Samuel R. Bagenstos

sambagen@umich.edu

ACADEMIC EMPLOYMENT

University of Michigan, Ann Arbor, MI
Frank G. Millard Professor of Law, University of Michigan Law School (2014-present) (on leave 2021-2024)
Arlene Susan Kohn Professor of Social Policy, Gerald R. Ford School of Public Policy (2022-present) (on leave, 2022-2024)
Professor of Law, University of Michigan Law School (2009-present) (on leave 2009-summer 2011)
Visiting Professor of Law, University of Michigan Law School (Fall Semester, 2008)
Member, University of Michigan Institute for Healthcare Policy & Innovation
Faculty Affiliate, University of Michigan Center for Forensic Psychiatry Fellowship in Forensic Psychiatry

UCLA School of Law, Los Angeles, CA (Spring Semester, 2009)
Visiting Professor of Law

Washington University School of Law, St. Louis, MO (2004-2009)
Associate Dean for Research and Faculty Development (2007-2008)
Professor of Law (2004-2009; on leave 2008-2009)

Harvard Law School, Cambridge, MA (1999-2004)
Assistant Professor of Law (2000-2004)
Research Fellow and Lecturer on Law (1999)

LAW SCHOOL COURSES TAUGHT

- *Civil Rights:* Civil Rights Litigation; Disability Rights Law; Employment Discrimination
- *Constitutional and Administrative Law:* Budget and Appropriations Law; Constitutional Law; Constitutional Litigation; Public Law Theory
- *Criminal Law*: Criminal Law; Criminal Procedure
- *Labor and Employment:* Employment Law; Labor Law; Workplace Law and Policy Advocacy
- *Housing:* Housing Law and Policy; Housing America's Working Poor
- *Litigation:* Remedies

POLICY SCHOOL COURSES TAUGHT

- Disability Policy

GOVERNMENT EMPLOYMENT

Michigan Office of the Attorney General, Lansing, MI (January 2025-January 2026)
Special Assistant Attorney General (part-time, unpaid)

- Advise the AG and other state officials on federal constitutional and administrative law.

U.S. Department of Health and Human Services, Washington, DC (June 2022-December 2024)
General Counsel

- General Counsel to the cabinet department with responsibility for an array of health care, social services, regulatory, and immigration matters.
- Led a staff of over 800 employees, including over 700 attorneys.
- Provided legal advice to the Secretary and other departmental leadership, as well as to the operating and staff divisions of the Department, including the Centers for Medicare and Medicaid Services (CMS), the Food and Drug Administration (FDA), the Centers for Disease Control and Prevention (CDC), the Office for Civil Rights (OCR), the National Institutes of Health (NIH), and many others.
- Advised on legal issues relating to pending legislation, including the Inflation Reduction Act (IRA), the Bipartisan Safer Communities Act, and annual appropriations laws.
- Supervised legal aspects of the Department's response to oversight from congressional committees and the Government Accountability Office.
- Coordinated HHS's litigation in conjunction with the Department of Justice.
- Notable work included:
    - Coordinating legal aspects of HHS's response to the Supreme Court's *Dobbs* decision, such as:
        - CMS guidance, enforcement actions, and litigation regarding the application of the Emergency Medical Treatment and Labor Act (EMTALA) to hospitals' refusal to terminate pregnancy, including working closely with the Office of the Solicitor General on *Moyle v. United States*, 603 U.S. 324 (2024).
        - OCR regulations creating privacy protections for reproductive-related information under the Health Insurance Portability and Accountability Act (HIPAA).
        - FDA's revision of restrictions on the prescription and dispensing of Mifepristone, and its defense of its Mifepristone approval, including working closely with the Office of the Solicitor General on *FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (2024).
    - Providing legal advice on major regulations, including those on nondiscrimination in health programs, health information privacy, implementation of the Temporary Assistance for Needy Families program, protection of children (including LGBTQ children) in the foster care system, the care and treatment of unaccompanied migrant children, food labeling, and the sale of tobacco products.
    - Ensuring that the IRA's drug price negotiation provisions were lawfully implemented and coordinating HHS's defense of those provisions in multiple lawsuits.
    - Coordinating litigation defending FDA's marketing denial orders to e-cigarette products, including Supreme Court litigation in *FDA v. Wages and White Lion Investments, LLC*, 145 S. Ct. 898 (2025), and *FDA v. R.J. Reynolds Vapor Co.*, 145 S. Ct. 1984 (2025).
    - Managing legal aspects of HHS's recommendation regarding rescheduling of marijuana under the Controlled Substances Act.

U.S. Office of Management and Budget, Washington, DC (January 2021-June 2022)
General Counsel

- General Counsel to the agency within the White House responsible for formulating and executing the federal budget; coordinating clearance of executive orders and legislative proposals; reviewing regulations and administrative action across the Executive Branch; supervising personnel, financial, and information-technology management government-wide; and generally ensuring that executive agencies carry out the President's program.
- Provided legal advice to OMB, other components of the Executive Office of the President, and departments and agencies across the Executive Branch on matters involving appropriations law, administrative law and regulatory policy, procurements and grants, and financial management.
- Represented OMB and the Executive Branch in oversight engagements with Congress and the Government Accountability Office.
- Worked on OMB's litigation in conjunction with the Department of Justice.
- Served as internal legal counsel to OMB on employment, procurement, security, oversight, and ethics matters, among others.
- Notable work included:
    - Addressing appropriations law issues in the drafting and execution of major legislation, including the American Rescue Plan Act, the Infrastructure Investment and Jobs Act, the Consolidated Appropriations Act of 2022, and President Biden's 2022 and 2023 Budgets.
    - Advising on administrative law, appropriations law, and substantive law issues in regulations and other executive action across the federal government responding to the COVID-19 pandemic.
    - Helping to advance the Biden Administration's climate agenda through review of climate-related regulations to protect against litigation risk, and participation in implementing and defending in court the Administration's updates to the government's values for the social costs of greenhouse gases.
    - Working with departments and agencies across the federal government to bolster regulatory action against potential challenges under the Administrative Procedure Act and evolving doctrines such as the major questions doctrine and a potential nondelegation revival.

Michigan Employment Relations Commission, Detroit and Lansing, MI (2019-2021)
Commissioner and Chair

- Appointed by Governor Whitmer to serve on and chair public sector labor relations authority.
- Adjudicated unfair labor practice disputes and oversee mediations.
- Worked with the staff of the Commission to oversee administrative matters.

Civil Rights Division, U.S. Department of Justice, Washington, DC (2009-2011)
Principal Deputy Assistant Attorney General (2010-2011)
Deputy Assistant Attorney General (2009)

- Served as the number-two official in the government's leading civil rights enforcement agency.
- Catalyzed the Division's enforcement of the Supreme Court's decision in *Olmstead v. L.C.*:
  - supervised participation in cases in more than 20 states to ensure that people with disabilities receive services in their homes and communities;
  - argued significant *Olmstead* cases in federal district and appellate courts; and
  - led final negotiations in Georgia and Delaware, which led to landmark settlements under which the states agreed to spend hundreds of millions of dollars to guarantee community-based housing and support services to thousands of people with disabilities.
- Supervised promulgation of the 2010 Americans with Disabilities Act Title II and III regulations, the first comprehensive update to those regulations since the original versions in 1991.
- Supervised all of the Division's appellate work and personally argued major cases in the federal district courts and courts of appeals, including defending the constitutionality of Section 5 of the Voting Rights Act in *Shelby County v. Holder*.

Justice Ruth Bader Ginsburg, United States Supreme Court, Washington, DC (1997-98)
Law clerk to Justice Ginsburg

Civil Rights Division, U.S. Department of Justice, Washington, DC (1994-97)
Attorney, Appellate Section.

- Briefed and argued cases in the federal courts of appeals involving the full range of federal civil rights issues.
- Drafted Supreme Court briefs in civil rights cases.
- Provided legal counsel to the Civil Rights Division's trial sections on difficult legal issues.
- Wrote speeches for Assistant Attorney General for Civil Rights Deval Patrick.

