

## WILLIAM & MARY LAW SCHOOL

# ELEVENTH ANNUAL BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE



AND PRESENTATION OF THE  
**2014 BRIGHAM-KANNER PRIZE TO  
MICHAEL M. BERGER**  
MANATT, PHELPS & PHILLIPS, LLP

## OCTOBER 30-31

Sponsored by  
William & Mary Law School

Presented by the  
William & Mary Property Rights Project  
[law.wm.edu/propertyrights](http://law.wm.edu/propertyrights)

### THURSDAY: OCTOBER 30, 2014

- 6:30p **Reception**  
President's Gallery, Wren Building  
*(please note the Wren Building has limited accessibility for people with physical disabilities)*
- 7:30 **Dinner and Presentation of the 2014 Brigham-Kanner Prize**  
Great Hall, Wren Building

### FRIDAY: OCTOBER 31, 2014

- 8:15a **Registration and Continental Breakfast**  
William & Mary Law School
- 8:45-10:15 **Panel 1: *The Role of the Advocate in Defining Property***  
Michael M. Berger, Partner, Manatt, Phelps & Phillips, LLP,  
Los Angeles, California  
Dana Berliner, Litigation Director, Institute for Justice,  
Arlington, Virginia  
Janet Bush Handy, Deputy Counsel, SHA, Assistant Attorney General,  
Maryland Office of the Attorney General, Baltimore, Maryland  
Thomas W. Merrill, Charles Evans Hughes Professor of Law, Columbia  
Law School  
Moderator: Lynda L. Butler, Chancellor Professor of Law and Director,  
William & Mary Property Rights Project, William & Mary Law School
- 10:15-10:30 **Networking Break**
- 10:30-12:00p **Panel 2: *Resurgence of Property Principles under the Fourth Amendment***  
Fabio Arcila, Jr., Associate Dean for Research & Scholarship, and  
Professor of Law, Touro Law Center  
Morgan Cloud, Charles Howard Candler Professor of Law,  
Emory University  
Orin S. Kerr, Fred C. Stevenson Research Professor of Law, The George  
Washington University Law School  
Herbert W. Titus, Of Counsel, William J. Olson, P.C., Vienna, Virginia  
Moderator: Joseph T. Waldo, Partner, Waldo & Lyle, P.C., Norfolk,  
Virginia
- 12:00-1:15 **Lunch**



### FRIDAY (CONT.)

- 1:15-2:45 **Panel 3: *Balancing Private Property and Community Rights***  
James S. Burling, Director of Litigation, Pacific Legal Foundation,  
Sacramento, California  
Steven J. Eagle, Professor of Law, George Mason University  
School of Law  
Richard A. Epstein, Laurence A. Tisch Professor of Law, New York  
University School of Law; Peter and Kirsten Bedford Senior Fellow,  
The Hoover Institution; James Parker Hall Distinguished Service  
Professor of Law, *Emeritus*, and Senior Lecturer, The University  
of Chicago  
Marc R. Poirier, Professor of Law & Martha Traylor Research  
Scholar, Seton Hall University School of Law  
Moderator: James Y. Stern, Assistant Professor of Law, William & Mary  
Law School
- 2:45-3:00 **Networking Break**
- 3:00-4:30 **Panel 4: *Property Rights in Developing and Transitional Countries***  
David L. Callies, Benjamin A. Kudo Professor of Law, University of  
Hawai'i at Mānoa William S. Richardson School of Law  
James W. Ely, Jr., Milton R. Underwood Professor of Law, *Emeritus*,  
and Professor of History, *Emeritus*, Vanderbilt University  
Weixing Shen, Professor of Law and Vice Dean, Tsinghua University  
School of Law, Beijing, China  
Christie Warren, Professor of the Practice of International and  
Comparative Law and Director, Program in Comparative Legal  
Studies and Post-Conflict Peacebuilding, William & Mary Law School  
Moderator: James E. Krier, Earl Warren DeLano Professor of Law,  
University of Michigan
- 4:30-5:30 **Reception**  
BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE COMMITTEE  
Lynda L. Butler, Chancellor Professor of Law and Director, William & Mary Property  
Rights Project, William & Mary Law School  
Davison M. Douglas, Dean & Arthur B. Hanson Professor of Law, William & Mary Law School  
Joseph T. Waldo, Partner, Waldo & Lyle, P.C., Norfolk, Virginia

#### THE WILLIAM & MARY PROPERTY RIGHTS PROJECT

The William & Mary Property Rights Project has two primary goals. First, it encourages legal scholarship on the role that property rights plays in society. Second, it facilitates the exchange of ideas between the academy and the practicing property rights bar. In addition to awarding the Brigham-Kanner Property Rights Prize and hosting the Brigham-Kanner Property Rights Conference, the Project develops web-based materials that serve these goals.

