

EMILY S. BREMER

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ACADEMIC APPOINTMENTS

University of Notre Dame Law School	Notre Dame, IN
<i>Professor of Law</i>	2023-present
<i>Associate Professor of Law</i>	2018-2023
<i>Courses:</i>	Civil Procedure, Administrative Law, Regulatory Process (seminar), Comparative Administrative Law
University of Wyoming College of Law	Laramie, WY
<i>Associate Professor of Law</i>	2018
<i>Assistant Professor of Law</i>	2015-2018
<i>Courses:</i>	Business Organizations, Business Planning, International Business Transactions, Legislation & Regulation
<i>Honors:</i>	College of Law Extraordinary Merit Award (2017-2018)
George Mason University School of Law	Arlington, VA
<i>Adjunct Professor</i>	Spring 2014
<i>Course:</i>	Legislation & Statutory Interpretation

PUBLICATIONS

Articles and Essays:

[*Power Corrupts*](#), 41 YALE J. REG. ____ (forthcoming).

- Highlighted on the [Legal Theory Blog](#)
- Highlighted on the Yale Journal on Regulation's [Notice & Comment Blog](#)

[*The Administrative Procedure Act: Failures, Successes, and Danger Ahead*](#), 98 NOTRE DAME L. REV. 1873 (2023) (symposium paper).

[*The Undemocratic Roots of Agency Rulemaking*](#), 108 CORNELL L. REV. 69 (2022).

[*Blame \(or Thank\) the Administrative Procedure Act for Florida East Coast Railway*](#), 97 CHI.-KENT L. REV. 79-111 (2022) (invited symposium paper).

[*Introduction to The Bremer-Kovacs Collection: Historical Documents Related to the Administrative Procedure Act of 1946 \(HeinOnline 2021\)*](#), 106 MINN. L. REV. HEADNOTES 218-227 (2022) (with Kathryn E. Kovacs).

[*The Rediscovered Stages of Agency Adjudication*](#), 99 WASH. U. L. REV. 377-448 (2021).

- Awarded the 2023 Emerging Scholar Award by the American Association of Law Schools Section on Administrative Law
- Reviewed by Christopher Walker, [Unearthing the Lost World of APA Adjudication](#), JOTWELL (Aug. 30, 2021)
- Accepted at the Fifth Annual Administrative Law New Scholarship Roundtable
- Highlighted on the [Legal Theory Blog](#)

[*Reckoning with Adjudication's Exceptionalism Norm*](#), 69 DUKE L.J. 1749-1805 (2020).

- Highlighted on the [Legal Theory Blog](#)

[*The Exceptionalism Norm in Administrative Adjudication*](#), 2019 WIS. L. REV. 1351-1417.

- Accepted at the 2018 Yale/Harvard/Stanford Junior Faculty Forum

[*Designing the Decider*](#), 16 GEO. J.L. & PUB POL'Y 67-85 (2018) (invited symposium paper).

[*The Agency Declaratory Judgment*](#), 78 OHIO ST. L.J. 1169-1215 (2017).

- Accepted at the First Annual Administrative Law New Scholarship Roundtable
- *Recommendations adopted* by the Administrative Conference of the United States, [80 Fed. Reg. 78,161](#), 78,163 (Dec. 16, 2015)

[*Agency Innovation in Vermont Yankee's White Space*](#), 32 J. LAND USE & ENVTL. L. 523-542 (2017) (with Sharon B. Jacobs) (invited symposium paper).

[*Private Complements to Public Governance*](#), 81 MO. L. REV. 1115-1125 (2017) (invited symposium paper).

[*American and European Perspectives on Private Standards in Public Law*](#), 91 TUL. L. REV. 325-370 (2016).

[*On the Cost of Private Standards in Public Law*](#), 63 KAN. L. REV. 279-333 (2015).

[*The Unwritten Administrative Constitution*](#), 65 FLA. L. REV. 1215-1273 (2014).

- Highlighted on the [Legal Theory Blog](#)

[*Clearing the Path to Justice: Reform of 28 U.S.C. § 1500*](#), 65 ALA. L. REV. 1-76 (2013) (with Jonathan R. Siegel).

