

Dana M. Muir
Stephen M. Ross School of Business
Ann Arbor, Michigan 48109
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EDUCATION

The University of Michigan Law School
J.D. magna cum laude, May 1990; class rank 2/400

The University of Detroit, M.B.A.

The University of Michigan, A.B. with distinction

PROFESSIONAL APPOINTMENTS—ACADEMIC

Stephen M. Ross School of Business, University of Michigan, Ann Arbor, MI:

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| 2016–current | Robert L. Dixon Collegiate Professor of Business Administration and Arthur F. Thurnau Professor of Business Law |
| 2008–current | Arthur F. Thurnau Professor of Business Law |
| 2005–2008 | Professor of Business Law |
| 1999–2005 | Associate Professor of Business Law |
| 2003–2004 | Louis and Myrtle Moskowitz Research Professor of Business and Law |
| 2003–2004 | Fellow, CIC Academic Leadership Program |
| 1997–1998 | Sanford R. Robertson Assistant Professor of Business Administration |
| 1993–1998 | Assistant Professor of Business Law |

Additional Academic Appointments:

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| 2011–2013 | Member, Center for Research on Learning and Teaching, University of Michigan, Advisory Board |
| 2007–2013 | Editor-in-Chief, Annual Supplement, EMPLOYEE BENEFITS LAW |
| 5/2009–6/2009 | Parsons Visiting Scholar, University of Sydney Law School, Australia |
| 3/2009–5/2009 | Visiting Scholar, Workplace and Corporate Law Research Group, |

Monash University, Australia

F2002, W2001
F1997 University of Michigan Law School
 Visiting Professor of Law

Fall 1998 University of Iowa Law School, Iowa City, IA
 Visiting Associate Professor of Law

GOVERNMENT, BUSINESS, AND OTHER ORGANIZATIONS

2017–Current Co-Secretary, Simplification Award Committee, American College
 of Employee Benefits Counsel

2014–Current Member, Board of Governors, American College of Employee
 Benefits Counsel

2012–2018 Member, Board of Trustees, Ann Arbor Summer Festival
 Member, Finance Committee

2014–2016 Member, Global Agenda Council on The Future of Insurance and
 Asset Management, World Economic Forum

2008–2011 Member, U.S. Pension Benefit Guaranty Corporation, Advisory
 Committee

2003–2009 Member, Board of Trustees, The Aerospace Corporation
 Chair, Compensation and Personnel Committee,
 Member, Executive Committee,
 Security Clearances: Top secret, SCI

2002–2004 Member, U.S. Department of Labor Advisory Council on Pension
 and Welfare Benefits

Fall 2000 United States Congress
 Congressional Fellow, serving in the
 Office of Representative Rob Portman (R. Ohio)

MAJOR ARTICLES, BOOKS, AND BOOK CHAPTERS

The Evolution of the U.S. Pension System: 1994-2019 in 25 YEARS OF PENSION REFORM
(Kowiakowski et al. eds. Intersentia 2020) (forthcoming) (co-authored with Jonathan
Barry Forman and John A Turner).

How Behavioral Science Ultimately Fails Retirement Savers: A Noble Experiment, 56
AMERICAN BUSINESS LAW JOURNAL 707 (2019) (lead article).

Fiduciary Obligations for Environmental, Social, and Governance Investments: The Challenge of Climate Change, NYU REVIEW OF EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION (2019) (lead article).

Fiduciary Principles in Pension Law, in OXFORD HANDBOOK OF FIDUCIARY LAW (Criddle et al. eds. Oxford Press 2019).

From Schism to Prism: Equitable Relief in Employee Benefit Plans, 55 AMERICAN BUSINESS LAW JOURNAL 599 (2018). Received a 2019 Ralph Hoeber Memorial Award for Excellence in ABLJ Research.

A Positive Perspective on Regulation of the Workplace Relationship, 17 MARQUETTE BENEFITS AND SOCIAL WELFARE LAW REVIEW 53 (2016).

Decentralized Enforcement to Combat Financial Wrongdoing in Pensions, 53 AMERICAN BUSINESS LAW JOURNAL 33 (2016). Received the Hober Memorial Award for best article in volume 53.

Long Term Wealth Creation for Employees: The Three-Legged Stool of 401(k) Plans, NYU REVIEW OF EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION 6.01 (2014).

Two Hats, One Head, No Heart: The Anatomy of the ERISA Settlor/Fiduciary Distinction, 93 NORTH CAROLINA LAW REVIEW 459 (2015) (with N. Stein).

