

# THE ALI Reporter

THE QUARTERLY NEWSLETTER OF THE AMERICAN LAW INSTITUTE

VOLUME 43 NUMBER 3

SUMMER 2021

## ACTIONS TAKEN AT THE ANNUAL MEETING

This year's Annual Meeting was held on May 17 to 18 and June 7 to 8. Below is a summary of the actions taken during both segments. All approvals by the membership at the Annual Meeting are subject to the discussion at the Meeting and the usual editorial prerogative.

### MONDAY, MAY 17

#### THE LAW OF AMERICAN INDIANS

Presented for membership approval was a Proposed Final Draft that contains the entire project: Chapter 1, Federal–Tribal Relations; Chapter 2, Tribal Authority; Chapter 3, State–Tribal Relations; Chapter 4, Tribal Economic Development; Chapter 5, Indian Country Criminal Jurisdiction; and Chapter 6, Natural Resources. Membership voted to approve the Proposed Final Draft, marking the completion of this project. See page 6 for additional information.

#### COMPLIANCE AND ENFORCEMENT FOR ORGANIZATIONS

Tentative Draft No. 2 contains Chapter 1, Definitions, some of which were already approved at the 2019 Annual Meeting, Chapter 4, Compliance Risk Management, and Chapter 6, Criminal, Civil, and Administrative Enforcement Against Individuals and Companies for Corporate Misconduct, as well as part of Chapter 5, The Compliance Function. Membership voted to approve the Tentative Draft, marking the completion of this project. See page 7 for additional information.

#### CHILDREN AND THE LAW

Membership voted to approve Tentative Draft No. 3, which includes § 2.22 from Chapter 2, State Intervention for Abuse and Neglect; § 8.10 from Chapter 8, Student Speech Rights; §§ 9.10 and 9.20 from Chapter 9, Religion in Public Schools; §§ 10.10 and 10.20 from Chapter 10, School Searches; and §§ 12.10 and 12.11 from Chapter 12, Pre-Adjudication.

*continued on page 4*

THE DIRECTOR'S LETTER BY  
RICHARD L. REVESZ

## The ALI and the Pandemic

The last 18 months have transformed the United States (and the rest of the world) in ways that were unimaginable in early 2020. A virulent pandemic has claimed more than 600,000 lives in our country alone. At the same time, we suffered major economic dislocations, saw the cruel consequences of racial inequality, witnessed the significant challenges faced by our democratic institutions, and experienced unprecedented fires and other pernicious consequences of climate change. Many of us have experienced the ravages of the pandemic in intensely personal ways, through the loss of family members, friends, and colleagues, and worried about the future of our nation. Now, in the second half of 2021, is a good time to take stock of the impact of this tumultuous time on the ALI and its work.

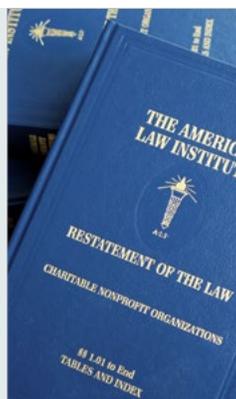
Sadly, the pandemic did not spare ALI members. For example, last August, we mourned the passing of Judge Stephen F. Williams, of the United States Court of Appeals for the D.C. Circuit, the COVID-19 victim to whom I felt closest. I vividly remember my conversation with Steve on our way to 30th Street Station in Philadelphia after a meeting of the Restatement of Property, on which he served admirably as an Adviser. We had to say good-bye to catch our respective trains before we could finish the conversation and agreed to continue it the next time we got together, at an ALI meeting or elsewhere. I am very sad that we will now not be able to do that. He was an extraordinary leader of the legal profession!

The ravages of the pandemic, however, did not adversely affect the progress on our projects. While we had to cancel our March 2020 in-person project meetings for our Advisers and Members Consultative Groups because there was insufficient time to make alternative arrangements, we rescheduled them all as

*continued on page 3*

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Organizations

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## Upcoming Meetings

For more information, visit [www.ali.org](http://www.ali.org).

### SEPTEMBER 2021

#### September 9-10

Restatement of the Law Third, Torts:  
Concluding Provisions  
Hybrid

### OCTOBER 2021

#### October 1

Uniform Commercial Code  
Zoom

#### October 7

Restatement of the Law Fourth, Property  
Hybrid

#### October 8

Restatement of the Law, Copyright  
Hybrid

#### October 14 (Advisers)

#### October 15 (MCG)

Principles of the Law, Policing  
Hybrid

#### October 21-22

Council Meeting - October 2021  
New York, NY

#### October 29

Restatement of the Law Third, Torts: Remedies  
Hybrid

**VIEW ALL UPCOMING MEETINGS  
AND EVENTS ON PAGE 23.**

# ALI Elects Five Council Members

During the opening Reports and Business session at the virtual Annual Meeting, Nominating Committee Chair Jeffrey S. Sutton of the U.S. Court of Appeals for the Sixth Circuit presented to the membership five nominees for the ALI Council, who were approved by the membership to a five-year term.

The new Council members are **Roberto J. Gonzalez** of Paul Weiss, **Eric A. Posner** of University of Chicago Law School, **Virginia A. Seitz** of Sidley Austin LLP, **Laura D. Stith** of the Missouri Supreme Court, and **Larry D. Thompson** of Finch McCranie LLP. Short biographies of Council members can be found on the ALI website.

The following incumbent Council members were reelected to Council for a five-year term effective at the close of the Annual Meeting:

John B. Bellinger III,  
Arnold & Porter

Ivan K. Fong, 3M Co.

Steven S. Gensler, University  
of Oklahoma College of Law

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

Anton G. Hajjar, Chevy Chase, MD

Samuel Issacharoff, New York University School of Law

Ketanji Brown Jackson, U.S. Court of Appeals, District of Columbia Circuit

Wallace B. Jefferson, Alexander Dubose & Jefferson LLP

Judith A. Miller, Chevy Chase, MD

Patricia A. Millett, U.S. Court of Appeals, District of Columbia Circuit

Janet Napolitano, University of California Berkeley, Goldman School of  
Public Policy

Kathleen M. O'Sullivan, Perkins Coie LLP

Gary L. Sasso, Carlton Fields P.A.

Anthony J. Scirica, U.S. Court of Appeals, Third Circuit

Marsha E. Simms, Weil, Gotshal & Manges LLP (Retired)

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

Additionally, at the Annual Meeting, Kathryn A. Oberly of District of Columbia Court of Appeals (Retired) took emeritus status. Emeritus Council members often continue to participate in Council Meetings.



*From left to right:  
Roberto J. Gonzalez  
Eric A. Posner  
Virginia A. Seitz  
Laura D. Stith  
Larry D. Thompson*

## THE DIRECTOR'S LETTER CONTINUED FROM PAGE 1

virtual meetings for dates a few months later. And, in addition, we had a full complement of project meetings during the 2020–21 academic year. These meetings were extremely productive. On average, they had significantly higher attendance by our Members Consultative Groups than our traditional in-person meetings. The discussions were uniformly constructive and the Reporters got a full complement of useful feedback.

We had significant trepidation in the run-up to the 2021 Annual Meeting, which took place online during two days in May and two days in June, because the logistical issues are so much more complicated than for regular project meetings as a result of the far larger participation, and of motions and votes. And while I cannot say that we got through the Annual Meeting with no technical glitches, it was the case that we had high-quality discussions and that we got a great deal of work done. Most importantly, we obtained the final membership approval for five projects: Restatement of the Law of American Indians, Restatement Third of Torts: Intentional Torts to Persons, Model Penal Code: Sexual Assault and Related Offenses, Principles of Compliance and Enforcement for Organizations, and Principles for a Data Economy. Completing five projects at a single Annual Meeting was an unprecedented accomplishment for The American Law Institute. And, by doing so, we ensured that the cancellation of the 2020 Annual Meeting did not slow down the approval of our work.

Now that we might have turned a significant corner on the pandemic, I very much look forward to the resumption of our in-person meetings. I have really missed the personal interactions that are simply not possible on a virtual medium. And I also believe that one of the reasons that last year was so successful was that over the years we had built up significant capital as a result of our personal interactions. But if this capital is not replenished, our effectiveness as an institution is likely to suffer over the long term.

My enthusiasm for a return to personal meetings definitely does not mean that we should go back to doing our work in precisely the same ways in which we did it before the pandemic, even if that were possible. As an institution, we learned some significant lessons from the pandemic. And while we are still debriefing on the full extent of likely changes, a consensus has developed on some of them.

For example, traditionally we waited until the Annual Meeting to do the orientation for our new members. As a result, some new members had to wait until almost a year after their election to benefit from this event. And new members who were unable to attend the first Annual Meeting after their election had to wait at least another year. This year, we had a virtual orientation within just a few weeks of each election cycle. New members who cannot attend the orientation for their cohort, can join one just a few months later. As a result, new members are likely to become involved in our projects, for example by joining Members Consultative Groups, a great deal more quickly than had traditionally been the case. We will thus continue this

practice in the future, though we will still have a celebratory in-person event for new members at the Annual Meeting.

Similarly, having virtual meetings provided more flexibility to the Council. Traditionally, the Council meets for two days in October in New York, for another two days in January in Philadelphia, and for an hour in May in Washington, D.C., right before the beginning of the Annual Meeting. This past year, the October and January meetings took place virtually. But we decided to add an additional three-hour meeting in late February to facilitate the Council's approval of projects that were poised to get the final approval at the Annual Meeting. In past years, if the Council raised substantive issues in January for projects potentially headed for membership approval in May, there was no easy solution. We could put the approval of a whole project off a year, which was not a good outcome if the issues raised, though substantive, were relatively minor. Or the Council could try to deal with the matter at its one-hour meeting in May. But that time is necessarily constrained and the discussion would be rushed. Going forward, the Council plans to return to its in-person meetings in October and January, but will keep a virtual February meeting as a safety valve to facilitate the approval of projects at upcoming Annual Meetings.

