

JAMES WEINSTEIN
Curriculum Vitae

Amelia D. Lewis Professor of Constitutional Law
Sandra Day O'Connor College of Law
Arizona State University
Tempe, AZ 85287-7906
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James.Weinstein@asu.edu

PERSONAL

Date of Birth: February 15, 1953
Place of Birth: Chicago, Illinois
Married to Cynthia M. Stonnington, M.D.

ACADEMIC EMPLOYMENT AND AFFILIATION

Arizona State University College of Law

Amelia D. Lewis Professor, 1998-Present
Professor of Law, 1991-1998
Associate Professor of Law, 1986-1991
Faculty Fellow, Center for the Study of Law, Science and Technology

Cambridge University

Associate Fellow, Centre for Public Law, 2007-Present
Visiting Fellow Commoner, Trinity College and
Visitor, Faculty of Law, July 2006-2007

University of California at Los Angeles

Visiting Professor, Communications Department, Fall 2001

**AREAS OF ACADEMIC
INTEREST**

Constitutional Law, Free Speech, Philosophy of Law
Federal Courts, Civil Procedure, Legal History

PRIVATE PRACTICE

March, 1983 to
June, 1986

Seyfarth, Shaw, Fairweather & Geraldson
Los Angeles, California
(Commercial Litigator)

November, 1980 to
March, 1983

O'Melveny & Myers
Los Angeles, California
(Litigation Department)

AREAS OF PRACTICE

General commercial litigation, including intellectual property, trademark, communications law, antitrust, securities, entertainment law, newspaper libel defense, labor law, and agricultural law

EDUCATION

Legal

University of Pennsylvania, Philadelphia
J.D., Cum Laude, May 1978

Activities: *3rd Year* - Member, Law Review Board of Officers;
 Research and Writing Editor
 2nd Year - Law Review Associate Editor

Awards: Order of the Coif

Undergraduate

University of Pennsylvania, Philadelphia
B.A., Summa Cum Laude, May 1975

Major: Combined program of Medieval History, Medieval Literature
 and Folklore

Awards: Phi Beta Kappa

JUDICIAL CLERKSHIP

Honorable James R. Browning
Chief Judge
United States Court of Appeals for the Ninth Circuit
(1978-80)

PUBLICATIONS

Books

EXTREME SPEECH AND DEMOCRACY (co-edited with Ivan Hare) (Oxford University Press, 2009) (forthcoming)

HATE SPEECH, PORNOGRAPHY AND THE RADICAL ATTACK ON FREE SPEECH DOCTRINE (Westview Press 1999)

Book Chapters

Extreme Speech, Public Order, and Democracy: Lessons from the Masses, in *EXTREME SPEECH AND DEMOCRACY* (I. Hare and J. Weinstein, eds.) (Oxford University Press 2009) (forthcoming)

An Overview of American Free Speech Doctrine and its Application to Extreme Speech, in *EXTREME SPEECH AND DEMOCRACY* (above)

Hate Speech, Viewpoint Neutrality, and the American Concept of Democracy, in *THE BOUNDARIES OF FREEDOM OF EXPRESSION AND ORDER IN A DEMOCRATIC SOCIETY* (T. Hensley, ed.) (Kent State Press 2001)

Entry on Nude Dancing in the *ENCYCLOPEDIA OF THE CONSTITUTION (SUPPLEMENT II)* (Macmillan Reference 2000)

Co-author (with Paul Bender) of section on constitutional law in *LOOKING AT LAW SCHOOL* (S. Gillers, ed.) (Penguin Books/Meridian 4th ed. 1994)

An American's View of the Canadian Hate Speech Decisions, in *FREE EXPRESSION: ESSAYS IN LAW AND PHILOSOPHY* (W. Woluchow, ed.) (Clarendon Press Oxford 1994)

Author of section on freedom of speech issues and editor of section on constitutional causes of action in B. Lindemann & D. Kadue, *SEXUAL HARASSMENT IN THE WORKPLACE* (BNA Books, 1991)

Is Language Choice a Fundamental Right? in *PERSPECTIVES ON OFFICIAL ENGLISH*, (K. Adams & D. Brink, eds.) (Mouton de Gruyter 1990)

Journal Articles

The Dimensions of Constitutional Analysis: A Reply to Professor Hamburger, 101 *Northwestern L.Rev.* 569 (2007) (symposium)

Institutional Review Boards and the Constitution, 101 *NORTHWESTERN L. REV.* 493 (2007) (symposium)

Free Speech Values, Hardcore Pornography and the First Amendment: A Reply to Professor Koppelman, 31 *N.Y.U.L. & Soc. Change* 911 (2007) (symposium)

Democracy, Sex and the First Amendment, 31 *N.Y.U.L. & SOC. CHANGE* 865 (2007)

