

No. 23-1917

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

SOUTH CAROLINA STATE CONFERENCE OF THE NAACP; MARVIN NEAL;
ROBYNNE CAMPBELL; and DE'ONTAY WINCHESTER,

Plaintiffs-Appellants,

v.

ALAN WILSON, in his official capacity as Attorney General of South
Carolina,

Defendant-Appellee.

On Appeal from the United States District Court for the
District of South Carolina, Hon. David C. Norton, No. 2:23-cv-01121

**BRIEF OF *AMICUS CURIAE* PROFESSOR REBECCA L.
SANDEFUR AND 26 EMPIRICAL SCHOLARS IN SUPPORT OF
PLAINTIFFS-APPELLANTS FOR REVERSAL**

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INTEREST OF *AMICI CURIAE*¹

Dr. Rebecca L. Sandefur and 26 empirical scholars submit this brief as *amici curiae* in support of Plaintiffs-Appellants, who challenge the District Court's decision to deny Plaintiffs-Appellants' motion for a preliminary injunction as moot in light of the District Court's decision to abstain under the *Pullman* doctrine.

Professor Sandefur is a leading scholar and sociologist with deep expertise in access to civil justice. She is a Professor in the College of Liberal Arts and Sciences at Arizona State University and Faculty Fellow at the American Bar Foundation (ABF), an independent, non-partisan research organization focused on the study of law and legal processes. In 2018, Professor Sandefur was named a MacArthur Fellow for her development of a new evidence-based approach to access to civil justice for low-income people.

Professor Sandefur has served on a number of commissions exploring ways to improve access to justice in the United States and

¹ Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), no party's counsel authored this brief in whole or part, and no party, party's counsel, or person—other than the *amici* and their counsel—contributed money that was intended to fund preparing or submitting the brief. All parties have consented to the filing of this brief. *See* Fed. R. App. P. 29(a)(2).

globally, including with the American Bar Association, the American Academy of Arts and Sciences, the Organisation for Economic Co-operation and Development (OECD), and the World Bank. Her work, which has been funded by the National Science Foundation, has received numerous awards, including awards from the National Center for Access to Justice (2015) and the National Center for State Courts (2020).

In this *amicus* brief, Professor Sandefur is joined by 26 empirical scholars who study the legal profession, the provision of legal services across jurisdictions, and people's interaction with the legal system. The full list and qualifications of *Amici* joining this *amicus* brief are included in the addendum. In the brief, *Amici* review social science research that supports Plaintiffs-Appellants' contention that qualified nonlawyers can perform an essential role in helping people to protect their rights in eviction proceedings. *Amici's* knowledge of the field is a product of research over several decades on the barriers that prevent people from securing access to justice.

SUMMARY OF ARGUMENT

South Carolina faces an increasingly acute crisis of access to justice. This is especially so in the context of formal and informal evictions, which

displace thousands of South Carolina residents from their homes without access to a lawyer. This lack of representation fundamentally impacts these individuals' lives while undermining the legitimacy of the courts as well as the rule of law itself. In South Carolina, “[h]ousing law remains among the top legal services practice areas and one of the greatest areas of need.”² Like countless others across the country, the vast majority of South Carolina residents facing eviction cannot afford counsel and are unable to adequately represent themselves.³ As a result, they frequently fail to appear in court to assert their legal rights, and state courts routinely enter default judgments against them. Dire consequences like

² Bruce Rich, et al., South Carolina Access to Justice Commission, South Carolina Bar, NMRS Center on Professionalism, *South Carolina Legal Needs Assessment 2022*, 232 (Feb. 21, 2023) [hereinafter *Legal Needs Assessment 2022*], <https://static1.squarespace.com/static/5d38a7143b6514000155e5a9/t/64184e6db3775a6576cbffef/1679314547803/CHCS-SC>; see Decl. of Professor Elizabeth Chambliss, *South Carolina State Conf. of the NAACP et al. v. Wilson*, Case No. 2:23-cv-01121-DCN (D.S.C. Mar. 21, 2023), ECF No. 8 ¶¶ 6, 11 [hereinafter “Chambliss Decl.”] (discussing recent South Carolina Legal Needs Assessment and its finding that “[t]he unmet need [in South Carolina] is especially great in the area of housing law”).

³ Chambliss Decl., *supra* note 2, ¶ 12 (“The biggest driver of this unmet legal need is a lack of attorneys who can provide no-cost legal services.”).

homelessness result, accompanied by direct impacts on employment, family stability, and health.

One underexplored option for addressing the access to justice gap is the use of trained nonlawyers who, the evidence shows, can rapidly become experts in legal processes. Such legal processes—including, for example, handling actions in small claims court—can be unfamiliar even to many attorneys. Skilled nonlawyers who are familiar with housing court proceedings trained by the South Carolina NAACP likewise can improve the fairness and effectiveness of our civil justice system. Given the scarcity of legal aid and *pro bono* resources for the tens of thousands of South Carolina residents who cannot afford to hire counsel to vindicate their rights in eviction proceedings, the South Carolina NAACP should be allowed to deploy its well-designed and focused nonlawyer training to substantially improve access to justice for those who desperately need it.

