



## 2018 FORUM FOR STATE APPELLATE COURT JUDGES

# State Court Protection of Individual Constitutional Rights

Saturday, July 7, 2018

### FACULTY BIOGRAPHIES

#### PAPER WRITERS AND SPEAKERS



**Honorable Goodwin Liu** (LUNCHEON KEYNOTE SPEAKER) is an Associate Justice of the California Supreme Court. He was confirmed to office by a unanimous vote of the California Commission on Judicial Appointments on August 31, 2011, following his appointment by Governor Edmund G. Brown, Jr. on July 26, 2011. The Governor administered the oath of office to Justice Liu in a public ceremony in Sacramento, California on September 1, 2011. Before joining the state's highest court, Justice Liu was Professor of Law at the UC Berkeley School of Law (Boalt Hall). His primary areas of expertise are constitutional law, education law and policy, and the U.S. Supreme Court. He has published widely on these subjects in books, law reviews, and the general media. Justice Liu graduated from Yale Law School in 1998. He clerked for Judge David Tatel on the U.S. Court of Appeals for the D.C. Circuit and then worked as Special Assistant to the Deputy Secretary of the U.S. Department of Education. He then clerked at the U.S. Supreme Court for Justice Ruth Bader Ginsburg during the October 2000 Term. In 2001, he joined the appellate litigation practice of O'Melveny & Myers in Washington, D.C. Justice Liu has published articles on constitutional law and education policy in the *California Law Review*, *Michigan Law Review*, *NYU Law Review*, *Stanford Law Review*, and *Yale Law Journal*.



**Justin Long** (AFTERNOON PAPER PRESENTER) teaches at Wayne State University Law School, specializing in state constitutionalism, civil procedure, public education law, urban law, and federalism. He is affiliated with the Damon J. Keith Center for Civil Rights and regularly works with civil rights activists. Prior to teaching at Wayne State, he was a visiting assistant professor of law at the University of Connecticut School of Law and practiced as an assistant solicitor general in the New York Office of the Attorney General. He clerked for Hon. Albert Rosenblatt of the New York State Court of Appeals and Hon. Myron Bright of the U.S. Court of Appeals for the Eight Circuit. Prof. Long is a graduate of Harvard College and University of Pennsylvania Law School, where he was the Technology Editor of the *Law Review*.



**Honorable Monica M. Márquez** (JUDICIAL WELCOME) was sworn in as Justice of the Colorado Supreme Court on December 10, 2010. Before joining the Court, Justice Márquez served as Deputy Attorney General at the Colorado Attorney General's Office, where she led the State Services section in representing several state executive branch agencies and Colorado's statewide elected public officials, including the Governor, Treasurer, Secretary of State, and Attorney General. Justice Márquez also served as Assistant Solicitor General and as Assistant Attorney General in both the Public Officials Unit and the Criminal Appellate Section. Before joining the Attorney General's Office, Justice Márquez practiced general commercial litigation and employment law at Holme Roberts & Owen, LLP. Justice Márquez earned her bachelor's degree from Stanford University, then graduated from Yale

Law School, where she served as an Editor of the Yale Law Journal and Articles Editor of the Yale Law & Policy Review. Upon graduation, she clerked for Judge Michael A. Ponsor of the United States District Court for the District of Massachusetts, and for Judge David M. Ebel of the United States Court of Appeals for the Tenth Circuit.



**Robert F. Williams** (MORNING PAPER PRESENTER) is Distinguished Professor of Law at Rutgers University of School of Law and Director, Center for State Constitutional Studies. Professor Williams earned his B.A. cum laude in 1967 at Florida State University, where he was elected to Phi Beta Kappa and Phi Kappa Phi. He earned his J.D. with honors in 1969 at the University of Florida School of Law, where he was executive editor of the law review, and then earned his LL.M. in 1971 at New York University School of Law. In addition, he earned an LL.M. at Columbia University Law School in 1980. He is admitted to the bars of Florida, New Jersey and the United States Supreme Court. He has been the legislative advocacy director and executive director of Florida Legal Services, Inc.; and a reporter for the Florida Law Revision Council's Landlord-Tenant Law Project. In addition, he served as a legislative assistant to Florida Senator D. Robert Graham; a staff attorney with Legal Services of Greater Miami, Inc.; and a law clerk to Chief Judge T. Frank Hobson of the Florida Second District Court of Appeals. He has authored numerous publications and articles on state constitutional law and other topics.



