

LEAH M. LITMAN

Professor of Law, University of Michigan Law School
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ACADEMIC APPOINTMENTS

University of Michigan Law School July 2019-present
Professor of Law (Sept. 2022-present), *Assistant Professor of Law* (July 2019-Sept. 2022)

Courses: Introduction to Constitutional Law; Federal Courts; Current Topics in Public Law Litigation; Reproductive Rights and Justice; Habeas Corpus; miniseminars—Supreme Court Term OT2019, Supreme Court OT2021

Service: Personnel Committee (2019-2020); Intellectual Life Committee (2021-2022); Personnel Committee-Laterals (2021-2022); Career Planning and Clerkship Committee (2021-2022, Chair 2022-2023); Clerkship Committee (Chair, 2023-2024, 2024-2025); Dean Search Advisory Committee (2024-2025) University Sexual and Gender-Based Misconduct Policy Working Group (2021-2022); Law School Representative – University Senate (2024-2026)

Law School Honors: L. Hart Wright Teaching Award (2021)

Other Honors: Early Career Scholars Medal-American Law Institute (2023); Ruth Bader Ginsburg Scholar Award-American Constitution Society (2023); Richard D. Cudahy Writing Competition Prize on Regulatory and Administrative Law (2023)

University of California, Irvine School of Law June 2016-July 2019
Assistant Professor of Law

Honors: 1L Professor of the Year nominee (2017); Upper Level Professor of the Year nominee (2018); Commencement Speaker (student selected) (2019); Upper Level Professor of the Year (2019)

Stanford Law School Fall 2018
Visiting Assistant Professor of Law (Supreme Court clinic)

Harvard Law School July 2014-June 2016
Climenko Fellow & Lecturer on Law

Taught first-year Legal Research and Writing to approximately forty students each year.

Honors: Inaugural recipient, HLS Student Government Teaching & Advising Award (2016)

EDUCATION

University of Michigan Law School, J.D., *summa cum laude* May 2010

Activities: Editor in Chief, *Michigan Law Review*

Honors: Henry M. Bates Memorial Scholarship Award (award for outstanding graduating law students); Daniel Grady Prize (highest GPA in graduating class); Class of 1908 Award (highest 2nd year GPA); Maurice Weigle Award (highest 1st year GPA); Order of the Coif; Roger A. Cunningham Prize (excellence in Property and other 1st year classes); Abram W. Sempliner Award (outstanding leadership of *Law Review*); Clarence Darrow Scholar (full-tuition merit scholarship & stipend); Certificates of Merit (best exam): Constitutional Law, Federal Courts, Jurisdiction & Choice Of Law, Criminal Law, Criminal Justice: Police Practices, Torts, Ethics, Employment Law, Transnational Law, Property, Evidence

Harvard College, A.B. (Chemistry & Chemical Biology), *cum laude* June 2006
Activities: Editor in Chief, *Harvard International Review*
Take Back The Night (chair); Coalition Against Sexual Violence (member)
Honors: Robert T. Benjamin Prize (2006); Harvard Kennedy School Visionary Ending Violence Prize
(2005); U.S. Presidential Scholar (2002)

JUDICIAL CLERKSHIPS

Supreme Court of the United States, Washington, DC July 2011-July 2012
Law Clerk to Hon. Anthony M. Kennedy

U.S. Court of Appeals for the Sixth Circuit, Columbus, OH May 2010-June 2011
Law Clerk to Hon. Jeffrey S. Sutton

ARTICLES & ESSAYS

The New Major Questions Doctrine, 109 VA. L. REV. 1009 (2023) (with Daniel T. Deacon)

- Winner, 2023 Richard D. Cudahy Writing Competition on Regulatory and Administrative Law
- Reviewed in Mila Sohoni, *Form and Substance in the New Major Questions Doctrine*, JOTWELL (Jan. 12, 2023), <https://adlaw.jotwell.com/form-and-substance-in-the-new-major-questions-doctrine/>
- Discussed in Adam Liptak, *The Curious Rise of a Supreme Court Doctrine That Threatens Biden's Agenda*, New York Times (Mar. 6, 2023)

Disparate Discrimination, 121 MICH. L. REV. 1 (2022)

- Reprinted in CIVIL RIGHTS LITIGATION AND ATTORNEY FEES ANNUAL HANDBOOK (Vol. 39)

The Myth of The Great Writ, 97 TEX. L. REV. 219 (2021)

- Response by Lee Kovarsky, *Habeas Myths, Past and Present*, 101 TEX. L. REV. ONLINE 57 (2022)

Thin And Thick Conceptions of The Nineteenth Amendment Right to Vote and Congress's Power to Enforce It, 108 GEO. L.J. 27 (2020) (co-authored with Richard L. Hasen) (invited contribution)

Remedial Convergence and Collapse, 106 CALIF. L. REV. 1477 (2018)

- Reviewed in Fred O. Smith, Jr., *How Remedies Disappear*, JOTWELL (July 31, 2019), <https://courtslaw.jotwell.com/how-remedies-disappear/>
- Reprinted in CIVIL RIGHTS LITIGATION AND ATTORNEY FEES ANNUAL HANDBOOK (Vol. 35)

Legal Innocence and Federal Habeas, 104 VA. L. REV. 417 (2018)

