

TEXAS LAW REVIEW PRESENTS



# JUDICIAL MANAGEMENT OF MDLS AND OTHER CONSOLIDATIONS

Friday & Saturday

January 27-28, 2023

Eidman Courtroom  
University of Texas School of  
Law

Sponsored By:

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# FRIDAY, JANUARY 27

- 8:00–8:45 Breakfast at Texas Law – Jamail Pavilion
- 8:45–8:50 Welcome – Dean Chesney
- 8:50–9:00 Welcome – Symposium Co-Sponsors, Arnold & Itkin and Barnes & Thornburg
- 9:00–10:30 Session 1: The Political Economy of MDLs
- Moderator: Jim Murdica (Barnes & Thornburg)
  - Lynn A. Baker (Texas) & Andrew Bradt (Berkeley) – “MDL Myths”
  - Commentator: Jim Pfander (Northwestern)
  - Tom Baker (Penn) – “Where’s the Insurance?”
  - Commentator: David Hyman (Georgetown)
- 10:30–10:45 Break
- 10:45–12:15 Session 2: The Judicial Role in Claim Integrity
- Moderator: Jason Itkin (Arnold & Itkin)
  - Teddy Rave (Texas) – “MDL and the Field of Dreams”
  - Commentator: Myriam Gilles (Cardozo)
  - Nora Freeman Engstrom (Stanford) & Todd Venook (Stanford) – “Harnessing Common Benefit Fees to Promote MDL Integrity”
  - Commentator: Bob Bone (Texas)
- 12:15–1:30 Lunch at Texas Law – Main Atrium
- 1:30–3:00 Session 3: Judicial Practices in Consolidations
- Moderator: Judge Lee Rosenthal (S.D. Tx.)
  - David Noll (Rutgers) & Adam Zimmerman (Loyola LA/UCLA) – Judicial Control of Lawyers in MDLs: The Appointment Process
  - Commentator: Deborah Hensler (Stanford)
  - Charlie Silver (Texas) – “The Suspect Restitutionary Basis for Fee Awards in MDLs”
  - Commentator: Sam Issacharoff (NYU)
- 3:00–3:15 Break
- 3:15–4:45 Session 4: The Role of State Courts in Mass Torts (including Federal–State Coordination)
- Moderator: Zach Clopton (Northwestern)
  - Erin Copeland (Fibich, Leebron, Copeland & Briggs)
  - Judge Carolyn Kuhl (Calif. Superior Ct., L.A.)
  - Kurt Arnold (Arnold & Itkin)
  - Judge Dan Polster (N.D. Ohio)
  - Shannon McClure Roberts (Reed Smith LLP)





# SATURDAY, JANUARY 28

- 8:00–8:50 Breakfast at Texas Law – Jamail Pavilion
- 8:50–9:00 Opening Remarks – Conference Organizers
- 9:00–10:30 Session 5: Bankruptcy as a Tool for Resolution of Mass Torts
- Moderator: Jay Westbrook (Texas)
    - Jonathan Lipson (Temple) – “‘Special’: Remedial Schemes and Mass Tort Bankruptcies”
    - Commentator: Lindsey Simon (Georgia)
  - Melissa Jacoby (North Carolina) – “Sorting Bugs and Features of Mass Tort Bankruptcy”
    - Commentator: Judge William J. Lafferty, III (N.D. Cal. — Bank.)
- 10:30–10:45 Break
- 10:45–12:15 Session 6: Innovations in Resolution and Settlements
- Moderator: Howie Erichson (Fordham)
    - Kendra Lounsberry (Barnes & Thornburg)
    - Elizabeth Cabraser (Lief Cabraser)
    - Judge Robin Rosenberg (S.D. Fla.)
    - Judge Dan Polster (N.D. Ohio)
    - Judge William Orrick (N.D. Calif.)
- 12:15–12:20 Concluding Remarks – Conference Organizers and Co-Sponsors
- 12:20–1:20 Lunch at Texas Law – Jamail Pavilion



# BIOS:

## Kurt Arnold: Arnold Itkin LLP

KURT ARNOLD is a fierce trial lawyer who has won more than \$10 billion in verdicts and settlements for his clients since founding Arnold & Itkin. In fact, Kurt routinely wins more than \$1 billion each year in recoveries on behalf of his clients and holds most of the records across the country for the highest verdicts and settlements. Kurt cares deeply about his clients and refuses to take “no” for an answer. His dedication to justice on behalf of clients injured in the largest workplace incidents, plant explosions, trucking accidents, and maritime disasters has resulted in dozens of jury verdicts and settlements more than \$100 million, hundreds of jury verdicts and settlements in excess of \$10 million, and thousands of recoveries exceeding \$1 million. Kurt has secured record-setting results for thousands of families harmed by pharmaceutical companies’ defective drugs and medical devices. Notably, Kurt’s work has also resulted in multiple nationwide product recalls. He is one of the nation’s most accomplished, skilled advocates both in and out of the courtroom. Kurt believes results matter, and his track record proves it:

- \$357 million – Largest workplace accident settlement in Texas history.
- \$193 million – Settlement on behalf of victims of a pipeline explosion.
- \$171 million – Settlement on behalf of victims of workplace accident.
- \$125 million – Settlement won for widow of dredge worker.
- \$117 million – Largest single-plaintiff personal injury verdict in Louisiana.
- \$110 million – Settlement on behalf of victims of defective product.
- \$92.7 million – Record-setting settlement for burn victim.
- \$87 million – Settlement for burn injury victim.
- \$81 million – Settlement for wrongful death case.
- \$42 million – Largest commercial litigation jury verdict in Hawaii.
- \$44 million – Largest jury verdict for a single amputee in the United States.

