

In the Courts:

ADL'S CURRENT LEGAL DOCKET

FALL 2019

Civil Rights Division – Legal Affairs Department

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DECISION KEY	
	Favorable to ADL
	Contrary to ADL
	Decision on other grounds
	Favorable and contrary portions of the decision

THE U.S. SUPREME COURT

Decided by the U.S. Supreme Court

Civil Liberties
Voting Rights



[Rucho v. Common Cause / Lamone v. Benisek](#) (U.S. Supreme Court, 2019)

At issue in this case is partisan gerrymandering in both North Carolina and Maryland — i.e., the drawing of district lines to subordinate adherents of one political party and entrench the rival party in power. In each state, the political party in power (i.e., Republican leaders in North Carolina and Democratic leaders in Maryland) successfully created precise and durable maps that would ensure the entrenchment of that party for at least the next decade. ADL accordingly joined a brief urging the U.S. Supreme Court to set limits on partisan gerrymandering. Citing the foundational principles of our democracy, the brief argues that the partisan gerrymandering in North Carolina and Maryland contravenes fundamental, long-standing American democratic values.

[American Legion v. American Humanist Association](#) (U.S. Supreme Court, 2019)

At issue in this case is the constitutionality of a state-sponsored, 40-foot Latin cross that dominates a veterans memorial in Bladensburg, Maryland dedicated to local soldiers who died during World War I. ADL joined a brief that discusses the power of symbols, particularly religious ones such as the Latin cross, which are laden with history and convey poignant messages to both Christians and non-adherents. It further explains why the memorial conveys a hurtful message of religious exclusion and second-class status to minority faiths.

Church-State
Separation
Establishment
Clause



[New York v. U.S. Department of Commerce](#) (U.S. Supreme Court, 2018)

At issue in this case is a challenge by the New York Attorney General's Office and 16 states, the District of Columbia, several cities, and the U.S. Conference of Mayors to stop the Commerce Department from adding a citizenship question to the 2020 census. At the U.S. Supreme Court, ADL joined with over 170 organizations on an *amicus* brief that refutes defendants' argument that including a citizenship question is necessary to enforce Section 2 of the Voting Rights Act of 1965, explains how the VRA can be enforced without the citizenship question, and explains how the inclusion of a citizenship question will lead to an undercount of historically under-represented communities, including immigrants.

Civil Liberties
Immigration



[Trump v. Hawaii](#)

(U.S. Supreme Court, 2018)

At issue in this case is President Trump's third attempt at prohibiting travel to the United States from six majority-Muslim nations. The Ninth Circuit affirmed an injunction put in place by the district court, which protects foreign nationals with a bona fide relationship with a person or entity in the United States. ADL's brief,

Civil Liberties
Immigration



which was joined by the Jewish Council for Public Affairs, the Union for Reform Judaism, the Central Conference of American Rabbis, Women of Reform Judaism, and T'ruah, urges the Supreme Court to leave the injunction in place. The brief points to three historical examples when the U.S. turned its back on immigrants and refugees and later apologized, including the tragedy of the USS St. Louis, in which Jews fleeing Nazi Germany were denied entry into the U.S. and sent back to Europe where many perished in the Holocaust; the “Chinese Exclusion” Act that barred thousands of Chinese laborers from coming to America in the 1800s; and the internment of the Japanese during World War II. It traces America’s history as a nation dedicated to ideals of equality, liberty and justice, and warns against repeating the shameful times in our past when America has turned against those ideals. The brief also argues that the Government’s justifications for the Travel Ban are based on immigration laws enacted for the purpose of reinforcing our nation’s commitment to immigrants and correcting the historic harm discriminatory quotas caused our nation.

[NIFLA v. Becerra](#)
(U.S. Supreme Court, 2018)

Civil Liberties
Reproductive
Rights



At issue in this case is California’s Reproductive Freedom, Accountability, Comprehensive Care and Transparency Act (FACT) Act, which was enacted in 2015, to regulate the state’s 300-plus Crisis Pregnancy Centers (“CPCs”). The law requires some licensed and unlicensed CPCs to post notices inside clinics indicating how women can access prenatal care, family planning, and abortion. In addition, it requires unlicensed centers to notify patients that they don’t have a California medical license. A number of CPC’s challenged this law arguing that it violated their right to free speech and free exercise of religion under the First Amendment. The District Court and Ninth Circuit Court of Appeals disagreed. At the U.S. Supreme Court, ADL joined a brief led by the National Women’s Law Center and Center for Reproductive Rights along with 50 other reproductive justice, civil rights and social justice organizations focusing on the deceptive tactics of CPCs and the significant harm they have on women — especially women struggling to make ends meet. The tactics employed by CPCs are designed to intentionally misinform and dissuade women from accessing their constitutional right to an abortion. The brief includes stories from women across the country who have been misled by CPCs.

[Gill v. Whitford](#)
(U.S. Supreme Court, 2017)

Civil Liberties
Redistricting



At issue in this case is partisan gerrymandering. After the 2010 census, the Republican-controlled Wisconsin legislature engaged in redistricting. The district lines that would ultimately become law in Wisconsin had a distinct partisan advantage for Republicans. A professor analyzing the plan concluded that Republicans would be able to maintain a 54-seat majority (of the 99 Assembly seats) while only garnering 48% of the statewide vote, while Democrats would have to get 54% of the statewide vote to capture a majority of the seats. Plaintiffs, Democratic voters, alleged that the redistricting created an

unconstitutional partisan advantage for Republicans. ADL signed onto a brief urging the Supreme Court to set limits on partisan gerrymandering. Citing the foundational principles of our democracy imagined by the Founders, the brief provides the Court with a historical perspective of the origins and progression of the fundamental values of representation and accountability, as well as the current views of Americans on political gerrymandering.

[Masterpiece Cakeshop v. Colorado Civil Rights Comm’n](#)
(U.S. Supreme Court, 2017)

Discrimination
LGBTQ
Rights



Based on religious objections to same-sex marriage, the owner of a bakery refused to design and sell a wedding cake to a same-sex couple for their upcoming wedding. The Colorado Civil Rights Commission found that the bakery violated the State’s anti-discrimination law, which prohibits sexual orientation discrimination in the sale of goods and services by public accommodations. In response to this violation, the petitioners, the bakery and its owner, raised multiple constitutional claims, including a claim that the Free Exercise Clause to the First Amendment permitted the denial of service to the couple. ADL joined an amicus brief filed by civil rights and religious groups. It asserts that particularly for generally applicable laws such as Colorado’s anti-discrimination statute, the Free Exercise Clause does not authorize religious exemptions that harm others. Even if the Free Exercise Clause authorized such exemptions, the Establishment Clause to the First Amendment prohibits them. The brief also stresses that anti-discrimination laws like Colorado’s embody First Amendment principles by prohibiting religious discrimination and protecting our nation’s vibrant diversity. Acceptance of the argument that discriminatory conduct is exempt from the law because of religious beliefs would undermine the rule in our pluralistic democracy. Furthermore, the logic of petitioners’ claim has no limit. Businesses would be able to refuse to serve customers based on race, religion, gender, sexual orientation, or any other protected characteristic, so long as they cited religious beliefs as the justification.

