

MARTHA M. ERTMAN
University of Maryland School of Law
500 W. Baltimore St.
Baltimore, MD 21201
(410) 706-3923
mertman@law.umaryland.edu

EMPLOYMENT

Permanent Positions

University of Maryland School of Law, Baltimore, MD

Professor, 2007 –

Courses: Contracts; Commercial Law; Seminar on Contract, Status & Families

University of Utah, S.J. Quinney College of Law, Salt Lake City, UT

Professor, 2002 to 2007

Courses: Contracts, Commercial Law, Contract Drafting, Seminars on Legal History and Commodification

University of Denver College of Law, Denver, CO

Associate Professor, 2000 to 2002

Assistant Professor, 1995 to 2000

Visiting Assistant Professor, 1994 - 1995

Courses: Contracts, Sales, Secured Transactions, Payments, Family Law, Civil Procedure, and Advanced Legal History

Visitorships

The George Washington University Law School, Washington, D.C.

Visiting Professor, 2006- 2007

Course: Contracts

University of Oregon College of Law, Eugene, OR

Visiting Professor, Spring 2002

Courses: Commercial Law and Legal History of Sexual Regulations

University of Connecticut School of Law, Hartford, CT

Visiting Professor, Fall 2000

Courses: Secured Transactions and Sales

University of Michigan Law School, Ann Arbor, MI

Visiting Professor, 1999 – 2000

Courses: Secured Transactions, Commercial Transactions, and Legal History of Sexual Regulations

Practice & Clerkship

Davis Wright Tremaine, Seattle, WA

Associate, 1992 to 1994; *Summer Associate*, 1989

Complex business litigation concentrating in banking relationships, business and employment disputes; corporate counsel for non-profit corporation; pro bono domestic relations

Kobayashi & Associates, Denver, CO

Associate, 1991 to 1992. Complex civil and criminal litigation including criminal antitrust, legal malpractice, and contract disputes

Hon. Peter Beer, U.S. District Judge, Eastern District of Louisiana

Judicial Clerk, 1990 to 1991

Researched and drafted bench memoranda, opinions, and orders for motion disposition; participation in all stages of jury and bench trials

D'Ancona & Pflaum, Chicago, IL

Summer Associate, 1988

Researched and wrote memoranda and pleadings in complex commercial litigation

EDUCATION

Northwestern University School of Law, Chicago, IL

J.D., *cum laude*, 1990; Dean's List

Research Assistant, Lori Andrews, American Bar Foundation (now at Chicago-Kent) and Pauline Bart, University of Illinois Medical School

Wellesley College, Wellesley, MA

B.A., Psychobiology, *cum laude*, 1985

Research Assistant, Center for Research on Women

Reed College, Portland, OR (Fall 1983)

American College in Switzerland, Leysin, Switzerland (Spring 1984)

SCHOLARLY PUBLICATIONS

Book

RETHINKING COMMODIFICATION: CASES AND READINGS IN LAW & CULTURE, co-edited with Joan Williams (2005)

PUBLICATIONS, con't.

Book Chapters

Love & Contracts in Don Quixote, in DON QUIXOTE, A MODERN HERO (ed. Matthew Warshawsky, forthcoming 2013)

The Productive Tension between Official and Unofficial Stories of Fault in Contract Law, in FAULT IN AMERICAN CONTRACT LAW, ed. Omri Ben-Shahar & Ariel Porot , (2010)

The Upside of Baby Markets, in BABY MARKETS, ed. Michelle Goodwin (2010)

The Story of Reynolds v. U.S.: Federal "Hell Hounds" Punishing Mormon Treason, in FAMILY LAW STORIES (ed. Carol Sanger, 2007)

Private Ordering Under the ALI Principles: As Natural as Status in RECONCEIVING THE FAMILY: CRITICAL REFLECTIONS ON THE AMERICAN LAW INSTITUTE'S PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION (ed. Mary Ann Glendon & Robin Wilson, 2006)

The Business of Intimacy: Bridging the Private/Private Distinction, in FEMINISM CONFRONTS ECONOMIC THEORY (Martha Fineman and Terence Dougherty, eds., Cornell University Press 2005)

