



ALI THE AMERICAN
LAW INSTITUTE

2023-2024
Annual Report



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Introduction to The American Law Institute

The American Law Institute was founded in 1923 in response to concerns that the body of American common law was both uncertain and complex. A group of prominent judges, lawyers, and academics formed the “Committee on the Establishment of a Permanent Organization for the Improvement of the Law” and published a report recommending that an organization be formed to improve the law and its administration. This led to the creation of ALI. The Institute’s mission, as set out in its charter, is “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.”

For a century, ALI has gathered the best minds in the bar—judges, lawyers, and law professors—to accomplish its mission. The courts have come to trust and rely on ALI’s work due to its careful drafting process, its independence and integrity, and the intellectual caliber of those who participate in the Institute’s projects. Federal and state courts routinely look to ALI’s work for guidance in resolving questions of law.

Publications and Projects

ALI drafts, discusses, revises, and publishes Restatements of the Law, model statutes, and Principles of the Law that are enormously influential in the courts and legislatures, as well as in legal scholarship and education.

ALI has long been influential internationally and, in recent years, more of its work has become international in scope. It collaborates with numerous international law organizations and served as a model for the European Law Institute founded in 2011.

The Institute addresses uncertainty in the law by developing restatements of legal subjects that are primarily addressed to courts. Restatements of the Law contain clear formulations of common law and its statutory elements or variations and reflect the law as it currently stands or might appropriately be stated by a court.

ALI also examines and analyzes legal areas in need of reform. Principles of the Law are primarily addressed to legislatures, administrative agencies, or private actors. They can, however, be addressed to courts when an area is so new that there is little established law. Principles may suggest best practices for these institutions. Statutory projects include the Uniform Commercial Code (in conjunction with the Uniform Law Commission), Model Code of Evidence, and Model Penal Code.

Membership

By participating in ALI’s work, its members have the opportunity to influence the development of the law in both existing and emerging areas, to work with other eminent lawyers, judges, and academics, to give back to a profession to which they are deeply dedicated, and to contribute to the public good.

Funding

ALI’s operating revenue is primarily derived from publishing, educational programs, membership dues and contributions, and rental income from its headquarters building in Philadelphia. The financial support of ALI’s members and partners is vital to its long-term financial stability. As a public charity under section 501(c)(3) of the Internal Revenue Code, all donations to ALI are tax deductible to the full extent of the law.



President's Message

The American Law Institute's second century is off to a terrific start! 2024 was a year of opportunity. The Institute successfully closed its Second Century Campaign, raising more than \$32 million thanks to your enthusiastic participation and the generosity detailed in this report. We hosted a wonderful Annual Meeting in San Francisco, complete with stimulating project discussions, an extraordinary lineup of special speakers and events, and lots of member community and connection.

In addition, 2024 showed that The American Law Institute continues to play a unique and vital role in advancing the rule of law. In January of this year, a group convened by Institute leadership developed and released a uniform set of ethical standards for election-administration professionals. The group brought together government officials, state and local election professionals, and election lawyers of both parties, as well as election-law and political-science scholars. The group was led by Charles Stewart of the Massachusetts Institute of Technology, Bob Bauer of New York University School of Law, and Ben Ginsberg of the Hoover Institution. Then, in April, and again at the Institute's invitation, a bipartisan group led by Bob Bauer and Jack Goldsmith of Harvard Law School released Principles for Insurrection Act Reform, a set of core principles designed to establish clear, constitutionally sound standards for presidential deployment of U.S. armed forces in response to domestic threats. Both projects followed the model of the successful initiative that contributed to the passage of the Electoral Count Reform Act in 2022. In all three cases, the Institute's independence and reputation for thoughtful, serious work created a rare and valuable space for meaningful, bipartisan commitment to working through difficult issues and achieving a worthwhile result.

We also saw in 2024 several ways in which the Institute's Restatement, Principles, and Model Code projects remain authoritative and essential resources in a changing world. While the ultimate impact of artificial intelligence on the legal profession is far from certain, we learned this year that ALI publications are particularly useful sources for AI-based legal research because of their high degree of reliability and the relative ease of extracting legal principles from ALI black letter. We have taken steps to allow the incorporation of ALI publications in AI-augmented legal research while protecting the Institute's intellectual property. Moreover, institutional expertise developed through a century of work on the Restatements of Torts ideally positions the ALI to tackle a set of difficult problems raised by the advent of artificial intelligence through a new project, Principles of the Law, Civil Liability for Artificial Intelligence.

For these reasons and more, The American Law Institute remains the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law. To continue on this path, the Institute needs its members' support.

As I predicted in last year's letter, 2024 was also a time of challenge for the ALI. Changes in the publishing industry exerted significant downward pressure on the Institute's publication revenues. The Institute responded by reevaluating and renegotiating its arrangements with legal publishers, imposing cost-containment measures, increasing membership dues to bring them into line with those of peer organizations (the first such increase since 2004), and implementing a modest Annual Meeting registration fee. These efforts have yielded positive results for the Institute's financial outlook and created some stability and predictability for the near and medium term.

In the long run, however, we expect that our publishing revenues will continue to decline and that our members' support through dues, sustaining memberships, and year-end contributions will remain essential to the Institute's continuing vitality. Your support enables the Institute to bring together people of different views and areas of expertise in common cause and to continue to produce reliable, authoritative resources to help academics, judges, and practitioners in the orderly administration of the law. It makes a significant difference in the work and mission of the ALI.

There are many ways to support The American Law Institute, including making an outright gift or multiyear pledge, making a qualified charitable distribution from a retirement account, or providing notification of your intent to leave a legacy gift. Your gift or pledge of any amount will have a meaningful impact and help the Institute continue to shape the future of American law. If you have any questions, please reach out to Deputy Director Eleanor Barrett, Beth Goldstein, or me.

I wish you and your family health, safety, and happiness this holiday season, and I look forward to working with you in service of the rule of law in the year to come.

David F. Levi



Director's Message

Projects have always been the heart of The American Law Institute's work and mission, and that remained true in 2024. At our Annual Meeting in May, the membership approved two important projects: the Restatement of the Law, Children and the Law, and the Restatement of the Law Third, Torts: Medical Malpractice. Both works offer major contributions and will be important and useful resources in their fields. Children and the Law—addressing Children in Families, Children in Schools, Children in the Justice System, and Children in Society—is the first comprehensive treatment of the law regulating children. And although it is part of the larger body of the Restatement of the Law Third, Torts, the Medical Malpractice project represents the first time the Institute has addressed this distinctly complex and challenging topic. Final membership approval of these two projects marks a significant achievement and the culmination of years of hard work by our Reporters, Advisers, Council members, and participants from our Members Consultative Groups and the member-attendees at our Annual Meetings. I am grateful to all for their participation and especially to the Reporters and Associate Reporters for the immense amount of time and talent they have dedicated to these endeavors.

At the other end of the ALI project lifespan, we held the first Adviser and MCG meetings for two of our newer projects this year: High-Volume Civil Adjudication and the second phase of Restatement of the Law Fourth, The Foreign Relations Law of the United States. The Adviser and MCG groups for both projects include distinguished judges, experienced practitioners, and expert academics, and it is exciting and inspiring to participate in these discussions. I look forward to more to come and to similarly stimulating initial meetings for our Election Litigation and Constitutional Torts projects in 2025.

The Institute also announced two new projects this year: Principles of the Law, Civil Liability for Artificial Intelligence, and Principles for the Governance of Biometrics. The Artificial Intelligence project seeks to identify a set of principles, grounded in existing common-law tort doctrines, for assigning responsibility for harm caused by artificial intelligence systems. The project aims to help courts, regulators, and technologists understand the legal implications of AI, to help guide decision-making and provide clarity for all parties. The Biometrics project, which we are pursuing jointly with the European Law Institute, will investigate biometric technologies, including their potential for misuse and ability to generate inferences about individuals' mental, emotional, and physiological states. Project goals include identifying a common vocabulary and definitions for this emerging set of technologies and offering a set of conceptual governance principles that can be adapted to the varying legal and regulatory structures in Europe, the U.K., and the U.S. With the appointments of Mark Geistfeld of New York University School of Law as the Reporter for Artificial Intelligence and Nita Farahany of Duke Law School as the Reporter for Biometrics, the ALI continues to attract the country's foremost scholars to lead our work. We are very grateful for their efforts.

This year the Institute also has been focusing on its publication process. For decades, American Law Institute publications have been available both in hardcover print format and electronically through legal-research databases, and that will continue. In addition, we have begun to consider offering our materials in other formats, such as e-books, softcover print, and AI-assisted research tools, to increase accessibility and help our projects reach their intended audiences. As we seek to address fast-moving technological changes through our newest projects, we may also experiment with new ways of creating and updating our work and presenting material to our members—all while maintaining the Institute's standards for excellence and open debate.