- Cited in *Jones v. Hendrix*, 143 S. Ct. 1857 (2023) (Jackson, J., dissenting)
- Cited in *Hueso v. Barnhart*, 948 F.3d 324 (6th Cir. 2020) (Moore, J., dissenting)
- Cited in *Santiago v. Streeval*, 36 F.4th 700 (7th Cir. 2022) (Wood, J., dissenting)
- Cited in *United States v. Toki*, 822 F. App'x 848 (10th Cir. 2020)
- Cited in *Safford v. Lothrop*, No. CV-18-0493, 2018 WL 7570380 (D. Ariz. Nov 29, 2018)
- Cited in *Cross v. White*, No. 5:15-cv-158-BJB, 2022 WL 3573248 (W.D. Ky. Aug. 19, 2022)
- Selected for 2017 Junior Faculty Federal Courts Workshop

Debunking Anti-Novelty, 66 DUKE L.J. 1407 (2017)

- Cited in *Collins v. Mnuchin*, 938 F.3d 553 (5th Cir. 2019) (en banc) (Higginson, J., dissenting)

- Cited in *Consumer Financial Protection Bureau v. Future Income Payments, LLC*, No. SACV 17-00303, 2017 WL 2190069 (C.D. Cal. May 17, 2017)
- Cited in *Wisconsin Justice Initiative, Inc. v. Wisconsin Elections Commission*, 990 N.W.2d 122 (Wis. 2023)
- Discussed in *The Picard Meltdown Principle*, Oral Argument Podcast (July 9, 2017) (podcast episode featuring article)

What Lurks Below Beckles v. United States, 111 NW. U. L. REV. 555 (2017) (co-written with Shakeer Rahman)

- Originally printed in 111 NW. U. L. REV. ONLINE 69 (2016)
- Cited in *United States v. Pyle*, No. 16-846, 2017 WL 3207811 (D. N.M. Apr. 4, 2017)

Inventing Equal Sovereignty, 114 MICH. L. REV. 1207 (2016)

Taking Care of Federal Law, 101 VA. L. REV. 1289 (2015)

- Reviewed in Peter Shane, *A Federalism Stake in the Heart of the Unitary Executive?*, JOTWELL (July 22nd, 2016), <http://adlaw.jotwell.com/a-federalism-stake-in-the-heart-of-the-unitary-executive/>
- Discussed in Chris Walker, *Shane on Litman on Standing to Take Care of Federal Law*, YALE J. REG. NOTICE & COMMENT (Aug. 27, 2016), <http://yalejreg.com/nc/shane-on-litman-on-standing-to-take-care-of-federal-law-adlaw-bridge-series/>

SHORTER WORKS

Of Might and Men, 122 MICH. L. REV. 1081 (2024) (with Melissa Murray and Katherine Shaw) (reviewing Josh Hawley, *MANHOOD: THE MASCULINE VIRTUES AMERICA NEEDS* (Regnery 2023))

The “Bounds” of Moore: Pluralism and State Judicial Review, 133 YALE L.J. F. 881 (2024) (with Katherine Shaw) (invited contribution)

Textualism, Judicial Supremacy, and the Independent State Legislature Theory, 2022 WIS. L. REV. 1235 (with Katherine Shaw) (invited contribution)

“Hey, Stephen”, 120 MICH. L. REV. 1109 (2022) (book review) (reviewing Stephen Breyer, *THE AUTHORITY OF THE COURT AND THE PERIL OF POLITICS* (Harvard Univ. Press 2021))

Anti-Racist Remedies and Judge Gregory’s Jurisprudence, 78 WASH. & LEE L. REV. 1051 (2021) (invited contribution for symposium to mark Judge Gregory’s 20 years of judicial service)

A Podcast of One’s Own, 28 MICH. J. GENDER & L. 51 (2021) (with Melissa Murray & Katherine Shaw) (invited contribution)

Muted Justice, 169 PENN. L. REV. ONLINE 134 (2020)

- Discussed in Marcia Coyle, *Female Justices Were Cut Off More Than Colleagues During Phone Arguments*, Legal Times (May 20, 2020)
- Discussed in Jerry Lambe, *Law Prof’s Study on Supreme Court Arguments Spotlights Chief Justice Roberts’s Bias: ‘Go Figure....’*, Law and Crime (May 19, 2020)
- Discussed in *The Washingtonian* (June/July 2020)

On Sexual Harassment in the Judiciary, 115 NW. U. L. REV. 599 (2020) (with Deeva Shah) (invited contribution)

Lawyers’ Democratic Dysfunction, 68 DRAKE L. REV. 303 (2020) (invited contribution for symposium on Jack Balkin & Sandy Levinson, *DEMOCRACY AND DYSFUNCTION* (2019))

- Reviewed in W. Bradley Wendel, *Canceling Lawyers*, JOTWELL (May 5, 2021), <https://legalpro.jotwell.com/canceling-lawyers/>
- Discussed in Irin Carmon, *Burn It All Down*, New York Magazine (Oct. 22, 2020)

Redefining Reproductive Rights and Justice, 118 MICH. L. REV. 1095 (2020) (book review) (reviewing Melissa Murray, Kate Shaw, & Reva Siegel eds., *Reproductive Rights & Justice Stories* (Foundation Press 2019))

- Reprinted in CIVIL RIGHTS LITIGATION AND ATTORNEY FEES ANNUAL HANDBOOK (Vol. 36)

New Textualism And The Thirteenth Amendment, 104 CORNELL L. REV. 138 (2019) (invited contribution for symposium on Michele Goodwin, *The Thirteenth Amendment: Modern Slavery, Capitalism, and Mass Incarceration*, 104 CORNELL L. REV. 899 (2019))

Dignity And Civility, Reconsidered 69 HASTINGS L.J. 1225 (2019) (invited contribution)

In Tribute: Justice Anthony M. Kennedy, 132 HARV. L. REV. 1, 17 (2018) (invited contribution)

Burdening Women's Health: How Lower Courts Are Undermining Whole Woman's Health v. Hellerstedt, 116 MICH. L. REV. ONLINE 50 (2017)

