

EDWARD B. FOLEY

Moritz College of Law
The Ohio State University
55 West 12th Avenue
Columbus, Ohio 43210

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[Election Law at Ohio State](#)

Current Employment

Moritz College of Law, Ohio State University

Charles W. Ebersold & Florence Whitcomb Ebersold Chair in Constitutional Law, 2014-present

Also: Director, *Election Law at Ohio State*, 2004-present

Chief Justice Thomas J. Moyer Professor for Administration of Justice & Rule of Law, 2012-14

Isadore & Ida Topper Professor of Constitutional Law, 2011-2012

Robert M. Duncan/Jones Day Designated Professor of Law, 2003-2011

Professor of Law, 1998-2003 (on leave, 1999-2000)

Associate Professor of Law, 1995-1998; Assistant Professor of Law, 1991-1995

RESEARCH AREAS: Election Law, including voting systems design, gerrymandering,
Electoral College, vote-counting disputes, and electoral reform

TEACHING AREAS: Election Law; Constitutional Law; First Amendment;
Jurisprudence; Justice, Democracy, and Law; Trump and the Law

Past Employment

State Solicitor, Office of the Ohio Attorney General, 1999-2000

Responsible for the State's major appellate and constitutional litigation

Jenner & Block, Washington, D.C., 1989-1991

Associate attorney specializing in First Amendment litigation

United States Supreme Court, 1988-1989

Law clerk to Justice Harry A. Blackmun

Wilmer, Cutler & Pickering, Washington, D.C., 1987-1988

Associate attorney in firm's litigation department

United States Court of Appeals, D.C. Circuit, 1986-1987

Law clerk to Chief Judge Patricia M. Wald

Education

Columbia University School of Law, J.D., 1986

Harlan Fiske Stone Scholar, 1983-86

Robert Noxon Toppan Prize in Constitutional Law, 1985

Class of 1912 Prize in Contracts, 1984

Writing & Research Editor, *Columbia Law Review*, 1985-86

Yale College, B.A., magna cum laude, in History, 1983

PUBLICATIONS**Books:**

ELECTION LAW AND LITIGATION: THE JUDICIAL REGULATION OF POLITICS, SECOND EDITION (Aspen 2022) (co-authored with Michael J. Pitts & Joshua A. Douglas)

PRESIDENTIAL ELECTIONS AND MAJORITY RULE: THE RISE, DECLINE, AND POTENTIAL RESTORATION OF THE JEFFERSONIAN ELECTORAL COLLEGE (Oxford University Press 2020)

PRINCIPLES OF LAW, ELECTION ADMINISTRATION: NON-PRECINCT VOTING AND RESOLUTION OF BALLOT-COUNTING DISPUTES (American Law Institute 2019) (with Steven F. Huefner)

BALLOT BATTLES: THE HISTORY OF DISPUTED ELECTIONS IN THE UNITED STATES (Oxford University Press 2016)—finalist for 2016 David J. Langum, Sr. Prize in American Legal History; listed as one of 100 “[must-read books about law and social justice](#)”

FROM REGISTRATION TO RECOUNTS REVISITED: DEVELOPMENTS IN THE ELECTION ECOSYSTEMS OF FIVE MIDWESTERN STATES (2011) (co-authored with Steven F. Huefner, Daniel P. Tokaji & Nathan A. Cemenska)

FROM REGISTRATION TO RECOUNTS: THE ELECTION ECOSYSTEMS OF FIVE MIDWESTERN STATES (2007) (co-authored with Steven F. Huefner, Daniel P. Tokaji & Nathan A. Cemenska)

Book chapters:

Winnowing and Endorsing: Separating the Two Distinct Functions of Party Primaries, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES ELECTION LAW (Cambridge U. Press 2020) (Mazo & Dimino, eds.)

The Court Stops the Recount: Bush v. Gore, in ELECTION LAW STORIES (Foundation Press 2016)

Recounts: Elections in Overtime, in LAW AND ELECTION POLITICS: THE RULES OF THE GAME (Matthew Streb, ed.) (Routledge 2013)

Democracy in the United States, 2020 and Beyond, in RACE, REFORM, AND REGULATION OF THE ELECTORAL PROCESS 209-225 (Cambridge U. Press 2011) (Gerken, Charles & Kang, eds.)

Uncertain Insurance: The Ambiguities and Complexities of Provisional Voting in Morgan Felchner (ed.), VOTING IN AMERICA: AMERICAN VOTING SYSTEMS IN FLUX—DEBACLES, DANGERS AND BRAVE NEW DESIGNS (2008)

The Legitimacy of Imperfect Elections: Optimality, Not Perfection, Should Be the Goal of Election Administration, in Andrew Rachlin (ed.), MAKING EVERY VOTE COUNT: FEDERAL ELECTION LEGISLATION IN THE STATES 97-112 (Princeton University 2006)

Articles and Essays:

The Constitution and Condorcet: Democracy Protection through Election Reform, 70 DRAKE L. REV. 101-133 (2023)

Total Vote Runoff: A Majority-Maximizing Form of Ranked Choice Voting, N.H. L. REV. (forthcoming 2023) ([SSRN](#))

Self-Districting: The Ultimate Antidote to Gerrymandering, KY. L. REV. (forthcoming 2023) ([SSRN](#))

The Nomination and Election of Statewide Candidates, ILL. L. REV. (forthcoming 2024)

Beyond the Spoiler Effect: Can Ranked Choice Voting Solve the Problem of Political Polarization?, ILL. L. REV. (forthcoming 2024) ([SSRN](#)) (co-authored with Nathan Atkinson and Scott Ganz)

Requiring Majority Winners for Congressional Elections: Harnessing Federalism to Combat Extremism, 26 Lewis & Clark L. Rev. 365 (2022)

Reforming the Electoral Count Act, [DEMOCRACY JOURNAL](#) (Summer 2022)

Tournament Elections with Round-Robin Primaries: A Sports Analogy for Electoral Reform, 2021 U. WISC. L. REV. 1178

Assessing the Validity of an Election's Result: History, Theory, and Present Threats, 95 [NYUL REV. ONLINE](#) 171-238 (2020)

Explaining the Blue Shift in Election Canvassing, J. POL. INST. & POL. ECON. 239-265 (2020) (co-author with Charles Stewart)

Trump v. Biden: An Opinion for a Hypothetical Case, 81 [OHIO ST. L. J. ONLINE](#) 191-202 (2020)

The Danger of Democracy's Self-Doubt, 16 Ohio St. Tech. L. J. 467 (2020)

Election Law—the legal infrastructure of American democracy is in a perilous position heading into the election, 47 [LITIGATION](#) 41 (ABA; fall 2020)

Preparing for a Disputed Presidential Election: An Exercise in Election Risk Assessment and Management, 51 LOYOLA U. CHICAGO L. J. 309 (2019)

The Gerrymandering Cases, 19 J. L. SOCIETY 215 (2019)

Constitutional Preservation and the Judicial Review of Partisan Gerrymanders, 52 GA. L. REV. 1101 (2018)

The Gerrymander and the Constitution: Two Avenues of Analysis and the Quest for a Durable Precedent, 59 WILLIAM & MARY L. REV. 1729-1786 (2018)

Due Process, Fair Play and Excessive Partisanship: A New Principle of Judicial Review of Election Law, 84 U. CHI. L. REV. 655-758 (2017)

Third-Party and Independent Presidential Candidates: The Need for a Runoff Mechanism, 85 FORDHAM L. REV. 993-1020 (2016)

Voters as Fiduciaries, 2015 U. CHI. L. FORUM 153 (2015)

The Speaking Ballot, 89 N.Y.U. L. REV. ONLINE 52 (2014)

The Judicialization of Politics: The Challenge of the ALI Principles of Election Law Project, 79 Brook. L. Rev. 551 (2014) (co-authored with Steven F. Huefner)

Virtue over Party: Samuel Randall's Electoral Heroism and Its Continuing Importance, 3 U.C. IRVINE L. REV. 475 (2013)

