

CHARLOTTE GARDEN

Seattle University School Of Law
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ACADEMIC POSITIONS

SEATTLE UNIVERSITY SCHOOL OF LAW, Seattle, WA

Associate Professor, May 2015—Present (tenured April 2017)

Assistant Professor, July 2011—May 2015

Litigation Director, Fred T. Korematsu Center for Law & Equality, April 2014-Present

Courses Taught: Constitutional Law I & II; Labor Law; Appellate Litigation Seminar on Labor and Employment Law; Legislation & Regulation; Civil Rights Amicus Clinic

UNIVERSITY OF ALABAMA SCHOOL OF LAW, Tuscaloosa, AL

Visiting Professor, Fall 2016

Courses: Labor Law; Special Problems in Labor Law: Work, Regulation, & Technology

GEORGETOWN UNIVERSITY LAW CENTER, Washington, DC

Teaching Fellow, August 2008 – August 2010

Courses: Appellate Litigation Clinic

Teaching & Research Interests: Work Law; Constitutional Law; Statutory Interpretation; Administrative Law; Appellate Practice & Procedure

EDUCATION

GEORGETOWN UNIVERSITY LAW CENTER

LL.M., *with distinction*, October 2010

Clinical Teaching Fellow, Appellate Litigation Program

NEW YORK UNIVERSITY SCHOOL OF LAW

J.D., *cum laude*, May 2003

Annual Survey of American Law, Articles Editor

Research Assistant, Professor Arthur Miller

Teaching Assistant, *Religion and the Supreme Court*, Dean John Sexton

MCGILL UNIVERSITY

B.A., *Great Distinction*, Sociology and English Literature, June 2000

First Class Honors

Students' Society of McGill University Award of Distinction

David M. Solomon Memorial Award

JUDICIAL CLERKSHIP

THE HONORABLE THOMAS L. AMBRO, United States Court of Appeals for the Third Circuit
Law Clerk, August 2010 – July 2011

LAW REVIEW ARTICLES

Disrupting Work Law, __ CHI. L. FORUM __ (forthcoming 2017) (in progress).

Comments on the Restatement of Employment Law (Third), Chapter One, __ EM. RTS. & EMP. POL'Y J. __ (peer reviewed journal; forthcoming 2017) (in progress) (with Joseph Slater).

The Deregulatory First Amendment at Work, 51 HARV. C.R.-C.L. L. REV. 323 (2016).

Religious Employers & Labor Law: Bargaining in Good Faith?, 95 B.U. L. REV. 109 (2016).

Toward Politically Stable NLRB Lawmaking: Rulemaking vs. Adjudication, 64 EMORY L.J. 1467 (2015).

Meta Rights, 83 FORDHAM L. REV. 855 (2014)

- Selected for peer review by Joseph Slater, *Putting Union Security Clause First Amendment Law in a Broader Context: Charlotte Garden's Meta Rights*, JOTWELL (November 25, 2014)

Citizens United & the First Amendment of Labor Law, 43 STETSON L. REV. 571 (2014).

Unions & Campaign Finance Litigation, 14 NEVADA L.J. 364 (2014).

"So Closely Intertwined": Labor Interests and Racial Solidarity, 81 GEO. WASH. L. REV. 1135 (2013) (with Nancy Leong).

Union Made: Labor's Litigation for Social Change, 88 TULANE L. REV. 193 (2013).

Teaching for America: Unions and Academic Freedom, 43 U. TOL. L. REV. 563 (2012).

Citizens, United and Citizens United: The Future of Labor Speech Rights?, 53 WM. & MARY L. REV. 1 (2011).

- Selected for peer review by Matt Bodie, *Labor Speech is Corporate Speech*, JOTWELL (April 23, 2012)

Labor Values are First Amendment Values: Why Union Comprehensive Campaigns are Protected Speech, 79 FORDHAM L. REV. 2617 (2011).

