Timeline of Major Supreme Court Decisions on Women's Rights

1965

Griswold v. Connecticut, 381 U.S. 479. The ACLU files an *amicus* brief in this historic case in which the Court holds that the Constitution guarantees a "right to privacy" that encompasses the right of individuals to make decisions about intimate, personal matters such as childbearing. The Court invalidates a state law prohibiting the prescription, sale or use of contraceptives, even for married couples.

1971

Phillips v. Martin Marietta, 400 U.S. 542. The ACLU files an *amicus* brief, written by Susan Deller Ross, in the first women's rights Title VII case in the Supreme Court. The Court rules that an employer violates Title VII when it refuses to hire women with young children while hiring men who are similarly situated.

United States v. Vuitch, 402 U.S. 62. The ACLU's general counsel argues on behalf of the plaintiff in the first abortion case to reach the Supreme Court. The Supreme Court rejects the claim that a state law permitting abortion only to preserve a woman's life or health was unconstitutionally vague, holding that the term "health" includes considerations of psychological as well as physical well-being.

Reed v. Reed, 404 U.S. 71. The United States Supreme Court rules for the first time ever that a law that discriminates against women is unconstitutional under the Fourteenth Amendment, holding unanimously that a state statute that provides that males must be preferred to females in estate administration denies women equal protection of the law. Ruth Bader Ginsburg writes the brief for the ACLU.

1972

Eisenstadt v. Baird, 405 U.S. 438. The Court strikes down a state law that allows the distribution of contraception to married adults while prohibiting it to unmarried adults, holding that this law violates the Equal Protection Clause of the Fourteenth Amendment. This decision establishes that the right to privacy protects access to contraception for married and unmarried individuals alike. The ACLU files an *amicus* brief in this case.

1973

Roe v. Wade, 410 U.S. 113. In this landmark abortion rights case, the ACLU serves as co-counsel for plaintiffs challenging a Texas law prohibiting abortion at any stage of pregnancy, except to save the life of the mother. The Supreme Court invalidates the state law, holding that the constitutional right to privacy protects a woman's decision whether or not to terminate her pregnancy, characterizing this right to choose abortion as "fundamental." The Court holds that the state cannot interfere with a woman's decision to have an abortion without a compelling interest. The life of a fetus can be asserted as a compelling interest only once it becomes "viable," usually at the beginning of the third trimester, and the Court holds that even then, a woman has to have access to an abortion if it is necessary to preserve her life or health.

Doe v. Bolton, 410 U.S. 179. The ACLU successfully argues this *Roe v. Wade* companion case in which the Court overturns a Georgia law prohibiting abortions except when necessary to preserve the life or health of the mother, and in cases of fetal abnormality or rape. The Court also strikes

down the state law's requirement that all abortions be performed in accredited hospitals and that a hospital committee and two doctors, in addition to the woman's own doctor, give their approval for an abortion, finding that the restrictions interfere with a woman's decision whether or not to terminate her pregnancy.

Frontiero v. Richardson, 411 U.S. 677. In this case, the first argued before the Supreme Court by Ruth Bader Ginsburg, the Court strikes down a federal statute that automatically grants male members of the uniformed forces housing and benefits for their wives, but requires female members to demonstrate the "actual dependency" of their husbands to qualify for the same benefits. Four Justices conclude that laws differentiating by sex are inherently suspect and subject to strict judicial scrutiny.

Pittsburgh Press v. Pittsburgh Commission on Human Relations, 413 U.S. 376. The Court holds that application of a municipal prohibition on employers' use of sex-segregated "Male Help Wanted" and "Female Help Wanted" columns, to a newspaper that published these columns did not violate the publisher's First Amendment rights because the ads constituted commercial speech, and concerned activity – sex-based preferences in hiring – that was illegal. On behalf of the Women's Rights Project, Ginsburg co-authors an *amicus* brief in the case.

1974

Cleveland Board of Education v. LaFleur, 414 U.S. 632. The Court finds unconstitutional a Cleveland School Board rule, requiring women to take unpaid maternity leaves after the first trimester of pregnancy because of a conclusive presumption that pregnant women are no longer able to work. The Court further invalidates a section of the rule making a teacher ineligible to return to work until her child was three-months old. Ginsburg co-authors an *amicus* brief in the case.

Kahn v. Shevin, 416 U.S. 351. In this Women's Rights Project case, the Court holds that a Florida statute granting widows, but not widowers, an annual five hundred dollar exemption from property taxes is constitutional and does not violate the Equal Protection Clause because the purpose of the statute is to close the gap between men and women's economic situations.

Corning Glass Works v. Brennan, 417 U.S. 188. The Court for the first time considers an Equal Pay Act claim based on an employer paying women less than men for the same work, determining that the wage difference between Corning's female inspectors and male inspectors violates the Equal Pay Act. Ginsburg authors an *amicus* brief.

Geduldig v. Aiello, 417 U.S. 484. On behalf of the Women's Rights Project, Ginsburg co-authors an *amicus* brief that argues that laws discriminating on the basis of pregnancy make sex-based distinctions and should be evaluated under heightened scrutiny. The Court holds that a disability insurance program that denies benefits for disabilities resulting from pregnancy does not violate the equal protection clause, as it does not involve discrimination on the basis of sex, but discrimination between "pregnant and non-pregnant persons."

1975

Taylor v. Louisiana, 419 U.S. 522. In this ACLU case, the Court invalidates a Louisiana statute that allows women to serve as jurors only when they expressly volunteer, and requires states to call men and women to jury service on an equal basis.

