

GEORGE MASON UNIVERSITY ANTONIN SCALIA LAW SCHOOL

Originalism Summit

Friday, January 10 – Sunday, January 12, 2020 | Naples, FL



**GEORGE
MASON**
UNIVERSITY

**ANTONIN SCALIA
LAW SCHOOL**

FRIDAY, JANUARY 10

4:00 - 6:00 pm

Registration, *Registration Foyer*

6:30 - 9:00 pm

Welcome Reception and Dinner, *Tea Garden and Center Court*

Henry N. Butler, Allison and Dorothy Rouse Dean; George Mason University Foundation Professor of Law; Executive Director, Law & Economics Center, George Mason University Antonin Scalia Law School

Andrew S. Oldham, Judge, United States Court of Appeals for the Fifth Circuit

SATURDAY, JANUARY 11

All class sessions held in the Estuary Room

8:00 - 8:50 am

Breakfast, *The Grill*

EMERGING SUPREME COURT CASES

9:00 - 9:50 am

Allen v. Cooper

Ashley Keller, Partner, Keller Lenkner

Sarah Harris, Partner, Williams & Connolly

Moderator: Andrew S. Oldham

10:00 - 10:50 am

Ramos v. Louisiana

Jeff Harris, Partner, Consovoy McCarthy

Patrick Strawbridge, Partner, Consovoy McCarthy

Moderator: William S. Consovoy, Partner, Consovoy McCarthy

11:00 - 11:50 am

Espinoza v. Montana Department of Revenue

Evan Young, Partner, Baker Botts

John Bursch, Vice President of Appellate Advocacy and Senior Counsel, Alliance Defending Freedom

Moderator: Andrew S. Oldham

12:10 - 1:00 pm

Moda Health Plan v. United States

Erin E. Murphy, Partner, Kirkland & Ellis

Elbert Lin, Partner, Hunton Andrews Kurth

Moderator: William S. Consovoy

1:00 pm

Program Adjourns for Afternoon

6:30 - 9:00 pm

Closing Reception and Dinner, *Port Royal*

Keynote Address on Interpretation/Constructions Distinction

Randy E. Barnett, Carmack Waterhouse Professor of Legal Theory, Georgetown University Law Center

SUNDAY, JANUARY 12

All classroom sessions held in the Estuary Room

8:00 - 8:50 am

Breakfast, *The Grill*

9:00 - 10:15 am

Response to Keynote Address on Interpretation/Constructions Distinction

Aditya Bamzai, Associate Professor of Law, University of Virginia School of Law

Randy E. Barnett, Carmack Waterhouse Professor of Legal Theory, Georgetown University Law Center

Robert Leider, Assistant Professor of Law, George Mason University Antonin Scalia Law School

Nicole Stelle Garnett, John P. Murphy Foundation Professor of Law, University of Notre Dame Law School

Moderator: William S. Consovoy

10:30 - 11:45 pm

Emerging Academic Issues and Impact on Appellate Litigation

Aditya Bamzai, Associate Professor of Law, University of Virginia School of Law

Robert Leider, Assistant Professor of Law, George Mason University Antonin Scalia Law School

Nicole Stelle Garnett, John P. Murphy Foundation Professor of Law, University of Notre Dame Law School

Moderator: William S. Consovoy

11:45 am

Closing Remarks and Program Adjourns



903 San Jacinto Boulevard
Austin, TX 78701
aso@ca5.uscourts.gov
512.676.2690

ANDREW S. OLDHAM

Judge, US Court of Appeals for the Fifth Circuit

Andrew Oldham is a Circuit Judge on the US Court of Appeals for the Fifth Circuit. Before ascending to the bench, Judge Oldham served as General Counsel to Texas Governor Greg Abbott, where he advised the Governor on a range of issues under federal and state law and managed litigation in which the Governor was an interested party. Before moving to Texas, Judge Oldham was an attorney at Kellogg Hansen Todd Figel & Frederick in Washington, DC. His practice focused on appellate litigation in federal courts of appeals throughout the country. Judge Oldham earned a BA from the University of Virginia with highest honors, a Truman Scholarship for graduate school, an MPhil, first class (with distinction), from Cambridge University, and a JD, *magna cum laude*, from Harvard Law School.



