

MINNESOTA LAW REVIEW'S 2018 SYMPOSIUM

Recession in Retrospect:
Financial Regulation &
Consumer Protection Ten Years
Since the 2008 Financial Crisis

October 12th, 2018

Room 25, Mondale Hall
University of Minnesota Law School

Featuring Keynote Speaker
Judge Jed Rakoff,
United States District Court for the
Southern District of New York

Minnesota
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Review

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Walter F. Mondale Hall
229 19th Avenue South
Minneapolis, Minnesota 55455-0400

PROGRAM

7:45 AM: Registration

8:30 AM: Welcome and Opening Remarks

David A. LaBerge, Symposium Articles Editor,
Minnesota Law Review, Vol. 103

Professor Prentiss Cox, Associate Professor of Law,
University of Minnesota Law School

8:40 AM: Colloquy: “Right Meets Left”: Different Views on Regulation

Professor Claire Hill, James L. Krusemark Chair in
Law, University of Minnesota Law School

Professor June Carbone, Robina Chair in Law,
Science and Technology, University of Minnesota Law
School

9:05 AM: Keynote Address

Judge Jed Rakoff, Senior United States District Judge,
United States District Court, Southern District of New
York

10:00 AM: Break

10:10 AM: Panel 1: Addressing Too Big to Fail

Moderated by Richard W. Painter

Ron J. Feldman, First Vice President & Chief Operating
Officer, Federal Reserve Bank of Minneapolis

Saule T. Omarova, Professor of Law, Cornell Law
School

Jennifer Taub, Professor of Law, Vermont Law School

11:40 AM: Break for Lunch

12:50 PM: Panel 2: *The CFPB: Its Efficacy, Necessity, and Future*

Moderated by Daniel Schwarcz

Hosea H. Harvey, Associate Professor of Law,
Associate Professor of Political Science (by courtesy),
Temple University, Beasley School of Law

Patricia A. McCoy, Liberty Mutual Insurance Professor,
Boston College Law School

Christopher Peterson, John J. Flynn Endowed
Professor of Law, University of Utah, S.J. Quinney
College of Law

2:20 PM: Break

2:30 PM: Panel 3: *The Role of State Attorneys General in Financial Regulation and Consumer Protection*

Moderated by Prentiss Cox

Martha Coakley, Partner, FoleyHoag LLP, Attorney
General of Massachusetts 2007–2015

Thomas James, Senior Assistant Attorney General,
Consumer Counsel, Consumer Fraud Bureau, Office of
the Illinois Attorney General

Rob McKenna, Partner, Orrick, Herrington & Sutcliff
LLP, Attorney General of Washington, 2005–2013

4:00 PM: Conclusion

4:00 PM –

5:30 PM: Reception

(Auerbach Commons, Entrance Level of the Law School)

BIOGRAPHIES

KEYNOTE SPEAKER

Judge Jed Rakoff, Senior United States District Judge, United States District Court, Southern District of New York

Judge Rakoff graduated from Harvard Law School in 1969. After serving as law clerk to Judge Abraham Freedman of the United States Court of Appeals for the Third Circuit, Rakoff spent two years in private practice at Debevoise & Plimpton before spending seven years as a federal prosecutor with the United States Attorney for the Southern District of New York. For the last two of those years, he was Chief of the Business and Securities Fraud Prosecutions Unit. He then returned to private practice where he was a partner first with Mudge, Rose, Guthrie, Alexander & Ferdon (1980–90), and then with Fried, Frank, Harris, Shriver & Jacobson (1990–96). He headed both firms' criminal defense and civil Racketeer Influenced and Corrupt Organizations Act (RICO) sections.

Since 1996, Judge Rakoff has served as U.S. District Judge of the Southern District of New York, taking senior status in 2010 yet maintaining a full caseload. In the wake of the crisis, Judge Rakoff oversaw many key cases, and is widely recognized as a leading authority on securities law and white collar crime. Off the bench, Judge Rakoff has been an active voice in the promotion of corporate responsibility, being named one of the world's 50 greatest leaders by Fortune magazine in 2014.

PRESENTERS

Claire Hill, James L. Krusemark Chair in Law, University of Minnesota Law School

Professor Claire A. Hill joined the Law School faculty in 2006 after a year as a visiting professor. She teaches corporate law, mergers and acquisitions, contracts, and a seminar in law and economics. She is the founding director of the Law School's Institute for Law and Rationality, and the associate director of its Institute for Law and Economics. She is also an affiliated faculty member of the University's Center for Cognitive Sciences.

