

JUDICIAL EDUCATION PROGRAM

Naples Colloquium

Sunday, March 14 – Saturday, March 20, 2021 | NAPLES, FL

GEORGE MASON UNIVERSITY ANTONIN SCALIA LAW SCHOOL

LAW &
ECONOMICS
CENTER

SUNDAY, MARCH 14

All classes will be held in Vanderbilt I

1:00 - 5:00 pm

Registration, South Terrace

5:00 - 6:00 pm

Opening Remarks

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

Judge to Judge: John K. Bush Interviews Douglas H. Ginsburg

Douglas H. Ginsburg, Senior Circuit Judge, United States Court of Appeals for
the District of Columbia; Professor of Law, George Mason University Antonin
Scalia Law School

John K. Bush, Circuit Judge, US Court of Appeals for the Sixth Circuit

6:15 - 9:00 pm

Welcome Reception and Dinner, Center Court
(Guests Welcome)

MONDAY, MARCH 15

All classes held in Vanderbilt I

7:00 - 7:50 am

Breakfast, Vanderbilt II & III
(Guests welcome)

8:00 - 9:15 am

Session 1: The Economics of Market and Government Failures

Terry L. Anderson, John and Jean De Nault Senior Fellow, Hoover Institution
Stanford University

Reading Assignment:

Butler, Henry N., Christopher R. Drahozal, and Joanna Shepherd. *Economic
Analysis for Lawyers*, 3rd ed. Durham, North Carolina: Carolina Academic Press
2014, 125-129.

Butler, Drahozal, & Shepherd, 27-32.

9:30 - 10:45 am

Session 2: It's All About Property Rights I Anderson

Reading Assignment:

"Economic Growth: The Path to a Cleaner Environment." PolicyEd, January 7, 2021,
Youtube video, 1:53.

11:00 am - 12:15 pm **Session 3: The Effect of Police on Crime**
Jonathan Klick, Professor of Law, University of Pennsylvania Carey Law School

Reading Assignment:

Klick, Jonathan and Alexander Tabarrok, "Using Terror Alert Levels to Estimate the Effect of Police on Crime." *The Journal of Law And Economics* 48 (2005): 267-279.

12:15 - 6:00 pm **Afternoon Study Break**

6:00 - 7:00 pm **Session 4: Fireside Chat On Heller and Assorted Other Tales**, *Beach House*
Robert A. Levy, Chairman, Cato Institute

7:00 pm **Dinner**, *Beach House*
(Guests Welcome)

TUESDAY, MARCH 16

All classes held in Vanderbilt I

7:00 - 7:50 am **Breakfast**, *Vanderbilt II & III*
(Guests welcome)

8:00 - 9:15 am **Session 5: Incentives Everywhere: The Effect of Abortion on Risky Sex I Klick**

Reading Assignment:

Klick, Jonathan and Thomas Stratmann, "The Effect of Abortion Legalization on Sexual Behavior: Evidence from Sexually Transmitted Diseases." *Journal of Legal Studies* 32 (2003): 407-433.

9:30 - 10:45 am **Session 6: The Replication Crisis and Evidence Law**
Kathryn Zeiler, Professor of Law and Nancy Barton Scholar
 Boston University School of Law

Reading Assignment:

Chin, Jason M. and Kathryn Zeiler. "Replicability in Empirical Legal Research." *Annual Review of Law and Social Science* 17 (Submitted 2021): 4-7, and 15-19.

Chin, Jason M. "What Irreproducible Results Mean for the Law of Scientific Evidence." *The Advocates' Journal* 35, no. 1 (2016): 17-20.

11:00 am - 12:15 pm

Session 7: The Role of the ACA's Health Insurance Purchase Mandate | Zeiler

Reading Assignment:

Fiedler, Matthew. "The ACA's Individual Mandate In Retrospect: What Did It Do, And Where Do We Go From Here?" *Health Affairs* 39, no. 3 (2020): 429-435.

Gais, Thomas L. and Michael K. Gusmano. "Putting the Pieces Together Again: American States and the End of the ACA's Shared Responsibility Payment." *Journal of Health Politics, Policy and Law* 45, no. 3 (2020): 439-452.

12:15 pm

Adjourn for Day

WEDNESDAY, MARCH 17

All classes held in Vanderbilt I

7:00 - 7:50 am

Breakfast, Vanderbilt II & III
(Guests welcome)

8:00 - 9:15 am

Session 8: Private Law Foundations of Constitutional Law

Richard A. Epstein, Laurence A. Tisch Professor of Law, New York University Law School; Peter and Kirsten Bedford Senior Fellow, Hoover Institution Senior Lecturer, University of Chicago

Reading Assignment:

Epstein, Richard A. "Property Rights: Long and Skinny." *International Journal of the Commons* 10, no. 1 (2020): 567-582.

9:30 - 10:45 am

Session 9: Antitrust: On Big Tech's Acquisition of Nascent Competitors | Ginsburg

Reading Assignment:

Ginsburg, Douglas H. and Koren W. Wong-Ervin. "Challenging Consummated Mergers Under Section 2." *Competition Policy International* (2020).

Melamed, A. Douglas. "Acquisitions of Nascent Competitors under Section 2 of the Sherman Act." *Concurrentialiste Journal of Antitrust Law* (2021).

Melamed, A. Douglas. "Acquisitions of Nascent Competitors under Section 2 of the Sherman Act." *Concurrentialiste Journal of Antitrust Law* (2021), Footnotes.

