

STEPHANIE BORNSTEIN

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ACADEMIC EMPLOYMENT

UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW 2014-PRESENT

Associate Professor of Law (2017-Present)

Assistant Professor of Law (2014-2017)

Current Courses: Civil Procedure, Employment Law, Employment Discrimination

Other Interests: Administrative Law, Legislation, Labor Law, Title IX, Critical Legal Theory (Race, Gender)

- Affiliated Faculty: Center on Children & Families; Center for the Study of Race & Race Relations; UF Center for Gender, Sexualities & Women's Studies Research
- Law School Service: Strategic Planning (2017-18); Faculty Appointments (2016-17); Curriculum (2014-16, 2017-18); Diversity & Community Relations (2015-16, 2018-20)
- University Service: Title IX Committee for Intercollegiate Athletics (2016-Present)
- Founding Faculty Advisor, UF Law Employment & Labor Law Society (2015-Present)

UNIVERSITY OF CALIFORNIA HASTINGS COLLEGE OF THE LAW 2006-2014

Visiting Assistant Professor of Law (2011-2014)

Courses: Employment Law, Employment Discrimination (1L Statutory Elective & Upper Division)

Center for WorkLife Law - Faculty Fellow (2006-2011); Deputy Director (2010-2011); Associate Director (2008-2010)

Course: Work & the Family (co-taught with Professor Joan C. Williams)

EDUCATION

UNIVERSITY OF CALIFORNIA, BERKELEY SCHOOL OF LAW – J.D., 2000

Member, *California Law Review*

Managing Editor, *Berkeley Women's Law Journal*

Counselor, Worker's Rights Clinic

Co-Chair, Berkeley Law Foundation Public Interest Task Force

Recipient of two-year post-graduate public interest New Voices Fellowship (Ford Foundation/AED)

HARVARD UNIVERSITY – A.B., 1994

Magna cum laude in English and American Literature and Language

OTHER LEGAL EXPERIENCE

NOLO PRESS – BERKELEY, CA 2004-2006

Employment Law Editor

EQUAL RIGHTS ADVOCATES – SAN FRANCISCO, CA 2000-2004

Staff Attorney (2002-2004); Project Attorney/New Voices Fellow (2000-2002)

RUDY, EXELROD, ZIEFF & TRUE, LLP – SAN FRANCISCO, CA SUMMER 1999

Summer Associate

HON. THELTON E. HENDERSON, U.S. DISTRICT COURT, N.D. CAL. – SAN FRANCISCO, CA SUMMER 1998

Judicial Extern

PUBLICATIONS

Works in Progress

Disclosing Discrimination

When Forum Determines Rights: Forced Arbitration of Discrimination Claims (chapter for an edited volume on critical legal approaches to Civil Procedure)

The Politics of Pregnancy Accommodation (invited for HARVARD LAW & POLICY REVIEW special issue, “Politics of Pregnancy”)

Empirical project on state law innovations to close the pay gap (with Jennifer Shinall)

Academic Articles

Public-Private Co-Enforcement Litigation, 104 MINNESOTA LAW REVIEW _ (forthcoming 2019).

The Statutory Public Interest in Closing the Pay Gap, 10 ALABAMA CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW 1 (2019) (invited for symposium, “Gender Inequality 55 Years After the Equal Pay Act”).

Antidiscriminatory Algorithms, 70 ALABAMA LAW REVIEW 519 (2018).

Equal Work, 77 MARYLAND LAW REVIEW 581 (2018).

- Selected for peer review in Joseph Seiner, *A Modern Approach to Pay Disparities in the Workplace*, JOTWELL (Jan. 18, 2018), <https://worklaw.jotwell.com/modern-approach-pay-disparities-workplace>.

Reckless Discrimination, 105 CALIFORNIA LAW REVIEW 1055 (2017).

- Reprinted in *WOMEN AND THE LAW* 433 (Tracy A. Thomas, ed., 2018).
- Winner, 2017 Southeastern Association of Law Schools (SEALS) Call for Papers Competition.
- Selected as one of ten junior scholar papers for presentation at the American Constitution Society’s Inaugural Junior Scholars Public Law Workshop (Jan. 2017).

