

PAULINE T. KIM

Washington University School of Law
Campus Box 1120, One Brookings Drive
St. Louis, MO 63130
(314) 935-8570 (w)
kim@wulaw.wustl.edu

ACADEMIC APPOINTMENTS

Washington University School of Law, St. Louis, MO

Daniel Noyes Kirby Professor of Law, 2016-present

Charles Nagel Chair of Constitutional Law and Political Science, 2010-16

Co-Director, Center for Empirical Research in the Law, 2014-present

Associate Dean for Research and Faculty Development, 2008-2010

John S. Lehmann Research Professor, 2007-2008

Professor, 1999-2010

Associate Professor, August 1994-1999

Current Courses: Employment Law; Employment Discrimination; Civil Procedure; Seminar on Courts and Judicial Decision-Making

Faculty, “Comparative Employment Law and Policy,” Summer Institute for Global Justice, Utrecht, Netherlands, 2008

Core Faculty, Center for Empirical Research in the Law, 2006-2014

Affiliated Faculty, Civil Rights Litigation Clearinghouse, 2006-2009

Vanderbilt Law School, Nashville, TN

Visiting Professor of Law, Fall 2004

EDUCATION

Harvard Law School, Cambridge, MA

J.D., *magna cum laude*, June 1988

Teaching Fellow, Harvard College, “Justice,” Fall 1987

Seminar Instructor, Harvard College, “Introduction to Social Theory,” 1986-1987

New College, Oxford University, Oxford, England

Henry Fellow, 1984-1985 (Studies in jurisprudence, political and moral philosophy)

Harvard and Radcliffe Colleges, Cambridge, MA

A.B., *summa cum laude* in Social Studies, June 1984

Honors thesis: “Immigrants and Institutions: A Study of Insane Asylums in 19th Century Massachusetts”

LEGAL EXPERIENCE

Employment Law Center, Legal Aid Society of San Francisco, San Francisco, CA

Staff Attorney, October 1990-June 1994

Félix Velarde-Muñoz Intern, October 1989-September 1990

U.S. Court of Appeals, Ninth Circuit, San Francisco, CA

Clerk of the Honorable Cecil F. Poole, September 1988-August 1989

PUBLICATIONS

Books and Book Chapters

Work Law: Cases and Materials (3d ed.), with Marion Crain & Michael Selmi, Matthew Bender & Co./LexisNexis Group (2015)

Work Law: Cases and Materials, Teacher's Manual, (3d ed.) with Marion Crain & Michael Selmi, Matthew Bender & Co./LexisNexis Group (2015)

Work Law Supplement, with Marion Crain & Michael Selmi, Matthew Bender & Co./ LexisNexis Group (2014)

Work Law Supplement, with Marion Crain & Michael Selmi, Matthew Bender & Co./ LexisNexis Group (2012)

Work Law: Cases and Materials (2d ed.), with Marion Crain & Michael Selmi, Matthew Bender & Co./LexisNexis Group (2010)

Work Law: Cases and Materials, Teacher's Manual, (2d ed.) with Marion Crain & Michael Selmi, Matthew Bender & Co./LexisNexis Group (2010)

“Collective and Individual Approaches to Protecting Employee Privacy: The Experience with Workplace Drug Testing,” in Workplace Privacy, eds. Samuel Estreicher & Jonathan Nash (2010) (reprinted from *Louisiana Law Review*, Vol. 66, No. 4, pp. 1009-34 (2006))

Work Law Supplement, with Marion Crain & Michael Selmi, Matthew Bender & Co./LexisNexis Group (2009)

Work Law Supplement, with Marion Crain & Michael Selmi, Matthew Bender & Co./LexisNexis Group (2007)

“The Story of *Luck v. Southern Pacific Transportation Co.*: The Struggle to Protect Employee Privacy,” in *Employment Law Stories*, eds. Gillian Lester & Samuel Estreicher, Foundation Press (2006)

Work Law: Cases and Materials, with Marion Crain & Michael Selmi, Matthew Bender & Co./LexisNexis Group (2005)

Work Law: Cases and Materials, Teacher's Manual, with Marion Crain & Michael Selmi, Matthew Bender & Co./LexisNexis Group (2005)

Articles

“Data-Driven Discrimination at Work,” *William & Mary Law Review* (forthcoming 2017)

“People Analytics and the Regulation of Information under the Fair Credit Reporting Act,” *St. Louis University Law Journal* (forthcoming 2016) (with Erika Hanson), Symposium on the Law and Business of People Analytics

“Market Norms and Constitutional Values in the Government Workplace,” *North Carolina Law Review*, Vol. 94, pp.601-647 (2016)

