

HELEN L. NORTON  
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## EMPLOYMENT

University of Colorado School of Law University Distinguished Professor and Ira C. Rothgerber, Jr. Chair in Constitutional Law	since 2007
Deputy Solicitor General Special Counsel on Constitutional and Civil Rights to Colorado's Office of the Attorney General	since 2020
University of Maryland School of Law Visiting Assistant Professor	2002-2007
University of Wyoming College of Law E. George Rudolph Distinguished Visiting Chair in Law	2001
U.S. Department of Justice Deputy Assistant Attorney General for Civil Rights Counsel to the Assistant Attorney General for Civil Rights	1998-2001
National Partnership for Women and Families Director of Legal and Public Policy Staff Attorney	1989-1998

## EDUCATION

J.D., Boalt Hall School of Law, University of California, Berkeley  
Associate Editor, California Law Review

B.A., Stanford University  
Graduated with distinction

## SCHOLARSHIP

### Books

THE GOVERNMENT'S SPEECH AND THE CONSTITUTION (Cambridge University Press 2019)

Reviewed by/Featured In:

Balkinization (Jack Balkin, Josh Chafetz, Caroline Mala Corbin, Nathan Cortez, Mark Graber, Fred Schauer, Richard Schragger, Nelson Tebbe, Sonja West), *Symposium on Helen Norton, The Government's Speech and the Constitution*, available at [Balkinization](#) (March/April 2020)

Leslie Gielow Jacobs, *Noticing the Government's Voice And Pondering Its Implications: The Government's Speech and the Constitution*, by Helen Norton, 36 CONST. COMM. 149 (2021)

University of Illinois Law Review, *Symposium on The Government's Speech and the Constitution* (April 2021; symposium issue forthcoming 2022)

### Articles and Selected Symposium Essays

*Reinvigorating the Press Clause with Negative Theory*, KNIGHT FIRST. AMEND. INST. (Dec. 6, 2023), <https://knightcolumbia.org/blog/reinvigorating-the-press-clause-through-negative-theory>

*What 21<sup>st</sup>-Century Free Speech Law Means for Securities Regulation*, 99 NOTRE DAME L. REV. 97 (2023)

*A Framework for Thinking About the Government's Speech and the Constitution*, 2022 U. ILL. L. REV. 1669 (2022)

*Distrust, Negative First Amendment Theory, and the Regulation of Lies*, 22-07 KNIGHT FIRST AMEND. INST. (Oct. 19, 2022), <https://knightcolumbia.org/content/distrust-negative-first-amendment-theory-and-the-regulation-of-lies>

*Manipulation and the First Amendment*, 30 WM. & MARY BILL RTS. J. 221 (2021)

Reprinted in MINORITIES, FREE SPEECH AND THE INTERNET: CUTTING-EDGE ISSUES (forthcoming Routledge Press 2023)

*Free Speech and Democracy: A Pragmatic Primer for 21<sup>st</sup> Century Reformers*, 54 U.C. DAVIS L. REV. 1631 (2021) (with Toni M. Massaro)

Reviewed by Edward Rubin, *Protecting Free Speech from Itself*, JOTWELL (March 3, 2021) (reviewing Toni Massaro & Helen Norton, *Free Speech and Democracy: A Primer for 21st Century Reformers* (Dec. 15, 2020), available on SSRN), <https://conlaw.jotwell.com/protecting-free-speech-from-itself/>.

*Discrimination, The Speech That Enables It, And The First Amendment*, 2020 U. CHI. L. FOR. 209 (2020)

*Pregnancy and the First Amendment*, 87 FORDHAM L. REV. 2417 (2019)

Reprinted in Rodney Smolla, ed., THE FIRST AMENDMENT LAW HANDBOOK (2019-20 edition)

*Powerful Speakers and Their Listeners*, 90 U. COLO. L. REV. 441 (2019)

*(At Least) Thirteen Ways of Looking at Election Lies*, 71 OKLA. L. REV. 117 (2018)

*Siriously 2.0: What Artificial Intelligence Reveals About the First Amendment*, 101 MINN. L. REV. 2481 (2017)  
(with Toni M. Massaro and Margot E. Kaminski)

Reviewed by Ann Bartow, *Could There Be Free Speech for Electronic Sheep?*, JOTWELL (February 23, 2017) (reviewing Toni M. Massaro, Helen L. Norton & Margot E. Kaminski, *Siriously 2.0: What Artificial Intelligence Reveals about the First Amendment*, Minn. L. Rev. (forthcoming 2017), available at SSRN), <https://cyber.jotwell.com/could-there-be-free-speech-for-electronic-sheep/>.

To be reprinted in Ryan Calo, Michael Froomkin, & Kristen Thomasen, ed., ROBOT II (forthcoming Edward Elgar Press 2023)

*Government Speech and the War on Terror*, 86 FORDHAM L. REV. 543 (2017)

Reprinted in Rodney Smolla, ed., THE FIRST AMENDMENT LAW HANDBOOK (2018-19 edition)

*Truth and Lies in the Workplace: Employer Speech and the First Amendment*, 101 MINN. L. REV. 31 (2016)

Response by Cynthia Estlund, *Truth, Lies, and Power at Work*, 101 MINN. L. REV. HEADNOTES 349 (2017)

*Siriously? Free Speech Rights for Artificial Intelligence*, 110 NW. U. L. REV. 1169 (2016) (with Toni M. Massaro)

*The Government's Lies and the Constitution*, 91 IND. L.J. 73 (2015)

*Lies To Manipulate, Misappropriate, and Acquire Government Power*, in Austin D. Sarat, ed., LAW AND LIES: DECEPTION AND TRUTH-TELLING IN THE AMERICAN LEGAL SYSTEM (Cambridge University Press 2015)

*Government Speech and Political Courage*, 68 STAN. L. REV. ONLINE 61 (2015)

*Lies and the Constitution*, 2012 SUPREME CT. REVIEW 161 (2013)

*The Equal Protection Implications of Government's Hateful Speech*, 54 WM. & MARY L. REV. 159 (2012)

*Secrets, Lies, and Disclosures*, 27 JOURNAL OF LAW AND POLITICS 641 (2012)

