

Curriculum Vitae of Nathan M. Crystal

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1. *Education*

- (a) B.S., University of Pennsylvania, 1968
- (b) J.D., Emory Law School, 1971 (with honors)
- (c) L.L.M., Harvard Law School, 1976

2. *Employment*

- (a) Adjunct Professor of Professional Responsibility, NYU School of Law, 2015-
- (b) Founding Member and Managing Attorney, Crystal & Giannoni-Crystal, LLC, with offices in Charleston; New York City; Washington, DC; and Atlanta, GA, 2011-
- (c) Class of 1969 Professor Emeritus of Professional Responsibility and Contract Law, University of South Carolina, 2008-
- (d) Distinguished Research Scholar, Charleston School of Law, 2012-2014
- (e) Distinguished Visiting Professor of Law, Charleston School of Law, 2008-2012
- (f) Class of 1969 Professor of Professional Responsibility and Contract Law, University of South Carolina, 1999-2008
- (g) Roy Webster Professor of Professional Responsibility and Contract Law, University of South Carolina, 1991-1999
- (h) Associate Dean and Professor of Law, University of South Carolina, 1987-1992
- (i) Professor of Law, University of South Carolina, 1982-1987
- (j) Associate Professor of Law, University of South Carolina, 1979-82
- (k) Assistant Professor of Law, University of South Carolina, 1976-79
- (l) Director of Legal Methods Program, Harvard Law School, 1975-76
- (m) Teaching Fellow, Harvard Law School, 1974-75
- (n) Associate, Nall, Miller & Cadenhead, Atlanta, Georgia, 1971-74

3. *Courses Taught:* Contracts, Criminal Procedure, International Business Transactions, Mass Torts, Professional Responsibility, Sales, Taxation, Uniform Commercial Code. I have also taught a seminar, Lawyers and Justice, in the Honors College at the University of South Carolina

4. *Publications*

BOOKS

PROFESSIONAL RESPONSIBILITY: PROBLEMS OF PRACTICE AND THE PROFESSION (Aspen Law & Business, 7th ed. 2020) with Grace Giesel (University of Louisville School of Law), app. 700 pp. (first edition published by Little Brown & Co. 1996). The book is used at more than 30 schools around the country.

Teacher's Manual to accompany Professional Responsibility: Problems of Practice and the Profession, app. 300 pages.

PROBLEMS IN CONTRACT LAW: CASES AND MATERIALS (with Charles Knapp and Harry G. Prince of Hastings College of Law) (Aspen Law & Business 9th ed. 2019) 1200p. The book is used at more than 80 law schools around the country. Our publisher tells us that it is either the first or second most widely adopted contracts book in the country.

RULES OF CONTRACT LAW: SELECTIONS FROM THE UNIFORM COMMERCIAL CODE, THE CISG, THE RESTATEMENT (SECOND) OF CONTRACTS, AND THE UNIDROIT PRINCIPLES, with Material on Contract Drafting (with Charles Knapp and Harry G. Prince) (Aspen Law & Business, 2018 ed.), 300 p.

Teacher's Manual to accompany Problems in Contract Law (with Charles Knapp and Harry G. Prince) (Aspen Law & Business 9th ed. 2019), app. 300 pages.

ANNOTATED SOUTH CAROLINA RULES OF PROFESSIONAL CONDUCT (S.C. Bar 2020 ed.) app. 500 p. periodic updates posted online at <http://www.scbar.org/CLE/AnnotatedSCRulesofProfessionalConduct.aspx>

AN INTRODUCTION TO PROFESSIONAL RESPONSIBILITY (Aspen Law & Business, 1998), 529 pages.

MAJOR ARTICLES

Choice of Law and Risk Management for Conflicts of Interest, forthcoming in the Charleston Law Review (2022) (with Francesca Giannoni-Crystal)

Choice of Law in Lawyers' Engagement Agreements, 121 Penn. St. L. Rev. 683 (2017)

Using Occam's Razor to Solve International Attorney-Client Privilege Choice of Law Issues: An Old Solution to a New Problem, 41 N.C. Journal of Int'l L. & Comm. Regulation 276 (2016) (with Francesca Giannoni-Crystal)

"Something's got to give" - Cloud Computing, as applied to lawyers – comparative approach US and EU and practical proposals to overcome differences (with Francesca Giannoni-Crystal), *Opinio Juris in Comparitone*, Vol. I, n.I (2014)

Should Lanterns [of Rule 11] Shine, the Holy Face [of Forum Selection Clause Challenges] ... Would Wither up, in *Intern. Litig.* Vol. 29, issue #1 (June 2013) (with Francesca Giannoni-Crystal)

Inadvertent Production of Privileged Information in Discovery in Federal Court: The Need for Well-Drafted Clawback Agreements, 64 S. Car. L. Rev. 581 (2013)

