

# FIGHTING FOR WORKERS' RIGHTS

## a guide for law students

### **Editors' Note (2021 Edition)**

Dear incoming 1Ls, finally-in-person 2Ls, and outgoing 3Ls,

Welcome back! We are thrilled to be meeting both new faces and old friends. There is no better time to join the fight for justice right now, as our generation faces both new challenges and old problems.

New challenges change the landscape of worker organizing, with a global pandemic and tech giants chipping away at the rights of workers and consumers. Simultaneously, old problems continue to shape our societies for the worse, including anti-Black racism and imperialist exploitation.

Nevertheless, as always, we find reason to be inspired and have hope. In 2021, while struggling through an unprecedented public health crisis, workers have taken courageous and successful action.

- Amazon warehouse workers in Alabama (and throughout the country) launched the biggest [unionization effort](#) in the company's history. Just getting to a vote for unionization is a huge step forward—and although the vote did not pass, the National Labor Relations Board found that Amazon's aggressive anti-union tactics tainted the results, possibly granting organizers a [second chance](#).
- The International Longshore Workers Union [successfully](#) blocked the Zim ship, an Israeli "security" asset.
- Here at Berkeley, graduate student researchers have been a part of the University of California system-wide [push to form a union](#). Law students serving as student researchers also benefit from membership in the UAW 2865 bargaining unit! [Know your rights](#) and [sign up here](#).

And yet, la lucha sigue, the struggle continues. In this past year,

- Rideshare companies in California initially [passed Prop 22](#), shutting down worker efforts to receive fair compensation and benefits as employees. The companies plan to target other states with similar propositions, but as of the publication date of this guide, a California judge has [struck down Prop 22 as unconstitutional](#).
- The Supreme Court also [struck down](#) a long-standing California law granting labor organizers the right to meet with workers in their workplace, and instead championed employers' ability to exclude people from their property.

There is a great deal of work to be done to creatively counter these assaults on workers' rights. The purpose of this guide is to provide you with the resources to do so, in law school and beyond. It is a living document that breathes with the students it serves and the community it inhabits. We welcome your comments, suggestions, and additions at [bjell@law.berkeley.edu](mailto:bjell@law.berkeley.edu).

With Hope,

Victoria Wang ('23), Michael Obuchi ('22), Taliah Mirmalek ('23)

## **Authors' Note (2018 Edition)**

Berkeley Law is home to many remarkable individuals devoted to shaping lawyers who will use their gifts for the common good. But even a law school staffed by the most dedicated people faces major structural restraints. The influence of corporate money, the pressure to focus on the traditional markers of law schools' quality, and Proposition 209's ban on considering race and sex in admissions are just some of the constraints that limit Berkeley's ability to fulfill its mission to help students use the law "to create a more just society."

These constraints, coupled with students' crushing debt, ensure that many of Berkeley's young progressive idealists transform over time into advocates for the one percent. The raw energy of incoming students gets watered down and coded into sterilized euphemisms. Radical change becomes "public interest." Revolutionary solidarity becomes "pro bono." And students are thrust into a deeply hierarchal profession that has too often used its power to keep the marginalized out and ensure quality legal representation stays a privilege of the rich.

But we believe another world is possible. And we believe our greatest strength in building that world is each other. Against a professional culture that valorizes hierarchy and competition, we've gathered our collective knowledge here to support each other as we swim together against the tide. This is a guide written by workers, for workers, because we know that alone we are weak, but together, we can set the world ablaze.

Love & Solidarity,  
Matt Junker ('19), Drea Núñez ('20), Rey Fuentes ('19)

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## **Don't Know What to Do? Consider Fighting for Workers' Rights**

The theologian Frederick Buechner wrote that we can find our calling where our deep gladness and the world's deep hunger meet. But the enormous social and economic pressures facing law students often keep us from stepping back to consider what truly brings us joy and how we might follow that joy toward satisfying a need in the world. These pressures lead us to shift our gaze away from the aspirations that led us into law school and fall into the paths more commonly tread by our peers. Before you know it, we've given up on our calling and settled for something less.

Given the pressure law students face, many of us chart our future by first asking what paths most easily lead to financial security. Then we ask how we might find fulfillment on those paths. But we'd like to suggest the opposite. Start by asking what brings you joy. What would you be doing if money and reputation were not factors? Where do your joy and a need in the world intersect? Then, seek the guidance of those who have pursued the same in a financially sustainable way.

The authors here, and many others who have passed through Berkeley's doors, have found their calling in the struggle for workers' rights. Most people spend the majority of their waking lives at work. Yet, instead of being a place of creative expression where people can contribute their talents to their communities, workers routinely face discrimination, humiliation, wage theft, health and safety risks, and other violations of their legal rights and personal dignity. We believe that just workplaces are an essential building block of a just society and that workers' rights attorneys are vital to defending precious rights gained through centuries of struggle.

By organizing into unions and engaging in militant collective action, working people have a singular opportunity to build power, democratize their workplaces, and combat the worst consequences of capitalism. Lawyers engaged in the fight for workers' rights are similarly at a unique vantage to support such struggles and fight alongside working people for an economy that provides for everyone.

While many areas of social justice work depend on charitable giving, workers' rights attorneys at private firms are able to earn their living from the legal work itself. Labor lawyers earn their income serving paying union clients, and plaintiffs' lawyers can make their living going toe-to-toe with companies that violate their employees' rights. Statutory fee-shifting provisions, the availability of class actions, and other features of employment law also make it financially viable for attorneys who wish to work with working-class clients.

While nonprofits still partially depend on charitable giving, they are able to access some of the same fee-shifting provisions to support their work. And those interested in working for the government or a nonprofit have access to [Berkeley's Loan Repayment Assistance Program \(LRAP\)](#), which allows them to make income-based loan payments and ultimately receive loan forgiveness after ten years. (See "[How Much Should I Be Paid?](#)" for more.)

In addition to these moral and financial considerations, we have found workers' rights to be an appealing path for many other reasons. For one, the many Berkeley alumni who have pursued workers' rights careers have created a well-trodden path and deeply supportive network that make it easier for students to plan a fulfilling and sustainable career. Workers' rights attorneys are also able to make important contributions in many intersecting social justice struggles, including struggles for the rights of BIPOC, LGBTQ+ communities, women, immigrants, and people with disabilities. And at Berkeley, the student community is well-connected with the Bay Area's labor and employment law attorney community, many of whom eagerly go out of their way to support students entering the field.

Students will also find a remarkable number of professional opportunities. California is arguably the most pro-worker state in the country, and the Bay Area is home to a bustling field of scholars, nonprofits, firms, and professional organizations dedicated to advancing workers' rights. Many plaintiff-side firms with major name recognition and nationally-revered lawyers operate out of the Bay Area and across California. Given the prominent place Berkeley alumni have in this community, Berkeley students have a great advantage entering the field. Outside of California, there are also many opportunities to represent employees and unions, help enforce labor laws, advocate for better work policies, and create innovative solutions for local work issues. Wherever there are workers, there is a need for advocates.

So if you feel lost, uninspired, and don't know what to do, we invite you to consider joining us in the fight for working people. You might like it, and heaven knows there is plenty of work to do!

