


Aaron H. Caplan

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Employment

Loyola Law School, Los Angeles, CA Professor of Law (2013–present) Associate Professor of Law (2008–2013) <i>Faculty Web Page:</i> http://www.lls.edu/academics/faculty/caplan.html <i>Courses Taught:</i> ♦ Civil Procedure ♦ Constitutional Law ♦ Constitutional Law II ♦ First Amendment ♦ Professional Responsibility <i>Committee Service:</i> ♦ Entry-level Appointments ♦ Tenure Review ♦ Dean’s Advisory Committee ♦ Curriculum ♦ Learning Assessment ♦ Public Interest Law ♦ Career Services ♦ Research & Sabbaticals ♦ Instructional Technology ♦ University Strategic Planning	2008–present
University of Iowa College of Law, Iowa City, IA Visiting Scholar	2022–2023
Seattle University School of Law, Seattle, WA Visiting Scholar (2014–2015) Adjunct Professor of Law (2007)	2007, 2014–2015
American Civil Liberties Union of Washington, Seattle, WA Staff Attorney	1998–2008
Perkins Coie, LLP, Seattle, WA Associate Attorney	1992 –1998
US Court of Appeals for the Ninth Circuit, Seattle, WA Law Clerk to Judge Betty Binns Fletcher	1991 –1992

Education


University of Michigan Law School, J.D. (<i>magna cum laude</i>) Michigan Law Review, contributing editor	1988–1991
University of Pennsylvania, B.A. (<i>summa cum laude</i> with distinction in the major) Honors Thesis: “Nathan Dunn’s Chinese Museum” 	1981–1986

Publications

SSRN Author Page: <http://www.ssrn.com/author=1069492>

Books





- *An Integrated Approach to Constitutional Law*, Third Edition (Foundation Press 2023) 

- *An Integrated Approach to Constitutional Law*, Second Edition (Foundation Press 2018) 
- *An Integrated Approach to Constitutional Law* (Foundation Press 2015)


Law Review Articles


- *Fight-or-Flight Words* (in progress)
- *How First Amendment Procedures Protect First Amendment Substance*, 65 Cath. U. L. Rev. 185 (2015) (symposium transcript)
- *The First Amendment's Forgotten Clauses*, 63 J. Legal Educ. 532 (2014)
- *Free Speech and Civil Harassment Orders*, 64 Hastings L. J. 781 (2013)
cited in:
 - *Stone v. Fishhawk Anderson Inc.*, 2022 WL 2134595 (N.D. Ala. June 14, 2022)
 - *Closson v. Kelsey*, 2021 WL 3361785 (Wash. App. 2021)
 - *Bey v. Rasaweher*, 161 N.E.3d 529 (Ohio 2020)
 - *McCurdy v. Maine*, 2020 WL 1286206 (D. Me. 2020)
 - *List Industries v. List*, 2017 WL 3749593 (D. Nev. 2017)
 - *Gleason v. Smolinski*, 125 A.3d 920 (Conn. 2015)
 - *Board of Regents v. Decker*, 850 N.W.2d 112 (Wis. 2014)
 - *State v. Latham*, 2014 WL 6608785 (Minn. App. 2014)
- *Nonattainder as a Liberty Interest*, 2010 Wisc. L. Rev. 1203 (2010)
- *Invasion of the Public Forum Doctrine*, 46 Willamette L. Rev. 647 (2010)
cited in:
 - *State v. Dawley*, 455 P.3d 205 (Wash. App. 2019)
- *Freedom of Speech in School and Prison*, 85 Wash. L. Rev. 71 (2010)
cited in:
 - *Garner's Dictionary of Legal Usage* 501 (3rd Ed. 2011)
- *Stretching the Equal Access Act Beyond Equal Access*, 27 Seattle U. L. Rev. 273 (2004)
cited in:
 - *State v. Dawley*, 455 P.3d 205 (Wash. App. 2019)
 - *Jenkins v. Kurtinitis*, 2015 WL 1285355 (D. Md. 2015)
- *Public School Discipline for Creating Uncensored Anonymous Internet Forums*, 39 Willamette L. Rev. 93 (2003)
- *Malthus and the Court of Appeals*, 73 Wash. L. Rev. 957 (1998)

