Curriculum Vitae

LUCAS GUTTENTAG

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EMPLOYMENT

2009 - **Yale Law School**. Robina Foundation Distinguished Senior Fellow in Residence, Senior Research Scholar & Lecturer in Law. Courses and seminars on immigration law and policy; doctrinal and strategic issues in constitutional impact litigation; civil and constitutional rights of immigrants; advanced immigration topics.

2012 - **Stanford Law School.** Lecturer in Residence (winter/spring quarters). Courses on immigration law and constitutional rights of immigrants; social justice litigation. Previously adjunct lecturer in 2004, 2007 and 2008.

1985 - **American Civil Liberties Union Foundation**, National Office, New York and California. Founding National Director ACLU Immigrants' Rights Project 1985-2011; senior counsel since 2011. Established and directed nationwide program with offices in New York and San Francisco to conduct strategic impact, class action and constitutional litigation on behalf of non-citizens; directed ACLU immigration advocacy; provided guidance to 53 ACLU state affiliates. Extensive complex federal litigation throughout the country and in the Supreme Court. National ACLU media and policy spokesperson on immigration law and rights of immigrants.

1996 - 2009 **University of California Berkeley School of Law (Boalt Hall).** Lecturer (adjunct). Regular one-semester academic course on constitutional and civil rights of immigrants; awarded continuing appointment based on University excellence review in 2009.

1983 - 1997 **Columbia University School of Law.** Associate Clinical Professor of Law and Director of Immigration Law Clinic 1983-87 (full-time); adjunct lecturer 1987-1997. Clinical faculty directing immigration law clinic; supervising students in client representation and simulations on wide range of immigration matters, including family-based visas, political asylum and deportation defense. Appointed to teach annual academic course on immigration law as adjunct beginning in 1987 after joining ACLU full-time.

1979 - 1983 **Center for Law in the Public Interest, Los Angeles, California**. Staff attorney. Class action civil rights and appellate litigation on employment discrimination, police practices, freedom of speech, environmental protection and attorneys' fees. Argued in federal and state trial and appellate courts and in California Supreme Court.

1978 - 1979 **Hon. William Wayne Justice**, United States District Court (E.D. Tex). Law Clerk.

EDUCATION

1978 **Harvard Law School,** J.D. *cum laude*. Board of Student Advisers (BSA)

1973 **University of California at Berkeley,** A.B. History with honors; Phi Beta Kappa.

PROFESSIONAL EXPERIENCE

Representative Litigation *(partial list of cases argued or lead counsel)*

INS v. St. Cyr, 533 U.S. 289 (2001) (upholding right to habeas corpus review of immigration removal order and overturning retroactive application of new deportation law) (argued)

Calcano-Martinez v. INS, 533 U.S. 349 (2001) (holding that petition-for-review jurisdiction over final removal order is repealed and that habeas corpus jurisdiction is preserved) (argued)

Ali v. Rumsfeld, 479 F. Supp. 2d 85 (D.D.C. 2007) (constitutional and international law damages suit on behalf of Iraqi and Afghan civilians tortured in United States military custody overseas) (argued) *aff'd* 649 F.3d 752 (2011).

Soskin v. Reinertson, 353 F.3d 1242 (10th Cir. 2004) (class action equal protection challenge to state law authorized by 1996 Welfare Act terminating welfare benefits of legal permanent resident immigrants) (argued)

Flores-Chavez v. Ashcroft, 362 F.3d 1150 (9th Cir. 2003) (argued as amicus by invitation of the court) (due process challenge to denial of notice to juvenile detained by immigration authorities)

Comprehensive national legal strategy challenging jurisdiction-stripping provisions of 1996 immigration act (partial list of cases argued):

