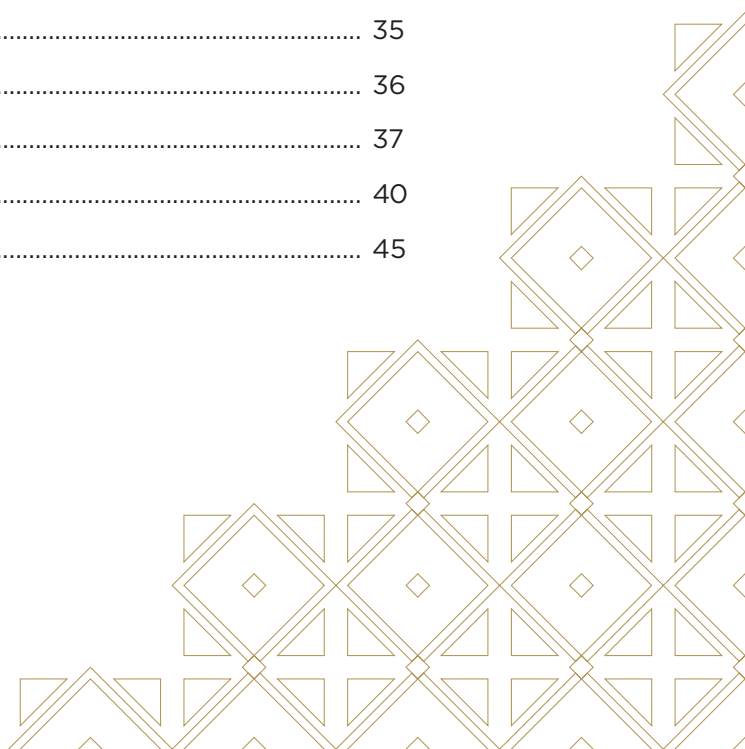




# The American Law Institute 2022-2023 Annual Report



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# Introduction to The American Law Institute

The American Law Institute was founded in 1923 in response to concerns that the body of American common law was both uncertain and complex. A group of prominent judges, lawyers, and academics formed the “Committee on the Establishment of a Permanent Organization for the Improvement of the Law” and published a report recommending that an organization be formed to improve the law and its administration. This led to the creation of ALI. The Institute’s mission, as set out in its charter, is “to promote the clarification and simplification of the law and its better adaptation to social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work.”

For a century, ALI has gathered the best minds in the bar—judges, lawyers, and law professors—to accomplish its mission. The courts have come to trust and rely on ALI’s work due to its careful drafting process, its independence and integrity, and the intellectual caliber of those who participate in the Institute’s projects. Federal and state courts routinely look to ALI’s work for guidance in resolving questions of law.

## Publications and Projects

ALI drafts, discusses, revises, and publishes Restatements of the Law, model statutes, and Principles of the Law that are enormously influential in the courts and legislatures, as well as in legal scholarship and education.

ALI has long been influential internationally and, in recent years, more of its work has become international in scope. It collaborates with numerous international law organizations and served as a model for the European Law Institute founded in 2011.

The Institute addresses uncertainty in the law by developing restatements of legal subjects that are primarily addressed to courts. Restatements of the Law contain clear formulations of common law and its statutory elements or variations and reflect the law as it currently stands or might appropriately be stated by a court.

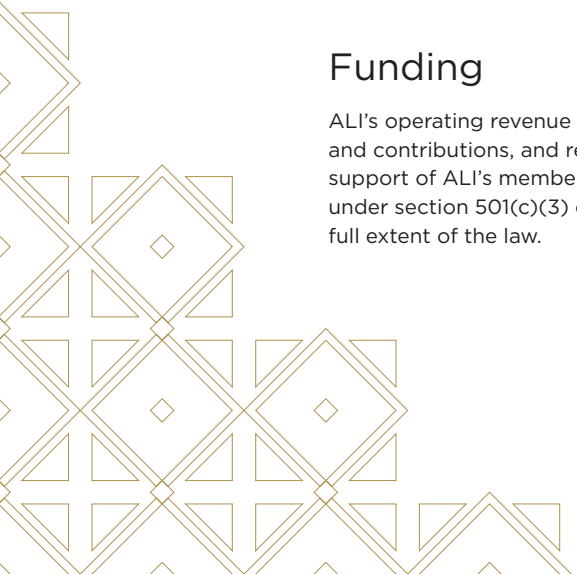
ALI also examines and analyzes legal areas in need of reform. Principles of the Law are primarily addressed to legislatures, administrative agencies, or private actors. They can, however, be addressed to courts when an area is so new that there is little established law. Principles may suggest best practices for these institutions. Statutory projects include the Uniform Commercial Code (in conjunction with the Uniform Law Commission), Model Code of Evidence, and Model Penal Code.

## Membership

By participating in ALI’s work, its members have the opportunity to influence the development of the law in both existing and emerging areas, to work with other eminent lawyers, judges, and academics, to give back to a profession to which they are deeply dedicated, and to contribute to the public good.

## Funding

ALI’s operating revenue is primarily derived from publishing, educational programs, membership dues and contributions, and rental income from its headquarters building in Philadelphia. The financial support of ALI’s members and partners is vital to its long-term financial stability. As a public charity under section 501(c)(3) of the Internal Revenue Code, all donations to ALI are tax deductible to the full extent of the law.





## President's Message

2023 was a remarkable year of celebration and transition for The American Law Institute. On February 23, 2023, The American Law Institute turned 100, and we marked the occasion with a great deal of festivity. The year-long celebration spanned the country, with exhibits chronicling ALI's history displayed at law schools from Boston to

North Carolina, from Texas to Minneapolis and California, and culminated in our Annual Meeting in Washington, DC. At the Annual Meeting, a joyful return to tradition after three years of Covid-impacted events, we gathered for three days of project work, special events, thought-provoking discussions by leading experts on cutting-edge legal and social issues, fellowship, and community. Council Member Judge Elizabeth Stong captured the essence of the Meeting perfectly when she said: "The ALI Annual Meeting is an engaging, inspiring, and uplifting intellectual feast. I can't imagine a better way to be reminded of all that is great and good about the legal profession."

Our 100th Anniversary was also a time for reflection. To that end, we commissioned *The American Law Institute: A Centennial History*, a book of essays by leading scholars published by the Oxford University Press in April. The volume takes a wide-ranging and sometimes critical look at the Institute's work since its founding. Reading the volume, I learned a great deal about our history and was reminded of how far we have come. The Institute has evolved and adapted over the years, diversifying its membership to better capture the excellence and different viewpoints in our society and profession and stewarding our work product, which was traditionally grounded in the common law, through the rise of legislation and the administrative state. Together, we have produced Restatements, Principles, and Model Codes—work of a very high quality with enduring value and credibility. Indeed, in the October 2022 term alone, the United States Supreme Court cited 12 different Restatements in 11 opinions, the Model Penal Code in four opinions, and one of our Principles projects.

Out of our Anniversary celebrations and reflection emerged a renewed and reinvigorated sense of the Institute's strengths and of the continuing importance and timeliness of its rule-of-law mission in these difficult and divided times. We remain committed to a deliberative process that, while necessarily slow at times, brings together a wide range of views and interests and generates reasoned debate, discussion, and, often, consensus, even on the most complex and contentious legal questions. We still aspire to strengthen and improve the legal system. And now, as at the time of our founding, our greatest asset is the dedication of time, intellect, and energy to our projects by our extraordinary members.

As I mentioned, 2023 was also a year of transition for the ALI. We welcomed a uniquely talented new Director in Judge Diane Wood. Judge Wood, a dedicated Council Member for many years, is wonderfully suited to follow the tremendous example set by our previous, also terrific, Director Ricky Revesz. Judge Wood is a skilled leader. She is wise and smart, hardworking and creative. We are very fortunate to have her.

In the last year, we also have embarked on four fresh, exciting, new projects: Restatements of the Law of Constitutional Torts, Election Litigation, and the Foreign Relations Law of the United States, as well as a Principles project on High-Volume Civil Adjudication. The Reporters and Chairs for these new projects—John Jeffries and Pamela Karlan for Constitutional Torts; Lisa Marshall Manheim and Derek Muller for Election Litigation; John B. Bellinger III, Harold Koh, Curt Bradley, William Dodge, and Oona Hathaway for Foreign Relations; and David Engstrom for High-Volume Civil Adjudication—are the leading experts in their fields. We look forward to the work ahead and hope many of you will dig in to these and our other ongoing projects through our Members Consultative Groups.

Unfortunately, 2022-23 also brought a less propitious transition for the ALI—a sharp decline in publication revenues. While we are carefully reviewing and adjusting our operations to reflect this new reality and changes in the broader publishing and legal research fields, going forward we also will need to rely more on our members' support to enable us to carry on our work at the high level of excellence that is our hallmark.

The Second Century Campaign, established to preserve our financial independence and support the ALI's work for the next 100 years, remains open through December 31, 2023. We are so grateful to our members who have supported the campaign so far, allowing us to raise more than \$30 million. But we would like to reach \$35 million, and we hope that every member will contribute to this endeavor. We have been gratified by the response to our 100 for 100 program, through which members pledge \$100,000 to the campaign, payable over 10 years through a gift, bequest, or combination of the two.

We are grateful for gifts of any size and of any description. There are many ways to support The American Law Institute and the Second Century Campaign in your charitable giving. I hope you will consider including the Institute in your year-end plans for 2023. Your contribution of any amount—through a Sustaining Membership, Annual Fund contribution, donation to the class gift after 25 years of membership, Qualified Charitable Distribution from a retirement account, or as part of an estate plan or bequest—will have a meaningful impact on the ALI and help close out the Institute's 100th anniversary celebrations on a high note.

Please reach out to our Deputy Director Eleanor Barrett, Beth Goldstein, Kyle Jakob, or me if you have any questions or would like to make a gift.

Now, as in 1923, strengthening the rule of law is a compelling goal for our Nation. As members of The American Law Institute, we are well placed to advance that goal through our work together. I offer my deep gratitude for for all you have done and will do for The American Law Institute, and I wish you and yours a healthy and happy 2024.

David F. Engstrom

# The American Law Institute

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\*President Emeritus and Chair of the Council Emeritus

# Leadership Changes

## Diane P. Wood Named ALI Director

In May 2023, Diane P. Wood, Senior Judge of the United States Court of Appeals for the Seventh Circuit, became ALI's Director. Judge Wood succeeds Richard L. Revesz, who stepped down to take on the role of Administrator of the Office of Information and Regulatory Affairs, and is the first woman to hold this position.

"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.

"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."



## Richard L. Revesz Steps Down as ALI Director

Richard L. 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 16 ALI projects.

He 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, Director Emeritus 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.







