

# MARIN K. LEVY

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## EXPERIENCE

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### **Duke University School of Law, Durham, NC**

*Professor of Law*, July 2019 – Present  
*Associate Professor of Law*, Jan. 2013 – June 2019  
*Visiting Associate Professor*, Aug. 2009 – Dec. 2012  
*Director, Program in Public Law*, July 2018 – June 2023  
*Academic Advisor, Bolch Judicial Institute*, Jan. 2019 – Present

Courses: Appellate Courts, Civil Procedure, Courts and Legal Process  
Colloquium, Qualitative Research and the Judiciary, Remedies  
Honors: Duke Law School Distinguished Teaching Award, 2017

**Hon. José A. Cabranes**, U.S. Court of Appeals for the Second Circuit, New Haven, CT  
*Law Clerk*, Aug. 2008 – Aug. 2009

**Jenner & Block LLP**, Washington, DC  
*Associate*, Sept. 2007 – Aug. 2008

## EDUCATION

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**Yale Law School**, New Haven, CT  
J.D., 2007

Activities: *Yale Law & Policy Review*, Editor-in-Chief, Articles Editor  
Professor Heather Gerken, Research Assistant  
Professor Bruce Ackerman, Research Assistant  
Professor Judith Resnik, Teaching Assistant for Federal Courts,  
Research Assistant

**University of Cambridge**, King's College, Cambridge, UK  
M.Phil. in the History and Philosophy of Science and Medicine, 2004  
Honors: Cambridge Overseas Trust Scholarship

**Yale College**, New Haven, CT  
B.A. in Ethics, Politics & Economics, and in English, 2003  
Honors: Graduated *cum laude* and with Distinction in Both Majors

## BOOKS

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FEDERAL STANDARDS OF REVIEW: APPELLATE COURT REVIEW OF DISTRICT COURT DECISIONS AND AGENCY ACTIONS (2d ed. 2013) (with Judge Harry T. Edwards and Linda A. Elliott)

WRITTEN AND UNWRITTEN: THE RULES, INTERNAL PRACTICES, AND CUSTOMS OF THE UNITED STATES COURTS OF APPEALS (with Judge Jon O. Newman) (Cambridge University Press, forthcoming 2024)

## SCHOLARLY PUBLICATIONS AND WORKS IN PROGRESS

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*Are Federal Judges National Judges?: State Representation on the Courts of Appeals* (in progress)

*Local Rules* (in progress, with Zach Clopton)

[\*Judicial Management Inside the Courts\*](#), 43 REV. OF LIT. 101 (2023) (invited contribution, symposium issue: “Managerial Judges at 40”)

[\*The Office of the Chief Circuit Judge\*](#), 169 U. PENN. L. REV. 2423 (2021) (with Judge Jon O. Newman) (invited contribution)

[\*The Promise of Senior Judges\*](#), 115 NW. U. L. REV. 1227 (2021) (invited contribution)

- Discussed by Adam Liptak in *On Federal Appeals Courts, a Spike in Partisanship* N.Y. TIMES (Feb. 22, 2021)
- Discussed by Ann E. Marimow & Matt Viser in *Biden Moves Quickly to Make His Mark on Federal Courts After Trump’s Record Judicial Nominations*, WASH. POST (Feb. 3, 2021)

[\*Interbranch Information Sharing: Examining the Statutory Opinion Transmission Project\*](#), 108 CAL. L. REV. 917 (2020) (with Tejas Narechania) (invited contribution, symposium issue: “Re-examining the Federal Courts ‘Crisis’”)

[\*Packing and Unpacking State Courts\*](#), 61 WM. & MARY L. REV. 1121 (2020) (invited contribution, symposium issue: “The Role of Courts in Politically Charged Moments”)

- Discussed by Adam Liptak in *The Precedent, and Perils, of Court Packing*, N.Y. TIMES (Oct. 12, 2020)
- Discussed by Aaron Blake in *The GOP’s Court-Stacking*, WASH. POST (Oct. 12, 2020)
- Discussed by Christopher Ingraham in *GOP Has Been Aggressively Trying to Pack Supreme Courts at State Level, Study Says*, WASH. POST (Oct. 13, 2020)