Judge Stephen Reinhardt, U.S. Court of Appeals for the Ninth Circuit, Los Angeles, CA (1993-94)
Law clerk to Judge Reinhardt

EDUCATION

Harvard Law School
J.D., *magna cum laude*, June 1993

Honors:	Fay Diploma (first in graduating class)
	Sears Prize (top two in second-year class)
Activities:	Editor, Harvard Law Review (Articles Office Co-Chair, Vol. 106)
	Clinical Externship, U.S. Senate Comm. on Labor and Human Resources

University of North Carolina at Chapel Hill
B.A. with Highest Honors and Highest Distinction, Political Science, May 1990

Honors:	Phi Beta Kappa
Activities:	Volunteer, Chapel Hill-Carrboro Head Start
	Board of Directors, student radio station

LAW SCHOOL, POLICY SCHOOL, AND UNIVERSITY SERVICE

- Faculty Senate Ad Hoc Committee on Protection of Faculty (University of Michigan, 2025-2026)
- Advisory Committee to the Vice Provost for Access and Opportunity (University of Michigan, 2025-2026)
- Master's Program Committee (Ford School, 2025-2026)
- Faculty Personnel Committee (Michigan Law, 2012-2014, 2020; chair, 2013-2014)
- Curriculum Committee (Michigan Law, chair, 2019-2020)
- Alumni Academic Placement Committee (Michigan Law, 2019-2020)
- Tenure Committee (Michigan Law, 2018-2019, 2025-2026; chair, 2025-2026)
- Ad Hoc Committee on Implementation of the Masters of Advanced Corporation Law Degree (Michigan Law, chair, 2017)
- Intellectual Community Committee (Michigan Law, chair, 2016)
- Educational Environment Committee (Michigan Law, 2015-2016)
- Experiential Education Committee (Michigan Law, 2015-2016)
- Ad Hoc Committee on Innovative Academic Programs (Michigan Law, 2014)
- Legal Practice Program Committee (Michigan Law, 2012)
- Lateral Faculty Appointments Committee (Wash. U. Law, 2006-2008)
- Non-Tenured Faculty Appointments Committee (Wash. U. Law, 2007-2008)
- Faculty Appointments Committee (Wash. U. Law, chair, 2005-2006)
- Dean's Advisory Workgroup on the Research Environment (Wash. U. Law, chair, 2006)
- Coordinator, Outside Faculty Workshops (Wash. U. Law, 2005-2006, 2007-2008)
- University Library Council (Wash. U., 2005-2007)
- Ad Hoc Committee on Tenure Standards (Wash. U. Law, 2004-2005)
- Judicial Clerkships Committee (Wash. U. Law, 2004-2005)
- First-Year Lawyering Program Committee (Harvard Law, 2003-2004)
- Public Service Fellowships Committee (Harvard Law, 2001-2003)

PUBLICATIONS

Journal Articles and Essays

- *Subordination, Stigma, and "Disability,"* 86 VA. L. REV. 397 (2000)
  - excerpted in FOUNDATIONS OF EMPLOYMENT DISCRIMINATION LAW (John J. Donohue III, ed., 2d ed. 2003)
- *The Americans with Disabilities Act as Risk Regulation*, 101 COLUM. L. REV. 1479 (2001)
- *The Americans with Disabilities Act as Welfare Reform*, 44 WM. & MARY L. REV. 921 (2003)
  - excerpted in THEODORE EISENBERG, CIVIL RIGHTS LEGISLATION (5th ed. 2004)
- *"Rational Discrimination," Accommodation, and the Politics of (Disability) Civil Rights*, 89 VA. L. REV. 825 (2003)
- *Justice Ginsburg and the Judicial Role in Expanding "We the People": The Disability Rights Cases*, 104 COLUM. L. REV. 49 (2004)
- *The Supreme Court, the Americans with Disabilities Act, and Rational Discrimination*, 55 ALA. L. REV. 923 (2004)
- *The Future of Disability Law*, 114 YALE L.J. 1 (2004)
  - selected for presentation in the category of Labor Law and Social Welfare Policy at the 2004 Stanford/Yale Junior Faculty Forum
- *Has the Americans with Disabilities Act Reduced Employment for People with Disabilities?*, 25 BERKELEY J. EMP. & LAB. L. 527 (2004)
- *Comparative Disability Employment Law From an American Perspective*, 24 COMP. LAB. L. & POL'Y J. 649 (2003) (published 2004)
- *Trapped in the Feedback Loop: A Response to Professor Days*, 49 ST. LOUIS U. L.J. 1007 (2005)
- *The Promise was Broken: Law as a Negative Force in Bruce Springsteen's Music*, 14 WIDENER L.J. 837 (2005)
- *The Structural Turn and the Limits of Antidiscrimination Law*, 94 CAL. L. REV. 1 (2006)
  - reprinted in 22 CIVIL RIGHTS LITIGATION AND ATTORNEY FEES ANNUAL HANDBOOK (Steven Saltzman, ed., 2006)
- *Disability, Life, Death, and Choice*, 29 HARV. J. L. & GENDER 425 (2006)
- *Judging the Schiavo Case*, 22 CONST. COMMENT. 457 (2005) (published 2006)
- *The Perversity of Limited Civil Rights Remedies: The Case of "Abusive" ADA Litigation*, 54 UCLA L. REV. 1 (2006)
- *Implicit Bias, "Science," and Antidiscrimination Law*, 1 HARV. L. & POL'Y REV. 477 (2007)
- *Mandatory Pro Bono and Private Attorneys General*, 101 NW. U. L. REV. 1459 (2007)
  - published in online "Colloquy" and in print edition
- *Hedonic Damages, Hedonic Adaptation, and Disability*, 60 VAND. L. REV. 745 (2007) (with Margo Schlanger)
- *Abolish the Integration Presumption? Not Yet*, 156 U. PA. L. REV. PENNUMBRA 157 (2007), *available at* http://www.pennumbra.com/issues/articles/154-4/Bagenstos.pdf
- *Spending Clause Litigation in the Roberts Court*, 58 DUKE L.J. 345 (2008)
- *The Past and Future of Deinstitutionalization Litigation*, 34 CARDOZO L. REV. 1 (2012)
- *The Anti-Leveraging Principle and the Spending Clause After* NFIB, 101 GEO. L.J. 861 (2013)
- *Employment Law and Social Equality*, 112 MICH. L. REV. 225 (2013)
- *Keynote Presentation*, RUTGERS J.L. & PUB. POL'Y 371 (2014) (transcript of oral remarks)
- *Viva Conditional Federal Spending!*, 37 HARV. J.L. & PUB. POL'Y 93 (2014)

Journal Articles and Essays, ctd.

