

## Justice Breyer Headlines “Only at GW” Conversation Series



Dean Dayna Bowen Matthew moderated the second of five conversations with retired U.S. Supreme Court Justice Stephen Breyer.

IN THE FIRST THREE INSTALLMENTS of a five-part conversation series at GW Law, retired U.S. Supreme Court Justice Stephen Breyer discussed growing up in San Francisco, his experiences in law school, his clerkship, and his work on Capitol Hill.

Breyer was appointed to the Supreme Court by President Bill Clinton in 1994 and served for 28 years until his retirement in June 2022. The public conversation series organized by GW Law is intended as an oral history of his career.

The first conversation, which took place in late March, saw the justice and his brother, U.S. District Court Judge Charles R. Breyer, a senior jurist in the Northern District of California, speaking fondly of their childhood in San Francisco. The chat was moderated by Alan B. Morrison, the Lerner Family Associate Dean for Public Interest and Public Service Law and a longtime friend of Breyer's.

Justice Breyer said San Francisco's diversity gave him an appreciation for people from different backgrounds living together as a community. The brothers also talked about

their civic-minded parents who instilled an appreciation of the role of public life. Their father was the attorney for the Board of Education in San Francisco for more than four decades, and their mother was engaged with the League of Women Voters, the PTA, and similar organizations.

The justice remembered his parents' disapproval of the internment of Japanese Americans during World War II. He also recalled that his father took him with him to vote, lifting the young boy up to the voting machine to help pull the levers.

During the second conversation in May, with Dean Dayna Bowen Matthew as moderator, Breyer talked about his time as both a student and teacher at Harvard Law School. He said the atmosphere at Harvard Law in the early 1960s was more difficult for women than he recognized at the time, although he thought it was “ridiculous” that fewer than 20 students—in a class of more than 500—were women. He said at least one professor, Barton Leach, refused to call on women students.

After graduating, Breyer began working as

a clerk to U.S. Supreme Court Justice Arthur Goldberg. Ten years had elapsed since the Supreme Court had outlawed segregated schools in its *Brown v. Board of Education* ruling, but changes on the ground were slow. When Governor Orville Faubus defied the order to integrate Arkansas schools, President Dwight Eisenhower sent federal troops to Little Rock.

“I think it was the best thing Eisenhower ever did,” Breyer said.

He acknowledged the social turmoil at the time, including the war in Vietnam and the Civil Rights movement. “I hope we get together and sort of stop what's going on now,” he said, “but the Vietnam period we survived.”

Breyer suggested a philosophical view of American politics as perpetually struggling to achieve some kind of equilibrium. His comments similarly veered from serious historical reflection to humorous anecdotes.

After his clerkship, he worked in the U.S. Department of Justice's Antitrust Division. He characterized his later role on the Watergate prosecutions as “minor,” describing Special Prosecutor Archibald Cox as “a truly great man.”

“I was lucky, very lucky, I would say, in the people I worked for,” Breyer said. “I was lucky working with Goldberg, lucky working with Archibald Cox and with Ted Kennedy.”

The justice's work on the Senate Judiciary Committee with Sen. Edward Kennedy was the focus of the third installment in the conversation series in September, moderated by Kenneth R. Feinberg. Recognized as a master in alternative dispute resolution, Feinberg worked alongside Justice Breyer as special counsel to the Senate Judiciary Committee and eventually served as chief of staff to Sen. Kennedy.

Breyer spoke movingly of the glittering Kennedy era and its optimism about improving life for Americans. He said the lessons he learned—of the value of listening, of humility, and of the willingness to compromise—were the secrets of Kennedy's legislative success.

Introducing his friends of many decades, Morrison—who brought the Breyer series to GW—noted that Breyer “is now in what he calls retirement. But, of course, he's not sitting around relaxing, as he was entitled to do.” Instead, the justice is teaching at Harvard Law School, giving talks around the world, and writing a new book planned for publication next year.

## Supreme Court Briefing Draws Full House



Leading journalists and GW Law professors discussed upcoming cases on the U.S. Supreme Court docket at a packed Constitution Day event.

