University of Richmond Law Review

with

Professors Carl Tobias & Kevin Walsh

present

Everything But the Merits: Analyzing the Procedural Aspects of the Healthcare Litigation

6 MCLE CREDITS

2011 Allen Chair Symposium

Friday, November 11, 2011
8:00 a.m. to 3:30 p.m.

Robins School of Business
Queally Hall
Ukrop Auditorium

University of Richmond
School of Law
Moot Court Room

PARTICIPANT PROGRAM
Analyzing the Procedural Aspects of the Healthcare Litigation

SYMPOSIUM WELCOME
WENDY C. PERDUE
Dean & Professor of Law,
University of Richmond School of Law

9:20 A.M. – 9:30 A.M.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

Wendy C. Perdue
Dean & Professor of Law,
University of Richmond School of Law

Dean Wendy Collins Perdue is a prolific scholar of civil procedure and conflict of laws, as well as land use and public health. Her publications include two case books as well as numerous journal articles and book chapters. Before joining the University of Richmond School of Law as dean in 2011, she was an associate dean and professor of law at Georgetown University Law Center.

A recognized leader within legal education, Dean Perdue is a former vice president of Order of the Coif, the legal education honor society, and has held a number of positions within the Association of American Law Schools including serving as chair of its membership review committee, the sections on civil procedure and conflict of laws, and as a member of the nominations committee. Dean Perdue also served on the Duke Law School board of visitors and was on the editorial board of the Journal of Legal Education.

After receiving her B.A. from Wellesley College and her J.D. from Duke Law, Dean Perdue clerked for Anthony M. Kennedy, then a 9th U.S. Circuit Court of Appeals judge and now associate justice of the U.S. Supreme Court. She practiced law as an associate with Hogan and Hartson in Washington, D.C., before joining Georgetown’s law faculty in 1982. While a member of Georgetown Law faculty, Dean Perdue served for nine years as Vice-Chair of the Montgomery County Planning Board and a commissioner of the Maryland-National Capital Park and Planning Commission.

Dean Perdue will write the Introduction of the March 2012 Allen Chair Issue of the University of Richmond Law Review.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

AGENDA & SPEAKER BIOGRAPHIES
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

MORNING SESSION

<table>
<thead>
<tr>
<th>TIME</th>
<th>PANEL / SPEAKER</th>
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| 9:20 | SYMPOSIUM WELCOME  
Wendy C. Perdue, Dean & Professor of Law, University of Richmond School of Law |
| 9:30 | THE ROLE OF STATES AS LITIGANTS IN THE MANDATE LITIGATION  
E. Duncan Getchell, Jr., Solicitor General of Virginia  
William F. Brockman, Acting Solicitor General of Maryland  
William P. Marshall, William Rand Kenan, Jr., Distinguished Professor of Law, University of North Carolina School of Law  
Moderator: Jessica Erickson, Associate Professor of Law, University of Richmond School of Law |
| 11:00 | MOMENT OF SILENCE  
A moment of silence to pay tribute to America's living veterans, and honor the sacrifices made by members of the U.S. armed forces on this Veteran's Day. |
| 11:02 | BREAK |
| 11:15 | DEFINING THE SCOPE AND LEGAL EFFECT OF THE CHALLENGES TO THE INDIVIDUAL MANDATE  
Edward A. Hartnett, Richard J. Hughes Professor, Seton Hall University School of Law  
Tobias A. Dorsey, Special Counsel for the United States Sentencing Commission (USSC)  
Kevin C. Walsh, Assistant Professor of Law, University of Richmond School of Law  
Moderator: Professor John F. Preis, Associate Professor of Law, University of Richmond School of Law |
| 12:45 | LUNCH  
Lunch will be served in the University of Richmond School of Law Atrium & Moody Plaza (ushers available to escort guests to lunch) |
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

AFTERNOON SESSION

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<th>PANEL / SPEAKER</th>
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| 2:00  | SITUATING THE MANDATE LITIGATION IN THE BROADER REGULATORY AND POLITICAL LANDSCAPES  
Bradley W. Joondeph, Santa Clara University School of Law, Creator of the ACA litigation blog  
A. Christopher Bryant, Professor of Law, University of Cincinnati College of Law  
Elizabeth Weeks Leonard, Associate Professor of Law, University of Georgia Law  
Moderator: Aminah H. Qureshi, Allen Chair Executive Editor, University of Richmond School of Law |
| 3:30  | CLOSING ADDRESS |
| 3:45  | COCKTAIL RECEPTION  
The cocktail reception will be held in the University of Richmond School of Law Atrium. |
Analyzing the Procedural Aspects of the Healthcare Litigation