- *Universalism and Civil Rights (With Notes on Voting Rights After* Shelby*)*, 123 YALE L.J. 2838 (2014)
- *The Unrelenting Libertarian Challenge to Public Accommodations Law*, 66 STAN. L. REV. 1205 (2014)
- *Formalism and Employer Liability Under Title VII*, 2014 U. CHI. LEGAL F. 145
- *Bottlenecks and Antidiscrimination Theory*, 93 TEX. L. REV. 415 (2014)
- *Who is Responsible for the Stealth Assault on Civil Rights?*, 114 MICH. L. REV. 893 (2016)
- *Disparate Impact and the Role of Classification and Motivation in Equal Protection Law After Inclusive Communities*, 101 CORNELL L. REV. 1115 (2016)
- *Disability Rights and Labor: Is This Conflict Really Necessary?*, 92 IND. L.J. 277 (2016)
- *From Integrationism to Equal Protection: tenBroek and the Next 25 Years of Disability Rights*, 13 U. ST. THOMAS L.J. 13 (2016)
- *Technical Standards and Lawsuits Involving Accommodations for Health Professions Students*, 18 AMA J. ETHICS 1017 (2016)
- *The EEOC, the ADA, and Workplace Wellness Programs*, 27 HEALTH MATRIX 81 (2017)
- *Educational Equality for Children with Disabilities: The 2016 Term Cases*, 2016-2017 ACS SUP. CT. REV. 17 (2017)
- *Disability, Universalism, Social Rights, and Citizenship*, 39 CARDOZO L. REV. 413 (2017)
- *Implicit Bias's Failure*, 39 BERKELEY J. EMP. & LAB. L. 37 (2018)
- *Interview with Khaled Beydoun*, 52 U. MICH. J.L. REFORM 903 (2019) (transcript of oral remarks)
- *The Hidden Disability Consensus in the 2020 Campaign* (with Harold Pollack), JAMA HEALTH F., Feb. 7, 2020, available at https://perma.cc/VE32-NELP
- *Disability Rights and the Discourse of Justice*, 73 SMU L. REV. F. 26 (2020)
- *This is What Democracy Looks Like: Title IX and the Legitimacy of the Administrative State*, 118 MICH. L. REV. 1053 (2020)
- *Taking Choice Seriously in* Olmstead *Jurisprudence*, 40 J. LEGAL MED. 5 (2020)
- *Who Gets the Ventilator? Disability Discrimination in COVID-19 Medical-Rationing Protocols*, 130 YALE L.J. FORUM 1 (2020)
- Olmstead v. L.C.*: The Supreme Court Case*, 27 GEO. J. ON POVERTY L. & POL'Y 209 (2020) (transcript of oral remarks)
- *The ADA Amendments Act and the Projects of the American Disability Rights Movement*, 23 UDC L. REV. 139 (2020)
- *Legitimacy and Agency Implementation of Title IX*, 43 HARV. J.L. & GENDER 301 (2020)
- *Consent, Coercion, and Employment Law*, 55 HARV. C.R.-C.L. L. REV. 409 (2020)
- *Towards an Urban Disability Agenda*, 47 FORDHAM URBAN L.J. 1335 (2020)
- *Disability and Reproductive Justice*, 14 HARV. L. & POL'Y REV. 273 (2020)
- *The Personal Responsibility Pandemic: Centering Solidarity in Public Health and Employment Law* (with Lindsay F. Wiley), 52 ARIZ. ST. L.J. 1235 (2021)
- *The New Eugenics*, 71 SYRACUSE L. REV. 751 (2021)
- *The Limits of Negative Rights Claims in Social Change Litigation: A Disability Law Perspective on* Grants Pass, 71 WAYNE L. REV. 71 (2025)
- *Science and Politics in Public Health Regulation*, 58 MICH. J.L. REFORM 719 (2025)

Journal Articles and Essays, ctd.

- *COVID and the Great Retrenchment*, 63 HOU. L. REV. 791 (2026)
- *The Crisis of Appropriations Law*, 103 WASH. U. L. REV. 1719 (2026)
- *Rethinking the Fund Termination Sanction*, 76 CASE W. RES. L. REV. 1259 (2026)
- *Health Populism, Health Freedom, and State Power*, 35 S. CAL. INTERDISCIPLINARY L.J. ___ (forthcoming 2026)
- *The Dismantling of Civil Rights and Thoughts on Rebuilding*, 174 U. PA. L. REV. __ (forthcoming 2026) (with Ellen Katz)
- *Slush Funds and Congress's Power of the Purse*, 60 U.C. DAVIS L. REV. ___ (forthcoming 2026)
- *Rereading "Anti-Subordination Above All" in Pro-Subordination Times*, 87 OHIO ST. L.J. ___ (forthcoming 2026)
- *Lottocracy as a Protector of Democracy? Sortition, Expertise, and the Michigan Independent Citizens Redistricting Commission*, __ WIS. L. REV. ___ (forthcoming 2026)
- *Reconstructing the Public Health State*, 68 WM. & MARY L. REV. ___ (forthcoming 2027)
- *Reconstructing the Civil Rights State After Democratic Backsliding*, __ ANNALS AM. ACAD. POLIT. & SOC. SCI. ___ (forthcoming)
- *The "Nerd Circuit": Creating a New Court for Regulatory Challenges,* __ YALE J. REG. ___ (forthcoming 2027)

Articles and Essays in Other Outlets

- *The Supreme Court's Week in Review: One Step Forward, Three Steps Back*, PACIFIC STANDARD, June 28, 2013, available at http://goo.gl/yCNhjv
- *A Supreme Court Case Threatens the Independence of People with Disabilities*, HUFFINGTON POST, Jan. 22, 2014, available at http://goo.gl/9gm0oW
- *The Preliminary Injunction Provision*, *in* THE VOTING RIGHTS AMENDMENT ACT: A CONSTITUTIONAL RESPONSE TO *SHELBY COUNTY* (ACS Issue Brief, May 2014), available at http://goo.gl/DH9JQv
- *Obamacare Court Ruling is Nonsensical and Cynical*, L.A. TIMES, July 25, 2014, available at http://goo.gl/rjS4Ig (with Jill Horwitz)
- *Beware: 'Wellness' May Be Hazardous to Your Health*, HUFFINGTON POST, March 11, 2015, available at http://goo.gl/coErn5 (with Judith Feder)
- *The Disability Cliff*, DEMOCRACY: A JOURNAL OF IDEAS, Winter 2015, at 55, available at http://goo.gl/spTLIf
- *The ADA and the Supreme Court: A Mixed Record*, 313 J. AM. MED. ASS'N 2217 (2015)
- *Social Change Litigation as Just Another Political Tool*, NEW RAMBLER REV., June 2015, available at http://goo.gl/OxjYSr
- *We Don't Need "Modern Asylums,"* AMERICAN PROSPECT, Summer 2015, available at http://goo.gl/BdPSHN (with Harold Pollack)
- *What Went Wrong with Title IX?*, WASHINGTON MONTHLY, September/October 2015, available at http://goo.gl/GTKQI1
- *Kentucky Clerk Kim Davis Never Should Have Gone to Jail*, NEW REPUBLIC, Sept. 8, 2015, available at http://goo.gl/S7OBbK
- *The Spending Clause* (with Ilya Somin) and *For a Broad Spending Power*, *in* NAT'L CONSTITUTION CENTER, INTERACTIVE CONSTITUTION (2016), available at https://goo.gl/ohxtu0

Articles and Essays in Other Outlets, ctd.