These needs are both acute and urgent. The District Court's decision to decline to decide Plaintiffs-Appellants' motion for preliminary injunction therefore has real-world, adverse consequences for many individuals facing eviction in South Carolina. To quantify the effect of such a delay, in Charleston, South Carolina, 872 eviction notices were

filed in August 2023.⁴ If this figure is applied to the three months between the District Court issuing its order denying Plaintiffs-Appellants' motion for preliminary injunction as moot and the briefing of this appeal, approximately 2,616 individuals will have had eviction notices filed against them in Charleston alone.⁵ In Greenville, South Carolina, 1,409 eviction notices were filed in August 2023.⁶ Assuming roughly the same rate of eviction filings per month during the period between the District Court's stay order (August 2023) and the present briefing (November 2023), this would mean that approximately 4,227 eviction notices have been filed since the District Court denied Plaintiffs-

⁴ *Eviction Tracking, Charleston, South Carolina*, Eviction Lab, <https://development--eviction-lab.netlify.app/eviction-tracking/charleston-sc/> (last visited Nov. 7, 2023).

⁵ In Charleston between January and August 2023, there was an average of about 858 eviction filings per month. *See Eviction Tracking, Charleston, South Carolina*, *supra* note 4; *see also Legal Services Corporation Civil Court Data Initiative*, <https://civilcourtdata.lsc.gov/data/eviction/south-carolina> [hereinafter "LSC Initiative"] (last visited Nov. 6, 2023) (showing an average of about 868 eviction filings per month in Charleston between January-August 2023).

⁶ *LSC Initiative*, *supra* note 5; *see also Eviction Tracking, Greenville, South Carolina*, Eviction Lab, <https://evictionlab.org/eviction-tracking/greenville-sc/> (last visited Nov. 7, 2023) (tracking 1,400 eviction filings for August 2023).

Appellants' motion for a preliminary injunction.⁷ These are data for eviction filings. Available evidence from 2016 indicates that South Carolina has one of the nation's highest rates of eviction judgments.⁸ Given the dire eviction rate in South Carolina, compounded by the broader access to justice crisis in the state, any amount of delay in implementing the South Carolina NAACP's Housing Advocate Program is highly detrimental to thousands of state residents.

ARGUMENT

I. The Access to Justice Crisis Contributes to Staggering Rates of Eviction in South Carolina, with Profound Consequences for Residents and the State Alike.

Access to justice in the United States is in crisis. In 2020, 66% of Americans reported experiencing a legal problem in the past four years.⁹

⁷ In 2023, between January and July there were an average of about 1,243 eviction filings per month in Greenville alone. That means that in the three months since the district court stayed the case, approximately 3,729 evictions have been initiated in Greenville. *See LSC Initiative, supra* note 5.

⁸ Emily Badger & Quoctrung Bui, *In 83 Million Eviction Records, a Sweeping and Intimate New Look at Housing in America*, N.Y. Times (Apr. 7, 2018) <https://www.nytimes.com/interactive/2018/04/07/upshot/millions-of-eviction-records-a-sweeping-new-look-at-housing-in-america.html>.

⁹ Institute for the Advancement of the American Legal System & Hague Institute for the Innovation of Law, *Justice Needs & Satisfaction in the United States of America*,

That number is higher for low-income Americans: 74% of low-income households in the United States reported experiencing at least one civil legal problem over the past year when surveyed in 2021.¹⁰ On average, lower income Americans experience more serious legal problems than higher income Americans—and 92% do not get any or enough legal help for their substantial civil legal problems.¹¹

Cases involving housing, especially eviction, are emblematic of this broader trend. Across South Carolina, “the average annual eviction case rate is 20.8 cases per thousand people, compared to 4.4 divorce cases per thousand, 3.4 debt collection cases per thousand, and 2.8 child support cases per thousand.”¹² According to one study, South Carolina contains a “cluster of counties with significantly high eviction rates (i.e. hot spots)[.]”¹³ Eviction Lab, a Princeton University project, tracks eviction

6 (2021) [hereinafter *IAALS Report*], <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>.

¹⁰ *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans*, Legal Services Corporation (2022), <https://justicegap.lsc.gov>.

¹¹ *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans*, *supra* note 10.

¹² *Legal Needs Assessment 2022*, *supra* note 2, at 200-01.

¹³ Lindsey Connors & Charlie H. Zhang, *A National Analysis of the Spatial Patterns and Correlates of Evictions in the United*

filings across the country and specifically in two cities in South Carolina, Charleston and Greenville. In Charleston, over the past year, 18 renter households per 100 renter households have faced eviction, 11 renter households per 100 renter households have been threatened with eviction, and 37 renter households per 100 renter households face repeat evictions.¹⁴ In Greenville, over the past year, 24 renter households per 100 face eviction, 16 renter households per 100 have been threatened with eviction, and 36 renters per 100 face repeat evictions.¹⁵

Compounding the eviction crisis in the state, many South Carolina residents believe “housing is the biggest legal problem in their community[,]” but do not seek legal help because of the cost.¹⁶ As a result, “very high numbers of tenants are unrepresented in eviction cases.”¹⁷ For

States, 2023, <https://link.springer.com/article/10.1007/s12061-023-09534-x>.

¹⁴ *Eviction Tracking, Charleston, South Carolina*, *supra* note 4.

¹⁵ *Eviction Tracking, Greenville, South Carolina*, *supra* note 6.

¹⁶ *Legal Needs Assessment 2022*, *supra* note 2, at 162.

