

# LEAH M. LITMAN

Assistant Professor of Law, University of Michigan Law School

## ACADEMIC APPOINTMENTS

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**University of Michigan Law School** July 2019-present

*Assistant Professor of Law* (July 2019-present)

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

Service: Personnel Committee (2019-2020); Intellectual Life Committee (2021-2022); Career Planning and Clerkship Committee (2021-2022, Chair 2022-2023); Personnel Committee-Laterals (Winter 2022); University Sexual and Gender-Based Misconduct Policy Working Group (2021-2022)

Honors: L. Hart Wright Teaching Award (2021)

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

*Assistant Professor of Law*

Courses: Post-Conviction Justice; Constitutional Law; Federal Courts; Current Issues in Public Law Litigation

Service: Clerkship Committee (2016, 2017, 2018); Admissions Committee (2017, 2018); Faculty Affiliate, Center for Biotechnology & Global Health Policy (Reproductive Justice Initiative); Strategic Planning Committee (2018); Ad Hoc VAP Committee (2018); Admissions Interview Subcommittee (2019)

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

**Stanford Law School** Fall 2018

*Visiting Assistant Professor of Law* (Supreme Court clinic)

**Harvard Law School** July 2014-June 2016

*Climenko Fellow & Lecturer on Law*

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

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

## EDUCATION

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

Activities: Editor in Chief, *Michigan Law Review*

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

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

## **JUDICIAL CLERKSHIPS**

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

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

## **ARTICLES & ESSAYS**

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

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

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

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

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

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

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

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

## **SHORTER WORKS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **WORKS IN PROGRESS**

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

## **POPULAR WRITING**

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

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

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

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

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

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

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

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

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

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

*Supreme Court justices could overturn Roe v. Wade over one word*, NBC News Think (Dec. 1, 2021)

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

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

*The Supreme Court upholds Obamacare, but its supporters shouldn't breathe easy*, NBC News Think (June 18, 2021)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*ACCA-Agreement (or ACCA-greement)*, SCOTUSblog (Feb. 26, 2020)

*The Supreme Court Is As Complicit As The Senate*, Slate (Feb. 10, 2020)

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

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

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

*Another ACCA rabbit hole?*, SCOTUSblog (Jan. 21, 2020)

*Category is: the categorical approach*, SCOTUSblog (Jan. 14, 2020)

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

*Supreme Court faces Republican pressure to be activist and scrap Obamacare. How ironic*, NBC News Think (Dec. 10, 2019)

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

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

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

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

*Trump's Ukraine call cover-up implicates Rudy Giuliani – but there were other lawyers involved*, NBC News Think (Oct. 1, 2019)

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

*Trump's Ukraine call mentioning Biden is the strongest reason yet for impeachment*, NBC News Think (Sept. 24, 2019)

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

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

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

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

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

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

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

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

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

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

*A New Obstruction Case Against a Judge Proves William Barr's DOJ Is Now Just an Arm of President Donald Trump*, Slate (April 26, 2019)

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

*Argument analysis: "The last Johnson domino to fall"?*, SCOTUSBlog (April 17, 2019)

*Argument preview: Who's afraid of the categorical approach?*, SCOTUSBlog (April 10, 2019)

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

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

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

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

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

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

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

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

*The Eleventh Circuit's Take On Handling The Wave of Dimaya-Related Litigation*, Sentencing Law & Policy (June 5, 2018), [http://sentencing.typepad.com/sentencing\\_law\\_and\\_policy/2018/06/guest-post-the-eleventh-circuits-take-on-handling-the-wave-of-dimaya-related-litigation.html](http://sentencing.typepad.com/sentencing_law_and_policy/2018/06/guest-post-the-eleventh-circuits-take-on-handling-the-wave-of-dimaya-related-litigation.html)

*Justice delayed or justice denied?*, SCOTUSblog, <http://www.scotusblog.com/2018/05/justice-delayed-or-justice-denied/> (May 23, 2018) (invited contribution on *Williams v. Louisiana*)

*Vague Criminality and Mass Incarceration: Will Dimaya End the Insanity*, Harvard Law Review Blog (April 17, 2018), <https://blog.harvardlawreview.org/vague-criminality-and-mass-incarceration-will-dimaya-end-the-insanity/>

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

*The mootness games*, SCOTUSblog, <http://www.scotusblog.com/> (July 11, 2017) (invited symposium contribution on entry ban litigation)

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

*An Easy Way to Resolve the SCOTUS Case on Title IX and Restroom Access*, Dorf on Law, [www.dorfonlaw.org](http://www.dorfonlaw.org) (Mar. 2, 2017) (with Sam Bagenstos, Michael Dorf, and Marty Lederman)

*A Simpler Way to Resolve the SCOTUS Case on Title IX and Restroom Access*, Balkinization, [www.balkin.blogspot.com](http://www.balkin.blogspot.com) (Mar. 2, 2017) (with Sam Bagenstos, Michael Dorf, and Marty Lederman) Contributing Blogger, *CaseText* (invited contributor on *Johnson v. United States* resentencing issues)

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

## **OTHER EXPERIENCE**

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

## **PRO BONO REPRESENTATION**

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### Party Representation

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

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

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

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

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

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

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

### Amicus Representation (Selected)

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

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

## **OTHER SERVICE**

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

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

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

Cooperating Attorney, ACLU Michigan (2020-present)

Advisory Board, Rights Behind Bars (2020-present)

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

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

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

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

## **BAR AND COURT ADMISSIONS**

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