Commercializing Marriage, excerpted in PERSPECTIVES ON THE UNIFORM COMMERCIAL CODE (Douglas Litowitz, ed., 2001)

Law Review Articles & Essays

Exchange as a Cornerstone in Families, 34 West. N.E. L. Rev. 405 (2012)

Race Treason: The Untold Story of America's Ban on Polygamy, 19 COLUM. J. GEN. & L. 287 (2010)

For Both Love and Money: Viviana Zelizer's The Purchase of Intimacy, 34 L. & SOC. INQ. 1017 (2009)

Telling, 2009 Utah L. Rev. 483 (reprinted in AREEN ET AL, CASES & MATERIALS ON FAMILY LAW (7th ed. 2013)

Mapping New Frontiers in Private Ordering: Afterword, 49 ARIZ. L. AW REV. 695 (2007) (in symposium issue featuring papers presented on AALS Contracts Section panel of the same title to be held in January 2007)

PUBLICATIONS, con't

Accepting the Court's Invitation, 57 J. Leg. Ed 1 (2007) (introducing symposium papers from AALS Sexual Orientation and Gender Identity Issues panel on the Solomon Amendment case in the U.S. Supreme Court)

Legal Tenderness, review of Linda Mulcahy & Sally Wheeler, FEMINIST PERSPECTIVES ON CONTRACT LAW, 18 YALE J. L. & FEMINISM 545 (2006)

The Elasticity of Contract, 17 YALE J. L & HUMS 202 (2006) (Comment on Ian Ayres' article *First Amendment Bargains* in festschrift issue honoring Carol Rose's work).

What's Wrong with a Parenthood Market? A New & Improved Theory of Commodification, 82 N.C. L. Rev.1 (2003) (reprinted in NANCY EHRENREICH, REPRODUCTIVE RIGHTS: A CRITICAL READER (2006))

Transcribed comments at Symposium: Marriage Law: Obsolete or Cutting Edge?, 10 Mich. J. Gender & Law 21 (2003)

Love and Work: A Comment on Vicki Shultz' Life's Work, 102 COL. L. REV. 848 (2002)

The ALI Principles' Approach to Domestic Partnership, 8 DUKE J. GENDER L. & POL'Y. 107 (2001)

Changing the Meaning of Motherhood, 76 CHI.-KENT L. REV. 101 (2001)

Marriage as a Trade: Bridging the Private/Private Distinction, 36 HARV. CIV. RIGHTS - CIV. LIB. L. REV. 79 (2001)

Contract Sports, 48 CLEV.- MARSH. REV. 31 (2000)

UNBENDING GENDER symposium contribution, 49 AM. U. L. REV. 943 (2000)

Sexual Orientation and the Law, ELSEVIER ENCYCLOPEDIA OF BEHAVIORAL AND SOCIAL SCIENCES (2001)

Oscar Wilde: Paradoxical Poster Child for Both Identity and Post-Identity, 25 L. & SOC. INQ. 153 (2000)

Commercializing Marriage: A Proposal for Valuing Women's Work Through Premarital Security Agreements, 77 TEX. L. REV. 17 (1998)

Vive No Difference, 91 NW. U. L. REV. 642 (1997) (solicited essay for satirical symposium)

PUBLICATIONS, con't.

Contractual Purgatory for Sexual Minorities: Not Heaven, But Not Hell Either, 73 DENV. U. L. REV. 1107 (1996)

Denying the Secret of Joy: A Critique of Posner's Theory of Sexuality, 45 STAN. L. REV. 1485 (1993)

MEDIA APPEARANCES & QUOTES

Liza Mundy, *The Gay Guide to Wedded Bliss*, THE ATLANTIC, June 2013, p. 56, <http://www.theatlantic.com/magazine/archive/2013/06/the-gay-guide-to-wedded-bliss/309317/3/>

SUPCO Arguments on Same Sex Marriage Watched by Law Students, ABC2news.com, March 27, 2013, http://www.abc2news.com/dpp/news/region/baltimore_city/supco-arguments-on-same-sex-marriage-watched-by-law-students

Peter Jaret, *Married and Gay, but Not Eligible for Full Benefits*, AARP Magazine, July 12, 2010, http://www.aarp.org/politics-society/rights/info-07-2010/defense_of_marriage_act.html

A Marriage of Fear and Xenophobia, Globe & Mail (Toronto Can.), April 6, 2009, at A13

Rebecca Walsh, *Feminists waffle in FLDS case*, Salt Lake Tribune, May 25, 2008, at E10.

