



**CENTER FOR THE STUDY OF LAW AND SOCIETY**  
**BERKELEY LAW**

## **CSLS SPEAKER SERIES**

Monday, February 4, 2019

### **RUTH COLKER**

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Moritz College of Law, Ohio State University

### **“The Power of Insults”**

Insults work on both a structural and personal level. This Article argues that the power elite has effectively hurled insults at civil rights activists, plaintiffs and their lawyers to undermine civil rights reform. It has long been understood that the civil rights community must engage in cultural, political and legal work to attain effective reforms. But insufficient attention has been paid to how the power elite uses the cultural tool of insults to undermine these reforms.

Limitations on effective civil rights reform range from constraints on the private attorney general model to restrictions on the work of the Legal Services Corporation to pullbacks in voting rights. Insults have played an important and previously unrecognized role in the creation of these limitations. After discussing the undertheorized phenomenon of the power of public insults, this Article presents a case study of defense pleadings filed in accessibility cases brought under the Americans with Disabilities Act. These pleadings reflect how defendants can use insults as part of their litigation strategy to make it difficult for plaintiffs to attain effective relief under a statute designed to create genuine structural reform.

Rather than worrying about whether civil rights activists should go high when the power elite goes low, this Article argues that it is crucial that civil rights statutes are constructed with a stronger foundation. Then, plaintiffs will be able withstand a barrage of insults when they seek effective relief. Straw houses are too easy to blow down.

A draft of “The Power of Insults” is available on our website and in hard copy at the Center.

**PLACE** Selznick Seminar Room, 2240 Piedmont Avenue  
**TIME** **12:45 – 2:00pm**. Coffee and water provided. Bag lunches welcome.  
**INFO** <https://www.law.berkeley.edu/centers/center-for-the-study-of-law-society/>  
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