

Stuart Minor Benjamin
Duke University School of Law
210 Science Drive
Durham, NC 27708
benjamin@law.duke.edu
(919) 613-7275

CURRENT EMPLOYMENT

Fall 2003–present **DUKE UNIVERSITY SCHOOL OF LAW:**
William W. Van Alstyne Distinguished Professor (2022–the present)
Douglas Blount Maggs Distinguished Professor (2009–2021)
Associate Dean for Research (2005-2018)
Professor (2003–2008)
Teaching and Research Areas:
Internet and Telecommunications Law
First Amendment
Administrative Law
Law and Technology

2013–present **THE CENTER FOR INNOVATION POLICY AT DUKE LAW:** Co-Director
Co-direct center focused on independent analysis of policies for promoting technological innovation that enhances long-term social welfare

PUBLICATIONS

Major Articles [*Anti-Patents*](#), 91 **UNIVERSITY OF CHICAGO LAW REVIEW** 239 (2024) (with Roy Baharad and Ehud Guttel)

[*Partisan Panel Composition and Reliance on Earlier Opinions in the Circuit Courts*](#), 1 **JOURNAL OF LAW AND EMPIRICAL ANALYSIS** 1 (2024) (with ByungKoo Kim and Kevin Quinn)

[*Twenty-First Century Split: Partisan, Racial, and Gender Differences in Circuit Judges Following Earlier Opinions*](#), 49 **BYU LAW REVIEW** 367 (2023) (with Kevin Quinn and ByungKoo Kim)

[*Ships Passing in the Night: The Communications Act and the Convergence on Broadband*](#), 37 **BERKELEY TECHNOLOGY LAW JOURNAL** 527 (2022)

[*The Paradoxical Impact of Scalia’s Campaign Against Legislative History*](#), 105 **CORNELL LAW REVIEW** 1023 (2020) (with Kristen Renberg)

[*Administrative Power in the Era of Patent Stare Decisis*](#), 65 **DUKE LAW JOURNAL** 1561 (2016) (with Arti Rai)

[*Judicial Retirements and the Staying Power of U.S. Supreme Court Decisions*](#), 13 **JOURNAL OF EMPIRICAL LEGAL STUDIES** 5 (2016) (with Georg Vanberg)

[*Algorithms and Speech*](#), 161 **UNIVERSITY OF PENNSYLVANIA LAW REVIEW** 1445 (2013)

[*Standing the Test of Time: The Breadth of Majority Coalitions and the Fate of U.S. Supreme Court Precedents*](#), 4 JOURNAL OF LEGAL ANALYSIS 445 (2012) (with Bruce Desmarais)

[*Bootstrapping*](#), 75 LAW & CONTEMPORARY PROBLEMS 115 (2012)

[*Transmitting, Editing, and Communicating: Determining What “The Freedom of Speech” Encompasses*](#), 60 DUKE LAW JOURNAL 1673 (2011)

[*Fixing Innovation Policy: A Structural Perspective*](#), 77 GEORGE WASHINGTON LAW REVIEW 1 (2009) (with Arti Rai)

[*Mr. Presidential Candidate: Whom Would You Nominate?*](#), 42 LOYOLA OF LOS ANGELES LAW REVIEW 293 (2009) (with Mitu Gulati)

[*Tennis with the Net Down: Administrative Federalism Without Congress*](#), 57 DUKE LAW JOURNAL 2111 (2008) (with Ernest Young)

[*Who’s Afraid of the APA? What the Patent System Can Learn from Administrative Law*](#), 95 GEORGETOWN LAW JOURNAL 269 (2007) (with Arti Rai)

[*Evaluating E-Rulemaking: Public Participation and Political Institutions*](#), 55 DUKE LAW JOURNAL 893 (2006)

[*Evaluating the FCC’s National Television Ownership Cap: What’s Bad for Broadcasting Is Good for the Country*](#), 46 WILLIAM & MARY LAW REVIEW 439 (2004)

[*Spectrum Abundance and the Choice Between Private and Public Control*](#), 78 NEW YORK UNIVERSITY LAW REVIEW 2007 (2003)

