

15th Annual
BRIGHAM-KANNER
PROPERTY RIGHTS CONFERENCE
and Presentation of the
2018 BRIGHAM-KANNER PRIZE
to
STEWART E. STERK

*H. Bert and Ruth Mack Professor of Real Estate Law and
Director of the Center for Real Estate Law & Policy
at the Benjamin N. Cardozo School of Law of Yeshiva University*

October 4–5, 2018
Williamsburg, Virginia



Sponsored by
William & Mary Law School

Presented by the
William & Mary Property
Rights Project



WILLIAM & MARY
LAW SCHOOL

OCTOBER 4-5, 2018
WILLIAM & MARY LAW SCHOOL

15th
ANNUAL

BRIGHAM-KANNER
PROPERTY RIGHTS
CONFERENCE

THE BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE

The Brigham-Kanner Property Rights Conference, Prize, and *Journal* are named in recognition of Toby Prince Brigham and Gideon Kanner for their lifetime contributions to private property rights and their efforts to advance constitutional protection of property. The Brigham-Kanner Property Rights Conference began in 2004 at William & Mary Law School. The Conference is designed to bring together members of the bench, bar, and academia to explore recent developments in the law that affect property rights. The Prize is awarded each year to an individual whose work affirms that property rights are fundamental to protecting individual liberty.

The *Brigham-Kanner Property Rights Conference Journal* was established in 2012 to provide a forum for scholarly debate on property rights issues. The *Journal* publishes papers presented at the annual conference with the goal of extending the debate to a wider audience. Through the *Journal*, the Property Rights Project ensures that the proceedings of the Conference and any accompanying nonconference articles selected for publication are preserved and made available on its website for all interested parties. The *Journal* is available in print and electronic form through the Project's website, <http://law.wm.edu/academics/intellectuallife/researchcenters/property-rights-project/conference-journal/index.php>.

SCHEDULE

OF EVENTS

Thursday, October 4, 2018

- 6:30 pm** **RECEPTION**
 President's Gallery, Wren Building
(please note the Wren Building has limited accessibility for people with physical disabilities)
- 7:30 pm** **DINNER AND PRESENTATION OF THE 2018 BRIGHAM-KANNER PRIZE**
 Great Hall, Wren Building

Panelists

- Michael M. Berger, Partner, Manatt, Phelps & Phillips, LLP, Los Angeles, California
- Jim Krier, Earl Warren DeLano Professor of Law, University of Michigan Law School
- Maureen E. Brady, Associate Professor of Law, University of Virginia Law School
- Thomas W. Merrill, Charles Evans Hughes Professor of Law, Columbia Law School

Moderator

- Lynda L. Butler, Chancellor Professor of Law and Director, Property Rights Project, William & Mary Law School

Friday, October 5, 2018

- 8:30 am** **REGISTRATION AND CONTINENTAL BREAKFAST**
 William & Mary Law School
- 9:00 am – 10:30 am** **Panel 1: *The Federalism Dimension of Constitutional Property: A Tribute to Sterk***

- 10:30 am – 10:45 am** **Networking Break**
- 10:45 am – 12:00 noon** **Panel 2: *Background Principles of Common Law and Constitutional Property***

Courts and commentators have for years agreed that state law defines property and thus that constitutional protection of property depends on the content of a particular state's law. A number of recent Supreme Court decisions have, in the views of some, posed a serious risk to this federalism dimension of constitutional property. The work of Stewart Sterk has called upon scholars to pay more attention to this dimension. Using Sterk's work as a springboard, Panel 1 will discuss the role of federalism in takings jurisprudence.

Opening Remarks, Stewart E. Sterk, H. Bert and Ruth Mack Professor of Real Estate Law; Director, Center for Real Estate Law & Policy at the Benjamin Cardozo School of Law of Yeshiva University

Even since *Lucas v. South Carolina Coastal Council* announced the background principles exception to the categorical taking for economic loss, courts and commentators have struggled to identify and define those principles. What doctrines of nuisance law are background principles? How do custom, the public trust doctrine, and other public rights theories fit into the categorical taking exception? Panel 2 will discuss how courts and commentators have addressed these and other related issues.

