

**MICHAEL J. GERHARDT**

Burton Craige Distinguished Professor of Jurisprudence,  
University of North Carolina at Chapel Hill

**Academic Appointments**

- 2019-present Burton Craige Distinguished Professor of Jurisprudence, University of North Carolina at Chapel Hill
- 2006-2019 Samuel Ashe Distinguished Professor of Constitutional Law, UNC Law School, Chapel Hill, NC
- 2015-Present Scholar-in-Residence & Director of Content, Inaugural Richard Beeman Visiting Scholar, University of Pennsylvania Law School, Philadelphia, PA
- 2015-Present Fellow, Katz Center for Advanced Jewish Studies, University of Pennsylvania, Philadelphia, PA
- 2012-13 Fellow, Leadership Development Program at the Institute for the Arts and Humanities, UNC-Chapel Hill
- 2010 IAH Academic Fellowship at the Institute for the Arts and Humanities, UNC-Chapel Hill
- 2005-06 Professor of Law, UNC Law School
- 1998-2005 Arthur B. Hanson Professor, William & Mary Law School, Williamsburg, VA
- 1996-1998 Professor of Law, Case Western Reserve Law School, Cleveland, OH
- 1996-1997 Dean, Case Western Reserve Law School
- 1995-1996 Arthur B. Hanson Professor of Law, William & Mary Law School
- 1990-1995 Associate Professor of Law, William & Mary Law School
- 1987-1990 Assistant Professor of Law, Wake Forest University Law School, Winston-Salem, NC

**Other Select Professional Appointments**

- 2024 CNN Analyst, Senate Impeachment Trial of Secretary Alejandro Mayorkas
- 2023-24 Pro Bono Counsel on Impeachment, Secretary Alejandro Mayorkas
- 2023 Expert Witness, Impeachment Trial of Attorney General Ken Paxton, Austin, Texas
- 2021 Special Counsel to Presiding Officer (Senator Patrick Leahy) in second Senate impeachment trial of Donald Trump
- 2020 Special Counsel, Ranking Member, Senate Judiciary Committee, for the Nomination of Amy Coney Barrett to the Supreme Court
- 2019-2021 CNN Legal Analyst (impeachment)
- 2015-Present Principal Consultant, American Law Division, Library of Congress (responsible for coordinating updating of and revisions to the official U.S. Constitution Annotated)
- 2020 Special Counsel to the Ranking Member, Senate Judiciary Committee, for the Nomination of Amy Coney Barrett to the Supreme Court
- 2018 Special Counsel to the Ranking Member, Senate Judiciary Committee, for the Nomination of Brett Kavanaugh to the Supreme Court

- 2017 Special Counsel to the Ranking Member, Senate Judiciary Committee, for the Nomination of Neil Gorsuch to the Supreme Court
- 2010 Special Counsel to Chairman, U.S. Senate Judiciary Committee, for the Nomination of Elena Kagan to the U.S. Supreme Court
- 2010-Present. Appointed member, North Carolina Advisory Committee, U.S. Commission on Civil Rights
- 2009 Special Counsel to the Chairman, U.S. Senate Judiciary Committee, for the Nomination of Sonia Sotomayor to the U.S. Supreme Court
- 1994 Special Counsel, The White House Counsel's Office, for the Nomination of Stephen Breyer to the U.S. Supreme Court
- 1993 Member, Justice Department Transition Team, Clinton-Gore Transition
- 1992-93 Special Consultant on the Senate, National Commission on Judicial Discipline and Removal
- 1985-1987 Associate, Miller, Cassidy, Larroca & Lewin, Washington, D.C.
- 1985 Associate, Trotter Bondurant, Atlanta, Ga.
- 1984-1985 Deputy Media Director, Gore-for-Senate Campaign
- 1983-84 Law Clerk, Judge Gilbert Merritt, U.S. Court of Appeals, 6<sup>th</sup> Circuit
- 1982-1983 Law Clerk, Chief Judge Robert McRae, U.S. District Court, W.D. Tenn.

**Teaching Interests**

Bioethics, Congress & the President, Constitutional Law, Constitutional Theory, Federal Jurisdiction, Health Law, First Amendment, Government Ethics, Judicial Opinion Writing, Legal Ethics, Legal History, Legislative Drafting, Legislative Process, Presidential Powers, Statutory Construction

**Education**

University of Chicago Law School, J.D. 1982  
 Graduated *cum laude*  
 Order of the Coif  
 One of two law students selected as editors for peer-edited journal, *The Supreme Court Review* (1980-82)  
 Research assistant to the late Professor Philip Kurland (1980-82)  
 Research Assistant to then-Assistant Professor Cass Sunstein (1981-82)

London School of Economics, M.Sc. 1979  
 History of Economic and Political Thought

Yale University, B.A. 1978  
 Graduated *Cum Laude*  
 Major -- Economics & Political Science  
 Editor-in-Chief, Yale Literary Magazine  
 Member, Yale College Council  
 Member, Yale University Tennis Team

Member & Captain, Pierson College Tennis Team (Residential College  
Intramural Champion & Winner of Ivy League Intramural Championship, 1977)

UMS Preparatory School (Mobile, Alabama), 1974  
Graduated First in Class  
Secretary, National Honor Society  
Editor-in-Chief, School Newspaper  
Captain, Tennis Team  
Ranked second in Alabama junior tennis  
Captain, Debate Team  
Alabama State Persuasive Speaking Champion (1974)  
Business Manager, Yearbook

### **Honors, Prizes, Distinguished Lectures, and Fellowships**

Featured Speaker, Annual Mobile Bar Association Luncheon, Mobile, Alabama, May 10, 2024

Recipient of Thomas Jefferson Award, UNC's highest honor n recognition of a faculty member's public service (January 19, 2024)

Cutler Lecture in Constitutional Law, The College of William & Mary, Marshall-Wythe School of Law, Williamsburg, Virginia, February 10, 2022

The 2021 Ulysses and Marguerite Schwartz Memorial Lecture, University of Chicago Law School, October 27, 2021, Chicago, Illinois

Order of the Coif Lecture: Ethical Challenges in the Impeachment Trials of President Donald Trump, University of Nebraska Law School, Lincoln, Nebraska, September 23, 2021

Featured Speaker, Annual Meeting of Abraham Lincoln Association, Springfield, Illinois, February 12, 2021

Presidential Lecturer, University of South Alabama, Mobile, Alabama, February 3, 2022

Constitution Day Speaker, University of Nebraska Law School, Lincoln, Nebraska, September 23, 2021

Order of the Coif Distinguished Visitor for 2020-22 (selected by the National Executive Committee of the Order of the Coif), Lectures at the University of Oregon Law School (2020), Rutgers Law School (2020), University of Nebraska Law School (2021), University of Tennessee College of Law (2022)

Constitutional Day Speaker, Symposium on Akhil Amar's The Words that Made Us (2021), University of Illinois College of Law, September 17, 2021

Constitution Day Lecture, University of Michigan, Ann Arbor, Michigan, September 17, 2020

Keynote Speaker, Annual Conference of State Appellate Judges, Denver, Colorado, October 16, 2019

Keynote Speaker, "Presidential Appointment and Removal Power," Federal Administrative Law Judges Conference, Philadelphia, Pennsylvania, September 24, 2018

Judge Harry J. Wilters, Jr. Distinguished Lecture in Constitutional Law and Professional Ethics, "Constitutional Civility: How We Survived for More Than Two Hundred Years Without It," University of South Alabama, Mobile, Alabama, September 17, 2018

Constitution Day Lecture, "Why the Supreme Court Does Not Matter as Much as You Think," UMS- Wright Preparatory School, Mobile, Alabama, September 17, 2018

Pogue Senior Faculty Research & Leave Recipient, University of North Carolina at Chapel Hill, Fall 2018

**The Forgotten Presidents: Their Untold Constitutional Legacy** (Oxford University Press 2013), selected by The Wall Street Journal as one of the five best books on the presidency and the Constitution (March 18, 2018) and by The Financial Times as one of the best non-fiction books of 2013

First Monday Lecture: "From Nominations to the Newly Constituted Court: A First Monday Conversation about the United States Supreme Court," University of Chicago Law School, October 5, 2017

Opperman Distinguished Lecturer, "The Forgotten Presidents," National Conference of Appellate Staff, Lake Tahoe, Nevada, August 7, 2017

Champlaign Institute Lecture, "The Constitution and the Future of American Democracy," The College of the Atlantic, Bar Harbor, Maine, August 2, 2017

Randall Park Lecture, "Jewish Traditions and the American Constitution," University Kentucky Law School, February 18, 2016

Whitehall Lecture, "The Presidency in the Gilded Age," Flagler Museum, Palm Beach, Florida, February 7, 2016

"Tar Heel of the Week," The News & Observer, July 2015

Twice Awarded UNC Law School's Van Hecke-Wettach Award for Excellence in

Scholarship, given once every two years for the most outstanding book by a UNC Law School faculty member: 2013 (awarded for **The Forgotten Presidents: Their Untold Constitutional Legacy** (2013)); 2010 (awarded for **The Power of Precedent** (2010))

William Matthew Byrne, Jr., Lecture, "The Nuclear Option in Perspective," Pepperdine University Law School, March 14, 2013

