

MICHAEL J. YELNOSKY  
401 254-4607; myelnosky@rwu.edu

TEACHING and ADMINISTRATIVE EXPERIENCE

**Roger Williams University School of Law**, 1993-Present Professor of Law (2002–present)  
Dean (2014-2020)  
Associate Dean for Academic Affairs (2004-2008) Distinguished Service Professor (2011-2013)

**Seton Hall University School of Law**  
Visiting Associate Professor, 1998-1999  
Selected by Students as “Adjunct Faculty Member of Year”

**Chicago-Kent College of Law/IIT**  
Visiting Assistant Professor, 1992-1993

**Villanova University School of Law**  
Visiting Instructor, 1990-1992

FELLOWSHIP

*New York University School of Law*  
Research Fellow and Visiting Scholar  
Center for Labor and Employment Law, 1997-1998

EDUCATION

*University of Pennsylvania Law School*

J.D., *cum laude*, 1987

*Law Review* Staff, 1985-86

Comment, *Business Inviters' Duty to Protect Invitees from Criminal Acts*, 134 U. PA. L. REV. 883 (1986).

Block Award Recipient -- Outstanding Work in Wills and Trusts

Distinguished Performance -- Labor Arbitration, Employment Discrimination, Wills and Trusts

*University of Vermont*

B.S., *magna cum laude*, 1982

## PUBLICATIONS

*Racial Preferences in Employment After Students for Fair Admissions v. Harvard*, 112 GEO. L.J. ONLINE 75 (2024) (<https://www.law.georgetown.edu/georgetown-law-journal/submit/glj-online/glj-online-vol-112/racial-preferences-in-employment-after-students-for-fair-admissions-v-harvard/>).

*These Were the Worst of Times, These Were the Best of Times?*, Fall 22 THE CHRONICLE 43 (National Academy of Arbitrators Quarterly)

*Labor Law Illiteracy: Epic Systems Corp. v. Lewis and Janus v. AFSCME*, 24 ROGER WILLIAMS U.L. REV. 104 (2019)

*DIRECTV, Inc. v. Imburgia and the Continued Ascendance of Federal Common Law: Class-Action Waivers and Mandatory Arbitration Under the Federal Arbitration Act*, 22 ROGER WILLIAMS U.L. REV. 287 (2017)

*Harris v. Quinn: What We Talk About When We Talk About Right-To-Work Laws*, 20 ROGER WILLIAMS U.L. REV. 119 (2015)

*“Thoughts” About Dean David Logan*, 19 ROGER WILLIAMS U.L. REV. 619 (2014)(with Diana Hassel, Andrew Horwitz, and David Zlotnick)

*Who Rates Prospective Federal Judges for the American Bar Association?*, 19 ROGER WILLIAMS U.L. REV. 91 (2014)

*Fully Federalizing the Federal Arbitration Act*, 93 OR. L. REV. 729 (2012)

*Employment Testers Revisited*, 62 NYU ANN. CONF. ON LAB. 685 (2011)

*The Impact of “Merit Selection” On the Characteristics of Rhode Island Judges*, 15 ROGER WILLIAMS U.L. REV. 649 (2010) (symposium on “Judicial Selection in Rhode Island”)

*What Do Unions Do About Appearance Codes?*, 14 DUKE J. GENDER L. & POL’Y 521 (2007) (symposium on “Makeup, Identity Performance, and Discrimination”)

3 NYU SELECTED ESSAYS ON LABOR AND EMPLOYMENT LAW: BEHAVIORAL ANALYSES OF WORKPLACE DISCRIMINATION (edited with Mitu Gulati 2007)

*Ten Years (or so) After Gilmer: Arbitration of Employment Law Claims under the Federal Arbitration Act and the Role of Rhode Island Law*, 9 ROGER WILLIAMS U.L. REV. 499 (2004) (10<sup>th</sup> Anniversary Edition)

*Mediation?*, 53 NYU ANN. CONF. ON LAB. 901 (2004)

*The Prevention Justification for Affirmative Action*, 64 OHIO ST. L.J. 1385 (2003)  
2 NYU SELECTED ESSAYS ON LABOR AND EMPLOYMENT LAW (edited with David Sherwyn, 2003)

NYU WORKING PAPERS ON LABOR AND EMPLOYMENT LAW: 1998-1999 (edited, 2001)

*Title VII, Mediation, and Collective Action*, 1999 U. ILL. L. REV. 583

*What Does "Testing" Tell Us About the Incidence of Discrimination in Housing Markets?* 29 SETON HALL L. REV. 1488 (1999) (symposium on "Housing and Hope: An Agenda for Reform")

*The At-Will Rule and an Employer's Duty to Investigate and Remedy Workplace Harassment: A Reasonable Regulatory Approach?*, 51 NYU ANN. CONF. ON LAB. 467 (1999)

*Whither Weber?*, 4 ROGER WILLIAMS U.L. REV. 205 (1998) (symposium on *Board of Education v. Taxman*)

