

JAMES WEINSTEIN
Curriculum Vitae

Amelia D. Lewis Professor of Constitutional Law
Sandra Day O'Connor College of Law
Arizona State University
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PERSONAL

Date of Birth: February 15, 1953
Place of Birth: Chicago, Illinois

ACADEMIC EMPLOYMENT AND AFFILIATION

Arizona State University College of Law

Amelia D. Lewis Professor of Constitutional Law, 1998-Present
Professor of Law, 1991-1998
Associate Professor of Law, 1986-1991
Faculty Fellow, Center for Law, Science & Innovation

Cambridge University

Associate Fellow, Centre for Public Law, 2007-Present
Visiting Fellow, King's College, Easter Term 2011
Visiting Fellow Commoner, Trinity College and
Visitor, Faculty of Law, 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

1983 -1986	Seyfarth, Shaw, Fairweather & Geraldson Los Angeles, California (Commercial Litigator)
1980 -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) (paperback edition 2010)

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

Book Chapters

The Story of Masses Publishing Co. v. Patten: Judge Learned Hand, First Amendment Prophet, in *FIRST AMENDMENT STORIES* (R. Garnett and A. Koppelman, eds.) (Foundation Press 2011)

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)

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 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

Participatory Democracy as the Basis of Free Speech Doctrine: A Reply, 97 Va. L. Rev. 633 (2011) (symposium)

Participatory Democracy as the Central Value of American Free Speech Doctrine, 97 Va. L. Rev. 491 (2011) (symposium)

Democracy, Individual Rights and the Regulation of Science, 15 Sci. & Eng. Ethics 407 (2009) (symposium).

Free Speech and Democracy, 20 *Entertainment Law Review* 287 (2009)

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) (symposium)

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.J. 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?, 11 Criminal Justice Ethics, No.2, 6-20 (1992) (symposium)

Some Further Thoughts about "Thought Crimes", 11 Criminal Justice Ethics, No. 2, 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 BookReview, <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)

Politea, London, England July 2011 (talk on the state of free speech in the UK)

Centre for Public Law Discussion Group, University of Cambridge, June 2011 (talk on Holocaust denial and free speech)

King's College, Cambridge, May 2011 (talk comparing free speech in UK and US)

Conference on Genocide Denial and the Law, University of Paris I Pantheon-Sorbonne, May, 2011 (speaker)

Symposium on Free Speech, University of Virginia, October, 2010 (principal speaker with Robert Post)

Conference on Free Speech: Old Principles, New Circumstances, University of Oxford, June, 2010 (principal speaker with Jeremy Waldron and Agnes Calamard)

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

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

Conference on Free Speech and Democracy, University of Cambridge, April 2007 (speaker)

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

Conference on Commercial Speech, Loyola University, Los Angeles, February 2007 (speaker)

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

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

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

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 (speaker)

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

Conference on the Constitutionality of Protecting Factual Compilations, University of Dayton Law School, November 2002 (speaker)

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)

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)

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

Conference on Law & the Internet, Arizona State University, November 1997 (speaker)

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

Conference on Free Speech and Community, February 1997 (speaker)

Conference on the Relationship between Free Speech and Other Constitutional Rights, U.C. Davis Law School, February 1996 (speaker)

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

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

Northwestern University Law School, October 1993 (debate with Martin Redish on constitutionality of hate crime legislation)

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

Symposium on the First Amendment, The Ohio State University, October 1991 (speaker)

Conference on Freedom of Expression, McMaster University, May 1990 (speaker)

LAW SCHOOL SERVICE (selected)

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

Chair, Lateral and Visiting Appointments Committee, 1998-99

Chair, Diversity Task Force, 1994-95

Chair, Minority Recruitment Task Group, 1993-94

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 whistleblower 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)

- Dec. 2009 - Speaker, Annual Meeting, Council on Government Ethics Laws
- 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 representation)
- 1980 to 1981 - Criminal Indigent Defense Panel for the Central District of California

REFERENCES

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

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

Kathleen Sullivan
Stanley Morrison Professor of Law
Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305-8610