

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SANDRA LITTLE COVINGTON, et al.,)	
)	
Plaintiffs,)	
v.)	1:15CV399
)	
THE STATE OF NORTH CAROLINA, et al.,)	
)	
Defendants.)	

ORDER

On August 11, 2016, this Court unanimously concluded that Defendants unjustifiably relied on race in drawing lines creating twenty-eight majority-minority districts in the 2011 state legislative districting plans, in violation of Plaintiffs' rights under the Equal Protection Clause of the Fourteenth Amendment. Covington v. North Carolina, 316 F.R.D. 117, 176 (M.D.N.C. 2016), aff'd 137 S. Ct. 2211 (2017) (mem.). To remedy the constitutional violation, the North Carolina General Assembly enacted proposed remedial plans on August 31, 2017. On September 15, 2017, Plaintiffs filed objections to three Senate districts and nine House districts created by the proposed remedial plans. Thereafter, Legislative Defendants filed a response to Plaintiffs' objections. This Court held a hearing concerning the objections on October 12, 2017.

After careful review of the parties' written submissions, arguments, and evidence, the Court is concerned that 2017

Enacted Senate Districts 21 and 28 and 2017 Enacted House Districts 21, 36, 37, 40, 41, 57, and 105 (each a "Subject District," and, collectively, the "Subject Districts") either fail to remedy the identified constitutional violation or are otherwise legally unacceptable. In anticipation of the likely possibility of such a finding, in view of upcoming filing period for the 2018 election cycle, and upon consideration of the technical nature of determining an appropriate remedy when district lines are at issue, the Court finds exceptional circumstances and intends to appoint a Special Master pursuant to Federal Rule of Civil Procedure 53. In general terms, the Court expects to direct the Special Master to assist the Court in further evaluating and, if necessary, redrawing the Subject Districts by developing an appropriate plan remedying the constitutional violations allegedly rendering the Subject Districts legally unacceptable. The Court anticipates entering a more detailed order concerning the nature of the Special Master's work.

The parties have had an opportunity to be heard on appointment of a Special Master, as it was suggested in Plaintiffs' objections. The Court thereafter offered the parties an additional opportunity to be heard as to persons who would be appropriate for appointment as a Special Master but they were unable to agree on a list of qualified persons. See

Docs. 200, 201. The Court has therefore reviewed the qualifications and experience of a number of persons who have served as Special Masters in other redistricting cases, finding that in view of the short time frame available a Special Master with experience in drawing electoral districts for courts is needed.

The Court has identified a Special Master, Professor Nathaniel Persily, who has extensive and impressive practical and academic experience in the field; who has consulted about election matters on a bipartisan basis; who has no apparent conflict of interest here; and who has time available over the next few weeks to complete the work required by this appointment. His resume is attached to this Order. By this order, the Court will give the parties an additional opportunity to be heard as to whether there is a reason not to appoint him.

It is ORDERED that:

1. The Court intends to appoint Nathaniel Persily as a Special Master to assist the Court in evaluating the Subject Districts and developing an appropriate plan remedying any problem with a Subject District, subject to the conditions set forth below and the requirements of Fed. R. Civ. P 53(b)(2).
2. Professor Persily shall file an affidavit "disclosing whether there is any ground for disqualification under 28

U.S.C. § 455." Fed. R. Civ. P. 53(b) (3) (A). He shall not discuss the matter absent Court permission, pending further order.

3. If any party has grounds to believe that Professor Persily has a conflict of interest which would disqualify him from serving as Special Master or is otherwise objectionable, such party shall file an objection identifying the conflict within 2 business days and may submit the name and resume of an alternative candidate with similar qualifications. Should this happen, any party who has not objected may respond within one business day and may also submit an alternative candidate.
4. The Court anticipates entering an appointing order with additional instructions for the Special Master's work. The appointing order will also address other matters set forth in Fed. R. Civ. P. 53, as well as scheduling and housekeeping matters.
5. Parties and non-parties may not engage in any ex parte communication with the Special Master about the subject matter of this litigation.
6. All reasonable costs and expenses of the Special Master, including compensation of the Special Master, his research assistants, and any other assistant or advisor

- he may retain, shall, subject to further order and approval by this Court, be paid in full by the State of North Carolina within thirty days after court approval. The State of North Carolina may seek apportionment of such fees at the end of the case, should circumstances warrant. The Special Master shall preserve all records of time and expenses incurred.
7. The Special Master has agreed to and will be compensated in the amount of \$500 per hour for his time, which the Court understands is approximately half his usual hourly rate.
8. The Clerk shall provide a copy of this Order to Professor Persily and shall make arrangements for Professor Persily to have access to all CM-ECF filings in this case.
9. The Court may amend this Order pursuant to Rule 53(b)(4).

SO ORDERED, this the 26th day of October, 2017.

 /s/
Catherine C. Eagles
United States District Judge
For the Court

NATHANIEL PERSILY

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559 Nathan Abbott Way
Stanford, CA 94305-8610*

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Web: <http://www.persily.com/>

ACADEMIC APPOINTMENTS

STANFORD LAW SCHOOL	STANFORD, CA
JAMES B. MCCLATCHY PROFESSOR OF LAW	2013 – present

- *Courtesy Appointments:* Departments of Communication and Political Science
- *Courses:* The Law of Democracy; Regulation of the Political Process; Contemporary Issues in Law and Politics; Constitutional Law, First Amendment, Political Campaigning and the Internet, Policy Practicum on Campaign Finance.
- *Service:* Appointments Committee, Careers in Teaching Committee.
- *Significant Grants, Awards, and Fellowships:* Center for Advanced Study in the Behavioral Sciences (2017-2018); Andrew Carnegie Fellowship (2016-17); Stanford Cyber Initiative Grant (2016-17); Hewlett Foundation and Democracy Fund Grants for Campaign Finance Task Force (2016-17).

