

Contributors

Jonathan H. Adler is the inaugural Johan Verheij Memorial Professor of Law and director of the Center for Business Law & Regulation at the Case Western Reserve University School of Law, where he teaches courses in environmental, administrative, and constitutional law. Adler is the author or editor of four books on environmental policy and over a dozen book chapters. His articles have appeared in publications ranging from the *Harvard Environmental Law Review* and *Supreme Court Economic Review* to the *Wall Street Journal* and *Washington Post*. He is a contributing editor to *National Review Online* and a regular contributor to the popular legal blog *The Volokh Conspiracy*. A 2007 study identified Adler as the most cited legal academic in environmental law under age 40 and three years earlier he received the Paul M. Bator Award, given annually by the Federalist Society to an academic under 40 for excellence in teaching, scholarship, and commitment to students. In 2007, the Case Western Reserve University Law Alumni Association awarded Adler its annual "Distinguished Teacher Award." Adler serves on the academic advisory board of the *Cato Supreme Court Review*, the board of directors of the Foundation for Research on Economics and the Environment, and the Environmental Law Institute's *Environmental Law Reporter* and ELI Press Advisory Board. A regular commentator on environmental and legal issues, he has appeared on numerous media programs, ranging from *NewsHour with Jim Lehrer* and NPR's *Talk of the Nation* to the *O'Reilly Factor* and *Entertainment Tonight*. Before joining the faculty at Case Western, Adler clerked for Judge David B. Sentelle on the U.S. Court of Appeals for the D.C. Circuit. From 1991 to 2000, Adler worked at the Competitive Enterprise Institute, where he directed CEI's environmental studies program. He holds a B.A. *magna cum laude* from Yale University and a J.D. *summa cum laude* from the George Mason University School of Law.

James F. Blumstein of Vanderbilt University Law School ranks among the nation's most prominent scholars of health law, law and medicine, and voting rights. He is currently one of 13 University Professors at Vanderbilt; Blumstein was the first awarded that title in the law school and the first to receive a second tenured appointment in Vanderbilt Medical School. The director of Vanderbilt's Health Policy Center, Blumstein has served as the principal investigator on numerous grants concerning managed care, hospital management, and medical malpractice. His peers recognized his leadership in health law and policy by electing him to the National Academy of Sciences' Institute of Medicine, and he was awarded the Earl Sutherland Prize, which is Vanderbilt's preeminent university-wide recognition for lifetime scholarly contributions. In 2007, he received the prestigious McDonald-Merrill-Ketcham Memorial Award for Excellence in Law and Medicine from Indiana University and delivered the award lecture on hospital-physician joint-venture relationships. Blumstein has been the Olin Visiting Professor at the University of Pennsylvania Law School, an adjunct professor at Dartmouth Medical School, and a Visiting Professor at Duke Law School and at Duke's Institute of Policy Sciences and Public Affairs. He has served as Tennessee Governor Phil Bredesen's counsel on TennCare reform and has participated actively in a number of Supreme Court cases, arguing three. A dedicated teacher, Blumstein has received the law school's student-sponsored Hartman Teaching Award. He joined Vanderbilt's law faculty in 1970.

Lee A. Casey is a partner at Baker & Hostetler LLP who focuses on federal environmental, constitutional and international law and Alien Tort Statute issues. He also advises clients on compliance issues under the Foreign Corrupt Practices Act, U.S. trade sanctions regimes, and federal ethics requirements. Casey's practice includes federal, district and appellate court litigation, as well as matters before federal agencies. From 2004 through 2007, he served as a member of the United Nations Subcommission on the Promotion and Protection of Human Rights. From 1986 to 1993, Casey served in various capacities in the federal government, including the Office of Legal Policy and the Office of Legal Counsel at the Department of Justice, and served as deputy associate general counsel at the Department of Energy. Before joining the government in 1986, Casey was an

associate in the Los Angeles firm of Mitchell, Silberberg & Knupp, practicing in the litigation section with an emphasis on copyright, contract, and First Amendment issues. From 1984 to 1985, Casey served as law clerk to the Hon. Alex Kozinski, then Chief Judge of the U.S. Claims Court. From 1982 to 1984, he practiced at the Detroit firm of Dykema Gossett, focusing on corporate, securities, commercial, and intellectual property litigation, and from 1990 through 1994, he served as an adjunct law professor at George Mason University School of Law. Casey has authored or co-authored numerous papers, articles, and book chapters in *The National Interest*, *Virginia Journal of International Law*, *Policy Review*, *Fordham International Law Journal*, *Commentary*, *Common Sense*, *The American Enterprise*, and *The Journal of Law & Politics* in addition to contributing regularly to the *Wall Street Journal* and other media. Casey is a member of the California, Michigan and D.C. bars.

