

Brian C. Kalt

Curriculum Vitae

TEACHING EXPERIENCE

Professor of law

Michigan State University College of Law

Harold Norris Faculty Scholar

Associate professor of law (tenured as of July 2006)

Assistant professor of law

July 2011–present
East Lansing, Michigan

January 2010–present

July 2003–June 2011

July 2000–June 2003

Classes taught:

Administrative Law

Bill of Rights Seminar

Constitutional Law I

Torts

Torts II

The Bill of Rights (Undergraduate Freshman Seminar)

Current committee and other positions:

Admissions Committee, Chair (2011–12)

Tenure Advisory Committee for Jennifer Carter-Johnson (2010–present)

University Committee on Honors Programs (2007–present)

Federalist Society faculty advisor (2002–present)

Jewish Legal Society faculty advisor (2000–present)

J. Reuben Clark Law Society faculty advisor (2006–present)

Judicial Clerkship advisory committee (2002–present); Chair (2002–05)

Previous positions:

Committee on Faculty Appointments (Spring 2009–10); Chair (2009–10)

Academic Standards Committee (2002–05, Spring 2007–08, 2010–11); Chair (Spring 2007)

Tenure Advisory Committee for Lumen Mulligan (2007–10); Chair (2008–09)

Faculty Advisory Council (2007–09)

Committee on Committees (2005–07)

Student-Faculty Liaison Committee; Chair (2005–06)

Finance Committee (2005–06)

Bylaws Committee (2004–05)

Law Review Advisory Committee (2000–03); Chair (2001–03)

Health Care Task Force member (Spring 2003)

Faculty Programs Committee (2001–02); Chair (Spring 2002)

Faculty Secretary (August–September 2000, Spring 2002)

University Graduate Council (2000–02)

Library Director Search Committee (Fall 2000)

Visiting Professor
University of Ottawa
Taught three-credit course on U.S. Federal Administrative Law

January 2008
Ottawa, Canada

Visiting Lecturer
Vytautas Magnus University
Taught two-credit course on Constitutional Law and Theory

February 2002
Kaunas, Lithuania

LEGAL EXPERIENCE

Associate August 1998–June 2000
Summer associate Summers 1996, 1997
Sidley & Austin *Washington, D.C.*
Practice areas: Supreme Court litigation, environmental law, employment discrimination.
Briefed and argued *Evono v. Reno*, 216 F.3d 1105 (D.C. Cir. 2000).

Law clerk August 1997–August 1998
Judge Danny J. Boggs, U.S. Court of Appeals for the Sixth Circuit *Louisville, Kentucky*

Summer law clerk *Pontiac, Michigan*
Judge Alice L. Gilbert, Michigan Sixth Circuit Court (Oakland County) Summer 1995

PUBLICATIONS

Books

CONSTITUTIONAL CLIFFHANGERS: A LEGAL GUIDE FOR PRESIDENTS AND THEIR ENEMIES (Yale University Press 2012).

SIXTIES SANDSTORM: THE FIGHT OVER ESTABLISHMENT OF A SLEEPING BEAR DUNES NATIONAL LAKESHORE (Michigan State University Press 2001).

Law Review Publications

Politics and the Federal Appointments Process, 5 HARV. L. & POL'Y REV. (Online), Apr. 5, 2011, <http://hlpronline.com/2011/04/politics-and-the-federal-appointments-process/>.

Tabloid Constitutionalism: How a Bill Doesn't Become a Law, 96 GEO. L.J. 1971 (2008).

Keeping Recess Appointments in Their Place, 101 NW. U. L. REV. COLLOQUY 88 (2007), <http://www.law.northwestern.edu/lawreview/colloquy/2007/3/>; and *Keeping Tillman Adjournments in Their Place: A Rejoinder to Seth Barrett Tillman*, 101 NW. U. L. REV. COLLOQUY 108 (2007), <http://www.law.northwestern.edu/lawreview/colloquy/2007/6/>.

Crossing Eight Mile: Juries of the Vicinage and County-Line Criminal Buffer Statutes, 80 WASH. L. REV. 271 (2005).

The Perfect Crime, 93 GEO. L.J. 675 (2005), reprinted in THE GREEN BAG ALMANAC AND READER 2006 in the category of "Exemplary Legal Writing 2005."

Three Levels of Stare Decisis: Distinguishing Common-Law, Constitutional, and Statutory Cases, 8 TEX. REV. L. & POL. 277 (2004) (transcript of presentation).

