

Eighth Annual Colloquium on Current Scholarship in Labor and Employment Law
University of Nevada, Las Vegas
William S. Boyd School of Law
September 27-28, 2013

Final Schedule

Friday, September 27, 2013

8:00 AM Shuttle Buses pick up at the ELARA Hilton, 80 E. Harmon Ave., to Boyd
8:15 -8:45 Breakfast at Tam Alumni Center, UNLV Campus (from Harmon Ave. walk
away from the Strip, across the lawn in the center of campus, look for the
statue of UNLV mascot “Hey Reb!”)
8:30 AM Shuttle Buses pick up at the ELARA Hilton, 80 E. Harmon Ave., to Boyd
8:45-9:00 Welcome from Dean Daniel W. Hamilton, Professors Ann McGinley and
Ruben Garcia, Tam Alumni Center

9:15– 10:45 AM: **Concurrent Panels - Session 1**

**A. Labor History and Pedagogy: Protecting Employee Voice and Rights to Organize
(Boyd School of Law, Room 105, walk back across the lawn from the Tam Center)**

Kenneth Casebeer, *“Public...Since Time Immemorial:” The Labor History of Hague v. CIO*

Jeff Hirsch, *Cooperation or Conflict? Giving Employees a Voice in the Modern Economy*

Joseph Slater, *Teaching Public-Sector and Private Sector Labor Law Together in One Course*

Rebecca E. Zietlow, *Is There a Constitutional Right to Organize?*

B. Identity and Discrimination Models (Boyd School of Law, Room 110)

Jessica Clarke, *Identity and Form*

Leora Eisenstadt, *Identity Discrimination*

Marcia L. McCormick, *Harassment and the Social Model of Discrimination*

Ann Tweedy, *Employment Discrimination Against Bisexuals and Others with Fluid Identities*

C. Disability Law After the ADAAA (Boyd School of Law, Room 112)

Kevin Barry & Marcy Karin, *Pleading Disability After the ADAAA*

Nicole Buonocore Porter, *The Next Backlash? The Reasonable Accommodations Provision after the ADA Amendments Act*

Michelle Travis, *Disqualifying Universality After the Americans With Disabilities Act Amendments Act*

Kate Webber, *Correcting the Supreme Court – Will It Listen: Using the Models of Judicial Decision-Making to Predict the Future of the ADA Amendments Act*

10:45-11:00 AM Refreshments (Boyd School of Law Room 106)

11:00 AM – 12:30 PM: Concurrent Panels – Session 2

A. Reforming Work and Labor Law (Boyd School of Law Room 105)

Charlotte Alexander, *Stabilizing Low Wage Work: Legal Remedies for Unpredictable Work Hours and Income Instability*

Roberto L. Corrada, *Reversing Right to Work*

Zev J. Eigen, *How to Reduce Mass FLSA Violations Using Cheap, Available Technology*

Timothy Glynn, *Employeeless Employers*

B. Antidiscrimination and the Equal Opportunity Principle (Boyd School of Law, Room 110)

Arianne Renan Barzilay, *Parenting Title VII*

Katlyn Farnum & Richard Wiener, *“But For” and “Motivating Factor” Instructions in Age Discrimination Cases*

Joseph Fishkin, *Bottlenecks: A New Theory of Equal Opportunity*

Tammy R. Pettinato, *Employment Discrimination Against Ex-Offenders: The Promise and Limits of Title VII Disparate Impact Theory*

C. Labor Concepts in Antidiscrimination law in the Changing Economic Environment (Boyd School of Law, Room 112)

Stephanie Bornstein, *Rights in Recession: Reviving Administrative Antidiscrimination Law*

Susan D. Carle, *Angry Employees*

Michael Z. Green, *How the NLRB Still Plays a Major Role in Anti-Discrimination Law*

Angela D. Morrison, *Executive Estoppel & Separation of Powers: Tools to Protect Undocumented Workers from Workplace Exploitation*

12:30 – 2:30 PM: **Lunch Panel: Tam Alumni Center** (Across the Green from Boyd)

Title VII at its 50th Anniversary and Its Importance to Labor and Work Law (Tiberti Grand Hall, Tam Alumni Center), moderated by Professor Ann McGinley

Paul Frymer, *The Next Fifty Years: Regulatory Lessons for Promoting Workers' Rights*

Tanya Hernandez, *The Judicial Understanding of Unconscious Racism in Employment Discrimination Cases: A Tale of the 'Good, the Bad and the Ugly'*

Vicki Schultz, *Rationalizing the Workplace: Title VII's Lasting Contribution after 50 Years*

2:45 – 4:15 PM: **Concurrent Panels – Session 3** (Return to Boyd, across the lawn from Tam)

A. Politics at Work: Dissent, Tenure and Judicial Roles (Boyd School of Law, Room 105)

Scott Bauries, *Tenure Outside the Research University*

Ruben J. Garcia, *Politics at Work After Citizens United*

Charlotte Garden, *Facilitating Dissent*

Rebecca Lee, *Reconceptualizing the Judge as Public Leader*

B. Comparative Labor, Employment and Anti-Discrimination Law (Boyd School of Law, Room 110)

Susan Bisom-Rapp & Malcom Sargeant, *It's Complicated: Age, Gender and Lifetime Discrimination against Working Women – the U.S. and the U.K. as Examples*

Daniel H. Erskine, *Reassessing the At-Will Employment Rule by Comparison with Statutory Protections Afforded To Employees in Ireland and England*

