



50th
1974-2024

Agenda

The Whitefish Lake Colloquium: Judge Douglas H. Ginsburg Judicial Colloquium Series

Sunday, June 22 through
Saturday, June 28, 2025

Agenda

Sunday, June 22

5:00 – 6:00 pm

Registration

6:00 – 7:00 pm

Opening Reception

(Registered guests welcome)

7:00 – 9:30 pm

Opening Dinner

(Registered guests welcome)

Welcome Remarks

History of the LEC

Donald J. Kochan, Professor of Law and Executive Director, 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

Jeff Mow, Former Superintendent, Glacier National Park; Board Member, Waterton-Glacier International Peace Park Association, Montana Conservation Corps, National Parks Friends Alliance, and Coalition to Protect America's National Parks

Monday, June 23

7:00 – 7:50 am

Breakfast

(Registered guests welcome)

8:00 – 9:15 am

Session 1: 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 (Jan. 2021).

9:15 – 9:30 am

Break

9:30 – 10:45 am

Session 2: Freedom, Law, and Prosperity: What the Reservation Economic Freedom Index Reveals

Thomas Stratmann, Distinguished University Professor, George Mason University

Reading Assignment:

Thomas Stratmann, *A reservation economic freedom index*, 199 PUB. CHOICE 213 (2024).

10:45 – 11:00 am **Break**

11:00 am – 12:15 pm **Session 3: The Economics of Regulation and Small-Dollar Loans | Zywicki**

Reading Assignment:
Todd J. Zywicki et. al., *Taskforce on Federal Consumer Financial Law Report*, 1 BUREAU OF CONSUMER FIN. PROT. 175-185, skim 185-192 (Jan. 2021).

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

5:30 – 7:00 pm **Fireside Chat**
(Registered guests welcome)

Interview of Judge Don R. Willett by Judge Douglas H. Ginsburg

Don R. Willett, Judge, US Court of Appeals for the Fifth Circuit

Douglas H. Ginsburg

Tuesday, June 24

7:00 – 7:50 am **Breakfast**
(Registered guests welcome)

8:00 – 9:15 am **Session 4: Interpreting Statutes in the Modern Administrative State**

Christopher J. Walker, Professor of Law, University of Michigan Law School

Reading Assignments:
Loper Bright Enterprises v. Raimondo, 144 S. Ct. 2244 (2024): 11-21.

Brief of the Chamber of Commerce of the United States of America as *Amicus Curiae* in Support of Neither Party, *Lesko v. United States*, appeal docketed, No. 23-1823 (Fed. Cir. 2025).

9:15 – 9:30 am **Break**

9:30 – 10:45 am **Session 5: Keep, Share, Destroy: Overlooked but Indispensable Sticks in the Bundle of Property Rights | Kochan**

Reading Assignments:
Lior, Strahilevitz, *The Right to Destroy*, 1-15 (Univ. of Chi. Pub. L. & Legal Theory, Working Paper No. 53, 2004).

Donald J. Kochan, *I Share, Therefore It's Mine*, 51 UNIV. OF RICH. L. REV. ASS'N 909-917, 938 (last para.) – (top of) 945 (2017).

Donald J. Kochan, *Keepings*, 23 N.Y.U ENV'T L. J. 355-361, 371-385 (2015).

10:45 – 11:00 am **Break**

11:00 am – 12:15 pm **Session 6: The Questionable State of the Consumer Welfare Standard in Merger Reviews**

Babette E. Boliek, Professor of Law, Pepperdine University Caruso School of Law

Reading Assignments:
A Report of the Consumer Welfare Committee: What Constitutes Antitrust Harm?, CAL. L. REVISION COMM'N (Jan. 26, 2024).

Nicolas Petit & Lazar Radic, *The Superiority of the Consumer Welfare Standard 1* (Eur. Univ. Inst. Dep't of L., LAW Working Paper No. 2024/20 Dec. 2024).

Babette Boliek, *Tech Companies, Big Data, and Competition: Diverging Views in the US and EU*, AM. ENTER. INST. (Jan. 11, 2018).

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

Wednesday, June 25

7:00 – 7:50 am **Breakfast**
(Registered guests welcome)

8:00 – 9:15 am **Session 7: Austrian Law & Economics | Zywicki**

Reading Assignment:

Todd Zywicki, *Posner Meets Hayek: The Elements of an Austrian Law & Economics Research Program*, 15 ASIAN J. OF L. & ECON. 1 (2023).