Weinberger v. Weisenfeld, 420 U.S. 636. Ginsburg, on behalf of the Women's Rights Project, successfully argues that a provision of the Social Security Act providing for sex-based distinctions in the award of social security benefits is unconstitutional.

Stanton v. Stanton, 421 U.S. 7. The Court rules that a law setting the age of majority for women at eighteen and for men at twenty-one, based on the assumption that women need less education and preparation for adulthood than do

men, is unconstitutional. Ginsburg argues the case before the Court.

Bigelow v. Virginia, 421 U.S. 809. The Court invalidates a state law banning advertising by abortion clinics. The ACLU successfully argues that such bans violate the guarantees of freedom of speech and freedom of the press protected by the First Amendment.

Turner v. Department of Employment Security, 423 U.S. 44. In this Women's Rights Project case, the Court invalidates a state regulation making pregnant women ineligible for unemployment benefits for twelve weeks before birth and six weeks after birth regardless of their capacity to work.

1976

General Electric Co. v. Gilbert, 429 U.S.125. Ginsburg authors an *amicus* brief to the Court, arguing that the exclusion of pregnancy-related conditions from a private employer's disability plan violates Title VII. The Court concludes that pregnancy-based discrimination is not sex discrimination. Congress will override this decision in 1978, through passage of the Pregnancy Discrimination Act.

Craig v. Boren, 429 U.S. 190. The Court adopts a "heightened scrutiny" standard of review to evaluate legal distinctions on the basis of sex, which requires a sex-based legal distinction bear a substantial relationship to an important governmental interest. The Women's Rights Project works closely with the plaintiffs' attorney in the case and authors an *amicus* brief.

1977

Califano v. Goldfarb, 430 U.S. 199. In this Women's Rights Project case, argued by Ginsburg, the Court invalidates sex-based distinctions in the payment of social security survivor benefits, finding these distinctions to be based on archaic assumptions regarding women's dependency.

Carey v. Population Services, Int'l, 431 U.S. 678. The Court strikes down a New York statute restricting distribution and advertising of non-prescription contraception, holding that it burdens the right of individuals to use contraceptives and serves no compelling state interest, and that the ban on advertising violates the First Amendment. The Court further strikes down a provision banning the distribution of contraception to minors, though members of the court are not united in their reasoning. The ACLU authors an *amicus* brief cited in the plurality decision.

Dothard v. Rawlinson, 433 U.S. 321. The Court invalidates Alabama's height and weight requirements for prison guards that have the effect of excluding the vast majority of female candidates, finding that these requirements violate Title VII. However, the Court upholds Alabama's exclusion of women from many jobs as prison guards in all-male maximum security prisons, finding women could present a security risk. Ginsburg co-authors an *amicus* brief in the case.

Nashville Gas Co. v. Satty, 434 U.S. 136. The Court finds that an employer's policy of denying accumulated seniority to employees returning from pregnancy leave violates Title VII in the absence of proof of business necessity of such a practice. The Women's Rights Project coauthors an *amicus* brief.

1978

Los Angeles Department of Water and Power v. Manhart, 435 U.S. 702. On behalf of the Women's Rights Project, Ginsburg co-authors an *amicus* brief for this case in which the Court holds that requiring female workers to make larger pension fund contributions than their male counterparts violates Title VII.

Regents of the University of California v. Bakke, 438 U.S. 265. On behalf of the Women's Rights Project, Ginsburg co-authors an *amicus* brief successfully defending affirmative action in public higher education. In a split decision, four justices find that race-based affirmative action violates the Equal Protection

Clause, while the remaining four find that such consideration is constitutionally permissible.

1979

Duren v. Missouri, 439 U.S. 357. On behalf of the Women's Rights Project, Ginsburg successfully argues to the Court that a state statute exempting women from jury duty upon their request violates a defendant's Sixth and Fourteenth Amendment rights to be tried by a jury drawn from a fair cross section of the community.

Orr v. Orr, 440 U.S. 268. Ginsburg authors an *amicus* brief for this case, in which the Court invalidates on equal protection grounds statutes providing that husbands, but not wives, may be required to pay alimony upon divorce and thus casts off the assumption that wives are dependent upon their husbands for financial support but husbands are never dependent on wives.

Personnel Administrator of Massachusetts v. Feeney, 442 U.S. 256. The ACLU of Massachusetts represents the plaintiff in a challenge to legislation that unquestionably burdens women disproportionately to men by providing a lifetime employment preference for state government jobs to veterans, who are overwhelmingly male. The Court concludes that such a preference is not unconstitutional, as it was based on a distinction between veterans and non-veterans, not between men and women, thereby holding that to prevail on an equal protection claim, one must prove intent to discriminate, not merely disparate impact.

Califano v. Westcott, 443 U.S. 76. Ginsburg authors an *amicus* brief that helps persuade the Court to invalidate a program for unemployment benefits where benefits are provided to families with unemployed fathers, but not to those with unemployed mothers. The Court finds the program unconstitutional because of its presumption that fathers are primary breadwinners while mothers are homemakers.

Bellotti v. Baird, 443 U.S. 622. The ACLU represents plaintiffs challenging a state law requiring women under the age of 18 seeking abortions to obtain parental or judicial consent. The Court finds the statute unconstitutional because it gives either a parent or a judge absolute veto power over a minor's decision concerning abortion. In a plurality opinion, the Court provides that a parental consent requirement must contain an alternative bypass procedure to allow a minor to confidentially approach a court for authorization to receive an abortion and that this alternative procedure must be sufficiently confidential and expeditious as to not delay an abortion.

