

DAVID BENJAMIN OPPENHEIMER

Clinical Professor of Law
Director of Professional Skills
University of California, Berkeley
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CAPSULE SUMMARY:

- Clinical Professor and Director of Professional Skills at Berkeley Law
- Author of new text using simulation to teach civil procedure as a skills course
- Lead author of first U.S. casebook on comparative equality law
- Founder/convenor of Berkeley Comparative Equality & Anti-Discrimination Law Study Group
- Author of numerous scholarly articles, book chapters and books on Anti-Discrimination Law, affirmative action, and civil rights history
- Faculty co-director of student pro bono projects (Student Initiated Legal services Projects – SLPS)
- Founding director of Berkeley Law Employment Discrimination Clinic
- Early adopter of new classroom teaching technologies
- Visiting Professor at Sciences Po Ecole de Droit, University of Paris I (Sorbonne-Pantheon), LUMSA Rome, and University of Paris X (Nanterre/Defense)
- Currently designing on-line course on comparative equality law for Stanford Law School

EDUCATION

Harvard Law School; J.D., 1978
Columbia University, School of International Affairs (1974, without degree)
University Without Walls, Berkeley; B.A., Political Science, 1972

EMPLOYMENT

University of California, Berkeley School of Law (Boalt Hall): Clinical Professor of Law & Director of Professional Skills (2009 – present), Visiting Professor (fall 2008, spring 2000, fall 1998), Lecturer in Law (1982-1987), Director, Employment Discrimination Clinic (1982-1986)

Golden Gate University School of Law: Associate Dean for Faculty Development (2005-2009), Associate Dean for Academic Affairs (2000-2005), Professor of Law (1998-2009), Associate Professor of Law (1993-1998), Visiting Associate Professor of Law (1991-1993)

JFK University: Associate Professor of Law (1990-1991)

University of San Francisco School of Law: Assistant Clinical Professor of Law (1987-1990)

California Department of Fair Employment and Housing: Staff Attorney (1979-1986)

California Supreme Court: Law clerk to Chief Justice Rose Elizabeth Bird (1978-1979)

Professor Laurence Tribe (Harvard Law School): Research assistant (1976-1977)

PUBLICATIONS

Books

PATT V. DONNER: A SIMULATED TRIAL FILE FOR TEACHING CIVIL PROCEDURE, (with Molly Leiwant, Rebecca Schonberg & Sam Wheeler) (Foundation Press, 2014) (with teaching manual and website).

ROWE V PACIFIC QUAD - PROBLEMS, TEACHING NOTES AND CASEFILE (National Institute for Trial Advocacy, Fifth Edition with Fred Moss 2013, Deposition Edition with Fred Moss 2013, Fourth Edition 2008, Third Edition 1993, Second Edition 1987, First Edition 1986) (with teaching manual).

COMPARATIVE EQUALITY & ANTI-DISCRIMINATION LAW: CASES, CODES, CONSTITUTIONS & COMMENTARY, (with Sheila R. Foster & Sora Han) (Foundation Press 2012) (with teaching manual 2013) (on-line course materials for Stanford Law School with Richard Ford, forthcoming 2015).

The Great Dissents of the Lone Dissenter: The Dissenting Opinions of Justice Jesse W. Carter (ed., with Alan Brotsky) (Carolina Academic Press 2010).

WHITEWASHING RACE: THE MYTH OF A COLOR-BLIND SOCIETY (with M. Brown, M. Carnoy, E. Currie, T. Duster, M. Shultz & D. Wellman) (University of California Press 2003, paperback 2005) (winner of the 2004 Benjamin L. Hooks outstanding book award, finalist for the 2004 C. Wright Mills award, Honorable Mention in the 2004 Myers Outstanding book Awards).

Book chapters

A U.S. Perspective on the Relationship of Immigration Restrictions and Racism, (with Swati Prakash and Rachel Burns), (book chapter in The "Others" IN EUROPE AND BEYOND) (forthcoming 2014).

Pourquoi la France se doit de recueillir des données sur l'identité raciale...à sa manière, in Diversité et discrimination raciale, l'essor d'une question sociale (book chapter in DIVERSITE ET DISCRIMINATION RACIALES, Dalloz 2009).

The Story of Green v. McDonnell Douglas, chapter 1 in J. Friedman, Ed., EMPLOYMENT DISCRIMINATION STORIES (Foundation Press 2006).

Employer Liability for Sexual Harassment by Supervisors, chapter 17 in MacKinnon & Siegel, eds., DIRECTIONS IN SEXUAL HARASSMENT LAW (Yale University Press 2003).

General Editor

"The Bill of Rights," a series of books published beginning in 2007 by Prometheus Books.

Advisory Committee: Erwin Chemerinsky, Jesse Choper, Sheila Rose Foster, Cheryl Harris, Marjorie Heins, Kevin R. Johnson, Carrie J. Menkel-Meadow, Robert C. Post, John Powell, Deborah L. Rhode, Stephanie M. Wildman, and Eric Ken Yamamoto.

Volume 1, The First Amendment: The Establishment of Religion Clause; Its Constitutional History and the Contemporary Debate, Professor Alan Brownstein, author. (2007).

