

HUGH D. SPITZER

University of Washington School of Law

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B.A. Yale University, 1970
Cum Laude, with Special Honors
in Political Science

J.D. University of Washington, 1974
Washington Law Review

LL.M. University of California, Berkeley, 1982

1986–Present

University of Washington School of Law

Professor of Law (Acting)

Lecturer, then Affiliate Professor, Sept. 1986 through Aug., 2012; Visiting Professor, Sept. 2012 through Aug. 2014

Courses:

- State Constitutional Law
- U.S. Constitutional Law
- Local Government Law
- Classical Roman Law
- Transnational Law
- Professional Responsibility

Regularly supervises J.D., LL.M. and Ph.D. students on research projects. Member, U.W. Law School Curriculum and Academic Policies Committee.

1983–1986

Univ. of Puget Sound School of Law

Adjunct Professor. Taught Roman Law.

1980–1981

Univ. of Washington School of Public Affairs (now Evans School of Public Policy & Governance)

Lecturer. Taught Administrative Law and Public Sector Labor Law.

1982–2016

Foster Pepper PLLC, Seattle, Washington

- Public finance and municipal law attorney. Bond counsel on general obligation and revenue borrowings for the State of Washington, City of Seattle and numerous cities, counties, special purpose districts, housing authorities and universities.
- Structured intergovernmental entities, including mediating, negotiated and drafted intergovernmental contracts, usually concerning construction and/or management of major public facilities or provision of public services.
- Drafted legislation (usually pro bono) to assist public entities and nonprofits. Also drafted and/or reviewed of bills at the request of legislators and staff.
- Advised public and private clients on state constitutional law questions. Submits *amicus* briefs to appellate courts on state constitutional and finance matters.

1978–1981

Office of the Mayor, City of Seattle

Legal Counsel and Special Assistant to Mayor Charles Royer

Policy and staffing responsibilities in public safety and justice, human rights and the courts. Directed the redrafting of substantial parts of Seattle’s Criminal Code and chaired a committee of prosecutors and defense attorneys in criminal code revision. Managed the reorganization of the Seattle Human Rights Department and the Office of Women’s Rights.

1976–1977

Seattle City Council Staff

Worked as legislative assistant, focusing principally on public facilities construction projects, transportation and recreation.

1973–1976

Hafer, Cassidy & Price

Intern, then associate, in firm specializing in labor law and civil rights. Represented unions in state and federal courts, National Labor Relations Board, arbitrations.

Major Publications, Articles and Reviews

THE WASHINGTON STATE CONSTITUTION (2013)(2nd ed. Oxford University Press)(with Robert F. Utter). *Book provides an article by article, section by section analysis of Washington's constitution, describing the historical background, drafting and interpretation issues, and key court cases applying each section.*

Model Rule 5.7 and Lawyers in Government Jobs—How Can They Ever Be “Non-Lawyers”? 30 Georgetown Journal of Legal Ethics 45 (2017). *Focuses on the ethical obligations of licensed lawyers working in “non-law” government staff and management positions. Recommends that attorneys in those types of jobs should evaluate their responsibilities in the context of Rule 5.7 (“Law-related Services”) of the ABA Model Rules of Professional Conduct.*

Realigning the Governmental/Proprietary Distinction in Municipal Law. 40 Seattle U. L. Rev. 173 (2016). *Details the contradictory and confusing distinction between “governmental” and “proprietary” modes of local government activities in seven doctrinal areas. Recommends abolishing that distinction and replacing it with a simpler division of municipal authority into “governmental sovereign powers” and “governmental service activities.”*

“Home Rule” vs. “Dillon’s Rule” for Washington Cities. 38 Seattle U. L. Rev. 809 (2015) . *Reviews the tension between the late-nineteenth century “Dillon’s Rule” limiting city powers, and the “home rule” approach that gained dominance in the early and mid-twentieth century. Explains the occasional “zombie-like” reappearance of Dillon’s Rule and recommends ways to keep to keep that doctrine buried.*