ELEVENTH ANNUAL  
BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE  
AND PRESENTATION OF THE 2014 BRIGHAM-KANNER PRIZE TO  
**MICHAEL M. BERGER**  
OCTOBER 30-31, 2014

Michael M. Berger is one of the top eminent domain and land use lawyers in the United States. His appellate practice at Manatt, Phelps & Phillips has involved condemnation, due process, and equal protection. He is the first practicing lawyer to receive the Brigham-Kanner Property Rights Prize and is considered by his peers to be among the best takings lawyers in the nation.



Mr. Berger has argued four cases before the U.S. Supreme Court, as well as cases before appellate courts throughout California, numerous federal courts of appeal, and several state supreme courts. He is also a frequent author of amicus curiae briefs in various appellate courts, particularly the U.S. Supreme Court, pressing client interests in important pending cases. His energetic defense of property owners contributed major decisions to Fifth Amendment jurisprudence in cases such as *Tahoe-Sierra* (where Mr. Berger's opposing counsel was John Roberts, who is now Chief Justice of the Supreme Court of the United States), *Del Monte Dunes*, *Preseault*, and *First English*.

After attending Brandeis University, Mr. Berger received his J.D. from Washington University School of Law and his LL.M. (in real property) from the University of Southern California.

The Brigham-Kanner Property Rights Prize has been awarded annually since 2004. It is named in recognition of the lifetime contributions to property rights of Toby Prince Brigham, founding partner of Brigham Moore, LLP, in Florida, and Gideon Kanner, Professor of Law, *Emeritus*, at Loyola Law School in Los Angeles. Previous recipients include Professor Frank I. Michelman of Harvard University (2004), Professor Richard A. Epstein of the University of Chicago (2005), Professor James W. Ely, Jr., of Vanderbilt University (2006), Professor Margaret Jane Radin of the University of Michigan Law School (2007), Professor Robert C. Ellickson of Yale University (2008), Professor Richard E. Pipes of Harvard University (2009), Professor Carol Rose of the University of Arizona (2010), retired Supreme Court Justice Sandra Day O'Connor (2011), Professor James E. Krier of the University of Michigan (2012), and Professor Thomas W. Merrill of Columbia Law School (2013).

SPEAKERS & PARTICIPANTS AT A GLANCE

FABIO ARCILA, JR., Associate Dean for Research & Scholarship, and Professor of Law, Touro Law Center

MICHAEL M. BERGER, Partner, Manatt, Phelps & Phillips, LLP, Los Angeles, California

DANA BERLINER, Litigation Director, Institute for Justice, Arlington, Virginia

JAMES S. BURLING, Director of Litigation, Pacific Legal Foundation, Sacramento, California

LYNDA L. BUTLER, Chancellor Professor of Law and Director, William & Mary Property Rights Project, William & Mary Law School

DAVID L. CALLIES, Benjamin A. Kudo Professor of Law, University of Hawai'i at Mānoa William S. Richardson School of Law

MORGAN CLOUD, Charles Howard Candler Professor of Law, Emory University

DAVISON M. DOUGLAS, Dean and Arthur B. Hanson Professor of Law, William & Mary Law School

STEVEN J. EAGLE, Professor of Law, George Mason University School of Law

JAMES W. ELY, JR., Milton R. Underwood Professor of Law, *Emeritus*, and Professor of History, *Emeritus*, Vanderbilt University

RICHARD A. EPSTEIN, Laurence A. Tisch Professor of Law, New York University School of Law; Peter and Kirsten Bedford Senior Fellow, The Hoover Institution; James Parker Hall Distinguished Service Professor of Law, *Emeritus*, and Senior Lecturer, The University of Chicago

JANET BUSH HANDY, Deputy Counsel, SHA, Assistant Attorney General, Maryland Office of the Attorney General, Baltimore, Maryland

