

## Wallace B. Jefferson, Former Chief Justice of the Supreme Court of Texas, Elected Next ALI President



The American Law Institute has elected Wallace B. Jefferson as its next President, effective at the conclusion of the Institute's 2026 Annual Meeting in May. The President is a volunteer officer who chairs the Executive Committee of the ALI Council and helps set the direction for the Institute.

President Levi will conclude his distinguished service at the end

of the 2026 Annual Meeting, in keeping with ALI's longstanding tradition and bylaws that limit a President's tenure to three terms; at that point, he will become Chair of the Council. His exemplary leadership has set a standard that will guide ALI for generations.

The President is nominated by ALI's Nominating Committee and elected by the Institute's Council.

"I have known Wallace Jefferson for many years, including when he was the Chief Justice of the Texas Supreme Court, and have long admired his judgment, his generosity of spirit, and his deep respect for the law," said Jeffrey S. Sutton, Chair of ALI's Nominating Committee. "He is a natural leader: thoughtful, fair-minded, and devoted to the institutions that sustain our legal system. Wallace understands what makes ALI special, and he brings both the wisdom and temperament needed to guide the Institute in the years ahead."

Jefferson served on the Supreme Court of Texas from 2001 to 2013 and was Chief Justice from 2004 until the end of his tenure. He made Texas history as the Court's first African American Justice and Chief Justice. During his time on the bench, he led efforts to expand access to justice, supported reforms to juvenile justice, and oversaw the implementation of a statewide electronic filing system for Texas courts. He also served as President of the Conference of Chief Justices, representing chief justices from all 50 states and U.S. territories.

"Wallace has been a valued colleague and friend for decades, and his leadership has already left a meaningful mark on ALI," said ALI Director

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### THE PRESIDENT'S LETTER BY DAVID F. LEVI

## Reflections on a Shared Endeavor

As I write this letter, I am keenly aware that it comes near the close of my final term as President of The American Law Institute. Service in this position for nine years invites reflection. Mostly I am simply grateful for the opportunity to work with terrific people on issues that are both important and interesting. I approach the end of this chapter with optimism and confidence in ALI's future and in its ability to make a significant contribution to the fair and sensible development and improvement of the law and the legal system. ALI's work, endurance, and relevance have always been the result of the sustained commitment, judgment, and generosity of its members. Working with you, my fellow volunteers, has been the best part of serving as your President.

When I think back on my nine years as ALI President, I think of it in three distinct eras, each with its own challenges and lessons.

The years before the pandemic were, in many ways, a reaffirmation of ALI's core identity. We undertook demanding and sometimes controversial work, including projects that tested our process and drew intense scrutiny. The Restatement of the Law, Liability Insurance was one such effort. It generated robust debate and strong disagreement, which can be productive, but also generated what I and others considered unfair attacks on the ALI orchestrated by certain opponents of the project in various state legislatures. This was a new challenge for us. Ultimately, though, it showed the Institute at its best: excellent reporters and careful drafting; open deliberation; sustained

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## THE PRESIDENT'S LETTER

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engagement by Advisers, Council, and members with different practice backgrounds and experiences; and final judgments reached through voice and vote. The Restatement that emerged from this process—our distinctive ALI process—has proven helpful to judges, legislators, scholars, students, and others, and despite its controversial birth, has taken its place as a standard text. This somewhat stressful experience reinforced for me how essential our members are—not only for their expertise, but for what defines the ALI: a willingness to engage seriously with hard questions, even when consensus is elusive, and a willingness to stand up for the organization itself and fend off efforts to divert or intimidate us from our neutral process.

Then came the pandemic, which disrupted institutions everywhere, including our own. Yet ALI did not pause. Projects continued, meetings adapted, and our members remained deeply engaged. We also recognized that many in our community—judges, lawyers, academics, and public servants—were seeking guidance in an uncertain and rapidly changing world. In response, the Institute contributed beyond our traditional project work. Our “Coping with COVID” podcast series brought together voices from across the legal profession to share practical experience, hard-earned lessons, and, at times, reassurance that none of us was navigating these challenges alone. That effort reflected the Institute’s broader commitment to the rule of law—not as an abstraction, but as something lived and sustained by people working under extraordinary pressure.

The period after COVID carried us directly into our Centennial year, a moment for both reflection and resolve. Celebrating 100 years of ALI underscored the durability of our mission. During this time, the Institute convened special projects designed to respond quickly and responsibly to pressing national questions and possible threats to the rule of law. We brought together distinguished experts from across the legal and political spectrum to provide principled guidance on issues such as the ethical administration of elections, reform of the Insurrection Act, and reform of the Electoral Count Act. The contribution of

that last project to significant legislative reform stands as a particularly striking example of what the Institute can do when it convenes wisely and works deliberately, without sacrificing its independence or its standards.

In the last three years, we have also begun to experience a change to the Institute’s longstanding financial model, as the legal publishing industry copes with the challenges of increasing technological sophistication, including artificial intelligence. We have weathered those changes well for now, thanks to strong partnerships and the success of our Second Century Campaign.

Across each of these eras, one constant has remained: ALI’s success depends on its members. You shape the Institute through your participation in projects, your service on Council and committees, your willingness to mentor and nominate new members, and your generous financial support. You show up—at Annual Meetings, in consultative groups, in debates that are spirited yet respectful. You sustain this institution by engaging with it.

Disagreement has always been part of ALI’s history. What matters is that we do not waver in our commitment to our mission, our process, and our responsibility to the rule of law. The Institute remains strongest when it listens carefully to a broad range of views, deliberates openly and civilly, and proceeds with care, especially when the issues before us are difficult.

As I prepare to step aside at the conclusion of the Annual Meeting in May, I have great confidence in the Institute’s future. Wallace Jefferson will assume the presidency at a moment of continued challenge and opportunity, and the Institute could not be in better hands. Wallace brings extraordinary judgment, deep experience, and a profound commitment to the values that have always defined ALI. I am so grateful, as we all are, that he has agreed to serve, and I look forward to supporting him as he leads the Institute into its next chapter.

At our Annual Meeting in May, we will gather for robust deliberation across a wide range of topics, including three

projects coming before the membership for the first time: Torts: Defamation and Privacy, Election Litigation, and The Foreign Relations Law of the United States (Part 2).

The meeting will also include the presentation of the Institute’s highest honors, the Wisdom Award, the Distinguished Service Award, and the Henry J. Friendly Medal, as well as Sunday programs addressing emerging challenges facing courts and the legal profession.

We will be particularly honored to welcome our former Council member, Associate Justice Ketanji Brown Jackson of the Supreme Court of the United States, who will be interviewed by Judge Richard Gergel on Monday evening about her book, *Lovely One*.

Beyond the formal agenda, the Annual Meeting remains what it has always been: a moment for the Institute’s community to come together—to discuss the pressing topics of our time, to learn from one another, and to renew the collegial spirit that sustains our work. I hope you will join us in Washington this May. Full details about the meeting, its programs, and related events appear throughout this issue of *The Reporter*.

It has been one of the great joys of my professional life to serve as President of The American Law Institute. Thank you for your trust, your engagement, and your friendship. I look forward to seeing many of you at the Annual Meeting, and to continuing our shared efforts in the years ahead.



David F. Levi  
President, The American Law Institute

## JEFFERSON ELECTED NEXT ALI PRESIDENT

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Diane P. Wood. “He brings a rare combination of intellectual rigor, practical experience, and genuine humility. Wallace listens carefully, builds consensus thoughtfully, and cares deeply about the role of law in a democratic society. The Institute will benefit enormously from his steady hand and principled leadership.”

Jefferson was elected to ALI membership in 2001 and to the Council in 2011. He served as Treasurer of the Institute from 2014 to 2023. He previously



Jefferson accepts nomination at the January 2026 Council Meeting.

served as an Adviser on the Restatement Third, Consumer Contracts project and currently serves as an Adviser on the Restatement of Election Litigation and the Principles of High-Volume Civil Adjudication projects.

