

ROBERT A. MIKOS

Vanderbilt University Law School
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ACADEMIC APPOINTMENTS

Vanderbilt University Law School, Nashville, TN

LaRoche Family Chair in Law, July 2021-

Professor of Law, July 2008-

Primary Courses: Constitutional Law I (structure); Federalism; Marijuana Law and Policy

Selected Service: Faculty Appointments Committee (2019-20; 2010-11); Tenure and Promotion Committee (2016-17; 2012-13 Chair); Program in Law & Government (2011-15 Director; 2010-11 Co-Director); Vanderbilt University Strategic Planning: Academic Planning Group (2013)

University of Notre Dame Law School, Notre Dame, IN

Visiting Associate Professor of Law, fall 2007

Courses: Criminal Law; Law and Economics

University of California, Davis, School of Law, Davis, CA

Acting (Assistant) Professor of Law, July 2003-June 2008

Courses: Constitutional Law I (structure and rights); Criminal Law; Law and Economics; Antitrust

- Twice Nominated for William and Sally Rutter Distinguished Teaching Award

University of Michigan Law School, Ann Arbor, MI

Adjunct Professor of Law, 2002-2003 (taught Economic Analysis of Law)

Research Fellow, John M. Olin Center for Law and Economics, 2002-2003

EDUCATION

University of Michigan Law School, Ann Arbor, MI

J.D., *summa cum laude*, May 2001

Henry M. Bates Memorial Scholarship, the Law School's highest honor, May 2001

Darrow Scholar, 1998-2001

Article Editor (Vol. 99) and *Associate Editor* (Vol. 98), Michigan Law Review

John M. Olin Fellow in Law and Economics, 2000-2001

Saul L. Nadler Award, outstanding work in commercial and corporate law

Order of the Coif

Princeton University, Princeton, NJ

A.B., Woodrow Wilson School of Public and International Affairs, *cum laude*, June 1995

BOOKS

MARIJUANA LAW, POLICY, AND AUTHORITY (New York, NY: Aspen / Wolters Kluwer) (2017)

- Pioneering textbook that has helped shape and define a new field of law
- Second edition forthcoming 2022

ARTICLES & BOOK CHAPTERS

Unauthorized and Unwise: The Lawful Use Requirement in Trademark Law, 75 Vanderbilt Law Review ___ (forthcoming January 2022)

[*Interstate Commerce in Cannabis*](#), 101 Boston University Law Review 857 (2021)

We Need a Cole Memorandum for Magic Mushrooms, 2021 University of Illinois Law Review Online: Biden 100 Days 87 (April 30, 2021) (symposium contribution)

[*POTUS and Pot: Why the President Could Not Legalize Marijuana Through Executive Action*](#), 89 University of Cincinnati Law Review 668 (2021) (based on keynote address to the 2020 Corporate Law Symposium)

[*Using One Dying Regime to Save Another: The Influence of International Drug Conventions on United States' Cannabis Research Policy*](#), 114 American Journal of International Law Unbound 296 (2020) (symposium contribution)

[*The Evolving Federal Response to State Marijuana Reforms*](#), 26 Widener Law Review 1 (2020) (based on keynote address to the Cannabis in the Tri-State Area Symposium)

Why the Federal Government Should Set Marijuana Policy, in DEBATING REFORM: CONFLICTING PERSPECTIVES ON HOW TO FIX THE AMERICAN POLITICAL SYSTEM (4th ed.) (Richard Ellis & Mike Nelson, eds.) (CQ Press 2020)

[*Murphy's Mistake, and How to Fix It*](#), in MARIJUANA FEDERALISM: UNCLE SAM AND MARY JANE (Adler, J., ed.) (Brookings 2020)

[*Has the 'M' Word Been Framed? Marijuana, Cannabis, and Public Opinion*](#) (with Cindy D. Kam), PLOS ONE 14(10): e0224289 (Oct. 2019)

[*Standing for Nothing*](#), 94 Notre Dame Law Review 2033 (2019)

[*Risky Business? The Trump Administration and the State-Licensed Marijuana Industry*](#), 2017 University of Illinois Law Review Online (2017) (symposium contribution)

[*Making Preemption Less Palatable: State Poison Pill Legislation*](#), 85 George Washington Law Review 1 (2017)