Volume 2, The First Amendment: The Free Exercise of Religion Clause; Its Constitutional History and the Contemporary Debate, Professor Thomas Berg. (2008).

Volume 3, *The First Amendment: Freedom of the Press; Its Constitutional History and the Contemporary Debate*, Professor Garrett Epps. (2008).
Volume 4, *The First Amendment: Freedom of Speech and Assembly; Its Constitutional History and the Contemporary Debate*, Professor Vikram Amar. (2009).
Volume 5, *The First Amendment: The Right to Petition; Its Constitutional History and the Contemporary Debate*, Professor Margaret Russell. (2010).
Volume 6, *The Second Amendment: The Right to Bear Arms; Its Constitutional History and the Contemporary Debate*, Professor Nick Johnson. (Forthcoming).
Volume 7, *The Fourth Amendment: Its Constitutional History and the Contemporary Debate*, Professor Cynthia Lee. (2011)
Volume 8, *The Fifth Amendment and Criminal Procedure: Its Constitutional History and the Contemporary Debate*, Professor Jennifer Chacon. (Forthcoming).
Volume 9, *The Fifth Amendment and Takings of Property: Its Constitutional History and the Contemporary Debate*, Professor Margalynne Armstrong. (Forthcoming).
Volume 10, *The Fifth Amendment and Substantive Due Process: Its Constitutional History and the Contemporary Debate*, Professor Eric Christiansen (Forthcoming).
Volume 11, *The Fifth Amendment and Procedural Due Process: Its Constitutional History and the Contemporary Debate*, Professor Allan Ides (Forthcoming).
Volume 12, *The Sixth Amendment: Its Constitutional History and the Contemporary Debate*, Professor Andrea Russi (Forthcoming).

Law review articles

Religiosity and Same-Sex Marriage in the United States and Europe (with Alvaro Oliveira and Aaron Blumenthal), 32 *Berkeley Journal of International Law* 195 (2014)

Measuring Merit: The Shultz-Zedeck Research on Law School Admissions (with Kristen Holmquist, Marjorie Shultz and Sheldon Zedeck), __ *Journal of Legal Education* __ (2014).

Berkeley Law's Student Initiated Legal Services Projects, (with Susan Schechter, Shalini Swaroop and Trish Keady), 62 *Journal of Legal Education* 621 (2013).

Color-Blindness, Racism-Blindness, and Racism-Awareness: Revisiting Judge Henderson's Proposition 209 Decision, 13:2 *Berkeley Journal of African American Law & Policy* 101 (2011).

Congress and the Supreme Court's Conflict over Antidiscrimination Law, 37:4 *Human Rights* (Fall 2010).

U.S. Anti-Discrimination Law: A View From 10,000 Meters, 10 *European Anti-Discrimination Law Review* 19 (July, 2010).

California Housing Discrimination, Proposition 14 and the Protection of Minority Rights, 40 *Golden Gate Law Review* 117 (2010).

Whistleblowing under U.S. Law, No. 2009:3 *Revue de Droit Travail* (Daloz) (March 2009).

The Legality of Promoting Inclusiveness: May the University of California use race or ethnicity as factors in applicant outreach? 27 UCLA Chicano-Latino Law Review 11 (2008).

Why France Must Collect Data on Racial Identity. . . in A French Way, 31:2 Hastings International and Comparative Law Review 735 (2008).

Termination of employment contracts under U.S. law, No. 2008:9 Revue de Droit Travail (Daloz) (September 2008).

On the unexpected importance of probationary periods within a system of "employment at will, No. 2008:4 Revue de Droit Travail (Daloz) (April 2008).

Dr. King's Legal Legacy: A Critical Assessment, Deutsch-Amerikanische Juristen-Vereinigung (German-American Lawyers' Association) Newsletter (2008).

Does the US Have a Culture of Litigation? No. 2007:5 Revue de Droit Travail (Daloz) (February 2007).

Constructive Discharge under U.S. Law, No. 2006:3, Revue de Droit du Travail (Daloz) (September 2006).

At Will Employment under U.S. Law, No. 2006:1, Revue de Droit du Travail (Daloz) (June 2006).

Evaluating the U.S. Policy of Using Private Lawsuits to Remedy Employment Discrimination, 49 2005/1 Droit et Cultures 109 (2005) (symposium issue on Egalite et Discrimination: Etats-Unis, Europe, France).

Verdicts Matter: An Empirical Study of California Employment Discrimination and Wrongful Discharge Jury Verdicts Reveals Low Success Rates for Women and Minorities, 37 U.C. Davis Law Review 511 (2003).

McDonnell Douglas v. Green Revisited: Why Non-Violent Civil Disobedience Should Be Protected From Employer Retaliation By Title VII, 34 Columbia Human Rights Law Review 635 (2003) (symposium issue on combating subtle discrimination in the workplace).

Afterward: The UN Convention On The Rights Of The Child And U.S. Law, 30 Capital University Law Review 706 (2002) (symposium issue on the UN Convention on the Rights of the Child).

Gender and Race Bias in Medical Treatment, 2:4 Journal of Gender-Specific Medicine 27 (1999) (with Marjorie M. Shultz).

Carcieri's Self-Described "Progressive" Critique of the ACLU on Proposition 209: A "Conservative" Response, 39 Santa Clara Law Review 1153 (1999).