Jefferson chaired the Commission to Expand Civil Legal Services for the Texas Supreme Court and serves on the boards of the American Academy of Appellate Lawyers, The Holdsworth Center, and Lexitas, and was a member of the American Academy of Arts and Sciences Commission on the Practice of Democratic Citizenship. His career reflects a sustained commitment to judicial independence, access to justice, and the effective administration of the law.

“I am profoundly grateful for the confidence my colleagues have placed in me,” Jefferson said. “The American Law Institute has long stood for careful deliberation, independence, and respect for the rule of law. It has been one of the great privileges of my professional life to work alongside so many dedicated members and leaders of the Institute. David Levi’s extraordinary leadership has inspired all of us to aim higher in service to the law and our country. I am eager to carry that spirit forward, collaborating closely with the Council, the Director, and our membership to advance ALI’s mission and promote the better administration of justice.”

Following his judicial tenure, Jefferson returned to private practice and is currently Co-Chair of the Texas Supreme Court and State Appellate Practice at Alexander Dubose & Jefferson. He is a graduate of James Madison College at Michigan State University and The University of Texas School of Law.

# January 2026 Council Meeting Update

At its meeting on January 22 and 23, 2026, the Council discussed drafts of six projects as listed below; it approved, in Part or in whole, five of those drafts. *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.*

### CONFLICT OF LAWS

The Council discussed Council Draft No. 11, which contains Chapter 7, Property, Topic 4, Trusts; three sections from Chapter 8, Contracts; and the Introductory Note to and four sections from Chapter 11, Business Organizations.

Chapter 7, Topic 4 consists of an Introductory Note and six sections. The Introductory Note sets out the Topic’s scope and approach. The Topic’s sections cover choice of law for issues about: the formalities required to make a legally effective trust (Section 7.31); the settlor’s capacity or consent to create a trust (Section 7.32); the substantive validity and terms of a trust (Section 7.33); the construction and interpretation of a trust (Section 7.34); trust administration (7.35); and the forfeiture of benefits under a trust due to



ALI Director Diane P. Wood, Nathan L. Hecht of Jackson Walker, and Election Litigation Reporters Lisa Marshall Manheim of University of Washington School of Law and Derek T. Muller of Notre Dame Law School (Election Litigation)

having engaged in proscribed conduct toward the settlor, such as having killed, abused, or abandoned the settlor, while the settlor was living (Section 7.36).

The material from Chapter 8 covers contracts for the sale of real-property interests (Section 8.09), capacity to contract (Section 8.13), and the requirements of a writing and other formalities (Section 8.14).

The remainder of CD 11, consisting of the Introductory Note to and four sections from Chapter 11, covers the internal-affairs rule for corporations and other organizations. The Introductory Note identifies the distinction between

“internal” and “external” affairs as a broad principle underlying the chapter’s rules and emphasizes the importance of having a single, readily identifiable law to govern the relationships among participants in a business.

Sections 11.06 through 11.08 set out the internal-affairs rule for corporations. Section 11.06 states the general rule that the internal affairs of a corporation are governed by the law of the state of incorporation; Section 11.07 asserts that the law of the state of incorporation governs certain specified internal affairs involving shareholders; and Section 11.08 details an exception to the general rule. The Comments to Section 11.08 identify factors, beyond the requirements set out in the black letter, that must be weighed to determine whether the invocation of the exception is appropriate and discuss the effect of corporate-law statutes that address the internal-affairs rule. Section 11.14 provides the internal-affairs rule for limited partnerships, limited liability partnerships, limited liability limited partnerships, and limited liability companies.

*Action Taken:* The Council approved Council Draft No. 11.

## ELECTION LITIGATION

The Council discussed Council Draft No. 1, consisting of the Introductory Note to and the entirety of Chapter 1, General Provisions, except for Section 1.09 (Resolution of Disputes), for which a placeholder was provided. The Chapter sets out, at a high level of generality, foundational principles of the law of election litigation, aims to provide guidance to courts seeking to frame their analyses of election-related disputes, and offers context for the more specific rules set out in later chapters.

The Introductory Note discusses the challenges posed by election litigation, sets out the Restatement’s scope and motivation, situates the project with respect to earlier Institute work on elections, and provides an overview of the project’s chapters.

Topic 1, which consists of Sections 1.01 through 1.03, covers the nature of an election. The sections define an election as “an exercise of choice by eligible voters”; provide that the rule of law is an “essential precondition” of an election; and state that, once an electoral process has begun, a rule governing that process may be changed only if done pursuant to legal authority already in place and effectuated in a manner that is consistent with the rule of law.

Topic 2, comprising Sections 1.04 through 1.10, sets out the rules governing voting and the process of elections. These sections cover the right to vote, notice requirements, ballot security, transparency, ballot secrecy, the resolution of disputes, and finality.

Topic 3, made up of Sections 1.11 to 1.14, discusses the presumptive rules governing election disputes. The sections state that election officials are presumed to have lawfully performed their duties; provides that an irregularity that does not defeat an electorate’s exercise of choice cannot be a basis for invalidating the election; sets out two standards (substantial versus strict) for assessing compliance with an election rule; and distinguishes between “mandatory” and “directory” rules.

*Action Taken:* The Reporters will revise Chapter 1 for consideration by the Council at a future meeting.



Harold Hongju Koh of Yale Law School (Foreign Relations Law of the United States)

## THE FOREIGN RELATIONS LAW OF THE UNITED STATES

The Council discussed Council Draft No. 1, consisting of Sections 101, 102, 104, and 105 from Part I, Chapter 1, Constitutional Structure: Separation of Powers and Federalism; the Introductory Note to and Sections 321-326 from Part III, Chapter 2, Executive Agreements and Nonbinding Instruments; and Sections 471-474 from Part IV, Chapter 7, Privileges and Immunities of Foreign Officials and Diplomatic and Consular Premises.

The four sections from Part I, Chapter 1 do not have counterparts in the Restatement Third. Section 101 delineates the authority of Congress and the President over foreign affairs. Section 102 discusses congressional delegations of foreign-affairs authority to the executive branch. Section 104 describes the abilities of U.S. States to enter into agreements with foreign nations, and Section 105 sets forth rules for preemption of State law or action concerning foreign relations.

Part III, Chapter 2’s Introductory Note discusses the constitutional basis for and history of “non- Article II treaty” international agreements, also known in U.S. law as “executive agreements.” It explains that the Restatement follows the practice of categorizing executive agreements by the source of authority (i.e., the Constitution, statutes, treaties, or a combination of these sources).

The remaining material from Chapter 2 asserts that executive agreements are “treaties” under international law and, therefore, bind the United States to the same extent as Article II treaties (Section 321); addresses “congressional-executive agreements,” i.e., international agreements made pursuant to express or implied authorization or approval by Congress (Section 322), executive agreements authorized by Article II treaties (Section 323), and “sole executive agreements,” i.e., executive agreements concluded based solely on the President’s independent constitutional authority (Section 324); discusses nonbinding instruments, which the executive branch can adopt without congressional approval or authorization but which may require such authorization or approval to implement (Section 325); and restates the requirement of the Case-Zablocki Act, as amended, that the Secretary of State must transmit to Congress the text of all finalized binding international agreements and some nonbinding instruments and must publish many of these agreements and instruments (Section 326).

The last four sections of CD 1 come from Part IV, Chapter 7. Sections 471 and 472 address the privileges and immunities

of diplomatic agents and consular officers; Section 473 sets out rules for consular notification and access; and Section 474 describes the privileges and immunities of diplomatic missions and consular posts.

*Action Taken:* The Council approved Council Draft No. 1 except for Part I, Chapter 1, containing §§ 101, 102, 104, and 105, which the Reporters will revise for consideration by the Council at a future meeting.

