

Thirteenth Annual  
BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE

AND PRESENTATION OF THE  
2016 BRIGHAM-KANNER PRIZE TO  
HERNANDO DE SOTO, PRESIDENT OF THE  
INSTITUTE FOR LIBERTY AND DEMOCRACY

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October 19-21, 2016  
The Hague, Netherlands

Sponsored by  
William & Mary Law School

Presented by the  
William & Mary Property Rights Project



WILLIAM & MARY  
LAW SCHOOL



Universiteit  
Leiden  
The Netherlands

WILLIAM & MARY LAW SCHOOL

## 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 non-conference 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/intellectual life/researchcenters/property-rights-project/conference-journal/index.php](http://law.wm.edu/academics/intellectual%20life/researchcenters/property-rights-project/conference-journal/index.php).

## UNIVERSITY OF LEIDEN

### GROTIUS CENTRE FOR INTERNATIONAL LEGAL STUDIES

The Grotius Center of International Legal Studies is part of the tradition of academic excellence at University of Leiden. The Grotius Centre specializes in the study of public international law. In its partnership with The Hague, the Centre provides an interactive and international legal educational experience for its students who come to study from all over the world. Its close connection with The Hague involves the Centre's students and faculty with the International Court of Justice (ICJ) and the International Criminal Court (ICC). The Centre also publishes one of the top international law journals in Europe, the *Leiden Journal of International Law*, in association with Cambridge University Press.

William & Mary Law School is proud to work with the Grotius Centre of International Legal Studies to present the 13th Brigham-Kanner Property Rights Conference at the Peace Palace in The Hague.

# SCHEDULE

## OF EVENTS

### WEDNESDAY, OCTOBER 19, 2016

**7:00 pm**      **Opening Reception**  
Peace Palace, The Hague

### THURSDAY, OCTOBER 20, 2016

**8:45 am**      **Welcome and Announcements**  
Peace Palace, The Hague

**9:00 am – 10:30 am**      **Panel 1: *Land Titling, Inclusion, and the Role of Property Rights in Secure Societies***

Ever since Hernando de Soto brought the world's attention to the plight of developing countries transitioning to a capitalist economy, he has been championing the importance of inclusion through the institution of property. In addition to making the intellectual case for extending property rights, he has led efforts to develop land titling programs that enable the poor to acquire formal title to the lands they occupy. Using de Soto's work as a springboard, Panel 1 explores the role of property rights in addressing poverty, combatting social unrest, and promoting the development of functioning market economies.

#### Opening Remarks

Hernando de Soto, President, Institute for Liberty and Democracy

#### Panelists

Benito Arruñada, Professor of Business Organization, Pompeu Fabra University, Barcelona, Spain

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

Thomas W. Merrill, Charles Evans Hughes Professor of Law, Columbia Law School

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

#### Moderator

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

**10:30 am – 10:45 am**      **Networking and Refreshment Break**

**10:45 am – 12:15 pm**      **Panel 2: *Recognizing and Protecting Cultural Property***

Throughout human history, armed conflicts have caused extensive damage to and destruction of priceless cultural property. Defined broadly as resources that provide important and non-renewable information about the history, beliefs, accumulated knowledge, customs, and achievements of a people, cultural property can also be damaged or destroyed by environmental harms or basic land development projects. Panel 2 addresses issues and problems affecting efforts to recognize and protect cultural property.

#### Panelists

Robert Denlow, Principal Partner, Denlow & Henry Eminent Domain Law Firm, St. Louis, Missouri

Warren C. Herlong Jr., Shareholder,  
Helmsing Leach Herlong Newman &  
Rouse, PC, Mobile, Alabama

Roger O'Keefe, Professor of Public  
International Law, University  
College London

Joseph C. Powderly, Assistant Professor  
of Public International Law, Grotius  
Centre for International Legal Studies,  
Leiden University, Netherlands

Carsten Stahn, Professor & Programme  
Director, Grotius Centre for  
International Legal Studies, University  
of Leiden, Netherlands

#### **Moderator**

Larissa van den Herik, Vice Dean,  
Leiden Law School, Professor of  
Public International Law at the Grotius  
Centre for International Legal  
Studies, Netherlands