## Lynn A. Baker: Texas Law

LYNN A. BAKER holds the Frederick M. Baron Chair in Law and is Co-Director of the Center on Lawyers, Civil Justice, and the Media at the University of Texas School of Law in Austin, Texas. Her wide-ranging scholarly and teaching interests include mass tort litigation, “Mega-settlements,” Professional Responsibility (especially issues involving “aggregate” litigation and group settlements), attorneys’ fees, and State and Local Government Law. She is the author or co-author of dozens of articles which have appeared in the law reviews of Columbia, Cornell, Duke, Texas, and Virginia, among others. Her most recent publications include “The MDL Revolution and Consumer Legal Funding,” (Review of Litigation, 2021) (with Ronen Avraham & Anthony J. Sebok); “In Defense of Private Claims Resolution Facilities,” (Law & Contemporary Problems, 2021) (with Charles Silver); “Mass Tort Remedies and the Puzzle of the Disappearing Defendant” (Texas Law Review, 2020); and “Lawyers of Lawyers: Parsing the Complexities of Claimant Representation in Mass Tort MDLs” (Lewis & Clark Law Review, 2020) (with Stephen J. Herman). She is also the co-author of a leading law school text, Local Government Law: Cases and Materials (Foundation Press, 6th ed. 2022) (with Clayton P. Gillette and David Schleicher).

Professor Baker is often called upon by lawyers to serve as a consultant in large-dollar, mass tort settlements and litigation, and as an expert on issues of complex legal ethics, settlement fund allocations, and attorneys’ fees. Professor Baker has also been a court-appointed allocation Special Master in mass tort settlements. She is an elected member of the American Law Institute. A graduate of Yale Law School, Yale College, and Oxford University (Marshall Scholar), she was a Law Clerk to the Hon. Amalya L. Kearse of the U.S. Court of Appeals for the Second Circuit. An avid tournament bridge player in her spare time, Baker is a two-time World Champion (2018 and 2014) and a 16-time National Champion.



## **Tom Baker: University of Pennsylvania Carey Law School**

TOM BAKER is the William Maul Measey Professor at Penn Carey Law School, with secondary appointments in the BEPP (Business Economics and Public Policy) and HCM (Health Care Management) Departments at the Wharton School of Business. Tom has conducted research on many aspects of insurance, including property and casualty insurance, health insurance, the behavioral economics of insurance, insurance as governance, and the historical development of insurance ideas and institutions. Current research topics include insurance runoff, cyber insurance, the role of liability insurance and other forms of third-party litigation funding in mass tort litigation, and building databases to track and study litigation on a real-time, aggregate basis (see, e.g., <https://cclt.law.upenn.edu/>). Tom served as the Reporter for the American Law Institute's Restatement of the Law Liability Insurance. He received the Robert B. McKay lifetime scholarly achievement award given by the Tort Trial and Insurance Practice Section of the American Bar Association in 2013. Before joining the Penn faculty, Tom served as the Connecticut Mutual Professor and Director of the Insurance Law Center at the University of Connecticut from 1997 to 2008. He began his academic career at the University of Miami Law School after several years in law practice, first in the insurance coverage practice group at Covington & Burling and then in the Office of Independent Counsel investigating the Iran/Contra Affair. His BA and JD are from Harvard University.

## **Robert Bone: Texas Law**

ROBERT G. BONE is Professor of Law and holds the G. Rollie White Teaching Excellence Chair in Law at the University of Texas at Austin School of Law. He is a distinguished scholar in the fields of civil procedure and complex litigation (and also in intellectual property) and he is well known for his theoretical, historical, and analytical work. He has published numerous articles in leading law journals, a book entitled *The Economics of Civil Procedure*, and chapters in other books, and he has given many lectures and talks. He is also a co-author of the third edition of a casebook on complex litigation, *The Law of Class Actions and Other Aggregate Litigation*. Professor Bone's research and writing spans a wide range of procedure topics, including the economic analysis of procedure, class actions, pleading, innovative aggregation techniques, preclusion, rulemaking, procedural discretion, the nature of procedural rules, and procedure history.

Professor Bone received his B.A. degree from Stanford University and his J.D. magna cum laude from Harvard Law School. Following law school, he clerked for U.S. District Judge W. Arthur Garrity, Jr. and worked in private practice before joining the University of Southern California law faculty in 1983. Professor Bone became a member of the Boston University Law School faculty in 1987, where he served before moving to UT Law School in 2010. Professor Bone was selected to give the 2000-2001 Boston University Lecture in honor of his scholarly achievements. He also received Boston University's highest teaching award, the Metcalf Award for Excellence in Teaching, and was voted UT Law School Professor of the Year for the 2012-2013 academic year. He is a member of the American Law Institute.

## **Andrew D. Bradt: University of California, Berkeley School of Law**

ANDREW BRADT is Professor of Law and Associate Dean for the J.D. Program at Berkeley Law. There, he teaches courses in Civil Procedure, Complex Litigation, Conflict of Laws, and Remedies. In 2019, he received the Law School's Rutter Award for Teaching Distinction, and in 2022, he received Berkeley's Distinguished Teaching Award, the campus's highest honor for teaching. Bradt also serves as the Faculty Director of the Civil Justice Research Initiative, a Berkeley-housed think tank whose mission is to identify and produce unbiased research on critical issues concerning the civil justice system, including expanding access to justice. In January 2023, Bradt began a five-year term as associate reporter of the federal Civil Rules Advisory Committee. He is also the co-author of casebooks in Civil Procedure and Complex Litigation. Bradt is a member of American Law Institute and a graduate of Harvard College and Harvard Law School. Prior to entering academia, Bradt clerked for the Hon. Patti B. Saris (D. Mass.) and the Hon. Robert A. Katzmann (2d Cir.), and practiced with the firms Ropes & Gray and Jones Day.





## Elizabeth Cabraser: Lieff Cabraser Heimann & Bernstein

Since 1978, ELIZABETH CARABRASER has led Lieff Cabraser's work representing plaintiffs seeking redress for financial and consumer fraud, anti-competitive practices, dangerous products, and illegal employment practices. She has served in court-appointed leadership positions in scores of federal multi-district proceedings, including most recently in the Volkswagen "Clean Diesel", Fiat Chrysler Ecodiesel Emissions, Deepwater Horizon, and Opioids MDLs. She serves on the Federal Rules "Standing Committee"; on the Council (emeritus) of the American Law Institute; and teaches (as an adjunct/lecturer), writes, and speaks extensively on aggregate litigation (class actions, mass torts, and MDLs), and the advancement of women in the law.