## HIGH-VOLUME CIVIL ADJUDICATION

The Council discussed Council Draft No. 4, which contains Chapter 2, General Principles of Procedure in High-Volume Civil Adjudication; Chapter 4, Pleading and Information Exchange, Sections 4.07 and 4.08 on court access to official data and on the implementation of rules governing pleading and information exchange; Chapter 5, Hearings, Section 5.05 on the factual record and evidence; and Chapter 6, Settlement. Due to time constraints, the Council did not discuss Section 2.04, Procedure and Vulnerable Parties, or Section 2.05, Open Courts and Law Development.

Chapter 2 sets out the general principles governing procedure in high-volume civil adjudication. The Chapter identifies five core goals of procedure in high-volume civil adjudication as fair and accurate adjudication, facilitating meaningful participation, promoting effective decisionmaking by the parties and the court, fostering the open and transparent development of law, and instilling public trust and confidence in the judicial process (Section 2.01); endorses the tailoring of procedures and case-management tools by case type, e.g., eviction and debt-collection, or case features, e.g., cases with certain patterns of representation (Section 2.02); defines the scope of the meaningful-participation requirement and discusses ways procedures should be designed to foster meaningful participation (Section 2.03); states that courts and rulemakers should design procedures “with due regard for the capacities and circumstances of vulnerable parties and the risk that procedures will impose disproportionate burdens on those parties” (Section 2.04); and discusses procedure’s role in fostering the open and transparent development of law (Section 2.05).

Section 4.07 offers guidance on how courts and other rulemakers may structure processes that allow judges or court staff to obtain information “from reliable official data sources” under specified circumstances.



Caitlin Halligan of the New York State Court of Appeals, Stephanos Bibas of the U.S. Court of Appeals, Third Circuit, and Peter Keisler of Sidley Austin (Retired) (High-Volume Civil Adjudication)

Section 4.08 provides that courts should “take appropriate measures to promote compliance with rules governing pleading and information exchange” and identifies available enforcement measures.

Section 5.05 describes steps that a judge or other appropriate decisionmaker should take during a hearing to “ensure the creation of a factual record necessary to render a fair and accurate decision.” The Section asserts that courts and other rulemakers should adopt evidentiary rules tailored to particular high-volume case types or case features and identifies aims that should guide the tailoring of those rules, but also cautions against revising rules “that protect foundational rights or serve non-adjudicatory ends, such as rules governing privilege[,]” or eliminating rules of evidence altogether.

Chapter 6 addresses settlements that result after the formal commencement of litigation. The Chapter asserts that broad public authority over settlements in high-volume civil adjudication is warranted because many settlements require court approval (thereby turning otherwise private bargains into public acts) and because recurring dynamics, such as unequal access to counsel, justify increased oversight and regulation. Its provisions articulate general principles of settlement in high-volume civil adjudication (Section 6.01); recommend that courts provide settlement forms, tailored to particular high-volume civil-adjudication case types, to guide the parties to address issues that settlements for the case type typically resolve (Section 6.02); discuss fair conditions for settlement negotiations (Section 6.03); identify when court review should be required (Section 6.04); set forth standards and procedures to guide settlement review (Section 6.05); and provide additional rules for the entry and enforcement of settlements (Section 6.06).

*Action Taken:* The Council approved the following provisions of Council Draft No. 4: Chapter 2, §§ 2.01–2.03; Chapter 4, §§ 4.07 and 4.08; and Chapter 5, § 5.05. The Reporters will revise Chapter 6 for consideration by the Council at a future meeting.

## PROPERTY

The Council discussed Council Draft No. 13, containing Chapter 4 from Volume 4, Division II on concurrent ownership, and Chapters 3 and 4 from Volume 5, Division V on mortgages.

Volume 4, Division II, Chapter 4, Tenancy by the Entirety: Special Features, provides the rules governing tenancy by the entirety. The chapter, which builds on the basics of co-ownership and the tenancy in common (as set out in Volume 4, Division II, Chapters 1 and 2), discusses special features of the tenancy by the entirety, including that the unity of marriage is built into the interest.

Volume 5, Division V, Chapter 3, Mortgagor’s Equity of Redemption and Mortgage Substitutes, covers the mortgagor’s equity of redemption, the right of a debtor to redeem the mortgage obligation after its due date and to insist on foreclosure to terminate the mortgagor’s interest in the property. The chapter’s overarching theme is that, when a lender uses title to real property to secure an obligation, the transaction constitutes a mortgage and must be enforced according to mortgage law, regardless of how the parties structure the transaction.

Volume 5, Division V, Chapter 4, Rights and Duties of the Parties Prior to Foreclosure, provides that a mortgage creates only a security interest in real estate and confers no right to possession

of that property on the mortgagee. The chapter's sections generally track the corresponding provisions of the Mortgages Restatement, except for providing that the granting of a mortgage on real property implicitly creates a security interest in the rents arising from that property, requiring a receiver to be disinterested, and permitting a receiver to sell mortgaged property free of the mortgage if authorized to do so by the court or statute.

*Action Taken:* The Council approved Council Draft No. 13.

## TORTS: REMEDIES

The Council discussed Council Draft No. 5, which contains Chapter 1, Compensatory Damages, Topic 3, Damage to Property and to Financial Interests, as well as revisions to Section 6, Scope of Liability (Proximate Cause), which was approved by the membership in 2022. The revised version of Section 6 can be found in a supplemental memo that was posted as a Comment on the project page of the ALI website.

Chapter 1, Topic 3 consists of Sections 28 through 37. Section 28 sets forth the general damages rule for damage to or destruction of property, namely, that a prevailing plaintiff is entitled to recover either the lost market value or the cost of repair or replacement, if the plaintiff so elects and the cost is reasonable under all the circumstances.

Section 29 provides an alternate rule for cases in which the damaged or destroyed property had substantial value to the owner but either (1) had no market value or no determinable market value or (2) the value to the owner substantially exceeded the determinable market value. Section 30 sets out when a plaintiff is entitled to compensation for loss of use of property.

Section 31 addresses damages for conversion, highlighting the unique choice available to plaintiffs in cases in which converted property can be found and is available to be returned.

Section 32 sets forth rules for the time and place at which courts determine market value for damaged, destroyed, or converted property. Section 33 addresses compensation for lost profits and lost going-concern value, which are frequently awarded when a business is harmed by a tort. Section 34, on the economic-loss rules, states that, in general, a plaintiff cannot recover damages for unintentional financial harm unless that harm resulted from physical harm to the plaintiff's property, bodily harm to the plaintiff, or compensable emotional, dignitary, or reputational harm.

Section 35 provides the damages rules for fraud. In authorizing the benefit of the bargain as a measure of damages for all fraud claims, this provision departs from and supersedes the black letter of the Restatement Second, Torts § 549 and Part of the Restatement Third, Torts: Liability for Economic Harm § 9, Comment *b*, Illustration 1.

Section 36 restates the remedies for interference with contract or with economic relations. The Comments explain that the measure of damages is not limited to the damages that could have been recovered in a suit for breach of contract and that, in this respect, the Section follows the Restatement Second § 774A rather than the Economic Harm Restatement § 17.

Section 37 deals with remedies for breach of fiduciary duty.

Finally, the revisions to Section 6 address a potential gap in the scope-of-liability rules of the Restatement Third, Torts. It now states that, when the Restatement Third, Torts fails to state a scope-of-liability rule for a tort or harm, the scope-of-liability rules of the Liability for Physical and Emotional Harm Restatement apply.

*Action Taken:* The Council approved Council Draft No. 5, as well as the revised Section 6. ■

## Policing Principles Now Available in Softbound

We are excited to share that Principles of the Law, Policing is **now available in softbound** from LexisNexis, offering a significantly more affordable way to bring this important work to a broader audience.

Developed through years of collaboration among police chiefs and officers, judges, prosecutors, defense attorneys, academics, community advocates, and policy leaders, the Principles reflect a rare breadth of experience across the policing landscape. While perspectives often differed, the group shared a commitment to strengthening policing in ways that promote effectiveness, accountability, professionalism, and respect for individual rights.

