

ALISA B. KLEIN

Wilmington University School of Law

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ACADEMIC APPOINTMENTS

Wilmington University School of Law, Wilmington DE

Associate Professor, Aug. 2024-present

Haverford College, Haverford PA

Visiting Professor of Political Science, spring semesters, 2023, 2024, 2026

Georgetown Law School, Washington DC

Adjunct Professor, 1998-2022

LITIGATION EXPERIENCE

U.S. Department of Justice, Civil Division, Appellate Staff, Washington DC

Senior Level Appellate Counsel for Administrative Law and Litigation, 2022-2024

Assistant Director, 2013-2022

Appeals Counsel, 2010-2013

Line Attorney, 1995-2010

I served for 28 years as a career attorney in an office of about 60 appellate litigators. The principal work of the office is to defend the federal government's laws, programs, and policies in the federal courts of appeals. Illustrative programs that I defended include the Patient Protection and Affordable Care Act (Obamacare), the Family Smoking Prevention and Tobacco Control Act, dozens of FDA actions to curb the youth vaping epidemic, and pandemic-control measures such as vaccine and mask mandates and the eviction moratorium. As a member of the office's leadership team, I was responsible for my own litigation and for supervising the work of dozens of line attorneys. I argued more than 100 cases in the federal courts of appeals, briefed hundreds of appellate and Supreme Court cases, and supervised hundreds of briefs and oral arguments. I also coordinated teams of attorneys in complex matters, mentored and trained junior attorneys, served on the office's hiring committee, counseled federal agencies as they formulated their policies, and gave presentations to federal agencies and professional associations on cutting edge administrative-law issues such as the major questions doctrine and judicial deference.

JUDICIAL CLERKSHIPS

Justice Ruth Bader Ginsburg, U.S. Supreme Court, Law clerk, 1994-1995

Judge Louis H. Pollak, U.S. District Court (E.D. Pa.), Law clerk, 1993-1994

EDUCATION

Harvard Law School, J.D., *magna cum laude*, 1993

Sears Prize (awarded to two students with highest GPAs in first-year class)

Harvard Law Review, Editor

Princeton University, B.A., *cum laude*, 1989

Princeton School of Public and International Affairs

Phi Beta Kappa

SIGNIFICANT CASES

Significant matters in which I was involved include:

Braidwood Management v. Becerra, 104 F.4th 930 (5th Cir. 2024) (defending the requirement of the Patient Protection and Affordable Care Act (Obamacare) that health insurance cover preventive services that are recommended by medical experts)

Biden v. Missouri, 142 S. Ct. 647 (2022) (defending HHS's requirement that workers in federally funded healthcare facilities be vaccinated against COVID-19 to protect patients)

Alabama Ass'n of Realtors v. HHS, 141 S. Ct. 2485 (2021) (defending the eviction moratorium that the CDC imposed to curb the spread of COVID-19)

King v. Burwell, 576 U.S. 473 (2015) (defending the IRS's payment of billions of dollars of annual subsidies to help people pay premiums for health insurance)

Burwell v. Hobby Lobby, 573 U.S. 682 (2014) (defending HHS's requirement that health insurance cover contraceptives)

NFIB v. Sebelius, 567 U.S. 519 (2012) (defending Obamacare's central provisions)

Discount Tobacco City & Lottery v. United States, 674 F.3d 509 (6th Cir. 2012) (defending the Family Smoking Prevention and Tobacco Control Act's restrictions on the marketing of cigarettes and other tobacco products)

United States v. Philip Morris USA, 566 F.3d 1095 (D.C. Cir. 2009) (defending the district court's finding, made after a 9-month trial, that the major cigarette companies engaged in a decades-long conspiracy to deceive Americans about the health effects of smoking)

Gonzales v. Raich, 545 U.S. 1 (2005) (defending the Controlled Substances Act against a Commerce Clause challenge)

United States v. Morrison, 529 U.S. 598 (2000) (defending the Violence Against Women Act against a Commerce Clause challenge)

Reno v. Condon, 528 U.S. 141 (2000) (defending the Driver's Privacy Protection Act against a Tenth Amendment challenge)

PUBLICATIONS

The Judicial Restraint Trilogy: Why the Supreme Court's Decisions from Last Term Offer New Hope for Remedial Discipline, 47 CAMPBELL L. REV. ___ (forthcoming, Fall 2024)

Major Questions Doctrine Jujitsu: Using the Doctrine to Rein in District Court Judges, 76 ADMIN. L. REV. 327 (2024)

Back to First Principles: The Constitutional Rationale for Invalidating Local Sanctions Against Foreign Trade, 33 LAW & POLICY IN INT'L BUS. 77 (2001) (with Mark Stern)

The Government's Litigator: Taking Clients Seriously, 52 ADMIN. L. REV. 1409 (2000) (with Mark Stern)

RECENT AND UPCOMING PRESENTATIONS (NON-GOVERNMENTAL ONLY)

Was the Push to Overrule Chevron Much Ado About Nothing? Organizer and panelist, ABA Administrative Law Conference (Nov. 2024)

Major Questions, Chevron Deference, and the Future of Statutory Interpretation. Panelist, ABA Administrative Law Conference (Nov. 2023)

How Much Deference Do Courts Give to CMS these Days? Panelist, American Health Law Association Conference (Mar. 2021)

COURSES OFFERED

Constitutional Law I

Torts

Trusts and Estates

Federalism (law school and undergraduate seminars)

LAW SCHOOL SERVICE AND COMMUNITY SERVICE

Chair, Committee on Excellence in Teaching and Assessment (2024-2025)

Member, Committee on Academic Standards (2024-2025)

Member, Committee Faculty Appointments (2024-2025)

Mentor, The Appellate Project (2021-2024)

HONORS AND AWARDS

Significant awards include the Attorney General's Distinguished Service Award (2023); the Civil Division's Michael F. Hertz Award for Exceptional Professionalism and Outstanding Performance (2017); the Arthur S. Flemming Award for Exceptional Federal Service (2008); the Attorney General's John Marshall Award for Outstanding Legal Achievement in Handling of Appeals (2006); the Federal Bar Association's Younger Federal Lawyers Award (2000); and the Attorney General's Award for Outstanding Contributions by a New Employee (1998).

ADDITIONAL INTERESTS

Behavioral economics

Yoga (novice)

Enthusiastic but mediocre flying trapeze (2012-2017)