**Ellen Relkin** (FORUM MODERATOR) is President of the Pound Civil Justice Institute. She is of counsel to Weitz & Luxenberg, P.C. in New York City and Cherry Hill, New Jersey. She is licensed to practice in New York, New Jersey, Pennsylvania, and the District of Columbia, and is certified by the New Jersey Supreme Court as a Certified Civil Trial Attorney. Ms. Relkin is an elected member of the American Law Institute. She serves on the Board of Governors of the New Jersey Association for Justice and the Board of Visitors of the University of California at Irvine Law School. She is a former chair of the Toxic, Environmental and Pharmaceutical Torts Section of the American Association of Justice.

## PANELISTS



**Honorable Judy Cates** is a justice on the Illinois Fifth District Court of Appeal. She attended Cornell University, receiving a B.A. in Government in 1973. She went on to receive her juris doctorate in 1977 from the Washington University School of Law - St. Louis. Before joining the Appellate Court, Judy Cates first practiced law as an Assistant State's Attorney for St. Clair County, Illinois. After leaving the State's Attorney's office, she entered private practice, concentrating in complex litigation cases, such as personal injury, class actions, mass actions, sexual harassment and corporate disputes. Justice Cates was engaged in the private practice of law for 30 years prior to being elected to the 5th District Appellate Court in 2012. She was admitted to practice law in Illinois, Missouri and Florida. She was a member of the Illinois State Bar Association, Missouri Bar Association, and Florida Bar Association. She was also admitted to practice in many federal courts across the country.



**John E. Cuttino** is a Shareholder at Gallivan White & Boyd P.A. in Columbia, South Carolina. He is a 1979 graduate of Wofford College and a 1982 graduate of the University of South Carolina School of Law. Mr. Cuttino is the Immediate Past President of *DRI-The Voice of the Defense Bar* and serves on DRI's six-person Executive Committee. He has 32 years of experience as a trial attorney in the state and federal courts of South Carolina. Cuttino has tried more than 75 cases to verdict in 40 of South Carolina's 46 counties, and in the U.S. District Court in South Carolina. He is a Permanent Member of the U.S. Fourth Circuit Judicial Conference and a member of the American Board of Trial Advocates (ABOTA). His practice includes design and construction defects, toxic and mass torts, insurance coverage, tort and personal injury, intellectual property, products liability, and professional negligence.



**Honorable Noma D. Gurich** has served as a Justice on the Supreme Court of Oklahoma since February 15, 2011. She has been a member of the Oklahoma judiciary for 30 years. She currently serves as Vice Chief Justice. She received a bachelor's degree Magna Cum Laude in political science in 1975 from Indiana State University. She earned her Juris Doctorate from the University of Oklahoma College of Law in 1978, where she served on the American Indian Law Review. After ten years as a litigator in the private practice of law in Oklahoma City, she was appointed to the Oklahoma Workers' Compensation Court where she served from 1988 to 1998, including 4 years as Presiding Judge. She was appointed and elected to serve as a District Judge in Oklahoma County from 1998 to 2011, where she also served as Presiding Judge. The Oklahoma Chapter of ABOTA named her Judge of the Year in 2011. She has the distinction of being appointed to judicial office by four Oklahoma governors: Governor Henry Bellmon, Governor David Walters, Governor Frank Keating and Governor Brad Henry.



**John Lebsack** joined White and Steele, P.C. in Denver upon his admission to the bar in 1979, and has been of counsel since 2018. His practice is comprised of a variety of defense cases, with an emphasis on appeals, coverage disputes, and professional liability defense. John has argued before the United States Court of Appeals for the Tenth Circuit, the Colorado Supreme Court, and the Colorado Court of Appeals. From 2011 through 2017, John was appointed to the Committee on Conduct, United States District Court for the District of Colorado, and served as chair of that committee in 2013-2014. In 2017, the Colorado Supreme Court appointed Lebsack to the Civil Rules Committee, which is charged with making recommendations to the court about changes to the rules of procedure that govern all civil cases in the state.