9:15 – 9:30 am **Break**

9:30 – 10:45 am **Session 8: Revisioning Congressional Delegation and the Nondelegation Doctrine | Walker**

Reading Assignment:

Brief of the Chamber of Commerce of the United States of America as Amicus Curiae in Support of Neither Party, *Federal Communications Commission v. Consumers Research; SHLB Coalition v. Consumers Research*, appeal docketed, Nos. 24-354 & 24-422 (U.S. 2025).

10:45 – 11:00 am **Break**

11:00 am – 12:15 pm **Session 9: Courts that Build Trust: Tribal Self-Governance, Legal Credibility, and Economic Development | Stratmann**

Reading Assignment:

Adam Crepelle & Thomas Stratmann, *Does Expanding Tribal Jurisdiction Improve Tribal Economies: Lessons from Arizona*, ARIZ. ST. L. J. 211 (2023).

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

5:30 – 7:00 pm **Fireside Chat**
(Registered guests welcome)

Patrick Rennie, Archeologist, Agriculture and Grazing Management Bureau, State of Montana

Thursday, June 26

7:00 – 7:50 am **Breakfast**
(Registered guests welcome)

8:00 – 9:15 am **Session 10: Incompatible Property Uses | Kochan**

Suggested Reading Assignments:

Donald J. Kochan, *A Framework for Understanding Property Regulation and Land Use Control from a Dynamic Perspective*, 4 MICH. J. OF ENV'L & ADMIN. L. 303 (2015).

Donald J. Kochan, *Deeds and the Determinacy Norm: Insights from Brandt and Other Cases on an Undesignated, Yet Ever-Present, Interpretive Method*, 43 FLA. STATE UNIV. L. REV. 793 (2016).

9:15 – 9:30 am **Break**

9:30 – 10:45 am **Session 11: The Student Athlete Market Post-Alston | Boliek**

Reading Assignments:

Babette Boliek, *The Potential Reach of O'Bannon v. NCAA*, 5 MISS. SPORTS L. REV. 28 (2015).

The Federalist Society, *The Evolution of Antitrust Laws Relating to College Athletics*, YouTube (Oct. 31, 2022): <https://youtu.be/33Uv3YVpv5s?si=rRpP6x6w16kWD0Ii>.

Sara Coello, *What is NIL in college sports? How do athlete deals work?*, ESPN (Mar. 25, 2025).

Nick Cottongim, *Top 20 Athletes With The Highest NIL Valuations*, The Fan (Apr. 15, 2025).

10:45 – 11:00 am	Break
11:00 am – 12:15 pm	Session 12: Biden Antitrust Ginsburg
12:15 pm	Program Adjourns for Day

Friday, June 27

7:00 – 7:50 am	Breakfast <i>(Registered guests welcome)</i>
8:00 – 9:15 am	Session 13: Beyond the Deed: Understanding Informal Property Rights through Trust, Custom, and Community Stratmann <u>Reading Assignment:</u> Harold Demsetz, <i>Toward a Theory of Property Rights</i> , 57 AM. ECON. ASS'N 347 (1967).
9:15 – 9:30 am	Break
9:30 – 10:45 am	Session 14: Ameliorative Trespass and the Right to Destroy Kochan <u>Suggested Reading Assignments:</u> Peter N. Salib, <i>The Law of Banksy: Who Owns Street Art?</i> , 82 THE UNIV. OF CHI. L. REV. 2293 (2015). Lior, Strahilevitz, <i>The Right to Destroy</i> , 1-15 (Univ. of Chi. Pub. L. & Legal Theory, Working Paper No. 53, 2004).
10:45 – 11:00 am	Break
11:00 am – 12:15 pm	Session 15: Understanding Unitary Executive Theory and the Future of Agency Independence Walker <u>Reading Assignment:</u> Aaron L. Nielson, Christopher J. Walker, & Melissa F. Wasserman, <i>Saving Agency Adjudication</i> , 103 TEX. L. REV 1013 (2025).
12:15 – 5:30 pm	Afternoon Study Break
5:30 – 7:00 pm	Fireside Chat <i>(Registered guests welcome)</i> Interview of Chief Justice Cory Swanson by Professor Donald J. Kochan Cory Swanson , Chief Justice, Supreme Court of Montana Donald J. Kochan
7:00 – 9:00 pm	Closing Dinner <i>(Registered guests welcome)</i>

Saturday, June 28

Travel Day; participants depart at their leisure