A Big Blue Shift: Measuring an Asymmetrically Increasing Margin of Litigation, 28 J. L. & POL. 501 (2013)

The Posterity Project: Developing a Method for Long-Term Political Reform, 66 OKLAHOMA L. REV. 1 (2013)

Voting Rules and Constitutional Law, 81 GEO. WASH. L. REV. 1836 (2013)

The Separation of Electoral Powers, 74 MONTANA L. REV. 139-163 (2013)

If the Congress Won't Act, the Nonprofit Community Can, 12 ELECTION L. J. 343 (2013)

Electoral Dispute Resolution: The Need for a New Sub-Specialty, 27 OHIO ST. J. DISPUTE RES. 281-290 (2012)

The Tale of Two Teams, 10 ELECTION L. J. 475-482 (2011) (book review essay)

How Fair Can Be Faster: Lessons of Coleman v. Franken, 10 ELECTION L. J. 187-226 (2011)

The Lake Wobegone Recount: Minnesota's Disputed 2008 U.S. Senate Election, 10 ELECTION L. J. 129-164 (2011)

The Founders' Bush v. Gore: The 1792 Election Dispute and Its Continuing Relevance, 44 INDIANA L. REV. 23-84 (2010)

The McCain v. Obama Simulation: A Fair Tribunal for Disputed Presidential Elections, 13 N.Y.U. J. LEG. & PUB. POL. 471-509 (2010)

Lost Opportunity: Learning the Wrong Lesson from the Hayes-Tilden Dispute, 79 FORDHAM L. REV. 1043-1089 (2010) (with Nathan Colvin)

The Twelfth Amendment: A Constitutional Ticking Time Bomb, 64 U. MIAMI L. REV. 475-534 (2010) (with Nathan Colvin)

Unsuccessful Provisional Voting in the 2008 Election, in PROVISIONAL BALLOTS: AN IMPERFECT SOLUTION (Pew Center on the States 2009) (with David A. Kimball), available at http://www.pewcenteronthestates.org/initiatives_detail.aspx?initiativeID=54789

Gatekeeping vs. Balancing in the Constitutional Law of Elections: Methodological Uncertainty on the High Court, 17 WILLIAM & MARY BILL OF RIGHTS JOURNAL 507-538 (2008) (co-authored with Christopher S. Elmendorf)

Voter ID, 5-4? If So, So What?: U.S. Supreme Court Preview—Crawford v. Marion County Election Board, 7 ELECTION L. J. 63 (2008)

Voter ID: What's at Stake?, 156 U. PA. L PENNUMBRA 241 (2007)

Election Law and the Roberts Court: an Introduction, 68 OHIO STATE L.J. 733 (2007)

The Future of Bush v. Gore?, 68 OHIO STATE L.J. 925 (2007)

Refining the Bush v. Gore Taxonomy, 68 OHIO STATE L.J. 1035 (2007)

The Analysis and Mitigation of Election Errors: Theory, Practice, Policy, 18 STANFORD L. & POLICY REVIEW 350-381 (2007)

The Where and When of Voting, 6 ELECTION LAW JOURNAL 270-277 (2007) (a review essay on John Fortier, ABSENTEE AND EARLY VOTING (2006))

The Promise and Problems of Provisional Voting, 73 GWU L. REV. 1193 (2005)

Tax Code Section 527 Groups Not an End-Run Around McCain-Feingold, 72 U.S. LAW WEEK 2403 (2004) (co-authored with Donald Tobin)

The Major Purpose Test: Distinguishing Between Election-Focused and Issue-Focused Groups, 31 NORTHERN KENTUCKY L. REV. 341 (2004)

Is Lawrence Still Good Law?, 65 OHIO STATE L.J. 1133 (2004)

Compelling Interests and How Best to Achieve Them: A Response to Bauer, 3 ELECTION LAW JOURNAL 13 (2004).

The Ultimate Line-Drawing Case, BNA MONEY & POLITICS REPORT, September 5, 2003.

Narrow Tailoring Is Not the Opposite of Overbreadth: Defending BCRA's Definition of Electioneering Communications, 2 ELECTION LAW JOURNAL 457 (2003).

Smith for Congress and Its Equivalents: An Endorsement Test under Buckley and MCFL, 2 ELECTION LAW JOURNAL 3 (2003)

Learning (and Teaching) from Doing, 5 J. APPELLATE PRACTICE & PROCESS 107 (2003)

Good Fences Make Good Neighbors: When Free Speech Conflicts with Other Constitutional Rights, COLUMBUS BAR BRIEFS, October 2002, p. 36

Judging Voucher Programs One at a Time, 27 U. DAYTON L. REV. 1 (2001)

Requiem for Hercules, 18 CONSTITUTIONAL COMMENTARY 445 (2001)

The Bicentennial of Calder v. Bull: In Defense of a Democratic Middle Ground, 59 OHIO STATE L. J. 1599 (1998)

Philosophy, the Constitution, and Campaign Finance, 10 STANFORD L. & POL. REV. 23 (1998)

Rodriguez Revisited: Constitutional Theory and School Finance, 32 GEORGIA L. REV. 475 (1998)

Jurisprudence and Theology, 66 FORDHAM L. REV. 2401 (1998)

Public Debate and Campaign Finance, 30 CONNECTICUT L. REV. 817 (1998)

The Elusive Quest for Global Justice, 66 FORDHAM L. REV. 249 (1997)

School Funding: What Next?, OHIO STATE LAW RECORD 4 (Summer 1997)

Interpretation and Philosophy: Dworkin's Constitution, 14 CONSTITUTIONAL COMMENTARY 151 (1997)

The Regulation of Private Schools, 25 CAPITAL L. REV. 819 (1996)

Social Justice and Child Poverty, 57 OHIO STATE L. J. 485 (1996)

Equal Dollars Per Voter: A Constitutional Principle of Campaign Finance, 94 COLUMBIA LAW REVIEW 1204 (1994)

Political Liberalism and Establishment Clause Jurisprudence, 43 CASE WESTERN RESERVE LAW REVIEW 963 (1993)

Tillich and Camus, Talking Politics, 92 COLUMBIA LAW REVIEW 954 (1992)

Newspaper Op-Eds and Similar Journalism Commentary:

Contributing Columnist, [THE WASHINGTON POST](#) (collecting columns)

Making the Most of States as Laboratories of Democracy: Applying and Extending Judge Sutton's Analysis (book review: *Who Decides?*), [Federalist Society](#) (Feb. 28, 2022)

As Part of Electoral Count Act Reform, Liberals Should Learn to Love Bush v. Gore, [Lawfare](#)

(Feb. 4, 2022)

How to Know if the Election Is Actually ‘Rigged’, [POLITICO](#) (Sept. 13, 2020)

How Congress could diminish the risks with Electoral College count, [THE HILL](#) (Aug. 13, 2020) (with Richard Pildes)

America has to count on more than prayer in the case of close election, [THE HILL](#) (July 16, 2020)

Supreme Court ‘faithless electors’ ruling aims to stabilize the election, but will it work?, [USA TODAY](#) (July 6, 2020)

Pennsylvania’s legislature should protect its presidential vote, PATRIOT-NEWS (Harrisburg, PA) (Sept. 15, 2020)

Ignore Trump and count every vote, N.Y. DAILY NEWS (July 31, 2020)

Why counting presidential votes is not for federal district courts, [SCOTUSBLOG](#) (Nov. 16, 2020)

The particular perils of emergency election cases, [SCOTUSBLOG](#) (Oct. 23, 2020)

A November Nightmare [Part I](#) & [Part II](#): What If Mailed Ballots Are Never Counted?, Harv. L. Rev. Blog (Aug. 30 & Sept. 1, 2020)

The Need for Ranked Choice Voting in Presidential Elections, [Balkinization](#) (Oct. 13, 2020)

A National Popular Majority Rule for Presidential Elections, [Balkinization](#) (Oct. 14, 2020)

