

DARIEN SHANSKE

UC Davis School of Law
400 Mrak Hall Drive
Davis, CA 95616-5201
dshanske@ucdavis.edu

CURRENT APPOINTMENT

July 2013 - Professor of Law and Political Science at UC Davis

July 2008- 2013 Associate Professor of Law at UC Hastings College of the Law

Courses Taught State and Local Government, State and Local Taxation, Federal Income Taxation, Public Finance (seminar), Jurisprudence, Ancient Legal Theory

ACADEMIC DEGREES

Stanford Law School JD with academic distinction, 2006

- Selected participant in Supreme Court Litigation Clinic, quarterfinalist in Kirkwood Moot Court Competition, managing editor (features) of the *Stanford Law and Policy Review*

University of California at Berkeley PhD in Rhetoric, 2001

- Outstanding Graduate Student Instructor, Javits Fellowship (four years, tuition plus stipend), German Academic Exchange Service (DAAD) Stipend for Study in Germany

McGill University in Montreal, Canada MA in Philosophy, 1996

- Max Stern Recruitment Fellowship (multi-year tuition and stipend)

Columbia University BA in Philosophy and History, 1995

- Magna Cum Laude, Phi Beta Kappa, James Gutman Prize (awarded to one graduating philosophy major)

MAJOR PROFESSIONAL EXPERIENCE

2007-08 Law clerk to Hon. Pierre N. Leval (Second Circuit)

2006-07 Associate at Sidley Austin LLP, San Francisco (Public Finance)

2001-03 Financial analyst at Government Financial Strategies, inc., Sacramento

PUBLICATIONS

Books

THUCYDIDES AND THE PHILOSOPHICAL ORIGINS OF HISTORY, Cambridge University Press, 2007.

A RESEARCH GUIDE TO THE CALIFORNIA CONSTITUTION, Oxford University Press, forthcoming 2014 (With Hon. Joseph Grodin and Michael Salerno).

Responsible for introductory section on fiscal history and commentary on Articles IX (Education) (with Joseph Grodin), XI (Local Government), XIII (Taxation), XIII A (Tax Limitation), XIII B (Government Spending Limitation), XIII C (Voter Approval for Local Tax Levies), XIII D (Assessment and Property-Related Fee Reform), XVI (Public Finance), XIX – XIX C (Motor Vehicle Revenue).

Full Length Academic Articles

Tax Cannibalization and Fiscal Federalism in the United States, NORTHWESTERN UNIVERSITY LAW REVIEW, forthcoming (with David Gamage)

Revitalizing Local Political Economy Through Modernizing the Property Tax, 68 TAX LAW REVIEW 143 (2014).

Can Formulary Apportionment Save the World?: Apportionment and a State-Level Carbon Tax, 18 CHAPMAN LAW REVIEW 191 (2014) (invited symposium piece).

Local Fiscal Autonomy Requires Constraints: The Case for Fiscal Menus, 25 STANFORD LAW AND POLICY REVIEW 9 (2014) (invited symposium piece).

The Federal Role in Regulating Municipal Debt Finance, 33 BOSTON UNIVERSITY REVIEW OF BANKING & FINANCIAL LAW 795 (2014) (invited symposium piece).

The Philosophy of Tax: A Review of David Foster Wallace's The Pale King, JOURNAL OF LAW, CULTURE AND THE HUMANITIES, forthcoming in print, available online July 2013.

Thucydides and Law: A Response to Leiter. 19 LEGAL THEORY 282 (2013).

A New Theory of the State Corporate Income Tax: The State Corporate Income Tax as Retail Sales Tax Complement, 66 TAX LAW REVIEW 305 (2013).

The Trouble with Tax Increase Limitations, 6 ALBANY GOVERNMENT LAW REVIEW 50 (2012) (invited symposium piece) (with David Gamage).

Three Essays On Tax Salience: Market Salience and Political Salience, 65 TAX LAW REVIEW 19 (2012) (with David Gamage).

How Less Can Be More: Using the Federal Income Tax to Stabilize State and Local Finance, 31 VIRGINIA TAX REVIEW 413 (2012).

The Supreme Court and the New Old Public Finance: A New Old Defense of the Court's Recent Dormant Commerce Clause Jurisprudence, 43 THE URBAN LAWYER 659 (2011).

Going Forward by Going Backward to Benefit Taxes, CALIFORNIA JOURNAL OF POLITICS AND POLICY, vol. 3, iss. 2, art. 14 (2011).

Thucydides and Lawfulness in THUCYDIDES – A VIOLENT TEACHER? HISTORY AND ITS REPRESENTATIONS (Georg Rechenauer and Vassiliki Pothou, eds. 2011).