1600 Wilson Boulevard
Suite 700
Arlington, VA 22209
will@consovoymccarthy.com
703.243.9423

WILLIAM S. CONSOVOY

Partner, Consovoy McCarthy

Mr. Consovoy assists clients on a broad range of litigation and appellate issues primarily before the Supreme Court of the United States and federal appellate and district courts, as well as before federal agencies. Mr. Consovoy represents clients in cases involving constitutional issues, interpretation and enforcement of federal statutes, administrative law, civil rights disputes, and a variety of other civil litigation issues. Mr. Consovoy recently argued two cases—*Spokeo v. Robbins* and *Evenwel v. Abbott*—before the Supreme Court of the United States. Mr. Consovoy is a former law clerk to Supreme Court Justice Clarence Thomas, Judge Edith H. Jones of the US Court of Appeals for the Fifth Circuit, and the 17th Judicial Circuit of Virginia. Since 2011, Mr. Consovoy has been the co-director of the Supreme Court Clinic at the Antonin Scalia Law School at George Mason University, where he also is the co-director of the Administrative Law Clinic. Mr. Consovoy earned his BA from Monmouth University, and his JD *magna cum laude* from George Mason University School of Law.



3301 Fairfax Drive
Arlington, VA 22201
hnbutler@gmu.edu
703.993.8644

HENRY N. BUTLER

Allison and Dorothy Rouse Dean and GMU Foundation Professor of Law

Executive Director, Law & Economics Center

George Mason University Antonin Scalia Law School

Henry N. Butler is the Allison and Dorothy Rouse Dean, a George Mason University Foundation Professor of Law, and the Executive Director of the Law & Economics Center at George Mason University's Antonin Scalia Law School. For over 30 years, he has developed and led educational programs that teach the basics of economics, finance, accounting, statistics, and the scientific method to federal and state judges, as well as other legal professionals and scholars. From 2007 to 2010, Henry served as the first Executive Director of the Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law. He has held prior appointments at the Brookings Institution, Chapman University, the University of Kansas, the University of Chicago, and Texas A&M University. He received an MA and PhD in economics from Virginia Polytechnic Institute and State University and a JD from the University of Miami School of Law. He received his bachelor's degree in economics from the University of Richmond.

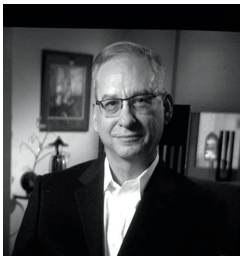


581 Massie Road
Room WB302G
Charlottesville, VA 22904
ab3sy@virginia.edu
434.243.0698

ADITYA BAMZAI

Associate Professor of Law, University of Virginia School of Law

Aditya Bamzai teaches and writes about civil procedure, administrative law, federal courts, national security law and computer crime. He joined the University of Virginia School of Law's faculty as an associate professor in June 2016. He has argued cases relating to the separation of powers and national security in the US Supreme Court, Foreign Intelligence Surveillance Court of Review, DC Circuit, and other federal courts of appeals. Before entering the academy, he served as an attorney-adviser in the Office of Legal Counsel of the US Department of Justice, and as an appellate attorney in both private practice and for the National Security Division of the Department of Justice. He is a graduate of Yale University and of the University of Chicago Law School, where he was the editor-in-chief of the law review.