[\*Foreword: Fees, Fines, Bail, and the Destitution Pipeline\*](#), 69 DUKE L. J. 1463 (2020) (with Brandon Garrett & Sara Greene)

## **SCHOLARLY PUBLICATIONS AND WORKS IN PROGRESS, CT'D**

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[\*Visiting Judges\*](#), 107 CAL. L. REV. 67 (2019)

- Selected for the Tenth Annual Junior Faculty Federal Courts Workshop

[\*Panel Assignment in the Federal Courts of Appeals\*](#), 103 CORNELL L. REV. 65 (2017)

- Selected for the New Voices in Civil Justice Workshop

[\*Challenging the Randomness of Panel Assignment in the Federal Appellate Courts\*](#), 101 CORNELL L. REV. 1 (2015) (with Adam Chilton)

- Discussed by Adam Liptak in *Coalition Challenges Selection of Judges in Same-Sex Marriage Case*, N.Y. TIMES (Nov. 10, 2014)

*Appeals*, in INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL & BEHAVIORAL SCIENCES (2d ed. 2015) (with Paul D. Carrington)

[\*Judging Justice on Appeal\*](#), 123 YALE L.J. 2386 (2014) (reviewing WILLIAM M. RICHMAN & WILLIAM L. REYNOLDS, INJUSTICE ON APPEAL (2012))

[\*Judging the Flood of Litigation\*](#), 80 U. CHI. L. REV. 1007 (2013)

- Discussed by Adam Liptak in *Fearing Deluge of Litigation, Supreme Court Works the Floodgates*, N.Y. TIMES (Mar. 4, 2013)

[\*Judicial Attention as a Scarce Resource: A Preliminary Defense of How Judges Allocate Time Across Cases in the Federal Courts of Appeals\*](#), 81 GEO. WASH. L. REV. 401 (2013)

- Reviewed on Jotwell by Nancy Leong

*Case Management in the Circuit Courts*, LEGAL WORKSHOP (2011)

[\*The Mechanics of Federal Appeals: Uniformity and Case Management in the Circuit Courts\*](#), 61 DUKE L. J. 315 (2011)

[\*The Costs of Judging Judges by the Numbers\*](#), 28 YALE L. & POL'Y REV. 313 (2010) (with Kate Stith and José A. Cabranes)

[\*Geographic Variation in Informed Consent Law: Two Standards for Disclosure of Treatment Risks\*](#), 4 J. EMPIRICAL LEGAL STUD. 103 (2007) (with David M. Studdert et al.)

## **BRIEFS**

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*Cooper v. Berger*, No. 315PA18 (Supreme Court of North Carolina, 2018)

Brief of Professor Marin K. Levy as *Amicus Curiae* (with Drew Erteschik & Nathaniel Zinkow)

## **TESTIMONY**

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*Composition of the Supreme Court*, Hearing Before the Presidential Commission on the Supreme Court of the United States (July 20, 2021), *available at* <https://www.whitehouse.gov/pscscotus/public-meetings/>

*The Need for New Lower Court Judgeships, 30 Years in the Making*, Hearing Before the House Committee on the Judiciary, Subcommittee on Courts, Intellectual Property, and the Internet, 117th Cong. (Feb. 24, 2021), *available at* <https://judiciary.house.gov/calendar/eventsingle.aspx?EventID=4378>

## **SELECTED WORKSHOPS AND PRESENTATIONS**

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Keynote speaker, “Jurisprudence of the Judicial Process,” Yale Journal of Law and the Humanities, Yale Law School (scheduled for Oct. 24, 2024)

Panelist, “Judging and Legitimacy,” Georgetown Law School (scheduled for Sept. 20, 2024)

“State Representation on the Courts of Appeals,” Emory University School of Law Faculty Workshop (scheduled for April 10, 2024)

Panelist, “13 Laboratories of Appellate Adjudication,” American Association of Law Schools, Federal Courts Section, Jan. 5, 2024