*Campaign Speech Law With a Twist: When Government is the Speaker, Not the Regulator*, 61 EMORY L.J. 209 (2011)

*Intermediaries and Hate Speech: Fostering Digital Citizenship for the Information Age*, 91 BOSTON U. L. REV. 1435 (2011) (with Danielle Keats Citron)

*The Supreme Court's Post-Racial Turn Towards a Zero-Sum Understanding of Equality*, 52 WM. & MARY L. REV. 197 (2010)

*Government Speech 2.0.*, 87 DENV. U. L. REV. 899 (2010) (with Danielle Keats Citron)

*Constraining Public Employee Speech: Government's Control of Its Workers' Speech to Protect Its Own Expression*, 59 DUKE L.J. 1 (2009)

Reprinted in Rodney Smolla, ed., THE FIRST AMENDMENT LAW HANDBOOK (2010-11 edition)

*The Measure of Government Speech: Identifying Expression's Source*, 88 BOSTON U. L. REV. 587 (2008)

Reprinted in Rodney Smolla, ed., THE FIRST AMENDMENT LAW HANDBOOK (2008-09 edition)

*Re-Shaping Federal Jurisdiction: Congress' Latest Challenge to Judicial Review*, 41 WAKE FOREST L. REV. 1003 (2006)

*Stepping Through Grutter's Open Doors: What the University of Michigan Affirmative Action Cases Mean for Race-Conscious Government Decisionmaking*, 78 TEMPLE L. REV. 543 (2005)

*Not for Attribution: Government's Interest in Protecting the Integrity of Its Own Expression*, 37 U.C. DAVIS. L. REV. 1317 (2004)

*You Can't Ask (or Say) That: The First Amendment Implications of Civil Rights Restrictions on Decisionmaker Speech*, 11 WM. & MARY BILL RTS. J. 727 (2003)

### **Shorter Essays and Book Chapters**

*Getting to Trustworthiness (But Not Necessarily to Trust)*, 3 J. FREE SPEECH L. 7 (2023)

To be reprinted in MEDIA AND SOCIETY AFTER TECHNOLOGY AND DISRUPTION (Gus Hurwitz and Kyle Langvardt, eds.) (forthcoming Cambridge University Press 2023)

*What 21<sup>st</sup>-Century Free Speech Law Means for Securities Regulation*,  
<https://sites.duke.edu/thefinregblog/2023/06/22/what-21st-century-free-speech-law-means-for-securities-regulation> (invited by FinReg Blog to submit short form of full-length article)

*Reconsidering the Public Square*, JOTWELL (October 16, 2023) (reviewing Mary Anne Franks, *Beyond the Public Square: Imagining Digital Democracy*, 131 YALE L.J. FORUM 427 (2021)), <https://conlaw.jotwell.com/reconsidering-the-public-square/>

*What the Constitution Can—and Can't—Do About the Government's Lies*, Knight First Amendment Institute Roundtable on Government Lies, (Jan. 24, 2022), available at [What the Constitution Can—and Can't—Do About the Government's Lies | Knight First Amendment Institute \(knightcolumbia.org\)](https://www.knightcolumbia.org/content/what-the-constitution-can-and-cant-do-about-the-government-s-lies)

*The Press's Responsibilities as a First Amendment Institution*, JOTWELL (October 3, 2022) (reviewing Erin C. Carroll, *News as Surveillance*, 59 Washburn L.J. 431 (2020)), <https://conlaw.jotwell.com/the-press-responsibilities-as-a-first-amendment-institution/>

*Government Speech, Democratic Harm, and the First Amendment*, 82 OHIO ST. L. J. ONLINE 1 (2021)

*How The Supreme Court Talks About the Press (and Why We Should Care)*, JOTWELL (October 8, 2021) (reviewing Ronnell Andersen Jones & Sonja R. West, *The U.S. Supreme Court's Characterizations of the Press: An Empirical Study*, available at SSRN), <https://conlaw.jotwell.com/how-the-supreme-court-talks-about-the-press-and-why-we-should-care/>.

*Professors' Free Speech Rights Can Clash With Public Universities' Interest in Managing Their Operations As They Choose*, THE CONVERSATION (Dec. 10, 2021), <https://theconversation.com/professors-free-speech-rights-can-clash-with-public-universities-interest-in-managing-their-employees-as-they-choose-171446>

*The Government's Speech and Why it Matters*, BALKINIZATION (for the Symposium on THE GOVERNMENT'S SPEECH AND THE CONSTITUTION) (Mar. 28, 2020)

*The Government's Speech and Its Complexities*, BALKINIZATION (for the Symposium on THE GOVERNMENT'S SPEECH AND THE CONSTITUTION) (Mar. 27, 2020), <https://balkin.blogspot.com/2020/03/the-governments-speech-and-its.html>

*Reproductive Health Care Exceptionalism and the Pandemic*, JOTWELL (November 9, 2020) (reviewing B. Jessie Hill, *Essentially Elective: The Law and Ideology of Restricting Abortion During the Covid-19 Pandemic*, 106 Va. L. Rev. Online 99 (2020)), <https://conlaw.jotwell.com/reproductive-health-care-exceptionalism-and-the-pandemic/>

*Government Corruption, Public Employees' Speech, and the First Amendment*, FIRST AMENDMENT WATCH <https://firstamendmentwatch.org/trashed-4/>; FIRST AMENDMENT NEWS <https://www.thefire.org/first-amendment-news-250-a-commentary-on-waronker-v-hempstead-union-school-dist-and-the-public-employee-speech-doctrine/> (Apr. 16, 2020)

*Can the Constitution Stop the Government From Lying to the Public?*, THE CONVERSATION (Jan. 14, 2020), <https://theconversation.com/can-the-constitution-stop-the-government-from-lying-to-the-public-128967>

*The Uses and Abuses of the Government's Tools of Information Control*, JOTWELL (October 7, 2019) (reviewing Nathan Cortez, *Information Mischief Under the Trump Administration*, 94 CHI.-KENT L. REV. 315 (2019)), <https://conlaw.jotwell.com/the-uses-and-abuses-of-the-governments-tools-of-information-control/>.