This new softbound format is designed with practical use in mind. It provides an economical option for agencies, training programs, educators, legal practitioners, and community organizations looking to adapt the Principles into policy.

### PRINCIPLES OF THE LAW, POLICING TABLE OF CONTENTS

- Chapter 1. General Principles of Sound Policing
- Chapter 2. General Principles of Searches, Seizures, and Information Gathering
- Chapter 3. Policing with Individualized Suspicion
- Chapter 4. Police Encounters
- Chapter 5. Policing in the Absence of Individualized Suspicion
- Chapter 6. Policing Databases
- Chapter 7. Use of Force
- Chapter 8. General Principles for Collecting and Preserving Reliable Evidence for the Adjudicative Process
- Chapter 9. Forensic-Evidence Gathering
- Chapter 10. Eyewitness Identifications
- Chapter 11. Police Questioning
- Chapter 12. Informants and Undercover Agents
- Chapter 13. Agency and Officer Role in Promoting Sound Policing
- Chapter 14. Role of Other Actors in Promoting Sound Policing

**PURCHASE NOW AT LEXISNEXIS.**

# 2026 ANNUAL MEETING

May 17-20

The Ritz-Carlton  
Washington, D.C.

The Annual Meeting will be held from Sunday May 17 to Wednesday, May 20. This year, all events and ballroom sessions will take place at The Ritz-Carlton, 1150 22nd St NW, Washington, D.C.

## Annual Meeting Projects on the Agenda

**Conflict of Laws** - Tentative Draft No. 6

**Corporate Governance** - Tentative Draft No. 3

**The Foreign Relations Law of the United States** - Tentative Draft No. 1

**High-Volume Civil Adjudication** - Tentative Draft No. 1

**Property** - Tentative Draft No. 7

**Torts: Defamation and Privacy** - Tentative Draft No. 4

**Torts: Remedies** - Tentative Draft No. 5

With membership approval, this project will be completed.

[Click here to visit the Annual Meeting website and register today.](#)

## SUNDAY, MAY 17

### 2:00-4:00 p.m. AI in Chambers and Legal Practice

This timely program brings together a distinguished panel to explore how generative AI is being used in judicial chambers and legal practice. Through live demonstrations of AI tools and real-world applications, the panel will showcase practical ways judges and lawyers are integrating emerging technologies into research, drafting, and case management.

The discussion will also address the ethical obligations, professional responsibility considerations, and potential pitfalls that accompany AI use in the courts. Panelists will offer practical insights drawn from their experience on the bench and in practice.

Featuring: Anna Blackburne-Rigsby of the District of Columbia Court of Appeals, Xavier Rodriguez of the U.S. District Court for the Western District of Texas, Jeffrey L. Huelskamp of Winston & Strawn, and Ed Walters of Clio

2.0 CLE credit hours

### 4:30-5:30 p.m. *Divided Argument* Podcast: Executive Authority and the Supreme Court

William Baude of the University of Chicago Law School and Daniel Epps of Washington University School of Law will record an episode of their podcast, *Divided Argument*, featuring guest Pamela S. Karlan of Stanford Law School. The conversation will explore the evolving relationship between executive authority and the Supreme Court. Attendees will gain insight from two leading constitutional scholars in an engaging, accessible format.

1.0 CLE credit hour

## CLE CREDIT

This year's Annual Meeting CLE package includes credits for the Sunday programs and project sessions held Monday through Wednesday.

**To receive CLE credit, attendees should select the CLE administration fee option when registering for the Annual Meeting.**

**MONDAY, MAY 18****9:00 a.m. Opening Session**

Call to order and Reports by the President, Director, Treasurer, Membership Committee, and Nominating Committee (including election of President and Council members).

**9:45 a.m. Conflict of Laws****12:00 p.m. Members Luncheon****1:30 p.m. Presentation of Wisdom Award**

The Wisdom Award will be presented to Carolyn Dineen King of the U.S. Court of Appeals for the Fifth Circuit by Lee H. Rosenthal of the U.S. District Court for the Southern District of Texas.

**1:50 p.m. Torts: Remedies****3:05 p.m. High-Volume Civil Adjudication (Part 1)****5:00 p.m. Adjournment****6:30 p.m. Members Reception****Monday Members Luncheon**

Location: Salon III

The luncheon will feature a conversation between J. Michelle Childs of the U.S. Court of Appeals for the District of Columbia Circuit and Paul W. Grimm of the U.S. District Court for the District of Maryland (Retired) and former director of Bolch Judicial Institute. Tickets are \$80 per person.

**Members Reception**

Location: Plaza and The Ritz-Carlton Ballrooms

Justice Ketanji Brown Jackson of the Supreme Court of the United States will discuss her memoir, *Lovely One*, with Judge Richard Gergel of the U.S. District Court for the District of South Carolina.

The reception will begin at 6:30 in the Plaza Ballroom and Salon III. The program will take place in The Ritz-Carlton Ballroom. Tickets are \$100 per person.

**TUESDAY, MAY 19****8:30 a.m. High-Volume Civil Adjudication (Part 2)****10:15 a.m. Corporate Governance****12:30 p.m. Members Luncheon:  
Honoring New Life and 50-Year Members****2:00 p.m. Presentation of Distinguished  
Service Award**

The Distinguished Service Award will be presented to Raymond J. Lohier, Jr. by Gerard E. Lynch, both of the U.S. Court of Appeals for the Second Circuit.

**2:20 p.m. Property****5:00 p.m. Adjournment****7:00 p.m. Annual Reception and Dinner****Tuesday Members Luncheon: Honoring New 25-Year and 50-Year Members**

Location: Salon III

In addition to the presentation of the 2001 Class Gift by class representatives, ALI President Designate Wallace B. Jefferson of Alexander Dubose & Jefferson and former Chief Justice of the Supreme Court of Texas will deliver remarks. Tickets are \$80 per person.

**Annual Dinner and Reception**

Location: The Ritz-Carlton Ballroom

Featuring reflections on America's 250th Anniversary with Akhil Reed Amar of Yale Law School and Mary Bilder of Boston College Law School

The reception will begin at 7:00 p.m. Tickets are \$175 per person.

**WEDNESDAY, MAY 20****8:30 a.m. Presentation by ALI Early Career  
Scholar Medal Recipient Blake Emerson of  
UCLA School of Law****9:00 a.m. Torts: Defamation and Privacy****10:30 a.m. Presentation by European Law Institute  
President Teresa Rodríguez de las  
Heras Ballell****10:45 a.m. The Foreign Relations Law of the  
United States****12:15 p.m. Members Luncheon and Presentation of the Henry J. Friendly Medal****2:00 p.m. Adjournment****Wednesday Members Luncheon**

Location: Salon III

The Henry J. Friendly Medal will be presented to J. Harvie Wilkinson III of the U.S. Court of Appeals for the Fourth Circuit and ALI Director Diane P. Wood of the U.S. Court of Appeals for the Seventh Circuit (Retired) by Pierre N. Leval of the U.S. Court of Appeals for the Second Circuit. Tickets are \$80 per person.

# Monday Reception Features Justice Ketanji Brown Jackson and Judge Richard Gergel

This year's Monday Member Reception will take place at The Ritz-Carlton from 6:30 to 9:00 p.m. The event will begin with cocktails and hors d'oeuvres, and you will then join us in the ballroom where we will welcome our special guests, Justice Ketanji Brown Jackson of the Supreme Court of the United States and Judge Richard Gergel of the United States District Court for the District of South Carolina. Justice Jackson will discuss her memoir, *Lovely One*.

