

# AARON TANG

1721 Vine St. • Davis, CA 95616 • (203) 507-4715 • aatang@ucdavis.edu

## ACADEMIC POSITIONS

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### UNIVERSITY OF CALIFORNIA, DAVIS, SCHOOL OF LAW (KING HALL)

Professor of Law & Martin Luther King, Jr., Hall Research Scholar (2020-present)

Acting Professor of Law (2016-2019)

*Courses:* Constitutional Law, Education Law & Policy, Supreme Court Simulation Seminar

*Service:* AALS Section on Education Law, Chair (2018-19), Treasurer (2017-18); AALS Committee to Review Scholarly Papers (2018); UC-Davis Committee on Academic Freedom & Responsibility (2019-21); UC-Davis Law School Academic Appeals Committee Member (2017-19), UC-Davis Law School Library Advisory Committee Member (2018-19; 19-21); UC-Davis Academic Senate Representative (2019-21)

## PUBLICATIONS

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### LAW REVIEW ARTICLES

- *Harm-Avoider Constitutionalism*, 109 CAL. L. REV. \_\_\_\_ (forthcoming 2021)
- *How Do Judges Decide School Finance Cases?*, 97 WASH. U. L. REV. 1047 (2020) (with Ethan Hutt and Daniel Klasik)
- *Life After Janus*, 119 COLUM. L. REV. 677 (2019)
  - Selected for inclusion in NYU Selected Essays on Labor and Employment Law
- *School Vouchers, Special Education & The Supreme Court*, 167 U. PA. L. REV. 337 (2019)
- *Rethinking Political Power in Judicial Review*, 106. CAL. L. REV. 1755 (2018)
  - Winner, Association of American Law Schools' Scholarly Paper Competition (2018)
  - Selected for Presentation at Yale / Stanford / Harvard Junior Faculty Forum (2018)
  - Selected for Presentation at National Conference of Constitutional Law Scholars (2018)
  - Reviewed by Fred Smith, *The Politically Powerful and Judicial Review*, Jotwell, at <https://courtslaw.jotwell.com/the-politically-powerful-and-judicial-review/> (Sept. 2018)
- *Reverse Political Process Theory*, 70 VAND. L. REV. 1427 (2017)
  - Reviewed by Matthew A. Seligman, *Neutral Principles and Political Power: A Response to Reverse Political Process Theory*, 70 VAND. L. REV. EN BANC 301 (2017).
- *Public Sector Unions, the First Amendment, and the Costs of Collective Bargaining*, 91 N.Y.U. L. REV. 144 (2016)
- *Double Immunity*, 65 STAN. L. REV. 279 (2013)
- *The New Education Malpractice Litigation*, 99 VA. L. REV. 419 (2013) (with Ethan Hutt)
- *The Ethics of Opposing Certiorari in the Supreme Court*, 35 HARV. J.L. & PUB. POL'Y 933 (2012)
- *Privileges & Immunities, Public Education, & the Case for Public School Choice*, 79 GEO. WASH. L. REV. 1103 (2011)
- *Broken Systems, Broken Duties: A New Theory for School Finance Litigation*, 94 MARQ. L. REV. 1195 (2011)

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### LAW REVIEW ESSAYS & RESPONSES

- *The Radical – Incremental Change Debate, Racial Justice, & The Political Economy of Teachers’ Choice*, 169 U. PA. L. REV. \_\_\_\_ (forthcoming 2021).
- *Can Unions Be Sued for Following the Law?* 132 HARV. L. REV. F. 24 (2018) (with Fred Smith)
- *Whose Money Is It Anyway: Have We Been Wrong About Agency Fees All Along?*, 131 HARV. L. REV. F. 154 (2018) (invited contribution)
- *Reading the School Finance Litigation Tea Leaves: What Lies Ahead for Plaintiff School Children?*, 4 HARV. L. & POL’Y REV. (Online) (January 28, 2011) (essay)
- “Teacher Employment and Collective Bargaining Laws in California,” POLICY ANALYSIS FOR CALIFORNIA EDUCATION (February 2011) (with William S. Koski) (policy brief)

