

Douglas M. Spencer

School of Law
University of Connecticut
312 Hosmer Hall
65 Elizabeth Street
Hartford, CT 06105-2290
Phone: (860) 570-5437
E-mail: doug.spencer@law.uconn.edu

Department of Public Policy
University of Connecticut
423 Hartford Building
10 Prospect Street
Hartford, CT 06103
Phone: (959) 200-3857

ACADEMIC POSITIONS

University of Connecticut

Professor of Law and Public Policy, 2017–

Associate Professor of Law and Public Policy, 2013–2017

- *Visiting Scholar*, Center for the Study of American Politics, Yale University, 2016-2017
- *Courses taught*: Constitutional Law, Election Law, Introduction to Public Policy (MPA Program), How to Fix Elections: Election Administration in the United States (undergraduate Poli. Sci.)

EDUCATION

University of California, Berkeley

Ph.D., Jurisprudence and Social Policy, 2013

Committee: Robert D. Cooter, Kevin Quinn, and Henry E. Brady

J.D., Berkeley Law, 2011

M.P.P., Goldman School of Public Policy, 2008

Columbia University

B.A., Philosophy, *magna cum laude*, 2004

PUBLICATIONS

- Abby K. Wood and Douglas M. Spencer. 2016. “In the Shadows of Sunlight: The Effects of Transparency on State Political Campaigns,” *Election Law Journal*, 15(4), pp. 302-329.
- Christopher S. Elmendorf and Douglas M. Spencer. 2015. “Administering Section 2 of the VRA After Shelby County,” *Columbia Law Review*, 115(7), pp. 2143-2217.
- Gabriel J. Chin & Douglas M. Spencer. 2015. “Did Multicultural America Result From a Mistake? The 1965 Immigration Act and Evidence From Roll Call Votes,” *U. Illinois Law Review*, 2015(3), pp. 1239-58.
- Chris Elmendorf and Douglas M. Spencer. 2014. “The Geography of Racial Stereotyping: Evidence and Implications for VRA ‘Preclearance’ After Shelby County,” *California Law Review*, 102(5), pp. 1123-80.
- Sean Farhang and Douglas M. Spencer. 2014. “Legislating Incentives for Attorney Representation in Civil Rights Litigation,” *Journal of Law & Courts*, 2(2), pp. 241-71.
- Douglas M. Spencer and Abby K. Wood. 2014. “Citizens United, States Divided: An Empirical Analysis of Independent Political Spending,” *Indiana Law Journal*, 89(1), pp. 315-72.
- Christopher S. Elmendorf and Douglas M. Spencer. 2013. “Are Ballot Titles Biased? Partisanship and Ideology in California’s Supervision of Direct Democracy,” *U.C. Irvine Law Review*, 3(3), pp. 511-49.
- Douglas M. Spencer and Zachary S. Markovits. 2010. “Long Lines at Polling Stations? Observations from an Election Day Study,” *Election Law Journal*, 9(1), pp. 3-17.

IN PROGRESS

Book Project

Rethinking Buckley: The Empirical Foundations of Campaign Finance

(with Keena Lipsitz)

Modern campaign finance law is predicated on a number of empirical assumptions that were untested or unknown when posited by lawmakers and judges. *Buckley v. Valeo* is the foundation of modern campaign finance jurisprudence and is littered with supposed facts about how money is related to the quantity and quality of political speech during campaigns. For example, the Court in *Buckley* argues that spending limits implicate the First Amendment because those limits “necessarily reduce the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached.” The Court does not cite to any research on political communication or advertising when making such claims. In fairness the study of political advertising was in its infancy in 1976 as most of Jimmy Carter’s and Gerald Ford’s political ads from that year featured the candidates or their surrogates speaking directly into the camera and reading scripts. Researchers seeking to understand the effects of these ads had to visit archives to view them and did not have access to information about how many times the ads were run or whether the ads had been aired at all. In contrast, today’s political advertisements are heavily produced, targeted at particular segments, and often feature the candidate only as a disclaimer. Real-time data are available about viewership, click-rates, and other engagement with the ads. In the 40 years since *Buckley*, researchers have discovered that many of the empirical assumptions underlying the decision are flawed. The purpose of this book is to subject the Court’s claims about the relationship between spending and political speech to scrutiny.