- *Recommendations adopted* by the Administrative Conference of the United States, [78 Fed. Reg. 2939](#), 2939 (Jan. 15, 2013)
- *Adopted* by ABA House of Delegates, [Resolution 300](#) (Feb. 11, 2013)

[*Incorporation by Reference in an Open-Government Age*](#), 36 HARV. J.L. & PUB. POL'Y 131-210 (2013).

- *Recommendations adopted* by the Administrative Conference of the United States, [77 Fed. Reg. 2257](#), 2257 (Jan. 17, 2012)
- *Adopted* by the Office of the Federal Register, Incorporation by Reference, [79 Fed. Reg. 66,267](#) (Nov. 7, 2014), *codified at* 1 C.F.R. pt. 51
- *Adopted* by the Office of Management and Budget, [Revision of Circular A-119](#), "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities," [81 Fed. Reg. 4673](#) (Jan. 27, 2016)

[*The Dynamic Last-in-Time Rule*](#), 22 IND. INT'L & COMP. L. REV. 27-69 (2012).

Working Papers:

Presidential Adjudication

The Myth of Congressional Delegation

The Shift from Adjudication to Rulemaking

Casebook:

ADMINISTRATIVE LAW: THE AMERICAN PUBLIC LAW SYSTEM: CASES AND MATERIALS, 9th ed. (St. Paul, MN: West Academic, forthcoming 2024) (with Jerry L. Mashaw, Peter M. Shane, Nicholas R. Parrillo, Margaret B. Kwoka, and Aditya Bamzai)

Edited Collection:

[THE BREMER-KOVACS COLLECTION: HISTORIC DOCUMENTS RELATED TO THE ADMINISTRATIVE PROCEDURE ACT OF 1946](#) (HeinOnline 2021) (with Kathryn E. Kovacs, Co-Editor, and Charlotte Schneider, Research Editor).

- Awarded the 2022 Joseph L. Andrews Legal Literature Award by the American Association of Law Libraries (AALL)

Book Chapters:

United States v. Florida East Coast Railway Co., *in* LEADING CASES IN ADMINISTRATIVE LAW (Am. Bar Ass'n, forthcoming 2023).

Government Use of Standards in the United States and Abroad, *in* THE CAMBRIDGE HANDBOOK OF TECHNICAL STANDARDIZATION LAW, FURTHER INTERSECTIONS OF PUBLIC AND PRIVATE LAW (TRADE, ADMINISTRATIVE, TORT, COPYRIGHT, CERTIFICATION AND TRADEMARK) (Jorge L. Contreras ed., Cambridge University Press, 2019).

Loan Repayment Assistance and Access to Justice, *in* BEYOND ELITE LAW: ACCESS TO CIVIL JUSTICE IN AMERICA (S. Estreicher & J. Radice eds., Cambridge University Press, 2016).

Other Publications:

[Finding the Public Interest \(and the Rule of Law\) in On-the-Ground Administration](#), JOTWELL (Sept. 6, 2023) (review of Jodi L. Short, *In Search of the Public Interest*, 40 YALE J. REG. 759 (2023)).

[The Bureaucracy Also Empowers the Unitary Executive](#), YALE J. ON REG.: NOTICE & COMMENT (Nov. 1, 2021) (invited commentary on ANDREW RUDALEVIGE, BY EXECUTIVE ORDER: BUREAUCRATIC MANAGEMENT AND THE LIMITS OF PRESIDENTIAL POWER (2021)).

Informal and Formal Adjudication: Consecutive Stages, Not Alternative Modes, 46 ADMIN. & REGULATORY L. NEWS 5 (Summer 2021).

[The APA, Due Process, and the Limits of Textualist Positivism](#), YALE J. ON REG.: NOTICE & COMMENT (Apr. 16, 2021) (invited commentary on CASS R. SUNSTEIN & ADRIAN VERMEULE, LAW & LEVIATHAN: REDEEMING THE ADMINISTRATIVE STATE (2020)).

