

## Elizabeth Price Foley

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### **Professional Experience:**

**Of Counsel**, BakerHostetler, LLP, Washington, D.C., June 2014 to present. Of Counsel to Appellate and Major Motions section of national law firm, with emphasis on constitutional litigation and complex procedural issues.

**Professor of Law**, Florida International University College of Law, Miami, Florida. Aug. 2002 to present. Tenured, founding faculty member of newly created public law school. Teach courses in constitutional law, health care law and civil procedure.

**Executive Director**, Institute for Justice, Florida Chapter, Miami, Florida. March 2011 to Jan. 2013. Ran IJ's newly created Florida chapter, including managing a six-figure budget, handling media and community outreach, and supervising two full-time staff attorneys, a paralegal, and several law-student interns. Also litigated constitutional claims in federal and state courts, focusing principally on areas such as economic liberty, the First Amendment, and property rights. The Institute for Justice is a non-profit, libertarian law firm based out of the Washington, D.C. area.

**Clinical Adjunct Professor**, Herbert Wertheim College of Medicine, Florida International University, Miami, Florida. August 2010 to August 2014. Team-taught course on Health Policy and Law to medical students. Provide annual lectures to medical students on various health law-related topics (e.g., health care fraud and abuse; medical malpractice; health care policymaking).

**Professor of Law**, Michigan State University College of Law, East Lansing, Michigan. June 2000 to July 2002. Tenured professor. Taught courses in civil procedure, health care law, law and medicine, food and drug law, and evidence. Untenured Associate Professor from 1996-2000.

**Adjunct Professor**, College of Human Medicine, Center for Ethics & Humanities, Michigan State University, Sept. 1997 to May 2002. Served on College of Human Medicine's university-wide liaison committee. Team taught a seminar entitled "Law & Medicine" with medical school faculty. Lectured about various aspects of health care law and malpractice to medical students and faculty.

**Judicial Clerk**, The Honorable Carolyn Dineen King, U.S. Court of Appeals for the Fifth Circuit, Houston, Texas, Aug. 1994 to Aug. 1995. One-year appointment as judicial clerk to judge on the U.S. Fifth Circuit.

**Senior Legislative Aide**, U.S. Congressman Ron Wyden (D-OR), Washington, D.C., June 1989 to June 1991. Senior advisor to Congressman Wyden on health policy issues. Drafted all health care legislation and built coalitions for support thereof. Successfully shepherded several major health bills through the 101<sup>st</sup> Congress, including: Medigap health insurance reform; \$1 billion Medicaid prescription drug purchasing reform (competitive bidding); and \$500 million program for home and community-based services for the frail elderly. Conducted nationwide undercover investigation into abuses in the sale of long-term care insurance to the elderly (with House Select Committee on Aging).

**Legislative Representative**, Health Insurance Plan of Greater New York, Washington, D.C., Sept. 1988 to June 1989. Lobbyist for Washington office of a New York-based group model health maintenance organization. Lobbied congressional staff and administrative agency personnel.

**Legislative Aide**, U.S. Congressman Michael Andrews (D-TX), Washington, D.C., June 1987 to Sept. 1988. Advised Congressman on health care, Social Security, gun control, labor, and women's issues.

### **Visitorships:**

**Fulbright Scholar**, National University of Ireland, Galway, spring semester 2011. Conducted research on medical futility.

**Summer Teaching**, FIU College of Law Summer Program, University of Sevilla, Spain, May-June 2007. Team-taught (with two law professors from the University of Sevilla) a course on Comparative Constitutional Law to U.S. law students.

**Visiting Lecturer**, Beshkitas University, Istanbul, Turkey, March 2005. Gave lectures on bioethics and alternative dispute resolution.

**Visiting Professor of Law**, Vytautas Magnus University, Kaunas, Lithuania, May 2002-June 2002. Taught course on medical malpractice during summer term.

### **Education:**

- **LL.M., Harvard Law School**, Cambridge, Massachusetts, May 1996.
- **J.D., *summa cum laude*, University of Tennessee College of Law**, Knoxville, Tennessee, May 1994. Class Rank: 1 out of 145 (valedictorian).

Outstanding Graduate, Class of 1994; Order of the Coif; Articles Editor, *Tennessee Law Review*; John W. Green Scholar; Vinson & Elkins Law Review Prize (best case note); Hunton & Williams Law Review Award (best comment); Research Assistant, Professor Greg Stein.

- **B.A., History, Emory University**, Atlanta, Georgia, May 1987.

### **Publications:**

#### **Books:**

- THE TEA PARTY: THREE PRINCIPLES (Cambridge Univ. Press 2012).
- THE LAW OF LIFE & DEATH (Harvard Univ. Press 2011).

- LIBERTY FOR ALL: RECLAIMING INDIVIDUAL PRIVACY IN A NEW ERA OF PUBLIC MORALITY (Yale Univ. Press 2006).