Transcribed Comments, Rethinking Equality in the Global Society, 75 Washington University Law Quarterly 1561, 1635-56 (1998) (symposium issue on comparative affirmative action law).

From Little Acorns Great Oaks Grow -- Neil Gotanda's Contribution to the Law Permitting General &

Punitive Damages in Employment Discrimination Cases, 4 Asian Law Journal 63 (1997) (symposium issue on the work of Neil Gotanda).

Trina Grillo -- A Personal Remembrance, 31 USF Law Review 965 (1997) (symposium issue memorializing the life and work of Trina Grillo).

Inclusiveness, Interrelatedness, and The Affirmative Action Debate in California -- Introduction to The GGU School of Law Symposium on Race Relations in America, 27:3 GGU Law Review 287 (1997) (symposium issue on affirmative action law).

Employer Liability for Sexual Harassment by Supervisors: A Comparison of Federal (Title VII) and California (FEHA) Law (with Mark Vickness), 10:2 California Labor and Employment L. Q. 3 (1997).

Understanding Affirmative Action, 23:4 Hastings Constitutional Law Quarterly 921 (1996) (reprinted in Davis, Johnson & Martinez, *A Reader on Race, Civil Rights And American Law: A Multiracial Approach* (Carolina Academic Press 2001)).

Workplace Harassment and The First Amendment: A Response to Professor Volokh, 17 Berkeley Journal of Employment & Labor Law 321 (1996) (reprinted as a book chapter in Paul I. Weizer, *Sexual Harassment: Cases, Case Studies & Commentary* (2002 Peter Lang Publishing) and in Laura Stein, *Sexual Harassment in America: A Documentary History* (1999 Greenwood Press)).

Exacerbating the Exasperating: Title VII Liability of Employers for Sexual Harassment Committed By Their Supervisors, 81:1 Cornell Law Rev. 66 (1995).

Kennedy, King, Shuttlesworth and Walker: The Events Leading to the Introduction of the Civil Rights Act of 1964, 29 USF Law Review 645 (1995) (symposium issue on 1964 Civil Rights Act).

Martin Luther King, Walker v. City of Birmingham, and the Letter From Birmingham Jail, 26 U.C. Davis Law Review 791 (1993).

Negligent Discrimination, 141 University of Pennsylvania Law Review 899 (1993).

Distinguishing Five Models of Affirmative Action, 4 Berkeley Women's Law Journal 42 (1989) (reprinted as a book chapter in Healey & O'Brien, *Race, Ethnicity, and Gender: Selected Readings* (Pine Forge Press 2004)).

Employment Discrimination And Wrongful Discharge: Does The California Fair Employment And Housing Act Displace Common Law Remedies?, (with M. Baumgartner) 23 USF Law Review 145 (1989).

Boalt Hall's Employment Discrimination Clinic: A Model for Law School/Government Cooperation in Integrating Substance and Practice, 7 Industrial Relations Law Journal 245 (1985).

Employment Discrimination: Rightful Place Seniority under Title VII and Section 1981, "The Teamsters Roadblock May be Only a Detour" 1 Hamline Law Review 15 (1979).

OP-ED ARTICLES

- 3/29/13 The Los Angeles Times, 50th Anniversary of Dr. King's *Letter From Birmingham Jail*.
- 11/30/07 The San Francisco Recorder. French Color Blindness.
- 6/11/07 The National Law Journal. Racial Inequality in the European Union: Facts are Essential.
- 1/-/06 The San Francisco Recorder. Terminating the Partisanship in Judicial Nominations.
- 11/18/05 The San Francisco Chronicle. Color-blind Equality? A U.S. Solution to what ails France – Affirmative Action.
- 2/11/04 The Daily Journal (SF & LA). Deck is Stacked Against Minorities, Women in Job-Bias Cases.
- 8/24/97 The San Francisco Examiner. Article on the likely consequences of Proposition 209.
- 6/5/97 The Daily Journal (SF & LA). Article on affirmative action and minority enrollments at UC Berkeley's law school.
- 5/2/97 The Daily Journal (SF & LA). Article on judicial review and the Ninth Circuit Proposition 209 decision.
- 8/9/96 The Jewish Bulletin (San Francisco). Article discussing why Jewish voters should reject Proposition 209.
- 7/14/96 The San Jose Mercury News. Article describing the potential impact of Proposition 209 on women.
- 7/1/94 The San Francisco Recorder. Article describing the historical events leading to the introduction of the 1964 Civil Rights Act, and commemorating its thirtieth anniversary.
- 5/94 The San Francisco Examiner. Article calling for condemnation of a proposed boycott of the United Negro College Fund.
- 12/10/93 The San Francisco Recorder. Article discussing the disenfranchisement of African American voters and the historical switch from Democratic Party to Republican Party use of voter suppression efforts aimed at racial minorities.
- 11/29/93 The San Francisco Examiner. Article discussing the disenfranchisement of African American voters in the New Jersey gubernatorial election. (condensed version of article described above).
- 9/15/93 The San Francisco Examiner. Article commemorating the thirtieth anniversary of the bombing of the Sixteenth Street Baptist Church in Birmingham.

8/5/93 The San Francisco Examiner. Article discussing possible future Supreme Court selections.