¹⁷ *Legal Needs Assessment 2022*, *supra* note 2, at 202.

example, in 2019, 99.7% of defendants in eviction proceedings in South Carolina were unrepresented.¹⁸

The impact on low-income households is more pronounced for racial minorities, especially Black Americans. A study evaluating the prospect of an eviction right to counsel program in South Carolina found that approximately 50-70% of clients facing eviction seeking representation are Black.¹⁹

When people do not assert their legal rights, the result is adverse judgments that often cause a snowball effect on their lives and their communities. As the ACLU found in its December 2022 study, “eviction remains a leading cause of homelessness.”²⁰ In South Carolina, nearly 10,969 people across South Carolina from 2019-2020 received homeless

¹⁸ *The South Carolina Justice Gap, Interactive Data Tool*, South Carolina Access to Justice Commission, <https://www.scaccesstojustice.org/the-sc-justice-gap/interactive-tool> (last visited Nov. 7, 2023).

¹⁹ *The Estimated Economic Impact of an Eviction Right to Counsel in South Carolina* (Dec. 1, 2022), 24, https://www.aclusc.org/sites/default/files/field_documents/the_estimated_economic_impact_of_an_eviction_right_to_counsel_in_south_carolina_final_2022.12.01.pdf; see also Legal Needs Assessment 2022, *supra* note 2, at 5

²⁰ *The Estimated Economic Impact of an Eviction Right to Counsel in South*, *supra* note 19, at 27.

services.²¹ Eviction has consequences beyond housing, adversely affecting not only “unemployed and employed tenants’ job prospects but also their earnings and the potential future earnings of children.”²² Public eviction records also “mak[e] it difficult for tenants with eviction records to re-rent and exacerbate[e] housing discrimination.”²³

The consequences of this crisis extend beyond individuals and communities. It also infects our legal system. Justice and the rule of law are advanced in our adversarial system when courts are able to hear competent arguments on both sides of a dispute. *See Penson v. Ohio*, 488 U.S. 75, 84 (1988) (“The paramount importance of vigorous representation follows from the nature of our adversarial system of justice. This system is premised on the well-tested principle that truth—as well as fairness—is [] ‘best discovered by powerful statements on both sides of the question.’”) (quoting Kaufman, *Does the Judge Have a Right to Qualified Counsel?* 61 A.B.A.J. 569, 569 (1975)). Yet many courts

²¹ *The Estimated Economic Impact of an Eviction Right to Counsel in South*, *supra* note 19.

²² *The Estimated Economic Impact of an Eviction Right to Counsel in South*, *supra* note 19, at 36.

²³ *The Estimated Economic Impact of an Eviction Right to Counsel in South*, *supra* note 19, at 37.

today effectively function in a one-sided system, thereby increasing the burden on judges with heavy caseloads to determine whether the eviction action in question suffers from jurisdictional or other legal defects, such as a statute-of-limitations bar. Public confidence in our justice system and the rule of law suffer as a result.²⁴

II. Non-Lawyers, Like South Carolina NAACP's Housing Advocates, Can Significantly Improve Access to Justice and Help Thousands of South Carolinians Avoid Eviction.

Research shows that current legal aid and *pro bono* assistance do not come close to bridging the access to justice gap. Economist and legal scholar Gillian K. Hadfield, for example, estimates that to offer just one hour of legal advice to every American facing civil legal problems, every one of the nation's lawyers would need to volunteer 100 more hours annually.²⁵ Yet, according to a 2016 study by the American Bar

²⁴ Public confidence in the courts is already especially weak among many historically marginalized communities, including those who most acutely experience the lack of representation in legal proceedings. According to the National Center for State Courts' 2015 survey, for example, "only 32% of African Americans believe state courts provide equal justice to all." *State of the State Courts in a (Post) Pandemic World: Results from a National Public Opinion Poll*, National Center for State Courts, 4-5 (2020), https://www.ncsc.org/__data/assets/pdf_file/0005/41000/COVID-19-Poll-Presentation.pdf.

²⁵ Gillian K. Hadfield, *Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource Landscape for Ordinary Americans*,

Association, only half (52%) of all lawyers engaged in any *pro bono* work—the equivalent of an average 37 *pro bono* hours per lawyer.²⁶ The same holds true in South Carolina where there is a “severe lack of *pro bono*” as compared with other states.²⁷ In addition, South Carolina ranks at the very bottom of all states for the number of legal aid attorneys per 10,000 people in poverty according to the National Center for Access to Justice’s Justice Index.²⁸

This problem is large and complex—but it is not without potential solutions. Those solutions are found in the nonlawyer practice currently

37 Fordham Urban L.J. 129, 152 (2010), <https://ir.lawnet.fordham.edu/ulj/vol37/iss1/6>.

²⁶ American Bar Association, *Supporting Justice: A Report on the Pro Bono Work of America’s Lawyers*, 16 (2017), https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.pdf (analyzing *pro bono* commitments in calendar year 2016). A further challenge is that lawyers’ *pro bono* contributions are often counter-cyclical with respect to legal need: When the economy contracts and lost employment and income lead Americans to have more problems with issues such as debt, the extent of lawyers’ *pro bono* service decreases. Rebecca L. Sandefur, *Lawyers’ Pro Bono Service and Market-Reliant Legal Aid*, in *Private Lawyers and the Public Interest: The Evolving Role of Pro Bono in the Legal Profession* 99-114 (Oxford Univ. Press 2009).

