

THE ALI REPORTER



ALI Director Diane P. Wood; Yvonne Gonzalez Rogers of the U.S. District Court, Northern District of California; Reporters John Calvin Jeffries of University of Virginia School of Law and Pamela S. Karlan of Stanford Law School; and Associate Reporters Alan K. Chen of University of Denver, Sturm College of Law and Fred O. Smith of Stanford Law School (Constitutional Torts)

October 2025 Council Meeting Update

At its meeting on October 16 and 17, 2025, the Council discussed and approved, in part or in whole, drafts of five projects as listed below. *Complete Council Drafts are available to members in the Projects section of the ALI website; all approvals are subject to the discussion at the meeting and the usual editorial prerogative.*

CONSTITUTIONAL TORTS

The Council discussed Council Draft No. 1, which contains § 1.01, Scope of the Project; § 1.02, Statutory Basis for Constitutional Tort Claims against Persons under State or Local Authority; § 1.03, Source of the Rights That Can Be Vindicated in a § 1983 Constitutional Tort Suit; § 1.04, Methodology; § 1.14, Personal and Official Capacity for Individual Actors; § 1.21, Damages Actions against Federal Officers for Constitutional Violations; § 1.22, Actions against the United States and Federal Agencies for Constitutional Violations; § 1.23, *Bivens* Actions and the Federal Tort Claims Act; § 2.04, *Younger* Abstention; § 2.05, *Pullman* Abstention and Certification; § 4.12, Interlocutory Appeal; § 4.13, Limitations and Procedures on Interlocutory Appeal; and § 7.01, Applicable Statute of Limitations.

The draft's first four sections (Sections 1.01–1.04) contain the introductory material to Chapter 1, The Cause of Action. Section 1.01 sets out the Restatement's scope, stating that it is limited to the law governing federally-created actions for monetary damages for the deprivation of

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The Quarterly Newsletter of The American Law Institute
Volume 48 Number 1 Winter 2025

Reflecting on 2025 and Preparing for the Path Ahead

*By ALI President David F. Levi and
ALI Director Diane P. Wood*

As we conclude 2025 and prepare for the year ahead, we write to express our gratitude for your continued engagement with The American Law Institute and to share some reflections on the past year. This year has been one of continued progress and reflection for ALI. We gathered again for a successful Annual Meeting in Washington, D.C., and welcomed new members whose expertise, judgment, and experience strengthens our work. As we look back on these accomplishments, we are reminded that ALI's impact depends on the extraordinary collaboration of our members.

As part of our ongoing effort to ensure that ALI's work remains strong and sustainable for the future, we recently implemented an important change in our approach to continuing legal education. Going forward, ALI CLE will focus its efforts on in-person conferences and events that have a proven record of success, including the CLE programs held at our Annual Meeting.

Over the past few months, we successfully wound down the production of online-only CLE webinars and on-demand programming. While online CLE has long been a part of our educational outreach, the marketplace for such programs has shifted dramatically in recent years. The rise of large-scale, technology-driven providers, along with other changes in the way CLE is delivered, has made it increasingly difficult for smaller, mission-based organizations like ALI to

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New Edition of the *Trial Manual* Is Available

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ALI to Celebrate Its New Life and 50-Year Members

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Member Spotlight:
An Interview with Chief
Judge Virginia M. Kendall

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The Institute in the Courts:
Midwest Supreme Courts
Adopt ALI Work

THE DIRECTOR'S LETTER

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operate effectively in that space without either significant losses or very considerable investments in technology that exceed our capacity.

We see the re-focusing of ALI CLE as an investment in a model that better aligns with ALI's identity and mission. In-person programs remain among the most impactful and well-attended offerings we produce. They create spaces for meaningful conversation, collegiality, and professional development. They help bring the best of ALI's work to life.

We intend not only to maintain our successful CLE conferences, but also to explore new opportunities to showcase ALI projects and scholarship through carefully developed CLE programs grounded in our current work and projects.

Our current slate of Restatement and Principles work continued to move forward with rigor and deliberate care. Several new projects held their first official meetings in 2025, including the Restatements of Election Litigation and Constitutional Torts, Principles of Civil Liability for Artificial Intelligence, and Principles for the Governance of Biometrics, a joint undertaking with The European Law Institute. Each explores a timely and important area of law, and each has drawn new voices into our conversations—an encouraging sign for the Institute's continued vitality.

We were also pleased this year to see two Restatements reach the culmination of the ALI process: Copyright and Torts: Miscellaneous Provisions. These projects addressed difficult and timely questions, and their successful completion reflects the diligence of our Reporters and the thoughtful engagement of our members at project meetings and the Annual Meetings, and through their written comments and suggestions. We are grateful for the expertise and commitment that made these achievements possible.

In September, we tested a new and promising model for Institute work: a focused conference format designed to bring leading experts together to examine fast-moving or cross-cutting legal issues. Our inaugural conference on current issues in Multi-District Litigation was held at NYU Law School and co-sponsored by NYU's Center on Civil Justice. The discussion was productive and the response was enthusiastic; we look forward to building on this model in the months ahead.

As we turn toward 2026, we do so with a renewed sense of purpose. We will continue advancing our active projects, developing new educational opportunities aligned with the Institute's mission, and deepening engagement across our membership. We look forward to welcoming you to future project meetings, conferences, and, of course, our Annual Meeting in May.

The ongoing success of the Institute depends on the support of its members. Member support enables us to produce and promote scholarship that serves the public interest; to maintain a rare forum for civil debate; and to provide financial assistance so that members outside the private sector can participate fully in our meetings. Each gift, regardless of size, strengthens our work and expands our impact. As the year ends, we invite you to consider contributing to support the Institute's work.

With deepest appreciation for your support and partnership, we wish you and your families a healthy, peaceful, and restorative holiday season and New Year. We look forward to continuing this important work with you in 2026.

Best wishes for the coming year,

David F. Levi *Heane O'Wood*

MEETINGS AND EVENTS CALENDAR AT-A-GLANCE

Below is a list of upcoming ALI meetings and events. For more information, visit www.ali.org.

2026

January 22-23

Council Meeting

Philadelphia, PA

March 6

Restatement of the Law, Corporate Governance

Philadelphia, PA

March 20

Restatement of the Law, Constitutional Torts

Philadelphia, PA

March 27

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

Philadelphia, PA

May 18-20

Annual Meeting

Pre-meeting Events on Sunday, May 17
Washington, DC

June 26

Principles of the Law, Civil Liability for Artificial Intelligence

Virtual

2026 Annual Meeting

May 18-20 | Washington, DC
with pre-meeting events
on Sunday, May 17

See page 18 for information on
upcoming CLE programs and ALI
member benefits.

COUNCIL MEETING UPDATE

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a right, privilege, or immunity secured by the U.S. Constitution and defining “constitutional tort” as “an injury that results from violation of a constitutional provision that protects the injured party.” The section further clarifies that the following topics are outside the Restatement’s scope: issues concerning the availability or scope of injunctive relief, except when they clarify the law of constitutional torts; the availability of habeas relief, except as concerns the interaction between federal habeas and § 1983; the content of state-law claims that may be litigated together with constitutional tort claims; and the availability of attorneys’ and experts’ fees under 42 U.S.C. § 1988(b) and (c).

Section 1.02 states that § 1983 provides a federal cause of action for constitutional tort claims against persons who, acting under state or local authority, deprive a U.S. citizen or one within the jurisdiction of the United States “of any rights, privileges, or immunities secured by the Constitution.” Section 1.03 clarifies that § 1983 provides a cause of action only, i.e., that it is not a source of substantive rights, while Section 1.04 describes the methodologies that courts have used when interpreting § 1983.

Section 1.14 discusses personal- and official-capacity suits, and notes that § 1983 does not authorize official-capacity suits for damages against state-level officials.

Sections 1.21 through 1.23 cover constitutional tort actions against federal actors. These provisions provide the rules governing Court-authorized damages actions against those acting under color of federal law for constitutional violations, or “*Bivens* actions”; state that, except as provided in federal statute, the United States and federal agencies are immune from suits seeking money damages for constitutional violations but may be sued for other forms of relief; and discuss the interaction of *Bivens* actions, the Federal Tort Claims Act, and the Westfall Act.

Sections 2.04 and 2.05 discuss, respectively, *Younger* abstention, and *Pullman* abstention and certification.

