

# JENNIFER MASCOTT

Assistant Professor of Law  
Antonin Scalia Law School at George Mason University  
3301 Fairfax Dr. · Arlington, VA 22201  
jmascott@gmu.edu  
@jennmascott · <http://ssrn.com/author=2653151>

## EDUCATION

**George Washington University School of Law**, J.D., with highest honors

- GPA: 4.22 (*highest cumulative graduating GPA on record at GW Law School*)
- Senior Projects Editor, *The George Washington Law Review*
- Dean's Fellow & Writing Fellow, Legal Research & Writing Program
- Research assistant, Professor John F. Duffy

**University of Maryland at College Park**, B.S. in Mathematics and Govt & Politics (*Phi Beta Kappa, cum laude*, full scholarship based on merit & financial need)

## PUBLICATIONS & FORTHCOMING WORKS

### Casebooks, Book Chapters, and Reports

Jack Beermann, Ron Cass, Colin Diver, Jennifer L. Mascott, ADMINISTRATIVE LAW: CASES & MATERIALS (Aspen/Wolters Kluwer) (9th ed. 2024)

2023 & 2022 Casebook Updates (online), Jack Beermann, Ron Cass, Colin Diver, Jody Freeman, & Jennifer L. Mascott, ADMINISTRATIVE LAW: CASES & MATERIALS (Aspen/Wolters Kluwer) (8th ed.)

Deference to Administrative Interpretations of Regulations, two chapters in LEADING CASES IN ADMINISTRATIVE LAW (ABA), forthcoming 2024

Research Report on Federal Agency ALJ Hiring after *Lucia* and Executive Order 13843 (2019), ADMINISTRATIVE CONFERENCE OF THE UNITED STATES (2019), with Jack Beermann  
<https://www.acus.gov/report/draft-research-report-federal-agency-alj-hiring-after-lucia-and-eo-13843>

- Formed the basis for recommendations adopted by the Administrative Conference of the United States in 2019

### Articles

*Adjudication in the Shadows*, 99 NOTRE DAME L. REV. \_\_\_\_ (forthcoming 2024 Fed Cts symposium issue)

[\*New Jury Trial Expansion and Structural Constitutional Reform\*](#) 76 Fla. L. Rev. \_\_\_\_ (2024) (forthcoming)

[\*Executive Decisions After Arthrex\*](#), 2021 SUP. CT. REV. 225 (2022) (with John F. Duffy)

- Highlighted by the *Notice & Comment* blog as a most-downloaded March 2022 administrative law paper in “The Administrative Law SSRN Reading List, March 2022 Edition,” <http://yalejreg.com/nc/administrative-law-ssrn-reading-list-march-2022-edition/>

*Private Delegation Beyond Executive Supervision*, 45 HARV. J.L. & PUB. POL'Y 837 (2022)

*Federal Officer Suits by Common Law*, 2022 CATO SUP. CT. REV. 111 (2021–2022) (with R. Trent McCotter)

*Early Customs Laws and Delegation*, 87 GEO. WASH. L. REV. 1388 (2019)

*Reflections on the Court and the State of the Nondelegation Doctrine*, 26 GEO. MASON L. REV. 1 (2018)

*The Dictionary as a Specialized Corpus*, 2017 BYU L. REV. 1557 (2018)

*“Officers” in the Supreme Court*, 2018 CATO SUP. CT. REV. 305 (2017–2018)

*Who are “Officers of the United States”?*, 70 STANFORD L. REV. 443 (2018)

- Cited by Supreme Court concurring opinions in *U.S. v. Arthrex* (2021), *Fin. Oversight & Mgmt. Bd. for P.R. v. Aurelius Inv., LLC* (2020), *Lucia v. SEC* (2018), *Ortiz v. United States* (2018), & *NLRB v. SW General, Inc.* (2017) & extensively cited in scholarship
- Reviewed as “path breaking” by the *Legal Theory Blog*, <http://lsolum.typepad.com/legaltheory/2017/02/download-of-the-week-who-are-officers-of-the-united-states-by-mascott.html>
- Named to the Top Ten “Downloads of the Year” by the *Legal Theory Blog*, <http://lsolum.typepad.com/legaltheory/2018/01/downloads-of-the-year.html>
- **Methodological Supplement, Who are “Officers of the United States”?**, online companion, volume 70 of the STAN. L. REV., <https://www.stanfordlawreview.org/wp-content/uploads/sites/3/2018/02/Mascott-Methodological-Supplement-Final.pdf>

*Constitutionally Conforming Agency Adjudication*, 2 LOYOLA J. REGULATORY COMPLIANCE (2017) (online journal)

- Quoted and cited in *Axon v. Federal Trade Commission* (S. Ct 2023)
- Highlighted by the *Notice & Comment* blog as a most-downloaded July 2017 administrative law paper in “The Administrative Law SSRN Reading List, July 2017 Edition,” <http://yalejreg.com/nc/administrative-law-ssrn-reading-list-july-2017-edition/>

