

**LLOYD HITOSHI MAYER**  
Notre Dame Law School  
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**POSITIONS**

2005-present      **Notre Dame Law School**, Notre Dame, Indiana  
*Professor*, 2011-present  
*Associate Dean*, 2011-2015, *Associate Professor*, 2005-2011  
Courses taught: Election Law, Not-For-Profit Organizations, Professional  
Responsibility, Taxation of Business Enterprises  
Research areas: Not-For-Profit Organizations, Tax Law, Election Law

1996-2011      **Caplin & Drysdale, Chartered**, Washington, District of Columbia  
*Of Counsel*, 2005-2011; *Member*, 2002-2005; *Associate*, 1996-2002

1994-1996      **Judge Lowell A. Reed, Jr., United States District Court for the Eastern  
District of Pennsylvania**, Philadelphia, Pennsylvania  
*Judicial Law Clerk*

**OTHER RECENT TEACHING EXPERIENCE**

2018-2019      **Notre Dame Mendoza College of Business**, Notre Dame, Indiana  
2007-2014      *Presenter*, Nonprofit Executive Programs

**HIGHER EDUCATION**

1991-1994      **Yale Law School**, J.D., 1994  
*Yale Law and Policy Review*, Business Editor  
*Yale Journal on Regulation*, Editor  
John M. Olin Fellow in Law and Economics

1985-1989      **Stanford University**, A.B., Economics and Public Policy, 1989  
Graduated with Distinction, Economics and Public Policy  
Graduated with Honors, Economics  
Sobieski Prize for Creative Thinking in Economics

**DISTINCTIONS, HONORS, AWARDS**

American Bar Foundation Fellow (2020)  
University of Notre Dame All-Faculty Team (2018)  
ABA Committee on Nonprofit Organizations Outstanding Nonprofit Academic Award (2014)  
American Law Institute Member (2014)  
Notre Dame Black Law Students Association Charles F. Crutchfield Professorial Excellence  
Award (2007)

## **PUBLICATIONS**

### **Works in Progress**

*Allocation of State Authority Over Charitable Nonprofit Organizations*

*Natural Law and What It Means To Be Charitable*

*Nonprofits, Taxes, and Speech*

*Unconstitutional Conditions, Taxes, and Religious Nonprofits*

### **Law Review Articles**

*Regulating Charitable Crowdfunding*, 97 INDIANA LAW JOURNAL 1375 (2022); draft published in INTERNATIONAL SOCIETY FOR THIRD-SECTOR RESEARCH CONFERENCE WORKING PAPER SERIES VOLUME XII (2021)

*What is Caesar's, What is God's: Fundamental Public Policy for Churches* (with Zachary B. Pohlman), 44 HARVARD JOURNAL OF LAW & PUBLIC POLICY 145 (2021)

*The Promises and Perils of Using Big Data to Regulate Nonprofits*, 94 WASHINGTON LAW REVIEW 1281 (2019)

*When Soft Law Meets Hard Politics: Taming the Wild West of Nonprofit Political Involvement*, 45 JOURNAL OF LEGISLATION 194 (2019)

*A (Partial) Defense of Section 501(c)(4)'s "Catchall" Nature*, 21 NYU JOURNAL OF LEGISLATION & PUBLIC POLICY 439 (2018)

*Globalization Without a Safety Net: The Challenge of Protecting Cross-Border Funding of NGOs*, 102 MINNESOTA LAW REVIEW 1205 (2018)

*"The Better Part of Valour is Discretion": Should the IRS Change or Surrender Its Oversight of Tax-Exempt Organizations?*, 7 COLUMBIA JOURNAL OF TAX LAW 80 (2016)

*Fragmented Oversight of Nonprofits in the United States: Does It Work? Can It Work*, 91 CHICAGO-KENT LAW REVIEW 937 (2016)

*Taxing Social Enterprise* (with Joseph Ganahl), 66 STANFORD LAW REVIEW 387 (2014)

*Nonprofits, Speech, and Unconstitutional Conditions*, 46 CONNECTICUT LAW REVIEW 1045 (2014); reprinted in THE FIRST AMENDMENT LAW HANDBOOK 469 (Rodney A. Smolla ed., 2014-2015 ed.)