Sections 4.12 and 4.13 deal with qualified immunity on appeal. Section 4.12 states that a federal district court’s denial of a motion to dismiss, or of a motion for summary judgment, on the basis of qualified immunity is a collateral order that is immediately appealable, provided that the denial turns on an issue of law. Section 4.13 sets forth limitations on and procedures for interlocutory appeals of qualified-immunity denials.

Section 7.01 sets out the general rule that the forum state’s general or residual statute of limitations for personal injuries governs § 1983 constitutional tort actions.

Action Taken: The Council approved Council Draft No. 1 except for § 1.22, Actions against the United States and Federal Agencies for Constitutional Violations. The Reporters will revise § 1.22 for consideration by the Council at a future meeting.



Harold Hongju Koh of Yale Law School
(Constitutional Torts)



Teresa Wilton Harmon of Sidley Austin
(Constitutional Torts)

CORPORATE GOVERNANCE

The Council discussed Council Draft No. 4, consisting of § 1.15, Disinterested Director; § 1.44, Waste; § x.xx, on when waste is permitted; § 1.50, Material Personal Benefit; § 3.01, Functions of the Board of Directors; § 3.02, Functions and Powers of Officers; § 5.03, Actions Not in Good Faith; § 5.04, Compensation of Directors and Officers; an Introductory Note to Chapter 7, Remedies; § 7.01, Direct and Derivative Claims Distinguished; § 7.02, Authority to Commence and Maintain a Derivative Action; § 7.03, Demand; and § 7.04, Dismissal in Deference of Exclusive Board Control.

CD 4 contains three sections from Chapter 1, Definitions. Those sections provide substantive definitions for “disinterested director,” “waste,” and “material personal benefit.” A fourth, unnumbered section, which will be inserted into or near Section 4.02, on the business judgment rule, states that waste is permitted only with fully informed, unanimous shareholder approval or ratification.

Two sections from Chapter 3, Corporate Structure: Functions and Powers of Directors, Officers, and Shareholders, were also presented to Council. The provisions discuss the functions of the board of directors—including providing a nonexclusive list of the functions that the board “shall perform” and allowing a board to delegate functions to committees or officers, subject to statutory restrictions—and the functions and powers of officers.

Two sections from Chapter 5, Duty of Loyalty, also appear in CD 4. Section 5.03 states that the duty of loyalty requires directors and officers to act in good faith when making decisions related to the corporation and lists ways that a director or an officer can violate the duty to act in good faith. The section also contains a directors-only provision, which identifies the circumstances under which a violation of the duty of oversight constitutes

a failure to act in good faith. Following Delaware law, this Restatement classifies a failure to act in good faith as a breach of the duty of loyalty; it also endorses the view that approval or ratification cleanses some decisions not made in good faith, provided that certain, enumerated conditions are met. Section 5.04 sets out the general rule for when a director or officer fulfills the duty of loyalty with respect to compensation for services.

Finally, CD 4 contains the Introductory Note to, and four sections from, Chapter 7, Remedies. Among other things, the Introductory Note describes the private-enforcement system for state corporate law, which consists of “direct” shareholder claims and claims of the corporation; notes that claims of the corporation may be brought by the corporation itself or by a shareholder on its behalf via a “derivative suit”; and sets out how the Restatement synthesizes Delaware’s approach to derivative litigation with that of the Model Business Corporation Act (MBCA).

Section 7.01 distinguishes between derivative and direct claims and explains how to determine whether an action is direct or derivative.

Section 7.02 states that a shareholder has authority to commence and maintain a derivative action only if (1) he or she was a shareholder at the time of the act or omission in question, or became a shareholder through transfer by operation of law from one who was a shareholder at that time (the “contemporaneous ownership requirement”), (2) remains a shareholder through the litigation (the “continuous ownership requirement”), and (3) fairly and adequately represents the interests of the corporation.

Section 7.03 provides that delivery to the corporation of a written demand is a prerequisite to a derivative action; it also outlines what a demand must contain. The section adopts the position of the MBCA, under which demand must be made in nearly all cases because it functions

as a mode of alternative dispute resolution. Because the Restatement requires a demand in nearly all situations, it does not adopt Delaware’s rule that making a demand affects the standard of review of board action with respect to the claims made.

Section 7.04 sets out when a court should dismiss a derivative action in favor of exclusive board control over a corporate claim.

Action Taken: The Council approved Council Draft No. 4.

HIGH-VOLUME CIVIL ADJUDICATION

The Council discussed Council Draft No. 3, which contains Chapter 4, Pleading and Information Exchange; all but one section of Chapter 5, Hearings; and Chapter 7, Entry and Enforcement of Judgments.

Chapter 4 adopts the position that structured, court-directed pleading and information exchange, with presumptive limits on conventional discovery, is the optimal approach in most high-volume civil-adjudication areas. The Chapter contains general principles that govern pleading and information exchange, including that fair, accurate, and efficient adjudication in high-volume civil dockets may require mandatory information exchange with only limited discovery thereafter and that, in most high-volume civil-adjudication areas, pleading-linked, form-based, mandatory disclosure should replace discovery as the primary mode of pretrial information exchange. It also contains provisions that set out the content, form, and timing of pleading and information exchange; that provide that procedural limits on defenses and counterclaims should be minimized; that state that there should be presumptive limits on discovery; that allow courts to access official data to complement pleading and information exchange under specified circumstances; and that urge courts to consistently enforce the rules governing pleading and information exchange.

Chapter 5 sets out principles governing hearings, which it defines as “an event in which one or more parties and a judge or other appropriate decisionmaker meet, either in person or remotely, to resolve or address a specific issue related to a case[.]” The chapter’s provisions assert that hearings should be structured to allow meaningful participation and should be timely, offer a meaningful opportunity to present evidence and make arguments, and proceed in a manner that is reasonably likely to result in a fair and accurate decision; set out the minimum standards for conducting hearings, including that they should not begin until the court or decisionmaker confirms that the parties have met all preliminary procedural requirements; advance principles that apply to orders that courts issue after a hearing; and discuss the availability and conduct of remote hearings.

Chapter 7 addresses the entry and enforcement of judgments, primarily those entered with little or no meaningful litigation. The Chapter contains provisions on the general principles of entry and enforcement of judgments, namely, that they should account for barriers to meaningful participation and should promote outcomes consistent with the resolution of cases on the merits; prejudgment and postjudgment notice; the minimum that a party seeking relief must establish before the court can enter a judgment ordering the sought-after relief; procedures for motions to stay and vacate; the circumstances when a default judgment should be set aside or vacated; guidance to courts on how to exercise their discretion to vacate judgments; and the obligation of courts and other rulemakers to minimize harms resulting from the entry of a judgment or its enforcement.

Action Taken: The Council approved Council Draft No. 3 except for § 4.07, Court Access to Official Data, and § 4.08, Enforcement of Rules Governing Pleading and Information Exchange. The Reporters will revise §§ 4.07 and 4.08 for consideration by the Council at a future meeting.



Samuel Issacharoff of New York University School of Law (High-Volume Civil Adjudication)

PROPERTY

The Council discussed Council Draft No. 12, containing Chapter 3 from Volume 4, Division II on concurrent ownership, and Chapters 1 and 2 from Volume 5, Division V on mortgages.

Volume 4, Division II, Chapter 3, Joint Tenancy: Special Features, sets out the rules governing joint tenancy. The Chapter builds on Volume 4, Division II, Chapters 1 and 2, which state the rules that are common to all concurrent ownership forms; documents the waning effect of the “four unities” (time, title, interest, and possession); and foregrounds the intent of grantors and joint tenants in determining joint tenancy.

Volume 5, Division V, Chapter 1, Creation of Mortgages, covers the formalities of mortgage creation and function, with the goals of eliminating unnecessary barriers to the creation of valid mortgages and of clarifying the minimum requirements.

Volume 5, Division V, Chapter 2, Future Advances, addresses the law governing “future advances,” i.e., a situation in which a mortgagor’s obligation or the amount or value of a secured performance arises or is enlarged after the mortgage becomes effective.

Action Taken: The Council approved Council Draft No. 12.

