

Judge John Marsh Tyson

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Fayetteville, North Carolina 28301-6107

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CURRICULUM VITAE

Personal Information:

Born in Cumberland County on July 14, 1953, the youngest son of Henry McMillian Tyson (deceased) and Addie Williams Tyson (deceased).

Married to Kirby Thomason Tyson, 1975. Children: son, Jason, 1978; daughter, Caroline, 1979; son, John Havens, 1982; and son, Henry, 1983, Grandchildren: William Bradley Cox, 2010; Charles Hamilton Cox and Caroline Kirby Cox, born 2012, and Mary Louise Cox, 2015.

Life-long member of First Presbyterian Church, Fayetteville, North Carolina, past Chairman of the Board of Deacons.

Educational Background:

University of Virginia School of Law, Charlottesville, Virginia, Master of Laws in Judicial Process (LL.M.) 2004;

New York University School of Law, New York, New York, Appellate Judges' Seminar, Summer 2001;

Duke University, Fuqua School of Business, Durham, North Carolina, Master of Business Administration (M.B.A.), 1988;

Campbell University School of Law, Buies Creek, North Carolina, Juris Doctor (J.D.) *cum laude*, Member of Charter Class, 1979;

Notre Dame Law School, London School of Economic & Political Science, London, England, Summer Law Program, 1977;

University of North Carolina-Wilmington, Wilmington, North Carolina, Bachelor of Arts (B.A.) English and Secondary Education, Dean's and Chancellor's Lists, 1974;

Terry Sanford High School, Fayetteville, North Carolina, 1971.

Professional Background:

Judge, North Carolina Court of Appeals, Raleigh, North Carolina, 2015 – Present;

Adjunct Professor of Law, Norman Adrian Wiggins School of Law, Campbell University, Raleigh, North Carolina, 1987 – present;

Adjunct Professor of Law, Elon School of Law, Elon University, Greensboro, North Carolina, 2020 – present

Board Certified Specialist- Real Property Law- Business, Commercial & Industrial Transactions by NC State Bar Board of Legal Specialization (Re-certified 2007, 2012 & 2017) 2001–present;

Emergency Superior Court Judge, Fayetteville, North Carolina, 2009 - 2013, 2014 to present;

Recall Judge, North Carolina Court of Appeals, Raleigh, North Carolina, 2009 - 2013, 2014 - 2015;

Judge, North Carolina Court of Appeals, Raleigh, North Carolina, 2001–2009;
Tyson & Associates, PLLC, Fayetteville, North Carolina, private practice 1999 – 2001;
Tyson, Matheson, & Cumbie, PLLC, Fayetteville, North Carolina, private practice 1997 – 1999;
Tyson, Byrd, Hudson & Moore, PLLC, Fayetteville, North Carolina, private practice 1996 –1997;
Senior Vice President of Development, Blockbuster Entertainment Group, Ft. Lauderdale, FL, 1996;
John M. Tyson, Attorney at Law, Fayetteville, North Carolina, private practice 1993–1996;
Real Estate Director and Counsel, Revco Drug Stores, Inc., 1988–1993;
Regional Real Estate Director and Counsel, Revco Drug Stores, Inc., 1985–1988;
Real Estate Manager and Counsel, Revco Drug Stores, Inc., 1982–1985;
Regional Real Estate Manager and Counsel, Family Dollar Stores, Inc., 1981–1982;
Real Estate Representative and Counsel, Family Dollar Stores, Inc., 1980–1981;
Special Deputy Sheriff, Cumberland County, North Carolina, 1990–2000;
North Carolina Probation/Parole Officer, North Carolina Department of Correction, 1975–1976;
Certified Public School Teacher, Junior & Senior High School, 1974–1975.

Publications:

1. *Morals, Ethics, and Laws: What Commonalities Remain?* 14 Liberty L. Rev. 89 (Fall 2019).
2. *History and Comparison of Judicial Selection Processes*, The North Carolina State Bar Journal, 23 No.3 (Fall 2018).
3. *Getting Paid, Avoiding Conflicts, and Supervising Staff: Fee Agreements, Multi-party Representation, and Delegation of Duties*, The North Carolina State Bar Journal, 16 No.2 (Summer 2011).
4. *Automatic Stays and Administrative Expenses: Rights and Remedies Available to Landlords and Tenants in Bankruptcy Proceedings*, 31 Campbell L. Rev. 413 (Spring 2009).

