

# REGISTRATION INFORMATION & FEES

## Fees:

\$60.00 for 4.5 Hours of CLE (application pending with The Supreme Court of Ohio)

Students may attend the symposium free of charge  
Boxed Lunch Available for \$10.00 [RSVP required]

Name: \_\_\_\_\_

Organization/Title: \_\_\_\_\_

Address: \_\_\_\_\_

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Daytime Phone: \_\_\_\_\_

Email: \_\_\_\_\_

\$70 for CLE credit and boxed lunch

\$60 for CLE credit only

\$10 for boxed lunch only

Free attendance (no CLE, no lunch)

Check or money order payable to **The University of Toledo Foundation**

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Register in one of several ways by **Tuesday, March 10, 2009**

1) Mail completed registration form to:

The University of Toledo Law Review  
The University of Toledo College of Law  
Mail Stop 507  
2801 West Bancroft St.  
Toledo, Ohio 43606-3390

2) Fax completed registration form to Law Review at: 419.530.4629

3) Download & complete registration form at [www.utlaw.edu/exparte](http://www.utlaw.edu/exparte)

4) Call 419.530.2962

For directions and other information, please visit [www.utlaw.edu/exparte](http://www.utlaw.edu/exparte) or call.

## EX PARTE YOUNG: THE FONT OF FEDERAL RIGHTS ENFORCEMENT

One hundred years ago, the United States Supreme Court decided the seminal case of *Ex parte Young*, authorizing private individuals to sue state officials who violate their federal rights. In *Ex parte Young*, the Court balanced the sovereignty of states against the federal rights of injured citizens and created a crucial vehicle for the vindication of those rights. Without *Ex parte Young*, there would have been no *Brown v. Board of Education* — indeed, there would be no significant doctrine of individual constitutional rights and millions of injured Americans would be left without access to federal courts. In recent years, the U.S. Supreme Court has revived the doctrine of sovereign immunity and increased the procedural hurdles for plaintiffs seeking to enforce their federal rights. These developments have increased the importance of *Ex parte Young* to federal rights litigation in the twenty-first century.

Participants in this symposium will discuss the historical significance of *Ex parte Young* and the role that it plays in maintaining our system of federalism. They will also explore recent developments and suggest strategies to use *Ex parte Young* as a vehicle for federal rights enforcement in light of recent Supreme Court rulings. Participants' papers will appear in Volume 40, Issue 4 of The University of Toledo Law Review.



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## EX PARTE YOUNG: THE FONT OF FEDERAL RIGHTS ENFORCEMENT

Celebrating the Centennial 1908-2008

At The University of Toledo College of Law Auditorium  
FRIDAY, MARCH 20, 2009

SPONSORED BY THE UNIVERSITY OF TOLEDO LAW REVIEW

# EX PARTE YOUNG SYMPOSIUM

## SCHEDULE OF EVENTS • FRIDAY, MARCH 20, 2009

8:00 – 8:30 a.m.	<b>REGISTRATION</b>
8:30 – 8:40 a.m.	<b>OPENING REMARKS</b> <b>Douglas E. Ray, Dean</b> , The University of Toledo College of Law
8:40 – 9:00 a.m.	<b>INTRODUCTION TO <i>EX PARTE YOUNG</i></b> <b>Rebecca E. Zietlow</b> , Charles W. Fornoff Professor of Law and Values, The University of Toledo College of Law
9:00 – 10:30 a.m.	<b>PANEL 1: <i>EX PARTE YOUNG</i> AND FEDERAL RIGHTS ENFORCEMENT IN THE TWENTY-FIRST CENTURY</b> <b>Rochelle Bobroff</b> , Directing Attorney, Herbert Semmel Federal Rights Project, National Senior Citizens Law Center <b>Marianne Engelman Lado</b> , General Counsel, New York Lawyers for the Public Interest <b>David L. Sloss</b> , Professor of Law and Director of the Center for Global Law and Policy, Santa Clara University School of Law <b>Moderator: Benjamin G. Davis</b> , Associate Professor of Law, The University of Toledo College of Law
10:30 – 10:45 a.m.	<b>BREAK</b>
10:45 a.m. – 12:15 p.m.	<b>PANEL 2: <i>EX PARTE YOUNG</i> AND THE BALANCE OF FEDERALISM</b> <b>Charlton Copeland</b> , Associate Professor of Law, University of Miami School of Law <b>Marcia L. McCormick</b> , Associate Professor of Law, Samford University Cumberland School of Law <b>Robert Schapiro</b> , Professor of Law, Emory University School of Law <b>Moderator: Jessica Knouse</b> , Assistant Professor of Law, The University of Toledo College of Law
12:15 – 2:00 p.m.	<b>LUNCH</b>
2:00 – 3:30 p.m.	<b>PANEL 3: <i>EX PARTE YOUNG</i>’S ROLE IN THE HISTORY OF FEDERAL COURTS</b> <b>James Leonard</b> , Associate Dean for Legal Information Services and Professor of Law, The University of Alabama School of Law <b>Edward A. Purcell, Jr.</b> , Joseph Solomon Distinguished Professor of Law, New York Law School <b>Michael E. Solimine</b> , Donald P. Klekamp Professor of Law, University of Cincinnati College of Law <b>Moderator: Rebecca E. Zietlow</b> , Charles W. Fornoff Professor of Law and Values, The University of Toledo College of Law

### PANEL 1: *EX PARTE YOUNG* AND FEDERAL RIGHTS ENFORCEMENT IN THE TWENTY-FIRST CENTURY

Panelists will answer the question of why *Ex parte Young* matters to individuals seeking to enforce their federal rights and the attorneys who represent them. During the Supreme Court’s recent “federalism revolution,” the Court has repeatedly referred to *Ex parte Young* as the principle exception to the doctrine of sovereign immunity. Panelists will explain how to use *Ex parte Young* to circumvent barriers to federal rights enforcement that the Court has recently established.

