

# 2019 ANNUAL REPORT

## To the friends of the Pound Institute:

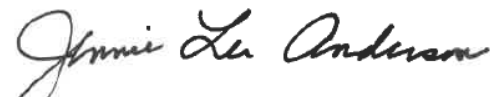
As part of its mission to preserve and strengthen the U.S. civil justice system, the Pound Institute develops programs to educate judges, partner with law schools to further academic inquiry into issues pertaining to the civil justice system, and recognize outstanding achievement among scholars and practitioners. Thanks to the support of people like you—Pound’s dedicated Fellows— we’ve made great advances in furthering the principles of civil justice, with big plans for the year ahead.

- ▮ We held our **27<sup>th</sup> Judges Forum** in San Diego on July 27, 2019. The subject was **Aggregate Litigation in State Courts: Preserving Vital Mechanisms**. 121 judges from 30 states attended this one-day educational program and gave the Forum excellent ratings. The Forum report will be distributed in February 2020. *Details inside.*
- ▮ We partnered with Lewis & Clark Law School to present an outstanding **Academic Symposium** on Nov. 1-2, 2019 in Portland, OR. **Class Actions, Mass Torts, and MDLs: The Next 50 Years** featured a world-class faculty of judges, law professors and attorneys who debated 11 academic papers before an overflow crowd. The reviews were overwhelmingly positive. *Details inside.*
- ▮ We presented our fifth **Appellate Advocacy Award** to the attorneys for the plaintiffs in two crucial U.S. Supreme Court victories: Jennifer Bennett of Public Justice for *New Prime Inc. v. Oliveira*; and the team of Deyse Clancy, William Harty, Thomas Goldstein, Richard Myers, and Jonathan Ruckdeschel for *Air & Liquid Systems Corp. et al. v. DeVries et al.* *Details inside.*
- ▮ We awarded our first-ever **Civil Justice Scholarship Award** to Prof. Alexandra Lahav (UConn) for her book, *In Praise of Litigation*, during our Fellows Reception in Miami Beach in February. The award was established to recognize current scholarly legal research and writing focused on topics in civil justice, and to encourage such important research in the future. *Details inside.*
- ▮ The 9<sup>th</sup> Annual **Howard Twiggs Memorial Lecture on Legal Professionalism** was delivered during the AAJ annual convention in San Diego by Daniel Clayton, Esq. on behalf of Randall Kinnard, Esq. on the topic of *Respect: A Successful Lawyer’s Secret Weapon*.
- ▮ Planning is under way for our **2020 Judges Forum**, to be held in Washington, D.C. on July 11, which will address **“Dangerous Secrets: Confronting Confidentiality in Our Public Courts.”** As always, the Institute has invited all state appellate court judges to attend and will provide registrants with complimentary travel accommodations. *Details inside.*
- ▮ We hosted two festive **Fellows receptions** in San Diego and Miami Beach, where Pound Fellows, members of the judiciary, and legal academics celebrated the Institute’s work. All Pound Fellows are invited to attend free of charge.
- ▮ We are grateful to the 13 members of our top membership level—**Jury Guardian**. Their generous support directly enhances Pound’s programming, allowing us to continue important work with judges and law schools.
- ▮ Currently 26 state trial lawyer organizations are **Pound Justice Association Members**, whose support directly benefits the education of state appellate court judges through our Judges Forum.
- ▮ Our membership and leadership ranks continue to expand and reflect the youth, vitality, and diversity of the trial bar. We have *ex officio* trustees representing AAJ’s Minority Caucus, Women Trial Lawyer Caucus, New Lawyer Division, and LGBT Caucus.

For these successes, we sincerely thank our dedicated members—**Pound Fellows**—for their ongoing support of the Institute’s work. We could not have accomplished all that we did this year without the membership and program donations made by Pound’s supporters. We hope you will consider **upgrading your membership** to the highest level possible or **making a year-end donation** to Pound’s general fund or to one of our programs.

With your help, we can keep growing and supporting the civil justice system in our unique way, bringing together judges, legal academics, and practitioners like yourself.

