

# Michael Smith

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## TEACHING EXPERIENCE

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St. Mary's University School of Law, San Antonio, TX  
Assistant Professor

August 2023-Present

University of Idaho College of Law, Boise, ID  
Temporary Faculty

August 2022-May 2023

## EDUCATION

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UCLA School of Law, Los Angeles, CA  
Juris Doctor, May 2014

Honors: Moot Court Honors, *Recipient*  
Journals: UCLA Law Review, *Articles Editor, Volume 61*  
Pacific Basin Law Journal, *Comments and Articles Editor*  
Activities: UCLA Moot Court Board, *Cyber Crimes Problem Developer*

University of Iowa, Iowa City, IA  
B.S. / B.A, Double Major in Political Science and Philosophy, *High Honors*, May 2011

Honors: *Phi Beta Kappa*  
Activities: Mock Trial, *Member & Team Captain*  
Ethics Bowl, *Founder & Member*

## ACADEMIC PUBLICATIONS

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### *Papering Justices*

[50 B.Y.U. L. REV.](#) (Forthcoming 2025)

### *Is Originalism Bullshit?*

[28 LEWIS & CLARK L. REV.](#) (Forthcoming 2025)

### *History as Precedent: Common Law Reasoning in Historical Investigation*

[27 U. PA. J. CON. L.](#) (Forthcoming 2025)

### *Social Media Regulation in the Wake of 303 Creative v. Elenis*

[17 ST. THOMAS J.L. & PUB. POL'Y](#) (Forthcoming 2024)

### *Generative AI in the Attorney-Client Relationship: An Exercise in Critical Revision and Client Management*

[27 S.M.U. SCI. & TECH. REV.](#) (Forthcoming 2024)

### *State Constitutional Prohibitions of Slavery and Involuntary Servitude*

[99 WASH. L. REV.](#) (Forthcoming 2024)

### *Moral Panic and the First Amendment*

[72 BUFFALO L. REV.](#) (Forthcoming 2024)

### *Library Crime*

[71 DRAKE L. REV.](#) (Forthcoming 2024)

### *Constitutional Crimes*

[99 N.D. L. REV.](#) (Forthcoming 2024)

*Language Models, Plagiarism, and Legal Writing*

[22 U.N.H. L. Rev.](#) (Forthcoming 2024)

*Constitutional Interpretation and Zombie Provisions*

[40 GA. ST. U. L. REV.](#) (Forthcoming 2024)

*Public Accommodations Laws, Free Speech Challenges, and Limiting Principles in the Wake of 303 Creative*

[84 LA. L. REV. 565](#) (2024)

*Disingenuous Interpretation*

[93 MISS. L. J. 349](#) (2023)

*Originalism, Common Good Constitutionalism, and Transparency*

[45 HARV. J.L. & PUB. POL'Y 1217](#) (2023)

*Idaho's Law of Constitutional Interpretation: Lessons From Planned Parenthood Great Northwest v. State*

[59 Idaho L. Rev. 411](#) (2023)

*Idaho's Law of Seduction*

[59 IDAHO L. REV. 291](#) (2023)

*Originalism and the Meaning of "Twenty Dollars"*

[56 CREIGHTON L. REV. 499](#) (2023)

*Historical Tradition: A Vague, Overconfident, and Malleable Approach to Constitutional Law*

[88 BROOKLYN L. REV. 797](#) (2023)

*Abandoning Original Meaning*

[86 ALBANY L. REV. 43](#) (2023)

*The Present Public Meaning Approach to Constitutional Interpretation*

[89 TENNESSEE L. REV. 885](#) (2023)

*Countermajoritarian Criminal Law*

[43 PACE L. REV. 54](#) (2023)

*Using Bruen to Overturn New York Times v. Sullivan*

[2022 PEPPERDINE L. REV. 80](#) (2023) (coauthored with Alexander Hiland)

*Policy's Place in Pedestrian Infrastructure*

[127 DICKINSON L. REV. 587](#) (2023) (Reviewing Angie Schmitt, *Right of Way: Race, Class, and the Silent Epidemic of Pedestrian Deaths in America* (Island Press 2020))

*Originalism's Implementation Problem*

[30 WILLIAM & MARY BILL OF RIGHTS J. 1063](#) (2022) (coauthored with Alexander Hiland)

*The Third Amendment in 2020*

[52 STETSON L. REV. 55](#) (2022)

*Distracted Walking*

[126 PENN STATE L. REV. 707](#) (2022)

*Originalism and the Inseparability of Decision Procedures From Interpretive Standards*

[58 CAL. WEST. L. REV. 273](#) (2022)

*The Citation of Unpublished Cases in the Wake of COVID-19*  
[25 CHAPMAN L. REV. 97](#) (2022)

*Trial by Combat in the Modern World*  
[27 BARRY L. REV. 53](#) (2022)

*Shooting Fish*  
[12 KY. J. EQUINE, AGRIC. & NAT. RESOURCES L. 187](#) (2020)

*Prior Sexual Misconduct Evidence in State Courts: Constitutional and Common Law Challenges*  
[52 AM. CRIM. L. REV. 321](#) (2015)  
Cited in *State v. Murphy*, 441 P.3d 787 (Utah Ct. App. 2019) (concurring opinion)

*Regulating Law Enforcement's Use of Drones: The Need for State Legislation*  
[53 HARVARD J. ON LEGIS. 423](#) (2015)