The Exclusion of Felons from Jury Service, 53 AM. U. L. REV. 65 (2003).

"American Perspective," in *MSU–DCL Tri-Panel on the Election Process: A Discussion of the 2000 Elections in The United States, Canada, and Mexico*, 10 MSU–DCL J. INT'L L. 109 (2001) (transcription of presentation).

The Constitutional Case for the Impeachability of Former Federal Officials: An Analysis of the Law, History, and Practice of Late Impeachment, 6 TEX. REV. L. & POL. 13 (2001).

Death, Ethics, and the State, 23 HARV. J.L. & PUB. POL'Y 487 (2000).

The People's Forest and Levy's Trees: Popular Sovereignty and the Origins of the Bill of Rights, 17 CONST. COMMENTARY 119 (2000) (book review).

Wade H. McCree, Jr., and the Office of the Solicitor General, 1977–1981, 1998 DET. C.L. MICH. ST. U. L. REV. 703.

The Presidential Privilege Against Prosecution, 2 NEXUS 11 (with Akhil Reed Amar) (1997).

Note, *Pardon Me?: The Constitutional Case Against Presidential Self-Pardons*, 106 YALE L.J. 779 (1996).

Other work

INTERACTIVE TORTS (2006) (multimedia Torts study guide, distributed by Aspen).

Occasional blogging at Concurringopinions.com (guest, December 2008–January 2009) and Fullcomment.com.

Conference papers

"And Stay Out! . . . The Constitutional Case for the Impeachability of Former Federal Officials," presented at the 2001 meeting of the Central States Law School Association, Michigan State University College of Law, Oct. 6, 2001.

"The Endless Recount: Some Thoughts on Optimal Recount Strategy and Al Gore's Plan in the 2000 Florida Presidential Race," presented at the 2001 Annual Meeting of the Public Choice Society & Economic Science Association, San Antonio, Texas, Mar. 10, 2001.

(Note: this paper was accepted as a chapter in a book on the 2000 recount, by Cambridge University Press. The editor, Henry Brady, has not yet finished the manuscript.)

Op-eds and other print publications

Politicizing Court Bad for Nation, DET. NEWS, Jan. 29, 2010 (op-ed) (criticizing political views of constitutional law that sell legal interpretation short).

You Keep Your Health System and We'll Keep Ours, NAT'L POST (Toronto), Sep. 15, 2009 (op-ed) (discussing U.S. and Canadian attitudes toward other's health-care systems).

Still Smoking, NAT'L POST (Toronto), Feb. 26, 2009 (op-ed) (discussing persistence of smoking during recession).

Once Pardoned, Always Pardoned, WASH. POST, Jan. 26, 2009 (op-ed) (arguing that President Bush's purported revocation of Isaac Toussie's pardon is invalid).

The Liberal Temptations of President Obama, NAT'L POST (Toronto), Nov. 5, 2008 (op-ed) (discussing possibility of President Obama governing from the left versus the center).

Colour-Coded and Polarized, NAT'L POST (Toronto), Nov. 1, 2008 (op-ed) (discussing reasons for persistence of states' party identification in U.S. presidential elections).

It Could Happen Here, Too, NAT'L POST (Toronto), Oct. 14, 2008 (op-ed) (discussing potential for controversially close election in Canada).

Who'll Get the Last Laugh?, NAT'L POST (Toronto), Sep. 3, 2008 (op-ed) (discussing Democratic tactics against Sarah Palin).

Get Over Yourselves, NAT'L POST (Toronto), July 5, 2007 (op-ed) (discussing Canadian nationalism on children's television programming).

"Raising the Rankings", RES IPSA LOQUITUR (student publication at Michigan State University College of Law), Apr. 2007 (discussing U.S. News rankings).

Life Lessons from a President, NAT'L POST (Toronto), Dec. 28, 2006 (op-ed) (discussing early life of Gerald Ford).

The Exclusion of Felons from Jury Service, AMICUS, Spring 2005.

A Betting Man's Guide to Electoral Politics, NAT'L POST (Toronto), Nov. 9, 2004 (op-ed) (discussing predictive power of political futures markets).

The Blogosphere Takes on CBS, NAT'L POST (Toronto), Sept. 17, 2004 (op-ed) (discussing value to traditional media added by input from millions of autonomous internet denizens).

Jeopardy!'s Lance Armstrong, NAT'L POST (Toronto), July 29, 2004 (op-ed) (praising Jeopardy! champion Ken Jennings).

