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19 Attorneys for Plaintiff

20 **IN THE UNITED STATES DISTRICT COURT
21 FOR THE DISTRICT OF ARIZONA**

22 Louis Taylor, a single man,
23 Plaintiff,
24 vs.
25 Pima County, a body politic; The City
of Tucson, a body politic,
Defendants.

No. CV-15-00152-TUC-RM

**PLAINTIFF'S SETTLEMENT
STATUS MEMO**

AND

**REQUEST FOR ORDER TO
SHOW CAUSE HEARING**

26 The Court's November 30, 2020 order states that "a settlement status
27 report remains due on or before February 5, 2021." This is Plaintiff's report.
28 As discussed in more detail below, this matter was moving toward settlement
29 discussions until a claim was asserted that County Attorney Laura Conover or

1 the Pima County Attorney's Office has a conflict of interest with Taylor's
2 action. Taylor fears that a baseless "conflict of interest" claim by Pima County
3 is hindering the possibility of settlement and requests that the Court schedule
4 an Order to Show Cause hearing on the alleged conflict issue.

5 BACKGROUND

6 As the Court knows, Plaintiff Louis Taylor brings § 1983 claims against
7 Pima County (and the City). Taylor has a pending motion to amend his
8 complaint, to add a declaratory judgment remedy invalidating his 2013 "no
9 contest" pleas. Taylor alleges those "no contest" pleas were unconstitutional,
10 in violation of his Due Process rights.

12 The American Bar Association submitted an *amicus* brief in support of
13 Taylor's U.S. Supreme Court petition. The ABA criticized what Pima County
14 did — conditioning relief for a wrongful conviction upon a no contest plea
15 when admissible evidence to convict is lacking:

16 "Prosecution Function Standard 3-4.3(a) suggests that '[a] prosecutor
17 should seek or file criminal charges **only if** the prosecutor believes
18 that the charges are supported by probable cause **[and] that**
admissible evidence will be sufficient to support a
conviction beyond a reasonable doubt." [Emphasis added]

19 ABA Jan. 13, 2020 Amicus Brief, Taylor v. Pima County, cause no. No. 19-
20 756, at 16-17. Pima County admitted in April 2013 that it lacked admissible
21 evidence support a conviction. The ABA further observed that:

23 "the ABA House of Delegates adopted a resolution which recognized
24 that, as part of that obligation, a prosecutor should not condition relief
25 for a wrongful conviction upon "an *Alford* plea, a guilty plea, or a no
contest plea by the defendant to the original or any other charge." 8
ABA Report with Resolution 112B (Criminal Justice Section) (2017)
(hereinafter "Resolution 112B") at 1, available at

<https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2017/2017-midyear-112b.pdf>.

ABA Jan. 13, 2020 Amicus Brief, Taylor v. Pima County, cause no. No. 19-756, at 4.

At the time of Taylor's "no contest" pleas, Pima County's long-time attorney was Barbara LaWall.

A NEW COUNTY ATTORNEY AND HOPE FOR TAYLOR

As the Court likely knows, a new Pima County Attorney, the Hon. Laura Conover was elected in November. Ms. Conover was not previously part of the prosecution establishment and Taylor was hopeful a new administration would respond to his claims more justly.

And, it appeared that Taylor's hopes were being realized. In or around early January 2021, Stanley Feldman received a phone call from Gabriel "Jack" Chin, a law professor at UC-Davis. A copy of Prof. Chin's CV is attached (Exhibit 1). Prof. Chin said Ms. Conover asked him to assist in handling the pending and ongoing matters in Taylor's case. *See* attached February 3, 2021 letter (Exhibit 2) from Stanley Feldman to Prof. Chin. Prof. Chin did not state he was asked to become involved because of any conflict of interest. Thereafter, Taylor's lawyers provided numerous documents to Professor Chin (at Prof. Chin's request).

In their discussion, Feldman and Chin discussed possible mediation. *Id.* Prof. Chin asked Feldman, in general terms, what amount Taylor's lawyers were thinking of for settlement. *Id.* Taylor's lawyers were optimistic that settlement discussions were moving in the right direction.

DERAILMENT BY A MYSTERY “CONFLICT OF INTEREST”

2 Then, the weekend of Jan. 30, 2021, Mr. Feldman received a very
3 different phone call from Prof. Chin. Prof. Chin indicated Pima County's in-
4 house "ethics" counsel apparently determined Ms. Conover has a conflict of
5 interest related to Taylor. Prof. Chin indicated this alleged "conflict" was
6 based on work Ms. Conover allegedly did fifteen (15) years ago - while she was
7 in law school, in a class taught by Prof. Andrew Silverman. Professor
8 Silverman has been contacted and he has no recollection of Ms. Conover
9 working on Taylor's case. Moreover, Katie Puzauskas of the Justice Project,
10 who was involved with Taylor's case when Conover was in law school, also has
11 no recollection of Conover's supposed involvement. The Arizona Justice
12 Project database has also been searched for "Laura," "Conover," and "Laura
13 Conover" and does not show Ms. Conover was involved. Their list of
14 volunteers also does not contain Ms. Conover's name.
15

To the best of Plaintiff's knowledge, Pima County has submitted nothing to this Court stating or suggesting that Pima County or Ms. Conover have a conflict of interest. On December 29, 2020, Nancy Davis and Clayton Kramer of the Pima County Attorney's office individually moved to withdraw, citing a "conflict of interest." Neither the Pima County Attorney nor that office asserted a conflict or moved to withdraw. No information regarding this "conflict" was provided in the Davis/Kramer motion, and again, there was no suggestion that the Pima County Attorney's office or Ms. Laura

1 Conover has a conflict of interest. On January 7, 2021, the Court permitted
2 Davis and Kramer, but not the Pima County Attorney's Office – to withdraw.

3 On October 23, 2020, Nicholas Acedo filed a notice of appearance
4 (DOC 154) as “co-counsel” for Pima County. The Pima County Attorney’s
5 office has not formally withdrawn from Taylor’s case. Based on these facts,
6 any claimed “conflict of interest” for Ms. Conover or Pima County seems
7 highly unlikely. Instead, it seems more likely that someone at the County
8 Attorney’s office *wants* Ms. Conover to have a conflict.

9
10 It appeared this matter was moving toward settlement until this alleged
11 “conflict of interest” arose. Because of that, Taylor believes that resolving
12 whether a conflict exists could facilitate settlement.

13 **DISTRICT COURTS RESOLVE CONFLICT OF INTEREST ISSUES**

14 District courts are given broad discretion to fashion remedies to avoid
15 conflicts of interest. *United States v. Wheat*, 486 U.S. 153, 163, 108 S. Ct.
16 1692, 1699 (1988). *See also United States v. Gonzalez-Lopez*, 548 U.S. 140,
17 152, 126 S.Ct. 2557, 165 L.Ed.2d 409 (2006). The Ninth Circuit is in accord,
18 *see Bradley v. Henry*, 510 F.3d 1093, 1102 (9th Cir. 2007). *See also USA. v.*
19 *Messino*, 181 F.3d 826, 830 (7th Cir. 1999), *U.S. v. Bermudez*, 922 F.2d 843
20 (7th Cir. 1990). It is entirely appropriate for this Court to address whether a
21 relevant conflict of interest exists.

22 Taylor believes that all parties would benefit if this Court would
23 address and resolve whether Ms. Laura Conover or the Pima County
24 Attorney’s office has a conflict of interest regarding Taylor’s pending § 1983
25 action. To date, neither Ms. Conover nor the County Attorney’s office has
said any such conflict exists.

1 Taylor's lawyers respectfully suggest that the Court set an Order to
2 Show Cause hearing, directing Pima County and its attorney to address
3 whether Ms. Conover has a conflict of interest regarding Louis Taylor,
4 including all bases for such an assertion. The Court should consider directing
5 Pima County's unidentified "ethics officer" to appear. In the alternative, the
6 Court could order briefing on the issue or appoint a special master to explore
7 and resolve the alleged conflict issue.

8 DATED February 5, 2021

MILLER, PITTS, FELDMAN & McANALLY, P.C.

By: /s/Peter Timoleon Limperis
Stanley G. Feldman
Peter Timoleon Limperis
Timothy P. Stackhouse

THE LEADER LAW FIRM, P.C.

By: /s/ John P. Leader
John P. Leader

17 I hereby certify that on February 5th, 2021, I electronically transmitted
18 the attached document to the Clerk's Office using the CM/ECR System for filing
and transmittal of a Notice of Electronic Filing to the following CM/ECR
registrants:

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3 Pima County Attorney's Office, Civil Division
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6 Dennis McLaughlin
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7 Michael G. Rankin
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8 Tucson, AZ 85726-7210
9 *Attorneys for Defendant City of Tucson*

10 /s/Kim Flaherty

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Exhibit 1

GABRIEL “JACK” CHIN
University of California, Davis School of Law
400 Mrak Hall Drive
Davis, CA 95616
(520) 401-6586 / gchin@aya.yale.edu

ACADEMIC APPOINTMENTS

University of California, Davis School of Law since 2011

Director of Clinical Legal Education since Spring 2017.