²⁷ *Legal Needs Assessment 2022*, *supra* note 2, at 70.

²⁸ *Justice Index, Compare State Scores*, National Center for Access to Justice, <https://ncaj.org/state-rankings/justice-index/attorney-access> (last visited Mar. 29, 2023).

utilized by millions of people in other countries, as well as growing numbers of people within the United States. First, it makes sense that trained nonlawyers who have experience with a specialized legal process (e.g., housing court proceedings), such as the NAACP's Housing Advocates, would be capable of providing more practical and effective legal advice than many attorneys, especially attorneys who have not handled such matters.²⁹ Even setting aside the ways in which Housing Advocates may be *more effective* than many lawyers, for the thousands of individuals facing eviction actions who cannot afford counsel (or find *pro bono* counsel), representation by these nonlawyers is plainly better than no representation at all.³⁰

Second, social science research demonstrates the effectiveness of legal services provided by nonlawyers. The United Kingdom, for

²⁹ See Chambliss Decl., *supra* note 2, ¶ 52 (“The tasks that the NAACP would train its Housing Advocates to do are simple and straightforward. Nonlawyers are capable of providing the basic guidance that tenants should request a hearing. Similarly, nonlawyers can competently assist tenants with presenting the straightforward defenses laid out in the Training.”).

³⁰ See Chambliss Decl., *supra* note 2, ¶ 49 (“In short, for the many South Carolinians facing eviction without access to legal assistance, things really could not be worse than they are now.”).

example, has long permitted a range of nonlawyer advocates to appear in certain fora, such as social security hearings, immigration hearings, industrial tribunals, and mental health review tribunals. A landmark study found that lay specialists had a positive impact in all four types of administrative proceedings.³¹ The judges presiding over these hearings agreed: “In social security appeals, the view of tribunals was overwhelmingly that specialist lay advisers were *as good, and probably better, than the solicitors* who occasionally represented appellants.”³²

Likewise, courts, civil justice advocates, and scholars across the United States have also recognized the access to justice gap and the appeal of nonlawyer solutions. And when nonlawyers are available, people use them. For example, as part of New York State’s Housing Court Answers Navigators Pilot Project, trained volunteer nonlawyer Navigators assisted low-income tenants in Brooklyn Housing Court by

³¹ Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 *Stanford J. Civil Rights & Civil Liberties* 283, 286-87 (2020), at 305.

³² Hazel Genn & Yvette Genn, *The Effectiveness of Representation at Tribunals* (London: Lord Chancellor’s Department 1989) at 216 (emphasis added).

helping tenants answer landlord petitions for nonpayment of rent.³³ “Litigants assisted by Housing Court Answers Navigators asserted more than twice as many defenses as litigants who received no assistance.”³⁴ And in the eviction context, the University Settlement Navigators Pilot Project employed trained caseworkers (employees of a nonprofit organization) to operate in Brooklyn Housing Court from case inception to resolution. Encouragingly, “[i]n cases assisted by these University Settlement Navigators, zero percent of tenants experienced eviction from their homes by a marshal.”³⁵

Third, the lack of representation in eviction proceedings is especially problematic given how quickly the eviction process occurs in South Carolina courts. Once a landlord files an eviction case against a

³³ See Rebecca L. Sandefur & Thomas M. Clarke, *Roles Beyond Lawyers, Summary, Recommendations and Research Report of An Evaluation of the New York City Court Navigators Program and its Three Pilot Projects*, 4 (Dec. 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2949038.

³⁴ See Sandefur & Clarke, *supra* note 33.

³⁵ Sandefur & Clarke, *supra* note 33, at 5; see also Chambliss Decl., *supra* note 2, ¶ 27 (“In other words, litigants who were able to receive help from nonlawyer Navigators experienced demonstrably better substantive outcomes, as well as greater procedural justice, than unassisted litigants.”).

tenant, a tenant must either vacate or show cause as to why he should not be ejected within *ten days* after service of a copy of the notice.³⁶ And, if a tenant does not request a hearing within these ten days, the tenant defaults on the eviction action and is ejected.³⁷

Fourth, the research shows that a simple but powerful benefit of access to free representation by nonlawyer representatives is that the individuals concerned become more invested in their cases and are much more likely to engage with the judicial process (including appearing in court). In this way, too, programs like that proposed by the South Carolina NAACP not only help the individuals facing eviction actions, but also the courts hearing these cases and the justice system more broadly. Overburdened state courts will be able to decide more cases on the merits—rather than on the happenstance of which defendants are unable to afford counsel or otherwise unable to mount their own defense. And it will further public confidence and trust in our legal system.³⁸

³⁶ S.C. ST 27-37-20.

³⁷ S.C. ST 27-37-40.

³⁸ See Sandefur, *Legal Advice*, *supra* note 31, at 301-02.

CONCLUSION

This Court should reverse the District Court's decision denying Plaintiffs-Appellants' motion for a preliminary injunction as moot and remand with instructions for the District Court to grant Plaintiffs-Appellants' motion for a preliminary injunction given the urgent need for the South Carolina NAACP's Housing Advocate Program. Housing Advocates are trained, supervised, and ready and able to provide these much-needed services, but Plaintiffs-Appellants must know as soon as possible whether they will be (at least temporarily) protected from sanction under South Carolina's unauthorized practice of law statute before doing so. By reversing the decision below, this Court can provide timely and meaningful relief to the thousands of residents of South Carolina in dire need of assistance to keep their housing, and the state court judges drowning in these cases.

