

The University of Richmond Law Review

presents the

2012 Allen Chair Symposium

**BEYOND THE RED,
PURPLE, AND BLUE:
Election Law Issues in 2012**

Friday, October 5, 2012

8:30 – 3:30

5 MCLE Credits



AGENDA

8:30 – 9:00 – Registration and Continental Breakfast – Queally Commons

9:00 – 9:10 – **Symposium Welcome** – Ukrop Auditorium

- Clint A. Nichols, Allen Chair Editor, *University of Richmond Law Review*
- Wendy C. Perdue, Dean & Professor of Law, University of Richmond School of Law

9:10 – 10:50 – **Get out the vote?** – Ukrop Auditorium

- Keesha M. Gaskins, Senior Counsel, Brennan Center for Justice, New York University
- Steven F. Huefner, Professor of Law and Director of Clinical Programs, Senior Fellow – Election Law @ Moritz, The Ohio State University Moritz College of Law
- Joshua N. Lief, Senior Assistant Attorney General, Commonwealth of Virginia
- Michael J. Pitts, Professor of Law and Dean's Fellow, Indiana University Robert H. McKinney School of Law

10:50 – 11:00 – Break

11:00 – 12:20 – **Third Parties to the Process** – Ukrop Auditorium

- Jocelyn F. Benson, Associate Professor of Law, Wayne State University Law School
- Joshua A. Douglas, Assistant Professor of Law, University of Kentucky College of Law
- Rebecca Green, Professor of the Practice of Law, Co-Director of Election Law Program, William & Mary Law School

AGENDA

12:20 – 1:30 – Lunch – Moody Plaza

1:30 – 3:30 – **Drawing the Lines** – Moot Courtroom

- Keesha M. Gaskins, Senior Counsel, Brennan Center for Justice,
New York University
- Dale Ho, Assistant Counsel, NAACP Legal Defense and Educational Fund
- Dr. Michael P. McDonald, Associate Professor of Government and Politics,
George Mason University
- Donald Palmer, Secretary, Virginia State Board of Elections
- Rob Richie, Executive Director, FairVote

3:30 – 5:00 – Cocktail Reception – Moody Plaza

Jocelyn F. Benson

Associate Professor of Law

Associate Director, Damon J. Keith Center for Civil Rights

Director, Michigan Allies Project

Wayne State University Law School

Jocelyn F. Benson joined the faculty of Wayne State University Law School in 2005. Since that time, Professor Benson has advised the American Constitution Society, the Women's Law Association, and the *Journal of Law in Society*. She created and serves as the Director of the Michigan Allies Project, tracking hate crime incidents and providing assistance to victims.

Her scholarship includes articles, op-eds, book contributions, and conference presentations covering a wide variety of election law topics including campaign finance, the Voting Rights Act, election administration, and the Election Assistance Commission. Her recent work can be found in the *Boston College Law Review*, the *Harvard Civil Rights-Civil Liberties Law Review*, and the *Fordham Urban Law Journal*.

In 2010, Professor Benson was the Democratic nominee for Secretary of State in Michigan. Prior to joining the faculty at Wayne State, she clerked for the Honorable Damon J. Keith of the United States Court of Appeals for the Sixth Circuit. In 2004, she worked as a National Field Director for Election Protection at the Democratic National Committee. Professor Benson has also worked with the Civil Rights Project at Harvard Law School, NAACP Legal Defense and Education Fund, NPR, and the Southern Poverty Law Center.

Professor Benson graduated from Wellesley College, earning a Bachelor's degree, *magna cum laude*, in Political Science. She earned a Master of Philosophy from Oxford University, where she was a Marshall Scholar, and a J.D. from Harvard Law School. While at Harvard, she served as Editor of the *Harvard Civil Rights-Civil Liberties Law Review*.

Joshua A. Douglas

Assistant Professor of Law
University of Kentucky College of Law

Joshua A. Douglas graduated *summa cum laude* from The George Washington University, where he received a Bachelor's degree in Political Science. He was a member of Phi Beta Kappa and the National Society of Collegiate Scholars. Professor Douglas returned to George Washington for law school, graduating with the highest honors and was conferred membership in Order of the Coif. He was a member of the Moot Court Board and an Articles Editor of *The George Washington Law Review*.

Since joining the faculty at the University of Kentucky College of Law in 2010, Professor Douglas has taught civil procedure, Supreme Court decision making, and election law. Prior to joining the faculty, he worked in private practice and spent two years clerking for the Honorable Edward C. Prado on the United States Court of Appeals for the Fifth Circuit.