## ABOUT OUR SPEAKERS:



The Collection of the Supreme Court of the United States

Ketanji Brown Jackson, Associate Justice, was born in Washington, D.C., on September 14, 1970. She married Patrick Jackson in 1996, and they have two daughters. She received an A.B., magna cum laude, from Harvard-Radcliffe College in 1992, and a J.D., cum laude, from Harvard Law School in 1996. She served as a law clerk for Judge Patti B. Saris of the U.S. District Court for the District of Massachusetts from 1996 to 1997, Judge Bruce M. Selya of the U.S. Court of Appeals for the First Circuit from 1997 to 1998, and Justice Stephen G. Breyer of the Supreme Court of the United States during the 1999 Term. After three years in private practice, she worked as an attorney at the U.S. Sentencing Commission

from 2003 to 2005. From 2005 to 2007, she served as an assistant federal public defender in Washington, D.C., and from 2007 to 2010, she was in private practice. She served as a Vice Chair and Commissioner on the U.S. Sentencing Commission from 2010 to 2014. In 2012, President Barack Obama nominated her to the U.S. District Court for the District of Columbia, where she served from 2013 to 2021. She was appointed to the Defender Services Committee of the Judicial Conference of the United States in 2017, and the Supreme Court Fellows Commission in 2019. President Joseph Biden appointed her to the U.S. Court of Appeals for the District of Columbia Circuit in 2021 and then nominated her as an Associate Justice of the Supreme Court in 2022. She took her seat on June 30, 2022. Since joining the Supreme Court, Justice Jackson has been named an honorary bencher of The Honourable Society of the Inner Temple of London, and received honorary fellowships from the Federal Bar Association and the American College of Trial Lawyers. She also now holds honorary degrees from Boston University, American University, Spelman College, and the University of the Virgin Islands. In addition, Justice Jackson has received many notable awards, including the National Council of Negro Women's Mary McLeod Bethune Trailblazer Award, the Harry S. Truman Good Neighbor Award, the Harvard Law School Association Award, and the Praeses Elit Award from Trinity College of Dublin, Ireland.



Richard Mark Gergel is a native of Columbia, South Carolina and is a graduate of the Richland School District. He attended New College, Oxford University and Duke University, from which he graduated in 1975 *summa cum laude*. Gergel attended Duke University School of Law and graduated in 1979. While at Duke Law, Gergel was a member of the Editorial Board of the Duke Law Journal. He was sworn in as a member of the South Carolina Bar in November 1979, initially practicing with the law firm of Medlock and Davis. He subsequently

began his own law firm in 1983 and practiced with the firm, Gergel, Nickles and Solomon, until 2010. Gergel was nominated as a United States District Judge by President Barack Obama in December 2009 and was confirmed by a unanimous vote of the United States Senate on August 5, 2010. Judge Gergel presides in the Charleston Federal Courthouse. Gergel has a long-standing interest in the history of his native state and has written books and numerous articles and book chapters on South Carolina history. His latest book is *Unexampled Courage*. He is married to Dr. Belinda Friedman Gergel and they have two sons, Richie and Joseph.

## ABOUT *LOVELY ONE* [FROM RANDOM HOUSE]:

With this unflinching account, Justice Ketanji Brown Jackson invites readers into her life and world, tracing her family's ascent from segregation to her confirmation on America's highest court within the span of one generation.

Named "Ketanji Onyika," meaning "Lovely One," based on a suggestion from her aunt, a Peace Corps worker stationed in West Africa, Justice Jackson learned from her educator parents to take pride in her heritage since birth. She describes her resolve as a young girl to honor this legacy and realize her dreams: from hearing stories of her grandparents and parents breaking barriers in the segregated South, to honing her voice in high school as an oratory champion and student body president, to graduating magna cum laude from Harvard, where she performed in musical theater and improv and participated in pivotal student organizations.

Here, Justice Jackson pulls back the curtain, marrying the public record of her life with what is less known. She reveals what it takes to advance in the legal profession when most people in power don't look like you, and to reconcile a demanding career with the joys and sacrifices of marriage and motherhood.

Through trials and triumphs, Justice Jackson's journey will resonate with dreamers everywhere, especially those who nourish outsized ambitions and refuse to be turned aside. This moving, openhearted tale will spread hope for a more just world, for generations to come.



## Wisdom Award: Carolyn Dineen King

The American Law Institute will present the John Minor Wisdom Award to Carolyn Dineen King on Monday, May 18 at this year's Annual Meeting. Lee H. Rosenthal of the U.S. District Court for the Southern District of Texas will present the award.

The award is given from time to time in specific recognition of an ALI 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.

After graduating from Smith College, *summa cum laude*, with a Bachelor of Arts, King earned her Bachelor of Laws from Yale Law School. She then practiced law in Texas from 1962 to 1979, focusing primarily on corporate and federal securities law. In 1979, President Jimmy Carter nominated King to a newly authorized seat on the U.S. Court of Appeals for the Fifth Circuit. She served as Chief Judge from 1999 to 2006, the first woman to do so.

King was elected to The American Law Institute in 1982 and to its Council in 1992. She has played a significant leadership role within the Institute, including serving as Treasurer from 2010 to 2013 and as chair of the Membership Committee. She has also contributed as a U.S. Adviser to ALL's Transnational Insolvency Project and as an Adviser to the Restatement of the Law Third, Torts: Products Liability.

In addition to her work on the bench and with ALI, a commitment to nonprofit service has been an integral part of King's life since she was 13 years old. She has been active in numerous human services, educational, and health-related organizations in Houston, Texas. Her many honors include the Smith College Medal, the American Bar Association's Margaret Brent Award, the American College of Bankruptcy Distinguished Service Award, and the federal judiciary's highest honor, the Edward J. Devitt Distinguished Service to Justice Award, which she received in 2007.

**Read full announcement on [www.ali.org](http://www.ali.org).**

## Distinguished Service Award: Raymond J. Lohier Jr.

The Distinguished Service Award will be presented to Raymond J. Lohier Jr. of the U.S. Court of Appeals for the Second Circuit on Tuesday, May 19 at this year's Annual Meeting. Gerard E. Lynch of the U.S. Court of Appeals for the Second Circuit will present the award.

This award is given from time to time to a member who over many years has played a major role in the Institute, accepting significant burdens as an officer, Council member, committee chair, or project participant and helping keep the Institute on a steady course as the greatest private law-reform organization in the world.

Lohier was appointed to the U.S. Court of Appeals for the Second Circuit in 2010. Prior to his judicial appointment, he served as the Chief of the Securities and Commodities Fraud Task Force in the U.S. Attorney's Office in the Southern District of New York, leading investigations and prosecutions of some of the highest-profile offenses on Wall Street including securities fraud, insider trading, Ponzi schemes, and commodities fraud. He was deputy chief of the Task Force until 2009 and prior to that served as chief and deputy chief of the office's Narcotics Unit.

Born in Montreal, Canada, Lohier graduated from Harvard College in 1988 and in 1991 received his J.D. from New York University School of Law where he was Editor in Chief of the *Annual Survey of American Law* and recipient of the Vanderbilt Medal.

Elected to The American Law Institute in 2013 and to its Council in 2014, Lohier has contributed extensively to several of the Institute's major projects, including serving as an Adviser to the Restatement of the Law, Employment Law; Principles of the Law, Compliance and Enforcement for Organizations; and Principles of the Law, Policing. He currently serves as an Adviser to the Restatement of the Law, Corporate Governance.

**Read full announcement on [www.ali.org](http://www.ali.org).**



## Henry J. Friendly Medal: J. Harvie Wilkinson III and Diane P. Wood

The American Law Institute will present J. Harvie Wilkinson III of the U.S. Court of Appeals for the Fourth Circuit and Diane P. Wood of the U.S. Court of Appeals for the Seventh Circuit (Retired) and ALI Director the Henry J. Friendly Medal at the Institute's 2026 Annual Meeting on Wednesday, May 20. Pierre N. Leval of the U.S. Court of Appeals for the Second Circuit will present the award.

The medal was established in memory of Judge Henry J. Friendly, who was a member of the Council of The American Law Institute and a distinguished judge of the United States Court of Appeals for the Second Circuit. It recognizes contributions to the law in the tradition of Judge Friendly and the Institute. It is not limited to ALI members or those associated with its projects. The medal is awarded on a periodic basis as appropriate.