A PANEL OF EXPERTS FILLED THE Jacob Burns Moot Court Room to overflowing with a discussion on cases teed up for the U.S. Supreme Court this term. Panelists at the Constitution Day event included Kimberly Atkins Stohr, senior opinion writer and columnist for *Boston Globe Opinion*; GW Law’s Glen Earl Weston Research Professor Emily Hammond; and Lerner Family Associate Dean for Public Interest and Public Service Law Alan B. Morrison. Legal analyst and *Slate* senior writer Mark Joseph Stern moderated the annual event for the seventh time.

Stohr opened the discussion with *Alexander v. South Carolina State Conference of the NAACP*, a case involving a redrawn congressional map adopted by South Carolina’s Republican-controlled legislature. “The central question is basically whether the district court in this case erred in finding that race was a predominant factor in the drawing of South Carolina’s First Congressional District,” Stohr said. In *Rucho v. Common Cause*, the U.S. Supreme Court ruled that federal courts have no jurisdiction in political gerrymandering cases. South Carolina maintains that the

new map is motivated by political, not racial, considerations.

“The biggest takeaway in this case is that it’s the Supreme Court’s first real opportunity to articulate the difference between a racial gerrymander and a political gerrymander,” Stohr said.

Social media was under the spotlight in five cases addressed by Morrison, including *Moody v. NetChoice, LLC*. *Moody* raises several important First Amendment questions, among them whether the First Amendment prohibits states from requiring social-media companies to host third-party communications and whether the First Amendment prohibits a state from requiring social-media companies to explain to users when they censor the user’s content or speech.

Morrison said some of the issues “go back to a time when Donald Trump was the president, and he was using X (formerly known as Twitter) essentially as his official organ of the presidency... and he decided he didn’t like some of the people who were responding to his tweets and blocked them from doing so.” The Second Circuit has

## ALONSO-YODER AND VALDEZ CO-HOST CONFERENCE FOR NEW IMMIGRATION LAW PROFESSORS

ASSOCIATE PROFESSOR OF LAW Tania Valdez and Associate Professor of Fundamentals of Lawyering Cori Alonso-Yoder co-hosted the 2023 Biennial Emerging Immigration Scholars Conference. The program of the AALS Section on Immigration Law brought more than 40 new immigration law faculty from around the country to GW Law in June for two days of scholarly conversation and community-building.

Professor Valdez focuses on the study and practice of immigration law. Her research highlights the inadequacies of protections for noncitizens in removal proceedings, particularly in the current era of aggressive immigration enforcement. Professor Alonso-Yoder is a nationally known scholar on immigration legislation and the impacts of state, local, and

ruled that since Trump was running this Twitter account in his official capacity as the president, he violated the First Amendment by discriminating against people based on their viewpoint.

Two other cases discussed by Morrison concerned Florida and Texas laws that blocked big media companies from removing political advertisements, especially conservative ads. “And, of course, if you must carry [the ads] in Florida or in Texas, you must carry them throughout the United States and the world. So, in essence, they are dictating media policy for the entire country,” he said.

Hammond, meanwhile, talked about *Loper Bright Enterprises v. Raimondo*, in which a group of commercial herring fishermen sued the National Marine Fisheries Service after it required the fishing industry to fund at-sea monitoring programs. The fishermen argued that the service lacked the authority to create such requirements for herring fishery vessels and that it had failed to follow rulemaking procedure.

Hammond said the case is “about who has power among the three branches [of government].”



Biennial Emerging Immigration Scholars Conference

federal laws on immigrant communities. She is also an expert in health policy for immigrants.

GW Professorial Lecturer in Law Paulina Vera, who supervises GW Law Immigration Clinic students and provides legal representation to asylum-seekers and respondents facing deportation in Immigration Court, sat on the steering committee for the conference.

*Slate's* Stern concluded the discussion on *United States v. Rahimi*, which asks if the Second Amendment is violated when people with domestic violence restraining orders are barred from possessing firearms. Stern noted Justice Clarence Thomas's opinion in a previous gun rights case, *New York State Rifle & Pistol Association v. Bruen*, requiring states to issue concealed carry permits to law-abiding, responsible citizens.

