

vCONFERENCE

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Annual Conference

Monday, September 21, 2020

First Amendment Argument

Plenary Session

1:00 to 2:00

First Amendment Argument: Has Anything Changed?

Moderator: **Lucas Williams**, Professor and Staff Attorney, Environmental Law and Justice Clinic, Golden Gate University

Panel: **Trent Norris**, Partner, Arnold & Porter Kaye Scholer
Dennis Raglin, Partner, Steptoe Johnson
James Wheaton, Senior Counsel, First Amendments Project and President, Environmental Law Foundation

Bios

Lucas Williams

Professor and Staff Attorney, Environmental Law and Justice Clinic, Golden Gate University

Lucas Williams is a Professor and Staff Attorney at the Environmental Law and Justice Clinic at Golden Gate University School of Law ("ELJC"). Lucas has devoted his entire career to litigating public interest environmental cases. In 2009, Lucas began his career at ELJC as a graduate fellow, where he represented low-income communities of color in environmental cases. In 2012, Lucas joined the Lexington Law Group ("LLG"), a public interest environmental and consumer protection firm. At LLG, Lucas represented nonprofit groups and communities addressing exposures to toxic chemicals.

Lucas formed his own environmental litigation firm, Williams Environmental Law, in early 2020.

Trent Norris

Partner, Arnold & Porter Kaye Scholer

Trent Norris is one of the foremost consumer product attorneys in the country and co-leader of

the firm's Consumer Products and Retail Sector. His litigation and counseling practice involves some of the most significant challenges for manufacturers and retailers of everyday products and services.

Mr. Norris litigates complex scientific and technical disputes involving consumer protection, advertising, environmental, product safety, and food and drug law, with a particular emphasis on the unique requirements of California law. His more than 25 years of experience with regulators, prosecutors, activists, bountyhunters, and plaintiffs lawyers also provide clients with practical perspectives on litigation avoidance.

His practice involves diverse products, technologies, and industries, including foods, beverages, dietary supplements, cosmetics, hospitality, medical devices, electronics, vehicles, drugs, and agriculture. He often represents trade associations and joint defense groups in strategic counseling, litigation, and representation before regulatory agencies.

Common issues include preemption, commercial speech, interstate commerce, citizen enforcement, jurisdiction, and class action requirements. Because these issues often cannot be resolved at the trial court level, Mr. Norris has significant appellate experience. He has argued a dozen cases before the California Court of Appeal, the California Supreme Court, and the Ninth Circuit. Common opponents include activist and environmental groups, the California Attorney General, California District Attorneys, and plaintiffs' lawyers.

Mr. Norris has advised and defended hundreds of companies regarding California's unique toxics and labeling law, Proposition 65, and California's expansive consumer protection laws. Chambers USA (2012) notes that he "is renowned as one of the region's leading experts in toxic tort and Proposition 65 matters. Clients particularly laud his ability to focus on the issues at the core of the problems they take him."

Mr. Norris is a founding partner of the firm's San Francisco and Silicon Valley offices and has served on its Policy, Compensation, and Lateral Committees. He is active in the firm's diversity and inclusion initiatives and is a member of the firm's LGBT affinity group.

Mr. Norris is registered as a lobbyist before the California Environmental Protection Agency and its sub-agencies. He served as a legislative aide to a US Senator and as an Editor of the Harvard Law Review.

Dennis Raglin

Partner, Steptoe Johnson

Dennis Raglin has over 20 years of experience counseling and defending clients in California's Proposition 65 right-to-know chemical warnings law and a broad range of other chemicals-focused litigation. He has provided compliance advice related to state and national chemical regulatory programs, including the Toxic Substances Control Act of 1976 (TSCA), consumer product safety, and medical devices. He also defends products liability cases, with a focus on medical devices and pharmaceuticals. Dennis has tried cases to defense verdicts and has achieved summary judgments and favorable settlements.

Dennis has obtained these results by thoroughly understanding the client and its product and business. He then strives to achieve the client's desired outcome while minimizing litigation cost. Dennis regularly advises clients on minimizing the risk of getting ensnared in litigation, including recommendations relating to best practices on supplier indemnity and testing, products ingredients, and packaging.

Dennis's diverse experience has encompassed products such as implantable and prescription medical devices, prescription and over-the-counter pharmaceuticals, biologics, baby and toddler formula, nutritional supplements and food products, durable medical equipment, heavy equipment, automobiles, personal care goods and cosmetics, pet care products, household goods, sporting goods, and water gear.

Dennis has been both a speaker and an author of numerous articles in his fields of practice. In the space of chemical law compliance, he writes and has presented on issues related to Proposition 65, green chemistry regulations, the Consumer Product Safety Improvement Act, and the TSCA. In the area of medical and pharmaceutical products, he has presented and written on topics regarding issues related to FDA regulation of nutritional supplements, best practices in complying with FDA guidance governing device and pharmaceutical companies' social media policies, and scientific information exchange.

James Wheaton

Senior Counsel, First Amendments Project and President, Environmental Law Foundation

James Wheaton is Senior Counsel for the First Amendment Project, which he founded in 1991. He has more than 30 years of experience practicing public interest, civil rights, constitutional, and related areas of law.

Jim assisted in authoring California's pioneering anti-SLAPP law ("Strategic Lawsuits Against Public Participation"), California Code of Civil Procedure section 425.16, and all of the amendments thereto.

He continues to litigate anti-SLAPP cases, as well as a variety of matters concerning access, freedom of the press, and media law issues.

Jim teaches First Amendment and Media Law at the Stanford Graduate School of Communications and U.C. Berkeley's Graduate School of Journalism.

Over his career, Jim has been recognized with several awards and honors, including the California Lawyer of the Year Award in 2008, 2013, and 2015; the Playboy Foundation's National First Amendment Award in Law in 2001; and the Society of Professional Journalists' (Northern California Chapter) James Madison Freedom of Information Award in 1993 and 2001.

He is a graduate of Brown University and the University of California, Berkeley.

Jim is also the President and Legal Director of the Environmental Law Foundation in Oakland.

James Wheaton is also President of the Board of Directors and Legal Director of the Environmental Law Foundation and Senior Counsel for the First Amendment Project. He teaches Journalism Law at the Graduate Schools of Journalism at both Stanford and UC Berkeley.

He has been honored for his work with awards by California Lawyer as Attorney of the Year, the Daily Journal as one of its Top 100 Lawyers in California, the Playboy Foundation, the Society of Professional Journalists Northern California Chapter, and the Ecology Law Quarterly.

His political work includes writing and running or chairing campaigns for statewide initiatives in the last 25 years on topics such as insurance regulation, campaign finance and political reform, marijuana legalization, old growth forestry, consumer privacy, and litigation reform.

As a volunteer he is an advisor to the California State Bar's Environment Section Executive Committee and chaired its Yosemite Environmental Institute. He is a trustee of River Network, and past-President of Friends of the River. He has served as a City of Oakland Public Ethics Commissioner, as Executive Director of California Common Cause, and as chair of the Society of Professional Journalists (NorCal) FOI Committee.

He is a graduate of Brown University and Berkeley Law School. He is a white water rafter and kayaker, trains whitewater guides, skips a sailboat on San Francisco Bay, and canoes. He has recently retired from seven years of coaching Little League baseball, and still umpires. He has been noted for his work in the San Francisco Bay Guardian, California Lawyer, Playboy, Outside, and Rolling Stone magazines.