

DENVER
JULY 12 - 15, 2017



12TH ANNUAL CONFERENCE
NATIONAL ASSOCIATION OF APPELLATE
COURT ATTORNEYS

In Association with the University of Richmond Law School

TUITION/REGISTRATION FEES

Conference tuition is \$370 for NAACA members and \$595 for non-members. There is a separate fee of \$30 (\$35 for families) for guests attending social events.

Registration deadline is June 28, 2017. Checks should be made payable to NAACA (Fed. Tax ID No. 42-1676557). **Credit cards are not accepted.**

DISCOUNTS AVAILABLE

Courts located in the 10th Circuit (Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming) receive a 10% discount off regular tuition. **If any court sends 5 or more attorneys**, there will be a 20% discount off of tuition.

MEMBERSHIP

To take advantage of the lower tuition rate, you must be a member of NAACA. For membership information and an application, go to: NAACAonline.org

ACCOMMODATIONS

The Conference is being held at Sheraton Downtown Hotel in downtown Denver. The room rate is \$159. Reservations can be made by calling 888-627-8405. Identify yourself as being with NAACA to get the group rate of \$159. Or you can make a reservation online by going to this link: <https://www.starwoodmeeting.com/Book/NAACA2017>

Conference rates extend 3 days before and after end of conference.

Reservations made after June 20, 2017 will be made on rate and space availability only. For more information on the hotel, go to: sheratondenverdowntown.com.

AIRLINE, TRAIN & GROUND TRANSPORTATION

Denver International Airport is served by all major airlines.

Taxis to the hotel from the airport will cost \$55. The cab ride takes 45 minutes without traffic. Or take the new rapid transit system: The Univ. of Colorado A Line takes 37 minutes regardless of traffic & costs \$9. At the airport, it is located beneath the Westin Hotel. Trains run every 15 minutes. Take to end of line (Union Station). Walk to 16th Street (5 minute walk) to the 16th St. shuttle & get off at Court Place/Sheraton (10 minutes). Shuttle is free.

SOCIAL EVENTS

To enhance informal interaction among attendees, two planned social events are being held at this year's conference: one on Thursday evening and the ever popular T-shirt lottery reception on Friday evening. This year, the reception will be held at the historic courthouse of the US Court of Appeals, 10th Circuit.



Photo Credit: Jimmy Emerson, licensed under Creative Commons

CLE ACCREDITATION

NAACA is requesting MCLE credit approval for 18 hours, which includes 1.5 hours for ethics. Please be aware that each state has its own rules and regulations, including its definition of "CLE;" therefore, some sessions may not receive credit in certain states.

REFUND POLICY

All fees, less a \$50 processing fee, will be refunded for cancellations received before June 28. There will be no refunds for cancellations received after June 28.

WHAT TO PACK Dress is casual.

QUESTIONS

Contact: Mary Ellen Donaghy, 804/288-4109

mdonaghy@richmond.edu



Program Agenda

Wednesday, July 12

4:00-6:00p **Registration**

Thursday, July 13

8:30-9a **Opening Remarks & Welcome**

9-10:30a **Supreme Court Review – Civil**

Dean Erwin Chemerinsky, UC/Irvine Law School

Dean Chemerinsky presents his much-anticipated review of civil cases from the Supreme Court's October Term 2016.

10:45a-12:15p Breakouts

1. Job Performance: Optimize Cognitive Function & Effectiveness

Prof. Debra Austin, Univ. of Denver Law School

The stressors of work in the legal field can take a tremendous toll on cognitive ability. Research reveals that chronic stress can kill brain cells necessary for memory formation. Professor Austin will identify the areas of the brain involved in cognition, stress, motivation, and reward; describe how the emotional brain and thinking brain work together during the process of memory creation and habit formation; explain the impact of stress on cognition; detail the influence of self-medication and diet choices on brain function; and provide a series of recommendations to optimize the lawyer's most valuable tool, his or her brain.

2. Appellate Writing for Professional Court Staff

Hon. John Webb, Colorado Court of Appeals

The wording of judicial opinions can be contemporary and engaging, rather than arcane and formulaic. Stylish legal writing suggests a dialogue with-not a lecture to-the reader and avoids needless formality, redundant phrases and passive voice.

1:45-3:15p Breakouts

1. Erwin's Book Club - Closing the Courthouse Doors

Dean Erwin Chemerinsky, UC/Irvine Law School

Professor Chemerinsky will provide a thought-provoking discussion of his new book, Closing the Courthouse Door: How Your Constitutional Rights Became Unenforceable, outlining how over the past decades the Supreme Court has restricted who has standing to sue, expanded the immunity of governments and government workers, limited the kinds of cases the federal courts can hear, and restricted the right of habeas corpus. Professor Chemerinsky will describe how the effect of these decisions have limited citizens' ability to defend their rights under the Constitution and argues that enforcing the Constitution should be the federal courts' primary purpose.