Calcano-Martinez v. INS, 232 F.3d 328 (2d Cir. 2000) *aff'd* 533 U.S. 348 (2001)
Henderson v. Reno, 157 F.3d 106 (2d Cir. 1998), *cert denied sub nom. Reno v. Navas*, 526 U.S. 1004 (1999)
Magana-Pizano v. INS, 152 F.3d 1213 (9th Cir. 1998) *vacated and remanded* 526 U.S. 1001 (1999) *aff'd* 200 F.3d 603 (9th Cir. 1999)
Hose v. INS, 180 F.3d 992 (9th Cir. 1999) (*en banc*)
Requena-Rodriguez v. Pasquarel, 190 F.3d 299 (5th Cir. 1999)
Jurado-Gutierrez v. Greene, 190 F.3d 1135 (10th Cir. 1999)
LaGuerre v. INS, 164 F.3d 1035 (7th Cir. 1998)
Williams v. INS, 114 F.3d 82 (5th Cir. 1997)
Fernandez v. INS, 113 F.3d 1151 (10th Cir. 1997)

Haitian Centers Council v. McNary, 823 F.Supp. 1028 (E.D.N.Y. 1993) (co-lead trial counsel in three-week trial challenging indefinite detention and conditions of confinement of Haitian refugees at Guantanamo Naval Base) related to 509 U.S. 155 (1993) (challenging summary repatriation of Haitian refugees interdicted on the high seas)

American Baptist Churches v. Thornburgh, 760 F. Supp. 796 (N.D. Cal. 1991) (co-lead counsel in nationwide class action culminating in settlement providing for new and unbiased asylum adjudications for more than 240,000 Salvadoran and Guatemalan class members)

Manwani v. U.S. Department of Justice, 736 F. Supp. 1367 (W.D.N.C. 1990) (declaring federal immigration "marriage fraud" statute unconstitutional) (argued)

Azizi v. Thornburgh, 908 F.2d 1130 (2d Cir. 1990) (constitutional challenge to federal immigration "marriage fraud" statute) (argued)

Press v. Lucky Stores Inc., 34 Cal. 3d 311, 667 P.2d 704 (1983) (California Supreme Court) (holding that enforcing free speech rights at private shopping center constitutes broad public benefit under attorneys' fees statute) (argued)

Selected Professional Honors, Publications and Presentations

Honors (partial)

Juris Doctor (Honorary), City University of New York (CUNY) School of Law (forthcoming 2013)

Fellow, American Bar Foundation (elected 2007)

California's "Top 100 Lawyers" 2008, 2007 *San Francisco/Los Angeles Daily Journal*

Honor Roll of Nation's 25 Leading Advocates of Last 25 Years, National Immigration Forum, Washington DC (2007)

California Lawyer of the Year (CLAY) in Appellate Law, *California Lawyer* magazine (2002)

"Human Rights Hero," American Bar Association *Human Rights* magazine *(*2001)

Jack Wasserman Litigation Award, American Immigration Lawyers Association (2002, 1997, 1991, 1990)

Human Rights Award, American Immigration Lawyers Association (co-recipient 1992)

Carol King Award for Outstanding Contribution to Immigration Law, National Immigration Project of the National Lawyers Guild (1998, 1991)

East Bay Sanctuary Covenant (Berkeley 2007)

College Preparatory School (CPS) Commencement Speaker (Berkeley 2005)

Civil Rights Award, Chinese for Affirmative Action (San Francisco, 2002)

Philip Burton Immigration and Civil Rights Award, Immigrant Legal Resources Center (San Francisco 1999)

Political Asylum Immigration Representation Project "PAIR" (co-recipient Boston 1994)

Central American Refugee Center "CARECEN" (New York 1991)

Presentations, Papers and Publications (partial)

"The Forgotten Equality Norm in Immigration Preemption," Keynote presentation, Duke Law School, Perspectives on Migration, Governance, and Citizenship (2013)

"Immigration Preemption and the Limits of State Power: Reflections on Arizona v. United States," 9 Stanford J. C.R. & C.L __ (2013) (forthcoming)

