

Barry P. McDonald

Professor of Law

J.D., *cum laude*, Northwestern University School of Law, 1988

Professor McDonald teaches courses in constitutional law and copyright law. He is a recognized expert on constitutional law and the U.S. Supreme Court, and is frequently interviewed or writes in such major media outlets as *The New York Times*, *The Washington Post*, *The Los Angeles Times*, *The Boston Globe*, *The CBS Evening News*, CNN, Fox News, and National Public Radio. He is also a recognized scholar in the area of constitutional and First Amendment law. Since joining the Pepperdine faculty in 2000, he has published numerous articles and essays in such prominent journals as the *Emory Law Journal*, *Northwestern University Law Review*, *Notre Dame Law Review*, and the *Washington University Law Journal*.

At Northwestern Law, Professor McDonald received the Order of the Coif, the Arlyn Miner Legal Writing Award, and was an associate editor of the *Northwestern Law Review*. After graduation, he clerked for the Chief Justice of the United States, William H. Rehnquist, during the 1989-90 Term of the Supreme Court, and before that the Honorable James K. Logan of the U.S. Court of Appeals for the Tenth Circuit. Following his clerkships, Professor McDonald worked for the U.S. Department of State, the law firm of Gibson, Dunn & Crutcher, and served as general counsel to two different technology companies.

Professor McDonald is currently a member of the Bar of the Supreme Court of the United States, the State Bar of California, the American Bar Association, and the American Association of Law Schools (AALS).

Academic Scholarship

- McDonald, Barry P., *Happy 250th Birthday, America! The Unintended Bequest of the Declaration of Independence and Its Modern Challenges*, 76 AM. U. L. REV. (forthcoming 2026).
- McDonald, Barry P., *Congress's Mistaken IP Power and Our Hybrid Constitutionalism*, 114 KY L.J. 91 (2025).
- McDonald, Barry P., *SCOTUS's Shadiest Shadow Docket*, 56 WAKE FOREST L. REV. 1021 (2021).
- Chemerinsky, Erwin & McDonald, Barry P., *Eviscerating a Healthy Church-State Separation*, 96 WASH U. L.REV. 1009 (2019).

- McDonald, Barry P., *A Hellerstedt Tale: There and Back Again?*, 85 U. CINN. L. REV. 979 (2018).
- McDonald, Barry P., *Democracy's Religion: Religious Liberty in the Rehnquist and Roberts Courts*, 2016 ILL. L. REV. 2179.
- McDonald, Barry P., *Regulating Student Cyberspeech*, 77 MO. L. REV. 727 (2013).
- McDonald, Barry P., *Censorship and the Media: A Foreward*, 25 NOTRE DAME J.L. ETHICS & PUB.POL'Y 1 (2011) (symposium introduction).
- McDonald, Barry P., *A Reluctant Apology for Plessy: A Response to Akil Amar*, 39 PEPP. L. REV. 91 (2011) (symposium contribution).
- McDonald, Barry P., *The Emerging Oversimplifications of the Government Speech Doctrine: From Substantive Content to a "Jurisprudence of Labels,"* 2010 BYU L. REV. 2071 (2010).
- McDonald, Barry P., *Getting Beyond Religion as Science: "Unstifling" Worldview Formation in American Public Education*, 66 WASH. & LEE L. REV. 587 (2009).
- McDonald, Barry P., *Campaign Finance Regulation and the Marketplace of Emotions*, 36 PEPP. L. REV. 395 (2009) (symposium article)
- McDonald, Barry P., *Free Speech and Press in the Modern Age: Symposium Introduction*, 36 PEPP. L. REV. i (2009) (symposium edition introduction).
- McDonald, Barry P., *If Obscenity Were to Discriminate*, 103 NW. L. REV. 475 (2009); 103 NW. L. REV. COLLOQUY 72 (2008).
- McDonald, Barry P., *Speech and Distrust: Rethinking the Content Approach to Protecting the Freedom of Expression*, 81 NOTRE DAME L. REV. 1347 (2006).
- McDonald, Barry P., *Government Regulation or Other "Abridgements" of Scientific Research: The Proper Scope of Judicial Review Under the First Amendment*, 54 EMORY L.J. 979 (2005).

- McDonald, Barry P., *The First Amendment and the Free Flow of Information: Towards a Realistic Right to Gather Information in the Information Age*, 65 OHIO ST. L.J. 249 (2004).