We could not do any of this work without our members' support. Your substantive feedback on project drafts through MCG meetings, written comments, and remarks from the Annual Meeting floor, make every project better. And your financial contributions through dues, Sustaining Memberships, class gifts after 25 years of membership, estate planning and bequests, and year-end gifts provide critical support as we work to carry forward the ALI's mission. ALI member-provided funds help us produce, promote, and distribute works that benefit the public interest; enable broad participation in our meetings by providing financial assistance for members outside of the private sector; and provide a rare and valuable forum for bipartisan law-reform initiatives. Every gift received makes a significant and appreciable difference in our work.

Now, as ever, the ALI is an important force for the rule of law in our country. As you plan your year-end charitable giving, I hope you will consider supporting the ALI and that vital mission.

A handwritten signature in black ink that reads "Anne D. Wood". The signature is fluid and cursive, with a large initial "A".

The American Law Institute

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**President Emeritus and Chair of the Council Emeritus

Council Elections

At the 2024 Annual Meeting, the Institute's membership elected six new members to the ALI's Council, which determines projects and activities to be undertaken by the Institute and, along with the membership, approves the work as representing the position of the Institute.

The new Council members are Stephanos Bibas of the U.S. Court of Appeals for the Third Circuit, Bridget M. McCormack of the American Arbitration Association-International Centre for Dispute Resolution, Darrell A. H. Miller of Duke University School of Law, Randolph D. Moss of the U.S. District Court for the District of Columbia, Teresa Wynn Roseborough of Home Depot, and Sarah Hawkins Warren of the Georgia Supreme Court.

Additionally, at the Annual Meeting, Scott Bales, Evan R. Chesler, Allison H. Eid, Daniel C. Girard, Thomas M. Hardiman, Teresa Wilton Harmon, Pamela S. Karlan, Lance Liebman, Raymond J. Lohier Jr., and Seth P. Waxman were reelected for another Council term.



Stephanos Bibas is a judge on the U.S. Court of Appeals for the Third Circuit. Bibas was previously a professor of law and criminology at the University of Pennsylvania Law School. As director of the Penn Law Supreme Court Clinic, he argued six cases before the Supreme Court of the United States and filed briefs in dozens of others. He graduated *summa cum laude* and Phi Beta Kappa

from Columbia University in 1989 with a B.A. in political theory and from Oxford University in 1991 with a B.A. in jurisprudence. He then earned his J.D. from Yale Law School in 1994.



Bridget Mary McCormack is president and CEO of the American Arbitration Association-International Centre for Dispute Resolution. She is also a strategic advisor to the Future of the Profession Initiative at the University of Pennsylvania Carey Law School. Until the end of 2022, McCormack was chief justice of the Michigan Supreme Court, a position her peers selected her for in

January 2019 after she served for six years as a justice. While on the court, she championed innovation and the use of technology to improve access to justice.



Darrell A. H. Miller is the Melvin G. Shimm Professor of Law at Duke Law School. He writes and teaches in the areas of civil rights, constitutional law, civil procedure, state and local government law, and legal history. His scholarship has been published in leading law reviews, such as the Yale Law Journal, the University of Chicago Law Review, and the Columbia Law

Review, and has been cited by numerous courts, including the Supreme Court of the United States. He is a graduate of Harvard Law School and Oxford University and a former clerk to the Honorable R. Guy Cole, Jr. of the U.S. Court of Appeals for the Sixth Circuit.



Randolph D. Moss has served on the U.S. District Court for the District of Columbia since 2014. Moss received an A.B., *summa cum laude*, from Hamilton College in 1983 and a J.D. from Yale Law School in 1986. He served as a member of the Criminal Law Committee of the Judicial Conference from 2017 to 2023 and as chair of the committee from 2020 to 2023. He currently serves as

a member of the Defender Services Committee of the Judicial Conference and as a liaison representative to the Administrative Conference of the United States.



Teresa Wynn Roseborough is responsible for The Home Depot's legal functions, government relations, and external communications. In addition, as corporate secretary, she serves as a liaison between the board of directors and the company and is responsible for all corporate governance matters. Roseborough and the legal team are responsible for securities,

litigation, employment, mergers and acquisitions, real estate, store operations, risk management, and intellectual property. She leads the government relations team as they address legislative issues that impact the business environment, the retail industry, and Home Depot associates. She also oversees Home Depot's external communications team, including all corporate, consumer, and nonprofit communication functions.



Sarah Hawkins Warren was appointed to the Supreme Court of Georgia by Governor Nathan Deal and was sworn in on September 17, 2018. She was reelected statewide for a six-year term in 2020. Warren previously served as solicitor general for the State of Georgia under Attorney General Chris Carr. She currently serves on the Duke Law School Board of Visitors, the Berry College

Board of Trustees, and the Advisory Board for the Atlanta Lawyers Chapter of the Federalist Society.

Distinguished Service Award: Lance Liebman

At this year's Annual Meeting, the Distinguished Service Award was presented to former ALI Director (1999 to 2014) Lance Liebman of Columbia Law School. The award is given from time to time to a member who, over many years, has played a major role in the Institute, by accepting significant burdens as an officer, Council member, committee chair, or project participant and by helping keep the Institute on a steady course as the greatest private law-reform organization in the world.

Upon presenting the award to Liebman, former ALI President Roberta Cooper Ramo celebrated Liebman's strength of character when facing challenges, remarking that many remember "his wonderful humor, used often to diffuse tension and difficult conversations, and his warm personality, which disarms the prickly and breaks through conventional thinking about almost everything. Lance is distinguished and has given his life to service to the American legal profession and to our democracy."

During his time as Director of The American Law Institute, Liebman oversaw a significant expansion of the Institute's work, as well as the development of ALI's international partnerships, including with the European Law Institute. His commitment to ALI's contribution to the international community continues today.

At the opening session of the Institute's 2014 Annual Meeting, Liebman's last as ALI Director, then-President Ramo shared her thoughts on Liebman's spirit:

"As President of the ALI, you have an extraordinarily close relationship in an organization like this with the Director. It is always important that you have the ability to have an intellectual discourse at the highest level. It is always important that you have somebody you trust completely to oversee the day-to-day operations of something as important as The American Law Institute. What is not always obvious is whether it is going to be fun and whether you are going to enjoy that or endure it, and in my case, and I suspect in Michael [Traynor]'s as well, it was not just fun, it was a pure pleasure, an honor and a joy to have a chance to talk to Lance, sometimes three or four times in a day."



Lance Liebman and Roberta Cooper Ramo



Lance Liebman delivers remarks upon accepting the Distinguished Service Award.

Restatement projects begun during his tenure include The Law of American Indians, Charitable Nonprofit Organizations, Consumer Contracts, Data Privacy, Employment Law, International Commercial and Investor-State Arbitration, three Torts projects (Economic Harm; Intentional Torts; and Physical and Emotional Harm), and Concise Restatement volumes on Law Governing Lawyers, Property (compiled by Liebman himself), and Torts. Principles projects started during Liebman's tenure include Aggregate Litigation, Election Law, Government Ethics, Software Contracts, and Transnational Intellectual Property. ALI also began its work on two portions of the Model Penal Code: Sentencing and Sexual Assault and Related Offenses. Liebman guided each of these projects through numerous drafts at project, Council, and Annual Meetings.

Liebman earned his B.A. from Yale University, an M.A. from Cambridge University, and his J.D. from Harvard Law School. Before joining Columbia in 1991 as Dean and Lucy G. Moses Professor of Law, Liebman was on the faculty of Harvard Law School for 21 years, becoming a full professor in 1976 and serving as Associate Dean from 1981 to 1984. He spent two years working on transportation and community issues as an Assistant to Mayor John V. Lindsay of New York City, after serving as a law clerk to Justice Byron White of the Supreme Court of the United States during the 1967 term.

Liebman has been a Visiting Fulbright Professor of Law at Maharajah Sayajirao University in Baroda, India, a visiting lecturer at Tokyo University, and an adviser for the Japanese Institute of Labor. He also taught at the Harvard-Fulbright School in Ho Chi Minh City, Vietnam, and at the Hebrew University of Jerusalem, Israel.

John Minor Wisdom Award: Thelton E. Henderson

The American Law Institute presented the John Minor Wisdom Award to Thelton E. Henderson at this year's Annual Meeting. The Wisdom Award is given from time to time in specific recognition of a member's contributions to the work of the Institute or a person's outstanding achievement in the area of civil rights and related fields following the example of Judge Wisdom.