The defendant in the Rahimi case was charged with several crimes, including possessing a firearm while under a civil protective order entered against him by an ex-girlfriend. Stern said the Fifth Circuit's ruling in *Rahimi* disregarded the country's gun violence problem and that the "disproportionate number of mass shooters committed domestic violence before or during their spree. When there is a gun in the house or in possession of the domestic abuser, the partner is vastly more likely to be murdered."

Stern's best guess was that the court would not affirm the Fifth Circuit ruling.

## BRAND-MANATT LECTURE: THE ROLE OF LAW IN PEACE AND DECOLONIZATION

JUDGE CHILE EBOE-OSUJI, FORMER president of the International Criminal Court, presented the Fall 2023 Brand-Manatt Lecture titled "Doing More with Peace as a Legal Norm." The September lecture, which examined issues related to the role of law in the quest for global peace, was dedicated to the memory of beloved GW Law Professor Emeritus Thomas Buergenthal, who passed away in late May at the age of 89.

The program also included a screening of the documentary "Peace Through Justice—the Legacy of Thomas Buergenthal," produced by the International Nuremberg Principles Academy.

"Judge Buergenthal's legacy lives on through the principles to which he dedicated his life and the passion he instilled," Dean Dayna Bowen Matthew told the gathering, which included members of the Buergenthal family.

The lecture was followed by a panel on "Striving for Peace through Justice Today: Perspectives on the International Criminal Court" featuring the participation of U.N. Committee Against Torture member Todd F. Buchwald, who is the U.S. Department of State's former ambassador for global criminal justice; GW Law's Oswald Symister Colclough Research Professor of Law Laura A. Dickinson; and Alka Pradhan, who is defense counsel at the International Criminal Court and a member of the Drafting Group for the Méndez Principles.

The panel discussion was moderated by Associate Dean for International and Comparative Legal Studies Rosa Celorio.

The Spring 2023 Brand-Manatt Lecture was delivered on April 17 by University College London Professor of Laws Philippe Sands KC, who directs that university's Centre on International Courts and Tribunals. Sands' lecture was titled "The Last Colony—Law and Decolonization, from Chagos to Ukraine."

The presentation focused on his recent book, *The Last Colony: A Tale of Exile, Justice, and Britain's Colonial Legacy*, recounting the decades-long struggle



Judge Chile Eboe-Osuji

by Mauritius to secure sovereignty over the Chagos Archipelago in the Indian Ocean. Sands also offered insights into how Western complicity in colonialism and foreign occupation has inhibited developing states from supporting contemporary Western policies regarding the war in Ukraine.

Sands appears as counsel before the International Court of Justice and other international courts and tribunals, sits as an international arbitrator, and is a prolific author.

The Brand-Manatt Lecture was established by Joseph L. Brand, JD '63, and Ambassador Charles T. Manatt, JD '62, to bring leading public figures and scholars to GW Law to discuss important contemporary issues. The late Brand was a partner at Squire Patton Boggs law firm and a George Washington University trustee. The late Manatt, the founder of Manatt, Phelps, & Phillips LLP, was the U.S. ambassador to the Dominican Republic and chair of the Democratic National Committee.

Brand passed away in late 2022. Prior to Sands' lecture, Ralph G. Steinhardt, GW Law's Lobingier Professor of Comparative Law and Jurisprudence Emeritus, offered remarks in remembrance of Brand.

## Vera Named President-Elect of Hispanic Bar Association of DC

PROFESSORIAL LECTURER IN LAW Paulina Vera, JD '15, who supervises the GW Law Immigration Clinic, has been named president-elect of the Hispanic Bar Association of Washington, DC (HBA-DC).

"I found a home in [the] Hispanic Bar Association of the District of Columbia when I was a 1L at GW Law. Over the last decade, HBA-DC has given me so much—mentors, mentees, lifelong friends, community, scholarships, guidance, and the Rising Star Award, just to name a few," said Vera. "It is the honor of a lifetime for me to lead an organization that has given me so much."

