

DAVID FREEMAN ENGSTROM

Stanford Law School
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PROFESSIONAL EXPERIENCE

Stanford Law School. *Professor*, 2014-present. *Associate Professor*, 2012-2014. *Assistant Professor*, 2009-2012.

Teaching and research focus on the institutional design of litigation and regulatory regimes, as well as topics in administrative law, civil procedure, civil rights, constitutional federalism, and law and education.

Kellogg, Huber, Hansen, Todd, Evans & Figel. *Associate*, 2006-2009.

Represented clients before the U.S. Supreme Court, U.S. Courts of Appeals, and federal and state trial courts and administrative agencies in various civil and criminal matters.

Yale Law School. *John M. Olin Fellow in Law, Economics, and Public Policy*, 2004-2005.

Wilmer, Cutler & Pickering, Washington, D.C. office. *Part-Time Attorney*, 2003-2004.

Georgetown University Law Center. *Visiting Researcher*, 2003-2004.

Hon. Diane P. Wood, United States Court of Appeals for the Seventh Circuit. *Law Clerk*, 2002-2003.

EDUCATION

Yale University, Ph.D. in Political Science, with distinction, 2005

- Dissertation: “The Lost Origins of American Fair Employment Law: State Fair Employment Practices Bureaus and the Politics of Regulatory Design, 1943-1964” (Committee: Susan Rose-Ackerman, Gregory Huber, Jerry Mashaw)
- A. Bartlett Giamatti Award for excellence in graduate writing
- Teaching Fellow, *Constitutional Law*, Department of Political Science, Spring 1998

Stanford University, J.D. with distinction, 2002

- Order of the Coif
- *Stanford Law Review*, 2000-2002; Articles Editor, 2001-2002
- Teaching Assistant, *American National Government*, Department of Political Science, Winter 2000, 2001
- Summer Associate, Wilmer, Cutler & Pickering (2002); Williams & Connolly (2001); O’Melveny & Meyers (2001) (all Washington, D.C. offices)
- Legal Intern, U.S. Department of Justice, Civil Rights Division, Summer 2000

Oxford University, M.Sc. in Economic and Social History, with distinction, 1996

- Fulbright Scholar

Dartmouth College, A.B. in History, *magna cum laude* and Phi Beta Kappa, 1993

OTHER POSITIONS HELD

William and Flora Hewlett Foundation. *Consultant*, 2000-2002.

Advised Foundation on the creation of education, family, and community development programs.

Edward Zigler Center for Child Development & Social Policy. *Director, Comer-Zigler Evaluation*, 1997-1999.

Directed evaluation of a pilot reform initiative in five inner-city schools in Norfolk, Virginia.

Mississippi Teacher Corps. *English and French Teacher, Football Coach*, 1993-1995.

Taught and coached at a public high school in rural Mississippi.

SCHOLARLY PUBLICATIONS

Civil Bounty Regimes, in RESEARCH HANDBOOK ON CORPORATE CRIMINAL ENFORCEMENT AND FINANCIAL MISDEALING (Jennifer Arlen ed., Edward Elgar Press, forthcoming 2015)

Private Enforcement's Pathways: Lessons from Qui Tam Litigation, 114 COLUM. L. REV. 1913 (2014)

The Civil Rights Act at Fifty: Past, Present, Future, 66 STAN. L. REV. 1195 (2014)

Whither Whistleblowing? Bounty Regimes, Regulatory Context, and the Challenge of Optimal Design, 15 THEORETICAL INQUIRIES L. 605 (2014)

Agencies as Litigation Gatekeepers, 123 YALE L.J. 616 (2013)

Public Regulation of Private Enforcement: Empirical Analysis of DOJ Oversight of Qui Tam Litigation Under the False Claims Act, 107 NW. U. L. REV. 1689 (2013)

The Twiqbal Puzzle and Empirical Study of Civil Procedure, 65 STAN. L. REV. 1203 (2013)

Corralling Capture, 36 HARV. J. L. & PUB. POL'Y 31 (2013)

