

Gary Lawson
William Fairfield Warren Distinguished Professor
Boston University School of Law

ACADEMIC RESUME

Revised 03/18/23

Boston University School of Law
765 Commonwealth Avenue
Boston, MA 02215
(617) 353-3812
glawson@bu.edu

6 Willis Holden Drive
Acton, MA 01720
(978)929-2551 (home)
(978)828-3287 (cell)
glawson@bu.edu

EMPLOYMENT

04/2022-present -- William Fairfield Warren Distinguished Professor, Boston University
10/2012-04/2022 -- Philip S. Beck Professor, Boston University School of Law
01/2000-09/2012 -- Professor, Boston University School of Law
09/1994-01/2000 -- Professor, Northwestern University School of Law
08/1991-09/1994 -- Associate Professor, Northwestern University School of Law
08/1988-08/1991 -- Assistant Professor, Northwestern University School of Law
08/1987-08/1988 -- John M. Olin Research Fellow, Yale Law School
10/1986-08/1987 -- Law Clerk, Justice Antonin Scalia, United States Supreme Court
10/1985-09/1986 -- Attorney-Adviser, Office of Legal Counsel, United States Department of Justice

08/1984-09/1985 -- Law Clerk, Judge Antonin Scalia, United States Court of Appeals for the District of Columbia Circuit

08/1983-06/1984 -- Associate, Ferguson & Burdell, Seattle, WA

EDUCATION

Law School: Yale Law School, New Haven, CT. J.D. received June 8, 1983

College: Claremont Men's College, Claremont, CA. B.A. in Philosophy, summa cum laude, received May 23, 1980

SCHOLARLY PUBLICATIONS

UNIVERSITY PRESS BOOKS

Deference: The Legal Concept and the Legal Practice (Oxford University Press, 2019) (with Guy I. Seidman)

“A Great Power of Attorney”: **Understanding the Fiduciary Constitution** (University Press of Kansas, 2017) (with Guy I. Seidman)

Evidence of the Law: Proving Legal Claims (University of Chicago Press, 2017)

The Origins of the Necessary and Proper Clause (Cambridge University Press, 2010) (with Geoffrey P. Miller, Robert G. Natelson & Guy I. Seidman)

The Constitution of Empire: Territorial Expansion and American Legal History (Yale University Press, 2004) (with Guy I. Seidman)

TEXTBOOKS

The United States Constitution: Creation, Reconstruction, the Progressives, and the Modern Era (Foundation Press, 2020) (with Steven G. Calabresi) (and accompanying **Teachers Manual**)

Federal Administrative Law (9th ed.) (West 2022) (and accompanying **Teachers Manual**)

Federal Administrative Law (8th ed.) (West, 2019) (and accompanying **Teachers Manual**)

Federal Administrative Law (7th ed.) (West, 2016) (and accompanying **Teachers Manual**)

Federal Administrative Law (6th ed.) (West, 2013) (and accompanying **Teachers Manual**)

Federal Administrative Law (5th ed.) (West, 2009) (and accompanying **Teachers Manual**)

Federal Administrative Law (4th ed.) (Thomson/West, 2007) (and accompanying **Teachers Manual**)

Federal Administrative Law (3d ed.) (Thomson/West, 2004) (and accompanying **Teachers Manual**)

Federal Administrative Law (2d ed.) (WestGroup, 2001) (and accompanying **Teachers Manual**)

Federal Administrative Law (West Publishing Co., 1998) (and accompanying **Teachers Manual**)

ARTICLES AND BOOK CHAPTERS

Congressional Meddling in Presidential Elections: Still Unconstitutional After All These Years, -- **B.U. L. Rev. Online** – (2023) (with Jack Beermann)

The Ghosts of Chevron Present and Future, 103 **B.U. L. Rev.** – (2023) (forthcoming)

Against the Cheney II “Doctrine,” 99 **Notre Dame L. Rev.** – (2023) (with Joseph Postell) (forthcoming)