TORTS: DEFAMATION AND PRIVACY

The Council discussed Council Draft No. 1, which contains the following sections from Chapter 1, Invasions of Interest in Reputation: § 1, Elements of Defamation; § 2, What Constitutes Publication; § 3, Publication by Failing to Remove Another’s Content from One’s Land or Chattels; § 4, Publication by Distributors; § 5, Single and Multiple Publications; § 6, The Determination of Meaning; § 7, Defamatory Communication; § 8, Materially False Statement of Fact; § 9, Defamation by Implication; § 10, Defamation of a Legal Entity; § 11, Of and Concerning; § 12, Defamation of Deceased Persons; § 13, Defamation Of and Concerning Individual Members of a Group; and § 14, What Constitutes Fault with Respect to the Falsity of a Defamatory Statement.

Of note, this Restatement departs from the Restatement Second of Torts in two ways. First, following a minority of jurisdictions, it fuses libel (defamation in writing or another relatively permanent form) and slander (defamation that is spoken or otherwise impermanent) into a single tort. Second, it clarifies the distinction between publishers and distributors.

Topic 1, which consists of Section 1, sets out the elements of a cause of action for defamation. It



Carol F. Lee of Taconic Capital Advisors L.P. (Retired) (Constitutional Torts)

provides that, except as modified by constitutional or statutory requirements, the tort of defamation has six elements: the defendant must have (1) published (2) a defamatory communication (3) of and concerning the plaintiff (4) that contains a factual statement (5) that is materially false and (6) in doing so acted with fault amounting at least to negligence with respect to the statement’s falsity.

Topic 2, comprising Sections 2 through 5, discusses publication. Section 2 provides that a publication occurs when one intentionally or negligently communicates a statement with actual or imputed knowledge of its contents to a third party. The section’s actual-or-imputed-knowledge requirement, which is new, clarifies the publisher-distributor distinction.

The Topic’s remaining provisions set out when failure to remove defamatory communications exhibited by others on land or chattel in one’s possession or control constitutes publication by the one in possession or control; define “distributor” and state that such an individual does not publish a defamatory communication unless certain, enumerated conditions are met; and provide the general rule that each communication of the same defamatory statement by the same defamer, whether to a new person or to the same person, is a separate and distinct publication, for which a separate cause of action arises.

Topic 3, consisting of Sections 6 through 10, concerns “defamatory communications.” These sections cover the determination of the meaning of a communication; the standards for assessing whether a communication was defamatory and whether a defendant communicated a materially false statement of fact; defamation by implication; and defamation of a legal entity.

Topic 4, made up of Sections 11 through 13, covers the applicability of a defamatory communication to a plaintiff. The provisions set out the rule for determining whether a communication is “of and concerning” a plaintiff; state that no cause of action for defamation can be brought for publishing a defamatory statement of and concerning a deceased individual; and identify when a communication that refers to a group is “of and concerning” individual members.

Finally, Topic 5, which consists of Section 14, deals with the fault of the defendant. The section adopts a negligence standard for determining fault with respect to the falsity of a defamatory statement. This section does not address constitutional requirements; it restates the common-law standard that governs cases involving private-figure plaintiffs.

Action Taken: The Council approved Council Draft No. 1. ■

Your Support Matters: Make a Year-End Gift Today

As a member of The American Law Institute, you know firsthand how essential ALI's work is to the legal profession and to the legal system. The ALI has eleven Restatement and Principles projects in progress. Several of these projects, like the Restatement of the Law, Constitutional Torts, and Principles for the Governance of Biometrics, address new subject areas for the ALI, drawing Advisers and members who have not previously participated in our work. Our project meetings feature fascinating, in-depth discussion among the country's foremost experts on these topics and offer members an unparalleled

opportunity to participate and contribute substantively to the ALI's work.

The Institute faces challenges from industry changes that affect publication revenues, and we are unable to rely as much on this key income stream. Member support therefore remains essential to sustaining our independence and ensuring that ALI can continue to produce rigorous, balanced, and trusted work for judges, practitioners, and scholars.

As we close another productive year, please consider supporting ALI's mission through a year-end

contribution. Your gift, whether through our annual fund, a multi-year pledge, appreciated securities, or a planned gift—helps ensure that the Institute remains a pillar of the rule of law for generations to come. Your gift, at any level, will directly advance our work to clarify and improve the law and to support the legal profession, the judiciary, and society. You can make your year-end gift today at donate.ali.org or by contacting Director of Development Ben Ginsberg at 215-243-1660.

Thank you for your generosity and for your continued commitment to the Institute. Wishing you a happy and healthy 2026.

2026 Annual Meeting

May 18-20
Washington, DC
with pre-meeting events
on Sunday, May 17

Save the Date

New Edition of the *Trial Manual* Is Available

We are excited to share that *Trial Manual 10 for the Defense of Criminal Cases*, authored by Anthony G. Amsterdam and Randy Hertz, both of NYU School of Law, is now available in **print for purchase** and **electronic format for free**.

The *Trial Manual* is a guidebook for criminal defense lawyers at the trial level. It covers the information a defense attorney has to know, and the strategic factors s/he should consider, at each of the stages of the criminal trial process. It is organized for easy access by practitioners who need ideas and information quickly in order to jump-start their work at any given stage.

The allocation of material among the five volumes of the book is intended to facilitate defense attorneys' use of the book:

Volume One (Chapters 1-13) provides an overview of criminal procedure and then focuses on the issues a defense attorney is likely to confront, and the actions s/he will need to consider taking, at the early stages of a criminal case, prior to arraignment. These include: the first steps to be taken to locate, contact, and protect a client who has been arrested or summoned or who fears s/he is wanted for arrest; arguing for bail or another form of pretrial release; conducting the initial client interview; developing a theory of the case; dealing with police and prosecutors; planning and overseeing the defense investigation; obtaining state-funded expert and investigative services; conducting the preliminary hearing; and grand jury practice.

Volume Two (Chapters 14-23) begins with the arraignment, then examines plea bargaining and guilty pleas and the additional considerations that may arise at any stage of a case when representing a client who is mentally ill or intellectually disabled. The volume begins the book's coverage of pretrial motions practice, addressing all pretrial motions other than suppression motions (which are covered in Volume Three). In addition to discussing strategic and practical aspects of drafting motions and

handling evidentiary and non-evidentiary motions hearings, this volume covers the substantive law and procedural aspects of the following motions that defense attorneys commonly litigate in criminal cases: motions for discovery (along with a discussion of all other aspects of the discovery process); motions to dismiss the charges on various grounds; motions for diversion or for transfer to juvenile court; motions for a change of venue or for recusal of the judge; and motions for severance or consolidation of counts or defendants.

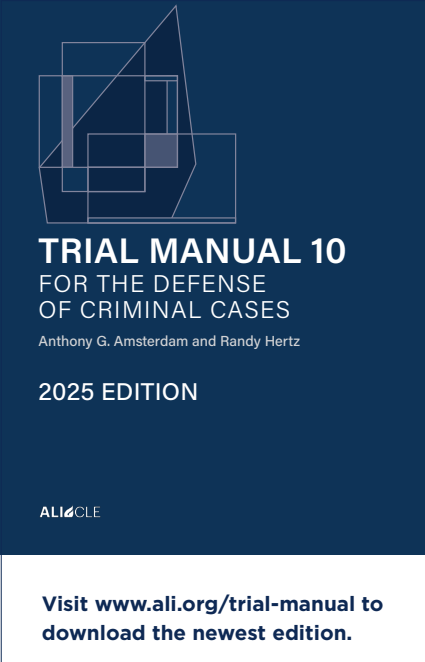
Volume Three (Chapters 24-27) focuses extensively on three types of suppression motions: motions to suppress tangible evidence, to suppress statements of the defendant, and to suppress identification testimony. The volume begins with a Chapter on general aspects of suppression practice, which discusses defense goals and strategies, procedural aspects of a suppression hearing, and techniques for handling a suppression hearing. The volume then provides a detailed discussion of the substantive law of search and seizure; doctrines for suppressing statements; and doctrines for suppressing identification testimony. These chapters cover federal constitutional doctrines and a large number of state constitutional rulings that confer heightened protections.

