

KENNETH A. BAMBERGER

The Rosalinde and Arthur Gilbert Foundation Professor of Law
University of California, Berkeley
School of Law NA446, Berkeley, CA 94720-7200

CURRENT POSITION

University of California, Berkeley

The Rosalinde and Arthur Gilbert Foundation Professor of Law (2016-present)
Professor of Law (2011-16); Assistant Professor of Law (2005-11)

Ongoing Appointments

- *Faculty co-Director, Berkeley Center for Law and Technology*
- *Faculty co-Director, UC Berkeley, Diller Institute for Jewish Law and Israel Studies*
- *Core Faculty, Berkeley Center for Law and Business*
- *Public Law Curriculum Co-Chair, Berkeley Law*
- *Affiliated Faculty, Berkeley Center for Jewish Studies*
- *Affiliated Faculty, Center for the Study of Law and Society; Center for Long-Term Cybersecurity; Center for the Study of Religion*
- *Fellow, Federmann Cybersecurity Center, Hebrew University of Jerusalem*

Awards

- *2011, 2013, 2017, 2020, 2022 Privacy Papers for Policymakers Awards, Future of Privacy Forum (details provided below with publications)*
- *2016 Privacy Leadership Award, International Association of Privacy Professionals*
- *2014 Academic Vision Award, Bay Area Jewish Community Relations Council*

PREVIOUS POSITIONS

Associate, then Counsel, Wilmer Cutler Pickering Hale and Dorr LLP (2002-05)

Law Clerk, Justice David H. Souter, Supreme Court of the United States (2000-01)

Bristow Fellow, Office of the Solicitor General, U.S. Department of Justice (1999-00)

Law Clerk, Judge Amalya L. Kears, U. S. Court of Appeals (Second Circuit) (1998-99)

EDUCATION

Harvard Law School, JD, 1998. *President, Harvard Law Review*

Cambridge University. Lady Julia Henry Fellow (History), 1990-1991

Harvard University, AB (History), 1990

RESEARCH INTERESTS

Administrative Law; Technology and Governance; Privacy; Information Policy; Machine Learning/Artificial Intelligence; Corporate Compliance; Government Regulation; Regulation of Expression; Law and Religion; Jewish Law

TEACHING

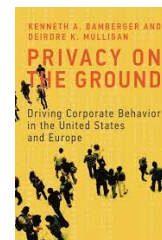
- Administrative Law
- The First Amendment (Speech and Religion)
- Torts
- Privacy Counseling and Compliance
- Law and Technology Writing Workshop
- Jewish Law
- Technology Expertise in Law and Policy
- Note Writing Seminar

PUBLICATIONS

Book

[PRIVACY ON THE GROUND: DRIVING CORPORATE BEHAVIOR IN THE UNITED STATES AND EUROPE](#) (with D. Mulligan) (MIT Press: Nov. 2015)

- Awarded 2016 Privacy Leadership Award by the International Association of Privacy Professionals (IAPP)



Articles and Chapters

[Verification Dilemmas in Law, and The Promise of Zero-Knowledge Proofs](#), 37 BERKELEY TECHNOLOGY LAW JOURNAL 1 (with R. Canetti, *et al.*) (will be published in Nov 2022).

- 2022 Future of Privacy Forum Privacy Papers Award (Honorable Mention/top-8 privacy paper of the year)

[Revisiting a Jurisprudence of Obligation](#) (with A. Mayse), 37 TOURO LAW REVIEW 2115 (2022)

[Pre-Modern Insights for Post-Modern Privacy: Jewish Law Lessons for the Digital Age](#) (with A. Mayse), 36 JOURNAL OF LAW AND RELIGION 495 (2021) (*peer reviewed*).

[Allocating Responsibility in Content Moderation: A Functional Framework](#) (with D. Mulligan), 36 BERKELEY TECHNOLOGY LAW JOURNAL 1091 (2021).