Edward L. Barrett Chair in Law since Fall, 2016.

Martin Luther King Jr. Professor of Law, since 2015.

Professor of Law & Martin Luther King Jr. Hall Research Scholar, 2011-15.

Affiliated Faculty, Aoki Center for Critical Race and Nation Studies, UC Davis Temporary Migration Cluster, UC AAPI Multicampus Research Project.

University of Arizona James E. Rogers College of Law, 2003-11

Chester H. Smith Professor of Law, 2004-11.

Professor of Public Administration and Policy, 2004-11.

Professor of Law and Director, Program in Criminal Law and Policy.

New York University School of Law

Visiting Professor of Law, Spring 2001.

University of Cincinnati College of Law, 1998-2003

Rufus King Professor of Law, from 2001.

Interim Associate Dean, Spring 2002.

Founder, Director, Urban Justice Institute (now Rosenthal Institute for Justice), 2001-03.

Professor of Law, 1999 to 2001.

Associate Professor of Law, 1998-99.

Western New England University School of Law, Springfield, Massachusetts.

Assistant Professor of Law, 1995-98.

Teaching/Research: Criminal Law, Criminal Procedure, Evidence, Immigration, Asian Pacific Americans and Law, Race and Law, Voting Rights.

PROFESSIONAL APPOINTMENTS

Collateral Consequences Resource Center

Co-Founder, Board Member, 2012-Present.

National Conference of Commissioners on Uniform State Laws

Reporter, Uniform Collateral Consequences of Conviction Act, 2005-10.

Enactment Committee Member, 2009-Present.

American Bar Association

Reporter, ABA Criminal Justice Standards,

Collateral Sanctions and Discretionary Disqualification of Convicted Persons, 2001-04.
Member, Criminal Justice Section Ad Hoc Committee on Innocence, 2002-06.
Co-Chair, Criminal Justice Section, Committee on Race and Racism, 2002-03.
Advisory Board Member, National Inventory of Collateral Consequences of Conviction Project, 2009-13.
Liaison from the Criminal Justice Section to the Commission on Immigration, 2010-11.
Co-Chair, Immigration Committee, Criminal Justice Section, 2010-11.

U.S. Commission on Civil Rights, Arizona Advisory Committee, 2006-08.

Arizona Commission on Nomination, Appointment and Retention, Capital Defense Commissioner, 2006-09.

American Law Institute (Elected 2002).

Members' Consultative Group on the Model Penal Code.

Members' Consultative Group, Project on Sexual and Gender-Based Misconduct on Campus: Procedural Frameworks and Analysis

AALS Committees: Executive Committee, Minority Law Teachers, 1997-2007, Chair, 2005-06.
Recruitment and Retention of Minority Law Teachers, 2000-03.
Program Committee, Section on Constitutional Law, 1999-2000.
Executive Committee, Section on Criminal Justice, 1996-99.
Executive Committee, Immigration Law Section, 2000-03.
Immigration Conference 2000, 2002 Planning Committee.
Scholarly Paper Selection Committee, 1998-99.

Conference of Asian Pacific American Law Faculty, Board of Directors, 2005-12.

EDUCATION

Yale Law School. Master of Laws, June 1995. Editor, **YALE LAW & POLICY REVIEW**.

Michigan Law School. Juris Doctor *cum laude*, May 1988.

S.K. Yee Merit Scholar, 1985-88.

American Jurisprudence Awards (highest grade) Criminal Procedure, Legal Ethics; Certificate of Merit (highest grade) Securities Regulation.

Co-founder, Vice-President, Asian American Law Students' Association.

Wesleyan University. Bachelor of Arts (History), June 1985.

Connecticut Scholar, 1981-85; Chew Association Scholar.

AWARDS

Individual Awards:

APA Bar Association of Los Angeles Award, 2016, for participating in posthumous admission to the California Bar of Hong Yen Chang, the first Chinese American lawyer in the United States. *In re Hong Yen Chang*, 60 Cal. 4th 1169, 344 P.3d 288 (2015), *overruling In re Hong Yen Chang*, 24 P. 156, 84 Cal. 163 (1890). See Gabriel J. Chin, *Hong Yen Chang, Lawyer and Symbol*, 21 UCLA ASIAN PACIFIC AMERICAN LAW JOURNAL 1 (2015-16). The story was covered in Maura Dolan, *Chinese Immigrant, Denied Law License in 1890, Gets One Posthumously*, L.A. TIMES, Mar. 16, 2015 <http://www.latimes.com/local/lanow/la-me-In-chinese-lawyer-20150316-story.html>

Asian American Bar Association of Sacramento, Public Service Award, September, 2015, for participating in posthumous admission of Hong Yen Chang.

Keith Aoki Asian Pacific American Jurisprudence Award, Conference of Asian Pacific American Law Faculty, 2015.

Green Bag 2014 Exemplary Legal Writing Award (for *Getting Law Review Fans Out of the Closet: Liptak on Jacobs and Waxman*, [PrawfsBlawg](#), Oct. 21, 2013, reprinted in 4 JOURNAL OF LAW: PERIODICAL LABORATORY OF LEG. SCHOLARSHIP 85 (2014).

Outstanding Faculty Award, University of Arizona Asian American Faculty, Staff and Alumni Association, 2010.

Haywood Burns / Shanara Gilbert Scholar Activist Award,
North East People of Color Legal Scholarship Conference, 2005.

Distinguished Scholar Award,
Second National People of Color Legal Scholarship Conference, 2004.

Certificate of Recognition, Ohio Senate,
for participating in ratification of the Fourteenth Amendment in 2003.

The aList: The 25 Most Notable Asians in America,
[AMAGAZINE: INSIDE ASIAN AMERICA](#), Dec. 2001/Jan. 2002, at 61.

Outstanding Scholarly Paper Award, Association of American Law Schools, 1998.

Thurgood Marshall Memorial Paper Prize, Southwest-Southeast People of Color Legal Scholarship Conference, 1996.

Citation Lists:

Scholar Rank Top 250 Scholars, William S. Hein & Co. (66th as of July 6, 2017)
http://home.heinonline.org/top_authors/

Listed in Brian Leiter, *Twenty Most-cited Criminal Law and procedure faculty in the United States, 2010-2014*, <http://leiterlawschool.typepad.com/leiter/2016/05/twenty-most-cited->

[criminal-law-procedure-faculty-in-the-united-states-2010-2014-inclusive.html](#)

Top Ten Law Faculty (By Area) in Scholarly Impact, 2009-2013
http://www.leiterrankings.com/faculty/2014_scholarlyimpact.shtml,

Top 25 Law Faculties in Scholarly Impact, 2005-2009
(and Highest Impact Faculty in 13 Areas of Specialization),
http://www.leiterrankings.com/new/2010_scholarlyimpact.shtml

Most Cited Law Professors by Specialty, 2000-2007,
http://www.leiterrankings.com/faculty/2007faculty_impact_areas.shtml, and

50 Most Cited Faculty Who Entered Teaching Since 1992
(http://www.leiterrankings.com/faculty/2002faculty_impact_newprofs.shtml).

LAW REVIEW ARTICLES (most available on SSRN: <http://ssrn.com/author=201529>)

Infamous Misdemeanors and the Grand Jury Clause, 102 MINNESOTA LAW REVIEW (forthcoming 2018) (co-author with John Ormonde).

The War Against Chinese Restaurants, 67 DUKE LAW JOURNAL (forthcoming 2018) (co-author with John Ormonde), excerpted in 40 REGULATION: THE CATO REVIEW OF BUSINESS AND GOVERNMENT No. 2, 32 (Summer 2017).

Research featured in Kat Chow, *How the White Establishment Waged a “War” on Chinese Restaurants in the U.S.*, NPR.org, June 16, 2017
<http://www.npr.org/sections/codeswitch/2017/06/16/532697303/how-american-unions-tried-to-wage-a-war-against-chinese-restaurants-in-the-u-s>

Jurisdiction Over Quasi-Military Personnel Under UCMJ Article 2(A)(8), AIR FORCE LAW REVIEW (forthcoming; co-author with Col. David J. Western, USAF).

Are JROTC And CAP On A Collision Course With CROC?, 77 AIR FORCE LAW REVIEW 65 (2017) (co-author with Col. David J. Western, USAF).

Comprehensive Immigration Reform in the Jim Crow Era: Chinese Exclusion and the McCreeary Act of 1893, 23 ASIAN AMERICAN LAW JOURNAL 39 (2016) (with Daniel K. Tu).

Pleading Guilty Without Client Consent, 57 WILLIAM & MARY LAW REVIEW 1309 (2016).