John P. Elwood is a partner at the D.C. office of Vinson & Elkins LLP. He has considerable experience litigating in the Supreme Court and the federal courts of appeals, and has substantial knowledge on constitutional, criminal, administrative, employment, and environmental issues. Before joining Vinson & Elkins, Elwood served in senior positions in the U.S. Department of Justice. Beginning as an assistant to the solicitor general and continuing with his firm practice, he has briefed or argued more than 15 merits cases before the Supreme Court and has briefed approximately 120 cases at the certiorari stage. As the senior deputy in the Office of Legal Counsel, he advised the White House and senior agency officials on a range of constitutional, statutory, and regulatory matters. Elwood represented the Justice Department as an *ex officio* member of the U.S. Sentencing Commission and as a member of the Advisory Committee on Federal Rules of Criminal Procedure. He also has argued numerous cases in the federal courts of appeals and tried several criminal cases in federal district court. Elwood has received both the Attorney General's Award for Exceptional Service and the Attorney General's Award for Distinguished Service—the Justice Department's two top awards for lawyers. After graduating from law school, Elwood clerked for Judge J. Daniel Mahoney of the U.S. Circuit Court of Appeals for the Second Circuit and Supreme Court Justice Anthony Kennedy. In 2001, he taught a seminar at the George Washington University School of

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Richard W. Garnett is associate dean for faculty research and professor of law and concurrent professor of political science at the University of Notre Dame. He teaches and writes about the freedoms of speech, association, and religion, and also about constitutional law more generally. He is a leading authority on the role of religious believers and beliefs in politics and society. Garnett has published widely on these matters, and is the author of dozens of law review articles and book chapters. His current research project, “Two There Are: Understanding the Separation of Church and State,” will be published by Cambridge University Press. Garnett is regularly invited to share analysis and commentary in national print and broadcast media, and he contributes to several law-related blogs, including *Mirror of Justice* and *PrawfsBlawg*. He is the founding director of Notre Dame Law School’s new Program in Church, State, and Society, an interdisciplinary project that focuses on the role of religious institutions, communities, and authorities in the social order. Garnett clerked for the late Chief Justice William H. Rehnquist during the Court’s 1996 term and also for the late Chief Judge of the U.S. Court of Appeals for the Eighth Circuit, Richard S. Arnold. Garnett is closely involved with a number of efforts to improve and strengthen Catholic schools and to reform education policy more generally. He served on the Notre Dame Task Force on Catholic Education, is a fellow of the university’s Institute for Educational Initiatives, is a founding associate of the American Center for School Choice, and consults regularly with the Alliance for Catholic Education.

Andrew M. Grossman is an associate at the D.C. office of Baker & Hostetler LLP, where he has represented states in challenges to the constitutionality of federal statutes and the legality of federal environmental regulations, and is also active in commercial litigation. He is experienced in Supreme Court practice, authoring or contributing to many certiorari-stage filings, merits briefs, and amicus briefs, and frequently moots the nation’s top Supreme Court advocates

and state solicitors general before their oral arguments. Before joining Baker & Hostetler, Grossman served as senior legal analyst for the Center for Legal and Judicial Studies at the Heritage Foundation, where he remains a legal fellow. Grossman has testified before the House and Senate Judiciary Committees numerous times on issues of constitutional law and legal policy. He has been a frequent legal commentator on radio and television, having appeared on Fox News, CNN, MSNBC, CNBC, NPR and its affiliates, CBN, and elsewhere. His legal commentary has also appeared in dozens of magazines and newspapers, including the *Wall Street Journal*, *USA Today*, *Washington Post*, *Washington Times*, *Homeland Defense Journal*, *Class Action Watch*, *CQ Researcher*, and many others. Grossman has written and published research on criminal law and “overcriminalization,” constitutional law, civil liberties and privacy, domestic intelligence operations, the legal aspects of economic regulation, and civil justice reform. He served as a judicial clerk to Chief Judge Edith H. Jones of the U.S. Court of Appeals for the Fifth Circuit. In 2007, the Burton Foundation and the Library of Congress presented Grossman with the Burton Award for Legal Achievement, citing his research on federal evidentiary law and Internet communications technologies. He is a member of the D.C. bar.