**Jonathan Marshfield** teaches at the University of Arkansas School of Law. His research focuses on constitutional procedure and design, state constitutional law, and constitutional change. His work explores how procedural rules and political institutions can affect constitutional outcomes. Prior to joining the University of Arkansas faculty, Professor Marshfield practiced as a commercial litigator with Latham & Watkins LLP and Saul Ewing LLP. He also clerked for Judge Robert B. Kugler, United States District Judge for the District of New Jersey, and Chief Justice James R. Zazzali of the Supreme Court of the State of New Jersey. Professor Marshfield's work has appeared in the *Michigan Law Review*, the *Boston University Law Review*, and other leading journals. Most recently, the *New England Law Review* dedicated an issue to scholarly commentary on Professor Marshfield's empirical research regarding state constitutional change. Professor Marshfield holds an LL.M. in legal theory of New York University School of Law, a J.D. (high honors) from Rutgers School of Law – Camden, and a B.A. (honors) from Cedarville University.



**Andre M. Mura** is a partner at the Gibbs Law Group, LLP in Oakland, California, representing plaintiffs in class action and complex litigation concerning consumers' and workers' rights, products liability, drug and medical devices, federal jurisdiction, and constitutional law. Previously he was senior litigation counsel at the Center for Constitutional Litigation PC, in Washington, DC, where he represented plaintiffs in state and federal appellate courts, including the United States Supreme Court. In *Watts v. Lester E. Cox Medical Centers*, 376 S.W.3d 633 (Mo. 2012), Mura successfully argued that a state law limiting compensatory damages in medical malpractice cases violated his client's constitutional right to trial by jury. He contributes to Consumer Law Watch, a blog analyzing developments in the law of consumer class actions and is a member of the Lawyers Committee of the National Center for State Courts, a member of the American Association for Justice, and a Fellow of the Pound Civil Justice Institute.



**Robert S. Peck** is founder and president of the Center for Constitutional Litigation. He regularly appears before the U.S. Supreme Court and state supreme courts, with cases pertaining to state and federal constitutional law, complex civil litigation, federal preemption, punitive damages, products liability, mass torts, consumer protection, and more. Peck has taught advanced constitutional law and state constitutional law at The George Washington University Law School and American University Washington College of Law. Bob is a member of the advisory board of the Civil Justice Research Institute at Berkeley Law School. He is a past chair of the Board of Overseers of the RAND Corporation's Institute for Civil Justice; and former member of the Board of Directors and co-chair of the Lawyers Committee at the National Center for State Courts.



**Honorable David Schuman** served as a judge of the Oregon Court of Appeals from 2001 to 2014. He received his B.A. from Stanford University, his Ph. D. from the University of Chicago, and his J.D. from the University of Oregon Law School. He served as a clerk to Justice Hans Linde, Oregon Supreme Court, in 1985; as Assistant Attorney General in the Oregon Department of Justice from 1985 to 1987; and was a professor at the University of Oregon Law School from 1987 to 1996. He was Deputy Attorney General in the Oregon Department of Justice from 1997 to 2001, when he was appointed to the Oregon Court of Appeals. Since 2014 he has been a Senior Judge in the Oregon Judicial Department, and Professor of Practice at the University of Oregon Law School.

### DISCUSSION GROUP MODERATORS



**Linda Miller Atkinson** is of counsel to the firm of Atkinson, Petruska, Kozma & Hart, with offices in Gaylord and Channing, Michigan. She is licensed in Michigan and Emeritus member of Wisconsin and Georgia bars. A 1963 graduate of Oberlin College, Oberlin, Ohio, and a 1973 graduate of Wayne State University Law School in Detroit, Michigan, she is an author and editor of *TORTS: MICHIGAN LAW AND PRACTICE*, published by the Institute of Continuing Education since 1994, and of *LAWYERS DESK REFERENCE* (8<sup>th</sup> edition, Thomson-West), and is author of the "Depositions" chapter of *LITIGATING TORT CASES* (AAJ Press, published by Thomson-West). She is a past president of the Michigan Association for Justice, a member of the American Association for Justice President's Club and a Fellow and trustee of the Pound Civil Justice Institute. In her life outside the courtroom she teaches firearm and hunter safety for the Michigan Department of Natural Resources and is in her 25th year with the National Ski Patrol.



