

## SYMPOSIUM INTRODUCTION AND DEDICATION

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There should always be hope.<sup>1</sup>

On March 6, 2015, the *Stetson Law Review* hosted a symposium titled *Inequality, Opportunity, and the Law of the Workplace*. The symposium brought together legal academics, economists, attorneys, journalists, and students to explore the relationship between rising economic inequality in the United States and the complex web of federal, state, and local laws that constitute the field of labor and employment law. This issue of the *Stetson Law Review* includes the written works and remarks from participants in that symposium.

This symposium issue is dedicated to Professor Michael J. Zimmer, a preeminent employment law scholar and a participant in the symposium, who passed far too soon in September 2015. Mike's impact on the field of employment law cannot be overstated. His impressive academic accomplishments can and should be compiled and listed,<sup>2</sup> but such lists do not sufficiently convey Mike's true importance to the employment law community. Perhaps the best testament to the esteem in which he was held by his academic colleagues is the selection of Mike as the recipient of the inaugural Paul Steven Miller award in 2011, an award that recognizes the lasting influence that a scholar has had on labor and employment law scholarship. Mike was an obvious choice as the first recipient of this award, given not only his own groundbreaking scholarship in the field, but also his tireless mentorship of those who would attempt to follow in his footsteps. Mike was the quintessential

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1. Michael J. Zimmer, *Inequality, Individualized Risk, and Insecurity*, 2013 WIS. L. REV. 1, 65 (2013) (24th Annual Thomas E. Fairchild Lecture at the University of Wisconsin Law School). Following his graduation from Marquette University Law School, Professor Zimmer served as a law clerk to Judge Thomas E. Fairchild on the United States Court of Appeals for the Seventh Circuit.

2. These scholarly accomplishments include (among many others) authoring leading casebooks on Employment Discrimination, International and Comparative Employment Law, and Employment Law, as well as dozens of influential and widely cited articles.

mentor, and like nearly every other scholar in the field, I know this from firsthand experience.

When Mike first generously offered his time to provide feedback on my early written works and listen to my early presentations, I naively assumed that he had simply taken an interest in the particular subject of my work or had chosen, for whatever reason, to assist me in my professional development. Only after hearing from many other scholars in the field did I later discover that Mike actually offered that kind of personal mentorship to *everyone*. That was just the kind of person, colleague, and mentor that Mike was. As I repeatedly told him, I personally owe Mike a great deal for my development as a teacher, a scholar, and an attorney. I know that many others in the field do as well. Sadly, this symposium afforded me the last opportunity to tell him that in person. Mike characteristically deflected the praise with an excess of modesty. Mike will be deeply missed, but those of us who knew him will cherish the opportunities that we had to learn from him.

At least in recent years, Mike's presentations would often include grim forecasts about the direction of labor and employment and its potential impact on society. The ominous title of his contribution to this symposium is illustrative: *Can Dystopia Be Avoided? Increasing Economic Inequality Can Lead to Disaster*.<sup>3</sup> But Mike would invariably search to identify reasons for optimism in the face of, in his view, a series of unfortunate developments in the law. After lamenting the rise of economic inequality and worker insecurity in his 2012 Thomas E. Fairchild Lecture at the University of Wisconsin Law School, he concluded by drawing inspiration from the career arc of Judge Thomas E. Fairchild, the namesake of the lecture and the judge for whom Mike clerked following law school. Judge Fairchild rose from a politically motivated, Calvin Coolidge-supporting twelve-year-old, to a member of the Young Republicans in college, to a trailblazing force in the Wisconsin Democratic party, and later, to one of the most distinguished jurists of his time.<sup>4</sup> The twists in Judge Fairchild's story meant to Mike that, no matter how daunting our challenges appear in the moment, times change, views change, and seemingly unattainable goals are ultimately within reach. "There should always be hope," he concluded.<sup>5</sup> This simple but

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3. Michael J. Zimmer, *Can Dystopia Be Avoided? Increasing Economic Inequality Can Lead to Disaster*, 45 STETSON L. REV. 5 (2016).

