January 2022 Council Meeting Update

At its meeting on January 20 and 21, 2022, the Council reviewed and discussed Council Drafts of nine projects and approved drafts and portions of drafts as listed below. All approvals are subject to the discussion at the meeting and the usual editorial prerogative.

**Conflict of Laws**
The Council approved the following material in Council Draft No. 6: §§ 5.09-5.19 and 5.25-5.30 of Topic 3, Substance–Procedure Distinction, of Chapter 5, Choice of Law. The Reporters will revise §§ 5.20-5.24 for consideration by the Council at a future meeting.

**Consumer Contracts**
The Council approved Council Draft No. 6, which contained the entire project.

**Copyright**
The Council approved Council Draft No. 6, containing § 10 of Chapter 1, Subject Matter and Standards: Generally; § 15 of Chapter 2, Subject Matter of Copyright: Scope of Protection; § 20, Comment g, of Chapter 3, Initial Ownership, Transfers, Voluntary Licenses, and Termination of Grants; §§ 40, 41, and 45-48 of Chapter 4, Copyright Formalities; and §§ 9.01-9.06 of Chapter 9, Copyright Remedies, as well as §§ 8 and 25, which were revised to incorporate motions approved at the 2021 Annual Meeting.

**Policing**
The Council approved §§ 1.12 and 1.13 of Chapter 1, General Principles of Sound Policing, and § 4.0x of Chapter 4, Police Encounters, of Council Draft No. 6. Due to time constraints, the Council did not complete its discussion of Chapter 14, Role of Other Agencies in Promoting Sound Policing. Review of

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34th Annual Indian Law Symposium: Restatement of the Law of American Indians

On April 21 and 22, the University of Washington School of Law is hosting its 34th Annual Indian Law Symposium on Restatement of the Law, The Law of American Indians. Cosponsored by the Washington Law Review and supported by ALI, the symposium will feature presentations by the Restatement’s Reporter Matthew L.M. Fletcher, and Associate Reporters Wenona T. Singel and Kaighn Smith Jr.

CLE credits are being requested for the entire symposium. Registration is open for the virtual event. Visit bit.ly/rlaisymposium to learn more.

Below is an overview of the agenda.*

THURSDAY, APRIL 21
Welcome: Introduction and Remarks
Eric Eberhard, Elizabeth Porter, and Brenda Williams of University of Washington School of Law
Kenneth Nelson of Washington Law Review
Reflections on the Restatement
Matthew L.M. Fletcher of Michigan State University College of Law
Keynote Address: A Perspective on the Restatement from the Federal Bench
William A. Fletcher of the U.S. Court of Appeals for the Ninth Circuit

Panel 1: Federal–Tribal Relations (Chapter 1)
Bree R. Black Horse of Kilpatrick Townsend
Matthew L. Campbell of Native American Rights Fund
Kirsten Carlson of Wayne State University Law School
Alexander T. Skibine of University of Utah S.J. Quinney College of Law
Michalyn Steele of Brigham Young University J. Reuben Clark Law School

Panel 2: Tribal Authority (Chapter 2)
Nikki Borchardt Campbell of the National American Indian Court Judges Association
Kristen A. Carpenter of University of Colorado Law School
Elizabeth Kronk Warner of University of Utah S.J. Quinney College of Law
Gloria Valencia-Weber of University of New Mexico School of Law

Panel 3: State–Tribal Relations (Chapter 3)
Kathryn E. Fort of Michigan State University College of Law
Kristen K. Mitchell of Washington State Office of the Attorney General
Elizabeth A. Reese of Stanford Law School
Neoshia Roemer of University of Idaho College of Law
Wenona T. Singel of Michigan State University College of Law
Asa K. Washines of Washington State Office of the Attorney General

FRIDAY, APRIL 22
Welcome and Introduction
Eric Eberhard of University of Washington School of Law
Kayla Ganir and Kenneth Nelson, both of Washington Law Review

A Perspective on the Restatement from the State Bench
Raquel Montoya-Lewis of Washington State Supreme Court

Panel 4: Economic Development (Chapter 4)
Townsend Hyatt of Orrick
Brie Coyle Jones of Miller Nash
Robert J. Miller of Arizona State University
Sandra Day O’Connor College of Law
Lynn H. Slade of Modrall Sperling
Kaighn Smith Jr. of Drummond Woodsum

Panel 5: Indian Country Criminal Jurisdiction (Chapter 5)
Thomas F. Gede of Morgan Lewis
Angela R. Riley of UCLA School of Law
Joel West Williams of Native American Rights Fund
April Youpee-Roll of Munger, Tolles & Olson

Panel 6: Natural Resources (Chapter 6)
Daniel Rey-Bear of Rey-Bear McLaughlin
Rebecca Tsosie of University of Arizona
James E. Rogers College of Law
Ann Tweedy of University of South Dakota
Knudson School of Law
Heather Whiteman Runs Him of University of Arizona James E. Rogers College of Law

* Panel participants as of February 14, 2022.
industry is under pressure, and experts tell us that in the future we are unlikely to be able to rely as much on this key income stream. Meanwhile, the cost of what we do and want to do is increasing.

The result is a gap between the ALI’s resources and the funding it is likely to need in the future. Through our Second Century Campaign, we will close that gap without compromising the Institute’s financial and intellectual independence, which is so critically important to the legitimacy of our work. Maintaining our independence necessarily limits our sources of financial support. That is why we need to turn to our extraordinary members, who understand the ALI’s mission and value our vital work promoting the rule of law, to help raise the substantial resources necessary to make our ambitious goals possible, including:

- Produce Restatements, Principles, and Model Codes in areas of law that will provide great legal and societal benefit, some of which will provide little revenue to the ALI.
- Eliminate barriers to participation in our work, ensuring that our membership remains diverse and broad, and that there are no financial obstacles to participating in our process.
- Help under-resourced state courts handle the broad range of cases they encounter by providing free access to our Restatements, Principles, and Model Codes.

See www.ali.org/anniversary/priorities to see the full list of fundraising priorities.

As with all campaigns, this has been a multi-year effort. Last year, the ALI’s Special Committee on Development for the ALI’s 100th Anniversary established a $35 million goal for the Second Century Campaign. All contributions to the Institute beginning on July 1, 2016, have been included in the campaign’s fundraising figures, and as of January 2022, we have raised $24 million toward our goal. It is definitely an impressive beginning but we still have a long way to go!

I would like to express my deepest appreciation to the ALI members whose contributions have already been counted, beginning with those members whom we lost during our campaign period and who generously chose to include ALI in their estate planning. These cherished members of the Institute gave so much of their time and knowledge to the ALI’s projects, and additionally have helped provide enormous resources for the ALI’s future: Bennett Boskey, Geoff Hazard, Vester Hughes, Mary Kay Kane, and Harry Sigman.

I would also like to recognize and thank the first major donors who have already contributed or pledged $250,000 or more to the Second Century Campaign: Carnegie Corporation of New York, Andrée and Ken Frazier, Ann and Daniel Girard, Andrew Hendry, David F. Levi, Judith Miller and Peter Buscemi, and Victor Schwartz, as well as three donors who wish to remain anonymous. I am overwhelmed by their level of generosity.

Despite these successes, our fundraising work is far from done. I hope that all members who are able will contribute what they can to the campaign. The financial support of our members—which comes on top of their vitally important work on the substance of our projects—is critical to the future of the Institute.

For members who have the means, we have created a challenge to become one of 100 donors giving $100,000 to the Institute, payable over 10 years or through a bequest. Although the “100 for 100” challenge has only begun, several donors have already joined: Apgar-Black Foundation; Yvonne Gonzalez Rogers and Matt Rogers; Teresa Wilton Harmon; Roberta Cooper Ramo and Barry Ramo; and Lori and Steve Weise. To them, I am enormously grateful.

We are also inviting law firms that share in the ALI’s dedication to the rule of law to participate in the campaign. Inaugural firms donating at the President’s Level of $200,000 or more, payable over five years, are Jones Day; Munger, Tolles & Olson; Sidley Austin; and Wachtell, Lipton, Rosen & Katz. I am thankful to these firms as well as to others that are contributing at different levels.

