THE ALI
Reporter

THE QUARTERLY NEWSLETTER OF THE AMERICAN LAW INSTITUTE

VOLUME 45 NUMBER 2 SPRING 2023

January 2023 Council Meeting Update

At its meeting on January 19 and 20, 2023, the Council reviewed and discussed Council Drafts of five projects and approved drafts and portions of drafts as listed below. *All approvals are subject to the discussion at the meeting and the usual editorial prerogative.*

Conflict of Laws

The Council approved Council Draft No. 8, containing §§ 6.11-6.12 of Topic 2, Particular Torts and Issues, of Chapter 6 on Torts; and §§ 7.01-7.11 of Topic 1, Core Property Issues, and §§ 7.12-7.18 of Topic 2, Property in Marriage and Other Domestic Relationships, of Chapter 7 on Property, with the understanding that the Reporters will consult with the Council members who commented on §§ 6.12, 7.06, 7.07, and 7.18 when editing those sections.

Copyright

The Council approved Council Draft No. 7, which contained §§ 40 (for reference only) and 42-45 of Chapter 4, Copyright Formalities; §§ 49 and 52 of Chapter 5, Duration of Copyright; §§ 55 (for reference only), 6.05, 6.07, 6.08, and 6.11 of Chapter 6, Copyright Rights and Limitations; and §§ 7.01-7.04 and 7.07 of Chapter 7, Copyright Infringement.

Property

The Council approved Council Draft No. 7, containing material from five Chapters of Division Three, Leases, of Volume 4 on Divided and Shared Ownership, as well as material from Division One, Foundations, Division Two, Contracts for Purchase and Sale of Present Estates in Real Property, and

continued on page 6

ANNUAL MEETING PREVIEW

SEE PAGES 8-13 FOR MORE INFORMATION.

THE AMERICAN LAW INSTITUTE | 100

SEE PAGE 14 FOR MORE INFORMATION.

PRESIDENT'S LETTER

Although 2023 has only just begun, it has already been a remarkable year of achievement and change at The American Law Institute.

As we ushered in our 100th Anniversary year, we bid farewell to ALI Director Ricky Revesz, who subsequently was sworn in as Office of Information and Regulatory Affairs Administrator. Ricky gave limitless energy and enthusiasm to the Institute. During his nine-year tenure as Director, the Institute was extraordinarily productive, initiating 17 projects and completing 15 (some of which had been begun under Director Lance Liebman's tenure). It is a mark of Ricky's dedication that in the last weeks of his directorship he was able to draw together two additional Restatement projects of great importance and that were approved by the Council at its January meeting: the final portions of Restatement of the Law Fourth, The Foreign Relations Law of the United States, and Restatement of the Law, Election Litigation (details on these projects appear on page 7).

Ricky and I also worked together to convene a bipartisan group (co-chaired by Bob Bauer and Jack Goldsmith) to develop guidelines for Electoral Count Act reform. The group's proposal was embraced by the bipartisan group of senators working on the issue and proved influential in the bill that passed at the end of last year (see my Q&A with Bob and Jack on page 16).

I enjoyed working so closely with Ricky, and I wish him much success in his new role. Our country is lucky to have him.

ALI's legacy of remarkable Directors continues in our newly elected Director Designate Judge Diane P. Wood. The role of the ALI Director is varied. It requires keen oversight of existing projects and a vision for how best to carry out the Institute's overall mission and work. The Director is an administrator, mentor, visionary, legal artisan, and trusted adviser to our Reporters, project participants, members, and ALI staff. Judge Wood is extraordinarily well suited to perform all of these important functions. From academia to private practice to

continued on page 5

Farewell to ALI Director Richard L. Revesz

Richard Revesz served as the Institute's Director from 2014 through 2022. One of the primary roles of the Director is the oversight of the Institute's projects. This includes identifying subjects for new projects, recruiting distinguished academics to serve as Reporters on those projects, and generally overseeing the intellectual output of the ALI. During his tenure, Revesz oversaw the completion of the following ALI Projects (in order of publication or member approval below; bold font indicates that the Project was initiated and brought to completion under Director Revesz):

- Restatement of the Law Fourth, The Foreign Relations Law of the United States: Selected Topics in Treaties, Jurisdiction, and Sovereign Immunity (Published 2018)
- Principles of the Law, Election Administration: Non-Precinct Voting and Resolution of Ballot-Counting Disputes (Published 2019)
- Restatement of the Law, Liability Insurance (Published 2019)
- Principles of the Law, Data Privacy (Published 2020)
- Restatement of the Law Third, Torts: Liability for Economic Harm (Published 2020)
- Restatement of the Law, Charitable Nonprofit Organizations (Published 2021)
- Restatement of the Law, The Law of American Indians (Published 2022)
- Restatement of the Law, The U.S. Law of International Commercial and Investor-State Arbitration (Publication Forthcoming 2023)
- Model Penal Code: Sentencing (Publication Forthcoming 2023)
- **Principles of the Law, Compliance and Enforcement for Organizations (Approved at the 2021 Annual Meeting)**
- **Principles for a Data Economy (Approved in 2021; joint project with the European Law Institute)**
- Restatement of the Law Third, Torts: Intentional Torts to Persons (Approved at the 2021 Annual Meeting)
- **Principles of the Law, Policing (Approved at the 2022 Annual Meeting)**
- Restatement of the Law, Consumer Contracts (Approved at the 2022 Annual Meeting)
- Model Penal Code: Sexual Assault and Related Offenses (Approved at the 2022 Annual Meeting)
- **Principles of the Law, Student Sexual Misconduct: Procedural Frameworks for Colleges and Universities (Approved at the 2022 Annual Meeting)**

Additional ongoing projects launched by Director Revesz:

- Restatement of the Law, Children and the Law
- Restatement of the Law, Conflict of Laws
- Restatement of the Law, Constitutional Torts
- Restatement of the Law, Copyright
- Restatement of the Law, Corporate Governance
- Restatement of the Law, Election Litigation
- Restatement of the Law, Property
- Restatement of the Law Third, Torts: Defamation and Privacy
- Restatement of the Law Third, Torts: Medical Malpractice
- Restatement of the Law Third, Torts: Miscellaneous Provisions
- Restatement of the Law Third, Torts: Remedies
- Restatement of the Law Fourth, The Foreign Relations Law of the United States (Final Sections)
- Principles of the Law, High-Volume Civil Adjudication

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RICKY REVESZ FAST FACTS

Revesz departed ALI to become Administrator of the Office of Information and Regulatory Affairs (OIRA). OIRA is the central authority for the review and approval of hundreds of federal regulations each year, as well as for the establishment of government statistical practices and coordination of federal privacy policy, among other duties.

In addition to serving as ALI's Director, Revesz was the AnBryce Professor of Law and Dean Emeritus at the New York University School of Law, where he also founded the Institute for Policy Integrity, a think tank and advocacy organization that promotes desirable climate change and environmental policies.

Revesz was instrumental in changing the way that the Institute's work is properly cited in The Bluebook. With ALI Council member Robert H. Sitkoff, Revesz met with the leadership of The Bluebook revisions, just as the 20th edition was close to completion, and The American Law Institute is now explicitly acknowledged as the institutional author of its works.

Revesz clarified the way that the Institute numbers its book series. Previously, Restatement series were numbers within a date range of when a project launched. Beginning in 2015, ALI simplified its numbering protocol. Initial versions of a Restatement will be titled "Restatement of the Law" without reference to a numbered series. Restatements that are part of an existing series will remain in that series.

With the new numbering protocol also came a new color scheme for ALI's published work. Newly published first series Restatements are red. Principles remain Green, books in the Restatement Third series are blue, and new books in the Restatement Fourth series are black.

Revesz worked with ALI President David Levi to convened the bipartisan group that published Principles for Electoral Count Act Reform (see page 16 to read more).

Revesz was born in Argentina, learned English as a second language, and immigrated to the United States when he was 17. He graduated from Princeton, earned a master's degree in environmental engineering from the MIT, and received his law degree from Yale Law School. Following clerkships with Chief Judge Wilfred Feinberg of the U.S. Court of Appeals for the Second Circuit and Justice Thurgood Marshall of the U.S. Supreme Court, Revesz joined the NYU Law faculty in 1985.

Diane P. Wood Named Director Designate of The American Law Institute

At the January meeting the ALI's Council voted unanimously to appointment of Diane P. Wood, Senior Judge of the U.S. Court of Appeals for the Seventh Circuit, as Director Designate. Judge Wood will succeed Richard L. Revesz, who stepped down to take on the role of Administrator of the Office of Information and Regulatory Affairs, and will be the first woman to hold this position at the Institute. She will assume the role of Director in May 2023.

"We are so pleased that Diane Wood will be our new Director and so confident in our future under her leadership," said ALI President David F. Levi. "Diane has had a distinguished and storied career committed to the rule of law. From academia to private practice to government service to her time on the court, she is a brilliant legal thinker and has made her mark on many fields, including antitrust and international law. She is also a skillful leader and trusted colleague. She has been a forceful and important contributor to the work of the ALI through her membership on the ALI's Council for many years. As we enter our second century, we are so fortunate to be able to work with her as ALI Director."

Judge Wood was recommended to the ALI's Executive Committee by its Nominating Committee, chaired by Jeffrey S. Sutton, Chief Judge of the U.S. Court of Appeals for the Sixth Circuit.

"The ALI Director plays a critical role at The American Law Institute," said Chief Judge Sutton. "ALI's Director works closely with the Council to identify and recommend Institute projects, to recruit distinguished Reporters for those projects, and to oversee the intellectual output of the ALI. Diane is the ideal choice to fulfill each of these roles. On the court, she is known as a brilliant mind, a consensus builder, and a trailblazer. I am thrilled to see her elected as ALI's next Director."

Judge Wood was appointed to the Seventh Circuit in 1995, and served as its Chief Judge from 2013 to 2020. She is also a Senior Lecturer in Law at the University of Chicago Law School, where she teaches in the areas of federal civil procedure, antitrust law, and international trade and business.

Before her appointment to the bench, Judge Wood was the Harold J. and Marion F. Green Professor of International Legal Studies at the University of Chicago Law School. She also served for two years as Deputy Assistant Attorney General in the Antitrust Division of the U.S. Department of Justice, with responsibility for the Division's international, appellate, and legal policy matters. In 2015, Judge Wood received the U.S. Department of Justice's 2015 John S. Sherman Award—the department's highest antitrust honor.