Attention Carbon Auditors: There's Low-Hanging Fruit in the PAB Regs, 127 TAX NOTES 693 (2010).

Above All Else Stop Digging: Local Government Law as a Cause (and Solution) to the Current Financial Crisis, 43 UNIVERSITY OF MICHIGAN JOURNAL OF LAW REFORM 663 (2010).

What Might They Talk About at a California Constitutional Convention, 37 HASTINGS CONSTITUTIONAL LAW QUARTERLY 641 (2010) (invited symposium piece).

Engquist and The Erosion of the Equal Protection Clause: An Attempt to Stop the Creep of Irrational Dicta, 61 HASTINGS LAW JOURNAL 969 (2010).

Putting the California Constitution (Back) to Work: A Blueprint for Clearing Legal Roadblocks to Proper Infrastructure Finance, 54 STATE TAX NOTES 567 (2009).

Hegel and the Justification for Arbitration in a Modern State, 1 YEARBOOK ON ARBITRATION AND MEDIATION 445 (2009).

Revitalizing Aristotle's Doctrine of Equity, 4 JOURNAL OF LAW, CULTURE, AND THE HUMANITIES 352 (2008).

Public Tax Dollars for Private Suburban Development: A First Report on a National Phenomenon, Note, 26 VIRGINIA TAX REVIEW 709 (2007).

Four Theses Preliminary to an Appeal to Equity, Note, 57 STANFORD LAW REVIEW 2053 (2005).

Amicus Briefs

Brief for Interested Law Professors in *Direct Marketing v. Brohl*, No. 12 -1175 (10th Circ.) (primary author)

Brief for Interested Law Professors in *Direct Marketing v. Brohl*, No. 13-1032 (U.S. Supreme Court) (primary author)

Shorter Academic Articles

Local Government Finance as Integrated System: The Uneasy Case for Using Special Districts in Real Estate Finance (A Response to Odinet's Super-Liens to the Rescue? A Case Against Special Districts in Real Estate Finance), 72 WASHINGTON AND LEE LAW REVIEW ONLINE 191 (2015).

The Implications of Alabama Department of Revenue v. CSX Transportation Inc. and Direct Marketing Association v. Brohl, 76 STATE TAX NOTES 445 (May 11, 2015) (with David Gamage).

Using Taxes to Improve Cap and Trade, Part I: Distribution, 75 State Tax Notes 99 (January 12, 2015) (with David Gamage).

Why the Text of the Affordable Care Act Authorizes Tax Credits on the Federal Exchanges: A Response to Adler and Cannon, 71 STATE TAX NOTES 229 (Jan. 27, 2014) (with David Gamage).

A Potential Game Changer in E-Commerce Taxation, 67 STATE TAX NOTES 747 (2013) (with Andy Haile and David Gamage).

The Case for a State-Level Debt-Financing Authority, 67 STATE TAX NOTES 188 (2013) (with David Gamage).

The Saga of State 'Amazon' Laws: Reflections on the Colorado Decision, 65 STATE TAX NOTES 197 (2012) (with David Gamage).

On Tax Increase Limitations: Part II – Evasion and Transcendence, 63 STATE TAX NOTES 245 (2012) (with David Gamage).

On Tax Increase Limitations: Part I – A Costly Incoherence, 62 STATE TAX NOTES 813 (2011) (with David Gamage).

Review Essays

How Should We Govern Ourselves at Home?, 6 JOURNAL OF LAW, CULTURE AND THE HUMANITIES 296 (2010) (review of: VIOLENCE AND SOCIAL ORDERS: A CONCEPTUAL FRAMEWORK FOR INTERPRETING RECORDED HUMAN HISTORY, Douglass C. North, John Joseph Wallis, Barry R. Weingast; DEMOCRACY AND KNOWLEDGE: INNOVATION AND LEARNING IN CLASSICAL ATHENS, Josiah Ober; CITY BOUND: HOW STATES STIFLE URBAN INNOVATION, Gerald E. Frug and David J. Barron).

What Homevoters Want (and It is Not What You Might Think), 1 CALIFORNIA JOURNAL OF POLITICS AND POLICY 18 (2009) (review of Isaac W. Martin, THE PERMANENT TAX REVOLT: HOW THE PROPERTY TAX TRANSFORMED AMERICAN POLITICS (2008)).

Detienne's Masters of Truth and the 'Truth' about Simonides of Ceos, CRITICAL SENSE (Winter 2000).

Other Publications

Jennifer Carr, *An Interview with Darien Shanske*, 70 STATE TAX NOTES 447 (2013).

