

2014

Eleventh Annual Brigham-Kanner Property Rights Conference Brochure

William & Mary Law School

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WILLIAM & MARY LAW SCHOOL

ELEVENTH ANNUAL BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE



AND PRESENTATION OF THE
**2014 BRIGHAM-KANNER PRIZE TO
MICHAEL M. BERGER**
MANATT, PHELPS & PHILLIPS, LLP

OCTOBER 30-31

Sponsored by
William & Mary Law School

Presented by the
William & Mary Property Rights Project
law.wm.edu/propertyrights

THURSDAY: OCTOBER 30, 2014

- 6:30p **Reception**
President's Gallery, Wren Building
(please note the Wren Building has limited accessibility for people with physical disabilities)
- 7:30 **Dinner and Presentation of the 2014 Brigham-Kanner Prize**
Great Hall, Wren Building

FRIDAY: OCTOBER 31, 2014

- 8:15a **Registration and Continental Breakfast**
William & Mary Law School
- 8:45-10:15 **Panel 1: *The Role of the Advocate in Defining Property***
Michael M. Berger, Partner, Manatt, Phelps & Phillips, LLP,
Los Angeles, California
Dana Berliner, Litigation Director, Institute for Justice,
Arlington, Virginia
Janet Bush Handy, Deputy Counsel, SHA, Assistant Attorney General,
Maryland Office of the Attorney General, Baltimore, Maryland
Thomas W. Merrill, Charles Evans Hughes Professor of Law, Columbia
Law School
Moderator: Lynda L. Butler, Chancellor Professor of Law and Director,
William & Mary Property Rights Project, William & Mary Law School
- 10:15-10:30 **Networking Break**
- 10:30-12:00p **Panel 2: *Resurgence of Property Principles under the Fourth Amendment***
Fabio Arcila, Jr., Associate Dean for Research & Scholarship, and
Professor of Law, Touro Law Center
Morgan Cloud, Charles Howard Candler Professor of Law,
Emory University
Orin S. Kerr, Fred C. Stevenson Research Professor of Law, The George
Washington University Law School
Herbert W. Titus, Of Counsel, William J. Olson, P.C., Vienna, Virginia
Moderator: Joseph T. Waldo, Partner, Waldo & Lyle, P.C., Norfolk,
Virginia
- 12:00-1:15 **Lunch**



FRIDAY (CONT.)

- 1:15-2:45 **Panel 3: *Balancing Private Property and Community Rights***
James S. Burling, Director of Litigation, Pacific Legal Foundation,
Sacramento, California
Steven J. Eagle, Professor of Law, George Mason University
School of Law
Richard A. Epstein, Laurence A. Tisch Professor of Law, New York
University School of Law; Peter and Kirsten Bedford Senior Fellow,
The Hoover Institution; James Parker Hall Distinguished Service
Professor of Law, *Emeritus*, and Senior Lecturer, The University
of Chicago
Marc R. Poirier, Professor of Law & Martha Traylor Research
Scholar, Seton Hall University School of Law
Moderator: James Y. Stern, Assistant Professor of Law, William & Mary
Law School
- 2:45-3:00 **Networking Break**
- 3:00-4:30 **Panel 4: *Property Rights in Developing and Transitional Countries***
David L. Callies, Benjamin A. Kudo Professor of Law, University of
Hawai'i at Mānoa William S. Richardson School of Law
James W. Ely, Jr., Milton R. Underwood Professor of Law, *Emeritus*,
and Professor of History, *Emeritus*, Vanderbilt University
Weixing Shen, Professor of Law and Vice Dean, Tsinghua University
School of Law, Beijing, China
Christie Warren, Professor of the Practice of International and
Comparative Law and Director, Program in Comparative Legal
Studies and Post-Conflict Peacebuilding, William & Mary Law School
Moderator: James E. Krier, Earl Warren DeLano Professor of Law,
University of Michigan
- 4:30-5:30 **Reception**
BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE COMMITTEE
Lynda L. Butler, Chancellor Professor of Law and Director, William & Mary Property
Rights Project, William & Mary Law School
Davison M. Douglas, Dean & Arthur B. Hanson Professor of Law, William & Mary Law School
Joseph T. Waldo, Partner, Waldo & Lyle, P.C., Norfolk, Virginia

THE WILLIAM & MARY PROPERTY RIGHTS PROJECT

The William & Mary Property Rights Project has two primary goals. First, it encourages legal scholarship on the role that property rights plays in society. Second, it facilitates the exchange of ideas between the academy and the practicing property rights bar. In addition to awarding the Brigham-Kanner Property Rights Prize and hosting the Brigham-Kanner Property Rights Conference, the Project develops web-based materials that serve these goals.

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MICHAEL M. BERGER
 OCTOBER 30-31, 2014

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.

The Brigham-Kanner Property Rights Prize has been awarded annually since 2004. It is named in recognition of the lifetime contributions to property rights of Toby Prince Brigham, founding partner of Brigham Moore, LLP, in Florida, and Gideon Kanner, Professor of Law, *Emeritus*, at Loyola Law School in Los Angeles. Previous recipients include Professor Frank I. Michelman of Harvard University (2004), Professor Richard A. Epstein of the University of Chicago (2005), Professor James W. Ely, Jr., of Vanderbilt University (2006), Professor Margaret Jane Radin of the University of Michigan Law School (2007), Professor Robert C. Ellickson of Yale University (2008), Professor Richard E. Pipes of Harvard University (2009), Professor Carol Rose of the University of Arizona (2010), retired Supreme Court Justice Sandra Day O'Connor (2011), Professor James E. Krier of the University of Michigan (2012), and Professor Thomas W. Merrill of Columbia Law School (2013).