Role of the States as Litigants in the Mandate Litigation
E. Duncan Getchell, Jr.
William F. Brockman
William P. Marshall

Moderator:
Jessica Erickson

9:30 A.M. – 11:00 A.M.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

E. Duncan Getchell, Jr.
Solicitor General of Virginia

E. Duncan Getchell Jr., received his B.A. from Emory University, which he attended on an Air Force ROTC scholarship, and graduated with high honors. Mr. Getchell earned his J.D. from Duke University Law School and served on the staff of the Duke University Law Review. After law school, Mr. Getchell worked as an associate at McGuire, Woods, & Battle in Richmond, Virginia for one year before serving as an Air Force JAG Officer in the Office of the General Counsel for two years, attaining the rank of Captain.

After his tenure with the Air Force, Mr. Getchell returned to McGuire, Woods & Battle (now McGuireWoods) and remained there for over thirty years. As a partner he served as the head of the Appellate Litigation Practice Group. In addition, Mr. Getchell is a fellow of the American Academy of Appellate Lawyers and an elected member of the American Law Institute. Mr. Getchell is a permanent member of the Fourth Circuit Judicial Conference and was an invited participant at the 2005 National Conference on Appellate Justice.

Mr. Getchell also served as the special counsel for the Commonwealth of Virginia, defending the 2001 state redistricting plan at trial on appeal. His work as special counsel for Virginia led Mr. Getchell to the Marshall Wythe School of Law of the College of William and Mary. There Mr. Getchell served as an adjunct professor during the spring of 2008 where he taught legislative redistricting.

Currently, Mr. Getchell serves as Virginia’s Solicitor General and special counsel on the National Gambling Impact Study Commission and Accident Investigation Board. Nationally, Mr. Getchell is known for his nomination by President George W. Bush to the United States Court of Appeals for the Fourth Circuit.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

William F. Brockman
Acting Solicitor General of Maryland

William Brockman joined the Maryland Attorney General's Office in 2002 as an Assistant Attorney General in the Civil Litigation Division. Since 2007, he has held the position of Deputy Solicitor General and presently serves as the acting Solicitor General for the Office.

Mr. Brockman earned his J.D. and a master's degree in public policy from the University of Michigan, and received his undergraduate degree from Williams College. Following law school, he clerked for the Honorable Paul V. Niemeyer on the United States Court of Appeals for the Fourth Circuit.

Mr. Brockman is a recipient of the Maryland Attorney General's Exceptional Service award and is a member of the Fourth Circuit Judicial Conference. He was a Supreme Court Fellow with the National Association of Attorneys General (NAAG) during the October 2007 Term of the Supreme Court.
Analyzing the Procedural Aspects of the Healthcare Litigation

William P. Marshall
William Rand Kenan, Jr., Distinguished Professor of Law,
University of North Carolina School of Law

Professor William (Bill) Marshall is currently the Kenan Professor of Law at the University of North Carolina. Professor Marshall was Deputy White House Counsel and Deputy Assistant to the President of the United States during the Clinton Administration and also served as the Solicitor General of the State of Ohio.

Professor Marshall has published extensively on first amendment, federal courts, and presidential powers issues and is also a leading expert on judicial selection matters. He teaches media law, civil procedure, constitutional law, first amendment, federal courts, church-state, and the law of the presidency.

Professor Marshall received his law degree from the University of Chicago and his undergraduate degree from the University of Pennsylvania. He is a native of Nashua, New Hampshire.

Professor Marshall will be a featured writer in the March 2012 Allen Chair Issue of the University of Richmond Law Review.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

NOTES
Analyzing the Procedural Aspects of the Healthcare Litigation

MOMENT OF SILENCE
JENNIFER SYKES

11:00 A.M. – 11:02 A.M.
Analyzing the Procedural Aspects of the Healthcare Litigation

DEFINING THE SCOPE AND LEGAL EFFECT OF THE CHALLENGE TO THE INDIVIDUAL MANDATE

Edward A. Hartnett
Tobias A. Dorsey
Kevin C. Walsh

Moderator:
John F. Preis

11:15 A.M. – 12:45 P.M.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

Edward A. Hartnett
Richard J. Hughes Professor,
Seton Hall University School of Law

Edward Hartnett received his A.B., magna cum laude, from Harvard and his J.D. from New York University, where he was elected to the Order of the Coif and received the highest award given to J.D. candidates.

