

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE: WORLD TRADE CENTER
DISASTER SITE LITIGATION
-----X

Docket No.: 21 MC 100 (AKH)

THIS DOCUMENT APPLIES TO ALL
WORLD TRADE CENTER DISASTER SITE
LITIGATION
-----X

AFFIDAVIT OF
W. BRADLEY WENDEL

STATE OF NEW YORK)
)s.s.:
COUNTY OF Tompkins)

W. Bradley Wendel, being duly sworn, hereby deposes and says:

1. 1. I am over the age of eighteen (18) and I am competent to make the statements contained herein.

2. I am a tenured Professor of Law at Cornell Law School. Prior to joining the faculty at Cornell I was an Assistant Professor and an Associate Professor of Law at Washington and Lee Law School. Before beginning full-time teaching at Washington and Lee, I was a product liability litigation associate at a large law firm in Seattle and a judicial clerk on the U.S. Court of Appeals for the Ninth Circuit. I received a B.A. from Rice University, a J.D. from Duke Law School, and an LL.M. and J.S.D. from Columbia Law School. Further biographical information is contained in my CV, attached as an exhibit to this affidavit.

3. My area of research and teaching specialization is legal ethics and professional responsibility. I have taught courses in the law governing lawyers and ethical issues in civil litigation at least once a year, and often twice a year, since beginning full-time teaching in 1999. I am a co-editor, along with Geoffrey Hazard, Susan Koniak, Roger Cramton, and George Cohen, of a widely adopted Foundation Press casebook, The Law and Ethics of Lawyering, now in its fifth

edition. I am also the sole author of a textbook, Professional Responsibility: Examples and Explanations, for Aspen Publishers. The third edition of that book will be published later this year. Finally, I have been a permanent member of the drafting committee for the Multistate Professional Responsibility Exam (MPRE) since November 2007, having previously served as a visiting member of the committee. I also regularly teach torts and, as a former tort litigator and torts teacher, the intersection between tort litigation and professional responsibility is a particular interest of mine.

4. The law governing the relationship between lawyers and clients is given by applicable rules of professional conduct (sometimes called "ethics" rules), as well as tort, contract, and agency law. Rules for attorney discipline in the Southern District of New York are given by the New York Rules of Professional Conduct, incorporated by reference. *See* Local Rule 1.5(b)(5). Effective April 1, 2009, New York adopted new rules, based upon the ABA's Model Rules of Professional Conduct. (Citations to "Rule xx" are to the New York Rules of Professional Conduct, unless otherwise noted.) In areas relevant to this affidavit, the new rules did not alter the substance of the existing New York disciplinary rules, which had been based on the ABA's 1969 Model Code of Professional Responsibility. The New York State Bar has prepared a correlation table, showing the relationship between the new Rules and the old Code. It is available on-line at:

<http://www.nysba.org/Content/NavigationMenu/ForAttorneys/ProfessionalStandardsforAttorneys/CorrelationtableofnewNYrules.pdf>

5. In preparing this affidavit I ensured that conclusions of law were accurate with respect to both the current Rules and the previous Code which would have been applicable when many of these fee agreements were entered into.

6. As explained herein, it is entirely appropriate to pass on to clients charges for expenses incurred, including interest expenses for borrowing to fund this litigation. In this case, the

disbursements made on behalf of the law firm's clients were reasonable, given the enormous expense of this litigation. The law firm has charged the clients only with the interest it actually incurred, and only with respect to loans taken out to finance this specific litigation, not for general office overhead or administrative expenses. These expenses are reasonable and customary in cases of this type. Thus, there is no basis for ordering the law firm to refrain from charging these expenses to its clients.

7. Significantly, the New York Rule regulates both fees and expenses. Model Rule 1.5(a) and its Model Code predecessor, DR 2-106, have always been understood as applying to expenses and disbursements as well as fees. *See, e.g.*, ABA Formal Opinion 93-379 (Dec. 6, 1993), at 7 ("we believe that the reasonableness standard explicitly applicable to fees under Rule 1.5(a) should be applicable to [disbursements and expenses] as well"). The committee gave examples of expert witness fees, court stenographers, and travel expenses as disbursements that could be passed along to the client. In addition, New York has a specific statutory requirement that attorney provide a written explanation to clients, in an engagement letter or signed retainer agreement, of "attorney's fees to be charged, *expenses* and billing practices." *See* 22 N.Y.C.R.R. § 1215.21(b)(2) (emphasis added). *See also* Rule 1.5(b). It is therefore clear that, in New York, the standards for evaluating billing for expenses should be the same as the standards for evaluating fees.

