

AARON-ANDREW P. BRUHL

William & Mary Law School

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ACADEMIC APPOINTMENTS

WILLIAM & MARY LAW SCHOOL, Williamsburg, VA

Associate Dean for Research and Faculty Development (since Fall 2019)

Rita Anne Rollins Professor of Law (since Fall 2019; Professor of Law, 2015-2019)

Courses: Legislation and Statutory Interpretation, Civil Procedure, Federal Courts,
Administrative Law

Honors: 2020 Walter L. Williams Jr. Teaching Award (selected by students)

Robert E. and Elizabeth S. Scott Research Professor, 2018-19

2017 Plumeri Award for Faculty Excellence (university-wide award)

Previous:

UNIVERSITY OF HOUSTON LAW CENTER, Houston, TX

Associate Professor of Law with tenure (Fall 2011 – Summer 2015)

Assistant Professor of Law (Fall 2006 – Summer 2011)

UNIVERSITY OF TEXAS SCHOOL OF LAW, Austin, TX

Visiting Professor (Fall 2010)

EDUCATION

YALE LAW SCHOOL, New Haven, CT.

J.D., 2003

Yale Law Journal, Book Reviews Editor

Yale Law & Policy Review

Yale Journal of Law & the Humanities

Emerson Prize for Distinguished Paper on Legislation

UNIVERSITY OF CAMBRIDGE, Cambridge, United Kingdom

M.Phil., Political Theory, 2001

Downing Scholar

POMONA COLLEGE, Claremont, CA

B.A., *summa cum laude*, Philosophy, Politics, and Economics, 1999

Phi Beta Kappa (inducted early)

Men's Varsity Swimming Team, All-Conference Team

PUBLICATIONS

Journal Articles:

The Remand Power and the Supreme Court's Role, 96 **Notre Dame L. Rev.** 171 (2020).

Eager to Follow: Methodological Precedent in Statutory Interpretation, 99 **N. Car. L. Rev.** 101 (2020).

Statutory Interpretation and the Rest of the Iceberg: Divergences Between the Lower Federal Courts and the Supreme Court, 68 **Duke L.J** 1 (2018).

One Good Plaintiff Is Not Enough, 67 **Duke L.J.** 481 (2017).

- This article is the basis for “Brief of Amicus Curiae Prof. Aaron-Andrew P. Bruhl in Support of Petitioner,” *Town of Chester v. Laroe Estates* (U.S. Supreme Court, No. 16-605).

The Jurisdiction Canon, 70 **Vanderbilt L. Rev.** 499 (2017).

Communicating the Canons: How Lower Courts React When the Supreme Court Changes the Rules of Statutory Interpretation, 100 **Minn. L. Rev.** 481 (2015).

Following Lower-Court Precedent, 81 **U. Chicago L. Rev.** 851 (2014).

Measuring Circuit Splits: A Cautionary Note, 3 **J. Legal Metrics** 361 (2014) (peer-edited).

Hierarchically Variable Deference to Agency Interpretations, 89 **Notre Dame L. Rev.** 727 (2013).

Elected Judges and Statutory Interpretation, 79 **U. Chicago L. Rev.** 1215 (2012) (with Ethan J. Leib).

Hierarchy and Heterogeneity: How To Read a Statute in a Lower Court, 97 **Cornell L. Rev.** 433 (2012).

- Abridged version of this article was published at *The Legal Workshop* (June 2012).

When Is Finality . . . Final?, 12 **J. Appellate Practice & Process** 1 (2011) (peer-edited).

The Senate: Out of Order?, 43 **Conn. L. Rev.** 1041 (2011) (symposium issue).

Deciding When To Decide: How Appellate Procedure Distributes the Costs of Legal Change, 96 **Cornell L. Rev.** 203 (2011).

- Abridged version of this article was published at *The Legal Workshop* (Jan. 2011).

Burying the “Continuing Body” Theory of the Senate, 95 **Iowa L. Rev.** 1401 (2010).

The Supreme Court's Controversial GVRs – and an Alternative, 107 **Mich. L. Rev.** 711 (2009).

The Unconscionability Game: Strategic Judging and the Development of Federal Arbitration Law, 83 **NYU L. Rev.** 1420 (2008).

- Abridged version of this article was published at *The Legal Workshop* (Mar. 2009).

Return of the Line Item Veto? Legalities, Practicalities, and Some Puzzles, 10 **Univ. Penn. J. Constitutional L.** 447 (2008).

If the Judicial Confirmation Process Is Broken, Can a Statute Fix It?, 85 **Nebraska L. Rev.** 960 (2007).

Against Mix-and-Match Lawmaking, 16 **Cornell J. L. & Pub. Pol’y** 349 (2007) (solicited).