Unifying Antidiscrimination Law through Stereotype Theory, 20 LEWIS & CLARK LAW REVIEW 919 (2016).

- Reprinted in *WOMEN AND THE LAW* 567 (Tracy A. Thomas, ed., 2017).
- Cited in Brief of Women CEOs & Other C-Suite Executives as Amicae Curiae in Support of [Employees], *Bostock v. Clayton Cty, Altitude Express v. Zarda, Harris Funeral Homes v. EEOC*, 139 S.Ct. 2049 (2019) (Nos. 17-1618, 17-1623, 18-107 consolidated), 2019 WL 3003467.

Rights in Recession: Toward Administrative Antidiscrimination Law, 33 YALE LAW & POLICY REVIEW 119 (2014).

- Selected as one of three junior scholar papers for presentation at Seton Hall’s 8th Annual Employment & Labor Law Scholars’ Forum (Oct. 2013).
- Quoted in Brief of Amicus Curiae NAACP Legal Defense & Educational Fund in Support of Respondent, *Fort Bend Cty v. Davis*, 139 S.Ct. 1843 (2019) (No. 18-525), 2019 WL 1597113.

The Legal and Policy Implications of the “Flexibility Stigma,” 69 JOURNAL OF SOCIAL ISSUES 389 (2013) (peer reviewed).

The Law of Gender Stereotyping and the Work-Family Conflicts of Men, 63 HASTINGS LAW JOURNAL 1297 (2012).

Work, Family, and Discrimination at the Bottom of the Ladder, 19 GEORGETOWN JOURNAL ON POVERTY LAW & POLICY 1 (2012).

- Quoted in Brief of Law Professors & Women's Rights Organizations as Amici Curiae in Support of Petitioner, *Young v. UPS*, 135 S.Ct. 1338 (2015) (No. 12-1226), 2013 WL 2103656.

Discrimination against Mothers: Lessons from U.S. Caregiver Discrimination Law, 28 INTERNATIONAL JOURNAL OF COMPARATIVE LABOUR LAW & INDUSTRIAL RELATIONS 45 (2012) (with Joan C. Williams & Genevieve Painter).

The Evolution of "FReD": Family Responsibilities Discrimination and Developments in the Law of Stereotyping and Implicit Bias, 59 HASTINGS LAW JOURNAL 1311 (2008) (with Joan C. Williams).

- Quoted in Brief of ACLU & National Women's Law Center as Amici Curiae in Support of Respondents, *Wal-Mart v. Dukes*, 564 U.S. 338 (2011) (No. 10-277), 2011 WL 805231.

Law Firms as Defendants: Family Responsibilities Discrimination in Legal Workplaces, 34 PEPPERDINE LAW REVIEW 393 (2007) (with Joan C. Williams, Betsy Williams & Diana Reddy).

Caregivers in the Courtroom: The Growing Trend of Family Responsibilities Discrimination, 41 UNIVERSITY OF SAN FRANCISCO LAW REVIEW 171 (2006) (with Joan C. Williams).

Note, *The Undue Burden: Parental Notification Requirements for Publicly Funded Contraception*, 15 BERKELEY WOMEN'S LAW JOURNAL 40 (2000).

Book Contributions

Commentary on AFSCME v. State of Washington, in FEMINIST JUDGMENTS: EMPLOYMENT DISCRIMINATION OPINIONS REWRITTEN _ (Ann C. McGinley & Nicole Buonocore Porter eds., Cambridge Univ. Press, forthcoming 2020).

Work and Home Life, Conflict Between: Legal and Public-Policy Perspectives, in THE CHILD: AN ENCYCLOPEDIA COMPANION (Richard A. Shweder, ed., Univ. of Chicago Press, 2009) (with Joan C. Williams).

Workplace Anti-Discrimination and Equal Pay Laws in the United States, in WORKPLACE ANTI-DISCRIMINATION AND EQUAL PAY LAWS (Comm. for Labor Cooperation, 2007) (with Joan C. Williams).

