

## VICTOR D. QUINTANILLA

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### EDUCATION

#### **Georgetown University Law Center, Washington, DC**

*Juris Doctor, May 2004*

**GPA: 3.83    Ranking: Top 2%, Magna Cum Laude**

Honors and Awards: Order of the Coif; Highest grade in Torts & Contracts (Fall semester); Dean's List (all semesters); Pro Bono Pledge Award; Reynolds Scholarship; Dean's Scholar.

Activities: Georgetown Ambassador; Washington Lawyers' Committee for Civil Rights and Urban Affairs, Student Volunteer; International Law Society, Member; La Alianza del Derecho, Member.

#### **The University of Texas at Austin, Austin, TX**

*Master of Professional Accounting and Bachelor of Business Administration, May 2001*

**GPA: 3.83 (Graduate)                      3.60 (Undergraduate)**

Honors and Awards: University Honors and College Scholar; Dean's Dozen; National Collegiate Minority Leadership Award; Texas Applesseed Kaplan Diversity Legal Scholar.

Activities: President's Student Advisory Committee, Member; Vision Student Government Campaign, President.

### ADDITIONAL TRAINING

Graduate Level Research Design and Statistics Courses.

Conducting Empirical Legal Scholarship Workshop, Presented by Northwestern University School of Law and Washington University in St. Louis (May 25-27, 2011).

Faculty Success Program, National Center for Faculty Development & Diversity (Summer 2011).

### PUBLICATIONS

**Victor D. Quintanilla, *Judicial Mindsets: The Social Psychology of Implicit Theories and the Law*, NEB. L. REV. (forthcoming 2012)** distributed in the following SSRN eJournals: Cognitive Social Science eJournal, Vol. 3, No. 79 (Sep. 14, 2011); Law, Cognition, & Decisionmaking eJournal, Vol. 3, No. 43 (Sep. 23, 2011); Law & Psychology eJournal, Vol. 5, Issue 40 (Sep. 30, 2011); Law & Society: Courts eJournal, Vol. 5, No. 45 (Sep. 23, 2011).

*This article introduces Dr. Carol Dweck's seminal and significant line of psychological research on the phenomenon of implicit theories and draws on this research as a lens through which we might better understand judicial decision-making. In particular, this article focuses on the implications of two types of implicit theories—whether people believe phenomena are static and fixed versus dynamic and malleable.*

*An entity theory reflects the mindset that phenomena are fixed and unlikely to change. An*

*Updated: November 18, 2011*

*incremental theory reflects the mindset that phenomena are malleable and can be developed. Humans hold entity or incremental implicit theories about, for example, human nature, social institutions, and society. These theories, or “mindsets,” affect perception, judgment, and decision-making and strongly shape how people organize their experience in, knowledge about, and transactions in the world. When an entity theory is salient, people expect that phenomena are fixed, immutable and unchangeable. However, when an incremental theory is salient, humans believe that phenomena are malleable, changeable, and affected by contexts and situations. Whether one holds an entity theory versus an incremental theory is often driven by situations, contexts, and societal and social influences.*

*Implicit theories likely affect how judges find facts, draw inferences, and impose punishment. Research on implicit theories, moreover, can enrich our understanding of how judges apply the common law, engage in statutory interpretation, and construe the Constitution, offering fresh insight into a timeless legal debate: whether American law is static versus dynamic. This article sets forth a research agenda that will form a line of psychological experiments to examine these processes.*

**Victor D. Quintanilla, *Beyond Common Sense: A Social Psychological Study of Iqbal’s Effect On Claims Of Race Discrimination*, MICH. J. OF RACE & L. (forthcoming 2011)**; distributed in the following SSRN eJournals: Law, Cognition, & Decisionmaking eJournal, Vol. 3, No. 12 (Mar. 18, 2011); Law & Psychology eJournal, Vol. 5, Issue 12 (Mar. 18, 2011); Law & Society: Civil Procedure eJournal, Vol. 5, No. 10 (Mar. 21, 2011); Law & Society: Courts eJournal, Vol. 5, No. 13 (Mar. 21, 2011); Law & Courts eJournal, Vol. 5 Issue 32 (Mar. 22, 2011); Discrimination, Law & Justice eJournal, Vol. 13, Issue 33 (Mar. 24, 2011).