Using Statutes To Set Legislative Rules: Entrenchment, Separation of Powers, and the Rules of Proceedings Clause, 19 **J. L. & Pol.** 345 (2003).

Public Reason as a Public Good, 4 **J. L. in Society** 217 (2003).

Note, *Justice Unconceived: How Posterity Has Rights*, 14 **Yale J. L. & Humanities** 393 (2002).

Shorter Works (online journals, bar publications, encyclopedia entries, courseware, etc.):

Book review, “Rationing the Constitution: Beyond and Below,” **BALKINIZATION** (Sept. 10, 2019).

Separating Amicus Wheat from Chaff, 106 **GEO. L.J. ONLINE** 135 (2017) (with Adam Feldman).

Judicial Activism and the Problem of Induction, 16 **GREEN BAG 2D** 453 (2013) (comment on Suzanna Sherry’s *Why We Need More Judicial Activism*).

When is Finality Final? Second Chances at the Supreme Court, **THE APPELLATE FORUM** [Nat’l Bar Ass’n Appellate Section Newsletter], vol. 1, no. 1, p. 2 (Jan. 2013).

Entries on *Precedent* and *Contempt of Congress* in **ENCYCLOPEDIA OF POLITICAL SCIENCE** (CQ Press/Sage, 2010).

Entries on *Ripeness* and *Abstention* in **ENCYCLOPEDIA OF THE UNITED STATES CONSTITUTION** (Facts on File, 2009).

Entries on *Subject Matter Jurisdiction* and *Abbott Labs v. Gardner* in **ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES** (Macmillan/Gale, 2008).

“Supplemental Jurisdiction,” interactive Mathematica demonstration available at <http://demonstrations.wolfram.com> (Fall 2007) (with Seth J. Chandler).

The New Line Item Veto Proposal: This Time It’s Constitutional (Mostly), 116 **YALE L.J. POCKET PART** 84 (2006).

Former contributor to “Case Notes” column in *Communications Lawyer* newsletter.

Guest blogger on Prawfsblawg, www.prawfs.com (Feb.-Mar. 2010, May 2011).

Working Papers and Manuscripts:

“Solving Statutory Interpretation’s *Erie* Problem”

PRESENTATIONS AND LECTURES

“Solving Statutory Interpretation’s *Erie* Problem,” William & Mary Law School Winter Workshop (Dec. 2020).

“Solving Statutory Interpretation’s *Erie* Problem,” Yale Legislation Roundtable (Feb. 2020).

“The Remand Power and the Judicial Role,” Fifth Annual Civil Procedure Workshop, University of Texas School of Law (Oct. 2019).

“The Remand Power,” Southeastern Association of Law Schools Annual Meeting, Boca Raton, FL (August 2019).

“American Approaches to Statutory Interpretation,” Beijing Normal University – Zhuhai Campus, China (May 2019).

“Deregulation in the Trump Administration,” Beijing Normal University, China (May 2019).

“Hierarchical Divergence in Statutory Interpretation: Positive and Normative Perspectives,” St. George Tucker Lecture, William & Mary Law School (April 2019).

“Textualism in the Lower Courts,” AALS Annual Meeting, New Orleans (January 2019).

Panelist on the nomination of Brett Kavanaugh to the Supreme Court, William & Mary Law School (Sept. 2018).

“Statutory Interpretation and the Rest of the Iceberg: Divergences Between the Lower Federal Courts and the Supreme Court,” Legislation Roundtable, Fordham Law School (March 2018).

“One Good Plaintiff Is Not Enough,” Third Annual Civil Procedure Workshop, University of Arizona (Oct. 2017).

“What Would It Mean to Have Methodological *Stare Decisis* (and Do We Already Have It)?,” Southeastern Association of Law Schools Annual Meeting, Boca Raton, FL (August 2017).

Discussant, “Methods of Formative and Summative Assessment,” Southeastern Association of Law Schools Annual Meeting, Boca Raton, FL (August 2017).

Discussant, AALS Annual Meeting, Legislation Section Works-in-Progress Program, San Francisco (January 2017).

Panelist on “Trump Administration’s First 100 Days,” William & Mary Law School (January 2017).

“What Would It Mean to Have Methodological *Stare Decisis* (and Do We Already Have It)?,” William & Mary Law School internal workshop (August 2016).

“The Jurisdictional Canon,” Legislation Roundtable, Cardozo School of Law (March 2016).

Panelist on “Navigating the Hiring Process,” Southeastern Association of Law Schools Annual Meeting, Boca Raton, FL (July 2015).

“Communicating the Canons,” Faculty Colloquium, Willamette University College of Law (March 2015).