600 New Jersey Avenue NW
McDonough 590
Washington, DC 20001
rb325@law.georgetown.edu
202.662.9936

RANDY E. BARNETT

Carmack Waterhouse Professor of Legal Theory, Georgetown University Law Center

Randy Barnett is the Carmack Waterhouse Professor of Legal Theory at the Georgetown University Law Center, where he directs the Georgetown Center for the Constitution. After graduating from Northwestern University and Harvard Law School, he was a criminal prosecutor in the Cook County State's Attorney's Office in Chicago. A recipient of a Guggenheim Fellowship and a Bradley Prize, he has been a visiting professor at Harvard Law School, Northwestern University, and University of Pennsylvania. He has published eleven books and over 140 articles and reviews. Professor Barnett portrayed a prosecutor in the science fiction feature film *InAlienable*.



440 1st Street NW
Washington, DC 20001
jbursch@adflegal.org
616.450.4235

JOHN BURSCH

Vice President of Appellate Advocacy and Senior Counsel, Alliance Defending Freedom

John Bursch is vice president of appellate advocacy and senior counsel with Alliance Defending Freedom. Bursch has argued eleven US Supreme Court cases since 2011 and has the sixth highest win rate among all lawyers with four or more 5-4 Supreme Court decisions since the 2005 term. Bursch served as solicitor general for the state of Michigan from 2011-2013. As part of his private firm, Bursch Law PLLC, he has represented Fortune 500 companies, foreign and domestic governments, top public officials, and industry associations in high-profile cases, primarily on appeal. His work has resulted in repeated listings in *Michigan Super Lawyers* and *Best Lawyers*. He is also the principal author of the Michigan Supreme Court's *Guide for Counsel*. Before entering private practice, Bursch served as a law clerk to the Honorable James B. Loken on the US Court of Appeals for the Eighth Circuit. He received his JD *magna cum laude* in 1997 from the University of Minnesota Law School, where he served as chief note & comment editor for the *Minnesota Law Review*. Prior to that, he attended Western Michigan University, where he received degrees in mathematics and music performance *summa cum laude*. He graduated from the Lee Honors College in 1994. Bursch is admitted to practice in numerous federal district and appellate courts, including the US Supreme Court.



3119 Eck Hall of Law
Notre Dame, IN 46556
ngarnett@nd.edu
202.662.9936
574.631.3091

NICOLE STELLE GARNETT

John P. Murphy Foundation Professor of Law, Notre Dame Law School

Nicole Stelle Garnett's research focuses on property, land use, urban development, local government law, and education policy. She is the author of numerous articles on these subjects and of two books, *Ordering the City: Land Use, Policing and the Restoration of Urban America* (Yale University Press, 2009) and *Lost Classroom, Lost Community: Catholic Schools' Importance in Urban America* (University of Chicago Press, 2014). At Notre Dame, Garnett also is a Fellow of the Institute for Educational Initiatives and the Senior Policy Advisor for the Alliance for Catholic Education, a program engaged in a wide array of efforts to strengthen and sustain K-12 Catholic schools. Garnett received her BA with distinction in political science from Stanford University and her JD from Yale Law School. Following law school, she served as a law clerk for the Honorable Morris S. Arnold of the US Court of Appeals for the Eighth Circuit and for Associate Justice Clarence Thomas of the US Supreme Court.



725 Twelfth Street NW
Washington, DC 20005
sharris@wc.com
202.434.5599

SARAH HARRIS

Partner, Williams & Connolly

Sarah Harris focuses her practice on complex appellate litigation. She has represented clients in high-stakes appeals in the US Supreme Court and federal and state appellate courts across the country. Her cases have covered a wide range of topics, including commercial litigation matters, constitutional law, administrative law, class actions, antitrust, False Claims Act litigation, products liability, and federal civil procedure. Before joining Williams & Connolly, Sarah served as a deputy assistant attorney general in the Office of Legal Counsel at the United States Department of Justice. She clerked for Justice Clarence Thomas on the US Supreme Court, Judge Laurence Silberman on the US Court of Appeals for the DC Circuit, and Judge Sandra Lynch on the US Court of Appeals for the First Circuit. Sarah received her undergraduate degree *summa cum laude* from Princeton University, and her JD *magna cum laude* from Harvard Law School. She also holds a PhD from the University of Cambridge.



