

2022

## Report to the Editor in Chief of the FIU Law Review

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Online ISSN: 2643-7759

### Recommended Citation

Thomas E. Baker, *Report to the Editor in Chief of the FIU Law Review*, 16 FIU L. Rev. vii (2022).  
DOI: <https://dx.doi.org/10.25148/lawrev.16.2.4>

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## REPORT TO THE EDITOR IN CHIEF OF THE FIU LAW REVIEW

It is my honor and a pleasure to submit this report on the *Annual Con Law Haiku Writing Competition* in Section A for Fall Semester 2021 at the Florida International University College of Law.

In my required first-year course, I challenge my 1L students with these instructions to be creative and write a constitutional law haiku:

How creative are you? How much are you into Con Law? Write a Con Law Haiku. A haiku records a singular experience, the haiku moment—often referred to as an “aha!” moment—when we realize a subtle, hidden, or unexpected significance in something around us. The study of constitutional law will afford you frequent and numerous haiku moments. Record one of yours in the traditional format of a single stanza made up of three lines of 5-7-5 syllables. You can write about an opinion, a case, a justice, a doctrine, a concept, or any other aspect of your study.

Post your Con Law Haiku in the < Section A Blog > on the Canvas website to express yourself—put the title of your poem in the subject line. Read the Con Law Haikus of your colleagues for fun and inspiration and, perhaps, enjoy a moment of zen.

This teaching tradition of mine is decades old and has followed me to three different law schools. English haikus<sup>1</sup> about the Supreme Court are a well-established outlet for creative thought on the queen subject of the law school curriculum.<sup>2</sup> Indeed, Keith Jaasma has published a book-length collection of them.<sup>3</sup> Supreme Court haikus also have been featured prominently in the NYU LAW REVIEW<sup>4</sup> and in the pages of CONSTITUTIONAL

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<sup>1</sup> This Japanese art form has flourished in the West—in translation and in original English—even in the dialect of my 305 area code! Recommendations for further reading: ERIC ANDERSON ET AL., *HIALEAH HAIKUS* (2009); DAVID M BADER, *HAIKU U: FROM ARISTOTLE TO ZOLA. 100 GREAT BOOKS IN 17 SYLLABLES* (2005); WILLIAM J. HIGGINSON & PENNY HARTER, *THE HAIKU HANDBOOK: HOW TO WRITE, SHARE, AND TEACH HAIKU* (1985); *THE HAIKU ANTHOLOGY: HAIKU AND SENRYU IN ENGLISH* (Cor Van Den Heuvel, ed.) (rev. ed. 1986).

<sup>2</sup> Thomas E. Baker, *Modern Constitutional Law*, 21 SEATTLE U. L. REV. 927, 927 (1998) (“What Maitland said about the common law also can be said about the queen subject in American law schools: constitutional law is ‘tough law.’”).

<sup>3</sup> KEITH JAASMA, *SUPREME COURT HAIKUS* (2018). The author maintains a Facebook Page about them as well. @SupremeCourtHaiku, FACEBOOK, <https://www.facebook.com/SupremeCourtHaiku/> (last visited Oct. 13, 2021). He has attracted national attention to this art form. See Robert Barnes, *Supreme Court Decisions as Haiku*, WASH. POST (Oct. 24, 2014), [https://www.washingtonpost.com/politics/courts\\_law/supreme-court-decisions-as-haikus/2014/10/24/b05723d4-5a06-11e4-8264-deed989ae9a2\\_story.html](https://www.washingtonpost.com/politics/courts_law/supreme-court-decisions-as-haikus/2014/10/24/b05723d4-5a06-11e4-8264-deed989ae9a2_story.html) (last visited Oct. 13, 2021).

<sup>4</sup> Louis J. Sirico, Jr., *Supreme Court Haiku*, NYU L. REV. 1224 (1986).

