

PAPERS OF THE POUND CIVIL JUSTICE INSTITUTE

Reports of the Annual Forums for State Appellate Court Judges

(All Forum Reports or academic papers are available for full viewing at www.poundinstitute.org.)

2016 • Who Will Write Your Rules – Your State Court or the Federal Judiciary?

Stephen B. Burbank, University of Pennsylvania Law School and Sean Farhang, University of California, Berkeley, School of Law, *Rulemaking and the Counterrevolution Against Federal Litigation: Discovery*

Stephen Subrin, Northeastern University School of Law and Thomas Main, University of Nevada, Las Vegas, Boyd College of Law, *Should State Courts Follow the Federal System in Court Rulemaking and Procedural Practice?*

2015 • Judicial Transparency and the Rule of Law

Judith Resnik, Yale Law School, *Contracting Transparency: Public Courts, Privatizing Processes, and Democratic Practices*

Nancy Marder, IIT Chicago-Kent College of Law, *Judicial Transparency in the Twenty-First Century*

2014 • Forced Arbitration and the Fate of the 7th Amendment: The Core of America’s Legal System at Stake?

Myriam Gilles, Cardozo Law School, Yeshiva University, *The Demise of Deterrence: Mandatory Arbitration and the “Litigation Reform” Movement*

Richard Frankel, Drexel University School of Law, *State Court Authority Regarding Forced Arbitration After Concepcion*

2013 • The War on the Judiciary: Can Independent Judging Survive?

Charles Geyh, Indiana University Maurer School of Law, *The Political Transformation of the American Judiciary*

Amanda Frost, American University, Washington College of Law, *Honoring Your Oath in Political Times*

2012 • Justice Isn’t Free: The Court Funding Crisis and Its Remedies

John T. Broderick, University of New Hampshire School of Law and Lawrence Friedman, New England School of Law, *State Courts and Public Justice: New Challenges, New Choices*

J. Clark Kelso, McGeorge School of Law, *Strategies for Responding to the Budget Crisis: From Leverage to Leadership*

2011 • The Jury Trial Implosion: The Decline of Trial by Jury and its Significance for Appellate Courts

Marc Galanter, University of Wisconsin Law School and Angela Frozena, *The Continuing Decline of Civil Trials in American Courts*

Stephan Landsman, DePaul University College of Law, *The Impact of the Vanishing Jury Trial on Participatory Democracy*

Hon. William G. Young, Massachusetts District Court, *Federal Courts Nurturing Democracy*

2010 • Back to the Future: Pleading Again in the Age of Dickens?

A. Benjamin Spencer, Washington and Lee University School of Law, *Pleading in State Courts after Twombly and Iqbal*

Stephen B. Burbank, University of Pennsylvania Law School, *Pleading, Access to Justice, and the Distribution of Power*

2009 • Preemption: Will Traditional State Authority Survive?

Mary J. Davis, University of Kentucky College of Law, *Is the “Presumption Against Preemption” Still Valid?*

Thomas O. McGarity, University of Texas School of Law, *When Does State Law Trigger Preemption Issues?*

2008 • Summary Judgment on the Rise: Is Justice Falling?

Arthur R. Miller, New York University School of Law, *The Ascent of Summary Judgment and Its Consequences for State Courts and State Law*

Georgene M. Vairo, Loyola Law School, Los Angeles, *Defending Against Summary Justice: The Role of the Appellate Courts*

2007 • The Least Dangerous But Most Vulnerable Branch: Judicial Independence and the Rights of Citizens

Penny J. White, University of Tennessee College of Law, *Judicial Independence in the Aftermath of Republican Party of Minnesota v. White*

Sherrilyn Ifill, University of Maryland School of Law, *Rebuilding and Strengthening Support for an Independent Judiciary*

2006 • The Whole Truth? Experts, Evidence, and the Blindfolding of the Jury

Joseph Sanders, University of Houston Law Center, *Daubert, Frye, and the States: Thoughts on the Choice of a Standard*