*Limitations on the First Amendment Right of Access to Information Controlled by the Government*, 73 GEO. WASH. L. REV. 814 (2005) (case note)

## WORKS IN PROGRESS

### *Text & Tradition and the Kavanaugh Court*

- invited piece, *The Future of History and Tradition* symposium sponsored by the University of Illinois Program in Constitutional Theory & the Richmond Program on the American Constitution, to be published in volume 47 of the HARV. J.L. & PUB. POL'Y

### *The Ratifiers’ Theory of Officer Accountability*

- competitively selected for presentation at Originalism Works-in-Progress, Administrative Law New Scholarship Roundtable, and Young Legal Scholars conferences

- “Highly recommended” by the Legal Theory Blog,  
<https://lsolum.typepad.com/legaltheory/2022/03/mascott-on-the-ratifiers-theory-of-officer-accountability.html>

## ACADEMIC POSITIONS

**Assistant Professor of Law, Antonin Scalia Law School at George Mason University,**  
2017–present (*on leave from April 2019–January 2021; term professor from 2017–18*)

- **Courses:** Administrative Law; Constitutional Law; Federal Courts; Separation of Powers in the Political Branches (created the seminar in Fall 2021); Supreme Court Term Seminar; History & Foundations of the Administrative State; Civil Procedure
- **Committee Service:** Hiring Committee, 2018–19, 2021–2023; Clerkship Committee, 2017–19, 2021–present; Faculty Workshop Committee, 2023—present; Academic Standing and Student Affairs Committee, 2018–19
- **Co-Executive Director,** The C. Boyden Gray Center for the Study of the Administrative State, Antonin Scalia Law School, May 2021–present
- **Faculty Director,** Supreme Court and administrative law clinics, 2017–18

**Olin/Searle Fellow in Law,** Georgetown University Law Center, 2015–17

**Adjunct Faculty,** The George Washington University Law School, 2011–13, 2015

- Administrative Law (spring 2015; summer 2012; spring 2011)
- Advanced Field Placement Program (discussion group leader) (2012–13)
- Independent Legal Writing Advisor (fall 2012)

## CLERKSHIPS

**Law Clerk,** Hon. Clarence Thomas, U.S. Supreme Court, 2008–09

**Law Clerk,** Hon. Brett M. Kavanaugh, U.S. Court of Appeals for the D.C. Circuit, 2006–07

## AWARDS & FELLOWSHIPS

**Joseph Story Award,** Mar. 2023, for young academics exhibiting excellence in scholarship, a commitment to teaching, and a concern for students, who have made a significant public impact in a manner that advances the rule of law

**Campbell Visiting Fellow, Stanford/Hoover,** Jan. 2023, Hosted by HLS professor Jack Goldsmith, Princeton professor Keith Whittington, & Stanford Law School professor Michael McConnell

## OTHER PROFESSIONAL LEGAL EXPERIENCE

**Associate Deputy Attorney General; Deputy Assistant Attorney General, Office of Legal Counsel,** U.S. Department of Justice, April 2019–January 2021

**Of Counsel,** Consovoy McCarthy Park PLLC, 2017–March 2019

## TESTIMONY

Testimony, Hearing on “Reining in the Administrative State: Agency Adjudication and Other Agency Action,” U.S. House Judiciary Subcommittee on the Administrative State, Regulatory Reform, and Antitrust (March 20, 2024)

“Ensuring an Impartial Judiciary,” Testimony, U.S. Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights hearing on the Supreme Court Ethics, Recusal, and Transparency Act of 2023 (June 14, 2023)

“Proposed Amendments to the Sentencing Commission Guidelines Related to Compassionate Release,” Testimony, U.S. Sentencing Commission (Feb. 23, 2023)

“The Proper Role and Function of 21st-Century Courts,” Testimony, U.S. Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights hearing titled *An Ethical Judiciary: Transparency and Accountability for 21st Century Courts* (May 3, 2022)

Testimony on the Nomination of The Honorable Ketanji Brown Jackson to be an Associate Justice of the Supreme Court of the United States, U.S. Senate Judiciary Committee (Mar. 24, 2022)

“The Administrative Procedure Act at 75: Ensuring the Rulemaking Process is Transparent, Accountable, and Effective,” Testimony, U.S. House Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law (Dec. 1, 2021)

“Jurisdiction and the Supreme Court’s Orders Docket,” Testimony, U.S. Senate Judiciary Committee hearing titled *Texas’s Unconstitutional Abortion Ban and the Role of the Shadow Docket* (Sept. 29, 2021)

“Oversight and Executive Privilege in the Context of Separated Powers,” Testimony, U.S. Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights hearing titled *Breaking the Logjam: Principles and Practice of Congressional Oversight and Executive Privilege* (Aug. 3, 2021)

