

**ROBERT A. SCHAPIRO**  
University of San Diego School of Law  
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## **EMPLOYMENT**

### **University of San Diego School of Law**

*Dean and C. Hugh Friedman Professor of Law, 2021 -*

### **Emory University School of Law**

*Asa Griggs Candler Professor of Law, 2012 - 2020*

*Dean, 2012 - 2017*

*Interim Dean, 2011 - 2012*

*Associate Vice Provost for Academic Affairs, 2011*

*Director, Center on Federalism and Intersystemic Governance, 2007 - 2020*

*Associate Faculty Director, Halle Institute for Global Learning, 2008 - 2010*

*Associate Dean of Faculty, 2006 - 2008*

*Professor of Law, 2003 - 2020*

*Associate Professor of Law, 1998 - 2003*

*Assistant Professor of Law, 1995 - 1998*

*Subjects: Civil Procedure, Constitutional Law, Federal Courts, Legislation and Regulation*

University of Warsaw, Center for American Law Studies (May-June 2019), course on constitutional law.

Koguan Law School, Shanghai Jiao Tong University (October 2018), course on civil procedure.

Columbia-Amsterdam-Leiden Program on American Law (Summer 2005), course on constitutional law.

**Duke Law School, Lecturing Fellow, 1993 - 1995**

**Sidley & Austin, Washington, D.C., Associate, 1992 - 1993**

**Debevoise & Plimpton, New York, New York, Summer Associate, 1990**

**Cravath, Swaine & Moore, New York, New York, Summer Associate, 1989**

## **CLERKSHIPS**

**Honorable John Paul Stevens, United States Supreme Court**

*Law Clerk, 1991 - 1992*

**Honorable Pierre N. Leval, United States District Court,  
Southern District of New York**

*Law Clerk, 1990 - 1991*

## EDUCATION

### **Yale Law School, J.D., 1990**

Editor-in-Chief, Yale Law Journal.  
Research Assistant to Professor Owen M. Fiss.  
Editor, Yale Journal of Law & the Humanities.  
Legal Assistance Clinic.

### **Stanford University, M.A., History, 1986**

Passed Doctoral Candidacy Examination in History, May 1987.  
Major Field: Modern European Intellectual History.  
Graduate Fellow, Stanford Humanities Center, 1985 - 1987.

### **Yale College, B.A., History, with Distinction, 1984**

*Summa cum laude.*  
Phi Beta Kappa, Elected Junior Year.  
Vice-Chair, Yale College Council.  
Executive Board, Yale Charities Drive.

## HONORS AND FELLOWSHIPS

### **American Law Institute**

#### **Emory Williams Distinguished Teaching Award, 2009**

Awarded to faculty in Emory University for excellence in graduate education.

#### **Ben F. Johnson Faculty Excellence Award, 2004**

Awarded every three years to a faculty member at Emory Law School for excellence in teaching and scholarship.

#### **Most Outstanding Professor, Student Bar Association, Emory Law School, 2000 - 2001** (awarded to two professors in 2000 - 2001).

#### **Professor of the Year, Black Law Students Association, Emory Law School, 2001.**

#### **Mellon Fellowship in the Humanities, 1984 - 1987.**

#### **Graduate Fellowship, Stanford Humanities Center, 1985 - 1987.**

#### **Fellows Prize, 1984**

Awarded to the senior in Jonathan Edwards College, Yale University with highest academic rank (awarded to two students in 1984).

#### **Robert Dudley French Award, 1983**

Awarded to a senior in Jonathan Edwards College, Yale University for outstanding intellectual leadership.

## PUBLICATIONS

### BOOKS

POLYPHONIC FEDERALISM: TOWARD THE PROTECTION OF FUNDAMENTAL RIGHTS  
(University of Chicago Press, 2009).

### BOOK CHAPTERS

*Polyphonic Federalism: The United States Experience* in THE FUTURE OF AUSTRALIAN

FEDERALISM: COMPARATIVE AND INTERDISCIPLINARY PERSPECTIVES (Cambridge University Press (2012)).