Nicole Waters, National Center for State Courts, *Standing Guard at the Jury’s Gate: Daubert’s Impact on the State Courts*

2005 • The Rule(s) of Law: Electronic Discovery and the Challenge of Rulemaking in the State Courts

Linda S. Mullenix, University of Texas School of Law, *The Varieties of State Rulemaking Experience and the Consequences for Substantive and Procedural Fairness*

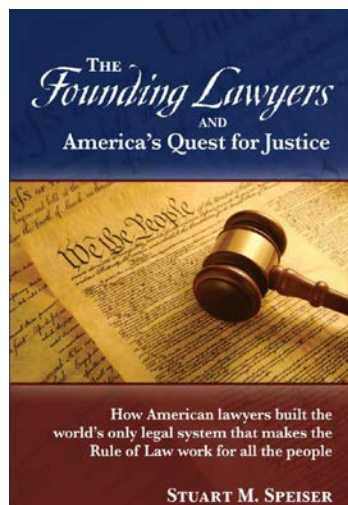
Hon. John L. Carroll, Dean, Cumberland School of Law at Samford University, *E-Discovery: A Case Study in Rulemaking by State and Federal Courts*

- 2004 • [Still Coequal? State Courts, Legislatures, and the Separation of Powers](#)
Robert F. Williams, Rutgers University School of Law-Camden, *Keeping Coequal: State Court Responses to Legislative Encroachment*
Helen Hershkoff, New York University School of Law, *Lawmaking and Judicial Review: What Degree of Deference Should State Courts Give to Legislative Findings?*
- 2003 • [The Privatization of Justice? Mandatory Arbitration and the State Courts](#)
Jean R. Sternlight, University of Nevada Boyd School of Law, *The Rise and Spread of Mandatory Arbitration as a Substitute for the Jury Trial*
David S. Schwartz, University of Wisconsin-Madison Law School, *State Judges as Guardians of Federalism: Resisting the FAA's Encroachment on State Law*
- 2002 • [State Courts and Federal Authority: A Threat to Judicial Independence?](#)
Georgene M. Vairo, Loyola Law School, Los Angeles, *Trends in Federalism and What They Mean for the State Courts*
Hon. Frank J. Williams, Chief Justice of Rhode Island, *A Historical Perspective on Maintaining Judicial Independence, Luncheon Address*
Wendy E. Parmet, Northeastern University School of Law, *Issues State Courts Face When Considering Federal Preemption of State Court Procedures: An Analysis for State Judges*
- 2001 • [The Jury as Fact Finder and Community Presence in Civil Justice](#)
Neil Vidmar, Duke University Law School, *Juries, Judges, and Civil Justice*
Stephan Landsman, DePaul University College of Law, *Appellate Courts and Civil Juries*
- 2000 • [Open Courts with Sealed Files: Secrecy's Impact on American Justice](#)
Laurie Kratky Doré, Drake University Law School, *The Confidentiality Debate and the Push to Regulate Secrecy in Civil Litigation*
Richard A. Zitrin, University of San Francisco School of Law, *What Judges Can and Should Do About Secrecy in the Courts*
- 1999 • [Controversies Surrounding Discovery and Its Effect on the Courts](#)
Dean Robert Gilbert Johnston, John Marshall Law School, *Discovery: Facts and Myths*
Paul D. Carrington, Duke University Law School, *Recent Efforts to Change Discovery Rules: Do They Advance the Purposes of Discovery?*
- 1998 • [Assaults on the Judiciary: Attacking the "Great Bulwark of Public Liberty"](#)
Robert O'Neil, University of Virginia School of Law, *Protecting Judicial Independence in a Politicized Environment*
Erwin Chemerinsky, University of Southern California Law School, *When Do Legislative Actions Threaten Judicial Independence?*
- 1997 • [Scientific Evidence in the Courts: Concepts and Controversies](#)
Sheila Jasanoff, Cornell University, *Judging Science: Issues, Assumptions, Models*
Michael H. Gottesman, Georgetown University Law Center, *Should State Courts Impose 'Reliability' Thresholds on the Admissibility of Expert Scientific Testimony Respecting Causation In Tort Cases?*
- 1996 • [Possible State Court Responses to American Law Institute's Proposed Restatement of Products Liability](#)
Marshall S. Shapo, Northwestern University Law School, *ALI Legislation as a Consumer Product: Should Courts Buy the Proposed Restatement of Products Liability?*
Oscar S. Gray, University of Maryland School of Law, *Potential Intermediate Positions Under the Proposed Products Liability Restatement*
- 1995 • [Preserving Access to Justice: The Impact on State Courts of the Proposed Long Range Plan for Federal Courts](#)
Jed Rubinfeld, Yale Law School, *The Federal Question*
Harlon Dalton, Yale Law School, *Judicial Federalism and Individual Rights*
- 1993 • [Preserving the Independence of the Judiciary: The Dual Challenge of Democracy and the Budget Crisis](#)
Stephen L. Carter, Yale Law School, *Does Democracy Threaten Judicial Independence?*
Ruth Wedgwood, Yale Law School, *Is There a Constitutional Claim to Minimum Funding of the Courts?*
- 1992 • [Protecting Individual Rights: The Role of State Constitutionalism](#)
Paul W. Kahn, Yale Law School, *Interpretation and Authority in State Constitutionalism*
Akhil Reed Amar, Yale Law School, *Using State Law to Protect Federal Constitutional Rights*

