

SUJA A. THOMAS
sathomas@illinois.edu
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CURRENT POSITIONS

University of Illinois College of Law

Peer and Sarah Pedersen Professor of Law, August 2017-present

Professor of Law, August 2008 to August 2017

Mildred Van Voorhis Jones Faculty Scholar, September 2009 to August 2011

Teaching: Civil Procedure, Evidence, Employment Discrimination, Sports and the Law

Awards: Wayne LaFave Book Award 2017

[Robert P. Larsen Human Development Award 2017](#)

Law School Committees: Appointments, Career Services (chair), Clerkship Committee (chair), Curriculum (chair), Executive, Reappointment, Promotion and Tenure, Student Awards, Law Review (advisor), and Graduation (selection of speaker)

Kartemquin Films

Fellow, [Diverse Voices in Documentaries Program](#), January 2020-present

OTHER TEACHING POSITIONS

University of Chicago Law School

Visiting Professor of Law, October 2019-December 2019

Teaching: Employment Discrimination

Vanderbilt University Law School

Visiting Professor, January 2008-May 2008

Teaching: Evidence, Employment Discrimination

University of Cincinnati College of Law

Professor, September 2005 to July 2008

Associate Professor, September 2003 to August 2005

Assistant Professor, June 2000 to August 2003

Teaching: Evidence, Employment Discrimination, Judicial Decision-making and the Role of the Jury, Sports and the Law

Awards/Honors: Harold C. Schott Scholarship Award (2007) (recognizes outstanding research and scholarly achievement by a member of the law school faculty), Harold C.

Schott Law Review Award (2007), Goldman Prize for teaching excellence (2003),
Selected by graduates to award hoods (2007, 2006, 2003)

Law School Committees: Academic Policy and Curriculum, Appointments, Committee
on Committees, Honor Council, Moot Court (advisor), Professional Development (chair),
Reappointment, Promotion and Tenure, Research and Development

EDUCATION

New York University School of Law. Juris Doctorate, May 1991
Articles Editor, NEW YORK UNIVERSITY LAW REVIEW
Mendes Hershman Prize for excellence in writing in the field of property law
William Miller Memorial Award for outstanding scholarship in field of municipal law
Leonard M. Henkin Prize for note on equal rights portion of 14th Amendment.

Northwestern University. Bachelor of Arts in Mathematics, June 1988

PUBLICATIONS

BOOKS

[UNEQUAL: HOW AMERICA'S COURTS UNDERMINE DISCRIMINATION LAW](#) (co-authored
with Sandra Sperino) (Oxford University Press June 2017)

[THE MISSING AMERICAN JURY: RESTORING THE FUNDAMENTAL CONSTITUTIONAL ROLE
OF THE CRIMINAL, CIVIL, AND GRAND JURIES](#) (Cambridge University Press 2016)

[Recognized for High Distinction for the Pound Civil Justice Institute 2019 Civil
Justice Scholarship Award](#)

ARTICLES AND SYMPOSIUM ARTICLES

[*The Customer Caste: Lawful Discrimination by Public Businesses*](#), 109 Calif. L. Rev. ____
(Feb. 2021)

[*Why \(Jury-Less\) Juvenile Courts Are Unconstitutional*](#), 69 EMORY L.J. 273 (Fall 2019)
(co-author Collin Stich)

[*What Timbs Does Not Say?*](#), GEO. WASH. L. REV. ON THE DOCKET (2019)

[*Reforming the Summary Judgment Problem: The Consensus Requirement*](#), 86 FORDHAM
L. REV. 2241 (2018)

[*The Limits of History: The English Fire Courts, Congress, and the Seventh Amendment
Civil Jury Trial*](#), 83 U. CHI. L. REV. ONLINE 281 (2018) (response to Jay Tidmarsh's *The*

English Fire Courts and the American Right to Civil Jury Trial, 83 U. CHI. L. REV. 1893 (2016))

[*The Missing Branch of the Jury*](#), 77 OHIO ST. L.J. 1261 (2016)

[*Introducing Text-Bound Originalism \(and Why Originalism Does Not Strictly Govern Same Sex Marriage\)*](#), 2015 U. ILL. L. REV. SLIP OPINIONS 61

[*How Atypical Cases Make Bad Rules: A Commentary on the Rulemaking Process*](#), 15 NEV. L.J. 1141 (2015) (co-author Dawson Price) (symposium celebrating work of Stephen Subrin)

[*Fakers and Floodgates*](#), 10 STAN. J. CIV. RTS. & CIV. LIBS. 223 (2014) (co-author Sandra Sperino) (symposium on Civil Rights Act of 1964)

[*Blackstone's Curse: The Fall of the Criminal, Civil, and Grand Juries and the Rise of the Executive, the Legislature, the Judiciary, and the States*](#), 55 WILLIAM AND MARY L. REV. 1195 (2014) (symposium on the civil jury)

[*Employer Costs and Conflicts Under the Affordable Care Act*](#), 99 CORNELL L. REV. ONLINE 56 (2013) (co-author Peter Molk)

[*How Atypical, Hard Cases Make Bad Law*](#), 48 WAKE FOREST L. REV. 989 (2013)

Applied by Richard A. Bales & Mark B. Gerano, *Oddball Arbitration*, 30 HOFSTRA LABOR AND EMPLOYMENT L.J. 405 (2013)

[*Nonincorporation: The Bill of Rights After McDonald v. Chicago*](#), 88 NOTRE DAME L. REV. 159 (2012)

[*Oddball Iqbal and Twombly and Employment Discrimination*](#), 2011 U. ILL. L. REV. 215 (2011) (responding in part to Richard A. Epstein, *Of Pleading and Discovery: Reflections on Twombly and Iqbal with Special Reference to Antitrust*, 2011 U. ILL. L. REV. 187)