- *Workers' Rights*, *in* WHAT'S THE BIG IDEA? RECOMMENDATIONS FOR IMPROVING LAW AND POLICY IN THE NEXT ADMINISTRATION (ACS, Oct. 2016), available at https://goo.gl/KCxqf4
- *Civil Rights Déjà Vu, Only Worse*, AMERICAN PROSPECT, Winter 2017, available at https://goo.gl/o5hf2C
- *How Congress is Hacking Away at Disability Rights*, REUTERS, Sept. 25, 2017, available at http://goo.gl/r4R4up
- *Racism Didn't Stop at Jim Crow*, DEMOCRACY: A JOURNAL OF IDEAS, Fall 2017, available at http://goo.gl/TLLoqM
- *Here's How Gov. Whitmer Can Limit Impact of Medicaid Work Requirements*, BRIDGE MICH., May 14, 2019, available at https://perma.cc/H5DT-B8KT
- *Trump Is Already Using the Coronavirus to Push His Right-Wing Agenda* (with Dahlia Lithwick), SLATE, Mar. 30, 2020, available at https://perma.cc/EF43-HXY6
- *From Jobs to Health Care, COVID-19 Reveals the Moral Bankruptcy of Conservative Politics*, MICH. ADVANCE, Apr. 1, 2020, available at https://perma.cc/FJ9Y-6USM
- *Don't Deny Ventilators to Disabled Patients*, WASH. POST, Apr. 6, 2020, available at https://perma.cc/KBL9-MJ4V
- *How the Law Harms Public Health* (with Lindsay F. Wiley), DEMOCRACY: A JOURNAL OF IDEAS, Fall 2020, available at https://perma.cc/C96C-X86A
- *The Americans with Disabilities Act at 30: A Cause for Celebration During COVID-19?* (with Joseph J. Fins), THE CONVERSATION, July 26, 2020, available at https://perma.cc/HZZ7-8Q4Y
- *Disorders of Consciousness and Disability Law* (with Joseph J. Fins & Megan S. Wright), 95 MAYO CLINIC PROCEEDINGS 1732 (2020)
- *The DOJ's COVID-19 Nursing Home Inquiry is Nakedly Corrupt* (with Margo Schlanger), SLATE, Aug. 31, 2020, available at https://perma.cc/7828-3HJ3
- *Litigation for the People*, DISSENT, Fall 2020, available at https://perma.cc/D2ZC-HZ5S
- *Ruth Bader Ginsburg Dedicated Her Life to Expanding the Circle of "We The People,"* MICH. ADVANCE, Oct. 6, 2020, available at https://perma.cc/53CJ-8W8X
- *Lochner Lives On* (Econ. Pol'y Inst., Oct. 7, 2020), available at https://perma.cc/EQ68-3LTB
- *Refusing to Certify Legitimate Votes is a Felony* (with Justin Levitt), DETROIT FREE PRESS, Nov. 23, 2020, available at https://perma.cc/P6FJ-QTXS
- *Why Universities Must Start Litigating—And How* (with David Pozen & Ryan Doerfler), THE NATION, Apr. 7, 2025, available at https://www.thenation.com/article/society/universities-protests-trump-speech/.
- *The Assault on Federal Grants*, ACADEME (Spring 2025), available at https://www.aaup.org/article/assault-federal-grants.
- *Trump is Openly Defying a Law Meant to Rein in His First-Term Abuses*, WASH. POST, Apr. 8, 2025, available at https://wapo.st/4iBIxcy.
- *Can We Trust Courts to Stop Trump's Lawlessness*, LINCOLN SQUARE, May 25, 2025, https://www.lincolnsquare.media/p/can-we-trust-courts-to-stop-trumps

Articles and Essays in Other Outlets, ctd.

- *The Supreme Court Just Handed Down a Devastating Blow to Medicaid* (with Hannah Katch), LINCOLN SQUARE, June 27, 2025, https://www.lincolnsquare.media/p/the-supreme-court-just-handed-down
- *Don't Applaud Supreme Court Conservatives for Doing Trump Special Favors*, OFF MESSAGE, July 1, 2025, https://www.offmessage.net/p/supreme-court-trump-special-favors
- *Project 2029 Rebuilding Efforts Take Their Eyes Off the Ball*, OFF MESSAGE, Sept. 2, 2025, https://www.offmessage.net/p/project-2029-eyes-ball
- *Trump Just Threatened to Deny Furloughed Feds' Backpay. That's Illegal.*, MSNBC.COM, Oct. 8, 2025, https://www.msnbc.com/opinion/msnbc-opinion/trump-shutdown-back-pay-federal-employees-rcna236163
- *Entrenching Incumbent Power: Medicare Advantage, Part D, and the Politics of Health Reform* (Empowering Democracy Initiative white paper, 2026), https://www.democracyempowered.org/documents/Bagenstos.pdf
- *The Unitary Executive Assault*, BOSTON REV., Aug. 25, 2026, https://www.bostonreview.net/forum/how-to-save-science/bagenstos/
- *Michigan's U.S. Senate Race Will Decide the Supreme Court's Future* (with David B. Jaffe), DETROIT FREE PRESS, Oct. 11, 2026, https://www.freep.com/story/opinion/contributors/2026/10/11/michigan-u-s-senate-election-supreme-court-federal-judiciary/92123154007/

Books and Book Chapters

- LAW AND THE CONTRADICTIONS OF THE DISABILITY RIGHTS MOVEMENT (Yale U. Press 2009)
- DISABILITY RIGHTS LAW: CASES AND MATERIALS (Foundation Press 2010; 2d ed. 2014; 3d ed. 2020; 4th ed. 2025)
- A NATION OF WIDENING OPPORTUNITIES: THE CIVIL RIGHTS ACT AT 50 (Ellen D. Katz & Samuel R. Bagenstos, eds., 2015)
- US Airways v. Barnett *and the Limits of Disability Accommodation*, *in* CIVIL RIGHTS STORIES (Myriam Gilles & Risa Goluboff, eds., 2007)
- *The Judiciary's Now-Limited Role in Special Education*, *in* FROM SCHOOLHOUSE TO COURTHOUSE: THE JUDICIARY'S ROLE IN AMERICAN EDUCATION (Joshua Dunn & Martin West, eds., 2009)
- *Federalism by Waiver After the Health Care Case*, *in* THE HEALTH CARE CASE: THE SUPREME COURT'S DECISION AND ITS IMPLICATIONS (Nathaniel Persily, Gillian Metzger, & Trevor Morrison, eds., 2013)
- *On Class-not-Race*, *in* A NATION OF WIDENING OPPORTUNITIES, *supra* (2015)
- *Foreword: Thoughts on Responding to the Left Critique of Disability Rights Law*, *in* DISABILITY POLITICS IN A GLOBAL ECONOMY: ESSAYS IN HONOUR OF MARTA RUSSELL (Ravi Malhotra, ed., 2016)

Books and Book Chapters, ctd.

- Nevada Department of Human Resources v. Hibbs*: Universalism and Reproductive Justice*, *in* REPRODUCTIVE RIGHTS AND JUSTICE STORIES (Melissa Murray, Kate Shaw & Reva Siegel, eds., 2019)
- *Health Professions and the Law*, *in* DISABILITY AS DIVERSITY: A GUIDEBOOK FOR INCLUSION IN MEDICINE, NURSING, AND THE HEALTH PROFESSIONS (Lisa Meeks & Leslie Neal-Boylan, eds., 2020)
- *Empowering and Fearing Government: Democratic Countervailing Power and the Future of the Administrative State*, *in* BUILDING DEMOCRATIC CAPACITY: ESSAYS ON ADMINISTRATIVE LAW'S FUTURES (Blake Emerson, Bijal Shah, K. Sabeel Rahman & Joshua Macey, eds., forthcoming)

LECTURES

- Distinguished Visiting Health Law Scholar, Seton Hall Law School Center for Health & Pharmaceutical Law (2026)
- Wythe Lecture, William & Mary Law School (2026)
- Distinguished Health Law Speaker, St. Louis University School of Law (2025)
- Frankel Lecture, University of Houston Law Review (2025)
- Pike Lecture, Boston University School of Law (2025)
- G. Rollie White Public Interest Scholar in Residence, University of Texas Law School (2025)
- Rothenberg Health Care Law and Policy Speaker, University of Maryland Francis King Carey School of Law (2025)
- Jay A. Ziskind Health Law Lecture, NSU Shepard Broad College of Law (2024)
- Mark A. Nordenberg Lecture in Law, Medicine, and Psychiatry, University of Pittsburgh School of Law (2023)
- Richards Lecture on Disability Law, University of Iowa College of Law (2019)
- Ken Campbell Lecture on Disability Law and Policy, Ohio State University (2017)
- William R. Stewart Lecture, Indiana University Maurer School of Law (2016)
- University of St. Thomas Law Journal Annual Lecture (2015)
- Rush McKnight Labor Law Lecture, Case Western Reserve Law School (2011)
- Robert S. Marx Lecture, University of Cincinnati Law School (2010)

CONFERENCE PRESENTATIONS

- University of Virginia Law School Americans with Disabilities Act Conference (2000)
- William and Mary Law School Disability and Identity Symposium (2001)
- Columbia Law School Symposium in Celebration of the Tenth Anniversary of Justice Ruth Bader Ginsburg's Appointment to the Supreme Court of the United States (2003)
- University of Alabama Law School Disability Law Symposium (2003)
- Stanford/Yale Junior Faculty Forum (2004)
- Childress Memorial Symposium at St. Louis University (2004)
- Widener Law School Bruce Springsteen and the Law Symposium (2005)
- NYU Symposium on Empirical Perspectives on the Americans with Disabilities Act (2006)
- Emory Law School Symposium on Legal Ethics and Disability (2007)
- University of Connecticut Law School Symposium on the Thirtieth Anniversary of *The Id, the Ego, and Equal Protection* (2007)

CONFERENCE PRESENTATIONS, ctd.

