

Introduction

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INTRODUCTION

It is a singular pleasure to introduce the Twenty-Fifth Annual Clifford Symposium. What a wonderful opportunity Robert Clifford has provided. During these past twenty-five years the Symposium has ranged over many of the most significant issues in civil justice including: contingent fee financing of litigation (1997); the American civil jury (1998); the impact of the tobacco litigation on civil justice (2001); the importance of the September 11 Compensation Fund as response to tragedy and precedent (2003); the special challenges of non-economic damages (2004); the new world of litigation financing (2013) and the impact of dark money on judicial elections (2017).

A decade ago the Symposium sponsored what we came to feel was one of our best programs: “Rising Stars: A New Generation of Scholars Looks at Civil Justice.” (2009). It was one of the most stimulating programs we ever put together, featuring a wonderfully diverse and energized group of young scholars pursuing fresh insights about the present and future of civil justice. For our twenty-fifth year we could think of no better way to celebrate than to turn to a new generation of young thinkers—again wonderfully diverse—and ask them to take a new look at where civil justice is headed. These eighteen gifted academics (nine women and nine men) have provided us with a sensational set of articles.

As befits the diversity of the group, their interests range far and wide, from tort claims in the wake of in vitro fertilization missteps to the privacy rights of research subjects wearing monitoring devices providing real-time data to experimenters. Some of these provocative papers talk about legal activities that fall far outside traditional approaches. One in particular, addresses the heroics of “nudnik” consumers who hound sellers into better behavior.

Yet, many of our young thinkers consider challenges that have bedeviled our system for much of the past one hundred years. They push us to think more carefully and systematically about litigants without lawyers. They challenge us to consider the need for limits on individual “rights” in settings where individual treatment may defeat the very objective of justice.

The tools provided by the civil justice system are, in many of these papers, put to new uses. They are available, if we legislate them into existence, to help foster a “green revolution.” They can assist us in addressing the problem of discrimination in insurance availability—a discrimination that hobbles many less affluent Americans.

Finally, a number of our young scholars remind us to be very careful about the rhetoric we use in legal matters and the consequences of the financial and other requirements we impose. Our authors caution about the use of labels like “foreign” and “pro se.” It is up to us with the help of our young guides to clear away the biases and shibboleths of the past. And it is a distinct delight to see these Symposium participants working at that task.

Stephan Landsman