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Boston University School of Law
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EMPLOYMENT

Boston University School of Law
The Honorable Paul J. Liacos Professor of Law, 2015-present
Professor & The Honorable Frank R. Kenison Distinguished Scholar, 2007-2015
Associate Dean for Research and Intellectual Life, 2010-2016, 2017-2019
Affiliated Faculty Positions in Departments of Political Science and Philosophy

Fordham University School of Law
Leonard F. Manning Distinguished Professor of Law, 2006-2007
Professor of Law, 1998-2006; Associate Professor of Law, 1991-1998

Cravath, Swaine & Moore
Attorney, Litigation, 1986-1991

Harvard University
Teaching Fellow, Moral Reasoning: Justice,
Professor Michael J. Sandel, Fall Semester 1984

Princeton University
Teaching Fellow, Constitutional Interpretation,
Professor Walter F. Murphy, Fall Semesters 1979 and 1980

RESEARCH FELLOWSHIPS

Princeton University
Visiting Research Scholar, Program in Law and Public Affairs, 2016-2017 Year

Harvard University
Faculty Fellow, Center for Ethics & the Professions (Safra Center), 1999-2000 Year

The Brookings Institution
Research Fellow, Governmental Studies Program, 1981-1982 Year

EDUCATION

Princeton University, Ph.D., Politics, 1988; A.M., 1981
Ph.D. Dissertation: "Constitutional Constructivism" (nominated for Edward S. Corwin Award for best doctoral dissertation in 1988 in field of public law)
Fields: Constitutional Law; Political Theory; American Politics

Harvard Law School, J.D., *magna cum laude*, 1985

University of Missouri, A.B., *summa cum laude*, Political Science, 1977

PUBLICATIONS

Scholarly Books

SECURING CONSTITUTIONAL DEMOCRACY: THE CASE OF AUTONOMY (University of Chicago Press, 2006)

CONSTITUTIONAL INTERPRETATION: THE BASIC QUESTIONS (Oxford University Press, 2007) (with Sotirios A. Barber) (nominated for the American Political Science Association's C. Herman Pritchett Award for the best book on law and courts; designated a *Choice* Outstanding Academic Title for 2008; translated into Chinese)

ORDERED LIBERTY: RIGHTS, RESPONSIBILITIES, AND VIRTUES (Harvard University Press, 2013) (with Linda C. McClain) (nominated for the American Political Science Association's C. Herman Pritchett Award for the best book on law and courts)

FIDELITY TO OUR IMPERFECT CONSTITUTION: FOR MORAL READINGS AND AGAINST ORIGINALISMS (Oxford University Press, 2015)

CONSTRUCTING BASIC LIBERTIES: A DEFENSE OF SUBSTANTIVE DUE PROCESS (University of Chicago Press, 2022) (reviewed in *The New York Review of Books*, Nov. 24, 2022, at 18)

“WHAT SHALL BE ORTHODOX” IN POLARIZED TIMES (with Linda C. McClain) (in progress)

Textbooks

AMERICAN CONSTITUTIONAL INTERPRETATION (Foundation Press, 6th ed., 2019) (with Walter F. Murphy, Sotirios A. Barber, and Stephen Macedo)

GAY RIGHTS AND THE CONSTITUTION (Foundation Press, 2016) (with Sotirios A. Barber, Stephen Macedo, and Linda C. McClain)

TORT AND ACCIDENT LAW (West Academic Publishing, 5th ed., 2023) (with the late Robert E. Keeton, Lewis D. Sargentich, Gregory C. Keating, and Leonard J. Feldman)

Edited Books

NOMOS L: GETTING TO THE RULE OF LAW (Editor) (New York University Press, 2011)

NOMOS LII: EVOLUTION AND MORALITY (Editor, with Sanford Levinson) (New York University Press, 2012)

NOMOS LIII: PASSIONS AND EMOTIONS (Editor) (New York University Press, 2013)

NOMOS LV: FEDERALISM AND SUBSIDIARITY (Editor, with Jacob T. Levy) (New York University Press, 2014)

Articles

- A Critique of John Hart Ely's Quest for the Ultimate Constitutional Interpretivism of Representative Democracy*, 80 MICHIGAN LAW REVIEW 634 (1982)
- Constructing the Substantive Constitution*, 72 TEXAS LAW REVIEW 211 (1993), with a response by Cass R. Sunstein, *Liberal Constitutionalism and Liberal Justice*, 72 TEXAS LAW REVIEW 305 (1993)
- We the Exceptional American People*, 11 CONSTITUTIONAL COMMENTARY 355 (1994) (reprinted in CONSTITUTIONAL POLITICS: ESSAYS ON CONSTITUTION MAKING, MAINTENANCE, AND CHANGE 91 (Sotirios A. Barber & Robert P. George eds., Princeton University Press, 2001))
- Securing Deliberative Autonomy*, 48 STANFORD LAW REVIEW 1 (1995)
- Fidelity to Our Imperfect Constitution*, 65 FORDHAM LAW REVIEW 1335 (1997)
- Original Meaning Without Originalism*, 85 GEORGETOWN LAW JOURNAL 1849 (1997)
- In Search of a Substantive Republic*, 76 TEXAS LAW REVIEW 509 (1997) (with Linda C. McClain)
- Constitutional Tragedy in Dying: Responses to Some Common Arguments Against the Constitutional Right to Die*, 24 FORDHAM URBAN LAW JOURNAL 881 (1997)
- Constitutional Tragedy in Dying: Or Whose Tragedy Is It, Anyway?*, in CONSTITUTIONAL STUPIDITIES, CONSTITUTIONAL TRAGEDIES 162 (William N. Eskridge, Jr. & Sanford Levinson eds., New York University Press, 1998)
- The Right of Privacy in Sandel's Procedural Republic*, in DEBATING DEMOCRACY'S DISCONTENT 248 (Anita L. Allen & Milton C. Regan, Jr. eds., Oxford University Press, 1998) (with Linda C. McClain) (from *In Search of a Substantive Republic*)
- We the Unconventional American People*, 65 UNIVERSITY OF CHICAGO LAW REVIEW 1513 (1998)
- Fidelity, Basic Liberties, and the Specter of Lochner*, 41 WILLIAM & MARY LAW REVIEW 147 (1999)
- Foreword: Legal and Constitutional Implications of the Calls to Revive Civil Society*, 75 CHICAGO-KENT LAW REVIEW 289 (2000) (with Linda C. McClain)
- Some Questions for Civil Society-Revivalists*, 75 CHICAGO-KENT LAW REVIEW 301 (2000) (with Linda C. McClain)
- The Constitution Outside the Courts*, 86 CORNELL LAW REVIEW 215 (2000)

- The Parsimony of Libertarianism*, 17 CONSTITUTIONAL COMMENTARY 171 (2000)
- The Canon and the Constitution Outside the Courts*, 17 CONSTITUTIONAL COMMENTARY 267 (2000) (with Sotirios A. Barber)
- The Natural Rights-Based Justification for Judicial Review*, 69 FORDHAM LAW REVIEW 2119 (2001)
- Fidelity to Natural Law and Natural Rights in Constitutional Interpretation*, 69 FORDHAM LAW REVIEW 2285 (2001) (reprinted in ROBERT P. GEORGE, *THE CLASH OF ORTHODOXIES* 183 (ISI Press, 2001) and in *NATURAL LAW: THE INTERNATIONAL LIBRARY OF ESSAYS IN LAW AND LEGAL THEORY (SECOND SERIES)* (Robert P. George ed., Ashgate Publishing Co., 2003))
- A Further Comment on Robert P. George's "Natural Law,"* 70 FORDHAM LAW REVIEW 255 (2001)
- The Lawyer as Citizen*, 70 FORDHAM LAW REVIEW 1699 (2002)
- The Missing Selves in Constitutional Self-Government*, 71 FORDHAM LAW REVIEW 1789 (2003)
- Securing Deliberative Democracy*, 72 FORDHAM LAW REVIEW 1435 (2004), with a response by T.M. Scanlon, *Adjusting Rights and Balancing Values*, 72 FORDHAM LAW REVIEW 1477 (2004)
- Lawrence's Republic*, 39 TULSA LAW REVIEW 563 (2004)
- War, Crisis, and the Constitution*, in *THE CONSTITUTION IN WARTIME* 232 (Mark Tushnet ed., Duke University Press, 2005) (with Sotirios A. Barber)
- Judicial Review Without Judicial Supremacy: Taking the Constitution Seriously Outside the Courts*, 73 FORDHAM LAW REVIEW 1377 (2005)
- Constitutionalism, Judicial Review, and Progressive Change*, 84 TEXAS LAW REVIEW 433 (2005) (with Linda C. McClain), with a response by Ran Hirschl, *Constitutionalism, Judicial Review, and Progressive Change*, 84 TEXAS LAW REVIEW 471 (2005) (reprinted in *CONSTITUTIONALISM* 130 (C.V. Mahesh Nath ed., The Icfai University Press, 2008))
- "There Is Only One Equal Protection Clause": An Appreciation of Justice Stevens's Equal Protection Jurisprudence*, 74 FORDHAM LAW REVIEW 2301 (2006)
- The Place of History and Philosophy in the Moral Reading of the American Constitution*, in *EXPLORING LAW'S EMPIRE: THE JURISPRUDENCE OF RONALD DWORKIN* 23 (Scott Hershovitz ed., Oxford University Press, 2006)