[Making the Invisible Visible](#), YALE J. ON REG.: NOTICE & COMMENT (Aug. 7, 2019) (invited commentary on RACHEL AUGUSTINE POTTER, BENDING THE RULES: PROCEDURAL POLITICKING IN THE BUREAUCRACY (2019)).

[Technical Standards Meet Administrative Law: A Teaching Guide on Incorporation by Reference](#), 71 ADMIN. L. REV. 315 (2019) (invited contribution to [course module](#) on Incorporation by Reference, Voluntary Codes and Standards: Teaching Resources for Law and Public Policy Courses, Penn Program on Regulation, University of Pennsylvania).

[Deliberate and Serendipitous Separation of Powers in the Administrative State](#), YALE J. ON REG.: NOTICE & COMMENT (Mar. 9, 2018) (invited commentary on JON D. MICHAELS, CONSTITUTIONAL COUP: PRIVATIZATION'S THREAT TO THE AMERICAN REPUBLIC (2017)).

[Finality and the Virtues of Jurisdictional Determinations](#), REG. REV. (Jul. 12, 2016) (invited commentary on United States Army Corps of Engineers v. Hawkes Co., 136 S. Ct. 1807 (2016)).

[*The Fed \(Like Soylent Green\) Is Made of People*](#), YALE J. ON REG.: NOTICE & COMMENT (Apr. 6, 2016) (invited commentary on PETER CONTI-BROWN, THE POWER AND INDEPENDENCE OF THE FEDERAL RESERVE (2016)).

[*New Rules on Incorporated Standards Encourage Necessary Public-Private Collaboration*](#), REG. REV. (Jan. 27, 2015).

[*A Multidimensional Problem*](#), 45 ENVTL. L. REP. 10783 (2015) (invited commentary on Nina A. Mendelson, *Private Control over Access to Public Law: The Perplexing Federal Regulatory Use of Private Standards*, 112 MICH. L. REV. 737 (2014)).

[*Collaboration is the Key to Making the Law Free*](#), REG. REV. (July 2, 2013).

[*Technical Standards Meet Administrative Law: A Primer on an Ongoing Debate*](#), 65 STANDARDS ENGINEERING, Mar./Apr. 2013, at 1.

[*Standards, Regulations and Incorporation by Reference: An Interview with Emily Bremer of the Administrative Conference of the United States*](#), STANDARDIZATION NEWS, Nov./Dec. 2012, at 18.

SYMPOSIA ORGANIZED

History of the Administrative Procedure Act and Judicial Review, Notre Dame Law Review Annual Federal Courts Symposium (Jan. 23, 2023).

[*Improving the Decisional Independence of Administrative Adjudicators*](#), YALE J. ON REG.: NOTICE & COMMENT (Feb. 18-28, 2022).

Charting the New World of Administrative Adjudication, Duke Law Journal 50th Annual Administrative Law Symposium (competitively selected) (with Kent Barnett and Christopher J. Walker) (Feb. 14, 2020).

[*Symposium*](#) on JOANNE YATES & CRAIG N. MURPHY, ENGINEERING RULES: GLOBAL STANDARD SETTING SINCE 1880 (2019), YALE J. ON REG.: NOTICE & COMMENT (Oct. 1-11, 2019).

SELECTED RECENT PRESENTATIONS

Administrative Law Conference, American Bar Association Section on Administrative Law and Regulatory Practice (Nov. 30, 2023) (invitations accepted).

- Co-Organizer and Moderator, *Access to Justice in Administrative Adjudication*.
- Panelist, *Constitutional Challenges to Agency Adjudication Before the Supreme Court*.

Presidential Adjudication

- University of Wisconsin School of Law Faculty Workshop, Madison, WI (Nov. 15, 2023) (invitation accepted).
- University of Virginia School of Law Faculty Workshop, Charlottesville, VA (Oct. 27, 2023) (invitation accepted).
- Revitalizing American Institutions, Hoover Institution, Stanford University, Palo Alto, CA (May 4-5, 2023).
- Boyden C. Gray Center for the Study of the Administrative State, Antonin Scalia Law School, George Mason University, Arlington, VA (Apr. 14, 2023).

