

## **ASHUTOSH BHAGWAT**

University of California, Davis  
School of Law  
400 Mrak Hall Drive  
Davis, California 95616  
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### **EXPERIENCE**

- |                               |   |
|-------------------------------|---|
| <b>2011 - Present</b>         | <b>University of California, Davis School of Law</b><br>Davis, California<br>Distinguished Professor (2021 to Present)<br>Boochever and Bird Endowed Chair for the Study and Teaching of<br>Freedom and Equality (2019 to Present)<br>Martin Luther King, Jr. Professor of Law (2015 to Present)<br>Professor of Law (2011-2015)<br>Law school courses I have taught include first amendment law,<br>constitutional law, administrative law, regulated industries, and<br>constitutional theory |
| <b>May 2011 - Present</b>     | <b>California Independent System Operator</b><br>Member, Board of Governors<br>Chair of the Board of Governors (2022)<br>Vice-Chair of the Board (2020 to 2021)<br>Chair, Audit Committee (2012 to 2017)<br>Member, DMM Oversight Committee (2017 to 2020)<br>Member, Audit Committee (2020 to present)   |
| <b>2021 – Present</b>         | <b>Journal of Free Speech Law</b><br>Executive Editor   |
| <b>January 2021 – Present</b> | <b>University of California National Center for Free Speech and Civic Engagement</b><br>Member, Academic Advisory Board   |
| <b>May 2017</b>               | <b>Pontificia Universidad Católica de Chile, School of Law</b><br>Visiting Scholar  |
| <b>1994 – 2011</b>            | <b>University of California, Hastings College of the Law</b><br>San Francisco, California<br>Professor of Law (2000 - 2011)<br>Harry H. and Lillian H. Hastings Research Chair (2008-2009)<br>Associate Academic Dean (2002 - 2004)   |

Associate Professor of Law (1997 - 2000)  
Assistant Professor of Law (1994 - 1997)

**Spring 2005**

**Leiden University**  
Leiden, The Netherlands  
Visiting Professor of Law

**1992 - 1994**

**Sidley & Austin**  
Washington, D.C.  
Associate  
Practiced in appellate, regulatory, and general litigation areas, with a focus on telecommunications issues

**1991 - 1992**

**Associate Justice Anthony M. Kennedy**  
Supreme Court of the United States, Washington, D.C.  
Law Clerk

**1990 - 1991**

**Judge Richard A. Posner**  
United States Court of Appeals for the Seventh Circuit, Chicago, Illinois  
Law Clerk

**1986 - 1987**

**Board of Governors of the Federal Reserve System,**  
Division of Research and Statistics, Washington, D.C.  
Research Assistant

## **EDUCATION**

**1987 - 1990**

**University of Chicago Law School**  
Chicago, Illinois  
J.D. with Honors  
Order of the Coif  
Articles Editor, University of Chicago Law Review  
D. Francis Bustin Prize for An Outstanding Student Comment  
Joseph Henry Beale Prize for Outstanding Work in the first-year  
Research and Writing Program  
John M. Olin Fellow in Law and Economics

**1982 - 1986**

**Yale University**  
New Haven, Connecticut  
B.A., *summa cum laude*, with Honors in History  
Fellows Prize of Jonathan Edwards College, for highest academic  
average in the college  
Phi Beta Kappa

## PUBLICATIONS

### Books

FIRST AMENDMENT LAW: FREEDOM OF EXPRESSION AND FREEDOM OF RELIGION, 5<sup>th</sup> ed.  
(Carolina Academic Press 2022) (with Arthur D. Hellman, William D. Araiza, and Thomas E. Baker)

OUR DEMOCRATIC FIRST AMENDMENT (Cambridge 2020)

FIRST AMENDMENT LAW: FREEDOM OF EXPRESSION AND FREEDOM OF RELIGION, 4<sup>th</sup> ed.  
(Carolina Academic Press 2018) (with Arthur D. Hellman, William D. Araiza, and Thomas E. Baker)

THE MYTH OF RIGHTS: THE PURPOSES AND LIMITS OF CONSTITUTIONAL RIGHTS (Oxford 2010)  
(paperback edition 2012)

Teacher's Manual to Stone, Seidman, Sunstein, Tushnet & Karlan, *Constitutional Law*, 6<sup>th</sup> ed.  
(Aspen 2009) (with Mark Tushnet)