*The Varieties of Federalisms* in NAVIGATING CLIMATE CHANGE POLICY IN A FEDERAL SYSTEM (Edella Schlager, Kirsten Engel & Sally Rider eds., Arizona University Press (2011)).

*Interjurisdictional Enforcement of Rights in a Post-Erie World* in NEW FRONTIERS OF STATE CONSTITUTIONAL LAW: DUAL ENFORCEMENT OF NORMS (James A. Gardner & Jim Rossi eds., Oxford University Press (2011)).

*From Dualism to Polyphony* in PREEMPTIVE CHOICE: THE THEORY, LAW, AND REALITY OF FEDERALISM'S CORE QUESTION (William W. Buzbee ed., Cambridge University Press (2008)).

#### ARTICLES AND ESSAYS

*The Unconstitutional Conditions Vacuum in Criminal Procedure*, 133 Yale L.J. (forthcoming) (with Kay Levine & Jonathan Nash).

*Protecting State Constitutional Rights from Unconstitutional Conditions*, 56 U.C. Davis L. Rev. 247 (2022) (with Kay Levine & Jonathan Nash).

*Introduction: Racism Without Racists*, 58 San Diego L. Rev. 757 (2021).

*States of Inequality: Fiscal Federalism, Unequal States, and Unequal People*, 108 Calif. L. Rev. 1531 (2020).

*How Federalism Can Promote a National Commitment to the Rule of Law*, 79 Studia Iuridica 131 (2019).

*Randolph W. Thrower: Serving the Public with Principle, Passion, and Poetry*, 64 Emory L.J. 277 (2014).

*Judicial Federalism and the Challenges of State Constitutional Contestation*, 115 Penn State L. Rev. 983 (2011).

*Intersystemic Remedies for Governmental Wrongs*, 41 University of Toledo L. Rev. 153 (2009).

*Not Old or Borrowed: The Truly New Blue Federalism*, 3 Harvard L. & Pol'y Rev. 33 (2009).

*Monophonic Preemption*, 102 Northwestern L. Rev. 811 (2008).

*In the Twilight of the Nation-State: Subnational Constitutions in the New World Order*, 39 Rutgers L.J. 801 (2008) (annual lecture on state constitutional law).

- Federalism as Intersystemic Governance: Legitimacy in a Post-Westphalian World*, 57 Emory L.J. 115 (2007).
- From Dualist Federalism to Interactive Federalism*, 56 Emory L.J. 1 (2006).
- Justice Stevens' Theory of Interactive Federalism*, 74 Fordham L. Rev. 2133 (2006).
- Toward a Theory of Interactive Federalism*, 91 Iowa L. Rev. 243 (2005).
- The Consequences of Human Rights Foundationalism*, 54 Emory L.J. 171 (2005).
- Interjurisdictional Enforcement of Rights in a Post-Erie World*, 46 William & Mary L. Rev. 1399 (2005).
- Unidimensional Federalism: Power and Perspective in Commerce Clause Adjudication*, 88 Cornell L. Rev. 1199 (2003) (with William Buzbee).
- Article II as Interpretive Theory: Bush v. Gore and the Retreat from Erie*, 34 Loy. U. Chi. L.J. 89 (2002).
- Legislative Record Review*, 54 Stanford L. Rev. 87 (2001) (with William Buzbee).
- Conceptions and Misconceptions of State Constitutional Law in Bush v. Gore*, 29 Florida St. L. Rev. 661 (2001).
- Judicial Deference and Interpretive Coordinacy in State and Federal Constitutional Law*, 85 Cornell L. Rev. 656 (2000).
- Polyphonic Federalism: State Constitutions in the Federal Courts*, 87 Calif. L. Rev. 1409 (1999).
- Must Joe Robinson Die?: Reflections on the 'Success' of Court Packing*, 16 Const. Commentary 561 (1999).
- Contingency and Universalism in State Separation of Powers Discourse*, 4 Roger Williams U. L. Rev. 79 (1998).
- Impeachment and Accountability: The Case of the First Lady*, 15 Const. Commentary 479 (1998) (with Michael J. Broyde).
- Identity and Interpretation in State Constitutional Law*, 84 Va. L. Rev. 389 (1998).

