

**Merritt Ellen McAlister**  
Interim Dean and Levin, Mabie & Levin Professor of Law  
University of Florida Levin College of Law  
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## **CURRENT POSITION**

**University of Florida Levin College of Law, 2018–present**

Interim Dean, 2023–present

Levin, Mabie & Levin Professor of Law, 2023–present

Professor of Law, 2023–present

Associate Professor of Law, 2021–2023

Assistant Professor of Law, 2018–2021

Courses: Federal Courts; Constitutional Law; Judicial Decisionmaking Seminar; Federal Habeas Corpus; Civil Procedure; Federal Jurisdiction; Sexuality & the Law

College Service: Appointments Committee (2022–2023; 2021–2022); Clerkship Committee, Chair (2020–2021), Co-Chair (2019–2020), Member (2018–2019); Career and Professional Development Search Committee, Member (2020)

University Service: Faculty Enhancement Opportunity Review Committee (Provost Appointment, 2023–2026); University Constitution & Regulations Committee (Elected, 2019–2022)

## **PUBLICATIONS**

*Managing Out the Federal Appellate Judge*, \_\_\_\_ REV. OF LITIG. \_\_\_\_ (forthcoming 2023) (symposium honoring 40<sup>th</sup> anniversary of Judith Resnik's *Managerial Judges*)

*White-Collar Courts*, 76 VAND. L. REV. 1155 (2023)

- Reviewed by Lyrissa Lidsky, *Aren't We Special?: Article III's Institutional Design*, JOTWELL (June 27, 2023), <https://conlaw.jotwell.com/arent-we-special-article-iiis-institutional-design/>

*Bottom-Rung Appeals*, 91 FORDHAM L. REV. 1355 (2023)

*Rebuilding the Federal Circuit Courts*, 116 NW. U. L. REV. 1137 (2022)

- Profiled in *Law360*, <https://www.law360.com/pulse/articles/1472160/2-tier-system-in-circuit-courts-raises-fairness-concerns>; and *National Law Journal*, <https://www.law.com/nationallawjournal/2021/11/12/qa-inside-a-law-professors-push-to-expand-federal-appellate-courts/>

*Missing Decisions*, 169 U. PA. L. REV. 1101 (2021)

- Response by Jason Rantanen, *Missing Decisions and the United States Court of Appeals for the*

*Federal Circuit*, 170 U. PA. L. REV. ONLINE 73 (2022)

- Reviewed by Marin K. Levy, *The Status of Non-Binding Authority*, JOTWELL (Nov. 12, 2020), <https://courtslaw.jotwell.com/the-status-of-non-binding-authority/>

*“Downright Indifference”*: *Examining Unpublished Decisions in the Federal Courts of Appeals*, 118 MICH. L. REV. 533 (2020)

- Selected for 2021 Best Untenured Article Award by AALS Section on Federal Courts
- Reviewed by Ryan Azad, *Decision-Making in the Dark*, JOTWELL (Nov. 27, 2019), <https://courtslaw.jotwell.com/decision-making-in-the-dark/>

*Measuring How Stock Ownership Affects Which Judges (and Justices) Hear Cases*, 103 GEO. L.J. 1163 (2015), with James M. Anderson and Eric Helland

Note, *The Swift, Silent Sword Hiding in the (Defense) Attorney’s Arsenal: The Efficacy of Georgia’s New Offer of Judgment Provision as Procedural Tort Reform*, 40 GA. L. REV. 995 (2006)

#### **Shorter Works:**

*The Privilege and Responsibility of Clerkships*, 105 JUDICATURE 5 (vol. 2, 2021) (invited)

*Judging and Baseball*, 114 NW. U. L. REV. 1765 (2020) (*in memoriam* issue on Justice John Paul Stevens)

*Justice Stevens, Babe Ruth and the best law clerk assignment ever*, THE CONVERSATION, July 18, 2019, <https://theconversation.com/profiles/merritt-mcalister-781073/articles>

#### **Works-in-Progress:**

*Judicial Pygmalions* (article on discretionary appointment of counsel in civil appeals)

### **EDUCATION**

**University of Georgia School of Law**, J.D., *summa cum laude*, 2007

First Honor Graduate; Order of the Coif; Executive Articles Editor, *Georgia Law Review*; Highest Academic Average for Class of 2007 (all years); 2007 Outstanding Moot Court Advocate Award; Order of the Barristers; Best Oralist and National Champion, 2006 Prince Memorial Evidence Moot Court Competition; Best Oralist, Talmadge Moot Court Competition; CALI Awards for Excellence in Civil Procedure, Legal Research and Writing, Property, Torts, Corporations, & Constitutional Law II

**Rice University**, B.A., *magna cum laude*, 2002

Majored in English and Women & Gender Studies

### **CLERKSHIPS**

Hon. John Paul Stevens of the Supreme Court of the United States, 2009–10

Hon. R. Lanier Anderson III of the U.S. Court of Appeals for the Eleventh Circuit, 2007–08