“Communicating the Canons,” Colloquium on Statutory Interpretation, Duke University School of Law (January 2015).

“Following Lower-Court Precedent,” Faculty Presentation, William & Mary Law School (Sept. 2014).

“Following Lower-Court Precedent,” Faculty Workshop, University of Houston Law Center (Feb. 2014).

“The Force of Lower-Court Precedent,” Faculty Colloquium, South Texas College of Law (Nov. 2013).

Discussant on panel on “The Current Supreme Court Term” organized by the University of Houston Law Center Federalist Society (Oct. 2013).

Organizer and moderator of panel on “Legislation and Regulation Courses,” Southeastern Association of Law Schools Annual Meeting, Palm Beach, FL (Aug. 2013).

“Hierarchically Variable Deference to Agency Interpretations,” Faculty Workshop, University of Wisconsin Law School (April 2013).

Discussant on panel on “Is the Roberts Court Pro-Business?” organized by the University of Houston Law Center Federalist Society (March 2013).

“Hierarchically Variable Deference to Agency Interpretations,” AALS Annual Meeting, Administrative Law Section’s “New Voices” Program, New Orleans, LA (Jan. 2013).

“Elected Judges and Statutory Interpretation,” Northwestern University Law School - Law & Political Economy Colloquium (Nov. 2012).

“Hierarchically Variable Deference,” Faculty Workshop, University of Houston Law Center (May 2012).

“Heterogeneity in Statutory Interpretation,” Faculty Colloquium, South Texas College of Law (Feb. 2012).

Discussant on panel on “The Judicial Confirmation Wars” organized by the University of Houston Law Center Federalist Society (Feb. 2012).

Panelist on “Statutory Interpretation and Separation of Powers,” AALS Annual Meeting, Legislation Section, Washington, DC (Jan. 2012).

“Hierarchy and Heterogeneity in Statutory Interpretation,” Law & Society Association Annual Meeting, San Francisco, CA (June 2011).

Moderator and organizer of CLE panel on Federal Rules of Civil Procedure and Federal Rules of Appellate Procedure, Fifth Circuit Judicial Conference, San Antonio, TX (May 2011).

“Hierarchy and Heterogeneity in Statutory Interpretation,” Columbia Law School Legislation Works-in-Progress Roundtable (April 2011).

“Update on Affordable Care Act Litigation,” Health Law Organization, University of Houston Law Center (Feb. 2011).

“Statutory Interpretation in the Lower Courts: Some Institutional Considerations,” Faculty Colloquium, University of Texas School of Law (Nov. 2010).

“Senate Supermajority Rules,” Rice University – Glasscock School for Continuing Education (Oct. 2010).

“Ways of Fixing the Senate,” Symposium hosted by the University of Connecticut School of Law (Oct. 2010).

Statement of Professor Aaron-Andrew P. Bruhl, Hearing Before the Senate Committee on Rules and Administration: “Examining the Filibuster: Legislative Proposals to Change Senate Procedures” (Sept. 22, 2010) (submitted for the hearing record by Sen. Tom Udall).

“New Ideas in the Design of Appellate Courts,” Southeastern Association of Law Schools Annual Meeting, Palm Beach, FL (Aug. 2010).

“The Supermajoritarian Senate,” Rice University Summer Advanced Placement Institute (July 2010).

“Healthcare Reform and the Legislative Process,” Health Law Organization, University of Houston Law Center (April 2010).

“Deciding When To Decide: How Appellate Procedure Distributes the Costs of Legal Change,” Southwest/West Junior Faculty Conference, Arizona State University (March 2010).

"How Appellate Procedure Distributes the Costs of Legal Change," Quinnipiac/Yale Dispute Resolution Workshop (Feb. 2010).

"How Appellate Procedure Distributes the Costs of Legal Change," Faculty Workshop, University of Houston Law Center (Nov. 2009).

Discussant at mini-conference on "Statutory Interpretation and New Legal Realism," University of Wisconsin Law School (Oct. 2009).

"How Appellate Procedure Distributes the Costs of Legal Change," Junior Faculty Federal Courts Conference, Michigan State University College of Law (Oct. 2009).

Presenter at Appellate Advocacy Seminar sponsored by Bar Association of the Fifth Federal Circuit, New Orleans (Oct. 2009).

"Burying the Continuing Body Theory of the Senate," Faculty Workshop, University of Houston Law Center (Jan. 2009).

"Burying the Continuing Body Theory of the Senate," Faculty Colloquium, University of Texas School of Law (Nov. 2008).

"What Does It Mean for the Senate To Be a Continuing Body?" Southeastern Association of Law Schools Annual Meeting, West Palm Beach, FL (July 2008).

