

## ERIC R. CLAEYS

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### EXPERIENCE

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Associate Professor of Law, with tenure, George Mason University, Arlington, Virginia, 2007 – present.

Currently Chair of Workshops Committee and member of Faculty Hiring Committee.

Associate Professor of Law, Saint Louis University, 2006-07. Assistant Professor, 2001-2006.

Bigelow Teaching Fellow and Lecturer in Law, University of Chicago, 1999-2001.

Associate, Kirkland & Ellis, Washington, D.C., 1996-1999. Practiced appellate litigation.

Law Clerk to the Honorable William H. Rehnquist, Chief Justice of the United States, Washington, D.C., 1995-1996.

Law Clerk to the Honorable Melvin J. Brunetti, United States Court of Appeals for the Ninth Circuit, Reno, Nevada, 1994-1995.

Legislative Assistant to the Honorable Ronald C. Packard, Member of Congress (Oceanside, California), Washington, D.C., 1989-1991.

### COURSES TAUGHT

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In the 2007-08 year, I am teaching first-year Property, Trade Secrets, and the Founders' Constitution. I have previously taught Torts, Land-Use Regulation, Trusts and Estates, Administrative Law, Constitutional Law, and Food and Drug Law.

### EDUCATION

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University of Southern California, J.D. 1994.

Served as Editor-in-Chief of the *Southern California Law Review*, vol. 67, 1993-94.

Graduated as member of the Order of the Coif and in top 5% of class.

Princeton University, A.B. 1989.

## **PUBLICATIONS AND WORKS IN PROGRESS**

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- “The National Regulatory State in Progressive Political Theory and Twentieth-Century Constitutional Theory,” in *Modern America and the Legacy of the Founding*, Ronald J. Pestritto & Thomas G. West eds. (2007): 35-74.
- “Justice Scalia and the Religion Clauses: A Reply to Professor Epps,” *Washington University Journal of Law & Policy*, 19, no. 1 (2006): 349-77. Symposium contribution, responding to “Some Animals Are More Equal Than Others: The Rehnquist Court and ‘Majority Religion,’” by Garrett Epps, *id.* at 323-47.
- “That ‘70s Show: Post-*Kelo* Eminent Domain Reform and the Administrative Law Revolution,” *Santa Clara Law Review* 46, no. 4 (2006): 867-88. (Symposium contribution.)
- “The *Penn Central* Test and the Tension between Classical- and Modern-Liberal Theories of Property,” *Harvard Environmental Law Review*, 30, no. 2: 339-69 (2006). (Conference contribution.)
- “*Takings*: An Appreciative Retrospective,” *William & Mary Bill of Rights Journal* 15, no. 2 (2006): 439-55. Review of Richard A. Epstein, *Takings: Private Property and the Power of Eminent Domain* (1985), for a conference on Professor Epstein’s scholarship.
- “*Raich* and Constitutional Conservatism at the Close of the Rehnquist Court,” *Lewis & Clark Law Review*, 9, No. 4: 791-822 (2005). (Symposium contribution.)
- “Zoning and Progressive Political Theory,” in *The Progressive Revolution in Politics and Political Science: Regime Change in America*, Ken Masugi & John Marini eds. (2005), 287-320.
- “Learning the Law,” *Claremont Review of Books*, 5, No. 2 (2005): 45-46. Book review of Mark Warren Bailey, *Guardians of the Moral Order: The Legal Philosophy of the Supreme Court, 1860-1910* (2004).
- “The Telecommunications Act of 1996, the Takings Clause, and Tensions in Property Theory,” *Yale Journal on Regulation*, 22, no. 2 (2005): 205-41. (Conference contribution.)
- “Is the Future of Development Regulation Based in the Past? Toward a Market-Oriented, Innovation Friendly Framework,” *Journal of Urban Planning & Development* (2005). (Invited article, co-authored with primary author Samuel R. Staley.)
- “Justice Sutherland and Commerce-Clause Federalism Before the New Deal,” *Publius: The Journal of Federalism* 34, no. 4 (2004): 9-32. (Conference contribution.)
- “Progressive Political Theory and Separation of Powers on the Burger and Rehnquist Courts,” *Constitutional Commentary*, 21, no. 2 (2004): 405-44.

## PUBLICATIONS AND WORKS IN PROGRESS (CONT'D)

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- “Public Use Limitations and Natural Property Rights,” *Michigan State Law Review*, 2004, no. 4: 877-928. (Symposium contribution.) Cited in *Kelo v. City of New London*, 125 S. Ct. 2655, 2679, 2681 (2005) (Thomas, J., dissenting).
- “*Euclid* Lives? The Uneasy Legacy of Progressivism in Zoning,” *Fordham Law Review*, 73, no. 2 (2004): 731-70.
- “Private Property and Takings on the Rehnquist Court,” *Northwestern Law Review*, 99, no. 1 (2004): 187-230 (symposium contribution).
- “The Food and Drug Administration and the Command-and-Control Paradigm,” *Saint Louis University Law Journal*, 49, no. 1: 105-29 (2004). (Symposium contribution.)
- “Takings, Regulations, and Natural Property Rights,” *Cornell Law Review*, 88, no. 6 (2003): 1549-1671.
- “The Limits of Empirical Political Science and the Possibilities of Living-Constitution Theory for a Retrospective on the Rehnquist Court,” *Saint Louis University Law Journal*, 47, no. 4 (2003): 737-52. Symposium commentary on Thomas W. Merrill, *The Making of the Second Rehnquist Court: A Preliminary Analysis*, *id.* at 569-658.
- “Rehnquist’s Court and the Living Constitution,” *Claremont Review of Books*, 3, no. 4 (2003), 20-22. Book review of Herman Schwartz ed., *The Rehnquist Court: Judicial Activism on the Right* (2003), and Kenneth W. Starr, *First Among Equals: The Supreme Court in American Life* (2002.)
- “The Living Commerce Clause: Federalism in Progressive Political Theory and the Commerce Clause after *Lopez* and *Morrison*,” *William & Mary Bill of Rights Journal*, 11, no. 1 (2002): 403-63.
- Note, “The Article III, Section 2 Games: A Game-Theoretic Account of Standing and Other Justiciability Doctrines,” *Southern California Law Review* 67, no. 6: 1321-64 (1994).
- “*Kelo*, the Castle, and Natural Property Rights,” in a forthcoming essay collection on *Kelo v. City of New London*, Robin Paul Malloy ed. (forthcoming 2008) (manuscript available upon request).
- “Jefferson Meets Coase: Train Sparks, Law and Economics, and Natural Property Rights” (draft manuscript available at [http://www.ssrn.com/sol3/papers.cfm?abstract\\_id=885199](http://www.ssrn.com/sol3/papers.cfm?abstract_id=885199)).
- “The Private Society and Public Good in John Locke’s Thought,” *Social Philosophy and Policy*, 21 (forthcoming 2008) (contribution to a symposium on freedom of association) (manuscript available upon request).