PUBLICATIONS (continued)

[Can You Pay for Privacy? Consumer Expectations and App Behavior](#), 35 BERKELEY TECHNOLOGY LAW JOURNAL 327 (with S. Egelman, *et al.*) (2020)

- 2020 Future of Privacy Forum Privacy Papers Award (Honorable Mention/top-8 privacy paper of the year)

[The Price is \(Not\) Right: Comparing Privacy in Free and Paid Apps](#) (with C. Han, *et al.*) PROCEEDINGS ON PRIVACY ENHANCING TECHNOLOGIES (PoPETS), 2020(3) (2020)

[Procurement as Policy: Administrative Process for Machine Learning](#), 34 BERKELEY TECHNOLOGY LAW JOURNAL 773 (with D. Mulligan) (2019)

[Do You Get What You Pay For? Comparing The Privacy Behaviors of Free vs. Paid Apps](#), The Workshop on Technology and Consumer Protection (CONPRO '19) (with C. Han, *et al.*) (2019)

[Saving Governance-by-Design](#), 106 CALIFORNIA LAW REVIEW 697 (with D. Mulligan) (2018)

[Platform Market Power](#), 32 BERKELEY TECHNOLOGY LAW JOURNAL 1051 (with O. Lobel) (2017)

[Public Values, Private Infrastructure and the Internet of Things: the Case of Automobiles](#), 9 JOURNAL OF LAW & ECONOMIC REGULATION 7 (with D. Mulligan) (2016)

- Published in Korean translation as: 공적 가치, 사적 기반 그리고 IoT: 자동차 사례를 중심으로
- 2017 Future of Privacy Forum Privacy Papers Award (Honorable Mention/top-9 privacy paper of the year)

[Privacy in Europe: Initial Data on Governance Choices and Corporate Practices](#), 81 GEORGE WASHINGTON UNIVERSITY LAW REVIEW, (with D. Mulligan) (2013)

- 2013 Future of Privacy Forum Privacy Papers Award

[What Regulators Can Do to Advance Privacy Through Design](#), COMMUNICATIONS OF THE ACM, vol. 56 (with D. Mulligan) (2013)

[PIA Requirements and Privacy Decisionmaking in U.S. Government Agencies](#), in PRIVACY IMPACT ASSESSMENTS: ENGAGING STAKEHOLDERS IN PROTECTING PRIVACY (De Hert and Wright, eds.) (with D. Mulligan) (2012)

[New Governance, Chief Privacy Officers, and the Corporate Management of Information Privacy in the United States](#), 33 LAW AND POLICY 477 (with D. Mulligan) (2011)

[Privacy on the Books and on the Ground](#), 63 STANFORD LAW REVIEW 247 (2011) (with D. Mulligan)

- Awarded 2011 Future of Privacy Forum Privacy Papers Award

PUBLICATIONS (continued)

Articles and Chapters (cont.)

Foreword: Technology's Transformation of the Regulatory Endeavor, 26 BERKELEY TECHNOLOGY LAW JOURNAL 1315 (2011)

Technologies of Compliance: Risk and Regulation in a Digital Age, 88 TEXAS LAW REVIEW 669 (2010)

Importers as Regulators: Product Safety in a Globalized World, in COGLIANESE & ZARING, EDs., IMPORT SAFETY: GOVERNANCE CHALLENGES IN THE GLOBAL ECONOMY (with A. Guzman) (2010)

Chevron's Two Steps, 95 VIRGINIA LAW REVIEW 611 (with P. Strauss) (2009)

Normative Canons in the Review of Administrative Policymaking, 118 YALE LAW JOURNAL 64 (2008)

Keeping Imports Safe: A Proposal for Discriminatory Regulation of International Trade, 96 CALIFORNIA LAW REVIEW 1405 (with A. Guzman) (2008)

Privacy Decisionmaking in Administrative Agencies, 75 UNIVERSITY OF CHICAGO LAW REVIEW 75 (with D. Mulligan) (2008)

Global Terror, Private Infrastructure, and Domestic Governance, in 2 GLOBALIZATION COMES HOME: HOW THE UNITED STATES IS BEING TRANSFORMED BY GLOBALIZATION (2008)

Regulation as Delegation: Private Firms, Decisionmaking, and Accountability in the Administrative State, 56 DUKE LAW JOURNAL 377 (2006)

Provisional Precedent: Protecting Flexibility in Administrative Policymaking, 77 N.Y.U. LAW REVIEW 1272 (2002)

Note, Deference to Legislative Fact Determinations in First Amendment Cases After Turner Broadcasting, 111 HARVARD LAW REVIEW 2312 (1998)

