

PROFESSOR MARK S. KENDE
mark.kende@drake.edu
515-271-3354

Education:

**UNIVERSITY OF CHICAGO
LAW SCHOOL**

Juris Doctor - June 1986
Member, University of Chicago Law Review.

YALE UNIVERSITY

Bachelor of Arts - May 1982
Cum Laude; Honors in Philosophy Major.

Employment:

**JAMES MADISON CHAIR IN
CONSTITUTIONAL LAW,
PROFESSOR OF LAW,
DIRECTOR OF THE
CONSTITUTIONAL LAW CENTER
(endowed by U.S. Congress),**

Drake University Law School

Aug. 2004 - Present

Courses: Constitutional Law I & II, Comparative Con. Law, Supreme Court Seminar with Justice Thomas, Comparative Freedom of Religion summer course, Indepen. Study Project assisting alumnus with U.S. Supreme Court case, Indepen. Study Project on state constitutions, Indepen. Study on Ninth Amendment, Indepen Study on Flores case, supervise Iowa Civil Rights Commission Intern (2014), establish and supervise ACLU internship (2017-present). Constitutional Litigation seminar.

Organized/Facilitated: Question and Answer with Vice-President Biden, Question and Answer with Chief Justice Roberts, Question and Answer with Justice Breyer, Martha Nussbaum speech, Symposium on: Democracy and Dysfunction (based on Balkin, Levinson book) (Drake L. Rev.), Is Constitutional Democracy Endangered Here and Abroad? (Drake L. Rev.), Symposium on President Obama's Constitutional Legacy (Drake L. Rev.), Symposium on War Powers: 15 Years After 9/11, Symposium on NSA Surveillance (Drake L. Rev.), Symposium on Obamacare and Its Legacy for the Fiftieth Anniversary of LBJ's Great Society (Drake L. Rev.), Symposium on Political Dysfunction and the Constitution (Drake L. Rev.), Symposium on Constitutionalism and the Poor (Drake L. Rev.), Symposium on the Same-Sex Marriage Divide (Drake L. Rev.), Debate on Religious Exemptions and Same-Sex Marriage, Symposium re. Global Perspectives on Religion, the State and Constitutionalism (Drake L. Rev.), Symposium on the Forgotten Constitutional Amendments (Drake L. Rev.), Symposium on Our Undemocratic Constitution (Drake L. Rev.), Symposium on the Role of Courts in Social Change (Drake L. Rev.), Voting Rights Panel and Town Hall Meeting, Symposium on the War on Terror (Drake L. Rev.),

Annual Distinguished Lecture Series (with Justice Richard Goldstone, Tracy Meares, and others), Certificate Program in Constitutional Law, Iowa Constitution Lecture Series (2012--)

Honors: AALS Newsletter Spotlight profile (2020), Sabbatical Research Awards (2010-2011, 2018-2019), Order of the Coif Faculty Member (2008), Summer Research Stipends (2004-Present), Law Faculty International Development Fund grant recipient (2006).

DEAN'S VISITING SCHOLAR

Georgetown University Law Center

Aug. 2010 - May 2011

Invited to visit for sabbatical year.

VISITING PROFESSOR OF LAW

University of Paris II – Pantheon

Spring 2011

The French Institute for Comparative Law. Invited to teach one month seminar in French to LLM students on Comparative Constitutionalism and Human Rights (during sabbatical).

VISITING PROFESSOR OF LAW

University of Nantes Faculty of Law

March 2007

Delivered lectures in French on Human Rights in the U.S., on Executive Power in the U.S., and on The War on Terror and Civil Liberties in the U.S.

VISITING PROFESSOR OF LAW

Notre Dame Law School

Aug. 2003 - May 2004

Courses: Constitutional Law, First Amendment, Civil Rights Litigation, and Constitutionalism in Emerging Nations.

FULBRIGHT SENIOR SPECIALIST

Moldova State University

March 2004

Taught law professors regarding constitutionalism and American law teaching methodologies.

PROFESSOR OF LAW

University of Montana School of Law

Aug. 1999 - Aug. 2004

Courses: Constitutional Law, Montana Constitutional Law, Cyberlaw, First Amendment Law, Civil Procedure.

Supervised: Judicial Externships. *Awards:* Teacher of the Year (2003); Thomas H. and Anne Boone Faculty Scholarship Award recipient (2001 & 2002), Faculty Merit Pay recipient (2002 & 2003), Selected as faculty graduation reader by class of 2002, Co-taught Constitutional Law class with Justice Breyer (2002).

**ASSOCIATE DEAN
FOR FACULTY**

University of Montana School of Law

Jan. - June 2003 (replacing Assoc. Dean on sabbatical).

VISITING PROFESSOR OF LAW

University of Tennessee School of Law

June - July 2002

Taught Constitutional Law.

**SENIOR FULBRIGHT SCHOLAR,
VISITING PROFESSOR OF LAW**

University of Stellenbosch, South Africa
Jan. - Dec. 2000
Taught Comparative Human Rights and Constitutional Law.
Conducted research on those topics and on the South African
Constitutional Court.

RULE OF LAW CONSULTANT

International Foundation NGO, Dem. Repub. Congo
Oct. 2000
Conducted workshop in French on constitutionalism for Civil
Society Working Group in DRC and provided analysis for NGO.

ASSOCIATE PROFESSOR

Thomas M. Cooley Law School, Lansing, Michigan
May 1993 - Aug. 1999
Courses: Civil Procedure, Jurisdiction, Employment Law, Civil
Rights, Constitutional Law, and Moot Court. *Awards:* Received
1997 Zenith Award for Excellence in Teaching, 1998 Certificate
of Excellence in Teaching.

ADJUNCT PROFESSOR

University of Detroit Law School
Jan. 1988 - May 1988

ATTORNEY

Miner, Barnhill & Galland, P.C., Chicago, Illinois
Oct. 1988 - April 1993
Litigated and conducted trials as well as
appellate arguments in complex federal and
state employment discrimination, civil rights,
and constitutional cases. Worked with Barack Obama
(referenced in David Garrow, *Rising Star* 486 (2017))
(Appendix of cases attached to CV.)

LAW CLERK

Chief Judge Julian A. Cook, Jr.
Eastern District of Michigan, Detroit
Sep. 1986 - Aug. 1988

STUDENT ATTORNEY

Mandel Legal Aid Clinic, Chicago, Illinois
Jan. 1985 - June 1986
Litigated employment discrimination cases.
Co-authored a successful Petition for Writ of
Certiorari to the U.S. Supreme Court.

LEGISLATIVE AIDE

U.S. Senator Donald Riegle (Michigan)
Washington, D.C.
Aug. 1982 - July 1983
Advised Senator on federal banking and
tax issues.

ASSISTANT

Diner's Club of France (Paris)
Princeton Univ. Summer Work Abroad Program, 1981

Publications:

Book Related Projects

Author, **REVIVING PRAGMATISM AS AN APPROACH TO CONSTITUTIONAL INTERPRETATION** (manuscript in progress)

Chapter titled "The U.S. Supreme Court's First Amendment Refusal to Protect Children Regarding Sexually Explicit Speech on the Internet," Vol. 15 at 111, from conference at Univ. of Wurzburg in **DIGITIZATION AND THE LAW**, ED. ERIC HILGENDORF, NOMOS, Germany (Dec. 2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3232987

Author, **COMPARATIVE CONSTITUTIONAL LAW: SOUTH AFRICAN CASES AND MATERIALS IN A GLOBAL CONTEXT** (Carolina Academic Press, 2015) (used as casebook for Prof. Donald Kommers' Notre Dame Law School Comparative Constitutional Law class, New York Law School class and others).

Author, **CONSTITUTIONAL RIGHTS IN TWO WORLDS: SOUTH AFRICA AND THE UNITED STATES** (Cambridge University Press, 2009). Introductory chapter available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1341932. Prof. Cass Sunstein described the volume as "A fascinating, original, and genuinely important book, illuminating not only the South African and American constitutions, but constitutional theory and practice in general, indispensable reading." Recommended Book of the Week by Prof. Lawrence Solum on his "Legal Theory Blog" (Oct. 2009). Shortlisted for American Society of International Law book award. Book reviewed positively in the NYU Journal of International Law & Policy, the British Commonwealth Law Bulletin, H-Net H-Law Review, Law and Politics Book Review, and Revue de Droit Internationale Compare. Paperback issued in July, 2010. Primary textbook for the Univ. of Missouri at Cape Town Summer Law Program (2012).

Chapter titled "Nelson Mandela's Constitutional Legacy" in **HUMAN RIGHTS, INTERNATIONAL RELATIONS, AND GLOBALIZATION** (Ediciones Juridicas Gustavo Ibanez, 2007).

Preface for **ON THE CONSTITUTIONAL STAGE: A HISTORY OF THE U.S. SUPREME COURT** (China Legal Publishing House, 2007) (in Chinese).

Chapter titled "Truth Commissions: Amnesty or Prosecution" in **SECURITY, RECONSTRUCTION, AND RECONCILIATION: WHEN THE WARS END** (University College London Press, 2007), available at: http://ssrn.com/sol3/papers.cfm?abstract_id=1536288

Co-Author, **THEATER LAW: CASES AND MATERIALS** (with TEACHER'S MANUAL) (Carolina Academic Press, 2004); **SUPPLEMENT** (2005).

