



Agenda

Inaugural Justices Scalia & Ginsburg Judicial Colloquium for State Supreme Court Justices

Saturday, January 21 through Friday January 27, 2023

Saturday, January 21

4:00 – 5:30 pm **Registration**

5:30 – 6:30 pm **Discussion Session 1: Civil Discourse and the Judiciary as Its Champion**

Discussion Leader: Sabrina S. McKenna, Justice, Supreme Court of Hawaii

6:30 – 9:00 pm **Welcome Reception and Dinner**

(Guests Welcome)

Welcome Remarks

Mark E. Recktenwald, Chief Justice, Hawaii Supreme Court

Introduction to the Law & Economics Center and the Origins of Scalia Law’s “Learn, Challenge, Lead”

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

Sunday, January 22

7:00 – 7:50 am

Breakfast
(Guests Welcome)

8:00 – 9:15 am

Session 2: The Economic Perspective: Incentives Matter | Kochan

Reading Assignment:

Butler, Henry N., Christopher R. Drahozal, and Joanna Shepherd. *Economic Analysis for Lawyers, 3rd ed*, Chapter I. Durham, NC: Carolina Academic Press, 2014.

9:30 – 10:45 am

Session 3: Empowering States to Compete: The Role of Regulatory Competition

Andrew P. Morriss, Professor, Bush School of Government & Public Service and School of Law
Texas A&M University

Reading Assignment: BDS, Chapter I, Sec. C (pp 33 – 39)

11:00 am – 12:15 pm

Session 4: 51 Imperfect Solutions: States and the Making of American Constitutional Law

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

Reading Assignment:

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

12:15 pm

Afternoon Study Break

Monday, January 23

- 7:00 – 7:50 am** **Breakfast**
(Guests Welcome)
- 8:00 – 9:00 am** **Session 5: Distinguishing Interpretation in State Constitutional Law from Federal Constitutional Law**

David R. Stras, Judge, U.S. Court of Appeals for the Eighth Circuit

Reading Assignment:
- 9:15 – 10:15 am** **Session 6: Law & Economics Applications Under State Law—Property Rights | Kochan**

Reading Assignment: BDS, Chapter I, Sec. B (pp. 17-33)
- 10:30 – 11:30 am** **Session 7: Frontiers of Property Rights: The Not-So-Wild Wild West**

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

Reading Assignment:

Anderson, Terry L. and P.J. Hill. “The Evolution of Property Rights: A Study of the American West.” *The Journal of Law & Economics* 18, no. 1 (April 1975):163-179.

Anderson, Terry L. and Fred S. McChesney. “Raid or Trade? An Economic Model of Indian-White Relations.” *The Journal of Law and Economics* 37, no. 1 (April 1994): 39- 74.
- 11:30 am – 1:00 pm** **Working Lunch: Discussion Over Division – The Path to More Robust Civil Discourse**

JoAnn Koob, Assistant Professor and Director, Liberty and Law Center, George Mason University Antonin Scalia Law School

Reading Assignment:

JoAnn Koob, [Scalia Spotlights: The Need for Civil Discourse is Greater Than Ever](#) (2020).

Donald J. Kochan, [On the Imperative of Civil Discourse: Lessons from Alexander Hamilton and FEDERALIST NO. 1](#), 94 SOUTHERN CALIFORNIA LAW REVIEW POSTSCRIPT 32 (2020)
- 1:00 pm** **Afternoon Study Break**

Tuesday, January 24

- 7:00 – 7:50 am** **Breakfast**
(Guests Welcome)
- 8:00 – 9:15 am** **Session 8: Lessons from State Administrative Law for the Reassessment of Chevron | Sutton**
Reading Assignment:
Sutton, Jeffrey S. “Administrative Law.” In *Who Decides? States as Laboratories of Constitutional Experimentation*, 183-235 (2021).
- 9:30 – 10:45 am** **Session 9: Common Law versus Codification | Morriss**
Reading Assignment:
- 11:00 am – 12:15 pm** **Session 10: An Interview with Judge Stras: The Evolution of a State Supreme Court Judge in Transition to the Federal Bench, including Lessons Learned on the Differences in Role | Stras**
Interviewer: Kochan
- 12:15 pm** **Afternoon Study Break**

Wednesday, January 25

- 7:00 – 7:50 am** **Breakfast**
(Guests Welcome)
- 8:00 – 9:15 am** **Session 11: Indigenous Economies | Anderson**
- Reading Assignment:**
- Anderson, Terry L. and Dominic P. Parker. “Lessons in Fiscal Federalism from American Indian Nations,” in *The Law & Economics of Federalism* (2017).
- 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.
- Video Assignment:**
- “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.
- 9:30 – 10:45 am** **Session 12: Introduction to Statistics**
- Orley C. Ashenfelter**, Joseph Douglas Green 1895 Professor of Economics
Princeton University
- 11:00 am – 12:15 pm** **Session 13: Introduction to Econometrics | Ashenfelter**
- Reading Assignment:**
- Marginal Revolution University. “The Economics of Wine (Orley Ashenfelter, Princeton).” YouTube, 4:46, September 30, 2020.
- 12:15 – 6:00 pm** **Afternoon Study Break**
- 6:00 – 7:00 pm** **Session 14: Wine Tasting and Chat | Ashenfelter**
- 7:30 pm** **Dinner on your own**

Thursday, January 26

- 7:00 – 7:50 am** **Breakfast**
(Guests Welcome)
- 8:00 – 9:15 am** **Session 15: Law & Economics Applications Under State Law—Torts | Kochan**
Reading Assignment: BDS, Chapter VI, Sec. D, pp. 327-358.
- 9:30 – 10:45 am** **Session 16: Regulation by Litigation | Morriss**
Reading Assignment:
- 11:00 am – 12:15 pm** **Session 17: Environmental Markets v. Environmental Mandates | Anderson**
Reading Assignment:
- 12:15 pm – 4:45 pm** **Afternoon Study Break**
- 5:00 – 6:00 pm** **Discussion Session 18 | McKenna**
- 6:30 – 9:00 pm** **Closing Reception and Dinner**
(Guests Welcome)
- Closing Remarks**
- Mark E. Recktenwald**, Chief Justice, Hawaii Supreme Court

Friday, January 27

Depart at your leisure