- Reviewed in Melissa Murray, *Undoing Hellerstedt*, JOTWELL (April 27, 2018), <https://family.jotwell.com/undoing-hellerstedt/>

Potential Life in the Doctrine, 95 TEX. L. REV. SEE ALSO 204 (2017) (invited contribution for symposium on Erwin Chemerinsky & Michele Goodwin, *Abortion: A Woman's Private Choice*, 95 TEX. L. REV. 1189 (2017))

Judge Gorsuch and Johnson Resentencing, 115 MICH. L. REV. ONLINE 67 (2017)

- Discussed in Radley Balko, *In Gorsuch, Trump gave Democrats a gift. They should take it.*, WASHINGTON POST (Feb. 1, 2017), https://www.washingtonpost.com/news/the-watch/wp/2017/02/01/in-gorsuch-trump-gave-democrats-a-gift-they-should-take-it/?tid=ss_tw-amp&utm_term=.4c9c4f5a2713
- Discussed in Adam Liptak, *Serving Extra Years in Prison, and the Courthouse Doors Are Closed*, NEW YORK TIMES (Nov. 20, 2017)

How The Sentencing Commission Does and Does Not Matter in Beckles v. United States, 165 PENN. L. REV. ONLINE 33 (2016) (co-written with Luke C. Beasley)

- Cited in Merits Brief of Court-Appointed Amicus Curiae In Support of Judgment Below, *Beckles v. United States* (U.S. No. 15-8544)

The Exceptional Circumstances Of Johnson v. United States, 114. MICH. L. REV. FIRST IMPRESSIONS 81 (2016)

Jurisdiction And Resentencing, 101 CORNELL L. REV. ONLINE 91 (2016) (co-written with Luke C. Beasley)

Officiating Removal, 164 PENN. L. REV. ONLINE 33 (2015)

Resentencing In The Shadow Of Johnson v. United States, 28 FED. SENT'G REP. 45 (2015)

- Cited in Merits Brief of Petitioner, *Welch v. United States*, 136 S. Ct. 1257 (2016)

Residual Impact: Resentencing Implications of Johnson's Potential Ruling on ACCA's Constitutionality, 115 COLUM. L. REV. SIDEBAR 55 (2015)

- Cited in Merits Reply Brief of Petitioner, *Welch v. United States*, 136 S. Ct. 1257 (2016)
- Cited in Merits Brief of Court-Appointed Amicus Curiae In Support of Judgment Below, *Welch v. United States*, 136 S. Ct. 1257 (2016)
- Cited in Petition for Certiorari, *Beckles v. United States* (U.S. No. 15-8544)

WORKS IN PROGRESS

The New Substantive Due Process, 103 TEX. L. REV. __ (forthcoming 2025)

Remedial Essentialism (in draft)

The Ethics and Etiquette of Structure (in draft)

Rethinking State Court Discrimination Against Federal Rights (in draft)

Rethinking Justiciability And Remedies (with Tessa Gellerson)

LAWLESS: HOW THE SUPREME COURT RUNS ON CONSERVATIVE GRIEVANCE, FRINGE THEORIES, AND BAD VIBES (book manuscript, under contract with One Signal Publishing) (forthcoming 2025)

CASEBOOKS

Constitutional Law (Aspen Casebook Series) (2024 supplement) (with Geoffrey Stone, Cass Sunstein, Mark Tushnet, Pamela Karlan, & Aziz Huq)

Constitutional Law (Aspen Casebook Series) (9th ed. 2023) (with Geoffrey Stone, Cass Sunstein, Mark Tushnet, Pamela Karlan, & Aziz Huq)

Constitutional Law (Aspen Casebook Series) (2023 supplement) (with Geoffrey Stone, Cass Sunstein, Mark Tushnet, Pamela Karlan, & Aziz Huq)

Constitutional Law (Aspen Casebook Series) (2022 supplement) (with Geoffrey Stone, Cass Sunstein, Mark Tushnet, Pamela Karlan, & Aziz Huq)

POPULAR WRITING (selected)

Contributing Blogger, *Take Care*, <https://takecareblog.com>

- Posts cited or discussed in various media including *CNN*, *New York Times*, *Slate*, *Washington Post*, *Associated Press*, *Bloomberg U.S. Law Week Reports*, *Guardian*, *Think Progress*, *The Economist*, and *Mother Jones*
- Posts cited in appellate briefs to U.S. Court of Appeals for the Fourth Circuit, U.S. Court of Appeals for the Ninth Circuit, and U.S. Supreme Court

The Supreme Court's latest term was united by a dark theme, L.A. Times (July 12, 2024) (with Melissa Murray)

Something's Rotten About the Justices Taking So Long on Trump's Immunity Case, New York Times (June 19, 2024)

It's Hard to Overstate How Awful the Latest Injunction Against the Biden Administration Is, Slate (July 5, 2023) (with Laurence Tribe)

Anti-Noveltly, the Independent State Legislature Theory in Moore v. Harper, and Protecting State Voting Rights, Election Law Blog (July 3, 2023)

This Supreme Court decision just isn't how government is supposed to work, CNN (June 30, 2023)

Supreme Court Justice Samuel Alito has vast power and life tenure. So what's his problem?, L.A. Times (June 25, 2023) (with Melissa Murray)

Clarence Thomas' latest Criminal Justice Ruling Is an Outright Tragedy, Slate (June 22, 2023)

Dobbs Claims to Return the Issue of Abortion to the People. We're Seeing Now How Ridiculous That Is, Slate (April 8, 2022)

It's Not Just Abortion Rights. Michigan Republicans Are Undermining Democracy, Slate (Sept. 1, 2022)