*The Government's Manufacture of Doubt*, 16 FIRST AM. L. REV. 342 (2018)

*Artificial Intelligence and the First Amendment*, in Woodrow Barfield & Ugo Pagallo, ed., RESEARCH HANDBOOK ON LAW AND ARTIFICIAL INTELLIGENCE (Edward Elgar Press 2018) (with Toni M. Massaro)

*The Government's Lies and the Press Clause*, 89 U. COLO. L. REV. 453 (2018)

*What's New is Old Again (And Vice Versa)*, in Ronald Collins & David Skover, ROBOTICA: SPEECH RIGHTS AND ARTIFICIAL INTELLIGENCE (Cambridge University Press 2018)

*Robotic Speakers and Human Listeners*, 41 SEATTLE U. L. REV. 1145 (2018)

*Remedies and the Government's Constitutionally Harmful Speech*, 9 CONLAWNOW 49 (2018), <http://ideaexchange.uakron.edu/conlawnow/vol9/iss1/6>

*Excavating the Forgotten Suspension Clause*, JOTWELL (October 26, 2018) (reviewing Amanda Tyler, *HABEAS CORPUS IN WARTIME: FROM THE TOWER OF LONDON TO GUANTANAMO BAY* (2017)), <https://conlaw.jotwell.com/excavating-the-forgotten-suspension-clause/>.

*Taking Listeners' First Amendment Interests Seriously*, FIRST AMENDMENT NEWS (Sept. 20, 2018), <https://concurringopinions.com/archives/2018/09/fan-200-first-amendment-news-helen-norton-taking-listeners-first-amendment-interests-seriously.html>

*Gambling With Our Constitution*, DENVER POST (Apr. 20, 2018), <https://www.denverpost.com/2018/04/20/gambling-with-our-constitution/> (with David Super)

*Employers' Duties of Honesty and Accuracy*, 21 EMP. RIGHTS AND EMP. POL'Y J. 575 (2017)

*Checking the Government's Deception Through Public Employee Speech*, JOTWELL (September 25, 2017) (reviewing Heidi Kitrosser, *The Special Value of Public Employee Speech*) <https://conlaw.jotwell.com/checking-the-governments-deception-through-public-employee-speech/>.

*What We Learn From Government Speech About Hate*, LAWFARE, Aug. 15, 2017, <https://lawfareblog.com/what-we-learn-government-speech-about-hate> (with Danielle Keats Citron)

*Does Alexa Have Free Speech Rights?*, SLATE, Mar. 22, 2017, [http://www.slate.com/articles/technology/future\\_tense/2017/03/does\\_amazon\\_s\\_alexa\\_have\\_free\\_speech\\_rights.html](http://www.slate.com/articles/technology/future_tense/2017/03/does_amazon_s_alexa_have_free_speech_rights.html) (with Toni M. Massaro and Margot E. Kaminski)

*Recovering Forgotten Struggles Over the Constitutional Meaning of Equality*, JOTWELL (October 6, 2016) (reviewing Katie Eyer, *Ideological Drift and the Forgotten History of Intent*, 51 Harv. C.R.-C.L. L. Rev. 1 (2016), available at SSRN), <http://conlaw.jotwell.com/recovering-forgotten-struggles-over-the-constitutional-meaning-of-equality/>.

*A Few Thoughts on Free Speech Constitutionalism*, 2015 U. ILL. L. REV. SLIP OPINIONS 98 (2015)

*Cyberharassment and Workplace Law*, B.U. L. REV. ANNEX (Oct. 20, 2015), <http://www.bu.edu/bulawreview/norton-cyberharassment-workplace-law/>

*How Do We Know When Speech is of Low Value?*, JOTWELL (May 8, 2015) (reviewing Genevieve Lakier, *The Invention of Low-Value Speech*, <http://conlaw.jotwell.com/how-do-we-know-when-speech-is-of-low-value>

*Setting the Tipping Point For Disclosing The Identity of Anonymous Online Speakers: Lessons from Other Disclosure Contexts*, 49 WAKE FOREST L. REV. 565 (2014)

*Government Speech in Transition*, 57 S. DAK. L. REV. 421 (2012)

*The Equal Protection Implications of Government's Hateful Speech*, Legal Workshop, Dec. 12, 2012, <http://legalworkshop.org/2012/12/12/the-equal-protection-implications-of-the-governments-hateful-speech>

*Imaginary Threats to Government's Expressive Interests*, 61 CASE WESTERN L. REV. 1265 (2011)

*Excluding Unemployed Workers from Job Opportunities: Why Disparate Impact Protections Still Matter*, 2011 HASTINGS L.J. VOIR DIRE 1

*The Court's Post-Racial Turn*, Legal Workshop, Feb. 28, 2011, <http://legalworkshop.org/2011/02/28/william-and-mary-post>

*Shining a Light on Democracy's Dark Lagoon*, 61 S. CAR. L. REV. 535 (2010)

*Regulating Cyberharassment: Some Thoughts on Sexual Harassment 2.0*, 87 DENV. U. L. REV. ONLINE 11 (2010)

*Constraining Public Employee Speech*, Legal Workshop, Oct. 19, 2009, <http://legalworkshop.org/2009/10/19/1689>

*Government Workers and Government Speech*, 7 FIRST AM. L. REV. 75 (2008)

*The Antidiscrimination Law Implications of Excluding Reproductive Technologies from Employer-Sponsored Health Plans*, 8 EMP. RTS. & EMP. POL'Y J. 523 (2004) (transcripted remarks)

*What Bush v. Gore Means for Elections in the 21<sup>st</sup> Century*, 2 WYO. L. REV. 419 (2002)

## Works in Progress

*Fear and the Free Speech Clause*

*Corporations and Expressive Association* (invited symposium contribution)

ADVANCED INTRODUCTION TO THE FIRST AMENDMENT (forthcoming 2024 Edward Elgar Press)

