

GEORGE MASON UNIVERSITY ANTONIN SCALIA LAW SCHOOL

**LAW &
ECONOMICS
CENTER**

JUDICIAL EDUCATION PROGRAM

Sage Lodge Colloquium

Sunday, September 26 - Saturday, October 2, 2021
Pray, Montana



AGENDA

SUNDAY, SEPTEMBER 26

3:00 - 5:00 pm

Registration, Lobby

5:00 - 6:00 pm

Opening Remarks, Yellowstone Room
(Guests welcome)

Donald J. Kochan, Professor of Law
Deputy Executive Director, Law & Economics Center
George Mason University Antonin Scalia Law School

Ken Randall, Allison and Dorothy Rouse Dean
GMU Foundation Professor of Law
George Mason University Antonin Scalia Law School

Judge to Judge: Douglas H. Ginsburg Interviews L. Steven Grasz and Patrick R. Wyrick

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

L. Steven Grasz, Circuit Judge, US Court of Appeals for the Eighth Circuit

Patrick R. Wyrick, District Judge, US District Court for the Western District of Oklahoma

6:00 pm

Welcome Reception and Dinner, The Grill and Patio
(Guests welcome)

MONDAY, SEPTEMBER 27

All classes held in the Yellowstone Room

7:00 - 7:50 am

Breakfast, *The Grill*
(Guests welcome)

8:00 - 9:15 am

Session 1: Law, Lawyers, and Courts in Early Crime Classics

Ross E. Davies, Professor of Law, George Mason University Antonin Scalia Law School

Reading Assignment:

Holmes, Oliver Wendall. *The Black Book*, 1876-1934, ed. Manuscript. In *Harvard Law School Library, Historical & Special Collections*.

Hoeflich, M.H. *The Black Book*. Transcript of manuscript of Oliver Wendall Holmes' reading diary. 1893.

Holmes, Oliver Wendall. Oliver Wendall Holmes to Frederick Pollack. January 20, 1893. In *Harvard Law School Library, Historical & Special Collections*.

Holmes, Oliver Wendall. Oliver Wendall Holmes to Anna Lyman (Nina) Gray. July 22, 1893. In *Harvard Law School Library, Historical & Special Collections*.

Holmes, Oliver Wendall. "Books." *The Harvard Magazine* 4, no. 10 (December 1858): 408-412.

9:30 - 10:45 am

Session 2: Reading Along with Oliver Wendall Holmes | Davies

Reading Assignment:

Holmes, Oliver Wendall. *The Black Book*, 1876-1934, ed. Manuscript. In *Harvard Law School Library, Historical & Special Collections*.

Hoeflich, M.H. *The Black Book*. Transcript of manuscript of Oliver Wendall Holmes' reading diary. 1893.

Holmes, Oliver Wendall. Oliver Wendall Holmes to Frederick Pollack. January 20, 1893. In *Harvard Law School Library, Historical & Special Collections*.

Holmes, Oliver Wendall. Oliver Wendall Holmes to Anna Lyman (Nina) Gray. July 22, 1893. In *Harvard Law School Library, Historical & Special Collections*.

Holmes, Oliver Wendall. "Books." *The Harvard Magazine* 4, no. 10 (December 1858): 408-412.

AGENDA

- 11:00 am - 12:15 pm** **Session 3: The Law Market: How Choices Among Laws Can Improve Law**
Erin O'Hara O'Connor, Dean and McKenzie Professor of Law, Florida State University College of Law
- Reading Assignment:**
O'Hara, Erin A. and Larry E. Ribstein. "Introduction." *The Law Market*. New York: Oxford University Press 2009, 3-17.
- 12:15 - 6:00 pm** **Afternoon Study Break**
- 6:00 - 7:00 pm** **Session 4: Fireside Chat with Cam Sholly**, *Event Lawn*
Cameron (Cam) Sholly, Superintendent of Yellowstone National Park, US National Park Service
- 7:00 pm** **Dinner**, *The Grill*
(Guests Welcome)

TUESDAY, SEPTEMBER 28

All classes held in the Yellowstone Room

- 7:00 - 7:50 am** **Breakfast**, *The Grill*
(Guests Welcome)
- 8:00 - 9:15 am** **Session 5: Arbitration vs. Courts: Party Preferences and the Development of Law | O'Connor**
- Reading Assignment:**
O'Connor, Erin O'Hara and Christopher R. Drahozal. "The Essential Role of Courts for Supporting Innovation." *Texas Law Review* 92, no. 2177 (2014): 2179-2203.
- 9:30 - 10:45 am** **Session 6: Climate Change and the Common Law**
James Huffman, Emeritus Dean and Professor of Law, Lewis & Clark Law School
- Reading Assignment:**
Huffman, James. "Judicial Lawmaking Under Cover of Public Nuisance." *Natural Resources & Environment*, Winter 2021.
- 11:00 am - 12:15 pm** **Session 7: Political Factions and the Constitution | Huffman**
- Reading Assignment:**
Madison, James. Federalist No. 10: "The Same Subject Continued: The Union as a Safeguard Against Domestic Faction and Insurrection," *New York Daily Advertiser*, 22 November 1787.
- 12:15 pm** **Adjourn for Day**

WEDNESDAY, SEPTEMBER 29

All classes held in the Yellowstone Room

7:00 - 7:50 am

Breakfast, The Grill
(Guests welcome)

8:00 - 9:15 am

Session 8: Woke Law!

