

**Peter Bowman Rutledge**  
**University of Georgia Law School**  
**100 Herty Drive, Athens, GA 30602**  
**Tele: 706 542-1328; email: borut@uga.edu**

**Education**

|                                                                                                                                |                  |
|--------------------------------------------------------------------------------------------------------------------------------|------------------|
| <i>University of Chicago Law School</i>                                                                                        | <i>1994-1997</i> |
| J.D. with High Honors; Order of the Coif; Tony Patiño Scholar<br>Executive Editor, <i>The University of Chicago Law Review</i> |                  |
| <i>University of Aberdeen (Scotland)</i>                                                                                       | <i>1993-1994</i> |
| M. Litt. in Applied Ethics; Rotary Scholar                                                                                     |                  |
| <i>Harvard University</i>                                                                                                      | <i>1988-1992</i> |
| B.A. <i>magna cum laude</i> in Government                                                                                      |                  |

**Academic Experience**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| <i>University of Vienna Law School (Austria)</i>                                                                                                                                                                                                                                                                                                                                                                                                      | <i>2010-2011</i>              |
| Recipient of Fulbright Award to support year in residence at the Institut für Zivilverfahrensrecht and write book on arbitration and the Constitution                                                                                                                                                                                                                                                                                                 |                               |
| <i>University of Georgia Law School, Associate Professor (with tenure)</i>                                                                                                                                                                                                                                                                                                                                                                            | <i>2008-Present</i>           |
| Awards: Recipient of the 2009 John C. O'Byrne Award for Furthering Faculty-Student Relations<br>Service: Clerkship Advisor (2008-Present); Faculty Recruitment Committee (2009-2010); Vis Arbitration Moot Coach<br>Coursework: International Litigation, Civil Procedure, International Arbitration, International Business Transactions                                                                                                             |                               |
| <i>Catholic University of America, Associate Professor</i>                                                                                                                                                                                                                                                                                                                                                                                            | <i>2003-2008</i>              |
| Awards: Professor of the Year (2003-2007); Faculty Marshall (2006); Mirror of Justice Award (2007)<br>Service: Admissions (2003-2004); Clerkship Advisor (2003-2008); Vis Arbitration Moot Coach (2005-2008), personally raising over \$60,000 to fund the team<br>Coursework: International Litigation, International Arbitration, International Business Transactions, Arbitration and the Constitution (seminar), Criminal Procedure, Criminal Law |                               |
| <i>Short-Term Academic Appointments</i>                                                                                                                                                                                                                                                                                                                                                                                                               |                               |
| • <i>Vanderbilt University Law School</i>                                                                                                                                                                                                                                                                                                                                                                                                             | <i>Spring 2009 &amp; 2010</i> |
| • <i>University of Mainz (Germany) Law School</i>                                                                                                                                                                                                                                                                                                                                                                                                     | <i>Summer 2008 &amp; 2009</i> |
| • <i>UGA/UNO Summer Program at the University of Innsbruck (Austria)</i>                                                                                                                                                                                                                                                                                                                                                                              | <i>Summer 2009</i>            |
| • <i>Washington University Law School, Dean's Distinguished Visitor</i>                                                                                                                                                                                                                                                                                                                                                                               | <i>January 2007</i>           |
| • <i>CUA Law Summer Program at the Jagellonian University (Poland)</i>                                                                                                                                                                                                                                                                                                                                                                                | <i>Summer 2005 &amp; 2008</i> |

**Professional Experience**

|                                                                                   |                  |
|-----------------------------------------------------------------------------------|------------------|
| <i>Wilmer, Cutler &amp; Pickering, Associate</i>                                  | <i>2001-2003</i> |
| Drafted briefs, motions and pleadings in Supreme Court and lower court litigation |                  |
| <i>Freshfields Bruckhaus Deringer, Associate (Austria)</i>                        | <i>1999-2001</i> |
| Drafted pleadings and advised clients in German and English in ICC arbitrations   |                  |
| <i>Supreme Court of the United States</i>                                         | <i>1998-1999</i> |
| Law clerk to Associate Justice Clarence Thomas                                    |                  |
| <i>United States Court of Appeals for the Fourth Circuit</i>                      | <i>1997-1998</i> |
| Law clerk to Chief Judge J. Harvie Wilkinson III                                  |                  |