## Zachary D. Clopton: Northwestern Pritzker School of Law

ZACHARY D. CLOPTON is a Professor of Law at Northwestern Pritzker School of Law. His research and teaching interests include civil procedure, complex litigation, and judicial administration. Clopton clerked for the Honorable Diane P. Wood of the United States Court of Appeals for the Seventh Circuit. He served as an Assistant United States Attorney in Chicago and he worked in the national security group at Wilmer Hale in Washington, D.C. Prior to joining Northwestern, Clopton was an Associate Professor of Law at Cornell Law School. He also was a Public Law Fellow at the University of Chicago Law School. Clopton earned a BA from Yale University, an MPhil in International Relations from Cambridge University, where he was a Gates Foundation Scholar, and a JD from Harvard Law School.

## Erin Copeland: Fibich Leebron Copeland & Briggs

*Erin's primary focus is on injury claims against manufacturers of dangerous medical devices and drugs that have harmed women across the nation.*

ERIN COPELAND currently serves as the court-appointed Co-Lead of the Paragard (birth control) MDL pending in the Northern District of Georgia. Previously, from 2017 to 2022, Erin served on the Executive Committee for the Essure consolidated state litigation in California, where she and her team oversaw the claims of thousands of women who suffered severe and permanent injuries as a result of the Essure permanent sterilization birth control device. In August 2020, she helped to negotiate a \$1.6 billion settlement with Bayer to resolve the Essure litigation.

Erin also currently serves on the court appointed Plaintiff Executive Committee for the Uloric MDL pending in Illinois. Erin previously served on the Plaintiffs' Steering Committee for the various female pelvic mesh MDLs pending in the Southern District of West Virginia as well as the Pradaxa litigation pending in the Southern District. In the Pradaxa litigation, Erin served as the State-Federal Liaison Counsel to the cases pending in St. Clair County, Illinois.

Erin is a native Houstonian and practices with the Houston-based law firm of Fibich Leebron Copeland & Briggs. Erin and her family split time between Houston and their home in Colorado where her son has been a competitive snowboarder.



## Nora Freeman Engstrom: Stanford Law School

NORA FREEMAN ENGSTROM is the Ernest W. McFarland Professor of Law at Stanford Law School. A nationally recognized authority on tort law, professional responsibility, and complex litigation, she also co-directs the Deborah L. Rhode Center on the Legal Profession, one of the most influential academic centers devoted to the study of ethics and the profession in the United States. Beyond that, she is the author of numerous award-winning scholarly articles, the co-author of a leading legal ethics textbook, the co-author of a classic torts textbook, and a Reporter for two Third Restatement of Torts projects: Miscellaneous Provisions and Medical Malpractice. In 2022, the American Law Institute awarded her the R. Ammi Cutter Reporter's Chair for her work on the Restatement, one of the highest honors that organization bestows.

Before joining Stanford's faculty in 2009, Professor Engstrom was a litigator at Wilmer Cutler Pickering Hale and Dorr, LLP. Before that, she was a law clerk to Judge Merrick B. Garland of the U.S. Court of Appeals for the District of Columbia Circuit and Judge Henry H. Kennedy Jr., of the U.S. District Court for the District of Columbia. She also worked at the Department of Justice where she focused on international terrorism and was awarded the Attorney General's Award for Superior Service. She earned her J.D. with distinction from Stanford Law School, where she was elected to the Order of the Coif. She earned her B.A. from Dartmouth College, summa cum laude.

## Howard Erichson: Fordham University

HOWARD ERICHSON is a Professor of Law at Fordham University, where he teaches Civil Procedure, Complex Litigation, Professional Responsibility, and Torts. His research explores the U.S. litigation process, particularly the problem of resolving mass disputes. He is past chair of the Civil Procedure Section of the Association of American Law Schools, was an Advisor to the ALI Principles of the Law of Aggregate Litigation, and is a co-author of the treatise Federal Practice & Procedure (Wright & Miller). He is co-author of Civil Procedure (Aspen 1st ed. 2021), co-author of Complex Litigation: Cases & Materials on Advanced Civil Procedure (West 7th ed. 2021), and author of Inside Civil Procedure (Aspen 3d ed. 2017). His articles have appeared in the Cornell Law Review, Duke Law Journal, Michigan Law Review, University of Pennsylvania Law Review, and many other leading publications. Professor Erichson graduated from Harvard University and from New York University School of Law, where he was editor-in-chief of the Law Review. After law school, he clerked for the New Jersey Supreme Court and for the U.S. Court of Appeals for the Second Circuit, and he practiced as a litigator with Cleary Gottlieb Steen and Hamilton in New York City.

## Myriam Gilles: Cardozo Law School

MYRIAM GILES is the Paul R. Verkuil Research Professor at the Benjamin N. Cardozo School of Law in 2000. Professor Gilles specializes in class actions and aggregate litigation and has written extensively on forced arbitration clauses. She has testified before the Senate Judiciary Committee (2013, 2017, 2019) and the House Judiciary Committee (2019 and 2020) on the impact of forced arbitration and class action bans, and before the Vermont Assembly (2017) and the Oregon Legislature (2018) on state law efforts to blunt the effect of these provisions. Professor Gilles also writes on civil rights and structural reform litigation, medical malpractice, access to justice and tort law. Her scholarly articles have appeared in the nation's top law reviews, including Berkeley, Chicago, Columbia, Michigan, Penn, Texas, and Yale, and her work has been cited in numerous judicial decisions. She is the 5th most cited civil procedure scholar in the country, and an editor of an influential casebook in the field, Babcock, Massaro, Spaulding and Gilles, Civil Procedure: Cases and Problems (Wolters Kluwer, 7th ed.). Professor Gilles teaches Torts, Civil Procedure, Products Liability, and Complex Litigation, and was named "Best First Year Teacher" by the graduating class of 2019. She currently serves on the boards of the Justice Resource Center and Public Justice, on the board of advisors of the People's Parity Project, and she is an Academic Fellow of the Pound Civil Justice Institute and was elected to the American Law Institute in 2022.