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 ALI/UNIDROIT Principles of the Law, Transnational Civil Procedure (Published 2007). She also served on the Members Consultative Group for Complex Litigation: Statutory Recommendations and Analysis (Published 1994).

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 the ALI or participate in Institute fundraising.

He was instrumental in changing the way that the Institute's work is properly cited in *The Bluebook*. With ALI Council member Robert H. Sitkoff, Director Emeritus 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.

Director Emeritus Revesz worked with ALI President David Levi to convene the bipartisan group that published Principles for Electoral Count Act 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. On December 23, 2022, a government spending package that included the updates to the ECA passed Congress and was signed into law.

Director Emeritus 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, where he was editor-in-chief of the *Yale Law Journal*. 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.



## Ivan K. Fong Elected ALI Treasurer



Ivan K. Fong has been elected Treasurer for a three-year term. He replaces Wallace B. Jefferson in this role, who was term-limited this year.

Fong is Executive Vice President, General Counsel, and Secretary of Medtronic and a member of the Medtronic Executive Committee. He leads the global legal, compliance, and government-affairs

teams and serves as corporate secretary to the Medtronic Board of Directors.

Prior to joining Medtronic in February 2022, Fong was Executive Vice President, Chief Legal and Policy Officer, and Secretary of 3M. Under his leadership, 3M's legal department was named Best Legal Department / Legal Department of the Year by the *American Lawyer*. Prior to joining 3M in 2012, he served as General Counsel of the U.S. Department of Homeland Security; Chief Legal Officer and Secretary of Cardinal Health; Senior Vice President and General Counsel of GE Vendor Financial Services; and Senior Counsel, E-Commerce and IT of General Electric. Ivan was also previously Deputy Associate Attorney General at the U.S. Department of Justice and a partner with the law firm of Covington & Burling LLP. Fong began his legal career as a law clerk to Judge Abner J. Mikva of the U.S. Court of Appeals for the D.C. Circuit and Justice Sandra Day O'Connor of the U.S. Supreme Court.

Additionally, at the Annual Meeting, Donald B. Ayer; Abbe R. Gluck and Harold Hongju Koh, both of Yale Law School; Goodwin Liu of the California Supreme Court; Lori A. Martin of WilmerHale; Laura Stein of Mondelez International; and Sarah S. Vance of the U.S. District Court for the Eastern District of Louisiana were reelected for another Council term.

## Council Elections

At the 2023 Annual Meeting, the Institute's membership elected five new members to the ALI's Council, which determines projects and activities to be undertaken by the Institute and approves the work, along with the membership, as representing the position of the Institute.

The new Council members are J. Michelle Childs of the U.S. Court of Appeals for the District of Columbia Circuit, Caitlin Halligan of the New York State Court of Appeals, Peter Douglas Keisler of Sidley Austin LLP (retired), Robert H. Klonoff of Lewis & Clark Law School, and Leondra R. Kruger of the California Supreme Court.

**J. Michelle Childs** was appointed to the United States Court of Appeals for the District of Columbia Circuit in July 2022. She holds her undergraduate degree in Management from the University of South Florida Honors College, a law degree from the University of South Carolina School of Law, a Masters in Personnel and Employment Relations from the University of South Carolina's Darla Moore School of Business, a Masters of Judicial Studies from Duke University School of Law, and an Honorary Doctorate Degree in Public Service from the University of South Carolina.



From 1992 to 2000, Childs worked at Nexsen Pruet, ultimately serving as partner. From 2000 to 2002, she was appointed to serve as the deputy director for the South Carolina Department of Labor, Licensing, and Regulation's Division of Labor, and from 2002 to 2006, she was appointed to serve as a commissioner on the South Carolina Workers' Compensation Commission. In 2006, the South Carolina General Assembly elected her as a state-circuit-court judge, during which she served as chief administrative judge both for the General Sessions and for the state's business court. In 2010, she was appointed to the United States District Court for the District of South Carolina until her appointment to the D.C. Circuit.

**Caitlin Halligan** was appointed to the New York State Court of Appeals in 2023. Prior to her appointment, she was an attorney at the firm Selendy & Gay. Halligan served as solicitor general for the State of New York from 2001 to 2007, after serving as deputy solicitor general. Before that, she served as the first chief of the New York Attorney General's Internet Bureau.



**Peter Douglas Keisler**, former acting attorney general in the Department of Justice, is senior counsel in the Washington, D.C. office of Sidley Austin. A former cochair of Sidley's Supreme Court and Appellate Practice who also served as a member of the firm's Executive Committee, he has argued before the Supreme Court of the United States, the federal Courts of Appeals and District Courts, and in state court on behalf of both private-sector clients and the United States Government.



Keisler served as assistant attorney general for the Civil Division in the Department of Justice in the George W. Bush Administration and as associate counsel to the president in the Reagan Administration, and as a member of the Standing Committee on Rules of Practice and Procedure and of the Advisory Committee on Civil Rules.

**Robert H. Klonoff** is the Jordan D. Schnitzer Professor of Law at Lewis & Clark Law School. He served as dean of the Law School from 2007 to 2014. He is a coauthor of the Wright & Miller treatise, *Federal Practice and Procedure* (with sole responsibility for the three class-action volumes), and is the author of numerous textbooks and articles on class actions and federal multidistrict litigation.



Klonoff served as an Associate Reporter for Principles of the Law, Aggregate Litigation. He is a Fellow in the American Academy of Appellate Lawyers and an elected member of the International Association of Procedural Law. From 2011 to 2017, he served as the academic member of the Federal Civil Rules Advisory Committee.

**Leondra R. Kruger** is an associate justice of the California Supreme Court. She took office in January 2015 and was retained by voters in November 2018. Before joining the court, Kruger worked in the United States Department of Justice as a deputy assistant attorney general in the Office of Legal Counsel, as an assistant to the solicitor general, and as an acting deputy solicitor general.



During her time in the Department of Justice, Kruger twice received the Attorney General's Award for Exceptional Service and argued 12 cases on behalf of the United States in the Supreme Court of the United States. She previously worked in private practice, where she specialized in appellate and Supreme Court litigation, and taught as a visiting assistant professor at the University of Chicago Law School.

# Thank You

The Institute would like to thank members of the Special Committee on ALI's 100th Anniversary for their hard work putting together the Annual Meeting events and programs celebrating ALI's 100th Anniversary.

## SPECIAL COMMITTEE ON ALI'S 100TH ANNIVERSARY

### Chairs

ALI President David F. Levi  
Roberta Cooper Ramo  
(ALI President 2008-2017)

### Honorary Co-Chairs

Lance Liebman (ALI Director 1999-2014)  
Michael Traynor (ALI President 2000-2008)

### Subcommittee Co-Chairs

Edward H. Cooper (Subcommittee on Commissioning History)  
Paul L. Friedman (Subcommittee on Events to Commemorate ALI's 100th)  
Yvonne Gonzalez Rogers (Subcommittee on Charting a Course for the Future)  
Larry Kramer (Subcommittee on Events to Commemorate ALI's 100th)  
Margaret H. Marshall (Subcommittee on Charting a Course for the Future)  
Troy A. McKenzie (Subcommittee on Charting a Course for the Future)  
ALI Director Diane P. Wood (Subcommittee on Commissioning History)

### Committee Members

Sheila L. Birnbaum  
José A. Cabranes  
Elizabeth J. Cabraser  
Gerhard Casper  
Ivan K. Fong  
Kenneth C. Frazier  
Wallace B. Jefferson  
Carolyn B. Kuhl  
William F. Lee  
Martin Lipton  
William H. Pryor, Jr.  
Larry W. Sonsini  
Geoffrey R. Stone  
Kathleen M. Sullivan  
Seth P. Waxman

# Celebrating 100 Years





# Chief Justice of the United States John G. Roberts, Jr., Receives the Henry J. Friendly Medal

Chief Justice of the United States John G. Roberts, Jr., accepted the Henry J. Friendly Medal during the Annual Dinner at the Institute's 2023 Annual Meeting. Associate Justice Elena Kagan presented the award.

The medal was established in memory of Judge Henry J. Friendly, who was a member of the Council of The American Law Institute and a distinguished judge of the United States Court of Appeals for the Second Circuit. The Friendly Medal recognizes contributions to the law in the tradition of Judge Friendly and the Institute. It is not limited to ALI members or those associated with its projects. The Friendly Medal is awarded on a periodic basis as appropriate.

Upon the announcement of the award, ALI President David F. Levi said, "I am delighted that the Chief Justice will receive the Friendly Medal this special year that marks the ALI's 100th anniversary. This medal was established to honor the legacy of one of this nation's greatest judges and legal thinkers, Judge Friendly, who was known for his devotion to the rule of law, careful deliberation and keen judgment, and consummate intellect and integrity. The Chief Justice, who served as a law clerk for Judge Friendly, embodies all of these qualities. He has had an extraordinary career in the law first as an exceptional appellate advocate and then as the 17th Chief Justice of the United States. He is a life member of the ALI; indeed, I first recall meeting him at an ALI Annual Meeting in the 1980s. The Chief Justice has often and so graciously been the one to present the Friendly Medal to others, including most recently to Justices Ginsburg and Kennedy, and Judges Boudin and Leval. Now it is particularly fitting that in this special anniversary year, we recognize his many contributions to the law in the tradition of Judge Friendly and the Institute."



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.

Elena Kagan, Associate Justice, was born in New York, New York, on April 28, 1960. She received an A.B. from Princeton in 1981, an M. Phil. from Oxford in 1983, and a J.D. from Harvard Law School in 1986. She clerked for Judge Abner Mikva of the U.S. Court of Appeals for the D.C. Circuit from 1986–1987 and for Justice Thurgood Marshall of the U.S. Supreme Court during the 1987 Term. After briefly practicing law at a Washington, D.C. law firm, she became a law professor, first at the University of Chicago Law School and later at Harvard Law School. She also served for four years in the Clinton Administration, as Associate Counsel to the President and then as Deputy Assistant to the President for Domestic Policy. Between 2003 and 2009, she served as the Dean of Harvard Law School. In 2009, President Obama nominated her as the Solicitor General of the United States. A year later, the President nominated her as an Associate Justice of the Supreme Court on May 10, 2010. She took her seat on August 7, 2010.

# Roberta Cooper Ramo Receives Distinguished Service Award

The Distinguished Service Award was presented to Roberta Cooper Ramo of Modrall Sperling at the Tuesday morning session of the 2023 Annual Meeting by ALI Director Diane P. Wood. The 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 focused on diversifying ALI's membership and Council, effectively bringing more women, minorities, and breadth of practice to the organization. As President, she is also credited with inspiring Institute members to be more confident and participate, and to discuss collegially some of the most complex and controversial projects.

