

Michael R. Masinter

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Professional Employment:

Nova Southeastern University Shepard Broad College of Law Since 1978

Professor of Law with Tenure, 1985 – present

Associate and Assistant Professor of Law, 1978 – 1985

Current Courses: Civil Procedure (since 1984); Constitutional Law II (since 2006); Employment Discrimination (since 1982); Negotiable Instruments (since 1978)

Other Courses: Antitrust, Civil Clinic Civil Rights Litigation, Criminal Clinic, Evidence, Federal Courts, Sales

University of Miami Law School

Visiting Professor of Law 2008-2009, 2004, Civil Procedure I and II, Negotiable Instruments

Adjunct Professor of Law, 1977-1978 Law and the Poor

Florida Rural Legal Services, Inc. 1973-1978

Director of Litigation, 1975-1978

Managing Attorney and Staff Attorney, 1973-1975

Education:

Juris Doctor, Georgetown University Law Center 1973, Topics Editor, American Criminal Law Review

Bachelor of Arts, Political Science, Stanford University 1968

Bar Admissions:

Florida, United States Supreme Court, United States Court of Appeals, Eleventh Circuit and former Fifth Circuit, United States District Courts, Southern and Middle Districts of Florida

Publications:

Federal Practice Manual for Legal Services Attorneys (National Clearinghouse for Legal Services 1988, Supp. 1991) (Editor, Principal Author)

The New Nova Curriculum: Training Lawyers for the Twenty-First Century (with Roger I. Abrams), 12 Nova L. Rev. 77 (1987)

The Non Unanimous Jury Verdict, 11 Am. Crim. L. Rev. 537 (1973)

Federal Practice Manual for Legal Aid Attorneys (Sargent Shriver National Center on Poverty Law (2002 and 2007) (Contributing Editor)

Title Three of the ADA and Privately Operated Cruise Ships, 790 PLI/Comm 519 (1999)

Employment Discrimination, Cases and Materials (Internal Publication, Nova Southeastern University 1991, Rev. Eds. 1992 – 2003, 2005-2013)

New Disability Diagnoses Complicate Academic Dismissal Proceedings, 12 DCHE No. 2, at 7 (2006)

Don't Accommodate Students' Cheating, 12 DCHE No. 5, at 5 (2006)

Multiple Chemical Sensitivity Is Accommodation Gray Area, 12 DCHE No. 9, at 3 (2007)

Must You Accommodate Misconduct? A Federal Court Says 'Yes', 13 DCHE No. 1, at 3 (2007)

Understand How Room Charge Plays Into Single Room Requests, 13 DCHE No. 5, at 3 (2007)

Singh on appeal: Understanding old, new lessons from case, 13 DCHE No. 6, at 3 (2008)

Understand why ADA Restoration Act should matter to you, 13 DCHE No. 9, at 3 (2008)

Newly Proposed ADA Rules Define Service Animal, Exclude Emotional Support Animals, 13 DCHE No. 12, at 5 (2008)

What Should You Do When Two Requests for Reasonable Accommodation Conflict, 14 DCHE No. 3, at 3 (2008)

The ADAAA, Academic Adjustments, and Fundamental Alterations: Remember *Guckenberger v. Boston University* and *Wynne v. Tufts*, 14 DCHE No. 6, at 3 (2009)

Court Applies Both Narrow and Expanded Definitions of Disability in Single Case, 14 DCHE No. 12, at 3 (2009)

Understand Accessibility Issues Brought Up By Kindle Litigation, 15 DCHE No. 3, at 3 (2009)

Case May Discourage Institutions From Offering Non-Degree Programs for Students With Cognitive Disabilities, 15 DCHE No. 3, at 3 (2010)

Proposed EEOC Regulations Offer Guidance For Dealing With Broadened Definition of Disability, 15 DCHE No. 6, at 3 (2010)

Warning: DOJ On Lookout for Inaccessible Web pages, 15 DCHE No. 12, at 3 (2010)

Understand New ADA Service Animal Regulations, 16 DCHE No. 3, at 3 (2010)

Institutions Win Claims Based on Accommodation Disclosure 16 DCHE No. 6 at 3 (2011)

While ADA Doesn't Cover Emotional Support Animals, FHA Does 16 DCHE No. 9 at 3 (2011)