Volume Four (Chapters 28-40) starts with the immediate run-up to trial: issues relating to the timing of pretrial and trial proceedings; interlocutory review of pretrial rulings; and the concrete steps that counsel will need to take to prepare for trial, including working with expert witnesses where appropriate. It begins the book's coverage of the trial stage, discussing the decision to elect or waive jury trial; jury selection procedures and challenges before and at trial; general characteristics of trials; opening statements; evidentiary issues

and objections; techniques and tactics for handling prosecution and defense witnesses; and trial motions. Issues, procedures, and strategies unique to bench trials are discussed in tandem with the parallel aspects of jury-trial practice.

Volume Five (Chapters 41-49) concludes the coverage of the trial by discussing the renewed motion for acquittal; closing arguments; requests for jury instructions; objections to the court's instructions; and jury deliberations. This volume then discusses posttrial motions and sentencing and concludes with a short summary of appellate and postconviction procedures and a précis of the first steps to be taken after judgment.

The structure and presentation of material are designed to facilitate the conversion of text into defense motions and other types of briefing. Three of the documents in the text are available for direct downloading from the ALI website: section 2.5's flow-chart of procedures in summary, misdemeanor, and felony cases; section 4.5's questionnaire for obtaining information pertinent to bail from the client; and section 6.15's checklist for interviewing the client. The bail questionnaire and the interview list are in Word format that can be edited and thus customized to an individual user's practice and/or turned into a form for use in taking notes in real time during client interviews.



TRIAL MANUAL 10
FOR THE DEFENSE
OF CRIMINAL CASES
Anthony G. Amsterdam and Randy Hertz
2025 EDITION
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download the newest edition.

ALI to Celebrate Its New Life and 50-Year Members: The Classes of 2001 and 1976

In May 2026, The American Law Institute will proudly welcome a new class of Life Members—the Class of 2001. Each year, ALI honors members who have reached 25 years of dedicated service to the Institute with Life Member status, recognizing their enduring commitment to advancing the law and improving the administration of justice.

Life Members are no longer required to pay dues or meet participation requirements, yet they continue to enjoy all the rights and privileges of elected membership. More importantly, they remain an integral part of the ALI community—sharing their expertise, perspective, and guidance to further the Institute's vital work.

The Class of 2001, together with ALI's new 50-year members (Class of 1976), will be recognized at a special luncheon on Tuesday, May 19, during the 2026 Annual Meeting in Washington, D.C. This celebratory event will feature remarks from Hon. Wallace B. Jefferson, partner at Alexander Dubose & Jefferson, and former Chief Justice of the Supreme Court of Texas, a distinguished member of the Class who will serve as the luncheon speaker.

To commemorate this important milestone, members of the Class are invited to participate in the 2001 Life

Member Class Gift. Now in its 15th year, the Class Gift program has raised more than \$2 million in support of ALI's mission and programs. Contributions from Life Member Classes play a vital role in ensuring that the Institute remains at the forefront of legal scholarship and law reform.

Funds raised through the Class Gift program support initiatives that embody ALI's commitment to accessibility, excellence, and impact. These include the MCG Travel Assistance Program and the Judges and Public-Sector Lawyers Expense Reimbursement Program, both of which reduce financial barriers to participation and help ensure that diverse voices are represented in the Institute's work.

The Class Gift also supports the ALI Early Career Scholars Medal and Conference; an initiative designed to recognize and engage outstanding legal academics whose scholarship has the potential to influence legal development in new and meaningful ways. In addition, Class Gifts help underwrite the operational costs associated with maintaining the Institute's hallmark precision and quality in its projects and publications.

The Class of 2001 Life Member Class Committee – chaired by **Hon. Barbara M. G. Lynn** (Ret.), U.S. District Court, Northern District of Texas; **Ian C. Ballon** of Greenberg Traurig, LLP; **Michael E. Flowers** of Steptoe & Johnson, PLLC; Professor **James Paul George** of the Texas A&M University School of Law; **Hon. Wallace B. Jefferson** of Alexander Dubose & Jefferson LLP; and **Ellen Relkin** of Weitz & Luxenberg P.C. – has graciously volunteered to lead this year's Class Gift effort. They will present the Class Gift to the Institute during the May luncheon.

As ALI prepares to celebrate this milestone, we invite every member of the Class of 2001 to join their classmates in honoring 25 years of service and shared achievement. Your participation in the Class Gift is a meaningful way to express your pride in the Institute's mission and to strengthen its work for generations to come.

Now is the time to make your Class of 2001 Gift and ensure your place in this proud tradition of leadership and generosity by donating at donate.ali.org or by contacting Director of Development Ben Ginsberg at 215-243-1660.

2001 LIFE MEMBER CLASS

Alexandra Wilson Albright, Austin, TX; Alexander Dubose & Jefferson LLP

Mark J. Andrews, Washington, DC; Clark Hill PLC

Patrick V. Apodaca, Albuquerque, NM; PNM Resources, Inc. (Retired)

Nancy F. Atlas, Houston, TX; Atlas ADR, PLLC

Ian C. Ballon, East Palo Alto, CA; Greenberg Traurig, LLP

Michael M. Baylson, Philadelphia, PA; U.S. District Court, Eastern District of Pennsylvania

Barbara A. Bintliff, Niwot, CO; University of Texas School of Law (Retired)

Bonnie Brier, Philadelphia, PA

Ronald Chester, Boston, MA; New England Law School of Law

Pat K. Chew, Pittsburgh, PA; University of Pittsburgh School of Law

Denny Chin, New York, NY; U.S. Court of Appeals, Second Circuit

George W. Conk, New York, NY; Fordham University School of Law

T. David Cowart, Dallas, TX; Dentons US LLP (Retired)

Timothy Davis, Winston-Salem, NC; Wake Forest University School of Law

A. Mechele Dickerson, Austin, TX; University of Texas School of Law

William F. Downes, Denver, CO; JAMS

Jean Nicolas Druey, Basel, Switzerland; University of St. Gallen

Byron F. Egan, Dallas, TX; Jackson Walker LLP

Ira M. Feinberg, New York, NY; Office of the New York Attorney General

Heidi Li Feldman, Washington, DC; Georgetown University Law Center

Michael E. Flowers, Columbus, OH; Steptoe & Johnson PLLC

James Paul George, Fort Worth, TX; Texas A&M University School of Law

Mark P. Gergen, Berkeley, CA; University of California, Berkeley School of Law

Kristin Booth Glen, New York, NY; Manhattan Surrogate's Court (Retired)

David C. Godbey, Dallas, TX; U.S. District Court, Northern District of Texas

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

T. Randolph Harris, New York, NY;
McLaughlin & Stern, LLP

Michael Heise, Ithaca, NY; Cornell
Law School

William H. Henning, Fort Worth, TX;
Texas A&M University School of Law

Katherine J. Henry, Washington, DC;
Bradley Arant Boult Cummings LLP

Noel M. Hensley, Dallas, TX

Cornish F. Hitchcock, Washington, DC

Wendell H. Holmes, Baton Rouge, LA;
Louisiana State University, Paul M.
Hebert Law Center (Retired)

Andrew M. Horton, Portland, ME;
Supreme Judicial Court of Maine

Wallace B. Jefferson, Austin, TX;
Alexander Dubose & Jefferson LLP

James R. Jenkins, Midland, MI

Valerie J. Karlson, Littleton, CO

Robert R. Keatinge, Denver, CO;
Holland & Hart LLP

Roger Lee Keithley, Denver, CO

Margaret S. C. Keliher, Dallas, TX;
44th Civil District Court

John G. Koeltl, New York, NY; U.S. District
Court, Southern District of New York

Miriam A. Krinsky, Los Angeles, CA;
Fair and Just Prosecution

Christina L. Kunz, Saint Paul, MN; Mitchell
Hamline School of Law (Retired)

Michael A. Laing, Cincinnati, OH;
Taft Stettinius & Hollister LLP

Elizabeth Lang Miers, Dallas, TX;
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Harriet Lansing, Saint Paul, MN;
Minnesota Court of Appeals

Barbara M. G. Lynn, Dallas, TX; U.S.
District Court, Northern District of
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Colleen McHugh, Dallas, TX; Bracewell
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University of Mannheim

Carl C. Monk, Topsham, ME; Washburn
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University of Maryland, Francis King
Carey School of Law

Nancy B. Rapoport, Las Vegas, NV;
University of Nevada, Las Vegas,
William S. Boyd School of Law

Ellen Relkin, New York, NY; Weitz &
Luxenberg, PC

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District Court, Western District of Texas

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Georgetown University Law Center

Jorge Sánchez Cordero Dávila,
Mexico City, Mexico; Mexican Center
of Uniform Law

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Supreme Court of Pennsylvania

Pieter M. Schenkkan, Austin, TX; Graves,
Dougherty, Hearon & Moody, PC

Robert E. Scott, New York, NY;
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Stephen L. Sepinuck, Nashville, TN;
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American Civil Liberties Union of
the District of Columbia

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K&L Gates LLP

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K&L Gates LLP

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& Aughtry

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University of the Pacific, McGeorge
School of Law

R. Keith Walton, Tempe, AZ; Arizona
State University

Seth P. Waxman, Washington, DC;
WilmerHale

Willis P. Whichard, Chapel Hill; Tillman,
Whichard & Cagle, PLLC

James C. Wilson, Vestavia, AL

Catherine O'Hagan Wolfe, New York, NY;
U.S. Court of Appeals, Second Circuit

Ronald F. Wright, Winston-Salem, NC;
Wake Forest University School of Law

Alfred C. Yen, Newton, MA; Boston
College Law School

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Schnader Harrison Segal & Lewis LLP
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Britain Bryant, P.C.

