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Frank G. Millard Professor of Law
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GOVERNMENT EMPLOYMENT

U.S. Office of Management and Budget, Washington, DC (2021-present)

General Counsel

- Provide 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.
- Represent OMB and the Executive Branch in engagements initiated by the Government Accountability Office.
- Serve as internal legal counsel to OMB on employment, procurement, security, oversight, and ethics matters, among others.

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

Commissioner and Chairperson

- Appointed by Governor Whitmer to serve on and chair public sector labor relations authority.
- Adjudicate unfair labor practice disputes and oversee mediations.
- Work 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 a division with more than 700 attorney and non-attorney employees and a budget of more than \$140 million.
- Aided Assistant Attorney General Thomas Perez in the reinvigoration of enforcement across the range of the Division's responsibilities.
- 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

ACADEMIC EMPLOYMENT

University of Michigan Law School, Ann Arbor, MI
Frank G. Millard Professor of Law (2014-present) (on leave 2021-present)
Professor of Law (2009-present) (on leave 2009-summer 2011)
Visiting Professor of Law (Fall Semester, 2008)
Additional affiliations:

- 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 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; Problem-Solving Initiative: Housing America's Working Poor
- *Litigation*: Remedies

LAW SCHOOL AND UNIVERSITY SERVICE

- 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)
- 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)

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

PUBLICATIONS

Law 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)

Law 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)
- *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)
- *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)

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>

Articles and Essays in Other Outlets, ctd.

- *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>
- *Technical Standards and Lawsuits Involving Accommodations for Health Professions Students*, 18 AMA J. ETHICS 1017 (2016)
- *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>
- *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/KCxf4>
- *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, May 14, 2019, available at <https://perma.cc/H5DT-B8KT>
- *The Hidden Disability Consensus in the 2020 Campaign* (with Harold Pollack), JAMA HEALTH F., Feb. 7, 2020, available at <https://perma.cc/VE32-NELP>
- *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>

Articles and Essays in Other Outlets, ctd.

- *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>

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)
- 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)
- *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)

LECTURES

- 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)

FACULTY WORKSHOP AND OTHER SCHOLARLY PRESENTATIONS

- ***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
- ***Other presentations:***
 - 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.

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)
- 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 *Olmstead* at Twenty: 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)

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*, 137 S. Ct. 743 (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

- *Dep't of Commerce v. New York*, 139 S. Ct. 2551 (2019) (for *amici* John R. Dunne *et al.*) (challenge to inclusion of a citizenship question on the census)
- *Janus v. AFSCME Council 31*, 138 S. Ct. 2448 (2018) (for *amici* Governor Tom Wolf *et al.*) (constitutionality of public-sector union agency-fee regime)
- *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833 (2018) (for *amici* Eric H. Holder, Jr., *et al.*) (challenge under National Voter Registration Act to voter-purge process)
- *Epic Systems Corp. v. Lewis*, 138 S. Ct. 1612 (2018) (for *amici* Main Street Alliance *et al.*) (lawfulness of class-action waivers in employment arbitration agreements)
- *Gloucester County Sch. Bd. v. G.G.*, 137 S. Ct. 1239 (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*, 137 S. Ct. 988 (2017) (for *amici* National Disability Rights Network *et al.*) (standard for “free appropriate public education” under Individuals with Disabilities Education Act)
- *Ivy v. Morath*, 137 S. Ct. 416 (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*, 136 S. Ct. 1083 (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.*, 135 S. Ct. 2507 (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.*, 135 S. Ct. 1378 (2015) (for *amici* American Ass'n of People with Disabilities *et al.*) (private enforcement of Medicaid Act)
- *Harris v. Quinn*, 134 S. Ct. 2618 (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*, 132 S. Ct. 2566 (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 *certiorari*, vacated, and remanded) (application of *Rooker-Feldman* doctrine)

Other Courts

- *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 *amicus* 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)
- *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)
- *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)

Other Courts, etd.

- *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)

OTHER PROFESSIONAL AND PUBLIC SERVICE ACTIVITIES

- *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*
- 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, and Just Security.
- Frequently advise civil rights lawyers and 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

- *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)
- *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)
- *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)

AWARDS

- *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)