

Mark S. Scarberry

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Education:

California Institute of Technology, Pasadena, CA, 1971-73.

Occidental College, Los Angeles, CA, 1973-75, A.B., Magna cum Laude, Phi Beta Kappa.

UCLA School of Law, 1975-78, J.D., Order of the Coif, graduated first in class of 1978.

Legal and Academic Employment:

Jones, Day, Reavis & Pogue, Los Angeles Office, Associate, 1978-82.

Pepperdine Univ. School of Law: Assoc. Prof., 1982-91; Professor, 1991 to present.

American Bankruptcy Institute's "Robert M. Zinman Scholar in Residence," Fall 2007.

Selected Memberships and Positions (Note that an overlapping separate "service" section covering the past two years is included below.)

AALS Section on Constitutional Law:

Chair 2012-13 and 2023-24. Executive Committee member 2011-12 (Chair-Elect), 2013-14 (Immediate Past Chair), 2014-22, 2022-23 (Chair Elect), and 2024-25 (Immediate Past Chair). Primary drafter of new bylaws that incorporate explicitly the core AALS values of "excellence in scholarship and teaching; academic freedom; diversity of backgrounds and viewpoint; integrity; and nondiscrimination." Moderator at 2024 AALS annual meeting of main section program, Social Media and the First Amendment. Ineligible to serve as officer or on Executive Committee for four years after service as Immediate Past Chair, due to term limit provision in new bylaws.

AALS Section on Election Law:

Executive Committee member currently and in 2016-17 (having assisted in formation of the Section). Serving now on planning committee for 2027 AALS section pedagogy program.

AALS Section on Law and Religion

Co-Chair, 2006-07. Co-Chair Elect, 2005-06. Redrafted section bylaws.

American Board of Certification (the body that certifies bankruptcy lawyers as specialists). Member, 2013-2024.

American Bankruptcy Institute Law Review Advisory Board, 2000 to 2024.

Advisory Committee on Litigation of the Presbyterian Church (U.S.A.), 2000 to 2009. Moderator of Committee, 2002 to 2008. The Committee advises the national PCUSA leadership on matters dealing with U.S. constitutional law, particularly with regard to filing or joining amicus briefs.

Moderator and active discussant, Conlawprof internet discussion list.

781 members (mostly law professors, though a majority of the members "lurk" rather than engage actively in the discussions). I guide discussions, raising issues and making my own substantive contributions,

Active participant in Election Law and Religion Law discussion lists.

Law School Courses Taught Include:

Arbitration Law; Business Reorganization in Bankruptcy; Corporations; Creditors' Rights & Bankruptcy; Commercial Law; Constitutional Law; Contracts; Election Law; Jurisprudence; Law & Economics; Mergers & Acquisitions; Products Liability; Religion & the Constitution;

Remedies.

Publications:

Note: Recent written scholarly contributions have been short form posts on the constitutional law professors' internet list that I moderate (CONLAWPROF), and the Election Law and Law & Religion lists. Prior publications:

SCARBERRY, KLEE, NEWTON & NICKLES, *BUSINESS REORGANIZATION IN BANKRUPTCY: CASES AND MATERIALS*, American Casebook Series, Thomson/West, 4th edition, 2012 (first edition, 1996; second edition, 2001; third edition, 2006).

The Supreme Court's Decision in Stern v. Marshall: Analysis & Implications, prepared for American Bankruptcy Institute's Southwest Bankruptcy Conference, September 8-10, 2011 (<http://ssrn.com/abstract=1888685>).

Mortgage Wars Episode V—the Empiricist Strikes Back (or Out): A Reply to Professor Levitin's Response, 37 Pepperdine L. Rev. 1277 (2010) (<http://ssrn.com/abstract=1604144>).

A Critique of Congressional Proposals to Permit Modification of Home Mortgages in Chapter 13 Bankruptcy, 37 Pepperdine L. Rev. 635 (2010) (symposium issue) (<http://ssrn.com/abstract=1520794>).

Historical Considerations and Congressional Representation for the District of Columbia: Constitutionality of the D.C. House Voting Rights Bill in Light of Section Two of the Fourteenth Amendment and the History of the Creation of the District, 60 ALABAMA L. REV. 783 (2009) (<http://ssrn.com/abstract=1345744>).

John Leland and James Madison: Religious Influence on the Ratification of the Constitution and on the Proposal of the Bill of Rights, 113 PENN ST. L. REV. 733 (2009) (<http://ssrn.com/abstract=1262520>).

Detailed Chart Comparing Provisions of Current Bankruptcy Bills Dealing with Modification of Home Mortgages, as of December 13, 2007, 36 N.Y. REAL PROPERTY L. J. 58 (Spring 2008).

Interpreting Bankruptcy Code Sections 502 and 506: Post-Petition Attorneys' Fees in a Post-Travelers World, 15 AM. BANKR. INST. L. REV. 611 (2007) (<http://ssrn.com/abstract=1022384>).

