

# ERIN ADELE SCHARFF

Professor of Law

Sandra Day O'Connor College of Law Arizona State University

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## ACADEMIC EXPERIENCE

SANDRA DAY O'CONNOR COLLEGE OF LAW, ARIZONA STATE UNIVERSITY, Phoenix, AZ

*Professor of Law*, 2022-present

*Associate Professor of Law (with tenure)*, 2019 – 2022

*Associate Professor of Law*, 2014 –2019

Courses: Federal Income Taxation, State and Local Government, State and Local Taxation, State and Local Finance, Torts

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY

*Acting Assistant Professor of Tax Law*, August 2012 – July 2014

Courses: Tax Policy, Survey of Tax Procedure, Taxation of Property Transactions

## SCHOLARLY INTERESTS

State and Local Taxation, Local Government Law, State Constitutional Law, Fiscal Federalism, Tax Policy, Federal Income Tax Law

## EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY

J.D., May 2011, *magna cum laude* and *Order of the Coif*

Honors: *Benjamin F. Butler Memorial Award*, for unusual distinction in scholarship, character, & professional activities

*Benjamin F. Butler Memorial Award*, for unusual distinction in scholarship, character, & professional activities

*Pomeroy Scholar & Butler Scholar*, recognizing the top ten students after two & four semesters

*Furman Scholar & Root-Tilden-Kern Scholar*

Activities: NEW YORK UNIVERSITY LAW REVIEW, Articles Editor; Staff Editor  
New York University Tax Clinic, Student Advocate (Fall 2010)

YALE UNIVERSITY, New Haven, CT

B.A., Religious Studies, *with distinction*, May 2004

Honors: *Anthony M. Schulte Prize for Building Town-Gown Relations*

Activities: Dwight Hall Center for Public Service, Executive Committee Member  
Elm City Congregations Organized, Urban Fellow

## **SELECTED LEGAL AND PROFESSIONAL EXPERIENCE**

HONORABLE WILLIAM A. FLETCHER, U.S. COURT OF APPEALS, NINTH CIRCUIT, San Francisco, CA  
*Judicial Clerk*, 2011-2012

JENNER & BLOCK, Washington, DC  
*Summer Associate*, Summer 2010

U.S. DEPARTMENT OF JUSTICE, CIVIL DIVISION, FEDERAL PROGRAMS BRANCH, Washington, DC  
*Summer Legal Internship Program Intern*, Summer 2010

CENTER ON BUDGET AND POLICY PRIORITIES, Washington, DC  
*Tax Policy Intern*, Summer 2009

OBAMA-BIDEN CAMPAIGN FOR CHANGE & OBAMA FOR AMERICA, IA, OH, PA, IN & KY  
*Interim Operations Director, Deputy Operations Director & Field Organizer*, 2008

## **WORKS IN PROGRESS**

*Fake Tax News* (with Kathleen Delaney Thomas) (draft available)

*What Happened to Filing Status Reform?* (with Emily Satterwaite)

*Debating the Arizona Constitution*

*The State Role in Local Fiscal Capacity*

## **ARTICLES & ESSAYS**

*Revisiting Local Income Taxes*, 74 HASTINGS L. J. (forthcoming 2023) (with Darien Shanske)

*Local Budgets, Local Decisions: The Twenty-First Century Home Rule Project's State Support for Local Democracy Provisions*, 99 N.C. L. REV. (forthcoming 2022)

*Sustainability Policy Makers and Preemption*, J. LAND USE & ENVTL. L. (forthcoming 2022) (symposium) (with Braden Kaye)

*Cities on Their Own: Local Revenue When Fiscal Federalism Fails*, 48 FORDHAM URB. L. J. 919 (2021)

*Local Authority*, 1 LOC. POWER AND POL. REV. (2020) (with Joaquin Rios)

*Preempting Politics*, 72 STAN. L. REV. 1361 (2020) (with Joshua S. Sellers)

Awarded Honorable Mention by AALS Election Law Section for 2020 Scholarly Paper Prize