## **Practice Areas & Settings**

### **Labor Law**

Labor law addresses the relationships between unions, employers, and employees. Labor lawyers work primarily on behalf of unions and their members, offering an opportunity to practice in the context of democratic worker-led organizing. Labor lawyers assist with dispute resolution, including complaints filed with the [National Labor Relations Board \(NLRB\)](#), state Public Employee Relations Boards (PERBs), and other government agencies. They also represent union members before administrative judges, litigate on behalf of unions in court, and appeal labor board decisions to federal or state courts. Labor lawyers also help with campaign strategy; perform legal research for legislative, regulatory, and political advocacy work; monitor rallies and strikes; review and draft issue statements; negotiate collective bargaining agreements; and advise unions on their internal governance, including the administration of health and welfare, pension, and training programs. Labor lawyers inevitably work on many employment law issues as well as issues touching on constitutional, election, administrative, environmental, and other types of law.

Many labor lawyers work as in-house counsel for unions. Others work for private labor law firms, which tend to be small and exclusively focused on union representation. Positions for labor attorneys also exist in the federal government at the [NLRB](#), the [Federal Labor Relations](#)

[Authority](#), the [National Mediation Board](#), and other agencies. Labor lawyers also work for state agencies, including PERBs and departments of labor, workforce development, industrial accidents, and labor relations. Local governments may also employ labor lawyers.

## **Employment Law**

Employment law generally refers to state and federal rights that govern individual employment relationships in non-union workplaces. Subsections of employment law include wage and hour, discrimination, health and safety, employee benefits, and workers' compensation. Although employment laws are generally granted to individuals (as opposed to workers as a collective, like in labor law), class and collective actions allow attorneys to enforce employment laws for large groups of workers.

Employment lawyers work in the federal government at the [Department of Labor](#), the [Equal Employment Opportunity Commission](#), the [Civil Rights Division of the Department of Justice](#), and the Equal Employment Opportunity offices within federal or state agencies. Employment lawyers also work at the city and county level, where they litigate, enforce local laws, and implement government services and programs. For example, employment lawyers at [San Francisco's Office of Labor Standards Enforcement](#) enforce local labor laws adopted by San Francisco voters and the San Francisco Board of Supervisors.

Plaintiff-side employment firms tend to be small, ranging anywhere from one attorney to about forty at the top end. Some firms practice both labor and employment law, but because the practice areas are fairly distinct, firms typically practice one or the other. In addition, many employment law firms will incorporate other practice areas—like disability rights, voting rights, immigrant rights, or consumer protection—since the strategies, plaintiffs, and techniques in these areas overlap to a considerable degree. Many employment attorneys also work for nonprofits, especially as nonprofit worker centers have grown in recent years as a new model for worker organizing in response to the decline of union rights and protections.

## **Public Policy**

What if you could not only defend the law, but also help write a few as well? Indeed, the Bay Area—and California in general—offers ample opportunities for students to advocate for workers in the legislature and in front of city councils. [Legal Aid at Work](#) has helped strengthen statewide family leave rights and create novel legal protections for workers in Berkeley, Oakland, Emeryville, and San Francisco. The [California Employment Lawyers Association \(CELA\)](#) employs a full-time lobbyist in Sacramento to push for worker-friendly laws. The City Attorney's Offices in San Francisco and Oakland have passed workplace protections through the local city councils. In addition, the [National Employment Law Project \(NELP\)](#), which partners with local advocacy organizations to develop and implement far-reaching workplace policies, has a Berkeley office that is just a 20 minute walk from campus. Students interested in developing broader policy skills should consider taking courses cross-listed with the [Goldman School of](#)

[Public Policy](#), joining [Berkeley Law's Policy Advocacy Clinic](#), and externing or clerking for an organization engaged in workers' rights policy advocacy.

## **Worker Cooperatives**

Labor and employment law are important fronts for securing workers a better bargain vis-à-vis the capitalist class. But for some of us, the ultimate goal is not just a bigger slice of the pie, but the pie shop itself. Support for worker cooperatives has increased tremendously over the past few years. Worker cooperatives are businesses that are owned and self-managed by their workers, eliminating the employing class altogether. As businesses, worker cooperatives generally need business advice and transactional services that are outside the expertise of labor and employment lawyers, so we do not delve into it further here. Those interested in legal support for worker cooperatives should check out the [Sustainable Economies Law Center](#) in Oakland, which provides legal education, research, advice, and advocacy for the building of a just economy. And to learn more about the hundreds of worker-owned businesses across the country, visit the [U.S. Federation of Worker Cooperatives](#).

## **Extracurriculars**

### **[Berkeley Journal of Employment and Labor Law \(BJELL\)](#)**

Berkeley offers many journals for students, including 1Ls, to join. Joining a journal your 1L year is an excellent way to learn hard research and writing skills, build a community with like-minded folks, and beef up your resume.

BJELL is the leading journal for employment and labor law scholarship worldwide and is Berkeley's main hub for students interested in workers' rights. BJELL publishes twice a year and covers a wide range of legal issues relevant to scholars and practitioners from a pro-worker perspective. BJELL also hosts a lunchtime speaker series, symposia, and the Annual Feller Memorial Lecture, which invites a practitioner to give a speech on the current state of unions. 1L members assist with editing articles and can have a hand in bringing major speakers to campus. Many other positions are open to 2Ls and 3Ls, including selecting articles and organizing BJELL's many lectures, panels, and events. All students, including 1Ls, can submit book reviews and case notes for publication. In addition, journal membership grants students access to special summer fellowship opportunities, networking events with Bay Area practitioners, connections with scholars active in the field, and up-to-date information on potential job opportunities.

### **[Student-Initiated Legal Services Projects \(SLPS\)](#)**

SLPS exist specifically for 1Ls to gain real-life experience doing legal research and assisting clients. The dozens of SLPS at Berkeley are one reason it stands out among peer schools for those pursuing social justice. Currently, five workers' rights-related SLPS operate at Berkeley.



- **[Workers' Rights Clinic \(WRC\)](#)**: The WRC operates weekly to assist community members with employment-related issues. Students begin each session with a 45-minute presentation on a substantive area of employment or labor law led by a local practitioner. Student counselors then interview clients one-on-one, research legal issues relevant to their client's case, consult with an attorney, and return to the client to give legal advice. The WRC also offers opportunities for students to represent clients at administrative hearings. Student counselors deal with a wide range of issues, including discrimination, unemployment, and wage theft. At each session, two different employment lawyers come to advise students, making the clinic a wonderful way to get to know local practitioners. Students commit for the entire year and attend clinics every other Thursday evening. The WRC runs in partnership with [Legal Aid at Work](#).
- **[Workers' Rights Disability Law Clinic \(WRDLC\)](#)**: The WRDLC, also run in partnership with [Legal Aid at Work](#), follows the same format as the WRC but assists clients with employment issues specifically intersecting with disability rights and discrimination. Students commit for the entire year and attend clinics every other Tuesday evening. Like the WRC, student counselors have opportunities to represent clients at administrative hearings.
- **[Wage Justice Clinic \(WJC\)](#)**: The WJC provides free legal assistance to low-wage workers who are filing wage claims at the [Division of Labor Standards Enforcement \(DLSE\)](#) to recover wages stolen from them by their employers. Students meet one Friday a month throughout the academic year to interview clients, investigate claims, conduct legal research, draft documents, and may represent clients at settlement conferences and administrative hearings. The WJC is also run in partnership with [Legal Aid at Work](#).
- **[La Alianza Workers' and Tenants' Rights Clinic](#)**: At the Clinic, students assist workers and tenants in one-on-one meetings under attorney supervision at [Centro Legal de La Raza](#), a legal services organization in Fruitvale serving working-class immigrant communities. Students conduct intakes, identify employment and housing issues, propose solutions to clients, and draft legal documents. Students may also have the opportunity to represent clients at administrative hearings. The Clinic is Thursday evenings, and students must attend five clinics each semester.
- **[Berkeley Law and Organizing Collective \(BLOC\)](#)**: BLOC provides contract enforcement support and strategic legal research for UAW 2865, the union representing 19,000 academic student workers across the University of California including student workers at Berkeley Law. Students are encouraged to participate in the union as active members and rank-and-file leaders in addition to providing legal support to fellow students through BLOC.

