurers Deal with Them in Bad Faith*, 2 NEV. L.J. 443-88 (2002).
- Coverage for Unfair Competition Torts under General Liability Policies: Will the "Intellectual Property" Tail Wag the Coverage Dog?*, 8 CONN. INS. L.J. 37-54 (2001).
- Symposium Editor, *Foreword*, SYMPOSIUM: PHILOSOPHICAL HERMENEUTICS AND CRITICAL LEGAL THEORY, 76 CHI-KENT L. REV. 719-30 (2000).
- The Quest to Reprogram Cultural Software: A Hermeneutical Response to Jack Balkin's Theory of Ideology and Critique*, 76 CHI-KENT L. REV. 945-89 (2000).
- Symposium Editor, *Foreword: Employment Practices Liability Insurance and the Changing American Workplace*, 21 WEST. NEW ENG. L. REV. 245-48 (1999).
- Insuring Employer Liability for Hostile Work Environment Claims: How Changes in Discrimination Law May Affect the Growing Market for Employment-Related Practices Liability Insurance*, 21 WEST. NEW ENG. L. REV. 369-426 (1999).
- Symposium Editor, *Foreword*, SYMPOSIUM: INSURANCE COVERAGE OF EMPLOYMENT DISPUTES, 18 WEST. NEW ENG. L. REV. 1-4 (1996).
- Principles of Insurance Coverage: A Guide for the Employment Lawyer*, 18 WEST. N. ENG. L. REV. 5-46 (1996).
- Desperately Seeking Science*, in SYMPOSIUM: WHAT IS MEANING IN A LEGAL TEXT?, 73 WASH. U. L.Q. 1009-23 (1995).
- Law and Philosophy, Philosophy and Law*, in LAW AND HERMENEUTICS ROUNDTABLE 26 U. TOL. L. REV. 127-46 (1994).

Articles

- Vico and Imagination: An Ingenious Approach to Educating Lawyers with Semiotic Sensibility*, 22 INT'L. J. FOR THE SEMIOTICS OF LAW 11-22 (2009).
- After the Battle of the Forms: Commercial Contracting in the Electronic Age*, 4 I/S: J. OF L. & POL'Y FOR THE INFORMATION SOC'Y 271-343 (2008) (peer refereed journal).
- After Natural Law: A Hermeneutic Response to Law's Quandary*, 9 RUTGERS J. OF L. AND RELIGION (Number 2, 2008).
- Responding to Nietzsche: The Constructive Power of Destruction*, 3 LAW, CULTURE AND THE HUMAN. 127-54 (2007) (peer refereed journal) (reprinted in GADAMER AND LAW (2007) and in NIETZSCHE AND LAW (2007).
- Belief and Interpretation*, 21 J. OF LAW AND RELIGION 385-99 (2006) (peer refereed journal).
- A Future Foretold: Neo-Aristotelian Praise of Postmodern Legal Theory*, 68 BROOK. L. REV. 683-719 (2003).
- Holding Liability Insurers Accountable for Bad Faith Litigation Tactics with the Tort of Abuse of Process*, 9 CONN. INS. L.J. 467-525 (2003) (reprinted in the Institute of Chartered Financial Analysts of India (ICFAI) Journal of Insurance Law, 2004).
- Psychotherapeutic Practice as a Model for Postmodern Legal Theory*, 12 YALE J. LAW & HUMAN. 299-395 (2000).
- Law in Flux: Philosophical Hermeneutics, Legal Argumentation and the Natural Law Tradition*, 11 YALE J. LAW & HUMAN. 311-82 (1999).
- Rhetorical Knowledge in Legal Practice and Theory*, 6 S. CAL. INTERDISC. L.J. 491-611 (1998).
- Insurance Coverage of Employment Discrimination Claims*, 52 MIAMI L. REV. 1-78 (1997) (reprinted at 48 DEFENSE L.J. 545-644 (1999)).
- Legal Classics: After Deconstructing the Legal Canon*, 72 N.C. L. REV. 977-1038 (1994).
- The Paranoid Style in Contemporary Legal Scholarship*, 31 HOUS. L. REV. 873-88 (1994).
- Rethinking the Rule of Law: A Demonstration That the Obvious Is Plausible*, 61 TENN. L. REV. 69-195 (1993).
- Is the Rule of Law Possible in a Postmodern World?*, 63 WASH. L. REV. 249-305 (1993).
- Postmodern Constitutionalism as Materialism*, 91 MICH. L. REV. 515-25 (1992) (correspondence) (reprinted in POSTMODERNISM AND LAW (Dennis Patterson ed., 1994)).
- The Ontological Basis of Legal Hermeneutics: A Proposed Model of Inquiry Based on the Work of Gadamer, Habermas and Ricoeur*, 68 B. U. L. REV. 523-617 (1988).

