



## 2012 FORUM FOR STATE APPELLATE COURT JUDGES

Saturday, July 28, 2012  
Hilton Chicago Hotel

### *Justice Isn't Free: The Court Funding Crisis and Its Remedies*

#### FACULTY BIOGRAPHIES

##### Paper-Presenters and Moderator

**John T. Broderick** served on the New Hampshire Supreme Court for 15 years, retiring in 2011 to become Dean of University of New Hampshire School of Law. During his tenure as Chief Justice, in addition to his judicial duties, he served as administrative head of all the state's courts, and became nationally known for re-examining the way the court system works and redesigning it to meet the challenges of the 21st century. Under Chief Justice Broderick's leadership, New Hampshire established an "Access to Justice Commission" to help enhance programs that provide low cost legal services to poor and low income citizens. Dean Broderick wrote, along with Ronald George, Chief Justice of the California Supreme Court, a 2010 *New York Times* op-ed lamenting the rise of unrepresented litigants and calling for an expansion of limited-scope representation. ("A Nation of Do-It-Yourself Lawyers," available at <http://www.nytimes.com/2010/01/02/opinion/02broderick.html>.) Dean Broderick is a graduate of the College of the Holy Cross (magna cum laude), and of the University of Virginia School of Law. Prior to serving on the New Hampshire Supreme Court, he was a litigation attorney in the Manchester, NH, law firm of Devine, Millimet, Stahl & Branch, and was a founding shareholder of Broderick & Dean, PA. He has also taught as an adjunct professor at the Tuck School of Business at Dartmouth College for over ten years. Appointed by President Clinton, Dean Broderick served for 10 years on the Board of the Legal Services Corporation (LSC).

**Lawrence M. Friedman (co-author with Dean Broderick)** teaches Constitutional Law, Information Privacy Law, National Security Law, and State Constitutional Law at the New England School of Law in Boston. He holds a B.A. degree from Connecticut College, a J.D. degree from Boston College Law School, and an LL.M. from Harvard Law School. Before commencing his teaching career he served as a law clerk to the Hon. John T. Broderick, Jr., of the New Hampshire Supreme Court, and practiced with Choate, Hall & Stewart in Boston. He has served on the Boston Bar Association's Task Force on the Future of the Profession, and is a former member of the Boston Bar Council. He is also a member of the board of directors of the Robert F. Kennedy Children's Action Corps, and he is the immediate past president of the board of directors of the Massachusetts Appleseed Center for Law & Justice. He has published

numerous articles on constitutional law, privacy law, and national security, and is co-author (with Lynnea Thody) of *THE MASSACHUSETTS STATE CONSTITUTION* (Oxford University Press, 2011).

**J. Clark Kelso** is a 1983 graduate of the Columbia University School of Law, and clerked for the Honorable Anthony M. Kennedy on the United States Court of Appeals for the Ninth Circuit. After practicing law briefly in New York, he joined the faculty at the University of the Pacific McGeorge School of Law in 1986. For the last twenty years, he has worked closely with the leadership in the California Judicial Branch and with Senate, Assembly and Executive Branch leaders on constitutional amendments, legislation, and rules of court to improve and reform the California Judiciary and the administration of justice. Professor Kelso's work with the California Judicial Council has included service as consultant and reporter for the Blue Ribbon Commission on Jury System Improvement, the Business Courts Study Task Force, the Select Coordination Implementation Committee, the Court Technology Task Force, the Appellate Process Task Force, and the Task Force on Complex Litigation. He has been the primary consultant on trial court unification to the Judicial Council and the California Law Revision Commission since 1993. He was the primary author of the *Deskbook on the Management of Complex Litigation* (2000), used by California judges, and served as the Scholar-in-Residence of the Administrative Office of the Courts during 2002-2003. He has also held a number of high-level positions in California's Executive Branch, including service as California's Insurance Commissioner, Director of the Department of Information Technology, Director of the California Performance Review, Director of the Department of General Services, Chair of the California Earthquake Authority and, for six years, as the State's Chief Information Officer. In 2008, Professor Kelso was appointed by federal District Judge Thelton E. Henderson as the federal receiver in charge of California's prison medical care system, charged with making changes in that system to bring it into conformity with constitutional minimums.