Teacher's Manual to Stone, Seidman, Sunstein, Tushnet & Karlan, *Constitutional Law*, 5<sup>th</sup> ed.  
(Aspen 2005) (with Mark Tushnet)

Teacher's Manual to Stone, Seidman, Sunstein & Tushnet, *Constitutional Law*, 4<sup>th</sup> ed. (Aspen  
2001) (with Mark Tushnet)

### Book Chapters

*The New Gatekeepers?: Social Media and the "Search for Truth"* in Gus Hurwitz, Kyle  
Langvardt and Elana Zeide, eds., MEDIA AND SOCIETY AFTER TECHNOLOGICAL DISRUPTION  
(Cambridge University Press forthcoming 2023)

*Justice Kennedy's Free Speech Optimism* in David A. Frank and Francis J. Mootz III, eds., THE  
RHETORIC OF JUDGING WELL: THE CONFLICTED LEGACY OF JUSTICE ANTHONY M. KENNEDY  
(Penn State University Press 2023)

*Freedom of Expression and Democracy* in Frederick Schauer and Adrienne Stone, eds., OXFORD  
HANDBOOK ON FREEDOM OF SPEECH (Oxford University Press 2021) (with James Weinstein)

*Counter Terrorism Policies and Freedom of Association: International and Comparative  
Perspectives* in Ian Cram, ed., EXTREMISM, FREE SPEECH AND COUNTER-TERRORISM LAW AND  
POLICY (Routledge 2019)

*Bad law: How the United States Supreme Court Mishandled the Free Speech Issue in Holder v. Humanitarian Law* project in Ian Cram, ed., *EXTREMISM, FREE SPEECH AND COUNTER-TERRORISM LAW AND POLICY* (Routledge 2019) (with James Weinstein)

*Free Speech Categories in the Digital Age* in Susan J. Brison and Katharine Gelber, eds., *FREE SPEECH IN THE DIGITAL AGE* (Oxford University Press 2019)

*The Story of Whitney v. California: The Power of Ideas* in Michael C. Dorf, ed., *CONSTITUTIONAL LAW STORIES*, 2<sup>nd</sup> ed. (Foundation 2009)

*Affirmative Action and Benign Discrimination* in Vikram David Amar and Mark V. Tushnet, eds., *GLOBAL PERSPECTIVES ON CONSTITUTIONAL LAW* (Oxford University Press 2009)

*The Story of Whitney v. California: The Power of Ideas* in Michael C. Dorf, ed., *CONSTITUTIONAL LAW STORIES* (Foundation 2004)

#### Articles and Published Briefs

[\*The New Gatekeepers?: Social Media and the “Search for Truth,”\*](#) 3 J. Free Speech L. 41 (2023)

[\*Why Social Media Platforms Are Not Common Carriers,\*](#) 2 J. Free Speech L. 127 (2022)

[\*Do Platforms Have Editorial Rights?,\*](#) 1 J. Free Speech L. 97 (2021)

[\*The Law of Facebook,\*](#) 54 U.C. Davis L. Rev. 2353 (2021)

[\*Crossing Doctrines: Conflating Standing and the Merits Under the Establishment Clause,\*](#) 97 Wash. U. L. Rev. 1729 (2020)

[\*Judge Johnson and the Kaleidoscopic First Amendment,\*](#) 71 Ala. L. Rev. 755 (2020)

[\*The Conscience of the Baker: Religion and Compelled Speech,\*](#) 28 Wm. & Mary Bill of Rts. J. 287 (2019)

[\*More Speech Everywhere: Justice Kennedy and the Public Forum,\*](#) 70 Hastings L.J. 1185 (2019)

[\*Candides and Cassandras: Technology and Free Speech on the Roberts Court,\*](#) 95 Wash. U. L. Rev. 1327 (2018)

[\*When Speech Is Not “Speech,”\*](#) 78 Ohio St. L. J. 839 (2017)

[\*Free Speech and “A Law of Rules,”\*](#) 15 First Amendment L. Rev. 159 (2017)

[\*In Defense of Content Regulation,\*](#) 102 Iowa L. Rev. 1427 (2017)

[\*Calvin Massey: Gentleman and Scholar\*](#), 15 U.N.H. L. Rev. 265 (2017)

[\*The Democratic First Amendment\*](#), 110 Nw. U. L. Rev. 1097 (2016)

[\*Liberty or Equality?\*](#), 20 Lewis & Clark L. Rev. 381 (2016)

