



**50<sup>th</sup>**  
1974-2024

**Agenda**  
**The Beaver Creek Colloquium**  
**Judge Douglas H. Ginsburg**  
**Judicial Colloquium Series**  
Sunday, June 9 through Saturday, June 15, 2024

**Sunday, June 9**

**4:00 – 6:00 pm**      **Registration**

**6:00 – 7:00 pm**      **Reception**

**7:00 – 9:00 pm**      **Welcome Dinner**

**Welcome Remarks**

**History of the LEC**

**Henry N. Butler**, Henry G. Manne Professor of Law and Economics and Chairman, Law & Economics Center, George Mason University Antonin Scalia Law School

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

**Monday, June 10**

**7:00 – 7:50 am**      **Breakfast**

**8:00 – 9:15 am**      **Session 1: Data Privacy: Three Views of the Cathedral**

**Jane Bambauer**, Professor of Law, University of Florida Levin College of Law

**9:30 – 10:45 am**      **Session 2: The World on Fire: Ongoing and Potential Global Conflicts and the Law**

**Jamil N. Jaffer**, Assistant Professor of Law; Founder and Executive Director, National Security Institute; Director, National Security Law & Policy Program, George Mason University Antonin Scalia Law School

Reading Assignment:

OFF. OF THE DIR. OF NAT. INTEL., *Annual Threat Assessment of the US Intelligence Community*, 5-26 (2024).

Oona Hathaway, *War Unbound: Gaza, Ukraine, and the Breakdown of International Law*, FOREIGN AFF. (2024).

Stephen P. Mulligan, *The Law of War and the Russian Invasion of Ukraine*, CONG. RSCH. SERV. (Feb. 24, 2022).

Matthew C. Weed, *Foreign Country Actions to Place the Israel-Hamas Conflict Before International Courts*, CONG. RSCH SERV. (Jan. 26, 2024).

Jennifer K. Elsea & Karen Sokol, *Assessing Recent U.S. Airstrikes in the Middle East Under the War Powers Framework*, CONG. RSCH SERV. (Apr. 29, 2024).

**11:00 am – 12:15 pm      Session 3: The Global Spread of Judicial Review**

**Joshua Kleinfeld**, Professor of Law and (by courtesy) Philosophy, Northwestern Pritzker School of Law; Visiting Professor of Law, George Mason University Antonin Scalia Law School

Reading Assignment:

Vinter v. United Kingdom, Judgment, App. Nos. 66069/09, 130/10 and 3896/1, 160 Eur. Ct. H.R. 3 (July 9, 2013).

**12:15 pm                      Program Adjourns for Day**

**Tuesday, June 11**

**7:00 – 7:50 am              Breakfast**

**8:00 – 9:15 am              Session 4: How the Roberts Court Interprets Criminal Statutes | Kleinfeld**

Reading Assignments:

*Bond v. United States*, 572 U.S. 844 (2014).

*Yates v. United States*, 574 U.S. 528 (2015).

**9:30 – 10:45 am            Session 5: Curation Algorithms: Too Little Competition or Too Much Red Meat? | Bambauer**

**11:00 am – 12:15 pm      Session 6: Rule of Law, Economic Growth and Income Inequality**

**Sanjai Bhagat**, Provost Professor of Finance, Leeds School of Business, University of Colorado, Boulder

Reading Assignment:

Sanjai Bhagat, *Economics Growth, Income Inequality, and the Rule of Law*, HARV. BUS. L. REV. (2020).

**12:15 – 5:45 pm            Afternoon Study Break**

**5:45 – 7:00 pm              Fireside Chat**

**Chris Wright**, Chief Executive Officer and Chairman of the Board, Liberty Energy, Inc.

**Wednesday, June 12**

**7:00 – 7:50 am              Breakfast**

**8:00 – 9:15 am              Session 7: Intelligence Collection and Cyber Surveillance in the Modern Threat Environment | Jaffer**

Reading Assignments:

*United States v. Hasbajrami*, 945 F.3d 641 (2nd Cir. 2019): 645-47, 649-58, 660-73.

Elizabeth Goitein, *Testimony on Fixing FISA: Part II*, U.S. H.R. Comm. on the Judiciary, Subcomm. on Crime and Fed. Gov't Surveillance, 1-26 (July 14, 2023).

Glenn S. Gerstell, *Why a Warrant Requirement for 702 Searches Will Do More Harm Than Good*, THE LAWFARE INST. (Feb. 12, 2024).

Michael B. Mukasey & Jamil N. Jaffer, *We Can't Return to a Pre-9/11 Mindset on Foreign Surveillance*, WALL ST. J. (Nov. 23, 2023).

