

D. THEODORE RAVE

University of Texas at Austin, School of Law
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Austin, TX 78705
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ACADEMIC APPOINTMENTS:

University of Texas at Austin School of Law, Austin, TX
Professor of Law, 2021–present

Courses: Civil Procedure
Complex Litigation
Constitutional Law
Political Parties in the Law of Democracy

Harvard Law School, Cambridge, MA
Austin Wakeman Scott Visiting Professor of Law, Fall 2020

Courses: Civil Procedure
Political Parties in the Law of Democracy

University of Houston Law Center, Houston, TX
George A. Butler Research Professor, 2018–2021
Associate Professor of Law (with tenure), 2018–2021
Assistant Professor of Law, 2013–2018

Courses: Civil Procedure
Complex Litigation
Constitutional Law
Elections and the Law of Democracy
Texas v. United States Seminar

Honors: University of Houston Teaching Excellence Award, 2018
University of Houston 50in50 Scholar, 2018-19
Student Bar Association Professor of the Year: Part-Time Program, 2019
Student Bar Association Professor of the Year: Full-Time Program, 2017
Order of the Barons Professor of the Year, 2017

New York University School of Law, New York, NY
Furman Fellow, 2011–2013

EDUCATION:

New York University School of Law, New York, NY
J.D., *magna cum laude*, May 2006

Honors: *Order of the Coif*
Butler Scholar: Top ten students in the class after four semesters

Pomeroy Scholar: Top ten students in the class after two semesters
Furman Scholar: Exceptional candidates for careers in legal academia

New York University Law Review, Senior Executive Editor

Research Assistant, Professor Samuel Issacharoff, Spring 2006

Teaching Assistant, Civil Procedure, Professor Oscar G. Chase, Fall 2005

Dartmouth College, Hanover, NH

B.A. in History, June 2001

PROFESSIONAL EXPERIENCE:

Jones Day, New York, NY

Associate, Issues & Appeals Group, November 2008–August 2011

Hon. Robert A. Katzmann, U.S. Court of Appeals for the Second Circuit

Law Clerk, September 2007–September 2008

Hon. Leonard B. Sand, U.S. District Court, Southern District of New York

Law Clerk, August 2006–August 2007

Simpson Thacher & Bartlett LLP, New York, NY

Summer Associate, May 2005–August 2005

Dwight D. Opperman Institute of Judicial Administration, New York University School of Law, New York, NY

Summer Fellow, May 2004–July 2004

American International Group, Inc., New York, NY

Research Analyst, Corporate Research & Development, March 2002–July 2003

Case Strategy, LLC, Portsmouth, NH

Associate Consultant, September 2001–January 2002

PUBLICATIONS:

ARTICLES AND WORKING PAPERS:

Multidistrict Litigation and the Field of Dreams

101 TEXAS LAW REVIEW __ (forthcoming 2023) (symposium)

Management and Judging in Multidistrict Litigation

__ REVIEW OF LITIGATION __ (forthcoming 2023) (invited symposium)

Dissonance and Distress in Bankruptcy and Mass Torts (with Andrew D. Bradt and Zachary D. Clopton)

91 FORDHAM LAW REVIEW 309 (2022) (invited symposium)

The False Promise of General Jurisdiction

73 ALABAMA LAW REVIEW 455 (2022) (with Maggie Gardner, Pamela Bookman, Andrew D. Bradt, and Zachary D. Clopton, invited symposium)

Opioid Cases and State MDLs

70 DEPAUL LAW REVIEW 245 (2021) (with Zachary D. Clopton, invited symposium)

A Hub-and-Spoke Model of Multidistrict Litigation

84 LAW & CONTEMPORARY PROBLEMS 21 (2021) (with Francis E. McGovern, peer edited, invited symposium)

MDL in the States

115 NORTHWESTERN UNIVERSITY LAW REVIEW 1649 (2021) (with Zachary D. Clopton)

Texas MDL

24 LEWIS & CLARK LAW REVIEW 367 (2020) (with Zachary D. Clopton, invited symposium)

Tort Claims as Property Rights

69 DEPAUL LAW REVIEW 587 (2020) (invited symposium)

It's Good to Have the 'Haves' on Your Side: A Defense of Repeat Players in Multidistrict Litigation