[*Marijuana Localism*](#), 65 Case Western Reserve Law Review 719 (2015) (symposium contribution)

- Updated and translated, *El Localismo de la Marihuana*, in MOMENTO DE REGULAR LA CANNABIS Y REVISAR LA POLÍTICA DE DROGAS EN MÉXICO Y EN EL MUNDO (I.B. Flores Mendoza, ed.) (Autonomous National University of Mexico [UNAM] 2020)

[*Indemnification as an Alternative to Nullification*](#), 76 Montana Law Review 57 (2015) (symposium contribution)

[*Preemption Under the Controlled Substances Act*](#), 16 Journal of Health Care Law & Policy 5 (2013) (symposium contribution)

[*Can the States Keep Secrets from the Federal Government?*](#), 161 University of Pennsylvania Law Review 103 (2012)

ARTICLES, CONT'D

Medical Marijuana and the Political Safeguards of Federalism, 89 *University of Denver Law Review* 997 (2012) (symposium contribution)

[*Accuracy in Criminal Sanctions*](#), in RESEARCH HANDBOOK ON THE ECONOMICS OF CRIMINAL LAW 84 (2012) (Keith Hylton & Alon Harel, eds.)

[*A Critical Appraisal of the Department Of Justice's New Approach to Medical Marijuana*](#), 22 *Stanford Law & Policy Review* 633 (2011) (commissioned Features Article)

[*State Taxation of Marijuana Distribution and Other Federal Crimes*](#), 2010 *University of Chicago Legal Forum* 223 (2010) (symposium contribution)

[*On the Limits of Supremacy: Medical Marijuana and the States' Overlooked Power to Legalize Federal Crime*](#), 62 *Vanderbilt Law Review* 1421 (2009)

- Updated and revised in [*On the Limits of Supremacy: When States Relax \(or Abandon\) Marijuana Bans*](#), *Cato Policy Analysis*, Nov. 2012

United States v. Butler, in *ENCYCLOPEDIA OF THE UNITED STATES SUPREME COURT* (2008)

[*The Populist Safeguards of Federalism*](#), 68 *Ohio State Law Journal* 1669 (2007)

[*Do Citizens Care About Federalism? An Experimental Test*](#) (with Cindy D. Kam) 4 *Journal of Empirical Legal Studies* 589 (2007)

- Awarded grant from Time-Sharing Experiments for the Social Sciences (3rd Special Competition)

[*"Eggshell Victims", Private Precautions, and the Societal Benefits of Shifting Crime*](#), 105 *Michigan Law Review* 307 (2006)

[*Enforcing State Law in Congress's Shadow*](#), 90 *Cornell Law Review* 1411 (2005)

[*The \(Legal\) Value of Chance: Distorted Measures of Recovery in Private Law*](#) (with Omri Ben-Shahar), 7 *American Law and Economics Review* 484 (2005)

SCHOLARLY WORKS IN PROGRESS

Legalization Without Disruption

Probable Cause and Legal Change

Strategic Severability Rules

Compliance in Federal Systems

BLOGGING AND POPULAR PRESS

Editor, [Marijuana Law, Policy, and Authority](#) Blog (book website) (July 2017-present). Provide analyses of breaking developments in the field of marijuana law and policy. Sample posts:

- [Did Federal Judge Give Oklahoma a Free Pass to Violate the Constitution?](#) (June 10, 2021)
- [Federal Judge Finds that State Residency Requirements for Marijuana Licensing Are Unconstitutional](#) (Oct. 7, 2020)
- [DEA Subpoena of California BCC Licensing Records is Probably Unconstitutional](#) (July 26, 2020)
- [New Jersey Court Orders Employer to Reimburse Injured Employee for Cost of Medical Marijuana](#), Feb. 17, 2020)
- [What are the Harms of CBD Use? Making Sense of the FDA's Recent Warning](#) (Dec. 2, 2019)
- [Federal Court Refuses \(for now\) to Order Return of 7,000 Pounds of "Hemp" Seized by State Police](#) (Feb. 13, 2019)
- [Interesting New Tax Court Decision on Section 280E](#) (Jan. 23, 2019)
- [New Congressional Farm Bill Legalizes Some Marijuana](#) (Dec. 13, 2018)