Revenue Sharing in 401(k) Plans: Employers as Monitors?, 20 CONNECTICUT INSURANCE LAW JOURNAL 485 (2014).

Reflections on ERISA's Fiduciary Provisions: An Integral and Integrated Part of the Statute, 6 DREXEL LAW REVIEW 539 (2014).

2013 Cumulative Supplement to EMPLOYEE BENEFITS LAW (Editor-in-Chief) (BNA) (2013).

Choice Architecture and the Locus of Fiduciary Obligation in Defined Contribution Plans, 99 IOWA LAW REVIEW 1 (2013) (lead article).

The Future of Securities Class Actions against Foreign Companies: China and Comity Concerns, 46 MICHIGAN JOURNAL OF LAW REFORM 1315 (2013) (with Junhai Liu & Haiyan Xu).

The Market for Financial Advisers (with J. Turner); chapter in: THE MARKET FOR RETIREMENT FINANCIAL ADVICE (O. S. Mitchell and K. Smetters, eds., Oxford, UK: Oxford University Press) (2013) (cited in White House report, The Effects of Conflicted Investment Advice on Retirement Savings, Feb. 2015, http://www.whitehouse.gov/sites/default/files/docs/cea_coi_report_final.pdf).

Financial Literacy and Financial Advice (with J. Turner); chapter in: OLD-AGE CRISIS AND PENSION REFORM. WHERE DO WE STAND? (M. Szczepański, ed., Posnan U. of Technology) (2013). Reprinted as *Financial Literacy, Education, and Advice* (with J. Turner); chapter in OLD-AGE CRISIS AND PENSION REFORM. WHERE DO WE STAND? (J. Turner, ed. W.E. Upjohn 2013).

2013 Spring Supplement to EMPLOYEE BENEFITS LAW (Editor-in-Chief) (BNA) (2013).

EMPLOYEE BENEFITS LAW (Bloomberg BNA 2012) (eds. J. Lewis, M. Rumeld, I. Berio-LeBeau) (D. Muir & others, Senior Editors).

Default Settings in Defined Contribution Plans—A Comparative Approach to Fiduciary Obligation and the Role of Markets, ABA JOURNAL OF LABOR & EMPLOYMENT LAW 59 (2012).

Building Value in the Australian Defined Contribution System: A Values Perspective, 33 COMPARATIVE LABOR LAW AND POLICY REVIEW 93 (2011).

IMAGINING THE IDEAL PENSION SYSTEM: INTERNATIONAL PERSPECTIVES (2011 W.E. Upjohn Institute for Employment Research) (with J. Turner, co-editor). Including chapters: *Imagining the Ideal U.S. Pension System* (with J. Turner), at 19–43; and *Constructing the Ideal Pension System: Cross-Country Perspectives of Eleven Authors* (with J. Turner);, at 1–17.

The Effect of the Financial Crisis on U.S. Pensions—A Perspective on Financial Services Regulatory Reform in PROTECTING PENSION RIGHTS IN THE ECONOMIC CRISIS, 123 (Intersentia 2011).

2010 Supplement to EMPLOYEE BENEFITS LAW (Editor-in-Chief of 1,880+ pp. annual supplement) (BNA 2010).

Justice Sotomayor on the Supreme Court: A Boon for Business?, 4 VIRGINIA LAW AND BUSINESS REVIEW 187 (2009) (lead article; with D. Baumer, S. Greene, G. Mark & R. Thomas).

The Proliferation of Individual Pension Account Options: A Challenge for Institutional Oversight in PERSONAL CHOICE IN PROVISION OF RETIREMENT INCOME: MEETING THE NEEDS OF OLDER PEOPLE, 229–249 (Edward Elgar 2009).

2009 Supplement to *Employee Benefits Law* (Editor-in-Chief of 1811 pp. annual supplement) (BNA 2009).

Fiduciary Constraints: Correlating Liability with Responsibility, 42 WAKE FOREST LAW REVIEW 697 (2007) (with Cindy A. Schipani), *reprinted in* 49 CORPORATE PRACTICE COMMENTATOR 937 (2008).

2008 Supplement to EMPLOYEE BENEFITS LAW (Editor-in-Chief of 1518 pp. annual supplement) (BNA 2008).

Longevity and Retirement Age in Defined Benefit Pension Plans in *WORK OPTIONS FOR MATURE AMERICANS*, 212 (University of Notre Dame Press, 2007) (co-authored with J. Turner).

The Use of Efficient Market Hypothesis: Beyond SOX, 105 *MICHIGAN LAW REVIEW* 1941 (2007) (with Cindy A. Schipani).

