

**M. KATHERINE BAIRD DARMER**  
**Professor of Law**

**EDUCATION**

COLUMBIA UNIVERSITY SCHOOL OF LAW, J.D. 1989.

Harlan Fiske Stone Scholar, 1987-88, 1988-89.

Director, Harlan Fiske Stone Moot Court Honor Competition, 1988-89.

Finalist, Harlan Fiske Stone Moot Court Honor Competition, 1988.

Articles Editor, *Columbia Journal of Environmental Law*, 1988-89.

PRINCETON UNIVERSITY, A.B. 1986,

Philosophy (high honors).

**PROFESSIONAL EXPERIENCE**

**Law Instruction:**

2000-Present	CHAPMAN UNIVERSITY SCHOOL OF LAW, Orange, CA Professor of Law Selected courses: Criminal Procedure (Police Practices), Evidence, Advanced Criminal Procedure, Advanced Evidence, Torts.
Fall 2009	COLUMBIA UNIVERSITY SCHOOL OF LAW, New York, NY Sabbatical Visitor Senior fellow in Gender and Sexuality Law Program. Researched and presented paper on issues related to marriage equality and rights for LGBTQ persons.

**Legal Experience:**

1995-1999	UNITED STATES ATTORNEY'S OFFICE, Southern District of New York Assistant United States Attorney Lead attorney in three-month criminal racketeering trial involving seven defendants, 1998. Conducted seven other trials. Argued eight cases in the United States Court of Appeals for the Second Circuit.
1991-1995	DAVIS POLK & WARDWELL, New York, NY Litigation Associate Member of trial team representing prevailing defendant in six week trial, <u>Pan Am Corp. v. Delta Air Lines, Inc.</u> , in which plaintiffs sought more than \$2.5 billion in damages.

1990-1991	HONORABLE WILLIAM H. TIMBERS United States Court of Appeals, Second Circuit Law Clerk
1989-1990	HONORABLE KIMBA M. WOOD United States District Court for the Southern District of New York Law Clerk

## SELECTED BOOKS AND SCHOLARLY ARTICLES

*“Immutability” and Stigma: Toward a More Progressive Equal Protection Rights Discourse* (forthcoming Am. U. J. Gender, Social Pol’y, & the Law 2010).

*Teaching Whren to White Kids*, 15 Mich. J. Race & L. 109 ( 2009).

*Moving Beyond the “Immutability Debate” in the Fight for Equality After Proposition 8* (co-authored with Tiffany Chang), 12 The Scholar 1 (2009).

*Waterboarding, Civil Liberties Lost and the Enduring Legacy of the Bybee-Yoo Torture and Power Memorandum: Reflections of an Erstwhile Bush Administration Apologist* 12 Chap. L. Rev. 639 (2009).

*“Activist Courts,” Misleading Wedge Politics and the Tragedy of Proposition 8*, 14 NEXUS 69 (2009).

*Scalian Skepticism and the Sixth Amendment in the Twilight of the Rehnquist Court*, 43 U.S.F. L. Rev. 347 (2008).

*Miranda Warnings, Torture, the Right to Counsel and the War on Terror*, 10 Chap. L. Rev. 631 (2007).

*Morality and the Law* (ed. with Robert M. Baird, Prometheus Books) (2007).

*The Federal Sentencing Guidelines After Blakely and Booker: The Limits of Congressional Tolerance and a Greater Role for Juries*, 56 S.C. L. Rev. 533 (2005).

*Civil Liberties vs. National Security in a Post-9/11 World* (ed. with Robert M. Baird and Stuart Rosenbaum, Prometheus Books) (2004).

*Beyond Bin Laden and Lindh: Confessions Law in an Age of Terrorism*, 12 Cornell J.L. & Pub. Pol’y 319 (2003).

*Lessons from the Lindh Case: Public Safety and the Fifth Amendment*, 68 Brook. L. Rev. 241 (2002).

## SELECTED PROFESSIONAL ARTICLES AND OPINION PIECES

*'Will of the People' Irrelevant Under Federal Constitution*, Los Angeles Daily Journal, Perspective (August 10, 2010)

*GOP candidates and Prop. 8*, Orange County Register, Opinion (August 9, 2010)

*Booting Out Torture*, Los Angeles Daily Journal, Forum (May 11, 2009)

*The Power of Protest*, Los Angeles Daily Journal, Forum (May 1, 2009)

*Aisle Denial, Continued: The state's gay workers shouldn't have to promise to defend a document that excludes them*, Los Angeles Daily Journal, Forum (Jan. 27, 2009)

*NO: Progress Owed to "Activist" Courts*, Orange County Register (Oct. 29, 2008) (online edition) (lead author of co-authored piece)

*Roger Dodger*, Los Angeles Daily Journal, Forum (March 5, 2008) (regarding possible perjury charges against Roger Clemens) (quoted on same topic in Los Angeles Times, abc.news.com, mlb.com, and the Seattle Times)