### **Journal Articles & Other Scholarly Writings:**

- Written Statement of Elizabeth Price Foley, testimony before the House Judiciary Committee, *Hearing on the Equal Rights Amendment*, Apr. 30, 2019.
- *Bias, Corruption & Obstruction, Oh My!: The Due Process "Shocks the Conscience" Limit on Investigative & Prosecutorial Conduct*, 66 DRAKE L. REV. 787 (2018).
- *Whole Woman's Health & the Supreme Court's Kaleidoscopic Review of Constitutional Rights*, 15 CATO S. CT. REV. 153 (2016).
- Written Statement of Elizabeth Price Foley, testimony before the House Committee on Space, Science & Technology, *Hearing on Affirming Congress' Constitutional Oversight Responsibilities: Subpoena Authority and Recourse for Failure to Comply with Lawfully Issued Subpoenas*, Sept. 14, 2016.
- *The "War" Against Crime: Ferguson, Police Militarization and the Third Amendment*, 82 TENN. L. REV. 583 (2015) (symposium on Third Amendment).
- Written Statement of Elizabeth Price Foley, testimony before the House Judiciary Committee, *Hearing on the Unconstitutionality of Obama's Executive Actions on Immigration*, Feb. 25, 2015.
- Written Statement of Elizabeth Price Foley, testimony before the House Rules Committee, Hearing on H. Res. 676, *Providing Authority to Initiate Litigation for actions by the President inconsistent with his duties under the Constitution of the United States*, July 16, 2014.
- Written Statement of Elizabeth Price Foley, testimony before the House Judiciary Committee, *Hearing on Enforcing the President's Constitutional Duty to Faithfully Execute the Laws*, Feb. 26, 2014.
- *A Review of the Florida Supreme Court, 2000-2012*, Federalist Soc'y, Oct. 2012 (commissioned white paper on judicial retention election of Florida Supreme Court justices).
- *Judicial Engagement, Written Constitutions, and the Value of Preservation: The Case of Individual Rights*, 19 GEO. MASON L. REV. 909 (2012) (symposium on judicial engagement).
- BRIEF OF AMICUS CURIAE INSTITUTE FOR JUSTICE IN SUPPORT OF RESPONDENTS (individual mandate provision of health care reform law), U.S. SUPREME COURT (Feb. 2012). This brief was the focus of a column by George Will's syndicated column ([http://www.washingtonpost.com/opinions/obamacares-rewriting-of-contract-law/2012/03/23/gIQA VuFmWS\\_story.html](http://www.washingtonpost.com/opinions/obamacares-rewriting-of-contract-law/2012/03/23/gIQA VuFmWS_story.html)) and named one of the "4 Best Legal Arguments

Against Obamacare" by Reason Magazine (<http://reason.com/archives/2012/03/24/4-best-legal-arguments-against-obamacare/singlepage>).

- *Sovereignty, Rebalanced: The Tea Party & Proposed Constitutional Amendments*, 78 TENN. L. REV. 751(2011) (symposium on federalism-based proposed constitutional amendments).
- *Gonzales v. Raich*, in ENCYCLOPEDIA OF DRUG POL'Y (SAGE Reference 2011).
- *Employment Division v. Smith*, in ENCYCLOPEDIA OF DRUG POL'Y (SAGE Reference 2011).
- *Stem Cell Research*, in ENCYCLOPEDIA OF ISSUES IN U.S. PUBLIC POL'Y (Macmillan 2010).
- *Enumerated Powers*, in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (Macmillan 2008).
- *Unwritten Constitution*, in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (Macmillan 2008).
- *The Role of International Law in U.S. Constitutional Interpretation: Original Meaning, Sovereignty & the Ninth Amendment*, 3 FIU L. REV. 27 (2007).
- *In Memoriam: Jerry Phillips: A Scholar & a Gentleman*, 71 TENN. L. REV. x (2004).
- *The Constitutional Implications of a Cloning Society*, 32 CUMB. L. REV. 503 (2002).
- *Human Cloning and the Right to Reproduce*, 65 ALBANY L. REV. 625 (2002).
- *The Constitutional Implications of Human Cloning*, 42 ARIZ. L. REV. 647 (2000).
- *The Riddle of Harmless Error in Michigan*, 46 WAYNE L. REV. 423 (2000) (with Robert M. Filitrault).
- *Does the FDA Have Authority to Regulate Human Cloning?*, 11 HARV. J.L. & TECH. 619 (1998).
- *The Evolution of Health Care Decision Making: The Political Paradigm and Beyond*, 65 TENN. L. REV. 619 (1998).
- *Constitutional Fidelity and the Commerce Clause: A Reply to Professor Ackerman*, 48 SYRACUSE L. REV. 139 (1998).
- *Teaching the Elephant to Dance: Privatizing the FDA Review Process*, 51 FOOD & DRUG L.J. 651 (1996).
- *Toward a Unified Theory of Products Liability: Reviving the Causative Concept of Legal Fault*, 61 TENN. L. REV. 1277 (1994).