Testimony in Support of the Nomination of Brett M. Kavanaugh to Serve as an Associate Justice of the U.S. Supreme Court, U.S. Senate Judiciary Committee (Sept. 7, 2018)

## LECTURER/GUEST INSTRUCTOR

*Instructor*, Original Meaning of Article II of the U.S. Constitution, Center for Constitutional Originalism, University of San Diego Law School (2023)

*Guest Lecturer*, “The New Trial Right as Structural Constitutional Reform,” Michigan’s Public Law Workshop (2023)

*Lecturer*, Inaugural annual Paul Clement Lecture Series, The Georgetown University Federalist Society (2023)

*Lecturer*, Scalia-Ginsburg Fellows Program, New Civil Liberties Alliance (2022 & 2023)

*Lecturer*, Originalism for Law Clerks, Georgetown Center for the Constitution (2021, 2022, & 2023)

*Lecturer*, Originalism for Judges Seminar, Georgetown Center for the Constitution (2022)

*Co-Instructor*, Separation of Powers Briefing Series, U.S. Senate and U.S. House policy and legal staff (2022 & 2023)

*Lecturer*, The Economics of the Separation of Powers & Constitutional Structure, Public Law, Economics, and Policy Institute, Scalia Law's LEC (2021)

*Lecturer*, Appointments Clause and Originalist Interpretation, Georgetown Center for the Constitution (2020)

*Guest Lecturer*, Seminar on "Drafting and Ratification of the Constitution," taught by Dean William Treanor & Professor John Mikhail, Georgetown University Law Center (2019)

*Lecturer*, "Who are 'Officers of the United States'?" Constitutional Law Colloquium, University of Illinois College of Law (2018)

*Lecturer*, "Who are 'Officers of the United States'?" Public Law Colloquium, Northwestern University School of Law (2017)

## **PRESENTATIONS & CONFERENCES** (selected)

*Presenter*, History & Tradition and the Kavanaugh Court, symposium on Text & Tradition in Supreme Court Jurisprudence, HARVARD JOURNAL OF LAW & PUBLIC POLICY, Harvard Law School (Feb. 2024)

*Presenter*, "Adjudication in the Shadows," NOTRE DAME LAW REVIEW Federal Courts Symposium (Jan. 2024)

*Moderator*, "Stare Decisis: From the Warren Court (and Before) to the Roberts Court (and Beyond)," AALS Constitutional Law Section annual conference (Jan. 2024)

*Presenter*, "Constitutional Challenges to Agency Adjudication," ABA's Administrative Law fall conference (Nov. 2023)

*Moderator*, "Judicial Remedies in Administrative Law," ABA's Administrative Law fall conference (Nov. 2023)

*Moderator*, Separation of Powers, memorial conference on the jurisprudence of D.C. Circuit Judge Silberman, American Enterprise Institute (Nov. 2023)

*Sponsor, Moderator, & Co-Host*, *Chevron* on Trial, George Mason Law Review annual symposium (Oct. 2023)

"Legislative or Administrative Constitution? This Term Before the Supreme Court, Yale Federalist Society (Oct. 2023)

*Panelist*, Supreme Court Preview with panelists Jess Bravin, Greg Stohr, & Adam White, American Enterprise Institute (Sept. 2023)

*Panelist*, Supreme Court Preview, Federalist Society (Sept. 2023)

*Panelist*, "Scholars and Scribes Review the Rulings: The Supreme Court's 2022-23 Term," Heritage Foundation (July 2023), joining Jess Bravin (*WSJ*), Bob Barnes (*Washington Post*), & Supreme Court advocate Kannon Shanmugam to discuss the Supreme Court's OT22 decisions

*Speaker*, "Recipient of the annual Justice Joseph Story Award," National Student Symposium, Federalist Society (March 2023)

*Panelist*, “Major Questions Doctrine,” National Lawyers Convention, Federalist Society (November 2022)

*Panelist*, Common-Law Torts and *Bivens* Claims, Constitution Day Symposium, CATO (September 2022)

*Discussant*, “Rule of Law & Democracy,” Quill Project, Pembroke College, Oxford (July 2022) (conversations on comparative legal issues with U.S. and British jurists and law school deans and academics)

*Panelist*, Appointments, Removal, & Agency Personnel Structure, ABA Administrative Law Conference (Dec. 2022)

*Wisconsin Law Review*, symposium speaker on constitutional interpretation (Oct. 2022)

*Commentator* on Prof. Steve Vladeck’s keynote Childress Lecture, St. Louis University Law School (Oct. 2022)

*Speaker*, Major Questions Doctrine, Harvard Law School, Federalist Society (Sept. 2022)

*Panelist*, “Histories of Presidential Power,” Stanford Constitutional Law Center (May 2022)

