

Marcia L. McCormick

Saint Louis University School of Law
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St. Louis, Missouri 63101
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CURRENT ACADEMIC APPOINTMENT

Saint Louis University School of Law

Professor of Law

St. Louis, Missouri

Professor of Women's & Gender Studies (secondary)

July 2013-present

Associate Professor of Law (tenure 2011)

July 2014-present

July 2009-June 2013

Courses: Constitutional Law (I, II), Criminal Law, Employment Discrimination, Employment Law, Labor Law, Sexuality and the Law, Civil Rights, Federal Courts, International and Comparative Employment Law, Ferguson, Feminist Theories (WGS grad class)

Awards: Eileen H. Searls Service Award, 2021

SLU Law Faculty Member of the Year, 2020

Paul Steven Miller Memorial Award for Outstanding Academic and Public Contributions to the Field of Labor and Employment Law Scholarship, 2017

Presidential Research Grant – People Analytics, 2014

Saint Louis University SGA Faculty Excellence Award, 2013

Administrative Appointments:

Director of the Wefel Center for Employment Law June 2023-present
July 2014-June 2016

Co-Director of the Wefel Center for Employment Law July 2022-June 2023
July 2013-June 2014

Associate Dean for Academic Affairs July 2017-June 2020

PUBLICATIONS

Harassment and the Social Model of Discrimination (in progress).

Comstock Preemption Against Abortion Protections in Blue States: A Litigation-Strategy Case Study (in progress with Sachin S. Pandya)

EXAMPLES & EXPLANATIONS: EMPLOYMENT LAW (forthcoming 2026 with Rachel Arnow-Richman)

CASES AND MATERIALS ON EQUALITY IN THE WORKPLACE (11th ed. forthcoming 2025)
(with Roberto Corrada, Nicole Buonocore Porter & Michael Selmi)

EMPLOYMENT LAW (Marcia McCormick et al. eds., 7th ed. forthcoming 2024) (treatise
coordinating editor and author for three chapters)

EMPLOYMENT LAW (Marcia McCormick et al. eds., 7th ed. forthcoming 2024) (hornbook
coordinating editor and author for three chapters)

*Religious Freedom of For-Profit Business Employers to Discriminate: A Litigation Case
Study* (in progress with Sachin S. Pandya)

Dobbs and Exit in Antidiscrimination Law, 27 EMP. RTS. & EMP. POL'Y J. ____
(forthcoming 2024).

*The Braidwood Exploit: On the RFRA Declaratory-Judgment Class-Action and Title VII
Employer Liability* (with Sachin S. Pandya), 58 RICHMOND L. REV. 411 (2024)

Promoting Change in the Face of Retrenchment, 17 FLA. INT'L U. L. REV. 807 (2023)

QUESTIONS & ANSWERS: EMPLOYMENT DISCRIMINATION (2023)

*Discrimination on the Basis of Race, Sex, and Age, Conditions of Employment, and
Discharge, in EMPLOYMENT LAW* (Mark A. Rothstein et al. eds., 2022) (treatise
chapters–annual supp.)

Conditions of Employment and Discharge, in EMPLOYMENT LAW (Mark A. Rothstein et
al. eds., 2021) (treatise chapters–annual supp.)

“Sex” and Religion after Bostock, ACS SUPREME COURT REVIEW 2019-20 TERM (with
Sachin S. Pandya) (2020)

*The World Turned Upside Down: Employment Discrimination, Race, and Authenticity in
Hamilton, in THE LAW OF HAMILTON: AN AMERICAN MUSICAL* (Lisa A. Tucker ed.,
2020).

United Auto Workers v. Johnson Controls, *in FEMINIST JUDGMENTS: EMPLOYMENT
DISCRIMINATION OPINIONS REWRITTEN* (Ann McGinley & Nicole Porter eds., 2020)

*Sex and the Supreme Court: Testing the Textualists' Commitments in R.G. & G.R. Harris
Funeral Homes v. EEOC*, 32 J. AM. ACAD. MATRIMONIAL LAWYERS 343 (2020)

Conditions of Employment and Discharge, in EMPLOYMENT LAW (Mark A. Rothstein et
al. eds., 2020) (treatise chapters–annual supp.)