Professor Hill received her B.A. and M.A. in philosophy from the University of Chicago, her J.D., summa cum laude, from American University, Washington College of Law, and an LL.M and J.S.D. from Columbia University School of Law, where she was an Olin Fellow. Before becoming a law professor, she practiced corporate law at several law firms including Milbank, Tweed, Hadley & McCloy in New York and Dickstein Shapiro in Washington D.C. She has taught at the law schools of Boston University, George Mason University, Northwestern University, Georgetown University (where she was a Sloan Visiting Professor), and Chicago-Kent (where she was a Freehling Scholar).

At the Law School she was the 2007–08 Julius E. Davis Professor, 2008–09 Vance K. Opperman Research Scholar, and 2009–11 Solly Robins Distinguished Research Fellow before being appointed the James L. Krusemark Chair in Law in 2011. Her work also has been featured on various business blogs. *Securities Law Review*, an annual edited volume of noteworthy scholarship in the field, included her articles in its 1998, 2005, and 2011 volumes, and the *Queen's Law Journal* gave her its 2007 David Watson Memorial Award for significant contributions to legal scholarship for “The Law and Economics of Identity.” She has been interviewed on television and radio programs on the subject of rating agencies.

June Carbone, Robina Chair in Law, Science and Technology, University of Minnesota Law School

June Carbone is the Robina Chair of Law, Science and Technology and Associate Dean for Research and Planning at the University of Minnesota. Previously she has served as the Edward A. Smith/Missouri Chair of Law, the Constitution and Society at the University of Missouri at Kansas City, and Associate Dean for Professional Development and Presidential Professor of Ethics and the Common Good at Santa Clara University School of Law. She received her J.D. from the Yale Law School, and her A.B. from the Woodrow Wilson School of Public and International Affairs at Princeton University. She teaches Property, Family Law, and Assisted Reproduction and the Family. She has written *From Partners to Parents: The Second Revolution in Family Law* (Columbia University Press, 2000), the third, fourth and fifth editions of *Family Law* with Leslie Harris and the late Lee Teitelbaum (Aspen, 2005, 2009, 2014), *Red Families v. Blue Families* (Oxford University Press, 2010); *Marriage Markets: How*

Inequality is Remaking the American Family (Oxford University Press, 2014), both with Naomi Cahn. She is a member of the Yale Cultural Cognition Project.

PANELISTS

Ron J. Feldman, First Vice President & Chief Operating Officer, Federal Reserve Bank of Minneapolis

Ron Feldman is the first vice president and chief operating officer of the Federal Reserve Bank of Minneapolis. In this role, he is responsible for all operational facets of the Bank's activities and for backup to the president in the execution of his monetary policy responsibilities. He is a member of the Conference of First Vice Presidents. In this capacity he is involved, along with the chief operating officers of the other eleven Reserve Banks, in various projects and initiatives to enhance the efficiency and effectiveness of the Federal Reserve's System-wide operations. He previously served as a senior officer for Supervision, Regulation and Credit. Feldman also held a variety of Federal Reserve System supervisory leadership roles. For example, he co-led the group overseeing the System's supervision of banks having under \$10 billion in assets. He also managed the System's validation of Federal Reserve stress testing models.

Feldman joined the bank in 1995 in the Supervision department. He became an officer of the bank in 1999, a managing officer in 2004, senior vice president in 2008 and executive vice president in 2013. In addition to assuming increasing responsibilities in the supervisory arena, he previously ran the Financial Services Support Office, which assists in the oversight of the Federal Reserve's financial services. Feldman has published research on a wide array of banking and financial topics. He is the co-author of *Too Big to Fail: The Hazards of Bank Bailouts*, published by the Brookings Institution (2004). He has a B.A. from the University of Wisconsin and an M.P.A. from Syracuse University.

Saule T. Omarova, Professor of Law, Cornell Law School

Saule Omarova specializes in regulation of financial institutions, banking law, international finance, and corporate finance. Before joining Cornell Law School in 2014, she was the George R. Ward Associate Professor of

Law at the University of North Carolina School of Law. Prior to joining academia, Professor Omarova practiced law in the Financial Institutions Group of Davis, Polk, & Wardwell, a premier New York law firm, where she specialized in a wide variety of corporate transactions and advisory work in the area of financial regulation. In 2006–2007, she served at the U.S. Department of the Treasury as a Special Advisor for Regulatory Policy to the Under Secretary for Domestic Finance.

