

EMILY S. BREMER

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ACADEMIC APPOINTMENTS

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

EDUCATION

J.D., New York University School of Law <i>NYU Journal of Law & Liberty</i> , Executive Notes Editor <i>International Journal of Constitutional Law</i> , Student Editor	2006
B.A., Magna Cum Laude, New York University Dean's List; College of Arts and Science Presidential Scholar	2003

PUBLICATIONS

Articles and Essays:

[*The Undemocratic Roots of Agency Rulemaking*](#), 108 CORNELL L. REV. ____ (forthcoming 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[*Introduction to The Bremer-Kovacs Collection: Historical Documents Related to the Administrative Procedure Act of 1946 \(HeinOnline 2021\)*](#), 106 MINN.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).

- 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:

Power Corrupts

The Myth of Congressional Delegation

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 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).

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:

[*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.

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

History of the Administrative Procedure Act and Judicial Review, Notre Dame Law Review Annual Federal Courts Symposium (scheduled for 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

The Undemocratic Roots of Agency Rulemaking

- 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)
- Junior Scholars Colloquium, Federalist Society, Annapolis, MD (June 4, 2022).
- Law and Governance Discussion Series (May 25, 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).

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).

Adrian Vermeule on the Current State of Administrative Law: An Interdisciplinary Conversation, Speaker, The Thirteenth Annual John F. Scarpa Conference on Law, Politics and Culture, Charles Widger School of Law, Villanova University, Villanova, PA (Sept. 21, 2018).

The Exceptionalism Norm in Administrative Adjudication

- Women in Law Teaching Works-in-Progress Workshop, University of Minnesota Law School, Minneapolis, MN (July 24-25, 2018).
- Yale/Harvard/Stanford Junior Faculty Forum, Cambridge, MA (June 13-14, 2018) (paper competitively selected).
- Notre Dame Faculty Colloquium, South Bend, IN (Feb. 22, 2018).

- New Voices in Administrative Law, American Association of Law Schools Annual Meeting, San Diego, CA (Jan. 4, 2018).
- Wyoming Junior Faculty Forum, Laramie, WY (Dec. 1, 2017).
- The New Role of the Administrative State in the Innovation Economy, Antonin Scalia Law School, George Mason University, Arlington, VA (Nov. 9, 2017).

SERVICE AND OTHER PROFESSIONAL ACTIVITIES

University Committees:

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)

Other Professional Service:

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

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)
 - 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

BAR MEMBERSHIPS

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