

CURRICULUM VITAE

KEITH WERHAN

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PUBLICATIONS A list of my major publications is attached.

EDUCATION **THE NATIONAL LAW CENTER**
1972-1975 **THE GEORGE WASHINGTON UNIVERSITY, Washington, DC**

J.D.: May 1975

Honor: Order of the Coif

Activity: Notes Editor and Member, *The George Washington Law Review*

1968-1972 **UNIVERSITY OF NOTRE DAME, South Bend, IN**

Degree: B.B.A., June 1972

Honor: Graduated with High Honors (Magna Cum Laude)

PROFESSIONAL
EXPERIENCE
1988-Present

TULANE LAW SCHOOL, New Orleans, LA

Rank: Ashton Phelps Chair in Constitutional Law, 2007-present
Geoffrey C. Bible & Murray H. Bring Professor of Constitutional Law,
2000-2007
Professor of Law, 1989-present
Vice Dean, 1995-1998
Director, Tulane Law School Summer Program, Thessaloniki, Greece,
2000-2004
Director, Tulane Law School Summer Program, Crete, Greece,
1998-2000
Visiting Professor of Law, 1988-1989

Courses Offered: Constitutional Law, First Amendment, Fourteenth Amendment,
Administrative Law, Constitution and Religion, Federal Courts, Classical
Athenian Democracy and the American Constitution (Tulane Law School
Summer Program, Greece, 1997-2004, 1992), European Community Law
(Tulane Law School Summer Program, Siena, Italy, 1994), The English
Origins of the American Constitution (Tulane Law School Summer
Program, Cambridge, England, 1990)

Scholarship Award:

Sumter Marks Award, 2001-2002*C.J. Morrow Research Professor of Law*, 1994-1995, 1991-1992

Teaching Award:

Felix Frankfurter Award For Distinguished Teaching, 2005-2006, 1994-1995**1982-1988****WESTERN NEW ENGLAND COLLEGE SCHOOL OF LAW,
Springfield, MA**

Rank: Professor of Law, 1987-1989

Associate Professor of Law, 1985-1987

Assistant Professor of Law, 1982-1985

Courses Offered: Constitutional Law, First Amendment Rights, Federal Courts,
Administrative Law, EvidenceTeaching Award: *Professor of the Year*, 1982-1983**1978-1982****UNITED STATES DEPARTMENT OF JUSTICE, Washington, DC
CIVIL DIVISION, FEDERAL PROGRAMS BRANCH**

Assistant Branch Director: 1980 - 1982

Trial Attorney: 1978 - 1980

I specialized in litigation of major doctrinal and institutional importance to the United States Government. This litigation focused primarily on important and novel issues of Constitutional Law and Administrative Law and was handled in federal district and appellate courts. A table of the cases formally designated "significant" by the Civil Division and other matters for which I assumed major responsibility is attached. Upon promotion to Assistant Branch Director, I assumed, in addition to litigation responsibilities, principal review responsibilities for approximately fifty cases handled by Civil Division attorneys and responsibility for the formulation of litigation and policy positions of the United States. I also conducted periodic training seminars that instructed new attorneys on federal trial practice and the federal rules of civil procedure.

Honors:

Civil Division Special Achievement Award, October 24, 1980

Outstanding Performance Rating, June 30, 1980

Attorney General Special Commendation Award,
May 1, 1980

Exceptional Performance Rating, June 30, 1981

Attorney General Special Commendation Award, January 17, 1983

1975-1978**WINSTON & STRAWN**, Washington, DC

Associate in law firm with a general, federal litigation practice.

Assisted partner in successful litigation concerning Constitutional and American Indian Law before the U.S. Supreme Court. Drafted significant portions of all briefs filed with the Court.

Drafted briefs *amicus curiae* in American Indian Law litigation before the U.S. Supreme Court.

Major and primary responsibility in litigation concerning, among other things, American Indian Law, Constitutional Law, Labor Law, Federal Antitrust, Federal False Claims Act, Diplomatic Immunity.

Major and primary responsibility in agency proceedings before, among others, the Department of the Interior, Federal Trade Commission, Federal Communications Commission, General Accounting Office (government-contract dispute), and the Department of the Treasury (federal estate-tax controversy).

Extensive legal research and writing on a broad range of federal issues, including Constitutional Law, Federal Jurisdiction, Federal Civil Procedure, Federal Antitrust, and Civil Rights.

Summer 1974**LAW OFFICES OF NORTHCUTT ELY**, Washington, DC

Predominantly legal research and writing in small law firm with an emphasis in federal litigation. Drafted significant portions of legal arguments filed in an appeal before the U.S. Supreme Court concerning Natural Resource Law.

Fall 1973**PROFESSOR ROGER S. KUHN**, Washington, DC

Contributed legal research and writing in the preparation of a brief in first amendment litigation before the United States Court of Appeals for the District of Columbia Circuit.