Jennifer Taub, Professor of Law, Vermont Law School

Jennifer Taub is professor at Vermont Law School, where she teaches courses in Contracts, Corporations, Securities Regulation, and White Collar Crime. During the 2019 spring semester, she will be a visiting professor at the University of Connecticut School of Law. Formerly an associate general counsel at Fidelity Investments, she is a graduate of Yale College and Harvard Law School. Her research focuses on corporate governance, financial market regulation, and white collar crime. Taub is the author of the book *Other People's Houses* (Yale Press 2014) which suggests that the 2008 crisis was a repeat performance of the S&L debacle of the 1980s. In 2016, she testified before the Senate Committee on Banking, Housing and Urban Affairs concerning bank capital and liquidity requirements and before a subcommittee of the House Committee on Financial Services concerning capital formation, transparency, and regulatory accountability. She is also the co-author of *Corporate and White Collar Crime, Cases and Materials*, 6th ed. (Wolters Kluwer 2017).

In addition to scholarly publications in journals and peer-reviewed books, her writing has been featured on a variety of blogs including the New York Times' Dealbook and the Baseline Scenario. Professor Taub has served as a legal analyst on CNN and has been interviewed for print, radio and video media including by the New York Times, Washington Post, Wall Street Journal, Guardian, Bloomberg, NBC, ABC, CBSMoneyWatch, MarketPlace Radio, WNYC, New England Public Radio, and Vermont Public Radio. Taub is a member of the board of several nonprofit organizations including APPEAL (Association for the Promotion of Political Economy and the Law), The Society of Investment Law, and Free Speech for People.

Hosea H. Harvey, Associate Professor of Law, Associate Professor of Political Science (by courtesy), Temple University, Beasley School of Law

Hosea H. Harvey is Associate Professor of Law at Temple University's Beasley School of Law, where he teaches courses in Contracts, Banking and Financial Regulation, and Race and the Law. Formerly a corporate associate at Cravath, Swaine & Moore as well as Associate General Counsel at Planned Parenthood Federation of America, he is a graduate of Dartmouth College and received his J.D. and Ph.D. (Political Science) from Stanford University. Earlier in his career, Harvey clerked for the Honorable Ann Claire Williams of the U.S. Court of Appeals for the 7th Circuit; he also clerked for the Honorable Barrington D. Parker, Jr., then of the U.S. District Court for the Southern District of New York. His current research focuses on incorporating socio-demographic differences and empirical analysis into regulatory design and policy approaches for both consumer law and health law matters. In addition to recent scholarly publications in both law and peer-reviewed scientific journals, his work has been featured on a variety of blogs and in print media, including the New York Times, Education Week, Congressional Quarterly, The Boston Globe, Baltimore Sun, Pittsburgh Tribune Review, Crain's Philadelphia, NPR, and other sources. Harvey is a member of several nonprofit organizations, including America Needs You (a national mentoring organization for first-gen college students), and Mastery Charter Schools of Philadelphia, where he serves on its Board of Trustees.

Patricia A. McCoy, Liberty Mutual Insurance Professor, Boston College Law School

Patricia A. McCoy is the Liberty Mutual Insurance Professor at Boston College Law School. Her research interests focus on the nexus among financial products, consumer welfare, and systemic risk. In 2010–2011, she was the Assistant Director of Mortgage Markets at the newly formed Consumer Financial Protection Bureau in Washington, D.C., where she oversaw all of the Bureau's mortgage policy initiatives. Professor McCoy received her J.D. from the University of California at Berkeley and served as Editor-in-Chief of the Industrial Relations Law Journal. Later, she clerked for the late Hon. Robert S. Vance on the U.S. Court of Appeals for the Eleventh Circuit. Before entering academe, Professor McCoy was a partner at the law firm of Mayer, Brown in Washington, D.C. She spent the 2002–2003 school year as a Visiting Scholar at the MIT Economics

Department. Professor McCoy has three books to her credit, including *The Subprime Virus*, which was published by Oxford University Press in 2011 and written with Kathleen C. Engel.