Section 504 Doesn't Require Study Abroad Accommodations, 17 DCHE No. 3, at 3 (2011)

Spring Arbor Decision Offers Lessons for Dealing With Disruptive Students Who May Have a Disability, 17 DCHE No. 6, at 3 (2011);

Taking Action When Students Pose Threat to Self Still Possible Under ADA, 17 DCHE No. 8, at 3 (2012);

Court Vacates Ruling Allowing Access to Degree Program Housing for Nondegree Student With Intellectual Disabilities, 17 DCHE No. 10, at 3 (2012);

Mixed Signals on Documentation For Emotional Support Animals, 17 DCHE 12, at 3 (2012)

Question Basis For Single Room Requests To Determine Necessity, 18 DCHE 2, at 3 (2012)

Nut Allergies Generally Do Not Require Residence Accommodations, 18 DCHE 4, at 3 (2012)

Food Allergy Settlement With DOJ Offers Valuable Lessons, 18 DCHE 8, at 3 (2013)

Disability or Not, Accommodate Functional Impairments of Normal Pregnancy, 18 DCHE 10, at 3 (2013)

HUD Notice On Emotional Support Assistance Animals Has Important Implications For Institutions, 18 DCHE 12, at 3 (2013)

Institutions Have Legal Duty To Accommodate Pregnant Students, 19 DCHE 2, at 3 (2013)

Understanding The Limits Of The Principle of Academic Deference, 19 DCHE 4, at 3 (2013)

Help Ensure Access to Outside Placements, But Know What To Do When Your Efforts Fail, 19 DCHE 6, at 3 (2014)

Requiring Faculty to Provide Alternate Format Exams As An Accommodation May Be Unreasonable, 19 DCHE 8, at 3 (2014)

Make Sure Your Anti-Harassment Policy Provides Victims a Path To Prompt Remedial Action, 19 DCHE 10, at 3 (2014)

Help Admissions Officials Avoid Disability Discrimination or the Appearance of Disability Discrimination in the Admissions Process, 19 DCHE 12, at 3 (2014)

LSAC Settlement Offers Tips For Evaluating Testing Accommodation Requests, 20 DCHE 2, at 3 (2014), reprinted at 15 Campus Legal Advisor 6 (2015)

Offer Prompt Remedial Action to Disability Harassment Victims, 17 Student Affairs Today 7, at 6 (2014)

Requiring Excessive Documentation For Emotional Support Animals May Violate Law, 20 DCHE 4, at 3 (2014)

Understand How To Evaluate Requests for Emotional Support Animals As Classroom Accommodations, 20 DCHE 6, at 3 (2015)

Best Practices Report from LSAC Settlement Offers Guidance, 20 DCHE 9, at 3 (2015)

Consider Possible Impact On Your Procedures Of Best Practices Report For Extended Time for LSAT, 20 DCHE 11, at 3 (2015)

Consider Your Campus Housing Policy on Emotional Support Animals In Light of Legal Claims, 21 DCHE 1, at 3 (2015)

Avoid the Word “Reasonable” in Accommodation Policies, 21 DCHE 3, at 3 (2015)

Justice Department Consent Decree Gives New Power to Campuses over Emotional Support Animals, 21 DCHE 5, at 6 (2015), republished at 16 Campus Legal Advisor 7, at 1 (2016)

Consider Recent ADA Ruling That Gives Team Physician Greater Power Over Athletic Eligibility, 21 DCHE 7, at 1 (2016)

Be Ready for Lawsuit Even if OCR Finds No Section 504 Violation, 21 DCHE 9, at 3 (2016)

Understand Risks of Using Behavior Contracts as Misconduct Sanctions, 21 DCHE 11, at 1 (2016)

Publicly Available School Websites – Caption or Censor? 22 DCHE 1, at 1 (2016)

Other Published Research:

Summary of Significant Eleventh Circuit Decisions 2015 – August 19, 2016 (ACLUFL CLE Text September 2016)

Selected Significant Decisions From The Eleventh Circuit Decided Since 2010 (ACLUFL CLE Text Summer 2012)

Emotional Support Animals (Florida Bar CLE Text June 2007)