Panelists

- David L. Callies, FIACP, Benjamin A. Kudo Professor of Law, William S. Richardson School of Law, University of Hawai'i at Mānoa

Mark F. (Thor) Hearne II, Esq., Partner, Arent Fox LLP Law Firm, St. Louis, Missouri

Erin Ryan, Elizabeth C. & Clyde W. Atkinson
Professor of Law, Florida State University
College of Law

Christina M. Martin, Attorney, Pacific Legal
Foundation, Palm Beach Gardens, Florida

Moderator

Stephen Clarke, Waldo & Lyle, P.C., Norfolk,
Virginia

12:15 pm – 1:15 pm **Lunch Roundtable:
Other Emerging Issues in
Constitutional Protection of
Property**

Panelists

James W. Ely Jr., Milton R. Underwood
Professor of Law, *Emeritus*, and Professor of
History, *Emeritus*, Vanderbilt University

Christina M. Martin, Attorney, Pacific Legal
Foundation, Palm Beach Gardens, Florida

Robert H. Thomas, Director, Damon Key Leong
Kupchak Hastert; Joseph T. Waldo Visiting Chair
in Property Rights Law at William & Mary Law
School (Fall 2018)

Moderator

Joseph T. Waldo, Partner & President, Waldo &
Lyle, P.C., Norfolk, Virginia

1:30 pm – 2:45 pm **Panel 3: Property and Social
Justice**

Property's role in promoting or impeding social justice is much debated. Some commentators maintain that private property actually contributes to inequality and an unjust society. Others argue that private property is the key to stabilizing economic systems,

ending wars, and addressing poverty. Panel 3 will explore issues related to this debate. Topics may include the link between property rights and social cohesion/political stability and the role of the power of eminent domain in addressing social justice issues.

Panelists

Carol M. Rose, Gordon Bradford Tweedy
Professor of Law and Organization, *Emerita*,
Yale Law School; and Ashby Lohse Professor
of Water and Natural Resource Law, *Emerita*,
University of Arizona Law College

Luis Gallardo-Rivera, Co-director for the Center
for Habitat Reconstruction, Puerto Rico

Vicki L. Been, Boxer Family Professor of Law,
New York University School of Law

David A. Super, Professor of Law, Georgetown
Law School

Moderator

Andrew Brigham, Attorney, Brigham Property
Rights Law Firm, Jacksonville, Florida

2:45 pm – 3:00 pm **Networking Break**

3:00 pm – 4:15 pm **Panel 4: The Constitutionality
of Land Use Exactions**

Exactions play an important role in government efforts to address various environmental and social costs resulting from private land use. Since the Court's decision in *Koontz v. St. Johns River Water Management District*, however, the constitutional law principles governing exactions have become murky and confusing. Under what circumstances may a local government lawfully impose conditions on a land use applicant in exchange for approval? What type of evidence is needed to successfully defend or challenge an exaction? Panel 4 will examine the meaning and legal implications of *Koontz* and other court decisions on the validity of exactions.

Panelists

Amy Brigham Boulris, Shareholder, Gunster
Law Firm, Miami, Florida

John Echeverria, Professor of Law, Vermont Law
School

James S. Burling, Vice President for Litigation,
Pacific Legal Foundation, Sacramento, California

Timothy M. Mulvaney, Professor of Law and
Associate Dean for Faculty Research and
Development, Texas A&M University School of
Law

Moderator

James Y. Stern, Associate Professor, William &
Mary Law School

4:15 pm – RECEPTION
4:45 pm

**Additional abstracts and materials for panelists'
presentations can be found at <https://law.wm.edu/academics/intellecuallylife/conferencesandlectures/propertyrights/abstracts/index.php>*

THE BRIGHAM-KANNER PROPERTY RIGHTS PRIZE

Every year during the Brigham-Kanner Property Rights Conference, the Property Rights Project presents the Brigham-Kanner Prize to an outstanding figure in the field. The Prize is named in recognition of Toby Prince Brigham and Gideon Kanner for their lifetime contributions to private property rights, their efforts to advance constitutional protections of property, and their accomplishments in preserving the important role that private property plays in protecting individual and civil rights. Toby Prince Brigham is a founding partner of Brigham Moore, LLP, in Florida and, prior to his retirement, practiced eminent domain and property rights law for more than fifty years. Gideon Kanner is Professor of Law, Emeritus, at Loyola Law School in Los Angeles, California.