Instructional Materials




- *Visual Aids for the Law School Classroom* (2019) 
- *How to Prepare for Class* (2014) 
- *How to Take A Law School Essay Exam* (2014) 
- *A Glossary for the Federal Rules of Civil Procedure* (2012) 

Other Publications

- Miscellaneous blog posts on Prawfsblawg, ACSblog, and Summary Judgments (2010–present).
- *Does WikiLeaks Have Anything to Do With The Internet?*, Los Angeles Daily Journal (April 20 & 21, 2011)
- *Visions of Public Education in Morse v. Frederick*, Journal of Educational Controversy, Vol. 3, No. 1 (2008) 
- *The Human Rights of Students in Public Schools*, Human Rights Vol. 32, No. 4 (Fall 2005)



- *The History of Women's Jury Service in Washington*, Washington State Bar News (March 2005) 
cited in:
 - *State v. Saintcalle*, 309 P.3d 326 (Wash. 2013)
- David Schultz and John R. Vile, eds., *Encyclopedia of Civil Liberties in America* (2005)
Entries on "Student Rights," "Juvenile Curfews," and "Good News Club"
- *What Rights Do Youths Have in Cyberspace?*, Insights on Law & Society Vol. 3, No. 1 (Fall 2002)

Profiles

- Aaron Caplan, *Ten Years At The ACLU*, Washington State Bar News (July 2008) 
- O. Casey Corr, *True Believer*, Washington Law & Politics (Summer 2007) 
- Bobby O. Wheeler, *Aaron Caplan*, King County Bar Bulletin (January 1999) 

Presentations

Academic Presentations

- "Fight-or-Flighting Words" (Works-in-Progress Panels and Workshops)
 - University of Iowa College of Law (April 2023)
 - Loyola University Chicago, Constitutional Law Colloquium (November 2019)
 - Southeastern Association of Law Schools (August 2018)
 - Law & Society Association (June 2018)
- "Teaching with Technology" and "Work and Life Satisfaction for Law Faculty"
AALS New Law Teacher Workshop (June 2019)
- "The Slants Case From The Inside: The First Amendment and Disparaging Trademarks"
Loyola Law School (October 2017)
- "Freedom of Speech in School and College"
Symposium: Free Speech in Higher Education
University of North Carolina (October 2015)
- "Storytelling in Constitutional Law Casebooks"
Fifth Biennial Conference on Applied Legal Storytelling (July 2015)
- "Charlie Hebdo and the First Amendment"
Evergreen State College (February 2015) 
- "How First Amendment Procedures Protect First Amendment Substance"
Federalist Society National Lawyer's Meeting (November 2014) 
- "Free Speech and Civil Harassment Orders" (Faculty Workshop)
Santa Clara Law School (September 2012)
- "Cyber-Bullying and Cyber-Harassment"
Southeastern Association of Law Schools (August 2012)
- "The Meaning of Stigma In Constitutional Law" (Faculty Workshops)
 - University of California at Irvine Law School (August 2011)
 - Loyola Law School, Los Angeles (July 2011)
- William O. Douglas Lecture: "WikiLeaks and the First Amendment"
Gonzaga University School of Law (March 2011)
- "The Judicial Path: *Witt v. Air Force*" 
Symposium: The Future of "Don't Ask, Don't Tell"
Georgetown University Law Center (November 2010)

- “Defamation As Harassment” (Faculty Workshops)
Southeastern Association of Law Schools (August 2010)
Whittier Law School (May 2010)
- “Litigating Don’t Ask, Don’t Tell”
American Constitution Society, University of Chicago Law School (March 2010)
- “The Future of the Public Forum Doctrine”
Symposium: The Future of the First Amendment
Willamette University School of Law & American Constitution Society (October 2009)
- “Watch Lists, Stigma-Plus, and Attainder” (Faculty Workshops)
Loyola Law School, Los Angeles (April 2009)
Seattle University School of Law (September 2009)
University of Washington School of Law (October 2009)
- “Freedom of Speech in School And Prison”
Symposium: A Tribute to the Honorable Betty Binns Fletcher
University of Washington School of Law (March 2009)
- “Visions of Public Education in US Supreme Court Decisions”
Symposium: Schooling As If Democracy Matters
Woodring College of Education, Western Washington University (April 2008)
- “Strategy and Tactics in Marriage Equality Litigation”
Symposium: Legal Perspectives on Marriage Equality
Tulane University Law School (January 2007)
- “Student Speech Rights On The Internet”
Symposium: Education and the Law
Willamette University School of Law (March 2002)

