Anti-Defamation League®

IN THE COURTS:
ADL'S CURRENT LEGAL DOCKET
JULY 2017

CIVIL RIGHTS DIVISION ▪ LEGAL AFFAIRS DEPARTMENT

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Contrary to ADL


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Civil Liberties
Immigration

International Refugee Assistance Project v. Trump **(U.S. Supreme Court, 2017)**
At issue in this case is President Trump's second executive order on refugees and immigration, which among other things temporarily barred travel for people from six majority-Muslim countries. The Fourth Circuit Court of Appeals, sitting *en banc*, ruled that President Trump's revised travel ban was unconstitutional. In June 2017, the Trump Administration appealed the decision to the U.S. Supreme Court. ADL joined an *amicus* brief urging the Supreme Court to decline to hear the case and let the Court of Appeals decision stand. On June 26, 2017, the Supreme Court ruled that it will review the challenge to the executive order, and will keep President Trump's ban from taking effect in the interim with respect to people who have relationships with persons or institutions in the United States.

2016-2017 DECISIONS FROM THE U.S. SUPREME COURT

Church-State Separation
Government funding

Trinity Lutheran Church v. Pauley **(U.S. Supreme Court, 2016)**
Missouri's constitution prohibits direct or indirect public aid to houses of worship and other religious institutions. Based on this provision, the state excludes houses of worship, including the petitioner, a church, from a program that provides direct grants to pay for outdoor resurfacing materials. ADL joined with Americans United for Separation of Church and State, other civil rights groups, and religious organizations on a friend-of-the court brief. It argues that the First Amendment's free exercise clause does not require petitioner to be included in the direct grant program. Furthermore, the state constitutional provision at issue is permitted by the "play in the joints" between the U.S. Constitution's establishment and free exercise clauses, and it is justified by the experience of the framers of the Constitution, who were deeply concerned about public funding of houses of worship. The Court, however, disagreed with this argument, and, in a 7-2 decision in June 2017, held that Missouri's exclusion of churches from grants for outdoor resurfacing materials violated the Free Exercise Clause of the First Amendment.

Civil Liberties
Criminal Justice

Peña-Rodriguez v. Colorado **(U.S. Supreme Court, 2016)**
This case involved allegations of racial bias on the part of a juror in a 2010 sexual assault trial in Colorado. Following a guilty verdict at trial, two jurors reported that a third juror had expressed racial bias against the defendant, who is Latino, during jury deliberations. The trial court denied the defendant's motion for a new trial and refused to consider those statements of racial bias, finding that a Colorado rule of evidence barred their admission as evidence. ADL joined with the Hispanic National Bar Association and LatinoJustice PRLDEF on an *amicus* brief, urging the U.S. Supreme Court to allow the use of specific evidence of racial bias in jury deliberations to prove a violation of the constitutional right to a trial by an impartial jury. The brief argued that given the fundamental importance of ensuring that the criminal justice system is free of racial prejudice, the Court should apply strict scrutiny review and invalidate the application of this rule of evidence in the case. In a 5-3 decision written by Justice Kennedy, the Court held that the Sixth Amendment's guarantee of an impartial jury requires lifting the confidentiality of jury deliberations when a juror is accused of making racially biased statements.

Discrimination
Gender Identity

Gloucester County School Board v. G.G. **(U.S. Supreme Court, 2017)**
Gavin Grimm, a 17-year-old transgender boy who attends a public high school in Virginia, sued the school board after it passed a resolution banning him and transgender students generally 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 by ten religious groups, filed an amicus brief arguing that the policy is a violation of Title IX and is an attack on the health, safety, and dignity of transgender students. In response to the arguments set forth by many of the school board's amici, ADL urged the Court to reject the untenable argument that religious or moral disapproval can justify a policy that discriminates against a class of persons, particularly a class that historically has been the target of prejudice,

disapproval, and violence, including within the specific context of public restrooms. In March, the Supreme Court issued an order declining to hear the case and sending 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 antidiscrimination laws.

