

PARTNER

RADHA PATHAK

NYU, J.D. (2000)

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Radha A. Pathak represents clients in high-stakes matters and high-impact *pro bono* cases. Prior to joining the firm full time, she was an Associate Dean of Student & Alumni Engagement, Associate Professor of Law (with tenure), and Director of the Institute for Trial and Appellate Practice at Whittier Law School. She also served as a judicial clerk to the Honorable Raymond C. Fisher of the United States Court of Appeals for the Ninth Circuit.

Radha has been litigating cases before the United States Supreme Court since 2005. In 2017, she received the *Daily Journal's* prestigious California Attorney Lawyer of the Year (CLAY) award for her victory in *Montanile v. Board of Trustees*, 136 S.Ct. 651 (2016), a case in which she served as lead Supreme Court counsel. She has been a core team member on virtually all of the firm's other Supreme Court merits cases, such as *Thole v. U. S. Bank N.A.*, 140 S.Ct. 1615 (2020), *Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC*, 139 S.Ct. 881 (2019), *Microsoft v. Baker*, 137 S.Ct. 1702 (2017), *Merrill Lynch v. Manning*, 136 S.Ct. 1562 (2016), and *Gobeille v. Liberty Mutual Ins. Co.*, 136 S.Ct. 936 (2016). She has also litigated numerous cases involving complex procedural issues in federal district and appellate courts throughout the country.

Radha frequently speaks and writes about complex procedural issues, especially those pertaining to ERISA. Her ERISA publications include *Enough*



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About the Constitution: How States Can Regulate Health Insurance Under the ACA, 31 Yale L. & Pol'y Rev. 275 (2013) (with Brendan S. Maher), *Health Insurance and Federalism in Fact*, 28 ABA J. Lab. & Emp. L. 73 (2012) (with Brendan S. Maher), *Discretionary Clause Bans & ERISA Preemption*, 56 S.D. L. Rev. 500 (2011), *Statutory Standing and the Tyranny of Labels*, 62 Okla. L. Rev. 89 (2009), and *Understanding and Problematizing Contractual Tort Subrogation*, 40 Loy. U. Chi. L.J. 49 (2008) (with Brendan S. Maher). As a professor, she taught appellate advocacy, civil procedure, evidence, federal courts, remedies, and torts.

Radha received her J.D., *cum laude*, from New York University Law School where she was an editor of the New York University Law Review. She received her B.A. in Political Science with honors from the University of California at Berkeley.

Radha currently serves on the Amicus Brief Committee of the National Asian Pacific American Bar Association.

Associations

National Asian Pacific American Bar Association, amicus committee co-chair

Employee Benefits Law Treatise, chapter co-editor

Speaking Engagements

Moderator and Panelist: ERISA Civil Procedure Update, ABA Joint Committee on Employee Benefits, Webinar (March 2022)

ERISA at the U.S. Supreme Court, Advanced ERISA Litigation Virtual Seminar (November 2021)





IP at the Supreme Court Series: Unicolors, Inc. v. H&M Hennes & Mauritz, LP, American University Washington College of Law (November 2021)

ERISA Preemption, Virtual National Institute on ERISA Basics (October 2021)

ERISA at the Supreme Court, Midwinter Webinar Meeting of the Employee Benefits Committee, ABA Section of Labor and Employment Law (February 2021)

Three Strikes and You're In – Supreme Court Decides Three ERISA Cases, With More to Come, Practicing Law Institute (PLI) Webinar (June 2020)

ERISA at the Supreme Court, Midwinter Meeting of the Employee Benefits Committee, ABA Section of Labor and Employment Law (February 2020)

Subrogation and Reimbursement Claims, National Institute on ERISA Basics, ABA Joint Committee on Employee Benefits (October 2019)

Fiduciary Update, Midwinter Meeting of the Employee Benefits Committee, ABA Section of Labor and Employment Law (February 2019)

Fiduciary Litigation Update, Midwinter Meeting of the Employee Benefits Committee, ABA Section of Labor and Employment Law (February 2018)

Medical Provider Claims: Assignment, Standing & Penalties, ACI's 14th National Forum on ERISA Litigation (March 2017)

New Civil Procedure Rules and ERISA Litigation, ABA Joint Committee on Employee Benefits Webinar (September 2016)

Training Regarding the Effect of Montanile v. Bd. of Trustees of NEI Health Benefit Plan on Pension Recoupment Claims, Pension Rights Center (April 2016)

Robust Enforcement at Last? Medical Providers as the New ERISA Enforcers, University of Connecticut School of Law, Fifth Annual National Benefits & Social