As with the main Council meetings, we plan to continue having in-person Annual Meetings. Over the long run, we do not think we can sustain the vibrancy and civility of our institution without building strong personal relationships among our members. And computer platforms, regardless of how well they served us during the pandemic, cannot accomplish that goal. Moreover, the logistical complexity of running a hybrid meeting are too daunting. As a result, going forward, as in the past, members will be able to fully participate in meetings, voting and making motions and comments only if they participate in person. But we are considering the possibility of streaming our Annual Meetings so that members can follow the discussion, particularly for projects in which they have been involved, even if they cannot be there in person.

Most importantly for the long term, the pandemic and the economic, racial, democratic, and environmental issues that were a central focus during the past year should—and are likely to—help define the content of at least some of the projects that we will launch in the coming years. So many law-related vexing matters could benefit from the thoughtful, deliberate, and inclusive approach that the ALI brings to each of its projects. I very much look forward to the discussions that will take place over the coming year with the Projects Committee, which recommends new projects to the Council for approval.

Thanks to our members who participated vigorously at project meetings and at the Annual Meeting, and to our extraordinary staff who adapted to the changed circumstances in a truly admirable way, The American Law Institute was able to accomplish a great deal during the pandemic. And we also learned some important lessons that will strengthen us going forward.



During the break on day one of the Annual Meeting, ALI held a Celebration Honoring New Life and 50-Year Members (see pages 10-12 for details on the life classes and gifts), during which ALI President David F. Levi welcomed 1996 Class member Kenneth C. Frazier of Merck for a Q&A. Watch the full interview at [www.ali.org/annual-meeting-2021/spotlights](http://www.ali.org/annual-meeting-2021/spotlights).

Levi began the event by talking to Frazier about his Philadelphia childhood, then his experience in law school, and his early days of practicing law. Frazier noted, “[W]hen I came out of law school and went to practice at Drinker Biddle in the late ’70s, the philosophy of developing a lawyer was that lawyers shouldn’t immediately start in one area. ...I wanted to be a courtroom trial lawyer but that didn’t mean I didn’t take assignments from the corporate group or the banking group or the estates group. And I think that that conception, that lawyers ought to be able to look broadly at issues was very much helpful to me as a young lawyer not to mention the fact that again, that I had the opportunity to work alongside some great lawyers.”

Frazier discussed his career from his time at the law firm Drinker Biddle through his tenure at Merck (Frazier retired from the CEO position on June 30 but will remain executive chairman of the board), and said that throughout his career his work on a death penalty case years ago stands out among it all, remarking “I have to say that that moment the writ of habeas corpus issued was for me without equivocation the greatest moment of my career.”

In his 25 years of ALI membership, Frazier has served on ALI’s Council, several committees, and as an Adviser on the recently published Charitable Nonprofits Restatement, as well as on the ongoing Restatement of Corporate Governance and Policing Principles projects. Frazier said of his involvement in the Institute, “Being in the room with such a broad array of lawyers, law professors, and judges, all of whom are at the apex of their disciplines, across such a broad range of subject matter expertise and experience is just such a delight for me, particularly because I really left the law for all practical purposes in terms of my day-to-day job. So, I feel so fortunate and so lucky to be exposed to that quality of people in that room. And you know, it goes back to what I said when I was a young lawyer and working for people like Bill Coleman and Henry Sawyer, I’m surrounded by giants in that room and I’m not exaggerating. And for me, it’s just such an honor. I think the other thing that the ALI does, and this goes back to the comment we made about our society, is in our society there are very few places where one can actually have civil discourse over issues that people disagree on. And I think one of the things that I’ve loved about the ALI, is that we are able in the Institute, to have that kind of civil discourse on important legal matters between people who have very different political views and very different areas of expertise. And that’s so important to me and, again, seeing what happens in the room gives me hope that there’s still an opportunity for people who have very fundamental different views and perspectives to come together and reason together for the betterment of our country. So that’s what it means to me.”

## ACTIONS TAKEN

CONTINUED FROM PAGE 1

### TUESDAY, MAY 18

#### DATA ECONOMY

Tentative Draft No. 2 contains the entire project: Part I, General Provisions; Part II, Data Contracts; Part III, Data Rights; Part IV, Third Party Aspects of Data Activities; and Part V, Multi-State Issues. Membership voted to approve the Tentative Draft, marking the completion for ALI of this project. The project will be presented next at ALI’s annual meeting. See page 8 for additional information.

#### TORTS: INTENTIONAL TORTS TO PERSONS

Tentative Draft No. 6 of this Restatement contains §§ 17-19 from Chapter 2, Consent; §§ 20-26 and 30-46 from Chapter 3, Privileges; and §§ 50-51 from Chapter 4, Miscellaneous Provisions. Membership voted to approve the Tentative Draft, marking the completion of this project. See page 8 for additional information.

#### POLICING

Membership voted to approve Tentative Draft No. 3, which contains additions to Chapter 1, General Principles of Sound Policing; Chapter 2, General Principles of Searches, Seizures, and Information Gathering; Chapter 3, Policing with Individualized Suspicion; Chapter 5, Policing in the Absence of Individualized Suspicion; Chapter 6, Policing Databases; Chapter 8, General Principles for Collecting and Preserving Reliable Evidence for the Adjudicative Process; Chapter 9, Forensic-Evidence Gathering; and Chapter 13, Promoting Sound Policing Within Agencies.

### MONDAY, JUNE 7

#### GOVERNMENT ETHICS

The membership voted to approve Tentative Draft No. 3, which includes a portion of Chapter 5, Restrictions on Leaving or Entering Public Service (§§ 5.01(d), 514, 515); Chapter 6, Disclosure; and Chapter 7, Administration and Enforcement of Ethics Provisions.

#### CONFLICT OF LAWS

Tentative Draft No. 2 includes Chapter 1, Introduction; Chapter 2, Domicile; and Chapter 5, Choice of Law, Topic 2, Foreign Law (Introductory Comment, §§ 5.06-5.08). A motion to recommit § 1.03(1) and related Comments failed. The membership voted to approve the Tentative Draft.

### TUESDAY, JUNE 8

#### PROPERTY

The membership voted to approve Tentative Draft No. 2, which contains material from Volumes 1, 2, and 3 on Possession, Trespass to Land, and Bailments: Volume 1, The Basics of Property: Division Two, Possession, Chapter 1, Possession (§§ 1.1, 1.8); Volume 2, Interferences with, and Limits on, Ownership and Possession: Division One, Property Torts, Chapter 1, Trespass to Land, Topic 1, Trespass to Land (§§ 1.1, 1.3-1.5); and Volume 3, Powers and Duties Associated with Ownership: Division Three, Bailments (§§ 1, 2).

#### COPYRIGHT

Tentative Draft No. 2 contains Chapter 1, Subject Matter and Standards: Generally (§§ 1-9, 11); Chapter 2, Subject Matter of Copyright: Scope of Protection (§ 12 (for discussion only); §§ 13, 14, 16, 19); and Chapter 3, Initial Ownership, Transfers, Voluntary Licenses, and Termination of Grants (§§ 20-29). The membership voted to approve §§ 1-9, 11, 13, 14, 16, 19, and 20-26 of the Tentative Draft. Time expired before §§ 27-29 were discussed.

- A motion to amend § 8 to add a new subsection (c) was accepted by the Reporters and passed by the membership.
- A motion to amend § 8, Comments *d* and *g*, failed.
- A motion to amend § 9 failed.
- A motion to amend § 22 failed.
- A motion to amend § 25 to add a new subsection (f) was accepted by the Reporters with a modification and passed by the membership. The new language reads:

(f) When the owner of copyright in a contribution to a collective work authorizes the contribution’s inclusion in the collective work, “[i]n the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.”

- A motion to amend subsection (a) of § 25 failed.

### MODEL PENAL CODE: SEXUAL ASSAULT AND RELATED OFFENSES

The session on the Model Penal Code: Sexual Assault and Related Offenses spanned two days of the Annual Meeting (June 7 and 8). A complete draft of the project was presented to the membership. The membership voted to approve Tentative Draft No. 5. Approval of this draft may mark the completion of the project, subject to the Council’s approval of the amendments approved at this Annual Meeting.

- Two motions to amend the “recklessly” formulation in Article 213 failed.
- A motion presented by Kimberly Kessler Ferzan to amend the “recklessly” mens rea formulations in Article 213 and structure in certain offenses passed.
- Three motions to modify Section 213.3 failed.
- After the Reporters agreed in substance to a motion to add a new subsection (10) to Section 213.8, an amended motion to add the following language as a new subsection (10) was passed by the membership: “For an offense charged under Section 213.8, an actor younger than 14 may be adjudicated delinquent only as a misdemeanor, regardless of the penalty authorized by the statute for the offense.”
- A motion to delete Section 213.10 failed.
- Six motions to amend Sections 213.11A, 213.11E, 213.11F, 213.11G, and 213.11I were accepted by the Reporters and passed by the membership.
- A motion to remove subsection (1)(b) of Section 213.0 failed.

# FOUR ALI PROJECTS COMPLETED AT THE 2021 ANNUAL MEETING

Of the eleven projects presented to membership at this year's virtual Annual Meeting, four of the project drafts approved by membership marked the completion of the project, subject to the discussion at the meeting and the usual editorial prerogative.

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

Additionally, membership's approval of Tentative Draft No. 5 of **Model Penal Code: Sexual Assault and Related Offenses** may mark the final approval by membership of the project, subject to the Council's approval of the amendments approved at the Annual Meeting.

The project was launched in 2012. Including this year's Proposed Final Draft, which includes the complete project contents, 25 project drafts were produced by the Reporters and reviewed and edited by the Advisers and Members Consultative Group (MCG).

"We owe a debt of gratitude to the dedicated Advisers and MCG who reviewed and provided guidance to us, making the project stronger with each draft," said Associate Reporter Kaighn Smith. "This is a difficult area of law, as many of us did not study this in law school, and so few lawyers practice in this area day-to-day. Yet, it is more often than we realize that transactions or litigation will cross into Indian Territory. The body of law that we call federal Indian law derives from federal treaties, statutes, and executive orders with Supreme Court decisions fashioning principles in the nature of federal common law. The decisions that we see have shifted quite a bit in the modern era. We see decisions reflect a commitment to upholding the sovereign powers of Indian nations so that they can better their economies and preserve their rich cultural ways. Law in this area is progressive, and it is the right time for the ALI to have taken on this topic. With the completion of the Restatement of the Law of American Indians, the ALI is lending its hand in articulating doctrines that take account of the hard lessons of history."

