

JESSICA A. CLARKE

University of Southern California Gould School of Law
699 Exposition Blvd., Los Angeles, CA 90089-0071
jclarke@law.usc.edu

ACADEMIC APPOINTMENTS

University of Southern California Gould School of Law, Los Angeles, CA (2023-present)

Vanderbilt University Law School, Nashville, TN

Cornelius Vanderbilt Chair in Law (2022-23); *Professor of Law* (2018-22)

Courses: Civil Procedure; Constitutional Law I; Gender and the Law; Antidiscrimination

Honors: Chancellor's Faculty Fellow (2021-23); Fed-Ex Research Professor (2020-21);
Chancellor's Award for Research (2020)

Service: University LGBTQIA Task Force (2023); LGBTQ Policy Lab Executive
Committee (2020-23); Provost Sexual Misconduct Prevention Committee (2020-
22); Co-Director, George Barrett Social Justice Program (2019-23); Clinical
Appointments Committee (Spring 2022); Appointments Committee (2021-22);
Anti-Racism Task Force (2020); Committee on Public Policy at Vanderbilt
University (2019-20); Curriculum Committee (2018)

Harvard Law School, Cambridge, MA

Bruce Bromley Visiting Professor of Law (Fall 2022)

Courses: Civil Procedure; Employment Discrimination

The University of Chicago Law School, Chicago, IL

Walter V. Schaefer Visiting Professor of Law (Fall 2016)

Course: Employment Discrimination

University of Minnesota Law School, Minneapolis, MN

Associate Professor of Law (2011-18); *tenured in 2016*

Vance Opperman Research Scholar (2015-2018)

Courses: Civil Procedure I & II; Constitutional Law I; Employment Discrimination;
Statutory Interpretation

Honors: Institute for Advanced Study Fellow (2018); Stanley V. Kinyon Teacher of the
Year (2015-16)

Service: Faculty Works In Progress Committee (2017); Dean Search Committee (2016);
Admissions Committee (2015); Clerkships Committee (2011-2017); Latino Law
Students Association Faculty Advisor (2011-2018)

Columbia Law School, New York, NY

Associate-in-Law (2009-2011)

Course: Legal Research and Writing

PUBLICATIONS

Sex Discrimination Formalism, 109 VIRGINIA LAW REVIEW (forthcoming 2023)

A Public Policy Approach to Inequality, in EXPONENTIAL INEQUALITIES (Shreya Atrey & Sandra Fredman, eds. 2023)

Sex Assigned at Birth, 122 COLUMBIA LAW REVIEW 1821 (2022)

Failed Assignments – Rethinking Sex Designations on Birth Certificates, 383(25) NEW ENGLAND JOURNAL OF MEDICINE 2399 (Dec. 12, 2020) (with Vadim M. Shteyler and Eli Y. Adashi)

The #MeToo Movement in the United States: Reckoning with the Law's Failure, in THE GLOBAL #METOO MOVEMENT 19 (Ann M. Noel & David B. Oppenheimer, eds. 2020)

How the First Forty Years of Circuit Precedent Got Title VII's Sex Discrimination Provision Wrong, 98 TEXAS LAW REVIEW ONLINE 83 (2019)

The Rules of #MeToo, 2019 UNIVERSITY OF CHICAGO LEGAL FORUM 37

They, Them, and Theirs, 132 HARVARD LAW REVIEW 894 (2019)

- Winner, Dukeminier Award for Best Sexual Orientation and Gender Identity Law Review Articles

Pregnant People?, 119 COLUMBIA LAW REVIEW FORUM 173 (2019) (reviewing David Fontana & Naomi Schoenbaum's *Unsexing Pregnancy*)

Explicit Bias, 113 NORTHWESTERN UNIVERSITY LAW REVIEW 505 (2018)

- Selected for Yale-Stanford-Harvard Junior Faculty Forum

Feminism and the Tournament, TEXAS LAW REVIEW ONLINE (2018) (reviewing Naomi Cahn, June Carbone, & Nancy Levit's *Gender and the Tournament*)

Protected Class Gatekeeping, 92 NEW YORK UNIVERSITY LAW REVIEW 101 (2017)

- Selected for Yale-Stanford-Harvard Junior Faculty Forum

Frontiers of Sex Discrimination Law, 113 MICHIGAN LAW REVIEW 809 (2017) (reviewing Kimberly Yuracko's *Gender Nonconformity and the Law*)