This year, the Brigham-Kanner Prize will be awarded to Professor Stewart E. Sterk for his outstanding contributions as a thoughtful, prolific scholar.

Stewart E. Sterk



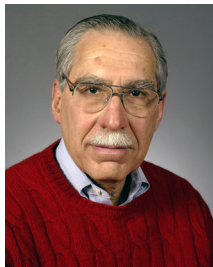
Professor Stewart E. Sterk is the H. Bert and Ruth Mack Professor of Real Estate Law and Director of the Center for Real Estate Law & Policy at the Benjamin Cardozo School of Law of Yeshiva University in New York City. His publications include a number of articles on takings law and the law of servitudes, but he has written in a wide variety of areas, ranging from property and land use regulation to trusts and estates, copyright, and the conflict of laws. A member of the American Law Institute, Sterk served as an advisor in the preparation of the *Restatement (Third) of Property (Servitudes)*. He has co-authored casebooks on trusts and estates and on land use, and he also edits the *New York Real Estate Law Reporter*, a monthly newsletter published with the assistance of Cardozo students.

The winner of a number of teaching awards at Cardozo, Sterk has taught as a visiting professor at Columbia and at the University of Pennsylvania, and has also taught at N.Y.U.

He earned his B.A. in 1973 and J.D. in 1976 from Columbia University. While in law school, Sterk served as managing editor of the *Columbia Law Review*, and he subsequently clerked for Chief Judge Charles D. Breitel of the New York Court of Appeals.

PAST RECIPIENTS

OF THE BRIGHAM-KANNER PRIZE



2004 Frank I. Michelman

Frank I. Michelman is Robert Walmsley University Professor, *Emeritus*, at Harvard University, where he taught from 1963 to 2012. He is the author of *Brennan and Democracy*

(1999), and has published widely in the fields of property law and theory, constitutional law and theory, comparative constitutionalism, South African constitutionalism, local government law, and general legal theory. Professor Michelman is a fellow of the American Academy of Arts and Sciences and a past president (1994–1995) of the American Society for Political and Legal Philosophy. He has served on the Committee of Directors for the annual Prague Conference on Philosophy and the Social Sciences, the Board of Directors of the United States Association of Constitutional Law, and the National Advisory Board of the American Constitution Society. In 2005, Professor Michelman was awarded the American Philosophical Society’s Phillips Prize in Jurisprudence and, in 2004, the Brigham-Kanner Property Rights Prize.

In January 1995 and again in January 1996, Professor Michelman served as a co-organizer and co-leader of Judges’ Conferences sponsored by the Centre on Applied Legal Studies of the University of the Witwatersrand, devoted to matters of constitutional law in South Africa. In December 2011, Professor Michelman delivered the keynote address for a multiday conference on “The 20th Anniversary of Israel’s Human Rights Revolution,” at a session held at the Knesset, Jerusalem.



2005 Richard A. Epstein

Professor Richard A. Epstein is the inaugural Laurence A. Tisch Professor of Law at the New York University School of Law. He is also the Peter and Kirsten Bedford Senior Fellow at the

Hoover Institution, and the James Parker Hall Distinguished Service Professor of Law, *Emeritus*, and Senior Lecturer at the University of Chicago Law School. He is an Adjunct Scholar at the Cato Institute and a Visiting Scholar at the Manhattan Institute. He has served as editor of the *Journal of Legal Studies* and the *Journal of Law and Economics*. He has written on a wide range of legal and interdisciplinary topics and is the author of numerous works including *The Classical Liberal Constitution: The Uncertain Quest for Limited Government* (Harvard University Press 2014), *Design for Liberty: Private Property, Public Administration, and the Rule of Law* (Harvard University Press 2011), *Skepticism and Freedom: A Modern Case for Classical Liberalism* (University of Chicago Press 2003), *Simple Rules for a Complex World* (Harvard University Press 1995), *Bargaining with the State* (Princeton University Press 1993) and *Takings: Private Property and the Power of Eminent Domain* (Harvard University Press 1985). He was inducted into the American Academy of Arts and Sciences in 1985 and was awarded the Bradley Prize in 2011.