*El mandamiento judicial legislativo: una garantía frente a la inactividad inconstitucional del legislador*, Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol, Nos. 20 & 21, at 73 (1997).

[Translation of *The Legislative Injunction: A Remedy for Unconstitutional Legislative Inaction*, 99 Yale L.J. 231 (1989).]

*Balancing, Justice, and the Eleventh Amendment: Justice Stevens' Theory of State Sovereign Immunity*, 27 Rutgers L.J. 563 (1996).

Note, *The Legislative Injunction: A Remedy for Unconstitutional Legislative Inaction*, 99 Yale L.J. 231 (1989).

## BOOK REVIEWS

*Safeguarding Federalism: How States Protect Their Interests in National Policymaking*, by John Nugent, 7 Perspectives on Politics 968 (2009).

## OTHER PUBLICATIONS

*Life Is Unique, Abortion Is Not*, Daily Journal, July 13, 2022.

*The Lessons of the Leak in Dobbs*, Daily Journal, May 31, 2022.

*A Vote for Federalism: Trump Could Not Stop the Counting*, The Hill, November 9, 2020, available at <https://thehill.com/opinion/white-house/525100-a-vote-for-federalism-trump-could-not-stop-the-counting>.

*In Banning LGBTQ Discrimination, Did Supreme Court License Sex Discrimination?*, The Hill, July 13, 2020, available at <https://thehill.com/opinion/judiciary/507007-lgbtq-bostock-did-supreme-court-license-sex-discrimination>.

*Justice Antonin Scalia: More Quotable than Influential*, The Conversation, February 14, 2016, available at <https://theconversation.com/justice-antonin-scalia-more-quotable-than-influential-54721>.

*Obamacare Victory Shows Failure of Scalia's Conservative Revolution*, The Conversation, June 25, 2015, available at <https://theconversation.com/obamacare-victory-shows-failure-of-scalias-conservative-revolution-43890>.

*US Supreme Court Must Not Ignore Inequality*, Christian Science Monitor, October 8, 2013, available at <http://www.csmonitor.com/Commentary/Opinion/2013/1008/US-Supreme-Court-must-not-ignore-inequality>

*Objection! Americans' Opinion of Supreme Court Can't Keep Dropping*, Christian Science Monitor, August 5, 2013, available at <http://www.csmonitor.com/Commentary/Opinion/2013/0805/Objection!-Americans-opinion-of-Supreme-Court-can-t-keep-dropping>

*In Same-Sex Marriage, Supreme Court Walks a Middle Road*, Christian Science Monitor, June 26, 2013, available at <http://www.csmonitor.com/Commentary/Opinion/2013/0626/In-same-sex-marriage-Supreme-Court-walks-a-middle-road>

*What Justice Stevens Stood For*, CNN.com, April 12, 2010, available at <http://www.cnn.com/2010/OPINION/04/12/schapiro.justice.stevens.cases/>

*Federalism Is No Bar to Health Care Reform*, Atlanta Journal-Constitution, November 2, 2009, at A8.

*Where School Diversity Stands: Desegregation Faces the Test of Today's Court*, Atlanta Journal-Constitution, June 26, 2006, at A15.

*In Praise of Treachery: The Relevance of Prior Judicial Experience*, Jurist, October 13, 2005, available at <http://jurist.law.pitt.edu/forumy/2005/10/in-praise-of-treachery-relevance-of.php>.

*Looking For a Way To Expand Rights? Try State Courts*, Washington Post, March 26, 2000, at B2 (Outlook).

*Face the Music: A New Plan to Hold the President Accountable*, New Republic, November 16, 1998, at 11 (with Donald Schapiro).

## **SELECTED PRESENTATIONS**

Speaker, “United States Supreme Court at a Turning Point,” San Diego Rotary Club 33, November 17, 2022, San Diego, California.

Speaker, “United States Supreme Court Review and Update,” University of San Diego Bridges Academy, November 15, 2022, San Diego, California.

Speaker, “Two Momentous Terms: United States Supreme Court Review and Update,” La Jolla Bar Association, November 10, 2022.