**Leslie A. Brueckner** is a Senior Attorney at Public Justice, a national public interest law firm, where she specializes in appellate litigation in the state and federal courts. A 1987 magna cum laude graduate of Harvard Law School, Brueckner's current areas of practice include class actions, constitutional law, federal preemption, consumer rights, personal jurisdiction, food safety, and combating court secrecy. She just celebrated her 25th anniversary with Public Justice. Among other victories, Ms. Brueckner recently won a landmark ruling from the California Supreme Court in *T.H. v. Novartis*, holding that brand-name prescription drug manufacturers can be sued for failing to warn of the dangers of mislabeled, generic versions of their drugs. She and her co-counsel Ben Siminou were awarded the Pound Institute's 2018 Appellate Advocacy Award for their work on the case. In addition to her litigation work, Ms. Brueckner has taught appellate advocacy at American University Law School and Georgetown University School of Law.



**Kathryn H. Clarke** is a sole practitioner in Portland, Oregon, who specializes in appellate practice and consultation on legal issues in complex tort litigation. She served as President of the Pound Civil Justice Institute from 2011 to 2013. She is a member of the Oregon Trial Lawyers Association, and has been a member of its Board of Governors for over 25 years, served as President from 1995 to 1996, and received that organization's Distinguished Trial Lawyer award in 2006. She is also a member of the Board of Governors of the American Association for Justice. She was a member of the adjunct faculty at Lewis and Clark Law School, and taught a seminar in advanced torts for several years. In 2008 she served as a member of a work group on Tort Conflicts of Law for the Oregon Law Commission, which resulted in a bill passed by the 2009 legislature. She has served as member and Chair of Oregon's Council on Court Procedures, and has been a member of the Oregon State Bar's Uniform Civil Jury Instructions Committee. In 2016 she was honored by the Pound Institute for her lifetime achievement as an appellate advocate.



**Caragh Glenn Fay** is managing partner of the Fay Law Group in Washington, DC. Her practice includes personal injury, medical malpractice, general civil litigation, and terrorism and Foreign Sovereign Immunities Act cases. She is admitted to practice in Maryland, the District of Columbia, and a number of federal courts. She holds a B.A. degree from the University of Maryland and a J.D. degree from the David A. Clarke School of Law of the University of the District of Columbia, where she was a member of the UNIVERSITY OF THE DISTRICT OF COLUMBIA LAW REVIEW. She is a member of the Maryland and District of Columbia Bars, the Trial Lawyers Association of Metropolitan Washington DC, and the American Association for Justice, and is a Fellow of the Pound Civil Justice Institute. Her pro bono activities include representation of children with disabilities and those in need of special education support.



**Thomas Fortune Fay** practices in Washington, D.C. with the Fay Law Group, P.A. In addition to a general civil trial litigation practice, the firm prosecutes cases arising from foreign state-sponsored terrorist attacks carried out against American citizens and employees. Mr. Fay is a graduate of Notre Dame University and Rutgers School of Law. He is a Supporting Fellow of the Pound Civil Justice Institute, a member of the American Board of Trial Advocates, a trustee of Public Citizen, and a director of No Greater Love, an organization whose mission is the recognition and remembrance of persons who lost their lives in service to others.



**Michelle L. Kranz** is a Partner at Zoll & Kranz, LLC in Toledo, Ohio. She is a 1993 graduate of the University of Toledo College of Law and a 1990 cum laude graduate of Miami University. She joined the firm immediately upon graduation from law school. Kranz has extensive litigation experience before both state and federal courts as well as appellate court experience. She focuses her practice in the areas of national pharmaceutical and product liability mass torts, anti-trust, and personal injury. She is admitted to the bar in the State of Ohio, the United States Supreme Court, the Federal District Court for the Northern and Southern Districts of Ohio, and the United States Sixth and Seventh Circuit Courts of Appeals. She is a member of the Toledo Bar Association, the Ohio State Bar Association, the American Association for Justice and the Ohio Association for Justice.



**Pat Malone** practices law in Washington, DC, representing seriously injured people in professional liability and pharmaceutical products liability litigation. He is co-author of *RULES OF THE ROAD: A PLAINTIFF LAWYER'S GUIDE TO PROVING LIABILITY* and the author of *WINNING MEDICAL MALPRACTICE CASES WITH THE RULES OF THE ROAD TECHNIQUE*. He has also published a book for consumers: *THE LIFE YOU SAVE: NINE STEPS TO FINDING THE BEST MEDICAL CARE—AND AVOIDING THE WORST*. His recent articles include “Paying It Forward by Pressing for Safety Changes” (*TRIAL*, June 2014), and “Unethical Secret Settlements: Just Say No” (*TRIAL*, Sept. 2010, co-author with Jon Bauer). Mr. Malone is a graduate of Yale Law School, an elected member of the American Law Institute, a fellow of the International Academy of Trial Lawyers, and a Trustee of the Pound Civil Justice Institute.