- The New Constitutional Order and the Heartening of Conservative Constitutional Aspirations*, 75 *FORDHAM LAW REVIEW* 537 (2006)
- Rights, Responsibilities, and Reflections Upon the Sanctity of Life*, in RONALD DWORKIN 109 (Arthur Ripstein ed., Cambridge University Press, 2007) (with Benjamin C. Zipursky)
- The Incredible Shrinking Constitutional Theory: From the Partial Constitution to the Minimal Constitution*, 75 *FORDHAM LAW REVIEW* 2885 (2007)
- The Balkanization of Originalism*, 67 *MARYLAND LAW REVIEW* 10 (2007)
- Rewriting Brown, Resurrecting Plessy*, 52 *SAINT LOUIS UNIVERSITY LAW JOURNAL* 1141 (2008)
- The Odyssey of Cass Sunstein*, 43 *TULSA LAW REVIEW* 843 (2008)
- Toward a More Democratic Congress?*, 89 *BOSTON UNIVERSITY LAW REVIEW* 629 (2009)
- “Ronald Dworkin,” in *Yale Biographical Dictionary of American Law* 178, Roger K. Newman, ed., Yale University Press (2009)
- “Natural Law: U.S. Law,” in 4 *The Oxford International Encyclopedia of Legal History* 217, Stanley N. Katz, ed., Oxford University Press (2009)
- Comments on Robert T. Tsai, *Eloquence and Reason: Creating a First Amendment Culture*, <http://eloquenceandreason.blogspot.com/2009/05/jim-flemings-comments-on-boo-k-at-aslch.html>
- Constitutional Theory and the Future of the Unitary Executive*, 59 *EMORY LAW JOURNAL* 459 (2010) (with Sotirios A. Barber)
- Taking Responsibilities as well as Rights Seriously*, 90 *BOSTON UNIVERSITY LAW REVIEW* 839 (2010)
- Presidential Succession: The Art of the Possible*, 78 *FORDHAM LAW REVIEW* 951 (2010)
- Successful Failures of the American Constitution*, in *THE LIMITS OF CONSTITUTIONAL DEMOCRACY* 29 (Jeffrey K. Tulis & Stephen Macedo eds., Princeton University Press, 2010)
- “An Appreciation of Walter F. Murphy,” in *Law & Courts: Newsletter of the Law & Courts Section of the American Political Science Association* (Spring 2010), http://www1.law.nyu.edu/lawcourts/pubs/newsletter/LC_Newsletter_Spring_20-2.pdf
- Constitutional Theory, the Unitary Executive, and the Rule of Law*, in *NOMOS L: GETTING*

TO THE RULE OF LAW 156 (James E. Fleming ed., New York University Press, 2011)
(with Sotirios A. Barber)

Respecting Freedom and Cultivating Virtues in Justifying Constitutional Rights, 91 BOSTON
UNIVERSITY LAW REVIEW 1311 (2011) (with Linda C. McClain)

The Balkinization of Originalism, 2012 UNIVERSITY OF ILLINOIS LAW REVIEW 669

*Living Originalism and Living Constitutionalism as Moral Readings of the American
Constitution*, 92 BOSTON UNIVERSITY LAW REVIEW 1171 (2012)

The New Originalist Manifesto, 28 CONSTITUTIONAL COMMENTARY 539 (2013)

Ordered Liberty: A Response to Three Views, 28 CONSTITUTIONAL COMMENTARY 435
(2013) (with Linda C. McClain)

Are We All Originalists Now? I Hope Not!, 91 TEXAS LAW REVIEW 1785 (2013)

Fit, Justification, and Fidelity in Constitutional Interpretation, 93 BOSTON UNIVERSITY LAW
REVIEW 1283 (2013) (published in revised form in 9 PROBLEMA: YEARBOOK OF
PHILOSOPHY AND THEORY OF LAW 151 (2015))

Ordered Liberty: Response to Michael Dorf, 93 BOSTON UNIVERSITY LAW REVIEW 1477
(2013) (with Linda C. McClain)

The Inclusiveness of the New Originalism, 82 FORDHAM LAW REVIEW 433 (2013)

Ordered Gun Liberty: Rights with Responsibilities and Regulation, 94 BOSTON UNIVERSITY
LAW REVIEW 849 (2014) (with Linda C. McClain)

The Myth of Strict Scrutiny for Fundamental Rights, 12 DARTMOUTH LAW JOURNAL 1
(2014)

Responses to comments on *Ordered Liberty: Rights, Responsibilities, and Virtues* (with
Linda C. McClain) in book symposium on Balkinization blog,
<http://balkin.blogspot.com/2013/03/symposium-on-fleming-and-mcclain.html>

Responses to comments on *Ordered Liberty: Rights, Responsibilities, and Virtues* (with
Linda C. McClain) in book symposium on Concurring Opinions blog,
<http://www.concurringopinions.com/archives/category/symposium-ordered-liberty>

Podcast discussing *Ordered Liberty: Rights, Responsibilities, and Virtues* (with Linda C.
M c C l a i n) o n N e w B o o k s N e t w o r k ,
<http://newbooksinpublicpolicy.com/2013/12/02/james-e-fleming-and-linda-c-mcclain-ordered-liberty-rights-responsibilities-and-virtues-harvard-up-2013/>

Fidelity, Change, and the Good Constitution, 62 AMERICAN JOURNAL OF COMPARATIVE

LAW 515 (2014)

Introduction to the Symposium on Ronald Dworkin's *Religion without God*, 94 BOSTON UNIVERSITY LAW REVIEW 1201 (2014)

Fidelity to Our Living Constitution, 50 TULSA LAW REVIEW 449 (2014)

Is It Time to Rewrite the Constitution? Fidelity to Our Imperfect Constitution, 2015 WISCONSIN LAW REVIEW ONLINE 31

The Substance of Self-Government, 11 LAW, CULTURE, AND THE HUMANITIES 184 (2015)

Liberty, in THE OXFORD HANDBOOK OF THE UNITED STATES CONSTITUTION 479 (Mark Tushnet, Mark A. Graber, and Sanford Levinson eds., Oxford University Press, 2015) (with Linda C. McClain)

The Moral Reading All Down the Line, 95 BOSTON UNIVERSITY LAW REVIEW 1801 (2015)

The Moral Reading as a Practice: A Response to Three Comments on Fidelity to Our Imperfect Constitution, 96 BOSTON UNIVERSITY LAW REVIEW 1481 (2016)

Fidelity to Our Imperfect Constitution: A Reply to Six Views, 31 CONSTITUTIONAL COMMENTARY 479 (2016)

Fidelity to Our Imperfect Constitution: A Reply to Five Views, 11 PROBLEMA: YEARBOOK OF PHILOSOPHY AND THEORY OF LAW (2017)