Cited by:

Practising Law Institute, *Commercial Ground Leases*, PLIREF-COMLEAS, Sec. 7:3.1(2011).

Murray S. Levin, *Digest of Selected Articles*, 38 Real Est. L. J. 510 (Spring 2010).

5. *A Short History of the American Bar Association's Canons of Professional Ethics, Code of Professional Responsibility, and Model Rules of Professional Responsibility: 1908 – 2008*, 1 Charlotte L. Rev. 9 (Winter, 2008).

Cited by:

Tom Lininger, *Green Ethics for Judges*, 86 Geo. Wash. L. Rev. 711 (May 2018).

Julian J.Z. Polaris, Note, *Principles Over Principals? How Innovation Affects the Agency Relationship in Medical and Legal Practice*, 14 Yale J. Health Pol'y, L. & Ethics 296 (2014)

6. *The Attorney's Ethical Duties to Supervise Law Office Staff*, The North Carolina State Bar Journal, 13 No. 1 (Spring 2008).

7. *Presumed Guilty Until Proven Innocent: Using Results of Statistical or Econometric Studies as Evidence*, 10 St. Thomas L. Rev. 387 (Winter 1998).

Cited by:

Michael Noone, *Treaty Implementation: Lessons Taught by U.S./U.K. Cooperation under the NATO Status of Forces Agreement*, 13 N.Y. Int'l L. Rev. 39 (Winter 2000).

Washington Practice Series, *Evidence Law and Practice*, 5B Wash. Prac., Sec. 702.55 (5th ed.) (2011).

Shima Baradaran, *Restoring The Presumption of Innocence*, 72 Ohio State L. J. 723 (2011).

Quoted by:

Hisham M. Ramadan, *The Challenge of Explaining "Reasonable Doubt,"* Criminal Law Bulletin, 40 No. 1 Crim. Law Bulletin 1 (January 2004).

8. *Drafting, Interpreting, and Enforcing Commercial and Shopping Center Leases*, 14 Campbell L. Rev. 275 (1992).

Quoted Interpretation and Adopted by the North Carolina Court of Appeals:

Pleasant Valley Promenade v. Lechmere, Inc., 120 N.C. App. 650, 464 S.E.2d 47 (1995), *disc. rev. allowed*, 343 N.C. 514, 472 S.E.2d 18, *disc. rev. withdrawn*, 345 N.C. 346, 484 S.E.2d 92 (1996).

Quoted by the West Virginia Supreme Court:

Frederick Business Properties Co. v. Peoples Drug Stores, Inc., 445 S.E.2d 176, 191 W. Va. 235 (W. Va. May 20, 1994).

Quoted by the Tennessee Court of Appeals:

BVT Leb. Shopping Ctr., Ltd. v. Wal-Mart Stores, Inc., 1999 Tenn. App. LEXIS 267, 1999 WL 236273 (Tenn. Ct. App. Apr. 23, 1999).

Cited by:

Erik A. Zacks, *Contract Review: Cognitive Bias, Moral Hazard, and Situational Pressure*, 9 Ohio St. Entrepreneurial Bus. L.J. 379 (2015).

Richard A. Lord, *Williston on Contracts § 48:4 Implied Obligation to Use Reasonable Efforts--Continuous Operation of Business on Leased Premises* (May 2007).

Florida Jur. Forms Legal and Business § 16A:36 *Form Drafting Principles-Shopping Center Unit Leases* (September 2006).

Nichols Cyclopedia of Legal Forms Annotated § 5.4302 *Leases (Real Property) Research and Drafting Aids* (October 2006).

John C. Murray, *Percentage Rent Provisions in Shopping Center Leases: A Changing World?*, 35 Real Prop. Prob. & Tr. J. 731, 790 (2001).

Clint H. Scott, *Remedies-BVT Lebanon Shopping Center, Ltd. v. Wal-mart Stores, Inc.: Diminution in Fair Market Value- Compensation or Confusion?*, 33 U. Mem. L. Rev. 225, 241 (2002).

Reviewed by:

Frona M. Powell, Real Estate Law Journal, 23 Real Est. L. J. 178 (1994).