Moderator, “Cancel Culture – Faculty and Student Advocacy,” Dean’s Forum, Association of American Law Schools Annual Meeting, January 7, 2022.

Speaker, “Supreme Court Update,” Orange County Bar Association Appellate Law Section Seminar and Sills Awards, November 9, 2021, Costa Mesa, California.

Speaker, “An Insider’s View of the U.S. Supreme Court,” United States Law and Policy Program, University of San Diego, October 20, 2021, San Diego, California.

Speaker, “The Supreme Court and the Constitutional System of the United States,” OASIS Virtual Seminar, University of San Diego, June 22, 2021; August 17, 2021.

Speaker, United States Supreme Court Update, multiple presentations in September, October, and November 2019, including Emory Law Lamar Inn of Court, Georgia Lawyers Chapter of the American Constitution Society, and Emory University Emeritus College.

Speaker, “The United States Supreme Court in Transition,” University of Warsaw, June 5, 2019, Warsaw, Poland.

Panelist, “Supreme Court Preview: What’s on the Plate and (Potentially) Down the Road?” Appellate Judges Education Institute, November 10, 2018, Atlanta, Georgia.

Speaker, “The Regulatory Burden on Constitutional Rights,” (joint project with Professors Kay Levine and Jonathan Nash) Midwestern Law & Economics Association, September 14, 2018, Tuscaloosa, Alabama.

Speaker, United States Supreme Court Update, multiple presentations in September, October, and November 2018, including Emory Law Lamar Inn of Court, The Centers for Disease Control Law and Science Advisory Group (LawSAG), the Georgia Lawyers Chapter of the American Constitution Society, and the Stanford Club of Georgia.

Speaker, “Federalism and the Rule of Law,” Poland – U.S. Conference on the Rule of Law, Center for American Law Studies, University of Warsaw, June 26, 2018, Warsaw, Poland.

Speaker, United States Supreme Court Update, multiple presentations in September and October 2017, including National Association of Women Judges Annual Conference, Emory Law Lamar Inn of Court, The Centers for Disease Control Law and Science Advisory Group (LawSAG), and the Georgia Lawyers Chapter of the American Constitution Society.

Speaker, “*Ziglar v. Abbasi*: Limiting Civil Rights Remedies,” Institute for Continuing Legal Education, October 19, 2017, Atlanta, Georgia.

Speaker, “President Trump and the Future of Immigration in the United States,” City University of Hong Kong, March 10, 2017, Hong Kong.

Speaker, “President Trump and the Future of Immigration in the United States,” East China University of Political Science and Law, March 8, 2017, Shanghai.

Moderator, “The New Federalism: State Sovereignty in a Time of Overlapping Federal and State Power,” National Association of Attorneys General, Southern Region Meeting, April 18, 2016, Atlanta, Georgia.

Panelist, “Generating Resources for an Evolving Mission,” Association of American Law Schools Convention, January 8, 2016, New York, New York.

Speaker, “Litigation Concerning Health Care Reform,” Healthcare Innovation Symposium: Health Policy: National Issues, April 11, 2012, Atlanta, Georgia.

Panelist, "Federalism and Rights," American Political Science Association Annual Meeting, September 4, 2011, Seattle, Washington.

Speaker, "Federalism and Its Future," University of Texas School of Law, February 10-12, 2011, Austin, Texas.

Speaker, "Judicial Federalism and the Challenges of State Constitutional Contestation," Conference on State Constitutionalism in the 21st Century," Penn State Law School, September 22, 2010, State College, Pennsylvania.

Speaker, "Positivism and Anti-Positivism in the Jurisprudence of Justice Stevens," Southeastern Association of Law Schools Annual Meeting, August 1, 2010, Palm Beach, Florida.

Convener/Panelist, Seminars in Federalism and Plural Governance: Financial Regulation and Reform, Emory University School of Law, Center on Federalism and Intersystemic Governance, April 30 - May 1, 2010, Atlanta, Georgia.

Speaker, "Social and Economic Rights in American Perspective: Possibilities and Limits of Enforcement By Courts and Other Institutions," Conference on Social and Economic Rights, Sponsored by the Constitutional Court of Georgia, July 11, 2009, Batumi, Georgia.