## PUBLICATIONS

### Books

- *Arbitration and the Constitution* (Cambridge University Press) (under contract for 2011)
- *International Civil Litigation in the United States* (5th ed.) (forthcoming 2011) (with Gary Born)
- *International Civil Litigation in the United States* (4th ed.) (Aspen 2006) (with Gary Born)

### Book Chapters

- Schiedsgerichte in Nordamerika, in *Hamburger Handbuch des Exportwirtschaftsrechts* (2009 (with Inka Hanefeld)
- United States Arbitration Law, in *Practitioner's Handbook on International Arbitration* (Oxford 2d ed. 2009) (with Rachael Kent and Christian Henel)
- Post-Hague Hangover: Three Predictions About the Future of the Law Governing the Enforcement of Foreign Judgments and Arbitral Awards, in *European Union Issues from a Portuguese Perspective* (2007) (invited symposium speaker)

### Articles in Academic Journals

- *Decisional Sequencing*, 62 Alabama L. Rev. \_\_\_ (forthcoming 2010)
- *Medellin, Delegation and Conflicts (of Law)*, 17 George Mason L. Rev. 191 (2009)
- *Introduction: The Constitutional Law of International Commercial Arbitration*, 38 Ga. J. Comp. & Int'l L. 1 (2009) (symposium)
- *Common Ground in the Arbitration Debate*, 1 Yearbook of Arbitration and Mediation 1 (2009) (peer reviewed)
- *Arbitration Reform: What We Know, What We Need to Know*, 10 Cardozo J. Conflict Res. 579 (2009) (invited symposium speaker)
- *Who Can be Against Fairness: The Case Against the Arbitration Fairness Act*, 9 Cardozo J. Conflict Res. 1201 (2008) (invited symposium submission)
- *Whither Arbitration?*, 6 Georgetown J. L & Pub. Pol'y 549 (2008)
- *Arbitration and Article III*, 60 Vanderbilt L. Rev. 1189 (2008)
- *Clerks*, 74 U. Chi. L. Rev. 369-406 (2007)
- *Market Solutions to Market Problems: Re-examining Arbitral Immunity as a Solution to Unfairness in Securities Arbitration*, 26 Pace L. Rev. 113-132 (2005) (Invited Symposium Speaker)
- *Miranda and Reasonableness*, 32 Am. Crim. L. Rev. 1011-1025 (2005)
- *Apprendi, Blakely and Federalism*, 50 S.D. L. Rev. 427-439 (2005) (Invited Speaker & Publication of endowed Gunderson Lecture)

- *Toward a Contractual Approach to Arbitral Immunity*, 39 Ga. L. Rev. 151-214 (2004)
- *An End of Term Exam: OT 2003 at the United States Supreme Court*, 54 Cath. U. L. Rev. 151-266 (2004) (w/ Nicole Angarella) (Expanded version of presentation given to Board of Visitors and alums)
- *The Standard of Review for the Voluntariness of a Confession on Direct Appeal in Federal Court*, 63 U. Chi. L. Rev. 1311-1345 (1996) (student note)