Selected Significant Decisions From The Eleventh Circuit Decided During the Past Twelve Months (ACLUFL CLE Text Summer 2007)

Selected Significant Decisions From The Eleventh Circuit Decided During the Past Twelve Months (ACLUFL CLE Text Summer 2006)

The Class Action Fairness Act of 2005 and *Exxon Mobil Corp. v. Allapattah Services, Inc.*, 125 S. Ct. 2611 (2005) (ACLUFL CLE Text Summer 2005)

Selected Significant Decisions From The Eleventh Circuit Decided During the Past Twelve Months (ACLUFL CLE Text Summer 2005)

Psychiatric Impairments, No Pet Rules, Emotional Support Pets and The Fair Housing Act (Florida Bar CLE Text June 2005)

Strategies for Preventing Removal and Forcing Remand (With James K. Green) (ACLUFL CLE Text Summer 2003)

Speeches and Invited Presentations:

“L’etat, C’est Moi” Is Not a Religious Accommodation, Religious Freedom Institute Panel, Should Individuals in Government Jobs Be Required to Act Against Their Consciences By Participating in Same-Sex Weddings, <http://www.religiousfreedominstitute.org/cornerstone/2016/7/14/letat-cest-moi-is-not-a-religious-accomodation?rq=masinter> (2014).

Florida Bar A+ Seminar: Accommodation, Access, and Affirmative Action U.S. Supreme Court Review (August 2009);

American University Law School, Assisting Law Students With Disabilities in the 21st Century, published under the same title at 15 American University Journal of Gender, Social Policy and the Law 791 (2007).

Florida Bar, Emotional Support Animals (2007)

ACLU of Florida Lawyer’s Conference (“Schiavo and Disability Rights” August 2005)

ABA Section of Labor and Employment Law, EEO Basics (“Employment Discrimination Law” June 2005)

Florida Bar Annual Meeting, Section on Animal Law (“Therapy Pets and the Fair Housing Act” June 2005)

ABA Young Lawyers Division and GP/SOLO, National Meeting, Miami Beach (“Privacy in the Workplace: Criminal and Civil Implications” May 2005)

AHEAD (Association on Higher Education and Disability) 2004 (Miami Beach, Florida)

Keynote Speaker, North Carolina Association on Higher Education and Disability (Oct. 16-17, 2003)
AHEAD 2002 (Atlanta, Georgia)

Selected Professional Activities:

Chair, Legal Panel and Member of Executive Board and Board of Directors, American Civil Liberties Union of Florida, Inc., 1993-2014; Member of Legal Panel since 2014

Editorial Advisory Board, Section 504 Compliance Handbook (Thompson Publishing Group 2008-2011)
Consultant, Legal Services Corporation, Provided Federal Litigation Training

Mediator, Employment and Civil Rights Disputes

CLE Presentations:

American Civil Liberties Union

National Employment Lawyers Association

The Florida Bar

Volunteer Lawyers’ Project, United States District Court for the Southern District of Florida

ABA Section on Labor and Employment Law

ABA Young Lawyers Division

Practicing Law Institute

Selected University Service:

NSU Institutional Review Board (since 2006)

Chair, Special Ad Hoc Committee On Bar Exam Performance (2007-2008) (Reviewed, analyzed, and reported on the contributing causes of variations in bar exam performance of students over twenty year period)

Selected Pro Bono Litigation:

Buckley v. Rackard, No. 08-996 (petition for certiorari filed, February 2, 2009); response ordered, *certiorari denied*, 556 U.S. 1235 (2009) (sought review of *Buckley v. Haddock*, 292 Fed. Appx. 791 (11th Cir. 2008) granting qualified immunity to deputy sheriff for excessive force in repeatedly tasing arrestee; counsel in Supreme Court only);

Houston v. Williams, 547 F.3d 1347 (11th Cir. 2008) (unsuccessful challenge to county policy excluding from eligibility for federally subsidized weatherization assistance all convicted sex offenders);

Hundermark v. State of Florida Dep't of Transportation, 205 F.3d 1272 (11th Cir. 2000) (Court appointed appellate counsel for plaintiff, holding that Equal Pay Act constitutionally abrogated state Eleventh Amendment immunity, remanding for further litigation);