Shorter Works

Foreword, in BART CUSTERS, ET AL. (EDS.), EU PERSONAL DATA PROTECTION IN POLICY AND PRACTICE vii-viii (2019) (with D. Mulligan)

Public Law Norms for Governance-by-Design, 44 ADMINISTRATIVE AND REGULATORY LAW NEWS 14-20 (2018) (with D. Mulligan)

Privacy Law – on the Books and on the Ground, in BART VAN DER SLOOT AND AVIVA DE GROOT (EDS.), THE HANDBOOK OF PRIVACY STUDIES: AN INTERDISCIPLINARY INTRODUCTION 349-355 (2018) (with D. Mulligan)

PUBLICATIONS (continued)

[Berkeley and Israel: Past, Present and Future](#), THE TIMES OF ISRAEL (Jan. 2, 2018)

- Published, with minor variation, as [Berkeley's Roots and Branches are Deep and Wide in Israel](#), JWEEKLY (Jan. 9, 2018)

[Teenagers Already Know the Key to Protecting Your Privacy](#), TIME (Mar 29, 2017)

[Is Your Data Really Safer in Europe?](#), CHRISTIAN SCIENCE MONITOR (June 6, 2016)

[The Triumph of the Privacy Profession: An Interview with Bamberger and Mulligan](#), by Daniel Solove, TeachPrivacy (March 23, 2016)

[Apple v. FBI: Just One Battle in the 'Design Wars'](#), THE RECORDER (March 21, 2016, p.6) (with D. Mulligan) (republished at law.com)

[The Modern Privacy Function: Balancing Strategy with the Operational](#), *Privacy Perspectives: Ideas and Insights on Data Protection*, (April 8, 2013) (with D. Mulligan)

[Why Are German and U.S. Practices So Similar, If Their Regulatory Structures Are So Different?](#), *Privacy Perspectives: Ideas and Insights on Data Protection*, (March 28, 2013) (with D. Mulligan)

[Operationalizing Privacy: How Empowered Is Your Privacy Office?](#), *Privacy Perspectives: Ideas and Insights on Data Protection*, (February 27, 2013) (with D. Mulligan)

[A Plan to Make Imports Safe](#), *San Francisco Chronicle* (February 25, 2009)

[Who Should Pay the Cost of Unsafe Goods?](#), *San Jose Mercury News* (Jan. 27, 2009)

AMICUS BRIEF

[Amicus Curie Brief in Support of Respondent, Federal Trade Commission \(Bamberger, et al.\), in LabMD, Inc. v. FTC](#), U.S. Court of Appeals for the 11th Circuit (Feb. 16, 2016)
(see [Faculty Trio Files Brief Supporting FTC's Power to Police Data Security](#))

RECENT PRESENTATIONS AND PANELS

- Series on Civil Society and Plurality in Israel (Host), Diller Institute, UC Berkeley
 - Amal Jamal, *Reconstructing the Civic: Palestinian Civil Activism in Israel* (Nov 2021)
 - Michael Karayanni, *A Multicultural Entrapment: Religion & State among Palestinian-Arabs in Israel* (Oct 2021)
- “Revisiting a Jurisprudence of Obligation,” Symposium on the Life and Work of Robert M. Cover, Touro Law School (Oct 2021)
- “Zero-Knowledge Proofs: A Solution to Legal Problems,” BCLT Research2Practice Series (May 2021)
- “Reconceptualizing Technology Policy for the Digital Age” (Panel), *Lex Informatica: The Formulation of Information Policy Rules through Technology*, BCLT/BTLJ Symposium (Apr 2021)
- “Jewish Law for the Digital Age,” The 12th Annual Robbins Collection Lecture on Jewish Law and Thought, UC Berkeley (March 2021)
- “Zero-Knowledge Proofs and Law: Adjusting the Baselines for Transparency and Disclosure,” Joint Cyber Research Program, The Federmann Cyber Security Research Center, Hebrew University (Dec. 2020)
- “Privacy in Society: Jewish Law Insights for the Age of Big Data”
 - UC Berkeley Center for Jewish Studies, Faculty Workshop (Dec. 2020)
 - Research Group on Jewish Law, Technology and Ethics, Hebrew University (Dec. 2020)
 - The Shalom Hartman Institute Bay Area Scholars’ Circle (Oct. 2020)
- UC Berkeley Pandemic Podcast Series
 - *Moderator*, “Israeli Theater: Lessons for Dealing with Crisis,” Salon Seminar, UC Berkeley (July 2020)
 - *Moderator*, “The Geopolitics of Renewable Energy in Gaza,” Salon Seminar, UC Berkeley (June 2020)
 - “Talmudic Wisdom on Crisis and Catastrophe,” UC Berkeley Podcast (May 2020)
 - “Technology, Surveillance, and COVID19: The Israel Experience,” UC Berkeley Podcast (April 2020)
 - “Emergency Law and Power in Israel- Where are the limits?,” UC Berkeley Podcast (April 2020)
- “The Short- and Longer-Term Privacy Implications of ‘Solving’ Pandemics,” San Francisco Bar Association (June 2020)
- “Machine Learning and the Administrative State,” Georgetown Technology Law & Policy Colloquium, Georgetown Law Center, Washington, D.C. (March 2020)
- “Who are the Experts and What is the Expertise Necessary for Sound Technology Policy?” Technology Expertise in Law and Policy, BCLT/BTLJ Symposium (February 2020)
- “The Law and Policy of Online Privacy,” *Regulating Cyberspace: Proposals for New Regulatory Regimes*, Stanford Law School (October 2019)
- *Keynote*, “GDPR and the CCPA,” Cyber Week, Tel Aviv University (June 2019)
- “Can You Pay for Privacy?,” Privacy Law Scholars Conference (May 2019)

