James Gray Pope

Professor of Law & Sidney Reitman Scholar

Rutgers Law School

123 Washington Street

Newark, NJ 07102

Home: (973) 744-3642

Work: (973) 353-5979

e-mail: [jpope@law.rutgers.edu](mailto:jpope@law.rutgers.edu)

**Legal and Academic Experience**

***Rutgers University School of Law***, Newark, New Jersey

Professor and Sidney Reitman Scholar, July 2001 to present

Professor, July 1992 to present

Associate Professor, July 1989 to June 1992

Assistant Professor, July 1986 to June 1989

Subjects: Constitutional Law, Constitutional Theory, Labor Law, 13th Amendment

Award: Professor of the Year, 2012

***Segal, Roitman & Coleman,*** Boston, Massachusetts

Associate, March 1985 to June 1986

Represented unions and employees

***Supreme Court of California,*** San Francisco, California

Law Clerk to Chief Justice Rose Elizabeth Bird, September 1983 to January 1985

**Work Experience**

***General Dynamics Corporation, Fore River Shipyard***, Quincy, Massachusetts

Mechanic Welder, First Class, December 1978 to May 1980

Mechanic Welder, March 1977 to December 1978

Semi-skilled Welder, June 1976 to March 1977

Active member of Local 5, Industrial Union of Marine & Shipbuilding Workers, AFL-CIO

***BLH Electronics***, Waltham, Massachusetts

Tool Crib Attendant & Drill Press Operator, September 1974 to February 1976

Active member of Local 1836, International Association of Machinists, AFL-CIO

**Formal Education**

***Princeton University****,* Princeton, New Jersey

PhD. (Politics), 2004. Subfields: American Politics, Public Law, Labor History

***Harvard Law School,*** Cambridge, Massachusetts

J.D., Cum Laude, 1983

***Harvard College,*** Cambridge, Massachusetts

A.B. in Social Studies, Magna Cum Laude, 1974

**Articles**

*Section 1 of the Thirteenth Amendment and the Badges and Incidents of Slavery*, 65 U.C.L.A. L. Rev. no. 2 (forthcoming 2018).

*Why Is There No Socialism in the United States? Law and the Racial Divide in the American Working Class, 1676-1964*, 94 Tex. L. Rev. 1555-90 (2016) (Symposium on “The Constitution and Economic Inequality”).

*The Thirteenth Amendment at the Intersection of Class and Gender:* Robertson v. Baldwin’s *Exclusion of Infants, Lunatics, Women, and Seamen*,39 Seattle L. Rev. 901-26 (2016) (Symposium on “The Thirteenth Amendment Through the Lens of Class and Labor”).

*Snubbed Landmark: Why* United States v. Cruikshank (1876) *Belongs at the Heart of the American Constitutional Canon*, 49 Harv. C.R.-C.L. L. Rev. 385-447 (2014).

*Contract, Race, and Freedom of Labor in the Constitutional Law of “Involuntary Servitude,”* 119 Yale L. J. 1474-1567 (2010).

*A Free Labor Approach to Human Trafficking*, 158 U. Pa. L. Rev. 1849-75 (2010) (Symposium on sex and labor Trafficking).

*The Right to Strike under the United States Constitution: Theory, Practice, and Possible Implications for Canada*, 15 Canadian Lab. & Emp. L.J. 209-34 (2009-2010) (Symposium: “Is there a constitutional right to strike in Canada?”).

*Class Conflicts of Law II: Solidarity, Entrepreneurship, and the Deep Agenda of the Obama NLRB*, 56 Buff. L. Rev. 653-84 (2009) (Symposium commemorating the 25th anniversary of James B. Atleson’s *Values and Assumptions in American Labor Law*).

*Class Conflicts of Law I: Unilateral Worker Lawmaking versus Unilateral Employer Lawmaking in the U.S. Workplace*, 56 Buff. L. Rev. 1095-1127 (2008) (Symposium on class and law, “Class Crits I”).

(second author, with Rebecca Zietlow), *The Toledo Auto-Lite Strike and the Fight Against “Wage Slavery,”* 38 U. Tol. L. Rev. 839-54 (2007) (Symposium on the Thirteenth Amendment).

*Worker Lawmaking, Sit-Down Strikes, and the Shaping of American Industrial Relations, 1935-1958*, 24 Law & Hist. Rev. 45-113 (2006).

*Next-Wave Organizing and the Transition to a New Paradigm of Labor Law*, 50 N.Y.L.S. L. Rev. 515-59 (2006) (Symposium on next-wave organizing).

*How American Workers Lost the Right to Strike, and Other Tales*, 103 Mich. L. Rev. 518-53 (2004).

*The Western Pennsylvania Coal Strike of 1933, Parts I (Lawmaking from Below and the Revival of the United Mine Workers) & II (Lawmaking from Above and the Demise of Democracy in the United Mine Workers)*, 44 Labor History 15-47, 235-64 (2003).

*The Thirteenth Amendment versus the Commerce Clause: Labor and the Shaping of the Post-New Deal Constitutional Order, 1921-1950,* 102 Colum. L. Rev. 1-122 (2002).

