

**LAW & ECONOMICS CENTER, GEORGE MASON UNIVERSITY SCHOOL OF LAW**  
**Eighth Annual Judicial Symposium on Civil Justice Issues**  
Sunday, November 17 to Tuesday, November 19, 2013

Classes: George Mason University School of Law, Founders Hall, 3301 Fairfax Drive, Arlington, VA 22201

Hotel: Le Méridien Arlington, 1121 19<sup>th</sup> Street North, Arlington, VA 22209

## Agenda

### Sunday, November 17

*Registration: No program*

**6:00 – 7:30 pm**                    **Registration, Vivace Foyer**  
**Reception, Vivace**

### Monday, November 18

*All sessions held in George Mason University School of Law, Founders Hall Auditorium*

**7:15 & 7:45 am**                    **Bus departs** Le Méridien Arlington for George Mason University School of Law

**7:30 – 8:15 am**                    **Breakfast, Multipurpose Room 126**

**8:20 –8:30 am**                    **Welcome**  
**Henry N. Butler**, George Mason University Foundation Professor of Law, and Executive Director, Law & Economics Center

**Daniel D. Polsby**, Professor of Law & Dean, George Mason University School of Law

**8:30 – 10:00 am**                    **Emerging Trends in Civil Justice**  
**John H. Beisner**, Partner, Skadden, Arps, Slate, Meagher & Flom, LLP & Affiliates  
**Robert S. Peck**, President, Center for Constitutional Litigation, PC

**Moderator: Karen M. Czarnecki**, Director, Education, Law & Economics Center, George Mason University School of Law

**10:30 – 12:00 pm**                    **Scientific Evidence in Environmental and Toxic Torts Litigation**  
**David E. Bernstein**, George Mason University Foundation Professor of Law, George Mason University School of Law  
**Eric G. Lasker**, Partner, Hollingsworth, LLP  
**Carla Burke**, Shareholder, Baron & Budd, LLP  
**R. Dean Hartley**, Partner, Hartley & O'Brien, PLLC

**Moderator: Richard O. Faulk**, Senior Director, Initiative for Energy & the Environment, Law & Economics Center and Partner, Hollingsworth, LLP

Reading Assignment: David Bernstein, "The Misbegotten Judicial Resistance to the Daubert Revolution," *Notre Dame Law Review* 89, no. 1 (2013): 27-70.

Richard O. Faulk, "Schultz v. Akzo Nobel Paints: 'The Rest of the Story' Reveals Limited Impact of Expert Testimony Decision," *Legal Backgrounder* 28, no. 15 (2013).

Richard O. Faulk and Eric G. Lasker, "The quest for the next 'solvent bystander' in asbestos litigation: Will Texas resume the search?" *Westlaw Journal* 31, no. 17 (2013): 3-4.

Joe G. Hollingsworth and Eric G. Lasker, "The Case Against Differential Diagnosis: Daubert, Medical Causation Testimony, and the Scientific Method," *Journal of Health Law* 37, no. 1 (2004).

Eric Lasker, "Manning the Daubert Gate: A Defense Primer in Response to Milward v. Acuity Specialty Products," *Defense Counsel Journal* 79, no. 1 (2012): 128 – 139.

Raphael Metzger, Reflections on Milward and Expert Testimony (February 2013) (unpublished manuscript, on file with author).

*Deborah K. Harris v. CSX Transportation, Inc.* No. 12-1135 (S.Ct. WV 2013).

**12:00 – 1:15 pm**

**Lunch**, Multipurpose Room 126

**1:15 – 2:45 pm**

**Arbitration**

**Andrew J. Pincus**, Partner, Mayer Brown, LLP

**John A. Shope**, Partner, Foley Hoag, LLP

**Jason S. Johnston**, Henry L. and Grace Doherty Charitable Foundation Professor of Law, University of Virginia School of Law

**Christopher R. Drahozal**, Associate Dean for Research & Faculty Development and John M. Rounds Professor of Law, University of Kansas School of Law

**Moderator: James C. Cooper**, Director of Policy & Research, Law & Economics Center, and Lecturer in Law, George Mason University School of Law

Reading Assignment:

Excerpts from Christopher R. Drahozal, The Supreme Court and Class Arbitration: There and Back Again, in *Contemporary Issues in International Arbitration and Mediation: The Fordham Papers* (Arthur Rovine ed. Martinus Nijhoff Publishers, forthcoming 2014)

Excerpts from Peter B. Rutledge & Christopher R. Drahozal, "Sticky" Arbitration Clauses?: The Use of Arbitration Clauses after Concepcion and AmEx, 67 VAND. L. REV. \_\_\_\_ (forthcoming 2014)

**3:15 – 4:45 pm**

**Use of Private Contingency Fee Attorneys by State AGs**

**Luther J. Strange, III**, Attorney General of Alabama

**Bill McCollum**, Partner, Dentons and former Attorney General of Florida

**Peggy A. Lautenschlager**, Of Counsel, Bauer & Bach, LLC and former Attorney General of Wisconsin

**Moderator: Tony F. Troy**, Member, Eckert Seamans and former Attorney General of Virginia

**4:45 pm**

**Bus departs** George Mason University School of Law for Le Méridien Arlington

**6:30 – 8:45 pm**

**Advisory Board Reception & Dinner**, 1789 Restaurant, 1226 36th Street NW, Washington, DC

## Tuesday, November 19

*All sessions held in George Mason University School of Law, Founders Hall Auditorium*

**7:15 & 7:45 am**

**Bus departs** Le Méridien Arlington for George Mason University School of Law

**7:30 – 8:30 am**

**Breakfast**, Multipurpose Room 126

**8:30 – 9:45 am**

**Generic and Brand Name Drug Liability**

**Jay P. Lefkowitz**, Partner, Kirkland & Ellis, LLP

**Kannon K. Shanmugam**, Partner, Williams & Connolly

**Claire Prestel**, Staff Attorney, Public Justice

**Esther E. Berezofsky**, Partner, Williams Cuker Berezofsky

**Charna L. Gerstenhaber**, Vice President and Head of Litigation, Novartis Pharmaceuticals

**Moderator: Fern P. O'Brian**, Partner, Thompson Hine, LLP

**10:15 – 12:00 pm**

**Hydraulic Fracturing and Federalism**

**Christopher A. Wright**, CEO, Liberty Resources, LLC

**Michael L. Krancer**, Partner, Blank Rome, LLP

**Sharon Buccino**, Director, Land and Wildlife Program, Natural Resources Defense Council

**Chris Nidel**, Nidel Law, PLLC

**Brent M. Rosenthal**, The Law Office of Brent M. Rosenthal, PC

**Moderator: Richard O. Faulk**, Senior Director, Initiative for Energy & the Environment, Law & Economics Center and Partner, Hollingsworth, LLP

Reading Assignment:

Testimony of Michael L. Krancer, *Rhetoric vs. Reality, Part II: Assessing the Impact of New Federal Red Tape on Hydraulic Fracturing and American Energy Independence* (May 2012).

Testimony of Frances Beinecke President, Natural Resources Defense Council, *"Opportunities and Challenges for Natural Gas,"* (February 2013).

Mineral and Surface Acres Administered by the Bureau of Land Management, Fiscal Year 2012. (Table)

Public Lands, On-Shore Federal and Indian Minerals\* in Lands of the U.S. (Map)

**12:00 pm**

**Adjourn**

**12:30 – 2:00 pm**

**Mason JEP Advisory Board Meeting & Lunch**, Hazel Hall, Room 215