President David F. Levi, Director Designate Diane P. Wood, and Deputy Director Eleanor Barrett

"I am deeply honored to have been chosen as the seventh Director of The American Law Institute," said Judge Wood. "In my time as a member of the ALI, I have worked with several of the previous directors. All of them were remarkable, and I have especially enjoyed working with Ricky for the last nine years. I recognize that all of ALI's Directors have set a very high standard. Having been an ALI member and served on its Council, I have admired the work of the ALI, its members, and its leaders for many years. The work of the ALI in simplifying and restating the law is as important today as it was in 1923 when the Institute was founded. By making the law more coherent and knowable, the ALI seeks to promote the rule of law in this country and beyond. We also bring to bear the perspective of the academy, the judiciary, and the practicing bar on some of the toughest and most consequential legal issues our country faces. It is a great privilege for me to become Director as the ALI looks forward to its next 100 years of service to the legal system."

Elected to ALI in 1990 and to the ALI Council in 2003, Judge Wood has been an influential and active participant in the Institute's work and its leadership. She has served as an Adviser to Restatement of the Law, The Law of American Indians (Published 2022); Restatement of the Law Fourth, The Foreign Relations Law of the United States – Jurisdiction (Published 2018); Legal and Economic Principles of World Trade Law (Published 2012); Principles of the Law of Aggregate Litigation (Published 2010); and as U.S. Adviser to Transnational Rules of Civil Procedure (Published 2007). She also served on the Members Consultative Group for Complex Litigation: Statutory Recommendations and Analysis (Published 1994).

As an elected member of the ALI Council, Judge Wood currently serves on the Special Committee on ALI's 100th Anniversary,

Council Meeting, October 2019

through which she played an instrumental role in organizing the forthcoming book chronicling ALI's history. She also chairs the ALI Early Career Scholars Medal Committee. She was a member of ALI's Nominating Committee from 2004 to 2016, serving as its chair from 2011 to 2016, and she served on ALI's Executive Committee from 2012 to 2018.

In addition to her service to ALI, Judge Wood serves on the Board of the American Bar Foundation. She is a former Board member of the Constitutional Rights Foundation Chicago, which was an organization devoted to teaching elementary and secondary school students about the U.S. legal system. From 2007 to 2013, she served as a member of the Judicial Conference's Standing Committee on Rules of Practice and Procedure, and from 2004 to 2007 she was a member of the Judicial Conference's Committee on International Legal Relations. Wood is a Fellow of the American Academy of Arts and Sciences, whose Council she chaired from 2014 to 2022, and where she served as a member of the Commissions on the Humanities and Social Sciences, Languages, and Democratic Citizenship.

She received her B.A. and her J.D. from the University of Texas at Austin. After law school, she clerked for Judge Irving L. Goldberg of the U.S. Court of Appeals for the Fifth Circuit and for Associate Justice Harry A. Blackmun of the U.S. Supreme Court.

Judge Wood will continue as a judicial officer. Consistent with the judicial ethics rules, she will not receive compensation from ALI or participate in Institute fundraising.

PRESIDENT'S LETTER CONTINUED FROM PAGE 1

government service to the bench, she has established herself as a brilliant legal thinker, respected leader, and trusted colleague.

I am so pleased that Diane will be our Director as we move into our second century. I look forward with great confidence and excitement to seeing what the Institute will accomplish under her leadership. (You can read the full release announcing Diane's election on page 4.)

Additionally, this year, we will come together at the 2023 Annual Meeting to celebrate our 100th Anniversary (details about the Meeting can be found beginning on page 8). Our staff has been working hard to secure special venues, like the National Portrait Gallery for our Members Reception and the National Building Museum for our Annual Dinner. We are finalizing plans for award presentations, special panels on the future of law, and other exciting events and displays. Please keep your eye out for special announcements throughout the spring.

Alongside planning for the Annual Meeting, we have been working hard to secure the ALI's next 100 years. The Second Century Campaign has raised nearly $30 million of the campaign's $35 million goal.

Thanks to the extraordinary efforts of our Development Committee, led by Chair Judith Miller, we have seen an exceptional response to the Campaign so far in 2023, particularly in the 100 for 100 program. The 100 for 100 program challenges members who have the means, cherish the rule of law, and value our vital work to pledge $100,000 to the Second Century Campaign. Members may join the 100 for 100 challenge through a one-time gift, a pledge payable in up to 10 annual installments, or by making a bequest. Please see page 14 for brief profiles of some of our amazing 100 for 100 donors.

For all of you who have already joined this group of donors or who have donated to the campaign in any way, I thank you. For anyone who is still considering a donation, please feel free to contact me, Eleanor Barrett, or any member of our Development Committee to discuss ways that you can support the Institute's future.

The American Law Institute officially turned 100 on February 23, 2023. This is no small achievement, and could not have happened without the dedication of our members.

The ALI's renowned work is the product of your time, knowledge, and careful deliberation. Let's take great pride in what we have accomplished together in this first century.

I hope to see you in Washington, D.C., to celebrate our past and look toward our future. It has never been brighter!

Happy 100th Anniversary!

David

JANUARY 2023 COUNCIL MEETING UPDATE CONTINUED FROM PAGE 1

Division Three, Deeds of Conveyance, of Volume 5 on Title and Transfer of Ownership, with the understanding that the Reporters will consult with the Council members who commented on § 2.5 (Caveat Emptor) when editing that section.

Torts: Miscellaneous Provisions

The Council approved the following material in Council Draft No. 4: §§ 48 F-48 K on Interference with Family Relationships; §§ 48 D-48 F on Sepulcher; §§ 1-7 on Vicarious Liability; the unnumbered section on Aiding and Abetting Negligence Torts; §§ 70-72 on Liability in Event of Death; and § 20 A on Bad-Faith Performance of First-Party Insurance Contract. In addition, the Council approved §§ 7-9 of the material on Medical Malpractice and a new section, to be added following the current § 7, to address standardized form agreements.

The Council discussed but did not vote on § 4 of the Medical Malpractice material; the Reporters will revise the section for consideration at the Council's next meeting. Due to time constraints, the Council did not complete its discussion of the remainder of Council Draft No. 4.

Torts: Remedies

The Council approved Council Draft No. 2, containing §§ 5, 11, and 12 of Topic 1, General Rules for Measuring Compensatory Damages, and §§ 18-28 of Topic 2, Injury to the Person, of Chapter 1 on Compensatory Damages; and §§ 43-49 of Topic 1, Permanent Injunctions, of Chapter 3 on Injunctions and Other Forms of Specific Relief.

Members interested in any of these projects can access drafts in the Projects section of the ALI website. Those who join a Members Consultative Group will be alerted when future meetings are scheduled and when drafts are available.

Laura Denvir Stith of the Missouri Supreme Court (Senior Judge) (Torts: Miscellaneous Provisions)

Ivan K. Fong of Medtronic PLC (Torts: Remedies)

L-R: ALI Deputy Director Eleanor Barrett, Carolyn B. Kuhl of Superior Court of California, County of Los Angeles, Reporter Henry E. Smith of Harvard Law School, and Associate Reporters Thomas W. Merrill of Columbia Law School, R. Wilson Freyermuth of University of Missouri School of Law, and Molly E. Brady of Harvard Law School (Property)

Yvonne Gonzalez Rogers of the U.S. District Court for the Northern District of California and Kenneth C. Frazier of Merck & Co. Inc. after Copyright session

Raymond J. Lohier Jr. of the U.S. Court of Appeals for the Second Circuit and Michael J. Garcia of the New York State Court of Appeals at the conclusion of Property session

Roberto Jose Gonzalez of Paul, Weiss, Rifkind, Wharton & Garrison and John H. Beisner of Skadden, Arps, Slate, Meagher & Flom between sessions

ALI Launches Two New Restatement Projects

The American Law Institute's Council voted at its January meeting to approve the initiation of two new Restatement projects. The first will complete the remainder of Restatement of the Law Fourth, The Foreign Relations Law of the United States and the second is on the topic of Election Litigation.

Sections on Jurisdiction, Treaties, and Sovereign Immunity of the Fourth Restatement of Foreign Relations Law were published in 2018. The new Restatement will cover topics not addressed in this previous volume as well as select topics that have emerged since publication of the Restatement Third.

The project will be chaired by John B. Bellinger III of Arnold and Porter and Harold Hongju Koh of Yale Law School. The project's Reporters are Curtis A. Bradley of University of Chicago Law School; William S. Dodge of University of California, Davis School of Law; and Oona A. Hathaway of Yale Law School. The Reporters will determine the scope of work for the project, and the Chairs will provide guidance to the Reporters throughout the project.

The Restatement of the Law, Election Litigation project will be led by Reporters Lisa Manheim of the University of Washington School of Law and Derek T. Muller of the University of Iowa College of Law.

The Restatement's goal is to provide guidance to federal and state court judges adjudicating election disputes, focusing on the areas governed by equitable principles and guided by judicial common law. Topics will include the "*Purcell* Principle" on timing of judicial intervention, the preservation of pre-established conditions for election conduct, the roles of state and federal courts in election disputes, administrative flexibility for emergencies, remedies for failed elections, and claims over exclusion of parties from the ballot and lack of voter access. The Restatement will not address broader questions bearing on the substance of election law.

The Institute and Reporters will now identify Associate Reporters and Advisers to the projects.

MORE INFORMATION ON THE CO-CHAIRS AND REPORTERS:

John Bellinger is the co-chair of Arnold and Porter's Global Law and Public Policy group. A globally recognized expert on international law, he joined the firm in 2009, after serving as the Senate-confirmed Legal Adviser for the Department of State and Senior Associate Counsel to the President and Legal Adviser to the National Security Council (NSC) at the White House in the George W. Bush Administration.

Curtis A. Bradley is the Allen M. Singer Professor of Law at the University of Chicago Law School. He served as a Reporter on the Treaties Section of Restatement of the Law Fourth, Foreign Relations Law of the United States. His research and teaching interests include foreign relations law, international law, constitutional law, and federal court jurisdiction.

William S. Dodge is the John D. Ayer Chair in Business Law and Martin Luther King Jr. Professor of Law at the University of California, Davis School of Law. He served as a Reporter on the Jurisdiction Section of Restatement of the Law Fourth, Foreign Relations Law of the United States. Dodge is a leading expert on international law, international transactions, and international dispute resolution.

Oona A. Hathaway is the Gerard C. and Bernice Latrobe Smith Professor of International Law at Yale Law School, Professor of International Law and Area Studies at the Yale University MacMillan Center, Professor of the Yale University Department of Political Science, and Director of the Yale Law School Center for Global Legal Challenges. She has been a member of the Advisory Committee on International Law for the Legal Adviser at the United States Department of State since 2005.

