

Daniel B. Kelly
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Notre Dame, IN 46556
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ACADEMIC EXPERIENCE

NOTRE DAME LAW SCHOOL, Notre Dame, IN
Professor of Law, 2014-present
Associate Professor of Law, 2009-2014
Robert and Marion Short Scholar, 2010-2013
Co-Director, Law and Economics Program, 2010-present

UNIVERSITY OF CHICAGO LAW SCHOOL, Chicago, IL
Visiting Professor of Law, spring 2016

ACADEMIC FELLOWSHIPS

NORTHWESTERN LAW SCHOOL, Chicago, IL
Searle-Kauffman Fellow on Law, Innovation & Growth, 2009-2010 (non-residential)

HARVARD LAW SCHOOL, Cambridge, MA
Terence M. Considine Research Fellow in Law and Economics, 2008-2009
Lecturer in Law, spring 2009

YALE LAW SCHOOL, New Haven, CT
John M. Olin Research Fellow, 2007-2008

PROFESSIONAL EXPERIENCE

CRAVATH, SWAINE & MOORE LLP, New York, NY
Litigation Associate, 2006-2007
Summer Associate, 2004

U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT, Geneseo, NY
Judicial Clerk to the Honorable Richard C. Wesley, 2005-2006

INSTITUTE FOR JUSTICE, Washington, D.C.
Summer Legal Intern, 2004

EDUCATION

HARVARD LAW SCHOOL, J.D., *cum laude*, June 2005

Executive Editor, *Harvard Journal of Law & Public Policy*

John M. Olin Fellow in Law and Economics

Research Assistant, Professor Steven Shavell

Teaching Assistant, Professor Charles Fried (“Contracts”)

Teaching Fellow, Professor Michael Sandel (“Justice: Moral Reasoning”)

John M. Olin Law and Economics Prize (for best paper in law and economics)

University of Notre Dame, B.A. in economics, history, *summa cum laude*, May 2002

Phi Beta Kappa

Omicron Delta Epsilon (economics honor society); Phi Alpha Theta (history honor society)

Concentration in Philosophy, Politics, and Economics

Research Assistant, Professor Vai-Lam Mui

John Sheehan Honors Essay Award (for best senior thesis in economics)

PUBLICATIONS

ARTICLES

Physical Takings of Personal Property, 94 Texas Law Review See Also __-__ (2016).

Trust Term Extension: An Economic Analysis, 67 Florida Law Review Forum __-__ (2016),

➤ Responding to Reid Weisbord, *Trust Term Extension*, 67 Florida Law Review 73 (2015).

The Right to Include, 63 Emory Law Journal 857-924 (2014).

➤ Accepted at the Harvard-Stanford-Yale Junior Faculty Forum

➤ Reviewed by Donald Kochan in *JOTWELL (The Journal of Things We Like (Lots))*

Restricting Testamentary Freedom: Ex Ante Versus Ex Post Justifications, 82 Fordham Law Review 1125-1185 (2013).

➤ Reviewed by Gerry W. Beyer in *JOTWELL (The Journal of Things We Like (Lots))*

Toward Economic Analysis of the Uniform Probate Code, 45 University of Michigan Journal of Law Reform 855-898 (2012) (symposium).

➤ Reviewed by Paula Monopoli in *JOTWELL (The Journal of Things We Like (Lots))*

Strategic Spillovers, 111 Columbia Law Review 1641-1721 (2011).

➤ Accepted at the Stanford-Yale Junior Faculty Forum

Pretextual Takings: Of Private Developers, Local Governments, and Impermissible Favoritism, 17 Supreme Court Economic Review 173-235 (2009) (symposium).

The Limitations of Majoritarian Land Assembly, 122 Harvard Law Review Forum 7-17 (2009).

➤ Responding to Michael Heller & Rick Hills, *Land Assembly Districts*, 121 Harvard Law Review 1465 (2008).

