

EMILY S. BREMER

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ACADEMIC APPOINTMENTS

University of Notre Dame Law School Notre Dame, IN
Associate Professor of Law 2018-present
Courses: Civil Procedure, Administrative Law, Regulatory Process, Comparative
Administrative Law

University of Wyoming College of Law Laramie, WY
Associate Professor of Law 2018
Assistant Professor of Law 2015-2018
Courses: Business Organizations, Business Planning, International Business
Transactions, Legislation & Regulation
Honors: College of Law Extraordinary Merit Award (2017-2018)

George Mason University School of Law Arlington, VA
Adjunct Professor Spring 2014
Course: Legislation & Statutory Interpretation

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

PUBLICATIONS

Articles:

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

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

- *Reviewed by* Christopher Walker, [*Unearthing the Lost World of APA Adjudication*](#), JOTWELL (August 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 (2020).

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

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

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

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

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

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

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

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

[*Clearing the Path to Justice: Reform of 28 U.S.C. § 1500*](#), 65 ALA. L. REV. 1 (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 (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 (2012).

Working Papers:

The Myth of Congressional Delegation

Shorter Works

Blame (or Thank) the Administrative Procedure Act for Florida East Coast Railway, 96 CHI.-KENT L. REV. ____ (forthcoming 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 (2022) (with Kathryn E. Kovacs).

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

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

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

Digital 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).

Book Chapters and Pedagogical Materials:

United States v. Florida East Coast Railway Co., in *LEADING CASES IN ADMINISTRATIVE LAW* (Am. Bar Ass'n, forthcoming 2022).

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).

[Technical Standards Meet Administrative Law: A Teaching Guide on Incorporation by Reference](#), 71 *ADMIN. L. REV.* 315 (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 Commentary and Reviews:

[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)).

[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.

Institutional Policy Publications:

[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).

[EQUAL EMPLOYMENT OPPORTUNITY COMMISSION: EVALUATING THE STATUS AND PLACEMENT OF ADJUDICATORS IN THE FEDERAL SECTOR HEARING PROGRAM](#), Report to the EEOC from the Office of the Chairman, Administrative Conference of the United States, Mar. 2014.

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, Appellate and Telecommunications Litigation</i>	2006-2007 & 2008-2010
U.S. Court of Appeals for the Ninth Circuit	Fairbanks, AK
<i>Law Clerk, Hon. Andrew J. Kleinfeld</i>	2007-2008

SYMPOSIA ORGANIZED

[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).

RECENT PRESENTATIONS

The Undemocratic Roots of Agency Rulemaking

- 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).

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).

Adjudication 101: The New World of Agency Adjudication, Panelist, 2019 Spring Conference, ABA Section of Administrative Law and Regulatory Practice, Washington, DC (May 31, 2019).

UNIVERSITY SERVICE

University of Notre Dame Law School:

- Clerkship Committee (2019-present)
- 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)

PROFESSIONAL SERVICE

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

Public Member, Administrative Conference of the United States (2017-present)

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)
- Chair (2014-2016) & Vice Chair (2013-2014), Communications Committee

BAR MEMBERSHIPS

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