A new Supreme Court case threatens another body blow to our democracy, Washington Post (July 2, 2022) (with Katherine Shaw and Carolyn Shapiro)

The link between voting rights and the abortion ruling, Washington Post (June 28, 2022) (with Melissa Murray and Katherine Shaw)

Reversing Dobbs could take decades, CNN (June 27, 2022)

Which Constitutional Right Did the Supreme Court Gut Today?, Slate (May 22, 2022)

Defenders of Alito's Leaked Opinion Exposed the Draft For What it Really Is, Slate (May 5, 2022) (with Stephen Vladeck)

Alito's aggressive ruling would reach way beyond Roe, Washington Post (May 4, 2022) (with Melissa Murray)

The mask mandate decision shows how Trump reshaped the judiciary, Washington Post (Apr. 19, 2022)

By retiring, Breyer avoids Ruth Bader Ginsburg's mistake, Washington Post (Jan. 27, 2022)

Texas abortion providers 'won' in court Friday. The future is bleaker than ever, Washington Post (Dec. 10, 2021)

The death penalty cases before the Supreme Court that could keep innocent people in prison, NBC News Think (Dec. 8, 2021)

The Supreme Court is conservative. A few decisions don't change that, NBC News Think (July 3, 2021)

Don't be fooled: This is not a moderate Supreme Court, Washington Post (July 1, 2021) (with Melissa Murray)

How to stop judges from sexually harassing law clerks, Washington Post (June 9, 2021) (with Aziz Huq)

Make no mistake: The Supreme Court is coming for 'Roe', Washington Post (May 17, 2021) (with Melissa Murray)

Will the Supreme Court Gut the Voting Rights Act?, New York Times (Mar. 2, 2021) (with Jay Willis)

A judge says we can't ban evictions. It's an attack on all federal power, Washington Post (Mar. 1, 2021)

The Supreme Court Won't Explain Why It Just Greenlit New Abortion Restrictions, Slate (Jan. 14, 2021)

How the Court Inverted Constitutional Protections Against Discrimination, The Atlantic (Oct. 31, 2020)

Expand the Lower Courts, New York Times (Oct. 27, 2020)

A 6-3 Supreme Court could allow the government to openly discriminate in its policies, Washington Post (Oct. 21, 2020) (with Kate Shaw)

Why the Supreme Court Just Punted an Abortion Case, Slate (Oct. 10, 2020)

Shifting from a 5-4 to a 6-3 Supreme Court majority could be seismic, Washington Post (Sept. 25, 2020) (with Melissa Murray)

The Election is Already Under Way in America's Courts, The Atlantic (Sept. 23, 2020)

A conservative judge just made it even harder to stop covid, Washington Post (Sept. 17, 2020)

The Justice Department says insulting women is part of Trump's job. Literally., Washington Post (Sept. 10, 2020)

Trump lied to the Supreme Court. His new census order proves it, Washington Post (July 22, 2020)

Progressives' Supreme Court victories will be fleeting, The Atlantic (July 14, 2020)

It wasn't Roberts that changed this term. It was the cases SCOTUS heard, Slate (July 13, 2020)

Think this was a liberal term at the Supreme Court? You probably missed some cases, Washington Post (July 12, 2020)

Supreme Court birth control ruling shows how civil rights and abortion access will be limited, NBC News Think (July 8, 2020)

The Supreme Court Chips Away at the CFPB's Independence, Slate (June 29, 2020)

The Supreme Court Didn't Have to Rely on Xenophobic Logic, The Atlantic (June 25, 2020)

Does John Roberts Need to Check His Own Biases?, New York Times (June 2, 2020)

Which Supreme Court Justice Gets Interrupted the Most?, Slate (May 20, 2020)

Prosecuting political corruption cases like Bridgegate is nearly impossible, Washington Post (May 8, 2020)

The Supreme Court Says Sorry, It Just Can't Help With Political Corruption, The Atlantic (May 8, 2020)

The Supreme Court May Soon Give Trump More Power to Fire Anyone He Wants, Slate (April 30, 2020)

The Supreme Court Still Doesn't Know How To Talk About Race, Slate (April 22, 2020)

The Supreme Court's Wisconsin Decision Is A Terrible Sign for November, The Atlantic (April 7, 2020)

June Medical Services and the future of Article III standing, SCOTUSblog (Feb. 3, 2020)

A partisan Supreme Court ruling on the ACA just gave President Trump a boost, Washington Post (Jan. 23, 2020)

The Necessity of the Indian Child Welfare Act, The Atlantic (Jan. 22, 2020) (with Matthew L.M. Fletcher)

Obamacare ruling voiding part of health care law as unconstitutional is a sick joke, NBC News Think (Dec. 19, 2019)

The Guns Case Is About Much More Than Guns, The Atlantic (Dec. 2, 2019)

Will the Supreme Court See Through Trump's War on California?, Slate (Oct. 21, 2019)

The Supreme Court could get a lot more undemocratic, Washington Post (Oct. 12, 2019)

How the Court Could Limit Abortion Rights Without Overturning Roe, The Atlantic (Oct. 8, 2019)

Federal Officials Should Be Accountable for Their Wrongdoing, The Atlantic (Sept. 25, 2019)

Republicans Say the First Amendment Protects the Right to Gerrymander, Slate (Aug. 5, 2019)

On the census, the Trump administration's lies are finally its downfall, Washington Post (July 11, 2019) (with Joshua Matz)

The latest chapter in the Gorsuch-Kavanaugh saga is the most revealing yet, Washington Post (June 27, 2019)

The Supreme Court's census ruling is a victory for truth and the rule of law, LA Times (June 27, 2019)