During her presidency, 14 projects were completed and 20 projects were initiated; Ramo was a driving force behind the first-ever Restatement of the Law, The Law of American Indians. Overseeing all projects, she often attended project sessions, and never missed a Council or Annual Meeting. As a member of several nonprofit boards, she also provided invaluable assistance as an Adviser on Restatement of the Law, Charitable Nonprofit Organizations.

In her private practice at Modrall Sperling, she works in the areas of arbitration, mediation, business law, real estate, probate, and estate planning. She often is called on to assist corporations with their strategic and long-term legal planning, an area in which she has particular expertise.

In 2015, Ramo received the American Bar Association's highest award, the ABA Medal. She previously served as president of the American

Bar Association from 1995 to 1996, the first woman in history to lead the largest nationwide organization of attorneys. In 2011, she was elected into the American Academy of Arts and Sciences, adding her name to a prestigious list of members including George Washington and Albert Einstein, among other notables.

A Fellow of both the American College of Trust and Estate Counsel and the American Bar Foundation, she also has served as a panel member for the American Arbitration Association. In 2013, she was elected Board Chair of Think New Mexico, a nonpartisan think tank, and she serves as a member of the Board of the Santa Fe Opera and was Chair of Albuquerque Economic Development.

Ramo was appointed by the United States Senate and served as co-chair of a committee to review governance issues of the U.S. Olympic Committee in 2003. She was named an honorary member of the Bar of England and Wales, and of Gray's Inn in 2000. She served on the Board of Regents for the University of New Mexico from 1989 to 1995, and as President of the Board from 1991 to 1993. She also served on the New Mexico Board of Finance.

Ramo earned her B.A. from the University of Colorado at Boulder and her J.D. from the University of Chicago Law School.



ALI Director Diane P. Wood and ALI President Emerita Roberta Cooper Ramo



# John Minor Wisdom Award Presented to Margaret H. Marshall and Mary M. Schroeder

The American Law Institute presented the John Minor Wisdom Award to Margaret H. Marshall of Choate, Hall & Stewart LLP and Mary M. Schroeder of the U.S. Court of Appeals for the Ninth Circuit, during the Monday afternoon session at the Institute's 2023 Annual Meeting.

The award was presented to Marshall and Schroeder by then ALI Treasurer Wallace B. Jefferson of Alexander Dubose & Jefferson LLP and ALI President Emeritus Michael Traynor of Cobalt LLP, respectively.

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 H. Marshall** was elected to the Institute in 1990 and served on ALI's 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 the Council, she served on the Awards Committee from 2015 to 2021, which recommends candidates for the Institute's Henry J. Friendly Medal, John Minor Wisdom Award, and



Raymond J. Lohier Jr., Michael Traynor, Mary M. Schroeder, Margaret H. Marshall, Wallace B. Jefferson, and ALI President David F. Levi

Distinguished Service Award, as well as any other awards that may be requested by the Council or the Executive Committee. Additionally, she was a member of the Audit Committee, Investment Committee, and Program Committee. And Marshall has continued to invest in the Institute's future as a member of the Special Committee on ALI's 100th Anniversary.

In addition to her leadership roles at the Institute, Marshall was an Adviser to Restatement of the Law Third, Agency, and Principles of the Law, Student Sexual Misconduct: Procedural Frameworks for Colleges and Universities. She earned her B.A. from Witwatersrand University, her Ed.M. from Harvard University, and her J.D. from Yale Law School.

Currently senior counsel at Choate, Hall & Stewart, she was appointed Associate Justice of the Massachusetts Supreme Judicial Court in 1996. She served for 11 years as chief justice of the court until her retirement in December 2010, after gaining a national reputation for both her landmark decisions and her reforms of the Massachusetts court system.

Before her time on the bench, Marshall was in private practice for 16 years before joining Harvard University as Vice President and General Counsel in 1992. She served as the first female Senior Trustee of the Board of Trustees of Yale University (formerly the Yale Corporation) until July 2016. In 1966, while living in her native South Africa, she was elected president of the anti-apartheid National Union of South African Students.

She has received numerous awards recognizing her judicial and other accomplishments, including the ABA Commission on Women in the Profession's Margaret Brent Women Lawyers of Achievement Award, the ABA's Pursuit of Justice Award, the Massachusetts Bar Association's Chief Justice Edward F. Hennessey Award for outstanding leadership in the administration of justice, the Boston Bar Association Award for Judicial Excellence, Yale Law School's Alumni Award of Merit, and the Yale Medal. She was the first recipient of Harvard University's Professional Women's Achievement Award.



Margaret H. Marshall



**Mary M. 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.

In addition to serving on the ALI Council, Schroeder is an active participant in ALI's work. She has served as an Adviser on Restatement of the Law Third, Agency; Restatement of the Law, Consumer Contracts; and Principles of the Law, Government Ethics. Her role in the Institute also includes participating in Members Consultative Groups for a variety of projects, including Model Penal Code: Sentencing; and Restatement of the Law Fourth, The Foreign Relations Law of the United States.

Schroeder has been a judge on the U.S. Court of Appeals for the Ninth Circuit since 1979, serving as Chief Judge from December 2000 to 2007. Prior to that, she served as a judge on the Arizona Court of Appeals from 1975 to 1979. She is the first in critical respects in her remarkable career: first woman to be an associate and then a partner in the law firm of Lewis and Roca in Phoenix; first woman to serve on the Arizona Court of Appeals, at the time the youngest woman appellate



Mary M. Schroeder

judge in the nation; and first woman to serve as Chief Judge on the Ninth Circuit.

She also taught at Arizona State University Law School. In addition, Schroeder served as a trial attorney in the Civil Division of the U.S. Department of Justice from 1965 until 1969. Schroeder earned her B.A. from Swarthmore College and her J.D. from the University of Chicago Law School. Her contributions to the law have been widely recognized, for example, as a recipient of the ABA's Margaret Brent Award, the Arizona State Bar Association's James A. Walsh Outstanding Jurist Award, and an honorary Doctor of Laws degree from Swarthmore College.

## ALI's Traveling Exhibit

Throughout our anniversary year, several law schools across the country hosted a traveling exhibit celebrating highlights from ALI's first century. In addition to ALI's history, the exhibit also featured custom pieces for each school that highlighted the institutions' ongoing relationships.





Council Member John B. Bellinger III and Reporters Briffault and Painter at the completion of the Principles of the Law, Government Ethics session

## Principles of the Law, Government Ethics Is Approved

The American Law Institute's membership voted to approve Principles of the Law, Government Ethics, at the 2023 Annual Meeting. The Principles project began in 2009, and is the Institute's first project on this important topic.

Led by Reporter Richard Briffault of Columbia Law School and Associate Reporter Richard W. Painter of the University of Minnesota Law School, the Principles offer guidance to government agencies and individuals on the proper standards of conduct that should apply to current and former public employees and officials. The Principles do not address judicial ethics because of the distinct concerns and institutional structure of the judiciary.

"The ethical standards that ought to govern the behavior of government officials have long been a matter of great public interest," said Reporter Briffault. "The development of the standards and procedures needed to assure that public officials act in the public interest and use public resources for public, not private purposes, has been the focus of criminal codes, ethics laws, executive orders, and legislative rules at all levels of government, federal, state, and local."

Associate Reporter Painter added, "The goal of the Principles of Government Ethics project is to distill a basic set of principles that articulate the values that ought to shape the field and, where possible, to present operational rules that will vindicate those goals in order to provide some guidance to the many governments, particularly at the state and local level, that may be developing ethical standards for the first time or revising, refining, and strengthening rules previously adopted."

The Principles of the Law, Government Ethics address the provision of benefits by outsiders to public servants, financial conflicts of interest and issues arising from outside activities of public servants, election-related activities of public servants, restrictions on leaving or entering public service (the so-called "revolving door" problems), disclosure's role in detecting and deterring conflicts of interest, and the administration and enforcement of government ethics rules and requirements.

"I am very grateful to Professors Briffault and Painter, and to the very dedicated Advisers and Members Consultative Group," said ALI Director Diane P. Wood. "Thanks to the ALI's rigorous process of careful research and reasoned debate from a diverse group of project participants representing all sides of the issues raised in this Principles project, I hope that the work provides needed guidance to those who are currently struggling with these issues."



The Reporters, subject to oversight by the Director, will now prepare the Institute's official text for publication. At this stage, the Reporters are authorized to correct and update citations and other references, to make editorial and stylistic improvements, and to implement any remaining substantive changes agreed to during discussion with the membership or by motions approved at the Annual Meeting. Until the official text is published, the drafts approved by the membership are the official position of ALI, and may be cited as such. Any action taken by the membership with respect to these drafts may be ascertained by consulting the ALI website or the Proceedings of the Annual Meeting.

**ALI would like to thank the Reporters, project participants, and all ALI members who contributed their time, wisdom, and guidance to this project.**

# ALI Announces Early Career Scholars: Leah M. Litman and Crystal S. Yang

In March 2023, The American Law Institute announced that it will award its Early Career Scholars Medal to Professor Leah M. Litman of the University of Michigan Law School and Professor Crystal S. Yang of Harvard Law School. The award recognizes outstanding law professors whose work is relevant to public policy and has the potential to influence improvements in the law. Two medalists are selected every other year.

"I am thrilled, on behalf of ALI, to award the Early Career Scholars Medal to these extraordinary professors," said ALI Director Diane P. Wood of the U.S. Court of Appeals for the Seventh Circuit, who also serves as the Chair of ALI's Early Career Scholars Medal Selection Committee. "Leah and Crystal have produced notable pieces of legal scholarship that are already having an impact in the law. Leah's work in areas such as federal habeas corpus law is thought-provoking, and I am incredibly impressed by her depth of knowledge and analysis of Supreme Court jurisprudence. Crystal's empirically sophisticated research and writing in the important and timely area of criminal justice reform, in which she also has real-world experience, has the potential to improve the law and lives of real people."

Leah Litman is a Professor of Law at the University of Michigan Law School, where she teaches and writes on constitutional law, federal courts, and federal postconviction review. Her research examines unidentified and implicit values that structure the legal system, the federal courts, and the legal profession.

"Leah is an exceptional legal scholar and is already among the most influential voices in the country on U.S. constitutional law," said Mark D. West, David A. Breach Dean of Law at Michigan Law. "Most of her work is in the fields of constitutional law; federal courts; criminal procedure, especially habeas; and reproductive rights and justice. When taken together, I believe that they establish her as one of the most prolific and interesting scholars of her generation."

Crystal S. Yang is the Bennett Boskey Professor of Law at Harvard Law School and a Research Associate at the National Bureau of Economic Research, where she is co-director of the Crime Working Group. Her teaching and research interests center around empirical law and economics, particularly in the areas of criminal justice and consumer bankruptcy. Her current research includes empirical projects on racial bias in the criminal justice system, spillover effects of deportation fear, and delivery of health care in correctional facilities.