1980

Wengler v. Druggists Mutual Insurance Co., 446 U.S. 142. The Court strikes down a state law denying widowers worker's compensation benefits upon the work-related death of their wives unless they prove dependency or incapacity, while granting widows such benefits automatically. Ginsburg, on behalf of the Women's Rights Project, co-authors an *amicus* brief in the case.

Harris v. McRae, 448 US 297. The ACLU serves as co-counsel in this challenge to the Hyde Amendment, which bans the use of federal Medicaid funds for abortions except when necessary to preserve the life of the mother. However, the Court ultimately rejects this challenge and upholds the funding restrictions, reasoning that a woman's freedom to terminate her pregnancy does not entitle her, however indigent she may be, to the financial resources to do so. Despite the outcome concerning the federal ban, in subsequent years, the ACLU and its allies are successful in overturning many similar state funding bans under state constitutions.

1981

Kirchberg v. Feenstra, 450 U.S. 455. This Court case is the first to invalidate a law that gives a husband the right to control marital property without his wife's

consent. The Court overturns a Louisiana statute that gave husbands the exclusive right to dispose of community property, as an abridgement of married women's constitutional rights under the Equal Protection Clause of the Fourteenth Amendment. The Women's Rights Project signs onto an *amicus* brief with other women's rights groups.

County of Washington v. Gunther, 452 U.S. 161. In this case, in which the Women's Rights Project submits a key *amicus* brief, the Court holds that individuals can show illegal sex-based wage discrimination under Title VII even when no member of the opposite sex holds a nearly identical job.

Rostker v. Goldberg, 453 U.S. 57. The Court holds that mandatory draft registration for men only does not violate the Constitution, stating that special deference is accorded to Congress to make sex based distinctions for military service. The Women's Rights Project serves as co-counsel for plaintiffs challenging the sex-based requirement.

1982

Mississippi University for Women v. Hogan, 458 U.S. 718. The Court rules in this ACLU of Mississippi case that it is unconstitutional for a state to exclude men from a nursing school, as there is no important governmental interest in perpetuating women's over-representation in the nursing field.

1983

City of Akron v. Akron Center for Reproductive Health, 462 U.S. 416. The ACLU successfully participates in this case in which the Court strikes down a city ordinance restricting access to abortion. Among several holdings, the Court strikes down provisions of the law requiring minors to obtain parental consent for an abortion without a confidential alternative bypass procedure, imposing a 24-hour waiting period, requiring physicians to give women biased information designed to dissuade them from having an abortion, and requiring that all second-trimester abortions be performed in a hospital.

Newport News Shipbuilding Dry Dock Co. v. EEOC, 462 U.S. 669. The Court acknowledges that the Pregnancy Discrimination Act establishes that discrimination based on a woman's pregnancy is, on its face, discrimination because of sex, and thus supersedes *Gilbert*. An employer's health plan that covers pregnancy-related services for female employees more fully than for spouses of male employees discriminates on the basis of sex and is forbidden under Title VII.

Arizona Governing Committee v. Norris, 463 U.S. 1073. The Court holds that a state pension plan that allows employees to choose retirement benefits from one of several companies selected by the employer, all of which pay women lower benefits than men, violates Title VII. The Women's Rights Project authors an *amicus* brief.

1984

Hishon v. King & Spalding, 467 U.S. 69. The Court finds that partnerships are "employers" subject to Title VII's prohibition against sex discrimination, and that Title VII required the respondent law firm to consider women for partnership. The Women's Rights Project co-authors an *amicus* brief in this case.

Roberts v. United States Jaycees, 468 U.S. 609. The Women's Rights Project co-authors an *amicus* brief in this case, urging the Court to affirm the Minnesota courts' decision to strike down the Jaycees' policy of excluding women under state public accommodations law. The Court does so, holding that the Jaycees' exclusionary practices are not protected by the First Amendment and that Minnesota has a compelling interest in ending sex discrimination.

1986

Thornburgh v. American College of Obstetricians and Gynecologists, 476 U.S. 747. The Court invalidates provisions of a state law that, among other restrictions, requires physicians to use a method of abortion most likely to preserve the life of a fetus, even where such methods would increase the medical risk to the woman's life or health. The

ACLU co-authors an *amicus* brief in this case.

Meritor Savings Bank v. Vinson, 477 U.S. 57. The Court holds that sexual harassment that creates a hostile work environment is a form of sex discrimination prohibited by Title VII.

1987

California Federal Savings & Loan Association v. Guerra, 479 U.S. 272. In this case, an employer seeks a declaration that a state law requiring employers to provide pregnancy leave and reinstatement is preempted by the Pregnancy Discrimination Act's requirement that pregnancy be treated like other disabilities. The Court holds that the Pregnancy Discrimination Act does not prohibit practices favoring pregnant women, and that employers are free to provide comparable benefits to other disabled employees. The Women's Rights Project files an *amicus* brief.

Wimberly v. Labor & Industrial Relations Commission, 479 U.S. 511. The Court holds that a Missouri statute denying unemployment benefits to claimants who leave work "voluntarily" and "without good cause" can be applied to workers who leave because of pregnancy and is not preempted by a federal law that provides that no state can deny unemployment benefits to an individual solely on the basis of pregnancy. The Women's Rights Project files an *amicus* brief.

Johnson v. Transportation Agency, Santa Clara, 480 U.S. 616. In this Title VII case brought by a male employee who was passed over for promotion in favor of a female employee with a lower test score, the Court holds that an employer can take sex into account in such situations if it does so pursuant to an affirmative action plan meant to remedy the under-representation of women in traditionally sex-segregated jobs. The ACLU signs onto an *amicus* brief in this case.

