



## 2017 HIGHLIGHTS

### To the friends of the Pound Institute:

As part of its mission to preserve and strengthen the U.S. civil justice system, the Pound Institute develops programs to educate judges and partners with law schools to further academic inquiry into issues pertaining to the civil justice system. Thanks to the support of Pound's members—called Fellows—we've made great advances in furthering the principles of civil justice in the past year, and have big plans for the year ahead.

- We held our **25<sup>th</sup> Judges Forum** in Boston on July 22, 2017. The subject was ***Jurisdiction: Defining State Courts' Authority***. 164 judges from 35 states attended this one-day educational program, and gave the Forum outstanding ratings. The Forum report will be released and distributed broadly in January 2018. *Details inside.*
- We held another in our series of successful **Academic Symposia** on May 1, 2017, titled ***The Jury Trial and Remedy Guarantee: Fundamental Rights or Paper Tigers?*** The Oregon Law Review and The Oregon Jury Project cosponsored. *Details inside.*
- By the end of 2017, the academic papers from Pound's 2016 Symposium with Rutgers and Northeastern, ***The Demise of the Grand Bargain: Compensation for Injured Workers in the 21<sup>st</sup> Century***, will be published in a special edition of *Rutgers University Law Review*, Vol. 69 No. 3.
- We presented our third **Appellate Advocacy Award** to F. Paul Bland of Public Justice for his outstanding work on behalf of class members in *Chen v. Allstate Ins. Co.* *Details inside.*
- The 7<sup>th</sup> Annual **Howard Twiggs Memorial Lecture on Legal Professionalism** by Prof. Arthur Miller of NYU on ***The Professional Responsibility of Private Attorneys General***. It was delivered to trial lawyers during the AAJ annual convention in Boston.
- Planning is under way for our **26<sup>th</sup> Judges Forum**, to be held in Denver on July 7, 2018. The title is ***State Court Protection of Individual Constitutional Rights*** and the program will educate judges on how state constitutions can and do provide broader consumer protection than does the U.S. Constitution. *Details inside.*
- We hosted well-attended **Fellows receptions** at AAJ conventions in Austin, TX and Boston, MA. In attendance were not only Pound Fellows, but also members of the judiciary and legal academics. All Pound Fellows are invited to attend free of charge.
- Currently 24 state trial lawyer organizations are Pound **Justice Association Members**, whose support directly benefits our Judges Forum program, which educates their state judges. *See list inside.*
- We are very grateful to the 14 members of our top membership level—**Jury Guardian Law Firm** and **Jury Guardian Fellow**. Their generous support directly enhances Pound's excellent programming, allowing us to continue important work with judges and law schools. *See list inside.*
- Our membership and leadership ranks continue to expand, and reflect the youth, vitality and diversity of the trial bar. We have *ex officio* trustees representing AAJ's Minority Caucus, Women Trial Lawyer Caucus, New Lawyer Division, and LGBT Caucus. Many of our Fellows derive from these groups as well.

For these successes, we sincerely thank our members—**Pound Fellows**—for their ongoing support of the Institute's work. We could not accomplish all that we do without the membership donations and program contributions made by Pound Fellows. We hope you join the hundreds of trial lawyers who support the Institute, and be a part of the coming year's successes.

We need the support of all lawyers who are concerned with the protection of the civil justice system and the individual rights and remedies it affords. With it, we can keep growing and supporting the civil justice system in our unique way.

Sincerely,

A handwritten signature in black ink that reads "Ellen Relkin". The signature is fluid and cursive, with a large initial "E" and a long, sweeping tail.

Ellen Relkin, President

# THE POUND FORUM: EDUCATION FOR STATE APPELLATE JUDGES

The Institute's annual Forum for State Appellate Court Judges is the consumer bar's most effective outreach to the state judiciary, amidst a sea of comparable programs supported by corporate interests. All currently sitting state appellate judges are invited to this complimentary one-day educational conference. Judges attend the Forum as guests of the Institute, at no cost to themselves or their courts.