Professor Douglas has been published on several topics within the election law field, focusing on procedural issues in elections, the Voting Rights Act, and election law challenges. His scholarship can be found in the *Indiana Law Journal*, the *Hofstra Law Review*, the *Utah Law Review*, and the *Cornell Journal of Law and Public Policy*. Additionally, Professor Douglas joined fellow presenter Professor Michael Pitts in authoring a forthcoming casebook, Election Law Litigation.

Keesha M. Gaskins

Senior Counsel
Brennan Center for Justice
New York University

Ms. Keesha M. Gaskins has been at the Brennan Center for Justice since January 2011. Advocating through lobbying, media, scholarship, and litigation, Ms. Gaskins works to improve civic participation with a specific focus on redistricting, voting rights, and elections. Prior to joining the Brennan Center, Ms. Gaskins served as the Executive Director of the League of Women Voters Minnesota for three years. She also worked as the Executive Director of the Minnesota Women's Political Caucus. Previously, Ms. Gaskins spent several years in private practice in Minneapolis. She has also served on the Board of Governors for the Minnesota State Bar Association, the Board of Directors for the Minnesota Black Lawyers Association, and the NAACP Minnesota-Dakota State Conference Executive Board.

Ms. Gaskins earned a Bachelor of Arts degree with a dual major in Criminal Justice and Political Science from St. Cloud State University, graduating *magna cum laude*. In 1999, Ms. Gaskins graduated from the Northeastern University School of Law in the top 10% of her class. Following law school, she clerked for the Honorable Alan C. Page and the Honorable Joan Eriksen-Lancaster on the Minnesota Supreme Court.

Ms. Gaskins is a frequent presenter and lecturer on election law topics and women in politics. Her work on redistricting and voter suppression has been highlighted by think tanks, conferences, blogs, and media. She has an extensive background of community organizing and advocacy and has been recognized twice as a rising star by *Minnesota Law and Politics*.

Rebecca Green

Professor of the Practice of Law
Co-Director, Election Law Program
William & Mary Law School

Rebecca Green joined the faculty of William & Mary Law School in 2005. In addition to teaching election law, Professor Green also teaches a variety of classes dealing with technology, alternate dispute resolution, and media. Since 2008, she has served as Co-Director of the Election Law Program, as well as the Assistant Director of the Institute for Bill of Rights Law. Before coming to William & Mary, Professor Green worked in private practice in Massachusetts for several years.

Professor Green received her Bachelor of Arts in Asian Studies and Political Science from Connecticut College, where she was a member of Phi Beta Kappa and graduated *magna cum laude*. She earned a Master of Arts in Chinese History from Harvard University. She returned to Harvard for law school, graduating *cum laude* in 2001. While in law school she served as the Training Director of the Harvard Mediation Program and was an Article Editor for the *Harvard Negotiation Law Review*. Prior to law school, Professor Green worked with the United States Trade Representative as the Deputy Director for China and Hong Kong.

Since joining the faculty at William & Mary, Professor Green has been invited to speak or participate in a variety of conferences, roundtables, symposia, and media events highlighting her scholarship in the election law field. Her latest article focused on online petitioning and privacy will be published later this year.

Dale Ho

Assistant Counsel

NAACP Legal Defense & Educational Fund, Inc.

Dale Ho is a 2005 graduate of Yale Law School. While at Yale, he was the Editor of the *Yale Journal of International Law*, the Student Director of the Immigration Legal Services Clinic, and received the Kirby Simon/Schell Center Human Rights Fellowship. Mr. Ho earned a Bachelor of Arts in Political Philosophy, *summa cum laude*, from Princeton University where he was a member of Phi Beta Kappa. Following law school, Mr. Ho clerked for the Honorable Barbara S. Jones in the Southern District of New York and the Honorable Robert S. Smith on the New York Court of Appeals.

Mr. Ho joined the NAACP Legal Defense and Educational Fund in 2009. He has litigated cases under the Voting Rights Act and the National Voter Registration Act. Mr. Ho has argued on election law issues before the D.C. and Ninth Circuit Courts of Appeals, in addition to authoring amicus briefs cited by the United States Supreme Court.

In addition to serving as Guest Instructor at Columbia Law School and Adjunct Assistant Professor of Law at Brooklyn Law School, Mr. Ho's scholarship includes several presentations and articles. He has recently been published in the *Florida Law Review*, the *Stanford Law and Policy Review*, and the *William & Mary Bill of Rights Journal*. Mr. Ho has testified on election law issues before legislatures in five states.