[*A Limitation on Congress: "In Suits at common law"*](#), 71 OHIO ST. L.J. 1071 (2010) (symposium on Originalism and the Jury)

[*Foreword: Originalism and the Jury*](#), 71 OHIO ST. L.J. 883 (2010) (symposium co-organized with Sixth Circuit Judge Jeffrey Sutton)

[*The New Summary Judgment Motion: The Motion to Dismiss Under Iqbal and Twombly*](#), 14 LEWIS & CLARK L. REV. 15 (2010) (symposium on *Iqbal*)

[*Frivolous Cases*](#), 59 DEPAUL L. REV. 633 (2010) (symposium featuring "rising stars" looking at civil justice)

[*The Fallacy of Dispositive Procedure*](#), 50 B.C. L. REV. 759 (2009)

[*Why the Motion to Dismiss Is Now Unconstitutional*](#), 92 MINN. L. REV. 1851 (2008)

[*Why Summary Judgment Is Unconstitutional*](#), 93 VA. L. REV. 139 (2007)

Response by Edward Brunet, *Why Summary Judgment Is Constitutional*, 93 IOWA L. REV. 1625 (2008)

Response by William E. Nelson, *Summary Judgment and the Progressive Constitution*, 93 IOWA L. REV. 1653 (2008)

Response by Brian T. Fitzpatrick, *Originalism and Summary Judgment*, 71 OHIO ST. L. J. 919 (2010)

Response by Luke Meier, *Probability, Confidence, and the Constitutionality of Summary Judgment*, 42 HASTINGS CONST. L.Q. 1 (2014)

[*Why Summary Judgment Is Still Unconstitutional: A Reply to Professors Brunet and Nelson*](#), 93 IOWA L. REV. 1667 (2008) (presentation on panel at *Iowa Law Review* symposium addressing *Why Summary Judgment Is Unconstitutional*)

[*The Unconstitutionality of Summary Judgment: A Status Report*](#), 93 IOWA L. REV. 1613 (2008) (introduction of panel at *Iowa Law Review* symposium addressing *Why Summary Judgment Is Unconstitutional*)

[*Judicial Modesty and the Jury*](#), 76 U. COLO. L. REV. 767 (2005)

[*The Seventh Amendment, Modern Procedure and the English Common Law*](#), 82 WASH. U. L.Q. 687 (2004)

[*Re-examining the Constitutionality of Remittitur Under the Seventh Amendment*](#), 64 OHIO ST. L.J. 731 (2003)

Note, *Efforts to Integrate Housing: The Legality of Mortgage-Incentive Programs*, 66 N.Y.U. L. REV. 940 (1991) (winner of Hershman and Miller Awards and co-winner of Henkin Award at N.Y.U. Law School)

LECTURES

The Jury: The Fourth Branch of Government, Keynote Speech for American Board of Trial Advocates Teachers' Law School, Missoula, Montana, August 2018

The Jury: The Fourth Branch of Government, Keynote Speech for American Board of Trial Advocates Teachers' Law School, Kalispell, Montana, August 2017

The Missing American Jury, Keynote Lunch Speech for American Board of Trial Advocates Teachers' Law School, Great Falls and Billings, Montana, August 2016

Why Summary Judgment Is Unconstitutional, Keynote Lunch Speech for American Board of Trial Advocates National Jury Summit, San Francisco Ritz Carlton, April 2015

The Civil Jury: The Disregarded Constitutional Actor, Lecture for Constitution Law Day, University of Illinois, September 2013

[*Before and After the Summary Judgment Trilogy*](#), Keynote Speech for 25th Anniversary of the Summary Judgment Trilogy: Reflections on Summary Judgment, Seattle University School of Law, 43 LOY. U. CHI. L.J. 499 (2012) (colloquium)

[*The Civil Jury: The Disregarded Constitutional Actor*](#), Harold C. Schott Scholarship Award Lecture, University of Cincinnati College of Law, November 2007

JUDICATURE

[*Summary Judgment and the Reasonable Jury Standard: A Proxy for a Judge's Own View of the Sufficiency of the Evidence?*](#) (March/April 2014)

LITIGATION

[*What Happened to the American Jury? Proposals for Revamping Plea Bargaining and Summary Judgment*](#), 43 LITIGATION 29 (2017)

CRIME REPORT

[*What Happened to the American Jury Trial*](#), November 28, 2017

INTERNATIONAL JUDICIAL MONITOR

[*The Myth of the American Jury*](#), Summer 2016

NATIONAL CONSTITUTION CENTER'S INTERACTIVE CONSTITUTION ON WEB

[*The Seventh Amendment*](#) (Joint Statement with Renée Lettow Lerner) (2015) (Thomas and Lettow Lerner respectively chosen by American Constitution Society and the Federalist Society)

[*The Fall of the Civil Jury*](#) (2015)

JOTWELL

[*The Wild, Wild West for Low Wage Workers with Wage and Hour Claims*](#), April 2020, Jotwell, Review of Llezlie L. Green, *Wage Theft in Lawless Courts*, 107 CAL. L. REV. 1303 (2019)

[Plea Bargaining with Juveniles](#), April 2019, Jotwell, Review of Erika N. Fountain & Jennifer L. Woolard, *How Defense Attorneys Consult with Juvenile Clients About Plea Bargaining*, 24 PSYCH. PUB. POL'Y & L.192 (2017)

[Take Down the List](#), April 2018, Jotwell, Review of Miguel de Figueiredo, Alexandra D. Lahav & Peter Siegelman, *Against Judicial Accountability: Evidence From the Six Month List* (SSRN)

[What Judges Can Do About Implicit Bias](#), May 2017, Jotwell, Review of Andrew J. Wistrich & Jeffrey J. Rachlinski, *Implicit Bias in Judicial Decision Making: How It Affects Judgment and What Judges Can Do About It*, in ENSURING JUSTICE: REDUCING BIAS (Sarah Redfield, ed.) (ABA forthcoming 2017)