Scan Voting Best Option for Michigan, DET. NEWS & FREE PRESS, July 25, 2004 (op-ed) (criticizing touch-screen voting as unnecessary in light of success of correctable scan ballots).

Postpone Presidential Vote?, DET. FREE PRESS, July 15, 2004 (op-ed) (proposing basic structure for law rescheduling presidential elections disrupted by terrorist attacks); also ran as *Terror Attacks and Postponing the Election*, THE HILL (Washington, D.C.), July 15, 2004, at 18.

"Don't Consent!", RES IPSA LOQUITUR (student publication at Michigan State University College of Law), Nov. 2003 (discussing ideological diversity and student participation).

Drop Misguided Jury Rule on Felons, DET. NEWS & FREE PRESS, Oct. 26, 2003 (op-ed) (discussing Michigan law barring felons from jury service for life).

Democracy Ensures Rights Increase over Time; Bush Policies Don't Threaten Constitution, DET. NEWS & FREE PRESS, Sept. 14, 2003 (op-ed) (discussing civil liberties and War on Terror).

What Do U-M Court Rulings Mean?, DET. NEWS, June 24, 2003 (op-ed blurb) (discussing Supreme Court opinions in U-M affirmative action cases).

Constitution Allows Americans to Reduce Liberties During Crises, DET. NEWS, Sept. 11, 2002 (op-ed) (describing how conventional understanding of constitutional rights mandates that their scope be reducible during crises).

Would-be Pledge Ban Gives GOP an Opening, NAT'L POST (Toronto), June 29, 2002 (op-ed) (discussing effect of decision against mention of God in Pledge of Allegiance on the politics of judicial nominations).

What Does U-M Admissions Ruling Mean?, DET. NEWS, May 15, 2002 (op-ed blurb) (discussing Sixth Circuit opinion in U-M law school affirmative action case).

President Was Reasonable with Decision on Arsenic, DET. NEWS, Nov. 16, 2001 (op-ed) (discussing Bush decision to accept limits on arsenic proposed by Clinton, and mischaracterization of Bush's earlier delay in doing so).

Oh, What a Fragmented Web We Weave, NAT'L POST (Toronto), June 28, 2001 (op-ed) (discussing political polarization on the World Wide Web).

Ist Down For Bush—That's What Counts, LOS ANGELES TIMES, Apr. 6, 2001 (op-ed) (discussing need for finality despite statistical uncertainty in presidential electoral system); also ran

as *When the Chains Came Out, Bush Had the First Down*, NAT'L POST (Toronto), Apr. 5, 2001.

"...*And Stay Out!*": *The Constitutional Case for Post-Presidential Impeachment*, JURIST, posted Mar. 1, 2001 (op-ed) (arguing that Constitution permits post-term impeachment).

Al Gore's Victory, NAT'L POST (Toronto), Jan. 13, 2001 (op-ed) (discussing history of popular-vote majorities in American presidential elections).

Gore Lies, NAT'L REV. ONLINE, posted Dec. 11, 2000 (op-ed) (discussing Al Gore's legal strategy of avoiding a statewide recount in Florida).

Law, Facts Were on Bush's Side, DET. NEWS, Dec. 6, 2000 (op-ed) (evaluating legal basis of trial court decision in *Gore v. Harris*).

What Does Supreme Court's Ruling Mean?, DET. NEWS, Dec. 5, 2000 (op-ed blurb) (discussing U.S. Supreme Court's decision in *Bush v. Palm Beach County Canvassing Bd.*).

Our New President: Richard Cheney, DET. FREE PRESS, Nov. 7, 2000 (with Jorge E. Souss) (op-ed) (discussing possibility of tie in Electoral College).

'Non-Threatening' Land, WINDSOR STAR, Sept. 10, 1999 (op-ed) (discussing differences between American and Canadian cultures and gun laws).

And Stay Out: Impeachment Should Remain on the Table for Clinton, NAT'L POST (Toronto), June 9, 1999 (op-ed) (discussing legal feasibility of post-presidential impeachment).

Speeches, presentations, and conferences

Panelist, *The Constitutional Debate: Structuralism*, Michigan State University College of Law Federalist Society, Sep. 14, 2011.

Featured speaker, *The Zone of Death*, University of Idaho School of Law Federalist Society, Moscow, ID, Jan. 28, 2011.

Featured speaker, *The Zone of Death*, Gonzaga University School of Law Federalist Society, Spokane, WA, Jan. 28, 2011.