Steven F. Huefner

Professor of Law and Director of Clinical Programs

Senior Fellow, Election Law @ Moritz

Legislation Clinic Director

The Ohio State University Moritz College of Law

Steven F. Huefner joined the faculty at The Ohio State University Moritz College of Law in 2000. Prior to joining the faculty, Professor Huefner served as Assistant Senate Legal Counsel in the United States Senate for five years, where he advised on contested Senate elections and assisted in the 1999 impeachment trial. He clerked for the Honorable Christine M. Durham on the Supreme Court of Utah, as well as for the Honorable David S. Tatel on the United States Court of Appeals for the District of Columbia Circuit. He also has experience in private practice in Washington, D.C.

At Moritz College of Law, Professor Huefner teaches legislation, jurisprudence, legal writing, and administers the legislation clinic. His scholarship extends to many areas of election law including specific topics of contested elections, term limits in state legislative elections, military and overseas voting, legislative redistricting, and poll worker responsibility and training. He has continually been called upon for his expertise in the election law field. He has authored or contributed to numerous articles, books, symposia, and conferences. In the past several years, Professor Huefner has published in the *William & Mary Law Review*, the *Indiana Law Journal*, and the *Harvard Journal on Legislation*.

Professor Huefner graduated from the Columbia University School of Law, where he served as the Articles and Book Review Editor of the *Columbia Law Review*. He earned a Bachelor of Arts in Philosophy and Government, *magna cum laude*, from Harvard College.

Joshua N. Lief

Senior Assistant Attorney General and Section Chief
Office of the Virginia Attorney General

Joshua N. Lief returned to the Office of the Attorney General in 2010 and serves as Senior Assistant Attorney General. Additionally, in his position as Section Chief of the Financial Law and Government Support Section, Mr. Lief oversees and manages counsel services and support for over 125 Virginia state agencies and boards, including the State Board of Elections. He represents the Commonwealth in a wide range of legal matters, including litigation, contracts, employment, and interactions with the federal government. Mr. Lief previously served as Senior Assistant Attorney General and Secretary of Commerce and Trade during previous administrations.

Prior to rejoining the Office of the Attorney General, Mr. Lief served as the General Manager and General Counsel for Virginia International Raceway, handling all aspects of day-to-day operations in addition to legal matters for the larger family of companies. Mr. Lief has experience in private practice as a commercial litigator both in New York and Richmond.

Mr. Lief graduated from the State University of New York at Albany in 1985. He earned his law degree from Syracuse University College of Law, graduating *magna cum laude*. He was an Associate Editor of the *Syracuse Law Review*, and won the Moot Court Competition. He was a member of the Order of the Coif.

Michael P. McDonald

Associate Professor
George Mason University
Non-Resident Senior Fellow
Brookings Institution

Dr. Michael P. McDonald is Associate Professor of Government and Politics in the Department of Public and International Affairs at George Mason University. His scholarship encompasses a variety of election-related topics including voting behavior, redistricting, Congress, American political development, and political methodology. Dr. McDonald also serves as a Non-Resident Fellow at the Brookings Institution. He has previously been a member of the faculty at the University of Illinois-Springfield and Vanderbilt University.

Following the last census, Dr. McDonald served as the mapping consultant for Governor McDonnell's Bipartisan Redistricting Commission. Additionally, he was a redistricting consultant to seven other states and led a major reform effort in many others. Dr. McDonald has worked with the United States Election Assistance Commission, the Pew Center for the States, and served as an expert witness in election litigation in multiple jurisdictions.

Dr. McDonald's articles and opinions have been widely published. His work has appeared in numerous scholarly journals in addition to pieces in the *Georgetown Law Journal*, the *Duke Journal of Constitutional Law and Public Policy*, and the *New York University Journal of Legislation and Public Policy*. He also has appeared frequently on national media outlets and had editorials published by *The Washington Post*, *Politico*, and *Roll Call*.

Donald Palmer

Secretary
Virginia State Board of Elections

In 2011, Donald Palmer was appointed Secretary of the State Board of Elections. Prior to serving in the Commonwealth, Secretary Palmer served as the Director of Elections in the Florida Department of State. In that capacity, he helped supervise the 2008 primary and general presidential elections, as well as the 2010 mid-term elections. During his tenure, he improved statewide processes of registration verification and list maintenance, in addition to implementing changes to align with the Military and Overseas Voter Empowerment Act. In 2009, he testified before the United States Senate, highlighting Florida's leading role in overcoming the obstacles of military and overseas voters.

