

## **Peter D. Enrich**

Northeastern University  
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### **Employment**

1991 - present: Professor, Northeastern University School of Law, Boston, MA. (Associate Professor, 1991-1997). Courses taught: Contracts; State and Local Taxation; State and Local Government; Introduction to Federal Income Taxation; Legal Skills in Social Context.

1998 - 2001: Associate Dean for Academic Affairs

1987 - 1991: General Counsel, Executive Office for Administration and Finance, Commonwealth of Massachusetts.

1984 - 1987: Counsel for Revenue Policy, State Budget Bureau, Executive Office for Administration and Finance, Commonwealth of Massachusetts.

1983 - 1984: Law clerk to Judge Stephen Breyer, United States Court of Appeals for the First Circuit, Boston, MA.

1977 - 1980: Instructor, Philosophy Department, University of North Carolina, Charlotte, N.C.

### **Education**

1980 - 1983: Harvard Law School, Cambridge, MA. J.D. magna cum laude (1983).

Academic Honors: Fay Diploma, 1983 (awarded to graduate with highest academic average); Sears Prize, 1982 (awarded to two students with highest averages at end of second year); elected to Harvard Law Review, July, 1981.

1972 - 1977: Doctoral studies in philosophy, Princeton University, Princeton, N.J.

Specialization: history of modern philosophy, contemporary epistemology, social theory.

1968 - 1972: Undergraduate study, Yale University, New Haven, Conn.

Honors: Phi Beta Kappa. Summa cum laude. Honors with exceptional distinction in philosophy.

## **Publications**

### **a. Scholarship**

Constraining State Business Tax Incentives: The Commerce Clause's Role, 46 STATE TAX NOTES 157 (2007).

A Defense of the Commerce Clause's Role in Constraining State Business Tax Incentives, PROCEEDINGS OF THE 99<sup>TH</sup> ANNUAL CONFERENCE ON TAXATION (National Tax Ass'n 2007).

Commerce Clause Constraints on State Business Location Incentives, 2 COMPETITION POLICY INTERNATIONAL 129 (2006).

Race and Money, Courts and Schools: Tentative Lessons from Connecticut, 36 IND. L. REV. 523 (2003).

Business Tax Incentives: A Status Report, 34 URBAN LAWYER 415 (2002).

With Judith Olans Brown, Nostalgic Federalism, 28 HASTINGS CONST. L. Q. 1 (2000).

State Tax Incentives and Subsidies to Business, in ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION, SUPPLEMENT II (Leonard W. Levy et al., eds), McMillan Reference (1999).

The Rise -- and Perhaps the Fall -- of Business Tax Incentives, in THE FUTURE OF STATE TAXATION (David Brunori, ed.), Urban Institute Press (1998).

With Patricia A. Davidson, Local and State Regulation of Tobacco: the Effects of the Proposed National Settlement, 35 HARV. J. ON LEGIS. 87 (1998).

Saving the States from Themselves: Commerce Clause Constraints on State Tax Incentives for Business, 110 HARV. L. REV. 377 (1996).

Leaving Equality Behind: New Directions in School Finance Reform, 48 VAND. L. REV. 101 (1995).

Municipal Powers to Regulate the Sale and Use of Tobacco, in Controlling the Sale and Use of Tobacco Products in Massachusetts: A Legal Policy Manual for Municipal Officials and Public Health Officers (1994).

With Wendy E. Parmet, Health and Education: A Tale of Two Crises, 22 J. LAW, MED. & ETHICS 53 (1994).

Comment, Citizen and Taxpayer Standing (case comment on Valley Forge Christian College v. Americans United for Separation of Church and State), 96 HARV. L. REV. 196 (1982).

State Constitutional Rights in the Federal System (part of Developments in the Law -- The Interpretation of State Constitutional Rights), 95 HARV. L. REV. 1331 (1982).

### **b. Other Writings**

Pleadings and Memoranda of Law in Cuno v. DaimlerChrysler Corp. (litigation in the Ohio state and federal courts challenging the constitutionality of tax incentives granted to DaimlerChrysler for its Jeep assembly plant in Toledo, Ohio) (1999- present), including Respondents' Brief to the U.S. Supreme Court in DaimlerChrysler Corp. v. Cuno, 126 S. Ct. 1854 (2006) and Cert. Petition in Cuno v. DaimlerChrysler Corp. (No. 04-1407, filed April 2005).