1988

Bowen v. Kendrick, 487 U.S. 589. The ACLU represents plaintiffs challenging the Adolescent Family Life Act, which authorizes the use of federal funds to teach the value of "chastity" in the context of social and educational services for adolescents. Despite rejecting the claim that the Act facially violates the First Amendment's religious Establishment Clause, the Court remands the case to the lower court to determine whether the federal grants made pursuant to the Act were applied unconstitutionally to promote religious views or practices.

1989

Price-Waterhouse v. Hopkins, 490 U.S. 228. The Court holds that when gender discrimination plays a part in an employer's decision about an employee, an employer may still avoid Title VII liability if it proves that other reasons played a large enough role in the decision that it would have made the same decision in the absence of discrimination. The Women's Rights Project co-authors a major *amicus* brief in the case.

Webster v. Reproductive Health Services, 492 U.S. 490. The ACLU represents plaintiffs challenging a state law imposing restrictions on abortion, including prohibitions on the use of public employees and public facilities for the performance of abortions except those necessary to save a woman's life. The Court upholds these provisions restricting abortion, threatening the vitality of *Roe v. Wade* by enabling broader state abortion regulation.

1990

University of Pennsylvania v. EEOC, 493 U.S. 182. In this case involving a claim by a professor denied tenure that the denial was motivated by the negative evaluation of a department chairman who had sexually harassed her, the Court holds that universities have no privilege to withhold peer review materials relevant to charges of race or sex discrimination in tenure decisions.

Hodgson v. Minnesota, 497 U.S. 417. The Court invalidates the state's blanket parental notification requirement that minors notify both biological parents prior to obtaining an abortion without a procedure for a judicial waiver of the notice requirement. The Court upholds another provision of the law that enables minors to bypass the two-parent notification requirement by going to court to obtain judicial authorization for an abortion. The ACLU, representing the petitioners, thus secures for teenagers the option of going to court to obtain authorization for an abortion, when they could not comply with the parental notification requirement.

1991

United Auto Workers v. Johnson Controls, 499 U.S. 187. The Women's Rights Project authors an *amicus* brief that helps persuade the Court that Title VII forbids employers from adopting fetal-protection policies preventing fertile women from working in jobs that entail exposure to lead or other toxins that might harm a fetus. The case holds that women must be allowed to make their own decisions about pregnancy and dangerous work.

Rust v. Sullivan, 500 US 173. The ACLU represents a physician and other family planning providers in their challenge to the "gag rule," which prohibits recipients of family planning funds under Title X of the federal Public Health Service Act from providing counseling about or referrals for abortions. Despite the fact that under this rule health professionals cannot discuss all the medical options available to pregnant women, the Court holds that the rule did not violate either the freedom of speech or the right to privacy because organizations can establish separate entities that are not funded by the government which can provide such counseling and referrals. President Clinton later rescinds the "gag rule" by executive order in 1993.

1992

Franklin v. Gwinnet County Public Schools, 503 U.S. 60. The Court holds that Title IX supports a claim for monetary damages. In this case the high school student seeking damages claims she was sexually harassed and abused by her teacher and coach and that administrators were aware of the harassment and abuse but took no action to stop it and encouraged her not to press charges.

Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833. The ACLU participates in the fight to uphold the core holdings of *Roe v. Wade* in this challenge to a set of state restrictions on abortion. The Court preserves the constitutional right for a woman to choose abortion, but replaces the *Roe* standard with the less protective "undue burden" standard of review for evaluating state restrictions on abortion. Under the "undue burden" test, restrictions on abortion are valid unless they have the purpose or effect of placing a "substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." The Court, however, does strike down a spousal notification provision on the ground that it imposed an undue burden on the right to obtain an abortion.

1993

Harris v. Forklift Systems, 510 U.S. 17. The Court holds that a person does not have to prove psychological damage to prevail in a Title VII hostile work environment harassment suit, but can win based on evidence of conduct that a reasonable person would find abusive.

1994

J.E.B. v. Alabama, 511 U.S. 127 (1994) The Court holds that the Equal Protection Clause prohibits excluding potential jurors based solely on gender. The Court applied heightened scrutiny and found that peremptory challenges must have an "exceedingly persuasive" justification and cannot rely on gender as "a proxy for bias."

1996

United States v. Virginia, 518 U.S. 515. Justice Ginsburg delivers the opinion of the Court, ruling that the all-male Virginia

Military Institute's discriminatory admissions policy violates women's equal protection rights and that the parallel program the state had established at Mary Baldwin College did not remedy the constitutional violation because it failed to provide an educational opportunity substantially equal to that offered at VMI. The Women's Rights Project participates in this case as *amicus* and as advisor.

M.L.B v. S.L.J., 519 U.S. 102. The Court, in an opinion by Justice Ginsburg, holds that a state may not deny a parent the right to appeal termination of parental rights because poverty prevents her paying for the record; the state must supply the record itself. The Court finds the Mississippi statute in question to violate the equal protection and due process clauses of the Fourteenth Amendment.

1997

Schenck v. Pro-Choice Network of Western New York, 519 U.S. 357. The ACLU files an *amicus* brief in this case defending the constitutionality of two provisions of an injunction obtained by abortion clinics as a remedy against anti-abortion blockades and other disruptive forms of protest outside clinics. The Court upholds a 15-foot "fixed" buffer zone outside a clinic's doorway, driveway and parking lot entrance, but strikes down a 15-foot "floating" buffer zone around any person or vehicle seeking access to or leaving a clinic.