Chapter titled "Foul Language" in **COURTING THE YANKEES: LEGAL ESSAYS ON THE BRONX BOMBERS** (Carolina Academic Press, 2003).

"The New Cyber-College of International Lawyers - The Yahoo! Case" in **PROCEEDINGS OF THE 95th ANNUAL MEETING OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW** 178 (2001).

"Employment Discrimination" in **MAGILL'S LEGAL GUIDE** (1999).

Law Review Articles

SSRN Author ID=339761 (sample collection of articles), Ranked in top 10% of downloaded authors. Articles have been translated or summarized in Chinese, French, German, Hebrew, Indian, Spanish, and Turkish.

A New Constitutional Pragmatism: The Abortion and Affirmative Action Examples (symposium draft in progress)

Social Media, the First Amendment, and Democratic Dysfunction in the Trump Era, 68 DRAKE L. REV. 273 (2020) (for symposium regarding new book by Jack Balkin and Sandy Levinson) (ranked for a period in two ten downloads for SSRN Law, Politics & the Media eJournal, as well as SSRN Political Institutions: Constitutions eJournal), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3630653

Obscenity and Free Speech Issues in Hong Kong, with a Comparative U.S. Perspective, 46 GEORGIA J. INT'L & COMP. L. 317 (2018) (lead article), co-author Jenna Bishop, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3182757 (more downloads on Creative Commons)

The Unmasking of Balancing and Proportionality Review in U.S. Constitutional Law, 25 CARDOZO J. INT'L & COMP. L. 417 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3075340 (lead article in symposium on proportionality in the U.S., Europe, and elsewhere as part of Israeli Supreme Court Project) (ranked for a period in top ten downloads for LSN: Judges)

The Surprising Proportion of Proportionality in U.S. Supreme Court Cases, VERSA, Cardozo Law School Israeli Supreme Court Project (2017), <http://versa.cardozo.yu.edu/viewpoints/mark-kende-surprising-proportion-%E2%80%98proportionality%E2%80%99-review-us-supreme-court-constitutional>

Corruption Cases and Separation of Powers in South African and U.S. Supreme Court Cases, 60 NEW YORK L. REV. 183 (2015-2016) (Symposium on the 20th Anniversary of the South African Constitution), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3075343

Justice Thomas's Korematsu Problem, 30 HARVARD JOURNAL OF RACIAL AND ETHNIC JUSTICE 201(2014) (available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2456868) (referenced as Constitutional Law Prof Blog Daily Read, Aug. 13, 2014, (<http://lawprofessors.typepad.com/conlaw/2014/08/daily-read-kende-on-thomas-and-korematsu.html>) (ranked for a period in top ten separation of powers downloads on SSRN)

Enforcing the South African Constitution: The Fight for Judicial Independence and Separation of Powers, 23 TRANSNATIONAL LAW & CONTEMPORARY PROBLEMS 235 (2014), Univ. Iowa Law School) (available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2476649) (ranked for a period in top ten African e-law journal downloads, and top ten LSN International & Comparative Law downloads)

Is Bakke Becoming a Super-Precedent and Does it Matter? The U.S. Supreme Court's Updated Constitutional Approach to University Affirmative Action, 16 UNIV. PENN. J. OF CONSTIT. L. 15 (2013) (HEIGHTENED SCRUTINY online supplement) (available at: <http://ssrn.com/abstract=2338679>; <https://www.law.upenn.edu/live/files/2626-kendefinal-16upajconstlonline15pdf>) (ranked for a period in top 10 for SSRN downloads in two subject areas). (cited by the Society of American Law Teachers in their U.S. Supreme Court affirmative action brief in Fisher v. Texas).

Constitutional Pragmatism, The Supreme Court, and Democratic Revolutions, 89 DENVER U. L. REV. 635 (2012) (Symposium on Constitutional Revolutions) (available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2178222) (ranked for period in top 10 for SSRN in Constitutional Interpretation and 3 other fields)

The U.S. Supreme Court, the War on Terror, and the Need for Thick Constitutional Review, 80 MISS. L.J. 1539 (2011) (Symposium on Criminal Justice and the Rule of Law) (available at: http://ssrn.com/sol3/papers.cfm?abstract_id=1868593)

Teaching Comparative Perspectives in the Domestic Constitutional Law Class: A Step by Step Primer, 61 JOURNAL OF LEGAL EDUCATION 310 (2011) ("At The Lectern") (available at: http://ssrn.com/sol3/papers.cfm?abstract_id=1557407 (refereed))

Reviving Pragmatism in Constitutional Law: South African Examples and American Opportunities, 36 OHIO NORTHERN LAW REVIEW 679 (2010) (Keynote Address, Symposium issue)

Free Exercise of Religion: A Pragmatic and Comparative Perspective, 55 UNIV. S. DAKOTA L. REV. 412 (2010)(Symposium issue on the 20th Anniversary of the Smith case), available at: http://ssrn.com/sol3/papers.cfm?abstract_id=1559471 (ranked in top 10 on SSRN for "Other Institutions: Law and Courts" during spring 2010)

Regulating Internet Porn: A Comparative Constitutional Perspective on Passing the Camel Through the Needle's Eye, 2007 BYU L. REV. 1623 (Symposium issue) (to be reprinted in INTERNET PORNOGRAPHY – LEGAL ISSUES (Amicus Books, India))

The Constitutionality of the Death Penalty: South Africa as a Model for the U.S., 38 GEORGE WASH. INT'L L. REV. 209 (2006).

Filtering Out Children: The First Amendment and Internet Porn in the U.S. Supreme Court, 2005 MICH. ST. L. REV. 843 (Symposium issue on Children and the First Amendment).

The South African Constitutional Court's Construction of Socio-Economic Rights: A Response to Critics, 19 CONN. INT'L L.J. 617 (2004).

The South African Constitutional Court's Embrace of Socio-Economic Rights: A Comparative Perspective, 6 CHAPMAN L. REV. 137 (2003) (Symposium issue on Economic Liberties) (Reading for Harvard Law School Constitutional Law class taught by Dean Martha Minow).

Technology's Future Impact on State Constitutional Law: The Montana Example, 64 MONT. L. REV. 273 (2003) (Symposium issue on the 30th Anniversary of the Montana Constitution).

The Fifth Anniversary of the South African Constitution: In Defense of Judicial Pragmatism, 26 VERMONT L. REV 753 (2002) (Symposium issue) (Reading for NYU Law School Seminar taught by South African Constitutional Court Justice Richard Goldstone).

The Constitutionality of New Contempt Powers for Federal Magistrates, 53 HASTINGS L.J. 567 (2002) (available at: http://ssrn.com/sol3/papers.cfm?abstract_id=1540695)

Yahoo!: National Borders in Cyberspace and Their Impact on International Lawyers, 32 NEW MEXICO L. REV. 1 (2002) (Technology Symposium issue).

The Issues of E-Mail Privacy and Cyberspace Personal Jurisdiction: What Clients Need to Know About Two Practical Constitutional Questions Regarding the Internet, 63 MONT. L. REV. 301 (2002).

Gender Stereotypes in South African and American Constitutional Law: The Advantages of a Pragmatic Approach to Equality and Transformation, 117 SOUTH AFRICAN LAW JOURNAL 745 (2001) (refereed).

A Misguided Statutory Interpretation Theory: The Elian Gonzalez Cuban Asylum Case Example, 18 BOST. U. INT'L L.J. 201 (2000) (reprinted at 21 UNIV. CINC. IMM. & NATIONALITY L. REV 111 (2000)).

Stereotypes in South African and American Constitutional Law: Achieving Gender Equality and Transformation, 10 SOUTHERN CALIFORNIA REVIEW OF LAW AND WOMEN'S STUDIES 3 (2000).

Lost in Cyberspace: The Judiciary's Distracted Application of Free Speech and Personal Jurisdiction Doctrine to Cyberspace, 77 OREGON L. REV. 1125 (1998).

The Supreme Court's Approach to the First Amendment in Cyberspace: Free Speech As Technology's Hand-Maiden, 14 CONSTITUTIONAL COMMENTARY 465 (1997).

The Impact of Cyberspace on the First Amendment, 1 UNIVERSITY OF VIRGINIA JOURNAL OF LAW AND TECHNOLOGY 7 (Spring 1997).

Michigan's Proposed Prenatal Protection Act: Undermining a Woman's Right to an Abortion, 5 AMER. UNIV. JOURNAL OF GENDER & THE LAW 247 (1996).

Color-Blindness in the Rehnquist Court: Comparing the Court's Treatment of Discrimination Claims by a Black Death Row Inmate and White Voting Rights Plaintiffs, 13 COOLEY L. REV. 815 (1996) (Death Penalty Symposium issue) (with Judge Julian A. Cook, Jr.).

Deconstructing Constructive Discharge: The Misapplication of Constructive Discharge Principles in Employment Discrimination Remedies, 71 NOTRE DAME L. REV. 39 (1995).

Shattering the Glass Ceiling: A Legal Theory for Attacking Discrimination Against Women Partners, 46 HASTINGS L. J. 17 (Nov. 1994). (Reprinted formerly as a book chapter in WOMEN AND THE LAW (Carol H. Lefcourt, David Frazee et al. Eds.,) (Release No. 10, Nov. 1996)).