## Deborah R. Hensler: Stanford Law School

DEBORAH R. HENSLER is the Judge John W. Ford Professor of Dispute Resolution and Associate Dean for Graduate Studies, Emerita, at Stanford Law School, where she teaches courses on complex and transnational litigation, arbitration law, practice & policy, the legal profession, and empirical research methods. From 2000–2005, she was the director of the Stanford Center on Conflict and Negotiation. With Dean Emeritus Paul Brest, she co-founded the law school's Law & Policy Laboratory, and helped shepherd it in its early years. She has taught graduate level courses at Universidade Catolica de Lisboa, Hong Kong University, the University of Melbourne (Australia), Paris-Dauphine University and guest lectured at Tilburg University (Netherlands), Katholieke Universiteit Leuven (Belgium), Nagoya University (Japan), and Universidad Torcuato di Tella (Buenos Aires).

Professor Hensler's empirical research on dispute resolution, complex litigation, class actions and mass claims has won international recognition. A political scientist and public policy analyst who was the director of the RAND's Institute for Civil Justice before joining the Stanford Law School faculty, she has testified before state and federal legislatures in the United States on issues ranging from alternative dispute resolution to asbestos litigation and mass torts and consulted with judges and lawyers within and outside of the United States on the design of class action regimes. Professor Hensler is the organizer of the Stanford Globalization of Class Actions Exchange ([globalclassactions.stanford.edu](http://globalclassactions.stanford.edu)), which is spearheading international collaborative research on class actions and group litigation procedures by scholars in Asia, Europe, South and North America, and the Middle East. Noted for her decades-long scholarship on asbestos litigation and class actions in the United States, her research and publications have described and interpreted the trajectory of mass claims world-wide. She is the lead author of *Class Action Dilemmas: Pursuing Public Goals for Private Gain* (RAND, 2000), co-editor of *The Globalization of Class Actions* (Sage, 2009) and co-editor and lead author of *Class Actions in Context: How Culture, Economics and Politics Shape Collective Litigation* (Elgar, 2016).

Professor Hensler is a fellow of the American Academy of Arts and Sciences and the American Academy of Political and Social Science and was awarded a personal chair in empirical studies of mass claims resolution by Tilburg University (Netherlands). In 2014, she was awarded an honorary doctorate in law by Leuphana University (Germany). She serves on the RAND Institute for Civil Justice Advisory Board and on the advisory board of the Civil Justice Research Institute, a joint project of the University of California, Irvine, and the University of California Berkeley Law School. In 2018, she served on the Academic Expert Panel for the Litigation Funding Inquiry of the Australian Law Reform Commission.

## David Hyman: Georgetown University Law Center

DAVID A. HYMAN, M.D., J.D., is the Scott K. Ginsburg Professor of Health Law & Policy at Georgetown University Law Center. He focuses his research and writing on the regulation and financing of health care, and empirical studies of the civil justice system. Professor Hyman is the author of *Medicare Meets Mephistopheles*, and the co-author of *Overcharged: Why Americans Pay Too Much For Health Care* (2018), and of *Medical Malpractice Litigation: How It Works, Why Tort Reform Hasn't Helped* (2021). He has published widely in economics, health policy, law, and medical journals.

## Samuel Issacharoff: New York University School of Law

SAMUEL ISSACHAROFF is the Reiss Professor of Constitutional Law at New York University School of Law. Previously he was the Medina Professor of Procedural Law at Columbia University, and before that, the Jamail Centennial Chair in Law at the University of Texas School of Law.

He is the author of *Fragile Democracies* (2015) and *Democracy Unmoored* (2023), as well as over a hundred law review articles, book chapters, and other monographs, including his co-authorship of the *Law of Democracy*, now in its sixth edition. He was the Reporter for the Principles of Aggregate Litigation for the American Law Institute. He has argued cases involving matters of complex litigation in almost all federal Circuit courts, as well as the United States Supreme Court.





## **Jason A. Itkin: Arnold & Itkin LLP**

JASON ITKIN is one of the nation's top trial lawyers. He has won several of the largest jury verdicts in the history of the United States. In the last 12 months alone, Jason has won more than \$1 billion in verdicts and settlements for his clients. Jason's results have led him to receive many awards, including recognition on various lists of Super Lawyers, Top 40 Under 40, and others. While Jason has always been honored to be included on those lists, his greatest honor was being selected as the youngest member of the Inner Circle of Advocates.

Beyond his single event practice, Jason has a track-record of success in mass torts. He has successfully litigated mass tort cases in both state and federal court and held various leadership positions along the way. He is currently co-lead counsel in the Astroworld MDL.

## **Melissa B. Jacoby: University of North Carolina at Chapel Hill**

MELISSA B. JACOBY is the Graham Kenan Professor of Law at the University of North Carolina at Chapel Hill. In 2021, Chief Justice of the United States John Roberts appointed Jacoby to assist the Federal Judicial Center on educational programming for bankruptcy judges. Her trade book about the American bankruptcy system is under contract with The New Press. Jacoby is an elected member of the American Law Institute, the National Bankruptcy Conference, the American College of Bankruptcy, and the American College of Commercial Finance Lawyers.