2006 James W. Ely Jr.

Professor James W. Ely Jr., is Milton R. Underwood Professor of law, *Emeritus*, and Professor of History, *Emeritus*, at Vanderbilt University. He has written about a wide range of

topics in legal history and is the author of numerous works including *The Guardian of Every Other Right:*

A Constitutional History of Property Rights (Oxford University Press 3rd ed. 2008), *American Legal History: Cases and Materials* (Oxford University Press 4th ed. 2011) (with Kermit L. Hall and Paul Finkelman), *The Fuller Court: Justices, Rulings, and Legacy* (ABC-CLIO 2003), *Railroads and American Law* (University Press of Kansas 2001), and *The Chief Justiceship of Melville W. Fuller, 1888–1910* (1995) (paperback ed. 2012). His most recent book is *The Contract Clause: A Constitutional History* (2016). Ely served as assistant editor of the *American Journal of Legal History* from 1987 to 1999.



2007 Margaret Jane Radin

Professor Margaret Jane Radin is the Henry King Ransom Professor of Law at the University of Michigan Law School and Faculty of Law Distinguished Research Scholar at the University of Toronto. Prior to joining the Michigan faculty in fall 2007, she was the William Benjamin Scott and Luna M. Scott Professor of Law at Stanford University, and director of Stanford Law School's Program in Law, Science, and Technology. She also has been on the faculty of the University of Southern California Law Center and has been a visiting professor at UCLA, NYU, Berkeley, and Harvard. Radin has published prolifically on property rights theory and institutions, commodification, intellectual property, and cyberlaw, as well as on contracts and legal theory. Highlights of her property scholarship include *Contested Commodities* (Harvard University Press 1996) and *Reinterpreting Property* (University of Chicago Press 1993). Radin is a Fellow of the American Academy of Arts and Sciences.



2008 Robert C. Ellickson

Professor Robert C. Ellickson is the Walter E. Meyer Professor of Property and Urban Law and Professorial Lecturer in Law at Yale Law School. Prior to joining the Yale faculty in 1988, he was a member of the law faculties at the University

of Southern California and Stanford University. Professor Ellickson's books include *The Household: Informal Order Around the Hearth* (Princeton University Press 2008), *Order Without Law: How Neighbors Settle Disputes* (Harvard University Press 1991), *Land Use Controls* (Aspen Law and Business 4th ed. 2013) (with Vicki L. Been, Roderick M. Hills, Jr., and Christopher Serkin), and *Perspectives on Property Law* (Aspen Law and Business 4th ed. 2014) (with Carol M. Rose and Henry E. Smith). He is a fellow of the American Academy of Arts and Sciences and was President of the American Law and Economics Association in 2001.



2009 Richard E. Pipes

Richard E. Pipes was the Frank B. Baird, Jr., Professor of History, *Emeritus*, at Harvard University. Among his appointments, he served as director of Harvard University's Russian Research Center from 1968–1973, as chairman of the CIA's "Team B" to review Strategic Intelligence Estimates in 1976, and as director of East European and Soviet Affairs in President Ronald Reagan's National Security Council from 1981–1982. Professor Pipes's books included *Formation of the Soviet Union: Communism and Nationalism, 1917–1923* (Russian Research Center Studies 1954, 1964, 1998), *Struve: Liberal on the Left, 1870–1905* (Russian Research Center Studies 1970) (v. 1), *Russia under the Old Regime* (Penguin History 1974), *Struve: Liberal on the Right, 1905–1944* (Russian Research Center Studies 1980) (v. 2), *The Russian Revolution* (Vintage 1990), *Russia Under the Bolshevik Regime* (Vintage 1994), *Property and Freedom* (Vintage 1999), *Communism: A History* (Modern Library 2001), and *Vixi: The Memoirs Property and the Power of Eminent Domain* (Harvard University Press 1985). Professor Pipes was the 2007 recipient of the National Humanities Medal.