Review of James A. Wooten, The Employee Retirement Income Security Act of 1974: A Political History, 32.4 *JOURNAL OF HEALTH POLITICS, POLICY AND LAW* 737 (2007).

The Challenge of Company Stock Transactions for Directors' Duties of Loyalty, 43 *HARVARD JOURNAL OF LEGISLATION* 437 (2006) (with Cindy Schipani).

The U.S. Culture of Employee Ownership and 401(k) Plans, 14 *UNIVERSITY OF ILLINOIS ELDER LAW JOURNAL* 1 (2006) (lead article).

New Standards of Director Loyalty and Care in the Post-Enron Era: Are Some Shareholders More Equal than Others?, 8 *NEW YORK UNIVERSITY JOURNAL OF LEGISLATION AND POLICY* 279 (2005) (with Cindy Schipani).

ERISA and Investment Issues, 65 *OHIO STATE LAW REVIEW* 199 (2004).

Counting the Cash: Disclosure and Cash Balance Plans? 37 *JOHN MARSHALL LAW REVIEW* 849 (2004).

Groundings of Voice in Employee Rights, 36 *VANDERBILT JOURNAL OF TRANSNATIONAL LAW* 485 (2003).

A MANAGER'S GUIDE TO EMPLOYMENT LAW: HOW TO PROTECT YOUR COMPANY AND YOURSELF (Jossey Bass 2003).

The Dichotomy Between Investment Advice and Investment Education: Is No Advice Really the Best Advice? 23 *BERKLEY JOURNAL OF EMPLOYMENT AND LABOR LAW* 1 (2002) (lead article).

The Future of Fiduciary Issues in Employee Benefit Plans, 5 *EMPLOYEE RIGHTS & EMP. 5 POL'Y J.* 369 (2001).

Fiduciary Status as an Employer's Shield: The Perversity of ERISA Fiduciary Law, 2 *UNIVERSITY OF PENNSYLVANIA JOURNAL OF LABOR AND EMPLOYMENT LAW* 391 (2000).

From YUPPIES to GUPPIES: Unfunded Mandates and Benefit Plan Regulation, 34 UNIVERSITY OF GEORGIA LAW REVIEW 195 (Fall 1999).

The Plan Amendment Trilogy: Settling the Scope of the Settlor Doctrine, 15 THE LABOR LAWYER 205 (Fall 1999).

Truth or Consequences: Varity v. Howe and Beyond, 13 THE LABOR LAWYER 411 (Winter/Spring 1998) (lead article).

Contemporary Social Policy Analysis and Employee Benefit Programs: Boomers, Benefits, and Bargains, 54 WASHINGTON & LEE LAW REVIEW 1351 (1997) (lead article in issue).

The Intersection of State Corporation Law and Employee Compensation Programs: Is it Curtains for Veil Piercing?, 1996 ILLINOIS LAW REVIEW 1059 (with Cindy A. Schipani).

ERISA Remedies: Chimera or Congressional Compromise?, 81 IOWA LAW REVIEW 1–53 (1995) (lead article) (cited by the U.S. Supreme Court in *Great-West Life & Annuity Ins. Co. v. Knudson*, 534 U.S. 204 (2002)).

Plant Closings and ERISA's Noninterference Provision, 36 BOSTON COLLEGE LAW REVIEW 201 (1995) (lead article in annual employment law issue).

Changing the Rules of the Game: Pension Plan Terminations and Early Retirement Benefits, 87 MICHIGAN LAW REVIEW 1034 (1989).

WORK IN VARIOUS STAGES OF PROGRESS

Fiduciary Relationships in Employee Benefit Plans, in Firm Governance: The Anatomy of Fiduciary Obligations in Business (Laby & Russell, eds. Cambridge University Press 2020) (forthcoming) (chapter provisionally accepted).

The Limited Role of Fiduciary Obligation in Employee Benefit Plans

Agency Costs in Employee Benefit Plans

CONFERENCES ORGANIZED

Employee Benefits Tax History Workshop, Washington D.C., Aug. 22, 2016 (with Norman P. Stein and James Wooten), sponsored by American College of Employee Benefit Council (with participation of the current and all former Benefits Tax Counsel at the U.S. Department of Treasury).

U.S. Benefits Law - A Meta Assessment. Scholarship development conference. Attendance included high-ranking officials of: the U.S. Department of Labor, the U.S.

Department of Treasury, and the Pension Benefit Guaranty Corporation. March 22, 2014. Co-sponsored by: Ross School of Business, University of Michigan Law School, and Rackham Graduate School. (co-organized with Andrew Stumpff).