## **Judge Carolyn Kuhl: Superior Court of the State of California for the County of Los Angeles**

JUDGE CAROLYN KUHL presides in a Complex Civil Litigation Department of the Superior Court of the State of California for the County of Los Angeles. She previously served as the Presiding Judge of the Los Angeles Superior Court in 2015 and 2016; as Assistant Presiding Judge in 2013 and 2014; and as Supervising Judge of the Civil Departments from 2011 to 2012 and from 2003 to 2004. She was a founding judge of the Complex Civil Litigation Program and has served as a judge in that program for more than 10 years. She served on the California Judicial Council, the policy-making body for the California state court system, from 2006 through 2009. Judge Kuhl currently is a member of the Council of the American Law Institute and sits on the Executive Committee. She also serves on the Board of Advisers of the Institute for Civil Justice of the RAND Corporation. In 2017 the Chief Justice of the United States appointed Judge Kuhl to serve on the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States (the Standing Committee on Federal Rules). She is the first state trial judge to serve on that Committee. Prior to her appointment to the bench in 1995, Judge Kuhl was a partner in the law firm of Munger, Tolles & Olson. From 1981 through 1986 she served in various positions in the United States Department of Justice, including as Principal Deputy Solicitor General. Judge Kuhl was a law clerk to the Honorable Anthony M. Kennedy when he sat as a Judge of the United States Court of Appeals for the Ninth Circuit. She holds a JD degree from Duke University School of Law, where she served on the Duke Law Journal, and an AB degree from Princeton University.



## **The Honorable William J. Lafferty, III: Bankruptcy Judge, Northern District of California**

WILLIAM J. LAFFERTY, III, is a United States Bankruptcy Judge in the Northern District of California. He was appointed to the Bankruptcy Court in April 2011, and was appointed to the United States Bankruptcy Appellate Panel for the Ninth Circuit in June 2016. Judge Lafferty also served as a member of the Federal Judicial Center's Bankruptcy Judge Education Advisory Committee from April 2015 through April 2021. He received his J.D. from the University of California Hastings College of the Law, where he was a member of the Constitutional Law Quarterly, and earned his undergraduate degree at the University of California Berkeley, with honors in general scholarship.

Prior to his appointment to the Bankruptcy Court, Judge Lafferty served as the first law clerk to the Honorable Thomas E. Carlson, United States Bankruptcy Judge, Northern District of California. He joined the law firm Howard Rice Nemerovski Canady Falk & Rabkin (now Arnold & Porter) in 1987, and served as a Director in the firm's Bankruptcy and Corporate Reorganizations Department from 1993 to 2011. His past affiliations include: Vice President, California Bankruptcy Forum; Past President, Bay Area Bankruptcy Forum; Past President, and Bar Association of San Francisco, Commercial Law and Bankruptcy Section.

## **Jonathan C. Lipson, Harold E. Kohn Chair, Temple University-Beasley School of Law**

JONATHAN LIPSON holds the Harold E. Kohn Chair and is a Professor of Law at Temple University Beasley School of Law. He teaches Contracts, Bankruptcy, Corporations, Commercial Law, Lawyering for Entrepreneurship, International Business Transactions, and a variety of other business law courses. In addition to Temple, he has taught at the law schools of the University of Wisconsin (where he held the Foley & Lardner Chair), the University of Pennsylvania, and the University of Baltimore. Professor Lipson is a member of the American Law Institute, a Regent of the American College of Commercial Finance Lawyers, and has held various leadership positions in the Business Law Section of the American Bar Association.

His research focuses on corporate governance, reorganization, and contracting practices. He has published in some of the nation's top law reviews, including those of the UCLA, Boston University, Notre Dame, and Southern California law schools. His work has been cited by the United States Supreme Court and U.S. Courts of Appeals, as well as leading business courts such as the Delaware Supreme Court, the Delaware Chancery Court and the Bankruptcy Court for the Southern District of New York. He is a coauthor (with Macaulay et al.) of *Contracts Law in Action*, a leading casebook taking a "realist" approach to contract law. An occasional empiricist, Professor Lipson has published two articles on the use of "examiners" in chapter 11 bankruptcies, the second of which won the Editors' Prize as the best paper published in the *American Bankruptcy Law Journal* in 2016. His study of employment at the Trump Casinos in connection with their bankruptcies received widespread attention, and was noted in Hillary Clinton's presidential campaign.

## **Kendra Lounsberry: Barnes & Thornburg LLP**

KENDRA LOUNSBERRY is a partner in the Los Angeles office of Barnes & Thornburg and a member of the firm's Litigation Department. Kendra focuses on defending products liability and commercial litigation matters for manufacturers, distributors, and sellers of consumer/industrial products, medical devices, and pharmaceuticals. Her practice also includes toxic tort defense, Proposition 65 defense and counseling, and various other litigation matters.

Kendra has handled all aspects of pre-trial practice, including drafting pleadings, coordinating discovery, taking and defending party, fact witness, and expert depositions, and drafting case dispositive and pre-trial motions. She also has second chair trial experience litigating negligence claims.





## **Shannon McClure: Reed Smith LLP**

SHANNON MCCLURE is a partner in the firm's Global Commercial Disputes Group, focusing her practice on complex civil litigation on behalf of national and multinational companies. A first-chair trial attorney, Shannon handles business disputes before federal and state trial and appellate courts, as well as in arbitrations and mediations. She also coordinates company resolution strategy, serving as strategic national counsel for large matters.

Shannon presently serves as national trial counsel to a global healthcare company in ongoing federal and state opioid litigation, and as co-liaison counsel to defendants in the multi-district In re Prescription Opiate Litigation (N.D. Ohio). She is also uniquely situated as the sole opioid litigator serving simultaneously on the company's resolution strategy team. She is particularly adept when defending against multi-district litigation, putative class actions, and other complex matters. She frequently works on matters implicating multi-jurisdictional components, managing large defense groups, and coordinating with national plaintiff steering committees.

## **Jim Murdica, Barnes & Thornburg LLP**

JIM MURDICA's practice focuses on the defense of pharmaceutical, medical device and consumer product litigation in state and federal courts nationwide, particularly consolidated mass torts and multi-district litigations.

He serves as national coordinating counsel and MDL counsel for consolidated litigations across the U.S. involving thousands of plaintiffs as well as in numerous single-plaintiff cases involving pharmaceuticals, consumer products and medical devices. In conjunction with those roles, Jim emphasizes efficient discovery and manages significant mass tort e-discovery undertakings for his clients.