[Evans v. Georgia Regional Hospital](#)
(U.S. Supreme Court, 2017) (Cert. Petition)

Discrimination
LGBTQ
Rights



This amicus brief asks the Supreme Court to grant a petition for certiorari and resolve the question of whether Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of sexual orientation through its prohibition of discrimination “because of . . . sex.” In April 2015, petitioner Jameka Evans filed a lawsuit in the Southern District of Georgia alleging that her former employer, Georgia Regional Hospital, fired her because she is gay, does not act “in a traditional woman manner,” and because of her masculine gender expression. Evans, who was employed as a security officer at the hospital, alleged that she was “punished because [her] status as a gay female did not conform to [her] department head’s . . . gender stereotypes associated with women.” Evans brought claims under Title VII of the Civil Rights Act of 1964, alleging that the hospital discriminated against her because of her sexual orientation and her nonconformity with gender norms of appearance and demeanor. There is a split

on this legal question among the circuits and among federal agencies, with the Seventh Circuit and the EEOC finding that Title VII does prohibit discrimination on the basis of sexual orientation, and the Eleventh Circuit and the Department of Justice finding that it does not. ADL joined a coalition of LGBTQ rights groups in asking the Supreme Court to resolve this question.

**[International Refugee Assistance Project v. Trump](#)
(U.S. Supreme Court, 2017)**

Civil Liberties
Immigration



At issue in this case is President Trump's second executive order on refugees which, among other things, temporarily banned travel from six majority-Muslim countries and suspended refugee resettlement in the United States for a period of 120 days. This brief, which was signed by the Jewish Council for Public Affairs, the Union for Reform Judaism, the Central Conference of American Rabbis, and Women of Reform Judaism, urges the U.S. Supreme Court to block the executive order from going into effect. The brief points to three historical examples when the U.S. turned its back on immigrants and refugees and later apologized, including the tragedy of the USS St. Louis, in which Jews fleeing Nazi Germany were denied entry into the U.S. and sent back to Europe, where many perished in the Holocaust; the "Chinese Exclusion" Act that barred thousands of Chinese laborers from coming to America in the 1800s; and the internment of the Japanese during World War II. It traces America's history as a nation dedicated to ideals of equality, liberty and justice, and warns against repeating the shameful times in our past when America has turned against those ideals.

THE FEDERAL AND STATE COURTS

Pending in Federal and State Courts

[Halprin v. Davis](#)

Discrimination

(Northern District of Texas, 2019)

This case involves an appeal for a new trial for Petitioner Randy Halprin, one of six individuals convicted of capital murder and sentenced to death for the murder of Irving, Texas police officer Aubrey Hawkins. The appeal notes that former state District Judge Vickers Cunningham was deeply prejudiced against Mr. Halprin because he is Jewish. ADL filed an amicus brief in support of Mr. Halprin's Petition for Writ of Habeas Corpus in the United States District Court Northern District of Texas, Dallas Division. ADL's amicus brief provides historical context for the blatantly anti-Semitic terms and phrases attributed to the presiding judge in Mr. Halprin's criminal and capital trial. Judge Cunningham routinely used derogatory and offensive language about Jewish people, Catholics, African Americans and Hispanics. The brief points to the substantial harm caused by racial and religious bias to our justice system.

[City and County of San Francisco v. Barr](#)

State of California v. Barr
(U.S.C.A. 9th Circuit, 2019)

This case involves challenges to immigration enforcement-related conditions imposed by the Justice Department in FY17 on the receipt of federal public safety grants by California and San Francisco under the Edward Byrne Memorial Justice Assistance Grant (“JAG”) program and by California under the Community Oriented Policing Services (“COPS”) program and COPS Anti-Meth Program (“CAMP”). ADL filed a brief supporting California at the district court level, in which the Court blocked implementation of DOJ’s conditions. The federal government appealed the decision. ADL’s brief at the 9th Circuit Court of Appeals draws on our experience as leading trainers of law enforcement on issues of hate crimes, community policing, and extremism. ADL’s brief argues that DOJ’s conditions would undermine critical trust between police officers and immigrant communities, making immigrants more reluctant to report crimes- including hate crimes- and compromising public safety for all.

California v. U.S. Department of Health and Human Services
(U.S.C.A. 9th Circuit, 2019)

At stake in this case are the administration’s final rules on religious and moral objections to the Affordable Care Act’s (ACA’s) contraceptive mandate. The federal court issued a nationwide injunction blocking the new rules, which would effectively repeal the contraceptive mandate and broadly allow employers and universities to invoke religion or morality to block their employees’ and students’ contraceptive coverage that is otherwise guaranteed by the ACA. On appeal, ADL joined ACLU and other national civil rights organization on an *amicus* brief, which recounts how the use of religion in America to justify racial and sex discrimination has abated as societal views and norms evolved. The brief argues that religion in the form of the excessively broad exemption in this case should not be used as a vehicle to further sex discrimination in our society.

Commonwealth of Pennsylvania and State of New Jersey v. President, United States of America and Little Sisters of the Poor
(U.S.C.A. 3rd Circuit, 2019)

At stake in this case are the administration’s final rules on religious and moral objections to the Affordable Care Act’s (ACA’s) contraceptive mandate. The federal court issued a nationwide injunction blocking the new rules, which would effectively repeal the contraceptive mandate and broadly allow employers and universities to invoke religion or morality to block their employees’ and students’ contraceptive coverage that is otherwise guaranteed by the ACA. On appeal, ADL joined ACLU and other national civil rights organizations on an *amicus* brief, which recounts how the use of religion in America to justify racial and sex discrimination has abated as societal views and norms evolved. The brief argues that religion in the form of the excessively broad exemption in this case should not be used as a vehicle to further sex discrimination in our society.

Discrimination
LGBTQ
Rights

[Drew Adams v. The School Board of St. Johns County, FL](#)
(U.S.C.A. 11th Circuit, 2019)

This case involves the Equal Protection Clause and Title IX challenges to a county school board policy that prohibits transgender students from using the restroom which conforms to their gender identity. ADL joined a brief filed by the National Women’s Law Center opposing this policy. The brief focuses on the claim under Title IX, a federal law which prohibits discrimination on the basis of sex at publicly funded educational institutions. The brief asserts that the law’s protections encompass gender identity, and thus policies or rules governing schools may not turn on one’s sex as assigned at birth. Furthermore, the protective concerns raised by the school board in support of the policy are invalid because they are based on discriminatory stereotypes, which have been rejected by the U.S. Supreme Court in other contexts.

Church-State
Separation
Establishment
Clause



[Shurtleff v. City of Boston](#)
(U.S.C.A. 1st Circuit, 2019)

At issue in this case is the constitutionality of a decision by the City of Boston to reject a request by some residents to raise the Christian flag in front of City Hall, next to the American flag and the Massachusetts state flag. ADL joined an *amicus* brief filed by a diverse group of religious and civil rights organizations urging the First Circuit to affirm the District Court’s ruling in favor of the City. In addition to explaining why the raising of the Christian flag outside of City Hall would violate the Establishment Clause, the brief provides an in-depth discussion on how and why the drafters of the First Amendment effected a separation of government and religion as the means to ensure enduring religious freedom which—in light of our nation becoming increasingly pluralistic—is more crucial than ever.