UPDATES AND COMMENTARY ON EMPLOYMENT DISCRIMINATION LAW 2020 (Wolters
Kluwer 2019)

Discharge, in EMPLOYMENT LAW (Mark A. Rothstein at al. eds., 6th ed. 2019) (treatise chapter)

Discharge, in EMPLOYMENT LAW (Mark A. Rothstein at al. eds., 6th ed. 2019) (hornbook chapter)

Changing what they Cannot Accept: Teachers Unions Fighting Education "Reform" from Chicago to Oklahoma, 22 EMP. RTS. & EMP. POL'Y J. 409 (2018) (book review)

The Growing Gender/Religion Divide, 19 MARQUETTE BEN. & SOC. WELFARE L. REV. 197 (2018)

Religious Privilege to Discriminate as Religious Freedom: From Charitable Choice to Faith Based Initiatives to RFRA and FADA, 56 WASHBURN L.J. 229 (2017).

Stereotypes as Channels and the Social Model of Discrimination, 36 ST. LOUIS UNIV. PUB. L. REV. 19 (2017)

People Analytics (with Matthew Bodie, Miriam Cherry & Jintong Tang), 88 UNIV. COLORADO L. REV. 961 (2017).

Our Uneasiness with Police Unions: Power and Voice for the Powerful? 35 ST. LOUIS UNIV. PUB. L. REV 47 (2015).

Let's Pretend that Federal Courts Aren't Hostile to Discrimination Claims, 75 OHIO ST. L.J. FURTHERMORE 22 (2015)

To Count and Be Counted, 58 ST. LOUIS UNIV. L.J. 999 (2014).

From Podcasts to Treasure Hunts – Using Technology to Promote Student Engagement, 58 ST. LOUIS UNIV. L.J. 127 (2013).

Gender, Family, and Work, 30 HOFSTRA LAB. & EMP. L. J. 309 (2013).

Constitutional Limitations on Closing the Gender Gap in Employment, 8 FLA. INT'L UNIV. L. REV. 405 (2013).

Implausible Injuries: Wal-Mart v. Dukes and the Future of Class Actions and Employment Discrimination Cases, 62 DEPAUL L. REV. 711 (2013).

Workplace Reform in a Jobless Recovery, 81 UMKC L. REV. 347 (2012) (essay).

Disparate Impact and Equal Protection after Ricci v. DeStefano, 27 WIS. J. LAW, GENDER & SOC'Y 100 (2012).

Decoupling Employment, 16 LEWIS & CLARK L. REV. 499 (2012).

Federal Regulation and the Problem of Adjudication, 56 ST. LOUIS U. L.J. 39 (2011).

Consensus, Dissensus, and Enforcement: Legal Protection of Working Women from the Time of the Triangle Shirtwaist Factory Fire to Today, 14 N.Y.U. J. LEG. & PUB. POL'Y 645 (2011).

Implausible Wrongs and Dissimilarities: The Supreme Court Continues Its Anti-Litigation Trend, This Time With a Class Action Focus in Wal-Mart v. Dukes, 8 ANTITRUST CHRON. (online), <https://www.competitionpolicyinternational.com/aug-11/> (2011).

Back to Color-Blindness: Recent Developments in Discrimination Law in the United States, 16 REVUE DES AFFAIRES EUROPÉENNES 203 (2010).

BECOMING A LAW PROFESSOR (2010) (with Brannon P. Denning and Jeffrey Lipshaw).

The Truth Is Out There: Revamping Federal Antidiscrimination Enforcement for the 21st Century 30 BERKELEY J. EMP. & LAB. L. 193 (2009).

Solving the Mystery of How Ex Parte Young Escaped the Federalism Revolution, 40 U. TOLEDO L. REV. 909 (2009).

The Equality Paradise: Paradoxes of the Law's Ability to Promote Equality, 13 TEX. WESLEYAN L. REV. 515 (2007).

When Worlds Collide: Federal Court Construction of State Institutional Competence, 9 U. PENN. J. CON. L. 1167 (2007).