Jim has also coordinated the resolution of some of the largest, mass torts of the last decade.

Jim also counsels clients on product liability due diligence related to potential acquisitions and divestitures.

## **David Noll: Rutgers Law School**

DAVID NOLL is a Professor of Law and the Associate Dean for Faculty Research and Development at Rutgers Law School. A graduate of Columbia University and N.Y.U. School of Law, David clerked for Judge Richard J. Holwell of the U.S. District Court for the Southern District of New York and Judges Pierre N. Leval and Raymond J. Johier, Jr. of the U.S. Court of Appeals for the Second Circuit. His scholarly writings on civil procedure, complex litigation, and administrative law have appeared or are forthcoming in the Cornell Law Review, California Law Review, Michigan Law Review, N.Y.U. Law Review, and Stanford Journal of Complex Litigation. His popular writing has appeared in venues including The New York Times, Politico, Slate, the Regulatory Review, and the New York Law Journal. He is the co-author of a widely used casebook on the federal administrative process and is currently working with his colleague Jon Michaels (UCLA School of Law) on a book entitled Vigilante Democracy that will be published in fall 2024.



## **Judge William Orrick, Northern District of California**

WILLIAM ORRICK is a United States district judge in the Northern District of California. He began his legal career in 1979 as a civil rights and poverty law attorney with Georgia Legal Services Programs in Savannah, Georgia. He came home to San Francisco in 1984 and had a litigation practice involving primarily complex commercial and employment matters at Coblentz, Patch, Duffy & Bass LLP; he was also co-chair of the firm's Pro Bono and Diversity Committees, the Chancellor of the Episcopal Diocese of California, and on several non-profit boards.

In 2009, he moved to Washington D.C. to serve as Counselor to the Assistant Attorney General for Civil Division in the United States Department of Justice and later as the Deputy Assistant Attorney General in charge of Office of Immigration Litigation, which represents the government in all federal civil immigration litigation. President Obama nominated him to become a federal district judge in 2012 and he was confirmed the following year. He is currently the transferee judge for In Re: JUUL Labs, Inc., Marketing, Sales Practices and Products Liability Litigation, 19-md-2913 (N.D. Cal.).

## **Thomas J. Perrelli: Jenner & Block LLP**

As a strategic advisor, accomplished litigator, crisis manager and one of Washington's most respected counselors, Tom Perrelli guides companies and their senior leadership through their most complex legal, regulatory, and business challenges. Whether the issues involve government investigations, congressional inquiries, interest from state regulators, public policy changes, or media scrutiny, clients turn to Tom for his ability to advance and defend their interests in complicated landscapes. Tom is a problem-solver, capable of developing and deploying a wide range of tools to move the company past significant problems or substantially mitigate their impact.

Tom's wide field of vision is informed by his deep experience with the US Department of Justice, numerous other federal regulators, Congress, and the state Attorney General community. Tom's work often involves negotiation of complex multi-party settlements, development of legislative or regulatory initiatives, and responding to congressional investigations, including preparing CEOs and senior executives to testify before Congress and state legislatures. Tom previously served as Associate Attorney General of the United States, where he was responsible for DOJ's Civil, Antitrust, Civil Rights, Environment and Natural Resources, and Tax Divisions. He also oversaw the United States Trustee Program, the Office of Justice Programs and the Office on Violence Against Women.

## **James E. Pfander: Northwestern Pritzker School of Law**

JAMES E. PFANDER studies the role of the federal judiciary under Article III of the Constitution. Author of dozens of books and articles on a range of topics, Pfander has lately focused his attention on the law of government accountability in the early Republic and the role of uncontested adjudication in a federal system otherwise largely devoted to the resolution of disputes between adverse parties. His book, *Cases Without Controversies* (2021), demonstrates that judicial power over uncontested matters both explains and complicates much of the Supreme Court's case-or-controversy jurisprudence. Pfander just returned from a semester abroad, teaching a comparative law class on government accountability in the global LLM program at Catolica University in Lisbon. A member of the American Law Institute, Pfander has chaired both the federal courts and civil procedure sections of the Association of American Law Schools and serves as a co-author of the Hart & Wechsler casebook on Federal Courts.





## **Honorable Dan A. Polster: USDC Northern District of Ohio**

DAN POLSTER was appointed a federal judge by President Clinton on August 3, 1998. He assumed Senior Status on January 31, 2021. Judge Polster assumed the vacancy created by the assumption of senior status by United States District Judge David D. Dowd, Jr. Judge Polster is stationed in Cleveland, OH. Prior to his appointment, he served as a federal prosecutor in Cleveland for 22 years, first as a trial attorney with the Department of Justice, Antitrust Division, and then for 16 years as an Assistant U.S. Attorney, handling a wide variety of fraud and corruption cases. Judge Polster is a graduate of Harvard College (A.B. cum laude, 1972) and Harvard Law School (J.D. cum laude, 1976). He and his wife, attorney Deborah Coleman, have three children and four grandchildren.

## **D. Theodore Rave: Texas Law**

TEDDY RAVE writes and teaches in the areas of civil procedure, complex litigation, constitutional law, and election law. His recent scholarship focuses on class actions, multidistrict litigation, and public fiduciary law. Professor Rave's articles have appeared in leading journals, including the Harvard Law Review, the California Law Review, the Duke Law Journal, the Georgetown Law Journal, the Northwestern University Law Review, and the Vanderbilt Law Review. His article, When Peace Is Not the Goal of a Class Action Settlement, was selected for the 2015 Yale/Stanford/Harvard Junior Faculty Forum. He was elected to the American Law Institute in 2018.