- Stanford Law School Symposium on *The Race Card* (2008)
- Yale Journal of Law and Feminism's Symposium on the 30th Anniversary of the Pregnancy Discrimination Act (2008)
- University of Toronto/University of Maryland Colloquia on the Philosophical Foundations of Antidiscrimination Law (2011 & 2012)
- Columbia Law School Workshop on the Social Model of Disability (2012)
- Berkeley Law Conference on Rebranding Disability Rights Law (2012)
- Yale Human Rights and Development Law Journal's Symposium on Mental Health as a Human Right (2012)
- University of Chicago Legal Forum's Symposium on the Civil Rights Act at 50 Years (2013)
- Stanford Law Review's Civil Rights Act at 50 Symposium (2014)
- Yale Law Journal's Symposium on the Meaning of the Civil Rights Revolution (2014)
- Columbia Law School's Conference on First Amendment Lochnerism (2016)
- Case Western Law-Medicine Center's Conference on Corporate Wellness Programs (2016)
- Cardozo Law Review's disability law symposium (2017)
- Berkeley Journal of Employment and Labor Law's Symposium on the Future of Discrimination Law (2017)
- Stanford Law Review's Symposium on Judicial Independence (2019)
- UDC Law Review's Symposium on Disability Rights: Past, Present, and Future (2019)
- Georgia State University's Symposium on The Past and Future of Community Integration (2019)
- Georgetown Journal on Poverty Law and Policy's Symposium on Fulfilling *Olmstead*: Community Living for People with Disabilities (2019)
- Wayne Law Review's Disability Law Symposium (2024)
- University of Michigan Journal of Law Reform Symposium on the Future of Agency Independence (2024)
- Princeton Constitutional Law Schmooze (2025)
- Knight Institute Convening on Federal Funding and the First Amendment (2025)
- Conference on Reclaiming Constitutional Law at the University at Buffalo Law School (2025)
- Case Western University Law Review Symposium on Federal Reach, Academic Speech: The Legal Limits of Executive Authority in Higher Education (2025)
- Washington University Law Review Symposium on Taxing, Spending, and the Constitution (2025)
- Reimagining Administrative Law Initiative, UCLA School of Law (2025)
- Brookings Institution Convening on the Appropriations Power (2026)
- Ohio State Law Journal Antisubordination Symposium (2026)
- Northeastern University Center for Health Policy and Law Conference (2026)
- Democracy and Public Law Works-in-Progress Conference, Michigan State University College of Law (2026)
- Cornell University Conference on Rebuilding Democracy After Backsliding (2026)
- May Gathering on the Executive Branch and Theories of Constitutional Law at the University of Virginia School of Law (2026)
- Wisconsin Law Review Public Law in the States Symposium (2026)
- Princeton University-Humboldt University Workshop on Weaponization (2026)

FACULTY WORKSHOP AND COLLOQUIA

- ***Law school faculty workshops***:
  - University of Virginia
  - University of Southern California
  - University of Michigan
  - Harvard
  - Cornell
  - University of Minnesota
  - University of Texas
  - Washington University
  - Loyola (Los Angeles)
  - Seton Hall
  - Cardozo Law School
  - University of Missouri
  - UCLA
  - Brooklyn Law School
  - University of Nebraska
  - Duke
  - Emory
  - Ohio State
  - Case Western Reserve
  - American University
  - Arizona State University
  - Columbia
  - Denver University
  - George Washington University
  - University of California at Davis
  - University of Utah
  - Syracuse University
  - University of Colorado
- ***Colloquia***:
  - University of Texas Constitutional and Legal Theory Colloquium
  - NYU Labor and Employment Law Colloquium
  - Yale Workplace Theory and Policy Seminar
  - University of Chicago Law and Philosophy Seminar
  - University of Pennsylvania Program on Democracy, Citizenship, and Constitutionalism
  - University of Texas Rappaport Center on Human Rights
  - Division of Medical Ethics at the Weill Cornell Medical College
  - University of Texas Health, Innovation, and the Law Colloquium
  - Ohio State University Law School Moritz Health Law Colloquium
  - University of Pennsylvania Regulatory Law and Policy Seminar

LITIGATION EXPERIENCE

Overview:

- Argued cases in 10 federal circuit courts of appeals as well as the Supreme Court of the United States (on four occasions), the Michigan Supreme Court, and several federal district courts.
- Supervised all of the appellate work of the Civil Rights Division of the United States Department of Justice, as well as the trial-court litigation of the Division's Disability Rights and Special Litigation Sections, while Principal Deputy Assistant Attorney General and Deputy Assistant Attorney General

***Cases Argued*:**

- *Fry v. Napoleon Community Schools*, 580 U.S. 154 (2017) (for petitioners Stacy Fry, Brent Fry, and E.F.) (scope of exhaustion requirement under Individuals with Disabilities Education Act)
- *Young v. United Parcel Service, Inc.*, 575 U.S. 206 (2015) (for petitioner Peggy Young) (interpretation of the Pregnancy Discrimination Act)
- *United States* v. *Georgia*, 546 U.S. 151 (2006) (for petitioner Tony Goodman) (constitutionality of the Americans with Disabilities Act's abrogation of sovereign immunity)
- *Chevron U.S.A. Inc.* v. *Echazabal*, 536 U.S. 73 (2002) (for respondent Mario Echazabal) (threat-to-self defense under the Americans with Disabilities Act)
- *In re Certified Questions (Midwest Inst. of Health v. Governor*), 506 Mich. 332 (2020) (for Michigan House Democratic Caucus) (validity under state law of Gov. Whitmer's COVID emergency orders)
- *In re House of Representatives Request for Advisory Opinion Regarding Constitutionality of 2018 PA 368 & 369*, 505 Mich. 884 (2019) (for 62 members of the Michigan Legislature) (validity under Michigan Constitution of legislative amendment of voter-initiated law)
- *In re Flint Water Cases*, 960 F.3d 303 (6th Cir. 2020) (for Plaintiffs-Appellees) (due process violations and qualified and sovereign immunity in Flint Water Crisis case)
- *Guertin v. State of Michigan*, 912 F.3d 907 (6th Cir. 2019) (for *amici* plaintiffs in *In re Flint Water Cases*) (due process violations and qualified immunity in Flint Water Crisis case)
- *Boler v. Earley*, 865 F.3d 391 (6th Cir. 2017) (for plaintiffs-appellants Melissa Mays *et al.*) (availability of Section 1983 claim and sovereign immunity in Flint Water Crisis case)
- *Gonzalez* v. *Arizona*, 677 F.3d 383 (9th Cir. 2012) (*en banc*) (for *amicus* United States) (challenge under the National Voter Registration Act to state citizenship-verification requirements for voter registration)
- *Disability Advocates, Inc.* v. *Cuomo*, 675 F.3d 149 (2d Cir. 2012) (for intervenor-appellee United States) (Americans with Disabilities Act challenge to institutionalization of people with mental illness in adult care homes)
- *Frame* v. *City of Arlington*, 657 F.3d 215 (5th Cir. 2011) (*en banc*) (for *amicus* United States) (application of Title II of the Americans with Disabilities Act to inaccessible public sidewalks)
- *Chapman* v. *Pier 1 Imports (U.S.), Inc.*, 631 F.3d 939 (9th Cir. 2011) (*en banc*) (for *amicus* United States) (standing to sue under Title III of the Americans with Disabilities Act)
- *Alaska v. EEOC*, 564 F.3d 1062 (9th Cir. 2009) (*en banc*) (for intervenor Margaret Ward) (constitutionality of the Government Employee Rights Act's abrogation of sovereign immunity)
- *Brown* v. *Tennessee Dept. of Finance & Administration*, 561 F.3d 542 (6th Cir. 2009) (for plaintiffs-appellees Lakersko Brown *et al.*) (validity of Medicaid Act consent decree)

Cases Argued, ctd.