Working Papers

Corporations as Conduits: A Cautionary Note About Regulating Hypotheticals

In this paper, prepared as part of a symposium on the intersection of corporations and money in politics, I illustrate the various ways that corporations can spend their money to influence politics in America and the relevant disclosure rules (or lack thereof) that track this political activity. I also highlight the opportunities for individuals to illegally spend money in American politics by exploiting corporate transparency loopholes and I address the question whether proof of possible nefarious activity is sufficient to justify regulations targeting actual nefarious activity, drawing on recent debates about voter fraud. Finally, I argue that campaign finance laws have been created, justified, implemented, and interpreted in relative isolation from one another, creating unnecessary (though perhaps anticipated) loopholes in enforcement that undermine the goals of oversight and accountability in campaigns and elections. Campaign finance regulations can only be effective insofar as they respond to the dynamic character of political campaigns. Thus, policymakers should refine their “comprehensive” reforms to better address the integrated nature of campaign finance. Given the strategic nature of political actors, this shift will likely result in more emphasis on as-applied challenges in the courts.

Campaign Finance and the Rhetoric of Corruption: A Conjoint Experiment

(with Alexander Theodoridis)

In the wake of *Citizens United*, campaign finance regulations may only be justified if the regulations target *quid pro quo* corruption or the appearance of corruption. The modifier “appearance of corruption” is ubiquitous in campaign finance decisions yet completely untheorized. Furthermore, existing research suggests that public perceptions of corruption are not responsive to shifts in campaign finance policies and are thus irrelevant to campaign finance jurisprudence. In this paper we report the findings from a conjoint experiment to show that public perceptions of corruption are nuanced, logical, and in fact largely congruent with the Supreme Court’s campaign finance jurisprudence. We also find support for stronger regulations of Super PACs and corporate political spending, but not for publicly financed matching programs. We conclude with a note of caution about the influence of political rhetoric about corruption on public opinion and discuss the implications of this manipulation for the protection of core constitutional rights.

Super PACs: A Megaphone for Economic Interests or Ideological Viewpoints?

(with Paul Herrnson and Jen Heerwig)

Between 2010 and 2016, super PACs have spent more than \$2 billion to influence federal elections. Much of what has been written about super PACs depicts them as the latest weapon in the arsenals of powerful corporations, labor unions, and ideologically-driven millionaires who seek to determine the outcome of elections. However, not all super PACs rely on the wealthy, well-organized, or single-minded for their financing, and there are surprisingly few super PACs affiliated with corporations and labor unions. In this study we address the following questions: What economic and political sectors are the most well represented among super PACs and super PAC donors? And, what are the effects of sector ties on super PAC donors' decision making? We address these questions using a new data set that includes the contributions made to super PACs in the 2010 through 2016 federal elections. This study provides new perspective on the political economy of super PACs by comparing the financing of super PACs affiliated with various economic and political sectors to that of corresponding groups of traditional PACs. Based on our preliminary results we generate several hypotheses about the impact of donors' economic and political affiliations on their likelihood of contributing to a super PAC and, the amounts they contribute, and the proportion of their total contributions they distributed to super PACs associated with different aspects of society. The results provide insights into the most recent roles that various economic and political interests have assumed in the financing of recent elections.

Works in Progress

Technology and Vote Dilution: The Coming Transformation of Voting Rights

(with Chris Elmendorf)

Much has been written about the implication of technological changes on political participation, polarization, electoral security, campaign finance, and even politicians' perceptions of their constituents. To date, however, there has been no systematic look at the implications of technology for voting rights of racial and ethnic minorities. Perhaps the working assumption has been that technological change simply has no bearing on minority voting rights. That assumption is misplaced. This Article identifies three ways in which recent advances in campaign and redistricting technology threaten the voting strength of racial minorities. But our story is not all bleak. The technologies now revolutionizing campaigns may also breathe new life into an old idea about the purpose of the Voting Rights Act: "to hasten the waning of racism in American politics." Fundamental questions about racial prejudice in politics and society are becoming answerable in new and better ways. Moreover, the technologies reshaping campaigns should also make functional glosses on the law of vote dilution much easier and cheaper to administer—while reducing the law's dependence on strong racial assumptions and discomfiting questions about which candidates most authentically represents an ostensible racial community. This has practical advantages for litigators and redistricters alike, and may lead center-right members of the Supreme Court to become more accepting of the VRA.