• *Torts— Federal Preemption of State Common Law— Federal Cigarette Labeling & Advertising Act*, *Cipollone v. Liggett Group, Inc.*, 60 TENN. L. REV. 243 (1992).

### **Op-eds & Magazine Articles:**

• *Congress Can't Outsource Impeachment*, WALL STREET JOURNAL, May 31, 2019 (with David B. Rivkin, Jr.) (op-ed on impeachment processes).

• *Stop the Impeachment Fishing Expedition*, WALL STREET JOURNAL, Feb. 14, 2019 (with David B. Rivkin, Jr.) (op-ed on separation of powers concerns with investigation of pre-presidential conduct).

• *Dems Can't "Bork" Kavanaugh, and Have Only Themselves to Blame*, THE HILL, Sept. 4, 2018 (op-ed discussing effect of elimination of the filibuster for Supreme Court nominees).

• *Mueller's Fruit of the Poisonous Tree*, WALL STREET JOURNAL, June 23, 2018 (with David B. Rivkin, Jr.) (op-ed examining due process violations antecedent to appointment of special counsel).

• *Those Who Tout Trump's Obstruction Misrepresent the Concept*, THE HILL, June 11, 2018 (op-ed about the statutory elements of obstruction of justice).

• *Muller's Jurisdiction Must Be Limited*, THE HILL, May 6, 2018 (op-ed about the constitutional checks on special counsel)

• *The Immigration Fight Isn't Really About the Dreamers—It's All Politics*, THE HILL, Jan. 26, 2018 (op-ed about immigration reform).

• *A Coming Test of Tolerance & Political Accountability*, THE HILL, Jan. 2, 2018 (op-ed prognosticating about First Amendment and separation of powers developments for 2018).

• *Where is Due Process in All the Sexual Harassment Allegations?*, THE HILL, Dec. 18, 2017 (op-ed discussing the parameters of due process in various contexts).

• *Trump's Statements Are Not an Obstruction of Justice*, NEW YORK TIMES, May 17, 2017 (op-ed discussing contours of federal obstruction of justice statutes).

• *Trump Can't Withhold Funds from Sanctuary Cities*, NEW YORK TIMES, Apr. 28, 2017 (op-ed discussing separation of powers deficiency of an executive order withholding federal funds to sanctuary cities).

• *The Court Needs Another Clarence Thomas, Not a Scalia*, NEW YORK TIMES, Jan. 20, 2017 (op-ed discussing the Supreme Court vacancy and impending nomination to fill).

• *Five Ways to Restore the Separation of Powers*, WALL STREET JOURNAL, Dec. 19, 2016 (with David B. Rivkin, Jr.) (op-ed recommending congressional actions to restore separation of powers between Congress and the Executive).

- *Can Trump Cut Off Funds for Sanctuary Cities? The Constitution Says Yes*, LOS ANGELES TIMES, Dec. 7, 2016 (with David Rivkin) (op-ed discussing how constitutional federalism doctrines will not shield sanctuary cities from congressional pushback).
- *Constitutional Subpoena Power Transcends Views on Climate Change*, FEDERALIST SOCIETY BLOG, Sept. 20, 2016 (op-ed discussing why congressional subpoenas to investigate possible First Amendment violations by State Attorneys General are valid).
- *ERA's Defeat Prevented More Radical Changes*, NEW YORK TIMES, Room for Debate, Sept. 8, 2016 (op-ed on the impact of the failure of the Equal Rights Amendment).
- *Climate Prosecutors Can't Dodge Congress Forever*, WALL STREET JOURNAL, Aug. 21, 2016 (op-ed on Congress's constitutional power to enforce its own subpoenas).
- *Enforcing Legal Limits on Gitmo Transfers*, DAILY CALLER, May 26, 2016 (op-ed on how to enforce limits on Gitmo transfers contained in the 2016 National Defense Authorization Act).
- *A Win for Congress & a Setback for ObamaCare*, WALL STREET JOURNAL, Sept. 10, 2015 (with David B. Rivkin, Jr.) (op-ed on House lawsuit victory in federal district court).
- *The Supreme Court's Bad Call on Affordable Care Act*, LOS ANGELES TIMES, June 29, 2015 (with David B. Rivkin, Jr.) (op-ed on the Supreme Court's decision in *King v. Burwell*).
- *Bypassing Separation of Powers to "Fix" Sloppy Laws*, SCOTUSBLOG, Jun. 25, 2015 (with David B. Rivkin, Jr.) (op-ed on the Supreme Court's decision in *King v. Burwell*).
- *Hillary's Unlawful Plan to Overrule Voter-ID Laws*, WALL STREET JOURNAL, June 11, 2015 (with David B. Rivkin, Jr.) (op-ed on the constitutionality of various federal voter reform proposals).
- *Gay Rights, Religious Freedom & the Law*, WALL STREET JOURNAL, Apr. 9, 2015 (with David B. Rivkin, Jr.) (op-ed discussing RFRA and laws banning sexual orientation discrimination).
- *The Federalism Falacy in King v. Burwell*, POLITICO, Mar. 11, 2015 (with David B. Rivkin, Jr.) (essay on federalism implications of the Supreme Court case, *King v. Burwell*).
- *When Bad Obama Policies Collide*, WASHINGTON TIMES, Mar. 10, 2015 (with David B. Rivkin, Jr.) (op-ed on relationship between Obamacare employer mandate and executive action on immigration).
- *Arizona Redistricting Case Could Signal the Future of Legislative Standing*, DAILY CALLER, Mar. 10, 2015 (with David B. Rivkin, Jr.) (op-ed analyzing legislative standing in the Supreme Court's consideration of *Arizona State Legislature v. Arizona Independent Redistricting Comm'n*).
- *Federal Antidrug Law Goes Up in Smoke*, WALL STREET JOURNAL, Dec. 28, 2014 (with David B. Rivkin, Jr.) (op-ed discussing the constitutionality of state laws legalizing marijuana).