1600 Wilson Boulevard
Suite 700
Arlington, VA 22209
jeff@consovoymccarthy.com
202.321.4120

JEFFREY M. HARRIS

Partner, Consovoy McCarthy

Mr. Harris is an experienced litigator who focuses on constitutional, appellate, and regulatory matters. In 2015, he was named to the *Legal Times* list of "D.C.'s Rising Stars," which identified "some of the most accomplished young attorneys in the DC area." Mr. Harris previously served as associate administrator of the Office of Information and Regulatory Affairs (OIRA). Before his government service, Mr. Harris was a partner at Bancroft PLLC and Kirkland & Ellis LLP, where his practice focused on Supreme Court, appellate, and complex litigation. Mr. Harris has extensive experience litigating before the US Supreme Court. He has argued before the Court in a major civil rights case, has been the lead drafter of more than 100 merits briefs, amicus briefs, and certiorari-stage briefs, and has contributed to ten wins in cases before the Court. He earned his JD *magna cum laude* from Harvard Law School and his AB *magna cum laude* from Georgetown University. He is a member of the District of Columbia and Virginia bars.



150 N. Riverside Plaza
Suite 4270
Chicago, IL 60606
ack@kellerlenkner.com
312.741.5222

ASHLEY C. KELLER

Partner, Keller Lenkner

Ashley Keller is a Partner at Keller Lenkner LLC. He is listed by Lawdragon as one of the 500 Leading Lawyers in America. Ashley co-founded the litigation finance firm Gerchen Keller Capital, which was the world's largest private investment manager focused on legal and regulatory risk before it was acquired by Burford Capital in 2016. Before co-founding Gerchen Keller, Ashley was a partner at Bartlit Beck Herman Palenchar & Scott LLP, *The American Lawyer's* litigation boutique of the year, where he handled various trial and appellate matters involving multi-billion-dollar securities and patent cases, contractual disputes, mass torts, and class actions. Ashley also worked as an analyst at Alyeska Investment Group, a Chicago-based market neutral hedge fund. Before practicing law, Ashley was a law clerk for Justice Anthony M. Kennedy at the US Supreme Court and Judge Richard Posner at the US Court of Appeals for the Seventh Circuit. He graduated *magna cum laude* from Harvard College and received an MBA from the University of Chicago Booth School of Business and a JD from the University of Chicago Law School, where he graduated first in his class.



3301 Fairfax Drive
Arlington, VA 22201
rleider@gmu.edu
703.993.8368

ROBERT LEIDER

Assistant Professor of Law, George Mason University Antonin Scalia Law School

Robert Leider is an Assistant Professor of Law at Antonin Scalia Law School at George Mason University. His scholarly interests are in criminal law, criminal procedure, and constitutional law, especially concerning questions about the use of force and the rule of law. He has written on the law of self-defense, the constitutional allocation of military power, and gun control. Before joining Scalia Law, Professor Leider was at Arnold & Porter in Washington, DC. He was previously with Mayer Brown LLP and was an Olin-Searle-Smith Fellow at the University of Pennsylvania Law School. He has clerked for Judge Diane S. Sykes, of the US Court of Appeals for the Seventh Circuit, and Justice Clarence Thomas. Professor Leider earned a BA, *summa cum laude*, from The George Washington University, a JD from Yale Law School, and a PhD in Philosophy (dissertation defended with distinction) from Georgetown University.