2010 International Conference of the European Network for Research on Supplementary Pensions (ENRSP) (co-organizer with J. Turner).

-Topic: Constructing the Ideal Pension System

-Participants: Invitation only. Attendees included ENRSP members from eleven countries, policymakers (U.S. Social Security Administration), scholars (Johns Hopkins, Catholic University, etc.), industry (IBIS Advisors, a conference co-sponsor), and various interest groups (Economic Policy Institute, Employee Benefit Research Institute, AARP, Pension Rights Center, etc.).

-Publication: *Imagining the Ideal Pension System: International Perspectives*. (2011 W.E. Upjohn Institute for Employment Research) (with J. Turner, co-editor).

PRESENTATIONS, OTHER PUBLICATIONS, AND WRITINGS (last five years)

Thole v. U.S. Bank: The Supreme Court Argument Raises Questions of 15th Century Trust Law and the Likelihood of Being Hit by a Meteorite, ABA Employee Benefits Committee Newsletter, May 21, 2020,

https://www.americanbar.org/groups/labor_law/publications/ebc_news_archive/issue-spring-2020/thole-v-us-bank/

Sustainable Investing of U.S. Retirement Assets, Journal of the International Pension and Employee Benefits Attorneys, 2020 (forthcoming).

Argument Analysis: The Court Once Again Considers the Relevance of Historic Trust Law in an Employee-Benefits Case, for SCOTUSblog, Jan. 14, 2020,

<https://www.scotusblog.com/2020/01/argument-analysis-the-court-once-again-considers-the-relevance-of-historic-trust-law-in-an-employee-benefits-case/>

Argument Preview: Are Fiduciaries of Defined-Benefit Pension Plans that Meet Minimum Funding Criteria Protected from Lawsuits for Fiduciary Breach?, for SCOTUSblog, Jan. 6, 2020, <https://www.scotusblog.com/2020/01/argument-preview-are-fiduciaries-of-defined-benefit-pension-plans-that-meet-minimum-funding-criteria-protected-from-lawsuits-for-fiduciary-breach/>

Amicus Brief in Sacerdote v. New York University, brief filed with the Court of Appeals for the Second Circuit in support of Petitioners, filed November 2019 (with 6 law professors).

Benefit Plans and the Shifting Fiduciary Obligations of Business, presented at the Ninth Annual Employee Benefits and Social Insurance Conference, Boston College Law School, Oct. 18, 2019.

Benefit Plans and the Shifting Fiduciary Obligations of Business, presented at the

Fiduciary Obligations in Business Workshop, Rutgers Law School, Oct. 5, 2019.

The Evolution of the U.S. Pension System: 1994-2019, presented at the annual meeting of the European Network for Research on Supplementary Pensions, Antwerp, Belgium, Sept. 6, 2019 (co-authored with Jonathan Barry Forman and John A Turner).

Plan Investments: Fiduciary Obligations and the Challenge of Climate Change, presented at the biennial meeting of the International Pension and Employee Benefits Law Association, May 21, 2019.

How Behavioral Science Ultimately Fails Retirement Savers: A Noble Experiment, presented at the Eighth Annual Conference on Employee Benefits and Social Insurance, Mar. 29, 2019.

Trust in the Time of Trump: A Comparative Look at Fiduciary Law, presented at the Annual Meeting of the American Association of Law Schools, Jan. 6, 2019.

The Intersection of Communication and Behavioral Economics, presented at the Annual Conference of the European Network for Research on Supplementary Pensions, Sept. 21, 2018 in Galway, Ireland.

Fiduciary Principles in Pension Law, presented at Harvard Fiduciary Conference, Nov. 11, 2017.

The Effect of Culture on the Assignment of Fiduciary Obligation in Supplementary Pensions, presented at European Network for Research on Supplementary Pensions, Conference on Pensions, Justice, and Culture, Sept. 22, 2017.

Point-Counterpoint: Should employers have a fiduciary duty to their 401(k) plans?, INVESTMENT NEWS, Mar. 3, 2017 (with Jonathan Barry Forman).

Four Decades since ERISA: Rethinking How We Allocate Risks, panel participant, Defined Contribution Institutional Investment Association, 2016 Academic Forum, November 30, 2016 (hosted by Goldman Sachs).

Summit on the Global Agenda 2016, World Economic Forum, rolled out beta version of interactive tool and participated as member of the Global Agenda Counsel on the Future of Insurance and Asset Management, Oct. 25–27, 2016.

The Supreme Court and Employee Benefits, American College of Employee Benefits Counsel, panel organizer and moderator, Sept. 17, 2016.