**Wayne Parsons** practices in Honolulu, Hawai'i. He received B.S. and M.S. degrees in engineering, physics and mathematics from the University of Michigan. After college he went to work with NASA on the Apollo space project, which took him to the astronomical observatory on the Island of Maui. After seeing Hawai'i, he went to the University of Michigan Law School and moved to Hawai'i permanently. He specializes in personal injury matters for plaintiffs and engages in consumer advocacy in the construction industry. Mr. Parsons has been president of the Hawai'i State Bar Association, was a founder of the Consumer Lawyers of Hawai'i, has served as a governor of the American Association for Justice, and has been the Hawai'i chair of the Public Justice organization. He is a Fellow of the Pound Civil Justice Institute and a member of several construction, engineering and architecture organizations.



**Gale Pearson** is senior partner of the law firm of Pearson, Randall & Schumacher, P.A., in Minneapolis. Her practice concentrates on environmental, pharmaceutical, medical device, and corporate fraud litigation, including Qui tam. She received her bachelor's degree from California State University at Northridge with a major in Laboratory Medicine, Physics and Chemistry, and her law degree from Loyola Law School in Los Angeles. She is a Certified Clinical Laboratory Scientist. She is a member of the Minnesota and American Associations for Justice and a board member for Public Justice. She has served in the speakers' bureau for Minnesota's “We the Jury” project and is a frequent lecturer on topics that intersect science and law.



**Alinor Sterling** practices law as a member of Koskoff, Koskoff & Bieder, PC in Bridgeport, Connecticut. She handles complex civil cases at trial and on appeal. Alinor received her undergraduate degree from Princeton University, where she took her major in the Woodrow Wilson School of Public and International Affairs and her minor in Russian Studies. After a year-long graduate fellowship in Moscow, Alinor attended the UCLA School of Law, where she was elected to the Order of the Coif and was an editor of the *UCLA Law Review*. Alinor is a Fellow of the Pound Civil Justice Institute and Chair of the Connecticut Trial Lawyers Association's Rules Committee. She enjoys teaching Connecticut practice and procedure at CLE programs.



**John Vail** is the proprietor of John Vail Law PLLC, “An appellate voice for the trial bar.” Since 1997 Mr. Vail has focused his work solely on access to justice issues, representing clients in numerous state supreme courts and in the Supreme Court of the United States. He has received the Public Justice Achievement Award from Trial Lawyers for Public Justice for his “outstanding work and success challenging the constitutionality of legislation limiting injury victims' access to justice.” Mr. Vail spent seventeen years doing legal aid work, concentrating on major litigation to advance individual rights. He was an original member of the Center for Constitutional Litigation, where he was Vice President and Senior Litigation Counsel. Mr. Vail has served as

Professorial Lecturer in Law at the George Washington University School of Law. He is a graduate of the College of the University of Chicago and of Vanderbilt Law School.



**David G. Wirtes, Jr.** is a member of Cunningham Bounds, LLC of Mobile, Alabama, where he focuses on strategic planning, motion practice and appeals. Mr. Wirtes is licensed in all state and federal courts in Alabama and Mississippi, the Fifth and Eleventh Circuit Courts of Appeals and the United States Supreme Court. He is active in numerous professional organizations, including as a member of the Alabama and Mississippi State Bar Associations, long-time member of the Alabama Supreme Court's Standing Committee on the Rules of Appellate Procedure, Sustaining Member of the Alabama Association for Justice (and Member of its Board of Governors and Executive Committee (1990-present); Member and/or Chairman, Amicus Curiae Committee (1990-present); and Co-editor, the Alabama Association for Justice Journal (1996-present)), and the American Association for Justice where he serves as a Member of its

Amicus Curiae Committee (1999-present). Mr. Wirtes is also a Sustaining Fellow and Trustee of the Pound Civil Justice Institute; a Senior Fellow of the Litigation Counsel of America; a Founder and former Executive Director of the American Institute of Appellate a Sustaining Member of Public Justice. He has published numerous law review and journal articles and is a frequent lecturer at continuing legal education seminars.