Sincerely,



Jennie Lee Anderson, President

# POUND'S JUDGES FORUM & ACADEMIC SYMPOSIA: EDUCATION AND RESEARCH ON VITAL LEGAL ISSUES

Pound's periodic **Academic Symposia** offer an opportunity to partner with the nation's law schools in bringing together renowned academics, members of the judiciary, and practitioners to address legal issues and trends impacting the U.S. civil justice system. Symposium papers are published in the law school's law review.

The Institute's annual **Forum for State Appellate Court Judges** is the consumer bar's most effective outreach to the state judiciary, amidst a sea of comparable programs supported by corporate interests. All currently sitting state appellate judges are invited to this complimentary one-day educational conference.

## 2019 Symposium -- Class Actions, Mass Torts, and MDLs: The Next 50 Years

Pound presented with Lewis & Clark Law School **Class Actions, Mass Torts and MDLs: The Next 50 Years** on Nov.



Prof. Judith Resnik

1–2, in Portland, OR. The program featured a world-class faculty of professors, judges, and attorneys, and was held before an overflow audience. The group considered 11 academic papers on the current landscape of state court MDLs and class actions, the impacts of forced arbitration clauses, Federal Rule of Civil Procedure 23 amendments, the future of mass torts, appellate issues in complex civil litigation, *cy pres* in class actions, the role of attorneys in MDLs, class actions as a means of private enforcement, and the role of class actions in social justice reform.

Faculty included professors Lynn Baker, Robert Bone, Zachary Clopton, Joshua Davis, Brian Fitzpatrick, Samuel Issacharoff, Robert Klonoff, Alexandra Lahav, David Marcus, Arthur Miller, Alan Morrison, David Noll, Teddy Rave, Judith Resnik, Briana Rosenbaum, Adam Steinman, and Beth Thornburg; judicial faculty included Oregon Supreme Court Justice Thomas Balmer, Judge Robert Dow, Jr. (ND-IL), Judge Robert Freedman (ret.) of the Superior Court of California, and Judge David Herndon (ret.) (SD-IL); attorney faculty included Jennie Anderson, Lori Andrus, Jennifer Bennett, Elizabeth Cabraser, Sarah Crooks, Sindhu Daniel, Brian Devine, Steve Herman, Jocelyn Larkin, Ellen Relkin, Gerson Smoger, and David Sugerman. The papers will be

published in a forthcoming issue of the Lewis & Clark Law Review.

## 2019 Forum -- Aggregate Litigation in State Courts: Preserving Vital Mechanisms

Our 2019 Judges Forum, held in San Diego on July 27, addressed **Aggregate Litigation in State Courts: Preserving Vital Mechanisms**. We hosted 121 judges from 30 states at this well-received conference. Law professors prepared and presented original research papers: Prof. Teddy Rave (Houston) presented "Federal Trends Affecting Aggregate Litigation in the State Courts;" Prof. Myriam Gilles (Cardozo) presented "Rethinking Multijurisdictional Coordination of Complex Mass Torts." Panels of legal experts debated the recent impediments to aggregate litigation implemented on the federal level, explored emerging trends in aggregate litigation in the United States, and outlined ways in which state courts can preserve these vital mechanisms of re-dress for their citizens. The report of the 2019 Forum will be available in February.

## 2020 Forum -- Dangerous Secrets: Confronting Confidentiality in our Public

Pound's 2020 Forum will take place in Washington, D.C. on July 11, addressing **Dangerous Secrets: Confronting Confidentiality in Our Public Courts**. A considerable range of American legal proceedings and certain out-of-court agreements are kept secret—sometimes with

deadly results. During civil litigation, information is frequently sought from or about prior suits to save time and expense in discovery, to test the veracity of defense filings, and to assist similarly affected clients. Typically, defendants do not want adversaries to be able to share information produced in discovery, and they sometimes try to keep secret even the fact that there has been litigation.

While proponents argue that the purpose of secrecy is merely to protect the parties' privacy, often it veils dangerous products and practices, to the detriment of consumers and workers.