Antonio Handler Chayes, Cambridge, MA

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M. Carr Ferguson, Jr., New York, NY;
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Tamar Frankel, Boston, MA; Boston
College Law School

Brian Allen Grosman, Toronto, Canada;
Grosman Law Group

John L. Hargrove, Washington, DC;
American Society of International Law

Arthur D. Hellman, Pittsburgh, PA;
University of Pittsburgh School of Law

Patrick E. Higginbotham, Austin, TX;
U.S. Court of Appeals, Fifth Circuit

Broox G. Holmes, Mobile, AL; Armbrecht
Jackson LLP

Howard H. Kestin, Wayne, NJ; Superior
Court of New Jersey, Appellate
Division (Retired)

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PLLC (Retired)

Edward Dean Slevin, Philadelphia, PA;
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Abraham D. Sofaer, Stanford, CA;
The Hoover Institution, Stanford
University

J. Ronald Trost, New York, NY; Vinson
& Elkins LLP (Retired)

Melvyn Zarr, Portland, ME; University
of Maine School of Law



Member Spotlight: An Interview with Chief Judge Virginia M. Kendall

U.S. District Court for the Northern District
of Illinois

PART ONE: THERAPY DOGS IN THE COURTROOM

Let's begin with your unique and compassionate initiative of incorporating Birdie and Junebug, your own therapy dogs, into the court. What inspired this effort, and what role do these dogs play in the judicial setting?

The original Court Dog was Junebug. I trained her to be a therapy dog for victims who were awaiting testimony in the Court. My academic and pro bono life has focused significantly on child exploitation and human trafficking. I was aware of the extreme trauma that the victims of these crimes endure and after interviewing hundreds of victims throughout my career, I was aware of the significant difficulty they had while waiting for the judicial process to unfold. As a result, when I got Junebug as a puppy, I noticed how intuitive she was with people around her and how gingerly she acted near children and elderly people. So, I brought her for training and the trainer agreed with her special demeanor.

In the beginning, Junebug was just "on call" so to speak, and I would bring her in for the Victim Witness Coordinator at the U.S. Attorneys Office or at the request of a trial attorney who had a special witness. Before the pandemic, I got a second dog, Birdie. I did not go through the same therapy training with Birdie at first. But when the pandemic hit, I was one of a handful of judges who rotated duty days in the courthouse. The courthouse was literally empty with just a few deputy marshals, the Clerk of the Court, and me. So, I began bringing the dogs with me. Birdie immediately mimicked everything that Junebug did in the courthouse. She was such a quick learner; I would give a command to Junebug, and Birdie would follow it too. As trials began again during the pandemic, jurors were stressed, lawyers were stressed, judges were stressed, and so I began to bring them in periodically to calm everyone's nerves. I would bring them into a jury room during a break and literally 90 percent of the jury would be sitting in a clump on the floor petting them. It was about that time that we gave them the official title of Court Dog. They hold two jobs: here about one day a week and at Cristo Rey High School in Waukegan the other days.

How are therapy dogs integrated into the process under your supervision? Can you walk us through a typical use case?

My colleagues contact me and tell me when their jury is facing a difficult day or hearing disturbing evidence, or a judge may tell me that there is a sensitive witness that needs support, and I will bring the dogs in. If they visit a jury, I bring them myself because I am aware of the sensitive privacy component involved. If they sit with a witness, they can be dropped off and picked up later, and they just hang out in a witness prep room.

Yesterday, for example, one judge was presiding over a tough gang case involving murders. He called and told me the jury would be viewing some difficult evidence. So, I brought the dogs on their lunch break. The jurors just hung out with them, talked about their own dogs, and then I brought them back to my chambers when the jury went back into court. The same day, another judge said she had a 17-year-old minor who was involved in a settlement conference before her, and that the minor had suffered trauma. Birdie stayed with the girl for four hours during the course of the



Court dogs Junebug and Birdie with Judge Kendall's staff

settlement conference. This week they will go to the employee appreciation luncheons for Pretrial Services and Probation. Those are some examples of their work. But they follow me everywhere and so the employees can stop and pet them anytime. They are probably the most photographed dogs in Chicago.

Maintaining impartiality is critical in the courtroom. How do you ensure that the presence of therapy dogs supports all individuals fairly, without signaling bias or undue comfort to one party over another?

These dogs do not sit with witnesses in the courtroom. If they enter the courtroom, it is on a break from the jury, and they are brought out for the lawyers. Otherwise, they are out of sight.

Who is responsible for training these dogs, and what kind of preparation do they undergo to work in this environment?

I trained them myself with a trainer. Once they put on their work vests, they know they are at work and they stay in work mode. After a long day of being calm and following commands, they fall asleep early because they really are concentrating all day long and watching me for commands, so they are exhausted.

We'd love to hear a heartwarming moment—can you share a favorite story involving the therapy dogs that illustrates their impact?

The Victim Witness Coordinator told me that once when Junebug was sitting with a human trafficking victim awaiting her testimony, the girl took the witness stand, and the judge came out to say that the hearing was going to be delayed an hour. The girl broke down in tears because she was ready to go and just wanted it to be over. The coordinator brought Junebug into the courtroom, which was not on break, and Junebug saw the girl crying in the front row. She walked right up to her, sat down at her feet, and put her head in the girl's lap. It is that kind of comfort that they give. I have even had lawyers on break from trial sit on the floor and pet the dogs to ease the trial stress. It is really a beautiful sight. I always tell them though, I am not responsible for the fur on their suits!

PART TWO: PRESIDING OVER NATURALIZATION CEREMONIES

Another aspect of your judicial role of which you've spoken fondly is overseeing naturalization ceremonies. What makes this role so special to you?

It is an amazing sight to see hundreds of immigrants from dozens of different cultures and backgrounds taking the new citizen oath. You can see how hard they have worked to get where they are because you see how happy they are. They dress in their finest clothes and bring along family members because they are so proud. It is a reminder of what our country is – a country of immigrants – all of whom came here to enjoy the same rights and privileges that the U.S. Constitution provides. It is a celebration of our core values, and it always warms my heart.

Is there a particular citizenship ceremony that stands out in your memory—perhaps a moment or individual that moved you?

We naturalize immigrants at the Great Lakes Naval Base every few months. The Navy recruits get naturalized right before they get shipped out for assignment. How amazing is that? They graduate; get sworn in as citizens; and get their assignment all in one day. What is so special about this is that these young men and women have committed to serve our country even before they become citizens. That is truly remarkable.



Naturalization Ceremony at Wrigley Field



Naturalization Ceremony at the Everett McKinley Dirksen United States Courthouse

Fall Project Meeting Updates

PROPERTY, OCTOBER 10

Project participants reviewed the materials presented in Preliminary Draft No. 12, including a current tentative projected overall table of contents; Sections on concurrent ownership, mortgages, easements, and licenses; and a memo on plans for Volume 8 on public rights and takings.

GOVERNANCE OF BIOMETRICS, OCTOBER 23

This project was launched in partnership with the European Law Institute in 2024. Preliminary Draft No. 1, the first draft presented for discussion, includes drafts of 12 principles covering general provisions, risk-based protection of biometric data, and sectoral and context-specific principles.