Shorter Articles, White Papers & Reports

Poor, Pregnant, and Fired: Caregiver Discrimination against Low-Wage Workers (Center for WorkLife Law, U.C. Hastings College of the Law, 2011).

- Cited in U.S. Equal Employment Opportunity Commission, *Enforcement Guidance: Pregnancy Discrimination and Related Issues*, 2014 WL 3605291 (July 14, 2014).
- Quoted in U.S. Department of Labor, Office of Federal Contract Compliance Programs, *Notice of Proposed Rulemaking; Discrimination on the Basis of Sex*, 80 FR 5246-01 (Jan. 30, 2015).

Beyond Leveling the Playing Field: Can the "Obama Effect" Reshape Gender Equality? PATHWAYS 18 (Spring 2010) (with Joan C. Williams).

Caregivers as a Protected Class?: The Growth of State and Local Laws Prohibiting Family Responsibilities Discrimination (Center for WorkLife Law, U.C. Hastings College of the Law, 2009) (with Robert J. Rathmell).

Addressing Family Responsibilities Discrimination, POLICY BRIEFING SERIES: WORK-FAMILY INFORMATION FOR STATE LEGISLATORS, Issue 16 (Sloan Work & Family Research Network, 2008) (with Julie Weber)

- Cited in U.S. Equal Employment Opportunity Commission, *Employer Best Practices for Workers with Caregiving Responsibilities*, 2009 WL 6697866 (Jan. 1, 2009).

Beyond the “Chilly Climate”: Eliminating Bias Against Women and Fathers in Academe, THOUGHT & ACTION: NEA HIGHER EDUCATION JOURNAL 79 (Fall 2006) (with Joan C. Williams & Tamina Alon).

“Opt Out” or Pushed Out?: How the Press Covers Work/Family Conflict (Center for WorkLife Law, U.C. Hastings College of the Law, 2006) (with Joan C. Williams & Jessica Manvell).

Law, Ethics, and Gender in Medicine; Balancing Acts: Support for Workers to Provide Family Care, 5 JOURNAL OF GENDER-SPECIFIC MEDICINE 12 (May/June 2002) (with Marjorie M. Shultz).

SELECTED PRESENTATIONS & WORKSHOPS

“Disclosing Discrimination”

- Tulane University Murphy Institute’s Regulation Workshop Series, New Orleans, LA, forthcoming, Dec. 3, 2019.
- Colloquium on Scholarship in Employment & Labor Law, UNLV Law School, Las Vegas, NV, forthcoming Oct. 11, 2019.
- Berkeley Comparative Equality and Anti-Discrimination Law Study Group Annual Meeting, Stockholm, SWE, June 17, 2019.
- Law & Society Association Annual Meeting, Workplace Identity in Constitutional Perspective, Washington, DC, June 1, 2019.

“When Forum Determines Rights: Forced Arbitration of Discrimination Claims,” Workshop on a Critical Guide to Civil Procedure, Boston University School of Law, Boston, MA, May 8, 2019.

“Public-Private Co-Enforcement Litigation” (*formerly titled “Super-Hybrid Regulatory Enforcement”*)

- Fourth Annual Civil Procedure Workshop, Stanford Law School, Palo Alto, CA, Nov. 9, 2018.
- Law & Society Association Early Career Workshop, New Orleans, LA, May 30, 2016.
 - Selected from competitive application process to participate.

“Antidiscriminatory Algorithms”

- AALS 2019 Annual Meeting, Section Program, Automatic Discrimination: Algorithms, Big Data & the Law of Employment Decisions, New Orleans, LA, Jan. 4, 2019.
 - Invited panel participant.
- SEALS Annual Conference, New Scholars Workshop, Fort Lauderdale, FL, Aug. 8, 2018.
- Law & Society Association Annual Meeting, Interrogating The Future of Workforce Management, Toronto, CAN, June 9, 2018.
- Colloquium on Scholarship in Employment & Labor Law, Texas A&M University School of Law, Fort Worth, TX, Sept. 15, 2017.