*Preemption and Fiscal Authority*, 45 FORDHAM URB. L. J. 1270 (2018) (symposium)

*Green Fees: The Challenge of Pricing Externalities Under State Law*, 97 NEB. L. REV. 168 (2018)

*Hyper Preemption: A Reordering of the State Local Relationship?*, 106 GEORGETOWN L.J. 1469 (2018), reprinted in THE NEW PREEMPTION READER: LEGISLATION, CASES, AND COMMENTARY ON STATE AND LOCAL GOVERNMENT LAW (Richard Briffault, Nestor M. Davidson, & Laurie Reynolds, eds. 2019)

Book Review, Vanessa S. Williamson, READ MY LIPS: WHY AMERICANS ARE PROUD TO PAY TAXES, 40 J. AM. TAX'N ASS'N 113 (2018) (peer reviewed)

*Powerful Cities?: Limits on Municipal Revenue Authority and What to do About Them*, 91 N.Y.U.L. REV. 292 (2016)

*Laboratories of Bureaucracy: Administrative Cooperation Between State and Federal Tax Authorities*, 68 TAX L. REV. 699 (2015) (peer reviewed)

*Antidiscrimination in Employment: The Simple, the Complex, and the Paradoxical*, in THE LAW AND ECONOMICS OF LABOR AND EMPLOYMENT LAW (Cynthia Estlund and Michael L. Wachter, eds. 2013) (with Samuel Issacharoff)

Note, *Taxes as Regulatory Tools: An Argument for Expanding New York City's Taxing Authority*, 86 N.Y.U. L. REV. 1556 (2011)

## CASEBOOKS

FEDERAL INCOME TAXATION (19<sup>th</sup> ed., forthcoming 2023) (with Joseph Bankman, Daniel N. Shaviro, & Kirk J. Stark)

CASES AND MATERIALS ON STATE AND LOCAL GOVERNMENT LAW (9<sup>th</sup> ed., 2022) (with Richard Briffault, Laurie Reynolds, Nestor M. Davidson, & Rick Su)

## OTHER WORKS

*11 Arizonans are richer than millions of us, combined. Make them pay their fair share*, Ariz. REPUB. (Mar. 31, 2022), <https://www.azcentral.com/story/opinion/op-ed/2022/03/31/billionaires-income-tax-would-make-rich-pay-fair-share/7195101001/>

*Five Myths about Tax Evasion*, WASH. POST (Oc. 8, 2021), [https://www.washingtonpost.com/outlook/five-myths/five-myths-about-tax-evasion/2021/10/08/6a47b022-26df-11ec-8d53-67cfb452aa60\\_story.html](https://www.washingtonpost.com/outlook/five-myths/five-myths-about-tax-evasion/2021/10/08/6a47b022-26df-11ec-8d53-67cfb452aa60_story.html) (with Kathleen Delany Thomas)

*Abuse of Executive Discretion by State Officials on Local Budgets Shows Need for Robust Home Rule*, SLoG Blog (Oc. 7, 201), <https://www.sloglaw.org/post/abuse-of-executive-discretion-by-state-officials-on-local-budgets-shows-need-for-robust-home-rule>

*Prop 208 - Invest in Ed is Investing in the Arizona Economy*, Policy Brief for Stand with Children (September 2020), <https://investined.com/wp-content/uploads/2020/09/Yes208SmallBizPolicyBrief.pdf>

*Gov. Doug Ducey is wrong. Cities and counties have broad authority to act on COVID-19*, Ariz. REPUB. (July 9, 2020), <https://www.azcentral.com/story/opinion/op-ed/2020/07/09/gov-doug-ducey-wrong-arizona-cities-broad-power-act-coronavirus/5396125002/> (with Joshua Bendor)

*The Essential Role of Fiscal Authority in Local Democracy*, Local Solutions Support Center White Paper, Mar. 2020, <https://www.abetterbalance.org/resources/the-essential-role-of-fiscal-authority-in-local-democracy/>.