CIVIL LIABILITY FOR ARTIFICIAL INTELLIGENCE, OCTOBER 24

Preliminary Draft No. 1 includes §§ 1, 2, and 9. Section 1 largely resolves the scoping issues discussed at the March 2025 project meeting. Section 2 addresses the predicate question whether software is a product or service for tort purposes. Section 9 specifies how strict products liability applies to software. The meeting also included a discussion on the structure of this project's Table of Contents.

TORTS: REMEDIES, NOVEMBER 7

Preliminary Draft No. 6 contains 10 Sections on damage to property and to financial interests. It completes the projected Sections of Restatement Third, Torts: Remedies. These Sections will be presented to the ALI Council at the January 2026 Council meeting. If approved by Council, they will then be presented to the ALI membership at the 2026 Annual Meeting. Membership approval at the Annual Meeting will mark the completion of this project. Details about the Annual Meeting agenda will be available in the next issue of The ALI Reporter.

HIGH-VOLUME CIVIL ADJUDICATION, NOVEMBER 13

Preliminary Draft No. 3 includes a revised version of § 5.05 (Factual Record and Evidence), a full draft of Chapter 9 (The Judicial Role), mapping the floor and ceiling of judicial obligation to self-represented litigants, and a full draft of Chapter 14 (General Principles of Adjudication Alternatives), offering a general set of principles that span the many types of adjudication alternatives that either already feature or hold substantial promise in high-volume civil adjudication.

CONFLICT OF LAWS, NOVEMBER 14

Preliminary Draft No. 10 contains material from Chapter 7 (Property) and Chapter 9 (Families). Chapter 7, Topic 5 governs choice of law for issues about the validity, construction, and interpretation of powers of appointment (§ 7.37) and the exercise of powers of appointment (§§ 7.38-7.41). Chapter 9, Topic 2 on Parent-Child Relationships is an area in which law and society have changed significantly in the past half-century, and all Sections are either new or substantially revised since the prior Restatement.

Members interested in joining an ALI project are encouraged to join by logging in to the ALI website and visiting 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.



Rebecca Wexler of Columbia Law School (Governance of Biometrics)



Thomas S. Lue of Google DeepMind (Civil Liability for Artificial Intelligence)



Wallace B. Jefferson of Alexander Dubose & Jefferson (High-Volume Civil Adjudication)



William S. Dodge of George Washington University Law School and Maggie Gardner of Cornell Law School (Conflict of Laws)

Using Generative AI in Chambers

On November 17, The American Law Institute and the Bolch Judicial Institute at Duke Law School hosted “Using Generative AI in Chambers,” a webinar that brought together a distinguished panel of judges to talk about what AI really means for courts, not in theory but in the day-to-day work of deciding cases.

Moderated by **Paul W. Grimm** of the U.S. District Court for the District of Maryland (Ret.) and director of the Bolch Judicial Institute, the panel included **Anna Blackburne-Rigsby** of the District of Columbia Court of Appeals, **Allison H. Goddard** of the U.S. District Court for the Southern District of California, **Xavier Rodriguez** of the U.S. District Court for the Western District of Texas, **Scott U. Schlegel** of Louisiana Fifth Circuit Court of Appeal, and **Samuel A. Thumma** of the Arizona Court of Appeals, Division One.

From the outset, the judges treated one premise as settled: generative AI is not going away. As Judge Thumma noted, artificial intelligence has been with us in various forms for decades, but large language models and generative tools have introduced something qualitatively different. They are already embedded in legal practice. The question for courts is no longer *whether* AI will appear in chambers, but *how* it will be used and supervised.

The panel acknowledged the now-familiar risks, such as hallucinated case law, fabricated quotations, and deepfake evidence, but framed those concerns within a broader reminder: judicial authority is non-delegable. No matter how powerful the tool, the responsibility for the decision rests with the judge.

That principle shaped the conversation around what the panel called “guardrails.” Several judges described how they integrate AI into chambers work in modest, targeted ways. Tools that summarize long records, generate neutral chronologies, or flag missing authorities can help judges prepare more efficiently and spot issues earlier. Citation- and quotation-checking tools can catch errors before an order is signed. For complex matters involving vast amounts of documents or lengthy transcripts, AI-assisted timelines and search can make the record more manageable without substituting for independent analysis.

At the same time, the judges were clear about the lines they will not cross. Free, consumer-facing AI tools are out of bounds for confidential or sensitive work. Sealed materials do not get uploaded. Outputs are treated the way one might

treat work from an eager first-year law clerk: useful but never unquestioned. Several judges emphasized that nothing goes out under their name without verification against the underlying record and traditional research platforms.

One theme that resonated throughout the program was the importance of talking about AI inside chambers. New clerks and externs increasingly arrive having used generative tools throughout law school. Without explicit policies, judges may assume one level of use while staff assume another. Written chambers guidelines, paired with ongoing conversation, are becoming an essential management tool. They clarify which products may be used, for what purposes, and what level of human review is required before anything reaches the docket.

The ethics mini-module anchored the discussion in familiar doctrine rather than novelty. Competence, impartiality, confidentiality, the prohibition on independent factual investigation, and the duty to supervise court staff all apply squarely to AI. What changes is not the standard but the situations in which it must be applied. For example, a deepfake video in a family-law case poses new evidentiary challenges, but the underlying obligations of ensuring fairness, protecting litigants, and guarding public confidence remain the same.

If there was a unifying message, it was that courts should prioritize education over blanket prohibitions. Attempts to “ban AI” through standing orders may be out of step with the realities of practice, where research platforms and corporate clients already rely on AI-enhanced tools. Instead, the panel encouraged judges to start with technology already available within their institutional ecosystem, work closely with court IT, and lean on resources from bodies, such as the National Center for State Courts, the Federal Judicial Center, and state supreme courts.

The result was a conversation that treated generative AI not as a magic solution or an existential threat, but as another powerful tool that can either support or undermine justice depending on how it is used. For judges, the challenge is to embrace the efficiencies and insights AI can offer while holding fast to the core judicial role: exercising independent judgment, ensuring fairness, and protecting the integrity of the courts.

The webinar recording and materials shared by panelists are now available on the ALI website.



Clockwise from left to right: Anna Blackburne-Rigsby, Xavier Rodriguez, Paul W. Grimm, Allison H. Goddard, Scott U. Schlegel, and Samuel A. Thumma

Midwest Supreme Courts Adopt ALI Work

This year, several state supreme courts have adopted ALI work. Some more recent examples follow:

In *Baldwin v. Standard Fire Insurance Company*, 2025 WL 2962254 (Ind. 2025), the Indiana Supreme Court established a “safe harbor” for insurers using interpleader actions to manage policy limits that were insufficient to satisfy multiple claimants, adopting Restatement of the Law, Liability Insurance § 26. In this case, the insurer of the culpable driver in a motor-vehicle accident that caused serious injuries to the driver’s passengers and another motorist filed an interpleader action naming all potential claimants and deposited the \$100,000 policy limit with the trial court, after rejecting the other motorist’s “time-limited settlement demand” for the \$50,000 per-person policy limit on the ground that it was concerned about the premature “exhaustion of the \$100,000 policy limit” and wanted to protect its insureds’ interests. The other motorist later settled with the insureds for \$700,000 without the insurer’s consent and was assigned insureds’ claims against the insurer.

Based on the assignment, the other motorist filed counterclaims against the insurer in the interpleader action, alleging that the insurer breached its duty of good faith and fair dealing and acted in bad faith by rejecting his initial settlement offer. The trial court granted the insurer’s motion for summary judgment. The court of appeals reversed in part, finding that genuine issues of material fact existed as to whether the insurer breached its duty of good faith and fair dealing when it declined the other motorist’s initial settlement demand and whether it acted in bad faith toward its insureds. The Indiana Supreme Court affirmed the trial court’s grant of summary judgment for the insurer, holding that insurers facing multiple potential claims against an insufficient policy did not breach their duty of good faith and fair dealing or act in bad faith by filing an interpleader action to manage the competing claims. The court adopted Restatement of the Law, Liability Insurance § 26 because it distilled the principles in Indiana case law by imposing a duty on insurers to make a good-faith effort to settle the actions in a manner that minimized the insureds’ overall exposure and by allowing insurers to file interpleader actions as a “safe harbor” that shielded insurers from liability to their insureds. The court concluded that the insurer’s conduct fell squarely within the “safe

harbor” provision for interpleaders because it filed the interpleader action, named all known potential claimants, deposited the full policy limit with the trial court, and continued to provide defense counsel to the insureds. The concurring and dissenting opinion concurred in the adoption of § 26 but felt that the other motorist had presented sufficient facts for a factfinder to conclude that the insurer may have breached its duty of good faith and fair dealing or acted in bad faith.