CLE and Other Presentations

- “Privacy v. Public Good: How Open Should Government Be?,” LA County Law Library (March 2019)
- “Constitution Day 2018: Removing the President,” Loyola Law School (September 2018)
- “Upcoming Supreme Court Decisions,” Judicial Conference for C.D. California (April 2018)
- “Rights of Photographers,” Excellence in Journalism Conference (September 2017)
- “Removing the President” and “Freedom of Information,” Journalist Law School (June 2017)
- “Constitution Day 2016: Presidential Elections,” Loyola Law School (September 2016)
- “Freedom of Speech and ‘Hate Speech’ on College Campuses,”
Loyola Marymount University (September 2016)
- “Constitution Day 2015: Constitutional Storytelling,” Loyola Law School (September 2015)
- “Protecting Civil Rights,” US Dep’t of State International Visitor Leadership Program (April 2015)
- “Annual Supreme Court Watch,” Seattle University School of Law (October 2014)
- “Constitution Day 2014: Free Speech in Ferguson,” Seattle University Law School (September 2014)
- “Constitution Day 2013: The Supreme Court’s Big Week,” Loyola Law School (September 2013)
- “Church/State Relations” and “Freedom of Information,” Journalist Law School (June 2013)
- “Defamation 101,” Los Angeles Press Club (September 2012)
- “Church/State Relations” and “Freedom of Information,” Journalist Law School (June 2012)
- “Church/State Relations,” Journalist Law School (June 2011)
- “*Snyder v. Phelps*: Tolerating Intolerance,” Loyola Law School (March 2011)
- “Social Media and the Courts,” Central District of California Judicial Conference (April 2010)
- “Constitutional Protection for Informational Privacy,” Conference of Ninth Circuit Lawyer
Representatives for the Western District of Washington (May 2009)

- “Gays in the Military in the Obama Administration,” Loyola Law School (January 2009)
- “*Brown* Undone? The Future of Integration in Seattle After *PICS v. Seattle School District*,” Seattle University School of Law (February 2008)
- “The Coming Legal Battles Over The Internet,” Federal Bar Assn. for W.D. Wash. (December 2007)
- “Civil Rights in the Islamic Community,” Seattle University School of Law (March 2007)
- “First Amendment for Artists,” Washington Lawyers for the Arts (February 2007)
- “Terrorism Watch Lists,” WSBA Section on World Peace Through Law (December 2006)
- “Lt. Ehren Watada: A Matter of Conscience,” UW Department of Ethnic Studies (December 2006)
- “The Ethics of Intelligent Design,” Emerald Education Group (December 2004)
- “*PICS*: The Legality of Race-Conscious Student Assignment Plans,” King County Bar Association (March 2004)
- “Neighborhood Legal Clinic Procedures and Ethics,” King County Bar Association (2004-2008)
- “Privacy and Security,” Washington State Bar Association (November 2001)
- “Balancing Privacy and Security in the New Millennium,” Government Lawyers’ Bar Association (November 2001)
- “Professionalism with Opposing Counsel,” King County Bar Association (November 1998)

Community Service

Bar Committees

- Member, Court Rules Committee (Washington State Bar Association) (2006–2008)
- Member and Chair, Neighborhood Legal Clinic Committee (King County Bar Association) (2004–2008)
- Member and Chair, Professionalism Committee (King County Bar Association) (1995–1997)

Pro Bono Legal Clinics

- Volunteer, Neighborhood Legal Clinics (King County Bar Association) (1996–2008)
- Volunteer, Artists Legal Clinic (Washington Lawyers for the Arts) (1994–2008, 2014)