A momentous change may be upon the Supreme Court, Washington Post (June 26, 2019) (with Seth Davis)

Neil Gorsuch is no friend to criminal defendants, Slate (June 26, 2019)

We ought to be concerned about preserving the political order of the Supreme Court, Washington Post (June 18, 2019) (with Joshua Matz and Steve Vladeck)

It's obvious the census question is partisan, but the Supreme Court still won't care, L.A. Times (May 31, 2019)

The Supreme Court now has cover to cut back on reproductive rights without having to overturn Roe, Washington Post (May 16, 2019)

Is Roe In Danger? Liberal Justices Seem To Think So, New York Times (May 14, 2019)

Don McGahn Is No Hero, Slate (April 25, 2019)

A so-called victory shows how the Supreme Court will kill 'Roe v. Wade', Washington Post (Feb. 8, 2019)

A Comeback but no Reckoning, New York Times (Aug. 2, 2018) (with Emily R.D. Murphy and Katherine H. Ku)

Liberals and the Powerless Should Worry About a Kavanaugh Court, New York Times (July 10, 2018)

Continuing to Trade One Form of Discrimination for Another, The Regulatory Review (July 9, 2018) (invited contribution on *Trump v. Hawaii*)

Tribute: Justice Kennedy's counter-clerks, SCOTUSblog (June 29, 2018)

Unchecked Power Is Still Dangerous No Matter What The Court Says, New York Times (June 26, 2018)

How Trump Corrupts the Rule of Law, New York Times (June 18, 2018)

What Masterpiece Cakeshop Tells Us About the Travel Ban, The National Law Journal (June 5, 2018)

What I Wish I'd Known In Law School: The law hasn't yet achieved parity, ABA Journal for Law Students (March/April/May 2018)

Here's a different reason Trump's new travel ban violates the First Amendment, Sacramento Bee (May 7, 2017) (with Erwin Chemerinsky)

A Jurisprudence of Doubt & Undue Burdens: Why Deciding Not To Decide in Whole Woman's Health Would Be A Mistake, CASETEXT.COM (Mar. 3, 2016)

- Cited in Irin Carmon, *What if the Supreme Court punts on abortion?*, MSNBC.com (Mar. 8, 2016)

(SELECTED) MEDIA

Co-Host and Co-Creator, *Strict Scrutiny* (Supreme Court podcast) (June 2019-present)

- Crooked Media podcast (2022-present)
- Funding support through Jain Family Initiative (2020-2022)
- Awards and Recognition
 - The Podcast Academy Award (Ambie) for Best Politics and Opinion Podcast (2023)

- GOLD Anthem Award – Human & Civil Rights (2023)
- Webby Award Honoree – Individual Episodes (Crime and Justice) (2023)
- No. 1 Podcast on Apple Podcasts (February 2024)

Ms. Magazine, *On The Issues* podcast (recurring guest)

Crooked Media, *What A Day* and *Pod Save America* podcasts (recurring guest)

CBS (Mar. 15, 2023)

CNN (July 24, 2022)

No Lie With Brian Tyler Cohen (recurring guest)

PBS News Hour (July 2, 2022)

The Economist, Checks and Balances Podcast (July 1, 2022)

NBC Universal (July 1, 2022)

CNN (July 1, 2022)

BBC (July 1, 2022)

CNN (June 30, 2022)

The Problem With Jon Stewart (June 29, 2022)

Isaac Chotiner, *How the Supreme Court Could Approach Federal Laws Upholding-or Banning- Abortion*, The New Yorker (June 28, 2022)

Dan LeBatard Show, ESPN (June 27, 2022)

The Recount (June 28, 2022)

1A, NPR (recurring guest)

The Problem With Jon Stewart (June 9, 2022)

OTHER EXPERIENCE

Wilmer Cutler Pickering Hale and Dorr LLP, Washington, DC November 2012-June 2014
Associate & Senior Associate, Appellate and Government and Regulatory Litigation Groups

Bancroft PLLC, Washington, DC July 2006-2007; Summer 2008
Research Associate

PRO BONO REPRESENTATION

Party Representation

Ramirez Medina v. Asher (No. 2:17-cv-00218 W.D. Wash.). Served as co-counsel for petitioner, a DACA recipient, who is challenging his arrest and detention by immigration officials.

Jane Doe v. Trump Corporation (No. 20-1228 2d Cir.). Served as co-counsel for plaintiff in fraud case.

E. Jean Carroll v. Donald Trump (No. 29-3977 2d Cir.). Served as co-counsel for plaintiff in defamation case.

Hernandez v. Mesa (U.S. No. 17-1768, U.S. No. 15-1188). Served as co-counsel for plaintiff in a *Bivens* action raising an unjustified deadly force claim against a border patrol agent.

Garcia v. United States (No. 3:17-cv-05380 N.D. Cal.)/ *Department of Homeland Security v. Regents of the University of California*, 140 S. Ct. 1891 (2020). Served as co-counsel for several individual DACA recipients who successfully challenged the rescission of DACA.

Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292 (2016). Served as co-counsel for plaintiffs in a successful constitutional challenge to Texas's ambulatory surgical center and admitting privileges restrictions on abortion.

Obergefell v. Hodges, *DeBoer v. Snyder*, 135 S. Ct. 2584 (2014). Drafted opening Supreme Court merits brief in case challenging constitutionality of states' failure to recognize marriages of same-sex couples. Assisted arguing counsel in drafting reply brief and preparing for Supreme Court oral argument in cases challenging constitutionality of states' failure to license marriages of same-sex couples.