Select News and Legal Media Commentary

- Barry P. McDonald, Op-Ed, *Will the Supreme Court Apply a Double Standard to Abortion and Gun Rights?*, The Hill, June 9, 2022
- Barry P. McDonald, Op-Ed, *This Is the Shadiest Part of the Supreme Court*, N.Y. Times, Nov. 3, 2021
- Barry P. McDonald, Op-Ed, *"The Supreme Court Shall Be Expanded and Its Powers Limited,"* in *We the People Have a Few Ideas for the Constitution*, N.Y. TIMES, Aug. 4, 2021
- Barry P. McDonald, Op-Ed, The Abortion Battle is Set to Get Worse, Regardless of Who Replaces RBG, [The Hill, Oct. 13, 2020](#)
- Barry P. McDonald, Op-Ed, The 'Troubling Premise' of Quid Pro Quo, [NAT'L L.J., Nov. 20, 2019](#) (free registration as ALM Digital Reader is required)
- Barry P. McDonald, Op-Ed, The Flaws of the Great Justice Stevens, [N.Y. TIMES, July 20, 2019](#)
- Barry P. McDonald, Op-Ed, Should the Supreme Court Matter So Much?, [N.Y. TIMES, Oct. 11, 2018](#)
- Barry P. McDonald, Don't Let the Government Censor Blueprints for 3-D-Printed Guns, [Washington Post, Aug. 5, 2018](#)
- Barry P. McDonald, The 14th Amendment, Kennedy and Kavanaugh: What's Next?, [NAT'L L.J., July 19, 2018](#)
- Barry P. McDonald, Actually the Baker in Supreme Court Masterpiece Ruling Lost, It Only Looked Like He Won, [USA TODAY, June 8, 2018](#)
- Barry P. McDonald, What the Supreme Court Could Teach the NFL, [BOSTON GLOBE, MAY 31, 2018](#)
- McDonald, Barry P., *Same-Sex Wedding Cakes: Why Hybrid Rights Paradigm Is Best Way Out of Thicket*, NAT'L L. J., JAN. 22, 2018

- McDonald, Barry P., *Hillary v. Donald: The Constitution in the Balance*, THE LOS ANGELES AND SAN FRANCISCO DAILY JOURNAL, November 4, 2016.
- McDonald, Barry P., *Are They Supposed to be Politicians in Black Robes?*, CNN.COM, October 27, 2016.
- McDonald, Barry P., *The Candidates and the Constitution*, NATIONAL CONSTITUTION CENTER PODCAST, September 28, 2016.
- McDonald, Barry P., *The Case for Judicial Disengagement...Except Where Appropriate*, CATO UNBOUND, September 19, 2016.
- McDonald, Barry P., *Eight Justices are Enough*, THE NEW YORK TIMES, May 26, 2016.
- McDonald, Barry P., *First Amendment or Jerk?*, WE THE INTERNET TV, April 18, 2016.
- Barry P. McDonald & Douglas W. Kmiec, *Putting Law over Politics on Supreme Court*, POLITICO, July 10, 2012.
- Barry P. McDonald, *The Supremes: Conservative Consolidation*, THE CALIFORNIA LAWYER MAGAZINE, Sept. 1, 2011.
- McDonald, Barry P., *Solicited Contributions related to Same-Sex Marriage Litigation*, THE LOS ANGELES TIMES.COM—L.A. NOW, Dec. 6, 2010.
- McDonald, Barry P., *Listen to the Terminator*, THE LOS ANGELES TIMES, November 17, 2010.
- McDonald, Barry P., Commentary: *Why the First Amendment Does Not Bar the Tort Actions in the Funeral Protest Case*, NAT'L L.J., Nov. 2, 2010.
- McDonald, Barry P., *The Supremes: Selective Minimalism in the Roberts Court*, THE CALIFORNIA LAWYER MAGAZINE, Sept. 2010 at 13.
- McDonald, Barry P., *Counseling Terrorists*, THE LOS ANGELES AND SAN FRANCISCO DAILY JOURNAL, July 2, 2010 at 4.

- McDonald, Barry P., *Putting Congress Between a Rock and a Hard Place*, THE LOS ANGELES AND SAN FRANCISCO DAILY JOURNAL, April 30, 2010 at 5.
- McDonald, Barry P., *The First Amendment and Obscenity Laws*, LOS ANGELES TIMES.COM, Op-Ed Page Dust Up Debates, July 2008.

Service

Law School Committees

August, 2025-present: Member of the Global Programs and Student Life Committee.

August 2024-Aug. 2025: Member of the Assessment, Faculty Resource and Cost Impact Committee.

Speaking Engagements

Regular speaker on constitutional law and U.S. Supreme Court matters at scholarly events hosted within and outside of the law school.

Invited member of the U.S. Dept. of State U.S. Speakers Program to engage audiences around the world on topics related to American democracy and constitutional government.

Media Commentary

Make regular invited media appearances on current topics involving constitutional law and the U.S. Supreme Court.