Why State-by-State Ranked Choice Voting Should Be a Higher Priority Than National Plurality Winners, [Balkinization](#) (Oct. 15, 2020)

The Simplest Way to Avoid a Wisconsin-Style Fiasco on Election Day, [POLITICO](#) (April 21, 2020) (with Steve Huefner)

Why Vote-by-Mail Could be a Legal Nightmare in November, [POLITICO](#) (April 7, 2020)

Impeachment Was Supposed to Protect the 2020 Election. Now, It’s Worse Off. [POLITICO](#) (Feb. 5, 2020)

Think Iowa’s Delay Was a Fluke? Get Used to It. [POLITICO](#) (Feb. 4, 2020)

Here’s One Surprising Way Congress Could Avoid an Impeachment Disaster, [POLITICO](#) (Dec. 16, 2019)

A Different Billionaire May Decide Who Wins Next November, [CNN OPINION](#) (Dec. 16, 2019)

House Democrats Can Here More Witnesses Without a Prolonged Court Fight, [WASHINGTON POST](#) (Nov. 22, 2019)

Is It Ever OK for a President to Ask a Foreign Country to Investigate a Political Rival?, [POLITICO](#) (Oct. 6, 2019)

Congress Should Remove Trump from Office, But Let Him Run Again in 2020, [POLITICO](#) (Sept. 25, 2019)

What If the 2020 Election is Disputed?, THE HILL (May 24, 2019) (with Michael McConnell)

Want to Fix Presidential Elections? Here's the Quickest Way, [POLITICO](#) (May 4, 2019) ([named](#) an Aspen Institute "Five Best Ideas of the Day")

An Idea for Electoral College Reform that Both Parties Might Actually Like, [POLITICO](#) (Jan. 12, 2019) ([named](#) an Aspen Institute "Five Best Ideas of the Day")

Democratic Legitimacy is on the Line in Georgia, [WASHINGTON POST](#) (Nov. 8, 2018)

There Are No Actual Set Rules for Counting Disputed Ballots—Here Are Some Good Ones, [SLATE](#) (Nov. 5, 2018) (co-authored with Steven F. Huefner)

The ALI Tackles Election Law Just in Time, [ELECTION LAW BLOG](#) (Oct. 24, 2018) (co-authored with Steven F. Huefner)

Voting rights in Justice Kennedy's Constitution, [SCOTUSBLOG](#) (July 6, 2018)

Benisek, Constitutional Gerrymanders & the Elections Clause, [ELECTION LAW BLOG](#) (Mar. 18, 2018); this was the first of a week-long series of five invited essays; the others were: *Constitutional Preservation, the Marbury Duty & Congressional Gerrymanders*, <http://electionlawblog.org/?p=98219> (Mar. 19, 2018); *Originalism and Election Law (or the Difference between Reynolds and Benisek)*, <http://electionlawblog.org/?p=98255> (Mar. 20, 2018); *Shelby County, Structural Originalism, and Congressional Gerrymanders*, <http://electionlawblog.org/?p=98280> (Mar. 21, 2018); *Benisek, Its Current Procedural Posture, and What Happens Next*, <http://electionlawblog.org/?p=98299> (Mar. 21, 2018)

How States Can Fix the Electoral College, [USA TODAY](#) (Nov. 9, 2017)

Wechsler, History, and Gerrymandering, [SCOTUSBLOG](#) (Aug. 11, 2017)

Hillary Clinton Will Gain Votes after Election Night. Here's Why, [Washington Post's Monkey Cage](#) (Nov. 8, 2016) (co-authored with Charles Stewart)

The Election Might Not End on Tuesday Night—and that’s okay, [Washington Post](#) (Nov. 4, 2016) (co-authored with Charles Stewart)

Nixon Didn’t Fight on in 1960 Because Texas Law Didn’t Let Him, [History News Network](#) (Oct. 29, 2016)

What Happens if Trump Keeps Us In Suspense Election Night, [POLITICO](#) (Oct. 21, 2016)

How Republicans Could Replace Trump Even if He Stays In, [POLITICO](#) (Oct. 9, 2016)

If Trump Disputes the Election, We Have No Good Way Out, [POLITICO](#) (Sept. 28, 2016)

How John Kasich Could End Up Picking the Next President, [POLITICO](#) (March 20, 2016)

Think Bush v. Gore Was Contentious? There’s Another Election Where the Rival Candidate was Shot and Killed, History News Network (February 7, 2016), <http://historynewsnetwork.org/article/161849>

The Ghost of Elections Past—And Yet to Come, electionline (December 17, 2015), <http://www.electionline.org/index.php/2015/1755-electionlineweekly-december-17-2015>

Florida Was Not a Fluke, Election Law Blog (December 13, 2015), <http://electionlawblog.org/?p=78234>; this was the first of a series of five guest post on *Ballot Battles* at the Election Law Blog; the others were:

The Risk of Another Disputed Presidential Election is Higher than Most Think, <http://electionlawblog.org/?p=78237> (December 14)

The History of Disputed Elections Shows that When Institutions are Weak, Individual Character Really Matters, (December 15) <http://electionlawblog.org/?p=78241>
Ballot Battles in the Nineteenth Century Were Beset by Violence and Civil Strife; Not So in the Twentieth, and This Progress is Reason to Hope for Even More (December 16), <http://electionlawblog.org/?p=78243>

The Great Dissenter in Plessy Anticipated the Role for Federal Courts Embraced in Bush v. Gore—But Will the Court Repeat that Role Next Time and, If Not, What Then? (December 17), <http://electionlawblog.org/?p=78245>

Bush v. Gore, 15 Years Later, [Salon](#) (December 19) [excerpt of *Ballot Battles* Chapter 11]

Election 2014: The Vote You Save May Be Your Own, N.Y. Times Opinion Pages (Nov. 4, 2014) (with Josh Douglas), <http://www.nytimes.com/2014/11/04/opinion/elections-2014-the-vote-you-save-may-be-your-own.html> (with front-page online link on Election Day)

When Another Speaker Stood Firm Against Obstructionists in His Own Party, ROLL CALL (Oct. 16, 2013)

Election Reforms Must Include New Endgame, ROLL CALL (Jan. 15, 2009)

In '62, Minnesota Set the Recount Standard, MINNEAPOLIS STAR TRIBUNE (Nov. 18, 2008)

Let's Not Repeat 2000: A special political tribunal could help resolve election conflicts without mistrust, 31 LEGAL TIMES 62 (April 21, 2008)

Provisional Ballots May Be the Hanging Chad of '08, (co-authored with Tova Wang), THE HILL (February 27, 2008)

Look to Minnesota for Vote Counting Solution, COLUMBUS DISPATCH (Dec. 19, 2007)

Precedent Must Be High Court's Guide, COLUMBUS DISPATCH (August 6, 2007)

A Bipartisan Way to Settle a Disputed Presidential Election in Ohio? COLUMBUS BAR LAWYERS QUARTERLY (February 14, 2007)

Redistricting Reform: Back on the Agenda, (co-authored with Bradley A. Smith), COLUMBUS DISPATCH (November 18, 2006)

New Rules Needn't Lead to Lost Votes, DAYTON DAILY NEWS (November 1, 2006)

The Federalism Defect in the Prosecution of Tom DeLay, ROLL CALL (November 28, 2005)

How to Avoid an Electoral Katrina, THE PRESS-ENTERPRISE (Riverside, CA) (November 6, 2005)

If Not Issue 4, Then What?, CLEVELAND PLAIN-DEALER (November 4, 2005)

The Need for a Fair Referee, COLUMBUS DISPATCH (September 24, 2005)

The Nine in a Pickle, N.Y. SUN (October 28, 2004)

Electronic and New Media:

Election Law issues for State Court Judges: Election Day Litigation Post-Voting Litigation (2008), National Center for State Courts-William & Mary School of Law, available at <http://icmeducation.org/electionlaw/> (videotaped lectures)

FREE & FAIR COMMENTARY, available at <http://moritzlaw.osu.edu/electionlaw/freefair/>