## Other UC Berkeley Organizations

- [UC Berkeley Center for Law and Work \(CLAW\)](#): CLAW is a new research unit, founded by three Berkeley Law professors in 2020. Its mission is to promote cross-disciplinary scholarship and professional development for students and faculty around the law of work.
- [Labor Policy Group \(LPG\)](#): The LPG is a student group at the Goldman School of Public Policy that works to increase students' understanding and leadership on labor issues. It facilitates interactions between students, researchers, and labor leaders across UC Berkeley, the Bay Area, and the country.
- [UC Berkeley Institute for Research on Labor and Employment \(IRLE\)](#): IRLE is a research unit at UC Berkeley that supports policy-related research; disseminates research to policymakers, academics, and the public; and educates California's labor, business, and community leaders. IRLE hosts a series of speaker events throughout the year, which are open to the public.
- [UC Berkeley Labor Center](#): Part of IRLE, the Labor Center helps educate new labor leaders and works with unions, government, and employers to develop policy perspectives and programs. Look out for events the Labor Center sponsors throughout the year.
- [Food Labor Research Center \(FLRC\)](#): The FLRC is a project of the Labor Center launched in 2012. The FLRC is the country's first academic institution to focus on the intersection of food and labor. Its founder, Saru Jayaraman, is also co-founder of the [Restaurant Opportunities Center United](#), which fights for the rights of food service workers across the country.

## Work Law Faculty

Berkeley has a budding work law faculty and an expanding list of prominent guest lecturers from other university departments and the world of practitioners. Especially with the addition of Catherine Fisk in 2017, Berkeley is on its way to becoming a top site for labor and employment law scholarship.

## Current Faculty

- [Kathryn Abrams](#) (kabrams@law.berkeley.edu)
  - Specialties: feminist jurisprudence, voting rights, constitutional law
  - Courses: Constitutional Law, From Social Movement to Legal Change, Gender and Sexuality in the Era of #MeToo
- [Catherine Albiston](#) (calbiston@law.berkeley.edu)

- Specialties: employment discrimination, sociology of law, social movements and law, research design, advanced interdisciplinary writing
- Courses: Employment Discrimination; Foundation Seminar in the Sociology of Law; Berkeley Empirical Legal Studies Seminar; Research Design; Employment, Social Policy, and the Pandemic
- [Catherine Fisk](mailto:cfisk@law.berkeley.edu) (cfisk@law.berkeley.edu)
  - Specialties: labor law, employment law, employment discrimination, civil procedure, first amendment, legal profession
  - Courses: Employment Law; Labor Law; Understanding the U.S. Legal Profession; Employment, Social Policy, and the Pandemic
- [Lauren Edelman](mailto:ledelman@law.berkeley.edu) (ledelman@law.berkeley.edu)
  - Specialties: civil rights law, dispute resolution, sociology of law
  - Courses: N/A
- [David Oppenheimer](mailto:doppenheimer@law.berkeley.edu) (doppenheimer@law.berkeley.edu)
  - Specialties: comparative equality and anti-discrimination law
  - Courses: Evidence, Civil Procedure, Comparative Equality Practicum, COVID-19 and Global Inequality
- [Seema Patel](mailto:spatel@ebclc.org) (spatel@ebclc.org)
  - Specialties: clinic representation, city government, labor organizing, low-wage worker representation
  - Courses: East Bay Community Law Center Clinic, Movement Lawyering from the Inside Out
- [Asad Rahim](mailto:asdrahim@berkeley.edu) (asdrahim@berkeley.edu)
  - Specialties: constitutional law, critical race theory, employment discrimination
  - Courses: Anti-Blackness and the Law

### Current & Past Lecturers

- [Barbara Bryant](mailto:bsbryant14@gmail.com) (bsbryant14@gmail.com)
  - Specialties: sexual harassment law, litigation, mediation
  - Courses: N/A
- [Claudia Center](mailto:ccenter@dredf.org) (ccenter@dredf.org)
  - Specialties: disability rights
  - Courses: N/A
- [Todd Jackson](mailto:tjackson@law.berkeley.edu) (tjackson@law.berkeley.edu)
  - Specialties: class actions, ERISA law, wage and hour practice, mediation
  - Courses: Employment Law

- [Saru Jayaraman](mailto:saru.jayaraman@berkeley.edu) (saru.jayaraman@berkeley.edu)
  - Specialties: food labor policy, low-wage worker representation
  - Courses: N/A
- [Elizabeth Kristen](mailto:ekristen@legalaidatwork.org) (ekristen@legalaidatwork.org)
  - Specialties: employment discrimination, nonprofit lawyering, LGBT rights, women in sports
  - Courses: N/A
- [Jeffrey Lewis](mailto:jglewis@law.berkeley.edu) (jglewis@law.berkeley.edu)
  - Specialties: employee benefits, ERISA law, mediation
  - Courses: Employee Benefits Law
- [Linda Lichter](mailto:llichter@ligna.com) (llichter@ligna.com)
  - Specialties: employment contract negotiation, entertainment law
  - Courses: Negotiating Hollywood Contracts
- [Jannah Manansala](mailto:jannahm@berkeley.edu) (jannahm@berkeley.edu)
  - Specialties: employment discrimination, labor law, litigation
  - Courses: Representing Low Wage Workers
- [Kristin Martin](mailto:klm@msh.law) (klm@msh.law)
  - Specialties: labor law
  - Courses: N/A
- [Arlene Mayerson](mailto:amayerson@dredf.org) (amayerson@dredf.org)
  - Specialties: disability rights
  - Courses: Disability Rights
- [Lindsay Nako](mailto:lnako@law.berkeley.edu) (lnako@law.berkeley.edu)
  - Specialties: class action impact litigation, nonprofit law, employment discrimination, employee benefits
  - Courses: N/A
- [Marc Pilotin](mailto:mpilotin@law.berkeley.edu) (mpilotin@law.berkeley.edu)
  - Specialties: wage and hour law, class action litigation, government enforcement
  - Courses: N/A
- [Hunter Pyle](mailto:hunter@hunterpylelaw.com) (hunter@hunterpylelaw.com)
  - Specialties: employment law, wage and hour law, litigation, PAGA
  - Courses: California Wage and Hour Law
- [David Rosenfeld](mailto:drosenfeld@unioncounsel.net) (drosenfeld@unioncounsel.net)

- Specialties: labor law, union representation, litigation
- Courses: Representing Low Wage Workers
- [Barry Winograd](mailto:winmedarb@aol.com) (winmedarb@aol.com)
  - Specialties: labor law, employment arbitration, mediation
  - Courses: Labor and Employment Arbitration

## **First Year Curriculum**

The first year curriculum can feel abstract, soulless, and designed to reproduce oppression in the world. These are valid critiques. But one way to bend the first year to your benefit is to know how much the courses matter to your work as a summer legal clerk and eventual lawyer.