Dated: November 13, 2023

Respectfully submitted,

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Dated: November 13, 2023

 /s/ Peter Karanjia
Peter Karanjia

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I hereby certify that on November 13, 2023, an electronic copy of the foregoing was filed with the Clerk of Court for the United States Court of Appeals for the Fourth Circuit using the appellate CM/ECF system, and that service will be accomplished by the appellate CM/ECF system.

Dated: November 13, 2023

/s/ *Peter Karanjia*

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ADDENDUM

ADDENDUM¹*Amici Curiae Scholars***Professor Richard Abel**

Connell Distinguished Professor of Law Emeritus and Distinguished Research Professor, UCLA School of Law

Richard Abel is Connell Distinguished Professor of Law Emeritus and Distinguished Research Professor, UCLA. He is the author of dozens of articles and books on the legal profession and access to justice in the United States, as well as an editor of comparative studies of lawyers in 46 countries.

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Helen and Charles Lockett Distinguished Professor of Law,
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Professor Barton is the Helen and Charles Lockett Distinguished Professor of Law and is the author of five books: *The Credentialed Court*, *Fixing Law Schools*, *Rebooting Justice*, *Glass Half Full: The Decline and Rebirth of the Legal Profession*, and *The Lawyer-Judge Bias*.

Barton is an expert in Supreme Court Justice backgrounds and access to justice issues. He has worked as an associate at a large law firm, clerked for a federal judge, represented the indigent for 12 years as a clinical law professor, and now teaches torts, contracts, evidence, conflict of laws, and the A2J Lab, an innovative law and coding class.

¹ All listed scholars join solely in their individual capacities and not as representatives of their affiliated institutions.

Professor Matthew Burnett

Adjunct Professor, Georgetown University Law Center

Matthew Burnett is Senior Program Officer for the Access to Justice Research Initiative at the American Bar Foundation (ABF), a visiting scholar for Justice Futures at Arizona State University, and an adjunct professor at Georgetown Law. Prior to serving in these roles, Matthew was Senior Policy Officer at Open Society Foundations (OSF), where he worked to advance access to justice and legal empowerment through research, advocacy, and grantmaking in Africa, Asia, Latin America, Eastern Europe, and the United States. Earlier in his career he co-founded and led the Immigration Advocates Network and served as law clerk to Justice Z.M. Yacoob of the Constitutional Court of South Africa. Matthew's writing on access to justice and legal empowerment has appeared in more than 20 publications, and he has given more than 80 presentations and workshops around the world. His research has been funded by the National Science Foundation, the World Bank, and the International Development Research Centre. He serves as an advisor to the National Center for Access to Justice.

Professor Anna E. Carpenter

Professor of Law, University of Utah S.J. Quinney College of Law

Anna E. Carpenter is Professor of Law at the University of Utah S.J. Quinney College of Law. She serves as Special Advisor to the President of the University of Utah. Previously, she was Director of Clinical Programs at S.J. Quinney College of Law. Professor Carpenter's scholarship includes empirical and theoretical work on state civil courts and judges, access to justice, legal regulatory innovation, and legal paraprofessional licensing. She also writes on legal education and clinical pedagogy. Professor Carpenter is the founder and director of Justice Lab, a clinical course where students help community organizations solve legal and policy problems and advocate for systemic change.

Dr. Thomas M. Clarke

Executive Committee and Board Member, Utah Supreme Court Office of Innovation for Legal Services

Tom Clarke recently retired as the Vice President for Research and Technology at the National Center for State Courts (“NCSC”). He worked in that position for fourteen years, after serving with the Washington State court system as research manager and CIO for ten years. Tom led the re-engineering, technology, and access to justice practices at NCSC. Tom currently serves on the Executive Committee and Board of the Utah Supreme Court Office of Innovation for Legal Services.

Professor Stephen Daniels

Research Professor Emeritus, American Bar Foundation

Stephen Daniels is a Research Professor Emeritus at the American Bar Foundation, an independent, non-profit research institute dedicated to the empirical and interdisciplinary study of law and legal institutions. He holds a Ph.D. in political science from the University of Wisconsin-Madison and his research focuses on law and public policy, legal education, the legal profession, and various aspects of the American civil justice system. He has written on pro bono, access to justice, law school curriculum and financing, law students, trial courts, juries, plaintiffs’ lawyers, and the politics of civil justice reform – including the areas of medical malpractice, products liability, and punitive damages. He has testified before congressional and state legislative committees about civil justice reform, served as an expert in cases dealing with large jury awards and/or constitutional challenges to civil justice reform, served as a consultant to the ABA’s Task Force on the Financing of Legal Education, and long served as a volunteer for Chicago Appleseed and the Chicago Council of Lawyers on local court reform efforts. His current work focuses on law students and public service and on the increasing interest in licensed legal professionals (non-lawyers) as means of promoting greater access to justice. His recent publications include “The Rule of Law is Fragile: The Importance of Legitimacy and Access,” in *Civil Justice in America: Responsibility to*

the Public, National Civil Justice Institute (2023), and “Alternative Legal Professionals and Access to Justice: Failure, Success, and the Evolving Influence of the Washington State LLLT Program (the Genie is Out of the Bottle),” 71 *DePaul Law Review* 227 (2022) (with James Bowers).