Washington State’s Mandate: The Constitutional Obligation to Fund Post-Secondary Education. 89 Wash. L. Rev. Online 15 (2014) (With Adam Sherman.) *Focuses on provisions of the Washington State Constitution that address post-secondary education, and argues that Washington State has a constitutional obligation to support and fund its institutions of higher learning.*

Pivoting to Progressivism: Justice Stephen J. Chadwick, the Washington Supreme Court and Change in Early Twentieth Century Judicial Reasoning and Rhetoric. 104 Pac. N.W.Q 107 (2014). *Focuses on the public life and writings of a Washington Supreme Court Justice who served between 1918 and 1919, and analyzes the forces that caused a rapid reversal of the Court’s doctrine as it shifted from Lochner-type rejection of government regulatory statutes to support of Progressive Era enactments by the state legislature.*

Ethics Issues in Representing Intergovernmental Entities, Proceedings of the Washington State Association of Municipal Attorneys, Spring Conference 5-1 (2014). *Analyzes key attorney ethics problems inherent in the formation, and later operation, of intergovernmental entities, and suggests ways to minimize violations of the Rules of Professional Conduct.*

Organizing Interlocal Entities: What Form is Best... and Does the Interlocal Cooperation Act Need a Rewrite? In Proceedings of the Washington State Association of Municipal Attorneys, Spring Conference (2013). *Recommends a substantial overhaul of Washington’s Interlocal Cooperation Act, and recommends enactment of a mechanism for creation of intergovernmental municipal corporations.*

A Local Government by Any Other Name, in Proceedings of the Washington State Association of Municipal Attorneys, Fall Conference (2009). *Suggests a taxonomy of general terms for classifying local government entities, critiques the use of multiple terms for similar concepts, and recommends legislative changes.*

Washington: The Past and Present Populist State, in THE CONSTITUTIONALISM OF AMERICAN STATES 771-84 (George E. Connor and Christopher W. Hammons, eds., 2008). *Describes the impact of the late-nineteenth century populist movement on the structure and content of Washington’s constitution and the consequential impact on the state’s political and legal life.*

“New Life for the ‘Criteria Tests’ in State Constitutional Jurisprudence: ‘Gunwall is Dead—Long Live Gunwall’” 37 Rutgers Law Journal 1169 (2006). *Outlines the development of state constitutional jurisprudence in Washington State, and provides a general theory of state constitutional analysis.*

“Taxes vs. Fees: A Curious Confusion” 38 Gonzaga Law Review 335 (2003). *Provides an analytical framework for categorizing various types of taxes and user charges, melding economic and legal concepts.*

“Municipal Police Power in Washington State” 75 Washington Law Review 495 (2000). *Provides a comprehensive review of the history and scope of government regulatory powers since statehood.*

The Legal and Practical Side of Tribal Bond Issues. University of Washington Indian Law Symposium (1999). *Discusses the legal parameters and practical problems connected with financings for Indian tribes.*

“Which Constitution? Eleven Years of Gunwall in Washington State” 21 Seattle University Law Review 1187 (1998). *Reviews and analyzes all Washington Supreme Court cases citing State v. Gunwall for its six-step approach to applying the State Constitution when analogous provisions of the United States Constitution also apply.*

“Bearing Arms in Washington State,” Proceedings of the Washington State Association of Municipal Attorneys Spring Conference (1997). *Analyzes the Washington State Constitution’s strong Right-to-Bear-Arms provision in the context of 800 years of history.*

“A Washington State Income Tax – Again?” 16 University of Puget Sound Law Review 515 (1993). *Presents a historical review of the Washington Constitution’s tax uniformity clause, the State Supreme Court cases of the 1930s that rejected the income tax.*

“An Analytical View of Recent ‘Lending of Credit’ Decisions in Washington State,” 8 Univ. of Puget Sound Law Review 195 (1985). *Presents a close analysis of Article VIII, Sections 5 and 7 of the Washington Constitution, and suggests a framework for evaluating specific government actions and proposals under those provisions.*

“Court Rulemaking in Washington State,” 6 University of Puget Sound Law Review 31 (1982). *Critiques the Washington Supreme Court’s weakening of the Judicial Council and the Court’s assumption of control of aspects of rulemaking that might better be handled by a Judicial Council or the Legislature.*

“Intra-Union Disciplinary Proceedings,” The Labor Relations Law of Canada, Chapter 14 (Richard M. Lyon, ed., 1977). *Describes internal discipline in Canadian labor unions.*

“A Survey of the Washington Industrial and Safety Act’s First Months of Operation,” 9 Gonzaga Law Review 639 (1974). *Presents an overview of the initial period of putting WISHA into effect.*

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Book Review: (Review of Robert A. Schapiro, Polyphonic Federalism: Toward the Protection of Fundamental Rights) 40 Publius, The Journal of Federalism 563 (2009).