Constitution Day Public Lecture, "Constitutional Civility: What We Have Learned About Supreme Court Confirmation Proceedings from Marshall to Kagan," University of North Carolina at Chapel Hill Law School, September 17, 2010

Distinguished Lecture, "The Constitutional Significance of the Forgotten Presidents: Demise of the Whig Conception of the Presidency," The Clough Center for the Study of Constitutional Democracy, Boston College, Boston, March 18, 2010

Alpheus T. Mason, Distinguished Lecture in Constitutional Law, Princeton University, April 21, 2009

Distinguished Service Award, Association of Yale Alumni, 2008

Selected as WUNC's "Local Hero" (for helping to educate the public about constitutional law), August 2008

Broun Distinguished Lecture, Religious Freedom in the United States, Judea Reform Synagogue, Durham, North Carolina, November 2007

Marx Distinguished Lecturer, University of Cincinnati Law School, Feb. 28, 2007

Distinguished Lecture, "The New Catholic Majority and the Supreme Court," Temple Emanuel, Greensboro, North Carolina, January 2006

ToPeol Distinguished Lecturer, Creighton University Law School, Jan. 30, 2006

2006 Cleveland-Marshall Fund Distinguished Visiting Lecturer and Scholar, Cleveland-Marshall Law School, February 2006

The Seven Society Award at The College of William & Mary for "outstanding teaching and service to the community of the college"

Walter F. Murphy Lecture on American Constitutionalism, "The Supreme Court in War-Time," Princeton University, April 26, 2004

Visiting Fellow, James Madison Program in American Ideals and Institutions, Princeton University, Spring 2004

St. George Tucker Lecturer, William & Mary Law School, 2003-2004

Distinguished Research Scholar, University of Richmond Law School, 2003-2004

Alpheus T. Mason Distinguished Lecture in Constitutional Law, Princeton University, October 15, 2003

Distinguished Constitutional Law Scholar in Residence, Drake University Law School, September 2002

Inaugural Judge James R. Browning Distinguished Lecturer, The University of Montana Law School, February 28, 2002

Resident Fellow, Communications Law Program, University of Southern California Law School, Feb. 26, 2001-March 2, 2001

CNN, Resident Expert on the Federal Impeachment Process, Washington, D.C., December 1, 1998-February 12, 1999

Co-recipient, 1988-1989, SmithKline Beckman Bicentennial Award in Legal Education (for teaching and writing on "The Founders' Constitution")

## **Publications**

### **Books**

**The Law of Presidential Impeachment** (NYU Press 2024)

**FDR's Mentors: Navigating the Path to Presidential Greatness**  
(Kensington forthcoming April 23, 2024)

**The Legislative Process** (5th edition, Aspen Publishing) (with Eric Lane & Daniel Hemel) (2022)

**Lincoln's Mentors: The Education of a Leader** (Marriner/Harper Collins) (2021) (revised paperback, 2022)

**The Federal Impeachment Process: A Constitutional and Historical Analysis** (3<sup>rd</sup> edition, University of Chicago Press 2019); (2d ed., University of Chicago Press, 2000); **The Federal Impeachment Process: A Constitutional and Historical Analysis** (1st ed., Princeton University Press, 1996)

**Impeachment: What Everyone Needs to Know** (Revised edition, forthcoming, Oxford University Press) (1<sup>st</sup> edition, Oxford University Press, 2018)

**The Forgotten Presidents: Their Untold Constitutional Legacy** (Oxford University Press, paperback edition, 2014) (1<sup>st</sup> edition, 2013), Selected by The

Financial Times as One of the Best Books of 2013; 2014 Van Hecke-Wettach Award for Excellence in Scholarship, UNC Law School

**The Power of Precedent** (Oxford University Press, Revised Paperback Edition, 2011) (1<sup>st</sup> edition, 2008), 2010 Van Hecke-Wettach Award for Excellence in Faculty Scholarship, UNC Law School

Co-Author, **Constitutional Theory: Arguments and Perspectives** (4<sup>th</sup> ed., Lexis Law Publishing (2014)) (with Professors Thomas D. Rowe, Jr.; Stephen Griffin; and Larry Solum); (3<sup>rd</sup> edition, 2007, with Griffin & Rowe); (2nd ed., 2000, with Rowe, Rebecca Brown; and Girardeau Spann); (1st ed., 1992, with Rowe)

**The Federal Appointments Process: A Constitutional and Historical Analysis** (revised edition 2003) (1<sup>st</sup> edition 2000) (Duke University Press)

### Articles, Essays, and Reviews

*The Consummate Teacher*, Symposium on the Life and Legacy of Walter Dellinger, \_\_ N.C. L. Rev. \_\_ (forthcoming 2024)

*The Trump Impeachments: The Constitutional Lessons*, 64 William & Mary Law Review 1309 (2023)

“Commentary on Akhil Amar’s *The Words that Made Us*,” 37 Constitutional Commentary 1 (2022)

*Introduction: Legal Ethics in the Age of Trump*, 98 N.C. Law Review 1029 (2020)

*Review of Josh Chafetz’ Congress and the Constitution*, Political Science Quarterly (2018)

*Practice Makes Precedent*, 131 Harvard Law Review F. 32 (2018)

*Presidential Defiance of the Courts*, 12 Harvard Law & Policy Review 67 (2018)

*Dissent in the Senate*, 127 Yale L.J. F. 728 (2018)

*Majoritarian Obstruction and the Future of Judicial Selection*, 2017 Wisconsin Law Review (with Richard Painter) (2017)

*Justice Scalia’s Legacies*, 15 First Amendment Law Review 211 (2017)

*Constitutional Arrogance*, 164 University of Pennsylvania Law Rev. 1649

(2016)

*The United States Senate* (with Professor Steven Calabresi of Northwestern University Law School) & *Is the Senate Broken?*, The National Constitution Center's Interactive Constitution (2016)

*The Politics of Early Justice: Lower Court Appointments, 1789-1861*, 100 Iowa Law Review 551 (2015) (with Michael Stein, Harvard Law School)

*Letting Congress Be Congress*, 80 University of Chicago Law Review Dialogue 291 (2014)

*Why Gridlock Matters*, 88 Notre Dame Law Review 2107 (2013)  
*Constitutional Branding*, 40 Hofstra Law Review 655 (2012)

*"Extraordinary Circumstances": The Legacy of the Gang of 14 and a Proposal for Judicial Nominations Reform*, 46 U. Richmond Law Review 969 (2012) (with Richard Painter)

*Elections Matter*, 34 Harvard Journal of Law & Public Policy 827 (2011)

*Nixon's Revenge*, 88 Tex. L. Rev. See also 43 (2011)

Debate (with Professor Josh Chafetz, Cornell Law School), *Is the Filibuster Constitutional?*, 158 U. Pa. L. Rev. PENnumbra 245 (2010);  
<http://www.peunnumbra.com/debates/pdfs/Filibuster.pdf>

*Book Review*, Benjamin Kleinerman, "The Discretionary President: The Promise and Peril of Executive Power," The Journal of American History (2011)

*Book Review*, "Gordon Silverstein, Law's Allure: How Law Shapes, Constrains, Saves, And Kills Politics" (Cambridge University Press, 2009), Political Science Quarterly (2010)

*Constitutional Construction and Departmentalism: A Case Study of the Rapid Demise of the Whig Conception of the Presidency*, 12 U. Pa. J. Const. Law 425 (2010)

*Judging Congress*, 89 Boston University L. Rev. 525 (2009)

*Teaching Federal Courts: Federal Judges as Problem-Solvers*, 53 St. Louis Univ. L. Journal 729 (2009)

*How a Judge Thinks*, 93 Minnesota Law Review 2185 (2009)

Book Review (**Saving the Constitution from Lawyers** (2008)), American Review of Politics, online publication (September 15, 2008)



*Silence Is Golden*, 64 N.Y.U. Survey of American Law 475 (2009)

*Non-Judicial Precedent*, 61 Vanderbilt Law Rev. 713 (2008)

*The Irrepressibility of Precedent*, 86 N.C. L. Rev. 1279 (2008)

*Constitutional Humility*, 76 U. Cinc. L. Rev. 23 (2007)

*What's Old Is New Again*, Symposium: The Role of Judges in the 21<sup>st</sup> Century, 85 Boston University Law Review 1267 (2007)

*The New Religion*, 40 Creighton Law Review 399 (2007) (Distinguished Lecture)

*Why the Catholic Majority on the Supreme Court May Be Unconstitutional*, 4 St. Thomas Law Review 173 (2006)

*Super-Precedent*, 90 Minnesota L. Rev. 1204 (2006)

*The Constitutional Significance of the Forgotten Presidents*, 54 Cleveland-Marshall L. Rev. 467 (2006) (Distinguished Lecture)

*The First Amendment's Biggest Threat*, 89 Minnesota Law Review 1798 (2005)

*Judicial Selection by the Numbers*, 32 Fla. State L. Rev. 1197 (2005)

Colloquy with Professor Martin Redish on Limiting Federal Jurisdiction over Challenges to State and Federal Defense-of-Marriage Laws, 9 Lewis & Clark Law Review 347 (2005)

*The Constitutionality of the Filibuster*, 21 Constitutional Comm. 445 (2005)

*Symposium on Juristocracy and Distrust: Merit vs. Ideology*, 26 Cardozo Law Review 353 (2005)

*Attitudes about Attitudes*, 101 Michigan Law Review 1773 (2003)