- *Obama's Immigration Enablers*, WALL STREET JOURNAL, Nov. 24, 2014 (with David B. Rivkin, Jr.) (op-ed examining the legal bases for unilateral immigration reform).
- *You're a Contractor? Political Contributions Not Allowed*, WALL STREET JOURNAL, Oct. 21, 2014 (with David B. Rivkin, Jr.) (op-ed discussing First Amendment implications of a ban on political contributions by federal contractors).
- *The Case for Suing the President*, WALL STREET JOURNAL, July 30, 2014 (with David B. Rivkin, Jr.) (op-ed explaining how House Obamacare lawsuit preserves political accountability and separation of powers).
- *Reining in Obama*, WASHINGTON POST, July 25, 2014 (with David B. Rivkin, Jr.) (op-ed on congressional standing to sue the executive).
- *A Supreme Smackdown of the President*, WASHINGTON TIMES, June 26, 2014 (op-ed on *Noel Canning* and *UARG* Supreme Court decisions explicating separation of powers).
- *Veterans Affairs Scandal is a Look at Future of Obamacare*, WASHINGTON EXAMINER, June 14, 2014 (op-ed on VA scandal's relationship to Obamacare)
- *Selling Out the Constitution for a Bad Prisoner Swap*, WASHINGTON TIMES, June 2, 2014 (op-ed on constitutionality of Berghdal-GITMO prisoner swap).
- *Health Care Rationing is Next*, WASHINGTON TIMES, May 19, 2014 (op-ed on VA scandal and rationing of single-payer health systems).
- *VA Scandals Raise the Specter of Health Care Rationing*, DAILY CALLER, May 15, 2014 (op-ed on VA scandal and rationing).
- *Eric Holder's Disparate Impact Obsession*, DAILY CALLER, May 1, 2014 (op-ed on disparate impact theory under equal protection).
- *A Close Call in Court for Equal Protection*, WASHINGTON TIMES, Apr. 25, 2014 (op-ed on Supreme Court's decision in *Schuette v. BAMN*).
- *Don't Diminish the President's Authority*, NEW YORK TIMES, Room for Debate, Apr. 22, 2014 (op-ed on constitutionality of statute designating Jerusalem as an Israeli city for purposes of U.S. passports).
- *How Five Colorado Democrats May Have Helped Pave the Way for Congress to Sue the Administration*, DAILY CALLER, Mar. 13, 2014 (with David Rivkin) (op-ed on *Kerr v. Hickenlooper* and congressional standing).
- *Why Not Even Congress Can Sue the President Over Unconstitutional Executive Actions*, DAILY CALLER, Feb. 7, 2014 (op-ed discussing checks and balances when President refuses to faithfully execute laws).