"Crystal is a superb scholar, who combines academic rigor with real-world relevance and impact," said John F. Manning, Morgan and Helen Chu Dean and Professor of Law at Harvard Law School. "Her scholarship cuts across multiple areas, with a focus on criminal law and process, consumer debt, welfare and immigration policy, and health care for incarcerated people. Using sophisticated methods from economics and statistics, her research seeks primarily to identify the ways in which law and legal institutions impact inequality and discrimination."

The awards will be presented at The American Law Institute's 2024 Annual Meeting in San Francisco.

## MORE ABOUT THE MEDAL RECIPIENTS:



**Leah Litman's** recent work has appeared or will appear in the *California Law Review*, *Michigan Law Review*, *Virginia Law Review*, *Texas Law Review*, *Duke Law Journal*, and *Northwestern Law Review*, among other journals. Her writing for popular audiences has

appeared in *The New York Times*, *The Washington Post*, the *Los Angeles Times*, and *Slate*. She also is a regular contributor to the *Take Care* blog. In addition, she is one of the cohosts and creators of *Strict Scrutiny*, a podcast about the U.S. Supreme Court, and a cocreator, together with Emily Profogle, of *Women Also Know Law*, a tool to promote the work of women and nonbinary academics.

Following her clerkships, first with Jeffrey S. Sutton of the U.S. Court of Appeals for the Sixth Circuit and then with Justice Anthony M. Kennedy of the Supreme Court of the United States, she worked at Wilmer Cutler Pickering Hale and Dorr LLP, where she specialized in appellate litigation.



**Crystal S. Yang** is a Co-Editor at the *Journal of Public Economics* and serves on the editorial board at the *American Economic Journal: Economic Policy*. In addition to publications in leading economics journals and law reviews, her work has been featured in *The New Yorker*,

*The New York Times*, *The Washington Post*, *The Wall Street Journal*, *The Economist*, and *The Boston Globe*, among other media outlets, and has been cited by the U.S. Supreme Court.

From 2014–2015, Professor Yang served as a Special Assistant United States Attorney in the U.S. Attorney's Office for the District of Massachusetts. Professor Yang graduated *magna cum laude* from Harvard Law School in 2013, where she was a John M. Olin and Terence M. Considine Fellow, and recipient of the John M. Olin Prize. She also received her Ph.D. in economics from Harvard University in 2013 and was a recipient of a National Science Foundation Graduate Research Fellowship. She earned an A.B. in economics *summa cum laude* and an A.M. in statistics from Harvard University in 2008.

# The American Law Institute Launched Four Projects

## RESTATEMENT OF THE LAW, CONSTITUTIONAL TORTS

The project will examine the law of 42 U.S.C. § 1983, which provides an individual the right to sue state-government employees and others acting “under color of state law” in federal court for violations of federal law. Actions under § 1983 are the dominant vehicle for securing money damages for federal rights, especially constitutional rights. The project also will cover *Bivens* actions, the analogous cause of action for violations by a federal officer. Among other topics, the Restatement will cover governmental immunities from suit, local-government liability for official policy or custom, and restrictions on § 1983 actions imposed by the Prison Litigation Reform Act and the overlapping law of federal habeas corpus.

Together with the core components of litigation under § 1983, there are several subsidiary topics to be covered. These include the relation of § 1983 to the Eleventh Amendment and the circumstances in which a suit properly pleaded against a state officer will nevertheless be found to be against the state itself and thus barred; damages (nominal, compensatory, and punitive); the meaning of 42 U.S.C. § 1988(a), which provides that certain “deficiencies” in federal law be filled by the law of the state where the federal court sits; the application of this approach to statutes of limitation; and the invalidity under the Supremacy Clause of certain state-law provisions affecting § 1983, including substitution of remedies, notice-of-claim statutes, and exhaustion of remedies.

The Restatement will also include two boundary constraints: the Prison Litigation Reform Act of 1995, codified at 42 U.S.C. § 1997e(a); and the overlap between § 1983 and federal habeas corpus, which has resulted in curtailment of the former for some situations in which both might apply. The Restatement will not cover the provision of attorney’s fees under § 1988(b).

The project will be led by Reporters John C. Jeffries, Jr., of University of Virginia School of Law and Pamela S. Karlan of Stanford Law School.

## RESTATEMENT OF THE LAW, ELECTION LITIGATION

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 preestablished 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 project will be led by Reporters Lisa Marshall Manheim of the University of Washington School of Law and Derek T. Muller of the University of Notre Dame Law School.

## PROJECT TO COMPLETE RESTATEMENT OF THE LAW FOURTH, THE FOREIGN RELATIONS LAW OF THE UNITED STATES

Sections on Treaties, Jurisdiction, and Sovereign Immunity were published in 2018. The new Restatement of the Law Fourth, The Foreign Relations Law of the United States, will be chaired by John B. Bellinger III of Arnold & 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 new Restatement will cover topics not addressed in the previous volume of the Restatement of the Law Fourth, The Foreign Relations Law of the United States: Selected Topics in Treaties, Jurisdiction, and Sovereign Immunity as well as select topics that have emerged since publication of the Restatement Third. The Reporters will determine the scope of work for the project, and the Chairs will provide guidance to the Reporters throughout the project.

## PRINCIPLES OF THE LAW, HIGH-VOLUME CIVIL ADJUDICATION

This project will address a serious challenge facing state courts: the adjudication of high-volume, high-stakes, low-dollar-value civil claims. The project will be led by Reporter David Freeman Engstrom of Stanford Law School. The project’s Associate Reporters are David Marcus of University of California, Los Angeles School of Law; Jessica K. Steinberg of George Washington University Law School; and Lauren D. Sudeall of Vanderbilt University Law School.

These types of claims, which arise in such areas as debt collection, evictions, home foreclosure, and child support, comprise a significant proportion of state-court cases. These types of cases raise unique issues as they are frequently uncontested, resulting in high numbers of default judgments, and typically feature at least one party without a lawyer.

“State-court dockets have become dominated by cases that, though smaller-scale and arguably less complex than other types of civil litigation, are decidedly high-stakes for many of the litigants. These cases are shaping the lives of millions of Americans, particularly women and people of color,” explained Engstrom. “The future of the civil justice system, and the legitimacy of the courts at its center, will turn on how—and how well—judges, court administrators, and an array of other policymakers respond to these new realities.”

# Current Projects

## Restatement of the Law, Children and the Law

This Restatement deals comprehensively with the legal regulation of children, rather than solely with family-law matters. The project has four Parts—Children in Families, Children in Schools, Children in the Justice System, and Children in Society. At the 2023 Annual Meeting, the membership voted to approve Tentative Draft No. 5, which contains material from Chapter 1, Parental Authority and Responsibilities, Chapter 2, State Intervention for Abuse and Neglect, and Chapter 3, Child in Need of Services, of Part I on Children in Families; Chapter 13, Delinquency Proceedings, of Part III on Children in the Justice System; and Chapter 18, Minors' Civil Rights and Civil Liberties Outside the School Context, and Chapter 20, Minors' Obligations and Responsibilities, of Part IV on Children in Society.

### Reporter:

**Elizabeth S. Scott**, Columbia Law School, New York, NY

### Associate Reporters:

**Richard J. Bonnie**, University of Virginia School of Law, Charlottesville, VA

**Emily Buss**, University of Chicago Law School, Chicago, IL

**Clare Huntington**, Columbia Law School, New York, NY

**Solangel Maldonado**, Seton Hall University School of Law, Newark, NJ



Restatement of the Law, Children and the Law

## Restatement of the Law Third, Conflict of Laws

This project reexamines the increasingly important subject of conflict of laws in light of significant legal developments in the field since the influential Restatement Second was published in 1971. The project will include Chapters on Domicile, Judicial Jurisdiction, Recognition and Enforcement of Judgments, and Choice of Law, among others. At the 2023 Annual Meeting, the membership voted to approve Tentative Draft No. 4, which includes material from Chapter 6, Torts; Chapter 7, Property; and Chapter 8, Contracts. A motion to amend § 6.03 passed.

### Reporter:

**Kermit Roosevelt III**, University of Pennsylvania Carey Law School, Philadelphia, PA

### Associate Reporters:

**Ann L. Estin**, University of Iowa College of Law, Iowa City, IA

**Laura Elizabeth Little**, Temple University Beasley School of Law, Philadelphia, PA

**Christopher A. Whytock**, University of California, Irvine School of Law, Irvine, CA



Restatement of the Law, Copyright

## Restatement of the Law, Copyright

The goal of this Restatement is to provide guidance to the courts in areas, including ones that have clear common-law origins, in which there is significant scope for judicial discretion. At the 2023 Annual Meeting, the membership voted to approve Tentative Draft No. 4, which contains portions of Chapter 4, Copyright Formalities; Chapter 5, Duration of Copyright; Chapter 6, Copyright Rights and Limitations; and Chapter 7, Copyright Infringement.

### Reporter:

**Christopher Jon Sprigman**, New York University School of Law, New York, NY

### Associate Reporters:

**Daniel J. Gervais**, Vanderbilt University Law School, Nashville, TN

**Lydia Pallas Loren**, Lewis & Clark Law School, Portland, OR

**R. Anthony Reese**, University of California, Irvine School of Law, Irvine, CA

**Molly S. Van Houweling**, University of California, Berkeley School of Law, Berkeley, CA



Restatement of the Law, Corporate Governance

## Restatement of the Law, Corporate Governance

The Institute first tackled the subject of corporate governance more than 25 years ago in *Principles of the Law, Corporate Governance: Analysis and Recommendations*. Although it provided valuable guidance in a new and unfamiliar area of law at the time, this area has evolved quite a bit in the intervening decades. This project was not presented at the 2023 Annual Meeting.

### Reporter:

**Edward B. Rock**, New York University School of Law, New York, NY

### Associate Reporters:

**Elisabeth de Fontenay**, Duke University School of Law, Durham, NC

**Marcel Kahan**, New York University School of Law, New York, NY



Restatement of the Law Third, Torts: Defamation and Privacy

## Restatement of the Law Fourth, Property

This Restatement seeks to bring comprehensiveness and coherence to American property law. Subjects to be covered include the classification of entitlements, possession, accession, and acquisition; ownership powers; protection of and limits on ownership; divided and shared ownership; title and transfer; easements, servitudes, and land use; and public rights and takings. At the 2023 Annual Meeting, the membership voted to approve Tentative Draft No. 4 through Volume 7, Division I, Chapter 5. There was insufficient time to discuss Chapters 6 and 7 of Volume 7, Division I. A motion to amend § 1.2A of Volume 2, Division I, Chapter 1 was withdrawn after the Reporters presented edits to § 1.2A in response to the motion.