Convener/Panelist, Conference on Layering Governance: Multi-Level Regulation under Bush and Beyond, Center on Federalism and Intersystemic Governance, May 1 - 2, 2009, Atlanta, Georgia.

Speaker, "Intersystemic Remedies for Governmental Wrongs," Symposium on *Ex parte Young*: The Font of Federal Rights Enforcement, University of Toledo Law School, March 20, 2009, Toledo, Ohio.

Speaker, "Contemporary Approaches to Constitutional Interpretation: The Experience of the United States," Conference on Interpreting the Constitution, Sponsored by the Constitutional Court of Georgia, December 20, 2008, Batumi, Georgia.

Moderator, "Comparative Federalism," Southeastern Association of Law Schools Annual Meeting, July 31, 2008, Palm Beach, Florida.

Speaker, "In the Twilight of the Nation-State: Subnational Constitutions in the New World Order," Annual State Constitutional Law Lecture, Rutgers-Camden Law School, February 28, 2008, Camden, New Jersey.

Commentator, "Federalism: Successful and Unsuccessful Models for a Future Climate Regulatory Regime," Conference on Federalism and Climate Change: The Role of the States in a Future Federal Regime, William H. Rehnquist Center, University of Arizona School of Law, February 11, 2008, Tucson, Arizona.



Panelist, “Who Is Federalism For: Liberals, Conservatives, Everyone, or Political Losers?” Association of American Law Schools Annual Meeting, January 5, 2008, New York, New York.

Panelist, “Intersystemic Governance,” International Law Weekend, October 27, 2007, New York, New York.

Speaker, “Polyphonic Federalism and Monophonic Preemption,” Symposium on Ordering State-Federal Relations Through Federal Preemption Doctrine, Northwestern University School of Law, April 5, 2007, Chicago, Illinois.

Speaker, “Polyphonic Federalism,” Faculty Workshop, John Marshall School of Law, February 28, 2007, Atlanta, Georgia.

Speaker, “Customary International Law and Intersystemic Adjudication: The Search for Legitimacy,” Randolph W. Thrower Symposium, The New Federalism: Plural Governance in a Decentered World, February 23, 2007, Atlanta, Georgia.

Speaker, “From Federalism to Intersystemic Governance,” Randolph W. Thrower Symposium, The New Federalism: Plural Governance in a Decentered World, February 23, 2007, Atlanta, Georgia.

Presenter, “Polyphonic Federalism and the Perils of Preemption,” Conference on Federalism in the Overlapping Territory, Duke Law School, November 10-11, 2006, Durham, North Carolina.

Speaker, “Polyphonic Federalism,” Faculty Workshop, University of Oregon School of Law, October 20, 2006, Eugene, Oregon.

Panelist, “Interactive Federalism: The Limits of State Experimentation,” Randolph W. Thrower Symposium, Interactive Federalism: Filling the Gaps?, February 16, 2006, Atlanta, Georgia.

Panelist, “Keeping Church and State Separate: Redefining the Marriage Debate,” American Constitution Society, Georgia Lawyers Chapter, October 26, 2005, Atlanta, Georgia.

Speaker, “Justice Stevens’ Theory of Interactive Federalism,” The Jurisprudence of Justice Stevens, Fordham University School of Law, October 1, 2005, New York, New York.

Moderator, “Progressivism and State Constitutional Law,” American Constitution Society National Convention, July 30, 2005, Washington, D.C.

Speaker, “Toward a Theory of Interactive Federalism,” Emory Law School Faculty Colloquium, February 2, 2005, Atlanta, Georgia.

Respondent, “Restoring the Lost Constitution,” Emory Law School Federalist Society, March 31, 2004, Atlanta, Georgia.

Respondent, “The Moral Foundations of Law,” The Foundations of Law, Emory University School of Law, March 25, 2004, Atlanta, Georgia.

Speaker, “Interjurisdictional Enforcement of Rights in a Post-*Erie* World,” Conference on Dual Enforcement of Constitutional Norms, William & Mary School of Law and National Center for State Courts, November 14, 2003, Williamsburg, Virginia.