*Presidential Power*, History and Political Science Review (2003)

*Federal Judicial Selection as War: Part One -- The Supreme Court Appointments Process*, 50 Drake U. L. Rev. 393 (2002) (exchange with Stephen Carter, Yale Law School)

*Federal Judicial Selection as War: Part Two -- The Patterns of Conflicts Over Lower Court Appointments*, 36 U.C. Davis L. Rev. 667 (2003)

*The Constitution Outside the Court: Defining the Limits (and Relevance) of Judicial Supremacy*, 51 Drake L. Rev.775 (2003) (Distinguished Lecture)  
*Crisis and Constitutionalism*, 63 Montana L. Rev.277 (2002) (Inaugural Judge James R. Browning Distinguished Lecture in Constitutional Law)

*On Revolution and Wetlands Regulation*, 90 Georgetown L.J. 2143 (2002)

*The End of Theory*, 96 Northwestern University Law Review 283 (2002)

*The Rhetoric of Judicial Critique: From Judicial Restraint to the Virtual Bill of Rights*, 3 William & Mary Law School Bill of Rights Journal 585 (2002)

*The Lives of John Marshall*, 43 Wm. & Mary Law Review 1399 (2002)  
*The Curious Flight of the Migratory Bird Rule*, The Environmental Law Reporter (September 2001)

*Norm Theory and the Future of the Federal Appointments Process*, 50 Duke L.J. 1687 (2001)

*Impeachment Defanged and Other Institutional Implications of the Clinton Scandals*, 60 Maryland Law Review 59 (2001)

*Federal Environmental Regulation in a Post-Lopez World: Some Questions and Answers*, 30 Environmental Law Reporter 10980 (November 2000)

*The Perils of Presidential Impeachment*, 67 University of Chicago Law Review 293 (2000)

*The Special Constitutional Structure of the Federal Impeachment Process*, 63 Law & Contemporary Problems 245 (2000)

*The Historical and Constitutional Significance of President Clinton's Impeachment and Trial*, 28 Hofstra Law Review 349 (2000)

*The Utility and Significance of Professor Amar's Holistic Reasoning*, 87 Georgetown Law Journal 2327 (1999)

*Impeachment: The Grand Tour*, 16 Constitutional Commentary 433 (1999)

*The Lessons of Impeachment History*, 67 George Washington L. Rev. 603 (1999)

*The Constitutionality of Censure*, 33 U. Richmond L. Rev. 33 (1999)

*Deconstructing Balkin*, 2 Green Bag 219 (1999)

*Ackermania: The Quest for a Common Law of Higher Law-Making*, 40 William & Mary Law Review 1731 (1999)

*Chancellor Kent and the Scope of Impeachable Offenses*, 74 Chicago-Kent Law Review 91 (1998)

*Institutional Analysis and Municipal Liability under Section 1983*, 48 DePaul Law Review 669 (1998)

*Toward A Comprehensive Understanding of the Federal Appointments Process*, 21 Harvard Journal of Law & Public Policy 467 (1998)

*Putting Presidential Performance in the Federal Appointments Process in Perspective*, 47 Case Western Reserve University Law Review 1359 (1997)

*The Bottom Line on the Line-Item Veto Act of 1996*, 6 Cornell Journal of Law & Public Policy 233 (1997)

*The Democratic Judge*, 50 Vanderbilt Law Review 277 (1997) (keynote address for Symposium on Democracy in the 21st Century)

*The Art of Judicial Biography*, 80 Cornell Law Review 101 (1995)

*The Confirmation Mystery*, 84 Georgetown Law Journal 395 (1994)

*Rediscovering Nonjusticiability: Judicial Review of Impeachment After Nixon*, 44 Duke Law Journal 231 (1994)

*A Tale of Two Textualists: A Critical Comparison of Justices Black and Scalia*, 74 Boston University Law Review 25 (1994)

*The Pressure of Precedent: A Critique of the Conservative Approaches to Stare Decisis in Abortion Cases*, 10 Constitutional Commentary 67 (1993)

*Liberal Visions of the Freedom of the Press*, 45 Vanderbilt Law Review 1025 (1992)

*Divided Justice: A Commentary on the Nomination and Confirmation of Justice Thomas*, 60 George Washington Law Review 969 (1992)

*The Role of Precedent in Constitutional Decisionmaking and Theory*, 60 George Washington Law Review 68 (1991)

*Interpreting Bork*, 75 Cornell Law Review 1358 (1990)

*The Ripple Effects of Slaughter-House: A Critique of a Negative Rights View of the Constitution*, 43 *Vanderbilt Law Review* 409 (1990)

*The Constitutional Limits to Impeachment and its Alternatives*, 68 *Texas Law Review* 1 (1989)

*Critical Legal Studies and Constitutional Law*, 67 *Texas Law Review* 393 (1989)

*The Monell Legacy: Balancing Federalism Concerns and Municipal Accountability under Section 1983*, 62 *Southern California L. Rev.* 539 (1988)

### Book Chapters and Entries

*Martin Van Buren*,” in *The Inaugural Addresses of the U.S. President* (2021) (Singh, ed.)

*Introduction to A Madisonian Constitution for All* (with Jeff Rosen)

*Never Gon Be President Now*, **Hamilton (the Musical): Is This a Legal Matter?** (Lisa Tucker, ed., Cornell University Press 2019)

Chapters on Martin Van Buren & Barack Obama in **The Presidents and the Constitution** (ed., Ken Gormley) (NYU Press, 2016)

*Impeachment*, **Heritage Foundation Encyclopedia of American Constitution** (2014)

*Presidential Impeachment*, **Oxford University Encyclopedia of American Political and Legal History** (2011)

*Presidential Impeachment*, **The Concise Princeton Encyclopedia of American Political History** (Kazin, ed., 2011)

*The Story of Bush v. Gore: The Paradox of Judicial Activism*, **Law Stories II: Constitutional Law** (Foundation Press, Michael Dorf, ed.) (2d edition, 2009),  
*The Story of Clinton v. Jones: The Perils of Presidential Promiscuity*, in **Law Stories I: Constitutional Law** (Dorf, ed.)

*Federalism*, in **Oxford International Encyclopedia of Legal History** (editor, Stanly Katz) (Oxford University Press) (2014)

*John Marshall and William Howard Taft*, Entries in **Yale Biographical Dictionary of American Law** (R. Newman, ed., Yale University Press) (2009)

*Executive Power*, in **Oxford Encyclopedia of Legal History** (editors, Laura Kalman & Lawrence Friedman) (Oxford University Press) (2005)

*Impeachment*, in **Princeton Encyclopedia of United States Political History** (ed., Michael Kazin, 2014)

*Entries on Impeachment, Charles Black, Case and Controversy, Clinton v. Jones*, in **Encyclopedia of U.S. Supreme Court** (ed., Stuart Banner, et. al, 2014)

*The Federal Appointments Process as Constitutional Interpretation, Congress and the Constitution* (Devins & Whittington, eds., Duke University Press) (2005)

*The Constitutional Significance of Watergate*, in **Nixon and Watergate: Thirty Years After** (Congressional Quarterly Press 2004)

*Judge Frank M. Johnson, Jr.*, **Great American Judges: An Encyclopedia** (John Vile, ed, 2003)

*The History and Law of Federal Impeachment, Separation of Powers* (ed., Katy J. Harriger, Congressional Quarterly Press) (2003)

*The Impeachment Clauses, The Annotated Constitution* (Heritage Foundation) (2002)

*The Constitutional Significance of the Impeachment and Trial of President Clinton, The Clinton Scandals: The Implications for Governance* (eds., Clyde Wilcox & Mark Rozell, Georgetown University Press, 1999)

*Clinton v. Jones, Supplement to the Encyclopedia of the American Constitution* (eds. L. Levy, K. Karst, & A. Winkler) (2000)

*Presidential Immunity, Supplement to the Encyclopedia of the American Constitution* (eds. L. Levy, K. Karst, & A. Winkler) (2000)

*The Impeachment Process, The Constitution and its Amendments* (eds. Sanford Levinson & Roger Newman, MacMillan 1999)

*Justice Hugo L. Black, A Biographical Dictionary of U.S. Supreme Court Justices* (ed. Mel Urofsky 1994)

*Anthony M. Kennedy, Encyclopedia of the American Constitution Supplement* (eds. Leonard Levy & Dennis Mahoney 1990)

## **Newspaper, Magazine, and Other Commentaries**

*Why and How the Senate Should Swiftly Dismiss the Impeachment Charges against Mayorkas*, Just Security, February 14, 2024 (with Joshua Matz, et. al)

*How Trump's Constitutional Bullying Is a Threat to Our Democratic Safeguards*,

Time, February 11, 2024

*It's Been 50 Years since Nixon Resigned. Impeachment Hasn't Held up Well*,  
cnn.com, December 21, 2023

*What Makes This Impeachment Different than All the Others?* Newsweek,  
September 19, 2023

*Trump Has Dug Himself into the Deepest Possible Hole*, cnn.com, August 2, 2023  
*The Conservative Case Project to Kill Affirmative Action Was Decades in the Making*,  
cnn.com, June 29, 2023

*Lessons from the Impeachment Trials of Donald Trump*, Just Security, March  
5, 2021

*Lincoln and the Lesson of Leading from Behind*, History News Network,  
February 14, 2021

