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EDUCATION

Undergraduate: YALE UNIVERSITY, New Haven, Connecticut
B.A., Magna Cum Laude, Political Science, 1966

Legal: HARVARD LAW SCHOOL, Cambridge, Massachusetts
J.D., Cum Laude, 1969

EMPLOYMENT

Non-Legal: NEW YORK CITY PUBLIC SCHOOLS
Teacher, 1969-72

Legal: MASSACHUSETTS JOINT LEGISLATIVE COMMISSION
ON DRUGS & DRUG ABUSE
Assistant Counsel, 1969

HON. CLARENCE NEWCOMER, United States District Court
for the Eastern District of Pennsylvania
Law Clerk, 1972-73

VARIOUS LITIGATION, state and federal courts of New Jersey, New York
and Pennsylvania, 1973-Present

Law Teaching: SETON HALL UNIVERSITY SCHOOL OF LAW
One Newark Center, Newark, New Jersey 07102
Assistant Professor, 1973-1976
Associate Professor, 1976-1979
Professor, 1979-2008
John J. Gibbons Professor, since 2008

Subjects Taught: Evidence, Advanced Evidence, Civil Procedure, Torts,
Conflict of Laws, Law & Public Policy, Equity, Remedies

NATIONAL UNIVERSITY OF SINGAPORE
Kent Ridge, Singapore 0511
Visiting Senior Fellow, Law Faculty, 1985-1986

Subjects Taught: Evidence, Introduction to Advocacy, Trial Practice

Supplementary
Teaching:

Lecturer, New Jersey Judicial College, 1977
Lecturer, New Jersey Institute of Continuing Legal Education, 1976-1978
Trial Advocacy Skills Instructor, National Legal Services Corp., 1979
Lecturer, Practising Law Institute (New York), 1987
Lecturer, National Judicial College, Summer 1988
Lecturer, ALI-ABA, 2002
Lecturer, PLI, 2003
Lecturer, Pennsylvania Judicial Conference, 2003
Adjunct Professor, University of Pennsylvania Law School, 2008

Editorial: Expert Evidence Editor, *International Commentary on Evidence* (since 2008)

Other: Inaugural Dean's Research Fellow, 2002

MEMBERSHIPS & POSITIONS

Bar: Pennsylvania, 1973 (State and Federal) (inactive)
New Jersey, 1978 (State and Federal)
U.S. Court of International Trade, 1980
New York, 1983

Other Chair, Association of American Law Schools Section on Civil Procedure, 1977
Chair, Association of American Law Schools Section on Evidence, 2007
New Jersey Supreme Court Committee on Evidence
Advisor, 1981-1984; Member since 1984-2008
Life Member, American Law Institute (elected 1978)
Listed (at various times):
Who's Who in America
Who's Who in American Law
Who's Who Among Emerging American Leaders

PUBLICATIONS

Book: **Trial Evidence**, a continuing legal education casebook (I.C.L.E., Newark, New Jersey, 1978), 1052 pp. (with Denbeaux)

- Articles: **Presumptions, Assumptions & Due Process in Criminal Cases: A Theoretical Overview**, 79 YALE L.J. 165 (1969) (with Ashford)
- Honesty in Pleading and Its Enforcement: Some “Striking” Problems with Federal Rules of Civil Procedure II**, 61 MINN. L. REV. 1 (1976)
- Questioning Questions: Problems of Form in the Interrogation of Witnesses**, 33 ARKANSAS L. REV. 439 (1980) (with Denbeaux)
- Substance & Procedure Revisited (with Some Afterthoughts on the Constitutional Problems of Irrebuttable Presumptions)**, 30 U.C.L.A. L. REV. 189 (1983)
- Direct Damages: The Lost Key to Constitutional Just Compensation When Business Premises Are Condemned**, 15 SETON HALL L. REV. 483 (1985)
- Another Step in the Counter-Revolution: A Summary Judgment on the Supreme Court New Approach to Summary Judgment**, 54 BROOKLYN L. REV. 35 (1988)
- Exorcism of Ignorance as a Proxy for Rational Knowledge: The Lessons of Handwriting Identification “Expertise,”** 137 U. PA. L. REV. 731 (1989) (with Denbeaux and Saks)
- Science and Nonscience in the Courtroom: *Daubert* Meets Handwriting Identification Expertise**, 82 IOWA L. REV. 21 (1997) (with Saks)
- John Henry Wigmore, Johnny Lynn Old Chief, and “Legitimate Moral Force”: Keeping the Courtroom Safe for Heartstrings and Gore**, 49 HASTINGS L.J. 403 (1998)
- Brave New “Post-*Daubert* World”—A Reply to Professor Moenssens**, 29 SETON HALL L. REV. 405 (1998)
- Defining the “Task at Hand”: Non-Science Forensic Science after *Kumho Tire v. Carmichael***, 37 WASHINGTON & LEE L. REV. 767 (2000)
- Navigating Expert Reliability: Are Criminal Standards of Certainty Being Left on the Dock**, 64 ALBANY L. REV. 99 (2000)
- Preliminary Thoughts on a Functional Taxonomy of Expertise for the Post-*Kumho* World**, 31 SETON HALL L. REV. 508 (2000)
- The *Daubert/Kumho* Implications of Observer Effects in Forensic Science: Hidden Problems of Expectation and Suggestion**, 90 CAL. L. REV. 1 (2002) (with

