

BRADFORD R. CLARK

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Washington, DC 20052

brclark@law.gwu.edu
(202) 994-2073

ACADEMIC EXPERIENCE

George Washington University Law School, Washington, DC

William Cranch Research Professor of Law, 2007-present

Professor of Law, 2001-present

Associate Professor (tenured), 1997-2001

Associate Professor (untenured), 1993-97

Courses:

Civil Procedure, Federal Courts, Constitutional Law, Advanced Constitutional Structure (Course/Seminar), Foreign Relations and the Constitution (Seminar), Federalism (Seminar)

Committee Service:

Co-Chair, Faculty Clerkship Committee, 2021-22, 2023-present

Chair, Faculty Clerkship Committee, 2002-06, 2008-21

Member, Faculty Clerkship Committee, 1994-present

Faculty Adviser, *The George Washington Law Review*, 1998-present

Journal Advisory Committee, 1998-present

Faculty Adviser, GW Law Federalist Society, 2018-present

Faculty Appointments Committee, 1999-2000, 2011-12, 2018-20

Placement Committee, 2017-21

Tenure and Promotion Committee, 2008-09

Dean Search Committee, 1998-99

Academic Service:

Adviser to the *Restatement of the Law Fourth, The Foreign Relations Law of the United States* (ALI), 2013-18

Chair, AALS Section on Federal Courts, 2016

Chair-Elect, AALS Section on Federal Courts, 2015

Member, Executive Committee, AALS Section on Federal Courts, 2005-present

Member, Planning Committee, AALS New Teachers Conference, 1994-95

Harvard Law School, Cambridge, MA

William Nelson Cromwell Visiting Professor of Law, Fall 2020

Courses: Civil Procedure, Originalism (Reading Group)

Visiting Professor of Law, 2007-08

Courses: Civil Procedure, Advanced Constitutional Law, Foreign Relations and Constitutional Structure (Seminar)

University of Michigan Law School, Ann Arbor, MI

Visiting Professor of Law, Fall 2009

Courses: Civil Procedure

EDUCATION

Columbia Law School, New York, NY

J.D., 1985, *Harlan Fiske Stone Scholar*

Columbia Law Review

Executive Articles Editor, 1984-85; Member, 1983-84

Teaching Fellow

Civil Procedure, Fall 1984; Property, Spring 1984

Publication

Note, *Judicial Review of Congressional Section Five Action: The Fallacy of Reverse Incorporation*, 84 COLUM. L. REV. 1969 (1984)

Florida State University, Tallahassee, FL

B.A., *summa cum laude*, 1981

Major: Political Science; *Minor*: History

Honor Societies

Pi Gamma Mu (Int'l Social Sciences Honor Society), Outstanding Member

Pi Sigma Alpha (National Political Science Honor Society)

Phi Alpha Theta (National History Honor Society)

Omicron Delta Kappa (National Leadership Honor Society)

OTHER PROFESSIONAL EXPERIENCE

Supreme Court of the United States, Washington, DC

Special Master, Alabama et al. v. North Carolina, No. 132 (Original), 2003-10

(all recommendations adopted by the Supreme Court, *see* 560 U.S. 330 (2010))

Gibson, Dunn & Crutcher, Washington, DC

Associate, 1989 & 1990-93

The Honorable Antonin Scalia, Supreme Court of the United States

Law Clerk, 1989-90

U.S. Attorney's Office, E.D. Va., United States Department of Justice

Special Assistant U.S. Attorney, 1988

Office of Legal Counsel, United States Department of Justice

Attorney Advisor, 1986-88

The Honorable Robert H. Bork, U.S. Court of Appeals, DC Circuit

Law Clerk, 1985-86

Sullivan & Cromwell, New York, New York

Summer Associate, 1984 & 1985

BOOKS

THE LAW OF NATIONS AND THE UNITED STATES CONSTITUTION (Oxford 2017) (with Anthony J. Bellia Jr.)

- This book is examined and discussed in *Symposium: The Law of Nations and the United States Constitution*, 106 GEO. L. J. 1558-1961 (2018)

BOOK CHAPTERS

Restating The Charming Betsy as a Canon of Avoidance, in THE RESTATEMENT AND BEYOND: THE PAST, PRESENT, AND FUTURE OF U.S. FOREIGN RELATIONS LAW (Oxford 2020) (with Anthony J. Bellia Jr.)