**12:15 pm – Lunch  
1:15 pm**

**1:15 pm – Panel 3: *Property's Role in  
the Fundamental Political  
Structure of Nations***

For centuries, the debate over the role of property in the fundamental political structure of nations has centered on property's relationship to individual liberty and core societal values. In nations that trace their roots to English law, the debate extends back to the Magna Carta, which delineated the boundaries between fundamental individual freedoms and government power. Hernando de Soto's work has renewed the debate on the world stage, emphasizing the centrality of strong property rights to democratic capitalism and connecting the increase in global terrorism to the weak property rights of the poor majority found in many countries. Panel 3 examines these positions, focusing in particular on the

transferability of property concepts to the political structure of nations with diverse cultures, norms, and traditions.

#### **Panelists**

Janet Bush Handy, Deputy Counsel to  
State Highway Administration,  
Assistant Attorney General, Maryland  
Office of the Attorney General,  
Baltimore, Maryland

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

Heinz Klug, Evjue-Bascom Professor,  
University of Wisconsin Law School;  
Honorary Senior Researcher, University  
of the Witwatersrand.

Robert Thomas, Director, Damon  
Key Leong Kupchak Hastert,  
Honolulu, Hawaii

#### **Moderator**

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

**2:30 pm – Networking and  
2:45 pm Refreshment Break**

**2:45 pm – Panel 4: *Property,  
4:00 pm Equality, and Freedom***

Mature and developing nations face a fundamental question about the relationship between equality and property: is it possible to have both strong private property rights and relative equality in resource distribution? Are both necessary for social and political cohesion or for the effective functioning of market economies? Can the protection of private property rights reduce barriers to equality and freedom? What role do cultural differences play? Panel 4 will discuss these and other questions, exploring

the relations and dynamics between property, equality, and freedom.

#### Panelists

Andrew Prince Brigham, Brigham  
Property Rights Law Firm, PLLC,  
Jacksonville, Florida

Robert Hockett, Edward Cornell  
Professor of Law, Cornell Law School

Eric Kades, Thomas Jefferson Professor  
of Law, College of William & Mary  
Law School

Joseph P. Suntum, Miller, Miller &  
Canby, Rockville, Maryland

#### Moderator

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

### FRIDAY, OCTOBER 21, 2016

**8:45 am**      **Welcome and  
Announcements**

**9:00 am –  
10:15 am**      **Panel 5: *Eminent  
Domain and  
Expropriation as Wealth  
Redistribution Tools***

From transportation projects and gas pipelines to urban renewal, economic development, land titling programs, and sports stadiums, government's power to take property against the will of its owner has played a critical role in promoting public and private welfare. The controversial decision by the United States Supreme Court to allow broad use of eminent domain for economic development ignited a public debate. Efforts to condemn underwater mortgages and pipeline easements for transporting oil and gas overseas have further fueled the debate. Panel 5 extends the debate to the international arena by

bringing in comparative perspectives and sharing lessons learned.

#### Panelists

James S. Burling, Director of  
Litigation, Pacific Legal Foundation  
National Litigation Center,  
Sacramento, California

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

Alexandra Klass, Distinguished  
McKnight University Professor,  
University of Minnesota Law School

Ilya Somin, Professor of Law, George  
Mason University

#### Moderator

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

**10:15 am –  
10:30 am**      **Networking and  
Refreshment Break**

**10:30 am –  
11:45 am**      **Panel 6: *Defining and  
Protecting Property Rights  
in Intangible Assets***

Intangible assets are important to both mature and developing economies. Whether those assets involve innovative ideas, intellectual property, technological or medical advances, security interests, finance capital, or other new assets, intangible assets raise unique issues for property systems. How well do laws governing real or tangible property transfer to intangible assets? What special problems do intangible assets pose for the development and management of property rights? This panel addresses these and other questions relating to property rights in intangible resources from national and international perspectives.