1998

Oncale v. Sundowner Offshore Services, 523 U.S. 75. The Court unanimously holds that Title VII prohibits same-sex sexual harassment. The case involves a male offshore oil rig worker subjected to sex-related humiliating actions and physical assault in a sexual manner by two male co-workers and a supervisor. The Women's Rights Project co-authors an *amicus* brief in the case.

Miller v. Albright, 523 U.S. 420. The Court upholds different rules for unmarried citizen fathers versus those for unmarried citizen mothers who wish to transmit citizenship to their foreign-born, out-of-wedlock children. The Women's Rights Project co-authors an *amicus* brief.

Gebser v. Lago Vista Independent School District, 524 U.S. 274. The Court holds that under Title IX, a school is liable for damages when a school official who has actual notice of a teacher's sexual harassment of a student and has the authority to take corrective action, acts with "deliberate indifference" to the teacher's conduct.

Burlington Industries v. Ellerth, 524 U.S. 742. The Court holds that an employer is automatically subject to vicarious liability for an actionable hostile environment created by a supervisor when tangible employment action is taken. If no such "tangible employment action" has taken place, the employer may claim that it exercised reasonable care to prevent and correct promptly any sexually harassing behavior and that the plaintiff employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer.

Faragher v. City of Boca Raton, 524 U.S. 775. In this sexual harassment case, a companion case to *Ellerth*, the Court holds that when a harassing supervisor with authority over an employee takes a "tangible employment action" against the employee, the employer is strictly liable for the supervisor's action under Title VII. The Women's Rights Project co-authors an *amicus* brief in the case.

1999

Davis v. Monroe County Board of Education, 526 U.S. 629. The Court rules that a school district may be liable under Title IX for student to-student harassment if the harassment is so severe that it hinders the child's education and the district is aware of the problem and acts with "deliberate indifference" rather than try to resolve it. The Women's Rights Project participates as an *amicus*.

Kolstad v. American Dental Association, 527 U.S. 526. The Court holds that a court may grant punitive damages to a woman alleging sex discrimination in violation of Title VII even if she does not show that the employer's conduct was "egregious" or "outrageous."

She must only show that the employer acted with malice or with reckless indifference to the lawfulness of his action.

2000

U.S. v. Morrison, 529 U.S. 598. In this case brought under the Violence Against Women Act (VAWA), which permits victims of gender-motivated violence to sue their attackers under federal law, the Court holds that neither the Commerce Clause nor the enforcement clause of the Fourteenth Amendment provides Congress with authority to enact the civil rights remedy provision of VAWA.

Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133. The Court holds that a jury may in some circumstances find discrimination in violation of the Age Discrimination in Employment Act (ADEA) based on evidence that the reasons an employer gives for an employment decision are untrue, even in the absence of any direct evidence of discrimination. The Women's Rights Project participates as *amicus*.

Stenberg v. Carhart (Carhart I), 530 U.S. 914. The Court strikes down a state law banning so-called "partial-birth abortions," finding these provisions invalid under *Roe* and *Casey* because they failed to include an exception to preserve the life or health of the mother. The Court also finds that the law imposes an undue burden on women because the ban's language is written so broadly and vaguely that it prohibits the most common methods of pre-viability, second-trimester abortions. The ACLU files an *amicus* brief in this case.

2001

Ferguson v. City of Charleston, 532 U.S. 67. In this case challenging the policy of a South Carolina public hospital that tests pregnant women for substance abuse and reports positive results to the police, the Court holds that pregnant women cannot be subject to warrantless, suspicionless searches simply because they are pregnant. The Women's Rights Project co-authors an *amicus* brief.

Pollard v. E.I. Dupont Nemours Co., 532 U.S. 843. The Women's Rights Project joins an *amicus* brief in this case in which the Court holds that "front pay"—a form of prospective relief awarded by courts in employment discrimination cases under Title VII—is not a form of "compensatory damages" subject to dollar caps. The plaintiff, one of only a few women working in the historically male manufacturing plant, sued after she was subjected to sexual harassment for several years by co-workers and supervisors who repeatedly taunted her for doing "men's work" and for holding a supervisory position over men.

Nguyen v. INS, 533 U.S. 53. The Women's Rights Project co-counsels this case challenging one of the few remaining statutes explicitly discriminating on the basis of sex. The Court in a 5-4 decision upholds a law that automatically deems out-of-wedlock children born overseas to be United States citizens when their mothers are citizens, but requires affirmative steps acknowledging paternity to establish the child's citizenship if only the father is a citizen.

2002

E.E.O.C. v. Waffle House, Inc. 534 U.S. 279. The Court preserves the right of the E.E.O.C. to seek specific remedies such as backpay, reinstatement, and damages on behalf of an employee who sues under federal anti-discrimination statutes, even though the individual and employee had agreed to have disputes arbitrated. The ACLU files an *amicus* brief in support of the E.E.O.C.

Swierkiewicz v. Sorema, 534 U.S. 506. The Court clarifies the pleading standard in cases alleging discrimination under Title VII. The Court holds that a plaintiff need not establish a prima facie case of discrimination, but need only provide a short and plain statement of the claim. The Court reasons that the pleading standard should not be set so high as to preclude a plaintiff from moving forward with the case and obtaining relevant discovery. The ACLU files an *amicus* brief in the case.

Ragsdale v. Wolverine Worldwide, 535 U.S. 81. The Court invalidates a Labor

Department regulation requiring employers to provide additional leave time to employees in cases where the employer fails to notify employees at the outset that the employees' leave counts against the twelve weeks guaranteed under the FMLA. The Court finds that the regulation upsets the balance struck by Congress between employer and employee in enacting the FMLA.