[Redefining Efficiency in Civil Procedure](#), March 2016, Review of Brooke D. Coleman, *The Efficiency Norm*, 56 B.C. L. REV. 1777 (2015)

[Considering the Civil Jury](#), January 2013, Review of Jason M. Solomon, *The Political Puzzle of the Civil Jury*, 61 EMORY L.J. 1331 (2012)

[Juries and Emerging Democracies](#), September 2011, Review of Brent T. White, *Putting Aside the Rule of Law Myth: Corruption and the Case for Juries in Emerging Democracies*, 43 CORNELL INT'L L.J. 307 (2010)

SELECTED COURT CITATIONS

Oriente v. Jennings, 218 A.3d 806 (N.J. 2019) (New Jersey Supreme Court citing *Re-Examining the Constitutionality of Remittitur Under the Seventh Amendment* multiple times)

Hedlund v. State, 930 N.W.2d 707 (2019) (Iowa Supreme Court concurring opinion citing *Unequal* and *Summary Judgment and the Reasonable Jury Standard*)

Cowan v. Brown, 2018 WL 3752330 (S.D. Cal.) (citing *The Seventh Amendment*, *Modern Procedure*, and *the English Common Law*)

Burgos-Diaz v. Hospital Hima San Pablo-Bayamon, 2017 WL 5900540 (D. Puerto Rico) (citing *Unequal*)

Haskenhoff v. Homeland Energy Solutions, LLC, 897 N.W.2d 553 (2017) (Iowa Supreme Court citing *Fakers and Floodgates*)

Horton v. Oregon Health and Science Univ., 376 P.3d 998 (2016) (Oregon Supreme Court citing *A Limitation on Congress: "In Suits at common law"*)

Adams v. Chicago, 798 F.3d 539 (7th Cir. 2015) (Chief Judge Wood discussing *Re-examining the Constitutionality of Remittitur Under the Seventh Amendment*)

Vidovic v. Hoynes, 29 N.E.3d 338 (Ohio Ct. of Appeals 2015) (citing *Why Summary Is Unconstitutional*)

Gonzalez-Oyarzun v. Caribbean City Builders, Inc., 27 F. Supp.3d 265 (D. Puerto Rico 2014) (discussing and following *Nonincorporation: The Bill of Rights After McDonald v. Chicago* and incorporating Seventh Amendment against the states)

Badahman v. Catering St. Louis, 395 S.W.3d 29 (Mo. 2013) (Missouri Supreme Court citing *The Seventh Amendment, Modern Procedure, and the English Common Law*)

HDC, LLC v. City of Ann Arbor, 675 F.3d 608, 614 (6th Cir. 2012) (citing *The New Summary Judgment Motion*)

United States v. Massachusetts, 781 F. Supp.2d 1, 4 n.4, 5 n.10, 10 n.18 (D. Mass. 2011) (Judge Young citing *A Limitation on Congress: "In Suits at common law," Why Summary Judgment Is Unconstitutional, Oddball Iqbal and Twombly and Employment Discrimination and The Fallacy of Dispositive Procedure*)

Swanson v. Citibank, N.A., 614 F.3d 400, 410 (7th Cir. 2010) (Judge Posner in dissent citing *The New Summary Judgment Motion*)

Terranova v. Torres, 603 F. Supp.2d 630, 631 n.3 (S.D.N.Y. 2009) (Judge Young, sitting by designation, citing *Why Summary Judgment Is Unconstitutional* after stating “drawing of reasonable inferences and the evaluation of the reasonableness of the Officers' conduct are matters constitutionally for the jury. Evaluating such matters at the summary judgment stage has led at least one prominent critic to question the constitutionality of summary judgment.”)

In re the Termination of Parental Rights to Lyle D.E., Jr, 749 N.W.2d 168, 185 n.3 (Wisc. 2008) (Wisconsin Supreme Court citing *Why Summary Judgment Is Unconstitutional*)

Cook v. McPherson, 273 Fed. Appx. 421, 425 (6th Cir. 2008) (Sixth Circuit citing *Why Summary Judgment Is Unconstitutional* and calling the historical analysis “interesting”)

In re Zyprexa Products Liability Litigation, 489 F. Supp.2d 230, 263 (E.D.N.Y. 2007) (Judge Weinstein citing *Why Summary Judgment Is Unconstitutional* for proposition that “[t]he increasing use of bench trials, *Daubert* hearings, summary judgments, and directed verdicts-as authorized by rules of practice and appellate courts-to limit jury fact finding and set aside verdicts poses a threat to the continued viability of the Seventh Amendment jury trial.”)

State v. Blackwell, 638 S.E.2d 452, 456 (N.C. 2006) (North Carolina Supreme Court citing *The Seventh Amendment, Modern Procedure, and the English Common Law*)

University of Miami v. Wilson, 948 So.2d 774, 791 (Fla. App. 3d Dist. 2006) (citing *Judicial Modesty and the Jury* regarding the “proper role of judges”)

McKissack v. Wal-Mart Stores, Inc., 2004 WL 212930, at *5 n.35 (W.D. Tex. Jan. 26, 2004) (Judge Furgeson citing *Re-examining the Constitutionality of Remittitur Under the Seventh Amendment* and stating "Professor Thomas[']s] . . . caution [regarding the effective elimination of the jury trial right through remittitur] merits evaluation by the federal courts")

CITATIONS IN SENATE AND HOUSE TESTIMONY AND SENATE REPORT

[“...So I Tolerated It”: How Workplaces Are Responding to Harassment and the Clear Need for Federal Action](#), United States Senate Committee on Health, Education, Labor, and Pensions (quoting my co-author and I arguing for eliminating severe or pervasive standard established by courts)