If you're at a workers' rights SLP and a client comes in with a one-sided severance agreement, you'll need the tools of **Contracts** to help her out. When your summer supervisor asks you to research the proper venue and jurisdiction to bring a hostile work environment claim in which employees have been regularly abused—and some even assaulted—you'll be drawing on **Civil Procedure, Torts**, and possibly **Criminal Law**. When your field placement or practicum supervisor asks you to research cases to support a worker's retaliatory termination claim, you'll use skills developed in **Legal Research and Writing** and **Written and Oral Advocacy**. When you're a radical employment lawyer who has won a judgment against a franchise that stole workers' wages, you'll need an understanding of **Property Law** when placing a lien or levy on the employer's property and bank accounts.

So don't let the first year make you feel lost or that you're spending your time spinning your wheels. On the contrary. For the real clients you want to serve, these are *the very tools* you'll be using to fight for them.

## **Course Offerings**

### **Core Work Law Courses**

The following is a breakdown of work law courses offered from 2015-2020 at Berkeley. 1Ls can take one of these courses, if offered, in the Spring semester of the first year, but these courses are generally taken in the second and third years. Some courses are only offered once a year or are irregularly scheduled, so it's important to plan ahead to ensure you can take as many of the courses below that fit your interests. Check out Berkeley Law's [Two-Year Curriculum Plan](#) (CalNet Login Required) to help plan your course schedule.

- **Fundamentals**
  - [Employment Law](#)
  - [Labor Law](#)
  - [Labor and Employment Arbitration](#)
  - [Employee Benefits Law](#)
- **Discrimination**
  - [Employment Discrimination](#)
  - [Sexual and Gender Harassment Law](#)

- [Anti-Discrimination Law](#)
- [Disability Rights](#)
- [Law and Economics of Discrimination](#)
- **Practice-focused**
  - [Representing Low Wage Workers”](#)
  - [California Wage and Hour Law](#)
  - [#Metoo: Women & Work Law & Policy Seminar](#)
  - [Negotiating Hollywood Contracts](#)
  - [Labor Law Field Placements](#)
  - [Drafting and Negotiating Sports Law Contracts](#)
  - [Representing Professional Athletes](#)
- **Historical, Sociological, and Interdisciplinary Perspectives**
  - [Readings on Slavery, History, and Law](#)
  - [Wealth Inequality and the Law](#)
  - [California Prisons and Discretionary Parole](#)
  - [Comparative Equality and Anti-Discrimination Law](#)
  - [Good Jobs, Bad Jobs, and the Law](#)
  - [Environmental Justice: Race, Class and the Environment](#)
  - [Advanced Civil Rights](#)

### Other Suggested Courses

This is a non-exhaustive list of other courses some practitioners have recommended for those pursuing a career in workers’ rights. They cover, for example, the practical side of civil litigation and can be extremely valuable regardless of your chosen practice area. However, practitioners teach many of the courses, so be sure to explore student reviews of prior lecturers and their courses.

- **Experiential**
  - [Depositions](#)
  - [Negotiations](#)
  - [Mediation](#)
  - [Appellate Advocacy](#)
  - [Advanced Legal Writing](#)
  - [Representing Spanish-Speaking Clients](#)
  - [Negotiating Trauma, Emotions & the Practice of Law](#)
- **Civil Litigation**
  - [Federal Courts](#)
  - [Civil Trial Practice](#)
  - [Complex Civil Litigation](#)
  - [Conflict of Laws](#)
  - [Pre-Trial Civil Litigation](#)
  - [Advanced Legal Writing for Litigators](#)
  - [Multidistrict Litigation](#)
  - [Remedies](#)
  - [State and Local Impact Litigation Practicum](#)

- **Specialty Focus**
  - [Administrative Law](#)
  - [Business Associations](#)
  - [Tax](#)
  - [Bankruptcy](#)
  - [Immigration Law](#)
  - [First Amendment](#)
  - [Election Law](#)
  - [Whistleblower Law](#)
  - [Statutory Implementation: Agency Policymaking through Regulation](#)
  - [Legislation and Statutory Interpretation](#)

## **Field Placements**

When putting together your course list, consider [Field Placements](#) for 2L or 3L. There are many opportunities to work with judges and practicing attorneys in real-world contexts throughout the academic year. And, if you identify a potential placement that isn't on the list, you can petition for it. Contact Sue Schechter ([sschechter@law.berkeley.edu](mailto:sschechter@law.berkeley.edu)) to discuss the many opportunities available.

## **Term-Time Work**

Though not permitted until after your 1L year (except with permission from the Dean of Students), on-campus jobs can provide an opportunity to work more closely with faculty members at the law school or in other schools/departments and to earn fee remission in addition to a salary or hourly wage. Graduate Student Instructor (GSI), Reader, and Tutor positions (ASE positions) are unionized with UAW 2865 and covered by [a union contract](#). There are just a handful of GSI and tutor jobs available for JD students at the law school, mostly through the Academic Skills Program and the Written and Oral Advocacy course, but students can also seek ASE positions elsewhere on campus. A [list of departments](#) with projected ASE hiring and designated contact people can be found through UC Berkeley Labor Relations. Non-union Graduate Student Researcher (GSR) positions are more numerous at the law school and can be identified through [B-Line](#) or by talking with individual professors. GSR positions specifically related to labor and employment can also be found through faculty and staff at the Goldman School of Public Policy, the Institute for Research on Labor and Employment, and elsewhere. Hiring for both ASE and GSR positions typically happens each semester.

## **Summer Jobs & How to Get Them**

### **First Summer**

Finding your 1L summer job can be stressful, but there is a big support system to help you through the process. The [Career Development Office \(CDO\)](#) hosts a number of events throughout the first year to give students an impression of different career paths. Look out for event announcements, especially those relating to civil litigation and workers' rights. CDO will begin job advising appointments for 1Ls in late October and will also organize career fairs where 1Ls can speak with attorneys hiring for the summer. If you make an appointment with a career advisor, ask them to connect you with students who have worked at the organizations you're thinking about applying to. Importantly, the ABA prohibits first year students from officially

applying for jobs before December 1st. Most employers know this deadline, and several will not accept applications until well into the spring semester.

First year summer jobs are mostly centralized around nonprofits, government agencies, and the judiciary. Paid positions at law firms are rare (though possible), and most nonprofit and government jobs do not pay (but don't worry, summer grants are available). These are great opportunities to expose yourself to real lawyering, develop a mentor relationship with a practicing attorney, develop a writing sample, and begin interacting with clients. For those pursuing workers' rights, meeting attorneys early and maintaining a relationship is important, since many employers will not come to campus to interview. You'll need to keep an eye out for opportunities as they arise and continue to build a professional network throughout your time in law school.