In presenting the award to Henderson, Yvonne Gonzalez Rogers of the U.S. District Court for the Northern District of California said, "It has been said that law is a human exercise. Despite the peaks and valleys of his life, Judge Henderson's life experience is filled with the hope and promise of justice. He has and continues to serve as a role model to us all."

An elected member of The American Law Institute, Henderson received his B.A. in political science from the University of California at Berkeley. After graduation, Henderson was drafted into the United States Army, where he served as a clinical psychology technician. He earned his J.D. from University of California, Berkeley School of Law.

Upon graduation, Henderson was hired as an attorney with the civil rights division of the United States Department of Justice, where he served from 1962 to 1963. During his tenure with the Justice Department, Henderson investigated patterns of discriminatory practices in the South.



Thelton Henderson delivers remarks after accepting the John Minor Wisdom Award.



Thelton Henderson and Yvonne Gonzalez Rogers

He practiced general law in private practice and was the directing attorney of the East Bayshore Neighborhood Legal Center in Palo Alto. From 1968 to 1976, Henderson was the assistant dean of the Stanford University School of Law. There, he helped increase minority enrollment to 20 percent of the student body during his tenure. In 1977, he became a founding partner of Rosen, Remcho and Henderson in San Francisco. He also taught administrative law and civil procedure at Golden State University of Law in San Francisco.

In 1980, Henderson was appointed to the U.S. District Court for the Northern District of California. He was later appointed chief judge in 1990, becoming the first African American to reach that position. He assumed senior status in 1998 and retired in 2017.

The Thelton E. Henderson Center for Social Justice at Berkeley Law is named in recognition of his tremendous dedication to transformative justice, "Judge Henderson has a remarkable ability—and willingness—to protect the vulnerable among us. In 1987, he became the nation's first judge to declare that gay people, like racial minorities, are entitled to equal protection and due process of law under the United States Constitution. While the Ninth Circuit Court of Appeals reversed the decision, we now know that he was ahead of his time: twenty-eight years later, the United States Supreme Court agreed that gay people are entitled to marriage equality."

Children and the Law Is Approved

At the 2024 Annual Meeting, ALI members voted to approve the Restatement of the Law, Children and the Law, the first Restatement to comprehensively examine the legal regulation of children. Launched in 2015, this Restatement covers issues such as parental rights and state intervention in cases of abuse and neglect; the rights of students and the limits of state authority in public schools; the rights and special protections of youth in both the juvenile and criminal justice systems, from police contact to dispositions and sentencing; and children as legal persons, covering free-speech rights and the authority of minors to consent to certain medical decisions, among other things.

The Restatement is led by Reporter Elizabeth Scott of Columbia Law School, with Associate Reporters Richard J. Bonnie of the University of the Virginia School of Law, Emily Buss of the University of Chicago Law School, Clare Huntington of Columbia Law School, and Solangel Maldonado of Seton Hall University School of Law. Martin Guggenheim of New York University School of Law and David D. Meyer of Brooklyn Law School previously served as Associate Reporters.

“We are thrilled to be completing this project at an ideal time in the evolution of the law of children,” said Scott. “The law’s treatment of children has become very complex over the past several decades and has been in need of clarification and coherence. While traditionally children were assumed to be dependent, vulnerable and incompetent, today they are rights-bearing legal persons for some purposes—but not others. Meanwhile parental rights continue to be robust, but have been subject to growing criticism. And the past generation has seen remarkable reform of the regulation of youth in the justice system after a period of harsh policies in the late 20th century. The challenge we faced in embarking on this Restatement was to find coherence in this evolving area of law and to capture beneficial law reform. With the assistance of a wonderful Adviser group and the ALI Council, we think we have been successful.”

The Restatement is organized in four Parts: Children in Families, Children in Schools, Children in the Justice System, and Children in Society.

“We hope that organizing this work into these various natural categories of the law of children makes this resource easily navigable and accessible by not just the lawyers and judges who are familiar with our Restatements, but also for the social workers, school administrators, and other child advocates looking for guidance on developments in any of these areas,” said ALI Director Diane P. Wood.

“Although jurisdictions vary in their treatment of some areas of law,” continued Scott, “our research found an underlying coherence that unifies the legal treatment of children; across the legal landscape, modern courts aim to promote child wellbeing. In pursuing this goal, modern courts increasingly turn to developmental science and other empirical research on children and families and on the parent-child relationship. This Restatement follows this trend, which has contributed to positive reforms, particularly in the realm of youth justice, but in other areas as well.”



ALI Director Diane Wood; ALI Council member Dean Troy McKenzie of NYU Law; Children and the Law Reporters Richard Bonnie, Solangel Maldonado, Elizabeth Scott, Emily Buss, and Clare Huntington; and ALI President David Levi after the project’s approval at the Annual Meeting

“Working closely with our amazing advisory group, which included a social science advisory panel of experts, we took on some of the most complicated issues in the law of children. For example, we sought to bring clarity to the definition of children as legal persons, and to articulate when and why they sometimes possess the same rights as adults. In areas where children are treated differently from adults, we have attempted to clarify and restate protections for children, particularly in the sections on Children in the Justice System. This was perhaps our most important goal—to capture the law’s protection of children, while incorporating its recognition that children are legal persons, whose wellbeing sometimes is advanced by having the legal rights of adults.”

“This Restatement grapples with enormously complex issues in a balanced and sophisticated manner, weaving together a deep understanding not only of legal doctrine but also of public policy and a variety of other disciplines, including developmental psychology and neuroscience to support and explain the law that governs children,” added ALI Director Wood. “It will be a useful and influential resource. For that, the Institute is enormously grateful to the Reporters as well as to their dedicated Advisers and Members Consultative Group.”

Torts: Medical Malpractice Is Approved

The American Law Institute’s membership voted at this year’s Annual Meeting to approve the Restatement of the Law Third, Torts: Medical Malpractice. Led by Reporters Nora Freeman Engstrom of Stanford Law School, Michael D. Green of Washington University School of Law, and Mark A. Hall of Wake Forest University School of Law, the project was launched as part of the Restatement of the Law Third, Torts: Concluding Provisions (now “Miscellaneous Provisions”), in January 2019. Beginning with the drafts prepared for the 2023 Annual Meeting,



ALI Council member Chief Judge Jeffrey S. Sutton of the U.S. Court of Appeals for the Sixth Circuit; Project Reporters Michael Green, Mark Hall, and Nora Freeman Engstrom; ALI Director Diane Wood, and ALI President David Levi after the approval of the project at the Annual Meeting

the Medical Malpractice portion of the project was produced separately as the Restatement of the Law Third, Torts: Medical Malpractice.

“As work on the then-named Concluding Provisions progressed, it became clear that the material on medical malpractice was sufficiently complex, significant, and voluminous to warrant independent treatment,” said ALI Director Diane P. Wood. “As a result, last year we spun off the provisions dealing with medical liability into a distinct volume, Restatement of the Law Third, Torts: Medical Malpractice.”

The Restatement of Torts is nearly as old as the Institute itself. The Institute was founded in 1923, and that same year the ALI began working on its first four Restatements: Agency, Conflict of Laws, Contracts, and Torts.

“Since the continued reassessment of the law and the Restatements is at the core of the

Institute’s function, a Second Restatement of Torts was completed in 1979, and we are now engaged in the Third Restatement,” added Director Wood. “The Institute has published four components of the latest Restatement, which has been broken up into a set of volumes focused on particular areas, including Products Liability; Apportionment of Liability; Liability for Physical and Emotional Harm; and Liability for Economic Harm. Intentional Torts has received its final approval and is being prepared for publication. The Torts provisions within the Property Restatement are well underway, as are distinct projects on Remedies; Defamation and Privacy; and Miscellaneous Provisions. When these ongoing projects are completed, the ALI will have produced a body of work that entirely supersedes the Restatement Second of Torts.”

Restatement of the Law Third, Torts: Medical Malpractice, focuses on distinct liability issues that arise when a patient seeks or obtains medical care. It focuses on the doctrinal core that distinguishes medical liability from other areas of tort law, leaving to other portions of the Restatement of the Law Third, Torts, coverage of the many generally applicable topics and doctrinal elements that can arise across a range of tort actions, including medical malpractice.