## **PUBLICATIONS AND WORKS IN PROGRESS (CONT'D)**

“*INS v. AP: Hot News and Natural Property Rights*” (in progress).

“Takings, Natural Property Rights, and the Privileges or Immunities of American Citizenship,”  
*San Diego Law Review* (forthcoming 2008) (symposium contribution) (in progress).

## **PROFESSIONAL SERVICE**

Co-authored Brief of *Amicus Curiae* The Claremont Institute Center for Constitutional Jurisprudence in Support of Petitioners in *Kelo v. City of New London*, No. 04-108, United States Supreme Court (December 3, 2004). (Brief is available at 2004 WL 2802971.) Argued for the rule of decision adopted by Justice Clarence Thomas in dissent, 125 S. Ct. 2655, 2677 (2005).

“Don’t Waste a Teaching Moment: *Kelo*, Urban Renewal, and Blight,” *Journal of Affordable Housing & Community Development Law*, 15, no. 1: 14-19 (2005).

## **SELECTED PRESENTATIONS AND COMMENTARIES**

Bernard Siegan Memorial Conference on Economic Liberties, Property Rights, and the Original Meaning of the Constitution, University of San Diego School of Law, forthcoming November 2007.

“*INS v. AP: Hot News and Natural Property Rights*,” Works in Progress Intellectual Property Colloquium, American University, Washington College of Law, Washington, D.C., September 30, 2007.

“*Hein* and Judicial Conservatism at the Opening of the Roberts Court,” Roundtable on the Roberts Court, American Political Science Association Annual Conference, Chicago, Illinois, August 30, 2007.

“The Private Society and the Public Good in John Locke’s Thought,” Conference on Freedom of Association, co-sponsored by the Liberty Fund and the Social Philosophy and Policy Center, La Jolla, California, June 23, 2007.

“Property, Legal Philosophy, and Law and Economics: A Roundtable,” Property Works in Progress Colloquium, University of Colorado-Boulder School of Law, June 15, 2007.

“Jefferson Meets Coase: Train Sparks, Law and Economics, and Natural Property Rights.”

University of Saint Thomas-Minneapolis School of Law, November 17, 2006.

George Mason University School of Law, April 18, 2006.

University of Cincinnati School of Law, March 27, 2006.

## SELECTED PRESENTATIONS AND COMMENTARIES (CONT'D)

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“Justice Scalia and the Religion Clauses: A Reply to Professor Epps,” Conference on the Rehnquist Court and the First Amendment, Washington University-St. Louis School of Law, November 18, 2005.

“*Takings: A Twenty-Year Retrospective*,” Brigham-Kanner Property Rights Conference, William & Mary Law School, Williamsburg, Virginia, October 29, 2005.

“The *Penn Central* Test and Tensions in Liberal Property Theory,” Conference on Litigating Regulatory Takings Claims, Harvard Law School, Cambridge, Massachusetts, October 28, 2005, sponsored by the Georgetown Environmental Law & Policy Institute.

“Natural Property Rights and Privatization: A Comment on Professor Rose,” Childress Lecture, Saint Louis University School of Law, October 2005, Response to Carol Rose, “Privatization—the Road to Democracy?”

“Public-Use Limitations and Natural Property Rights.”

Case Western Reserve Law School, Conference on Eminent Domain, Urban Renewal, and the Constitution, Cleveland, Ohio, February 4, 2005.

American Association of Law Schools 2005 Annual Conference, Panel on Eminent Domain After *Hathcock* and *Kelo*, San Francisco, California, January 8, 2005.

Michigan State University Law School, Conference on The Death of *Poletown*: The Future of Eminent Domain and Urban Development After *County of Wayne v. Hathcock*, November 12, 2004.

“Private Property and Takings on the Rehnquist Court,” Northwestern University Law School, Chicago, Illinois, Symposium on the Rehnquist Court, April 23, 2004.

“The Living Constitution and Separation of Powers on the Burger and Rehnquist Courts,” University of Illinois, Urbana-Champaign School of Law, February 16, 2004.

“*Euclid Lives? The Uneasy Legacy of Progressivism in Zoning.*”

Wake Forest University Law School, Winston-Salem, North Carolina, December 3, 2003.

University of Colorado-Boulder School of Law, November 14, 2003.

Washington University-St. Louis School of Law, August 13, 2003.

## REFERENCES

are available upon request.