- *Presidents Cannot Ignore Laws as Written*, NEW YORK TIMES, Room for Debate, Jan. 29, 2014 (op-ed on President's duty of faithful execution).
- *Can Obama's Legal End-Run Around Congress be Stopped*, POLITICO, Jan. 15, 2014 (with David Rivkin) (essay on President's duty of faithful execution).
- *Only Congress Can Raise the Debt Ceiling*, NEW YORK TIMES, Room for Debate, Oct. 2, 2013 (op-ed on constitutionality of President's unilateral raising of debt ceiling).
- *Why Shira's Wrong*, NEW YORK POST, Aug. 23, 2013 (with David B. Rivkin, Jr.) (op-ed on constitutionality of stop-and-frisk).
- *An ObamaCare Board Answerable to No One*, WALL STREET JOURNAL, June 20, 2013 (with David B. Rivkin, Jr.) (op-ed on constitutional problems with Obamacare's Independent Payment Advisory Board).
- *The Case Against Deference*, THE WEEKLY STANDARD, June 10, 2013 (with David B. Rivkin, Jr.) (essay on proper role judicial deference to administrative agencies in constitutional cases).
- *Plenty of Debates, Not Much About States*, WALL STREET JOURNAL, Oct. 23, 2012 (with David B. Rivkin, Jr.) (op-ed about importance of federalism).
- *Restore Federalism: It Isn't a Bad Word*, NEW YORK TIMES, Room for Debate, July 9, 2012 (op-ed on importance of federalism to individual liberty).
- *Healthcare Act Survives, But It's a Tattered Quilt*, MIAMI HERALD, June 30, 2012 (op-ed on Supreme Court's decision on the constitutionality of Obamacare).
- *Health Care and the High Court*, NAT'L LAW JOURNAL, June 28, 2012 (*reprinted in Health Care Ruling: The Professional Judgments*, NAT'L LAW JOURNAL, July 2, 2012).
- *Instant Commentaries from the Front Seats: The Individual Mandate*, NAT'L LAW JOURNAL, Apr. 2, 2012.
- *Affordable Care Act a Liberty-Sucking Mandate*, PALM BEACH POST, Mar. 23, 2012.
- *Justice Stevens and 'Kelo' as a Justification of Abdication*, NATIONAL LAW JOURNAL, Nov. 30, 2011 (with Clark Neily).
- *Health Care Reform & the Constitution*, National Constitution Center, Nov. 2011 (pamphlet/essay on constitutionality of Obamacare).
- *A New Force for Freedom in Florida*, TAMPA TRIBUNE, Oct. 13, 2011.
- *Mandating Health Care is a Slippery Slope*, THE DELAWARE NEWS JOURNAL, Sept. 16, 2011.
- *Limited Government, Federalism & The Affordable Care Act*, SCOTUSBLOG, Aug. 9, 2011.



- *Supreme Court Tea Leaves for Obamacare?*, BigGovernment.com, Aug. 2011.
- *The Nuts & Bolts of the Obamacare Ruling*, WALL STREET JOURNAL, Feb. 2, 2011 (with Randy E. Barnett) (op-ed on district court decision declaring Obamacare mandate unconstitutional).
- *'Death Panels' Come Back to Life*, WALL STREET JOURNAL, Dec. 30, 2010 (with David B. Rivkin, Jr.) (op-ed on rationing and FDA's decision to rescind Avastin approval).
- *Health Insurance: Why Should We Be Forced to Buy It?*, FT. LAUDERDALE SUN-SENTINEL, Oct. 4, 2009 (op-ed on constitutionality of individual health insurance mandate).
- *Stem Cells & Constitutional Duty*, JURIST, July 26, 2006 (op-ed on presidential veto of stem cell bill).
- *Legislature Can Get it Right this Time*, MIAMI HERALD, Mar. 4, 2005 (op-ed on Terry Schiavo case).
- *Promote Families*, NAT'L LAW JOURNAL, Sept. 20, 2004, *reprinted in* N.J. LAW JOURNAL, Sept. 27, 2004.
- MEDICAL INFORMATION PRIVACY, Final Report to the Michigan Law Revision Commission (with Prof. Vence Bonham), Nov. 2003 (commissioned report for Michigan legislature).
- MEDICAL INFORMATION PRIVACY, a Preliminary Report to the Michigan Law Revision Commission (with Prof. Vence Bonham), Feb. 2002 (commissioned report for Michigan legislature).
- *Feds Overreach on Cloning*, DETROIT FREE PRESS, Aug. 8, 2001.
- *Are "Off-Labels" Legal?*, MICH. HEALTH & HOSPITALS, Nov./Dec. 1998.
- *Should Lansing, Washington Ban Human Cloning?*, DETROIT NEWS, Feb. 15, 1998.
- *Proving Case Against Oprah Will Be Tough*, DETROIT NEWS, Feb. 5, 1998.
- *Some Ruminations on the Legal Implications of Cloning*, AMICUS MAGAZINE (DCL/MSU Alumni Magazine), Fall 1997 (*reprinted in the General Practitioner Newsletter of the Michigan State Bar Ass'n*).
- *Assisted Suicide Regulation Would Infringe on Privacy of Death*, OAKLAND PRESS, June 17, 1997.
- *Youth is No Gauge for Parenting Skills*, DETROIT NEWS, May 1, 1997.
- *Constitution Can Handle Cloning*, DETROIT FREE PRESS, Apr. 30, 1997.