9. *The Philosophy of Negotiation*, Retail Leasing Reporter, (May, 1990).

10. Contributing Author: *Mean Consolidated Forecasting: A Process to Improve the Accuracy and Sensitivity of Economic Forecasts*, MBA Forecasts, Duke University, p. 107 (Spring, 1989).

11. *Statutory Standards of Care for North Carolina Health Care Providers*, 1 Campbell L. Rev. 111 (1979).

Quoted Interpretation and Adopted by the North Carolina Supreme Court:

Wall v. Stout, 310 N.C. 184, 311 S.E.2d 571 (1984).

Cited by:

Tice v. Hall, 310 N.C. 589, 595, 313 S.E.2d 565 (1984).

Elizabeth J. Armstrong, *Nurse Malpractice in North Carolina: The Standard of Care*, 65 N.C. L. Rev. 579, 581 (1987).

Robert G. Byrd, *The North Carolina Medical Malpractice Statute*, 62 N.C. L. Rev. 711, 716 (1984).

Reviewed by:

Justice I. Beverly Lake, Sr., *Book Review: The Campbell Law Review*, Campbell Law Observer, pp. 6-7, (January 25, 1980).

12. A Judge Salutes Another, The Fayetteville Observer, p. 11A., October 31, 2005.

Professional Organizations:

Certified Appellate Mediator, North Carolina Court of Appeals, 2003–present.

Certified United States District Court Mediator (E.D.N.C.), 1993–present (Inactive);
Certified as Mediator by the North Carolina Administrative Office of the Courts and the Dispute Resolution Commission for North Carolina Superior Court Mediation, 1992–present;
American Arbitration Association, member of Panel of Arbitrators, 1991–present;
Certified Arbitrator, Financial Industry Regulatory Authority, (FINRA), 2009-2013.
American Bar Association, 1980–1992; 2012-present.
North Carolina Bar Association, 1980–present;
 Committees: Future of Law Committee, 2018-present;
 Law School Liaison Committee, 2006–present;
 Bench Bar Liaison Committee, 2011-2015;
 Vice President, Board of Governors, 2007–2008;
 Family Law Section Council, 2007–2008;
 Women in the Profession Committee, 2004–2005;
 Minorities in the Profession Committee, 2004–2005;
 Membership Committee, 2003–2004;
 Technology Advisory Committee, 2001–2003;
 Development Committee, 1994–1996.
Cumberland County and 12th & 14th Judicial District Bar Associations, 1980–present;
North Carolina Association of Women Attorneys, 2002–2008;
Wake County and 10th Judicial District Bar Association, 2001–2008;
North Carolina Academy of Trial Lawyers, 1979–1980.

Bar Admissions:

Supreme Court of the United States Bar, 1983;
United States Court of Appeals Bar (Fourth Circuit), 1980;
United States District Court Bar (W.D.N.C., 1980) and (E.D.N.C., 1997);
North Carolina State Bar, 1980;
Virginia State Bar, 1981;
Virginia Supreme Court, 1981.

Boards and Commissions:

Elected to the American Bar Association Conference of Appellate Judges Executive Committee, and Appellate Judges Education Institute, 2019-2023.
Appointed to the North Carolina Dispute Resolution Commission by the Chief Justice of North Carolina, 2018–2023. Elected Vice-Chairman of the Commission, 2020 - present.
Appointed as Chairman of the North Carolina Ethics Commission by the Governor of North Carolina, 2013-2014;
Appointed to the North Carolina Ethics Commission by the Speaker of the NC House of Representatives, 2012– August, 2014;
Appointed to the North Carolina Judicial Conference Committee on Compensation and Benefits by the Chief Justice of North Carolina, 2002–2008;
Appointed to the North Carolina Property Tax Commission by the Speaker of the NC House of Representatives, 1997–1999;

Appointed to the Legislative Research Committee on Private Property Rights, by the President Pro Tem of the Senate, North Carolina General Assembly, 1995,
Appointed to Legislative Research Committee on Impact Fees, Exactions and Dedications by the President Pro-Tem of the Senate, North Carolina General Assembly, 1994;
Elected to Cumberland County Soil & Water Conservation District, elected Vice Chairman & later Chairman of the Board, 1992–1996;
Appointed to Cumberland County Joint Planning and Zoning Board, elected Vice-Chairman and later Chairman of the Board, 1993–2001.