8/20/92 The San Francisco Examiner. Article on George H. W. Bush's support of segregation in 1963-64.

6/09/92 The San Francisco Recorder. Article on the need for whites to respond with empathy, not sympathy, to Rodney King's beating.

11/19/92 The San Francisco Recorder. Article on Supreme Court appointments over the past 50 years, pointing out that the "liberal" Court of the Sixties was the result of Eisenhower's appointments, and contrasting Bush's appointments with FDR's.

10/30/91 The San Francisco Examiner. Article on Supreme Court appointments (condensed version of 11/19 article described above). Reprinted in GGU alumni magazine.

9/27/91 The San Francisco Examiner. Article disputing claims that AB 101, banning employment discrimination based on sexual orientation, would cause a flood of litigation.

4/28/88 The Los Angeles Times. Article discussing the common practice of referring to Rev. Jesse Jackson as "Jesse" and generally referring to women and minorities by their first names.

Other articles, essays and reports

The Iraqi Refugee Assistance Project (IRAP) at Berkeley Law (Boalt Hall) (with Mohammad Tajsar), <http://www.abanet.org/dch/committee.cfm?com=IC756500>, ABA International Section, Pro Bono Committee Newsletter (January 2011)

Introduction to Reaching For The Dream: Profiles in Affirmative Action (Coalition for Civil Rights 1998).

Testimony submitted to the United States Congress on the subject of affirmative action, introduced by Hon. Maxine Waters on September 27, 1996.

CCRI -- An Assault on Affirmative Action & Women's Rights, 9:7 *Contra Costa Lawyer* 15 (1996).

Plune v. Downtown Airport Hotel, [mediation exercise]. *Innovations in Teaching*, Program Materials for AALS Annual Meeting Labor and Employment Law Section Meeting at E14 (1996).

Affirmative Action -- Fiction and Facts, 1:2 *Common Ground: A Forum for Civil Liberties Issues* 30 (1995).

Martin's March, June 1994 *ABA Journal* 54 (1994).

Report to the CA Department of Insurance, Anti-Discrimination Task Force, Committee on Employment Discrimination (1994).

ABA National Law Student Negotiation Competition Problem for 1990-91 competition, American Bar Association (1991).

TEACHING

Courses Taught: Civil Procedure, Comparative Equality and Anti-Discrimination Law, Leadership for Student Leaders, Oral Advocacy, Employment Discrimination Law, Torts, Sex Discrimination Law, Trial Advocacy.

VISITING PROFESSORSHIPS

University of Paris I (Sorbonne-Pantheon), Visiting Professor of Law, 2014, 2015

LUMSA Rome, Visiting Professor of Law, 2014

Sciences-Po Ecole de Droit, Affiliated Faculty, Visiting Professor of Law, 2012, 2013

University of Paris X (Nanterre/Defense), Visiting Professor & Co-Director, Comparative Law Summer Program (2005-2009)

University of California, Berkeley, Institute for the Study of Social Change: Affiliated Scholar (2004 – present), Visiting Scholar (1997-1999)

PROFESSIONAL ACTIVITIES

Member, American Law Institute (since 2004).

Vice-Chair, Pro Bono Committee of International Law Section of American Bar association (since 2011).

Board of Directors, American Civil Liberties Union - Northern California affiliate (1989-2000, 2007-2008, since 2013); member, Legal Committee (1990-2000, since 2007); member, Executive Committee (1997-2000); chair, Board Nominating Committee (1993-95) solicitor, Major Gifts Campaign, Campaign for the Future (capital campaign) and Lawyers' Council Campaign (since 1993).

Member, Thelton Henderson Center for Social Justice, Equal Opportunity Best Practices Advisory Committee (since 2009).

Co-Director, GGU/UPX Paris Summer Program in Comparative Law (2005-2009).

Board of Directors, Lawyers' Committee for Civil Rights of the SF Bay Area (1997-2006), co-chair, Individual Giving (1997-2006).

Committee Member, Diversity Committee, Section of Legal Education and Admission to the Bar, American Bar Association (2001-2004).

Board of Directors, Equal Rights Advocates (1998-2001); member, Executive Committee, chair, Litigation Committee (1998-2000), solicitor, Major Gifts Campaign (1998-2004).

Board of Directors, Society of American Law Teachers (1997-2001).

Member, Civil Justice Reform Act Advisory Group, United States District Court for the Northern District of California (1998-1999).

National Advisory Board, Berkeley Journal of Employment & Labor Law (formerly Industrial Relations Law Journal) (since 1984).

Board of Directors, American Jewish Congress, Northwest Region (1996-1999).

Member, Advisory Committee UC-Davis Public Policy Conference on Affirmative Action (1995-96).

Member, editorial board, "Human Rights" (magazine of the Section of Individual Rights and Responsibilities of the American Bar Association) (1994-95).

Member, CA Department of Insurance Anti-Discrimination Task Force; Co-chair, employment discrimination committee (1992-1995).

Judge Pro Tem, Oakland, Piedmont, Emeryville Municipal Court (1990-92).

Faculty Member, National Institute for Trial Advocacy:

Regional trial advocacy sessions (1984-89),

National teacher training sessions (1988-89).

Consultant, California State Bar, Committee of Bar Examiners, editorial team for performance exam (1991).