"The completion of any Restatement is cause for celebrating the Reporters' accomplishment," said ALI Director Richard L. Revesz. "Making sense of a significant area of law and navigating the ALI's system for institutional discussion and approval is always a complex and challenging endeavor. But the complexity and challenge are even greater when the Reporters are writing on a clean slate, with no prior Restatement to provide an organizing structure and guide their way. For this reason, I particularly admire the work that Matthew, Wenona, and Kaighn did on this very important and often misunderstood area of the law."

## PRINCIPLES OF THE LAW, COMPLIANCE AND ENFORCEMENT FOR ORGANIZATIONS

This is the first time that The American Law Institute has produced Principles on this area of the law. Work began in 2015 under the leadership of Reporter Geoffrey P. Miller of New York University School of Law and Associate Reporters Jennifer H. Arlen of New York University School of Law, James A. Fanto of Brooklyn Law School, and Claire A. Hill of University of Minnesota Law School.

"The basis of this project comes out of the 1990s, 2000s and 2010s, where we had an enormous growth in fines and criminal prosecutions of organizations for various misconduct and misdeeds," said Reporter Geoffrey Miller. "This caused a very powerful set of discussions and set many legal minds thinking about, what is a way to both enforce the law against organizations' misconduct, but also to encourage organizations to enforce the law on themselves, through the processes of compliance."

This subject matter is one that combines legal and ethical standards. It deals with both externally imposed norms, such as laws and regulations, and internally imposed norms, such as corporate codes of ethics. And it is developed through discretionary actions of regulators and prosecutors and through settlements of enforcement proceedings that do not carry the force of generally binding law. Accordingly, the best course is to set out best-practice standards that may or may not draw on underlying legal norms. The Principles seek to provide best practices for a variety of public and private entities, but its main audience is large, publicly traded corporations.

"We saw that there was basically a challenge with the role of lawyers because lawyers are very involved in this process, but not always in a strictly legal role," said Reporter Miller. "They play a role that's more holistic and involves non-legal and legal aspects, but it challenges the basic idea of what it means to be a lawyer. There's also three new professions that have grown up: internal compliance, risk management, and internal audit, which had been around, but it's been professionalized."

"It is very exciting to see the completion of this important project," said ALI Director Richard L. Revesz. "For this extremely significant accomplishment, I am very grateful to Professors Miller, Arlen, Fanto, and Hill, and to the very dedicated Advisers and Members Consultative Group. I believe these Principles will provide important guidance to organizations in this complex area of law."



From left to right: Geoffrey P. Miller, Jennifer H. Arlen, James A. Fanto, and Claire A. Hill

## RESTATEMENT OF THE LAW, THE LAW OF AMERICAN INDIANS

This is the first Restatement on this important area of law. The project Reporters are Matthew L.M. Fletcher and Wenona T. Singel, both of Michigan State University College of Law, and Kaighn Smith Jr. of Drummond Woodsum.

The project presents American Indian Law in six chapters: Federal-Tribal Relations, Tribal Authority, State-Tribal Relations, Tribal Economic Development, Indian Country Criminal Jurisdiction, and Natural Resources.

"This project is generally about Federal Indian Law," explained Reporter Matthew Fletcher. "Federal Indian Law is the relationship between the United States, Indian tribes, and state governments. The first three chapters provide the big picture about federal, tribal, and state powers and prerogatives in the context of Federal Indian Law. Many of these principles have been around since the founding of the United States and really since the beginning of the constitutional era in 1789, but they are not necessarily well known. In Chapter 1, the project begins with a discussion of federal plenary power and all of the obligations the federal government has toward Indian people and Indian tribes. The project then covers the inherent powers of Indian tribes that federal law acknowledges, and also the state powers and the interaction primarily between states and local governments and tribes and tribal citizens."



Matthew L.M. Fletcher, Wenona T. Singel, and Kaighn Smith Jr. at the 2018 Annual Meeting

"While we were working on the project, it became clear that we needed to amend our original plan and add other topics," continued Associate Reporter Wenona Singel. "There is a chapter on tribal economic activity, both describing tribes as economic actors and as economic regulators; one on Indian country criminal jurisdiction, which many know is now an exceptionally hot topic, but you may not realize that this has been a known area of law in need of clarification since early in U.S. history; and we finish the project with a chapter on native natural resources, which includes treaty rights, water law, hunting and fishing, and generally who owns the resources and the property on the reservation."

## FOUR ALI PROJECTS COMPLETED AT THE 2021 ANNUAL MEETING CONTINUED FROM PAGE 7



*Kenneth W. Simons and W. Jonathan Cardi at the 2018 October Council Meeting*

### RESTATEMENT OF THE LAW THIRD, TORTS: INTENTIONAL TORTS TO PERSONS

The project is led by Reporter Kenneth W. Simons of the University of California and Associate Reporter W. Jonathan Cardi of Wake Forest University School of Law. Ellen S. Pryor of UNT Dallas College of Law served as Associate Reporter from 2014 to 2015.

This project is part of ALI's ongoing revision of the Restatement Second of Torts. Intentional Torts to Persons is the fifth installment of the Restatement Third of Torts to be completed, following Liability for Economic Harm, Products Liability, Apportionment, and Liability for Physical and Emotional Harm. Remaining areas of tort law currently being drafted are Concluding Provisions, Defamation and Privacy, Remedies, and Property.

"This Restatement deals with a sub-category of intentional torts," explained Reporter Kenneth Simons. "It focuses on the traditional torts of battery, assault, false imprisonment, and also a newly named tort called 'purposeful infliction of bodily harm.' The project also covers transferred intent and different types of consent that preclude liability. We spent quite a bit of time trying to identify the most helpful categories for courts to use when analyzing when consent does or does not exist. We also developed detailed and updated criteria for different defenses, including self-defense, defense of property, and citizen's arrest."

The Reporters worked closely with a diverse group of Advisers and Members Consultative Group and produced more than 20 drafts from the inception of the project in 2012.

"We paid close attention to the Second Restatement, many provisions of which were identical to the First Restatement. But the reality is that there have been significant developments in the law and the fabric of society since 1934," added Associate Reporter Jonathan Cardi. "For example, the definition of confinement is broader in our draft, making room for

confinements by the mere assertion of legal authority. Also, with a more pervasive modern police force, privileges such as the defense of property and citizen's arrest (along with their sparse and dated case support) were beginning to look a bit long in the tooth."

Portions of this project have been before the membership at five prior Annual Meetings. Including the Sections approved in this draft, the completed project's overall table of contents consists of three chapters. The first chapter includes Sections on battery, assault, purposeful infliction of bodily harm, intentional (or reckless) infliction of emotional harm, false imprisonment, participation in an intentional tort, and transferred intent. A second chapter addresses consent and includes Sections on actual consent, apparent and presumed consent, emergency doctrine, consent to sexual conduct, and medical treatment without legally effective consent as battery. The final chapter deals with privileges and includes the topics of self-defense and defense of third persons; defense of the actor's interest in possession of land and personal property; arrest and prevention or termination of crime; and privileges to discipline or control children. Additional provisions address when to compare the responsibility of negligent, reckless, and intentional plaintiffs and defendants; and fraud causing physical harm to person or property.

"For this extremely significant accomplishment, I am immensely grateful to Ken and Jonathan, as well as Ellen, for their leadership of this project," said ALI Director Richard L. Revesz. "The Reporters worked tirelessly along with the dedicated Advisers and Members Consultative Group to get us one step closer to completing our third revision of the Torts Restatement. Since the first Restatement Volume on this area of law was published in 1934, Torts has been one of the Institute's most influential projects, to date being cited by U.S. courts more than 88,000 times."

### PRINCIPLES FOR A DATA ECONOMY

Launched in January 2018 by the ALI Council, this project is a joint undertaking with the European Law Institute (ELI), which, much like the ALI, is a membership-based, independent nonprofit organization with the mission of providing guidance on legal developments.

The project has two Reporters, one from each organization. The ELI Reporter, Christiane C. Wendehorst, is Professor of Private Law at the University of Vienna. She is also a founding member of the ELI and became the ELI's President in September 2017. The ALI Reporter, Neil B. Cohen, is the Jeffrey D. Forchelli Professor of Law at Brooklyn Law School and the longstanding Research Director of the Permanent Editorial Board for the Uniform Commercial Code, the ALI's joint venture with the Uniform Law Commission. To help coordinate the work of the two institutions, there also are two

co-chairs: ELI Co-Chair Lord John Thomas of Cwmgiedd, who until recently served as Lord Chief Justice of England and Wales; and ALI Co-Chair Steven O. Weise, a Proskauer partner and member of the ALI Council.

The law governing trades in commerce in the United States and in Europe has historically focused on trade in items that are either real property, goods, or intangible assets such as shares, receivables, intellectual property rights, licenses, etc. With the emergence of the data economy, however, tradeable items often cannot readily be classified as such goods or rights, and they are arguably not services. They are often simply 'data.'

"As we all know, the modern economy is no longer just about goods or services, and other traditional commodities, to which our law has long adapted. The modern economy is, to a large extent, about data: collecting data, trading in data, analyzing data, and creating value with the help of data," said Reporter Wendehorst. "So, our project looks specifically into how data transactions work and which terms should be governing them by default. We equally look into what kind of rights people have where data is created with their contribution."

Both in the U.S. and in Europe, uncertainty as to the applicable rules and doctrines to govern the data economy is beginning to trouble stakeholders (such as data-driven industries; micro, small and medium-sized enterprises; as well as consumers). This uncertainty undermines the predictability necessary for efficient transactions in data, may inhibit innovation and growth, and may lead to market failure and manifest unfairness, in particular for the weaker party in a commercial relationship.

"The data economy now is almost exclusively governed by legal doctrines that were developed for other purposes; one of our major tasks is to adapt those doctrines so that they can be applied appropriately to the data economy going forward," said Reporter Cohen. "One of the purposes of this project is to think not only about what the rules are but what the rules could and should be. Unlike preparing a Restatement, for which a lot of the work involves looking back into the history of legal doctrines—how did we get here and how is the law developing?—this Principles project needs to look at the present and to the future without any real guarantee of what the future will look like, because it's changing so quickly."