*Panelist*, “Major Questions Doctrine,” American Bar Association’s Section of Administrative Law & Regulatory Practice, Administrative Law Conference (May 2022)

*Interviewer*, Keynote Discussion with Ambassador C. Boyden Gray, “Congress’s Interbranch Role: The Executive, The Court, and *Dobbs*,” Gray Center (May 2022)

*Panelist*, *Oklahoma v. Castro-Huerta*, Native American Student Law Association, Antonin Scalia Law School (Apr. 2022)

*Presenter*, “Ratifiers’ Theory of Accountability,” Levy Workshop, Antonin Scalia Law School (Mar. 2022)

*Panelist*, “Federalists, Anti-Federalists, & Executive Power,” 2022 National Student Symposium, Federalist Society (Mar. 2022)

*Panelist with Judge Sutton & Judge Pryor*, “Talks with Authors: Who Decides? States as Laboratories of Constitutional Experimentation,” Webinar (Feb. 2022)

*Panelist*, “Originalism: New Criticisms and Defenses,” Association of American Law Schools Annual Conference (Jan. 2022)

*Panelist*, “On the Brink: The Supreme Court, SB8, *Dobbs*, and the Future of Reproductive Rights,” Association of American Law Schools Annual Conference (Jan. 2022)

*Panelist*, Federalism in Regulatory Decisionmaking, National Association of Attorneys General Annual Conference (Dec. 2021)

*Panelist*, “The Unitary Executive, Autocracy, and American History,” Syracuse Law Review Symposium (Nov. 2021)

*Presenter*, “Regulation and Administration in American Life: Legal Historical Perspectives,” American Society for Legal History (Nov. 2021)

*Commentator*, Response to The John E. Sullivan Lecture on administrative law by former White House Counsel Don McGahn, Capital State Univ. Law Review event at the Ohio Statehouse (Oct. 2021)

*Panelist with Berkeley Law Dean Chemerinsky*, “The Journey and Jurisprudence of U.S. Supreme Court Justice Clarence Thomas,” Webinar, Orange County Bar Association (Oct. 2021)

*Introductory Speaker*, Evening Lecture Event with Justice Thomas, Judge Silberman, Leader McConnell, C. Boyden Gray, & Don McGahn, Justice Thomas’s Thirty-Year Legacy on the Court, Gray Center/Heritage Foundation (Oct. 2021)

*Moderator*, “Advocacy in the Thomas-era Court,” Gray Center/Heritage Foundation Symposium on Justice Thomas’s Thirty-Year Legacy on the Court (Oct. 2021)

*Interview of D.C. Circuit Judge Neomi Rao*, Conference on “Presidential Administration in a Polarized Era,” Gray Center (Oct. 2021)

*Moderator*, Panel Reviewing Prakash & Yoo Scholarship on Presidential Power, Conference on “Presidential Administration in a Polarized Era,” Gray Center (Oct. 2021)

*Moderator*, “Judge Williams on Administrative Law and Regulatory Policy,” Memorial Symposium in Honor of Judge Stephen F. Williams, Gray Center (Sept. 2021)

*Presenter*, “*Arthrex* and the Patent Board of 1836,” Manne Faculty Forum, Antonin Scalia Law School (Aug. 2021)

*Moderator*, “*Arthrex*: The End of Patent Exceptionalism in the Administrative State?,” Regulatory Transparency Project Webinar (Aug. 2021)

*Moderator*, “Supervision by the Executive: Appointments Clause and Removal Constraints After *Collins* & *Arthrex*,” Webinar, American Bar Association’s Section of Administrative Law & Regulatory Practice (July 2021)

*Moderator*, “The Life of the Law: What Has Happened Since 1946?,” Symposium on the Administrative Procedure Act’s 75th Anniversary, Gray Center (June 2021)

*Panelist*, “Non-Delegation? Or No Divesting? Art. I, Sec. I at the Founding and Today,” Executive Branch Review Conference, Federalist Society (May 2021)

*Panelist*, “The *Arthrex* Complex: Are Administrative Patent Judges Principal or Inferior Officers?,” Webinar, Texas A&M Student Chapter, Federalist Society (Mar. 2021)

*Panelist*, Courthouse Steps Oral Argument Teleforum: *Carr v. Saul* (Mar. 2021)

*Presenter*, “*Arthrex* and the Patent Board of 1836,” Levy Workshop, Antonin Scalia Law School (Mar. 2021)

*Commenter*, YLS Prof. Nick Parrillo’s “A Critical Assessment of the Originalist Case Against Administrative Regulatory Power,” 12th Annual Hugh & Hazel Darling Foundation Originalism Work-in-Progress Conference, Center for the Study of Constitutional Originalism at the Univ. of San Diego School of Law (Feb. 2021)