COMMENTARY.<sup>5</sup> Remarkably, a veteran Supreme Court advocate had the temerity, audacity, and creativity to file an *Amicus Curiae* Brief in the form of a haiku . . . and the High Court accepted it.<sup>6</sup> Thus, our FIU LAW REVIEW is joining a distinguished scholarly company by publishing the three outstanding constitutional law haikus from Section A, Fall Semester 2021, as chosen by a vote of their poet peers.<sup>7</sup> Posted here in alphabetical order by poet's last name are the winners:

*Commerce Among the States*<sup>8</sup>  
by Susan Curry

Making Commerce Clause  
noises sounds a whole lot like  
milk . . . milk . . . milk . . . minnows.

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<sup>5</sup> Gil Grantmore, *Constitutional Haiku*, 18 CONST. COMMENTARY 481 (2001) (a pseudonym of James Ming Chen).

<sup>6</sup> The Argument in the Brief of *Amicus Curiae* David Boyle in Support of Respondents in *Trump v. Hawaii*, 138 S. Ct. 2392 (2018) (upholding President Trump's Executive Order suspending immigration from several majority-Muslim countries) is reproduced in full here:

*A haiku* ban might  
not be anti-Japanese  
“*per se*” but . . . you know.

<sup>7</sup> Here are the Official Rules and Regulations for the Best Con Law Haiku Contest:

The deadline for posting eligible haikus is October 31 at midnight. Each student in Section A may post one—and only one—eligible haiku as his or her official entry in the contest; however, students are permitted to revise their haiku or replace their haiku before the deadline. Nominations will take place between November 8 and November 12. To be able to nominate a haiku, the nominator must have previously posted a haiku before the deadline. Self-nominations are not permitted. Each nominator may nominate up to three (3) haikus. There will be a class-wide ballot that will list the haikus with the most nominations. Every member of the class will be eligible to vote for the one best haiku. A special SCOTUS prize will be awarded in class to the three haikus with the most class votes. The three haikus with the most class votes will be published in an issue of the FIU LAW REVIEW.

<sup>8</sup> I would not be the first to recognize that so many of the dormant commerce clause cases involve state regulations designed to maintain an adequate supply of wholesome milk. *See Commerce Clause Limitations on State Regulations*, EXPLORING CONSTITUTIONAL CONFLICTS, <http://law2.umkc.edu/faculty/projects/ftrials/conlaw/statecommerce.htm> (last visited Nov. 24, 2021). The odd non-milk case in the casebook involved the importation of natural minnows. *Hughes v. Oklahoma*, 441 U.S. 322 (1979); *see generally* RONALD D. ROTUNDA & BENNETT L. GERSHMAN, MODERN CONSTITUTIONAL LAW: CASES, NOTES, AND QUESTIONS 147–208 (12th ed. 2021).

*Intrastate Highways*<sup>9</sup>  
by Brennan Schmitz

You can never trust  
South Carolina Bridges,  
If you're a wide truck.

*Wickard v. Filburn*<sup>10</sup>  
by Andrew Smith

Man reaps wheat with axe.  
Congress harvests him with tax.  
That Act, "Comm" Clause backs.

Respectfully submitted,

Thomas E. Baker  
Professor of Law & Member of the Founding Faculty<sup>11</sup>

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<sup>9</sup> See *S.C. State Highway Dept. v. Barnwell Bros., Inc.*, 303 U.S. 177 (1938). That state still has the worst roads in America according to *Consumer Affairs*. See Kathryn Parkman, *2021 U.S. Road Conditions by State*, CONSUMER AFFAIRS, <https://www.consumeraffairs.com/automotive/us-road-conditions.html> (Feb. 17, 2022) (last visited Nov. 24, 2021).

<sup>10</sup> See *Wickard v. Filburn*, 317 U.S. 111 (1942).

<sup>11</sup> See generally *Biography of Thomas E. Baker*, FIU LAW, <https://law.fiu.edu/directory/thomas-e-baker/> (last visited Oct. 13, 2021).