The project is organized into 15 Sections:

- § 1. Patient and Provider Defined
- § 2. Patient-Care Relationship
- § 3. Duties to Patients and Others
- § 4. Liability for Breach of Duty
- § 5. Standard of Reasonable Medical Care
- § 6. Establishing Breach of the Standard of Care
- § 7. Res Ipsa Loquitur
- § 8. Lost Chance
- § 9. Agreements Affecting Medical Liability
- § 10. No Waiver of Liability
- § 11. Agreements to Take a Nonstandard Approach to Care
- § 12. Informed Consent: Duty and Exceptions
- § 13. Informed Consent: Factual Cause and Scope of Liability
- § 14. Medical Institutions’ Duties
- § 15. Vicarious Liability

“As we wrap up our work, we gratefully acknowledge the invaluable contributions of the many members who have assisted us in this challenging endeavor,” said Reporters Engstrom, Green, and Hall in a joint statement. “We are particularly indebted to the many dedicated Advisers and MCG members, who have volunteered their time and expertise to this effort—and to the Council members who have suggested revisions to key portions of our draft with diligence, attention, and focus.”

The Reporters, subject to oversight by the Director, will now prepare the Institute’s official texts for publication.

At this stage, the Reporters are authorized to correct and update citations and other references, make editorial and stylistic improvements, and implement any remaining substantive changes agreed to during discussion with the membership or by motions approved at the Annual Meeting. Until the official texts are published, the drafts approved by the membership are the official positions of ALI, and may be cited as such.

Working Groups Convened with the Assistance of ALI

This year, The American Law Institute helped to convene two distinguished groups of experts to issue guidance on two timely and important topics.

Ethical Standards for Election Administration

In January, a group from across the political spectrum convened to assemble a proposed set of universal “Ethical Standards for Election Administration” (Report). Today, this group issues its recommendations regarding the set of ethical standards for the professional community of election officials. At a time of contentious debate about our voting system, the Report offers a clear articulation of the role of ethical standards in guiding the conduct of elections and contributing to public confidence in the process by which Americans select their leaders.

Explaining the goal behind the project and its timing, the Report states: “Even if the times were not so challenging, it would be appropriate to encourage those who conduct elections to consider the principles that undergird their work, inform the public of those principles, and hold each other accountable to them.”

The group was led by Charles Stewart III, Kenan Sahin Distinguished Professor of Political Science at MIT and founder of the MIT Election Data and Science Lab; Bob Bauer, Professor of Practice and Distinguished Scholar in Residence and Co-Director of the Legislative and Regulatory Process Clinic at NYU; and Ben Ginsberg, the Volker Distinguished Visiting Fellow at the Hoover Institute. The complete list of working group members may be viewed in the document.

Throughout the process, this drafting committee received feedback and guidance from an advisory group comprising individuals with deep and varied experience in law and government.

In assembling the Report, Stewart noted “the drafting committee recognized that election officials already adhere to a variety of ethical principles and codes of conduct. These include general ethics laws, oaths of office, and ethical principles associated with other professions to which they may belong. However, there is no unified set of ethical principles to which all jurisdictions can turn and to which the public can refer when assessing the work of election administrators. This Report represents an effort to do that.”

As explained in the Report’s Executive Summary, “[a]ssembling ethical guidelines for all jurisdictions at the state, county, and local levels offers many advantages. It provides a shared vocabulary to communicate the moral basis for election conduct to voters, aids in training new officials by reinforcing the broader purpose of election administration as a profession, and also helps internalize values to guide officials when facing external pressures or unclear election laws.”

The principles set forward in the Report are intended as a starting point for the development of standards of conduct for election administrators, which provide more concrete guidance on how to behave in specific professional settings. For example, to implement the principle of adherence to the law, a county election director might be directed to seek legal counsel when the law is ambiguous; a polling place officer might be directed to seek guidance from the local election office when the official is uncertain how to handle a situation at the polls.

“State and local election officials are the people that U.S. citizens trust to run fair and lawful elections,” said Bauer. “Shared, clearly articulated ethical standards help election officials to do their jobs and train those who assist them, but also set public expectations of performance and transparency.”

“In our work, we found that many states had ethical standards in place, but many did not,” added Ginsberg. “Yet, everyone we spoke to told us that they would welcome the input from a document like this one. Having a set of ethical principles that all use the same language and require the same moral compass will help assure our voters that our elections are conducted fairly. This shared language will also help election officials when they need to speak to explain any portion of the election process to the public.”

The issued Report includes seven core principles for adoption by the profession:

1. **Adhere to the law.** Election officials have a duty to administer the law as written and interpreted by the relevant authorities.
2. **Protect and defend the integrity of the election process.** Election officials have a duty to safeguard against unfounded attacks on the integrity of the election process.
3. **Promote transparency in the conduct of elections.** Election officials have a duty to make election administration transparent to the public.
4. **Treat all participants in the election process impartially.** Election officials have an obligation to treat all participants in the electoral process impartially, including voters, candidates, citizens, and political committees.
5. **Demonstrate personal integrity.** Election officials have a duty to conduct themselves honestly and forthrightly in all interactions with superiors, peers, candidates, campaign officials, and the general public.
6. **Practice the highest level of ethics and stewardship.** Election officials have a duty to expend public funds carefully and foster respect among employees and volunteers.
7. **Advance professional excellence.** Election officials have a duty to stay informed about election laws and new developments in election management.

“This is the second time that The American Law Institute has sought to bring together a bipartisan group of extraordinarily distinguished thinkers and practitioners to find common ground on a critical and urgent issue,” said ALI President David F. Levi. “Like the work that was done on the Electoral Count Act reform recommendations, this project also required quick action. Although this work did not go through the typical ALI bicameral process, which requires approval by both our Council and membership, and therefore cannot be considered the official work of the Institute, we are proud to have been a convener and supporter of this project. It is my hope that the thoughtful and detailed document that this team produced will contribute to the rule of law, will increase citizens’ trust in elections, and will ultimately help protect democracy, all of which are well within the law-reform mission of the ALI. We would like to extend our deepest gratitude to Charles, Bob, Ben, and the entire working group for producing this product. We also thank ALI Legal Fellow Will Tadros for providing valuable support to the team.”



[Download the complete document online.](#)

Guidance for Insurrection Act Reform

In April, a bipartisan group led by Bob Bauer (NYU School of Law and former White House Counsel to President Obama) and Jack Goldsmith (Harvard Law School and former Assistant Attorney General in the George W. Bush administration) issued “Principles for Insurrection Act Reform.” The distinguished group is made up of persons with a range of legal and political views who have a rich variety of backgrounds in constitutional law, national-security law, and military law, and have held senior positions in government.

Explaining the impetus for the project, Bauer said, “The Insurrection Act is a centuries-old federal statute that authorizes the president to deploy the armed forces and state militias into action within the United States to address rebellion against the federal or state governments, major outbreaks of domestic violence, and the imminent or actual collapse of law enforcement. It is poorly drafted, replete with vague or obsolete language, and it has been clear for decades that this antiquated law needs serious revision.”

“There is agreement on both sides of the aisle that the Insurrection Act gives any president too much unchecked power,” Goldsmith added. “The Principles for Insurrection Act Reform proposes a set of core standards to guide constitutionally sound, bipartisan reform that aims to address the Act’s flaws while reflecting the need for U.S. armed forces to remain available in extreme cases to respond to domestic threats. These Principles are neutral in design and apply to any president’s invocation of the Insurrection Act.”

The Principles propose deleting antiquated terms that lack settled contemporary meaning and strengthening conditions for the Act’s use. The Principles state that “a reformed Insurrection Act should more clearly specify (i) the goal

of ensuring enforcement and (ii) the requirement that the deployment be necessary to protect public safety and security.” For example, many states and municipalities now have robust police forces, and the president has access to substantial federal law-enforcement capacity. The Principles suggest that the Insurrection Act be amended to make clear that the president may not deploy the armed forces unless “the violence [is] such that it overwhelms the capacity of federal, state, and local authorities to protect public safety and security.”

The Principles also urge Congress to adopt reporting and consultation requirements, and time-limit constraints, on presidential deployments under the Insurrection Act. In particular, the Principles recommend that the reformed Insurrection Act:

- Require consultation with the governor before deploying troops into any state;
- Require the president to report to Congress, within 24 hours of deployment, on the need to invoke the Insurrection Act and on consultations held with state authorities;
- Limit the president’s authority to deploy troops under the Act to a maximum of 30 days absent renewed congressional authorization; and
- Establish a fast-track procedure for Congress to vote on renewal of presidential authority under the Insurrection Act.

Finally, the Principles state that Insurrection Act reform need not and should not include a provision for judicial review.

“Revising the Insurrection Act in these respects will address the major concerns with the statute,” Goldsmith explained. “The Principles suggest specific, common-sense reforms and are designed to allow members of both parties to find common ground. At the same time, these modest and reasonable changes would be historic—providing necessary checks and balances where none currently exist, before they are ever needed.”