8. The overarching standard for attorneys' fees and expenses is that they must not be excessive. "A lawyer shall not make an agreement for, charge, or collect an excessive or illegal fee or expense." Rule 1.5(a). New York law is slightly less stringent than the national standard. The ABA Model Rules equivalent to the New York rule requires that a fee or item of expenses not be unreasonable. The New York rule requires that it not be excessive. Because a fee or disbursement can be unreasonable without being excessive, there are some fees that would be permissible in New

York while violating the ABA Model Rules. However, because the eight factors in Rule 1.5(a) are adopted nationwide, and there is general agreement among jurisdictions on how the reasonableness of attorneys' fees and expenses should be evaluated, I will not base my opinion on the difference between New York and nationwide standards.

9. There are eight factors for assessing the reasonableness of fees and expenses. *See* Rule 1.5(a). (Most of these factors, e.g. "the time and labor involved," Rule 1.5(a)(1), are irrelevant to the evaluation of the reasonableness of expenses.) The most important factor is whether the fee charged, or the disbursement passed through to the client, is within the range "customarily charged in the locality for similar legal services." *See* Rule 1.5(a)(3); see also Restatement § 34, cmt. c. (My opinion relies on the affidavit of Prof. Sebok regarding the operation of the Third Party Litigation Finance market; the reasonableness of the decision by the law firm to borrow money from lending institutions, as opposed to requiring the plaintiffs to seek financing on their own; and the reasonableness of the rates obtained by the law firm on these loans.)

10. The general practice is that "the actual amount of disbursements to persons outside the office for hired consultants, printers' bills, out-of-town travel, long-distance telephone charges, and the like ordinarily are charges in addition to the lawyer's fee." Restatement § 38, cmt. e. It would be improper to add a surcharge to these disbursements, or to charge the client for general overhead expenses. (Law firms have occasionally gotten into trouble for doing this. *See* Susan Beck & Michael Orey, "Skaddenomics," *AMERICAN LAWYER* (Sept. 1991). I believe the ABA's formal opinion on billing practices was issued in response to the controversy surrounding abusive billing by some firm. The law firm in this case has indicated that it is not charging the clients for overhead expenses, nor is it seeking to recover interest on loans that were used by the firm to pay for general operating expenses.) A straightforward pass-through of expenses incurred in a particular

case, however, is appropriate as long as it was reasonable for the lawyer to incur those expenses in the course of representing the client.

11. Customary billing practices include charging clients interest on funds borrowed to finance the cost of specific litigation. The New York City Bar has expressly concluded that it is permissible to pass through to a client the interest paid to the bank on a loan taken out by the lawyer to pay the expenses of litigation. *See* ABCNY Formal Op. 1997-1 (March 1997). The City Bar committee noted that the charge to the client cannot exceed the interest charges actually incurred by the lawyer. The New York State Bar ethics committee, opining on a related issue, stated that “we do not believe that an interest rate exceeding the lawyer’s actual or putative cost of obtaining funds would ever be reasonable in a contingency fee matter,” suggesting that a rate equivalent to the lawyer’s actual cost would be reasonable. *See* NYS Bar Op. 729 (May 10, 2000). The committee subsequently reaffirmed that opinion, noting that it was not economically significant whether the lawyer advanced funds already on hand to pay for the expense of litigation or borrowed from a lending institution to finance the litigation. *See* NYS Bar Op. 754 (Feb. 25, 2002). The City Bar also reaffirmed its position, in ABCNY Formal Op. 2000-2, strongly suggesting that the permissibility of charging interest to clients is solidly established in New York law. Interestingly, the latter City Bar opinion talks about the client’s obligation to honor the fee agreement with his or her lawyer.

12. In my opinion, the charges for interest in this case are well within the range of reasonable practices in the relevant community. Mass tort litigation is lengthy, complex, and necessarily expensive. Issues such as causation and damages require expert testimony and review of the medical records of all of the plaintiffs. I have reviewed the letter to this Court from Worby Groner Edelman & Napoli Bern, including the exhibits detailing plaintiffs’ and defense

expenditures. I have also considered the testimony of Anthony Sebok concerning the market for the financing of litigation. Given the massive expense of this litigation, it would have been reasonable for the law firm to borrow funds from financial institutions and to pass the resulting costs on to its clients.

13. It is well established that a lawyer may incur expenses, including interest expenses, while representing a client and pass those expenses along to the client. There is no further requirement that a lawyer obtain the client's consent to each expenditure. Decision-making authority between lawyer and client is allocated by Rule 1.2(a). Except for certain decisions that are always reserved for the client to make, such as whether to accept an offer of settlement in a civil case, the lawyer is entitled to make decisions with regard to the means by which the client's objectives are to be pursued. This authority is subject to the general requirement that a lawyer provide competent representation, Rule 1.1(a), but as long as a decision to incur expenses is reasonable, a lawyer has the authority to make that decision.