Jurisprudence of Original Intention: A Critical Evaluation, 1986 DET. C.L. REV. 1003 (Bicentennial of the Constitution Symposium issue) (with Judge Julian A. Cook, Jr.).

Principles of Competence: The Ability of Public Institutions to Adopt Remedial Affirmative Action Plans, 53 U. CHI. L. REV. 581 (1986).

Other Writings

The U.S. Supreme Court Still Refuses to Acknowledge Systemic Racism, SLATE, co-authored with Dahlia Lithwick, July 2, 2020, <https://slate.com/news-and-politics/2020/07/washington-v-davis-supreme-court-systemic-racism.html> , referenced in Howard Bashman, HOW APPEALING, July 2020.

Foreword, 68 DRAKE L. REV. i (2020) (Symposium on Democracy and Dysfunction)

Opinion, Iowa Gov. Kim Reynolds' coronavirus model is built on politics and bias, not science. Because of that, people will die, DES MOINES REGISTER, April 8, 2020, <https://www.desmoinesregister.com/story/opinion/2020/04/06/opinion-coronavirus-iowa-governors-flawed-model-means-more-people-die/2955942001/>

5 Ways Chess Can Make You a Better Lawyer, THE CONVERSATION, Dec. 2019, <https://theconversation.com/5-ways-chess-can-make-you-a-better-law-student-and-lawyer-127290> , https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3630680 (July 13, 2020), referenced by Paul Caron, TAXPROF BLOG, Dec. 29, 2020

Overturing Roe v. Wade could have unpredictable consequences for privacy rights, USA TODAY, July 1, 2019, <https://www.usatoday.com/story/news/2019/07/01/abortion-roe-wade-privacy-rights-consequences-column/1616743001/>, DES MOINES REGISTER OP-ED, June 25, 2019, <https://www.desmoinesregister.com/story/opinion/columnists/2019/06/25/other-privacy-rights-could-danger-if-roe-v-wade-reversed-abortion-supreme-court/1561115001/> , reprinted at American Constitution Society, Experts Policy Forum, <https://www.acslaw.org/expertforum/overturing-roe-could-threaten-privacy-rights-in-unpredictable-ways/>

Constitutional “Equal Process” and the Problem of Poverty (review of article by Brandon Garrett) in JOTWELL ONLINE, March 12, 2019, <https://conlaw.jotwell.com/constitutional-equal-process-and-the-problem-of-poverty/>

Sleeper Iowa Supreme Court ruling undermines constitutional protections, BLEEDING HEARTLAND, Aug. 7, 2018, <https://www.bleedingheartland.com/2018/08/07/sleeper-iowa-supreme-court-ruling-undermines-constitutional-protections/> (legal consultant and commentator, author is Laura Belin); reprinted in national appellate blog of Howard Bashman, HOW APPEALING, Aug. 7, 2018, 10:25 pm, referenced by Esquire Magazine, <https://www.esquire.com/news-politics/politics/a22746667/nebraska-fentanyl-execution/>

Is Trump profiting from his office in violation of the Constitution? Judge allows emoluments case to move ahead, THE CONVERSATION, Aug. 1, 2018, <https://theconversation.com/is-trump-profiting-from-his-office-in-violation-of-the-constitution-judge-allows-emoluments-case-to-move-ahead-80868> Republished in several on-line locations such as RAW, and the ACS BLOG, <https://www.acslaw.org/acsblog/is-trump-profiting-from-his-office-in-violation-of-the-constitution-judge-allows-emoluments-case-to-move-ahead/>

10 Legal experts on the future of Roe v. Wade, VOX, July 2, 2018, <https://www.vox.com/2018/7/2/17515154/kennedy-retirement-roe-wade> (lengthy commentary by Mark Kende and others, article author is Li Zhou)

Pragmatist Constitutionalism in Comparative Perspective, (review of book chapter by David Landau) in JOTWELL ONLINE, April 19, 2018, <https://conlaw.jotwell.com/pragmatist-constitutionalism-in-comparative-perspective/>

Supermajority proposal undermines judiciary, rights of Iowans, co-authored with Dean Jerry Anderson, CEDAR RAPIDS GAZETTE, Mar. 16, 2018, <http://www.thegazette.com/subject/opinion/question/columnist/supermajority-proposal-undermines-judiciary-rights-of-iowans-20180316>

Partial Bibliography of Books, Chapters, and Articles on Comparative Constitutional Law from 2018, co-authored by Karen Wallace and Rebecca Lutkenhaus (submitted by Mark Kende for AALS Comparative Law Section and Panel), <http://www.iconnectblog.com/2019/01/whats-new-in-public-law-134/> <https://libguides.law.drake.edu/compConLawSeminar/Bibliography>, Jan. 14, 2019

Partial Bibliography of Books, Chapters, and Articles on Comparative Constitutional Law from 2017, co-authored by Karen Wallace and Rebecca Lutkenhaus (submitted by Mark Kende for AALS Comparative Law Section and Panel), referenced under “Special Announcement,” Feb. 5, 2018, <http://www.iconnectblog.com/2018/02/whats-new-in-public-law-86/> & <http://libguides.law.drake.edu/c.php?g=150993&p=5692382>

Foreword, 65 DRAKE L. REV. 911 (2017) (Symposium on President Obama's Constitutional Law Legacy)

The Gorsuch Confirmation – Day Four, AMERICAN CONSTITUTION SOCIETY BLOG, Mar. 23, 2017, <http://www.acslaw.org/acsblog/the-gorsuch-confirmation-%E2%80%93-day-four>

A Compassion for the Law, (review of essay by Susan Bandes) in JOTWELL ONLINE, Feb. 28, 2017, <http://conlaw.jotwell.com/a-compassion-for-the-law/>

President Trump's Muslim Fears and Korematsu's Honor, DES MOINES REGISTER OP-ED, February 12, 2017, <http://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2017/02/10/president-trumps-muslim-fears-and-korematus-honor/97707034/> (reprinted by the American Constitution Society, <http://www.acslaw.org/acsblog/president-trumps-muslim-fears-and-korematus-honor>)

The Irony of President Trump's U.S. Supreme Court Nomination: Undermining the Rule of Law, AMERICAN CONSTITUTION SOCIETY, Jan. 31, 2017, <http://www.acslaw.org/acsblog/the-irony-of-president-trump%E2%80%99s-supreme-court-nomination-undermining-the-rule-of-law>

Why It May be Illegal for President-Elect Trump to Take the Oath of Office, AMERICAN CONSTITUTION SOCIETY BLOG, Jan. 10, 2017, <http://www.acslaw.org/acsblog/why-it-may-be-illegal-for-president-elect-trump-to-take-the-oath> (180 plus positive tweets)

Mark Kende on the Surprising Proportion of Proportionality Review in U.S. Supreme Court Decisions, VERSA (Israeli Supreme Court Project), Jan. 10, 2017, <http://versa.cardozo.yu.edu/viewpoints/mark-kende-surprising-proportionality%E2%80%99s-review-us-supreme-court-constitutional> (summary by student)

Supreme Court Immigration Confusion? Blame the U.S. Senate, SAN FRANCISCO CHRONICLE, June 25, 2016, available at: <http://www.sfgate.com/news/article/Supreme-Court-immigration-confusion-Blame-the-8324808.php>

Why the Senate Should Vote on Merrick Garland's Nomination Now, FORTUNE MAGAZINE, June 21, 2016, available at: <http://fortune.com/2016/06/21/merrick-garland-supreme-court-nomination/>

Grassley ad misinforms Iowans over Supreme Court, DES MOINES REGISTER OP-ED, Mar. 25, 2016, available at: <http://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2016/03/24/grassley-misinforms-iowans-over-supreme-court/82204038/>, reprinted at American Constitution Society Blog, Mar. 29, 2016: <https://www.acslaw.org/acsblog/grassley-ad-misinforms-iowans-over-supreme-court>

The U.S. Supreme Court and Humble Opinion Writing, (review of article by Eric Berger) in JOTWELL ONLINE, Mar. 2, 2016, <http://conlaw.jotwell.com/2016/03/>, (review and article discussed favorably by Paul Horowitz, Kende on Berger on Constitutional Absolutism, PRAWFSBLAWG, <http://prawnsblawg.blogs.com/prawnsblawg/2016/03/kende-on-berger-on-the-rhetoric-of-constitutional-absolutism.html#comments>, Mar. 4, 2016)

The Roberts Court returns to old-style conservatism in the Obamacare case, THE CONVERSATION, June 25, 2015, <http://theconversation.com/experts-react-as-obamacare-survives-another-near-death-experience-43233>

Could the GOP face a backlash if they get their wish in Supreme Court ACA decision?, THE CONVERSATION, June 19, 2015, <http://theconversation.com/could-the-gop-face-a-backlash-if-they-get-their-wish-in-supreme-court-aca-decision-43044>

The First Amendment and a Confederacy of License Plates, AMERICAN CONSTITUTION SOCIETY BLOG, co-authored with Bryan Ingram, April 7, 2015, <http://www.acslaw.org/acsblog/the-first-amendment-and-a-confederacy-of-license-plates>

Getting Theoretical about Legal Pragmatism and Constitutional Law (review of essay by Michael Sullivan and Daniel Solove) in JOTWELL ONLINE, Feb. 24, 2015, <http://conlaw.jotwell.com/getting-theoretical-about-judge-posners-legal-pragmatism-thanks-to-john-dewey-and-the-implications-for-constitutional-interpretation/>

Book Review, LAW & POLITICS BOOK REVIEW COLLOQUIUM ON COMPARATIVE LAW (2015), essay on RAN HIRSCHL, COMPARATIVE MATTERS, THE RENAISSANCE OF COMPARATIVE CONSTITUTIONAL LAW, <http://www.ipbr.net/2015/06/comparative-matters-renaissance-of.html>

Analysis of Hobby Lobby, DES MOINES REGISTER, June 30, 2014, available at: <http://www.desmoinesregister.com/story/news/politics/2014/06/30/mark-kende-hobby-lobby-analysis/11787475/>

The Battle Between Law and War (review of article by Deborah Pearlstein forthcoming in *Minn. L. Rev.*) in JOTWELL ONLINE, June 18, 2014, available at: <http://conlaw.jotwell.com/the-battle-between-law-and-war/>

Iowa View: What the United States Can Learn from Mandela, DES MOINES REGISTER, Dec. 6, 2013, available at: <http://www.desmoinesregister.com/apps/pbcs.dll/article?AID=2013312070036>

Can “Semi-Procedural Review” Help Solve the Problems of Constitutional Theory? (review of article in *Legisprudence*) in JOTWELL ONLINE, Dec. 4, 2013, available at: <http://conlaw.jotwell.com/can-semi-procedural-review-help-solve-the-problems-of-constitutional-theory/> .