*Arbitration by Combat*  
[20 MEDIA & ARTS L. REV. 164](#) (2015) (coauthored with Raj Shah)

*The Second Amendment Implications of Regulating 3D Printed Firearms*  
[31 SYRACUSE J. SCI. & TECH. L. 60](#) (2014-2015)

*Search Engine Liability for Autocomplete Defamation: Combating the Power of Suggestion*  
[2013 J. L., TECH. & POL. 313](#) (2013)

*Second Amendment Challenges to Student Housing Firearms Bans: The Strength of the Home Analogy*  
[60 UCLA L. REV. 1046](#) (2013) (comment)

*Prosecuting the Undead: Federal Criminal Law in a World of Zombies*  
[61 UCLA L. REV. DISCOURSE 44](#) (2013)

## **COLUMNS AND COMMENTARY**

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*Avoid Harmful Bail Reform in Response to Recent Shootings*  
San Antonio Express-News (Sept. 15, 2023)

*Idaho Supreme Court's Abortion Ruling Isn't Originalist. It's Based Only On Tradition*  
Idaho Statesman (Jan. 11, 2023)

*Common Good Constitutionalism Could Influence Judicial Practice*  
Bloomberg Law (Dec. 7, 2022)

*How California's NDA Restrictions Cause More Harm Than Good for Survivors*  
The Hollywood Reporter (March 2020) (coauthored with Jill Basinger)

*Are Customized Arbitration Provisions the Answer?*  
Daily Journal (Sept. 30, 2019) (coauthored with Julie Gerchik)

## **PRESENTATIONS AND SPEAKING ENGAGEMENTS**

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### **Northeastern University School of Law Junior Scholars Conference**

Speaker: “*History as Precedent: Common Law Reasoning in Historical Investigation*” (March 1, 2024)

Speaker: “*Library Crime*” (March 1, 2024)

Panelist: “*Hiring Market Panel for VAPs*” (March 2, 2024)

### **2024 National Conference of Constitutional Law Scholars**

Panelist: “*History as Precedent: Common Law Reasoning in Historical Investigation*” (Feb. 24, 2024)

### **2024 ACS Constitutional Law Scholars Forum**

Speaker: “*State Constitutional Prohibitions of Slavery and Involuntary Servitude*” (Feb. 16, 2024)

### **ClassCrits XIV (Southwestern University School of Law)**

Speaker: “*Is Originalism Bullshit?*” (Feb. 9, 2024)

### **University of New Hampshire Law Review – 2024 Symposium: Risk Taking & Reform in Legal Education**

Panelist: “*Looking 50 Years Into the Future, What Will Legal Education Look Like?*” (Jan. 26, 2024)

### **Texas Junior Scholars Faculty Workshop (Southern Methodist University School of Law)**

Presenter: “*Is Originalism Bullshit?*” (Nov. 30, 2023)

### **National Communication Association – 2023 Annual Convention**

Panelist: “*The ‘Marketplace of Ideas:’ An Apt Metaphor or a Mistake?*” (Nov. 18, 2023)

### **University of St. Thomas Journal of Law and Public Policy – Fall 2023 Symposium, “Free Speech and the United States Constitution”**

Speaker: “*Social Media Regulation in the Wake of 303 Creative*” (Nov. 17, 2023)

### **Constitutional Law Colloquium (Loyola University Chicago School of Law)**

Speaker: “*Constitutional Crimes*” (Nov. 10, 2023)

### **Legal Education’s Next Generation: Embracing Online, ChatGPT, and Technology in Pedagogy and Practice (St. Mary’s University School of Law)**

Speaker: “*Language Models, Plagiarism, and Legal Writing*” (Sept. 21, 2023)

### **University of Idaho College of Law Faculty Colloquium**

Speaker: “*Disingenuous Interpretation*” (April 12, 2023)

### **Rutgers Law School Faculty Colloquium**

Invited Speaker: “*Disingenuous Interpretation*” (April 5, 2023)

### **Free Exercise Clause: Past, Present & Future (University of Idaho College of Law)**

Commentator (Jan. 30, 2023)

### **Constitutional Law Colloquium (Loyola University Chicago School of Law)**

Speaker: “*Disingenuous Interpretation*” (Nov. 4-5, 2022)

### **Supreme Court Roundup (University of Idaho College of Law)**

Commentator (Nov. 2, 2022)

### **Harvard Journal of Law and Public Policy Symposium (Harvard Law School)**

Panelist: “*Originalism and Common Good Constitutionalism*” (Oct. 29, 2022)

## **OTHER TEACHING EXPERIENCE**

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**UCLA Department of Philosophy**

2013-2014

*Teaching Assistant*

## **PROFESSIONAL EXPERIENCE**

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**Glaser Weil Fink Howard Avchen & Shapiro, LLP** Los Angeles, CA

2018-2022

*Associate Attorney*

**Lewis, Brisbois, Bisgaard & Smith, LLP** Los Angeles, CA

2016-2018

*Associate Attorney*

**Daniels, Fine, Israel, Schonbuch & Lebovits,** Los Angeles, CA

2015-2016

*Associate Attorney*

**Orange County District Attorney's Office,** Santa Ana, CA

2014-2015

*Fellow*

## **BAR ADMISSIONS**

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**State Bar of California**

2014-Present