Speaker, *History of the APA*, Administrative Procedure Act Seminar, Federal Bar Association, Northern District of Ohio, Cleveland, OH (Oct. 5, 2023) (invitation accepted).

Power Corrupts

- Public Law Workshop, Notre Dame London Global Gateway (Sept. 21, 2023).
- Power in the Administrative State Workshop Series (Sept. 8, 2023).
- Minnesota Law School Faculty Colloquium, Minneapolis, MN (Apr. 13, 2023).
- Conference on the Legitimacy of Administrative Law, Hoover Institution, Stanford University, Palo Alto, CA (Jan. 14-15, 2023).

The Myth of Congressional Delegation

- Administrative Law Works-in-Progress, 2023 SEALS Annual Conference, Boca Raton, FL (July 27, 2023)

[Kathleen Claussen on the Improvised Implementation of Executive Agreements](#), Discussant, Law and Governance Discussion Series, Penn Program on Regulation, University of Pennsylvania (Feb. 17, 2023).

Panelist, *History of the Administrative Procedure Act and Judicial Review*, Notre Dame Law Review Annual Federal Courts Symposium (Jan. 23, 2023).

Adjudicatory Independence: Diagnosis, Prognosis and Cure (Panacea), Co-Organizer and Panelist, 2022 Administrative Law Conference, American Bar Association Section of Administrative Law & Regulatory Practice (Dec. 1, 2022).

[Rediscovering the Roots of Administrative Procedure](#), Gray Matters, The Podcast of the C. Boyden Gray Center for the Study of the Administrative State, Antonin Scalia Law School, George Mason University (Aug. 24, 2022).

The Undemocratic Roots of Agency Rulemaking

- [Law and Governance Discussion Series](#), Penn Program on Regulation, University of Pennsylvania (June 8, 2022).
- Junior Scholars Colloquium, Federalist Society, Annapolis, MD (June 4, 2022).
- New Voices in Administrative Law and Legislation, American Association of Law Schools Annual Meeting (held online due to COVID-19) (Jan. 6, 2022).
- Women in Law Teaching Works-in-Progress Workshop, University of Minnesota Law School, Minneapolis, MN (held online due to COVID-19) (July 7-8, 2021).

[Ron Levin on the Evolving APA and the Originalist Challenge](#), Discussant, Law and Governance Discussion Series, Penn Program on Regulation, University of Pennsylvania (May 25, 2022).

Researching and Interpreting the Administrative Procedure Act, Co-Organizer and Moderator, 2021 Fall Conference, ABA Section of Administrative Law and Regulatory Practice, Washington, DC (held online due to COVID-19) (Nov. 18, 2021).

Going into Law Teaching, Co-Organizer and Panelist, 2021 Fall Conference, ABA Section of Administrative Law and Regulatory Practice, Washington, DC (held online due to COVID-19) (Nov. 17, 2021).

AALS Conversations on the Administrative State: Experts, the Deep State, and the Challenge of Administrative Law, Speaker, American Association of Law Schools, Webinar (Oct. 29, 2021).

Blame (or Thank) the Administrative Procedure Act for Florida East Coast Railway, Chicago-Kent Law Review Symposium, Chicago, IL (Oct. 1, 2021) (held online due to COVID-19).

The Rediscovered Stages of Agency Adjudication

- Law and Governance Discussion Series (July 28, 2021).

- Power in the Administrative State Workshop Series (July 9, 2021).
- Notre Faculty Colloquium (held online due to COVID-19) (Apr. 6, 2021).
- Washington University Saint Louis Faculty Workshop (held online due to COVID-19) (Jan. 20, 2021).
- New Voices in Administrative Law and Legislation, American Association of Law Schools Annual Meeting (held online due to COVID-19) (Jan. 9, 2021).
- Maurer School of Law Faculty Colloquium, Indiana University Bloomington (held online due to COVID-19) (Oct. 30, 2020).
- Chicagoland Junior Scholars Conference, Northern Illinois University (held online due to COVID-19) (Oct. 2, 2020).
- Administrative Law New Scholarship Roundtable, Yale Law School (held online due to COVID-19) (Sept. 25, 2020).