Academic Symposia Cosponsored with Law Schools

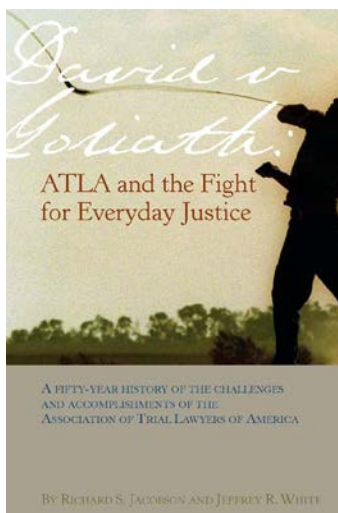
- 2016 • [The Demise of the Grand Bargain: Compensation for Injured Workers in the 21st Century](#)
(Rutgers University Law Review, Vol. 69 (forthcoming May 2017))
Northeastern University School of Law and Rutgers Center for Risk and Responsibility
- 2015 • [The "War" on the U.S. Civil Justice System \(Emory Law Journal, Vol. 65, No. 6\)](#)
Emory University School of Law
- 2005 • [Medical Malpractice \(Vanderbilt Law Review, Vol. 59, No. 4\)](#)
Vanderbilt School of Law
- 2002 • [Mandatory Arbitration \(Law and Contemporary Problems, Vol. 67, No 1 & 2, Duke Law\)](#)
Duke University School of Law

Books distributed by the Pound Civil Justice Institute



[The Founding Lawyers and America's Quest for Justice](#)

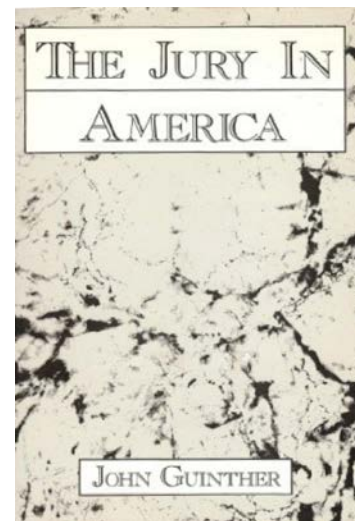
by Stuart M. Speiser (2010)



[David v. Goliath: ATLA and the Fight for Everyday Justice](#)

by Richard S. Jacobson & Jeffrey R. White (2004)

(Free viewing and downloading at www.poundinstitute.org.)