*Modify Sentencing Guidelines So Prosecutors Charge, Juries Decide*, Los Angeles Daily Journal, Forum (July 29, 2004)

*Trial Followed Measured Recipe for Fair Play* (regarding Martha Stewart prosecution), Los Angeles Daily Journal (March 17, 2004)

*Opinion, Deal for Lindh*, Orange County Reg. (July 19, 2002)

*Miranda: Still the Law*, Orange County Lawyer (Sept. 2000)

## SELECTED RECENT PRESENTATIONS AND MEDIA APPEARANCES

### **Regarding Proposition 8, Marriage Equality and LGBT Rights**

Speaker, Legal Update on Proposition 8 and Marriage Equality, OC Pride Main Stage, Irvine, CA (August 14, 2010) (also quoted re. same in *Orange County Register*, August 14, 2010)

Featured Speaker, Orange County Decision Day Rally (addressing federal Prop 8 decision), Santa Ana, CA (August 4, 2010) (also quoted re. same in *Orange County Register*, August 4 and August 5, 2010)

Featured Speaker, Update on Proposition 8 in the Federal Courts, Church of the Foothills, Santa Ana, CA (July 11, 2010)

Featured Speaker, *Proposition 8, LGBT Rights and the Courts*, Canyon Democrats Monthly Meeting, Mission Viejo, CA (May 17, 2010)

Panel Presenter, Annual Society of American Law Teachers (“SALT”) Conference, *Rank Has Its Privileges: Using Law and Feminist Theory to Explore Gender-Based and Sexual Orientation-Based Violence Perpetrated by Middle- and Upper Middle-Class Males*, (San Francisco, CA), March 20, 2010

Panel Presenter, LatCrit XIV Conference, addressing marriage equality (Washington, D.C.), October 2010

Presented Paper, Columbia Law School Gender and Sexuality Law Program (New York, NY), October 2009

Featured Guest Speaker, *LGBT Rights and the Separation of Church & State*, Americans United for Separation of Church and State, Irvine, CA (September 19, 2009)

Featured Speaker, Orange County Equality Coalition Monthly Meetings, Irvine, CA (July 25 and May 30, 2009)

Decision Day Rally, Speech Regarding Court’s Decision in Prop 8 Case (Santa Ana, CA), May 27, 2009

Panel Discussion on Obama Administration and LGBT Issues, University of Irvine, Irvine, CA (May 12, 2009)

Radio Show, Hollywood-CLOUT, Los Angeles (regarding counter-protest of protest by Westboro Baptist Church of production of *Rent* at Corona del Mar High School), April 24, 2009)

Featured Speaker Regarding Marriage Equality and Proposition 8, Texas Tech Law School (Lubbock, Texas), April 2, 2009

Symposium Speaker, *Judicial Activism: Same Sex Marriage and the Aftermath of Proposition 8* Chapman University School of Law (Orange, CA), February 27, 2009

Radio Show, Hollywood-CLOUT, Los Angeles (featured guest speaker on Proposition 8 and legal challenges), February 26, 2009

Speaker, *Is Proposition 8 Legal? A Forum on Marriage Equality* (with Erwin Chemerinsky) (University of California, Irvine), February 10, 2009

Panel Presenter and Organizer, American Association of Law Schools, Hot Topics Program: *Proposition 8, Legal Challenges, and the Future of Marriage Between Same-Sex Couples* (with Erwin Chemerinsky, William Eskridge and Clifford Rosky) (San Diego, CA), January 9, 2009

Hugh Hewitt Show, KRLA-AM, Debate Regarding Proposition 8 (with Alliance Defense Fund Attorney Austin Nimocks) (December 19, 2008)

Panel on Proposition 8, Pitzer College (Claremont, CA), December 9, 2008

*Prop 8 Passed: Now What?*, Chapman University School of Law, November 24, 2008

Update on Proposition 8 and Legal Challenges, Meeting of Orange County Equality Coalition (Irvine, CA) (appeared with Mayor of Irvine), November 21, 2008

Forum on Proposition 8, Chapman University School of Law, November 19, 2008

Symposium on Proposition 8, Chapman University School of Law, October 24, 2008 (panel speaker and co-organizer of event)

### **Regarding the War on Terror**

Panel Participant, *Reliability and Confessions*, Southeastern Association of Law Schools, West Palm Beach, FL (August 6, 2009).

