

# ANDREW COAN

James E. Rogers College of Law  
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## ACADEMIC EMPLOYMENT

### James E. Rogers College of Law, University of Arizona

Milton O. Riepe Chair in Constitutional Law, 2022-present  
Distinguished Legal Scholar, 2024-present  
Professor of Law, 2014-present  
Director, William H. Rehnquist Center on the Constitutional Structures of Government, 2019-present (Associate Director from 2014-2019)  
Associate Dean for Research, 2020-2024  
Courses: Constitutional Law, Constitutional Theory Seminar, Federal Courts, Civil Procedure, American Public Law System, Procedure

### University of Wisconsin Law School

Associate Professor of Law (with tenure), 2013-2014  
Assistant Professor of Law, 2008-2013  
Courses: Constitutional Law I, Federal Jurisdiction, Civil Procedure, Constitutional Theory Seminar, Reproductive Freedom Seminar

### University of Michigan Law School

Visiting Assistant Professor of Law, 2009-2010  
Courses: Constitutional Law, Federal Courts

### Stanford Law School

James C. Gaither Fellow & Lecturer-in-Law, 2006-2008  
Courses: Federal Courts, Constitutional Litigation Seminar

## EDUCATION

Stanford Law School, J.D., 2005, Order of the Coif, with distinction

University of Wisconsin-Madison, B.A., 2000, English and Philosophy, Phi Beta Kappa, 1<sup>st</sup> in class (tie)

## OTHER LEGAL EMPLOYMENT

Judge Richard A. Posner, United States Court of Appeals for the Seventh Circuit,  
Law Clerk, 2005-2006

Bingham McCutchen, Summer Associate, 2004-2005

Faegre & Benson, Summer Associate, 2004-2005

Baker & McKenzie, Summer Associate, 2003

## SCHOLARSHIP

### Works in Progress

- *The Myth of Enumeration: Federal Power and The Failure of Originalism* (book under contract with Oxford University Press) (with David Schwartz)
- *Relative Stare Decisis* (in progress)
- *Rethinking Special Prosecutors After Trump* (in progress)

### Books

- RATIONING THE CONSTITUTION: HOW JUDICIAL CAPACITY SHAPES SUPREME COURT DECISION-MAKING (Harvard University Press 2019)
- PROSECUTING THE PRESIDENT: HOW SPECIAL PROSECUTORS HOLD PRESIDENTS ACCOUNTABLE AND PROTECT THE RULE OF LAW (Oxford University Press 2019)
  - ABA Silver Gavel Award Finalist

### Academic Articles

- *Artificial Intelligence and Constitutional Interpretation* (with Harry Surden), CO. L. REV. (forthcoming 2025)
  - *Legal Theory Blog* “Download of the Week”
- *What Is the Matter with Dobbs?*, 26 U. PA. J. CONST. L. 282 (2024)
  - Most downloaded Arizona Legal Studies paper of 2023
- *Dobbs v. Brown*, 2 J. AM. CON. HIST. 141 (2024)
- *Too Much, Too Quickly*, 58 U.C. DAVIS L. REV. 407 (2024)
  - *Legal Theory Blog* “Download of the Week”
- *The Original Meaning of Enumerated Powers* (with David S. Schwartz), 109 IOWA L. REV. 971 (2024)
  - *Legal Theory Blog* “Download of the Week”
- *Interpreting Ratification*, (with David S. Schwartz), 1 J. AM. CON. HIST. 449 (2023)
- *Qualified Immunity: Round Two* (with DeLorean Forbes), 78 WASH. & LEE L. REV. 1433 (2021)
- *The Dead Hand Revisited*, 70 EMORY L.J. ONLINE 1 (2020)