Civil Liberties
Reproductive Freedom

Whole Woman's Health v. Hellerstedt **(U.S. Supreme Court, 2016)**

In 2013, Texas passed HB2, a law that created substantial obstacles to accessing abortion by including medically unnecessary requirements for clinics and health care providers. This case challenged those provisions. ADL joined with the National Women's Law Center and 47 other organizations on an *amicus* brief that highlighted the negative impact that the obstacles at issue have on women's economic security and equal participation in social and economic life. These include significant, and in some cases insurmountable, costs that threaten women's financial well-being, job security, workforce participation, and educational attainment. Such costs have a particularly harmful impact on low-income women, women of color, women in low-wage jobs, and women who already have children. By unduly burdening reproductive choices, women negatively impacted by this law are denied the equal dignity promised by the Constitution. In a 5-3 decision penned by Justice Breyer, the Court struck down Texas's restrictions on women's health care facilities as unconstitutional, thereby protecting the right to access legal abortions.

Civil Liberties
Reproductive Rights

Zubik v. Burwell **(U.S. Supreme Court, 2016)**

This case involved a second challenge to the Affordable Care Act's contraception mandate, which requires employers to provide prescription contraception coverage as part of employee health insurance. Religiously-affiliated organizations were provided with a free exercise accommodation, allowing them to opt out of providing contraception coverage. Such organizations were required to file a one-page form with the Department of Health and Human Services, after which point the organizations would have no responsibility for the contraception coverage. Instead, an insurance company or third party would pay for and administer these needs. Petitioners challenged the provision, arguing that the filing requirement violated their rights under the Religious Freedom Restoration Act (RFRA). ADL's *amicus* brief focused on RFRA's "substantial burden" requirement. It argued that petitioners failed to demonstrate that filing a form is a substantial burden on their free exercise of religion. They merely asserted subjective offense of their religious beliefs, which should not be conflated with objective substantial burdens on religious exercise. The brief further argued that assessment of substantial burden should also include impact on the rights of others. In this case, striking down the opt-out provision would deny women access to affordable contraception while alleviating, at most, indirect and minimal burdens on the petitioners. In a *per curiam* opinion, the Court reached no decision on the merits of the case, but remanded it back to the lower courts to determine how to best ensure that employees receive full contraceptive coverage while protecting the religious beliefs of the organization's owners.

THE FEDERAL AND STATE COURTS

PENDING IN FEDERAL AND STATE COURTS

Church-State Separation
Establishment Clause

Freedom From Religion Foundation v. Chino Valley Unified Sch. Dist. Bd. Of Educ. **(U.S.C.A., 9th Circuit)**

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 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.

Civil Liberties
Immigration

City of El Cenizo v. Texas **(Western District of Texas)**

At issue in this case is Texas' 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 between law enforcement and communities that has taken years to build. 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 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.

Discrimination
LGBT Rights

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

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.

Discrimination
Gender Identity

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 the school board after it passed a resolution banning him and transgender students generally 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 sending 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.

Discrimination
LGBT Rights

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 legal defense to a violation of a federal workplace anti-discrimination law – Title VII of the 1964 Civil Rights Acts. 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, long-standing 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.

Church-State Separation
Establishment Clause

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 court *en banc* 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.

Civil Liberties
Immigration

San Francsico 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.

Church-State Separation
Establishment Clause

Kennedy v. Bremerton School District **(U.S.C.A. 9th Circuit, 2016)**
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.

Discrimination
Public Accommodation

Sweetcakes by Melissa v. Oregon Bureau of Labor and Industries **(Oregon Court of Appeals, 2016)**

This case involves a lesbian couple that was turned away by an Oregon bakery whose owners refused to make a cake for the couple's wedding. The Oregon Labor Commissioner found that the bakery owners had violated Oregon law by discriminating against the women on the basis of their sexual orientation. The bakery and its owners appealed the Commissioner's ruling to the Oregon Court of Appeals citing their Christian beliefs against marriage equality. In their opening brief, they argue that enforcing the nondiscrimination law against them is unconstitutional. ADL submitted a brief urging the court to affirm the Commissioner's decision and reject arguments that religious or moral disapproval is a legitimate basis for discrimination against minority groups.

