

Dana M. Muir
Stephen M. Ross School of Business
Ann Arbor, Michigan 48109
(734) 763-3091
dmuir@umich.edu

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:

| | |
|--------------|---|
| 2020–2021 | Area Chair of Business Law |
| 2022–current | |
| 2016–current | Robert L. Dixon Collegiate Professor of Business Administration |
| 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:

| | |
|---------------|--|
| 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 | University of Michigan Law School |
| F1997 | Visiting Professor of Law |
| Fall 1998 | University of Iowa Law School, Iowa City, IA Visiting Associate Professor of Law |

GOVERNMENT, BUSINESS, AND OTHER ORGANIZATIONS

| | |
|--------------|--|
| 2019–Current | Member, Membership Committee, International Pensions and |
|--------------|--|

| | |
|--------------|--|
| | Employee Benefits Lawyers Association |
| 2017–Current | Member, Simplification Award Committee, American College of Employee Benefits Counsel |
| 2014–2020 | 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) |

JOURNAL PUBLICATIONS

Sustainable Investing and Fiduciary Obligations in Pension Funds: The Need for Sustainable Regulation, 59 AMERICAN BUSINESS LAW JOURNAL [] (2022) (forthcoming).

Sustainable Investment Options in Defined Contribution Plans: Intergenerational Issues, THE NEW YORK UNIVERSITY REVIEW OF EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION (2022) (forthcoming).

An Agency Costs Theory of Employee Benefits Law, 43 BERKELEY J. EMP. & LAB. L. [] (2022) (forthcoming).

Covid-19 and U.S. Private Pensions, Benefits Quarterly (2022) (with J. Turner) (forthcoming).

The Evolution of the U.S. Pension System: 1994-2019 in 25 YEARS OF PENSION REFORM 370 (Kowiakowski & Stevens eds. Edgar Elgar 2022) (co-authored with Jonathan Barry Forman and John A Turner).

Fiduciary Relationships in Employee Benefit Plans, in *FIRM GOVERNANCE: THE ANATOMY OF FIDUCIARY OBLIGATIONS IN BUSINESS* 189 (Laby & Russell, eds. Cambridge University Press 2021).

The Limited Role of Fiduciary Obligation in Employee Benefit Plans, *NYU REVIEW OF EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION* (2020)

How Behavioral Science Ultimately Fails Retirement Savers: A Noble Experiment, 56 *AMERICAN BUSINESS LAW JOURNAL* 707 (2019) (lead article). Received a 2020 Ralph Hoeber Memorial Award for Excellence in ABLJ Research.

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).C

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: Varsity 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 PROGRESS

Sustainable Investment Options in 401(k) Plans

Various projects related to sustainability considerations in shareholder engagement and investment of retirement plan assets.

CONFERENCES ORGANIZED

2021 Employee Benefits and Social Insurance Virtual Conference Series. March 26, 2021 and April 23, 2021 (with Natalya Shnitser).

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 academic years)

The Pandemic's Effect on Occupational Pension Schemes – the U.S., September 29, 2022, Social Security Systems in the Light of Demographic, Economic and Technological Challenges, Poznan University of Technology, Poland.

Sustainable Investment Options in Defined Contribution Plans: Intergenerational Issues, September 9, 2022, Annual Meeting of European Network for Research on Supplemental Pensions, University of Coimbra, Portugal.

Sustainable Investment Options in Defined Contribution Plans: Intergenerational Issues, July 30, 2022, National Conference of the Academy of Legal Studies in Business.

Fiduciary Obligations for Sustainable Investing: Defining the Role of Pension Funds in Society, April 13, 2022, Kelley School of Business, Indiana University, Speaker Series (virtual).

Fiduciary Obligations for Sustainable Investing: Defining the Role of Pension Funds in Society, February 25, 2022, Symposium on The Changing Faces of Business Law and Sustainability.

Fiduciary Obligations for Sustainable Investing: Defining the Role of Pension Funds in Society, February 18, 2022, ERISA Scholars Conference.

Covid-19 and U.S. Private Pensions, presented at the Annual Conference of the European Network for Research on Supplementary Pensions, Dec. 14, 2021 (with J. Turner).

Comment Letter on Proposed Rule on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights (Dec. 10, 2021) (filed with the U.S. Department of Labor), <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/public-comments/1210-AC03/00322.pdf>.

An Agency Costs Theory of Employee Benefit Law, August 4, 2021, National Conference of the Academy of Legal Studies in Business.

Sustainability and Business Law: Questions, Challenges, and Opportunities (Panel), August 2, 2021, National Conference of the Academy of Legal Studies in Business.

An Economic Agency Costs Model for Employee Benefit Law, April 23, 2021, 2021 Employee Benefits and Social Insurance Virtual Conference Series.

Amicus Brief in The ERISA Industry Council v. City of Seattle, brief filed with the Court of Appeals for the Ninth Circuit in support of Appellee, filed November 2020 (with law professors).

Climate Change Investing; Together We Can Do 3,000 Times as Much as Jeff Bezos, August 3, 2020, National Conference of the Academy of Legal Studies in Business.

Product Liability Teaching Case: The Innovation Responsible for the Rise and Fall of Takata, August 7, 2020, National Conference of the Academy of Legal Studies in Business.

Sustainable Investing of U.S. Retirement Assets, *Journal of the International Pension and Employee Benefits Attorneys*, July 2020, pp. 53-58,
<http://www.ipebla.org/resources/Documents/IPL%20Vol%2092%2027.7.2020%20FINAL.pdf> (paywall).

Supreme Court Protects Defined-Benefit Plan Fiduciaries from Lawsuits, for SCOTUSblog, June 1, 2020, <https://www.scotusblog.com/2020/06/opinion-analysis-supreme-court-protects-defined-benefit-plan-fiduciaries-from-lawsuits/>.

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/.

Product Liability Teaching Case: The Innovation Responsible for the Rise and Fall of Takata, published with William Davidson Institute, 6-824-314, April 3, 2020
824-314 (with Sean Burns).

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.

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

Chair, Ross School of Business Faculty Council for BBA and Pre-Experience Programs, 2017–2018.

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

Member, Online MBA Program Faculty Committee, 2017-2021.

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

RECOGNITION, AWARDS AND HONORS (last 5 years)

2020 Ralph Hoeber Memorial Award for Excellence in ABLJ Research.

2019 Ralph Hoeber Memorial Award for Excellence in ABLJ Research.

2019 Ross School of Business, Andy Andrews Distinguished Service 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