

# NAVIGATING TECHNOLOGY: DATA AS THE NEW GOLD

FEDERAL COMMUNICATIONS LAW JOURNAL  
VOLUME 76 SYMPOSIUM



**MARCH 21-22, 2024**

**THE GEORGE WASHINGTON UNIVERSITY  
LAW SCHOOL**

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# SCHEDULE OF EVENTS:

## THURSDAY, MARCH 21, 2024

### WELCOME RECEPTION

6:00 - 9:00 PM | THE HAMILTON  
600 14th St NW, Washington, DC 20005

Join us for light food and drinks to celebrate Volume 76 and kick off our symposium by welcoming our speakers, including brief remarks from Hon. Anna Gomez, FCC Commissioner and GW Law alumnus.

## FRIDAY, MARCH 22, 2024

### CHECK-IN AND LIGHT BREAKFAST

9:00 AM - 10:00 AM | TASHER GREAT ROOM

### WELCOME REMARKS

10:00 AM - 10:15 AM | TASHER GREAT ROOM

- **Alexander Logan**, Senior Publications Editor
  - Federal Communications Law Journal, Vol. 76
- **Catherine Ryan**, Editor-In-Chief
  - Federal Communications Law Journal, Vol. 76
- **Addison Spencer**, Incoming Editor-In-Chief
  - Federal Communications Law Journal, Vol. 77

# FRIDAY, MARCH 22, 2024

## PANEL 1

### GPS DATA AND THE FOURTH AMENDMENT

10:15 AM - 11:15 AM | TASHER GREAT ROOM

- **Kate Weisburd**, Associate Professor of Law
  - George Washington University Law School
- **Nathan Judish**, Senior Counsel
  - U.S. Department of Justice
  - Computer Crime and Intellectual Property Section
- **David Stuart**, Chief of Counterterrorism Unit
  - Manhattan District Attorney's Office
- *Panel Moderated by Alexander Logan*
  - *Senior Publications Editor, FCLJ Vol. 76*

**BREAK** | 11:15 AM - 11:30 AM

## PANEL 2

### APPLYING THE MDL FRAMEWORKS TO SOCIAL MEDIA

11:30 AM - 12:30 PM | TASHER GREAT ROOM

- **Emily Van Tuyl**, Partner
  - Dechert LLP
- **Erin Morgan**, Partner
  - Paul Weiss Rifkind Wharton & Garrison LLP
- **Nelson Drake**, Associate
  - Motley Rice LLP
- *Panel Moderated by Ileana Thomsson*
  - *Articles Editor, FCLJ Vol. 76*

**LUNCH** | 12:30 PM - 2:00 PM | SCC

# FRIDAY, MARCH 22, 2024

## REMARKS

2:00 PM - 2:15 PM | SCC

- **Diane Griffin Holland**, President
  - Federal Communications Bar Association
  - Partner, Wiley Rein LLP

## PANEL 3

### NAVIGATING THE HEALTHCARE PRIVACY LANDSCAPE

2:15 PM - 3:15 PM | SCC

- **Kirk Nahra**, Partner
  - Wilmer Cutler Pickering Hale & Dorr LLP
  - Professor, American University Washington College of Law
- **Melissa Goldstein**, Professor
  - The Milken Institute School of Public Health at George Washington University
- *Panel Moderated by Dayna Bowen Matthew*
  - Dean, George Washington University Law School
  - Author, *Just Health: Treating Structural Racism to Heal America* and *Just Medicine: A Cure for Racial Inequality in American Health Care*

## CLOSING REMARKS | 3:15 PM - 3:30 PM | SCC

- **Kathleen A. Kirby**, President-Elect
  - Federal Communications Bar Association
  - Partner, Wiley Rein LLP

## CLOSING RECEPTION | 3:30 PM - 5:00 PM

Tasher Great Hall or the Patio (*weather depending*)

# ABOUT THE SPEAKERS: PANEL 1



**Kate Weisburd,**  
Associate Professor  
of Law, The George  
Washington University  
Law School

Kate Weisburd's primary interests are in the areas of criminal investigation and adjudication, civil rights, and emerging technology. Professor Weisburd's research focuses on the changing dimensions of criminal procedure and punishment and how these shifts impact inequity and privacy. Her recent scholarly work has appeared or is forthcoming in the *California Law Review*, *Virginia Law Review*, *Northwestern Law Review*, *Washington University Law Review*, *Boston University Law Review*, *Iowa Law Review*, *North Carolina Law Review*, and the *UCLA Law Review*, and she has written for the Marshall Project, the *LA Times*, as well as other mainstream media.