Discrimination
LGBTQ
Rights

[Parents for Privacy v. Dallas School District No. 2](#)
(U.S.C.A. 9th Circuit, 2019)

At issue in this case is a school district’s policy allowing transgender students to use restrooms and changing facilities consistent with their gender identities. As a leading anti-bias education provider, ADL filed an amicus brief supporting the school’s policy. ADL’s brief was joined by LGBTQ advocacy organizations, civil society groups, youth advocates, and religiously affiliated organizations. The brief argues that inclusive policies like those of Dallas are in the best interest of LGBTQ students, and that these policies promote a cohesive and respectful school environment to the benefit of all students.

Church-State
Separation
Establishment
Clause

[Fields v. Speaker of the Pennsylvania House of Representatives](#)
(U.S.C.A. 3rd Circuit, 2019)

At issue in this case is the constitutionality of a Pennsylvania House of Representatives policy barring nontheists from serving as guest chaplains to offer the Chamber’s daily invocation. ADL’s brief asserts that the policy is unconstitutional for two reasons. First, it violates longstanding Establishment

Clause precedent prohibiting government from preferring one religion over others. Second, the House’s justification that historically nontheists have not given invocations before Congress or the House Chamber is flawed because this absence does not constitute evidence of intentional exclusion from the legislative prayer opportunity.

Moussouris v. Microsoft
(U.S.C.A. 9th Circuit, 2019)

Civil Liberties
Sex
Discrimination

At issue in this case is whether the analysis and assessment by the Federal District Court in Washington State denying class certification to a proposed class of female engineers alleging systemic and pervasive discrimination was erroneous and created an arbitrary threshold for anecdotal evidence not required by law.

ADL and 29 other civil rights and women’s rights groups joined a brief prepared by Impact Fund which argued that the lower court made a critical mistake in failing to consider the individual statements of women in the proposed class, while highlighting clear cases of harassment and discrimination, and underscoring the potentially devastating precedent the lower court’s decision establishes for all potential victims of discrimination. Class certification is an essential mechanism not only for women facing gender bias and discrimination, but for all victims of discrimination.

Ramos v. Nielsen
(U.S.C.A. 9th Circuit, 2019)

Immigration
Discrimination

At issue in this case is the Administration’s termination of temporary protected status (TPS) for individuals from El Salvador, Haiti, Nicaragua and Sudan. Nine TPS holders and five U.S. Citizen children of TPS holders sued the Department of Homeland Security to stop the Administration from implementing the terminations. The district court issued a preliminary injunction, ordering the government to continue TPS and work authorization for TPS holders from the four countries while the lawsuit continues. At the 9th Circuit Court of Appeals, ADL filed an *amicus* brief in support of the lower court’s decision. ADL’s brief explains that there is a clear constitutional prohibition on discrimination in the implementation of government policies based on race, national origin and other protected characteristics, and that ample evidence of racial animus by the Administration exists in this case.

Brush & Nib Studio v. City of Phoenix
(Arizona Supreme Court, 2018)

Discrimination
LGBTQ
Rights

The City of Phoenix has an anti-discrimination law that prohibits businesses from discriminating against customers on the basis of sexual orientation and other personal characteristics. Based on its religious objections to same-sex marriage, a local art design company does not want to create and sell wedding invitations to same-sex couples, which would violate the Phoenix law. The company filed a

lawsuit invoking the Arizona Free Exercise of Religion Act (“FERA”) and First Amendment, for the purpose of obtaining a religious exemption from the law’s prohibition on discrimination against LGBTQ individuals, which state trial and appellate courts rejected. ADL joined a brief to the Arizona Supreme Court filed by civil rights and religious groups. It asserts that interpreting FERA to exempt the company from the anti-discrimination law would violate the Establishment Clause. The brief also stresses that anti-discrimination laws like Phoenix’s embody First Amendment principles by prohibiting religious discrimination and protecting our nation’s vibrant diversity.

United States v. Hill
(U.S.C.A. 4th Circuit, 2018)

Discrimination

LGBTQ
Rights



This case involves a challenge to the constitutionality of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) in a case in which an Amazon shipping warehouse employee was violently assaulted by a co-worker due to his perceived sexual orientation. The District Court vacated a unanimous jury conviction under the HCPA, on the grounds that the HCPA was an unconstitutional exercise of Congress’s Commerce Clause power as applied in this case. On appeal, ADL joined an *amicus* brief prepared by Lambda Legal Defense and Education Fund, in support of the government’s defense of the HCPA, along with the Matthew Shepard Foundation, FreeState Justice, Inc., the Trevor Project, the Public Justice Center, and the Japanese American Citizens League. Our brief argues that the prevention of hate crimes, particularly in the workplace, is a constitutional exercise of Congress’s Commerce Clause power, and that the defendant’s conviction under the HCPA was constitutional.

Philadelphia v. Sessions
(U.S.C.A. 3rd Circuit, 2018)

Civil Liberties

Immigration



This case involves a challenge to immigration enforcement-related conditions imposed by the Justice Department on the receipt of federal public safety grants under the Edward Byrne Memorial Justice Assistance Grant (JAG) program. ADL’s brief argues that, far from improving community safety, these conditions would only undermine Philadelphia’s protections of immigrants through its “Welcoming City” policies, compromising public safety for all. Immigrants, who are already reluctant to interact with law enforcement in the current political climate, will be even more afraid to come forward to report crimes, particularly hate crimes. And it will be difficult — if not impossible — for local police to rebuild the bonds of trust and cooperation with immigrant communities moving forward.

Fulton v. City of Philadelphia
(U.S.C.A. 3rd Circuit, 2018)

After the City of Philadelphia learned that certain local foster care providers, including Catholic Social Services (CSS), would not license same-sex couples to be foster parents, the City ceased referring children to these agencies. CSS subsequently sued the City, arguing that it had a constitutional right to reject

qualified same-sex couples as a matter of free exercise of religion. ADL filed an amicus brief in support of the City on behalf of a broad coalition of religious and religiously affiliated organizations. It asserts that freedom of religion, enshrined in the Free Exercise Clause of the First Amendment to the United States Constitution, as well as numerous federal, state, and local anti-discrimination laws, is a shield intended to protect the free exercise of religion for all, not a sword that can be used to impose religious beliefs on or discriminate against others. By seeking a broad, faith-based exemption from anti-discrimination laws that protect religious liberty, among other categories, CSS and others would turn these laws on their head, and in the process, undermine religious freedom for all. The brief was prepared for ADL by Pepper Hamilton LLP and joined by 14 organizations.

Commonwealth of Massachusetts v. U.S. Department of Health and Human Services

(U.S.C.A. 1st Circuit, 2018)

Church-State
Separation
Establishment
Clause



At stake in this case are two interim final rules (IFRs) promulgated by the Trump Administration in October 2017, which significantly broadened the religious exemption to the Affordable Care Act's (ACA) contraception mandate. Prior mandate regulations accommodated houses of worship and religiously affiliated organizations. The new exemption, however, effectively repeals the contraception mandate, broadly allowing employers and universities to invoke religion or morality to block their employees' and students' contraceptive coverage that is otherwise guaranteed by the ACA. Similar to the amicus brief ADL joined at the Ninth Circuit, ADL joined ACLU and other national civil rights organizations on an amicus brief, which recounts how the use of religion in America to justify discrimination has declined as societal views and norms evolved. The brief argues that religion in the form of the excessively broad exemption in this case should not be used as a vehicle to further sex discrimination in our society.