**Ellen Brickman, Ph.D. (Luncheon Speaker)** is a director of Doar Litigation Consulting. She is a social psychologist who has worked in trial consulting since 1987, with special expertise in the design and execution of pre-trial research. Dr. Brickman received her B.A. from Barnard College as a dual major in Psychology and English, and her Ph.D. from Columbia. She has over 20 years of experience directing large-scale research studies in the social sciences, including telephone and mail surveys, focus groups and interviews. She has taught courses in social psychology, research methods, and statistics. She draws on her research and teaching experience to help attorneys craft messages and deliver them effectively in court. She is co-author (with Julie Blackman, Ph.D.), of *Let's Talk: Addressing the Challenges of Internet-Era Jurors* (provided to all Forum attendees).

**Kathryn H. Clarke (Forum Moderator)** is the President of the Pound Civil Justice Institute. She is an appellate lawyer and complex litigation consultant in Portland, Oregon. She specializes in medical negligence, products liability, punitive damages, and constitutional litigation in both state and federal courts. She received her undergraduate degree from Whitman College, and her law degree from the Northwestern School of Law of Lewis and Clark College. She has served as president of the Oregon Trial Lawyers Association, and is a governor of the American Association for Justice (AAJ, formerly ATLA®).

## Panelists

**Michael J. Behm** practices with the firm of Behm & Behm in Flint, Michigan, specializing in litigation of personal injury cases. He received his B.A. degree from the University of Michigan and his J.D. from Wayne State University. Mr. Behm is the Immediate Past President of the Michigan Association for Justice and a member of the American Association for Justice (AAJ, formerly ATLA®). He has also served in the State Bar of Michigan Representative Assembly for three years, and has been a Director of the Genesee County Bar Association. Mr. Behm has served as President of the Board of Trustees of the Flint Institute of Arts, which completed a \$20 Million renovation and building project during his tenure. He has also served for many years on the Genesee County Metropolitan Planning Commission, and is president of the Level Field Institute, an organization that seeks to promote US jobs and investment by comparing how each automaker contributes to the U.S. economy.

**Honorable Robert J. Cordy** is an Associate Justice of the Massachusetts Supreme Judicial Court. He received his A.B. degree cum laude from Dartmouth College, and his J.D. degree from Harvard Law School. He began his legal career in 1974 as a defense attorney for the Massachusetts Defenders Committee, and from 1978 to 1979 worked for the Commonwealth's Department of Revenue, where he served as a Deputy Commissioner and a Special Assistant Attorney General. From 1979 to 1982 he was Associate General Counsel in Charge of Enforcement at the State Ethics Commission. He served as a federal prosecutor in the District of Massachusetts under U.S. Attorney William F. Weld from 1982 to 1987, and became Chief of the Public Corruption Unit. After private practice with the law firm of Burns & Levinson in Boston, he served as Chief Legal Counsel to Governor William F. Weld. Prior to his appointment to the Supreme Judicial Court, Justice Cordy was Managing Partner of the Boston office of the international law firm of McDermott, Will & Emery. He has also served as a lecturer at Harvard Law School, and is currently a member of the adjunct faculty of New England Law School, where he teaches advanced criminal procedure. He was appointed an Associate Justice of the Supreme Judicial Court in 2001.

**Richard H. Donohue** is a founding partner of the firm of Donohue Brown Mathewson & Smyth LLC in Chicago, where he defends professional negligence, product liability and general liability cases. He specializes in handling catastrophic injury claims against hospitals, physicians, attorneys and other professionals. He also has frequently served as a mediator in alternative dispute resolution proceedings involving professional negligence, insurance coverage and commercial claims. He is an elected Fellow of the American College of Trial Lawyers and is a Fellow of the International Society of Barristers. He received his undergraduate degree cum laude from Dartmouth College and graduated cum laude from Northwestern University School of Law, where he was a Notes and Comments Editor of the NORTHWESTERN UNIVERSITY LAW REVIEW. He served for many years as a naval aviator, and made three six-month deployments to Antarctica in support of Operation Deep Freeze.

**Honorable Henry Kantor** is a Judge of the Circuit Court of the State of Oregon for Multnomah County. He was appointed to the District Court in 1994, was elected to a six-year District Court term in 1996, became a Circuit Court Judge in 1998, and was elected to six-year Circuit Court terms in 2002 and 2008. Prior to taking judicial office, Judge Kantor practiced civil

trial and appellate law in Oregon's state and federal courts, emphasizing class actions and other complex litigation, as well as serving as an arbitrator, pro-tem judge and reference judge. As a trial judge, he presides over civil, criminal and probate trials, sits on the court's Civil Motion Panel and, for several years, administered the court's Medical Negligence and Asbestos Dockets. During 2004-2005, Judge Kantor sat pro-tem on the Oregon Court of Appeals.