COLUMBIA LAW SCHOOL	NEW YORK, NY
CHARLES KELLER BEEKMAN PROFESSOR OF LAW AND PROFESSOR OF POLITICAL SCIENCE	2008 – 2013
PROFESSOR OF LAW	2007 – 2008

- *Courtesy Appointment:* Department of Political Science (2007– 2013).
- *Courses:* Constitutional Law; Advanced Constitutional Law: The Political Process; Freedom of Expression; Contemporary Issues in Law and Politics; Redistricting and Gerrymandering.
- *Service:* Lateral Appointments Committee Chair (2010-2012), Curriculum Committee Chair (2009-2010), Advisory Committee Chair (2008-2009), Intellectual Life Committee; Resources and Development Committee, Committee on Professional Development.
- *Center for Law and Politics:* Founding Director.
- *DrawCongress.org:* Founder.
- Instructor in University of Amsterdam Summer Program, July 2011.

UNIVERSITY OF PENNSYLVANIA LAW SCHOOL	PHILADELPHIA, PA
PROFESSOR OF LAW	2005 – 2007
ASSISTANT PROFESSOR OF LAW	2001 – 2005

- *Secondary Appointment:* Department of Political Science (2003-2007).
- *Courses:* Law and the Political Process; Contemporary Issues in Law and Politics; Constitutional Law, First Amendment.
- *Service:* Tenure and Promotion Committee, Judicial Clerkship Committee, Nominations Committee, Committee on Academic Standing; Coordinator of Faculty Retreat and Legal Studies Workshop.
- *Teaching Award:* Winner of the Robert A. Gorman Award for Excellence in Teaching.

VISITING PROFESSORSHIPS

UNIVERSITY OF MELBOURNE LAW SCHOOL	August 2014
PRINCETON UNIVERSITY	
Law and Public Affairs Fellow	
Woodrow Wilson School	2012-2013
UNIVERSITY OF AMSTERDAM (COLUMBIA LAW PROGRAM)	Summer 2010
HARVARD LAW SCHOOL	
SIDLEY AUSTIN VISITING PROFESSOR	Fall 2007
STANFORD LAW SCHOOL	Spring 2006
NEW YORK UNIVERSITY LAW SCHOOL	Fall 2004

OTHER WORK EXPERIENCE

PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION June 2013 - Jan. 2014
Senior Research Director

Conducted research and wrote report on “The American Voting Experience,” available at www.supportthevoter.gov.

SPECIAL MASTER OR COURT-APPOINTED EXPERT

Redistricting of New York Congressional Districts	Feb.-Mar. 2012 New York, NY
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Appointed by U.S. District Court for the Eastern District of New York to assist Magistrate Judge in drawing state’s Congressional districts pursuant to *Favors v. Cuomo*, 2012 WL 928223 (EDNY 2012). Plan adopted on March 19, 2012,

Special Master for Redistricting of Connecticut Congressional Districts	Jan.-Feb. 2012 Hartford, CT
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Appointed by Supreme Court of Connecticut to draw state's Congressional districts, pursuant to *In Re Petition of Reapportionment Commission, Ex. Rel.*, 36 A.3d 661 (Ct. Sup. Ct. 2012). Plan adopted Feb. 12, 2012.

Redistricting of Georgia General Assembly Feb.-March 2004
Atlanta, GA
Appointed by U.S. District Court for the Northern District of Georgia to draw districts for Georgia House of Representatives and Senate. Plan adopted in *Larios v. Cox*, 314 F.Supp.2d 1357 (N.D. Ga., 2004).

Redistricting of Maryland State Legislative Districts June 2002
Annapolis, MD
Appointed by Maryland Court of Appeals to draw Court plan, currently in effect, for 2002 state legislative districts. Plan adopted in *In re Legislative Redistricting of State*, 805 A.2d 292 (Md. 2002).

Redistricting of New York Congressional Districts May-June 2002
New York, NY
Pursuant to *Rodriguez v. Pataki*, 2002 WL 1058054 (S.D.N.Y. 2002), appointed by Special Master, Judge Frederick B. Lacey, to draw plan for New York State's congressional districts, later superseded by state legislature's plan.

REDISTRICTING CONSULTANT

Consultant to Redistricting Commission of Prince George's County 2011
Upper Marlboro, MD
Consultant to redistricting commission of Prince George's County, Maryland, concerning County Council Districts.

Consultant to the Chief Justice of Puerto Rico 2011
San Juan, PR
Consultant to Chief Justice Federico Hernández Denton during the process of redistricting of districts for the Senate and house of Representatives of Puerto Rico.

EXPERT WITNESS

California State Senate Redistricting Litigation 2002-2003
Sacramento, CA
Served as an expert to evaluate the 2002 California Senate and Congressional redistricting plans concerning those plans' compliance with state constitutional provisions requiring respect for political subdivisions and geographic regions.

OUTSIDE COUNSEL

Bethlehem Area Unified School District 2008

Bethlehem, PA

Consultant to school district in settlement concerning lawsuit alleging vote dilution in school district boundaries.

Miami-Dade County Attorneys Office

2002

Miami, Florida

Consultant to Miami-Dade County in litigation involving the 2000 redistricting process and challenges to the structure of local government.

ASSOCIATE COUNSEL

1999-2001

Brennan Center for Justice at NYU School of Law New York, NY

LAW CLERK

1998-1999

The Honorable David S. Tatel
U.S. Court of Appeals, D.C. Circuit

Washington, DC

LEGAL EXTERN

June-August 1996

The Honorable John T. Noonan
U.S. Court of Appeals, Ninth Circuit

San Francisco, CA

GRADUATE STUDENT INSTRUCTOR &
RESEARCH ASSISTANT

1994-1995

Professor Nelson Polsby
Institute of Governmental Studies, U.C. Berkeley

Berkeley, CA

EDUCATION

STANFORD LAW SCHOOL, J.D. with Distinction, 1998

- President, Volume 50, *Stanford Law Review*.

U.C. BERKELEY, M.A., 1994; Ph.D. in Political Science, 2002

- Recipient of the Edith Pence and Jacob Javits Scholarships.
- Thesis Title: *When Political Parties Go to Court*.
- Thesis Committee: Nelson Polsby, Bruce Cain, Raymond Wolfinger, Robert Post.

HEBREW UNIVERSITY OF JERUSALEM, 1992-1993

Raoul Wallenberg & Rotary Foundation Scholar.