One of the most important qualifications for workers' rights jobs is a demonstrated interest in the field. Future employers will want to see a history of commitment to workers' rights (or social justice more generally) on your resume. We've found that employers often care much more about this than grades. As you progress in law school, it's important to develop a narrative about yourself that explains who you are, what you care about, and where you want to go. That being said, while your 1L job is an important piece of this narrative, it's not the whole story. Feel free to use this summer to explore interesting career paths or practice areas that spark your curiosity.

But, if you want to land a workers' rights gig your second summer, your 2L job hunt should begin before the next school year starts, usually as your summer job winds down. This is why BJELL hosts a spring plaintiff-side networking event every year that gives students a way to meet attorneys engaged in work law from various backgrounds, so folks don't go into the summer cold. Keep reading for our "Second Summer" section for advice on getting your 2L job.

### **Planning for a Fellowship**

For students interested in potentially pursuing a fellowship following graduation, it is helpful to use your first summer to find an organization that might be a good host. Don't know what post-graduate fellowships are? Check out this [useful primer](#). Basically, a fellowship is a way of funding a project that lands you a job at a nonprofit straight out of school. Since nonprofits otherwise don't have funding to hire an inexperienced new graduate, this is a critical way to get your foot in the door. So think about this as you apply and check out the "[Fellowships](#)" section below for more information.

### **Second Summer**

Typically, students in the workers' rights community will go to plaintiff-side employment firms, union-side labor firms, or take positions in government their second summer. The 2L job search requires a good deal of hustle because there isn't a robust mechanism for recruiting like there is for defense-side work. Berkeley organizes an interview program from July to August for defense-side firms ("Early Interview Week" or EIW), and many of your classmates will participate (though, a large percentage of students don't find their job during EIW, even on the defense side). For those pursuing workers' rights, it's important to think early about your second summer, so you don't feel out-sized pressure to apply to firms during EIW that might not be a



good fit because you fear you won't get a job. (But, in our experience, if you put in the time and effort, you will get a job!)

Following EIW, from August to September, Berkeley organizes the "Fall Interview Program" (FIP) which features nonprofit (including [Legal Aid at Work](#)), government, and plaintiff-side employers. Together, EIW and FIP make up Berkeley's version of "On-Campus Interviewing" (OCI). Some plaintiff-side firms do participate in EIW (such as [Lief Cabraser](#) on occasion), but most participate in FIP. Notably, the [California Employment Lawyers Association \(CELA\)](#) participates in FIP to meet with students interested in the field. CELA does not hire for their organization, but they will forward all received applications and their interview notes to their member organizations. While some CELA-affiliated firms will proactively reach out to some of these applicants to invite them to interview, CELA encourages students to contact affiliated firms directly to express interest.

FIP is a big help to students dedicated to social justice, but many workers' rights firms and agencies do not participate, which means that you will have to take it upon yourself to reach out to firms during your 1L summer and 2L fall. We recommend starting this process toward the end of your 1L summer, which gives you an advantage over those who wait for FIP and other organized interview programs. Rather than thinking of this as a chore, realize that this approach gives you immense flexibility and an opportunity to think creatively about your career rather than applying cold to a list of pre-determined firms.

As your 1L summer job comes to a close, begin researching organizations and firms you're interested in, identify connections in your network, talk to members of BJELL, and start sending out your application materials. Reaching out to new contacts can be daunting, but we've learned from own experience that most workers' rights attorneys are excited to hear from students and are happy to help in whatever way they can. We encourage you not to feel shy or that you are "imposing" on their time. In fact, most attorneys in our community recognize they have an implicit duty to ensure that the field is well-prepared to bring in passionate young attorneys like you.

But above all, be generous, be persistent, and always send handwritten thank you notes.

## **Notable Jobs**

Excluding private firms, here are some prominent workers' rights jobs for 1Ls and 2Ls.

- [Legal Aid at Work](#) is the Bay Area's premier workers' rights nonprofit. LAAW hosts clerks year-round from all over the country, including many Berkeley students, who work on direct legal services, litigation, and policy advocacy in nearly every practice area, including LGBTQ+ rights, immigration, wage theft, disability rights, and more. The application is competitive for 1L students and earlier than most nonprofit jobs. (They begin taking 1L summer applications on December 1st.) Those interested in applying should contact alumni and current students who have worked there for advice. LAAW hires both 1L and 2L summer clerks and offers field placements during the academic year. LAAW also offers some funding to its summer clerks on top of other awards.
- The [Peggy Browning Fund](#) offers a prestigious \$6,000 10-week Summer Fellowship to 1Ls and 2Ls who spend their summer at one of the PBF's partner workers' rights firms,

labor unions, or worker-focused nonprofits. In addition to the summer funding, awardees are also inducted into a national network of former recipients and can attend PBF's national conference.

- [California Rural Legal Assistance](#) is a nonprofit that provides more than 43,000 low-income rural Californians with free legal assistance each year and operates a variety of community education and outreach programs. They have eighteen offices from the Mexican border to Northern California (and one right in the heart of Oakland). Both 1Ls and 2Ls may apply.
- The [AFL-CIO Law Student Union Summer](#) is a 10-week internship for law students that combines front-line, labor-related social justice legal work with grassroots organizing in ongoing campaigns by AFL-CIO-affiliated unions throughout the country. Both 1Ls and 2Ls may apply.
- The [AFL-CIO Lawyers Coordinating Committee Diversity, Outreach, Opportunities, and Recruitment Program](#) helps introduce law students of color to labor lawyering and encourage them to join the ranks of union-side attorneys. The program partners law students with partner firms and legal departments. Both 1Ls and 2Ls may apply.
- The [Department of Labor, Office of Administrative Law Judges](#) is the DOL's trial court and decides cases under more than seventy laws and executive orders. The majority of claims arise under the Longshore and Harbor Workers' Compensation Act and various whistleblower laws. Unlike many district court externships, externs at the DOL-OALJ draft entire written decisions. If you do well, you will walk away with a standout writing sample and a letter of recommendation from your judge. The DOL-OALJ also has a well-respected two-year clerkship, and externing is a wonderful way to set yourself up for clerking there. The DOL-OALJ offers both summer (1L and 2L) positions and academic year externships.
- The [Department of Labor, Office of the Solicitor](#) assists workers' rights enforcement agencies, enforces labor laws through litigation, defends the Secretary of Labor and the Department's agencies in litigation, and drafts legislation, regulations, and guidance documents. The Solicitor's Office has a highly competitive two-year Honors Program for post-graduate applicants. A summer internship (1L or 2L) or academic semester field placement could benefit applicants to the Honors Program.
- The [Equal Employment Opportunity Commission](#) is a federal agency that enforces civil rights laws against workplace discrimination. Law student positions are available at several EEOC offices, where students draft rulings on motions, write summary judgment decisions, prepare legal memoranda, and assist in settlement conferences, pre-hearing conferences, and hearings. Both 1Ls and 2Ls may apply.
- The [National Labor Relations Board](#) is a federal agency that enforces labor law in relation to collective bargaining and unfair labor practices. The NLRB offers law student positions at its Washington, D.C. headquarters and at its field offices across the country, including Oakland and San Francisco. Both 1Ls and 2Ls may apply.

- The [California Department of Fair Employment and Housing](#) is California's analog to the EEOC (but with even more protective laws to enforce than their friends in the federal government). The DFEH hosts law students in their summer honors programs (both 1Ls and 2Ls) and hires recent law students in their Civil Rights Honors Program.
- The [California Department of Industrial Relations](#) is the state's analog to the federal Department of Labor and enforces California's minimum wage, workers' compensation system, work safety laws, and much more. Both 1Ls and 2Ls may apply.

