

## BRADFORD R. CLARK

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### ACADEMIC EXPERIENCE

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#### **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)*, 1993-1997

*Courses:*

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

*Committee Service:*

Chair, Faculty Clerkship Committee, 2002-2006, 2008-present

Member, Faculty Clerkship Committee, 1994-present

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

Journal Advisory Committee, 1998-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, Constitutional Law (Advanced), Foreign Relations and Constitutional Structure (Seminar)

#### **University of Michigan Law School, Ann Arbor, MI**

*Visiting Professor of Law*, Fall 2009

*Courses:* Civil Procedure

## EDUCATION

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### **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

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### **Supreme Court of the United States**, Washington, DC

*Special Master, Alabama et al. v. North Carolina, No. 132 (Original)*, 2003-11

(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 AND BOOK CHAPTERS

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*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.)

THE LAW OF NATIONS AND THE UNITED STATES CONSTITUTION (Oxford 2017) (with Anthony J. Bellia Jr.) (this book is examined in *Symposium: The Law of Nations and the United States Constitution*, 106 GEO. L. J. 1558-1961 (2018))

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

## LAW JOURNAL PUBLICATIONS

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*The Forgotten Nature of the United States Constitution* (with Anthony J. Bellia Jr.) (work in progress)

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

*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)

*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.)

*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.)

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

**LAW JOURNAL PUBLICATIONS (cont.)**

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*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)

*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)

*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) (this article is examined 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)

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

**SELECTED PRESENTATIONS**

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- “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 150<sup>th</sup> 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)
- “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)

**SELECTED PRESENTATIONS (cont.)**

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- “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 100<sup>th</sup> 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)
- “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)

## SELECTED PRESENTATIONS (cont.)

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- “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 200<sup>th</sup> 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

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**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

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**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

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Admitted to the D.C. Bar; Member, American Bar Association