Christopher Peterson, John J. Flynn Endowed Professor of Law, University of Utah, S.J. Quinney College of Law

Christopher Peterson is the John J. Flynn Endowed Professor of Law at the University of Utah's S.J. Quinney College of Law where he teaches contracts, commercial law, and consumer protection courses. Professor Peterson was on leave from 2012 to 2016 serving as a Special Advisor in the Office of the Director at the United States Consumer Financial Protection Bureau, in the Office of Legal Policy for Personnel and Readiness in the United States Department of Defense, and as Senior Counsel for Enforcement Policy and Strategy in the Consumer Financial Protection Bureau's Office of Enforcement. From 2009–2012 he served as Associate Dean for Academic Affairs. Before joining the faculty in 2008, Professor Peterson taught for five years at the University of Florida, Fredric G. Levin College of Law. He also worked as a consumer rights attorney for the United States Public Interest Research Group in Washington, D.C. and clerked for the Honorable Wade Brorby on the United States Court of Appeals for the Tenth Circuit.

A recognized authority on consumer finance, Professor Peterson has frequently testified in Congressional hearings and has presented his research to the Federal Deposit Insurance Corporation, Federal Reserve Board of Governors, and at the White House in both Democratic and Republican administrations. Professor Peterson's books include the Thompson/West casebook *Consumer Law: Cases and Materials* and *Taming the Sharks: Towards a Cure for the High Cost Credit Market* which won the American College of Consumer Financial Services Lawyers' outstanding book of the year prize. He is a consumer fellow of the American Bar Association's Consumer Financial Services Committee. Professor Peterson is a recipient of the National Association of Consumer Agency Administrators' Consumer Advocate of the Year award and the Department of Defense's Office of the Secretary of Defense Award for Excellence—both bestowed in recognition of his role in promoting an Act of Congress and subsequent implementing regulations that protect military service members from predatory lending practices.

Martha Coakley, Partner, FoleyHoag LLP, Attorney General of Massachusetts, 2007–2015

Martha Coakley, the first female Attorney General of Massachusetts, served from 2007–2015. Her prior experience includes District Attorney of Middlesex County; Special Attorney, Boston Organized Crime Strike Force; and Resident Fellow, Harvard Institute of Politics, John F. Kennedy School of Government. Martha has been a national leader in consumer protection, and civil rights, among other areas. As an active member and then President of the Women’s Bar Association, Martha supported and participated in the §12S petition panel for young women needing counsel in Court. NAAG recognized her outstanding accomplishments in 2014 when she received the Kelley-Wyman Award, given annual to the AG who has done the most to achieve NAAG objectives, Martha graduated from Williams College and the Boston University School of Law. She is a Partner in Foley Hoag’s Administrative Department where she focuses on government and internal investigations, litigation, data privacy and security, and healthcare.

Thomas P. James, Senior Assistant Attorney General, Consumer Counsel, Consumer Fraud Bureau, Office of the Illinois Attorney General

Thomas James serves as the Senior Assistant Attorney General in the Consumer Fraud Bureau of the Office of the Illinois Attorney General where he holds the position of Consumer Counsel. Tom has been a litigator in that Office since 1988 and has extensive knowledge of major federal and state consumer protection statutes. In recent years he has concentrated on credit-related unfair and deceptive financial practices and associated anticompetitive market behavior. He’s participated on various regional and national multi-state enforcement teams specializing in cases against individuals and institutions engaged in sales and marketing misrepresentation, predatory price distortion, wealth and equity stripping, fair-lending violations, and structural unfairness and loan product abuse in the home-loan and mortgage-lending, consumer-credit and securitization markets. Tom has also worked extensively in drafting commentary, statutes and regulations in collaboration with legislative staff, not-for-profit organizations, major community banking and state bank associations, and state and federal regulators. He helped draft the Illinois High Cost Home Loan Act of 2004, the Illinois Foreclosure Rescue Fraud Act of 2007, and the Illinois Consumer Installment and Payday Loan Reform Act of 2010.

Tom is a past member of the Federal Reserve Board's Consumer Advisory Council. Before becoming a lawyer, Tom worked as a housing counselor for the Leadership Council for Metropolitan Open Communities in Chicago where he assisted inner-city public housing tenants relocate to privately-owned residential units on a metropolitan-wide basis. Tom earned his J.D. from the University of California, Berkeley, and is licensed in California and Illinois.