Book Chapters

The Law of Gerrymandering (with Guy Charles)

– for Birkhauser Science volume on "Political Geometry," 2018.

The Impact of Organizational Characteristics on Super PAC Financing

(with Paul Herrnson and Jen Heerwig)

– for 8th edition of "The State of the Parties," Rowman & Littlefield, 2018.

In Development (collecting data)

- *Auditing the Impact of Shelby County v. Holder* (with Chris Elmendorf & Mayya Komisarchik)
- *Mind the (Participation) Gap: How Campaign Voucher Disclosure Affects Political Participation* (with Abby Wood & Chris Elmendorf)

Other Writing

[“How Surveys Can Strengthen the Voting Rights Act.”](#)

SSN KEY FINDINGS BRIEF, May 2017.

[“Affirmative Action Setback in the Supreme Court Could Be a Boost to Voting Rights.”](#)

THE NEW REPUBLIC, April 29, 2014 (with Chris Elmendorf).

[“Fears Over the Impact of Citizens United May Be Misplaced.”](#)

LONDON SCHOOL OF ECONOMICS USAPP BLOG, January 27, 2014 (with Abby Wood).

[“New Tools for Bail In: Using the Geography of Discrimination to Reconstruct Preclearance Judicially.”](#)

ELECTION LAW BLOG, July 25, 2013 (with Chris Elmendorf).

[“How to Save the Voting Rights Act: Here’s the best option for Congress.”](#)

SLATE, July 17, 2013 (with Chris Elmendorf).

[“Are the Covered States “More Racist” than Other States?”](#)

ELECTION LAW BLOG, March 4, 2013 (with Chris Elmendorf).

PRESENTATIONS

Conferences, Symposia and Academic Workshops

- 2017** American Political Science Association, San Francisco, CA. Paper presentation, "The Impact of Associational Ties on the Financing of Super PACs." September 1.

Political Economy and Public Law Conference, University of Southern California Gould School of Law. Paper presentation, "Campaign Finance and the Rhetoric of Corruption: A Conjoint Experiment." April 16.

Symposium: Can Corporations Be Good Citizens? How Corporate Law, Litigation, Lobbying and Money in Politics Intersect, Stetson Law School, Gulfport, FL. Paper presentation, "Corporations as Conduits: A Cautionary Note About Regulating Hypotheticals." March 24.

- 2016** Conference on Money and the First Amendment, University of Colorado, Boulder. Paper presentation, "Campaign Finance and the Rhetoric of Corruption." April 15.

Midwest Political Science Association, Chicago, IL. Paper presentation, "Minority Turnout and the Political Incentives to Discriminate after *Shelby County*." April 8.

- 2015** Conference on Empirical Legal Studies, Washington University in St. Louis. Discussant for Marc Meredith and Michael Morse, "Discretionary Disenfranchisement: The Case of Legal Financial Obligations." October 30.

Empirical Studies in Public Law Workshop, Hebrew University, Jerusalem. Paper presentation, "Administering the Voting Rights Act After *Shelby County*." May 25.

Center for Law and Social Science Workshop, University of Southern California. Paper presentation, "Administering Section 2 of the VRA After *Shelby County*." March 30.

Workshop on Voting Rights, Ash Center for Democratic Governance and Innovation, Harvard Kennedy School. Paper presentation, "Administering Section 2 of the VRA After *Shelby County*." March 27.

American Association of Law Schools, Washington DC. Paper presentation, "Multilevel Regression with Poststratification: Implications for Legal Scholarship." (Winner of the Law & Social Science Section’s call for papers on "Extreme Empirical Methods.") January 6.

- 2014** Conference on Empirical Legal Studies, Berkeley, CA. Paper presentation, "After *Shelby County*: Getting Section 2 of the VRA to Do the Work of Section 5." November 7.