*Politics and the Public's Right to Know*, 13 ELECTION LAW JOURNAL 138 (2014)

*Nonprofits, Politics, and Privacy*, 62 CASE WESTERN RESERVE LAW REVIEW 801 (2012)

## **Law Review Articles (continued)**

*The “Independent” Sector: Fee-for-Service Charity and the Limits of Autonomy*, 65 VANDERBILT LAW REVIEW 51 (2012)

*Charities and Lobbying: Institutional Rights in the Wake of Citizens United*, 10 ELECTION LAW JOURNAL 407 (2011)

*NGO Standing and Influence in Regional Human Rights Courts and Commissions*, 36 BROOKLYN JOURNAL OF INTERNATIONAL LAW 911 (2011)

*Disclosures about Disclosure*, 44 INDIANA LAW REVIEW 255 (2010)

*Regulating Charities in the 21st Century: An Institutional Choice Analysis* (with Brendan M. Wilson), 85 CHICAGO-KENT LAW REVIEW 479 (2010)

*Politics at the Pulpit: Tax Benefits, Substantial Burdens, and Institutional Free Exercise*, 89 BOSTON UNIVERSITY LAW REVIEW 1137 (2009); reprinted in 8 INTERNATIONAL JOURNAL OF CIVIL SOCIETY LAW 116 (2010); abridged version published in 65 EXEMPT ORGANIZATION TAX REVIEW 19 (2010)

*Breaching the Leaking Dam?: Corporate Money and Elections*, 4 CHARLESTON LAW REVIEW 91 (2009)

*What is This “Lobbying” That We Are So Worried About?*, 26 YALE LAW & POLICY REVIEW 485 (2008)

*Grasping Smoke: Enforcing the Prohibition on Campaign Intervention by Charities*, 6 FIRST AMENDMENT LAW REVIEW 1 (2007) (Univ. of North Carolina School of Law); abridged version published in 59 EXEMPT ORGANIZATION TAX REVIEW 71 (2008)

*The Much Maligned 527 and Institutional Choice*, 87 BOSTON UNIVERSITY LAW REVIEW 625 (2007); abridged version published in 58 EXEMPT ORGANIZATION TAX REVIEW 21 (2007)

## **Books**

NONPROFIT ORGANIZATIONS: CASES AND MATERIALS (Foundation Press, 6th edition 2021) (with James J. Fishman & Stephen Schwarz)

NONPROFIT ORGANIZATIONS: STATUTES, REGULATIONS AND FORMS (Foundation Press 2021) (with James J. Fishman & Stephen Schwarz)

TAXATION OF NONPROFIT ORGANIZATIONS: CASES AND MATERIALS (Foundation Press, 5th edition 2021) (with James J. Fishman & Stephen Schwarz)

## Contributions to Books

*Private Inurement* in ENCYCLOPEDIA OF NONPROFIT MANAGEMENT, LEADERSHIP, AND GOVERNANCE (Kevin Keams & Wen-Jiun Want eds.) (Edward Elgar Publishing, forthcoming 2022)

*Public Benefit and Charitable Class*, in CHARITY LAW: EXPLORING THE CONCEPT OF PUBLIC BENEFIT (Daniel Halliday & Matthew Harding, eds.) (Routledge 2022)

*Searching for the Optimal Legal Limits on Charity Entrepreneurship*, in THE HANDBOOK OF LAW AND ENTREPRENEURSHIP IN THE UNITED STATES (D. Gordon Smith, Brian Broughman & Christine Hurt eds.) (Cambridge University Press 2022)

*Fiduciary Principles in Charities and Other Nonprofits*, in THE OXFORD HANDBOOK OF FIDUCIARY LAW (Evan J. Criddle, Paul B. Miller & Robert H. Sitkoff eds.) (Oxford University Press, 2019)

*Creating a Tax Space for Social Enterprise*, in THE CAMBRIDGE HANDBOOK OF SOCIAL ENTERPRISE LAW (Benjamin Means & Joseph W. Yockey eds.) (Cambridge University Press, 2018)

*Non-Profits and Political Activity and Tax Law and Political Activity* in MONEY IN AMERICAN POLITICS: AN ENCYCLOPEDIA (ABC-CLIO, 2018)

