

# Ilan Wurman

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## ACADEMIC APPOINTMENTS

**Sandra Day O'Connor College of Law**, Arizona State University, Phoenix, AZ  
Associate Professor of Law, August 2020–Present  
Courses: Administrative Law, Constitutional Law I, Fourteenth Amendment

**School for Civic and Economic Thought and Leadership**, Arizona State University,  
Phoenix, AZ, Affiliated Faculty, August 2020–Present

**Sandra Day O'Connor College of Law**, Arizona State University, Phoenix, AZ  
Visiting Assistant Professor of Law (June 2018–July 2020)  
Courses taught: Administrative Law, Constitutional Law I

## EDUCATION

**Stanford Law School**, J.D. 2013  
*Stanford Law Review*, Senior Editor & Articles Committee Member  
*Harvard Journal of Law and Public Policy*, Executive Editor (cross-institutional issue)

**Claremont McKenna College**, B.A. Government and Physics, *magna cum laude*, Dec. 2009  
Honors: Phi Beta Kappa; Dean's List  
Best Thesis in Public Administration and Public Policy

## PRIOR EXPERIENCE

**Stanford Constitutional Law Center**, Nonresident Fellow, May 2017–May 2018

**Winston & Strawn LLP**, Associate Attorney, Nov. 2014–May 2018

**Hon. Jerry E. Smith**, U.S. Court of Appeals for the Fifth Circuit, law clerk, 2013–2014

## ACADEMIC PUBLICATIONS

### Casebooks

[Administrative Law Theory and Fundamentals: An Integrated Approach](#) (Foundation Press 2021)

### Books

[The Second Founding: An Introduction to the Fourteenth Amendment](#) (Cambridge 2020)

- Recipient of a Choice Award, awarded each year to a few hundred academic titles out of over 17,000 submissions, by the Association of College and Research Libraries division of the American Library Association.

- Cited in several books, law journals, and judicial opinions, including one U.S. Supreme Court, one Circuit Court, and one Texas Supreme Court opinion.
- Reviewed in:
  - *Law & Liberty* (by Kurt Lash, Jan. 20, 2021)
  - *National Review* (by Earl Maltz, Feb. 3, 2022)
  - *Claremont Review of Books* (by Michael Zuckert, Winter 2022)

[A Debt Against the Living: An Introduction to Originalism](#) (Cambridge 2017)

- Cited in at least 30 articles (HeinOnline)
- Cited in at least 8 books and foreign publications (Google Scholar/other)
- Reviewed in:
  - *Originalism Blog* (by Eric Segall, Aug. 22, 2017)
  - *Il Foglio* (by Giuseppe Portonera, Aug. 7, 2018)
  - *Claremont Review of Books* (by Jeremy Rabkin, Summer 2018)
  - *Federal Lanyer* (by Diego Pestana, Oct./Nov. 2018)
  - *Journal of Law* (by Susan Phillips Read, 2018)
  - *National Review* (by Kyle Sammin, Mar. 20, 2019)
  - *University of New Hampshire Law Review* (by Michael S. Lewis, Mar. 19, 2020)

### **Law Review Articles**

Alexander Hamilton on Executive Authority, \_\_ *American Journal of Legal History* \_\_ (forthcoming) (peer reviewed).

Nonexclusive Functions and Separation of Powers Law, 107 *Minnesota Law Review* \_\_ (forthcoming)

- Presented at Administrative Law Roundtable, University of Minnesota, June 24-25, 2022 (upcoming)
- Presented at Power in the Administrative State workshop, hosted by The Wharton School, Apr. 29, 2022
- Presented at University of Hastings Faculty Colloquium, Jan. 18, 2022
- Presented at AALS New Voices in Administrative Law Program, Jan. 6, 2022
- Cited in Foreword to István Stumpf, *Paradigm Shift in Constitutionalism* (Budapest, Hungary 2022).