## **Presentations/Public Appearances (not exhaustive):**

- Testimony before Congress:
  - "Hearing on the Equal Rights Amendment," House Judiciary Committee, Apr. 30, 2019.
  - "Affirming Congress' Constitutional Oversight Responsibilities: Subpoena Authority and Recourse for Failure to Comply with Lawfully Issued Subpoenas," House Committee on Science, Space & Technology, Sept. 14, 2016.
  - "The Unconstitutionality of President Obama's Executive Actions on Immigration," House Judiciary Committee, Feb. 25, 2015.
  - "Providing for Authority to Initiate Litigation for Actions by the President Inconsistent With His Duties Under the Constitution of the United States," House Rules Committee, July 16, 2014.
  - "Enforcing the President's Constitutional Duty to Faithfully Execute the Laws," House Judiciary Committee, Feb. 26, 2014.
- Speech, "Corrupt Cops: Due Process Remedies," Columbia Law School, New York, NY, October 31, 2018.
- Speech, "Due Process, Corruption & Democracy," Drake University Law School, Annual Constitutional Law Symposium, Des Moines, IA, Apr. 14, 2018.
- Panelist, "Defending New Ground in Reproductive Rights," American Constitution Society, Washington, D.C., June 9, 2017.
- Panelist & Commentary, "The Big Fix: Should We Amend Our Constitution?," Stanford Law School, Palo Alto, CA, May 12-13, 2017.
- Speech, "The Future of Obamacare," James Madison Institute, Naples, FL, Jan. 10, 2017.
- Speech/Panelist, Cato Institute, Annual Constitution Day Symposium, panel on "Health Care, Religion & Abortion, Oh My," Washington, D.C., Sept. 15, 2016.
- Moderator, Panel Discussion of "Standing for States & Environmental Harms," Symposium on Environmental Law in the Administrative State, George Mason University, Washington, D.C., Sept. 16, 2016.
- Panelist, "The Federalists, the Anti-Federalists, and the Constitution They Created," Federalist Society/Liberty Fund Symposium, Chicago, IL, Apr. 8-9, 2016.

- Keynote Speech, "The Limits of Executive Action," Johns Island Club, Vero Beach, FL, Dec. 7, 2015.
- Speech, "The Constitutionality of the Iran Nuclear Deal," Florida Atlantic Univ., Oct. 14, 2015.
- Speech, "Ferguson, Police Militarization & the Third Amendment," University of Tennessee College of Law, Law Review Symposium on the Third Amendment, Knoxville, TN (Feb. 28, 2015).
- Panelist, "House Obamacare Lawsuit," Heritage Foundation, Legal Strategy Forum, Washington, D.C., Oct. 22, 2014. Co-panelist was Mike Franc (House Majority Leader staff).
- "Judicial Deference to Administrative Agencies," ABA Toxic Torts & Environmental Law Annual Meeting, April 4, 2014, Phoenix, AZ (panel discussion).
- "The Voting Rights Act after *Shelby County*," Univ. of Michigan School of Law, Mar. 27, 2014, Ann Arbor, MI (debate with Prof. Ellen Katz on the *Shelby County* decision).
- "Obamacare 911," Villanova Law School, Oct. 23, 2013, Philadelphia, PA (debate with Prof. Ellen Wertheimer on the effectiveness of the Affordable Care Act).
- Keynote, Legal Strategy Forum, Heritage Foundation, Orlando, FL, Apr. 24, 2013. Speech on "How Judicial Deference Undermines Original Meaning."
- Speaker, Article V Constitutional Convention Conference, Univ. of Central Florida, Orlando, FL, Apr. 25, 2013.
- Keynote, Selby Spine Conference, Park City, UT, Feb. 1, 2013. Speech on "What's Next? The Continuing Legal Challenges to ObamaCare."
- Panelist, "Limited Federal Powers & the Commerce Clause," Federalist Society/Templeton Fund, Las Vegas, NV, Jan. 25-26, 2013.
- Speaker, TEDxFIU, "When Are You Really Dead?," Miami, FL, Nov. 15, 2012.
- Panelist, "2012 Election Panel: Choices for November," Fall for the Book Festival, George Mason Univ., Fairfax, VA, Sept. 28, 2012. Co-panelists were David Maraniss, Linda Killian, and Scott Keeter.
- Panelist, "A Healthy Debate: How does the Affordable Care Act Work? Is it Constitutional?," Arizona State Bar Annual Meeting, Phoenix, AZ, June 21, 2012. Co-panelists were Neil Siegel, Robert Muise, and Ian Millhiser.
- Chicago Tea Party, Chicago, June 6, 2012. Presentation on my book, *The Tea Party: Three Principles*.
- Federalist Society, Chicago Chapter, Chicago, June 6, 2012. Speech on "The Constitution & the Tea Party: Populist Originalism."

