

# Kellen R. Funk

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**APPOINTMENT** Associate Professor of Law, Columbia Law School (2018–)

Courses: Federal Courts, Civil Procedure, Am. Legal History, Am. Bail System (seminar)

**BOOK** *Law's Machinery* (Oxford University Press, forthcoming 2023)

**PROJECTS**

*American Bail: A History of Wealth and Pretrial Detention in the United States* (in preparation)

**DIGITAL** *Legal Modernism*, <https://legalmodernism.org/>

**PROJECTS**

*Bail at the Founding*, <https://bailatthefounding.net/>

*Cities of Bail*, <http://kellenfunk.org/cities-of-bail/>

**ARTICLES** “The Protestant Framework of American Codification,” *Law & History Review* (in revision). ([SocArXiv](#))

“Neither Rain nor Gloom: Managerial Judging through Calm and Calamity,” with the Hon. Lee H. Rosenthal, *Review of Litigation* (forthcoming 2023)

“Bail at the Founding,” with Sandra G. Mayson (forthcoming 2023)

“When Judges Were Enjoined: Text & Tradition in the Federal Review of State Judicial Action,” with Alexandra Nickerson, 111 *California Law Review* (forthcoming 2023)

“Equity’s Federalism,” 97 *Notre Dame Law Review* 2057 (2022) ([ND](#) | [SSRN](#))

“The Present Crisis in American Bail,” 108 *Yale Law Journal Forum* 1098 (2019) ([Y LJ](#) | [SSRN](#))

“The Spine of American Law: Digital Methods and U.S. Legal Practice,” with Lincoln Mullen, *American Historical Review* 132 (2018). ([Oxford](#) | [SSRN](#))

“Church Corporations and the Conflict of Laws in Antebellum America,” 33 *Journal of Law & Religion* 33 (2017). ([Cambridge](#) | [SSRN](#))

“A Servile Copy: Text Reuse and Medium Data in American Civil Procedure,” with Lincoln Mullen, in *Forum: Die geisteswissenschaftliche Perspektive: Welche Forschungsergebnisse lassen Digital Humanities erwarten?*, *Rechtsgeschichte* 24 (2016): 341–343. ([RG](#))

“Equity without Chancery: The Fusion of Law and Equity in the Field Code of Civil Procedure, New York 1846–1876,” *Journal of Legal History* 36 (2015): 152–191. ([Taylor & Francis](#) | [SSRN](#))

“‘Let No Man Put Asunder’: South Carolina’s Law of Divorce, 1895–1950,” *South Carolina Historical Magazine* 110 (2009): 134–153 (2009). ([JSTOR](#) | [SSRN](#))

**BOOK  
CHAPTERS**

“The Swearer’s Prayer: Oathtaking and Witness Testimony in American Code Practice,” in Pamela Klassen, Benjamin Berger & Monique Scheer, eds., *Making Promises: Oaths, Treaties, and Covenants in Multi-jurisdictional and Multi-religious Societies* (University of Toronto Press, forthcoming 2023).

“Codification and Democracy in the Nineteenth-Century United States,” in Maggie Blackhawk, Laura Edwards & Naomi Lamoreaux, eds., *Deciphering Democracy: Institutional Change and Political Practice in the Nineteenth-Century United States* (forthcoming 2023).

“The Handmaid of Justice: Power, Procedure, and the Inferior Courts,” in Clara Altman, Gautham Rao & Winston Bowman, eds., *Approaches to Federal Judicial History* (Federal Judicial Center: 2020), 27–44. ([FJC](#) | [SSRN](#))

“The Union of Law and Equity: The United States, 1800–1938,” in John C. P. Goldberg, Henry E. Smith, & P.G. Turner, Eds., *Equity and Law: Fusion and Fission* (Cambridge: 2019), 46–69. ([Cambridge](#) | [SSRN](#))

Introduction to John Austin Matzko, *Best Men of the Bar: The Early Years of the American Bar Association 1878–1928* (Talbot: 2019), ix–xxxvi. ([Talbot](#) | [SSRN](#))

**BOOK  
REVIEWS**

“Propertied Rites,” *Constitutional Commentary* 36 (2021): 175–211 ([C. Comm.](#) | [SSRN](#)) (reviewing Jack N. Rakove, *Beyond Belief, Beyond Conscience* and Winnifred Fallers Sullivan, *Church State Corporation*)

“Shall These Bones Live? Property, Pluralism, and the Constitution of Evangelical Reform,” *Law & Social Inquiry* 41 (2016): 742–774. ([Wiley](#) | [SSRN](#)) (reviewing John W. Compton, *The Evangelical Origins of the Living Constitution*)

*Codification, Transplants and History: Law Reform in Louisiana and Quebec*, by John W. Cairns, *Rechtsgeschichte* 24 (2016): 480–483. ([RG](#) | [SocArXiv](#))

*Making Religion Safe for Democracy*, by J. Judd Owen, *Journal of Law and Religion* 31 (2016): 103–107. ([Cambridge](#) | [SocArXiv](#))