*Panelist*, “Constitutional Principals: Administrative Adjudication and *Arthrex*,” The Center for Innovation Policy at Duke Law (Feb. 2021)

*Panelist*, “Originalism, Institutionalism, and the Thomas Court,” UVA Law School Chapter, Federalist Society (Feb. 2021) (online)

*Speaker*, “Regulatory Reform and Transparency,” Yale Law School Chapter, Federalist Society (Nov. 2020) (online)

*Panelist*, “Administrative Law Perspectives Beyond the Liberal/Conservative Divide: A Panel Discussion,” American Association of Law Schools Annual Meeting (Jan. 2020)

*Moderator*, “Lessons from the Life of Administrative Law: What Experience Teaches about How the APA Can Be Improved,” Department of Justice Summit on Modernizing the Administrative Procedure Act (Dec. 2019)

*Panelist*, “Trends in Statutory Interpretation,” Georgetown Law Judicial Interpretation Institute (session for federal judges with Prof. Bill Eskridge, Prof. Vic Nourse, and Supreme Court advocate Roman Martinez) (Sept. 2019)

*Panelist*, “The Intersection of *Chevron* and the Non-Delegation Doctrine,” DC Bar (April 2019)

*Panelist*, “Changes in Administrative Law in the Courts,” Symposium on “Regulatory Change & the Trump Administrative State,” *The Yale Journal on Regulation* (March 2019)

*Speaker*, “Separation of Powers & Agency Adjudication,” Yale Law School Chapter, Federalist Society (March 2019)

*Speaker*, “An Unwanted Promotion: How *Lucia* Will Transform the Executive Branch,” UVA Law School Chapter, Federalist Society (March 2019)

*Presenter*, “Early Customs Laws and Delegation,” Levy Workshop, Antonin Scalia Law School, George Mason University (Feb. 2019)

*Presenter*, “The Ratifiers’ Theory of Officer Accountability,” Tenth Annual Originalism Works-in-Progress Conference, Center for the Study of Constitutional Originalism, University of San Diego School of Law (Feb. 2019)

*Panelist*, “Congress and the Executive Branch,” Symposium on “Reclaiming—and Restoring—Constitutional Norms,” American Constitution Society/*Texas Law Review* (Feb. 2019)

*Panelist and Paper Presenter*, “The Nondelegation Doctrine, Reconsidered,” Congress and the Administrative State: Delegation, Nondelegation, and Un-Delegation, Gray Center (Feb. 2019)

*Speaker*, “Does the Civil Service System Violate the Appointments Clause?,” Stanford Law School Chapter, Federalist Society (Feb. 2019)

*Moderator*, “A World Without *Chevron*?,” Legislative Branch Review Conference, Federalist Society (Feb. 2019)

*Panelist*, “The Ratifiers’ Theory of Officer Accountability,” 2019 Young Legal Scholars Paper Presentations, Annual Faculty Conference, Federalist Society (Jan. 2019) (competitively selected)

*Panelist*, “The Vacancies Act and the Attorney General: Constitutional and Statutory Issues,” American Bar Association’s Section of Administrative Law & Regulatory Practice (Dec. 2018) (teleconference)

*Panelist*, “Do Acting Agency Heads Require the Senate’s Advice and Consent?,” New Normals? The Trump Administration, the Courts, and Administrative Law, Gray Center (Dec. 2018)

*Panelist*, “Constitutional Constraints on Administrative Power: How History Sheds Light on Contemporary Understandings,” American Bar Association’s Section of Administrative Law & Regulatory Practice, Administrative Law Conference (Nov. 2018)



*Panelist*, “*Lucia’s* Aftermath: ALJ & AJ Job Security and Independence,” American Bar Association’s Section of Administrative Law & Regulatory Practice, Administrative Law Conference (Nov. 2018)

*Panelist*, 2018 Federalist Society National Lawyers Convention: “Independent Agencies: How Independent is Too Independent?” (Nov. 2018)

*Panelist*, “Judicial Review in a Time of Reconsideration,” The Veterans Appeals Process: A Case of Administrative Crisis and Possible Reforms, Gray Center (Oct. 2018)

*Presenter*, Research Roundtable on “Delegation, Nondelegation, and ‘Un-delegation,’” Gray Center (Oct. 2018)

*Moderator*, “Administrative Law Judges After *Lucia*,” The GEORGE MASON LAW REVIEW’s First Annual Symposium on Administrative Law, Gray Center (Sept. 2018)

*Panelist*, “The Year Ahead: Regulation in the Supreme Court and the Circuits,” Hoover Institution & The Center for the Study of the Administrative State, Gray Center (Sept. 2018)

*Keynote speaker*, Judicial Conference of the Occupational Safety and Health Review Commission, (Sept. 2018)

*Panelist*, 2018 Annual Seminar, Federal Administrative Law Judges Conference, Philadelphia, PA (Sept. 2018)