Saks, Thompson, and Rosenthal)

**Three Card Monte, Monty Hall, Modus Operandi and “Offender Profiling”:
Some Lessons from Modern Cognitive Science for the Law of Evidence,**
24 CARDOZO L. REV. 193 (2002) (with Loop)

**Context Effects in Forensic Science: A Review and Application of the Science of
Science to Crime Laboratory Practice in the United States,** 43 SCIENCE AND
JUSTICE (the Journal of the British Forensic Science Society) 77 (2003) (with Saks,
Rosenthal and Thompson)

***Kumho Tire* and Expert Reliability: How the Question You Ask Gives the
Answer You Get,** 34 SETON HALL L. REV. 15 (2003) (with Denbeaux)

**A House With No Foundation: Litigation-Directed Research in the Criminal
Justice System,** 20 ISSUES IN SCIENCE AND TECHNOLOGY (the journal of the National
Academy of Sciences) 35 (Fall 2003) (with Saks)

**Rationality, Research and Leviathan: Law Enforcement-Sponsored Research
and the Criminal Process,** 2003 MICH. ST. L. REV. 1023 (with Saks)

**Baserates, the Presumption of Guilt, Admissibility Rulings, and Erroneous
Convictions,** 2003 MICH. ST. L. REV. 1051 (with Saks)

**Unsafe Verdicts: The Need for Reformed Standards for the Trial and
Review of Factual Innocence Claims,** 41 HOUSTON L. REV. 1281 (2004)

**Boxes in Boxes: Julian Barnes, Conan Doyle, Sherlock Holmes and the Edalji
Case,** 4 INTERNATIONAL COMMENTARY ON EVIDENCE #2 (2007)

**Innocents Convicted: An Empirically Justified Factual Wrongful Conviction
Rate,** 97 J. CRIM. L. & CRIMINOLOGY 761 (2007)

**The Irrelevance, and Central Relevance, of the Boundary Between Science and
Non-Science in the Evaluation of Expert Witness Reliability,** 52 VILLANOVA L.
REV. 679 (2007)

**Introduction--Guilt v. Guiltiness: Are the Right Rules for Trying Factual
Innocence Inevitably the Wrong Rules for Trying Culpability?** 38 SETON HALL
L. REV. 885 (2008)

**Goodbye To All That, Or, A Fool’s Errand, By One of the Fools: How I Stopped
Worrying About Court Responses to Handwriting Identification (and “Forensic
Science” in General) and Learned to Love Misinterpretations of *Kumho Tire v.
Carmichael*,** 43 TULSA L. REV. 447 (2008)

Appendix: Cases Involving the Reliability of Handwriting Expertise Since the Decision in *Daubert*, 43 TULSA L. REV. 477 (2008)

Sequential Unmasking: A Means of Minimizing Observer Effects in Forensic DNA Interpretation, 2008 Journal of Forensic Sciences 1006 (with Krane, Ford, Gilder, Inman, Jamieson, Koppl, Kornfield, Rudin, Taylor, and Thompson)

Book

Chapters: “Handwriting Identification,” Chapter 28 in Faigman, Kaye, Saks and Sanders, eds., **Modern Scientific Evidence, 2nd ed.** (West 2002, 2006)

“Preliminary Thoughts on a Functional Taxonomy of Expertise,” Chapter 2 in Faigman, Kaye Saks and Sanders, eds., **Modern Scientific Evidence, 2nd ed.** (West 2002, 2006)

Book

Review: Procedural Justice: A Psychological Analysis (Thibaut & Walker), 9 Seton Hall L. Rev. (1978)

Other:

Supreme Court Preview: *Sandstrom v. Montana* (April 19, 1979)

Materials on the Singapore Evidence Act (1986) (with Chin et. al.)

Materials on Singapore Trial Practice (1986) (with Francis)

Introduction: The Inaugural Wigmore Awards for Lifetime Achievement In the Law of Evidence and Proof, 38 SETON HALL L. REV. 859 (2008)

Recent

Presentations: “The Requirement of Particularization in Evaluating Expert Dependability,” Symposium, At the *Daubert* Gate: Managing and Measuring Expertise in an Age of Science and Specialization, Washington & Lee Law School (April 3, 2000)

“*Kumho Tire* and the “Task at Hand,” National Institute of Justice Conference on Law and Science, Miami, FL (Oct. 5, 2001)

“Distortion of Expert Results by Expectation and Suggestion,” 3rd Annual ALI-ABA program on New Directions in Expert Testimony, Bermuda (July 2002)

“The Implications of *Kumho Tire*,” 3rd Annual ALI-ABA program on New Directions in Expert Testimony, Bermuda (July 2002)