Commentator, *Interpreting States Constitutions in a Federal System: A Jurisprudence of Function*, Book Manuscript Workshop, Baldy Center for Law & Social Policy, October 9, 2003, Buffalo, New York.

Speaker, “Article II as Interpretive Theory: A Federal Law of Statutory Construction in *Bush v. Gore*,” Symposium on *Bush v. Gore* One Year Later: A Constitutional Retrospective, February 16, 2002, Loyola University Chicago School of Law, Chicago, Illinois.

Speaker, “*Garrett*, Separation of Powers, and Remedial Federalism,” Symposium on *Garrett*, Disability Policy, and Federalism, October 26, 2001, University of Alabama School of Law, Tuscaloosa, Alabama.

Speaker, “*Bush v. Gore* and the Threat to State Constitutional Law,” Symposium on The Law of Elections: Issues in the Wake of Florida 2000, March 23, 2001, Florida State University College of Law, Tallahassee, Florida.

Moderator, “Free Speech and the Holocaust Experience,” Tenenbaum Conference, Emory University, November 2, 2000, Atlanta, Georgia.

Speaker, Panels on Federalism and The Direction of the Court, Supreme Court Preview Conference, September 22-23, 2000, Institute of Bill of Rights Law, College of William and Mary, Williamsburg, Virginia.

Speaker, “Judicial Enforcement of State ‘Good Faith’: State Remedies for Federal Rights After *Alden* and *Seminole Tribe*,” Conference on the State of State Constitutions, May 6, 2000, The Center for Constitutional Studies, Philadelphia, Pennsylvania.

Speaker, Panel on New Perspectives in State Constitutional Law, American Political Science Association Annual Meeting, September 3, 1998, Boston, Massachusetts.

Speaker, Symposium on Separation of Powers in State Constitutional Law, April 25, 1998, Roger Williams University, Bristol, Rhode Island.

Speaker, Symposium on Justice John Paul Stevens, April 7, 1995, Rutgers Law School, Camden, New Jersey.

## **SERVICE**

Editorial Board, Orbeliani Law Review, 2021 -

Elected Member, Tenure and Promotion Advisory Committee, Emory University,

2019 - 2020

Elected Member, Emory Law School Faculty Advisory Committee, 2001 - 2002, 2003 - 2004, 2019 – 2020, 2020 – 2021  
Faculty Advisor, Emory Bankruptcy Developments Journal, 2019 – 2020  
Chair, Curriculum Committee, 2020  
Chair, Academic Standing Committee, 2019 - 2020  
Faculty Counselor, Finance Committee, Emory University Board of Trustees, 2007 - 2010  
Participant, Emory University Academic Leadership Program, 2009 - 2010  
Search Advisory Committee, Executive Vice President for Finance and Administration, 2016 - 2017  
Search Advisory Committee, Vice President for Finance/Chief Finance Officer, 2014  
Co-coordinator, Emory Law School Public Interest Working Group, 2000 - 2011  
Co-coordinator, Emory Legal Theory Workshop, 2000 - 2011  
Faculty Appointments Committee, 2004 - 2005, 2006 - 2010; chair, 2006 - 2007  
Emory Law School Dean Search Committee, 2001 - 2002  
Emory University Faculty Council, 2000 - 2002, 2009 - 2010  
Chair, Clinical Faculty Review & Promotion Committee, 2009 - 2010  
Steering Committee, Emory University Symposium on Reconciliation, 1999 - 2001  
Judicial Clerkship Committee, 1998 - 2004, 2010 – 2011, 2018 - 2019; chair, 2000 - 2001; 2002 - 2003; 2010 - 2011  
Colloquium and Scholarship Committee, 2000 - 2001, 2002 - 2008; chair, 2004 - 2005  
Lateral Hiring Committee, 1998 - 1999  
Curriculum Committee, 1995 - 1998  
Faculty Advisor, Emory Law Journal, 1996 - 1998, 2002 - 2003  
Member, Executive Committee, Section on Civil Procedure, Association of American Law Schools, 2006 - 2008

## **BAR ADMISSIONS**

Connecticut, District of Columbia (inactive), Georgia (inactive), New York.