#### ROCHELLE BOBROFF, Using *Ex parte Young* to Enforce Safety Net and Civil Rights Statutes

Rochelle Bobroff is the Directing Attorney of the Herbert Semmel Federal Rights Project at the National Senior Citizens Law Center, which was formed to protect court access for individuals harmed by violations of federal law. She provides trainings nationwide and has written articles regarding judicial access issues, including preemption, section 1983, and sovereign immunity. She also manages a listserv of the latest developments in federal rights cases.

#### MARIANNE ENGELMAN LADO, The Supreme Court’s Restrictions on *Ex parte Young*

Marianne Engelman Lado is General Counsel to New York Lawyers for the Public Interest (NYLPI), where she oversees the litigation and advocacy program, including impact litigation, administrative advocacy, direct representation, community organizing, outreach, and intake. NYLPI’s docket focuses on issues of disability rights, environmental justice, and racial and ethnic disparities in access to health care.

#### DAVID L. SLOSS, The Constitutional Right to a Federal Preemption Defense

David Sloss is a professor at Santa Clara University School of Law, where he also serves as the Director of the Center for Global Law and Policy. He is the editor of *The Role of Domestic Courts in Treaty Enforcement: A Comparative Perspective* (forthcoming 2009, Cambridge Univ. Press). He has published numerous articles on federal courts and U.S. foreign affairs law.

### PANEL 2: *EX PARTE YOUNG* AND THE BALANCE OF FEDERALISM

Panelists will explore the delicate balance established by the Court in *Ex parte Young* between the states’ sovereignty and the federal rights enjoyed by individuals in our country. Does the availability of relief via *Ex parte Young* undermine our system of federalism by undermining states’ sovereign immunity? Or, is *Ex parte Young* an effective means of preserving the supremacy of federal law without unduly intruding upon the sovereign dignity of the states? Panelists will also explore the less recognized implications of *Ex parte Young* on our system of separation of powers.

#### CHARLTON COPELAND, *Ex parte Young* and the Constitutional Structure of Sovereign Immunity

Charlton Copeland is an associate professor at the University of Miami School of Law, where he has taught Civil Procedure, Administrative Law, and Federal Jurisdiction. Professor Copeland’s research interests include federalism, particularly its role in the relationship between state and federal courts, administrative law, and comparative constitutional law. He has also written in the area of law and humanities, particularly law and theology.

#### MARCIA L. MCCORMICK, Solving the Mystery of How *Ex parte Young* Escaped the Federalism Revolution

Marcia McCormick is an associate professor at Cumberland School of Law, Samford University, where she writes and teaches in the areas of federal courts, civil rights, and employment law. Prior to joining the faculty at Cumberland, she served as a visiting assistant professor at Chicago-Kent College of Law, litigated appeals in state and federal court for the State of Illinois, and investigated for the United Nations the use of sexual violence in war.

#### ROBERT SCHAPIRO, Intersystemic Injunctions

Robert Schapiro is a professor at Emory University School of Law, where he teaches constitutional law, federal courts, and civil procedure. Professor Schapiro’s current research focuses on federalism. Among his many publications is his forthcoming book, *Polyphonic Federalism: Toward the Protection of Fundamental Rights*. He also serves in directorship roles for two of Emory University’s legal specialty centers.

### PANEL 3: *EX PARTE YOUNG*’S ROLE IN THE HISTORY OF FEDERAL COURTS

Panelists will explain the historical context around *Ex parte Young*, a case which represented the expansion of judicial power even as popular sentiment resisted judicial activism during the *Lochner* era. As the century progressed, *Ex parte Young* became a source of equality rights as advocates for those rights embraced judicial activism. Panelists will discuss Congress’s reaction to this controversial case and consider the changing attitudes towards the federal judiciary throughout the twentieth century.

#### JAMES LEONARD, *Ex parte Young* in Hard Times

James Leonard is Professor of Law and Associate Dean for Legal Information Services at The University of Alabama School of Law, where he teaches Employment Discrimination and Disability Law. His scholarship is eclectic, but tends to focus on employment discrimination, disability law, and federalism. His article, Ubi Remedium Ibi Ius, *or, Where There’s a Remedy, There’s a Right: A Skeptic’s Critique of Ex parte Young*, appeared in the 2004 Syracuse Law Review.

#### EDWARD A. PURCELL, JR., *Ex parte Young* and the Transformation of the Federal Judiciary

Edward A. Purcell, Jr. is the Joseph Solomon Distinguished Professor at New York Law School, where he teaches courses on civil procedure, federal courts, civil rights law, and complex litigation. As one of the nation’s foremost authorities on the history of the United States Supreme Court and the federal judicial system, Professor Purcell has written four books and has published widely in law reviews and history journals.

#### MICHAEL E. SOLIMINE, *Ex parte Young: An Interbranch Perspective*

Michael Solimine is the Donald P. Klekamp Professor of Law at the University of Cincinnati College of Law, where he teaches Civil Procedure, Federal Courts, Conflicts of Laws, and Complex Litigation. His varied scholarship includes appellate litigation, empirical studies of various aspects of civil litigation in federal and state courts, and the doctrinal implications of the similarities and differences between the institutional structures of federal and state courts.