CASEBOOK

MODERN LABOR LAW IN THE PRIVATE AND PUBLIC SECTORS: CASES AND MATERIALS (with Seth Harris, Joseph Slater and Anne Lofaso) (Carolina Academic Press, 2nd Ed., 2016)

AWARDS & HONORS

Michael J. Zimmer Memorial Award (2016) (awarded annually to “a rising scholar who values workplace justice and community, and who has made significant contributions to labor and employment law scholarship).

Selected by graduating students as graduation marshal (May 2017 & May 2013) and hooder (December 2014)

AMICUS BRIEFS

Brief of Amici Curiae Labor Economists & Social Scientists in Support of the Petition for Writ of Certiorari, Villarreal v. RJ Reynolds Tobacco Co. (US Supreme Court, No. 16-971) (with Catherine L. Fisk & Deborah C. Malamud)

Brief of Amici Curiae Labor Law & Labor Relations Professors in Support of Respondent, Friedrichs v. California Teachers Ass’n (US Supreme Court, No. 14-915) (with Matthew T. Bodie)

Brief of Amici Curiae Award-Winning California Teachers, American-Arab Anti Discrimination Committee, Fred T. Korematsu Center for Law & Equality, & American Association of University Professors, Vergara v. California (Cal. Ct. App., No. B258589) (with Lorraine Bannai & Robert Chang)

Brief of Amici Curiae Labor & Benefits Law Professors in Support of Respondents, M&G Polymers v. Tackett (US Supreme Court, No. 13-1010) (with Susan Cancelosi)

Brief of Amici Curiae Labor Law Professors in Support of Respondent, Harris v. Quinn (US Supreme Court, No. 11-681) (with Matthew T. Bodie)

Brief of Amici Curiae Committee of Interns and Residents, SEIU; Doctors Council SEIU; and Korean American Medical Association in Support of Respondent, University of TX Southwestern Medical Ctr. v. Nassar (US Supreme Court No. 12-484) (with Anjana Malhotra, Robert S. Chang, and Lorraine K. Bannai)

SELECTED OPINION PIECES, BLOGS, & SHORTER WORKS

Contributor, TAKE CARE BLOG, March 2017-present

Opinion Analysis: Court Unanimously Adopts Abuse-of-Discretion Review for District Court Decisions to Enforce EEOC Subpoenas, SCOTUSBLOG, April 4, 2017

Argument Analysis: The Court Dives Into Water Splash, SCOTUSBLOG, March 23, 2017

Unions are Wondering: Resist or Assist?, THE ATLANTIC, March 15, 2017

Argument Preview: Legal Interpretation in an Unconventional Context, SCOTUSBLOG, March 15, 2017

Argument Analysis: Discretion All The Way Down?, SCOTUSBLOG, Feb. 22, 2017

Argument Preview: Feats of Strength & Standards of Review, SCOTUSBLOG, Feb. 14, 2017

Labor in the Trump Years, 4 EMORY CORP. GOV. & ACCOUNTABILITY REV. 95 (2017)

A Cure for Just-In-Time Scheduling JOTWELL, May 26, 2016 (review of Charlotte Alexander, Anna Haley-Lock, and Nantiya Ruan, *Stabilizing Low-Wage Work: Legal Remedies for Unpredictable Work Hours and Income Instability*, 50 Harv. C.R.-C.L. L. Rev. 1 (2015))

What Would a Merrick Garland Confirmation Mean for the Future of Gig Work?, THE ATLANTIC, May 11, 2016

Does Labor's Future Rest on Justice Scalia's Replacement?, NEW LABOR FORUM, March 2016

Friedrichs v. California Teachers Association and Why We Need Nine, ACSBLOG, March 30, 2016

What Will Become of Public Sector Unions Now?, THE ATLANTIC, Feb. 16, 2016

Why Some States Want Strong Public-Sector Unions, THE ATLANTIC, Jan. 17, 2016

The End of Public Sector Agency Fees?, ACSBLOG, Jan. 12, 2016

Another Battle in the War Over Union Fees, SCOTUSBLOG, Aug. 28, 2015

Friedrichs v. CTA: Union Fair Share Fees Endangered in One of Next Term's Biggest Cases, ACSBLOG, July 3, 2015