I hope that you will join me and other members of the Institute in supporting the Second Century Campaign. Details about the campaign, our donors, and our goals can be found in this and future issues of The ALI Reporter or online on the ALI’s 100th Anniversary webpages. If you would like more information about how to participate in the 100 for 100 challenge, or would like to talk about how to get your firm involved, please feel free to contact me directly.

We are currently planning to celebrate our 100th Anniversary at the 2023 Annual Meeting. I am confident that at that time, with the help of the ALI’s members, we will also be celebrating a successful Second Century Campaign. To that end, throughout the duration of the campaign, you will be receiving communications encouraging your contribution, including from members of the ALI’s Development Committee. It is our goal to have the largest proportion of member participation possible in this effort.

Therefore, in the coming months, I will invite each of you to join the ALI members who have already made the Institute a philanthropic priority, and give to the Second Century Campaign, as we come together in this historic moment to celebrate what we have already accomplished together and ensure the ALI’s place in the future of law.
ALI’s First Century

Founding of The American Law Institute

In the early 1920s, a group of prominent American judges, lawyers, and law professors formed “The Committee on the Establishment of a Permanent Organization for the Improvement of the Law,” led by Elihu Root, George Wickersham, and William Draper Lewis. The Committee reported to the members of the legal profession that the “law is unnecessarily uncertain and complex,” and as a result, there is a “general dissatisfaction with the administration of justice.”

According to the Committee, the law’s uncertainty stemmed in part from a lack of agreement on fundamental principles of the common law, while the law’s complexity was attributed to the numerous variations within different jurisdictions.

In order to remedy these issues, the Committee proposed the formation of The American Law Institute in order “to promote the clarification and simplification of the law and its better adaptation to social needs, to secure the better administration of justice and to encourage and carry on scholarly and scientific legal work.”

One of the Committee’s suggestions was for a Restatement of the Law, the purpose of which “should not only be to help make certain much that is now uncertain and to simplify unnecessary complexities, but also to promote those changes which will tend better to adapt the laws to the needs of life.”

A Restatement should be critical and constructive, and although largely based on statutes and decisions, “it should not be confined to examining and setting forth the law applicable to those situations which have been the subject of court action or statutory regulation, but should also take account of situations not yet discussed by courts or dealt with by legislatures....”

The Committee then recommended that the work be done by members that represent the profession as a whole. The diversity of voice, in all ways, would prove essential to the work that the Institute produces.

Based on the recommendation of the Committee, The American Law Institute was incorporated in 1923. That year, work began on the first four Restatements, covering the subjects of Agency, Conflict of Laws, Contracts, and Torts.

Additional early leaders of ALI included William Howard Taft, Charles Evans Hughes, Learned Hand, and Benjamin Cardozo. ALI held its first Annual Meeting in February 1923.
100 for 100

On the occasion of our 100th Anniversary, we embarked on a mission to raise the funds necessary to ensure the continuation of the work of the Institute for a second century. As part of this exciting goal, we issued a challenge to our donors who have the means, who cherish the rule of law, and who value our vital work, to be one of 100 donors giving $100,000 to The American Law Institute.

Although this challenge has only begun, we would like to recognize the inaugural members who accepted the challenge. We are profoundly grateful to these donors for their generous support of the Institute, which will allow our work to continue for years to come.

Members may join the 100 for 100 challenge by:

- Making a one-time gift of $100,000
- Making a pledge (to be paid in up to 10 annual installments)
- Including ALI in your estate plans

BECOME A DONOR

Visit the website to donate now or learn more about our campaign funding priorities. For more information about joining the 100 for 100 challenge, please contact ALI Director Richard L. Revesz at Director@ali.org.

INAUGURAL 100 FOR 100 DONORS

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Law Firm Donors

Donors to The American Law Institute’s Second Century Campaign play a vital role in funding the Institute’s future Restatements of the Law, Principles of the Law, and Model Codes. Law firms are made up of professionals who contribute time and talent solely for the love of the law and society, and who understand how ALI’s work helps realize this nation’s principles. On the occasion of our 100th Anniversary, we invite firms to join us in our goal of protecting and promoting the rule of law for a second century.

In appreciation of our generous supporters, we would like to recognize the inaugural donors to the President’s Circle.

Inaugural 100 for 100 Donors

Law firm donors at the President’s circle, Director’s circle, Patron, or Benefactor level will be recognized in a variety of ways:

- Law firm logos will be added to the Law Firm Donor Recognition webpage.
- Law firm names or logos will be prominently displayed in event programs and displays in connection with ALI’s 100th Anniversary celebrations.
- Law firm donors will be recognized at ALI’s 2023 Annual Meeting.

LAW FIRM GIVING LEVELS

| President’s Circle - $200,000 |
| Director’s Circle - $150,000 |
| Patron - $100,000 |
| Benefactor - $50,000 |

*Contributions may be made over a five-year period.

Please contact ALI Director Revesz at Director@ali.org to join the growing list of firms supporting the Second Century Campaign.
Donor Spotlights

Ann and Daniel C. Girard

Ann and Dan Girard are no strangers to the work of The American Law Institute. Both are experienced lawyers who were first introduced to the Restatements and Model Codes in law school. Dan became a member of ALI in 2006, and was elected to its Council in 2019.

Ann began her career at Brobeck, Phleger & Harrison. This is where she and Dan met. “We met in the elevator as first-year associates. Fortunately, the firm spanned several floors, and we had a chance to get acquainted on the way to the lobby.” Ann then went on to serve as western regional counsel at Hitachi America for more than 10 years, where she was chief legal counsel for the company’s largest business unit. After that, she joined QuickLogic as general counsel. She also served as president of the San Francisco Bay Area Chapter of the Association of Corporate Counsel. Ann received her B.A. from University of California, Berkeley and her J.D. from University of California, Hastings College of Law, serving as managing editor for the Hastings Constitutional Law Quarterly.

Ann currently works with education-focused organizations. Drawn to this cause because “access to education, libraries and well-funded schools are great equalizers for everyone in our community.” She is a co-founder, board member, and business advisor for Raiizz, an online fundraising platform supporting schools and nonprofits by providing a marketplace where users buy and sell from each other, while donating a portion of their sales proceeds. Additionally, she is commissioner for the County of San Mateo and a member of the Committee on the Status of Women. She is the past president of the San Mateo Public Library Foundation and currently serves on the Board of Directors. Previously, she worked in leadership positions in arts and education, including as president of the San Francisco Opera Guild and trustee for the San Francisco Conservatory of Music.

Dan received his B.A. from Cornell University and his J.D. from University of California, Davis School of Law, where he was an editor of the UC Davis Law Review. After graduating from law school, Dan joined Brobeck, Phleger & Harrison’s corporate and securities practice. While he enjoyed his work, he wanted to represent a broader client base, and decided to interview with a class action firm, where he found an immediate fit. Dan was a partner at Lieff Cabraser Heimann & Bernstein before founding Girard Sharp in 1995. He told us that he “wanted to start a firm that would offer dedicated, professional representation to average Americans.” He continued, “I don’t know of any other legal system that provides the same opportunity for ordinary citizens to litigate on an equal footing with major corporations and institutional interests. It’s a tremendous privilege and responsibility. An important part of my work for the past 25 years has been finding and motivating people who share the same passion for our practice, and I’ve never been more excited about the group we have and the work we’re doing.”

Dan is a renowned expert on class actions and has served as lead attorney in successful cases brought under a range of federal and state laws, emphasizing financial services matters. Over the past few years, he served as lead attorney in several cases brought on behalf of retail investors, including the Peregrine Financial, Provident Royalties, and Woodbridge Investments litigation. He also led a class action to reform the Government of Guam’s income tax processing practices. Dan oversees all matters handled by the firm and serves as mentor and advisor to other lawyers at the firm.