2010 Carol M. Rose

Carol M. Rose is the Gordon Bradford Tweedy Professor of Law and Organization, *Emerita*, at Yale Law School and the Ashby Lohse Professor of Water and Natural Resource

Law, *Emerita*, at the University of Arizona Law College. Her research focuses on the history and theory of property, and on the relationships between property and environmental law. Her writings include four books—*Saving the Neighborhood: Racially Restrictive Covenants, Law, and Social Norms* (2013) (with R. R. W. Brooks); *El Derecho de Propiedad en Clave Interdisciplinaria [The Right to Property in an Interdisciplinary Key]* (2010); *Property and Persuasion* (1994); and *Perspectives on Property Law* (4th ed. 2014) (with R.C. Ellickson and H. E. Smith)—as well as numerous articles on traditional and modern property regimes, environmental law, natural resource law, and intellectual property. Her work has appeared in journals and anthologies in other countries and has been translated into other languages, particularly Italian, Spanish, and Chinese. She has degrees from Antioch College (B.A. Philosophy), the University of Chicago (M.A. Political Science, J.D. Law), and Cornell University (Ph.D. History), and an Honorary Degree from the Chicago Kent College of Law. She is a member of the American Academy of Arts and Sciences.



2011 Justice Sandra Day O'Connor

Justice Sandra Day O'Connor received the 2011 prize at the eighth annual conference, which was held in Beijing. The 2011 conference was co-sponsored

by Tsinghua University School of Law and was a featured event during the university's celebration of the hundredth anniversary of its founding.

Justice O'Connor served as an Associate Justice of the Supreme Court from 1981 to 2006 and as Chancellor of the College of William & Mary

from 2005 until 2011. In May 2010, the William & Mary Law School faculty awarded her its highest honor, the Marshall-Wythe Medallion, in recognition of her exceptional accomplishments and leadership. Justice O'Connor served as an Arizona assistant attorney general from 1965 to 1969, when she was appointed to a vacancy in the Arizona Senate. In 1974, she ran successfully for trial judge, a position she held until she was appointed to the Arizona Court of Appeals in 1979. Eighteen months later, on July 7, 1981, President Ronald Reagan nominated her to the Supreme Court.



2012 James E. Krier

Professor James E. Krier, Earl Warren DeLano Professor of Law at University of Michigan Law School, was awarded the 2012 Brigham-Kanner Property Rights Prize at the

ninth annual conference. His teaching has included courses on property, trusts and estates, behavioral law and economics, and pollution policy. His research interests are primarily in the fields of property and law and economics, and he is the author or co-author of several books, including *Environmental Law and Policy* (Bobbs-Merrill Co. 1978) (with R.B. Stewart), *Pollution and Policy* (University of California Press 1977) (with E. Ursin), and *Property* (Aspen Publishing 9th ed. 2018). His most recent articles have been published in *Harvard Law Review*, *Supreme Court Economic Review*, *UCLA Law Review*, *Cornell Law Review*, and *William & Mary Law Review*. A professor of law at UCLA and Stanford before joining the Michigan Law faculty in 1983, he has been a visiting professor at Harvard University Law School, Cardozo School of Law, and the University of Alabama School of Law.



2013 Thomas W. Merrill

Thomas W. Merrill is the Charles Evans Hughes Professor of Law at Columbia Law School, where he teaches property, torts, and administrative law. He previously taught at Northwestern

University School of Law and Yale Law School. He has undergraduate degrees from Grinnell College and Oxford University, and a law degree from the University of Chicago. He clerked on the D.C. Circuit (for Chief Judge David Bazelon) and the U.S. Supreme Court (for Justice Harry Blackmun), and served as Deputy Solicitor General (from 1987 to 1990). Professor Merrill is an author of *Property: Principles and Policies* (Foundation Press 2nd ed. 2012) (with Henry E. Smith); *The Oxford Introductions to U.S. Law: Property* (2010) (also with Smith); and *Property: Takings* (Foundation Press 2002) (with David Dana); as well as numerous articles. He is a member of the American Academy of Arts and Sciences.



