

SCALL Institute Further Readings 2017

A selected list of further readings on the topics of 2017 SCALL Institute
David McFadden & Lisa Junghahn

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[An Amazing Time in the Supreme Court](#)

Erwin Chemerinsky, Dean of the School of Law, University of California, Irvine School of Law, Distinguished Professor of Law, Raymond Pryke Professor of First Amendment Law

Books

Erwin Chemerinsky, [Closing the Courthouse Door](#): How your Constitutional Rights Became Unenforceable (2017)

Erwin Chemerinsky, [The Case Against the Supreme Court](#) (2014)

Eric J. Segall, [Supreme Myths](#): Why the Supreme Court Is Not a Court and Its Justices Are Not Judges (2012)

Articles

Erwin Chemerinsky, [Thinking About the Supreme Court's Successes and Failures](#), 69 VAND. L. REV. 919 (2016)

Jacobus tenBroek, [Use by the United States Supreme Court of Extrinsic Aids in Constitutional Construction](#), 27 CAL. L. REV. 399 (1939).

Op-ed

Erwin Chemerinsky, [So long Roe vs. Wade? President Trump's Most Lasting Legacy Could be Radical Change at the Supreme Court](#), L.A. TIMES, Nov. 9, 2016 (Op-Ed)

Videos

[Supreme Court in Review](#), Panel held at University of California, Irvine, July 20, 2016

[First Amendment Protection to Civil Rights Protest and How Labor Protest Lost](#)

Catherine Fisk, Chancellor's Professor of Law, University of California, Irvine School of Law

Books

Laura Weinrib, [The Taming of Free Speech](#) (2016)

Articles

Catherine Fisk & Jessica Rutter, [Labor Protest Under the New First Amendment](#), 36 BERKELEY J. OF EMP. AND LAB. L. 277 (2015).

Rebecca E. Zietlow & James Gray Pope, [The Toledo Auto-Lite Strike of 1934 and the Fight Against "Wage Slavery,"](#) 38 U. TOL. L. REV. 839 (2007)

James Gray Pope, [How American Workers Lost the Right to Strike, and Other Tales](#), 103 MICH. L. REV. 518 (2004)

Affirmative Action Jurisprudence: Reversing Equal Protection

Kimberly West-Faulcon, Professor of Law, James P. Bradley Chair in Constitutional Law, Loyola Law School

Book

Lee Cokorinos, *The Assault of Diversity: [An Organized Challenged to Racial and Gender Justice](#)* (2003)

Articles

Pamela S. Karlan, [What Can Brown Do for You: Neutral Principles and the Struggle Over the Equal Protection Clause](#), 58 DUKE L. J. 1049 (2009)

Kimberly West-Faulcon, [The River Runs Dry: When Title VI Trumps State Anti-Affirmative Action Laws](#), 157 U. PA. L. REV. 1075 (2009)

Op-Eds

Kimberly West-Faulcon, [Surprisingly, Facts Rule the Day in Fisher II](#), SCOTUSBlog, June 24, 2016

Kimberly West-Faulcon, [Playing the Class Card in Racial Affirmative Action Cases](#), ACS Blog, Dec. 23, 2015

Kimberly West-Faulcon, [Why Abigail Fisher's Case is a Modern Day Trojan Horse](#), GRIO, Dec. 9, 2015.

Podcast

Radiolab Presents: [More Perfect - The Imperfect Plaintiffs](#), June 28, 2016 (Edward Blum, architect of several recent Supreme Court cases, seeking to change the Supreme Court's interpretation of Equal Protection)

Decision & Briefs

[Fisher v. Univ. of Texas at Austin](#), 136 S. Ct. 2198 (2016)

[Brief Amicus Curiae of Kimberly West-Faulcon in Support of Respondents, Fisher v. Univ. of Texas at Austin](#), 136 S. Ct. 2198 (2016) (No. 14-981),

[Brief Amicus Curiae of Kimberly West-Faulcon in Support of Respondents, Fisher v. Univ. of Texas at Austin](#), 133 S. Ct. 2411 (2013) (No. 11-345)

From Petition to Briefs; Taking a Case to the Supreme Court

Brian Hoffstadt, Associate Justice, California, 2nd District Court of Appeal

Books

David C. Frederick, Supreme Court and Appellate Advocacy: Mastering Oral Argument (2d ed. 2010).