California v. Ross

San Jose and Black Alliance for Just Immigration v. Ross

(Northern District of California, 2018)

At issue in these cases is the Commerce Department's attempt to add a citizenship question to the 2020 census. The cases are California v. Ross, brought by the state of California and several California cities and counties in City of San Jose and Black Alliance for Just Immigration v. Ross. ADL joined the Leadership Conference for Civil and Human Rights and over 130 other grassroots, advocacy, labor, legal services, and civil rights organizations in submitting amicus briefs opposing motions to dismiss these lawsuits, challenging the inclusion of the unnecessary and intrusive citizenship question. The brief argues that the misguided decision to reverse seventy years of consistent census practice and insert an untested citizenship question undermines the integrity of the count, damages communities who already are feeling vulnerable and targeted by the Administration's anti-immigrant policies, and violates the Census

Bureau’s constitutional and statutory duties to conduct a full enumeration of the U.S. population. The citizenship question will lead, and has already led, to depressed participation in the census, particularly among families that include immigrants, young children, and people of color.

Civil Liberties
Immigration



[State of Texas v. United States of America and Karla Perez](#)
(Southern District of Texas, 2018)

At issue in this case is a challenge to the Deferred Action for Childhood Arrivals (DACA) program by a group of states led by the Texas Attorney General seeking to permanently enjoin the DACA program based on the theory that President Obama did not have the authority to enact it. The New Jersey Attorney General’s Office intervened to defend DACA as did a group of DACA grantees represented by MALDEF. Together, they are opposing Texas’s request that the court block DHS from adjudicating any further DACA applications. ADL joined a brief led by the Lawyers’ Committee for Civil Rights Under Law and also joined by the Mississippi Center for Justice. The brief outlines our grave concerns that the termination of DACA is unjust and will severely deprive DACA recipients, their families and communities, particularly immigrant communities of color, and their residents of critical education and economic opportunities. The brief discusses that DACA recipients have served their communities and our country as educators, homeowners, and military service members. A preliminary injunction in this case would thus result in massive and irreparable harm, and conflict with three federal court injunctions maintaining DACA, leading to mass confusion.

Discrimination
LGBTQ
Rights

[Lexington-Fayette Urban v. Hands On Originals, Inc.](#)
(Kentucky Supreme Court, 2018)

Citing religious objections, a business owner refused to sell custom t-shirts bearing “Lexington Pride Festival 2012” and rainbow-colored circles to a non-profit LGBTQ organization. The local human rights commission found that the vendor’s actions violated a human rights ordinance, which prohibits businesses from discriminating on the basis of sexual orientation. A lower court reversed the commission’s determination, finding that it infringed on the vendor’s First Amendment free speech rights. ADL joined a brief asserting that this determination did not violate the First Amendment for two reasons. First, the speech at issue belonged to the LGBTQ organization and not the vendor. Second, the Establishment Clause prohibits granting religious exemptions from generally applicable laws when the exemptions would harm third parties. Furthermore, the vendor failed to meet the elements of the Kentucky Religious Freedom Restoration Act, which also was raised as defense. ADL joined a subsequent, supplemental brief. It asserts that the lower court’s decision violates the principles set out in the U.S. Supreme Court’s recent decision in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, which involved similar facts and claims.



[New York v. U.S. Department of Commerce](#)
(Southern District of New York, 2018)

The New York Attorney General's office and 16 states, the District of Columbia, several cities, and the U.S. Conference of Mayors brought a challenge to stop the Commerce Department from adding a citizenship question to the 2020 census. The lawsuit alleges that the decision violates the Constitution and the Administrative Procedures Act ("APA"). ADL joined a brief with over 150 organizations in support of New York's challenge and a fair and accurate 2020 census. The brief argues that the misguided decision to reverse seventy years of consistent census practice and insert an untested citizenship question undermines the integrity of the count, damages communities, and violates the Census Bureau's constitutional and statutory duties to conduct a full enumeration of the U.S. population.



[State of California v. Azar](#)
(U.S.C.A. 9th Circuit, 2018)

At stake in this case are two interim final rules ("IFRs") promulgated by the Trump Administration in October 2017 that significantly broadened the religious exemption to the Affordable Care Act's ("ACA") contraception mandate. Prior mandate regulations accommodated houses of worship and religiously-affiliated organizations. The new exemption, however, effectively repeals the contraception mandate, broadly allowing employers and universities to invoke religion or morality to block their employees' and students' contraceptive coverage that is otherwise guaranteed by the ACA. On appeal from the U.S. District Court for the Northern District of California, ADL joined ACLU and other civil rights organizations in filing an *amicus* brief, which recounts how the use of religion in America to justify racial and sex discrimination abated as societal views and norms evolved. The brief asserts that the contraceptive mandate remedies a vestige of sex discrimination and is a means of ending discrimination against women in the workplace. Religion in the form of the excessively broad exemption in this case should not be used as a vehicle to discriminate.



[United States v. California](#)
(Eastern District of California, 2018)

At issue in this case are three laws (SB54, AB103, and AB45) the state of California passed in 2017 to protect its immigrants and foster trust between law enforcement and immigrant communities by limiting and clarifying the roles of local law enforcement and government officials in assisting federal immigration enforcement efforts. The Department of Justice (DOJ) sued California erroneously claiming that such laws violate federal immigration law. ADL filed an *amicus* brief in this case in support of California and opposing the United States' request for a preliminary injunction which seeks to block implementation of the laws. ADL's brief argues that a preliminary injunction in this case would force California to set aside critical protections which were specifically designed to build trust and cooperation between law enforcement officials and immigrant and minority communities. California's laws comply with federal immigration law and

they are designed to assist local law enforcement by advancing police-community relations. As an organization with vast experience on preventing and responding to hate crimes, ADL knows that when trust and cooperation between police and minority communities breaks down, communities that are more vulnerable to hate crimes, including immigrants, will stop reporting such crimes to police. The effects of the United States' actions here will, thus, only undermine public safety for all and destroy relationships between immigrant communities and local law enforcement.

[Barker v. Conroy](#)
(U.S.C.A. D.C. Circuit, 2018)

At issue in this case is the constitutionality of the U.S. House of Representatives' guest chaplain policy. Because the policy requires guest chaplains to offer a prayer that addresses a "higher power," as well as to be ordained clergy, it bars non-theists from the invocation opportunity. A Humanist leader challenged the policy under the Constitution's Establishment Clause. ADL joined a coalition brief asserting that the policy is unconstitutional for four reasons. First, it plainly violates the U.S. Supreme Court's non-discrimination requirement for legislative prayer. Second, its required inquiry into a prospective guest chaplain's prayer and ordination constitutes impermissible government entanglement with religion. Third, Supreme Court precedent prohibits history alone as a justification for violations of the Establishment Clause. Fourth, the defendant's argument that the policy is constitutional because there is no historical record of non-theists offering prayers before Congress is misinformed. There is abundant contemporaneous evidence of the Founders' disapproval of denominational discrimination. Furthermore, there is no record of other minority faiths, including Jews, Hindus, and Muslims, offering the opening Congressional prayer. So taken to its logical conclusion, this argument also would permit discrimination against such faiths.