Review Essays

- Law as Language*, JURIST: BOOKS ON LAW, Vol. 2, No. 7 (September 1999)
<<http://jurist.law.pitt.edu/lawbooks/revsep99.htm>> [reviewing PETER M. TIERSMA, LEGAL LANGUAGE (1999)] [solicited review essay].
- Between Truth and Provocation: Reclaiming Reason in American Legal Scholarship*, 10 YALE J. LAW & HUMAN. 605-46 (1998) [reviewing DANIEL A. FARBER AND SUZANNA SHERRY, BEYOND ALL REASON: THE RADICAL ASSAULT ON TRUTH IN AMERICAN LAW (1997)].
- The New Legal Hermeneutics*, 47 VAND. L. REV. 115-43 (1994) [reviewing GREGORY LEYH, LEGAL HERMENEUTICS: HISTORY, THEORY AND PRACTICE (1992)]. Reprinted in 39.2 ESTUDOS JURÍDICOS (UNISINOS, Brazil) 96-107 (2006).

Professional Creative Writing

- See You in Hell, Boys!* NOTRE DAME MAGAZINE (2007).

Editorial Positions and Review

- Member, Editorial Board and Peer Reviewer, INTERNATIONAL JOURNAL FOR THE SEMIOTICS OF LAW (2008-present).
- Member, Organizing Committee for the Association of Law, Culture and the Humanities (2008-present).
- Program Chair, 2009 Annual Meeting (Brown University).
- Member, Editorial Advisory Board and Peer Reviewer, LAW, CULTURE AND THE HUMANITIES: AN INTERDISCIPLINARY JOURNAL (2004-present).
- Peer Reviewer, CAMBRIDGE UNIVERSITY PRESS (Book proposal, 2006).
- Peer Reviewer, STUDIES IN LAW, POLITICS AND SOCIETY (Elsevier Press).
- Peer Reviewer, CONNECTICUT INSURANCE LAW JOURNAL (Article review, 2006).

PRESENTATIONS**Featured Speaking Engagements**

- Featured Speaker*, “Law and Rhetoric Workshop.”
National conference convened by Mercer University School of Law at San Diego, California in January, 2009.
- Invited Speaker*, “Antidiscrimination Discourse and Practices.”
International conference convened by the Jean Monnet Chair of European Law at Cagliari University, Sardinia, Italy in December 2008.
- Invited Speaker*, “Legal Education: Isocrates, Vico and Perelman.”
International symposium convened by the Perelman Center at the Free University of Brussels in October, 2008 on the theme, “Argumentation at the Core of Law, to celebrate the 50th anniversary of the publication of CHAÏM PERELMAN AND LUCIE OLBRECHT-TYTECA, THE NEW RHETORIC.
- Invited Speaker*, “Is the United States a Secular Nation? Reflections on the Upcoming Presidential Election,” an open forum convened by the Alumni Association and the Free University of Brussels in October, 2008.

Featured Speaker, “Perelman’s Theory of Argumentation and Natural Law.”
International conference on “The Promise of Reason” convened at the University of Oregon in May, 2008 to celebrate the 50th anniversary of the publication of CHAÏM PERELMAN AND LUCIE OLBRECHT-TYTECA, *THE NEW RHETORIC*.

