

**BRIAN L. PORTO**

3 Meadow Lane  
Windsor, Vermont 05089  
Phone:(802)674-9505 (H)  
(802) 831-1144(W)  
e-mail: bporto@comcast.net;  
**bporto@vermontlaw.edu**

**HIGHER EDUCATION**

J.D. Indiana University (Bloomington), 1987.  
Ph.D. Miami University (Ohio),1979(Pol.Sci.)  
B.A. University of Rhode Island, 1974.

**EMPLOYMENT**

Professor of Law, Vermont Law School, South Royalton, VT 2012- . (Appellate Advocacy, Election Law, Legal Writing II, Sports Law).

Associate Professor of Law, Vermont Law School, South Royalton, VT 2009-2012. (Appellate Advocacy, Election Law, and Legal Writing II).

Assistant Professor of Legal Writing, Vermont Law School, South Royalton, VT 2007- 2009. (Appellate Advocacy, Legal Writing II).

Lecturer in Legal Writing, Vermont Law School, South Royalton, VT 2006-2007. (Appellate Advocacy, Legal Writing II).

Practicing Attorney, Windsor, VT 2000- . (Part-time practice limited to researching and writing appellate briefs for VT attorneys).

Freelance Legal Writer, Bethel and Windsor, VT, 1995-2007. (Contributed to publications of West Group, Matthew Bender, and LexisNexis).

Practicing Attorney, Plante, Hanley & Gerety, P.C., White River Junction, VT 1993-94. (Personal injury, insurance defense).

Practicing Attorney (sole practitioner), Bethel, VT 1992-93.

Law Clerk to Associate Justice Denise Johnson, Vermont Supreme Court, Montpelier, VT Summer 1992.

Assistant Professor of Political Science, Norwich University, Northfield, VT 1990-93. (American Government, Legislative Process, Political Parties, Constitutional Law, Judicial Politics).

Committee Counsel, Judiciary Committee, New Hampshire Senate, Concord, NH 1989-90.

Law Clerk to Judge William I. Garrard, Indiana Court of Appeals, Indianapolis, IN 1988-89.

Law Clerk to Associate Justice William R. Johnson, New Hampshire Supreme Court, Concord, NH 1987-88.

Assistant Professor of Political Science, Macalester College, St. Paul, MN 1980-84. (Legislative Process, Constitutional Law, Judicial Politics).

Assistant Professor of Political Science, Yankton College, Yankton, SD 1979-80. (Political Parties, Legislative Process, Constitutional Law).

#### **LAW TEACHING FIELDS**

- Appellate Advocacy
- Election Law
- Legal Writing
- Sports Law

#### **RESEARCH INTERESTS**

Election Law, Sports Law, Writing for Litigation.

#### **RESEARCH ACTIVITY**

##### **Books**

*Rhetoric, Persuasion, and Modern Legal Writing: The Pen Is Mightier* (Rowman and Littlefield Publishers, 2020). In connection with this project, the Legal Writing Institute and the Association of Legal Writing Directors jointly awarded me one of their two scholarship grants for 2018.

*May It Please the Court: Judicial Processes and Politics In America*, Third Edition (Taylor and Francis Group, LLC, Forthcoming 2017). (A textbook for advanced undergraduates and beginning law students).

*The Supreme Court and the NCAA: The Case for Less Commercialism and More Due Process in College Sports* (University of Michigan Press, 2012).

*A New Season: Envisioning an Alternative Model of College Sports* (Praeger, 2003).

*The Craft of Legal Reasoning* (Harcourt Brace, 1998).

### **Book Chapter**

"Legal Issues in Youth Sports and High School Sports" in Michael McCann, ed., *The Oxford Handbook of American Sports Law* (Oxford University Press, 2018).

### **Articles**

#### *Election Law*

"Town Meetings, Tight Budgets, and Frugal Yankees: Explaining the Campaign-Finance Jurisprudence of Justice David Souter," *Vermont Law Review* v. 37, no. 2 (Winter 2012): 311-350.

"Where Do We Go From Here? Vermont Campaign Finance After *Randall v. Sorrell*," *Vermont Bar Journal* v. 32, No. 4 (Winter 2007): 30-37.

"Less Is More and Small Is Beautiful: How Vermont's Campaign-Finance Law Can Rejuvenate Democracy," *Vermont Law Review* v. 30, no. 1 (Fall 2005):1-41.

"Democracy Revisited: The Writings of Lani Guinier," *Vermont Bar Journal* v.20 (December 1994): 9-10.

"Law, Politics, and the Political Process," in David Schultz, ed., *Law and Politics: Unanswered Questions* (N.Y.: Peter Lang Publishing, Inc. 1994).

"The Constitution and the Ballot Box: Supreme Court Jurisprudence and Ballot Access for

Independent Candidates," *B.Y.U. Journal of Public Law* v. 7 (1993): 281-318.