- *Eight Futures of the Nondelegation Doctrine*, 2020 WISCONSIN LAW REVIEW 141
- *Article III, Representation, and Remedies* (with David Marcus) 9 CONLAWNOW (2018)
- *Amending the Law of Constitutional Interpretation*, 13 DUKE J. CON. L. & PUB. POL'Y 83 (2018)
- *The Foundations of Constitutional Theory*, 2017 WISC. L. REV. 833
  - Featured in JOTWELL
- *Living Constitutional Theory*, 66 DUKE L.J. ONLINE 99 (2017)
  - *Legal Theory Blog* “Download of the Week”
- *Implementing Enumeration*, 57 WM. & MARY L. REV. 1985 (2016)
- *Judicial Capacity and Executive Power* (with Nicholas Bullard) 102 VA. L. REV. 765 (2016)
- *Difficulty of Amendment and Interpretive Choice* (with Anuj Desai), 1 J. INST. STUD. 6 (2015)
- *Commandeering, Coercion, and the Deep Structure of Federalism*, 95 B.U. L. REV. 1 (2015)
- *Judicial Capacity and the Conditional Spending Paradox*, 2013 WISC. L. REV. 339
- *Judicial Capacity and the Substance of Constitutional Law*, 122 YALE L.J. 422 (2012)
- *Is There a Constitutional Right to Select the Genes of One's Offspring?* 63 HASTINGS L. J. 233 (2011)
- *Toward a Reality-Based Constitutional Theory*, 89 WASH. U. L. REV. 273 (2011)
- *The Irrelevance of Writtenness in Constitutional Interpretation*, 157 U. PA. L. REV. 1025 (2010)
  - Featured in JOTWELL
  - *Legal Theory Blog* “Download of the Week”
- *Assisted Reproductive Equality: An Institutional Analysis*, 60 CASE W. RES. L. REV. 1143 (2010)
- *Talking Originalism*, 2009 B.Y.U. L. REV. 847
- *Well, Should They?: A Response to If People Would Be Outraged by Their Rulings, Should Judges Care?*, 60 STAN. L. REV. 213 (2007)
- *Text as Truce: A Peace Proposal for the Supreme Court's Costly War over the Eleventh Amendment*, 74 FORDHAM L. REV. 2511 (2006)
- *The Legal Ethics of Release-Dismissal Agreements: Theory and Practice*, 1 STAN. J. OF C.R. & C.L. 371 (2005)

#### Other Legal Publications

- “The Politics of Disqualifying Trump,” August 21, 2023

- “The Burdens of Judgment,” *Balkinization*, August 10, 2023
- “Is the Supreme Court Changing Too Much, Too Quickly,” January 11, 2023
- “Should Progressives Embrace Originalism?,” December 21, 2022
- “Bad Seeds and Tips of the Iceberg,” *Balkinization*, February 16, 2021
- “Section 3 and Politics by Other Means,” *Balkinization*, January 12, 2021
- “Response to Comments on *Rationing the Constitution*,” *Balkinization*, October 4, 2019
- “Donald Trump Is No Richard Nixon. He’s Worse,” *Los Angeles Times*, April 20, 2019.
- “How Do You Fire a Special Prosecutor? Ask Harry Truman,” *History News Network*, February 16, 2019
- “Why Robert Mueller’s Predecessors Usually Didn’t Prevail,” *Wall Street Journal*, January 25, 2019
- “Final Thoughts on *Prosecuting the President*,” *Take Care*, January 24, 2019
- “The Good, the Bad, and the Uncertain from William Barr’s Testimony,” *Washington Post*, January 15, 2019
- “What We Can Still Learn from History’s First Special Prosecutor,” *Time*, January 15, 2019
- “Prosecuting the President,” *Take Care*, January 14, 2019
- “William Barr’s Memo on the Mueller Probe Is Baseless and Dangerous,” *Washington Post*, December 20, 2018
- “Matthew Whitaker’s Supreme Court Positions Are Incoherent, May Cause Constitutional Crisis,” *USA Today*, November 14, 2018 (with Toni Massaro)
- “Matthew Whitaker Is the New Harriet Miers. Conservatives Should Make Trump Withdraw His Appointment,” *Los Angeles Times*, November 12, 2018
- “President Grant Fired His Special Prosecutor, But Nixon Paid a Big Price,” *San Francisco Chronicle*, November 9, 2018
- “Now It’s Up to the Public,” *The Atlantic*, November 7, 2018
- “Policing Executive Power,” *San Francisco Daily Journal*, February 11, 2015 (with Nicholas Bullard)
- “Originalism and the Supreme Court,” SCOTUSblog.com, October 7, 2011
- “Is Health Care Reform Unconstitutional? Why Both Sides Are Right (and Wrong) in the Debate over Limits on Federal Power,” *National Law Journal*, January, 24, 2011
- “Fighting Faith-Based Spending in Court,” *Los Angeles Times*, February 22, 2007, p. A19 (reprinted in *Christian Science Monitor* and *Dallas Morning News*).
- “ISO Firmer Footing? Justices Should Step Back From the Narrow Dispute and Rethink Article III Standing,” *Legal Times*, March 12, 2007.
- “On War, Democrats Reduced to Posturing for 2008,” *San Jose Mercury News*, March 19, 2007.
- “Politics Can End Legal Storm,” *Daily Journal*, March 27, 2007, p. 6