Harnessing the Private Attorney General: Evidence from Qui Tam Litigation, 112 COLUM. L. REV. 1244 (2012)

The Lost Origins of American Fair Employment Law: Regulatory Choice and the Making of Modern Civil Rights, 1943-72, 63 STAN. L. REV. 1071 (2011) (awarded the Cromwell Article Prize by the American Society for Legal History)

The Taft Proposal of 1946 and the (Non-)Making of American Fair Employment Law, 9 GREEN BAG 2D 181 (2006)

Drawing Lines Between Chevron and Pennhurst: A Functional Analysis of the Spending Power, Federalism, and the Administrative State, 82 TEX. L. REV. 1197 (2004)

Civil Rights Paradox? Lawyers and Educational Equity, 10 J. L. & POL'Y 387 (2002)

The 1996 Welfare Law: Key Elements and Reauthorization Issues Affecting Children, 12 THE FUTURE OF CHILDREN 27 (Princeton-Brookings 2002) (with Mark H. Greenberg, *et al.*)

Post-Brown Politics, Whole-School Reform, and the Case of Norfolk, Virginia, 12 STAN. L. & POL'Y REV. 163 (2001)

The Economic Determinants of Ethnic Segregation in Post-War Britain, 12 OXFORD U. DISCUSSION PAPERS ECON. & SOC. HIST. 1 (1997), available at <http://www.nuff.ox.ac.uk/economics/history/paper12/12paper.pdf>

SCHOLARLY WORKS IN PROGRESS

FORGING FAIR EMPLOYMENT: INSTITUTIONAL DESIGN AND THE MAKING OF MODERN CIVIL RIGHTS (book manuscript)

“Not Merely There To Help the Men”: St. John v. General Motors Corp. and Equal Pay Litigation at the Dawn of American Fair Employment Law

Rights, Redistribution, and the Political Economy of Disability Discrimination Laws (with David Hausman)

A Theory of Adjudication and Increasing Returns

Rationalizing Rights: Political Control of Litigation (invited contribution to edited volume, THE RIGHTS REVOLUTION REVISITED)

LITIGATION WRITINGS

Brief for Civil Procedure and Securities Law Professors as *Amici Curiae* in Support of Petition for a Writ of Certiorari, *Public Employees’ Ret. Sys. of Mississippi v. IndyMac MBS, Inc., et al.*, U.S. Supreme Court, No. 13-640 (Lead *Amicus Curiae* and Counsel of Record) (cert stage) (filed December 26, 2013; *certiorari* granted March 10, 2014)

Brief for Civil Procedure and Securities Law Professors as *Amici Curiae* in Support of Petitioner, *Public Employees’ Ret. Sys. of Mississippi v. IndyMac MBS, Inc., et al.*, U.S. Supreme Court, No. 13-640 (Lead *Amicus Curiae* and Counsel of Record) (merits stage) (filed May 28, 2014)

OTHER WRITINGS

Guest Post: *Class Certification Timing and the IndyMac MBS Case in the Supreme Court*, THE D&O DIARY (July 8, 2014)

Civil Rights Rollback: The Significance of Walmart v. Dukes, BOSTON REVIEW (June 23, 2011)

Why Health Care Ruling Not a Game-ENDER, CNN Opinion (February 2, 2011)

INVITED PRESENTATIONS

Presenter, *Civil Bounty Regimes*, and Panelist (“Fraud, Regulation, and the Whistleblower”), Law and Society Association Annual Meeting, Seattle, WA (scheduled May 30, 2015)

Presenter, *Civil Bounty Regimes*, and Panelist (“Private Investigation of Public Wrongs”), Conference on Corporate Crime and Financial Misdealing, NYU School of Law (April 18, 2015)

“Not Merely There To Help the Men”: St. John v. General Motors Corp. and Equal Pay Litigation at the Dawn of American Fair Employment Law in the 1940s, UC Hastings College of the Law Faculty Workshop (March 24, 2015)

Paper Commentator, Richard Epstein, *The Role of Guidances in Modern Administrative Procedure*, Hoover Conference on Executive Power & Discretion, Stanford University (March 6, 2015)