## **Financing Your Summer Jobs**

### **Scholarships**

In addition to the summer grants discussed below, Berkeley offers many scholarships funded by the law school itself, the government, and outside organizations and individuals. Many [Continuing Student Scholarships](#) are available and come tailor made for workers' rights advocates who are naturally inclined toward social justice lawyering. One scholarship of note is the Major League Baseball Players Association's [Michael Weiner Scholarship for Labor Studies](#), which provides up to \$10,000 to law students with a demonstrated interest in pursuing a career in workers' rights.

### **First Summer**

Generally, all law students, regardless of their professional trajectories, are on the same playing field when it comes to funding their first summer. Very few firms offer positions, especially paid positions, to 1Ls. So almost all students go to work for nonprofits, government agencies, or judges. Aside from some in-house corporate opportunities and some very competitive "BigLaw" positions, students are generally not paid during their first summer.

To support students over the summer, Berkeley offers the [Dean's Grant](#), which provides \$5,000 to students working at judicial externships, legal 501(c)(3) and (c)(4) nonprofit organizations, and U.S. government agencies (and their foreign equivalents). The grant is automatically awarded to students who have logged at least 25 hours of qualifying pro bono work over their 1L year. This requirement is generally satisfied by joining one SLP as a 1L. Dean Chemerinsky has publicly committed to expanding this funding for students in the future.

In addition, thanks to the generosity of Mr. George Kraw, a Bay Area ERISA attorney, BJELL offers the **Sarah Kenyon Kraw Fellowship**. The Kraw Fellowship, created in honor of Mr. Kraw's late wife, supports students engaged with the journal to help supplement their Dean's Grant funding. The Fellowship awards \$2,000 in additional summer money to 1Ls and 2Ls interested in labor and employment law who are taking unpaid summer positions in government or at nonprofits.

### **Second Summer**

For students at employment and union-side firms, CELA offers the [Employee Justice Summer Clerkship](#). The grant, currently at \$4,000, exists to attract diverse candidates to the profession, but all students going into workers' rights firms are eligible to apply. As part of the program,

CELA conducts interviews on campus during the Fall Interview Program (FIP) and acts as a matchmaker to pair students with partner firms. Firms who participate in the program agree to pay students at least \$8,000 over the summer, *in addition* to the clerkship funding.

Rising 3Ls working at judicial externships, legal 501(c)(3) and (c)(4) nonprofits, and government agencies are eligible for the [Dean's Grant](#) at an increased amount of \$5,500 (even if they already received a Dean's Grant their first summer). Students need not complete any additional pro bono hours to qualify and can still apply for the **Sarah Kenyon Kraw Fellowship**.

See the "[How Much Should I Be Paid?](#)" section for more details regarding summer pay.

### **3L Job Search**

Because of the unpredictability of their work, few employment or union-side firms will guarantee their 2L summer associates a position after graduation. Your job search will likely span part of your 3L year, as many workers' rights opportunities have very different application cycles. Most workers' rights students will go on to plaintiff or union-side firms, clerkships, government honors programs, or fellowships. CDO has excellent resources for all of these routes, but here are a few notable opportunities.

### **Government Honors Programs**

- The [Department of Labor Solicitor's Office Honors Program](#) gives attorneys a unique opportunity to interpret and enforce a range of labor and employment laws while working in one of the largest legal offices in the federal government. After two years, Honors attorneys are permanently placed in the national office division or a regional office. The agency makes all efforts to accommodate attorneys' preferences.
- The [Department of Labor, Office of Administrative Law Judges](#) offers a two-year clerkship. The DOL-OALJ is the trial court for the DOL and is responsible for deciding cases under more than seventy different laws and executive orders. The majority of claims arise under the Longshore and Harbor Workers' Compensation Act and whistleblower laws.
- The [Equal Employment Opportunity Commission Attorney Honors Program](#) hires recent law school graduates and judicial clerks for permanent positions at the EEOC. Honors Program attorneys commit to remain with the Commission for at least three years. The EEOC assigns Honors attorneys to Commission offices designated to participate in the Program that year.
- The [Department of Fair Employment and Housing Civil Rights Honors Program](#) is a one-year program where participants work with experienced DFEH attorneys in the investigation, mediation, and prosecution of cases dealing with unlawful discrimination in

employment, housing, and public accommodations. The DFEH is the state equivalent of the federal EEOC. Participants work in Los Angeles or Elk Grove, California.

## Fellowships

Many organizations do not hire entry-level attorneys, so fellowships are a great way to transition into the post-graduate working world at workers' rights firms and nonprofits.

- The [FAIR Fellowship](#) is a one-year fellowship intended to support new lawyers who add to the profession's diversity. The fellow works full-time for six months at [Legal Aid at Work](#) and then for another six months at a CELA-affiliated law firm. FAIR funds the fellow's salary and benefits during the first six months, and the host firm funds the fellow's second six months. Past fellows have had success in receiving a permanent position with their host firm once they complete the fellowship.
- The [SEIU's Norm Gleichman Fellowship](#) assigns fellows to work in litigation to enforce the rights of union members, handle matters before the NLRB, draft amicus briefs, advise staff organizers on organizing campaigns, assist with policy and legislative initiatives, and participate in SEIU's political program. This one-year fellowship is in Washington, D.C, and there is a possibility to renew for a second year.
- The [AFL-CIO's Legal Department](#) sponsors a one-year, full-time legal fellowship that allows recent law school graduates to assist experienced lawyers working on cases and regulatory matters that affect the labor movement and the rights of workers.
- The [Paul H. Tobias Attorney Fellowship Program](#) is a two-year fellowship sponsored by the [National Employment Lawyers Association](#) to work at the [Employee Rights Advocacy Institute For Law & Policy](#) in San Francisco.

[Project-based fellowships](#) allow applicants to partner with sponsoring organizations and develop unique project proposals for submission to fellowship funders. These fellowships include [Justice Catalyst](#), [Equal Justice Works](#), [Skadden](#), [Soros Justice Advocacy](#), [Public Rights Project](#), and the [Berkeley Law Foundation](#). Potential host organizations (usually nonprofits but also some government agencies) often solicit applications from students interested in collaborating on project-based fellowship proposals. Think about coordinating with CDO during 1L spring to start developing ideas for a project-based fellowship. Project-based fellowships let you build an ideal project from beginning to end, so if you know there is a project in the world that needs your skills, this may be an ideal fit.

Some potential host organizations for workers' rights-focused fellowships include [Legal Aid at Work](#) (San Francisco), the [Partnership for Working Families](#) (Oakland), the [Wage Justice Center](#) (Los Angeles), [California Rural Legal Assistance](#) (across California), the [Fair Work Center](#) (Seattle), and the [National Employment Law Project](#) (New York, Berkeley, and

Washington, D.C.). You may also want to skim the list of past [Skadden](#), [Equal Justice Works](#), and [Justice Catalyst](#) fellows for more potential host organizations.