Member, City of Piedmont Commission on the celebration of the bicentennial of the United States Constitution (1990-91).

Consultant, California Senate Office of Research, Conference on Civil Rights Enforcement (1986).

Member, California State Bar Human Rights Committee (1982-86).

Member of California Bar since 1978 and the United States Supreme Court Bar since 1998.

SELECTED LECTURES & PRESENTATIONS (1995-2014)

2014

University of Paris I (Sorbonne-Pantheon): Short course on Comparative Equality & Anti-Discrimination Law.

Catholic University of Lille School of Law: Conference on comparative equality law, "Global Affirmative Action."

Equality Forum, Kings College London: "The Transformation of Affirmative Action: From Equality to Diversity."

Frankfurt University: “Clinical Legal Education in the U. S. A. – Challenges and Prospects.”

University of Torino: Keynote talk at conference on clinical legal education, “Clinical Legal Education – Advantages and Challenges.”

LUMSA University Rome: Short course on Comparative Equality and Non-Discrimination Law.

University of Rome 3: “Clinical Legal Education and Social Change.”

European Commission, Fundamental rights legal staff: “The European Roots of Diversity as a Justification for Affirmative Action.”

ULB Brussels: Keynote talk at conference on comparative equality and anti-discrimination law, “Global Challenges and New Perspectives on Equality Law.”

2013

Club of the Twenty-First Century, Paris: “Racial Inequality in the United States.”

Berkeley Law: “The Transformation of Global Affirmative Action.”

Bochum University (Germany): “Implementing the CRPD among service providers: A view from the United States.”

Berlin DAJV: “Comparative Affirmative Action.”

Bucerius Law School, Hamburg: “The Crises in U.S. Legal Education.”

Barcelona, Spain, Consolidated Research Group in Labour and Social Security Law (greDTiSS) Conference at University Pompeu Fabra: “The Transformation of Affirmative Action in the U.S. Workplace: From Remedy to Diversity.” (Panel organizer.)

San Francisco, Equal Justice Society: “Juneteenth and the 1964 Civil Rights Act: A Lesson in Unintended Consequences.”

San Francisco, American Constitution Society, “Affirmative Action after *Fisher v. Texas*.”

Stanford Law School, American Constitution Society, “Affirmative Action after *Fisher v. Texas*.”

Presentation and panel moderator for GAJE conference in New Delhi, “Student Initiated Clinics and Pro Bono Projects.”

Professor M. P. Jain Memorial Lecture – “The Transformation of Affirmative Action: From Reservations to Diversity Management.”

2012

University of Hull; Jan 12, University of York; Jan 13, King's College London:
"How U.S. Affirmative action really works."

University of Brescia: Keynote address at conference on clinical education in Europe, "The Transformative Effect of Clinical Legal Education."

European University Institute, Florence: The "Impact of Clinical Legal Education on the Struggle for Racial Justice in the U.S. – My Derrick Bell Dream."

Berkeley Law, Conference on the Shultz/Zedeck Research, "Final Words – Summing Up." (Also helped run conference and co-led a workshop.)

Science-Po Ecole de Droit, "Comparative Remedies for Employment Discrimination in the U.S. and France."

Temple University (Philadelphia), Jean Monnet symposium on comparative anti-discrimination law: "Same-Sex Marriage and Secularism in the United States and Europe" (with Alvaro Oliveira).

Berkeley Law, Graduation Awards Ceremony for Public Service Students: "Remarks on the conferral of the first annual Eleanor Swift Award" (by video).

Free University of Brussels (ULB): "Developments in U.S. Anti-Discrimination Law."

European Commission, Department of Justice, Equality Division, "U.S. Affirmative Action: From Remedy to Diversity."

Linklaters, LLP: "Comparative Remedies for Employment Discrimination in the U.S. and France."

April 26, Sciences-Po Ecole de Droit: Moot court judge for international human rights law course, sitting on panel with French Supreme Court Justice and French Justice on ECtHR.

Sciences-Po Ecole de Droit: Principal organizer of comparative anti-discrimination law conference, with participation by 40+ scholars from the United States and Europe.

Sciences-Po Ecole de Droit: "Same-Sex Marriage and Secularism in the United States and Europe."

Berkeley Law, "On the Value of Legal Writing."

Berkeley Law, "Race, Gender and Silence in the Classroom."

Berkeley Law, "A Brief Introduction to Professional Responsibility."

King's College London, "Comparative Affirmative Action: From Remedy to Diversity."

Berkeley Law: Conference on the Shultz/Zedeck Research, "Final Words – Summing Up." (Also helped run conference and co-led a workshop.)

2011

Association of American Law Schools, Annual Meeting, Section on Pro Bono Service, “Berkeley Law’s Student Initiated Legal Services Projects.”

American Bar Association, Section on International Law, Pro Bono Committee, “Roundtable on Law School Law Firm Collaboration on International Pro Bono Projects.” (moderator)

Harvard Law School, Evolutions in Anti-Discrimination Law in Europe and North America, response to paper presentation by Kenji Yoshino.

Free University of Brussels, “Discrimination & Immigration.” (Keynote)

Berkeley Law: Moderated panel discussion, “Accommodating Religious and Cultural Diversity in Europe” with visiting scholars from ULB Brussels.