Dan’s practice is concentrated in federal court, and he has been honored to contribute to the federal court rulemaking committees. Chief Justice William H. Rehnquist appointed him to the United States Judicial Conference Advisory Committee on Civil Rules, where he served from 2004 to 2010. Chief Justice John G. Roberts appointed him to the Standing Committee on Practice and Procedure in 2015 and reappointed him for a second term in 2018. He served on the Advisory Board of the Institute for the Advancement of the American Legal System from 2007 to 2016. He has been a long-standing member of the American Bar Association’s Business Law Section, Committee on Business and Corporate Litigation.

With all of his commitments, the ALI considers itself lucky that Dan has dedicated so much of his time to the Institute and our projects. When asked why ALI is a priority, he said, “Alexis de Tocqueville recognized the importance of associations to the preservation of American liberties and democratic values: ‘In democratic countries the science of association is the mother science; the progress of all the others depends on the progress of that one.’ ALI brings together an extraordinary and diverse group of accomplished legal thinkers dedicated to improving American law. By supporting ALI, we contribute as members of the legal profession to American civic society.”

Indeed, we are incredibly thankful for the time that he spends on our projects, and his wise direction provided on all of our projects as a Council member. We are also humbled that he and Ann have made such a tremendously generous gift to our Second Century campaign.

Dan explained why the Girards decided to support ALI’s Second Century fund, saying, “It’s a privilege to contribute to this historic campaign. I can’t think of a more important cause at this time in our history than supporting an association dedicated to maintaining the rule of law.” He continued, “Ann and I hope that ALI in the next 100 years continues to serve its mission of improving the law, and builds on its reputation for excellence by incorporating the contributions of the most talented legal thinkers from every area of legal profession.”

The American Law Institute is tremendously grateful for the support of the Girards and all that they have contributed to the rule of law and to education throughout their careers.
David F. Levi

David F. Levi became the American Law Institute’s 10th president in 2017. However, his work with ALI began long before he was elected to lead the Institute. David was elected to ALI in 1991 and to the Council in 2005. He previously served as an Adviser to ALI’s Federal Judicial Code Revision and Aggregate Litigation projects and is currently serving as an Adviser on the Principles of the Law, Student Sexual Misconduct: Procedural Frameworks for Colleges and Universities, as well as on numerous ALI committees.

In addition to his role as ALI president, David is currently the Levi Family Professor of Law and Judicial Studies and Director of the Bolch Judicial Institute. He was previously the dean of Duke Law School from 2007 to 2018. Prior to this appointment, he was the chief judge for the U.S. District Court for the Eastern District of California with chambers in Sacramento. He was appointed U.S. attorney by President Ronald Reagan in 1986 and a U.S. district judge by President George H. W. Bush in 1990. It was during this time that he was elected to the Institute.

When asked why he has dedicated so much time to ALI over the years, he explained, “If you look at my career, it’s not a surprising commitment, but there’s an extra element to it that wouldn’t be perhaps entirely obvious. After I became a judge in 1990, I very quickly started getting assignments from the circuit to do either law reform or committee work. I found myself the chair of the Ninth Circuit Task Force on Race, Religious and Ethnic Fairness in the courts. Then, I went onto the Civil Rules Committee, and that became a very, very important part of my life. I served on that committee and the standing committee on the rules of practice and procedure in various capacities for nearly 20 years.”

He continued, “That work, and the work of the ALI—as we work through Restatements, particularly the black letter, Comments, and public comments—very much parallel one another. So, it’s something that I know a great deal about and that I believe in. It’s a deliberative process that I’m very familiar with and respect. The idea of bringing together academics and judges and lawyers and having them work through a product over a time, that’s a process that I’m very committed to.”

David served as chair of the Civil Rules Advisory Committee from 2000 to 2003, and chair of the Standing Committee on the Rules of Practice and Procedure from 2003 to 2007. He was reappointed to serve as the academic member of the standing committee from 2009 to 2015. Additionally, he was the first president and a founder of the Milton L. Schwartz American Inn of Court, now the Schwartz-Levi American Inn of Court, at the King Hall School of Law, University of California at Davis. He was an author of the report of the Ninth Circuit Task Force on Race, Religious, and Ethnic Fairness as chair. He was president of the Ninth Circuit District Judges Association from 2003 to 2005.

In addition to his service to the Institute, and his generous contribution to our Second Century Campaign, David previously provided for the Institute’s future through the establishment of the Daniel J. Meltzer Fund, which was created to provide the current and future ALI directors with the resources necessary to execute special initiatives that will further the Institute’s important and influential work of clarifying and improving the law for the better administration of justice. Dan and David were first cousins and close friends, growing up four houses apart and attending school as classmates all the way from nursery school through Harvard College. Together they shared a love for their family and the law, as well as a deep commitment to the Institute.

“Dan was an extraordinary person and lawyer who is remembered for his intellect, for the rigor, pragmatism, and integrity of his legal analysis, and for his generosity, kindness, and commitment to teaching, scholarship, and public service. He was dedicated to law reform and was looking forward to serving as ALI’s Director, so establishing the Daniel J. Meltzer Fund to honor and continue Dan’s legacy of support of ALI seemed like the right fit,” said David on the establishment of the fund.

David explained why it was important to him now to contribute to the ALI’s Second Century Fund, saying, “Going forward, as we think about some of the things the Institute might do, you realize that it will stretch our financial resources very considerably. Nobody knows for sure what the revenue that we count on today will look like in 10 or 20 years. The publishing world is a difficult economic model right now, and the Institute is very dependent on the publishing revenue that it gets from its Restatements. This highlights the need for some significant fund raising.”

He continued, “We live in a globalized world. Therefore, in our second century, we’re going to want to continue to work internationally, likely more than we’ve done so in the past. This is a tremendous opportunity for ALI to influence international law, but the work will be costly.”

A native of Chicago, David earned his A.B. in history and literature, magna cum laude, from Harvard College. He entered Harvard’s graduate program in history, specializing in English legal history and serving as a teaching fellow in English history and literature. He graduated Order of the Coif in 1980 from Stanford Law School, where he was also president of the Stanford Law Review. Following graduation, he was a law clerk to Ben C. Duniway of the U.S. Court of Appeals for the Ninth Circuit, and then to Lewis F. Powell Jr. of the Supreme Court of the United States.

In 2007, David was elected a fellow of the American Academy of Arts and Sciences. From 2010 to 2013, he served on the board of directors of Equal Justice Works. In 2014, he was appointed chair of the American Bar Association’s Standing Committee on the American Judicial System, and in 2015, he was named co-chair of the North Carolina Commission on the Administration of Law and Justice. He is the co-author of Federal Trial Objections (James Publishing 2002). At Duke Law, he has taught courses on judicial behavior, ethics, and legal history. He recently served on President Biden’s Presidential Commission on the Supreme Court of the United States.

The ALI is forever grateful to David for his time and wisdom through the years as well as for his generosity that is helping ensure that ALI may continue our work for another century.
Michael Traynor has shown by example the importance of giving back through service to organizations like The American Law Institute. He was elected to ALI in 1972 and to the ALI Council in 1985. He served as ALI President from 2000 to 2008, the eighth person to hold that office and the first president from the West Coast.

Michael took office in the most difficult way (when then-President Charles Alan Wright died unexpectedly) and dedicated himself to leading the ALI into the 21st century.

One of Michael’s first events as ALI president took place in London, England, at a reception to celebrate the increased globalization and international influence of ALI’s work. During his tenure, ALI finished and also began some of the most important work of its history. As president, he encouraged the Institute both to assume appropriate responsibility in the international community, and to make sure that ALI understood that there was a great world from which we should draw ideas and colleagues.

“The ALI is a prized institution in the life of our country,” said Michael. “We need to keep it that way. It is an oasis for people with sometimes very different points of view. We have a grand opportunity to participate and exchange and learn from distinguished judges, academics, and lawyers, including foreign members. That opportunity includes working actively on matters that are within as well as outside your particular specialty, and simply learning and participating in matters that interest you but that you’re not necessarily a specialist in.”

In 2011, ALI awarded Michael the Distinguished Service Award, given from time to time to a member who, over many years, has played a major role in the Institute. While he has certainly undertaken significant responsibility in several institutional roles—including president, Council member, and officer—he also has given additional time as an Adviser or participant on several projects.