Utah Public Radio interview, *Access Utah* about State v. Holm, May 2006.

Megan Basham, *Pushing for Polygamy*, National Review, April 18, 2005.

Legal Scholars Ask if Marriage is the Only Way to Make A Family, Boston Globe (MA), May 16, 2004, at E1.

Robert Benne and Gerald McDermott, *Gay Unions Undermine Society Con*, Roanoke Times (VA), February 22, 2004, at 1 (Horizon Editorial Section)

Stanley Kurtz, *Beyond "gay marriage"*, Catholic Insight, February 1, 2004, 12(2), at 12.

Neil Munro, *Supporting Marriage, but for What Goal?*, The National Journal, January 3, 2004, 36(1)

Kurtz, Stanley, *Beyond Gay Marriage*, Weekly Standard, August 4, 2003, 8(26) at 26.

Katie Kerwin, *Gay Bill Could Invalidate Common Law Marriages*, Denver Rocky Mountain News (CO), May 9, 1997, at 5A.

John Brinkley et al., *Gay Rights Victory; U.S. Supreme Court Condemns Divisive Colorado Vote*, Denver Rocky Mountain News (CO), May 21, 1996, at 1A.

SELECTED PRESENTATIONS

The Law of the Land: Will Gay Marriage Change Marriage in New America Foundation panel on Modern Family: Coupling and Uncoupling, June 2013, available at http://newamerica.net/events/2013/modern_family_coupling_uncoupling

Found in Translation: Sending Messages over the Academy Walls, Law & Society Ass'n Ann.Meeting, Boston, MA June 2013.

Open Adoption Agreements, Law & Society Ass'n Ann.Meeting, Boston, June 2013.

Maybe Baby Class, Rainbow Families, Washington D.C., Dec. 2012 & May 2013.

Introduction to Switch Point Stories & Reproductive Technologies as Plan B Baby-Making, U. of Maryland Law School, Switch Point Stories conference, March 2013; available at http://www.youtube.com/playlist?feature=edit_ok&list=PLYBWgedwTFEbtwPt0CKwX0ihLUU3-2i

Love, Contracts, and Marriage, U. of Baltimore Law School conference on Applied Feminism, March 2013

Open Adoption Contracts, Emory U. Law School conference on Contract as Public Law; U. of Maryland conference on Privacy, Secrets & Silence (both March 2013)

Plan B Parenthood, College of New Jersey Speaker Series on Exploring Liberty, March 2012; Intergenerational Justice Conference, Academic Center for Law & Business, Tel Aviv, Jan. 2013

Love, Contracts, and Cohabitation, lecture to undergraduate course Marriage, Family and Theology, U. of Portland, March 2012.

Love & Contracts in Don Quixote, conference on Don Quixote: Modern Hero, U. of Portland, March 2012.

Contracting In and Out of Fatherhood, conference on Women & the Law, Thomas Jefferson Law School, San Diego, Feb. 2012.

Moderator, The Moral Limits of Markets, commenting on DEBORA SATZ, WHY SOME THINGS SHOULD NOT BE FOR SALE (2011)

Food "R" Us: The Primal Deal, Families, and Family Law, conference on Food Law: New Horizons, Tel Aviv U. Law School, June 2011.

Re-Envisioning Exchange as a Cornerstone of Families, symposium on Ivan Illitch, Western New England College Law School, April 2011.

PRESENTATIONS, con't.

Love & Contracts, Law & Society Association Ann. Meeting, Chicago, May 2010; Loyola U. faculty workshop, Los Angeles, Sept. 2010; Ann. Contracts Conference, Stetson U. Law School, Tampa, FL, Feb. 2011.