Professor Rave received his B.A. in History from Dartmouth College and his J.D. magna cum laude from New York University School of Law where he was senior executive editor of the New York University Law Review. Following law school, he clerked for Judge Leonard B. Sand on the U.S. District Court for the Southern District of New York and for Judge Robert A. Katzmann on the U.S. Court of Appeals for the Second Circuit. He worked for several years in the Issues and Appeals practice at Jones Day in New York, where he focused on appellate litigation, class actions, and multidistrict litigation. He began his academic career as a Furman Fellow at New York University School of Law. Before joining the Texas faculty in 2021, he was the George A. Butler Research Professor at the University of Houston Law Center, where he received the university-wide Teaching Excellence Award in 2018. In fall 2020, he was the Austin Wakeman Scott Visiting Professor of Law at Harvard Law School.

## **Joe Rice: Motley Rice LLC**

JOE RICE is a founding member of Motley Rice LLC. A skillful negotiator of complex settlements, he has served as lead negotiator in some of the nation's largest civil actions over the past 30 years, including all the major Asbestos Bankruptcy Trusts, crafting the tobacco Master Settlement Agreement, two settlements with BP in the wake of the Deepwater Horizon Oil Spill, and the nearly \$15 billion Volkswagen Diesel Emissions Fraud class action settlement. Currently, Joe is one of three Co-Lead lawyers for more than 3,000 plaintiffs in the National Prescription Opiate Litigation. Joe led negotiations for the \$26 billion settlement reached in July 2021 with Johnson & Johnson and the nation's "Big Three" opioid distributors, and he is actively engaged in ongoing litigation for dozens of governmental entities against defendant manufacturers, distributors and pharmacies.



## Judge Robin Rosenberg: USDC Southern District of Florida

JUDGE ROBIN ROSENBERG was appointed to serve on the United States District Court for the Southern District of Florida by President Barack Obama and confirmed by the United States Senate in 2014. She serves as the Chair of the Judicial Conference Advisory Civil Rules Committee and is a member of the Eleventh Circuit Local Rules Committee, the Eleventh Circuit Civics Education Committee, the Southern District of Florida Local Rules Committee, the Southern District of Florida Pro Se Committee (chair), and the Southern District of Florida Fairness and Diversity Committee. She is the co-creator of the national U.S. Courts Civil Discourse and Decisions program, which is presented to high school and college students in the federal courts. She serves on the Duke Law School Board of Visitors and the Editorial Board of *Judicature*, a scholarly journal focused on the judiciary, the administration of justice, and the rule of law.

Before she was appointed to the federal bench, she served as a Circuit Court judge for the Fifteenth Judicial Circuit (Palm Beach County). Prior to her election as a circuit judge, Judge Rosenberg was a partner of Rosenberg & McAuliffe, PL. From 1999 to 2002, Judge Rosenberg served as Vice President and General Counsel of SlimFast Foods Company. Before that, Judge Rosenberg was a litigation partner with the law firm of Holland & Knight LLP in West Palm Beach and worked in the City Attorney's Office in West Palm Beach. For the 1993–94 academic year, Judge Rosenberg was a Civic Education Project (CEP) Fellow and Visiting Professor at a university in the Czech Republic.

At the start of her career, Judge Rosenberg clerked for the Honorable James C. Paine, a United States District Court judge for the Southern District of Florida. She was then accepted to the DOJ Honors Program and served in the Employment Litigation Section of the Civil Rights Division. Judge Rosenberg received her Bachelor of Arts from Princeton University, her Juris Doctor from Duke Law School, and her Master's from the Duke Sanford School of Public Policy.

## Judge Lee H. Rosenthal, Southern District of Texas

B.A., University of Chicago, 1974; J.D., University of Chicago Law School, 1977. Private practice, Houston, Texas, 1978–1992; Judge, U.S. District Court, Southern District of Texas, 1992–present; Chief Judge, U.S. District Court, Southern District of Texas, 2016–2022.

Judge Rosenthal served on, and then chaired, the Judicial Conference Advisory Committee on the Federal Rules of Civil Procedure, then the Standing Committee on the Rules of Practice and Procedure. She is Vice-President of the American Law Institute and served as an adviser for the Transnational Rules of Civil Procedure Project, the Restatement of Employment Law, the revision to the Model Penal Code on Sexual Assault, and the Restatement on the Conflict of Laws. She is the 2012 recipient of the Lewis F. Powell Jr. Award for Professionalism and Ethics given by American Inns of Court, and is a member of the American Academy of Arts and Sciences.

## Charles Silver: Texas Law

CHARLES SILVER holds the Roy W. and Eugenia C. McDonald Endowed Chair in Civil Procedure at the School of Law, University of Texas at Austin, where he teaches courses on civil litigation, legal ethics, and health care law and policy.

He has published more than 100 writings on topics that include legal and medical ethics, civil procedure, class actions and other aggregate litigations, insurance, medical malpractice, and health care policy. In 2009, the Tort, Trial and Insurance Practice Section of the American Bar Association awarded him the Robert B. McKay Award for scholarship on tort and insurance law.

Professor Silver was an Associate Reporter on the American Law Institute's *Principles of the Law of Aggregate Litigation* (2010). His books, all coauthored, include *Medical Malpractice Litigation: How It Works*; *Why Tort Reform Hasn't Helped* (Cato Inst. 2021), *Overcharged: Why Americans Pay Too Much for Health Care* (Cato Inst. 2018), and *Professional Responsibilities of Insurance Defense Counsel* (LexisNexis 2012–2017).

Professor Silver is currently working on a book entitled *Lawyers, Legal Ethics, and Liberty*.