Jim Harper is the Cato Institute’s director of information policy studies. He works to adapt law and policy to the unique problems of the information age, in areas such as privacy, telecommunications, intellectual property, and security. Harper was a founding member of the Department of Homeland Security’s Data Privacy and Integrity Advisory Committee and he recently co-edited the book *Terrorizing Ourselves: How U.S. Counterterrorism Policy Is Failing and How to Fix It*. He has been cited and quoted by numerous print, Internet, and television media outlets, and his scholarly articles have appeared in the *Administrative Law Review*, the *Minnesota Law Review*, and the *Hastings Constitutional Law Quarterly*. Harper wrote the book *Identity Crisis: How Identification Is Overused and Misunderstood*. Harper is the editor of *Privacilla.org*, a Web-based think tank devoted exclusively to privacy, and he maintains the online federal spending resource *WashingtonWatch.com*. He holds a J.D. from U.C.-Hastings College of Law, where he was editor-in-chief of the *Hastings Constitutional Law Quarterly*.

Roderick M. Hills Jr. is the William T. Comfort III Professor of Law at New York University School of Law. He teaches and writes in a variety of public law areas—constitutional law (with an emphasis on doctrines governing federalism), local government law, land-use regulation, jurisdiction and conflicts of law, education law. His interest in these topics springs from their common focus on the problems and promise of decentralization. Hills's recent work has focused the virtues and vices of decentralization in the federal control of non-federal corruption. His articles have been published in the *Michigan Law Review*, *Harvard Law Review*, *Stanford Law Review*, *The Annals of the American Academy of Political and Social Science*, *Supreme Court Review*, *Northwestern University Law Review*, and *Harvard Journal of Law and Public Policy*. In addition to being a scholar and teacher, Hills has been a cooperating council with the ACLU for many years, filing briefs in cases challenging denial of domestic partnership benefits to same-sex couples (*Pride at Work v. Granholm*), exclusion of prison inmates from the protections of state anti-discrimination law (*Mason v. Granholm*), denial of rights to challenge prison guards' visitation by family members for prison inmates (*Bazzetta v. McGinnis*), and discrimination of recently arrived indigent migrants in public assistance (*Saenz v. Roe*). Hills holds bachelor's and law degrees from Yale University and was a Century Fellow with the Committee on Social Thought at the University of Chicago in 1988. While attending law school, Hills was a member of the *Yale Law Journal* and co-editor in chief of the *Yale Journal of Law & Humanities*. Following law school, he served as a law clerk for Judge Patrick Higginbotham of the U.S. Court of Appeals for the Fifth Circuit. Before joining the Michigan Law faculty, he practiced law in Boulder, Colorado.

James L. Huffman is dean emeritus at Lewis and Clark Law School. Huffman joined the law school faculty in 1973, was appointed acting dean in 1993 and dean in 1994, and returned to full-time teaching in 2006. Born in Fort Benton, Montana, Huffman graduated from Montana State University, the Fletcher School of Law and Diplomacy at Tufts University, and the University of Chicago Law School. He has been a visiting professor at Auckland University in New Zealand, the University of Oregon, the University of Athens in Greece, and Universidad Francisco Marroquín in Guatemala. He was also a fellow at the Humane Studies Institute and a Distinguished Bradley

Scholar at the Heritage Foundation. Huffman serves on the boards of the National Crime Victims Law Institute, the Foundation for Research on Economics and the Environment, the Classroom Law Project, and the Rocky Mountain Mineral Law Foundation. He is a member and former chair of the executive committee of the Environment and Property Rights Practice Group of the Federalist Society. He is a member of the Montana bar and is admitted to practice before the U.S. Court of Appeals for the Federal Circuit and the U.S. Supreme Court. He is the author of more than 100 articles and chapters on a wide array of legal topics.

Alex Kozinski was appointed U.S. Circuit Judge for the Ninth Circuit on November 7, 1985, and became Chief Judge on November 30, 2007. Before his appointment to the appellate bench, Kozinski served as Chief Judge of the U.S. Claims Court, from 1982 until 1985. He previously served as special counsel to the Merit Systems Protection Board; assistant counsel, Office of Counsel to the President; and deputy legal counsel to the Office of President-Elect Reagan. He has also worked in private practice at Covington & Burling and Forry Goldberg Singer & Gelles. He received his A.B. degree from UCLA in 1972 and his J.D. from UCLA Law School in 1975. Following law school, Kozinski served as law clerk to Ninth Circuit Judge Anthony M. Kennedy and Supreme Court Chief Justice Warren E. Burger.

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James M. McDonald is an associate at Williams & Connolly LLP. Before joining Williams & Connolly, he served as law clerk to Judge Jeffrey Sutton on the U.S. Court of Appeals for the Sixth Circuit, deputy associate counsel in the Office of the White House Counsel, and law clerk to Chief Justice John Roberts on the U.S. Supreme Court. Born and raised in Tulsa, Oklahoma, McDonald received his A.B. *cum laude* from Harvard University and his J.D. from University of Virginia School of Law, where he was articles development editor for the *Virginia Law Review* and earned Order of the Coif.