**Patrick A. Malone** practices law in Washington, D.C., specializing in medical malpractice and product liability litigation. He graduated summa cum laude from the University of Kansas, then worked as a journalist for United Press International, *The Washington Post*, and *The Miami Herald*, where he was a Pulitzer Prize finalist for a series he co-authored on medical malpractice. After graduating from Yale Law School, he clerked for U.S. District Judge Gerhard Gesell in Washington, D.C. before beginning his personal injury law practice. Mr. Malone is the co-author (with Rick Friedman) of *RULES OF THE ROAD: A PLAINTIFF' LAWYER'S GUIDE TO PROVING LIABILITY*, and a book for medical patients, *THE LIFE YOU SAVE: NINE STEPS TO FINDING THE BEST MEDICAL CARE—AND AVOIDING THE WORST*. He is a member of the International Academy of Trial Lawyers and the American Association for Justice (AAJ, formerly ATLA®), and is a Fellow of the Pound Civil Justice Institute.

**H. Patrick Morris** is a shareholder at Johnson & Bell, Ltd., in Chicago, concentrating his practice in the defense of products liability, toxic tort, food-borne illness claims, and commercial litigation. He holds a B.A. degree from the University of Illinois and a J.D. degree from the IIT Chicago-Kent College of Law, where he has served as an adjunct law professor. He is a member of the Defense Research Institute (Board of Directors 2001-2006), the Society of Trial Lawyers, the Society for Chemical Hazard Communication, the American Council on Science and Health, and the International Association of Defense Counsel.

**Robert S. Peck** is President of the Center for Constitutional Litigation, P.C., a Washington, D.C. law firm devoted to appellate practice. His practice brings him regularly before the U.S. Supreme Court, as well as many state supreme courts. Mr. Peck also serves as a member of the adjunct law faculty at American University, where he teaches an advanced constitutional law seminar. He serves co-chair of the Lawyers Committee of the National Center for State Courts. He is also vice chair of the Board of Overseers of the RAND Corporation's Institute for Civil Justice and a member of the Board of Directors of Justice at Stake, the steering committee of the Sedona Conference's working group on mass torts and punitive damages, and the American Bar Association's House of Delegates. He is a past president of the U.S. Supreme Court Fellows Alumni Association and the Freedom to Read Foundation, and a past national chair of Lawyers for Libraries.

**Todd A. Smith** is a founding partner of the firm of Power Rogers & Smith PC, in Chicago. He specializes in serious personal injury, aviation, product liability, wrongful death, and medical malpractice cases. His practice has also included commercial securities matters, including accounting malpractice and legal malpractice. He was awarded a B.S.B. degree from Kansas University, an M.B.A. from Northwestern University Graduate School of Business, and a J.D. degree from Loyola University Chicago School of Law. He is a past president of the Illinois State Bar Association and of the Association of Trial Lawyers of America (now the American Association for Justice (AAJ, formerly ATLA®), and received the Association's Lifetime

Achievement Award in 2009. He is also an elected member of the International Society of Barristers, the American College of Trial Lawyers, and the International Academy of Trial Lawyers.

### **Discussion Group Moderators**

**Sharon J. Arkin** is a certified appellate specialist specializing in plaintiffs' appeals and law and motion. She received her law degree from Western State University School of Law, and she has been certified by the California State Bar's Board of Legal Specialization as an appellate specialist since 2001. She has been selected by the Consumer Attorneys Association of Los Angeles as its current Appellate Attorney of the Year. Ms. Arkin is a former President of the Consumer Attorneys of California. In 2007, she received the American Bar Association's "Pursuit of Justice" award. She is a Fellow of the American Bar Foundation, /?Secretary?/ of the Pound Civil Justice Institute, and a member of the American Association for Justice (AAJ, formerly ATLA®).

**Linda Miller Atkinson** is a partner in the firm of Atkinson, Petruska, Kozma & Hart, with offices in Gaylord and Channing, Michigan. She is licensed in Georgia, Indiana, Michigan and Wisconsin. 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 was the recipient of AAJ'S Champion of Justice Award in 2007, the Trial Lawyer of the Year Award in 1995, and the Women Trial Lawyer's Caucus Marie Lambert Award in 2000. She is a past president of the Michigan Association for Justice, a member of the American Association for Justice (AAJ, formerly ATLA®), and a Fellow and trustee of the Pound Civil Justice Institute. In her life outside the courtroom she is in her 18<sup>th</sup> year of providing outdoor emergency care with the National Ski Patrol.