[\*Posner, Blackstone, and Prior Restraints on Speech\*](#), 2015 BYU L. Rev. 1151

[\*Free Speech Without Democracy\*](#), 49 U.C. Davis L. Rev. 59 (2015)

[\*Producing Speech\*](#), 56 Wm. & Mary L. Rev. 1029 (2015)

[\*Reed v. Town of Gilbert: Signs of \(Dis\)Content?\*](#), 9 N.Y.U. J. L. & Liberty 137 (2015)

[\*Religious Associations: Hosanna-Tabor and the Instrumental Value of Religious Groups\*](#), 92 Wash. U. L. Rev. 73 (2014)

[\*Truthiness: Corporate Public Figures and the Problem of Harmful Truths\*](#), 99 Minn. L. Rev. 297 (2014)

[\*Terrorism and Associations\*](#), 63 Emory L.J. 581 (2014)

[\*Justice Kennedy's Free Speech Jurisprudence: A Quantitative and Qualitative Analysis\*](#), 44 McGeorge L. Rev. 167 (2013) (with Matthew Struhar)

[\*Details: Specific Facts and the First Amendment\*](#), 86 S. Cal. L. Rev. 1 (2012)

[\*Liberty's Refuge, or the Refuge of Scoundrels?: The Limits of the Right of Assembly\*](#), 89 Wash. U. L. Rev. 1381 (2012)

[\*Sorrell v. IMS Health: Details, Detailing, and the Death of Privacy\*](#), 36 Vt. L. Rev. 855 (2012)

[\*Associations and Forums: Situating CLS v. Martinez\*](#), 38 Hastings Con. L. Q. 543 (2011)

[\*Associational Speech\*](#), 120 Yale L.J. 978 (2011)

[\*A Brief History of the Commercial Speech Doctrine \(With Some Implications for Tobacco Regulation\)\*](#), 2 Hastings Science & Technology L. J. 103 (2010)

[\*Wyeth v. Levine and Agency Preemption: More Muddle, or Creeping to Clarity?\*](#), 45 Tulsa L. Rev. 197 (2009)

*Cooper v. Aaron and the Faces of Federalism*, 52 St. Louis U. L.J. 1087 (2008)

[\*The Test That Ate Everything: Intermediate Scrutiny in First Amendment Jurisprudence\*](#),

2007 U. Ill. L. Rev. 783

[\*Brief of Constitutional Law Professors, David L. Faigman and Ashutosh A. Bhagwat, et al., as Amici Curiae in Support of Respondents in Gonzales v. Carhart and Gonzales v. Planned Parenthood, Nos. 05-380, 05-1382 \(Introduction and Published Brief to United States Supreme Court\)\*](#), 34 Hastings Con. L. Q. 69 (2006) (with David L. Faigman and Kathryn M. Davis)

[\*What If I Want My Kids to Watch Pornography?: Protecting Children from “Indecent” Speech\*](#), 11 Wm. & Mary Bill of Rts J. 671 (2003)

*Institutions and Long Term Planning: Lessons from the California Electricity Crisis*, 55 Admin. L. Rev. 95 (2003)

[\*Cloning and Federalism\*](#), 53 Hastings L.J. 1133 (2002)

[\*Affirmative Action and Compelling Interests: Equal Protection Jurisprudence at the Crossroads\*](#), 4 U. Penn. J. Con. L. 260 (2002)

[\*Injury Without Harm: Texas v. Lesage and the Strange World of Article III Injuries\*](#), 28 Hastings Con. L. Q. 445 (2001)

*Parking at BART, or Economics and Its Discontents*, 4 Green Bag 2d 7 (2000)

*Separate But Equal?: The Supreme Court, the Lower Federal Courts, and the Nature of the “Judicial Power,”* 80 B.U. L. Rev. 967 (2000)

[\*Unnatural Competition?: Applying the New Antitrust Learning to Foster Competition in the Local Exchange\*](#), 50 Hastings L.J. 1479 (1999)

[\*Modes of Regulatory Enforcement and the Problem of Administrative Discretion\*](#), 50 Hastings L.J. 1275 (1999)

*The McCleskey Puzzle: Remedying Prosecutorial Discrimination Against Black Victims in Capital Sentencing*, 1998 S. Ct. Rev. 111 (with Evan Tsen Lee)

*Hard Cases and the (D)Evolution of Constitutional Doctrine*, 30 Conn. L. Rev. 961 (1998)