*The First Amendment, the Thirteenth Amendment, and the Right to Organize in the Twenty-first Century,* 51 Rut. L. Rev. 941-69 (1999) (Symposium honoring the Rutgers tradition of scholarship).

*Fusion,* Timmons v. Twin Cities Area New Party, *and the Future of Third Parties in the United States,* 50 Rut. L. Rev. 473-506 (1998).

*Labor's Constitution of Freedom*, 106 Yale L.J. 941-1031 (1997).

*An Approach to State Constitutional Interpretation*, 24 Rut. L.J. 985-1008 (1993) (Symposium on state constitutional law).

*Some Possible Lessons for Canada of the United States' Experience With Major Constitutional Change*, 37 McGill L.J. 1-26 (1992).

*Labor-Community Coalitions and Boycotts: The Old Labor Law, The New Unionism and The Living Constitution*, 69 Tex. L. Rev. 889-974 (1991).

*Republican Moments: The Role of Direct Popular Power in the American Constitutional Order*, 139 U. Pa. L. Rev. 287-368 (1990).

*Two Faces Two Ethics: Labor Union Lawyers and the Emerging Doctrine of Entity Ethics*, 68 Ore. L. Rev. 1-55 (1989).

*Labor and the Constitution: From Abolition to Deindustrialization*, 65 Tex. L. Rev. 1071-1136 (1987).

*The Three-Systems Ladder of First Amendment Values: Two Rungs and a Black Hole*, 11 Hastings Const. L.Q.189-246 (1984).

*Free Speech Rights of Union Officials Under the LMRDA,* 18 Harv. C.R.-C.L. L. Rev. 525-84 (1983).

**Book Chapters and Encyclopedia Contributions**

*Worker Lawmaking, Sit-Down Strikes, and the Shaping of American Industrial Relations, 1935-1939* (Book Chapter) in Kenneth M. Casebeer ed., American Labor Struggles and Law Histories 271-301 (2011).

*The Toledo Auto-Lite Strike of 1934 and the Fight against “Wage Slavery”* (second author, with Rebecca E. Zietlow) (Book Chapter) in Kenneth M. Casebeer ed., American Labor Struggles and Law Histories 271-301 (2011).

*The Workers’ Freedom of Association Under the Thirteenth Amendment, Then and Now* (Book Chapter), in Alexander Tsesis ed., The Promises of Liberty: Thirteenth Amendment Abolitionism and Its Contemporary Vitality 138-59 (2010).

*Labor and Employment Law - United States Law*, 3 Oxford International Encyclopedia of Legal History 477-86 (Stanley Katz ed., 2009).

*National Industrial Recovery Act (1933)*, in Brian K. Landsberg, ed., Major Acts of Congress (2003).

**Essays and Reviews**

(first author, with Ed Bruno& Peter Kellman), *The Right to Strike*, Boston Review, Forum 2, 107-22 (2017) (twelve responses and our rejoinder available on line at <http://bostonreview.net/forum/james-gray-pope-ed-bruno-peter-kellman-right-strike>).

*How inequality endangers America* (review of The Crisis of the Middle-Class Constitution, by Ganesh Sitaraman), Washington Post, Sunday, April 9, 2017, B8.

*What’s Different About the Thirteenth Amendment, and Why Does It Matter?*, 71 Md. L. Rev. 189-202 (2011) (Symposium on the Thirteenth & Fourteenth Amendments).

(first author, with Peter Kellman & Ed Bruno), *“We Are Already Dead”: The Thirteenth Amendment and the Fight for Workers’ Rights After EFCA*, 67 Nat’l L. Guild Rev. 110-24 (2010).

(first author, with Peter Kellman & Ed Bruno), *The Employee Free Choice Act and a Strategy for Winning Workers’ Rights*, Working USA, March 2008, 125-44 (Symposium on the crisis in labor law).

(first author with Peter Kellman & Ed Bruno), *Free Labor Today*, New Labor Forum, Spring 2007, 8-18.

*Toward a New Labor Rights Movement* (first author with Peter Kellman & Ed Bruno), Working USA, Spring 2001, 8-33.

*The Past of Labor Law -- And Its Future* (review of Law and the Shaping of the American Labor Movement**,** by William Forbath), 39 U.C.L.A. L. Rev. 481-502 (1991).

**Selected Speaking Engagements**

“Convict Labor and the Thirteenth Amendment, 1865-1914,” panel presentation, American Society for Legal History Annual Conference, Las Vegas, Nevada, October 27, 2017

“The Constitutionality of Agency Fees Under a Reconstituted Supreme Court,” Plenary address, New Jersey State Bar Association, Conference on Public Employment, April 21, 2017.

“The ‘White Working Class’ in the 2016 Election and Beyond,” Plenary panel presentation, ClassCrits IX, Loyola University Law School, Chicago, October 26, 2016.

“Law and the Racial Divide in the American Working Class,” Conference on Law and Economic Inequality, Texas Law School, Austin, Texas, January 31, 2016.

