



CCLEJ Annual Report

2020

Berkeley
Law

Center for
Consumer Law &
Economic Justice



Ted Mermin

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Consumer Law and
Economic Justice*

Dear Friends:

The Center's second year has been a remarkable journey.

At its outset, we were still basking in the glow of the inaugural Consumer Law Scholars Conference. By its close, we were already in the throes of the COVID-19 pandemic. And as I write this, the murder of George Floyd has ignited the pain of 400 years of racial injustice and exposed once again the structural inequity that continues to underlie American society.

It has been a year of tragedy and of triumph, of tremendous accomplishment and unprecedented upheaval.

The events we are living through require constant acknowledgment. We can't consider the significance of the first conference dedicated to "crimsumerism," the exploitation of incarcerated people and their families by companies selling essential services, without recognizing the disproportionate toll the pandemic has taken on people living in prisons and detention centers – not to mention the equally asymmetrical damage done to communities of color by the epidemic of incarceration. We can't celebrate the energy and success of the second Consumer Law Scholars Conference without recognizing that it may have been the last in-person conference we will hold for some time – and the need for academics and practitioners to turn our attention with greater urgency to issues of racial and economic justice.

Of course, the reverse is also true. We can't decry the scams proliferating in the wake of the pandemic without commending the irrepressible spirit of Berkeley Law students and their peers across the country, who despite imminent exams took on the task of scam hunting for federal, state and local regulatory agencies. We can't

point to the economic damage caused by the pandemic and amplified by the protests without acknowledging the research and advocacy that are going on at Berkeley Law and elsewhere in the consumer law and economic justice community: to question longstanding assumptions about the provision of credit as part of the social safety net, or to reveal the history of racist bank lending practices, or to put forward proposals for new types of public/private bank accounts to ameliorate the impact of the crisis.

So, yes, let's acknowledge the unprecedented obstacles and all-too-familiar dismay this year has brought. But let's also make sure to remember Berkeley Law's moving and joyful online consumer law graduation ceremony just this past month. And the extraordinary panoply of compelling speakers who came to campus in the fall. And the annual California Policy Retreat, now so highly valued that it has started to attract attendees from around the country. And the eleven different consumer law and economic justice classes that Berkeley Law offered this past cycle, a mere decade after it offered its very first consumer law class.

As we look ahead to the Center's third year with the certainty that it will be different from anything that has preceded it, and that it will call on us to recognize and take on ever greater challenges, we need to take the time to savor – and draw strength from – what we've accomplished in this year just past. It contained great things, from CAPS's 10th anniversary to the hiring of our first research fellow, from the annual Evening of Consumer Law Research to a special session at Alumni Weekend. It was an inspiring time.

Have a look.

By the numbers

153

Conference attendees

FIRST 100 YEARS

0

Number of consumer law courses offered at Berkeley Law in its first 100 years



PAST TWO YEARS

11

Number of consumer law courses offered at Berkeley Law in the past two years

12

California Regional Consumer Protection Roundtables

12

Number of lunch talk speakers

500+

Number of lunch talk attendees

New law schools added to the CLASS Network

Duke University
St. John's University
University of Florida
University of Michigan
University of Southern California

University of Utah
West Virginia University

Center Activities Highlights

Expanding Offerings: The Course Catalog

When the Center launched in 2018, Dean Chemerinsky gave us a charge: “Make a splash. And offer more courses.” In its first 124 years Berkeley Law offered 3 consumer law courses (the first was in 2008). In the two-year 2020-22 curriculum cycle, Berkeley Law is offering 11. Yes, you read that right. The law school now offers at least eleven distinct courses in Consumer Law, in addition to the Consumer Justice Clinic and its affiliated seminar. For the curious or incredulous, those courses include:

- Consumer Protection Law
- Consumer Litigation: The Course of a Case
- Debt, Discrimination, and Inequality
- Student Loan Law
- Consumer Protection in Insurance
- Complex Consumer Litigation
- Auto Sales, Auto Financing & Auto Repair
- Comparative Consumer Law
- Consumer Bankruptcy Law
- Credit Reporting Law
- Fintech and Consumer Protection

(And, as noted, that’s not including the Consumer Justice Clinic or the seminar that goes along with it!)

We suspect that this is the largest number of consumer law courses that has ever been offered at an American law school. A repository of syllabi from these courses is posted on the Center website so that schools seeking to offer more consumer law courses will have a place to gather ideas – and to add their own syllabi to the collection.



“ I wish they’d had these courses when I was in law school! ”

Gail Hillebrand '81, founding Associate Director for Consumer Education and Engagement at the Consumer Financial Protection Bureau

“ Thanks for a really wonderful conference. You and the team did a fantastic job. Such a great event! ”

Conference attendee



Hiring Our First Research Fellow

We are delighted to welcome Eliza Duggan, who – thanks to the generosity of Justice Catalyst – joined us in April as the Center’s first Research Fellow.

Academic conferences

Crimsumerism Conference

In November, the Center and the Lawyers’ Committee for Civil Rights convened dozens of leaders of the new movement seeking to study and respond to “Crimsumerism” – abusive conduct by private companies offering jail and prison-related services. Danica Rodarmel ‘17, who coined the term “crimsumerism,” spearheaded the gathering. Attendees included people who had been incarcerated, or were currently incarcerated (by phone), as well as their families – along with researchers, advocates and Berkeley Law students.

2020 Consumer Law Scholars Conference

On March 5-6, 2020, the Center gathered nearly eighty consumer law specialists from around the country and the globe for the second annual Consumer Law Scholars Conference. Over these two days, participants immersed themselves in twenty-one fascinating papers spanning the full breadth of the discipline. Featured speakers included former Federal Reserve Board Governor Sarah Bloom-Raskin and former CFPB director Rich Cordray.