Will the Supreme Court Do More Damage To Public Sector Unions?, ACSBLOG, April 28, 2015

The Constitution at Work: Everything Old is New Again, JOTWELL, March 10, 2015 (review of Sophia Z. Lee, *THE WORKPLACE CONSTITUTION: FROM THE NEW DEAL TO THE NEW RIGHT*)

Three Lessons From the Fast Food Organizing Movement, ONLABOR, Dec. 18, 2014

US Supreme Court Should Uphold Promises Made to Retirees, JUSTICE WATCH (Blog of Alliance for Justice), Nov. 13, 2014 (with Susan Cancelosi)

Harris v. Quinn: What's At Stake, & What's Next?, 21 INT'L UNION RIGHTS JOURNAL 18 (2014)

Harris v. Quinn's First Amendment Exceptionalism, ONLABOR, July 15, 2014

Who Should Pay for Ideological Convictions At Work?, ACSBLOG, July 7, 2014

Harris v. Quinn symposium: Decision Will Affect Workers & Limit States' Ability to Effectively Manage Their Workforces, SCOTUSBLOG, July 2, 2014

Alito's Cynical Political Payback Theory, SALON, January 27, 2014

What George Will Gets Wrong about Unions, Home Healthcare Aides, and the First Amendment, HUFFINGTON POST, January 21, 2014

Public Employees, Unions and the First Amendment, ACSBLOG, December 11, 2013

Bell Labs: Derrick Bell's Inspirational Pedagogy, 36 SEATTLE U. L. REV. xx (2013)

LEGAL PRACTICE EXPERIENCE

APPELLATE LITIGATION CLINIC, GEORGETOWN UNIVERSITY LAW CENTER, Washington, DC
Teaching Fellow & Supervising Attorney, August 2008 – August 2010

Co-taught clinic and supervised students litigating in the United States Supreme Court and the Federal Courts of Appeals. Argued *Davis v. Fed. Bureau of Prisons*, 334 F. App'x 332 (D.C. Cir. 2009), about the extent to which federal prisoners can be compelled to bring cases via habeas petitions instead of declaratory judgment actions, and *McLean v. United States*, 566 F.3d 391 (4th Cir. 2009), about whether dismissals without prejudice count as “strikes” under the Prison Litigation Reform Act.

BREDHOFF & KAISER, P.L.L.C., Washington, DC
Associate, December 2005 – July 2008

Represented labor unions, pension plans, and individuals in trial, appellate, and administrative matters. Cases involved labor law, retiree health benefits, employment discrimination, civil RICO, and constitutional law.

CHILDREN'S LAW CENTER, Washington, DC
Staff Attorney, November 2004 – November 2005

Represented children in abuse and neglect cases in the District of Columbia. Investigated cases and advocated for children and families in and outside of court.

PUBLIC CITIZEN LITIGATION GROUP, Washington, DC

Abraham Fuchsberg Fellow, September 2003 – August 2004

Represented organizations and individuals in cases involving administrative law, open government, class action fairness, and the First Amendment.

LEGAL AID SOCIETY, JUVENILE RIGHTS DIVISION, New York, NY

Project Assistant, Safe Families Project, December 2002 – June 2003

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP, New York, NY

Summer Associate, Summer 2002

LEGAL AID SOCIETY, COMMUNITY LAW OFFICE, New York, NY

Intern, Summer 2001

SELECTED MEDIA APPEARANCES & INTERVIEWS

Uber Gears Up to Block Bid to Form a Union in Seattle, Wall Street Journal, March 22, 2017

Uber Deal Giving Drivers \$1 Each Sparks Feud Among Rival Lawyers, Bloomberg, March 10, 2017

The Fallout From “A Day Without Immigrants”, The Atlantic, Feb. 21, 2017

Uber Deal Offers Drivers \$1 Each To Wipe Away Labor Threats Valued in Billions, Bloomberg, February 1, 2017

