

Seth Davis

Professor of Law, University of California, Berkeley School of Law
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ACADEMIC EMPLOYMENT

University of California, Berkeley School of Law, Berkeley, CA, *Professor of Law* 2018-Present

Courses: Federal Indian Law (Spring 2019), Torts (Fall 2018, Spring 2019).

Service: Equity & Inclusion Committee (2018-2019); Faculty Advisor, Native American and Indigenous Law Students Association.

University of California, Irvine School of Law, Irvine, CA, *Assistant Professor of Law* 2014-2018

Courses: Administrative Law, Property, Federal Indian Law, Law and Social Movements Colloquium, Critical Legal Thought.

Service: Academic Affairs/Curriculum Committee (2014-2015, fall 2015); Admissions Committee (2016-2017, 2017-2018 (committee chair)); Intellectual Life Committee (fall 2015); Advisory Committee, The Center on Law, Equality and Race; Advisory Committee, The Center for Land, Environment, and Natural Resources; Affiliated Faculty, Center on Globalization, Law, and Society; Affiliated Faculty and Graduate Student Advisor, UCI Center in Law, Society, and Culture; Faculty Advisor, Native American and Indigenous Law Students Association.

Harvard Law School, Cambridge, MA, *Climenko Fellow and Lecturer on Law* 2011-2014

Taught Legal Research and Writing to forty first-year law students. Mentored members of the Native American Law Students Association.

EDUCATION

Columbia University School of Law, New York, NY

Juris Doctor, received May 2008

Honors: John Ordronaux Prize (for highest GPA in graduating class)
Samuel I. Rosenman Prize (for leadership and scholarship in public law)
James Kent Scholar, Bill Howard Fellowship, Human Rights Internship
Archie O. Dawson Prize (for excellence in oral advocacy)

Activities: *Columbia Law Review*, Articles Editor
Philip C. Jessup International Law Moot Court Team, 2006 World Champions
Native American Law Students Association, Vice President; Organizer of 2008 National Native American Law Students Association Writing Competition; Moot Court Coach

The London School of Economics and Political Science, London, England

Master of Science in Social Anthropology, with Distinction, received December 2003

Honors: W. Thomas Smith Scholarship (Davidson College award)

Activities: Department of Anthropology, Student Representative

Davidson College, Davidson, NC

Bachelor of Arts, *magna cum laude*, received May 2002

Majors: Anthropology and English

Honors: Phi Beta Kappa, High Honors in English, Vernelle S. Brown Award (for leadership, scholarship, and service), Senior Awards in Anthropology and English

Activities: Mock Trial Competition, Honorable Mention All-American

HONORS AND AWARDS

Best Article Award for 2014, American Association of Law Schools Federal Courts Section (awarded for *Implied Public Rights of Action*, 114 COLUMBIA LAW REVIEW 1 (2014))

Upper Level Courses Professor of the Year, UCI Law (2015 and 2017)

PUBLICATIONS AND WORKS IN PROGRESS

Books and Book Chapters

COHEN'S HANDBOOK OF FEDERAL INDIAN LAW (2015, 2017, & forthcoming 2019 supplements) (executive editor and co-author)

Pluralism and the Public Trust, in FIDUCIARY GOVERNMENT (Evan J. Criddle et al., eds.) (Cambridge Univ. Press forthcoming 2018)

Law Review Articles & Essays

The New Public Standing, 71 STANFORD LAW REVIEW – (forthcoming 2019)

State Standing and Constitutional Fidelity, - NOTRE DAME LAW REVIEW – (forthcoming 2019)

- Invited contribution to *Notre Dame Law Review's* annual Federal Courts, Practice and Procedure issue

Carolene Products and Colonialism, - CORNELL LAW REVIEW ONLINE – (forthcoming 2019)

- Invited contribution to *Cornell Law Review Online's* symposium issue

The Private Law State, - MCGILL LAW JOURNAL – (forthcoming 2018)

- Invited contribution to *McGill Law Journal's* 2018 symposium issue

State Standing for Equality, 79 LOUISIANA LAW REVIEW – (forthcoming 2018)

- Invited contribution to *Louisiana Law Review's* 2018 symposium issue

Introduction: Global Indigenous Sovereignty, - UCLA INDIGENOUS PEOPLES' JOURNAL OF LAW, CULTURE & RESISTANCE – (forthcoming 2018)

- Invited introduction to *UCLA Indigenous People's Journal of Law, Culture & Resistance* 2018 symposium issue

The Constitution of Our Tribal Republic, 65 UCLA LAW REVIEW 4 (2018)

- Invited contribution to *UCLA Law Review's* 2017-2018 symposium

State Remedies for Human Rights, 98 BOSTON UNIVERSITY LAW REVIEW 397 (2018) (with Christopher A. Whytock)