Against Immutability, 125 YALE LAW JOURNAL 2 (2015)

Identity and Form, 103 CALIFORNIA LAW REVIEW 747 (2015)

Inferring Desire, 63 DUKE LAW JOURNAL 525 (2013)

- Winner, Dukeminier Award for Best Sexual Orientation and Gender Identity Law Review Articles

Beyond Equality? Against the Universal Turn in Workplace Protections, 86 INDIANA LAW JOURNAL 1219 (2011)

Adverse Possession of Identity: Radical Theory, Conventional Practice, 84 OREGON LAW REVIEW 563 (2005)

EDUCATION

Yale Law School, J.D., 2003

Whitman College, B.A. in Politics, *summa cum laude*, Phi Beta Kappa, 2000

LEGAL WORK EXPERIENCE

Hon. Rosemary S. Pooler, U.S. Court of Appeals, Second Circuit, 2008-2009
Law Clerk

Covington & Burling LLP, New York, NY, 2006-2008
Litigation Associate

Hon. Shira A. Scheindlin, U.S. District Court, Southern District of New York, 2005-2006
Law Clerk

Cadwalader, Wickersham & Taft LLP, New York, NY, 2003-2005
Bankruptcy Litigation Associate

NOW Legal Defense and Education Fund, New York, NY, Summer 2002
Summer Fellow

Civil Rights Office, Office for Justice Programs, DOJ, Washington, DC, Summer 2001
Summer Law Clerk

SHORTER WORKS

The DACA Decision is Trouble for Discrimination Law, TAKE CARE (June 25, 2020)

Opinion, Past Cases Have Labeled LGBTQ People as Deviants. Will the Supreme Court Move Beyond That Now?, LOS ANGELES TIMES (Oct. 7, 2019)

Pregnant Workers and Reproductive Justice, TAKE CARE (May 21, 2019) (symposium on REPRODUCTIVE RIGHTS AND JUSTICE STORIES by Melissa Murray, Katherine Shaw, and Reva B. Siegel)

If You Fire Someone for Sexual Harassment, What Do You Say If You're Called for a Reference?, HARVARD BUSINESS REVIEW (March 27, 2018)

Should Employers Fire Employees Who Attend White Supremacist Rallies?, HARVARD BUSINESS REVIEW (Sept. 19, 2017)

ADVOCACY

Brief of Anti-Discrimination Scholars as Amici Curiae in Support of the Employees, *Bostock v. Clayton County, Georgia, Altitude Express v. Zarda, R.G. & G.R. Harris Funeral Homes, Inc. v. Equal Employment Opportunity Commission*, Nos. 17-1618, 17-1623, 18-107 (July 2019) (U.S. Supreme Court) (with Brian Soucek, Mitchell Reich, and Thomas Schmidt)

Brief of Amici Curiae Anti-Discrimination Scholars in Support of Petitioner, *Evans v. Georgia Regional Hospital*, On Petition for a Writ of Certiorari, No. 17-370 (October 2017) (U.S. Supreme Court) (with Brian Soucek, Mitchell Reich, and Thomas Schmidt)

Letter to Department of Health & Human Services Responding to the Notice of Proposed Rulemaking for the Affordable Care Act's Nondiscrimination Rule, November 8, 2015 (with Elizabeth Sepper, Jessica Roberts, Elizabeth Dervan, and Elizabeth Deutsch)

SELECTED ACADEMIC PRESENTATIONS

Sex Discrimination Formalism

- University of Chicago Constitutional Law Workshop (April 17, 2023)
- Harvard Law School Public Law Workshop (April 10, 2023)
- Berkeley Law School Faculty Workshop, Berkeley, CA (March 21, 2023)
- University of Pittsburgh School of Law, Pittsburgh, PA (March 14, 2023)

Exponential Inequalities: Equality Law in Times of Crisis

- Society of Legal Scholars Annual Seminar, Beyond Crises: The Future of Equality Law, June 9, 2022, University of Oxford, UK

The Right to Nonbinary Gender?