Testimony before Senate Finance Committee, Subcommittee on International Trade, "Cuno and Competitiveness: Where to Draw the Line," March 16, 2006

Op-Ed, "Lining the Pockets of Big Business," BOSTON GLOBE, Feb. 28, 2006.

Book Review of Greg LeRoy, The Great American Jobs Scam, in 38 STATE TAX NOTES 401 (Oct. 2005).

Breaking the Incentive Cycle: A Role for the Courts, Accountability (the Business Incentive Newsletter of the Corporation for Enterprise Development), Sept. 1999 (also published at <[http://www.cfed.org/main/econDev/bi/main/newsletter/9\\_99.htm](http://www.cfed.org/main/econDev/bi/main/newsletter/9_99.htm)>).

The Preclusive Effect of the MSA on Future Actions by State and Local Governments Against Participating Manufacturers, in Graham Kelder and Patricia Davidson, eds., The Multistate Master Settlement Agreement and the Future of State and Local Tobacco Control, Tobacco Control Resource Center (1999).

With Richard A. Daynard, et al., An Analysis of Selected Provisions of the McCain Committee Bill (S. 1415rs), Working Paper #8 in a Series on Legal Issues in the Proposed Tobacco Settlement, Tobacco Control Resource Center (1998).

War Between the States, Legal Times, Feb. 9, 1998.

With Patricia A. Davidson, Impact of S.1530 on State and Local Regulatory and Enforcement Authority, Working Paper #7 in a Series on Legal Issues in the Proposed Tobacco Settlement, Tobacco Control Resource Center (1998).

Comment: The Effects of State and Local Public Policies on Economic Development, NEW ENG. ECON. REV., March/April 1997 at 144.

Tax Bill Makes Bad Business Sense, BOSTON GLOBE, Oct. 10, 1995 (reprinted in 9 St. Tax N. 1197, Oct. 23, 1995).

Co-author, Massachusetts 1994 Initiative Questions 6 and 7 (Graduated Income Tax constitutional amendment and statute).

Co-author, Voodoo Economics Revisited (critique of Gov. Weld's economic development proposals, co-authored with staff of Tax Equity Alliance, 1992).

Co-author, Amicus Curiae brief on behalf of American Cancer Society in Gilligan v. Attorney General (Mass. 1992).

Massachusetts 1992 Initiative Question 2 (increasing cigarette taxes and creating Health Protection Fund).

Co-author, Massachusetts 1992 Initiative Question 5 (requiring corporate tax disclosure).

Editor, Massachusetts Tax Expenditure Budget (Fiscal Years 1986 - 1991).

## **Advocacy & Representation**

Lead counsel for plaintiffs in *Cuno v. DaimlerChrysler Corp.* (1999-present), challenging the constitutionality (under the Commerce Clause) of state tax incentives based on business location decisions. Argued the case before U.S. Court of Appeals for the Sixth Circuit (*see* 386 F.3d 738 (2004)) and before the U.S. Supreme Court (*see* 126 S.Ct. 1854 (2006)).

Other clients have included: American Cancer Society, Massachusetts Chapter; Alabama Dept. of Revenue; Massachusetts AFL-CIO.

## **Presentations and Panels**

“Recent Commerce Clause Developments,” presentation at Southeastern Association of Tax Administrators Attorney/Compliance Workshop (Prattville, AL Oct. 2006)

“Are Economic Incentive Tax Credits Unconstitutional?”, presentation at New Mexico Tax Research Institute Conference (Santa Fe NM March 2006)

“Cuno: Prospects and Implications,” presentation at N.Y.U. Institute on State & Local Taxation (New York Dec. 2005)

“Cuno in the Courts and Congress,” presentation at Funding State Services Conference, Center on Budget & Policy Priorities (Washington DC Nov. 2005)