- Faculty Workshop, UConn School of Law, Hartford, CT. Paper presentation, “After Shelby County: Getting Section 2 of the VRA to Do the Work of Section 5.” October 8.
- Southeastern Association of Law Schools, Amelia Island, FL. Paper presentation, “A Precautionary Tale From State Campaign Finance.” August 5.
- Political Economy and Public Law Conference, University of Rochester. Paper presentation, “The Geography of Discrimination: Evidence and Implications for Voting Rights After *Shelby County*.” May 29.
- Midwest Political Science Association, Chicago, IL. Paper presentation, “Administering Section 2 of the VRA After *Shelby County*.” April 5.
- 2013** Political Science Faculty Colloquium, University of Connecticut. Paper presentation, “The Geography of Racial Stereotyping: Implications for VRA ‘Preclearance’ After *Shelby County*.” October 28.
- Cooperative Congressional Election Survey (CCES) Conference, Sundance, UT. Paper presentation, “The Geography of Discrimination in Voting: MRP Meets the VRA.” May 24.
- 2012** Faculty Workshop, UConn School of Law. Paper presentation, “Citizens United, States Divided: Evidence of Elasticity in Independent Expenditures.” November 12.
- Conference on Empirical Legal Studies, Stanford, CA. Paper presentation, “In the Shadows of Sunlight: Measuring the Effects of Transparency on State Political Campaigns.” November 10.
- Faculty Workshop, UC Davis School of Law. Paper presentation, “Citizens United, States Divided: Evidence of Elasticity in Independent Expenditures.” October. 25.
- Faculty Workshop, George Mason Law School. Paper presentation, “Citizens United, States Divided: Evidence of Elasticity in Independent Expenditures.” October 23.
- Law & Economics Workshop, Berkeley Law. Paper presentation, “Citizens United, States Divided: Evidence of Elasticity in Independent Expenditures.” September 17.
- Symposium on Nonpartisan Election Administration, Redistricting, and Campaign Finance, Irvine, CA. Paper presentation, “Are Ballot Titles Biased? Partisanship in California’s Supervision of Direct Democracy.” September 13.
- Law & Society Association, Honolulu, HI. Paper presentation, “Citizens United, States Divided: Evidence of Elasticity in Independent Expenditures.” June 6.
- American Law & Economics Association, Stanford, CA. Paper presentation, “Economic Recovery Rules and Attorney Representation in Job Discrimination Litigation.” May 18.
- Midwest Political Science Association, Chicago, IL. Paper presentation, “Regulate or Delegate? Implications for Election Law.” April 14.
- Midwest Political Science Association, Chicago, IL. Paper presentation, “Citizens United, States Divided: Evidence of Elasticity in Independent Expenditures.” April 13.
- Western Empirical Legal Studies Conference, UCLA School of Law. Paper presentation, “Economic Recovery Rules and Attorney Representation in Civil Rights Litigation.” February 18.
- 2011** American Political Science Association, Seattle, WA. Paper presentation, “Citizens United, States Divided? The Interaction of Transparency and Spending in State Elections.” September 3.
- Law & Society Association, San Francisco, CA. Paper presentation, “Economic Recovery Rules and Attorney Representation in Civil Rights Litigation.” June 3.

Midwest Political Science Association, Chicago, IL. Paper presentation, "Constitutions and Close Elections." April 1.

2010 Conference on Empirical Legal Studies, Yale Law School. Poster, "Constitutions and Credible Commitments: A Modern Day Investment Scheme?" November 5.

2009 Midwest Political Science Association, Chicago, IL. Paper presentation, "Long Lines at Polling Stations? Observations from an Election Day Field Study." April 3.

Other Non-Academic Presentations

"Ecological Inference and Voting Rights Experts." Organized deposition simulation and training for aspiring expert witnesses at the Metric Geometry and Gerrymandering Group workshop in Madison, WI (October 2017).

"Encountering the Voting Rights Act." Presenter and facilitator for a general public discussion about the Voting Rights Act under President Trump. The Amistad Center for Arts and Culture, Hartford, CT. (September 2017).

"Cooper v. Harris." Panel presentation at Supreme Court in Review symposium at BYU Law. (September 2017).

"Voting Rights in Trump's America." Panel presentation at UConn Law School Class Reunion. (June 2017).

"What's at Stake? U.S. Rights and Responsibilities during Political Conflict." Panel presentation at UConn Campus Teach-In. (March 2017).