Prior to his tenure in Florida, Secretary Palmer served in the Voting Section of the United States Department of Justice, Civil Rights Division, where he enforced the federal voting laws and provided guidance to states on compliance with civil rights laws. In that capacity, he brought suits for violations of the Voting Rights Act, the Help America Vote Act, and the National Voter Registration Act.

Secretary Palmer graduated with a Bachelor of Science from Jacksonville University. He went on to earn a Master of Arts from The George Washington University. Secretary Palmer received a J.D. from Stetson University College of Law.

Michael J. Pitts

Professor of Law

Indiana University Robert H. McKinney School of Law

Michael J. Pitts joined the faculty of Indiana University Robert H. McKinney School of Law in 2006. He previously was a member of the faculty at the University of Nebraska College of Law. He teaches courses in civil procedure, evidence, and election law. Prior to joining the faculty, Professor Pitts worked as a trial attorney for four years in the Voting Section of the United States Department of Justice, Civil Rights Division. His work primarily focused on enforcement of the Voting Rights Act. He also served as a clerk for the Honorable C. Arlen Beam on the United States Court of Appeals for the Eighth Circuit.

Professor Pitts earned a Bachelor of Science in Journalism from Northwestern University. In 1999, he graduated, *magna cum laude*, from Georgetown University Law Center. While at Georgetown, he was conferred membership in the Order of the Coif and served as an Associate Editor of *The Georgetown Law Journal*.

Within the election law field, Professor Pitts has extensive publications and appearances. In addition to authoring Election Law Litigation with fellow presenter Professor Joshua Douglas, many journals have published Professor Pitts' articles on topics including election administration, voter ID, and the Voting Rights Act. Over the past several years, his articles can be found in the *American University Law Review*, the *Hofstra Law Review*, and the *Stanford Law and Policy Review*. Professor Pitts has also often been quoted and appeared in various newspapers and media outlets providing commentary on election law issues.

Rob Richie

Executive Director
FairVote

Rob Richie is the co-founder of FairVote and has served as Executive Director since its founding in 1992. FairVote utilizes a combination of research, advocacy, and education in seeking to ensure that every individual's vote counts through fair voting systems and fair access to participation in the process.

In addition to national conferences hosted by FairVote, Mr. Richie has also presented before numerous organizations advocating for fair election practices, and has been invited to testify before state legislatures and commissions on electoral reform. Mr. Richie has consulted with congressional staff and state legislatures in crafting numerous pieces of reform legislation. Mr. Richie has co-authored two books and his writings have appeared in several other books. His commentary has been published in the *New York Times*, the *Washington Post*, the *Wall Street Journal*, and *Roll Call*. He can be seen and heard on many television and radio outlets as an expert on domestic and international elections and electoral reform.

Mr. Richie received a Bachelor of Arts in Philosophy from Haverford College. Prior to co-founding FairVote, Mr. Richie worked on congressional campaigns and for non-profit organizations.

NOTES

UNIVERSITY OF RICHMOND LAW REVIEW

VOLUME 47

2012-2013

EDITORIAL BOARD

FRANK TALBOTT
Editor-in-Chief

ROBERT S. CLAIBORNE
Executive Editor

TRACEY A. THERET
Annual Survey Editor

CLINT A. NICHOLS
Allen Chair Editor

ANDREW E. TARNE
Managing Editor

SIMONE T. RAESS
Lead Articles Editor

MAGGIE A. BOWMAN
Senior Notes & Comments Editor

MANUSCRIPTS EDITORS

M. WEST AILSWORTH
MARY GRACE MILLER

SUSAN P. DEBUSK
RICHARD D. PALMIERI

DAVID N. GUSTIN
RACHEL L. YATES

ARTICLES EDITORS

MCKENZIE CARSON
J. PATRICK McNICHOL

ELIZABETH S. CHAPMAN
JOSEPH P. SMITH

KATHLEEN GREENE
CLAIRE E. ZELMANSKI

ARTICLES & COMMENTS EDITORS

LAURA E. BOORMAN
ELIZABETH C. SOUTHALL

MARIUM DURRANI
BROOKS H. SPEARS

SENIOR STAFF

KELLY J. BUNDY
CHARISSE L. HINES
PAUL T. ROBERTSON

CONOR J. DEVINE
DORI E. MARTIN

GEOFFREY A. EASTON
LAURA A. PERILLO
ERIC J. WALLACE

STAFF

TIM ARCHER
CHRIS BASCOM
CLARK BELOTE
MARK BURGIN
W. THOMAS CHAPPELL
KATHERINE COLLINS
AMANDA CONNER
JEFF EINHAUS
LATOSHA ELLIS
SAMANTHA FANT

