



## THE FUTURE OF SUBSTANTIVE DUE PROCESS: WHAT ARE THE STAKES?

Academic Symposium cosponsored by NCJI and SMU Dedman School of Law

March 31-April 1, 2023

### FACULTY BIOGRAPHIES



**Alicia Bannon** is the director of the Judiciary Program at the Brennan Center for Justice, where her work focuses on promoting a fair judicial system and an inclusive democracy. She manages the Brennan Center's projects on fair courts and redistricting, overseeing teams of lawyers and researchers engaged in policy advocacy, litigation, legislative campaigns, and research and analysis. She is an experienced constitutional lawyer and an expert on court reform, access to justice, electoral redistricting, and fair representation in government. Bannon has also been a Liman Fellow and counsel in the Brennan Center's Justice Program.

She graduated from Harvard College, summa cum laude, with a degree in social studies, and received her J.D. degree from Yale Law School. She clerked for the Hon. Kimba M. Wood in the United States District Court for the Southern District of New York and for the Hon. Sonia Sotomayor in the United States Court of Appeals for the Second Circuit. Before law school she worked in Kenya and Uganda, managing impact evaluations of education and health interventions, and at the Center for Global Development in Washington, D.C..



**Randy E. Barnett** is the Patrick Hotung Professor of Constitutional Law at the Georgetown University Law Center, and is the Faculty Director of the Georgetown Center for the Constitution. After graduating from Northwestern University and Harvard Law School, he tried felony cases as a state prosecutor in Chicago. A recipient of a Guggenheim Fellowship in Constitutional Studies, Professor Barnett has been a visiting professor at Penn, Northwestern, and Harvard Law School. Professor Barnett's publications include 12 books, more than 150 articles and reviews, and numerous op-ed articles. His most recent book is

*THE ORIGINAL MEANING OF THE FOURTEENTH AMENDMENT: ITS LETTER AND SPIRIT* (2021) (with Evan Bernick). In 2004, he argued the medical marijuana case of *Gonzalez v. Raich* before the U.S. Supreme Court. In 2012, he was one of the lawyers representing the National Federation of Independent Business in its constitutional challenge to the Affordable Care Act in *NFIB v. Sebelius*. He has appeared in numerous documentaries, including PBS's *Constitution USA* with Peter Sagal and *A More or Less Perfect Union* with Judge Douglas Ginsburg; and he portrayed a prosecutor in the 2010 science-fiction feature film, *InAlienable: The Movie*.



**Dustin Benham** serves as the Charles P. Bubany Endowed Professor of Law at Texas Tech University. He studies and writes about civil litigation. Professor Benham has been recognized as a leading voice on the constitutional, common-law, and procedural rights of public access to civil court proceedings and information. He teaches and studies civil procedure, evidence, and advocacy. Among other areas, his research focuses on transparency and confidentiality in civil courts. Professor Benham is a member of the State Bar of Texas.



**Jennifer Bennett** is a principal at Gupta Wessler PLLC, where she heads the firm's San Francisco office and focuses on cutting-edge public interest and plaintiff-side appellate litigation. Her practice covers a wide range of issues, including civil rights, consumer protection, constitutional law, workers' rights, and government transparency. Jennifer regularly litigates before the U.S. Supreme Court, including recently arguing and winning two landmark victories on behalf of workers challenging forced arbitration in *Saxon v. Southwest* (2022) and *New Prime Inc. v. Oliveira* (2019). Her victory in *New Prime* was the first case in over a decade in which the Supreme Court ruled in favor of the party challenging arbitration.

Jennifer frequently represents journalists, media organizations, and nonprofits challenging government secrecy, including winning a groundbreaking case in the Ninth Circuit vindicating the public's right to access court records. Jennifer earned her A.B. from Yale University and her J.D. from Yale Law School. Before joining Gupta Wessler she was an attorney at Public Justice, where she focused on public interest appellate litigation.



**F. Paul Bland, Jr.**, began working with the Public Justice organization as a staff attorney in 1997, and became its Executive Director in 2014. He leads its legal and foundation staff, guiding the organization's litigation docket and other advocacy efforts. Paul has argued and won more than 40 cases that led to reported decisions for consumers, employees or whistleblowers, including one victory in the U.S. Supreme Court, and has won one or more cases in six of the U.S. Courts of Appeals and the highest courts of 10 different states. Most recently, Paul successfully argued before the Supreme Court in *Home Depot, U.S.A. v. Jackson* (2019), in which the Court held that neither the general removal statute nor the Class Action Fairness Act permits removal to federal court by a third-party counterclaim defendant.



