

**BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE**  
**PROGRAM PANELS AND PANELISTS**  
**September 30, 2022**

**9:00-10:30 am: Panel 1: The Importance of Property Rights: A Tribute to James S. Burling**

For the whole of his professional career, Jim Burling has devoted his practice to protecting and advancing private property rights. From rent control and inclusionary zoning to government-authorized seizures, flooding, and the meaning of “public use,” Jim has worked vigorously to reaffirm private property as fundamental to individual liberty, shoring up the “boundaries” of property, in both a physical and economic sense. Using Jim’s work as a springboard, this panel probes the boundaries of property rights and the extent to which courts and commentators disagree about property’s reach.

**Opening Remarks:** James Burling, Vice President of Legal Affairs, Pacific Legal Foundation

**Panelists:**

- Vicki Been, Judge Edward Weinfeld Professor of Law, NYU School of Law
- Michael Berger, Senior Counsel, Manatt, Phelps & Phillips, LLP
- Andrew Brigham, Managing Partner, Brigham Property Rights Law Firm, PLLC
- Eric Claeys, Professor of Law, Antonin Scalia Law School, George Mason University

**Moderator:** Lynda Butler, Chancellor Professor, Emerita, and Director, Property Rights Project, William & Mary Law School

**10:30-10:45 am: Networking Break**

**10:45 am -12:00 pm: Panel 2: Reshaping the Framework Protecting Property Under the Roberts Court**

The Roberts Court has announced a number of decisions expanding the importance of property under the Constitution. In addition to reshaping takings jurisprudence in decisions such as *Knick*, *Cedar Point*, *Horne*, *Koontz*, and other decisions, the Court has shown a willingness to apply a property lens to other constitutional provisions. This panel explores the impact of the Roberts Court on the constitutional framework protecting property.

**Panelists:**

- David Callies, Benjamin A. Kudo Professor of Law, Emeritus, University of Hawaii at Manoa
- Timothy M. Mulvaney, Professor of Law, Texas A&M University School of Law
- David Owen, Professor of Law, UC Hastings College of Law
- Robert Thomas, Joseph T. Waldo Visiting Chair in Property Rights Law, William & Mary Law School, and Senior Attorney, Pacific Legal Foundation

**Moderator:** James Stern, Professor of Law, William & Mary Law School

**12:00-12:45 pm: Lunch Break**

**12:45-1:45 pm: Roundtable: Emerging Issues in Takings and Property Rights Litigation**

- James W. Ely, Jr., Milton R. Underwood Professor of Law, Emeritus, and Professor of History, Emeritus, Vanderbilt University
- Leslie Fields, Executive Director, Owners' Counsel of America
- Chris Kieser, Attorney, Pacific Legal Foundation

**Moderator:** Andrew Brigham, Managing Partner, Brigham Property Rights Law Firm, PLLC

### **1:45-2:00 pm: Networking Break**

### **2:00-3:15 pm: Panel 3: Choosing A Property Regime**

Some view property primarily as a choice between public and private rights. Others envision the institution of property as having a more complex array of arrangements. Those other arrangements might, for example, include open access (e.g., ocean fisheries), semi-commons (such as shared pasture lands), and inherently public property (navigable waters), with the choice depending on the nature of the resource, the context, and core societal and political values. This panel considers the efficacy of different property regimes for various situations, exploring the factors that affect the choice of a regime for particular resource and social settings and the role of core political and social values in making the choice.

#### **Panelists:**

- Gregory S. Alexander, Robert Noll Professor of Law, Emeritus, Cornell Law School
- Bethany Berger, Wallace Stevens Professor of Law, University of Connecticut Law School
- Jessica A. Shoemaker, Steinhart Foundation Distinguished Professor of Law, University of Nebraska College of Law
- Randall A. Smith, Founder and Managing Partner, Smith & Fawer, LLC

**Moderator:** Katherine Mims Crocker, Associate Professor of Law, William & Mary Law School

### **3:15-3:30 pm: Networking Break**

### **3:30-4:45 pm: Panel 4: Property Rights in Times of Scarcity and Crisis**

How resilient are property rights in times of prolonged resource scarcities and serious environmental crises? Under what circumstances would private rightsholders support efforts to reform the law governing their interests? How much change could a private property system absorb and remain stable? This panel explores these questions and more in the context of recent efforts to address severe droughts, wildfires, and other environmental disasters.

#### **Panelists:**

- Holly Doremus, James H. House and Hiram H. Hurd Professor of Environmental Regulation, Berkeley Law School
- Hertha L. Lund, Attorney/Founder, Lund Law, PLLC
- Vanessa Casado Perez, Associate Professor of Law, Texas A&M University School of Law
- Terry L. Anderson, John & Jean DeNault Senior Fellow, Hoover Institution, Stanford University

**Moderator:** Joshua Baker, Partner, Waldo & Lyle