Featured speaker, *Ex-Felons and Jury Duty*, Ohio State University Moritz College of Law Federalist Society, Columbus, OH, Nov. 4, 2010.

Featured speaker, *Testing the Limits of Impeachment*, Cooley Law School Federalist Society, Lansing, MI, Mar. 18, 2010.

Keynote Speaker, *Lawyers and the Sleeping Bear Dunes National Lakeshore*, Historical Society for the United States District Court for the Western District of Michigan, Grand Rapids, MI, November 13, 2007.

Featured speaker, *The Law and Economics of Tort Law*, Law and Economics Society, Michigan State University College of Law, Sep. 20, 2007.

Featured speaker, *The Perplexing History of Presidential Pardons*, University Club Colloquy, Michigan State University, Aug. 21, 2007.

Chair, *The Supreme Court and the Idea of Constitutionalism: Comparative Perspectives*, LeFrak Forum, Symposium on Science, Reason, and Modern Democracy, Michigan State University, Jan. 27, 2007.

Debater, *Michigan Civil Rights Initiative*, Grand Rapids Community College, June 20, 2006.

Presenter, *How to Commit the Perfect Crime*, Little Gray Book Lectures, New York, NY, June 16, 2005.

Moderator, *Tribal Constitutional Issues in the Self-Determination Era: Separation of Powers*, Michigan State University College of Law, Oct. 29, 2004.

Panelist, *State Jurisprudence, the Role of Courts, and the Rule of Law: The Role of Precedent*, event co-sponsored by Ave Maria School of Law and Federalist Society, Sept. 16, 2003 (discussing stare decisis, prospectivity, and legislative acquiescence on panel with Justices Stephen Markman (Michigan) and Wallace Jefferson (Texas)), *transcribed at 8 TEX. REV. L. & POL. 277 (2004)*.

Panelist, *Diversity of Legal Thought: Opposing Viewpoints Concerning Judicial Review*, Michigan State University College of Law, Feb. 5, 2003 (asking questions of judicial speakers).

Speaker, *Should Ex-Felons Be Allowed to Serve on Juries?*, Michigan State University College of Law Faculty Brown Bag, Oct. 23, 2002.

Panelist, *Second Annual Supreme Court Docket Review*, event co-sponsored by American Constitution Society and Federalist Society, University of Michigan Law School, Oct. 1, 2002 (previewing upcoming Supreme Court term).

Presenter, *The Constitutional Case for the Impeachability of Former Federal Officials*, 2001 meeting of the Central States Law School Association, Michigan State University College of Law, Oct. 6, 2001.

Featured speaker, *Leelanau County in the Sixties Sandstorm*, Leelanau County (Michigan) Historical Society, Aug. 20, 2001 (discussing local history of the struggle over establishment of the Sleeping Bear Dunes National Lakeshore).

Featured speaker, *People and the Government in the Sixties Sandstorm*, Empire (Michigan) Town Hall, Aug. 17, 2001 (discussing struggle over establishment of the Sleeping Bear

Dunes National Lakeshore as a case study of shifting government-citizen relations in the 1960s).

Featured speaker, Grand Ledge (Michigan) Rotary Club, July 25, 2001 (discussing history of Sleeping Bear Dunes National Lakeshore).

Lecturer, *Comparative Electoral Systems: The U.S. and Canada*, Michigan State University College of Law Canadian summer program, June 23, 2001 (comparing U.S. and Canadian electoral structures and procedures).

Panelist, *Elections Analysis: A Tri-National Comparison*, Michigan State University College of Law, Mar. 12, 2001 (discussing United States electoral system), *transcribed at* 10 MSU–DCL J. INT'L L. 109 (2001) (other panelists were Gregory Tardi and Manuel Gonzalez Oropeza).

Presenter, panel on the 2000 Florida recount, 2001 Annual Meeting of the Public Choice Society & Economic Science Association, San Antonio, Texas, Mar. 10, 2001.

Discussant, panel on electoral systems, 2001 Annual Meeting of the Public Choice Society & Economic Science Association, San Antonio, Texas, Mar. 9, 2001.

Featured speaker, *Al Gore Was Robbed . . . By His Lawyers*, Michigan State University College of Law Federalist Society program, Feb. 1, 2001 (discussing 2000 presidential election and Al Gore's strategic errors).

Featured speaker and program leader, *Discuss the Legal Issues Surrounding the Election*, Michigan State University College of Law, Nov. 22, 2000.

Featured speaker, Grand Ledge (Michigan) Rotary Club, Nov. 15, 2000 (discussing 2000 presidential election).