Rob McKenna, Partner, Orrick, Herrington & Sutcliff LLP, Attorney General of Washington, 2005–2013

Rob McKenna is a partner in Orrick's Seattle and Washington, D.C., offices, leads the State AG team in the firm's Public Policy Group and is a member of Orrick's Cyber, Privacy & Data Innovation practice. A former Washington State Attorney General and President of the National Association of Attorneys General, Rob's practice focuses on public policy, litigation, appellate law, and investigations. Rob served two terms as Attorney General of Washington, from 2005 to 2013. He successfully argued three cases before the U.S. Supreme Court and negotiated three of the largest consumer protection settlements in national history, all involving mortgage lending and servicing. While serving as President of the National Association of Attorneys General, he created and led an initiative to combat human trafficking in the United States which has continued to this day. In 2011, his fellow attorneys general honored him with the NAAG Kelley-Wyman Award for "Outstanding Attorney General" in America. Prior to serving as Washington Attorney General, Rob was elected three times to the Metropolitan King County Council. He has held numerous community leadership positions with public school and college foundations, domestic violence prevention organizations, and leadership development groups. A Distinguished Eagle Scout himself, Rob is Past President of the Chief Seattle Council of the Boy Scouts of America and continues to serve on its Executive Board; has served on numerous other non-profit boards, including the board of United Way of King County, and was a 20-year member of Bellevue Rotary.

MODERATORS

Prentiss Cox writes and teaches in the area of consumer law and civil public enforcement. Professor Cox was manager of the Consumer Enforcement Division in the Minnesota Attorney General's Office prior to joining the faculty in 2005. He has prosecuted numerous nationally recognized consumer protection cases, has often testified before Congress and state legislatures for consumer protection statutes and rules, has served as a trainer and consultant for state and federal government agencies and for developing nations, and was a member of the inaugural Consumer Advisory Board of the U. S. Consumer Financial Protection Bureau.

Richard W. Painter is the S. Walter Richey Professor of Corporate Law at the University of Minnesota Law School. From February 2005 to July 2007, Painter was associate counsel to the president in the White House Counsel's office, serving as the chief ethics lawyer for the president, White House employees, and senior nominees to Senate-confirmed positions in the executive branch. He has been active in law reform efforts aimed at deterring securities fraud and improving ethics of corporate managers and lawyers. A key provision of the Sarbanes-Oxley Act of 2002, requiring the SEC to issue rules of professional responsibility for securities lawyers, was based on earlier proposals Painter made in law review articles and to the ABA and the SEC. He has given dozens of lectures on the Sarbanes-Oxley Act to law schools, bar associations, and learned societies, such as the American Academy of Arts and Sciences. Professor Painter has on six occasions provided invited testimony before committees of the U.S. House of Representatives or the U.S. Senate on government ethics, securities litigation, and/or the role of attorneys in corporate governance.

Daniel Schwarcz is a professor at University of Minnesota Law School where his research focuses on a broad range of issues in insurance law and regulation, spanning systemic risk, regulatory federalism, consumer protection, employer-sponsored health insurance, and insurance coverage litigation. Schwarcz's scholarship has been published in a wide range of leading law reviews and journals, such as the *University of Chicago Law Review*, *Virginia Law Review*, and the *Journal of Empirical Legal Studies* and has won multiple awards. He is also a co-author of the leading insurance law casebook in the country, *Insurance Law and Regulation* (6th edition), which has been used as the principal text in

courses on insurance law in more than 100 American law schools. Media outlets such as the *New York Times*, *Wall Street Journal*, and National Public Radio have covered Schwarcz's scholarship. He regularly testifies to U.S. Congressional committees on insurance matters, and he has served as an expert witness in a wide range of insurance disputes. Schwarcz teaches courses on contract law, insurance law, the regulation of financial institutions, commercial law, health care regulation and finance, and judicial opinion writing. He has twice received teaching awards at the Law School.

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Special thanks to:

Lisa Burtch
Prentiss Cox
Claire Hill

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Recommended lunch venues:

Sullivan Café
University of Minnesota Law School, Lower Level

Subway / Essentials Market
Blegen Hall, 269 19th Ave S (5 minute walk)

Chipotle Mexican Grill
229 Cedar Ave (4 minute walk)

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