## **Lindsey Simon, University of Georgia School of Law**

LINDSEY SIMON serves as the Robert Cotton Alston Associate Chair in Corporate Law at the University of Georgia School of Law, where her research focuses on the bankruptcy system, drawing concepts from bankruptcy structure and procedure to address broader institutional design challenges. Her articles have been published in the Yale Law Journal, North Carolina Law Review, Indiana Law Journal, Cardozo Law Review, and Administrative Law Review. Her most recent scholarship addresses the intersection between mass torts and bankruptcy. In 2021, Simon advised multiple members of Congress with comments and edits on a proposed nondebtor release bill. She also assisted the House Judiciary Committee with questioning for its August 2021 hearing on chapter 11 abuses, prompting Chairman Jerry Nadler to reference her Bankruptcy Grifters project in his opening comments. In addition, she has worked with academics, judges, members of Congress, and many other stakeholders on the subject of mass tort bankruptcies. Her commentary in connection with the Purdue Pharma, Boy Scouts of America and USA Gymnastics bankruptcies has appeared in various media outlets, including The Wall Street Journal, The New York Times, Forbes, The Economist, NPR and Reuters. In August 2020, she collaborated with the editorial team at “Last Week Tonight with John Oliver” for a show highlighting the Purdue Pharma bankruptcy saga.

Professor Simon is a member of American Bankruptcy Institute’s Diversity Working Group and faculty advisor for the UGA Hispanic Law Students’ Association. In 2020, she was selected to join the executive committee of the American Association of Law Schools’ Section on Debtors’ and Creditors’ Rights, and was named an American Bankruptcy Institute “40 under 40” honoree in 2022. Simon previously served as community service chair and vice chair for the Georgia Network of the International Women’s Insolvency & Restructuring Confederation, as well as vice president of the Georgia Latino Law Foundation, an organization that seeks to increase diversity in the legal profession by supporting the Latino legal community pipeline. Before becoming a professor, she was an associate at Kilpatrick Townsend & Stockton, where her practice involved a mix of commercial litigation and corporate restructuring matters. She represented corporations, committees and individuals in state and federal litigation, both in and out of the bankruptcy context. She also practiced at a litigation boutique in Chicago and clerked for Hon. Beverly B. Martin on the U.S. Court of Appeals for the Eleventh Circuit.

## **Todd Venook: Stanford Law School**

TODD VENOOK is the inaugural Civil Justice and Technology Fellow at Stanford Law School. He has served as a law clerk to the Honorable Myron H. Thompson; supported voter protection efforts in Iowa; and, prior to law school, worked in the Boston Consulting Group’s New York office. His interests include access to justice, government innovation, and the San Francisco Giants. He is a graduate of Harvard College and Yale Law School.



## Jay Lawrence Westbrook, Texas Law (Benno Schmidt Chair)

PROFESSOR WESTBROOK, Benno C. Schmidt Chair of Business Law at the University Of Texas School Of Law, practiced as a partner in the firm of Surrey & Morse (now part of Jones, Day) in Washington, D.C., before joining the faculty in 1980. He is senior editor and co-author of *A Global View Of Business Insolvency Systems* (Martinus Nijhoff 2010), and co-author of *The Law Of Debtors And Creditors* (Aspen 8th Ed. 2022), *As We Forgive Our Debtors: Bankruptcy and Consumer Credit in America* (Oxford, 1989), and *The Fragile Middle Class* (Yale, 2000), as well as articles including *Contracting Out of Bankruptcy: An Empirical Intervention*, 118 Harv. L. Rev. 1197 (2005) (with Warren)), *Abolition Of The Corporate Duty To Creditors*, 107 Colum. L. Rev. 1321 (2007) (with Hu), *Global Insolvency Proceedings for a Global Market: The Universalist System and the Choice of a Central Court*, 96 Texas L. Rev. 1473 (2018). He served as the United States Reporter, American Law Institute Transnational Insolvency Project; as Co-chair, U.S. Delegation to UNICITRAL Conference on Transnational Insolvency (1995-97) leading to the Model Law on Cross-Border Insolvency and Chapter 15 of the Bankruptcy Code. He served as a Senior Advisor, United States National Bankruptcy Review Commission. He has been Visiting Professor at Harvard Law School and the University of London, and is a member of the National Bankruptcy Conference, and the American College of Bankruptcy. He a director and past president of the International Academy of Commercial and Consumer Law and a founder and director emeritus of the International Insolvency Institute. He serves as a consultant to the International Monetary Fund and the World Bank. Among other awards, he was named Outstanding Contributor to the International Insolvency Institute, received the Educational Excellence award from the National Conference of Bankruptcy Judges and the Distinguished Service Award from the American College of Bankruptcy. Most recently, he honored with the Larry King award from the Commercial Law League. He has twice been named as the Outstanding Teacher at the Texas Law.

## Professor Adam Zimmerman, Loyola Law School, Los Angeles

ADAM ZIMMERMAN is a Professor of Law at Loyola Law School, Los Angeles, where he teaches Tort Law, Administrative Law, Mass Tort Law, and Complex Litigation. Professor Zimmerman's teaching methods have been featured in the national news media. He was named Best New Law Professor in 2011 and Professor of the Year in 2013 and 2021 by the Student Bar Association.

Professor Zimmerman's scholarship explores the way class action attorneys, regulatory agencies and criminal prosecutors provide justice to large groups of people through overlapping systems of tort law, administrative law and criminal law. His recent articles have been accepted for publication in the *Columbia Law Review*, *Chicago Law Review*, *Duke Law Journal*, *New York University Law Review*, *University of Pennsylvania Law Review*, *Virginia Law Review*, and the *Yale Law Journal*. In 2016, the federal government adopted Zimmerman's recommendations to permit class actions in administrative hearings based on findings that appear in his article in the *Yale Law Journal*, *Inside the Agency Class Action*.

Professor Zimmerman graduated magna cum laude from Georgetown University Law, where he served as Associate Editor of the *Georgetown Law Journal* and co-founded the first student chapter of the American Constitutional Society in the country. After graduation, he clerked for Judge Jack B. Weinstein in the Eastern District of New York. He then served as counsel to Special Master Kenneth R. Feinberg in the design and administration of the September 11th Victim Compensation Fund. Afterwards, he was associated with Orrick, Herrington & Sutcliffe LLP, where he represented clients in complex commercial litigation and mass tort cases, as well as domestic and international arbitration. As a practitioner, Professor Zimmerman has also worked on global class actions involving the tobacco industry, gun manufacturers, and Agent Orange.