- Featured and reviewed by Adam N. Steinman, *Human Rights Litigation and the States*, JOTWELL (May 21, 2018, available at <https://courtslaw.jotwell.com/human-rights-litigation-and-the-states/>)

American Colonialism and Constitutional Redemption, 105 CALIFORNIA LAW REVIEW 1751 (2017)

- Featured and reviewed by Bethany Berger, *Can the Constitutional Sin of Colonialism Be Redeemed?*, JOTWELL (Jul. 6, 2018), available at <https://lex.jotwell.com/can-the-constitutional-sin-of-colonialism-be-redeemed/>

Minor Courts, Major Questions, 70 VANDERBILT LAW REVIEW 777 (2017) (with Michael Coenen)

- Featured by Notice & Comment, *Yale Journal on Regulation* and ABA Section of Administrative Law & Regulatory Practice, at <http://yalejreg.com/nc/barnett-and-walker-on-coenen-and-davis-on-the-new-major-questions-doctrine-adlaw-bridge-series/>

Standing Doctrine's State Action Problem, 91 NOTRE DAME LAW REVIEW 585 (2015)

- Featured and reviewed by Sergio J. Campos, *Standing (in) for the Government*, JOTWELL (Apr. 14, 2015), available at <http://courtslaw.jotwell.com/standing-in-for-the-government/>

Equal Sovereignty as a Right Against a Remedy, 76 LOUISIANA LAW REVIEW 83 (2015)

- Invited essay for LSU Law Center's "The Voting Rights Act at 50: The Past, Present, and Future of the Right to Vote" symposium

Implied Public Rights of Action, 114 COLUMBIA LAW REVIEW 1 (2014)

- Winner of American Association of Law Schools Federal Courts Section Best Article Award for 2014
- Cited in RICHARD H. FALLON, JR. ET AL., *HART & WECHSLER'S THE FEDERAL COURTS AND THE FEDERAL SYSTEM* (2015-2016 supp.), CHARLES ALAN WRIGHT ET AL., *FEDERAL PRACTICE AND PROCEDURE: JURISDICTION AND RELATED MATTERS* (2016 supp.), and GREGORY C. SISK, *HORNBOOK ON LITIGATION WITH THE FEDERAL GOVERNMENT* (2016)

The False Promise of Fiduciary Government, 89 NOTRE DAME LAW REVIEW 1145 (2014)

Presidential Government and the Law of Property, 2014 WISCONSIN LAW REVIEW 471

Tribal Rights of Action, 45 COLUMBIA HUMAN RIGHTS LAW REVIEW 499 (2014)

Note, Conditional Preemption, Commandeering, and the Values of Cooperative Federalism, 108 COLUMBIA LAW REVIEW 404 (2008)

Works in Progress

Fiduciaries as Sovereigns

Owners as Fiduciaries?

Public Wrongs

The Tribal Safeguards of Our Democracy

Commentary

Trump Can't Force "Sanctuary Cities" to Enforce His Deportation Plans, WASHINGTON POST (Dec. 22, 2016) (with Erwin Chemerinsky and Annie Lai)

Take Care, at <https://takecareblog.com/> (regular contributor)

Notice & Comment, *Yale Journal on Regulation* and ABA Section of Administrative Law & Regulatory Practice, at <http://www.yalejreg.com/blog> (guest contributor)

PrawfsBlawg, at <http://prawfsblawg.blogs.com/> (guest contributor)

The Erosion of Tribal Rights Continues, American Constitution Society Blog (June 16, 2011), at <http://www.acslaw.org/acsblog/the-erosion-of-tribal-rights-continues>

Selected Briefs

Texas v. Kleinert, Brief *Amici Curiae* of Constitutional Law, Criminal Law, and Federal Courts Scholars, No. 17-299 (U.S. Supreme Court) (author and signatory)

Patchak v. Zinke, Brief *Amici Curiae* of Federal Courts and Federal Indian Law Scholars, No. 16-498 (U.S. Supreme Court) (co-author and signatory)

Coventry Health Care of Missouri, Inc. v. Nevils, Brief *Amici Curiae* of Constitutional and Administrative Law Scholars, No. 16-149 (U.S. Supreme Court) (co-author and signatory)

Nebraska v. Parker, Brief *Amici Curiae* of Historical and Legal Scholars, No. 14-1406 (U.S. Supreme Court) (signatory and contributor)

FERC v. Electric Power Supply Ass'n, Brief *Amicus Curiae* of Energy Law Scholars, No. 14-480 (U.S. Supreme Court) (signatory)