Recent presentations and panels (cont):

- *Framing Remarks*, *Governing Machines: Public Policy Values in AI Systems*, International House, Chevron Auditorium, UC Berkeley (April 2019)
- *Welcome Keynote*, Association for Israel Studies 2018 Annual Conference, International House, Chevron Auditorium, UC Berkeley (June 2018)
- “Israel at 70: Religion and State,” Association for Israel Studies 2018 Annual Conference Panel Chair, Berkeley Law (June 2018)
- “Saving Governance-by-Design,” [forum with multiple comments on our paper], Haifa University Cyber Forum. (May 2018)
- “GDPR: Implications for US and Israeli Firms,” Conference Keynote: The General Data Protection Regulation, Tel Aviv Bar Association, Beit Ha-Praklit. (May 2018)
- “Changes in the Israeli Privacy Scene,” Interview with Israeli Deputy Privacy Commissioner Sharon Azarya, Israel Tech Policy Forum, Tel Aviv. (May 2018)
- “Privacy, Big Data, and Lock-In,” Berkeley Center for Law and Technology Silicon Valley Privacy Forum. (April 2018)
- “Privacy and Sustainable Governance,” Berkeley Sustainable Business and Investment Forum, Haas School of Business (November 2017)
- “Using the Full Privacy Toolkit,” Panel with EU regulator Karolina Mojzesowicz and Israeli Chief Privacy Regulator Alon Bachar, Cyber Week, Tel Aviv University, (June 2017)
- “The Coming Design Wars,” Conference, Privacy By Design: Can Engineers And Organizations Do It?, Tel Aviv University, Haifa University, and Hewlett Packard Enterprise (April 2017)
- “Platform Market Power,” Conference, Regulation of Internet Platforms: Public and Private Governance, UC Berkeley School of Law (April 2017)
- “Data Privacy in India: What you Need to Know,” Webinar, US-India Business Council (January 2017)
- “Privacy on the Ground,” Faculty Scholarship Workshop, Boston University School of Law (November 2016)
- “Jewish Copyright Law: a Story of Legal Competition in the Face of Technological Change – Comments on Neal Netanel’s *From Maimonides to Microsoft*,” Haifa University Law School (May 2016)
- Comments on receipt of the 2016 Privacy Leadership Award, International Association of Privacy Professionals (IAPP) Global Privacy Summit, Washington DC (April 2016)
- *Keynote Address*, “Professionalism as a Regulatory Tool,” International Association of Privacy Professionals (IAPP) Global Privacy Summit, Washington DC (April 2016)
 - *Address before 3500 attendees*
- “Regulatory Choices And Privacy Consequences,” CPDP Computers, Privacy and Data Protection: Invisibilities and Infrastructures, Brussels, Belgium (January 2016)
- “Data, Dignity and Technology - Exploring Digital Ethics,” CPDP Computers, Privacy and Data Protection: Invisibilities and Infrastructures, Brussels, Belgium (January 2016)
- “Privacy on the Ground,” Haifa University CyberForum (January 2016)

