

GEORGE MASON UNIVERSITY ANTONIN SCALIA LAW SCHOOL

# LAW & ECONOMICS CENTER

## JUDICIAL EDUCATION PROGRAM

# Judicial Symposium on Scientific Methodology and the Admissibility of Expert Testimony

Sunday, March 6 - Wednesday, March 9, 2022  
Destin, Florida





## ABOUT US

Since its inception in 1974, the Law & Economics Center has played a critical role as a leader in law and economics research and education. The LEC recognizes both the importance of timely, relevant, and unassailable research on public policy issues as well as the necessity of communicating research findings to those who are directly shaping our country's public policy discussions. With research divisions devoted to top-quality legal policy analysis and educational arms reaching out to judges, attorneys general, and other policymakers, the LEC is uniquely equipped to positively affect national policy outcomes.

The generous support of individuals, foundations, and corporations makes LEC activities possible. A current list of LEC donors may be found on our website at [www.masonlec.org](http://www.masonlec.org).

## OUR DIVISIONS

**THE JUDICIAL EDUCATION PROGRAM** is the nation's preeminent provider of high-quality, balanced judicial education seminars and conferences that focus on economics, finance, accounting, statistics, and the scientific method. The LEC has been offering educational programs for judges since 1976.

**THE HENRY G. MANNE PROGRAM IN LAW & ECONOMICS STUDIES** promotes law and economics scholarship by funding faculty research and hosting policy-relevant research roundtables and academic conferences.

**THE ATTORNEYS GENERAL EDUCATION PROGRAM** offers courses that provide a broad-based understanding of economic and public policy issues to state attorneys general, solicitors general and their staff lawyers.

**THE CONGRESSIONAL CIVIL JUSTICE ACADEMY** provides balanced educational programs on a range of civil justice issues for the benefit of Members of the US Congress, their staffs, and their constituents.

**THE PROGRAM ON ECONOMICS & PRIVACY** produces timely and original economic analysis of the privacy, data security, competition, and consumer protection issues intrinsic to the modern, digital economy, and it injects this analysis into public discussions by holding educational programs and forums in which scholars, thought leaders, and policymakers share research and insights.

**THE TRIBAL LAW & ECONOMICS PROGRAM** offers law and economics education to provide tribal leaders, judges, and academics with effective tools to aid them in their efforts toward self-governance, commissions rigorous research to provide data needed in support of those efforts, and creates a clinic staffed by law students and guided by law faculty to offer legal assistance to the tribes.



# AGENDA

## SUNDAY, MARCH 6

**3:30 - 5:30 pm**

**Registration**, *Living Room*

**5:30 - 7:00 pm**

**Welcome Reception**, *Grand Lawn*  
(*Guests Welcome*)

## MONDAY, MARCH 7

*All sessions will be held in Crystal Ballroom*

**7:00 - 7:50 am**

**Breakfast**, *Grand Lawn*  
(*Guests Welcome*)

**8:00 - 9:10 am**

**Welcoming Remarks**

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

**Lecture I: An Introduction to the Scientific Method**

**David Faigman**, Chancellor and Dean, University of California Hastings  
College of the Law

**Reading Assignment:**

Michael J. Saks, *Chapter 4: Scientific Method: The Logic of Drawing Inferences From Empirical Evidence*, in DAVID FAIGMAN ET AL., MODERN SCIENTIFIC EVIDENCE, 313, 313-353 (2002).

**9:10 - 9:30 am**

**Break**

**9:30 - 10:40 am**

**Lecture II: The Nature of Expert Evidence and the Incomplete Nature of Science | Faigman**

**Reading Assignment:**

David L. Faigman, *A Preliminary Exploration of the Problem of Reasoning from General Scientific Data to Individualized Legal Decision-Making*, 75 BROOK. L. REV. 1, 1-14 (2010).

David L. Faigman & Jennifer Mnookin, *The Curious Case of Wendell v. GlaxoSmithKline LLC*, 48 SETON HALL L. REV. 1, 1-18 (2018).

**10:40 - 11:00 am**

**Break**



11:00 am - 12:15 pm

## Panel I: The Challenge of Recognizing Good Science in the Courtroom

**David E. Bernstein**, University Professor and Executive Director, Liberty and Law Center, George Mason University Antonin Scalia Law School

**David Faigman**, Chancellor and Dean, University of California Hastings College of the Law

**Katie R. Jackson**, Associate, Shook Hardy & Bacon LLP

**D. Bruce Johnsen**, Professor Emeritus of Law, George Mason University Antonin Scalia Law School

**Gary E. Marchant**, Regents Professor of Law and Director of the Center for Law, Science, and Innovation Arizona State University Sandra Day O'Connor College of Law

**Moderator: K. Nikki Kirkpatrick**, Judge, Seventh Judicial District, State of Oklahoma

### Reading Assignment:

David E. Bernstein, *Expert Witnesses, Adversarial Bias, and the (Partial) Failure of the Daubert Revolution*, 93 IOWA L. REV. 451, 451-490 (2008).

Shari Seidman Diamond & Richard O. Lempert, *Introduction: Science and the Legal System*, 147 DAEDALUS, J. AM. ACAD. ARTS & SCI. 5, 5-14 (September 24, 2018).

Kateland R. Jackson & Andrew J. Trask, *Federal Rule of Evidence 702: A One-Year Review and Study of Decisions in 2020*, LAW. CIV. JUST. (September 30, 2021).

Committee on Rules of Practice and Procedure Judicial Conference of the United States, Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, and the Federal Rules of Evidence 1-4, 293-312 (2021).

### Additional Resources:

Monya Baker, *Is There a Reproducibility Crisis?* 533 NATURE 452, 452-454 (2016).