University of Florence, “Twombly & Iqbal: Why has the Supreme Court Lost Faith in the Federal Rules of Civil Procedure?”

University of Paris X (Nanterre/La Defense), “Comparative Judicial Selection & Independence.” (Moderator)

University of Valencia, Meeting of the Global Alliance for Justice Education, “Berkeley Law’s Student Initiated Legal Services Projects,” “Convening the Faculty to Discuss Mandatory Pro Bono,” and “The ABA’s outreach to International Law Clinics.” (three panels)

University of Brescia, “Comparative Legal Education: The Role of the Law Clinic.”

University of Paris X, Faculty of Law, “Same-Sex Marriage and Adoption in the United States and Europe.”

New York Law School/Harvard Law School Future Ed 3, “A Supplement to the LSAT Can Help Us Admit Students Who Will Be Better Lawyers, While Increasing Law School Diversity.”

2010

Harvard Law School, “Identifying the Essential Characteristics of Highly Effective Lawyers.”

Free University of Brussels, “Affirmative Action in Employment under U.S. Law.”

European Commission Legal Staff training, “An Overview of U.S. Anti-Discrimination Law.”

Association of American Law Schools, Clinical Legal Education Conference: “Planning a skills course.”

University of Paris X (Nanterre), Conference on Comparative Racial Injustice. (moderator and participant)
Paris, France, Sciences-Po école de droit (school of law), "How Does a Berkeley Law Student Become a Lawyer: Experiential Education at Boalt Hall."

Berkeley Law (Boalt Hall), Symposium on the Decisions of Judge Thelton Henderson, "Color Blindness and Racism Awareness: Judge Henderson's Opinion in the 209 Case."

2009

Brussels Belgium, European Commission, Legal Seminar on EU Law on Equal Opportunities and Anti-Discrimination, "A View of U.S. Anti-Discrimination Law From 10,000 Meters." (Keynote)

University of Bologna, "The Process for Appointing Judges in the United States: Is it Political or Merit Based?"

University of Bologna, three day course on "The American Civil Litigation System."

Franklin College, Lugano Switzerland, "The Law & Culture of Color-Blindness in the United States & France."

Lyon Chamber of Commerce, "Diversity and Affirmative Action." Co-sponsored by American Chamber of Commerce, Lyon and U.S. State Department.

University of Lyon III, School of Law, "Legal Origins of Diversity Policies."

California State Bar, Annual Meeting of the Labor & Employment Committee, panel discussion, "Comparative Employment Discrimination: A European Perspective on Anti-Discrimination Law."

Kings College London, Faculty of Law, "Dr. King's Legal Legacy."

California State Bar Fair Housing and Public Accommodations Symposium. "The Struggle for Civil Rights in California: A Brief History of the Unruh and Rumford Acts, Proposition 14, and the Reitman v. Mulkey Decision." (Keynote)

Berkeley Law (Boalt Hall), "Race, Ethnicity, Gender & Silence in the Law School Classroom."

Berkeley Law (Boalt Hall), "Dr. King's Legacy and the Obama Election: Has 'the Dream' Been Fulfilled?"

2008

Trier Germany, European Union conference of law professors regarding European anti-discrimination law, "Burden of Proof under U.S. Employment Discrimination Law" and "Indirect Discrimination under U.S. Law."

Heidelberg University, Center for American Studies, "How U.S. Affirmative Action Really Works."

Golden Gate University, "Debate on the Sander Report on Law School Affirmative Action," with Dan Subotnik, sponsored by GGU Federalist Society and GGU ACLU.

2007

UCLA, "Outreach Under Prop 209" (invited participant in interdisciplinary conference on Proposition 209).

UC Berkeley, Boalt Hall School of Law, "The Role of Social Science in Proving Employment Discrimination", (invited participant in interdisciplinary conference on race and the law).

Northwestern University, School of Law, Roundtable on Social Science and Employment Discrimination Law.

UC Regents, Undergraduate Diversity Subgroup, "Permissibility of Outreach to Minority Applicants Under Proposition 209."

University of Paris X (Nanterre), Conference on Discrimination & Diversity, "France Must Collect Data on Racial Identity . . . in A French Way."

University of Paris X (Nanterre), "Comparative Racial Inequality."

University of Paris X (Nanterre), Doctoral Seminar Presentation, "Remedies for US Employment Discrimination: Civil, Administrative and Private."

University of Paris X (Nanterre), "Affirmative Action and the Fourteenth Amendment."

University of San Francisco, "Affirmative Action and Color-Blindness."

German American Law Association, in cooperation with the United States Embassy, Berlin, "Remedies for Employment Discrimination under US and German Law" (with Dr. Jurgen Gehb, MP).

Invited participant, European Union Summit on Anti-Discrimination Law, Berlin.

Free University, Berlin, "Anti-Discrimination Law in Different Legal Cultures" (with Prof. Dr. Beate Rudolf, Prof. Dr. Matthias Mahlmann, and Prof. Dr. Susanne Baer).

Freiburg University, Tübingen University, and Heidelberg University, "Dr. King's Legal Legacy: A Critical Assessment."