Uber Sues Seattle Over Driver Unionization Ordinance, KNKX, January 18, 2017

The Force Behind Minimum Wage Protests is Slashing Its Spending, BuzzFeed, December 28, 2016

Donald Trump’s Supreme Court Will Be a Real Threat to Labor – And That’s Going to Hurt the Democrats, Salon, November 17, 2016

Uber’s Drivers Win the Backing of US Labor Watchdog, Bloomberg, Nov. 2, 2016

Volkswagen Faces Bumpy Road in Challenge to ‘Micro-Union’, Reuters, Sept. 26, 2016

Uber’s \$100 Million Driver Pay Settlement Rejected By Judge, Bloomberg, Aug. 18, 2016

Uber in Dare to Judge Says Its Ready to Ditch Driver Settlement, Bloomberg, Aug. 1, 2016

Texas Judge Blocks Obama’s Union-Buster Rule, Bloomberg, July 7, 2016

Amazon Proves Infertile Soil for Unions, So Far, New York Times, May 16, 2016

Uber Deals Put Spotlight on Seattle Showdown, Seattle Times, May 10, 2016

Lyft Pays Price for Success in Rejected Driver Pay Accord, Bloomberg, April 7, 2016

Lawyer in Lyft Accord Vows to Make Uber 'Respect' Drivers, Bloomberg, Jan. 27, 2016

Why are Unions So Worried About an Upcoming Supreme Court Case, The Atlantic, Jan. 8, 2016

Airport Employers Seek New Hearing on SeaTac Minimum Wage, Seattle Times, Dec. 15, 2015

Alaska Airlines, Other Businesses, Continue Legal Battle Over SeaTac Minimum Wage, KPLU, Dec. 15, 2015

Seattle Allows Uber, Lyft Drivers To Unionize, Associated Press, Dec. 14, 2015

Uber Pushes New Contract on Drivers as Pay Fight Escalates, Bloomberg, Dec. 11, 2015

Uber Drivers' Lawsuit Over Pay Just Got Much Costlier, Bloomberg, Dec. 9, 2015

Labor Board's Shift in Legal Interpretation Could Allow Many Taxi Drivers to Unionize, Washington Post, Oct. 29, 2015

Labor Law has been Frozen for 60 Years. Democrats are Trying to Crack it Open, Washington Post, Sept. 16, 2015

Scott Walker Sets Sights on Unions, Outlines Plan to Alter US Labor Law, Al Jazeera America, Sept. 14, 2015

The Assault on Unions Is Hurting All Workers, Newsweek, May 14, 2015

Amazon Makes Even Temporary Warehouse Workers Sign 18-Month Non-Competes, The Verge, March 26, 2015

City Council Member Says Let Uber Drivers Unionize, Seattle Times, Aug. 31, 2015

Washington Supreme Court Rules that \$15 Minimum Wage Applies at Sea-Tac Airport, KPLU, Aug. 20, 2015

State's High Court Extends SeaTac Minimum Wage to Airport Workers, Seattle Times, Aug. 20, 2015

Unions Divide Labor Movement Over LA Minimum Wage Exemptions, Al Jazeera America, May 29, 2015

Workers Behind Ruthless and Effective Grassroots Campaigns Are Now on Trial for Racketeering, The Nation, March 13, 2015

Space Needle Told to Stop Unfair Labor Practices, Rehire Workers, KPLU, Feb. 2, 2015

Labor Board Attorney Backs Up Claims McDonald's Violated Labor Rights, Al Jazeera America, Dec. 19, 2014

Office Politics, Slate, Oct. 15, 2014

Home-Care Aides Don't Owe Union Fees, but Court Stops Short of Overruling a Key Precedent, ABA Journal, Sept. 1, 2014

Why a Win for Anti-Choice Protestors Might Also Strengthen Workers' Rights to Strike, The Nation, July 18, 2014

Why Harris v. Quinn Isn't as Bad For Workers as it Sounds, Washington Post, July 1, 2014

California Unions Fear 'Free-Riders' in Supreme Court Health Ruling, KPCC, June 30, 2014