**9:30 – 10:45 am**

**Session 8: Purpose of the Corporation: Shareholders and Stakeholders | Bhagat**

Reading Assignment:

Sanjai Bhagat & Glenn Hubbard, *Stakeholders, Shareholders, And Purpose of the Corporation*, 17, J. OF L. ECON. AND POL'Y, 708, 708-37 (2022).

**11:00 am – 12:15 pm**

**Session 9: Silicon Valley Bank Demise and Other Governance Failures: Causes and the Path Forward | Bhagat**

Reading Assignment:

Sanjai Bhagat & Henry Laurion, *Silicon Valley Bank Demise: Causes and the Path Forward*, HARV. L. SCHOOL F. ON CORP. GOVERNANCE (2024).

**12:15 – 5:45 pm**

**Afternoon Study Break**

**5:45 – 7:00 pm**

**Fireside Chat**

**Bryan D. Caplan**, Professor of Economics, George Mason University College of Humanities and Social Sciences

**Thursday, June 13**

**7:00 – 7:50 am**

**Breakfast**

**8:00 – 9:15 am**

**Session 10: The Law and Political Economy Project: A Critical Analysis**

**Todd J. Zywicki**, George Mason University Foundation Professor of Law, George Mason University Antonin Scalia Law School

Reading Assignments:

Jedediah Britton-Purdy et. al., *Law and Political Economy: Toward a Manifesto*, THE L. AND POL. ECON. PROJECT (Nov. 06, 2017).

Todd J. Zywicki, *The Law and Political Economy Project: A Critical Analysis*, 24-12 GEO. MASON UNIV. L. & ECON. RSCH. PAPER SER. 1, 1-42 (2024).

**9:30 – 10:45 am**

**Session 11: Cyberwar and the Law: Hard Questions on Offensive Cyber Operations | Jaffer**

Reading Assignment:

Catherine A. Theohary & John W. Rollins, *Cyberwarfare and Cyberterrorism: In Brief*, CONG. RSCH. SERV. (Mar. 27, 2015).

Catherine A. Theohary, *Defense Primer: Cyberspace Operations*, CONG. RSCH SERV. (Dec. 14, 2023).

10 U.S.C. § 394.

*Achieve and Maintain Cyberspace Security*, COMMAND VISION FOR U.S. CYBER COMMAND, 2 (2018).

Jonathan M. Gaffney, “Hacktivists” and the Ukraine-Russia Conflict: Legal Considerations, CONG. RSCH SERV. (May 13, 2022).

**11:00 am – 12:15 pm      Session 12: Insurance | Butler**

Reading Assignment:

HENRY N. BUTLER, ET AL., *Chapter VI: Risk*, in. ECONOMIC ANALYSIS FOR LAWYERS, 291-361 (3rd ed. 2014).

**12:15 pm                      Program Adjourns for Day**

**Friday, June 14**

**7:00 – 7:50 am              Breakfast**

**8:00 – 9:15 am              Session 13: Restitching the Social Fabric: What Criminal Punishment Is For | Kleinfeld**

Reading Assignment:

Joshua Kleinfeld, *Reconstructivism: The Place of Criminal Law in Ethical Life*, 129 HARV. L. REV. 1486, 1486-565 (2016).

**9:30 – 10:45 am            Session 14: The Threatened But Enduring Internal Affairs Doctrine**

**Erin O’Hara O’Connor**, Dean and Donald J. Weidner Chair, Florida State University College of Law

Reading Assignments:

RESTATEMENT OF THE LAW (THIRD) CONFLICT OF LAWS § 8.13-8.14, § 11.01-11.03, § 13.01-13.05, § 13.06-13.08, § 13.09-13.11 (THE AM. L. INST. 2023).

ERIN A. O’HARA O’CONNOR & LARRY RIBSTEIN, *Chapter 6: The Corporate Law Market*, in THE LAW MARKET 107-117, 129-131 (1st ed. 2009).

**11:00 am – 12:15 pm      Session 15: Why Third-Wave Feminism Has Hurt Professional Women | Bambauer**

Reading Assignment:

Jane R. Bambauer & Tauhidur Rahman, *The Quiet Resignation: Why Do So Many Female Lawyers Abandon Their Careers?*, 10 U.C. IRVINE L. REV. 799, 799-854 (2020).

**12:15 – 5:45 pm            Afternoon Study Break**

**5:45 – 7:00 pm              Fireside Chat**

**Interview of Judge Jennifer Walker Elrod by Judge Douglas H. Ginsburg**

**Jennifer Walker Elrod**, Judge, US Court of Appeals for the Fifth Circuit

**Douglas H. Ginsburg**

**7:00 – 9:00 pm              Closing Dinner**

**Saturday, June 15**

*Travel Day; participants depart at their leisure*