### James Harvie Wilkinson III

serves on the U.S. Court of Appeals for the Fourth Circuit. Born in 1944 in New York, New York, he was nominated by President Ronald Reagan in 1984 to a seat vacated by Judge John Decker Butzner, Jr., and served as chief judge from 1996 to 2003. During his tenure, he was a member of the Judicial Conference of the United States and served on the Board of the Federal Judicial Center. He was elected to ALI in 1987.



Wilkinson earned his B.A. from Yale University and his J.D. from the University of Virginia School of Law. Following service in the U.S. Army, he clerked for Justice Lewis F. Powell Jr. of the Supreme Court of the United States. His career has included roles as a faculty member at the University of Virginia School of Law, editorial page editor of the *Norfolk Virginian-Pilot*, Deputy Assistant Attorney General in the Civil Rights Division of the U.S. Department of Justice, and a candidate for the U.S. House of Representatives from Virginia.

He has authored several books, including: *Harry Byrd and the Changing Face of Virginia Politics* (1968); *Serving Justice: A Supreme Court Clerk's View* (1974); *From Brown to Bakke: The Supreme Court and School Integration* (1979); *One Nation Indivisible: How Ethnic Separatism Threatens America* (1997); *Cosmic Constitutional Theory: Why Americans Are Losing Their Inalienable Right to Self-Governance* (2012). His memoir, *All Failing Faiths: Reflections on the Promise and Failure of the 1960s*, was published in 2017.

Read full announcement on [www.ali.org](http://www.ali.org).



**Diane Wood** was appointed to the U.S. Court of Appeals for the Seventh Circuit in 1995, serving as its chief judge from 2013 to 2020. Prior to joining the court, she taught at the University of Chicago Law School, and she continues to teach there as a senior lecturer in law. She also served two years as deputy assistant attorney general in the Antitrust Division of the U.S. Department of Justice.

Elected to ALI in 1990 and to the ALI Council in 2003, Wood has been an influential and active participant in the Institute's work and its leadership. She assumed the role of ALI Director in May 2023, the first woman to hold this position. She has served as an Adviser to Restatement of the Law, The Law of American Indians; Restatement of the Law Fourth, The Foreign Relations Law of the United States – Jurisdiction; Legal and Economic Principles of World Trade Law; Principles of the Law of Aggregate Litigation; and as U.S. Adviser to Transnational Rules of Civil Procedure. She also served on the Members Consultative Group for Complex Litigation: Statutory Recommendations and Analysis.

She received her B.A. and her J.D. from the University of Texas at Austin. After law school, she clerked for Judge Irving L. Goldberg of the U.S. Court of Appeals for the Fifth Circuit and for Associate Justice Harry A. Blackmun of the Supreme Court of the United States.

**JOIN US THIS MAY!**

Register Here

## Project Spotlight:

# Restatement of the Law Third, Torts: Defamation and Privacy

Torts: Defamation and Privacy is projected to appear on the Annual Meeting agenda for the first time in May 2026. For members who have not yet engaged in the project, we asked the Reporters Lyrrisa Lidsky of the University of Florida, Levin College of Law and Robert Post of Yale Law School to provide an overview of the project. An excerpt of this interview appears below and has been edited for clarity and readability. While it is based on a recorded interview, it is not a verbatim transcript. We will share more of the interview leading up to the Annual Meeting.

This project is part of ALI's ongoing revision of the Restatement Second of Torts and addresses torts dealing with personal and business reputation and dignity, including defamation, business disparagement, and rights of privacy. The work will also tackle the substantial body of new issues relating to the internet.

### What is "Defamation?"

**Lidsky:** "Defamation" is a tort, or civil action, that's designed to compensate someone for harm to their reputation. The interesting thing for our purposes is that harm caused by defamation often occurs through speech, whether it is oral, published in a newspaper, published in a book or online. There has been an explosion of defamation cases in the last quarter of a century. Defamation exists to safeguard reputation, but not all speech that harms reputation is defamatory. The law has protections built in for free speech and things like opinion.

In order to be defamatory, a statement has to damage reputation. It has to be a factual statement as opposed to a matter of opinion. It has to be verifiable. It must be materially false. A true statement that harms your reputation is no longer defamatory, although once in the history of defamation it was. It has to identify

the plaintiff so that the harm to reputation attaches to them. And then, traditionally, damages have been presumed once you could prove a defamatory statement was made about you that was false and factual.

**Post:** I would just add that we also have to address the question "What is 'Reputation'?"

What you think of yourself often depends upon what others think of you. We are in that sense vulnerable to other people. Our own sense of self-worth depends upon whether other people think that we are respect worthy. And so, when other people act toward us in ways that indicate that they do not think we are respect worthy—that we don't count in the world—it hurts us deeply. The law, through a variety of torts collectively called the "dignitary torts", protects you and the respect that society believes you are owed by other people.

Defamation does this in a particular way. Defamation protects you from statements that other people may make about you that contain false statements of fact, which, if they were true, would make other people think less of you so that you were owed less respect. That is the thrust of the tort of defamation.

**Lidsky:** It's important to understand the difference between defamation and intentional infliction of emotional distress. If I call you up on the phone and I say I you're a criminal and I hate you, you may be understandably quite distressed that I have called you up and said these things to you, but your reputation has not been harmed in any regard, because nobody else's impression or opinion of you has changed as a result of my words.

The esteem in which you're held in the eyes of other people has not been diminished by my call. And that's one of the reasons that defamation law requires a publication to at least one third party in order to be actionable.

### What is changing in this Restatement from the corresponding provisions in Restatement of the Law Second, Torts?

**Lidsky:** The Torts Second Restatement was finished in 1977. As you probably know, a lot of things have changed since 1977; in particular, the internet age is upon us. Now, we're moving into the AI age. The Restatement Second doesn't reflect any of that. Many of the changes that you'll see in the Restatement Third are related to technology advances.

For example, members will see that we are collapsing the distinction between oral defamation, which is usually called slander, and written defamation, which is usually called libel. The reason is that those categories no longer make any theoretical sense when you've got things like Snapchat. Even in 1977, the Restatement Reporters said that they really wanted to get rid of the distinction between libel and slander but felt that they couldn't quite justify it. Even then there were jurisdictions that had moved away from it, and it has been criticized since the 19th century. We think that now in the internet age, it is okay to move beyond libel and slander to a single tort of defamation.

**Post:** Another change that we made from the Restatement Second turns on a very technical term, which is "publication." To be liable in a suit for defamation, you must have "published" a defamatory communication. The elements of "publication" are quite technical. But, among other things, you cannot publish a defamation unless you actually know the content of the communication that you have transmitted to another person.



Raymond J. Lohier Jr. of the U.S. Court of Appeals for the Second Circuit and Reporters Lyrrisa Lidsky and Robert Post during the October 2025 Council Meeting



2023 Project Meeting

It turns out that in the modern world there are many entities—like libraries, bookstores, or news vendors, and perhaps now social media platforms—whose job is to distribute communications that people make to each other. The rules defining when such entities “publish” a defamation are really quite important.

The rule which the Restatement Second set forth in 1977 is the old common law rule. It created what in modern terms we call a “notice and takedown” regime of liability. If someone said to a library that a book they were lending was defamatory, the library would have to take it off the shelf unless they were willing to defend a suit for defamation. Members will see in our drafts that we changed this rule in the Restatement Third to allow for new modes of communication.

### What is the significance of *New York Times Company v. Sullivan*?

**Post:** In 1964, the United States Supreme Court, for the first time in its history, applied the First Amendment of the Constitution to defamation law. The Court announced that if a public official were suing a defendant for defamation, the public official would as a matter of constitutional law have to show that the defendant had published the defamation with what the Court called “actual malice.” The public official would have to show that the defendant published the defamation in knowing or reckless disregard of the truth.

This was a constitutional requirement imposed upon defamation. Since that time, the Court has issued a great many further decisions imposing other constitutional requirements on the common law tort of defamation. For example, plaintiffs who are public figures must also show actual malice. And, even if you’re a private figure, you must show at least negligence if the defamatory communication at issue is about a matter of public concern.