“The Principles are the work product of an extraordinarily distinguished group of public servants and lawyers. While the work product is not ours, the ALI is again proud to have played the role of convener in helping to produce guidance for an important set of possible legislative reforms,” said ALI President David F. Levi and ALI Director Diane P. Wood in a joint statement. “This is the third group that we have helped convene, following one that produced important guidance that contributed to Electoral Count Act reform in 2022, and another this past year that developed a proposed set of professional standards for election-law officials. This was a natural next project to undertake as the president’s emergency powers are generally recognized to be vulnerable to abuse.”

The complete list of working group members who worked together to produce these Principles appears in the full document.



[Download the complete document online.](#)

Publications

The Institute's electronic and print publications fulfill two very important purposes: they are a major source of funds that support the Institute's vital law-reform work, and they are the means by which that work is disseminated to practicing lawyers, judges, academics, and students throughout the world. Most ALI publications are accessible online through Westlaw, HeinOnline, and LexisNexis.

Beginning with the Restatement of the Law, Contracts, in 1932, the Institute's Restatements of the Law, Principles of the Law, and model codes have earned an unparalleled reputation for excellence and objectivity. As evidence of the respect the courts have customarily accorded ALI publications, the Restatements and Principles of the Law have been cited in published decisions by U.S. courts more than 222,500 times through June 2024.

Recent Publications

Principles for a Data Economy: Data Transactions and Data Rights, is now available. This publication 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 Principles, adopted by both institutes in 2021, have already reshaped global legal perspectives on data.

The project was overseen by two Reporters, one from each organization: Christiane C. Wendehorst of the University of Vienna, and Neil B. Cohen of Brooklyn Law School. To help coordinate the work of the two institutions, Lord John Thomas of Cwmgiedd, who until recently served as Lord Chief Justice of England and Wales, and Steven O. Weise of Proskauer served as co-chairs of the project.

The law governing trades in commerce in the United States and in Europe has historically focused on trade in items that are 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."

Both in the United States 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; and consumers). This uncertainty may undermine the predictability necessary for efficient transactions in data, inhibit innovation and growth, and lead to market failure and manifest unfairness, in particular for the weaker party in a commercial relationship.

This project proposes a set of principles that may 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 those bodies of law.



ALI Director Emeritus Richard Revesz and project Reporters Neil Cohen and Christiane Wendehorst; and project Co-Chairs Lord John Thomas and Steven Weise



2019 project meeting

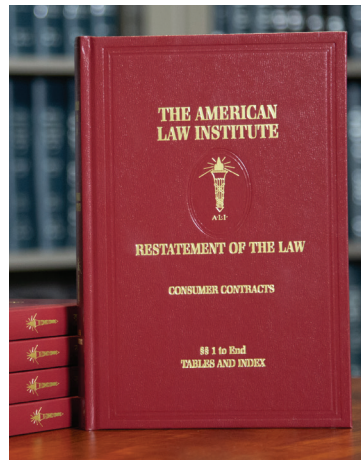


2018 project meeting



Visit the ALI website to order the book today at www.ali.org/data-economy.

Restatement of the Law, Consumer Contracts, is now available. This Restatement seeks to clarify how the courts have applied contract law embodied in the Restatement of the Law Second, Contracts, to transactions that either were not contemplated at the time the earlier Restatement was completed (and therefore not addressed), like the purchase of software licenses and all online transactions, or have become a more significant part of the economy since that time.



Consumer contracts present a fundamental challenge to the law of contracts, arising from the asymmetry in information, sophistication, and stakes between the parties to these contracts: the business and the consumers. On one side stands a well-informed and counseled business party, entering numerous identical transactions, with the tools and sophistication to understand and draft detailed legal terms and design practices that serve its commercial goals. On the other side stand consumers who are informed only about some core aspects of the transaction but rarely about the list of standard terms. These consumers enter the transaction solely for personal or household purposes without any professional understanding of its legal contours.

In restating the rules that apply contract law to consumer contracts, this Restatement relies on the common-law principles that have been guiding courts in adjudicating consumer-contract disputes. Those principles were originally found in the Restatement of the Law Second, Contracts (and often reflect the statutory provisions of the Uniform Commercial Code (UCC)), but have evolved and been applied by the courts in particular and important directions that are specific to consumer contracts and are restated in this Restatement. When appropriate and consistent with the common law of contracts and the UCC, the rules of this Restatement also reflect the principles of fairness and antideception guiding consumer-protection statutes and regulations, just as the UCC influenced provisions of the Restatement of the Law Second, Contracts.

The challenges posed by consumer contracts have heightened over the past generation as courts have adapted traditional contract-law rules to consumer contracts. To track this development, this Restatement follows the traditional ALI methodology and bolsters it with an additional layer of transparency. Primarily, this Restatement follows leading court decisions,



ALI Council member Carol Lee with project Reporters Oren Bar-Gill, Omri Ben-Shahar, and Florencia Marotta Wurgler at the 2019 Annual Meeting

ALI in the Courts: U.S. Supreme Court

During its October 2023 term, the Supreme Court of the United States cited the work of The American Law Institute in six cases:

Diaz v. United States

144 S. Ct. 1727 (June 20, 2024)

Dissent citing **Model Penal Code** § 2.02

Fischer v. United States

144 S. Ct. 2176 (June 28, 2024)

Concurrence citing **Model Penal Code** § 242.1 and Comment 2 thereto

Great Lakes Insurance SE v. Raiders Retreat Realty Co., LLC

144 S. Ct. 637 (Feb. 21, 2024)

Majority citing **Restatement of the Law Second, Conflict of Laws** § 2, Comment c; § 3, Comment d; § 10, Comment a; and § 187(2)(b) and Comment f thereto

SEC v. Jarkesy

144 S. Ct. 2117 (June 27, 2024)

Majority citing **Restatement of the Law Third, Torts: Liability for Economic Harm** §§ 9 and 13

Smith v. Arizona

144 S. Ct. 1785 (June 21, 2024)

Concurrence citing **Model Code of Evidence** Rule 409, Comment b

Vidal v. Elster

144 S. Ct. 1507 (June 13, 2024)

Majority citing **Restatement of the Law Third, Unfair Competition** § 9, Comments b and e; and § 14, Comment e



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eliciting from them the guiding rationales. It clarifies the policy goals underlying the rules applied by courts and develops their conceptual implications to accord them greater clarity and coherence.

In addition, and in order to confirm that the rules identified through this primary method indeed reflect the “law in action,” the Reporters read the entire body of contract-law decisions relating to consumer contracts and to a number of the rules of this Restatement—higher-court as well as lower-court decisions, both state-court and federal-court (applying state law) cases, published and unpublished, and holdings as well as dicta, made available in online legal-research directories and secondary sources. By looking at all the information flowing from case law and carefully organizing it according to outcomes, rationales, and influence, this methodology made it possible to examine with greater subtlety the emerging rules, their impact, and their prominence. It decreases the possibility that important or well-reasoned cases may have been missed and allows a closer consideration of the evolution of the doctrine to better understand how courts are addressing key issues.



The Official Text of Consumer Contracts is available to purchase at www.ali.org/consumer-contracts.

PEB Commentaries: The Permanent Editorial Board for the Uniform Commercial Code, a joint committee of the ALI and the Uniform Law Commission, from time to time publishes Commentaries and Reports to provide guidance in interpreting and resolving issues raised by the UCC. In January 2024, the PEB published PEB Commentary No. 28: Collateral Description for Investment Property.

Commentaries are available at www.ali.org/peb-ucc.

ALI in the Courts: State Supreme Courts and International Courts

The high courts of a number of jurisdictions relied on Restatement Sections during the past fiscal year. Some highlights follow:

Ahmed v. Oak Management Corporation

302 A.3d 850 (Conn. 2023)

Supreme Court of Connecticut, quoting **Restatement of the Law, The U.S. Law of International Commercial and Investor-State Arbitration** § 4.19, Illustration 3, of the Proposed Final Draft (2019) (§ 4.19 has since been revised; see § 4.11 of the Official Text)

Guerra v. Wallace 542 P.3d 654 (Alaska 2024)

Supreme Court of Alaska, relying on **Restatement of the Law Third, The Law Governing Lawyers** § 51(4) and Comment *h* and Illustration 6 thereto

Huynh v. Blanchard 694 S.W.3d 648 (Tex. 2024)

Supreme Court of Texas, citing **Restatement of the Law Third, Torts: Remedies** §§ 43, 44, 45, 47, 48, and 49 of Tentative Draft No. 2 (2023) and § 50 of Tentative Draft No. 3 (2024)

Matter of D.C. 546 P.3d 810 (Nev. 2024)

Supreme Court of Nevada, relying on **Restatement of the Law, Children and the Law** § 13.10 of Tentative Draft No. 6 (2024) and § 15.30, Comments *c* and *d*, of Tentative Draft No. 2 (2019)

Redland City Council v. Kozik [2024] HCA 7

High Court of Australia, relying on **Restatement of the Law Third, Restitution and Unjust Enrichment** §§ 19 and 62 and citing §§ 1, 31, 32, and 33

Turner v. Victoria 532 P.3d 1101 (Cal. 2023)

Supreme Court of California, relying on **Restatement of the Law, Charitable Nonprofit Organizations** § 6.02(b)

Current Projects

RESTATEMENTS

Restatement of the Law Third, Conflict of Laws

This project reexamines the increasingly important subject of conflict of laws in light of significant legal developments in the field since the influential Restatement Second was published in 1971. The project will include Chapters on Domicile, Judicial Jurisdiction, Recognition and Enforcement of Judgments, and Choice of Law, among others. This project was not presented at the 2024 Annual Meeting.