**Harold Braswell** is an associate professor of health care ethics at Saint Louis University. His research takes a disability studies approach to bioethical questions at the end of life, with a particular focus on euthanasia. Drawing on the history of medicine and medical anthropology, he argues for the importance of studying these topics in the particular policy contexts that shape them. This goal informed his book *THE CRISIS OF U.S. HOSPICE* (Johns Hopkins 2019), as well as his current book project, *INHOSPITABLE: HOW HOUSING DISCRIMINATION SHAPES THE WAY WE DIE*. In addition to his scholarship, he practices as a psychodynamic psychotherapist. He is interested in the relationship between social work and bioethics, as

well as the potential relevance of psychoanalysis to both those fields. He welcomes further engagement on those topics.



**Kathy Cerminara** is a professor at Nova Southeastern University's Shepard Broad College of Law, and is an affiliate faculty member at NSU's Dr. Kiran C. Patel College of Allopathic Medicine. Her work bridges the medical and legal professions with her work on patients' rights at the end of their lives. She co-authors the nationally known treatise, *THE RIGHT TO DIE: THE LAW OF END-OF-LIFE DECISIONMAKING*, and is a reviewer for several medical and medical-legal journals. Her recent scholarship has focused on the intersection between end-of-life care, palliative care, and health care coverage policy. For the International Academy of Law & Mental Health she has co-organized the stream of therapeutic jurisprudence presentations for bi-annual Congresses in Amsterdam, Vienna, Prague, and Rome.



**Erwin Chemerinsky** is Dean and Jesse H. Choper Distinguished Professor of Law at the University of California, Berkeley, School of Law. Prior to assuming this position he was the founding dean of the University of California, Irvine, School of Law, and a professor at Duke Law School, the University of Southern California Law School, and the DePaul Law School. He is the author of 15 books and over 200 law review articles. He frequently argues appellate cases, including in the United States Supreme Court. In 2022, he was the President of the Association of American Law Schools.



**Matthew C. Clifford** is the Law Fellow at Public Justice. He litigates cases across Public Justice's diverse issue areas, with a focus on forced arbitration and other access to justice issues in civil litigation. Before law school, Matt advocated for Catalans' right to self-determination as a communications officer for the Government of Catalonia. He holds a B.A. in international relations and Hispanic studies from Brown University, an M.Sc. in contemporary democracy studies from the Universitat Pompeu Fabra in Barcelona, and a J.D. from Columbia Law School, where he was a James Kent and Harlan Fiske Stone Scholar.



**David Charles Godbey** is the Chief Judge of the United States District Court for the Northern District of Texas. He received Bachelor of Science and Bachelor of Science in Electrical Engineering degrees from Southern Methodist University in 1978 and a Juris Doctor from Harvard Law School in 1982. He was in private practice in Dallas from 1983 to 1994, served as a state judge from 1994 to 2002, and was nominated for the U.S. District Court by President George W. Bush in 2002.



**Simona Grossi** graduated from LUISS University, Rome, Italy in 2002. She completed LL.M. and J.S.D. programs at UC Berkeley School of Law. She worked for the U.N. from 2000 to 2002 and then went into private practice, doing national and transnational litigation from 2002 to 2008. Professor Grossi joined Loyola Marymount University's Loyola Law School in 2010. She was elected to the American Law Institute in 2011, and is a member of the International Association of Procedural Law (IAPL). Her scholarship focuses on civil procedure, constitutional law, and federal courts. Professor Grossi is also a fiction writer, a pianist, a conductor, and is the founder and Music Director of the LLS Orchestra, which she founded in 2020.