César Rosado Marzán, *Protecting Workers as a Matter of Principle: A South American View of U.S. Work Law*

Fiona McQuarrie & Lorena (Lori) Poljancic, *A Comparative Analysis of Canadian Newspaper Coverage of Labor Disputes in Professional Sport*

C. Empirical Perspectives on Employee Privacy, Safety and Employment Law (Boyd School of Law 112)

Brad Areheart, *Framing Pregnancy Accommodations*

Jason Bent, *Reframing Feasibility Analysis*

Brian Clarke, *Judicial Nominations and Remaking a Conservative Court: Tracking the Moderation of the Fourth Circuit Via Its Labor & Employment Jurisprudence from 2003 to 2013*

Jessica Fink, *Why Smart Employers Snoop*

Jeremy D. Horowitz, *The Evolution of Workplace Privacy: An Empirical Approach*

4:45 PM Buses pick up for return to ELARA Hilton, in the parking lot behind Boyd by the Lilly Fong Geoscience Building

6:00 PM Buses pick up at ELARA Hilton, 80 E. Harmon Avenue, for trip to Culinary Workers Union Hall, 1630 S. Commerce Street, Las Vegas, NV 89102

7:00 PM Dinner program, "Labor's History and Future in Nevada: From the Mines to the Casinos" at the Culinary Workers Union Big Hall, featuring Professor Michael Green, College of Southern Nevada, Secretary-Treasurer Geocanda Arguello-Kline, and members of Culinary Workers Union Local 226, UNITEHERE, AFL-CIO, moderated by Professor Ruben Garcia

9:00 PM Last Bus Leaves the Culinary Union Hall for Return to ELARA Hilton

Saturday, September 28, 2013

8:00 AM: Buses pick up at ELARA Hilton, 80 E. Harmon Ave., to Boyd School of Law

8:15-8:45 AM: Breakfast at Boyd School of Law (Room 102)

8:30 AM: Buses pick up at ELARA Hilton, 80 E. Harmon Ave., to Boyd School of Law

9:00 – 10:30: **Concurrent Panels - Session 4**

A. Proving Employment Discrimination in the 21st Century (Boyd School of Law, Room

105)

Gowri Ramachandran, *Bayesian Statistics and Discrimination*

Stephen M. Rich, *One Law of Race*

Mike Selmi, *Employment Discrimination for the Next Generation*

Marley Weiss, *Values and Assumptions in Title VII Law: A Fiftieth Anniversary Perspective*

B. Work Law, Employment Status, Class and Gender (Boyd School of Law, Room 110)

Veena Dubal, *The Last Cowboy: Freedom, Flexibility and Myths of Legal Identity in the San Francisco Taxi Industry*

Sanjukta M. Paul, *Antitrust Liability for Concerted Action by Workers Classified as Independent Contractors*

Peggie Smith, *Love and Money: Compensating Family Members to Care for Elderly Relatives*

Julia Tomasetti, *Employment Status Decisions and the Prerogatives of Capital*

C. Analyzing the Intersection of Work and Family Law (Boyd School of Law, Room 112)

Keith Cunningham-Parmeter, *Constitutional Discrimination: Equal Protection and the Case for Favoring Fathers in Parental Leave Policies*

Laura Kessler, *Negotiating Identities at Work: work and Family Conflict in American Law Schools*

Naomi Schoenbaum, *Intimate Work*

Elizabeth Tippet, *Gatekeepers of Last Resort: The Role of Employers in Mitigating Child Abuse*

10:45-11:00 AM Refreshments (Boyd School of Law Room 106)

10:45 AM – 12:30 PM **Concurrent Panels – Session 5**

A. Employee Benefits and Detriments (Boyd School of Law, Room 105)

Susan E. Cancelosi, *Lessons from Detroit: Retiree Rights in the Shadow of Municipal Bankruptcy*

Jonathan Barry Forman (“Jon”), *Supporting the Oldest of the Old: The Role of Social Insurance, Pensions and Financial Products*

Paul M. Secunda, *The Treatment of Pensions and other Employee Benefits in Bankruptcy: A Comparative International Perspective*

Steven Wilborn, *Garnishment*

B. At-Will, Class and the Regulation of Employee Capital (Boyd School of Law, Room 110)

Rick Bales, *At-Will Employment and the Rule of Law*

Norm Bishara, *The Growth of Employee Restrictive Covenant Legislation: Haphazard Evolution or Coherent Policy Development?*

Orly Lobel, *The Talent Commons*

Ann McGinley, *The End of Men? Labor Masculinity, Class and Sexual Power*

Michael Waterstone, *Search Theory and the Employment of People with Disabilities*

C. Examining the 2012-2013 Supreme Court Decisions (Boyd School of Law, Room 112)

Samuel Bagenstos, *Formalism and Employer Liability for Discriminatory Harassment*

Kingsley R. Browne, *Title VII and Diversity*

Jamie Darin Prekert & Abby Stemler, *Cat’s Paw Liability in Title VII Sexual Harassment Cases After Vance v. Ball State University: The Key to Vicarious Liability when a Non-Supervisor is a “Supervisor?”*

Michael J. Zimmer, *Hiding the Statute in Plain View: University of Texas Southwestern Medical Center v Nassar*

12:30-2:00 PM

Closing Luncheon and Presentation of the Paul Steven Miller Scholarship Award to Professor Marley S. Weiss, Francis King Carey School of Law, University of Maryland (Wiener-Rogers Law Library, Reserve Room, Boyd School of Law)