- Harvard Business School Gender and Work Symposium, May 5, 2022, Boston, MA

Sex Assigned at Birth

- Harvard Law School Faculty Workshop, Nov. 10, 2022, Boston, MA
- Boston College Law School Faculty Workshop, Sept. 29, 2022, Boston, MA
- Boston University Law School Faculty Workshop, Dec. 9, 2021 (virtual)
- Temple University Law School Faculty Workshop, Oct. 27, 2021 (virtual)

Overview of Current Issues in Transgender Rights Litigation

- Presentation to the American Psychiatric Association's Council on Psychiatry and Law and Committee on Judicial Action Joint Session on Transgender Issues, Sept. 23, 2021 (virtual)

Gender Reveal?

- University of Kansas Law School, Feb. 5, 2020, Lawrence, KS

The Rules of #MeToo

- Law & Society Annual Meeting, June 1, 2019, Washington, DC
- University of Arizona Law Faculty Workshop, April 25, 2019, Tucson, AZ
- Hot Topics Panel on the Aftermath of the Kavanaugh Hearings and Confirmation, Annual Meeting of the Association of American Law Schools, Jan. 3, 2019, New Orleans, LA
- University of Chicago Legal Forum Symposium on #MeToo and the Law, November 1, 2018, Chicago, IL

They, Them, and Theirs

- Harvard Kennedy School Women and Public Policy Program Seminar Series, February 28, 2019, Boston, MA
- University of Chicago Workshop on Regulation of Sex, Gender, and the Family, October 10, 2018, Chicago, IL
- Vanderbilt LGBT Policy Lab, September 17, 2018, Nashville, TN
- University of Florida Faculty Workshop, April 2, 2018, Gainesville, FL
- University of Minnesota Public Law Workshop, November 30, 2017, Minneapolis, MN
- Law & Society Annual Meeting, June 21, 2017, Mexico City, Mexico

Explicit Bias

- Northwestern Law Review Live, November 12, 2018, Chicago, IL
- Harvard-Yale-Stanford Junior Faculty Forum, June 14, 2018, Cambridge, MA
- Vanderbilt Law School Faculty Workshop, January 30, 2018, Nashville, TN

Frontiers of Sex Discrimination Law

- Rutgers Center for Gender, Sexuality, Law and Policy, March 8, 2017, Newark, NJ
- Colloquium on Scholarship in Employment & Labor Law, University of Washington, September 12, 2016, Seattle, WA

Protected Class Gatekeeping

- Brooklyn Law School Faculty Workshop, March 9, 2017, Brooklyn, NY
- University of Chicago Works in Progress Series, November 10, 2016, Chicago, IL
- Yale-Stanford-Harvard Junior Faculty Forum, June 28, 2016, New Haven, CT
- Washington University Law School Faculty Workshop, April 6, 2016, St. Louis, MO
- Marquette Law School Workshop Series, March 30, 2016, Milwaukee, WI
- Colloquium on Scholarship in Employment & Labor Law, Indiana University Maurer School of Law, September 12, 2015, Bloomington, IN

Marriage at Work

- AALS Midyear Meeting: Workshop on Shifting Foundations: Family Law's Response to Changing Families, June 22, 2015, Orlando, FL

Sexual Exceptionalism

- Law & Society Annual Meeting, May 29, 2015, Seattle, WA
- AALS Workshop on Next Generation Issues of Sex, Gender and the Law, June 25, 2015, Orlando, FL
- University of Minnesota Law School Squaretable Series, August 19, 2015, Minneapolis, MN

Against Immutability

- Yale Law Journal Contemporary Legal Scholarship Reading Group, November 16, 2015, New Haven, CT
- Loyola Law New Orleans Faculty Colloquia Series, February 27, 2015, New Orleans, LA
- The Vulnerability and the Human Condition and Feminist Legal Theory Workshop Series on: An Uncomfortable Conversation: The Universal and the Particular, Vulnerability and Identities II, University of Miami School of Law, November 15, 2014, Miami, FL
- Colloquium on Scholarship in Employment & Labor Law, University of Colorado Law School, September 12, 2014, Boulder, CO
- University of Minnesota Law School Squaretable Series, July 30, 2014, Minneapolis, MN
- Law & Society Annual Meeting, May 2014, Minneapolis, MN