The Allure and Danger of Practicing Law as Taxonomy, 58 ARK. L. REV. 159 (2005).

Federalism Re-Constructed: The Eleventh Amendment's Illogical Impact on Congress' Power, 37 IND. L. REV. 345 (2004).

Truth or Consequences: Why the Rejection of the Pretext Plus Approach to Employment Discrimination Cases in Reeves v. Sanderson Plumbing Establishes the Better Legal Rule, 21 N. ILL. U. L. REV. 355 (2001).

M. Cherif Bassiouni & Marcia McCormick, *Sexual Violence: An Invisible Weapon of War* (John D. & Catherine T. MacArthur Foundation 1996).

RECENT SPEECHES, PRESENTATIONS, AND PANELS

Supreme Court Term in Review, United States District Court for the Eastern District of Missouri, Northern Division Bench and Bar Seminar, June 2023

Dobbs and Exit in Antidiscrimination Law

The Effect of Dobbs on Work Law, Symposium at the Martin Malin Institute for Law and the Workplace, Chicago-Kent College of Law, Illinois Inst. of Tech., Mar. 2023

The New Wave of Religious Resistance: The Culture War by Other Means

University of Iowa College of Law, Feb. 2023

Promoting Change in the Face of Retrenchment

Panes of the Glass Ceiling Microsymposium, Florida International University School of Law, Jan. 2023

Religious Freedom to Discriminate: Title VII Developments, and the State Law

Landscape

Labor Law Group, Dec. 2022

Constitution Day Supreme Court Preview

SLU Am. Const. Soc'y & Fed. Soc., Sept. 2022

Dobbs: The Reality Today and the Implications for Tomorrow

Bar Ass'n of Metro. St. Louis, Aug. 2022

Marginalized Groups Under-Protected by Employment Law

Southeastern Association of Law Schools Annual Meeting, Aug. 2022

Workplace Accommodations

Southeastern Association of Law Schools Annual Meeting, Aug. 2022

Pedagogical Trends in Teaching Workplace Law

Southeastern Association of Law Schools Annual Meeting, Aug. 2022

Hot Topics in Labor & Employment Law

Wefel Center for Employment Law Continuing Legal Education, June 2022

Connecting Employment Practices and Health Inequities

SLU Law, Wefel Center for Employment Law, Saint Louis University Law Journal & Institute for Healing Justice & Equity, Symposium: Health Inequities and Employment: The Continued Struggle for Justice, April 2022

The Future of Employment Law

American University Washington College of Law, Journal of Gender, Social Policy & the Law, National Institute for Workers Rights, Symposium: *Enhancing Anti-Discrimination Laws in Education and Employment*, November 2021

Post-Election Preview: Labor and Employment Law Under a New Biden Administration

Southeastern Association of Law Schools Annual Meeting, July 2021

People Analytics

Oxford University AI Reading Group, February 2021

“We’ll Never Be Truly Free”: Race and Gender Issues in Hamilton: An American Musical

92nd Street Y, *Hamilton and the Law* class, February 2021

RECENT MEDIA APPEARANCES

Khorri Atkinson, *Pfizer Ruling Threatens Legal Tactic Behind Diversity Challenges*,

BLOOMBERG L.: DAILY LAB. REP. (Mar. 15, 2024, 4:10 AM CDT),

<https://news.bloomberglaw.com/daily-labor-report/pfizer-ruling-threatens-legal-tactic-behind-diversity-challenges>

Riddhi Setty & Khorri Atkinson, *Mark Cuban’s Clash with EEOC Official Shows Bias Proof Confusion*, BLOOMBERG L.: DAILY LAB. REP. (Feb. 12, 2024, 4:05 AM CST),

<https://www.bloomberglaw.com/product/blaw/bloomberglawnews/daily-labor-report/X35TP998000000>

Riddhi Setty, *High Court Religious Bias Decision Paves Way for EEOC Vax Suits*,

BLOOMBERG L.: DAILY LAB. REP. (Sept. 26, 2023, 4:15 AM),

<https://news.bloomberglaw.com/daily-labor-report/high-court-religious-bias-decision-paves-way-for-eecoc-vax-suits>