"The Supreme Court and the Political Process", *Vermont Bar Journal* v. 19 (October 1993): 34-35.

"The Constitution and Political Patronage: Supreme Court Jurisprudence and the Balancing of First Amendment Freedoms," *Pace University Law Review* v. 13 (Winter 1993): 87-139.

"The Constitution and Political Parties: Supreme Court Jurisprudence and its Implications for Party-Building," *Constitutional Commentary* v. 8 (Summer 1991): 201-218.

### *Sports Law*

"Judge in Landmark O'Bannon Case Put the NCAA's Amateur Myth to Rest," *Legal Issues in College Athletics*, v. 19, no. 6 (April 2018): 4-5. (with coauthor Allen Sack).

"Neither Employees Nor Indentured Servants: A New Amateurism for a New Millennium in College Sports," *Marquette Sports Law Review* v. 26, no. 2 (2016): 301-330.

"The NCAA's Restitution Rule: Bulwark Against Cheating or Barrier to Appropriate Legal Remedies?" *Roger Williams Law Review* v. 20, no. 2 (2015): 335-373.

"What Recruiters Don't Tell Athletes and Athletes Don't Think to Ask: A Critique of the NCAA's Nonacademic Eligibility Rules," *Virginia Sports & Entertainment Law Journal* v. 13, no. 2 (2014): 240-279.

"New Rules for an Old Game: Recent Changes to the NCAA Enforcement Process and Some Suggestions for the Future," *Oregon Law Review*, v. 92, no. 4 (2014): 1057-1092.

"Can The NCAA Enforcement Process Protect Children From Abuse In The Wake Of The Sandusky Scandal?" *Widener Law Journal* v. 22, no. 3 (2013):555-588.

"You'll Never Work (Or Play) Here Again: A Lingering Question in Title IX Retaliation Claims Brought by Coaches and Athletes after *Jackson v. Birmingham Board of*

*Education*," *Marquette Sports Law Review* v. 22, no. 2 (Spring 2012): 553-573.

"Halfway Home: An Update on Title IX and College Sports," *Vermont Bar Journal*, v. 34, no. 2 (Summer 2008): 28-35.

"Changing the Game Plan: A Participation Model of College Sports," *Phi Kappa Phi Forum*, v. 85, no. 3 (Fall 2005): 28-31.

"The Legal Challenges to 'Big-Time' College Sports: Are They Threats or Opportunities for Reform?" *The Vermont Bar Journal* v.27, no. 2 (June 2001): 41-43.

"Completing the Revolution: Title IX as Catalyst for an Alternative Model of College Sports," *Seton Hall Journal of Sport Law*, v. 8 (1998): 351-418.

"The More Things Change, the More They Stay the Same: Title IX and the Battle for Gender Equity in College Sports," *Res Gestae* v. 41 (Magazine of the Indiana State Bar Association) (November 1997): 26-38. Winner of Second Prize, Harrison Legal Writing Competition, 1997.

"Balancing Due Process and Academic Integrity in Intercollegiate Athletics: The Scholarship Athlete's Limited Property Interest in Eligibility," *Indiana Law Journal*, v. 62 no. 4. (1987): 1151-1180.

"Legal and Constitutional Challenges to the N.C.A.A.," in James Frey and Arthur Johnson ed. *Government and Sport: Public Policy Issues* (Rowman and Allenheld, 1985): 20-36.

"Athletic Scholarships as Contractual Bases for a Property Interest in Athletic Eligibility," in Herb Appenzeller, ed. *Sports and Law: Some Contemporary Issues* (Michie, 1985): 117-39.

"Athletic Scholarships as Contracts of Employment: The *Rensing* Decisions and the Future of College Sports," *Journal of Sport and Social Issues* v. 9 (1985): 20-37.

"College Athletics on Trial: The Mark Hall Decision and its Implications for the Future," *Journal of Sport and Social Issues* v. 8 no. 1 (Winter/Spring 1984): 22-34.

## Other Writings

"Past Tense: The Legal Prose of Justice Robert Larrow," *Vermont Bar Journal*, v. 46, no. 3 (Fall 2020): 24-27

"Keepers of the Flame: John Roberts, Elena Kagan, and the Rhetorical Tradition at the Supreme Court," *Vermont Bar Journal*, v. 45, no. 3 (Fall 2019): 24-27.

"The Rhetorical Elegance of Robert Jackson," *Vermont Bar Journal*, v. 44, no. 2 (Summer 2018):31-34.

"The Rhetorical Legacy of Antonin Scalia," *Vermont Bar Journal*, v. 43, no. 2 (Summer 2017): 28-30.

"Rhetoric Revisited: A Second Look at How Rhetorical Techniques Improve Writing," *Vermont Bar Journal*, v. 42, no. 2 (Summer 2016): 30-33.