[The “Public Use” Requirement in Eminent Domain Law: A Rationale Based on Secret Purchases and Private Influence](#), 92 *Cornell Law Review* 1-65 (2006).

BOOK CHAPTERS

[Inheritance Law](#), in *Encyclopedia of Law and Economics* (Jürgen Backhaus ed., Springer 2018).

[Fiduciary Principles in Trust Law](#), in *Oxford Handbook of Fiduciary Law* (Evan J. Criddle, Paul B. Miller, & Robert H. Sitkoff eds., Oxford University Press 2018).

[Remedies for Breach of Fiduciary Duties: An Economic Analysis of Trusts](#), in *Research Handbook on Fiduciary Law* (Andrew Gold & D. Gordon Smith eds., Edward Elgar 2016).

[Dividing Possessory Rights](#), in *Law and Economics of Possession* 175-206 (Yun-Chien Chang ed., Cambridge University Press 2015).

[Acquiring Land Through Eminent Domain: Justifications, Limitations, and Alternatives](#), in *Research Handbook on the Economics of Property Law* 344-371 (Kenneth Ayotte & Henry E. Smith eds., Edward Elgar Press 2011).

WORKING PAPERS

“An Economic Theory of Trust Modification”

“Anti-Opportunism Rules in Succession Law”

“Categorical Versus Ad Hoc Fiduciaries”

“How Real Estate Developers Assemble Land”

“Remedies for Breach of Fiduciary Duties: An Economic Analysis of Trusts”

COURSES TAUGHT

Notre Dame Law School (2009-present)

Property

Remedies

Trusts and Estates

Trusts and Estates: A U.S.-U.K. Comparative Perspective (in London)

Law and Economics Colloquium (College of Arts & Letters)

Law and Economics Seminar

Property Theory Seminar

University of Chicago Law School (spring 2016)

Trusts and Estates

Harvard Law School (spring 2009)

Land Use, Natural Resources Seminar

LAW REFORM & LEGAL EDUCATION ACTIVITIES (selected)

American Law Institute (ALI)

Member, 2015-present

Associate Reporter, Restatement (Fourth) of Property, 2014-present

Association of American Law Schools (AALS)

Executive Committee, Property, 2014-2015

Executive Committee, Trusts and Estates, 2016-present

Casebook Connect Study Center, Wolters Kluwer

Subject Matter Expert, Wills, Trusts, and Estates, 2015-2016

[New Private Law Blog](#), Harvard Law School

Contributor, 2015-Present

[Sponsors for Educational Opportunity \(SEO\) Law Institute](#), NYU School of Law

Lecturer, Property (for incoming law students), summer 2011-12, 2014-16

REFeree ACTIVITY

Journals

American Journal of Jurisprudence

American Law & Economics Review

Journal of Law, Economics, & Organization

Journal of Legal Analysis

Review of Law & Economics

Law Reviews

Harvard Law Review

University of Chicago Law Review

Yale Law Journal

Conferences, Foundations, and University Presses

Academia Sinica

European Association of Law & Economics

Israel Science Foundation

Society for Institutional & Organizational Economics

University of Chicago Press

Yale University Press

INVITED TALKS AND PRESENTATIONS

EMINENT DOMAIN AND TAKINGS

The “Public Use” Requirement in Eminent Domain Law: A Rationale Based on Secret Purchases

and Private Influence

- Stanford Law and Economics Workshop (February 2006)
- Harvard Law and Economics Workshop (November 2004)

How Real Estate Developers Assemble Land (and other titles)

- Yale Law School, Young Scholar Workshop Series (October 2015)
- Society for Environmental Law and Economics, Chicago, IL (May 2014)
- Arizona State University Legal Scholars Conference (March 2013)
- Notre Dame Law School Summer Workshop (July 2013)
- Notre Dame Law and Economics Workshop (January 2013)
- Brigham-Kanner Property Rights Conference, William & Mary Law School (October 2012)