Eric S. Nguyen is a former law clerk to Chief Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit, and to Justice Anthony M. Kennedy of the U.S. Supreme Court. He received his A.B. *magna cum laude* from Harvard College and his J.D. *magna cum laude* from Harvard Law School.

Wesley M. Oliver is an associate professor and director of the criminal justice program at Duquesne University School of Law in Pittsburgh. He teaches in the areas of criminal law, criminal procedure, and constitutional law. His scholarship has examined numerous aspects of criminal law and procedure, including search and seizure, interrogations, material witness detentions, wiretapping, plea bargaining, Prohibition, and the history of policing. Oliver hosts a television program entitled *Crime and Punishment* on the Pennsylvania Cable Network and served as a legal analyst for NBC News' coverage of the Jerry Sandusky trial. He is a frequent commentator on criminal justice issues having appeared on *ABC World News*, *CBS This Morning*, *CBS's 48 Hours Investigates*, *NBC Nightly News*, *NBC's Today Show*, *MSNBC's Ed Show*, and NPR, and has been quoted often by a number of newspapers, including the *New York Times*, *Wall Street Journal*, *Dallas Morning News*, *Houston Chronicle*, and *San Francisco Examiner*. He is licensed to practice law in Tennessee and received his B.A. and J.D.

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Roger Pilon is the vice president for legal affairs at the Cato Institute. He holds Cato's B. Kenneth Simon Chair in Constitutional Studies and is the founder and director of Cato's Center for Constitutional Studies. Established in 1989 to encourage limited constitutional government at home and abroad, the Center has become an important force in the national debate over constitutional interpretation and judicial philosophy. Pilon's work has appeared in the *New York Times*, *Washington Post*, *Wall Street Journal*, *Los Angeles Times*, *Legal Times*, *National Law Journal*, *Harvard Journal of Law & Public Policy*, *Notre Dame Law Review*, *Stanford Law & Policy Review*, *Texas Review of Law and Politics* and elsewhere. He has appeared, among other places, on ABC's *Nightline*, CBS's *60 Minutes II*, NPR, Fox News Channel, CNN, MSNBC, and CNBC. He lectures and debates at universities and law schools across the country and testifies often before Congress. Before joining Cato, Pilon held five senior posts in the Reagan administration, including at the Departments of State and Justice. He has taught philosophy and law and was a national fellow at Stanford's Hoover Institution. Pilon holds a B.A. from Columbia University, an M.A. and a Ph.D. from the University of Chicago, and a J.D. from the George Washington University School of Law. In 1989, the Bicentennial Commission presented him with the Benjamin Franklin Award for excellence in writing on the U.S. Constitution. In 2001, Columbia University's School of General Studies awarded him its Alumni Medal of Distinction.

David B. Rivkin Jr. is a member of the litigation, international, and environmental groups at Baker & Hostetler LLP, where he co-chairs the appellate and major motions teams. He has extensive experience in constitutional, administrative, and international law litigation and has been involved in numerous high-profile cases. Rivkin represented the 26 states that challenged the constitutionality of the Patient Protection and Affordable Care Act before the district court and court of appeals and also represented the Republic of Croatia before the International Criminal Tribunal for the Former Yugoslavia and the International Court of Justice. He also has considerable experience with litigation involving national security-related matters. From

2004 through 2007, Rivkin served as an expert member of the United Nations Subcommittee on the Promotion and Protection of Human Rights. He is a recipient of numerous academic and professional awards, including Phi Alpha Theta, U.S. Naval Proceedings Annual Alfred Thayer Mahan Award for the best maritime affairs article, and the Burton Award for legal achievement. From 1993 to December 1999, Rivkin was a member of the Hunton & Williams firm. Before returning to private practice, Rivkin served from 1987 through 1993 in various capacities in the federal government: as associate executive director and general counsel of the President's Council on Competitiveness; at the Department of Energy; as legal advisor to the counsel to Vice President George H. W. Bush; in the White House Counsel's Office; and as deputy director of the Office of Policy Development at the Department of Justice. He is a prolific writer and commentator and has published hundreds of articles, op-eds, and book reviews for various newspapers and magazines, including the *Wall Street Journal*, *Washington Post*, *New York Times*, *Washington Times*, *Los Angeles Times*, *Foreign Affairs*, *Foreign Policy*, *National Interest*, *National Review*, *Policy Review*, *Harvard Journal of Law & Policy*, *American University Law Review*, *Administrative Law Journal*, *University of Pennsylvania Law Review*, and *University of Chicago Journal of International Law*. Rivkin also has been a frequent commentator and guest on TV and radio, including CNN, NBC and MSNBC, CBS, ABC, Fox News, NPR, PBS, BBC, and other international media.