He clerked for Judge Frederick B. Lacey and Judge Robert E. Cowen of the United States District Court for the District of New Jersey, and for Chief Judge John J. Gibbons of the United States Court of Appeals for the Third Circuit. After his clerkships, he practiced with the Federal Public Defender and the law firm of Robinson, St. John & Wayne.


Professor Hartnett has also been a visiting professor at the University of Virginia School of Law and the University of Pennsylvania Law School. He was named the Richard J. Hughes Professor for Constitutional and Public Law and Service in 2004.

Professor Hartnett will be a featured writer in the March 2012 Allen Chair Issue of the University of Richmond Law Review.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

Tobias A. Dorsey
Special Counsel for the
United States Sentencing Commission (USSC)

Tobias A. Dorsey is the Special Counsel of the United States Sentencing Commission, where he advises on legislative and parliamentary issues and is the chief drafter of the federal sentencing guidelines. Before that, he was a legislative lawyer in the Office of the Legislative Counsel of the U.S. House of Representatives and an attorney in private practice. His book on the art and science of writing statutes and regulations, "The Legislative Drafter's Deskbook: A Practical Guide," is a leading work in the field.

Mr. Dorsey is also a consultant for the United Nations and various international organizations on how to strengthen the capacity of parliaments in the developing world. He has trained members of Congress and congressional staff in the United States and members of parliament and parliamentary staff overseas.

He is co-editor of a set of United Nations guidelines for legislative drafters and has written various articles on legislation, lawmaking, and statutory interpretation.

Mr. Dorsey will be a featured writer in the March 2012 Allen Chair Issue of the University of Richmond Law Review.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

Kevin C. Walsh
Assistant Professor of Law,
University of Richmond School of Law

Kevin C. Walsh teaches and writes in the areas of federal jurisdiction, constitutional law, and complex litigation. His scholarship explores the doctrines that define—and delimit—the scope of federal judicial power. Professor Walsh graduated from Harvard Law School, where he was Articles Chair for Volume 115 of the Harvard Law Review.

After graduation, he clerked for Judge Paul V. Niemeyer of the United States Court of Appeals for the Fourth Circuit and Associate Justice Antonin Scalia of the Supreme Court of the United States. He then practiced law at Hunton & Williams LLP and taught as a visiting assistant professor at Villanova University School of Law. Professor Walsh received his A.B. from Dartmouth College, and an M.A. in Theological Studies from the University of Notre Dame.

In early 2011, Professor Walsh filed two amicus curiae briefs addressing jurisdictional issues in the State challenges to the individual mandate in the federal healthcare reform legislation: a brief in Virginia v. Sebelius (United States Court of Appeals for the Fourth Circuit), and a brief in Florida v. HHS (United States Court of Appeals for the Eleventh Circuit).

Professor Walsh will be a featured writer in the March 2012 Allen Chair Issue of the University of Richmond Law Review.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

NOTES
Analyzing the Procedural Aspects of the Healthcare Litigation

SITUATING THE MANDATE LITIGATION IN THE BROADER REGULATORY AND POLITICAL LANDSCAPES

BRADLEY W. JOONDEPH
A. CHRISTOPHER BRYANT
ELIZABETH WEEKS LEONARD

MODERATOR:
AMINAH H. QURESHEI

2:00 P.M. – 3:30 P.M.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

Bradley W. Joondeph
Santa Clara University School of Law,
Creator of the ACA Litigation Blog

Bradley (Brad) Joondeph is a well-regarded author on the topics of federalism, judicial behavior, and American constitutional development. He has had extensive experience with the Supreme Court, having served as judicial clerk to the Honorable Sandra Day O’Connor. He also served as clerk for the Honorable Deanell Reece Tacha of the United States Court of Appeals for the Tenth Circuit.

Prior to joining Santa Clara Law in 2000, Professor Joondeph was an associate professor at Washington University School of Law, a lecturer and head teaching fellow at Stanford Law, and an adjunct instructor at the University of Kansas School of Law. He also served as a research assistant on the Dr. Martin Luther King, Jr. Papers Project.

Professor Joondeph will be a featured writer in the March 2012 Allen Chair Issue of the University of Richmond Law Review.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

A. Christopher Bryant
Professor of Law,
University of Cincinnati College of Law

Christopher Bryant is a prolific scholar and a popular teacher receiving the UC College of Law Goldman Prize for Teaching Excellence in 2005, 2007, and 2008. Prior to joining the faculty here, he spent three years on the faculty of the William S. Boyd School of Law, University of Nevada, Las Vegas where he was voted Law Professor of the Year in 2001-02.