Honors

- “Super Lawyer,” Washington Law & Politics Magazine (2004, 2006, 2007)
- “Top Lawyer,” Seattle Magazine (2007)
- Joseph M. Gaffney Award for contributions to KCBA Neighborhood Legal Clinics (2006)
- Volunteer of the Year, Northwest Immigrant Rights Project (1995)

Counsel in Published Opinions

Admitted to practice in Washington state courts, US District Courts for Eastern and Western Districts of Washington, US Court of Appeals for the Ninth Circuit, and US Supreme Court

US Supreme Court

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| • <i>Sorrell v. IMS Health, Inc.</i> ,
131 S.Ct. 2653 (2011) (consultant for party) | Speech & Privacy |
| • <i>Morse v. Frederick</i> ,
551 U.S. 393 (2007) (consultant for party) | Speech |
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<ul style="list-style-type: none"> • <i>Parents Involved in Community Schools v. Seattle School District</i>, 551 U.S. 701 (2007) (counsel for amicus) 	Equality
<ul style="list-style-type: none"> • <i>Davis v. Washington</i>, 547 U.S. 813 (2006) (counsel for amicus) 	Confrontation
<ul style="list-style-type: none"> • <i>Locke v. Davey</i>, 540 U.S. 712 (2004) (lead counsel for amicus) 	Religion
<ul style="list-style-type: none"> • <i>Blakely v. Washington</i>, 542 U.S. 961 (2004) (counsel for amicus) 	Sentencing
<ul style="list-style-type: none"> • <i>Gonzaga University v. Doe</i>, 536 U.S. 273 (2002) (lead counsel for amicus) 	Privacy
<ul style="list-style-type: none"> • <i>Zadvydas v. Davis</i>, 533 U.S. 678 (2001) (counsel for amicus) 	Immigration
<ul style="list-style-type: none"> • <i>Ohio Adult Parole Authority v. Woodard</i>, 523 U.S. 272 (1998) (consultant for party) 	Due Process
<ul style="list-style-type: none"> • <i>Washington v. Glucksberg</i>, 521 U.S. 702 (1997) (counsel for party) 	Aid In Dying
US Court of Appeals	
<ul style="list-style-type: none"> • <i>Waggy v. United States</i>, 936 F.3d 1014 (9th Cir. 2019) (lead counsel for amicus) 	Speech
<ul style="list-style-type: none"> • <i>Ali v. Stephens</i>, 822 F.3d 776 (5th Cir. 2016) (lead counsel for amicus) 	Religion
<ul style="list-style-type: none"> • <i>Witt v. Department of Air Force</i>, 527 F.3d 806 (9th Cir. 2008) (counsel for party) 	LGBT Rights
<ul style="list-style-type: none"> • <i>Seattle Affiliate of the October 22nd Coalition v. City of Seattle</i>, 550 F.3d 788 (9th Cir. 2008) (counsel for party) 	Speech
<ul style="list-style-type: none"> • <i>Truth v. Kent School District</i>, 542 F.3d 634 (9th Cir. 2008) (counsel for amicus) 	Speech & Religion
<ul style="list-style-type: none"> • <i>Menotti v. City of Seattle</i>, 409 F.3d 1113 (9th Cir. 2005) (counsel for party) 	Speech
<ul style="list-style-type: none"> • <i>Cogswell v. City of Seattle</i>, 347 F.3d 809 (9th Cir. 2003) (counsel for party) 	Speech
<ul style="list-style-type: none"> • <i>Farrakhan v. Washington</i>, 338 F.3d 1009 (9th Cir. 2003) (counsel for amicus) 	Voting Rights
<ul style="list-style-type: none"> • <i>Hallett v. Morgan</i>, 296 F.3d 732 (9th Cir. 2002) (counsel for party) 	Prison Conditions
<ul style="list-style-type: none"> • <i>Prince v. Jacoby</i>, 303 F.3d 1074 (9th Cir. 2002) (lead counsel for amicus) 	Speech & Religion
<ul style="list-style-type: none"> • <i>LaVine v. Blaine School District</i>, 257 F.3d 981 (9th Cir. 2001) (counsel for amicus) 	Speech