Harold Hongku Koh is Sterling Professor of International Law at Yale Law School. He returned to Yale Law School in January 2013 after serving for nearly four years as the 22nd Legal Adviser of the U.S. Department of State. He first began teaching at Yale Law School in 1985 and served as its fifteenth Dean from 2004 until 2009. From 2009 to 2013, he took leave to join the State Department as Legal Adviser, service for which he received the Secretary of State's Distinguished Service Award.

Lisa Manheim writes in the areas of constitutional law, election law, and presidential powers. Her scholarship has been published in the *University of Chicago Law Review*, the *Supreme Court Review*, the *Vanderbilt Law Review*, and other leading academic journals. These works explore questions of federalism and institutionalism in the context of the three branches of the federal government. Professor Manheim's courses include Administrative Law, Constitutional Law, Election Law, Federal Courts, Legislation, and Property.

Derek T. Muller holds the Ben V. Willie Professorship in Excellence at the University of Iowa College of Law, and he is a nationally-recognized scholar in the field of election law. His research focuses on the role of states in the administration of federal elections, the constitutional contours of voting rights and election administration, the limits of judicial power in the domain of elections, and the Electoral College.

Harold Hongku Koh comments on Foreign Relations Law draft, September 2016

2023 Annual Meeting

May 22-24 | Washington, D.C.

THIS YEAR, THE MONDAY AND TUESDAY LUNCHEONS WILL BE HELD AT AN OFF-SITE LOCATION:

Washington Marriott Georgetown
Metropolitan Ballroom
1221 22nd Street NW
Washington, DC 20037

MONDAY MEMBERS LUNCHEON: WELCOMING NEW MEMBERS

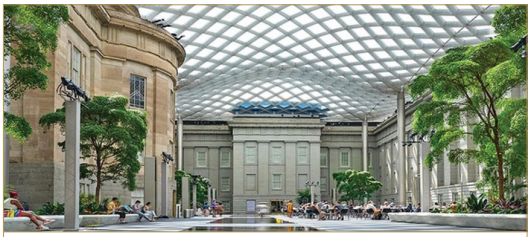
All members and guests are invited to attend this luncheon, which will include a Q&A with new ALI Director Designate Diane P. Wood and ALI President David F. Levi.

Tickets are $65 per person.

TUESDAY MEMBERS LUNCHEON: HONORING NEW 25-YEAR AND 50-YEAR MEMBERS

All members and guests are welcome to attend this luncheon honoring New Life (Class of 1998) and New 50-Year (Class of 1973) members. The 1998 and 1973 Class Gifts will be presented to the Institute by class representatives. ALI Council Member Gerard E. Lynch, Life Member from the Class of 1998, will speak at the event.

Tickets are $65 per person.



MEMBERS RECEPTION AND BUFFET AT THE NATIONAL PORTRAIT GALLERY

Location: 8th and G Streets NW

The panel discussion will begin following the open-bar reception and buffet. Round-trip shuttle buses will transport Meeting attendees from The Ritz-Carlton beginning at 6:15 p.m., and back to The Ritz-Carlton upon the conclusion of this event.

Tickets are $85 per person.

Agenda

The Annual Meeting will be held in person at The Ritz-Carlton, Washington, D.C. Please note alternate locations for some events.

SUNDAY, MAY 21

2:00-3:00 p.m. ***Unexampled Courage***
Featuring: J. Michelle Childs, U.S. Court of Appeals for the District of Columbia Circuit, and Richard Mark Gergel, U.S. District Court for the District of South Carolina

3:30-5:30 p.m. ALI CLE Ethics Program: The Issues and Ethics of Litigation Financing
Featuring: Tom Baker, University of Pennsylvania Carey Law School (moderator); Jiamie Chen of D. E. Shaw & Co.; Victoria Shannon Sahani, Boston University School of Law; Virginia A. Seitz, Sidley Austin; and Sarah S. Vance, U.S. District Court for the Eastern District of Louisiana

Tuition for this program is $150 for ALI members, $195 for all others. To register, use the ALI Annual Meeting registration form. Registrations will be accepted at the door if space permits.

2 hours ethics credit

MONDAY, MAY 22

8:30 a.m. Opening Session

9:00 a.m. Copyright

10:30 a.m. Torts: Medical Malpractice and Torts: Miscellaneous Provisions

12:15 p.m. Members Luncheon (Marriott)
Featuring: ALI President David F. Levi and ALI Director Designate Diane P. Wood

1:45 p.m. 100th Anniversary Program: Social Media and Democracy
Featuring: Mary H. Murguia, U.S. Court of Appeals for the Ninth Circuit (moderator); Cindy Cohn, Electronic Frontier Foundation; Nita A. Farahany, Duke University School of Law; Steven Feldstein, Carnegie Endowment for International Peace; and David French, *The New York Times*

3:15 p.m. Presentation of John Minor Wisdom Award
Wallace B. Jefferson of Alexander Dubose & Jefferson will present the award to Margaret H. Marshall of Choate Hall & Stewart.

Michael Traynor of Cobalt will present the award to Mary M. Schroeder of the U.S. Court of Appeals for the Ninth Circuit.

3:45 p.m. Property

7:00-9:30 p.m. Members Reception and Buffet (National Portrait Gallery)
Panel: The State of Democracy in the United States
Featuring: David M. Rubenstein, The Carlyle Group (moderator); Danielle Allen, Harvard University; and David Brooks, *The New York Times*

TUESDAY, MAY 23

8:30 a.m. ALI Early Career Scholars Program
Presentation by Ashley S. Deeks, University of Virginia School of Law

9:00 a.m. 100th Anniversary Program: Artificial Intelligence and Society
Featuring: Travis LeBlanc, Cooley (moderator); Ruth L. Okediji, Harvard Law School; Marc Rotenberg, Center for AI and Digital Policy; and Brad Smith, Microsoft

10:30 a.m. Children and the Law

12:00 p.m. Presentation of Distinguished Service Award
ALI Director Designate Diane P. Wood of the U.S. Court of Appeals for the Seventh Circuit will present the Distinguished Service Award to Roberta Cooper Ramo of Modrall Sperling.

12:15 p.m. Members Luncheon Honoring New 25-Year and 50-Year Members (Marriott)
Featuring: Gerard E. Lynch, U.S. Court of Appeals for the Second Circuit

1:45 p.m. Special 100th Anniversary Program – *A Centennial History*
Featuring: Andrew Gold, Brooklyn Law School, and Robert W. Gordon, Stanford Law School (moderators); Richard R.W. Brooks, New York University School of Law; Deborah A. DeMott, Duke University School of Law; and G. Edward White, University of Virginia School of Law

3:15 p.m. Torts: Remedies

7:00 p.m. Annual Reception and Dinner (National Building Museum)
Presentation of the Henry J. Friendly Medal to Chief Justice of the United States John G. Roberts, Jr., by Supreme Court Associate Justice Elena Kagan

WEDNESDAY, MAY 24

8:30 a.m. ALI Early Career Scholars Program
Presentation by Francis X. Shen, Harvard Law School and Harvard Medical School

9:00 a.m. Conflict of Laws

10:30 a.m. 100th Anniversary Program: Role of Technology in Dispute Resolution and Access to Justice
Featuring: David Freeman Engstrom, Stanford Law School (moderator); Bridget Mary McCormack, American Arbitration Association International Centre for Dispute Resolution; Colin Rule, Mediate.com and ODR.com; and Rebecca L. Sandefur, Arizona State University

12:00 p.m. Members Luncheon
Featuring: Harold Hongju Koh, Yale Law School

1:15 p.m. Government Ethics

3:30 p.m. Meeting Adjourns

As of March 21

ANNUAL DINNER AND RECEPTION AT THE NATIONAL BUILDING MUSEUM

Location: 440 G Street NW

Please join us as we get together to celebrate our 100th Anniversary. A round trip shuttle bus is available from The Ritz-Carlton. The first shuttle departs the hotel at 6:15 p.m. and will return to The Ritz-Carlton upon the conclusion of this event.

The reception will begin at 7:00 p.m.
Dress is business attire or semi-formal.

Tickets are $125 per person.

WEDNESDAY MEMBERS LUNCHEON

Join us at this lunch event on the final day of the Annual Meeting, to be held at Salon III at the Ritz-Carlton Ballroom. Luncheon speaker and ALI Council Member Harold Hongju Koh, Sterling Professor of International Law at Yale Law School, will speak on the topic of law and the Russian-Ukraine War.

Tickets are $65 per person.

Register online now at www.ali.org/AM2023

Henry J. Friendly Medal: John G. Roberts, Jr.

Chief Justice Roberts will receive the Henry J. Friendly Medal at the Annual Dinner on Tuesday, May 23.

John G. Roberts, Jr., Chief Justice of the United States, was born in Buffalo, New York, January 27, 1955. He married Jane Sullivan in 1996 and they have two children - Josephine and Jack. He received an A.B. from Harvard College in 1976 and a J.D. from Harvard Law School in 1979. He served as a law clerk for Judge Henry J. Friendly of the United States Court of Appeals for the Second Circuit from 1979–1980, and as a law clerk for then-Associate Justice William H. Rehnquist of the Supreme Court of the United States during the 1980 Term. He served as a Special Assistant to the Attorney General of the United States from 1981–1982, Associate Counsel to President Ronald Reagan, White House Counsel's Office from 1982–1986, and as Principal Deputy Solicitor General from 1989–1993. From 1986–1989 and 1993–2003, he practiced law in Washington, D.C. He served as a Judge on the Court of Appeals for the District of Columbia Circuit from 2003-2005. Nominated as Chief Justice of the United States by President George W. Bush, he assumed that office on September 29, 2005.

Distinguished Service Award

The Distinguished Service Award will be presented to ALI President Emerita **Roberta Cooper Ramo** of Modrall Sperling on Tuesday, May 23. This award is given from time to time to a member who over many years has played a major role in the Institute as an institution, by accepting significant burdens as an officer, Council member, committee chair, or project participant and by helping keep the Institute on a steady course.

Ramo has been an active member of ALI for more than 30 years. Elected to the Council in 1997, she served as First Vice President before being elected the first woman President of the Institute in 2008. During her nine years as President, she brought a focus on diversity to ALI's membership and Council election process, effectively bringing more women, minorities, and breadth of practice to the organization. As President, she is also credited with inspiring confidence and participation from all members of the Institute and collegiality through some of the most complex and controversial project discussions.

Her Presidency saw 14 projects completed and 20 projects initiated; Ramo was a driving force behind the first-ever Restatement of American Indian Law. Having oversight on all projects, she often attended project sessions, and never missed a Council or Annual Meeting.