Reporter:

Kermit Roosevelt III, University of Pennsylvania Carey Law School, Philadelphia, PA

Associate Reporters:

Ann Laquer Estin, University of Iowa College of Law, Iowa City, IA

Laura Elizabeth Little, Temple University Beasley School of Law, Philadelphia, PA

Christopher A. Whytock, University of California, Irvine School of Law, Irvine, CA

Restatement of the Law, Constitutional Torts

This Restatement will examine the law of individual rights to sue government employees and others “acting under color of state law” under 42 U.S.C. § 1983 and Bivens actions. It will also cover restrictions on § 1983 actions imposed by the Prison Litigation Reform Act and the overlapping law of federal habeas corpus. The first project meeting is scheduled in March 2025.

Reporters:

John Calvin Jeffries, Jr., University of Virginia School of Law, Charlottesville, VA

Pamela S. Karlan, Stanford Law School, Stanford, CA

Associate Reporters:

Alan K. Chen, University of Denver Sturm College of Law, Denver, CO

Margaret Z. Johns, University of California Davis School of Law, Davis, CA

James E. Pfander, Northwestern University Pritzker School of Law, Chicago, IL

Fred O. Smith, Jr., Emory University School of Law, Atlanta, GA

Michael Wells, University of Georgia School of Law, Athens, GA

Restatement of the Law, Copyright

The goal of this Restatement is to provide guidance to the courts in areas, including ones that have clear common-law origins, in which there is significant scope for judicial discretion. At the 2024 Annual Meeting, the membership voted to approve Tentative Draft No. 5, which includes portions of Chapter 2 (Scope of Protection), Chapter 6 (Copyright Rights and Limitations), Chapter 7 (Copyright Infringement), Chapter 8 (Secondary Liability), Chapter 10 (Safe Harbors, Copyright Protection Systems, and Copyright Management Information), and Chapter 11 (Procedural Issues and Relationship to Other Bodies of Law).

Reporter:

Christopher Jon Sprigman, New York University School of Law, New York, NY

Associate Reporters:

Daniel J. Gervais, Vanderbilt University Law School, Nashville, TN

Lydia Pallas Loren, Lewis & Clark Law School, Portland, OR

R. Anthony Reese, University of California, Irvine School of Law, Irvine, CA

Molly S. Van Houweling, University of California, Berkeley School of Law, Berkeley, CA

Restatement of the Law, Corporate Governance

The Institute first tackled the subject of corporate governance more than 25 years ago in Principles of the Law, Corporate Governance: Analysis and Recommendations. Although it provided valuable guidance in a new and unfamiliar area of law at the time, this area has evolved quite a bit in the intervening decades. At the 2024 Annual

Meeting, the membership voted to approve Tentative Draft No. 2, which includes material from Chapter 5 on the Duty of Loyalty, including Sections on interested transactions involving a director or officer, non-transactional aspects of the duty of loyalty, and matters related to controllers, as well as two definitions, for “Director” and “Officer.”

Reporter:

Edward B. Rock, New York University School of Law, New York, NY

Associate Reporters:

Elisabeth de Fontenay, Duke University School of Law, Durham, NC

Marcel Kahan, New York University School of Law, New York, NY



Restatement of the Law, Corporate Governance

Restatement of the Law, Election Litigation

This Restatement will provide guidance to federal and state court judges adjudicating election disputes, focusing on the areas governed by equitable principles and guided by judicial common law. The Restatement will not address broader questions bearing on the substance of election law. The first project meeting is scheduled in April 2025.

Reporters:

Lisa Marshall Manheim, University of Washington School of Law, Seattle, WA

Derek T. Muller, Notre Dame Law School, Notre Dame, IN

Associate Reporter:

Rebecca Green, William & Mary School of Law, Williamsburg, VA

Restatement of the Law Fourth, The Foreign Relations Law of the United States

This Restatement will cover topics not addressed in the previous Restatement Fourth volume on selected topics in treaties, jurisdiction, and sovereign immunity, as well as selected topics that have emerged since publication of the Restatement Third. To date, one Preliminary Draft has been presented in a project meeting.

Reporters:

Curtis A. Bradley, University of Chicago Law School, Chicago, IL

William S. Dodge, George Washington University Law School, Washington, DC

Oona A. Hathaway, Yale Law School, New Haven, CT

Chairs:

John B. Bellinger III, Arnold & Porter, Washington, DC

Harold Hongju Koh, Yale Law School, New Haven, CT

Restatement of the Law Fourth, Property

This Restatement seeks to bring comprehensiveness and coherence to American property law. Subjects to be covered include the classification of entitlements, possession, accession, and acquisition; ownership powers; protection of and limits on ownership; divided and shared ownership; title and transfer; easements, servitudes, and land use; and public rights and takings. At the 2024 Annual Meeting, the membership voted to approve Tentative Draft No. 5, which includes material from Volume 4 (Divided and Shared Ownership) on leases, Volume 5 (Title and Transfers of Ownership) on conveyances of real property, and Volume 7 (Public Local Land-Use Regulation) on zoning.

Reporter:

Henry E. Smith, Harvard Law School, Cambridge, MA

Associate Reporters:

Molly E. Brady, Harvard Law School, Cambridge, MA

Sara C. Bronin, Cornell University, Ithaca, NY

Richard R.W. Brooks, New York University School of Law, New York, NY

Yun-chien Chang, Cornell Law School, Ithaca, NY

R. Wilson Freyermuth, University of Missouri School of Law, Columbia, MO

John C.P. Goldberg, Harvard Law School, Cambridge, MA

Brian A. Lee, Brooklyn Law School, Brooklyn, NY

Thomas W. Merrill, Columbia Law School, New York, NY

Christopher M. Newman, George Mason University, Antonin Scalia Law School, Arlington, VA

THE ALI DRAFTING PROCESS

ALI's drafting process brings together members of the bench, bar, and academia to review and discuss drafts of Restatements of the Law, Principles of the Law, and Model and Uniform Codes.

Project ideas are generally initiated by the Director and the Projects Committee. The Director then investigates a potential project and develops a project proposal, which usually includes a prospectus from a proposed Reporter (or Reporters). Once approved by the Council, work on the project begins.

A diverse group of Advisers is assembled by the Reporter, Director, and Deputy Director and approved by the Council. This group of subject-matter experts makes a commitment to review the project drafts and provide input to the Reporter. The Director may also appoint Liaisons from other legal organizations or appoint additional advisory panels. ALI members may join the Members Consultative Group (MCG) for a project. MCG participants are not necessarily experts in the project's area of law, but provide a vital perspective, as they read the drafts the way the project's intended audience would.

The Reporter prepares Preliminary Drafts of the project for review by the Advisers, Liaisons, and MCG. After revising the material in light of comments received from these groups, the Reporter submits a Council Draft for review and approval by the Council. Once a draft is approved by the Council, the Reporter prepares a Tentative Draft, incorporating any revisions directed by the Council, to be submitted to the ALI membership for approval at an Annual Meeting. After discussion, the members vote on a "Boskey motion" to approve the draft subject to the discussion at the Meeting and to the usual editorial prerogative. This drafting cycle continues until each segment of the project has been approved by the Council and the membership. Then the Reporter, subject to the Director's oversight, readies the official text for publication.

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 and current project participants will be alerted when future meetings are scheduled and when drafts are available.

Restatement of the Law Third, Torts: Defamation and Privacy

This project is part of ALI's ongoing revision of the Restatement Second of Torts. This Restatement addresses torts dealing with personal and business reputation and dignity, including defamation, business disparagement, and rights of privacy. Among other issues, the updates will cover the substantial body of new issues relating to the internet. To date, four Preliminary Drafts have been presented in project meetings.