Operationalizing the Unitary Executive, 91 **Fordham L. Rev.** – (2023) (forthcoming)

What McCulloch v. Maryland Got Wrong: The Original Meaning of “Necessary” Is Not “Useful,” “Convenient,” or “Rational,” 75 **Baylor L. Rev.** – (2023) (with Steven G. Calabresi & Elise Kostial) (forthcoming)

Equivocal Originalism, 27 **Tex. Rev L. & Politics** 309 (2022)

Are People in Federal Territories Part of “We the People of the United States”?, 9 **Tex. A & M L. Rev.** 655 (2022) (with Guy Seidman)

The Electoral Count Act of 1877 Is Unconstitutional, and Other Fun Facts (Plus a Few Random Academic

Speculations) about Counting Electoral Votes, 15 **Fla. Int'l U. L. Rev.** 297 (2022) (with Jack Beermann)

A Private-Law Framework for Subdelegation, in The Administrative State before the Supreme Court: Perspectives on the Nondelegation Doctrine (Peter J. Wallison & John Yoo, eds., 2022)

The Epistemology of Second Best, 100 **Tex. L. Rev.** 749 (2022)

What Is “United” about the United States?, 101 **B.U. L. Rev.** 1793 (2021)

(Hypothetical) Communication in (Hypothetical) Context, 23 **J. Contemp. Legal Issues** 139 (2021)

Deep Tracks: Album Cuts that Help Define The Essential Scalia, 15 **N.Y.U. J. L. & Liberty** 169 (2021)

The Fiduciary Social Contract, 38 **Social Phil. & Pol’y** 25 (2021)

“I’m Leavin’ It (All) Up to You”: *Gundy v. United States and the (Almost) Resurrection of the Subdelegation Doctrine*, 2019 **Cato Sup. Ct. Rev.** 31

Gundy v. United States, in **Scotus 2019** (David Klein & Morgan Marietta eds., 2019)

Why Robert Mueller’s Appointment as Special Counsel Was Unlawful, 95 **Notre Dame L. Rev.** 87 (2019) (with Steven G. Calabresi)

An Enquiry Concerning Constitutional Understanding, 17 **Geo. J.L. & Pub. Pol’y** 491 (2019) (with Guy Seidman)

The Depravity of the 1930s and the Administrative State, 94 **Notre Dame L. Rev.** 821 (2018) (with Steven G. Calabresi)

Appointments and Illegal Adjudication: The AIA through a Constitutional Lens, 26 **Geo. Mason L. Rev.** 26 (2018)

Deference and National Courts in the Age of Globalization: Learning, Applying, and Deferring to Foreign Law, in 2 **Ius Dicere in a Globalized World** 431 (Chiara Antonia d’Allesandro & Claudio Marchese, eds. 2018) (with Guy Seidman)

Representative/Senator Trump?, 21 **Chapman L. Rev.** 111 (2018)

By Any Other Name: Rational Basis Inquiry and the Federal Government’s Fiduciary Duty of Care, 69 **Fla. L. Rev.** 1385 (2018) (with Guy Seidman)

Take the Fifth . . . Please! The Original Insignificance of the Fifth Amendment's Due Process of Law Clause, 2017 **B.Y.U. L. Rev.** 611

Confronting Crawford: Justice Scalia, the Judicial Method, and the Adjudicative Limits of Originalism, 84 **U. Chi. L. Rev.** 2265 (2017)

Did Justice Scalia Have a Theory of Interpretation?, 92 **Notre Dame L. Rev.** 2143 (2017)

Original Foreign Affairs Federalism, 97 **B.U. L. Rev.** 301 (2017)

Reflections of an Empirical Reader (Or, Could Fleming Be Right This Time?), 96 **B.U. L. Rev.** 1457 (2016)

Time, Institutions, and Adjudication, 95 **B.U. L. Rev.** 1793 (2016)

Inigo Montoya Goes to War, 95 **B.U. L. Rev.** 1355 (2015)

