

Matthew J. Festa

Professor of Law
South Texas College of Law
Houston, Texas

Associate Professor
Department of International & Operational Law
The Judge Advocate General's Legal Center & School
Charlottesville, Virginia

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ACADEMIC APPOINTMENTS

South Texas College of Law

Professor of Law (with tenure), 2013
Associate Professor of Law, 2010
Assistant Professor of Law, 2007

The Judge Advocate General's Legal Center and School, U.S. Army

Associate Professor, Dept. of International & Operational Law, 2013
Adjunct Instructor, University of Virginia

University of Georgia School of Law

Visiting Assistant Professor of Law, 2006-07

EDUCATION

Vanderbilt University Law School. J.D., 2002

Executive Editor, *Vanderbilt Law Review*.

Vanderbilt University. M.A., History, 2002

Murray State University. M.P.A., Public Administration, 2001

University of Notre Dame. B.A. *cum laude*, History, English, 1995

EXPERIENCE

Locke Lord LLP (formerly Locke Liddell & Sapp), Houston, TX.

Litigation and appellate practice in land use, real estate, environmental, intellectual property, commercial, and bankruptcy law, 2004-06.

United States Court of Appeals for the Sixth Circuit

Judicial Law Clerk to The Honorable Deborah L. Cook, 2003 Term.

United States District Court for the Eastern District of Kentucky

Judicial Law Clerk to The Honorable William O. Bertelsman, 2002 Term.

United States Army

Regular Army officer, 101st Airborne Division, 1995-99.

U.S. Army Reserve, 1999-present; Major, Judge Advocate General's Corps.

TEACHING

Law School Courses:

- *Property I*
- *Property II*
- *Land Use Management & Control/Land Use Planning & Development*
- *Land Use Seminar*
- *State & Local Government*
- *Civil Procedure I & II*
- *Wills, Trusts, & Estates*
- *Oil & Gas*
- *International Law of Armed Conflict*
- *Counter-Terrorism Law*
- *Rule of Law & Security Cooperation*

Other teaching:

- Associate Professor, Department of International and Operational Law, The Judge Advocate General's Legal Center and School, U.S. Army. 2013-present. Teaching graduate law students in ABA-accredited L.L.M. program, as well as a full range of military lawyers, senior leaders, civilian law students, government and NGO attorneys, and international students.
 - o Courses include the law of armed conflict; post-conflict governance; rule of law; security cooperation; international law; Geneva Conventions; means and methods of warfare; human rights law; detention; and intelligence law. L.L.M. electives in The Rule of Law, Security Cooperation, and Law and Terrorism cross-listed with the University of Virginia Law School.
- Adjunct Faculty, Defense Institute of International Legal Studies (DIILS), U.S. Department of Defense. Newport, RI and international locations. Instructor for foreign military and government leaders and attorneys. Subjects taught include: *Rule of Law; International Human Rights Law; Law of Armed Conflict; Internal Armed Conflict; Detainee Operations; Role of a Military in a Democracy; Peacekeeping Operations*. 2011-present.

- Instructor, Barbri: *Oil & Gas Law* (Texas, Wyoming). 2010-present.
- Instructor, Texas A&M University, Coastal Citizen Planner Program, 2013-present.
 - o *Land Use Planning: Local Officials' Roles and Responsibilities*
 - o *Green Infrastructure, Community Development, and Planning Tools*

SCHOLARSHIP

Articles

- *International Law Issues for the Regionally Aligned Judge Advocate*, with Dowdy et al., ARMY LAWYER (forthcoming October 2015).
- *Property and Republicanism in the Northwest Ordinance*, 45 ARIZONA STATE LAW JOURNAL 409 (2013), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2405117
- *Towards Engaged Scholarship*, with John Nolon et al., 33 PACE LAW REVIEW 821 (2013), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2225283
- *Academic Research and Writing as Best Practices in Teaching Land Use*, 29 PACE ENVIRONMENTAL LAW REVIEW 51 (2011) (invited contribution), available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1952789.
- *Applying a Usable Past: The use of History in Law*, 38 SETON HALL LAW REVIEW 479 (2008), available at: <http://ssrn.com/abstract=1004643>.
- *Dueling Federalists: Supreme Court Decisions with Multiple Opinions Citing The Federalist, 1986-2007*, 31 SEATTLE UNIVERSITY LAW REVIEW 75 (2007), available at: <http://ssrn.com/abstract=1004630>.
- Note, *The Origins and Constitutionality of State Unit Voting in the Electoral College*, 54 VANDERBILT LAW REVIEW 2099 (2001), available at: <http://ssrn.com/abstract=1004665>.