The Jury In America

by John Guinther (1988)

Reports of Roundtable Discussions

1993 • Justice Denied: Underfunding of the Courts

Report on the 1993 Roundtable, examining the issues surrounding the current funding crisis in American courts, including the role of the government and public perception of the justice system, and the effects of increased crime and drug reform efforts.

Moderated by Chief Justice Rosemary Barkett of the Florida Supreme Court.

1991 • Safety of the Blood Supply

Report on the Spring 1991 Roundtable, written by Robert E. Stein, a Washington, D.C., attorney and an adjunct professor at Georgetown University Law Center. The report covers topics such as testing for the presence of HIV and litigation involving blood products and blood banks.

1990 • Injury Prevention in America

Report on the 1990 Roundtables, written by Anne Grant, lawyer and former editor of *Everyday Law* and *TRIAL* magazines. Topics include "Farm Safety in America," "Industrial Safety: Preventing Injuries in the Workplace," and "Industrial Diseases in America."

1988-89 • Health Care and the Law III

Report on the 1988–1989 Roundtables, written by health policy specialist Michael E. Carbine. Topics include "Drugs, Medical Devices and Risk: Recommendations for an Ongoing Dialogue," "Health Care Providers and the New Questions of Life and Death," and "Medical Providers and the New Era of Assessment and Accountability."

1988 • Health Care and the Law II

Report on the 1988 Pound Fellows Forum, "Patients, Doctors, Lawyers and Juries," written by John Guinther, award-winning author of *The Jury in America*. The Forum was held at the Association of Trial Lawyers Annual Convention in Kansas City and was moderated by Professor Arthur Miller of Harvard Law School.

1988 • Health Care and the Law

Report on the 1988 Roundtables, written by health policy specialist Michael E. Carbine. Topics include "Hospitals and AIDS: The Legal Issues," "Medicine, Liability and the Law: Expanding the Dialogue," and "Developing Flexible Dispute Resolution Mechanisms for the Health Care Field."

Reports of the Chief Justice Earl Warren Conferences on Advocacy

1989 • Medical Quality and the Law

1986 • The American Civil Jury

1985 • Dispute Resolution Devices in a Democratic Society

1984 • Product Safety in America

1983 • The Courts: Separation of Powers

1982 • Ethics and Government

1981 • Church, State, and Politics

1980 • The Penalty of Death

1979 • The Courts: The Pendulum of Federalism

1978 • Ethics and Advocacy

1977 • The American Jury System

1976 • Trial Advocacy as a Specialty

1975 • The Powers of the Presidency

1974 • Privacy in a Free Society

1973 • The First Amendment and the News Media

1972 • A Program for Prison Reform

Research Monographs

Demystifying Punitive Damages in Products Liability Cases: A Survey of a Quarter Century of Trial Verdicts.

This landmark study, written by Professor Michael Rustad of Suffolk University Law School with a grant from the Pound Foundation, traces the pattern of punitive damages awards in U.S. products cases. It tracks all traceable punitive damages verdicts in products liability litigation for a quarter century and provides empirical data on the relationship between amounts awarded and those actually received.

[The Pound Connective Tissue Injury Research Project: Final Report. Valerie P. Hans, Ph.D.](#)

Each year, automobile accidents account for a substantial number of deaths and other personal injuries nationwide. Lawsuits over injuries suffered in auto accidents constitute the most frequent type of tort case in the state courts. The Pound Institute supported a series of research studies on the public's views of whiplash and other types of soft tissue and connective tissue injuries within the context of civil lawsuits. The 2007 final report presents and integrates key research findings and identifies some of their implications for trial practice.

[The American Lawyer's Code of Conduct, Revised Draft.](#) Available at www.poundinstitute.org/content/american-lawyers-code-conduct

Civil Justice Digest



A quarterly newsletter on current and emerging legal trends. Distributed 1994-2003 to judges, law school professors, and attorneys. Back issues available www.poundinstitute.org/content/civil-justice-digest.

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