



THE OHIO STATE UNIVERSITY  
MORITZ COLLEGE OF LAW

# Election Law at Ohio State 2020: Year in Review

An unprecedented election year brought many opportunities for Election Law at Ohio State to extend its reach and impact.

## Our Team



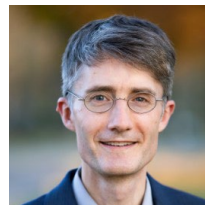
Edward B. Foley  
Director



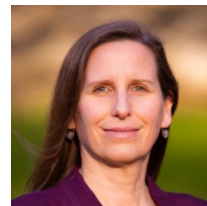
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The Election Law at Ohio State team is a trusted source of nonpartisan information about our nation's electoral processes.

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## Convening experts for a national conversation about our elections

Throughout this exceptional year, [our program hosted numerous events](#) to expand the collective understanding of the history, laws, and norms of American elections and to explain and discuss the COVID-driven changes and the flurry of pre- and post-election litigation that characterized the 2020 election season.

### Public events

What became our program's signature event format this year was a public webinar where a group of election law experts from around the country offered their perspectives in a conversational setting.

We held the first of these virtual roundtables in early May when two dozen panelists from academia, government, and civil society organizations weighed in on hypothetical disputes surrounding the 2020 presidential election. The 4.5 hour event, attended by over 200 viewers (with the recording receiving over 450 views to date) and reported on in [articles like this one](#), was structured around Ned's [recent article in the Loyola University of Chicago Law Journal](#).



May 4th 'What if the 2020 Presidential Election is Disputed?'

Three more expert roundtables bracketed the November 3 general election – the latter two of which were somewhat hurriedly planned as the election aftermath continued to call for clarification and insight. (The fourth



October 29th '5 Days Out'

and final event of this series took place in mid-January 2021.) These events were deftly moderated by Steve who started each event by asking each panelist to briefly offer their “top of mind” thoughts and concerns – a feature that attendees found highly valuable. Average attendance for these three webinars was 245 with over 700 views of the recordings to date. And along the way, Gillian became well-versed in organizing and managing Zoom webinars.

Other virtual public events this year included a discussion between two authors ([one being our own Ned](#)) of recently published books on the Electoral College, and a bi-partisan conversation with the Secretaries of State of Michigan and Ohio as they looked back on the primary elections in their states and were thoughtfully planning for the general election. The year began with an all-day in-person symposium co-sponsored by our program and the Ohio State Technology Law Journal entitled: *Elections in the Era of Technological Threats and Opportunities*. This symposium led to published law review articles, some very prominent, by scholars on the panels.

### Non-public meetings

Ned and Steve also convened several invitation-only (off-the-record) meetings of scholars, practitioners, and others to tackle specific concerns leading up to the 2020 general election. In addition, Ned served as the election law consultant for a series of “war games” conducted by the [Transition Integrity Project](#) during the summer.

## Partnering with SCOTUSblog

When well-respected and influential SCOTUSblog reached out to our program this spring proposing a partnership around this year's election litigation, we jumped at the chance and were honored to collaborate with them on the [2020 Election Litigation Tracker](#). The goal of the case tracker and the accompanying [Election Law Explainers](#) (written by Ned, Steve, Matt, and SCOTUSblog's Amy Howe) was to serve as a resource for anyone seeking to understand the status and potential impact of election cases that could make their way (possibly very quickly) to the U.S. Supreme Court. The Slack channel we established with Amy Howe and others at SCOTUSblog was buzzing as we kept each other informed as events unfolded.



Credit: Art Lien

## Creating a new virtual home for Major Pending Election Cases

Major Pending Election Cases has been a project of the Election Law program since 2004. It is a valued resource for case summaries, comprehensive court findings, and expert commentary about important election law cases from around the nation. Over the summer months, Gillian and Matt quickly orchestrated the creation of [a new website for the project](#), which was re-launched in the fall and improved access to the election law cases that we track... and the 2020 election season certainly provided plenty of cases to track.

ELECTION LAW AT OHIO STATE

### Major Pending Election Cases



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CASE NEWS & COMMENTARY

ELECTION LAW EXPLAINERS

CONTACT



In 2020, with the assistance of Moritz law student research assistants, Matt and Gillian added a staggering 116 new cases to our case tracker with 39 of those coming in November alone. Across the active cases in 2020, our team uploaded over 2,500 court filings as part of our mission to be a one-stop-shop for people eager to learn about noteworthy election litigation. We were thrilled to hear from journalists, scholars, and individuals who shared their appreciation for our project. Reporters from the Wall Street Journal and AP went out of their way to tell us how much they valued this work.

Matt's incredibly helpful [weekly case updates](#) started up after Labor Day and continued through Inauguration Day. For those of us trying to keep up with the flood of cases being filed/appealed/dismissed, Matt's summaries brought desperately needed clarity.