**HONORS**

Harold Berman Award, American Association of Law Schools Law & Religion Section (2019)

Kathryn T. Preyer Scholar, American Society for Legal History (2017)

Porter Ogden Jacobus Fellow, Princeton University (2015–16)

Legal History Fellow, Yale Law School (2014–15)

J. Willard Hurst Fellow, University of Wisconsin Law School (2015)

Littleton-Griswold Research Grant, American Historical Association (2014)

**SELECT  
PRESENT-  
ATIONS**

Hugh Davis Graham Award, Institute for Political History (2013)

William Nelson Cromwell Fellowship, American Society for Legal History (2013)

Bail at the Founding, American Society for Legal History (2022)

Bail at the Founding, University of Virginia School of Law Faculty Workshop (2022)

Bail at the Founding (with Sandra G. Mayson), University of Pennsylvania Carey School of Law Faculty Workshop (2022)

Equity's Federalism, Notre Dame Annual Federal Courts Symposium (2022)

Plenary Keynote: In Search of Modern Law, Digital Methods and Resources in Legal History, Max Planck Institute for Legal History & Legal Theory (2021)

The Allure of an American Code, Legal History Workshop, University of Minnesota (2021)

The Swearer's Prayer, Making Promises Workshop, University of Toronto (2020)

Cities of Bail, PEW Research Forum Convening on Access to Civil Justice (2020)

Panel, Histories, Philosophies, Law and Practices of Money as Punishment, Yale Law School Liman Colloquium (2020)

How Shall the Lawyers Be Paid?, Duke Law School Faculty Workshop (2020)

Panel, Source Decisions, Legal History and the Persistent Power of State and Local Governments, American Society for Legal History Annual Meeting (Boston 2019)

How Shall the Lawyers Be Paid?, NYU Golieb Legal History Workshop (2019)

Panel, Creating New Data: The Impact of Law School Research, Yale Law School Liman Colloquium (2019)

How Shall the Lawyers Be Paid?, William & Mary Law School Faculty Workshop (2018)

The Swearer's Prayer, Kathryn T. Preyer Scholars Panel, American Society for Legal History (2017)

Moderator, Vanderbilt Law Review Symposium: The Future of Discovery, Panel: Do We Need More Reform? by Alexandra Lahav, Paul Stancil, and Martin Redish (2017)

Evangelical Constitutionalism, Summer Research Seminar at Stanford Law School: Religion and the Constitution, Institute for Constitutional History (2015)

An Empire in Itself: The Migration of Field's Code, Third Annual Civil Procedure Workshop (2017)

Text Reuse for Digital Legal History (with Lincoln Mullen), Digital Legal History Workshop, American Society for Legal History (2016)

The American Tradition of the Active Judge, Second Annual Civil Procedure Workshop (2016)

A Servile Copy of New York: The Migration of Field's Code, Brown University Graduate Student Legal History Conference (2016)

No Foundation in the Nature of Things: American Controversies over the Fusion of Law and Equity, Australia & New Zealand Legal History Conference (2015)

The Lawyers' Code: The Transformation of American Legal Practice, Summer Academy for European Legal History, Max-Planck Institut für europäische Rechtsgeschichte (2015)

Mere Machinery and Arbitrary Regulation: The Politics of Lawyering and the Creation of Civil Procedure in New York, 1846-1850, American Society for Legal History (2014)

Disestablishment and Religious Corporations in New York, 1784-1854, History Project conference on Commerce, Corporations, and the Law, Princeton University (2013)

Disestablishment and Religious Corporations in New York, 1784-1854, New Worlds of Faith conference, University of Pennsylvania (2013)

Plausibility Pleading After *Iqbal-Twombly*, address to the litigation group at Cleary Gottlieb Steen & Hamilton LLP, Brussels, Belgium (2011)

**SERVICE** Reviewer, *Law & History Review*, *American Journal of Legal History*, *Journal of Policy History*, *Chicago Law Review*, *Columbia Law Review*, *Yale Law Journal*, Brill Press, Israel Science Foundation, Fonds de la Recherche Scientifique (Belgium)

Law & Religion Section Executive Committee, Association of American Law Schools  
Mary Dudziak Digital History Prize Committee, American Society for Legal History  
Publication Committee, American Society for Legal History

**EDUCATION** PhD history, Princeton University (2018)

JD, Yale Law School (2014)

BA history & MA church history, Bob Jones University (2007/2009)

**CLERKSHIPS** Law Clerk to the Honorable Stephen F. Williams (2017–2018)  
United States Court of Appeals for the DC Circuit

Law Clerk to the Honorable Lee H. Rosenthal (2016–2017)  
United States District Court for the Southern District of Texas

**ADMISSIONS  
& MEMBER-  
SHIPS**

American Historical Association  
American Society for Legal History  
American Society of Church History  
Conference on Faith and History  
Selden Society

New York Bar (2015)  
U.S. Court of Appeals for the Fifth Circuit (2019)  
U.S. Court of Appeals for the Eleventh Circuit (2019)