When asked about his continued involvement in ALI projects, Michael explained, “In a time of great political dissension and other polarization, this is one place you can come and have your view respected and considered, and to learn from others in a very courteous and productive discussion. It has been and is a great privilege to participate in ALI’s varied projects, and I learn something new and get to know new colleagues at every meeting. The ALI also affords us the welcome chance to take a kindness break from the current frenzy and strife in our country and enjoy and appreciate each other’s company.”

Michael’s professional and public service is not limited to the work of the Institute. He was a member of the committee of volunteer lawyers that preceded the creation in 1971 of the Sierra Club Legal Defense Fund (now known as Earthjustice), and served as a trustee, board chair, and member of the Earthjustice Council. He is an Honorary Life Trustee of Earthjustice and of the Lawyers Committee for Civil Rights Under Law, a Fellow of the American Academy of Arts & Sciences, a member of the Leadership Council of the Environmental Law Institute, and a past president of the Bar Association of San Francisco. In 1995, Michael was recognized as a Fellow of the American Association for the Advancement of Science for research and publication on issues at the intersection of science and law in biotechnology, the environment, and information technology. He is also a fellow of the American Academy of Appellate Lawyers and the California Academy of Appellate Lawyers.

In 2004, he received the John P. Frank Outstanding Lawyer Award from the U.S. Court of Appeals for the Ninth Circuit. It was given in recognition of outstanding character and integrity, dedication to the rule of law, proficiency as a trial and appellate lawyer, success in promoting collegiality among members of the bench and bar, and a lifetime of service to the federal courts of the Ninth Circuit.

A native of California, Michael graduated from the University of California at Berkeley with a B.A. in Economics, served two years in the U.S. Marine Corps, and received a J.D. from Harvard Law School. After serving as a Deputy Attorney General of the State of California and as Special Counsel to the California Senate Committee on Local Government, he joined Cooley in 1963, became a partner in 1969, then senior counsel, and retired in 2008. He is now senior counsel at Cobalt LLP.

“I believe that if you are committed to an organization, you give of yourself, your ideas, what you can provide in terms of leadership and organization,” said Michael when asked why he contributed to ALI’s Second Century Campaign. “I would like to see ourselves get to the point where we are completely financially independent. Achieving that goal would enable us also to take on projects of greater public law significance and international significance, and make them available, not only within this country but also to judges, academics, lawyers, policy-making groups, public and private, educational institutions, and other relevant institutions in various countries across the world.”

Michael’s influence on the legal profession and ALI has been profound. The Institute is tremendously thankful to Michael for his support of the Second Century campaign.

VISIT THE 100TH ANNIVERSARY PAGES ON ALI’S WEBSITE TO READ ADDITIONAL PROFILES.
Volume of Essays on ALI’s First Century to Be Published

In celebration of ALI’s first 100 years, a volume of essays is being produced that explores ALI’s founding, examines some of the Institute’s most influential projects, and contemplates adoption and criticism of our work so far. Provisionally entitled *The ALI at 100: Essays on Its Centennial*, the project is led by editors Andrew S. Gold of Brooklyn Law School and Robert W. Gordon of Stanford Law School.

In addition to the publication of a printed volume, which will be available at the 2023 Annual Meeting, ALI is also planning to host a conference to discuss the essays.

The volume will consist of the following topics and contributors:

- The ALI Projects in the Context of Their Times—Kenneth S. Abraham and G. Edward White, University of Virginia School of Law
- The Restatements and International Law—George A. Bermann, Columbia Law School
- Principles of Corporate Governance—William W. Bratton, University of Pennsylvania Carey Law School
- Restatements of Contracts—Richard R. W. Brooks, New York University School of Law
- Restatements of Trusts—Naomi R. Cahn, University of Virginia School of Law; Deborah S. Gordon, Drexel University Thomas R. Kline School of Law; and Allison Anna Tait, University of Richmond School of Law
- Restating Common Law in the Shadow of the Codes—Deborah A. DeMott, Duke University School of Law
- Model Penal Code—Kimberly Kessler Ferzan, University of Pennsylvania Carey Law School
- The Restatements in the Age of Statutes—Abbe R. Gluck, Yale Law School
- The Restatements and the Common Law—Andrew S. Gold, Brooklyn Law School and Henry E. Smith, Harvard Law School
- Restatements of Torts—John C.P. Goldberg, Harvard Law School
- Legal Realist Comments on and Critiques of the Restatement Projects—Robert W. Gordon, Stanford Law School
- Principles of Family Dissolution—Linda C. McClain, Boston University School of Law and Douglas NeJaime, Yale Law School
- Restatements of Property—Thomas W. Merrill, Columbia Law School
- Principles of Aggregate Litigation—Linda S. Mullenix, University of Texas School of Law
- The ALI as Community: An Inside View—Roberta Cooper Ramo, Modrall Sperling
- The Legal Theory of Restatements—Frederick Schauer, University of Virginia School of Law
- Uniform Commercial Code—Robert E. Scott, Columbia Law School
- Precursors of the Restatements—Symeon C. Symeonides, Willamette University College of Law
- Restatements of Restitution and Unjust Enrichment—Emily L. Sherwin, Cornell Law School
- Restatements of Conflict of Laws—Sylvia R. Platt Dipert and William E. Wyckoff, University of Pennsylvania Carey Law School
- Restatement of the Law Governing Lawyers—W. Bradley Wendel, Cornell Law School

Gifts to the Second Century Campaign

Our 100th Anniversary is a wonderful opportunity to ensure that our successors, 100 years from now, will be in at least as good a position as we now are to plan for the future of the Institute and its work.

We are grateful to the following major donors to the Second Century Campaign for bringing us one step closer to securing the Institute’s future:

**Second Century Visionary**

($2.5 million or more)
- Bennett Boskey
- Mary Kay Kane

**Second Century Patron**

($1 million to $2.49 million)
- Carnegie Corporation of New York
- Andrea W. and Kenneth C. Frazier Family Foundation
- Vester T. Hughes Jr.
- Victor E. Schwartz
- Anonymous

**Second Century Benefactor**

($500,000 to under $1 million)
- Ann and Daniel C. Girard
- Andrew Hendry
- Lee and Gary Rosenthal

**Second Century Supporter**

($250,000 to under $500,000)
- David F. Levi
- Judith Miller and Peter Buscemi
- Anonymous (2)

**100 for 100**

See page 5 to learn more about our 100 for 100 challenge and view the list of members who have already accepted the challenge.

Visit ali.org/giving to learn about participating in the Life Member Class Gift, the ALI Annual Fund, becoming a Sustaining Member, or planning for an Estate Gift to the Institute.
that material will continue at the Council’s meeting in March, along with discussion of the remaining material in the draft—Chapter 12, Informants and Undercover Agents, and revisions to §§ 9.01 and 9.06 of Chapter 9, Forensic-Evidence Gathering.

**Property**
The Council approved Council Draft No. 5, containing Topics 1 to 3 of Chapter 2, Doctrines of Original Title, from Division Three, Accession, of Volume 1, The Basics of Property; and Chapter 1, Recording Requirements; Chapter 6, Marketable Title Acts; and Chapter 7, Title Disputes and Title-Related Actions, from Division Four, Recording, of Volume 5, Title and Transfers of Ownership.

**Sexual Assault and Related Offenses**
The Council reserved consideration of the following sections and topics in Council Draft No. 12: Sections 213.9 and 213.11-213.11J, and grading and registration in Section 213.8. The Council approved all other Sections in the draft with provisions marked by an asterisk. The Council will continue its discussion of the reserved sections and topics at its March meeting.

**Student Sexual Misconduct: Procedural Frameworks for Colleges and Universities**
The Council approved Council Draft No. 6, which contained Chapter 9, Integrity of the Process: Confidentiality, Disclosure, Misrepresentation, Retaliation; and Chapter 10, Internal Student Discipline and the Criminal Justice System.