“Addressing Systemic Discrimination: Public Enforcement and the Role of the EEOC,” *Boston University Law Review*, Vol. 95, pp. 1133-54 (2015), Symposium on The Civil Rights Act of 1964 at 50: Past, Present, and Future

“The Equal Employment Opportunity Commission and Structural Reform of the American Workplace,” *Washington University Law Review*, Vol. 91, Issue 6, pp. 1519-90 (2014) (with Margo Schlanger)

“A Holistic Approach to Teaching Work Law,” *St. Louis University Law Journal*, Vol. 58, pp. 7-27 (2013) (with Marion Crain), Symposium on Teaching Employment and Labor Law

“A Dynamic Model of Doctrinal Choice,” *Journal of Legal Analysis*, Vol. 4, Issue 2, pp. 301-327 (2012) (with Scott Baker)

“Electronic Privacy and Employee Speech,” *Chicago-Kent Law Review*, Vol. 87, No. 3, pp. 901-32 (2012) (The Kenneth M. Piper Lecture)

“Beyond Principal-Agent Theories: Law and the Judicial Hierarchy,” *Northwestern University Law Review*, Vol. 105, pp. 535-75 (2011)

“Regulating the Use of Genetic Information: Perspectives from the U.S. Experience,” *Comparative Labor Law & Policy Journal*, Vol. 31, pp. 693-703 (2010)

“Reply: Exploring Panel Effects,” *University of Pennsylvania Law Review PENNumbra*, Vol. 158, pp. 269-281 (2010)

“Deliberation and Strategy on the United States Court of Appeals,” *University of Pennsylvania Law Review*, Vol. 157, No. 4, pp. 1319-1381 (2009)

“How Should We Study District Judge Decision-Making,” *Washington University Journal of Law and Policy*, Vol. 29, pp. 83-112 (2009) (with Margo Schlanger, Christina Boyd and Andrew D. Martin) (part of Symposium on Empirical Research on Decision-Making in the Federal Courts)

Labor Law Group—U. C. Hastings Symposium on the Proposed Restatement of Employment Law: Section II of the Commentary on Chapter 4 of the Proposed Restatement of Employment Law: The Tort of Wrongful Discharge in Violation of Public Policy, *Employee Rights and Employment Policy Journal*, Vol. 13, No. 1, pp. 161-83 (2009) (co-author Catherine Fisk)

“Lower Court Discretion,” *NYU Law Review*, Vol. 82, No. 2, pp. 383-442 (2007)

“Collective and Individual Approaches to Protecting Employee Privacy: The Experience with Workplace Drug Testing,” *Louisiana Law Review*, Vol. 66, No. 4, pp. 1009-34 (2006) (part of Symposium on Examining Privacy in the Workplace)

“The Supreme Court Forecasting Project: Legal and Political Science Approaches to Predicting Supreme Court Decision-Making,” *Columbia Law Review*, Vol. 104, No. 4, pp. 1150-1209 (2004) (with Theodore W. Ruger, Andrew D. Martin and Kevin M. Quinn)

“Competing Approaches to Predicting Supreme Court Decision Making,” *Perspectives on Politics*, Vol. 2, No. 4, pp. 761-67 (Dec. 2004) (with Andrew D. Martin, Kevin M. Quinn and Theodore W. Ruger)

WERL, “On Tournaments for Appointing Great Justices to the U.S. Supreme Court,” *Southern California Law Review*, Vol. 78, No. 1, pp. 157-79 (2004)

“The Family and Medical Leave Act of 1993: Ten Years of Experience,” *Washington University Journal of Law & Policy*, Vol. 15, pp. 1-15 (2004)

“The Colorblind Lottery,” *Fordham Law Review*, Vol. 72, No. 1, pp. 9-39 (2003)

“Genetic Discrimination, Genetic Privacy: Rethinking Employee Protection for a Brave New Workplace,” *Northwestern University Law Review*, Vol. 96, No. 4, pp. 1497-1551 (2002)

“Norms, Learning and Law: Exploring the Influences on Workers’ Legal Knowledge,” *University of Illinois Law Review*, Vol. 1999, Issue 2, pp. 447-515 (1999)

“An Empirical Challenge to Employment at Will,” *New Zealand Journal of Industrial Relations*, Vol. 23, No. 2, pp. 91-103 (1998)

“Cynicism, Reconsidered,” *Washington University Law Quarterly*, Vol. 76, No. 1, pp. 193-202 (1998)

“Bargaining with Imperfect Information: A Study of Worker Perceptions of Legal Protection in an At-Will World,” *Cornell Law Review*, Vol. 83, Issue 1, pp. 105-160 (1997)