*If You Write It, (S)He Will Come: Judicial Opinions, Metaphors, Baseball, and "The Sex Stuff"*, 28 CONN. L. REV. 815 (1996)

*Rhode Island's Judicial Nominating Commission: Can "Reform" Become Reality?*, 1 ROGER WILLIAMS U.L. REV. 87 (1996)

*Using Mediation to Resolve Equal Employment Opportunity Commission Discrimination Charges*, 1995 WILEY EMPLOYMENT LAW UPDATE 21

*Salvaging the Opportunity: A Response to Professor Clark*, 28 U. MICH. J. L. REF. 151 (1994)

*Filling An Enforcement Void: Using Testers to Uncover Discrimination In Hiring for Lower-Skilled, Entry-Level Jobs*, 26 U. MICH. J.L. REF. 403 (1993)

### SELECTED LECTURES AND PRESENTATIONS

"The Future of DEI, Disparate Impact, and EEO 11246 After Students for Fair Admissions v. Harvard/UNC," NYU Law 76<sup>th</sup> Annual Conference on Labor and Employment Law (May 2024)

"DEIB and Affirmative Action Programs After SFFA," University of Rhode Island/RWU Law 36<sup>th</sup> Annual Labor and Employment Law Conference (April 2024) (moderator and panelist)

"The Future of Affirmative Action: What's at Stake?," Diversity and Inclusion Professionals (July 2023)(panelist)

"These Were the Worst of Times, These Were the Best of Times?," University of Rhode Island 22<sup>nd</sup> Annual Labor Arbitration Conference (November 2021) (keynote address)

“The First Step Act’s Sentencing Reforms: How Will Increased Judicial Independence Further the Basic Aims of Fundamental Fairness in Sentencing?”, United States District Court for the District of Rhode Island Conference on Independence & The Courts (October 2019) (moderator)

“Traversing the Employment Litigation Landscape in the #MeToo Era,” American College of Trial Lawyers, New England Regional Meeting (June 2018)

“Why GOOD Guys – Guys Overcoming Obstacles to Diversity – Are So Important,” Rhode Island Bar Association, Annual Meeting (June 2018)

Justice Gorsuch and *Chevron* Deference,” 54<sup>th</sup> Federal Administrative Law Judges Conference Annual Meeting (September 2017)

“Prelegal Education and Admission to Law School – Creating a Unified Social Media Campaign,” AALS Annual Meeting (January 2017)

“The Role of the ABA Standing Committee on the Federal Judiciary,” Federal Bar Association Annual Meeting and Convention (September 2014)

“The Future of Affirmative Action Under Title VII,” 67<sup>th</sup> Annual Conference on Labor, New York University School of Law (June 2014)

“How Do Federal Judges Decide Cases?,” United States District Court for the District of Rhode Island Conference, (October 2013) (moderator)

“Section 302 of the LMRA and Neutrality Agreements,” Labor and Employment Law Roundtable, Cornell University School of Hotel Administration, Center for Hospitality Research (May 2012)

“*Nicastro* and *Goodyear*: New Developments in Personal Jurisdiction,” United States District Court for the District of Rhode Island Conference (October 2011)

“Should Employment Law Claims Continue to be Arbitrated?,” Southeastern Association of Law Schools Annual Meeting (August 2011)

“The Politics and Process of Judicial Confirmations,” American Constitution Society and Common Cause Rhode Island, The University Club of Providence, RI (November 2010) (moderator and program organizer)

“The Impact of “Merit Selection” On the Characteristics of Rhode Island Judges, Roger Williams University School of Law Symposium on Rhode Island’s 15-Year Experience with Judicial Merit Selection (November 2009) (program organizer)

“Rhode Island’s Merit Selection System: Strengths and Weaknesses,” University Symposia Program on Judicial Selection, United States District Court for the District of Rhode Island (September 2009)

“Testers Revisited,” 62nd Annual Conference on Labor, NYU School of Law (June 2009)

“Unconscious Discrimination: The Evidence,” Employment Law Program for Federal Judges, NYU School of Law (March 2009 & March 2008)

“What Do Unions Do About Appearance Codes?,” Symposium on Makeup, Identity Performance, and Discrimination, Duke Law School (October 2006)

“Employment Discrimination Update,” Annual Meeting, Rhode Island Bar Association (June 2006)

“Arbitration of Statutory Employment Claims,” Annual Meeting, Rhode Island Bar Association (June 2005)

“Developments in the Law of Affirmative Action,” First Circuit Judicial Conference (June 2005)

“Employment Discrimination Update,” Annual Meeting, Rhode Island Bar Association (June 2004)

“The Prevention Justification for Affirmative Action,” Harvard Law School Corporate Misconduct Colloquium (March 2004)

“Civil Rights Update: The University of Michigan Affirmative Action Cases,” Annual Meeting, Rhode Island Bar Association (June 2003)