14. Rule 1.2(a) requires that a lawyer consult with the client with respect to the means by which the representation will be pursued. That rule, in turn, refers to Rule 1.4 on communication with clients. Rule 1.4(a)(2) requires that a lawyer "reasonably consult" with the client. Significantly, the rule does not require the client's consent. There are numerous provisions in the New York rules for obtaining the client's informed consent. *See, e.g.*, Rules 1.2(c) (limiting scope of representation); 1.6(a)(1) (disclosing confidential information); 1.7(b)(4) (waiving conflicts of interest); 1.8(b) (using confidential client information); 2.3(b) (third-party evaluations where the client's interests may be adversely affected). Informed consent, which is an important concept in the law governing lawyers, is defined as agreement by the client after full consultation. Rule 1.0(j). Because the rule on allocation of authority, Rule 1.2(a), and the rule on communication, Rule

1.4(a)(2), do not require informed consent with respect to means-related decisions, it is not necessary for the lawyer to do more than keep the client informed about the means of representation.

15. The allocation of authority between lawyers and clients ultimately works for the benefit of clients in several ways. For one thing, it reduces transaction costs. If clients were required to give consent to every tactical decision made by lawyers in the course of representation, the process would be cumbersome and expensive. This is particularly true in multiple-client representations where clients may disagree with each other about a proposed course of action. Entrusting lawyers with discretion to make decisions about the means of representation also places responsibility for ethical conduct on professionals who are regulated by courts and subject to discipline. The lawyer's traditional role as officer of the court, combined with the lawyer's role as agent for the client, contributes to ethical, efficient representation.

16. New York law requires extensive disclosure to clients of the terms of fee arrangements. With a few exceptions not applicable here, lawyers must provide a written engagement letter with, or include in a retainer agreement, disclosures of the lawyer's billing practices, fees to be charged, and the treatment of expenses. *See* 22 N.Y.C.R.R. § 1215.21(b). Similar disclosures are required by Rule 1.5(b). Further disclosures are mandated by the rule on contingent fees:

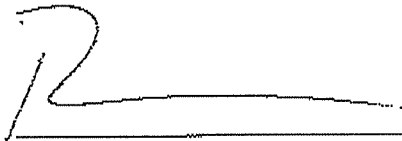
Promptly after a lawyer has been employed in a contingent fee matter, the lawyer shall provide the client with a writing stating the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or, if not prohibited by statute or court rule, after the contingent fee is calculated. The writing must clearly notify the client of any expenses for which the client will be liable regardless of whether the client is the prevailing party.

Rule 1.5(c). The provisions in the new Rules are substantively identical to the previous Code requirements. Thus, any disclosure that comply with the current Rules provisions would have satisfied previous Code provisions as well.

17. I have reviewed a sample agreement by which clients retained the law firm of Worby Groner Edelman & Napoli Bern for representation in connection with post-9/11 rescue and recovery activities at the World Trade Center site. That agreement provides three important disclosures to prospective clients. First, that the law firm may incur expenses in the course of representation and that those expenses will be deducted from the amount due to the client (§§ 2, 3). Second, that expenses incurred on behalf of other clients who have retained the firm on the same or a similar matter may be shared proportionately among the co-clients (§ 2). Third, that the firm may borrow funds from a lending institution to finance the cost of the litigation (§ 8). The agreement also provides a helpful illustration (§ 3), of the calculation of the fees due to the firm, showing that the percentage fee is calculated on the net recovery. (New York is somewhat unusual – and more client-friendly – in requiring that attorneys' fees in a contingency fee matter be calculated on the net recovery, less expenses. In many states, the customary practice is to calculate fees on the gross amount.)

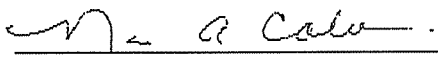
18. In my opinion, the sample retainer agreement complies with all of the disclosure requirements in New York law, including the general fee rule, Rule 1.5(b), the rule on contingent fees, Rule 1.5(c), and the provision of the statute, 22 N.Y.C.R.R. § 1215.21(b). The disclosures in the retainer agreement fully apprise prospective clients that they will be required to pay litigation expenses, that expenses may include the cost of borrowing money to finance the litigation, that the fee calculation will be on the recovery net of expenses, and that expenses will be pooled and shared proportionately among clients being represented in the same or a similar matter.