“The American Approach to State Aid Issues,” presentation at panel discussion on State Aid Reform at Summit at Como on Competition Policy, Law and Economics (Lake Como, Italy Oct. 2005)

“State Tax Incentives on the Brink,” presentation at Tax Executives Institute Annual Conference (San Diego Oct. 2005)

“The Merits and Implications of *Cuno v. DaimlerChrysler*,” panel discussion at Univ. of Minnesota Law School Tax Policy Conference: State Tax Incentives for Economic Development (Minneapolis Oct. 2005)

“Are Investment Tax Credits Constitutional?”, mock testimony at a Moot U.S. Senate Hearing on Legislation to Overturn *Cuno* at Annual Conference of Northeastern State Tax Officers Association (New York Sept. 2005)

“Do the States Need to Be Saved from Themselves?” debate at Georgetown Univ. Law Center’s Advanced State & Local Tax Institute (Washington, DC May 2005)

“*Cuno v. Daimler Chrysler* and the Economic War Among the States,” presentation at Good Jobs First conference (Baltimore May 2005)

“State Tax Incentives for Business: Healthy Competition or Race to the Bottom?” presentation at American Enterprise Institute (Washington, DC May 2005)

“*Cuno v. DaimlerChrysler*: Economic Development Incentives and the Courts,” presentation to National Conference of State Legislatures, Spring Forum (Washington, DC April 2005)

“Constitutional of Tax Abatements for Economic Development,” presentation at University of Toledo College of Law (Toledo, OH Jan. 2005)

“The Constitutionality of Economic Development Incentives – Emerging Trends,” presentation to N.C. Institute for Constitutional Law (Raleigh, NC Dec. 2004)

“State Corporate Tax Incentives Are Unconstitutional,” presentation to Economic Analysis and Research Network (Economic Policy Institute) Annual Conference (Oakland, CA Dec. 2004)

“The Cuno Decision Voiding State Corporate Tax Credits: Defending What’s Been Won,” presentation to Center on Budget and Policy Priorities’ Annual Funding State Services Conference (Washington, DC Nov. 2004)

“Commerce Clause Constraints on State Incentives to Attract and Retain Businesses,” presentation to faculty colloquium at Suffolk Univ. Law School (Boston, MA Oct. 2004)

“Keeping Law in Context: Northeastern’s First-Year Course on Law, Culture and Difference,” presentation to faculty colloquium at American University’s Washington College of Law (Washington, DC April 2004)

“Roots of the Mass. Budget Crisis,” presentation to Stop the Cuts Campaign’s Forum on the State Budget Crisis and Fair Solutions (Lynn, MA Sept. 2003)

“Federal and State Constitutional Limitations on Tax Incentives and Tax Exemptions,” presentation to National Conference of State Tax Judges (Cambridge, MA Sept. 2003)

“State Tax Challenges,” presentation to Council of State Governments Eastern Regional Conference – Budget Chairs Roundtable (Cambridge, MA Feb. 2003)

“Corporate Subsidies: Standards or Just Say No?,” keynote debate at Economic Policy Institute’s Economic Analysis and Research Network Annual Conference (Chicago, IL Oct. 2002)

“Litigation Strategies for Subsidy Accountability,” panelist at Good Jobs First’s Reclaiming Economic Development Conference (Baltimore, MD July 2002)

Presentation on School Reform Litigation: Lessons from Connecticut, at Children and Education Symposium, Cornell Law School (Ithaca, NY April 2002)

“The Rise – and Perhaps the Fall – of State Corporate Welfare,” Moses Greeley Parker Lecture (Lowell, MA Dec. 2001)

“Tax Incentives for Business,” presentation to the Amer. Assoc. of Law Schools’ Section on State and Local Government Law panel on “New Developments in State and Local Tax” (San Francisco Jan. 2001)

Guest lecture on Commerce Clause constraints on tax incentives, N.Y.U. Law School (N.Y. Nov. 2000)

Panelist, “The Future of State Taxation,” Southeastern Association of Tax Administrators (Charleston, WV July 2000)

“Constitutional Challenges to State Tax Incentive Schemes,” presentation to the Fiscal Policy Institute (Albany, N.Y. May 2000)

“Fighting Corporate Welfare in the Courts,” presentation at Univ. of Toledo School of Law (Toledo, Oh. March 2000)

“Reining in Economic Development Tax Incentives,” presentation to Center on Budget and Policy Priorities’ annual Funding State Services Conference (Washington, D.C. Dec. 1999)

“The Commerce Clause and Functions of Federalism,” presentation at conference on “Out of Many, One: Foundations of Federal Power,” Univ. of Montana School of Law (Missoula, Mont. Oct. 1998).