BLOGGING, CONT'D

- [UPDATE: State Judge Holds Use of Race in Ohio Medical Marijuana Licensing Unconstitutional](#) (Nov. 20, 2018)
- [Observations On Utah's Proposed State Distribution System](#) (Oct. 12, 2018)
- [Is CBD Legal Under Federal Law?](#) (Sept. 28, 2018)
- [Court Dismisses Civil RICO Suit Against Marijuana Supplier, Tees Up Potential Circuit Split](#) (Aug. 27, 2018)
- [Analysis of the Warren-Gardner STATES Act](#) (June 7, 2018)
- [Jeff Sessions Rescinds Obama-Era Enforcement Guidance: Six Observations](#) (Jan. 5, 2018)
- [Do \(Should\) State Marijuana Reforms Apply Retroactively?](#) (Dec. 7, 2017)
- [What's the Point of Rescheduling Marijuana in a Medical Marijuana State?](#) (Nov. 1, 2017)
- [Could the States Do Anything to Blunt the Impact of a Federal Crackdown?](#) (Aug. 9, 2017)

Guest Blogger, Attorney General Alliance Cannabis Litigation Blog (April 2020)

[Cory Booker's Marijuana Bill Needs to Go a Step Further](#), Fortune.com, Aug. 4, 2017 (op-ed)

Guest Blogger, Prawfsblawg (Feb. 2017)

Guest Blogger, Marijuana Law, Policy, & Reform (2014)

Almost Legal? What Government Lawyers Should Know about Marijuana's Confusing Legal Status, 19 THE PUBLIC LAWYER 18 (summer 2011)

[Tax Dreams of Drug Decriminalization](#), politico.com, Oct. 20, 2010 (op-ed)

LEGAL BRIEFS & REPORTS

The Effect of Cannabis Law Reforms on Probable Cause to Search, White Paper prepared for the Attorney General Alliance (July 2020)

[Report of the American Bar Association Task Force on Marijuana, Federalism, and Separation of Powers](#) (2019) (co-authored)

- Resolution drafted by Task Force was approved by the Criminal Justice Section Council (April 2019) and the ABA House of Delegates (August 2019)

[Brief of Constitutional Law Scholars as Amici Curiae in Support of Petitioners, *Murphy v. National Collegiate Athletic Association*](#), Supreme Court of the United States, filed September 2017 (principal author)

Brief Amici Curiae of Law Professors, *Safe Streets Alliance v. Hickenlooper*, United States Court of Appeals for the Tenth Circuit, filed August 2016 (principal author)

Expert Report in Allard et al. v. Her Majesty the Queen in Right of Canada, October 2014 (expert report commissioned by the Canadian Department of Justice)

Brief Amici Curiae of the CATO Institute, Drug Policy Alliance, and Law Enforcement Against Prohibition, *Ter Beek v. City of Wyoming*, Supreme Court of Michigan, August, 2013 (principal author)

SELECTED LECTURES, WORKSHOPS, TESTIMONY, ETC.

Attorney General Alliance (virtual), April 2021, *Interstate Commerce in Cannabis* (lecture)

American College of Neuropsychopharmacology Annual Meeting (virtual), *Use of Drugs With Abuse Potential for Psychiatric Pharmacotherapy: Clinical, Ethical, Legal & Policy Implications*, December 2020 (panelist)

LECTURES CONT'D

Boston University School of Law (virtual), *Marijuana Law 2020: Lessons from the Past, Ideas for the Future*, November 2020 (*Cannabis Commerce*) (panelist)

George Mason University Antonin Scalia Law School (virtual), *Economics and Law of Cannabis Markets*, October 2020 (panelist)

Attorney General Alliance (virtual), July 2020, *Cannabis Reforms and Probable Cause* (presentation of White Paper)

University of Cincinnati Law School, *2020 Corporate Law Symposium: A Fresh Take on Cannabis Regulation*, March 2020 (*Why POTUS Cannot Legalize Pot*) (Keynote Address)

Virginia State Capitol, *Virginia Cannabis Summit* (organized by Virginia Attorney General Mark Herring), December 2019 (panelist)