Anti-Union Group Files Federal Lawsuit Against UAW & Volkswagen, Detroit Free Press, March 13, 2014

Space Needle Owners Violated Federal Labor Law, Administrative Law Judge Finds, KPLU, March 7, 2014

Citizens United Boosts Union Camvassers, Marketplace (American Public Media) in collaboration with PBS/Frontline, Oct. 10, 2012

SELECTED PANELS & PRESENTATIONS

- *Disrupting Precedent?*, presented at
 - University of Washington School of Law, faculty colloquium series, April 2017
 - Rutgers Law Review Symposium on *Resolving the Arbitration Dispute in Today's Legal Landscape*, April 2017
 - St. Louis University School of Law, faculty colloquium series, March 2017
 - University of Alabama School of Law, faculty colloquium series, Nov. 2016
 - University of Chicago, Chicago Legal Forum symposium on Law and the Disruptive Workplace, Nov. 2016
- *Employer Religious Objections & Title VII*, Berkeley Journal of Employment & Labor Law Symposium on *The Future of Discrimination Law: Frameworks, Theory, Practice, & People*, UC Berkeley Law, March 2017
- *Constitutional Avoidance & Labor Law*, Meeting of the Labor Law Group, UCLA, December 2016
- *Towards A Pro Union Supreme Court?*, presented at
 - Colloquium on Scholarship in Employment & Labor Law, Seattle WA, Sept. 2016
 - Law & Society Association Annual Meeting, May 2016
- *Agency Fee Challenges After Friedrichs v. CA Teachers Ass'n*, Annual Conference of the National Center for the Study of Collective Bargaining in Higher Education and the Professions, April 2016

- *The NLRB's New Collier Deferral Standards & Update on Friedrichs v. CA Teachers Ass'n*, 38th Annual Collective Bargaining & Arbitration Conference, Labor & Employment Relations Ass'n, April 2016
- *The Deregulatory First Amendment at Work*, presented at
 - Hot Topics in Contemporary Labor Relations Law (CLE program, Chicago-Kent College of Law), closing plenary speaker, June 2016
 - Colloquium on Scholarship in Employment & Labor Law, Bloomington IN, Sept. 2015
 - Law & Society Association Annual Meeting, May 2015.
- *"A Shot Across the Bow": Politics and the Obama Board*, Emory University School of Law, symposium on The National Labor Relations Board After Eighty Years, April 2015
- *The First Amendment As Threat to Economic Mobility*, Stetson Law, symposium on Inequality, Opportunity, and the Law of the Workplace, March 2015
- *Religious Employers & Labor Law: Bargaining in Good Faith?*, presented at:
 - University of Alabama School of Law, Oct. 2015
 - SJ Quinney College of Law – University of Utah, Sept. 2015
 - University of Wisconsin Law School, Jan. 2015
- *Current Trends in Union Organizing*, Annual Pacific Coast Labor & Employment Law Conference, April 2013, 2015, 2017 (moderator)
- *National Labor Law Trends: Harris v. Quinn*, 38th Annual Collective Bargaining & Arbitration Conference, Labor & Employment Relations Association NW, March 2015
- *Harris v. Quinn: Past, Present & Future*, ABA Section on State & Local Government Bargaining Midwinter Meeting, Jan. 2015 (keynote address)
- *The Corporate Great Awakening*, presented at
 - Law and Society Association, Annual Meeting, June 2014
 - Colloquium on Scholarship in Employment & Labor Law, Sept. 2014
 - Symposium on Zealous Advocacy for Social Change: Transforming an Anti-Labor Environment into a Culture of Civility, West Virginia College of Law, Oct. 2014
- *Citizens United & The First Amendment of Labor Law*, Stetson University College of Law symposium: Taking Stock of *Citizens United*: How the Law Has (and Has Not) Changed Four Years Later, Feb. 2014
- *Meta Rights*, presented at:
 - Washington University School of Law, Nov. 2013
 - Constitutional Law Colloquium, Loyola University Chicago School of Law, Nov. 2013