Professor Russell Engler

Professor of Law and Director of Clinical Programs, New England Law

Russell Engler is a Professor of Law and the Director of Clinical Programs at New England Law. He served on the Massachusetts Access to Justice Commission for 12 years, including 6 years on the Commission’s Executive Committee. He is a member of the Steering Committee of the National Coalition for a Civil Right to Counsel and the Advisory Committee to the Massachusetts Right to Counsel Coalition. He has also served on Boston Bar Association committees and Task Forces related to Civil Right to Counsel and Civil Legal Services. His scholarship has focused on Access to Justice, Civil Right to Counsel/Civil Gideon, Unrepresented Litigants, Legal and Judicial Ethics and Legal Education. Before joining the New England Law faculty, he worked at South Brooklyn Legal Services, as a Staff Attorney and then Director of the Housing Law Unit. He is a graduate of Harvard Law School and Yale University and clerked for the Honorable Francis D. Murnaghan, Jr., of the U.S. Court of Appeals for the Fourth Circuit.

Professor David Freeman Engstrom

LSVF Professor in Law, Co-Director of the Deborah L. Rhode Center on the Legal Profession, Stanford Law School

David Freeman Engstrom is the LSVF Professor in Law and the Co-Director of the Deborah L. Rhode Center on the Legal Profession, the premier academic center working to shape the future of legal services and access to the legal system. A far-ranging scholar of the design and implementation of litigation and regulatory regimes, Engstrom’s

expertise runs to civil procedure, administrative law, constitutional law, law and technology, and empirical legal studies.

Professor Engstrom's current work focuses on access to justice in the millions of low-dollar but highly consequential cases, including debt collection, eviction, foreclosure, and child support actions, that shape the lives of Americans each year. He currently serves as the Reporter for the American Law Institute's *Principles of the Law, High-Volume Civil Adjudication*, which will offer courts guidance on the urgent challenges these cases raise. From 2020 to 2022, he served as a public appointee to the California State Bar's Closing the Justice Gap Working Group, tasked with proposing reforms to foster innovation in legal services. He holds a J.D. from Stanford Law School, an M.Sc. from Oxford University, and a Ph.D. in Political Science from Yale University.

Professor Nora Freeman Engstrom

Ernest W. McFarland Professor of Law, Stanford Law School

A South Carolina native, Nora Freeman Engstrom is the Ernest W. McFarland Professor of Law at Stanford Law School. A nationally recognized authority on professional responsibility, complex litigation, and access to justice, she is the Co-Director of the Deborah L. Rhode Center on the Legal Profession at Stanford Law School. Beyond that, she is the author of numerous award-winning scholarly articles, the co-author of a leading legal ethics textbook, and a Reporter for two Third Restatement of Torts projects. In 2022, the American Law Institute awarded her the R. Ammi Cutter Reporter's Chair, one of the highest awards that organization bestows.

Professor Nuno Garoupa

Professor of Law, George Mason University Antonin Scalia Law School

Nuno Garoupa, PhD Economics (University of York, UK), LLM (University of London, UK), MA Political Science (George Mason University), is Professor of Law and former Associate Dean for Research

and Faculty Development at the George Mason University Antonin Scalia Law School. His most recent article on the legal profession and access to justice is *Deregulation and the Lawyers' Cartel*, 43 U. Pa. J. Int'l L. 935 (2022).

Professor Bryant Garth

Distinguished Professor Emeritus, University of California-Irvine

Bryant Garth is Distinguished Professor Emeritus and co-Director of the University of California-Irvine's Center for Empirical Research on the Legal Profession. Among the positions he has held, he served for 14 years as Executive Director of the American Bar Foundation.

Professor Gillian K. Hadfield

Professor of Law, Professor of Strategic Management, Schwartz Reisman Chair in Technology & Society, University of Toronto

Gillian K. Hadfield is Professor of Law, Professor of Strategic Management, and the Schwartz Reisman Chair in Technology and Society at the University of Toronto. She was previously Kirtland Professor of Law and Professor of Economics at the University of Southern California and has been a visiting professor at Harvard, Columbia, Chicago, and NYU law schools. She holds a Canada CIFAR AI Chair at the Vector Institute for Artificial Intelligence and is a Schmidt Futures AI2050 Senior Fellow.

A renowned scholar and thought leader in the field of law and economics, with a particular emphasis on improving access to justice, her groundbreaking work explores the intersections of law, economics, and technology, advocating for innovative approaches to make legal systems more efficient and accessible. She is recognized for her pioneering research on how legal rules and institutions can be redesigned to better serve society, especially those marginalized or underserved by traditional legal systems. A central theme in Hadfield's work is the need for more flexible and responsive legal structures that can adapt to the rapid pace of technological change and globalization.

She argues for a more inclusive legal system, integrating insights from various disciplines to create solutions that are both practical and equitable. Hadfield's expertise extends to advising governments, NGOs, and private entities on legal reform and innovation; she helped design an innovative regulatory regime for the Utah Supreme Court.