**Torts: Concluding Provisions**
The Council approved the following material in Council Draft No. 2: §§ 1-4 of Chapter 1, Intra-Family Immunities, §§ 6-7 of Chapter 2, Governmental Entities and Public Officials and Employees Immunities, and §§ 9-11 of Chapter 3, Miscellaneous Immunities, from the Immunities portion of the project; §§ 27-37 of Topic 6, Tort Claims for Economic Harm, from the Apportionment of Liability portion; and § 3 of Chapter 11, Liability of Medical Professionals and Institutions, from the Liability for Physical and Emotional Harm portion. The Council did not complete its discussion of the remainder of the draft due to time constraints.

**Uniform Commercial Code and Emerging Technologies**
The Council approved Council Draft No. 1, containing amendments to UCC Articles 1, 2, 2A, 3, 4, 4A, 5, 7, 8, and 9 and a draft of UCC Article 12.

Members interested in any of these projects can access drafts in the Projects section of the ALI website. Those who join a Members Consultative Group will be alerted when future meetings are scheduled and when drafts are available online.
In 2019, ALI and the Uniform Law Commission formed a joint committee to review the Uniform Commercial Code (UCC) with a view to recommending amendments or revisions to accommodate emerged and emerging technological developments. Recommendations were presented to ALI Council at its January meeting. Updates on the January Council meeting are available on page 1.

Council Draft No. 1 primarily addresses a limited set of transactions involving certain types of digital assets. The draft also addresses additional technology-related amendments as well as several miscellaneous issues. A copy of the draft is available on the UCC project page on the ALI website. The project page also includes a memorandum summarizing proposed transition provisions for the revisions of the Uniform Commercial Code now underway. The following is excerpted from the Reporter’s Memorandum included in the draft.

BACKGROUND

Since 2019, a committee (the “Committee”) appointed by The American Law Institute and the Uniform Law Commission, the sponsoring organizations of the UCC, has been considering and formulating amendments to the UCC to address emerging technological developments, including those relating to digital assets. The Committee has included and worked with both lawyers experienced in UCC matters and lawyers whose practice concentrates on digital assets. The work of the Committee has benefitted enormously from the contributions of American Bar Association advisors and more than 300 observers from academia, trade groups, government agencies, law firms, private technology companies, and foreign participants from multinational law reform organizations or who are active in technology-related law reform efforts in their own countries.

The Committee presented its initial draft of the amendments to the Uniform Law Commission at the Commission’s annual meeting in July 2021. The current plan is for the amendments to be finalized in 2022 with a view to obtaining approval of The American Law Institute membership at the ALI Annual Meeting in May 2022 and of the Uniform Law Commission at its Annual Meeting in July 2022. The amendments would then be offered for enactment by the states.

The proposed amendments respond to market concerns about the lack of commercial law rules for digital assets, especially relating to negotiability for virtual (non-fiat) currency and certain electronic payment rights, the difficulties of secured lending against digital assets, including virtual currency and payment rights, and security interests in anticipated electronic (fiat) money, such as central bank digital currencies. The proposed amendments address only state commercial law rules.
Remembering John Minor Wisdom

At the January 2022 Council meeting, the ALI Council voted to approve a proposed change to the description of criteria for the John Minor Wisdom Award. The update to the description is noted below in blue:

The Wisdom Award is given from time to time in specific recognition of a member’s contributions to the work of the Institute. ALI Reporters, officers, and Council members are not eligible for the Award, the primary purpose of which is to recognize members who do not have an official role in Institute projects. Former ALI Reporters, former ALI officers, and Council emeriti are eligible for consideration after their official service has concluded.


“[Judge Wisdom] loved the law, he loved being a judge on the Fifth Circuit, the Multidistrict Litigation Panel, and the Railroad Reorganization Court, he loved The American Law Institute and the Council on which he served, he loved literature, he loved Scotch, and he loved and mentored his law clerks, many of whom are members of this Institute,” said D. Brock Hornby of the U.S. District Court for the District of Maine, a former Wisdom law clerk, during his presentation of the Wisdom Award at ALI’s 2011 Annual Meeting.

Anton G. Hajjar, Vice-Chair of the U.S. Postal Service Board of Governors and also a former Wisdom law clerk, notes “I will say this about having clerked for Judge Wisdom: in my career as a lawyer, the best part came first!”

Judge Wisdom was elected to the Institute in 1941 and served on the Council from 1961 to 1980. He was an Adviser to the Model Code of Pre-Arraignment Procedure and to the Study of the Division of Jurisdiction Between State and Federal Courts. In his letter from the Spring 1995 issue of The ALI Reporter, Charles Alan Wright (ALI President 1993–2000) called Judge Wisdom “one of the handful of truly great judges of our time. His keen intellect and his stylistic writing have made a lasting mark in many fields of the law.” Wisdom, along with some of his colleagues, went on to write some of the important and courageous desegregation decisions that followed Brown v. Board of Education, decisions that changed the course of history. “But I am sure that he would agree that the desegregation cases were the most challenging and most important of his judicial career,” noted Wright. “Of all the days in the calendar, no day could be more fitting for Judge Wisdom’s birthday than May 17th, the day of the Brown decision.”

Recognized for his extraordinary skill as a writer, Judge Wisdom passed on his knowledge and love of good writing to his law clerks. In a piece for the Yale Law Journal, former Wisdom law clerk Allen D. Black of Fine, Kaplan and Black RPC describes Judge Wisdom’s writing style: “With characteristic humor and modesty, he called them Wisdom’s Idiosyncrasies. Quickly, they became a legend among law clerks throughout the Fifth Circuit. I love them for two reasons: (1) They provide excellent and concise advice about good writing style; and (2) Judge Wisdom’s warmth and wit sparkle through them. They convey a good sense of the man who knew the value of fun, while keeping sight of the serious purpose at hand.” Allen D. Black, Judge Wisdom, the Great Teacher and Careful Writer, 109 Yale L.J. 1267, 1271 (2000). The full article is available online at: bit.ly/ylwisdom.

When Judge Wisdom was awarded the Presidential Medal of Freedom in 1993, President Clinton emphasized how the judge and his colleagues pioneered our nation’s landmark decisions on civil rights, “His background makes his progressive decisions all the more remarkable. Because I don’t think the South could have made it through those trying times without leaders like Judge Wisdom…. His outspoken calls for reform in government and public education and civil rights are something of which all southerners and members of both political parties can justly be proud.”

On December 8, 1999, the Council adopted the following Memorial Minute, presented by Carolyn Dineen King of the U.S. Court of Appeals for the Fifth Circuit:

Judge Wisdom served as the founding father of the Republican Party in Louisiana, a predominant Democratic state long dominated by the politics of Huey Long. In 1952, he and Elbert P. Tuttle of Georgia, who preceded Judge Wisdom in service on the Fifth Circuit, helped organize General Dwight D. Eisenhower’s presidential campaign in the South. Later, President Eisenhower tapped Judge Wisdom for a circuit judgeship, and on the second such overture, Judge Wisdom accepted, taking his oath of office on July 13, 1957.

When Judge Wisdom became a judge, Brown v. Board of Education was barely three years old. The Supreme
Court had ordered that the South desegregate its schools “with all deliberate speed,” but left it to trial and appellate court judges in the trenches to flesh out the meaning of that command. Despite the mandate of Brown, the South remained segregated, a place of active resistance to the rule of law. Judge Wisdom and three other giants on the Fifth Circuit, John R. Brown, Richard T. Rives, and Elbert P. Tuttle, transformed the promise of Brown into reality. More often than not, Judge Wisdom was the architect and the penman of the seminal decisions that desegregated schools, universities, public accommodations, and many other aspects of Southern life and that became the foundation for several of the Supreme Court’s later opinions in the civil rights area.