Melissa Whitney, *How to Improve Technical Expertise for Judges in AI-related Litigation*, BROOKINGS REP. (November 7, 2019).

*Chapter 7: Scientific and Other Expert Evidence*, in MICHAEL J. SAKS & BARBARA A. SPELLMAN, *THE PSYCHOLOGICAL FOUNDATIONS OF EVIDENCE LAW* 202, 202-211 (2016).



12:15 - 2:00 pm

**Luncheon and Panel II: The Judge As Gatekeeper: The Proper Role of Judges in Evaluating Expert Testimony**

**Cecilia M. Bidwell**, Of Counsel, Shook Hardy & Bacon LLP

**Nathan D. Finch**, Member, Motley Rice LLC

**Leslie Mitchell Kroeger**, Partner, Cohen Milstein Sellers & Toll PLLC

**Lee Mickus**, Partner, Evans Fears & Schuttart

**Justin T. Sevier**, Charles W. Ehrhardt Professor of Litigation, Florida State University College of Law

**Moderator: Philip S. Gutierrez**, Chief District Judge, US District Court for the Central District of California

**Reading Assignment:**

David L. Faigman, *Is Science Different for Lawyers?* 297 SCI. 339, 339-340. (July 19, 2002).

David L. Faigman, *Bringing Scientific Peer Review to Scientific Evidence*, 30 TOXICS L. REP. 1, 1-7 (2015).

Shari Seidman Diamond, *How Jurors Deal with Expert Testimony and How Judges Can Help*. 16 J. L. & POL'Y 47, 47-67 (2007).

**Additional Resources:**

David E. Bernstein & Eric G. Lasker, *Defending Daubert: It's Time to Amend Federal Rule of Evidence 702*, 57 WM. & MARY L. REV. 1 (2015).

Joshua W. Buckholtz & David L. Faigman, *Promises, Promises for Neuroscience and Law*, 24 CURRENT BIOLOGY R861, R861-867 (2014).

Jeffrey S. Parker, *Daubert's Debut: The Supreme Court, the Economics of Scientific Evidence, and the Adversarial System*, 4 SUP. CT. ECON. REV. 1, 1-56 (1995).



## TUESDAY, MARCH 8

*All classes will be held in Crystal Ballroom*

**7:00 - 7:50 am**

**Breakfast**, *Grand Lawn*  
(Guests Welcome)

**8:00 - 9:10 am**

**Lecture III: An Introduction to Statistics...Or, How Not to Lie with Numbers**

**Jonathan Klick**, Charles A. Heimbold Jr. Professor of Law, University of Pennsylvania Carey Law School

**Reading Assignment:**

David H. Kaye & David A. Freedman, *Reference Guide on Statistics*, in NATIONAL RESEARCH COUNCIL, REFERENCE MANUAL ON SCIENTIFIC EVIDENCE, 211, 211-302 (3d ed. 2011).

**9:10 - 9:30 am**

**Break**

**9:30 - 10:40 am**

**Lecture IV: Correlation versus Causation | Klick**

**Reading Assignment:**

Daniel L. Rubinfeld, *Reference Guide on Multiple Regression*, in NATIONAL RESEARCH COUNCIL, REFERENCE MANUAL ON SCIENTIFIC EVIDENCE, 303, 303-357 (3d ed. 2011).

**10:40 - 11:00 am**

**Break**

**11:00 am - 12:15 pm**

**Lecture V: Understanding Toxicology and Epidemiology**

**Charles R. Santerre**, Department Chair and Professor of Food, Nutrition, and Packaging Science, Clemson University

**12:15 - 2:00 pm**

**Luncheon and Panel III: Regulation of Emerging Risks - Precautionary Principle or Risk v. Risk**

**Susan E. Dudley**, Director, George Washington University Regulatory Studies Center; Distinguished Professor of Practice, Trachtenberg School of Public Policy and Public Administration, George Washington University

**Elissa Philip Gentry**, Assistant Professor, Florida State University College of Law

**Charles R. Santerre**, Department Chair and Professor of Food, Nutrition, and Packaging Science, Clemson University

**Jonathan B. Wiener**, William R. & Thomas L. Perkins Professor of Law, and Professor of Environmental Policy & Public Policy, Duke University

**Moderator: Mary Ellen Williams**, Judge, US Court of Federal Claims



## Reading Assignment:

Gary E. Marchant, *From General Policy to Legal Rule: Aspirations and Limitations of the Precautionary Principle*, 111 ENVTL. HEALTH PERSP. 1799, 1799-1803 (2003).

Susan E. Dudley, et al., *Dynamic Benefit-Cost Analysis for Uncertain Futures*, 10 J. BENEFIT COST ANALYSIS 206, 206-225 (2019).

W. Kip Viscusi & Richard J. Zeckhauser, *Regulating Ambiguous Risks: The Less than Rational Regulation of Pharmaceuticals*, 44 J. LEGAL STUD. S387 S387-422 (2015).

Jonathan B. Wiener, *Precautionary Principle*, 6 ENCYCLOPEDIA ENVTL. L. 174, 174-185. (2018).

Jonathan B. Wiener, *Precaution in a Multirisk World*, in HUMAN AND ECOLOGICAL RISK ASSESSMENT: THEORY AND PRACTICE, 1509, 1509-1531 (Dennis J. Paustenbach, 2002).

