

JAMES ALEXANDER TANFORD
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2/11

CURRENT POSITION

Professor of Law, Indiana University -- Bloomington

TEACHING AREAS

Trial Practice and Procedure, Evidence, Pretrial Civil Litigation, Civil Procedure, Law and Psychology, Civil Rights & Liberties, Constitutional Litigation, Clinical Education

ACADEMIC POSITIONS

Indiana University School of Law, Bloomington: 1979-present.

Ralph Fuchs Faculty Fellow, 2010-11

Ira C. Batman Faculty Fellow, 1989-92.

Harry T. Ice Faculty Fellow, 1992-93.

John S. Hastings Faculty Fellow, 1994-95.

University of Iowa College of Law: Visiting Scholar, 1989.

Washington Univ. School of Law, St. Louis: Visiting Professor, 1985.

Duke University School of Law: Instructor, 1977-79.

EDUCATION

A.B., Princeton University 1972.

J.D. with Distinction, Duke University School of Law 1976.

LL.M., Clinical Legal Education, Duke University School of Law 1979.

C.I.C. Post-Doctoral Fellowship, Psychology of Juror Behavior, University of Iowa 1985.

HONORS AND DISTINCTIONS

USA Track & Field Level 1 Coaching Certification, 2010

2006 Colts Community Quarterback Award for outstanding community service.

“Keeping Cross-Examination Under Control” selected as best article on cross-examination for 25th anniversary issue of Am. J. Trial Advocacy.

Teaching Excellence Recognition Award, 1998

Indiana Supreme Court Rules of Evidence Committee, 1992-93.

ICLU Richard Zweig Cooperating Attorney Award, 1993.

Appointed Senior Research Fellow, Private Adjudication Center, 1991.

Special Service Award, Indiana Civil Liberties Union, 1991.

University's Nominee, Lilly Endowment Faculty Open Fellowship, 1991.

CIC Exchange Scholar, 1988-89.

Indiana University Summer Faculty Fellowship, 1985.

John S. Bradway Fellowship, Duke Law School, 1977-79.

Mordecai Society Award for Teaching Excellence, 1979.

J.D. with Distinction, Duke Law School 1976.

Duke Law Journal, 1974-76.

Research Ass't, Prof. Anthony Bocchino, 1974-76.

International Academy of Trial Lawyers Student Advocacy Award, 1976.

Duke Law School Trial Competition Team, 1975-76.

AFFILIATIONS

American Psychology-Law Society, Law & Society Assoc., European Assoc. of Psychology & Law.

PUBLICATIONS

BOOKS

The Pretrial Process (Lexis 2003)

The Trial Process: Law, Tactics and Ethics 4th edition (Lexis 2009)

3d edition (2002)

2d edition (1993)

Electronic edition (1996)

1st edition (1983).

Trial Practice Problems and Case Files 4th edition (Lexis 2010)

3d edition (2002)

2d edition (1992)

1st edition (1986)

Indiana Trial Evidence Manual 6th edition (Lexis 2010)

5th edition (2003)

4th edition (1999)

3d edition (1994)

2d edition (1987)

1st edition (1982)

Nanny & Domestic Help Legal Kit (Sourcebooks 1999)

Civil Liberties in Cyberia: Constitutional Law on the Electronic Frontier (editor) (ICLU 1994)

Handbook on Religion in the Schools (w/ Kennedy; Indiana State Teachers Association 1994).

North Carolina Trial Evidence Manual (Michie 1976).

ARTICLES

E-Commerce in Wine, 3 **J. Law & Econ. Policy** 275 (2007)

Objections During Opening Statement, 1 **Ind. Civ. Litig. Rev.** 221 (2004)

The Limits of Closing Argument, 1 **Ind. Civ. Litig. Rev.** 111 (2004)

The Ethics of Evidence, 25 **American Journal of Trial Advocacy** 487 (2002)

The In/Into Controversy, 91 **Northwestern Univ. Law Review** 637 (1997).

The Death of Graduation Prayer: the Parrot Sketch Redux, 24 **Journal of Law & Education** 423 (1995).

Keeping Cross-Examination Under Control, 18 **American Journal of Trial Advocacy** 245 (1994) (selected as one of the ten best articles published in the first 25 years of the Journal; to be republished in a special 25th anniversary issue)

Thinking About Elephants: Admonitions, Empirical Research and Legal Policy, 60 **UMKC Law Review** 645 (1992) (law & science symposium).