Civil Liberties
Reproductive Rights

Real Alternatives v. Burwell **(U.S.C.A. 3rd Circuit, 2016)**

Real Alternatives, Inc. is an admittedly secular, non-profit organization that provides "life-affirming alternatives to abortion services throughout the nation." The organization and its three full-time employees are morally opposed to abortion and certain forms of contraception. They brought a challenge to the Affordable Care Act's contraception mandate ("Mandate") under Fifth Amendment equal protection principles and the Religious Freedom Restoration Act (RFRA) contending that similar to religious institutions Real Alternatives is entitled to a total exemption from the Mandate. A lower court rejected these challenges. ADL joined an *amicus* brief arguing that the religious institution exemption did not violate equal protection because the federal government's stated interest protecting religious autonomy justified this exemption. Furthermore, Real Alternatives is not similarly situated to houses of worship or other religious institutions because a moral belief on a single issue is not akin to a system of religion. As to the RFRA claim, the brief argues that requiring Real Alternatives to carry comprehensive health insurance, inclusive of prescription contraception, does not violate the religious exercise of its employees. Alternatively, the government's interests in promoting public health and gender equality are compelling, and the Mandate under these circumstances is the least restrictive means of achieving these interests.

2016-2017 DECISIONS FROM FEDERAL AND STATE COURTS

Civil Liberties
Reproductive Rights

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. The Court dismissed the case on sovereign immunity grounds, but it also provided a road map for the case to be re-filed and move forward against a state officer in their official capacity.

Civil Liberties
Establishment Clause

Barber v. Bryant **(U.S.C.A. 5th Circuit, 2016)**

This case involves the constitutionality of Mississippi HB 1523—the so-called "Protecting Freedom of Conscience from Government Discrimination Act." HB 1523 provides sweeping, legal exemptions and immunities to public officials, individuals or business who or that hold one of three religious or moral beliefs: marriage should be limited to opposite sex-marriage; sexual relations should be limited to opposite-sex marriage; and "Male (man) or Female (woman) refer to an individual's immutable biological sex as objectively determined by anatomy and genetics at time of birth." As a result, under the pretext of religious liberty, the law broadly authorizes discrimination against LGBT people and other Mississippians. A lower court ruled that HB 1523 violates the Establishment Clause. It found that the law's preference of one religion over others runs afoul of *Larson v. Valente*, 456 U.S. 228. ADL, joined by a diverse group of religious and civil rights groups, filed an *amicus* brief asserting that the Court should uphold the lower court's decision. The brief specifically argues that HB 1523 also violates the Establishment Clause under the well-settled *Lemon* and endorsement tests. The law's legislative record and general history reflect that it had an unlawful religious purpose, as well as unconstitutionally advances and endorses religion. Furthermore, HB 1523 is an invalid religious accommodation because unlike permissible accommodations, it is overly broad, unqualified, and not neutral among faiths, as well as imposes harms on others. In June 2017, the Fifth Circuit reversed the injunction against HB 1523, allowing the law to stand.

Church-State Separation
Establishment Clause

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 a presumption that the legislature waives it. As to appellants' constitutional claim, the brief argues that the Program violates Georgia's "No Aid" Clause, which provides for greater separation of church and state than the First Amendment to the U.S. Constitution. It explains the historical development of the separation principle, how stricter separation of church and state protects religious freedom, and why the Program violates the No Aid Clause by diverting tens of millions of dollars in potential tax revenue to private religious schools that indoctrinate faith and discriminate on the basis of religion. The Court found that, because the scholarship funds at issue are not public expenditures, the plaintiffs lacked standing to bring the suit.

Discrimination
LGBT 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 same-sex marriage 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.

Church-State Separation
Establishment Clause

American Humanist Association v. Birdville Independent School District **(U.S.C.A. 5th Circuit, 2016)**
This case involves a school board's practice of inviting students to give invocations at the beginning of board meetings. Other students regularly attend such meetings to participate as "student ambassadors," receive awards or recognition, or give musical or other performances. ADL joined Americans United for Separation of Church and State in an *amicus* brief arguing that this practice is unconstitutional. Specifically, the brief argues that it does not fall within a narrow historical exception to the First Amendment's Establishment Clause for opening prayers before state legislatures and local legislative bodies. Rather, due to the "student-focused" nature of the School Board and Board meetings, customary Establishment Clause standards apply. As a result, the practice unconstitutionally advances, endorses, and coerces religion. In March 2017, the Fifth Circuit Court of Appeals ruled that the school board's practice did not violate the Constitution, finding that the school board was "more like a legislature" than a

classroom and thus finding the practice to be in the category of permissible legislative prayer.

Civil Liberties
Immigration

Hawaii v. Trump **(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.