Department of Housing and Urban Development v. Rucker, 535 U.S. 125. The Court unanimously upholds a provision of the Anti-Drug Abuse Act and associated regulations allowing the eviction of a public-housing tenant for drug use occurring on the premises, even where the tenant did not know of the drug use. The Court holds that had Congress intended to impose this knowledge requirement, it would have done so explicitly. The ACLU files an *amicus* brief in this case.

Chevron U.S.A., Inc. v. Echazabal, 536 U.S. 73. The Court unanimously upholds a federal regulation permitting employers sued under the Americans with Disabilities Act to invoke as a defense the fact that a worker's disability in combination with the working conditions to which he or she would be exposed would result in a direct threat to the worker's health. The Court reasons that the EEOC was entitled to enact such a regulation consistent with the requirement that qualification standards be job-related and consistent with business necessity. The ACLU files an *amicus* brief in this case.

National Railroad Passenger Corp. v. Morgan, 536 U.S. 101. The Court holds that an employee may not recover for discriminatory acts occurring outside the statutory time period set forth in Title VII, even where it is alleged that such acts occurred as part of a continuous discriminatory practice. The Court holds, however, that where a hostile work environment claim is alleged, an employee may recover for behavior occurring outside the statutory time period because such claims usually require a series of harassing events to be actionable.

2003

Nevada Department of Human Resources v. Hibbs, 538 U.S. 721. The Court finds that it is constitutional for a state to be sued in federal court for money damages when that state has violated the Family Medical Leave Act (FMLA). The Court finds that the act's guarantee of leave to all workers, regardless of their sex, attacked the stereotype that care giving was a woman's responsibility rather than a man's. The Women's Rights Project joins an *amicus* brief.

2004

Pennsylvania State Police v. Suders, 542 U.S. 129. Justice Ginsburg authors the opinion, and holds that where a plaintiff has been forced to quit her job by an official act of her employer related to sexual harassment, an employer may not defend against a Title VII claim by showing that it took reasonable care to prevent and correct sexually harassing behavior, and that the employee unreasonably failed to take advantage of such opportunities to prevent harm. The Women's Rights Project joins an *amicus* brief.

2005

Jackson v. Birmingham Board of Education, 544 U.S. 167. The Women's Rights Project authors an *amicus* brief in this case, in which the Court holds that Title IX allows an individual to bring a retaliation claim in court when he is disciplined for complaining about sex discrimination. The plaintiff, a girls' basketball coach in a public high school, complained about sex discrimination in the school's athletic program and was later removed from his job.

2006

Ayotte v. Planned Parenthood of Northern New England, 546 U.S. 320. The ACLU argues on behalf of the plaintiffs challenging a state law requiring physicians to delay a minor's abortion until 48 hours after parental notification, without an exception to protect the health of the minor in an emergency. The Court upholds its precedent that abortion restrictions must include an exception to protect a woman's health and remands the case to the lower court to decide

whether the legislature prefers to sever the unconstitutional portion or invalidate the statute entirely.

Davis v. Washington / Hammon v. Indiana, 547 U.S. 813. In companion cases involving statements made by domestic violence victims at the scene of violence, the Court holds in an eight to one decision that such statements may be admitted at trial even where the victim does not appear as a witness. The defendants had argued that permitting the statements to be used at evidence violated the Confrontation Clause of the Sixth Amendment. This holding has great significance in the domestic violence context, where survivors are often coerced by their abusers into refraining from testifying at trial. The ACLU filed an *amicus* brief in this case.

Burlington Northern & Santa Fe Railway Co. v. White, 548 U.S. 53. The Court holds that indefinite suspension without pay is unlawful retaliation under Title VII, as it would reasonably deter any employee from making a complaint of discrimination in the workplace. The Women's Rights Project joins an *amicus* brief in support of the plaintiff.

2007

Gonzales v. Carhart (Carhart II) / Gonzales v. Planned Parenthood Federation of America, Inc., 550 U.S. 124. The ACLU files *amicus* briefs in both of these cases, urging the Court to invalidate the "Partial-Birth Abortion Ban Act of 2003" because it fails to include an exception to preserve the health of the mother. The Court upholds the federal ban finding that in the face of "medical uncertainty" as to whether a health exception will ever be necessary, the State's interest in "promoting respect for human life at all stages in the pregnancy" can outweigh a woman's interest in protecting her health. In dissent, Justice Ginsburg writes that this ruling undermines a core holding of *Roe v. Wade* and *Carhart I*: that women's health must always be paramount.

Ledbetter v. Goodyear Tire and Rubber, Inc., 550 U.S. 618. The Court rules against plaintiff, the sole female supervisor at a tire plant who alleged that she was paid less than her male counterparts, citing too long a delay between the initial equal pay violations and the filing of the lawsuit. The Women's Rights Project participates in an *amicus* brief in support of the plaintiff. In response to this decision, President Obama signs the Lilly Ledbetter Fair Pay Restoration Act in 2009, allowing victims of pay discrimination to file a complaint with the government within 180 days of their last paycheck.

2009

Fitzgerald v. Barnstable School Committee, 555 U.S. 246. The Court rules that parents may sue for sex discrimination in schools under both Title IX and the Equal Protection Clause. The case, which was brought by parents whose kindergartener was sexually harassed on the school bus, establishes that individual teachers and administrators, as well as institutions, may be liable for sex discrimination in education. The Women's Rights Project co-authors an *amicus* brief.