John Minor Wisdom Award

Margaret H. Marshall of Choate Hall & Stewart LLP and **Mary M. Schroeder** of the U.S. Court of Appeals for the Ninth Circuit will receive the John Minor Wisdom Award on Monday, May 22. The Wisdom Award is given from time to time in specific recognition of a member's contributions to the work of the Institute, the primary purpose of which is to recognize members who do not have an official role in Institute projects. Former ALI Reporters, former ALI officers, and Council emeriti are eligible for consideration after their official service has concluded.

Margaret Marshall is Senior Counsel at Choate. Before rejoining the firm, she served for 11 years as Chief Justice of the Supreme Judicial Court of Massachusetts until her retirement in December 2010. She was the first woman to hold that position in the Court's more than 300-year history. She was elected to ALI in 1990 and served on ALI Council from 1999 to 2019. She was also a member of the Executive Committee from 2014 to 2019 and ALI Treasurer from 2013 to 2014. During her time on Council, she served on the Awards Committee from 2015 to 2021. Additionally, she was a member of the Audit Committee, Investment Committee, and Program Committee. Marshall continues to invest in the Institute's future as a member of the Special Committee on ALI's 100th Anniversary.

Mary Schroeder served on the U.S. Court of Appeals for the Ninth Circuit from 1979 to 2011. She was the first female chief judge of the Ninth Circuit from 2000 to 2007. Schroeder was elected to the Institute in 1974 and served on ALI's Council from 1994 to 2016. As a Council member, she chaired the Awards Committee from 2009 to 2013. She also served on the Audit Committee from 1997 to 2004, as well as the Projects Committee from 2013 to 2019, advising the Director, Executive Committee, and Council on ongoing and potential projects designed to implement the purposes of the Institute as stated in its Certificate of Incorporation. Projects initiated during her time on the committee include Restatement of the Law, Children and the Law, and Restatement of the Law Third, Conflict of Laws, among others.

Associate Justice Elena A. Kagan will present the Friendly Medal to Chief Justice Roberts.

ALI Director Designate **Diane P. Wood** will present the Distinguished Service Award to Ramo.

Wallace B. Jefferson will present the Wisdom Award to Marshall.

Michael Traynor will present the Wisdom Award to Schroeder.

Photographs of Chief Justice Roberts and Associate Justice Kagan provided courtesy of the Collection of the Supreme Court of the United States

Special 100th Anniversary Programming at the Annual Meeting

This year's Annual Meeting includes special panel discussions, organized by ALI's 100th Anniversary Futures Committee. This series of special panels addressing big questions about the future, alongside our regular project sessions.

The program will consist of three discussions designed to ask big questions and challenge us to think broadly about the future. These discussions will focus on the ways that technology and innovation affect all aspects of our society, including human relationships, governments, institutions, access to justice, and the rule of law.

MONDAY'S PANEL WILL EXPLORE SOCIAL MEDIA AND DEMOCRACY.

Moderator: **Mary H. Murguia** is the Chief Judge of the United States Court of Appeals for the 9th Circuit. Prior to her service on the Ninth Circuit, she was a district judge for the United States District Court for the District of Arizona.

PANELISTS:
Cindy Cohn is the Executive Director of the Electronic Frontier Foundation (EFF). In 1993, for EFF she served as lead attorney in *Bernstein v. Dept. of Justice*, the successful First Amendment challenge to the U.S. export restrictions on cryptography.

Nita A. Farahany is the Robinson O. Everett Professor of Law and Philosophy at Duke University School of Law. She is a leading scholar on the ethical, legal, and social implications of emerging technologies.

Steven Feldstein is a Senior Fellow at the Carnegie Endowment for International Peace in the Democracy, Conflict, and Governance Program. His research focuses on technology and politics, U.S. foreign policy, international relations, and the global context for democracy and human rights.

David French is a columnist for *The New York Times*. He was formerly a fellow at the National Review Institute and a staff writer for National Review, senior editor of *The Dispatch*, and a contributing writer for *The Atlantic*.

TUESDAY'S MORNING PANEL WILL DISCUSS ARTIFICIAL INTELLIGENCE AND SOCIETY.

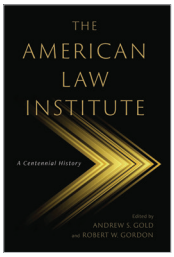
Moderator: **Travis LeBlanc** co-leads Cooley's global litigation department and the firm's cyber/data/privacy practice.

PANELISTS:
Ruth Okediji is the Jeremiah Smith, Jr. Professor of Law at Harvard Law School and Director of Harvard University's Berkman Klein Center for Internet & Society. A globally renowned intellectual property law scholar, she teaches and works on issues related to AI, ethics, data security and economic development.

Marc Rotenberg is the founder and President of the Center for AI and Digital Policy, a global organization focused on emerging challenges associated with Artificial Intelligence.

Brad Smith is Microsoft's Vice Chair and President. In this role, he leads a team of more than 1,900 business, legal and corporate affairs professionals located in 54 countries and operating in more than 120 nations.

TUESDAY'S AFTERNOON PANEL WILL REFLECT ON ALI'S FIRST CENTURY.



In celebration of ALI's first 100 years, a volume of essays titled *The American Law Institute: A Centennial History* has been produced that explores ALI's founding, examines some of the Institute's most influential projects, and contemplates adoption and criticism of our work so far. The project was led by editors **Andrew S. Gold** of Brooklyn Law School and **Robert W. Gordon** of Stanford Law School.

Andrew and Robert will kick off our Tuesday afternoon session with a panel discussion of ALI's amazing first century. They will be joined by chapter authors **Deborah A. DeMott** of Duke University School of Law, **G. Edward White** of University of Virginia School of Law, and **Richard R.W. Brooks** of New York University School of Law.

WEDNESDAY'S PANEL WILL EXAMINE THE ROLE OF TECHNOLOGY IN DISPUTE RESOLUTION AND ACCESS TO JUSTICE.

Moderator: **David Freeman Engstrom** is the LSVF Professor in Law and Co-Director Deborah L. Rhode Center on the Legal Profession at Stanford Law School, as well as the Reporter for ALI's Principles of the Law, High-Volume Civil Adjudication.

PANELISTS:
Bridget Mary McCormack is President and Chief Executive Officer of the American Arbitration Association International Centre for Dispute Resolution. She served most recently as Chief Justice of the Michigan Supreme Court.

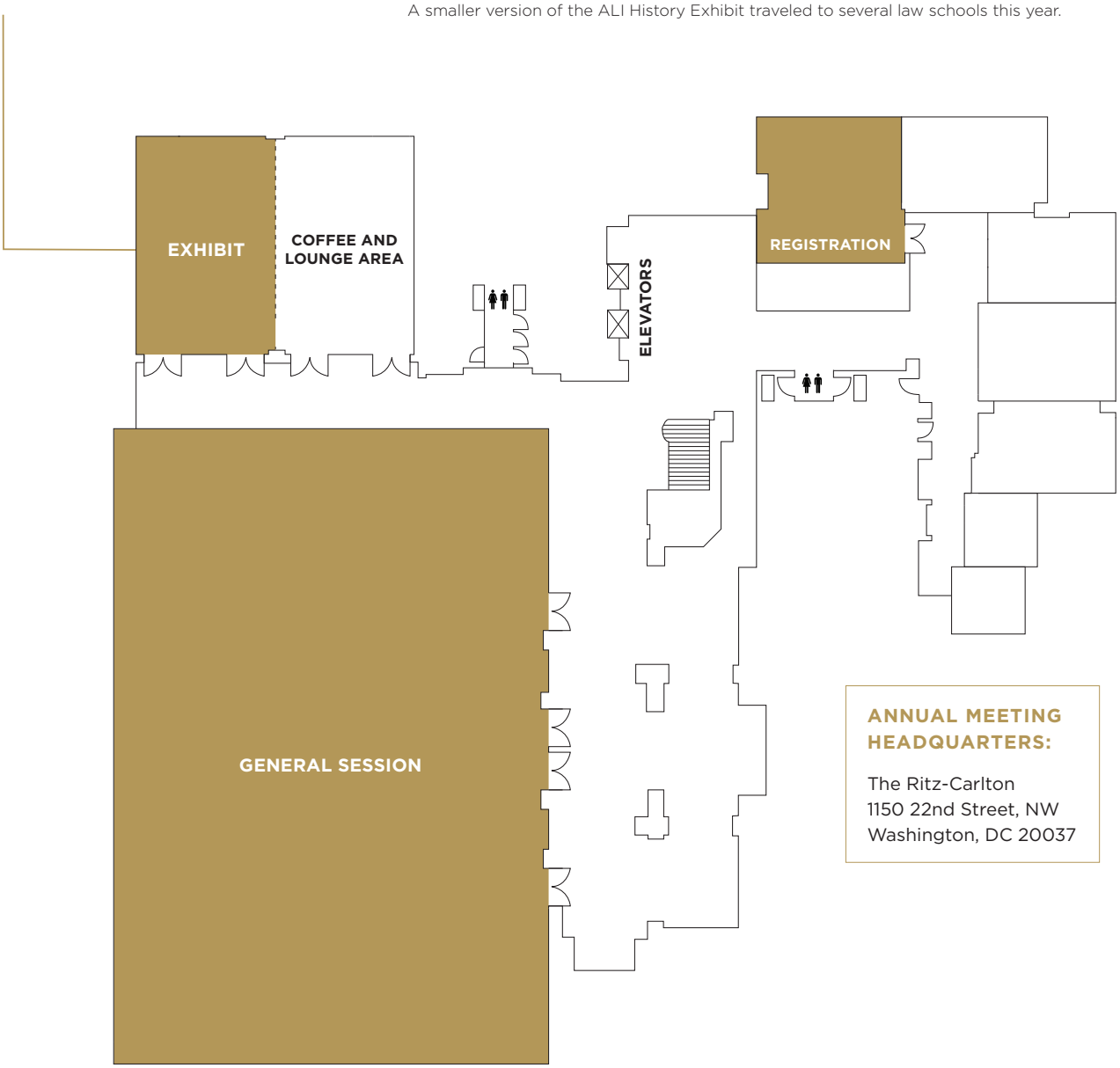
Colin Rule is President and CEO of Mediate.com. In 2011 Colin co-founded Modria.com, an Online Dispute Resolution provider based in Silicon Valley, which was acquired by Tyler Technologies in 2017.

Rebecca L. Sandefur of Arizona State University investigates access to civil justice from every angle—from how legal services are delivered and consumed, to how civil legal aid is organized around the nation, to the role of pro bono, to the relative efficacy of lawyers, nonlawyers and digital tools as advisers and representatives, to how ordinary people think about their justice problems and try to resolve them.