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 (EO), 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 State's challenge to the EO. The brief urged the court to block enforcement of the order, asserting that implementation would almost certainly cause irreparable harm to countless people. It traced America's history as a nation dedicated to the ideals of equality, liberty and justice, noting that throughout history, and often with respect to immigration, our ideals have been tested. The brief pointed to three historic examples for which the United States had later issued apologies—the tragedy of the St. Louis, the "Chinese Exclusion" Acts, and the internment of the Japanese during World War II—to argue that history will almost certainly look back on this order as a shameful example of the nation sacrificing its core values in favor of prejudice and fear. 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 (EO) on immigration and refugees. ADL filed an *amicus* brief in support of Virginia's challenge to the EO. The brief urged the Court to issue a preliminary injunction, blocking implementation of the EO'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 EO, finding it unconstitutional.

Civil Liberties
Immigration

International Refugee Assistance Project v. Trump **(U.S.C.A. 4th Circuit, 2017)**
At issue in this case is 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.

Civil Liberties
Immigration

International Refugee Assistance Project v. Trump **(District of Maryland, 2017)**
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 issued a decision blocking enforcement of the executive order, finding it unconstitutional.

Civil Liberties
Immigration

Darweesh, et al. v. Trump **(Eastern District of New York, 2017)**
At issue in this case was President Trump's first executive order (EO) on immigration and refugees. ADL filed an *amicus* brief in support of Virginia's challenge to the EO. The brief urged the Court to issue a preliminary injunction, blocking implementation of the EO'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 EO.

Religious Freedom
Discrimination

Islamic Society of Basking Ridge v. Township of Bernards **(District of New Jersey, 2016)**
In this case, set against a backdrop of strong anti-Muslim sentiment and incidents in Bernards, New Jersey, a Muslim congregation claimed that the municipality adopted a land use ordinance to block construction of its mosque. The Interfaith Coalition on Mosques (ICOM)—formed by ADL in 2010 to assist Muslim communities confronting opposition to the legal building, expansion, or relocation of their mosques—joined a brief filed on behalf of a coalition of nearly 20 civil rights and interfaith organizations in support of The Islamic Society of Basking Ridge. The brief argued that the township's conduct is discriminatory and violates the Religious Land Use and Institutionalized Persons Act (RLUIPA), which safeguards the religious freedom of houses of worship and other institutions in the land-use context. The court found in favor of The Islamic Society, striking down the challenged portions of the ordinance as unconstitutional.

Discrimination
Public Accommodation

Ingersoll & Freed v. Arlene's Flowers **(Washington State Supreme Court, 2016)**
Arlene's Flowers' owner Barronelle Stutzman refused to sell flowers to a gay couple, Robert Ingersoll and Curt Freed, for their wedding. A Washington Superior Court ruled that the florist violated the state's anti-discrimination law when she denied service to the couple and said that the defendant's refusal based on her religious opposition to same-sex marriage is, as a matter of law, a refusal based on Ingersoll and Freed's sexual orientation in violation of the Washington anti-discrimination law. Arlene's Flowers appealed the ruling to the Washington State Supreme Court. ADL submitted a brief in support of the couple, urging the court to affirm the lower court's decision and reject arguments that religious or moral disapproval is a legitimate basis for discrimination against minority groups. The court held that the florist violated the state law against discrimination in public accommodations by refusing to sell wedding flowers to Robert Ingersoll and Curt Freed because of her religious-based objections to gay marriage.

Civil Liberties
Criminal Justice

People v. Bridgeforth **(New York Court of Appeals, 2016)**
This case involved the question of whether excluding an individual from jury service based on the color of her skin violates the Equal Protection Clause of the Fourteenth Amendment of the United States and New York Constitutions. In this case, the appellant asserted that the prosecutor excluded all of the dark-skinned women from the jury, and failed to provide a neutral explanation for striking one of these individuals, a dark-skinned Indian-American woman. The U.S. Supreme Court held in *Batson v. Kentucky* that when a prosecutor uses a peremptory strike that raises an inference of racial discrimination, she must provide a race-neutral reason for the strike. The State of New York contends that skin color (as opposed to race) cannot form the basis of a protected class under *Batson.* ADL joined a brief written by the Fred T. Korematsu Center for Law and Equality arguing that skin color should be recognized under *Batson.* The brief outlined research and real-world examples documenting the pernicious impact of color discrimination in criminal sentencing, employment, education, politics, and popular culture, both within and across different races. The Court found that excluding a juror because of skin tone violates the New York Constitution.

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