*Panelist*, Webinar on “Judicial Independence and Administrative Law Judges: Is This the End of an Era?,” American Bar Association’s Section of Civil Rights & Social Justice (Sept. 2018)

*Panelist*, “Supreme Court Preview: What Is in Store for October Term 2018?,” Federalist Society (Sept. 2018)

*Panelist*, “The Kavanaugh Nomination: A Panel Discussion,” American University Washington College of Law (Sept. 2018)

*Presenter*, Administrative Law and Removal Doctrine, Manne Faculty Forum, Antonin Scalia Law School (Aug. 2018)

*Panelist*, “What Kind of Judge is Brett Kavanaugh? A Closer Look at His Cases,” Heritage Foundation (Aug. 2018)

*Moderator*, “Reforming Administrative Adjudication,” Federalist Society (May 2018) (teleforum)

*Panelist*, “Are Administrative Law Judges Unconstitutional?,” Congressional Civil Justice Academy, hosted on Capitol Hill by George Mason’s Law and Economics Center (April 2018)

*Lunchtime Speaker*, Monthly Luncheon, Federal Administrative Law Judges Conference (April 2018)

*Panelist*, “Civil Service Reform,” plenary lunchtime panel at the Sixth Annual Executive Branch Review Conference, Federalist Society (April 2018)

*Panelist*, “Presidential Appointment Power,” Republican National Lawyers Association’s 18th Annual National Policy Conference (April 2018)

*Panelist*, “Are Administrative Law Judges Unconstitutional?,” Heritage Foundation (April 2018)

*Discussion Leader*, “Corpus Linguistics and Constitutional Law Panel,” Third Annual Law and Corpus Linguistics Conference, Brigham Young University Law School (March 2018)

*Interviewer*, “Conversation with Justice Clarence Thomas,” 2018 National Student Symposium, Federalist Society (March 2018)

*Panelist*, Teleforum: “Who Are You to Judge? The Supreme Court Revisits the Constitutionality of Agency Adjudication,” Constitutional Law Committee, ABA’s Section of Administrative Law & Regulatory Practice (Feb. 2018) (teleforum)

*Presenter*, “‘Office’ as Property?,” New Voices in Administrative Law, AALS Annual Meeting (Jan. 2018)

*Panelist*, 2017 Federalist Society National Lawyers Convention: Plenary Panel, “Administrative Agencies and the Federal Judiciary” (Nov. 2017)

*Panelist*, “Are ALJs Unconstitutionally Appointed, or Are They Mere Employees?,” American Bar Association’s Section of Administrative Law & Regulatory Practice, Administrative Law Conference (Oct. 2017)

*Panelist*, “Now What? Academic Thoughts on Judicial Remedies in Administrative Law,” American Bar Association’s Section of Administrative Law & Regulatory Practice, Administrative Law Conference (Oct. 2017)

*Panelist*, 2017 Annual Seminar, Federal Administrative Law Judges Conference, Providence, RI (Sept. 2017)

*Panelist*, “The Year Ahead: Regulation in the Supreme Court and the Circuits,” Hoover Institution & The Center for the Study of the Administrative State (Sept. 2017)

*Presenter*, “Equalizing Process,” Manne Faculty Forum, Antonin Scalia Law School, George Mason University (Sept. 2017)

*Presenter*, “Who are ‘Officers of the United States’?,” Second Annual Administrative Law New Scholarship Roundtable, The Ohio State University’s Moritz College of Law (June 2017) (competitively selected)

*Presenter*, “Who are ‘Officers of the United States’?,” 2017 Junior Scholars Colloquium, Federalist Society (June 2017) (competitively selected)

*Presenter*, “Who are ‘Officers of the United States’?,” Center for the Study of Constitutional Originalism, University of San Diego School of Law (May 2017)

*Presenter*, “Who are ‘Officers of the United States’?,” Faculty Lunch Series, The George Washington University Law Center (April 2017)

*Panelist*, Public Policy Conference: “Rethinking Due Process,” Center for the Study of the Administrative State, Antonin Scalia Law School, George Mason University (April 2017)

*Presenter*, “The Dictionary as a Specialized Corpus,” Law & Corpus Linguistics Symposium, Brigham Young University Law Review (Feb. 2017)

## **PRINT COMMENTARY**

- The New Supreme Court’s Adjudication of Law, 44 ADMIN. & REG. L. NEWS 9 (2019-20) (essay)
- Review of THE *CHEVRON* DOCTRINE: ITS RISE AND FALL, AND THE FUTURE OF THE ADMINISTRATIVE STATE, Thomas W. Merrill, Harvard University Press (2022), WALL STREET JOURNAL (Aug. 2022) (with former Gray Center fellow Eli Nachmany)

