



**Michelle T. Friedland**  
**Nominee to the United States Court of Appeals for the Ninth Circuit**

On August 1, 2013, President Obama nominated Michelle T. Friedland to serve on the United States Court of Appeals for the Ninth Circuit. As a litigation partner in the San Francisco office of Munger, Tolles & Olson LLP and former U.S. Supreme Court clerk, she has extensive trial and appellate experience at both the state and federal levels. In nominating Ms. Friedland, President Obama lauded her remarkable legal career as “a [testament] to the kind of thoughtful and diligent [judge]” she will be on the Ninth Circuit.<sup>1</sup>

**Biography**

Michelle Friedland was born in Berkeley, California in 1972. In 1995, she earned her undergraduate degree with honors in ecology and population biology from Stanford University, where she was elected to Phi Beta Kappa. She then studied political theory for a year at Oxford University on a Fulbright Scholarship. In 2000, she earned her law degree from Stanford Law School, where she was inducted into the Order of the Coif, received the Urban A. Sontheimer Award for graduating second in her class, and won the award for best student note.<sup>2</sup>

After graduating from law school, Ms. Friedland clerked for Judge David Tatel on the United States Court of Appeals for the D.C. Circuit. The following year, she clerked for United States Supreme Court Justice Sandra Day O’Connor. After completing these two distinguished clerkships, Ms. Friedland returned to Stanford Law School as a lecturer on Federal Jurisdiction and Environmental Law. In 2004, Ms. Friedland joined the firm of Munger, Tolles & Olson as an associate, and she was made partner in 2010. She recently joined the University of Virginia School of Law faculty as an adjunct professor, teaching a seminar on Constitutional Issues in Higher Education.

**Legal Experience**

Ms. Friedland’s practice has focused primarily on antitrust litigation, constitutional and academic affairs litigation for higher education institutions, and appellate matters. As a litigator, she has represented numerous corporate clients on a variety of issues, including antitrust, tax, patent, copyright, and consumer class action.

---

<sup>1</sup> White House Press Release, *available at* <http://www.whitehouse.gov/the-press-office/2013/08/01/president-obama-nominates-three-serve-united-states-courts-appeals>.

<sup>2</sup> Michelle T. Friedland, *Not Disabled Enough: The ADA's "Major Life Activity" Definition of Disability*, 52 STAN. L. REV. 171 (1999) (arguing that the ADA fails to adequately distinguish between the separate goals of preventing pure discrimination and providing affirmative accommodation, which hinders the statute’s effectiveness).

Much of Ms. Friedland's practice at Munger Tolles has been devoted to representing those working for gay rights. In *Strauss v. Horton*,<sup>3</sup> she represented several same-sex couples and nonprofit organization Equality California in challenging enforcement of Proposition 8, the amendment to the California Constitution that banned gay marriage. The California Supreme Court upheld the ban, but held that the State must continue to recognize existing same-sex marriages. *Strauss* became moot when a U.S. district court judge found that Proposition 8 violated the United States Constitution.<sup>4</sup> When the federal litigation reached the Supreme Court, Ms. Friedland filed an amicus brief on behalf of Bay Area Lawyers for Individual Freedom supporting the right of same-sex couples to marry. The Supreme Court ultimately found that it lacked jurisdiction over the appeal, and let stand the trial court's decision striking down Proposition 8.<sup>5</sup> Ms. Friedland also represented Equality California in *Pickup v. Brown*,<sup>6</sup> successfully defending a California law that bans state-licensed mental health professionals from using "gay conversion" therapy (or "sexual orientation change efforts") on minors.

In addition, Ms. Friedland's practice has included a robust *pro bono* portfolio. In one case, she brought a Ninth Circuit appeal on behalf of a state prisoner alleging constitutional violations in a § 1983 action.<sup>7</sup> Ms. Friedland argued that the district court imposed an unconstitutional condition on her client's Seventh Amendment right to a jury trial by forcing him to choose between omitting key witnesses who were not present or agreeing to a bench trial and calling the witnesses via telephone. The Ninth Circuit affirmed the district court, but Ms. Friedland's arguments earned a dissenting opinion from Judge M. Margaret McKeown.

Michelle Friedland's professional experience and personal qualities have garnered her respect and support from her colleagues in private practice and academia. Of particular note, a group of Munger Tolles partners and self-described "long-term Republicans" wrote a letter to Senate leadership endorsing Ms. Friedland's nomination, and observing that she "has distinguished herself as a brilliant and dedicated lawyer" who "has the skills, judgment, temperament, and integrity to be an outstanding appellate judge."<sup>8</sup> The American Bar Association awarded her its highest rating of unanimously well qualified to serve on the federal appellate bench.

### **Professional and Community Activities**

Ms. Friedland co-chairs The Bar Association of San Francisco's Amicus Committee, which filed amicus briefs in the district court and Ninth Circuit Proposition 8 litigation. She is also a board member of the Silicon Valley Campaign for Legal Services, a non-profit organization that raises money for legal aid agencies serving low-income persons in Silicon Valley. In 2009, the ACLU of Southern California awarded Ms. Friedland with the LGBT Award for her work to challenge Proposition 8 in *Strauss*. In recognition of her *pro bono* commitments, the State Bar of California named her a recipient of the 2013 President's Pro Bono Service Award.

---

<sup>3</sup> 207 P.3d 48 (Ca. 2009).

<sup>4</sup> *Perry v. Schwarzenegger*, 704 F. Supp. 2d 921 (N.D. Cal. 2010)

<sup>5</sup> *Hollingsworth v. Perry*, 133 S. Ct. 2652 (2013).

<sup>6</sup> 2012 U.S. Dist. LEXIS 172034, 2:12-cv-02497 (E.D. Cal. Dec. 4, 2012).

<sup>7</sup> *Palmer v. Valdez*, 560 F.3d 965 (9th Cir. 2009).

<sup>8</sup> Letter to Senators Patrick Leahy and Charles Grassley re: Nomination of Michelle T. Friedland to the United States Court of Appeals to the Ninth Circuit, available at <http://www.judgingtheenvironment.org/library/letters/Friedland-partners.pdf>