Recent presentations and panels (cont):

- “Democratic Guidance from the Talmud,” Jewish and Democratic Law: Redrawing Boundaries (Inaugural Conference of the Center for Jewish and Democratic Law), Bar Ilan University, School of Law (December 2015)
- “Privacy on the Ground,” Book Launch Event and Panel, Center for Democracy and Technology, Washington DC (December 2015)
- “From the Bookshelf to the Battlefield: Two New Books that Have Transformed the Privacy Landscape,” University of Amsterdam School of Law, Institute for Information Law Conference, Amsterdam, Netherlands (October 2015)
- “The Privacy Professional in the 21st Century,” Meeting of the Confederation of European Data Protection Officers, International Conference of Data Protection Commissioners, Amsterdam, Netherlands (October 2015)
- “Privacy on the Ground,” Book Launch Panel, Tel Aviv University, Buchmann School of Law, Cegla Center for the Interdisciplinary Study of Law, Fischer Center for Corporate Governance, Safra Center for Ethics, Tel Aviv, Israel (September 2015)
- “The Coming Design Wars,” Berkeley Center for Law and Technology Silicon Valley Privacy Forum. (April 2015)
- “Developing the Academic Field of Israel Studies,” Israel Institute Conference, New York City (Feb 2015)
- White House Workshop on Big Data: Values and Governance, Berkeley, CA (Jan 2015)
- Testimony, U.S. House of Representatives, Energy and Commerce Committee, Privacy Working Group
- Privacy Papers for Policy Makers Forum with EU Regulators, Future of Privacy Forum (United States Congress, Rayburn House Office Building)
- Plenary Session, International Association of Privacy Professionals (IAPP) Global Privacy Summit, Washington DC
- “European Privacy Reform From a U.S. Perspective,” Berkeley Center for Law and Technology Silicon Valley Privacy Forum

CONFERENCE COORDINATION

- *Conference Co-Chair, [34th Annual Conference of the Association for Israel Studies](#), UC Berkeley, June 2018.*
- *Conference Co-Chair, [Reflections on the Legacy of Nuremberg: The 70th Anniversary of the Nuremberg Trials](#), UC Berkeley, School of Law, Apr 2015.*
- *Conference Co-Chair, [Israeli and Palestinian Waterways: History, Politics, and Technology of Water and Environment in the Middle East](#), UC Berkeley, Mar 2014*
- *Conference Co-Chair, [Israel Through the High-Tech Lens](#), UC Berkeley Haas School & Law School Feb, 2012*
- *Conference Co-Chair, [Technology: Transforming the Regulatory Endeavor](#), Berkeley Center for Law and Technology, Mar, 2011*

DOCTORAL STUDENT SUPERVISION

School of Law

1. Ella Padon-Corren (ongoing), *"The Consent Failure in Digital Markets"*
2. Shih-Wei Chao (ongoing), *"Water's Edge: Platform Counterfeiting and Infringement 'Laws' and 'Courts,' and Their Legal Interfaces"*
3. Sylvia Lu (ongoing), *"Data Privacy, Artificial Intelligence, and Algorithmic Transparency: A Comparative Perspective"*
4. Eduardo Cruz Gomez Tagle (completed 2021) (Committee Chair), *"Technology in the Passive Detection of Corruption"*
5. Visakha Phusamruat (completed 2019), *"Data Privacy Law in the Language of Trust Relationship in U.S. and Singapore: A Model for Thai Personal Data Protection"*
6. Jose deCastro (completed 2016) (Committee Chair), *"Modernizing Philippine Rulemaking: Drawing Lessons from the United States"*
7. David Kasher (completed 2016), *"Optimism and Pessimism in Religious and Secular Law"*
8. Byoungyee Kim (completed 2011), *"The Constitutionality of International Delegations"*
9. Piyabutr Bunaramrueang (completed 2010), *"Thai Telecommunications, Competition, and Asymmetric Regulation"*
10. Kyu C. Park (completed 2009), *"A New Approach to Veil-Piercing in Korea"*

Computer Science

11. Weikeng Chen (completed 2022), *"Building Cryptographic Systems from Distributed Trust"*
12. Matthew Weber (completed 2019), *"Context and Interaction in the Internet of Things"*

