

Curriculum Vitae -- S. Mark Rabil (8-27-18)

Director, Innocence & Justice Clinic
Associate Clinical Professor of Law
Wake Forest University
School of Law
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Education:

B.A., English, Davidson College, 1977 (*Phi Beta Kappa*)

J.D., University of North Carolina School of Law, 1980 (*N.C. Journal of International Law & Commercial Regulation*)

Work History:

January 2013 to present: **Director, Innocence & Justice Clinic, and Associate Clinical Professor of Law, Wake Forest University School of Law**

Capital Case Consultant, Office of the Capital Defender, North Carolina Indigent Defense Services (2013 – present)

May 2003 to December 2012: Assistant Capital Defender, Forsyth Regional Office, N.C. Office of the Capital Defender

September 1980 to May 2003: Private practitioner, Winston-Salem, N.C., with an emphasis on capital, criminal and civil trial and appellate litigation

Law School Teaching Experience:

Fall 2013- present: Associate Clinical Professor of Law, Wake Forest School of Law, teaching Criminal Procedure (2013 - present), Trial Practice (2004 - present), Professional Development (2013-14), Contemplative Practices and the Law (2017 – present)

Fall 2009 to present: Founder and Director, Innocence & Justice Clinic, Wake Forest School of Law

2004 to 2012: Adjunct Professor, Trial Practice, Wake Forest School of Law

1986 to 1987: Adjunct Professor, Legal Research and Writing, University of North Carolina School of Law

1983 to 2012: Supervising Attorney, Litigation Clinic, Wake Forest School of Law

Interdisciplinary Teaching at Wake Forest University:

Nominated for “Core Faculty,” Journalism Program, Wake Forest University (2018).

Advisory Committee, Journalism Program, Wake Forest University (2016 – 2018), with service on hiring sub-committee (2017-18).

Spring, 2018: Co-Taught **“Investigating Innocence: At the Intersection of Journalism, Narrative and Law” (Criminal Procedure – Selected Topics)** Prof. Phoebe Zerwick, Dept. of English, and Director, Journalism Program, Wake Forest College; co-taught law students, documentary film program graduate student and undergraduate writing/journalism students. This cross-listed course immersed students fully in the pursuit of justice through the combination of a legal and a journalistic approach to investigating and writing about actual cases of wrongful conviction. In practical terms, it gave law students the chance to learn a journalistic approach to writing, using narrative techniques to develop character, set the scene, and ultimately make their cases more persuasive. And it gave journalism, writing, and documentary film students a rare opportunity to work with an ongoing case of wrongful conviction to learn investigative techniques practiced by lawyers and investigative journalists. [The professors have been awarded a Mellon grant to prepare for teaching this course again in the Spring 2019.]

Spring, 2016: Co-Taught **The Imagination Project: *Secondary Trauma and the Death Penalty: Narratives of Trauma and the Death Penalty* (Criminal Procedure – Selected Topics)**, with Professor Peter Gilbert and Associate Dean Sandy Dickson, Wake Forest Documentary Film Program; law students, graduate DFP students and undergraduate students studied the traumatic effects of capital litigation on attorneys, corrections officers and family members, and produced first person podcasts as well as short films.

2014 – 2018: Assisted Professor Phoebe Zerwick, Department of English, with Freshman Seminar, **“Writing Justice,”** in which students studied the Darryl Hunt case and the causes and remedies for wrongful convictions, interviewed clients of Expunctions Clinic and produced brochures to advertise the program, and made suggestions for improvement for Innocence & Justice Clinic web site.

2013 – 2018: Guest presenter at Professor Stephen Boyd’s “Religion and Public Engagement” class, Department of Religious Studies, Wake Forest College.

Regular Presentations:

2002-2018: Frequent lecturer and trainer for annual North Carolina Advocates for Justice (NCAJ) **Capital Seminar and Capital Colleges**, and for N. C. School of Government/ N.C. Indigent Defense Services Public Defender Conferences.

2009-2014: **Lecturer on 2009 N.C. Racial Justice Act** (NCAJ seminars and presentations to law schools at Duke, N.C. Central, Campbell, University of North Carolina, Elon and Wake Forest).

Summers, 2016 and 2018: **Wake Summer Immersion Program** – presentations to high school students on the practice of criminal law and the work of the Innocence & Justice Clinic.