- This book received the 2022 Robert E. Dalton Award from the American Society of International Law

Process-Based Preemption, in PREEMPTION CHOICE: THE THEORY, LAW AND REALITY OF FEDERALISM'S CORE QUESTION (Cambridge 2009)

LAW JOURNAL PUBLICATIONS

The Charming Betsy and the Constitutional Role of Customary International Law in U.S. Courts, 105 TEX. L. REV. (2027) (with Anthony J. Bellia Jr.) (forthcoming)

Foreign Sovereign Immunity, Political Branch Primacy, and Judicial Restraint, 95 GEO. WASH. L. REV. (2027) (with Anthony J. Bellia Jr.) (forthcoming)

Erie and the Constitution's Constraints on General Law, 93 U. CHI. L. REV. (2026) (with Anthony J. Bellia Jr.) (forthcoming)

The Federalism Canons as Ordinary Interpretation, 120 NW. U. L. REV. 991 (2026) (with Anthony J. Bellia Jr.)

Constitutional Federalism and the Nature of the Union, 66 WM. & MARY L. REV. 281 (2024) (with Anthony J. Bellia Jr.)

State Sovereign Immunity and the New Purposivism, 65 WM. & MARY L. REV. 485 (2024) (with Anthony J. Bellia Jr.)

The Constitutional Law of Interpretation, 98 NOTRE DAME L. REV. 519 (2022) (with Anthony J. Bellia Jr.)

Spring 2022 Symposium: The Legacy of Justice Ruth Bader Ginsburg, 90 GEO. WASH. L. REV. 1399 (2022) (Foreword)

Reflections on the Legacy of Justice Ruth Bader Ginsburg, 90 GEO. WASH. L. REV. 1409 (2022) (Conversation with Justice Goodwin Liu, Judge John Owens, and Judge Paul Watford)

The International Law Origins of American Federalism, 120 COLUM. L. REV. 835 (2020) (with Anthony J. Bellia Jr.)

LAW JOURNAL PUBLICATIONS (cont.)

Why Federal Courts Apply the Law of Nations Even Though it is Not the Supreme Law of the Land, 106 GEO. L. J. 1915 (2018) (with Anthony J. Bellia Jr.)

Boyle as Constitutional Preemption, 92 NOTRE DAME L. REV. 2129 (2017)

Honoring Dan Meltzer, 91 NOTRE DAME L. REV. 1739 (2016) (Foreword to Annual Federal Courts Issue)

The Original Source of the Cause of Action in Federal Courts: The Example of the Alien Tort Statute, 101 VA. L. REV. 609 (2015) (with Anthony J. Bellia Jr.)

- Cited in *DeVillier v. Texas*, 601 U.S. 285, 292 n.2 (2024)

Two Myths About the Alien Tort Statute, 89 NOTRE DAME L. REV. 1609 (2014) (with Anthony J. Bellia Jr.)

Tel-Oren, Filartiga, and the Meaning of the Alien Tort Statute, 80 U. CHI. L. REV. DIALOGUE 177 (2013)

General Law in Federal Court, 54 WM. & MARY L. REV. 655 (2013) (with Anthony J. Bellia Jr.)

The Law of Nations as Constitutional Law, 98 VA. L. REV. 729 (2012) (with Anthony J. Bellia Jr.)

- Cited and quoted in *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin*, 599 U.S. 382, 404 (2023) (Gorsuch, J., dissenting)

The Alien Tort Statute and the Law of Nations, 78 U. CHI. L. REV. 445 (2011) (with Anthony J. Bellia Jr.)

- Cited and quoted in *Nestle U.S.A. v. Doe*, 593 U.S. 628, 642 (2021) (Gorsuch, J., concurring)
- Cited, quoted, and discussed in *Jesner v. Arab Bank*, 138 S. Ct. 1386, 1416-17 (2018) (Gorsuch, J., concurring in part and concurring in the judgment)

The Eleventh Amendment and the Nature of the Union, 123 HARV. L. REV. 1817 (2010)

- Cited and quoted in *Torres v. Texas Dept. Of Public Safety*, 142 S. Ct. 2255 (2022) (Thomas, J., dissenting)

The Political Branches and the Law of Nations, 85 NOTRE DAME L. REV. 1795 (2010) (with Anthony J. Bellia Jr.)

The Federal Common Law of Nations, 109 COLUM. L. REV. 1 (2009) (with Anthony J. Bellia Jr.)

Federal Lawmaking and the Role of Structure in Constitutional Interpretation, 96 CALIF. L. REV. 699 (2008)

LAW JOURNAL PUBLICATIONS (cont.)