Novel Scientific Evidence of Intoxication: Acoustic Analysis of Voice Tapes from the Exxon Valdez, 82 **Journal of Criminal Law and Criminology** 579 (1991).

Law Reform by Courts, Legislatures and Commissions Following Empirical Research on Jury Instructions, 25 **Law and Society Review** 155 (1991).

What We Don't Teach in Trial Advocacy: a Proposed Course in Trial Law, 41 **Journal of Legal Education** 251 (1991).

The Limits of a Scientific Jurisprudence: The Supreme Court and Psychology, 66 **Indiana Law Journal** 137 (1990).

Racism in the Adversary System: Defense Use of Peremptory Challenges, 63 **Southern California Law Review** 1015 (1990), reprinted in 3 *Criminal Practice Journal* 313 (1991).

The Law and Psychology of Jury Instructions, 68 **Nebraska Law Review** 71 (1990) (invited contribution to Law and Psychology symposium).

A Political-Choice Approach to Limiting Prejudicial Evidence, 64 **Indiana Law Journal** 831 (1989).

Better Trials Through Science: A Defense of Psychologist-Lawyer Collaboration, 66 **North Carolina Law Review** 741 (1988).

An Introduction to Trial Law, 51 **Missouri Law Review** 623 (1986).

Closing Argument Procedure, 10 **American Journal of Trial Advocacy** 47 (1986), reprinted in 37 *Defense Law Journal* 401 (1988).

Evidence, Survey of Recent Developments in Indiana Law, 17 **Indiana Law Review** 197 (1984).

Rape Victim Shield Laws and the Sixth Amendment, 128 **University of Pennsylvania Law Review** 544 (1980).

Entrapment, 13 **Criminal Law Bulletin** 5 (1977).

CHAPTERS

Psychology in Judicial Policy Decisions, chapter in 4 **Research in Law and Policy Studies** (1995).

The Law and Psychology of Jury Instructions, chapter in **Psychology and Law: The Broadening of the Discipline** (J.P. Ogloff ed., 1991).

A Trial Lawyer's and Trial Practice Professor's Reaction (to Chapter 5: Participatory Persuasion in Closing Arguments: the Trial of Julius and Ethel Rosenberg), in **Communication and Litigation** 173 (J. Schuetz & K. Snedaker eds. 1988).

BOOK REVIEWS

This Week on the Talk Shows: The Litigation Explosion (Review of Walter K. Olson, *The Litigation Explosion: What Happened When American Unleashed the Lawsuit*) 8 **Adelphia Law Journal** 157 (1992).

INTERNET

How to Write Good Legal Stuff (2009, with E. Volokh)
<http://law.indiana.edu/instruction/tanford/web/reference/how2writegood.pdf>

Clinical Legal Education Facilities: Guide to Building or Renovating Clinical Space (CLEA 2001)
www.law.indiana.edu/webinit/tanford/clinics/Planningguide.html

The Therapist-Patient Privilege (American Psychology Association, 2001)
www.law.indiana.edu/webinit/tanford/archive/Psypriv.html

Interviewing Basics (CLEA 2001)
www.law.indiana.edu/webinit/tanford/archive/Interviewing.html

Negotiation (CLEA 2001)
www.law.indiana.edu/webinit/tanford/archive/Negotiation.html

Depositions (CLEA 2001)
www.law.indiana.edu/webinit/tanford/archive/Depositions.html

SCHOLARLY PAPERS

"Interpreting Granholm," Wine, Beer & Spirits Law Conference, Charlottesville, Oct. 2009.

"Wine Retailer Direct Shipping," Wine, Beer & Spirits Law Conference, Seattle, Sept. 2008.

"What Next in the Wine Wars -- E-Commerce and the Constitution," Geo. Mason Univ., May 2006.

"Lawyers' Use of Social Science, History and Economics as a Function of Interdisciplinary Education," Law and Society Assoc., Budapest, July 2001; American Law-Psychology Assn, Austin 2002.

"The Impact of Interdisciplinary Education on Lawyers' Understanding and Use of Social Science," Law & Society Assoc., Aspen, June 1998.