Comment on Amendment-Metrics: The Good, the Bad and the Frequently Amended Constitution, in THE FOUNDATIONS AND TRADITIONS OF CONSTITUTIONAL AMENDMENT 241 (Richard Albert, Xenophon Contiades, and Alkmene Fotiadou eds., Hart Publishing, 2017)

The Unnecessary and Unfortunate Focus on "Animus," "Bare Desire to Harm," and "Bigotry" in Analyzing Opposition to Gay and Lesbian Rights: From Forbidding Illegitimate Emotions to Rejecting Inadequate Reasons, in RECHT UND EMOTION II 247 (Hilge Landweer and Fabian Bernhardt eds., Verlag Karl Alber, 2017)

Dworkin's Perfectionism, in DIGNITY IN THE LEGAL AND POLITICAL PHILOSOPHY OF RONALD DWORKIN 42 (Salman Khurshid, Lokendra Malik, and Veronica Rodriguez-Blanco eds., Oxford University Press, 2018) (with Linda C. McClain)

Critical Dialogue: Bruce P. Frohnen & George W. Carey's CONSTITUTIONAL MORALITY AND THE RISE OF QUASI-LAW (Harvard University Press) and James E. Fleming's *FIDELITY TO OUR IMPERFECT CONSTITUTION: FOR MORAL READINGS AND AGAINST ORIGINALISMS* (Oxford University Press), 16 PERSPECTIVES ON POLITICS 183 (2018)

The Unnecessary and Unfortunate Focus on "Animus," "Bare Desire to Harm," and

“Bigotry” in *Analyzing Opposition to Gay and Lesbian Rights*, 99 BOSTON UNIVERSITY LAW REVIEW 2671 (2019)

Are Constitutional Courts Civic Educative Institutions? If So, What Do They Teach?,” in THE IMPACT OF LAW: ON CHARACTER FORMATION, ETHICAL EDUCATION, AND THE COMMUNICATION OF VALUES IN LATE MODERN PLURALISTIC SOCIETIES 95 (John Witte, Jr. & Michael Welker, eds., Leipzig, Germany: Evangelische Verlagsanstalt, 2021)

The Constitution, the Common Good, and the Ambition of Adrian Vermeule (with Sotirios A. Barber & Stephen Macedo), in *The Constitutionalist*, <https://theconstitutionalist.org/2021/01/26/the-constitution-the-common-good-and-the-ambition-of-adrian-vermeule-by-sotirios-barber-stephen-macedo-and-james-fleming/>

Ronald Dworkin: A Eulogy, in UN DIAMANTE DIMINUTO EN LA ARENA CÓSMICA: BIOGRAFÍA INTELLECTUAL DE RONALD DWORKIN 237 (Leonardo Garcia Jaramillo ed., Madrid, Spain: Editorial Trotta, 2021)

Civic Education in Circumstances of Constitutional Rot and Strong Polarization, 101 BOSTON UNIVERSITY LAW REVIEW 1771 (2021) (with Linda C. McClain)

“A ‘Fixed’ or Exploding Star in our Constitutional Constellation?: *West Virginia v. Barnette* and Battles over ‘What Shall be Orthodox,’” (in progress; given as the McGlinchey Lecture at Tulane Law School, March 21, 2022) (with Linda C. McClain)

Can the Constitution Resolve Culture Wars? Interview on *Constructing Basic Liberties: A Defense of Substantive Due Process*, in THE RECORD, <https://www.bu.edu/law/record/articles/2022/can-the-constitution-resolve-culture-wars/>

Responses to eight comments on *Constructing Basic Liberties: A Defense of Substantive Due Process*, in book symposium on Balkinization blog, <http://balkin.blogspot.com/2022/11/balkinization-symposium-on-james-e.html>

How Justice Alito’s Hidebound Conservatism in Dobbs Shreds the Fabric of Ordered Liberty, FORUM: A PUBLICATION OF THE CONNECTICUT TRIAL LAWYERS ASSOCIATION (Fall 2022)

Ordered Liberty after Dobbs, 35 JOURNAL OF THE AMERICAN ACADEMY OF MATRIMONIAL LAWYERS 623 (2023) (with Linda C. McClain)

Toward a Liberal Common Good Constitutionalism for Polarized Times: A Critique of Adrian Vermeule’s Common Good Constitutionalism, 46 HARVARD JOURNAL OF LAW & PUBLIC POLICY 1123 (2023) (with Linda C. McClain)

Constitutional Liberalism through Thick and Thin: Some Thoughts on Frank Michelman’s

Constitutional Essentials, 50 PHILOSOPHY & SOCIAL CRITICISM (2024) (with Linda C. McClain)

The Taft and Roberts Courts' Quests for Returns to Conservative "Normalcy": A Comment on Robert Post's The Taft Court, in book symposium on Balkinization blog, <https://balkin.blogspot.com/2024/02/the-taft-and-roberts-courts-quests-for.html>

Constructing the Liberal/Progressive Constitution in Exile: An Appreciation of Jack Balkin's Memory and Authority, 104 BOSTON UNIVERSITY LAW REVIEW (forthcoming 2024)

SCHOLARLY PRESENTATIONS AND CONFERENCES

"Constructing the Substantive Constitution," presented at Association of American Law Schools Conference on Constitutional Law, June 12-16, 1993

"Constructing the Substantive Constitution," presented at Fordham University School of Law Faculty Work-in-Progress Colloquium, September 24, 1993

"Constructing the Substantive Constitution," presented at New York University School of Law Colloquium on Constitutional Theory, October 5, 1993

"We the Exceptional American People," presented at Georgetown University Law Center Discussion Group on Constitutional Law, December 4-5, 1993

"We the Exceptional American People," presented at Princeton University Conference on Constitutional Theory, May 12-13, 1995

"Securing Deliberative Autonomy," presented at Ohio State Legal Theory Workshop, April 8, 1994

"Securing Deliberative Autonomy," presented at Fordham University School of Law Faculty Work-in-Progress Colloquium, March 6, 1995

"Securing Deliberative Autonomy," presented portions at Georgetown University Law Center Discussion Group on Constitutional Law, December 9-10, 1995

"Fidelity to Our Imperfect Constitution," presented at Fordham University School of Law Symposium on "Fidelity in Constitutional Theory," September 20-21, 1996

"Fidelity to Our Imperfect Constitution," presented in Western New England College School of Law Clason Speaker Series, October 3, 1996

"Constitutional Tragedy in Dying: Or Whose Tragedy Is It, Anyway?," presented at Association of American Law Schools Annual Meeting, panel on "Constitutional Tragedies," January 4-7, 1997

- “Constitutional Tragedy in Dying: Responses to Some Common Arguments Against the Constitutional Right to Die,” presented at *Fordham Urban Law Journal* Symposium on “Health Care, Poverty and Autonomy,” February 26, 1997
- “In Search of a Substantive Republic,” presented portions at American Political Science Association Annual Meeting, panel on “Varieties of Constitutional Thinking for the Good Society,” August 28-31, 1997
- “Some Questions for Civil-Society Revivalists,” presented at Georgetown University Law Center Discussion Group on Constitutional Law, December 6-7, 1997
- “Some Questions for Civil-Society Revivalists,” presented at Boston University School of Law Faculty Workshop, March 5, 1998
- “We the Unconventional American People,” presented at Fordham University School of Law Faculty Work-in-Progress Colloquium, April 7, 1998
- “We the Unconventional American People,” presented at Georgetown University Law Center Discussion Group on Constitutional Law, December 5-6, 1998
- “The Parsimony of Libertarianism,” presented at Association of American Law Schools Annual Meeting, panel on “The Structure of Liberty,” January 6-10, 1999
- “Fidelity, Basic Liberties, and the Specter of *Lochner*,” presented at Conference on “Fidelity, Economic Liberty, and 1937,” February 27, 1999, William & Mary School of Law
- “Some Questions for Civil Society-Revivalists,” presented at Fordham University School of Law Faculty Workshop Series, April 15, 1999
- “The Canon and the Constitution Outside the Courts,” presented at Georgetown University Law Center Discussion Group on Constitutional Law, December 4-5, 1999
- “The Constitution Outside the Courts,” presented at Fordham University School of Law Faculty Workshop Series, February 18, 2000
- “The Constitution Outside the Courts,” presented at Harvard University Center for Ethics and the Professions Seminar, March 22, 2000
- “The Natural Rights-Based Justification for Judicial Review,” presented at Fordham University School of Law Conference on “The Constitution and the Good Society,” September 22-23, 2000
- “Fidelity to Natural Law and Natural Rights in Constitutional Interpretation,” presented at Fordham University School of Law Natural Law Colloquium, November 20, 2000
- “*Bush v. Gore*: Constitutionalist Though not Constitutional?” (with Sotirios A. Barber), presented at Georgetown/PEGS Discussion Group on Constitutional Law, March 9-