In *Villarini v. Iowa City Community School District*, 21 N.W.3d 129 (Iowa 2025), the Iowa Supreme Court adopted Restatement of the Law Second, Torts § 611 in holding that the fair-report privilege protected the publication of defamatory matter concerning another in a report of an official action or proceeding, or of a public meeting that dealt with a matter of public concern, as long as the report was an accurate depiction of what occurred and did not convey an erroneous impression to those who heard or read it.

In this case, a former tennis coach at a public high school, whose contract was not renewed because of comments made by former players at a public school-board meeting, filed a defamation action against the school district, after it posted an unaltered video of the meeting, in which the players expressed concerns with the school district’s investigation and dismissal of their complaints that the coach had inappropriately touched, bullied, or harassed multiple players. The Iowa Supreme Court affirmed the trial court’s grant of summary judgment for the school district, holding that the fair-report privilege protected the school district’s online publication of the unaltered video of the meeting. The court pointed out that the publication of the video merely expanded access to a meeting that any member of the public could have attended. Adopting Restatement of the Law Second, Torts § 611 was appropriate, observed the court, because it was supported by prior court decisions and furthered Iowa’s open-meeting laws, which “protect[ed] those government bodies that provide the public with a full account of their meetings.”

Notes About Members and Colleagues

The NYU Law Democracy Project: A Newly Launched Effort for Democratic Renewal

The NYU Law Democracy Project is a newly launched initiative responding to rising public dissatisfaction with democratic governance across the Western world. Introduced in September 2025 and led by Founding Faculty Directors Bob Bauer, Richard Pildes, and Samuel Issacharoff, the project seeks to deepen understanding of the pressures facing American democracy and to place them within broader global trends. Its work includes evaluating proposed political reforms, identifying those most likely to reduce polarization and extremism, and examining emerging challenges such as shifts in executive power and the influence of rapid technological change.

Taking a broad view of democracy, the project will also explore how education can foster civic understanding and how civil-society institutions influence democratic resilience. Recognizing that research in this area often becomes entangled in partisan divides, the Democracy Project is committed to facilitating dialogue across ideological boundaries and incorporating comparative perspectives from other major democracies confronting similar issues.

The initiative launched with “100 Ideas in 100 Days,” a wide-ranging series of contributions from scholars, policymakers, and thinkers in the United States and abroad. This opening series sets the foundation for future events and publications designed to bring together diverse voices in pursuit of practical, evidence-based solutions to the challenges facing modern democracies.

To learn more about this initiative and its contributors, visit democracyproject.org.

Q&A WITH THE FOUNDING DIRECTORS BOB BAUER, SAMUEL ISSACHAROFF AND RICHARD PILDES

What inspired the creation of the NYU Law Democracy Project/ why did you believe now was the right moment to launch a major initiative focused on democratic governance?

Over the last year, books, articles, podcasts, and Substack writing have engaged urgently with the state of the American democratic project. This extraordinary outpouring of work has added immeasurably to our understanding of the vast changes reshaping our politics – from the weakening hold of democratic “norms” to the impact of evolving social media and other information technologies. Yet much of this work has inevitably been swept up in the polarization of the moment, reaching particular audiences while being ignored – or greeted with suspicion – by others. This landscape underscored the need for the NYU Law Democracy Project: a forum designed to foster dialogue across ideological and political boundaries and to draw comparative insights from other democracies facing similar challenges.

We believed this was the right moment to launch the Project, and the early response has only reinforced that view. The demand for a space that brings together deep expertise, rigorous research, and sustained cross-partisan engagement has far exceeded our expectations – so much so that it will take well over 100 days to publish the pieces we have already received. This deeply gratifying response has reinforced our conviction that the Democracy Project can serve as a fruitful forum for these discussions in the years ahead.

How do you identify the contributors for the “100 Ideas in 100 Days” series?

All three of us have worked on these issues for several decades. In doing so, we have been privileged to work with leading thinkers on democracy across disciplines, professions, political perspectives, and countries. For the “100 Ideas in 100 Days” series, we began by reaching out to many of those whose prior work has demonstrated important, original, or provocative perspectives on the challenges facing democracy here and abroad. Most agreed immediately. From there, the project quickly became an embarrassment of riches. Far more people agreed to contribute than we anticipated, and we chose to expand the series for these compelling voices.

The “100 ideas” series has already featured – or will feature – ALI members such as ALI President David F. Levi, Jonathan Adler, Kate Andrias, Nick Bagley, William Baude, Bob Bauer, Philip Bobbitt, Richard Briffault, Guy-Uriel Charles, Paul G. Cassell, Erin Delaney, Ned Foley, Cynthia Estlund, Jack Goldsmith, Thomas Griffith, Rick Hasen, Samuel Issacharoff, Pam Karlan, Randall Kennedy, Lisa Marshall Manheim, Derek Muller, Trevor Morrison, Michael Morley, Caleb Nelson, Eric Olson, Nate Persily, Ricky Revesz, Richard Pildes, Cristina Rodríguez, Bertrall Ross, Josh Sellers, Nick Stephanopoulos, Franita Tolson, and more. We look forward to working with many more contributors as the Project grows and the dialogue continues to expand.

A core part of your mission is to foster dialogue across ideological and political divides. What strategies will the project use to meaningfully engage participants who bring different perspectives, or even deep skepticism, to conversations about democracy?

One of our key strategies is rooted in experience: the three of us have had longstanding working relationships with people across the full range of political beliefs, sometimes built in furtherance of common projects. Those relationships gave us confidence that many contributors – regardless of ideology – would be willing to engage in good-faith conversations about ideas. We want the Democracy Project to be a place where those conversations can happen openly, including voices that sometimes sit outside mainstream academic or political discourse, and where different perspectives can share the same platform.

By convening contributors who disagree with one another – and sometimes with us – we aim to model candid, substantive dialogue grounded in mutual respect. We want readers to hear from perspectives that might be less familiar to them. Our hope is that bringing together people with different worldviews,

including those deeply skeptical of prevailing narratives about democracy, will help break through the hyper-partisanship of the moment and, over time, illuminate areas of genuinely productive common ground.

Looking ahead, what kinds of programming, research, or opportunities do you envision for legal scholars, judges, policymakers, and practitioners (possibly ALI members) who want to participate in or support this work?

Looking ahead, we will build on “100 Ideas in 100 Days” through forums, conferences, publications, and other programming designed to bring together participants from different

perspectives and countries. In January, we will announce our next series tied directly to the Project’s mission, creating new opportunities for sustained scholarly engagement, comparative research collaborations, and practitioner discussions.

These efforts will enable participants to test ideas, share expertise, and build relationships across ideological, institutional, and national lines. We fully intend and expect that there will be meaningful opportunities for all ALI members to participate in and support this work; their breadth of professional experience and commitment to democracy make them invaluable partners as we build out the next phase of the NYU Law Democracy Project.

Thomas H. Boyd of Winthrop & Weinstine has received the Richard S. Arnold Award for Distinguished Service from the Eighth Circuit Bar Association. The award, named in honor of former Chief Judge Richard S. Arnold, was presented to Boyd during the Eighth Circuit Judicial Conference on August 1, 2025.

Sara C. Bronin of George Washington University Law School is the 2025 Heinz Award Receipt in the Economy category. An architect, professor of law, and nationally recognized leader in land use and historic preservation, Bronin is honored for her pioneering work at the intersection of zoning, equity, sustainability, and public health. She is the author of *Key to the City: How Zoning Shapes Our World* and founder of the National Zoning Atlas, an initiative digitizing and standardizing zoning data to make complex regulations more accessible for policymakers and the public.