This project proposes a set of principles that might be implemented in any kind of legal environment, and are designed to work in conjunction with any kind of data privacy/data protection law, intellectual property law, or trade secret law, without addressing or seeking to change any of the substantive rules of these bodies of law.

"We created a set of principles that works with whatever data protection, data privacy framework you are dealing with," explained Professor Wendehorst. "One of the decisions we made at a very early stage in our project was to stay abreast of data privacy and intellectual property rights. And when you do that, you realize that the principles that are just about data transactions and data rights are very similar."

"There is uncertainty, both in the United States and in Europe, concerning the legal rules that should apply to the data economy," said ALI Director Richard L. Revesz. "I am very excited about the result of this transatlantic collaboration and proud that the type of work that we do is deemed valuable around the world."

While the work was conducted jointly, each organization followed its respective approval processes. For the ALI, with the approval of this draft, the project Reporters are authorized to correct and update citations and other references, to make editorial and stylistic improvements, and to implement any remaining substantive changes agreed to during discussion with the ALI membership or by motions approved at the Annual Meeting. The ELI is scheduled to vote on this project later this year. We hope that a single draft will be approved on both sides of the Atlantic. But for any Principles for which agreement of this sort cannot be reached, there will be different ALI and ELI versions.



*Richard L. Revesz, Neil B. Cohen, Christiane C. Wendehorst, Lord John Thomas of Cwmgiedd, and Steven O. Weise at the 2018 project meeting*

# ALI Holds Virtual Celebration Honoring New Life and 50-Year Members

Each year The American Law Institute hosts a special event during the Annual Meeting to honor its new Life Members and 50-year members for their many years of dedication to ALI's important work. The Institute had even more reason to celebrate this year, with last year's new Life and 50-year members—the classes of 1995 and 1970—joining this year's—the classes of 1996 and 1971—for the event, which was held virtually in May during the 2021 Annual Meeting. During the celebration, the 1995 and 1996 Life Member Class Gifts, totaling a combined \$274,070, were presented to the Institute by 1995 Class Chair H. Rodgin Cohen of Sullivan & Cromwell LLP and 1996 Class Chair William C. Hubbard of University of South Carolina School of Law.

Mr. Cohen thanked the class members for their strong support of the class gift and recalled the “thrill of being asked to join such an incredible group of individuals with such a demonstrated record of achievement and commitment to the law.” Encouraging all class members to support the Class Gift program, he remarked “[t]here has perhaps never been a time

when the effective functioning of our legal system, and the fulfillment of the vision and promise embodied in law have been so crucial to ensure that justice is administered equally and for all. ALI's fundamental tenet is the advancement of a system of laws that achieves the essential goals.”

Dean Hubbard also thanked the class members and reiterated the importance of their generous support. “With new challenges presenting new opportunities to strengthen our core principle of equal justice under law,” Dean Hubbard remarked, “ALI's mission to clarify and simplify the law and to adapt the law to the changing social needs has never been more important than it is today.”

Following the Class Gift presentations, ALI President David F. Levi led a very special conversation with 1996 Class member Kenneth C. Frazier, Chairman and CEO of Merck & Co., in which Mr. Frazier provided thoughtful insight on his life in the law and beyond the law. All are highly encouraged to watch the conversation, which can be viewed, together with the Class Gift presentations, at <https://vimeo.com/552600801>.

Now in its 10th year, the Class Gift program has raised more than \$1.5 million to support key aspects of ALI's mission, including travel-assistance programs, which are offered to ALI members outside of the private sector to ensure that there are no financial barriers to the Institute's diverse membership's participation in ALI's work, and the Early Career Scholars Medal program, which raises awareness of the Institute's work while engaging up-and-coming legal academics. The Class Gift initiative also provides funding that allows ALI to produce works that make significant contributions to public policy even if they are unlikely to have much financial return in the form of books sold or royalties for the electronic use of the content, and to make the Institute's work more accessible by providing free public access to works that can be applied to addressing pressing legal and policy issues being faced in times of crisis.

The Class Gift program will continue with the 1997 Life Member Class, whose members will be honored at ALI's 2022 Annual Meeting next May in Washington, D.C.



ALI's 1995 Class Committee Chair H. Rodgin Cohen of Sullivan & Cromwell LLP and 1996 Class Committee Chair William C. Hubbard of University of South Carolina School of Law give remarks during the Virtual Class Celebration on May 17, 2021.

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## Restatement of the Law, Charitable Nonprofit Organizations: Official Text Now Available

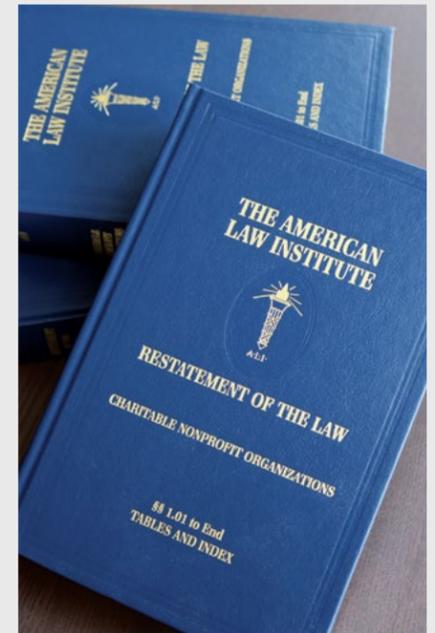
Restatement of the Law, Charitable Nonprofit Organizations, is now available to purchase on ALI's website. This Restatement addresses legal issues faced by nonprofit institutions, including choice of form, governance, changes to purpose and organization, gifts subject to restrictions, government regulation of charities, and standing of private parties.

Jill R. Horwitz of the UCLA School of Law served as Reporter for this Restatement; Nancy A. McLaughlin of the University of Utah S.J. Quinney College of Law served as Associate Reporter; and Marion R. Fremont-Smith of Harvard University, Kennedy School of Government served first as a Reporter on the project before taking on the role of Consultant.

From the Foreword by ALI Director Richard L. Revesz:

The nonprofit sector plays an essential role in our culture and in our lives—from relieving poverty in local communities to promoting the arts to tackling global environmental crises—and constitutes a significant part of our economy. There are approximately one and a half million nonprofit organizations registered with the Internal Revenue Service. They have assets of around six trillion dollars and contribute about one trillion dollars to the economy yearly, more than five percent of our gross domestic product. Health-care organizations and educational organizations are the two biggest components of the charitable nonprofit sector in terms of revenue and expenses, but the majority of the sector is made up of small organizations, and the full range of activities undertaken in this sector is extraordinarily varied.

The rules governing these institutions have traditionally received less scrutiny than those governing for-profit corporations. And volunteer nonprofit boards are often less knowledgeable about their responsibilities than their paid, for-profit counterparts. As a result, this Restatement fills an important gap, and I am confident that it will be one of the American Law Institute's most valuable resources.



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Nancy A. McLaughlin, Marion R. Fremont-Smith, and Jill R. Horwitz

The American Law Institute would like to thank Professors Horwitz, McLaughlin, and Fremont-Smith, as well as all project participants and members who contributed their time, wisdom, and guidance to the Restatement.

Donors as of June 30, 2021

The ALI Development Office has made every attempt to publish an accurate list of donors for the 1995 and 1996 Life Member Class Gift campaigns. In the event of an error or omission, please contact Kyle Jakob at 215-243-1660 or [kjakob@ali.org](mailto:kjakob@ali.org).

This report is produced exclusively for the ALI community. The Institute prohibits the distribution of this report to other commercial or philanthropic organizations.

# Member Spotlight: Richard G. Feder



Richie Feder is an adjunct faculty member at both Temple Law School and his alma mater Penn Law School; he teaches Local Government Law, and also has taught State Constitutional Litigation. He also is a “freelance” municipal and appellate lawyer. He previously worked for 27 years at the City of Philadelphia Law Department, including 20 as the Chief of Legislation and 15 as Chief of Appeals. Before that, he was an associate at Fine, Kaplan and Black (mentored by Allen D. Black, ALI Council Emeritus). He clerked for the Honorable Edward R. Becker, United States Court of Appeals for the Third Circuit.

An ALI member since 2003, Feder currently serves as Adviser to Principles of the Law, Government Ethics, one of the projects presented at the 2021 Annual Meeting. If you attended this year’s virtual Annual Meeting, you most likely heard from Feder, who provided thoughtful comments during several project sessions. In this piece, Feder talks about his history working for the City of Philadelphia, his ALI membership, and the importance of mentorship.

## You were with the City of Philadelphia Law Department for 27 years. How did you get involved in government work?

I got lucky. I wanted to find work that was intellectually challenging, that benefited more than just a single client or somebody’s pocketbook, and that might even have a lasting impact. I also - candidly - wanted very much not to get caught up in working so hard that I wouldn’t have time to enjoy the fruits of my labor. I was really fortunate to work with a group of lawyers at Fine, Kaplan and Black who shared many of these same values, but I wasn’t enjoying big-ticket litigation—I didn’t have the patience or disposition to fight over *everything*, no matter how far removed from the ultimate goal. So, a little bit of networking led me to the City of Philadelphia Law Department, which fortuitously had just started an Appeals and Legislation Division. That combination had my name written all over it—intellectually challenging work on important public policy issues, with lots of opportunities for writing, attention to detail, and influencing the quality of life in the City that I love.

## What do you consider some of your greatest achievements while working for the Law Department?

Three achievements stand out in my mind:

(1) The City’s “soda tax.” I drafted, re-drafted, tinkered with, and re-wrote this Ordinance over the course of seven years, always with an eye toward fitting it into the taxing power granted to the City by Pennsylvania. When we prevailed in the Pennsylvania Supreme Court against the soda industry’s challenge to the City’s authority, we not only enabled the raising of tens of millions of dollars annually for pre-K education, but we made a substantial contribution to the public health.