Rasmus S. Jorgensen & Pat Murphy, *New Accommodations Rights for Pregnant Workers Offer Broad Protections*, MO. LAWYERS MEDIA (Sept. 20, 2023),

<https://molawyersmedia.com/2023/09/20/new-accommodation-rights-for-pregnant-workers-offer-broad-protections>

Ryan Krull & Monica Obradovic, *Could Missouri Prosecute Abortion Patients? GOP AG Candidates Won’t Say*, RIVERFRONT TIMES (Apr. 13, 2023),

<https://www.riverfronttimes.com/news/could-missouri-prosecute-abortion-patients-gop-ag-candidates-wont-say-39853458>

Jonathan Shorman, *How a Dysfunctional Missouri Human Rights Commission Slows Discrimination Lawsuits*, K.C. STAR (Apr. 5, 2023), kansascity.com (behind a paywall)

Lauren Sausser, *Hospitals' Use of Volunteer Staff Runs Risk of Skirting Labor Laws, Experts Say*, KAISER HEALTH NEWS (Jan. 10, 2023),
<https://khn.org/news/article/hospital-volunteers-labor-laws>

Monica Obradovic, *Updated: Abortions Could Be Considered Murder Under New Missouri Bill*, RIVERFRONT TIMES (Dec. 23, 2022, 10:13 AM),
<https://www.riverfronttimes.com/news/abortions-plan-b-considered-murder-under-new-missouri-bill-39134071>

Annika Merrilees, *Legal Pot Raises Questions About the Future of Workplace Drug Policies in Missouri*, ST. LOUIS POST-DISPATCH (Nov. 13, 2022),
https://www.stltoday.com/business/local/legal-pot-raises-questions-about-the-future-of-workplace-drug-policies-in-missouri/article_036974f1-8e7d-5563-a4c7-d1f155451b2e.html

Tessa Weinberg, *Abortion-Rights Groups Alarmed by St. Louis Moving Missouri AG Lawsuit to Federal Court*, ST. LOUIS PUB. RADIO (Sept. 2, 2022, 5:11 AM CDT),
<https://news.stlpublicradio.org/law-order/2022-09-02/abortion-rights-groups-alarmed-by-st-louis-moving-missouri-ag-lawsuit-to-federal-court>

Marcia McCormick & Chad Flanders, Opinion, *Think Women Can't Be Prosecuted for Having an Abortion Here? Think Again*, ST. LOUIS POST DISPATCH (June 28, 2022),
https://www.stltoday.com/opinion/columnists/mccormick-and-flanders-think-women-cant-be-prosecuted-for-having-an-abortion-here-think-again/article_2c0c8594-c7c9-5357-bb0f-be38cb7e5d00.html

News at 6, KMOV4 (June 24, 2022) (live interview about *Dobbs* opinion and Missouri's trigger law/abortion ban)

Manon Jacob, *Missouri Did Not Ban Emergency Contraception*, AFT FACT CHECK (May 17, 2022), <https://factcheck.afp.com/doc.afp.com.32A97TY>

Kayla Drake, *Missouri's Trigger Law Is Ready for Roe's Demise. What Happens Then?*, ST. LOUIS ON THE AIR (STLPR) (May 6, 2022),
<https://news.stlpublicradio.org/show/st-louis-on-the-air/2022-05-06/missouris-trigger-law-is-ready-for-roes-demise-what-happens-then>

Teghan Simonton, *Experts Expect Wide Impact if Supreme Court Overturns Roe v. Wade*, COLUMBIA MISSOURIAN (May 3, 2022),
https://www.columbiamissourian.com/news/state_news/experts-expect-wide-impact-if-supreme-court-overturns-roe-v-wade/article_e9984806-cb2f-11ec-8622-57625b559226.html

Jenna Rae, *Hundreds Rally Outside St. Louis' Federal Courthouse over Abortion Rights and Implications if Roe v. Wade is Overturned*, KMOV4 (May 3, 2022),