Reassessing Judicial Review of Administrative Actions, The Nondelegation Doctrine, Chevron Deference's Constitutionality, and the Ordinary Remand Rule, Moderator, 2020 Fall Conference, ABA Section of Administrative Law and Regulatory Practice, Washington, DC (held online due to COVID-19) (Nov. 20, 2020).

Procedures of Federal Agency Adjudication, Panelist, Symposium on Federal Agency Adjudication, Administrative Conference of the United States (held online due to COVID-19) (Aug. 21, 2020).

Reckoning with Adjudication's Exceptionalism Norm:

- Charting the New World of Administrative Adjudication, *Duke Law Journal* 50th Annual Administrative Law Symposium (Feb. 14, 2020).
- Pre-Conference Scholarship Roundtable, 2019 Administrative Law Conference, ABA Section of Administrative Law and Regulatory Practice, GW Regulatory Studies Center, GW Law School, Washington, DC (Nov. 13, 2019).
- Notre Dame Faculty Colloquium, Notre Dame, IN (Nov. 12, 2019).

The Administrative Conference and Agency Procedural Reform, Panelist, 2018 Administrative Law Conference, American Bar Association Section on Administrative Law and Regulatory Practice, Washington, DC (Nov. 1-2, 2018).

OTHER PROFESSIONAL EXPERIENCE

Administrative Conference of the United States	Washington, DC
<i>Research Chief</i>	2014-2015
<i>Attorney Advisor</i>	2010-2014

Wiley Rein LLP	Washington, DC
<i>Associate</i> , Appellate and Telecommunications Litigation	2006-2007 & 2008-2010

U.S. Court of Appeals for the Ninth Circuit	Fairbanks, AK
<i>Law Clerk</i> , Hon. Andrew J. Kleinfeld	2007-2008

SERVICE AND OTHER PROFESSIONAL ACTIVITIES

University Committees:

University of Notre Dame Law School:

- Subcommittee on Promotions (2023-present)
- Clerkship Committee (2019-2023)
- Colloquium Committee (2018-2019)

University of Wyoming College of Law:

- Founder & Organizer, Wyoming Junior Scholars Forum (2017-2018)
- Faculty Academic Standards, Rights & Responsibilities Committee (2016-2019)
- College of Law Admissions Committee (2015-2018), Honor Council (2016-2018), and Academic Policies & Procedures Committee (2015-2017)

Other Professional Service:

Contributing Editor, Administrative Law Section, JOTWELL (2022-present)

Member, Selection and Organizing Committee, Annual Administrative Law New Scholarship Roundtable (2021-present)

Administrative Conference of the United States

- Senior Fellow (2023-present)
- Public Member (2017-2023)

Regular Contributor, [YALE J. REG. NOTICE & COMMENT BLOG](#) (2016-present)

American Bar Association Section of Administrative Law & Regulatory Practice:

- Committee Member, ABA Program for Prospective Administrative Law Scholars (PALS) (2021-present)
- Vice Chair, Adjudication Committee (2018-present)
- Council Member (2017-2020)
- Co-Lead, Ad Hoc Committee on Administrative Law Transition, (2015-2016)
 - Prepared [IMPROVING THE ADMINISTRATIVE PROCESS: A REPORT TO THE PRESIDENT-ELECT](#) from the ABA Section of Administrative Law & Regulatory Practice (Oct. 26, 2016), *published* 69 ADMIN. L. REV. 205 (2017).
- Chair (2014-2016) & Vice Chair (2013-2014), Communications Committee

EDUCATION

J.D., New York University School of Law 2006
NYU Journal of Law & Liberty, Executive Notes Editor
International Journal of Constitutional Law, Student Editor

B.A., Magna Cum Laude, New York University 2003
Dean's List; College of Arts and Science Presidential Scholar

BAR MEMBERSHIPS

Virginia (2006) (Associate Member), District of Columbia (2009), United States Court of Appeals for the Ninth Circuit (2008)