Other constitutional rules govern “presumed” and “punitive” damages. Great swaths of the law of defamation are therefore governed by constitutional law, which is imposed on all states. In the Restatement Third, however, we do not address constitutional requirements. We seek to set forth the common law, pure and simple. Yet courts often do not clearly distinguish between the application of common law and the application of constitutional law.

**The Torts: Defamation and Privacy project session will be at the 2026 Annual Meeting on Wednesday, May 20 at 9:00 a.m. Register here or see pages 7-11 for more details.**

## Get Involved by Joining a Members Consultative Group (MCG)

A project’s MCG is made up of ALI members who volunteer to join project discussions at any stage of a project’s life cycle. MCG members are not necessarily experts in the project’s area of law, but provide a vital perspective, as they read the drafts from a generalist’s point of view. MCG participants may provide input by attending project meetings and by submitting written comments.

### CURRENT PROJECTS FOR WHICH MEMBERS MAY JOIN THE MCG:

Principles of the Law, Civil Liability for Artificial Intelligence  
 Restatement of the Law Third, Conflict of Laws  
 Restatement of the Law, Constitutional Torts  
 Restatement of the Law, Corporate Governance  
 Restatement of the Law, Election Litigation  
 Restatement of the Law Fourth, The Foreign Relations  
 Law of the United States  
 Principles for the Governance of Biometrics

Principles of the Law, High-Volume Civil Adjudication  
 Restatement of the Law Fourth, Property  
 Restatement of the Law Third, Torts: Defamation  
 and Privacy

**JOIN NOW BY VISITING OUR PROJECTS  
 PAGE ONLINE AT [WWW.ALI.ORG/PROJECTS](http://WWW.ALI.ORG/PROJECTS)**

# Iowa and South Dakota Supreme Courts Adopt Restatement Sections

Recently, the Supreme Court of Iowa adopted Restatement of the Law Third, Property: Wills and Other Donative Transfers § 8.5, Comment c, for its definition of “probable cause” in the context of challenging the validity of a will containing a no-contest clause. In *Matter of Estate of Felten*, 28 N.W.3d 251 (Iowa 2025), the daughter of a testator challenged the testator’s will, arguing that her sister, who was the executor of the will, exercised undue influence to convince the testator, who suffered from mild dementia, to disinherit his other children. The executor counterclaimed for abuse of process, alleging that the will contest was brought in bad faith. After a jury returned a verdict in favor of the executor, the trial court overruled the daughter’s objection to the executor’s final report purporting to disinherit the other children based on the will’s no-contest clause, holding that the no-contest clause was enforceable because the daughter’s claim lacked good faith and probable cause to challenge the will. On appeal, both parties sought to clarify the meaning of “probable cause” in the probate context.

The Supreme Court of Iowa affirmed the findings of the trial court, adopting the definition of “probable cause” set forth in Restatement of the Law Third, Property: Wills and Other Donative Transfers § 8.5, Comment c. Under § 8.5, Comment c, probable cause existed when, “at the time of instituting a proceeding to challenge a will, there was evidence that would lead a reasonable person to conclude that there was a substantial likelihood that the challenge would be successful.” Observing that Iowa law had not revisited the definition of “probable cause” in this context since 1950, when Iowa courts adopted the definition of “probable cause” set forth in Restatement of the Law, Torts § 675, the court explained that its new approach “maintain[ed] the menace of the no-contest clause, while simultaneously permitting good faith challengers with probable cause to litigate the validity of a will without disinheritance.”

The court then applied the factors for determining probable cause set forth in § 8.5, Comment c, to the instant case, holding that the daughter failed to meet her burden to show that she acted with good faith and probable cause in challenging the testator’s will, because she failed to present evidence supporting her belief that her challenge would be successful. The court explained that the record lacked critical evidence of examples of her pre-suit investigation, which would have revealed that the testator’s doctor had evaluated the testator shortly before he executed his final will and determined that he was mentally competent. Further, neither the daughter nor her counsel revealed what underlying facts the daughter shared, or what legal advice she received, before filing the will contest. Thus, concluded the court, the daughter lacked probable cause to bring her challenge, and the no-contest clause would be enforced to effectuate the testator’s intent.

Meanwhile, the Supreme Court of South Dakota adopted the premise set forth in Restatement of the Law Second, Torts § 164 that a mistake of law or fact regarding the ownership or possession of real property, however reasonable, did not absolve a trespasser of liability for trespass. In *Coyle v. McFarland*, 28 N.W.3d 128 (S.D. 2025), landowners sued their neighbors, alleging that a portion of the neighbors’ driveway and the vehicles that the neighbors parked on the driveway intruded on the landowners’ property and constituted a civil trespass. After the trial court denied the neighbors’ motion for a continuance to conduct discovery related to the legal determination of the boundaries of the lots and granted partial summary judgment to the landowners, the Supreme Court of South Dakota reversed and remanded for further proceedings, agreeing with the landowners’ contention that the neighbors misunderstood the intent element of a civil trespass when they argued that their good-faith belief regarding the location of the property boundary would preclude a finding that they committed the intentional tort of trespass. The court adopted Restatement of the Law Second, Torts § 164 to hold that the neighbors’ mistaken belief as to the ownership of the property did not preclude a claim of trespass, so long as they intentionally entered or occupied the landowners’ property. The court reasoned that many jurisdictions, including the U.S. Supreme Court, applied the general principle in § 164 that acts could be deemed intentional for purposes of civil liability regardless of whether the actor knew that the conduct violated the law.

## A SESSION ON PROPERTY AND TWO SESSIONS ON TORTS ARE ON THIS YEAR’S ANNUAL MEETING AGENDA.

### Restatement of the Law Third, Torts: Remedies

Monday, May 18 at 1:50 p.m.

The remaining portions of the Remedies project are on track to be presented to ALI membership for approval at the 2026 ALI Annual Meeting, potentially marking its completion.

### Restatement of the Law Fourth, Property

Tuesday, May 19 at 2:20 p.m.

### Restatement of the Law Third, Torts: Defamation and Privacy

Wednesday, May 20 at 9:00 a.m.

[Register here](#) or see pages 7-11 for more details.

# Regional Member Events

ALI recently welcomed members and colleagues to Los Angeles for an engaging evening at The California Club. The program featured opening remarks from ALI President David F. Levi and ALI Director Diane P. Wood, followed by a conversation with Associate Justice Leandra R. Kruger of the Supreme Court of California. The event brought together members and friends of the Institute for a lively discussion and reception centered on ALI's work and impact.

**We are now looking forward to our next Regional Member Event in South Carolina.**

**APRIL 7 | 4:00 TO 6:30 P.M. ET | COLUMBIA, SC**

University of South Carolina Joseph F. Rice School of Law

Opening Remarks: ALI Director Diane P. Wood

Brandon Garrett of Duke Law and Seth Stoughton of University of South Carolina Law will discuss how they have effectively applied ALI's Principles of the Law, Policing in the real world through their work at Duke's Wilson Center for Science and Justice and South Carolina's Excellence in Policing and Public Safety (EPPS) Program. Garrett and Stoughton served as Associate Reporter and Adviser, respectively, on the Policing Principles.

Members are invited to bring a colleague who meets our membership guidelines and is interested in ALI's work.

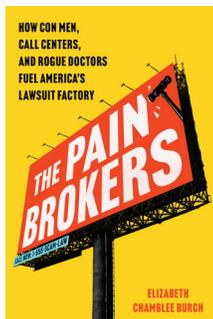
We look forward to welcoming you to this special event; registration is required, business attire is requested, and the complete dress code guidelines are available [here](#).

**Please contact us at [membership@ali.org](mailto:membership@ali.org) with questions or to register.**

# Notes About Members and Colleagues

**Scott Bales** of the Supreme Court of Arizona (Ret.) recently concluded two and one-half years as the chairperson of the Judicial Vetting Commission for the Republic of Moldova. The Commission's work is part of Moldova's efforts to reform its justice system and join the European Union.

