

PEPPERDINE UNIVERSITY
School of Law

A Pepperdine Law Review Symposium

Supreme
MISTAKES

EXPLORING THE MOST
MALIGNED DECISIONS IN
SUPREME COURT HISTORY

FRIDAY, APRIL 1, 2011

8:30 AM to 5:30 PM

PEPPERDINE UNIVERSITY SCHOOL OF LAW
Malibu, California

law.pepperdine.edu/symposium



Pepperdine University School of Law • Malibu, California

Welcome

This symposium will focus on notable United States Supreme Court decisions. However, rather than showcasing the Court's best or most popularly acclaimed decisions, the symposium will spotlight the most widely criticized decisions the Court has handed down in its history.

Each symposium presenter will articulate exactly why he or she would nominate a particular case for the Supreme Court's "Hall of Shame." Another presenter will then have the opportunity to redeem the Court's reasoning or at least put the case in its historical context.

The underlying goal of the symposium is not to criticize the failings of the Court over its history, but rather to take a serious and scholarly look at the limits of judicial power and discretion through a historical lens.

SPEAKERS



AKHIL REED AMAR is the Sterling Professor of Law and Political Science at Yale University, where he teaches constitutional law. He received his BA, summa cum laude, in 1980 from Yale College, and his JD in 1984 from Yale Law School, where he served as an editor of *The Yale Law Journal*. After clerking for Judge Stephen Breyer, U.S. Court of Appeals for the First Circuit, Amar joined the Yale faculty in 1985. Along with Paul Brest, Sanford Levinson, Jack Balkin, and Reva Siegel, Amar is the coeditor of a leading constitutional law casebook, *Processes of Constitutional Decisionmaking* (5th ed. 2006). He is also the author of several books, including, most recently, *America's Constitution: A Biography* (2005).



ERWIN CHEMERINSKY is the founding dean of the School of Law, University of California, Irvine. From 2004 to 2008 he was the Alston and Bird Professor of Law at Duke University School of Law. He was on the USC faculty for over 20 years. Dean Chemerinsky regularly lectures to judges in programs for the Federal Judicial Center, the National Judicial College, and the American Bar Association. He is a graduate of Northwestern University and Harvard Law School. He is the author of six books and over 100 law review articles. He regularly argues appellate cases, including in the U.S. Supreme Court.



DONALD EARL CHILDRESS III received his BA from the University of Virginia, MA from Oxford Brookes University, and a JD/LLM (in international and comparative law) from the Duke University School of Law, where he was editor-in-chief of the *Duke Law Journal*. Childress clerked for the Honorable Paul V. Niemeyer on the U.S. Court of Appeals for the Fourth Circuit and was associated with the international law firm Jones Day in Washington, D.C., as a member of their Issues and Appeals practice. He teaches and researches in the areas of civil procedure, international litigation, comparative law, and ethics.



DANIEL FARBER is the Sho Sato Professor of Law and chair of the Energy and Resources Group at the University of California, Berkeley. His recent books include *Judgment Calls: Principles and Politics in Constitutional Law* (2008) (with Suzanna Sherry); *Retained by the People: The "Silent" Ninth Amendment and the Constitutional Rights Americans Don't Know They Have* (2007); and *Lincoln's Constitution* (2003).



PAUL FINKELMAN is the President William McKinley Distinguished Professor of Law and Public Policy at Albany Law School. He received his PhD from the University of Chicago and was later a Fellow in Law and Humanities at Harvard Law School. He is the author of more than 25 books and 200 scholarly articles on legal history, slavery, constitutional law, and United States history. He was the chief expert witness in the lawsuit over the Alabama 10 Commandments Monument and in the suit over the ownership of Barry Bonds' 73rd Home Run Ball. His work on religion and the law, legal history, and race and the law, has been cited by the Supreme Court and numerous other courts. *Millard Fillmore*, his biography of America's 13th President, will be out this spring in the Times Books series, The American Presidents.



EDWARD J. LARSON holds the Hugh and Hazel Darling Chair in Law and is University Professor of History at Pepperdine University. He is the author of eight books, many of which address topics in legal and constitutional history, including *A Magnificent Catastrophe: The Tumultuous Election of 1800* (2007) and *Sex, Race, and Science: Eugenics in the Deep South* (1995). His history of the 1925 Scopes "Monkey" Trial, *Summer for the Gods* (1997), received the 1998 Pulitzer Prize in History.