Congressional Testimony:

Senate Judiciary Committee, Subcommittee on Administrative Oversight and the Courts, March 24, 2009, Hearing on "Abusive Credit Card Practices and Bankruptcy."

Senate Judiciary Committee, Dec. 5, 2007, Hearing on "The Looming Foreclosure Crisis: How To Help Families Save Their Homes."

House Judiciary Committee, Subcommittee on the Constitution, July 22, 1997, Hearing on H.J. Res. 78, "Proposing an Amendment to the Constitution Restoring Religious Freedom."

Significant Past International Engagement:

Program Coordinator, Participant, and Presenter: Global Judges Forum — Commercial Enforcement and Insolvency Systems, May 19-23, 2003, Pepperdine Univ. School of Law, Malibu, California. This program was cosponsored by the World Bank and by Pepperdine University School of Law and was attended by approximately 105 judges from 60 countries.

Taught in Training Program on Bankruptcy for Romanian Syndic Judges, May 25-27, 1999, Timisoara, Romania (co-sponsored by U.S. Agency for International Development and the Romanian Ministry of Justice).

Sino-U.S. Symposium on Bankruptcy Law, November 3-6, 1998, Beijing, PRC. Assisted in organizing symposium on bankruptcy law designed to assist the PRC in revision of its business bankruptcy laws. Taught two-week training program prior to conference for Chinese lawyers and professors. Conference was co-sponsored by Pepperdine University School of Law and the China University of Political Science and Law, and supported by the Ministry of Justice and the State Bureau of Foreign Experts of the PRC.

Major University Service Contributions:

Primary drafter of 2001 University Faculty Council (UFC) Charter, establishing a university-wide body of faculty representatives elected by the faculties of each of Pepperdine's schools. Served on the Council almost every year since founding, often as chair or vice-chair.

Co-author of foundational 2014 document approved by faculty and administration setting out Pepperdine's approach to shared governance: "A Vision of Shared Governance for Pepperdine University."

Responsible, as UFC Chair and as co-author, for proposal of strengthened university academic freedom policy (approved by the faculties of all five Pepperdine schools and supported by University administration), adapted from AAUP Statement on Academic Freedom. Adopted in large part in 2024 by Pepperdine University's Board of Regents.

Currently law school representative on University sub-committee on shared governance.

Selected law school service contributions:

Curriculum Committee.

Recording Secretary.

Faculty Co-Advisor for Journal of Business, Entrepreneurship and the Law (most years since its inception) and other participation in activities of Palmer Center for Entrepreneurship and the Law.

This separate (and overlapping) service section is provided for ease of review.

Service during 2024, 2025, and 2026:

Professional Service:

AALS Section on Constitutional Law:

Chair 2023-24. Service on Executive Committee as an officer (Immediate Past Chair), 2024-25. Primary drafter of new bylaws that incorporate explicitly the core AALS values of "excellence in scholarship and teaching; academic freedom; diversity of backgrounds and viewpoint; integrity; and nondiscrimination." Moderator at 2024 AALS annual meeting of section's main program, Social Media and the First Amendment. Ineligible to serve as officer or on Executive Committee for four years after service as Immediate Past Chair, due to term limit provision in new bylaws.

AALS Section on Election Law:

Executive Committee member. Serving now on planning committee for 2027 AALS section pedagogy program.

American Board of Certification (the body that certifies bankruptcy lawyers as specialists).
Member, 2024.

American Bankruptcy Institute Law Review Advisory Board
Member, 2024.

Conlawprof Discussion List

Moderator (for more than ten years) of discussion list that has several hundred members, most of whom are law professors who teach constitutional law. This does not involve only service. It also includes my major participation in substantive discussions.

Law School Service

Curriculum Committee member.

Recording secretary, informal parliamentarian, and informal advisor to faculty on rules with regard to faculty participation in law school governance (including faculty hiring).

Faculty Co-Advisor for Journal of Business, Entrepreneurship and the Law.

Law faculty representative to University Faculty Council (Pepperdine's university wide body that participates in shared governance), with my role as noted below in strengthening university academic freedom policy.

University Service

Member, University Faculty Council, 2024-26 (and nearly every earlier year since formation in 2001, having been primary drafter of UFC Charter).

Responsible, as UFC Chair and as co-author, for proposal of strengthened university academic freedom policy (approved by the faculties of all five Pepperdine schools and supported by University administration), adapted from AAUP Statement on Academic Freedom. Adopted in large part in 2024 by Pepperdine University's Board of Regents.

Currently law school representative on University sub-committee on shared governance (formed as part of process of WASC reaffirmation of university accreditation).

Community Service

Active member of my church, including participation in community outreach functions (such as putting on fair for children of families living in low income housing).