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William Baude

baude@uchicago.edu • (773) 702-0348
University of Chicago Law School
1111 E. 60th St. • Chicago, IL • 60637

Experience

University of Chicago Law School

Professor of Law and Aaron Director Research Scholar, 2018-present
Neubauer Family Assistant Professor of Law, 2014-2018

Stanford Law School

Visiting Assistant Professor of Law, Winter/Spring 2018
Fellow, Constitutional Law Center, 2011-2013

University of San Diego Law School

Summer Fellow, Center for the Study of Constitutional Originalism, 2012 & 2013

Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP

Associate, 2009-2011

Chief Justice John G. Roberts, Jr., U.S. Supreme Court

Law clerk, 2008-2009

Judge Michael McConnell, U.S. Court of Appeals for the Tenth Circuit

Law clerk, 2007-2008

Education

Yale Law School

J.D. (2007)

Yale Law Journal, Articles and Essays Editor

University of Chicago

B.S., Mathematics with Specialization in Economics (2004)

Legal Publications

[*Ex Parte Levitt*](#),

98 TEX. L. REV. (forthcoming 2019)

[*Grounding Originalism*](#),

113 NORTHWESTERN L. REV. (forthcoming 2019)
(symposium: Originalism 3.0)
(with Stephen E. Sachs)

[Constitutional Liquidation](#),
71 STAN. L. REV. 1 (2019)

[Arguing with Friends](#),
117 MICH. L. REV. (2018)
(with Ryan D. Doerfler)

[The Court, or the Constitution?](#),
in MORAL PUZZLES AND LEGAL PERPLEXITIES: ESSAYS ON THE INFLUENCE OF
LARRY ALEXANDER 260-70 (Cambridge University Press 2018)

[Compelled Subsidies and the First Amendment](#),
132 HARV. L. REV. 171 (2018)
(with Eugene Volokh)

[Is Qualified Immunity Unlawful?](#),
106 CALIF. L. REV. 45 (2018)

[Originalism as a Constraint on Judges](#),
84 U. CHI. L. REV. 2213 (2017)
(special issue on Justice Antonin Scalia)

[The \(Not So\) Plain Meaning Rule](#),
84 U. CHI. L. REV. 539 (2017)
(with Ryan D. Doerfler)

[Standing in the Shadow of Congress](#),
2016 SUP. CT. REV. 197 (2017)

[A Call For Developing a Field of Positive Legal Methodology](#), and
[Making Doctrinal Work More Rigorous: Lessons from Systematic Reviews](#),
84 U. CHI. L. REV. 1 (2017), and 84 U. CHI. L. REV. 37 (2017)
(with Adam S. Chilton & Anup Malani)
(symposium: Developing Best Practices for Legal Analysis)

[Sovereign Immunity and the Constitutional Text](#),
103 VA. L. REV. 1 (2017)

[The Law of Interpretation,](#)
130 HARV. L. REV. 1079 (2017)
(with Stephen E. Sachs)

[Originalism's Bite,](#)
20 GREEN BAG 2D. 103 (2016)
(with Stephen E. Sachs)
(response to Richard Posner, *What Is Obviously Wrong With the Federal Judiciary, Yet Eminently Curable, Part II*, 19 GREEN BAG 2D 257 (2016))

[The Positive Law Model of the Fourth Amendment,](#)
129 HARV. L. REV. 1827 (2016)
(with James Y. Stern)

[Is Originalism Our Law?,](#)
116 COLUM. L. REV. 2349 (2015)

[State Regulation and the Necessary and Proper Clause,](#)
65 CASE W. RES. L. REV. 308 (2015)
(symposium on marijuana and federalism)
adapted as *The Contingent Federal Power to Regulate Marijuana* (forthcoming 2019)

[The Supreme Court's Shadow Docket,](#)
9 NYU J. L. & LIBERTY 1 (2015)
(Supreme Court Foreword)

[Sharing the Necessary and Proper Clause,](#)
128 HARV. L. REV. F. 39 (2014)
(response to John Manning, *The Supreme Court, 2013 Term – Foreword: The Means of Constitutional Power*, 128 HARV. L. REV. 1(2014))

[Rethinking the Federal Eminent Domain Power,](#)
122 YALE L. J. 1738 (2013)

[Interstate Recognition of Same-sex Marriage after Windsor,](#)
8 NYU J. L. & LIBERTY 150 (2013)
(Supreme Court symposium)

[Jurisdiction and Constitutional Crisis,](#)
65 FLORIDA LAW REVIEW FORUM 1 (2013)
(response to Gerard N. Magliocca, *The Gold Clause Cases and Constitutional Necessity*, 64 FLA. L. REV. 1243 (2012))

[Beyond DOMA: Choice of State Law in Federal Statutes,](#)

64 STAN. L. REV. 1371 (2012)

[Clarification Needed: Fixing the Jurisdiction Venue and Clarification Act](#),
110 MICH. L. REV. FIRST IMPRESSIONS 33 (2012)

[Signing Unconstitutional Laws](#),
86 IND. L.J. 303 (2011)