## Panelists

Sjef van Erp, Professor of Civil Law & European Private Law, Maastricht University, Netherlands; Executive Committee Member, European Law Institute, Austria

Ruth Okediji, William L. Prosser Professor of Law, University of Minnesota Law School

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

Robert Thomas, Director, Damon Key Leong Kupchak Hastert, Honolulu, Hawaii

## Moderator

Alan T. Ackerman, Partner, Ackerman, Ackerman & Dynkowski, Bloomfield Hills, Michigan

**11:45 am – 1:15 pm**      **Lunch & Group Photo**

**1:15 pm – 2:30 pm**      **Panel 7: *Rising Seas and Private Property: Advocates and Academics in Debate Format***

As international efforts to address climate change gain momentum, development in flood zones continues. Coastal property commands a premium price in global real estate markets and continues to be the subject of many development projects despite the warnings about sea level rise. This development has raised serious concerns about whether public entities should ban much coastal development or instead construct ambitious barrier projects to protect shorelines from rising seas. Some advocates argue that these compelling public safety measures, which come at an enormous cost themselves, should trump the need to pay for the private property necessary to build such protections. Do the public safety

benefits resulting from shoreline protection projects eliminate the need to compensate waterfront landowners whose property is taken for such projects? Do public entities have an obligation to protect shoreline development from rising seas? Must government pay for the property rights needed to protect against rising seas, whether by construction of shoreline barriers or restrictions on shoreline development? Academics and practitioners debate the merits of these and other questions of fundamental importance to coastal communities.

## Panelists

J. Peter Byrne, John Hampton Baumgartner, Jr., Professor of Real Property Law, & Faculty Director, Georgetown Climate Center, Georgetown University Law Center

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

Mark D. Savin, Fredrikson & Byron, Minneapolis, Minnesota

Christopher Serkin, Associate Dean for Research & Professor of Law, Vanderbilt Law School

## Moderator

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

**2:30 pm – 2:45 pm**      **Networking and Refreshment Break**

**2:45 pm – 4:00 pm**      **Panel 8: *Property Rights as Defined and Protected by International Courts***

Property rights, as the guardian of all other civil liberties, play an important role in respectable societies. Because this conference is being held in the International Legal Capital of the World – The Hague – this

panel focuses on international courts and the way in which their property jurisprudence helps to strengthen democracy, reduce conflict and enhance human dignity. Suggested topics include the International Court of Justice's boundary disputes jurisprudence and its role in conflict avoidance; the International Criminal Court's reparations and criminal forfeiture provisions; and the European Court of Human Rights property rights jurisprudence.

### **Panelists**

Nancy Combs, Ernest W. Goodrich  
Professor of Law, College of William  
& Mary Law School

Jill S. Gelineau, Schwabe, Williamson  
& Wyatt, Portland, Oregon

Frankie McCarthy, Senior Lecturer,  
University of Glasgow School of  
Law, Scotland

Michael Rikon, CRE, Goldstein,  
Rikon, Rikon & Houghton P.C.,  
New York, New York

### **Moderator**

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

**4:00 pm**      **Conclusion of  
Programming**

**7:00 pm**      **Award Banquet**  
Conservatory of the Grand  
Hotel Amrâth Kurhaus

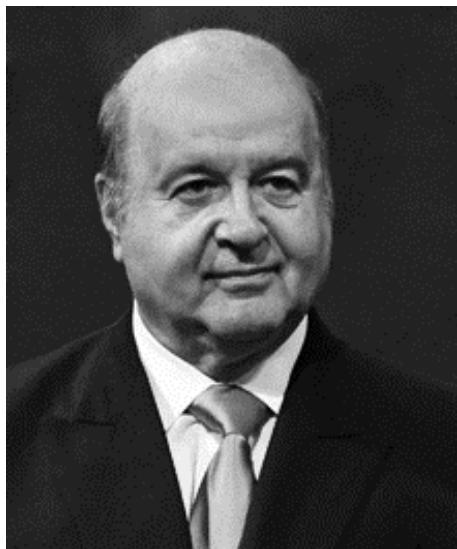
# THE BRIGHAM-KANNER

## 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 has practiced eminent domain and property rights law for more than 40 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 Hernando de Soto for his outstanding contributions as an economist, author, and an innovator.

### 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).



# 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 multi-day 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, 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 edition 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 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* (with Vicki L. Been) (Aspen Law and Business 3d ed. 2005), and *Perspectives on Property Law* (with Carol M. Rose and Bruce A. Ackerman) (Aspen Law and Business 3d ed. 2002). 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 is 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 include *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), *Vixi: The Memoirs 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.