(2) “Contract reform.” In reaction to the City’s well-deserved reputation for petty municipal corruption, City Council enacted far-reaching, path-breaking restrictions on professional services contracting—promoting competition and transparency in the selection process, and imposing substantial limitations

on political contributions by contractors. I played a major role in drafting this Ordinance; took the lead in developing legislative interpretations to ensure meaningful implementation; and worked to ensure compliance by City officials for whom this was a very new way of doing business.

(3) Campaign contribution limits. Against all predictions by the political cognoscenti, the Pennsylvania Supreme Court upheld the City’s authority to impose substantial limits on contributions to City election campaigns. I briefed and argued the appeal.

But I am equally proud of work that I can’t yet qualify as “achievements,” because it has yet to meet with success, but nonetheless implicated critical issues of public policy. Working extensively with City Council, the Mayor’s Office, and in the courts, I took the lead on countless projects to address the scourge of gun violence in Philadelphia, and to address the disgracefully inadequate funding of public education in the City. We were met at every turn by an obstinate State Legislature which refuses to give Philadelphia the tools to take care of its own citizens. But I am proud that we never have, and never will, give up the fight.

## Based on your professional background, it’s no surprise you were asked to be an Adviser on the Principles of Government Ethics project. What have you enjoyed about that process?

As with all ALI projects, but with even more intensity and focus, our role as Advisers gives us the opportunity to engage in a genuinely rewarding, intellectual give-and-take, in a process that ultimately will culminate in a product that has the potential to make a meaningful and valuable positive impact. I learn so much from my fellow Advisers, the members of the MCG, and, of course, the incredibly thoughtful Reporters. And I get to share my expertise in a forum where all views are taken very seriously and given substantial consideration. What could be more fun!

## For those unfamiliar with the Government Ethics project, can you share certain topics/issues of great interest?

Sure. If successful, it is our hope that governments at all levels, throughout the country, will model and shape their Ethics Codes according to the Principles we are drafting. So, for example, the Principles propose substantial limits on the source and nature of gifts that government officials might receive; and substantial restrictions on government officials taking action on matters in which they or their close family members might have a personal, financial interest. Government officials have unique and often unchecked power over our personal liberty and over our private property. The goal of this Project is to ensure that this power is exercised with the public interest foremost in the minds of the decision-makers, and to minimize the extent to which the personal, selfish interests of government officials influence government action.

## Some have referred to being a member of the ALI as an education because of the rare opportunity to learn about new areas of law beyond their specialty from people at the forefront of that field. What are your thoughts on that? Do you feel that way about certain projects?

I agree completely. Active participation in ALI is like perpetual law school, but your classmates are only those few lawyers who actually enjoyed law school (!) and who turned out to be pretty good lawyers, too; and your professors are simply the smartest and best in their respective fields. It is a unique pleasure to soak up the expertise and knowledge of these classmates and professors, and to wrestle with the complex legal doctrines that are being developed and refined right in front of our eyes. But it’s even better than “just” education, because of the opportunity to contribute to that intellectual wrestling and to a work product that will influence legal decision-making for decades to come. So I would say that ALI membership takes the best aspects of law school—intellectual stimulation and learning; eliminates exams and grades; and, as a bonus, allows us to help steer the advancement of the law.

With that in mind, ALI leadership regularly encourages members to participate in projects regardless of our level of expertise in the field. I took that advice to heart and joined the MCG for the Restatement of Property. After sleeping through my Property Law class almost 40 years ago, I now get to finally learn these doctrines as a seasoned lawyer, from the leading experts in the field. And, as an added bonus, I find numerous opportunities to provide my outsider perspectives to the Project; and the brilliant and receptive Reporters actually seem to appreciate this!



Richie Feder speaking at the 2018 Annual Meeting

## Do you recall the first time you spoke at an ALI Annual Meeting?

Absolutely. After sitting passively through the Annual Meeting for several years, intimidated by all the intellectual firepower in the room, I finally summoned the courage to stand up at the microphone and offer my incoherent thoughts on an arcane point of law. I spoke as fast as humanly possible, and sat down even more quickly. I then waited expectantly for the derisive laughter, or at least quiet snickering. But it never came. Instead, the Reporters thanked me for my comments and seemed to genuinely take them into consideration. I sure don’t remember what it is I said, but the Reporters’ reaction gave me the courage to try it again. And again. And, soon enough -- now they can’t get me to sit down!

## Do you have any advice for new ALI members on the best way to start getting involved with the Institute’s work?

Sure - don’t do what I did. Instead, jump right in! You were chosen to be a member of the Institute for a reason. You deserve to be here, you have much to contribute, and the Reporters and the Membership want to hear from you! Start with a project with which you have some familiarity. Read the draft carefully, with a pen in your hand. Mark it up. You will be surprised at the number of points which you feel could be improved, or sharpened, or even substantially changed. And then share your thoughts. The Reporters won’t always agree with you. But they always will give your comments the consideration they deserve.

## In what ways did having a mentor early in your career affect your leadership style? Do you have any advice for those in leadership when it comes to mentoring?

I was fortunate to have two extraordinary ALI members as my early mentors—Allen Black, and the late Judge Eddie Becker. They certainly did their share of formal “teaching” me how to be a lawyer—and Lord knows I gave each of them plenty of teachable moments. But it was their informal mentorship that made them such important influences in my legal career: (1) They demonstrated a genuine interest in my professional development. They cared about me. (2) Because of this, I knew I could always ask questions, and I often did. And they always took the time to answer. (3) They modeled what it means to be a great lawyer - ethical, wise, thoughtful, practical. I hope I’ve been able to model for others even a fraction of what they modeled for me.

# The Institute in the Courts: The Supreme Court of the United Kingdom Cites the Restatement of the Law, The U.S. Law of International Commercial and Investor–State Arbitration

Disputes arising under international commercial contracts that contain arbitration agreements implicate at least three different systems of law, including the law governing the substance of the dispute, the law governing the agreement to arbitrate, and the law governing the arbitration process, or the “curial law.” In *Enka Insaat Ve Sanayi AS v OOO Insurance Company Chubb* [2020] UKSC 38, the Supreme Court of the United Kingdom addressed an issue that “has long divided courts and commentators,” both in the United Kingdom and internationally, namely, the question of what law governs the validity and scope of an arbitration agreement contained in an international commercial contract when the law governing the contract differs from the law of the seat of arbitration.

The dispute at issue in *Enka Insaat Ve Sanayi AS v OOO Insurance Company Chubb* arose in connection with a fire that severely damaged a power plant in Berezovskaya, Russia. Chubb, which was a Russian insurer of the plant, paid the plant owner’s claims for damages related to the fire under its property–insurance policy and, as subrogee, filed a claim in the Arbitrazh (i.e., Commercial) Court in Moscow against, among others, Enka, which was a Turkish engineering subcontractor involved in the construction of the plant, alleging that the subcontractor and others were jointly liable for the damage caused by the fire. The Arbitrazh Court denied the subcontractor’s motion to refer the dispute to arbitration pursuant to the arbitration agreement contained in its construction contract with the Russian head-contractor that had been hired by the plant owner to design and construct the plant, in which the subcontractor argued that the insurer’s claims against it fell within the scope of the arbitration agreement, and ultimately dismissed the insurer’s claims on the merits.

While the Russian proceedings were still pending, the subcontractor commenced proceedings in the Commercial Court in London, seeking an anti-suit injunction to prevent the insurer from further pursuing the Russian proceedings on the basis that the insurer had breached the arbitration agreement in the construction contract. The Commercial Court dismissed the subcontractor’s claim on the ground that the appropriate forum to decide whether the parties’ dispute fell within the arbitration agreement was the Arbitrazh Court in Moscow, rather than the Commercial Court in London. The Court of Appeal allowed the subcontractor’s subsequent appeal and issued an anti-suit injunction restraining the insurer from continuing the Russian proceedings, and the subcontractor commenced arbitration pursuant to the arbitration agreement against the insurer in the International Chamber of Commerce.

In an appeal from the decision of the Court of Appeal, the insurer argued that the construction contract between the subcontractor and the head-contractor was governed by Russian law, because the only non-Russian elements of the contract were that the subcontractor was a Turkish entity and that the contract specified that the place of arbitration was London, England. The insurer maintained that the parties chose Russian law to govern the contract and impliedly intended the arbitration agreement contained in the contract also to be governed by Russian law, despite the parties’ choice of London as the seat of the arbitration.

The Supreme Court of the United Kingdom dismissed the insurer’s appeal, holding that the arbitration agreement was governed by English law. Lord Hamblen and Lord Leggatt, with whom Lord Kerr agreed, explained that, in an international commercial contract containing an arbitration agreement, the law applicable to the arbitration agreement was not necessarily the same as the law applicable to other parts of the contract, and that the law governing arbitration agreements had to be determined by applying English common-law rules for resolving conflicts of laws; according to those rules, arbitration agreements were governed by either the law chosen by the parties or, in the absence of such a choice, the system of law with which the arbitration agreement was most closely connected.

Applying those principles to the instant matter, the Supreme Court held that the construction contract in dispute contained no choice of law with respect to either the contract as a whole or the arbitration agreement in the contract, and that, while the contract was governed by Russian law, because “the main body of the construction contract [was] manifestly more closely connected with Russia than with any other country,” the validity and scope of the arbitration agreement contained in the contract was governed by English law, as the law of the chosen seat of arbitration and the law with which the arbitration agreement was most closely connected.

The Supreme Court pointed out that its decision to treat an arbitration agreement as governed by the law of the seat of arbitration in the absence of another choice of law was consistent with international law and legislative policy, as embodied in the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), to which the United Kingdom became a party in 1975, and the national law giving effect to the New York Convention in England and Wales.

## Regional Advisory Group Meeting

In April, ALI President David F. Levi, ALI Membership Committee Chair Teresa Wilton Harmon, and ALI Deputy Director Stephanie A. Middleton hosted a Zoom meeting for all members of our 16 Regional Advisory Groups. More than 80 members participated, including 57 of the newest members appointed to serve. Together, they reviewed the role of the Regional Advisory Groups and ALI’s membership goals for 2021 and beyond.