At the 2020 Judges Forum, legal scholars, judges, practitioners, and members of the news media will discuss the nature and extent of secrecy in our publicly-financed American courts and in the larger environment of negotiation, and will consider means to combat dangerous secrecy in civil litigation.



## Recognition of Excellence



The Institute awarded its first **Civil Justice Scholarship Award** to Alexandra Lahav (UConn) for her book, *In Praise of Litigation*. Lahav received a \$10,000 honorarium, and travelled with her family to receive the award at the Pound Fellows reception on February 3, 2019 in Miami. High Distinction went to Myriam Gilles (Cardozo) and to Suja Thomas (Illinois) for their works.



Alexandra Lahav



In July we presented Pound's **Appellate Advocacy Award** to the lawyers for the plaintiffs of two crucial U.S. Supreme Court cases decided in 2019. **Jennifer Bennett** of Public Justice was recognized for her unanimous victory in *New Prime Inc. v. Oliveira*, which held that a trucking company could not apply the Federal Arbitration Act to their employees seeking redress for wage theft. The team of **Denyse Clancy, William Harty, Thomas Goldstein, Richard Myers, and Jonathan Ruckdeschel** was honored for their victory in *Air & Liquid Systems Corp. et al. v. DeVries et al.* *Devries* held that, under maritime law, product manufacturers have a duty to warn when they have reason to know that a product is likely to be dangerous (i.e. containing asbestos) when integrated and used as intended. The Awards were presented at our Fellows Reception in San Diego.

## Feedback on Pound's Programs

### The Judges Forum

"It is by far the best educational programming I attend."

"The Forum is very important to the judicial process."

"Rarely have I received such a comprehensive education in a one-day seminar."

"A fascinating and invaluable learning experience."

"Far and away the best – consistently excellent."

### Academic Symposia

"The symposium was top-notch... from start to finish."

"I have chaired/attended countless conferences; rarely have I seen such impressive, substantive panels."

"Outstanding presentations by...world class panels."

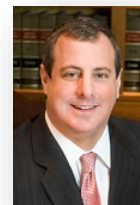
"You have set a new, very high bar for conferences and symposia everywhere."

## 2019-20 Pound Officers



President

Jennie Anderson



Vice President

Stephen Herman



Treasurer

Gerson Smoger



Secretary

Christopher Nace



Imm. Past President

Patrick Malone

## 2019-20 Pound Trustees

Jennie Lee Anderson - *San Francisco, CA*

N. John Bey - *Atlanta, GA*

Jan M. Conlin - *Minneapolis, MN*

Robert H. Edwards - *Little Rock, AR*

Caragh Fay - *Washington, D.C.*

Stephen J. Herman - *New Orleans, LA*

Michelle L. Kranz - *Toledo, OH*

Adam J. Langino - *Palm Beach Gardens, FL*

Patrick A. Malone - *Washington, D.C.*

Shawn Joseph McCann - *Beverly Hills, CA*

Andre M. Mura, *Oakland, CA*

Ellen A. Presby - *Dallas, TX*

Todd A. Smith - *Chicago, IL*

Alinor Sterling - *Bridgeport, CT*

David G. Wirtes, Jr. - *Mobile, AL*

Zachary L. Wool - *New Orleans, LA*

Brandi Gatewood, *Ex-officio*

Raymond Jones, *Ex-officio*

Tobias L. Millrood, *Ex-officio*

Shenoa Payne, *Ex-officio*

Leslie Pescia, *Ex-officio*

Elise R. Sanguinetti, *Ex-officio*

Bruce Stern, *Ex-officio*

### STAFF

Mary P. Collishaw, Executive Director

James E. Rooks, Jr., Consultant

Brittany Lane, Staff Assistant

Phone: 202-944-2841 • Fax: 202-298-6390

777 Sixth Street, NE, Suite 200, Washington, DC 20001

[www.poundinstitute.org](http://www.poundinstitute.org) • [info@poundinstitute.org](mailto:info@poundinstitute.org)