- Book Forum, Cato Institute, Washington, D.C., May 15, 2012. Presentation on my book, *The Tea Party: Three Principles*. Michael Barone of the American Enterprise Institute and Doug Kendall of the Constitutional Accountability Center provided commentary. Moderated by Roger Pilon of Cato.
- Speaker/Panelist, Los Angeles Times Festival of Books, “The Changing Face of the Right,” Los Angeles, CA, Apr. 22, 2012. Co-panelists were Katrina vanden Heuvel, Nancy Cohen and Sally Denton. Moderated by James Rainey.
- Speaker/Moderator, George Mason Univ. School of Law, Symposium on Judicial Engagement, Washington, D.C., Mar. 22, 2012. Co-panelists included Kurt Lash, David Bernstein, and Eric Claeys.
- Speaker/Panelist, Roger Williams University School of Law, Symposium on Popular Constitutionalism and the 2012 Election, Bristol, RI, Feb. 24, 2012. Co-panelists included Mark Tushnet and Jack Balkin. Moderated by Jared Goldstein.
- Moderator, Federalist Society, Miami Chapter, debate on constitutionality of the Affordable Care Act, Coral Gables, FL, Jan. 19, 2012. Panelists were Greg Katsas and Prof. Frances Hill.
- Speaker, University of Illinois College of Law, lecture on “The Liberty Implications of the Individual Mandate,” Champaign, IL, Nov. 14, 2011.
- Mock class presentation, President's Council, Florida Int'l University, lecture to university's largest fundraisers on the constitutionality of health care reform, Nov. 10, 2011.
- Presenter, Board of Trustees, Florida Int'l University, on benefits to faculty of Fulbright grants (discussing my Fulbright to study medical futility in Ireland), Sept. 8, 2011.
- Speaker/Panelist, Symposium on Lysander Spooner, Liberty Fund, Inc., Boston, MA, Oct. 2-5, 2008. Moderated by Randy Barnett.
- Speaker/Panelist, Symposium on “The Intersection of United States Constitutional Law with International and Foreign Law,” FIU College of Law, Feb. 9, 2007. Topic was “Sovereignty, Original Meaning and the Role of International Law in U.S. Constitutional Interpretation.”
- Book Forum, Cato Institute, Washington, D.C., Oct. 31, 2006. Presentation on my book, *Liberty for All*. William Galston of the Brookings Institution provided commentary. Moderated by Roger Pilon.
- Speaker, Georgetown University, Seminar, Oct. 31, 2006. Discussed my book, *Liberty for All* with faculty and students enrolled in a seminar on constitutional law.
- Speaker, Stem Cell Research: Legislative Update, American Bar Ass’n Annual Meeting, Section on Science & Technology Law, Chicago, IL, Aug. 6, 2005.

- Presentation, Expressive Freedom: Reconceptualizing the Right to Privacy, Florida Int'l Univ. College of Law Faculty Colloquium, Apr. 2004.
- Presentation, Genetic Privacy: What You Don't Know Can Hurt You, Florida Int'l University Faculty Colloquium, Jan. 16, 2003.
- Presentation, Human Cloning & the Constitution, Cumberland Law Review, Samford University, Cumberland School of Law, Mar. 1, 2002.
- Presentation, Of Human Cloning & Fundamental Rights, Albany Law School, Albany, NY, Oct. 25, 2001 (symposium on "Manufactured Humanity: The Ethics & Legality of Stem Cell Research, Bioengineering, and Human Cloning").
- Presentation, Genetic Privacy & Genetic Discrimination, Lyman Briggs School, College of Natural Science, Michigan State University, East Lansing, MI, Oct. 18, 2001.
- Presentation, The Riddle of Harmless Error in Michigan, Michigan Judicial Institute, Amway Grand Plaza Hotel, Grand Rapids, Aug. 18, 1999 (with Professor Bob Filiastrault).
- Presentation, Issues in Genetic Regulation, American Society for Law & Medical Ethics, Annual Health Law Teachers' Conference, St. Louis University School of Law, St. Louis, MO, June 5, 1999.
- Presentation, Genetic Privacy: What Others Know May Hurt You, before the Governing Board of the Michigan ACLU, East Lansing, MI, May 15, 1999.
- Moderator & Organizer, Student Rights & Responsibilities Forum, sponsored by the MSU-ACLU Chapter, MSU Wharton Center, Apr. 8, 1999.
- Organizer, lecture by Professor Paul Finkleman, Professor and John F. Seiberling Chair in Constitutional Law, Univ. of Akron School of Law on Slavery and the Constitution, MSU College of Law, Feb. 4, 1999.
- Organizer, lecture by Dr. Richard Seed on "Human Cloning & Rejuvenation," MSU College of Law, Feb. 11, 1999.
- Organizer, lecture by Professor Randy Barnett, Austin B. Fletcher Chair, Boston University School of Law on "The History and Meaning of the Second Amendment," MSU College of Law, Oct. 1997.
- Lecture, "The Myths & Realities of Medical Malpractice," MSU College of Human Medicine, annually from 1998 to 2002.
- Presentation, Colloquy Soc'y, University Club of Michigan State University, "The Legal Implications of Cloning," Nov. 18, 1997.
- Presentation, Rotary Club of Battle Creek, MI, "The Legal Implications of Cloning," Aug. 18, 1997.