Statement of Arthur R. Miller, Before Subcommittee on the Constitution, Civil Rights and Civil Liberties of the Committee on the Judiciary, United States House of Representatives (citing *The Fallacy of Dispositive Procedure*)

Statement of Stephen B. Burbank, Before the Committee on the Judiciary, United States Senate (citing *Why the Motion to Dismiss Is Now Unconstitutional*)

SELECTED PRESS (more at <http://sujathomas.com/media/>)

Maeve Allsup, [Nike Joins Ranks of Retailers Sued Over ‘Shopping While Black’](#), Bloomberg Law, July 21, 2020

Elizabeth Warren, [Trump’s Capture of Our Courts Is a Top Priority](#), Teen Vogue, March 2, 2020

Editorial Board, [Grand Jury Reports Have Proven to be a Tool for Justice in Pennsylvania—ask the Catholic Church](#), Philadelphia Inquirer, November 27, 2019

[Juries for Juveniles](#), Legal Issues in the News, WILL, Illinois Public Media, November 18, 2019

Lauren Kostiuk, [Christensen Could Be Tried Again Due to Separate Civil Case](#), FOX Illinois, June 12, 2019

Ashley Mizuo, *House Bill to Eliminate Special Interrogatories Clears Committee*, *Chicago Daily Law Bulletin*, March 28, 2019

[Good Intentions Don’t Justify Denying Juveniles’ Right to Trial](#), Law360, March 10, 2019.

[Keegan Hamilton, El Chapo’s Lawyers Say They’ll Ask for a New Trial Due to Juror Misconduct: Here’s What Could Happen Next](#), HBO Vice News, Feb. 22, 2019

Keegan Hamilton, [Can El Chapo Get a Fair Trial](#), VICE NEWS, February 14, 2018

[Unequal: How America's Courts Undermine Discrimination Law w/Suja Thomas](#), The Majority Report with Sam Seder, January 23, 2018

Stephanie Russell-Kraft, [How to End the Silence Around Sexual-Harassment Settlements](#), THE NATION, January 12, 2018

[Are the Courts Ill-Equipped to Handle Sexual Harassment Cases?](#), Houston Matters, Houston Public Media, January 9, 2018 (discussing *Unequal* book)

[The Conversation: Seven Women Discuss Work, Fairness, Sex and Ambition](#), NEW YORK TIMES, December 12, 2017 (discussing *Unequal* book)

[How the Legal System Fails Victims of Harassment](#), VOX, December 11, 2017 (discussing *Unequal* book)

[What The Courts Call Harassment](#), KERA Think Public Radio Show, Dallas, Texas, December 6, 2017 (discussing *Unequal* book)

Sandra F. Sperino & Suja A. Thomas, [Boss Grab Your Breasts? That's Not \(Legally\) Harassment](#), NEW YORK TIMES, November 29, 2017 (opinion piece discussing courts' treatment of sexual harassment cases)

[Illinois Public Media 21st Show Interview about Sexual Harassment and the Courts](#), November 9, 2017

Suja A. Thomas & David Lopez, [Why Judges Routinely Dismiss Sexual Harassment Cases](#), SAN FRANCISCO CHRONICLE, October 23, 2017

[Illinois Public Media 21st Show Interview about Racial Bias in Juries](#), July 12, 2017 (at approximately 39 minutes onward)

[Juries, The Other Fourth Branch](#), Bob Zadek Show, May 14, 2017

Randy Barnett, [Five Recent Books on the Constitution](#), The Volokh Conspiracy, THE WASHINGTON POST, April 5, 2017

[Seattle NBC Interview about The Missing American Jury](#), March 20, 2017

[Maine Public Radio Interview about The Missing American Jury](#), September 19, 2016

[Illinois Public Media WILL Radio Interview about The Missing American Jury](#), September 28, 2016

Zoe Tillman, [Civil Rules Guidelines Questioned](#), THE NATIONAL LAW JOURNAL, January 4, 2016 (describing my criticisms of private guidelines that interpret the new proportionality rule)

Suja A. Thomas & Mark Cuban, [A Jury, Not the S.E.C.](#), NEW YORK TIMES, October 16, 2015 (opinion piece arguing that juries, not the S.E.C., should not decide cases against people accused of securities violations)

Eugene Volokh, [Does the Seventh Amendment civil jury trial right apply to the states \(and to Puerto Rico\)?](#), The Volokh Conspiracy, THE WASHINGTON POST, August 12, 2014 (quoting my analysis of a federal court case that cites and follows *Nonincorporation: The Bill of Rights After McDonald v. Chicago*)

Sarah E. Needleman, [Will Health Law Create Employee-Rights Clash?](#), WALL STREET JOURNAL, August 4, 2013 (discussing *Employer Costs and Conflicts Under the Affordable Care Act*); see also Sarah E. Needleman, [Health Law Costs Point to Clash Over Employee Rights](#), WALL STREET JOURNAL LAW BLOG, August 2, 2013 (same)

Ashby Jones, [A Law Professor With More Than Exams on Her Mind](#), WALL STREET JOURNAL LAW BLOG, December 14, 2009 (mentioning Seventh Amendment articles)

Jerry Crimmins, *Prof. Decries Summary Judgments*, CHICAGO DAILY LAW BULLETIN, May 22, 2009 (discussing *The Fallacy of Dispositive Procedure* and *Why Summary Judgment Is Unconstitutional*)

Adam Liptak, [Cases Keep Flowing In, But the Jury Pool is Idle](#), NEW YORK TIMES, April 30, 2007 (discussing *Why Summary Judgment Is Unconstitutional* and referring to argument as “perfectly plausible”)

Suja A. Thomas, *Summary Judgment: We Can Live Without It*, NATIONAL LAW JOURNAL, April 10, 2006