#### Other Publications

- *Arbitrating Disputes Between Companies and Individuals: Lessons from Abroad*, \_\_ Dispute Resolution Journal \_\_ (forthcoming 2010) (with Anna Howard)
- *The Case Against the Arbitration Fairness Act*, 16 Dispute Resolution 4 (2009)
- *Discovery, Judicial Assistance and Arbitration: A New Tool for Cases Involving American Entities?*, 25 J. Int'l. Arb. 171 (2008)
- *What is the Definition of an "Organ" Under the Foreign Sovereign Immunities Act?*, 34 ABA Supreme Court Preview 351 (2007) (Invited submission)
- *Termorio and the Problem of Local Standards Annulments*, Transnational Dispute Management (September 2006) (w/ Barney Ford)
- *Looking Ahead: October Term 2006*, in Cato Supreme Court Review 361-385(2006) (Invited submission)
- *Apprendi and Federalism*, 18 Fed. Sent. Rep. 100-105 (Dec. 2004) (peer-reviewed)
- Review of Douglas Walton's Legal Argumentation and Evidence, 58 Rev. Metaphysics 208-209 (2004) (Invited review)
- *Private Modifications of the Ground for Judicial Review of Arbitral Awards: A Question of Institutions*, 18 Mealey's Int'l Arb. Rep. 35-42 (Oct. 2003)
- *On the Importance of Institutions: Judicial Review of Arbitral Awards for Legal Errors*, 19 J. Int'l Arb. 81-116 (Apr. 2002)

## **WORKSHOPS AND SPEECHES**

- Arbitration and the Constitution – London School of Economics (December 2010)
- Decisional Sequencing – Loyola University Law School (May 2010)
- The Vanishing American Lawsuit – United States District Court for the Southern District of Georgia, Court Advisory Committee (February 2010)
- The Arbitration Fairness Act – ABA Section on Dispute Resolution (April 2009)
- The Future of Arbitration in the United States – the Arbitration Fairness Act – Jagellonian University (Poland) (February 2009)
- The Arbitration Fairness Act – Cardozo School of Law Symposium (November 2008)
- The Future of Arbitration – US Chamber Institute for Legal Reform Annual Summit (October 2008)
- The Alien Tort Statute and Trends in International Dispute Resolution – National Foreign Trade Council (April 2008)
- The New York Convention at 50, McKenna, Long & Aldridge (April 2008)
- Best Practices in International Dispute Resolution, Conference Board (March 2008)
- Delegation and Conflicts (of Law), DePaul University Law School (February 2008)
- Delegation and Conflicts (of Law), Pepperdine University Law School (November 2007)
- Panel on *Medellin* and Delegation, American Enterprise Institution (September 2007)
- Delegation and Conflicts (of Law), University of Georgia Law School (September 2007)
- The Vision of Cass Gilbert, Mary Mirror of Justice Lecture (April 2007)
- Arbitration and Article III, Workshop at Washington University Law School (January 2007)
- Arbitration and Article III, Workshop at the University of Georgia Law School (January 2007)
- Arbitration and Article III, Workshop at Willamette Law School (January 2007)
- Arbitration and Article III, Workshop at George Washington University Law School (Nov. 2006)
- Arbitration and Article III, Workshop at the University of Nebraska Law School (November 2006)
- Arbitration and State Action, Southeast Association of Law Schools Annual Meeting (July 2006)
- The Role of Clerks at the United States Supreme Court, Law and Society Conference (July 2006)
- *Miranda* after *Dickerson*, Judicial Conference - Court of Appeals of the Armed Forces (May 2006)
- “Authority and Law: The Role of the United States Supreme Court,” Belmont Abbey College (October 2005) (invited speaker at Ingersoll-Rand Symposium)
- Recent Supreme Court Jurisprudence on the Fourth Amendment, Annual Meeting of the International Municipal Lawyers’ Association (September 2005)
- Preview of October Term 2005 at the Supreme Court, Cato Institute Constitution Day (Sept. 2005)
- What’s on the Docket?, St. Thomas More Society and Rhode Island Bar Association (April 2005)
- Update on *Miranda* in the Supreme Court, Mid-year Meeting of the International Municipal Lawyers’ Association (April 2005)