*Serving on a Nonprofit Board: Legal and Ethical Duties in an Age of Accountability* as an appendix in JOHN TROPMAN & THOMAS J. HARVEY, NONPROFIT GOVERNANCE: THE WHY, WHAT, AND HOW OF NONPROFIT BOARDSHIP (Corby Books & University of Scranton Press, 2009)

*The Legal Rules for Policy and Civic Impact* in POWER IN POLICY: A FUNDER'S GUIDE TO ADVOCACY AND CIVIC PARTICIPATION (Fieldstone Alliance, 2007)

*Tax Issues for Private Foundations* (with Douglas N. Varley) in COMPLETE GUIDE TO NONPROFIT ORGANIZATIONS (Civic Research Institute, 2005; supplement 2007)

## Selected Other Publications

*A Critical Problem Needing a Bolder Solution?: A Response to Atinuke O. Adediran's Nonprofit Board Composition*, 83 OHIO STATE LAW JOURNAL ONLINE 74 (2022)

*Convenient but susceptible to fraud: Why it makes sense to regulate charitable crowdfunding*, The Conversation, December 17, 2021

*Tax Exemption Is Not a Subsidy – Except for When It Is* (with Ellen P. Aprill), 172 Tax Notes Federal 1887, Sept. 20, 2021

*Why Steve Bannon faces fraud charges: 4 questions answered*, The Conversation, August 21, 2020

## **Selected Other Publications** (continued)

*Reflections on legal barriers to cross-border philanthropy in Europe*, Alliance, July 4, 2019

*Could a More Robust IRS Have Nipped the Varsity Blues Scandal in the Bud?*, The Chronicle of Philanthropy, Mar. 15, 2019

*Trump and Clinton Foundations: YUGE Difference Between Their Mistakes*, CNN, Sept. 21, 2016

*The Rising of the States in Nonprofit Oversight*, THE NONPROFIT QUARTERLY, Sum. 2016, at 22

*NorCal Tea Party Patriots Opens a Crack in Taxpayer Privacy Protections*, ABA TAX TIMES, June 2016

*Limits on State Regulation of Religious Organizations*, Columbia University Academic Commons (2013)

*Book Review: Politics, Taxes, and the Pulpit: Provocative First Amendment Conflicts*, 41 NONPROFIT AND VOLUNTARY SECTOR QUARTERLY 349 (2012)

*Introduction to Shadows and Light: Nonprofits and Politics in a Post-Citizens United World*, 10 ELECTION LAW JOURNAL 335 (2011)

*The Pulpit, the Pew, and Politics*, in BOSTON COLLEGE LAW SCHOOL LAW & RELIGION PROGRAM, ELECTING FAITH: THE INTERSECTION OF LAW AND RELIGION IN POLITICS AROUND THE WORLD (2009)

*Political Activities of Tax-Exempt Organizations: Useful Guidance in Revenue Ruling 2004-6*, 100 JOURNAL OF TAXATION 181 (2004)

*The Effect of the Bipartisan Campaign Reform Act on Exempt Organizations*, 41 EXEMPT ORGANIZATION TAX REVIEW 23 (2003)

*Donor Intent: Preserving the Mission of Charitable Foundations*, WASHINGTON LEGAL FOUNDATION, CONTEMPORARY LEGAL NOTES Series Number 43 (2003)

## **RECENT INVITED LECTURES AND ADDRESSES** (2019 to present)

*Nonprofits, Taxes, and Speech*, Loyola of Los Angeles Law Review Symposium (March 24, 2023), Loyola Law School Los Angeles (invited)

*Federalism and Voting*, Section on Election Law, AALS Annual Meeting (January 6, 2023)

*Unconstitutional Condition, Taxes, and Religious Nonprofits*, Notre Dame Law Review Symposium (October 24, 2022), Notre Dame Law School (invited)

**RECENT INVITED LECTURES AND ADDRESSES** (2019 to present) (continued)

*Nonprofits, Taxes, and Speech*, Annual Conference (postponed to October 21-22, 2022), NYU Law School National Center on Philanthropy & the Law (invited)

*Allocation of State Authority Over Charitable Nonprofit Organizations*, Symposium on the Restatement of Law, Charitable Nonprofit Organizations (September 30-October 1, 2022), UCLA School of Law Program on Philanthropy and Nonprofits (invited)