Books, Periodicals, Essays, & Contributions

- Contributing Editor, *Keeping Current*, PROBATE & PROPERTY (American Bar Association). Contributions published six times annually.
 - “Recent Cases” editor, 2008-09.
 - “Literature Reviews” editor, 2009-2013.
- *Joint Operations*, OPERATIONAL LAW HANDBOOK, International and Operational Law Department, U.S. Army Judge Advocate General’s Legal Center and School, 2013; 2014; 2015, at http://www.loc.gov/rr/frd/Military_Law/pdf/operational-law-handbook_2013.pdf

- *Post-Conflict Governance*, LAW OF ARMED CONFLICT DESKBOOK, International & Operational Law Department, U.S. Army Judge Advocate General's Legal Center and School, 2014; 2015, at _____
- *Land Use in the Unzoned City*, IN RE, p. 15, South Texas College of Law, Spring 2012, at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2270956
- Contributor, *Open Book: Succeeding on Exams from the First Day of Law School* (Wolters Kluwer, 2011). Contributor to companion website: <http://openbook.wolterskluwerlb.com/>
- *A Turning Point for Eminent Domain?*, NEW YORK TIMES "Room for Debate," Nov. 12, 2009, <http://roomfordebate.blogs.nytimes.com/2009/11/12/a-turning-point-for-eminent-domain/>
- Contributing Author, THE RULE OF LAW HANDBOOK: A PRACTITIONER'S GUIDE (2d ed.), Center for Law and Military Operations, U.S. Army Judge Advocate General's Legal Center and School, 2008, at: http://www.loc.gov/rr/frd/Military_Law/pdf/rule-of-law_2008.pdf.
- "State Constitutions," ENCYCLOPEDIA OF THE AMERICAN REVOLUTIONARY WAR: A POLITICAL, SOCIAL, AND MILITARY HISTORY (Fremont-Barnes & Ryerson eds., ABC-CLIO (2006)).
- "State Making and Admission," ENCYCLOPEDIA OF THE NEW AMERICAN NATION (Paul Finkelman et al., eds., Charles Scribner's Sons (2005)).
- "*Burson v. Freeman*," ENCYCLOPEDIA OF THE SUPREME COURT (David Schultz ed., Facts on File, Inc. (2005)).
- "*The Civil Rights Cases*"; "Constitutional Amendments"; "Election of 1876"; "Federal Railroad Regulation"; "*Plessy v. Ferguson*"; THE ENCYCLOPEDIA OF THE GILDED AGE AND PROGRESSIVE ERA (Buenker & Buenker eds., M.E. Sharpe (2005)).

Editor

- Land Use Prof Blog, published by the Law Professor Blogs Network, at http://lawprofessors.typepad.com/land_use/. Leading academic weblog in land use law and policy.

Works in Progress

- "Regulation, Authority, and the Problem of De Facto Zoning"
- "De Facto Zoning in the Unzoned City: The Myth of Houston's Land Use Exceptionalism"
- "A Property Rights Approach to Progressive Land Use"

- “Property Rights and the Rule of Law”
- “Property Ownership in America from Jefferson to the Mortgage Crisis and Beyond”
- “The Modern Relevance of the Law of Belligerent Occupation”
- “Academic Publishing for Military Lawyers”