[\*Purpose Scrutiny in Constitutional Analysis\*](#), 85 Cal. L. Rev. 297 (1997)

[\*Three-Branch Monte\*](#), 72 Notre Dame L. Rev. 157 (1996)

[\*Of Markets and Media: The First Amendment, the New Mass Media, and the Political Components of Culture\*](#), 74 N.C. L. Rev. 141 (1995)

Book Reviews

[Assembly Resurrected \(reviewing \*Liberty's Refuge: The Forgotten Freedom of Assembly\* by John D. Inazu\)](#), 91 Tex. L. Rev. 351 (2012)

Book Review (reviewing *Bush v. Gore: Exposing the Hidden Crisis in American Democracy* by Charles L. Zelden), 27 Law & History Rev. 715 (2009)

[One Nation Color-Blind \(reviewing \*One Nation Indivisible: How Ethnic Separatism Threatens America\*, by J. Harvie Wilkinson, III\)](#), 1 Green Bag 2d 105 (1997)

#### Shorter Pieces and Encyclopedia Entries

[Technology, Analogies, and Legal Reasoning](#), Marquette Lawyer (Summer, 2023)

[Why State Censorship Still Matters](#), Indian Journal of Law and Technology (April 2, 2023)

[The Impact of 9/11 on Freedom of Expression in the United States](#), Verfassungsblog on Matters Constitutional (January 31, 2022)

[Trump's Lawsuits Against Social Media Will Fail, But They Highlight Serious Concerns](#), Australian Outlook (July 29, 2021)

*Kennedy: A Most Strident Moderate*, Daily Journal 7 (June 20, 2018)

*Searching for Safe Spaces*, Inside Higher Ed (March 21, 2017), available at <https://www.insidehighered.com/views/2017/03/21/easily-caricatured-safe-spaces-can-help-students-learn-essay> (with John Inazu)

*Banning Trademarks Called Offensive Violates Free Speech*, New York Times Room for Debate (May 4, 2016), available at <http://www.nytimes.com/roomfordebate/2016/05/04/redskins-and-other-troubling-trademarks>

*Replacing Scalia: Uncertainty is the Enemy of Justice* (Feb. 4, 2016), available at <http://www.newsweek.com/replacing-scalia-uncertainty-enemy-justice-430002>

*More Flexible First Amendment Approach is Needed*, Daily Journal 7 (July 1, 2015)

*Elonis v. United States, What is a Threat?*, Daily Journal 7 (October 13, 2014)

*Content Matters . . . Or Does It?*, Daily Journal 7 (July 24, 2014)

*Public Prayer: Between a Rock and . . .*, Daily Journal 7 (May 12, 2014)

*Hobby Lobby/Citizens United analogies inherently flawed*, Daily Journal 7 (April 11, 2014)

*Heckler's Vetoes in High Schools*, Jurist (March 7, 2014), available at <http://jurist.org/forum/2014/03/ashutosh-bhagwat-heckler-vetoes.php>

*Parents Involved in Community Schools v. Seattle School District/Meredith v. Jefferson County Schools* in Vikram Amar et al., eds., ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (Macmillan 2008)

*Miller v. California* in Vikram Amar et al., eds., ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (Macmillan 2008)

*Bartnicki v. Vopper* in Vikram Amar et al., eds., ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (Macmillan 2008)

*Burson v. Freeman* in Paul Finkelman, ed., ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES (Routledge 2006)

#### Student Comment

*Patronage and the First Amendment: A Structural Approach*, 56 U. Chi. L. Rev. 1369 (1989)

### CONFERENCES AND PRESENTATIONS

Comparative Perspectives on the Purpose and Potential of Freedom of Association  
University College Cork School of Law, Cork, Ireland  
June 27-28, 2023  
Paper Title: Why Association?