*Discussion of Future Collaborations*, Charity Law Workshop (September 24, 2022), Notre Dame Law School London Law Programme (invited)

*Natural Law and What It Means To Be Charitable*, 15th International Conference (July 12-15, 2022), International Society for Third-Sector Research (invited)

*Taxing Churches*, Tax Chats with Dyreng and Hoopes (podcast) (June 22, 2022)

*Philanthropy, Power, and the Law*, American Political History Conference: The Past, Present, and Future of American Democracy (June 10-11, 2022), Purdue University

*A conversation with Lloyd Hitoshi Mayer*, The Giving Review (February 14-15, 2022)

Guest Lecturer, Nonprofit Organizations, Howard University School of Law (February 10, 2022)

*Consequences of Americans for Prosperity Foundation v. Bonta* (February 1, 2022)  
American Bar Association Tax Section Midyear Meeting

*Redistricting for the 2020s* (January 27, 2022)  
Notre Dame Federalist Society (commentator)

*A Subsidy for Inequality: Bob Jones & Fundamental Public Policy Today*  
Annual Meeting (January 9, 2022)  
American Association of Law Schools, Nonprofit & Philanthropy Law Section

*Consequences of Americans for Prosperity Foundation v. Bonta* (December 3, 2021)  
Western Conference on Tax Exempt Organizations

*“Charitable”*, Annual Conference (November 20, 2021)  
Association for Research on Nonprofit Organizations & Voluntary Action

*Regulating Charitable Crowdfunding*, Annual Conference (November 19, 2021)  
Association for Research on Nonprofit Organizations & Voluntary Action

*Tax and Religion*, Tax Law Speaker Series (September 28, 2021)  
University of San Diego School of Law

*Regulating Charitable Crowdfunding*, 14th International Conference (July 15, 2021),  
International Society for Third-Sector Research

**RECENT INVITED LECTURES AND ADDRESSES** (2019 to present) (continued)

*Charitable Crowdfunding: Who Gives, to What, and Why?*, Webinar (April 8, 2021),  
Indiana University Lilly Family School of Philanthropy (commentator)

*Charitable Crowdfunding*, Annual Meeting (January 9, 2021),  
American Association of Law Schools, Nonprofit & Philanthropy Law Section (selected paper)

*Charities, Speech, and Taxes*, Annual Conference (November 13, 2020),  
Association for Research on Nonprofit Organizations & Voluntary Action

*What is Caesar's, What is God's: Fundamental Public Policy for Churches*,  
Notre Dame Law School Faculty Colloquium (January 21, 2020)

*The Promises and Perils of Using Big Data to Regulate Nonprofits*, at  
What We Know, What We Need to Know, and the Challenges and Opportunities for the Future of  
Nonprofit Regulation, Urban Institute (December 11, 2019)

*Legal Barriers to Cross-Border Philanthropy in Europe: Taxation*  
Pre-Conference Event, Biennial Conference (July 3, 2019),  
European Research Network on Philanthropy (moderator)

*Legal Barriers to Cross-Border Philanthropy: The View from the United States*  
Association of Young Foundation Experts (Switzerland) (July 2, 2019)

*The Promises and Perils of Using Big Data to Regulate Nonprofits*  
Tulane University Law School Intellectual Life Speaker Series (March 18, 2019)

*Dollars and Sense: Campaign Finance Reform for the 21st Century* (moderator)  
Journal of Legislation Symposium (February 8, 2019)

*The Promises and Perils of Using Big Data to Regulate Nonprofits*  
Notre Dame Law School Faculty Colloquium (January 22, 2019)

**MEDIA APPEARANCES**

Regularly contacted by reporters on issues relating to nonprofit organizations, election law, and related topics; quoted in numerous media outlets, including *ABC News*, *Associated Press*, *BBC News*, *Bloomberg*, *Boston Globe*, *Chicago Tribune*, *Christian Science Monitor*, *The Chronicle of Philanthropy*, *CNN*, *The Daily Beast*, *Guardian* (UK), *L.A. Times*, *Marketplace*, *Law360*, *NBC News*, *New York Magazine*, *N.Y. Times*, *NPR's All Things Considered*, *Politico*, *ProPublica*, *Tampa Bay Times*, *Tax Notes Today*, *The Texas Tribune*, *Times of San Diego*, *U.S. News & World Report*, *USA Today*, *Washington Post*, and *Wall Street Journal*.

