

MONICA HAYMOND

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CURRENT ACADEMIC APPOINTMENT

Harvard Law School, Cambridge, MA

Climenko Fellow and Lecturer on Law, August 2022–present

- Courses: First Year Legal Research and Writing (class of 40 students); Remedies' Procedural Renaissance (upper-level elective, co-taught with Andrea Olson)

EDUCATION

University of Virginia School of Law, Charlottesville, VA

J.D., May 2016

- Order of the Coif
- *Virginia Law Review*, Editorial Board
- *Virginia Journal of Law & Politics*, Editorial Board
- Law & Public Service Program, Fellow
- William Minor Lile Moot Court, Semi-Finalist
- American Constitution Society, President

University of California, Davis, CA

B.A., March 2011, Political Science (Minor: Sociology of Law)

- Dean's Honors List; Pi Sigma Alpha National Political Science Honor Society

TEACHING AND RESEARCH INTERESTS

Primary Interests: Civil Procedure, Remedies, Federal Courts, Conflict of Laws, Constitutional Law

Additional Interests: Complex Litigation, Civil Rights Litigation, Administrative Law, Torts, Habeas Corpus, and Seminar on Civil Procedural Design

PUBLICATIONS AND WORKS IN PROGRESS

Intervention and Universal Remedies, 91 U. Chi. L. Rev. ___ (2024) (forthcoming) (job talk)

- Discussed in [Civil Procedure: A Modern Approach](#) (8th ed. 2024).
- Honorable Mention, Junior Scholarship Award, AALS Civil Procedure Section

Repeal by Surrender (current project)

I analyze the power of presidential administrations to use court judgments to avoid procedural hurdles that block or delay the enactment of their preferred policies. Scholars have long debated the propriety of agencies using consent decrees to justify politically favorable rules and to limit the rulemaking power of future administrations. I connect those debates with a new concern over the so-called “repeal-by-surrender” strategy, in which the Executive Branch evades the Administrative Procedure Act’s requirements by acquiescing or failing to appeal nationwide injunctions and then using those injunctions as “good cause” to quickly adopt their favored rule without notice and comment. The Supreme Court

Monica Haymond

has recently suggested that third-party participation in the original nationwide-injunction case might undermine this strategy. I argue that the Court's proposal exacerbates separation-of-powers concerns. Courts should instead force interested nonparties to bring their own APA challenges against the newly adopted rules. This solution would provide a direct vehicle for courts to address the repeal-by-surrender strategy and strengthen the judiciary's oversight over administrative action.

Note, *Who's In and Who's Out: Congressional Power Over Individuals Under the Indian Commerce Clause*, 102 VA. L. REV. 1589 (2016).

- Roger and Madeleine Traynor Prize.

CLERKSHIPS

Hon. Adalberto Jordan, U.S. Court of Appeals for the Eleventh Circuit, Miami, FL
Law Clerk, September 2018–September 2019

Hon. Stephanos Bibas, U.S. Court of Appeals for the Third Circuit, Philadelphia, PA
Law Clerk, January–August 2018

PRACTICE EXPERIENCE

Orrick, Herrington & Sutcliffe LLP, Washington, DC

Managing Associate, Supreme Court & Appellate Practice, October 2019–August 2022

- Coauthored briefs at the U.S. Supreme Court, including:
 - Merits briefs in an immigration case, *Pereida v. Barr*, 141 S. Ct. 754 (2021), and two capital habeas cases, *Shinn v. Ramirez/Jones*, 142 S. Ct. 1718 (2021);
 - Briefs in opposition to certiorari on behalf of technology clients in a state sovereign immunity case and on behalf of animal rights groups in a First Amendment challenge to state “ag-gag” laws;
 - Amicus briefs concerning public access to Foreign Intelligence Surveillance Court opinions, equal rights challenges to male-only draft registration, school disciplinary policies for online speech by students, and civil-service pension payments to dual-status military technicians.
- Coauthored briefs at the U.S. Courts of Appeals, including briefing and arguing an immigration case before the U.S. Court of Appeals of the Ninth Circuit and briefing a petition for habeas corpus before the U.S. Court of Appeals of the Eleventh Circuit.
- Successfully petitioned for writs of mandamus on behalf of technology clients seeking transfer for inconvenient venue under 28 U.S.C. § 1404(a).

Gibson, Dunn & Crutcher LLP, Washington, DC

Associate, November 2016–January 2018; *Summer Associate*, May–July 2015

- Coauthored briefs at the U.S. Supreme Court, including merits briefing in a securities case, *Leidos, Inc. v. Indiana Public Retirement System, et al.*, No. 16-581, and an amicus brief in a Fourth Amendment challenge to a rental car search.
- Coauthored briefs at the U.S. Courts of Appeals and U.S. District Courts, including merits briefing in a Confrontation Clause appeal and an amicus brief concerning an Administrative Procedure Act challenge to regulations by the National Credit Union Administration.

Monica Haymond

- Successfully defended a First Amendment challenge to a journalist’s arrest during the 2016 inauguration protests.
- Served on the firm’s Pro Bono Committee and provided representation in criminal and asylum cases.

OTHER TEACHING EXPERIENCE

University of Miami School of Law, Miami, FL

January–May 2019

- Course: Habeas Corpus Seminar (co-taught with Judge Adalberto Jordan)

ADDITIONAL PROFESSIONAL EXPERIENCE

National Public Radio, Washington, DC

Law Clerk Extern to Nina Totenberg, September–December 2014

- Edited radio reports, wrote one-minute previews, and drafted memoranda analyzing the Supreme Court’s 2014 term.

United States Attorney’s Office for the District of Columbia, Washington, DC

Legal Intern, Violent Crime & Narcotics Trafficking, June–August 2014

- Wrote memoranda on criminal procedure and constitutional law, including the Fourth Amendment’s requirements for search warrants requesting e-mails from service providers.

Pension Benefit Guaranty Corporation, Washington, DC

Analyst, Office of General Counsel, April 2011–August 2013

- Drafted administrative decisions for the Appeals Board interpreting ERISA, federal regulations, and PBGC policies.

ADDITIONAL PUBLICATIONS

Should a Criminal Record Come with Collateral Consequences?, National Public Radio (Dec. 6, 2014).

SELECTED PRESENTATIONS

Panelist, Civil Procedure Section, AALS Annual Meeting, January 2024

Intervention and Universal Remedies

- Eighth Annual Civil Procedure Workshop in May 2023
- American Constitution Society Junior Scholars Public Law Workshop in January 2023
- Twelfth Annual Junior Federal Courts Scholars Workshop in December 2022

Panelist, Clerkship Office Hours, The Appellate Project, January 31, 2022

“New Decisions in Civil Procedure and Remedies,” SCOTUS Review: Highlights of the 2020-2021 Term, Lawline, September 20, 2021

“New Decisions in Civil Procedure and Remedies,” SCOTUS Review: Highlights of October Term 2019-2020, Lawline, September 21, 2020

Monica Haymond

Panelist, How to Get a Clerkship, Orrick, Washington, DC, June 18, 2020

PROFESSIONAL SERVICE AND AFFILIATIONS

Mentor, The Appellate Project

Mentor, Law Clerks for Diversity

Member, Law360, 2022 Appellate Editorial Advisory Board

Bar Admissions: California, District of Columbia

Court Admissions: U.S. Courts of Appeals for the Third, Fourth, Sixth, Seventh, Ninth, Tenth, Eleventh, and Federal Circuits