Panelist (“Private Justice to Enforce the Foreign Corrupt Practices Act”), Symposium: Private Justice in Public Enforcement, American Criminal Law Review, Georgetown University Law Center (February 26, 2015)

“Not Merely There To Help the Men”: St. John v. General Motors Corp. and Equal Pay Litigation at the Dawn of

American Fair Employment Law in the 1940s, Yale Legal History Forum (February 24, 2015)

Private Enforcement's Pathways: Lessons from Qui Tam Litigation, Penn Law Civil Procedure Workshop (September 23, 2014)

Presenter (“Litigating *Qui Tam* Cases: Overview, Trends”), The Inner Circle of Advocates (annual conference of nation’s top plaintiff trial attorneys) (August 13, 2014)

Paper Commentator, Urska Velikonja, *Public Compensation for Private Harm: Evidence from the SEC’s Fair Fund Distribution*, Stanford/Harvard/Yale Junior Faculty Forum (scheduled June 27, 2014)

Keynote Presenter (“*Qui Tam* Healthcare Litigation: Overview, Trends”), The Ban on Off-Label Promotion and the False Claims Act: Analyzing a Decentralized, Public-Private Enforcement Regime, Seton Hall Law School (April 28, 2014)

Presenter (“Empirical Analysis of *Qui Tam*”) and Panelist (“Deterring Corporate Crime: Effective Principles for Corporate Enforcement”), NYU School of Law (April 5, 2014)

Guest Lecturer, Corporate Crime and Financial Misdealing: Legal and Policy Analysis Seminar (Professor Jennifer Arlen), NYU School of Law (April 3, 2014)

Private Enforcement's Pathways: Lessons from Qui Tam Litigation, Columbia Law School Faculty Workshop (April 1, 2014)

Private Enforcement's Pathways: Lessons from Qui Tam Litigation, Regulatory and Administrative Law Colloquium, University of Illinois College of Law (March 10, 2014)

Panel Moderator (“The Changing Tides of the Enforcement of the Civil Rights Act”), Stanford Law Review/Stanford Journal of Civil Rights & Civil Liberties Symposium: The Civil Rights Act at Fifty (January 25, 2014)

Private Enforcement's Pathways: Lessons from Qui Tam Litigation, Vanderbilt Law School Faculty Workshop (November 20, 2013)

The Twiqbal Puzzle and Empirical Study of Civil Procedure, Bay Area Civil Procedure Forum (October 15, 2013)

Whither Whistleblowing? Bounty Regimes, Regulatory Context, and the Challenge of Optimal Design, Stanford Law School Faculty Workshop (July 24, 2013)

Whither Whistleblowing? Bounty Regimes, Regulatory Context, and the Challenge of Optimal Design, International Conference on New Approaches for a Safer and Healthier Society, The Buchmann Faculty of Law, Tel Aviv University (May 22, 2013)

Keynote Presenter (“Harnessing the Private Attorney General: Empirical Study of *Qui Tam* Litigation”), *Qui Tam* Conference, CLE International, San Francisco, CA (April 19, 2013)

Agencies as Litigation Gatekeepers, Stanford Law School Faculty Workshop (January 16, 2013)

Paper Commentator, Rebecca Morton & Stephan Tontrup, *Process Utility, Participation, and the Value of Democracy to Humans*, Conference on Empirical Legal Studies, Stanford Law School (November 10, 2012)

Public Regulation of Private Enforcement: Empirical Analysis of DOJ Oversight of Qui Tam Litigation Under the False Claims Act, Public Law Workshop, University of Minnesota Law School (October 18, 2012)

Paper Commentator, Jed Stiglitz, *Agency Responses to the Reformation of Administrative Law*, Political Economy and Public Law Conference, University of Virginia Law School (May 30, 2012)

Public Regulation of Private Enforcement: Empirical Analysis of DOJ Oversight of Qui Tam Litigation Under the False Claims Act, Administrative Law Roundtable, Columbia Law School (April 13, 2012)