Vanderbilt University Alumni Association, New York, NY, November 2019 (*Cannabis Legalization: Lessons from a Revolution*) (lecture)

Conference on The Regulation of Cannabis and Its Impact on Human Rights, Public Health, Justice and Security, Guanajuato, Mexico – sponsored by the Mexican National Public University, the U.S. Embassy, and the Fulbright Association, September 2019, (*Who Should Control Cannabis Policy?*) (keynote address – delivered remotely)

Criminal Justice Section of the American Bar Association, 2019 Spring Meeting, Nashville, Tennessee, April (*Task Force Report on Marijuana, Federalism, and Separation of Powers*) (co-presentation)

The Ohio State University, Columbus, Ohio, Teaching Drug Law Conference, April 2019 (moderator and co-organizer)

University of Delaware Law School, *Cannabis Policy in the Tri-State Area Symposium*, March 2018 (*Federal Marijuana Policy: Past, Present, and Future*) (Distinguished Speaker)

New York State Bar Association Employment Law Section, Annual Meeting, January 2019 (*The Employment Law Issues Surrounding State Marijuana Reforms*) (Keynote Address)

Vanderbilt University Medical Center, Nashville, Tennessee, January 2019 (*Should Marijuana be Medically Legal in Tennessee?*) (debater)

Indiana University School of Law, Indianapolis, Health, Wellness, and Society in a Changing Legal World, October 2018 (*Medical Marijuana: A Primer on Legal Issues*)

Texas A&M Law School, September 2018 (*Licensing and Marijuana Businesses*) (via Skype)

National Cannabis Bar Association, Cannabis Law Institute, Cannabis Policy Proposals in Congress, Washington, D.C., September 2018 (panelist)

National Conference of State Legislators (NCSL), 2018 Annual Meeting, Los Angeles, California (*Developments in Federal Marijuana Policy*) (panelist)

International Trademarks Association, Annual Meeting, Seattle, Washington, Academic v. Practitioner Debate: Should the Patent and Trademark Office Register Cannabis Trademarks?, May, 2018 (debater)

New York State Bar Association Committee on Cannabis Law, January 2018 (*Cannabis Law in New York State and the U.S.*)

National League of Cities, State Municipal Directors, January 2018 (*The Impact of the Attorney General's Decision to Rescind Marijuana Enforcement Guidance*) (lecturer)

American Association of Law Schools, San Diego, California, The Promise and Pitfalls of the Marijuana Justice Act, January 2018 (organizer and moderator of Hot Topics panel)

LECTURES CONT'D

Rutgers Law School, Marijuana Federalism, November 2017 (panelist)

PilotLegis, Annual Member Conference, New Orleans, Louisiana, The Legal and Ethical Risks Facing Cannabis Attorneys, October 2017 (panelist)

National League of Cities, State Municipal Directors, October 2017 (*State and Local Marijuana Reforms and the Trump Administration*) (webinar)

Marijuana Law Class, Texas A&M University School of Law, September 2017 (guest lecturer)

Interpreting DEA Scheduling Decisions under the CSA, testimony before the Tennessee Joint Medical Cannabis Task Force, September 2017

National Conference of State Legislatures, Marijuana and Federalism, Boston, Massachusetts, August 2017 (panelist)

National Cannabis Bar Association, Internationalism, Federalism, and States' Rights, Denver, Colorado, July 2017 (panelist)

Loyola University School of Law Constitutional Law Lecture, March 2017 (*The Trump Administration and State Marijuana Reform*)

University of Illinois College of Law Constitutional Law Colloquium, March 2017 (*Strategic Severability*)

McGeorge School of Law, Regulation of Marijuana at Home and Abroad, March 2017 (*The Role of the Courts in Marijuana Reform*)

AALS Annual Meeting, Marijuana Law 2017, San Francisco, California, January 2017 (panelist)

New York University, Cannabis Science and Policy Summit, Federalism and Cannabis Policy, April 2016 (panelist)

Appellate Judges Education Institute, Marijuana Legalization, Washington, D.C., October 2015 (panelist)

National Conference of State Legislatures, Marijuana and Federalism, Seattle, Washington, August 2015 (panelist)

Virginia State Bar Annual Meeting, Budding Issues: What Virginia Lawyers Need to Know About the Changing Marijuana Landscape, Virginia Beach, June 2015 (panelist)