Suja A. Thomas, [Studies of Drug Ratio Are Still Lacking](#), NEW YORK TIMES, July 4, 2004

REVIEWS OF THE MISSING AMERICAN JURY

Richard Lorren Jolly, [Expanding the Search for America’s Missing Jury](#), 116 MICH. L. REV. 925 (2018)

Anna Roberts, [Book Review: The Missing American Jury](#), 133 POL. SCI. Q. 179 (2018)

Judge Mark Bennett, [Going, Going, Gone: The Missing American Jury](#), 69 ALA. L. REV. 247 (2017)

Juwon W. Adebayo, [Restoring the Power of the Jury](#), Trial Magazine, American Association for Justice, May 2017

Judge William Young, [The Missing American Jury](#), Law360, November 23, 2016

Kenneth Jost, [The Missing American Jury](#), Washington Independent Review of Books, August 11, 2016

Timothy P. O'Neill, [Jury System: Constitution's Invisible Fourth Branch of Government](#), CHICAGO DAILY LAW BULLETIN, September 1, 2016

Stephen I. Vladeck, [Bringing in the Jury](#), Jotwell, October 24, 2016

Library Journal, [The Missing American Jury](#), June 1, 2016

REVIEWS OF UNEQUAL

Theresa M. Beiner, [When Courts Run Amuck: A Book Review of Unequal: How America's Courts Undermine Discrimination Law](#), 5 Tex. A&M L. Rev. 391 (Winter 2018)

Judge John McConnell, [Judging a Book: McConnell Reviews 'Unequal'](#), Law360, October 31, 2017

Charlotte Fishman, [How Courts Undermine Discrimination Law](#), SAN FRANCISCO DAILY JOURNAL, September 15, 2017

Katie Eyer, [Unequal: How America's Courts Undermine Discrimination Law](#), American Constitution Society Blog, August 25, 2017

VIDEO

[TED-Ed What Happened to Trial by Jury?](#)

[The Seventh Amendment](#), Video produced and distributed by the Khan Academy

PODCASTS ON UNEQUAL

[New Books in Law Network](#), November 6, 2017

PODCASTS ON THE MISSING AMERICAN JURY

[National Association of Criminal Defense Lawyers Podcast](#), November 21, 2016

[New Books in Law Network](#), October 31, 2016

[CATO Institute Daily Podcast](#), August 29, 2016

LEGISLATIVE TESTIMONY

Written Statement of Professor Suja A. Thomas, *Has the Supreme Court Limited Americans' Access to Courts*, Hearing of the United States Senate Committee on the Judiciary, December 2, 2009 (statement solicited by General Counsel, Senator Arlen Specter, Committee on the Judiciary)

LEGISLATIVE REPORT

"So I Tolerated It": How Workplaces Are Responding to Harassment and the Clear Need for Federal Action, United States Senate Committee on Health, Education, Labor, and Pensions, Minority Staff Report, December 2018 (quoting Suja Thomas and Sandra Sperino regarding the courts' use of the severe or pervasive standard to dismiss cases with significant evidence of harassment).

PRESENTATIONS

95% Plead Guilty: Is Plea Bargaining Constitutional?, Southern Illinois University School of Law, Federalist Society Student Chapter, March 3, 2020

"Cases Against Police: Should Juries or Judges Decide?", Washington University School of Law, Federalist Society Student Chapter, March 2, 2020

Why (Jury-Less) Juvenile Courts Are Unconstitutional, University of Chicago Law School, December 10, 2020

Public Awareness of the Disappearance of the Jury Trial through a Documentary, Bold Ideas for the Civil Justice System: A Convening to Advance a Proactive Agenda on Access to Justice for All, American Constitution Society and Public Citizen, Nov. 1, 2019

The Missing American Jury, Panel on A Civil for the 21st Century, Wesleyan University, April 18, 2019

"Cases Against Police: Should Juries or Judges Decide?", Southern Illinois University School of Law, April 15, 2019

[*Unconstitutional Plea Bargaining*](#), New York University Law Center on the Administration of Criminal Law, Eleventh Annual Conference, April 8, 2019

Why (Jury-Less) Juvenile Courts Are Unconstitutional, University of Richmond School of Law, February 1, 2019

95% Plead Guilty: Is Plea Bargaining Constitutional?, Case Western Reserve School of Law, Federalist Society Student Chapter, November 6, 2018

The Missing American Jury, Cleveland-Marshall College of Law, Criminal Justice Forum, November 5, 2018

Unequal: How America's Courts Undermine Discrimination Law, Cross Cultural Understanding Re-understanding of Title VII and Title IX, University of Illinois, November 2, 2018

Are Plea Bargaining and Summary Judgment Constitutional?, University of Dayton Law School, Federalist Society Student Chapter, October 23, 2018

Are Plea Bargaining and Summary Judgment Constitutional?, University of Cincinnati College of Law, Federalist Society Student Chapter, October 22, 2018

#MeToo and Academia, University of Illinois College of Law, October 17, 2018

Go Directly to Jail: The Elimination of the Criminal Jury Trial, University of Illinois College of Law, Federalist Society Student Chapter, September 24, 2018

95% Plead Guilty: Is Plea Bargaining Constitutional?, University of North Carolina School of Law, Federalist Society Student Chapter, Sept. 19, 2018

Is Summary Judgment Constitutional?, Duke Law School, Federalist Society Student Chapter, September 18, 2018

The Jury: The Fourth Branch of Government, Teachers' Law School, Missoula, MT, August 8, 2018

Plea Bargaining: Good Policy or Good Riddance?, CATO Institute, July 19, 2018

The Missing American Jury, League of Women Voters, Champaign, Illinois, May 16, 2018

The Missing American Jury, Pepperdine Law School, Federalist Society Student Chapter, Malibu, California, April 23, 2018