August 2016 - 2018: addressed incoming 1L classes, **Duke Law School**, following screening of *The Trials of Darryl Hunt*.

August 2016 - 2018: Presentation to 1L Orientation Classes on The Importance of Pro Bono following screening of *The Trials of Darryl Hunt*.

Summers 2016 - 2018: Presentations to **N.C. Governor’s School**, East (Meredith College) and West (Salem College), following the screening of *The Trials of Darryl Hunt*.

Subject of HBO Documentary *The Trials of Darryl Hunt* (2006). (See www.breakthrufilms.org)

This film chronicles the case of Darryl Hunt from the wrongful murder charge in 1984 until his release in 2004. I represented Mr. Hunt from first capital trial in 1985 through appeals and state and federal proceedings until exoneration and pardon in 2004, and in settlement of his civil claim against City of Winston-Salem in 2007. The film was nominated for the grand jury prize at the Sundance Film Festival and won awards at numerous national and international film festivals, including such prestigious awards as the Columbia School of Journalism Dupont Award (2008). I participated in dozens of panel discussions and presentations at film festivals, law schools, colleges and other venues following screenings of the film, including presentations to the National

Innocence Network Conference (2006), the ACLU national conference (2008), the ABA national conference (2009) and the International Association of Chiefs of Police conference (2009). The film is used as part of wrongful convictions curriculums in law schools across the country, including the Cardozo School of Law, The Innocence Project, Duke School of Law, Wake Forest School of Law and numerous others.

Presentations:

July 23, 2018: **The Innocence Project, New York, N.Y.**, Panel Discussion, with IP Co-Founder and Co-Director Barry Scheck, filmmakers Ricki Stern and William Rexer, and daughter Sarah Rabil (assistant managing editor, *The Wall Street Journal*, re her experiences growing up with the Hunt case) following screening, to summer interns, of *The Trials of Darryl Hunt*.

November 7, 2017: **Moderator, Panel Discussion, “Study and Practice Law Like a Warrior: Learning about Wellness from Veterans,”** a discussion by professionals and students on stress management and wellness techniques from military veterans in law school and recent graduates, as well as a psychologist and a state bar representative.

November 3, 2017: **Panelist, “Activism and Policing,” *The New Law and Order* symposium** at Wake Forest University School of Law, sponsored by N.C. Commission on Racial and Ethnic Disparities, the Wake Forest Journal of Law & Policy, the Wake Forest Criminal Justice Program and the Wake Forest University Rethinking Community series.

October 2, 2017: **Co-Planner and Moderator, Symposium, “Re-Thinking Drug Policy,”** a series of panel discussions on appropriate responses to the opioid and drug epidemics, Wake Forest University School of Medicine; co-sponsored by the Innocence & Justice Clinic, Wake Law, Conservatives for Criminal Justice Reform, the Wake Medical School of Public Health and the Wake Forest University Rethinking Community series.

September 22, 2017: “Ethical and Practical: **The Capital Defense Team,” Presentation** to new capital defense lawyers at seminar sponsored by Office of the Capital Defender, N.C. Indigent Services, Wilmington, N.C.

July 12, 2017: **“Writing Justice,” Applied Legal Storytelling Conference**, Washington, D.C., along with Prof. Phoebe Zerwick, Director, Journalism Program, Wake Forest University, regarding proposed joint law school – journalism program course in which law students and writing students would collaborate on writing projects for actual clients of the Innocence & Justice Clinic.

November 9, 2016: Led Discussion on **Over-Incarceration** following screening of film, *Incarcerating US*, jointly sponsored by The Federalist Society and The Black Law Students Association, School of Law, Wake Forest University.

October 19, 2016: Lecture, Guilford Technical Community College, “The Life and Legacy of Darryl Hunt.”

July 25-30, 2016: Orientation for Incoming MSL Students to Wake Law, Pristina, **Kosovo**, sponsored by U.S. Department of Justice.

June 5, 2016: Presentation to Coalition Opposing the Death Penalty, **Belmont Abbey College**.

May 11, 2016: Panel Discussion following screening of film *Peace Officer*, along with Professor Kami Chavis and Winston-Salem Police Officers, Salem College, Winston-Salem, N. C., sponsored by Riverrun Films.