- “Untenable Position,” *Daily Journal*, April 3, 2007, p. 6

#### PRESENTATIONS

- *Artificial Intelligence and Constitutional Interpretation*, University of Colorado Law Review Symposium, April 2024
- *Too Much, Too Quickly*, Arizona Law Faculty Workshop, August 2023
- *Too Much, Too Quickly?*, National Conference of Constitutional Law Scholars, March 2023
- *The Original Meaning of Enumerated Powers*, Annual Hugh & Hazel Darling Originalism Works in Progress Conference, USD Center for the Study of Constitutional Originalism, February 2023 (one of eight papers selected for presentation)
- *The Future of the U.S. Supreme Court*, Universidad Científica del Perú, November 2021
- *Rationing the Constitution*, Tulane Constitutional Theory Colloquium, February 2020
- *Eight Futures of the Nondelegation Doctrine*, WISCONSIN LAW REVIEW Symposium on RATIONING THE CONSTITUTION, October 2019
- *We Must Not Be Enemies*, University of Arizona, Faculty Workshop, August 2019
- *Prosecuting the President*, University of Arizona, Faculty Workshop, August 2018
- *Amending the Law of Constitutional Interpretation*, Duke Law School, DUKE JOURNAL OF CONSTITUTIONAL LAW AND PUBLIC POLICY Roundtable, February 2018
- *Article III, Representation, and Remedies*, University of Akron Center for Constitutional Law Symposium, November 2017
- *Rationing the Constitution*, University of Arizona, Faculty Workshop, August 2017
- *Living Constitutional Theory*, Wisconsin Discussion Group on Constitutionalism, October 2016
- *The Foundations of Constitutional Theory*, University of Arizona, Faculty Workshop, August 2016
- *Implementing Enumeration*, University of Arizona, Faculty Workshop, April 2016
- *Implementing Enumeration*, UNLV, Faculty Workshop, April 2016
- *Difficulty of Amendment and Interpretive Choice*, University of Arizona, Faculty Workshop, February 2015
- *Judicial Capacity and Executive Power*, University of Arizona, QuantLaw Workshop, January 2015

- *Judicial Capacity and Executive Power*, International Seminar on Institutional Theory, National Federal University of Rio de Janeiro, November 2014
- *Commandeering, Coercion, and the Deep Structure of American Federalism*, University of Wisconsin, Institute for Legal Studies Faculty Workshop, January 2014
- *Commandeering, Coercion, and the Deep Structure of American Federalism*, University of Arizona Law School Faculty Workshop, November 2013
- *Commandeering, Coercion, and the Deep Structure of American Federalism*, Wisconsin Discussion Group on Constitutionalism, November 2013
- *Judicial Capacity and the Substance of Constitutional Law*, New York University Law School Constitutional Theory Seminar, October 2013
- *Comparative Institutional Analysis and Global Governance* (commentator), European University Institute, Robert Schuman Centre for Advanced Studies, May 2013
- *Judicial Capacity and the Conditional Spending Paradox*, University of Arizona Law School Faculty Workshop, March 2013
- *Judicial Capacity and the Conditional Spending Paradox*, Wisconsin Junior Faculty Workshop, November 2012
- *Judicial Capacity and the Conditional Spending Paradox*, Wisconsin Law Review Symposium, “30 Years of Comparative Institutional Analysis: A Celebration of Neil Komesar”
- *Judicial Capacity and the Substance of Constitutional Law*, University of Arizona Law School Faculty Workshop, April 2012
- *Judicial Capacity and the Substance of Constitutional Law*, Wisconsin Big Ideas Café, August 2012
- *Making Sense of the Spending Power After NFIB v. Sebelius*, Summer Supreme Court Workshop Series, University of Wisconsin Law School, July 2012
- *Is the Affordable Care Act Unconstitutional?*, University of Arizona Law School, April 2012 (Joint Federalist Society/American Constitution Society Panel Discussion)
- *Judicial Capacity and the Substance of Constitutional Law*, Wisconsin Discussion Group on Constitutionalism, November 2011
- *Judicial Capacity and the Substance of Constitutional Law*, Wisconsin Junior Faculty Workshop, December 2011
- *Article I and the Limits of Judicial Capacity*, Wisconsin Big Ideas Café, August 2011
- *Bond v. United States and the Meaning of Federalism*, Summer Supreme Court Workshop Series, University of Wisconsin Law School, July 2011
- *Is Health Care Reform Unconstitutional?*, Global Health Workshop, Wisconsin Global Legal Studies Center, April 2011