Understanding State Constitutions: Locke and Key, 93 **Tex. L. Rev. See Also** 203 (2015)

The Return of the King: The Unsavory Origins of Administrative Law, 93 **Tex. L. Rev.** 1521 (2015)

The Rule of Law as a Law of Law, 90 **Notre Dame L. Rev.** 483 (2015) (with Steven G. Calabresi)

Classical Liberal Constitution or Classical Liberal Construction?, 8 **N.Y.U. J. L. & Liberty** 808 (2014)

One(?) Nation Over-Extended, 94 **B.U. L. Rev.** 1109 (2014)

The Fiduciary Foundations of Federal Equal Protection, 94 **B.U. L. Rev.** 415 (2014) (with Robert G. Natelson & Guy Seidman)

Originalism without Obligation, 93 **B.U. L. Rev.** 1309 (2013)

Making Law Out of Nothing at All: The Origins of the Chevron Doctrine, 65 **Admin. L. Rev.** 1 (2013) (with Stephen Kam)

Night of the Living Dead Hand: The Individual Mandate and the Zombie Constitution, 81 **Fordham L. Rev.** 1699 (2013)

No History, No Certainty, No Legitimacy . . . No Problem: Originalism and the Limits of Legal Theory, 64 **Fla. L. Rev.** 1551 (2012)

Dead Document Walking, 92 **B.U. L. Rev.** 1225 (2012)

The PPACA in Wonderland, 38 **Am. J. L. & Med.** 269 (2012) (with David B. Kopel)

Bad News for John Marshall, 121 **Yale L.J. Online** 529 (2012) (with David B. Kopel)

Bad News for Professor Koppelman: The Incidental Unconstitutionality of the Individual Mandate, 121 **Yale L.J. Online** 267 (2011) (with David B. Kopel)

Rebel without a Clause: The Irrelevance of Article VI to Constitutional Supremacy, 110 **Mich. L. Rev. First Impressions** 33 (2011)

Optimal Specificity in the Law of Separation of Powers: The Numerous Clauses Principle, 124 **Harv. L. Rev. Online Forum** 42 (2011)

Truth, Justice, and the Libertarian Way(s), 91 **B.U. L. Rev.** 1347 (2011)

The American Experience with Territorial Governance, in EU Law of the Overseas: Outermost Regions, Associated Overseas Countries and Territories, Territories Sui Generis 417 (Dimitry Kochenov ed., 2011) (with Guy Seidman)

Stipulating the Law, 109 **Mich. L. Rev.** 1191 (2011)

Burying the Constitution under a TARP, 33 **Harv. J. L. & Pub. Pol’y** 55 (2010)

It Depends, 62 **Vand. L. Rev. En Banc** 139 (2009)

The “Principal” Reason Why the PCAOB Is Unconstitutional, 62 **Vand. L. Rev. En Banc** 73 (2009)

The Constitutionality of Decolonization by Associated Statehood: Puerto Rico’s Legal Status Reconsidered, 50 **B.C. L. Rev.** 1123 (2009) (with Robert D. Sloane)

The Constitution’s Congress, 89 **B.U. L. Rev.** 399 (2009)

Dirty Dancing -- The FDA Stumbles with the Chevron Two-Step, 93 **Cornell L. Rev.** 927 (2008)

What Lurks Beneath: NSA Surveillance and Executive Power, 88 **B.U. L. Rev.** 375 (2008)

A Truism with Attitude: The Tenth Amendment in Constitutional Context, 83 **Notre Dame L. Rev.** 469 (2008)

The Unitary Executive, Jurisdiction Stripping, and the Hamdan Opinions: A Textualist Response to Justice Scalia, 107 **Colum. L. Rev.** 1002 (2007) (with Steven G. Calabresi)

Reprocessing Vermont Yankee, 75 **Geo. Wash. L. Rev.** 856 (2007) (with Jack M. Beermann)

Mostly Unconstitutional: The Case Against Precedent Revisited, 5 **Ave Maria L. Rev.** 1 (2007)