*States Should Quickly Reform Unemployment Insurance*, STATE TAX NOTES (May 4, 2020) (with Brian Galle, David Gammage, & and Darien Shanske)

NATIONAL LEAGUE OF CITIES PRINCIPLES OF HOME RULE FOR THE TWENTY-FIRST CENTURY (2020) (with Richard Briffault, Nestor M. Davidson, & Paul A. Diller)

*Opinion analysis: Presence of in-state beneficiaries alone insufficient for state to assert jurisdiction to tax trust income* SCOTUSBLOG (June 22, 2019, 11:28 AM), <https://www.scotusblog.com/2019/06/opinion-analysis-presence-of-in-state-beneficiaries-alone-insufficient-for-state-to-assert-jurisdiction-to-tax-trust-income/>

*Argument analysis: Court worries that state trust tax may tax trust income that is never distributed to in-state beneficiary*, SCOTUSBLOG (Apr. 18, 2019, 11:27 AM), <https://www.scotusblog.com/2019/04/argument-analysis-court-worries-that-state-trust-tax-may-tax-trust-income-that-is-never-distributed-to-in-state-beneficiary/>

*Argument preview: Justices consider whether beneficiary's residence is sufficient for state to assert tax jurisdiction over trust income*, SCOTUSBLOG (Apr. 10, 2019, 2:41 PM), <https://www.scotusblog.com/2019/04/argument-preview-justices-consider-whether-beneficiaries-residence-is-sufficient-for-state-to-assert-tax-jurisdiction-over-trust-income/>

*Everyone hates this tax. But without it, Trump would barely have paid any*, WASH.POST (Mar. 17, 2017), <https://www.washingtonpost.com/posteverything/wp/2017/03/17/everyone-hates-this-tax-but-without-it-trump-would-barely-have-paid-any/>

## AMICUS BRIEFS

Brief of Amici Curiae Arizona Center for Law in the Public Interest in Support of Appellee, *Free Enterprise Club v. Hobbs*, No. CV-21-0304-AP/EL (2022) (filed on Jan. 14, 2022).

Brief of Amici Curiae Tax Scholar Erin Scharff, *Fann v. Arizona*, 493 P.3d 246 (Arizona 2021) (filed on March 22, 2021).

Brief of Amici Curiae Tax Scholars in Support of Appellants, *Molera v. Hobbs*, 474 P.3d 667 (Ariz. 2020) (filed on Aug. 10, 2020).

Brief of Amici Curiae Tax Scholars in Support of Invest in Education, *Molera v. Hobbs*, CV 20202-007964 (Ariz. Sup. Ct. 2020) (filed on July 24, 2020).

Brief of Amici Curiae International Municipal Lawyers Association and Legal Scholars, *Garfield County Transportation Authority v. State*, 473 P.3d 1205 (2020) (filed on June 5, 2020).

Brief of Amici Curiae Law Professors in Support of Respondent, *Brnovich v. City of Phoenix*, 468 P. 3d 1200 (Arizona 2020) (filed on March 3, 2020).

Brief of Amici Curiae Local Government Law Professors, et al. in Support of Plaintiffs-Appellants, *City of Athens v. Testa*, No. 2019-0696 (Ohio 2020) (filed Sept. 30, 2019). Covered in *Coalitions File Amici Briefs in Ohio Home Rule Tax Case*, STATE TAX NOTES (Oct. 9, 2019).

Memorandum in Support of Jurisdiction by Local Government Law Professors and National Municipal Organizations in Support of Plaintiff-Appellants' Petition for Certiorari, *City of Athens v. Testa*, No. 2019-0696 (Ohio, 2020) (filed May 20, 2019).

Brief of Ann Alstott, et al. as Amici Curiae in Support of Respondent, *PPL Corp. v. Comm'r*, 569 U.S. 329 (2013) (No. 12-43), 2013 WL 989825 (co-counsel with Michael Graetz), *cited by PPL Corp. v. Comm'r*, 569 U.S. 329, 344 (2013) (Sotomayor, J., concurring).

