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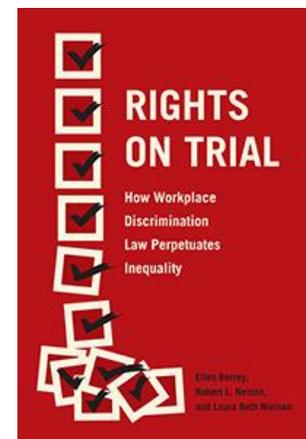
**Research reveals workplace discrimination law reinforces the very harms
it aims to redress**

NEW BOOK EXAMINES THE CHANGING DYNAMICS OF U.S. EMPLOYMENT CIVIL RIGHTS LITIGATION

CHICAGO, July 10, 2017 – A new book by three [American Bar Foundation](http://AmericanBarFoundation.org) (ABF) scholars illustrates how employment civil rights litigation entrenches patterns of discrimination in and out of the workplace.

“[Rights on Trial: How Workplace Discrimination Law Perpetuates Inequality](#)” offers a comprehensive analysis of employment civil rights litigation in the U.S. and gives voice to real plaintiffs in their pursuit of justice and defense of their fundamental civil rights.

Co-authors and sociologists [Ellen Berrey](#), [Robert L. Nelson](#), and [Laura Beth Nielsen](#) examined 1,788 cases filed between 1988 and 2003 and conducted 100 interviews with plaintiffs, plaintiffs’ attorneys, employer defendants, and defense attorneys to represent a holistic view of workplace discrimination law in action.



Though significant legislative and judicial progress in civil rights protections has been made over the past 50 years, “Rights on Trial” emphasizes how workplace discrimination based on race, gender, age and disability persists. The authors find that the adversarial nature of litigation places plaintiffs at a disadvantage from the outset. Legal recourse is rare, but plaintiffs who do file legal charges often experience substantial challenges in navigating litigation, including mistreatment by their colleagues and management, difficulty securing legal representation and extensive personal and financial burdens – including job loss – as a result of the case. Meanwhile, employers manage litigation in ways that minimize costs and insulate their workplaces from change, particularly through their reliance on small settlements.

The book exposes the ways that employment civil rights litigation can underscore existing systems of privilege. The research reveals that many plaintiffs struggle to obtain a lawyer as a result of structural inequalities and lawyer biases. It finds that 23 percent of workplace discrimination cases are filed without a lawyer or *pro se*. Cases filed *pro se* are dismissed at a rate of 40 percent, compared to 11 percent for cases with attorneys. These disadvantages are exacerbated for people of color; African American plaintiffs are 2.5 times more likely to file claims without a lawyer and Asian American and Latino/a plaintiffs are 1.9 times more likely to file *pro se* compared to their white peers.

“Even though Americans revere rights, and employers say they strongly favor discrimination law, the litigation process demeans the people who make rights claims,” said the authors. “In fact, employment civil rights litigation tends to reinforce the very patterns of inequality that the law was intended to eliminate.”

“Rights on Trial” is the culmination of more than a decade of research examining the U.S. model of employment civil rights litigation. In February 2017, the [EEOC cited](#) the research contained in “Rights on Trial” as a basis for changes in its 2017-2021 Strategic Enforcement Plan. This research was supported by the American Bar Foundation, the National Science Foundation, the Searle Foundation, the Center for Advanced Study in the Behavioral Sciences and the Ford Foundation.

“This book reflects ABF research at its finest,” said ABF Director [Ajay K. Mehrotra](#). “The authors have conducted a deeply rigorous empirical study of employment discrimination that tackles timely and important questions about the stubborn persistence of discrimination and its relationship to social inequality.”

For more information on “Rights on Trial” or on Berrey, Nelson and Nielsen’s research, please visit rightsontrial.com. To view a tip sheet on the research, click [here](#).

About the authors:

Ellen Berrey is an ABF-affiliated scholar, [assistant professor of sociology](#) at the University of Toronto and a celebrated sociologist whose research investigates the culture and politics of inequality, race and law. Robert L. Nelson is the MacCrate Research Chair at the ABF and [professor of sociology and law](#) at Northwestern University. He is a leading scholar of the legal profession and discrimination law and an expert on the relationship between law and social inequality. Laura Beth Nielsen is a research professor at the ABF and [professor of sociology and law](#) and the director of the [Center for Legal Studies](#) at Northwestern University. Nielsen’s award-winning research focuses on the sociology of law, civil and constitutional rights, and how ordinary people understand and relate to law. She has edited several books on employment civil rights including “Handbook of Employment Discrimination Research: Rights and Realities,” co-edited with Nelson in 2005.

About the American Bar Foundation

The [American Bar Foundation](#) (ABF) is among the world’s leading research institutes for the empirical and interdisciplinary study of law. An independent, nonprofit organization for more than 60 years, The ABF seeks to expand knowledge and advance justice through innovative, interdisciplinary, and rigorous empirical research on law, legal processes, and legal institutions. To further this mission the ABF will produce timely, cutting-edge research of the highest quality to inform and guide the legal profession, the academy, and society in the United States and internationally. The ABF’s primary funding is provided by the [American Bar Endowment](#) and [The Fellows of The American Bar Foundation](#).

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