### Reporter:

**Henry E. Smith**, Harvard Law School, Cambridge, MA

### Associate Reporters:

**Molly E. Brady**, Harvard Law School, Cambridge, MA

**Sara C. Bronin**, Cornell University, Ithaca, NY

**Richard R. W. Brooks**, New York University School of Law,  
New York, NY

**Yun-chien Chang**, Cornell Law School, Ithaca, NY

**R. Wilson Freyer**, University of Missouri School of Law,  
Columbia, MO

**John C.P. Goldberg**, Harvard Law School, Cambridge, MA

**Brian A. Lee**, Brooklyn Law School, Brooklyn, NY

**Thomas W. Merrill**, Columbia Law School, New York, NY

**Christopher M. Newman**, George Mason University, Antonin Scalia Law  
School, Arlington, VA



Restatement of the Law Third, Torts: Miscellaneous Provisions

## Restatement of the Law Third, Torts: Defamation and Privacy

This project is part of ALI's ongoing revision of the Restatement Second of Torts. This Restatement addresses torts dealing with personal and business reputation and dignity, including defamation, business disparagement, and rights of privacy. Among other issues, the updates will cover the substantial body of new issues relating to the internet. To date, three Preliminary Drafts have been presented in project meetings.

### Reporters:

**Lyryssa Barnett Lidsky**, University of Florida, Levin College of Law,  
Gainesville, FL

**Robert C. Post**, Yale Law School, New Haven, CT



Restatement of the Law Third, Torts: Remedies

## Restatement of the Law Third, Torts: Medical Malpractice

Initially part of the Torts: Miscellaneous Provisions project, material on medical liability is now produced separately as the Restatement of the Law Third, Torts: Medical Malpractice. Because of time constraints, the draft for the 2023 Annual Meeting was not discussed. The membership approved §§ 1 to 3 at the 2022 Annual Meeting.

### Reporters:

**Nora Freeman Engstrom**, Stanford Law School, Stanford, CA  
**Michael D. Green**, Washington University School of Law, St. Louis, MO  
**Mark A. Hall**, Wake Forest University School of Law,  
 Winston-Salem, NC

## Restatement of the Law Third, Torts: Miscellaneous Provisions

Launched in 2019, this project is part of ALI's ongoing revision of the Restatement Second of Torts. This Restatement addresses topics not covered in another part of the Restatement Third of Torts that either require updating since publication of the Restatement Second or were not previously addressed but should be covered in a modern torts Restatement. At the 2023 Annual Meeting, the membership voted to approve §§ 48D-48F (Sepulcher) of the draft. The membership discussed and voted on several motions on the Section on medical monitoring. Because of time constraints, discussion of the Section was not completed and no vote was taken to approve the Section. Time expired before the remainder of the draft could be discussed.

### Reporters:

**Nora Freeman Engstrom**, Stanford Law School, Stanford, CA  
**Michael D. Green**, Washington University School of Law, St. Louis, MO

### Associate Reporters:

**Tanya D. Marsh**, Wake Forest University School of Law,  
 Winston-Salem, NC  
**Guy Miller Struve**, Davis Polk & Wardwell (Retired), New York, NY

## Restatement of the Law Third, Torts: Remedies

This project is part of ALI's ongoing revision of the Restatement Second of Torts. This Restatement addresses tort damages and other remedies. It will include issues related to identifying the types of recoverable damages, such as past and future lost wages, medical expenses, disfigurement, and pain and suffering, as well as measuring damages, including discounting future earnings to present value, the effect of taxes, and structured settlements. At the 2023 Annual Meeting, the membership voted to approve Tentative Draft No. 2 which contains a portion of Chapter 1, Topic 1, General Rules for Measuring Compensatory Damages; all of Chapter 1, Topic 2, Injury to the Person; and a portion of Chapter 3, Topic 1, Permanent Injunctions. Sections 11 and 26-27 were discussed but not presented for voting.

### Reporters:

**Richard L. Hasen**, University of California, Los Angeles School of Law,  
 Los Angeles, CA  
**Douglas Laycock**, University of Virginia School of Law (Retired),  
 Charlottesville, VA

## The ALI Drafting Process

ALI's drafting process brings together members of the bench, bar, and academia to review and discuss drafts of Restatements of the Law, Principles of the Law, and Model and Uniform Codes.

Project ideas are generally initiated by the Director and the Projects Committee. The Director then investigates a potential project and develops a project proposal, which usually includes a prospectus from a proposed Reporter (or Reporters). Once approved by the Council, work on the project begins.

A diverse group of Advisers is assembled by the Reporter, Director, and Deputy Director and approved by the Council. This group of subject-matter experts makes a commitment to review the project drafts and provide input to the Reporter. The Director may also appoint Liaisons from other legal organizations or appoint additional advisory panels. ALI members may join the Members Consultative Group (MCG) for a project. MCG participants are not necessarily experts in the project's area of law, but provide a vital perspective, as they read the drafts the way the project's intended audience would.

The Reporter prepares Preliminary Drafts of the project for review by the Advisers, Liaisons, and MCG. After revising the material in light of comments received from these groups, the Reporter submits a Council Draft for review and approval by the Council. Once a draft is approved by the Council, the Reporter prepares a Tentative Draft, incorporating any revisions directed by the Council, to be submitted to the ALI membership for approval at an Annual Meeting. After discussion, the members vote on a "Boskey motion" to approve the draft subject to the discussion at the Meeting and to the usual editorial prerogative. This drafting cycle continues until each segment of the project has been approved by the Council and the membership. Then the Reporter, subject to the Director's oversight, readies the official text for publication.

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 and current project participants will be alerted when future meetings are scheduled and when drafts are available.

# Publications

The Institute's electronic and print publications fulfill two very important purposes: they are a major source of funds that support the Institute's vital law-reform work, and they are the means by which that work is disseminated to practicing lawyers, judges, academics, and students throughout the world. Most ALI publications are accessible online through Westlaw, HeinOnline, and LexisNexis.

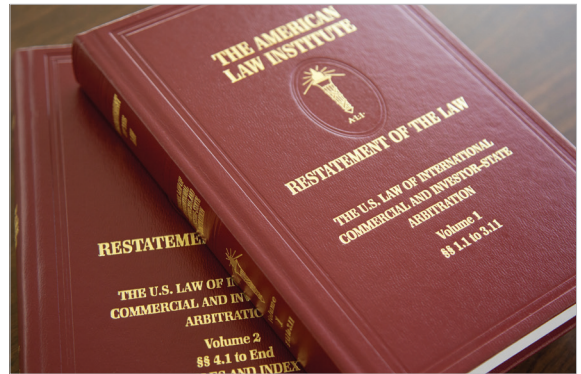
Beginning with the Restatement of the Law, Contracts, in 1932, the Institute's Restatements of the Law, Principles of the Law, and model codes have earned an unparalleled reputation for excellence and objectivity. As evidence of the respect the courts have customarily accorded ALI publications, the Restatements and Principles of the Law have been cited in published decisions by U.S. courts over 220,500 times through June 2023.

## Recent Publications

**Restatement of the Law, The U.S. Law of International Commercial and Investor-State Arbitration** identifies the role of the courts over the life cycle of an arbitral proceeding, including enforcement of the arbitration agreement, the judicial role in arbitral proceedings, and post-award relief. It also addresses the ways in which the basic principles governing U.S. court involvement in investor-State arbitration in some instances are different from those applicable to international commercial arbitration generally. The initial Chapter lists 48 definitions, discusses basic principles of U.S. international arbitration law, and contains five Sections on the federal preemption of state law.

This is the first time that the ALI has produced a Restatement on this area of the law. Work began in 2007 under the leadership of Reporter George A. Bermann of Columbia Law School and Associate Reporters Jack J. Coe, Jr., of Pepperdine University Caruso School of Law, Christopher R. Drahozal of the University of Kansas School of Law, and Catherine A. Rogers of Università Bocconi.

The ALI Council first approved this project as Restatement of the Law, The U.S. Law of International Commercial Arbitration. Subsequently, as a result of the increasing salience of investor-State arbitration, the project was renamed Restatement of the Law, The U.S. Law of International Commercial and Investor-State Arbitration, and the coverage was expanded.



2018 project meeting

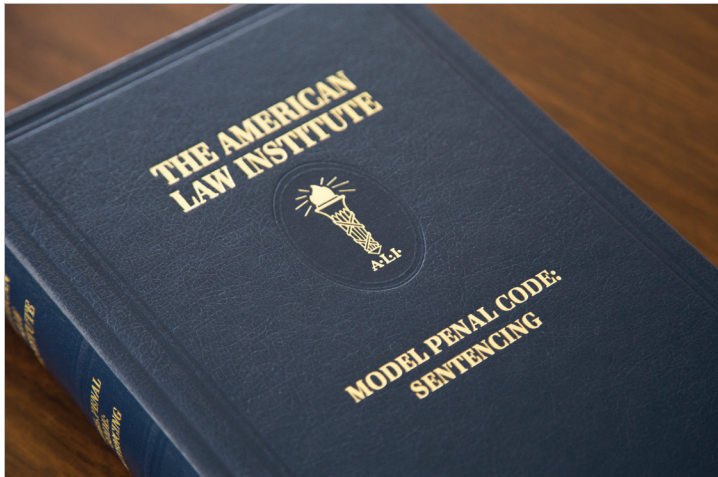


George A. Bermann, Christopher R. Drahozal, Catherine A. Rogers, and Jack J. Coe, Jr., 2019 Annual Meeting



2017 project meeting





**Model Penal Code: Sentencing** reexamines the sentencing provisions of the 1962 Model Penal Code in light of the many changes in sentencing philosophy and practice that have taken place since its original publication.

The project was led by Reporter Kevin R. Reitz of the University of Minnesota Law School and Associate Reporter Cecelia M. Klingele of the University of Wisconsin Law School.

The Sentencing project provides guidance on some of the most important issues that courts, corrections systems, and policymakers are facing today, including the general purposes of the sentencing system; rules governing sentence severity—including sentences of incarceration, community supervision, and economic penalties; the elimination of mandatory minimum penalties; mechanisms for combating racial and ethnic disparities in punishment; instruments of prison population control; collateral consequences, including guidelines, notification, and order of relief; victims' rights in the sentencing process; the sentencing of juvenile offenders in adult courts; the creation of judicial powers to review many collateral consequences of conviction; and many issues having to do with judicial sentencing discretion, sentencing commissions, sentencing guidelines, and appellate sentence review.