### POPULAR MEDIA PUBLICATIONS

- “The Simple Principle That Can Fix American Law,” THE ATLANTIC (Apr. 2, 2021)
- “Just One Supreme Court Case Could Blow Up Unions, Child Protection and Anti-Discrimination Law,” THE WASHINGTON POST (Mar. 18, 2021)
- “The New Supreme Court is Sending Surprisingly Centrist Signals,” THE LOS ANGELES TIMES (Nov. 25, 2020)
- “(Threaten to) Pack the Courts,” THE NEW YORK TIMES (Oct. 27, 2020)
- “A Constitutional Right to Literacy for Detroit’s Kids?” THE NEW YORK TIMES (Apr. 26, 2020) (with Ethan Hutt and Daniel Klasik)
- “What if the Court Saw Other Rights as Generously as Gun Rights?” THE ATLANTIC (Mar. 7, 2020)
- “Conservative Hypocrisy Makes Its Case at the Supreme Court,” THE NEW YORK TIMES (Nov. 26, 2019)
- “Will the Supreme Court Call Out the Administration’s Lies About DACA?” SLATE (Nov. 6, 2019)
- “A US Border Patrol Agent Shot Their Unarmed, 15-Year-Old Son. Will the Supreme Court Deny the Hernandez Family Their Day in Court?” THE HILL (Nov. 3, 2019)
- “Do States Have the Right to Seize Vehicles for Minor Offenses? The Supreme Court is Set to Decide,” SLATE (Nov. 26, 2018)
- “Viewpoint: Any Janus Solution That Ignores Free Riders is Star-Crossed and Unfair,” LABOR NOTES (July 27, 2018)
- “After *Janus*, How to Tilt the Balance of Power Back to Workers,” IN THESE TIMES (July 16, 2018) (with Jessica Stites)
- “A Tax Cut for Workers and Financial Security for Their Unions,” THE AMERICAN PROSPECT (July 11, 2018)
- “Kennedy’s Retirement Also Jeopardizes Public Education for Undocumented Children,” SLATE (July 5, 2018)

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- “There’s A Simple Way to Neutralize Janus—If State Legislators Have The Will,” SALON (June 28, 2018)
- “The *Janus* Ruling Doesn’t Have to Be Fatal for Unions. Here’s How.” THE SACRAMENTO BEE (June 27, 2018)
- “An Open Letter: Justice Kennedy, Please Stay on the Supreme Court,” THE NATIONAL LAW JOURNAL (Dec. 26, 2016)

### BLOG POSTS

- *What’s Really at Stake in the Supreme Court’s Religious School Vouchers Case?* Harv. L. Rev. Blog (Feb. 4, 2020) (blog post)
- *The Supreme Court is Poised to Blow A Giant Hole in Gun Control. Here’s How the Liberal Justices Can Intervene,* Harv. L. Rev. Blog (Oct. 21, 2019) (blog post)
- “Could A Ruling Against LGBT Rights in *Bostock* Allow Employers to Discriminate on the Basis of Religion?” TakeCareBlog.com (Oct. 7, 2019) (blog post)
- “Inside the Doomed Union Refund Lawsuits, Part II,” TakeCareBlog.com (July 24, 2018)
- “The Doomed—And Dangerous—Demand for Refunds from Public Sector Unions,” TakeCareBlog.com (July 19, 2018) (blog post)
- *Janus and the Law of Opt-Out Rights,* Harv. L. Rev. Blog (July 2, 2018) (blog post)
- “The Bearable Lightness of *Janus*,” TakeCareBlog.com (June 27, 2018) (essay)

### WORKS IN PROGRESS

- *The Least Harm Principle* (Article)
- *Children at the Supreme Court* (Article)

### EDUCATION

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STANFORD LAW SCHOOL – J.D.

Palo Alto, CA – June 2011

#### Awards:

- Fifteen class prizes for outstanding performance, including:
  - *Gerald Gunther Prize for Outstanding Performance* in • Constitutional Law: Speech & Religion • Federal Courts • Torts • Civil Procedure • Contracts • Property • Corporations • Criminal Law • Evidence • Capital Markets • Over-The-Counter Derivatives
  - *John Hart Ely Prize for Outstanding Performance* in • Law, Litigation, and Educational Policy • Legal Ethics • Educational Inequality
  - *Judge Thelton E. Henderson Prize for Outstanding Performance* in • Supreme Court Litigation Clinic: Clinical Practice
- Kirkwood Moot Court: Highest Scoring Overall Brief (2010) - Pro Bono Distinction

#### Activities:

- Research Assistant, Professor Jeff Fisher
- Research Assistant, Professor William Koski
- Kirkwood Moot Court, Vice President
- Stanford Street Law, Volunteer Teacher

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YALE UNIVERSITY – B.A., Political Science, *summa cum laude* New Haven, CT – May 2005

**Awards:** Yale University’s Alpheus Henry Snow Prize; Harry S. Truman Scholar; USA Today All-USA College Academic First Team; Echoing Green Fellow; Phi Beta Kappa.