Ordinary Powers in Extraordinary Times: Common Sense in Times of Crisis, 87 **B.U. L. Rev.** 289 (2007)

Originalism as a Legal Enterprise, 23 **Const. Commentary** 47 (2006) (with Guy Seidman)

The Jeffersonian Treaty Clause, 2006 **U. Ill. L. Rev.** 1 (with Guy Seidman)

“Oh Lord, Please Don’t Let Me Be Misunderstood!”: Rediscovering the Penn Central and Mathews v. Eldridge Frameworks, 81 **Notre Dame L. Rev.** 1 (2005) (with Katharine A. Ferguson & Guillermo Montero)

The Original “Incorporation” Debate, in The Louisiana Purchase and American Expansion, 1803-1898 (Sanford Levinson & Bartholomew H. Sparrow eds., 2005) (with Guy Seidman)

Prolegomenon to Any Future Administrative Law Course: Separation of Powers and the Transcendental Deduction, 49 **St. Louis U. L. Rev.** 885 (2005)

Burning Down the House (and Senate): A Presentment Requirement for Legislative Subpoenas under the Orders, Resolutions, and Votes Clause, 83 **Tex. L. Rev.** 1373 (2005)

Discretion as Delegation: The “Proper” Understanding of the Nondelegation Doctrine, 73 **Geo. Wash. L. Rev.** 235 (2005)

Making a Federal Case Out of It: Sabri v. United States and the Constitution of Leviathan, 2003-2004 **Cato Sup. Ct. Rev.** 119

Making Workshops Work, 54 **J. Leg. Education** 302 (2004)

Who’s the Boss? Controlling Auditor Incentives through Random Selection, 53 **Emory L. J.** 391 (2004) (with David B. Kahn)

Interpretative Equality as a Structural Imperative (or “Pucker Up and Settle This!”), 20 **Const. Commentary** 379 (2003)

The First “Establishment” Clause: Article VII and the Post-Constitutional Confederation, 78 **Notre Dame L. Rev.** 83 (2002) (with Guy Seidman)

Conservative or Constitutionalist?, 1 **Geo. J. L. & Pub. Pol’y** 81 (2002)

Delegation and Original Meaning, 88 **Va. L. Rev.** 327 (2002)

When Did the Constitution Become Law?, 77 **Notre Dame L. Rev.** 1 (2001) (with Guy Seidman)

Controlling Precedent: Congressional Regulation of Judicial Decision-Making, 18 **Const. Commentary** 191 (2001)

The Hobbesian Constitution: Governing without Authority, 95 **Nw. U. L. Rev.** 581 (2001) (with Guy Seidman)

Everything I Need to Know About Presidents I Learned from Dr. Seuss, 24 **Harv. J. L. & Pub. Pol'y** 381 (2001)

Taking Notes: Subpoenas and Just Compensation, 66 **U. Chi. L. Rev.** 1081 (1999) (with Guy Seidman)

Downsizing the Right to Petition, 93 **Nw. U. L. Rev.** 739 (1999) (with Guy Seidman)

The Bill of Rights as an Exclamation Point, 33 **U. Richmond L. Rev.** 511 (1999)

Reconceptualizing Chevron and Discretion: A Comment on Levin and Rubin, 72 **Chi.-Kent L. Rev.** 1377 (1997)

A Farewell to Principles, 82 **Iowa L. Rev.** 893 (1997)

On Reading Recipes . . . and Constitutions, 85 **Geo. L. Rev.** 1823 (1997)

The Executive Power of Constitutional Interpretation, 81 **Iowa L. Rev.** 1267 (1996) (with Christopher D. Moore)

Outcome, Procedure, and Process: Agency Duties of Explanation for Legal Conclusions, 48 **Rutgers L. Rev.** 313 (1996)

Legal Indeterminacy: Its Cause and Cure, 19 **Harv. J. L. & Pub. Pol'y** 411 (1996)

Who Legislates?, 1995 **Public Interest L. Rev.** 147 (reviewing David Schoenbrod, **Power Without Responsibility** (1993))