Foreword, 61 DRAKE L. REV. 949 (2013) (Symposium on “The U.S. Constitution and Political Dysfunction: Is There a Connection?”)

Foreword, 60 DRAKE L. REV. 967 (2012) (symposium on “Constitutionalism and the Poor”), available at: <http://ssrn.com/abstract=2162527> (ranked for period in top 10 on SSRN for “Poverty Law”)

Iowa View: State’s GOP leaders undermine rule of law, DES MOINES REGISTER (Aug. 25, 2012).

Confronting Supreme Court Fact Finding (reviewing Univ. Virginia Law Review article by Allison Orr) in JOTWELL ONLINE (2012)(co-authored with Matthew Shimanovsky), available at: <http://conlaw.jotwell.com/the-u-s-supreme-court-as-fact-finder/>.

Invited Commentator, DES MOINES REGISTER (wrote about the Supreme Court oral arguments in the Affordable Health Care Act case) (March 2012).

Guest Columnist: Gingrich’s views on judiciary are unconstitutional, anti-conservative, DES MOINES REGISTER (Dec. 22, 2011).

Invited Guest Blogger, PRAWFS BLAWG (April 2009, Nov. 2011, and Oct. 2014) (discussing constitutional pragmatism theories and other legal issues, such as lengthy debate with Ilya Somin of Wash. Post blog on *Korematsu*).

Individual Responsibility is a Key Part of the New Health Law, Op-Ed, DES MOINES REGISTER (Aug. 26, 2011) (essay was quoted on American Constitution Society national blog).

The U.S. Supreme Court Confirmation Hearings of Elena Kagan, DES MOINES REGISTER INVITED GUEST BLOG (June 2010) (with Assoc. Dean Todd Pettys, Univ. Iowa Law School)

Beyond World Cup savvy, U.S. should look to South Africa on Supreme Court nominations, CHRISTIAN SCIENCE MONITOR Op Ed (June 10, 2010), <http://www.csmonitor.com/Commentary/Opinion/2010/0610/Beyond-World-Cup-soccer-savvy-US-should-look-to-South-Africa-on-Supreme-Court-nominations>

Regular Contributor, CONSTITUTION MAKING PROJECT BLOG (2010-2012) <http://www.comparativeconstitutions.org/> (focus on comparative constitutional law)

The U.S. Supreme Court Confirmation Hearings of Judge Sonia Sotomayor, DES MOINES REGISTER INVITED GUEST BLOG (July 2009) (with Assoc. Dean Todd Pettys, Univ. Iowa Law School).

The Warren Court is Alive...in South Africa!, AMERICAN CONSTITUTION SOCIETY BOOK TALK BLOG (May 2009) (short essay on my new book regarding South African constitutionalism).

Foreword, DRAKE L. REV. (2008) (Symposium on The Forgotten Constitutional Amendments).

Obama would help keep court moderate, Op-Ed Letter to Editor, DES MOINES REGISTER (Oct. 4, 2008).

Foreword, 55 DRAKE L. REV. (2007) (Symposium on Our Undemocratic Constitution).

Court owes us truth with its abortion decisions, Op-Ed, DES MOINES REGISTER (May 5, 2007).

Foreword, 54 DRAKE L. REV. 791 (2006) (Symposium on the Role of Courts in Social Change).

Weighing Liberties in an age of terror: We've become less free, Sunday Opinion Section lead column, DES MOINES REGISTER (Sep. 10, 2006).

In The Service of Public Values, JUDICATURE 100 (Sep.-Oct. 2004) (Book Review of Yale Law School Professor Owen Fiss's THE LAW AS IT COULD BE).

Circuses in the Law School Classroom, THE LAW TEACHER (Spring 1998).

Follow That Car!: The Supreme Court Decides When a Police Officer's High-Speed Chase Violates an Individual's Civil Rights, 3 PREVIEW OF UNITED STATES SUPREME COURT CASES 184 (ABA Nov. 21, 1997).

Can a State's Appellate Rules Put a "Qualifier" on a Defendant's Qualified Immunity Defense to a Federal Civil Rights Action Filed in State Court?, 5 PREVIEW OF UNITED STATES SUPREME COURT CASES 319 (ABA Feb. 6, 1997).

Arizona's Official English Law: A Political Unifying Force or a First Amendment Violation?, 3 PREVIEW OF UNITED STATES SUPREME COURT CASES 134 (ABA Nov. 18, 1996).

A First Amendment Television Sequel: The Constitutionality of Cable T.V. Regulations that Benefit Broadcast T.V., 1 PREVIEW OF UNITED STATES SUPREME COURT CASES 17 (ABA Sep. 19, 1996).

Interlocutory Appeals and the Qualified Immunity Defense in Civil Rights Cases: A Second Bite at the Apple?, 2 PREVIEW OF UNITED STATES SUPREME COURT CASES 84 (ABA Oct. 16, 1995).

Did Dan Quayle Inhale? Overcoming a Public Official's Qualified Immunity Defense When the Official's Motive is in Question, 7 PREVIEW OF UNITED STATES SUPREME COURT CASES 355 (ABA April 7, 1995).

Shattering the Glass Ceiling, BENCHMARK, Trinity Term, 1995, at 12.

Int'l and National Presentations:

Drake Law Symposium (April 2021) (forthcoming, organized program and delivered speech on pragmatism in constitutional interpretation)

AALS Annual Meeting (Jan. 2021) (speech on socio-economic rights in South Africa)

Texas A&M Law School (Aug. 2020) (speech on the value of comparative law to seminar)

Law & Society (May, 2020) (speech on pragmatism, and panel moderator)

Oshen Lecture, Iowa State University (May 2020) (speech on impeachment)

ABA Traveling Exhibition (Drake Law School, Jan. 2020) (speech on the anniversary of the 19th Amendment)

AALS Annual Meeting (Washington D.C., 2020) (presentation on The Fate of Troubling Historical Monuments in South Africa), panel co-sponsored by Art Law, Comparative Law, and Constitutional Law Sections.

Int'l Bar Ass'n Rule of Law National Panel (Drake Law School, 2019) (dialogue on rule of law and the Constitution, other speakers included Iowa Supreme Court Justice Edward Mansfield, former Congressman Jim Leach, and Executive Editor of the Des Moines Register)

American Society of Comparative Law Annual Meeting (Missouri, Oct. 2019) (presentation on book about constitutional amendments in a comparative perspective)

Drake Constitutional Law Center Annual Symposium (presentation on book by Jack Balkin on Sandy Levinson titled "Democracy and Dysfunction")

University of Nebraska Law School Faculty Colloquium (Lincoln, April 2019) (presentation on constitutional pragmatism)

University of Nevada Law Vegas School of Law Symposium on Dignity, Tradition, and Constitutional Due Process: Competing Judicial Paradigms (March, 2019) (presentation on "Substantive Due Process and Constitutional Pragmatism," other speakers included Mark Tushnet and Ken Starr)

AALS Annual Meeting (New Orleans, 2019) (presentation on constitutional courts and their political impact focusing on Hungary and South Africa). Comparative Law Section.

Loyola Law School Constitutional Law Colloquium (Chicago, Nov. 2018) (presentation on "Abortion and Constitutional Pragmatism")

American Constitution Society (Des Moines, Spring 2018) (Moderator and Discussant for Panel regarding Peter Edelman presentation on his book regarding the criminal justice system and the poor)

AALS Annual Meeting (San Diego, 2018) (presentation on Election Processes and Developments in South Africa), Special Program co-sponsored by Sections on Africa, East Asia, and Comparative Law, other speakers from Princeton, Texas, Stanford, etc.