**Tom D'Amore** is the founder of the D'Amore Law Group in Portland, Oregon, and is licensed to practice in Oregon, Washington and California. He is also a former certified public accountant. He holds B.A. and B.S. degrees from the University of Nevada Reno and a J.D. degree from Pepperdine University School of Law. He is a governor of the American Association for Justice (AAJ, formerly ATLA®), a member of its budget committee, and has served as chair of its audit committee and its motor vehicle litigation section. Mr. D'Amore is a past president of the Oregon Trial Lawyers Association and member of the Oregon State Bar's House of Delegates. He is a board certified Civil Trial Advocate of the National Board of Trial Advocacy, and a member of the American Board of Trial Advocates (ABOTA). Mr. D'Amore also serves on the boards of the Oregon Law Institute and LaSalle Catholic College Preparatory High School, and is a board member of Good Deeds, a local philanthropic organization.

**Ellen Relkin** is of counsel to Weitz & Luxenberg, P.C. in New York City and Cherry Hill, New Jersey, where she represents plaintiffs in pharmaceutical product liability and toxic tort cases. She holds a law degree from Rutgers School of Law and an undergraduate degree from Cornell University, and is certified by the New Jersey Supreme Court as a Civil Trial Attorney.

She was law clerk to the Honorable Sylvia Pressler, former Presiding Judge of the New Jersey Superior Court, Appellate Division. She has been a speaker on scientific evidence and mass tort issues and has published articles on the subject in the HOFSTRA LAW REVIEW, CARDOZO LAW REVIEW and the DICKINSON JOURNAL OF ENVIRONMENTAL LAW AND POLICY. Ms. Relkin is a Fellow and Trustee of the Pound Civil Justice Institute and an elected member of the American Law Institute, the American Association for Justice (AAJ, formerly ATLA®), the New York State and New Jersey Trial Lawyers Associations, and the New Jersey, New York and American Bar Associations. She is a former chair of AAJ's Section on Toxic, Environmental, and Pharmaceutical Torts and sits on the Board of Governors of the New Jersey Association for Justice. She is a Member of the Sedona Conference Working Group on Mass Torts and Punitive Damages, and was co-lead counsel in the DePuy MDL litigation.

**Timothy S. Tomasik** is a partner with the Clifford Law Offices in Chicago, where he specializes in major personal injury, wrongful death, and property damage litigation. He holds a B.S. in Journalism from the University of Colorado and a J.D. degree from the University of Denver College of Law. He spent eight years as an Illinois Assistant State's Attorney, ending his career in the Bureau of Special Prosecutions. He is a member of the American Association for Justice (AAJ, formerly ATLA®), a Fellow of the Pound Civil Justice Institute, and a Fellow of the International Society of Barristers. In 2009 he was awarded the William J. White Award of Excellence from the Chicago Bar Association for his work as Chair of its Judicial Evaluation Committee. He also serves as Chair of the Aviation Litigation Committee and the Trial Evidence Sub-Committee of the ABA Section of Litigation, and is an instructor in the annual education programs of the University of Virginia Institute of Trial Advocacy.

**John Vail** represents clients in litigation challenging restrictions on the constitutional rights of access to justice and of trial by jury, appearing nationwide in state and federal courts, including the U. S. Supreme Court. Mr. Vail represents the American Association for Justice (AAJ, formerly ATLA®) on constitutional matters and advises legislative advocates regarding pending legislation. He regularly appears before Civil Rules Advisory Committee of the federal judiciary. His writings, such as "Blame it on the Bee Gees: The Attack on Trial Lawyers and Civil Justice," 51 N.Y.L. Sch. L. Rev. 323 (2006) (with Robert Peck) and "Big Money v. The Framers," Yale L.J. (The Pocket Part), Dec. 2005, have illuminated issues affecting the civil justice system and have amused readers. The legal services community recognized Mr. Vail's "inspired vision and outstanding leadership" with the Denison Ray Award, and for his "outstanding work" defending the right of access to justice he received the Public Justice Achievement Award. Mr. Vail is Professorial Lecturer in Law at the George Washington University School of Law. He is a 1976 graduate of the College of the University of Chicago and a 1979 graduate of Vanderbilt Law School.