Honors and Awards:

Albert Nelson Marquis Lifetime Achievement Award, Marquis Who's Who, 2020;

North Carolina Leader in the Law, North Carolina Lawyers Weekly and Elon Law School, 2019;

AV Pre-Eminent peer review rating from Lexis-Nexis, Martindale-Hubbell, 2009-Present;

2013 Centennial Award, presented by the North Carolina Bar Association, the Cumberland County Bar Association & 12th Judicial District Bar for “Outstanding and Exemplary Community Service” Fayetteville, North Carolina, April 19, 2013.

2013 James E. Cross, Jr. Leadership Award, presented by the North Carolina State Bar Board of Legal Specialization, “in recognition of outstanding leadership as a Board-Certified Specialist in Real Property Law”, Raleigh, North Carolina, April 5, 2013;

Men of Wisdom Award, North Carolina Association of Women Attorneys, 2006 & 2007;

H. Horton Roundtree Distinguished Lecture in Health Law; Brody School of Medicine, East Carolina University, 2007;

Distinguished Alumnus Award, University of North Carolina-Wilmington, 2006;

James Iredell Award by Phi Alpha Delta Fraternity at Campbell University Norman Adrian Wiggins School of Law, 2004;

Commissioned as Kentucky Colonel by the Honorable Governor of Kentucky, 2001- Present;

Capitol Citation, The North Carolina Secretary of State for “significantly improving the economic development of this Great State and especially Cumberland County,” 1996;

Received Distinguished Alumnus Award, Campbell University, 1991;

Outstanding Law Professor, Norman Adrian Wiggins School of Law, Campbell University, 1989;

Inducted as Campbell University Centennial Alumni, 1988;

Named as an Outstanding Young Man of America, 1987;

Listed in *Who's Who in America*, *Who's Who in American Law*; *Who's Who in Real Estate*; *Who's Who in Finance & Industry*; *Who's Who in the South & Southwest: and, Who's Who in American Emerging Leaders*.

Elected as Articles Editor, *Campbell Law Review*, Charter Issue, 1978–1979;

Listed in *Who's Who in American Colleges and Universities*, 1978;

Inducted into Phi Kappa Phi National Honor Society, Campbell University School of Law, 1978;

Advocacy Award from the International Academy of Trial Lawyers, 1978;

Finalist in the Senator Robert Wagner National Labor Law Moot Court Competition, New York, New York, 1978;

Awarded Campbell Law Scholarship, Campbell University School of Law, 1977–1979.

Other Memberships:

Professional Memberships:

Fayetteville - Cumberland County Chamber of Commerce; 1980 to Present

North Carolina Farm Bureau; 1985 - Present

International Council of Shopping Centers (ICSC), 1982–present

North Carolina Forestry Association; 2001-2009

The North Carolina Chamber; 2006-2010

North Carolina Association of Women Attorneys; 2001-2009

State Employees Association of North Carolina, 2001–2009

North Carolina Center for Business & Industry (NCCBI), 2000–2006;

Association of MBA Executives, Inc. (1988–1993);

Academic and Scholarly Memberships:

The United States Supreme Court Historical Society, 2001-present

Campbell University, Presidential Board of Advisors, 2003–present;

Campbell University National Alumni Association, 1979-present, (President, 1999-2001),

Executive Board of Directors, 1999–present;

President, Campbell Law Alumni Association, 1984-1986;

Board of Visitors, Campbell University Norman Adrian Wiggins School of Law, 1992– 2010;

The Federalist Society, 2001–present;

University of Virginia Alumni Association, 2002–present;

Duke University Alumni Association, 1988–present;

University of North Carolina-Wilmington Alumni Association, 1974–present;
President James K. Polk Memorial Association.

Civic Memberships:

Fayetteville Kiwanis Club;
Kiwanis International;
Honorary Order of Kentucky Colonels.