Unequal, Program in Law, Behavior and Social Science, University of Illinois College of Law, Champaign, Illinois, April 19, 2018

Why Legal Scholarship, Advisory Board, University of Illinois College of Law, Chicago, Illinois, April 13, 2018

Key Actors in Breaking Barriers to Justice, American Constitution Society Annual Student Convention, Chicago, Illinois, March 10, 2018

Unequal, Arizona Chapter of National Employment Lawyers' Association, Phoenix, Arizona, February 23, 2018

The Missing American Jury, John Marshall Law School, Chicago, Illinois, February 20, 2018

Cases Against Police: Should Juries or Judges Decide?, Loyola University Chicago School of Law, Federalist Society Student Chapter, Chicago, Illinois, February 19, 2018

Cases Against Police: Should Juries or Judges Decide?, Law Enforcement Panel, University of Chicago Law School, Midwest Regional Symposium, Federalist Society, February 17, 2018

[Why Legal Scholarship](#), Investiture of Suja A. Thomas as Peer and Sarah Pedersen Professor of Law, University of Illinois College of Law, Champaign, Illinois, February 13, 2018

[The Missing American Jury](#), Professor Randy Barnett's Class, Georgetown University Law Center, Washington, D.C., November 21, 2017

Debate on the Jury, Georgetown Law School, Federalist Society Student Chapter, Washington, D.C., November 20, 2017

The Missing American Jury, University of Michigan Law School, Federalist Society Student Chapter, co-sponsored by ACLU Student Chapter, Ann Arbor, Michigan, November 7, 2017

The Summary Judgment Problem: The Consensus Requirement, Fordham University School of Law, New York, New York, October 27, 2017

Are Plea Bargaining, Trial by Judge and Acquittal by Judge Constitutional?, Columbia University Law School, Federalist Society Student Chapter, New York, New York, October 26, 2017

[The Defendant in Court](#), CATO Institute's Third Annual Criminal Justice Conference, Washington, D.C., October 18, 2017

Debate on the Jury, George Mason Law School, Federalist Society Student Chapter, Washington, D.C., October 16, 2017

Panel on Unequal, Florida Chapter of National Employment Lawyers' Association, Clearwater Beach, Florida, September 2, 2017

Unequal, Florida Chapter of National Employment Lawyers' Association, Clearwater Beach, Florida, September 1, 2017

The Jury: The Fourth Branch of Government, Teachers' Law School, Billings, Montana and Great Falls, Montana, August 9, 2017

The Missing American Jury, Law and Society Meeting, Mexico City, Mexico, June 23, 2017

The Missing American Jury, Advanced Judicial Academy, Springfield, Illinois, June 8, 2017

What Happened to Trial by Jury: Examining the Past, Present and the Future, University of Illinois Political Science Department, Champaign, Illinois, April 10, 2017

The Missing American Jury, Panel Discussion of The Decline of the Jury in the U.S. and the Rise of Lay Participation in Other Countries, Midwest Political Science Association Annual Conference, Chicago, Illinois, April 8, 2017

The Missing American Jury, 2017 District Conference, United States District of Rhode Island, Providence, Rhode Island, March 23, 2017

[*The Missing American Jury*](#), Seattle Town Hall, Seattle, Washington, March 20, 2017

The Missing American Jury, Seattle University School of Law, Access to Justice Institute, American Constitution Society Student Chapter, and Seattle University School of Law faculty, Seattle, Washington, March 20, 2017

Debate on the Jury, George Washington University Law School, Federalist Society Student Chapter and American Constitution Society, Washington, D.C., February 27, 2017

The Missing American Jury, The Lawyers Club of Chicago and the Federal Bar Association, Chicago, Illinois, January 24, 2017

Debate on the Jury, Featured Luncheon Event, Federalist Society Annual Faculty Conference, San Francisco, California, January 5, 2017

The Missing American Jury, UCLA School of Law, American Constitution Society Student Chapter, Los Angeles, California, November 14, 2016

[*The Missing American Jury, Forum*](#), New York University School of Law, The Civil Jury Project, New York, New York, November 2, 2016

The Missing American Jury, University of Houston Law Center, American Constitution Society Student Chapter, Houston, Texas, October 25, 2016

The Missing American Jury, Perkins Coie, Chicago, Illinois, October 18, 2016

[*The Missing American Jury*](#), South Asian Bar Association of Chicago, Chicago, Illinois, October 17, 2016

[*The Missing American Jury*](#), Group of Judges from Taiwan, John Marshall Law School, Chicago, Illinois, October 4, 2016

The Missing American Jury, American Constitution Society Chicago Lawyers Chapter, Chicago, Illinois, October 4, 2016

[*The Missing American Jury*](#), Champaign Public Library, Champaign, Illinois, September 28, 2016

The Missing American Jury, University of Illinois College of Law, Champaign, Illinois, September 26, 2016

The Missing American Jury, Columbia University School of Law, American Constitution Society Student Chapter, New York, New York, September 22, 2016

[*The Missing American Jury*](#), Portland Public Library, Portland, Maine, September 21, 2016

The Missing American Jury, University of Maine School of Law, American Constitution Society Student Chapter, Portland, Maine, September 20, 2016

The Missing American Jury, Legal History Committee, Bar Association of the City of New York, New York, New York, September 19, 2016

The Missing American Jury, Fordham University Law School, American Constitution Society Student Chapter, New York, New York, September 19, 2016

[*The Missing American Jury*](#), CATO Institute, Washington, D.C., August 29, 2016

The Missing American Jury, Teachers' Law School, Billings, Montana and Great Falls, Montana, August 1 and 2, 2016

[*The Fall of Class Actions and Rise of Forced Arbitration?*](#), American Constitution Society Convention, Washington, D.C., June 2016

The Future of Summary Judgment, Cleveland Employment American Inn of Court, Cleveland, Ohio, May 2016