Oshen Lecture, Iowa State University (Nov. 2017) (The Modern U.S. Supreme Court's Hugest Mistaken Decisions)

University of Wisconsin Constitutional Law Schmooze (Oct. 2017) (presentation regarding the right to political participation in South African Constitutional Court case)

Free Speech Forum, Budapest, Hungary (June, 2017) (Two Decades of Obscenity and Free Speech Issues in Hong Kong, with a U.S. Comparative Perspective)

University of Wurzburg, Germany (May, 2017) ("Technology, Freedom of Expression, and the Internet" presentation at Conference on Digitization and the Law)

National Business Report, CNBC (Nightly Report, Jan. 11, 2017) (interview regarding President-elect Trump's potential conflicts of interest), <https://youtu.be/aGN5wqfhPnc?t=7m27s>; <http://nbr.com/2017/01/11/transcript-nightly-business-report-january-11-2017/>

Midwest Law & Society Retreat (Univ. Wisconsin, Oct. 2016) (speech and paper on proportionality in U.S. Supreme Court decisions)

Cardozo Law School Israeli Supreme Court Project Conference (New York City, June, 2016) (speech on proportionality analysis in U.S. constitutional law compared to Israeli and South African approaches, meeting with Israeli Supreme Court Justices)

Law & Society Conference in New Orleans (paper on corruption and separation of powers in South Africa) (June 2016)

American Constitution Society (Des Moines, May 2016) (presentation on the importance of Judge Garland's nomination to the U.S. Supreme Court) (with Gregory Craig, and Richard Painter)

Guest Lecturer at Notre Dame Law School (April 2016) (on socio-economic right in two of Prof. Kommers' Comparative Constitutional Law classes, which utilized my casebook on South African constitutional law: co-presenter with South African Constitutional Court Justice Madlanga)

Presenter and Member, SCOTUS Senate Day of Action (Washington D.C. April 2016) (joined small group of community and political leaders from seven states that met with senior staff at the White House, U.S. Senator Grassley's office, and U.S. Senator Ernst's office to advocate that Senator Grassley hold hearings on President Obama's nominee to the U.S. Supreme Court, despite Grassley's refusal to do so)

American Society of Comparative Law, (SMU, Oct. 2015) (selected as commentator for draft paper chosen by Younger Comparativists Committee)

League of Women Voters, etc. (Drake Law School, Oct. 2015) (presenter and moderator regarding the topic of "Amending the Constitution: Modernization or Foolhardiness)

Southeast Association of Law Schools (Fla., Aug. 2015) (presentations on transparency in the U.S. Supreme Court, and on philosophies of freedom of expression)

Law & Society Conference in Seattle (on socio-economic rights in South Africa) (May 2015)

Iowa Human Rights Network Panel (presentation regarding implications of the U.S. Senate Report on Torture in the “war on terror”) (April 2015)

New York Conference on the 20th Anniversary of the South African Constitution (Nov. 2014) (presentation regarding the Constitutional Court’s Battle Against Corruption)

Southeast Association of Law Schools (Amelia Island, Aug. 2014) (presentation regarding the level of scrutiny that should be used in gender discrimination cases)

Presentation at an ACS meeting on the Supreme Court’s Recess Appointments Case (Des Moines, March 2014)

Univ. Nebraska Law School (Lincoln, Oct. 2013) (presentation on South African progressivism to ACS chapter, faculty workshop on South African socio-economic rights cases)

Southeast Association of Law Schools (Palm Beach, Aug. 2013) (presentations and short papers on teaching constitutional law, the U.S. Supreme Court’s Fischer affirmative action decision, and the questions of whether constitutional interpretation methodologies matter in U.S. Supreme Court decision-making)

American Society of Comparative Law Annual Meeting (Iowa City, Oct. 2012) (plenary session speech on the state of judicial review in South Africa, other speakers include Kim Scheppelle re. Hungary, Stephen Gardbaum re. Commonwealth nations, and Clark Lombardi re. Egypt)

Georgia State Law School (Atlanta, Sep. 2012) (presentation to faculty on South Africa book)

Southeast Association of Law Schools (Amelia Island, July 2012) (presentation and short paper on Justice Thomas after 20 years, presentation and short paper on Supreme Court decision-making)

Annual Conference on Law & Society (Hawaii, June, 2012) (roundtable topic: “Is the U.S. Supreme Court Really a Court?” with Prof. Sandy Levinson, Prof. Eric Segall, and others)

University of Chicago Law School (April, 2012) (presentation on South Africa book)

Florida Int’l Univ. Law School (Miami, Feb. 2012) (presentation to faculty on South Africa book)

Loyola Chicago Law School (Oct. 2011) (national constitutional law conference presentation on “Constitutional Pragmatism: A Typology with Revolutionary Implications”)

Texas Tech Law School (April, 2011) (presentation to faculty on South Africa book, participant in conference on the Internet and Incitement)

Georgetown Law School (Jan. 2011) (presentation to faculty workshop on South Africa book, commentary by Prof. Mike Seidman)

Georgetown Law School (Nov. 2010) (commentator regarding international law paper presented at faculty workshop)

University of Witwatersrand Faculty of Law (Johannesburg, Oct. 2010) (presentation on comparative constitutional law topics)

University of Cape Town Faculty of Law (South Africa, Oct. 2010) (presentation on South Africa book)

University of South Africa (Pretoria, Oct. 2010) (lead panel speaker on “The Tenth Anniversary of the Grootboom Decision” conference) (separate presentation to law faculty on South Africa book)

University of Stellenbosch Faculty of Law (South Africa, Oct. 2010) (“The Health of South African and U.S. Socio-Economic Rights: Some Examples”)

George Washington University Law School International and Comparative Law Colloquium (Washington D.C., Sep. 2010) (presentation on South Africa book)

Fifth Criminal Procedure Discussion Forum at the University of Aix-Marseille III (Aix en Provence, France, June 2010) (“The U.S. Supreme Court and the War on Terror”)

Annual Conference on Law and Society (Chicago, May 2010) (moderating and commenting at roundtable regarding the politics of courts in authoritarian regimes, speakers from Berkeley, Univ. Chicago, Oxford)

Midwest Political Science Association Annual Meeting (Chicago, April 2010) (reviewing book on U.S. Supreme Court Justice Anthony Kennedy, moderating comparative constitutional law panel)

Ohio Northern Law School (March 2010) (Keynote Address at Law Review Symposium regarding constitutional rights (to be published in law review))

McGeorge Law School (Sacramento, CA, March 2010) (presentation on South Africa book)

University of South Dakota Law School (Feb. 2010) (presentation at Symposium on the 20th Anniversary of Employment Division v. Smith regarding the Free Exercise Clause, published in law review)

University of LaTrobe Law Faculty (Melbourne, Australia Dec. 2009) (dialogue on South Africa book)

Australian Catholic University Law Faculty (Melbourne, Australia Dec. 2009) (“Conflict or Convergence: Human Rights and Religion”)

Melbourne Royal Institute of Technology Law Faculty (Melbourne, Australia Dec. 2009) (“Human Rights and Religion”)

Notre Dame Law School Scholarly Workshop (Nov. 2009) (presentation on South Africa book)

Iowa State University (Oct. 2009) (speech on the constitutional issues raised by recent revelations about the “war on terror”)

Loyola Univ. Law School Scholarly Workshop (L.A., Oct. 2009) (presentation on South Africa book)

International Association of Law Schools (D.C., Sep. 2009) (paper on teaching comparative constitutional law concepts in a domestic constitutional law class)

University of California East Bay (July 2009) (multiple presentations on the U.S. Supreme Court and the War on Terror)

University of Hong Kong (June 2009), In the Age of Digital Convergence: An East-West Dialogue on Law, Media & Technology (speech on pornography restrictions); Presentation on Cambridge Univ. book sponsored by UHK Comparative Law Center

Annual Conference on Law and Society (Denver, May 2009) (“Author Meets Reader” panel regarding Cambridge Univ. book; paper on “The U.S. Supreme Court and the War on Terror;” moderated additional panel)

University of Luxembourg Faculty of Law (May 2009) (“Obscenity and Pornography Regulation in Hong Kong”) (conference co-sponsored by Emory Law School, William & Mary Law School, and Louisville Law School)

University of Stellenbosch Faculty of Law Scholarship Workshop (South Africa, March 2009) (South African launching of Cambridge Univ. book, respond to scholarly commentators from Germany, Spain, South Africa and U.S.)

AALS Annual Meeting (San Diego, Jan. 2009), Is American Constitutional Law in Crisis? (moderator); Socio-Economic Rights: Comparative Perspectives and Criticisms (commentator) (other panelists included Professors Richard Epstein and Kim Scheppelle)

Notre Dame Nanovic Institute on European Studies, Conference on Religious Freedom in Global Perspective (South Bend 2008) (delivered paper on “The Relationship Between Freedom of Religion and Freedom of Speech: An American and South African Perspective”)

Simpson College Constitution Day Keynote Speaker (Indianola, Iowa 2008) (“The ‘Exceptional’ American Constitution”)

Annual Conference on Law and Society (Montreal 2008) (delivered papers entitled “A Critique of One View of South African Constitutionalism,” and “Education and Human Rights”)

Oxford University Conference on Global Security (United Kingdom 2008) (delivered paper on “The U.S. Supreme Court and the War on Terror”)

Drake Intellectual Property Center Annual National Roundtable (2008) (delivered paper on “Freedom of Speech and the Internet”)

Annual Conference on Law and Society (Berlin 2007) (delivered papers entitled “Equality and Race Discrimination: South African and American Judicial Perspectives,” and “The Constitutionality of Laws Against Prostitution: A Comparative Perspective”)

University of Paris I – Sorbonne (2007) (presentation in French on the constitutional right to privacy in the U.S.)