Commentator, “Judicial Decision-Making: A Symposium,” Washington University in Saint Louis, Sept. 29, 2023

Commentator, “Public Law in the States,” State Democracy Research Initiative, University of Wisconsin, June 1, 2023

Speaker, Scalia-Ginsburg Series, William & Mary Law School, April 19, 2023

“Judicial Management Inside the Courts,” Review of Litigation Symposium, University of Texas Law School, April 7, 2023

“State Representation on the Courts of Appeals,” Michigan Law School Public Law Workshop, March 15, 2023

“State Representation on the Courts of Appeals,” Northwestern Public Law Colloquium, Feb. 23, 2023

Panelist, “Managerial Judges at 40,” Yale Law School, Nov. 4, 2022

Moderator, “North Carolina Supreme Court Candidates Forum,” Duke Law School, Oct. 26, 2022

## **SELECTED WORKSHOPS AND PRESENTATIONS, CT'D**

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Moderator, “The Roberts Court: Where is it Headed?” Duke Law School, Oct. 6, 2022

Panelist, “Supreme Court (P)review Forum,” NYU School of Law, Sept. 14, 2022

Moderator, “The Supreme Court October 2021 Term,” Duke Law School, Aug. 22, 2022

Panelist, “Can Courts Avoid Politicization in a Polarized America?” ABA Annual Meeting, Aug. 5, 2022

“Are Federal Judges National Judges?” University of Virginia Law School Faculty Workshop, Apr. 22, 2022

Panelist, Minnesota Law Review Symposium, “Federal Court Reform in the 2020s,” Minnesota Law School, March 25, 2022

“Are Federal Judges National Judges?” Courts & Judicial Process Colloquium, Berkeley School of Law, March 8, 2022

“Judicial Secrecy,” Judicial Administration / Judicial Process Roundtable, Duke Law School, Dec. 9, 2020

Moderator, “Federal Courts and Social Progress,” American Constitution Society at NYU School of Law, Apr. 14, 2021

“The Office of the Chief Circuit Judge,” The University of Pennsylvania Law Review Symposium: Civil Procedure, Judicial Administration, and the Future of the Field: A *Festschrift* in Honor of Professor Stephen B. Burbank, Feb. 12, 2021

Panelist, “Is There a Path Forward for Court Reform?” Brookings Institution, Jan. 25, 2021

“The Promise of Senior Judges,” William & Mary Law School Faculty Workshop, Oct. 22, 2020

“Judicial Secrecy,” Washington University in St. Louis School of Law Faculty Workshop, Sept. 8, 2020

“The Office of the Chief Judge,” Duke Law School Faculty Workshop, July 1, 2020

“The Power of the Chief,” Courts & Judicial Process Colloquium, Berkeley School of Law Apr. 2, 2020

“The Power of the Chief,” Judicial Administration / Judicial Process Roundtable, Duke Law School, Dec. 12, 2019

## **SELECTED WORKSHOPS AND PRESENTATIONS, CT'D**

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Panelist, Civil Rules Planning Conference, Bolch Judicial Institute, Duke Law School, Nov. 8, 2019

“Judicial Officers,” Remedies Roundtable, Notre Dame Law School, June 20, 2019

Panelist, California Law Review Symposium: “Re-examining the Federal Courts ‘Crisis,’” University of California, Berkeley School of Law, Apr. 12, 2019

“Judicial Self-Restraint or Self Help?” William & Mary Law Review Symposium: “The Role of Courts in Politically Charged Moments,” William & Mary Law School, Feb. 22, 2019

“Are Federal Judges National Judges?” Judicial Administration / Judicial Process Roundtable, Duke Law School, Dec. 14, 2018

“Visiting Judges,” Vanderbilt University Law School Faculty Workshop, Oct. 2, 2018

“Consequentialist Courts,” Remedies Roundtable, Notre Dame Law School, June 14, 2018

“Visiting Judges,” Courts & Legal Process Workshop, Columbia Law School, Mar. 28, 2018

“Panel Assignment in the Federal Courts of Appeals,” Law and Economics Workshop, University of Toronto Law School, Sept. 12, 2017