"Discrimination, Preemption, and Arizona's Immigration Law: A Broader View," 65 Stan. L. Rev. Online 1 (2012)

"Strong on Theory While Profiling Ignored," SCOTUSBLOG (June 25, 2012)

"Arizona's Immigration Law Violates Civil Rights" The New Republic online (May 14, 2012)

Migration Policy Institute & Catholic Legal Immigration Network, Georgetown Law School, Plenary Session "Immigration Enforcement: The Role of States, the Federal Government and Litigation Developments," (October 2012)

U.C. Berkeley School of Law (Boalt Hall), Lecture on "No More Sweet Home Alabama: Targeting Illegal Immigration" (June 2012)

American Constitution Society (ACS) National Convention, Panel presentation on "The Supreme Court and State Immigration Laws" (June 2012)

American Immigration Lawyers Association National Conference, Panel presentation for "Protecting Immigrant Children's Access to Education *Plyler v. Doe* and Beyond" (June 2012)

University of California at Davis Hemispheric Institute on the Americas, Lecture: “The Civil Rights Battle for Immigrant Justice: Arizona, Alabama, and the Future of America" (April 2012)

Center for American Progress, Panel presentation for “Why Courts Matter: Racial Profiling and Arizona Immigration Law” (April 2012)

Cornell University, Institute for Social Sciences, Criminalizing Immigration: Perspectives on Regulation, Citizenship and Advocacy; Panel presentation for Strategies for Immigration Advocacy: Challenges and Alternatives (March 2012)

Duke Law School, Panel presentation for “The Supreme Court & Arizona’s ‘Racial Profiling Law’” (March 2012)

Harvard Law School, Harvard Immigration Project, “National Implications of State Immigration Laws” (2011)

ACLU of Massachusetts, Keynote on Civil Liberties and State Immigration Laws (2011)

Hofstra Law School, Lecture: “Immigrants’ Rights and Constitutional Principles: Today’s Challenges,” (2011)

Center for American Progress, Panel presentation for “What Happens if the Tea Party Wins? The Conservative Effort to Make Everything Unconstitutional” (2011)

Hunter College Human Rights Faculty Seminar, “The Role of Human Rights in Immigration Law and Rights,” Hunter College and Graduate Center, the City University of New York (2011)

Migration Policy Institute, Washington DC, Roundtable on Administrative Initiatives for Obama Administration (2011)

National Lawyers Guild, Constitutional Damages for Law Enforcement Misconduct in Immigration Context, Chicago (2011)

Princeton University, Center for Migration and Development, Roundtable on Deportation and National Security (2011)

American Immigration Lawyers Assoc. National Conference, “Litigation Masters” (2011)

American Constitution Society, 2010-2011 Annual Supreme Court Review (2011)

ABA-ALI National Program, “Immigration Regulation After *Chamber of Commerce v. Whiting*” (telephonic) (2011)

Duke Law School, “Immigration Rights and Constitutional Values: Contemplating the Future” (2011)

Stanford Law School, Immigrants’ Rights in Historical Context (2011)

University of Iowa College of Law Practitioner-in-Residence. Invited faculty talk on “Immigration Federalism: A Civil Rights Perspective on Preemption And Local Regulation.” Law school lecture on “Immigrants’ Rights and Constitutional Values: Is Arizona the Future?” Various panels and classroom presentations. (2010)

Arizona State University Sandra Day O’Connor College of Law; The Role of States in Immigration Policy and Enforcement. Presentation on “Preemption and the Protection of Individual Rights: From Hazleton to SB1070” (2010)

University of Texas, 34th Annual Conference on Immigration and Nationality Law; Luncheon Keynote "Immigration Rights and Reform: Prospects, Promises and Pitfalls in the Courts and Congress" (2010)

University of California Berkeley Law School and Graduate School of Journalism; The Changing Face of America: Going Beyond Rhetoric on Immigration. Presentation on "Policing Immigration: the Local Enforcement of Federal Laws" (2010)