- *Current Issues in American Federalism*, University of Wisconsin Global Legal Studies Center (presentation to visiting delegation of Sri Lankan Supreme Court justices), April 2011
- *Is There a Constitutional Right to Select the Gene's of One's Offspring?*, University of Texas Constitutional and Legal Theory Colloquium, February 2011
- *Is the Repeal of Collective Bargaining Rights Unconstitutional?*, University of Wisconsin Forum on Governor's Budget Repair Bill (presenter and panelist at public forum)
- *The Future of Reproductive Freedom*, Wisconsin Junior Faculty Workshop, October 2010
- *Prolegomena to a Reality-Based Constitutional Theory (or Popular Sovereignty in Empirical Perspective)*, Midwest Constitutional Law Discussion Group, October 2010
- *The Future of Reproductive Freedom*, Wisconsin Big Ideas Café, August 2010
- *The Future of Reproductive Freedom*, Hastings Women's Law Journal Symposium, "Reproductive Rights, Human Rights, and the Human Right to Health," February 2010
- *Is There a Constitutional Right to Select the Gene's of One's Offspring?*, University of Michigan Law School, January 2010
- *The Future of Reproductive Freedom*, Case Western Reserve Law Review Symposium, "Reproductive Rights, Human Rights, and the Human Right to Health," January 2010
- *The Irrelevance of Writtenness in Constitutional Interpretation*, University of Michigan Law School, November 2009
- *The Irrelevance of Writtenness in Constitutional Interpretation*, Yale Law School, October 2009
- *The Irrelevance of Writtenness in Constitutional Interpretation*, Colorado Law Colloquium, October 2009
- *The Irrelevance of Writtenness in Constitutional Interpretation*, University of Wisconsin Law School, October 2009
- *The Interpretation Rider*, The University of Wisconsin Constitutional Law Discussion Group, October 2009
- *Meet the Author: In Reckless Hands* (commentator), Law and Society Association Annual Meeting, June 2009
- *Courts and Pluralism* (discussant), University of Wisconsin Global Legal Studies Center, October 2008
- *The Future of Reproductive Freedom*, University of Wisconsin-Platteville, September 2008
- *Constitutional Legal History* (moderator), Midwest Law & Society Retreat, September 2008

- *Popular Constitutionalism for Pragmatists*, University of Wisconsin Law School Big Ideas Cafe, August 2008
- *Minimalism in Legal Scholarship*, University of Oregon Law School, November 2007
- *Minimalism in Legal Scholarship*, University of Wisconsin Law School, November 2007
- *Minimalism in Legal Scholarship*, Stanford Law School Fellows Workshop, October 2007

#### SERVICE

- James E. Rogers College of Law, Ad Hoc Budget Committee, 2023-24
- James E. Rogers College of Law, Faculty Awards Committee, Chair, 2020-21, 2022-23
- James E. Rogers College of Law, Promotion and Tenure Committee, Chair, 2016-17; member, 2018-19, 2019-2020; 2022-23 (spring), 2023-24;
- James E. Rogers College of Law, McCormick Society, Executive Board Member, 2021-present
- *Journal of Constitutional History*, Board of Editors, 2022-present
- National Conference of Constitutional Law Scholars, Principal Organizer, 2018-present
- James E. Rogers College of Law, Peer Review Committee, Chair, 2018; member 2021
- James E. Rogers College of Law, New Safe Return Committee, 2020
- James E. Rogers College of Law, Covid and Law Task Force, Co-Chair, 2020
- James E. Rogers College of Law, Faculty Appointments Committee, Chair, 2019-2020; member, 2018-19, 2021-22
- James E. Rogers College of Law, Faculty Enrichment Committee, Chair, 2017-18; member, 2014-18
- Referee for American Journal of Political Science, Princeton University Press, Cambridge University Press, University of Chicago Law Review, Routledge Law, Peer Review Scholarship Marketplace
- James E. Rogers College of Law, Undergraduate Law Major Steering Committee, 2014-2018
- University of Wisconsin Law School Academic Planning Council, 2013-2014 (elected by faculty vote)
- University of Wisconsin Law School Appointments Committee, 2012-14
- Co-chair, University of Wisconsin, Situational Analysis Committee, 2013-14
- Chair, University of Wisconsin Law School Judicial Clerkships Committee, 2010-2013; member, 2013-14
- Chair, University of Wisconsin Law School Student Awards Committee, 2010-14
- University of Wisconsin Employment at Graduation Task Force, 2011

- Co-Organizer, Wisconsin Law Review Symposium, 2012
- Co-Organizer, Wisconsin Discussion Group on Constitutionalism, 2011, 2013
- University of Minnesota Civil Rights Moot Court Competition, Faculty Advisor, 2010-2012
- University of Wisconsin Faculty Senate, 2008-2009
- University of Wisconsin Law School Admissions Committee, 2008-2009
- ABA Appellate Advocacy Moot Court Competition, Faculty Advisor, 2008-09