BYU Law School (Utah, 2007) (presentation re. comparative perspectives on free speech vis a vis the regulation of Internet pornography for a conference on “Pornography, Free Speech, and Technology”)

AALS Annual Meeting (Washington D.C. 2007) (speaker for workshop at Georgetown Law School on integrating international and comparative law perspectives into constitutional law classes)

Midwest Law and Society Retreat (Madison, WI 2006) (speaker for panel on socio-economic rights)

Annual Conference on Law and Society (Baltimore 2006) (speaker for panel on “Comparative Religion in Context”)

University Alfonso X El Sabio (Madrid, Spain 2006) (speaker on panel with S. African Ambassador regarding the “Constitutional Legacy of Nelson Mandela”; colloquium presenter regarding American constitutional interpretation)

University of Durban Kwa Zulu Natal Conference on Comparative Constitutionalism and Rights: Global Perspectives (Durban, South Africa 2005) (presentation for plenary session re. “Perspectives on the South African Constitution: The Constitutional Debates, Constitutional Text and Constitutional Court Decisions”)

South Africa Reading Group (New York 2005) (colloquium presenter regarding “Smoking Weed, Drinking, and Spanking: The South African Constitutional Court”)

University of Saskatchewan Conference – Reflections on Rights Enforcement: Comparative Perspectives (Saskatoon 2005) (moderator for introductory plenary session on “Comparative Perspectives”, speaker for panel on “Pragmatism, Constitutionalism, and Rights”)

Annual Conference on Law and Society (Las Vegas 2005) (moderator for panel on “Pragmatism and the South African Constitutional Court,” speaker for panel on “Getting Involved in Africa”)

Michigan State University Law School Symposium on the First Amendment and Children (E. Lansing, Mich. 2005) (presentation on “Filtering Out Children: The First Amendment and Internet Porn in the U.S. Supreme Court”)

Annual Conference on Law and Society (Chicago 2004) (presentation on the First Amendment issues raised by prohibitions on violent video games)

Cornell University Institute for African Development Symposium (Ithaca 2004) (Truth Commissions: Amnesty or Prosecution?)

Stanford University Law School (2004) (invited to moderate panel on legal scholarship in Africa by Stanford International Law Journal) (unable to attend due to Moldova Fulbright trip)

Michigan State University Law School (E. Lansing, Mich. 2004) (colloquium presenter regarding South African Constitution)

AALS Annual Meeting (Atlanta 2004) (speaker for panel on LLM programs for foreign law students; commentator for panel on “Getting Involved in Africa”; moderator for panel on “HIV/AIDS in Africa”)

Annual Conference on Law and Society (Pittsburgh 2003) (presentation on the South African Constitution’s Approach to Socio-Economic Rights; Chair and commentator for panel titled “After September 11: Immigration, Personhood, Psychology, and Demonization”)

Chapman University Law School Symposium on Economic Liberties and the U.S. Constitution (California 2003) (presentation comparing South African Constitution’s notion of positive economic rights with U.S. Constitution’s concept of negative economic liberties)

AALS Annual Meeting (New Orleans 2002) (moderator and speaker for panel on “The Fifth Anniversary of the South African Constitution”) (proceedings published in Vermont Law Review)

Univ. Tennessee Law Faculty Summer Forum (2002) (The South African Constitution and Substantive Equality)

U.S. Court of Appeals for the Ninth Circuit Annual Judicial Conference (Big Sky, Montana 2001) (The Constitutionality of New Contempt Powers for Magistrates)

Institute for Law Teaching (Gonzaga Law School 2001) (Comparative Evaluation and Assessment Methods at South African and American Law Schools)

American Society of Int'l Law (Washington D.C. 2001) (lecture titled "Yahoo!: National Borders in Cyberspace and Their Impact on International Lawyers")

Univ. Stellenbosch Faculty Colloquium (2000) (Legal Education Pedagogy in South Africa and the United States)

Distinguished Visitor, University of Durban - Westville (South Africa 2000) (delivered lectures on public international law, national amnesties and reparations, and American perspectives on the International Criminal Court)

University of Pretoria (South Africa Sep. 2000) (presented paper at Conference regarding Women On/And/In Law: Critical Narratives)

South African Constitutional Research Colloquium - Stellenbosch (South Africa 2000) (Response to Keynote Address by Harvard Law Professor Frank Michelman regarding "Proceduralism in Constitutional-Legal Thought")

Society of Law Teachers of Southern Africa (Durban 2000) (American Statutory Interpretation Theory)

International Law Society of South Africa (Stellenbosch 2000) (Elian Gonzales Case Perspectives)

University of Cape Town Faculty of Law (South Africa, 2000) (Gender Stereotypes in S. African and American Constitutional Law)

Race & Gender Unit, University of Cape Town (Wynberg Magistrate's Court, South Africa, 2000) (Affirmative Action in the United States)

1998 Krinock Debate on Racism and the Law (Moderator and organizer of debate between Professors Richard Delgado and Daniel Farber)

Conference on the 150th Anniversary of the Abolition of the Death Penalty in Michigan (1996)

Various radio and television programs (including NPR, ESPN, and BBC International); national and local journals,(interviews, etc. on diverse legal issues with the New York Times, the Wall Street Journal, the Washington Post, the Washington Times, the Huffington Post, Essence Magazine, the Hill, the Miami Herald, CNBC, MSN, NBR, USA Today, ABC News, The Daily Show, Vox, Raw, Yahoo! Sports, This Week in Iowa, Cityview in Iowa, Above the Law, Hearst, the National Journal, Reuters, Associated Press, San Francisco Chronicle, Detroit Free Press, Palm Beach Post, Dallas Morning Star, Washington Examiner, Christian Science Monitor, The Conversation, Iowa City Press-Citizen, Epoch Times (Chinese-American focused newspaper), Catholic News Association, Al Jazeera America, etc., The National (UAE); bayoubuzz.com, Fortune Magazine; Esquire, The Atlantic Magazine, How Appealing blog, PrawfsBlawg, national telephone press conferences on the Judge Merrick Garland nomination (sponsored by the Alliance for Justice, covered by CNN, etc.)

Other Presentations:

Iowa City Council on Foreign Relations, Fall 2020 (speech on the South African Truth & Reconciliation Commission)

Drake Law School Webinar Series on Racism, Summer 2020 (speech on disparate impact as the test for Equal Protection violations)

Iowa Women for Stronger America, Dec. 2019 (speech on impeachment)

Robert Ray Society at Drake University, April 2019 (presentation on freedom of religion)

Iowa State Constitution Day Panel, Oct. 2018 (presenting on cases from the U.S. Supreme Court's past term)

Iowa Inter-Faith Alliance, Sep. 2018 (discussing the U.S. Constitution and religion cases)

KCCI, Sunday Political Show, Spring 2018 (discussion of Tom Steyer's impeachment movement)

Iowa City Council of Foreign Relations, Spring 2018 (presentation on constitutional and political issues in South Africa)

Des Moines Plymouth Presbyterian Church, Jan. 2018 (presentation regarding Martin Luther King's birthday and federal civil rights legislation)

Drake Law School MJ Program on Regulatory Compliance, Fall 2017 (discussing procedural due process and administrative law)

The U.S. Supreme Court 2017-2018 Term Preview, Iowa Public Radio Hour Show, Mar. 16, 2017 (with Prof. Todd Pettys)

Trump's Conflict of Interest Protections Depend on our Blind Trust of Family Advisors, BayouBuzz.com, Jan. 11, 2017 (interview summarized Jan. 13, 2017)

Iowa State University, Faculty Workshop regarding Free Speech on Campuses (Dec. 2016)

Drake University Engaged Citizen Keynote Panel Moderator and Speaker on the political polarization facing the nation (Feb. 2016)

Greater Des Moines Partnership, Young Professionals Connection, Talk on Presidential Election Developments in Iowa (Nov. 2015)

Drake Law School Television Media Commentary Team for Democratic Debate (Nov. 2015)

Drake Law School International Day presentation on South Africa's Constitutional Court (Oct. 2015)

Iowa State Constitution Day Presentation on the U.S. Supreme Court's 2014 term (Sep. 2015)

Iowa Human Rights Group Panel presentation on South Africa (2015)

Drake Class on Virtual Reality/Art/Public Space (April 2015) (discuss Internet and NSA surveillance law)

Drake Law School Faculty Workshop (April 2015)

Drake Law School International Day presentation on South Africa's Constitutional Court (Oct. 2014)

Iowa State Univ Presentation on the U.S. Supreme Court's 2013 Term (Sep. 2014)

Drake Journalism School Presentation on Comparative Approaches to Freedom of Expression (May 2014)

Drake Bar Review Presentations on the First Amendment (2014-2017)

The Nelson Mandela Story: A Remarkable Life and Legacy (Feb. 2014) (panel discussion co-sponsored by Drake University and the Des Moines NAACP)

Doc and Lefty Internet Radio Talk Show sole guest (Dec. 2013, Dec. 2014) (discussed significance of Nelson Mandela's death and the future of South Africa; discussed questions of Presidential Power)

Iowa State University Constitution Day (2013) (speech on U.S. Supreme Court's voting rights and affirmative action decisions for panel)

Iowa Federalist Society Chapter (2012) (panel discussion with two Bush Administration officials on the impact of the Presidential election on the U.S. Supreme Court)