YALE UNIVERSITY, B.A. & M.A. in Political Science, 1992

Phi Beta Kappa, *Magna Cum Laude*, Distinction in the Major, Recipient of the Haas Prize, Richard Sewall Cup, and Frank M. Patterson Prize for the finest senior project in American Politics.

PUBLICATIONS

Can Democracy Survive the Internet?, 28 JOURNAL OF DEMOCRACY 63 (2017).

Who Counts for One Person, One Vote?, 50 U.C. DAVIS LAW REVIEW 1395 (2017)

THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (5th ed., Foundation Press, forthcoming 2016) (with Samuel Issacharoff, Pamela Karlan & Richard Pildes).

Revisiting Public Opinion on Voter Identification and Voter Fraud in an Era of Increasing Partisan Polarization, 68 STANFORD LAW REVIEW 1455 (2016) (with Charles Stewart III and Stephen Ansolabehere).

When is a Legislature Not a Legislature? When Voters Regulate Elections Through Direct Democracy?, 77 OHIO STATE LAW JOURNAL 689 (2016) (with Samuel Byker, William Evans, and Alon Sachar).

The Campaign Revolution Will Not Be Televised, 11 AMERICAN INTEREST 33 (2015).

Testing Shaw v. Reno: Do Majority-Minority Districts Cause Expressive Harms, 90 NYU LAW REVIEW 1041 (2015) (with Stephen Ansolabehere).

SOLUTIONS TO POLITICAL POLARIZATION IN AMERICA (Nathaniel Persily ed., Cambridge University Press, 2015).

The Meaning of Equal Protection, 31 GPSOLO 13 (Nov/Dec 2014).

Bush v. Gore in the American Mind: Reflections and Survey Results on the Tenth Anniversary of the Decision Ending the 2000 Election Controversy (with Amy Semet and Stephen Ansolabehere) in Michael Alvarez and Bernard Grofman eds., ELECTION ADMINISTRATION IN THE UNITED STATES: THE STATE OF REFORM AFTER BUSH V. GORE (2014).

Shelby County v. Holder and the Future of the Voting Rights Act, GOVERNANCE STUDIES AT BROOKINGS, Aug. 2013 (with Thomas Mann).

THE HEALTH CARE CASE: THE SUPREME COURT'S DECISION AND ITS IMPLICATIONS (Oxford University Press, 2013) (edited with Gillian Metzger & Trevor Morrison).

Regional Differences in Racial Polarization in the 2012 Presidential Election: Implications for the Constitutionality of Section 5 of the Voting Rights Act, 126 HARVARD. LAW REVIEW FORUM 205 (2013) (with Stephen Ansolabehere & Charles Stewart III).

Drawing Lines in Shifting Sands: The DOJ, the VRA, and the 2011 Redistricting Process, 23 STANFORD LAW AND POLICY REVIEW 345 (2012).

Profiling Originalism, 111 COLUMBIA LAW REVIEW 356 (2011) (with Jamal Greene and Stephen Ansolabehere).

Foreword: The Legacy of Bush v. Gore in Public Opinion and American Law, 23 SAINT THOMAS LAW REVIEW 325 (2011).

The Law of the Census: How to Count, What to Count, Whom to Count, and Where to Count Them, 32 CARDOZO LAW REVIEW 755 (2011).

Foreword: The Legacy of Bush v. Gore in Public Opinion and American Law, 23 ST. THOMAS LAW REVIEW 325 (2011).

"Celebrating" the Tenth Anniversary of the 2000 Election Controversy: What the World Can Learn from the Recent History of Election Dysfunction in the United States, 44 INDIANA LAW REVIEW 85 (2010).

Measuring Election System Performance, 13 NYU JOURNAL OF LAW AND POLITICS 445 (2010) (with Stephen Ansolabehere).

Partisanship, Public Opinion, and Redistricting, in 9 ELECTION LAW JOURNAL 325 (2010); *reprinted in RACE, REFORM, AND REGULATION OF THE ELECTORAL PROCESS: RECURRING PUZZLES IN AMERICAN DEMOCRACY* (Heather Gerken, et al. eds.) (2011) (with Joshua Fougere and Stephen Ansolabehere).

Race, Region, and Vote Choice in the 2008 Election: Implications for the Future of the Voting Rights Act, 123 HARVARD LAW REVIEW 1385 (2010) (with Stephen Ansolabehere and Charles Stewart).

Court Decisions and Trends in Support for Same-Sex Marriage (with Patrick J. Egan), POLLING REPORT, Aug. 17, 2009.

Fig Leaves and Tea Leaves in the Supreme Court's Recent Election Law Decisions, 2008 SUPREME COURT REVIEW 89 (2009).

Defacing Democracy?: The Changing Nature and Rising Importance of As-Applied Challenges in the Supreme Court's Recent Election Law Decisions, 93 MINNESOTA LAW REVIEW 1644 (2009) (with Jennifer Rosenberg).

The Constitutional Relevance of Alleged Legislative Dysfunction, 117 YALE LAW JOURNAL POCKET PART 256 (2008).

Vote Fraud in the Eye of the Beholder: The Role of Public Opinion in the Challenge to Voter Identification Requirements, 121 HARVARD LAW REVIEW 1737 (2008) (with Stephen Ansolabehere).

PUBLIC OPINION AND CONSTITUTIONAL CONTROVERSY (Oxford University Press, 2008) (edited with Jack Citrin & Patrick Egan).

Eat Dessert First, 5 THE FORUM (2007)

The Promise and Pitfalls of the New Voting Rights Act, 117 YALE LAW JOURNAL 174 (2007).

Political Questions and Political Cases: The Evolving Justifications for Judicial Involvement in Politics, in Nada Mourtada-Sabbah & Bruce E. Cain, THE POLITICAL QUESTION DOCTRINE AND THE SUPREME COURT OF THE UNITED STATES (Rowman & Littlefield, 2007).

Strict in Theory, Loopy in Fact, 105 MICHIGAN LAW REVIEW FIRST IMPRESSIONS 43 (2006).

The Place of Competition in American Election Law, in MICHAEL McDONALD & JOHN SAMPLES EDS., THE MARKETPLACE OF DEMOCRACY (Brookings Inst. Press 2006).