Panelist (“Congress v. Agencies: Balancing Checks and Efficiency: Gridlock, Organized Interests, and Regulatory Capture”), The Federalist Society National Student Symposium, Stanford Law School (March 3, 2012)

Harnessing the Private Attorney General: Evidence from Qui Tam Litigation, University of Virginia Law School Faculty Workshop (February 17, 2012)

Harnessing the Private Attorney General: Evidence from Qui Tam Litigation, Georgetown University Law Center Faculty Workshop (February 16, 2012)

Harnessing the Private Attorney General: Evidence from Qui Tam Litigation, Bay Area Civil Procedure Forum (February 7, 2011)

Harnessing the Private Attorney General: Evidence from Qui Tam Litigation, NYU Constitutional Theory Colloquium (November 21, 2011)

Public Regulation of Private Enforcement: Empirical Analysis of DOJ Oversight of Qui Tam Litigation Under the False Claims Act, Conference on Empirical Legal Studies, Northwestern University School of Law (November 5, 2011)

Harnessing the Private Attorney General: Evidence from Qui Tam Litigation, Stanford Law School Faculty Workshop (October 12, 2011)

Public Regulation of Private Enforcement: Empirical Analysis of DOJ Oversight of Qui Tam Litigation Under the False Claims Act, Political Economy and Public Law Conference, Harvard Law School (June 6, 2011)

Moderator (“A Debate over Constitutional Interpretation with Pamela Karlan and Nicholas Rosenkranz”), American Constitution Society, Stanford Law School (November 15, 2010)

The Lost Origins of American Fair Employment Law: Regulatory Choice and the Making of Modern Civil Rights, 1943-72, Georgetown University Law Center Faculty Workshop (October 21, 2010)

Paper Commentator, Eric Biber, *Officious Intermeddlers or Citizen Experts? Petitions and Public Production of Information in Environmental Law*, Political Economy and Public Law Conference, Stanford Law School (June 5, 2010)

PROFESSIONAL MEMBERSHIP AND SERVICE

Member, American Political Science Association, Society for Empirical Legal Studies, American Society for Legal History

Referee, *Journal of Legal Studies*, *Law & Social Inquiry*, *Harvard Law Review*, *Stanford Law Review*, *Stanford Journal of Complex Litigation*, *Law and History Review*, *Journal of Law and Courts*, *Oxford University Press*, *Conference on Empirical Legal Studies*, *Stanford/Harvard/Yale Junior Faculty Forum*

Admitted, Maryland and District of Columbia Bars

Admitted, U.S. Supreme Court, U.S. Courts of Appeals for the First and Seventh Circuits

STANFORD LAW SCHOOL SERVICE

Committees:

Chair, Law School Faculty Workshops (2013-present)

Member, Clerkship Committee (2011-present)
Member, Public Policy/MPP Committee (2010-2013)
Member, Teaching Prospects Committee (2009-2011)
Member, Student Research/Conferences Committee (2009-2010)

Other:

Program Committee Member, 7th Annual Conference on Empirical Legal Studies, Stanford Law School (2012)

Faculty Supervisor, Pilot Policy Lab Practicum on California Labor and Employment Rights (2010-2011) (with Alison Morantz)

Faculty Advisor, Stanford Law Review and Stanford Journal of Civil Rights & Civil Liberties Symposium, “The Civil Rights Act at Fifty” (January 24-25, 2014)

Faculty Advisor, Stanford Program in International Legal Studies (SPILS) (Advisees: Matthieu Bonvoisin, 2014-2015; Abhinav Chandrachud, 2011-2012; Rolando Garcia Miron, 2012-2013 – latter two promoted to JSD program)

Stanford Faculty Liaison & Executive Committee Member, American Inns of Court, San Jose Chapter (2009-2013)

Faculty Mentor, Stanford Law Association 1L Mentorship Program (2009-present)

STANFORD UNIVERSITY AND RELATED SERVICE

Member, Board on Judicial Affairs (2013-present)
Faculty Liaison, Stanford in Government Program (2009-2011)
Board Member, Stanford Campus Recreation Association (2010-2012)

April 20, 2015