108 GEORGETOWN LAW JOURNAL 73 (2019) (with Andrew D. Bradt)

Aggregation on Defendants' Terms: Bristol-Myers Squibb and the Federalization of Mass-Tort Litigation

59 BOSTON COLLEGE LAW REVIEW 1251 (2018) (with Andrew D. Bradt)

- Winner of the 2018 SEALS Call for Papers Award

The Information-Forcing Role of the Judge in Multidistrict Litigation

105 CALIFORNIA LAW REVIEW 1259 (2017) (with Andrew D. Bradt)

Closure Provisions in MDL Settlements

85 FORDHAM LAW REVIEW 2175 (2017) (invited symposium)

Fiduciary Voters?

66 DUKE LAW JOURNAL 331 (2016)

When Peace Is Not the Goal of a Class Action Settlement

50 GEORGIA LAW REVIEW 475 (2016)

- Selected for the 16th Annual Yale/Stanford/Harvard Junior Faculty Forum (June 2015)

Settlement, ADR, and Class Action Superiority

5 JOURNAL OF TORT LAW 91 (2014) (peer edited, invited symposium)

The BP Oil Spill Settlement and the Paradox of Public Litigation

74 LOUISIANA LAW REVIEW 397 (2014) (with Samuel Issacharoff, invited symposium)

Politicians as Fiduciaries

126 HARVARD LAW REVIEW 671 (2013)

Governing the Anticommons in Aggregate Litigation

66 VANDERBILT LAW REVIEW 1183 (2013)

Note, Questioning the Efficiency of Summary Judgment

81 N.Y.U. LAW REVIEW 875 (2006)

BOOKS AND BOOK CHAPTERS:

AGGREGATE LITIGATION AND DISPUTE RESOLUTION (5th ed. West Academic, forthcoming 2023) (with Robert Klonoff, Elizabeth Cabraser & Maria Glover)

Fiduciary Principles and the State

OXFORD HANDBOOK OF FIDUCIARY LAW 323 (Evan J. Criddle, Paul B. Miller & Robert H. Sitkoff eds., Oxford University Press, 2019)

Two Problems of Fiduciary Governance

FIDUCIARY GOVERNMENT 49 (Evan J. Criddle, Evan Fox-Decent, Andrew S. Gold, Sung Hui Kim & Paul B. Miller eds., Cambridge University Press, 2018)

Institutional Competence in Fiduciary Government

RESEARCH HANDBOOK ON FIDUCIARY LAW 418 (Andrew S. Gold & D. Gordon Smith eds., Edward Elgar Publishing, 2018)

OTHER PUBLICATIONS:

Federal Trends Affecting Aggregate Litigation in the State Courts

POUND CIVIL JUSTICE INSTITUTE 2019 JUDGES FORUM REPORT, AGGREGATE LITIGATION IN STATE COURTS: PRESERVING VITAL MECHANISMS (2020), available at <http://www.poundinstitute.org/wp-content/uploads/2019/08/Rave-Paper-Post-Forum-8-16-19-JR.pdf>

Introduction to the Twenty-First Annual Frankel Lecture: Samuel Issacharoff's Outsourcing Politics

54 HOUSTON LAW REVIEW 839 (2017)

The Current State of the Consumer Class Action

11 N.Y.U. JOURNAL OF LAW & BUSINESS 647 (2015) (published remarks)

Conversation, Representation, and Allocation: Justice Breyer's Active Liberty

81 N.Y.U. LAW REVIEW 1505 (2006) (with Michael A. Livermore, book review)

SELECTED OP-EDS:

"What Attorneys Should Know About State MDLs," *Law360* (May 19, 2021) (with Zachary D. Clopton)

"Judges should have to OK MDL settlements," *Daily Journal* (November 8, 2016) (with Andrew D. Bradt)

"Limits on arbitration clauses are step in right direction," *Austin American-Statesman* (May 17, 2016) (with Jim Hawkins)