10, 2001

“The Lawyer as Citizen,” presented at Fordham University School of Law Legal Ethics Colloquium, November 8-9, 2001

“Taking Rights Reasonably and Responsibly,” presented at Georgetown/PEGS Discussion Group on Constitutional Law, November 30-December 1, 2001

“Are We All Originalists Now? I Hope Not!,” presented at AALS/APSA Conference on Constitutional Law, June 5-8, 2002

“Are We All Originalists Now? I Hope Not!,” presented as the Alpheus T. Mason Lecture in Constitutional Law & Political Thought, James Madison Program in American Ideals and Institutions, Princeton University, September 19, 2002

“The Missing Selves in Constitutional Self-Government,” presented in Symposium on “Theories of Constitutional Self-Government,” Fordham University School of Law, November 15, 2002

“War and the Constitution” (with Sotirios A. Barber), presented at Georgetown/PEGS Discussion Group on Constitutional Law, December 6-7, 2002

“The New Constitutional Order and the Heartening of Conservative Constitutional Aspirations,” presented at Georgetown/Maryland Discussion Group on Constitutional Law, April 4-5, 2003

Invited Participant, First Annual Constitutional Theory Conference, Vanderbilt University Law School, April 11-12, 2003

“Are We All Originalists Now? I Hope Not!,” presented at University of Illinois College of Law, September 25, 2003

“*Lawrence’s* Republic,” presented in Conference on the Scholarship of Frank I. Michelman, University of Tulsa College of Law, October 9-10, 2003

“Securing Deliberative Democracy,” presented at Fordham University School of Law Conference on “Rawls and the Law,” November 7-8, 2003

“Are We All Originalists Now? I Hope Not!,” presented in Yale Legal Theory Workshop, Yale Law School, November 13, 2003

“Natural Law: Its Plausible Scope and Relation to Public Reason – A Comment on Kent Greenawalt’s Lecture,” Fordham University School of Law Natural Law Colloquium, February 4, 2004

“Are We All Originalists Now? I Hope Not!,” presented in Michigan State University College of Law Faculty Workshop, May 5, 2004

- “Interbranch Conflict and Constitutional Maintenance: The Case of Executive Prerogative,”
Workshop on Democracy and the Rule of Law, University of Maryland, June 4, 2004
- “The Place of History and Philosophy in the Moral Reading of the American Constitution,”
presented at Princeton University Conference, “Exploring Law’s Empire: The
Jurisprudence of Ronald Dworkin,” September 18, 2004
- “Constitutional Decision Rules,” presented at Second Annual Constitutional Theory
Conference, New York University School of Law, October 22-23, 2004
- “Judicial Review Without Judicial Supremacy,” presented in Symposium on “Theories of
Taking the Constitution Seriously Outside the Courts,” Fordham University School
of Law, November 19, 2004
- “Constitutionalism, Judicial Review, and Progressive Change” (with Linda C. McClain),
presented at Georgetown/Maryland Discussion Group on Constitutional Law, March
4-5, 2005
- “Constitutional Interpretation: The Basic Questions” (with Sotirios A. Barber), presented in
Fordham University School of Law Faculty Workshop Series, April 7, 2005
- “‘There Is Only One Equal Protection Clause’: An Appreciation of Justice Stevens’s Equal
Protection Jurisprudence,” presented in Conference on “The Jurisprudence of Justice
Stevens,” Fordham University School of Law, September 30-October 1, 2005
- “Constitutionalism, Judicial Review, and Progressive Change” (with Linda C. McClain),
presented at Fordham University School of Law Faculty Workshop Series, October
28, 2005
- “Securing Constitutional Democracy: The Case of Autonomy,” presented at Association of
American Law Schools Annual Meeting, author meets critics panel, January 7, 2006
- Moderator, conference on “The Internal Point of View in Law and Ethics,” Fordham
University School of Law, February 9-10, 2006
- “Securing Constitutional Democracy: The Case of Autonomy,” presented at
Georgetown/Maryland Discussion Group on Constitutional Law, March 3-4, 2006
- “The New Constitutional Order and the Heartening of Conservative Constitutional
Aspirations,” presented in Conference on “A New Constitutional Order?,” Fordham
University School of Law, March 24-25, 2006
- “Securing Constitutional Democracy: The Case of Autonomy,” presented at the Third
Annual Constitutional Theory Conference, University of Pennsylvania School of
Law, April 7-8, 2006
- “Constitutional Interpretation: The Basic Questions” (with Sotirios A. Barber), presented in

Fordham University School of Law Faculty Workshop Series, September 21, 2006

“Constitutional Interpretation: The Basic Questions” (with Sotirios A. Barber), presented at Maryland Discussion Group on Constitutional Law, December 1-2, 2006

“The Incredible Shrinking Constitutional Theory: From the Partial Constitution to the Minimal Constitution,” presented in Symposium on “Minimalism versus Perfectionism in Constitutional Theory” (on my *Securing Constitutional Democracy: The Case of Autonomy* and Cass R. Sunstein’s *Radicals in Robes*), Fordham University School of Law, December 8, 2006

“The Incredible Shrinking Constitutional Theory: From the Partial Constitution to the Minimal Constitution,” presented at University of North Carolina School of Law, January 16, 2007

“Natural Law and Human Rights: A Comment on Michael J. Perry’s Lecture,” Fordham University School of Law Natural Law Colloquium, February 20, 2007

“The Incredible Shrinking Constitutional Theory: From the Partial Constitution to the Minimal Constitution,” presented at Boston University School of Law, February 27, 2007

“Constitutional Interpretation as Constitutional Maintenance,” Symposium on Walter F. Murphy’s *Constitutional Democracy*, Princeton University, March 2, 2007

“What’s New About the New Originalism?,” presented at American Political Science Association Annual Meeting, August 30-September 2, 2007

“Rewriting *Brown*, Resurrecting *Plessy*,” presented at the Richard J. Childress Memorial Lecture and Conference, “*Cooper v. Aaron*: Little Rock and the Legacy of *Brown*,” Saint Louis University School of Law, October 5, 2007

Moderator, conference on “The Role of the President in the 21st Century,” panel on “Sources of Presidential Power,” Boston University School of Law, October 11-12, 2007

“Securing Constitutional Democracy: The Case of Autonomy,” presented in the Georgetown University Law Center Seminar on Recent Books on the Constitution, October 15, 2007

“Successful Failures of the American Constitution,” presented at the Princeton University Conference on “The Limits of Constitutional Democracy,” February 14-16, 2008

“Successful Failures of the American Constitution,” presented at the University of Maryland Discussion Group on Constitutional Law, March 7-8, 2008

“Are We All Originalists Now? I Hope Not!,” Georgia State University College of Law Faculty Lunch Series, March 13, 2008