E-BOOK ON ELECTION LAW (2004) (general editor and contributor), available at <http://moritzlaw.osu.edu/electionlaw/ebook/index.html>

GOVERNMENT TESTIMONY AND PRESENTATIONS

“Ranked Choice Voting is a “They” not an “It”: Different Tabulations of Ranked Choice Ballots,” presentation to New Hampshire State House of Representatives Committee on Election Law (November 17, 2022)

Panelist, “Election Litigation,” National Symposium for U.S. Court of Appeals Judges
(November 3, 2022)

Ohio Constitution Modernization Commission, Bill of Rights/Voting Committee (Nov. 14, 2013)

Ohio Constitution Modernization Commission, Committee on Legislative and Executive
Branches (July 10, 2013)

U.S Senate Rules Committee, Hearing on *Citizens United* Supreme Court Decision, Feb. 2, 2010

“Provisional Ballots in Ohio,” Secretary of State Brunner’s Election Summit (Dec. 2, 2008; also
Mar. 12, 2009 follow-up presentation on draft report from first summit)

U.S. Elections Assistance Commission, Presentation of Provisional Voting Report, May 22-23,
2006 (draft report presented September 6, 2005)

Ohio House of Representatives Rules Committee, Hearing on Redistricting Reform, May 17,
2006

U.S. House of Representatives Committee on Administration, Hearing on 2004 Election and the
Implementation of HAVA, March 21, 2005

U.S. Election Assistance Commission, Hearing on Provisional Voting, Columbus, Feb. 23, 2005

Ohio Senate Rules Committee, Hearing on Campaign Finance Legislation, December 14, 2004

Ohio House of Representatives State Government Committee, Hearing on Campaign Finance,
December 14, 2004

Federal Election Commission, Hearing on Political Committee Status, April 14, 2004

U.S. Senate Rules Committee, Hearing on 527 Organizations, March 10, 2004

Vermont Senate Committee on Government Operations, Public Financing of Elections, Jan. 29,
1997

CONFERENCES & SCHOLARSHIP PRESENTATIONS

Moderator and participant, “More Parties, Better Parties” conference, Stanford University (April
13-14, 2023)

“Creating a Competitive Three-Party Electoral System: Finding the Missing Middle in an Era of
Polarization,” Distinguished Visiting Scholar, University of Tennessee Law School
(April 4, 2023)

Participant, National Strategy for Elections Working Group, Bipartisan Policy Center (March 30,
2023)

Participant, “Can American Democracy Survive the 2024 Elections?,” UCLA Law School (March 17-18, 2023)

Paper presentation, “The Nomination and Election of Statewide Officials: Choices in Designing an Electoral System,” University of Illinois Law Review symposium (March 3, 2023)

[Lecture](#), “The Unrepresentativeness of American Elections: How the United States Developed Electoral Structures that Defeat the Preferences of the Electorate,” Ohio State History Department (Feb. 17, 2023)

Participant, “Beyond Winner Take All: Advancing Voice and Choice in Our Elections” conference, Harvard University (Feb. 8-9, 2023)

“The Nomination and Election of Statewide Officers: What Method Should Determine Which Candidates Prevail?,” University of Arizona Law School Faculty Workshop (Feb. 2, 2023)

Guest lecturer, Election Law class, University of Arizona Law School (Jan. 26, 2023)

“Total Vote Runoff: A Majority-Maximizing Form of Ranked Choice Voting,” AALS Annual Meeting, Election Law Section (January 6, 2023)

“Self-Districting: The Ultimate Antidote to Gerrymandering,” AALS Annual Meeting, Federalist Society session (January 5, 2023)

Panelist, “Election Reflections: Roundtable of Election Law Experts,” Election Law at Ohio State webinar (December 9, 2022)

Participant, “Speaking Out to Strengthen Democracy” colloquium, Moritz Divided Communities Project (December 2, 2022)

Participant, Planning Session for New Election Law Restatement Project, American Law Institute (December 1, 2022)

Panelist, “What is the Midterm Certification Timeline and Why Does it Matter?” Aspen Institute conference (September 7, 2022)

Panelist, “The Future of The Two-Party System?: Lessons from the North Carolina Senate Race,” Election Law at Ohio State webinar (June 1, 2022)

Panelist, “The Terrifying Inadequacy of American Election Law,” Reform Elections Now ([Harvard Business School Club of New York webinar](#)) (May 10, 2022)

“Round-Robin Voting & Risk of Strategic Manipulation,” OSU Faculty (April 20, 2022)

Presenter, “The Constitution and Condorcet,” [Drake Constitutional Law symposium](#) (April 9)

Panelist, “The Growing Divide—Polarization in the United States,” [Council on Foreign Relations](#) (Jan. 6, 2022)

Panel, January 6 anniversary, National Task Force on Election Crises (January 6, 2022)

Workshop, *The Problem of Uncompetitive Districts: Three Novel Reforms*, Princeton University Gerrymandering Project (December 3, 2021)

Panelist, *The Problem with Plurality-Winner Elections*, Election Law at Ohio State webinar (November 19, 2021)

Panelist, *BTR Instant-Runoff Voting: A “Better” Version of Ranked Choice Voting*, NYC Bar Election Reform Committee (Nov. 16, 2021)

Presentation, Electoral Count Act reform, Continuity of Government Committee (Nov. 4)

Panelist, Moritz ACS/Fed Soc Debate on Originalism (Oct. 5, 2021)

Panelist, Developments in Election Administration, American Political Science Association (Oct. 2, 2021)

Panelist, *Tournament Elections and Round-Robin Primaries: A Sports Analogy for Electoral Reform*, Public Law in the States Conference, University of Wisconsin Law School (June 23, 2021)

Panelist, *Requiring Majority Winners for Congressional Elections: Harnessing Federalism to Combat Extremism*, [AALS Conference on Rebuilding Democracy and the Rule of Law](#) (May 7, 2021)

Panelist, *Restoring Trust in the Voting Process*, [Election Law Journal](#) (Mar. 9, 2021)

Panelist, “The Past, Present, and Future of Presidential Elections,” National Constitution Center Town Hall (January 27, 2021)

Co-organizer, “Picking up the Pieces of the 2020 Election: A Conversation among Election Law Scholars,” Election Law at Ohio State (Jan. 14, 2021)

Panelist, Election Law Section Roundtable, AALS Annual Meeting (Jan. 6, 2021)

Co-organizer, “Unpacking the 2020 Electoral College Process: A Conversation among Election Law Scholars,” Election Law at Ohio State (Dec. 19, 2020)

Featured speaker, Election 2020 Update webinar, Robert H. Jackson Center (Dec. 16, 2020)

Panelist, “The 2020 Voting Experience and Goals for Reform,” [Bipartisan Policy Center](#) (Dec. 15, 2020)

Co-organizer, “Presidential Election Debrief: A Conversation among Election Law Scholars,” Election Law at Ohio State (Nov. 19, 2020)

Featured speaker, “The 2020 Election: What Happens Next?” University of Maryland Law School (Nov. 16, 2020)

Panelist, National Security Implications of 2020 Election, Mershon Center, The Ohio State University (Nov. 16, 2020)

Panelist, “Discussions from Drinko Hall: Election Reflections,” Moritz College of Law (Nov 12, 2020)

Panelist, “Unpacking the 2020 Presidential Election – How we got here and what lies ahead,” Divided Community Project, Moritz College of Law (Nov. 10, 2020)

Co-organizer, “5 Days Out – A Roundtable of Election Law Experts,” Election Law at Ohio State (Oct. 29, 2020)

Panelist, “Preparing for Election Uncertainty,” American Press Institute (Oct. 28, 2020)

Featured speaker, Trinity College Fireside Chat, University of Melbourne (Oct. 27, 2020)

Featured speaker, Electoral College webinar, Robert H. Jackson Center (Oct. 21, 2020)

Panelist, “America’s Contentious Presidential Elections,” National Constitution Center Town Hall (Oct. 19, 2020)

Presenter, Election Law Update, Federal Judicial Center (Oct. 9, 2020)