Physical Takings of Personal Property

- Emory University School of Law Faculty Colloquium (March 2016)
- Notre Dame Law School Faculty Colloquium (March 2016)

Other Presentations on Eminent Domain and Takings

- Yale Law School, “Who Took My Raisins? *Horne v. USDA* and Personal Property Takings” (October 2015)
- Illinois College of Law Faculty Workshop, “Acquiring Land Through Eminent Domain: Justifications, Limitations, and Alternatives” (February 2011)
- Harvard Law and Economics Workshop, “Strategic Holdouts, Secret Agents, and The Land Assembly Problem” (October 2008)
- *Supreme Court Economic Review*, Symposium on Post-*Kelo* Reform, New York, NY, “A Jurisprudence of Pretext” (January 2008)

EXTERNALITIES

Strategic Spillovers

- International Society for New Institutional Economics, Stanford University (June 2011)
- Canadian Law and Economics Association, Toronto Law School (October 2010)
- Notre Dame Law and Economics Workshop (August 2010)
- University of Illinois College of Law Faculty Workshop (April 2010)
- Society for Environmental Law and Economics, Emory Law School (March 2010)
- Notre Dame Law School Faculty Colloquium (February 2010)
- Midwestern Law and Economics Association, Notre Dame Law School (October 2009)
- Stanford-Yale Junior Faculty Forum, Stanford Law School (May 2009)
- American Law and Economics Association, San Diego School of Law (May 2009)
- Association of American Law Schools, Junior Property Scholars Panel (January 2009)

Tradable Environmental Allowances

- American Law and Economics Association, Princeton University (May 2010)
- Society for Environmental Law & Economics, British Columbia Law School (March 2009)

DIVIDED AND SHARED OWNERSHIP

The Right to Include (and other titles)

- Harvard/Stanford/Yale Junior Faculty Forum, Yale Law School (June 2013)
- International Society for New Institutional Economics, University of Florence (June 2013)
- Association for Law, Property, and Society, Minnesota Law School (April 2013)
- Toledo College of Law Faculty Workshop (April 2013)
- Washington University Regional Junior Faculty Workshop, St. Louis, MO (April 2013)
- Harvard Law School Private Law Workshop (February 2013)
- Young Legal Scholars Paper Competition, New Orleans, LA (January 2013)
- Canadian Law and Economics Association, Toronto Law School (September 2012)
- Property Works-in-Progress Conference, Fordham Law School (June 2012)
- Notre Dame Law School Faculty Colloquium (April 2012)

Dividing Possessory Rights (and other titles)

- Notre Dame Law School Faculty Colloquium (February 2014)
- North American Workshop on Private Law Theory, McGill University (October 2013)
- Taiwan Law and Economic Analysis Conference, Academia Sinica, Taipei (August 2013)
- New York University School of Law Workshop on Property Law and Theory (May 2013)
- American Law and Economics Association, Vanderbilt University (May 2013)

TRUSTS AND ESTATES

Toward Economic Analysis of the Uniform Probate Code

- American College of Trust & Estate Counsel Symposium, Michigan Law (October 2011)

Restricting Testamentary Freedom: Ex Ante Versus Ex Post Justifications

- Georgetown Law and Economics Workshop (October 2013)
- Maryland School of Law, Legal Theory Workshop (September 2013)
- Washington University School of Law Faculty Workshop (September 2013)
- National Taiwan University College of Law (August 2013)
- Harvard Law and Economics Workshop (April 2013)
- Midwestern Law & Economics Association, Washington U. School of Law (October 2012)
- American Law and Economics Association, Stanford Law School (May 2012)
- Arizona State University Legal Scholars Conference (March 2012)
- Notre Dame Law and Economics Workshop (February 2012)
- Notre Dame Law School Faculty Colloquium (January 2011)

Anti-Opportunism Rules in Wills, Trusts, and Other Donative Transfers (and other titles)