“How to Win Proposition 2 1/2 Override Elections,” presentation at annual meeting of Mass. Municipal Association (Boston Jan. 1998).

“Can We Save the States from Themselves?”, presentation for session on Interstate Competition: New Findings about Old Controversies at annual meeting of National Tax Association (Boston Nov. 1996).

“The Effects of State and Local Public Policies on Economic Development,” panelist for final session, “Summing up and policy implications” (Federal Reserve Bank of Boston Nov. 1996)

“Legal Challenges to Tax Incentives,” presentation at Center on Budget and Policy Priorities’ annual Funding State Services Conference (Washington, D.C. Dec. 1995).

“Financing Primary and Secondary Education,” presentation at Center on Budget and Policy Priorities’ annual Funding State Services Conference (Washington, D.C. Dec. 1995).

“Defending a Municipality’s Right to Regulate,” panelist for presentation at Attorneys General Conference on Tobacco, Youth and the Public Health (Boston 1995).

“The Single Sales Factor Tax Formula: How Does It Work? What Will It Do?,” panelist for forum sponsored by Mass. Democratic Leadership Council (1995).

“Education Finance Reform,” curriculum segment at Center on Budget and Policy Priorities’ annual Funding State Services Conference (Washington, D.C. Jan. 1995). Convener and moderator of panel, “Creating Urban Schools that Work: The Problem of Governance,” for Boston 2000: Remaking a City (Northeastern Univ. 1994).

“Judicial Attitudes Toward Agency Interpretations of Statutes,” presentation for Mass. Bar Association program on Legislation: Secrets of Drafting, Passing and Interpreting New Laws (1992).

“Skirting the Quagmire: A Diagnostic Study of Commerce Clause Constraints on Preferential State Taxes,” presentation to faculty colloquia, Harvard Law School (1990) and Northeastern Univ. School of Law (1991).

"Tax Expenditure Budgets," presentation to National Association of State Budget Officers (1987).

"State Stabilization and Rainy Day Funds," panelist for presentation to National Association of State Budget Officers (1987).

### **Civic and Community**

Subcommittee on Long-Term Financing, Governor's Deval Patrick's Readiness Project (establishing long-range strategic plan for education in Massachusetts) (2007-2008).

Board Member, Mass. Budget and Policy Center (formerly TEAM Education Fund) (1993 - present); chair (2003-present), vice-chair (1995-2003).

Judge for Mass. Municipal Ass'n Kenneth E. Pickard Municipal Innovation Award (2003, 2004).

Statewide Coordinating Committee, Progressive Democrats of Massachusetts (2003-present).

Selectman, Town of Lexington (1997-2003); chairman (1998-2000).

Member of World Class Housing Collaborative, Center for Urban and Regional Policy, Northeastern Univ. (2002-2004).

Member of Fiscal Policy Committee, Massachusetts Municipal Association (1999-2003).

Member of Board of Policy Advisers, Massachusetts Institute for a New Commonwealth (1995 - 2007).

Member of Economic Policy Advisory Group, Scott Harshbarger for Governor Campaign (1998).

Member of Massachusetts Legislative Task Force on Court Services Funding (1996).  
Coordinator for fiscal policy for Issues Advisory Task Force, Mark Roosevelt for Governor Campaign (1994).

Member of Massachusetts Legislative Task Force on Education Finance Reform (1991).

Lexington Town Meeting (1988 - present); chairman, Town Meeting Members Association (1992-1994).

Board Member, Lexington Education Foundation (1993 - 1997); treasurer (1995-1997).

### **Other**

Member, American Law Institute (elected 2002)

Admitted to Mass. Bar, 1983.