2. Indian Child Welfare Act: Why It Was Needed—Why It Is Still Needed

Hon. William Thorne, Utah Court of Appeals

Why the ICWA might be the best practice for all kids, with a look at highlights of the newly effective Federal Regulations.

3:30-5p **Supreme Court Review -Criminal**

Prof. Sam Kamin, Univ. of Denver Law School

A review of criminal cases from the Supreme Court's October 2016 term.

5:30-7:30p **Reception**

Friday, July 14

9-10:30a **Transgender Access to Public Restrooms**

Prof. Terry Kogan, Univ. of Utah Law School

Those opposing transgender bathroom rights often claim that public restrooms are sex-segregated based on anatomical differences between the sexes and that such separation is necessary to protect the privacy interests of others. This session will examine these misconceptions and how they impact current litigation, and suggest that excluding transgender students and adults from the public restrooms that are congruent with their gender identities is a discriminatory practice that reflects and enacts social stigmatization.

10:45a-12:15p Breakouts

1. Judicial Policies Adversely Affecting the Poor-Part II

Alec Karakatsanis, Civil Rights Corp

Come hear a follow-up to last year's session, described by participants as "life-altering," "eye-opening," and "thought provoking." Mr. Karakatsanis, the founder of Civil Rights Corps, will address policies of the criminal legal system that adversely affect people of color and the poor, such as money bail, debtors' prisons, private probation, and revocation of driver's licenses for failure to pay court fines and fees.

Attendance at last year's session is not necessary to benefit from this powerful presentation about human caging.

2. Water & Public Lands

Senior Judge Gregory Hobbs, Colorado SC

Justice Hobbs, who is recognized as one of the foremost western water experts, will speak about the history of water law and the development of public lands in the west, as well as contemporary issues concerning the use of water and the potential for transfer of public lands from federal to state control in today's challenging environment.

1:45-3:15p Breakouts

1. 50 Years of Expectations Since *US v. Katz*, The Fourth Amendment's Reasonable Expectation of Privacy, and Surveillance in the Digital Age

Prof. Ian Farrell, Univ. of Denver Law School

This session will provide a brief summary of the evolution of Fourth Amendment principles since *Katz*, covering the contemporary interaction between privacy interests and property rights in *US v. Jones*, and *Florida v. Jardines*, It will then focus on legal trends concerning application of these principles to dog sniffs and various digital technologies—such as GPS devices, cell phones/towers, cloud storage, and drones—primarily through the third party doctrine and the private search doctrine. The presenter will also briefly share his own research regarding the privacy expectations held by real people, rather than jurists, in some of these areas.

2. "Crimmigration"

Prof. Christopher Lasch, Univ. of Denver Law School

A discussion of "crimmigration"—the intersection between immigration law and criminal law—and other developments in immigration law.

3:30-5p **The Law Club Presents: "Willie Wonka & the Ethics Factory"**

The Law Club

Join Willie Wonka and the oompa loompas as they confront important legal ethics issues in an engaging and musical way! Using a unique combination of song and wit, the cast of multi-talented judges and attorneys will heighten your awareness of a variety of ethics issues that arise in the law.

5:45-7:45p **T shirt Lottery Reception**

Saturday, July 15

9-10:30a **The Emerging Law of Cybersecurity and Cyberwarfare**

Prof. Stephen Vladeck Univ. of Texas Law School

This session will provide a brief introduction to the emerging law of "cybersecurity" and "cyberwarfare," from breaches of private data to cyberattacks by one sovereign nation against another. At its core, are the questions raised by new technology different only in degree from those the law has already sought to resolve, or is there something materially different about contemporary capabilities that justifies a holistic reassessment of how the law regulates electronic communications more generally?

10:45a-12:15p Breakouts

1. Hot Topics in Climate Change

Prof. Ann Carlson, UCLA Law School

Ann Carlson, the Shirley Shapiro Professor of Environmental Law, and the Faculty Director of the Emmett Institute on Climate Change and the Environment at the UCLA School of Law, will present an examination of current issues in the field of climate change law, including a discussion of potential impacts from the recent change in administration.

2. *Miranda* 2.0: Interrogation Tactics, False Confessions, and "Making A Murderer"

Prof. Ian Farrell, Univ. of Denver Law School

This session will examine false confessions and the effect of various interrogation tactics, such as bluffing about inculpatory evidence, especially on juveniles and the intellectually challenged. It will use as a central example the interrogation and confession of Brendan Dassey, the sixteen-year-old nephew profiled along with Steven Avery in "Making a Murderer."

12:15-1:30p **NAACA Business Lunch and Meeting - Members Only**

1:45-3:15p Breakouts

1. Roundtable A. Fascination Street: Social Media and Staff (45 min)

Terenia Guill, USCA/5

Does a Staff Attorney give up all (or a significant share of) First Amendment rights in the context of social media? We'll discuss the impact of the Codes of Conduct for federal and state courts on the use of social media by judicial employees.