Summer 1973**REPRESENTATIVE LINDY BOGGS**, Washington, DC

Performed legislative and legal research; case work; speech writing; and answered constituent mail.

REFERENCES

Available upon request.

PUBLICATIONS

Books

- *Principles of Administrative Law*, Thomson/West, 2007.
- *Freedom of Speech*, Praeger Press, 2004.

Book Manuscript in Progress

- *The Classical Athenian Democracy and the American Constitution* (under contract with Oxford University Press)

Article in Progress

- “The Rule of Law and the Role of Courts in a Democracy: Lessons from Athens”

Book Review

- Review of Joseph P. Tomain, *Creon's Ghost: Law, Justice, and the Humanities* (Oxford University Press, 2009), 44 *Law and Society Review* ____ (forthcoming, 2010) (solicited review)

Book Entries

- “Separation of Powers,” in *The Oxford International Encyclopedia of Legal History*, v. 5, pp. 215-21, Stanley N. Katz, editor-in-chief (Oxford University Press, 2009)
- “Athens and America: Constitution Making as an Act of Democratic Justice,” in *Justice in Particular: Festschrift in Honour of Professor P.J. Kozyris*, pp. 521-54, Ant. N. Sakkoulas Publishers, Athens, 2007.

Articles

- “The Classical Athenian Ancestry of American Freedom of Speech,” 2008 *Supreme Court Review* 293-347.

- “Rethinking Freedom of the Press After 9/11,” 82 *Tulane Law Review* 1561-1605 (2008), reprinted in *The First Amendment Law Handbook, 2008-2009*, pp. 67-109 (Rodney A. Smolla, ed., Thomson Reuters West, 2008).
- “Navigating the New Neutrality: School Vouchers, the Pledge, and the Limits of a Purposive Establishment Clause,” 41 *Brandeis L.J.* 603-29 (2003) (This article was an invited submission for a First Amendment Discussion Forum, co-sponsored by Vanderbilt University, Washington and Lee University, and the University of Louisville. All papers submitted for the Forum were published collectively in the *Brandeis Law Journal*.)
- “The Tie That Binds: Constitutional Law and Culture, Obscenity and Child Pornography,” 100 *South Atlantic Quarterly* 897-917 (Fall 2001). (This article was an invited submission for a special issue, “Culture and the Law.” The *South Atlantic Quarterly* is a literary journal published by Duke University Press.)
- “Checking Congress and Balancing Federalism: A Lesson From Separation-of-Powers Jurisprudence,” 57 *Wash. & Lee L. Rev.* 1213-84 (2000).
- “Normalizing the Separation of Powers,” 70 *Tul. L. Rev.* 2681-717 (1996).
- “Delegalizing Administrative Law,” 1996 *U. Ill. L. Rev.* 423-66 (1996). This article was quoted by the High Court of Australia in support of its decision to reject the *Chevron* doctrine in Australian administrative law. (*Enfield City v. Devt Assess CMMN*, 199 CLR 135, [2000] HCA 5.)
- “The Liberalization of Freedom of Speech on a Conservative Court,” 80 *Iowa L. Rev.* 51-100 (1994).
- “The Neoclassical Revival in Administrative Law,” 44 *Admin. L. Rev.* 567-627 (1992), reprinted in Thomas O. Sargentich, ed., *Administrative Law Anthology* 383-92 (Anderson Publishing Co., 1994).
- “Federalism and Separation of Powers on a ‘Conservative’ Court: Currents and Cross-Currents From Justices O’Connor and Scalia,” 64 *Tul. L. Rev.* 1443-76 (1990) (with M. David Gelfand).
- “Toward an Eclectic Approach to Separation of Powers: *Morrison v. Olson* Examined,” 16 *Hast. Const. L. Q.* 393-451 (1989).
- “The *O’Brien*ing of Free Speech Methodology,” 19 *Ariz. St. L. J.* 635-79 (1987).
- “*Pullman* Abstention after *Pennhurst*: A Comment on Judicial Federalism,” 27 *Wm. & Mary L. Rev.* 449-506 (1986).

- “The Supreme Court’s Public Forum Doctrine and the Return of Formalism,” 7 *Cardozo L. Rev.* 335-437 (1986).
- “The Sovereignty of Indian Tribes: A Reaffirmation and Strengthening in the 1970s,” 54 *Notre Dame L. Rev.* 5-25 (1978).
- “A Federal Cause of Action Against a Municipality for the Fourth Amendment Violations by its Agents,” 42 *Geo. Wash. L. Rev.* 850-68 (1974) (co-author).
- “Restrictions on the Rights to Resign: Can a Member's Freedom to "Escape the Union Rule" Be Overcome by Union Boilerplate?,” 42 *Geo. Wash. L. Rev.* 397-426 (1974) (co-author).