The ALI Exhibit: Looking Back at Our First Century

This year's Annual Meeting will be more than working together to successfully move several ongoing projects forward. We will both be reflecting on the milestones achieved during the Institute's first century, as well as looking ahead at the future of the Institute and the future of the law. You can reflect on the Institute's first 100 years by visiting our ALI Exhibit, which will be located in the Plaza Ballroom, adjacent to main Ballroom. The exhibit will be on display on Sunday, May 21 through Wednesday morning, May 24. From our founding, to our long-standing relationship with the Supreme Court of the United States, to our contribution to human rights and international affairs, walk through the exhibit and discover something new about the Institute.

A smaller version of the ALI History Exhibit traveled to several law schools this year.



ANNUAL MEETING HEADQUARTERS:

The Ritz-Carlton
1150 22nd Street, NW
Washington, DC 20037

Roadmap of the Annual Meeting Project Sessions

Attending the Annual Meeting is an amazing opportunity to see what ALI is really about, to be reminded of the importance of, and to reinforce your commitment to, the rule of law. There is something incredible that happens when the wisdom of our membership comes together.

Whether it's your first or 15th time at the Annual Meeting, participating in the project session discussions may feel daunting, but it shouldn't be. The information below will hopefully inspire all members to join in the discussion.

PREPARING FOR THE MEETING

Annual Meeting drafts are available to ALI members and project participants in advance of the Meeting. Electronic versions of drafts will be posted on our website, and you will be notified by email when each draft is available.

You don't have to wait until the Meeting to submit comments on drafts. Visit the Projects page of the ALI website to submit comments on a draft prior to the Meeting.

TRAVEL TIP: This year's Annual Meeting includes several project sessions and panel discussions. Events may run shorter or longer than expected. Keep this in mind when planning your arrival or departure.

If you'd like to submit a motion on a project, please do so well in advance of the Annual Meeting in order to give Reporters and other members an opportunity to consider it carefully. Instructions on submitting motions can be found on the Drafts page of the Annual Meeting website.

Comments and motions to Annual Meeting drafts are posted for member review on each project's page.

REGISTRATION

Upon arrival you should check in at the Registration Desk. Here you will receive your badge which serves as your voting badge should the need for a hand count arise.

ENTERING THE BALLROOM

Each day, print copies of project drafts are available near the Ballroom entrance. There are a limited number of print copies available. If you requested a copy be mailed to you, please bring it with you to the Meeting, or consider downloading the electronic version.

The drafts table will also include copies of motions. Even if you bring your draft with you, be sure to check the table for additional documents. But, please do not place any materials on this table. Last-minute motion filings must be delivered to the Registration Desk, where staff can help you ensure that you have met the submission requirements.

PROJECT SESSIONS IN THE BALLROOM

Each project session is moderated by an ALI Council member-chair, who will announce each section that is up for discussion. Members interested in commenting on that particular section should make their way to a numbered microphone. When called upon by number, members are asked to identify themselves by stating their name, city, and state, and then offering their comments.

Members are afforded a specific amount of time to comment, which is tracked by a light in front of the dais. During and at the end of discussion, you will hear members, the chair, or Reporters mention the Boskey motion.

THE BOSKEY MOTION

Named for longtime ALI Treasurer Bennett Boskey, this motion is made to approve a draft, or portions of a draft by membership at an Annual Meeting. A standard structure of the Boskey motion is: "I move we approve [draft] subject to today's discussion and the usual editorial prerogatives."

The Boskey motion seeks member approval on a draft, subject to any requested changes to which the Reporters agreed or any motions that passed during the course of the Meeting, as well as general, nonsubstantive edits that may be required before publishing. It does not permit substantive edits by Reporters beyond the scope of the Meeting discussion.

If time allows for the entire draft to be fully discussed, a Boskey motion will be made to approve the full draft in light of the Annual Meeting discussion, any motions that have passed, and allows for any necessary minor editorial changes.

If the time allotted on the agenda expires before the entire draft is discussed, a Boskey motion may be made for any Sections that were fully vetted by the members.

Voting usually is by voice vote. Voting by show of hands is at the presiding officer's discretion. When voting by show of hands, members must hold up their badges, with the back of the badge displayed.

LEARN MORE about the Boskey Motion from ALI 2nd Vice President Teresa Wilton Harmon by scanning the QR code.

ALI's 100 for 100 Challenge

On the occasion of our 100th Anniversary, we embarked on a mission to raise the funds necessary to ensure the continuation of the work of the Institute for a second century. As part of this exciting goal, we issued a challenge to our donors who have the means, who cherish the rule of law, and who value our vital work, to be one of 100 donors giving $100,000 to The American Law Institute.

We are profoundly grateful to all of the donors who have already accepted the challenge for their generous support of the Institute, which will allow our work to continue for years to come. The list of donors as of March 21, 2023 is listed below. We asked a few of these donors why it was important to them to support ALI's Second Century Campaign, and what they hope to see in ALI's next 100 years. Their answers follow.

"I decided to support ALI's 100 by 100 campaign because I strongly believe in the organization and its contribution to the rule of law. Any organization of this type must rely on contributions from its members and I was glad to help.

I think in its second century, the ALI needs to continue updating its Restatements, Codes, and Principles projects because they're so very useful to judges, academics, and legal practitioners. As we move forward, more of our work may need to be international in nature. For example, the law's evolution on digital and digital assets and privacy, these are international phenomena. So, as our world changes, as our environment changes, the law changes; and the ALI will need to be cognizant of that and be thinking ahead about what a next set of projects will need to entail."

Janet Napolitano

Janet is a Professor of Public Policy and Director of the new Center for Security in Politics at UC Berkeley. A distinguished public servant, she served as the president of the University of California from 2013 to 2020, as the US Secretary of Homeland Security from 2009 to 2013, as Governor of Arizona from 2003 to 2009, as Attorney General of Arizona from 1998 to 2003, and as US Attorney for the District of Arizona from 1993 to 1997. As Secretary of Homeland Security, she led the nation's efforts to prevent terrorist attacks, secure its borders, respond to natural disasters, and build domestic resiliency.

"The American Law Institute deserved my 100 for 100 commitment because it has been the leading institution guiding development of American law for a century. I look for The American Law Institute to stand for the continued rule of law and the importance of open and thoughtful debate to the future of our legal and democratic institutions.

I hope we can continue to recruit leaders on the order of David Levi and Roberta Cooper Ramo as we move forward."

David W. Ichel

David is a mediator, arbitrator, and special master at his firm X-Dispute LLC. He teaches complex civil litigation at Duke Law School, where he also serves on the Board of Visitors (serving as Chair from 2009 to 2014). He is an emeritus member of the Board of Mobilization for Justice, Inc., one of the country's oldest providers of legal services to the poor. Previously, David was a long-time partner at Simpson Thacher & Bartlett LLP in New York, litigating complex commercial disputes and advising companies, boards of directors, executives, industry associations and institutions on litigation-related issues.

100 FOR 100

Apgar-Black Foundation
John H. Beisner
Sheila L. Birnbaum
Timothy W. Burns
Evan R. Chesler
J. William Elwin, Jr.
Sharon and Ivan Fong
Paul L. Friedman and Elizabeth Friedman
David B. Goodwin
Teresa Wilton Harmon
Conrad and Marsha Harper
William C. Hubbard
David W. Ichel
Renee Knake Jefferson and Wallace B. Jefferson
Michael Alexander Kahn
Douglas Laycock and Teresa A. Sullivan
Carol F. Lee and David J. Seipp
Barbara and Michael Lynn
Margaret H. Marshall
Douglas R. Marvin
Robert H. Mundheim
Janet Napolitano
George and Joan Newcombe
Stephanie Parker
Douglas J. Pepe
Roberta Cooper Ramo and Barry W. Ramo
Yvonne Gonzalez Rogers and Matt Rogers
Pamela Samuelson and Robert J. Glushko
Robert P. Schuster
Christopher A. Seeger
Marsha E. Simms
Larry W. Sonsini
Elizabeth S. Stong
Lori and Steve Weise
Peter A. Winograd

"My career was, in some ways, made possible by the ALI. At the beginning, now almost 50 years ago, I learned that I could rely on any Restatement to make sure that I was on top of any substantive area of law with which I was dealing. Decades later, when I was appointed to the Supreme Judicial Court, the ALI Restatements and Principles became indispensable resources for me. Novel legal claims frequently originate in state courts. To have available to me the distillation of the best legal thinking from multiple jurisdictions on so many subjects, criminal and civil, as well as the rich commentary and reporters' notes that accompany the "black letter" of Restatements was a bountiful gift to me.

Law is changing at a truly rapid pace. Judges consider every case one by one, and every case is decided on its specific facts, and circumstances. But judges must also look to where wholly new areas of law are emerging. Moving into these largely unchartered waters, the ALI can play a unique role, pulling together the very best legal minds—academics, lawyers and judges—to give guidance to litigants and judges as it has done for 100 years. It is my hope , my expectation, that for the next century the ALI will continue to be the best source of legal reasoning on subjects we do not even know now will arise in the future."

Margaret H. Marshall

Margaret rejoined Choate, Hall & Stewart in January 2012 as a member of the Firm's Complex Trial and Appellate Litigation practice group, where she provides high level advice and counsel to clients and the Firm on a range of special projects. Before rejoining Choate she served for eleven years as Chief Justice of the Supreme Judicial Court of Massachusetts. She was the first woman to hold that position in the Court's more than 300-year history. She is recognized as a champion for an independent judiciary and as a leader in the promotion of administrative reforms within the judicial branch.

Making a Donation to the Second Century Campaign

Members may join the 100 for 100 challenge by making a one-time gift of $100,000, making a pledge (to be paid in up to 10 annual installments), or including ALI in your estate plans. If you would like more information about the 100 for 100 challenge or making a general donation to the Second Century Campaign, please contact ALI Deputy Director Eleanor Barrett at ebarrett@ali.org.

To donate now, scan the QR code or visit us online at ali.org/anniversary to learn more.

Thank You for Supporting Our Campaign

Donors to The American Law Institute's Second Century Campaign play a vital role in funding the Institute's future. Our goal is to raise $35 million by the end of 2023. We are incredibly grateful for the generosity of those who have already contributed.