Reporters:

Lyrissa Barnett Lidsky, University of Florida, Levin College of Law, Gainesville, FL

Robert C. Post, Yale Law School, New Haven, CT

Restatement of the Law Third, Torts: Miscellaneous Provisions

Launched in 2019, this project is part of ALI's ongoing revision of the Restatement Second of Torts. This Restatement addresses topics not covered in another part of the Restatement Third of Torts that either require updating since publication of the Restatement Second or were not previously addressed but should be covered in a modern torts Restatement. At the 2024 Annual Meeting, the following actions were taken on Tentative Draft No. 3:

- A motion to replace the black letter on Medical Monitoring did not pass.
- A motion to replace the black letter on the Firefighter's Rule passed.
- A motion to replace the black letter on § 20 A, Bad-Faith Performance of First-Party Insurance Contract, did not pass.

The membership voted to approve Tentative Draft No. 3, which contains material on Medical Monitoring, Statutes of Limitations and Repose, Negligent Misrepresentation Causing Physical Harm, Wrongful-Death and Survival Actions, Interference with Family Relationships, Aiding and Abetting Negligence Torts, Agreements to Engage in Conduct that is Negligent or Reckless, the Firefighter's Rule, Bad-Faith Performance of First-Party Insurance Contract, Spoliation of Evidence, Equitable Estoppel as a Defense to Tort Liability, Tort Liability Based on Estoppel, Prenatal Injury, Wrongful Pregnancy, Wrongful Birth, and Wrongful Life, Liability for the Provision of Alcohol, and Negligence Liability of Product Suppliers.

Reporters:

Nora Freeman Engstrom, Stanford Law School, Stanford, CA

Michael D. Green, Washington University School of Law, St. Louis, MO

Associate Reporter:

Guy Miller Struve, Davis Polk & Wardwell (Retired), New York, NY

Restatement of the Law Third, Torts: Remedies

This project is part of ALI's ongoing revision of the Restatement Second of Torts. This Restatement addresses tort damages and other remedies. It will include issues related to identifying the types of recoverable damages, such as past and future lost wages, medical expenses, disfigurement, and pain and suffering, as well as measuring damages, including discounting future earnings to present value, the effect of taxes, and structured settlements. At the 2024 Annual Meeting, the membership voted to approve Tentative Draft No. 3, which includes the remainder of Topics 1 and 2 of Chapter 1 (Compensatory Damages), all of Chapter 2 (Other Monetary Remedies), and material from Chapter 3 (Injunctions and Other Forms of Specific Relief).

Reporters:

Richard L. Hasen, University of California, Los Angeles School of Law, Los Angeles, CA

Douglas Laycock, University of Virginia School of Law (Retired), Charlottesville, VA

PRINCIPLES

Principles of the Law Third, High-Volume Civil Adjudication

This project will address a serious challenge facing state courts: the adjudication of high-volume, high-stakes, low-dollar-value civil claims. These types of claims, which arise in such areas as debt collection, evictions, home foreclosure, and child support, comprise a significant proportion of state court cases and are shaping the lives of millions of Americans, particularly women and people of color. To date, two Preliminary Drafts have been presented in project meetings.

Reporter:

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Associate Reporters:

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Principles of the Law, High-Volume Civil Adjudication

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The Membership Committee and the Council are committed to a membership that reflects the diversity of highly capable and accomplished lawyers, judges, and academics in the U.S. and abroad, across an array of factors including age, gender, race, ethnicity, expertise, geographic region, viewpoint, and type and size of practice or other professional work. The overall goal 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. Candidates for elected membership must have demonstrated exceptional professional achievement, outstanding personal character, and an avid interest in law reform.

During the 2023–2024 fiscal year, 142 distinguished legal professionals were elected upon accepting the nomination and committing to participate. Members make invaluable contributions to our work by donating their time and expertise in numerous areas of the law. As of June 30, 2024, ALI membership included 2,746 elected members, 1,749 life members (a status achieved after 25 years of service to the Institute), 233 ex officio members, and two honorary members. While ex officio members are generally considered members only during the time they hold a specific office or position, the Chief Justice and Associate Justices of the Supreme Court of the United States are ex officio members for life.

CURRENT MEMBERSHIP

(as of June 30, 2024)

Elected Members	2746
Life Members	1749
Ex Officio Members	233
Honorary Members	2
Total ALI Membership	4730

MEMBERS BY CATEGORY

Includes Elected, Elected & Ex Officio, Life, Honorary, and Ex Officio



- **39%** ACADEMICS
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142 NEW MEMBERS



- **50%** ACADEMICS
- **23%** ATTORNEYS IN PRIVATE PRACTICE
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- **14%** CORPORATE, GOVERNMENT, AND NONPROFIT ATTORNEYS

American Law Institute Continuing Legal Education (ALI CLE)

ALI CLE's national reputation for excellence continued this past year as we attracted more than 600 prominent leaders in the profession, including numerous ALI members, to volunteer to serve on our faculties.

IN-PERSON PROGRAMS

ALI CLE's multi-day, in-person programs offer opportunities for experienced practitioners to meet and network with leading experts and dive deep into specialized practice areas. Guided by experienced project chairs and faculties consisting of practitioners from many of the country's most prestigious firms, federal appellate and state judges, current and former government officials and regulators, general counsel and in-house lawyers, and leading legal academics, many of these programs are recognized as premier annual events for practitioners in their respective subject-matter areas, including *Life Insurance Company Products*, *Eminent Domain and Land Valuation Litigation*, *Environmental Law* (cosponsored by the Environmental Law Institute), *Legal Issues in Museum Administration* (cosponsored by the Smithsonian Institution), *Current Developments in Employment Law*, and *Accountants' Liability*.

DISTANCE LEARNING

In addition to its in-person programming, ALI CLE addresses key legal developments and practice needs with its widely praised webcasts for lawyers across a broad range of practice areas. These webcasts include distance programs on high-profile issues such as the potential impacts of *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024), which we addressed just days after the decision's release with two different webcasts featuring panels of legal experts that included ALI member Professor Cary Coglianese and former White House Counsel Stuart F. Delery. We also reported on rapidly developing trends in privacy, security, and technology, including a continuing series of webcasts on AI in law practice and the courts expertly chaired by ALI member Ronald J. Hedges. This year also introduced a noteworthy series of international webcasts by ALI and the European Law Institute, including *Principles for a Data Economy*, *Third Party Funding of Litigation*, and *Automated Decision-Making and Consumer Law*. We also highlight breaking topics in new and recurring programs throughout the year to keep sophisticated practitioners informed and up-to-date.

ALI/ALI-CLE COLLABORATION

The collaboration between ALI CLE and ALI has expanded since our last report to members, with more in-person and distance programs highlighting current and past ALI projects. Upcoming programming includes webcasts on *American Indian Law Developments* and *Business on Native Lands: Tribal Jurisdiction Over Non-Member Enterprises* featuring Restatement Reporter Matthew L.M. Fletcher; *Consumer Contracts* featuring Restatement Reporters Omri Ben-Shahar and Florencia Marotta-Wurgler and Advisers Steven O. Weise and Alan S. Kaplinsky; *Legal Insights and Takeaways from the 2024 Election* featuring Principles of Election Administration Reporter Steven F. Huefner and ALI member Anthony J. Gaughan; *Legal Access for Small Claimants* featuring ALI members Victoria S. Sahani, Paul W. Grimm, Travis Lenkner, and Maria Glover, with Council Member Emeritus John H. Beisner; and *ALI-ELI Webinar on Enterprise Foundations* featuring Restatement of Corporate Governance Reporter Edward B. Rock, among others. In addition, we are working with ALI Council Member Robert H. Klonoff to develop a high-level symposium on issues in multidistrict litigation to be held in late 2025.

At the 2024 ALI Annual Meeting, ALI CLE presented *The Bot Stops Here: Issues and Ethics of Artificial Intelligence and Civil Liability*. Planning chair and moderator Colleen V. Chien of UC Berkeley School of Law was joined by panelists Richard F. Boulware II of the U.S. District Court for the District of Nevada, Mark Geistfeld of NYU School of Law, Thomas S. Lue of Google DeepMind, and Andy Song of Manifold.ai, to explore the legal, technical, ethical, and access-to-justice issues surrounding the growing use of AI in the legal profession and the courts.

Our efforts are intended to engage not only CLE audiences, but also current ALI members, and to augment the reach and lifecycle of ALI's work. We welcome members' feedback on additional programming that will advance ALI's priorities and highlight its accomplishments through CLE over the coming year.