*This article examines the U.S. Supreme Court’s decision *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009) from a social psychological perspective, and empirically studies *Iqbal*’s effect on claims of race discrimination.*

*In *Twombly* and then *Iqbal*, the Court recast Rule 8 into a plausibility standard. Under *Iqbal*, federal judges must evaluate whether each complaint contains sufficient factual matter “to state a claim to relief that is plausible on its face.” When doing so, *Iqbal* requires judges to draw on their “judicial experience and common sense.” Courts apply *Iqbal* at the pleading stage, before evidence has been presented, when judging the plausibility of all claims, including claims of discrimination by members of stereotyped groups.*

*Decades of social psychological research suggest that, when judges deliberate on the plausibility of discrimination claims without evidence based on “common sense,” intuitions, stereotypes and implicit bias will likely affect their judgment. This article draws on this science and performs an empirical study showing that *Iqbal* has significantly increased the dismissal rate for Black plaintiffs’ claims of race discrimination in the workplace. It is hoped that by introducing the science underlying judgment and decision making, stereotypes, and implicit bias, this article will broaden an understanding of how *Iqbal* has affected claims of discrimination by members of stereotyped groups.*

**Victor D. Quintanilla, *(Mis)Judging Intent: The Fundamental Attribution Error In Federal Securities Law*, 7 NYU J. OF L. & BUS. 196 (2010)**; distributed in the following SSRN eJournals: Corporate Law: Securities Law eJournal, Vol. 3, No. 49 (Jul. 19, 2011); Law, Cognition, & Decisionmaking eJournal, Vol. 3, No. 30 (Jul. 18, 2011); Law & Courts eJournal, Vol. 5 No. 73 (Jul. 20, 2011); Law & Psychology eJournal, Vol. 5, No. 27 (Jul. 27, 2011).

*This article examines the element of scienter (fraudulent intent) in claims of federal securities fraud under Section 10(b) of the Exchange Act and, more specifically, the U.S. Supreme Court’s*

*decision in Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308 (2007) from a social psychological perspective. The field of social psychology has documented a pervasive phenomena—the Fundamental Attribution Error—the failure of decision makers to consider situational explanations, including the force of environments and social and situational norms on human conduct. In light of robust social psychological research on the Fundamental Attribution Error, legal concepts such as intent, intentionality, mens rea, and scienter should be reexamined and reconstructed.*

*When viewed from a social psychological perspective, Tellabs promotes effective judicial decision making. Tellabs broadens the epistemic goal of decision making to include consideration of both dispositional and situational factors. When federal courts explicitly consider alternative explanations and causes of the defendants' actions, jurists are more likely to consider situational explanations and avoid the Fundamental Attribution Error, resulting in more accurate decisions.*

### **MEDIA MENTIONS**

*Judicial Mindsets*, by the Situationist Staff (Sep. 18, 2011) reporting SSRN posting of *Judicial Mindsets: The Social Psychology of Implicit Theories and the Law*  
(<http://thesituationist.wordpress.com/2011/09/18/judicial-mindsets/>)

*The Situational Effects of Iqbal*, by the Situationist Staff (Mar. 30, 2011) reporting SSRN posting of *Beyond Common Sense: A Social Psychological Study of Iqbal's Effect on Claims of Race Discrimination*  
(<http://thesituationist.wordpress.com/2011/03/30/the-situational-effects-of-iqbal/>)

### **CONFERENCES & INVITED TALKS/SYMPOSIA/COLLOQUIA**

*Beyond Common Sense: A Social Psychological Study of Iqbal's Effect On Claims Of Race Discrimination*. Presented paper at the Law & Society Conference Annual Meeting panel, "BALANCING JUSTICE AND PROCESS: PROCEDURAL CHALLENGES IN DIFFERENT NATIONAL CONTEXTS" (Jun. 5, 2011), San Francisco, CA.

#### **Conference Presentations in Preparation:**

*Using "Common Sense" Rather Than Evidence: Investigating Aversive Racism In Judging Black Plaintiffs' Claims of Discrimination Under New Standards*. Poster to be presented at the annual meeting of the Society of Personality and Social Psychology (SPSP) (Jan. 2012), San Diego, CA.