American Bar Association Antitrust Law Section. Presidential Transition Report: The State of Antitrust Enforcement (Feb. 2021). (See highlighted sections only.)

- 11:00 am - 12:15 pm** **Session 10: Private Law Foundations of Administrative Law I Epstein**
- Reading Assignment:**
Epstein, Richard A. *The Dubious Morality of Modern Administrative Law*. Maryland: Rowman & Littlefield Publishing, 2020: 9-28 and 33-76.
- 12:15 - 6:00 pm** **Afternoon Study Break**
- 6:00 - 7:00 pm** **Session 11: Fireside Chat on Law and Economics: A View from the Bench I Ginsburg, Tea Garden**
- 7:00 pm** **Dinner, Center Court**
(Guests Welcome)

THURSDAY, MARCH 18

All classes held in Vanderbilt I

- 7:00 - 7:50 am** **Breakfast, Vanderbilt II & III**
(Guests welcome)
- 8:00 - 9:10 am** **Session 12: Consumer Financial Protection Bureau Task Force Report**
Todd J. Zywicki, George Mason University Foundation Professor of Law
George Mason University Antonin Scalia Law School
- Reading Assignment:**
Noonan, Jean. "Summary of CFPB Task Force Report Findings." Paper presented at New Directions in Consumer Finance Law: An Insider's Look at the Report of the CFPB Task Force Webinar, February 11, 2021.
- 9:30 - 10:45 am** **Session 13: The Modern American Law of Racial Classification**
David E. Bernstein, University Professor of Law; Executive Director, Liberty & Law Center, George Mason University Antonin Scalia Law School
- Reading Assignment:**
Bernstein, David E. "Outline of Classified: The Untold Story of Racial Classification in America." (Work-in-Progress).
- 11:00 am - 12:15 pm** **Session 14: The George Mason School of Law & Economics I Zywicki**
- Reading Assignment:**
Zywicki, Todd J. "Keynote Address: Is There a George Mason School of Law and Economics?" *Journal of Law, Economics & Policy* 10, no. 3 (2014): 543-554.
- 12:15 pm** **Adjourn for Day**

FRIDAY, MARCH 19

All classes held in Vanderbilt I

7:00 - 7:50 am

Breakfast, Vanderbilt II & III
(Guests welcome)

8:00 - 9:10 am

Session 15: Does Rule 702 of the Federal Rules of Evidence Need to be Amended? I Bernstein

Reading Assignment:

Bernstein, David E. "It's time to rewrite the rules for expert testimony in federal court." *Washington Post*, Oct. 12, 2015.

Bernstein, David E. "A regrettable Eleventh Circuit expert testimony ruling, *Adams v. Lab. Corp. of America*." *Washington Post*, May 26, 2015.

Bernstein, David E. "With Daubert and the admissibility of expert testimony, it's 'deja vu all over again.'" *Washington Post*, Oct. 28, 2014.

Bernstein, David E. "Some Federal Courts Continue to Neglect Federal Rule of Evidence 702." *The Volokh Conspiracy* (blog), January 21, 2013.

Bernstein, David E. "Interesting Rule 702 Causation Case." *The Volokh Conspiracy* (blog), September 20, 2010.

9:20 - 10:30 am

Session 16: What Do We Learn From Law and Literature?

Tyler Cowen, Distinguished Senior Fellow, F. A. Hayek Program for Advanced Study in Philosophy, Politics, and Economics and Faculty Director, Mercatus Center Holbert L. Harris Chair of Economics, George Mason University

Reading Assignment:

Glaspell, Susan. "Trifles." dir. Frank Shay: *The Washington Square Players*. New York, 1916.

Doyle, Arthur Conan. "The Adventure of the Speckled Band," in *The Adventures of Sherlock Holmes*. Garden City, NY: Doubleday & Co., 1930.

Melville, Herman and Mead Schaeffer. "Fast-Fish and Loose-Fish," and "Heads or Tails," in *Moby Dick*. New York: Dodd, Mead, and Company, 1922.

11:00 am - 12:15 pm

Session 17: How Does an Incentives-Obsessed Economist Think About Law and Economics? I Cowen

Reading Assignment:

Bowles, Samuel, and Sandra Polania Reyes. "Economic Incentives and Social Preferences: Substitutes or Complements?" *Journal of Economic Literature* 50, no. 2 (2012): 368-425.

12:15 - 6:00 pm

Afternoon Study Break

6:00 - 7:00 pm

Session 18: Fireside Chat on Hoover Institution's Indigenous Nations Project I
Anderson, Artisans

Reading Assignment:

Anderson, Terry and Wendy Purnell. "Native American Heritage: It's Not What You Think." *Hoover Institution*, February 12, 2019.

Anderson, Terry and Wendy Purnell. "The Bonds of Colonialism." *Hoover Institution*, April 26, 2019.

Anderson, Terry and Wendy Purnell. "Reservation Capitalism." *Hoover Institution*, August 15, 2019.

"Original Indigenous Economies, The Renewing Indigenous Economies Project." PolicyEd, April 21, 2020, YouTube video, 4:30.

"Colonialism: Then and Now, The Renewing Indigenous Economies Project." PolicyEd, April 21, 2020, YouTube video, 3:12.

"A New Path Forward, The Renewing Indigenous Economies Project." PolicyEd, April 21, 2020, YouTube video, 4:29.

7:00 pm

Closing Dinner, Center Court
(Guests Welcome)

SATURDAY, MARCH 20

Participants depart at their leisure

7:00 - 9:00 am

Breakfast, Vanderbilt II & III
(Guests welcome)