Alabama Civil Rights-Civil Liberties Law Review Symposium: Gender Inequality 55 Years After the Equal Pay Act, University of Alabama Law School, Tuscaloosa, AL, Apr. 13, 2018

- Invited symposium participant.

“Equal Work”

- Southeastern Junior-Senior Scholars Workshop, Washington University School of Law, St. Louis, MO, Oct. 6, 2017.
- SEALS Annual Conference, Public Law Works-in-Progress Workshop, Boca Raton, FL, Aug. 5, 2017.
- Law & Society Association Annual Meeting, Democracy & Gender, Mexico City, MEX, June 22, 2017.
- Colloquium on Scholarship in Employment & Labor Law, University of Washington School of Law, Seattle, WA, Sept. 23, 2016.

Idaho Law Review Symposium: Equality in Employment, University of Idaho College of Law, Boise, ID, Apr. 1, 2016

- Invited symposium participant.

“Reckless Discrimination”

- SEALS Annual Conference, Call for Papers Competition Luncheon, Boca Raton, FL, Aug. 1, 2017.
 - Selected as one of three winners in annual Call for Papers competition.
- American Constitution Society Junior Scholars Public Law Workshop, San Francisco, CA, Jan. 5, 2017.
 - Selected as one of ten junior scholars to participate.
- Southeastern Junior-Senior Scholars Workshop, University of North Carolina School of Law, Chapel Hill, NC, Oct. 28, 2016.
- SEALS Annual Conference, Workplace Law Works-in-Progress Workshop, Amelia Island, FL, Aug. 8, 2016.
- Faculty Workshop, Florida State University College of Law, Tallahassee, FL, Mar. 1, 2016.

“Unifying Antidiscrimination Law through Stereotype Theory”

- AALS 2016 Annual Meeting, Panel on New & Emerging Voices in Employment & Labor Law, New York, NY, Jan. 9, 2016.
- Southeastern Junior-Senior Scholars Workshop, University of Alabama School of Law, Tuscaloosa, AL, Nov. 13, 2015.
- Colloquium on Scholarship in Employment & Labor Law, Indiana University Maurer School of Law, Bloomington, IN, Sept. 11, 2015.
- SEALS Annual Conference, New Scholars Workshop, Boca Raton, FL, July 31, 2015.
- AALS 2015 Midyear Meeting, Workshop on Next Generation Issues on Sex, Gender & the Law, Orlando, FL, June 26, 2015.
- Law & Society Association Annual Meeting, Cutting Edge Issues in Discrimination & Workers’ Rights, Seattle, WA, May 29, 2015.

“Rights in Recession: Toward Administrative Antidiscrimination Law”

- Seton Hall’s 8th Annual Employment & Labor Law Scholars’ Forum, Seton Hall Law School, Newark, NJ, Oct. 11, 2013
 - Selected as one of three junior scholars to participate.
- Colloquium on Scholarship in Employment & Labor Law, UNLV Law School, Las Vegas, NV, Sept. 26, 2013.

“Work, Family, and Discrimination at the Bottom of the Ladder”

- Work & Family Researchers Network Biennial Conference, New York, NY, June 20, 2014.

“The Legal and Policy Implications of the ‘Flexibility Stigma’”

- Law & Society Association Annual Meeting, Inequality & Work Schedules across Class: Legal & Extralegal Remedies, Minneapolis, MN, June 1, 2014.
- Society for the Psychological Study of Social Issues Biennial Conference, Charlotte, NC, June 22, 2012.

“The Law of Gender Stereotyping and the Work-Family Conflicts of Men”

- Redesigning & Redefining Work Working Group, Stanford University, Stanford, CA, Oct. 27, 2012.
 - Invited presenter.
- Work & Family Researchers Network Inaugural Conference, New York, NY, June 15, 2012.

“Institutional Responsibility for Sex and Gender Exploitation,” AALS 2013 Annual Meeting, Section Program of Women in Legal Education, Employment Discrimination Law, Torts & Compensation Systems, New Orleans, LA, Jan. 7, 2013.