2006

University of California Berkeley, Boalt Hall School of Law, Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, "The Legality of Promoting Inclusiveness: May the University of California use race or ethnicity as factors in applicant outreach?" (Invited participant in interdisciplinary conference of law professors and social scientists titled "The Past and Future of Proposition 209").

The National Assembly of the Republic of France, session on Comparative Racial Justice, moderator and participant (with Jean-Claude Boujour, Hon. William Fletcher, Hon. Joseph Grodin, and Charles Ogletree), co-sponsored by the Club of the 21st Century and the United States Embassy to the Republic of France.

University of Paris X (Nanterre), Conference on Comparative Racial Justice, moderator and participant (with Charles Ogletree and Sophie Latreverse).

University of Paris X (Nanterre), Conference on Comparative Religious Freedom and the “problem of the veil,” moderator and participant (with Jesse Choper, Danielle Lochak, and Winfried Brugger).

University of Paris X (Nanterre), Doctoral Seminar Presentation, “From Bakke to Grutter to Science Po: Affirmative Action in Higher Education in the U.S. and France.”

2005

United States Embassy to the Republic of France, Civil Society Project, “Remedies for Discrimination Under U.S. Law.”

University of Paris X (Nanterre), Symposium on Work and Social Movements in the United States, “Affirmative Action in the U.S. Workplace: How Does it Really Work?” (La discrimination positive sur les lieux de travail aux Etats-Unis : de la théorie à la pratique).

University of Paris X (Nanterre), Symposium on Work and Social Movements in the United States, “Federalism Undressed: US & California Concurrent Jurisdiction Over Employment Discrimination Claims.” (Le Fédéralisme et ses conséquences : la double juridiction exercée par l'Etat Fédéral et l'Etat de Californie sur les poursuites relatives aux discriminations en matière d'emploi.)

Golden Gate University School of Law, “Dr. King’s Legal Legacy.”

2004

University of Georgia School of Law, Faculty Talk, “Is litigation an effective remedy for racial inequality in employment?”

Penn State/Dickinson School of Law, Faculty Talk, “Is litigation an effective remedy for racial inequality in employment?”

Association of American Law Schools, Mid-Year Conference, Workshop on Racial Justice, Plenary Panel Speaker, “Is litigation an effective remedy for racial inequality in employment?”

University of Paris X (Nanterre), Symposium on Comparative Equality Law, “Evaluating The U.S. Policy of Using Private Lawsuits To Remedy Employment Discrimination” (Evaluation de la politique américaine à l’égard des « procès privés » comme remède aux pratiques discriminatoires qui touchent le monde du travail).

California Employment Lawyers Association, Annual Meeting, “Results of a California Jury Verdict

Study of Employment Law Cases.”

Columbia University, Columbia College, “Dr. King’s Legal Legacy.”

San Francisco Barristers Club, “California Employment Law Jury Verdicts.”

2003

Stanford Law School (co-sponsored by American Bar Foundation), “A Study of California Jury Verdicts in Employment Law Cases” (Invited participant in interdisciplinary conference of law professors and social scientists titled “Rights and Realities: Legal and Social Scientific Approaches to Employment Discrimination”).

2002

Columbia University School of Law, “McDonnell Douglas v. Green Revisited: Why Non-Violent Civil Disobedience Should Be Protected From Employer Retaliation By Title VII” (Invited participant in symposium on subtle discrimination).

University of California, Davis, “Dr. King’s Legal Legacy.”

California State University, Chico, “Dr. King’s Legal Legacy.”

2001

National Employment Lawyers’ Association, “California Jury Verdicts in Sexual Harassment Cases.”

Oxford University, Lincoln College “Negligent Employment Discrimination” (invited participant in Oxford Roundtable symposium on comparative employment law).

2000

Judicial Arbitration & Mediation Service, “California Jury Verdicts in Employment Discrimination Cases.”

University of California, Berkeley (Boalt Hall), “Dr. King’s Legal Legacy.”

1999

Jewish Community Relations Council of San Antonio, Texas, “A Debate on Affirmative Action” (with Lino Graglia).

University of California (Boalt Hall), “Litigating Disability Rights Cases: Voices From The Field” (moderator/discussion leader).

1998

Duke University Law School, “Employer Liability for Sexual Harassment after Ellerth and Faragher” (Invited participant in symposium on sexual harassment law).

Yale University Law School, "Employer Liability for Sexual Harassment" (Invited participant in symposium on sexual harassment law).

Washington University, invited participant at conference on Comparative Affirmative Action Law (U.S., South Africa and India).

Society of American Law Teachers, Loyola University (CA), "Raising issues of race discrimination in the civil procedure curriculum."

1997

Harvard University, invited participant at Civil Rights Roundtable discussion of affirmative action.

Society of American Law Teachers, American University, "Using mediation exercises in employment discrimination classes to raise issues of diversity."

Society of American Law Teachers, City University of New York Law School, "Soundbites, Factoids & Talking Points -- Influencing Media Coverage in the Affirmative Action Debate."