- “Securing Constitutional Democracy: The Case of Autonomy,” presented in the Brown University Graduate Seminar on Democratic Theory and the Law, April 16, 2008
- “Are We All Originalists Now? I Hope Not!,” Boston University School of Law Faculty Workshop, April 24, 2008
- Moderator, “Evolution and Morality: Perspective from Philosophy,” Annual Meeting of the American Society for Political and Legal Philosophy, held in conjunction with Annual Meeting of the American Political Science Association, August 28-29, 2008
- “Securing Constitutional Democracy: The Case of Autonomy,” presented in the Harvard University Department of Government Seminar on Judicial Review and Democracy, October 27, 2008
- “Toward a More Democratic Congress?,” presented in Conference on “The Most Disparaged Branch: The Role of Congress in the 21st Century,” Boston University School of Law, November 14-15, 2008
- “Constitutional Theory and the Future of the ‘Unitary’ Executive,” presented at the Randolph Thresher Symposium, “Executive Power: New Directions for the New Presidency?,” Emory University School of Law, February 12, 2009
- “Comments on Robert T. Tsai, *Eloquence and Reason: Creating a First Amendment Culture*,” presented at the Annual Meeting of the Association for the Study of Law, Culture and the Humanities, Boston, April 3, 2009
- “Successful Failures of the American Constitution,” Boston University School of Law Faculty Workshop, April 16, 2009
- “Are We All Originalists Now? I Hope Not!,” University of Chicago Constitutional Law Workshop, May 7, 2009
- “The Misconceived Quest for the Original Public Meaning,” presented in a panel on “The Original Meaning of the Privileges or Immunities Clause,” Annual Meeting of the Law and Society Association, Denver, May 28, 2009
- “Securing Constitutional Democracy: The Case of Autonomy,” presented in “The Complexities of Securing Rights and Democracy: A Roundtable on Corey Brettschneider’s *Democratic Rights: The Substance of Self-Government* and James E. Fleming’s *Securing Constitutional Democracy: The Case of Autonomy*,” Annual Meeting of the American Political Science Association, Toronto, September 5, 2009
- “Taking Responsibilities as well as Rights Seriously,” presented in “Justice for Hedgehogs: A Conference on Ronald Dworkin’s Forthcoming Book,” Boston University School of Law, September 25-26, 2009
- “Are We All Originalists Now? I Hope Not!,” presented at the University of Wisconsin

Discussion Group on Constitutional Law, October 2-3, 2009

Roundtable Leader, Conference on “The Place of Precedent in Objective Law,” University of Texas, October 16-17, 2009

Commentator on Richard Epstein’s *Principles for a Free Society*, Boston University School of Law Federalist Society Program, November 6, 2009

Moderator and Organizer, “Getting to the Rule of Law,” Annual Meeting of the American Society for Political and Legal Philosophy, held in conjunction with the Annual Meeting of the Association of American Law Schools, January 6, 2010

“Are We All Originalists Now? I Hope Not!,” University of San Diego Law School Works-in-Progress Conference on Originalism, February 5-6, 2010

Commentator on Gerald J. Postema’s “Law’s Ethos: Reflections on a Public Practice of Illegality,” in “Rights, Equality, and Justice: A Conference Inspired by the Moral and Legal Theory of David Lyons,” Boston University School of Law, March 12-13, 2010

Commentator, “Adequacy of Current Presidential Succession Law in Light of the Constitution and Policy Considerations,” Conference on “The Adequacy of the Presidential Succession System in the 21st Century: Filling the Gaps and Clarifying the Ambiguities in Constitutional and Extraconstitutional Arrangements,” Fordham University School of Law, April 16-17, 2010

“Rights, Responsibilities, and Virtues,” chs. 1 & 2 (with Linda C. McClain), Boston University School of Law Faculty Workshop, April 29, 2010

An Appreciation of Walter F. Murphy, Princeton University Memorial Service for Walter F. Murphy, June 9, 2010

“Respecting Freedom and Cultivating Virtues in Justifying Constitutional Rights,” (with Linda C. McClain), Symposium on Michael J. Sandel’s *Justice: What’s the Right Thing to Do?*, Boston University School of Law, October 14, 2010

“Comments on Dorf & Morrison’s *Constitutional Law*,” Symposium on Michael C. Dorf & Trevor W. Morrison’s *Constitutional Law*, Cornell Law School, October 25, 2010

“The Myth of Strict Scrutiny for Fundamental Rights Under the Due Process Clause,” Wayne State University Law School Faculty Workshop, November 18, 2010

“The Myth of Strict Scrutiny for Fundamental Rights Under the Due Process Clause,” Princeton University Constitutional Law “Schmooze” on “Invisible Constitutions,” Princeton University Program in Law and Public Affairs, December 3-4, 2010

Moderator and Organizer, “Passions and Emotions,” Annual Meeting of the American

Society for Political and Legal Philosophy, held in conjunction with the Annual Meeting of the American Philosophical Association, Eastern Division, December 29, 2010

“Getting Some Traction on Slippery Slope Arguments: Some Questions for and Comments concerning Eugene Volokh’s ‘Slippery Slopes,’” Boston University School of Law Federalist Society Program, February 16, 2011

“The Myth of Strict Scrutiny for Fundamental Rights Under the Due Process Clause,” Boston Area Public Law Study Group, March 14, 2011

“The Balkinization of Originalism,” Symposium on Jack Balkin’s *Living Originalism*, University of Illinois College of Law, April 8-9, 2011

“Rights, Responsibilities, and Virtues,” ch. 6 (with Linda C. McClain), Boston University School of Law Faculty Workshop, April 14, 2011

Moderator and Co-Organizer, “Federalism and Subsidiarity,” Annual Meeting of the American Society for Political and Legal Philosophy, held in conjunction with the Annual Meeting of the American Political Science Association, September 1-4, 2011

“The Constitution of Responsible Citizenship” (with Linda C. McClain), presented as the Constitution Day Lecture at Northeastern University, September 22, 2011

“Living Originalism and Living Constitutionalism as Moral Readings of the American Constitution,” presented at the Symposium on Jack M. Balkin’s *Living Originalism* and David A. Strauss’s *The Living Constitution*, Boston University School of Law, November 3, 2011

“Re-Arguing *Roe v. Wade*: Privacy versus Equality or Privacy together with Equality?,” presented at the Women’s Law Association and the American Constitution Society Program on “Re-Arguing *Roe v. Wade*,” Boston University School of Law, January 26, 2012

“The Myth of Strict Scrutiny for Fundamental Rights Under the Due Process Clause,” (with Linda C. McClain), Boston University School of Law Faculty Workshop, April 19, 2012

Invited Participant, “Marriage, Morality, and the Law”: A Roundtable Workshop on Stephen Macedo’s Walter F. Murphy Lecture on “The Constitution and the Future of Marriage,” Princeton University Program in Law and Public Affairs, May 3-4, 2012

“Fit, Justification, and Fidelity in Constitutional Interpretation,” presented at the Symposium on Abner S. Greene’s *Against Obligation* and L. Michael Seidman’s *On Constitutional Disobedience*, held at Boston University School of Law, November 8, 2012

- “The New Originalist Manifesto,” presented at University of Pennsylvania Law School Journal of Constitutional Law Symposium, January 25, 2013
- “Are We All Originalists Now? I Hope Not!,” presented at *Texas Law Review* Symposium, February 15-16, 2013
- “The Inclusiveness of the New Originalism,” presented at *Fordham Law Review* Symposium on “The New Originalism in Constitutional Law,” March 1-2, 2013
- “The New Originalist Manifesto,” presented at Boston University School of Law Faculty Workshop, March 28, 2013
- “*Roe*: 40 Years Later,” presented at Greater Boston Area American Constitution Society Symposium on “Constitutional Fidelity,” Boston University School of Law, April 13, 2013
- “The Present State of Constitutional Theory,” Annual Meeting of the American Political Science Association,” August 31, 2013
- New Scholars Panel: Commentator on William Partlett, “We the Mediated People,” and Claudia E. Haupt, “Active Symbols,” Boston College Law School, Clough Center on Constitutional Democracy, October 7, 2013
- “The Myth of Strict Scrutiny for Fundamental Rights,” Roger S. Aaron Lecture, Dartmouth College, Nelson A. Rockefeller Center for Public Policy and the Social Sciences, October 31, 2013
- “Ordered Gun Liberty: Rights with Responsibilities and Regulation,” (with Linda C. McClain), presented at Boston University School of Law Symposium, “America’s Political Dysfunction: Constitutional Connections, Causes, and Cures,” November 15-16, 2013
- Commentator on John McGinnis and Michael Rappaport, *Originalism and the Good Constitution*, Harvard Law School Federalist Society Event, November 21, 2013
- “Fidelity and Change in Constitutional Interpretation,” AALS Annual Meeting Academic Symposium, “Comparative Constitutional Change: New Perspectives on Formal and Informal Amendment,” January 5, 2014
- “Dworkin’s Perfectionism,” presented at International Conference in Honor of Ronald Dworkin,” National Autonomous University of Mexico (UNAM), Mexico City, February 13-14, 2014
- Moderator, “Compromise,” Annual Meeting of the American Society for Political and Legal Philosophy, held in conjunction with the Annual Meeting of the American Philosophical Association, Central Division, February 27-28, 2014