• <i>Woratzek v. Arizona Board of Executive Clemency</i> , 117 F.3d 400 (9 th Cir. 1997) (counsel for party)	Due Process
• <i>Woratzek v. Stewart</i> , 97 F.3d 329 (9 th Cir. 1996) and 118 F.3d 648 (9 th Cir. 1997) (counsel for party)	Capital Habeas
• <i>Deutscher v. Angelone</i> , 16 F.3d 981 (9 th Cir. 1994) (counsel for party)	Capital Habeas

US District Courts

• <i>Roshandel v. Chertoff</i> , 554 F.Supp.2d 1194 (W.D. Wash. 2008) (counsel for party)	Immigration
• <i>Rahman v. Chertoff</i> , 244 F.R.D. 443 (N.D.Ill. 2007) (counsel for party)	Terrorism Watch List
• <i>Witt v. U.S. Dept. of Air Force</i> , 444 F.Supp.2d 1138 (W.D. Wash. 2006) (counsel for party)	LGBT Rights
• <i>Seattle Affiliate of the October 22nd Coalition v. City of Seattle</i> , 430 F.Supp.2d 1185 (W.D. Wash. 2006) (counsel for party)	Speech
• <i>Green v. Transportation Security Administration</i> , 351 F.Supp.2d 1119 (W.D. Wash. 2005) (counsel for party)	Terrorism Watch List
• <i>Doe v. 2TheMart.com Inc.</i> , 140 F.Supp.2d 1088 (W.D. Wash. 2001) (lead counsel for party)	Speech
• <i>Emmett v. Kent School District</i> , 92 F.Supp.2d 1088 (W.D. Wash. 2000) (lead counsel for party)	Speech
• <i>Huynh v. Reno</i> , 56 F.Supp.2d 1160 (W.D. Wash. 1999) (counsel for amicus)	Immigration
• <i>Seattle SMSA Ltd. Partnership v. San Juan County</i> , 88 F.Supp.2d 1128 (W.D. Wash. 1997) (counsel for amicus)	Telecommunications

State Supreme Courts

• <i>M.R. v. Neisen</i> , 2022 WL 1019608 (Ohio 2022) (amicus)	Speech
• <i>Bey v. Rasaweher</i> , 161 N.E.3d 529 (Ohio 2020) (amicus)	Speech
• <i>Chan v. Ellis</i> , 770 S.E.2d 851 (Ga. 2015) (amicus)	Speech
• <i>Bradburn v. North Central Regional Library</i> , 231 P.3d 166 (Wash. 2010) (counsel for party)	Speech
• <i>City of Woodinville v. Northshore United Church of Christ</i> , 211 P.3d 406 (Wash. 2009) (lead counsel for amicus)	State Constitutions
• <i>York v. Wahkiakum School District</i> , 178 P.3d 995 (Wash. 2008) (counsel for party)	Drug Testing
• <i>Rickert v. Public Disclosure Commission</i> , 168 P.3d 826 (Wash. 2007) (counsel for party)	Speech