4. See Joan H. Lefkow, *Thomas E. Fairchild: A Judge's Legacy*, 2007 WIS. L. REV. 1, 1–2 (2007) (highlighting events in Judge Fairchild's youth and young adulthood); Zimmer, *supra* note 1, at 65 (discussing Judge Fairchild's accomplishments at various points in his life).

5. Zimmer, *supra* note 1, at 65.

powerful statement was emblematic of Mike's views on the law as well as his approach to life.

Likewise, in his contribution to this symposium, Mike outlines the problem of growing economic inequality globally and identifies some new approaches to unionization and employment policy that, if undertaken, could stem the tide of widening inequality. While recognizing that the solutions he presents may seem politically impossible at this particular time in history, he emphasizes: "No matter how impossible it seems at the moment, new politics could reverse the present trends."<sup>6</sup>

In her keynote address at the symposium, former National Labor Relations Board Chair Wilma Liebman similarly finds room for hope.<sup>7</sup> Revived worker activism suggests to her the reemergence of true labor power and "the labor question."<sup>8</sup> Chair Liebman sees an opportunity to fundamentally reexamine labor law in the United States and to form a new approach to industrial democracy.

Also included in the symposium is the work of the Economic Policy Institute's Dr. Lawrence Mishel and Ross Eisenbrey, *How to Raise Wages: Policies That Work and Policies That Don't*.<sup>9</sup> Dr. Mishel and Mr. Eisenbrey consider a host of potential policy changes that have been advanced by observers from across the political spectrum, ranging from employment law to tax policy to education policy, and offer their assessment of the efficacy of such policy proposals in addressing persistent wage stagnation.

Professor Steven Willborn's remarks at the symposium identify two frequently overlooked threats to the economic security of low-wage workers—wage garnishment and payday loan practices.<sup>10</sup> Professor Willborn examines these two "indirect" (i.e., non-employer) threats to low-wage workers and argues that current regulation of these threats is outdated and insufficient. Professor Willborn sees an opportunity to improve some protections for low-wage workers, because at least for these two indirect threats, the interests of the employee and his or her employer tend to be aligned.

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6. Zimmer, *supra* note 3, at 13.

7. Wilma B. Liebman, "Regilding the Gilded Age": *The Labor Question Reemerges*, 45 STETSON L. REV. 19 (2016).

8. *Id.* at 30–31.

9. Lawrence Mishel & Ross Eisenbrey, *How to Raise Wages: Policies That Work and Policies That Don't*, 45 STETSON L. REV. 43 (2016).

10. Steven L. Willborn, *Indirect Threats to the Wages of Low-Income Workers: Garnishment and Payday Loans*, 45 STETSON L. REV. 35 (2016).

Professor Matthew Bodie identifies the corporate form, and its separation of labor from ownership in the firm, as the root cause of inequality.<sup>11</sup> Professor Bodie posits that employment laws setting minimum protections for employees are largely a response to the problems created by this underlying separation of labor from ownership. He concludes that addressing economic inequality will require not just reforming selected employment regulations, but also rethinking firm structure and governance.

The symposium was moderated by Pulitzer Prize winning author and Professor David Cay Johnston and, in addition to the foregoing, included presentations by Politico's Timothy Noah, the Cato Institute's Michael D. Tanner, the National Employment Law Project's Paul Sonn, Professor Samuel Bagenstos, Professor Charlotte Garden, and Professor Katherine Stone. Finally, this symposium issue features two outstanding student contributions in the field of employment law by *Stetson Law Review* editors Viktoryia Johnson and Giovanni P. Giarratana.

Thank you to the symposium participants, to the editors of the *Stetson Law Review*, to Dean Christopher Pietruszkiewicz and the administration of the Stetson University College of Law for continued support of the symposium, and above all, to my friend and mentor, Mike Zimmer.

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11. Matthew T. Bodie, *Income Inequality and Corporate Structure*, 45 STETSON L. REV. 73 (2016).