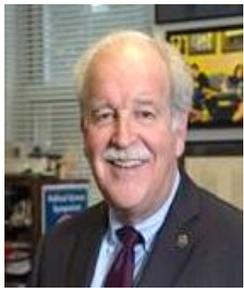


**Helen Hershkoff** Helen Hershkoff is the Herbert M. and Svetlana Wachtell Professor of Constitutional Law and Civil Liberties at New York University School of Law, which she joined in 1995 after practicing law for almost twenty years at the American Civil Liberties Union, The Legal Aid Society, and Paul Weiss Rifkind Wharton & Garrison. At NYU, her scholarship and teaching focus on civil procedure, federal jurisdiction, and state constitutions, and she is a co-director of the Arthur Garfield Hays Civil Liberties Program. She is a co-author of a leading casebook on civil procedure, a co-editor of an admired book on comparative civil procedure, and co-author of the WRIGHT & MILLER treatise focusing on the United States as a party. She holds a B.A. from Harvard College, an M.A. in modern history from Oxford University which she attended as a Marshall Scholar, and a J.D. from the Harvard Law School.



**Johanna Kalb** is Dean of the University of Idaho College of Law, the first woman to serve in this role. Prior to her deanship, Dean Kalb was the Edward J. Womac Jr. Distinguished Professor of Law at Loyola University New Orleans School of Law. Her research and teaching interests include constitutional law, federal courts, and the law of detention and democracy. She is a co-author of *HUMAN RIGHTS ADVOCACY IN THE UNITED STATES* (West 2014), the first law school textbook focused on domestic human rights. Her recent scholarship appears in law journals and online journals of U.C. IRVINE, YALE, STANFORD, WASHINGTON UNIVERSITY, AND NYU. From 2014 to 2016, Kalb served as Visiting Associate

Professor of Law and Director of the Arthur Liman Public Interest Program at Yale Law School. Dean Kalb is an academic fellow of the National Civil Justice Institute. She is a graduate of Yale Law School and the Johns Hopkins University School of Advanced International Studies, where she completed her M.A. in International Relations with a focus on African Studies.



**Joseph Kobylka** is a professor and Chair of the Political Science Department at SMU. He earned his B.A., with honors, in government and history at Beloit College in 1978 and his Ph.D. in political science from the University of Minnesota in 1984. Since joining the SMU faculty in 1983, he has published three books: *THE POLITICS OF OBSCENITY* (Greenwood, 1990); *PUBLIC INTEREST LAW: AN ANNOTATED BIBLIOGRAPHY* (Garland, 1992); and *THE SUPREME COURT AND LEGAL CHANGE: ABORTION AND THE DEATH PENALTY* (University of North Carolina Press, 1992), as well as several journal articles and book chapters. His teaching interests touch on constitutional law and politics, judicial decisionmaking, and American political thought. His lecture series “Cycles of American Political Thought” was published by the Teaching

Company, and he was a major contributor to the PBS series, *The Supreme Court*. He is currently finishing a biography of former Supreme Court Justice Harry A. Blackmun (forthcoming from the University of Virginia Press), and plans next to turn to a study of recent church-state litigation.



**Nancy Leong** teaches at the University of Denver’s Sturm College of Law, where she is Associate Dean for Faculty Scholarship and William M. Beaney Memorial Research Chair. She was selected for the Distinguished Scholar Award for the 2017-2018 academic year. She was also the 2015 recipient of the Conference of Asian Pacific American Law Faculty 2015 Eric K. Yamamoto Award for excellence in scholarship and teaching. Professor Leong has published extensively on topics related to constitutional rights and remedies, criminal procedure, anti-discrimination law, law and culture, and judicial decisionmaking. Her scholarship has appeared or will appear in the law journals of Berkeley, Cornell, Georgetown, Harvard, Northwestern, Stanford, Virginia and Yale, as well as the *JOURNAL OF LEGAL EDUCATION*, among many others. Her first book, *IDENTITY CAPITALISTS*, was published by Stanford University Press in 2021. The Sturm student body voted her “Most Outstanding Faculty Member” in 2021 and 2022.



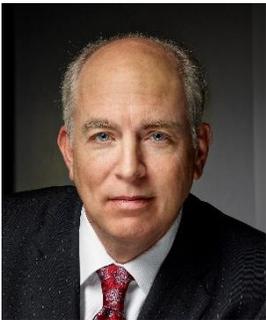
**Robin Maril** is an Assistant Professor of Law at Willamette University teaching Constitutional Law, Administrative Law and Health Law. Her current scholarship explores the intersection of constitutional law and administrative law with a focus on nondiscrimination, religious freedom, and LGBTQ equality. Prior to entering teaching, Professor Maril served as the associate legal director at the Human Rights Campaign. Professor Maril’s work at HRC focused on federal laws and policies impacting LGBTQ people, including the administrative preparation and implementation of *U.S. v. Windsor* and *Obergefell v. Hodges*.