“Mediation v. Arbitration: How Should Parties Resolve Discrimination Claims?,” Labor and Employment Law Roundtable, Cornell University School of Hotel Administration, Center for Hospitality Research (May 2003)

“The Prevention Justification for Affirmative Action,” NYU School of Law Center for Labor and Employment Law Workshop (Feb. 2003)

“Arbitration of Discrimination Claims: Is It Possible to Arbitrate Discrimination Claims in the Union Environment?,” The 5<sup>th</sup> Annual Hospitality Law Institute (October 2002) (program moderator)

“Employment Discrimination Update,” Annual Meeting, Rhode Island Bar Association (June 2002)

“The Prevention Justification for Affirmative Action,” NYU School of Law Center for Labor and Employment Law Conference on Behavioral Analyses of Workplace Discrimination (April 2002) (presenter and conference organizer)

“Recent Developments Under the Americans with Disabilities Act,” Continuing Legal Education Program, Roger Williams University (February 2002)

“Employment Discrimination Update,” Annual Meeting, Rhode Island Bar Association (June 2001 & June 2000)

“Mediation?,” 53<sup>rd</sup> Annual Conference on Labor, New York University School of Law (May 2000)  
“The At-Will Rule and Sexual Harassment Investigations,” 11<sup>th</sup> Annual Conference, Labor Research Center, University of Rhode Island (April 2000)

“What Does “Testing” Tell Us About the Incidence of Discrimination in Housing Markets?,” First Monday, Feinstein Institute for Legal Service, Roger Williams University School of Law (October 1999)

“A Debate on Affirmative Action” with Roger Pilon of the CATO Institute, Federalist Society, Roger Williams University School of Law (September 1999)

“Justifications for Affirmative Action and Title VII Doctrine,” Cornell University School of Hotel Administration (September 1999)

“Survey of the Current Law of Individual Employee Rights: Square Pegs in Round Holes?,” 52<sup>nd</sup> Annual Conference on Labor, New York University School of Law (May 1999) (moderator)

“Title VII, Mediation, and Collective Action,” Legal Theory Workshop, Seton Hall University School of Law (March 1999)

“Developing Issues in the Use of Testers in Employment Discrimination Research and Litigation,” NYU School of Law, Center for Labor and Employment Law (February 1999) (program organizer and moderator)

“What Does “Testing” Tell Us About the Incidence of Discrimination in Housing Markets?,” Seton Hall University Law Review Symposium – “Housing and Hope: An Agenda for Reform” (November 1998)

“The At-Will Rule and an Employer’s Duty to Investigate and Remedy Workplace Harassment: A Reasonable Regulatory Approach?,” 51<sup>st</sup> Annual Conference on Labor, NYU School of Law (May 1998)

“Affirmative Action: The Diversity Justification,” 8<sup>th</sup> Annual Meeting, Labor Research Center, University of Rhode Island (April 1997)

“Recent Developments in EEO Law,” Annual Meeting, Rhode Island Bar Association (June 1997 & June 1995)

## SELECTED OP-ED ARTICLES

*Benefiting From White Affirmative Action*, PROVIDENCE J., June 18, 2023, at 27A.

*Chief Justice John Roberts's Strike Zone*, PROVIDENCE J., June 27, 2021, at <https://www.providencejournal.com/story/opinion/columns/2021/06/27/opinion-yelnosky-chief-justice-john-roberts-strike-zone/7779133002/>

*Rhode Island Improves its Judicial Appointments*, PROVIDENCE J., June 17, 2016, at 2016 WLNR 18640099.

*The Insider's Club for Judges*, WASH. POST, Aug. 16, 2013, at A15

*Pension Law May be Unconstitutional*, PROVIDENCE J., Dec. 23, 2012, at A12

*Pertinent Questions, Post-Curran*, PROVIDENCE J.-BULL., Feb. 13, 1997, at A15

*A NonCynical Look at Judicial Reform*, PROVIDENCE J.-BULL., March 21, 1995, at A10

## COMMUNITY SERVICE

Federal Bar Association, Rhode Island Chapter  
Governing Board, 2014-2016

Labor and Employment Relations Association - Rhode Island Chapter  
President, 2008-2011

Common Cause of Rhode Island  
Governing Board: 1994-1996; Chair, Judicial Selection Committee: 1994-1997

## AWARDS AND OTHER RECOGNITION

Justice Assistance  
*2020 Neil J. Houston, Jr. Award*

Rhode Island Lawyers Weekly  
Excellence in the Law 2020  
*Leader in the Law Award*

Women's Resource Center  
*2016 Men Who Make A Difference Award*

OTHER LEGAL EMPLOYMENT

Honorable Edmund V. Ludwig  
United States District Court for the Eastern District of Pennsylvania  
Judicial Clerkship: 1987-1988

Mellon, Webster & Mellon; Doylestown, Pennsylvania -- Associate: 1988-1989

Morgan, Lewis & Bockius; Philadelphia, Pennsylvania -- Associate: 1989-1990