Options and Strategies for Renewal of the Section Five of the Voting Rights Act, in THE FUTURE OF THE VOTING RIGHTS ACT 255, 257 (David L. Epstein, et al. eds., 2006); reprinted and revised in, 49 HOWARD LAW JOURNAL 717 (2006).

Forty Years in the Political Thicket: Evaluating Judicial Oversight of Redistricting Since Reynolds v. Sims, in Thomas Mann & Bruce E. Cain eds., PARTY LINES: COMPETITION, PARTISANSHIP, AND CONGRESSIONAL REDISTRICTING (Brookings Inst. Press, 2005).

The Law of American Party Finance, in Keith Ewing & Samuel Issacharoff, PARTY FUNDING AND CAMPAIGN FINANCING IN COMPARATIVE PERSPECTIVE (Hart, 2005).

When Judges Carve Democracies: A Primer on Court-Drawn Redistricting Plans, 73 GEORGE WASHINGTON UNIVERSITY LAW REVIEW 1131 (2005).

Regulating Democracy through Democracy: The Use of Direct Legislation in Election Law Reform, 78 SOUTHERN CALIFORNIA LAW REVIEW 997 (2005) (with Melissa Cully Anderson).

Perceptions of Corruption and Campaign Finance: When Public Opinion Determines Constitutional Law, 153 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 119 (2004) (with Kelli Lammie).

Soft Parties and Strong Money, 3 ELECTION LAW JOURNAL 315 (2004).

Contested Concepts in Campaign Finance, 6 UNIVERSITY OF PENNSYLVANIA JOURNAL OF CONSTITUTIONAL LAW 118 (2003).

The Search for Comprehensive Descriptions and Prescriptions in Election Law, 35 CONNECTICUT LAW REVIEW 1511 (2003).

Suing the Government in Hopes of Controlling It: The Evolving Justifications for Judicial Involvement in Politics, 5 UNIVERSITY OF PENNSYLVANIA JOURNAL OF CONSTITUTIONAL LAW 607 (2003).

In Defense of Foxes Guarding Henhouses: The Case for Judicial Acquiescence to Incumbent-Protecting Gerrymanders, 115 HARVARD LAW REVIEW 593 (2002).

Soft Money and Slippery Slopes, 1 ELECTION LAW JOURNAL 401 (2002).

The Legal Implications of a Multiracial Census, in Joel Perlmann & Mary Waters, THE NEW RACE QUESTION (Russell Sage Press, 2002).

The Complicated Impact of One Person One Vote on Political Competition and Representation, 80 NORTH CAROLINA LAW REVIEW 1299 (2002) (with Thad Kousser & Patrick Egan).

The Blanket Primary in the Courts: The History and Precedent of California Democratic Party v. Jones, in VOTING AT THE POLITICAL FAULT LINE: CALIFORNIA'S EXPERIMENT WITH THE BLANKET PRIMARY (Bruce E. Cain & Elisabeth Gerber eds.) (University of California Press, 2002).

Candidates v. Parties: The Constitutional Constraints on Primary Ballot Access Laws, 88 GEORGETOWN LAW JOURNAL 2181 (2001).

Toward a Functional Defense of Political Party Autonomy, 76 N.Y.U. LAW REVIEW 750 (2001).

The Right to Be Counted, 53 STANFORD LAW REVIEW 1077 (2001) (reviewing PETER SKERRY, COUNTING ON THE CENSUS? (2000)).

Color by Numbers: Race, Redistricting, and the 2000 Census, 85 MINNESOTA LAW REVIEW 899 (2001).

THE REAL Y2K PROBLEM: CENSUS 2000 DATA AND REDISTRICTING TECHNOLOGY (Brennan Center 2000) (Editor and Contributor).

The Legal Status of Political Parties: A Reassessment of Competing Paradigms, 100 COLUMBIA LAW REVIEW 775 (2000) (with Bruce Cain).

The Right to Bail in International Extradition Proceedings, 34 STANFORD JOURNAL OF INTERNATIONAL LAW 407 (1998).

The Peculiar Geography of Direct Democracy: Why the Initiative, Referendum and Recall Developed in the American West, 2 MICHIGAN LAW & POLICY REVIEW 11 (1997).

The Parliamentary Option for California Government, in CONSTITUTIONAL REFORM IN CALIFORNIA: MAKING STATE GOVERNMENT MORE EFFECTIVE AND RESPONSIVE (Bruce E. Cain & Roger G. Noll eds.) (IGS Press 1995) (with Bruce Cain).

CONGRESSIONAL AND OTHER TESTIMONY

The Promise and Challenges of Evolving Technologies for American Democracy, Committee on Science, Technology, and Law, National Academy of Sciences, Washington, DC (Oct. 21, 2015).

New and Necessary Innovations to Improve Voter Participation and Registration, Hearing Before Senate Select Committee on Science, Innovation and Public Policy, California State Senate (March 11, 2014).

Redistricting and the 2010 Census: Enforcing Section 5 of the VRA, United States Commission on Civil Rights (Feb. 3, 2010).

United States v. Stevens: The Supreme Court's Decision Invalidating the Crush Video Statute, Hearing before the Subcommittee on Crime, Terrorism, and Homeland Security of the U.S. House Committee on the Judiciary, 111th Cong. (May 26, 2010).

Voter Registration: Assessing Current Problems, Hearing before the United States Senate Committee on Rules and Administration, 111th Cong. (March 11, 2009).

Understanding the Benefits and Costs of Section 5 Preclearance, Hearing before the United States Senate Committee on the Judiciary, 110th Cong. (May 17, 2006).

The States' Choice of Voting Systems Act: Hearing on H.R. 1173 before the Subcommittee on the Constitution of the House Committee on the Judiciary, 106th Cong. (Sept. 23, 1999).

U.S. SUPREME COURT AMICUS BRIEFS

Brief of Nathaniel Persily, et al., *Evenwel v. Abbott* (No. 14-940).

Brief of Nathaniel Persily, et al., *Arizona State Legislature v. Arizona Independent Redistricting Commission*, (No. 13-1314).

Brief for Nathaniel Persily, et al., *Northwest Austin Municipal Utility District Number One v. Holder*, 129 S.Ct. 2504 (2009) (No. 08-322).