Invited online colloquium response to Kathleen S. Morris, *The Case for Local Constitutional Enforcement*, 47 HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW 1 (2012), <http://harvardcrcl.org/cr-cl-presents-a-colloquium-the-case-for-local-constitutional-enforcement>.

Amazon Wars: States Must Tax Booming Online Retail, ZOCALO PUBLIC SQUARE (May 2011) (website), <http://www.zocalopublicsquare.org/2011/05/30/amazon-wars/ideas/nexus>.

Does A Fiscal Crisis Affect Your Credit Rating? Not Necessarily, SCHOOL SERVICES FISCAL REPORT (May 2003) (with Jeff Small).

Saving Time and Money: How and When to Use Design-Build, CALIFORNIA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS JOURNAL (March/April 2003) (with Cathleen Dominico).

Credit Check: Charter Schools and Districts Partner in Financing, CALIFORNIA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS JOURNAL (November/December 2002) (with Terri Ryland).

Interest Rates May Be Too Low to Refinance, SCHOOL FISCAL SERVICES REPORT (November 2001) (with Lori Raineri).

WORKS IN PROGRESS

Local Government Finance Commission. Preliminary draft available.

Aristotle on Reciprocity. Preliminary draft available.

SELECT PRESENTATIONS

(Invited) Presentation, *Improving California's Tax System Through Increasing the Diversity and Complementarity of its Revenue Streams*, UC Center Sacramento, April 2016 (presentation with David Gamage).

(Invited) Workshop participant, *Tax Cannibalization and Fiscal Federalism in the United States*, Tulane Tax Roundtable, March 2016 (paper co-written with David Gamage).

Workshop participant, *The Problem of Local Democracy and Financial Knowledge*, Association for Mid-Career Tax Professors, June 2015.

Presentation, *A New Perspective on Fiscal Federalism: Subnational Governments as Second Movers*, Law and Society Association, May 2015.

(Invited) Presentation, *Thoughts on Enforcing Pension Obligations*, American Law Institute Young Scholars Medal Conference: Can Law Solve the Public Pension Problem?, April 2015.

(Invited) Presentation, *Local Democracy and Financial Knowledge: The Case for a Local Government Finance Commission*, James Hausman Tax Law and Policy Workshop Faculty of Law, University of Toronto, March 2015.

Presentation, *Outline of a Theory of Local (and Sublocal) Public Finance*, Law and Society Association, May 2014.

(Invited) Presentation, *Can Formulary Apportionment Save the World?: Apportionment and a State-Level Carbon Tax*, Chapman Law School, March 2014.

(Invited) Presentation, *A Rough Taxonomy of State Fiscal Policy Issues with an Emphasis on Local Fiscal Constitutions*, UC Center Sacramento, July 2013.

Testimony on *Proposition 13 and Local Tax Authority* before California Assembly Committee on Revenue and Taxation, April 2013.

(Invited) Presentation, *Modernizing the Property Tax*, Tax Policy and Public Finance Colloquium, UCLA Law, March 2013.

(Invited) Presentation, *Modernizing the Property Tax*, Colloquium Series on Tax Policy and Public Finance, NYU Law, March 2013.

(Invited) Presentation, *The Paradoxical Fiscal Constraints on California's Cities*, Local Governments Navigating California's Constitution, conference organized by the Municipal Law Institute of the League of California Cities and the California Constitution Center of UC Berkeley School of Law, February 2013.

Presentation, *Modernizing the Property Tax*, Northern California Tax Roundtable, Santa Clara Law School, Santa Clara, CA, December 2012.

(Invited) Presentation, *Modernizing the Property Tax*, at Loyola-L.A. Tax Policy Colloquium. Los Angeles, CA, November 2012.

(Accepted) Presentation, *Modernizing the Property Tax*, National Tax Association, Providence RI, November 2012.

(Accepted) Presentation/Seminar Participant, *Aristotle on Reciprocity*, Jurisprudential Perspectives on Tax Law, Cornell Law School, Ithaca, New York, September 2012.

(Invited) Presentation, *Tax Platforms of the Presidential Candidates: Does it Make a Difference to Voters?*, ABA Tax Section Fall Meeting. Boston, MA, September 2012.

Presentation, *Modernizing the Property Tax*, Seventh Annual Junior Tax Scholars Workshop. UC Hastings, San Francisco, CA, June 2012.

Testimony on *Assessing Tax Expenditure Programs in Light of California's Fiscal Challenges* before California Assembly Committees on Revenue and Taxation and Accountability and Administrative Review, February 2012.

(Invited) Presentation, *A New Theory of the State Corporate Income Tax: The State Corporate Income Tax as Retail Sales Tax Complement*, University of Kentucky College of Law, February 2012.