Is Multicultural America the Product of A Mistake?: The 1965 Immigration Act and Evidence From Roll Call Votes, 2015 UNIVERSITY OF ILLINOIS LAW REVIEW 1239 (with Douglas M. Spencer).

Reasonable but Unconstitutional: Racial Profiling and the Radical Objectivity of Whren v. United States, 82 GEORGE WASHINGTON LAW REVIEW 882 (2015) (with Charles Vernon),

reprinted in 43 SEARCH & SEIZURE LAW REPORT 29 (2016).

With response L. Song Richardson, Response, *Implicit Racial Bias and the Perpetrator Perspective: A Response to “Reasonable but Unconstitutional”*, 83 GEORGE WASHINGTON LAW REVIEW 1008 (2015), and my reply Gabriel J. Chin, *Doctrine, Discretion, and Discrimination: A Response to Professor Richardson*, 83 GEORGE WASHINGTON LAW REVIEW 1023 (2015).

The Mistake of Law Defense and an Unconstitutional Provision of the Model Penal Code, 93 NORTH CAROLINA LAW REVIEW 139 (2015) (with Reid Fontaine, Nicholas Klingerman & Melody Gilkey).

Justifying a New Voting Rights Act: The Guarantee Clause and the Problem of Minority Rule, 94 BOSTON UNIVERSITY LAW REVIEW 1551 (2014).

“A Chinaman’s Chance” in Court: Asian Pacific Americans and Racial Rules of Evidence, 3 UNIVERSITY OF CALIFORNIA IRVINE LAW REVIEW 965 (2013).

Race and the Disappointing Right to Counsel, 122 YALE LAW JOURNAL 2236 (2013).

The Lost Brown v. Board of Education of Immigration Law, 91 NORTH CAROLINA LAW REVIEW 1657 (2013) (with Shirley Chiang Park & Cindy Hwang).

Book Chapter, *The Story of Jacobson v. United States: Catching Criminals or Creating Crime* 299, in CRIMINAL LAW STORIES (Robert Weisberg & Donna Coker eds., Foundation Press, 2012).

Double Trouble: Double Jeopardy’s Dual Sovereignty Exception and State Immigration Statutes, 28 ARIZONA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW 353 (2012) (with Gregory S. Schneider).

The New Civil Death: Rethinking Punishment in the Era of Mass Conviction, 160 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1789 (2012), reprinted in a modified form as *Collateral Consequences of Criminal Conviction*, in THE CONSTITUTION AND THE FUTURE OF CRIMINAL JUSTICE IN AMERICA 205 (Cambridge University Press 2013).

Cited in *Utah v. Strieff*, 136 S. Ct. 2056, 2070 (2016) (Sotomayor J., dissenting), and three other federal and state court decisions. Discussed research and case citing it in Benjamin Weiser, *U.S. Judge’s Striking Move in Felony Drug Case: Probation, Not Prison*, N.Y. TIMES, May 25, 2016 <https://www.nytimes.com/2016/05/26/nyregion/in-a-striking-move-brooklyn-judge-orders-probation-over-prison-in-felony-drug-case.html>

The Unconstitutionality of State Regulation of Immigration Through Criminal Law, 61 DUKE LAW JOURNAL 251 (2011) (with Marc Miller), reprinted in a modified form as *Broken Mirror: The Unconstitutional Foundations of New State Immigration Enforcement*, in STRANGE NEIGHBORS: STATE AND LOCAL REGULATIONS OF IMMIGRATION POLICY (Carissa Hessick & Gabriel J. Chin eds., NYU Press 2014).

Cited in *State v. Martinez*, 896 N.W.2d 737, 759 (Iowa 2017) (Cady C.J., concurring).

Quasi-Crime and Quasi-Punishment: Criminal Process Effects of Immigration Status, 58 UCLA LAW REVIEW 1417 (2011).

Reaching out to do Justice: The Rise and Fall of the U.S. Supreme Court's Special Docket, 48 HOUSTON LAW REVIEW 197 (2011) (with Sara Lindenbaum).

A Legal Labyrinth: Issues Raised by Arizona Senate Bill SB1070, 25 GEORGETOWN IMMIGRATION LAW JOURNAL 47 (2010) (with Carissa Byrne Hessick, Toni M. Massaro & Marc L. Miller), reprinted in a modified form as *The Constitutionality of Arizona SB 1070 and Other State Immigration Laws*, American Constitution Society Issue Brief, (Nov. 2010) (with Massaro and Miller), and in *Arizona Senate Bill 1070: Politics Through Immigration Law* (with Hessick and Miller), in ARIZONA FIRESTORM: GLOBAL IMMIGRATION REALITIES NATIONAL MEDIA AND PROVINCIAL POLITICS 73 (Otto Santa Ana & Celeste Gonzalez de Bustamante eds. 2012).

Discussed this research in *The New York Times*, *Talk of the Nation*, *Los Angeles Times*, *USA Today*, and many other venues.

Unjustified: The Practical Irrelevance of the Justification/Excuse Distinction, 43 UNIVERSITY OF MICHIGAN JOURNAL OF LAW REFORM 79 (2009) (symposium).

The Jena Six and the History of Racially Compromised Justice in Louisiana, 44 HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW 361 (2009) (symposium).

Beyond the Super-Majority: Post-Adoption Ratification of the Equality Amendments, 50 ARIZONA LAW REVIEW 25 (2009) (with Anjali Abraham) (faculty symposium).

Why Senator John McCain Cannot Be President: Eleven Months and a Hundred Yards Short of Citizenship, 107 MICHIGAN LAW REVIEW FIRSTIMPRESSIONS 1 (2008). Featured in Adam Liptak, *A Hint of New Life to McCain Birth Issue*, N.Y. TIMES, July 11, 2008, at A11 (<http://www.nytimes.com/2008/07/11/us/politics/11mccain.html>), on CNN, and hundreds of other media outlets.

With responses/commentary from:

Lawrence Solum, Daniel Tokaji, Peter Spiro, Stephen Sachs.

Cited in *Hollander v. McCain*, 566 F. Supp. 2d 63, 66 (D.N.H. 2008) & *Elliott v. Cruz*, 137 A.3d 646, 653 (Pa. Commw. Ct.), *aff'd*, 134 A.3d 51 (Pa. 2016).

Unexplainable on Grounds of Race: Doubts About Yick Wo, 2008 UNIVERSITY OF ILLINOIS LAW REVIEW 1359.

With comments: David Bernstein (2008 ILLINOIS LAW REVIEW 1393), Darryl Brown (2008 ILLINOIS LAW REVIEW 1405), Lenese Herbert (2008 ILLINOIS LAW REVIEW

1415) and Tom Joo (2008 *ILLINOIS LAW REVIEW* 1427), *and My Reply* 2008 *ILLINOIS LAW REVIEW* 1441.

The Tyranny of the Minority: Jim Crow and the Counter-Majoritarian Difficulty, 43 *HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW* 65 (2008) (with Randy Wagner).

With response: Taunya Lovell Banks, *Trampling Whose Rights? Democratic Majority Rule and Racial Minorities: A Response to Chin and Wagner*, 43 *HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW* 127 (2008).

Book Chapter, Chae Chan Ping *and* Fong Yue Ting: *The Origins of Plenary Power, in IMMIGRATION LAW STORIES* 7 (David Martin & Peter Schuck, eds., Foundation 2005).

A War on Drugs or a War on Immigrants? Expanding the Definition of 'Drug Trafficking' in Determining Aggravated Felon Status for Non-Citizens, 64 *MARYLAND LAW REVIEW* 875 (2005) (with Jeff Yates and Todd Collins).

Cited in *United States v. Valdovinos*, 760 F.3d 322, 333 (4th Cir. 2014) (Davis J., dissenting).

Jim Crow's Long Goodbye, 21 *CONSTITUTIONAL COMMENTARY* 107 (2004) (symposium).

Reconstruction, Felon Disenfranchisement and the Right to Vote: Did the Fifteenth Amendment Repeal Section 2 of the Fourteenth?, 92 *GEORGETOWN LAW JOURNAL* 259 (2004), reprinted in 21 *CIVIL RIGHTS LITIGATION AND ATTORNEY FEES ANNUAL HANDBOOK* Ch. 11 (Steven Saltzman, ed., 2005), cited in *Hayden v. Pataki*, 449 F.3d 305, 351, n.3 (2d Cir. 2006) (Parker J., dissenting).

The "Voting Rights Act of 1867: The Constitutionality of Federal Regulation of Suffrage During Reconstruction, 82 *NORTH CAROLINA LAW REVIEW* 1581 (2004) (symposium).

Pledging Allegiance to the Constitution: The First Amendment and Loyalty Oaths for Faculty at Private Universities, 64 *UNIVERSITY OF PITTSBURGH LAW REVIEW* 431 (2003) (with Saira Rao).