## WEDNESDAY, MARCH 9

*All classes will be held in Crystal Ballroom*

**7:00 - 7:50 am**

**Breakfast**, Grand Lawn  
(Guests Welcome)

**8:00 - 9:10 am**

### **Panel IV: Case Studies I: Science in the Baby Powder and PFAS Cases**

**John P. Gardella**, Shareholder, CMBG3 Law, LLC

**Timothy M. O'Brien**, Shareholder, Levin Papantonio Rafferty

**James Stengel**, Partner, Orrick, Herrington & Sutcliffe LLP

**Moderator: Joseph Sanders**, A. A. White Professor of Law, The University of Houston Law Center

**9:10 - 9:30 am**

**Break**

**9:30 - 10:40 am**

### **Panel V: Case Studies II: Science in the Accutane and Roundup Cases**

**Brandon L. Bogle**, Shareholder, Levin Papantonio Rafferty

**Adrienne Franco Busby**, Partner, Faegre Drinker Biddle & Reath LLP

**James Stengel**, Partner, Orrick, Herrington & Sutcliffe LLP

**Craig A. Woods**, Partner, Mayer Brown

**Moderator: Joseph Sanders**, A. A. White Professor of Law, The University of Houston Law Center



**10:40 - 11:00 am**

**Break**

**11:00 am - 12:15 pm**

**Panel VI: The Politicization of Science and the Scientization of Policy**

**Susan E. Dudley**, Director, George Washington University Regulatory Studies Center; Distinguished Professor of Practice, Trachtenberg School of Public Policy and Public Administration, George Washington University

**Blake Hudson**, Samuel T. Dell Professor and Co-Director, Environmental and Land Use Law Program University of Florida Levin College of Law

**D. Bruce Johnsen**, Professor Emeritus of Law, George Mason University Antonin Scalia Law School

**Gary E. Marchant**, Regents Professor of Law and Director of the Center for Law, Science, and Innovation Arizona State University Sandra Day O'Connor College of Law

**Moderator: Robert J. Colville**, District Judge, US District Court for the Western District of Pennsylvania

**Reading Assignment:**

Susan E. Dudley & Marcus Peacock, *Improving Regulatory Science: A Case Study of the National Ambient Air Quality Standards*, 24 SUP. CT. ECON. REV. 49, 49-99 (2016).

**12:30 pm**

**Program Adjourns**



# SPEAKERS



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## DAVID E. BERNSTEIN

*University Professor and Executive Director, Liberty & Law Center  
George Mason University Antonin Scalia Law School*

David E. Bernstein is a University Professor and the Executive Director of the Liberty & Law Center at the Antonin Scalia Law School, where he has been teaching since 1995. He has been a visiting professor at Brooklyn Law School, Georgetown Law Center, University of Michigan Law School, and William and Mary Law School. Professor Bernstein is a graduate of Yale Law School, where he was senior editor of the *Yale Law Journal* and a John M. Olin Fellow in Law, Economics, and Public Policy. He is the author of over sixty frequently cited scholarly articles, book chapters, and think tank studies, including articles and review essays published in numerous prominent law reviews. Additionally, Professor Bernstein authored many books such as *Classified: The Untold Story of Racial Classification in America* (Bombardier Press 2022, forthcoming); and *Lawless: The Obama Administration's Unprecedented Assault on the Constitution and the Rule of Law* (Encounter Books 2015). Professor Bernstein is a former chairperson of the Association of American Law Schools Evidence section, and contributor to the popular weblog, *The Volokh Conspiracy*.



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## CECILIA M. BIDWELL

*Of Counsel  
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Cecilia M. Bidwell has experience with developing medical and scientific expert witnesses for trial in both state and federal court. Ms. Bidwell works with medical and scientific expert witnesses at many medical and academic institutions located throughout the United States. Specifically, Ms. Bidwell is experienced in working with experts in the areas of oncology, pathology, pulmonology, cardiology, and psychiatry. Ms. Bidwell has also worked in all phases of pretrial litigation and trial support, including taking and defending key depositions, and managing discovery.





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## **BRANDON L. BOGLE**

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Brandon L. Bogle received his undergraduate degree from Florida State University in 2004 and his JD from the Florida State University College of Law in 2007, graduating magna cum laude and ranked first in his graduating class. During his third year of law school, he worked for the Florida Department of Community Affairs, addressing various statewide growth management and land use planning issues. Before joining Levin Papantonio, Mr. Bogle practiced as an assistant public defender in Florida's Eighteenth and Fourteenth Judicial Circuits. As an assistant public defender, he acted as lead counsel on more than fifteen jury trials, including two life felony cases, and engaged in appellate practice at the circuit court level. Mr. Bogle has focused the majority of his practice on mass tort litigation and has been actively involved in the litigation of multiple mass tort projects, including, but not limited to, those involving pharmaceutical products. In doing so, he has successfully represented thousands of plaintiffs in various products liability cases. Additionally, Mr. Bogle has acted as trial counsel in multiple jury trials involving osteonecrosis of the jaw suffered by patients taking Fosamax and numerous cases involving heart attacks suffered by patients taking Testosterone Replacement Therapy.



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## **ADRIENNE FRANCO BUSBY**

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Adrienne Franco Busby puts science and strategy to work for companies facing product liability litigation. She is an experienced litigator in product liability, commercial, employment, class action and mass tort matters. Ms. Busby has deep experience with presenting and cross-examining experts at trial. She represents local, national, and international manufacturers of pharmaceuticals, medical devices, and consumer products across the US and in Canada. She is skilled in understanding and interpreting the science that affects product litigation. Ms. Busby has defended companies involved in asbestos, toxic exposure, pharmaceutical and medical device mass torts. She leads mass tort teams and coordinates defense strategies in national and cross-border litigation. Ms. Busby also has experience handling complex medical causation issues, including allegations related to systemic toxicity, cardiac injury, and cancer.