*Judicial Mindsets: The Social Psychology of Implicit Theories and the Law*. Paper to be presented at the Law & Society Conference Annual Meeting (Jun. 2012), Honolulu, HI.

### **TEACHING AND RELATED ACTIVITES**

*Law & Social Psychology* (2010, 2011), Lectures to 250 undergraduate students in Social Psychology (Psych 312) at the University of Illinois at Chicago (Nov. 2010; Apr. 2011; Nov. 2011). A survey was conducted to evaluate the lectures. When asked to compare me to other instructors at UIC, I was rated excellent/good by 93.7% of the students. When asked whether I showed a genuine interest in students' learning, I was rated excellent/good by 96.9% of the students.

Affiliate of the Mind & Identity in Context Lab at the University of Illinois at Chicago.

**LEGAL EXPERIENCE**

**United States Court of Appeals for the Seventh Circuit, Chicago IL**

*Staff Law Clerk*, August 2010 – Present

Drafting appellate decisions (*i.e.*, orders and opinions), authoring bench memoranda, and working with federal appellate judges on civil, criminal, civil rights, and immigration matters.

**Sidley Austin LLP, Chicago IL**

*Associate*, September 2007 – August 2010

In the Commercial, Competition, & Securities Litigation group, handled a wide variety of commercial disputes, including securities and fiduciary duty litigation. Performed legal research and drafted pleadings, motions, and briefs. Conducted internal investigations, oral arguments, and advocated on behalf of clients in hearings in federal and state court.

Received Sidley Austin LLP's Thomas H. Morsch Pro Bono Award (2010). Awarded to recognize *pro bono* efforts in obtaining favorable outcome in *Bloch v. Frischholz*, 587 F.3d 771 (7th Cir. 2009), which sought *en banc* review for Jewish victims of housing discrimination.

*Pro bono* activities: Led volunteer programs for Kanoon Magnet School, including Sidley Austin's Read-A-Loud Program and Sidley-sponsored Book Fair.

**U.S. Department of Justice, Civil Rights Division, Washington, DC**

*Trial Attorney*, September 2005 – August 2007

Joined the Civil Rights Division through the Attorney General's Honors Program. Within the Employment Litigation Section, litigated all aspects of cases from filing through resolution in matters under federal civil rights statutes, including Title VII and the Uniformed Services Employment and Reemployment Rights Act (USERRA). Conducted settlement negotiations and depositions. Authored pleadings, consent decrees, and motions. Conducted investigations in Spanish in Puerto Rico.

Asked to serve as a civil trial advocacy floating instructor by the National Advocacy Center. Organized a monthly trial workshop for colleagues in the Civil Rights Division.

**U.S. District Court for the District of Maryland, Greenbelt, MD**

*Law Clerk To The Honorable Peter J. Messitte*, September 2004 – August 2005

Drafted judicial opinions and wrote bench memoranda.

**U.S. Department of Justice, Civil Division, Washington, DC**

*Law Clerk*, September 2003 – May 2004

Wrote legal memoranda on issues relating to constitutional law, administrative law, evidence, civil rights, and immigration.

**Cleary, Gottlieb, Steen & Hamilton, Washington, DC**

*Summer Associate*, Summer 2003

Completed projects relating to litigation, antitrust, and international arbitration.

**U.S. Department of State, Office of the Legal Adviser, Washington, DC**

*Law Clerk*, Spring 2003

Within European Affairs Bureau (L-EUR), researched, analyzed, and wrote memoranda on the European Union's voting capacity within treaty regimes.

**PROFESSIONAL SOCIETIES AND BAR LICENSES**

Law & Society Association (LSA), Member

Society for Empirical Legal Studies (SELS), Member

Society for Personality and Social Psychology (SPSP), Member

The Society for the Psychological Study of Social Issues (SPSSI), Member

American Constitutional Society for Law and Policy (ACS), Member

The Chicago Inn of Court, Member

Illinois Bar – Admitted November 8, 2007

Texas Bar – Admitted November 5, 2004