- “The Supreme Court Reminds the Executive Branch: Congress Makes the Laws,” WASHINGTON POST, (July 1, 2022) (with former Gray Center fellow Eli Nachmany) (invited by *WaPo*)
- “The Supreme Court Reclaims Its Legitimacy,” WSJ (June 24, 2022) (with David Rivkin)

## MEDIA & BLOG POSTS

- ABC’s This Week with Jonathan Karl; NBC’s Meet the Press, Special Report with Lester Holt, and the weekend Today Show; CNN; MSNBC; PBS NewsHour; C-Span; Fox News
- Quoted/cited in the *New York Times*, *Wall Street Journal*, AP, Reuters, *Time*, Law360, Bloomberg, *USA Today*, and the *National Law Journal*, among other publications

### Online (selected)

- “Text, History, and Tradition Will Likely Govern the Resolution of *Dobbs*,” Real Clear Policy (Dec. 1, 2021), [https://www.realclearpolicy.com/articles/2021/12/01/text\\_history\\_and\\_tradition\\_will\\_likely\\_govern\\_the\\_resolution\\_of\\_dobbs\\_805895.html#!](https://www.realclearpolicy.com/articles/2021/12/01/text_history_and_tradition_will_likely_govern_the_resolution_of_dobbs_805895.html#!)
- “Clarence Thomas’s Monumental Legacy,” National Review Online (Oct. 23, 2021), <https://www.nationalreview.com/2021/10/clarence-thomass-monumental-legacy/>
- “Originalism, Methodology, and the Reconstruction Amendments,” Balkinization Blog post reviewing KURT T. LASH ED., *THE RECONSTRUCTION AMENDMENTS: THE ESSENTIAL DOCUMENTS* (2021) (June 25, 2021), <https://balkin.blogspot.com/2021/06/originalism-methodology-and.html>
- “The Procedural Morality of Administrative Law—To the End of the Common Good?,” Yale Journal on Regulation Notice & Comment Blog post reviewing SUNSTEIN & VERMEULE, *LAW AND LEVIATHAN: REDEEMING THE ADMINISTRATIVE STATE* (2020) (Apr. 19, 2021), <https://www.yalejreg.com/nc/law-leviathan-redeeming-the-administrative-state-part-06/>
- “Judge Kavanaugh: Interpretive Principles as a Way of Life,” Yale Journal on Regulation Notice & Comment Blog (July 2, 2018), <http://yalejreg.com/nc/judge-kavanaugh-interpretive-principles-as-a-way-of-life/>
- “The Appointments Clause—A Modest Take,” SCOTUSblog (June 22, 2018), <https://www.scotusblog.com/2018/06/symposium-the-appointments-clause-a-modest-take/>
- “Missing History in the Court-Appointed Amicus Brief in *Lucia v. SEC*,” Yale Journal on Regulation Notice & Comment Blog (Mar. 28, 2018), <https://www.yalejreg.com/nc/missing-history-in-the-court-appointed-amicus-brief-in-lucia-v-sec/>
- “The Alternative Separation of Powers in Constitutional Coup,” Yale Journal on Regulation Notice & Comment Blog post reviewing JON D. MICHAELS, *CONSTITUTIONAL COUP: PRIVATIZATION’S THREAT TO THE AMERICAN REPUBLIC* (2017) (Mar. 9, 2018), <http://yalejreg.com/nc/the-alternative-separation-of-powers-in-constitutional-coup/>

- “Revisiting the Record on Removal,” Yale Journal on Regulation Notice & Comment Blog (Mar. 5, 2018), <http://yalejreg.com/nc/revisiting-the-record-on-removal/>
- “D.C. Circuit’s Double-Header on Article II,” Yale Journal on Regulation Notice & Comment Blog (May 26, 2017), <http://yalejreg.com/nc/d-c-circuits-double-header-on-article-ii-by-jennifer-mascott/>

## PODCASTS/TELEFORUMS/VIDEO COMMENTARY

*Panelist*, National Constitution Center debate on the CFPB litigation & the Appropriations Clause (Oct. 2023)

*Panelist*, “The Shadow Docket Debate,” Online with the National Constitution Center with Adam Liptak (*NY Times*), Jeffrey Rosen, & Steve Vladeck (May 2023)

*Created the podcast series “The Pulse of the Court”* with legal practitioners discussing timely matters before the courts, C. Boyden Gray Center

*Guest*, “The President’s Power to Hire & Fire,” UVA Law Dean’s “Common Law” podcast (June 2022)

*Guest*, Supreme Myths Podcast (May 2022)

*Panelist on Clubhouse*, “The Virtuous Executive” with Alan Rozenshtein, U Penn Program on Regulation (Apr. 2022)

*Guest*, “Emergency Powers Kindle Emergencies,” Dissed Podcast (January 2022)

*Co-Panelist with NY Times reporter Adam Liptak*, “Constitutional Year End in Review,” National Constitution Center’s We The People Podcast (Dec. 2021)