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## **ROBERT J. COLVILLE**

*District Judge*

*US District Court for the Western District of Pennsylvania*

Judge Robert Colville was sworn in as a district judge of the US District Court for the Western District of Pennsylvania in 2020. Upon graduation from Duquesne School of Law, he worked as a law clerk to Pennsylvania Supreme Court Justice Ralph J. Cappy, and later as a lawyer for the law firm of Pietragallo, Bosick and Gordon. In 2000, Judge Colville joined the bench of the Court of Common Pleas of Allegheny County. He served in the juvenile, adult family, civil, and criminal sections of the court for twenty years. From 2012 through 2016 he concurrently served, by appointment of the Supreme Court, as a judge on the statewide Court of Judicial Discipline. Judge Colville has served as a member of the Supreme Court Juvenile Court Procedural Rules Committee, as a statewide officer for the Pennsylvania Conference of State Trial Judges, and as a member of the Pennsylvania Conference of State Trial Judges Statewide Judicial Ethics Committee.



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## **SUSAN E. DUDLEY**

*Director, George Washington University Regulatory Studies Center*

*Distinguished Professor of Practice, Trachtenberg School of Public Policy and Public Administration*

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Susan Dudley is Director of the George Washington University Regulatory Studies Center, which she established in 2009 to improve regulatory policy through research, education, and outreach. She is also a distinguished professor of practice in the Trachtenberg School of Public Policy and Public Administration. She is a past president of the Society for Benefit Cost Analysis, a senior fellow with the Administrative Conference of the United States, a National Academy of Public Administration fellow, on the board of Economists Incorporated, and chair of the Regulatory Transparency Project's Regulatory Process working group. She is the author of *Regulation: A Primer* with Jerry Brito. From April 2007 through January 2009, Professor Dudley served as the Presidentially-appointed Administrator of the Office of Information and Regulatory Affairs in the US Office of Management and Budget. Prior to OIRA, she directed the Regulatory Studies Program at the Mercatus Center at George Mason University, and taught courses on regulation at the George Mason University School of Law. Earlier in her career, Professor Dudley served as an economist at OIRA, as well as the Environmental Protection Agency and the Commodity Futures Trading Commission. She was also a consultant to government and private clients at Economists Incorporated. She holds a Master of Science degree from the Sloan School of Management at MIT and a Bachelor of Science degree (summa cum laude) in Resource Economics from the University of Massachusetts, Amherst.





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## DAVID FAIGMAN

*Chancellor and Dean*

*University of California Hastings College of the Law*

Chancellor & Dean David Faigman is the John F. Digardi Distinguished Professor of Law at the University of California Hastings College of the Law and holds an appointment as Professor in the School of Medicine (Dept. of Psychiatry) at the University of California, San Francisco. He received both his MA (Psychology) and JD from the University of Virginia. Professor Faigman clerked for the Honorable Thomas M. Reavley, Senior Judge of the US Court of Appeals for the Fifth Circuit. He is the author of over 50 articles and essays, and has published in a variety of outlets, including the *Chicago, Virginia, Pennsylvania* and *Northwestern* law reviews, *Science, Sociological Methods & Research* and *Nature Reviews Neuroscience*. He is also the author of three books, *Constitutional Fictions: A Unified Theory of Constitutional Facts* (Oxford, 2008), *Laboratory of Justice: The Supreme Court's 200-Year Struggle to Integrate Science and the Law* (Henry Holt & Co. 2004) and *Legal Alchemy: The Use and Misuse of Science in the Law* (W.H. Freeman, 1999). In addition, Professor Faigman is a co-author/co-editor of the five-volume treatise *Modern Scientific Evidence: The Law and Science of Expert Testimony* (with Cheng, Mnookin, Murphy Sanders & Slobogin). The treatise has been cited widely by courts, including several times by the U.S. Supreme Court. Professor Faigman was a member of the National Academies of Science panel that investigated the scientific validity of polygraphs, is a member of the MacArthur Law and Neuroscience Network and served as a Senior Advisor to the President's Council of Advisors on Science and Technology's Report, "Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods."



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## NATHAN D. FINCH

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Nathan D. Finch has served as the lead trial attorney for his clients in many federal and state courts and is sought after by co-counsel for advice on challenging cases and complex legal matters. His thorough knowledge of asbestos and medical issues is an asset to the firm's occupational disease and toxic tort clients. He has obtained plaintiffs' verdicts in cases against asbestos product manufacturer defendants and cigarette makers. He has extensive experience trying cases involving a wide variety of asbestos-containing products, including gaskets, automotive brakes, floor tiles, joint compounds, and various forms of insulation. Prior to joining Motley Rice, Mr. Finch was a partner for more than ten years in a Washington, DC-based law firm. He tried numerous cases in federal district courts focusing on the medical and scientific factors associated with asbestos-related diseases and asbestos exposure. During this time, he also tried and helped to resolve in favor of his clients five asbestos bankruptcy cases, each having more than \$1 billion at stake. Mr. Finch was a member of the Virginia Law Review and the Order of the Coif and is a former scholarship track and cross-country athlete at UVA.



# SPEAKERS



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## **JOHN P. GARDELLA**

*Shareholder  
CMBG3 Law, LLC*

John P. Gardella is a Shareholder and Chief Services Officer at CMBG3 Law. He is licensed to practice in Massachusetts and Tennessee. A seasoned trial attorney with over 75 verdicts, Mr. Gardella is the Chair of the firm's PFAS, Environmental, Risk Management & Consulting, and ESG practice groups. His thought leadership and predictive risk abilities with respect to PFAS earned him the honor of being the only person in the country that was recognized as a thought leader on PFAS in 2020 and 2021 by the esteemed *National Law Review*. John is regularly interviewed by media on the subject of PFAS and other emerging chemicals of concern, and he consistently publishes his own thought leadership in several nationally syndicated resources, including *Bloomberg Law*, *AM Best*, and *National Law Review*. In his environmental and toxic torts practice, John represents companies ranging in size from small mom-and-pop businesses to Fortune 100 and Fortune 500 companies. John also Chairs the firm's CMBG3 Cares charitable program; is a member of the Association for Corporate Growth, the USA 500 Clubs, and the Environmental Business Council; and actively participates in and supports the firm's DEI initiatives.