19. The law firm has fully complied with all of the ethical requirements in connection with the interest expenses billed to the plaintiffs. Borrowing money was necessary to finance the litigation, and it was in the best interests of the firm's clients for the firm to approach the lending institutions directly, as opposed to having the plaintiffs individually seek financing on the Third Party Litigation Financing market. The interest rates obtained by the firm were reasonable, and in any event better than the individual plaintiffs could have obtained on their own. The amount of expenses charged to the firm's clients is therefore reasonable under New York Rule 1.5(a). Furthermore, the firm disclosed the likelihood of borrowing to finance the litigation, and disclosed that it would charge clients for disbursements it made on their behalf. The clients gave effective consent in advance to this billing arrangement. For the foregoing reasons, there is no legal basis for requiring the firm to reduce the amounts it has charged its clients for expenses incurred on their behalf while pursuing this litigation.



W. Bradley Wendel

Sworn to and subscribed before me
this 11th day of August, 2010



Notary Public

NAN A. COLVIN
Notary Public, State of New York
No. 4674392
Qualified in Tompkins County
Commission Expires 12/31/10

W. Bradley Wendel

Professor of Law

[Current as of August 10, 2010]

106 Myron Taylor Hall
Cornell Law School
Ithaca, New York 14853

(607) 255-9719
Email: wbw9@cornell.edu
SSRN Author Page: <http://ssrn.com/author=247191>

EMPLOYMENT

Cornell Law School, Ithaca, New York.

Professor of Law, 2006-present. (Associate Professor of Law, 2004-06; Visiting Assistant Professor of Law, Spring 2003.)

- Courses Taught: The Law Governing Lawyers; Ethical Issues in Civil Litigation, Philosophical Perspectives on Legal Ethics (seminar); Torts; Ethics and Corporate Culture (for JD and MBA students, co-taught with Dana Radcliffe of the Johnson Graduate School of Management).

Washington and Lee University School of Law, Lexington, Virginia.

Associate Professor of Law, 2003-04. (Assistant Professor of Law, 1999-2003.)

Columbia University School of Law, New York, New York.

Associate in Law, 1997-99.

U.S. Court of Appeals for the Ninth Circuit,

Honorable Andrew J. Kleinfeld, Fairbanks, Alaska.

Judicial Clerk, 1996-97.

Bogle & Gates, Seattle, Washington.

Product Liability Litigation Associate, 1994-96.

EDUCATION

Columbia University School of Law, New York, New York.

J.S.D. 2002, LL.M. 1998. Concentration: Legal Philosophy.

Duke University School of Law, Durham, North Carolina.

J.D. with Honors 1994.

Admitted to practice in Washington State, 1994. Currently on active status.

Rice University, Houston, Texas.

B.A. in Philosophy 1991.

PUBLICATIONS

Books

Lawyers and Fidelity to Law. Princeton University Press. Publication expected September 1, 2010.

Editor, The Law and Ethics of Lawyering (with Geoffrey C. Hazard, Jr., Susan P. Koniak, Roger C. Cramton, and George M. Cohen). Foundation Press, 5th ed., 2010.

Editor, Legal Ethics: Professional Ethics and Personal Integrity (with Tim Dare). Cambridge Scholars Press 2010.

Professional Responsibility: Examples and Explanations. Aspen Law and Business (2d ed. 2007) (3d ed. in progress).

Editor, The Law Governing Lawyers: National Rules, Standards, and Statutes (with Susan R. Martyn and Lawrence J. Fox). Aspen Law and Business (2005, with annual updates through 2010).

Articles and Book Chapters

Razian Authority and Its Implications for Legal Ethics, __ Legal Ethics __ (2010) (forthcoming) (symposium on jurisprudence and legal ethics).

Articles on *Legal Ethics* and *Adversary System of Justice* for International Encyclopedia of Ethics (Hugh LaFollette, ed., Blackwell Publishing, forthcoming).

Legal Ethics and Moral Character (with Alice Woolley), 23 Georgetown Journal of Legal Ethics __ (2010) (forthcoming, with a response by David Luban).

Methodology and Perspective in the Theory of Lawyers' Ethics: A Response to Professors Woolley and Markovits, __ University of Toronto Law Journal __ (October 2010) (forthcoming).

The Public Responsibilities of Judges in a Liberal Democracy: The Problem of Pluralism, under review, Ratio Juris.

If Lifelong Learning is the Solution, What is the Problem?, __ Canadian Legal Education Annual Review __ (2010) (forthcoming).

Legal Advising and the Rule of Law, in Reaffirming Legal Ethics: Taking Stock and New Ideas (Kieran Tranter, et al., eds., Routledge 2010).