Stephen M. Shapiro, et al., Supreme Court Practice: for Practice in the Supreme Court of the United States (10th ed. 2013)

Articles

Talbot D'Alemberte, First Argument in the United States Supreme Court, 5 J. App. Prac. & Process 91 (2003).

David C. Frederick, Essentials of Supreme Court Practice: Demystifying Practice Before the Legal Profession's Most Hallowed and Intimidating Chamber, Del. Law., Fall 2013 at 7.

Robert H. Jackson, Advocacy Before the United States Supreme Court, 37 Cornell L. Q. 1 (1951) reprinted in 5 J. App. Prac. & Process 219 (2003).

Timothy R. Johnson, et al., Advice from the Bench (Memo): Clerk Influence on Supreme Court Oral Arguments, 98 Marq. L. Rev. 21 (2014).

Gregory J. Langlois, Dress Rehearsal: The Moot Court Program at Georgetown Law Center's Supreme Court Institute, 7 J. App. Prac. & Process 231 (2005).

Ian A. Macpherson, Once is Not Enough, or How About Arguing Your First Two Supreme Court Cases Back to Back ... and Losing?, 5 J. App. Prac. & Process 123 (2003).

Stuart M. Riback, First Argument Impressions of the Supreme Court, 5 J. App. Prac. & Process 133 (2003).

Charles A. Rothfeld, Avoiding Missteps in the Supreme Court: A Guide to Resources for Counsel, 7 J. App. Prac. & Process 249 (2005).

Dan Schweitzer, Fundamentals of Preparing a United States Supreme Court Amicus Brief, 5 J. App. Prac. & Process 523 (2003).

Websites

Case Handling Guides, Sup. Ct. of the U.S., <https://www.supremecourt.gov/casehand/casehand.aspx> (last visited Mar. 2, 2017).

Jeannie O'Sullivan, 6 Tips For Lawyers Arguing Their 1st Supreme Court Case, Law360 (November 3, 2015, 6:12 PM), <https://www.law360.com/articles/717284/6-tips-for-lawyers-arguing-their-1st-supreme-court-case>.

LGBT Rights & Constitutional Law

David Cruz, Professor of Law, University of Southern California, Gould School of Law

Books

Carlos A. Ball, From the Closet to the Courtroom: Five LGBT Rights Lawsuits That Have Changed Our Nation (2010).

Controversies in Equal Protection Cases in America: Race, Gender and Sexual Orientation (Anne Richardson Oakes, ed. 2015).

Walter Frank, Law and the Gay Rights Story: the Long Search for Equal Justice in a Divided Democracy (2014).

Ally Windsor Howell, Transgender Persons and the Law (2013).

Karen Moulding & the Lesbian, Gay, Bisexual & Transgender (LGBT) Committee of the National Lawyers Guild, Sexual Orientation and the Law (2016) (also on Westlaw).

Peter Nicolas, Sexual Orientation, Gender Identity, and the Constitution (2013).

Articles

Mary Anne Case, Legal Protections for the “Personal Best” of Each Employee: Title VII's Prohibition on Sex Discrimination, the Legacy of Price Waterhouse v. Hopkins, and the Prospect of ENDA, 66 Stan. L. Rev. 1333 (2014).

David B. Cruz, Acknowledging the Gender in Anti-Transgender Discrimination, 32 Law & Inequality 257 (2014).

David B. Cruz, Transgender Rights After Obergefell, 84 UMKC L. Rev. 693 (2016).

Suzanne E. Eckes & Colleen E. Chesnut, Transgender Students and Access to Facilities, 321 Ed. Law Rep. 1 (2015).

Symposium, After Obergefell: The Next Generation of LGBT Rights Litigation, 84 UMKC L. Rev. 605 (2016).

Jillian T. Weiss, Protecting Transgender Students: Application of Title IX to Gender Identity or Expression and the Constitutional Right to Gender Autonomy, 28 Wis. J.L. Gender & Soc'y 331, 332 (2013).

Websites

LambdaLegal, <http://www.lambdalegal.org/> (last visited Mar. 2, 2017).

The Williams Institute, <https://williamsinstitute.law.ucla.edu/> (last visited Mar. 2, 2017).