“Privacy Rights, Public Policy and the Employment Relationship,” *Ohio State Law Journal*, Vol. 57, No. 3, pp. 671-730 (1996)

“Common Law Privacy: A Limit on an Employer’s Power to Test for Drugs,” with Edward M. Chen and John M. True; *George Mason University Law Review*, Vol. 12, No. 4, pp. 651-699 (1990)

Data Resources

“EEOC Litigation Project,” <http://eeoclitigation.wustl.edu> (with Margo Schlanger and Andrew Martin). This project collects and analyzes data on federal court litigation brought between 1997 and 2006 by the Equal Employment Opportunity Commission (EEOC). The data capture various aspects of the agency’s litigation activities, including detailed information regarding the participants, motions, events, and outcomes.

Works-in-Progress

“Deadline Effects: The Timing of Filing of EEOC Enforcement Suits”

“Medical Privacy, Anti-Discrimination Law and Wellness Programs”

EXTERNAL RESEARCH GRANTS

Bush Foundation. “Tribal Law Digitization Project” (joint proposal of Center for Empirical Research in the Law and Oglala Sioux Tribe)

National Science Foundation. “The Litigation Process in Government-Initiated Employment Discrimination Suits” (with Andrew Martin and Margo Schlanger), Law and Social Science Program, July 2007-June 2009, Principal Investigator (\$213,999)

Fund for Labor Relations Studies, “Employees’ Understanding of Legal Rules,” 1996-97

RECENT SELECTED PRESENTATIONS

“Data-Driven Discrimination at Work,” EEOdatanet conference, Equal Employment Opportunity Commission, Washington, D.C., June 2016

“Data-Driven Discrimination at Work,” Privacy Law Scholars’ Conference, Washington D.C., June 2016 (International Association of Privacy Professionals award for one of two best papers presented at PLSC)

“Data-Driven Discrimination at Work,” University of Denver Sturm College of Law, annual Keynote Speaker, Workplace Law Program, April 2016

“Data-Driven Discrimination,” Colloquium on Scholarship in Employment and Labor Law, Indiana Law School, Bloomington, IN, September 2015

“EEOC Enforcement Litigation and Fiscal Year Effects,” EEOdatanet conference, Equal Employment Opportunity Commission, Washington, D.C., May 2015

“Addressing Systemic Discrimination: the EEOC and Public Enforcement,” Faculty Workshop, University of Miami Law School, February 2015

“The Equal Employment Opportunity Commission and Structural Reform of the American Workplace,” paper presentation, Labor Law Group conference, Ithaca, NY, June 2014

“Addressing Systemic Discrimination: the EEOC and Public Enforcement,” paper presentation at Symposium on the 50th Anniversary of the Civil Rights Act of 1964, Boston University Law School, November 2014

“Constitutional Rights at Work,” Faculty Workshop, University of Virginia Law School, December 2013

“Medical Privacy, Anti-Discrimination Law and Wellness Programs,” paper presentation at Conference on “Privacy, Law and the Contemporary Workplace: New Challenges and Directions”, Centre for Law in the Contemporary Workplace, Queen’s University, Toronto, November 2013

“A Holistic Approach to Teaching Work Law” (with Marion Crain), paper presentation at Symposium on Teaching Employment and Labor Law, St. Louis University Law School, February 2013

“Constitutional Values in the Workplace,” Labor and Employment Law Colloquium, Northwestern University Law School/Loyola-Chicago Law School, September 2012

“A Dynamic Model of Doctrinal Choice,” Conference on Judicial Collegiality: Positive Theories and Empirical Analyses, USC Law School, November 2011

“Constitutional Values in the Workplace,” Conference on The Constitutionalization of Labor and Employment Law, University of Wisconsin Law School, October 2011

Panelist, “Asian-Americans in the Law,” NAPABA Central Region Conference, St. Louis, MO, August 2011.

“Employee Privacy and Speech: Pushing the Boundaries of the Modern Employment Relationship,” Privacy Law Scholars Conference, Berkeley, CA, May 2011

“Privacy, Loyalty and Free Speech: Pushing the Boundaries of the Modern Employment Relationship,” Kenneth M. Piper Lecture at Chicago-Kent Law School, April 2011

“The Equal Employment Opportunity Commission and Structural Reform of the American Workplace,” Jack Pemberton Legacy Event, University of San Francisco Law School, March 2010

“Beyond Principal-Agent Theories: Law and the Judicial Hierarchy,” Political Science and Law Conference, Northwestern Law School and the Searle Center, 2009

“Deliberation and Strategy on the United States Courts of Appeals,” University of Kansas Law School Faculty Workshop, 2009