<ul style="list-style-type: none"> • <i>Madison v. State of Washington</i>, 163 P.3d 757 (Wash. 2007) (counsel for party) 	Voting Rights
<ul style="list-style-type: none"> • <i>San Juan County v. No New Gas Tax</i>, 157 P.3d 831 (Wash. 2007) (counsel for amicus) 	Speech
<ul style="list-style-type: none"> • <i>Andersen v. King County / Castle v. State</i>, 138 P.3d 963 (Wash. 2006) (counsel for party) 	LGBT Rights
<ul style="list-style-type: none"> • <i>Koenig v. City of Des Moines</i>, 142 P.3d 162 (Wash. 2006) (counsel for amicus) 	Public Records
<ul style="list-style-type: none"> • <i>Lewis v. Department of Licensing</i>, 139 P.3d 1078 (Wash. 2006) (counsel for amicus) 	Privacy
<ul style="list-style-type: none"> • <i>Trummel v. Mitchell</i>, 131 P.3d 305 (Wash. 2006) (lead counsel for amicus) 	Speech
<ul style="list-style-type: none"> • <i>In re Parentage of L.B.</i>, 122 P.3d 161 (Wash. 2005) (counsel for amicus) 	LGBT Rights
<ul style="list-style-type: none"> • <i>Niemann v. Vaughn Community Church</i>, 113 P.3d 463 (Wash. 2005) (counsel for amicus) 	Religion
<ul style="list-style-type: none"> • <i>In re Marriage of Suggs</i>, 93 P.3d 161 (Wash. 2004) (lead counsel for party) 	Speech
<ul style="list-style-type: none"> • <i>Hangartner v. City of Seattle</i>, 90 P.3d 26 (Wash. 2004) (counsel for party) 	Public Records
<ul style="list-style-type: none"> • <i>City of Sumner v. Walsh</i>, 61 P.3d 1111 (Wash. 2003) (counsel for party) 	Juvenile Curfew
<ul style="list-style-type: none"> • <i>Washington Education Assn. v. Public Disclosure Commission</i>, 80 P.3d 608 (Wash. 2003) (lead counsel for amicus) 	Speech
<ul style="list-style-type: none"> • <i>In re Disciplinary Proceeding Against Michels</i>, 75 P.3d 950 (Wash. 2003) (lead counsel for amicus) 	Due Process
<ul style="list-style-type: none"> • <i>Parents Involved in Community Schools v. Seattle School District</i>, 72 P.3d 151 (Wash. 2003) (counsel for amicus) 	Equality
<ul style="list-style-type: none"> • <i>State ex rel. Gallwey v. Grimm</i>, 48 P.3d 274 (Wash. 2002) (counsel for party) 	Religion
<ul style="list-style-type: none"> • <i>State v. Breazeale</i>, 31 P.3d 1155 (Wash. 2001) (counsel for amicus) 	Privacy
<ul style="list-style-type: none"> • <i>Heinsma v. City of Vancouver</i>, 29 P.3d 709 (Wash. 2001) (lead counsel for amicus) 	LGBT Rights
<ul style="list-style-type: none"> • <i>State v. Williams</i>, 26 P.3d 890 (Wash. 2001) (counsel for amicus) 	Speech
<ul style="list-style-type: none"> • <i>O'Connor v. Dept. of Social and Health Services</i>, 25 P.3d 426 (Wash. 2001) (counsel for amicus) 	Public Records
<ul style="list-style-type: none"> • <i>Concerned Ratepayers Ass'n v. PUD No. 1 of Clark County</i>, 983 P.2d 635 (Wash. 1999) (lead counsel for amicus) 	Public Records

- *Rabon v. City of Seattle*,
957 P.2d 621 (Wash. 1998) (lead counsel for amicus) Due Process

State Courts of Appeal

- *DWJ v. CLB*,
2023 WL 7270448 (Mich. App. 2023) (amicus) Speech
- *Bey v. Rasaweher*,
2019-Ohio-57, 2019 WL 182418 (Ohio App. 2019) (amicus) Speech
- *TM v. MZ*,
926 N.W.2d 900 (Mich. App. 2018) (amicus) Speech
- *Quinn v. Gjoni*,
50 N.E.3d 448 (Mass. App. 2016) (amicus) Speech
- *David v. Textor*,
189 So.3d 871 (Fla. App. 2016) (amicus) Speech
- *Parmelee v. O'Neel*,
186 P.3d 1094 (Wash. App. 2008) (counsel for amicus) Speech
- *Kustura v. Department of Labor and Industries*,
175 P.3d 1117 (Wash. App. 2008) (counsel for amicus) Due Process
- *In re Marriage of Hughes*,
116 P.3d 1042 (Wash. App. 2005) (counsel for amicus) Equality
- *Rickert v. Public Disclosure Commission*,
119 P.3d 379 (Wash. App. 2005) (counsel for party) Speech
- *ACLU of Washington v. City of Seattle*,
89 P.3d 295 (Wash. App. 2004) (lead counsel for party) Public Records
- *York v. Wahkiakum School District*,
40 P.3d 1198 (Wash. App. 2002) (counsel for party) Drug Testing
- *State v. Noah*,
9 P.3d 858 (Wash. App. 2000) (counsel for party) Speech