## Mobilizing our Courtwatchers

Anticipating the rising flood of election litigation as Election Day approached, we marshalled an energetic volunteer army of Moritz law students to assist in identifying and staying on top of lawsuits and other election developments, dividing them into pods, each responsible for particular battleground states. For much of the fall, this team of about 20 students made valuable contributions and expanded our program's capacity to meet the moment (and hopefully they enjoyed the experience and learned something in the process!).

## Sharing expertise and opinions

Across all types of media, whether to audiences at home or abroad, our program shared its expertise.

### Written work

This fall the [Washington Post named Ned as a contributing opinion columnist](#). And opine he did... in 20 WaPo opinion pieces, including [this one](#) from late December, which was one of the most read WaPo articles the day after it was published, and [this one from December 29](#), which was trending in the lead up to the January 6<sup>th</sup> Joint Session of Congress (as was [another that Ned wrote on January 2, 2021](#)). This year Ned also wrote (or co-wrote) articles for The Atlantic, Politico, USA Today, and The Hill, including [this Politico piece](#) that Ned and Steve co-wrote in April following the primaries in Wisconsin. A fairly complete list of articles [can be found here](#).

Steve and Ned made several contributions to The Fulcrum's Election Dissection Blog, and Ned's writings appeared on Rick Hasen's Election Law Blog as well as SCOTUSblog's Symposia. And all the while, Ned tweeted out to his over 5,000 followers.

### Free & Fair with Franita and Foley podcast



*Franita Tolson and Ned Foley*

In January, Ned teamed up with Franita Tolson from USC's Gould School of Law and throughout this year they produced over 20 episodes of their engaging and thought-provoking podcast about issues surrounding the 2020 elections. They have a great rapport built of friendship and mutual respect, a wealth of knowledge about the history and laws shaping our democratic processes, and lots of ideas about where we go from here. [See the list of episodes](#) and take a listen!

### Podcasts

Ned and Steve organized and appeared on three episodes of the American Law Institute's *Reasonably Speaking* podcast series, and Ned was a guest on dozens of others, including: Chris Hayes's *Why Is This Happening?*, Diane Rehm's *On My Mind*, Lawrence Lessig's *Another Way*, Chris Frates's *Politics Inside Out*, The National Constitution Center's *We The People*, Alexander Heffner's *The Open Mind*, SCOTUSblog's *SCOTUSTalk*, NPR's *1A*, The Washington Post's *Can He Do That?*, KQED's *Forum*, and multiple podcasts on The Legal Talk Network.

### Events

Around the time of the general election, Ned, Steve, and Terri were panelists for Moritz-based events: Discussions from Drinko and the Divided Communities Project's Post-Election Dialogue Series. Throughout the year, Ned participated in several other webinars hosted by various departments at Ohio State. Beyond Ohio State, Ned appeared at virtual events hosted by The Robert H. Jackson Center, The National Constitution Center, The Kennedy Library, The Bipartisan Policy Center, Columbia Law School, and Penn State Harrisburg's School of Public Affairs. In February, Ned participated in a conference at the University of California, Irvine and subsequently served on the committee that produced the *Fair Elections During a Crisis* report. On Election Day, Steve was a panelist on a 'Washington Seminar' event in Norway which was co-hosted by the U.S. Embassy in Oslo. Steve also was a featured guest in a program organized by the Ohio Center for Law-Related Education and participated in a WOSU Dialogue event: *Election 2020: What's Next?*. Terri gave an election law presentation to the Paralegal Association of Central Ohio and was on a "Voting in the Age of COVID" panel at Indiana University's McKinney School of Law.



## Responding to media requests

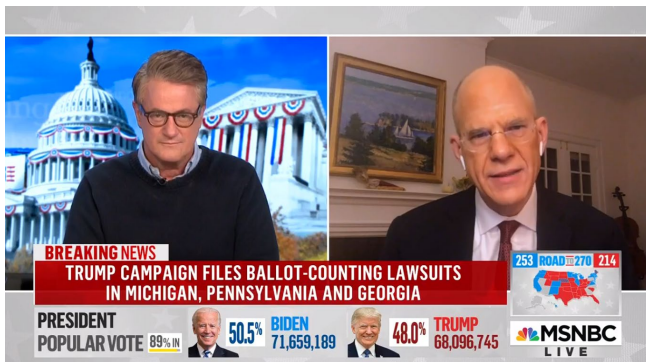
Where do we start?! The requests for interviews and comment came in steadily for much of the year and reached a virtually-impossible-to-manage crescendo around the election. For the first two weeks of November, our program was inundated with inquiries from TV, radio, print/online, podcasts, events, etc. for live or pre-taped interviews, whether for attribution or on background, national or international, early morning to late at night.