Conference on Government Ethics Laws. Panel presentation, "Convenience Voting, Equal Protection, and the Future of Voting Rights." (December 2016).

National Institute on Money in State Politics Conference on Tapping the Power of Big Data to Define and Defend Democracy. Panel presentation, "Dispelling Assumptions with Empirical Evidence." (May 2016).

"Is Jim Crow Back? Voting Rights After *Shelby County*." Debate with Ilya Shapiro, sponsored by the UConn Federalist Society (April 2016).

"Accessing Democracy: How Law Shapes and Influences Our Elections." Panel presentation, Northeastern Law Journal Symposium (March 2016).

"Ensuring Fair Elections 50 Years After the Voting Rights Act." Panel presentation, UConn School of Law (November 2015).

"Voting Fraud & Voting Suppression: Myths and Realities." Panel presentation at League of Women Voters of Connecticut Fall Conference (November 2015).

"Voting Rights in the United States After *Shelby County*." Presentation to the Electoral Tribunal of the Federal Judiciary in Mexico City, Mexico (October 2015).

"Race and the Modern Struggle for Voting Rights in America." Constitution Day address, Albertus Magnus College in New Haven, CT (September 2015).

"Due Process and Equal Protection of the Law Under the Constitution." Seminar at the New Judges Institute for newly elected Connecticut probate judges in Hartford, CT (December 2014).

"The Importance of a Citizen's Right to Vote and the Challenges Still Facing Many Americans." Keynote address at the Connecticut Supreme Court Law Day Observance in Hartford, CT (May 2014).

CAMPUS SERVICE

Elected member, Committee to Review Law School Dean at Five Years, 2017–2018
Elected member, Faculty Appointments Committee, Law School, 2017–2019
Master of Public Administration Committee, Department of Public Policy, 2013–2018
Diversity Committee, Department of Public Policy, 2016–2017
Education Policy Committee, Law School, 2013-2016
Admissions Committee, Department of Public Policy, 2014-2016
Faculty Advisory Committee, Roper Center for Public Opinion Research, 2013-21015
Advisor, University Scholar Program (Molly Rockett, 2015-16; Jessica Weaver, 2017-18)
Faculty Advisor, American Constitution Society, 2015-
Faculty Advisor, Federalist Society, 2015-
Faculty Advisor, UConn Law Review Symposium on Religious Freedom, 2017

PROFESSIONAL ACTIVITIES

Referee, *Journal of Empirical Legal Studies* / *Election Law Journal* / *Electoral Studies*,
Law & Social Inquiry / *American Politics Research*
Chair, Section on Law and Social Sciences, *Association of American Law Schools*, 2016-2017
Researcher, *Pew Center on the States' Military and Overseas Voting Reforms Project*, 2011
Researcher, *Pew Center on the States / Early Voting Information Center*, 2009-2010

HONORS, AWARDS, & FELLOWSHIPS

Research Grant (\$14,000) from the MIT Election Data and Science Lab (2017)
Excellence in Teaching Award, UConn Department of Public Policy, 2013, 2014, 2015
Research Grant (\$2,000) from the Berkeley Experimental Social Science Laboratory, 2012
Berkeley Empirical Legal Studies Fellow, 2010-2011
Berkeley Law and Economics Fellow, 2009-2010
Research Grant (\$4,000) from the Pew Center on the States, 2008
Research Grant (\$15,000) from the UC Berkeley Survey Research Center, 2007-2008
Outstanding Graduate Student Instructor, UC Berkeley, 2007 & 2011
Outstanding Graduate Student Instructor, UC Berkeley Political Science Department, 2007

NON-ACADEMIC EMPLOYMENT

Treasurer, Chris Mattei for CT Attorney General campaign, 2017-
Law Clerk, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, Summer 2011
Researcher, Pew Center on the States, Military and Overseas Voting Reforms Project, 2011
Program Assistant, International Finance Corporation (World Bank Group), Washington, DC, 2005-2006
Congressional Liaison, United States Department of the Interior, Washington DC, 2005
Election Monitor, Asian Network for Free Elections, Thailand National Election, February 2005
English Teacher, Phimai Wittaya School, Thailand, 2004-2005.
Chief Interpreter, Russian National Olympic Delegation, 2002.