Freedom of Expression Scholars Conference  
Yale Law School, New Haven, Connecticut  
April 28-29, 2023  
Discussant

Center for Constitutional Design  
Arizona State University, Sandra Day O'Connor College of Law, Phoenix, Arizona  
March 1, 2023  
Paper Title: The Irrelevant First Amendment

Free Speech in an Age of Misinformation  
Georgetown Law ACLU  
February 28, 2023  
Panelist

National Asian Pacific American Bar Association Annual Meeting  
Cosmopolitan Hotel, Las Vegas, Nevada  
November 5, 2022



Panel: Corporations and the First Amendment

AALS Section on Jurisprudence  
Works in Progress Workshop  
August 12, 2022 (via Zoom)  
Discussant

Rhetorical Society of American Biennial Conference  
Baltimore Marriott Waterfront, Baltimore, Maryland  
May 27-28, 2022  
Paper Title: Justice Kennedy's Free Speech Optimism

Freedom of Expression Scholars Conference  
Yale Law School, New Haven, Connecticut  
April 29-May 1, 2022 (via Zoom)  
Paper Title: The New Gatekeepers?: Social Media and the "Search for Truth"

Quinlan Lecture  
Oklahoma City University School of Law, Oklahoma City, Oklahoma  
April 1, 2022  
Lecture Title: The New Gatekeepers?: Social Media and the "Search for Truth"  
Link to Recording: <https://www.youtube.com/watch?v=ihdStnBGpeA>

Free Speech Platforms in Unfree Countries (Webinar)  
Queen Mary University of London, London, Great Britain  
Centre for Law and Democracy in Society  
March 23, 2022  
Link to Recording: [https://youtu.be/nx\\_7VBvznml](https://youtu.be/nx_7VBvznml)

Non-Governmental Restrictions on Free Speech: A Symposium  
Arizona State University, Sandra Day O'Connor College of Law, Phoenix, Arizona  
March 19, 2022  
Paper Title: Why Internet Platforms Are Not Common Carriers

Seigenthaler Debate  
Catholic University of American, Washington, D.C. (via Zoom)  
Topic: "Resolved: Internet Platforms Should Be Treated Like Common Carriers"  
Con Position  
Link to Recording: <https://youtu.be/7fnLvXWno5I>

Saving Democracy  
American Constitution Society  
December 6, 2021 (via Zoom)  
Panelist  
Link to Recording: <https://www.youtube.com/watch?v=Qx3tJMY66dc>

Content Moderation as Editorial “Speech”  
American Constitution Society At-Large Chapter (via Zoom)  
November 9, 2021

Public Conversations Series 2021, UCLA Institute for Technology, Law, and Policy; and the  
University of Arizona TechLaw Program (via Zoom)  
October 26, 2021  
Paper Title: Do Platforms Have Editorial Rights?

Big Tech and Section 230: Big Problem?  
Panel Discussion for the University of Texas Federalist Society (via Zoom)  
Oct. 7, 2021

Freedom of Expression Scholars Conference  
Yale Law School, New Haven, Connecticut  
April 29-May 1, 2021 (via Zoom)  
Discussant

Conduits or Publishers?  
Journal of Free Speech Law Symposium  
April 23, 2021  
Paper Title: Do Platforms Have Editorial Rights?

Big Tech and Big Censorship: A Discussion of Free Speech Online  
Arizona State University School of Law Federalist Society  
Arizona State University School of Law, Phoenix, Arizona  
March 22, 2021  
Speaker

The Law of Facebook  
Chair Lecture  
UC Davis School of Law, Davis, California  
February 17, 2021

University of Exeter Debating Society  
University of Exeter, Exeter, United Kingdom  
Motion: This House Regrets the Rise of the Snowflake Generation  
Speaker Against the Motion  
Jan. 22, 2021

Schwartz-Levi Inn of the Court  
Davis, California (via Zoom)  
Pentagon Papers, National Security and the Press  
Jan. 13, 2021

## Speaker

Federalist Society 2020 National Lawyers Convention  
Rule of Law, or Just Making it Up? First Amendment Tiered Scrutiny Panel  
November 10, 2020 (Virtual)  
Panelist

Freedom of Expression Scholars Conference  
Yale Law School, New Haven, Connecticut  
October 24-25, 2020 (via Zoom)  
Discussant

Constitutional Law Colloquium  
University of Illinois College of Law, Champaign, Illinois  
March 23, 2020 (via Zoom)  
Paper Title: The Conscience of the Baker: Religion and Compelled Speech

The Religion Clauses  
Washington University School of Law, St. Louis, Missouri  
January 24, 2020  
Paper Title: Crossing Doctrines: Conflating Standing and the Merits Under the Establishment Clause

Sixth Annual Summer Teacher Institute  
Justice Anthony M. Kennedy Judicial Learning Center  
Robert T. Matsui U.S. Courthouse, Sacramento, California  
June 17, 2019  
Talk: An Introduction to the *U.C. Regents v. Bakke* Action