Presenter, Election Risks, Philadelphia Committee of Seventy (Oct. 9, 2020)

Panelist, “Worst Case Scenarios: Election 2020,” [Bipartisan Policy Center](#) (Sept. 30, 2020)

Panelist, “Pennsylvania Law and the 2020 Presidential Election,” Penn State Harrisburg’s School of Public Affairs (Sept. 29, 2020)

Panelist, “The Day After,” Aspen Institute (Sept. 22, 2020)

Panelist, Security Issues Relating to the Election, Center for Strategic and International Studies (Sept. 22, 2020)

Panelist, Press Briefing, National Task Force on Election Crises (Sept. 17, 2020)

Panelist, Voting in America, Furman University Riley Institute (Sept. 15, 2020)

Panelist, “Electoral College Reform,” American Political Science Association (Sept. 12, 2020)

Participant, Election Scenario Exercises, Bipartisan Policy Center (Aug. 13, 2020)

Co-organizer, “Ballot and Sword,” Mershon Center and Election Law at Ohio State (July 27, 2020)

Co-organizer, “Absentee Ballots in the 2020 Election,” Election Law at Ohio State (June 30, 2020)

Co-organizer, Conversation with Secretaries of State Benson and LaRose, Election Law at Ohio State (May 29, 2020)

Panelist, “Coronavirus and the 2020 Election,” JFK Library (May 27, 2020)

Participant, “Legitimacy in the Context of Elections,” Bipartisan Policy Center (May 27, 2020)

Panelist, “Democracy during a Pandemic,” OSU Center for Ethics and Human Values (May 13, 2020)

Participant, “Debriefing the Wisconsin April Election,” American Press Institute (May 6, 2020)

Co-organizer, “What If the 2020 Presidential Election Is Disputed?” symposium, Election Law at Ohio State (May 4, 2020)

National Constitution Center Town Hall (April 23, 2020) ([joint book talk](#) with Rick Hasen)

Electoral College Discussion, Moritz College of Law (April 15, 2020) ([joint book talk](#) with Jesse Wegman)

Panelist, “Ohio Election Delays and COVID-19,” Federalist Society [Teleforum](#) (April 3, 2020)

Moderator and panelist, “Can America Survive the 2020 Elections?” UC Irvine Law School [symposium](#) (Feb. 28-29, 2020)

Commentator, “Free Speech and Hostile Environments,” Moritz Federalist Society (Feb. 11, 2020) (with Eugene Volokh)

Presentation, “Electoral College, Majority Rule, and Feasible Reform,” Franklin County Inns of Court (Feb. 12, 2020) (also Bexley Public Library; Mar. 2, 2020)

Faculty workshop presentation, “Assessing the Validity of an Election’s Result: History, Theory, and Present Threats,” University of Iowa Law School (Feb. 3, 2020)

Panelist, “Election Administration and Technology” [symposium](#), USC Sol Price School of Public Policy (Jan. 28, 2020)

Co-organizer, “Elections in the Era of Technological Threats and Opportunities,” *Ohio State Journal of Technology Law* [symposium](#) (Jan. 17, 2020)

Panelist, “Potential Issues of Legitimacy in the 2020 Election,” Colloquium on Constitutional Law, Loyola Law School, Chicago (Nov. 8, 2019)

Panelist and moderator, “The Electoral College and Majority Rule,” [Symposium](#) on the Electoral College, Harvard Law School (Oct. 19, 2019)

Address, “Electoral College and Majority Rule,” Grinnell College (Sept. 19, 2019)

Convener, Colloquium on Risk of Disputed Presidential Election in 2020, Bipartisan Policy Center, Washington, D.C. (Aug. 30, 2019)

Panelist, “Electoral College: New Theoretical and Empirical Thinking,” American Political Science Association Annual Meeting (Aug. 29, 2019)

Podcast, “Professor Ned Foley on the Electoral College,” *Another Way* by Lawrence Lessig, [Season 3, Episode 3](#) (June 20, 2019)

Panelist, [symposium](#) on “Democracy in America: the Promise and the Perils,” *Loyola (Chicago) Law Journal* (April 5, 2019)

Panelist, [symposium](#) on “Gerrymandering and the Power of Boundaries,” *Wayne State Journal of Law in Society* (March 22, 2019)

Panelist, *Election Audit Summit*, MIT, Cambridge (Dec. 8, 2018)

Organizer and panelist, *Electoral College Reform Conference*, OSU Moritz College of Law (Nov. 30, 2018)

Electoral College and Majority Rule, American Society for Legal History annual meeting, Houston (Nov. 8, 2018)

Gerrymandering and the Constitution, David W. Carrithers Lecture on Law, Politics, and Public Policy, University of Tennessee, Chattanooga (Oct. 11, 2018)

Gerrymandering and the Supreme Court, Missouri Bar Annual Meeting, St. Louis (Sept. 28, 2018)

Voter ID, the Voting Rights Act, and the Constitution, Election Sciences, Reform & Administration Conference, University of Wisconsin, Madison (July 26, 2018)

Presidential Elections and Majority Rule, Policy History Conference, Arizona State University, Tempe (May 17, 2018)

Electoral College and Majority Rule, Midwest Political Science Association (April 5, 2018); also workshop at Institution for Democratic Engagement and Accountability, Ohio State (Feb. 21, 2018)

Constitutional Preservation and the Judicial Review of Partisan Gerrymanders, Symposium on Modern Gerrymandering and Partisanship, University of Georgia Law School (Feb. 2, 2018)

Author Meets Readers Panel on *Ballot Battles*, Society of American Legal History annual meeting, Las Vegas (Oct. 27, 2018)

“The Electoral College and the Majority Principle,” Election Center Workshop, Columbus (April 27, 2017)

The Visible Unconstitutionality of Gerrymandering: Particularism, Not Universalism, as the Basis for a Durable Precedent, Symposium on 2020 Redistricting, William & Mary Law School (Feb. 18, 2017)

“Reforming Recount Procedures,” National Conference of State Legislatures (Washington, D.C., Dec., 6, 2016)

“Fair Play and Electoral Competition,” Iowa Faculty Workshop (Oct. 6, 2016)

Reforming Presidential Elections: The Need for a National Primary, Symposium on Presidential Elections, Fordham Law School (Sept. 30, 2016); also Democracy Studies Workshop, The Ohio State University (June 20, 2016)

“Need for New Clarity in Voting Law, Sixth Circuit Conference, Louisville (May 24, 2016)

The Unsettled Nature of “Electoral Equity,” presentation at session on Emergency Election Litigation, Federal Judicial Center’s Conference for Federal District Judges, Charleston, SC (April 27, 2016)

“Electoral Ethics: Fair Pay in Political Competition,” Stanford Center on Democracy, Development, and the Rule of Law (February 25, 2016); also University of Kentucky Law School (March 1, 2016)

“Due Process, Fair Play, and Gerrymandering,” Stanford Law Review Symposium on the Law of Democracy (February 5, 2016); also Iowa Law School (Oct. 6, 2016)

Book talks on *Ballot Battles*:

University of Texas symposium on “The State of Democracy in the Trump Age” (Feb. 24, 2017); panel discussion with Keith Whittington, Sam Issacharoff, Mimi Marziani, and Zach Elkins

Ash Center for Democratic Governance, Harvard Kennedy School (Oct. 20, 2016)

Federal Bar Association Annual Meeting (Sept. 16, 2016)

National Conference of State Legislatures Annual Meeting (Chicago, Aug. 9, 2016)