Linguistics and Legal Epistemology: Why the Law Pays Less Attention to Linguists than It Should, 73 **Wash. U. L. Q.** 995 (1995)

Feminist Legal Theories, 18 **Harv. J. L. & Pub. Pol'y** 325 (1994)

Proving Ownership, 11 **Social Phil. & Pol'y** 139 (1994)

The Rise and Rise of the Administrative State, 107 **Harv. L. Rev.** 1231 (1994)

The Constitutional Case Against Precedent, 17 **Harv. J. L. & Pub. Pol'y** 23 (1994)

The "Proper" Scope of Federal Power: A Jurisdictional Interpretation of the Sweeping Clause, 43 **Duke L. J.** 267 (1993) (with Patricia B. Granger)

Thayer Versus Marshall, 88 **Nw. U. L. Rev.** 221 (1993)

Foreword: Two Visions of the Nature of Man, 16 **Harv. J. L. & Pub. Pol'y** 1 (1993) (with Steven G. Calabresi)

Panel: Congress, the Courts, and the Bill of Rights, 23 **Cumberland L. Rev.** 103 (1992-93)

Efficiency and Individualism, 42 **Duke L. J.** 53 (1992)

Equity and Hierarchy: Reflections on the Harris Execution, 102 **Yale L. J.** 255 (1992) (with Steven G. Calabresi)

Proving the Law, 86 **Nw. U. L. Rev.** 859 (1992)

Foreword: The Constitution of Responsibility, 77 **Cornell L. Rev.** 955 (1992) (with Steven G. Calabresi)

An Interpretivist Agenda, 15 **Harv. J. L. & Pub. Pol'y** 157 (1992)

A Tale of Two Professions: The Third-Party Liability of Accountants and Attorneys for Negligent Misrepresentation, 52 **Ohio St. L. J.** 1309 (1991) (with Tamara Mattison)

Introduction: Prospects for the Rule of Law, 21 **Cumberland L. Rev.** 427 (1990-91) (with Steven G. Calabresi)

Territorial Governments and the Limits of Formalism, 78 **Cal. L. Rev.** 853 (1990)

AIDS, Astrology, and Arline: Towards a Causal Interpretation of Section 504, 17 **Hofstra L. Rev.** 237 (1989)

In Praise of Woodenness, 11 **Geo. Mason U. L. Rev.** 21 (1988)

The Ethics of Insider Trading, 11 **Harv. J. L. & Pub. Pol'y** 727 (1988)

OTHER PUBLICATIONS

Comment on Brewer: Form and Content in Legal Proof (or Why Everybody Wins – or at Least Gets a Participation Trophy), 97 **B.U. L. Rev.** 2321 (2017)

On Getting It Right: Remembering Justice Antonin Scalia, 96 **B.U. L. Rev.** 299 (2016)

Legislative Vesting Clause, in **The Heritage Guide to the Constitution** 55 (Rev. 2d. ed.) (David F. Forte & Matthew Spalding eds. 2014)

Necessary and Proper Clause, in **The Heritage Guide to the Constitution** 189 (Rev. 2d. ed.) (David F. Forte & Matthew Spalding eds. 2014) (with David E. Engdahl)

A Note on Non-Article III Courts, in **The Heritage Guide to the Constitution** 312 (Rev. 2d. ed.) (David F. Forte & Matthew Spalding eds. 2014) (with Loren Smith)

Territories Clause, in **The Heritage Guide to the Constitution** 360 (Rev. 2d. ed.) (David F. Forte & Matthew Spalding eds. 2014)

Supremacy Clause, in **The Heritage Guide to the Constitution** 381 (Rev. 2d. ed.) (David F. Forte & Matthew Spalding eds. 2014)

Due Process Clause, in **The Heritage Guide to the Constitution** 439 (Rev. 2d. ed.) (David F. Forte & Matthew Spalding eds. 2014)