[The Judgment Power](#),
96 GEO. L.J. 1807 (2008)

Works in Progress

[Early American Constitutional History: A Source Guide](#)
(with Jud Campbell)

[Adjudication Outside Article III](#)

Textbook

The Constitution of the United States (Foundation: 3d ed. 2016)
(with Michael Stokes Paulsen, Steven Gow Calabresi, Michael W. McConnell &
Samuel L. Bray)

Popular Publications

[Were the Framers Originalists \(and Does it Matter\)?](#)
BALKINIZATION (Oct. 24, 2018)
(reviewing Jonathan Gienapp: The Second Creation)

[Beyond the War on Terror](#)
BALKINIZATION (May 19, 2017)
(reviewing James Pfander, Constitutional Torts and the War on Terror)

[Constitutional Officers: A Very Close Reading](#)
JOTWELL (July 28, 2016)

[Why the Supreme Court's Texas Abortion Decision Is So Momentous & What Do This Week's Supreme Court Decisions Mean For Immigration and Affirmative Action?](#)
NEW YORK TIMES MAGAZINE (June 24 & 27, 2016)

(with Emily Bazelon, Eric Posner, and Nikole Hannah-Jones)

[Star Wars Destroyed](#)

THE NEW RAMBLER (May 31, 2016)

(reviewing Cass Sunstein, *The World According to Star Wars*)

[The Supreme Court after Scalia](#)

CHICAGO TRIB. (Feb. 16, 2016)

[Rationalism, Pluralism, and Federalism](#)

BLEEDING HEART LIBERTARIANS (Jan. 11, 2016)

(symposium on JACOB LEVY, RATIONALISM, PLURALISM, AND FREEDOM)

[Is Polygamy Next?](#)

N.Y. TIMES, July 21, 2015, at A27

[The Power of Promises,](#)

JOTWELL (July 10, 2015)

[Is the Death Penalty Unconstitutional?](#)

N.Y. TIMES, July 7, 2015

[The Legal Power of Standing,](#)

N.Y. TIMES, May 14, 2015

[Originalism: A Debate,](#)

THE UNIVERSITY OF CHICAGO LAW SCHOOL RECORD, (Spring 2015) (with Eric Posner)

excerpted from [our blog posts](#)

[Could Obama Bypass the Supreme Court?](#)

N.Y. TIMES, Mar. 17, 2015, at A27

[The Supreme Court's Secret Decisions,](#)

N.Y. TIMES, Feb. 3, 2015, at A23

[Originalism and the Positive Turn,](#)

LIBERTY LAW FORUM (Dec. 12, 2014)

The Takings Clause,

in HERITAGE GUIDE TO THE CONSTITUTION (2nd ed. 2014)

[Understanding Prophylactic Supreme Court Decisions,](#)

JOTWELL (July 14, 2014)

[What Divides The Court, and What Unites It,](#)
SCOTUSBlog symposium on NLRB v. Noel Canning (Jun. 27, 2014)

Whatever Your Ideology, President Obama's Appointments Are
Unconstitutional
FORBES (Jan. 12, 2014)

Constitutional Avoidance in Baby Girl,
PRAWFSBLAWG, *reprinted in* 3 J.L. 279 (The Post) (2013)

[The Problem with Retroactivity Rules,](#)
N.Y. TIMES ROOM FOR DEBATE, (Sept. 18, 2013)

[State Boundaries and Constitutional Limits,](#)
JOTWELL (June 18th, 2013)

[Married in New York but Not in Texas,](#)
SLATE (Apr. 12, 2013)

[New Light on the Old World of Commandeering,](#)
JOTWELL (Sep. 12, 2012)

[Access to Eagles,](#)
Letter, 14 GREEN BAG 2D 245 (2011)

[Last Chance on Death Row,](#)
WILSON QUARTERLY (Fall 2010)

The Treaty Power
in THE ENCYCLOPEDIA OF THE SUPREME COURT (Gale 2008)

[States of Confusion,](#)
N.Y. TIMES, Jan. 22, 2006, at 17

Other Professional Activities

Paul M. Bator Award (2017)
Affiliated Scholar, Center for the Study of Constitutional Originalism,
University of San Diego Law School
Advisor, Regulation & Rule of Law Initiative, Hoover Institution (2016-
present)
Board of Directors, The Yale Law Journal Corporation
(2014-present; President 2015-present)

Member, American Law Institute (Adviser, Third Restatement of Conflicts)

Contributor: [Volokh Conspiracy](#)

Amicus Briefs:

[Brief of William Baude and Stephen Sachs](#) in support of neither party,
Franchise Tax Board v. Hyatt, U.S. Supreme Court, No. 17-1299

[Brief of Scholars of the Law of Qualified Immunity](#) in support of certiorari in
Allah v. Milling, U.S. Supreme Court, No. 17-8654

[Brief of Eugene Volokh and William Baude](#) in support of respondents, Janus v.
AFSCME, U.S. Supreme Court, No. 16-466

[Brief of Constitutional Law Scholars](#) in support of petitioners, NLRB v. Noel
Canning, U.S. Supreme Court, No. 12-1281