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## **ELISSA PHILIP GENTRY**

*Assistant Professor  
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Elissa Gentry is an assistant professor at the Florida State University College of Law. Her research interests include health, risk and regulation, and law and economics. She previously served as a postdoctoral research fellow at the Institute for Advanced Studies in Toulouse, France, and a judicial clerk for the Honorable Jane Roth of the US Court of Appeals, Third Circuit, in Philadelphia. While earning her law degree and PhD at Vanderbilt University, Gentry was senior articles editor for the *Vanderbilt Law Review*.





## **PHILIP S. GUTIERREZ**

*Chief District Judge*

*US District Court for the Central District of California*

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Chief US District Judge Philip S. Gutierrez attended the University of Notre Dame from 1977 to 1981. He then attended the UCLA School of Law from 1981 to 1984. After graduating from law school, Chief Judge Gutierrez entered private practice. In 1988, he joined the law firm of Cotkin & Collins, where he became the managing partner of the Santa Ana offices. His practice concentrated in complex business litigation, professional malpractice liability, and insurance coverage issues. In 1997, California Governor Pete Wilson appointed Chief Judge Gutierrez to the Whittier Municipal Court. After the unification of the Los Angeles court system in 2000, he served as a Los Angeles Superior Court Judge. During this time, Chief Judge Gutierrez actively participated in various judicial committees and enjoyed several teaching assignments. In 2007, he was nominated by President George W. Bush and confirmed by the United States Senate to serve on the United States District Court for the Central District of California. In June 2020, he assumed the position of Chief US District Judge.



## **BLAKE HUDSON**

*Samuel T. Dell Professor of Law and the Co-director of the Environmental & Land Use Law Program*

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Professor Blake Hudson's recent research has focused on the intersection of land use law, policy, and planning with natural resource management, with particular emphasis on the role of forest management in combatting climate change and the implications of land development for long-term natural resource management. His research has also centered on the "commons" and the complicated role of private property rights and government institutions as solutions to commons dilemmas. He has further assessed how the issues of federalism and constitutional structure have the potential to both complicate and resolve land use and natural resource management issues at the state, federal, and international levels. His book, *Constitutions and the Commons: The Impact of Federal Governance on Local, National, and Global Resource Management*, was published by Resources for the Future/Earthscan in 2014. He is currently working on a comprehensive book on public and private forest science, law, policy, and management.

Professor Hudson obtained his bachelor's degree in both biology and history, as well as minors in pre-law and political science, at the University of Montevallo, where he was a scholar-athlete. He graduated with high honors from Duke University School of Law, and also graduated with a Master's degree in Environmental Science and Policy from Duke University's Nicholas School of the Environment. Prior to joining UF Law in 2020, Professor Hudson was an assistant professor of law at Stetson University College of Law from 2009 to 2012, held a joint appointment as a full professor of law with the LSU Law Center and the LSU College of the Coast & Environment from 2012 to 2017, and was the A.L. O'Quinn Chair in Environmental Studies at the Houston Law Center from 2017 to 2020). He practiced law from 2007-2009 at the law firm of Baker Botts in Houston, Texas.



# SPEAKERS



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## **KATIE R. JACKSON**

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Katie R. Jackson focuses her legal practice on public policy and appellate litigation. She regularly counsels corporate clients on matters involving data privacy, product liability, damages, civil justice issues, and federal and constitutional law. Ms. Jackson has experience representing clients in complex appellate litigation in both federal and state courts. Before joining Shook, Ms. Jackson served as a law clerk to the Honorable Michael B. Brennan of the US Court of Appeals for the Seventh Circuit. She has also served as chief counsel to the US Senate Judiciary Committee where she advised Sen. Jeff Flake on judicial nominations and legislation and represented the senator before the US Supreme Court. Ms. Jackson uses her extensive experience and in-depth knowledge of working in the federal government and courts to create the best legal advantage for her clients. In 2021, she was selected to be a fellow with Lawyers for Civil Justice (LCJ). She is also a member of the executive committee of The Federalist Society's Litigation Practice Group. Ms. Jackson received her JD from the Antonin Scalia Law School at George Mason University. She received her BA in political science from Liberty University.



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## **D. BRUCE JOHNSEN**

*Professor Emeritus of Law*

*George Mason University Antonin Scalia Law School*

Professor Johnsen came to George Mason University in 1994 from the Wharton School of the University of Pennsylvania, where he taught courses in the Legal Studies and Finance departments. Before that time, he was a visiting senior research scholar at the US Securities and Exchange Commission and an assistant professor in the Department of Management at Texas A&M University. His training in economics is from the University of Washington, where he earned his BA (1977), MA (1981), and PhD (1987). He graduated from the JD program at Emory University in 1985. Professor Johnsen taught Legal and Economic Methods, Financial Theory, Business Associations, and the Law of Investment Management.