951 East Byrd Street
Riverfront Plaza East Tower
Richmond, VA 23219
elin@huntonak.com
804.788.7202

ELBERT LIN

Partner, Hunton Andrews Kurth

The former Solicitor General of West Virginia and law clerk to Justice Clarence Thomas, Elbert Lin co-leads the Issues and Appeals practice at Hunton Andrews Kurth LLP. He has argued dozens of appeals, including in the US Supreme Court. During his four-and-a-half year tenure on the West Virginia Attorney General's senior staff, Elbert oversaw all civil and criminal appeals, and supervised nearly fifty Attorney General opinions. Before that role, Elbert was a partner at Wiley Rein LLP in Washington, DC, and a trial attorney with the US Department of Justice. He also clerked for US Court of Appeals Judge William H. Pryor Jr. and Senior US District Judge Robert E. Keeton. A *magna cum laude* graduate of Yale University and managing editor of the law journal at Yale Law School, Elbert was elected to the American Law Institute in 2018 and recently named a 2019 National Law Journal Litigation Trailblazer.



1301 Pennsylvania Avenue,
NW
Washington, DC 20004
erin.murphy@kirkland.com
202.389.5036

ERIN E. MURPHY

Partner, Kirkland & Ellis

Erin Murphy is a partner in the Washington DC office of Kirkland & Ellis LLP. Her practice focuses on Supreme Court, appellate, and constitutional litigation. She has argued four cases before the Supreme Court, including successfully arguing *McCutcheon v. FEC*, for which she was named American Lawyer's "Litigator of the Week"; successfully arguing on behalf of the US House of Representatives in *Texas v. United States*; and successfully arguing on behalf of the Wisconsin State Legislature in *Gill v. Whitford*. Erin has been recognized by the *National Law Journal* as one of the nation's "Outstanding Women Lawyers" and a "Rising Star"; has been ranked by *Chambers & Partners* as one of the nation's top appellate lawyers, and has been listed as a "Rising Star" for appellate litigation by *Law360*.



1600 Wilson Boulevard
Suite 700
Arlington, VA 22209
patrick@consovoymccarthy.
com
703.243.9423

PATRICK STRAWBRIDGE

Partner, Consovoy McCarthy

Mr. Strawbridge is a Partner at Consovoy McCarthy Park PLLC, where he provides clients with advice and representation at the pre-litigation, trial, and appellate stages. He has represented a broad range of individual and institutional clients on matters of constitutional law, financial and securities regulation, environmental laws, complex commercial disputes, and consumer protection statutes. His experience includes arbitrations, trial and appellate litigation, and administrative and regulatory proceedings. Mr. Strawbridge served as a law clerk to Supreme Court Justice Clarence Thomas, Judge Morris Sheppard Arnold of the US Court of Appeals for the Eighth Circuit, and Justice Howard Dana of the Supreme Judicial Court of Maine. Previously, Mr. Strawbridge was a partner at two large international law firms. Mr. Strawbridge is an adjunct professor for the Supreme Court Clinic at the Antonin Scalia Law School at George Mason University. Mr. Strawbridge earned a bachelor of journalism from the University of Missouri, and his JD *summa cum laude* from Creighton University School of Law.



98 San Jacinto Boulevard
Suite 1500
Austin, TX 78701
evan.young@bakerbotts.
com
512.322.2506

EVAN YOUNG

Practice Group Chair, Supreme Court & Constitutional Law (Firmwide), Partner Baker Botts

Evan Young is a partner at Baker Botts LLP. He is firmwide co-chair of the Supreme Court and Constitutional Law practice group, and from 2014 until 2018 was the litigation department chair for the Firm's Austin office. His practice focuses on appellate litigation in state and federal courts, and he has briefed, argued, and won cases in the Supreme Court of the United States, the Supreme Court of Texas, federal courts of appeals, and lower courts. Evan graduated from Duke University; Oxford University, where he was a British Marshall Scholar; and Yale Law School. He clerked for Judge J. Harvie Wilkinson III on the Fourth Circuit and then for Justice Antonin Scalia at the US Supreme Court. After his clerkship with Justice Scalia, Evan joined the US Department of Justice as Counsel to the Attorney General of the United States. Starting in December 2007, he spent nearly a year on detail at the US Embassy in Baghdad, Iraq, where he was the deputy rule of law coordinator.