Testimony of Dana M. Muir on Participant Plan Transfers and Account Consolidation for the Advancement of Lifetime Plan Participation, ERISA Advisory Council, August 23, 2016, available at <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/about-us/erisa-advisory-council/muir-written-statement-082316.pdf>.

Best Practices in Fund Management: Lessons from the Canadian Public Pension Model, 69th CFA Institute Annual Conference, May 9, 2016 (plenary panel session with Michael Sabia, President and CEO, Caisse de depot et placement du Quebec; Milville Tremblay, Senior Representative and Director, Financial Markets, Bank of Canada, and Ron Mock, President and CEO, Ontario Teachers' Pension Plan).

Addressing the Failure of Behavioral Economics Theory in IRA Rollovers, 5th Annual National Benefits & Social Insurance Conference, University of Connecticut Law School, Apr. 15, 2016.

A Positive Perspective on Regulation of the Workplace Relationship, CPO Research Incubator Session, Ross School of Business, Mar. 28, 2016.

Strengthening the Real Economy: Harnessing the Power of Long-Term Investors, The World Economic Forum, January 2016, Distributed at Davos (with members of Global Agenda Council on the Future of Insurance and Asset Management), available at <https://www.google.com/search?q=world+economic+forum+strengthening+the+real+economy&ie=utf-8&oe=utf-8>.

Get Good Advice on Retirement Savings, THE DETROIT NEWS (op-ed), Nov. 3, 2015 (with Robert Oliver).

Summit on the Global Agenda 2015, World Economic Forum, participated as member of the Global Agenda Counsel on the Future of Insurance and Asset Management, Oct. 24-26, 2015.

Comment Letter of Dana M. Muir Regarding the Conflicts of Interest Proposed Rule (RIN 1210-AB32), filed with the Department of Labor, available at: <http://www.dol.gov/ebsa/regs/cmt-1210-AB32-2.html>, Letter #3087, September 24, 2015.

Comment Letter of Dana M. Muir Regarding the Conflicts of Interest Proposed Rule (RIN 1210-AB32), filed with the Department of Labor, available at: <http://www.dol.gov/ebsa/regs/cmt-1210-AB32-2.html>, Letter #592, July 20, 2015.

Blog posts: Wall Street Journal, Experts

How Pension 'De-Risking' May Increase Your Pension Risk, Feb. 3, 2016

Six Investing Lessons I Learned Growing Up on a Farm, Sept. 21, 2015

Sharing the Property of the Pension Rights in a Household: Comparison between the US and Belgium, presented at European Network for Research on Supplementary Pensions, Conference on Security, Responsibility and Property of Pensions, KU Leuven, Belgium, Sept. 11, 2015 (with Y. Stevens & E. Verhagen).

The Power of Positive Business Practices to Advance HR and Legal Goals, Human Resources Association of Central Ohio, Columbus, Ohio, Aug. 11, 2015.

Positive Management and Employment Law, Positive Business Conference, Ross School of Business, May 14, 2015.

Decentralized Enforcement in Pension Plan Fraud, presented at Drexel University Law School, Fourth Annual Benefits and Social Security Scholars Conference: Mar. 28, 2015.

PROFESSIONAL ASSOCIATION APPOINTMENTS, ACTIVITIES, AND SERVICE (last 5 years)

Member, National Academy of Social Insurance, 2018 – Current.

Chair, Ross School of Business Faculty Council for BBA and Pre-Experience Programs, 2017–Current.

Member, Provost’s Council for Student Honors, 2017–Current.

Member, Ross School of Business Executive Committee, 2015–2017, 2011–2012; 2007–2008.

Member, Ross School of Business Dean Search Committee, 2015–2016.

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RECOGNITION, AWARDS AND HONORS (last 5 years)

2019 Ralph Hoeber Memorial Award for Excellence in ABLJ Research.

2019 Ross School of Business, Andy Andrews Distinguished Service Award.

2016 Hober Memorial Award for Outstanding Article, volume 52 of the AMERICAN BUSINESS LAW JOURNAL.

2015 Ross School of Business, Victor L. Bernard Teaching Leadership Award.

PAST PROFESSIONAL APPOINTMENTS–BUSINESS AND LAW

Dykema Gossett, Bloomfield Hills, MI
Associate

Winston & Strawn, Chicago, IL
Associate

Chrysler Financial Corporation, Troy, MI
Chrysler Corporation, Highland Park, MI

Human Resources Specialist. Held positions in compensation and benefits, employment and placement, and union relations