Charitable Memberships:

American Red Cross
First Presbyterian Church, Fayetteville, NC;
Ducks Unlimited, Inc. (Life Member);
National Rifle Association (NRA) –Endowment Life Member, Legion of Honor, Millennium Honor Roll;

Military Service

Commissioned as Captain, promoted to Major, Lieutenant Colonel, & served as Colonel, Staff Judge Advocate, Judge Advocate General Corps, North Carolina State Defense, under the command of the Adjutant General of the North Carolina National Guard, 1987–1996 (Inactive Reserve); Colonel, Staff Judge Advocate, United States Service Command, Division III, (volunteer non-profit disaster relief organization), 1999–2005.
State Guard Association of the United States (past member);

Hobbies

Hunting,
Restoring antique automobiles,
Coin & stamp collecting,
Avid reader of biographical and historical books.

Continuing Legal Education Manuscripts and Presentations:

1. *Ten Trial and Post-Trial Mistakes that Can Cost You on Appeal, View from the Appellate Bench*, Wake County Bar Association, January 8, 2021.
2. *Ten trial and Post-Post Trial Mistakes*, Campbell Law Judges Speak, Campbell University, Norman Adrain Wiggins School of Law, Raleigh, North Carolina, October 25, 2019.
3. *Morals, Ethics, and Law*, Campbell Law Judges Speak, Campbell University, Norman Adrain Wiggins School of Law, Raleigh, North Carolina, October 25, 2019.
4. *Recent Changes in North Carolina's Courts*, Judicial Selection in North Carolina, Campbell

- Leaders Speak, Campbell University, Norman Adrain Wiggins School of Law, Raleigh, North Carolina, October 27, 2017.
5. *Remain Calm and Follow the Rules*, View from the Appellate Bench, Campbell Judges Speak, Campbell University, Norman Adrain Wiggins School of Law, Raleigh, North Carolina, October 14, 2016.
 6. *MORALS, ETHICS AND LAW: What are the differences?* Campbell Judges Speak, Campbell University, Norman Adrain Wiggins School of Law, Raleigh, North Carolina, October 2, 2015.
 7. *Ethical Considerations in Multi-party Representations, Attorneys licensed outside of North Carolina & Recent cases and legislation affecting North Carolina Attorneys.* Campbell University, Norman Adrain Wiggins School of Law, Fayetteville, North Carolina, February 19, 2014.
 8. *Landlord or Tenant Files for Bankruptcy*, 12th Annual Landlord-Tenant Law Seminar, Sterling Education Services, Inc., Raleigh, North Carolina, July 23, 2013.
 9. *Ethical Considerations in Landlord-Tenant Law*, 12th Annual Landlord-Tenant Law Seminar, Sterling Education Services, Inc., Raleigh, North Carolina, July 23, 2013.
 10. *Ethical Considerations in Real Property & Business Law*, Campbell University, Norman Adrain Wiggins School of Law, Fayetteville, North Carolina, September 6, 2012.
 11. *When Tenant or Landlord Files Bankruptcy*, Commercial & Residential Landlord Tenant Law, Sterling Education Services, Inc., Raleigh, North Carolina, February 21, 2012.
 12. *Ethical Considerations in Landlord Tenant Law*, Commercial & Residential Landlord Tenant Law, Sterling Education Services, Inc., Raleigh, North Carolina, February 21, 2012.
 13. *Landlord or Tenant Bankruptcy & Collections*, Landlord and Tenant Law, Sterling Education Services, Inc., Raleigh, North Carolina, February 17, 2011.
 14. *Ethical Considerations in Landlord Tenant Law*, Landlord and Tenant Law, Sterling Education Services, Inc., Raleigh, North Carolina, February 17, 2011.
 15. *Case Law Developments: Advanced Topics in Real Property*, North Carolina Bar Association. Cary, North Carolina, October 21, 2010.
 16. *When the Tenant or Landlord Files for Bankruptcy*, Landlord and Tenant Law, Sterling Education Services, Inc., Raleigh, North Carolina, May 11, 2010.
 17. *Ethical Considerations in Landlord Tenant Law*, Landlord and Tenant Law, Sterling Education Services, Inc., Raleigh, North Carolina, May 11, 2010.