SECOND CENTURY VISIONARY
($2.5 million or more)
- Bennett Boskey
- Mary Kay Kane

SECOND CENTURY PATRON
($1 million to $2.49 million)
- Elizabeth J. Cabraser
- Carnegie Corporation of New York
- Andréa W. and Kenneth C. Frazier Family Foundation
- Vester T. Hughes Jr.
- Victor E. Schwartz
- Anonymous

SECOND CENTURY BENEFACTOR
($500,000 to under $1 million)
- Ann and Daniel C. Girard
- Andrew Hendry
- Lee and Gary Rosenthal
- Anonymous

SECOND CENTURY SUPPORTER
($250,000 to under $500,000)
- David F. Levi
- Judith Miller and Peter Buscemi
- Anonymous (2)

A Discussion on the Electoral Count Act Reforms

In early 2022, at the invitation of the leadership of The American Law Institute, a group whose members span a range of legal, political, and ideological points of view came together to consider possible Electoral Count Act (ECA) reforms. Co-chaired by Bob Bauer (NYU School of Law and former White House Counsel) and Jack Goldsmith (Harvard Law School and former Assistant Attorney General, Office of Legal Counsel), the group was selected for its diverse viewpoints and stature, and was united by the belief that Congress should reform the ECA before the 2024 presidential election. In April 2022, the group issued several general principles that it believed should guide ECA reform.

A bipartisan group of senators working on ECA reform welcomed this input by the ALI- convened group as they worked together on legislative text. In December 23 2022, a government spending package that included the updates to the ECA passed Congress and was signed into law.

Last month, ALI President David Levi had a chance to catch up with the project's co-chairs to talk about the ECA reform project, its impact, and whether or not this model should be considered for future ALI-convened projects.

David Levi: The two of you tend to be viewed as holding different viewpoints—Jack as more conservative, Bob more liberal. You were in administrations where one was Democratic, one was Republican. Although none of us probably think that those labels are all that important, they do give you a differential credibility. How did the two of you start working together on projects that you identified would be particularly susceptible to solution, if you could bring your different perspectives and backgrounds to the task?

Jack Goldsmith: We started our work together in deciding to write a book called "After Trump." The book was published in the fall of 2020 just before the presidential election. Then obviously after that all sorts of things happened, namely the after-election problems, especially January 6th. The Electoral Count Act was front and center, and it became a hugely important focus of reform. Bob had the idea that we should try to put our energies behind fixing that. I'm going to let Bob tell the rest of that story.

Bob Bauer: Our view was that a President's attempt to disregard the electoral process, or to subvert it, falls well within the concerns we were committed to studying and writing about.

We thought, "Yes, of course it centrally concerns Congress's role, but there is here a very powerful element of how it relates to the goal of curbing abuses of presidential authority." The ability, for example, of a president to collude with a Congress under control of that president's political party in order to stay in power.

Levi: I remember that Bob and I were chatting one day, and I said, "Is there any way in which the ALI could be helpful to what you and Jack have been trying to do?" You ran with that. You said, "Absolutely, you could be helpful." I didn't have anything actually very specific in mind.

Goldsmith: I remember this history well. You all did have that conversation. Bob said, "We need to do two things. One, it needs to be more than us. It needs to be a group of very credible people who are highly respected and genuinely bipartisan. It needs to cover the whole political spectrum. The second thing is it needs an imprimatur from a highly respected institution." Indeed, we needed the imprimatur of the highly respected institution not just to make the project successful, but also to enable us to recruit great people. It was a way of signaling that this is an important and serious project.

Indeed, we needed the imprimatur of the highly respected institution not just to make the project successful, but also to enable us to recruit great people. It was a way of signaling that this is an important and serious project.

Jack Goldsmith

Bauer: I agree with that history. ALI sponsorship probably made all the difference in recruiting people like Don McGahn and Michael Mukasey. Being able to say, "This is something The American Law Institute would be prepared to encourage in some way, they would convene it," made it much easier to sell to people who are not always easy to recruit into projects like this.

Levi: Yes. I think almost right away we knew that we had something good here once you had finished your work, because several members of the Senate who were interested in this were kind enough to say that this was extremely helpful and that they really appreciated it. What was your sense of the reception?

Bauer: Well, the one development I recall taking us somewhat by surprise, because we didn't know it was coming was Senators Collins' and Manchin's issuance of a press release on April 4, 2022, which specifically said in the opening paragraph, that they "welcomed new input from a group of election experts and legal scholars convened by the American Law Institute." They were the bipartisan leaders of the effort in the Senate. Right off the bat, the ALI work got this warm reception, and as I said, it was not something we prearranged or anticipated.

Goldsmith: I think we were just perfect in our timing, which was complete accident. There was debate all throughout 2022 about these issues in the press and public and the Manchin-Collins group was working on things. One of the reasons we were working so fast is we worried we were going to be late to the debate. It turns out we were not late; the timing was perfect.

Out of nowhere, since no one knew we were working on this, an extremely credible bipartisan group with a range of views, came out with a simple blueprint that matched up and captured a lot of the intuitions, I think, of what people were debating in Congress.

We heard that our work helped concretize some of the internal debates and helped them achieve consensus. That's what we were told.

Levi: Ultimately, Congress in December tucked the ECA reform bill into a much larger package of legislation and it passed. Were you surprised by this?

Bauer: Jack is always surprised by things like that.

Goldsmith: Bob, yes, I'm always the most pessimistic of the two. I was shocked. I'm still shocked that it passed.

Bauer: It went right down to the wire. Of course, they did it in the last minute, and there were concerns about how House Democrats would respond to the version in the Senate. There were obviously concerns about continued Republican support.

What the ALI working group did is it set Jack and me up with the support of our group, with the full support of our group, admittedly speaking in our capacities as individuals, to play a meaningful ongoing role in consultations with congressional staff about the development of the bills.

The ALI group agreement was probably the leading reason why I was asked to testify. There are a lot of people who could have testified at the hearing and the Rules Committee, but I think among the Democrats who might be invited to testify, the ALI imprimatur helped solidify me as a witness who would not be bringing a purely "party" perspective to the discussion. Then, beyond that, Jack and I spent an enormous amount of time by conversation and by email consulting with the staff at their request. We were certainly not the only people who were thought to have something useful to offer, I'm not going to suggest that, but we often got email requests to the effect of, "Bob and Jack, would you look at this? Bob and Jack, would you get on a call to talk about that?"

I think it was essential, very important. We did not purport to speak for every member of the group, because at that point we were starting to delve into granular details. But at the same time, because of the very amicable, strong collegial relationships that developed around this issue in the working group, we had their support. In that period of time between the release of the principles and the final bill that went through the rules committee to the floor, that role that we played in that period was absolutely tied to the success of the ALI group work.

Goldsmith: I completely agree.

Levi: Looking at what was ultimately enacted, how did it compare to what you had recommended? Can you give us an assessment?

Goldsmith: I don't want to overstate it or understate it. The structure of the bill—and I admit this may have happened without the ALI principles—was the structure of the ALI principles. Again, this may have happened anyway, but the main bill focused on the things that we thought were most important: nailing down the limited role of the vice president; making crystal clear that the Constitution gives the states the right to determine the manner of the election, but that the law in place on the day of the election was what counted and that couldn't be changed afterwards, thereby putting limits on state mischief after the election; limiting Congress's role in counting the electoral votes consistent with the Constitution; and coming up with a system of judicial review to make this whole thing work and to keep every other institution in line. There were some differences. For example, to satisfy political objections, they used a subtly but importantly different judicial review structure than we proposed. The ultimate law did not clamp down on Congress's discretion as much as we would've liked in terms of its ability to reject electors. Those are the main ways in which it was similar and the main respects in which it differed.

Bauer: I do want to say we were immensely impressed by the staff work on this. They did an extraordinary job of taking a complicated issue and trying to work it into something we thought was consistent with the general direction that we believed to be most productive. But, there was a lot of work to be done to make it feasible on their side, to be able to sell members on it, to be able to arrive at positions that reconciled difficult and possibly very opposing points of view. I think the staff work was superb.

Goldsmith: I think I speak for Bob in saying this is an extraordinary statute; it's not a perfect statute, there is no perfect statute. There were so many political hurdles to negotiate. To reach a bill of this quality that addressed all the issues as thoroughly and clearly and intelligently as it did to me is nothing short of a miracle.

I've never really worked with Congress before. I've never worked on a piece of legislation like this, or been involved on a daily and weekly basis talking to staffers. I was enormously impressed with the six to ten congressional staffers that we worked with on both sides of the aisle. Their extraordinary intelligence, their deftness at dealing with political and legal political issues, their genuine interest in hearing from experts: it was just an amazing process. It was what one would hope would happen in Washington.

Levi: That's really great. You've been very kind about others, about Congress, about staff, about the ALI, but I think it should be said, this thing didn't happen, couldn't have happened without the two of you and your unique qualities.

I hope that this model could work in other areas where our democratic processes could benefit from a group effort like this with backing from the ALI. We have ongoing one other such project convened by ALI leadership.

continued on page 18

A DISCUSSION ON THE ELECTORAL COUNT ACT REFORMS CONTINUED FROM PAGE 17

Bob, with ALI support, you have now begun a project to create a code of conduct for election officials, with co-chair Ben Ginsburg who is playing Jack's role in this case. I know because I've been following it, that there's a great deal of enthusiasm from election law officials, democratic and Republican all across the country.

The big question for the ALI is, are there areas in law where the ALI can be helpful using a model that either does not require us to vouch for the work product through our normal process or conceivably where we shorten up our process in some way without losing what makes that process valuable? We do not want the ALI itself to become politicized in any way, and we don't want our members to feel that somehow the Institute is speaking on matters that are beyond its remit.

> There has to be some place where the very bifurcated, polarized lines of argument are escaped. In other institutions, different camps talk among themselves. Yes, there are conferences where periodically people of different views are brought together, but there are very few places where systematic work of this kind can be done on a fully bipartisan basis, where there's at least a recognition that there is irreplaceable value in having meaningful bipartisan commitment to working through to a resolution.
>
> Bob Bauer

Typically, we do Restatements and they often take something like five years to complete That's not too long when you actually look at a Restatement. There's an enormous amount of work that goes into it. Then we, of course, want the courts and others to feel that they can rely on it with confidence. Our principles projects also take a great deal of time as well.

We want to help the country and the legal system as much as we can, but we also don't want to lose what we do best. We've had this initial success, so it's very tempting to continue down this road, but what does that road look like? What's your advice?

Bauer: There has to be some place where the very bifurcated, polarized lines of argument are escaped. In other institutions, different camps talk among themselves. Yes, there are conferences where periodically people of different views are brought together, but there are very few places where systematic work of this kind can be done on a fully bipartisan basis, where there's at least a recognition that there is irreplaceable value in having meaningful bipartisan commitment to working through to a resolution. I think that what you did with this flexible structure with ALI was enormously important, indispensable to the success of the effort. I think if we're lucky enough to duplicate that success, having election officials around the country rally around a meaningful, not purely oratory generalized, but meaningful code of ethics would be also very extremely helpful.