*History Shows the Senate Can Hold an Impeachment Trial after Trump Leaves Office*,  
Just Security, January 15, 2021

*The 25<sup>th</sup> Amendment Isn't Impeachment Lite*, The Washington Post, January 11,  
2021

*We May Not Have Reached the Bottom of Trump's Presidency*, Philadelphia  
Inquirer, January 9, 2021

*The Constitution's Option for Impeachment after a President Leaves Office*, Just  
Security, January 8, 2021

*The Constitution Is Broken*, The Atlantic, February 13, 2020

*Four Fundamental Problems with Trump's Impeachment Trial Memo*,  
Just Security, January 21, 2020

*What Impeachment Watchers Are Getting Wrong about John Roberts*,  
Washington Post, January 17, 2020

*Impeachment Is the Law, Saying "Political Process" Only Helps the President*,  
Washington Post, December 14, 2019

*President Trump's Offense Is Impeachable and Can't Wait for the Next Election*,  
Washington Post, November 11, 2019

*Why the Impeachment Inquiry Is Legally Legitimate*, The Atlantic, November 1,  
2019

Trump's Defense Boils Down to This: Treat Me Like a King, Washington Post, October 12, 2019

*The Constitution, and its Framers, Roundly Rejected the Imperial Presidency*, The Hill, June 8, 2018

*Considering Impeachment? Slow Down*, The Washington Post, May 18, 2017

*The Gorsuch Nomination: What Happens Next*, Scotusblog, February 7, 2017

*Here's What's Wrong with Pat Toomey's Opposition to Merrick Garland*, PennLive Op Ed, May 4, 2016 (with Professor Kim Roosevelt)

*Punishing HB2 Critics? Shameful*, The Charlotte Observer, May 28, 2016 (with Rob Tiller)

*Nominations Have Always Been this Political. But Not This Political*, Slate, March 18, 2016

*Merrick Garland Belongs on the Court*, Slate, March 16, 2016

*Merrick Garland Is as Qualified as They Come*, NY Daily News, March 16, 2016

*Getting the Senate's Responsibilities on Supreme Court Nominations Right*, SCOTUS.BLOG, March 9, 2016 (invited commentary, along with President Obama and Senator Chuck Grassley)

*How Presidents Build a Legacy*, Philadelphia Inquirer, October 4, 2014

*Presidential Legacy: The Test of Time*, The Free Lance Star, September 8, 2013  
*How Obama Can Learn from Failure*, The New York Times, January 18, 2013

*The Case for Justice Newby's Recusal*, The Charlotte Observer, December 16, 2012

*What UNC Needs in a Chancellor*, The Raleigh News & Observer, October 6, 2012

*Judicial Obstruction and the Filibuster*, The New York Times Sunday Dialogue, March 4, 2012 (with Richard Painter)

*Extraordinary Circumstances*, American Constitution Society Issues Brief, November 1, 2011 (with Richard Painter)

*Porteous Impeachment: A First*, National Law Journal, January 17, 2011 (with

Alan Baron)

*That Legacy Thing*, Raleigh News & Observer, January 19, 2009, A11 (also available on realclearpolitics.com)

*The Case against Impeaching George W. Bush*, Salon.Com, June 8, 2005 (with Jack Rakove, Cass Sunstein, and Mark Tushnet)

*Protect Our Rights, Keep the Filibuster*, The Atlanta Journal-Constitution and other Knight-Ridder Newspapers, May 2005 (with Larry Kramer)

*Will the Senate Meltdown?*, L.A. Times, December 5, 2004 (with Erwin Chemerinsky)

*More Important than You Think*, October 24, 2004, Star Tribune

*Viewpoint: Why the Federal Judicial Selection Process Is Not Broken*, William & Mary Alumni Magazine, Summer 2004

*Confirmation Dreams*, On-Line Symposium on Whether the Judicial Selection Process Is Broken?: *Jurist* (February 2004)

*Stop the Filibuster? No*, The Legal Times, May 12, 2003

*Here's What Less Experience Gets You*, The Washington Post, Outlook, B1, March 2, 2003

*How to Build a Cabinet: The Lessons of History* (Q & A with Tony Mauro), Legal Times, January 17, 2001

*When Lawmakers Stand Down*, Legal Times, July 14, 1997

*Beyond Politics: The Law of Whitewater*, Legal Times, July 24, 1995

*The 1994 Mid-Term Elections and Judicial Selection Under President Clinton*, Wm & Mary Magazine, November 1994

*The Likely Role of Democratic Senators in Judicial Selection During the Clinton Era*, National Law Journal, December 7, 1992

*Judicial Selection: Keeping Politics Out/Models to Learn From: Good, Bad, and Ugly*, Legal Times, November 9, 1992

*U.S. Senate's Impeachment Rule on Trial*, Legal Times, October 12, 1992

**Expert Testimony and Consulting (selected)**



Expert Witness, House Oversight Hearing on the Impeachment of President Biden, September 29, 2023

Expert Witness, Testimony before the Presidential Commission on Supreme Court Reform, August 17, 2021

One of Four Expert Witnesses, before the House Judiciary Committee, Hearing on The Impeachment of President Donald Trump, December 4, 2019

Expert Witness, House Judicial Committee, Hearing on the Constitutional Options for Addressing Presidential Misconduct, Washington, D.C., July 12, 2019

Principal Draftsman, Distinguished Constitutional Law Professor Letter in Opposition to Impeachment of the IRS Commissioner, submitted to House Speaker & Chair of the House Judiciary Committee, September 7, 2016

Expert Witness, "Examining the Allegations of Misconduct against the IRS Commissioner," House Judiciary Committee, June 22, 2016

Expert Witness, House Judiciary Committee, "The Obama Administration's Abuse of Power," Washington, D.C., September 12, 2012

Expert Witness on the constitutionality of President Obama's recess appointments, House Oversight Committee, Washington, D.C., February 1, 2012

Expert Testimony on the Constitutionality of the Affordable Care Act, Special Program Sponsored by Democratic Members of the North Carolina State Assembly, Raleigh, North Carolina, January 11, 2012

Submitted oral and written testimony, Special House Judiciary Committee Task Force on the Impeachment of Judge Thomas Porteous, U.S. House of Representatives, Washington, D.C., December 15, 2009

Submitted expert testimony on the constitutionality of The End the Greed Act, House Judiciary Committee, Washington, D.C., March 14, 2009

Expert Witness, United States Senate Judiciary Committee, Confirmation Hearings on the nomination of Samuel Alito, Jr., as an Associate Justice on the Supreme Court, Washington, D.C., January 12, 2006

Principal Draftsperson of "Distinguished Law Professor" Letter Submitted to Senate Leadership in Opposition to Nuclear Option, May 12, 2005

Submitted Oral and Written Testimony opposing proposed bill to strip federal jurisdiction over public acknowledgment of G-d, Subcommittee on Courts, the

Internet, and Intellectual Property, Committee on the Judiciary, U.S. House of Representatives, September 13, 2004, Washington, D.C.

One of Six Law Professors Submitting Written Statements Supporting Proposed Resolution on the Need for Smooth Transition and Continuity in Government, United States Senate, Washington, D.C., July 23, 2004

Submitted Written Statement in opposition to House proposal empowering the Speaker to Reduce the quorum requirement for doing business in the House, Committee on House Administration & Constitution Subcommittee of the Senate Judiciary Committee, Washington, D.C., July 21, 2004

Submitted Oral and Written Testimony on the Congress' Power to Limit Federal Jurisdiction over Gay Marriage and the Pledge of Allegiance, Constitution Subcommittee, House Judiciary Committee, U.S. House of Representatives, Washington, D.C., June 24, 2004

Submitted Written Statement on Behalf of Proposed Constitutional Amendment regarding Mass Incapacitation of the Congress, Constitution Subcommittee of Senate Judiciary Committee, January 2004

Submitted Oral and Written Testimony before the Senate Rules Committee regarding proposal to amend Senate Rule XXII, June 5, 2003, Washington, D.C.

Submitted Oral and Written Testimony before the Constitution Subcommittee of the Senate Judiciary Committee, in hearing entitled "Judicial Nominations, the Filibuster, and the Constitution: When a Majority Is Denied its Right to Consent," May 6, 2003, Washington, D.C.