Barnett v. Doctor's Associates, Inc., No. 99-13843-H (11th Cir. 2000) (Counsel for Amicus Curiae ACLU in appeal from order imposing monetary sanctions on trial counsel for good faith attempt to expand existing law under 42 U.S.C. § 1986);

Holmes (Connie) v. Wal-Mart Stores, Inc., No. 96-3593 (11th Cir. 1998) (affirming judgment for plaintiff under Title VII for compensatory and punitive damages of three hundred thousand dollars for hostile environment sexual harassment);

Holmes (Elaine) v. Georgia-Pacific Corp., No. 94-4793 (11th Cir. 1996) (affirming judgment for plaintiff in first Title VII case tried under Civil Rights Act of 1991, affirming award of one dollar in compensatory damages, two hundred ninety-nine thousand nine hundred ninety-nine dollars in punitive damages, together with backpay and frontpay, for victim of intentional sex discrimination);

Massaro v. Mainlands Section 1 and 2 Civic Ass'n, 3 F.3d 1472 (11th Cir. 1993), reversing 796 F. Supp. 1499 (S.D. Fla. 1992) (First case to establish standards strictly limiting exemption from familial status discrimination prohibition of Fair Housing Act, reversing judgment for homeowner association and remanding for entry of judgment for victims of familial status discrimination in adult only subdivision and for determination of damages);

ACLU v. The Florida Bar, 999 F.2d 1486 (11th Cir. 1993) (reversing dismissal of suit by candidate for judicial office challenging as violative of first amendment canon requiring candidate for judicial office to maintain dignity of office as applied to forbid proposed speech disclosing truthful information regarding his opponent, the incumbent circuit judge, that included that the opponent had been convicted of leaving the scene of an accident, that he had been the subject of three FBI investigations, and that he had appointed, in his former capacity as state attorney, a chief investigator who was later convicted of assisting a drug smuggler);

Huddleston v. Roger Dean Chevrolet, Inc., 845 F.2d 900 (11th Cir. 1988) (reversed judgment for employer in sexual harassment claim, established standards for imputing to employer liability for sexual harassment by supervisor, remanded for entry of judgment for plaintiff);

Thomas v. Florida Power & Light Co., 764 F.2d 768 (11th Cir. 1985) (reversed judgment for employer in Title VII claim, established standard for determining compliance with statutory timely charge filing requirement);

Davis v. Page, 714 F.2d 512 (5th Cir. 1983) (en banc), cert. denied, 464 U.S. 1062 (1984), on remand from *Chastain v. Davis*, 458 U.S. 1118 (1982), vacating *Davis v. Page*, 640 F.2d 599 (5th Cir. 1981)(en banc), on rehearing from *Davis v. Page*, 618 F.2d 374 (5th Cir. 1980), affirming *Davis v. Page*, 442 F. Supp. 258 (S.D. Fla. 1977) (establishing parent's right to counsel in Florida Dependency proceedings, securing return of child removed from maternal custody in violation of due process clause of fourteenth amendment);

Zamarippa v. Cy's Car Sales, Inc., 674 F.2d 877 (11th Cir. 1982) (Truth in Lending Suit establishing that migrant farmworkers who could not read English language credit cost disclosure statements could recover for statutory penalties for disclosure violations);

Copley v. BAX Global, Inc., 97 F. Supp. 2d 1164 (S.D. Fla. 2000) (recovered Title VII and Florida Civil Rights Act (FCRA) national origin discrimination judgment, established favorable standard for reconciling differing statutory damages caps provided by Title VII and Florida Civil Rights Act);

American Civil Liberties Union of Florida v. The Florida Bar, 744 F. Supp. 1094 (S.D. Fla. 1990) (preliminarily and later permanently enjoined enforcement of Canon 7(B)(1)© insofar as it prohibited candidates for judicial office from announcing views on disputed legal or political issues as unconstitutional under First Amendment) *Limbaugh v. Florida*, 887 So. 2d 387 (Fla. App. 2004) (amicus curiae on behalf of ACLU defending medical privacy rights of nationally syndicated talk radio host);

Dugart v. Florida, 578 So. 2d 789 (Fla. App. 1991) (vacated conviction and guilty plea, established obligation of Florida courts to advise criminal defendants that guilty plea could subject them to deportation).