

## **KIMBERLY WEST-FAULCON**

ASSOCIATE PROFESSOR OF LAW  
LOYOLA LAW SCHOOL  
919 ALBANY STREET  
LOS ANGELES, CA 90015  
(213) 736-8172  
kimberly.west-faulcon@lls.edu  
<http://www.lls.edu/academics/faculty/west-faulcon.html>

### **RECENT PROFESSIONAL EXPERIENCE**

2005-	<b>LOYOLA LAW SCHOOL</b> Associate Professor of Law <i>Courses:</i> Constitutional Law I; Constitutional Law II; Principles of Social Justice; and Intelligence, Testing and the Law	Los Angeles, CA
Fall 2004	<b>UCLA SCHOOL OF LAW</b> Visiting Lecturer <i>Course Taught:</i> Race-Conscious Remedies	Los Angeles, CA
1998-2005	<b>NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC</b> Western Regional Director-Counsel	Los Angeles, CA
1996-1998	<b>SKADDEN FELLOW</b> NAACP Legal Defense and Educational Fund, Inc.	New York, NY
1995-1996	<b>THE HONORABLE STEPHEN REINHARDT</b> United States Court of Appeals for the Ninth Circuit Law Clerk	Los Angeles, CA

### **EDUCATION**

1992-1995	<b>YALE LAW SCHOOL</b> Juris Doctor <i>Yale Law Journal</i> , Senior Editor	New Haven, CT
1988-1995	<b>DUKE UNIVERSITY</b> Bachelor of Arts, <i>summa cum laude</i> , Phi Beta Kappa <i>GPA:</i> 3.9 ( <i>Class Rank:</i> 9 of 1182) Rankin Award for Constitutional Law Rankin Award for American Government Procter and Gamble Political Science Award	
1991	Rhodes Scholar Finalist	
1990	Harry S. Truman Scholar	
1990	Faculty Scholar Award (for excellence in academic scholarship)	
1988	Angier B. Duke Scholar (full-tuition, merit scholarship)	
1991	<b>OXFORD UNIVERSITY</b> <i>Course of Study:</i> British Political Economy & Economic History	Oxford, England

## **PUBLICATIONS**

*More Intelligent Design: Testing Measures of Merit* (forthcoming).

*Reading Ricci: Whitening Discrimination, Race-ing Test Fairness* (with Cheryl I. Harris), 58 UCLA L. REV. \_\_ (2010) (forthcoming).

*The River Runs Dry: When Title VI Trumps State Anti-Affirmative Action Laws*, 157 U. PA. L. REV. 1075 (2009).

*A Desegregation Tool that Backfired: Magnet Schools and Classroom Segregation*, 103 YALE L.J. 2567 (1994).

*AIDS and the Anti-Gay Crusade*, 9 DUKE J. POLITICS 75 (Spring 1991).

## **COMMENTARIES**

*Reverse or Rehearsed Discrimination in College Admissions*, L.A. DAILY NEWS, Jun. 29, 2009.

*Is Sotomayor a Reverse Racist? Testing the Limits of Tests*, TODAY'S WORKPLACE, May 28, 2009.

*Weighing in on Test Score Equality*, L.A. DAILY JOURNAL, May 13, 2009.

*Ricci v. DeStefano: A Test on Race*, L.A. TIMES, April 24, 2009.

*Looking Beyond the Numbers*, L.A. DAILY JOURNAL, Nov. 4, 2003.

*Stop Playing the SAT Numbers Game*, PHILADELPHIA TRIBUNE, May 8, 2001 (with Elaine R. Jones).

## **OTHER PUBLICATIONS**

*Randolph County: A Game of Discovery*, CENTER FOR COMPUTER-ASSISTED LEGAL INSTRUCTION (CCALI), Copyright 2003 (civil procedure instructional computer game) (with Owen M. Fiss and Ronald F. Wright).

## **WORKS IN PROGRESS**

*Employing Tests: Practical Value vs. Psychometric Validity* (law review article) (tentative title).

## **MEDIA EXPERIENCE**

Featured, quoted and interviewed by various national and local media, including: CNN, *The New York Times*, *The Washington Post*, *Los Angeles Times*, *Black Issues in Higher Education*, *Education Week*, *The Los Angeles Sentinel*, *Los Angeles Daily News*, *The Los Angeles Daily Journal*, *San Francisco Chronicle*, *San Francisco Examiner*, *Savoy Magazine*, *Ebony*, *The New Crisis*, *Black Enterprise.com*, , KPCC-FM *AirTalk* with Larry Mantle, *Forum*, *BET*, *One on One*, and National Public Radio's *Tavis Smiley Show*.