<https://www.kmov.com/2022/05/04/hundreds-rally-outside-st-louis-federal-courthouse-over-abortion-rights-implications-if-roe-v-wade-is-overturned>

Danielle Duclos, *Conservative Lawmakers Push the Bounds to Restrict Abortion*, COLUMBIA MISSOURIAN (Apr. 10, 2022),
https://www.columbiamissourian.com/conservative-lawmakers-push-the-bounds-to-restrict-abortion/article_b66e31e0-b4df-11ec-9f79-d7e194da3d27.html

Josh Marcus, *Covid Is Leading Cause of Death for Police, so Why Are Police Unions Still Resisting the Vaccine?*, INDEPENDENT (Jan. 31, 2022, 18:45 GMT),
<https://www.independent.co.uk/news/world/americas/covid-police-unions-vaccine-mandate-b1998412.html>

Sydney Page, *A Catholic School Rescinded a Coach's Job Offer when It Learned She Was Gay. Students Protested – and Won*, INDEPENDENT (Sept. 30, 2021, 15:33),
<https://www.independent.co.uk/news/world/americas/catholic-school-student-protest-won-b1929883.html>

Ryan Dean, *Missouri's Controversial Abortion Law to Be Heard by Federal Appeals Court*, KSDK (Sept. 21, 2021, 8:32 AM CDT),
<https://www.ksdk.com/article/news/local/missouri-controversial-abortion-law-federal-appeals-court/63-c35a3968-c6cb-4428-ba0f-92d55142ec99>

Karen Ann Cullotta & John Keilman, *Benet Academy Students, Alumni Rally in Support of Girls Lacrosse Coach they Say Lost Job Offer for Being Married to a Woman*, CHI. TRIB. (Sept. 20, 2021, 1:43 PM),
<https://www.chicagotribune.com/news/breaking/ct-benet-academy-lacrosse-coach-discrimination-20210920-3xplddd35cphlmgs27bngkdu-story.html>

Holden Kurwicki, *Concern Growing that Texas Abortion Law Could Extend Beyond Clinic*, KSDK (Sept. 1, 2021, 7:13 PM CDT),
<https://www.ksdk.com/article/news/local/texas-abortion-law-could-extend-beyond-the-clinic/63-b1029dd3-5d19-4d5d-8e10-6af96c4ebd26>

Tess Terrible & Lucy Nalpathanchil, *Sexual Harassment Prevention Trainings: Do they Work?*, CONN. PUB. RADIO: WHERE WE LIVE (Aug. 12, 2021, 7:46 AM EDT),
<https://www.ctpublic.org/show/where-we-live/2021-08-12/preventing-sexual-harassment-in-the-workplace>

David Brancaccio & Daniel Shin, *What Training Works when It Comes to Fighting Sexual Harassment in the Workplace?*, MARKETPLACE (Aug. 4, 2021),
<https://www.marketplace.org/2021/08/04/what-training-works-when-it-comes-to-fighting-sexual-harassment-in-the-workplace>

Stephen Rohde, *Hamilton, Hip-Hop, and the Law*, L.A. REV. OF BOOKS (May 8, 2021),
<https://lareviewofbooks.org/article/hamilton-hip-hop-and-the-law> (reviewing, *The World Turned Upside Down*, and the edited volume as a whole)

RECENT PROFESSIONAL RECOGNITION, MEMBERSHIP, AND SERVICE ACTIVITIES

Fellow, American Bar Foundation, 2023-present
Fellow, American Law Institute, 2023-present
Fellow, College of Labor and Employment Lawyers, 2023-present
Member, Labor Law Group, 2018-present
Faculty Co-Editor, ABA JOURNAL OF LABOR & EMPLOYMENT LAW, 2018-present
Managing Editor, EMPLOYEE RIGHTS & EMPLOYMENT POLICY JOURNAL, 2004-present
Co-editor, Workplace Prof Blog, http://lawprofessors.typepad.com/laborprof_blog/, 2008-2020
Contributing Editor, Jotwell (Journal of Things We Like (Lots)), Work Law Section, <http://worklaw.jotwell.com/>, 2010-2020
Annual Colloquium on Current Scholarship in Labor and Employment Law, 2009-present