Wyoming v. EPA, Brief of *Amici Curiae* Federal Indian Law Professors in Support of Tribal Intervenors' Petition for Rehearing, Nos. 14-9512 & 14-9514 (10th Cir.) (signatory and contributor)

City of Chicago v. Sessions, *Amici Curiae* Brief of Administrative Law, Constitutional Law, and Immigration Law Scholars in Support of Plaintiff's Motion for a Preliminary Injunction, Civ. Action No. 1:17-cv-5720 (N.D. Ill.) (co-author and signatory)

City and County of San Francisco v. Trump, *Amici Curiae* Brief of Professors of Constitutional Law, Administrative Law, and Immigration Law in Support of Plaintiffs' Motions for Preliminary Injunction, Civ. Case No. 3:17-cv-00574 (N.D. Cal.) (signatory and contributor)

TEACHING INTERESTS

Primary: Administrative Law, Federal Courts, Federal Indian Law, Property, and Torts.

Secondary: Civil Procedure, Constitutional Law, Critical Legal Thought, Fiduciary Law, and Leg-Reg.

PRESENTATIONS AND CONFERENCE ORGANIZATION

Conference, Colloquia, and Workshop Organization

Native Nations Protecting Coastal Lands and Waters in California, UCI Law, November 2016

- Assisted, under the aegis of UCI Law's CLEANR, with the planning of a convening of California's Coastal Native Nations to discuss Tribal coastal and marine protection goals.

World Indigenous Law Conference, Irvine, CA, October 2016

- Assisted, under the aegis of UCI Law's GLAS, with the planning of an international conference to discuss Indigenous Law.

Courts as Agencies, Co-Organizer and Roundtable Moderator, Law and Society Association Annual Conference, June 2016

Investing for Environmental Justice in Indian Country, UCI CLEANR, Oct. 23, 2015

- Co-organizer of workshop roundtable on best principles for investing for energy development and environmental justice in Indian Country.

Junior Federal Courts Workshop, UCI Law, September 11-12, 2015

- Organized Eighth Annual Junior Federal Courts Workshop, bringing together leading federal courts experts with junior scholars presenting their work.

Native American and Indigenous Studies Colloquia Series, UCI, 2014-2015

- Co-organizer of year-long colloquia series bringing leading Native American and Indigenous studies scholars to UCI, as part of campus wide effort to build NAIS at UCI.

Tribal Courts and the Federal System, Harvard Law School, November 8-9, 2012

- Organizer and co-host of conference on civil and criminal jurisdiction of Indian Tribes and tribal courts in the federal system.

Presentations

Constitutional Negotiations Without Constitutional Safeguards, Presenter, *UCLA Law Review* Symposium: *The Safeguards of Our Constitutional Republic*, UCLA School of Law, February 2018

The Private Law State, Presenter, *McGill Law Journal* Annual Symposium: *Fiduciaries of Humanity and International Law*, McGill University Faculty of Law, January 2018

Resiting Equality, Presenter, *Louisiana Law Review* Symposium on the 150th Anniversary of the Fourteenth Amendment, LSU Law Center, January 2018

The New Public Standing, Presenter, Rocky Mountain Junior Scholars Forum, J. Reuben Clark Law School, Brigham Young University, November 2017

Pluralism and the Public Trust, Presenter, Junior Scholar Workshop, University of California, Berkeley School of Law, October 2017

Pluralism and the Public Trust, Presenter, Junior Scholar Workshop, University of California, Davis School of Law, October 2017

American Colonialism and Constitutional Redemption, Panelist, Law and Society Association Annual Conference, June 2017

Pluralism and the Public Trust, Presenter, Fiduciary Government Workshop, UCLA Law School, June 2017

Pluralism and the Public Trust, Presenter, Fiduciary Law Workshop, Notre Dame Law School, April 2017

Constitutional Issues in Sanctuary City Litigation, Panelist, *Santa Clara Law Review* Symposium, Santa Clara Law School, April 2017

The Duty to Consult, Presenter, Indigenous Voices and the Opposition to the Dakota Access Pipeline,

Association for the Study of Law, Culture, and the Humanities Twentieth Annual Conference, Stanford Law School, March 2017

American Colonialism and Constitutional Redemption, Presenter, Plenary Power Workshop, J. Reuben Clark Law School, Brigham Young University, November 2016

Owners as Fiduciaries?, Presenter, 2016 Property Roundtable, Tulane Law School, October 2016

State Remedies for Human Rights, Presenter, Faculty Workshop, University of South Carolina School of Law, September 2016

The 2016 Election and the Future of Constitutional Remedies, American Constitution Society Lecture, University of South Carolina School of Law, September 2016

Minor Courts, Major Questions, Presenter, Faculty Workshop, University of Miami School of Law, September 2016