Brief for Nathaniel Persily et al., *Bartlett v. Strickland*, 556 U.S. 1 (2009) (No. 07-689).

Brief Amicus Curiae of Brennan Center for Justice at NYU School of Law in Support of Appellees, *Utah v. Evans*, 536 U.S. 452 (2002) (No. 01-714).

Brief Amicus Curiae of Brennan Center for Justice at NYU School of Law in Support of Respondents, *Bush v. Gore*, 531 U.S. 98 (2000) (No. 00-949).

BAR, EDITORIAL BOARD, AND PROFESSIONAL ASSOCIATION MEMBERSHIPS

- Member of the New York and United States Supreme Court Bars.
- Editorial Board, *Election Law Journal* and *The Forum*.
- Social Science Research Council, Advisor to Anxieties of Democracy Project.
- American Law Institute, Member and Advisor, Principles of Election Law Project.
- United Nations Roster of Electoral Experts.
- American Political Science Association, Advisory Committee to Law and Political Process Study Group.
- Hewlett Foundation, Consultant and Academic Advisor.
- Advisory Committee, Electoral Institute, Veracruz, Mexico.

RECENT SPEECHES AND PAPER PRESENTATIONS

- *Can Democracy Survive the Internet?*, Aspen Ideas Festival, Aspen, CO, June 27, 2017; Stanford in the Wild, Lake Tahoe, CA, Apr. 28, 2017; Wisconsin Law School Faculty Workshop, Madison Wisconsin, Apr. 26, 2017; Stanford Center, Florence, Italy, Apr. 18, 2017.
- *Report on Research of Campaign Finance Task Force*, National Institute on Money in State Politics, Bigfork, MT, June 3, 2017.
- *Redistricting and Representation in American Law*, Conference on “The Law and Lives of Democracies,” O.P. Jindal Global University, Delhi, India, Mar. 30, 2017.
- *Coming to Grips with the 2016 Election*
Indian Law Institute, Delhi, India, Oct. 26, 2016; Dean’s Advisory Council, Stanford Law School, Stanford, CA, Oct. 20, 2016; Stanford Los Angeles Alumni Event, Los Angeles, Oct. 13, 2016; Stanford Directors College, Stanford, CA, June 19, 2016; Stanford Alumni Event, Washington, DC, June 9, 2016.
- *The Costs and Benefits of the Right to Information*, Conference on Deliberative Democracy, O.P. Jindal Global University, Delhi, India, Oct. 24, 2016.
- *Voting Rights, Election Law, and the 2016 Campaign*
Public Interest Law Lunch, Stanford, CA, Oct. 20, 2016; Stanford Alumni Weekend, Stanford, CA, Oct. 21, 2016; San Francisco Legal Aid Society, San Francisco, CA, July 12, 2016.

- *The Campaign Revolution Will Not Be Televised*
UCLA Law School Faculty Workshop, Oct. 14, 2016; Public Policy Lecture, Reed College, Sept. 26, 2016; Board of Overseers, Stanford Law School, Stanford, CA, April 15, 2016; Ohio State Law School, Nov. 20, 2015; The Central Valley Foundation/James B. McClatchy Lecture on the First Amendment, U.C. Davis Law School, Oct. 29, 2015; Constitutional Conversation, Stanford Law School, Oct. 27, 2015; Berkeley Law School Public Law Workshop & Institute of Governmental Studies Harris Seminar, Berkeley, CA, Sept. 29, 2015; Conference on Online Political Advertising, Bipartisan Policy Center, Stanford Law School, Sept. 18, 2015; Stanford Law School Faculty Workshop, August 12, 2015.
- *Roundtable of Campaign Finance*, American Political Science Association Annual Meeting, Philadelphia, PA, Sept. 3, 2016.
- *Anxieties of Democracy*, American Political Science Association Annual Meeting, Philadelphia, PA, Sept. 1, 2016.
- *Redistricting Law After Evenwel v. Abbott*, American Political Science Association Annual Meeting, Philadelphia, PA, Sept. 3, 2016.
- *Does Democracy Need to Be Fixed?*, Penn Law School Symposium on “Is Government Broken?”, Phil., PA, March 24, 2016.
- *Solutions to Political Polarization*
Southern California Law and Social Sciences Forum Keynote, San Diego, CA, Mar. 18, 2016; Democracy Studies Event, Ohio State University, Moritz College of Law, Columbus, OH, March 12, 2015; Columbia Law School Faculty Workshop, New York, NY, Nov. 6, 2014; University of Melbourne Law School Legal Studies Workshop, Melbourne, Australia, Aug. 7, 2014; University of New South Wales Law School Faculty Workshop, Sydney, Australia, August 4, 2014; Stanford Law School Faculty Workshop, Stanford, CA, July 16, 2014; SSRC Presents – *Anxieties of Democracy: Why Is America So Polarized?*, Roosevelt House, New York, NY, Feb. 18, 2014.
- *Contemporary Controversies in the American Law of Democracy*, Conference on Democracy and Its Discontents, Central European University, Budapest, Hungary, Oct. 9, 2015.
- *The Law of the 2012 Election*, Stanford Alumni Dean’s Circle Event, Newseum, Washington, DC, Nov. 13, 2014.
- *Caught Between the Rock of the Constitution and the Hard Place of the Voting Rights Act*, University of Chicago Legal Forum Symposium, Chicago, IL, Nov. 7, 2014.
- *Testing Shaw v. Reno: Do Majority-Minority Districts Cause Expressive Harms?*, Symposium on Empirical Studies of Constitutional Law, University of Chicago Law School, Oct. 23, 2014.
- *Political Parties and Campaign Finance*, Bipartisan Policy Center, Washington, DC, Oct. 16, 2014.
- *Redistricting Reform: People, Principles and Processes*, Ohio State University, Apr. 18, 2014.
- *The American Voting Experience: Report of the Presidential Commission on Election Administration*
Australian Election Network, University of Melbourne, Aug. 6, 2014.
Stanford Law School Faculty Workshop, Feb. 19, 2014
National Association of State Election Directors, San Francisco, CA, Aug. 22, 2014.
George Washington Law School, Jan. 22, 2014.
- *Evaluating Redistricting Reforms*, Bauman Foundation, Washington, DC, Dec. 9, 2013.
- *The Law of the 2012 Election*, Columbia Alumni Clubs of Sarasota and Tampa, Apr. 4-5, 2012.