## 2018: State Court Protection of Individual Constitutional Rights

Pound's 2018 Judges Forum will take place in Denver on July 7, addressing the issue of state constitutionalism. In recent decades, the federal courts have adopted increasingly restrictive procedural hurdles that litigants must surmount to get to trial. Federal government offices which previously had protected individual rights vigorously have recently come under political pressure to ease their enforcement, or even to reverse course. At the same time, citizens' access to state courts is increasingly constrained by "reform" legislation, reduced court budgets, and contractual requirements that either compel individuals to forego their legal rights altogether or limit their ability to litigate disputes in court. As a result, state constitutional protections enforced in state courts remain as some of the strongest protections available to the public when disputes arise.

At the 2018 Judges Forum, nationally-recognized legal scholars will discuss the recent truncation of legal protections for citizens seeking redress, and outline ways in which state courts can protect the rights conferred on their citizens from unconstitutional infringement.

## 2017: Jurisdiction: Defining State Courts' Authority

Our 2017 Judges Forum was held in Boston on July 22, examining the recent trend to limit courts' powers to hear cases with multi-state or multi-national aspects. Our 2<sup>nd</sup>-largest Forum yet, we hosted 164 judges from 35 states at this very well-received conference.

Academic papers prepared by Prof. Simona Grossi (Loyola) and Prof. Adam Steinman (Ala.) highlighted the jurisdiction challenges faced in recent years by citizens bringing civil actions, examined the increased use of jurisdiction challenges in litigation, and explored the question of when the Constitution does, and does not, limit state courts' authority over foreign individuals and corporations.



Prof. Adam Steinman (Ala.)

## 2016: Who Will Write Your Rules—Your State Court or the Federal Judiciary?

Pound's 2016 Forum addressed the subject of rulemaking, with emphasis on recent changes to the Federal Rules of Civil Procedure and the question of the extent to which state courts should follow them. Receiving special emphasis was the Federal courts' recent decision to codify a "proportionality" requirement for discovery requests.



Prof. Arthur Miller (NYU)

The judges heard presentations of papers on rule-making issues by Professors Steve Burbank (Penn.), Sean Farhang (Berkeley), Steve Subrin (Northeastern), and Thomas Main (UNLV). They enjoyed a luncheon address by Arthur Miller (NYU), who traced the

evolution of the Federal rules through a series of ever-more restrictive decisions of the U.S. Supreme Court. The 160-page final report of the 2016 Forum was published early in 2017, was distributed broadly to Fellows, judges, law schools, and state rulemaking commissions. It is available at [www.poundinstitute.org](http://www.poundinstitute.org).

## Responses from Attending Judges

Pound's Judges Forum is a vitally important counterbalance to corporate-supported judicial programs. Each year Pound receives high praise from state judges on the quality, benefit and importance of the Forum, such as ...

"It is routinely the best program I attend each year."

"The Forum is very important to the judicial process."

"Because the Forum unfailingly presents noted speakers and legal writers who are tops in their fields, judges in attendance are able to glean a great amount of knowledge and depth on a significant and timely subject in a very short period of time."

"I think what we are seeing here at the Forum is a rebirth of creative thinking."

"Pound keeps us ahead of the curve."

"It is by far the best educational programming I attend."

## Research and Recognition



On May 1, 2017 in Portland, OR, Pound cosponsored with the Oregon Law Review and the Oregon Jury Project a symposium titled, *The Jury Trial and Remedy Guarantees: Fundamental Rights or Paper Tigers?* The program featured Dean Erwin Chemerinsky, then of University of California, Irvine (now at Berkeley), Hon. David Schuman of University of Oregon School of Law, Hon. Christine Durham of the Utah Supreme Court, Prof. Stephen Daniels (American Bar Foundation), Prof. Catherine Sharkey (NYU), was cosponsored with Northeastern University School of Law and the Rutgers Center for Risk and Responsibility. Attendees heard panel discussions on the jury trial right, the remedy clause, reexamination of verdicts, and separation of powers, and the practical consequences of caps on damages. Hon. Martha Walters of the Oregon Supreme Court delivered the keynote address on the vanishing jury trial. The symposium video recordings are available at [www.poundinstitute.org](http://www.poundinstitute.org), and the papers will be published in an upcoming issue of the Oregon Law Review.