Scholarly Presentations

- “Land Use in the Unzoned City: Regulation, Authority, and the Problem of De Facto Zoning,” invited colloquium, Rice University Kinder Institute for Urban Research, 2015.
- “Lone Star Land Use: The Rising Conflict Between State and Local Governments over Property Rights, Land Use, and Energy,” South Texas Faculty Presentation, 2015.
- Guest Lecture, Environmental Law, Lamar University, 2014
- “Local Jus Post Bellum: Towards an Application of Local Government Law to Post-Conflict Society,” presented at Local Government Law Workshop, Orange CA, 2013.
- “Houston, We Have Zoning,” Texas Southern University Thurgood Marshall School of Law, Texas Southern University, 2013.
- “Writing Abstracts and Legal Scholarship,” South Texas College of Law, 2013.
- “Property Rights and the Public Trust,” Association for Law, Property, & Society, 2013.
- “The Myth of Houston’s Land Use Exceptionalism,” University of Houston Law Center, 2013.
- “De Facto Zoning,” invited participant, Local Government Law Works-in-Progress conference, Marquette University Law School, forthcoming 2012.
- “Applying Practice to Land Use Scholarship and Teaching,” invited participant, *Practically Grounded* Symposium, Pace Law School, 2012.
- “What is ‘Zoning’? Regulation, Authority, and the Problem of De Facto Zoning,” Association for Law, Property, and Society, 2012.
- “Property Rights and the New Federalism,” Southeastern Association of Law Schools, 2011.
- Moderator, “Land Use Law,” Southeastern Association of Law Schools, 2011.
- “Academic Research and Writing as Best Practices in Teaching Land Use,” invited participant, *Practically Grounded* Symposium, 2011.
- “Property Rights at the Beach,” invited speaker at Texas Wesleyan Law School presentation on *Severance v. Patterson*, 2011.
- “Property Rights and Rule of Law Operations,” Association for Law, Property, and Society, 2011.
- “A Property Rights Approach to Progressive Land Use,” Northeastern Junior Faculty Teaching & Scholarship Development Workshop, 2011.
- “Housing Policy and the Subsidization of the American Dream,” American Association of Law Schools Mid-Year Meeting, New York 2010.
- Moderator, “The Global Warming Crisis: Fairness,” American Association of Law Schools Mid-Year Meeting, New York 2010.
- “Property Rights and the Home: From the American Dream to the Mortgage Crisis,” inaugural meeting of the Association for Law, Property, and Society (ALPS), 2010.

- "A Property Rights Approach to Progressive Land Use," Southeastern Association of Law Schools (SEALS) New Scholars Workshop, 2009.
- "Property Rights and Rule of Law Operations," Law & Society Annual Meeting, 2009.
- Chair & Discussant, "Intellectual Property," Association for the Study of Law, Culture, and the Humanities, Boston 2009.
- "Property Ownership in America from Jefferson to the Mortgage Crisis and Beyond," Association for the Study of Law, Culture, and the Humanities, Boston 2009.
- Invited speaker, "Guantanamo and the Rule of Law," Symposium on National Security, Civil Liberties, & Guantanamo: Implications on the Eve of the Closing, Thurgood Marshall School of Law, Texas Southern University, 2009.
- "The Role of Property Rights in Promoting the Rule of Law in Post-Conflict Societies," National Security Law Junior Scholar Workshop, University of Texas at Austin, 2009.
- "A Property Rights Approach to Progressive Land Use," Junior Property Scholars Workshop, Widener Law School, 2008.
- Invited Panelist, "The Relationship between Environmental Regulation and Inverse Condemnation: What is the Individual Cost for Environmental Protection?" Red Clay Conference in Environmental Law, University of Georgia, 2007.
- "The Role of Property Rights in Founding-Era Republicanism," Southwest Social Science Association, 2006.
- Discussant, "Latino History," Southwest Social Science Association, 2006.
- "The Neglected Role of Property Rights in the Founding-Era Vision of the Common Good," Association for the Study of Law, Culture, and the Humanities (ASLCH), Syracuse University Law School 2006.
- "The Underestimated Role of Property in Founding-Era U.S. Republican Ideology," New England Historical Association, 2005.
- "Applying a Usable Past: Historical Evidence in the Law," annual meeting of the Association for the Study of Law, Culture, and the Humanities (ASLCH), 2005.
- Chair & Discussant, "Legal & Economic History," Interdisciplinary Session, Southwest Social Science Association, 2005.
- "Conflicting Opinions Citing *The Federalist* on the Rehnquist Court, 1986-2005," Southwest Political Science Association, 2005.
- "The Application of a Usable Past," Southwest Historical Association, 2005.
- "Dueling *Federalists*," Southern Political Science Association, 2005.
- "The Application of a Usable Past: Toward a Reconciliation of the Professional Standards of History and Law," biennial meeting of The Historical Society, 2004.
- "Private Rights and the Public Good: The Northwest Ordinance, Property Law, and Constitutionalism in the Early Republic," annual meeting of the Society for Historians of the Early American Republic (SHEAR), 2003.
- "Dueling Federalists and Judicial Politics: Rehnquist Court Cases with Multiple Uses of *The Federalist*, 1986-2003," Georgia Political Science Association, 2003.
- "The Northwest Ordinance, Property Law, and the Political Economy of the Early Republic," Great Lakes History Conference, 2002.
- "The Role of Property Rights in the Northwest Ordinance," Ohio Valley History Conference, 2001.