Rehabilitating Unconstitutional Statutes: A Case Study of Cotton v. Fordice, 71 *UNIVERSITY OF CINCINNATI LAW REVIEW* 421 (2003) (faculty symposium).

Are Collateral Sanctions Premised on Conduct or Conviction? The Case of Abortion Doctors, 30 *FORDHAM URBAN LAW JOURNAL* 1685 (2003) (symposium).

Cited in *Simmons v. Galvin*, 575 F.3d 24, 58, n.38 (1st Cir. 2009) (Toruella J., dissenting).

Race, the War on Drugs, and the Collateral Consequences of Criminal Conviction, 6 *IOWA JOURNAL OF GENDER, RACE & JUSTICE* 253 (2003) (symposium), reprinted in *CIVIL PENALTIES, SOCIAL CONSEQUENCES* 27 (Christopher Mele & Teresa Miller eds., Routledge 2005).

Effective Assistance of Counsel and the Consequences of Guilty Pleas,
87 CORNELL LAW REVIEW 697 (2002) (with Richard W. Holmes, Jr.).

Cited in *Chaidez v. United States*, 133 S. Ct. 1103, 1109 (2013) (Kagan J., for the Court); *id.* at 1120 n.7 (Sotomayor J., dissenting); in *Padilla v. Kentucky*, 130 S. Ct. 1473, 1482 (2010) (Stevens J., for the Court); *id.* at 1487, 1488, 1491 (Alito J., concurring in the judgment), and in the 3d, 4th, 5th, 7th, 10th Circuits, and appellate courts in Illinois, Iowa, Kansas, Maryland, Minnesota, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Texas, and Washington.

Preserving Racial Identity: Population Patterns and the Application of Anti-Miscegenation Laws to Asian Americans, 1910-1950, 9 ASIAN LAW JOURNAL 1 (2002) (with Hrishi Karthikeyan).

Regulating Race: Asian Exclusion and the Administrative State,
37 HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW 1 (2002).

Book Chapter, *Twenty Years on Trial: Takuji Yamashita's Struggle for Citizenship* 103, in *RACE ON TRIAL: LAW AND JUSTICE IN AMERICAN HISTORY* (Annette Gordon-Reed ed., Oxford 2002).

Is There a Plenary Power Doctrine? A Tentative Apology and Prediction for Our Strange but Unexceptional Constitutional Immigration Law, 14 GEORGETOWN IMMIGRATION LAW JOURNAL 257 (2000) (symposium).

With responses: Kevin R. Johnson, *Race and Immigration Law and Enforcement: A Response to Is There A Plenary Power Doctrine?*, 14 GEORGETOWN IMMIGRATION LAW JOURNAL 289, 305 (2000); Stephen H. Legomsky, *Immigration Exceptionalism: Commentary On Is There A Plenary Power Doctrine?*, 14 GEORGETOWN IMMIGRATION LAW JOURNAL 307 (2000).

Can a Reasonable Doubt have an Unreasonable Price? Limitations on Attorney's Fees in Criminal Cases, 41 BOSTON COLLEGE LAW REVIEW 1 (1999) (with Scott Wells).

Cited in *State ex rel. Oklahoma Bar Ass'n v. Flaniken*, 2004 OK 6, 85 P.3d 824, 828 n.4 (Opala V.C.J., concurring).

Emerging from the Margins of Historical Consciousness: Chinese Immigrants and the History of American Law, 17 LAW & HISTORY REVIEW 325 (1999) (peer-reviewed journal) (with Richard P. Cole).

The "Blue Wall of Silence" as Evidence of Bias or Motive to Lie: A New Approach to Police Perjury, 59 UNIVERSITY OF PITTSBURGH LAW REVIEW 233 (1998) (with Scott Wells).

Reviewed in Timothy P. O'Neill, *Tearing Down the Blue Wall of Silence*, CHICAGO DAILY LAW BULLETIN, Jan. 22, 1999, at 5 ("Chin and Wells article should be required reading for everyone interested in justice in America.").

Cited in 11 federal and state court decisions.

Identifying the Enemy in the War on Drugs: A Critique of the Developing Rule Permitting Visual Identification of Indescript White Powders as Narcotics at Trial, 47 AMERICAN UNIVERSITY LAW REVIEW 557 (1998) (with Michael Blanchard), excerpted in ALEX KREIT, CONTROLLED SUBSTANCES: CRIME, REGULATION AND POLICY 297 (2013).

Cited in eight federal and state court decisions.

Segregation's Last Stronghold: Race Discrimination and the Constitutional Law of Immigration, 46 UCLA LAW REVIEW 1 (1998), reprinted in 19 IMMIGRATION & NATIONALITY LAW REVIEW 3 (1998).

AALS Outstanding Scholarly Paper Award, 1998.

The Plessy Myth: Justice Harlan and the Chinese Cases, 82 IOWA LAW REVIEW 151 (1996).

First Prize, Thurgood Marshall Memorial Paper Award,
S.W.-S.E. People of Color Legal Scholarship Conference, 1996.
Excerpted in F. MICHAEL HIGGINBOTHAM, RACE LAW: CASES,
COMMENTARY, AND QUESTIONS 327 (Carolina 2001). A shorter version
was published as *The Great Dissenter Had Limits*, BALTIMORE SUN, May
12, 1996, at 6F (1996 WL 6618398).

The Civil Rights Revolution Comes to Immigration Law: A New Look at the Immigration and Nationality Act of 1965, 75 NORTH CAROLINA LAW REVIEW 273 (1996), reprinted in 17 IMMIGRATION & NATIONALITY LAW REVIEW 87 (1995-96).

Research featured on *Here and Now* (NPR), July 19, 2010
(<http://www.hereandnow.org/2010/07/rundown-719/>)

Excerpted in TIMOTHY DAVIS, KEVIN R. JOHNSON & GEORGE A. MARTINEZ,
A READER ON RACE, CIVIL RIGHTS AND AMERICAN LAW: A MULTI-RACIAL
APPROACH 578 (2001); cited in *Mojica v. Reno*, 970 F. Supp. 130, 143
(E.D.N.Y. 1997), *aff'd in part, dismissed in part sub nom. Henderson v.*
I.N.S., 157 F.3d 106 (2d Cir. 1998).

Bakke to the Wall: The Crisis of Bakkean Diversity,
4 WILLIAM & MARY BILL OF RIGHTS JOURNAL 881 (1996).

BEYOND SELF-INTEREST: ASIAN PACIFIC AMERICANS TOWARD A COMMUNITY OF JUSTICE, A POLICY ANALYSIS OF AFFIRMATIVE ACTION (1996), reprinted in 4 UCLA ASIAN-PACIFIC AMERICAN LAW JOURNAL 129 (1996), and ASIAN WEEK, Oct. 25-31, 1996, at 7 (with Sumi Cho, Jerry Kang, and Frank Wu).

Getting Out of Jail Free: Sentence Credit for Periods of Mistaken Liberty,
45 CATHOLIC UNIVERSITY LAW REVIEW 403 (1996).

Cited in 12 federal and state court decisions.

Double Jeopardy Violations as “Plain Error” under Federal Rule of Criminal Procedure 52(b), 21 PEPPERDINE LAW REVIEW 1161 (1994).

Cited in *United States v. Gore*, 154 F.3d 34, 42 n.3 (2d Cir. 1998) & *State v. Allah*, 787 A.2d 887, 900 (N.J. 2002).

UNIFORM LAWS AND SUPREME COURT AMICUS BRIEFS

BRIEF OF GABRIEL J. CHIN ET AL. IN SUPPORT OF RESPONDENTS, in *Shelby County v. Holder*, 133 S. Ct. 2612 (2013) (U.S. No. 12-96) (available on line at http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/briefs-v2/12-96_resp_amcu_gcae-etal.authcheckdam.pdf).

BRIEF OF THE AMERICAN BAR ASSOCIATION AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER (co-author) (June 2009), in *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010) (U.S. No. 08-651) (available on line at http://www.abanet.org/publiced/preview/briefs/pdfs/07-08/08-651_PetitionerAmCuABA.pdf).

BRIEF OF THE SOCIETY OF AMERICAN LAW TEACHERS AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENTS (The University of Michigan) (co-author) (Feb. 2003), in *Grutter v. Bollinger*, 539 U.S. 306 (2003) (No. 02-241) (available on line at <http://www.saltlaw.org/gruttersaltbrief.pdf>).

UNIFORM COLLATERAL CONSEQUENCES OF CRIMINAL CONVICTION ACT, NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS (Approved July, 2009) (reporter) (available on line at <http://www.nccusl.org/Update/CommitteeSearchResults.aspx?committee=242>).