Lion's Club (2012) (presentation on the judicial retention vote)

Drake Law School Faculty Workshop (2012) (presentation on constitutional pragmatism)

Iowa Association of Administrative Law Judges (2012) (presentation on Guantanamo military commission proceedings in connection with showing of film on same)

Des Moines Methodist Church (2012) (constitutional issues involving school prayer)

Drake Business School Annual Roundtable: Health Reform (2011) (presentation on constitutional issues regarding the Affordable Care Act)

Iowa House of Representatives Democratic Caucus (2011) (presentation on judicial independence, same-sex marriage, and constitutional amendment issues)

Iowa Women for Stronger America (2010) (speech regarding independence of judiciary)

Drake Law School Faculty Workshop (2010) (socio-economic rights in South Africa talk)

Iowa Resource for International Service (2010) (presentation on checks and balances to Serbian delegation focusing on anti-corruption issues)

Iowa State University Bio-Ethics Retreat on Health Care Reform (2010) (constitutional issues talk)

Iowa State University Forum on Same-Sex Marriage (2010)

Iowa State University Alumni Forum regarding the war on terror (2009)

Iowa Council for International Understanding (2009) (presentation on South Africa book)

Drake University Engaged Citizenship Forum Keynote Speaker (2009) (presentation on constitutional rights in South Africa and United States, connected to American release of Cambridge Univ. book)

Obama House Party (2007) (co-hosted Prof. Laurence Tribe as speaker)

Iowa Women for a Stronger America (2007) (Civil Liberties and the War That Creates More Terrorists)

Iowa Obama for President House Parties (2007) (The War on Terror and Civil Liberties)

Drake University Constitution Day (2007) (Moderator, How to Be a Constitutional Lawyer)

Iowa ACLU Annual Meeting (2007) (The War on Terror and Civil Liberties)

University of Chicago Alumni Panel at Drake University (2006) (The Impact of Globalization)

Drake Law School Board of Counselors (2006) (Integrating International and Comparative Law Perspectives into the Curriculum)

Drake University Ray Society (2006) (Introduction to the U.S. Supreme Court)

American Judicature Society Panel on the Media and Judicial Independence (2006) (moderator)

Iowa American Constitution Society Patriot Act Debate (2005) (moderator)

Iowa Judicial Institute speaker (2005) (The U.S. Supreme Court's Foray in to Internet Porn)

Drake University Panel on "Liberal Anti-Intellectualism" (2005)

Drake University Campus-Wide Open Forum on controversy over humor magazine (2005) (moderator)

ACLU of Montana Law Student Chapter (2002) (Constitutional Issues Raised by the U.S. Patriot Act and the War Against Terrorism)

Montana Supreme Court CLE for attorneys on the Montana Constitution (2002) (The Effects of Technology on the Montana Constitution)

Montana Law Review's 30th Anniversary of the Constitution Symposium (2002) (Technology's Effect on the Montana Constitution)

Univ. of Montana course on Computers and Society (2002) (cyberspace privacy issues)

Continuing Legal Education (Univ. Montana School of Law, Sep. 2001) (How Your Clients' Web Sites Can Expose Them to Liability and Some Practical Constitutional Issues Regarding Cyberspace)

Panel Discussion sponsored by the ACLU (Univ. Montana School of Law, Sep. 2001) (Civil Liberties During Times of National Crisis)

Montana Supreme Court (2001) (presentation on criminal procedure case)

Montana Courts of Limited Jurisdiction (2001) (Free Press v. Fair Trial Issues)

1999 Montana L. Rev. Browning Symposium on Cyberspace

1999 Montana Public Lands L. Rev. Symposium (Right to Clean Environment)

1998 Annual Conference of the Mich. Academy of Science, Arts & Letters (Personal Jurisdiction Issues in Cyberspace)

1997 Annual Conference of the Mich. Academy of Science, Arts & Letters (The Impact of Cyberspace on the First Amendment)

Muskegon Forum (Michigan 1997) (The Effect of the Internet on Free Speech)

Ingham County Bar Ass'n Luncheon Lecture Series - 1996 U.S. Supreme Court Update

Michigan House of Representatives Judiciary Committee (testified regarding the constitutionality of proposed Prenatal Protection Act) (1996, 1997)

Thomas M. Cooley Faculty Retreat on Legal Education in the Year 2020 (1995)

Thomas M. Cooley Faculty Retreat on Innovative Teaching (1995)
Chicago-Kent Law School Forum (1993)

Affiliations:

Arbiter and External Review Examiner, University of the Western Cape Department of Public Law & Jurisprudence, South Africa (2021--)

Member, International Board of Advisors, University of Hong Kong Center for Comparative and Public Law (2009-2015).

Selected as Leader of law delegation from the U.S. to South Africa, Citizen Ambassador Program for People to People, (Oct. 2015).

Co-Editor, Drake Law School SSRN Legal Research Paper Series (2012-2013).

Chair, Association of American Law Schools Constitutional Law Section (2008) (established the Gey Scholarship Award for untenured faculty); Exec. Comm. Member (2007-2010); Secretary (2007); Bylaws Drafting Subcommittee (2015).

Chair (2020), Secretary, Treasurer, Association of American Law Schools Comparative Law Section (2016, 2018); Secretary (2017); Executive Committee Member (2015-present). Reader for First and Second Mark Tushnet Scholarly Paper Section Awards (2019, 2020)

Initiator, Revenge Porn Discussion in Iowa (legislation later successfully promoted by a separate group) (2017)

Bar memberships: U.S. Court of Appeals for the Seventh Circuit; U.S. District Court for the Northern District of Illinois; State of Illinois; State of Michigan. Member, American Bar Assn.

Precinct Captain, Klobuchar for President Iowa Caucus (2020); Member, Obama Iowa Headquarters Election Day Legal Protection Team (2012, 2008); Member, Iowa Policy Committee for Obama (Law, 2008); Member, Polk County Caucus Steering Committee for Obama; Drake University Counsel for Obama (2007-2008).

Survey Coordinator on Constitutional Law Prof. Response to Gov't Position re. Awlaki Drone Attack (assisting New York Times Reporter for forthcoming book, survey on conlawprof email list, 2014)

Host, International Judicial Officials group traveling to Des Moines, U.S. Dept. of State (2014)

Board of Directors, American Society for Comparative Law (2012-present); Junior Scholar Mentor (2014-present).

Founding Board of Advisors, SSRN E-Journal on Law in Africa (2013-present).

Contributing Editor, JOTWELL BLOG, *Constitutional Law Reviews* (2012-present) (named one of the ABA's top 100 law blogs for 2013).

Interview Subject, I-CONNECT BLOG (comparative constitutional law blog for Oxford journal, discussed scholarship on South African constitutional law) (2013) (available at: <http://www.iconnectblog.com/2013/10/a-conversation-with-mark-kende/>)

Invited by the National Endowment for the Humanities in 2013 to serve on the Kluge Fellowship panel of evaluators at the Library of Congress.

Consultant, BBC Radio 4 (2017)

Consultant, The Daily Show, Comedy Central Television Station (2013)

Consultant, Iowa Ethics and Campaign Disclosure Board (2013)

Profiled in Drake Blueview Alumni Magazine (2013 & 2005)

Co-Organizer, American Constitution Society Forum on Iowa Judicial Retention Elections (2010)

Consultant, University of Stellenbosch OSP Project on Combatting Poverty, Homelessness, and Social Vulnerability (2010)

Member, Drake University Rhodes Scholar practice group (2008), Fulbright Scholar applicant group (2009).

Member, ACLU of Iowa Board of Directors (elected statewide) (2016--); Chair Board of Trustees Committee on Legal issues (2016--2020); Legal Advisory Committee (2007-2020); Member Executive Director Search Committee (2017); Elected to Board Executive Committee and Foundation Board (2017--2018), Selected to attend ACLU National Bi-Annual Leadership Conference (2018).

Participant, Drake University President's Annual Strategic Planning Meeting (2012); Drake University Sub-Saharan Africa Strategic Partnership Discussions (2013).

National Peer Review Committee for the Fulbright Senior Specialists Program (2006-2008).

Peer Review for the National Science Foundation (U.S.) (2014); National Research Foundation of South Africa on law faculty research rankings (2010, 2014)

Participant, 17th Congress of the International Academy of Comparative Law, University of Utrecht, Netherlands (2006).

Host for Chinese Fulbright Scholar specializing in constitutional history (2005-2006).

Who's Who in American Education (2005).

Member, Organizing Committee for "Exonerated" speaker panel and theater production (2005).
Coordinator, Prof. Randy Barnett – Prof. Cass Sunstein Blog debate publication in Drake Law Review (2004).

Fulbright Senior Specialist Roster (selected to conduct legal education and constitutional law training in Moldova in Spring 2004).

Who's Who in American Law (2003).

Past Chair (2003), Newsletter Editor, Association of American Law Schools - Africa Section. Executive Committee Member (2015).

Co-organizer, Collaborative Research Network on Legal Scholarship re. Africa, Law & Society Group. Member, Law and Society.

Interviewer, Yale University Alumni School admissions.

Participant, University of Toronto Law School conference on comparative constitutional law (2004). Participant, Harvard Law School course on terrorism (2003).

Participant, Law & Society workshop on Islamic law (2003).