Book Review: “American Federalism: Punching Holes in the Myth” (Review of John D. Nugent, Safeguarding Federalism: How States Protect Their Interests in National Policymaking) 84 Wash. L. Rev. 717 (2009).

Book Review: “Theme and Variations” (Review of Robert F. Williams, State Constitutional Law: Cases and Materials, 2d Ed.) 21 Seattle University Law Review 997 (1998) (with Charles W. Johnson).

Book Review: "The Best-Kept Secret: How to Find It and Where to Find It: Washington Legal Researcher's Deskbook," Washington Journal, December 19, 1996, p. 12.

Book Review: "The Fall of the House of WPPSS," 18 Urban Lawyer 284 (1986).

Course Materials:

Washington Municipal Law Materials (2015)

Washington Constitutional Law: Readings (2014)

Work in Progress:

A book on legal and practical aspects of federalism in the United States, proposing a regional federalism model for the 21st century.

Other Articles

“Sanctuary Cities’ to Find Sanctuary in the Rehnquist and Roberts Courts,” JURIST—Academic Commentary, Dec. 30, 2016, <http://www.jurist.org/forum/2016/12/Hugh-Spitzer-sanctuary-cities.php>

“Scandal Rocks Washington’s Supreme Court! Arthur S. Beardsley’s Account of the 1908 Root-Gordon Scandal.” 69 NW Lawyer 48 (Apr/May 2015)(edited & wrote introduction)

“Don’t Rob Higher Education to Fund Other Education Mandates,” The Seattle Times, November 28, 2014 (with Stan Barer)

“Is warehousing mental patients another state constitutional dilemma?” *The Seattle Times*, August 27, 2014

“Seven Ways to Break D.C. Gridlock,” Crosscut Seattle, November 19, 2012

“Washington’s Right to Bear Arms,” The Seattle Times, June 3, 2012

“On Law and Life in Cuba: The Cuban Legal System and Culture Offer Contrasts and Surprises,” Washington State Bar News, January 2012 (with Doug Ende)

“Calling in the Cavalry” Cityvision Magazine, March/April 2011

“Borrowing Your City’s Future” Cityvision Magazine, July/August 2009

“An Academic Perspective: Why We Have 51 Constitutions” UW Law, Spring 2009, Volume 59

“Filibuster Lets Minority Rule in Senate, Should be Ended” Tacoma News Tribune, February 17, 2009

“Open doors to court rulemaking process” Seattle Post-Intelligencer, August 13, 2008

“Power to the people! It’s in the Constitution”, Crosscut Seattle, April 17, 2008

“Pharmacists have professional obligation to serve public”, The Tacoma News Tribune, Friday, March 14, 2008

“Split the Justice Department to Keep Politics, Prosecution Separate” Seattle Times, August 1, 2007

“Saving for A Rainy Day: Good, But Not Good Enough” Seattle Times, March 5, 2007

“Property Rights vs. the Law” Seattle Times, October 27, 2006

“Those Dirty (Fill in the Blanks) Turn into Americans” Seattle Times, May 24, 2006

“Devil’s in the Details of Tax Increment Financing” Puget Sound Business Journal, April 21-27, 2006

“State’s Constitution, High Court Shield Us from Improper Condemnation of Property” News Tribune, March 19, 2006

“State Should Boost Investment in Affordable Housing” Seattle Times, January 13, 2006

“Remove Partisan Stain from State Elections” Seattle Times, June 29, 2005

“Back to the Future: How 13 Superstates Can Restore the Founders’ Vision” Seattle Times, November 14, 2004

“Wave Goodbye to Attorney-Client Privilege?” Washington State Bar News, Vol. 58, No. 11, November 2004

“Watch Out for Accidental Taxes!” Washington Association of Sewer and Water Districts, Pipeline, Volume 9, Issue 8, August 2004.