American Association of Law Schools

Membership Review Committee, 2021-present (3-year term)
Sabbatical Membership Reporter, 2013-present

American Bar Association

Accreditation Site Team Member, 2013-present
Section of Legal Education and Admissions to the Bar, Member 2001-present,
Section of Labor and Employment Law, Member 2001-present

Southeastern Association of Law Schools

Inclusiveness Committee Member, 2023-present
Board of Directors Member, 2015-2018
Deputy Executive Director, 2013-15

Saint Louis University

General Counsel Search Committee, 2021
Women's & Gender Studies Advisory Board, 2012-present

Saint Louis University College of Law

Outcomes and Assessment committee, 2023-present
Workload Policy committee, Fall 2022
Pipeline Programs ad hoc committee, 2021-22
LRW appointments, 2021
ACS Advisor, 2019-present
Curriculum Committee, 2009-11, 2012-13, 2019-20
Self-Assessment/Site Visit Committee Chair, 2017-20

Employment Law Association Advisor, 2014-16, 2021-present
Center for International & Comparative Law, Member 2010-present
William C. Wefel Center for Employment Law, Member 2009-present

RECENT LITIGATION/CONSULTING/POLICY ADVOCACY

Consulted pro bono with various groups or individuals on matters related to workplace law and federal courts expertise, for example consulting on diversity issues and discrimination, helping to draft legislation for state legislature seeking to ban confidential settlements by government actors, providing expert opinion on same sex harassment, and conferring on civil service and labor protections for city workers, 2010-present

MO Education Association v. MO Department of Labor & Industrial Relations, Case No. SC 98412 (Mo. Supreme Court), Amicus Curiae Brief (Oct. 26, 2020)

AFCSME Council 61 v. Missouri, Case No. 18AC-CC00407 (Cole County Circuit Court), expert witness

SEIU v. NLRB & Preferred Bldg. Servs., United States Court of Appeals for the Ninth Circuit No. 19-70334, Brief of Amicus Curiae Labor Law Professors in Support of Appellant (Aug. 26, 2019)

Comcast Corp. v. Nat'l Ass'n of African Am.-Owned Media, United States Supreme Court No. 18-1171, Brief of Amici Curiae Employment Law Professors in Support of Respondents, October term 2019

Allen v. Cooper, United States Supreme Court No. 18-877, Brief for Law Professors as Amicus Curiae Supporting Petitioners, October term 2019

Bostock v. Clayton County, United States Supreme Court Nos. 17-1618, 17-1623, 18-107,
Brief of Employment Discrimination Law Scholars as Amici Curiae in Support of
the Employees, October term 2019

PAST ACADEMIC APPOINTMENTS AND OTHER PROFESSIONAL EXPERIENCE

University of Iowa College of Law
Visiting Professor of Law

Iowa City, Iowa January-May 2023

Cumberland School of Law, Samford University
Associate Professor of Law (without tenure)
Assistant Professor of Law

Birmingham, Alabama
July 2008-June 2009
July 2005-June 2008

Courses: Federal Courts, Employment Law, Civil Rights, Criminal Law, Property
Honors: Lightfoot, Franklin & White Scholarship Award, 2008

Harvey S. Jackson Excellence in Teaching Award, 2007

Chicago-Kent College of Law Chicago, Illinois
Visiting Assistant Professor of Law July 2001-June 2005

Courses: Labor Law, Federal Courts, Legal Research and Writing I and II
Honors: Nudelman Award for Outstanding Faculty Support to Moot Court, 2004

Office of the Illinois Attorney General Chicago, Illinois
Assistant Attorney General Sept. 1995-June 2001
Civil Appeals Division

International Human Rights Law Institute, DePaul University Chicago, Illinois
Staff Attorney July 1993-Sept. 1995

EDUCATION

University of Iowa College of Law Iowa City, Iowa
Juris Doctor, 1993, *with distinction*
Managing Editor, IOWA LAW REVIEW, Outstanding Woman Law Graduate

Grinnell College Grinnell, Iowa
Bachelor of Arts, Philosophy, 1989