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## KRISTINA NIKKI KIRKPATRICK

*Judge*

*Seventh Judicial District Court, Oklahoma*

Kristina “Nikki” Kirkpatrick serves a judge on the Seventh Judicial District Court. In a mere three and half years, Judge Kirkpatrick graduated magna cum laude with a Bachelor of Arts degree in Political Science from the University of Central Oklahoma. She furthered her education at the Oklahoma City University School of Law where she received her Juris Doctorate and numerous honors. Upon graduation, Judge Kirkpatrick immediately took a job as an attorney with the Oklahoma County District Attorney’s office. There, she was able to excel as a trial lawyer—handling cases ranging from simple misdemeanors to complex homicides. She specialized in assisting victims of domestic violence to achieve safety and justice through the court process, but Judge Kirkpatrick believed her role went beyond successfully prosecuting cases. Her unique brand of pragmatism and compassion often led her to work toward safer and healthier outcomes for both victims and defendants by working with the judges, defense counsel, and local service providers to reduce intimate partner violence and homicides. It was her tireless work in this area that gained her the Governor’s Commendation in 2017 for distinguished service in the protection of Oklahoma victims of domestic violence. From there, Kirkpatrick went to the Consumer Protection Unit at the Attorney General’s Office, where she served some of the most vulnerable citizens in our community. Judge Kirkpatrick was appointed by Governor Kevin Stitt in April 2022 to serve as judge on the Seventh Judicial District Court.



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## JONATHAN KLINK

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Jonathan Klick’s work focuses on identifying the causal effects of laws and regulations on individual behavior using cutting-edge econometric tools. Specific topics addressed by Professor Klick’s work include the relationship between abortion access and risky sex, the health behaviors of diabetics, the effect of police on crime, addiction as rational choice, how liability exposure affects the labor market for physicians, as well as a host of other issues. His scholarship has been published in numerous peer-reviewed economics journals, including *The Journal of Economic Perspectives*, *The Journal of Law & Economics*, *The Journal of Law, Economics, and Organization*, and *The Journal of Legal Studies*. He has also published papers in *The Stanford Law Review*, *The Columbia Law Review*, and *The University of Chicago Law Review*. Professor Klick earned his BS from Villanova University, MS from the University of Maryland and his PhD in economics and JD at George Mason University. His four sons think he is the funniest person in the world, while his wife will only commit to him being in the top ten. He previously worked as a cashier at the Modell’s Sporting Goods store in the King of Prussia Mall. In his spare time, he mentors Gideon Parchomovsky.





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Professor Kochan's scholarship focuses on the areas of property law, constitutional law, administrative law, natural resources and environmental law, tort law, and law and economics. He has published more than forty scholarly articles and essays in well-regarded law journals, and his work is cited in dozens of books and hundreds of published law review articles. Professor Kochan is an elected member of the American Law Institute (ALI); and ALI appointed him in July 2016 to serve as an adviser to the Restatement of the Law Fourth, Property project. Professor Kochan is also a member of the editorial board of the Journal of Legal Education. Professor Kochan received his JD from Cornell Law School, where he was a John M. Olin Scholar in Law and Economics and managing editor of the Cornell International Law Journal. He received his BA from Western Michigan University, magna cum laude, with majors in political science and philosophy, where he studied as the John W. Gill Medallion Scholar and was honored as the Presidential Scholar.



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Leslie M. Kroeger is a Partner at Cohen Milstein and Co-Chair of the firm's Complex Tort Litigation practice. Ms. Kroeger is a highly accomplished attorney with more than 25 years of experience representing clients in a variety of matters, with an emphasis on complex, high-profile product liability, catastrophic and wrongful death, and managed care abuse, environmental toxic tort litigation. Ms. Kroeger is widely recognized for her leadership and legal skills. Lawdragon has named her to its "500 Leading Lawyers in America" (2020, 2021) and "500 Leading Plaintiff Consumer Lawyers" (2019, 2021) lists. In 2020 and 2018, Ms. Kroeger was named *Daily Business Review's* "Distinguished Leader," and in 2018, *Best Lawyers in America* recognized her as "Lawyer of the Year" in West Palm Beach for Mass Tort Litigation/Class Actions. Annually, Ms. Kroeger is annually recognized by *Best Lawyers in America* in the areas of Consumer Protection Law; Mass Tort Litigation/Class Actions; Personal Injury Litigation; Product Liability Litigation, as well as by Florida Super Lawyers, Palm Beach Illustrated, and Florida Trend's Legal Elite. Ms. Kroeger is AV rated by Martindale-Hubbell. Ms. Kroeger currently serves as the President of the Council of Presidents for the American Association for Justice (AAJ) and represents the Council on the AAJ Executive Committee. She is also a Past-President of the Florida Justice Association (FJA). She was the second female President in the history of the association. Leslie graduated with high honors from the University of Tennessee at Knoxville and obtained her law degree from the Cumberland School of Law, Samford University. Following law school, she served in a trial clerkship in Miami.





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Gary E. Marchant is a Regents Professor of Law and director of the Center for Law, Science and Innovation. His research interests include legal aspects of genomics and personalized medicine, the use of genetic information in environmental regulation, risk and the precautionary principle, and governance of emerging technologies such as nanotechnology, neuroscience, biotechnology and artificial intelligence. He teaches courses in Law, Science and Technology, Genetics and the Law, Biotechnology: Science, Law and Policy, Health Technologies and Innovation, Privacy, Big Data and Emerging Technologies, and Artificial Intelligence: Law and Ethics. He was named a Regents' Professor in 2011 and is a professor in ASU's School of Life Sciences, a Distinguished Sustainability Scientist in ASU's Julie Ann Wrigley Global Institute of Sustainability and is a Lincoln Professor of Emerging Technologies Law and Ethics with the Lincoln Center for Applied Ethics at ASU. Prior to joining ASU in 1999, Professor Marchant was a partner at the Washington, DC office of Kirkland & Ellis, where his practice focused on environmental and administrative law. During law school, he was Editor-in-Chief of the Harvard Journal of Law & Technology and editor of the Harvard Environmental Law Review and was awarded the Fay Diploma (awarded to top graduating student at Harvard Law School).