Panelist, ABA Leon Jaworski Public Program: Sesquicentennial of the Thirteenth Amendment, Howard Law School, Washington, D.C., December 2, 2015.

“Thirteenth Amendment Optimism and Its Critics,” Thirteenth Amendment Sesquicentennial Conference, Seattle Law School, Seattle, May 31, 2015.

“Snubbed Landmark: Why *United States v. Cruikshank* Belongs at the Heart of the American Constitutional Canon,” University of Chicago Law School Public Law Workshop, November 11, 2014.

“Workers’ Rights in the United States: Past Experience and Future Prospects,” panel presentation, Conference on Zealous Advocacy for Social Change, West Virginia University, Morgantown, West Virginia, October 23, 2014.

Debate with Professor Richard Epstein on economic inequality, efficiency, and labor unions, Rutgers Law School, Newark, NJ, March 7, 2012.

Solidarity and the United States Constitution, panel presentation, Conference on Race, Class, Gender and Ethnicity, University of North Carolina Law School, Chapel Hill, North Carolina, February 25, 2012.

Thirteenth Amendment Labor Rights, Conference on The Constitutionalization Of Labor and Employment Law, University of Wisconsin Law School, Madison, Wisconsin, October 28, 2011.

Law and the Racial Polarization of the American Working Class, West Virginia Law Faculty Colloquium, Morgantown, West Virginia, September 28, 2011.

The Supreme Court and Social Justice, Second annual Alan Dawley Memorial Lecture at the College of New Jersey, March 23, 2011.

Sit-Down Strikes in the United States, panel on Worker Control and Factory Occupations, Global North and South, Left Forum, New York, NY, March 20, 2011.

Law and the Making of the American White Working Class, Cornell Law Faculty Colloquium, Ithaca, New York, Feb. 23, 2011.

Defending the Right to Organize, with Daniel Castellanos, Jennifer Rosenbaum & Saket Soni, National Lawyers Guild Convention, New Orleans, La., September 24, 2010.

The Right to Strike Under the United States Constitution: Theory, Practice, and Possible Implications for Canada, Symposium: Is There a Constitutional Right to Strike in Canada?, University of Toronto Faculty of Law, December 5, 2009.

The Taylor Law and the Fundamental Right to Strike, Symposium on The Right to Strike for Public Sector Workers in New York State, Columbia University Law School, New York, NY, Nov. 19, 2009.

A Free Labor Approach to Human Trafficking, Conference on Human Trafficking, University of Pennsylvania Law School, Philadelphia, Pennsylvania, November 13, 2009.

“Involuntary Servitude and the Problem of Coercion,” Conference on Interdisciplinary Perspectives on the Thirteenth Amendment, University of Chicago, April 18, 2009.

“Liberty and Justice for All? Class, Race, and the United States Constitution,” Third Annual Kermit Hall Memorial Lecture, College of St. Rose, Albany, NY, September 25, 2008.

“Class Conflicts of Law,” 25th Anniversary Retrospective on James B. Atleson’s, Values and Assumptions in American Labor Law, The Baldy Center, University of Buffalo Law School, Buffalo, NY, September 18, 2008.

“Worker Participants versus Progressive Intellectuals: The Contested History of the United Mine Workers’ Revival, 1933,” panel on “History from the Bottom Up: Origin and Prospects,” Organization of American Historians Annual Meeting, New York, NY, March 28, 2008.

“Freedom of Labor Under the United States Constitution, 1865-2007,” panel presentation, North American Labor History Conference, Detroit, Michigan, October 18, 2007.

“The Rights to Quit and to Strike Under the Thirteenth Amendment,” Conference on “A New Birth of Freedom: The Thirteenth Amendment—Past, Present and Future,” University of Toledo, Toledo, Ohio, Oct. 13, 2006.

“The Authority of Social Movements to Interpret the United States Constitution,” Washington University Law Faculty Colloquium, St. Louis, Mo., Nov. 14, 2005.

“How American workers lost the right to strike and how they will win it back,” University of Toledo College of Law Distinguished Speakers Series, Toledo, Ohio, Sept. 19, 2005.

“Next-Wave Organizing: A New Paradigm?,” Conference on Next-Wave Organizing, New York Law School, Jan. 28, 2005.

**Service as an Expert**

Testified in the criminal trespass trial of Occupy Manchester activists as an expert witness on the need for direct action protest to offset the influence of money in politics. New Hampshire State Court, District Division, Manchester, NH, June 22, 2012.

Submitted an expert declaration on involuntary servitude in regard to T Visa applications filed by South Asian metal trades workers employed at Signal Corporation facilities in Texas and Mississippi after Hurricane Katrina. New Orleans Workers Center for Racial Justice, Feb. 1, 2010.

Served on a panel of international experts analyzing New York’s public employee strike ban in connection with a complaint filed by the Transport Workers Union before the Committee on Freedom of Association of the International Labor Organization, New York, NY, November 19-20, 2009.

Testified as an expert on the United States’ experience with constitutional change before the Special Joint Committee of the Senate and House of Commons of the Parliament of Canada on the Amending Process, Ottawa, May 7, 1991.