Insurance Conference (April 2016)

Fiduciary Update, Midwinter Meeting of the Employee Benefits Committee, ABA Section of Labor and Employment Law (February 2016)

Equitable Remedies After Rochow: Has Anything Really Changed?, ABA Joint Committee on Employee Benefits Webinar (June 2015)

The Gathering Storm: How Should Plan Fiduciaries Address Health Care Provider Overbilling?, ABA Joint Committee on Employee Benefits Webinar (June 2015)

Moderator: The Affordable Care Act Turns Five, Views of the Cathedral, University of Connecticut School of Law, Annual Conference of the Insurance Law Center (April 2015)

Equitable Lien by Agreement, Drexel University School of Law, Fourth Annual Employee Benefits Conference (March 2015)

Remedies After Amara, ABA Section of Labor and Employment Law, Midwinter Meeting of the Employee Benefits Committee (February 2015)

Moderator: The Future of Public Pension Plans and Other Non-ERISA Plans, Marquette University Law School, Third Annual ERISA, Employee Benefits, and Social Insurance National Conference (March 2014)

Employee Benefits in an Era of Retrenchment, Washington University School of Law (March 2012)

Federalism Today, University of Pennsylvania School of Law, 15th Anniversary Symposium of the University of Pennsylvania Journal of Constitutional Law (January 2012)

Moderator: Land Use and Federalism, SEALS Annual Meeting, Land (July 2011)





Perspectives on ERISA, University of South Dakota School of Law, South Dakota Law Review ERISA Symposium (February 2011)

Does Federalism Serve Progressive Justice?, LatCritXV (October 2010)

Incorporated State Law, University of Illinois Law School, Third Annual Junior Faculty Federal Courts Workshop (October 2010)

The Supreme Court, Orange County Roosters (August 2010)

Statutory Standing and the Tyranny of Labels, University of Houston Law Center (February 2009)

Moderator: Appearances and Realities of Power Across Scales: Dilemmas of Categorization, LatCrit XII (October 2007)

Moderator: Clarifying Equitable Remedies: The Supreme Court's Sereboff Decision and Implications for Subrogation and Contracting, American Health Lawyers Association Webinar (October 2006)

Dalits in India: The Criminalization of Status, LatCrit XI (October 2006)

Can AEDPA "Be Reasonable"? How Federal Courts Should Apply California's Indeterminate Law of Timeliness, Northeast POC Legal Scholarship Conference (July 2006)

Moderator: Connecting the Rights Deficit at Home with the Rights Deficit Abroad, Western Law Professors of Color Conference (March 2006)

The Constitutional Basis of "Related To" Bankruptcy Jurisdiction, National People of Color Legal Scholarship Conference (October 2004)

Choosing a Legal Career, First National South Asian Bar Association Conference (June 2004)





Publications

Mandatory Arbitration of ERISA Claims, Employee Benefits Committee Newsletter (Spring 2021 Issue)

9th Circuit Rightly Upholds California's Retirement Backstop, Daily Journal (May 21, 2021) (with John Stokes)

Enough About the Constitution: How States Can Regulate Health Insurance Under the ACA, 31 Yale L. & Pol'y Rev. 275 (2013) (with Brendan S. Maher)

Health Insurance & Federalism-in-Fact, 28 A.B.A. J. Lab. & Emp. L. 73 (2012) (peer-edited, with Brendan S. Maher)

Incorporated State Law, 61 Case W. Res. L. Rev. 823 (2011)

Discretionary Clause Bans & ERISA Preemption, 56 S.D. L. Rev. 500 (2011)

Statutory Standing and the Tyranny of Labels, 62 Okla. L. Rev. 89 (2009) (cited by United States Supreme Court in *Lexmark Intern., Inc. v. Static Control Components, Inc.*, 134 S. Ct. 1377 (2014))

Understanding and Problematizing Contractual Tort Subrogation, 40 Loy. U. Chi. L.J. 49 (2008) (with Brendan S. Maher)

Breaking the "Unbreakable Rule": Federal Courts, Article I, and the Problem of "Related To" Bankruptcy Jurisdiction, 85 Or. L. Rev. 59 (2006)

When Procedure Stands in the Way of Justice, Daily Journal (Jan. 24, 2006)



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Awards

California Lawyer of the Year (CLAY), California Lawyer and Daily Journal (2017),
for work in *Montanile v. Bd. of Trustees of Nat. Elevator Indus. Health Benefit
Plan*, 136 S. Ct. 651 (2016)