## SCHOLARLY PRESENTATIONS

*Laboratories of Bureaucracy: Administrative Cooperation Between State and Federal Tax Authorities*  
Tax Policy Colloquium, Maurer School of Law, Indiana State University (April 24, 2014)

*Powerful Cities, Efficient Revenues: Limits on Municipal Taxing Authority and What to Do About Them*  
Lawyering Scholarship Colloquium, New York University School of Law (March 7, 2014)  
Junior Tax Faculty Workshop, American University School of Law (June 7, 2014)  
National Tax Association Conference, Santa Fe, New Mexico (November 13, 2014)  
ASU Jr. Scholars Workshop, Phoenix, Arizona (December 12, 2014)  
ASU Faculty Workshop, Tempe Arizona (March 18, 2015)

### *Green User Fees*

Junior Tax Faculty Workshop, University of California, Irvine School of Law (June 10, 2016)  
Northern California Tax Roundtable, U.C. Hastings (April 28, 2017)  
Sustainability Conference of American Legal Education, Arizona State University (May 12, 2017)  
18th Global Conference on Environmental Taxation, University of Arizona (September 28, 2017)  
Tax Policy Colloquium, Loyola Law School (November 2017)  
Tax Policy Colloquium, Brigham Young University, J. Reuben Clark School of Law (January 22, 2018)  
Faculty Colloquium, University of Washington School of Law (February 7, 2018)  
Current Issues in Tax Law and Policy Colloquium, University of California—Irvine School of Law (April 9, 2018)

### *Preemption and Fiscal Authority*

Symposium, Urban Law Journal, Fordham University School of Law (February 16, 2018)

### *Hyper Preemption*

Panelist, Fiscal Federalism, AALS Annual Meeting (January 3, 2017)  
Faculty Colloquium, James E. Rogers College of Law, University of Arizona (February 9, 2017)  
Pepperdine University School of Law, Tax Policy Colloquium (March 6, 2017)  
Faculty Workshop, University of North Carolina School of Law (March 9, 2017)  
Faculty Workshop, Arizona State University (April 4, 2017)

### *Local Fiscal Capacity and State Law*

AMT Conference, University of San Diego School of Law (June 12, 2019)  
ASU Jr. Faculty Workshop (December 12, 2019)

### *Pricing Court Fees*

National Tax Association Annual Meeting, Philadelphia, PA (November 10, 2017)

### *Preempting Politics*

ASU Jr. Faculty Workshop (Aug. 15, 2019)  
Local Government Law Works-in-Progress Conference, University of Virginia School of Law (September 20, 2019)

*Sustainability Policymakers & Preemption*

Local Autonomy and Energy Law Symposium, Florida State University (Feb. 21, 2020).

*Revisiting Local Income Taxes*

Critical Tax Law Scholars, Tulane University School of Law (April 1, 2016)

National Tax Association Conference, Baltimore, Maryland (November 11, 2016)

Tax Law Speakers Series, University of San Diego School of Law (Feb. 10, 2020)

ASU Junior Faculty Workshop (Aug. 13, 2020)

Cardozo School of Law Local Government Workshop (Nov. 16, 2020)

Tax Policy Colloquium, New York University School of Law (Dec. 1, 2020)

Seventh Annual International and Comparative Urban Law Conference (July 17, 2021)

*Cities on Their Own: Local Revenue When Fiscal Federalism Fails*

2020 Cooper-Walsh Colloquium: The Impact of Financial Crisis on Urban Environments: Past, Present, and Future, Fordham University School of Law (Oct. 16, 2020)

*The State Role in Local Fiscal Capacity*

North Carolina Law Review Symposium on Home Rule in the Twenty-First Century, University of North Carolina-Chapel Hill (October 8, 2021)

*Fake Tax News*

The James Hausman Tax Law and Policy Workshop, University of Toronto Faculty of Law (Mar. 16, 2022)

Faculty Colloquium, Arizona State University College of Law (Apr. 18, 2022)