SELECTED PRESENTATIONS:

"Multidistrict Litigation and the Field of Dreams"

- University of Texas School of Law, *Texas Law Review* Symposium on *Judicial Management of MDLs and Other Consolidations* (January 27, 2023)
- University of Texas School of Law, Drawing Board Lunch (October 25, 2021)

Moderator of "The Role of State Courts in Mass Torts (including Federal-State Coordination)" Panel

- University of Texas School of Law, *Texas Law Review* Symposium on *Judicial Management of MDLs and Other Consolidations* (January 27, 2023)

Moderator of “The MDL Lineup” Panel

- Duke University School of Law, Bolch Judicial Institute’s Mass-Tort MDL Certificate Program (November 7, 2022)

“Management and Judging in Multidistrict Litigation”

- Yale Law School, *Managerial Judges @ 40* Symposium in Honor of Judith Resnik (November 4, 2022)

Panelist on “Voting Laws”

- South Texas College of Law Houston, Houston Bar Association President’s Speaker Series (October 28, 2022)

Panelist on “U.S. Supreme Court and Fifth Circuit Update”

- Southern District of Texas Bench Bar Conference (October 25, 2022)

“A Hub-and-Spoke Model of Multidistrict Litigation”

- Duke University School of Law, McGovern Symposium on Civil Litigation (May 27, 2022)
- Duke University School of Law, Judicial Administration/Judicial Process Roundtable (December 11, 2020)

Discussion leader and participant in “The Attorney-Client Relationship in Multidistrict Litigation Convening”

- Stanford Law School (October 28, 2022)

Panelist on “Best Practices in Resolution and the Search for Closure”

- Northwestern University Pritzker School of Law, Contemporary Issues in Complex Litigation Virtual Conference (April 7, 2022)

Moderator of “Settlement Dynamics in Mass Torts” Panel

- Fordham Law School, *Fordham Law Review* Symposium on *Mass Torts Evolve: The Intersection of Aggregate Litigation and Bankruptcy* (February 25, 2022)

“Interpleading Bounty Hunters”

- Duke University School of Law, Judicial Administration/Judicial Process Roundtable (December 9, 2021)

Moderator of “Case Management Plaintiffs’ Breakout” and “Mass Torts in the States: State MDLs” Panels

- Duke University School of Law, Bolch Judicial Institute’s Mass-Tort MDL Certificate Program (November 16-17, 2021)

Panelist on “Tools and Innovations Arounds Spending and Distribution” and “Beyond Opiates: Opiate Summit as a Framework for Health Crises in Litigation”

- Georgetown University Law Center, Opioid Litigation Summit (September 24-25, 2021)

“Opioid Cases and State MDLs”

- University of Houston Law Center Faculty Workshop (April 30, 2021)

- DePaul University College of Law, 26th Annual Clifford Symposium on Tort Law and Social Policy: *The Opioid Crisis: Where Do We Go From Here?* (May 28, 2020)

Moderator of “Breaking the Court or Saving Democracy? A Debate on Court Packing”

- Harvard Law School Federalist Society Debate (April 20, 2021)

“MDL in the States”

- Tulane University School of Law Faculty Workshop (November 9, 2020)
- University of Houston Law Center Faculty Workshop (February 14, 2020)
- AALS Annual Meeting, Section on Civil Procedure, Washington, DC (January 4, 2020)
- University of Texas School of Law, Fifth Annual Civil Procedure Workshop (October 25, 2019)
- SEALS Annual Conference, Civil Procedure Workshop, Boca Raton, FL (August 1, 2019)

Moderator on “MDL Discovery” Panel

- Duke University School of Law, Bolch Judicial Institute’s Mass-Tort MDL Certificate Program (November 9, 2020)

“MDL is Messy: Some Comments on *Mass Tort Deals* by Elizabeth Chamblee Burch”

- University of Georgia School of Law (November 8, 2019)

“Texas MDL”

- Lewis & Clark Law School, Pound Civil Justice Institute Symposium: *Class Actions, Mass Torts, and MDL: The Next Fifty Years* (November 1, 2019)