### **PRIVATE PRACTICE EXPERIENCE**

**King & Spalding LLP**, Atlanta, GA, 2010–18; 2008–09

Partner, National Appellate Practice, 2015–18

Associate, National Appellate Practice, 2010–2014; Associate, Tort & Environmental Litigation, 2008–09; Summer Associate, 2007

- Successfully handled dozens of appeals in federal and state courts throughout the country (including 12 oral arguments) in cases involving complex statutory construction issues, class certification, jurisdictional questions, due process challenges, federalism issues, and administrative law
- Served as Staffing Partner for Atlanta Business Litigation Team and oversaw utilization, availability, and hiring of 30 associates; partner responsible for summer program for Business Litigation team, including reviewing and evaluating 15 summer associates and managing program; served as Deputy Hiring Partner for Atlanta Office and served for four years on office hiring committee

**Rogers & Hardin LLP**, Atlanta, GA

Summer Associate, 2005, 2006, 2007

**Alston & Bird LLP**, Atlanta, GA

Summer Associate, 2006

### **OTHER EXPERIENCE**

**University of Georgia School of Law**, Fall 2017

Adjunct Professor of Law; Course: Sexual Orientation and the Law

**Rice University**, 2002–04

Assistant Director of Admissions

### **SELECTED PRESENTATIONS**

#### ***Managing Out the Federal Appellate Judge***

Panelist, University of Texas School of Law, Symposium on *Managerial Judges*, sponsored by *The Review of Litigation*, April 7, 2023

Panelist, Managing Judges: Courts, Appeals, and Rulemaking, Yale Law School Symposium celebrating 40<sup>th</sup> Anniversary of Judith Resnik’s *Managerial Judges*, Nov. 4, 2022

#### ***Bottom-Rung Appeals***

Speaker, Faculty Workshop, Vanderbilt Law School, Feb. 1, 2023 (invited)

### ***White-Collar Courts***

Presenter, Plenary Panel, Civil Procedure Workshop, Cardozo Law School, May 2022 (commentator Judith Resnik) (presented under a different name)

Presentations at Washington University in St. Louis School of Law, University of Richmond School of Law, and Texas A&M School of Law (2022)

### ***Judicial Pygmalsions***

Presenter, University of Florida Levin College of Law, Works-in-Progress Roundtable, April 2022

Presenter, Judicial Administration/Judicial Process Roundtable, Duke Law School/Bolch Judicial Institute, December 2021 (invited)

### ***Rebuilding the Federal Circuit Courts***

Speaker, Northwestern Pritzker School of Law, Faculty Workshop Series, Sept. 2021

Speaker, Washington University in St. Louis School of Law, Faculty Workshop, Sept. 2021 (junior faculty exchange; virtual)

Presenter, University of Richmond School of Law, Junior Faculty Forum, Sept. 2021

Presenter, 2021 Civil Procedure Workshop Works-In-Progress Series, Aug. 2021 (virtual)

Presenter, Southeastern Association of Law Schools Conference, New Scholars Federal and State Courts Workshop, July 2021 (presented as “Defining Merit”)

Presenter, University of Florida Levin College of Law Internal Workshop Roundtable, April 2021 (virtual) (presented as “Defining Merit”)

Presenter, Judicial Administration/Judicial Process (Virtual) Roundtable, Dec. 2020, Duke Law School (invited participant; virtual) (presented as “Defining Merit”)

### ***Missing Decisions***

Speaker, University of Florida Levin College of Law Summer Internal Workshop Series, June 2020 (virtual)

Presenter, Judicial Administration/Judicial Process Roundtable, Dec. 2019, Duke Law School (invited participant) (commentator Tejas Narechania)

Breakout Group Presenter, Fifth Annual Civil Procedure Workshop, Oct. 2019, University of Texas at Austin

Presenter, University of Florida Levin College of Law Internal Junior Faculty Workshop, Oct. 2019

### ***“Downright Indifference”***

Presenter, Eleventh Annual Junior Faculty Federal Courts Workshop, University of Arkansas School of Law, Sept. 2019 (commentator Allan Erbsen)

Presenter, University of Michigan Law School’s Junior Scholars Conference, April 2019 (competitive selection with over 400 submissions)

Presenter, University of Richmond School of Law, Junior Faculty Forum, May 2019

Presenter, Law & Society Annual Meeting, June 2019

Presenter, Southeastern Junior-Senior Workshop, at the University of Georgia School of Law, Oct. 2018 (commentator Jonathan Nash)

### **Other Presentations**

Panelist, “Procedural Justice and Court Legitimacy in a Time of Distrust,” University of Missouri Kansas City Law School Colloquium, Oct. 11, 2022 (with Tom Tyler and Steve Leben) (invited; virtual)

Guest Lecture, Unpublished Decisions, Duke Law School, Prof. Marin Levy’s Appeals course (Feb. 2020; Feb. 2021 (virtual); Feb. 2022 (virtual))

Guest Lecture, Admitted Student Day Mock Class, University of Florida Levin College of Law, 2019, 2021 (virtual) & 2022

### **Supreme Court and Constitutional Law Presentations**

Panelist, Judicial Power, Florida Appellate Judges Conference, Sept. 7, 2022 (scheduled)