After earning his JD from the University of Chicago Law School, Professor Bryant clerked for James L. Buckley of the U.S. Court of Appeals for the District of Columbia Circuit. He was a litigation associate at Shea & Gardner in Washington, D.C. and Assistant Senate Legal Counsel in the U.S. Senate Office of Legal Counsel.

Professor Bryant will be a featured writer in the March 2012 Allen Chair Issue of the University of Richmond Law Review.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

Elizabeth Weeks Leonard
Associate Professor of Law,
University of Georgia Law

Elizabeth Weeks Leonard is an associate professor at the University of Georgia Law, where she teaches Torts and Health Law Survey. Her additional teaching and research interests include health care financing and regulation, and public health law. Prior to joining UGA, Leonard served on the faculty at the University of Kansas School of Law.

During her time there, Professor Weeks Leonard was honored with the Howard M. and Susan Immel Award for Teaching Excellence and with the Meredith Docking Faculty Scholar Award, a university-wide honor for faculty who have distinguished themselves early in their careers. Additionally, she served as a visiting professor at the University of the Pacific McGeorge School of Law and at Georgia Law. Her scholarship includes articles published in the Hofstra Law Review, the University of Pennsylvania Journal of Constitutional Law, the Washington University Law Review and the North Carolina Law Review.

Professor Weeks Leonard was also recognized as one of four emerging health law scholars nationwide by the American Society of Law, Medicine & Ethics with its Health Law Scholars Award in 2005. Leonard currently serves as secretary for the Association of American Law Schools Section on Law, Medicine, and Health Care. Before entering academe, Professor Weeks Leonard worked as an associate in the Health Industry Group at Vinson & Elkins in Houston. She also served as a judicial clerk for Judge Jacques L. Wiener Jr. of the U.S. Court of Appeals for the 5th Circuit and for Chief Justice Thomas R. Phillips of the Supreme Court of Texas.

Professor Weeks Leonard earned her bachelor's degree from Columbia University and her law degree summa cum laude from the University of Georgia, where she was - on the Jessup Moot Court Team, editor-in-chief of the Georgia Law Review and inducted into the Order of the Coif. Before returning to her hometown of Athens for law school, Leonard was a psychiatric social worker in Chicago.

Professor Weeks Leonard will be a featured writer in the March 2012 Allen Chair Issue of the University of Richmond Law Review.
ANALYZING THE PROCEDURAL ASPECTS OF THE HEALTHCARE LITIGATION

NOTES
INSTRUCTIONS
Certify Your Attendance Online at https://member.vsb.org/vsbportal/
Complete this Certification. Retain for two years.
MCLE Compliance Deadline - October 31. MCLE Reporting Deadline - December 15.
A $100 fee will be assessed for failure to comply with either deadline.

Member Name: ___________________________________________ VSB Member Number: ____________________
Address: _________________________________ Daytime Phone: __________________________________
_________________________________________ ________________________________
City ___________________ State _____ Zip _______________________________

Course ID Number: TCZ002
Sponsor: University of Richmond School of Law
Course/Program Title: Everything But the Merits: Analyzing the Procedural Aspects of the Health Care Litigation

Live Interactive * CLE Credits (Ethics Credits): 6.0 (0.0)

Date Completed: __________ Location: ___________________________

By my signature below I certify
___ I attended a total of _________ (hrs/mins) of approved CLE, of which _______ (hrs/mins) were in approved Ethics.
Credit is awarded for actual time in attendance (0.5 hr. minimum) rounded to the nearest half hour. (Example: 1hr 15min = 1.5hr)
___ The sessions I am claiming had written instructional materials to cover the subject.
___ I participated in this program in a setting physically suitable to the course.
___ I was given the opportunity to participate in discussions with other attendees and/or the presenter.
___ I understand I may not receive credit for any course/segment which is not materially different in substance than a course/segment
for which credit has been previously given during the same completion period or the completion period immediately prior.
___ I understand that a materially false statement shall be subject to appropriate disciplinary action.

* NOTE: A maximum of 8.0 hours from pre-recorded courses may be applied to meet your yearly MCLE requirement. Minimum of 4.0 hours from live interactive courses required.

______ Date ________ Signature __________________________

Questions? Contact the MCLE Department at (804) 775-0577 or E-mail questions to mcle@vsb.org

If not certified online, this form may be mailed or faxed (fax disabled Nov 2-Dec 31)

Virginia MCLE Board
Virginia State Bar
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Richmond, VA 23219-2800
Web site: www.vsb.org Fax: (804) 775-0544

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