Created in 2014, the main charge of ALI’s Regional Advisory Groups is to foster a membership that will reflect the broad diversity of highly capable and accomplished lawyers, judges, and academics in the United States and abroad, including with regard to (but not limited to) age, gender, race, ethnicity, expertise, geographic region, and type and size of practice or other professional work. The overall goal, shared with the Membership Committee, is to ensure a membership that will keep the Institute a vibrant, relevant, and distinguished membership organization as it carries out its mission throughout the 21st century.

Additionally, all ALI members are encouraged to identify and nominate a candidate for ALI membership. If you know of someone in the legal profession who you think would make a



great ALI member, please consider nominating that individual before the next proposal deadline on September 15. Proposals may be submitted online at [www.ali.org/membership-proposal](http://www.ali.org/membership-proposal). To access the membership-proposal section of the website, members must be signed in with their ALI username and password. Alternatively, you may request a packet to complete and mail to the ALI Membership Department by emailing [membership@ali.org](mailto:membership@ali.org) or calling 215-243-1624.

Please contact ALI Membership Director Beth Goldstein at [bgoldstein@ali.org](mailto:bgoldstein@ali.org) or 215-243-1666 if you have questions about the nomination process.

In addition, the Supreme Court noted that its conclusion “accord[ed] with the approach taken by the American Law Institute” in the Proposed Final Draft of Restatement of the Law, The U.S. Law of International Commercial and Investor–State Arbitration § 2.14, which “recommends a rule that a court should determine whether an international arbitration agreement is null and void in accordance with: (1) the law to which the parties have subjected the arbitration agreement; or (2) in the absence of such a choice of law, the law of the seat of arbitration.” The Supreme Court further pointed out that § 2.15 of the Proposed Final Draft “adopts the same rule for the purpose of determining whether a matter falls within the scope of an arbitration agreement, taking the position that the law applicable to determining the scope of an agreement to arbitrate should parallel the law applicable to determining whether the agreement is valid.”

President Biden issued an executive order forming the Presidential Commission on the Supreme Court of the United States, comprised of a bipartisan group of experts on the Court and the Court reform debate. ALI President **David F. Levi** is among many ALI members named to the committee, including:

**Jack M. Balkin**  
Yale Law School  
**William Baude**  
University of Chicago Law School  
**Elise Boddie**  
Rutgers Law School – Newark  
**Guy-Uriel E. Charles**  
Harvard Law School  
**Walter Dellinger, III**  
O’Melveny & Myers LLP  
**Justin Driver**  
Yale Law School  
**Richard H. Fallon Jr.**  
Harvard Law School  
**Caroline Rose Fredrickson**  
American Constitution Society  
**Heather Gerken**  
Yale Law School  
**Nancy Gertner**  
Harvard Law School

**Sherrilyn Ifill**  
NAACP Legal Defense and  
Educational Fund, Inc.  
**Olatunde Johnson**  
Columbia Law School  
**Margaret Hayes Lemos**  
Duke University School of Law  
**Trevor W. Morrison**  
New York University School of Law  
**Caleb E. Nelson**  
University of Virginia School of Law  
**Richard Pildes**  
New York University School of Law  
**Cristina M. Rodríguez (Co-Chair)**  
Yale Law School  
**Kermit Roosevelt III**  
University of Pennsylvania Carey  
Law School  
**David A. Strauss**  
University of Chicago Law School

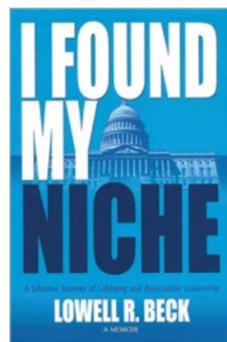
## Notes About Members and Colleagues

**José Enrique Alvarez** of New York University School of Law, **Nathan L. Hecht** of the Texas Supreme Court, **Gillian L. Lester** of Columbia Law School, **Angela Onwuachi-Willig** of Boston University School of Law, and **James J. Sandman** of the Legal Services Corporation were elected to the American Academy of Arts and Sciences.

**Diane M. Amann** of University of Georgia School of Law was elected a life member of the Council on Foreign Relations in February 2021. She also served as Visiting Professor of Law at Northwestern University Pritzker School of Law for Spring 2021 and has been appointed Regents' Professor of International Law at the University of Georgia, effective July 1.

**Tom Baker** of the University of Pennsylvania Carey Law School was interviewed by ABC News for his work on the Covid Coverage Litigation Tracker.

**Lowell R. Beck** has published *I Found My Niche*, a book about lobbying and association leadership. He tells the story of the American Bar Association's growing stature in the 1960s and 1970s. Highlighted are its leading roles in adoption of the 25th Amendment, enactment of the Criminal Justice Act of 1964, support of the OEO program that preceded the Legal Services Corporation, and its Watergate response that "No Man Is Above the Law."



**Vicki L. Been** was chosen to receive the 2021 Brigham-Kanner Property Rights Prize. She will be honored at the 18th annual Brigham-Kanner Property Rights Conference this fall.

In "As He Rose in His Career, Bonnie Made Case Against Capital Punishment," **Richard J. Bonnie** of UVA School of Law reflects on his time as a capital litigator in the Commonwealth of Virginia now that Virginia has become the first Southern state to abolish capital punishment.

**Curtis A. Bradley** of University of Chicago Law School received the American Society of International Law's inaugural Robert E. Dalton Award for Outstanding Contribution to the Field of Foreign Relations Law for his work as editor of *The Oxford Handbook of Comparative Foreign Relations Law* (Oxford Univ. Press 2019). Bradley served as a Reporter for the Treaties portion of Restatement of the Law Fourth, The Foreign Relations Law of the United States.

In the *Harvard Law Review* article "Turning Neighbors Into Nuisances," 134 Harv. L. Rev. 1609 (2021), **Maureen E. Brady** of Harvard Law School uses a forgotten period in urban development to illustrate the critical interactions among forms of private and public law in identifying the proper subjects of land-use control. Brady serves as an Associate Reporter for Restatement of the Law Fourth, Property.

**Sara C. Bronin** has been nominated by the Biden Administration to chair the U.S. Advisory Council on Historic Preservation. Bronin joined the Cornell faculty July 1 in the Department of City and Regional Planning in the College of Architecture, Art and Planning, and as an associated member of the faculty of Cornell Law School. She also spoke at the American Planning Association, Rhode Island Chapter event "Reimagining Zoning to Desegregate our Communities." She serves as an Associate Reporter for Restatement of the Law Fourth, Property.

**Maxine A. Burkett** of University of Hawai'i at Mānoa William S. Richardson School of Law has been appointed Senior Advisor with the Office of the Special Presidential Envoy for Climate.

**Sherri L. Burr** of the University of New Mexico School of Law has received the New Mexico Press Women's 2021 Communicator of Achievement Award, the organization's highest honor.

**Naomi R. Cahn** of UVA School of Law was interviewed by NewsRadio WINA on the U.S. Supreme Court's decision to hear *Dobbs v. Jackson Women's Health Organization*.

*Paving the Way: The First American Women Law Professors*, by the late Herma Hill Kay, tells the story of the first 14 female law professors at ABA- and AALS-accredited law schools in the United States. *Paving the Way* was published with **Patricia A. Cain** of Santa Clara University School of Law working as editor, **Melissa Murray** of New York University School of Law writing the Afterword, and the late U.S. Supreme Court Associate Justice Ruth Bader Ginsburg composing the Foreword.



**Cary Coglianese** of University of Pennsylvania Carey Law School co-chaired a panel that provided recommendations on drinking-water-policy decisions for the American Water Works Association. A key recommendation of the panel was that decisionmakers focus on households in the lowest 20 percent of income, when evaluating the impacts of proposed policy, rather than on median household income.

**Mary J. Davis** became the dean of the University of Kentucky J. David Rosenberg College of Law on January 1, 2021. She is the first woman to serve in the role of permanent dean at the College of Law.

**Anthony M. DiLeo** has been appointed by the Louisiana State Law Institute as Co-Reporter to the ADR Committee for a revision of arbitration statutes in Louisiana. He previously taught American Arbitration Law at Tulane Law School and frequently serves as a commercial arbitrator throughout the United States.

In "More Than Tangential': When Does the Public Have a Right to Access Judicial Records?," 29 J. L. & Pol'y 367 (2021), **Jordan Elias** of Girard Sharp explores the legal principles that govern access to court records.

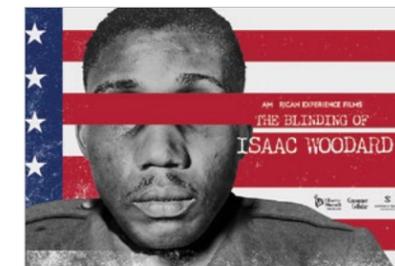
American University Washington College of Law has named **Roger A. Fairfax Jr.** its next dean, effective July 1.

**Lawrence J. Fox** of Schoeman Updike Kaufman & Gerber LLP is the 2021 recipient of the ABA Medal, the ABA's highest honor. He will receive the medal on August 9 as part of the 2021 ABA Annual Meeting, which will be virtual and in-person in Chicago.

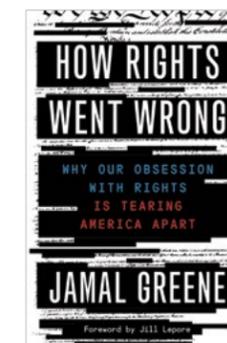
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In "Grammar-Nerd Heaven," *The New Yorker* takes a look at the love of and works on the English language of **Bryan A. Garner** of LawProse, Inc.

The PBS American Experience history series released *The Blinding of Isaac Woodard*, a film telling the story of one veteran's survival of racial violence at home that sparked the beginning of the end of Jim Crow. The film is based on the book, *Unexamined Courage* (Sarah Crichton Books 2019), by **Richard M. Gergel** of the U.S. District Court for the District of South Carolina.



In his new book, *How Rights Went Wrong: Why Our Obsession with Rights is Tearing America Apart* (Houghton Mifflin Harcourt 2021), **Jamal Greene** of Columbia Law School reveals how our approach to rights is dividing America, and shows how we can build a better system of justice. Greene participated in a Publius Symposium with the Stanford Constitutional Law Center to discuss his book.



**Linda Sheryl Greene** became the dean and MSU Foundation Professor of Law at the Michigan State University College of Law on June 1.