**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 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* (with R. R. W. Brooks, 2013); *El Derecho de Propiedad en Clave Interdisciplinaria* (2010) [The Right to Property in an Interdisciplinary Key]; *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 (BA Philosophy), the University of Chicago (MA Political Science, JD Law), and Cornell University (Ph.D. History), and an Honorary Degree from the Chicago Kent College of Law. She is on the Board of Editors of the Foundation Press and 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 8th 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 100th 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 9th annual conference. He teaches 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 coauthor of several books, including *Environmental Law and Policy* (with R.B. Stewart) (Bobbs-Merrill Co. 1978), *Pollution and Policy* (with E. Ursin) (University of California Press 1977) and *Property* (Aspen Publishing 7th ed.

2010). His most recent articles have been published in *Harvard Law Review*, *Supreme Court Economic Review*, *UCLA Law Review*, and *Cornell 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 both Harvard University Law School and Cardozo 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 the 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 Supreme Court 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 seventy law review articles. He received his law degree and master's degree (Political Science) from Harvard and is a graduate of Williams College.

## PANELISTS AND MODERATORS

# BIOGRAPHIES



### **Alan T. Ackerman,**

Alan Ackerman has been an adjunct professor teaching eminent domain law at the University of Detroit Law School since 1983, and now serves as an adjunct professor at Michigan State University College of Law.

Alan received his bachelor's and master's degree from Michigan State University, and received his juris doctor degree from the University of Michigan Law School.



### **Benito Arruñada**

Benito Arruñada is Professor of Business Organization at Pompeu Fabra University, Barcelona. A former President of the Society for Institutional & Organizational Economics, his extensive research lies

in the conjunction of law, economics, and organization, with an emphasis on property, as shown in his *Institutional Foundations of Impersonal Exchange: Theory and Policy of Contractual Registries* (University of Chicago Press 2012).



### **Andrew Prince Brigham**

Mr. Brigham has over 25 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.



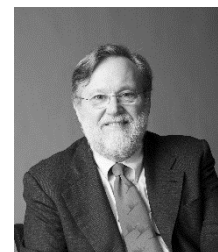
### **James S. Burling**

James Burling is Pacific Legal Foundation's Litigation Director in Sacramento, California and litigates property rights cases nationwide. In 2001, he argued *Palazzolo v. Rhode Island* before the Supreme Court. He received a Masters 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 L. Butler**

Chancellor Professor of Law and Director of the William & Mary Law School Property Rights Project, 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.



### **J. Peter Byrne**

J. Peter Byrne is the John Hampton Baumgartner, Jr., Professor of Real Property Law at the Georgetown University Law Center. He teaches Property, Land Use, Natural Resources, and Historic Preservation Law. He currently serves as Faculty Director of the Georgetown Climate Center and as the Washington, D.C. Mayor's Agent for Historic Preservation.





**Stephen J. 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.



**Nancy Combs**

Professor Combs earned her Ph.D. from Leiden University and her J.D. from the University of California at Berkeley School of Law. She has served as a law clerk on the United States Supreme Court and on the Ninth Circuit Court of Appeals. She has published two books and approximately thirty articles, book chapters, and essays, primarily on topics of international criminal justice.



**Robert Denlow**

Robert Denlow is the principal partner in Denlow & Henry, a law firm located in St. Louis, Missouri. He is a member of the Owner's Counsel of America, former chairman of the American Bar Association's Condemnation Committee and Missouri Eminent Domain Committee, and former co-chairman of the joint ABA-Great Britain Lands Tribunal Condemnation Conference in London. He is listed in the Best Lawyers in America publication for eminent domain.



**Sjef van Erp**

Sjef van Erp is Professor of Civil Law and European Private Law at Maastricht University, is a member of the Executive Committee of the European Law Institute, and is a member of the American Law Institute. He is also an Honorary Member of the Netherlands Comparative Law Association, the Editor-in-Chief of the *European Property Law Journal*, and is a board member of the (American) Association for Law, Property, and Society.



**Jill S. Gelineau**

Jill Gelineau has been representing landowners and defending them in condemnation cases and land use litigation in the United States for thirty years. She represented the Dolan family in *Dolan v. City of Tigard* following its remand from the United States Supreme Court. She is the Oregon member of Owners' Counsel of America, an organization of experienced eminent domain lawyers that selects only one attorney from each state.