Church-State
Separation
Establishment
Clause



[Williamson v. Brevard County](#)
(U.S.C.A. 11th Circuit, 2018)

At issue in this case is the constitutionality of a county commission policy prohibiting non-theists from offering the opening prayer at commission meetings. A lower court ruled that the policy violated the Establishment Clause to the First Amendment. ADL filed a brief on behalf of a diverse group of religious and civil rights organizations. The brief asserts that the policy is unconstitutional for four reasons. First, it plainly violates the U.S. Supreme Court's non-discrimination requirement for legislative prayer. Second, Supreme Court precedent also specifies that history alone cannot justify violations of the Establishment Clause. Third, the commission's understanding of history is misinformed because there is abundant contemporaneous evidence of the Founders' disapproval of denominational discrimination. And fourth, although the commission implicitly claims that the policy is constitutional because there is no historical record of non-theists offering prayers before Congress or other legislative bodies, there also is no record of other minority faiths, including Jews, Hindus, and Muslims,

Church-State
Separation
Establishment
Clause

offering such prayers. So taken to its logical conclusion, the commission’s argument also would permit discrimination against such faiths.

[Freedom from Religion Foundation, Inc. v. The County of Lehigh](#)
(U.S.C.A. 3rd Circuit, 2018)

Church-State
Separation
Establishment
Clause

At issue in this case is the constitutionality of a county seal that prominently displays the Latin cross. Although a lower court ruled that the seal violates the Establishment Clause of the First Amendment, a substantial portion of its opinion questioned settled U.S. Supreme Court and Court of Appeals precedent, based on inaccurate descriptions of the history, purpose, and fundamental objectives of the First Amendment. ADL joined an *amicus* brief filed by a diverse group of religious and civil rights organizations. In addition to explaining why the seal patently violates the Establishment Clause, the brief provides an in-depth discussion on how and why the drafters of the First Amendment effected a separation of government and religion as the means to ensure enduring religious freedom, which, in light of our nation becoming increasingly pluralistic, is more crucial than ever.

[Regents of the University of California v. U.S. Dept. of Homeland of Security](#)

Civil Liberties
Immigration



(U.S.C.A. 9th Circuit, 2018)

At issue in this case is President Trump’s decision to rescind the Deferred Action for Childhood Arrivals (“DACA”), a program created by President Obama in 2012 that granted work authorization and relief from deportation for a two-year period for certain undocumented immigrants brought to the United States as children. The decision unnecessarily put the lives of the nearly 800,000 DACA recipients and their families in limbo. ADL joined an *amicus* brief in support of the challenge to this decision by the University of California. The brief argues that the President’s decision is a violation of the Administrative Procedure Act (“APA”), a federal statute that protects against such arbitrary and capricious executive actions where there are significant reliance interests. Young immigrants, educational institutions, and our economy have relied on the DACA program as a pathway to success and opportunity. Our brief asks the court to agree with the preliminary injunction order put in place and protect the DACA program. The brief was filed by the Lawyers’ Committee for Civil Rights Under Law and a coalition of civil rights organizations.

[Horton v. Midwest Geriatric Management](#)
(U.S.C.A. 8th Circuit, 2018)

Discrimination
LGBTQ
Rights

This case involves an employer that withdrew an offer of employment when its owners learned that the applicant is a gay man and that his religious beliefs about sexual orientation and marriage of same-sex couples did not align with the employer’s beliefs. In response, the employee filed a lawsuit for claims of sex and religious discrimination under Title VII of the 1964 Civil Rights Act. Horton claims that the withdrawal of the offer based on his sexual orientation constitutes sex discrimination under Title VII, and the same decision based on his religious

beliefs constitutes religious discrimination. At a preliminary stage in the case, the lower court dismissed both of these claims. ADL filed an *amicus* brief joined by religious and civil rights groups focusing on Horton’s religious discrimination claim. ADL’s brief urges the court to follow other U.S. Courts of Appeals rulings that have found that Title VII’s prohibition on religious discrimination includes adverse employment actions which are based on the nonconformity of an employee’s/applicant’s religious beliefs with the employer’s. The brief also urges the court to follow rulings from other U.S. Courts of Appeals rulings, which have found that Title VII covers sexual orientation discrimination as a form of sex stereotyping.

[Telescope Media Group v. Lindsey](#)
(U.S.C.A. 8th Circuit, 2018)

Discrimination
LGBTQ
Rights

The case involves a videography company in Minnesota that refuses to provide services for weddings of same-sex couples. The owners filed a lawsuit challenging a Minnesota anti-discrimination statute that would have prevented them from discriminating against same-sex couples. Among other things, Telescope Media Group argued that application of the Minnesota law to the situation would compel speech in violation of the First Amendment and violate their religious freedom rights under the Free Exercise Clause. ADL joined an *amicus* brief with other civil rights and LGBT rights organizations, led by Americans United for Separation of Church and State (“AU”), which argues that requiring videographers to serve customers on nondiscriminatory terms does not compel speech and selling wedding videos does not impede expressive association. The Free Exercise Clause does not provide a right to violate nondiscrimination laws and indeed, the Establishment Clause prohibits the type of religious exemption that Telescope seeks in this case.

[City and County of San Francisco and County of Santa Clara v. Sessions](#)
(U.S.C.A. 9th Circuit, 2018)

Civil Liberties
Immigration



At issue in this case is a challenge to President Trump’s executive order withholding federal funds to “sanctuary” jurisdictions. ADL filed a brief urging the Ninth Circuit Court of Appeals to uphold the nationwide injunction put in place by a federal judge in California permanently blocking the policy. As an organization that intimately understands the importance of trust between law enforcement and communities, ADL argues in its brief that the President’s executive order threatens to create an underclass of people who cannot turn to police for help, undermines community policing efforts, and makes all of us less safe. In a climate where immigrants are already feeling fearful and are more vulnerable to hate crimes, this executive order will result in further distrust of law enforcement by the communities they serve.

[New York v. Trump](#)
(U.S.C.A. 2nd Circuit, 2018)

At issue in this case is President Trump's decision to rescind Deferred Action for Childhood Arrivals (DACA), a program created by President Obama in 2012 that granted work authorization and relief from deportation for a two-year period for certain undocumented immigrants brought to the United States as children. The decision unnecessarily put the lives of the nearly 800,000 DACA recipients and their families in limbo. ADL joined an amicus brief in support of the challenge to this decision by 16 Attorneys General. The brief urges the Court to issue a preliminary injunction to prevent irreparable harm to DACA recipients, their families, communities, and to our country's educational institutions, businesses, economy, and military. The brief highlights the positive contributions DACA recipients have made to our communities and society and the destabilizing impact that will result to immigrants, the economy, and our country without relief. The brief was filed by the Lawyers' Committee for Civil Rights under Law and a coalition of civil rights organizations.



[Doe v. Boyertown Area School District](#)
(U.S.C.A. 3rd Circuit, 2018)

At issue in this case is Boyertown Area School District's policy allowing transgender students to use the restrooms and changing facilities consistent with their gender identity. ADL, which has provided anti-bias training to schools in Boyertown through its No Place for Hate program for over a decade, filed an amicus brief supporting Boyertown's inclusive policy. Our amicus was joined by LGBT advocacy organizations, healthcare providers, civil society groups, education and youth advocates, and Jewish organizations. In the brief, we draw on our experience as a provider of anti-bias education programs to show that inclusive policies like Boyertown's are in the best interests of all students and promote safe and successful school environments. The brief also highlights that Boyertown's policy is not only constitutional, but necessary to ensure compliance with anti-discrimination protections under federal law. Schools without such policies that unlawfully discriminate against trans students only contribute to the obstacles facing these students, who experience disproportionate rates of bullying, harsh discipline, dropout, homelessness, and other negative outcomes.