Presentations to Faculties

After the Battle of the Forms: Commercial Contracting in the Electronic Age
William S. Boyd School of Law, University of Nevada Las Vegas

Rhetorical Knowledge in Legal Practice and Critical Legal Theory
UNISINOS, São Leopoldo, Brasil (October, 2007) (3 lecture short course)
PUCRS, Porto Alegre, Brasil (October, 2007)
UFSC, Florianópolis, Brasil (October, 2007)
UFPR, Curitiba, Brasil, (October, 2007)

Good Faith in American Contract Law: History and Prospects
UNISINOS, São Leopoldo, Brasil (October, 2007)

Litigation Norms for Insurers
University of Missouri-Columbia School of Law (September, 2007)

Litigation Norms for Insurers
University of Pittsburgh School of Law (October, 2006)

Insurer Liability to Third Party Claimants for Bad Faith Settlement Practices
College of William and Mary Law School (November, 2002)
Dickinson School of Law (April, 2001)

Psychotherapeutic Practice as a Model of Postmodern Legal Theory
Penn State University Department of Philosophy (March, 2000)

Insurance Coverage for Sexual Harassment Liabilities
Dickinson School of Law (October, 1999)

Reclaiming Reason in American Legal Scholarship
Dickinson School of Law (December, 1998)

Academic and Professional Conferences

Chair and Discussant, Association for the Study of Law, Culture and the Humanities (ASLC&H) (2009 Annual Meeting, Boston, MA)
Program: Law and Rhetoric

Presenter, Association for the Study of Law, Culture and the Humanities (ASLC&H) (2009 Annual Meeting, Boston, MA)
Program: Humanistic Approaches to Legal Education

Presenter, Section on Law and Religion (2009 Annual Meeting of the Association of American Law Schools).
Presentation: “Faithful Hermeneutics”

Presenter, South Eastern Association of Law Schools (SEALS) (2008 Annual Meeting, West Palm Beach, FL)
Presentation: “The ‘New Legal Realism’.”

Presenter, Rhetoric Society of America (2008 Annual Meeting, Seattle)
Paper: Rhetorical Knowledge in Legal Practice and Critical Legal Theory.

- Presenter/Chair and Discussant*, Association for the Study of Law, Culture and the Humanities (ASLC&H) (2008 Annual Meeting, Berkeley, CA)
Program: Vico on Justice: A Roundtable.
Program: Ontology and Law
- Presenter*, 2008 International Conference on Contracts (Sacramento, CA)
Paper: “After the Battle of the Forms: Commercial Contracting in the Electronic Age.”
- Presenter*, Society for Ricoeur Studies (2007 Annual Meeting, Chicago, IL)
Paper: *Critical Hermeneutics: Philosophy or Rhetoric?*
- Presenter*, “Ontology & Law” ASLC&H (2007 Annual Meeting, Washington, D.C.)
Paper: *After Natural Law*
- Presenter*, ABA Section of Business Law 2007 Spring Meeting (Washington, D.C.)
Paper: *Have Commercial Parties Stopped Fighting the Battle of the Forms?*
- Presenter*, “After Ricoeur: An Interdisciplinary Conference,” (Oklahoma City University, 2006).
Paper: *Ricoeur’s Critical Hermeneutics and the Psychotherapeutic Model of Critical Theory.*
- Presenter*, Law and Society Association (2006 Annual Meeting, Baltimore)
Paper: *Getting Beyond Legal Orientalism: The Hermeneutical Significance of Foreign Constitutional Law*
- Presenter*, ASLC&H (2006 Annual Meeting, Syracuse)
Paper: *Getting Beyond Legal Orientalism*
- Presenter*, Critical Legal Conference (2005 Annual Meeting, Canterbury UK)
Paper: *Getting Beyond Orientalism*
- Presenter*, ASLC&H (2005 Annual Meeting, Austin, TX)
Program: *Jaroslav Pelikan’s Interpreting the Bible and the Constitution*
- Presenter*, Third Circuit Judicial Conference (2004 Annual Meeting, Hershey).
Program: Statutory Interpretation after *Lamie*, *Cybergenics* and *Price*
- Presenter*, Society for Phenomenology and Existentialist Philosophy (SPEP) (2004 Annual Meeting, Memphis) [Paper selected by blind peer review process].
Paper: *Critical Legal Hermeneutics: Between Gadamer and Nietzsche*
- Presenter*, Rhetoric and Democracy: About An African Athens (Cape Town, South Africa, June 2004).
Program: *The Rhetoric and Law Initiative*
- Chair and Organizer*, ASLC&H (2004 Annual Meeting, Hartford, CT)
Program: *Eugene Garver’s For the Sake of Argument: Practical Reasoning, Character, and the Ethics of Belief*
- Presenter*, Law and Society Association (2003 Annual Meeting, Pittsburgh)
Program: *Deconstruction and Construction of Law*
- Organizer, Chair and Presenter*, ASLC&H (2003 Annual Meeting, New York)
Program: *Responses to Nietzsche’s Destruction of Legal Argumentation*
 (Two panels with seven presenters)