Panelist on “MDL Settlements—Common Pitfalls and Helpful Practices”

- Judicial Panel on Multidistrict Litigation 2019 Transferee Judges Conference, The Breakers, Palm Beach, FL (October 29, 2019)

“It’s Good to Have the ‘Haves’ on Your Side: A Defense of Repeat Players in Multidistrict Litigation”

- University of Texas School of Law, Complex Litigation Colloquium (September 24, 2019)
- Stanford Law School, Fourth Annual Civil Procedure Workshop (November 9, 2018)
- SEALS Annual Conference, Ft. Lauderdale, FL, New and Established Voices in Civil Procedure Panel (August 10, 2018)
- University of Houston Law Center, Faculty Workshop (May 4, 2018)

“Federal Trends Affecting Aggregate Litigation in the State Courts”

- Pound Civil Justice Institute 2019 Forum for State Appellate Court Judges: *Aggregate Litigation in State Courts: Preserving Vital Mechanisms*, San Diego, CA (July 27, 2019)

“Tort Claims as Property Rights”

- DePaul University College of Law, 25th Annual Clifford Symposium on Tort Law and Social Policy: *Rising Stars: A New Generation of Scholars Looks at Civil Justice* (April 25, 2019)

Panelist on “2030 Federal Judicial Reform Commission”

- UC Berkeley Law School, Berkeley Judicial Institute and *California Law Review* Symposium: *Charting a Path for Federal Judicial Reform* (April 13, 2019)
- “Debate: The Emoluments Clause”
- University of Houston Law Center, Federalist Society and American Constitution Society debate with Professor Josh Blackman (April 2, 2019)
- “Jurisdiction and Choice of Law in Multidistrict Litigation”
- NYU School of Law, Center on Civil Justice and Yale Law School Liman and Solomon Centers Conference on *MDL@50* (October 12, 2018)
- “Aggregation on Defendants’ Terms: *Bristol-Myers Squibb* and the Federalization of Mass Tort Litigation”
- SEALS Call For Papers Award Luncheon, Ft. Lauderdale, FL (August 6, 2018)
 - University of Kentucky College of Law, Faculty Workshop (April 20, 2018)
 - Boston University School of Law, Faculty Workshop (February 6, 2018)
 - AALS Annual Meeting, Section on Conflict of Laws, San Diego, CA (January 14, 2018)
 - University of Arizona James E. Rogers College of Law, Third Annual Civil Procedure Workshop (October 6, 2017)
- “The Information-Forcing Role of the Judge in Multidistrict Litigation”
- Duke Law School, Bolch Judicial Institute Conference on *Documenting and Seeking Solutions to Mass-Tort MDL Problems*, Atlanta, GA (April 27, 2018)
 - Emory Law School, Ninth Annual Junior Faculty Federal Courts Workshop (April 1, 2017)
 - SMU Dedman School of Law, Texas Legal Scholars Workshop (August 26, 2016)
 - University of Washington School of Law, Second Annual Civil Procedure Workshop (July 14, 2016)
- “Gerrymandering: A Political Debate”
- University of Houston Law Center, Federalist Society and American Constitution Society debate with Professor Derek Muller (March 28, 2018)
- “Fiduciary Principles and the State”
- Harvard Law School, Conference on *Fiduciary Law: Charting the Field* (November 11, 2017)
- “Gerrymandering Q&A”
- University of Houston Law Center American Constitution Society (October 12, 2017)
- “Two Problems of Fiduciary Governance”
- UCLA School of Law, Fiduciary Government Conference (June 8, 2017)
- Panelist on “President Trump and the Courts”
- Houston Bar Association Federal Practice Section, Houston, TX (May 9, 2017)
- “Closure Provisions in MDL Settlements”
- University of Houston Law Center, Faculty Workshop (April 7, 2017)
 - Fordham Law School, Stein Center for Law and Ethics Colloquium on *Civil Litigation at a Time of Vanishing Trials* (October 21, 2016)
- “Paying For Deterrence With Class Members’ Money”

- NYU School of Law, Center on Civil Justice *Rule 23@50* Symposium (December 3, 2016)

“Why Is Electing a President So Complicated?”