- *The Law of Democracy in American Constitutional Law*, Dean Alfange Jr. Distinguished Lecture, U. Mass Amherst, Amherst, MA, Mar. 26, 2012
- *Politics as Bloodsport: Redistricting Controversies Past and Present*, Columbia Law Washington Program and Alumni Presentation, Washington, DC, Feb. 29, 2012.
- *The Law of Redistricting*, CSPAN: American History TV, Columbia Law School, Feb. 27, 2012.
- *Citizens United, the Media, and the Medium*, Stanford Department of Communications, Stanford, CA, Feb. 23, 2012.
- *Drawing Lines in Shifting Sands*, *Stanford Law and Policy Review* Symposium, Stanford, CA, Jan. 28, 2012.
- *Judges and Redistricting*, *Yale Law and Policy Review* Symposium, Yale Law School, New Haven, CT, Oct. 22, 2011.
- *Redistricting New York 2012: Issues and Controversies*, The Center for Electoral Politics and Democracy at Fordham University, New York, NY, Oct. 5, 2011.
- *Bush v Gore, 10 Years Later: Election Administration in the United States*, Center for the Study of Democracy, University of California, Irvine, Cal Tech/MIT Voting Technology Project, Laguna Beach, CA, April 16-17, 2011.
- *Race, Party and Community Representation in the Redistricting Process*, Yale Law School, New Haven, CT, Feb. 25, 2011.
- *The Causes of Party Polarization in Congress*, HARVARD JOURNAL OF LEGISLATION Symposium, Harvard Law School, Cambridge, MA, Feb. 24, 2011.
- *Politics and the Roberts Court*, EMORY LAW JOURNAL Thrower Symposium, Emory Law School, Atlanta, GA, Feb. 10, 2011.
- *The 2010 Census and Election*, Columbia Law School Federalist Society, Feb 9, 2011.
- *The Shifting Sands of Redistricting Law: Unanswered Questions for the 2010 Cycle*, National Conference of State Legislatures, National Harbor, MD, Jan 23, 2011.
- *The Constitutional Politics of the Tea Party Movement*, Association of American Law Schools Annual Meeting, San Francisco, CA, Jan. 6, 2011.
- *Profiling Originalism*, Law, Economics, and Organization Workshop, Yale Law School, New Haven, CT, Dec. 9, 2010; University of Chicago Law School Faculty Workshop, Chicago, IL, Nov. 11, 2010; George Washington University Law School Faculty Workshop, Washington, DC, Sept. 21, 2010.
- *The Tenth Anniversary of Bush v. Gore*, Columbia Law School Alumni Breakfast Series, Greenberg Traurig, New York, NY, Dec. 2, 2010.
- *Bush v. Gore: A Decade Later*, ST. THOMAS LAW REVIEW Symposium, Miami, FL, Nov. 12-13, 2010.
- *Redistricting 2011: Decisions of a Decade*, Council of State Governments Intergovernmental Affairs Committee, Providence, RI, Dec. 5, 2010.
- *Expert Witnesses in Redistricting*, NAACP Legal Defense and Education Fund, Airlie Conference Center, Warrenton, VA Oct. 9, 2010.
- *Citizens United*, UNC First Amendment Law Review, University of North Carolina, Chapel Hill, NC, Oct. 8, 2010.
- *Redistricting Cases Since the Last Census*, National Conference of State Legislatures, Redistricting Task Force, Providence, RI, Sept. 26, 2010.
- *American Law Institute Conference on Election Law*, Philadelphia, PA, June 10, 2010.
- *“United We Stand, United We Fall?”*, Panel Discussion on Citizens’ United v. FEC, Stanford Law School Alumni Event, Waldorf Astoria, May 4, 2010.
- *Voting and Democratic Participation*, Conference on “Acknowledging Race in a ‘Post-Racial’ Era,” Cardozo Law School, New York, NY. Apr. 30, 2010.

- *The Law of Democracy in the Age of Obama and Roberts*, Columbia Law Alumni Association, Ropes and Gray, LLP, Boston, MA, April 13, 2010.
- *The Law of the Census*, Indiana Law Review Conference on the Law of Democracy, Indiana Law School, Indianapolis, IN, April 9, 2010.
- *A Closer Look at Key Decisions Since 2000*, National Conference of State Legislatures Redistricting Task Force, Austin, TX, Mar. 26, 2010.
- *Race and the Law in the Age of Obama and Roberts*, 2010 Edward Brodsky Legal Conference, Anti Defamation League, New York Times Building, March 4, 2010 (moderator).
- *Taking Politics as Markets (Too) Seriously, The Past Present and Future of Election Law: A Symposium Honoring the Work of Daniel Lowenstein*, UCLA Law School, Los Angeles, CA, Jan. 29, 2010.
- *The Redistricting Experience – Tales from the Field*, Redistricting Reform & Voting Rights - Identifying Common Ground and Challenges, Warren Institute, UCDC, Washington, DC, Nov. 10, 2010.
- “Democracia Electoral, Hacia Una Nueva Agenda,” Electoral Institute of Veracruz, Veracruz, Mexico, October 15-16, 2009.
- *Election Law in the Age of Obama and Roberts*, Stone Agers Luncheon, St. Regis Hotel, New York, NY, Sept. 30, 2009.
- *Race, Region and Vote Choice in the 2008 Election*, The Ohio State Moritz College of Law Faculty Workshop, Columbus, OH, Sept. 23, 2009.
- *Originalism in the American Mind*, James Goold Cutler Lecture, William and Mary Law School, Williamsburg, VA, Sept. 17, 2009.
- *Gay Marriage, the Courts and Direct Democracy*, Roundtable at American Political Science Association Annual Meeting, Toronto, Canada, Sept. 4, 2009.
- *Reflections on the Supreme Court’s Recent Voting Rights Cases*, New America Foundation, Washington, DC, June 30, 2009
- *New Developments in the Meaning of the Voting Rights Act*, National Conference of State Legislatures Redistricting Task Force, San Francisco, CA, June 14, 2009.
- *Voter Registration Reform*, AEI-Brookings Election Reform Project, Washington, DC, June 2, 2009.
- *The Meaning of the Voting Rights Act in the Age of Obama*, Stanford Law School Faculty Workshop, Stanford, CA, Mar. 18, 2009.
- *Election 2008: Looking Back and Moving Forward*, American Friends of the Hebrew University, New York, NY, Mar. 17, 2009; Columbia Law Alumni and Admittee Event, Washington, DC Mar. 17, 2009.
- *Election Administration Issues in the 2008 Election*, Tobin Project/ALI Elections Scholarship Conference, Duke Law School, Durham, NC, Feb. 27, 2009.
- *The Associational Rights of Political Parties: Recent Cases and Reform Efforts*, New York Bar Association, Election Law Committee, New York, NY, March 26, 2009.
- *Fig Leaves and Tea Leaves in the Supreme Court’s Recent Election Law Decisions*, University of Miami Law Review Symposium, Miami, FL, Jan. 4, 2009; University of Minnesota Law School Public Law Workshop, Minneapolis, MN, Jan. 6, 2009.
- *Redistricting War Stories*, American Mathematics Society, Washington, DC, Jan. 8, 2009.
- *Everything You Ever Wanted to Know About Election Law*, Ezra Stiles College Master’s Tea and Fellows Dinner, Yale University, New Haven CT, Oct. 30, 2008.
- *Litigation in the 2008 Election*, New York State Bar Association Committee on Minorities in the Profession, New York, NY, Oct. 28, 2008.