Professor William Henderson

Professor of Law, Indiana University Maurer School of Law

William Henderson is a professor of law at Indiana University Maurer School of Law, where he holds the Stephen F. Burns Chair on the Legal Profession. Professor Henderson's research focuses on the empirical analysis of the legal profession and legal education. His innovation initiatives include the Institute for the Future of Law Practice (IFLP, "i-flip"), an education nonprofit that combines sophisticated training in modern law practice with paid internships for law students; Lawyer Metrics, an applied research company that helps law firms use data (acquired by a legal industry nonprofit in 2015); and Legal Evolution, an online publication focused on successful legal industry innovation.

Professor Renee Knake Jefferson

Professor of Law, Doherty Chair in Legal Ethics, University of Houston Law Center

Renee Knake Jefferson is a Professor of Law and holds the endowed Doherty Chair in Legal Ethics at the University of Houston Law Center. She is the author of numerous scholarly works about the access to justice crisis, including the book *Law Democratized: A Blueprint for Solving the Justice Crisis* (New York University Press, forthcoming 2024). Professor Jefferson is a past-chair of the Association of American Law Schools Section on Professional Responsibility, and an elected member of the American Law Institute. From 2014-16, she served as co-reporter for the American Bar Association Commission on the Future of Legal Services.

Professor Herbert M. Kritzer

Marvin J. Sonosky Chair of Law and Public Policy *emeritus*, University of Minnesota Law School

Professor of Political Science & Law *emeritus*, University of Wisconsin – Madison

Herbert M. Kritzer (Ph.D. University of North Carolina at Chapel Hill, 1974; B.A. Haverford College 1969) is the Marvin J. Sonosky Chair of Law and Public Policy *emeritus* at the University of Minnesota Law School and Professor of Political Science and Law *emeritus* at the University of Wisconsin – Madison where he taught from 1977 through 2007. He also held positions at the William Mitchell College of Law (2007-09), Rice University (1975-77), and Indiana University (1974-75).

He is the recipient of multiple awards from the Law and Society Association: the Ronald Pipkin Service Award (2015), the Legacy Award (2019), and the Harry J. Kalven, Jr. Prize which is awarded annually for “empirical scholarship that has contributed most effectively to the advancement of research in law and society.” From 2003 to 2007 he served as editor of *Law & Society Review*. His empirical research has focused on civil justice, judicial behavior, and judicial selection. At an early phase of his career he also wrote on research methods, which is reflected in his recent book, *Advanced Introduction to Empirical Legal Research* (Edward Elgar Publishing 2021). Over the last 15 years his research has focused heavily on judicial selection resulting in three books, all published by Cambridge University Press, *Justices on the Ballot: Continuity and Change in State Supreme Court Elections* (2015), *Judicial Selection in the States: Politics and the Struggle for Reform* (2020), and *Litigating Judicial Selection* (2024). He is the author or coauthor for seven other books, including a study comparing lawyers and nonlawyers as legal advocates, *Legal Advocacy: Lawyers and Nonlawyers at Work* (University of Michigan Press, 1998). He is also the editor or coeditor of three other books.

Professor Alyx Mark

Professor of Government, Wesleyan University

Alyx Mark is Assistant Professor of Government at Wesleyan University, where she also directs the Wesleyan Civil Justice Research Initiative, and is an Affiliated Scholar of the American Bar Foundation. She conducts research on how individuals are empowered or constrained by the legal institutions with which they interact. She explores questions related to this relationship as it pertains to elite actors (e.g., judges, lawyers) and the members of the mass public (e.g., self-represented litigants). Her collaborative work appears in the *Columbia Law Review*, *Law and Society Review*, *Legislative Studies Quarterly*, and *Political Research Quarterly*, among other outlets. She received her Ph.D. in Political Science and Quantitative Methodology from The George Washington University in 2015.

Professor Milan Markovic

Professor of Law, Presidential Impact Fellow, Co-Convener of the Program in Law and Social Science, Texas A&M University School of Law

Milan Markovic is Professor of Law, Presidential Impact Fellow, and Co-Convener of the Program in Law and Social Science at Texas A&M University School of Law. Professor Markovic is a legal ethics scholar whose scholarship focuses on legal market regulation and its impact on access to legal services. Professor Markovic has been awarded \$400,000 in grant funding for his research and has been cited in law school textbooks, testimony before congressional subcommittees, and in case law before American and International courts.

Professor Lynn Mather

SUNY Distinguished Service Professor Emerita, University of Buffalo School of Law

Lynn Mather is SUNY Distinguished Service Professor Emerita at University at Buffalo School of Law. She is former director of the Baldy

Center for Law and Social Policy, former president of the international Law and Society Association, and for the past fifteen years she has co-edited the Law & Society book series for University of Chicago press. Professor Mather's scholarship explores lawyers' ethical conduct through empirical study of attorneys in different areas of practice. Her co-authored books include *Lawyers in Practice: Ethical Decision Making in Context* (2012), *Private Lawyers and the Public Interest: The Evolving Role of Pro Bono in the Legal Profession* (2009), and *Divorce Lawyers at Work: Varieties of Professionalism in Practice* (winner of the 2002 C. Herman Pritchett Award from the American Political Science Association).

A leading scholar in the field of law and society, Professor Mather has published extensively on lawyers, legal professionalism, women in the legal profession, and courts and public policy. She teaches courses in Legal Profession and Ethics, Statutory Interpretation in State and Federal Courts, U.S. Supreme Court, and Courts and Social Change. Before joining the University at Buffalo School of Law in 2002, Mather held the Nelson A. Rockefeller Chair in Government at Dartmouth College. She received her undergraduate degree with honors from UCLA in political science and mathematics. She did graduate study in law and social science at the University of Wisconsin and in anthropology at the University of California, Berkeley. Her Ph.D. is in political science from the University of California, Irvine.