Reporter (with Erwin Chemerinsky, Juliette Kayemm, Jeffrey Rosen, and Peter Swire) on Liberty and Security for The Constitution Project (2002)

Submitted Written Testimony on the Nomination of Senator John Ashcroft as U.S. Attorney General, United States Senate Committee on the Judiciary, Washington, D.C., January 15, 2001

Member, Citizens for Independent Courts Task Force on Federal Judicial Selection, 1999-2000

Reporter for Three Professors (Professor Laurence Tribe, Professor William Van Alstyne, and myself) requested by House Judiciary Committee to draft possible Censure Resolution against President William Jefferson Clinton, November-December 1998

Only Joint Witness to testify before the House Judiciary Subcommittee on the Constitution, Special Hearing on the Background and History of Impeachment (conducted in the course of the House's impeachment proceedings against President

William Jefferson Clinton), Washington, D.C., November 9, 1998

Submitted oral and written testimony before the Senate Governmental Affairs Committee regarding the need to reform the Federal Vacancies Act, March 18, 1998

Submitted written statement introduced into the Congressional Record by Senator Herb Kohl (D.-Wisc.) regarding the constitutionality of the Gun-Free School Zone Act of 1995, August 8, 1995

Submitted written statement introduced into the Congressional Record by Senator Daniel P. Moynihan (D.-N.Y.) regarding the constitutionality of statutory proposals to enact line-item veto (March 21, 1995)

Submitted written statement introduced into Congressional Record by Senator Thomas Daschle (D.-S.D.) regarding the constitutionality of statutory proposals to enact line-item veto (March 10, 1995)

Submitted written testimony to the Constitution Subcommittee, United States Senate Committee on the Judiciary, regarding proposed constitutional amendments to the impeachment process for federal judges (March 25, 1990)

Submitted oral and written testimony to the North Carolina General Assembly regarding proposed state constitutional amendments to establish gubernatorial veto power, Raleigh, North Carolina (February 2, 1989)

### **Faculty Workshops and Public Lectures (selected)**

On the law of presidential impeachment, Seattle Town Hall, Seattle, Washington, February 6, 2024

On the law of presidential impeachment, University of Washington Law School, Seattle, Washington, February 7, 2024

On the law of presidential impeachment, Berkeley Law School, February 5, 2024

On the law of presidential impeachment (with Kermit Roosevelt), 92Y, January 30, 2024

On the law of presidential impeachment, Yale Club of New York City, January 29, 2024

On the law of presidential impeachment (with Michael Klarman), Harvard Bookstore, January 25, 2024

Constitutional Hardball: Order of the Coif Lecture, Rutgers Law School, October 29, 2020

Panelist, Supreme Court Update, USC Gould School of Law/Institute/LA Bar, 2020  
Institute of Corporate Counsel, December 2, 2020

The Battle for Justice, Order of the Coif Lecture, University of Oregon Law School,  
September 18, 2020

Impeachment and President Trump, Drexel University Law School, Philadelphia, Pa.,  
April 8, 2019

Lincoln's Mentors, University of Maryland Law School, Baltimore, Maryland, March 14,  
2019

New Voices in Legislation, Annual ALS Meeting, New Orleans, La., January 3, 2019

"Federal Judicial Selection in the Age of Trump," Orlando Bar Association, Orlando,  
Florida, June 22, 2018

Keynote Speech, "Celebrating the American Constitution," Annual Dinner of the  
Association of International Educators, Philadelphia, Pa., May 29, 2018

"President Donald Trump and Impeachment," Villanova University, Philadelphia, Pa.,  
April 25, 2018

"New Voices in Legislation," Annual AALS Meeting, San Diego, California, January 6,  
2018

Commentator, Junior Scholar Workshop, sponsored by the ACS, San Diego, California,  
January 6, 2018

Guest Lecturer, Checks and Balances in American Constitutional History, Rendell Center  
for Civic Education, National Constitution Center, Philadelphia, Pennsylvania, July 26,  
2017

Co-teacher (with Russell Riley, University of Virginia), Seminar on The Presidency and  
the U.S. Constitution, Robert H. Smith Center for the Constitution, Montpelier, Virginia,  
March 10-12, 2017

"The 2016 Presidential Election and the Supreme Court," Carolina's Great Teachers,  
Flyleaf Books, Chapel Hill, North Carolina, February 7, 2017

"The History of the Supreme Court Confirmation Process," Judge Rosemary Barkett  
Public Lecture and Symposium, University of Miami Law School, Miami, Florida,  
February 1, 2017

Moderator, Dialogue on the History and Scope of the Second Amendment, Special  
Program of The Union League, Philadelphia, Pennsylvania, January 12, 2017

“The 2016 Presidential Election and the Supreme Court,” Katz Center for Advanced Judaic Studies, University of Pennsylvania, Philadelphia, Pennsylvania, October 27, 2016

“A Conversation with Stanford Law School Professor Pam Karlan on Gay Rights and Voting Rights,” Southern Region Inter-Court Conference, Asheville, North Carolina, September 29, 2016

“The State of Federal Judicial Selection,” Missouri Annual Bar Association Meeting, September 22, 2016

“A Conversation with NPR Supreme Court Correspondent Nina Totenberg,” Memorial Hall, UNC-Chapel Hill, September 20, 2016

“Lincoln’s Model,” University of Kansas Law School, April 1, 2016

“Revisiting the Constitution Outside the Court: From Forgotten Presidents to Jewish Values and the Constitution,” University of Pennsylvania Law School, March 23, 2016

“Lincoln’s Model,” Temple University Law School, March 9, 2016

“How Presidential Legacies Are Made,” Pennsylvania Commonwealth Historical Society, Philadelphia, February 9, 2016

“Jewish Lives and the American Constitution: Selected Stories,” Bar Ilan University Law School, December 24, 2015

Guest Speaker, “Religious Liberty after *Obergefell*,” Family Law Section of the North Carolina Bar Association, Cary, NC, November 6, 2015

Keynote Speaker, “Teaching Constitutional Law,” Gilman Lerner Program for New Jersey Public High School History Teachers in Preparation for the New AP Exam, Morristown, New Jersey, October 27, 2015

Public Lecture, “Who are the Forgotten Presidents and Why Do They Matter?” 92<sup>nd</sup> Street Y, New York City, New York, March 30, 2015

“Constitutional Conflicts,” Master’s Tea, Pierson College, Yale University, April 2, 2015  
“The Next Supreme Court Appointment,” University of Michigan Law School, March 16, 2015

“Forgotten Presidents,” Elon University Law School, February 2, 2015

Featured Speaker, Annual Charlotte Bar Luncheon, “Is Our Constitution Broken?” Charlotte, North Carolina, November 12, 2014

“The Forgotten Presidents,” Dialogue with Jeffrey Rosen, The National Constitution Center, October 6, 2014 (the second most popular of the NCC for 2014-15)

Constitution Day Lecture: “Remembering The Spirit of Liberty and the American Constitution,” Healthy Start Academy, Raleigh, NC, September 17, 2014

Constitution Day Program: “Whether Members of Congress Take the Constitution Seriously,” Duke Law School, September 17, 2014

Special Address to the Upper School, “What I Learned about the Constitution Growing Up in Alabama,” UMS-Wright Preparatory School, Mobile, Alabama, March 31, 2014

Public Lecture, “Why the Nuclear Option Was Not,” Yale Law School, Dec. 5, 2013

Selected Chapters from “The Forgotten Presidents: Their Untold Constitutional Legacy,” Faculty Workshop, Notre Dame Law School, November 14, 2013

“The 2012 Presidential Election and the Next Supreme Court Vacancy,” Presentation to the American Constitution Society at Harvard Law School, April 1, 2013

Keynote Speaker, “The Impact of the 2012 on the Federal Judiciary,” Faculty of Federal Advocates Annual Meeting, Denver, Colorado, December 6, 2012

Guest Speaker, “The 2011 Supreme Court Term,” UNC School of Government CLE Program on Public Law for the Public’s Lawyers, Raleigh, North Carolina, November 1, 2012

Guest Speaker, The Next Forty Years of Legal Scholarship and Law Reviews, 40<sup>th</sup> Anniversary Dinner of the Hofstra Law Review, October 15, 2012

The Constitutional Significance of the Forgotten Presidents, Faculty Workshop, UNC-Chapel Hill Law School, April 5, 2012

An Inside Perspective of the Supreme Court Confirmation Process, Master’s Tea, Pierson College, Yale University, April 3, 2012

Lawyering in Congress, speech sponsored by the Public Interest Law Program and American Constitution Society, University of Chicago Law School, February 8, 2012

The Constitutional Significance of the Forgotten Presidents, Faculty Workshop, Chicago-Kent Law School, February 7, 2012

A Discussion of “The Power of Precedent” for seminar on Recent Books on the Constitution, Georgetown University Law School, January 31, 2012

The Constitutional Significance of the Forgotten Presidents, Faculty Workshop, Ohio State University Law School, January 18, 2012

The Constitutional Legacy of the Forgotten Presidents, presentation to the American Politics Reading Group, UNC-Chapel Hill, November 4, 2011

Lessons from Inside the Judicial Confirmation Process, speech before the American Constitution Society chapter at NYU Law School, October 21, 2011

An Overview of the Constitutional Legacy of the Forgotten Presidents, Law and Public Policy Workshop, Fordham University Law School, October 12, 2011

An Inside View of the Confirmation Process, Special Distinguished Visitor in Residence Program, Lecture sponsored by the James Madison Program In American Ideals and Institutions, Princeton University, February 15, 2011

The Supreme Court Confirmation Process after the Appointments of Justices Sotomayor and Kagan on the Court and Constitutional Law, sponsored by the American Constitution Society, Columbia Law School, February 14, 2011

Constitutional Construction and Departmentalism: A Case Study of the Demise of the Whig Conception of the Presidency, Law and History Society, Duke Law School, Nov. 2, 2010

Myths and Reality in Supreme Court Confirmation Proceedings, Harvard Law School, Sponsored by the American Constitution Society, April 12, 2010

Real-World Judging and the Sotomayor Hearings, Wake Forest University Law School, March 25, 2010

Myths and Reality in Supreme Court Confirmation Proceedings, Yale Law School, Sponsored by the American Constitution Society, February 22, 2010

Real-World Judging and the Sotomayor Hearings, University of Chicago Law School, Sponsored by the American Constitution Society, November 18, 2009