John M. Robinson is a former research assistant to Richard Garnett of Notre Dame Law School. He is a magna cum laude graduate of Loyola University Chicago and current J.D. candidate at Harvard Law School where he serves as a senior editor on the *Harvard Journal of Law and Public Policy*.

Damien M. Schiff is a principal attorney for Pacific Legal Foundation, where he has worked on a number of cases pertaining to the Endangered Species Act and the Clean Water Act, including arguing *Sackett v. EPA* before the U.S. Supreme Court. Schiff was also lead attorney in PLF's successful lawsuit that forced the government to make good on its promise to remove the bald eagle from the list of threatened species under the ESA and its challenge to the listing of the California tiger salamander, the National Marine Fisheries

Service's Hatchery Listing Policy, and the critical habitat designation of 15 vernal pool species in California and Oregon. Schiff also has been involved in a number of CWA cases concerning jurisdiction and judicial review, including *Great Northwest, Inc. v. U.S. Army Corps of Engineers*. He was also lead attorney in *Barnum Timber Co. v. EPA*, in which the U.S. Court of Appeals for the Ninth Circuit held that landowners have a right to challenge environmental regulations that reduce their property values. Schiff has appeared on television and radio programs and in newspapers throughout the country, including NPR, *The Lehrer News Hour*, *Lou Dobbs Tonight*, and other media. Schiff has authored or co-authored articles for the *Indiana International and Comparative Law Review*, *Roger Williams University Law Review*, *William Mitchell Law Review*, *Missouri Environmental Law and Policy Review*, *Journal of Land, Resources, and Environmental Law*, and the *Texas Review of Law and Politics*. Schiff obtained his law degree *magna cum laude* from the University of San Diego School of Law, and his undergraduate degree *magna cum laude* from Georgetown University. He is a former law clerk to Judge Victor J. Wolski of the U.S. Court of Federal Claims.

Kannon K. Shanmugam is a partner at Williams & Connolly LLP, where he focuses on Supreme Court and appellate litigation. He has argued 11 cases before the Supreme Court—more than any other lawyer in his firm's history except its legendary founder, Edward Bennett Williams. Shanmugam has handled other cases before the Supreme Court in a number of areas, including securities, antitrust, and criminal litigation. He has also argued numerous cases in federal and state appellate courts. Born and raised in Lawrence, Kansas, Shanmugam received his A.B. *summa cum laude* from Harvard College in 1993; his M.Litt. from the University of Oxford, where he was a Marshall Scholar; and his J.D. *magna cum laude* from Harvard Law School, where he was executive editor of the *Harvard Law Review*. Shanmugam clerked for Supreme Court Justice Antonin Scalia and for Judge J. Michael Luttig on the U.S. Court of Appeals for the Fourth Circuit. He joined Williams & Connolly LLP in 2008 after serving as an assistant to the solicitor general.

Ilya Shapiro is a senior fellow in constitutional studies at the Cato Institute and editor-in-chief of the *Cato Supreme Court Review*. Before

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Elizabeth Townsend Gard is an associate professor of law at Tulane University Law School, co-director and co-founder of Tulane’s Center for Intellectual Property Law & Culture, and director and co-inventor of the Durationator® Copyright Experiment, a software program that determines the worldwide copyright status of every kind of cultural work. Before joining the faculty at Tulane in 2007, she taught at Seattle University School of Law as a visiting assistant professor and a justice faculty fellow at the Center for the Study of Justice in Society, and in 2005–2006 taught intellectual property at the London School of Economics, where she also held a Leverhulme Trust Research Postdoctoral Fellowship. Since 2004, she has been a

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Eric A. White is an associate in the D.C. office of Vinson & Elkins LLP, where his principal area of practice is appellate litigation. He received his B.A. *cum laude* from Yale College, and his J.D. *magna cum laude* and Order of the Coif from the University of Michigan Law School, where he served as articles editor of the *Michigan Law Review* and president of the law school's Federalist Society chapter. Following law school, White clerked for Judge Jerry E. Smith of the U.S. Court of Appeals for the Fifth Circuit.

W. James Young has been a staff attorney at the National Right to Work Legal Defense Foundation since 1989, in which capacity he has litigated scores of cases in federal and state courts across the country, before state labor boards, and before the National Labor Relations Board. He has briefed and argued two merits cases before the U.S. Supreme Court, helped prepare counsel for argument in four

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