*Panelist*, “The Supreme Court’s ‘Shadow Docket,’” We the People Podcast with the National Constitution Center (Oct. 2021)

*Speaker*, Justice Thomas Online Symposium, Harvard Journal of Law and Public Policy (Sept. 2021)

*Speaker*, A Conversation with the Center’s New Co-Executive Director, Gray Matters podcast (Sept. 2021)

*Instructor*, Mini video lectures on judicial power, executive power, constitutional interpretation, and administrative law, “No. 86 Project—Continue the Conversation,” The Federalist Society (spring and summer 2019)

*Panelist*, “Is There a Supreme Court Legitimacy Crisis?,” *We the People* podcast, sponsored by the National Constitution Center (Oct. 2018), <https://constitutioncenter.org/debate/podcasts/is-there-a-supreme-court-legitimacy-crisis>

“*Lucia v. SEC*, Supreme Court Roundup: October Term 2017,” SCOTUSbrief (Sept. 2018), <https://fedsoc.org/commentary/videos/supreme-court-roundup-october-term-2017-scotusbrief>

“Civil Service Reform,” short video produced by the Federalist Society (July 2018), <https://www.youtube.com/watch?v=T2aMAzVn-Ts>

“Kennedy, Kavanaugh, and the Future of National Security Before the Supreme Court,” The Lawfare Podcast (July 2018), <https://www.lawfareblog.com/lawfare-podcast-kennedy-kavanaugh-and-future-national-security-supreme-court>

*Guest Commentator*, SCOTUS 101 Podcast, Episode #228: “Gorsuch’s Anniversary” (April 2018), <https://player.fm/series/scotus-101/ep-228-gorsuchs-anniversary>

*Guest Commentator*, “Supreme Court Decision in *Sheriff v. Gillie*,” SCOTUScast (June 2016), <https://fedsoc.org/commentary/podcasts/sheriff-v-gillie-post-decision-scotuscast>

## ACADEMIC BRIEFS & REGULATORY COMMENTS

Student Clinics—Founder and supervisor of the Separation of Powers Clinic (2021–present), which assists students in the development of practical legal skills and has filed briefs in support of or on behalf of U.S. House Members & Senators, veterans, criminal defendants, state governments, and academics. Director & instructor for the law school’s Supreme Court & Administrative Law clinics (2017–18).

### Representative briefs:

- Separation of powers & judicial contempt prosecutions, *United States v. Donziger*, Supreme Court (cert stage) (S. Ct., No. 22-274)
- Agency removal & jurisdiction, *Axon v. Federal Trade Commission* (S. Ct., No. 21-86)
- Blackstone and the history of statutory and common law rights to a new trial as a structural constitutional safeguard: *Nordlicht v. United States*, Supreme Court (cert stage) (No. 21-1319); *Crittenden v. United States*, en banc decision discussed the Blackstone history
  - En banc Fifth Circuit decision discussed the Blackstone history
- Structural constitutional principles and the history of federal officer common-law suits, *Egbert v. Boule* (S. Ct., No. 21-147)
- Statutory interpretation & veterans benefits, *George v. McDonough* (S. Ct., No. 21-234)
  - Cited by Justice Gorsuch at oral argument

### Regulatory comments:

- Mascott, Administrative Law Clinic, Comment to the Consumer Financial Protection Bureau (“CFPB”), in response to Request for Information Regarding Bureau Rules of Practice for Adjudication Proceedings, Docket No. CFPB-2018-0002 (May 2018)
- Mascott & Consovoy, Administrative Law Clinic, Comments Regarding the Surface Transportation Board’s Proposed Revisions to its Ex Parte Communications in Informal Rulemaking Proceedings, 82 FR 45771 (Nov. 2017)

## PROFESSIONAL SERVICE

- **Supreme Court Contributor**, NBC News
- **Council Member**, American Bar Association’s Section of Administrative Law and Regulatory Practice, nominated and voted in to the position, August 2023
- **Public Member** (*appointed by the Chair of ACUS*), Administrative Conference of the United States, 2017–2019, fall 2021–present
- **Vice Chair**, Committee on Constitutional Law and the Separation of Powers, ABA’s Section of Administrative Law & Regulatory Practice, summer 2021–2023
- **Permanent Commentator**, *Notice & Comment* blog, Yale Journal on Regulation, 2017–2019, spring 2021–present

- **Vice Chair**, Committee on the Judicial Review and Supreme Court Series, ABA's Section of Administrative Law & Regulatory Practice, 2018–19
- **Referee**: Have reviewed prospective publications for the *Harvard Law Review*, *Yale Law Journal*, *Stanford Law Review*, and *Jurimetrics*

**ADMISSIONS:**

U.S. Supreme Court  
First, Fourth, Fifth, & Ninth Circuit U.S. Courts of Appeals  
Maryland  
Virginia