- Recognition and Enforcement of Foreign Judgments, Conference on Portuguese and American Law (March 2005)
- Market Solutions to Market Problems, Pace Investor Rights Symposium (March 2005)
- *Apprendi, Blakely* and Federalism, South Dakota Law School (November 2004)
- Death Penalty Work at the Supreme Court, Catholic Identity Lecture at Catholic University Law School (October 2004)
- Response to the Red Mass of Cardinal Avery Dulles, Catholic University of America (March 2004)

## **LITIGATION EXPERIENCE**

### ***Supreme Court of the United States***

- Briefed and Argued as *Amicus Curiae* appointed by the Supreme Court in successful defense of the judgment below in *Irizarry v. United States*, 76 U.S.L.W. 4401 (2008)
- Brief *Amicus Curiae* for the Chamber of Commerce of the United States, the American Health Care Association, the Illinois Health Care Association, the Illinois Council on Long-Term Care and the Association for Quality Nursing Home Care in support of certiorari in *Odin v. Carter*
- Brief *Amicus Curiae* on behalf of the Chamber of Commerce of the United States of America in support of certiorari in *Am. Isuzu Motors, Inc. v. Ntsebeza*, 76 U.S.L.W. 3608 (2008)
- Brief *Amicus Curiae* on behalf of the Chamber of Commerce of the United States of America, the National Association of Manufacturers, and the American Chemistry Council in support of certiorari in *Dow Chem. Co. v. United States*, 127 S.Ct. 1251 (2007)
- Brief *Amicus Curiae* on behalf of the Chamber of Commerce of the United States of America, the National Association of Manufacturers in support of certiorari in *Coltec Indus. v. United States*, 127 S.Ct. 1261 (2007)
- Brief *Amicus Curiae* on behalf of the National League of Cities and the International Municipal Lawyers' Association in support of certiorari in *City of Mesa v. Petersen*, 543 U.S. 814 (2004)
- Petition for a writ of *certiorari* and reply brief in *Fitzpatrick v. Missouri*, 127 S.Ct. 729 (2006)
- Petition for a writ of *certiorari* and reply brief in *Fuse v. United States*, 544 U.S. 990 (2005)

### ***Other Courts***

- Brief *Amicus Curiae* for the Chamber of Commerce of the United States in *Pendergast v. Sprint Nextel* (Florida Supreme Court)
- Brief *Amicus Curiae* for the Chamber of Commerce of the United States in *Balintulo v. Daimler AG* (2d Cir.)
- Appellant's Brief and Reply Brief on behalf of Appellant in *Williams v. United States* (11th Cir.)
- Brief *Amicus Curiae* for the National Association of Manufacturers and the Association of Equipment Manufacturers in *Hobbs v. CNH America LLC* (Arkansas Supreme Court)
- Brief *Amicus Curiae* for the National Foreign Trade Council, the Chamber of Commerce of the United States, the United States Council for International Business, the National Association of Manufacturers and the Organization for International Investment in the *United States in Sinaltrainal v. Coca-Cola Co.*, (11th Cir.)
- Brief *Amicus Curiae* for the National Association of Manufacturers and the Association of Equipment Manufacturers in *FMS, Inc. v. Volvo*, (7th Cir.)
- Appellant's Brief, Reply Brief and Supplemental Brief on behalf of Appellant in *Hairston v. United States* (D.C. App)
- Appellant's Brief, Reply Brief and Transfer Petition on behalf of Appellant in *Fitzpatrick v. State*, 193 S.W.3d 280 (Mo. App. 2006)

### **CONGRESSIONAL TESTIMONY**

- Senate Judiciary Committee, Subcommittee on the Constitution: Arbitration Fairness Act (December 2007)
- House Judiciary Committee, Subcommittee on Commercial and Administrative Law: Arbitration Fairness Act (October 2007)

### **EXPERT WORK**

- Served as consulting expert to a foreign nation in dispute over enforceability of international arbitration clause
- Served as consulting expert for a major European telecommunications corporation in an international commercial arbitration arising out of an investment in Eastern Europe
- Served as consulting expert for a major German telecommunications company concerning validity of service of process under Hague Service Convention and specialized federal statute governing non-resident patent holders.
- Served as consulting expert for an international business consortium concerning issues of sovereign immunity and diplomatic immunity.