Professor Marchant frequently lectures about the intersection of law and science at national and international conferences. He has authored more than 150 articles and book chapters on various issues relating to emerging technologies. Among other activities, he has served on six National Academy of Sciences committees, has been the principal investigator on several major grants, and has organized numerous academic conferences on law and science issues. He is an elected lifetime member of the American Law Institute and a Fellow of the American Association for the Advancement of Science.



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Lee Mickus defends manufacturers and other business interests in product liability and tort lawsuits around the country, guiding cases through the discovery, trial, and appeal stages. He has successfully tried cases to juries in Colorado, Texas, California, New York, Puerto Rico, Montana, and several other states. Mr. Mickus has handled cases involving a wide variety of industries and products, including automobiles, pharmaceuticals, medical devices, industrial machinery, wine, and recreational equipment. He has made court appearances, argued appeals, and submitted amicus briefs in numerous jurisdictions across the country. Mr. Mickus received his BA, cum laude, from Williams College and his JD from the University of Virginia School of Law.





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## **TIMOTHY O'BRIEN**

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Levin Papantonio Rafferty shareholder Timothy O'Brien is a board-certified civil trial attorney who concentrates his practice in the areas of mass tort litigation, product liability, personal injury, wrongful death, and transactional liability. In September 2018, Mr. O'Brien was appointed by the United States Southern District of Ohio as Co-Lead Counsel for the Plaintiffs Steering Committee in MDL No. 2846, *In re Davol, Inc./C.R. Bard, Inc., Polypropylene Hernia Mesh Products Liability Litigation*. In January 2021, he was appointed by the United States District Court for the District of New Jersey to the Plaintiffs Executive Committee and as the Discovery Chair in MDL No. 2973, *In re Elmiron (Pentosan Polysulfate Sodium) Products Liability Litigation*. In recognition of his accomplishments representing the injured, Mr. O'Brien has been frequently chosen as one of the Super Lawyers by the annual publication of the same name. Further, in 2011, he was named by *Florida Trend* as one of the 2011 Florida Legal Elite, an honor bestowed upon fewer than 100 civil trial attorneys in the State of Florida.

After graduating with honors from the University of Florida Fredric G. Levin College of Law, Mr. O'Brien worked for two years as a law clerk for the Honorable William T. Moore, Jr., United States District Judge for the Southern District of Georgia. Mr. O'Brien then entered private practice in Georgia where he concentrated his practice in the area of federal civil litigation. He returned to his hometown of Pensacola and began practicing law with Levin Papantonio Rafferty in the year 2000.



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Professor Joseph Sanders is the A.A. White Professor of Law at the University of Houston Law Center and has been a member of the Law Center faculty since 1983. Professor Sanders' primary sociological interest is in the attribution of responsibility, and his primary interests in law include toxic torts and the role of expert witnesses in court. Professor Sanders received his JD from Northwestern University in 1969 and his PhD in sociology from Northwestern University in 1974.





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## **CHARLES R. SANTERRE**

*Department Chair and Professor of Food, Nutrition, and Packaging Sciences  
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Charles R. Santerre, PhD became Department Chair and Professor of Food, Nutrition, and Packaging Sciences at Clemson University in 2021. From 1998-2021, he was Professor of Food Toxicology in the Department of Nutrition Science at Purdue University. Starting in 2020, he served as an appointed member to the Environmental Protection Agency's Farm, Ranch, and Rural Communities Committee (EPA-FRRCC). In 2018-19, he served as a Senior Policy Advisor for agriculture and health in the White House's Office of Science and Technology Policy (OSTP) where he played a key role during the development of two Presidential Executive Orders e.g., "Modernizing the Regulatory Framework for U.S. Agricultural Biotechnology Products," and "Promoting American Seafood Competitiveness and Economic Growth." In 2013 and again in 2017-18, he served as the Interim Head for the School of Health Sciences at Purdue University. In 2014-15, he was selected as a National Academy of Sciences, Jefferson Science Fellow and was hosted by the U.S. Department of State in the Bureau of Intelligence and Research (INR) where he served as an Intelligence Analyst. In 2014-17, he was appointed to the Food and Drug Administration, Center for Food Safety and Applied Nutrition's (FDA-CFSAN) Food Advisory Committee. In 2010-11, he served as an American Association for the Advancement of Science (AAAS) Science & Technology Policy Fellow and was sponsored by the U.S. Department of Agriculture, Food Safety Inspection Service, Office of Public Health Science, Risk Assessment Division (USDA-FSIS-OPHS-RAD) where he developed and helped to implement a vision for identifying, measuring, and responding to emerging chemical contaminants in meat and poultry products. He has served as a food safety expert for the International Life Sciences Institute of North America (ILSI-NA), and the International Food Information Council (IFIC). From 1995-98, he served as Chemistry Operations Manager for Silliker Laboratories, Inc. (Columbus, OH) and an Adjunct Associate Professor in the Environmental Sciences Program at The Ohio State University. From 1989-95, he was an Assistant Professor in the Environmental Health Science Program and the Interdepartmental Toxicology Program at the University of Georgia (with a Courtesy Appointment in the Institute of Ecology). He holds degrees in Human Nutrition (B.S.), and Environmental Toxicology & Food Science (Ph.D.), both from Michigan State University.