AMERICAN BAR ASSOCIATION, STANDARDS FOR CRIMINAL JUSTICE: VOLUME 19: COLLATERAL SANCTIONS AND ADMINISTRATIVE DISQUALIFICATION OF CONVICTED PERSONS (3d ed. 2004) (reporter) (available on line at http://www.abanet.org/crimjust/standards/collateral_toc.html), discussed in *Old Wine in a New Skin: The ABA Standards on Collateral Sanctions and Discretionary Disqualification of Convicted Persons*, 16 FEDERAL SENTENCING REPORTER 232 (2004) (co-author with Margaret Colgate Love).

JIM CROW REPEAL PROJECT

These reports represent work with students to publicize and repeal Jim Crow laws still on the books; they resulted in legislation in Georgia, Kansas, Louisiana, Missouri, New Mexico, Ohio, West Virginia and Wyoming, and ratification of the Fourteenth Amendment in Ohio. See, e.g., *Jim Crow Laws Remain on the Books*, USA TODAY MAG., Aug. 1, 2004, at 11 (2004 WLNR 22286209); Kristin Roberts, *La. Scrapping Jim Crow Laws*, PHILADELPHIA INQUIRER, June 20, 2004 at A04 (2004 WLNR 19353671); Ernie Suggs, *Jim Crow Laws Live On; Georgia Code Retains Measures Designed to Defeat School Integration*, ATLANTA JOURNAL-CONSTITUTION,

June 17, 2004, at D1 (2004 WLNR 6353513); *Racist Land Laws*, MORNING EDITION (NPR), July 1, 2002 (<http://www.npr.org/templates/story/story.php?storyId=1145933>); *14th Amendment Ratification Ceremony*, C-SPAN, Sept. 17, 2003 (<http://www.c-spanvideo.org/program/id/122636>).

STILL ON THE BOOKS: JIM CROW AND SEGREGATION LAWS FIFTY YEARS AFTER *BROWN V. BOARD OF EDUCATION*, A REPORT ON LAWS REMAINING IN THE CODES OF ALABAMA, GEORGIA, LOUISIANA, MISSISSIPPI, MISSOURI, SOUTH CAROLINA, VIRGINIA AND WEST VIRGINIA (2004) (co-author), *reprinted in* 2006 MICHIGAN STATE LAW REVIEW 457.

REPORT TO THE GENERAL ASSEMBLY OF THE STATE OF OHIO RECOMMENDING RATIFICATION OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION (Feb. 11, 2003) (co-author), reprinted in 28 WESTERN NEW ENGLAND LAW REVIEW 197 (2006), cited in *Citizens in Charge, Inc. v. Husted*, 810 F.3d 437, 442 (6th Cir. 2016). The recommendation became law on March 12, 2003, when the House passed Senate Joint Resolution 2, which had already passed the Senate.

REPORT TO THE GOVERNOR, SENATE, AND HOUSE OF REPRESENTATIVES OF THE STATE OF KANSAS RECOMMENDING REPEAL OF THE RACIALLY DISCRIMINATORY ALIEN LAND PROVISION OF KANSAS LAW (June 2001) (co-author). The recommendation became law on May 17, 2002, when the governor of Kansas signed SB 400, 2002 Kansas Session Laws No. 135, § 6.

REPORT TO THE GOVERNOR, SENATE, AND HOUSE OF REPRESENTATIVES OF THE STATE OF FLORIDA RECOMMENDING REPEAL OF THE RACIALLY DISCRIMINATORY ALIEN LAND PROVISION OF THE FLORIDA CONSTITUTION (Dec. 2000) (co-author), *reprinted in* 22 IMMIGRATION AND NATIONALITY LAW REVIEW 749 (2001). Repeal was rejected by the voters in Florida in 2008.

REPORT TO THE GOVERNOR, SENATE, AND HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO RECOMMENDING REPEAL OF THE RACIALLY DISCRIMINATORY ALIEN LAND PROVISION OF THE NEW MEXICO CONSTITUTION (Nov. 2000) (co-author). The recommendation passed the New Mexico legislature (Senate Joint Resolution 22, 45th Legislature, 1st Sess. (2001)), and was rejected by the electors in November, 2002; it was reintroduced and passed in November 2006.

REPORT TO THE GOVERNOR, SENATE, AND HOUSE OF REPRESENTATIVES OF THE STATE OF WYOMING RECOMMENDING REPEAL OF THE RACIALLY DISCRIMINATORY ALIEN LAND PROVISION OF THE WYOMING STATUTES (Nov. 2000) (co-author). The recommendation became law on February 22, 2001, 2001 Session Laws of Wyoming Chapter No. 0093.

OP-EDS, BOOK REVIEWS, AND OTHER SHORTER PUBLICATIONS

The Problematic Prosecution of an Asian American Police Officer: Notes From a Participant in People v. Peter Liang, GEORGIA LAW REVIEW (forthcoming).

Policy, Preemption, and Pot: Extra-Territorial Citizen Jurisdiction, 58 BOSTON COLLEGE LAW REVIEW 929 (2017).

Controlling the Criminal Justice System: Colorado as a Case Study,

94 DENVER LAW REVIEW 497 (2017).

The Korematsu Supreme Court ruling upholding internment is still a 'loaded weapon' for discrimination, LOS ANGELES TIMES, Dec. 22, 2016. <http://www.latimes.com/opinion/op-ed/la-oe-chin-korematsu-20161222-story.html>

Book Review, *Taming the Presumption of Innocence*, CRIMINAL JUSTICE ETHICS.

Plyler v. Doe, Olivas v. Kobach, in LAW PROFESSOR AND ACCIDENTAL HISTORIAN: THE SCHOLARSHIP OF MICHAEL OLIVAS (2017).

Book Review, *Immigration Outside the Law*, CRIMINAL LAW AND CRIMINAL JUSTICE BOOKS (Rutgers July 2015) <http://clcjbooks.rutgers.edu/books/immigration-outside-the-law/>

Justice and Law Journals, 20 MICHIGAN JOURNAL OF RACE & LAW 485 (2015) (with Adam Wolf).

The Immigration Act of 1965 and the Creation of a Modern, Diverse America, HUFFINGTON POST, Oct. 28, 2015

http://www.huffingtonpost.com/rose-cuisson-villazor/the-immigration-act-of-19_b_8394570.html

Agenda Setting as a Tactic in Institutional Criminal Defense, 41 NEW ENGLAND JOURNAL ON CRIMINAL AND CIVIL CONFINEMENT 29 (2015).

Law Apprenticeship Raises Serious Concerns, Room for Debate, THE NEW YORK TIMES, July 31, 2014 (with Rose Cuisson Villazor) <http://www.nytimes.com/roomfordebate/2014/07/31/do-it-yourself-lawyers/law-apprenticeship-raises-serious-concerns>

The Expansion of the Section 3 Bail-In Remedy, 8 ADVANCE: THE JOURNAL OF THE AMERICAN CONSTITUTION SOCIETY ISSUE BRIEFS 13 (2014).

Panel Discussion on Saving the Neighborhood, 56 ARIZONA LAW REVIEW SYLLABUS 51 (2014) (remarks turned into book review).

Ted Cruz Can Be President, Probably, CNN.com, August 13, 2013
<http://www.cnn.com/2013/08/13/opinion/chin-cruz-president>

Do Procedural Claims Drive Out Merits Claims In Plea Bargaining?: A Comment On The Work Of The Late Professor William Stuntz, 51 DUQUESNE LAW REVIEW 767 (2013).

The Future of Collateral Consequences, in COLLATERAL CONSEQUENCES OF A CRIMINAL CONVICTION: LAW POLICY AND PRACTICE (Margaret Colgate Love et al., eds. West 2013).

What are Defense Lawyers For? Links Between Collateral Consequences and the Criminal Process, 45 TEXAS TECH LAW REVIEW 151 (2012).

Federalism and a Fantasy of Full Enforcement: Justice Scalia on Plea Bargaining,

25 FEDERAL SENTENCING REPORTER No. 2, 135 (2012).

A Long American Tradition-Amnesty for Immigrants,
SAN FRANCISCO CHRONICLE, July 1, 2012 (with Marc Miller).

<http://www.sfgate.com/opinion/openforum/article/A-long-American-tradition-amnesty-for-immigrants-3677656.php>

Immigration Ruling No Victory for AZ, THE DAILY BEAST, June 26, 2012 (with Marc Miller)
<http://www.thedailybeast.com/articles/2012/06/26/immigration-ruling-no-victory-for-az.html>

Why Trayvon Martin Case Charges are a Victory for Legal System, CNN Opinion, Apr. 11, 2012
http://articles.cnn.com/2012-04-11/opinion/opinion_chin-trayvon-martin-case-future_1_second-degree-murder-lesser-charge-case-charges?_s=PM:OPINION

Who's Really Eligible to be President, CNN Opinion, Apr. 20, 2011
(http://articles.cnn.com/2011-04-20/opinion/chin.natural.born_1_natural-law-united-states-and-subject-citizenship-clause?_s=PM:OPINION).