Vera is a scholar for the American Bar Association Young Lawyers Division Leadership Academy and a member of the inaugural Hispanic National Bar



Paulina Vera

Association National Task Force on Hispanic Law Professors and Deans. She serves as public relations director for the GW Latino Law Alumni Association.

## JONES UNDERTAKES FULBRIGHT RESEARCH AT UK UNIVERSITY



Susan Jones

PROFESSOR SUSAN JONES HAS received a Fulbright Specialist Scholar Program award, opening the way for her to study and lecture on comparative

clinical pedagogy at Liverpool John Moores University in the United Kingdom. Jones, who is a director of the GW Law Small Business and Community Economic Development Clinic, embarked on her Fulbright in October 2023.

The Fulbright Specialist Program is an international educational exchange program sponsored by the U.S. Department of State. Its support enables scholars to engage in research projects focused on critical global issues at host institutions abroad.

When she returns to the United States, Jones will collaborate with UK clinical faculty to co-author a law review article on comparative clinical pedagogy.

## APPLYING RESEARCH TO ADVOCACY

STEVEN L. SCHOONER, THE NASH and Cibinic Professor of Government Procurement Law, was named Jeffrey and Martha Kohn Senior Associate Dean for Academic Affairs. In announcing the appointment, which took effect July 1, Dean Dayna Bowen Matthew praised Schooner as "an internationally renowned scholar and talented administrator who has made many incredible contributions

## PAGEL ELECTED TO ABA COUNCIL



Scott Pagel

ASSOCIATE DEAN FOR INFORMATION SERVICES Scott Pagel has been elected by the ABA Section on Legal Education and Admission to the Bar to serve on its council, which is recognized as the national accrediting agency for programs leading to the JD degree.

Members of the council are elected to three-year terms and may serve no more than six years. Pagel previously served for six years on the Accreditation Committee of the Section, including two years as chair of its Standards Review Committee.

Pagel has served as director of the Jacob Burns Law Library for more than 30 years. He is a professor of law and the author of articles and book chapters on legal research and law library management.



Steven Schooner

to our law school since joining the faculty 25 years ago.”

Schooner’s scholarship focuses on federal government contract law and public

procurement policy. Before joining the GW Law faculty, he was the associate administrator for procurement law and legislation at the Office of Federal Procurement Policy in the Office of Management and Budget. He previously served as a trial and appellate attorney in the Commercial Litigation Branch of the Department of Justice and as an Army Reserve officer.

“I am delighted that Steve Schooner has returned to the Dean’s Office after 15 years for an encore performance as senior associate dean for academic affairs,” said Dean Matthew. “He has played a key leadership role in our renowned government contracts program, and I look forward to working with him as we continue to propel GW Law’s academic program to new heights.”

“I’m excited to engage with GW Law’s next generation of talented and productive scholars and teachers,” Schooner said.

## ROBINSON INDUCTED INTO WASHINGTON BAR ASSOCIATION HALL OF FAME

IN RECOGNITION OF HER distinguished legal career, Associate Dean for Trial Advocacy Alfreda Robinson, who is also a professorial lecturer in law and co-director of GW Law’s Litigation and Dispute Resolution Program, has been inducted into the Washington Bar Association Hall of Fame.

“I am deeply honored, thankful, and humbled to be inducted into the prestigious Washington Bar Association Hall of Fame,” said Robinson, who teaches

“...A CONSTANT REMINDER TO BOLDLY ADVANCE THE CAUSES OF CIVIL RIGHTS AND DEMOCRACY.”

– Alfreda Robinson

pre-trial advocacy to JD and LLM students. Her current scholarship focuses on sanctions for pretrial misconduct, mediation, judicial selection, and judicial education.

“This mark of distinction is extraordinarily special to me because it is presented by my peers and fellow members of the 98-year-old association,” she added.

The association’s members have included U.S. Supreme Court Justice Thurgood Marshall, Jr. Current members include two GW Law alumni—GW Board of Trustees Chair Grace E. Speights, JD ’82, and medical malpractice lawyer Jack H. Olender, LLM ’76, who has provided endowment support to the GW Law Litigation Program.

Robinson said the Hall of Fame honor will be “a constant reminder to boldly advance the causes of civil rights and democracy.”