- Policy History Conference, Nashville, panel discussion with Professors Alex Keyssar, Brian Balogh, and Lisa Manheim (June 4, 2016)
- University of Chicago Law School, panel discussion with Professors William Baud and Nicholas Stephanopoulos (May 4, 2016)
- Yale Law School (April 13, 2016)
- Midwest Political Science Association, panel discussion with Professors Charles Stewart, Jeffrey Jenkins, Barry Burden, & Rick Valelly (April 9, 2016)
- Florida State University School of Law (April 5, 2016)
- University of Kentucky Law School, panel discussion with Professors Tracy Campbell and Mark Summers (April 1, 2016)
- OSU College of Law, Democracy Studies, panel discussion with Professors Gary Gerstle and Hasan Kwame Jeffries (March 31, 2016)
- University of Kansas Law School (February 19, 2016)
- National Constitution Center, panel discussion with Judge Jeremy Fogel and Professor Rick Hasen (February 18, 2016)
- Stanford Law School (February 10, 2016)
- Stanford Center for Democracy, Development and the Rule of Law, panel discussion with Professors Bruce Cain and Stephen Stedman (February 1, 2016)
- All Sides with Ann Fisher, WOSU Public Radio (January 19, 2016)
- Studio Tulsa with Rick Fisher, KWGS Public Radio (January 11, 2016)
- Bipartisan Policy Center, panel discussion with Bob Bauer, John Fortier, and Professor Matthew Green (December 5, 2015)
- “Voters as Fiduciaries,” Ohio State Democracy Studies Workshop (Oct. 27, 2015)
- Participant, “Online Political Advertising” Conference, Stanford Law School (Sept. 18, 2015)
- Presenter, Principles for the Resolution of Disputed Elections, American Law Institute Election Law Project, Philadelphia (Sept. 11, 2015; Jan. 21, 2016; Dec. 9, 2016; Jan. 19, 2017), Washington, D.C. (May 16, 2016)
- Paper Presenter (with co-author Charles Stewart), “Explaining the Blue Shift in Election Canvassing,” APSA annual meeting, San Francisco (Sept. 4, 2015)

Presenter, ALI Election Law Project, Republican National Lawyers Association annual meeting, New York (Aug. 15, 2015)

Voting Rights and Presidential Elections: a Historical Perspective on the Contemporary "Voting Wars," presentation at annual meeting of National Association of State Election Directors, Cleveland (June 24, 2015)

Participant, "Democratic Politics in an Age of Transparency" conference, Stanford University (June 8-9, 2015)

Panelist, "Election Law Stories" conference, Moritz College of Law (June 5, 2015)

Co-convener and participant, "A Conversation on Ohio Election Administration," Joint Project of Bipartisan Policy Center & *Election Law @ Moritz* (funded by Joyce Foundation) (December 10, 2014)

Participant, Conference on Implementation of Presidential Commission on Election Administration (Bauer-Ginsberg) Report, Bipartisan Policy Center (May 16, 2014)

"The Idea of a Talking Ballot," Conference on *Money in Politics 2030: Toward a New Jurisprudence*, Brennan Center for Justice (May 1-2, 2014)

Co-convener and participant, "A Conversation on Redistricting Reform," Joint Project of Bipartisan Policy Center & *Election Law @ Moritz* (funded by Joyce Foundation) (April 18, 2014)

Participant, "A Conversation on Civility and Civil Discourse in American Politics and Society," convened by Chief Justice Moyer Legacy Committee (April 16, 2014)

Panelist, "Lessons from the Presidential Commission on Election Administration," Moritz Legislation Clinic Conference (Feb. 28, 2014)

Participant, "Conversations in Constitutional Law," University of Maryland Law School (Feb. 20-21, 2014)

"Ballot Battles: The History of Disputed Elections in the United States," Faculty Workshop, Moritz College of Law at The Ohio State University (Feb. 11, 2014)

"Elections Policy: Looking Back and Forward," National Conference of State Legislatures Fall Forum, Washington, D.C. (Dec. 3, 2013)

Consultant and participant, "National conversation on political unity," Bipartisan Policy Center's Commission on Political Reform (October 15, 2013)

Moderator, "Ohio Constitutional Reform and the Prospects for Bipartisanship," Ohio State University (October 14, 2013)

Moderator, “Fixing American Democracy: The Quandries of Political Reform,” Ohio State University (Sept. 27, 2013)

Moderator, “Do Party Primaries Serve the Public Interest?” Ohio State University (Sept. 26, 2013)

“Law as Tiller, Justice as Compass: a Tribute to Tom Moyer,” Ohio Judicial Conference Annual Meeting (Sept. 12, 2013)

Discussant, “Voting Rights after *Shelby County*,” Brookings Institution, Washington, D.C. (July 1, 2013)

“The Future of Election Reform (in light of the 2012 elections), American Law Institute’s Annual Meeting (May 19, 2013) (with Steven Huefner)

“The Risk of Overtime in a Future Presidential Election,” Symposium on the Voting Wars, University of Virginia (March 23, 2013)

Moderator, “The Future of Civics Education,” Moyer Legacy Celebration, Ohio Supreme Court (March 19, 2013)

“The Possibility of a Fair System of Election Laws,” Symposium on Legislative Issues in Election Law, University of Oklahoma (February 15, 2013)

“The Risk of Overtime in a Future Presidential Election,” Symposium on Is America Governable?, University of Texas (January 25, 2013)

“Election Law Equal Protection,” Symposium on Law and Democracy, George Washington University, (Dec. 16, 2013)

“Preparing for Overtime,” University of Kentucky Law School (Oct. 26, 2012)

“The Separation of Electoral Powers,” Symposium on Republican Form of Government in the States, University of Montana Law School (Sept. 28, 2012)

“Impartial Election Administration,” Federalist Society—Columbus Chapter (Sept. 20, 2012)

Keynote Address, “Virtue over Party: Electoral Heroism and Why It Matters,” Symposium on Foxes, Henhouses, and Commissions: Assessing the Nonpartisan Model in Election Administration, Redistricting, and Campaign Finance, U.C. Irvine Law School (Sept. 14, 2012)

“Report on Election Law Project,” American Law Institute’s Annual Meeting, May 23, 2012 (with Steven Huefner)

Panelist, *HAVA @ 10: Closing Roundtable*, ELECTION L. J. (transcription of symposium held May 18, 2012)

Panelist, “Disputed Elections: What Can the Nation Learn From Minnesota?,” Humphrey School of Public Affairs, University of Minnesota (co-sponsored by the Bipartisan Policy Center), April 24, 2012

“A Model Calendar for Disputed Presidential Elections,” ALI Election Law Project meeting, Washington, D.C., Feb. 10, 2012 (also Dec. 16, 2011)

“March 1, 1877: The Stormiest Session in Congress—and Its Relevance Today,” Isadore & Ida Topper Professorship Investiture, Jan. 24, 2012

“Preparing for 2012: Managing the Risk of Litigation that Might Decide the Presidential Election,” Federal Bench & Bar Conference, Columbus, Ohio, Oct. 28, 2011

Moderator & Presenter, “ALI’s New Election Law Project,” ALI Annual Meeting, San Francisco, May 16, 2011

“A Fair Tribunal for Disputed Presidential Elections: Specifying the Details,” Symposium on Talking the Vote: Facilitating Disputed Election Processes through ADR, Ohio State Journal of Dispute Resolution, Feb. 18, 2011

“*Bush v. Gore* in Historical Perspective,” Symposium on *Bush v. Gore: A Decade Later*, St. Thomas Law Review, Miami Gardens, Florida, Nov. 13, 2010

“Disputed Elections in the Progressive Era: A Missed Opportunity for Bipartisan Institutional Reform,” Ohio State Legal History Workshop, Oct. 29, 2010

“Provisional Ballots: Tension Between Vote-Counting Transparency and Ballot-Casting Secrecy,” Symposium on *Privacy, Democracy & Elections*, William & Mary Bill of Rights Journal, Williamsburg, Oct. 22, 2010

“The Need for a Constitutional Umpire: Disputed Presidential Elections and a Neo-Madisonian Repair,” Symposium on *The Adequacy of the Presidential Succession System in the 21st Century*, Fordham Law Review, April 16-17 2010

“Monumental Oversight: The Founding Generation and Disputed Elections,” Conference on *The Future of Political Parties*, Kenyon College Center for the Study of American Democracy, April 8-10 (conference included a series of seminars on the past, present, and future of political parties, as well as public sessions recorded by C-SPAN)