### CLERKSHIPS

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**Law Clerk to the Honorable Sonia Sotomayor** Washington, DC (2013-2014)  
Supreme Court of the United States

**Law Clerk to the Honorable J. Harvie Wilkinson III** Charlottesville, VA (2012-2013)  
United States Court of Appeals for the Fourth Circuit.

### LEGAL EXPERIENCE

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**Jones Day, Associate** Washington, DC (2014-2016)

**Stanford Law School Constitutional Law Center, Associate Fellow** Palo Alto, CA (2011-2012)

**Goldstein & Russell, P.C., Associate** Washington, D.C. (2011-2012)

**SCOTUSblog, Editor** Washington, D.C. (2011-2012)

**Stanford Law School Supreme Court Litigation Clinic** Palo Alto, CA (Spring 2010 & 2011)

**Sullivan & Cromwell, Summer Associate** Palo Alto, CA (Summer 2010 & 2011)

**Davis Polk & Wardwell, Summer Associate** Menlo Park, CA (Summer 2010)

**Public Advocates, Law Clerk** San Francisco, CA (Summer 2009)

### SELECTED PRESENTATIONS

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- *Fixing SCOTUS Redux: Court Reform in the Biden Era*, panelist for NYU American Constitution Society event (Apr. 1, 2021)
- *Reinvigorating American Democracy Through Court Reform*, panelist in Boston College Law School Dean’s Distinguished Program (Jan. 27, 2021)
- *Judicial Independence*, interviewed for National Public Radio feature on judicial politics (aired nationally in January 2021)
- *Education, Teachers Unions, and US-China Relations*, invited guest on *What Comes Next?* Podcast (Sept. 27, 2020)
- *2019-2020 Supreme Court Review*, panelist in American Constitution Society California chapter event (July 29, 2020)
- *The Costs of Supreme Court Decisions: Towards A Best Cost-Avoider Theory of Constitutional Law*, presentations at the University of Southern California, Gould School of Law and the University of California, Hastings School of Law

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- “*Adversity Boosting*” – faculty speaker (elected by graduating 3L class) at 2019 UC-Davis law school commencement ceremony (May 2019)
- *School Vouchers, Special Education, & The Supreme Court*, presentation at Arizona State University, Sandra Day O’Connor College of Law (October 2018)
- *Partisanship in the Judiciary*, invited panelist for event sponsored by the UC-Davis Federalist Society (October 2018)
- *The Future of the Supreme Court*, presentation to more than 100 attendees at event hosted by the Sacramento Stanford Alumni Association (September 2018)
- *Life After Janus*, presentation at the Culp Colloquium, Stanford Law School (June 2018)
- *Rethinking Political Power in Judicial Review*, presentations at the American Association of Law Schools’ Scholarly Papers Competition (January 2018), the National Conference of Constitutional Law Scholars (March 2018), and the Yale / Stanford / Harvard Junior Faculty Forum (June 2018), Stanford Law School Faculty Workshop (September 2018)
- *NFL Anthem Protests & The First Amendment*, presentation for the Black Law Students Association at UC-Davis School of Law (November 2017)
- *Marijuana Federalism*, invited commenter, Federalist Society presentation by Ilya Shapiro
- *Supreme Court Year In Review*, presentation at UC-Davis sponsored panel in Sacramento, CA (July 2017) and radio interview on Capitol Public Radio (July 2017)
- *The Endrew F. Case*, presentation for the Disability Rights Law Association at UC-Davis School of Law (April 2017)
- *Reverse Political Process Theory*, presentations at the Culp Colloquium, Duke Law School (May 2017) and the American Association of Law Schools Section on Legislation, Law, & the Political Process “New Voices in Legislation” program (January 2017)
- *Public Sector Unions, the First Amendment, and the Costs of Collective Bargaining*, job talk presentations at law school faculty workshops at Alabama, Boston College, Iowa, Richmond, UC-Davis, Vanderbilt, and William & Mary (September-November 2015)