“Understanding Panel Effects,” University of Pennsylvania Law School seminar on “The Study of Judicial Behavior,” 2008

“Understanding Panel Effects,” Conference on Empirical Legal Studies, Cornell Law School, 2008

“Understanding Panel Effects,” University of Alabama School of Law Faculty Colloquium, 2008

“Deliberation and Strategy on the United States Courts of Appeals,” Emory Law School Faculty Workshop, 2008

“Lower Court Discretion,” Colorado Law School Faculty Workshop, 2007

Panelist, “Do We Have the Numbers? Empirical Research in Law,” American Association of Law Libraries Annual Meeting, 2006

Panelist, “Restatement of Employment Law,” Labor Law Group Conference, 2006

“Lower Court Discretion,” Duke Law School Faculty Workshop, 2006

“Collective and Individual Approaches to Protecting Employee Privacy: The Experience with Workplace Drug Testing,” symposium presentation, Paul M. Hebert Law Center, Louisiana State University, 2006

RECENT HONORS & AWARDS

International Association of Privacy Professionals award for one of 2 best papers at Privacy Law Scholars’ Conference, 2016

David M. Becker Professor of the Year, 2016

PROFESSIONAL SERVICE & ASSOCIATIONS

Washington University School of Law:

Co-Organizer, Conference on Empirical Legal Studies, Oct. 30-31, 2015
Institutional Profile Committee, 2014-15, 2015-16
Ad Hoc Committee on Community Relations, 2014-15
Dean Search Advisory Committee, 2013-14
Promotions Committee, Chair, 2013-14, 2005-06; member 2006-07
Co-organizer, Outside Faculty Workshop Speaker Series, 2013-14
Chair, Curricular Innovations Workgroup, spring 2013
Ad Hoc Mission/Community Planning Group, 2012-13
Self-Study Committee, 2011-12
Appointments Committee, 1999-2000, 2001-02, 2004-05, 2008-09, 2009-10
Ad hoc Committee on Lateral Appointments, Chair, summer 2009
Ad hoc Committee on Self-Study, 2011-12
1L Orientation, "Introduction to Civil Procedure," August 2008, 2009, 2010, 2011, 2012
LLM Orientation, "Anatomy of a Lawsuit," August 2012
Co-organizer, Outside Faculty Workshop Speaker Series, 2001-04
Member, Committee on Reappointment of the Dean of the School of Law, Fall 2003
Chair, Admissions Committee, 2000-01, 2002-03, 2003-04
Member, Advisory Board, Center for Interdisciplinary Studies, Washington University, 1999-2014
Dean Search Advisory Committee, 1997-1999
Chair, Public Interest Working Group, Student Issues Task Force, 1997-98
Curriculum Task Force, 1997-98
Summer Public Interest Stipend Committee, 1995-2006
Chair, Curriculum Committee, 1996-97
Client Counseling Competition Faculty Advisor, 1994-97
School of Law Ad Hoc Committee on Parental Leave, Fall 1995

Washington University:

Office of the Provost's Diversity Advisory Committee, 2012-13
Gender Pay Equity Committee, 2009-10, spring semester 2012, 2016
Subcommittee on Mentoring Practices (Provost's Diversity Working Group), Fall 2009
Dissertation Committee, Morgan Hazelton, Political Science, 2014
Dissertation Committee, Christina Boyd, Political Science, 2009
Co-organizer, Workshop on Empirical Research and Law, 2001-2009
Member, Appointments Committee, American Politics search, Department of Political Science, Washington University, Fall 2007
Member, Appointments Committee, Judicial Politics search, Department of Political Science, Washington University, Fall 2003
University Senate Council Ad Hoc Committee on Parental Leave, 1997-98

Other:

Past-President, Society for Empirical Legal Studies, 2015-16
Co-President, Society for Empirical Legal Studies, 2014-15

Co-Vice-President, Society for Empirical Legal Studies, 2013-14
Member, Clayton School District Visioning Steering Committee, 2012
Co-organizer, Fifth Annual Labor and Employment Law Colloquium, September 2010
Adviser, ALI Restatement of Employment Law, 2002-2015
Member, AALS Consulting Group on Empirical Research, 1999-2001

MEMBERSHIPS AND PROFESSIONAL SOCIETIES

Missouri Bar, admitted 1994
California Bar, admitted 1988 (no longer active member)
Labor Law Group, elected 2007
American Law Institute, elected 2000
Society for Empirical Legal Studies, Board member, 2013-present; Inaugural Fellow
American Bar Foundation, Fellow
Law and Society Association
National Employment Lawyers' Association
Missouri Asian-American Bar Association