BARRY P. McDONALD is a professor at Pepperdine University School of Law, and a recognized scholar in the area of constitutional law. Prior to joining the academy, he clerked for the Honorable James K. Logan of the U.S. Court of Appeals for the 10th Circuit, and then served as law clerk to Chief Justice William H. Rehnquist of the U.S. Supreme Court. He has published several articles and essays on the law governing freedom of expression and religion. He is currently working on a new constitutional law textbook to be published by West Publishing Company.



VICTORIA NOURSE is the Burrus-Bascom Professor of Law at the University of Wisconsin. She teaches legislation, criminal law, and constitutional history. Nourse

has taught at Georgetown, Yale, NYU, and Emory law schools. Prior to joining the academy, she served the George H. W. Bush administration as an appellate lawyer, and the Senate Judiciary Committee as special counsel to then senator, now Vice-President Biden. In July 2010 she was nominated to sit on the U.S. Court of Appeals for the Seventh Circuit.



ROBERT J. PUSHAW is the James Wilson Endowed Professor at Pepperdine University School of Law. He began his career at the University of Missouri, where he received the William Kemper

Fellowship for Teaching Excellence (the University's highest teaching honor), the Blackwell Sanders Distinguished Faculty Teaching Award, and the Shook, Hardy & Bacon Excellence in Research Award. His scholarship examines the influence of 18th-century Anglo-American political and legal theory on the development of constitutional law. His scholarly writings have been published in many law reviews, including those at Harvard, Yale, Michigan, Berkeley, Northwestern, Cornell, Georgetown, Minnesota, Iowa, North Carolina, and William & Mary.



SUZANNA SHERRY is the Herman O. Loewenstein Professor of Law at the Vanderbilt University Law School. She has published more than 75 articles and book chapters, mostly on

constitutional law. With Daniel Farber, she coauthored, *Beyond All Reason: The Radical Assault on Truth in American Law* (1997), *Desperately Seeking Certainty: The Misguided Quest for Constitutional Foundations* (2002), and *Judgment Calls: Principles and Politics in Constitutional Law* (2008). She has also coauthored three textbooks, one each on federal court jurisdiction, civil procedure, and constitutional history, as well as *What Every Law Student Really Needs to Know: An Introduction to the Study of Law* (2009).



G. EDWARD WHITE is the David and Mary Harrison Distinguished Professor of Law at the University of Virginia School of Law. He was law clerk to Chief Justice Warren of the

U.S. Supreme Court from 1971 to 1972. He is a member of the Academy of Arts and Sciences, the Society of American Historians, and the American Law Institute. He is the author of 14 books, one of which was a finalist for the Pulitzer Prize in American history and another of which won the Triennial Coif Award from the Association of American Law Schools.

CONTINUING LEGAL EDUCATION:

This symposium has been approved for Minimum Continuing Legal Education (MCLE) credit by the State Bar of California for six credit hours. Pepperdine University School of Law certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.

REGISTRATION

Register by March 25, 2011

Register online at law.pepperdine.edu/symposium or
return the following with payment to:

PEPPERDINE UNIVERSITY SCHOOL OF LAW
Attn: Margaret Barfield
24255 Pacific Coast Highway.
Malibu, CA 90263-4611

Phone: 310.506.4653
Fax: 310.506.7467

Clip along dotted line and mail or fax to Margaret Barfield.



Name: _____

Firm/Business name: _____

Address: _____

Telephone: _____ Fax: _____

E-mail (required): _____

Bar membership number: _____

REGISTRATION FEES (includes continental breakfast and luncheon):

- Attendance with MCLE credit.....\$150
- Attendance with NO MCLE credit.....\$75
- Student (non-Pepperdine).....\$15
- Pepperdine law studentNO COST *but registration required*

I plan to attend the luncheon: Yes No

Enclosed is my check in the amount of \$ _____
Payable to **Pepperdine University**.

Please charge \$ _____ to my VISA Mastercard

Name (as it appears on card): _____

Card number: _____

Expiration date: _____

Signature: _____