Amicus Representation

Andary v. USAA Casualty Insurance (MI No. 164772). Served as author of amicus brief on behalf of the ACLU of Michigan, Disability Rights Michigan, Detroit Disability Power, Michigan Statewide Independent Living Council, Legal Services Association of Michigan, and Michigan State Planning Body arguing that state law did not retroactively reduce personal injury protection benefits for persons injured in vehicle accidents before the law's effective date.

Reproductive Freedom For All v. Board of State Canvassers (MI No. 164760). Served as author and signatory of amicus brief on behalf of Evan Caminker, Daniel Deacon, Ellen Katz, me, & Nina Mendelson arguing that the Supreme Court should order the Board of Canvassers to qualify the Reproductive Freedom For All ballot initiative for the November election.

Whitmer v. Linderman, et. al (MI No. 164256). Served as author of amicus brief and supplemental brief on behalf of MI House Democratic Caucus and MI Senate Democratic Caucus and House Democratic Caucus Leader Donna Lasinski and Senate Minority Leader Jim Ananich arguing that the Supreme Court should authorize the trial court to certify questions about Michigan's criminal abortion ban to the Supreme Court.

Rouch World v. Dept. of Civil Rights (MI No. 162482). Served as co-author of amicus brief on behalf of civil rights groups arguing that Michigan state law prohibits discrimination on the basis of sexual orientation. Presented oral argument on behalf of amicus in the Michigan Supreme Court.

Reed v. Goertz (U.S. No. 21-442). Served as signatory of amicus brief on behalf of federal courts professors about the statute of limitations for certain civil rights claims involving post-conviction access to DNA.

Cruz v. Arizona (U.S. No. 21-846). Served as signatory of amicus brief on behalf of law professors about Supreme Court review of state post-conviction rules.

Shoop v. Tnyford (U.S. No. 21-511). Served as signatory of amicus brief on behalf of law professors about the scope of All Writs Act authority in habeas cases.

Garland v. Gonzalez (U.S. No. 20-322). Served as signatory and author of amicus brief on behalf of professors arguing that 8 U.S.C. § 1252(f)(1) does not bar injunctive relief in cases where plaintiff argues the executive branch's actions are not authorized by statute.

United States v. Texas (U.S. No. 21-A85). Served as signatory and author of amicus brief on behalf of federal courts scholars arguing that the United States had standing to seek an injunction against Texas on S.B. 8.

United States v. Texas (5th Cir. No. 21-9059). Served as signatory and author of amicus brief on behalf of federal courts scholars arguing that the United States had standing to seek an injunction against Texas on S.B. 8.

Graff v. Aberdeen Enterprizes (10th Cir. No. 21-5031). Served as signatory to amicus brief on behalf of federal courts scholars arguing that *Younger* abstention was not appropriate in case challenging state courts fines and fees.

Hammoud v. Ma'at (5th Cir. No. 19-50914). Served as signatory to amicus brief on behalf of legal scholars about the availability of habeas review for federal prisoners.

Pon v. United States (U.S. No. 20-1709). Served as signatory to amicus brief on behalf of legal scholars in support of petition for certiorari.

Thompson v. Clark (U.S. No. 20-659). Served as signatory and co-author to amicus brief on behalf of federal courts scholars in case involving statute of limitations accrual for Section 1983 claims.

Strain v. Regalda (U.S. No. 20-1562). Served as signatory to amicus brief of 21 law professors supporting certiorari in case involving conditions-of-confinement claim.

Terkel v. Center for Disease Control (5th Cir. No. 21-40137). Served as co-author and signatory to amicus brief on behalf of ACLU, ACLU Foundation of Texas, Barry Friedman, and Leah Litman arguing that CDC moratorium on evictions did not exceed the federal government's powers under the commerce clause.

Melendez v. City of New York (2d Cir. No. 20-4238). Served as signatory to amicus brief on behalf of Niko Bowie, Erwin Chemerinsky, Bernadette Meyler, and Laura Weinrib defending New York City's Guaranty Law, restricting commercial landlords rent collection.

Apartment Association of Los Angeles County v. City of Los Angeles (9th Cir. No. 20-56251). Served as signatory to amicus brief on behalf of Niko Bowie, Erwin Chemerinsky, Bernadette Meyler, and Laura Weinrib defending Los Angeles's eviction moratorium.

Donald J. Trump for President v. Secretary Commonwealth Pennsylvania (3d Cir. No. 20-3371). Served as author and signatory to amicus brief on behalf of Erwin Chemerinsky, Marin Levy, Portia Pedro, & Rick Swedloff arguing that claims challenging Pennsylvania certification are barred by laches.

Moore v. Stirling (U.S.). Serving as signatory to amicus brief on behalf of habeas scholars in support of certiorari.

Union of Concerned Scientists v. National Highway Traffic Safety Administration (D.C. Cir. No 19-1230). Served as signatory to a brief for myself arguing that the Clean Air Act's delegated authority to California does not violate the equal sovereignty principle.

Office of Federal Public Defender of Arizona (D.C. Cir. No. 20-1144). Served as signatory to a brief of academic experts in federal criminal procedure and federal post-conviction review arguing that Arizona's postconviction and defense scheme did not qualify under Chapter 154 opt-in procedures of Anti-Terrorism and Effective Death Penalty Act.

Hernandez Roman v. Wolf (9th Cir. No. 20-55436). Served as signatory to a brief of Nikolas Bowie, Erwin Chemerinsky, Michael Dorf, Leah Litman, Pamela Karlan, Amanda Shanor, David Strauss, Laurence Tribe,

& Stephen Vladeck arguing that district court correctly ordered releases from immigration detention facility in response to coronavirus pandemic.

Borden v. United States (U.S.) No. 19-5410. Serving as signatory and counsel on a brief of criminal law scholars, arguing that crimes with a mens rea of recklessness do not qualify as ACCA predicates under the force clause.