## SELECTED PRESENTATIONS

*Reading Ricci: The New Haven Firefighters' Case*

AALS Hot Topics Panel  
2010 AALS Annual Meeting  
New Orleans, LA (January 8, 2010)

*Intelligence, Testing and the Law*

Colorblind Disciplining of Race-Conscious Work: Critical Interventions Across the Academy  
Center for Advanced Study in the Behavioral Sciences (CASBS)  
Stanford University  
Palo Alto, CA (June 2, 2009)

*Reaching Forward: A Discussion between Academics and Advocacy Organizations*

Fred T. Korematsu Center for Law and Equality  
Seattle University School of Law  
Seattle, WA (April 18, 2009)

*Obama's Education Reform Agenda and No Child Left Behind*

Forum on National Education Reform  
Thomas Jefferson School of Law  
San Diego, CA (April 1, 2009)

*More Intelligent Design*

Race in Colorblind Spaces  
Third Annual Critical Race Studies Symposium  
UCLA School of Law  
Los Angeles, CA (Mar. 7, 2009)

*Employing Tests: Practical Value vs. Psychometric Validity in Ricci v. DeStefano*

Civil Rights and the Roberts Court  
American Constitution Society  
UCLA School of Law  
Los Angeles, CA (Feb. 25, 2009)

*The River Runs Dry: When Title VI Trumps State Anti-Affirmative Action Laws*

UCLA School of Law Faculty Colloquium  
UCLA School of Law  
Los Angeles, CA (October 10, 2008)

*The River Runs Dry: When Title VI Trumps State Anti-Affirmative Action Laws*

Loyola Law School Faculty Workshop  
Loyola Law School  
Los Angeles, CA (September 18, 2008)

*France's Statistical Color-Blindness in Question: Statistical Analysis as Proof of Racial "Effect" Discrimination*

Perspectives on Anti-Discrimination and Affirmative Action Policies in the United States and France  
Center d'Etudes et de Recherches Internationales  
Paris, France (May 20, 2008)

*The River Runs Dry: When Title VI Trumps State Anti-Affirmative Action Laws*  
Conference of Asian Pacific American Law Faculty (CAPALF) and Western Law Teachers of Color  
Conference  
University of Denver Sturm College of Law  
Denver, CO (April 25, 2008)

*Gender and Racial Diversity in the Legal Profession*  
American Bar Association Law Loyola Law Student Division  
Diversity Day  
Loyola Law School  
Los Angeles, CA (March 26, 2008)

*Return of a Civil Rights Hero from Little Rock to Los Angeles*  
(with Dr. Terrance Roberts, one of the “Little Rock Nine” *Cooper v. Aaron* plaintiffs)  
Simon Wiesenthal Center Museum of Tolerance  
Los Angeles, CA (February 18, 2008)

*The River Runs Dry: When Title VI Trumps State Anti-Affirmative Action Laws*  
UCLA Critical Race Studies Workshop  
UCLA School of Law  
Los Angeles, CA (February 4, 2008)

*What Can We Do, Post-Michigan Proposal 2?*  
National Association for College Admission Counseling (NACAC) 63<sup>rd</sup> National Conference  
Austin, TX (September 27, 2007)

*More Intelligent Design*  
Southeastern Association of Law Schools New Scholars Presentation  
Amelia Island, FL (August 2, 2007)

*From Race Preference to Race Discrimination: Examining the Federal Obligation to Use Race After  
Proposition 209*  
Southeast/Southwest People of Color Legal Scholarship Conference  
Florida A&M University College of Law  
Orlando, FL (March 17, 2007)

*From Race Preference to Race Discrimination: Does Proposition 209 Permit Remedial Affirmative  
Action?*  
Boalt Hall Earl Warren Institute Equal Opportunity in Higher Education: The Past and Future of  
Proposition 209” Conference  
UC Berkeley Boalt Hall School of Law  
Berkeley, CA (October 28, 2006)

Supreme Court Justice (with Dean Ken Starr, Professor Gail Heriot and Professor Cheryl Harris)  
*Meredith v. Jefferson County Board of Education* Supreme Court Moot  
UCLA American Constitution Society  
UCLA School of Law  
Los Angeles, CA (October 24, 2006).