- *Missouri Protection & Advocacy Servs.* v. *Carnahan*, 499 F.3d 803 (8th Cir. 2007) (for appellants Missouri Protection & Advocacy Services and Robert Scalletty) (constitutional and statutory challenge to ban on voting by people under guardianship)
- *Iowa Protection & Advocacy Servs.* v. *Tanager Place*, 427 F.3d 541 (8th Cir. 2005) (for appellee Iowa Protection & Advocacy Services) (Fourth Amendment challenge to Protection and Advocacy for Individuals with Mental Illness Act)
- *Kiman* v. *New Hampshire Dep't of Corrections*, 332 F.3d 29 (1st Cir. 2003) (*en banc*) (for appellant Matthew Kiman) (constitutionality of Americans with Disabilities Act's abrogation of sovereign immunity)
- *Volvo GM Heavy Truck Corp.* v. *U.S. Dept. of Labor*, 118 F.3d 205 (4th Cir. 1997) (for appellees U.S. Dept. of Labor *et al.*) (exhaustion of remedies in challenge to proceedings by Office of Federal Contract Compliance Programs)
- *Paralyzed Veterans of America* v. *D.C. Arena L.P.*, 117 F.3d 579 (D.C. Cir. 1997) (for United States as *amicus curiae*) (accessibility of sports arena under Americans with Disabilities Act)
- *Abbott* v. *Bragdon*, 107 F.3d 934 (1st Cir. 1997) (for United States as *amicus curiae*) (HIV-based discrimination under Americans with Disabilities Act)
- *Cissell Mfg. Co.* v. *U.S. Dept. of Labor*, 101 F.3d 1132 (6th Cir. 1996) (for appellant U.S. Dept. of Labor) (challenge to agency jurisdiction in Office of Federal Contract Compliance Programs proceedings)
- *United States* v. *Ridge*, 96 F.3d 1436 (3d Cir. 1996) (for appellant United States) (challenge under Civil Rights of Institutionalized Persons Act to conditions in developmental disabilities facility)
- *Bridges* v. *City of Bossier*, 92 F.3d 329 (5th Cir. 1996) (for United States as *amicus curiae*) (definition of disability under Americans with Disabilities Act)
- *White* v. *State of Alabama*, 74 F.3d 1058 (11th Cir. 1996) (for United States as *amicus curiae*) (validity of settlement of Voting Rights Act challenge to judicial election system)
- *Voting Rights Coalition* v. *Wilson*, 60 F.3d 1411 (9th Cir. 1995) (for appellees Janet Reno *et al.*) (argued motion for stay and presented subsequent argument on the merits) (constitutionality of the National Voter Registration Act)
- *Shelby County* v. *Holder*, 811 F. Supp.2d 424 (D.D.C. 2011) (for defendant Eric Holder) (argued motion for summary judgment) (constitutionality of Section 5 of the Voting Rights Act)
- *United States* v. *Erie County*, 724 F. Supp.2d 357 (W.D.N.Y. 2010) (for plaintiff United States) (argued motion to dismiss) (challenge to jail conditions under the Civil Rights of Institutionalized Persons Act)
- *Evans* v. *Fenty*, 701 F. Supp.2d 126 (D.D.C. 2010) (for plaintiff-intervenor United States) (argued Rule 60(b) motion to vacate injunctive relief) (standards for vacating injunction in long-running institutional reform case)
- *Disability Rights New Jersey* v. *Velez*, No. 05-4723 (D.N.J., Sept. 24, 2010) (for intervenor and *amicus* United States) (argued summary judgment motion) (challenge under Title II of the Americans with Disabilities Act to unnecessary institutionalization of people with developmental disabilities)
- *Clinton L.* v. *Cansler*, No. 1:10CV00123 (M.D.N.C., Feb. 17, 2010) (for interested party United States) (argued motion for preliminary injunction) (challenge under Title II of the Americans with Disabilities Act to cuts in community services for individuals with disabilities)

Cases Briefed (Selected)

Supreme Court—Merits Stage

- *Bostock v. Clayton County*, 590 U.S. 644 (2020) (for *amici* Samuel R. Bagenstos *et al.*) (discrimination against transgender people under Title VII)
- *Dep't of Commerce v. New York*, 588 U.S. 752 (2019) (for *amici* John R. Dunne *et al.*) (challenge to inclusion of a citizenship question on the census)
- *Janus v. AFSCME Council 31*, 585 U.S. 878 (2018) (for *amici* Governor Tom Wolf *et al.*) (constitutionality of public-sector union agency-fee regime)
- *Husted v. A. Philip Randolph Inst.*, 584 U.S. 756 (2018) (for *amici* Eric H. Holder, Jr., *et al.*) (challenge under National Voter Registration Act to voter-purge process)
- *Epic Systems Corp. v. Lewis*, 584 U.S. 497 (2018) (for *amici* Main Street Alliance *et al.*) (lawfulness of class-action waivers in employment arbitration agreements)
- *Gloucester County Sch. Bd. v. G.G.*, 580 U.S. 1168 (2017) (for *amici* law professors) (discrimination against transgender individual under Title IX of the Education Amendments)
- *Endrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. 386 (2017) (for *amici* National Disability Rights Network *et al.*) (standard for "free appropriate public education" under Individuals with Disabilities Education Act)
- *Ivy v. Morath*, 580 U.S. 956 (2016) (for *amici* Paralyzed Veterans of America *et al.*) (application of the Americans with Disabilities Act to public programs carried out through private entities)
- *Friedrichs v. California Teachers Association*, 578 U.S. 1 (2016) (for *amici* Cities, Counties, and Elected Officials) (constitutionality of public-sector union agency-fee regime)
- *Texas Dep't of Housing & Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015) (for *amici* John R. Dunne *et al.*) (brief for former Justice Department officials defending disparate impact cause of action under the Fair Housing Act)
- *Armstrong v. Exceptional Child Center, Inc.*, 575 U.S. 320 (2015) (for *amici* American Ass'n of People with Disabilities *et al.*) (private enforcement of Medicaid Act)
- *Harris v. Quinn*, 573 U.S. 616 (2014) (for *amici* American Ass'n of People with Disabilities *et al.*) (constitutionality of union agency-fee regime for personal assistance workers)
- *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012) (for *amici* David Satcher *et al.*) (constitutionality of Affordable Care Act's Medicaid expansion)
- *Chamber of Commerce* v. *Whiting*, 563 U.S. 582 (2011) (for *amicus* United States) (preemption of state law regulating the employment of unauthorized immigrants)
- *Sossamon* v. *Texas*, 563 U.S. 277 (2011) (for *amicus* United States) (state sovereign immunity against suits under the Religious Land Use and Institutionalized Persons Act)
- *Staub* v. *Proctor Hosp.*, 562 U.S. 411 (2011) (for *amicus* United States) ("cat's-paw" liability under the Uniformed Services Employment and Reemployment Rights Act)
- *Thompson* v. *North American Stainless, LP*, 562 U.S. 170 (2011) (for *amicus* United States) (third-party retaliation under Title VII of the Civil Rights Act of 1964)
- *Lewis* v. *City of Chicago*, 560 U.S. 205 (2010) (for *amicus* United States) (statute of limitations for a disparate impact claim under Title VII of the Civil Rights Act of 1964)
- *Northwest Austin Municipal Utility Dist. No. 1 v. Holder*, 557 U.S. 193 (2009) (for *amici* Nicholas deB. Katzenbach *et al.*) (brief for former Justice Department officials defending constitutionality of 2006 amendments to the Voting Rights Act)
- *Crawford* v. *Marion County Election Board*, 553 U.S. 181 (2008) (for *amici* R. Michael Alvarez *et al.*) (brief for political scientists supporting challenge to voter identification law)

Supreme Court—Merits Stage, ctd.