**DISCUSSANT, PANEL CHAIR PRESENTATIONS, ETC.**

Discussant, Taxation of Vulnerable Populations, National Tax Association Annual Meeting, Online (Nov. 19, 2021)

Moderator, Tax Law in an Age of COVID, AALS Annual Meeting, Tax Section Main Program (January 8, 2021)

Moderator, Inclusion and Addressing Racism in the Federal Income Tax Course, AALS Tax Section Webinar (July 9, 2020)

Moderator, Panel, Local Government Works-in-Progress Conference, University of Virginia (September 20, 2019)

Discussant, Brian Galle's Property Tax Exemptions, AMT Conference, University of San Diego School of Law (June 12, 2019)

Panel Chair and Discussant, Sales Tax and VAT, National Tax Association Annual Meeting, Philadelphia, PA (November 10, 2017)

Discussant, Maynard P. Goldburn's *A Plea for Courts to Abolish the Judicially Created Right of the Wealthy to Avoid Estate Taxes*, Junior Tax Faculty Workshop, University of California, Irvine School of Law (June 10, 2016)

Discussant, Omri Marion's *Private Investment Funds and International Tax Avoidance*, Junior Tax Faculty Workshop, University of California, Irvine School of Law (June 7, 2016)

Discussant, Leigh Osofsky's *Announcing Tax Enforcement Priorities*, Junior Tax Faculty Workshop, American University School of Law (June 7, 2014)

Discussant, Mirit Eyal-Cohen, *Urban Mavericks*, Junior Tax Faculty Workshop, American University School of Law (June 7, 2014)

## **CLE AND OTHER PRESENTATIONS**

Panelist, *State and Local Tax Policy Response to the Covid-19 Pandemic*, ABA Tax Section CLE Webinar (March 10, 2021)

Panelist, *State and Local Tax Policy Response to the Covid-19 Pandemic*, ABA Tax Section Midyear Meeting (January 12, 2021)

Presenter, *Preemption and Local Financing*, International Municipal Lawyers Association Webinar (June 11, 2020)

Presenter, *Home Rule For the Twenty-First Century*, Utah Municipal Lawyers Association (September 11, 2019)

Moderator & Panelist, *The California Soda Tax Ban and the Rise of Fiscal Preemption, Local Government Decision Making and Preemption: Legal Remedies and Actions*, Phoenix, Arizona (October 3, 2018)

Welcome Address, *Arizona Center for Economic Progress Democratic Primary Governor's Debate* (August 8, 2018)

Panelist, *Judicial Independence*, ASU Federalist Society (April 11, 2018)

Presenter, *Tax Cut and Jobs Act*, Cleveland Metropolitan Bar Association (March 23, 2018)

Presenter, *The Prospect of Tax Reform*, Arizona Bar Association, Tax Section (March 28, 2017)

Panelist, *Out of Ferguson: Misdemeanors as Taxes and Municipal Courts as Tax Collectors*, ABA Tax Section CLE Webinar (December 14, 2016)

Presenter, *The 30<sup>th</sup> Anniversary of the Tax Reform Act of 1986*, Sandra Day O'Connor College of Law, ASU (November 15, 2016)



Panelist, When Is Something a “Tax”?, ABA Tax Section Fall Meeting, Boston, MA (September 30, 2016)

Organizer, Environmental Racism Discussion, Sandra Day O’Connor College of Law, ASU (March 21, 2016)

Panelist, Jewish Identity & Social Justice, ASU Jewish Law Students Association, Sandra Day O’Connor College of Law (March 17, 2016)

Organizer, Environmental Justice in Wake of the Flint Water Crisis, Sandra Day O’Connor College of Law, ASU (February 19, 2016)

Panelist, Student Critical Law Panel, Sandra Day O’Connor College of Law, ASU (Feb. 16, 2016)

## **INVITED PARTICIPANT/CONSULTING EXPERT**

Center for Disease Control, Subject Matter Expert, Disparities in Emergency Medical Services and Cardiac Care (2020-present)