You can bring in not just lawyers, but as you know, the senior research director of the project now underway on election official ethics is a leading political scientist, not a lawyer, and provides this extraordinary, empirical grounding in how the election official community operates, and what are some of the constraints that we just need to address as we think about an ethical code. There's just so few places where this can happen.

Levi: I'm wondering if we could just talk about what makes an issue likely to be susceptible to this kind of approach?

Goldsmith: The conditions of success? The first one, nobody seriously disputed the merits of ECA reform. Everybody agreed, almost, that this thing needed to be fixed. Second, the case on the merits was entirely compatible with common sense intuitions. In other words, before you even get to the law, before you really know anything about the legal details, you can have a conversation with your mom and agree that a problem is here and it needs a certain solution. Third, and this is important, nobody could argue that the reform would have the effect of advantaging one party over the other, at least over the long term. There was some concern at the very beginning that, well, if we crack down on the vice president's role, that's going to disadvantage the Democrats because they have the vice presidency, but that really never had legs. This type of reform just doesn't apply in any obvious way to advantage one party over the other.

READ MORE:
The Lessons of the Electoral Count Reform Act: Next Steps in Reform

bit.ly/lessonsofECAreform

Fourth, the issues that need to be worked through for the passage of the reform lent themselves to the constructive support and participation of a bipartisan community of experts. That's not true of every reform, but this one was one where bipartisan expertise actually mattered to the reform. Those were the main things. There might be a small set in which that's the case, but I think something like that is when this model might work, if that makes sense.

Bauer: I was going to add as an example of common-sense intuitions, that there were not a lot of people out there who thought the vice president had unilateral authority to reject the electoral vote count. I mean, just that one basic piece typically drew the reaction, "Well, that doesn't make any sense." Now, it's a somewhat complicated issue, no doubt, but not so complicated that it's going to ever come out the other way. In the end, the conclusion had to be, "Well, that can't be right. There's something wrong there that needs to be fixed." I think all of these kinds of considerations that Jack and I lay out in the Lawfare piece really made it possible for this to work.

Goldsmith: I need to give you one example in the news: Presidential Records Act transitions, which we're now seeing is a hugely consequential issue. There are no real rules in particular about how to ensure that presidential documents, including classified information, is handed over to the National Archives, as federal law requires.

Bauer: I think that's right. Where you have a whole set of subsidiary or related questions that must be addressed, ranging from the clarity of rules to the actual current pattern and practice to issues with over-classification. You could imagine a whole list of things that feed into this, and what happens when the issue is ignored. We don't pay enough attention to public administration. We leave these things to the side, because they're not front and center. That is a very good example of an issue that should be soluble or addressable as matter of reform without somehow triggering political partisan passions, with Democrats and Republicans at each other's throats.

Levi: I'd like to put the confirmation process on to the list. It might be different for the executive branch than for the judicial, but I think both are significantly broken. Both parties are significantly hurt and the American people are deprived of the services of people who would otherwise have been willing to consider government service, but they can't sit out there indefinitely.

I can't thank you enough for your time today and for the fantastic work that you and the rest of group did on this project. I look forward to seeing what comes next.

In addition to Co-Chairs Bauer and Goldsmith, the members of the group, selected for their deep and varied experience in law and government, are:

Elise C. Boddie (Rutgers Law School, and former litigation director of the NAACP Legal Defense and Educational Fund)

Mariano-Florentino Cuéllar (President of the Carnegie Endowment for International Peace, and formerly a Justice of the California Supreme Court)

Courtney Simmons Elwood (former General Counsel of the Central Intelligence Agency)

Larry Kramer (President of the William and Flora Hewlett Foundation, and former Dean of Stanford Law School)

Don McGahn (Boyden Gray Center for the Study of the Administrative State, Antonin Scalia Law School at George Mason University, and former White House Counsel)

Michael B. Mukasey (former United States District Court Judge and former United States Attorney General)

Saikrishna Prakash (University of Virginia School of Law)

David Strauss (University of Chicago Law School)

Bob and Jack also would like to thank ALI Law Fellow Harry Larson, who was absolutely indispensable in researching and preparing the draft principles, and in providing critical feedback to draft proposals.

ALI Members and Law Enforcement Officials Gather in Atlanta To Discuss Policing Principles

On November 17, 2022, Georgia members of The American Law Institute and law enforcement officials gathered at Mary Mac's Tea Room in Atlanta for a discussion with Barry Friedman of NYU School of Law, Reporter for Principles of the Law, Policing. Friedman discussed the project and took questions during the conversation. Dorothy Toth Beasley, Senior Judge, Court of Appeals of Georgia, welcomed guests with an introduction of Friedman, as well as a brief discussion of other ALI projects with which members can continue to be involved.

A special thank you to Joseph R. Bankoff of Georgia Institute of Technology, James Cecil Nobles Jr. of James Noble LLC, and Dorothy Toth Beasley for organizing the event.

The Institute in the Courts: South Carolina Adopts Section of Property 3d

Recently, in *Clarke v. Fine Housing, Inc.*, 2023 WL 29046 (S.C. Jan. 4, 2023), the Supreme Court of South Carolina adopted the approach set forth in Restatement of the Law Third, Property (Servitudes) § 3.4 in determining whether a right of first refusal was an unreasonable restraint on alienation.

In that case, a business owner who had entered into a lease agreement for the use of an adjacent property's parking spaces sought specific performance against the lessor's successor in title and against the current owner of the property after learning of the property's sale to the current owner, alleging that a right of first refusal contained in the lease provided him with the right to purchase the entire property, not just the leased parking spaces. After a bench trial, the trial court found that the lessee's right of first refusal was enforceable as to the entire property, and ordered the current owner to convey the property to the lessee upon his payment of $350,000. The court of appeals reversed, holding that the lessee's right of first refusal was unenforceable because it was an unreasonable restraint on alienation.

The Supreme Court of South Carolina affirmed the court of appeals' decision, holding that the lessee's right of first refusal was an unreasonable restraint on alienation and therefore unenforceable. In making its decision, the court looked to Restatement of the Law Third, Property (Servitudes) § 3.4, which provided that "[a] servitude that imposes a direct restraint on alienation of the burdened estate is invalid if the restraint is unreasonable. Reasonableness is determined by weighing the utility of the restraint against the injurious consequences of enforcing the restraint." The court relied on the factors set forth in § 3.4, Comment *f*, agreeing with the Restatement's approach that "[w]hether a right of first refusal is valid depends on the legitimacy of the purpose, the price at which the holder may purchase the land, and the procedures for exercising the right"; in this case, the court also considered the lack of clarity as to what property the right purported to encumber, noting that the Restatement's factors were not exclusive.

The court observed that the lease was unclear as to whether the right encumbered the entire property or only the leased parking spaces, which supported a finding that the right was an unreasonable restraint on alienation. The court found further support through its application of the factors in § 3.4, Comment *f*, reasoning that the lessee's right of first refusal did not contain any price provision or any provision governing the exercise of the right, such as a limitation on the time within which the lessee could exercise the right after being notified of the lessor's intent to sell. Noting that the right did not contain any procedure whatsoever, the court pointed out, quoting § 3.4, Comment *f*, that "provisions governing exercise of the right of first refusal are important in determining its impact on alienability" and a "[l]ack of clarity may cause substantial harm." The court rejected the lessee's argument that "a court [could] simply imply a reasonable time requirement in which a right of first refusal must be exercised." The court explained that implying a reasonable time would be contrary to the Restatement's approach and would restrain alienation through ligation over what was a reasonable time.

The concurring opinion agreed with the court's result and with the Restatement, but argued that it was not necessary to reach the question of whether the instrument purporting to provide the lessee with a right of first refusal was an unreasonable restraint on alienation, because it was not a restraint on alienation. The concurring opinion explained that the instrument did not grant the lessee any right, because "[a]n instrument that simply recites the descriptive term without the underlying detailed explanation of the rights conveyed is meaningless," and concluded that "[t]he instrument says nothing, does nothing, restrains nothing."

The Institute is currently working on the Restatement of the Law Fourth, Property. To join the Members Consultative Group for this or other projects, visit the Projects page on the ALI website at *www.ali.org/projects*.

REASONABLY SPEAKING: MCKEOWN ON THE ENVIRONMENTAL LEGACY OF WILLIAM O. DOUGLAS

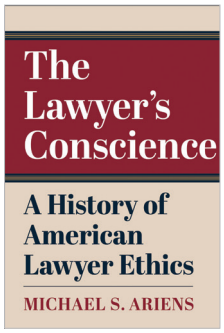
ALI President David F. Levi sits down with M. Margaret McKeown, senior judge of the U.S. Court of Appeals for the Ninth Circuit, for a discussion on McKeown's new book, *Citizen Justice: The Environmental Legacy of William O. Douglas—Public Advocate and Conservation Champion*.

U.S. Supreme Court Justice William O. Douglas was a giant in the legal world, particularly as the longest-serving justice from 1939 to 1975. His most enduring legacy, however, is perhaps his advocacy for the environment. In a way unthinkable today, Douglas ran a one-man lobby shop from his chambers at the U.S. Supreme Court, bringing him admiration from allies in conservation groups but raising ethical issues with his colleagues. He became a national figure through his books, articles, and speeches warning against environmental dangers. Douglas organized protest hikes to leverage his position as a national icon, he lobbied politicians and policymakers privately about everything from logging to highway construction and pollution, and he protested at the Supreme Court through his voluminous and passionate dissents.

All episodes of ALI's podcast, *Reasonably Speaking*, are available at *www.ali.org/podcast* and through any podcast application.

Notes About Members and Colleagues

Robert B. Ahdieh of Texas A&M University School of Law has been named Vice President for Professional Schools and Programs at Texas A&M University. He will serve in this new role concurrently with his position as dean of the law school.



Michael S. Ariens of St. Mary's University School of Law has authored *The Lawyer's Conscience, A History of American Lawyer Ethics* (University of Kansas Press 2022), a book discussing ethical justifications that lawyers have used from the 1760's to the 21st century. The book includes a study of the Restatement of the Law Third, The Law Governing Lawyers.

Gerry W. Beyer of Texas Tech University School of Law received the Distinguished Probate Attorney Lifetime Achievement Award from the Real Estate, Probate, and Trust Law Section of the State Bar of Texas. He was named the Hess Memorial Lecturer by the New York City Bar and was appointed as the reporter for the Uniform Electronic Estate Planning Documents Act by the Uniform Law Commission.

Elise C. Boddie is currently on leave from University of Michigan Law School while serving as Principal Deputy Assistant Attorney General in the Civil Rights Division at the Department of Justice.