Real-World Judging and the Sotomayor Hearings, Roger Williams Law School, September 23, 2009

Public Lecture, The Constitutional Significance of the Forgotten Presidents, Cornell Law School, September 14, 2009

The Constitutional Significance of the Forgotten Presidents: Overview and Selected Chapters, Political Science Department, UNC-Chapel Hill, January 23, 2009

The Constitutional Significance of A Forgotten President: Martin Van Buren and the Nation's First Great Depression, IU-Bloomington School of Law, Sept. 15, 2008

The Demise of the Whig Conception of the Presidency, Florida State University School

of Law, August 29, 2008

The Constitutional Significance of Two Forgotten Presidents: Zachary Taylor and Millard Fillmore, Seton Hall Law School, March 24, 2008

The Constitutional Significance of the Forgotten Presidents: Overview, Triangle Legal History Seminar, National Humanities Center, Cary, North Carolina, January 18, 2008

The Constitution after Bush, Justice Teaching Institute, North Carolina Bar Center, Cary, North Carolina, January 18, 2008

Faculty Workshop, The Constitutional Legacy of the Forgotten Presidents: Overview, Duke University Law School, July 25, 2007

Faculty Workshop, Non-Judicial Precedent, University of Nevada-Las Vegas Law School, March 8, 2007

Guest Speaker, The National Constitutional Debate over Gay Marriage, UNC Program in the Humanities and Social Values Conference on the Constitution, Ideology, and Change, July 8, 2005

The Constitutionality of the Filibuster, sponsored by the American Constitution Society, University of Virginia Law School, April 19, 2005

Guest Speaker, The Nuclear Option, Democratic Policy Committee, United States Senate, Washington, D.C., April 11, 2005

The Constitutionality of the Filibuster, sponsored by the American Constitution Society, Case Western Reserve Law School, April 1, 2005

Guest Speaker, Supreme Court Nomination and Selection, Annual Meeting of the State Bar Association of North Dakota, Bismarck, North Dakota, June 16, 2005

Faculty Workshop, The Limited Path Dependency of Precedent, University of Illinois College of Law, October 26, 2004

Faculty Workshop, The Limited Path Dependency of Precedent, University of North Carolina Law School, October 18, 2004

Faculty Workshop, Non-Judicial Precedent, University of Richmond Law School, October 15, 2004

Featured Speaker, "Judicial Selection as . . . Talk Radio," Contemporary Issues Forum, Chautauqua Institution, Chautauqua, New York, July 3, 2004

Presenter, James Madison Program Seminar for Faculty and Students, "The Limited Path



Dependency of Precedent,” Politics Department, Princeton University, March 10, 2004

Faculty Workshop, “The Constitutionality of the Filibuster,” University of North Carolina Law School, Chapel Hill, November 6, 2003

Keynote Speaker, “The Great Divide: An Overview on Whether Judicial Selection Matters,” First Monday in October Program, University of North Carolina Law School, October 14, 2003

Keynote Speaker, “The Advise and Consent Power,” First Monday in October Program, Rutgers-Newark Law School, October 13, 2003

Guest Speaker (with Professor Judith Resnik of Yale Law School), Democratic Policy Committee, United States Senate, Wash. DC, June 20, 2003

Featured Speaker, The War on Terrorism, Christopher Wren Association, Williamsburg, Virginia, February 6, 2003

The Federal Appointments Process as Constitutional Law, The University of Minnesota Law School, November 4, 2002

Keynote Speaker, Environmental Law Institute – ABA/ALI Conference on Wetlands Regulation, October 23, 2002, Washington, D.C.

Faculty Workshop, The Limited Path Dependency of Precedent, Wm. & Mary Law School, July 30, 2002

Featured Speaker, “Judicial Selection in Times of War,” Annual Luncheon, Federal Bar Association, April 4, 2002

Faculty workshop on “Stare Decisis and the Future of Constitutional Theory,” William & Mary Law School, February 1, 2002

Keynote Speaker, Environmental Law Institute – ABA/ALI Conference on Wetlands Regulation, Washington, D.C., May 30, 2001

Faculty workshop on "The Challenges of Translating Theory to Practice," University of Southern California Law School, Feb. 27, 2001

Faculty workshop on "The Challenges of Translating Theory to Practice," Emory University Law School, January 12, 2001

Featured Speaker, The Constitutional Significance of the Forgotten Presidents, J. Reuben Clark Society, Salt Lake City, Utah, April 14, 2000

Faculty Colloquium on the Future of Judicial Selection, Duke University Law School,

March 21, 2000

Faculty workshop on reforming the federal appointments process, Emory Law School, Feb. 11, 2000

Featured Speaker, The Historical and Constitutional Significance of President Clinton's Impeachment and Trial, American University, Washington College of Law, Oct. 13, 1999

Featured Speaker, Impeachment: An Insider's View, William & Mary Law School Alumni Reunion, April 23, 1999

Featured Speaker, Putting the Clinton Impeachment in Perspective, University of Richmond Law Review Banquet, April 15, 1999

Guest Speaker, Separation of Powers under the U.S. and Virginia Constitutions, before the State Assembly of Virginia, Richmond, Virginia, April 6, 1999

Featured Speaker, Putting the Clinton Impeachment into Perspective, Wake Forest University, April 1, 1999

Featured Speaker, Putting the Clinton Impeachment in Perspective, Federal Bar Association, Norfolk, Virginia, February 17, 1999

Guest Speaker, The Historic Impeachment Proceedings Against President Clinton, Special Address before the Faculty and Students of Lafayette College, December 1, 1999

Keynote Speaker, Conference on The Future of the Independent Counsel Act, University of Tennessee College of Law, October 26, 1998

Guest Speaker, The Meaning of "Other High Crimes or Misdemeanors," U.S. House of Representatives (closed session), Washington, D.C., October 6, 1998

Featured Speaker, "The Importance of Scholarships," Owen Heggs Memorial Scholarship Dinner, Cleveland, Ohio, September 15, 1997

Faculty workshop on "The Art of Judicial Biography," University of Alabama School of Law, March 28, 1996

Faculty workshop on book-length work-in-progress on the federal appointments process, Arizona State University College of Law, Tempe, Arizona, February 23, 1996

Faculty workshop presentation on treatise on the federal appointments process, Fordham University School of Law, February 9, 1996

Faculty workshop presentation on treatise on the federal appointments process, Brooklyn Law School, February 8, 1996

Keynote Speaker, "Federal and State Judicial Independence," Before the Annual Meeting of the Judicial Section of the Virginia Bar, Williamsburg, Va., January 1996

Faculty workshop presentation on the federal appointments process, Yeshiva University, Cardozo School of Law, December 4, 1995

Faculty workshop presentation on treatise on the federal appointments process, Emory University School of Law, November 2, 1995

Faculty workshop presentation, "The Art of Judicial Biography," Cornell Law School Faculty, February 10, 1995

Speaker, "The Supreme Court and National Policymaking," Brookings Institution Retreat, Charlottesville, Va., September 27, 1994

Speaker, "Governmental Immunities in the 1990s," ABA Conference for Federal and State Court Administrators and Staff Attorneys, Key West, Fla., June 20, 1994

Speaker, "The Supreme Court and National Policymaking," Brookings Institution Retreat for Senior Executive Officers, Williamsburg, Va., April 18, 1994

Guest Speaker, "Political Correctness and the First Amendment," Yale Club of Virginia, Richmond, Va. (February 15, 1994)

Guest Speaker, Contrasting Reagan-Bush and Clinton Judicial Selection Policies, Northern Virginia Bar Association, Arlington, Virginia (November 22, 1993)

Guest Speaker, "Judicial Selection in the Clinton Era," Williamsburg Chamber of Commerce, Williamsburg, Va. (September 20, 1993)

Guest Speaker, "Judicial Selection in the Clinton Era," Reunion of William and Mary Law School Alumni, Williamsburg, Virginia (January 16, 1993)

Oral presentation on the role of precedent in the abortion debate, Boston University School of Law Faculty Workshop, April 10, 1992

Guest Speaker, The Implications of the Nomination and Confirmation of Justice Thomas, Newport News Chamber of Commerce, Newport News, Virginia (December 4, 1991)

Guest Speaker, The Origins and Status of the Bill of Rights, Williamsburg, Newport News, and Surrey Chambers of Commerce (September 30, October 7, and October 14, 1991, respectively)

Lecturer on Current Issues in Health Law, including Bioethics, Annual Continuing Legal Education Conference for the North Carolina Bar Association, Greensboro, North Carolina (April 10, 1990)

## **Symposia and Panel Discussions (selected)**

Panelist, The Law of Presidential Impeachment, Georgia State University Law School, Atlanta, Georgia, March 28, 2024

Panelist, The Role of Precedent in Constitutional Law, Federal Bar Association, Georgia State University Law School, Atlanta Georgia, March 27, 2024

Panelist, Supreme Court Reform, University of Wisconsin Law School Symposium, November 3, 2023

Moderator, High Crimes and Misdemeanors: The Dual Impeachments of Donald Trump, University of Pennsylvania Law School (2022) (with Dan Goldman, Michael Dreebeen, Andrew Goldstein, Mark Tushnet, Sara Zbed)

Moderator, High Crimes or Misdemeanors: The Two Impeachment Trials of Donald Trump, March 29, 2021 (with Congressman David Price and Keith Whittington of Princeton University)