Roundtable B. Staff Attorney Hiring: You Can't Always Get What You Want (45 min)

Niki Heller, USCA/10 & Jimmy Frazier, USCA/3

But here's how to try and get what you need. Discussion of approaches to advertising/recruiting, actual process, who are the decision-makers.

2. Sentencing Update

Alan Dorhoffer, US Sentencing Comm.

The session will cover the impact of recent Supreme Court cases and federal court decisions on federal and state sentencing issues. The session will also discuss recent developments in federal and state sentencing, including potential new legislation and crime initiatives, and U.S. Sentencing Commission recidivism reports.

3:30-5p **Non-Citizens, the Border, & the Constitution**

Prof. Stephen Vladeck Univ. of Texas Law School

From President Trump's controversial Executive Orders on immigration to the Supreme Court's numerous 2017 rulings in major cases involving the constitutional rights of non-citizens, the role of the border in U.S. constitutional law has an importance and salience today perhaps unmatched in generations. In this plenary session, Professor Vladeck will walk through the major constitutional questions, what the Constitution's text and history have to say on the topic, and what the key considerations are (and are likely to be) going forward.

Registration Form

Identifying information provided on this form will be distributed only to conference attendees. Please complete all information and mail to NAACA, Law School, University of Richmond, VA 23173, fax to 804/289-8992 or email to mdonaghy@richmond.edu. Checks should be payable to NAACA. Credit cards not accepted.

First Name	MI	Last Name	
Title/Position		Court	
Mailing Address	City	State	Zip
Business Telephone		Email	

I will be requesting CLE Credit from the following state _____ . **Note: if more than one state is requested, there may be a charge.**

Breakout Sessions (Please check the sessions you plan to attend-choose only one per time period)

Thursday, July 13 (10:45-12:15p) ____ Job Performance—Optimize Cognitive Function ____ Appellate Writing	Friday, July 14 (10:45a-12:15p) ____ Judicial Policies Affecting Poor ____ Public Land/Water Law	Saturday, July 15 (10:45a-12:15p) ____ Climate Issues ____ <i>Miranda</i> 2.0
Thursday, July 13 (1:45-3:15p) ____ Indian Child Welfare Act ____ Erwin’s Book Club	Friday, July 14 (1:45-3:15p) ____ “Crimmigration” ____ 4th Amendment Update	Saturday, July 15 (1:45p-3:15p) ____ Roundtables A(Hiring) & B(Social Media) ____ Sentencing

Registrant Information

Tuition

\$370/members _____
\$595/nonmembers _____
Other _____

Social Events Signup

Thursday Reception (free) _____
Friday T-Shirt Lottery Reception (free) _____
Saturday, Business Lunch (members only-free) _____

Please list any special needs (including dietary) you may have:

Guest Information

Name of Guest (s) _____

Social Signup: Thursday Reception (#) _____ and Friday T-Shirt Lottery Reception (#) _____
(\$30 single guest; \$35 family— cost covers both events)

Please list any special needs (including dietary) your guest(s) may have:





NAACA

Law School

University of Richmond, VA 23173



We are pleased to invite you to attend the twelfth annual National Association of Appellate Court Attorneys (NAACA) conference. This three-day seminar, which is co-sponsored by the University of Richmond Law School, provides continuing legal educational and professional growth opportunities for state and federal appellate court attorneys, and offers structured seminar sessions in the areas of substantive law, professional skills development, and individual growth, as well as opportunities for informal exchange and camaraderie. Our program is replete with speakers renowned in their subject areas, and we are offering a wide variety of foundational and innovative topics. Hope to see you in Denver!

DENVER – THE MILE HIGH CITY

Denver, Colorado, located at the base of the majestic Rocky Mountains, 5,280 feet above sea level - exactly one mile high, is an outdoor city with 300 days of sunshine, brilliant blue skies and breathtaking mountain scenery. Founded in 1858 as a gold mining camp, this fascinating period is brought to life at museums, old gold mining towns and in hundreds of elegant Victorian buildings. Denver is still the place to experience the real Old West at:

- Buffalo Bill Museum & Grave
- City of Denver Buffalo Herd features 40 buffalo in a natural setting who are direct descendants of the last wild buffalo herd left in America.
- Rockmount Ranch Wear, the store where the snap button cowboy shirt was invented, and where music legends and movie stars still shop today.
- The Denver Art Museum's American Indian art galleries are recognized as one of the best of its kind in the United States, the collection spans more than 2,000 years of artistic creativity, from prehistoric times to the present. Additionally, the museum's extensive collection includes work by Western masters such as Frederic Remington.

Denver has an exciting and walkable downtown - the 10th largest in the nation. The 16th Street Mall is a mile-long pedestrian promenade that cuts through the center of downtown. Free electric shuttle buses travel up and down the Mall. Come and experience all that Denver has to offer.