Claremont McKenna College, "Protecting Immigrants' Rights in the Era of Arizona SB1070: Politics, Race and Constitutional Principles" (2010)

University Of Miami Program on Immigration Law and Deportation Defense; presentation on "Local Enforcement of Immigration Law" (2010)

Ninth Circuit Appellate Practice Workshop; Panel on conducting effective oral argument (with various Ninth Circuit judges) (2010)

Yale Law School Human Rights Workshop; "Immigrants' Rights and the Obama Administration: Developments and Dangers" (2009)

Judicial Conference of the Fifth Circuit; Panel "Should I Stay or Should I Go Now – Evolving Changes in Immigration Law "(2009)

Yale Law School Orville Schell Center Symposium; Beyond Borders: Immigration Policy in the New Century, presentation on "A Reform Agenda for the Obama Administration" (2009)

"Immigration and American Values: Some Initial Steps for a New Administration," ABA *Human Rights* Journal (2008)

"Innocents Abroad: Judicial Review and the Water's Edge," Immigration Law Professors Conference, University of Miami (2008)

"The Fourteenth Amendment and Birthright Citizenship: The Danger of Abandoning Settled Principles," University of Pennsylvania, The Second Founding of the Constitution; American Constitution Society (2008)

"Sanctions, Sanctuary and Symbolism: Local Regulation of Immigration," Cities and Counties in the Global Economy: A Hard Look at Local Economic and Immigration Policies; University of California Hastings College of Law: Center for Law and Local Government & Municipal Law Institute and League of California Cities City Attorneys Department (2008)

Building an Immigration System in Mexico; Migration Policy Institute and Secretaria De Relaciones Exteriores (Mexico City, 2008)

Keynote, Confronting Hidden Borders: Immigration and Uniting Communities of Color; Symposium sponsored by Hastings Race and Poverty Law Journal. (2008)

"Immigration Reform: A Civil Rights Issue," 2 *Stanford Journal of Civil Rights & Civil Liberties* 157 (2007) (originally delivered September 2006)

Amherst College; The Constitution and Citizenship, Colloquium on the Constitution and Imagining of America. Presentation "Beyond the Shackles of History: Bringing Constitutional Rights for Non-Citizens Into the 21st Century" (2007)

State Law and Immigration: Crossing the Constitutional Border; National Conference of State Legislators (Phoenix 2007)

Washington University Law School, Public Interest Law Speakers Series: Invited lecture on "Immigrants'

Rights in the Courts and Congress: Constitutional Protections and the Rule of Law after 9/11," published in 25 *Washington University Journal of Law & Policy* 11 (2007) (originally delivered 2006)

The Bellagio Dialogue on Migration; German Marshall Fund of the United States (Bellagio, Italy 2006)

Immigration Law Policy Shifts in Response to Terrorist Threats, Human Rights Across Borders: The Impact of Global Terrorism on Immigration Law and Policy; UCLA School of Law (2006)

"Is Reform 'Comprehensive' Without Due Process?" 2 *New Americans* (2006) (published by Grantmakers Concerned with Immigrants and Refugees)

Presenter and Moderator, Ninth Circuit Court of Appeals Appellate Practice Workshop, Federal Bar Association (San Francisco and Los Angeles 2006, 2005)

Cornell Law School, Symposium on Developments in the Law of Habeas Corpus. Presentation "Navigating the Road to the Courthouse Door: Judicial Review for Immigrants After *INS v. St. Cyr*," (2005)

New York Law School Symposium on Immigration Law and Federal Courts. Perspective from Litigators, Seeking Review: Immigration Law and Federal Court Jurisdiction. (2005)

"Immigrants' Rights Post-9/11: Detention, Deportation and Discrimination," 25 *In Defense of the Alien* (2003)