April 23, 2016: Received award for Innocence and Justice Clinic being named Organization of the Year from *Winston-Salem Chronicle* at 31st Annual Community Service Awards Gala.

April 2, 2016: Acceptance Speech on Posthumous Presentation of Paul Green Award to Darryl Hunt, **N.C. ACLU Annual Awards Dinner**, Chapel Hill, N.C.

March 1, 2016: Presentation to **Forsyth County Criminal Defense Lawyers Association** on Secondary Trauma in Criminal Defense Litigation.

April 1, 2016: Presentation on Wrongful Convictions and The New Slave Narratives, **Wake Forest Law Review Symposium** on “Mass Incarceration.”

February 25, 2016: Question and Answer Session, with Darryl Hunt, **University of Virginia**, School of Public Policy, following screening of *The Trials of Darryl Hunt*.

February 12, 2016: Presentation, with Darryl Hunt, to **North Carolina Sociological Association Annual Conference**, on Exonerations, Re-Entry and Innocence.

February 4, 2016: **Faculty Development Talk**, School of Law, Wake Forest University, “The Effects of Secondary Trauma in Capital Litigation”

December 2015: Discussion with **Leadership Winston-Salem** Class following screening of *The Trials of Darryl Hunt*.

November 13, 2015: Participated on panel, “Human Dignity and the Death Penalty,” **Duke University**.

November 11, 2015: Presentation, **The Possible Application of Daubert to North Carolina's Rule 702**, sponsored by NCCAST, Raleigh, N.C.

Oct. 28, 2015: Panel Discussion, Wake Forest School of Law, Criminal Justice Program and the American Constitution Society's co-hosted event, "**Beyond Ferguson — Criminal Justice Reform for the 21st Century.**"

August 2013 - 2015: Presentations, with Darryl Hunt, to Wake Law 1L Orientation Class on The Importance of Pro Bono following screening of *The Trials of Darryl Hunt*.

August 2007 - 2015: addressed incoming 1L class, **Duke Law School**, along with Darryl Hunt, following screening of *The Trials of Darryl Hunt*

Summers 2007 - 2015: Presentations with Darryl Hunt to **N.C. Governor's School** – East and West, following screening of *The Trials of Darryl Hunt*.

June 19, 2015: **Arizona Public Defender Conference**, Presentation on "Secondary Trauma in Capital Defense," along with Darryl Hunt

May 15, 2015: **N.C. Public Defender Conference**, Panel Discussion on "Secondary Trauma in Public Defense," with Dr. James Hilkey, Richard McGough, Capital Case Investigator, and Tarrah Callahan, Director, North Carolina Coalition for Alternatives to the Death Penalty

March 12, 2015: Panel Discussion following screening of *The Trials of Darryl Hunt*, part of "Made in Winston-Salem" film series, Aperture cinema, along with Phoebe Zerwick and Larry Little

January 23, 2015: **NCAJ Capital Defense Seminar**, Panel Discussion on "Collateral Damage: Secondary Trauma in Capital Defense," with Dr. James Hilkey, Richard McGough, Capital Case Investigator, and Tarrah Callahan, Director, North Carolina Coalition for Alternatives to the Death Penalty

December 18, 2014: Presentation, along with representatives of the Taiwan Innocence Association, to **Taipei Bar Association**, Taiwan, following screening of *The Trials of Darryl Hunt*

December 16, 2014: Panel Discussion, **National Taiwan University, Taipei**, with Retired U.S. District Judge Sam Wilson, former U.S. Attorney John Brownlee, and Leon Huang, Managing Partner, LIONHEART Attorneys At Law, Taiwan, on "The Death Penalty System in the United States," with comparisons to the Taiwan capital punishment system

December 3, 2014: Panel Discussion, Forsyth Detention Center, Winston-Salem, N.C., with Retired Chief District Court Judge William Reingold and representatives from the

Winston-Salem Police Department and the Forsyth County Sheriff's Office, to current class in ***Leadership Winston-Salem***, regarding the local criminal justice system

November 19, and December 3, 2014: Panel Discussions following screening of ***Evolution of a Criminal***, a Spike Lee produced documentary, along with Prof. Kami Simmons and Exoneree Darryl Hunt, at **Wake Forest School of Law** (11/19/14) and **Salem College** (12/3/14), in conjunction with Riverrun Classic Films