"Does Interdisciplinary Education Affect Lawyers' Use of Psychology?" European Conference on Psychology and Law, Stockholm, August 1997.

"Thinking about Elephants: Empirical Research and Legal Change." Indiana University Center for the Study of Law and Society, February 1992.

"Phonetic-Acoustic Analysis of Voice Recordings from the Exxon Valdez: Was the Captain Drunk?" 1992 American Psychology-Law Society, San Diego.

"Whatever Happened to Elwork Sales & Alfini? A Retrospective on the Research on Juror Comprehension of Instructions." 1990 Law and Society Association, Berkeley.

"Judicial Use of Curative Instructions The Role of Psychology in Law Reform." 1990 American Psychology-Law Society, Williamsburg.

"Thirty Years and Still Waiting: The Negligible Effect of Empirical Research on the Use of Curative Instructions." 1989 Law and Society Association, Madison.

"The Prospects of a More Scientific Jurisprudence: Lessons from Law and Psychology." Univ. of Miami Law School, February 1989; West Virginia University Law School (William J. Maier Fund), February 1989.

"The Role of Psychology in the United States Supreme Court's Jurisprudence of Trials." 1988 European Conference on Law and Psychology,

"Irreconcilable Differences: Psychology and the Normative Structure of Trials." 1988 Law and Society Meetings, Vail.

"An Introduction to Trial Law." Univ. of Iowa College of Law, January 1986.

MISCELLANEOUS PUBLICATIONS

Cumulative Supplements to the Indiana Trial Evidence Manual: 2009; 2008, 2007, 2006, 2005, 2004, 2002, 2001, 2000, 1998, 1997, 1996, 1995, 1993, 1992, 1991, 1990, 1989, 1986, 1985, 1984, 1983.

PROFESSIONAL & CONTINUING LEGAL EDUCATION PRESENTATIONS & MATERIALS

"The Future of the Three-Tier System," ICLEF Aug. 2009.

"Ethical Argument," Ind. Trial lawyers Assoc., Nov. 2008.

"Speech and Association Cases in the 2007 Term: It's Good to Be Rich." ACLU Annual Update; the Supreme Court, Indianapolis, Oct. 2008.

"Future of Internet Retail Wine Sales," Wine & Spirits Law Conference, Sep. 2007, New Orleans

"Recent Supreme Court First Amendment Cases," Supreme Court Update, Nov. 2006, Indianapolis.

"Expert Witnesses," Indiana Trial Lawyers Assoc., Nov. 2006

"Retailer Direct Shipping," Wine & Spirits law Conference, Sep. 2006, Phoenix.

"The Ethics of Experts," Indiana Def. Trial Counsel Assoc., Nov. 2005

"The Commerce Clause: Suddenly Sexy" ICLU Forum, Nov. 2005

"Wine distribution laws after *Granholm*," Wine & Spirits Law Conference, Oct. 2005, Chicago.

“The Ethics of Evidence” Indiana CLE Forum, December 2004

“Evidence Foundations,” Indiana CLE Forum, October 2004

“The Great Direct Shipping Debate,” Wine Beer & Spirits Law Conf., Las Vegas, Oct. 2004.

“Freedom of Speech in the Supreme Court’s 2003 Term,” ICLU Forum, December 2003.

“Electronic Evidentiary Issues: The Technological Revolution of the Internet, Computers, Digital Photography, and Zip Drives,” Indiana Def. Trial Counsel Assoc., October 2003.

“Civil Liberties in Time of War,” ICLU, December 2002.

“Evidentiary Foundations,” Indiana CLE Forum, December 2002.

“The Establishment Clause” School Vouchers and Beyond,” ICLU, November 2002.

“Evidence: Past, Present & Future,” Allen County Bar Assoc., October 2002.

“Electronic Evidentiary Issues,” Indiana State Bar Association, September 2002.

“The Essentials: Evidentiary Foundations,” Indiana CLE Forum, December 2001.

“Freedom of Speech,” in The 2000-2001 Supreme Court Term: A Review, ICLU.

“Initial Ethical and Evidentiary Issues in Business Litigation,” Indiana CLE Forum, March 29, 2001.

“Free Exercise Clause,” ICLU Forum on The First Amendment, Dec 15, 2000

“Anatomy of a Murder: Revisited: Ethics in Criminal Trials, Indiana University CLE Seminar on Current Issues in Criminal Law, Nov. 1999.