School of Information

13. Nick Doty (completed 2022), *"Internet Standard-Setting and Multistakeholder Governance"*
14. Megan Finn, (completed 2012), *"Post-Disaster Information Environments: The 1989 Loma Prieta Earthquake"*

Department of Sociology

15. Jeffrey Gordon (ongoing), *"Governed by Code: Decentralization and the future of firms in the digital age"*
16. Matti Lichtenstein (QE committee only)

Jewish Studies

17. Mira Wasserman (completed 2014), *"The Humanity of the Talmud: Reading for Ethics in Bavli 'Avoda Zara"*

Hebrew University, School of Public Policy

18. Rotem Medzini (completed 2021), *"Content Intermediaries and Digital Governance"*

SERVICE

Selected Law School Service

- *Faculty Director*, Berkeley Center for Law and Technology (2011-present)
- *Faculty Director*, Diller Institute for Jewish Law and Israel Studies (2011-present)
- *Co-Chair*, Public Law Curriculum (2011-present)
- *Core Faculty*, Berkeley Center for Law and Business (2017-present)
- *Academic Director*, Tel Aviv-Berkeley LL.M. Program (2009-present)
- Core Committee Service
 - Dean's Merit Review Advisory Committee (2016-17, 2019-21)
 - Faculty Appointments Committee (2008-10; 2018-19)
 - Dean's Committee on Equity & Inclusion (2016-18)
 - 10 doctoral committees (chair of 3) (2010-present)
 - multiple *ad hoc* tenure review committees (2012-21)
 - Program Review Committee, Robbins Collection (2021-present)
- Additional Service
 - Advisor, Jewish Students at Berkeley Law (JSABL)
 - Appointments Reading Groups (Administrative Law; Interdisciplinary Appointments; Business Law)
 - Law School Graduate Programs Committee (2010-2016)
 - Law School Publications Committee (2013-2014)
 - Committee on Judicial Clerkships (Chair) (2010-2011)
 - *Faculty Advisor*, *California Law Review* (2007-09; 2010-11)
 - Co-Coordinator, Junior Administrative Law Scholars Conference (2007-08)
 - Financial Aid Committee (2006-08)
 - *Member, ad hoc* Disciplinary Panel, (2007)
 - Preparation of Law School's Congressional Testimony Regarding Sullivan Amendment (2007)

SERVICE (continued)

Selected University Service

- Founder and Faculty Co-Director, Helen Diller Institute for Jewish Law and Israel Studies at UC Berkeley
- Outside Member of 8 Doctoral Committees for students in: Computer Science (EECS); The Department of Sociology; The School of Information; The Doctoral Program in Jewish Studies; and the Hebrew University School of Public Policy
- Search Committee, Directorship of the Magnes Collection for Jewish Art and Life (2019)
- Chancellor's Committee on Jewish Life and Campus Climate (2016-present)
- UDAR Endowment Campaign for Jewish and Israel Studies (2015-present)
- Center for Jewish Studies
 - Executive Committee (2018-present)
 - Co-Chair (2013-15)
 - Chair, Committees on the Undergraduate Jewish Studies Minor, and Post-Doctoral Selection (2013-2015)
 - Faculty (2013-present)
- Affiliated Faculty, Center for Long-Term Cybersecurity (2015-present)
- Member, University Task Force on Jewish Studies (2012-13)
- Member, Chancellor's *ad hoc* Tenure Review Committee (2012)

Selected Outside Service

- Board of Trustees, Leo Baeck Institute, New York and Berlin (2019-2022)
- Affiliated Faculty, Federmann Cybersecurity Center, Hebrew University of Jerusalem (2019-present)
- Designated Arbitrator, U.S. Department of Commerce/European Commission Privacy Shield Framework (2018-2020)
- Advisory Board, The Israel Tech Policy Forum, Tel Aviv (2017-present)
- Board of Advisors, The Future of Privacy Forum, Washington, DC (2013-present)
- Board of Advisors, The Israel Institute, Washington, DC (2013-2020)
- Visiting Fellow, The Shalom Hartman Institute, Jerusalem, Israel (Spring 2017)
- Board of Advisors, Taube Foundation for Jewish Life, San Francisco, CA (2012-15)
- Program Committee, European Privacy Law Scholars Conference (PLSC)