Reconstructing Reconstruction-Era Rights, 109 *Virginia Law Review* \_\_ (forthcoming)

- Presented at Young Legal Scholars Panel (competition winner), The Federalist Society, Charlottesville, Virginia, Mar. 4, 2022
- Presented at Originalism Works-in-Progress Annual Conference, University of San Diego, Feb. 19, 2022
- Presented at National Conference of Constitutional Law Scholars, University of Arizona, Feb. 18, 2022

Reversing Incorporation: Reconstructing Nineteenth Century Fundamental Rights Discourse (working paper)

- Presented to NIU, ASU, and TAMU law faculties
- Presented at Oxford University, Pembroke College, “The History and Legacy of the Reconstruction Amendments,” Oxford, UK, July 30, 2022

[Constitutional Laboratories: Some Reflections on COVID-19 Litigation in Arizona](#), 15 N.Y.U. J. L. & Liberty 792 (2022) (invited contribution)

[Subsidiarity and Fundamental Rights Protection in the United States](#), Central European Journal of Comparative Law, Vol. III, No. 1, at pp. 241-57 (2022)

[An Introduction to Administrative Law Theory and Fundamentals](#), Harvard Journal of Law and Public Policy Per Curiam (Nov. 9, 2021)

[Nondelegation at the Founding](#), 130 Yale Law Journal 1490 (2021)

- Cited in 23 articles (HeinOnline) and in 7 cases, including two Supreme Court opinions (HeinOnline). Google Scholar: 75 citations.
- Presented at Histories of Presidential Power, Conference at Stanford Law School, May 21, 2022
- Presented at C. Boyden Gray Center for the Study of the Administrative State Nondelegation Roundtable

[In Search of Prerogative](#), 70 Duke Law Journal 93 (2020)

- Cited between 9 (HeinOnline) and 26 (Google Scholar) articles and at least one casebook
- Presented at Histories of Presidential Power, Conference at Stanford Law School, May 20, 2022
- Presented at Administrative Law New Scholarship Roundtable (Sept. 2020)
- Selected for presentation at National Conference of Constitutional Law Schools (March 2020)
- Presented at AALS Administrative Law and Legislation New Voices Program (Jan. 2020)
- Presented at Federalist Society’s Young Legal Scholars Panel at AALS (Jan. 2020)

[The Removal Power: A Critical Guide](#), 2020 Cato Supreme Review 157 (invited contribution)

- Cited between 1 (HeinOnline) and 3 (Google Scholar) times

- Presented at Cato Institute 19th Annual Constitution Day Conference

[The Origins of Substantive Due Process](#), 87 University of Chicago Law Review 815 (2020)

- Cited between 6 (HeinOnline) and 12 (Google Scholar) times
- Presented at Federalist Society’s Young Legal Scholars Panel at AALS (Jan. 2019)

[The Specification Power](#), 168 University of Pennsylvania Law Review 689 (2020)

- Cited between 12 (HeinOnline) and 22 (Google Scholar) times
- Presented at National Conference of Constitutional Law Scholars (March 2019)
- Presented at AALS Administrative Law New Voices Program (Jan. 2019)

[As-Applied Nondelegation](#), 96 Texas Law Review 975 (2018)

- Cited between 16 (HeinOnline) and 32 (Google Scholar) times
- Presented at Federalist Society’s Young Legal Scholars Panel at AALS (Jan. 2018)
- Presented at Georgetown Center for the Constitution (Apr. 2017)

[Constitutional Administration](#), 69 Stanford Law Review 359 (2017)

- Cited between 24 (HeinOnline) and 44 (Google Scholar) times
- Presented at Stanford Law School (hosted by law review) (Feb. 2017)
- Presented at Federalist Society’s Young Legal Scholars Panel at AALS (Jan. 2017)
- Presented at Hoover Institution’s Regulation and Rule of Law Conference (June 2016)

[The Original Understanding of Constitutional Legitimacy](#), 2014 BYU Law Review 819 (2015)

- Cited between 2 (HeinOnline) and 10 (Google Scholar) times

[Law Historians’ Fallacies](#), 91 North Dakota Law Review 161 (2015)

- Cited in at least 1 (HeinOnline) and 2 (Google Scholar) articles and 1 case

[Qualified Immunity and Statutory Interpretation](#), 37 Seattle University Law Review 939 (2014)

- Cited between 4 (HeinOnline) and 9 (Google Scholar) articles and in 3 cases

[How to Permit Your Mammoth: Some Legal Implications of “De-Extinction,”](#) 33 Stanford Journal of Environmental Law 1 (2014) (with Norman Carlin & Tamara Zakim)

- Cited between 6 (HeinOnline) and 35 (Google Scholar) times

[Drug Testing Welfare Recipients as a Constitutional Condition](#), Note, 65 Stanford Law Review 1153 (2013)

- Cited between 5 (HeinOnline) and 11 (Google Scholar) times

### **Other (Selected)**

[“Whose Substantive Due Process?”](#) Balkinization (Oct. 21, 2022), reviewing James E. Fleming, *Constructing Basic Liberties*.