A Survey of State Laws Governing Medical Marijuana, testimony before the Tennessee Senate Health and Welfare Committee Hearing on SB 1248 (a measure to legalize medical marijuana), April 2015

Vanderbilt University Law School, Drug Law & Policy Roundtable, March 2015 (organizer and presenter)

The States' Power to Legalize Medical Marijuana, testimony before the Nebraska Senate Judiciary Committee Hearing on LB 643 (a measure to legalize medical marijuana), March 2015

University of Florida Law School, Poucher Lecture, National Marijuana Policy, October 2014 (lecturer)

Honorable James R. Browning Symposium, University of Montana School of Law, October 2014 (*Indemnification as an Alternative to Nullification*)

Case Western Reserve University School of Law, Federalism and Marijuana Conference, September 2014 (*Marijuana Localism*)

Lessons Learned: Recreational Marijuana Roundtable Discussion, University of Denver Sturm College of Law, February 2014 (moderator)

LECTURES CONT'D

The Federalist Society National Lawyers Convention, Federalism Practice Group Session, November 2013 (panelist)

University of Wisconsin Discussion Group on Constitutionalism, Federalism in Flux: The United States and Beyond, November 2013 (*State Poison Pill Legislation*)

American Constitution Society, Federalism, Preemption, and Marijuana Legalization Convening, Washington, D.C., April 2013 (discussant)

University of Notre Dame Law Faculty and Law & Economics Workshops, March 2013 (*Compliance in Federal Systems*)

Tennessee Attorney General's Office, The United States of Marijuana?, March 2013 (lecturer)

Cato Institute, The Law and Politics of Marijuana Legalization, Washington, D.C., December 2012 (keynote address and debate)

Centers for Disease Control, Law and Science Advisory Group, November 2012 (*Can the States Keep Secrets from the Federal Government?*)

VULS, Up in Arms: Panel Discussion of the Second Amendment, October 2012 (moderator)

Columbia University Law School, Criminal Law Roundtable, May 2012 (*Compliance in Federal Systems*)

University of Maryland, Conference on Balancing Science and Politics: The Challenges of Implementing Medical Marijuana Laws, April 2012 (*Medical Marijuana Preemption Issues*)

University of Denver Law School, Symposium on Marijuana at the Crossroads, January 2012 (*Medical Marijuana and the Political Safeguards of Federalism*)

Conference on Empirical Legal Studies, Northwestern University School of Law, November 2011 (*Compliance in Federal Systems*)

Emory University School of Law, Conference on Climate Change and Dissensus, October 2011 (*Compliance in Federal Systems*)

Loyola Constitutional Law Colloquium, October 2011 (*Commandeering States' Secrets*)

Midwestern Law & Economics Ass'n Annual Meeting, Sept. 2011 (*Compliance in Federal Systems*)

University of Colorado Law Faculty Workshop, April 2011 (*A Critical Appraisal*)

National Organization for the Reform of Marijuana Laws Annual Conference, April 2011 (*A Critical Appraisal*)

University of Texas Conference on the Future of Federalism, February 2011 (discussant)

VULS Federalism Roundtable, February 2010 (*Commandeering States' Secrets*)

St. Louis University Law School Faculty Workshop, February 2010 (*State Taxation of Federal Crime*)

University of Chicago Legal Forum, Symposium on Crime, Criminal Law, and the Recession, October 2009 (*State Taxation of Federal Crime*)

Midwestern Law & Economics Ass'n Annual Meeting, Oct. 2009 (*State Taxation of Federal Crime*)

AALS Conference on Constitutional Law, June 2008 (*Populist Safeguards*)

The Ohio State University, Moritz College of Law, Law Faculty Workshop, February 2008 (*State Supervision of Federal Crime*)

University of Notre Dame CLE Program, November 2007 (*State Supervision of Federal Crime*)