Guarini Center on Environmental, Energy, and Land Use Law at NYU School of Law, A Workshop on How Cities Can Help Lead the Transition to a Plant-Forward Food System (June 15, 2021)

Liman Center at Yale Law School, the Fines & Fees Justice Center, and Berkeley Law’s Policy Advocacy Clinic; Fines, Fees, and the Funding of Government Services Virtual Workshop Series (2021)

## **UNIVERSITY AND COLLEGE SERVICE**

Sandra Day O’Connor College of Law, Arizona State University

2021-2022	Co-Chair, Clerkship Committee
2020-2022	Co-Chair, Junior Faculty Development Committee
2020-2021	Co-Chair, Colloquium Committee
2015, 2017, 2019, 2020	Organizer, Spring Jr. Faculty Workshop Series
2016-present	Clerkship Committee
2018-2020	Faculty Advisory Committee
2016-present	Faculty Advisor, National Lawyers Guild
2016-2017, 2019-2020	Appointments Committee
2016-2018	Diversity Committee
2015-2016, 2017-2020	Colloquium Committee
2016, 2017	Organizer, Law School Summer Colloquium
2015-2016	Honor Code Hearing Board

Arizona State University

2015-2022

Truman Section Committee, Barret Honors College

## PEER REVIEWER

*Northwestern University Law Review Peer Review Board* (2017-present)

## PROFESSIONAL SERVICE

Arizona Bar Association, Tax Section, Law School Representative (September 2014-2018, 2022-present)

Local Solutions Support Center, Law Professor Panel (2018-present)

Contributor, SLoGLawBlog.org, the State and Local Government Law Blog (2021-present)

AALS Tax Section, Chair (2020); Member, Executive Committee (2017-2021)

*Tax Prof Blog*, SSRN Roundup Editorial Team (2017-2018)

Assistant Editor, *Tax Law Review* (2012-2014)

## MEDIA APPEARANCES

*Fact or Fiction: Could you soon owe taxes on Venmo transactions?*, ABC15 (Sept. 28, 2021), <https://www.abc15.com/news/let-joe-know/fact-or-fiction-could-you-soon-owe-taxes-on-venmo-transactions>

Paul Jones, *Local Taxes on Big Business, Wealthy Underscore Challenges Facing Cities*, STATE TAX NOTES (Mar. 15, 2021)

*Arizona Supreme Court Ruling Could Have Big Impact On Economic Development*, THE SHOW (KJZZ-Phoenix), <https://theshow.kjzz.org/content/1659505/arizona-supreme-court-ruling-could-have-big-impact-economic-development> (Feb. 16, 2021)

Prop. 208, ABC15 (Sept. 27, 2020)

*Coalitions File Amici Briefs in Ohio Home Rule Tax Case*, STATE TAX NOTES (Oct. 9, 2019)

*5 Considerations for Implementing a 70% Marginal Tax Rate*, LAW360.COM (Jan. 10, 2019)

*With 9th Circuit In Spotlight, Republicans Push New Effort To Bust It Up*, HERE AND NOW (WBUR-Boston), <http://www.wbur.org/hereandnow/2017/02/10/9th-circuit-court> (Feb. 10, 2017)

*Thousands of law professors signed a letter opposing Trump's nomination for attorney general, including two from ASU, Ariz. State Press, <http://www.statepress.com/article/2017/01/sppolitics-jeff-sessions-likely-to-be-confirmed-as-attorneygeneral-despite-two-asu-professors-objection> (Jan. 26, 2017)*

## **AWARDS**

2021 Amicus Service Award, International Municipal Lawyers Association

2020 Amicus Service Award, International Municipal Lawyers Association

## **COMMUNITY INVOLVEMENT**

Phoenix Legal Action Network, Board Chair (2020-present); Vice Chair (2020); Board Member (2018-2020)

Temple Solel, Rabbinic Search Committee (2016-2017); Education Committee (2018-2020)

Temple Solel, Social Action Committee, Welcoming the Stranger Project (2016-2018)

## **BAR ADMISSIONS**

Arizona (2019); California (2012, currently inactive)