[“From Comity to Equality.”](#) *Law & Liberty* (Dec. 14, 2021), reviewing Randy E. Barnett & Evan D. Bernick, *The Original Meaning of the Fourteenth Amendment: Its Letter and Spirit*.

COVID-19 and the Rational Basis Test, 67 *Wayne Law Review* 57 (2021) (comment, invited contribution)

[“What is originalism? Debunking the myths.”](#) *The Conversation* (Oct. 24, 2020)

[“Stare Decisis in an Originalist Theory of Law.”](#) *Law & Liberty* (Sept. 9, 2020)

[“What Originalism Conserves.”](#) *Law & Liberty* (July 27, 2020)

[“Administrative Law and the DACA Decision.”](#) *Newsweek* (June 20, 2020)

[“No Nondelegation at the Founding? Not so fast.”](#) Notice & Comment, *Yale Journal on Regulation* (Jan. 5, 2020)

[“Originalism and Sovereign Immunity.”](#) *Law & Liberty* (May 24, 2019)

[“The Legal U-Turn.”](#) *Law & Liberty* (Apr. 9, 2018)

[“The Untold Story of \*Lucia v. SEC\*: The Constitutionality of Agency Adjudications.”](#) Notice & Comment, *Yale Journal on Regulation* (Apr. 6, 2018)

[“Toward Constitutional Administration.”](#) *National Affairs* (Spring 2016)

[“A Modest Proposal for Reforming the Administrative State.”](#) *Law & Liberty* (Feb. 2, 2016)

[“The Founders’ Originalism.”](#) *National Affairs* (Spring 2014)

## **ADDITIONAL SELECTED PANELS AND INVITED PRESENTATIONS**

Conference on Common-Good Constitutionalism, Harvard Law School, Oct. 29, 2022.

“The Supreme Court Asserts Itself,” *Flaschner Judicial Institute*, Oct. 18, 2022.

“Resolved: This House Should Abolish the Electoral College,” *Claremont McKenna College*, Oct. 13, 2022 (Debate).

[“The Proposed Amendments.”](#) National Constitution Center Town Hall, Philadelphia, Pennsylvania, Sept. 19, 2022.

[“Originalism: A Matter of Interpretation.”](#) National Constitution Center Town Hall, Philadelphia, Pennsylvania, Sept. 16, 2022.

Constitution Day Lecture, Frederick Douglass Forum on Law, Rights, and Justice at Linfield University, McMinnville, Oregon, Sept. 8, 2022.

“The History and Legacy of the Reconstruction Amendments,” *Pembroke Quill Project*, Oxford University, UK, July 30, 2022

“Histories of Presidential Power,” Conference at Stanford Law School, May 21-22, 2022

Panel 2: [The First Congress and Executive Power](#)

Panel 6: [Nondelegation](#)

“[Rights, Regulations, and the Modern Administrative State](#),” National Constitution Center, May 10, 2022

“Conference on the Reconstruction Amendments,” Constitutional Law Institute at the University of Chicago Law School, Apr. 22, 2022

“[The future of regulation at the Supreme Court](#),” Brookings Institution, Center on Regulation and Markets, Mar. 28, 2022.

“Responding to Emergency: A Blueprint for Liberty in a Time of Crisis,” Presenter, hosted by Pacific Legal Foundation and NYU Journal of Law & Liberty, Washington, D.C., Feb. 3, 2022

Constitution Day Lecture, “[The Second Founding: America’s First Struggle for Racial Equality and Civil Rights](#),”

Claremont McKenna College, Sept. 29, 2021

University of Virginia Political Science Department, Sept. 20, 2021

“[Talks with Authors: Administrative Law Theory and Fundamentals: An Integrated Approach](#),” The Federalist Society, June 11, 2021 (with Richard Epstein)

“[The Second Founding: Originalism and the Fourteenth Amendment](#),” Federalist Society Philadelphia Lawyers Chapter, Apr. 28, 2021

“The Past and Future of the Nondelegation Doctrine,” Administrative Law Practice Section, AALS Annual Conference, January 9, 2021 (panel with Profs. Gillian Metzger of Columbia and Julian Mortenson of Michigan)