The Missing American Jury, UNLV – William S. Boyd School of Law, Las Vegas, Nevada, March 2016

The Jury in the United States, Lecture to participants from Brazilian National School of Magistrates, University of Illinois, Champaign, Illinois, March 2016

The Missing American Jury, University of Cincinnati College of Law, February 2016

Needed Change to the Current Rule (and Duke Guideline) Process, NAACP Legal Defense and Education Fund, Inc. Civil Rights Training Institute, Warrenton, Virginia, October 2015

The Reasonable Jury Standard, Cleveland Employment Lawyers' Association, October 2015

[*The Upsides of Civil Juries – Podcast*](#), The Federalist Society, September 2015

Why the Civil Jury Is Still Important: Juries Can Decide Cases Differently than Judges, American Board of Trial Advocates National Jury Summit, San Francisco Ritz Carlton, April 2015

Relational Originalism, Willamette Law School, Salem, Oregon, January 2015

Relational Originalism, Fifth Annual Constitutional Law Colloquium, Loyola University Chicago School of Law, October 2014

The Reasonable Jury Standard, Annual Meeting of the California Employment Lawyers' Association, San Diego, California, October 2014

The Reasonable Jury Standard, NAACP Legal Defense and Education Fund, Inc. Civil Rights Training Institute, Warrenton, Virginia, October 2014

How Atypical Cases Make Bad Rules, Through a Glass Starkly: Civil Procedure Reassessed-Celebrating the Scholarship of Steve Subrin, Northeastern University School of Law Symposium, April 2014

Testimony before Civil Rules Advisory Committee, Dallas, Texas, February 2014

Fakers and Floodgates, Symposium on the 50th Anniversary of the Civil Rights Act of 1964, Stanford Law School, January 2014

How Atypical, Hard Cases Make Bad Law, Brooklyn Law School, November 2013

Panelist, Form Over Substance? The Impact of Recent Civil Procedure Cases and Proposed Federal Rules Changes on Civil Rights Practice, NAACP Legal Defense and Education Fund, Inc. Civil Rights Training Institute, Warrenton, Virginia, October 2013

Panelist, [*75th Anniversary of the Federal Rules of Civil Procedure*](#), University of Cincinnati College of Law, August 2013

The Other Branch, Symposium on The Civil Jury as a Political Institution, William and Mary Law Review, February 2013

Oddball Cases, The Future of Frameworks, AALS Annual Meeting, New Orleans, January 2013

The Other Branch, Law & Society Annual Meeting, Hawaii, June 2012

The New Summary Judgment Motion, Trial by Jury or Trial by Motion? Summary Judgment, *Iqbal*, and Employment Discrimination, New York Law School Symposium, April 2012

Nonincorporation, William and Mary Law School, March 2012

Oddball Cases, Class Action Rollback? Wal-Mart v. Dukes and the Future of Class Action Litigation: The 22nd Annual DePaul Law Review Symposium, February 2012

The Other Branch, Doctrinal Impediments to Access, Toward the Constitutional Right of Access to Justice: Implications and Implementation, Byron R. White Center for the Study of American Constitutional Law, University of Colorado Law School, November 2011

Nonincorporation, Second Annual Constitutional Law Colloquium, Loyola University Chicago School of Law, October 2011

Oddball Iqbal and Twombly and Employment Discrimination, Southeastern Association of Law Schools, July 2011

The Other Branch, Tulane University Law School, April 2011

The New Summary Judgment Motion: The Convergence of the Standards, The Constitutional Issues and the Oddball Problem, Judicial Symposium on Civil Justice Issues, Northwestern University School of Law, March 2011

Debate with Professor Richard Epstein on Epstein's book On Forbidden Grounds: The Case Against Employment Discrimination Laws, Federalist Society, University of Illinois College of Law, September 2010

The Case for the Employment Discrimination Laws: A 21st Century Response to Professor Epstein's Forbidden Grounds, The Labor and Employment Law Colloquium, St. Louis University School of Law, September 2010

Oddball Iqbal and Twombly and Employment Discrimination, Third National People of Color Conference, Seton Hall University School of Law, September 2010

The New Summary Judgment Motion: The Convergence of the Standards and the Constitutional Issues, Seventh Circuit Judicial Conference, May 2010

The Impact of Iqbal and Twombly on Employment Discrimination, American Bar Association Teleconference “*Iqbal and Beyond: What is ‘Plausible’ in Labor and Employment Law Cases?*,” April 2010

The Impact of Iqbal and Twombly on Employment Discrimination, American Constitution Society and Labor and Employment Law Society, Marquette University Law School, February 2010

The New Summary Judgment Motion: The Motion to Dismiss Under Iqbal and Twombly, AALS Section on Litigation/Section on Civil Procedure Program: The Future of Summary Judgment, AALS Annual Meeting, January 2010

Why the Motion to Dismiss Is Now Unconstitutional, Civil Pleading Standards After *Iqbal*, The Federalist Society 12th Annual Faculty Conference, January 2010

Why Summary Judgment Is Unconstitutional, National Employment Lawyers’ Association in New Orleans, January 2010

“*In Suits at common law*,” Symposium on Originalism and the Jury, Co-sponsored by The Ohio State University Moritz College of Law and University of Illinois College of Law, November 2009

Perspectives on the Seventh Amendment, Board of Visitors Meeting, University of Illinois College of Law, October 2009

The New Summary Judgment Motion: The Motion to Dismiss Under Iqbal and Twombly, 4th Annual Colloquium: Current Scholarship in Labor & Employment Law, Seton Hall University School of Law, September 2009

Frivolous Cases, Faculty Retreat, University of Illinois College of Law, May 2009

Frivolous Cases, Rising Stars: A New Generation of Scholars Looks at Civil Justice, 15th Annual Clifford Symposium on Tort Law and Social Policy, DePaul University College of Law, April 2009