Panelist, The Future of the Supreme Court, University of Pennsylvania Law School, October 28, 2020

Panelist, Impeachment: Here and Now, The UNC Program for Public Discourse, December 3, 2019

Panelist, “High Crimes and Misdemeanors”: What the Constitution Says about Impeachment, National Constitution Center, December 2, 2019

Conversation with Jeff Rosen and Mary Sarah Bilder on the Origins of Judicial Review, Federal Judicial Center, National Constitution Center, November 16, 2017

Featured Speaker, “Gerrymandering the Political Question Problem,” Duke Gerrymandering Workshop, November 3, 2017

Panelist, President Trump and the Constitution, University of Richmond Law School, Richmond, Virginia, October 27, 2017

Panelist, Symposium on Federal Judicial Selection, sponsored by the Wisconsin Law Review, University of Wisconsin Law School, Madison, Wisconsin, October 22, 2016

Panelist, Symposium on the Transparency of the Supreme Court, Georgia State University Law School, February 2016

Featured Guest (along with Professor William Howell, University of Chicago), “The Steel Seizure Case,” C-Span/National Constitution Center Series on

Landmark Supreme Court Cases, November 16, 2015

“Constitutional Arrogance,” in Symposium on Executive Discretion Unbound, University of Pennsylvania Law School, October 15, 2015

Organizer and Participant, National Constitution Center, National Constitution Center Special Event with the Ford Presidential Library, “President Ford’s Constitutional Legacy,” Grand Rapids, Michigan, October 20, 2014

Panelist, “What’s the Matter with Congress?,” Symposium: Governing the United States, University of Utah Law School, November 7, 2013

Panelist, “Why Gridlock Is Good,” Symposium on Constitutional Gridlock, Notre Dame Law Review, Notre Dame Law School, November 15, 2012

Panelist, Break-Out Session, Congressional Gridlock and the Executive, Recess Appointments, Annual American Constitution Society convention, June 16, 2012

Panelist, Judicial Obstruction, ABA Section on Appellate Litigation, Washington, D.C., April 21, 2012

Panelist, Author Meets Critics: Building the Judiciary: The Politics of Institutional Development, Midwest Political Science Association, Chicago, Illinois, April 12, 2012

A Debate on the Constitutionality of the Filibuster (with Professor Josh Chafetz), sponsored by the American Constitution Society and the Federalist Society, Duke Law School, March 19, 2012

Panelist, “The Constitutionality of the Affordable Care Act,” Luncheon program for the Georgia Chapter of the American Constitution Society, Atlanta, Georgia, February 24, 2012

Panelist, Opening Showcase Panel on Federalism, the Tenth Amendment, and Limited Government, Annual Federalist Society Convention, Washington, DC, November 18, 2010

Panelist, The Possible Causes and Ramifications of Public Corruption in the United States, Symposium on Political Scandals, Loyola Chicago Law School, April 9, 2010

Moderator, An Appraisal of President Obama’s Judicial Appointments after the First Year, American Constitution Society, The National Press Club, Washington D.C., January 28, 2010

Panelist, The Constitutional Politics of Presidential Czar Appointments, Annual AALS AALS Conference (Hot Topics), New Orleans, Louisiana, January 8, 2010

Panelist, The Bybee Question: Is Impeachment Appropriate?, Alliance for Justice, The National press Club, Washington, D.C., May 13, 2009

Panelist on the Law and Politics of Judicial Selection, Symposium on What's Law Got To Do with It?, Indiana University-Bloomington School of Law, April 29, 2009

A Response to Four Defenses of Originalism (by John McGinnis), The Federalist Society, UNC Law School, February 19, 2009

Panelist, Symposium on the Presidency in Historical Perspective, University of Pennsylvania Law School, February 6-7, 2009

Panelist, Symposium on the Role of Presidential Leadership in Advancing Civil Rights, American University, Washington College of Law, January 30, 2009

Panelist, The Backbone of the Federal Judiciary: The Study and Biography of Federal Appellate Judges, Legal History Section, AALS Annual Conference, San Diego, California, January 9, 2009

Panelist on Conscientious Congressional Interpretation of the Constitution, Symposium on the Most Disparaged Branch, Boston University Law School, November 13, 2008

Panelist on How Judges Think, Symposium on Law & Politics in the 21<sup>st</sup> Century, University of Minnesota Law School, October 17, 2008

Panelist, The Founders and Modern Judicial Review, The Federalist Society, Cincinnati, Ohio, October 2, 2008

Panelist on Legal Issues in the Duke Lacrosse Case, SEALS Conference, Palm Beach, Florida, July 30, 2008

Panelist on Transparency and Stare Decisis, Symposium: Judicial Candor and Legitimacy, NYU Law School, March 11, 2008

Panelist, Common Ground for the Common Good, Olin Brinkley Baptist Church, Chapel Hill, March 1, 2008 (with Rev. William Barber and Kahillah Sabra)

Panelist, Symposium on Judicial Confirmations, The Federalist Society, Washington, D.C., January 31, 2008

Symposium Coordinator, Moderator and Panelist on the Doctrine of Stare Decisis, North Carolina Law Review Symposium on Precedent and the Roberts Court, Chapel Hill, North Carolina, October 26, 2007

Debate with Michael Paulsen, The Problem with Precedent, sponsored by Federalist Society, Duke Law School, October 25, 2007

Moderator, Judicial Modesty in the 2007 Term, Supreme Court Preview, William & Mary Law School, September 16, 2007

Panelist, The Evolution of Constitutional Law, Annual SEALS Conference, Amelia Island, Florida, July 30, 2007

Panelist, The Rule of Law in the Global Economy and the State of North Carolina, ABA Conference on the Rule of Law in the Global Economy and the State of North Carolina, NC Bar Center, Cary, North Carolina, July 26, 2007

Panelist, The Role of Religion in Supreme Court Selection, St. Thomas Law School, November 10, 2006

Panelist, Judicial Independence, Symposium on the Role of Judges in the 21st Century, Boston University Law School, April 21, 2006

Panelist, The Supreme Court and Constitutional Dialogue, Annual Virginia Bar Association, January 21, 2006, Williamsburg, Virginia

Panelist, The Constitutionality of the Solomon Amendment, Boston College Law School, November 11, 2005

Panelist, The Nuclear Option: The Senate at the Precipice, Center for American Progress, Washington, D.C., April 15, 2005

Panelist, Freedom of the Press in a Time of Managed News, Media Law Section, Annual AALS Conference, San Francisco, California, January 7, 2005

Panelist, Civil Rights, The Annual Supreme Court Preview, William & Mary Law School, September 24, 2004

Panelist, Executive Power, Symposium on Interrogation, Detention, and Torture in the War on Terrorism, Duke University Law School, September 17, 2004

Panelist, Foreign Law in American Courts, Symposium on the Supreme Court and American Politics, Princeton University, May 26, 2004

Contributor, Symposium on Ideology and Judicial Selection, University of Richmond Law School, April 16, 2004

Contributor, Symposium on Juristocracy and Distrust, Cardozo Law School, March 22, 2004

Panelist, The Crisis in Judicial Selection, Annual Supreme Court Preview Program, William & Mary Law School, September 19, 2003

Contributor, Symposium on Foreign Affairs and the Constitution, Georgia State University Law School, January 31, 2003

Panelist, Judicial Selection in the New Millennium, December 9, 2002, City Bar Association of New York, New York City, New York

Contributor to Symposium on Congress and the Constitution, Topic -- The Federal Appointments Process as Constitutional Interpretation, William & Mary Law School, October 18, 2002

Panelist, The War on Terror, William & Mary Law School, September 20, 2002, Annual Supreme Court Preview, Williamsburg, Va.

Contributor, Symposium on Federal Judicial Selection, April 20, 2002, Regent University Law School

Contributor, Symposium, "Federal Judicial Selection: Current Challenges," University of California at Davis School of Law, April 5, 2002

Contributor to Symposium, "Judicial Choices: The Nominations and Confirmations of Supreme Court Justices," Drake University Law School, March 2, 2002

Panelist, Forum on The First Amendment and the War on Terrorism, sponsored by The Constitution Project, November 28, 2001, Washington, D.C.