October 23, 2014: Presented on Use of Forensic Pathologists in Capital Cases, along with forensic pathologist, Dr. Christine Roberts, **UNC School of Government**

October 21, 2014: Panel Discussion following screening of ***The Central Park Five*** documentary, **Wake Forest School of Law**, sponsored by the Criminal Law Roundtable in conjunction with the Criminal Justice Program and the Innocence & Justice Clinic

Fall Semester 2014: worked with Prof. Phoebe Zerwick's class entitled ***Writing Justice*** to assist Wake Forest undergraduate students in interviewing Expunction Clinic clients and production of brochure telling client stories and discussing availability and limitations of legal remedies for clearing criminal records

July 20, 2014: **BET** broadcast episode of ***Vindicated*** about the Darryl Hunt case, including interviews with Mark Rabil, Darryl Hunt and Larry Little (W.F.J.D. '88) <http://www.bet.com/video/vindicated/season-2/full-episodes/episode-203.html>

June 26, 2014: Presentation, with Darryl Hunt, to **Arizona Public Defender Association** on Lessons from North Carolina's Racial Justice Act and Implications for Arizona Capital Litigation

June 14, 2014: Panelist, **International Civil Rights Museum**, Discussion on Michelle Alexander's *The New Jim Crow*

May 29, 2014: **The Hickory Community Theater**, The N.C. Coalition for Alternatives to the Death Penalty and The Episcopal Church of the Ascension sponsored "An Evening with Darryl Hunt and Mark Rabil," at SALT Block Auditorium, Hickory, N.C., for a discussion on capital punishment and innocence cases

May 27, 2014: presentation, along with Darryl Hunt, to class on "Advocacy, Debate and the Law," a class taught by Wake Law Professors Chris Coughlin and Wilson Parker, along with faculty members from the Wake Forest University Department of Communication, to undergraduate students interested in law school

March 20, 2014: spoke to Prof. Mark Gibney's political science class at **UNC-Asheville** on innocence cases, capital punishment and the criminal justice system

March 6, 2014: **West Forsyth High School**, Clemmons, N.C. – spoke to civics class about criminal justice system along with Darryl Hunt

March 5, 2014: Moderator, Panel Discussion on Lethal Injection Issues, **UNC School of Law**

February 20, 2014: along with Darryl Hunt, spoke to undergraduate students attending **Seminar on Non-Violent Social Change facilitated by Civil Rights Leader Dr. Vincent Harding**, at Wake Forest University

January 24, 2014: presentation at **North Carolina Advocates for Justice Capital Defense Seminar** on Defending Central American Clients with Intellectual Disabilities, with extensive discussion of the 2013 murder trial of a client from El Salvador

December 4, 2013: **Leadership Winston-Salem** presentation; spoke to community leaders about the local criminal justice system along with representatives of the District Attorney's Office

November 12, 2013: Presentation, along with Darryl Hunt, at **University of South Carolina School of Law**, to students and attorneys interested in organizing an innocence project for South Carolina

October 26, 2013: presentation to **N.C./S.C. BLSA Retreat** at Wake Forest School of Law, on pro bono service, innocence issues and capital punishment, along with Darryl Hunt

June 26, 2013: following a screening of *The Trials of Darryl Hunt*, along with Darryl Hunt, addressed high school students attending the **International Baccalaureate World Student Conference**, hosted by Wake Forest University

April 2013: **Conversation with Barry Scheck**, Co-Founder, The Innocence Project, to Innocence & Justice Class and Wake Law Alumni, **Charlotte Campus, Wake Forest University**

April 2013: Organized two days of events at Wake Forest University with Dallas District Attorney Craig Watkins, including **“A Conversation with Craig Watkins,”** an event open to the public and the University, to address Watkins' life, work and unique Conviction Integrity Unit

March 2013: Speaker, symposium commemorating the 50th anniversary of the *Gideon* Supreme Court decision, Campbell School of Law

March 21-22, 2013: Moderator, Panel Discussion, **Duke/UNC Schools of Law Innocence Symposium**, with N.C. exonerees Darryl Hunt, Greg Taylor and Lamont Armstrong, and participated in a panel discussion on Innocence & the Death Penalty