ORIN S. KERR, Fred C. Stevenson Research Professor of Law, The George Washington University Law School

JAMES E. KRIER, Earl Warren DeLano Professor of Law, University of Michigan

THOMAS W. MERRILL, Charles Evans Hughes Professor of Law, Columbia Law School

MARC R. POIRIER, Professor of Law & Martha Traylor Research Scholar, Seton Hall University School of Law

WEIXING SHEN, Professor of Law and Vice Dean, Tsinghua University School of Law, Beijing, China

JAMES Y. STERN, Assistant Professor of Law, William & Mary Law School

HERBERT W. TITUS, Of Counsel, William J. Olson, P.C., Vienna, Virginia

JOSEPH T. WALDO, Partner, Waldo & Lyle, P.C., Norfolk, Virginia

CHRISTIE WARREN, Professor of the Practice of International and Comparative Law and Director, Program in Comparative Legal Studies and Post-Conflict Peacebuilding, William & Mary Law School

FEES & REGISTRATION

The cost to attend Thursday's reception and dinner is \$100 per person. The registration fee of \$50 includes admission to panels, breakfast, and lunch on Friday.

The registration fee is waived for students with advance registration. The deadline to register is October 17. After this date, please call the Law School to register at (757) 221-3796.

*Early registration is encouraged. Your registration form will be acknowledged.*

CREDIT: CLE credit pending

AIR TRANSPORTATION

Newport News/Williamsburg International Airport is approximately 30 minutes from the William & Mary campus. Williamsburg is also served by Richmond International and Norfolk International Airports, each one hour away.

ACCOMMODATIONS

A block of rooms has been reserved at the Hilton Garden Inn (1624 Richmond Road) for attendees. Please call (757) 253-9400 to make your reservations and remember to mention the Property Rights Conference. Cutoff date for discounted room rate is September 30.

REFUNDS

Requests for refunds must be made in writing and received no later than October 3, 2014. Refund requests received after that date will be handled on a reasonable justification basis.

LOCAL ATTRACTIONS

COLONIAL WILLIAMSBURG

Colonial Williamsburg is the world's largest living history museum—the restored 18th-century capital city of Britain's New World empire. For more info, visit [www.history.org](http://www.history.org).



JAMESTOWN & YORKTOWN

Jamestown is the site of the first permanent English colony in America, and Yorktown National Battlefield is the site of the last major battle of the Revolutionary War. For more info, visit [www.historyisfun.org](http://www.historyisfun.org).

REGISTRATION

ELEVENTH ANNUAL BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE  
OCTOBER 30 - 31, 2014

Please print or type and use a separate form for each person registering.  
Registration deadline: October 17, 2014

Name \_\_\_\_\_

Firm/affiliation \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone number \_\_\_\_\_ Fax number \_\_\_\_\_

Email \_\_\_\_\_

*Please let us know of any special needs you may have for participation in or access to the conference. Also, please inform us of any special dietary requests.*

METHOD OF PAYMENT

Check enclosed. Please make your check payable to William & Mary Law School.

Charge to my  VISA  MasterCard

Name as it appears on your credit card \_\_\_\_\_

Credit Card # \_\_\_\_\_

Expiration Date (month/year) \_\_\_\_\_

Signature of Cardholder \_\_\_\_\_

Yes, I will attend the Thursday, October 30 dinner

Please reserve \_\_\_\_\_ additional dinner tickets for accompanying person(s)

Guest name(s) to list on name tag(s) for dinner: \_\_\_\_\_

Please check if you are a student and wish to request a waiver of the registration fee

\_\_\_\_\_ Thursday evening's reception and dinner (\$100 per person)

\_\_\_\_\_ Friday registration fee (\$50), includes admission to all panels, breakfast, and lunch. Fee waived for current law students with advance registration.

\$ \_\_\_\_\_ Total enclosed

Send to:

Mail: William & Mary Law School

Attn: Kathy Burger, Property Rights Conference

Post Office Box 8795, Williamsburg, VA 23187-8795

Fax: (757) 221-6329

Send: [ktburger@wm.edu](mailto:ktburger@wm.edu)

Questions?  
Please contact Kathy Burger  
(757) 221-3796  
[ktburger@wm.edu](mailto:ktburger@wm.edu)