

THE ECONOMICS OF ACCESS TO CIVIL JUSTICE

Sunday, March 16 to Tuesday, March 18, 2014

Co-Sponsored by:

**Law & Economics Center, George Mason University School of Law &
The Alliance of California Judges**

Location: Laguna Cliffs Resort & Spa, 25135 Park Lantern, Dana Point, California 92629

Agenda

Sunday, March 16

Reception and dinner held in the Laguna Terrace & Dana Ballroom

6:00 – 7:00 pm **Registration & Reception, Laguna Terrace**

7:00 – 9:00 pm **Dinner, Dana Ballroom**

Welcome

Henry N. Butler, George Mason University Foundation Professor of Law and Executive Director, Law & Economics Center, George Mason University School of Law

Keynote Address

The Honorable Joshua D. Wright, Commissioner, US Federal Trade Commission, and Professor of Law (on leave), George Mason University School of Law

Monday, March 17

All sessions held in the Dana Ballroom

8:00 – 8:30 am **Breakfast, Reception Room**

8:30 – 10:00 am **Some Basic Economics of Civil Procedure**

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

10:30 am – 12:00 pm **Private Litigation Under State Consumer Protection Acts: Individual Actions, Class Actions, and an Economic Definition of Access to Justice | Johnston and Butler**

Reading Assignments:

Henry N. Butler and Joshua D. Wright, "[Are State Consumer Protection Acts Really Little-FTC Acts?](#)" *Florida Law Review*, 63, no. 1 (January 2011): 163-192.

Henry N. Butler and Jason S. Johnston, "[Reforming State Consumer Protection Liability: An Economic Approach](#)," *Columbia Business Law Review*, no. 1 (2010): 4-103.

Jason S. Johnston, "[Graphs of Consumer Class Actions](#)," Cook County, IL.

12:00 – 1:20 pm **Luncheon Panel, Dana IV**
The Impact of Third Party Litigation Financing on Access to Justice
Peter Benzian, Managing Director, Burford Capital
John H. Beisner, Partner, Skadden, Arps, Meagher & Flom LLP

1:30 – 3:00 pm **Recent Developments in Class Action Law: Arbitration, Damages, and the Class Action Fairness Act**
Archis A. Parasharami, Partner, Mayer Brown

Daniel S. Mason, Partner, Zelle Hofmann Voelbel & Mason LLP
Diane L. Webb, Partner, Morgan, Lewis & Bockius LLP
Daniel M. Hutchinson, Partner, Lief Cabraser Heimann & Bernstein LLP

Moderator: Jason S. Johnston

Reading Assignments:

Daniel S. Mason and Qianwei Fu, "[Recent Developments: CAFA, Class Certification, and Class Arbitration.](#)"

Archis A. Parasharami and Andrew J. Pincus, "[Supreme Court Rejects Challenge to Arbitration Agreements.](#)" *Class Defense Blog*. (June 20, 2013).

Archis A. Parasharami, "[New Study Finds That Class Members Rarely Benefit from Class Actions.](#)" *Class Defense Blog*. (December 11, 2013).

Archis A. Parasharami, "[Sixth Circuit Rejects Class Settlement Over Excessive Payments to Class Counsel and Named Plaintiffs.](#)" *Class Defense Blog*. (August 13, 2013).

Diane L. Webb, "[Litigating Class Action Post-Conception](#)" February 2012.

3:30 – 5:00 pm

Are Public Nuisance Actions a Wise Way to Improve Access to Justice?

Dennis C. Reich, Partner, Reich and Binstock LLP
Brian M. Schnarr, Associate, Cotchett, Pitre & McCarthy LLP
Marcia E. Williams, Director, Gnarus Advisors
Phil S. Goldberg, Partner, Shook, Hardy, & Bacon, LLP

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

Reading Assignments:

Richard O. Faulk, "[Uncommon Law: Ruminations on Public Nuisance](#)" *Missouri Environmental Law & Policy Review* 18, no. 1 (2010): 1 – 22.

Victor E. Schwartz and Phil Goldberg, "[The Law of Public Nuisance: Maintaining Rational Boundaries on a Rational Tort](#)" *Washburn Law Journal* 45, no. 1 (Spring 2006): 541-583.

Victor E. Schwartz, Phil Goldberg, and Christopher E. Appel, "[Can Governments Impose A New Tort Duty to Prevent External Risks? The 'No-Fault' Theories Behind Today's High-Stakes Government Recoupment Suits](#)" *Wake Forest Law Review*, no. 1 (2009): 923-960.

Cass R. Sunstein, "[Regulatory Moneyball.](#)" *Foreign Affairs*, 92, no. 3 (May/June 2013)

Stephen J. Dunbar and Steven D. Levitt, "[Unintended Consequences: The Case of the Red-Cockaded Woodpecker?](#)" *New York Times*, January 20, 2008.

5:00 pm

Adjourn, Mason Judicial Education Program

6:30 – 8:30 pm

Reception & Dinner, Laguana Terrace & Dana Ballroom

Tuesday, March 18

All sessions held in the Dana Ballroom

7:30 – 8:00 am

Breakfast, Reception Room

8:00 – 12:00 pm

Alliance of California Judges Annual Meeting

12:00 pm

Adjourn