Joint Law School Workshop of UC Davis and Korea University  
Korea University School of Law, Seoul, South Korea  
May 29, 2019  
Paper Title: Free Speech Categories in the Digital Age

Chancellor's Forum on 3D-Printed Guns  
UC Davis School of Law, Davis, California  
April 12, 2019

Constitutional Rights: Intersections, Synergies, and Conflicts  
William & Mary Law School, Williamsburg, Virginia  
March 15-16, 2019  
Paper Title: The Conscience of the Baker: Religion and Compelled Speech

Polarization and Civil Disagreement: Confronting America's Civic Crisis  
School of Civic and Economic Thought and Leadership, Arizona State University, Tempe,

Arizona

February 22-23, 2019

Paper Title: Polarization in the Media: Problem or Cause for Celebration?

The Jurisprudence of Justice Anthony M. Kennedy: Four Decades of Influence

UC Hastings College of the Law, San Francisco, California

February 1, 2019

Paper Title: More Speech Everywhere

Judge Frank M. Johnson, Jr. Centennial Symposium

Hugh F. Culverhouse, Jr. School of Law, University of Alabama, Tuscaloosa, Alabama

January 25, 2019

Paper Title: Judge Johnson and the Kaleidoscopic First Amendment

*Bakke* at 40: Diversity, Difference & Doctrine

UC Davis School of Law, Davis, California

October 26, 2018

Moderator for Panel “The Past”

Trigger Warning: Safe Spaces Are Dangerous

Intelligence<sup>2</sup> Debates

Held at the Fairmont Banff Springs Hotel, Banff, Canada

June 23, 2018

Available to stream at: <https://www.intelligencesquaredus.org/debates/trigger-warning-safe-spaces-are-dangerous>

Freedom of Expression Scholars Conference

Yale Law School, New Haven, Connecticut

April 27-29, 2018

Paper Title: The First Amendment and Democratic Citizenship

Schwartz Levi Inn of the Court, Davis, California

April 11, 2018

Panel: Free Speech for Lawyers and Judges

The Roberts Court’s First Amendment

Washington University School of Law, St. Louis, Missouri

January 19, 2018

Paper Title: Candides and Cassandras: Technology and Free Speech on the Roberts Court

Law, Institutions & Justice: Understanding the Role and Responsibility of the “Public” and the “Private” Institutions in Policymaking and Governance

Jindal Global Law School, Sonapat, India

December 2, 2017

Paper Title: Free Speech Categories in the Digital Age

Faculty Colloquium  
Arizona State University, Sandra Day O'Connor College of Law, Phoenix, Arizona  
November 13, 2017  
Presentation: The First Amendment and Democratic Citizenship

Roundtable: First Amendment in the Regulatory State  
Center for the Study of the Administrative State  
Antonin Scalia Law School, George Mason University, Arlington, Virginia  
October 27, 2017  
Commentator

Immigration Law & Resistance: Ensuring a Nation of Immigrants  
UC Davis School of Law, Davis, California  
October 20, 2017  
Panel: The Future of DACA and Prosecutorial Discretion  
Moderator

California Law Academy  
San Francisco, California  
June 15, 2017  
Talk: First Amendment Rights and Responsibilities for Teachers

Faculty Colloquium  
Universidad de Chile, School of Law, Santiago, Chile  
May 18, 2017  
Paper Titles: When Speech Is Not "Speech"  
Free Speech Boundaries on the Internet

Coloquio Internacional  
Center for Environmental Law, Universidad de Chile, Santiago, Chile  
May 17, 2017  
Public Lecture: Renewable Energy: Opportunities and Challenges

ICARE, Santiago, Chile  
May 17, 2017  
Lecture: Developments in American Administrative and Regulatory Law

Punto de Encuentro (Round Table Discussion)  
Pontificia Universidad Católica de Chile, School of Law, Santiago, Chile  
May 16, 2017  
Topic: THE MYTH OF RIGHTS

Faculty Workshop  
Pontificia Universidad Católica de Chile, School of Law, Santiago, Chile

May 15, 2017

Paper Title: When Speech Is Not “Speech”

Freedom of Expression Scholars Conference

Yale Law School, New Haven, Connecticut

April 28-30, 2017

Paper Title: When Speech Is Not “Speech”

The Expanding First Amendment

The Ohio State University, Moritz College of Law, Columbus, Ohio

November 18, 2016

Keynote Address: When Speech Is Not “Speech”