Does Summary Judgment Violate the Original Meaning of the Constitution, Center for the Study of Constitutional Originalism, University of San Diego School of Law, March 2009

Why Summary Judgment Is Unconstitutional, California Employment Lawyers’ Association, Los Angeles, California, January 2009

Why Summary Judgment Is Unconstitutional, Retreat of Judges of the United States District Court for the Eastern District of Pennsylvania, Gettysburg, Pennsylvania, November 2008

Why Summary Judgment Is Still Unconstitutional: A Reply to Professors Brunet and Nelson, Cardozo School of Law, April 2008

Why Summary Judgment Is Still Unconstitutional: A Reply to Professors Brunet and Nelson and the Unconstitutionality of Summary Judgment: A Status Report, Symposium on Procedural Justice, University of Iowa College of Law Review, February 2008

Why the Motion to Dismiss Is Now Unconstitutional, University of Illinois College of Law, February 2008

Why the Motion to Dismiss Is Now Unconstitutional, Vanderbilt University Law School, February 2008

Implementing Scholarship, AALS Open Source Program, AALS Annual Meeting, January 2008

Why the Motion to Dismiss Is Now Unconstitutional, Northwestern University School of Law, October 2007

Why Summary Judgment Is Unconstitutional, Cleveland Employment Lawyers' Association, Cleveland, Ohio, October 2007

Why the Motion to Dismiss Is Now Unconstitutional, Florida State University College of Law, September 2007

Why Summary Judgment Is Unconstitutional, California Employment Lawyers' Association, San Francisco, California, August 2007

Why the Motion to Dismiss Could Be Unconstitutional, University of Cincinnati College of Law Faculty Scholarship Workshop, May 2007

The PSLRA's Seventh Amendment Problem, The Ohio State University College of Law, April 2007

Why Summary Judgment Is Unconstitutional, Massachusetts Employment Lawyers' Association, Boston, Massachusetts, March 2007

Why Summary Judgment Is Unconstitutional, Seventh Circuit National Employment Lawyers' Association Conference, Chicago, Illinois, March 2007

Why Summary Judgment Is Unconstitutional, University of Minnesota Law School, February 2007

Why Summary Judgment Is Unconstitutional, Minnesota Employment Lawyers' Association, Minneapolis, Minnesota, February 2007

Why Summary Judgment Is Unconstitutional, Metropolitan Washington Employment Lawyers' Association, Washington, D.C., January 2007

Why Summary Judgment Is Unconstitutional, New York Law School, November 2006

Why Summary Judgment Is Unconstitutional, Labor & Employment Law Symposium, Cincinnati, Ohio, October 2006

Recasting Originalism, William Mitchell College of Law, October 2006

Why Summary Judgment and Remittitur are Unconstitutional, Cincinnati Employment Lawyers' Association, September 2006

Recasting Originalism, University of Cincinnati College of Law Faculty Scholarship Workshop, June 2006

Federal Tort Reform and the Seventh Amendment, AALS Section on Civil Procedure Program: The Civil Jury in the Shadow of Tort Reform, AALS Annual Meeting, January 2006

The Great Published/Unpublished Debate, Sixth Circuit Practice Institute, October 2005

Is Summary Judgment Unconstitutional?, University of Kansas School of Law, September 2005

Is Summary Judgment Unconstitutional?, University of Cincinnati College of Law Faculty Scholarship Workshop, May 2005

The Judiciary, Separation of Powers and Judicial Review, University of Cincinnati College of Law Faculty Scholarship Workshop, May 2004

The Construction of the Seventh Amendment, Boston College Law School, April 2004

Re-examining the Constitutionality of Summary Judgment Under the Seventh Amendment, University of Florida College of Law, April 2003

Re-examining Remittitur, Chicago-Kent School of Law, April 2002

The Reduction of Jury Verdicts, University of Cincinnati College of Law Faculty Scholarship Workshop, July 2001

Teachlaw website, AALS Annual Meeting, January 2001

OTHER LEGAL EXPERIENCE

Private Practice, New York, New York

Attorney, June 1999 to May 2000

Represented employees and athletes, including an athlete in an international arbitration. See James C. McKinley Jr., *A Track Star's Burden; Proving Innocence Puts Focus on Drug-Test Rulings*, N.Y. TIMES, Aug. 31, 1999, at D1 (article regarding the international arbitration)

Adjunct Professor, Fordham University School of Law, January 1999-December 1999

Weil, Gotshal & Manges, LLP., New York, New York

Associate, September 1997 to June 1999

Litigated a variety of cases, including on behalf of the Major League Soccer Players Association, National Football League Players Association and individual athletes

Vladeck, Waldman, Elias & Engelhard, P.C., New York, New York

Associate, August 1994 to August 1997

Represented employees in all areas of employment law, including discrimination

Cravath, Swaine & Moore, New York, New York

Associate, November 1992 to August 1994

Represented major corporations in litigation involving antitrust, contract, patent and securities matters. Drafted Supreme Court briefs in *Landgraf v. USI Film Prods.*, 511 U.S. 244 (1994) (argued retroactivity of 1991 Civil Rights Act)

U.S. District Court for the Northern District of Illinois, Chicago, Illinois

Law Clerk for the Honorable John F. Grady, September 1991 to August 1992

Federal Defender Services Unit of the Legal Aid Society for the Southern District of New York, New York, New York

Intern, September 1990 to May 1991

Second-chaired criminal trials

PROFESSIONAL AFFILIATIONS

Bar Admissions: New York
 Illinois
 U.S. District Court, Southern District of New York
 Court of Appeals, Eleventh Circuit

[Pound Civil Justice Institute Academic Fellow](#)

Civil Procedure Advisory Committee of the NAACP Legal Defense Fund