Making Padilla Practical: Defense Counsel and Collateral Consequences at Guilty Plea,
47 HOWARD LAW JOURNAL 675 (2011).

Sweatt v. Painter and Undocumented College Students in Texas,
36 TEXAS SOUTHERN LAW JOURNAL 39 (2010).

Taking Plea Bargaining Seriously: Reforming Pre-Sentence Reports after Padilla v. Kentucky,
31 ST. LOUIS UNIVERSITY PUBLIC LAW REVIEW 61 (2011).

Status as Punishment: A Critical Guide to Padilla v. Kentucky,
25 CRIMINAL JUSTICE No. 3 at 21 (Fall 2010) (with Margaret Colgate Love).

Cited in *People v. Hughes*, 2012 IL 112817, ¶ 47, 983 N.E.2d 439, 454 & *State v. LeMere*, 2016 WI 41, 368 Wis. 2d 624, 675, 879 N.W.2d 580, 605.

Mandatory, Contingent and Discretionary Policy Arguments,
13 NEW CRIMINAL LAW REVIEW 142 (2010) (book comment).

Parents, Children and Citizenship by Birth, HUFFINGTON POST, Aug. 19, 2010
(http://www.huffingtonpost.com/paul-finkelman/parents-children-and-citi_b_687223.html) (with James Anaya and Paul Finkelman) (a shorter version appears as *The Faces of the 14th Amendment*, NEWSDAY, Sept. 3, 2010, at A39, 2010 WLNR 17552005).

A Bad Law, A Careful Judge, Room for Debate, THE NEW YORK TIMES, July 29, 2010
(<http://www.nytimes.com/roomfordebate/2010/07/28/whats-next-on-arizonas-immigration-law/an-unfixable-law-a-careful-ruling>).

Profiling's Enabler: High Court Ruling Underpins Arizona Immigration Law,
WASHINGTON POST, July 13, 2010 (with Kevin R. Johnson)

(<http://www.washingtonpost.com/wp-dyn/content/article/2010/07/12/AR2010071204049.html>), reprinted in RACIAL PROFILING 154 (Opposing Viewpoints Series, Greenhaven Press 2013).

Padilla v. Kentucky: The Right to Counsel and the Collateral Consequences of Conviction, THE CHAMPION, May, 2010, at 18 (with Margaret Colgate Love).

The “Major Upheaval” of Padilla v. Kentucky, 25 CRIMINAL JUSTICE No. 2 at 36 (Sum. 2010) (with Margaret Colgate Love).

Felon Disenfranchisement and Democracy in the Late Jim Crow Era, 5 OHIO STATE JOURNAL OF CRIMINAL LAW 329 (2007) (review of JEFF MANZA & CHRISTOPHER UGGEN, LOCKED OUT (Oxford 2006)).

Ex-Offenders Should Have Their Voting Rights Restored, ARIZONA REPUBLIC, Mar. 27, 2005 (with Gary Lowenthal) (<http://www.azcentral.com/arizonarepublic/viewpoints/articles/0327lowenthal0327.html>).

Chinese Exclusion Act of 1882, in MAJOR ACTS OF CONGRESS (with Diana Yoon).

Conference Paper, *Virtual Immigrants: The Evolution of the H-1B Program*, in CROSS-BORDER HUMAN RESOURCES, LABOR AND EMPLOYMENT ISSUES 137 (Andrew Moriss & Samuel Estreicher eds. 2005) (conference paper).

Chinese Exclusion Act and The Insular Cases in DICTIONARY OF AMERICAN HISTORY (Scribner’s 3d ed.) (with Diana Yoon).

REPORT TO THE GENERAL ASSEMBLY OF THE STATE OF OHIO RECOMMENDING PASSAGE OF TRINA’S LAW (July 2003) (co-author), reprinted in 32 CAPITAL LAW REVIEW 351 (2003).

Citizenship and Exclusion: Wyoming’s Anti-Asian Alien Land Law in Context, 1 WYOMING LAW REVIEW 497 (2001) (symposium).

Affirmative Action & Immigration and Naturalization: Law and Policy, in THE ENCYCLOPEDIA OF AMERICAN POLITICAL HISTORY (CQ Press, 2001) (Affirmative Action with Michael Blanchard).

Cocoanut Grove Fire, in THE ENCYCLOPEDIA OF NEW ENGLAND, 913 (Yale University Press 2005).

Immigration Policy and Law, in THE ENCYCLOPEDIA OF THE UNITED STATES IN THE NINETEENTH CENTURY (Charles Scribner’s Sons 2001).

Book Review, Peter Schuck, *Citizens, Strangers and In-Betweens*, 18 LAW & HISTORY REVIEW 247 (2000).

Book Review, Gerald Neuman, *Strangers to the Constitution*, 42 AMERICAN JOURNAL OF LEGAL HISTORY 64 (1999).

Lau v. Nichols, in 2 CIVIL RIGHTS IN THE UNITED STATES 420 (Macmillan 1999) (with Chris K. Iijima).

The First Justice Harlan By The Numbers: Just How Great was the Great Dissenter?, 33 AKRON LAW REVIEW 629 (1999).

Rethinking Racial Divides: Asian Pacific Americans and the Law Panel on Affirmative Action, 4 MICHIGAN JOURNAL OF RACE & LAW 187 (1998).

Coolies, in 2 MACMILLAN ENCYCLOPEDIA OF WORLD SLAVERY 463 (Macmillan 1998).

Do You Really Want A Lawyer Who Doesn't Want You?, 20 WESTERN NEW ENGLAND LAW REVIEW 9 (1998) (faculty symposium).

Cited in NY Eth. Op. 1111 (Jan. 7, 2017).

EDITED BOOKS

EXPERIENCING CRIMINAL LAW (West 2015) (with Wes Oliver).

THE IMMIGRATION AND NATIONALITY ACT OF 1965: LEGISLATING A NEW AMERICA (Cambridge University Press, 2015) (Co-editor and author of introduction with Rose Cuisin Villazor, author of chapter).

STRANGE NEIGHBORS: STATE AND LOCAL REGULATION OF IMMIGRATION POLICY (NYU Press 2014) (co-editor and co-author of introduction with Carissa B. Hessick).

UNITED STATES COMMISSION ON CIVIL RIGHTS: REPORTS ON THE POLICE (William S. Hein & Co. 2005) (editor and author of introduction).

UNITED STATES COMMISSION ON CIVIL RIGHTS: REPORTS ON VOTING (William S. Hein & Co. 2005) (co-editor with Lori Wagner).

UNITED STATES COMMISSION ON CIVIL RIGHTS: REPORTS ON ASIAN PACIFIC AMERICANS (William S. Hein & Co. 2005) (editor and author of introduction).

AFFIRMATIVE ACTION AND THE CONSTITUTION (Garland Publishing 1998) (three-volume anthology) (editor and author of introductions).

IMMIGRATION AND THE CONSTITUTION (Garland Publishing 2000) (anthology) (co-editor with Victor Romero and Michael Scaperlanda).

THE UNITED STATES COMMISSION ON IMMIGRATION REFORM: THE INTERIM AND FINAL REPORTS AND COMMENTARY (William S. Hein & Co. 2000) (editor, with the Editors of the *Immigration and*

Nationality Law Review).

NEW YORK CITY POLICE CORRUPTION INVESTIGATION COMMISSIONS, 1894-1994
(William S. Hein & Co. 1997) (editor and author of introductions).

PRINT AND INTERNET EDITORIAL POSITIONS

Occasional guest blogger on Prawfsblawg, Immprof, ACS Blog.

Contributing Editor, Criminal Law, JOTWELL (<http://jotwell.org>), since 2009.

Consultant, ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES
(MacMillan 2008).

Associate Editor, ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES (Routledge 2006).

Co-editor and contributor, *Breaking Into the Academy: The MICHIGAN JOURNAL OF RACE AND LAW Guide for Aspiring Law Professors*, 7 MICHIGAN JOURNAL OF RACE & LAW 457 (4th ed. 2002); 5 MICHIGAN JOURNAL OF RACE & LAW 727 (3d ed. 2000); 3 MICHIGAN JOURNAL OF RACE & LAW 559 (2d ed. 1998); 1 MICHIGAN JOURNAL OF RACE & LAW 551 (1996) (with Denise Morgan).

Editor, IMMIGRATION AND NATIONALITY LAW REVIEW (William S. Hein & Co.),
1998-Present (beginning with 1997 volume).

Co-Editor, IMMIGRATION, REFUGEE AND CITIZENSHIP LAW ABSTRACTS (SSRN), 1999-2006
(with Bernard Trujillo). Advisory Board Member, since 2007.

LAW PRACTICE EXPERIENCE

U.S. Air Force Judge Advocate General's Corps

Legal Services Volunteer, 60th Air Mobility Wing, Office of the Judge Advocate,
Travis AFB, 2014-present.

