

STEPHANIE BORNSTEIN

Professor of Law & William M. Rains Fellow

Loyola Law School

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ACADEMIC APPOINTMENTS

LOYOLA LAW SCHOOL, LOS ANGELES

JULY 2023-PRESENT

Professor of Law & William M. Rains Fellow

Teaching:

- Current: Civil Procedure, Employment Law, Employment Discrimination, Administrative Law
- Other Interests: Labor Law, Comparative Work Law, Technology & Work, AI & Fairness, Title IX, Gender & the Law, Race & the Law, Critical Legal Theory (Race, Feminist), Critical Civil Procedure

Service:

- Professional: Co-Director, Pay Equity & Living Wage Project, U.C. Berkeley Center on Comparative Equality & Anti-Discrimination Law (2020-Present)
- University: Member, Loyola Marymount University EEO Hearing Panel (2023-24)
- Law School: Co-Chair, Faculty Workshops Committee (2023-24)

UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW

2014-2023

Irving Cypen Professor of Law (2022-2023)

Professor of Law & University Term Professor (2020-2022) (for scholarly achievement)

Associate Professor of Law (2017-2020)

Assistant Professor of Law (2014-2017)

- Teaching: Civil Procedure, Employment Law, Employment Discrimination, Administrative Law
- Affiliated Faculty: Center for the Study of Race & Race Relations; Center for Children & Families; U.F. Center for Gender, Sexualities & Women's Studies Research
- Selected Service: Chair, Promotion & Tenure Committee (2022-23); Co-Coordinator, Criser Faculty Workshops Series (2021-22); Founding Faculty Advisor, Employment & Labor Law Society (2015-2023); Member, U.F. Title IX Committee for Intercollegiate Athletics (2016-2023)

UNIVERSITY OF CALIFORNIA LAW, SAN FRANCISCO (FORMERLY U.C. HASTINGS LAW)

2006-2014

Visiting Assistant Professor of Law (2011-2014)

- Teaching: 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)

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

EDUCATION

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

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.

Magna cum laude in English and American Literature and Language

OTHER LEGAL EXPERIENCE

NOLO PRESS – BERKELEY, CA <i>Employment Law Editor</i>	2004-2006
EQUAL RIGHTS ADVOCATES – SAN FRANCISCO, CA <i>Staff Attorney (2002-2004); Project Attorney/New Voices Fellow (2000-2002)</i>	2000-2004
RUDY, EXELROD, ZIEFF & TRUE, LLP – SAN FRANCISCO, CA <i>Summer Associate</i>	SUMMER 1999
HON. THELTON E. HENDERSON, U.S. DISTRICT COURT, N.D. CAL. – SAN FRANCISCO, CA <i>Judicial Extern</i>	SUMMER 1998

PUBLICATIONS

Books & Book Chapters

CASES AND MATERIALS ON EMPLOYMENT DISCRIMINATION (Aspen Casebook Series, 10th ed., 2021) (with Charles A. Sullivan & Michael J. Zimmer).

- Starting with 10th ed., joined as co-author of a leading casebook in the field.

Degendering the Law through Stereotype Theory, in THE OXFORD HANDBOOK OF FEMINISM AND LAW IN THE UNITED STATES 350-369 (Deborah L. Brake, Martha Chamallas & Verna Williams, eds., Oxford Univ. Press, 2023).

When Forum Determines Rights: Forced Arbitration of Discrimination Claims, in A GUIDE TO CIVIL PROCEDURE: INTEGRATING CRITICAL LEGAL PERSPECTIVES 368-377 (Brooke Coleman, Suzette Malveaux, Portia Pedro & Elizabeth Porter, eds., NYU Press, 2022).

Commentary on AFSCME v. State of Washington, in FEMINIST JUDGMENTS: EMPLOYMENT DISCRIMINATION OPINIONS REWRITTEN 334-344 (Ann C. McGinley & Nicole Buonocore Porter eds., Cambridge Univ. Press, 2020).

Academic Articles

The Enforcement Value of Disclosure, 72 DUKE LAW JOURNAL 1771 (2023).

- Selected for 2023 Duke Law Journal Administrative Law Symposium.

Confronting the Racial Pay Gap, 75 VANDERBILT LAW REVIEW 1401 (2022).

- Reviewed in Michael C. Duff, *Taking Seriously the Implications of the Racial Wage Gap*, JOTWELL (July 19, 2023), <https://worklaw.jotwell.com/taking-seriously-the-implications-of-the-racial-wage-gap>.

Disclosing Discrimination, 101 BOSTON UNIVERSITY LAW REVIEW 287 (2021).

- Selected for 2020 Harvard/Yale/Stanford Junior Faculty Forum.

The Politics of Pregnancy Accommodation, 14 HARVARD LAW & POLICY REVIEW 293 (2020).

- Invited contribution for special issue on pregnancy and politics.

Public-Private Co-Enforcement Litigation, 104 MINNESOTA LAW REVIEW 811 (2019).

The Statutory Public Interest in Closing the Pay Gap, 10 ALABAMA CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW 1 (2019).

- Invited contribution for symposium on the Equal Pay Act.

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

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

- Reviewed 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).

- Winner, 2017 Southeastern Association of Law Schools (SEALS) Call for Papers Competition.
- Reprinted in *WOMEN AND THE LAW* 433 (Tracy A. Thomas, ed., 2018).

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).

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

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

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).

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).

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).

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).