**Jonathan Marshfield** teaches at the University of Florida Levin College of Law. He writes in the areas of local government law, state constitutional law, and constitutional change. His research has been published in the law journals of the University of Pennsylvania Law Review, Northwestern, Boston University, and Michigan, among others. His state constitutional law research has been cited by the New Jersey Supreme Court, and his research into constitutional change has been cited by leading scholars in law reviews, textbooks, and academic journals. Professor Marshfield has also served as a consultant to foreign officials regarding issues of constitutional revision, and he has advised public policy groups regarding voter awareness and ballot issues. Professor Marshfield has also taught at the University of Nebraska College of Law, where he twice won the Professor of the Year award, and at the University of Arkansas School of Law. He practiced commercial litigation with Latham & Watkins LLP and Saul Ewing LLP.



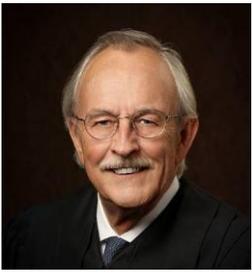
**Thomas Wm. Mayo** is Senior Associate Dean for Academic Affairs and the Altshuler Distinguished Teaching Professor at Southern Methodist's Dedman School of Law. He has taught and written on numerous subjects, including prominently health care law. He received his B.A. degree from Amherst College and his J.D. degree from Syracuse University College of Law. His most recent book is *TELEMEDICINE: SURVEY AND ANALYSIS OF FEDERAL AND STATE LAWS* (AHLA, March 2007) (co-authored), and his two most recent articles are the forwards to SMU symposium issues, *Cruzan and the 'Right to Die'*, 73 SMU LAW REV. 3 (2020), and *Foundational Voices in 2020 and Beyond*, 73 SMU LAW REV. FORUM 23 (2020). Dean Mayo has played a pivotal role in bringing this Symposium to SMU.



**Thomas M. Melsheimer**, of Winston & Strawn's Dallas office, maintains a broad civil and criminal trial practice in state and federal courts through the U.S. On the civil side, he has tried to verdict cases involving patent infringement, trade secrets, insider trading, antitrust, breach of fiduciary duty, fraud, product liability, and FCA violations. On the criminal side, he has tried to verdict cases involving bank fraud, public corruption, copyright infringement, aggravated sexual assault, and kidnapping. Prior to joining private practice, Tom served as a federal prosecutor in Dallas, for which he was honored by the Justice Department one of the nation's top prosecutors.



**Seema Mohapatra** holds the MD Anderson Foundation Endowed Professorship in Health Law at SMU Dedman School of Law. She received her B.A. from Johns Hopkins, an M.P.H. from Yale, and her J.D. from Northwestern Pritzker School of Law. Her research centers around health care equity, the intersection of biosciences and the law, assisted reproduction and surrogacy, reproductive justice, and public health law. Professor Mohapatra is a co-editor of two books: *FEMINIST JUDGMENTS: HEALTH LAW REWRITTEN* (Cambridge 2022); and *REPRODUCTIVE TECHNOLOGIES AND THE LAW* 3<sup>rd</sup> ED. (Carolina Academic Press, 2022).



**Kenneth H. Molberg** is a Justice of the Fifth District Court of Appeals in Dallas, Texas, and previously served as a District Court Judge. He is a graduate of the University of North Texas and the SMU Dedman School of Law. Before taking the bench, Justice Molberg was a trial lawyer for more than 33 years, trying hundreds of civil matters in state and federal courts, with a special concentration in the area of Labor and Employment Law. He also had substantial state and federal appellate experience. Justice Molberg has been active in numerous judicial and bar organizations.



**Christopher T. Nace**, of Washington, D.C., is the President of the National Civil Justice Institute. He graduated from Georgetown University with a degree in Government, and from Emory University with both J.D. and M.B.A. degrees in 2003. He was Editor-in-Chief of the *EMORY LAW JOURNAL*, was recognized as the Rothfeder Family Scholar, and was awarded the Emory School of Law Dean's Public Service Award. Chris is a Past President of the Trial Lawyers Association of Metropolitan Washington, D.C., and is a member of the Executive Committee of the American Association for Justice (AAJ). He sits on the Boards of the Public Justice Foundation and the National Capital Region Living Classrooms Foundation.