The U.S. Senate voted to confirm the nomination of **Lydia Kay Griggsby** to the U.S. District Court for the District of Maryland, becoming the first woman of color to serve as a federal judge in the state's history.

**Paul W. Grimm** of the U.S. District Court for the District of Maryland and **Lee H. Rosenthal** of the U.S. District Court for the Southern District of Texas presented at the Bolch Judicial Institute's CLE program, "What is 'Proportional Discovery'?" that coincided with the release of the *Third Edition of the Guidelines and Best Practices for Implementing the 2015 Discovery Amendments to Achieve Proportionality*.

**Anton G. Hajjar**, the former general counsel of the American Postal Workers Union, AFL-CIO, was confirmed by the U.S. Senate to serve on the U.S. Postal Service Board of Governors, marking a full complement of governors for the first time in more than a decade.

**Rachel A. Harmon** of UVA School of Law has authored *The Law of the Police* (Wolters Kluwer 2021), the first casebook to look at the laws that govern police conduct in the United States.

**Joan Sidney Howland** of the University of Minnesota Law School is the 2021 recipient of the Robert J. Kutak Award. The award is presented annually, by the ABA Section of Legal Education and Admissions to the Bar, to an individual who has made significant contributions to the collaboration of the academy, the bench, and the bar.

The U.S. Senate voted to confirm **Ketanji Brown Jackson** to the U.S. Court of Appeals for the D.C. Circuit, filling the vacancy left by U.S. Attorney General **Merrick Brian Garland**. Jackson also spoke at the University of Pennsylvania Carey Law School's 2021 virtual commencement ceremony.

## New Members Elected

On June 28, the Council elected the following 41 persons.

**Douglas W. Alexander**, Austin, TX  
**Derrick Haskie Beetso**, Gilbert, AZ  
**Jennifer M. Broder**, Los Angeles, CA  
**Edmond E. Chang**, Chicago, IL  
**Shauna Johnson Clark**, Houston, TX  
**Michael Cooke**, Philadelphia, PA  
**Jonathan Cuneo**, Washington, DC  
**Nicholas A. Danella**, Birmingham, AL  
**Jennifer Morgan DelMonico**, New Haven, CT  
**John C. Dernbach**, Harrisburg, PA  
**Christopher F. Droney**, Hartford, CT  
**Gary S. Feinerman**, Chicago, IL  
**Nancy D. Freudenthal**, Cheyenne, WY  
**Erika George**, Salt Lake City, UT

**Deborah R. Gerhardt**, Chapel Hill, NC  
**Greta Gooden Brown**, New Brunswick, NJ  
**Steven M. Haas**, Richmond, VA  
**Wesley Liu Hsu**, El Monte, CA  
**Lisa C. Ikemoto**, Davis, CA  
**Thomas H. Jackson**, Victor, NY  
**Scott A. Keller**, Washington, DC  
**Peter M. Kelly**, Houston, TX  
**Caitlin Maeve Kendall**, Anchorage, AK  
**Steve Kim**, Los Angeles, CA  
**Kathryn Kovacs**, Camden, NJ  
**Fatma Essam Marouf**, Fort Worth, TX  
**Barbara A. McDermott**, Philadelphia, PA  
**Doreen Nanibaa McPaul**, Window Rock, AZ

**Ajay K. Mehrotra**, Chicago, IL  
**Janet E. Milne**, South Royalton, VT  
**Christopher K. Odet**, Iowa City, IA  
**Mark E. Plotkin**, Washington, DC  
**Joshua D. Sanders**, Newark, NJ  
**Samuel W. Silver**, Philadelphia, PA  
**Lorraine A. Smiley**, New Orleans, LA  
**Michael E. Solimine**, Cincinnati, OH  
**Katherine J. Stoller**, New York, NY  
**Seth W. Stoughton**, Columbia, SC  
**J. Henry Walker IV**, Atlanta, GA  
**Shlomit Yanisky-Ravid**, New York, NY  
**Richard B. Zabel**, Brooklyn, NY

## NOTES CONTINUED FROM PAGE 19

**Wallace B. Jefferson** of Alexander Dubose & Jefferson LLP was one of the featured panelists for the American Academy of Arts & Sciences discussion of its report, *Our Common Purpose: Reinventing American Democracy for the 21st Century*.

**Gary T. Johnson** will serve as chair of the Abraham Lincoln Presidential Library and Museum Board in Springfield, Illinois.

The U.S. Securities and Exchange Commission announced the appointments of **Renee M. Jones** of Boston College Law School as Director of the Division of Corporation Finance and **John C. Coates IV**, the Division's Acting Director, previously of Harvard Law School, as General Counsel.

**Pamela S. Karlan** of Stanford Law School and **Ellen F. Rosenblum** of the Oregon Department of Justice are recipients of this year's Margaret Brent Women Lawyers of Achievement Award for achieving professional excellence within their area of specialty and actively paving the way to success for other women lawyers.

**Neal Katyal** of Hogan Lovells US LLP was interviewed by PBS News Hour regarding his experiences this past year making oral arguments to the Supreme Court of the United States over the phone.

**Herbert I. Lazerow** of the University of San Diego School of Law is the author of the second edition of *Mastering Art Law* (Carolina Academic Press 2020).

ALI President **David F. Levi** has been named to a new task force, by **Paul Martin Newby** of the North Carolina Supreme Court, whose mission is to enable Judicial Branch stakeholders to understand the impact on children of exposure to adverse childhood experiences and adverse community environments, and to develop strategies for addressing adverse consequences within the court system.

The Delaware Corporation Law Resource Center has created "The Lipton Archive" to showcase the collection of **Martin Lipton's** memos to clients, formal articles, and other materials "that might be of interest to professors planning syllabuses, and historical content that is relevant to research, in both academic settings and practice."

**Goodwin Liu** of the California Supreme Court has written an op-ed piece for the *Los Angeles Times*. In the piece, "Op-Ed: Anti-Asian attacks might have been taken more seriously if we had more Asian American DAs," he addresses how California Governor Gavin Newsom's nomination of an Asian American as the state's next attorney general comes at a very important time, but also highlights the rarity of Asian Americans in prominent roles of law enforcement, the effects of this lack of representation, and the importance of addressing this lack of representation in combating anti-Asian attacks.

In "Insurer Wins Biggest ALI Liability Insurance Restatement Case To Date," **Randy J. Maniloff** of White and Williams LLP explores how the Restatement of the Law, Liability Insurance, has been used by courts in recent decisions. The full piece is available on *The ALI Adviser*.

*continued on page 22*

**Margaret H. Marshall** of Choate, Hall & Stewart LLP is the recipient of the 2021 Bolch Prize for the Rule of Law. The prize is awarded annually by the Bolch Judicial Institute at Duke University School of Law to an individual or organization who has demonstrated extraordinary dedication to the rule of law and advancing rule-of-law principles around the world. Marshall was a featured speaker in the *Achieving Gender Equity* video series at the Harvard Radcliffe Institute. The video focuses on her belief that defending the right to vote is the most strategic way in which Americans can achieve gender equity today. Harvard University awarded her an honorary Doctor of Laws degree during the "Honoring the Harvard Class of 2021" virtual university-wide graduation ceremony on May 27.

President Joe Biden announced his intent to nominate **Anne M. Milgram** for Administrator of the Drug Enforcement Administration at the Department of Justice, and **Christopher H. Schroeder** for Assistant Attorney General for the Office of Legal Counsel at the Department of Justice.

**Cynthia E. Nance** of the University of Arkansas School of Law has received the 2021 University of Iowa Hancher-Finkbine Alumni Medallion, which recognizes individuals who exemplify learning, leadership, and loyalty.

## In Memoriam: Mary Kay Kane



Mary Kay Kane passed away on June 3, 2021, at age 74. She was elected to the Institute in 1978 and to the ALI Council in 1998, taking emeritus status in 2018.

"She approached every project, meeting, and decision with keen intellect and grace," said ALI President David F. Levi. "I was fortunate to come to know Mary Kay because of her service on the Standing

Committee for the Rules of Practice and Procedure and because of our joint service on the Council of the ALI. She was also a wonderful role model for me and others as a law dean. She was such a smart and lovely person, such a kind and balanced commenter. We will all miss her very much."

A life member of the Institute, she generously gave countless hours to all of ALI's projects, and additionally served as an Adviser on the Uniform Commercial Code; Restatement Fourth, Conflict of Laws; Restatement Third, Torts: Apportionment of Liability; and Principles of Transnational Civil Procedure. She also served as the Co-Reporter for the Complex Litigation Project, as well as on various Council committees, including the 100th Anniversary, Development, Membership, and Executive Committees, among others.

Her generosity to the Institute also provided for the Institute's projects to continue through the establishment of the Geoffrey C. Hazard, Jr. Fund, which was established to provide the current Director with the resources necessary to take advantage of any and all opportunities to further ALI's important work.

The below is excerpted from the message from UC Hastings Chancellor and Dean David Faigman:

Mary Kay was born and raised in Detroit. She attended the University of Michigan where she received a B.A. degree in English and a J.D. in law in 1971. Upon graduation from law school, she became co-director of a national science foundation project on privacy and social science research data, spending one year at the University of Michigan and two years at Harvard Law School working on that project.

She began teaching in 1974 at the State University of New York at Buffalo Law School. She joined the UC Hastings faculty in 1977, where she was the first ladder-ranked woman faculty member. She went on to serve as Associate Academic Dean from 1980 to 1982, Acting Academic Dean during the 1987-88 academic year, and Academic Dean from 1990 to 1993. In 1993, she was named

Chancellor and Dean, a position she held until 2006. She was the first woman dean at UC Hastings. As one of the trail-blazing women in legal education, Mary Kay was honored in 2017 by being interviewed for the "Women in Legal Education Project," sponsored by the American Association of Law Schools.