“Fidelity, Change, and the Good Constitution,” presented at Boston University School of Law Faculty Workshop, March 6, 2014

“Ordered Gun Liberty: Rights with Responsibilities and Regulation,” (with Linda C. McClain), presented at 2014 American Studies Summer Institute, John F. Kennedy Presidential Library and Museum and University of Massachusetts Boston, July 14, 2014

Moderator, conference on “Wealth,” Annual Meeting of the American Society for Political and Legal Philosophy, held in conjunction with the Annual Meeting of the American Political Science Association, August 28-29, 2014

“Is Originalism the Law? Are We All Originalists Now?,” debate with William Baude, Yale Law School Federalist Society Event, October 7, 2014

“Fidelity to Our Living Constitution,” presented at Boston University School of Law Faculty Workshop, October 16, 2014

“Is It Time to Rewrite the Constitution? Fidelity Through Perfecting Our Imperfect Constitution,” University of Wisconsin Center for the Study of Liberal Democracy Symposium, November 7-8, 2014

“‘There Is Only One Equal Protection Clause’: An Appreciation of Justice Stevens’s Equal Protection Jurisprudence,” presented in Conference on “The Civil Rights Act of 1964 at 50,” Boston University School of Law, November 14-15, 2014

“Fidelity to Our Imperfect Constitution,” presented and featured in Conference on “Moral Readings versus Originalisms,” National Autonomous University of Mexico (UNAM), February 16-17, 2015

“Constitutionalism: The Backbone of Objective Law: A Comment,” debate with Tara Smith, Harvard Law School Federalist Society Event, March 5, 2015

“Is It Time to Rewrite the Constitution? Fidelity Through Perfecting Our Imperfect Constitution,” presented at University of Houston Hobby Center for Public Policy Seminar on the Rule of Law, April 7, 2015

“Fidelity and Change in Constitutional Interpretation,” Panel at Boston College Law School Clough Center for the Study of Constitutional Democracy, April 21, 2015

“Fidelity to Our Imperfect Constitution: For Moral Readings and Against Originalisms,” presented at Kinder Forum on Constitutional Democracy, University of Missouri Law School, April 30, 2015

“Democracy after Totalitarianism: The Historical Foundations of Juristocracy,” comment on Sung-Wook Paik’s Paper, Kinder Forum on Constitutional Democracy, University of Missouri Department of Political Science, April 30, 2015

- “Amendment-Metrics: The Good, the Bad, and the Frequently Amended Constitution,” comment on Xenophon Contiades & Alkmene Fotiadou’s paper, BC-IACL Workshop on Comparative Constitutional Amendment, Boston College Law School Clough Center for the Study of Constitutional Democracy, May 15, 2015
- “*Obergefell*, Constitutional Interpretation, and the Future of Marriage,” Constitution Day Lecture (sponsored by the Kinder Institute on Constitutional Democracy) and David Aldrich Nelson Lecture in Constitutional Jurisprudence (sponsored by the Alexander Hamilton Institute), University of Missouri, September 17, 2015 (with Linda C. McClain)
- Response to comments by Jack Balkin, Jamal Greene, and Gary Lawson in book symposium on my *Fidelity to Our Imperfect Constitution*, held at Boston University School of Law as a Constitution Day Program, September 24, 2015
- “*Obergefell*, Constitutional Interpretation, and the Future of Marriage,” Conference on Legal and Political Perspectives on the Recent US Supreme Court, Boston College, Clough Center for the Study of Constitutional Democracy, October 30, 2015
- “From *Griswold* to *Roe*,” presented in program on “The Fiftieth Anniversary of *Griswold v. Connecticut*,” Boston University School of Law, February 8, 2016
- “*Obergefell*, Constitutional Interpretation, and the Future of Marriage,” presented at Maryland Discussion Group on Constitutional Law, March 4-5, 2016
- “Fidelity to Our Imperfect Constitution: For Moral Readings and Against Originalisms,” presented at Seminar on Recent Books in Constitutional Law, Georgetown Law, March 15, 2016
- “Was Justice Scalia Right about the Slippery Slope to ‘the End of All Morals Legislation’? After Same-Sex Marriage, Is Polygamy Next?” Inaugural Lecture as the Honorable Paul J. Liacos Professor, Boston University School of Law, April 4, 2016
- “Fidelity to Our Imperfect Constitution: For Moral Readings and Against Originalisms,” presented at University of Houston Hobby Center for Public Policy Seminar on “Judicial Review: What Does Morality Have to Do With It?,” April 7, 2016
- “Marriage Equality and the Slippery Slope to Polygamy,” International Society of Family Law North American Regional Conference, May 24, 2016
- Comment on Micah J. Schwartzman & Steven D. Walt, “Morality, Ontology, and Corporate Rights,” Princeton University Program in Law and Public Affairs, December 5, 2016
- “Fidelity to Our Imperfect Constitution: For Moral Readings and Against Originalisms,” presented at Seminar on Recent Books in Constitutional and Legal Theory, Fordham University School of Law, February 8, 2017

“Was Justice Scalia Right about the Slippery Slope to ‘the End of All Morals Legislation’? After Same-Sex Marriage, Is Polygamy Next?” Princeton University Program in Law and Public Affairs Seminar, February 13, 2017

“Does the Constitution Enact John Stuart Mill’s *On Liberty*? An Assessment of Chief Justice Roberts’s Echo of Justice Holmes’s Dissent in *Lochner*,” Kinder Institute on Constitutional Democracy, University of Missouri, February 28, 2017

Moderator, conference on “Political Legitimacy,” Annual Meeting of the American Society for Political and Legal Philosophy, held in conjunction with the Annual Meeting of the American Philosophical Association, Central Division, March 1-2, 2017

“Is Moral Disapproval an Adequate Reason to Justify Traditional Morals Legislation?,” Princeton University Program in Law and Public Affairs Work-in-Progress Workshop, April 4, 2017

“Should We ‘Rewrite’ *Roe* and *Obergefell*? The Conflict between Equality and Liberty as Grounds for Constitutional Rights,” Boston University School of Law Faculty Workshop, May 4, 2017

“Does the Constitution Enact John Stuart Mill’s *On Liberty*? An Assessment of Chief Justice Roberts’s Echo of Justice Holmes’s Dissent in *Lochner*,” Boston University School of Law Faculty Workshop, October 5, 2017

“What Was It That the Supreme Court Did in *Lochner v. New York* That Was So Horrible?” public lecture at University of Missouri School of Law and the Kinder Institute on Constitutional Democracy, October 19, 2017

“Should We ‘Rewrite’ *Roe* and *Obergefell*? The Conflict between Equality and Liberty as Grounds for Constitutional Rights,” presented in “Critical Conversations: Constitutional Law Revisited,” Boston University School of Law Office of Student Affairs and Women’s Law Association, March 15, 2018

Comments on Anna di Robilant, Introduction to “The Making of Romanist-Bourgeois Property in Nineteenth Century Europe,” Boston University School of Law Faculty Workshop, April 12, 2018

“Critical Conversations: Clashes between Religious Liberty and Civil Rights in *Masterpiece Cakeshop Ltd. v. Colorado Civil Rights Commission*,” Boston University School of Law First-Year Orientation, August 31, 2018

Moderator, “Civil Liberties in the (Post-Kennedy) Roberts Court: Privacy, Religion, and Speech,” Boston University School of Law Constitution Day Event, September 17, 2018

Moderator, conference on “Democratic Failure,” Annual Meeting of the American Society for Political and Legal Philosophy, held at Boston University School of Law,

September 28, 2018

“Was Justice Scalia Right about the Slippery Slope to ‘the End of All Morals Legislation’? After Same-Sex Marriage, Is Polygamy Next?” National Autonomous University of Mexico (UNAM), Mexico City, October 4, 2018