## **Private Firms**

While often unpredictable, many people find plaintiff or union-side firm positions directly out of school. Larger firms like [Lief Cabreser](#), [Outten & Golden](#), and [Gibbs Law Group](#) have offered summer associates post-graduate positions, and smaller firms like [Mallison & Martinez](#) and [Bryan Schwartz Law](#) occasionally hire recent graduates. Relationships are central to landing one of these positions, as is a demonstrated interest in workers' rights. See our "[How much should I be paid?](#)" section for information about starting salaries.

## **Job Databases**

- The [AFL-CIO Lawyers Coordinating Committee Hiring Hall](#) publishes monthly online labor law job postings.
- [Union Jobs Clearinghouse](#) provides a regularly updated list of union job openings, including in-house counsel positions.
- [PSJD](#) is an online clearinghouse for law students and lawyers to connect with social justice job listings and career-building resources.
- [USAJobs.gov](#) is the centralized site for federal government jobs.

[Jobs.ca.gov](#) regularly advertises attorney positions, including state honors programs.

## **Professional Affiliations**

These programs are a great way to meet practicing attorneys, access relevant legal education, and support advocacy efforts.

- The [California Employment Lawyers Association \(CELA\)](#) is a statewide organization of over 1,200 attorneys who represent employees. CELA helps members expand the rights of workers through litigation, education, and advocacy. For decades, CELA has filed briefs and argued as amicus curiae before the California Supreme Court and has a dedicated lobbyist working in Sacramento. Any interested student should become a [member of CELA](#) for only \$25 per year. *CELA will pair student members with an attorney member mentor.*
- The [National Employment Lawyers Association \(NELA\)](#) is the country's largest organization of plaintiff-side employment lawyers, with 69 state and local affiliates and more than 4,000 members nationwide. NELA offers a student membership.

- The [Bar Association of San Francisco's Labor and Employment Law Section](#) provides programming on labor and employment issues. While the Section includes both plaintiff and defense-side attorneys, the Section is a useful source of information and provides many networking opportunities.
- The [ABA Section of Labor and Employment Law](#) studies and promotes labor and employment law, contributes to legislation, and encourages cooperation between management and labor. Law students [can join the ABA for free](#) and receive access to newsletters that feature events and law alerts.
- Other bar associations also have advocacy groups, like the [American Muslim Bar Association](#), and often provide free or low-cost membership to law students.
- The [National Lawyers Guild](#) is a national organization of radical lawyers spanning multiple practice areas. Student memberships are available, and the NLG has an active presence on Berkeley Law's campus. The NLG's [Labor and Employment Committee](#) serves as a liaison between the NLG and legal organizations that represent workers. *The Committee will pair student members with attorney member mentors.*
- Students can stay engaged in law and public policy advocacy by following [The Employee Rights Advocacy Institute for Law and Policy](#), which works to end forced arbitration in the workplace, protect the employment rights of immigrants and refugees, and help build the next generation of progressive lawyers with conventions and post-graduate fellowship opportunities.
- The [California Lawyers Association \(CLA\) Labor and Employment Law Section](#) furthers knowledge of labor law and employment issues, provides a forum for California's labor and employment lawyers and non-lawyers interested in labor relations and employment issues, and provides educational opportunities, including opportunities for MCLE credit.

### **Select Resources**

- The [CELA Bulletin](#) is a monthly summary of all significant published state and federal California cases dealing with California employment law. The Bulletin is one of the best resources to keep up to date on important issues in the field, and we recommend CELA membership just to have access to the Bulletin.
- The [California Lawyers Association's Case Law Alerts](#), written by Phyllis Cheng, update members of the CLA's Labor and Employment Section with brief notices of new decisions on labor and employment law cases or grant reviews.

- [OnLabor.org](#) is a blog devoted to workers, unions, and their politics. Topics include the traditional union movement, new forms of worker organization, how work ought to be structured, and the appropriate role of government.
- [Weinberg Labor Updates](#) include information on private and public sector litigation, employee benefit plans, and workplace immigration developments. [Weinberg, Roger & Rosenfeld](#), one of the largest labor law firms in the United States, publishes the updates.

## **How Much Should I Be Paid?**

### **Nonprofit Salaries**

Many workers' rights lawyers will spend some time—or even their entire careers—doing deeply fulfilling and impactful work in a nonprofit setting. Given nonprofits' modest salaries, this path can seem daunting. However, with active planning, a nonprofit career need not be out of financial reach. While in school, students can apply for many [continuing student scholarships or secure a campus job with fee remission, significantly lowering the cost of law school tuition and reducing the need to borrow](#). And most importantly, students have the [Berkeley Law Loan Repayment Assistance Program \(LRAP\)](#), which allows students working for the government or 501(c)(3) nonprofits to make income-based loan payments and ultimately receive loan forgiveness after ten years.

Based on our conversations with attorneys, starting nonprofit lawyers can expect to make around \$50,000 to \$60,000 early in their careers. Some more precise data is available. The staff of [Legal Aid at Work](#) is unionized and publishes their annual [salary tables](#) in their collective bargaining agreement. New lawyers there earn roughly \$53,000 a year. Their salaries increase faster in the earliest years, rising to over \$68,000 in the fifth year. Starting salaries for those interested in fellowships with the [Skadden Foundation](#) or [Equal Justice Works](#) can expect to make approximately [\\$57,000 annually](#) for their fellowship term, which is usually two years.

### **Firm Salaries**

Whether in your summer job or fresh out of school, the inevitable question arises, “how much should I be paid?” We have found very little transparency around salaries, and firms do a poor job of letting applicants know what's fair. We want to help clear up some of this murkiness.

Based on our conversations with attorneys, starting labor and employment lawyers in private firms can expect to earn somewhere between \$75,000 and \$95,000 their first year. This is considerably less than the \$180,000-\$190,000 some starting defense-side attorneys will make, but careers are long, and plaintiffs' attorneys have an enormous potential for income growth. (Heck, [Elizabeth Cabraser had an extra \\$3.5 million](#) to donate to Berkeley in 2018.)

One helpful heuristic for thinking about starting attorneys' pay is looking at government salaries. A first year attorney entering the [Department of Justice](#) begins as a GS-11, Step 1, with a base



salary of [\\$55,204](#). However, the Office of Personnel Management adjusts this base rate for the regional cost of living. For the Bay Area, the adjustment rate is 39.28%, which, for a GS-11, Step 1, is a salary of [\\$78,081](#). This means that new labor and employment attorneys at private firms in the Bay Area should start making, at a minimum, **\$78,000 in their first year**. Whether this number is comical, realistic, or a steal depends on the firm, but if you're offered something significantly less, rethink the position or start negotiating (or better yet, *always* negotiate your salary).

Some government agencies list their pay increases by experience. For example, the [DOJ](#) pays graduates with one year of clerkship experience at GS-12, Step 1, which for the Bay Area is \$88,582. For 2-3 years of clerkship or fellowship experience, it's a GS-13, Step 1, or \$105,335 for the Bay Area. Not every firm will be able to match these numbers—and this is only one set of comparable data—but firms should strive to pay at least as well as government service (especially when a string of successful cases puts them in a position to pay well). Many firms start well above this benchmark and provide a salary bump of \$10,000 or more once new hires pass the bar. So keep these figures in mind and don't be shy about asking working attorneys what they make. [We all deserve to know](#).