Crawford v. Metropolitan Government of Nashville, 555 U.S. 271. The Court holds that Title VII's anti-retaliation provision protects employees who speak out about sexual harassment when answering questions during an employer's internal investigation of a coworker's complaint. The Women's Rights Project joins an *amicus* brief.

AT&T Corp. v. Hulteen, 556 U.S. 701. The Court holds that employers that provided less retirement credit for pregnancy leave than for other medical leave, prior to the 1978 Pregnancy Discrimination Act, are not required to adjust their pension plans retroactively when female employers affected by the plan start collecting their pensions.

2010

Lewis v. City of Chicago, 560 U.S. 205. The Court unanimously holds that the time period within which an employee may sue for relief under Title VII begins not when a discriminatory decision was made, but at the later date when the decision was executed. In so doing, the Court permits a lawsuit brought by African-American applicants for firefighter jobs in Chicago to proceed with their suit challenging the discriminatory impact of a hiring test utilized by the city. The Women's Rights Project, along with the Racial Justice Project, joined an *amicus* brief supporting the firefighter applicants.

Thompson v. North American Stainless, 562 U.S. 170. The Court holds that an employee who claimed he was fired because he was the fiancé of an employee who had filed a sex discrimination charge with the EEOC could sue under the anti-retaliation provisions of Title VII. The ACLU joins an *amicus* brief with more than two dozen other civil rights groups in support of the employee.

2011

Flores-Villar v. I.N.S., 564 U.S. 201. The Court allows to stand, without issuing an opinion, a nationality law that makes it more difficult for fathers to transmit U.S. citizenship to their children than mothers. The Court does not tackle the central issue of whether the law — one of the few that explicitly discriminates based on sex — is constitutional. The ACLU files an *amicus* brief arguing that this sex-based classification is properly subject to heightened scrutiny, which it cannot survive because it is based on unlawful gender stereotypes about motherhood and fatherhood.

Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338. Despite evidence of national disparities in pay and promotions between men and women, the Court declines to certify a class of 1.5 million female employees of Wal-Mart, holding that the evidence presented does not prove that the company operated under a general policy of discrimination. The Women's Rights Project co-authors an *amicus* brief highlighting the role of sex stereotypes in dictating women's job assignments and opportunities for advancement.

2012

Coleman v. Maryland Court of Appeals, 566 U.S. 30. The Court holds that the Eleventh Amendment bars suits against state employers for violating the "self-care" provision of the FMLA. (The court had upheld the abrogation of state immunity for enforcement of the "family care" provision in 2003 in *Nevada v. Hibbs*). Justice Ginsburg files a spirited dissent, arguing that both provisions were intended to address related problems arising from a documented history of employment discrimination against women based on stereotyped assumptions about their roles as mothers and caregivers—a position advanced by the ACLU in an *amicus* brief.

Florida v. Department of Health and Human Services / National Federation of Independent Business v. Sebelius, 567 U.S. 519. In a challenge to the Affordable Care Act by states and business groups, the Court, in an opinion by Chief Justice Roberts, holds that the individual mandate to purchase health insurance exceeds Congress's authority under the Commerce Clause, but that it is permissible under the federal government's power to institute taxes. The Court invalidates a provision of the law conditioning the receipt of Medicaid dollars on states' participation in expansion of Medicaid coverage to more uninsured individuals, but allows the rest of the law to stand. The ACLU participates in an *amicus* brief emphasizing the importance of insurance coverage for economically disadvantaged groups, including women.

2013

Association for Molecular Pathology v. Myriad Genetics, Inc., 569 U.S. 576. The ACLU represented medical researchers, pathologists, and patients with breast cancer challenging patents on the BRCA genes, which are associated with a predisposition to breast and ovarian cancers. The patents gave Myriad Genetics the exclusive right to test for mutations in these DNA sequences. The Court unanimously rules for plaintiffs, holding that a naturally occurring DNA segment is not patent eligible (although synthetically created DNA is patent eligible).

Fisher v. University of Texas at Austin, 133 S. Ct. 2411, 570 U.S. ___. The Court considers but does not resolve the constitutionality of the university's undergraduate admissions program, which considers race as a factor for assessing applicants. The Court finds that the lower court should have analyzed the admissions program under the strict scrutiny standard of review, which applies to cases of discrimination against racial minorities, and remands the case for reconsideration. The ACLU authors an *amicus* brief in support of the university, urging the Court to abandon the view that policies designed to encourage diversity should be subject to the same stringent legal standards as exclusionary ones.

Vance v. Ball State University, 133 S. Ct. 2434, 570 U.S. ___. In a five to four decision, the Court rules that in holding an employer liable under Title VII for a supervisor's sexual harassment, a person will only be considered a "supervisor" if the employer has formally authorized him or her to take tangible employment action against the victim. The Court defines "tangible employment action" to mean "a significant change in employment status," such as hiring, firing, and failing to promote. In a vigorous dissent, Justice Ginsburg criticizes the majority for being out of touch with modern workplace realities and weakening workers' protection from harassment.

University of Texas Southwestern Medical Center v. Nassar, 133 S. Ct. 2517, 570 U.S. ___. In another five to four decision, the Court holds that a plaintiff may not prevail in a lawsuit alleging retaliation, as she or he could in a lawsuit alleging discrimination, if the employer's unlawful motive merely "played a role" in its adverse decision. Instead, she or he must prove that the adverse action would not have occurred "but for" the intent to retaliate. Justice Ginsburg again dissents, taking the majority to task for applying a different, stricter standard of proof for plaintiffs who are punished for objecting to discrimination than for those who allege discrimination alone.