Panelist, The Supreme Court After *Bush v. Gore* and The Supreme Court – Looking Ahead sessions, Supreme Court Preview, sponsored by the Institute of Bill of Rights Law, William & Mary Law School, September 2001

Principal Organizer and Panelist, The Legacy of Chief Justice John Marshall, William & Mary Law School in honor of the bicentennial of John Marshall's appointment as Chief Justice of the United States, Williamsburg, Va., March 16-17, 2001

Panelist, Hate Speech Regulation, Duke Law School, sponsored by Hispanic Law Students Association, November 16, 2000

Respondent, Contemporary Dilemmas in the Federal Appointments Process, Symposium on Michael J. Gerhardt's **The Federal Appointments Process**, William & Mary Law School, Nov. 10, 2000 (commentaries by Justice Stephen Breyer and Professors Erwin Chemerinsky, Chris Eisgruber, and David Strauss; and author's response)

Panelist, The Supreme Court and the 2000 Presidential Election, The Supreme Court – Looking Ahead, Supreme Court Preview, sponsored by the Institute of the Bill of Rights, The College of William and Mary, Sept. 22, 2000

Commentator on Professor Kathy Abrams' paper on "The Subject in Exile," Symposium:



The Constitution in Exile, Duke University Law School, October 6, 2000

Commentator on Professors Neal Kudmar Katyal and Susan Low Bloch's Analyses of the Ramifications of President Clinton's Impeachment and Acquittal, Symposium on The Constitution under Clinton: A Critical Assessment, Duke Law School, Sept. 24, 1999

Panelist, The Direction of the Supreme Court, Annual Supreme Court Preview, sponsored by the Institute of Bill of Rights Law, William & Mary Law School, Sept. 24, 1999

Panelist, The Kastenmeier Colloquy: From Watergate to the Present, University of Wisconsin Law School, April 9, 1999

Panelist, "Impeachment: The Changing Landscape?," Special Program Sponsored by the Twentieth Century Fund, National Press Club, Washington, D.C., February 18, 1999

Panelist, Town Hall Meeting on the Impeachment of President William Jefferson Clinton, AALS Annual Meeting, New Orleans, Louisiana, January 6, 1999

Moderator and Panelist, Special Program on the Impeachment Proceedings Against President Clinton, City Bar Association of New York, New York City, New York, December 17, 1999

Panelist, The Meaning of High Crimes or Misdemeanors, Annual Federalist Society Symposium, Washington, D.C., November 15, 1999

Panelist, Symposium on Twenty-Five Years after Watergate, St. Louis University School of Law, Oct. 16-17, 1998

Panelist, Public Hearing Arranged by Congressman Robert Scott on the Scope of Impeachable Offenses, State Capitol of Virginia, Richmond, Virginia, October 1, 1998

Contributor, Symposium on Chancellor Kent and Judicial Independence, Chicago-Kent Law School, August, 1998

Panelist on Municipal Liability under Section 1983, Symposium on Overview of Section 1983 Jurisprudence, DePaul University College of Law, April 3, 1998

Participant on Future of the Supreme Court and Racial Issues Sessions of the Annual Supreme Court Preview Symposium, The Bill of Rights Institute, The College of William & Mary, October 24-25 1997 (aired on C-Span)

Keynote Speaker, "Symposium on Democracy in the 21st Century," Vanderbilt University Law School, October 22, 1996

Moot Court Advocate (Clinton v. Jones) and Panelist for Separation of Powers and Federalism Sessions of the Annual Supreme Court Review, The Bill of Rights Institute,

The College of William & Mary, October 22, 1996 (aired on C-Span)

Moot Court Advocate (in pending Supreme Court case on the Colorado Gay Rights Referendum) and Panelist for Civil Rights, Separation of Powers, and Federalism Sessions of the Annual Supreme Court Preview Symposium, The Bill of Rights Institute, The College of William & Mary, September 22-23, 1995 (aired on C-Span)

Moot Court Advocate (in then-pending Court case testing the constitutionality of state-enacted congressional term-limits) and Panelist on Business and Civil Rights Sessions for Annual Supreme Court Preview Symposium, The Bill of Rights Institute, The College of William & Mary, October 21-22, 1994 (aired on C-Span)

Panelist and Moot Court Participant, "Single-Race Schools in the 1990s," William & Mary Conference Celebrating the 40th Anniversary of Brown v. Board of Education, (May 17, 1994)

Panelist, Criminal Law and Privacy Programs, Supreme Court Preview Symposium, Sponsored by the Institute of Bill of Rights Law, the College of William and Mary, (September 17-18, 1993) (aired on C-Span)

Panelist, "The Supreme Court Justice Selection Process," Annual Utah State Bar Convention, Sun Valley, Idaho (July 2, 1993)

Panelist, "Constitutional Stare Decisis," AALS Constitutional Law Workshop, Ann Arbor, Michigan (June 1993)

Oral Advocate, Moot Court Presentation of *Walter Nixon v. United States*; Panelist, The Future of the Supreme Court and Criminal Procedure Sessions for the 1992-1993 Term, Supreme Court Preview Symposium, sponsored by Institute of Bill of Rights Law, The College of William and Mary, September 25-26, 1992(aired on C-Span)

Panelist, Symposium on the Constitutionality of the War Powers Resolution, Sponsored by the Young Lawyers Division of the Virginia Bar Association, Norfolk, Virginia (December 5, 1991) (aired on Virginia Public Television)

Panelist, The First Amendment and the Law of Libel Session, Federal Judicial Conference in Celebration of the Bicentennial of the Bill of Rights, Williamsburg, Virginia (October 21, 1991)

Panelist, The Thomas Confirmation Proceedings, First Amendment, and Future of the Supreme Court Sessions, Supreme Court Preview Symposium, Sponsored by the Institute of Bill of Rights Law, The College of William and Mary (September 27-28, 1991)

Panelist, Symposium on the Bicentennial of the Bill of Rights, sponsored by Utah Humanities Council, Salt Lake City, Utah (February 1, 1991) (aired on Utah Public Television)

Panelist, AIDS and the Bill of Rights Session of Frontiers of Freedom Symposium, sponsored by the Northern Virginia Studies Conference (October 26, 1990)

Moderator, with Chief Justice William H. Rehnquist, Program on the Role of Constitutional Theory in Supreme Court Decisionmaking, sponsored by Carter O. Lowance Fellowship, Marshall-Wythe School of Law, October 19, 1990

Panelist, Criminal Procedure and Equality Sessions, Supreme Court Preview, sponsored by the Institute of Bill of Rights Law, William & Mary Law School (Sept. 21-22, 1990).

### **Select Law School Service**

University of North Carolina at Chapel Hill

Faculty Chair, UNC Law Review Symposium (2019, 2008); Chair, Appointments Committee (2013-14; 2014-15); Member, Dean's Advisory Committee (2008-09, 2013-15); Chair, Interdisciplinarity Committee (2008-2009); Member, Appointments Committee (2007-2008, 2009-11, 2013-15); Member, Self-Study Committee (2006-007); Faculty Adviser, American Constitution Society (2012-present); Faculty Adviser, Federalist Society (2005-present)

William & Mary Law School

Chair, Self-Study Committee (2004-05); Chair and Member, Appointments Committee; Chair, Promotion & Tenure Committee; Chair, Curriculum Committee Advisor, American Constitution Society and Federalist Society

Case Western Reserve University Law School

Dean (1996-97), Professor of Law (1997-1998)

### **Select University Service**

Member, UNC Safety Commission (2018-2022)

Member, Working Group on the University of Chicago Principles of Free Expression (2018)

Acting Chair, Faculty Executive Committee (September 2015-January 2016)

Vice-Chair, Faculty Executive Committee, UNC-Chapel Hill Faculty Council (2014-2016)

Member, Faculty Executive Committee, UNC-Chapel Hill Faculty Council (2010—2016)

Member, Chancellor's Special Ethics and Integrity Working Group (2015)

Member, Special Faculty Committee Appointed to Assess Inquiries into Academic Misconduct at UNC-Chapel Hill (May-August 2012)

Fellow, Leadership Development Program, Institute for the Arts and Humanities, University of North Carolina-Chapel Hill (2012-13)

Chairman, Appointments, Promotion & Tenure Committee, University of North Carolina at Chapel Hill (July 1, 2009 – June 30, 2010)

Member, UNC-Chapel Hill Appointments, Promotion & Tenure Committee (2007-2009)

Member, Chancellor's Advisory Committee of UNC-Chapel Hill (2009 –2010)

Member, UNC-Chapel Hill Faculty Council (2008 –2016)

Member, Search Committee for UNC-Chapel Hill Deputy Provost (2008).

### **Visiting Positions**

Inaugural Richard Beeman Visiting Professor, University of Pennsylvania Law School (July 2015-to date)

Visiting Lecturer, Bar-Ilan University Law School (Dec. 2015)

Senior Lecturer, Duke University, First Amendment, Fall 2010

North Carolina Central University Law School, Visiting Professor – First Amendment, Fall 2009

University of Lyon, France, March 9, 2009—March 29, 2009

Princeton University, Politics Department, Visiting Professor, Spring 2005

University of Minnesota Law School, Visiting Professor of Law, Fall 2004

University of North Carolina Law School, Fall 2003

Duke University, Visiting Professor of Law, Spring Semester 2000

Cornell Law School, Visiting Professor of Law, 1994--1995

### **Other Select Public Service**

Member, North Carolina Advisory Committee, U.S. Commission on Civil Rights (2011-18)

Member, Liaison Committee for the State Bar of North Carolina (2015-present)

Member, Ethics Committee for the State Bar of North Carolina (2012-14)

Planning Board of the Town of Chapel Hill (2008-11)

Member, Appellate Rules Committee for the State Bar of North Carolina (2008 – 2009)

Member, Administration of Justice Committee, North Carolina Bar Association (2009-2014)

Member, North Carolina Bar Select Committee on Judicial Independence (2010–15)

Member, Law School Liaison Committee for the North Carolina Bar (2014-present)

Pro Bono Counsel to Virginia Governor Mark Warner (for select transition,

separation of powers, and education issues) (2002)

**Professional Memberships**

American Law Institute (elected member since 2015)  
Invited to join American Bar Foundation (2016)  
District of Columbia Bar (1985-present)  
Associate Member, North Carolina Bar (2008-present)  
Associate Member, Virginia Bar (1998-2015)  
Member, Georgia Bar (1985—2015)