The Procedural Safeguards of Federalism, 83 NOTRE DAME L. REV. 1681 (2008)

Constitutional Compromise and the Supremacy Clause, 83 NOTRE DAME L. REV. 1421 (2008)

Domesticating Sole Executive Agreements, 93 VA. L. REV. 1573 (2007)

Erie's Constitutional Source, 95 CALIF. L. REV. 1289 (2007)

- Cited in *Shady Grove Orthopedic Assoc. v. Allstate Ins.*, 559 U.S. 393, 416 (2010)

Constitutional Structure, Judicial Discretion, and the Eighth Amendment, 81 NOTRE DAME L. REV. 1149 (2006)

Unitary Judicial Review, 72 GEO. WASH. L. REV. 319 (2003)

The Constitutional Structure and the Jurisprudence of Justice Scalia, 47 ST. LOUIS U. L. J. 753 (2003)

The Supremacy Clause as a Constraint on Federal Power, 71 GEO. WASH. L. REV. 91 (2003)

Putting the Safeguards Back Into the Political Safeguards of Federalism, 80 TEX. L. REV. 327 (2001)

Separation of Powers as a Safeguard of Federalism, 79 TEX. L. REV. 1321 (2001)

- Cited in *Collins v. Virginia*, 584 U.S. 586, 606 (2018) (Thomas, J., concurring)
- Examined and discussed in *Symposium: Separation of Powers as a Safeguard of Federalism*, 83 NOTRE DAME L. REV. 1417-1712 (2008)

Translating Federalism: A Structural Approach, 66 GEO. WASH. L. REV. 1161 (1998)

Ascertaining the Laws of the Several States: Positivism and Judicial Federalism After Erie, 145 U. PA. L. REV. 1459 (1997)

Federal Common Law: A Structural Reinterpretation, 144 U. PA. L. REV. 1245 (1996)

- Cited in *Franchise Tax Board of Calif. v. Hyatt*, 587 U.S. 230, 246 (2019)
- Cited in *Sosa v. Alvarez-Machain*, 542 U.S. 692, 740 (2004) (Scalia, J., concurring in part and concurring in the judgment)

Note, *Judicial Review of Congressional Section Five Action: The Fallacy of Reverse Incorporation*, 84 COLUM. L. REV. 1969 (1984)

SELECT PRESENTATIONS

- “Should Courts Embrace General Law?” (debate with Prof. Stephen Sachs), Daniel Webster Debate Series, Georgetown Law Federalist Society, Georgetown University Law Center, Washington DC (Oct. 5, 2026)
- “*Erie* and the New General Law,” Fundamentals and Frontiers of Federalism, Texas A&M Center on the Structural Constitution, Washington DC (Sept. 26, 2025)
- “General Law in Historical Perspective,” UVA Federalist Society 6th Annual Originalism Symposium: “Unwritten Law: Bridging Originalism and the General Law,” University of Virginia Law School, Charlottesville, VA (April 3, 2025)
- “A Conversation with Justice Goodwin Liu, Judge John Owens, and Judge Paul Watford on The Legacy of Justice Ruth Bader Ginsburg,” Symposium, George Washington University Law School, Washington, DC (Feb. 24, 2022)
- “The Forgotten Nature of the United States Constitution,” 13th Annual Hugh & Hazel Darling Foundation Originalism Works-in-Progress Conference, University of San Diego School of Law, San Diego, CA (Feb. 18, 2022)
- “A Conversation with Solicitor General Paul Clement” to commemorate Constitution Day, George Washington University Law School, Washington, DC (Sept. 17, 2020)
- “The International Law Origins of American Federalism,” Public Law Workshop, Harvard Law School, Cambridge, MA (Feb. 12, 2020)
- “A Conversation with Solicitor General Noel Francisco” to commemorate Constitution Day, George Washington University Law School, Washington, DC (Sept. 17, 2019)
- “Why Federal Courts Apply the Law of Nations Even Though it is Not the Supreme Law of the Land,” Faculty Workshop, Antonin Scalia Law School, Arlington, VA (Mar. 6, 2018)
- “The Law of Nations in Historical Context,” Symposium on Bellia & Clark, THE LAW OF NATIONS AND THE UNITED STATES CONSTITUTION, Georgetown University Law Center, Washington, DC (Nov. 3, 2017)
- “Justice Scalia’s Jurisprudence and National Security,” The Federalist Society National Lawyers Convention, Washington, DC (Nov. 18, 2016)
- “A Conversation with Justice Elena Kagan” to commemorate Constitution Day and the 150th Anniversary of George Washington University Law School, Washington, DC (Sept. 13, 2016)
- “The Law of Nations and the United States Constitution” (selected chapters), Tenth Annual Potomac Foreign Relations Law Roundtable, George Washington University Law School, Washington, DC (Apr. 29, 2016)
- Moderator, “Honoring Dan Meltzer,” AALS Annual Meeting, Section on Federal Courts, New York, NY (Jan. 8, 2016)

SELECTED PRESENTATIONS (cont.)