- *The Crawford Decision and the Future of Voter Identification*, University of Maryland, Baltimore, MD, Oct. 16, 2008.
- *Reforming the Presidential Nomination Process*, Stanford Law School, Stanford, CA, Oct. 3, 2008.
- *Defacing Democracy: The Rising Importance and Salience of As-Applied Challenges in the Roberts Court*, Rutgers-Camden Law School, Camden, NJ, Sept., 22, 2008; Minnesota Law School, Minneapolis, MN, Oct. 17, 2008.
- *The Law and Politics of the 2008 Election*, Columbia Alumni Association of the District of Columbia, Washington, DC, Oct. 15, 2008; New York Alumni Event, New York, NY, Oct. 7, 2008.
- *Litigating the 2008 Election*, Connecticut Bar Association, District of Connecticut Bench-Bar Conference, Sept. 19, 2009.
- *Improving our Elections: Future Research and Reform*, Carnegie Foundation, New York, NY, Sept. 18, 2008.
- *Legal Issues in the 2008 Election*, Cardozo Law School, Mar. 26, 2008.
- *Voting Rights, Voter Fraud and Election Administration*, Harvard Journal on Legislation conference on “Voices on Voting: Election Law in 2008,” Cambridge, MA, Mar. 6, 2008.
- *Vote Fraud in the Eye of the Beholder*, Columbia Law School, Feb. 26, 2008; University of Chicago Law School, Mar. 4, 2008.
- *The New Voting Rights Act*, Journal of Law and Politics, University of Virginia Law School, Charlottesville, VA, Feb. 23, 2008.
- *Redistricting in Democratic Theory*, Byron White Center Symposium on Reapportioning Colorado, Old Supreme Court Chambers, Colorado State Capitol, Denver, CO, Jan. 25, 2008.
- Preview of the 2008 Election Campaign, Election Law Society, Harvard Law School, Cambridge, MA, Oct. 10, 2007; Columbia Law School Alumni Association, Nov. 8, 2007.
- Preliminary Results from the 2006 Cooperative Congressional Election Survey (with Stephen Ansolabehere), Stanford Law School, Stanford, CA Apr. 6, 2007.
- *The Implications of the 2003 Texas Redistricting Controversy*, Symposium on *Lines in the Sand*, University of Texas Law School, Austin, TX, March 2, 2007.
- *Public Opinion and Constitutional Controversy*, Symposium on Positive Approaches to Constitutional Law and Theory, University of Pennsylvania Law School, Philadelphia, PA, Feb. 24, 2007.
- *The Implications of the 2006 Elections for Legal Debates over Partisan Gerrymandering*, NYU Annals of American Law Conference, New York University Law School, New York, NY, Feb. 23, 2007.
- *The Promises and Pitfalls of the New Voting Rights Act*, Faculty Workshop, Columbia Law School, New York, NY, Jan. 11, 2007; USC Center on Law and Politics, Los Angeles, CA, Apr. 10, 2007; Northwestern Law School, Chicago, IL, Apr. 17, 2007; Harvard Law School, Cambridge, MA, Oct. 4, 2007.
- *Nonpartisanship, Competition and Minority Voting Rights*, UNC Center for Civil Rights, Chapel Hill, NC, Feb. 3, 2006; Humphrey Inst., University of Minnesota, Minneapolis, MN, Apr. 25, 2006.
- *The Constitutionality of the Voting Rights Act*, Congressional Black Caucus Foundation, Washington, DC, Mar. 9, 2006.
- *The Place of Competition in American Election Law*, Cato Institute, Washington, DC, Mar. 9, 2006.
- *Public Funding of Election Campaigns: Options for Reform and Questions for Research*, University of Wisconsin, Madison, WI, Jan. 28, 2006.