Deference to Whom?, **Online Library of Law and Liberty**, Aug. 1, 2013 (available at <http://www.libertylawsite.org/liberty-forum/deference-to-whom>)

Reviving Formal Rulemaking: Openness and Accountability for Obamacare, **Backgrounder** No. 2585, July 25, 2011 (available at <http://report.heritage.org/bg2585>)

Limited Government, Unlimited Administration: Is It Possible to Restore Constitutionalism?, **Heritage First Principles Series** No. 23 (2009)

Due Process Clause, in **The Heritage Guide to the Constitution** 337 (Edwin Meese III, Matthew Spalding & David Forte ed. 2005)

Supremacy Clause, in **The Heritage Guide to the Constitution** 291 (Edwin Meese III, Matthew Spalding & David Forte ed. 2005)

A Note on Non-Article III Courts, in **The Heritage Guide to the Constitution** 239 (Edwin Meese III, Matthew Spalding & David Forte eds. 2005) (with Loren Smith)

An Empirical Test of Justice Scalia's Commitment to the Rule of Law, 26 **Harv. J. L. & Pub. Pol'y** 803 (2003)

Casey at the Court, 17 **Const. Commentary** 161 (2000)

Delegation and the Constitution, 22 **Regulation** 23 (1999)

Book Review, The Federalist Paper, July 1994 (reviewing **Michael J. Perry, The Constitution in the Courts: Law or Politics?** (1994))

Everyday People, **A.B.A. J.**, December 1992, at 113 (reviewing **Joseph Goldstein, The Intelligible Constitution** (1992))

An Abuse of Authority, **A.B.A. J.**, November 1991, at 44

Caveat Auditor: The Rise of Accountants' Liability, **Claims**, Apr. 1990, at 34 (with Walter K. Olson)

Antitrust: Fear of Fairness, **Regulation**, Nov./Dec. 1985, at 5

Insider Trading As Victimless Crime, **Regulation**, May/June 1985, at 8

A Truce in the Takeover Wars?, **Regulation**, Mar./Apr. 1985, at 4

SCHOLARSHIP METRICS

HeinOnline ScholarRank Top 250 -- #132

Google Scholar citations – 7,268

Google Scholar h-index – 40

Google Scholar i10 index – 77

WESTLAW citations – 3354

Citations in United States Supreme Court opinions -- 18

NON-ACADEMIC POSITIONS

Director, Federalist Society for Law and Public Policy Studies

Advisory Board, New Civil Liberties Alliance

Advisory Board, Center for the Study of the Administrative State

Associate Editor, **The Heritage Guide to the Constitution** (Rev. 3d ed.) (Josh Blackman & John Malcolm eds. ----) (forthcoming)

Associate Editor, **The Heritage Guide to the Constitution** (Rev. 2d ed.) (David F. Forte & Matthew Spalding eds., 2014)

Associate Editor, **The Heritage Guide to the Constitution** (Edwin Meese III, Matthew Spalding & David Forte eds., 2005)

TEACHING AWARDS

Mark Pettit Teaching Award, 2021-22

Metcalf Prize, Boston University, 2016-17

Michael Melton Memorial Award for Teaching Excellence, Boston University School of Law, 2014-15

Dean's Teaching Award, Northwestern University School of Law, 1997-98

Best First-Year Teacher, Northwestern University School of Law, 1995-96

Robert Childres Memorial Award for Teaching Excellence, Northwestern University School of Law, 1992-93

MAJOR ADMINISTRATIVE POSITIONS

Associate Dean for Intellectual Life, Boston University School of Law 2008-10, 2021-23

Chair, Faculty Appointments Committee, Boston University School of Law 2001-03

Director of Research, Northwestern University School of Law 1995-99

COURSES TAUGHT

Administrative Law (1988-2017, 2021-2023)

Evidence (2011-2022)

Property (1989-2023)

Advanced Administrative Law (1989-2009)

Corporations for LLMs (2017-2018)

Food and Drug Law (2005)

Future Interests (1993)

Securities Regulation (1989)