“First Amendment Cases,” ICLU Forum on Civil Liberties & the Supreme Court: As the Century Turns, Oct. 29, 1999.

“Vouchers and Other Methods of Funding Private Religious Schools,” IU Alumni CLE Seminar The Court, the Congress, the President, and the People: Contemporary Controversies in Constitutional Law, Sept. 17, 1999.

“Update on Scientific Evidence and Daubert,” Indiana CLE Forum, July 30, 1999.

"Evidence: Three Years Under the Rules," Indiana Judicial Conference (1997).

“Expert and Scientific Evidence,” Indiana CLE Forum on Emerging Issues Under the Rules of Evidence (1997)

"Ethics of Evidence," Alumni CLE Program, December 1997; and February, 1998 (Marion County Prosecutor's Office)

“The Religion Cases,” Indiana Civil Liberties Union CLE program How Bad Is It? -- The 1996 Supreme Court Term (1997).

“Municipal Government and Constitutional Law,” Indiana Municipal Lawyers Assoc CLE program
Municipal Law XIV (1997).

“Effect of Tort Reform on Evidence and Trial Procedure,” Indiana CLE Forum on The Practice of Law
Under Tort Reform (1995).

“Problems of Interpretation in the Indiana Rules of Evidence: One Year Later,” Indiana CLE Forum on
The 1994 Rules of Evidence Roundup (1994).

“Examining Expert Scientific Witnesses after *Daubert*,” IU School of Law Alumni CLE program on The
Law as Laboratory: The Role of Science in Evidence and Environmental Law (1994).

“Equality Rights Under the Indiana Constitution,” Indiana Civil Liberties Union CLE program on
Litigation Under the Indiana Bill of Rights (1994).

“Rights of Assembly,” Indiana Civil Liberties Union CLE program on Litigation Under the Indiana Bill
of Rights (1994).

"Everything You Always Wanted to Know About the New Indiana Rules of Evidence But Were Afraid
to Ask," Evansville Bar Association, February 11, 1994.

"The Top 10 Ways the New Indiana Rules of Evidence Will Change Your Life," Indiana Trial Lawyers
Association 29th Annual Institute: No One Does it Better (1993).

“Foundations, Exhibits, and the Rule of Prejudice,” Indiana Prosecuting Attorneys' Council CLE
program on Relevancy--The Outer Limits (1988).

“Keeping Out Prejudicial Evidence,” Indiana CLE Forum on Evidence: Keeping it Out (1988).

“Impeachment,” Indiana CLE Forum on Evidence 1983 (1983).

“The Recent Evidence Decisions of the United States Supreme Court,” Indiana CLE Forum on Evidence
1981 (1981).

LECTURES & COLLOQUIA

“What Next in Direct Wine Shipping?” Nat'l Alcoholic Beverage Control Assoc., Boston, June 2006.

“Direct Interstate Wine Shipments,” Nat. Conf. on State Legislatures; August 2000.

“Constitutionality of Direct Interstate Wine Shipments,” Nat. Conf. of State Liquor Administrators, Nov.
2000.

“Free Exercise Clause,,” ICLU Forum on The First Amendment, Dec 15, 2000

“Vouching for Education,” Federalist Society, Feb. 23, 1999.

"Maintaining Your Motivation to Finish the Race," National BLSA Academic Retreat, October 1996.

"Sex and Censorship in Cyberia," Purdue University, April 1996.

"Why We Don't Need a School Prayer Amendment," ICLU conference on Civil Liberties and the 104th Congress, December 1995.

"State Action in Cyberspace," Civil Liberties in Cyberia: Constitutional Law on the Electronic Frontier conference, ICLU, December 1994.

"What's Wrong with Prayer in the Schools, Anyway?" Invited opposition speaker at Rutherford Institute debate on high school graduation prayer, March 23, 1994.

"Sexual Orientation in Divorce and Custody Cases." Sexual Orientation and Indiana Law Conference, ICLU, October 1993.

"The Indiana Rules of Evidence: A Peer Review of Articles 1-4," ICLEF, October 1993.

"The New Indiana Rules of Evidence," Monroe County Bar Assoc., September 1993.