Kevin R. Reitz and Cecelia M. Klingele, 2017 Annual Meeting

**PEB Commentaries:** The Permanent Editorial Board for the Uniform Commercial Code, a joint committee of the ALI and the Uniform Law Commission, from time to time publishes Commentaries and Reports to provide guidance in interpreting and resolving issues raised by the UCC. Recent publications include:

- PEB Report: Application of UCC Sections 9-406 and 9-408 to Transfers of Interest in Unincorporated Business Organizations
- PEB Commentary No. 27: Injunction Against a Noncomplying Disposition Under Section 9-610 of the UCC
- PEB Commentary No. 26: Indication of Collateral in a Financing Statement
- PEB Commentary No. 25: Role of Section 1-305(b) in Supporting Enforcement of Rights and Obligations
- PEB Commentary No. 24: Scope of Article 9 Choice-of-Law Rules Regarding Characterization of Transactions

**Commentaries are available at**  
[www.ali.org/peb-ucc](http://www.ali.org/peb-ucc).



2015 project meeting



2017 Annual Meeting

## ALI in the Courts

### In the U.S. Supreme Court

During its October 2023 term, the Supreme Court of the United States cited the work of The American Law Institute in 14 cases:

**Abitron Austria GmbH v. Hetronic Int'l, Inc.**, 143 S. Ct. 2522 (June 29, 2023)

Majority quoting **Restatement of the Law Third, Unfair Competition** § 23, Comment *b*, and citing § 23, Comment *d*

**Arizona v. Navajo Nation**, 143 S. Ct. 1804 (June 22, 2023)

Concurrence citing **Restatement of the Law Third, Trusts** § 2, **Restatement of the Law Second, Contracts** § 206, and **Restatement of the Law, Contracts** § 505; dissent citing **Restatement of the Law Second, Contracts** § 201(2)

**Bartenwerfer v. Buckley**, 143 S. Ct. 665 (Feb. 22, 2023)

Majority citing **Restatement of the Law Third, Agency** § 7.07 and **Restatement of the Law Third, Suretyship and Guaranty** § 12

**Biden v. Nebraska**, 143 S. Ct. 2355 (June 30, 2023)

Concurrence quoting **Restatement of the Law Third, Agency** § 2.02(1) and Comment *e* thereto

**Counterman v. Colorado**, 143 S. Ct. 2106 (June 27, 2023)

Concurrence citing **Model Penal Code** § 250.7, Comments (T.D. No. 13, 1961)

**Haaland v. Brackeen**, 143 S. Ct. 1609 (June 15, 2023)

Dissent citing **Principles of the Law of Family Dissolution: Analysis and Recommendations** § 2.02

**Moore v. Harper**, 143 S. Ct. 2065 (June 27, 2023)

Dissent citing **Restatement of the Law Second, Judgments** § 27 and Comment *h* and Illustrations 13 and 14 thereto

**New York v. New Jersey**, 143 S. Ct. 918 (Apr. 18, 2023)

Majority citing **Restatement of the Law Second, Contracts** § 33, Comment *d*

**Percoco v. United States**, 143 S. Ct. 1130 (May 11, 2023)

Majority quoting **Restatement of the Law Third, Agency** § 1.01, Comment *e*

**Pugin v. Garland**, 143 S. Ct. 1833 (June 22, 2023)

Majority citing and quoting **Model Penal Code** § 240.0(4) and § 241.6, Comment 2; dissent citing and quoting **Model Penal Code** § 241.6(1) and Comment 2 thereto, and § 242.1 and Comment 2 thereto, and citing §§ 240 to 243

**Twitter, Inc. v. Taamneh**, 143 S. Ct. 1206 (May 18, 2023)

Majority quoting **Restatement of the Law Second, Torts** § 876, Comment *a* and citing § 876 and Comment *d* and Illustrations 9 and 10 thereto; quoting **Restatement of the Law Third, Torts: Intentional Torts to Persons** § 10, Comment *c* (T.D. No. 3, 2018)

**United States v. Hansen**, 143 S. Ct. 1932 (June 23, 2023)

Majority citing and quoting **Model Penal Code** § 5.02(1) and citing Comment 3 thereto and § 5.02(2)

**United States ex rel. Schutte v. SuperValu Inc.**, 143 S. Ct. 1391 (June 1, 2023)

Majority citing **Restatement of the Law Second, Torts** § 526 and Comment *c* and the Reporter's Note thereto, quoting § 526, Comments *d* and *e*, citing § 545, and quoting § 545, Comment *c*; quoting **Restatement of the Law Second, Torts** § 500, Comment *a*; citing **Restatement of the Law Third, Torts: Liability for Economic Harm** § 10 and Comment *c* thereto, and quoting § 10, Comment *a*

**Yegiazaryan v. Smagin**, 143 S. Ct. 1900 (June 22, 2023)

Majority citing **Restatement of the Law, Conflict of Laws** § 377 and **Restatement of the Law Second, Conflict of Laws** § 145

## In the State Supreme Courts

The high courts of a number of jurisdictions relied on Restatement Sections during the past fiscal year. Some highlights follow:

**Clarke v. Fine Housing, Inc.**, 882 S.E.2d 763 (S.C. 2023)

Supreme Court of South Carolina, adopting **Restatement of the Law Third, Property (Servitudes)** § 3.4

**Geronta Funding v. Brighthouse Life Insurance Company**, 284 A.3d 47 (Del. 2022)

Supreme Court of Delaware, adopting **Restatement of the Law Second, Contracts** §§ 197 to 199



# Membership

The Membership Committee and the Council are committed to a membership that reflects the diversity of highly capable and accomplished lawyers, judges, and academics in the U.S. and abroad, across an array of factors including age, gender, race, ethnicity, expertise, geographic region, viewpoint, and type and size of practice or other professional work. The overall goal is to ensure a membership that will keep the Institute a vibrant, relevant, and distinguished membership organization as it carries out its mission throughout the 21st century. Candidates for elected membership must have demonstrated exceptional professional achievement, outstanding personal character, and an avid interest in law reform.

During the 2022-2023 fiscal year, 123 distinguished legal professionals were elected upon accepting the nomination and committing to participate. Members make invaluable contributions to our work by donating their time and expertise in numerous areas of the law. As of June 30, 2023, ALI membership included 2796 elected members, 1715 life members (a status achieved after 25 years of service to the Institute), 234 ex officio members, and two honorary members. While ex officio members are generally considered members only during the time they hold a specific office or position, the Chief Justice and Associate Justices of the Supreme Court of the United States are ex officio members for life.

## CURRENT MEMBERSHIP

(as of June 30, 2023)

Elected Members	2796
Life Members	1715
Ex Officio Members	234
Honorary Members	2
<b>Total ALI Membership</b>	<b>4747</b>

## MEMBERS BY CATEGORY

Includes Elected, Elected & Ex Officio, Life, Honorary, and Ex Officio

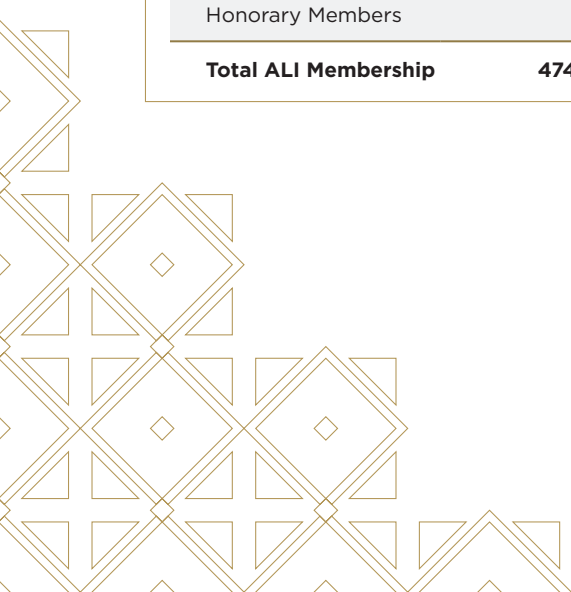


- **38%** ACADEMICS
- **36%** ATTORNEYS IN PRIVATE PRACTICE
- **14%** JUDGES
- **12%** CORPORATE, GOVERNMENT, AND NONPROFIT ATTORNEYS

## 123 NEW MEMBERS



- **46%** ACADEMICS
- **23%** ATTORNEYS IN PRIVATE PRACTICE
- **12%** JUDGES
- **19%** CORPORATE, GOVERNMENT, AND NONPROFIT ATTORNEYS



# American Law Institute Continuing Legal Education (ALI CLE)

## In-Person Courses

ALI CLE has a long history providing best-in-class continuing legal education and, thanks to our esteemed faculty and program partners, this year was its most successful since the pandemic.

ALI CLE opened more courses to in-person audiences in 2023. The ALI CLE team, its faculty members, and attendees enjoyed reconnecting in person while still having the flexibility of remote learning. In-person and webcast attendance at many of our mainstay courses returned to their pre-pandemic levels, including *Life Insurance Company Products*, *Eminent Domain and Land Valuation Litigation*, *Environmental Law*, *Legal Issues in Museum Administration*, and *Accountants' Liability*. Attendance at some of our smaller in-person programs improved from last year, while others were presented as single or multiday virtual programs. We will be experimenting with half-day hybrid programs in the coming year.

## ALI Projects

Starting in January 2023, ALI CLE presented a series of three highly regarded webcasts on the new UCC Article 12. Featuring Steve Weise, Ed Smith, Juliet Moringiello, Carla Reyes, and Penny Christophorou, these webcasts included: the *New UCC Article 12: Everything You Need to Know*; the *New UCC Article 12: Applying the Rules to Practice*; the *New UCC Article 12 and Amendments to Article 9: A Practical Approach to Transactions and Opinion Letters*. These webcasts were separately announced by ALI to members, who were able to register for free and offer a special discount to their colleagues. We are currently anticipating a fourth webcast, on choice-of-law issues.

In addition, at the May 2023 ALI Annual Meeting, ALI CLE presented a session on *The Issues and Ethics of Litigation Financing*. Planning chair and moderator Tom Baker was joined by panelists Jiamie Chen, Victoria Sahani, Virginia Seitz, and U.S. District Court Judge Sarah Vance to explore the state of litigation funding with a focus on lawyers' roles and ethical duties in the emerging field of litigation finance.

Working with ALI leadership, ALI CLE anticipates future collaborations to heighten awareness of ALI and its projects among ALI CLE's national audience and beyond.



Tom Baker, Victoria Sahani, Jiamie Chen, Virginia Seitz, and Sarah Vance

## Distance Learning

In 2023, ALI CLE continued to keep pace with legal developments and practice needs to create high-quality webcasts for lawyers in a wide range of subject areas.