Aoki Federal Defender Clinic

Work with students on Ninth Circuit appeals, 2012-present.

Office of the Arizona Attorney General, Criminal Division, Criminal Prosecution Section.

Special Assistant Attorney General, Summer, 2005-11.

Supervised clinic investigating and prosecuting white collar cases with students. Appointed
Special Deputy Pima County Attorney for purposes of making grand jury appearances.

Hamilton County Prosecuting Attorney's Office, Cincinnati, Ohio.

Special Assistant Prosecuting Attorney, Spring 1999-Spring, 2003.

Prosecuted homicides on appeal with students, including serial killer Joseph Paul Franklin and
murderer Melissa Vanover. *State v. Vanover*, 2000 WL 1434161 (Ohio App. Sept. 29, 2000).

Office of the District Attorney, Appeals Bureau, Cambridge and Springfield, Massachusetts.
Special Assistant District Attorney, August 1991; January 1996 to April 1998.
1996 appointment in connection with Appellate Advocacy course.

The Legal Aid Society of New York.

Volunteer Counsel, Alabama Capital Representation Project, 1997-98.

Associate Appellate Counsel, Criminal Appeals Bureau, January 1992 to July 1994.

Volunteer Division, Summer, 1987 (represented Social Security Disability applicant).

Skadden, Arps, Slate, Meagher & Flom, New York and Boston.

Associate, Fall 1988; February 1990 to November 1991; *Summer Associate*, 1987.

Pro bono clients: Minority Business Development Legal Defense and Education Fund, *amicus curiae* in *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989); New York State Commission on Government Integrity. Also represented criminal defendants in the First Circuit.

The Honorable Richard P. Matsch, Judge, U.S. District Court, District of Colorado.

Law Clerk, January to December 1989.

Professor Jerold Israel, Michigan Law School.

Research Assistant, Fall 1986 to Spring 1987.

Office of the Mayor, City of New York.

Summer Graduate Intern, 1986. Assigned to Criminal Justice Coordinator.

UC DAVIS ACADEMIC SERVICE

University:

Vice Chair, Police Accountability Board, 2014-16, Alternate, 2016-17, Member, 2017-18.

Special Title IX Hearing Officer, Fall, 2015.

Participant, UC President's Law Forum, Procedures for the Implementation of the Title IX Student Adjudication Model, Sept. 30, 2015.

Member, Academic Senate Freedom of Expression Special Committee, 2012-13.

Chair, Interdisciplinary Frontiers in the Humanities and Arts, RFP Drafting Committee, 2011-12.

Law School:

Chair, Admissions Committee, 2017-18; Member, 2011-12.

Chair, Brian Soucek Tenure Committee, 2013-18.

Chair, Faculty Executive Committee, 2015-17.

Member, Faculty Personnel Committee 2015-17.

Member, Educational Policy Committee, Spring, 2016.

Member, AALS Site Evaluation Self-Study Committee, 2016-17.

Member, David Horton Tenure Committee, 2013-14.

Member, School of Law Website Redesign Committee, 2013-14.

Chair, Faculty Appointments Committee, 2012-13; Member, 2014-15.

Chair, Ad Hoc Committee for Continuing Appointment Review for Holly Cooper, 2011-12.

PROFESSIONAL AFFILIATIONS

Bar Admission: New York (1989), Massachusetts (1988 “retired”)
 Arizona, 2005-2011 (Law Professor Admission)
 U.S. Supreme Court
 U.S. Court of Appeals (1st, 6th, 9th, 10th Circuits, Armed Forces)
 U.S. Air Force Court of Criminal Appeals
 U.S. District Court (D. Mass., S.D.N.Y., E.D.N.Y.)

Other: American Society for Legal History (Life)
 NAACP (Life)

Exhibit 2

MILLER, PITTS, FELDMAN & McANALLY, P.C.

GERALD MALTZ
T. PATRICK GRIFFIN
THOMAS G. COTTER
JOSÉ DE JESÚS RIVERA
PETER TIMOLEON LIMPERIS
JEFFREY A. IMIG
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(1932 – 2015)

February 3, 2021

Via email only
jack.chin@pcao.pima.gov

Prof. Jack Chin
Office of the Pima County Attorney
32 North Stone Avenue
Tucson, Arizona 85701

Dear Professor Chin:

I thank you for calling me last weekend. To put it tactfully, we had a very interesting conversation. The more I thought about it, the more concerned I became; hence this letter.

To recap, you called me a few weeks earlier to tell me that Ms. Conover, the Pima County Attorney, has asked you to assist in handling the pending and ongoing matters in *Taylor v. Pima County*. I told you then that I was glad to know you were to be the person to talk to and negotiate with. I explained that we had been trying to arrange a mediation with the County but have had no success: Ms. Davis first agreed, then refused, then said maybe, but she never gave us a final answer.

I described in some detail why I thought it was appropriate and helpful to both sides to have a mediation and see if the case could be settled or, if not, we could at least understand each other's viewpoint. After all, use of a neutral mediator often leads to each side having a better insight into the other side's position. Consequently, it often facilitates a settlement advantageous to both sides. If such a process took place and it would be possible to settle the case, I suggested it might be to each side's interest to do that.

You did not commit yourself during this conversation but seemed open to the idea of mediation and asked for information. We sent you the requested information and told you we are willing to send you anything else you might wish to see. You even asked me what kind of figure we are thinking of for settlement, and I gave you what I thought was a reasonable idea of where we are. But I did not commit myself to anything that high or that low.

Prof. Jack Chin
February 3, 2021
Page 2

Since then, John Leader and I have continued to send you whatever you have asked for. This led me to believe that you are considering the matter, as would be proper. Thus, I was quite surprised by your phone call this past weekend, at which time you advised me that the County Attorney's office is conflicted because the office's ethics counsel said Ms. Conover has a conflict. You did not say how this conflict came to light but did say it was based on some research Ms. Conover did on the Taylor case in Professor Silverman's class when she was a law student in 2005. I was surprised that this would lead to a conflict, given that more than 15 years have passed, she was a law student at the time she did the research, and the fact that if she did any research on the Taylor case, it was not the present case but on the post-conviction proceedings that were resolved by the 2013 plea agreement that resulted in a new conviction. None of Ms. Conover's 2005 research has any possible relevance to the issues before the district court in the present case, which came along years later.

I have since called Professor Silverman, who told me that Ms. Conover was one of his students in 2005, but that he had no recollection that she did any research on Taylor's Rule 32 petition. He volunteered to check his files to see if there was any record of what she had done. He called me back later to tell me he found no record of Ms. Conover working on the Taylor case.

I am also confused about the question of conflict. You told me that the office is conflicted and so private counsel has been retained. I attach a copy of the December 29, 2020 motion by Ms. Davis and Mr. Kramer to withdraw as counsel of record. You will note that it does not ask that the court allow withdrawal of the Pima County Attorney's office. I also attach a copy of the court's January 7, 2021 order granting the motion to withdraw. Please note that it permits withdrawal of Ms. Davis and Mr. Kramer but does not mention withdrawal of the Pima County Attorney's office. I also attach a copy of the October 23, 2020 notice of appearance *as co-counsel for Pima County* filed by attorneys Daniel Struck, Nicholas Acedo, and Jacob Lee of the firm of Struck Love Bojanowski & Acedo, PLC. Please note that the County Attorney's office has not withdrawn from the case but is still of record as representing Pima County in the district court proceedings.

All of this leads me to wonder what is going on. In my view, the former administration did its best and, in fact, was quite successful in covering up the malfeasance and unconstitutional behavior that led to Mr. Taylor's conviction. I wrote Ms. LaWall once and expressed the view, which I and my co-counsel still hold, that no repair can be made of the systemic malfeasance committed by past prosecutors without confessing the wrong, something Ms. LaWall and Ms. Davis were evidently unwilling to do.

Instead of seeking some fair resolution of this problem, they have fought tooth and nail to avoid even discussing some fair resolution of the issues in the case. It took over 40 years to free Mr. Taylor from an unjust conviction of murder, based on the felony-murder rule, based on the claim that he committed arson. We now know, and in 2013 the County admitted in open court, that there is no valid evidence that arson was committed. We now know that the conviction was based on the "expert testimony" of a man who believed Black boys were more likely to commit arson than Black men, who were more likely to commit arson than Caucasians. We now know that the prosecutor assigned by the Pima County Attorney told the jury that arson was established because of the use of accelerants; he said that, despite knowing the lab report showed none, and also called a witness (Jackson), who falsely claimed that an

MILLER, PITT, FELDMAN & MCANALLY, P.C.