“The Unnecessary and Unfortunate Focus on ‘Animus,’ ‘Bare Desire to Harm,’ and ‘Bigotry’ in Analyzing Opposition to Gay and Lesbian Rights: From Forbidding Illegitimate Emotions to Rejecting Inadequate Reasons,” in Conference on Linda C. McClain’s book, *The Rhetoric of Bigotry and Conscience: Past and Present Controversies over Marriage and Civil Rights*,” National Autonomous University of Mexico (UNAM), Mexico City, October 4-5, 2018

Commentator on Eric G. Segall’s book, *Originalism as Faith*, American Constitution Society, Boston University School of Law, October 24, 2018

“Trump, Constitutional Interpretation, and the Future of the Supreme Court,” Public debate with John O. McGinnis at Middlebury College, Alexander Hamilton Forum, October 25, 2018

“Trump, Constitutional Interpretation, and the Future of the Supreme Court,” Boston University School of Law Faculty Workshop, November 1, 2018

Response to comments by Sotirios Barber, Ken Kersch, and Rigel Oliveri in book symposium on my *Constructing Basic Liberties: A Defense of Substantive Due Process*, held at University of Missouri Kinder Institute on Constitutional Democracy, March 7, 2019

“Are Constitutional Courts Educative Institutions? If So, What Do They Teach?: *Masterpiece Cakeshop* as Teaching a Lesson concerning ‘The Price of Citizenship,’” University of Heidelberg Conference on The Impact of Law on Character Formation in Modern Pluralistic Societies, April 25-27, 2019

Moderator, conference on “Truth and Evidence,” Annual Meeting of the American Society for Political and Legal Philosophy, held at Princeton University, September 27, 2019

“Understanding Impeachment: Of Last Exits and Off Ramps,” Boston University Student-Faculty Forum, October 22, 2019

“Are Constitutional Courts Educative Institutions? If So, What Do They Teach?: *Masterpiece Cakeshop* as Teaching a Lesson concerning ‘The Price of Citizenship,’” Boston University School of Law Faculty Workshop, October 24, 2019

“Are Constitutional Courts Educative Institutions? If So, What Do They Teach?: *Masterpiece Cakeshop* as Teaching a Lesson concerning ‘The Price of Citizenship,’” Loyola University (Chicago) School of Law, Tenth Annual Constitutional Law Colloquium, November 8, 2019

- “Was Justice Scalia Right about the Slippery Slope to ‘the End of All Morals Legislation’?,”
University of Maryland Discussion Group on Constitutionalism, March 6-7, 2020
- “Civic Education in the Age of Trump” (with Linda C. McClain), to have been given as the
McGlinchey Lecture at Tulane Law School, March 23, 2020 (to be rescheduled
because of COVID-19 pandemic)
- Moderator, conference on “Reconciliation and Repair,” Annual Meeting of the American
Society for Political and Legal Philosophy, Zoom Webinar, September 25, 2020
- “Civic Education in Circumstances of Constitutional Rot” (with Linda C. McClain),
Symposium on Jack M. Balkin’s *The Cycles of Constitutional Time*, Boston
University School of Law Zoom Webinar, February 25, 2021
- “Civic Education in Circumstances of Constitutional Rot” (with Linda C. McClain),
University of Maryland Discussion Group on Constitutionalism Zoom Meeting,
February 26-27, 2021
- “*Masterpiece Cakeshop*, the Moralization of Commerce, and the Price of Citizenship,”
University of Notre Dame Department of Political Science Zoom Meeting, March 9,
2021
- Moderator, conference on “Civic Education in Polarized Times,” Annual Meeting of the
American Society for Political and Legal Philosophy, Zoom Webinar, October 29-30,
2021
- “Is Moral Disapproval Enough to Justify Traditional Morals Legislation?,” Boston
University School of Law Faculty Workshop, November 11, 2021
- “An Outline for a Constitutional Constructivism: A Constitutional Theory Inspired by John
Rawls’s *Political Liberalism*,” Seminar on Rawls and the Law (on the 100th
Anniversary of John Rawls’s Birth), National Autonomous University of Mexico
(UNAM) Mexico City, December 9, 2021
- “A ‘Fixed’ or Exploding Star in our Constitutional Constellation?: *West Virginia v. Barnette*
and Battles over ‘What Shall be Orthodox’” (with Linda C. McClain), given as the
McGlinchey Lecture at Tulane Law School, March 21, 2022
- “Moral Disapproval, Public Reason, and the Law,” Princeton University Seminar on Public
Reason, Law, and Politics, March 29, 2022
- “A Panel Discussion on Adrian Vermeule’s *Common Good Constitutionalism*,” Fordham
University School of Law’s Institute on Religion, Law and Lawyers’ Work, May 10,
2022
- “*Dobbs v. Jackson Women’s Health Organization*: ‘The Roar of a Wave that Could Drown
the Whole World,’” Boston University School of Law Constitution Day Event,

September 15, 2022 (mini-symposium centered on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022))

Moderator, conference on “Punishment,” Annual Meeting of the American Society for Political and Legal Philosophy, Hybrid Symposium at Harvard University and on Zoom, September 30, 2022

“Basic Liberties after *Dobbs*,” Harvard Law School American Constitution Society, October 6, 2022 (centered on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022))

“*Dobbs v. Jackson Women’s Health Organization*: ‘The Roar of a Wave that Could Drown the Whole World,’” Boston College Law School Center for Human Rights and International Justice & Rappaport Center for Law and Public Policy, October 12, 2022 (mini-symposium centered on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022))

“SCOTUS Year-in-Review: The New Majority Asserts Itself,” Flaschner Judicial Institute, October 18, 2022

“Toward a Liberal Common Good Constitutionalism for Polarized Times: A Critique of Adrian Vermeule’s *Common Good Constitutionalism*,” Symposium on Adrian Vermeule’s *Common Good Constitutionalism* at Harvard Law School, October 29, 2022 (with Linda C. McClain)

“Moral Readings versus Originalisms in *Obergefell* and *Dobbs*,” Harvard Law School Law and Philosophy Society, November 3, 2022 (centered on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022))

Virtual Event on *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022) Harvard Book Store and Edmond & Lily Safra Center for Ethics (“Ethics in Your World” Series), November 18, 2022

[Podcast on *Supreme Myths*](#) on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022), December 2, 2022

“Constitutional Liberalism through Thick and Thin: Some Thoughts on Frank Michelman’s *Constitutional Essentials* (with Linda C. McClain), Seminar on Frank Michelman’s *Constitutional Essentials*, University of Luxembourg, January 25, 2023

“Is Originalism on the Outs? ‘History and Tradition’ in *Dobbs* and *Bruen*,” Commentary on Randy Barnett’s Remarks, Boston University School of Law Federalist Society, January 30, 2023

“What’s Next for Liberty and Equality After *Dobbs*? Progressive Strategies and Alternatives to Originalism,” Georgetown Law American Constitution Society, February 28, 2023

“*Dobbs v. Jackson Women’s Health Organization*: ‘The Roar of a Wave that Could Drown

the Whole World,” University of Missouri Kinder Institute on Constitutional Democracy and Law School, March 8, 2023 (centered on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022))

“A ‘Fixed’ or Exploding Star in our Constitutional Constellation?: *West Virginia v. Barnette* and Battles over ‘What Shall be Orthodox,’” University of Missouri Kinder Institute on Constitutional Democracy, March 9, 2023 (with Linda C. McClain)

Podcast on *Constitutional Crisis Hotline* on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022), March 17, 2023

“*Dobbs v. Jackson Women’s Health Organization*: ‘The Roar of a Wave that Could Drown the Whole World,’” Rutgers School of Law in Newark, March 22, 2023 (centered on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022))

“The Supreme Court’s Overruling of *Roe v. Wade*: What’s Next for Liberty, Equality, and the Constitution?” Princeton’s University Center for Human Values, March 23, 2023 (centered on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022))

“*Dobbs v. Jackson Women’s Health Organization*: ‘The Roar of a Wave that Could Drown the Whole World,’” National Autonomous University of Mexico, March 31, 2023 (centered on my book, *Constructing Basic Liberties: A Defense of Substantive Due Process* (2022))