During Mary Kay's deanship, she was singularly responsible for bringing UC Hastings into the modern age. She oversaw the transition of the "65-Club" from its historical form and raised substantial funds to endow distinguished professorships at the school. As the only stand-alone public law school, Mary Kay worked with the Legislature to expand clinical opportunities at the school and to deepen our relationship with the University of California system. During her 13 years as dean, she oversaw the hiring of numerous junior faculty and put in place programs to ensure their development as teachers and scholars. She also oversaw the renovation of our academic building at 198 McAllister in 1999 and a major earthquake retrofit and upgrade of our library and administration building at 200 McAllister, which is named in her honor. (Three prominent alumni contributed a substantial sum to the 200 McAllister renovation and asked the Board of Directors to name the building in her honor, an honor that they surprised her with during her final meeting with them as chancellor & dean.)

Mary Kay's major area of scholarly interest was civil procedure, in which she continues to be recognized as one of the nation's—in fact, the world's—leading scholars.

## In Memoriam

### ELECTED MEMBERS

**D. Michael Lynn**, Fort Worth, TX; **Herbert S. Wander**, Highland Park, IL

### LIFE MEMBERS

**David R. Baker**, Birmingham, AL; **Martin D. Begleiter**, Clive, IA; **Mary Lou Crowley**, Syracuse, NY; **Antoinette L. Dupont**, Hartford, CT; **Sheldon H. Elsen**, New York, NY; **David H. Gambrell**, Atlanta, GA; **Richard R. Goldberg**, Philadelphia, PA; **Susan Marie Halliday**, McLean, VA; **Lewis B. Kaden**, New York, NY; **Mary Kay Kane**, San Francisco, CA; **Donald H. Kelley**, Highlands Ranch, CO; **Maximilian W. Kempner**, Lincoln, MA; **Norman M. Krivosha**, Naples, FL; **William Hudson Leedy**, Washington, DC; **Philip R. Martinez**, El Paso, TX; **George H. Nofer**, Philadelphia, PA; **Edward M. Posner**, Philadelphia, PA; **Eugene B. Strassburger, III**, Pittsburgh, PA; **Thomas P. Sullivan**, Chicago, IL; **Jack B. Weinstein**, Great Neck, NY

## NOTES CONTINUED FROM PAGE 21

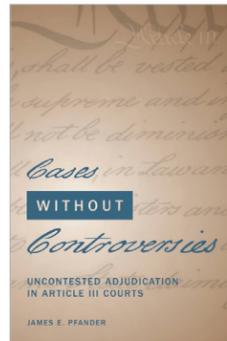
**Annette L. Nazareth** of Davis Polk & Wardwell LLP was appointed to the Advisory Board of Options Solutions LLC.

President Joe Biden announced his intent to nominate **Brian E. Nelson**, chief legal officer of LA28, the organizing committee for the 2028 Olympic and Paralympic Games in Los Angeles, for Under Secretary for Terrorism and Financial Intelligence for the Department of the Treasury.

**Hari M. Osofsky** of Penn State Law has been appointed the next dean of Northwestern University Pritzker School of Law and the Myra and James Bradwell Professor, effective August 1.

**Florence Y. Pan** has been nominated to the U.S. District Court for the District of Columbia. She would be the first Asian American Pacific Islander woman to serve on the court.

In his new book, *Cases Without Controversies: Uncontested Adjudication in Article III Courts* (Oxford Univ. Press 2021), **James E. Pfander** of Northwestern University Pritzker School of Law offers a new synthesis of the case-or-controversy rule in U.S. courts and provides a guide for handling uncontested proceedings.



A study co-written by **Eric A. Posner** of the University of Chicago Law School was cited in *The New York Times* article, "An Extraordinary Winning Streak for Religion at the Supreme Court."

**Norman M. Powell** of Young Conaway Stargatt & Taylor, LLP and **Jonathan C. Lipson** of Temple University Beasley School of Law co-authored

"Contracting COVID: Private Order and Public Good (Standstills)," published in *The Business Lawyer* (Vol. 76, Spring 2021), the premier business-law journal of the ABA's Business Law Section. The article discusses the role that ex ante contracting, specifically standstill/forbearance agreements ("SFAs"), can play in ameliorating the commercial costs of COVID or similar future calamities.

**Mildred Wigfall Robinson** of UVA School of Law was the 2021 recipient of the Armstead Robinson Faculty Award for her contributions to diversity, equity, and inclusion, and for her positive impact on the Black experience at the University. She was the first tenured Black woman to serve on the UVA Law faculty.

**Yvonne Gonzalez Rogers** of the U.S. District Court for the Northern District of California was highlighted in Law360 for her comments on the inclusion of women and people of color for the legal teams of an Apple and Epic Games antitrust bench trial.

**Stephen E. Sachs** will join the faculty of Harvard Law School as the inaugural Antonin Scalia Professor of Law, effective July 1.

**David Alan Sklansky** of Stanford Law School was joined by **Mariano-Florentino Cuéllar** of the California Supreme Court in a virtual discussion of his book, *A Pattern of Violence: How the Law Classifies Crimes and What It Means for Justice* (Harvard Univ. Press 2021). Additional panelists included attorney and restorative-justice practitioner sujatha baliga, Adam Serwer of *The Atlantic*, and Rabia Belt of Stanford Law School, who served as moderator.

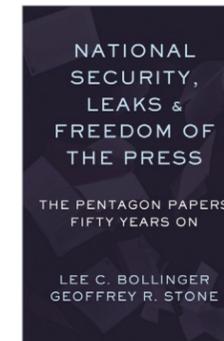


Panelists discuss *A Pattern of Violence: How the Law Classifies Crimes and What It Means for Justice*.

**Mary L. Smith** was elected to the PTC Therapeutics, Inc., Board of Directors.

**Shale D. Stiller** of DLA Piper US LLP received an Honorary Doctor of Laws degree conferred by University of Maryland Francis King Carey School of Law and the University of Maryland, Baltimore, as part of the university's 2021 commencement festivities.

**Geoffrey R. Stone** of the University of Chicago Law School is a co-editor of the recently published book, *National Security, Leaks & Freedom of the Press: The Pentagon Papers Fifty Years On* (Oxford Univ. Press 2021), which examines First Amendment rights to disclose, to obtain, or to publish classified information that relates to the national security of the United States.



**Symeon C. Symeonides** of Willamette University College of Law was elected a member of the *Academia Europaea*, the European Academy of Humanities, Letters, and Sciences, also known as the Academy of Europe. The Academia is based in London and its members are scholars who live and work in Europe. In cases of "extraordinary achievement," scholars who live outside Europe may be elected as "foreign" members. Symeonides was elected in this category. Additionally, he completed a 30-year project surveying American conflicts-of-laws cases. A collection of the surveys is available in a three-volume set entitled *Choice of Law in Practice: A Twenty-Year Report from the Trenches* (Brill/Nijhoff 2021).

In an episode for the podcast *LawNext*, **Ann A. Scott Timmer** of the Arizona Supreme Court discusses why the court's task force, which she chaired, recommended fundamental changes in the regulation of legal services, why the court adopted them, the status of their implementation, and the implications for access to justice.

**Molly S. Van Houweling** of UC Berkeley School of Law received UC Berkeley's Extraordinary Teaching in Extraordinary Times award. The award is intended to honor faculty, staff, and student instructors that embraced the challenges posed by the COVID-19 pandemic, and engaged in or supported excellent teaching.

**D. Kelly Weisberg** of UC Hastings College of Law received the Hope Rising Journalism Award at the 21st Annual International Family Justice Center Conference, in April 2021, in recognition of her work as editor of *Domestic Violence Report*, the leading legal newsletter on domestic violence law and prevention.

If you would like to share any recent events or publications in the next ALI newsletter, please email us at [communications@ali.org](mailto:communications@ali.org).

# Meetings and Events Calendar At-A-Glance

Below is a list of upcoming meetings and events. For the safety of our project participants and staff, we ask that unvaccinated individuals participate remotely instead of attending in person. For more information, visit [www.ali.org](http://www.ali.org).

## 2021

**September 9-10**  
Restatement of the Law Third, Torts: Concluding Provisions  
Hybrid

**October 1**  
Uniform Commercial Code  
Zoom

**October 7**  
Restatement of the Law Fourth, Property  
Hybrid

**October 8**  
Restatement of the Law, Copyright  
Hybrid

**October 14 (Advisers)**  
**October 15 (MCG)**  
Principles of the Law, Policing  
Hybrid

**October 21-22**  
Council Meeting - October 2021  
New York, NY

**October 29**  
Restatement of the Law Third, Torts: Remedies  
Hybrid

**November 11**  
Restatement of the Law, Consumer Contracts  
Hybrid

**November 12**  
Restatement of the Law, Children and the Law  
Hybrid

**November 19**  
Restatement of the Law Third, Conflict of Laws  
Hybrid

## 2022

**January 20-21**  
Council Meeting - January 2022  
Philadelphia, PA

**February 24**  
Restatement of the Law, Corporate Governance  
Hybrid

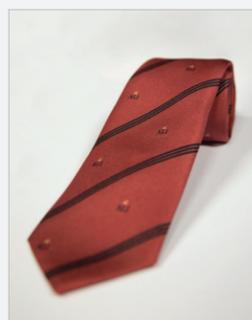
## ALI TIES AND SCARVES

Long-time members of ALI are undoubtedly familiar with the contributions of Geoffrey C. Hazard, Jr. But, you may not know that when he ended his tenure as Director, each Council member unexpectedly received a box containing a handmade tie or scarf.

Many members who have noticed these original ties and scarves have inquired about how they could purchase one. Unfortunately, Professor Hazard's designs were one of a kind.

In response to these member requests, ALI has reissued ties and scarves with an updated design. These limited-edition items are available for purchase on the ALI website. The accessories are handcrafted and sold at cost.

Visit [www.ali.org/store](http://www.ali.org/store) to place your order.





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## Join Us this Fall: Members Consultative Group

With several project meetings already scheduled through November, now is the perfect time for interested members to join a Members Consultative Group (MCG). MCG participants will be alerted when future meetings are scheduled and when drafts are available. A calendar of our upcoming meetings is available on page 23.

No expertise in the project area is needed to join an MCG. In fact, participation by non-experts is essential in order to make sure that the Institute's work is useful to a broad audience. You may join as many MCGs as you wish by visiting the project pages online.

**VISIT [WWW.ALI.ORG/PROJECTS](http://WWW.ALI.ORG/PROJECTS) TO SIGN UP FOR AN MCG TODAY.**