Fools, Knaves, and the Protection of Commercial Speech: A Response to Professor Redish, 41 *LOY. L.A. L.REV.* 133 (2007) (symposium)

The Federal Common Law Origins of Judicial Jurisdiction: Implications for Modern Doctrine, 90 U. Va. L. Rev. 305 (2004)

Speech Categorization and the Limits of First Amendment Formalism: Lessons from Nike v. Kasky, 54 Case West.Res. L. Rev. 1091 (2004) (symposium)

Database Protection and the First Amendment, 28 DAYTON L. REV. 305 (2003) (symposium)

Campaign Finance Reform and the First Amendment; An Introduction, 34 Ariz. St. U. L. Rev. 1057 (2002) (symposium)

A Brief Introduction to Free Speech Doctrine, 29 ARIZ. ST. L.J. 461 (1997) (symposium)

Free Speech, Abortion Access, and the Problem of Judicial Viewpoint Discrimination, 29 U.C. DAVIS L. REV. 471 (1996) (symposium)

Hate Crime and Punishment, 73 ORE. L. REV. 345 (1994)

First Amendment Challenges to Hate Crime Legislation: Where's the Speech?, CRIMINAL JUSTICE ETHICS, Vol.11, No.2 [Summer/Fall, 1992] pp. 6-20 (symposium)

Some Further Thoughts About "Thought Crimes", CRIMINAL JUSTICE ETHICS, Vol. 11, No. 2 [Summer/Fall 1992] pp. 61-63 (symposium)

The Early American Origins of Territoriality in Judicial Jurisdiction, 37 ST. LOUIS L. REV. 1 (1992)

A Constitutional Roadmap to the Regulation of Campus Hate Speech, 38 WAYNE L. REV. 163 (1992) (symposium)

The Dutch Influence on the Conception of Judicial Jurisdiction in 19th Century America, 38 AMER. J. COMP. LAW 73 (1990)

The Language of Impeachment, 20 ARIZ. ST. L. J. 209 (1988) (symposium)

Book Reviews

In Search of the Constitutional Value of Commercial Speech, reviewing Roger Shiner's FREEDOM OF COMMERCIAL EXPRESSION, First Amendment Center On-Line Book Review, <http://www.firstamendmentcenter.org/faclibrary/bookreview.aspx?id=18&case=> (2004)

Casebook Review, *Combining the Best of Gunther and Sullivan*, reviewing GERALD GUNTHER & KATHLEEN SULLIVAN, CONSTITUTIONAL LAW (13th Ed.), 21 SEATTLE L. REV. 907 (1998)

Review Article, *Taking Liberties with the First Amendment*, reviewing Owen Fiss's *The Irony of Free Speech*, 12 LAW AND PHILOSOPHY 159 (1998)

ACADEMIC PRESENTATIONS (selected)

Central European University, Budapest (talk on hate speech regulation and free speech), May 2007

L'Ecole Nationale de la Judicature, Paris (talk on American free speech doctrine), May 2007

Speaker, Conference on Free Speech and Democracy, Cambridge University, April 2007

Faculty of Law, University College, London (talk on free speech and democracy), March 2007

Speaker, Conference on Commercial Speech, Loyola University, Los Angeles, February 2007

Centre for Public Law, Cambridge University (talk on free speech and democracy), February 2007

Gates Distinguished Lecture, Trinity College, Cambridge, November, 2006 (talk on comparative law of free speech)

University of Athens Law Faculty (talk on American free speech doctrine), October 2006

Speaker, Symposium on Censorship and Institutional Review Boards, Northwestern University School of Law, April 2006

Speaker, Symposium on Problems of Censorship in a New Technological Age, New York University School of Law, April 2006

Distinguished Faculty Lecturer, University of Pittsburgh School of Law, October 2003 (lecturer on free speech theory)

Speaker, Conference on the Constitutionality of Protecting Factual Compilations, University of Dayton Law School, November 2002 (paper on database protection and the First Amendment)

Edward W. Clyde Distinguished Visiting Scholar, University of Utah College of Law, November 2002 (lecture on free speech theory)

Faculty Workshop, Frances Lewis Law Center, Washington & Lee Law School, March 2002 (lecture on free speech theory)

Communications Forum, University of California at Los Angeles, Communications Department, November 2001 (lecture on free speech theory)

Speaker, Symposium on Campaign Finance Reform, Arizona State University College of Law, February 2001

Speaker, Kent State University, 30th Anniversary May 4 Commemoration, May 2000 (paper on hate speech regulation in America and Europe)

The Centre for Public Law, University of Cambridge, The Public Discussion Group, March 2000 (talk comparing American and European regulation of hate speech)

Institute for Advanced Legal Studies, University College, London, March 2000 (same)

Oxford University Civil Liberties Union, November 1999 (talk on American free speech doctrine and regulation of hate speech)