Prof. Jack Chin
February 3, 2021
Page 3

accelerant was used. The “expert” said arson was shown by the differing depth of charring; it turns out he measured the depth with his pocket knife. We know that the trial judge said he would never have convicted Taylor, but he denied the motion for new trial. He was an elected judge, and many of the unfortunate fire victims were prominent citizens, so there was a lot of pressure. The trial judge’s actions were wrong but understandable. What has followed is wrong and not understandable.

I bring these matters to your attention because I had looked forward to a new regime in the County Attorney’s office, not just for the Taylor case but for how things are handled generally. To my mind, this conflict issue is ridiculous and simply another effort by those in the old regime who still wield power to cover up the sins of the past.

I don’t know if there is any point in sending you this letter, since it may be bouncing words against a wall of prejudice, but sometimes one needs to make one’s position clear. In my conversation with you, we were not asking the Pima County Attorney’s office to do anything but submit the matter to a neutral person who would make a recommendation. Why that idea stirs up the ghost of conflict is more than I can understand. Perhaps you can explain it to me.

Please feel free to share this letter with Ms. Conover.

Yours truly,



Stanley G. Feldman

svc:2021 02 03 ltr.sgf to jchin.doc

Attachments

cc: John P. Leader
Peter Timoleon Limperis
Prof. Andrew Silverman
Maria Barr

1 **BARBARA LAWALL**
2 **PIMA COUNTY ATTORNEY**
3 **CIVIL DIVISION**
4 Nancy J. Davis, SBN 017197
5 Clayton R. Kramer, SBN 034258
6 Deputy County Attorneys
7 32 North Stone Avenue, Suite 2100
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Attorneys for Pima County

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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11

12 Louis Taylor, a single man,
13 Plaintiff,
14 v.
15 Pima County, a body politic; et al.,
16 Defendants.

17

18 No. 15-CV-00152-TUC-RM
MOTION TO WITHDRAW

19 Pursuant to LRCiv. 83.3, Nancy J. Davis and Clayton R. Kramer hereby move to
20 withdraw as counsel of record in this matter due to a conflict of interest. Pima County
21 may be contacted through its attorneys of record at Struck Love Bojanowski & Acedo,
22 PLC, 3100 West Ray Road, Suite 300, Chandler, Arizona 85226, (480) 420-1600 (see
23 Doc. 154 (October 23, 2020 Notice of Appearance)). Maria Luna, Pima County Risk
24 Manager and Pima County representative, has consented to the withdrawal, and her
25 written approval is included below. This case is not currently scheduled for trial (Doc.
26 158 at 2). As permitted by LRCiv. 83.3(b)(1), this motion is presented to the Court ex
parte.

BARBARA LAWALL
PIMA COUNTY ATTORNEY
CIVIL DIVISION

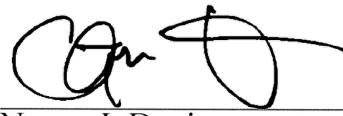
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CONSENT TO WITHDRAWAL

2 I, Maria Luna, hereby consent to and approve of the withdrawal of Nancy J. Davis
3 and Clayton R. Kramer as counsel of record in this matter.

4
5 By 
6 Maria Luna
7 Pima County Risk Manager

8
9 RESPECTFULLY SUBMITTED December 29, 2020.

10
11 BARBARA LAWALL
12 PIMA COUNTY ATTORNEY

13 By 
14 Nancy J. Davis
15 Clayton R. Kramer
16 Deputy County Attorneys

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BARBARA LAWALL
PIMA COUNTY ATTORNEY
CIVIL DIVISION

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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF ARIZONA**
7

8 Louis Taylor, a single man,
9 Plaintiff,
10 v.
11 Pima County, a body politic; et al.,
12 Defendants.
13

14 No. 15-CV-00152-TUC-RM
15 **ORDER**
16

17 Upon motion and good cause appearing, **IT IS HEREBY ORDERED** granting
18 Nancy J. Davis and Clayton R. Kramer permission to withdraw as counsel of record in
19 this matter.
20

21
22 DATED December __, 2020.
23

24
25 By The Honorable Rosemary Márquez
26 United States District Court Judge
27

BARBARA LAWALL
PIMA COUNTY ATTORNEY
CIVIL DIVISION

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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Louis Taylor,
10 Plaintiff,
11 v.
12 County of Pima, et al.,
13 Defendants.
14

No. CV-15-00152-TUC-RM

EX PARTE ORDER

15 Pending before the Court is a Motion to Withdraw filed *ex parte* by attorneys
16 Nancy Jane Davis and Clayton Robert Kramer. (Doc. 160.) Davis and Kramer seek to
17 withdraw as attorneys of record for Defendant Pima County, due to a conflict of interest.
18 (*Id.*) The Motion bears the written consent of Pima County Risk Manager Maria Luna.
19 (*Id.* at 2.)

20 Good cause appearing, and pursuant to LRCiv 83.3(b),

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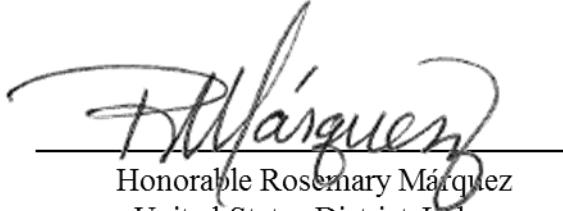
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1 **IT IS ORDERED** that the Motion to Withdraw (Doc. 160) is **granted**. Attorneys
2 Nancy Jane Davis and Clayton Robert Kramer of the Pima County Attorneys Office are
3 hereby withdrawn as counsel of record for Defendant Pima County.

4 Dated this 6th day of January, 2021.

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Honorable Rosemary Márquez
United States District Judge

1 Daniel P. Struck, Bar #012377
2 Nicholas D. Acedo, Bar #021644
3 Jacob B. Lee, Bar #030371
4 STRUCK LOVE BOJANOWSKI & ACEDO, PLC
5 3100 West Ray Road, Suite 300
6 Chandler, Arizona 85226
7 Telephone: (480) 420-1600
8 dstruck@strucklove.com
9 nacedo@strucklove.com
10 jlee@strucklove.com

11 *Attorneys for Defendant Pima County*

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF ARIZONA**

14 Louis Taylor,	15	No. CV-15-00152-TUC-RM
	16	NOTICE OF APPEARANCE
17 v.	18	
19 County of Pima, et al.,	20	
	21	Defendants.

20 NOTICE IS HEREBY GIVEN that Daniel P. Struck, Nicholas D. Acedo, and
21 Jacob B. Lee of the law firm Struck Love Bojanowski & Acedo, PLC are appearing as co-
22 counsel for Defendant Pima County in this matter. All communications should be directed
23 to:

24 Daniel P. Struck
25 Nicholas D. Acedo
26 Jacob B. Lee
27 STRUCK LOVE BOJANOWSKI & ACEDO, PLC
28 3100 West Ray Road, Suite 300
Chandler, Arizona 85226
Phone: (480) 420-1600
dstruck@strucklove.com
nacedo@strucklove.com
jlee@strucklove.com

1 DATED this 23rd day of October, 2020.
2
3

4 STRUCK LOVE BOJANOWSKI & ACEDO, PLC
5
6

7 By /s/ Nicholas D. Acedo
8

9 Daniel P. Struck
10 Nicholas D. Acedo
11 Jacob B. Lee
12 3100 West Ray Road, Suite 300
13 Chandler, Arizona 85226
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29 *Attorneys for Defendant Pima County*

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2020, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

John P. Leader john@leaderlawaz.com
Peter T. Limperis plimperis@mpfmlaw.com
Stanley G. Feldman sfeldman@mpfmlaw.com
Timothy P. Stackhouse tstackhouse@hmpmlaw.com
Nancy J. Davis Nancy.Davis@pcao.pima.gov
Clayton R. Kramer clayton.kramer@pcao.pima.gov
Michelle R. Saavedra micelle.saavedra@tucsonaz.gov
Dennis P. McLaughlin Dennis.McLaughlin@tucsonaz.gov

I hereby certify that on this same date, I served the attached document by U.S. Mail, postage prepaid, on the following, who is not a registered participant of the CM/ECF System:

/s/ Nicholas D. Acedo

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Louis Taylor, a single man,

Plaintiff,

VS.

Pima County, a body politic; The City of Tucson, a body politic,

Defendants.

No. CV-15-00152-TUC-RM

**[PROPOSED]
ORDER TO SHOW CAUSE
HEARING**

Pending before the Court is Plaintiff's Settlement Status Memo and Request for Order to Show Cause (Doc. __).

IT IS ORDERED that an Order to Show Cause Hearing is scheduled for _____

15 _____, 2021 at _____ a.m./p.m., before the Honorable Rosemary Marquez,
16 in Courtroom 5A of the United States District Court for the District of Arizona, Evo
17 A. DeConcini U.S. Courthouse, 405 W. Congress Street, Tucson, AZ 85701.

Estimated time of hearing is _____:

Honorable Rosemary Márquez
United States District Judge