**Jason P. Nance** is the Judge James Noel Dean and Professor of Law at SMU Dedman School of Law. He holds a B. A. from Brigham Young University, M.A. and Ph.D. degrees from The Ohio State University, and a J.D., from the University of Pennsylvania Law School. Prior to joining SMU, Dean Nance taught at the University of Florida Levin College of Law. Dean Nance's scholarship explores the intersection between law, education policy, and the criminal justice system using empirical and legal methodologies. His research has been cited extensively by courts, by parties and amici in litigation, in law journals, books, treatises, and social science journals, and featured in numerous national media outlets. He served as the reporter for the American Bar Association's Joint Task Force on Reversing the School-to-Prison Pipeline, for which he co-authored a report and proposed resolutions that were adopted by the ABA.



**Erin A. Nowell** is a Justice of the Fifth District Court of Appeals in Dallas, Texas. She earned her B.A. from Wake Forest University, and her J.D. from the University of Texas School of Law in Austin. Prior to taking the bench, she practiced as a civil litigator with a focus on toxic tort litigation and large-scale mass torts. Justice Nowell has held numerous leadership positions in the Dallas Bar Association, and currently serves on its Board of Directors. She is a Past President of the J. L. Turner Legal Association (the African-American bar association of Dallas), and has been a leader in the Dallas Branch of the NAACP. Justice Nowell has also served on the executive committee of the Minority Caucus of the American Association for Justice (AAJ) and as a Barrister of the Patrick E. Higginbotham Inn of Court, and is currently a Master in the Mac Taylor Inn of Court.



**Gale Pearson** is Vice President of the National Civil Justice Institute. She is Senior Counsel and heads the Nachawati Law Group's Public Client division located in Dallas, Texas and Minneapolis, MN. Her practice concentrates on complex litigation, ranging from environmental law to pharmaceutical and medical device litigation to Qui Tam prosecution. She received her bachelor's degree from California State University at Northridge with a major in Laboratory Medicine, Physics and Chemistry, and her law degree from Loyola Law School in Los Angeles. She has played pivotal roles in MDL litigations, serving on science committees, and, in a class action against a tobacco

company, as lead counsel. In 2003, U.S. Supreme Court Justice Stephen Breyer presented her the Outstanding Pro Bono Service Award for her work in the September 11th Victim Compensation Fund. Gale is a member of the Minnesota and American Associations for Justice and the American Bar Association and is an executive board member of the Public Justice organization, a Super Lawyer and a Top Woman lawyer in Minnesota and Texas. She is a frequent lecturer on complex legal topics including intersections of science and the law.



**John Pollock** has been the Coordinator of the National Coalition for a Civil Right to Counsel (NCCRC) since 2009. He graduated from Wesleyan University and Northeastern University School of Law. Before moving to NCCRC, he was a Fellow at the Southern Poverty Law Center and served as Enforcement Director at the Central Alabama Fair Housing Center. John is the author of articles published in *Court Review*, and the law journals of Drake University Law School and the University of Pennsylvania. He was the recipient of the National Legal Aid & Defender Association's 2018 Innovations in Civil Justice Award.



**Ellen A. Presby** specializes in pharmaceutical litigation throughout the U.S. for the law firm of Ferrer, Poirot & Wansbrough in Dallas, TX. She earned a bachelor's degree at the University of California, Davis, and her law degree at the SMU Dedman School of Law. Ellen is licensed in Texas, Arizona, and Pennsylvania. Outside the courtroom, she serves as Adjunct Professor at SMU Dedman School of Law where she teaches products liability law. She is an officer of the board of the Public Justice Foundation, a trustee of the National Civil Justice Institute, a member of the American Board of Trial Advocates and its Dallas Chapter Executive Committee, and has been Co-chair of the Tort Trial & Insurance Practice (TIPS) section of the American Bar Association.



**Judith Resnik** is the Arthur Liman Professor of Law at Yale Law School and the Founding Director of the Arthur Liman Center for Public Interest Law. She teaches courses on federalism, procedure, courts, prisons, equality, and citizenship. Her scholarship focuses on: the relationship of democratic values to government services such as courts, prisons, and post offices; the role of collective redress and class actions; contemporary conflicts over privatization; the relationships of states to citizens and non-citizens; the interaction among federal, state, and tribal courts and the forms and norms of federalism; practices of punishment; and equality and gender.