The First Amendment Legacy of Justice Antonin Scalia

University of North Carolina School of Law, Chapel Hill, North Carolina

October 28, 2016

Paper Title: Free Speech and “A Law of Rules”

A Celebration of the Life and Work of Calvin Massey

University of New Hampshire School of Law, Concord, New Hampshire

September 24, 2016

Paper Title: Calvin Massey: Gentleman and Scholar

Freedom of Expression Scholars Conference

Yale Law School, New Haven, Connecticut

April 30-May 1, 2016

Moderator, Plenary Panel: *First Amendment Theory and Coverage*

Conference of Asian Pacific American Law Faculty

University of California, Davis School of Law, Davis, California

April 8-9, 2016

Panel: Asian Americans and College Admissions

Free Speech Foundations

Northwestern University School of Law, Chicago, Illinois

October 25, 2015

Paper Title: The Democratic First Amendment

Anthony Kennedy Lecture

Northwestern School of Law of Lewis & Clark College, Portland, Oregon

September 23, 2015

Talk: Liberty or Equality?

Third Annual Conference on Governance of Emerging Technologies: Law, Policy and Ethics

Scottsdale Resort & Conference Center, Scottsdale, Arizona

Sponsored by the Sandra Day O'Connor College of Law, Arizona State University  
May 26-28, 2015  
Talk: Data, Privacy and the First Amendment

Freedom of Expression Scholars Conference  
Yale Law School, New Haven, Connecticut  
May 2-3, 2015  
Paper Title: Who's Afraid of Content Regulation?

National Muslim Law Students Association, Power in Diversity Conference  
University of California, Berkeley School of Law, Berkeley, California  
March 20, 2015  
Talk: The First Amendment and the Nature of Democratic Citizenship

The Religious Rights of Corporations in the Aftermath of *Burwell v. Hobby Lobby*  
University of California, Hastings College of the Law, San Francisco, California  
February 20, 2015  
Talk: Corporate Rights and Third Party Burdens

California Lawyer Energy Roundtable  
San Francisco, California  
September 26, 2014  
Discussion with leading energy lawyers regarding the current state of the industry. Transcript of Roundtable was published in the California Lawyer magazine

Twentieth Annual Adventist Attorneys Association Conference  
Sacramento, California  
September 15, 2014  
Talk: Supreme Court Review

Fifth Annual Law and Religion Roundtable  
Washington University in St. Louis School of Law, St. Louis, Missouri  
June 26-27, 2014

The Value of Privacy  
University of California, Hastings College of the Law, San Francisco, California  
April 7, 2014  
Panel on Business, Consumers, & Data Collection  
Moderator

The Contemporary First Amendment: Freedom of Speech, Press, and Assembly  
William and Mary Law School, Williamsburg, Virginia  
February 21-22, 2014  
Paper Title: Producing Speech

First Amendment Roundtable  
Washington University in St. Louis School of Law, St. Louis, Missouri  
January 31, 2014

American Association of Law Schools Annual Meeting  
New York City  
January 2-5, 2014  
Scholarly Papers Competition Panel  
Moderator

California Lawyer Energy Roundtable  
San Francisco, California  
October 11, 2013  
Discussion with leading energy lawyers regarding the current state of the industry. Transcript of Roundtable was published in the California Lawyer magazine

Speech, Symbols and Substantial Obstacles: The Doing and “Undue”ing of Abortion Law since *Casey*  
University of California, Berkeley School of Law, Berkeley, California  
October 4, 2013  
Talk: Professional Speech Regulation

2013 Pacific Judicial Council Biennial Conference  
Territory of Guam  
September 23, 2013  
Talk: A Supreme Court Review

California Senate Public Safety Subcommittee on Gangs, Guns and Drugs  
Hearing on “The Impact of Media Violence on Public Safety”  
Sacramento, California  
July 10, 2013.  
Testimony regarding First Amendment limits on regulating media violence.