This year, ALI CLE was early to the gate with successful distance programs on a number of breaking developments. In addition to the UCC Article 12 series, this April as the news about ChatGPT started to hit the headlines, we were among the very first CLE organizations to offer a program examining generative AI and its implications for law practice. As another example, this June we provided a definitive webcast on *Sackett v. EPA*, 598 U.S. 651 (2023) just days after the decision's release, featuring a national panel of legal experts that included Damien Schiff, plaintiffs' counsel in the case before the Supreme Court. Other hot topics are the focus of recurring programs, most notably our *Advanced Estate Planning Practice Update* webcasts, ably chaired by Emory University Law Professor Jeff Pennell.

We continue to expand our distance programming partnerships with the American College of Trust and Estate Counsel, the American College of Real Estate Lawyers, and the American College of Environmental Lawyers, this year adding a partnership on the *Sackett* webcast with the Foundation for Natural Resources and Energy Law.

As in the legal profession, 2023 has been a busy year for ALI CLE, with the need to adapt quickly to constant change. New trends, new programs, new formats, new speakers, and new ways of communicating keep us moving fast to meet the needs of our national lawyer audience. We are pleased to be back in person and look forward to enhancing ALI CLE's hallmark educational programming with even more offerings in multiple formats this coming year.

# Committees

## EXECUTIVE

**Chair - David F. Levi**, Duke University School of Law  
**John B. Bellinger III**, Arnold & Porter  
**Ivan K. Fong**, Medtronic PLC  
**Teresa Wilton Harmon**, Sidley Austin LLP  
**Samuel Issacharoff**, New York University School of Law  
**Carolyn B. Kuhl**, Superior Court of California, County of Los Angeles  
**Raymond J. Lohier, Jr.**, U.S. Court of Appeals, Second Circuit  
**Troy A. McKenzie**, New York University School of Law  
**Judith A. Miller**, Chevy Chase, MD  
**Lee H. Rosenthal**, U.S. District Court, Southern District of Texas  
**Laura Denvir Stith**, Missouri Supreme Court  
**Jeffrey S. Sutton**, U.S. Court of Appeals, Sixth Circuit  
**Sarah S. Vance**, U.S. District Court, Eastern District of Louisiana

## AUDIT

**Chair - Daniel C. Girard**, Girard Sharp LLP  
**Donald B. Ayer**, McLean, VA  
**Scott Bales**, Arizona Supreme Court (Retired)  
**Steven S. Gensler**, University of Oklahoma College of Law  
**William C. Hubbard**, University of South Carolina School of Law  
**Lori A. Martin**, WilmerHale  
**Robert H. Sitkoff**, Harvard Law School

## AWARDS

**Chair - Wallace B. Jefferson**, Alexander Dubose & Jefferson LLP  
**Scott Bales**, Arizona Supreme Court (Retired)  
**Christine M. Durham**, Wilson Sonsini Goodrich & Rosati  
**Yvonne Gonzalez Rogers**, U.S. District Court, Northern District of California  
**David F. Levi**, Duke University School of Law  
**Marsha E. Simms**, Weil, Gotshal & Manges LLP (Retired)  
**Elizabeth S. Stong**, U.S. Bankruptcy Court, Eastern District of New York

## CLE PROGRAM AND MARKETING

**Chair - John H. Beisner**, Skadden, Arps, Slate, Meagher & Flom LLP  
**Jerald David August**, Fox Rothschild LLP  
**Steven S. Gensler**, University of Oklahoma College of Law  
**Michele C. Kane**, The Walt Disney Company (Retired)  
**David F. Levi**, Duke University School of Law  
**Jeffrey D. Neuburger**, Proskauer Rose LLP  
**Jeffrey N. Pennell**, Emory University School of Law  
**Pamela D. Perdue**, Pamela D. Perdue, P.C. (Retired)  
**Norman M. Powell**, Young Conaway Stargatt & Taylor, LLP  
**Robert H. Thomas**, Pacific Legal Foundation

## DEVELOPMENT

**Timothy W. Burns**, Burns Bair LLP  
**Elizabeth J. Cabraser**, Lieff Cabraser Heimann & Bernstein, LLP  
**Evan R. Chesler**, Cravath, Swaine & Moore LLP  
**J. William Elwin, Jr.**, Novus Law LLC  
**William C. Hubbard**, University of South Carolina School of Law  
**David F. Levi**, Duke University School of Law  
**Janet Napolitano**, University of California Berkeley, Goldman School of Public Policy  
**Kathleen M. O'Sullivan**, Perkins Coie LLP  
**Stephanie E. Parker**, Jones Day  
**David W. Rivkin**, Arbitration Chambers  
**Daniel B. Rodriguez**, Northwestern University Pritzker School of Law  
**Larry S. Stewart**, Stewart Tilghman Fox Bianchi & Cain, P.A. (Retired)

## GOVERNANCE

**Chair - Derek P. Langhauser**, Maine Maritime Academy and Community Colleges  
**Scott Bales**, Arizona Supreme Court (Retired)  
**Allison H. Eid**, U.S. Court of Appeals, Tenth Circuit  
**Thomas M. Hardiman**, U.S. Court of Appeals, Third Circuit  
**Nathan L. Hecht**, Texas Supreme Court  
**Carol F. Lee**, Taconic Capital Advisors L.P.  
**David F. Levi**, Duke University School of Law  
**Patricia Ann Millett**, U.S. Court of Appeals, District of Columbia Circuit  
**Janet Napolitano**, University of California Berkeley, Goldman School of Public Policy

## INVESTMENT

**Chair - Steven O. Weise**, Proskauer Rose LLP  
**John H. Beisner**, Skadden, Arps, Slate, Meagher & Flom LLP  
**John B. Bellinger III**, Arnold & Porter  
**Evan R. Chesler**, Cravath, Swaine & Moore LLP  
**Ivan K. Fong**, Medtronic PLC  
**Michael Alexander Kahn**, Law Office of Michael Kahn  
**David F. Levi**, Duke University School of Law  
**Stephanie E. Parker**, Jones Day  
**Robert H. Sitkoff**, Harvard Law School

## MEMBERSHIP

**Chair - Daniel B. Rodriguez**, Northwestern University Pritzker School of Law  
**Donald B. Ayer**, McLean, VA  
**Michael J. Garcia**, New York State Court of Appeals  
**Daniel C. Girard**, Girard Sharp LLP  
**Michele C. Kane**, The Walt Disney Company (Retired)  
**Harold Hongju Koh**, Yale Law School  
**David F. Levi**, Duke University School of Law  
**Lori A. Martin**, WilmerHale  
**Troy A. McKenzie**, New York University School of Law  
**M. Margaret McKeown**, U.S. Court of Appeals, Ninth Circuit  
**Virginia A. Seitz**, Sidley Austin LLP  
**Marsha E. Simms**, Weil, Gotshal & Manges LLP (Retired)  
**Catherine T. Struve**, University of Pennsylvania Carey Law School