On their *Executive Functions Substack*, **Robert Bauer** of NYU School of Law and **Jack L. Goldsmith** of Harvard Law School provide a timely background on the Insurrection Act and explain why its current structure poses serious risks. Their post, "Trump Threatens to Invoke the Insurrection Act," follows President Trump's statement that he may "institute the INSURRECTION ACT," and collects the authors' key writings on the Act, its dangers, and reform possibilities.



In her newest book, *The Pain Brokers: How Con Men, Call Centers, and Rogue Doctors Fuel America's Lawsuit Factory* (Atria/One Signal Publishers 2026), **Elizabeth Chamblee Burch** of the University of Georgia School of Law examines the litigation and medical referral networks that developed around pelvic mesh claims. Focusing on the experiences of three women, the book traces how advertising, telemarketing operations, medical providers, and legal representation intersected in ways that shaped both individual outcomes and large-scale litigation practices.

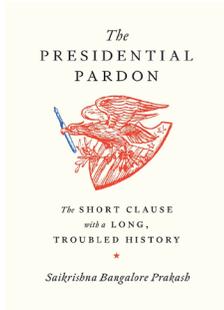
**Danielle M. Conway** of Penn State Dickinson Law and School of International Affairs was inducted as President of the American Association of Law Schools at its Annual Meeting in January. Additionally, **Kevin K. Washburn** of UC Berkeley School of Law was named 2026 President-Elect, and **Elizabeth Kronk Warner** of the University of Utah S.J. Quinney College of Law and **Richard E. Moberly** of the University of Nebraska College of Law were elected to serve a three-year term on the AALS Executive Committee.

In "Privacy of the Mind," **Daniel J. Solove** of George Washington University Law School interviewed **Nita Farahany** of Duke University School of Law, author of *The Battle for Your Brain*, about the latest developments in mental privacy and neurotechnology.

**Abbe R. Gluck** of Yale Law School is the new chair of the Fund for Modern Courts, a private, nonpartisan nonprofit organization that lobbies for legislation designed to improve the administration of justice in New York.

**William C. Hubbard** of the University of South Carolina Joseph F. Rice School of Law and **Rachel F. Moran** of Texas A&M University have been recognized by the Fellows of the American Bar Foundation (ABF) for their extraordinary contributions to the legal profession and society. The ABF presented Hubbard with the 2026 Outstanding Service Award and Moran with the 2026 Outstanding Scholar Award at the 70th Annual Fellows Awards Reception and Banquet at the American Bar Association Midyear Meeting.

**Brian C. Lea** of the U.S. Department of Justice has been nominated to serve on the U.S. District Court for the Western District of Tennessee.



**Saikrishna Bangalore Prakash** of UVA School of Law, an expert on executive powers, delves into the transformation of executive pardons into a political tool in his new book *The Presidential Pardon: The Short Clause with a Long, Troubled History* (Harvard University Press 2026).

**Cristina M. Rodríguez** has assumed the role of the Sol and Lillian Goldman Dean of Yale Law School, effective February 1.

**Kent Syverud**, chancellor and president of Syracuse University, has been elected the 16th president of the University of Michigan. The first U-M alumnus to be appointed president in nearly a century, he is expected to assume the position by July 1.

**Submissions as of February 13. If you would like to share any recent events or publications in the next ALI newsletter, please email us at [communications@ali.org](mailto:communications@ali.org).**

## IN MEMORIAM

### ELECTED MEMBERS

**Jean Nicolas Druey**, Basel, Switzerland

### LIFE MEMBERS

**Marshall Jordan Breger**, Washington, DC; **Lawrence J. Fox**, New York, NY; **Frank Goodman**, Philadelphia, PA; **Sam E. Haddon**, Helena, MT; **Gregory Joseph**, New York, NY; **Howard A. Latin**, San Diego, CA; **Sandra Schultz Newman**, Conshohocken, PA; **Charles J. Queenan, Jr.**, Pittsburgh, PA; **Doug Rendleman**, Lexington, VA; **Carl W. Schneider**, Philadelphia, PA; **Stuart A. Smith**, New York, NY; **Elliott J. Weiss**, Tucson, AZ

## NEW MEMBERS ELECTED

In December 2025, the Institute announced the election of the following individuals:

**Parvin K. Aminolroaya**, Ridgefield Park, NJ  
**Jacquelyn Austin**, Greenville, SC  
**Rebecca Aviel**, Denver, CO  
**Samantha Barbas**, Iowa City, IA  
**John Campbell Barker**, Tyler, TX  
**William P. Barnette**, Atlanta, GA  
**Stanley Blumenfeld**, Los Angeles, CA  
**Daniel M. Bodansky**, Phoenix, AZ  
**Christopher Bogart**, New York, NY  
**Rose Cecile Chan Loui**, Los Angeles, CA  
**Sarah E. Crane**, Des Moines, IA  
**Christina Crozier**, Houston, TX  
**Diandra “Fu” Debrosse**, Birmingham, AL  
**Leonard J. Feldman**, Seattle, WA  
**John G. Finley**, New York, NY  
**Miranda Perry Fleischer**, San Diego, CA  
**Allison H. Goddard**, San Diego, CA  
**Milli Kanani Hansen**, Washington, DC  
**Ryan M. Harris**, Salt Lake City, UT  
**Max C. Heerman**, Minneapolis, MN  
**Jerome A. Holmes**, Oklahoma City, OK  
**Shi-Ling Hsu**, Tallahassee, FL  
**James R. Huber**, Tulsa, OK

**Andrew Albert Jones**, Dallas, TX  
**Jane Kelly**, Cedar Rapids, IA  
**William M. Klimon**, Washington, DC  
**Allison Orr Larsen**, Williamsburg, VA  
**Yoon-Ho Alex Lee**, Chicago, IL  
**Wallace K. Lightsey**, Greenville, SC  
**Gonzalo C. Martinez**, Los Angeles, CA  
**Benjamin Means**, Columbia, SC  
**Julian Davis Mortenson**, Ann Arbor, MI  
**Lisa Larrimore Ouellette**, Stanford, CA  
**Anthony W. Patterson**, Lebanon, IN  
**Maria Ponomarenko**, Austin, TX  
**Victoria Cuneo Powell**, Atlanta, GA  
**Michael Reck**, Des Moines, IA  
**Andrew A. Schwartz**, Boulder, CO  
**Laura A. Seigle**, Los Angeles, CA  
**Evan Slavitt**, Fort Mill, SC  
**Micah W.J. Smith**, Honolulu, HI  
**Ryan J. Walsh**, Madison, WI  
**Aviva Wein**, New Brunswick, NJ  
**Kimberly West-Faulcon**, Los Angeles, CA  
**Julia Zousmer**, Chicago, IL

# Meetings and Events Calendar At-A-Glance

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

## 2026

### March 27

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

Philadelphia, PA

### April 7

#### Member Networking Event

Columbia, SC

See page 15 for more information.

### April 20

#### Principles for the Governance of Biometrics

Virtual

### May 18-20

#### Annual Meeting

Washington, DC

### June 6

#### Principles of the Law, Civil Liability for Artificial Intelligence

Virtual

### October 15-16

#### Council Meeting

Philadelphia, PA

# 2026 Annual Meeting

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

**REGISTER NOW**

## 2026 CONTINUING LEGAL EDUCATION EVENTS

### Legal Issues in Museum Administration 2026

*Cosponsored by the Smithsonian Institution*

April 29-May 1

Grand Hyatt, Denver, CO or live webcast

### Accountants' Liability 2026

May 14-15

Washington Marriott Georgetown, Washington, DC

or live webcast

### ALI Annual Meeting Sunday Programs

May 17

The Ritz-Carlton, Washington, DC (in person only)

See page 7 for details.

### MDL In Motion 2026

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

October 2

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

### Life Insurance Company Products 2026

November 5-6

Washington Marriott at Metro Center, Washington, DC

or live webcast