## Broad Support for Pound's Work

Pound Fellows are the key to the Institute's broad reach. The generous support of attorneys and state justice organizations helps Pound foster a strong civil justice system. We appreciate the support of all our Fellows (see enclosed list), and are especially grateful for:

### Jury Guardian Fellows & Firms

Andrus Anderson, L.L.P. – San Francisco, CA  
Banafsheh, Danesh & Javid, PC – Beverly Hills, CA  
Ciresi Conlin, LLP – Minneapolis, MN  
Robert A. Clifford – Chicago, IL  
Fay Law Group, PA – Washington, D.C.  
Koskoff, Koskoff & Bieder, P.C. – Bridgeport, CT  
Lief Cabraser Heimann & Bernstein, L.L.P. – San Francisco, CA  
Patrick Malone & Associates, P.C. – Washington, D.C.  
Robins Kaplan L.L.P. – Minneapolis, MN  
Russomanno & Borrello, PA – Miami, FL  
Todd A. Smith – Chicago, IL  
Smoger Law Firm – Dallas, TX  
Walkup, Melodia, Kelly & Schoenberger – San Francisco, CA  
Weitz & Luxenberg PC – New York, NY

### Partner Fellows

Lisa Blue Baron – Dallas, TX  
Thomas D'Amore – Portland, OR  
Brian Garelli & Associates – Chicago, IL

### State Justice Association Members

Alabama Association for Justice  
Arkansas Trial Lawyers Association  
Consumer Advocates of California  
Connecticut Trial Lawyers Association  
Delaware Trial Lawyers Association  
D.C. Trial Lawyers Foundation  
Florida Justice Association  
Georgia Trial Lawyers Association  
Hawai'i Association for Justice  
Illinois Trial Lawyers Association  
Indiana Trial Lawyers Association  
Kansas Association for Justice  
Louisiana Association for Justice  
Maryland Association for Justice  
Michigan Association for Justice  
Minnesota Association for Justice  
Mississippi Association for Justice  
Montana Trial Lawyers Association  
Nebraska Association of Trial Attorneys  
New York State Trial Lawyers Association  
North Carolina Advocates for Justice  
North Dakota Association for Justice  
Ohio Association for Justice  
Oregon Trial Lawyers Association  
South Carolina Association for Justice  
Washington State Association for Justice

## Pound's History & Legacy

The Pound Civil Justice Institute was established in 1956 by a group of trial lawyers to honor and build



upon the work of Roscoe Pound (1870–1964), Dean of the Harvard Law School from 1916 to 1936. Roscoe Pound is widely considered an expert on common law and the founder of sociological jurisprudence—an interdisciplinary approach to legal concepts in which the law is seen as a dynamic system influ-

enced by social conditions and that, in turn, influences society as a whole.

Pound's mission is to support the U.S. civil justice system and to carry the message of the trial bar to the judiciary and law schools. Over its many years, the Institute has engaged in a variety of activities for the judiciary, legal practitioners, and the legal academic community, including: the Chief Justice Earl Warren Conferences; grants for academic research; academic symposia; multidisciplinary roundtable discussions; recognition of achievements of practitioners, law professors and students; lectures for practitioners on legal professionalism; publication of research, Forums and Symposia; cooperative publications on the U.S. legal system; and our continuing State Appellate Judges Forum.

Every member of the bar who is in good standing and who supports a strong American civil justice system is invited to become a Pound Fellow. **We hope that you will join the hundreds of other attorneys who are Pound Fellows**, and support Pound's work at the highest level you can afford. Membership levels start at \$15/month or \$200/year, and are tax-deductible to the fullest extent allowable by law. Interested Fellows serve on Pound committees and have further opportunities for engagement. More information can be found at [www.poundinstitute.org](http://www.poundinstitute.org).



### **POUND CIVIL JUSTICE INSTITUTE**

777 SIXTH STREET, NW, SUITE 200, WASHINGTON, DC 20001  
202-944-2841 / INFO@POUNDINSTITUTE.ORG

[WWW.POUNDINSTITUTE.ORG](http://WWW.POUNDINSTITUTE.ORG)

TEXT **POUND** TO **43506** TO GET STARTED.