“Constructing Basic Liberties: A Defense of Substantive Due Process,” presented at Seminar on Recent Books in Constitutional Law, Georgetown Law, September 19, 2023

“A ‘Fixed’ or Exploding Star in our Constitutional Constellation? *West Virginia v. Barnette* and Battles over ‘What Shall Be Orthodox,’” Princeton University Seminar on Expressive Rights and Wrongs: Speech, Offense, and Commemoration, September 20, 2023

Moderator, conference on “Climate Change,” Annual Meeting of the American Society for Political and Legal Philosophy, Hybrid Symposium at Princeton University and on Zoom, September 22, 2023

“SCOTUS Year-in-Review,” Flaschner Judicial Institute, October 18, 2023

“From *Romer* to *Obergefell*: The Supreme Court’s Rewriting of the Grounds for Protecting LGBTQIA+ Rights. And What’s Next After *Dobbs*?” Boston University LGBTQIA+ Center for Faculty & Staff, November 3, 2023

“Ordered Gun Liberty after *Bruen*,” Loyola University (Chicago) School of Law, Fourteenth Annual Constitutional Law Colloquium, November 11, 2023 (with Linda C. McClain)

Moderator and Speaker, AALS Annual Meeting Extended Program, "The Uses and Misuses of History: The Roberts Court and Its Constitutional Revolution," January 6, 2024

"Constructing the Liberal/Progressive 'Constitution in Exile:' An Appreciation of Jack Balkin's *Memory and Authority*, University of Maryland Discussion Group on Constitutionalism, March 1-2, 2024

ORGANIZATION AND PUBLICATION OF CONFERENCES AND SYMPOSIA

Co-Organizer, Conference on "Fidelity in Constitutional Theory," held September 20-21, 1996 and published in 65 FORDHAM LAW REVIEW 1247-1818 (1997)

Co-Editor, Symposium on "Legal and Constitutional Implications of the Calls to Revive Civil Society," published in 75 CHICAGO-KENT LAW REVIEW 289-612 (2000)

Organizer, Conference on "The Constitution and the Good Society," held September 22-23, 2000 and published in 69 FORDHAM LAW REVIEW 1569-2200 (2001)

Organizer, Symposium on "Theories of Constitutional Self-Government," held November 15, 2002 and published in 71 FORDHAM LAW REVIEW 1721-1825 (2003) (on Christopher L. Eisgruber's *Constitutional Self-Government* (2001) and Jed Rubenfeld's *Freedom and Time: A Theory of Constitutional Self-Government* (2001))

Co-Organizer, Conference on "Integrity in the Law," held February 7, 2003 and published in 72 FORDHAM LAW REVIEW 251-425 (2003)

Organizer, Conference on "Rawls and the Law," held November 7-8, 2003 and published in 72 FORDHAM LAW REVIEW 1381-2175 (2004)

Organizer, Symposium on "Theories of Taking the Constitution Seriously Outside the Courts," held November 19, 2004 and published in 73 FORDHAM LAW REVIEW 1341-1476 (2005) (on Larry D. Kramer's *The People Themselves: Popular Constitutionalism and Judicial Review* (2004) and Lawrence G. Sager's *Justice in Plainclothes: A Theory of American Constitutional Practice* (2004))

Organizer, Conference on "A New Constitutional Order?," held March 24-25, 2006 and published in 75 FORDHAM LAW REVIEW 471-960 (2006)

Organizer, Conference on "The Most Disparaged Branch: The Role of Congress in the 21st Century," held November 14-15, 2008 and published in 89 BOSTON UNIVERSITY LAW REVIEW 331-870 (2009)

Organizer, Conference on "Ronald Dworkin's *Justice for Hedgehogs*," held September 25-26, 2009 and published in 90 BOSTON UNIVERSITY LAW REVIEW 465-1087 (2010)

Organizer, Conference on "Getting to the Rule of Law," Annual Meeting of the American Society for Political and Legal Philosophy, held in conjunction with the Annual Meeting of the Association of American Law Schools, January 6, 2010, published in

Nomos L: Getting to the Rule of Law (New York University Press, 2011)

Co-Organizer, “Rights, Equality, and Justice: A Conference Inspired by the Moral and Legal Theory of David Lyons,” March 12-13, 2010 and published in 90 BOSTON UNIVERSITY LAW REVIEW 1667-1874 (2010)

Organizer, Conference on Michael J. Sandel’s *Justice: What’s the Right Thing To Do?*, held October 14, 2010 and published in 91 BOSTON UNIVERSITY LAW REVIEW 1301 (2011)

Organizer, Conference on “Passions and Emotions,” Annual Meeting of the American Society for Political and Legal Philosophy, held in conjunction with the Annual Meeting of the American Philosophical Association, Eastern Division, December 29, 2010, published in *Nomos LIII: Passions and Emotions* (New York University Press, 2013)

Co-Organizer, “Federalism and Subsidiarity,” Annual Meeting of the American Society for Political and Legal Philosophy, held in conjunction with the Annual Meeting of the American Political Science Association, September 1-4, 2011, published in *Nomos LV: Federalism and Subsidiarity* (New York University Press, 2014)

Organizer, Symposium on “Originalism and Living Constitutionalism” (on Jack M. Balkin’s *Living Originalism* and David A. Strauss’s *The Living Constitution*), held at Boston University School of Law, November 3, 2011 and published in 92 BOSTON UNIVERSITY LAW REVIEW 1127 (2012)

Organizer, Symposium on “Constitutional Obligation and Disobedience” (on Abner S. Greene’s *Against Obligation* and L. Michael Seidman’s *On Constitutional Disobedience*), held at Boston University School of Law, November 8, 2012 and published in 93 BOSTON UNIVERSITY LAW REVIEW 1237 (2013)

Organizer, Conference on “America’s Political Dysfunction: Constitutional Connections, Causes, and Cures,” held at Boston University School of Law, November 15-16, 2013 and published in 94 BOSTON UNIVERSITY LAW REVIEW 575 (2014)

Organizer, Symposium on “Competing Theories of Federalism: Utopia as Dystopia” (on Sotirios A. Barber’s *The Fallacies of States’ Rights* and Michael Greve’s *The Upside Down Constitution*) held in conjunction with Conference on “America’s Political Dysfunction: Constitutional Connections, Causes, and Cures,” at Boston University School of Law, November 15-16, 2013 and published in 94 BOSTON UNIVERSITY LAW REVIEW 1357 (2014)

Organizer, Symposium on Ronald Dworkin’s *Religion without God*, published in 94 BOSTON UNIVERSITY LAW REVIEW 1201 (2014)

Organizer, Symposium on “War Powers and the Constitution” (on Stephen M. Griffin’s *Long Wars and the Constitution* and Mariah Zeisberg’s *War Powers: The Politics of Constitutional Authority*), held at Boston University School of Law, October 30,

2014 and published in 95 BOSTON UNIVERSITY LAW REVIEW 1233 (2015)

Organizer, Symposium on Ran Hirschl's *Comparative Matters: The Renaissance of Comparative Constitutional Law*, held at Boston University School of Law, November 12, 2015 and published in 96 BOSTON UNIVERSITY LAW REVIEW 1325 (2016)

Organizer, Symposium on Jack M. Balkin's *The Cycles of Constitutional Time*, held at Boston University School of Law, February 25, 2021 and published in 101 BOSTON UNIVERSITY LAW REVIEW 1723 (2021)

Organizer, AALS Annual Meeting Extended Program, "The Uses and Misuses of History: The Roberts Court and Its Constitutional Revolution," January 6, 2024

PROFESSIONAL ASSOCIATIONS

American Bar Association

American Political Science Association

American Society for Political and Legal Philosophy

Editor of *Nomos*, the annual book of the ASPLP, 2008-12 (edited four volumes)

Vice President, Law, January 2013 to January 2016 (three-year term)

President, January 2016 to September 2018 (three-year term)

Secretary-Treasurer, September 2018 to September 2023

Association of American Law Schools

Co-Chair, Law and Interpretation Section, 2022-24

Fellow of the American Bar Foundation