Personal Integrity and the Conflict Between Ordinary and Institutional Values, in Dare and Wendel, Legal Ethics: Professional Ethics and Personal Integrity (Cambridge Scholars Press 2010).

The Torture Memos and the Demands of Legality, 12 Legal Ethics 107 (2009).

Government Lawyers, Democracy, and the Rule of Law, 77 Fordham Law Review 1333 (2009) (symposium on “The Lawyer’s Role in a Contemporary Democracy”).

Executive Branch Lawyers in a Time of Terror, 31 Dalhousie Law Journal 247 (2009) (the 2008 F.W. Wickwire Memorial Lecture on Legal Ethics and Professional Responsibility).

Legal Ethics as “Political Moralism” or the Morality of Politics, 93 Cornell Law Review 1413 (2008) (reviewing David Luban, *Legal Ethics and Human Dignity*).

Impartiality in Judicial Ethics: A Jurisprudential Analysis, 22 Notre Dame Journal of Law, Ethics, and Public Policy 305 (2008) (symposium on “The Judiciary”).

Lawyers as Quasi-Public Actors, 45 Alberta Law Review 83 (2008) (symposium in honor of the 100th anniversary of the Law Society of Alberta).

Lawyers, Citizens, and the Internal Point of View, 75 Fordham Law Review 1473 (2006) (symposium on “The Internal Point of View in Law and Ethics”).

Institutional and Individual Justification in Legal Ethics: The Problem of Client Selection, 34 Hofstra Law Review 987 (2006) (symposium on “Lawyers’ Ethics in an Adversary System,” in honor of Monroe Freedman).

Ethical Lawyering in a Morally Dangerous World, 19 Georgetown Journal of Legal Ethics 299 (2006) (reviewing Milton C. Regan, Jr., *Eat What You Kill: The Fall of a Wall Street Lawyer*).

Moral Judgment and Professional Legitimation, 51 St. Louis University Law Review 1071 (2006) (symposium on “Teaching Legal Ethics”).

Legal Ethics and the Separation of Law and Morals, 91 Cornell Law Review 67 (2005).

Professionalism as Interpretation, 99 Northwestern University Law Review 1169 (2005).

- Anthologized in the second edition of *Enron and Other Corporate Fiascos: The Corporate Scandal Reader* (Nancy B. Rapoport & Jeffrey D. Van Niel, eds.).

Symposium Introduction, *Economic Rationality vs. Ethical Reasonableness: The Relevance of Law and Economics for Legal Ethics*, 8 Legal Ethics 107 (2005) (review symposium on Randal Graham, *Legal Ethics*).

Civil Obedience, 104 Columbia Law Review 363 (2004).

- Selected for presentation at the 2003 Stanford-Yale Junior Faculty Forum.

The Banality of Evil and the First Amendment, 102 Michigan Law Review 1404 (2004) (reviewing Alexander Tsesis, *Destructive Messages: How Hate Speech Paves the Way for Harmful Social Movements*).

The Deep Structure of Conflicts of Interest, 16 Georgetown Journal of Legal Ethics 473 (2003) (reviewing Andrew Stark, *Conflicts of Interest in American Public Life* and Michael Davis & Andrew Stark, *Conflicts of Interest in the Professions*).

A Moderate Defense of Hate Speech Regulations on University Campuses, 41 Harvard Journal on Legislation 407 (2004) (symposium on “Perspectives on Hate Speech and Hate Crimes”).

Conflicts of Interest Under the Revised Model Rules, 81 Nebraska Law Review 1363 (2003) (symposium on “Nebraska and the Model Rules of Professional Conduct”).

Symposium Introduction, *Our Love-Hate Relationship with Heroic Lawyers*, 13 Widener Law Journal 1 (2003) (symposium, “When a Lawyer Stood Tall: Sharing and Understanding Stories of Lawyer Heroes”).

Informal Methods for Enhancing the Accountability of Lawyers, 54 South Carolina Law Review 979 (2003) and *How I Learned to Stop Worrying and Love Lawyer-Bashing: Some Post-Conference Reflections*, 54 South Carolina Law Review 1037 (2003) (symposium on “Enhancing the Accountability of Lawyers for Unprofessional Conduct”).

Regulation of Lawyers Without the Code, the Rules, or the Restatement: Or, What Do Honor and Shame Have to do with Civil Discovery Practice?, 71 Fordham Law Review 1567 (2003) (annual ethics symposium, “Looking Back”).

Busting the Professional Trust: A Comment on William Simon’s Ladd Lecture, 30 Florida State University Law Review 659 (2003).

Mixed Signals: Rational-Choice Theories of Social Norms and the Pragmatics of Explanation, 77 Indiana Law Journal 1 (2002).