## NOMINATING

**Chair - Jeffrey S. Sutton**, U.S. Court of Appeals, Sixth Circuit

**Nathan L. Hecht**, Texas Supreme Court

**Peter Douglas Keisler**, Sidley Austin LLP (Retired)

**David F. Levi**, Duke University School of Law

**Stephanie E. Parker**, Jones Day

**Cristina M. Rodriguez**, Yale Law School

**Lee H. Rosenthal**, U.S. District Court, Southern District of Texas

**Catherine T. Struve**, University of Pennsylvania Carey Law School

**Larry D. Thompson**, Finch McCranie LLP

## PROJECTS

**Chair - Samuel Issacharoff**, New York University School of Law

**Thomas A. Balmer**, Oregon Supreme Court

**Allison H. Eid**, U.S. Court of Appeals, Tenth Circuit

**Abbe R. Gluck**, Yale Law School

**Roberto Jose Gonzalez**, Paul, Weiss, Rifkind, Wharton & Garrison LLP

**Yvonne Gonzalez Rogers**, U.S. District Court, Northern District of California

**David F. Levi**, Duke University School of Law

**Troy A. McKenzie**, New York University School of Law

**Eric A. Posner**, University of Chicago Law School

**Daniel B. Rodriguez**, Northwestern University Pritzker School of Law

**Gary L. Sasso**, Carlton Fields P.A.

**Laura Denvir Stith**, Missouri Supreme Court

**Catherine T. Struve**, University of Pennsylvania Carey Law School

## ALI EARLY CAREER SCHOLARS MEDAL (2022-2023)

**Chair - Diane P. Wood**, U.S. Court of Appeals, Seventh Circuit

**Kenneth S. Abraham**, University of Virginia School of Law

**Rochelle C. Dreyfuss**, New York University School of Law

**Christine M. Durham**, Wilson Sonsini Goodrich & Rosati

**Allison H. Eid**, U.S. Court of Appeals, Tenth Circuit

**Paul A. Engelmayer**, U.S. District Court, Southern District of New York

**William A. Fletcher**, U.S. Court of Appeals, Ninth Circuit

**Jamal Greene**, Columbia Law School

**Howell E. Jackson**, Harvard Law School

**David F. Levi**, Duke University School of Law

**Eric A. Posner**, University of Chicago Law School

**Roberta Cooper Ramo**, Modrall Sperlberg

**Cristina M. Rodriguez**, Yale Law School

**Patti B. Saris**, U.S. District Court, District of Massachusetts

**Randall T. Shepard**, Indiana University, Robert H. McKinney School of Law

## SPECIAL COMMITTEE ON ALI'S 100TH ANNIVERSARY

### Chairs

**David F. Levi**, ALI President, Duke University School of Law

**Roberta Cooper Ramo**, Modrall Sperlberg (ALI President 2008-2017)

### Honorary Co-Chairs

**Lance Liebman**, Columbia Law School (ALI Director 1999-2014)

**Michael Traynor**, Cobalt LLP (ALI President 2000-2008)

### Committee Members

**Sheila L. Birnbaum**, Dechert LLP

**José A. Cabranes**, U.S. Court of Appeals, Second Circuit

**Elizabeth J. Cabraser**, Lief Cabraser Heimann & Bernstein LLP

**Gerhard Casper**, Stanford University

**Edward H. Cooper**, University of Michigan Law School

**Ivan K. Fong**, Medtronic PLC (ALI Treasurer)

**Kenneth C. Frazier**, Merck & Co. Inc.

**Paul L. Friedman**, U.S. District Court, District of Columbia (ALI Secretary 2013-2022)

**Yvonne Gonzalez Rogers**, U.S. District Court, Northern District of California

**Wallace B. Jefferson**, Alexander Dubose & Jefferson LLP (ALI Treasurer 2014-2023)

**Larry Kramer**, William & Flora Hewlett Foundation

**Carolyn B. Kuhl**, Superior Court of California, County of Los Angeles

**William F. Lee**, WilmerHale

**Martin Lipton**, Wachtell, Lipton, Rosen & Katz

**Margaret H. Marshall**, Choate, Hall & Stewart (ALI Treasurer 2013-2014)

**Troy A. McKenzie**, New York University School of Law

**William H. Pryor, Jr.**, U.S. Court of Appeals, Eleventh Circuit

**Larry W. Sonsini**, Wilson Sonsini Goodrich & Rosati

**Geoffrey R. Stone**, University of Chicago Law School

**Kathleen M. Sullivan**, Quinn Emanuel Urquhart & Sullivan LLP

**Seth P. Waxman**, WilmerHale

**Diane P. Wood**, U.S. Court of Appeals, Seventh Circuit

## SPECIAL COMMITTEE ON DEVELOPMENT FOR ALI'S 100TH ANNIVERSARY

**Chair - Judith A. Miller**, Chevy Chase, MD

**Kim J. Askew**, DLA Piper US LLP

**John H. Beisner**, Skadden, Arps, Slate, Meagher & Flom LLP

**Sheila L. Birnbaum**, Dechert LLP

**Allen D. Black**, Fine, Kaplan and Black RPC

**Elizabeth J. Cabraser**, Lief Cabraser Heimann & Bernstein LLP

**Evan R. Chesler**, Cravath, Swaine & Moore LLP

**Daniel C. Girard**, Girard Sharp LLP

**Teresa Wilton Harmon**, Sidley Austin LLP

**Andrew D. Hendry**, Pinehurst, NC

**Michael Alexander Kahn**, Law Office of Michael Kahn

**Martin Lipton**, Wachtell, Lipton, Rosen & Katz

**Robert H. Mundheim**, Shearman & Sterling LLP

**George M. Newcombe**, Simpson Thacher & Bartlett LLP (Retired)

**Vance K. Opperman**, Key Investment, Inc.

**Peter A. Winograd**, University of New Mexico School of Law

# Condensed Consolidated Statements of Activities

FOR THE YEARS ENDED JUNE 30, 2023 AND 2022

<b>NET ASSETS WITHOUT DONOR RESTRICTIONS</b>	<b>2023</b>	<b>2022</b>
Publications and program revenue	\$9,267,932	\$8,389,463
Membership dues and other income	1,017,078	1,012,652
Contributions and grants	1,131,445	1,307,578
Investment spending policy income	3,354,920	1,988,646
Net assets released from purpose restrictions	117,448	25,476
<b>Total operating revenue and other support</b>	<b>14,888,823</b>	<b>12,723,815</b>
Program expenses	10,312,636	9,499,318
General and administrative expenses	3,865,183	3,698,123
<b>Total operating expenses</b>	<b>14,177,819</b>	<b>13,197,441</b>
<b>Change in net assets from operations</b>	<b>711,004</b>	<b>(473,626)</b>
Investment return, net of spending policy	4,859,057	(14,075,349)
Contributions and bequests	2,088,800	5,335,000
Non-operating expense, net	(645,779)	(71,120)
<b>Change in net assets without donor restrictions</b>	<b>7,013,082</b>	<b>(9,285,095)</b>
<b>NET ASSETS WITH DONOR RESTRICTIONS</b>		
Investment return	\$792,333	\$(1,086,167)
Net assets released from purpose restrictions	(117,448)	(25,476)
Contributions and grants	154,097	250,508
<b>Change in net assets with donor restrictions</b>	<b>828,982</b>	<b>(861,135)</b>
<b>CHANGE IN NET ASSETS</b>	<b>\$7,842,064</b>	<b>\$(10,146,230)</b>
Net assets, at beginning of year	86,211,591	96,357,821
Net assets, at end of year	\$94,053,655	\$86,211,591

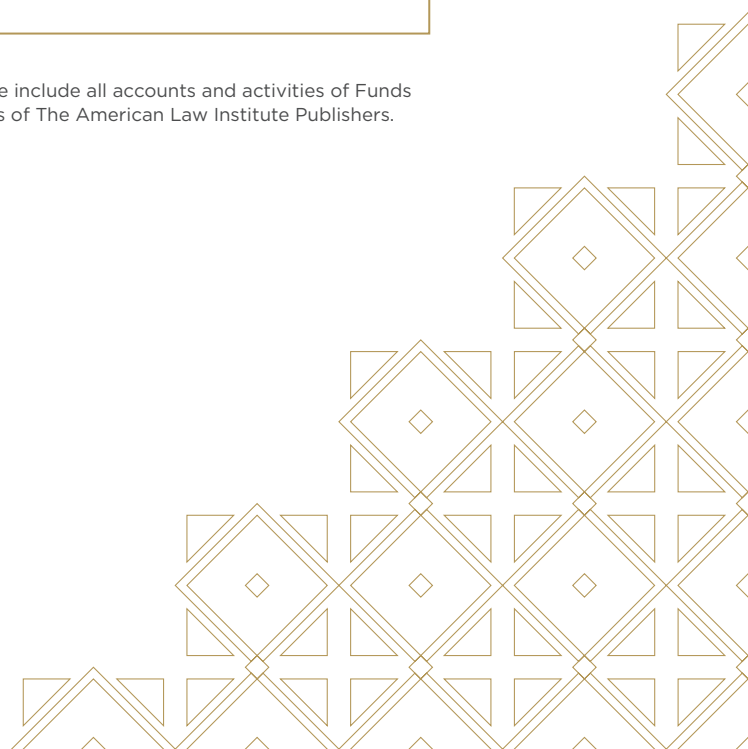


# Condensed Consolidated Statements of Financial Position

AS OF JUNE 30, 2023 AND 2022

<b>ASSETS</b>	<b>2023</b>	<b>2022</b>
Cash	\$3,469,721	\$3,294,806
Receivables and other assets	5,139,378	4,344,954
Investments, at fair value	86,388,311	80,214,929
Land, buildings, and equipment, net	2,369,007	2,232,513
<b>Total Assets</b>	<b>\$97,366,417</b>	<b>\$90,087,202</b>
<b>LIABILITIES AND NET ASSETS</b>		
<b>LIABILITIES</b>		
Accounts payable and accrued expenses	\$1,426,688	\$1,771,694
Deferred revenue	491,461	601,934
Postretirement health benefit obligation	1,384,613	1,501,983
<b>Total Liabilities</b>	<b>3,302,762</b>	<b>3,875,611</b>
<b>NET ASSETS</b>		
Without donor restrictions	85,440,790	78,427,708
With donor restrictions	8,612,865	7,783,883
<b>Total Net Assets</b>	<b>94,053,655</b>	<b>86,211,591</b>
<b>Total Liabilities and Net Assets</b>	<b>\$97,356,417</b>	<b>\$90,087,202</b>

The condensed consolidated financial statements for The American Law Institute include all accounts and activities of Funds of the Treasurer and ALI CLE. In addition, they reflect the accounts and activities of The American Law Institute Publishers.



# ALI's Second Century Campaign

The Second Century Campaign has the ambitious goal of raising \$35 million by the end of 2023. The Institute has never embarked on a capital campaign of this magnitude. The last time we undertook a serious effort of this sort, our members and supporters came together to raise \$5.5 million in the late 1980s (about \$12.4 million in today's dollars). Our goal this time is not simply to fund the Institute's work in the short term, but rather to secure funding that will help support the ALI's work for the next 100 years.

We are grateful to the following major donors to the Second Century Campaign, whose generous gifts made over the course of the campaign each bring us one step closer to securing the Institute's future:

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# Annual Giving Report

Contributions to The American Law Institute provide a key source of support that allows us to remain independent as we continue our mission of clarifying and improving the law. By becoming a Sustaining Member, joining a Giving Circle, or making a general contribution or recurring gift during our 2022-2023 fiscal year, the generous donors recognized on the following pages have helped the Institute prepare for a second century of law reform.

## Your gift helps us:

### Maximize Project Efficiency and Attract Top Talent

ALI pays stipends to top-tier law professors best suited to produce its project drafts, and also pays for the research assistants who support them. By providing funding necessary to maintain an increased number of Reporters, your gift helps to expedite project completion times while retaining the high level of quality the Institute is known for.

### Produce, Promote, and Distribute Works Important to the Public Interest

The Institute's mission is driven by focusing on areas of law that are most in need of clarification, regardless of financial return. The current legal landscape includes a number of topics that are ripe for review, but the resulting publications may not generate revenue to cover the costs of the projects in the way ALI's Restatements do. The Institute also provides free public access to works that can be applied to address pressing legal and policy issues being faced in times of crisis. Projects on these topics—including Policing; Election Administration; and Civil Adjudication—are of great importance. Gifts to the Institute provide funding necessary to produce, promote, and distribute such works that benefit the public interest.

### Reduce Barriers to Participation

ALI's members are lawyers of the highest qualifications. Some have chosen service-oriented careers in which compensation lags far behind the private sector. The participation of these members is critical to maintaining the diversity of ideas that is the hallmark of ALI's approach and the key to our success. ALI's travel-assistance programs, which are supported by generous contributions, provide opportunities for the full spectrum of our membership to participate in the Institute's work regardless of financial means. Your gift will also allow ALI to invest in technological updates necessary to advance our work.

### Raise Awareness of ALI's Work and Engage the Next Generation

ALI's Early Career Scholars Medal and annual conference support practical legal scholarship and raise awareness of the Institute's mission while engaging the next generation of eminent legal minds. Contributions to the Institute provide funding to ensure that this important program continues.

### Secure the Institute's Future

Your gift to the Institute allows us to properly maintain our equipment, technology, and infrastructure, and ensures that any reduction in revenue from print publications will not inhibit ALI's work.

To inquire about making a donation, please contact Kyle Jakob, Senior Development Manager, at 215-243-1660 or [kjakob@ali.org](mailto:kjakob@ali.org).

**To make a gift online, please visit [www.ali.org/support](http://www.ali.org/support).**

# The 1998 Life Member Class Gift

The 1998 Life Member Class Gift, totaling a record-setting \$253,150, was presented to the Institute on Tuesday, May 23, 2023, during a luncheon held in honor of ALI's new Life and 50-year members. The campaign was led by the 1998 Class Committee, composed of Chair Pamela Samuelson of University of California, Berkeley School of Law; David John Burman of Perkins Coie LLP; Michele C. Kane of The Walt Disney Company (Retired); Leo P. Martinez of Andersen Tax LLC; and Victor A. Vilaplana of Practus LLP. The Class Gift will be used to fund important aspects of the Institute's mission, including our travel assistance programs, the Early Career Scholars Medal and annual conference, and initiatives to make our work more accessible by providing free public access.

To date, more than \$2 million has been raised by the Class Gift program, now in its twelfth year, to support these key initiatives. The American Law Institute celebrates each gift that contributed to the success of this campaign. We deeply appreciate your generosity.

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Charitable contributions to the Institute help to ensure that ALI's work continues uncompromised. We thank the following individuals, foundations, and organizations for their generosity during the 2022-2023 fiscal year.

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