“Same-Sex Marriage Decision Draws on Sound Jurisprudence” Tacoma News Tribune, August 15, 2004

“Washington State’s Upside-Down Tax System” Seattle Times, June 6, 2004

“Public Disclosure Act Services the Public” (with Sue Donaldson) Seattle Post-Intelligencer, June 1, 2004

“Keep Populism Positive” Seattle Post-Intelligencer November 19, 2003

“The Tax Devil You Know Isn’t Doing You Any Favors” Seattle Times, January 13, 2003.

“Out of Balance: State’s Tax System is Broken and Needs Fixing” Seattle Post-Intelligencer, December 8, 2002.

“There’s No Free Ride” The Seattle Times, October 6, 2002.

“Legal and Policy Analysis: Assessing the Potential for New School Funding Litigation and Initiatives,” for 2002 Washington School Law Academy (with Steven S. Miller).

“Watch For Some Big-Picture Changes Coming Monday to the Supreme Court” Seattle Post Intelligencer, January 7, 2001.

“Why Lawyers Have Often Worn Strange Clothes, Claimed to Work for Free – and Been Hated” Washington State Bar News, September 2000.

“Take the Initiative on Constitutionality” Seattle Post Intelligencer, July 16, 2000.

“Many Ways to Marry” Seattle Post Intelligencer, April 28, 2000.

“U.S. Supreme Court Decision Affirms States Exist (Surprise!)” Seattle Post-Intelligencer, July 15, 1999.

Preface to 1999 Reprint of Beverly Rosenow, Journal of the Washington State Constitutional Convention.

“Washington’s Constitution: How It Affects Us,” Four-part series in the Seattle Post-Intelligencer, November 16, 18, 19, 20, 1997.

“‘Riders’ Should Be Run Out of Washington D.C.,” Seattle Post-Intelligencer, December 21, 1995.

“O.J. Might As Well Be Tried By The Romans,” Seattle Post-Intelligencer, July 13, 1994, at A19.

“Financing an Integrated Coastal Zone Management Program,” presented to the IPCC Regional Preparatory Workshop (a United Nations international workshop on impacts of climate change), July 16, 1993.

“Caesar Would Have Arbitrated,” 47 Washington State Bar News No. 4, pp. 50-51 (1993).

“Is Washington Ready for Merit Selection of Judges?” with William S. Bailey, 35 Washington State Bar News No. 6, p. 66 (1981).

“Impact of the New Court of Record Rules on Courts of Limited Jurisdiction in Washington State,” Proceedings of the Washington State Association of Municipal Attorneys (1981).

“Law Libraries Losing to ‘Double Inflation,’” 34 Washington State Bar News No. 11 (1980).

“I-90 and the Politics of Mediation,” 83 Argus No. 18 (1976).

“Business and Students,” 13 California Management Review 83 (1970).

Awards and Recognition

Ernest H. Campbell Award for Excellence in the Practice of Municipal Law, Washington State Assoc. of Municipal Attorneys, 2016

American Association of University Professors, UW Chapter, 2015 Award for Courage in Pursuit of Excellence in Washington State Higher Education

Seattle Magazine, Top 155 Lawyers, Designation: Constitutional Law, 2006-2014

Best Lawyers in America – Public Finance Law, 2007-2015

Super Lawyer, Washington Law and Politics, 2000-2015

Good in Government Award, League of Women Voters of Washington, 2006

Outstanding Alumnus Achievement Award, Washington Law Review, 1996

Professional and Bar Memberships

American Association of Law Schools, Active member of the following sections since 2008: State & Local Government Law, Professional Responsibility, Constitutional Law, Jurisprudence, Legal History

American Political Science Association

American Society for Political and Legal Philosophy

Washington State Bar Association

American Bar Association

American Bar Association Center for Professional Responsibility

National Association of Bond Lawyers

Washington State Association of Municipal Attorneys

Seattle-King County Bar Association