[Chicago v. Sessions](#)
(U.S.C.A. 7th Circuit, 2018)

This case challenges immigration enforcement-related conditions imposed by the Justice Department on the receipt of federal public safety grants under the Edward Byrne Memorial Justice Assistance Grant ("JAG") program. ADL filed a brief urging the Court to block enforcement of these new standards imposed on the federal grants. ADL's brief argues that the policy would undermine City protections of immigrants through Chicago's "Welcoming City policy" and public safety for all. Without relief from the Court, ADL's brief asserts that the policy would essentially destroy necessary trust between law enforcement and the

communities they serve, discourage crime reporting, and exacerbate already existing fear of immigrant communities to interact with law enforcement.

[Cambridge Christian School, Inc. v. Florida High School Athletic Association, Inc.](#)

(U.S.C.A. 11th Circuit, 2017)

Church-State
Separation
Establishment
Clause

This case raises a novel school prayer issue. Cambridge Christian School (“Cambridge”) is a private religious school and a member of the Florida High School Athletic Association (“Association”), which is a public entity. Cambridge’s football team made it into a division playoff game, which was to be played in a public stadium under the Association’s control. The school requested that the team’s customary pre-game, group prayer be broadcast over the stadium’s PA system, which was denied. The Association, however, permitted the team to hold its pre-game prayer on the center of the field. In response, Cambridge filed a lawsuit alleging free speech and free exercise claims under the First Amendment, as well as a claim under the Florida Religious Freedom Restoration Act. ADL joined an *amicus* brief filed by multiple civil rights organizations asserting that under longstanding U.S. Supreme Court school prayer precedent, the Association was required to deny the request because broadcasting the prayer over a government-controlled PA system would have resulted in unconstitutional religious coercion of students and other persons attending the game.

[State of California v. Sessions](#)

(Northern District of California, 2017)

Civil Liberties
Federalism



At issue in this case is the federal government’s decision to tie certain DOJ public safety grants for law enforcement to immigration enforcement conditions. ADL filed a brief urging the court to issue a preliminary injunction to block DOJ’s unconstitutional interpretation and intended application of federal immigration law and to ensure the protection of critical state protections for immigrants. As the largest non-governmental trainer of police on issues of hate crimes and extremism, ADL knows well the importance of building trust between law enforcement and the communities they serve. By coercing local law enforcement agencies to enforce federal immigration law, the brief argues, the government’s decision seeks to drive a wedge between police officers and the residents they protect, resulting in decreased hate crime reporting.

[Harvest Family Church v. FEMA](#)

(U.S.C.A. 5th Circuit and Southern District of Texas, 2017)

Church-State
Separation
Establishment
Clause



The plaintiffs, three houses of worship, challenged a Federal Emergency Management Agency rule, which prohibits houses of worship from obtaining emergency disaster grants. The houses of worship sought such grants for the purpose of reconstructing or repairing buildings primarily used for religious worship damaged by hurricanes. They claim that the rule violates the Free Exercise Clause to the First Amendment. While certainly mindful of the damage

suffered by these houses of worship, the amicus brief joined by ADL articulated that these harms cannot be a justification to dismantle critical protections provided by the Establishment Clause to all Americans. It assures that no citizen can be compelled to fund religious worship or beliefs to which they do not subscribe, and that houses of worship do not become dependent on state assistance. Based on this principle, no federal court has upheld government grants for the construction or repair buildings used for religious purposes. Furthermore, the U.S. Supreme Court repeatedly has rejected arguments that the Free Exercise Clause requires the government to fund religious activity on equal terms with secular activity. The Court's recent Trinity Lutheran decision in no way overrules these decisions. In that case, the Court ruled that religious institutions can be granted equal eligibility for public funding only in very narrow circumstances: funding that would not support religious uses, but would only aid secular, safety-related expenditures.

Kondrat'yev v. City of Pensacola, Florida
(U.S.C.A. 11th Circuit, 2017)

Church-State
Separation
Establishment
Clause



At issue in this case is the constitutionality of a 34-foot Latin cross displayed in a public city park. The cross is the focal point for an amphitheater designed for hosting worship services on Easter. Although the lower court begrudgingly ruled that due to the display's clear religious purpose, it violates the Establishment Clause of the First Amendment, its decision extensively criticizes long-standing Establishment Clause precedents, which the court was obligated to enforce, and presents a revisionist history of the Clause. In addition to explaining why this public display of the cross plainly violates the Establishment Clause, the *amicus* brief provides an in-depth discussion on the history, purpose and original understanding of the Clause.

Espinoza v. Montana Department of Revenue
(Montana State Supreme Court, 2017)

Church-State
Separation
Establishment
Clause



This case involves the constitutionality of a Montana Department of Revenue rule, which prohibits the use of "scholarships" provided under a State neo-voucher program to support K-12 religious education. The rule was issued pursuant to the Montana Constitution's "No-Aid" clause, which requires stronger separation of church and state than the First Amendment to the U.S. Constitution. The neo-voucher program provides a tax-credit to individuals who make a donation to private organizations that in turn provide funding for K-12 students to attend private schools, including religious schools. The program does not prohibit participating religious schools from indoctrinating religion or discriminating on the basis of multiple personal characteristics. The No-Aid clause, however, prohibits direct or indirect state support of schools controlled in whole or in part by a religious denomination. The plaintiffs challenged the Department of Revenue rule. The *amicus* brief asserts that the No-Aid clause and rule issued pursuant to it do not violate the U.S. Constitution's Free Exercise or Equal Protection Clauses. Rather, the tax credit is an attempt to circumvent the No-Aid clause for the purpose of using the State's tax system to indirectly

support religious education. The rule is required by the No-Aid clause because that provision has been broadly interpreted by Montana courts to strictly prohibit state aid to religious education, including through intermediaries or other indirect means.

[Freedom From Religion Foundation v. Chino Valley Unified Sch. Dist. Bd. Of Educ.](#)

(U.S.C.A. 9th Circuit, 2017)

This case involves a constitutional challenge to a public school board’s policy of opening meetings with prayer by clergy or board members. Prayers made pursuant to the policy are sectarian and the vast majority of them are Christian in nature. Students have been present or participated at every board meeting since the policy went into effect. Some students, such as a student representative who sits on the board and students subject to disciplinary hearings, are required to be at meetings. Others attend meetings to present musical or other performances, receive awards, or generally voice concerns about their education. ADL joined an *amicus* brief filed by religious and civil rights organizations representing diverse beliefs and faith traditions. It asserts that the prayer policy does not fall within the narrow historical exception to the strict rule against government-sponsored prayer for invocations to open the sessions of state legislatures and city and county councils. Rather, particularly in light of the “heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools,” the policy patently violates longstanding Establishment Clause prohibitions against government endorsement and coercion of religion, as well as preference for particular faiths.