## AWARDS AND PUBLIC LECTURES

2023 Quinlan Constitutional Law Lecture, Oklahoma City University School of Law

2021 Designated University Distinguished Professor, University of Colorado

2019 Austin Scott Lecture, *The Government's Speech and the Constitution*, University of Colorado School of Law

2016 Excellence in Teaching Award, University of Colorado School of Law

2015 Gamm Justice Award (for outstanding written work addressing critical issues in justice; for *The Government's Lies and the Constitution*) (co-recipient)

2014 Designated President's Teaching Scholar, University of Colorado

2013 Excellence in Teaching Award, University of Colorado School of Law

2012 Provost's Faculty Achievement Award, University of Colorado (for *Constraining Public Employee: Government's Control of Its Workers' Speech to Protect Its Own Expression*)

2012 Clifford J. Calhoun Public Service Award, University of Colorado School of Law

2011 Jules Milstein University of Colorado School of Law Faculty Writing Award, University of Colorado School of Law (for *Constraining Public Employee: Government's Control of Its Workers' Speech to Protect Its Own Expression*)

2011 Byron R. White Center for the Study of American Constitutional Law Faculty Writing Award, University of Colorado School of Law (for *The Supreme Court's Post-Racial Turn Towards a Zero-Sum Understanding of Equality*) (co-recipient)

2011 Excellence in Teaching Award, University of Colorado School of Law

2009 Excellence in Teaching Award, University of Colorado School of Law



2008 Excellence in Teaching Award, University of Colorado School of Law

2007 Teacher of the Year, University of Maryland School of Law

Commencement Speaker, University of Wyoming College of Law, May 2003

E. George Rudolph Distinguished Visiting Lecture, “What *Bush v. Gore* Means for Elections in the 21<sup>st</sup> Century,” University of Wyoming School of Law, December 2001

#### **TESTIMONY BEFORE LEGISLATIVE AND ADMINISTRATIVE BODIES**

*Federal Antidiscrimination Law Implications of Excluding Currently Unemployed Workers from Consideration for Job Opportunities*, Equal Employment Opportunity Commission (2011)

*The Protecting Older Workers Against Discrimination Act: Hearing on H.R. 3721 Before the Subcomm. on the Constitution, Civil Rights, and Civil Liberties of the H. Comm. on the Judiciary*, 111th Cong. (2010)

*The Protecting Older Workers Against Discrimination Act: Hearing on S. 1756 Before the S. Comm. on Health, Education, Labor, and Pensions*, 111th Cong. (2010)

*Employment Non-Discrimination Act: Ensuring Opportunity for All Americans: Hearing Before the S. Comm. On Health, Education, Labor, and Pensions*, 111th Cong. (2009)

*Protecting American Employees from Workplace Discrimination: Hearing on H.R. 1431 Before H. Subcomm. on Health, Employment, Labor and Pensions of the H. Comm. on Education and Labor*, 110<sup>th</sup> Cong. (2008)

*The Employment Non-Discrimination Act of 2007: Hearing on H.R. 2015 Before H. Subcomm. on Health, Employment, Labor, and Pensions of the H. Comm. on Education and Labor*, 110<sup>th</sup> Cong. (2007)

*Department of Justice Civil Rights Division Oversight: Hearing Before S. Comm. on the Judiciary*, 110th Cong. (2007)

#### **AMICUS BRIEFS**

Brief filed in the U.S. Court of Appeals for the Third Circuit on behalf of Amici Women’s Law Project, et al., in *Greater Philadelphia Chamber of Commerce v. City of Philadelphia* (September 2018)

Brief filed in the U.S. Court of Appeals for the District of Columbia Circuit on behalf of Amici National Women’s Law Center, et al., in *UPMC Braddock v. Perez* (December 2013)

Brief filed in the United States Supreme Court on behalf of Amici National Women’s Law Center, et al., in *Thompson v. North American Stainless, LP* (September 2010)

Brief filed in the United States Supreme Court on behalf of *Amici* National Partnership for Women & Families, Mexican American Legal Defense and Education Fund, Lawyers' Committee for Civil Rights under Law, et al., in *Lewis v. City of Chicago* (November 2009)

Brief filed in the United States Supreme Court on behalf of *Amici* National Partnership for Women & Families, et al., in *Ricci v. DeStefano* (April 2009)

Brief filed in United States Circuit Court of Appeals for the Fourth Circuit on behalf of *Amici* National School Boards Association, American Association of School Administrators, National League of Cities, et al., in *Page v. Lexington County Sch. Bd. No. One* (October 2007)

## SCHOLARLY PRESENTATIONS

Presenter, "The Expressive Character of Commercial Transactions," *The Corporation at the Intersection of Law and Information*, Seattle University School of Law, March 2024

Presenter, "Fear and the Free Speech Clause," BYU Law School Individual Rights and Liberties Colloquium, November 2023

Participant, Press Clause Workshop, Abrams Institute for Free Expression, Chicago, September 2023

Speaker, "Securities Regulation and the First Amendment," Business Scholarship Podcast, July 2023

Presenter, "Getting to Trustworthiness (But Not Necessarily to Trust)," Journal of Free Speech Law and Nebraska Governance and Technology Center, Symposium on Media and Society After Technological Disruption, May 2023

Presenter, "When Speakers' and Listeners' First Amendment Interests Collide," Quinlan Distinguished Constitutional Law Lecture, Oklahoma City University School of Law, March 2023

Presenter, "What 21<sup>st</sup>-Century Free Speech Law Means for Securities Regulation," Oklahoma City University School of Law, March 2023

Presenter, "What 21<sup>st</sup>-Century Free Speech Law Means for Securities Regulation," National Conference of Constitutional Law Scholars, Rehnquist Center on the Constitutional Structures of Government, March 2023

Presenter, "The Government's Speech and the Constitution," Georgetown University Law Center's Seminar on Recent Books on the Constitution, November 2022

Presenter, "Technology, Listeners, and the First Amendment," Georgetown University Law Center's Center for the Constitution and Tech Law Institute, November 2022

Presenter, “Securities Regulation and 21<sup>st</sup>-Century Free Speech Law,” Constitutional Law Colloquium, Loyola University-Chicago School of Law, November 2022

Presenter, “Negative First Amendment Theory and the Regulation of Lies,” Symposium on Lies, Free Speech, and the Law, Columbia University School of Law, April 2022