### **PROFESSIONAL MEMBERSHIPS**

American Bar Association: Section on Business Law; Section on Taxation  
Association of American Law Schools: Section on Election Law; Section on Nonprofit and  
Philanthropy Law; Section on Taxation

### **RECENT LAW SCHOOL & UNIVERSITY SERVICE**

2021-present        *Member*, Curriculum Committee  
2021-present        *Faculty Advisor*, Tax Law Society  
2016-present        *Contact Person*, Program of Study in Business Law  
2010-present        *Faculty Advisor*, Journal of Legislation  
2006-present        *Faculty Advisor*, Asian Pacific American Law Students Association  
2021-2022         *Member*, ad hoc Tax Clinic Committee  
2019-2022         *Faculty Fellow*, Program on Ethics, Compliance, and Inclusion  
2020-2021         *Member*, Faculty Development Committee  
2020                 *Member*, Law School Preparedness Committee  
2007-2020         *Advisor*, Nonprofit Professional Development, Mendoza College  
2013-2015, 2019   *Dean's Delegate*, Honor Code  
2019                 *Member*, ad hoc Senior Director of Finance & Admin. Search Committee  
2018                 *Acting Associate Dean*  
2018                 *Member*, ad hoc Registrar Search Committee  
2018                 *Member*, ad hoc Student Services Program Manager Search Committee  
2016-2018         *Member*, Appointments Committee (*Vice Chair*, 2017-2018)  
2016-2018         *Member*, Colloquium Committee  
2017                 *Host*, Conference on Cambridge Handbook of Social Enterprise Law

### **OTHER RECENT PROFESSIONAL ACTIVITIES**

2017-present        *Member*, Advisory Committee, Regulation of Nonprofits and Philanthropy  
Project, Urban Institute's Center on Nonprofits and Philanthropy  
2014-present        *Member*, Academic Advisory Board, The Campaign Finance Institute  
2011-present        *Member*, Nonprofit Forum, NYU Law School National Center on  
Philanthropy and the Law  
2008-present        *Contributing Editor*, Nonprofit Law Prof Blog (*Co-Editor*, 2018-present)  
2018-2022         *Member*, Board of Advisors, NYU Law School National Center on  
Philanthropy and the Law (*Chair*, 2021-2022, *Vice Chair*, 2019-  
2021)  
2022                 *Referee*, Nonprofit and Voluntary Sector Quarterly  
2022                 *Referee*, Nonprofit Policy Forum  
2022                 *Reviewer*, ISTR 15th International Conference  
2021                 *Referee*, China Quarterly  
2021                 *Referee*, Columbia Law Review  
2021, 2019         *Referee*, Voluntas  
2019-2021         *Member*, Academic Committee, ISTR 14th International Conference  
2019                 *Referee*, National Tax Journal  
2017-2019         *Member*, Executive Committee, AALS Section on Election Law  
2014-2019         *Adviser*, ALI Restatement of the Law, Charitable Nonprofit Organizations  
2018                 *Referee*, Stanford Law Review  
2018                 *Referee*, Yale Law Journal  
2017                 *Referee*, Public Integrity



**OTHER RECENT PROFESSIONAL ACTIVITIES** (continued)

2016 *Reviewer*, Oxford University Press  
2016 *Reviewer*, Cambridge University Press  
2010-2015 *Member* (2010-2015), Executive Committee, AALS Section on Nonprofit  
and Philanthropy Law (*Chair*, 2014-2015)  
2011-2014 *Guest Editor* (2011), *Peer Reviewer* (2011-2014), Election Law Journal  
2014 *Referee*, Melbourne Journal of International Law  
2013 *Expert Witness*, United States Government (on nonprofit tax matters)

**BAR ADMISSIONS:** District of Columbia; Pennsylvania (inactive); Supreme Court of the United States; U.S. Court of Appeals for the District of Columbia; U.S. District Court for the Eastern District of Pennsylvania; U.S. Tax Court