- University of Houston Clear Lake, Constitution Day Lecture (September 19, 2016)

“Voter ID: Texas, North Carolina, and Wisconsin”

- American Constitution Society Houston Lawyer Chapter, Houston, TX (September 7, 2016)

“Elections After *Evenwel v. Abbott*”

- University of Houston Law Center, Supreme Court Update CLE (July 21, 2016)

“Institutional Competence in Fiduciary Government”

- Duke Law School, Fiduciary Law Workshop (June 17, 2016)

“When Peace Is Not the Goal of a Class Action Settlement”

- Center for Consumer Law’s *Teaching Consumer Law Conference*, Santa Fe, NM (May 20, 2016)
- Harvard Law School, Sixteenth Annual Yale/Stanford/Harvard Junior Faculty Forum (June 15, 2015)
- University of Houston Law Center, Faculty Workshop (December 3, 2014)
- NYU School of Law, Center on Civil Justice Conference on *The Future of Class Action Litigation: A View From the Consumer Class* (November 7, 2014)
- University of Georgia School of Law, Seventh Annual Junior Faculty Federal Courts Workshop (October 11, 2014)

Panelist on “Supreme Court and Economic Implications of Presidential Elections”

- University of Houston, Conference on *Super Tuesday: Analyzing the 2016 Presidential Election* (February 23, 2016)

“Fiduciary Voters?”

- University of Houston Law Center, Faculty Workshop (February 5, 2016)
- South Texas College of Law, Faculty Workshop (October 9, 2015)
- UC Irvine School of Law, Eighth Annual Junior Faculty Federal Courts Workshop (September 12, 2015)
- University of Houston Law Center, Texas Legal Scholars Workshop (August 28, 2015)
- Law and Society Association Annual Meeting, Seattle, WA (May 28, 2015)
- BYU Law School, Fiduciary Law Workshop (May 22, 2015)
- American Constitution Society Scholars Schmooze, Washington, DC (June 19, 2014)

“Redistricting after *Arizona State Legislature v. Arizona Independent Redistricting Commission*”

- University of Houston Law Center, Supreme Court Update CLE (July 28, 2015)

“No Arizona, the Constitution Does Not *Require* Gerrymandering”

- LSU Law Center, Louisiana Law Review Symposium on *The Voting Rights Act at 50: The Past, Present, and Future of the Right to Vote* (January 16, 2015)

“Settlement, ADR, and Class Action Superiority”

- Yale Law School, Quinnipiac-Yale Dispute Resolution Workshop (September 19, 2014)
- University of Houston Law Center Faculty Workshop (October 4, 2013)
- Vanderbilt Law School, Conference on *The Public Life of the Private Law: The Logic and Experience of Mass Litigation* in honor of Richard A. Nagareda, sponsored by the Branstetter Litigation and Dispute Resolution Program, University of Texas Center on Lawyers, Civil Justice and Media, and the Journal of Tort Law (September 27, 2013)

“Consumer Arbitration Update”

- Center for Consumer Law’s *Teaching Consumer Law Conference*, Santa Fe, NM (May 31, 2014)

Panelist on “How Remand Should Be Effectuated in MDLs”

- LSU Law Center, Louisiana Law Review *Multidistrict Litigation Symposium* (March 7, 2014)

Commenter on “Can Texas Regulate Elections Again: The Voting Rights Act after *Shelby County v. Holder*”

- University of Houston Law Center Federalist Society Speaker Series (March 4, 2014)

“The BP Oil Spill Settlement and the Paradox of Public Litigation”

- NYU School of Law, Faculty Summer Workshop (July 25, 2013)
- LSU Law Center, Louisiana Law Review Symposium on the *Eastern District of Louisiana: The Nation’s MDL Laboratory* (March 22, 2013)

“Governing the Anticommons in Aggregate Litigation”