"One, No one and One Hundred Thousand". . . Which Ethical Rule to Apply? Conflict of Ethical Rules in International Arbitration (with Francesca Giannoni-Crystal), 32 *Mississippi C. L. Rev.* 283 (2013)

Enforceability of Forum Selection Clauses: A "Gallant Knight" Still Seeking Eldorado, (with Francesca Giannoni-Crystal), 8 S.C. J. Int'l. L. & Bus 203 (2012)

Understanding *Akzo Nobel*: A Comparison of the Status of In-House Counsel, the Scope of the Attorney-Client Privilege, and Discovery in the U.S. and Europe, (with Francesca Giannoni-Crystal), *Global Jurist*: Vol. 11: Iss. 1 (Topics) (2011), Article 1, <http://www.bepress.com/gj/vol11/iss1/1>

Contract Enforceability During Economic Crisis: Legal Principles and Drafting Solutions, (with Francesca Giannoni-Crystal), *Global Jurist*: Vol. 10: Iss. 3 (Advances) (2010), Article 3, <http://www.bepress.com/gj/vol10/iss3/art3>

Ethical Responsibility and Legal Liability of Lawyers for Failure to Institute or Monitor Litigation Holds, 43 *Akron L. Rev.* 715 (2010)

Using the Concept of a "Philosophy of Lawyering" in Teaching Professional Responsibility, 51 *St. Louis L. J.* 1235 (2007)

Enforceability of Advance Waivers of Conflicts of Interest, 38 *St. Mary's L.J.* 859 (2007)

False Testimony by Criminal Defendants: Still Unanswered Ethical and Constitutional Questions, 2003 *Ill. L. Rev.* 1529

History of Efforts to Define Lawyers' Professional Obligations in OXFORD COMPANION TO AMERICAN LAW (Oxford University Press 2002)

Core Values: False and True, 70 Fordham L. Rev. 747 (2001) (listed in the Social Science Network Electronic Library)

The Incompleteness of the Model Rules and the Development of Professional Standards, 52 Mercer L. Rev. 839 (2001)

Developing a Philosophy of Lawyering, 14 Notre Dame J.L. Ethics & Pub. Poly 75 (2000)

The Lawyer's Duty to Disclose Material Facts in Contract or Settlement Negotiations, 87 Ky. L.J. 1055 (1998-1999) (reprinted in the *Defense Law Journal*; listed in the Social Science Network Electronic Library)

Limitations on Zealous Representation in an Adversarial System, 32 Wake Forest L. Rev. 671 (1997) (listed in the Social Science Network Electronic Library)

Scienter in Professional Liability Cases (with Professor John Freeman), 42 So. Car. L. Rev. 783 (1991)

Disqualification of Counsel for Unrelated Matter Conflicts of Interest, 4 Geo. J. Leg. Ethics 273 (1990)

An Empirical View of Relational Contracts Under Article Two of the Uniform Commercial Code, 1988 N.Y.U. Ann. Sur. of Am. Law 293

Confidentiality under the Model Rules of Professional Conduct, 30 Kan. L. Rev. 215

(1982) Consumer Product Warranty Litigation in South Carolina, 31 So. Car. L. Rev. 293

(1980) Ethical Problems in Marital Practice, 30 S. Car. L. Rev. 321 (1979)

Codification and the Rise of the Restatement Movement, 54 Wash. L. Rev. 239 (1979)

SHORTER ARTICLES

"Ethics Watch" columns (bimonthly) for The South Carolina Lawyer. I have written more than 60 articles since I began writing this column in 2008. See www.nathancrystal.com for a list of many of the articles.

OTHER PUBLICATIONS

Essay on Teaching Methodologies for Professional Responsibility in TEACHING THE LAW SCHOOL CURRICULUM by Steven Friedland and Gerald Hess (Carolina Academic Press 2004)

South Carolina Legal Ethics (with Professor Robert M. Wilcox of USC Law School), published on the Internet and in CD rom as part of the American Legal Ethics Library sponsored by Cornell Law School, app. 150 pages.

Litigation Ethics: Course Material for Continuing Education ch. 5, Contacts with Employees and Misdirected Communications (ABA Sec. of Litig. 2000) (with Rebecca Laffitte) South Carolina Rules of Professional Conduct: Conflicts of Interest, South Carolina Lawyer (March/April 1991)

South Carolina Rules of Professional Conduct: Provisions on Confidentiality, South Carolina Lawyer (Sept./Oct. 1990)

South Carolina Rules of Professional Conduct: Provisions on Legal Fees and Client Relations, South Carolina Lawyer (March/April 1990)

The Malpractice Implications of Specialization, Transcript (Nov. 1988)

Is Any Code of Ethics Really Necessary?, Virginia Law Weekly (Feb. 11, 1983)