"Certain Fundamental Truths": A Dialectic on Negative and Positive Liberty in Hate-Speech Cases, 65 Law and Contemporary Problems 33 (2002) (symposium, "Enduring and Empowering: The Bill of Rights in the Third Millennium").

Ethics for Skeptics, 26 Journal of the Legal Profession 165 (2002) ("mini-symposium" on the panel presentations at the 2002 meeting of the professional responsibility section of the AALS).

Teaching Ethics in an Atmosphere of Skepticism and Relativism, 36 University of San Francisco Law Review 711 (2002) (symposium, "Teaching Values in Law School").

Nonlegal Regulation of the Legal Profession: Social Norms in Professional Communities, 54 Vanderbilt Law Review 1955 (2001).

Professional Roles and Moral Agency, 89 Georgetown Law Journal 667 (2001) (reviewing Arthur Isak Applbaum, *Ethics for Adversaries*).

The Ideology of Judging and the First Amendment in Judicial Election Campaigns, 43 South Texas Law Review 73 (2001) (annual ethics symposium, "The Ethics of Judicial Selection").

Motivation, Morality, and the Professionalism Movement, 52 South Carolina Law Review 557 (2001) (symposium, "Improving the Professionalism of Lawyers: Can Commissions, Committees, and Centers Make a Difference?").

Free Speech for Lawyers, 28 Hastings Constitutional Law Quarterly 305 (2001).

Value Pluralism in Legal Ethics, 78 Washington University Law Quarterly 113 (2000).

Public Values and Professional Responsibility, 75 Notre Dame Law Review 1 (1999).

Rediscovering Discovery Ethics, 79 Marquette Law Review 895 (1996).

Lawyers & Butlers: The "Remains" of Amoral Ethics, 9 Georgetown Journal of Legal Ethics 161 (1995).

Other Short Pieces

Protection for Bad Work, New York Times "Room for Debate" feature on Torture and Academic Freedom (Aug. 20, 2009).

W. Bradley Wendel
Page 6

Deference to Clients and Obedience to Law: The Ethics of the Torture Lawyers (A Response to Professor Hatfield), Northwestern University Law Review “Colloquy” (online companion to *Nw. U. L. Rev.*) (Aug. 2, 2009).

Editorial, *The Methodology of Legal Ethics Scholarship: Perspective and Authority*, 9 Legal Ethics 229 (2007).

Articles on legal ethics issues for Encyclopedia of American Civil Liberties (4 vols., ed. Paul Finkelman. New York: Routledge, 2006): *Bates v. State Bar of Arizona*, *Brotherhood of Railroad Trainmen v. Virginia ex rel. Virginia*, *Judicial Bias*, *Lawyer Advertising*, *Chicago Seven Trial*, *Disciplining Lawyers for Speaking About Pending Cases*, *Ineffective Assistance of Counsel*.

The Legalization of Legal Ethics: An Historical Perspective from the United States, 36 Dong-A University [South Korea] Law Review 269 (2005).

Editorial, *On International and Interdisciplinary Legal Ethics Scholarship*, 7 Legal Ethics 110 (2004).

Reason and Authority in Legal Ethics, *American Philosophical Association Newsletter on Philosophy and Law* (Spring 2003), at 171.

Hate and the Bar: Is the Hale Case McCarthyism Redux or a Victory for Racial Equality?, The Bar Examiner (May 2001), at 26. (This essay was the winner of the 2001 Joe E. Covington Prize for Scholarship in Bar Admissions Topics, awarded by the National Conference of Bar Examiners.)

SELECTED PRESENTATIONS

(Other than in connection with papers listed above)

“The Global Law Firm: Relationships of Trust and Regulation of the Legal Profession in the 21st Century”; “A Modern Legal Ethics: Author Meets Critics”; “Comparative Judicial Ethics”; “Jurisprudence and Legal Ethics”. Fourth International Legal Ethics Conference. Stanford Law School. Palo Alto, California. July 16-17, 2010.

“Legal Ethics: Public or Personal?”, *International Legal Ethics Seminar*. Aksaray, Turkey. July 1, 2010. “Guantanamo and the Rule of Law,” *International Legal Ethics Conference: Challenges to the Legal Profession in the U.S., Europe, and Turkey*. Ankara, Turkey. June 29, 2010.

Commentator and Panelist, “A Conversation About Ethical, Social, and Moral Issues Related to Alternative Litigation Finance,” *Alternative Litigation Finance in the U.S.: Where Are We and*

Where Are We Headed with Practice and Policy? RAND Institute for Civil Justice Conference. Arlington, Virginia, May 20-21, 2010.