Polygamy and Race Treason, George Washington U. Law School, March 2007; U. of North Carolina, Greensboro Women and Gender Studies Department, April 2007; West Virginia U. College of Law, conference on Religion Clauses in the 21st Century, April 2007; Matrimonial Network, Amenia, NY, Oct. 2007; Roger Williams U. Law School, Oct. 2007; U. of Maryland Law School, March 2008; Law & Society Ass'n Ann. Meeting, June 2008; U. of Baltimore Applied Feminism conference, Feb. 2009; workshop on work, family and policy, Washington U. in St. Louis, Economics Department, March 2009.

Mapping the New Frontiers in Private Ordering, Contracts Section panel, AALS Ann. Meeting, January 2007; Continuing Legal Education session on Special Problems in Divorce, Salt Lake City, December 2006; faculty workshops at U. of Pittsburgh and Western New England College law schools (Clason speaker series), March 2006.

The Story of Reynolds v. U.S.: Polygamy as Race Treason, faculty workshop at the U. of Utah law school, April 2006.

Market Norms, Georgetown U. Law Center, AALS socioeconomics conf., Jan. 2006.

The Elasticity of Contract, Yale Law School, conference The Properties of Carol Rose, Nov. 2005.

Private Ordering under the ALI Principles, Harvard U. Law School, October 2004; Women's Resource Center, U. of Utah, October, 2004; Boston U. Law School faculty workshop April 2005; U. of Houston faculty workshop April 2005; Boston U. Law School faculty workshop April 2005; Columbia U. Law School Feminist Theory workshop, April 2006.

What's Wrong with Baby Selling? U. of California, Davis College of Law faculty workshop, March 2003, and U. of North Carolina faculty workshop, October, 2003.

The Weirdo Family, CLE presentation to Salt Lake City, UT bar members, March 2003 & Hofstra Law School Conference on Marriage & Democracy, March 14 & 15, 2003 & U. of Utah Counseling Center Feb. 4, 2004.

Capitalism with a Baby Face: The Progressive Potential of Reproductive Technologies, Law and Society Ass'n. Ann. Meeting, Budapest, July 2001; Commodification Futures Conference, Denver, March 2001

Author-Meets-Reader: Richard Sherwin, WHEN LAW GOES POP, Law and Society Ass'n. Ann. Meeting, Budapest, July 2001 & Law, Culture and Humanities Conf. Austin, Texas, March 2001

SELECTED PRESENTATIONS, con't.

Marriage as a Trade: Debunking the Private/Private Distinction, U. of Colorado Law School faculty workshop, February, 2001; NLGLA's Lavender Law Conference, October 2000; U. of Connecticut Law School faculty workshop, October 2000; Canadian Legal Economic Association Ann. Meeting, September 2000; Quinnipiac Law School faculty workshop, September 2000; Law & Society Association Ann.Meeting, Miami, May 2000, U. of Michigan Law School Law & Inequality Workshop, April, 2000, Michigan Journal of Gender & Law presentation, March, 2000, and Legal Theory Workshop, Seton Hall Law School, Feb. 2000

Martha as Metaphor, Law & Society Ass'n. Ann. Meeting, Miami, May 2000

The Radical Future of Cultural Feminism, American U. Gender, Work and Family Project conference on UNBENDING GENDER, Washington, D.C., Nov. 1999

Marriage as A Trade: Importing Business Models to Regulate Intimate Relationships, Howard H. Rolapp Distinguished Visiting Scholar presentation, U. of Utah College of Law, Salt Lake City, UT, Nov. 1999

The Progressive Potential of Private Law Approaches to Obtain Public Law Rights, Cleveland-Marshall School of Law Conference on Re-Orientating Sexuality & the Law, Cleveland, OH, Oct. 1999

Small Group Leader, AALS Workshop for Women in Legal Education, Chicago, IL, Oct. 1999

Tools Toward an Integrated Analysis of Market Work and Family Work, American U. Workshop on Changing the Relationship of Market Work to Family Work, Washington, D.C., June 1999

The Uses of Attachment: A Comparison of Various Business Models as Applied to Intimate Relationships, Law and Society Ass'n. Ann. Meeting, Chicago, IL, May 1999

Roundtable on the Legal Regulation of Sexuality, Law and Society Ass'n. Ann. Meeting, Chicago, IL, May 1999

Oscar Wilde: Paradoxical Poster Child for both Gay Identity and Queer Post-Identity, U. of Michigan faculty luncheon, January 2000; Colorado ACLU Ann. Meeting, Denver, CO, February 1999

Warranty Sections of the U.C.C., Legal Case Study for the meeting of the National Ass'n. of Purchasing Management, Denver, CO, November 1998

PRESENTATIONS, con't.