5. ***Other Scholarly Activities***

- (a) Organizer of Conference on the Commercialization of the Legal Profession held in Charleston, South Carolina in May, 1993. The papers and proceedings from the conference are published in 45 S.C.L. Rev. #5 (1994).
- (b) Co-chaired with Professor Charles Knapp of N.Y.U. Law School “Conference on Contract Law: From Theory to Practice,” held at N.Y.U. Law School in May, 1988. The proceedings of the conference were published in the N.Y.U. Annual Survey of American Law.
- (c) Organizer of Charles Knowlton Law and Liberal Arts Interdisciplinary Seminar at the University of South Carolina. Speakers in the series: Professor Jarislav Pelikan (Yale), Professor Ronald Dworkin (N.Y.U. and Oxford), Professor Stephen Jay Gould (Harvard), Professor Richard Epstein (Chicago), Professor Lani Guinier (Pennsylvania), Professor Garry Wills (Northwestern University), Professor Maria Rosa Menocal (Yale); Professor G. Edward White (Virginia); Professor Martha Nussbaum (Chicago); Professor Eric Kandel (Columbia). I have also been a member of two other distinguished speaker committees at the University: The Schoeman Lectureship, cosponsored by the Law School and the Philosophy Department, and the Solomon/Tenenbaum Lecture Series.

6. ***Visitorships and Lectures, Appointments, Professional Activities, Speeches, General Public Service, and University Service***

VISITORSHIPS AND LECTURES

Distinguished Professor, Tianjin University, Tianjin China, July 2011

Distinguished Lecturer, University of Arkansas, Little Rock, October 2008

Visiting Professor of Law, University of Luiss, Rome, Fall 2006

Parsons Visiting Scholar, University of Sydney, Australia, Summer 2006

Visiting Professor of Law, Scuola Superiore, Pisa, Italy, Spring 2005

Visiting Professor, Charleston School of Law, Charleston, SC, Summers 2005, 2006, 2007, 2008

Distinguished Visiting Professor of Law, Suffolk Law School, Fall 2003

Visiting Professor of Law, Hastings College of Law, Fall 2001

Visiting Professor of Law, Florida State College of Law, Summer, 2001

Distinguished Lecturer, University of Indiana, Indianapolis School of Law, April 2001

APPOINTMENTS

Member, New York City Bar Ethics Advisory Committee, 2015-2017

Appointed by President of South Carolina Bar as Chair of the bar International Law Committee, 2013-2017

Appointed by President of South Carolina Bar as Chair of the bar's Ethics Advisory Committee, 2002-2003

Hearing Examiner for Southern Association of Colleges and Schools, 1999-

Chapter 11 Examiner appointed by the United States Bankruptcy Court for the District of South Carolina in *In re TJN, Inc.* (1994) and *In Re Seabrook Island Ocean Club* Chapter 11 (1990)

Retained (pro bono) by the South Carolina Bar to draft and present the Bar's petition to the South Carolina Supreme Court seeking adoption of the South Carolina Rules of Professional Conduct, 1989. The Supreme Court adopted the new rules effective September 1, 1990.

PROFESSIONAL ACTIVITIES

Director, Center for Law, the Legal Profession and Public Policy, University of South Carolina Law School, 1991-1999

Reporter for special committee formed by the South Carolina Law Institute to draft a proposed statute to regulate lobbying, 1990. I drafted a report and proposed legislation for the committee. The work of the committee influenced changes in South Carolina government ethics laws.

South Carolina Bar representative on the Board of Palmetto Legal Services, Inc. 1990-1996

Member, South Carolina Bar Professional Responsibility Committee, for a number of years

Member, South Carolina Ethics Advisory Committee, 1981-85; 1993-. While a member of the committee, I have authored or coauthored a number of ethics advisory opinions. Appointed as Chair 2002-2003

Conceived plan for and initiated Law School's voluntary pro bono program. While I take credit for the idea of the program, the success of the program is attributable to the untiring efforts of its director, Pam Robinson.

SPEECHES

Frequent lecturer on matters of professional ethics at continuing legal education seminars. I speak an average of two-three times a year to both national and state organizations, including the following:

American Bar Association Center for Professional Responsibility

American Bar Association Family Law Section

American Bar Association Intellectual Property Section

American Bar Association International Law Section

American Board of Professional Liability Attorneys

Conference of Federal and State Appellate Staff Attorneys

Corporate Counsel Seminars sponsored by Jackson, Lewis, Schnitzler & Krupman

In-house law firm ethics seminars for a number of major firms in the state

Law School programs including ones sponsored by Georgia, Illinois, Mercer, and Suffolk

Mealy's Conference on Toxic Torts

Nelson Mullins Center on Professionalism

North Carolina and South Carolina Assn. of Patent, Copyright, and Trademark lawyers

Practicing Law Institute

Primerus

Protection and Advocacy for People with Disabilities, Inc.