- Labor & Employment Colloquium, UNLV Boyd School of Law, Sept. 2013
- Young Scholars “Schmooze” with Mark Tushnet at the National Convention of the American Constitution Society, June 2013
- *I Would Prefer Not To*, Law and Society Association, Annual Meeting, June 2013
- *Corporate Political Spending: Disclosure/Disunity/Dystopia?*, Albers School of Business & Economics & Center for Business Ethics, Seattle University, May 2013 (panel member)
- *Collective Action & Race, Gender, & Class in Academia*, Symposium on PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE & CLASS FOR WOMEN IN ACADEMIA, Berkeley Law, March 2013
- *So Closely Intertwined: Labor & Racial Solidarity*, presented at:
 - Interuniversity Research Center on Globalization and Work, *Union Futures, Transformations, Strategies* conference, University of Montreal, Oct. 2012
 - ClassCrits V, University of Wisconsin Law School, Nov. 2012
- *Union Made: Labor’s Litigation for Social Change*, presented at:
 - University of Iowa College of Law, Feb. 2013
 - Law and Society Association, Annual Meeting, June 2012
 - Democracy and the Workplace Symposium, UNLV Boyd School of Law, February 2012
- *2012 ACLU Northwest Civil Liberties Conference*, panel on First Amendment and Protest: A Year After Occupy, Lewis & Clark Law School, Sept. 2012
- *Supreme Court Preview*, Seattle University School of Law, Sept. 2012; 2013; 2014; 2015
- *Teaching for America: Educators’ Free Speech In and Out of the Classroom*, presented at:
 - Toledo Law Review Symposium: Public Sector Labor Law at the Crossroads, University of Toledo College of Law, October 2011
 - Labor and Employment Law Colloquium, Loyola Law School Los Angeles, Southwestern Law School, and UCLA School of Law, Sept. 2011
- *Citizens, United and Citizens United: The Future of Labor Speech Rights?*, presented at:
 - Denver University – Sturm College of Law, April 2012.
 - Constitutional Law Colloquium, Loyola University Chicago School of Law, Nov. 2010
 - Labor & Employment Law Colloquium, Washington University School of Law & St Louis University Law School, September 2010
- *Labor Values are First Amendment Values: Why Union Comprehensive Campaigns are Protected Speech*, presented at:
 - Fellows’ Workshop Series, Georgetown University Law Center, April 2010

- Fourth Annual Employment & Labor Law Scholars' Forum, Seton Hall University School of Law, January 2010

INSTITUTIONAL SERVICE

- Academic Assembly, substitute member (Spring 2016)
- Faculty Development Committee
 - Chair (2014-16)
 - Member (2011-12)
- Curriculum Committee (2012-14)
- Seattle University Law Review, Faculty Advisor (2013-Present)
- Seattle University School of Law chapter of the American Constitution Society, Faculty Advisor (2013-Present)
- National Native American Law Student Association Moot Court Competition, Faculty Coach (2014 & 2015)
- Seattle University Summer Workshop Series, Co-Organizer (2013-Present)
- Supreme Court Term Preview CLE Program, Co-Organizer (2013-2015)
- Judicial Institute for High School Teachers, Presenter (2014, 2015, 2016)

OTHER AFFILIATIONS & ACTIVITIES

- Member, Labor Law Group, Jan. 2017-Present
- Research Fellow, NYU School of Law Center for Labor & Employment Law, Apr. 2017 – Present
- Co-Organizer, Colloquium on Scholarship in Employment & Labor Law, Sept. 2016
- Executive Committee member, AALS Section on Labor Relations and Employment Law, January 2016-present
- Co-Chair, Labor Rights Collaborative Research Network, Law & Society Association, June 2015-present
- JOTWELL, Work Law Section Co-Editor, January 2016-present; Work Law Section Contributor, 2014-present
- Judge, Louis Jackson National Student Writing Competition, 2015, 2016, 2017
- Co-Organizer, *The Thirteenth Amendment Through The Lens of Class & Labor* Conference, Seattle University School of Law, June 2015.