Member, Bill of Rights Conference organizing committee in Montana (2003).

American Constitution Society Activities: Organized reception for Erwin Chemerinsky (2017). Host breakfast with Dahlia Lithwick (2016); National List of Program Speakers on Racial Issues (2014), Host Committee, ACS Annual Convention of 2012. Member, ACS (2003-2004, 2010-present). Coordinated presentation by Prof. Pam Karlan to Des Moines ACS Chapter (2012), Prof. Sandy Levinson (2013), and Assoc. Dean William Forbath (2014). Faculty Advisor for Drake Law School ACS student organization (2011--).

Member, Fulbright Scholar Selection Comm. in South Africa (2000).

Past Member, United States Fulbright Association.

Member, Association of American Law Schools House of Delegates (2003, 2008, 2015).

Consultant, Montana Committee for the Humanities Film Project on the Montana Constitution (2002). Member, Organizing Committee for Symposium on the 30th Anniversary of the Montana Constitution (2003).

Member, Research Unit for Legal and Constitutional Interpretation (RULCI) in South Africa (2000).

Host and Organizer, South African Constitutional Court Justice Albie Sachs visit to Univ. Montana. Chair, Michigan Academy of Science, Arts & Letters (Law Section) (1998).

Peer Reviewer: Cambridge University Press; Journal of College and University Law; Journal of Law and Religion; University of Stellenbosch Law Review; South African Journal of Human Rights; Penn. State Univ. Press.; African Journal of Political Science and International Relations; University of South Africa Press; Wolters Kluwer (Aspen); Theoria; Routledge Publishers; Onati Socio-Legal Series (Spain); Political Administration Quarterly; Annals of Iowa History; Harvard University Press; McGill International Journal of Sustainable Development Law & Policy; Stanford University Press; other journals.

Chair, Drake Law School Curriculum Committee (2019-2020), Member, Chair, Drake Law Promotion & Tenure Committee (2015-2016, 2017-2018); Drake Faculty Committee (elected for 2014-2015); Chair, Drake Law School Committee on Non-JD Alternatives (2013) (proposal to establish new MJ programs was adopted); Chair, Drake Law School Recruitment Committee (2008, 2017); Member, various

university and committees at numerous academic institutions (curriculum, recruitment, promotion and tenure, strategic planning, self-study, Dean's Advisory group depending on the year). Jointly proposed successful Summer Constitutional Law Institute revisions to address changing admissions situation (2013).

External scholarship reader for law school tenure as well as for endowed chair candidates.

Past Fellow, Michigan Bar Foundation.

Consultant, Michigan House of Representatives Judiciary Committee (1995-1999).

Past Coordinator, Thomas M. Cooley Krinock Academic Lecture Program in Law.

Consultant, Local Rules Advisory Committee, U.S. District Court (E. D. Mich. 1998).

Editorial Advisor: Michigan Opinion Notes (on Civil Procedure) (1999).

Member, The American Society of Writers on Legal Subjects (SCRIBES) (1999).

Member, Thomas M. Cooley Legal Authors Society.

Board of Directors, Chicago Lawyer's Committee for Civil Rights Under Law (1991-1993).

Member, Chicago Council of Lawyers (Judicial Evaluations Committee 1991-1993).

Graduate, National Institute for Trial Advocacy (Northwestern University Law School 1988).

President, Chicago Law Foundation (1986).

Board of Directors, Yale International Relations, Inc. (1984).

Princeton University Summer Abroad Program (1980).

Other Interests:

Tournament chess (formerly Expert level, blurb for chess book (2019).
Softball and other sports.

Tennis league.
Fluent in French.

References

Geoffrey Stone
Edward H. Levi Distinguished Service
Professor of Law (former Dean)
The University of Chicago Law School
1111 E. 60th Street
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773-702-9494

David Strauss
Harry N. Wyatt Professor of Law
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Felix Frankfurter Professor of Law
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1563 Massachusetts Ave.
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Edward Carmody Professor of Law
Director of Graduate Programs and
Visiting Scholars
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424 Boyd Law Building
Melrose & Byington Streets
Iowa City, IA, 52242
319-335-9086

Taunya Banks
Jacob A. France Professor of Equality Jurisprudence
University of Maryland School of Law
500 West Baltimore Street
Baltimore, MD 21201
410-706-7214

Other references available.

PARTIAL APPENDIX OF CASES LARGELY FROM MINER, BARNHILL FIRM (partial listing of cases, usually representing plaintiffs in civil rights cases; roles ranged from conducting oral arguments in the U.S. Court of Appeals for the Seventh Circuit, to being the first chair in trials, to consulting on U.S. Supreme Court cases, conducting all discovery, arguing motions, filing fee petitions, filing complaints, and the like)

1. Supreme Court

Castle Rock v. Gonzales, 545 U.S. 748 (2005) (consultant on “duty to protect” case against police department)

Gonzales v. Raich, 545 U.S. 1 (2005) (consultant in Commerce Clause case)

Buckhalter v. Pepsi-Cola, 106 S.Ct. 3328 (1986) (successful procedural due process case involving status of pending discrimination charges)

2. U.S. Court of Appeals

Hemminghaus v. Missouri (8th Cir. 2020) (First Amendment amicus with Prof. Eugene Volokh in pending proceeding on the court’s right to seal the record and issue directives to Westlaw and Lexis to remove earlier decision in case)

Palmquist v. Selvik, 111 F.3d 1332 (7th Cir. 1997) (police brutality case)

Caminiti & Iatarola Ltd. v. Behnke Warehousing Inc., 962 F.2d 698 (7th Cir. 1992) (conducted the successful appellate argument, represented defendant against claims by attorneys in fee dispute, abstention issue)

Baravati v. Josephthal, Lyon & Ross, Inc., 834 F. Supp. 1023 (N.D. Ill. 1993), *aff’d*, 28 F.3d 704 (7th Cir. 1994) (NASD securities arbitration hearing (trial) and follow up, awarded punitive damages)

Oberg v. Allied Van Lines, 11 F.3d 679 (7th Cir. 1993) (age discrimination case)

Leahy v. Board of Trustees of Community College Dist. No. 508, County of Cook, 912 F.2d 917 (7th Cir. 1990) (conducted the successful appellate argument defending college from professor’s claim of improper denial of leave)

Political Action Conference of Illinois v. Daley, 976 F.2d. 335 (7th Cir. 1992) (voting rights case)

3. Federal District Courts

DeMarco v. Chicago Medical School, No. 90 C 7029 (N.D. Ill. 1993) (conducted age discrimination trial)

Isaacs et al. v. Caterpillar, Inc., 765 F.Supp. 1359 (C.D. Ill. 1991) (age discrimination class action)

Cotten v. Merrill Lynch & Co., No. 86-C-1578 (N.D. Ill. 1989) (age discrimination case)

Bauman v. Jacobs Suchard, Inc., 136 F.R.D. 460 (N.D. Ill. 1990), and *Bauman v. Jacobs Suchard, Inc.*, No. 89 C 5452, 1991 WL 125952 (N.D. Ill. July 1, 1991) (age discrimination class action, successful fee petition)

4. State Courts

BWW of Des Moines v. SAC County Board of Trustee, etc. (Sep. 2016) (oral argument rehearsal in nitrates case)

Griffin v. Pate (Mar. 2016) (oral argument rehearsal on felon right to vote)

Espey v. Iowa, (May 2015) (oral argument rehearsal on First Amendment issues re. curfew used against trespassers in Occupy Des Moines movement)

Varnum v. Brien, 763 N.W.2d 862 (Iowa 2009) (participated in oral argument rehearsal for one side in Iowa Supreme Court case that struck down ban on same-sex marriage)

Beall v. Baker & McKenzie, No. 91-9448 (Cir. Ct. Cook County, Ill. filed Oct. 7, 1991) (not available on Westlaw); Law Partner Can Sue for Age, Sex Bias on Contract Theory, Judge Holds, 1992 WLNR 5206653 (Chi. Daily Law Bulletin), Making a Difference; Bringing Suit Against Her Own Firm, 1991 WLNR 3073709 (N.Y. Times) (successfully settled lawsuit for sex discrimination by female partner against world's largest law firm)

Sandoval, et. al. v. Saticoy Lemon, 747 F. Supp. 1373 (C.D. Cal. 1990) (sex discrimination case)

Costco case (lawsuit in Cook County Circuit Court successfully raising due process claims against Illinois Human Rights Agency for extinguishing discrimination charges arbitrarily)

Rental Car case (Cook County Circuit Court consumer fraud case vs. rental car agencies for failure to disclose certain information)

Nursing home racial discrimination case (successfully settled suit against nursing home for racial discrimination in firing and hiring)

Rush Presbyterian Hospital medical malpractice cases (defense of claims)

5. State Administrative Agency

Davis v. Commonwealth Edison, Ch. No. 1984 CN 1997, ALS No. 2718 (Ill. Hum. Rts. Comm'n. Sept. 18, 1990) (conducted trial in retaliatory discharge case).

6. Employment Law Counseling

Supervised reduction in force at minority owned Chicago bank. No lawsuits were filed. Consulted by Iowa plaintiff's attorney regarding class action (2012).

7. Miscellaneous

Assisted on federal voting rights cases, age discrimination trial against insurance company, defending City of Chicago re. boat docking tax from constitutional claim, etc., drafting report for college after investigating sexual harassment claim, etc.

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