### Ned the NBC News election law analyst

Ned was on call for NBC throughout the fall when he was named one of the network's Election Law analysts. His calendar is littered with entries for 'hits' on NBC and MSNBC, and he held forth from his living room for dozens of appearances at all times of day.



*Ned on NBC News Now on Oct 30*



*Ned on Morning Joe on Nov 5*

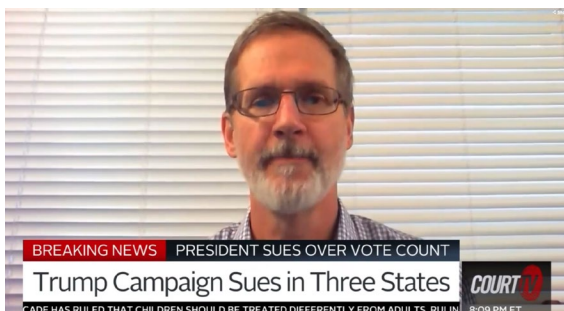


*Ned on MSNBC Live on Nov 21*

### More TV appearances by our Election Law faculty

Terri made two appearances on WHIO-TV (Dayton) around the time of the general election, and Ned and Steve popped up on a variety of shows. Here are just a few other examples of our team on TV:

Steve talked to Michael Ayala from CourtTV just after the election:



*Steve on Court TV on Nov 4*

And Steve appeared several times on local Columbus TV stations, including this:



*Steve on ABC6/Fox 28 Columbus on Nov 5*

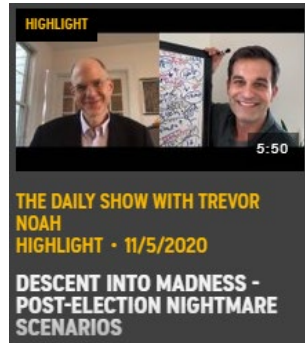
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Before he was under contract with NBC, Ned was interviewed on CNN's Smerconish:

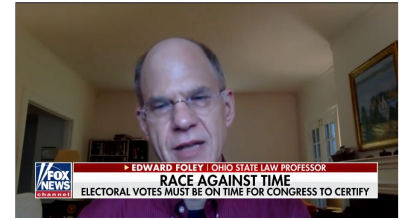


Ned on CNN's Smerconish on Aug 15

Ned was even in a funny piece with The Daily Show's Michael Kosta:



And here's Ned speaking to FOX News in an interview with Chad Pergram:



Ned on FOX News on Sep 14

### National and local radio interviews

Ned appeared frequently on National Public Radio – on nationally-carried NPR shows like *All Things Considered* and *Here & Now*, and on NPR member stations in Sacramento (CA), Charlotte (NC), Wisconsin, and our own WOSU on *All Sides with Ann Fisher*. Ned and Steve also did interviews on AP Radio, WURN's *Dia a Dia* (Miami), KDKA (Pittsburgh), KGO (San Francisco), WURD (Philadelphia), and WITF (Central PA).

### Additional national and local media interviews

Not only was Ned a contributing columnist for The Washington Post, he was quoted in others' WaPo articles and was [featured in The Washington Post Magazine](#). Ned and Steve responded to many inquiries from journalists. Here is a fairly comprehensive list of the publications/outlets in which they were quoted: New York Times, The Atlantic, Mother Jones, USA Today, Politico, CNN.com, New Yorker, Bloomberg, Reuters, Washington Week, Time, AP, Wall Street Journal, Roll Call, The Guardian, The Hill, National Geographic, LA Times, Philadelphia Inquirer, Slate, The American Prospect, Boston Globe, Economist, Christian Science Monitor, New York Daily News, Vox, Financial Times, PBS NewsHour, Politifact, Columbus Dispatch, and Newsy.

### Where's Steve now?: International media requests

Around the time of the general election, we received a lot of requests from international media outlets. While Ned had a few non-US (New Zealand, Australia, France) radio hits, Steve shouldered most of the requests from international media. Steve made himself available at all hours and did multiple TV and radio interviews for the BBC (Britain), CBC (Canada), and ABC (Australia), and single shot TV interviews with Univision and EuroNews as well as outlets in Japan and Canada. (An interview Steve did for ABC connected him with a distant Australia-based cousin!) Newspapers/magazines in Japan, Poland, China, Korea, Canada, Switzerland, France, Chile, Spain, Britain, and Brazil also requested the program's input.

### **Public-sector engagement**

Congressional offices on both sides of the aisle sought Ned's advice within his area of expertise. Ned also co-taught a seminar for the Federal Judicial Center and provided informal advice to the National Governors Association and the National Conference of State Legislatures.

### **Looking ahead**

The 2020 election season unearthed many questions about the laws, norms, and history around our elections, generating an unprecedented number of legal challenges and other threats to the systems we have constructed to elect our representatives. We anticipate that 2021 will continue to bring our program countless opportunities to lead and to engage in the discussions and efforts to repair and strengthen our electoral processes.