Professor Michael Millemann

Jacob A France Professor of Law, University of Maryland Carey School of Law

Professor Millemann has practiced law for 54 years and taught at Maryland Law School for 50 years. Among other relevant things, he drafted a Maryland law that authorizes paralegals to represent tenants in eviction proceedings; helped to create a program that employs and trains lay people to be legal rights' advisors in Maryland's mental health facilities; was reporter to the 2002-2003 ABA Litigation Section Modest Means Task Force (report supported limited-scope legal assistance, envisioning that clients would perform certain legal tasks in

their cases); and co-created a clinic—the Pro Se Assistance Clinic—that helped lead to the creation of pro se assistance projects throughout Maryland’s trial courts. He also has written extensively in the access to justice field.

Professor Richard Moorhead

Professor of Law and Professional Ethics, University of Exeter

Professor Richard Moorhead is a Professor of Law and Professional Ethics at the University of Exeter and a Fellow of the Academy of Social Sciences. He has conducted work on professional competence, professional ethics, access to justice, unrepresented litigants, and non lawyer legal services. He has acted as a consultant to many UK and overseas legal aid authorities and is currently a member of an Advisory Board advising the UK government on compensation arising from the UK’s largest miscarriage of justice.

Professor Michele Pistone

Professor of Law, Villanova University

Professor Pistone is a tenured Professor of Law at Villanova University, where she has taught since 1999. Since 2018, she has been working from the University’s Office of the Provost as the Founding Faculty Director of the Strategic Initiative for Migrants + Refugees.

Professor Pistone is the creator and Founding Director of VIISTA, an award-winning online certificate program to train immigrant advocates and accredited representatives. VIISTA is the first-ever university-based certificate program specifically designed to train individuals to become DOJ accredited representatives. Drawing from her two-decade career as a law professor training clinic law students to represent immigrants in immigration court and before USCIS, VIISTA’s curriculum is holistic and practical, engages students in active learning, and provides students regular feedback and assessment so that they leave the program equipped with the knowledge, skills and values needed to represent clients before USCIS and in immigration courts.

Professor Pistone collaborates with the Immigrant Justice Corps to train its Justice and Community Fellows and with The Resurrection Project to train its Colibrí Fellows to become DOJ accredited representatives.

Professor Emily S. Taylor Poppe

Professor of Law and Professor of Sociology (by courtesy), University of California, Irvine School of Law

Emily S. Taylor Poppe is Professor of Law and Professor of Sociology (by courtesy) at the University of California, Irvine School of Law. She is also Faculty Director of the UCI Law Initiative for Inclusive Civil Justice and a Faculty Affiliate of the UCI Law Center for Empirical Research on the Legal Profession. She holds a PhD in Sociology from Cornell University, a JD from Northwestern Pritzker School of Law and AB degrees in Public Policy and Spanish from Duke University. Her research centers on inequalities in access to civil justice and she has investigated variation in both formal and informal access to legal counsel, the effect of legal representation on case outcomes, and the role of professional regulation, legal technology, and institutional design in enhancing access to justice.

Professor Colleen F. Shanahan

Clinical Professor of Law, Director of the Community Advocacy Lab, Vice Dean for Experiential Education, Columbia Law School

Colleen F. Shanahan is Clinical Professor of Law, Director of the Community Advocacy Lab, and Vice Dean for Experiential Education at Columbia Law School. She is an expert in lawyerless courts, the state civil courts where millions of Americans bring their problems each year. Shanahan's award-winning scholarship has addressed empirical questions of the role of judges and nonlawyer advocates in lawyerless courts as well as theoretical questions regarding the structures and procedures of these courts.

Professor Michele Statz

Associate Professor, University of Minnesota Medical School

Michele Statz is an Associate Professor at the University of Minnesota Medical School. She is also affiliated faculty with the University of Minnesota Law School and an Affiliated Scholar with the American Bar Foundation. Michele is trained as an anthropologist of law and is a leading researcher in rural and Indigenous access to justice.

Professor Jessica Steinberg

Professor of Law, The George Washington University Law School

Jessica Steinberg is Professor of Law at The George Washington University Law School. She is an expert on civil access to justice, with a focus on empirical research into many dimensions of lawyerless courts including the role of judges, the evolving nature of legal aid, and the efficacy of experimental tribunals. She currently serves as Associate Reporter for the ALI's Principles of the Law, High-Volume Civil Adjudication. Steinberg practiced as a Legal Aid lawyer and then taught as a clinical professor at GW Law for 12 years handling a wide range of civil and criminal cases. She now teaches civil procedure and criminal procedure. She received her B.A. from Barnard College and her J.D. from Stanford Law School.

Professor Kathryne M. Young

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Kathryne M. Young is Associate Professor of Law and (by courtesy) Sociology at The George Washington University Law School and a Visiting Fellow at the Russell Sage Foundation. She holds a JD from Stanford Law School and a PhD in Sociology from Stanford University. Professor Young's work has been published in the *Harvard Law Review*, *California Law Review*, *Law & Society Review*, and many other journals, and cited by the U.S. Supreme Court and multiple state supreme courts.