“Handwriting Identification and *Kumho Tire*,” AALS Evidence Section, Washington, D.C. (Jan. 3, 2003)

“*Kumho Tire* and Expert Admissibility,” Pennsylvania Judicial Conference, Hershey, PA (July 2003)

“The Future of Expert Testimony,” City Bar Center for Continuing Education, Association of the Bar, City of New York (Jan. 30, 2003)

“The Need for Reformed Procedures to Control Observer Effects in Forensic Science Practice,” Plenary Session of the American Academy of Forensic Sciences (Feb. 2004)

“Criminal Science: Litigation-Driven Research in the Criminal Justice System,” 3rd Annual Coronado Conference, Institute for Scientific Knowledge and Public Policy, San Diego, CA (March 2006)

“Conviction the Innocent: Solving the Denominator Problem” Innocence Network Conference, Seattle, WA (March 2006)

“Observer Effects and Erroneous Fingerprint Identifications,” Cyril Wecht Institute Annual Conference, Duquesne Law School (April, 2006)

“The Power of Suggestion,” Annual Conference of the Cyril Wecht Foundation on Science and the Law, Pittsburgh, PA (April 2006)

“Deriving an Empirically Justified Wrongful Conviction Rate,” National Innocence Network Conference, Seattle, Wash., April 2006

“The Demarcation Between Science and Non-Science—Does It Make a Difference,” Symposium, Expertise in the Courtroom: Scientists and Wizards, Villanova Law School (Oct. 21, 2006)

“Evaluating Expert Reliability” Symposium, “Scientists and Wizards”, Villanova Law School, October, 2006.

“The Need for Masking Protocols in Forensic Science Practice,” Presentation to the National Academy of Sciences/National Research Council Committee on Identifying the Needs of the Forensic Science Community, Washington, D.C. (Jan. 26, 2007)

Panel discussion, “Is There a Need for Masking Protocols,” Sponsored By The American Society of Crime Laboratory Directors Laboratory Accreditation Board at the American Academy of Forensic Sciences Annual Meeting, San Antonio, TX (Feb. 24, 2007)

Moderator, “Judging Expertise,” Conference on Science and Law, Brooklyn Law School, (March 2, 2007)

“The Effect of Context Bias in Forensic Science,” Conference on Science and the Law, South Texas College of Law, Houston, TX (May 22, 2007)

“The Need for Masking Protocols in Forensic Science Practice,” Forensic Bioinformatics Conference on DNA, Dayton, OH (Aug. 18, 2007)

“An Empirically Justified Wrongful Conviction Rate,” Brooklyn Law School Evidence Colloquium (Nov. 2007)

Moderator, “Guilt v. Guiltiness,” Program of the Evidence Section, Annual Meeting of the Association of American Law Schools, New York, N.Y. (Jan. 3, 2008)

“The Impact of Confirmation Bias and Context Effect on Report Writing in the Forensic Science Laboratory,” American Academy of Forensic Sciences Annual Meeting, Washington, D.C. (Feb. 19, 2008)

“Pattern Evidence and Conformance to the Requirements of *Daubert*,” American Academy of Forensic Sciences Annual Meeting, Washington, D.C. (Feb, 22, 2008)

“Game Over: How the Court’s Have Ignored *Kumho Tire v. Carmichael* in Evaluating Prosecution-Proffered Expertise,” Symposium, Faces of Forensics: Identification and Behavior, Hastings College of the Law, San Francisco, CA (March 22, 2008)

“The Future of Innocence: As DNA Exonerations Decline Do Wrongful Convictions Still Matter?” D.C. Judicial and Bar Conference, Washington, D.C. (April 11, 2008)

Moderator, “The Forensic Science Paradox,” AALS Midyear Meeting (Evidence Section), Cleveland, OH (June 4, 2008)

“Good (and Bad) Advice for New Law Teachers” AALS Midyear Meeting (Evidence Section), Cleveland, OH (June 5, 2008)

“Lessons From DNA for the Evaluation of Other Common Non-Scientific Investigative Methods: Mugshots and Perpetrator Sketches” Forensic Bioinformatics DNA Conference, Dayton, Ohio (August 14, 2008)

Other: Center for the Study of Democratic Institutions, Santa Barbara, CA (March 1970). Paper on judicial review of legislatively found jurisdictional facts (with Ashford)

Editor, A.A.L.S. Civil Procedure Exam Collection (1979)

Speaker, The Judicial Conference of the United States Courts of the Third Circuit, Williamsburg, VA (Oct. 3, 1983). Topic: The Supervisory Powers of the U.S. Courts of Appeal

Grant Reviewer: National Endowment for the for the Humanities, 1991

Planning Committee, AALS Midyear Meeting 2008 (Evidence Section)

AALS Committee on Sections and Annual Meeting (2008-2009)

Peer Reviewer: *Science; Law and Social Science; International Commentary on Evidence, Law Probability and Risk*, Chicago University Press; Harvard University Press; Oxford University Press.