Todd J. Zywicki, George Mason University Foundation Professor of Law, George Mason University Antonin Scalia Law School; and Senior Fellow, Center for Monetary and Financial Alternatives, Cato Institute

Reading Assignment:

Wolff, Robert Paul and Barrington Moore, Jr., and Herbert Marcuse. *A Critique of Pure Tolerance*, 5th ed. (Boston: Beacon Press, 1970).

Pluckrose, Helen and James Lindsay. *Cynical Theories: How Activist Scholarship Made Everything About Race, Gender, and Identity - And Why This Harms Everybody*. (Durham, North Carolina, 2020).

9:30 - 10:45 am

Session 9: Introduction to Statistics

Orley C. Ashenfelter, Joseph Douglas Green 1985 Professor of Economics, Princeton University

11:00 am - 12:15 pm

Session 10: Introduction to Econometrics | Ashenfelter

Reading Assignment:

Marginal Revolution University. "The Economics of Wine (Orley Ashenfelter, Princeton)." YouTube, 4:46, September 30, 2020, <https://www.youtube.com/watch?app=desktop&v=8WMRj9mTQtl>.

12:15 - 6:00 pm

Afternoon Study Break

6:00 - 7:00 pm

Session 11: Fireside Chat and Wine Tasting | Ashenfelter, Event Lawn

7:00 pm

Dinner, The Grill
(Guests Welcome)

THURSDAY, SEPTEMBER 30

All classes held in in the Yellowstone Room

7:00 - 7:50 am

Breakfast, The Grill
(Guests welcome)

8:00 - 9:15 am

Session 12: Unprofitable Education: Student Loans, Higher Education Costs, and the Regulatory State | Zywicki

Reading Assignment:

Chakrabarti, Rajashri, and Nicole Gorton, Michelle Jiang, and Wilbert van der Klaauw. "Who is More Likely to Default on Student Loans?" *Liberty Streets Economics* (November 20, 2017).

Manne, Henry. "All Education is For-Profit Education." *The James G. Martin Center for Academic Renewal* (June 24, 2014).

Gross, Jacob P. K., Osman Cekic, Don Hossler, and Nick Hillman. "What Matters in Student Loan Default: A Review of the Research Literature." *Journal of Student Financial Aid* 39, no. 1 (2009): 19-29.

9:30 - 10:45 am

Session 13: Impact of the COVID-19 Pandemic on Wildlife Law Enforcement in Africa

Catherine E. Semcer, Research Fellow, Property & Environment Research Center

Reading Assignment:

Semcer, Catherine E. "Coronavirus Pandemic Highlights the Vulnerability of African Wildlife Conservation - Diversifying conservation funding will increase resilience to future shocks." *Property and Environment Research Center* (March 30, 2020).

11:00 am - 12:15 pm

Session 14: Fix America's Forests

Jonathan Wood, Vice President of Law and Policy, Property & Environment Research Center

Reading Assignment:

Fretwell, Holly and Jonathan Wood. Fix America's Forests: Reforms to Restore National Forests and Tackle the Wildfire Crisis. *PERC Report* (April 12, 2021).

12:15 pm

Adjourn for Day

FRIDAY, OCTOBER 1

All classes held in the Yellowstone Room

7:00 - 7:50 am

Breakfast, The Grill
(Guests welcome)

8:00 - 9:15 am

Session 15: Lessons from State Administrative Law for the Reassessment of Chevron

Jeffrey S. Sutton, Chief Judge, US Court of Appeals for the Sixth Circuit

Reading Assignment:

Sutton, Jeffrey S. "Administrative Law." In *Who Decides? States as Laboratories of Constitutional Experimentation*, 183-235 (forthcoming).

9:30 - 10:45 am

Session 16: The Relevance of State Court Experiences to Modern Debates About Federal Judicial Review | Sutton

Reading Assignment:

Sutton, Jeffrey S. "Umpiring and Gerrymandering." In *Who Decides? States as Laboratories of Constitutional Experimentation*, 15-29 (forthcoming).

11:00 am - 12:15 pm

Session 17: The War on Big Tech | Ginsburg

Reading Assignment (the following all included in single Course Packet):

McKinnon, John D. and Meghan Bobrowsky. "President Biden's Executive Order Opens New Front in Battle With Big Tech." *The Wall Street Journal*, July 10, 2021.

Tankersley, Jim and Cecilia Kang. "Biden's Antitrust Team Signals a Big Swing at Corporate Titans." *The New York Times*, July 24, 2021.

Michaels, Daniel and Brent Kendall. "US Competition Policy Is Aligning With Europe, and Deeper Cooperation Could Follow." *The Wall Street Journal*, July 15, 2021.

Jacobson, Jonathan and Christopher Mufarrige. "Acquisitions of 'Nascent' Competitors." *The Antitrust Source*, (August 2020).

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

12:15 - 6:00 pm

Afternoon Study Break

AGENDA

6:00 - 7:00 pm

Session 18: Fireside Chat on Non-Use Rights: The Next Frontier of Conservation, *Event Lawn*

Brian Yablonski, Chief Executive Director, Property and Environment Research Center

Shawn Regan, Vice President of Research, Property and Environment Research Center

7:00 pm

Closing Dinner, *Yellowstone Room*

(Guests Welcome)

SATURDAY, OCTOBER 2

Travel Day, Participants depart at their leisure

7:00 - 9:00 am

Breakfast, *The Grill*

(Guests Welcome)