But Judge Wisdom was known for much more than his civil rights decisions. He wrote masterful opinions in areas as diverse as admiralty, evidence, labor law, antitrust, and the Louisiana Civil Code. In all, he participated in the decision of more than 5000 cases and signed more than 1000 published majority opinions. And what opinions they were: in the words of Justice Brennan, “models of clarity, construction, and reasoning, display[ing] industrious and comprehensive research, and reflect[ing] a rich and well-developed background of cultural, historical, and literary frames of reference.” The Renaissance man that was John Wisdom shone through on every page.
The Institute in the Courts: Supreme Court of Utah Adopts Section of Torts 3d: Products Liability

In Feasel v. Tracker Marine LLC, 496 P.3d 95 (Utah 2021), the Supreme Court of Utah clarified that a manufacturer or supplier of a product owes a duty to adequately warn the ultimate user of latent dangers associated with the product, and adopted Restatement of the Law Third, Torts: Products Liability § 2(c) in holding that “the question of whether a duty to warn the ultimate user is satisfied by warning the intermediary is one that must be answered based on ‘reasonableness in the circumstances.’” The court additionally expanded its recognition of the learned-intermediary rule as expressed in § 2(c) and Restatement of the Law Second, Torts § 388.

This case arose when a passenger and driver of a fishing boat were ejected into the water and, because the driver was not wearing the safety stop-switch lanyard, the unmanned boat continued running, moving in a circular pattern that trapped the passenger and caused him to be struck at least three times by the boat’s propeller. In a phenomenon known in the boating industry as the “circle of death,” a running boat without a driver has a tendency to turn sharply to the right and continuously circle tightly in the water, which can trap ejected drivers or passengers inside the circle and cause the propeller to repeatedly strike and cause injury or death to those trapped. The injured passenger filed an action in Utah state court against the boat manufacturer and the engine manufacturer, alleging that the manufacturers were liable for failure to adequately warn the driver of the danger associated with failure to wear the lanyard, and for failure to warn boat passengers of the danger. The state district court granted summary judgment for the manufacturers, finding, among other things, that the manufacturers did not owe a duty to warn the passenger of the danger arising from the driver’s failure to wear the lanyard. Reversing, the court of appeals held, inter alia, that the manufacturers had a duty to directly warn the passenger of the danger.

The Supreme Court of Utah remanded to the district court for further proceedings. The court agreed in part and disagreed in part with the court of appeals, clarifying that, as a matter of law, a boat manufacturer or supplier had a duty to warn the ultimate user of dangers associated with the boat (citing Restatement of the Law Second, Torts § 402A, Comment h), and adopting the standard of “reasonableness in the circumstances” for determining whether a manufacturer or supplier had a duty to warn the ultimate user directly or could rely on an intermediary to issue the warning (citing Restatement of the Law Third, Torts: Products Liability § 2, Comment i).

The court cited § 2 in explaining that “a manufacturer who knows or should know of a risk associated with its product may be directly liable to the user if it fails to warn adequately of the danger,” and, in accordance with Restatement of the Law Second, Torts § 402A, a boat passenger constituted an ultimate user, giving rise to a duty to warn. Acknowledging that it had previously adopted Restatement of the Law Second, Torts § 388 to address warnings for products that were often supplied for the use of others through intermediaries, the Supreme Court of Utah adopted Restatement of the Law Third, Torts: Products Liability § 2(c), “subject to interpretation in accordance with Utah’s established law.” The court observed that both Restatement of the Law Second, Torts § 388 and Restatement of the Law Third, Torts: Products Liability § 2 “recognize that there are circumstances under which it may be unnecessary or nearly impossible for a manufacturer or supplier to directly warn the ultimate user.” The court concluded that the “reasonableness in the circumstances” standard should be used to determine whether the manufacturer or supplier had a duty to directly warn the user or whether the user could be warned through an intermediary. Quoting § 2, Comment i, the court stated that “[a]mong the factors to consider when determining reasonableness are ‘the gravity of the risks posed by the product, the likelihood that the intermediary will convey the information to the ultimate user, and the feasibility and effectiveness of giving a warning directly to the user.’”

In response to the manufacturers’ argument that, under the learned-intermediary rule, they had satisfied any duty to warn the passenger by adequately warning the purchaser and then relying on the purchaser to warn the passenger, the court pointed out that it had previously recognized the rule in narrow circumstances by allowing pharmacists and drug manufacturers to warn physicians of drug risks and to rely on the physicians to warn their patients, the ultimate users, of the risks. The court now expanded the rule, consistent with Restatement of the Law Second, Torts § 388 and Restatement of the Law Third, Torts: Products Liability § 2(c). “The rule weighs the considerations from section 388 and section 2(c) in determining whether a manufacturer has fulfilled its duty to warn the ultimate user by adequately warning the learned intermediary.” The court noted that a learned intermediary was “a sophisticated party or a party with a full range of knowledge ‘equal to that of the supplier,’” and explained that “[i]t may be reasonable to rely on the learned intermediary where there is a high likelihood that the intermediary will convey the information to the ultimate user,” such as “where the employer is the intermediary and employees are the ultimate users.”

The Institute is currently working on other projects that will complete the Restatement of the Law Third, Torts. Ongoing Restatement of the Law Third, Torts, projects include: Defamation and Privacy, Remedies, and Concluding Provisions. The subject of property torts will be addressed in the Restatement of the Law Fourth, Property. To join the Members Consultative Group for these or other projects, visit the projects page on the ALI website at www.ali.org/projects. The Intentional Torts to Persons project was approved at the 2021 Annual Meeting.
Notes About Members and Colleagues

Peter C. Alexander has published Insufficient Funds: The Financial Life of Frank Lloyd Wright (Dorrance Publishing Co. 2021), detailing the business practices and financial life of the American architect Frank Lloyd Wright.

Anita L. Allen-Castellitto of University of Pennsylvania Carey Law School has been selected as the 2021 recipient of the Philip L. Quinn Prize given by the American Philosophical Association in recognition of service to philosophy and philosophers.


Christopher Edward Appel of Shook, Hardy & Bacon, Lynne A. Battaglia of Maryland Court of Appeals, Mark A. Behrens of Shook, Hardy & Bacon, Bernice Bouie Donald of U.S. Court of Appeals for the Sixth Circuit, Brian T. Fitzpatrick of Vanderbilt University Law School, Philip S. Goldberg of Shook, Hardy & Bacon, Renee Knake Jefferson of University of Houston Law Center, Alan S. Kaplinsky of Ballard Spahr, Donald J. Kochan of George Mason University Anton Scalia Law School, Peter B. Rutledge of University of Georgia School of Law, Victor E. Schwartz of Shook, Hardy & Bacon, Catherine M. Sharkey of New York University School of Law, and David N. Wecht of the Pennsylvania Supreme Court participated in the Fifteenth Annual Judicial Symposium on Civil Justice Issues. The symposium addressed the rapid changes in civil justice at the state and federal level through legislative and judicial actions.


Susan A. Bandes of DePaul University College of Law delivered the 2021 Howard Lichtenstein Distinguished Professorship in Legal Ethics Lecture on the role of emotion in the legal system. A video of the lecture is available on the News section of www.ali.org.

Craig R. Bucki of Phillips Lytle has been named in the Buffalo Business First’s 2021 “40 Under 40” list. Those named to the list are chosen for their success in their profession and involvement in their communities.

I. Bennett Capers of Fordham University School of Law delivered the keynote speech at the launch event for the University of Connecticut School of Law’s Center on the topic of community safety, policing, and inequality.

Yee Wah Chin of Ingram Yuzek Gainen Carroll & Bertolotti is chair of the Antitrust & Trade Regulation Committee of the Association of the Bar of the City of New York and Budget Officer of the ABA International Law Section.

Danielle Citron will serve as the inaugural director of the LawTech Center at UVA School of Law. The center focuses on pressing questions in law and technology.

Mariano-Florentino Cuéllar of the Carnegie Endowment for International Peace is the next board chair of the William and Flora Hewlett Foundation, effective March 2022.

The State Bar of Wisconsin has profiled Walter J. Dickey of the University of Wisconsin Law School, discussing his work in Ghana to modernize the country’s laws, his participation in updating Wisconsin’s division of corrections administrative code, his teaching at the University of Wisconsin Law School, and more.


Brian J. Egan and Eric L. Hirschhorn are two of the coauthors of U.S. Export Controls and Economic Sanctions (Oxford University Press 2021), about United States government export control and economic sanctions regulations. It is the fourth edition, previously known as The Export Control and Embargo Handbook.