Presenter, “Securities Law and the First Amendment,” Free Expression Scholars Conference, Yale Law School, April 2022

Discussant, “The Structure of Public Debate,” Conference on Freedom of Expression and Democracy in Europe, University of Lyon, April 2022

Speaker, “What the Constitution Can and Can’t Do About the Government’s Falsehoods,” Roundtable on Government Lies, Knight First Amendment Institute at Columbia University, January 2022

Speaker, “The First Amendment Implications of Regulating Election-Related Lies and Threats,” Symposium on Election Speech and the First Amendment, University of North Carolina School of Law, January 2022

Presenter, “Manipulation and the First Amendment,” Constitutional Law Colloquium, George Washington University School of Law, November 2021

Discussant, “Is Government the Solution?” University of Alabama School of Law Roundtable Discussion on “Saving the News: Why the Constitution Calls for Government Action to Preserve Freedom of Speech,” September 2021

Presenter, “Manipulation and the First Amendment,” Carlos III University of Madrid International Webinar on “Free Speech, Democracy, and Rights of Minorities,” July 2021

Presenter, “The Government’s Speech About Speech and the Press,” Roundtable on The Courts and the Press, Law and Society Annual Meeting, May 2021

Keynote Speaker, “The Government’s Speech and the Constitution,” Symposium on The Government’s Speech and the Constitution, University of Illinois College of Law, April 2021

Presenter, “Manipulation and the First Amendment,” Free Expression Scholars Conference, Yale Law School, April 2021

Speaker, “Speech Unprotected by the Roberts Court,” Symposium on The Roberts Court and the First Amendment, Brooklyn Law School, April 2021

Presenter, “Manipulation and the First Amendment,” Symposium on Algorithms and the Bill of Rights, William and Mary Law School, March 2021

Presenter, “Discrimination, The Speech That Enables It, And The First Amendment,” University of Oregon Law School Colloquium Series, March 2021

Speaker, “Falsehoods and the First Amendment,” University of Dayton School of Law, March 2021

Presenter, “Free Speech and Democracy: A Pragmatic Primer for 21<sup>st</sup> Century Reformers,” Free Expression Scholars Conference, Yale Law School, October 2020

Presenter, “Negative First Amendment Theory and Its Limits,” Constitutional Law Colloquium, Loyola-Chicago University Law School, November 2020

Presenter, “The Government’s Speech and Equality,” University of Chicago Law School Public Law and Legal Theory Workshop, March 2020

Presenter, “The Government’s Speech and the Constitution,” Raymond & Mary Simon Speaker Series, Loyola-Chicago University Law School, February 2020

Presenter, “The Government’s Speech and the Constitution,” American Constitution Scholars Forum, Barry University School of Law, February 2020

Presenter, “The Government’s Speech and the Constitution,” Loyola-Chicago University Law School Constitutional Law Colloquium, November 2019

Presenter, “Discrimination and the Speech That Enables It,” Symposium on “What’s the Harm: The Future of the First Amendment,” University of Chicago School of Law, October 2019

Presenter, “The Government’s Speech and the Constitution,” University of New Mexico School of Law Colloquium Series, September 2019

Presenter, “Discrimination, The Speech That Enables It, and the First Amendment,” Law and Society Annual Meeting, Washington DC, June 2019

Presenter, “The Government’s Speech About Speech,” Free Expression Scholars Conference, Yale Law School, April 2019

Presenter, “The Government’s Speech and Equality,” National Conference of Constitutional Law Scholars, University of Arizona School of Law’s Rehnquist Center on Constitutional Rights, March 2019

Presenter, “The Government’s Speech and the Constitution,” Pepperdine Law School Colloquium Series, March 2019

Presenter, “Discrimination, The Speech That Enables It, and the First Amendment,” Symposium on Gender Equality and the First Amendment, Fordham Law School, November 2018

Presenter, "Discrimination, The Speech That Enables It, and the First Amendment," Loyola-Chicago University Law School Constitutional Law Colloquium, November 2018

Presenter, "Powerful Speakers and Their Listeners," Rothgerber Constitutional Law Conference, University of Colorado School of Law, April 2018

Presenter, "Discrimination, Information, and the First Amendment," Free Expression Scholars Conference, Yale Law School, April 2018

Presenter, "Questioning Discrimination," American Constitutional Law Scholars Forum, Barry University School of Law, March 2018

Presenter, "(At Least) Thirteen Ways of Looking at Election Lies," Symposium on Falsehoods, Fake News, and the First Amendment, University of Oklahoma School of Law, February 2018

Presenter, "The Dark Side of Utility," Symposium on Singularity: Artificial Intelligence and the Law, Seattle University School of Law, February 2018

Presenter, "Government Speech and the Manufacture of Doubt," Eighth Annual Loyola-Chicago University Law School Constitutional Law Colloquium, November 2017

Presenter, "Remedies and the Government's Constitutionally Harmful Speech," Symposium on The Constitution and Remedies: Remedying Harms and Circumscribing Relief, The Center for Constitutional Law at Akron Law School, November 2017

Presenter, "Government Speech and the Manufacture of Doubt," Symposium on "Distorting the Truth: 'Fake News' and Free Speech," University of North Carolina School of Law, October 2017

Presenter, "Antidiscrimination Law, Employer Inquiries, and the First Amendment," Colloquium on Scholarship of Labor and Employment Law, Texas A&M School of Law, September 2017

Presenter, "Government Speech and the War on Terror," Free Expression Scholars Conference, Yale Law School, April 2017

Presenter, "Government Speech and the War on Terror," Symposium on Terrorist Incitement on the Internet, Fordham Law School, April 2017

Presenter, "Government Lies and the Press Clause," Symposium on Truth, Lies, and the Constitution, University of Colorado School of Law, April 2017

Presenter, "Government Speech and the War on Terror," Utah Law School Colloquium Series, April 2017

Presenter, "Employers' Duties of Honesty and Accuracy," Labor Law Group Symposium on the Restatement of Employment Law, Indiana University Maurer School of Law, November 2016