- Fordham Law School, Fordham Law Review and Stein Center for Law and Ethics Symposium on *Lawyering for Groups: Civil Rights, Mass Torts, and Everything in Between* (November 30, 2012)
- NYU School of Law, Lawyering Scholarship Colloquium (July 3, 2012)

“Politicians as Fiduciaries”

- Law and Society Association Annual Meeting, Honolulu, HI (June 5, 2012)
- NYU School of Law, Scholarship Camp (April 13, 2012)

AMICUS BRIEFS:

Brief of Amici Civil Procedure Professors in Support of Plaintiff Appellant, *Braid v. Stilley*, No. 22-2815 (7th Cir. Feb. 16, 2023) (principal coauthor with Andrew Bradt & Zachary Clopton)

Brief of Election Law Professors Joseph R. Fishkin, Steven I. Vladeck, and D. Theodore Rave as *Amici Curiae* in Support of Defendants, *Hotze v. Hollins*, No. 20-cv-3708-ASH (S.D. Tex. Nov. 2, 2020)

Brief of *Amici Curiae* Civil Procedure Professors in Support of Respondents, *Ford Motor Co. v. Montana Eighth Judicial District Court*, Nos. 19-368 & 19-369 (U.S. Supreme Court, April 6, 2020) (principal coauthor with Pamela Bookman, Andrew Bradt, Zachary Clopton & Maggie Gardner)

Brief of *Amicus Curiae* D. Theodore Rave in Support of Appellees, *Rucho v. Common Cause*, No. 18-422 (U.S. Supreme Court, March 8, 2019)

Brief of *Amicus Curiae* D. Theodore Rave in Support of Appellees, *Gill v. Whitford*, No. 16-1161 (U.S. Supreme Court, September 5, 2017)

Brief of *Amici Curiae* Civil Procedure Professors in Support of Respondents, *Bristol-Myers Squibb Co. v. Superior Court of California*, No. 16-466 (U.S. Supreme Court, April 7, 2017) (principal coauthor with Pamela Bookman, Andrew Bradt, Zachary Clopton & Maggie Gardner)

- Cited in *Bristol-Myers Squibb Co. v. Superior Court of California*, 137 S. Ct. 1773, 1788 n.3 (2017) (Sotomayor, J., dissenting)

TESTIMONY:

U.S. Commission on Civil Rights, Texas Advisory Committee Hearing on Voting Rights in Texas (March 13, 2018)

PROFESSIONAL AFFILIATIONS:

American Law Institute (elected member July 2018)

Pound Civil Justice Institute Academic Fellow

Scholars Council of the Humphreys Complex Litigation Center at the George Washington University Law School

Bolch Judicial Institute MDL Certificate Steering Committee, Duke University School of Law

Harris County Civic Engagement Initiative Policymaker Task Force

Consulate General of Mexico in Houston, Working Group on Legal Matters 2016–17

SERVICE:

University of Texas School of Law

Appointments Committee, 2022–present

Faculty Advisor, American Constitution Society, 2021–present

Curriculum Committee, 2021–22

University of Houston Law Center

Judicial Clerkship Committee, 2013–21 (Chair 2019–21)

Diversity, Inclusion & Equality Committee, 2017–21

Faculty Advisor, American Constitution Society, 2014–21

Lateral Appointments Committee, 2019–20

1L Faculty Mentor, 2013–20

Honor Court Member, 2016–20 (elected by students)
Faculty Scholarship & Advancement Committee, 2015–19
Curriculum Committee, 2014–16
Student Affairs Committee, 2013–14

Academic Community

American Association of Law Schools (AALS), Election Law Section, Executive Committee, 2017–18, 2019–present
Peer reviewer for *Cambridge University Press* and *Oxford University Press*
Ad hoc manuscript reviewer for the *Harvard Law Review*, *Stanford Law Review*, *Yale Law Journal*, and *Stanford Journal of Complex Litigation*

BAR ADMISSIONS:

New York (2007)
U.S. Supreme Court
U.S. Courts of Appeals for the Second, Sixth, and Ninth Circuits
U.S. District Courts for the Southern and Eastern Districts of New York