JoAnne A. Epps of Temple University Beasley School of Law has been appointed to the Board of Directors as a new independent director for Gaming and Leisure Properties Inc.

Brian T. Fitzpatrick of Vanderbilt University Law School is a recipient of the 2022 Civil Justice Scholarship(10,890),(994,997) Award from the Pound Civil Justice Institute for his book The Conservative Case for Class Actions (The University of Chicago Press 2020). The award is given to published legal academics whose current scholarly legal research is focused on civil justice topics.
The Texas Journal of Oil, Gas, and Energy Law has published the treatise Legal Aspects of the Purchase and Sale of Oil and Gas Properties by Cullen M. Godfrey of Texas A&M Health Science Center.

Ivan K. Fong joins Medtronic in the role of executive vice president, general counsel, and secretary.

Paul L. Friedman of the U.S. District Court for the District of Columbia is the 2022 recipient of the Edwin F. Jaeckle Award, given annually by the University at Buffalo School of Law to an individual who exemplifies the highest ideals of the law school and its alumni association and has made significant contributions to the school and the legal profession. The award will be presented on June 15. Jamie S. Gorelick of WilmerHale, Beryl A. Howell of the U.S. District Court for the District of Columbia, Carolyn B. Lamm of White & Case, Roberta Cooper Ramo of Modrall Sperling, and Nina Totenberg of National Public Radio will provide remarks at the June event.

Bryant G. Garth of UC Irvine School of Law has coauthored Law as Reproduction and Revolution (University of California Press 2021), an analysis of the influence the United States has had on legal revolutions around the world and an examination of law and social change from the Middle Ages to the present.

Her Majesty Queen Elizabeth has approved the appointment of Jeffrey B. Golden as the Queen’s Counsel Honoris Causa (Honorary QC). Honorary QC is given to those who have made a significant contribution to the law of England and Wales outside of the courts.

The Karsh Institute of Democracy at the University of Virginia has announced its inaugural advisory board, co-led by Vice Chair Risa Goluboff of UVA School of Law. ALI members also on the advisory board are Mariano-Florentino Cuéllar of the Carnegie Endowment for International Peace, John Calvin Jeffries Jr. of UVA School of Law, and Anthony M. Kennedy of the Supreme Court of the United States (Retired).

Policing the Womb: Invisible Women and the Criminalization of Motherhood (Cambridge University Press 2020) by Michele Bratcher Goodwin of UC Irvine School of Law was selected for the 2021 Choice Outstanding Academic Titles list.

Linda Greenhouse of Yale Law School has published Justice on the Brink (Penguin Random House 2021), analyzing the changes in the Supreme Court of the United States from the 2019-2020 Term to the 2020-2021 Term.

Sarah Hammer of the Wharton School of the University of Pennsylvania was featured in an episode of the Wharton Fintech podcast on the Cypher Accelerator, a blockchain accelerator that she helped launch.

Nathan L. Hecht of the Texas Supreme Court has coauthored an op-ed in The Lufkin Daily News on how civil legal aid can be used to help veterans in a post-Covid-19 environment.

Duncan B. Hollis of Temple University Beasley School of Law has coauthored an article discussing the use of international law to fight against global ransomware attacks and attacks on cyber security.

Anthony C. Infanti of University of Pittsburgh School of Law has authored Tax and Time: On the Use and Misuse of Legal Imagination (NYU Press 2022), discussing how tax laws have been used to manipulate time in ways that perpetuate economic and social injustice.

The U.S. Senate has confirmed Lucy H. Koh to the U.S. Court of Appeals for the Ninth Circuit.

ALI President David F. Levi has announced his retirement from his role as director of the Bolch Judicial Institute at Duke University School of Law, effective June 30, 2022. Levi became the inaugural director in 2018 after stepping down as dean of Duke University School of Law. His retirement will complete a 15-year tenure at the law school.

M. Elizabeth Magill of University of Virginia has been nominated to serve as the University of Pennsylvania’s ninth president. The board of trustees will vote on Magill’s nomination on March 4, and Magill will assume the presidency on July 1, 2022.

M. Margaret McKeown of the U.S. Court of Appeals for the Ninth Circuit has announced her plan to take senior status upon the appointment of her successor.

Ronald William Meister was elected in November 2021 to a third four-year term as Town Justice in Mamaroneck, New York. Having completed two one-year terms as president of the Westchester County Magistrates Association, he was elected a director of the New York State Magistrates Association. Meister was also re-elected in December as chair of the National Institute of Military Justice.

The American Branch of the International Law Association (ABILA) has selected James A.R. Nafziger of Willamette University College of Law as the 2021 recipient of the Charles Siegal Distinguished Service Award for his 40 years of work with ABILA, including chairing the Human Rights Committee and serving as the director of studies, vice president, and president.

The Eighth Circuit Bar Association awarded Cynthia E. Nance of the University of Arkansas School of Law the Richard S. Arnold Award for Distinguished Service in the Western District of Arkansas.
Litigation Daily interviewed Stephanie E. Parker of Jones Day, discussing her background, the Jones Day litigation department, her professional tactics, and the firm’s upcoming case docket.

Norman M. Powell of Young Conaway Stargatt & Taylor has accepted an invitation to join the TriBar Opinion Committee, which prepares reports on third-party legal opinions.

Saikrishna Bangalore Prakash of UVA School of Law appeared as a panelist on the National Constitution Center’s America’s Town Hall series discussing presidential power and its expansion over time and what reforms may be necessary.

Marlon A. Primes has joined Brennan, Manna & Diamond as a partner in their Cleveland office. He serves as co-chair of the firm’s Business and Tort Litigation Practice and represents companies in high-stakes litigation.

Patricia Lee Refo of Snell & Wilmer was awarded the World Jurist Association’s Medal of Honor for her work promoting the rule of law around the world.

ALI Director Richard L. Revesz of New York University School of Law is the most cited scholar of environmental and administrative tenured law faculty in the United States, based on the most recent Sisk data rankings. Additional ALI members on the list of most cited include Jonathan H. Adler of Case Western Reserve University School of Law, Cary Coglianese of University of Pennsylvania Carey Law School, Anne Joseph O’Connell of Stanford Law School, J.B. Ruhl of Vanderbilt University Law School, and Richard Burleson Stewart of New York University School of Law. Daniel A. Farber of University of California, Berkeley School of Law and Thomas W. Merrill of Columbia Law School are among other highly cited scholars that work partially in the area.

As part of its “My Campus” series, The News-Gazette has published a profile on Jennifer K. Robbennolt of University of Illinois College of Law.

The U.S. Senate has voted to approve the nomination of Beth Robinson to the U.S. Court of Appeals for the Second Circuit.

Sudha Narayana Setty of Western New England University School of Law has been elected to serve on the American Bar Association Legal Education Police Practices Consortium Advisory Committee.

In Memoriam: Marion R. Fremont-Smith

Marion R. Fremont-Smith of Harvard University, Kennedy School of Government passed away on December 30. An ALI member since 1977, she served first as Reporter for Restatement of the Law, Charitable Nonprofit Organizations, before taking on the role of Consultant. The Restatement was published in 2021.

“In addition to leaving an indelible and unparalleled mark on the field of nonprofits, Marion’s legacy will flourish through the work of the many young scholars and lawyers whom she so generously mentored,” said Jill R. Horwitz of UCLA School of Law and Reporter for the Restatement. “It was both a joy and an honor to work with Marion on the Restatement. I will deeply miss her wisdom and friendship.”

Fremont-Smith’s interest in nonprofit organizations began in the 1960s when she served as Assistant Attorney General and Director of the Division of Public Charities in Massachusetts. In 1964, she joined the Boston law firm of Choate, Hall & Stewart where she specialized in tax and nonprofit law. She was elected partner in 1971 and retired from the firm in 2004. Fremont-Smith was elected Fellow of the American Academy of Arts & Sciences in 1990.

“The depth of Marion’s expertise in the nonprofit context was matched only by her wisdom, generosity, and good humor, all of which I was so fortunate to experience while working with her on the Restatement,” said Nancy A. McLaughlin of University of Utah, S.J. Quinney College of Law and Associate Reporter of the Restatement. “She was a mentor and an inspiration to many, and she will be very much missed.”