Presenter, "Listeners and the First Amendment," Seventh Annual Loyola-Chicago University Law School Constitutional Law Colloquium, November 2016

Presenter, "Truth and Lies in the Workplace: Employer Speech and the First Amendment," Free Expression Scholars Conference, Yale School of Law, May 2016

Co-presenter, "Siriously? Free Speech Rights for Artificial Intelligence," We Robot 2016 Conference, University of Miami School of Law, April 2016

Commenter, "A Listener-Based Approach to Campaign Disclosures," Keller Center for the Study of the First Amendment Conference on Money and the First Amendment, University of Colorado, April 2016

Presenter, "The Government's Lies and the Constitution," American Constitution Society's Second Annual Constitutional Law Scholars Forum, Barry University School of Law, April 2016

Presenter, "The Free Speech Rights and Responsibilities of Powerful Speakers," Speech Holes: A Workshop on Free Speech Theory, University of Arizona College of Law, February 2016

Co-presenter, "Siriously? Free Speech Rights for Artificial Intelligence," Symposium on Free Speech Foundations, Northwestern University Law Review, October 2015

Presenter, "Lies to Manipulate, Misappropriate, and Acquire Governmental Power," Sixth Annual Loyola University Law School Constitutional Law Colloquium, November 2015

Commenter, "Law and the Production of Violence," Yale Free Expression Scholars Conference, May 2015

Presenter, "Workplace Truth and Lies," Fifth Annual Constitutional Law Colloquium, Loyola-Chicago Law School, November 2014

Presenter, "Lies to, About Being, and to Become the Government," Symposium on "Law and Lies," University of Alabama School of Law, October 2014

Presenter, "Workplace Truth and Lies," Colloquium of Scholarship on Labor and Employment Law, University of Colorado School of Law, September 2014

Presenter, "When Government Lies: The Constitutional Implications of Government's Deliberate Falsehoods," Yale Free Expression Scholars Conference, May 2014

Presenter, "The Equal Protection Implications of Government's Hateful Speech," University of Colorado Public Law Colloquium: Race in America, February 2014

Presenter, "When Government Lies: The Constitutional Implications of Government Falsehoods," Fourth Annual Constitutional Law Colloquium, Loyola-Chicago School of Law, November 2013

Presenter, "Setting the Tipping Point for Disclosing the Identity of Anonymous On-line Speakers: Lessons from Other Disclosure Contexts," Symposium on Internet Privacy Regulation, Wake Forest School of Law, October 2013

Commenter, "Regulating Hate Speech," Yale Free Expression Scholars Conference, May 2013

Presenter, "Lies and the Constitution," Chicago-Kent College of Law Colloquium Series, January 2013

Presenter, "Lies and the Constitution," Third Annual Constitutional Law Colloquium, Loyola-Chicago School of Law, November 2012

Presenter, "The Equal Protection Implications of Government's Hateful Speech," Law and Society Annual Meeting, June 2012

Presenter, "Secrets, Disclosure, and First Amendment Autonomy," Symposium on Anonymity and Identity in the Information Age, Cardozo School of Law, May 2012

Presenter, "Government Speech in Transition," Symposium on the Future of Government Speech, University of South Dakota School of Law, March 2012

Presenter, "Secrets, Lies, and Disclosure," Conference on Disclosure, Anonymity and the First Amendment, University of Virginia School of Law, October 2011

Presenter, "Government Speech and Equal Protection," Second Annual Constitutional Law Colloquium, Loyola-Chicago School of Law, October 2011

Presenter and Roundtable Participant, "Intermediaries and Hate Speech: Fostering Digital Citizenship for the Information Age," Roundtable on Hate Speech, Center on the Internet and Society, Stanford University School of Law, January 2011

Presenter, "The Unexpected Virtues of Government's Partisan Speech," Symposium on Government Speech: The Government's Ability to Compel and Restrict Speech, Case Western University Law School, November 2010

Presenter, "The Unexpected Virtues of Government's Partisan Speech," Constitutional Law Colloquium: How Democratic is the Constitution?, Loyola-Chicago Law School, November 2010

Presenter, "Electoral Exceptionalism and Government Expression," Symposium on Structural and Doctrinal Questions in Constitutional Law: Is Our Constitutional Order Broken?, University of Connecticut School of Law, October 2010

Presenter, "The Supreme Court's Post-Racial Turn," Law and Society Annual Meeting, Chicago, May 2010

Presenter, "Government Speech 2.0," Ira C. Rothberger, Jr. Conference on Government Speech, University of Colorado Byron White Center on Constitutional Law, Denver, January 2010

Commenter, "Cyberharassment, Regulation, and Free Speech," Cyber Civil Rights Symposium: New Challenges for Civil Rights and Civil Liberties in Our Networked Age, Denver University School of Law, November 2009

Presenter, "Government Speech in Transition," Symposium on The Fourth Circuit Court of Appeals: Its Tradition, Its Jurisprudence, and Its Future, University of South Carolina School of Law, October 2009

Presenter, "The Post-Racial Constitution: What *Ricci* Means for Equal Protection Law," Colloquium on Current Scholarship in Labor and Employment Law, Seton Hall University School of Law, September 2009

Presenter, "Does Empathy for Some Necessarily Mean Prejudice Against Others? What *Ricci* Means for Antidiscrimination Law," Rocky Mountain Junior Legal Scholars Workshop, Brigham Young University School of Law, September 2009

Commenter, "Workplace Discrimination: How it Occurs and Legal Responses," Law and Society Annual Meeting, Denver, May 2009

Commenter, "Cyber Civil Rights," Fordham University Law Center on Law and Information Policy, January 2009

Presenter, "When May Government Control Its Workers' Speech to Protect Its Own Expression?" Colloquium on Current Scholarship in Labor and Employment Law, California Western, University of San Diego, and Thomas Jefferson Schools of Law, October 2008

Presenter, "Policing the Line Between Government Speech and Censorship," Northeast People of Color and the Law Conference, Boston University School of Law, September 2008

Presenter, "Government's Expressive Interests in the Speech of Its Employees," Jurisgenesis: New Voices in the Law, Washington University and St. Louis University Schools of Law, June 2008