Our September 23, 2016 Symposium, titled *The Demise of the Grand Bargain: Compensation for Injured Workers in the 21st Century*, was cosponsored with Northeastern University School of Law and the Rutgers Center for Risk and Responsibility. Academic papers were presented by Professors Alison Morantz and Robert Rabin of Stanford Law School, Adam Scales and Robert Williams of Rutgers Law School, and Emily Spieler of Northeastern University School of Law. Attendees saw panel discussions on changing legal structure of workers' compensation, U.S.-based vs. other compensation systems, workplace injuries as a constitutional law issue, and alternative structures for addressing workplace injuries. The papers and video recordings of the panel discussions are available at [www.poundinstitute.org](http://www.poundinstitute.org), and the papers will be published in 69 Rutgers U. L. Rev. (May 2017).



In July in Boston we presented the **Appellate Advocacy Award** to F. Paul Bland, Jr. for his distinguished work that led to the Ninth Circuit's decision in *Chen v. Allstate Insurance Co.*, 819 F.3d 1136 (9th Cir. 2016). Bland's brilliant argument convinced the Ninth Circuit to reject Allstate's attempts to avoid legal liability to a class of thousands by settling the named class representative (known as "picking off" a plaintiff).



Paul Bland, Esq.

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## Broad Support for Pound's Work

Through the generous support of attorneys and state justice organizations, Pound is able to foster a strong civil justice system through education of judges and academic research. Pound Fellows are the key to the Institute's broad reach. We appreciate the support of all Fellows (see enclosed list), and are particularly grateful for our Jury Guardians and State Justice Association Members:

### Jury Guardian Fellows & Law Firms

**Banafsheh, Danesh & Javid, PC** – Beverly Hills, CA  
**Ciresi Conlin, LLP** – Minneapolis, MN  
**Robert A. Clifford** – Chicago, IL  
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### State Justice Association Members

Alabama Association for Justice  
Arkansas Trial Lawyers Association  
Connecticut Trial Lawyers Association  
Delaware Trial Lawyers Association  
D.C. Trial Lawyers Foundation  
Florida Justice Association  
Georgia Trial Lawyers Association  
Hawai'i Association for Justice  
Bayou Research Institute (LA)  
Maryland Association for Justice  
Massachusetts Academy of Trial Attorneys  
Michigan Association of Trial Attorneys  
Minnesota Association for Justice  
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New Hampshire Association for Justice  
New Jersey Association for Justice  
New York State Trial Lawyers Association  
Ohio Association for Justice  
Oregon Trial Lawyers Association  
Pennsylvania Association for Justice  
South Carolina Association for Justice  
Washington State Association for Justice

## Pound's History & Legacy

The Pound Civil Justice Institute is a national legal think tank created by pioneering members of the trial bar and dedicated to ensuring access to civil justice for ordinary citizens. The Institute strives to give lawyers, judges, legal educators, and the public a balanced view of the issues affecting the U.S. civil justice system.

The Institute was established in 1956 by a group of lawyers to honor and build upon the work of Roscoe Pound (1870–1964), Dean of the Harvard Law School from 1916 to 1936. Roscoe Pound is widely considered an expert on common law and the founder of sociological jurisprudence—an interdisciplinary approach to legal concepts in which the law is seen as a dynamic system influenced by social conditions and that, in turn, influences society as a whole.

The Institute has engaged in various activities for the judiciary, legal practitioners, and the legal academic community, including: the Forum for State Appellate Court Judges; the Chief Justice Earl Warren Conferences; grants for academic research; academic symposia; multidisciplinary roundtable discussions; recognition of achievements of practitioners; lectures for practitioners on legal professionalism; and a robust publication program;



Every member of the bar who is in good standing and who supports a strong American civil justice system is invited to become a Pound Fellow. **We hope that you will join the hundreds of other attorneys who are Pound Fellows**, and support Pound's work at the highest level possible. Membership levels start at \$15/month or \$200/year, and are tax-deductible to the fullest extent allowable by law. More information can be found at [www.poundinstitute.org](http://www.poundinstitute.org).



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