2014 Michael M. Berger

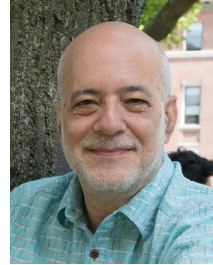
Michael M. Berger is one of the top eminent domain and land use lawyers in the United States. His appellate practice at Manatt, Phelps & Phillips has involved condemnation, due process, and

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 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.



2015 Joseph William Singer

Singer has long been recognized as one of the nation's foremost theorists in property law. In addition to a casebook and treatise on property law, he is the

author of *Entitlement: The Paradoxes of Property* (Yale University Press 2000), *The Edges of the Field: Lessons on the Obligations of Ownership* (Beacon Press 2000), and *No Freedom Without Regulation: The Hidden Lesson of the Subprime Crisis* (Yale University Press 2015).

Singer, who joined the Harvard Law School faculty in 1992, was appointed Harvard's Bussey Professor of Law in 2006. Prior to that, he taught at Boston University School of Law, practiced law in Boston, and served as a law clerk to Justice Morris Pashman of the Supreme Court of New Jersey. In addition to books on property law and federal Indian law, he has published more than eighty law review articles. He received his law degree and master's degree (Political Science) from Harvard and is a graduate of Williams College.



2016 Hernando de Soto

Hernando de Soto is the author of *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (Basic Books 2000); *The Other Path: The Economic*

Answer to Terrorism (Basic Books 2002), which includes a new updated preface, "The Other Path after Ten Years"; and *Swiss Human Rights Book Volume 1: Realizing Property Rights* (2006), co-authored

with Francis Cheneval. He has received numerous international recognitions and honors including, for example, the Adam Smith Award (Association of Private Enterprise Education), BearingPoint, Inc.-Forbes Magazine Compass Award for Strategic Direction, the CARE Canada Award for Outstanding Development Thinking, *The Economist* magazine's Innovation Award, the Freedom Prize (Max Schmidheiny Foundation), and the Milton Friedman Prize for Advancing Liberty (Cato Institute).



2017 David L. Callies

A prolific scholar whose work explores land use, property, and state and local government law, Professor David L. Callies has lectured around the world, and authored or collaborated on

more than ninety articles and twenty books. He is the Benjamin A. Kudo Professor of Law at the University of Hawai'i at Mānoa. He is an elected member of the College of Fellows, American Institute of Certified Planners; a member of the American College of Real Estate Lawyers; and a member of the prestigious American Law Institute since 1990. Prior to entering academia, he was an attorney in private practice and an assistant state's attorney.

Callies's previous recognitions include The Owners' Counsel of America's Crystal Eagle Award, the Lambda Alpha International Member of the Year Award, the Jefferson Fordham Lifetime Achievement Award, which is conferred by the ABA's Section of State and Local Government Law, and the Fourteenth Annual Brigham-Kanner Property Rights Prize. He was awarded a University of Hawai'i Regents Medal for Excellence in Teaching in 2009.

PANELISTS AND MODERATORS

BIOGRAPHIES



Vicki L. Been

Vicki Been is the Boxer Family Professor of Law at New York University School of Law, an Affiliated Professor of Public Policy of the NYU Wagner Graduate School of Public Service, and Faculty Director of

NYU's Furman Center for Real Estate and Urban Policy. Professor Been returned to NYU after serving for three years as Commissioner of Housing Preservation and Development for the City of New York. Her scholarship focuses on the intersection of land use, urban policy, and housing. She is the co-author of a leading land use casebook, *Land Use Controls* (2013).



Maureen E. Brady

Maureen E. (Molly) Brady is an Associate Professor of Law at the University of Virginia. She writes about property, land use, state constitutions, and legal history. She holds an A.B. from Harvard and a J.D. and Ph.D.

from Yale. Before teaching, she was a law clerk to Judge Bruce M. Selya and an associate at Ropes & Gray LLP.