Church-State
Separation
Establishment
Clause



[EEOC v. Harris Funeral Homes](#)

(U.S.C.A. 6th Circuit, 2017)

At issue in this case is a for-profit employer’s assertion of the federal Religious Freedom Restoration Act (“RFRA”) as a legal defense to a violation of a federal workplace anti-discrimination law – Title VII of the 1964 Civil Rights Act. A trial court found that a for-profit funeral home violated Title VII by firing a transgender female employee based on sex-stereotyping. The court, however, in an unprecedented ruling, found that RFRA exempted the employer from the Title VII violation based on its religious beliefs about sex roles and gender identity. ADL joined an *amicus* brief to the U.S. Court of Appeals for the Sixth Circuit arguing that the trial court’s application of RFRA was erroneous for two reasons. First, longstanding U.S. Supreme Court Establishment Clause case law prohibits religious exemptions that cause harm to third parties. And second, the employer could not meet its evidentiary burden under RFRA of showing that its exercise of religion was “substantially burdened” because there was no connection between its stated religious beliefs and the termination, which violated Title VII.

Discrimination
LGBTQ
Rights





Bormuth v. Jackson
(U.S.C.A. 6th Circuit, 2017)

At issue in this case before the Sixth Circuit Court of Appeals *en banc* (entire court) is an Establishment Clause challenge to opening Christian prayers delivered at public meetings of a county board of commissioners by the commissioners themselves. The plaintiff—a non-attorney—represented himself throughout the case. Although a Sixth Circuit three-judge panel ruled in his favor, it also found that the trial court made an error by prohibiting the plaintiff from questioning commissioners in depositions. The panel, however, found the error to be harmless because it had ruled in the plaintiff’s favor. ADL filed an *amicus brief* on behalf of neither party discussing the significance of the flawed factual record in the case. The brief asserts that due to the highly fact-intensive nature of Establishment Clause cases, a fully-developed record is essential for courts to properly evaluate such cases. Because the record in this case is fundamentally flawed in several ways, the Sixth Circuit should send the case back down to the trial court for the record to be fully developed and the plaintiff’s claims to be re-litigated.



Zarda v. Altitude Express
(U.S.C.A. 2nd Circuit, 2017)

This case poses the question to the Second Circuit Court of Appeals of whether someone can legally be fired just because of their sexual orientation. Title VII of the Civil Rights Act of 1964 prohibits discrimination “because of. . . sex,” but, so far, only the Seventh Circuit has held that this prohibition extends to sexual orientation. ADL joined a coalition of diverse bar associations and LGBT groups on an amicus brief arguing that that the Second Circuit should overturn its 2000 precedent holding that Title VII does not cover sexual orientation. The brief argues in part that sexual orientation discrimination is discrimination “because of. . . sex” under an “associational theory” of discrimination—that is, an employer is taking an employee’s sex into account when it discriminates against the employee for associating with someone of the same sex. The brief further argues that Title VII should cover sexual orientation discrimination as a form of gender-stereotyping that is impermissible under Title VII. The Second Circuit will review the case *en banc* (as a full court) instead of as a panel, as only the full court can overturn a Circuit precedent.



Gloucester County School Board v. G.G.
(U.S.C.A. 4th Circuit, 2017)

Gavin Grimm, a 17-year-old transgender boy who attends a public high school in Virginia, sued his school board after it passed a resolution banning him and other transgender students from using the restrooms that match their gender identity. At issue in the case is whether the school board’s policy is unlawful sex discrimination under Title IX of the Education Amendments. ADL joined an amicus brief filed by eight religious and civil rights groups. The record in the case and numerous amicus briefs filed in support of the school board are replete with moral or religious objections to Gavin using restrooms matching his gender

identity. In response, the brief joined by ADL sets out long-standing U.S. Supreme Court Equal Protection Clause precedents prohibiting government from relying on such objections to justify treating some classes of people differently from others. Based on this precedent, it argues that using moral or religious disapproval to disregard Title IX or to justify barring Gavin from restrooms would violate the Equal Protection Clause. Furthermore, a court's use of such disapproval would raise grave Establishment Clause concerns by codifying religious belief as official school-district policy, and thereby impermissibly imposing the burdens of objectors' religious views on innocent third parties. This case was set to be heard by the U.S. Supreme Court, but, in March 2017, the Court issued an order declining to hear the case and sent it back to the Fourth Circuit Court of Appeals for further consideration in light of the recent decision by the Trump administration to rescind the Title IX guidance put in place by the Obama administration. That now-rescinded guidance served to protect transgender students' rights by explaining the proper interpretation of federal anti-discrimination laws.

[City of El Cenizo v. Texas](#)
(Western District of Texas, 2017)

Civil Liberties
Immigration



At issue in this case is Texas's SB4, which would effectively commandeer local law enforcement in Texas to act as immigration agents. ADL filed a brief urging the court to issue a preliminary injunction, arguing that if the law goes into effect it would irreparably harm trust that has taken years to build between law enforcement and communities. As the largest non-governmental trainer of police on issues of hate crimes and extremism, ADL knows well the importance of building trust between law enforcement and the communities they serve. By forcing jurisdictions to turn local law enforcement into *de facto* immigration agents, the brief argues SB4 threatens to create an underclass of people who cannot turn to police for help, undermines community policing efforts, and makes all of us less safe. On August 30, 2017, the court struck down virtually all provisions of SB4. However, the 5th Circuit has since reversed course. On May 8th, 2018, the 5th Circuit issued a ruling vacating and dismissing the district court's preliminary injunction against all provisions of SB4 except the "endorse" provision, which "provides that a "local entity or campus police department" may not "endorse a policy under which the entity or department prohibits or materially limits the enforcement of immigration laws."

Civil Liberties
Immigration



[San Francisco v. Trump](#) (Northern District of California, 2017) &
[Santa Clara v. Trump](#) (Northern District of California, 2017) &
[City of Richmond v. Trump](#) (Northern District of California, 2017)

These cases are challenges to President Trump's executive order withholding federal funds to "sanctuary" jurisdictions. ADL filed *amicus* briefs in each case

urging the court to issue an injunction, arguing that the executive order threatens to cause immediate and irreparable harm. As the largest non-governmental trainer of police on issues of hate crimes and extremism, ADL knows well the importance of building trust between law enforcement and communities they serve. By coercing jurisdictions to turn local law enforcement into *de facto* immigration agents, the brief argues, the executive order threatens to create an underclass of people who cannot turn to police for help, undermines community policing efforts, and makes all of us less safe. The courts agreed and enjoined the executive order. These cases are now pending on appeal before the Ninth Circuit.

[Lathrop v. Deal](#)

(Supreme Court of Georgia, 2017)

This case involves a state constitutional challenge to a Georgia law prohibiting abortion after 20 weeks. However, the issue before the Supreme Court of Georgia concerns sovereign immunity. Georgia's Constitution provides its legislature with broad sovereign immunity, but also empowers the state judiciary to declare void legislative acts that are unconstitutional. In this case, the lower court dismissed the constitutional challenge on sovereign immunity grounds. ADL joined an amicus brief arguing that the lower court decision is unprecedented because it renders illusory express state constitutional rights, including the rights to liberty, equal protection, freedom of conscience and privacy. Furthermore, the decision below undermines separation of powers by negating the judiciary's constitutional authority. The brief makes two specific arguments for why sovereign immunity is inapplicable to challenges asserting express constitutional rights: first, because the legislature's authority is defined and limited by the state Constitution, sovereign immunity cannot apply to acts or conduct falling outside that authority. Second, there is an implicit waiver of sovereign immunity when the legislature acts in contravention of rights expressly guaranteed by the Constitution.