“The Ethical Judge,” *Judicial Ethics and Accountability: At Home and Abroad*. Symposium sponsored by University of the Pacific - McGeorge Law School. Sacramento, California, April 9-10, 2010.

“The Changing Role of the Lawyer and Professional Responsibility Education in North America,” *International Symposium in Professional Responsibility: The Societal Role of the Jurist and the Standardization of Legal Education*. Kwansai Gakuin University Law School, Nishinomiya (Osaka - Kansai area), Japan, March 15, 2010.

“Cyberstalking Meets First Amendment Meets Character and Fitness,” Panel Sponsored by Section on Women in Legal Education. *Association of American Law Schools Annual Conference*. New Orleans, Louisiana, January 9, 2010.

“The Role of Government Attorneys and the Global War on Terror,” Professional Responsibility Panel Discussion, *Federalist Society National Lawyers’ Convention*. Washington, D.C., November 12, 2009.

“Ethics in Government Lawyering: Detainee Interrogation and the Torture Memoranda,” Panel Presentation sponsored by the ACLU and Federalist Society. University of Connecticut School of Law. Hartford, Connecticut, October 15, 2009.

“The Public Responsibilities of Judges in a Liberal Democracy: The Problem of Pluralism,” Special Workshop: The Public Responsibility of the Judge in a Liberal System of Justice, *IVR World Congress of Philosophy of Law and Social Philosophy*. Beijing, China. September 19, 2009.

“The Role of Lawyers in Corporate Governance,” Formal lecture pursuant to the H.R.H. Princess Bajrakitiyabha faculty exchange program. Bangkok, Thailand. November 7, 2008.

“The Institutional Architecture of Independence,” *Advising the New U.S. President: How Legal Advice Will Reshape Foreign Policy in the Next Administration (Showcase Presentation)*. ABA Section of International Law, Fall Meeting. Brussels, Belgium. September 25, 2008.

“Legal Advising and the Rule of Law,” *Keynote Address*. Third International Legal Ethics Conference. Gold Coast, Australia. July 15, 2008.

“Why Can’t Legal Advisors Be Formalists? Can They Be Positivists?” *(First) Legal Ethics Shmooze*. Fordham Law School, New York, New York. June 1-3, 2008.

W. Bradley Wendel

Page 8

“Ethical Obligations of the Capital Defense Team: Protecting Disabled Clients from Themselves,” *National Seminar on the Development and Integration of Mitigation Evidence*. Habeas Assistance and Counsel Training Project, Baltimore, Maryland. May 29, 2008.

“Professional Responsibility for Government Lawyers,” *Dean’s Lecture on Professional Responsibility*. Yale Law School, New Haven, Connecticut. March 13, 2008.

“Lawyers in a Time of Terror,” *Wickwire Memorial Lecture in Legal Ethics and Professional Responsibility*. Dalhousie Law School, Halifax, Nova Scotia. February 21, 2008.

“Jurisprudence and Judicial Ethics,” *Special Workshop on Legal Ethics*, 23d World Congress of Philosophy of Law and Social Philosophy. Krakow, Poland, August 2, 2007.

Lecture, “Law, Ethics, and Torture: The Roles of Government Attorneys and Lawyers Representing Detainees,” Florida Coastal School of Law, Jacksonville, Florida. March 8, 2007.

“Lawyers and Core Values: A Comparative Perspective,” *Symposium: The Forefront of American Legal Ethics: Social Change and the Role of Lawyers*, Japanese-American Society for Legal Studies. Hosei University, Tokyo, Japan. September 10, 2006.

“The Key Issues of Legal Ethics in the United States: A Synopsis and Analysis,” *Inaugural Public Lecture of the Aichi Legal Ethics Society*. Center for Asian Legal Exchange, Nagoya University, Nagoya, Japan. September 8, 2006.

“Normativity and Integrity in Professional Ethics,” *Legal Ethics: Professional Ethics and Personal Integrity*, University of Auckland, New Zealand. June 23-25, 2006.

“Torture, Legal Ethics, and the Separation of Law and Morality,” Lecture at University of Sydney Law School. Sydney, NSW, Australia. June 14, 2006.

Commentator on Robert S. Summers, *Form and Function in a Legal System*, Cornell Law School Book Symposium. March 29, 2006.

“Litigation Funding,” *American Bar Association National Conference on Professional Responsibility*, Chicago, Illinois. June 1-4, 2005.

“The Legalization of Legal Ethics: An Historical Perspective from the United States,” Dong-A University Law School, Busan, South Korea. February 3, 2005.

“Judicial Ethics: A Reprise of Recent Events,” Federalist Society Professional Responsibility Section. National Press Club, Washington, D.C. April 6, 2004.