Robinson served as the 77th president of the National Bar Association and was inducted into the National Bar Association Hall of Fame. She is the recipient of the National Bar Association’s C. Frances Stradford Award. She also holds numerous other awards, including the Heman Marion Sweatt Legacy Award and the Sankofa Award.

## CELORIO ELECTED TO ASIL EXECUTIVE COUNCIL

ASSOCIATE DEAN FOR INTERNATIONAL and Comparative Legal Studies Rosa Celorio has been elected to a three-year term on the Executive Council of the American Society of International Law (ASIL), the foremost U.S. institution dedicated to the advancement and study of international law. She recently concluded a two-year term as chair of ASIL’s Membership Committee.

“I am deeply honored to have the opportunity to serve on the Executive Council of the American Society of International Law. ASIL has a critical role in convening major actors in the area of international law and in promoting the discussion of priority issues,” said Celorio, who is also the Burnett Family Distinguished Professorial Lecturer in International and Comparative Law and Policy. “As a member of the Executive Council, I will continue supporting ASIL in the identification of creative and innovative ways to address priority issues in international law and in the advancement of diversity, equity, and inclusion as guiding goals in all of its initiatives.

“I also look forward to supporting ASIL in building continued excitement



Rosa Celorio

and interest over international law, as these are very challenging times,” she added.

On Oct. 19, Celorio was the invited keynote speaker at a special Hispanic Heritage Month event sponsored by the U.S. State Department and its OAS Mission. The presentation and panel discussion, titled “Climate Change, Gender, and the Americas: A Conversation with Rosa Celorio,” discussed Celorio’s book, *Women and International Human Rights in Modern Times*, and spotlighted her recent work and scholarship in the areas of climate change and gender.

GW LAW REVIEW SYMPOSIUM

# Regulating Legally Disruptive Emerging Technologies



THE GEORGE WASHINGTON LAW Review’s 92nd annual symposium brought together top scholars from both sides of the Atlantic for a timely discussion on important legal questions raised by the regulation of emerging digital technologies.

The October symposium focused on rapidly developing technologies like cryptocurrency and artificial intelligence (AI)—tools that the law must regulate, but that also have the potential to disrupt the legal process itself. The full day program

THE OCTOBER SYMPOSIUM FOCUSED ON RAPIDLY DEVELOPING TECHNOLOGIES LIKE CRYPTOCURRENCY AND ARTIFICIAL INTELLIGENCE TOOLS THAT THE LAW MUST REGULATE.

included a keynote lecture, two panel discussions, and a “fireside chat” by officials from the SEC, the DOJ, and the U.S. Equal Employment Opportunity Commission.

The symposium opened with a keynote address by Harvard Law School Professor Cass Sunstein, one of the nation’s most illustrious legal scholars, who spoke about First Amendment issues raised by AI-generated content.

Professor J.W. Verret of George Mason Antonin Scalia Law School moderated the first panel titled *Adaptation Strategies in the Era of Blockchain Technology*. The panel explored the implications of blockchain networks and transactions for the legal system and how best to regulate cryptocurrency given its decentralized nature. Panelists included Morshed Mannan of the European University Institute, Yuliya Guseva of Rutgers Law School, Thomas D. Grant, former Senior Research Fellow at

## BRAUNEIS SPEARHEADS AI LITIGATION DATABASE

IT CAN BE A CHALLENGE TO KEEP up with recent developments in the rapidly evolving field of artificial intelligence, but Robert Brauneis, the Michael J. McKeon Professor of Intellectual Property Law, is making it easier with a new database dedicated to AI litigation.

Developed and directed by Brauneis, the online, searchable AI Litigation Database was created to help lawyers, scholars, journalists, and potential plaintiffs and defendants stay informed. Brauneis and the students in his GW Law course “Law in the Algorithmic Society” update the database when they learn of relevant cases.

“A couple of years ago, I was looking for some kind of resource that would track litigation involving artificial intelligence

Cambridge University, and Carla Reyes of Southern Methodist University Dedman School of Law.