SERVICE***Public/Professional Presentations***

- “A Revolutionary on Two Continents: Thaddeus Kosciuszko and Transnational Constitutionalism,” Constitution Day Speech, Robert Rankin Chapter, Sons of the American Revolution, 2015.
- “Ashby High Rise: It Could Happen to You!,” Commercial Real Estate Conference, South Texas College of Law, 2015.
- “Nuisance Claims are the New Zoning,” Real Estate Law Conference, South Texas College of Law, 2014
- Moderator, “Sex, Drugs, and Rock n’ Roll,” Garland Walker American Inn of Court, 2014.
- “The Constitution, Military Lawyers, and the Rule of Law,” Constitution Day Speech, Robert Rankin Chapter, Sons of the American Revolution, 2014.
- “Legal Foundations of Land Use Planning, Roles, and Responsibilities,” Texas A&M Coastal Citizen Planner Program, 2013.
- Commentator, “Trials of the Century,” Garland Walker American Inn of Court, 2013.
- “The *Denbury* Pipeline Case,” *Professors’ Corner* teleconference, American Bar Association, 2013.
- “Property Rights and Pets,” Houston Bar Association Animal Law Section Conference, 2012.
- “*Severance v. Patterson* and Property Rights at the Beach,” *Professors’ Corner* teleconference, American Bar Association, 2012.
- “U.S. Efforts to Promote the Rule of Law Abroad,” invited speaker, Garland Walker American Inns of Court presentation, 2012.
- “The Guardian of Every Other Right: Property and the Bill of Rights,” invited speaker, Austin College Bill of Rights Symposium, 2011. <http://www.austincollege.edu/30617/2011-law-symposium/>
- “Supreme Court 2009 Term in Review,” *Federalist Society*, Houston Lawyers Chapter, July 2010.
- “Property Rights and Progressive Land Use in the Unzoned City,” Houston Property Rights Association, 2010.
- “Land Use in the Unzoned City: The Government’s Role in Regulating Houston” (panel organizer & moderator), Real Estate Law Society, South Texas College of Law, 2010.
- Invited Panelist, “Regulatory Takings: A Bigger Problem than *Kelo*?,” Texas Public Policy Foundation, Annual Policy Orientation to the Texas Legislature, 2010. Available at: http://www.texaspolicy.com/pdf/PO2010agenda_public.pdf
- Speaker, “Land Use: Public vs. Private,” South Texas College of Law *Federalist Society*, 2009.
- “Property Rights and Land Use in the Unzoned City,” Harris County Attorney’s Office, Houston, Texas, 2009
- Commentator, “Consumer and Foreclosure Bailouts,” *Federalist Society*, Houston, Texas, 2009.

Faculty Committee Service

- Campus Security Committee
- Promotion, Tenure, & Review Committee
- Student Appeals and Discipline Committee
- Chair, Teacher Development Committee
- Admissions Committee
- Student-Faculty Relations Committee
- Career Resources Committee
- Orientation Committee
- Access to Justice and Public Service Committee
- Faculty gift participation Committee
- Faculty Scholarship Committee

External Academic Service

- External scholarship reviews (for tenure committees), Texas A&M University Law School; Ave Maria School of Law; Indiana University (American Studies).
- ALPS Mentoring Committee
- Article submissions reviewer/subject matter expert, *Military Law Review*