“Flexible Work Arrangements: Help for Working Families or Cause of Stigma and Discrimination?,” Pacific Coast Labor & Employment Law Conference, Seattle, WA, May 3, 2012.

- Invited presenter.

“Evolving Discrimination Issues in Work-Life Balance Law,” American Bar Association, National Conference on Equal Employment Opportunity Law, San Francisco, CA, Mar. 23, 2012.

- Invited presenter.

“Cutting Edge Issues in Sex Discrimination and Harassment,” National Employment Lawyers Association 22nd Annual Convention, New Orleans, LA, June 30, 2011.

“Gender Stereotyping and Family Responsibilities Discrimination: What You Need to Know,” Pacific Coast Labor & Employment Law Conference, Seattle, WA, May 5, 2011.

“Problems and Possibilities,” New England Regional Work/Family Public Policy Meeting, Portsmouth, NH, Nov. 8, 2010.

- Invited presenter.

“Family Responsibilities Discrimination,” State Bar of California Labor & Employment Law Section 26th Annual Meeting, San Diego, CA, Nov. 1, 2008.

“Family Responsibilities Discrimination: Everything You Need to Know,” California Employment Lawyers Association 21st Annual Employment Law Conference, Pasadena, CA, Oct. 4, 2008.

“Emerging Discrimination Claims,” Practising Law Institute 37th Annual Institute on Employment Law, San Francisco, CA, Sept. 26, 2008.

“The State of FRD Law Today,” Symposium on Family Responsibilities Discrimination (FRD), Lessons for the Use of Stereotyping Evidence & Implicit Bias in Employment Cases, U.C. Hastings College of the Law, San Francisco, CA, Feb. 9, 2008.

SELECTED MEDIA & TESTIMONY

Work and commentary featured in major media outlets, including *The New York Times*, *USA Today*, *Politico*, *AP*, *Time*, *Chicago Tribune*, *Tampa Bay Times*, *Orlando Sentinel*, *The National Law Journal*, CNN.com, ABCNews.com, Bloomberg.com, and Law.com.

Testimony before U.S. House of Representatives Committee on Education & Labor, Subcommittee on Workforce Protections, Hearing on the Impact of Women’s Growing Participation in the Workforce, November 13, 2009.

Testimony before California Legislature, Assembly Labor & Employment Committee, Hearing on How the Shriver Report (*A Woman's Nation*) Impacts California Working Families, February 17, 2010.

Testimony before California Legislature, Assembly Judiciary Committee and Assembly Labor & Employment Committee, Hearings on AB 1001, April 22 & 27, 2009.

PROFESSIONAL & COMMUNITY ACTIVITIES

- Chair - AALS Section on Employment Discrimination (2019-20); Chair-Elect (2018-19); Secretary (2017-18); Treasurer (2016-17); Member (2014-16)
- Member - Berkeley Comparative Equality & Anti-Discrimination Law Study Group, U.C. Berkeley School of Law (2016-Present)
- Member - AALS Sections on Labor Relations & Employment Law; Civil Procedure; Women in Legal Education (2014-Present)
- Member - Law & Society Association (2014-Present)
- Member - Work & Family Researchers Network, University of Pennsylvania (2011-Present)
- Attendee - George Mason University Law & Economics Center, Workshop for Law Professors on the Economics of Litigation & Civil Procedure (2015)
- Member - Pregnancy Accommodation Working Group, U.C. Hastings College of the Law (2012-15)
- Member - Redesigning & Redefining Work Working Group, Stanford University (2011-14)
- Advisory Board - New Voices Fellowship Program, Ford Foundation/AED (2002-10)
- Board of Directors - Berkeley Law Foundation, U.C. Berkeley School of Law (2000-05)

BAR ADMISSIONS

- State of California (Dec. 4, 2000)
- U.S. District Court for the Northern District of California (2001)
- U.S. District Court for the Eastern District of California (2001)
- U.S. Court of Appeals for the Ninth Circuit (2001)

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