*Legal Significance of California Proposition 209*

African-American Attorneys in Downtown Firms “Tenth Anniversary of California Proposition 209”  
Loyola Law School  
Los Angeles, CA (May 25, 2006)

*Multi-Racial Litigation as Civil Rights Strategy in Abercrombie v. Gonzalez*

Loyola Law School Asian Pacific American Law Students Association (APALSA)  
Loyola Law School  
Los Angeles, CA (February 2006)

*More Intelligent Design*

*National Black Law Journal* 35<sup>th</sup> Anniversary Symposium  
“Regression Analysis: The Status of African Americans in American Legal Education”  
UCLA School of Law  
Los Angeles, CA (November 18, 2005)

*Using Castaneda v. UC Regents to Show How Post-Affirmative Action Schools Can Do More*

*UCLA Chicano-Latino Law Review* Symposium “Proposition 209: Ten Years Later”  
UCLA School of Law  
Los Angeles, CA (November 1, 2005)

*Distinguishing Corporate Social Justice as Profit Maximization*

Center on Corporations, Law & Society at Seattle University School of Law  
Fourth Annual Conference of the Equal Justice Society  
“New Strategies for Justice: Linking Corporate Law with Progressive Social Movements”  
UCLA School of Law  
Los Angeles, CA (April 9, 2005)

*Promoting Equal Opportunity Post-Grutter*

African American Policy Forum & The Leadership Conference on Civil Rights  
"A Strategy Summit on Affirmative Action: Reclaiming the High Ground 50 Years After Brown"  
Washington, DC (October 14, 2004)

*Reform in the Los Angeles Police Department: Where do we go from here?*

Keynote Address  
The Urban Issues Breakfast Forum of Greater Los Angeles  
Los Angeles, CA (July 2004)

*Nuts and Bolts of Federal Civil Rights Litigation as Applied to Poverty Law Practice*

National Legal Aid & Defender Association Substantive Law Conference  
University of California at Los Angeles  
Los Angeles, CA (July 2004)

*Case-study of Castaneda v. UC Regents*

Stanford Law School Racial Justice Advocacy Seminar  
Guest Lecturer  
Stanford Law School  
Palo Alto, CA (April 2004)

*Meeting the Challenges to Economic Opportunity and Diversity*  
Greenlining Institute Economic Development Summit  
Los Angeles, CA (April 2004)

*Reporting on the 50<sup>th</sup> Anniversary of Brown v. Board of Education*  
Annual National Meeting of the Education Writers Association  
Los Angeles, CA (April 2004)

*The Merits of Testing as Understood by the U.S. Supreme Court*  
Race Conscious Remedies  
Guest Lecturer  
Joint Columbia-UCLA Seminar  
UCLA School of Law  
Los Angeles, CA (February 2004)

*Understanding Test Score Misuse in College Admissions and Scholarship Awards*  
National Association for College Admission Counseling (NACAC) 59th National Conference  
Long Beach, CA (October 2003)

*Affirmative Action in the New Millennium* (with Lani Guinier, Connie Rice and Eva Paterson)  
Just the Beginning Foundation and the California Law Community Consortium  
San Francisco, CA (September 2000)

*Maintaining Diversity After I-200*  
University of Washington  
Seattle, WA (May 19, 1999)

*Social Activism and Legal Representation of Underserved Communities*  
California State University Long Beach and The City University of New York  
Long Beach, CA (November 1998)

*Legal Theories to Address Misuse of Tests and Other Classifying Devices*  
Lawyers' Committee for Civil Rights Conference "Challenging Education Discrimination"  
Atlanta, GA (September 1997)

## **REPRESENTATIVE LEGISLATIVE TESTIMONY**

*Brown v. Board of Education: 50 Years Later*  
California Assembly Select Committee on Urban Youth  
California State Legislature  
Sacramento, CA (May 4, 2004)

*Civil rights consequences of Proposed California Proposition 54*  
Los Angeles County Board of Supervisors  
Los Angeles, CA (July 29, 2003)

*Los Angeles Anti-Predatory Loan Ordinance*  
Los Angeles City Council  
Los Angeles, CA (November 22, 2002)