- *Spector* v. *Norwegian Cruise Line Ltd.*, 545 U.S. 119 (2005) (for petitioners Douglas Spector *et al.*) (application of the Americans with Disabilities Act to cruise ship facilities)
- *Tennessee* v. *Lane*, 541 U.S. 509 (2004) (for respondents George Lane and Beverly Jones) (constitutionality of the Americans with Disabilities Act's abrogation of sovereign immunity)
- *Medical Board* v. *Hason*, 538 U.S. 958 (2003) (for *amici* Matthew Kiman and Joseph Popovich) (constitutionality of the Americans with Disabilities Act's abrogation of sovereign immunity)
- *PGA Tour, Inc.* v. *Martin*, 532 U.S. 661 (2001) (for *amici* National Ass'n of Protection and Advocacy Systems *et al.*) (application of the Americans with Disabilities Act to professional sports)
- *Reno* v. *Bossier Parish Sch. Bd.*, 520 U.S. 471 (1997) (for appellant Janet Reno) (standard for preclearance under Section 5 of the Voting Rights Act)
- *Young* v. *Fordice*, 520 U.S. 273 (1997) (for *amicus* United States) (determining what is a covered change under Section 5 of the Voting Rights Act)
- *Schenck* v. *Pro-Choice Network*, 519 U.S. 357 (1997) (for *amicus* United States) (First Amendment limitations on injunction against picketing)
- *Bush* v. *Vera*, 517 U.S. 952 (1996) (for appellant United States) (application of "racial gerrymandering" doctrine to congressional redistricting)
- *Morse* v. *Republican Party of Virginia*, 517 U.S. 186 (1996) (for *amicus* United States) (coverage of political parties under Section 5 of the Voting Rights Act)

Supreme Court—Petition Stage

- *Ruiz-Rivera v. Pfizer Pharmaceuticals LLC.*, No. 555 U.S. 939 (2008) (Court denied *certiorari*) (for petitioner Delia Ruiz Rivera) (Court denied *certiorari*) (proof of "regarded as" disabilities under the Americans with Disabilities Act)
- *Huber* v. *Wal-Mart Stores, Inc.*, 552 U.S. 1136 (2008) (for petitioner Pam Huber) (case dismissed on settlement after the Court granted *certiorari*) (reassignment as a reasonable accommodation under the Americans with Disabilities Act)
- *Irving N.* v. *Rhode Island Dept. of Children, Youth & Families*, 549 U.S. 1252 (2007) (for petitioners Irving N. *et al.*) (Court denied *certiorari*) (application of the Americans with Disabilities Act to termination of parental rights proceedings)
- *Gonzales* v. *Tchoukhrova*, 549 U.S. 801 (2006) (for respondents Victoria Tchoukhrova *et al.*) (government granted clients asylum after Court granted *certiorari*, vacated, and remanded) (asylum of parent based on persecution of child with a disability)
- *United States* v. *Nebraska Dept. of Health & Human Services Finance & Support*, 547 U.S. 1067 (2006) (for respondents Bill M. *et al.* in support of the petition for *certiorari*) (Court granted *certiorari*, vacated, and remanded) (constitutionality of the Americans with Disabilities Act's abrogation of sovereign immunity)
- *Guttman* v. *Khalsa*, 546 U.S. 801 (2005) (for petitioner Stuart Guttman) (Court granted c*ertiorari*, vacated, and remanded) (application of *Rooker-Feldman* doctrine)

Other Courts

- *Kadel v. N. Carolina State Health Plan for Tchrs. & State Emps.*, 12 F.4th 422 (4th Cir. 2021) (for plaintiffs-appellees) (waiver of state sovereign immunity under Affordable Care Act antidiscrimination provision)
- *Ball by Guardian v. Dewine*, 2021 WL 4047032 (6th Cir. June 30, 2021) (for plaintiffs-appellees) (appealability of class action settlement by nonparties)
- *Preterm-Cleveland v. McCloud*, 994 F.3d 512 (6th Cir. 2021) (*en banc*) (for *amici* Disability Rights Educ. & Defense Fund *et al.*) (challenge to statute barring disability-selective abortions)
- *Castillo v. Whitmer*, 823 Fed. Appx. 413 (6th Cir. 2020) (for *amici* Worker Advocates *et al.*) (legality of emergency public health order protecting farmworkers from COVID-19)
- *R.K.* v. *Board of Educ.*, 494 Fed. Appx. 589 (6th Cir. 2012) (for *amicus* United States) (challenge under Section 504 of the Rehabilitation Act to refusal to allow child with diabetes to attend neighborhood school)
- *Doe* v. *Lower Merion Sch. Dist.*, 665 F.3d 524 (3d Cir. 2011) (for *amicus* United States) (application of Supreme Court's *Parents Involved* decision to a school districting plan that took race into account in setting attendance zones but did not classify individual students by race)
- *LaRoque* v. *Holder*, 650 F.3d 777 (D.C. Cir. 2011) (for defendant-appellee Eric Holder) (standing to challenge constitutionality of Section 5 of the Voting Rights Act)
- *Equal Rights Center* v. *Post Properties, Inc.*, 633 F.3d 1136 (D.C. Cir. 2011) (for *amicus* United States) (standing to sue under the Fair Housing Act)
- *Hollonbeck* v. *United States Olympic Committee*, 513 F.3d 1191 (10th Cir. 2008) (for *amici* Disability Rights Educ. & Defense Fund *et al.*) (application of the Rehabilitation Act to decision to provide less support to Paralympic athletes than Olympic athletes)
- *Sandusky County Democratic Party* v. *Blackwell*, 387 F.3d 565 (6th Cir. 2004) (for plaintiffs-appellees Sandusky County Democratic Party *et al.*) (application of Help America Vote Act's provisional ballot requirements)
- *Leibovitz* v. *New York City Transit Auth.*, 252 F.3d 179 (2d Cir. 2001) (for *amicus* National Employment Lawyers Assn.) (standards for Title VII claim based on sexual harassment of coworker)
- *Nelson* v. *Miller*, 170 F.3d 641 (6th Cir. 1999) (for *amicus* United States) (application of Americans with Disabilities Act to voting)
- *Coalition for Economic Equity* v. *Wilson*, 122 F.3d 692 (9th Cir. 1997) (for *amicus* United States) (constitutionality of California's Proposition 209)
- *Burkhart* v. *Washington Metropolitan Area Transit Auth.*, 112 F.3d 1207 (D.C. Cir. 1997) (for a*micus* United States) (application of Americans with Disabilities Act to public transit)
- *Pro-Choice Network* v. *Schenck*, 67 F.3d 377 (2d Cir. 1995) (for *amicus* United States) (First Amendment limitations on injunction against picketing)
- *Association of Community Organizations for Reform Now (ACORN)* v. *Edgar*, 56 F.3d 791 (7th Cir. 1995) (for appellee United States) (constitutionality of National Voter Registration Act)
- *Protect MI Free Speech v. Bd. of State Canvassers*, No. 170472, 2026 WL 2614824 (Mich. Sept. 3, 2026) (for intervening defendant Michiganders for Money Out of Politics Ballot Committee) (validity of certification of initiative petition for the ballot)
- *League of Women Voters of Michigan v. Sec'y of State*, 957 N.W.2d 731 (Mich. 2020) (for *amicus* ACLU Fund of Michigan) (constitutionality of limits on direct-democracy petitions)

Other Courts, ctd.