February and March 2013: addressed Wake Forest Law **alumni groups** in **Atlanta** and **Washington, D.C.** about the work of the Innocence & Justice Clinic; sworn into bar of U.S. Supreme Court with Wake Forest alumni group

February 2013: Panel discussion, **UNC-G** documentary film festival, following screening of *The Trials of Darryl Hunt*

January 2013: **Organized an Expunctions Clinic**, along with the Darryl Hunt Project, the Wake Forest University School of Law *Pro Bono* Program, and Legal Aid of North Carolin, to help qualified people with attempts to clear their records of nonviolent felonies and misdemeanors

September 2012: Organized two-day symposium on Innocence & the Death Penalty, featuring Rev. Carroll Pickett, former Texas death house chaplain and subject of film, *At the Death House Door*

February 24, 2012: *Mindfulness and Meditation Practices for Attorneys*, North Carolina Bar Association Seminar on “Work-Life Balance,” Southern Pines, N.C.

March 2012: Presentations at **Trinity School, New York, N.Y.**, to high school classes, with Darryl Hunt, following screening of *The Trials of Darryl Hunt*

April 2011: Panelist, “Case Failures,” **International Innocence Network Conference**, Cincinnati, Ohio

June 2011: **Campbell University**, Guest speaker to class studying death penalty

June 2011: Guest Speaker, **Winston-Salem Bar Association**, discussed the causes of wrongful convictions and the work of the Wake Forest School of Law Innocence & Justice Clinic

July 2011: “A Case of Wrongful Conviction: a Lesson in Storytelling,” presented at “**Applied Legal Storytelling Conference**,” Denver, Colorado, sponsored by CLEA and the Legal Writing Institute (presentation, with former journalist and now Wake Forest English Professor Phoebe Zerwick on use of narrative form and techniques from investigative journalism in legal clinic writing) (<http://www.law.du.edu/index.php/storytelling-conference/program>)

September, 2010: Helped organize panel discussion with **John Grisham**, “Wake Forest University’s Voices of our Time: Innocence and Justice.” Program followed by fund-raising dinner for the Wake Forest Law School’s Innocence and Justice Clinic

August, 2010: Panelist, **NAACP symposium** on Jury Service in Capital Cases, **Statesville, N.C.**, along with District Attorney, Senior Resident Superior Court Judge and Clerk of Court

April, 2010: Participant in Panel Discussion following Stephen Bright (Southern Center for Human Rights) presentation, “Lynching Then, Lynching Now,” discussing issues of race, the death penalty and the North Carolina Racial Justice Act, along with N.C. State House Representatives Larry Womble and Earline Parmon (sponsors of the Act) and exoneree Darryl Hunt (whose case helped passage of the Act), at Wake Forest School of Law

Publications:

Spring 2013: published article in NCAJ’s TRIAL BRIEFS entitled, “First Do No Harm: Protecting *Gideon*’s Promise Fifty Years Later,” addressing the dangers of secondary trauma for public defenders with increasing caseloads due to budget cuts

Fall 2012, published “My Three Decades with Darryl Hunt,” a personal reflection about work in the Hunt case, in **The Albany Law Review**

“Panzer Mind, False Statements: How the Sheriff Got Two Men to Say Beetle Borings Were Gunshot Wounds,” TRIAL BRIEFS (North Carolina Advocates for Justice), October, 2011

“Mark Rabil Calls for Restoring Fairness to the SBI Lab,” (discussing incorrect reports from DNA section of State Crime Lab), Guest Column, *Winston-Salem Journal*, August 29, 2011

“A Tale of Two Cities and Two Juries,” (racial disparity in capital jury selection as a reason to uphold the Racial Justice Act), Guest Column, *Winston-Salem Journal*, June 1, 2011

“The Beverly Hillbillies and Racial Justice,” (on implicit bias and the RJA) Guest Column, *Winston-Salem Journal*, February 20, 2011

“Restoring Hop Sing’s Faith in Forensic Science,” (on need to reform the SBI Crime Laboratory) Guest Column, *The Winston-Salem Journal*, January 23, 2011

“The Message in the Bottle: the Life and Letters of Tom Fowler,” *North Carolina State Bar Journal*, Fall 2004

“True Open File Discovery: the Remedy for Discovery Violations in Capital Cases,” *North Carolina State Bar Journal*, Winter 2003

Significant Briefs, Motions, Cases:

State of North Carolina vs. John Hayes, 2013 – present; litigation of Motion for Appropriate Relief in state courts and federal habeas petition in federal courts, including successful petition for certificate of appealability to 4th U.S. Circuit Court of Appeals from district court’s denial of habeas petition; formal brief to be filed with 4th Circuit on 9/17/2018.