“The *McCain v. Obama* Simulation: a Fair Tribunal for Disputed Presidential Elections,” Symposium on *Helping America Vote: The Past, Present, and Future of Election Administration*, NYU Journal of Legislation & Public Policy, April 1, 2010

“The Moritz Model Redistricting Commission Project,” Midwest Democracy Network Redistricting Forum (Columbus), Mar. 1, 2010

“How Fair Can Be Faster—and other Lessons of *Coleman v. Franken*,” Symposium on *The*

Past, Present, and Future of Election Law: a Festschrift for Daniel Lowenstein, UCLA Law School, Jan. 29, 2010

Debate on *Citizens United* with Brad Smith, Federalist Society podcast, Jan 22, 2010, available at http://www.fed-soc.org/publications/pubid.1770/pub_detail.asp (also participated in a similar debate with Brad Smith at Moritz, sponsored by the *Ohio State Law Journal* and our chapters of ACS and the Federalist Society)

“What a Model Redistricting Commission Can Accomplish,” Conference on Redistricting Reform, the Brookings Institution, Nov. 17, 2009

“*McCain v. Obama*: A Hypothetical Case to Illustrate a Real, Ongoing Problem,” symposium on the 2008 presidential election, Ohio State Department of Political Science and Mershon Center, Oct. 2, 2009

“Civics Education & Neo-Madisonism” Moritz Summer Brownbag Workshop, Aug. 12, 2010

“Lessons from *Coleman v. Franken*,” Moritz Summer Brownbag Workshop, July 29, 2009

“The Idea of a Model Redistricting Commission,” Conference on Redistricting Reform, sponsored by the League of Women Voters and Campaign Legal Center, The Pocantico Center of the Rockefeller Brothers Fund, July 22-24, 2009

“How to Implement a Model Redistricting Commission,” Midwest Democracy Network Summer Meeting (Columbus), June 24-26, 2009

“Democracy, 2020: Identifying Feasible Election Reform for the Decade,” AEI-Brookings Election Reform Project, June 2, 2009

“Democracy in the United States, 2020 and Beyond: How Can Scholarly Research Shape a Vision and Help to Realize It?,” Conference on *The Future of Elections Scholarship: Policy Questions and a Research Agenda for Reform*, co-sponsored by the Tobin Project and the American Law Institute, Duke Law School (Feb. 27-28, 2009)

“The Past, Present, and Future of Disputed Elections,” *The University of Miami Law Review* (Jan. 30-31, 2009)

“The *McCain v. Obama* Simulation and the Minnesota Recount: Lessons Learned,” Association of American Law Schools Annual Convention (Jan 10, 2009)

“The Minnesota Recount,” University of Minnesota Humphrey Institute (Dec. 10, 2008)

Moderator, Panel Discussion on Election Audits, Pew Make Voting Work Conference (Dec. 9, 2008)

“The Rejection of Absentee Ballots,” University of California Washington Center (Dec. 3, 2008) (conference co-sponsored by *Election Law Journal* and AEI-Brookings)

“Introductory Explanation of the *McCain v. Obama* Simulation” (Oct. 20, 2008)

The Original Bush v. Gore: An Historical Perspective on Disputed Elections, University Distinguished Lecture, The Ohio State University (Oct. 14, 2008)

“The History of Disputed Elections and Relevance for Future Reforms,” National Center for State Legislatures (Sept. 12, 2008)

Disputed Statewide Elections: History, Current Risk & Future Institutional Reform, AEI-BROOKINGS ELECTION REFORM PROJECT (May 20, 2008)

Provisional Voting Data: Assessment of Current Needs & Availability, DATA FOR DEMOCRACY CONFERENCE, sponsored by Pew Charitable Trusts (May 12-13, 2008)

The Federalization of Election Law, U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT ANNUAL CONFERENCE (May 8, 2008)

Amicus Court and Election Law ADR, Faculty Workshop (with Steve Huefner), Moritz College of Law (April 22, 2008)

Minnesota’s Gubernatorial Election of 1962 and Its Relevance Today, THE FUTURE OF ELECTION REFORM, 2008 AND BEYOND, Conference of Humphrey Institute of Public Affairs, University of Minnesota (April 14, 2008)

The Need for an Amicus Court to Resolve Disputed Elections, HOW WE VOTE, Conference Sponsored by National Center for State Courts and *William & Mary Law Review* (March 14, 2008)

An Amicus Court for Disputed Elections, THE WAY WE CHOOSE: A SYMPOSIUM ON THE FUTURE OF AMERICAN ELECTION LAW, University of Virginia Law School, sponsored by *The Journal of Law & Politics* (February 23, 2008)

From Registration to Recounts: Book Launching Symposium, AEI-BROOKINGS ELECTION REFORM PROJECT (December 4, 2007)

The Supreme Court at a Time of Transition, OHIO STATE BAR ASSOCIATION, 3-hour CLE lecture (Columbus, November 30, 2007; Cleveland, December 14, 2007) (video & slides available on OSBA CLE website)

The Justice Institute, 3-day seminar /CLE, Newark, Ohio (November 8-10, 2007)

Principal Organizer, DEMOCRACY INDEX CONFERENCE, Moritz College of Law (September 28-29, 2007)

Faculty Brownbag, *The Roberts Court and the Future of Precedent*, Moritz College of Law (July 25, 2007)

A Model Court for Contested Elections, TOBIN PROJECT INSTITUTIONS OF DEMOCRACY WORKING GROUP MEETING, Kennedy School of Government, Harvard University (June 23, 2007)

State-to-State Comparison of Procedures for Redressing Electoral Error, CONFERENCE ON DEMOCRACY, Stanford Law School (April 6-7, 2007)

The Future of Bush v. Gore and its Relevance to Election Administrators, WINTER CONFERENCE OF OHIO ASSOCIATION OF ELECTION OFFICIALS (January 24, 2007)

Confusion is the Culprit: Voter ID in 2006, AEI-BROOKINGS PROJECT ON ELECTION REFORM (November 28, 2006)

The 2006 Elections: Are We Ready?, AEI-BROOKINGS PROJECT ON ELECTION REFORM (September 22, 2006)

Panelist, *Current Election Law Research on Election Reform*, AEI-BROOKINGS PROJECT ON ELECTION REFORM (May 23, 2006)

Optimality, not Perfection, Should Be the Goal of Election Administration, Woodrow Wilson School Princeton University, (April 7, 2006)—oral presentation of *Beyond the Symbolic Suffrage?*, paper for Making Every Vote Count: a Colloquium on Election Reform (available at http://region.princeton.edu/pub_detail_32.html)

Choosing a Supreme Court Justice (with Alan Michaels), OSU WINTER COLLEGE (February 25, 2006)

Panelist, *Justice O'Connor's Legacy*, FEDERALIST SOCIETY OF COLUMBUS (October 4, 2005)

Participant, *Independent Election Administration: Who Draws the Lines? Who Counts the Votes?* Moritz College of Law (September 9-10 2005)

Replacing Justice O'Connor: the Future of the Supreme Court and Constitutional Law, COMMUNITY LEADERS FORUM, Unitarian Church of Columbus (August 24, 2005)

Participant, *Next Steps on Election Reform*, conference sponsored by League of Women Voters Education Fund/McCormick Tribune Foundation, Chantilly, Virginia (March 3-4 2005)

Provisional Voting and the Verification of Voter Registration, NATIONAL CONFERENCE OF STATE LEGISLATURES FALL FORUM, Savannah (December 9, 2004)

The Promises and Problems of Provisional Voting, SYMPOSIUM ON LAW AND DEMOCRACY, George Washington University (November 15, 2004)

Constitutionally Creative Ways to Deter Deliberatively False Campaign Speech: Incentives for Counterspeech, FEDERALIST SOCIETY ANNUAL NATIONAL CONVENTION (Nov. 12, 2004)

Regulating False Campaign Advertising: Ways to Facilitate Counterspeech, Moritz College of Law (October 11, 2004)