PROFESSIONAL AND CIVIC ACTIVITIES

- Law School and professional service:
 - Amicus brief to Texas Supreme Court in *Severance v. Patterson*, No. 09-0387, certified questions from the U.S. Court of Appeals for the Fifth Circuit, 2009. Available at: <http://www.supreme.courts.state.tx.us/ebriefs/09/09038707.pdf>
 - Membership & Outreach Committee, Association for Law, Property, & Society (ALPS)
 - Mentor, New Scholars' Colloquium, Southeast Law Schools Association (SEALS)
 - Consultant, Property Law: Legal Education, ADR, and Practical Problem Solving Project (LEAPS), American Bar Association Dispute Resolution Section
 - Judge for Jessup Super-Regional Moot Court competition (2009-2012)
 - South Texas Advocacy Program; judge for intramural mock trial and moot court tournaments, and travel team practice rounds
 - Faculty Advisor, South Texas Federalist Society
 - Faculty Advisor, Justinian Society
 - Faculty Advisor, South Texas Real Estate Law Society
 - Faculty Advisor, South Texas Oil & Gas Law Society
 - Public Interest Law Society fundraiser participant
 - Master of ceremonies, Phi Delta Theta charity event
 - Houston Bar Association "Veterans' Initiative"
 - Supervisor for student independent research projects & law review student articles
 - Panelist, "JAG Careers," South Texas Military Law Society, 2009, 2011
 - Moderator, "JAG Careers," South Texas National Security Law Society, 2013
 - Panelist, "Real Estate Law Careers," South Texas Real Estate Law Society

- Panelist, “BP Deepwater Horizon and Environmental Justice,” STCL 2010.
 - Organized guest speaker event on 2010 Elections and State & Local Government
 - Organized guest speaker event on Land Use Regulation in Houston (2011)
 - Organized guest speaker event on Estate Planning & Probate Practice (2012)
- U.S. Army Reserve JAG Corps service:
- Adjunct Professor, Department of International and Operational Law, The Judge Advocate General’s Legal Center and School, Charlottesville, Virginia, 2012-present. Assist in teaching, curriculum development, LL.M. student thesis advising, course management, scholarly article reviews, and operational advice.
 - Chief, Administrative Law and Operational Law, 75th Training Command, Houston, Texas, 2008-present. Legal advice and support to Commanding General and five subordinate Divisions on operational law, military justice, fiscal law, ethics, and administrative law. Advocate for the Government in courts-martial and administrative hearings. Acting Staff Judge Advocate, 2011.
 - Adjunct Faculty, Defense Institute of International Legal Studies. Serve as Instructor on mobile educational teams to teach rule of law, international human rights law and law of armed conflict to foreign military officers worldwide.
 - Traveled to Republic of Kyrgyzstan for comprehensive seminar on human rights & international law (July 2011).
 - Returned to conduct senior leader subject-matter-expert seminar on designing and implementing a human rights training program (Sept. 2011)
 - Republic of Kyrgyzstan, executive seminar on law of armed conflict (July 2012)
 - The Judge Advocate General’s Legal Center and School, Future Concepts Directorate, 2008—drafted and edited new legal doctrine for legal/military operations (FM 1-04, *Legal Support to the Operational Army*; and *Rule of Law Handbook: A Practitioner’s Guide for Judge Advocates* (2d ed.)).
 - Office of Military Commissions-Defense (defense counsel to Guantanamo detainees), 2007—drafted the first brief to the Court of Military Commission Review (*U.S. v. Khadr*); assisted in defense merits brief to U.S. Supreme Court on *Boumediene v. Bush*.
 - Legal assistance (estate planning, consumer law, family law, etc.) to service members, families, and veterans in Southeast Texas.
 - Graduate of The Judge Advocate General’s Legal Center and School (ABA-accredited law school), Officer Basic Course and Officer Advanced Course.
- Bar & professional participation
- Garland Walker chapter, American Inns of Court (2012-)
 - Member, Urban Transect Committee, H-GAC Sustainable Communities Project (Comprehensive planning; Federal HUD grant 2011-present)
 - AALS Property Law Section
 - ABA Section of Real Property, Trust and Estate Law
 - Association for Law, Property, and Society
 - Congress for the New Urbanism
 - American Society for Legal History
 - Association for the Study of Law, Culture, & the Humanities

- Admitted in Texas; U.S. Court of Appeals, Fifth Circuit; U.S. District Court, Southern, Eastern, and Northern Districts of Texas
- State Bar of Texas. Sections: Real Property; Oil & Gas; Military Law
- Houston Bar Association, Real Property Section

MEDIA

Numerous contributions in national and regional media; available upon request

CONSULTING & EXPERT SERVICES

Summaries available upon request

REFERENCES & TEACHING EVALUATIONS

References available upon request