American Colonialism and Constitutional Redemption, 2016 Workshop on Legal Pluralism, Commission on Legal Pluralism, UCI Law, August 2016

Minor Courts, Major Questions, Presenter, Administrative Law New Scholarship Roundtable, Michigan State University College of Law, June 2016

American Colonialism and Constitutional Redemption, Presenter, Indigenous Peoples Law & Policy Program, University of Arizona College of Law, April 2016

Fiduciary Duty and Plenary Power, Presenter, Panel on Public Fiduciary Law, Law and Society Association Annual Conference, May 2015

Partisan Enforcement, Presenter, The Voting Rights Act at 50: The Past, Present, and Future of the Right to Vote, Louisiana Law Review, LSU Law Center, January 2015

Practicing in Indian Country, Presenter, Native American Student Programs, University of California, Riverside, October 2014

California Indian Law Litigation, Presenter, 14th Annual California Indian Law Conference, California Indian Law Association, October 2014

Standing Doctrine's State Action Problem, Presenter, Junior Federal Courts Workshop, University of Georgia School of Law, October 2014

Energy Governance in Indian Country, Presenter, Stanford Law School NALSA, Contemporary Issues in Indian Law Conference, February 2014

Implied Public Rights of Action, Presenter, AALS Remedies Section, New Voices in Public Remedies, AALS Annual Meeting, January 2014

Presidential Government and the Law of Property, Presenter, AALS Administrative Law Section, New Voices in Administrative Law, AALS Annual Meeting, January 2014

Presidential Government and the Law of Property, Presenter, Harvard Law School Faculty Workshop, August 2013

Presidential Government and the Law of Property, Presenter, University of Maine School of Law, August 2013

Presidential Administration and the Law of Property, Presenter, Harvard Law School Climenko Workshop, July 2013

Tribal Rights of Action, Presenter, UCLA American Indian Studies Program, Indian Law Scholars Workshop, June 2013

Tribal Rights of Action, Presenter, Harvard Law School Climenko Workshop, June 2013

The False Promise of Fiduciary Government, Panelist, Law and Society Association Annual Conference, May 2013

The False Promise of Fiduciary Government, Presenter, Harvard Law School Climenko Workshop, January 2013

Implied Public Rights of Action, Panelist, Law and Society Association Annual Conference, June 2012

Implied Public Rights of Action, Presenter, Harvard Law School Climenko Workshop, February 2012

SELECTED MEDIA APPEARANCES

VICE NEWS TONIGHT (HBO) (Aug. 7, 2017) (episode 177) (interview on sanctuary cities)

Jeff Sessions is Asking Sanctuary Cities to Make an Impossible Choice, VICE NEWS (Mar. 29, 2017)

White House Keeps Up Sanctuary Cities Pressure With Funding Threat, CNN.COM (Mar. 27, 2017)

Dakota Access: Inside the Buried Memo That Could Decide Pipeline's Fate, ENERGY WIRE (Feb. 21, 2017)

Law Professors Debate Trump's Executive Actions on Immigration, How CA Might Fight Back, AIRTALK, NATIONAL PUBLIC RADIO (Jan. 27, 2017)

Trump's Sanctuary Cities Crackdown Falls Short of Campaign Promise, VOCATIV (Jan. 25, 2017)

Activists Score Victories at Santa Ana City Council Meeting, VOICE OF OC (Dec. 21, 2016)

JUDICIAL CLERKSHIP

Judge Douglas H. Ginsburg, U.S. Court of Appeals for the District of Columbia Circuit 2008-2009

LEGAL WORK EXPERIENCE

O'Melveny & Myers LLP Washington, D.C.
Associate, Adversarial Department 2009-2011

- Drafted briefs to the United States Supreme Court, federal courts of appeal, federal district courts, and state courts of appeal. Drafted comments on administrative rulemakings, with a focus on financial services and securities regulation. Provided counseling on compliance with campaign finance, pay-to-play, and political ethics laws. Developed *pro bono* practice representing Indian Nations and nongovernmental organizations that represent Indian constituencies.

The Legal Aid Society of the District of Columbia Washington, D.C.
Volunteer Legal Intern October 2009-November 2009

O'Melveny & Myers LLP
Summer Associate, Adversarial Department

Washington, D.C.
May 2007-August 2007

Human Rights Watch
Intern, HIV/AIDS Division

New York, NY
May 2006-August 2006

Bay Area Legal Services
Legal Assistant, Ryan White Outreach Project

Tampa, FL
2004-2005

BAR MEMBERSHIPS AND PROFESSIONAL AFFILIATIONS

Bar of the District of Columbia
Bar of the State of New York
California Indian Law Association
Law and Society Association
AALS Federal Courts Section