Presenter, "Government Workers and Government Speech," Symposium: Public Citizens, Public Servants – Free Speech in the Post-*Garcetti* Workplace," University of North Carolina School of Law, February 2008

Presenter, "An Employment Law Perspective on Conscience-Based Refusals by Health Care Workers," Maryland Health Care Ethics Committee Network, University of Maryland School of Law, June 2006



Panelist, “The Antidiscrimination Law Implications of Excluding Reproductive Technologies from Employer-Sponsored Health Plans,” Joint Program of the Employment Discrimination and Employee Benefits Law Sections, American Association of Law Schools Annual Meeting, January 2004

## **SERVICE**

### **Major Law School Service**

Chair, Faculty Recognition Committee, 2023-present

Member, Peer Review Committee, 2023-present

Chair, Evaluations Committee, 2020-2021 and 2017-18; Member, Evaluations Committee, 2022-23 and 2015-16

Member, Law School Dean Search Committee, 2020-21 and 2015-16

Member, Mentoring Committee, 2011-21

Member, COVID-19 Planning Task Force, 2020

Chair, Appointments Committee, 2019-20 and 2015-16; Member, 2010-11 and 2008-09

Chair, Academic and Student Affairs Committee, 2018-19 and 2016-17; Member, 2011-14

Chair, Legal Writing Faculty Search Committee, 2016-17

Vice-Chair, ABA Self-Study Committee, 2015

JD/MPA Dual Degree Advisor, 2008-present

Associate Dean, University of Colorado School of Law, 2011-14

Member, Policy, Management, & Budget Committee, 2011-14, 2015-16

Member, Public Service Committee, 2012-15

Member, Dean’s Committee for Diversity, 2010-14

Chair, Legal Writing Coordinator and Legal Writing Faculty Search Committees, 2012

Member, Scholarship Application Review Committee, 2012 and 2010

Member, Admissions Committee, 2009-2010

Member, Clinical Hiring Committee, 2008-09

Faculty Secretary, 2007-08

### **University of Colorado Service**

Member, University Distinguished Professor Selection Committee, 2021-present

Chair, Presidential Teaching Scholar By-Laws Committee (2021-present); Member, Selection Committee, 2019-20 and 2017-18; Member, Timmerhaus Ambassador Selection Committee, 2017-18

Member, Vice-Chancellors' Advisory Committee, 2018-21

Mentor, CU-Boulder Faculty Mentoring Program, 2020-21

University of Colorado Excellence in Leadership Program Fellow, 2020-21

Member, University of Colorado Department of Athletics' Gender Equity Compliance Review Committee, 2016-17 and 2009-2010

Member, Intercollegiate Athletics Committee, University of Colorado, 2008-14

Member, Provost's Faculty Achievement Award Selection Committee, 2013

### **Professional Service**

Deputy Solicitor General and Special Counsel on Constitutional and Civil Rights to the Colorado Attorney General, 2020-present

Editorial Board Member, Journal of Free Speech, 2021-present

Book Reviewer, Cambridge, Oxford, and George Mason Presses; Article Peer Reviewer, Yale Law Journal, Harvard Law Review, Columbia Law Review

Presidential Transition Team, Lead Agency Reviewer for the Equal Employment Opportunity Commission, 2008-09

Volunteer Firefighter, Boulder Mountain Fire Protection District, 2011-present

Member, 20<sup>th</sup> Judicial District Victims Assistance and Law Enforcement Board 2008-13

Member, National Advisory Commission, Workplace Flexibility 2010 (2008-2010); Legal Working Group, Workforce Flexibility 2010 (2005-08)

Co-chair, American Bar Association, Section on Labor and Employment Law, Committee on Equal Opportunity in the Profession (2001-2004)

Co-chair, ABA Section on Labor and Employment Law, EEO Law Committee (1997-2000)

President, Board of Directors, YWCA of the National Capital Area (1995-97); Board Member (1993 – 2002)

Member, Board of Directors, National Employment Law Project (1994-98)

Volunteer Attorney, Washington Legal Clinic for the Homeless (1991-99)

### **Selected Public and Professional Presentations**

Presenter, “The First Amendment in the Supreme Court,” University of Colorado School of Law Mini Law School, February 2024

Presenter, “When, If Ever, Can Government Officials Block You From Their Social Media Accounts?” University of Colorado Supreme Court Preview, February 2024

Presenter, “The First Amendment in the Supreme Court,” University of Colorado Supreme Court Review and Preview, September 2023

Presenter, “Developments in Constitutional Law,” University of Colorado Law School Annual Supreme Court Review, August 2023

Speaker, “Civil Rights in the U.S. Supreme Court,” Byron White Center for the Study of American Constitutional Law and OutLaw Forum, January 2023

Presenter, “Developments in Constitutional Law,” University of Colorado Law School Annual Supreme Court Review, August 2022

Speaker, “Unenumerated Fundamental Rights,” Community Discussion Group, August 2022

Speaker, “The Future of Constitutional Rights After *Dobbs*,” If/When/How, Boulder, June 2022

Speaker, “The 21<sup>st</sup>-Century Speech Environment and Its Implications for Free Speech and Democracy,” Jefferson Humanists Association, Golden, Colorado, November 2021

Moderator, “Justices Sandra Day O’Connor and Ruth Bader Ginsburg: Legal Cases,” Sisters In Law Public Education Webinar Series, September 2021

Presenter, “Developments in Constitutional and Civil Rights Law,” University of Colorado Law School Annual Supreme Court Review, July 2021

Commenter, “Government Speech,” University of Florida School of Law Junior Works-in-Progress Workshop (July 2021)

Speaker, “Incitement and Insurrection,” Byron White Center Presentation on the Senate’s Second Trump Impeachment Trial, February 2021

Presenter, “Race and the Constitution,” Race and the Law Series, University of Colorado School of Law, December 2020

Presenter, “Academic Freedom: A Conversation on Rights and Responsibilities,” Keller Center for the Study of First Amendment Law, University of Colorado, December 2020

Speaker, “The Future of Reproductive Rights After *June Medical Services*,” If/When/How, Boulder, July 2020

