



**50<sup>th</sup>**  
1974–2024

**Agenda**  
**Justices Scalia & Ginsburg Colloquium**  
**for State Supreme Court Justices**

Sunday, January 26 through  
Saturday, February 1, 2025

**Sunday, January 26**

**4:00 – 5:30 pm      Registration**

**5:30 – 6:30 pm      Session 1: Overview of Law & Economics: Incentives Matter**

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

Reading Assignment:

Henry N. Butler et. al, *Chapter I: The Economics Perspective: Incentives Matter*, in *Economic Analysis for Lawyers* 3-33 (4th ed. 2024).

**6:30 pm      Welcome Reception and Dinner**

**The History of the Law & Economics Center | Butler**

## Monday, January 27

**7:00 – 7:50 am**      **Breakfast**

**8:00 – 9:15 am**      **Session 2: The Problems of Property: Why It is So Difficult to Create Property Markets in the Developing World**

**Karol Boudreaux**, Senior Land and Resource Governance Advisor, USAID

**Reading Assignment:**

*The mystery of capital deepens*, THE ECONOMIST (Aug. 24th, 2006).

**9:30 – 10:45 am**      **Session 3: The Economics of the Dormant Commerce Clause**

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

**Reading Assignment:**

Donald J. Kochan, *The Meaning of Federalism in a System of Interstate Commerce: Free Trade Among the Several States*, 95 NOTRE DAME L. REV. 166 (2020).

**11:00 am – 12:15 pm**      **Session 4: What are Externalities and How Should Courts Deal with Them?**

**Donald J. Boudreaux**, Senior Fellow, FA Hayek Program for Advanced Study in Philosophy, Politics, and Economics and Martha and Nelson Getchell Chair for the Study of Free Market Capitalism, Mercatus Center; Professor of Economics, George Mason University

**Reading Assignment:**

Donald J. Boudreaux, *What, Exactly, Are Negative Externalities* (Nov. 2024).

**12:15 pm**      **Adjourn for Day**

## Tuesday, January 28

**7:00 – 7:50 am**      **Breakfast**

**8:00 – 9:15 am**      **Session 5: A Roaring Success: Community Based Natural Resource Management (CBNRM) in Namibia | Karol Boudreaux**

**Reading Assignment:**

*Review of 2022, NAMIBIAN ASS'N OF CBNRM SUPPORT ORGANIZATIONS (2022).*

**9:15 – 10:15 am**      **Session 6: Law Clerk Selection and Diversity: Insights from Fifty Sitting Judges of the Federal Courts of Appeals**

**Goodwin Liu**, Justice, Supreme Court of California

**Reading Assignment:**

Goodwin Liu, Jeremy D. Fogel & Mary S. Hoopes, *Law Clerk Selection and Diversity: Insights From Fifty Sitting Judges of the Federal Courts of Appeal*, 137 HARV. L. REV. 590-645 (2023).

**10:30 – 11:30 am**      **Session 7: Challenges of Appellate Judging**

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

**Reading Assignment:**

Jeffrey S. Sutton, *A Review of Richard A. Posner, How Judges Think (2008)*, 108 MICH. L. REV. 859 (2010).

**11:30 am – 1:00 pm**      **Working Lunch: State Courts and Constitutional Structure | Liu & Sutton**

**Reading Assignments:**

Goodwin Liu, *Review of State Courts and Constitutional Structure*, 128 YALE L. J. 1304 (2019).

Jeffrey S. Sutton, *Response to Justice Goodwin*, 128 YALE L. J. F. 936 (2019).

**1:00 pm**      **Adjourn for Day**

## Wednesday, January 29

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

**8:00 – 9:15 am**            **Session 8: To Certify or Not to Certify**

**David R. Stras**, Judge, US Court of Appeals for the Eighth Circuit

**Reading Assignment:**

*Yamashita v. LG Chem, LTD*, 48 F.4th 993 (9th Cir. 2022).

**9:30 – 10:45 am**            **Session 9: Regulatory Federalism & Jurisdictional Competition | Butler**

**Reading Assignments:**

Henry N. Butler & Joshua D. Wright, *Are State Consumer Protection Acts Really Little-FTC Acts?*, 63 FLA L. REV. 163 (2011).

Henry N. Butler, *The Contractual Theory of the Corporation*, 11 GEO. MASON UNIV. L. REV. 99 (1989).

**11:00 am – 12:15 pm**      **Session 10: The Three-Legged Stool of Consumer Protection**

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

**Reading Assignment:**

Todd J. Zywicki et. al., *Taskforce on Federal Consumer Financial Law Report*, 1 BUREAU OF CONSUMER FIN. PROT. 244 (January 2021).

**12:15 pm**                    **Adjourn for Day**

## Thursday, January 30

**7:00 – 7:50 am**      **Breakfast**

**8:00 – 9:15 am**      **Session 11: Is Antitrust Necessary? And, If So, For What? | Donald Boudreaux**

**Reading Assignment:**

Antonio Capobianco, *Advantages and Disadvantages of Competition Welfare Standards – Note by BIAC*, Organisation for Econ. Co-operation and Dev. (June 15, 2023).

**9:30 – 10:45 am**      **Session 12: "Junk Fees," Behavioral Economics, and the Economics of Consumer Protection | Zywicki**

**Reading Assignment:**

Todd J. Zywicki & Howard Beales, *Junkyard Dogs: The Law and Economics of “Junk” Fees*, CPI ANTITRUST CHRON. (April 2023).

**11:00 am – 12:15 pm**      **Session 13: Business at the Supreme Court: What to Know | Stras**

**Reading Assignment:**

David R. Stras, *Business Law at the Supreme Court* (2025).

**12:15 pm**      **Adjourn for Day**

## Friday, January 31

7:00 – 7:50 am      **Breakfast**

8:00 – 9:15 am      **Session 14: The Evolving State of Indigenous Rights: How Native and Indigenous Communities are Shaping the Legal Environment | Karol Boudreaux**

**Reading Assignment:**

*As climate crisis alters their lands, Indigenous Peoples turn to the courts*, UN ENV'T PROGRAMME (Aug. 8, 2023).

9:30 – 10:45 am      **Session 15: What Does Public-Choice Scholarship Imply About the Role of Courts? | Donald Boudreaux**

**Reading Assignment:**

John O. McGinnis, *Public Choice Originalism: Bork, Buchanan and the Escape from the Progressive Paradigm*, 14-02 NW UNIV. SCH. OF L.1 (2014).

11:00 am – 12:15 pm      **Session 16: Setting Boundaries: State Courts, Common Law, and Separation of Powers**

**Clint Bolick**, Justice, Supreme Court of Arizona

**Reading Assignment:**

Clint Bolick & Nina Burik, *Setting Boundaries: State Courts, Common Law, and Separation of Powers* (2025).

12:15 – 5:30 pm      **Afternoon Study Break**

5:30 – 6:30 pm      **Session 17: Writing and Speaking About State Courts and State Constitutions**

**Clint Bolick**, Justice, Supreme Court of Arizona

**R. Patrick DeWine**, Justice, Supreme Court of Ohio

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

**Reading Assignment:**

R. Patrick DeWine, *Ohio Constitutional Interpretation*, 86 OHIO ST. L.J. (forthcoming 2025).

6:30 – 7:15 pm      **Closing Reception**

7:15 – 9:30 pm      **Closing Dinner**

## Saturday, February 1

*Travel Day; participants depart at their leisure*