"Six Simple Steps to Improved Writing," *Vermont Bar Journal* v. 41, no. 2 (Summer 2015): 34-37.

"Making It Sing: How Rhetorical Techniques Can Improve Your Writing," *Vermont Bar Journal* v. 40, no. 2 (Summer 2014): 36-39.

"Reluctant Literati: Lawyers as Professional Writers," *Vermont Bar Journal* v. 39, no. 2 (Summer 2013):16-18.

"Improving Your Appellate Briefs: The Best Advice from Bench, Bar and Academy," *Vermont Bar Journal* v.36 (Winter 2011): 36-42.

"The Art of Appellate Brief Writing," *Vermont Bar Journal* v. 29, no. 2 (Summer 2003): 30-36. Reprinted in Meador, Baker, and Steinman, *Appellate Courts: Structures, Functions, Processes, and Personnel*, Second Edition (LexisNexis 2006), pp. 640-45.

"Legal Reasoning and Review," in David Schultz, ed., *Law and Politics: Unanswered Questions* (N.Y.; Peter Lang Publishing, Inc. 1994).

"The Supreme Court Confirmation Process: Prescriptions for Reform," *Vermont Bar Journal* v. 18 (April 1992): 16-17.

"New Hampshire's New Statute of Limitations for Child Sexual Assault: Is It Constitutional and Is It Good Public Policy?" *New England Law Review* v. 26 (Fall 1991): 141-172.

#### **RELATED PROFESSIONAL ACTIVITY**

Presenter of talk titled: "Channeling Aristotle: The Influence of Classical Rhetoric on Supreme Court Opinions," Annual Meeting of New England Consortium of Legal Writing Teachers, Portland, ME, May 2, 2019.

Director, Sports Law Institute, Vermont Law School, 2013-17. Moderator of Annual Panel Discussion (hazing in sports; concussions in sports; management of extreme sports events; governance issues in college sports; effect of climate change on the ski industry in the Northeast; legal issues in skiing and snowboarding).

Deputy Director, Sports Law Institute, Vermont Law School, 2011-13.

Coach, National Moot Court Team, Vermont Law School, 2009-2014.

Presenter on plagiarism, Vermont Law School Orientation for incoming students, 2009- .

Co-presenter of talk titled: "Joint Venture: Vermont Law School's Negotiation and Drafting Workshop," Annual Meeting of New England Consortium of Legal Writing Teachers, Boston, MA, October 21, 2016.

Presenter of talk titled: "Masters of Persuasion: Rhetorical Techniques in the Opinions of Justices Oliver Wendell Holmes and Robert Jackson," Annual Meeting of New England Consortium of Legal Writing Teachers, South Royalton, VT, September 12, 2014.

Presenter of talk titled: "Still Useful After All These Years: The Role of The Client Letter in Producing Practice-Ready Lawyers," Annual Meeting of New England Consortium of Legal Writing Teachers, Concord, NH, December 16, 2011.

Co-presenter of talk titled: "Moving Mountains: A New Model for Selecting Moot Court Teams," Annual Meeting of New England Consortium of Legal Writing Teachers, Springfield, MA, December 7, 2009.

Moderator of panel discussion on "Program Models in Legal Writing and Research: Burdens, Benefits, Limitations," Annual Meeting of New England Consortium of Legal Writing Teachers, South Royalton, VT, December 7, 2007.

Commentator, Vermont Public Radio, 2004-16. (Commentaries are primarily about legal and social issues in sport).

Guest Speaker, The University of Rhode Island, Kingston, RI, November 5, 2004. Presented "Continuing the Revolution: Title IX and the Reform of College Sports."

Participant in Panel Discussion on "Title IX and Its Implications," Dartmouth College, Hanover, NH, April 20, 2004.

Guest Speaker, *The Summit on Sports Reform*, Lake George, NY, November 7-9, 2003. Presented "Reform or Revolution? Assessing Proposals and Prospects for Change in College Sports."

Editor, *Vermont Law Digest* (an online summary of significant rulings by state and federal courts and State agencies in Vermont), Vermont Bar Association, Montpelier, VT 1995-2005.

Chair, Publications Committee, Vermont Bar Association, Montpelier, VT 1997-99.

Editor, *Practice Series Manual: Real Estate*, Vermont Bar Association, Montpelier, VT 1996.

Editor, *Practice Series Manual: Domestic Relations*, Vermont Bar Association, Montpelier, VT 1995.

Author of newspaper op-ed commentaries about state and national politics.



## **MEMBERSHIPS IN PROFESSIONAL ORGANIZATIONS**

- American Bar Association
- Indiana State Bar Association
- Vermont Bar Association
- The Drake Group (formerly National Association for College Athletic Reform) Executive Committee Member, 2012-17; Working Group Member, 2013-).

## **REFERENCES**

Available on request.