- *Gay Marriage, Public Opinion and the Courts*, American Political Science Association Annual Meeting, Sept. 1, 2005; Emory Law School Faculty Workshop, Sept. 21, 2005; University of Michigan Law School Faculty Workshop, Nov. 16, 2005; Hebrew University of Jerusalem, Jan. 2, 2006; Bar Ilan Law School, Jan. 3, 2006; Tel Aviv Law School, Jan. 5, 2006; Williams Institute at UCLA Law School, Feb. 24, 2006, Stanford Law School Faculty Workshop, March 22, 2006; Columbia Law School Faculty Workshop, June 13, 2006; Northwestern Law School, April 17, 2007.
- *Options and Strategies for Renewal of Section Five of the Voting Rights Act*, Conference on “Lessons From the Past, Prospects for the Future: Honoring the 40th Anniversary of the Voting Rights Act of 1965,” Yale University, April 23, 2005; Russell Sage Foundation, New York, NY, June 24, 2006; Howard Law School, Branton Symposium, Oct. 28, 2005.
- *New Politics*, Conference on “The Constitution in 2020,” American Constitution Society, Yale Law School, Apr. 9, 2005.
- *Constitutional Issues in the Terry Schiavo Case*, Penn Law School, Mar. 29, 2005.
- *Regulating Democracy Through Democracy*, Conference on “The Impact of Direct Democracy,” Initiative and Referendum Institute, U.C. Irvine, Irvine, CA, Jan. 15, 2005.
- *Conflicts of Interest in Comparative Perspective*, University of Trento, Trento, Italy, Sept. 17, 2004.
- *Partisan Gerrymandering after Vieth v. Jubelirer and The Constitutionality of Counting the Overseas Population*, National Conference of State Legislatures, Salt Lake City, UT, July 20-21, 2004.
- *Money, Elections and Political Equality: Campaign Finance After McConnell*, American Constitution Society, Washington, DC, June 19, 2004.
- *Homeland Security and Civil Liberties*, Joint Conference Sponsored by U.S. Army War College and Penn Law School, June 18, 2004 (conference organizer).
- *Understanding McConnell v. FEC*, Program in Law and Public Affairs, Princeton University, May 27, 2004.
- *Redistricting Georgia*, Ad Hoc Workshop, Penn Law School, April 22, 2004.
- *Forty Years in the Political Thicket: Evaluating Judicial Oversight of Redistricting Since Baker v. Carr*, The Brookings Institution, Apr. 16, 2004.
- *American Election Law*, The Moscow School for Political Studies, National Constitution Center, March 26, 2004.
- *The Constitutional Law of American Elections*, Fels School of Government, University of Pennsylvania, March 11, 2004.
- *American Election Law*, Penn Law Board of Overseers, Penn Club of New York, March 12, 2004.
- *The Law of the Census: How to Count, What to Count, Whom to Count, and Where to Count Them*, U.S. Census Bureau, March 4, 2004.
- *Perceptions of Corruption and Campaign Finance*, Southwestern Law School, Feb. 23, 2004; American Political Science Association, Chicago, IL, Sept. 3, 2004, Boalt Hall School of Law, Berkeley, CA, Sept. 7, 2004, Seton Hall Law School, Oct. 29, 2004, NYU Law School, Nov. 15, 2004.
- *The Law of Democracy*, Conference Organizer and Panelist, Penn Law Review, Feb. 6-7, 2004.
- *Redistricting Controversies*, Dianne Rehm Show, National Public Radio, Dec. 4, 2003.
- *Judging in the Current Era*, American Constitution Society, Penn Law School, Nov. 18, 2003 (moderated panel of four federal judges).
- *Panel on Appointment of Federal Judges*, Penn Law Public Interest Program, Oct. 29, 2003.
- *Recent Supreme Court Decisions*, Chestnut Hill Academy, Sept. 2003.

- *McConnell v. FEC: Understanding the Decision and Its Implications*, Penn Law, May 15, 2003 (conference organizer and speaker).
- *The Law and Technology of the Redistricting Process*, Columbia Law School, Feb. 6, 2003; NYU School of Law, Sept. 30, 2002.
- *The Effect of the BCRA on State Political Parties*, National Conference of State Legislatures, Washington, DC, Dec. 12, 2002.
- *American Election Law*, Speech to visiting election officials from China, Taiwan, and Hong Kong. Sponsored by the Carter Center, National Committee on U.S. Chinese Relations, Women's Campaign International. Fels School of Government, Nov. 3, 2002.
- *In Defense of Foxes Guarding Henhouses: The Case for Judicial Acquiescence to Incumbent-Protecting Gerrymanders*, National Conference of State Legislatures (Washington, DC, Dec. 12, 2002); University of Miami Law School, (Oct. 25, 2002); University of Pennsylvania Department of Political Science (Oct. 10, 2002); Rutgers-Camden Law School (Sept. 9, 2002); University of Pennsylvania Law School (Aug. 15, 2002).
- *Parties, Money and Corruption*, "The Funding of Political Parties Workshop," Institute of Advanced Legal Studies, University of London, July 5-6, 2002.
- *Redistricting New York*, University of Pennsylvania Law School Ad Hoc workshop, Summer 2002.
- *The Law and Technology of the 2000 Redistricting Process*, Harvard Law School, Apr. 22, 2002.
- *Strategies for Election Reform and their Legal Consequences*, Georgetown Journal on Poverty Law and Policy, Georgetown University Law Center, Feb. 25, 2002.
- *The Political Impact of One Person, One Vote*, Symposium on Baker v. Carr, University of North Carolina Law School, Chapel Hill, NC, Nov. 2-4, 2001.
- *Understanding and Complying with Bush v. Gore*, Election Law Task Force of the National Conference of State Legislatures, National Press Club, May 9, 2001.
- *Multiraciality and the 2000 Census*, Brennan Center at NYU Law School, May 4, 2001.
- *Latino Representation and the 2000 Redistricting Process*, National Meeting of the Latino Law Students Association, Columbia Law School, Mar. 2, 2001.
- *The Law, Politics, and Technology of the 2000 Redistricting Process*, Eagleton Institute of Public Affairs, Rutgers University, Dec. 18, 2000.
- *The Legal Regulation of Party Primaries*, Annual Meeting of the American Political Science Association, Washington, DC, Sept. 1, 2000.

Selected Media Appearances and Interviews

- *Television*: NBC, ABC, CBS, CNN, MSNBC, FoxNews, Bloomberg, CNNfn.
- *Radio*: NPR, CBS Radio, ABC Radio, BBC Radio, Voice of America.
- *Newspapers and Wire Services*: New York Times, Washington Post, Wall Street Journal, Los Angeles Times, San Francisco Chronicle, Philadelphia Inquirer, Washington Times, Houston Chronicle, Christian Science Monitor, Dallas Morning News, Miami Herald, Atlanta Journal Constitution, Detroit Free Press, Baltimore Sun, the Guardian, McClatchy, Knight Ridder, Gannett, Associated Press, United Press International.
- *Other periodicals*: The New Yorker, The New Republic, Congressional Quarterly, Roll Call.