"1996 Immigration Act: Federal Court Jurisdiction -- Statutory Restrictions and Constitutional Rights," 74 *Interpreter Releases* 245 (1997)

"'Court-Stripping' in the 1996 Immigration Laws: A Dangerous Precedent," 20 *In Defense of the Alien* 213 (1997)

"Immigration Legislation and Due Process: The Forgotten Issue," 19 *In Defense of the Alien* 25 (1996)

"Employer Sanctions and the National Identity Card," Testimony before House Judiciary Subcommittee on International Law, Immigration and Refugees (1993)

"IRCA-Related Employment Discrimination: Problems, Procedures and Recent Developments," American Bar Association Annual Meeting (1992)

"Temporary Protected Status for Haitians," Testimony before House Judiciary Subcommittee on International Law, Immigration, and Refugees (1991)

"Marriage Fraud: Yesterday, Today and Tomorrow," Department of Justice, Annual Conference of Immigration Judges (1991)

The Rights of Aliens and Refugees, Southern Illinois University Press (2d ed. 1990) with D. Carliner, A. Helton & W. Henderson

"Immigration-Related Employment Discrimination: IRCA's Prohibitions, Procedures and Remedies," 37 *Fed. Bar News & J.* 23 (Jan. 1990)

"Marriage Fraud and Immigration Reform," Testimony before House Judiciary Subcommittee on Immigration, Refugees, and International Law (1989)

"Report of the Committee on Immigration and Nationality Law of the Bar of the City of New York: An Analysis of Discrimination Resulting from Employer Sanctions and a Call for Repeal," 26 *San Diego L. Rev.* 711 (1989) with M. Davis & A. Wernick

"IRCA's Anti-Discrimination Prohibitions and Procedures," Administrative Law Judge Course on the

Immigration Reform and Control Act of 1986 sponsored by The Legal Education Institute of the U.S. Department of Justice (1987)

The INS and Outs of Immigration Law (clinical course book) with H. Rabb (2d ed. 1984)

Selected Professional Activities and Boards

Iraqi Refugee Assistance Project (IRAP) Board of Directors (2012 – present)

Unbound Philanthropies, Consultant to Board of Directors, New York, NY (2011-present)

American Immigration Lawyers Association, Federal Litigation Section (founding member steering committee) (2011 – present)

American Immigration Council, Board of Trustees (2011 – present)

American Constitution Society, Co-Chair Access to Justice Issues Group (2005 - present)

National Immigration Law Center, Los Angeles, CA, Board of Directors (1998 – present)

American Bar Association, Vice-Chair Rights of Immigrants Committee, Section on Individual Rights and Responsibilities (2006 – 2010)

National Immigration Forum, Washington, DC, Board of Directors (1989-2001)

American Bar Association Coordinating Committee on Immigration Law (1994-98)

Co-Chair, Immigration Law Committee, Section on Labor Law, American Bar Association (1987-96)

Advisory Group, Columbia University Center for the Study of Human Rights, Human Rights Advocates Program (1992-98)

Chair, National Advisory Committee, Asylum Study Project of Harvard Law School (1992-94)

Consultant, Clinton Administration Presidential Transition Team for Immigration and Naturalization Service (1992)

Harvard Law School, Faculty-appointed committee to evaluate Law School immigration program; principal author committee report (1989) (with Prof. Mary Ann Glendon & Robert Juceam)

Advisory Board, American Immigration Law Foundation Legal Action Center (1988-92)

Advisory Board, American Friends Service Committee Immigration Law Enforcement Monitoring Project (ILEMP) (1984-86)

Employment Before Law School

International Commission of Jurists (ICJ) (New York). International legal human rights organization. Monitored human rights hearings and bodies at United Nations Headquarters for ICJ.

College Preparatory School (CPS) (Berkeley, California). Taught courses on Chinese history at highly selective private high school.

Bar Admissions

State of California; State of New York; United States Supreme Court; numerous federal courts of appeals and district courts.

(January 2013)