GW Law Professor Alicia Solow-Niederman moderated the second panel of the day, titled *Navigating Regulation and Enforcement in the AI Era*. Panelists included GW Law Associate Dean Michael Abramowicz, John F. Duffy of the University of Virginia School of Law, David Engstrom of Stanford Law School, Daniel Ho of Stanford Law School, and Richard Re of the University of Virginia School of Law.

The symposium concluded with a “fireside chat” focusing on federal agencies’ use and regulation of artificial intelligence and the impact of emerging technologies on the regulatory environment. The discussion was moderated by GW Law Associate Dean for Academic Affairs Aram Gavoor and featured Commissioner Keith Sonderling of the U.S. Equal Employment Opportunity Commission, Commissioner Hester M. Peirce of the U.S. Securities and Exchange Commission, and Deputy Assistant Attorney General Jonathan Smith of the U.S. Department of Justice Civil Rights Division.



Robert Brauneis

from the filing of the complaint onward,” Brauneis says. “Litigation is moving so fast that if you wait for a published decision to come out, you might be a year or two behind. That resource didn’t exist, so I

decided to create it with the help of a couple of colleagues and many law students.”

Legal scholars and others familiar with databases such as those maintained by LexisNexis and Westlaw know that they report opinions from finished cases. The AI Litigation Database tracks cases from the time they are filed. The cases are searchable by keyword, the jurisdiction in which they were filed, and area of application. Application areas include employment, intellectual property, facial recognition, and more.

AI is used to perform an increasing number of tasks, such as screening resumes of jobseekers and recommending bail (or not) for criminal defendants, to mention just a couple of the countless applications. Since AI makes predictions about the future based on information it has gathered about the past, problems can arise when past decisions were discriminatory. When federal, state, or local governments use AI, Brauneis adds, it can be difficult for citizens to learn how decisions affecting their future are being made.

“Most governments don’t have the in-house talent to develop their AI tools, and so they rely on contractors,” Brauneis says. “Many contractors want to keep much of their AI as a trade secret so that they can sell it to many different customers. If you are a defendant in a criminal case, you may be deprived of your liberty before you’ve even been tried.”

“This is an exciting, cutting-edge area where we know new law is being made and is going to continue to be made over the next decades,” Brauneis adds. “And it’s important to have a tool that allows you to see that litigation happening in real time from complaint forward. And that’s what we’re trying to provide.”

The database grew out of the Ethical Tech Initiative (ETI), a collaboration among GW experts in law, engineering, computer science, media, and public affairs to address the impacts of digital technology. ETI is co-directed by Brauneis and Dawn Nunziato, the William Wallace Kirkpatrick Research Professor at GW Law.

## MORRISON WINS NLJ LIFETIME ACHIEVEMENT AWARD

ASSISTANT DEAN FOR ENVIRONMENTAL Law Studies Randall Abate launched a new discussion forum, the J.B. and Maurice C. Shapiro Distinguished Lecture.

Alan Morrison, the Lerner Family Associate Dean for Public Interest and Public Service Law, received *The National Law Journal’s* 2023 Lifetime Achievement Award in recognition of his lifetime of “top litigation and appellate work.”

Morrison, who has dedicated his career to public interest law, is credited with creating entirely new areas of the law and co-founding one of the nation’s preeminent public-interest law firms—Public Citizen Litigation Group (PCLG)—with Ralph Nader, which he directed for more than 25 years.

He’s considered a consummate legal theorist and appellate advocate with 20 U.S. Supreme Court arguments under his belt, has written 50 law review and other



Alan Morrison

journal articles, edited and co-authored eight books, and penned essays and op-eds in the hundreds.

His groundbreaking Supreme Court cases include victories in *Goldfarb v. Virginia State Bar* (holding lawyers subject to the antitrust laws for using minimum fee schedules); *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council* (making commercial speech subject to the First Amendment); and

*INS v. Chadha* (striking down over 200 federal laws containing the legislative veto as a violation of separation of powers).

Morrison, who teaches civil procedure and constitutional law, joined GW Law in 2009, where he is responsible for creating pro bono opportunities for students, bringing a wide range of public interest programs to the law school, and encouraging students to seek positions in the non-profit and government sectors.