- Presenter*, Critical Legal Conference, (2003 Annual Meeting, London)
Program: *Terminal Legality*
- Presenter*, ASLC&H (2002 Annual Meeting, Philadelphia, PA).
Program: *The Postmodern Aristotle*
- Presenter*, Nietzsche and Legal Theory, Cardozo School of Law (invited participation in 2-day Symposium) (October 2001).
Program: *Gay Science as Law*
- Presenter*, Critical Legal Conference, (2001 Annual Meeting, Canterbury UK)
Program: *Sovereignty in Legal Practice and Legal Theory*
- Chair/Presenter*, 2001 Joint Int'l. Conference of the Law and Society Association and Research Committee on Sociology of Law (Budapest, Hungary)
Program: *Social Theory and Legal Theory* [Presenter]
Program: *Environmental Regulation in International Perspective* [Chair]
- Presenter*, ASLC&H (2001 Annual Meeting, Austin, TX)
Program: *Nietzsche, Aesthetics and Radical Hermeneutics*
- Organizer and Chair*, ASLC&H (2000 Annual Meeting, Washington, D.C.)
Programs: *Philosophical Hermeneutics and Critical Legal Theory*
 Panel I: Theoretical Issues; Panel II: Applications to Practice
- Chair/Presenter*, ASLC&H (1999 Annual Meeting, Winston-Salem, N.C.).
Programs: *Is Justice Transcendental?* and *Critical Perspectives on Law*.
- Presenter*, ASLC&H (1998 Annual Meeting, Washington, D.C.).
Program: *Hermeneutics and the Law*.
- Chair and Presenter*, Law and Society Association (1997 Annual Meeting, St. Louis)
Program: *Psychoanalytic Jurisprudence Redux*.
- Section Chair and Organizer*, AALS Section on Law and Interpretation (1997).
Program: *Natural Law after the Interpretive Turn*
- Organizer and Presenter*, 1996 Joint Conference of the Law and Society Association and Research Committee on Sociology of Law (Glasgow, Scotland).
Program: *Interpreting the Rhetorical Turn*.

LEGAL PRACTICE

Halloran & Sage, Hartford, CT, *Associate*, 1986-90.

Advised and represented clients regarding a variety of business disputes involving contract, employment, construction, insurance, and corporate issues. Appeared and argued before state and federal courts and administrative agencies and in arbitration proceedings. Assumed primary responsibility for numerous files and clients, generally construction subcontractors. Represented clients in family court on a *pro bono* basis; projects included seeking dissolutions, securing support enforcement orders, and obtaining TROs.

Practice Oriented Publications

Georgia Finds Insurance Coverage for Sexual Harassment Despite "Employment" Exclusion in Umbrella Policy, <<http://www.theexpertsforum.com>> [I am on the panel of experts for a website used by the insurance industry to monitor employment-related liabilities].

Securing Insurance Coverage for Employment Discrimination Claims Under General Liability Policies, 2 BNA INS. COV. LIT. REP. 116 (Jan. 26, 1996) and 6 BNA EMP. DISCRIM. REP. 25 (Jan. 3, 1996).
The Enforceability of Paid When Paid Clauses in Construction Contracts, 64 CONN. BAR J. 257 (1990).
What Do Judges Do When They Interpret the Constitution?, 61 CONN. BAR J. 349 (1987).

Practice-Oriented Presentations

Presenter, Professional Liability Underwriting Society, Program on Employment Practices Liability Insurance (New York, April, 2000)
Co-Chair and Presenter, Professional Liability Underwriting Society, Program on Employment Practices Liability Insurance (New York, March, 1999)
Presenter, Institute of Management Education, Inc.
Topic: “Managing the Risk of Employment Liabilities”
Presented: April, 1999 and January, 1998
Presenter, University of Connecticut Center for Professional Development
Seminar: “Employment-Related Practices: Liability Coverage and Law”
Presented: April, 1997 and April, 1996
Panel Speaker, A.B.A. Annual Meeting (Chicago, August, 1995)
Tort and Insurance Practice Section Program
Topic: “Insurance Coverage of Employment Disputes”