LECTURES CONT'D

- University of Texas Law School Faculty Workshop, October 2007 (*Regulating Medical Marijuana*)
- University of Notre Dame Law Faculty Workshop, October 2007 (*Regulating Medical Marijuana*)
- Midwestern Law & Economics Ass'n Annual Meeting, October 2007 (*Regulating Medical Marijuana Under the Influence of the Controlled Substances Act*)
- University of Michigan Law & Economics Workshop, March 2007 (*Populist Safeguards*)
- University of Virginia Legal Studies Workshop, February 2007 (*Populist Safeguards*)
- University of Notre Dame Law Faculty Workshop, December 2006 (*Populist Safeguards*)
- Conference on Empirical Legal Studies, University of Texas, October 2006 (*Do Citizens Care About Federalism?*) (poster presentation)
- Midwestern Law & Economics Association Annual Meeting, University of Kansas, October 2006 (*The Populist Safeguards of Federalism*)
- Canadian Law & Economics Association Annual Meeting, University of Toronto, September 2006 (*Reining in Leviathan*)
- Law & Society Annual Meeting, Baltimore, July 2006 (*The Societal Benefits of Shifting Crime*)
- Canadian Law & Economics Association Annual Meeting, University of Toronto, September 2005 (*The Law and Economics of Crime Displacement*)
- American Political Science Association Annual Meeting, Washington, D.C., September 2005 (*The Impact of Federalism on Public Support for Federal Legislative Action*) (with Cindy D. Kam)
- American Law & Economics Association Annual Meeting, New York University, May 2005 (*The Impact of Federalism on Public Support for Federal Legislative Action*) (with Cindy D. Kam)
- University of California, Davis, Faculty Workshop, October 2004 (*Federalism and Citizen Support for Congressional Legislation*)
- Midwest Political Science Association Annual Meeting, April 2004 (*Explaining Member State Compliance with Decisions of the European Court of Justice*)
- Cornell Law School Faculty Workshop, November 2002 (*State Crimes Carrying Federal Sanctions*)
- University of Michigan Legal Theory Workshop, Sept. 2002 (*State Crimes Carrying Federal Sanctions*)
- University of Michigan Law & Economics Workshop, November 2001 (*Recovery for "Chance": The Law and Economics of Probabilistic Value*)
- American Law & Economics Ass'n Annual Meeting, Georgetown University, May 2001 (*Recovery for "Chance": The Law and Economics of Probabilistic Value*) (with Omri Ben-Shahar)

PROFESSIONAL EXPERIENCE

Legal Consultant, 2007-present

The Honorable Michael Boudin, Chief Judge, U.S. Court of Appeals for the First Circuit, Boston
Law Clerk, 2001-2002

Williams & Connolly, Washington, DC
Summer Associate, summer 2000

United States Attorney's Office, District of Minnesota, Minneapolis, MN
Summer Law Clerk, summer 1999

PROFESSIONAL EXPERIENCE CONT'D

The Parthenon Group, strategy consulting firm, Boston, MA

Principal, Senior Associate, and Associate, May 1996-May 1998

Braxton Associates, the strategy consulting division of Deloitte & Touche, LLP, Boston, MA

Business Analyst, August 1995-April 1996

OTHER PROFESSIONAL ACTIVITIES

Reporter, American Bar Association (ABA) Criminal Justice Section Task Force on Marijuana, Federalism, and Separation of Powers (January 2018-August 2019). Co-Authored Report of Task Force and its Recommendations to the ABA.

Academic Advisor, Committee on Cannabis Law, New York State Bar Association (June 2017-present)

Advisory Board Member, International Cannabis Bar Association (2020-present)

Peer Reviewer

Select Media Appearances / Mentions:

Associated Press; The Atlantic; Bloomberg News; Boston Globe; The Cannabist; CNN; Christian Science Monitor; Congressional Quarterly; The Denver Post; El País; Fortune; Fox News; The Guardian; Huffington Post; Los Angeles Times; Miami Herald; National Public Radio (Marketplace, On Point, and other programs); NBC News; New Scientist; The New York Times; Newsweek; NRK (Norwegian Public Broadcast); OZY; Politico; Radio Free Europe; Reason.com; Reuters; Rolling Stone Magazine; Sacramento Bee; San Diego Union Tribune; San Jose Mercury News; Scientific American; Seattle Times; Slate.com; Stateline; Tampa Bay Times; Telegraph of London; The Tennessean; Time; U.S. News and World Report; Voice of America; The Wall Street Journal; The Washington Post; Washington Times