“[Police Powers and the Pandemic](#),” Federalist Society Faculty Conference at the AALS Annual Conference, January 6, 2021 (panel with Profs. Julia Mahoney, Daniel Rodriguez, and David Bernstein)

“The Second Founding: An Introduction to the Fourteenth Amendment,” Constitution Day Lecture, Bellarmine University, Sept. 19, 2020

Commentator on Julian Davis Mortenson’s “The Executive Power Clause,” Originalism Works-in-Progress Annual Conference, University of San Diego, February 22, 2020

“Can a Dead Constitution Bind the Living?,” College of the Holy Cross, Constitution Day Lecture, Sept. 17, 2019

The Transformation of Arizona Administrative Law, State Bar of Arizona Annual Convention, June 28, 2019

“[The Original Meaning of Privileges or Immunities](#),” Federalist Society National Student Symposium, March 2019

“The Fourteenth Amendment @ 150: Original Meaning, Contemporary Problems,” Continuing Legal Education Lecture, Sandra Day O’Connor College of Law, Oct. 25, 2018

World Affairs Council of Philadelphia, [Forum/Debate on Originalism](#) (with Prof. Kermit Roosevelt, University of Pennsylvania Law School), Sept. 11, 2018

“Constitutional Primary and Secondary Rules,” National Conference of Constitutional Law Scholars, March 2018

[Book Forum](#), Cato Institute, “A Debt Against the Living: An Introduction to Originalism,” June 24, 2017

Stanford Intellectual Diversity Conference, Stanford Law School, Apr. 2016

## PROFESSIONAL AND VOLUNTEER ACTIVITIES

Lead drafter, “Founders’ Library,” National Constitution Center (Spring 2022)

“We the People: The Citizen and the Constitution,” Arizona Regional and/or Statewide Judge  
Jan. 7, 2022; Dec. 11, 2021; Jan. 8, 2020

Testified before the Presidential Commission on the Supreme Court of the United States (June 30, 2021)

Team Leader, Constitutional Drafting Project, National Constitution Center (Fall 2020)

- [Interviewed](#) in *Mandiner*, a Hungarian weekly publication, Apr. 23, 2021
- Participated in Cato Institute education panels
- Discussed on various podcasts and radio shows

Visiting Fellow, Mathias Corvinus Collegium, Budapest, Hungary (May 2021)

Testified before an ad hoc joint legislative committee of the Arizona state legislature on emergency executive powers (Dec. 2020)

Member, National LGBT Bar Association

Deputy General Counsel, Rand Paul for President (2015)

Write occasionally for national publications, including *The Hill*, *National Affairs*, *Newsweek*, and *Law & Liberty*

## LITIGATION

Represented several homeowners, businessowners, property owners, and interest groups in *Brown v. City of Phoenix*, challenging City’s response to ongoing homelessness crisis

Represented several bar owners in *Next Level Arcade Tucson v. Pima County* in Pima County, Arizona, successfully arguing that county governments exceeded their delegated authority

Represented 130 bar owners in *Beaver et al. v. Ducey et al.* and *Aguila et al. v. Ducey et al.* in Arizona State Courts (2020-21), making claims involving nondelegation, separation of powers, and the state privileges or immunities clause

Merits-stage amicus brief on behalf of separation of powers scholars in *Seila Law LLC v. CFPB* (U.S. Supreme Court, No. 19-7, filed Dec. 16, 2019)

Amicus brief in support of certiorari on behalf of separation of powers scholars in *Seila Law LLC v. CFPB* (U.S. Supreme Court, No. 19-7, filed July 29, 2019)

Amicus brief on behalf of separation of powers scholars in *CFPB v. All American Check Cashing* (Fifth Circuit, No. 18-60302, filed July 5, 2018)

Amicus brief in support of certiorari on behalf of administrative law and statutory interpretation scholars in *Perez-Guzman v. Sessions* (U.S. Supreme Court, No. 17-302, filed Sept. 27, 2017)

Represented petitioner in *Rigoberto Velasquez-Banegas v. Lynch* (Seventh Circuit, No. 15-2619), winning case after oral argument in 2-1 opinion

## **BAR ADMISSIONS**

Arizona, California, Texas, and Washington, D.C.

Fourth Circuit, Fifth Circuit, Seventh Circuit, D.C. Circuit, Supreme Court of the United States