## SELECTED RECOGNITIONS

- 2006 Southern California Super Lawyer  
*Law & Politics* and *Los Angeles Magazine*
- 2005 Influence in Black Los Angeles  
Profile of 25 of L.A.'s most influential African-American leaders  
*Los Angeles Wave*
- 2005 Southern California Super Lawyer  
*Law & Politics* and *Los Angeles Magazine*
- 2004 Southern California Super Lawyer  
*Law & Politics* and *Los Angeles Magazine*
- 2004 Southern California Rising Star Lawyer  
*Law & Politics* and *Los Angeles Magazine*
- 2004 Award of Excellence for Outstanding Contributions to the Los Angeles Civic Community  
Los Angeles African American Women's Public Policy Institute
- 2000 Trailblazers to Star Chasers: Biographies of Ten Inspiring Individuals  
profiled with Carter Woodson, Colin Powell, and Tiger Woods in Black History Month  
curriculum guide  
*Los Angeles Daily Journal*
- 1999 *Ebony's* "Ten for Tomorrow"  
profiled with Jesse Jackson, Jr., Lauryn Hill, Serena Williams, Brandy, Sean Combs,  
Chris Rock, Bernice King, Tiger Woods, and Marion Jones) as one of ten "promising  
personalities" expected to redefine their fields in the next millennium  
*Ebony Magazine* (Millennial Issue)
- 1999 Featured as one of the top lawyers under the age of 40 "making their mark in the legal  
world"  
*Los Angeles Daily Journal's California Law Business*

## REPRESENTATIVE MEDIA INTERVIEWS, QUOTES & FEATURES

“Challenges to SAT are Cited as Ways to Right Race-Conscious  
Bans on Admissions”

*Chronicle of Higher Education*

June 17, 2009

“What Legal Experts Think of Sotomayor’s Performance” (feature interview)

*The Los Angeles Times*

July 17, 2009

“Legal Experts’ Views on the Sotomayor Hearings” (feature interview)

*The Los Angeles Times*

July 16, 2009

“Legal Experts on Day Two of the Sotomayor Hearings” (feature interview)

*The Los Angeles Times*

July 15, 2009

“Day One of the Sotomayor Hearings: A Legal Perspective” (feature interview)

*The Los Angeles Times*

July 14, 2009

“Abercrombie & Fitch Bias Case is Settled” (quoted)

*The New York Times*

November 17, 2004

“Abercrombie & Fitch Settles Discrimination Suit” (quoted)

*NPR Morning Edition*

National Public Radio

November 17, 2004

“Judge Accepts Abercrombie Plan to Settle Hiring Lawsuits” (quoted)

*Los Angeles Times*

November 17, 2004

“Desegregation Case Established Precedent a Decade Before Brown” (quoted)

*Education Reporter*

Vol. 38, No. 3

May/June 2004

Civil Rights Litigation (feature interview)

*Working Assets Radio*

April 16, 2002

“California Proposition 54” (feature interview)

*AirTalk* hosted by Larry Mantle

89.3 KPCC

October 6, 2003

“Lawsuit Alleges Abercrombie & Fitch Bias” (feature interview)  
*The Tavis Smiley Show*  
National Public Radio  
December 9, 2003

“Race Matters” (feature interview)  
*The New Crisis Magazine*  
November/December 2002

“No LAPD Insiders Make List of Three Finalists for Chief” (quoted)  
*Los Angeles Times*  
September 20, 2002

“Ten for Tomorrow: African-American Leaders of the 21<sup>st</sup> Century” (featured)  
*Ebony*  
December 1999

“30 Leaders of Future” (featured)  
*Ebony*  
November 1999

“Federal Civil Rights Lawsuit Filed by Minority Students” (feature interview)  
*Forum* with Michael Krasny  
KQED Radio  
February 10, 1999

“Californian Students Strikes Back” (quoted)  
*Black Issues in Higher Education*  
February 18, 1999

“Civil Rights Groups Sue UC-Berkeley Over Admissions Criteria” (quoted)  
*Education Week*  
February 10, 1999

“Discrimination Lawsuit Against UC Berkeley” (feature interview)  
*Lead Story*  
Black Entertainment Television (BET)  
February 7, 1999

“Civil Rights Groups Suing Berkeley Over Admissions Policy” (quoted)  
*The New York Times*  
February 3, 1999

“High Stakes Tests: Truths or Consequences” (feature interview)  
*Education Week*  
October 22, 1997

## LITIGATION

***Castaneda v. University of California Board of Regents***, No. 99-0525 SI (N.D. Cal.) (formerly ***Rios v. UC Regents***)

Case filed in February 1999 by LDF in coordination with other civil rights organizations on behalf of African-American, Latino and Filipino students denied undergraduate admission to UC Berkeley after the elimination of affirmative action pursuant to California Proposition 209. Led and coordinated the representation of the African-American, Latino and Filipino classes and served as lead counsel for the African-American class. The lawsuit alleged that Berkeley's undergraduate admissions process violated Title VI of the Civil Rights Act of 1964 and its implementing regulations as well as the Fourteenth Amendment because Berkeley made admissions decisions on educationally insignificant differences in SAT scores and unfairly penalized applicants attending schools with limited Advanced Placement and honors course offerings. In June 2003, the district court approved a settlement agreement requiring Berkeley to retain a consultant specializing in measurement of "multiple intelligences" and to produce specified admissions statistics for five years.