[Gaddy v. Georgia Department of Revenue](#)

(Supreme Court of Georgia, 2017)

This case involves a state constitutional challenge to a type of school vouchers program in Georgia called the Qualified Education Tax Credit Program. ADL joined an *amicus* brief opposing the Department of Revenue's assertion of a sovereign immunity defense and supporting the merits of the appellants' constitutional claim. Georgia's Constitution provides its legislature with broad sovereign immunity on which the lower court dismissed the constitutional challenge. The brief argues that the lower court misapplied this sovereign immunity provision because it is inapplicable to constitutional claims. Alternatively, it asserts that where a statute, such as the Tax Credit Program, does not specifically invoke sovereign immunity, there should be a presumption that the legislature waives it. The court found that, because the scholarship funds at issue are not public expenditures, the plaintiffs lacked standing to bring the suit.

Civil Liberties
Reproductive
Rights



Church-State
Separation
Establishment
Clause



Discrimination
LGBTQ
Rights



Pidgeon v. Turner
(Supreme Court of Texas, 2017)

This case involves a state law prohibiting government workers from receiving spousal benefits if they are married to someone of the same sex. At issue is whether *Obergefell*, the U.S. Supreme Court case finding prohibitions against marriage equality unconstitutional, compels states only to issue marriage licenses to same-sex couples or compels states to afford same-sex couples equal treatment under the law, including access to public benefits. The Texas Supreme Court interpreted *Obergefell* narrowly, finding that, because it did not specifically address the question of spousal benefits, the law on the question is not clearly established. The court thus sent the case back to the trial court to resolve the question.

Civil Liberties
Immigration



Washington v. Trump
(U.S.C.A. 9th Circuit, 2017)

At issue in this case was President Trump’s first executive order, which, among other things, temporarily banned the entry of people from seven majority-Muslim countries, suspended entry into the United States for refugees, and prioritized the entry of refugees who are religious minorities in their home countries and who are fleeing religious persecution. ADL filed an *amicus* brief in support of Washington’s challenge to the executive order. The brief urged the court to block enforcement of the order, asserting that implementation would almost certainly cause irreparable harm to countless people. The Ninth Circuit, in a *per curiam* decision, upheld the nationwide injunction blocking enforcement of the executive order.

Civil Liberties
Immigration



Virginia v. Trump
(Eastern District of Virginia, 2017)

At issue in this case was President Trump’s first executive order on immigration and refugees. ADL filed an *amicus* brief in support of Virginia’s challenge to the executive order. The brief urged the court to issue a preliminary injunction, blocking implementation of the executive order’s temporary ban on entry into the United States of people from seven majority-Muslim nations. The brief traced America’s history as a nation dedicated to ideals of equality, liberty, and justice and warned against repeating the shameful times in our past when America had turned against those ideals. The court issued a decision blocking enforcement of the executive order, finding it unconstitutional.

Church-State
Separation
Establishment
Clause



Kennedy v. Bremerton School District
(U.S.C.A. 9th Circuit, 2017)

For eight years a public high school football coach led his team in pre- and post-game prayer. After the coach was ordered to stop sponsoring team prayer, he began the practice of kneeling in prayer at the football field’s 50-yard line immediately following every game. The coach was discharged from his position

when he repeatedly refused to comply with the school district's directive to end this practice. In response, the coach brought a lawsuit claiming the district violated his First Amendment rights to freedom of speech and religion and discriminated against him on the basis of religion. ADL joined an *amicus* brief, which argues that the school district's action was appropriate and required to avoid violating the Establishment Clause. Because the coach engaged in the prayer practice during a school-sponsored event at which he was charged with supervision of students, his conduct was not private. Rather, it was official school district activity, which unconstitutionally endorsed and coerced religion. The brief highlights the important role of public school coaches as role models, mentors, and parental figures for students. Due to that unique leadership position in public schools, the brief further argues that the religious endorsement and coercion issues in this case are even more pronounced than in instances where other educators in their official capacities engage in religious activities or school officials support student-led prayer. On August 23, 2017, the court found that the school district was permitted to order the coach not to speak in the manner that he did because the coach's demonstrative speech fell within the scope of his typical job responsibilities, and he spoke as a public employee.

[International Refugee Assistance Project v. Trump](#) (U.S.C.A. 4th Circuit, 2017)

Civil Liberties
Immigration



At issue in this case was President Trump's second executive order on refugees and immigration, which, among other things, temporarily barred travel for people from six majority-Muslim countries. ADL, joined by the Jewish Council for Public Affairs, the Union for Reform Judaism, the Central Conference of American Rabbis, and Women of Reform Judaism, filed an *amicus* brief in support of the challenge to the executive order. The brief urges the court to uphold the District Court's preliminary injunction, which blocked implementation of the travel ban for people from six majority-Muslim countries. The brief traces America's history as a nation dedicated to ideals of equality, liberty, and justice and warns against repeating the shameful times in our past when America has turned against those ideals. In a 10-3 ruling, the full Fourth Circuit Court of Appeals held that President Trump's revised travel ban was unconstitutional. In June 2017, the Trump Administration appealed the decision to the U.S. Supreme Court.

[International Refugee Assistance Project v. Trump](#) (District of Maryland, 2017)

Civil Liberties
Immigration



At issue in this case was Section 5(d) of President Trump's executive order on immigration and refugees, which caps the number of refugees eligible to enter the United States at 50,000 annually. ADL filed an *amicus* brief in support of the International Refugee Assistance Project's challenge to the executive order. The brief traced America's history as a nation dedicated to ideals of equality, liberty, and justice and warned against repeating the shameful times in our past when America had turned against those ideals. The court blocked enforcement of the executive order, finding it unconstitutional.



[Hawaii v. Trump](#)

(U.S.C.A. 9th Circuit and the District of Hawaii, 2017)

At issue in this case was President Trump's second executive order on refugees, which, among other things, temporarily banned travel from six majority-Muslim countries and suspended refugee resettlement in the United States for a period of 120 days. ADL filed an *amicus* brief urging the court to block enforcement of the executive order. The brief traced America's history as a nation dedicated to ideals of equality, liberty, and justice and warned against repeating the shameful times in our past when America had turned against those ideals. On March 14, 2017, the court issued a temporary restraining order blocking enforcement nationwide of the travel and refugee bans.



[Darweesh, et al. v. Trump](#)

(Eastern District of New York, 2017)

At issue in this case was President Trump's first executive order on immigration and refugees. ADL filed an *amicus* brief in support of Virginia's challenge to the executive order. The brief urged the court to issue a preliminary injunction, blocking implementation of the executive order's temporary ban on entry into the United States of people from seven majority-Muslim nations. The brief traced America's history as a nation dedicated to ideals of equality, liberty, and justice and warned against repeating the shameful times in our past when America had turned against those ideals. The court issued a nationwide injunction that blocked the deportation of all people stranded in U.S. airports under the executive order.