Professor Resnik's books include *REPRESENTING JUSTICE: INVENTION, CONTROVERSY, AND RIGHTS IN CITY-STATES AND DEMOCRATIC COURTROOMS* (with Dennis Curtis, Yale University Press, 2011); *FEDERAL COURTS STORIES* (co-edited with Vicki C. Jackson, Foundation Press, 2010); and *MIGRATIONS AND MOBILITIES: CITIZENSHIP, BORDERS, AND GENDER* (co-edited with Seyla Benhabib, NYU, 2009). In 2014, Resnik was the co-editor (with Linda Greenhouse) of the Daedalus volume, *THE INVENTION OF COURTS*.



**Shelly Skeen** is a Senior Attorney for Lambda Legal, the oldest and largest national legal organization committed to achieving the full recognition of civil rights for lesbians, gay men, bisexuals, transgender people, and everyone living with HIV. Shelly is a seasoned litigator, mediator, trial advocacy instructor, and appellate practitioner. She has served as the Chair, Vice Chair, and Council Member of the LGBT Law Section for the State Bar of Texas and as President and Vice-President of the Dallas LGBT Bar Association. She has been a frequent speaker and author on a variety of LGBT-related topics, including the retroactivity of the Supreme Court's *Obergefell* decision; the First Amendment; public accommodation laws, and LGBTQ family law and estate planning.



**Paul Smith** is a Professor from Practice at Georgetown Law and Senior Vice President at the Campaign Legal Center, a nonprofit that works to promote and protect American democracy. For more than 30 years he was in private practice, primarily at Jenner & Block, where he headed the Appellate and Supreme Court Practice. He has argued 21 U.S. Supreme Court cases including *Lawrence v. Texas* (2003) and a number of election-related cases. In 2010, The National Law Journal named him one of the “Decade’s Most Influential Lawyers,” and the ABA Section of Civil Rights and Social Justice gave him its prestigious Thurgood Marshall Award for his work promoting civil rights and civil liberties. Professor Smith attended Amherst College and Yale Law School, where he was Editor-in-Chief of the Yale Law Journal.



**Noah Smith-Drelich** is an assistant professor at Chicago-Kent College of Law. He is a graduate of Stanford Law School. He has worked as an attorney at Korein Tillery, as a staff attorney for the American Civil Liberties Union’s North Dakota, South Dakota, and Wyoming affiliate, and was an academic fellow at Columbia Law School. He also worked as a 7th-12th grade teacher on the Pine Ridge Reservation. He is a graduate of Stanford Law School, where he was an articles editor on the *STANFORD LAW REVIEW* and the editor-in-chief of the *STANFORD LAW & POLICY REVIEW*. He maintains an active *pro bono* practice in civil rights and civil liberties impact litigation with a focus on indigenous rights and environmental justice.



**Elizabeth G. Thornburg** is a Professor Emerita at SMU Dedman School of Law, where she taught civil procedure, conflict of laws, complex litigation, Texas procedure, remedies, and an advanced procedure seminar. Drawing on her experience with civil rights and commercial litigation, her scholarship focuses on the procedural fairness of the litigation process, especially at the pleadings, discovery, and jury charge stages. She also writes and speaks in the areas of comparative procedure, online dispute resolution, and the intersection of law and culture. Professor Thornburg has published numerous articles in prominent law reviews in the U.S. and abroad. She has also authored Texas procedure casebooks, and has contributed chapters to books on civil procedure issues in consumer law, sports law, computer law, and classic civil procedure cases. Her most recent book is *LAWTALK: THE UNKNOWN STORIES BEHIND FAMILIAR EXPRESSIONS* (Yale 2011) (with co-authors).



**Peggy J. Wedgworth** is a partner with Milberg Coleman Bryson Phillips Grossman, PLLC, in New York, where she serves as a managing partner and chair of the firm’s Antitrust Practice Group. She has worked extensively in securities, commodities, antitrust and whistleblower matters, representing defrauded investors and consumers. She currently represents a nationwide class of plaintiff car dealerships alleging antitrust violations in the data management systems; consumers in the Google Play antitrust litigation; and consumers in contact lens and Hard Disk Drive antitrust litigation. She is a member of the New York State Bar Association’s Antitrust Committee, the American Association for Justice, and is a Trustee of NCJI. She holds a B.A. degree from Auburn University and a J.D. degree from the University of Alabama Law School.