Andrew Brigham

Mr. Brigham has over twenty-five years of experience representing property owners in condemnation and property rights cases. Over his career, he has participated in both constitutional and legislative reforms

of property rights. As a trial lawyer, he obtained the largest jury trial verdict in state court eminent domain proceedings in Florida. He frequently lectures on property rights and trial advocacy.



Amy Brigham Boulris

Amy Brigham Boulris has been a shareholder at Gunster Law Firm since 2012, after over two decades of successful practice with Brigham Moore Law Firm. She is a diverse litigator,

is called upon when clients and colleagues face complex issues in the constitutional property rights and land use fields, and has frequently presented in national forums on the subjects. Amy continues to devote her practice to the defense of property rights in the context of eminent domain, inverse condemnation, Harris Act claims, property-related civil rights claims, zoning proceedings and related land use litigation, as well as to general civil appeals.



James S. Burling

James Burling is Pacific Legal Foundation's Vice President for Litigation in Sacramento, California, and litigates property rights cases nationwide. In 2001, he argued *Palazzolo v. Rhode Island* before the

Supreme Court. He received a master's degree in geological sciences from Brown University, an undergraduate degree from Hamilton College, and his Juris Doctor from the University of Arizona College of Law in 1983.



Lynda Butler

Lynda Butler specializes in property rights and property law, land and water use, and environmental policy. She received her J.D. from the University of Virginia and her B.S. from the College of William & Mary.

Prior to joining the faculty at William & Mary Law

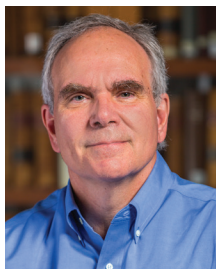
School, she practiced at Wilmer, Cutler & Pickering in Washington, D.C.



Stephen Clarke

Believing that property rights are fundamental to liberty, Steve limits his practice to representing property owners in eminent domain and property rights litigation. Steve has appeared in courts around Virginia and in

West Virginia, representing homeowners, farmers, small business owners, and Fortune 500 companies. He regularly speaks and writes about the importance of private property ownership.



John Echeverria

John Echeverria is a Professor of Law at Vermont Law School where he teaches property, water resources, federal courts, and other topics. He has represented state and local governments, environmental organizations, and

planning groups in takings cases at all levels of the federal and state court systems. Professor Echeverria received a J.D. degree from the Yale Law School.



Luis Gallardo-Rivera

Luis Gallardo-Rivera is a consultant for community organizations and city governments in Puerto Rico. For years he has been on the forefront of eminent domain reform, and most recently he has published the *Puerto Rico Law Review* article

titled “Nuisance Properties in Puerto Rico.” Since November, Luis has acted as co-director for the Center for Habitat Reconstruction, a San Juan-based 501(c)(3).



Mark F. (Thor) Hearne II

Thor Hearne has earned a national reputation for his work in three areas of legal practice: complex federal and state litigation and appeals, especially matters involving property rights;

constitutional law; and election issues. Thor has been counsel to high net-worth families and closely held businesses on wealth preservation and tax and succession planning, and on political and election law.



Christina M. Martin

Christina Martin is a Pacific Legal Foundation Attorney. PLF litigates nationwide on behalf of Americans to secure their constitutional rights. Her work focuses primarily on protecting property rights. This fall Ms.

Martin is co-counsel and second chair in *Knick v. Township of Scott*; in *Knick*, the U.S. Supreme Court will consider abandoning *Williamson County*’s state litigation requirement.



Timothy M. Mulvaney

Timothy M. Mulvaney is a Professor of Law and the Associate Dean for Faculty Research and Development at Texas A&M University School of Law. He writes and teaches

in the areas of property, land use, and environmental law. His recent publications appear in the flagship journals at Boston College, Wisconsin, and George Mason, and the environmental journals at Harvard, UC-Berkeley, and UC-Davis. In addition to his appointment at the law school, he has faculty affiliations in Texas A&M’s College of Architecture and College of Geosciences.