Reeve T. Bull, Director of Virginia’s Office of Regulatory Management, spoke at a Competitive Enterprise Institute roundtable on Virginia’s regulatory modernization efforts. A leading expert on cost-benefit analysis, Bull outlined how the Commonwealth’s data-driven reforms have increased transparency, streamlined permitting, and generated significant annual savings for Virginians, positioning Virginia as a national model for regulatory reform.

Erwin Chemerinsky of UC Berkeley School of Law and **Lisa A. Tucker** of Drexel University Kline School of Law have founded a nonpartisan non-profit, We Hold These Truths, seeking to unite people across the political spectrum, communities, and professional sectors to share accessible principles and civic values that are increasingly under threat today.

On November 6-7, the Brennan Center for Justice, State Court Report, and the Northwestern University Law Review hosted a two-day symposium at Northwestern Pritzker School of Law exploring the future of state constitutional rights, including the substantive rights protected by state constitutions, state constitutional amendments, and emerging issues in areas such as LGBTQ+ rights and voting rights. The event featured the following ALI members as speakers: **Zachary C. Clopton** of Northwestern Pritzker School of Law, **Jane Elinor Notz**, Office of the Illinois Attorney General, **Daniel B. Rodriguez** of Northwestern Pritzker School of Law, **Matthew Segal** of the American Civil Liberties Union, **Jeffrey S. Sutton** of the U.S Court of Appeals for the Sixth Circuit, and **Deborah Turkheimer** of Northwestern Pritzker School of Law.

Harlan Grant Cohen of Fordham Law School delivered a lecture on “Outbound Investment Restrictions and International Law’s Challenge,” co-sponsored by the APEC Study Center at Columbia University. Cohen examined the United States’ new Outbound Investment Rule and argued that the policy represents a significant shift toward geoeconomic competition, one that current international economic law is not equipped to address.

Jennifer Walker Elrod of the U.S. Court of Appeals for the Fifth Circuit delivered the keynote address at Liberty University School of Law’s symposium, “*Loper Bright*: A New Era of Administrative Law.” Elrod reflected on the Supreme Court’s decision in *Loper Bright v. Raimondo* and its impact on the separation of powers, noting that today’s students will be “the first post-*Chevron* cohort of attorneys in generations.” She also participated in a fireside chat on judicial service and offered guidance to students pursuing public service careers.

Heather K. Gerken of Yale Law School and **Pamela S. Karlan** of Stanford Law School have been named the 2025 Award of Merit honorees by the Yale Law School Association, the highest honor bestowed

by the association. Gerken and Karlan are recognized for their exceptional scholarship, transformative institutional leadership, and impactful contributions to the legal profession. At a ceremony during Alumni Weekend, **Harold Hongju Koh** of Yale Law School introduced the honorees, underscoring their influential roles in shaping both Yale Law School and the broader legal landscape.

Philip K. Howard of Covington & Burling has released a new book, *Saving Can-Do: How to Revive the Spirit of America*, offering a bold vision for revitalizing American governance. Howard argues that decades of bureaucracy and red tape have stifled common sense, undermined public trust, and fueled populist resentment, proposing instead a return to a responsibility-based governing framework that empowers individual judgment and restores accountability.

Roscoe Jones Jr. of Drake Law School has been elected co-chair of the Lawyers’ Committee for Civil Rights Under Law. Jones is honored for his distinguished record of pro bono service and his longstanding commitment to advancing racial justice. He previously received the National Bar Association’s

Presidential Excellence Award and currently serves as chair of the American Constitution Society.

Pamela S. Karlan of Stanford Law School discussed the federal indictments of James Comey and Letitia James on an episode of *Stanford Legal*, speaking with Robert Weisberg about what the cases signal for the rule of law in an increasingly politicized justice system. Karlan examined how departures from longstanding Justice Department norms could reshape the relationship between law and politics in future prosecutions.

Erin C. Lagesen of the Oregon Court of Appeals received the 2025 Wallace P. Carson Jr. Award for Judicial Excellence from the Oregon State Bar, honoring her significant contributions to the judicial system and her exemplary professionalism, integrity, and judicial independence. The award was presented at the same ceremony where **Robert H. Klonoff** of Lewis & Clark Law School was presented with the Oregon State Bar Award of Merit, the highest honor bestowed by the bar. Profiles of both award recipients appeared in the October 2025 issue of the Oregon State Bar Bulletin.



Lagesen and Klonoff at the 2025 Oregon State Bar Awards Ceremony

Leah Litman of the University of Michigan Law School, **Melissa Murray** of NYU School of Law, and **Kate Shaw** of the University of Pennsylvania Carey Law School have received the Arabella Babb Mansfield Award from the National Association of Women Lawyers, the organization's oldest and highest honor, in recognition of their influential scholarship and their contributions to public understanding of the U.S. Supreme Court through their widely acclaimed podcast *Strict Scrutiny*.

IN MEMORIAM

ELECTED MEMBERS

Richard T. Cassidy, South Burlington, VT; **Thomas Z. Hayward, Jr.**, Chicago, IL; **Karen Susan Metzger**, Denver, CO; **John K. Roedel, Jr.**, Saint Louis, MO; **Willis P. Whichard**, Chapel Hill, NC; **Charles K. Wiggins**, Olympia, WA

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Mark Martin, former Chief Justice of the Supreme Court of North Carolina and Founding Dean of the Kenneth F. Kahn School of Law at High Point University, celebrated the school's successful inaugural year. Under his leadership, the new law school opened a state-of-the-art facility, expanded its experiential programs, and launched guaranteed internships as it prepares for its first graduating class in 2027.

Dayna Bowen Matthew of George Washington University Law School has been inducted into the National Academy of Medicine, one of the highest honors in health and medicine. A nationally recognized leader in public health and civil rights law, Matthew is honored for her scholarship on the legal and structural drivers of health disparities and her longstanding commitment to evidence-based policy.

Norman M. Powell of Young Conaway Stargatt & Taylor has been elected Chair of the American Bar Association's Business Law Section. A partner at the firm and nationally recognized business lawyer, Powell is honored for his leadership in transactional practice with a focus on alternative entities, secured transactions, and complex financing matters.

Leo E. Strine Jr. of University of Pennsylvania Carey Law School honored William T. Allen and John L. Weinberg in his recent keynote lecture and is part of the Delaware law series. The address is available [here](#).

Ethan V. Torrey, Legal Counsel of the Supreme Court of the United States, delivered a lecture on "The Supreme Court and Judicial Independence in the Early Republic" at the Old Ship Meeting

House in Hingham, Massachusetts. Torrey explored the Court's early history and the development of judicial independence through the Marshall Court, highlighting the contributions of early Massachusetts justices William Cushing and Joseph Story.

Lisa A. Tucker of Drexel University Kline School of Law was awarded the Eisenberg Prize by the American Academy of Appellate Lawyers for her

article "Canceling Appellate Precedent." Tucker and co-author Michael Risch of Villanova University Charles Widger School of Law will receive the award at dinner at SCOTUS in November.

Donald B. Verrilli Jr. of Munger, Tolles & Olson was honored at the 29th Annual Frederick Douglass Awards Dinner, hosted by the Southern Center for Human Rights. One of the nation's most accomplished Supreme Court advocates,

Verrilli served as Solicitor General of the United States and argued more than 50 cases before the Court, including landmark decisions shaping civil rights, voting rights, and equality under law.

Submissions as of November 21. If you would like to share any recent events or publications in the next ALI newsletter, please email us at communications@ali.org.

Continuing Legal Education Benefits for ALI Members

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UPCOMING CLE COURSES

Eminent Domain and Land Valuation Litigation 2026

January 22-24, 2026

JW Marriott Savannah Plant, Savannah, GA or live webcast

Environmental Law 2026

Cosponsored by the Environmental Law Institute

February 19-20, 2026

Washington Marriott Georgetown, Washington, DC or live webcast

Legal Issues in Museum Administration 2026

Cosponsored by the Smithsonian Institution

April 29-May 1, 2026

Grand Hyatt, Denver, CO or live webcast

Accountants' Liability 2026

May 14-15, 2026

Washington Marriott Georgetown, Washington, DC or live webcast

MDL In Motion 2026

In partnership with the Center on Civil Justice at NYU School of Law

October 2, 2026

NYU School of Law, New York, NY or live webcast

Life Insurance Company Products 2026

November 5-6, 2026

Washington Marriott at Metro Center, Washington, DC or live webcast



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