- Presentation, Kiwanis Club of East Lansing, “The Legal Implications of Cloning,” June 16, 1997.
- Panelist, *Inherit the Wind* (discussion of teaching creationism and evolution in public schools), MSU Wharton Center, Apr. 19, 1998.
- Moderator, symposium on Physician Assisted Suicide, sponsored by the Federalist Society of MSU College of Law, Nov. 5, 1997.
- Moderator and Organizer, inter-disciplinary panel discussion on the Implications of Cloning, MSU College of Law, Apr. 10, 1997.
- Bar Review Lecturer on Evidence (Michigan and Multi-state), Essay Writing and Professional Responsibility, Michigan’s Bar Review, 1997-2000.

### **Media Commentary:**

- Frequent media mentions and appearances, including: Anderson Cooper 360 (CNN); The Tucker Carlson Show (Fox); Fox & Friends; The Stossel Show; The Kelly File; Freedom Watch with Judge Andrew Napolitano; Book TV (C-SPAN); CNN; Canadian TV (CTV); Al-Jazeera; British Broadcasting Channel (BBC); Court TV; PJTV; *Wall Street Journal*; Associated Press (AP); *Washington Post*; *New York Times*; *Politico*; *National Law Journal*; *Christian Science Monitor*; *USA Today*; *Daily Caller*; *The Weekly Standard*; *National Review Online*; *Los Angeles Times*; *Roll Call*; *Reason*; *New York Post*; *New York Review of Books*; *New York Journal of Books*; *Miami Herald*; *Palm Beach Post*; *Ft. Lauderdale Sun-Sentinel*; *St. Petersburg Times*; *Orlando Sentinel*; *Detroit Free Press*; *Detroit News*; and many large and small radio stations around the country, including NPR; WGN (Chicago); WIND (Chicago); WRC (Washington, D.C.); WAMU (Washington, D.C.); WJR (Detroit); WWJ (Detroit); KPCC (Los Angeles); WIOD (Miami); WLRN (Miami); WNEW (D.C.); WISR (Pittsburgh); WHO (Des Moines); KRLD (Dallas); WBT (Charlotte); WFLA (Tampa Bay/Orlando); Culture Shocks with Barry Lynn.

### **Community Service:**

- Florida State Advisory Committee, U.S. Commission on Civil Rights. Member since Apr. 2015; Chair from 2017-2018.
- Research Advisory Council, James Madison Institute, Nov. 2013 to present.
- Editorial Board, *Supreme Court Review*, Cato Institute, Jan. 2011 to present.
- Member, Long-Term Care Working Group, Heritage Foundation, Feb. 2012 to Mar. 2014 (interdisciplinary working group charged with devising fiscally responsible ways to provide long-term care).

- Member, Institutional Review Board (IRB), Florida International University, July 2008 to Aug. 2014.
- Member, Nat'l Academy of Sciences, Committee on Embryonic Stem Cell Research Guidelines, June 2004 to July 2006. Appointed by NAS Director to serve on committee charged with devising national guidelines for stem cell research.
- Member, Health Action Team, FIU (faculty team tasked with exploring possibility of bringing medical school to the University).
- Faculty Senator, Florida International University Faculty Senate, Aug. 2002 to Aug. 2003. Also served on Faculty Senate Steering Committee (policy arm of the Faculty Senate).
- Consultant, Michigan Law Revision Commission (on medical record privacy), May 2000 to May 2003.
- Advisory Board, International Food Law Program, Department of Food Science & Human Nutrition, Michigan State University, Mar. 1998 to Jan. 2000.
- Sparrow Hospital Ethics Committee, Lansing, Michigan, Oct. 1998 to June 2002.
- Board of Directors, American Civil Liberties Union, Lansing, Michigan chapter, June 1998 to Aug. 2001.
- Commissioner, East Lansing Housing Commission, Jan. 1999 to Jan. 2000.

#### **Pro Bono Litigation Experience (non-IJ):**

- *Risbridger v. City of East Lansing*, U.S. District Court for the Western District of Michigan, November 1998 to June 2002. Federal civil rights action against City of East Lansing raising Fourth and Fifth Amendment violations by police officers during arrest. Settled before trial.
- *People of Meridian Township v. Beauvais*, 55<sup>th</sup> District Court, Michigan, November 1998 to March 1998. Successfully defended criminal complaint against individual charged with violating local sign ordinance by flying Michigan State University flag in front of his bakery. Two of three citations were dismissed as violative of First Amendment; the third citation was voluntarily dismissed by the Township.

#### **Professional Memberships:**

- District of Columbia Bar (currently active)
- The Florida Bar (currently active)
- State Bar of Texas (currently inactive)

- The Federalist Society
- American Health Lawyers Association (AHLA)
- American Bar Association. Member, Diversity Committee, Section of Legal Education & Admissions to the Bar (Sept. 2002- Sept. 2003).