Erin Ryan

Erin Ryan specializes in property, environmental and land use law, negotiation, and federalism. She has presented widely in the United States, Europe, and Asia, and appears regularly in news media. A former editor of the *Harvard Law Review* and Fellow at the Harvard Negotiation Research Project, she clerked on the Ninth Circuit before practicing land use law in San Francisco. Before her legal career, she was a United States Forest Service Ranger, east of Yosemite National Park.



James Y. Stern

James Y. Stern is Associate Professor of Law at William & Mary Law School. He writes on property law and theory, intellectual property, and conflict of laws. Professor Stern received his A.B. from Harvard and his J.D. from the University of Virginia, and he served as law clerk to Judge J. Harvie Wilkinson and Justice Anthony Kennedy.



David A. Super

David A. Super's research focuses on property as well as administrative law, local government law, and poverty law. His interest in property law focuses on its intersection with poverty law, and the ways in which property principles have become established in administrative law and the legislative process. He is also interested in the interactions between property and related fields, having had the chance to teach Property, Contracts, and Torts twice in the same year, and also through his current teaching of Federal Income Taxation. Prior to entering the legal academy, he served for several years as the general counsel for the Center on Budget and Policy Priorities and worked for the National Health Law Program and Community Legal Services in Philadelphia.



Robert H. Thomas

Robert H. Thomas (LL.M., Columbia Law; J.D., University of Hawaii Law School), a Director with Damon Key Leong Kupchak Hastert, focuses on appellate law, regulatory takings, and eminent domain. He is a member of Owners' Counsel of America and is the Managing Attorney for the Pacific Legal Foundation Hawaii Center. Previously, he taught law at the University of Santa Clara. For the fall 2018 semester, he is the inaugural Joseph T. Waldo Visiting Chair in Property Rights Law at William & Mary Law School.



Joseph T. Waldo

The founder of the Brigham-Kanner Property Rights Conference, Joe Waldo has practiced law since graduating from William & Mary Law School. He obtained his B.A. from the University of North Carolina at Chapel Hill. In 1998, he founded Waldo & Lyle, P.C., the only law firm in Virginia exclusively dedicated to representing property owners in eminent domain proceedings. He has tried over one hundred cases on behalf of property owners facing the exercise of the power of eminent domain. He is an elected member of the American Law Institute where he is an adviser on the *Restatement (Fourth) of Property*. He lectures, writes, and frequently makes appearances to advocate for the defense of individual property rights, drawing the connection to individual liberty and human dignity.

WILLIAM & MARY

LAW SCHOOL

Legal education began at William & Mary in 1779 at the urging of Thomas Jefferson. He was governor of Virginia at the time and a member of the College's Board of Visitors. Jefferson believed that aspiring members of the profession should be trained to be citizen lawyers—passionate legal advocates and honorable human beings. The College's Board created the first Chair of Law in the United States in that year, naming George Wythe as its first occupant. Students of Wythe included Thomas Jefferson, John Marshall, James Monroe, and Henry Clay. The growth of the law school was halted by the beginning of the Civil War in 1861. Sixty years later, the study of law was revived in a modern program that attracts students from all regions of the nation.

William & Mary Law School has hosted the Brigham-Kanner Property Rights Conference since 2004. In 2011 William & Mary co-sponsored the Conference with Tsinghua Law School in Beijing, China, and then in 2016 with the Grotius Center of International Legal Studies in The Hague, the Netherlands.

THE COLLEGE OF

WILLIAM & MARY

Chartered in 1693 by Queen Mary II and King William III of England, the College of William & Mary is the second oldest institution of higher learning in the country. The College's student body has just over 8,740 full-time (graduate and undergraduate) students with an eleven to one student/faculty ratio. U.S. News and World Report: Best Colleges 2019 ranks the College tenth among top public schools in the country. Known as “the alma mater of a nation,” William & Mary has educated three American presidents—Thomas Jefferson, James Monroe, and John Tyler—and George Washington served as its first chancellor.

Katherine A. Rowe was sworn in as the twenty-eight president of the College of William & Mary on July 1, 2018, becoming the first female president of William & Mary in its 325-year history. Before assuming her current post, she served as provost and dean of faculty at Smith College in Massachusetts.

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