18. *Ethical Considerations in Fee Agreements, Client Conflicts, and the Use of Non-licensed Legal Staff*, Campbell University, Norman Adrain Wiggins School of Law, Fayetteville, North Carolina, February 22, 2010.
19. *Bankruptcy and Ethical Considerations*, Commercial and Residential Evictions in North Carolina, Sterling Education Services, Inc., October 7, 2008.
20. *The Attorney's Ethical Duties to Supervise Law Office Staff*, Republican National Convention, Minneapolis, Minnesota, September 4, 2008; Cumberland County Bar Association, Fayetteville, North Carolina, February 27, 2008; Raleigh-Wake Paralegal Association, Raleigh, North Carolina, October 12, 2007; Legal Support Staff of Winston-Salem Ethics Seminar, Winston-Salem, North Carolina, August 11, 2007;
21. *A Short History of the American Bar Association's Code of Ethics and Model Rules of Professional Responsibility: 1908– 2008*, Charlotte School of Law Ethics Symposium, Charlotte, North Carolina, March 21, 2008.
22. *Recent Cases Impacting Health Law*, ECU Brody School of Medicine Annual Health Law Forum, Greenville, North Carolina, September 12, 2007.
23. *Residential and Commercial Landlord-Tenant Law and Leasing*, Real Property 2007, Wake Forest University School of Law, McKimmon Center, Raleigh, North Carolina, March 9, 2007.
24. *Terminating Parental Rights-A View from the Bench*, Fundamentally Fair, Family Preservation Law Center, Greensboro, North Carolina, November 2, 2006.
25. *Landlord & Tenant Obligations*, Landlord-Tenant Law in North Carolina, Sterling Education Services, Raleigh, North Carolina, October 3, 2006.
26. *Planning Ahead to Avoid Tenant Problems Later*, Managing Residential Property: Avoiding Tenant Disputes and Evictions, National Business Institute, Raleigh, North Carolina, March 31, 2006.
27. *The "Big Picture,"* Fundamentals of Real Estate Development, Sterling Education Services, Raleigh, North Carolina, February 17, 2006.
28. *Real Estate Contracts Generally*, Contract Law 2005, Wake Forest University School of Law, McKimmon Center, Raleigh, North Carolina, April 22, 2005.
29. *Legal Concepts in Leasing*, Drafting and Negotiating North Carolina Commercial Real Estate Leases, National Business Institute, Raleigh, North Carolina, April 13, 2005.
30. *Structuring the Lease*, Drafting and Negotiating North Carolina Commercial Real Estate

- Leases, National Business Institute, Raleigh, North Carolina, April 13, 2005.
31. *Judicial Election Campaigns: Free Speech, Public Dollars, and the Role of Judges*, University of Virginia School of Law Conference on Public Service and the Law, Charlottesville, Virginia, February 12, 2005.
 32. *Resolving Title Problems*, Real Property 2005, Wake Forest University School of Law, McKimmon Center, Raleigh, North Carolina, February 10, 2005.
 33. *Common Mistakes on Appeal*, Commercial Leases-Drafting, Enforcing, and Litigating, Sterling Education Services, Raleigh, North Carolina, April 27, 2004.
 34. *Ten Trial and Post-Trial Mistakes that Can Cost You on Appeal*, View from the Bench, North Carolina Bar Association, Raleigh, North Carolina, October 17, 2003.
 35. *Representations and Warranties*, Real Estate Purchase and Sale Transactions, Sterling Educational Services, Raleigh, North Carolina, April 8, 2003.
 36. *What Defenses Does a Tenant Have*, Evictions and Landlord/Tenant Law in North Carolina, National Business Institute, Fayetteville, North Carolina, January 28, 2000, May 11, 2000, and Charlotte, North Carolina, November 29, 2001.
 37. *Defenses of Landlord & Tenant*, Evictions and Landlord/Tenant Law in North Carolina, National Business Institute, Fayetteville, North Carolina, June 8, 2001.
 38. *Planning Ahead to Avoid Tenant Problems*, Residential & Commercial Evictions in North Carolina, National Business Institute, Fayetteville, North Carolina October 9, 1998.
 39. *Drafting Commercial Leases*, Annual Real Property Review, North Carolina Bar Association, Raleigh, North Carolina, January 1993.
 40. Panelist, *A Forum on the North Carolina Constitution and Property Rights*, North Carolina History Project and the John Locke Foundation, Raleigh, North Carolina, June 8, 2009.
 41. Panelist, *View from the Appellate Bench*, Wake County Bar Association, September 11, 2007.
 42. Panelist, *View from the Appellate Bench*, North Carolina Bar Association, October 17, 2003.
 43. Panelist, *Land Use Symposium*, Campbell University School of Law, October 1993.

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