“Visiting Judges,” Study of the Judiciary Workshop, Center for Judicial Studies, Duke Law School, June 9, 2017

“Are Federal Judges National Judges?” Duke Law School Faculty Workshop, July 27, 2016

“Beyond Strict Randomness in Appellate Panel Assignment,” New Voices in Civil Justice Workshop, Vanderbilt University Law School, May 11, 2016

“Challenging the Randomness of Panel Assignment in the Federal Appellate Courts,” Conference on Empirical Legal Studies, Washington University in St. Louis School of Law, Oct. 31, 2015

“Judicial Administration and Historical Practice,” Historical Practice and the Federal Judicial Power Roundtable, Duke Law School, Oct. 23, 2015

“Judicial Administration and the New Legal Process,” The Eighth Annual Judge Stephanie K. Seymour Distinguished Lecture in Law, University of Tulsa College of Law, Oct. 15, 2015

“The Burden on the Court: The Role of Judicial Self-Interest in Remedies,” Duke Law School Faculty Workshop, July 15, 2015

## **SELECTED WORKSHOPS AND PRESENTATIONS, CT'D**

“The Burden on the Court: Injunctive Relief in the Wake of *eBay*,” Remedies Discussion Forum, Université Paris – Dauphine, June 16, 2015

“Beyond Strict Randomness: Understanding and Evaluating Panel Assignment in the Federal Courts of Appeals,” Cornell Law School Faculty Workshop, Mar. 13, 2015

“Challenging the Randomness of Panel Assignment in the Federal Appellate Courts,” University of Chicago Law School Faculty Workshop, Dec. 11, 2014

“Challenging the Randomness of Panel Assignment in the Federal Appellate Courts,” University of Pennsylvania Law School Civil Procedure Scholarship Workshop, Oct. 21, 2014

“Challenging the Randomness of Panel Assignment in the Federal Appellate Courts,” Duke Law School Faculty Workshop, July 16, 2014

“Oral Argument Panel Assignment in the Federal Courts,” Junior Federal Courts and Conflicts of Law Scholars Roundtable, Duke Law School, June 4, 2013

“Oral Argument Panel Assignment in the Federal Courts,” Duke Law School Faculty Workshop, May 29, 2013

“Judging the Flood of Litigation,” Duke Law School Faculty Workshop, Aug. 28, 2012

## **POPULAR PUBLICATIONS AND COMMENTARY**

*The Business of the Supreme Court Law Clerks*, Jotwell (June 2, 2023) (reviewing Tracey E. George, Albert Yoon, and Mitu Gulati, *Some Are More Equal Than Others: U.S. Supreme Court Clerkships*)

*SCOTUstalk Podcast: What it’s Like to be a New Justice* (with Amy Howe) (Sept. 12, 2022)

*Litigation Briefs Podcast: Who Were the Judiciary’s Famous Female Firsts* (with Scott Dodson) (June 21, 2022)

*Duke Law Podcast* (with David Levi) (March 14, 2022)

*The Remains of the Day, Or What is Left After “The Collapse of Constitutional Remedies,” Balkinization*, (Feb. 9, 2022) (for the Balkinization Symposium on Aziz Huq, *THE COLLAPSE OF CONSTITUTIONAL REMEDIES* (Oxford University Press, 2021))

*Politics and Polls Podcast: “All About State Courts – Packing, Expansion & More* (with Sam Wang) (Nov. 19, 2020)

## **POPULAR PUBLICATIONS AND COMMENTARY, CT'D**

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*Strict Scrutiny Podcast: "Vice Signaling"* (with Leah Litman & Kate Shaw) (Nov. 16, 2020)

*The Status of Non-Binding Authority*, Jotwell (Nov. 12, 2020) (reviewing Maggie Gardner, *Dangerous Citations* and Merritt E. McAlister, *Missing Decisions*)

*Republicans Have Already Packed State Supreme Courts*, WASH. POST (OCT. 26, 2020)