- Notre Dame Law and Economics Workshop (October 2013)
- European Association of Law and Economics, University of Warsaw (September 2013)
- Taiwan Law and Economic Analysis Conference, Academia Sinica, Taipei (August 2013)

- Notre Dame Law School Faculty Workshop (April 2013)

Rules Versus Standards in Wills, Trusts, and Estates

- Association of American Law Schools, Panel on “The Next Generation of Trusts and Estates Scholarship,” New York, NY (January 2014)

An Economic Theory of Trust Modification (and other titles)

- Michigan Law and Economics Workshop (November 2015)
- Notre Dame Law and Economics Workshop (August 2015)

FIDUCIARY LAW

Categorical Versus Ad Hoc Fiduciaries and the Domain of Fiduciary Duties (and other titles)

- International Society for New Institutional Economics, Harvard Law School (June 2015)
- Law and Society Association, Panel on Fiduciary Theory, Minneapolis, MN (May 2014)

Remedies for Fiduciary Breach: An Economic Analysis of Trusts

- Notre Dame Law School Faculty Colloquium (January 2017)
- Canadian Law and Economics Association, Toronto Law School (September 2016)
- Notre Dame Law and Economics Workshop (September 2016)
- University of Chicago Law School, Work-in-Progress Workshop (June 2016)
- Society for Institutional & Organizational Economics, Sciences Po, Paris, France (June 2016)

Fiduciary Principles in Trust Law

- Conference on “Fiduciary Law: Charting the Field,” Harvard Law School (November 2017)

SERVICE (at Notre Dame)

UNIVERSITY COMMITTEES

Notre Dame Institute for Advanced Study

Law/Legal Topics Review Committee, 2013-present

Faculty Board on Athletics

Academic Integrity Subcommittee, 2013-present (Chair, 2015-16)

Faculty Liaison, Men’s Basketball and Men’s Tennis, 2013-present

LAW SCHOOL COMMITTEES

Appointments Committee, 2014-2016 (Vice Chair, 2014-15)

Clerkship Committee, 2009-11, 2012-2014

Colloquium Committee, 2009-10, 2011-12

Curriculum Committee, 2010-11

Elder Law Committee, 2012-present (Chair)

Faculty Development Committee, 2011-12, 2014-2016

Library Director Search Committee, 2016-present

Promotions Committee, 2016-present

INTERDISCIPLINARY PROGRAMS

Law and Economics Program

Co-Director and Co-Founder (with Margaret Brinig), 2010-present
Co-Organizer, Law and Economics Symposium, 2010-present
Co-Organizer, Midwestern Law and Economics Association, Fall 2009

Philosophy, Politics, and Economics (PPE) Program

Faculty Advisor, 2010-present
Taught colloquium on Law and Economics, Fall 2014

Research Program on Law and Market Behavior

Faculty Fellow, 2012-present

Edward J. Kelly Memorial Lecture in Elder Law

Co-Organizer, Lawrence A. Frolik (Pittsburgh School of Law), February 2016
Co-Organizer, Linda J. Waite (University of Chicago), April 2015
Co-Organizer, Robert H. Sitkoff (Harvard Law School), March 2014
Co-Organizer, Hendrik A. Hartog (Princeton University), March 2013

Other Conferences and Panels (selected)

Society for Institutional and Organizational Economics, Sciences Po, Paris, France
Program Committee; Panel Organizer, "Law, Equity, and Opportunism," June 2016
International Society for New Institutional Economics, Harvard Law School
Panel Organizer, "Agency and Fiduciary Law," June 2015
American Law and Economics Association Annual Meeting, Columbia Law School
Commentator, Victor Goldberg, Contracts and Bargaining Panel, May 2015
"Reimagining Homeownership: A Working Conference," Notre Dame Law School
Co-Organizer and Moderator, October 2013

PROFESSIONAL ASSOCIATIONS

American Economic Association
American Law and Economics Association
American Law Institute
Canadian Law and Economics Association
European Association of Law and Economics
Society for Institutional and Organizational Economics
New York State Bar