"Introduction to the New Rules of Evidence: Articles VII, VIII and IX," Indiana Judicial Conf., September 1993.

"The New Indiana Rules of Evidence: Hearsay Rules." Indiana Judges Association, September 1993.

"Novel Scientific Evidence of Intoxication: The Exxon Valdez Case." Indiana University Board of Trustees, September 1991.

"Recent Trends in Evidence." Indiana Trial Lawyers' Assoc, November 1990.

"Trial Law." Iowa College of Law Trial Advocacy CLE Program, November 1986.

"The Influence of the Conviction-Maximization Principle on the Development of Trial Law." Notre Dame Law School, November 1985.

"The Phony Issue of Children's Rights: Child Witnesses in the Courtroom." Indiana Civil Liberties Union, Bloomington, Indiana, March 1985.

"The Lesser-Known Witness Privileges." Indiana Judicial Center Conference, February 1984.

SERVICE

CURRENT LAW SCHOOL SERVICE

Trial Competition Team Coach (continuing)

On sabbatical 2010-11

UNIVERSITY SERVICE

University Faculty Council, 2006-08

Bloomington Faculty Council 2006-09 (agenda committee 2006-08)

Bloomington Diversity and Affirmative Action Committee (chair) 2006-09

SIGNIFICANT PROFESSIONAL SERVICE

Clinical Legal Education Association, Facilities Building and Renovation Coordinator

Presentation on Building and Renovating Clinical Space, Pittsburgh 2002.

Indiana Supreme Court Rules of Evidence Committee, 1992-94.

Indiana Civil Liberties Union:

Cooperating Attorney, 1980-present (Zweig Award 1993)

Board of Directors 1990-2001 (President, 1995-97)

Referee, Law and Society Rev, Law and Human Behavior; Judicature; Justice System Journal.

COMMUNITY SERVICE

Executive Director, The Philippa Beatty Foundation, Bloomington IN, 1999-present

Youth sports coach CYO & YMCA, 2003-present

LEGAL EXPERIENCE

Admitted: U.S. Supreme Court; 1st, 2d, 3d, 4th, 5th, 6th, 7th, 9th & 11th Circuits; Indiana, New York, North Carolina.

Granholm v. Heald, 540 U.S. 460 (2005) (counsel of record) and 21 related lower court cases -- Commerce clause challenge to laws prohibiting ordering wine over the Internet.

Pro Bono Cases -ACLU cooperating attorney 1992-present

1. Collins v. Day. Constitutionality of farmworker exception to worker's compensation law.
2. Barnett v. Haslar. Police action shooting.
3. Directed litigation over high school graduation prayer, statewide, March-June, 1993.
4. Dvorak v. City of Bloomington (restrictive zoning ordinance)
5. Bridenbaugh v. O'Bannon I (constitutionality of Good Friday as state holiday)

Pro Bono cases - lead or co-counsel

1. Collection Assoc. v. Paul. Unfair debt collection practices
2. Robinson v. Monroe County I. Log cabin exemption from building codes.
3. Robinson v. Monroe County II. Illegal firing of county civil defense director, civil rights.
4. In re Fox. Decedent's estate.
5. In re Weber. Adoption
6. Stant v. State of Indiana (challenging "Major Moves" I-69 legislation)

Amicus curiae briefs

1. Porter v. State, Indiana Supreme Court (1996)
2. Brown v. State, Indiana Supreme Court (1997)
3. Ford Motor Co. v. Ammerman, Indiana Supreme Court (2000)
4. Schultz v. Ford Motor Co., Indiana Supreme Court (2005)

Private Practice, Durham, North Carolina, 1977-79

Assistant District Attorney, New York, New York; 1976-77.

TRACK & FIELD

USATF level 1 coaching certification, 2010

Sprints and jumps coach, Cross-country coach, St. Charles Middle School 2008-11

Sarasota County Games for Life 2008, 1st place long jump, 2nd place 100m and 200m

Florida Senior Games State Championships 2008, 2d place long jump and javelin, 4th in 100 m

Indiana Senior Games State Championships

2009: 4th place long jump, 5th place 100m and 200m

2010: 1st place, triple jump; 2nd place discus; 3rd place 100m, 4th place long jump

South Lake Tahoe All-Comers meet, 2009, 1st 100m