"The Supreme Court's Controversial GVRs," American University/Washington College of Law Federal Courts Junior Scholars Workshop (April 2008).

"Strategic Judging and the Federal Arbitration Act," Marquette University Law School Dispute Resolution Conference (Oct. 2007).

"Strategic Judging and the Federal Arbitration Act," Texas Junior Legal Scholars Conference, Ft. Worth, TX (Aug. 2007).

"Return of the Line Item Veto? Legalities, Practicalities, and Some Puzzles," Stetson University College of Law (April 2007).

"Reporter's Privilege and the Wen Ho Lee Case," Arts, Entertainment, Media, and Sports Law Section of District of Columbia Bar Association (May 2005).

SERVICE

Service to the Bar, Academic Community, Public, and Media:

American Law Institute: elected member (since October 2014).

AALS Section on Legislation: executive committee member, 2016-2017.

AALS Section on Federal Courts: executive committee member, 2010-2015.

Southeastern Association of Law Schools: Prospective Law Teachers Committee, 2014-2015; representative to Steering Committee, 2017 and 2019.

American Bar Association: Media Alerts on Federal Courts of Appeals Project, academic coordinator for the Fifth Circuit, Jan. 2013-May 2015.

Bar Association of the Fifth Federal Circuit: Board of Governors, 2008-2014 (two terms).

Dozens of media appearances (television, radio, newspaper, national wire services, and web).

Peer reviews for academic publishers and journals.

Yale Law School Association: Executive Committee, 2011-2014.

Former contributor to newsletter of AALS Section on Civil Procedure.

Assisted governmental and non-profit litigators with moot courts and argument preparation

Bar and public service presentations listed under "Presentations and Lectures" above.

Mentor for junior scholars at the Southeastern Association of Law Schools annual meeting.

William & Mary – College and Law School:

Appointments Committee: 2016-2018, 2019-present (*ex officio* as Assoc. Dean)

Status Committee: Spring 2016, 2018-2019

Assessment Committee: 2019-2020

Enrichment Committee: 2019-present (chair)

Internat'l Advisory Committee: 2019-present (Law School representative on university committee)

Task Force on Rankings: 2019-2020

Plumeri Award Selection Cmte: Fall 2020

Search Committee for
Ass't Dean for Strategic Initiatives 2020-2021 (chair)

Ad Hoc Committees on
Non-Tenure-Eligible Faculty: Fall 2015, Spring 2017-Fall 2017

Informal service in the form of judging moot court tournaments, helping clinic students prepare for oral arguments, making presentations on course selection, and the like.

University of Houston Law Center:

Appointments Committee: 2008-2009, 2011-2013 (chair of the entry-level committee),
2013-2014, 2014-2015

Dean Search Committee: 2013-2014

Executive Committee: 2008-2010

Faculty Scholarship and
Advancement Committee: 2009-2011

Faculty member of Honor Court
(elected by students): 2011-2015

Clerkship Committee: Spring 2009-Summer 2009

Curriculum Committee: 2007-2008, 2010-2011, 2014-2015 (grading and credits
subcommittee)

Legal Research and Writing
Hiring Committee: Spring-Summer 2007

Student Services Committee: 2006-2007

Speaker at various University of Houston Law Center programs on career advice, judicial clerkships, academic advising, etc.

PREVIOUS PROFESSIONAL EXPERIENCE AND BAR ADMISSIONS

JENNER & BLOCK LLP, Washington, DC, 2004-2006

Associate. Litigation practice with emphasis on appellate litigation. Drafted briefs, motions, and pleadings filed in state and federal courts (including six briefs before the United States Supreme

Court) on issues such as the First Amendment rights of reporters, federal jurisdiction, election law, copyright law, federal Indian law, and Federal Communications Commission regulations.

THE HONORABLE CAROLYN DINEEN KING, UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, Houston, TX, 2003-2004

Law Clerk

WILMER CUTLER & PICKERING LLP, Washington, DC, Summer 2002

Summer Associate

WASHINGTON LAWYERS' COMMITTEE FOR CIVIL RIGHTS AND URBAN AFFAIRS, Washington, DC, Summer 2001

Legal Intern

MILLER & CHEVALIER, Washington, DC, Summer 2001.

Summer Associate

Bar Admissions:

New York, 2004

District of Columbia, 2005

PREVIOUS TEACHING EXPERIENCE

YALE LAW SCHOOL, Prof. Daniel S. Markovits, New Haven, CT, Fall 2002

Teaching Fellow

YALE UNIVERSITY PHILOSOPHY DEPARTMENT, Prof. Mathias Risse, New Haven, CT, Spring 2001

Teaching Assistant