State of North Carolina vs. Norman Satterfield, May 2016, Statesville, N.C., successful negotiation of Post-Conviction Motion filed by Innocence & Justice Clinic in which Client’s Sentence Reduced from Life to “Time Served” of 37 Years, following Clinic’s Discovery that Victim Testified at 1979 Trial Based Upon Undisclosed Hypnotically Refreshed Testimony.

Hunt vs. McDade, federal habeas filings in wrongful conviction case of Darryl Hunt, from federal district court to petition for certiorari in U. S. Supreme Court (1994-2000)

State vs. Darryl Hunt, state filings in Hunt case, N.C. Superior Court (1985-2004), from initial jury trial (1985) until exoneration and dismissal of charges via DNA evidence (2004).

Co-Counsel in Post-Conviction Litigation for ***State vs. Charles Munsey***, Wilkes County, N.C. (Munsey removed from death row and new trial ordered based upon newly discovered evidence and prosecutorial misconduct, 1998)

Drafted Template for Racial Justice Act Motion for Capital Cases at the trial level in N.C. (www.ncids.org)

Oral arguments in state and federal appellate cases in criminal and civil cases in: Fourth U. S. Circuit Court of Appeals, N.C. Supreme Court, N.C. Court of Appeals.

Trials in state and federal courts in North Carolina, Georgia, Virginia, Pennsylvania (1981 – 2018).

Six death penalty jury trials to verdict in North Carolina (1985 – 2010).

Recent Service:

Board of Directors, North Carolina Prisoner’s Legal Services (July 2015 – present)

Member, North Carolina Advocates for Justice Racial Justice Task Force (2011- 2013)

Advisory Board, N.C. Indigent Services Forensic Resource Counsel (2011- present)

Chairman, Forsyth County Bar Association DNA Task Force (2008) (reviewed claims of innocence for inmates from Forsyth County, N.C., in aftermath of Darryl Hunt exoneration)

Member, N.C. Chief Justice Criminal Justice Study Commission (formerly known as The Innocence Commission) (2004-08)

Co-Chair, NCATL Forensic Task Force (2006-07)

Founding Member, Board of Directors, Darryl Hunt Project for Freedom and Justice, Winston-Salem, N.C. (2004-06)

Awards:

Selection as one of *North Carolina Lawyers Weekly's* Leaders in the Law for 2018 (to be honored at dinner on September 20, 2018)

North Carolina Advocates for Justice Thurgood Marshall Award (2004)

Forsyth County Criminal Defense Trial Lawyers Harvey Lupton Award (2004)

Contemplative Practices and the Law:

Started **new course, “Contemplative Practices and the Law,”** a for-credit course that began August 2018 at Wake Forest School of Law

Leading weekly Monday meditation sessions at Wake Forest School of Law (Fall 2017 – present)

March 2014 and Fall 2018: Presentations to **Winston-Salem Dharma Group** about “Mindful Lawyering” and Contemplative Practices in the law school curriculum

Contemplative Pedagogy Community, Fall 2013-Spring 2014: worked with other professors at Wake Forest University in an effort to incorporate mindfulness practices into teaching; sponsored by the University’s Teaching and Learning Center

“Mindful Lawyer” Symposia: Attended two symposia, in 2011 and 2013, on mindfulness practices for lawyers, law professors and law students. The most recent took place at Berkeley in June 2013 and over 50 law schools were represented. Several law schools incorporate mindfulness practices as part of their “lawyering process” courses, and some have specific courses on contemplative practices in which the students learn meditation and mindfulness practices. I incorporate aspects of contemplative practice in

my Criminal Procedure Survey, Innocence & Justice Clinic and Professional Development courses.

I have been involved with vipassana (or insight) meditation since 2008 and have attended at least a dozen week-long silent retreats at Spirit Rock, IMS, the Barre Center for Buddhist Studies, and Southern Dharma (in N.C.). My daily meditation practice and these retreats have been the inspiration for my work in bringing the practice to law students and practicing attorneys.