*Presidential Powers in Wartime* (debated Dean John Eastman and Visiting Professor John Yoo with Professor Larry Rosenthal), Chapman University, Orange, CA (April 21, 2009)

Hugh Hewitt Show, KRLA-AM, discussion regarding civilian courts and terrorism cases (with Andrew McCarthy), March 19, 2009

*Can Civilian Courts Handle Terrorist Cases?* (debate with Andrew McCarthy), Chapman University (Orange, CA), March 19, 2009 (co-sponsored by Federalist Society)

Panel Presenter, Chapman Law Review Symposium: *Lincoln's Constitutionalism in Time of War: Lessons for the War on Terror* (Orange, CA), January 30, 2009

Presentation regarding Supreme Court Decisions in the War on Terror, Orange County Bar Association (Santa Ana, CA), November 14, 2008

Hugh Hewitt Show, KRLA-AM, Conversation Regarding Guantanamo Bay and the War on Terror (September 23, 2008) (with Professor Kyndra Rotunda)

Panel Presenter, *Civil Liberties v. National Security*, Warren Ferguson Inn of Court (Chapman University School of Law, Orange, CA), February 12, 2008

Debate, *Guantanamo Bay: Rule of Law or Rules of War* (with David Rivkin), Chapman University School of Law Dean's Dialogue Series (co-sponsored by Federalist Society), October 16, 2007

Debate, *Civil Liberties vs. National Security* (with Professor John Yoo), Orange, CA (sponsored by Federalist Society), February 26, 2007

Panel Presenter, *Miranda and the War on Terror*, Chapman University Law Review Symposium (Orange, CA), January 26, 2007

KCET Television, Life & Times – Kitchen-table Talk, Debate on Racial Profiling (with Stephen Rohde), October 18, 2006

*Civil Liberties and National Security in a Post-9/11 World*, Cardozo Luncheon Series, “The Rules & Laws of War,” Jewish Federation of Orange County, June 14, 2006

Moderator for Panel, *Security and Civil Liberties*, Center for Global Trade and Development 2d Annual Symposium – “Are We at War?,” Chapman University School of Law (Orange, CA), April 6, 2006

## **OTHER PRESENTATIONS AND MEDIA APPEARANCES**

Panel Presenter, Annual Law and Society Meeting, Chicago, IL (May 28, 2010)

*12 Angry Men* and Other Legal Issues (provided lecture to local area high school) (Palm Springs, CA), October 2008

*Teaching Whren to White Kids: Why Color-Blind Admissions and Appointments Procedures Impoverish Legal Education*, LatCrit Conference (Seattle, WA), October 2008

Panel Moderator, *A Retrospective on Justice O'Connor's Legacy*, Southeast Association of Law Schools (West Palm Beach, FL), July 28, 2008

Daybreak OC, KDOC-TV, Interview regarding re-integration of sex offender into society, March 9, 2008 (taped March 8)

Commentator, *12 Angry Men*, Orange County Performing Arts Center (Costa Mesa, CA), February 28, 2008

Panel Presenter, American Association of Law Schools, Hot Topics Program: *Of Guns and Militias: Just What Does the Second Amendment Guarantee? Reflections on the Supreme Court's Grant of Certiorari in Heller v. District of Columbia*, (New York, NY), January 5, 2008

Daybreak OC, KDOC-TV, Live interviews regarding developments in Sheriff Carona case, including possible severance motion, November 29, 2007

MBL.com live radio, commentary on indictment of Barry Bonds, November 15, 2007

Daybreak OC, KDOC-TV, Live interviews regarding Sheriff Carona indictment, November 8, 2007

Daybreak OC, KDOC-TV, Interview regarding Sheriff Carona indictment, November 1, 2007 (taped October 31)

Presentation Regarding Recent Firings and Politicization Within the Justice Department, South Orange County Democratic Club (San Juan Capistrano, California), May 15, 2007

Fourth annual Madison Lecture, re-enactment of *Miranda v. Arizona*, Chapman University School of Law (Orange, CA), September 15, 2006 (with Professor Yale Kamisar)

Panel Presenter, *Torts and Justice*, Conference of Religiously-Affiliated Law Schools, Baylor University (Waco, TX), March 31, 2006

Panel Presenter, *The Jurisprudence of Chief Justice William H. Rehnquist*, Orange County Federalist Society (October 13, 2005)

## **COMMUNITY AWARDS AND PROFESSIONAL COMMENDATIONS**

Community Bridge Award, presented by Men Alive, Orange County's gay men's chorus, March 6, 2010

## **BOARD MEMBERSHIPS AND PROFESSIONAL AFFILIATIONS**

Founding board member and chair, legal committee, Orange County Equality Coalition (signatory and one of two primary co-authors of amicus brief filed January 2009 in support of petitions to invalidate Proposition 8 on behalf of numerous Chapman and Orange County individuals and organizations)

American Association of Law Schools—Criminal Justice Section (serve as Chair-Elect, 2009-10, elected Secretary, 2009; Chair, Midyear Meeting Committee, 2008)

Lavender Bar Association, founding board member 2010

Orange County Bar Association

Admitted, California Bar 2005; New York 1990; Connecticut 1989