- “Indirect History: Recovering Background Context in Federal Courts Jurisprudence,”
AALS Annual Meeting, Section on Federal Courts, Washington, DC (Jan. 4, 2015)
- “The Process Acts and the Alien Tort Statute,” Legal History Colloquium, New York
University Law School, New York, NY (Sept. 22, 2014)
- “The Law of Nations as Constitutional Law,” The Best of Virginia Law Review:
Celebrating 100 Years, University of Virginia Law School, Charlottesville, VA
(Mar. 28, 2014)
- “The Law of Nations in United States Courts,” Seventh Annual Potomac Foreign Relations
Law Roundtable, George Washington University Law School, Washington, DC
(Apr. 26, 2013)
- “Customary International Law: What is its Role in the U.S. Legal System?,” American
Society of International Law CLE Institute, Washington, DC (Mar. 22, 2013)
- “The Law of Nations in United States Courts,” Faculty Workshop, George Mason
University School of Law, Arlington, VA (Sept. 18, 2012)
- “*Kiobel*, Subject Matter Jurisdiction, and the Alien Tort Statute,” Symposium on Corporate
Responsibility and the Alien Tort Statute, Georgetown University Law Center,
Washington, DC (Mar. 27, 2012)
- “General Law in Federal Court,” Symposium: Law Without a Lawmaker, College of
William and Mary, Marshall-Wythe School of Law, Williamsburg, VA (Feb. 24,
2012)
- “The Law of Nations as Constitutional Law,” Foreign Relations Law Colloquium,
Georgetown University Law Center, Washington, DC (Feb. 10, 2012)
- “Cases Arising Under the Law of Nations,” A Symposium to Mark the 100th Anniversary
of Farrand’s *Records of the Federal Convention*, George Washington University
Law School, Washington, DC (Nov. 4, 2011)
- “The Alien Tort Statute and the Law of Nations,” Annual Workshop, International Law in
Domestic Courts Interest Group, American Society of International Law, University
of Virginia Law School, Charlottesville, VA (Dec. 13, 2010)
- “The Alien Tort Statute and the Law of Nations,” Fourth Annual Potomac Foreign
Relations Law Roundtable, George Washington University Law School,
Washington, DC (May 7, 2010)
- “The Eleventh Amendment and the Nature of the Union,” Constitutional Law Colloquium,
Northwestern University Law School, Chicago, IL (Mar. 2, 2010)
- “The Political Branches and the Law of Nations,” Center for International and Comparative
Law Roundtable, Duke Law School, Durham, NC (Jan. 30, 2010)

SELECTED PRESENTATIONS (cont.)

- “The Eleventh Amendment and the Nature of the Union,” Legal Theory Workshop, University of Michigan Law School, Ann Arbor, MI (Oct. 15, 2009)
- “The Federal Common Law of Nations,” Faculty Workshop, Georgetown University Law Center, Washington, DC (Apr. 7, 2009)
- “The Federal Common Law of Nations,” Annual Workshop, International Law in Domestic Courts Interest Group, American Society of International Law, Temple Law School, Philadelphia, PA (Dec. 8, 2008)
- “The Federal Common Law of Nations,” Legal Theory Workshop, Columbia Law School, New York, NY (Oct. 13, 2008)
- “Asking the Wrong Question: Treaties and the Self-Execution Debate,” Foreign Relations Law Workshop, Duke Law School, Durham, NC (Sept. 27, 2008)
- “Statutory Interpretation and the Supremacy Clause,” Statutory Interpretation Colloquium, Georgetown University Law Center, Washington, DC (Mar. 24, 2008)
- “The Procedural Safeguards of Federalism,” Symposium on Clark, *Separation of Powers as a Safeguard of Federalism*, Notre Dame Law School, South Bend, IN (Oct. 19, 2007)
- “Domesticating Sole Executive Agreements,” Faculty Workshop, Harvard Law School, Cambridge, MA (Sept. 24, 2007)
- “Process-Based Preemption,” Conference on Federalism in the Overlapping Territory, Duke Law School, Durham, NC (Nov. 10, 2006)
- “Unitary Judicial Review,” *Marbury* and It’s Legacy: A Symposium to Mark the 200th Anniversary of *Marbury v. Madison*, George Washington University Law School, Washington, DC (Apr. 10, 2003)
- “Translating Federalism: A Structural Approach,” Textualism and the Constitution: A Symposium, George Washington University Law School, Washington, DC (Feb. 13, 1998)

TESTIMONY

The DC Circuit: The Importance of Balance on the Nation's Second Highest Court,
Testimony before the Subcommittee on Administrative Oversight and the Courts,
Committee on the Judiciary, United States Senate, Sept. 24, 2002

AMICUS BRIEF

Kiobel v. Royal Dutch Petroleum Co., Supreme Court of the United States,
Filed Supplemental Brief of Professors Anthony J. Bellia Jr. and Bradford R. Clark
as Amicus Curiae in Support of Respondents, Aug. 2012

PROFESSIONAL ASSOCIATIONS

Admitted to the D.C. Bar
Member, American Bar Association
Senior Scholar, The Federalist Society for Law and Public Policy Studies