Pedagogical Developments in Legal Education, Visiting Committee, Law Alumni Council, and Pre-Law Advisors, U. of Denver College of Law, Nov. 1998, Jan. 1999, and March 1999

Theoretical Choices in Setting Default Rules for Same-Sex Relationships, Colorado Women=s Bar Ass'n. Convention, Breckenridge, CO, May 1998

Reconstructing Marriage through Commercialization, Lambda Rising Queer Studies Conference, Boulder, CO, April 1998

Commercializing Marriage, U. of Colorado & U. of Denver Gay & Lesbian Law Student groups meeting, Boulder, CO, April 1998; Columbia U. workshop on Economic Discourse and the Family, New York City, March 1998; U. of Denver Symposium on InterSEXionality, Denver, Feb. 1998

Theoretical and Practical Benefits of Same-Sex Cohabitation and Employment Contracts, Colorado Bar Ass'n. Ann. Meeting, Denver, August 1997

Coercion (or Lack Thereof) in Premarital Security Agreements, Society for the Advancement of Socio-Economics Ann. Meeting, Montreal, July 1997

Premarital Security Agreements, Law & Society Ass'n. Ann. Meeting, St. Louis, May 1997

Cohabitation Contracts as a Form of Contractual Purgatory, Lambda Rising Queer Studies Conference, Boulder, CO, April 1997

Contractual Purgatory for Sexual Minorities, Law & Society Ass'n. Ann. Meeting, Glasgow, Scotland, July 1996; U. of Denver Symposium on the New Private Law, Denver, March 1996

BAR REVIEW PRESENTATIONS

Secured Transactions

U. of Denver College of Law, May 1998 and May 1999 (free lectures)

West Bar Review, Denver, CO, June 1996 & June 1997; Cleveland, OH, June 1996

HONORS & GRANTS

Carole & Hanan Sibel Research Professor of Law, U. of Maryland Law School, 2009-present

U. of Utah Research Professorship, U. of Utah, Spring Semester 2005

Hughes/Rudd Research Professor, U. of Denver College of Law, 2001-2002

Honors & Grants, con't.

Howard H. Rolapp Distinguished Visiting Scholar, U. of Utah College of Law, Nov. 1999

Founder's Prize Honorable Mention, Society for the Advancement of Socio-Economics, based on presentation of *Commercializing Marriage* at Ann. SASE meeting, Montreal, July, 1997

Pilot Study Grant, Hughes/Rudd Research and Development Fund, for empirical research on prosecutions of consensual sexual offenses in Denver, 1862-1900 (1997; renewed, 1998 & 1999)

BAR ADMISSIONS

Washington State (1990; currently inactive)

Colorado (1991; membership voluntarily withdrawn 2003)

PROFESSIONAL MEMBERSHIPS

American Law Institute (2002 to the present)

Executive Committee Member, AALS Section on Contracts (2006 to present); Chair 2009

Executive Committee Member, AALS Section on Gay and Lesbian Legal Issues (2000 - present); Chair 2006

American Bar Association

Society of American Law Teachers

Law & Society Association (Member and Chair, Local Arrangements Committee, 1998 Meeting)

Board member, Plan-B Theater Company (12/02 to 2/04)

Member, Colorado Bar Association Task Force on Revised Article 9 (8/99 – 5/01)

Member, Colorado Bar Association Central Indexing System Legislative Drafting Committee (Fall 1998)

Advisory Member, Colorado Bar Association Task Force on Same Sex Rights and Responsibilities (1998-1999)

Member, Legal Subcommittee of Governor=s Commission on the Rights and Responsibilities of Same Sex Relationships (1/98 to 6/98)

Chair of Board of Directors (12/95 to 12/97) & Director (10/95 to 12/98), Colorado Legal Initiatives Project Board of Directors

Board of Directors and Corporate Counsel, New Beginnings Shelter for Battered Women and Their Children, Seattle, WA (12/92 to 4/94)