Fremont-Smith had been associated with the Hauser Center for Nonprofit Organizations at Harvard University’s John F. Kennedy School of Government since 1998, where she directed research on governance and accountability of nonprofit organizations. She was also a Lecturer in Law at Harvard Law School between 2008 and 2011. She was an Honorary Director of the Carnegie Endowment for International Peace and a former Director of Independent Sector and the Council on Foundations. She authored several books, including Governing Nonprofit Organizations: Federal and State Law and Regulation (Harvard University Press 2004).

She received a B.A. from Wellesley College and J.D. from Boston University School of Law.

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New Members Elected

On December 16, the Council elected the following 59 persons.

Jeffrey Bellin, Williamsburg, VA
Rachel S. Bloomekatz, Columbus, OH
Reginald J. Brown, Washington, DC
Stephanie L. Cassman, Carmel, IN
Alan K. Chen, Denver, CO
Davina Te-Min Chen, Los Angeles, CA
Jorge L. Contreras, Salt Lake City, UT
Kelsi B. Corkran, Washington, DC
Daniel A. Cotter, Chicago, IL
Andrew Manuel Crespo, Cambridge, MA
Rebecca Frank Dallet, Madison, WI
Roopali Hardin Desai, Phoenix, AZ
Michael Doran, Charlottesville, VA
Charles W. Dortch, Jr., Camden, NJ
Michael C. Duff, Laramie, WY
Avlana K. Eisenberg, Tallahassee, FL
Jill E. Family, Harrisburg, PA
Russell D. Feingold, Washington, DC
Michael J. Garcia, Albany, NY
Nicholas Goldberg, San Francisco, CA
David S. Han, Malibu, CA
Alexis J. Hoag, New York, NY
Robert J. Jackson, Jr., New York, NY
Maha Jweied, Washington, DC
Anil Kalhan, Philadelphia, PA
Peter Karanjia, Washington, DC
Laura M. Kim, Washington, DC
Michael S. Knoll, Philadelphia, PA
Lori Krafte, Cincinnati, OH
Charlotte K. Fort Worth, TX
Margaret B. Kwoka, Columbus, OH
Jon Laramore, Indianapolis, IN
Eunice C. Lee, New York, NY
Lisa S. Loo, Tempe, AZ
Jeffrey A. Mandell, Madison, WI
Michael J. Mannheimer, Cincinnati, OH
Craig A. Mastantuono, Milwaukee, WI
Kathaleen St. Jude McCormick, Wilmingon, DE
Jimmie Lamar McMillan, Jr., Indianapolis, IN
Joseph Scott Miller, Athens, GA
Steven J. Mulroy, Memphis, TN
David C. Newell, Austin, TX
Mary R. O’Grady, Phoenix, AZ
James M. Oleske, Jr., Portland, OR
Eric R. Olson, Denver, CO
Wendy Collins Perdue, Richmond, VA
Halimah DeLaine Prado, Mountain View, CA
Manuel Alfonso Quinto Pozos, Austin, TX
Michael Lindsay Robinson, Winston-Salem, NC
Jennifer Eunmi Rubin, Boston, MA
Richard C. Schragger, Charlottesville, VA
Alison Siegler, Chicago, IL
Jessica Silbey, Boston, MA
Joseph Thai, Oklahoma City, OK
Lisa A. Tucker, Philadelphia, PA
Pierre-Hugues Verdier, Charlottesville, VA
Shoba Sivaprasad Wadhia, University Park, PA
Elizabeth A. Wolford, University Park, PA
Stewart Michael Young, Salt Lake City, UT

Morris Silberman of the Florida Second District Court of Appeal is the president of the Council of Chief Judges of the State Courts of Appeal for the 2021-2022 year. CCJSCA is a collaborative and education council for intermediate appellate court judges who, in addition to duties as a judge, are responsible for management and operation of their court.

James R. Silkenat of the World Justice Project is the coeditor of Building the Rule of Law: Firsthand Accounts from a Thirty-Year Global Campaign (ABA Book Publishing 2021), a book about the volunteer effort by the American Bar Association to answer global requests for help with the rule of law after the fall of the Berlin Wall and breakup of the Soviet Union.

The American Lawyer Industry Awards honored Larry W. Sonsini of Wilson Sonsini Goodrich & Rosati, Kathleen M. Sullivan of Quinn Emanuel Urquhart & Sullivan, Seth P. Waxman of WilmerHale, and Benjamin F. Wilson of Beveridge & Diamond with the Lifetime Achievement Award, and Thomas S. Leatherbury of Vinson & Elkins with the Tony Mauro Media Lawyer Award.

Seton Hall University hosted an event with Bryan Stevenson of the Equal Justice Initiative where he presented on social justice and personal involvement. Stevenson was awarded an honorary doctorate degree, Litterarum Humanarum Doctoris, from Seton Hall at the event.

Larry S. Stewart of Stewart Tilghman Fox Bianchi & Cain (Ret.) has authored Chasing Justice: Florida Justice Association 1950-2000 (Florida Justice Association 2022). The book details the first 50 years of the Florida Justice Association, describing the organization’s development into the modern-day institution.

Jeffrey S. Sutton of the U.S. Court of Appeals for the Sixth Circuit has published Who Decides?: States as Laboratories of Constitutional Experimentation (Oxford Univ. Press 2021), examining American federalism. It compares the state-level and federal government, while also exploring a state’s ability to foster innovation and its contrast to the federal government over time.
In Memoriam

**ELECTED MEMBERS**

Richard Olaf Cunningham, Washington, DC; J. Dean Morgan, Seattle, WA; Scott C. Moriearty, Cambridge, MA; Stephen D. Sugarman, Berkeley, CA; Margaret H. Williams, Jackson, MS

**LIFE MEMBERS**

Marion R. Fremont-Smith, Cambridge, MA; Leon Gabinet, Cleveland, OH; Frank T. Gray, Baltimore, MD; Guy B. Maxfield, New York, NY; Joseph W. Morris, Tulsa, OK; Peter L. Zimroth, New York, NY

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**Meetings and Events Calendar At-A-Glance**

Below is a list of upcoming meetings and events. For more information, visit [www.ali.org](http://www.ali.org).

**2022**

February 24
Restatement of the Law, Corporate Governance
Virtual

February 25
Restatement of the Law Third, Torts: Defamation and Privacy
Virtual

March 2
Council Meeting
Virtual

March 25
Principles of the Law, Government Ethics
Virtual

May 16-18
2022 Annual Meeting
Washington, DC

October 20-21
Council Meeting
New York, NY

**2023**

January 19-20
Council Meeting
Philadelphia, PA

May 22-24
2023 Annual Meeting
Washington, DC

October 19-20
Council Meeting
New York, NY

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Deborah Tuerkheimer of Northwestern University Pritzker School of Law has authored *Credible: Why We Doubt Accusers and Protect Abusers* (HarperCollins Publishers 2021), examining credibility surrounding sexual assault accusations.

The European Law Institute has appointed Christiane C. Wendehorst of University of Vienna to the newly created role of Scientific Director of the Institute.

Bob Wessels of University of Leiden has authored *Rembrandt’s Money* (Wolters Kluwer 2021), a comprehensive overview of the legal and financial aspects of the life and work of the 17th-century Dutch artist.

Evan A. Young of Baker Botts has been appointed by Texas Governor Greg Abbott to the Texas Supreme Court, replacing Eva M. Guzman of Chamberlain Hrdlicka, who resigned in June 2021.

Notes related to nominations are up to date as of February 9.

If you would like to share any recent events or publications in the next ALI newsletter, please email us at communications@ali.org.
Share Your ALI Story

Join us in celebrating the Institute’s milestone anniversary by sharing a story, from how Restatements helped you in law school or in your career, to a lifelong friendship you made or mentor that you met through the Institute, we want to hear from you.

Stories and photos can be submitted through our online form at www.ali.org/anniversary/share, and may be featured on the 100th Anniversary pages of the ALI website.

WWW.ALI.ORG/ANNIVERSARY/Sshare