1996

Presentations on Affirmative Action:

American Political Science Association, National Convention; Roundtable on "Affirmative Action in the Academy." San Francisco Foundation Conference on "Race, Class & Culture." Haas School of Business (UC-Berkeley); "Affirmative Action and Other Governmental Subsidies." University of San Francisco; "Affirmative Action and the California Civil Rights Initiative" (Proposition 209) (hereafter "CCRI"). California Conference of County Governments; "Affirmative Action and the CCRI." California Fair Employment & Housing Commission. "Affirmative Action and the CCRI." San Francisco PTA; "Affirmative Action and the CCRI." California Freedom Summer Training Programs; "Affirmative Action and the CCRI."

Debates on the California Civil Rights Initiative at the following locations with the following debate partners and opponents:

California State Bar Convention (with NAACP LDF Regional Counsel Constance Rice opposing CCRI campaign chairs Pamela Lewis and Gail Heriot); Boalt Hall School of Law (UC Berkeley) (with Ellie Smeal and Aileen Hernandez opposing CCRI co-author Tom Wood, Linda Chavez, and John Yu); Hastings College of the Law (with Eva Paterson opposing Pamela Lewis); Golden Gate University (opposing Clint Bullock); UC Davis Public Policy Conference (opposing Eugene Volokh); KGO-TV and KABC-TV (with Michael Harris opposing Pamela Lewis and Jon Liu); KGO Radio (opposing Pamela Lewis); KPFA Radio (opposing Pamela Lewis); KQED Radio (opposing Congressman Tom Campbell); Contra Costa County Bar Association (opposing Pamela Lewis); Sacramento County Bar Association (opposing Pamela Lewis); Jewish Community Relations Council (with BASF president Mark Schickman opposing Lee Chang); Walnut Creek Chamber of Commerce (opposing Pamela Lewis); Walnut Creek League of Women Voters (opposing CCRI co-author Glenn Custred); National Association of Minority Engineering Program Administrators, Annual Convention.

American Civil Liberties Union presentations:

ACLU National Executive Directors' Conference, "Affirmative Action and the CCRI;" ACLU Leadership Conference, "Advanced Speakers' Training on Affirmative Action;" ACLU Activists Conference, "Affirmative Action and the CCRI;" ACLU-NC Benefactors Dinner, "Affirmative Action, Pete Wilson, and The ACLU;" ACLU Say-What? Conference for Northern Californian High School Activists, "Affirmative Action and Today's Civil Rights Movement."

1995

The Federalist Society of UC-Berkeley (Boalt Hall) Law School; "A Debate on the Issue of Workplace Harassment and the First Amendment" (opposing Eugene Volokh).

National Conference of State Legislators Annual Convention (Atlanta); "A Debate on the Issue of Affirmative Action" (opposing Jerry Reynolds and William Ty Mayton).

UC-Berkeley Law School Forum on Affirmative Action; "The Origins of Affirmative Action."

Meicklejohn Civil Liberties Institute; "From Croson to Adarand -- The Limits on Affirmative Action."

American Civil Liberties Union National Biennial Convention (New York); "Affirmative Action and the California Civil Rights Initiative."

USF Law Review Symposium on the Thirtieth Anniversary of the 1964 Civil Rights Act, University of San Francisco; "Kennedy, King, Shuttlesworth and Walker -- The Events Leading to the Introduction of the Civil Rights Act of 1964."

Presentations for the period 1982-1994 are available upon request.

SIGNIFICANT LITIGATION

Counsel for amicus curiae National Employment Lawyers Association in the United States Supreme Court in Burlington Industries v. Ellerth, 524 U.S. 742 (1998) (employer liable for sexual harassment by supervisor, subject to limited affirmative defense).

Consultant to counsel for amicus curiae National Employment Lawyers Association in the United States Supreme Court in Fragher v. City of Boca Raton, 524 U.S. 775 (1998) (employer liable for sexual harassment by supervisor, subject to limited affirmative defense).

Trial counsel for plaintiff in the United States District Court for the Northern District of California in Presta v. Peninsula Corridor Joint Powers Board, 16 F. Supp 2d 1134 (N.D. Cal. 1998) (proof of discriminatory intent not required in action under Unruh Civil Rights Act) (case tried to jury verdict).

Counsel for amicus curiae American Jewish Congress in United States Court of Appeal for the Ninth Circuit in Coalition for Economic Equity v. Wilson (validity of preliminary injunction of Proposition 209).

Counsel for amicus curiae Women's Employment Rights Clinic in California Supreme Court in Farmers Ins Group v. County of Santa Clara, 11 Cal. 4th 992 (1996) (employer not vicariously liable for sexual harassment by employee).

Counsel and oralist in the California Supreme Court on behalf of amici curiae in Commodore Home Systems v. Superior Court (1982) 32 Cal. 3d 211 (punitive damages available in civil action for employment discrimination).

Counsel for amici curiae in the California Supreme Court in American National Insurance v. FEPC (1982) 32 Cal. 3d 603 (prohibition of physical handicap discrimination given broad construction).

Trial and appellate co-counsel for defendant (Women Against Rape) in Carney v. Santa Cruz Women Against Rape (1990) 221 Cal.App.3d 1009 (action for libel of non-public figure may not proceed under common law strict liability theory; action requires proof of negligence. Punitive damages in action for libel of non-public figure requires proof of knowledge of falsehood or reckless disregard for truth or falsity) (case tried to jury verdict).

Lead counsel in 12 published decisions from hearings before the California Fair Employment & Housing Commission; citations are available upon request.