ROBERT FARLOW
CHRISTIAN HAINES
KENDALL HAMILTON
JULIE HOFFMEISTER
ZACH JESSE
NATHAN KRAMER
CAROLINE LAMBERTI
STEPHANIE MARTINEZ
KATHERINE MAXWELL
BRITNEY MCPHERON
EMILY MONSKE

RYAN MURPHY
ASHLEY PETERSON
JULIA L. RENEHAN
CALEB ROUTHIER
SUZANNE SPILLER
IAN SPREAT
JONATHAN TAN
ADAM TATE
BENJAMIN WILLS
MELISSA WRIGHT

JOHN G. DOUGLASS
CARL W. TOBIAS
Faculty Advisors

GLENICE B. COOMBS
Legal Publication Coordinator

Virginia MCLE Board

CERTIFICATION OF ATTENDANCE (FORM 2)

MCLE requirement pursuant to Paragraph 17, of Section IV, Part Six, Rules of the Supreme Court of Virginia and the MCLE Board Regulations.

INSTRUCTIONS

Certify Your Attendance Online at <https://member.vsb.org/vsbportal/>

Complete this Certification. Retain for two years.

MCLE Compliance Deadline - October 31. MCLE Reporting Deadline - December 15.

A \$100 fee will be assessed for failure to comply with either deadline.

Member Name: _____ VSB Member Number: _____
Address: _____ Daytime Phone: _____

E-mail Address: _____

City State Zip

Course ID Number: TCZ021

Sponsor: University of Richmond School of Law

Course/Program Title: Beyond the Red, Purple and Blue: Election Law Issues in 2012

Live Interactive * CLE Credits (Ethics Credits): 5.0 (0.0)

Date Completed: _____ Location: _____

By my signature below I certify

- ____ I attended a total of _____ (hrs/mins) of **approved CLE**, of which (_____) (hrs/mins) were in **approved Ethics**.
____ Credit is awarded for actual time in attendance (0.5 hr. minimum) rounded to the nearest half hour. (Example: 1hr 15min = 1.5hr)
____ The sessions I am claiming had written instructional materials to cover the subject.
____ I participated in this program in a setting physically suitable to the course.
____ I was given the opportunity to participate in discussions with other attendees and/or the presenter.
____ I understand I may not receive credit for any course/segment which is not materially different in substance than a course/segment for which credit has been previously given during the same completion period or the completion period immediately prior.
____ I understand that a materially false statement shall be subject to appropriate disciplinary action.

* NOTE: A maximum of 8.0 hours from pre-recorded courses may be applied to meet your yearly MCLE requirement. Minimum of 4.0 hours from live interactive courses required.

Date

Signature

Questions? Contact the MCLE Department at (804) 775-0577 or E-mail questions to mcle@vsb.org

If not certified online, this form may be mailed or faxed (fax disabled Nov 2-Dec 31)

Virginia MCLE Board
Virginia State Bar
707 East Main Street, 15th Floor
Richmond, VA 23219-2800
Web site: www.vsb.org Fax: (804) 775-0544

THE UNIVERSITY OF RICHMOND SCHOOL OF LAW

UNIVERSITY OF RICHMOND LAW REVIEW



Founded in 1958 by Dean William T. Muse, the *University of Richmond Law Notes* was the first scholarly legal journal published at the University of Richmond School of Law. While initially managed by the faculty and administration, the publication became a completely student run organization a decade after its founding. With the publication of Volume 3 in May of 1968, the *University of Richmond Law Review* was created. Due to the dedication of its members, the *Law Review* has realized enormous success. With the publication of Volume 47 of the *Law Review*, we all share a sense of pride in the history of the journal and acknowledge the support of the law school administration, faculty, and staff in establishing and maintaining this publication.

The Allen family established the George E. Allen Chair in 1976 signifying their devotion to the continued success of the law school. Through that generous support, the Allen Chair has hosted symposia and published Allen Chair issues for the past twenty years. We look forward to the publication of the Allen Chair issue in March 2013 focused on the election law topics discussed today.