[*The Logic of Scarcity: Idle Spectrum as a First Amendment Violation*](#), 52 DUKE LAW JOURNAL 1 (2002) (selected for presentation at the 2002 Stanford/Yale Junior Faculty Forum in the category of Constitutional Law – Theoretical Foundations)

[*Proactive Legislation and the First Amendment*](#), 99 MICHIGAN LAW REVIEW 281 (2000)

[*Stepping into the Same River Twice: Rapidly Changing Facts and the Appellate Process*](#), 78 TEXAS LAW REVIEW 269 (1999)

[*Equal Protection and the Special Relationship: The Case of Native Hawaiians*](#), 106 YALE LAW JOURNAL 537 (1996)

Books

INTERNET AND TELECOMMUNICATION REGULATION (2nd ed. 2023, 1st ed. 2019) (with coauthors)

TELECOMMUNICATIONS LAW AND POLICY (4th ed. 2015, 3rd ed. 2012, 2nd ed. 2006, 1st ed. 2001, and annual supplements) (with coauthors)

Major Chapters *The First Amendment and Algorithms*, in **THE CAMBRIDGE HANDBOOK ON THE LAW OF ALGORITHMS** (2021)

EDUCATION **YALE LAW SCHOOL, J.D.**, 1991
 Yale Law Journal, Volume 100: Book Review Editor

YALE COLLEGE, B.A., *Summa Cum Laude*, History, 1987
 Phi Beta Kappa
 Alice Derby Lang Prize for the best senior essay in classical studies

PREVIOUS EMPLOYMENT

2014–2016 **FEDERAL COMMUNICATIONS COMMISSION**: Special Government Employee
 Worked with the General Counsel on the Net Neutrality order and its defense in the D.C. Circuit

2009–2011 **FEDERAL COMMUNICATIONS COMMISSION**: Distinguished Scholar
 Served as the inaugural distinguished scholar, developing long-range initiatives and advising the Chairman

2001–2003 **UNIVERSITY OF TEXAS SCHOOL OF LAW**: Rex G. & Edna Baker Professor in Constitutional Law

1997–2001 **UNIVERSITY OF SAN DIEGO SCHOOL OF LAW**: Associate Professor

Spring 2001 **UNIVERSITY OF TEXAS SCHOOL OF LAW**: Visiting Associate Professor

Fall 2000 **UNIVERSITY OF PENNSYLVANIA LAW SCHOOL**: Visiting Associate Professor

1996–1997 **PROFESSOR LAURENCE TRIBE, HARVARD LAW SCHOOL**: Associate
 Drafted appellate briefs and revisions to Constitutional Law treatise

1995–1996 **JUSTICE DAVID H. SOUTER, UNITED STATES SUPREME COURT**: Law clerk

1992–1995 **UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF LEGAL COUNSEL**:
 Attorney-advisor
 Drafted legal opinions and provided legal advice to the Executive Branch on questions of federal statutory and constitutional law; reviewed proposed legislation for constitutionality; briefed and argued *Applegate v. United States*, 25 F.3d 1579 (Fed. Cir. 1994), a takings case

Fall 1992 **LEGAL RESOURCES CENTRE**, Port Elizabeth, South Africa: Staff attorney
 Assisted in trial preparations for a major land claim on behalf of the Mfengu of Tsitsikamma, who were removed from their land in 1977

1991–1992 **JUDGE WILLIAM C. CANBY, JR., UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**, Phoenix, Arizona: Law clerk

- Summer 1991 **UNITED STATES DEPARTMENT OF JUSTICE, ENVIRONMENT DIVISION,**
 APPELLATE SECTION: Summer law clerk
 Wrote the United States' brief in *Wyoming ex rel. Sullivan v. Lujan*, 969 F.2d 877
 (10th Cir. 1992), a standing case
- 1987-1988 **WUHAN URBAN DESIGN INSTITUTE, Hubei, China:** Instructor
 Taught English to students in a Chinese university and studied Mandarin
- Summer 1986 **BLACK SASH, Johannesburg, South Africa:** Caseworker
 Served as a caseworker advising black South Africans on their rights and remedies
 in areas including immigration, labor and housing
- 1984-present **STARMOUNT COMPANY, Greensboro, North Carolina:** Chair of the Board
 Direct the operations of a privately held real estate company