Panelist, First Amendment and the Supreme Court, Florida Bar Convention, June 24, 2022

Panelist, Judicial Power, Florida Appellate Judges Conference, Apr. 14, 2022

Panelist, The End of *Roe v. Wade*, Federalist Society Convention for the State of Florida, Feb. 2, 2022

Panelist, Constitution Day Celebration, University of Florida Levin College of Law, September 2021

Moderator, *The Prospect, History, and Controversies of Supreme Court Reform*, Poucher Lecture, *Florida Law Review*, Oct. 23, 2020 (with Amanda Hollis-Brusky, Laura Kellman, and Ganesh Sitaraman as panelists)

Moderator, *The Amy Coney Barrett Confirmation Hearings: Context, Process, and Effect*, sponsored by the UF Law Chapter of the Federalist Society and the American Constitution Society, Oct., 8, 2020 (with Josh Blackman, David Strauss, and Annie Donaldson Talley, panelists)

Panelist, Eleventh Circuit Year-in-Review, American Constitution Society’s Tampa Chapter,

November 2019

Panelist, Supreme Court Term-in-Review, Lawyers for Civil Justice Reform, May 2019 (with Neal Katyal and Elizabeth Slattery)

Guest Co-Host, *First Mondays* Podcast, OT2018 #13, Jan. 7, 2019 (with Dan Epps & Leah Litman), <http://www.firstmondays.fm/episodes/2019/1/7/ot2018-13-beer-for-lunch>

### **Selected Presentations While in Private Practice**

Speaker, U.S. Supreme Court Term-in-Review, Georgia Judicial Staff Attorney CLE Seminar, sponsored by the Atlanta Bar Association, annual invited presentation, 2011–2017

Moderator, Planned Parenthood and the Supreme Court, sponsored by Planned Parenthood Southeast's Young Professionals Division, 2017

Panelist, Supreme Court Roundup, State Bar of Georgia Healthcare Section, 2016

Moderator, Motions Practice, Eleventh Circuit Appellate Practice Institute, 2016

Panelist, *King v. Burwell*, King & Spalding Health Law and Policy Forum and Healthcare Roundtable Webinar, 2015

Speaker, *Marriage—Now What?: Analyzing the Supreme Court's Obergefell Decision*, at events in Houston and Atlanta sponsored by King & Spalding, Morris Manning & Martin, and Stonewall Bar Association, 2015

Speaker, Brief Writing: Tips and Tricks, Lunch & Learn, State Bar of Georgia, sponsored by Georgia Association of Women Lawyers, 2015

Panelist, Affordable Care Act of Life Support: The D.C. Circuit's *Halbig v. Burwell* Decision and its Impact on Health Care Providers, Healthcare Roundtable Webinar, sponsored by King & Spalding, 2014

Moderator, Brief-Writing Panel, Eleventh Circuit Appellate Practice Institute, Montgomery, Alabama, sponsored by CLE Alabama, 2014

### **HONORS AND RECOGNITION**

2021 AALS Federal Courts Section Best Untenured Article Award (for "*Downright Indifference*")

American Law Institute, elected member, 2016–present

Georgia Super Lawyers, 2018

National LGBT Bar Association, Top 40 Lawyers Under 40, 2017

*Benchmark Litigation*, Rising Star, 2018; Under 40 Hot List, 2016

Outstanding Service to the Stonewall Community Award, Stonewall Bar Ass'n of Ga., 2016

Women Making a Mark Award, *Atlanta Magazine*, 2015

**ACADEMIC, BAR, AND COMMUNITY SERVICE**

AALS Federal Courts Section, Chair, 2023 to present; Chair-Elect, 2022-23

Junior Federal Courts Workshop, Host, December 1-2, 2022

Leadership Atlanta, Class of 2017

University of Georgia School of Law Alumni Association Council, 2015–18; Secretary, 2017–18

Planned Parenthood Southeast, Board Member, 2015–18; Co-Chair, Resource & Development Committee, 2017–18

Stonewall Bar Ass’n, State of Georgia, Board of Directors, 2011–16; President, 2014–15; Vice President, 2013–14

Assist with University of Georgia School of Law’s Appellate Clinic, 2010–2016 (with Clinic Director, Prof. Erica J. Hashimoto)

The Paideia School, Atlanta, GA, Alumni Advisory Committee, 2011–2015; Chair, 2013–2015

**OCCASIONAL REVIEWER**

Cambridge University Press

*University of Chicago Law Review*

**BAR MEMBERSHIPS**

State Bar of Georgia, 2007 (inactive); Supreme Court of the United States; U.S. Court of Appeals for the D.C. Circuit; U.S. Court of Appeals for the Second Circuit; U.S. Court of Appeals for the Fourth Circuit; U.S. Court of Appeals for the Sixth Circuit; U.S. Court of Appeals for the Seventh Circuit; U.S. Court of Appeals for the Ninth Circuit; U.S. Court of Appeals for the Tenth Circuit; U.S. Court of Appeals for the Eleventh Circuit; U.S. Court of Appeals for the Federal Circuit; U.S. District Court for the Northern District and Middle District of Georgia