

ANNUAL CONFERENCE

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MONDAY, SEPTEMBER 24, 2018

JULIA MORGAN BALLROOM

2:30 to 3:30

New Challenges in the Court Room: First Amendment Defenses

Moderator: Hon. **David Garcia** (ret.) San Francisco Superior Court, JAMS
Panel: **Trent Norris**, Partner, Arnold & Porter Kaye Scholer
Dennis Ragen, Deputy Attorney General
William Tarantino, Partner, Morrison & Foerster
James Wheaton, Senior Counsel, First Amendments Project and
President, Environmental Law Foundation

Description

This panel will discuss the impact of recent cases where defendants have raised First Amendment defenses.

Bios

Hon. **David Garcia** (ret.)
San Francisco Superior Court, JAMS

Hon. David A. Garcia (Ret.), who has served 20 distinguished years on San Francisco's municipal and superior courts, is recognized as one of the best law and motion judges in the San Francisco Bay Area. He is well known for his energy, intelligence, and thoughtful decision-making. As a law and motion judge in the San Francisco Superior Court for seven years, Judge Garcia resolved thousands of pretrial motions including pleading and summary judgment matters. In addition to civil, family law, and criminal matters, Judge Garcia presided over numerous settlement hearings involving employment, real estate, business/commercial, insurance contract, civil rights, landlord tenant, personal injury, products liability, medical malpractice, and legal malpractice with the vast majority of cases settling. Judge Garcia is fluent in Spanish. Please request or click here to download the Spanish version of this document.

Honors, Memberships, and Professional Activities:

- Author of various publications about litigation and ADR in a variety of practice areas, including real estate, employment and commercial litigation, including Rutter Group Landlord Tenant Practice Guide

New Challenges in the Court Room

- Founder and Board Member, Alta Vista Elementary School, San Francisco, 2009-present
- Member, California Judges Association, 1983-present
- Member, San Francisco Conservation Corps, 1987-2000
- Member: Planning Committee, CJER, Civil Proceedings Bench-Book Project; Planning Committee, CJA Annual Conference, 1990
- Mayoral appointee, San Francisco Employment and Training Council, 1978-1982
- “Scholarly Approach,” Daily Journal, ADR Profile, October 31, 2014

Background and Education:

- Judge, San Francisco Superior Court, 1990-2003
- Judge, San Francisco Municipal Court, 1983-1990
- General Counsel/Executive and Legal Affairs Secretary, California Fair Employment and Housing Commission, 1978-1982
- Partner, Private Practice, San Francisco, 1974-1977
- Managing Attorney/Staff Counsel, Neighborhood Legal Assistance Foundation, Mission Law Office, San Francisco, 1971-1973 and 1973-1974
- Professor of Law, University of San Francisco School of Law, 1974-1983
- LL.M., Yale Law School, 1971
- J.D., University of San Francisco School of Law, 1970
- B.A., University of San Francisco, 1967

Trent Norris

Partner, Arnold & Porter Kaye Scholer

Trent Norris litigates complex scientific and technical disputes involving consumer protection, advertising, environmental, product safety, and food and drug law.

Mr. Norris represents manufacturers and retailers of everyday products and services. His work involves diverse products, technologies, and industries, including foods, beverages, dietary supplements, cosmetics, hospitality, medical devices, electronics, vehicles, and pharmaceuticals. He often represents trade associations and joint defense groups in strategic counseling and litigation.

Mr. Norris represents clients regarding regulation of consumer products and services, with an emphasis on reporting and labeling requirements. Common issues include preemption, commercial speech, interstate commerce, citizen enforcement, jurisdiction, and class action requirements.

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 served as a legislative aide to a US Senator and as an Editor of the Harvard Law Review. He headed the firm’s Northern California offices from 2008 to 2013.

Mr. Norris is registered as a lobbyist before the California Environmental Protection Agency and its sub-agencies.

Dennis Ragen

Deputy Attorney General

For the past 30 years, Deputy Attorney General Dennis A. Ragen has worked as a member of the Environment Section of the Attorney General’s Office in San Diego, where has handled cases involving the

federal and state “superfund” laws, the California Hazardous Waste Control Law, and Proposition 65. He headed the AG’s Proposition 65 enforcement efforts against companies that produced lead-tainted candy that were imported into California from Mexico, and he has also handled Proposition 65 cases involving lead in artificial turf; lead in ginger candy; lead in Mexican soda products; lead in dietary supplements; acrylamide in potato chips; and formaldehyde exposures from Brazilian Blowout hair care products. Mr. Ragen has also defended Proposition 65 listings from a number of legal attacks.

Mr. Ragen is a 1982 graduate of UCLA School of Law. Prior to joining the Attorney General’s office, he clerked for the Honorable Richard Schauer, and worked with the law firm of Sidley & Austin.

William Tarantino

Partner, Morrison & Foerster

Drawing on his expertise in environmental health, William (Bill) Tarantino’s practice focuses on environmental and consumer protection law, with an emphasis on hazardous substances, mass torts, and consumer product safety. Mr. Tarantino has argued motions in state and federal courts for a variety of complex litigation matters, including product liability and mass tort claims, California’s Unfair Competition Law actions, and environmental contamination disputes. He has successfully led clients through private mediations and arbitrations and has significant experience in California state and federal appellate courts.

Mr. Tarantino also has broad experience in consumer class action and false advertising litigation, particularly with respect to claims of health or environmental benefits. In 2009, he was selected to serve as vice chair of the Committee on Private Advertising Litigation of the American Bar Association’s Antitrust Section, and he is an active contributor to MoFo’s firm’s Class Dismissed blog.

Mr. Tarantino is recommended by Legal 500 US (2011–2016) in the areas of product liability and mass tort defense and he is described as “an experienced counsel who is an excellent leader and has great knowledge of the law.” For the past three years, San Francisco Magazine has recognized Mr. Tarantino in its “Super Lawyers – Rising Stars” list for his work in environmental and consumer litigation. In 2014, he was chosen as the exclusive winner of the Client Choice Award for Environmental Law in California and as a “Rising Star” in Environmental Law by Law360. Mr. Tarantino has an active pro bono practice and currently serves as a member of Morrison & Foerster’s Pro Bono Committee. In 2015, he began his service on the Bar Association of San Francisco’s Board of Directors.

Prior to joining Morrison & Foerster, Mr. Tarantino clerked at the U.S. Environmental Protection Agency, Region IX Office of Regional Counsel, where he assisted in the prosecution and resolution of cases brought by the U.S. Department of Justice for violation of hazardous waste and water quality laws.

Mr. Tarantino received his J.D. from the Georgetown University Law Center with honors, and completed the Law and Public Health program sponsored by Georgetown University and the Johns Hopkins Bloomberg School of Public Health. Through this program, he earned a master’s in public health as well as specialty certification in environmental health risk assessment from the Johns Hopkins Risk Sciences and Public Policy Institute. At Georgetown, he was an executive editor of the Georgetown International Environmental Law Journal and received the CALI Award for Excellence in International Environmental Law. In 2000, he studied law at the Universidad de Mendoza, in Mendoza, Argentina, as an international law fellow. He earned his bachelor’s degree from the University of California, Berkeley.

James Wheaton

Senior Counsel, First Amendment 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.