Notre Dame Law School has appointed **Samuel L. Bray** the John N. Matthews Professor of Law.

Sara C. Bronin of Cornell University has been confirmed as chairman of the Advisory Council on Historic Preservation.

Irene Calboli of Texas A&M University School of Law has been named a Regents Professor, the highest honor given to a faculty member within the Texas A&M University system.

Cedric C. Chao of Chao ADR, PC, gave a joint presentation, "Aligning the Arbitration Process with Corporations' Needs and Expectations," at the 2022 Fellows Conference of Litigation Counsel of America in San Diego, California.

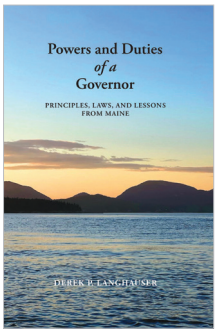
Anne C. Dailey has been named associate dean for faculty development and intellectual life at University of Connecticut School of Law.

The Stanford Lawyer published an article highlighting the work of Stanford faculty members **David Freeman Engstrom, Nora Freeman Engstrom**, and **Pamela S. Karlan**, discussing their work as Reporters for Principles of the Law, High-Volume Civil Adjudication, Restatement of the Law Third, Torts: Miscellaneous Provisions, and Restatement of the Law, Constitutional Torts projects, respectively.

California Governor Newsom has appointed **Simon J. Frankel** as a judge on the San Francisco County Superior Court.

Patricia Guerrero of the California Supreme Court and **Mary Jo Wiggins** of University of San Diego School of Law are recipients of the Bernard E. Witkin Awards in Adjudication of the Law and Excellence in Education, respectively.

The State Council of Higher Education for Virginia has announced that **Rachel A. Harmon** of UVA School of Law is among the 2023 recipients of the Outstanding Faculty Award.



Derek P. Langhauser of Maine Maritime Academy and Community Colleges has authored *Powers and Duties of a Governor: Principles, Laws, and Lessons from Maine* (Great Life Press 2022).

Stacy. L. Leeds is the new dean of the University of Arizona Sandra Day O'Connor College of Law.

Andrew D. Manitsky of Lynn, Lynn, Blackman & Manitsky has been elected president of the Vermont Bar Association.

The Commercial Law League of America has awarded **Bruce A. Markell** of Northwestern University Pritzker School of Law the 2022 Lawrence P. King Award.

The Russell Sage Foundation has named **Tracey L. Meares** of Yale Law School a 2023-2024 Visiting Scholar.

Following her year of public service with the White House Domestic Policy Council, **Erin E. Murphy** has returned to her faculty position at NYU School of Law.

David Orentlicher of UNLV William S. Boyd School of Law was re-elected to District 20 of the Nevada Assembly.

Jenny Rivera of New York State Court of Appeals has been appointed chair of the American Bar Association's Board of Elections.

Pamela S. Karlan, Nora Freeman Engstrom, and David Freeman Engstrom

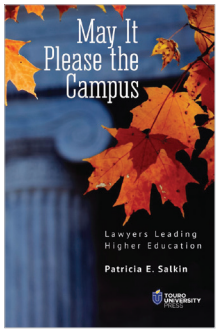
Credit: Stanford Lawyer Magazine | Leslie Williamson

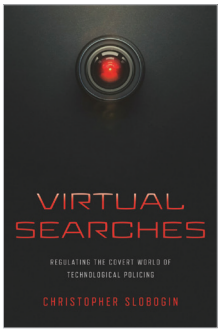
continued on page 22

NOTES CONTINUED FROM PAGE 21

Kermit Roosevelt III of University of Pennsylvania Carey Law School participated in *Scholar Exchange: 27 Amendments in 27 Minutes* with the National Constitution Center. He was also interviewed for an episode of *Book Breaks* by the Gilder Lehrman Institute of American History on his recently published book *The Nation That Never Was, Reconstructing America's Story.*

Patricia E. Salkin of Touro University Jacob D. Fuchsberg Law Center has authored *May It Please the Campus: Lawyers Leading Higher Education* (Touro University Press 2022), a book examining the history of legal leadership in American higher education.





Christopher Slobogin of Vanderbilt University Law School has authored *Virtual Searches, Regulating the Covert World of Technological Policing* (New York University Press 2022), a book analyzing how the police have utilized technology and how this could be regulated.

The University of Alabama School of Law has named **Adam N. Steinman** the Robert W. Hodgkins Endowed Chairholder in Law.

Lauren D. Sudeall will join the faculty of Vanderbilt University Law School in summer 2023.

Kirk Preston Watson has been elected mayor of Austin, Texas.

Mary Jo Wiggins of University of San Diego School of Law authored a chapter in the forthcoming book *The Jurisprudential Legacy of Ruth Bader Ginsburg*, which will be published by New York University Press in 2023.

Don R. Willett of the U.S. Court of Appeals for the Fifth Circuit dedicated the opening of the Don R. Willett Elementary School in Forney, TX. The school's cafeteria was named in honor of Willett's mother, Doris.

The Willett family

If you would like to share any recent events or publications in the next ALI newsletter, please email us at *communications@ali.org*.

The following ALI members were honored with section awards at the American Association of Law School's annual meeting:

Richard D. Friedman of University of Michigan Law School
Evidence, John Henry Wigmore Award for Lifetime Achievement

John C. P. Goldberg of Harvard Law School
Torts and Compensation Systems, William L. Prosser Award

John O. Haley of Washington University School of Law (Retired)
East Asian Law and Society, Jerome A. Cohen Award for Lifetime Achievement in East Asian Law and Society

Alexis J. Hoag of Brooklyn Law School
Criminal Law, Junior Scholars Paper Competition Award Runners Up

Pamela S. Karlan of Stanford Law School
Election Law, John Hart Ely Prize in the Law of Democracy

Tamara F. Lawson of University of Washington School of Law
Minority Groups, Distinguished Scholarship Award Runner Up

Douglas Laycock of University of Virginia School of Law
Remedies, Lifetime Scholarly Achievement Award

Rebecca C. Morgan of Stetson University College of Law
Aging and the Law, Lifetime Achievement Award

Cynthia E. Nance of University of Arkansas School of Law, Leflar Law Center
Women in Legal Education, Ruth Bader Ginsburg Lifetime Achievement Award

Josephine R. Potuto of University of Nebraska College of Law
Law and Sports, Law and Sports Award

Bertrall L. Ross of University of Virginia School of Law
Election Law, Distinguished Scholarship Award Runner Up

Amy J. Schmitz of Ohio State University, Moritz College of Law
Technology, Law and Legal Education, Section Award

Elizabeth S. Scott of Columbia Law School
Family & Juvenile Law, Section on Family & Juvenile Law Achievement Award

Benjamin C. Zipursky of Fordham University School of Law
Torts and Compensation Systems, William L. Prosser Award

New Members Elected

On December 15, the Council elected the following 31 persons.

Asli Ü. Bâli, New Haven, CT
Jeff J. Bowen, Madison, WI
Arthur R. Derse, Milwaukee, WI
Michael R. Fitzpatrick, Madison, WI
Emmet T. Flood, Washington, DC
Thomas B. Griffith, Washington, DC
Benjamin Gruenstein, New York, NY
Amy Hardberger, Lubbock, TX
Rebeca Aizpuru Huddle, Austin, TX
Heidi M. Hurd, Champaign, IL
Ajay B. Kundaria, San Francisco, CA
Daryl Lim, Carlisle, PA
Maura Kathleen Monaghan, New York, NY
Timothy M. Mulvaney, Fort Worth, TX
Kevin Reid Murray, Salt Lake City, UT
Cameron T. Norris, Arlington, VA
Samir D. Parikh, Portland, OR
Michael H. Park, New York, NY
W. Brent Powell, Kansas City, MO
Natalie Ram, Baltimore, MD
Jason A. Rantanen, Iowa City, IA
Kenneth M. Rosen, Tuscaloosa, AL
Kathryn Ruemmler, New York, NY
Loretta H. Rush, Indianapolis, IN
Sopen Shah, Madison, WI
Kathryn M. Stanchi, Las Vegas, NV
Peter K. Stris, Los Angeles, CA
Juliet P. Stumpf, Portland, OR
Caroline S. Van Zile, Washington, DC
Louis J. Virelli, III, St. Petersburg, FL
Heather Welch, Indianapolis, IN

Meetings and Events Calendar At-A-Glance

Below is a list of upcoming meetings and events. For more information, visit *www.ali.org.*

2023

June 22
Restatement of the Law, Children and the Law
Virtual

October 19-20
Council Meeting - October 2023
New York, NY

2023 Annual Meeting

May 22-24 | Washington, D.C.

May 21: Pre-Meeting Programs
May 22-24: Project Sessions and Special Events

In Memoriam

ELECTED MEMBERS

Willard L. Boyd, Iowa City, IA; **Michael G. Williamson**, Tampa, FL

LIFE MEMBERS

Thomas C. Damewood, Charleston, WV; **John P. Davis, Jr.**, Pittsburgh, PA; **Wendell Davis, Jr.**, Ponte Vedra Beach, FL; **Alfred T. Goodwin**, Sisters, OR; **R. Kent Greenawalt**, New York, NY; **Donald Barnett King**, St. Louis, MO; **Edward Labaton**, New York, NY; **Henry R. Lord**, Reisterstown, MD; **Robert J. Muldoon, Jr.**, Somerville, MA; **Max Nathan, Jr.**, New Orleans, LA; **Jack Byron Owens**, Modesto, CA; **C.B. Rogers**, Atlanta, GA; **Evan Rose, Jr.**, Pittsburgh, PA; **James M. Shellow**, Milwaukee, WI; **L. Vastine Stabler, Jr.**, Birmingham, AL; **James R. Wade**, Denver, CO; **Edward L. Weidenfeld**, Rockville, MD; **Ronald P. Wertheim**, Stonington, ME

IN MEMORIAM: ELEANOR CUSTIS WRIGHT

Eleanor Custis Wright died peacefully at her home in Austin TX on January 21, 2023 surrounded by family. She was 98 years old.

Custis, as she was known, met Charles Alan Wright when they were both living in Minneapolis, MN. Wright served as ALI President from 1993 until his death in 2000. He and Custis married in 1955 after moving to Texas for a teaching position at the University of Texas Law School. They were married for 45 years until Wright's death in 2000.

Custis served as art curator and archivist of UT's Tarlton Law Library, on the Texas Council of the Humanities, on the Advisory Council of the Harry Ransom Center, the Texas Historical Records Advisory Board, and helped organize Ann Richards' political papers. She loved books as well as art, and read at least a book a week for many years, sometimes in French, Russian, and Italian.

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