## Firm Salary Growth

Readers might look at the above figures and despair at their future compensation compared to their defense-side friends' probable salary growth. But looking only at the first few years of salary obscures the value of plaintiff-side practice. (That said, we need to unlearn the destructive habit of comparing ourselves to other people. Comparisons are proven to make you feel less well-off even if objectively you're doing great).

The billable hour controls defense-side firms. This is why your friends will work 1,900 to 2,400 hours a year. Firms deeply discount associate time at the demand of paying clients, so to turn a profit on their \$180,000-\$190,000 investment, young associates need to work 120-140% more hours than they would otherwise for the firm. As attorneys gather experience, they can bill more for their time, but their compensation will always be, at its core, a function of time.

On the plaintiff-side, time is still tracked and fee petitions for winning cases can still look like attorneys are getting paid by the hour. But plaintiff-side firms engaging in a class action, for example, can win a percentage of the total damages awarded, rather than their hourly time. This means that for the same time, a plaintiff-side attorney can earn several multiples of what their defense-side colleagues can make. So if you seek to work at a plaintiff-side firm, think about the big picture and where you see your career going. **It's not hyperbole to say that you can do well while also doing good.**

## Firm Summer Salaries

While funding your first summer can be straightforward (e.g., the Edley Grant), your second summer is likely the first time you'll be thinking about your pay as a working attorney-to-be. At

baseline, many plaintiff and union-side firms in the Bay Area pay between \$8,000-\$10,000. We think this is too low.

**By at least two methods, firms should be paying their summer associates between \$14,000-\$15,000.** Think of this as our rallying cry for future law students. If you're ever in a position to negotiate your summer salary (or you're a future plaintiff-side attorney hiring a law student), think about these alternative measures of compensation:

- **The Fractional Method:** One way of thinking about summer salary is as a fraction of a first-year associate's salary. This is the approach defense-side firms take. Ten weeks of \$180,000, a typical defense-side starting salary, is roughly \$35,000, which is approximately what many defense-side summer associates will earn. Using the \$74,000 target from above means firms should pay summer associates **\$14,230**, or roughly seventy to forty percent more than what many firms pay now.
- **The Billable Method:** Many plaintiff-side firms track time like their defense-side colleagues, i.e, in 1/10th of an hour increments. This is not to bill a client, but so that when it comes time to defend their fee proposal to a judge, they can tell the court precisely how much time they spent working on a case and how much the court should award them in fees. Summer associates at plaintiff-side firms "bill" at around \$300 per hour. Much of this time, however, is never realized, as firms may not include it in their fee petitions to the court, or will dramatically reduce this figure. But what is certain is that *at least some* of this time is billed and recovered for the firm in cases they win. And this makes sense. Your research memo can add value to a case and can be billed as fees that come back to the firm. Therefore, firms should pay summer associates, *at a minimum*, a salary that reflects the value their labor brings to the table. Assuming a firm recovers two hours of summer associate time each day over ten weeks when they win a case, the firm stands to make \$30,000. But, firms don't bill your time to one case, and even the best cases take years to get to a point where attorney's fees are paid. So conservatively, applying a fifty percent discount to account for the variability in firms winning cases and recovering fees, means firms should pay summer associates **at least \$15,000**.

We believe deeply that all work should be fairly and transparently compensated. And we know firms won't get there overnight, but we should be thinking about ways to push firms to recognize the value of their students' time and pay them accordingly.

### **Cultivating a More Inclusive Profession**

We believe the only way for workers to succeed is for us all to succeed, regardless of race, gender identity, sexual orientation, disability, and other bases for discrimination. This applies

equally well to lawyers. However, the lack of diversity in law is well-documented. In fact, one author called it “the least diverse white-collar profession in this country.”<sup>1</sup>

Consider that in 2018, the American Bar Association reported that 64% of attorneys are male and 85% are White.<sup>2</sup> According to the Bureau of Labor Statistics, in 2017, 87% of judges, magistrates, and other judicial workers were White and only 28% were women.<sup>3</sup> Only 5% of attorneys are African-American, 4% are Asian, and 3% are Latino. Lawyers with disabilities are similarly underrepresented, comprising only 3% of the profession. And members of the LGBT community only make up approximately 2%, with 60% of LGBT lawyers working in only four cities: San Francisco, Los Angeles, New York, and Washington, D.C.<sup>4</sup>

So how do we reverse this trend—one that replicates itself in the workers’ rights community? The first step is recognizing the problem, but the next is banding together with socially-conscious and change-making individuals in our community who are working hard to ensure that we reflect the rich diversity of our country. It is up to us, as the next generation of attorneys, to continue transforming what the profession looks like. Read on to learn about initiatives to change the profession’s approach to diversity in the law.

[CELA’s Diversity Outreach Committee](#) encourages recruitment and retention of underrepresented groups, including people of color, women, LGBTQ+ folks, and people with disabilities, through scholarships, outreach, and educational programs. Every year, CELA hosts a **Diversity Leadership Summit** that highlights work done by diverse CELA attorneys and encourages discussion of diversity issues in employment law.

The [Foundation for Advocacy Inclusion and Resources \(FAIR\)](#) is an extension of CELA that promotes diversity within the California plaintiffs’ employment bar. FAIR’s [Employee Justice Summer Clerkship](#) selects diverse students to work at CELA-affiliated firms and supplements their salaries. (See [Summer Jobs & How to Get Them](#) for more.) In addition, the [FAIR Fellowship](#) enables a new attorney each year to work full-time for [Legal Aid at Work](#) for six months and then at a CELA-affiliated firm for another six months.

The [ABA Labor & Employment Law Section](#) has a [Diversity and Inclusion in the Legal Profession Committee](#) to foster greater inclusiveness, and the Section has adopted a [Diversity Plan](#) with detailed initiatives and a **Speaker, Moderator, Editor and Author Database** that complements the Diversity Plan.

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<sup>1</sup> Helia Garrido Hull, *Diversity in the Legal Profession: From Rhetoric to Reality*, 4 Colum. J. Race & L. 1 (2013).

<sup>2</sup> *ABA National Lawyer Population Survey: 10-Year Trend in Lawyer Demographics*, American Bar Association (2018), [https://www.americanbar.org/content/dam/aba/administrative/market\\_research/National\\_Lawyer\\_Population\\_Demographics\\_2008-2018.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/market_research/National_Lawyer_Population_Demographics_2008-2018.authcheckdam.pdf).

<sup>3</sup> *Labor Force Statistics from the Current Population Survey*, U.S. Dep’t of Labor Bureau of Labor Statistics (2017), <https://www.bls.gov/cps/cpsaat11.htm>.

<sup>4</sup> See Helia Garrido Hull, *Diversity in the Legal Profession: From Rhetoric to Reality*, 4 Colum. J. Race & L. 1 (2013).

The [Bar Association of San Francisco \(BASF\)](#) has [Equality Committees](#) that focus on disability rights, minorities, LGBT issues, and women. They also have a [Justice and Diversity Center](#) that provides pro bono services to low-income people. Their diversity initiatives include goals and timetables for minority hiring and advancement, a diversity career fair, a judicial mentorship program, minority summer clerkships, and a 1L job shadow program. To learn more, email Yolanda Jackson at [yjackson@sfbar.org](mailto:yjackson@sfbar.org).

More Bar associations based on gender, sexuality, race, ethnicity, and other identity groups are [listed on FAIR's website](#).