Rand Institute

Southeastern Association of American Law Schools

South Carolina Bankruptcy Law Assn.
South Carolina Defense Lawyers Assn.
South Carolina Health Lawyers Assn.
South Carolina Trial Lawyers Assn.
United States Department of Justice
Various bar association groups including the South Carolina Bar and the Georgia Bar
In addition, I have spoken frequently at CLE sessions organized by a number of firms throughout the state.

GENERAL PUBLIC SERVICE

Chair, Committee for Concert in Celebration of 50th Anniversary of State of Israel, Koger Center, March 31, 1998

Cofounder and Treasurer, Montessori Elementary School of Columbia (1983-1994) and Montessori Middle School of Columbia (1989-1999)

Member of Board of Directors and Board of Education of Beth Shalom Synagogue, for a number of years

UNIVERSITY SERVICE

I served on the University of South Carolina Tenure and Promotions committee, Conflict of Interest Committee, and as a faculty senator. In addition, as noted above, I have served on several committees that bring speakers to the University.

7. *Honors*

(a) Selected by his peers for inclusion in *The Best Lawyers in America*© since 2015 in the fields of Ethics and Professional Responsibility Law.

(b) Selected for 2014 Leadership in Law Award by the South Carolina Lawyers Weekly.

(c) Outstanding Faculty Publication Award, University of South Carolina: 2000, 1999 (with Professor Richard Seamon), 1994, 1988 (with Professor Patrick Hubbard)

(d) Outstanding Faculty Member Award, University of South Carolina, 2005-06, 1982-83 (with Professor Eldon Wedlock).

(e) G.G. Dowling Award, University of South Carolina, 2004, presented to the faculty member who best exhibits integrity, scholarship, and concern for others

(f) Order of the Coif

(g) Who's Who in American Law

(h) Editor-in-Chief, Journal of Public Law (now Emory Law Journal), 1970-71

8. ***Consulting***

I have represented lawyers and law firms and served as an expert witness in cases involving professional ethics, including disqualification, malpractice, and disciplinary matters. I have been selected to arbitrate legal disputes. I have appeared as counsel or cocounsel in the following reported cases:

Fidrych v. Marriott International, Inc., 952 F.3d 124 (4th Cir. 2020)
Rubashkin v. United States, #11-1203 (Supreme Court 2012) (on behalf of Amicus Curiae, The Aleph Institute and the National Association of Criminal Defense Lawyers)
Hall's Reclamation, Inc. v. APAC Carolina, Inc., 103 F.3d 117 (4th Cir. 1996) (opinion available at 1996 WL 726857)
In re Bowen, 469 S.E.2d 46 (S.C. 1996)
In re Jennings, 468 S.E.2d 869 (S.C. 1996)
Home Ins. Co. v. Bowers, 39 F.3d 1177 (4th Cir. 1995)
Rutherford v. Rutherford, 414 S.E.2d 157 (S.C. 1992), rev'g, 401 S.E.2d (S.C. App. 1991) (pro bono)
In re Bell, 405 S.E.2d 825 (S.C. 1991)
In re Bowers, 400 S.E.2d 134 (S.C. 1991) (pro bono)
In re Rentiers, 374 S.E. 2d 672 (S.C. 1988)
In re Warner, 335 S.E.2d 90 (S.C. 1985)
In re Delgado, 306 S.E.2d 591 (1983), cert. denied, 464 U.S. 1057 (1984) (amicus curiae on behalf of the National Association of Criminal Defense Lawyers)
Tuloka Affiliates, Inc. v. Moore, 268 S.E.2d 293 (S.C. 1980) (pro bono)
Fortson v. Weeks, 208 S.E.2d 68 (Ga. 1974) (amicus curiae)
Willis v. American National Stores, 350 F. Supp. 173 (N.D.Ga. 1972) (pro bono)

Other significant unreported litigation includes:

Husain v. WHP Workflow Solutions LLC, 2:14-cv-01836-DCN (D.S.C. 2014)
Karnofsky v. Massachusetts Mutual Life, Ins. Co., No. 17-1328 (4th Cir. 2017)
Peterson v. Islamic Republic of Iran, 10-cv-4518 (S.D.N.Y. 2018) (Objections to report of special master on behalf of Intervenor Colleen Delaney)

I have also appeared in unreported cases before the United States Court of Appeals for the District of Columbia, the Georgia Supreme Court, the South Carolina Commission of Lawyer Conduct and the Supreme Court in disciplinary matters, and disciplinary bodies in the state of New York.

9. ***Bar Memberships***

- (a) Georgia, 1972)
- (b) Massachusetts, 1976 (retired)
- (c) South Carolina, 1980
- (d) New York, 2012

(e) District of Columbia, 2015

April 2022