## **MEDIA APPEARANCES**

- Regular appearances in national and local broadcast and print media on topics including the Supreme Court, international dispute resolution, arbitration and criminal law

## **OUTSIDE ACTIVITIES**

- Member of the American Arbitration Association Delegation to the UNCITRAL Working Group on Arbitration Reform (2008-Present)
- Institute of Transnational Arbitration, Academic Council, Member (2009-Present)
- United States Court of Appeals for Veterans Claims, Rules Advisory Committee (2009-present)
- Lumpkin Inn of Court (2009-Present)
- Annual Fund Chair, St. Joseph's School (2009-2010)
- McCain '08 Judicial Advisory Committee, Member
- United States Court of Appeals for the Armed Forces, Rules Advisory Committee, 2005-2008
- Alexandria Community Criminal Justice Board, 2004-2006 (Chairman 2005-2006)
- Thurgood Marshall American Inn of Court, 2004-2008
- Treasurer, Valley Drive Preschool, 2005-2007
- Volunteer, Alexandrians Living Ecumenically, 2003-present

## **WORKS IN PROGRESS**

- *Arbitration and the Constitution.* This is a book-length project that will analyze the intersection of arbitration law and constitutional law. I argue that the proliferation of arbitration in the twentieth century has precipitated the collapse of a wall that previously separated constitutional law and arbitration law. With the rise of arbitration as an accepted form of dispute resolution in new areas (company-individual, trade, investment, etc.), constitutional principles have seeped into arbitration law. The seepage has not occurred through direct “constitutionalization” of arbitration. Instead, the process has been more subtle and taken various forms, ranging from the articulation of private protocols that attempt to simulate constitutional norms, to judicial gloss on statutes and treaties that draws heavily on constitutional norms to inform the meaning of those documents. This seepage has implications for a number of constitutional fields, including separation of powers, federalism and individual liberties. It is currently under consideration by several major academic presses.
- *Contract and Procedure.* Fourteen years ago, in their seminal article, *Contract and Jurisdiction*, Paul Carrington and Paul Haagen lamented the explosion of forum selection through contract. While Carrington’s and Haagen’s lament gathered significant academic support, judicial tides turned in the other direction, and courts largely accepted these contractual forum selection devices, subject to a narrow range of exceptions. If the fights over contract and jurisdiction have largely subsided, that does not mean the debate has ended entirely. Far from it. Rather, recent activity suggests we are entering an era where parties increasingly can manipulate not simply the chosen forum but also the very rules whereby the dispute is resolved. This article examines the contours of the current battles over contracting for procedure. These include (a) to what extent (if at all) should there be constraints on parties’ choices to manipulate the procedures by which their disputes are resolved, (b) how can arbitrators (and courts) discern the extent to which parties have contractually dictated the procedural, and (c) where arbitration agreements are silent on one or more procedural questions, to what extent are there judicial constraints on the arbitrator’s exercise of discretion.
- *Constitutions, Statutes, Norms: Incorporating Procedural Protections Into Arbitration.* This paper is the latest installment in a multi-paper project on the relationship between arbitration and the Constitution. It specifically considers efforts to embed procedural protections in arbitration against the backdrop of broader theoretical debates about how legal rules evolve. Policy debates reveal a variety of models, ranging from rather unsuccessful efforts to constitutionalize arbitration (and thereby incorporate procedural due process protections) to more successful efforts to develop private protocols which must be observed for an arbitration to proceed. This analysis takes place against the backdrop of current congressional proposals to reform arbitration by statute.