Here is what attendees had to say about this year’s gathering:

“It was an incredible opportunity to get to hear from and talk with so many amazing scholars in such an intimate format.”

“What you’re doing is so important.”



“ In England, a buyer must indeed, for his own security, be upon the alert, and wonderfully dexterous and circumspect in detecting ‘the thousand little tricks and villainies which the crafty and designing are capable of practising on the unsuspecting and unwary’, else he can meet with no redress. To such a state of things, they may well have for their maxim, ‘caveat emptor.’ On our part, we have exchanged it for that of caveat venditor, and in behalf of honesty and fair dealing, I would say, esto perpetua. ”

Barnard v. Yates, 1 Nott & McC. 142 (S.C. 1818)

“ The creative energy and practical efforts of this Center help improve the economic lives of all Americans. I can tell you that it is needed and welcomed by all who champion the cause of consumers. ”

Richard Cordray

“ Let the watchwords of all our people be the old familiar watchwords of honesty, decency, fair-dealing, and commonsense. . . . We must see that each is given a square deal, because [each] is entitled to no more and should receive no less. ”

Teddy Roosevelt, 1903



“ It is time for a Consumer Law renaissance. ”

Elizabeth Cabraser



The Class Project

One of the Center's top priorities since its inception has been to raise the profile and expand the reach of Consumer Law. A key part of that effort is the Consumer Law Advocates, Students, and Scholars (CLASS) Project, a collaboration with the National Association of Consumer Advocates that focuses on building consumer law programs at law schools around the country. By helping to start or expand student groups focused on consumer rights and economic justice, the CLASS Project aims to foster consumer law courses, speakers, mentorship, clinics and other activities in law schools across the nation. Berkeley Law's own Consumer Advocacy and Protection Society (CAPS) is serving as both model and mentor. So far, eight law schools have officially joined this partnership, and many more are waiting in the wings.

Events / speakers

In conjunction with CAPS, the redoubtable student Consumer Advocacy and Protection Society, the Center has hosted a series of riveting speakers in the past year.

Teel Lidow, CEO of Radvocate.com, visited the law school to share his company's mission to help people navigate binding arbitration. Lidow remarked after the talk that he expected to be asked about the technology the company uses, and the venture capital it has managed to secure, but instead was peppered with questions about . . . consumer protection. Imagine that.

Matt Beltramo of the Alameda County District Attorney's Office regaled a lunchtime crowd with tales from the DA's Consumer and Environmental Protection Unit, spanning his earliest years as a Deputy DA to the unit's recent expansion. In conversation with Center stalwart and Berkeley Law lecturer Kristen Law Sagafi '02, Beltramo left the audience rapt – and resolved to bring a little more justice to bear on the world.



Danica Rodarmel '17 of the Lawyers' Committee for Civil Rights led a discussion on "Crimsumerism" – a term she coined to describe the compelled purchase of (often grossly overpriced) products and services by people in prison and their families. With the nation's first consumer protection bail clinic founded, a law review article already published, and a conference on the topic (co-sponsored by the Center) next month, Rodarmel has made her mark already. Oh, and she also ran two bills in the California legislature this past year.

Kyra Taylor '16 of the Harvard Project on Predatory Student Lending returned to campus to lead a tour of pending cases against unscrupulous for-profit "colleges" that prey on the most vulnerable

students, extract tens of thousands of dollars in student loans from the federal government for each student, then saddle those students with the debt (which generally cannot be discharged in bankruptcy). The audience was duly appalled... and inspired.

Carey Gillam, author and investigative journalist, and Pedram Esfandiary of Baum Hedlund discussed pending litigation over Monsanto's Roundup herbicide. Over 100 students attended to learn about mass litigation involving more than 18,000 plaintiffs who are suing Monsanto (now a subsidiary of Bayer) over allegations that Roundup causes non-Hodgkin's lymphoma and that the company has covered up the risks.

Andrew Smith, director of the FTC's Bureau of Consumer Protection, met with students and gave a presentation on the Bureau's enforcement activities. The talk to a packed room covered the remarkable breadth of the Bureau's responsibilities, the challenges presented by recent court decisions, and the Commission's priorities moving forward. It was a highly engaging visit.

Kristi Thompson '03, chief of enforcement for the FCC's telecommunications bureau, held students in thrall with a report from the front lines of the battle against robocalls in fall 2019. The rare visit back to campus was a treat both for Thompson and for the students who had the chance to get to talk with her.

Tina Kondo of the FTC, Jeremy Chan of Asian Pacific Islander Legal Outreach, and Alan Lai, victim advocate and community leader, led a lively discussion of the ways in which older Asian Americans and Pacific Islanders are particularly targeted by scammers, yet face extra challenges in addressing fraud. The Center sponsored this event in February along with CAPS, the Asian American Law Journal, and the Asian Pacific American Law Students Association.

On March 5, 2020, Rich Cordray, founding director of the Consumer Financial Protection Bureau, delivered a book talk to a [jam-packed hall](#). His new book, *Watchdog: How Protecting Consumers Can Save Our Families, Our Economy, and Our Democracy*, chronicles the development of the CFPB, and details the progress the Bureau made on behalf of consumers.

Center-Led Regional Convenings of Government Agencies, Legal Services, and NGOs

The Center has since its inception helped to convene remarkable groups of nonprofit, legal services, and government consumer protection organizations in three regions: San Diego, Los Angeles, and the Bay Area. Each local partnership comprises dozens of government enforcement attorneys, consumer advocates, and direct legal service providers. In the past year the Center has continued to lead these quarterly meetings – which have recently become monthly, in response to the COVID-19 crisis – providing forums for sharing ideas and helping ensure that enforcement agencies stay informed about the most pressing forms of fraud and abuse facing low-income consumers.



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