(Invited) Presentation, *A New Theory of the State Corporate Income Tax: The State Corporate Income Tax as Retail Sales Tax Complement*, Tax Policy Colloquium at Indiana University, Maurer School of Law, February 2012.

Discussant for panel on *Tax Policy in a Federal System*, Tax Policy Center/UCLA Tax Policy Conference - Federal Tax Reform Beyond the Beltway: How Federal Tax Reform and Tax Policy Will Affect State and Local Governments, Los Angeles, CA, February 2012.

(Accepted) Presentation, *How Less Can Be More: Using the Federal Income Tax to Stabilize State and Local Finance*, National Tax Association. New Orleans, LA, November 2011.

Presentation, *A New Theory of the State Corporate Income Tax: The State Corporate Income Tax as Retail Sales Tax Complement*, Northern California Tax Roundtable. UC Davis Law School, Davis, CA, November 2011.

(Invited) Presentation, *How Less Can Be More: Using the Federal Income Tax to Stabilize State and Local Finance*, UC Davis Law School, Davis, CA, September 2011.

Discussant for Steven A. Dean, *Zombie Autopsy: Dissecting a Not-Quite-Dead Commitment Device*, at Loyola-L.A. Tax Policy Colloquium. Los Angeles, CA, September 2011.

Presentation, *A New Theory of the State Corporate Income Tax: The State Corporate Income Tax as Retail Sales Tax Complement*, Sixth Annual Junior Tax Scholars Workshop. UC-Irvine Law School, Irvine, CA, June 2011.

Presentation, *How Less Can Be More: Using the Federal Income Tax to Stabilize State and Local Finance*, Law and Society Annual Conference. San Francisco, CA, June 2011.

Presentation, *How Less Can Be More: Using the Federal Income Tax to Stabilize State and Local Finance*, Critical Tax Conference, Santa Clara Law School, Santa Clara, Ca, March 2011.

(Invited) Presentation, *A Doctrinal Route Around Quill*, American Association of Law Schools Annual Conference. San Francisco, CA, January 2011.

Presentation, *How Less Can Be More: Using the Federal Income Tax to Stabilize State and Local Finance*, Fifth Annual Junior Tax Scholars Workshop, Notre Dame Law School, South Bend, IN, June 2010.

Presentation (with David Gamage), *Three Essays On Tax Salience: Market Salience and Political Salience*, Northern California Tax Roundtable, Stanford Law School, Stanford, CA, November 2009.

Presentation, *Putting the California Constitution (Back) to Work: A Blueprint for Clearing Legal Roadblocks to Proper Infrastructure Finance*, New America Foundation and UC Center Sacramento Roundtable on Funding California's State and Local Governments. Sacramento, CA, June 2009.

Testimony on *California Infrastructure Financing* before California Senate Revenue and Taxation Committee, June 2009.

Presentation, *The Supreme Court and the New Old Public Finance: A New Old Defense of the Court's Recent Dormant Commerce Clause Jurisprudence*, Fourth Annual Junior Tax Scholars Workshop. Brooklyn Law School, New York, NY, June 2009.

Presentation, *Putting the California Constitution (Back) to Work: A Blueprint for Clearing Legal Roadblocks to Proper Infrastructure Finance*, Mercatus 2008 Capital Campus California Winter Retreat. Sonoma, CA, December 2008.

UNDERGRADUATE TEACHING

As Instructor

Rhetoric 20, Introduction to Rhetorical Interpretation (Summer 1999)

Rhetoric 103A, Survey of Ancient Rhetorical Theory (Summer 2000)

As Teaching Assistant

Eight Rhetoric and Philosophy classes, including Heidegger's *Being and Time* and Hegel's *Phenomenology of Spirit*

LANGUAGES

German (competent reading, comprehension, writing - passed the
ZentraleMittelstufenprüfung)

Ancient Greek (competent reading, passed UC Berkeley Classics MA exam)

ACADEMIC SERVICE

2008-09: Clerkship Committee

2009-11: Appointments Committee

2011-12: Admissions Committee

2012-13: Academic Standards Committee

2013-14: Intellectual Enrichment Committee, Library Committee

- 2014-15: UC Davis Committee for Planning and Budget, Law School Intellectual Enrichment Committee
- 2015-16: UC Davis Committee for Planning and Budget; Law School Admissions Committee

PROFESSIONAL SERVICE

Served as manuscript referee for Cambridge University Press, Fordham University Press, the Journal of Politics, the American Political Science Review, Political Theory, the Journal of Policy Analysis and Management and Public Budgeting and Finance.