R.G. & G.R. Harris Homes v. EEOC (U.S.) No. 18-107. Served as signatory to a brief of Samuel Bagenstos, Michael Dorf, Martin Lederman, Leah Litman, and Margo Schlanger, arguing that discriminating against Aimee Stephens constituted discrimination on the basis of sex.

June Medical Services v. Gee (U.S.) No. 18-1323. Served as a signatory to a brief of constitutional law scholars arguing that Louisiana's admitting privileges law is unconstitutional.

Mathena v. Malvo (U.S.) No. 18-217. Served as signatory to a brief of federal courts scholars (Erwin Chemerinsky, Aziz Huq, David Strauss, Carlos Vazquez, Larry Yackle) arguing that Virginia's sentencing scheme violates *Miller v. Alabama* and *Montgomery v. Louisiana*.

Chambers v. United States (No. 18-3298 6th Cir.). Served as author and signatory to a brief of post-conviction and sentencing scholars arguing that petitions challenging the mandatory career offender Guideline are timely.

Department of Commerce v. New York (U.S.) 18-966. Served as signatory to a brief of Nicholas Bagley, Michael Dorf, Aziz Huq, Gillian Metzger, Jon D. Michaels, Laurence H. Tribe, and Stephen I. Vladeck about addition of citizenship question to 2020 census.

Jackson Women's Health Organization v. Dobbs (No. 18-60868 5th Cir.). Serving as author and signatory to a brief of constitutional law scholars arguing that Mississippi's ban on abortions after 15 weeks gestation is unconstitutional.

McDonough v. Smith (U.S.) 18-485. Served as author and signatory to a brief of federal courts scholars (Jim Pfander, Suzanna Sherry, Amanda Tyler, Steve Vladeck) about accrual rule for section 1983 claims involving state court proceedings.

In re Donald J. Trump (No. 18-2486 4th Cir.). Serving as signatory to a brief of scholars arguing that Maryland and District of Columbia have standing in emoluments clause challenge.

Roberts v. Fairbanks (No. 18-35938 9th Cir.). Serving as signatory to brief of scholars arguing that a wrongfully convicted individual has a remedy under Section 1983.

Whole Woman's Health v. Smith (No. 18-50730 5th Cir.). Serving as signatory to brief of constitutional law scholars Walter Dellinger, Michael Dorf, Daniel Farber, Joanna Grossman, Leah Litman, Suzanna Sherry, and Geoffrey Stone arguing that Texas's fetal burial regulation is unconstitutional.

Whole Woman's Health v. Hellerstedt (No. 17-51060 5th Cir.). Serving as signatory to brief of constitutional law scholars Erwin Chemerinsky, Walter Dellinger, Michael Dorf, Daniel Farber, Joanna Grossman, Leah Litman, Suzanna Sherry, Geoffrey Stone, and Laurence Tribe arguing that Texas's D&E ban is unconstitutional.

Citizens for Ethics and Responsibility in Washington v. Trump (No. 1:17-cv-00458 S.D.N.Y.). Serving as co-author, and signatory to amicus brief of administrative law and federal courts scholars arguing that the plaintiffs' emoluments clause claims are justiciable.

Hopkins v. Jegley (No. 17-2879 8th Cir.). Serving as signatory to amicus brief of constitutional law scholars in support of a challenge to several Arkansas restrictions on abortion.

Planned Parenthood v. Jegley (No. 17-935 U.S.). Served as co-author and signatory of amicus brief for constitutional law scholars in support of a challenge to Arkansas restriction on medication abortion.

Reeves v. Coleman (No. 17-2879, 3d Cir.). Serving as signatory to amicus brief of habeas scholars in support of a request for certificate of appealability.

Walker v. Farnan (No. 17-1043 U.S.). Served as signatory and contributor to amicus brief for professors in support of a petition for certiorari challenging solitary confinement.

Whole Woman's Health v. Hellerstedt (No. 17-50154 5th Cir.). Serving as signatory and contributor to brief of constitutional law scholars Erwin Chemerinsky, Walter Dellinger, Michael Dorf, Daniel Farber, Joanna Grossman, Leah Litman, Suzanna Sherry, Geoffrey Stone, and Laurence Tribe arguing that Texas's "fetal burial" regulation is unconstitutional.

Trump v. International Refugee Assistance Project/Trump v. Hawai'i (U.S. Nos. 16-1436, 16A1190, 16A1191). Signatory and contributor to brief of constitutional law scholars arguing that Executive Order 13780 (the entry ban) is unconstitutional.

- Cited in *Trump v. Hawai'i*, 138 S. Ct. 2392 (2018) (Sotomayor, J., dissenting).

Perry v. United States (No. 15-3494 7th Cir.). Serving as co-counsel on an amicus brief arguing sentence imposed under mandatory version of the Guideline can be void for vagueness.

G.G. v. Gloucester County School Board (No. 16-2056 4th Cir.). Serving as co-counsel on an amicus brief on behalf of four law professors in support of the plaintiff/appellant, arguing that school board's policy constitutes unlawful discrimination on the basis of sex when applied to the petitioner, a transgender student.

International Refugee Assistance Project v. Trump (No. 17-1351 4th Cir.). Signatory and contributor to brief of constitutional law scholars arguing that Executive Order 13780 (the entry ban) is unconstitutional.

- Cited in *International Refugee Assistance Project v. Trump* (No. 17-1351 4th Cir. May 25, 2017).

Hawai'i v. Trump (No. 17-15589 9th Cir.). Signatory and contributor to brief of constitutional law scholars arguing that Executive Order 13780 (the entry ban) is unconstitutional.