**Janet Bush Handy**

Ms. Handy has represented the State of Maryland in eminent domain actions for more than twenty-five years. In each case she has worked to ensure that every property owner's constitutional rights to just compensation are protected. She has served on the Maryland Governor's Task Force on Business-Owner Compensation in Eminent Domain and was appointed a Special Assistant Attorney General to the Territory of Guam for condemnation litigation.

**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, tax and succession planning, and political and election law.

**Larissa van den Herik**

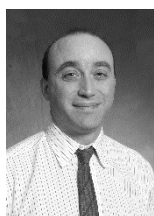
Larissa van den Herik is Vice Dean of Leiden Law School, Director of Research, and professor of Public International Law at the Grotius Centre for International Legal Studies. She is also Vice Chair of the Advisory Committee on Public International Law Issues, which has advised the Dutch Government on Lethal Autonomous Weapons Systems, Humanitarian Assistance, Cyberwarfare and Drones. She is General Editor of the *Cambridge Studies in International and Comparative Law* and Chair of the ILA Study Group on UN Sanctions and International Law.

**Warren C. Herlong Jr.**

Warren Herlong has practiced law in Mobile, Alabama for 38 years, specializing in eminent domain and condemnation, primarily on behalf of property owners. He attended the University of Virginia School of Law, is the Alabama representative emeritus to the Owners Counsel of America, and is a Fellow of the American College of Real Estate Lawyers.

**Robert Hockett**

Robert Hockett joined the Cornell Law Faculty in 2004. His principal interests are organizational, financial, and monetary law and economics. He is a Fellow of the Century Foundation and author for the New America Foundation. Hockett also does consulting work for the Federal Reserve Bank of New York, the International Monetary Fund, Americans for Financial Reform, the 'Occupy' Cooperative, federal and state legislators, and local governments.

**Eric Kades**

Professor Kades graduated from the Yale Law School, where he was an Articles Editor on the *Yale Law Journal*. He clerked for Judge Greenberg on the Third Circuit. He is the author of articles in the *North Carolina, University of Pennsylvania, Rutgers, and Yale Law Reviews and Journals*, and in the *Law and History Review* and *Law & Social Inquiry*.

**Alexandra Klass**

Alexandra B. Klass teaches and writes in the areas of energy law, environmental law, natural resources law, tort law, and property law. Prior to her teaching career, Professor Klass was a partner at Dorsey & Whitney LLP in Minneapolis. She was a Visiting Professor at Harvard Law School in 2015.

**Heinz Klug**

Heinz Klug is Evjue-Bascom Professor of Law at the University of Wisconsin Law School and Honorary Senior Research Associate at the University of the Witwatersrand. His book on South Africa's democratic transition, *Constituting Democracy*, was published by Cambridge University Press in 2000; his co-edited book *The New Legal Realism: Studying Law Globally* was published by CUP in 2016.

**Frankie McCarthy**

Frankie McCarthy is a senior lecturer in private law at the University of Glasgow. Her research focuses on the intersections between family, property and human rights in Scotland and Europe, with a focus on the constitutional property protection in Article 1 of the First Protocol to the European Convention on Human Rights.

**Ruth Okediji**

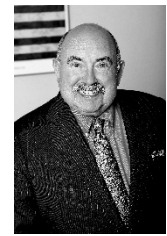
Ruth L. Okediji is the William L. Prosser Professor at the University of Minnesota Law School. She has served as a policy advisor to many inter-governmental organizations, regional economic communities, and national governments on the design of copyright and patent policies, access to knowledge, access to medicines, and issues related to intellectual property and indigenous innovation systems.

**Roger O'Keefe**

Roger O'Keefe (BA, LLB, University of Sydney; LLM, PhD, University of Cambridge) is Professor of Public International Law at UCL. He is a visiting professor at Central European University, Budapest, and in 2015 was Distinguished Visiting Professor at Universitat Pompeu Fabra, Barcelona. Professor O'Keefe has taught courses in public international law at the Hague Academy of International Law and the Xiamen Academy of International Law and at universities in Argentina, Brazil, Germany, Myanmar, and Spain.