Identity and Form

- Southwestern Law School Outside Speakers Series, April 21, 2014, Los Angeles, CA
- University of Illinois College of Law, Junior Faculty Exchange, April 3, 2014, Champaign, IL
- Eighth Annual Colloquium on Labor and Employment Law, UNLV William S. Boyd School of Law, September 27, 2013, Las Vegas, NV
- MPLS Theory Workshop, University of Minnesota, May 2, 2013, Minneapolis, MN

Inferring Desire

- Public Symposium, Empirical Critical Race Theory Workshop, University of Denver Sturm College of Law, June 18, 2014, Denver CO
- University of Denver Law Review Symposium: Revisiting Sex: Gender and Sex Discrimination Fifty Years after the Civil Rights Act, January 31, 2014, Denver, CO
- Journal of Law & Inequality Symposium on Civil Rights and Civil Justice: 50 Years Later, October 18, 2013, Minneapolis, MN
- University of Minnesota Law School Squaretable Series, July 24, 2013, Minneapolis, MN
- Annual Meeting of the Association of American Law Schools, January 4, 2013, New Orleans, LA
- Seventh Annual Colloquium on Labor and Employment Law, Northwestern Law School, October 15, 2012, Chicago, IL
- Seton Hall Employment & Labor Law Scholars' Forum, September 5, 2012, Newark, NJ
- Law & Society Annual Meeting, June 6, 2012, Honolulu, HI, 2012
- University of Minnesota Law School Affiliate's Luncheon, April 2, 2012, Minneapolis, MN

Beyond Equality? Against the Universal Turn in Workplace Protections

- Law & Society Annual Meeting, May 28, 2010, Chicago, IL
- Columbia Law School Associates' and Fellows' Workshop, October 14, 2009, New York, NY

Invited Commentator

- 13th Annual Supreme Court Term in Review at the UC Irvine Barclay Theater, June 30, 2023, Irvine, CA
- Oxford Union, *Roe v. Wade*, its (Possible) Overturn and the State of the American Constitution, June 8, 2022, University of Oxford, UK
- University of Chicago Workshop on Regulation of Sex, Gender, and the Family, May 5, 2021, Chicago, IL (virtual)
- Biological Binary Sex Essentialism in the Law and Public Policy, April 2, 2021, Harvard University and University of Haifa (virtual)
- Minnesota Law Review Symposium, Glass Ceilings, Glass Walls: Intersections in Legal Gender Equality and Voting Rights 100 Years After the 19th Amendment, Gender Equality and LGBTQ+ Rights, April 1, 2021, Minneapolis, MN (virtual)
- Exponential Inequalities: Equality Law in Times of Crisis, Feb. 15, 2021, Oxford Human Rights Hub (virtual)
- Implications of the 2020 Supreme Court Title VII Trilogy: Bostock, Zarda, & Harris Funeral Homes, AALS Annual Meeting, Jan. 9, 2021 (virtual)
- Global Resistance to Sexual Harassment and Violence, June 8-9, 2020 (virtual)
- Culp Colloquium, June 9, 2020, Stanford University (virtual)
- May Gathering, Karsh Center for Law and Democracy, University of Virginia Law School, May 29-30, 2019, Charlottesville, VA

- The Worldwide #MeToo Movement: Global Resistance to Sexual Harassment, Berkeley Comparative Equality & Anti-Discrimination Law Study Group Conference, May 13-15, 2019, Berkeley, CA
- Culp Colloquium, Duke Law School, May 16, 2019, Durham, NC
- Conversations on Lawyering in the Boundaries, Center for Experiential Learning at Boston College Law School, March 15, 2019, Newton Centre, MA
- Socioeconomics Panel: Gender, Race, and Competition in the New Economy, Annual Meeting of the Association of American Law Schools, Jan. 4, 2019, New Orleans, LA
- Discussion Group of the Future of Sexual Harassment Law, Annual Meeting of the Association of American Law Schools, Jan. 3, 2019, New Orleans, LA
- Culp Colloquium, Stanford Law School, June 4, 2018, Palo Alto, CA
- The Globalization of the #MeToo Movement, Berkeley Comparative Equality & Anti-Discrimination Law Study Group Conference, May 14-15, 2018, Berkeley, CA
- Symposium on Animus, Stetson University College of Law, April 20, 2018, Gulfport, FL
- Empirical Critical Race Theory Workshop, Northwestern University, October 21, 2017, Chicago, IL
- Empirical Critical Race Theory Workshop, University of Wisconsin, October 10, 2015, Madison, WI