W. Bradley Wendel
Page 9

“Pluralism and Preclusion,” *Religious Values and Corporate Decision Making*, Fordham University Law School. New York, New York. February 23, 2004.

Program Chair and Moderator, *When a Lawyer Stood Tall: Sharing and Understanding Stories of Lawyer Heroes*, Association of American Law Schools Annual Meeting. Atlanta, Georgia. January 6, 2004.

Invited Participant, *Moral Theory and Its Practical Application: An Interdisciplinary Seminar*, Center for the Teaching and Study of Applied Ethics, University of Nebraska – Lincoln. June 14-19, 1999.

Faculty Workshop Presenter at Australian National University, Boston College Law School, Cornell Law School, Dalhousie Law School (Halifax, Nova Scotia), Duke Law School, Georgetown Law School, New York University Law School Lawyering Faculty, Queen’s University Faculty of Law (Kingston, Ontario), St. John’s University School of Law, St. Louis University School of Law, Suffolk University Law School, University of Akron Law School, University of Arizona Law School, University of Denver Law School, University of Houston Law School, University of Nevada - Las Vegas School of Law, University of San Diego Law School, University of Southern California Law School (Autumn 2010), University of Texas Law School, University of Washington – Seattle School of Law, Villanova Law School, Washington University School of Law, Washington and Lee Law School, Washington and Lee Philosophy Department, Willamette University School of Law, Yale Law School Legal Theory Workshop.

OTHER TEACHING RESPONSIBILITIES

Visiting professor, Tel Aviv University Faculty of Law. Spring 2011.

Distinguished visiting professor, University of Southern Queensland. Toowoomba, Queensland, Australia. September 20 - October 1, 2010.

Guest lecturer in legal ethics, torts, cyberspace law, and introduction to American law, at the faculties of law of Chulalongkorn University and Thammasat University. Bangkok, Thailand, November 2008.

“Comparative Legal Systems: Different Perspectives, Different Emphases,” Summer Law Institute, Suzhou, China. A program of Kenneth Wang School of Law, Soochow University; Cornell Law School; Bucerius Law School. Summer 2007.

Seminar, “Comparative Perspectives on the Legal Profession,” Ph.D. program in Institutions, Economics, and Law. Real Collegio Carlo Alberto, Moncalieri, Italy. March 20-23, 2006.

Continuing Legal Education (CLE) faculty in legal ethics for the Practicing Law Institute, New York State Bar Association, Fingerlakes Women's Bar Association, and Tompkins County Bar Association, as well as at Cornell Law Alumni Association meetings in New York City, Chicago, Philadelphia, San Francisco, Los Angeles, and Ithaca.

PROFESSIONAL SERVICE ACTIVITIES

Member, Multistate Professional Responsibility Exam (MPRE) drafting committee, 2007-present.

Editor, *Legal Ethics and Professional Responsibility*, an electronic abstracting and article-retrieval journal published by the Social Science Research Network (SSRN).

Co-founder (with John Dzienkowski and John Steele) of *LegalEthicsForum.com*, a weblog dedicated to legal ethics and professional responsibility issues. Legal Ethics Forum was an ABA Journal Top 100 Legal Blog ("Blawg") in 2009.

Book Reviews Editor, *Legal Ethics* (Hart Publishers, Oxford, U.K.), 2003-10.

Editor, *American Legal Ethics Library*, Cornell Legal Information Institute.

Faculty Appointments Committee, 2006-07, 2007-08, 2008-09; chair, 2009-10.

Cornell Law School representative to the International Ph.D. Program in Institutions, Economics, and Law, administered by the Università di Torino (Turin, Italy), École Polytechnique (Paris, France), Universiteit van Gent (Ghent, Belgium), and Cornell Law School, 2004-07.

Member of planning committee for ABA Center for Professional Responsibility Annual Meeting, 2006-07.

Member of executive committee of AALS Section on Professional Responsibility, 2003-05, and nominating committee, 2007-08.

Visiting member of the Law Society Ethics Forum, studying the reform of legal ethics education in the United Kingdom.

Member of editorial board of the Korean Journal of Law and Society.

Peer reviewer for *Legal Ethics*, *Journal of Empirical Legal Studies*, *Journal of Law and Religion*, *Journal of Legal Education*.

W. Bradley Wendel

Page 11

Pro bono activities include assisting with the drafting of and coordinating signatures on Brief of Amicus Curiae Professor of Legal Ethics, in *Binney v. South Carolina*, in the South Carolina Supreme Court, and national CLE seminars in Baltimore, Pittsburgh, and Seattle, on the duties of lawyers in capital defense mitigation.