Significant media appearances

Featured guest, *Adler OnLine*, CJOB Radio (Winnipeg, Alta.) and nationally syndicated in Canada, July 5, 2007 (discussing nationalism on Canadian children's television).

Featured guest, *As It Happens*, CBC Radio One (Canada) broadcast, May 10, 2005 (discussing vicinage loophole in the Idaho portion of Yellowstone).

Featured guest, *All Things Considered*, NPR, May 10, 2005 (discussing vicinage loophole in the Idaho portion of Yellowstone).

Featured guest, *Michigan Monday*, WKAR Radio (E. Lansing, Mich.), June 23, 2003 (discussing Supreme Court decision in Michigan affirmative action case).

Legal commentator, WJR Radio (Detroit, Mich.), June 23, 2003 (discussing Supreme Court decision in Michigan affirmative action case).

Featured guest, *Mike Malloy Show*, i.e. America Radio Network, June 17, 2003 (discussing exclusion of felons from jury service).

Featured guest, *Charlie Langton Show*, WXYT Radio (Detroit, Mich.), Feb. 3, 2002 (discussing legal status of detainees at Guantanamo Bay).

Featured guest, Viva Caracol Radio (Bogota, Colombia), Mar. 2, 2001 (discussing presidential pardons).

Participant, JURIST on-line roundtable discussion (discussing pardon power and controversial Clinton pardons).

Featured guest, *Bob Grant Show*, WOR Radio (New York, N.Y.), Feb. 14, 2001 (discussing post-presidential impeachment).

Featured guest, *Warren Pierce Show*, WJR Radio (Detroit, Mich.), Dec. 8, 2000 (discussing Florida Supreme Court oral arguments in *Gore v. Harris*).

Featured guest, *Warren Pierce Show*, WJR Radio (Detroit, Mich.), Dec. 7, 2000 (discussing Judge N. Sanders Sauls's ruling in *Gore v. Harris*).

Featured guest, *Jeanine Graf Show*, WTKK Radio (Boston, Mass.), Nov. 28, 2000 (discussing Miami-Dade County recount in 2000 presidential election).

Featured guest, *As It Happens*, CBC Radio One (Canada) broadcast, Nov. 27, 2000 (discussing Miami-Dade County recount in 2000 presidential election).

Legal commentator, WILX TV (Lansing, Mich.), Nov. 20, 2000 (discussing Florida Supreme Court oral arguments in *Palm Beach County Canvassing Board v. Harris*).

Featured guest, WLAC Radio (Nashville, Tenn.), Oct. 8, 1996 (discussing presidential pardons).

OTHER EXPERIENCE

Commissioner
East Lansing Cable and Telecommunications Commission

East Lansing, Michigan
Fall 2001–Fall 2003

EDUCATION (INCLUDING HONORS AND AWARDS)

Yale Law School
J.D., June 1997
Grades: 13 Honors, 5 Passes
Activities:

New Haven, Connecticut

Yale Law Journal: editor (1995–96); notes development (1996–97)

Yale Law & Policy Review: editor (1994–95)
Research assistant–Professor Akhil Reed Amar (Fall 1995)
Research assistant–Professor Bruce A. Ackerman (Summer 1995)
Street Law: teacher (1994–95); director (1995–96)
Legal assistance clinic (Fall 1995)

University of Michigan

Ann Arbor, Michigan

A.B. with Highest Distinction, April 1994

Grades: 3.99 GPA; ranked 4th in class of 4,012

Honors and Awards:

Graduated with High Honors in History
Bentley Scholar (four years' tuition and all expenses; one of two awarded annually)
Eight-term Angell Scholar
Phi Beta Kappa
Phi Alpha Theta history society
Branstrom Prize (1991)

Main activities:

Michigan Daily: weekly columnist (Spring 1994)
University Activities Committee: board member (1991–93)
Smithsonian Institution, National Museum of American History: intern (Summer 1992)

MEMBERSHIPS AND BAR ADMISSIONS

State Bar of Michigan
United States Courts of Appeals: District of Columbia Circuit; Sixth Circuit
Life Member, Sixth Circuit Judicial Conference
Federalist Society

AWARDS AND HONORS

Harold Norris Faculty Scholar, 2010–present.
Selected as Faculty Speaker, 2011 Commencement
MSU Law Faculty Advisor of the Year, 2011 (Federalist Society)
THE GREEN BAG ALMANAC AND READER 2006, honored in the category of "Exemplary Legal Writing 2005."