ALI CLE faculty Andy Song, Tom Lue, Colleen Chien, Richard Boulware, and Mark Geistfeld at the Annual Meeting.

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Condensed Consolidated Statements of Activities

for the Years Ended June 30, 2024 and 2023

NET ASSETS WITHOUT DONOR RESTRICTIONS	2024	2023
Publications and program revenue	\$ 8,124,644	\$ 9,267,932
Membership dues and other income	974,917	1,017,078
Contributions and grants	1,081,325	1,131,445
Investment spending policy income	3,100,000	3,354,920
Net assets released from purpose restrictions	116,661	117,448
Total operating revenue and other support	13,397,547	14,888,823
Program expenses	9,183,588	10,312,636
General and administrative expenses	3,636,936	3,865,183
Total operating expenses	12,820,524	14,177,819
Change in net assets from operations	577,023	711,004
Investment return, net of spending policy	4,551,168	4,859,057
Contributions and bequests	602,248	2,088,800
Non-operating expense, net	2,743,735	(645,779)
Change in net assets without donor restrictions	8,474,174	7,013,082
NET ASSETS WITH DONOR RESTRICTIONS		
Investment return	\$ 1,046,349	\$ 792,333
Net assets released from purpose restrictions	(116,661)	(117,448)
Contributions and grants	72,902	154,097
Change in net assets with donor restrictions	1,002,590	828,982
Change In net assets	\$ 9,476,764	\$ 7,842,064
Net assets, at beginning of year	94,053,655	86,211,591
Net assets, at end of year	\$103,530,419	\$94,053,655

Condensed Consolidated Statements of Financial Position

as of June 30, 2024 and 2023

ASSETS	2024	2023
Cash	\$ 3,788,153	\$ 3,469,721
Receivables and other assets	4,162,595	5,139,378
Investments, at fair value	95,670,137	86,388,311
Land, buildings, and equipment, net	2,526,718	2,369,007
Total Assets	\$106,147,603	\$97,366,417
 LIABILITIES AND NET ASSETS		
LIABILITIES		
Accounts payable and accrued expenses	\$ 946,261	\$ 1,426,688
Deferred revenue	446,694	491,461
Postretirement health benefit obligation	1,224,229	1,384,613
Total Liabilities	2,617,184	3,302,762
 NET ASSETS		
Without donor restrictions	93,914,964	85,440,790
With donor restrictions	9,615,455	8,612,865
Total Net Assets	103,530,419	94,053,655
Total Liabilities and Net Assets	\$106,147,603	\$97,356,417

ALI's Second Century Campaign

We are grateful to the following major donors to the Second Century Campaign, whose generous gifts made over the course of the campaign each bring us one step closer to securing the Institute's future:

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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.

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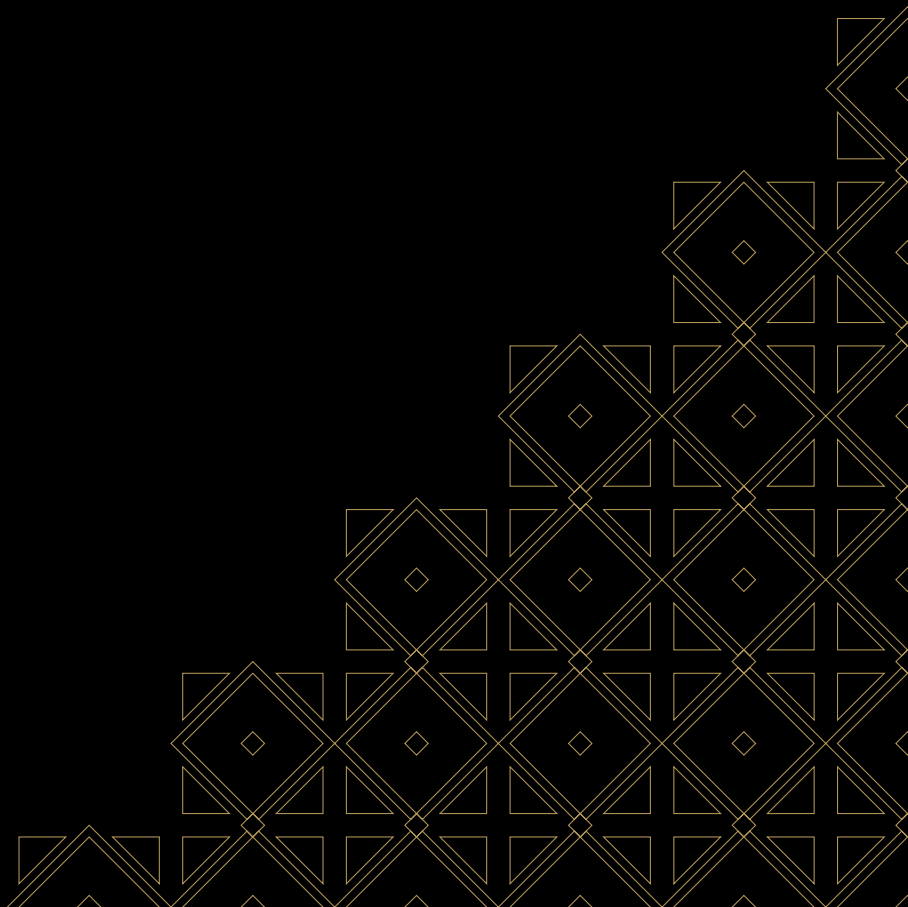
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Annual Giving Report

Contributions to The American Law Institute provide a key source of support that allows us to remain independent as we continue our mission of clarifying and improving the law. By becoming a Sustaining Member, joining a Giving Circle, or making a general contribution or recurring gift during our 2023-2024 fiscal year, the generous donors recognized on the following pages have helped the Institute prepare for a second century of law reform.

Your gift helps us:

PRODUCE, PROMOTE, AND DISTRIBUTE WORKS IMPORTANT TO THE PUBLIC INTEREST

The Institute's projects focus on areas of law that are most in need of clarification, regardless of financial return. The current legal landscape includes a number of topics that are ripe for review, but the resulting publications may not generate revenue to cover the costs of the projects in the way ALL's Restatements do. Our Principles projects on Data Privacy, Policing, and High-Volume Civil Litigation are examples of this type of work. Gifts to the Institute provide funding necessary to produce, promote, and distribute works that benefit the public interest.

RESPOND TO LEGAL DEVELOPMENTS MORE QUICKLY

While we expect to continue to follow our careful, deliberative process for Restatement, Principles, and Model Code projects, ALI must be able to quickly provide judges and practitioners with a way of understanding and organizing new fields that are rapidly developing. We have previously used reports and white papers to fill this gap; in the coming years, we expect to continue to experiment with ways of producing and revising our work more quickly.

ALI has in recent years convened bipartisan working groups to address pressing rule-of-law challenges like Electoral Count Act reform. These initiatives, although not in the form of ALI work product, have the potential for significant impact.

COORDINATE LEGAL RULES AND FACILITATE COOPERATION ACROSS BORDERS

By working with organizations in other countries to create transnational legal principles, ALI can coordinate legal rules and facilitate cooperation and harmonization across borders. We have already joined with partners to produce important work on cross-border coordination in insolvency cases, principles of transnational civil procedure, legal and economic principles of World Trade Law, and Principles for a Data Economy.

Recently, the ALI Council approved a second joint project with the European Law Institute to address ethical and legal implications of biometric data for constitutional democracies.

MAXIMIZE PROJECT EFFICIENCY AND ATTRACT TOP TALENT

ALI pays stipends to top-tier law professors best suited to produce its project drafts, and also pays for the research assistants who support them. By providing funding necessary to maintain an increased number of Reporters, your gift helps to expedite project completion times while retaining the high level of quality for which the Institute is known.

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Your gift to the Institute allows us to properly maintain our equipment, technology, and infrastructure, and ensures that any reduction in revenue from print publications will not inhibit ALI's work.

To inquire about making a donation, please contact the Development Office, at 215-243-1666/1624 or development@ali.org. **To make a gift online, please visit www.ali.org/support.**

The 1999 Life Member Class Gift

The 1999 Life Member Class Gift, totaling \$203,263, was presented to the Institute on Wednesday, May 22, 2024, during a luncheon held in honor of ALI's new Life and 50-year members. The Class Gift will be used to fund important aspects of the Institute's mission, including our travel assistance programs, the Early Career Scholars Medal and annual conference, and initiatives to make our work more accessible by providing free public access.

To date, more than \$2.2 million has been raised by the Class Gift program to support these key initiatives. The American Law Institute celebrates each gift that contributed to the success of this campaign. We deeply appreciate your generosity.

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