2014

Burwell v. Hobby Lobby Stores, Inc., 134 S. Ct. 2751, 573 U.S. ___. The Court rules that "closely-held" corporations can claim that their "religious beliefs" exempt them from providing insurance coverage for their employees' contraception as mandated by the Affordable Care Act. The ACLU authors an *amicus* brief in this case emphasizing that a for-profit business enterprise cannot raise religious objections to avoid compliance with a law designed to further women's health.

2015

Young v. United Parcel Service, Inc., 135 S. Ct. 1338, 575 U.S. ___. The Court holds that the Pregnancy Discrimination Act, or PDA, requires employers to provide pregnant employees with the same on-the-job accommodations, such as light duty, as they do to other non-pregnant employees who are similar in their ability or inability to work. Significantly, the Court rules that an employer may not cite the cost or convenience of providing such accommodations as the reason for denying them. The Women's Rights Project co-authors an *amicus* brief in this case.

Mach Mining, LLC v. Equal Employment Opportunity Commission, 135 S. Ct. 1645, 575 U.S. ___. The Court unanimously holds that Title VII authorizes courts to conduct only limited review of the Equal Employment Opportunity Commission's efforts to "conciliate," or settle, discrimination charges before it can file a lawsuit.

King v. Burwell 135 S. Ct. 2480, 576 U.S. ___. In a challenge to the legality of the Affordable Care Act's tax premium credits for low- and middle-income individuals who purchase coverage through the federally-run health insurance marketplace, the Court upholds the ACA provision. It rules that individuals are entitled to healthcare subsidies regardless of whether their insurance is purchased from state-run or federally-facilitated Exchanges.

Texas Dep't of Housing and Community Affairs v. Inclusive Communities Project, Inc., 135 S. Ct. 2507, 576 U.S. ___. The Court holds that the Fair Housing Act prohibits practices that have a discriminatory effect, known as "disparate impact," even in the absence of discriminatory intent. The ACLU Women's Rights Project and Racial Justice Project co-author an *amicus* brief emphasizing the importance of preserving disparate impact analysis as a means for addressing discriminatory barriers in the housing context, with a particular focus on the need for such claims to remedy discrimination in mortgage lending and as a tool for stopping housing discrimination against survivors of domestic violence and sexual assault.

2016

V.L. v. E.L., 136 S.Ct. 1017, 577 U.S. ___. In a *per curiam* opinion, the Court holds that the Alabama Supreme Court violated the Full Faith and Credit Clause by refusing to recognize an adoption decree entered in Georgia. The petitioner was formerly in a same-sex relationship with the children's biological mother and had raised them since birth. The Court noted that although the Alabama Supreme Court found that Georgian courts lacked jurisdiction to enforce the adoption decree, its decision was actually an objection to the adoption on the merits.

Green v. Brennan, 136 S.Ct. 1769, 578 U.S. ____. The Court holds that the forty-five day limitation period for an employee to file a Title VII constructive discharge claim with the Equal Employment Opportunity Commission begins running only after the employee gives notice of her intent to resign. The Court overturns prior decisions that held the limitation period begins to run when the discriminatory conduct takes place, and instead finds that an employee does not have a "complete and present cause of action" for constructive discharge until she resigns.

Zubik v. Burwell, 136 S.Ct. 1557, 578 U.S. ____. The Court, in a *per curiam* opinion, declines to decide the merits of a challenge to the Affordable Care Act's contraceptive mandate brought by religious nonprofits. The petitioners argued the contraceptive coverage opt-out procedure violates employers' rights under the Religious Freedom Restoration Act (RFRA). The Court sends the case back to the lower courts and strikes a compromise where insurance companies could provide contraceptive coverage to petitioners' employees without notice from petitioners. The ACLU argues in an *amicus* brief that the contraceptive opt-out accommodation did not violate RFRA.

Fisher v. University of Texas at Austin, 136 S.Ct. 2198, 579 U.S. ____. In a 4-3 decision, the Court upholds the University of Texas at Austin's race-conscious admissions program under the Equal Protection Clause. Reaffirming the ruling in *Grutter v. Bollinger*, the Court holds that race can be a factor in admissions to achieve the compelling interest of diversity, and that the University's consideration of race as one factor in a holistic review was narrowly tailored to serve this compelling interest. The ACLU authors an *amicus* brief in support of the University's admissions program, urging the court not to apply strict scrutiny for race-conscious policies intended to encourage diversity.

Whole Woman's Health v. Hellerstedt, 136 S.Ct. 2292, 579 U.S. _____. The ACLU authors an *amicus* brief urging the Court to strike down two Texas abortion restrictions. The first restriction required physicians who perform abortions to have admitting privileges at a local hospital. The second required abortion clinics to meet the standards of an ambulatory surgical care center. The Court invalidates both restrictions, holding that they placed an undue burden on the right to obtain an abortion and imposed substantial obstacles without providing countervailing medical benefits.

2017

Bank of America v. City of Miami, 137 S.Ct. 1296, 581 U.S. _____. In a 5-3 decision, the Court reaffirms that when housing discrimination harms a city's residents and tax base, the city can sue under the Fair Housing Act, if its injuries were directly caused by the discrimination. The ACLU files an *amicus* brief.

Sessions v. Morales-Santana, 137 S.Ct. 1678. The Court holds that Section 1409(c) of the Immigration and Nationality Act, which establishes a physical presence requirement for children of unwed U.S. citizen fathers—but not mothers—violates the Equal Protection Clause of the Fifth Amendment. Justice Ginsburg's majority opinion rejects the purported justifications for the sex-based distinction as resting solely on gendered assumptions about parental responsibility, citing the ACLU's *amicus* brief.