

SCHEDULE OF EVENTS

Thursday, October 26, 2023

6:30pm – 9:00pm

Great Hall

Presentation of the 2023 Brigham-Kanner Prize

William & Mary, Wren Building

Friday, October 27, 2023

8:00am – 9:00am

Lobby

Registration and Continental Breakfast

William & Mary Law School

9:00am – 10:30am

Room 119

Property and Propriety (or a Well-Ordered Society): A Tribute to Gregory S. Alexander

Professor Gregory S. Alexander has focused much of his scholarship on how property can best serve multiple values that are important to a well-ordered society. Using Alexander’s work as a springboard, this panel will discuss the value structure underlying various theories of property and whether those theories would promote a well-ordered society.

Opening Remarks: Gregory S. Alexander, Robert Noll Professor of Law, Emeritus, Cornell Law School, “Propriety Redux”

Panelists

James E. Krier, Earl Warren DeLano Professor of Law, Emeritus, University of Michigan Law School

Carol M. Rose, Gordon Bradford Tweedy Professor of Law, Emeritus, Yale Law School; Professor of Law, Emerita, and Lohse Chair in Water and Natural Resources, Emerita, University of Arizona James E. Rogers College of Law

James Burling, Vice President of Legal Affairs, Pacific Legal Foundation

Lior Strahilevitz, Sidley Austin Professor of Law, University of Chicago Law School

Moderator

Lynda L. Butler, Chancellor Professor, Emerita, Outgoing Director, Property Rights Project, William & Mary Law School

10:30am – 10:45am

Lobby

Networking Break

10:45am – 12:00pm

Room 119

Equity’s Role in Defining Property Rights

Equity has long had an influence on the delineation and development of property rights. In addition to defining the extent of property rights and influencing a court’s choice of remedies, equity has played a role in governing or managing the impact of property rights on other interests. This panel will discuss these and other topics related to the role of equity in property law, including the relationship of that role with constitutional protection of property rights.

Panelists

Henry E. Smith, Fessenden Professor of Law and Director for the Project on the Foundations of Private Law, Harvard Law School

Samuel L. Bray, John N. Matthews Professor of Law, Notre Dame Law School

Robert H. Thomas, Joseph T. Waldo Visiting Chair in Property Rights Law, William & Mary Law School; Director, Property Rights Litigation, Pacific Legal Foundation

Timothy Sandefur, Vice President for Legal Affairs, Goldwater Institute

Moderator

James Y. Stern, Professor of Law, and Director, Property Rights Project, William & Mary Law School

12:00pm – 1:00pm

Lobby

Lunch Break

1:00pm – 2:00pm

Room 119

Roundtable: Emerging Issues

Among other matters, the Roundtable will consider the home equity theft issue raised in *Tyler v. Hennepin County*, recent Supreme Court cases on the Takings Clause, and the role of state governments in protecting property rights.

Panelists

Christina M. Martin, Senior Attorney, Pacific Legal Foundation

Michael Allan Wolf, Professor of Law and Richard E. Nelson Eminent Scholar Chair in Local Government, University of Florida Levin College of Law

Jessica Asbridge, Associate Professor of Law, Baylor University School of Law

Moderator

Andrew Brigham, Managing Partner, Brigham Property Rights Law Firm, PLLC

2:00pm – 2:15pm

Lobby

Networking Break

2:15pm – 3:30pm

Room 119

The Restatement’s Impact on Property Rights

The draft Restatement Fourth of Property may be the most comprehensive Property Restatement yet, covering a wide range of property topics. This panel will examine how the draft could shape the nature of property rights and impact the balance or fit between the institution of property and political, economic, and socioecological systems.

Panelists

Maureen E. Brady, Louis D. Brandeis Professor of Law, Harvard Law School

David Callies, Benjamin A. Kudo Professor of Law, Emeritus, University of Hawai’i at Mānoa

Andrew Gold, Professor of Law, Brooklyn Law School

Steven Weise, Partner, Proskauer Rose LLP

Moderator

Joshua Baker, Partner, Waldo & Lyle

3:30pm – 3:45pm

Lobby

Networking Break

3:45pm – 5:00pm

Room 119

The Scalability of Property Rights (or the extent to which interests in property are or should be constitutionally protected)

How property rights are defined and scaled over various dimensions like time, space, place, and socioecological systems affects whether the rights are divisible, can be aggregated, concentrated, or merged, are vulnerable to or tools of exploitation, and can be reasonably regulated without any takings liability. Legally recognized interests in real and tangible property traditionally were the prime focus of the Takings Clause, while interests in intangible property, intellectual property, and contract-based interests in property (e.g., licenses and servitudes) were not usually protected under the Takings Clause. To what extent can or should interests in property be scaled (either up or down) without takings liability to avoid disconnects with natural resources and physical realities (e.g., water shortages), mismatches

between owners and users (e.g., landlord/tenant or housing shortages), and transformative effects on socioecological systems (e.g., environmental disasters)?

Panelists

Lee Anne Fennell, Max Pam Professor of Law, University of Chicago Law School

Jessica A. Shoemaker, Steinhart Foundation Distinguished Professor of Law, University of Nebraska College of Law

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

John Groen, Executive Vice President and General Counsel, Pacific Legal Foundation

Moderator

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

5:00pm

Lobby

Celebratory 20th Anniversary Reception

Champagne, cake, and other refreshments will be served to celebrate the 20th anniversary of the Brigham-Kanner Property Rights Conference.