*Confronting Online Advocacy*, Jotwell (Sept. 4, 2019) (reviewing Jeffrey Fisher & Alli Orr Larsen, *Virtual Briefing at the Supreme Court*)

*First Mondays Podcast: "Animal Magnetism"* (with Dan Epps & Stephen Sachs) (Nov. 19, 2018)

*Construing Precedent*, Jotwell (Nov. 5, 2018) (reviewing Richard Re, *Beyond the Marks Rule*)

*Redesigning the Cert Process*, Jotwell (Feb. 9, 2018) (reviewing Daniel Epps & William Ortman, *The Lottery Docket*)

*Rethinking Judicial Independence*, Jotwell (June 5, 2017) (reviewing Tara Leigh Grove, *The Origins (and Fragility) of Judicial Independence*)

*Rationing Constitutional Justice*, Jotwell (July 8, 2015) (reviewing Aziz Huq, *Judicial Independence and the Rationing of Constitutional Remedies*)

*Coming to a Better Understanding of Remedies*, Jotwell (July 15, 2014) (reviewing Samuel L. Bray, *The Myth of the Mild Declaratory Judgment*)

## **CONFERENCES ORGANIZED**

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Judicial Administration / Judicial Process Roundtable, Duke Law School, Dec. 6, 2023

Judicial Administration / Judicial Process Roundtable, Duke Law School, Dec. 8, 2022

Judicial Administration / Judicial Process Roundtable, Duke Law School, Dec. 9-10, 2021

Judicial Administration / Judicial Process Roundtable, Duke Law School, Dec. 11, 2020

Judicial Administration / Judicial Process Roundtable, Duke Law School, Dec. 12, 2019

Judicial Administration / Judicial Process Roundtable, Duke Law School, Dec. 14, 2018



## **SELECTED SERVICE AND ACTIVITIES**

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Academic Advisory Board to the Supreme Court Fellows Commission, Member, 2023 – Present

American Association of Law Schools, Federal Courts Section, Chair, 2024

American Association of Law Schools, Remedies Section, Executive Committee Member, 2020 – 2022

American Bar Foundation, Fellow, 2022 – Present

American Law Institute, Adviser, Restatement of the Law Third, Torts: Remedies, 2021 – Present; Member, 2021 – Present

Duke University Academic Council, Elected Member, 2019 – 2021

Duke University Academic Council, Executive Committee, Vice Chair, 2020 – 2021; Elected Member, 2019 – 2020

Duke University Academic Programs Committee, 2021 – Present

Duke University Audit and Compliance Committee, Faculty Member, 2019 – 2021

Duke Law School Clerkship Committee, Member, 2010 – 2011, 2013 – 2015, 2020 – 2021

Duke Law School Committee on Teaching, Member, 2014 – 2015

Duke Law School Curriculum Committee, Member, 2018 – 2020, 2022 – Present

Duke Law School Entry-Level Appointments Committee, 2021 – 2022

Duke Law School Law Teaching Committee, Chair, 2015 – 2017, Member, 2018 – 2022, 2023 – Present

Duke Law School Student Workshop Series, Organizer, 2012 – 2013, 2018 – 2022

Duke Law School Workshops Committee, Member, 2017 – 2018

Jotwell, Courts Law Section Contributor, 2013 – Present

Judicature, Member of the Editorial Board, 2018 – Present

NYU Robert A. Katzmann Working Group, Member, 2023 – Present

## **SELECTED SERVICE AND ACTIVITIES, CT'D**

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Yale College Alumni Schools Committee, Member, 2012 – 2013

Yale Law Women Mentor, 2012 – Present

## **OCCASIONAL REVIEWER**

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HARVARD LAW REVIEW

JOURNAL OF EMPIRICAL LEGAL STUDIES

JOURNAL OF LAW, ECONOMICS AND ORGANIZATION

JOURNAL OF LEGAL STUDIES

LAW & SOCIAL INQUIRY

NEW YORK UNIVERSITY LAW REVIEW

UNIVERSITY OF CHICAGO LAW REVIEW

YALE LAW JOURNAL

## **BAR ADMISSIONS**

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District of Columbia

New York

Supreme Court of the United States