Gloucester County School Board v. G.G. (U.S. No. 16-273). Served as co-counsel on an amicus brief on behalf of four law professors in support of the respondent, arguing that school board's policy constitutes unlawful discrimination on the basis of sex when applied to the petitioner, a transgender student.

Beckles v. United States (U.S. No. 15-8544). Served as co-counsel on amicus brief in support of petitioner, arguing that the career offender Guideline is unconstitutionally void for vagueness, and that a rule invalidating the career offender Guideline should apply retroactively.

- Cited in *Beckles v. United States* (U.S. No. 15-8544) (Mar. 6, 2017) (Sotomayor, J., concurring).

Welch v. United States, 136 S. Ct. 1257 (2016). Co-counsel on amicus brief in support of petitioner, arguing for retroactivity of *Johnson v. United States*, the Supreme Court decision invalidating the Armed Career Criminal Act residual clause.

Administrative Comments

RIN 3046-AB30, Regulations To Implement the Pregnant Workers Fairness Act (Oct. 10, 2023). Signatory and contributor to comment to EEOC, arguing that EEOC can include abortion as pregnancy- or

childbirth-related medical condition for purposes of reasonable workplace accommodations under the Pregnant Workers Fairness Act.

OTHER SERVICE

Advisor, Restatement on Constitutional Torts, American Law Institute (2023-present)

JOTWELL (Journal of Things We Like Lots) (Contributor, Constitutional Law Section, 2023-present)

Federal Courts Section, Association of American Law Schools (Chair Elect, 2020-2021; Chair, 2021-2022)

Remedies Section, Association of American Law Schools (Executive Committee, 2021-2024)

Advisory Board, Safeguarding Democracy Project UCLA (2022-present)

Cooperating Attorney, ACLU of Michigan (2020-present)

Advisory Board, Rights Behind Bars (2020-present)

Oral Argument 2.0, Oyez, Contributor (2019-present)

Women Also Know Law, Co-Founder (with Emily Prifogle) (2019-present)

Academic Advisory Board, American Constitution Society (2019-present); Co-Director (2021-2022)

#MeToo Advisory Board, American Constitution Society (2019-present)

Legal Advisory Council for The Appeal (2017-2020)

Board of Directors, Planned Parenthood of Orange and San Bernardino Counties (March 2018-April 2019)

Academic Advisory Board, Supreme Court Fellows Program (2017-2018)

Editorial Advisory Board, University of California Press (*Sex, Society and Law in The 21st Century* series) (2018-2019)

Ad Hoc Reviewer, *Theoretical Criminology*, *New Criminal Law Review*, *Yale Law Journal*, *Harvard Law Review*, *Northwestern Law Review*, *Columbia Law Review*, *Stanford Law Review*

SPEAKING ENGAGEMENTS, PRESENTATIONS (Selected)

“Is Democracy On The Ballot?”, UNC Chapel Hill (2024)

Nathanson Lecture, University of San Diego Law School (2024)

The New Major Questions Doctrine, presented at six workshops in 2023

“Roe Reversal”: The Impacts of Taking Away the Constitutional Right to an Abortion, House Committee on Energy and Commerce (July 2022)

Briefing of Vice President Kamala Harris on Reproductive Rights (June 2022)

An Interpretive Critique of Independent State Legislature Theory, University of Wisconsin State Democracy Initiative Conference on Interpretation in the States (May 2022)

The Independent State Legislature Theory’s Radical Threat to Democracy, Brennan Center for Justice (May 2022)

Disparate Discrimination, presented at 3 faculty workshops during 2021-2022

The Myth of the Great Writ, presented at 7 faculty workshops or conferences during 2020-2021

The Ethics of Structure, presented at 2 workshops or conferences during 2020-2021

State Discrimination Against Federal Rights, presented at 3 workshops during 2018-2019

State Discrimination Against Federal Rights, Southern California Criminal Justice Roundtable, University of California, Irvine, July 2018

Legal Innocence and Federal Habeas, presented at 3 workshops during 2018-2019

Remedial Convergence and Collapse, presented at 3 workshops during 2017-2018

Debunking AntiNovelty, presented at 2 workshops in 2016

Inventing Equal Sovereignty, presented at 6 workshops during 2015-2016

OTHER AWARDS AND HONORS

American Law Institute, Early Career Scholars Medal (2023) (awarded every other year “to one or two outstanding early-career law professors whose work is relevant to public policy and has the potential to influence improvements in the law”)

American Constitution Society, Ruth Bader Ginsburg Scholar Award (2023) (awarded every year to “an outstanding scholar in the early stages of their academic career who has demonstrated those qualities exemplified by Justice Ginsburg: scholarly excellence, the ability to imagine how society might be more just and more equal, and the determination to use the law and one’s scholarship to creatively and strategically make the imagined real”)

Richard D. Cudahy Writing Competition on Regulatory and Administrative Law Winner (with Daniel T. Deacon) (2023) (awarded every year to scholarship in the fields of regulatory and administrative law that “combines a keen grasp of legal doctrine, deep insight into the institutional forces that determine how doctrine is implemented, and an appreciation of the public impact of doctrinal and institutional choices, including the consequences for fundamental values such as fairness, participation, and transparency”)

American Bar Foundation, Elected Fellow (January 2024–present)

American Law Institute, Elected Member (July 2022–present)

California Lawyer of the Year—Immigration (2018)

Green Bag, Exemplary Legal Writing—Tweets (2018)

BAR AND COURT ADMISSIONS

Maryland (inactive) & District of Columbia; U.S. Courts of Appeals for the Second, Tenth, and Federal Circuits; U.S. Supreme Court