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Professor Sevier's scholarship focuses on legal institutional design, where he identifies and examines the conditions under which the public willingly legitimizes legal rules, actors and tribunals. He explores his research questions primarily through psychology experiments in the law of evidence, while also examining the role that popular legitimacy plays in shaping the law governing business torts and consumer behavior. Before joining the Florida State law faculty in 2015, Professor Sevier was an associate research scholar at Yale Law School and a visiting assistant professor at the University of Illinois College of Law. His scholarship has been published both in law journals—including the *Georgetown Law Journal*, the *Minnesota Law Review*, and the *Emory Law Journal*, among others—and in peer-reviewed publications, including *Psychology*, *Public Policy and Law*. Professor Sevier serves frequently as an ad hoc referee for peer-reviewed journals at the intersection of social science and the legal system. He is currently a member of the editorial board of *Law and Human Behavior* and *Law and Social Inquiry*. Professor Sevier practiced litigation at Wachtell, Lipton, Rosen & Katz in New York City, where he specialized in shareholder derivative actions and corporate governance matters. He also practiced litigation at Sullivan & Cromwell LLP, where he focused on complex commercial torts. He is a member of the New York State Bar, holds a JD from Harvard Law School (magna cum laude), and holds a Master of Science and Master of Philosophy from Yale University. He clerked for Judge Carlos T. Bea, of the US Court of Appeals for the Ninth Circuit.



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James Stengel represents clients in large, complex, and multi-party class action litigation, including significant actions involving the chemical, building products and medical device industries. He also has significant experience representing Chinese companies in litigation in US courts. Mr. Stengel is consistently recognized as a leading lawyer in legal publications such as *Chambers USA* and *Benchmark Litigation*. *Chambers* notes Mr. Stengel is, "able to handle a wide range of mass torts and class actions, including particular strength in toxic tort-related mandates." Clients told the publication that Mr. Stengel, "is extremely professional, with excellent brief writing and oral arguments," calling him "a great guy and a great lawyer." Mr. Stengel has served in a variety of management roles at Orrick, including Managing Director of Litigation, Member of the Executive Committee and Board, Lead Director, and as a member of the firm's Management Committee. Mr. Stengel has written and lectured on complex litigation and mass tort subjects at a variety of law schools and seminars. Before joining Orrick, Mr. Stengel was a partner at Donovan Leisure Newton & Irvine LLP.





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## **JONATHAN B. WIENER**

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Jonathan B. Wiener is the William R. and Thomas L. Perkins Professor of Law at Duke Law School, Professor of Environmental Policy at the Nicholas School of the Environment, and Professor of Public Policy at the Sanford School of Public Policy, at Duke University. He is the Co-Director of the Duke Center on Risk in the Science & Society Initiative. He served as President of the Society for Risk Analysis (SRA) in 2008, and he co-chaired the SRA's World Congress on Risk in Sydney Australia in 2012. In 2003 he received SRA's Chauncey Starr Young Risk Analyst Award, and in 2014 he received SRA's Richard J. Burk Outstanding Service Award. From 2015-19 he co-directed the Rethinking Regulation program at Duke, and from 2007-15 he directed the JD-LLM Program in International and Comparative Law at Duke Law School. From 2000-05 he was the founding Faculty Director of the Duke Center for Environmental Solutions, which was then expanded into the Nicholas Institute for Environmental Policy Solutions, for which he served as chair of the faculty advisory committee from 2007-10.

He is a University Fellow of Resources for the Future (RFF); a Public Member of the Administrative Conference of the United States (ACUS); a board member of the Society for Benefit-Cost Analysis (SBCA); and an affiliated faculty member of the environment program at Duke Kunshan University (DKU) and of the Harvard Center for Risk Analysis (HCRA). He is a member of advisory committees at the NYU Institute for Policy Integrity, the International Risk Governance Council (IRGC), the Chaire Economie du Climat (CEC), and the Cambridge Centre for the Study of Existential Risk (CSER). He has been a member of the Intergovernmental Panel on Climate Change (IPCC) 5th Assessment Report (Working Group III) (2014), and the study team on "Environmental Risk Management" for the China Council for International Cooperation on Environment and Development (CCICED) (2015). Before coming to Duke, he served at the White House Council of Economic Advisers (CEA), at the Office of Science and Technology Policy (OSTP), and at the US Department of Justice (DOJ/ENRD), in the first Bush and Clinton administrations. He helped negotiate the Framework Convention on Climate Change, attended the Rio Earth Summit in 1992, and helped draft Executive Order 12866 (1993). He also helped organize the Americorps National Service program in 1993, the annual City Year servathon in Boston in 1989, and the DC Cares servathon in Washington DC in 1991; served on the North Carolina State Commission on National and Community Service from 1994-98; and founded the "Dedicated to Durham" community service day held at Duke Law School since 1995. He clerked for Judge (now US Supreme Court Justice) Stephen G. Breyer on the US Court of Appeals in Boston in 1988-89, and for Chief Judge Jack B. Weinstein on the US District Court in New York in 1987-88. He received his AB in economics (1984) and JD (1987) from Harvard University, where he was a research assistant at the NBER, assistant coach of the 1985 college debate champions, and an editor of the *Harvard Law Review*.





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## MARY ELLEN COSTER WILLIAMS

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Since her appointment in 2003, Judge Mary Ellen Coster Williams has served on the United States Court of Federal Claims in Washington, D.C. From 1989 to 2003, she served as an administrative judge on the General Services Board of Contract Appeals. During her combined 30 years on the bench, Judge Williams has handled wide-ranging civil matters including government contract disputes, Fifth Amendment taking claims, and patent infringement actions against Government agencies. Judge Williams received her BA and MA from Catholic University of America and earned her JD in 1977 from Duke University.



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