



THE UNIVERSITY OF ARIZONA
JAMES E. ROGERS COLLEGE OF LAW

Rehnquist Center

NATIONAL CONFERENCE OF CONSTITUTIONAL LAW SCHOLARS

MARCH 24–25, 2023

CONFERENCE AGENDA

(all times MST)

Friday, March 24, 2023

8:30–9 a.m.

BREAKFAST

9–10:30 a.m. (A)

DEMOCRACY AND DYSFUNCTION—Distinguished Commentator **Mitch Berman**

- ▶ **Emily Berman**—*Judicial Review and the Pathologies of Gridlock*
- ▶ **Anya Bernstein & Glen Staszewski**—*Populist Constitutionalism*
- ▶ **Joshua Braver & Greg Elinson**—*Why Judicial Review is Not Inherently Anti-Progressive*
- ▶ **Daniel Rauch**—*Defamation as Democracy Tort*

9–10:30 a.m. (B)

EXECUTIVE POWER AND THE ADMINISTRATIVE STATE—

Distinguished Commentator **Miriam Seifter**

- ▶ **Ashraf Ahmed, Lev Menand & Noah Rosenblum**—*Constitutionalizing the Administrative Presidency: From Presidential Administration to the Unitary Executive*
- ▶ **Helen Norton**—*What 21st-Century Free Speech Law Means for Securities Regulation*
- ▶ **Jodi Short**—*In Search of the Public Interest*

10:30–11 a.m.

BREAK

11 a.m.–12:15 p.m. (A)

CONSTITUTIONAL CHANGE—Distinguished Commentator **Jud Campbell**

- ▶ **Mitch Berman**—*Religious Liberty and the Constitution: Of Rules and Principles, Fixity and Change*
- ▶ **Susan Carle**—*Liquidation and the 14th Amendment*
- ▶ **Stephen Griffin**—*A Theory of Constitutional Change in Four Case Studies*

11 a.m.–12:15 p.m. (B)

EXECUTIVE POWER AND HISTORY—Distinguished Commentator **Farah Peterson**

- ▶ **Andrea Katz**—*All Roads Lead to the White House: How the President Remade the Separation of Powers in Early 20th-century America*
- ▶ **Joshua Macey**—*Public Utility Settlement*
- ▶ **Jed Shugerman**—*“Despotic Displacement,” Vénalité, and Virtue: Why Article II “Executive Power” Did Not Include Removal*

12:15–1:45 p.m.

LUNCH

1:45–3 p.m. (A) **Lightning Session—EXECUTIVE POWER**

- ▶ **Amy Gaudion**—*Countering Violent Extremism in the U.S. Military: Internal Oversight and the First Amendment*
- ▶ **Christopher Havasy**—*Radical Administrative Law*
- ▶ **Evan Zoldan**—*The Major Questions Doctrine and State Constitutional Structures*

1:45–3 p.m. (B) **Lightning Session—COURTS**

- ▶ **Rachel Bayefsky**—*Judicial Institutionalism*
- ▶ **Andrew Coan**—*Too much, Too Quickly?*
- ▶ **Jerry Dickinson**—*A Theory of Federalization Doctrine*

3–4 p.m. **BREAK**

4–5 p.m. **KEYNOTE ADDRESS—Aziz Huq**
The Rule of Law in Contemporary American Constitutionalism

7 p.m. **Panelist Dinner**

Saturday, March 25, 2023

8:30–9 a.m. **BREAKFAST**

9–10:15 a.m. (A) **EQUALITY**—Distinguished Commentator **Justin Driver**

- ▶ **Katie Eyer**—*Transgender Constitutional Law*
- ▶ **Deep Gulasekaram**—*The Second Amendment’s “People” Problem*
- ▶ **Ilan Wurman**—*Reversing Incorporation*

9–10:15 a.m. (B) **FEDERAL COURTS**—Distinguished Commentator **Tara Leigh Grove**

- ▶ **Joel Alicea**—*Practice-Based Constitutional Theories*
- ▶ **Katherine Mims Crocker**—*Constitutional Rights, Remedies, and Transsubstantivity*
- ▶ **Larry Rosenthal**—*Nonoriginalist Laws in an Originalist World: Litigating Original Meaning from Heller to Bruen*

10:15–10:45 a.m. **BREAK**

10:45 a.m.–12 p.m. (A) **Lightning Session—EQUALITY**

- ▶ **Eunice Lee**—*Reimagining the Right to Remain*
- ▶ **Scott Johns**—*Putting the Bar Exam on Constitutional Notice: Cut Scores, Race & Ethnicity, and the Public Good*
- ▶ **Peter Salib**—*Algorithmic Abolitionism*
- ▶ **Robert Tsai**—*Abandoning Animus*

10:45 a.m.–12 p.m. (B) **Lightning Session—DEMOCRACY, DISSENT, AND CRISIS**

- ▶ **Emily Berman**—*State Anti-Protest Laws and the Right to Dissent*
- ▶ **Jonathan Hafetz**—*The Use of Emergency Powers to Address Immigration: The Constitutional Implications of Crisis Governance*
- ▶ **Christopher Mirasola**—*Article II, Historical Practice, and the Military as Police*