Speaker, Symposium on Hate Speech and Pornography in connection with my appointment as Amelia Lewis Professor of Constitution Law, Arizona State University, November 1999

Conference on Law & the Internet, Arizona State University, November 1997 (lecture on doctrinal background of *Reno v. ACLU*)

Post Graduate Law Students Association, University of Edinburgh, March 1997 (lecture on radical critique of American free speech doctrine)

Speaker, Conference on Free Speech and Community, sponsored by the Arizona Humanities Council and Arizona State University College of Law, February 1997

Speaker, Conference on the Relationship Between Free Speech and Other Constitutional Rights, U.C. Davis Law School, February 1996

Law & Society Annual Meeting, Phoenix AZ, June 1994 (participant on panel on hate speech regulation)

Centre for Criminology, Edinburgh University, Edinburgh, Scotland, May 1993
(lecture on American free speech doctrine)

Northwestern University Law School, Chicago IL., October 1993 (debate on
constitutionality of hate crime legislation)

University of Minnesota Law School, Minneapolis, MN, October 1993 (faculty
seminar on the First Amendment implications of hate crime legislation)

Speaker, Ohio State Humanities Symposium on the First Amendment, The Ohio
State University, Columbus Ohio, October 1991

Speaker, Conference on Freedom of Expression presented by the Guelph -
McMaster Doctoral Programme in Philosophy, McMaster University, Hamilton,
Ontario, Canada, May 1990

LAW SCHOOL SERVICE (selected)

Chair, Appointments Committee, 2007-08, 1994-95

Chair, Lateral and Visiting Appointments Committee, 1998-99

Chair, Minority Recruitment Task Group, 1993-94

Chair, Diversity Task Force, 1994-95

Chair, Tenure and Promotion Committee, 2001-02, 2003-04, 2004-05

ACADEMIC AWARDS

Maricopa County Bar Association, Faculty Member of the Year, 2003

Centennial Professorship Award 2001 Finalist, Associated Students of Arizona
State University

PRO BONO LITIGATION (selected)

Christian Legal Society v. Crow, U.S. Dist.Ct. Ariz. 2006 (advisor to Arizona State
University in lawsuit involving denial of official recognition to discriminatory religious
organization)

Standhardt v. Superior Court, 2004 Ariz. Lexis 62 (of counsel on petition for review
in case challenging Arizona law barring same sex marriage)

Mullally v. City of Los Angeles, 2002 U.S. App. Lexis 22535 (9th Cir. 2002) (counsel

for whistle blower who revealed police coverup of domestic abuse by Los Angeles Police Department)

Children of the Rosary v. City of Phoenix, 154 F.3d 972 (9th Cir. 1998) (counsel for plaintiff in First Amendment challenge to Phoenix policy limiting advertisement on sides of city buses to commercial speech)

Sabelko v. City of Phoenix, 120 F.3d 161 (9th Cir. 1997) (counsel for plaintiff in First Amendment challenge to Phoenix “bubble” ordinance regulating demonstrations at health care facilities)

Wisconsin v. Mitchell, 508 U.S. 476 (1993) (advised Wisconsin Department of Justice on briefing and argument in defense of constitutional challenge to hate crime law)

PROFESSIONAL MEMBERSHIP

American Law Institute

State Bar of California (inactive)

United States Court of Appeals for the Ninth Circuit

United States District Court: Central, Eastern, and Southern Districts of California

United States District Court for the District of Arizona

COMMUNITY ACTIVITIES (selected)

- 2007-Present - TransparentDemocracy.org Board of Directors
- 1987 to 2003 - Arizona Civil Liberties Union Legal Panel
- 1993 to 1996 - Master, Sandra Day O'Connor Inn of Court
- 1994 to 1995 - Arizona Civil Liberties Union Board of Directors
- 1980 to 1985 - Lawyer in the Classroom Program and Law Day Panelist, Constitutional Rights Foundation
- 1982 to 1984 - Consumer Advocacy Committee, State Bar of California
- 1981 to 1982 - Volunteer Attorney, Public Counsel (indigent civil /representation)
- 1980 to 1981 - Criminal Indigent Defense Panel for the Central District of California (indigent criminal representation)

REFERENCES

Kathleen Sullivan
Richard E. Lang Professor of Law
and Morrison Professor of Law
Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305-8610

Eric Barendt
Goodman Professor of Media Law
Department of Laws
University of College London
Bentham House - Endsleigh Gardens
London WC1H 0EG

Sir Neil McCormick
Professor of Law
The University of Edinburgh
Old College South Bridge
Edinburgh EH8 9YL

Jeffrie Murphy
Regents' Professor of Law & Philosophy &
Religious Studies
Arizona State University College of Law
Box 877906
Tempe, AZ 85287-7906