Shorter Articles, White Papers & Reports

The Legacy of Wal-Mart v. Dukes and the Administrative Response, 37 ABA JOURNAL OF LABOR & EMPLOYMENT LAW (forthcoming 2023).

- Proceedings of the 74th Annual NYU Conference on Labor & Employment Law, June 9, 2022.

Shattering Stereotypes, 17 FIU LAW REVIEW (forthcoming 2023).

- Invited for symposium on KERRI LYNN STONE, PANES OF THE GLASS CEILING (2022)

The Machine in the Mirror, YALE JOURNAL ON REGULATION: NOTICE & COMMENT (Mar. 14, 2023), <https://www.yalejreg.com/nc/the-machine-in-the-mirror-by-stephanie-bornstein>.

- Invited for symposium on ORLY LOBEL, THE EQUALITY MACHINE (2022)

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).

SELECTED PRESENTATIONS & WORKSHOPS

Maryland Law Journal of Race Religion Gender & Class Symposium: 60th Anniversary of the Equal Pay Act, University of Maryland Law School, forthcoming Mar. 15, 2024.

- Invited speaker.

“The Enforcement Value of Disclosure”

- Duke Law Journal 53rd Annual Administrative Law Symposium, Mar. 3, 2023.
 - Selected from competitive application process to participate.
- Colloquium on Scholarship in Employment & Labor Law, Vanderbilt Law School, Oct. 22, 2022.

“Labor and Employment Initiatives of the Biden Administration: The Legacy of *Wal-Mart*,” 74th Annual NYU Conference on Labor & Employment Law, NYU Law School, June 9, 2022.

- Invited panel participant.

“Confronting the Racial Pay Gap”

- Intersectional Gender & Racial Equity Speaker Series, Penn State Dickinson Law School (virtual), Feb. 23, 2022.
 - Invited speaker.
- Faculty Workshop, University of Pittsburgh School of Law (virtual), Oct. 5, 2021.
- Colloquium on Scholarship in Employment & Labor Law, University of Louisville School of Law (virtual), Oct. 10, 2020.

Co-Organizer & Moderator, International Conference on Pay Equity & the Living Wage, U.C. Berkeley Center on Comparative Equality & Anti-Discrimination Law and Georgetown Law Workers’ Rights Institute, U.C. Berkeley Law School (virtual), June 28-29, 2021.

Organizer & Moderator, “Responses to Income Inequality: Can Employment Discrimination Law Help Close the Wage & Wealth Gaps?,” Section on Employment Discrimination Law Program, AALS 2020 Annual Meeting, Washington, DC, Jan. 4, 2020.

“Disclosing Discrimination”

- Harvard/Yale/Stanford Junior Faculty Forum, Stanford Law School (virtual), July 21, 2020.
 - Selected from competitive application process to participate.
- Texas A&M University School of Law’s Workplace Law Conference (virtual), Administrative Law and the Workplace Impact, Apr. 3, 2020.
 - Invited speaker.
- Tulane Murphy Institute’s Regulation Workshop Series, Tulane Law School, Dec. 3, 2019.
 - Invited speaker.
- Colloquium on Scholarship in Employment & Labor Law, UNLV Law School, Oct. 11, 2019.
- U.C. Berkeley Center on Comparative Equality and Anti-Discrimination Law Annual Meeting, Stockholm University 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, May 8, 2019.

“Public-Private Co-Enforcement Litigation”

- Fourth Annual Civil Procedure Workshop, Stanford Law School, 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 on Employment Discrimination Law Program, Automatic Discrimination: Algorithms, Big Data & the Law of Employment, 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, 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, Apr. 13, 2018.

- Invited speaker.

“Equal Work”

- Southeastern Junior-Senior Scholars Workshop, Washington University School of Law, 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, Apr. 1, 2016.

- Invited speaker.

“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 Law School, Oct. 28, 2016.
- Faculty Workshop, Florida State University College of Law, 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, Nov. 13, 2015.
- Colloquium on Scholarship in Employment & Labor Law, Indiana University Maurer School of Law, 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”

- Eighth Annual Employment & Labor Law Scholars’ Forum, Seton Hall Law School, Oct. 11, 2013.
 - Selected as one of three junior scholars to participate.
- Colloquium on Scholarship in Employment & Labor Law, UNLV Law School, 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.

“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.

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

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

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

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

“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.

“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.

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*, NPR, CNN.com, ABCNews.com, Bloomberg.com, and Law.com.

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

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, Nov. 13, 2009.

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

AWARDS

- Michael J. Zimmer Memorial Award, 2022 (for a rising scholar who has made significant contributions to the field of labor and employment law scholarship)
- Fellow, American Bar Foundation, 2021
- Winner, Southeastern Association of Law Schools (SEALS) Call for Papers Competition, 2017
- Recipient, New Voices Fellowship, Ford Foundation/AED, 2000-2002

PROFESSIONAL & COMMUNITY ACTIVITIES

- Executive Committee Member - AALS Section on Employment Discrimination (2016-Present); Chair (2019-20); Chair-Elect (2018-19); Secretary (2017-18); Treasurer (2016-17); Member (2014-16)
- Member - AALS Sections on Administrative Law; Civil Procedure; Labor Relations & Employment Law; Women in Legal Education (2014-Present)
- Member - Law & Society Association (2014-Present)
- Member - Work & Family Researchers Network, University of Pennsylvania (2011-Present)
- 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 & Eastern Districts of California (2001); U.S. Court of Appeals for the Ninth Circuit (2001)