Featured Speaker, *The Problem of False Campaign Advertising: the Need for an Unofficial Umpire*, LEAGUE OF WOMEN VOTERS OF METROPOLITAN COLUMBUS, ANNUAL MEETING (September 22, 2004)

The Regulation of 527 Groups, PANEL DISCUSSION ON DEVELOPMENTS IN CAMPAIGN FINANCE LAW, Moritz College of Law (September 15, 2004)

U.S. Supreme Court: Annual Review, OHIO STATE BAR ASSOCIATION, 3-hour CLE, Cleveland and Columbus (December 2003)

Recent Developments in the U.S. Supreme Court's, COLUMBUS CITY ATTORNEY OFFICE CLE (October 29, 2003)

Stare Decisis in Constitutional Law, GEORGETOWN DISCUSSION GROUP ON CONSTITUTIONAL LAW (October 26, 2003)

Ohio Judicial Elections, ABA COUNCIL OF CHIEF JUDGES, Boston (October 9, 2003)

Stare Decisis in the U.S. Supreme Court, ANNUAL MEETING OF OHIO COURT OF APPEALS JUDGES (September 10, 2003)

Judges Should Not Be Elected, Franklin Inn of Court (September 11, 2002)

Defining the Limits of the First Amendment: Three Cases from Last Year and One Currently Under Review, Moritz College of Law (February 26, 2002)

The School Voucher Case, Franklin Inn of Court (February 14, 2002)

The Supreme Court: Past, Present, and Future, Preble County (Ohio) Community Improvement Corporation (January 31, 2002)

U.S. Supreme Court: Annual Review, OHIO STATE BAR ASSOCIATION, CLE, (December 13, (CLEVELAND) and December 18, (COLUMBUS) 2001)

Judging Voucher Programs One at a Time, University of Dayton Law School (Oct. 17, 2001)

First Monday in October: Supreme Court Review and Look Ahead, COLUMBUS BAR ASSOCIATION CLE (with Alan Michaels), (September 26, 2001)

Towards a Scholarship of Persuasion, Moritz College of Law (August 1, 2001)

Federalism and Stare Decisis, NATIONAL ASSOCIATION OF ATTORNEYS GENERAL ANNUAL SUMMER MEETING, Burlington, Vermont (June 22, 2001)

Democracy-Defining Constitutionalism, Faculty Workshops at OSU and University of Dayton (Spring 1998)

Panelist, *The Clean Money Option: Public Financing of Election Campaigns*, Brennan Center for Justice (January 21, 1997)

Fairness and Campaign Finance, COUNCIL ON GOVERNMENT ETHICS LAWS ANNUAL MEETING, Philadelphia (December 11, 1996)

Intergenerational Trusteeship: A New Conception of Democracy, Georgetown University School of Law (December 9-10 1995)

An Education in Political Philosophy, University of Michigan School of Law (March 10, 1995)

The Education of Philosopher-Citizens, Case Western Reserve University School of Law (January 26, 1995)

Population Growth and Global Justice, Mershon World Affairs Seminar, The Ohio State University (December 6, 1994)

Towards a Just Constitution for the World, Columbia University School of Law (Oct. 3, 1994)
World Federalism and American Federalism, Georgetown University School of Law, Washington, D.C. (December 3-4 1993)

School Choice and the Establishment Clause, Ohio Northern University College of Law (October 7, 1993)

The Regulation of Curriculum in Parochial Schools, OHIO LEGAL THEORY WORKSHOP (March 18, 1993)

The Religion Clauses and the Culture Wars, ASSOCIATION OF AMERICAN LAW SCHOOLS SECTION ON LAW AND RELIGION, San Francisco (January 9, 1993)

Civil Disobedience by Judges and Other Officials, The Ohio State University College of Law (December 6, 1992)

Rawlsian Liberalism and Establishment Clause Jurisprudence, Case Western Reserve University School of Law (November 13-14 1992)

Lee v. Weisman and the Idea of the Secular State, Ohio Northern University School of Law, Ada, Ohio (February 27, 1992)

PUBLIC SERVICE

National Constitution Center “Guardrails of Democracy” project

Member, [National Task Force on Election Crises](#) (2019-present)

Adviser, [Transition Integrity Project](#) (2020)

[Amicus Brief](#), “Faithless Elector” cases before the U.S. Supreme Court (Mar. 9, 2020)

Reporter, American Law Institute project, [Election Administration: Non-Precinct Voting and Resolution of Ballot-Counting Disputes](#), 2010-2018

Co-leader (with Nancy Rogers), ADR-based Redistricting Reform Initiative (funded by Joyce Foundation), 2009-2011

Member, ABA Task Force on Redistricting Reform, 2006-2008

Member, Working Group on Non-partisan Election Administration, American University Center for Democracy and Election Management. 2006-2008

Supervisor of legal research and analysis, Eagleton-Moritz Project on Provisional Voting and Voter Identification Issues, under contract with U.S. Election Assistance Commission, 2005-2006

Member, Working Group on State Implementation of Election Reform, The Century Foundation, 2005 (final report at <http://www.reformelections.org/publications.asp?pubid=542>)

Member, Advisory Committee, Board of Elections of Franklin County, Ohio, 2005

Member, Disclosure Working Group, *Judicial Impartiality: Next Steps* (sponsored by Chief Justice Thomas Moyer, Ohio Supreme Court, League of Women Voters, et al.), 2003-04

Consultant, on behalf of Senator John McCain *et al.*, Intervenor-Defendants, in *McConnell v. Federal Election Commission*, 540 U.S. 93 (2003); 251 F.Supp.2d 156 (2003)

Counsel of Record, on behalf of Arizona *et al.*, as *amici curiae*, in *Moore v. Chamber of Commerce*, No. 02-305 (U.S. S.Ct.); 288 F.3d 187 (5th Cir. 2002)

Lead Counsel, on behalf of Appellants in *Common Cause/Ohio et al. v. Ohio Elections Commission*, 150 Ohio App.3d 31, 779 N.E.2d 766 (Ohio Court of Appeals, Franklin County) (2002); also lead counsel in proceedings before Ohio Election Commission

Counsel, *Amicus curiae* brief on behalf of Brennan Center for Justice, et al., *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002)

Counsel, *Amicus curiae* brief on behalf of OSU College of Law professors, *Grutter v. Bollinger*, 288 F.3d 732 (6th Cir. 2002)

Member, National Advisory Board, Public Campaign, Washington, D.C., 1997-1998

Member, Advisory Board, National Voting Rights Institute, 1996-1998

Member, Working Group on Campaign Finance, The Twentieth Century Fund, 1997-1998

Member, Committee on Pre-Law Education, American Bar Association, 1993-1998

Member, State Governing Board, Common Cause of Ohio, 1993-1998

Counsel, *Amicus Curiae* Citizens for Educational Freedom et al., *Simmons-Harris v. Goff*, Ohio Court of Appeals, 10th District (October 28, 1996) (Cleveland school vouchers case)

Counsel, *Amicus Curiae* Institute for Democracy in Education, *DeRolph v. Ohio*, Ohio Supreme Court (March 11, 1996) (statewide school funding case)

Director, Ohio Legal Theory Workshop, 1993-95

Adviser, Governor's Commission on Educational Choice, State of Ohio, 1992-93

OTHER PROFESSIONAL EXPERIENCE & RECOGNITION

Guggenheim Fellow, 2023-2024

Election Law Analyst, NBC News and MSNBC (Sept. 2020 to Jan. 2021)

Fellow, Stanford University Center on Democracy, Development, and the Rule of Law (2016)

University Distinguished Lecture, The Ohio State University (Oct. 14, 2008)

Recipient (on behalf of *Election Law @ Moritz*), Ohio State Bar Foundation Research Award (November 4, 2005)

Lawdragon 500: Leading Lawyers in America, *Lawdragon* Magazine (October 2005)

Recipient, Liberty Bell Award, Columbus Bar Association (February 25, 2005)

[April 16, 2023]