- *Hardy* v. *Secretary of State*, 936 N.W.2d 454 (Mich. 2019) (for *amicus* ACLU Fund of Michigan) (rights of voters to recall elected officials)
- *Mahmood v. City of Hamtramck*, No. 378814, 2026 WL 880593 (Mich. Ct. App. Mar. 27, 2026), appeal denied, No. 170243, 2026 WL 2365261 (Mich. Aug. 14, 2026) (for *amici* ACLU Fund of Michigan *et al.*) (refusal to count voters' ballots)
- *Senate v. House of Representatives*, No. 374786, 2025 WL 3006807 (Mich. Ct. App. Oct. 27, 2025), appeal denied sub nom. Senate v. House of Representatives & House Clerk, 37 N.W.3d 54 (Mich. 2026) (for *amicus* Samuel R. Bagenstos) (legislature's failure to present bill to the governor)
- *House of Representatives v. Governor*, 333 Mich.App. 3251701 (2020) (for *amici* Michigan House Democratic Caucus) (governor's emergency powers to respond to COVID-19)
- *Connecticut Coal. for Justice in Education Funding, Inc. v. Rell*, 176 A.3d 28 (Conn. 2018) (for *amici* National Disability Rights Network *et al.*) (application of Individuals with Disabilities Act to state constitutional education-funding ruling)
- *American Nurses Assn.* v. *Torlakson*, 57 Cal.4th 570 (Cal. 2013) (for *amicus* United States) (preemption under Individuals with Disabilities Education Act, Americans with Disabilities Act, and Rehabilitation Act of state law prohibiting trained non-nursing school staff from providing insulin injections to children with diabetes)
- *Police Commissioner* v. *Gows*, 705 N.E.2d 1126 (Mass. 1999) (for appellee Sandra Harris Gows) (attorneys' fees for enforcement of court order)
- *Ball v. Kasich*, 2020 WL 1969289 (S.D. Ohio Apr. 24, 2020) (for plaintiffs Phyllis Ball *et al.*) (final approval of class settlement) (unnecessary segregation of individuals with developmental disabilities in violation of the Americans with Disabilities Act)
- *Ball v. Kasich*, 244 F. Supp.3d 662 (S.D. Ohio 2017) (for plaintiffs Phyllis Ball *et al.*) (denial of motion to dismiss) (unnecessary segregation of individuals with developmental disabilities in violation of the Americans with Disabilities Act)
- *In Re: Zyprexa Products Liability Litig.*, No. 1:04md01596 (E.D.N.Y.) (for applicants for intervention United States Psychiatric Rehabilitation Association *et al.*) (confidentiality of documents provided in tort litigation discovery)
- *United States v. City of Columbus*, No. C2-99-1097 (S.D. Ohio) (for *amici curiae* John Conyers *et al.*) (standard of municipal liability under federal police misconduct statute, formerly 42 U.S.C. § 14141, now 36 U.S.C. § 12601)
- *Michigan House of Reps. v. Governor*, 2020 WL 3979949 (Mich. Ct. Cl., May 21, 2020) (for *amici* House Democratic Leader Christine Greig and the House Democratic Caucus) (challenge to Michigan Governor's exercise of emergency power in response to the COVID-19 pandemic)

AWARDS

- *President's Award for Public Impact*, University of Michigan (2026)
- *James T. Neubacher Award*, University of Michigan Council for Disability Concerns (2012)
- *Bethesda Voices Public Policy Award*, Bethesda Lutheran Communities (2011)
- *Advocacy Award*, National Assn. of Protection and Advocacy Systems (2001)
- *Special Commendation*, Civil Rights Division, U.S. Dept. of Justice (1996)
- *Special Achievement Award*, Civil Rights Division, U.S. Dept. of Justice (1995)

OTHER PROFESSIONAL AND PUBLIC SERVICE ACTIVITIES

- *Member, National Council*, American Association of University Professors (2025-present)
- *Member*, Washtenaw County Democratic Committee (2025-present)
- *Board Member*, Ann Arbor Housing Commission (2019-2021)
- *Democratic Nominee for Michigan Supreme Court* (2018)
- *Member, Board of Trustees*, Judge David L. Bazelon Center for Mental Health Law (2012-2016)
- *Executive Board Member*, Disability Rights Bar Association (2011-2017)
- *Legal Working Group*, Workplace Flexibility 2010 (2006-2007)
- *Faculty Advisor*, Washington University chapter of the American Constitution Society
- Occasionally publish Inside/Outside newsletter: https://buttondown.com/sbagen/archive/.
- Founded and formerly maintained Disability Law Blog, http://disabilitylaw.blogspot.com/.
- Guest-blogged at various outlets, including Prawfsblawg, SCOTUSBlog, the ACS Blog, Concurring Opinions, Balkinization, the Take Care blog, Just Security, the LPE Blog, Lincoln Square, and Off Message.
- Frequently advise state Attorney General offices, civil rights lawyers, and civil rights and pro-democracy organizations on strategy regarding litigation, legislation, and federal administrative action.
- Participated in Biden-Harris campaign's Housing and Community Development policy committee.
- Frequently speak at professional conferences, including the American Constitution Society annual conference, the annual meeting of the National Disability Rights Network, etc.
- *Volunteer Public Forum Debate Coach*, Greenhills School, Ann Arbor, MI (2013-2018) (Served on Michigan District Committee for the National Speech and Debate Association, 2017-2018. Coordinated public forum debates for the Detroit Catholic Forensic League, 2015-2018. Won debate coach of the year award, 2015-2016, from Michigan Speech Coaches, Inc.)
- *Board Member* (2020-2021), and *Member, Rabbinic Search Committee* (2014-2016), Ann Arbor Reconstructionist Congregation

TESTIMONY

- *Hearing to Consider the Nominations of Maria L. Pagan, of Puerto Rico, to be a Deputy United States Trade Representative (Geneva Office), with the rank of Ambassador, Brent Neiman, of Illinois, to be a Deputy Under Secretary of the Treasury for International Finance and Development, Joshua Frost, of New York, to be an Assistant Secretary of the Treasury for Financial Markets, Samuel R. Bagenstos, of Michigan, to be General Counsel of the Department of Health and Human Services, and Christopher S. Wilson, of the District of Columbia, to be Chief Innovation and Intellectual Property Negotiator, Office of the United States Trade Representative, with the rank of Ambassador*, Hearing Before the United States Senate Committee on Finance (Oct. 26, 2021)
- *Mismanagement at the Civil Rights Division of the Department of Justice*, Hearing Before the United States House of Representatives Committee on the Judiciary (April 16, 2013)
- *Equality at Work: The Employment Non-Discrimination Act*, Hearing Before the United States Senate Committee on Health, Education, Labor, and Pensions (June 12, 2012)
- *Women's Rights Are Human Rights: U.S. Ratification of The Convention on the Elimination of All Forms of Discrimination Against Women*, Hearing Before the Subcommittee on Human Rights and the Law, United States Senate Committee on the Judiciary (Nov. 18, 2010)

TESTIMONY, ctd.

- *Achieving the Promise of the Americans with Disabilities Act in the Digital Age – Current Issues, Challenges, and Opportunities*, Hearing Before the Subcommittee on the Constitution, Civil Rights, and Civil Liberties, United States House of Representatives Committee on the Judiciary (April 22, 2010)
- *Human Rights at Home: Mental Illness in U.S. Prisons and Jails*, Hearing Before the Subcommittee on Human Rights and the Law, United States Senate Committee on the Judiciary (September 15, 2009)
- *Determining the Proper Scope of Coverage for the Americans with Disabilities Act*, Hearing Before the United States Senate Committee on Health, Education, Labor, and Pensions (July 15, 2008)
- *The Fair Pay Restoration Act: Ensuring Reasonable Rules in Pay Discrimination Cases*, Hearing Before the United States Senate Committee on Health, Education, Labor, and Pensions (Jan. 24, 2008)
- Testimony Before the Michigan State Senate Comm. on Civil Rights, Judiciary, and Public Safety regarding a proposed state constitutional amendment to guarantee marriage equality (Mar. 19, 2026)
- *Employment of People with Mental Disabilities*, Hearing Before the United States Equal Employment Opportunity Commission (March 15, 2011)
- *In the Matter of Misuse of Internet Protocol (IP) Captioned Telephone Service & Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24, 03-123 (F.C.C., September 23, 2013) (written testimony only)
- *Re: Laetitia Burkes*, Arbitration Before American Airlines Flight Attendant System Board of Adjustment (July 2007)