***Gonzalez v. Abercrombie & Fitch***, No. 03-2817 SI (N.D. Cal.)

Lead LDF attorney on legal team representing minority plaintiffs in a national employment discrimination class action lawsuit filed in June 2003. The suit charges Abercrombie & Fitch with discriminating against non-whites, including African Americans, Latinos and Asian Americans, on the basis of race, color and/or national origin in hiring, firing, job assignment, compensation and other terms and conditions of employment. Trial is set for September 2005.

***Hunter v. City of Los Angeles (LAPD)***, No. 92-CV-1897-MMM (C.D. Cal.)

In 2002, assumed responsibility for enforcing consent decree as lead counsel for African-American sworn police officers who have sought or will seek promotion to certain ranks, paygrades and coveted positions within the Los Angeles Police Department (LAPD). The LAPD is bound by the terms of the consent decree through 2009.

***Wessmann v. Boston School Committee***, No. 97-11923-JTL (D. Mass), No. 98-1657 (1st Cir.)

Lead counsel representing the Boston NAACP and several member parents as "litigating amici" in lawsuit filed in August 1997 by a white ninth-grade student who alleged that the Boston Latin Examination School admissions policy discriminated against her on the basis of her race. The trial court ruled against the plaintiff, finding that the Boston Latin admissions policy was narrowly tailored to meet the Boston School Committee's compelling governmental interests in diversity and in overcoming the vestiges of past discrimination, 996 F. Supp. 120 (D. Mass. 1998). The First Circuit reversed, 160 F.3d 790 (1<sup>st</sup> Cir. 1998).

***Erik V. v. Causby***, No. 5-97-CV-587-BO (2) (E.D.N.C.)

Responsible for original research, LDF justification memorandum, drafting pleadings, briefs and major correspondence, and experts. Represented a multi-racial class of African-American, Latino and Caucasian students in challenge of a high stakes standardized testing policy adopted by the Johnston County (North Carolina) Board of Education. The policy required that decisions to promote students to the next grade level or course be based solely on the outcome of scores on a newly-adopted standardized test without regard to the student's grades, teacher evaluations or other assessment criteria. The parties reached settlement in 1998 after defendants promoted the fourteen named class representatives and made significant changes to the policy.

## BAR ADMISSIONS

2005 U.S. Court of Appeals for the Ninth Circuit  
2000 U.S. Court of Appeals for the First Circuit  
1998 U.S. District Court for the Northern District of California  
1998 U.S. District Court for the Central District of California  
1998 State of California  
1997 U.S. District Court for the Southern District of New York  
1997 State of New York

## OTHER PROFESSIONAL EXPERIENCE

Summer 1994 **UNITED STATES DEPARTMENT OF JUSTICE** Washington, DC  
*Civil Rights Division, Educational Opportunities Section*  
Summer Honors Program Legal Intern.

Summer 1993 **AMERICAN CIVIL LIBERTIES UNION** New York, NY  
*National Legal Department*  
Legal Intern.

Spring 1993 **NEW HAVEN LEGAL ASSISTANCE ASSOCIATION, INC.** New Haven, CT  
*Child Law Unit*  
Legal Intern.

Summer 1989 **SHELL OIL COMPANY** Houston, TX  
*Corporate Law Division*  
Legal Intern.

Summer 1991 **OFFICE OF THE GOVERNOR, STATE OF NORTH CAROLINA** Raleigh, NC  
*Public Education Advisor*  
Intern.

Summer 1990 **UNITED STATES SENATE** Washington, DC  
Intern to Senator Terry Sanford (D-NC).

Summer 1990 **UNITED STATES HOUSE OF REPRESENTATIVES** Washington, DC  
Intern to Congressman David Price (D-NC).

1988-1989 **CENTURY III LEADERS** New York, NY  
National Spokesperson  
various U.S. cities

## **MEMBERSHIPS**

Black Women Lawyers of Los Angeles  
Federal Bar Association, Los Angeles Chapter  
Langston Bar Association  
National Employment Lawyers Association (NELA)  
American Bar Association, Section of Individual Rights & Responsibilities  
Board Member, Environmental Justice Fund, Liberty Hill Foundation (2000-2002)  
Alpha Kappa Alpha Service Sorority