Speaker, “Lies, Election Lies, and the Constitution,” University of Colorado Mini Law School, September 2020

Speaker, “The Legacy of Ruth Bader Ginsburg,” OUT Boulder, September 2020

Speaker, “Listeners and the First Amendment,” University of Colorado Mini Law School, November 2019

Presenter, Colorado Law’s Supreme Court Review, Denver, Colorado, July 2019

Presenter, Colorado Federalist Society’s Supreme Court in Review, Denver, Colorado, July 2019

Presenter, Speaker, “The Dark Side of the Government’s Speech,” Constitution Week, Grand Lake, Colorado, September 2018

Speaker, “The Government’s Speech and the Constitution,” University of Colorado Mini Law School, September 2018

Speaker, “The Constitution: Still Our National Treasure?” Conference on World Affairs, University of Colorado, April 2018

Speaker, “Government Speech in the Age of Twitter,” CUNext, Washington DC, April 2018

Speaker, “Government Speech in the Age of Twitter,” Twitter Campus, WonderWomanWednesday Series, Boulder, CO, March 2018

Speaker, “Government Speech and the Constitution,” Colorado Law Talks, Denver, February 2018

Speaker, “Government Speech in the Age of Twitter,” CUNext, Los Angeles, February 2018

Speaker, "The Dark Side of Government Speech," CU on the Weekend, Boulder, January 2018

Speaker, "Hate Speech," University of Colorado Miramontes Arts & Science Program, November 2017

Speaker, "The Government's Speech and the Constitution," Constitution Week, Grand Lake, Colorado, September 2017

Speaker, "Government Lies and Government Speech," #BuffsUnited Engaged Citizenship Teach-In, February 2017

Speaker, "Hate Speech," University of Colorado Miramontes Arts & Science Program, September 2016

Speaker, "Implicit Bias," The Academy, Boulder, January 2015

Speaker, "Implicit Bias and Employment Decisionmaking," Arnold and Porter, Denver, October 2014

Panelist, "Supreme Court Preview," Holland & Hart, Denver, October 2013

Panelist, "Supreme Court Preview," Byron White Center for Constitutional Law, CU Law, October 2013

Speaker, "The First Amendment: Foundational Principles and Emerging Issues," Center for Education in Law and Democracy, Denver, June 2013

Speaker, "Presidential Transition Processes," University of South Dakota Guest Speaker Series, March 2012

Speaker, "Implicit Bias in Decisionmaking," Inclusive Excellence Leadership Series, Denver University School of Law, February 2012

Speaker, "Implicit Bias in Decisionmaking," Colorado Judicial Institute, February 2012

Speaker, "What *Citizens United* Means for Democracy and the First Amendment," Center for Education in Law and Democracy, Denver University, June 2011

Speaker, "Constitutional Equality Arguments Before the Equal Protection Clause," *Creating the American Legal System: 1776-1845*, Four Corners Community History Project, Denver Institute, June 2011

Speaker, "The Role of Unconscious Bias in Legal Practice," Legal Inclusiveness and Diversity Summit, Denver, March 2011

Speaker, "Addressing Implicit Bias in the Legal Workplace," Qwest Legal Group, Denver, February 2011

Speaker, "Implicit Bias and Legal Employment," Deans' Diversity Council, CU-Boulder, October 2010

Speaker, "Implicit Bias and Its Implications for Equal Employment Opportunity," Colorado Campaign for Inclusive Excellence Continuing Legal Education Program, Denver, July 2010

Speaker, "Addressing Implicit Bias in the Workplace," Gibson Dunn & Crutcher Diversity Speakers' Series, Denver, June 2010

Panelist, "The Supreme Court, the First Amendment, and Campaign Finance Reform," Public Forum on *Citizens United v. Federal Election Comm'n*, Keller Center for the Study of the First Amendment, CU-Boulder, March 2010

Speaker, "Addressing Implicit Bias in the Workplace," Holland and Hart PEAK (Professional Education for Attorney Knowledge) Speakers' Series, Denver, July 2009

Speaker, "Employment Litigation in the Post-Ricci World," NAACP Legal Defense and Educational Fund, Inc. National Civil Rights Training Institute, Washington, DC, October 2009

Speaker, "What Can We Expect from the New Equal Employment Opportunity Commission," The Impact Fund's Employment Discrimination Class Action Conference, Berkeley, CA, March 2009

Speaker, "Accommodating Religious Belief and Expression," American Bar Association Annual Meeting, Section on Individual Rights and Responsibilities, New York City, August 2008

Panelist, "Judicial Independence," League of Women Voters Community Forum, Boulder, September 2008

Panelist, "The Supreme Court on Employer Liability for Subordinate Bias: *BCI Coca-Cola Bottling Co. of Los Angeles v. EEOC*," American Constitution Society Briefing, Washington, DC, April 2007

Presenter, "Developments in Federal and State Antidiscrimination Law," Maryland Judicial Education Institute, Baltimore, September 2004

Panelist, "The University of Michigan Cases and Their Implications for Affirmative Action in Employment," American Bar Association Section of Labor and Employment Law Annual Meeting, San Francisco, August 2003

Panelist, "Do Our Differences Make a Difference? Diversity and Law Practice," American Bar Association Section of Labor and Employment Law Annual Meeting, Washington, DC August 2002

Panelist, "The Lessons of *Korematsu* for Today's Fight against Terrorism," University of Wyoming College of Law Post 9-11 Forum (September 2001)

## **COURSES TAUGHT**

Civil Procedure  
Constitutional Law  
Employment Discrimination Law  
Employment Law  
Equality, Speech, and Religion: Constitutional Values in Tension (seminar)  
First Amendment Law  
General Civil Litigation Clinic  
Legal Writing  
Legislation and Regulation  
Problem-Solving, Professional Judgment, and Decisionmaking  
Sex Discrimination Law  
Torts

## **BAR MEMBERSHIPS**

California (inactive)  
Colorado  
District of Columbia  
Maryland (inactive)  
United States Supreme Court  
United States Court of Appeals for the First Circuit  
United States Court of Appeals for the Fourth Circuit  
United States Court of Appeals for the Tenth Circuit