Freedom of Expression Scholars Conference  
Yale Law School, New Haven, Connecticut  
May 4-5, 2013  
Paper Title: Terrorism and Associations

Federalist Society and John Templeton Foundation Colloquium on Freedom of Assembly and Religious Liberty  
Ballantyne Hotel, Charlotte, North Carolina  
March 22-23, 2013

The Evolution of Justice Anthony Kennedy’s Jurisprudence  
University of the Pacific, McGeorge School of Law, Sacramento, California



April 6, 2012

Paper Title: Justice Kennedy's Free Speech Jurisprudence: A Quantitative and Qualitative Analysis

Engaging *Liberty's Refuge*

Washington University in St. Louis School of Law, St. Louis, Missouri

March 2, 2012

Paper Title: Liberty's Refuge or the Refuge of Scoundrels: The Limits of the Right of Assembly

The Electoral Tribunal of the Federal Judiciary of Mexico

Mexico City, Mexico

January 20, 2012

Talk: The Separation of Powers and the Role of the Judiciary in the American Constitutional System

California Independent System Operator Legal Forum

Folsom, California

November 1, 2011

Talk: The Path of Free Speech Law after *Sorrell v. IMS Health*

Chicago-Kent Faculty Workshop Series

Chicago-Kent College of Law, Chicago, Illinois

October 25, 2011

Paper Title: Details: Specific Facts and the First Amendment

Constitutional Constraints on State Health Care & Privacy Regulation after *Sorrell v. IMS Health*

Sponsored by the University of New Hampshire and Vermont Law Reviews

University of New Hampshire Law School, Concord, New Hampshire

October 14, 2011

Paper Title: *Sorrell v. IMS Health*: Details, Detailing, and the Death of Privacy

Freedom of Association Conference

University of San Diego School of Law, San Diego, California

November 19-20, 2010

Constitutional Conversations

Stanford Constitutional Law Center, Stanford, California

October 28, 2010

Paper Title: Associational Speech

The Constitution on Campus: The Case of *CLS v. Martinez*

University of California, Hastings College of the Law, San Francisco, California

October 1, 2010

Paper Title: Associations and Forums: Situating *CLS v. Martinez*

Implementing the Tobacco Control Act: Advice to the FDA  
University of California, Hastings College of the Law, San Francisco, California  
August 28, 2009  
Paper Title: Commercial Speech Doctrine – A Brief History

The Roberts Court: Distinguishing *As Applied* v. Facial Challenges in the Midst of Ideological Differences  
University of California, Hastings College of the Law, San Francisco, California  
February 6, 2009  
Moderator

Childress Lecture and Symposium on the Fiftieth Anniversary of *Cooper v. Aaron*  
Saint Louis University School of Law, St. Louis, Missouri  
October 5, 2007  
Paper Title: *Cooper v. Aaron* and the Faces of Federalism

Talk to the Law Faculty  
University of Leiden, Leiden, The Netherlands  
June 13, 2005  
Talk: Intermediate Scrutiny in the Area of First Amendment Law

Security in America: Privacy and Safety in the New Millennium  
University of California, Hastings College of the Law, San Francisco, California  
March 21, 2003  
Opening Remarks

Legal Theory Scholar  
S.J. Quinney College of the Law at the University of Utah, Salt Lake City, Utah  
April 18, 2002.  
Paper title: Institutions and Long Term Planning: Lessons from the California Electricity Crisis

Conceiving a Code for Creation: The Legal Debate Surrounding Human Cloning  
University of California, Hastings College of the Law, San Francisco, California  
January 26, 2002.  
Paper title: Cloning and Federalism

Northern District of California District Court Judges' Retreat  
Sonoma, California  
October 18, 2001  
Talk: Supreme Court Update

Equal Protection After the Rational Basis Era: Is it Time to Reassess the Current Standards of Review?  
University of Pennsylvania Law School, Philadelphia, Pennsylvania

February 2-3, 2001

Paper title: Affirmative Action and Compelling Interests: Equal Protection Jurisprudence at the Crossroads

Mixed Signals: Academic and Industrial Perspectives on the Telecommunications Act of 1996  
University of California, Hastings College of the Law, San Francisco, California

March 6, 1999

Paper title: Unnatural Competition?: Applying the New Antitrust Learning to Foster Competition in the Local Exchange

Antitrust Symposium: Antitrust Issues in the Telecommunications and Software Industries  
Southwestern University School of Law, Los Angeles, California  
March 2, 1996

### **HONORS/AWARDS/LEADERSHIP**

Member, Board of Directors, Sacramento Federal Judicial Library and Learning Center Foundation, 2014-2017

Chair, 2014 American Association of Law Schools Committee to Review Scholarly Papers

Member, American Law Institute

2003 Rutter Award for Teaching Excellence, UC Hastings College of the Law

### **BAR MEMBERSHIPS**

Washington, D.C.

United States Court of Appeals for the Seventh Circuit