SPEAKERS & PARTICIPANTS AT A GLANCE

- FABIO ARCILA, JR., Associate Dean for Research & Scholarship, and Professor of Law, Touro Law Center
- MICHAEL M. BERGER, Partner, Manatt, Phelps & Phillips, LLP, Los Angeles, California
- DANA BERLINER, Litigation Director, Institute for Justice, Arlington, Virginia
- JAMES S. BURLING, Director of Litigation, Pacific Legal Foundation, Sacramento, California
- LYNDA L. BUTLER, Chancellor Professor of Law and Director, William & Mary Property Rights Project, William & Mary Law School
- DAVID L. CALLIES, Benjamin A. Kudo Professor of Law, University of Hawai'i at Mānoa William S. Richardson School of Law
- MORGAN CLOUD, Charles Howard Candler Professor of Law, Emory University
- DAVISON M. DOUGLAS, Dean and Arthur B. Hanson Professor of Law, William & Mary Law School
- STEVEN J. EAGLE, Professor of Law, George Mason University School of Law
- JAMES W. ELY, JR., Milton R. Underwood Professor of Law, *Emeritus*, and Professor of History, *Emeritus*, Vanderbilt University
- RICHARD A. EPSTEIN, Laurence A. Tisch Professor of Law, New York University School of Law; Peter and Kirsten Bedford Senior Fellow, The Hoover Institution; James Parker Hall Distinguished Service Professor of Law, *Emeritus*, and Senior Lecturer, The University of Chicago
- JANET BUSH HANDY, Deputy Counsel, SHA, Assistant Attorney General, Maryland Office of the Attorney General, Baltimore, Maryland
- ORIN S. KERR, Fred C. Stevenson Research Professor of Law, The George Washington University Law School
- JAMES E. KRIER, Earl Warren DeLano Professor of Law, University of Michigan
- THOMAS W. MERRILL, Charles Evans Hughes Professor of Law, Columbia Law School
- MARC R. POIRIER, Professor of Law & Martha Traylor Research Scholar, Seton Hall University School of Law
- WEIXING SHEN, Professor of Law and Vice Dean, Tsinghua University School of Law, Beijing, China
- JAMES Y. STERN, Assistant Professor of Law, William & Mary Law School
- HERBERT W. TITUS, Of Counsel, William J. Olson, P.C., Vienna, Virginia
- JOSEPH T. WALDO, Partner, Waldo & Lyle, P.C., Norfolk, Virginia
- CHRISTIE WARREN, Professor of the Practice of International and Comparative Law and Director, Program in Comparative Legal Studies and Post-Conflict Peacebuilding, William & Mary Law School

FEES & REGISTRATION
 The cost to attend Thursday's reception and dinner is \$100 per person. The registration fee of \$50 includes admission to panels, breakfast, and lunch on Friday.

The registration fee is waived for students with advance registration. The deadline to register is October 17. After this date, please call the Law School to register at (757) 221-3796.

Early registration is encouraged. Your registration form will be acknowledged.

CREDIT: CLE credit pending

AIR TRANSPORTATION
 Newport News/Williamsburg International Airport is approximately 30 minutes from the William & Mary campus. Williamsburg is also served by Richmond International and Norfolk International Airports, each one hour away.

ACCOMMODATIONS
 A block of rooms has been reserved at the Hilton Garden Inn (1624 Richmond Road) for attendees. Please call (757) 253-9400 to make your reservations and remember to mention the Property Rights Conference. Cutoff date for discounted room rate is September 30.

REFUNDS
 Requests for refunds must be made in writing and received no later than October 3, 2014. Refund requests received after that date will be handled on a reasonable justification basis.

LOCAL ATTRACTIONS

COLONIAL WILLIAMSBURG
 Colonial Williamsburg is the world's largest living history museum—the restored 18th-century capital city of Britain's New World empire. For more info, visit www.history.org.



JAMESTOWN & YORKTOWN
 Jamestown is the site of the first permanent English colony in America, and Yorktown National Battlefield is the site of the last major battle of the Revolutionary War. For more info, visit www.historyisfun.org.

REGISTRATION

ELEVENTH ANNUAL BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE
 OCTOBER 30 - 31, 2014

Please print or type and use a separate form for each person registering.
 Registration deadline: October 17, 2014

Name _____

Firm/affiliation _____

Title _____

Address _____

City _____ State _____ Zip _____

Phone number _____ Fax number _____

Email _____

Please let us know of any special needs you may have for participation in or access to the conference. Also, please inform us of any special dietary requests.

METHOD OF PAYMENT

- Check enclosed. Please make your check payable to William & Mary Law School.
- Charge to my VISA MasterCard
- Name as it appears on your credit card _____
- Credit Card # _____
- Expiration Date (month/year) _____
- Signature of Cardholder _____
- Yes, I will attend the Thursday, October 30 dinner
- Please reserve _____ additional dinner tickets for accompanying person(s)
- Guest name(s) to list on name tag(s) for dinner: _____
- Please check if you are a student and wish to request a waiver of the registration fee

_____ Thursday evening's reception and dinner (\$100 per person)

_____ Friday registration fee (\$50), includes admission to all panels, breakfast, and lunch. Fee waived for current law students with advance registration.

\$_____ Total enclosed

Send to:
 Mail: William & Mary Law School
 Attn: Kathy Burger, Property Rights Conference
 Post Office Box 8795, Williamsburg, VA 23187-8795
 Fax: (757) 221-6329
 Send: ktburger@wm.edu

Questions?
 Please contact Kathy Burger
 (757) 221-3796
ktburger@wm.edu