**Joseph C. Powderly**

Joseph Powderly joined the Grotius Centre as Assistant Professor of Public International Law in March 2011. His research interests, while focusing on IHL and ICL, also include topics such as the history of international law and freedom of expression. He is co-editor of and contributor to the edited collection *Judicial Creativity in International Criminal Tribunals* (Oxford University Press 2010). He is also the managing editor of the peer-reviewed journal *Criminal Law Forum*.

**Michael Rikon**

Michael Rikon has practiced law in New York since he was admitted to the Bar in 1969. He is president of Goldstein, Rikon, Rikon & Houghton, P.C., the only law firm in New York State that restricts its practice to Eminent Domain. Mr. Rikon received his B.S. from the New York Institute of Technology, his J.D. from Brooklyn Law School, and a Masters of Law from New York University Law School.

**Mark D. Savin**

Mark Savin is a lawyer with Fredrikson & Byron's Minneapolis Eminent Domain Group. He represents institutional clients, national and regional companies, and smaller business owners in takings litigation. He was previously a participant in the 2013 Brigham-Kanner Conference. Mr. Savin has a J.D. from the University of Minnesota and a Ph.D. from Stanford University.

**Christopher Serkin**

Christopher Serkin is the Associate Dean for Research and Professor of Law at Vanderbilt Law School. His writing focuses on the intersection between private rights and government power. He was previously on the faculty at Brooklyn Law School and has taught at the University of Pennsylvania, the University of Chicago, and New York University Law Schools.





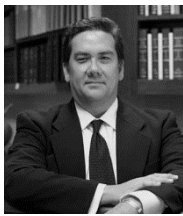
### **Ilya Somin**

Ilya Somin is Professor of Law at George Mason University, where he teaches constitutional law and property law. He is the author of *The Grasping Hand: Kelo v. City of New London and the Limits of Eminent Domain* (2015) and *Democracy and Political Ignorance: Why Smaller Government is Smarter* (2nd ed. 2016), and he is the co-editor of *Eminent Domain in Comparative Perspective* (forthcoming).



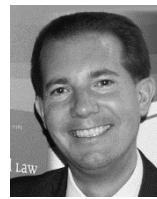
### **James Y. Stern**

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.



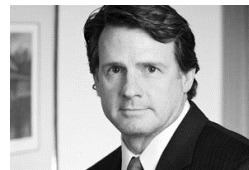
### **Robert H. Thomas**

Robert H. Thomas (LLM, Columbia Law; JD, 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 and beginning in 2016 will be Chair-Elect of the ABA's Section of State & Local Government Law.



### **Carsten Stahn**

Carsten Stahn is Professor of International Criminal Law and Global Justice at Leiden University and Programme Director of the Grotius Centre for International Legal Studies (The Hague). He has previously worked as a Legal Officer in Chambers of the International Criminal Court (2003–2007). His recent works in the field include *The Law and Practice of the International Criminal Court* (OUP 2015), *Contested Justice* (CUP 2015) and *The International Criminal Court and Complementarity: From Theory to Practice* (CUP 2011).



### **Joseph P. Suntum**

Joseph P. Suntum is principal in the firm Miller, Miller & Canby and is the firm's Eminent Domain/Condemnation Group Leader. He is a rare trial lawyer who has successfully tried both murder cases and multi-million dollar civil actions. Mr. Suntum is the Owners' Counsel of America member attorney for the State of Maryland. He served as a law clerk to the Honorable Elsbeth Levy Bothe in Circuit Court for Baltimore City.



### **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 100 cases on behalf of property owners facing the exercise of the power of eminent domain. 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.

## THE COLLEGE OF

# WILLIAM & MARY

Chartered in 1693 by Queen Mary II and King William III of England, The College of William and Mary is the second oldest institution of higher learning in the country. The College's student body has over 8,000 full-time (graduate and undergraduate) students with a 12 to 1 student/faculty ratio. *U.S. News and World Report: Best Colleges 2016* ranks the College 6th among public colleges and universities 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.

W. Taylor Reveley, III, was sworn in as the 27th president of The College of William & Mary on September 5, 2008, after serving as interim president since February 2008. Before assuming his current post, he served as dean of William & Mary Law School for almost a decade, starting in August 1998. He is the John Stewart Bryan Professor of Jurisprudence.