Professor Weisburd graduated from Columbia Law School, where she received the Bernstein Litowitz Berger & Grossmann Fellowship for Public Interest. Prior to attending law school, she worked as an investigator in death penalty cases at the Southern Center for Human Rights in Atlanta, Georgia. Professor Weisburd received her BA from Brown University, where she was a Truman Scholar. She clerked for the Honorable Lawrence K. Karlton in the US District Court for the Eastern District of California.

# ABOUT THE SPEAKERS: PANEL 1



**Nathan Judish,**  
Senior Counsel,  
U.S. Department of  
Justice,  
Computer Crime  
and Intellectual  
Property Section

Nathan is a Senior Counsel in the Computer Crime and Intellectual Property Section of the Department of Justice. He specializes in issues related to obtaining electronic evidence in criminal investigations, including the Fourth and Fifth Amendments, the Stored Communications Act, and the Wiretap Act. His recent litigation has addressed topics such as: obtaining geofence location information from Google; compelling the owner of an encrypted device to assist with decryption; and the use of cell-site simulators to locate cell phones. He also assisted with drafting and defending the 2016 amendment to Rule 41 of the Federal Rules of Criminal Procedure for remote access search warrants in investigations involving Internet anonymizing technologies or botnets. Nathan received a B.S. in Electrical Engineering and an A.B. in History from Washington University in St. Louis, an M.S. in Electrical Engineering and Computer Science from the Massachusetts Institute of Technology, and a J.D., magna cum laude, from the Harvard Law School.



# ABOUT THE SPEAKERS: PANEL 1



**David Stuart,**  
Head of the  
Counterterrorism  
Unit, Manhattan  
District Attorney's  
Office

David has been a prosecutor for the past seventeen years. In his current position, David supervises the office's counterterrorism and ghost-gun investigations and prosecutions. David has also served in the office's Rackets Bureau, Sex Crimes Unit, and Trial Division, where he successfully tried dozens of cases to verdict.

# ABOUT THE SPEAKERS: PANEL 2



**Emily Van Tuyl,**  
Partner, Dechert

Emily Van Tuyl (*pronunciation: van tile*) is a partner and trial lawyer in Dechert's product liability and mass torts practice. She represents clients in litigation in federal and state courts and at all stages, including managing fact and expert discovery; taking and defending fact and expert witness depositions; briefing jurisdictional, discovery, expert (Daubert/Frye), and dispositive motions; arguing motions and otherwise representing clients' interests in court; and preparing for trial and mediation. Her clients have included pharmaceutical, medical device, biotechnology, insurance, real estate, private equity, internet, and information technology companies.



# ABOUT THE SPEAKERS: PANEL 2



**Erin Morgan,**  
Partner, Paul Weiss

A partner in the Litigation Department, Erin Morgan specializes in complex civil litigation, with a particular on trial practice and arbitration. She has taken nine cases to trial or arbitration, winning favorable outcomes on behalf of leading corporations, financial institutions and investment managers.

Erin has represented clients across a range of industries, including industrial services corporations, leading technology companies, financial institutions, media companies and alternative investment managers in focus their most significant litigations and regulatory matters. Her practice primarily focuses on fast-moving and high-stakes arbitration and trial preparation, where she has demonstrated a proven ability to help craft winning litigation strategies and secure favorable outcomes for her clients.

Erin has an active pro bono practice focused on family law matters and anti-hate cases. She is currently representing Washington D.C., alongside the Anti-Defamation League and the States United Democracy Center, as it seeks recovery against the Proud Boys and Oath Keepers for harm to police officers during the January 6 attack on the U.S. Capitol. She also represents the historic Metropolitan AME Church in a case against the Proud Boys for trespass and damage relating to the Church's support of the Black Lives Matter movement. She previously represented a diverse group of 25 amici in filing an amicus brief in New York Appellate Court advocating for the expanded right to appointed counsel in child welfare proceedings.

# ABOUT THE SPEAKERS: PANEL 2



**Nelson Drake,**  
Associate, Motley Rice

Nelson Drake litigates as part of Motley Rice's tech and media team, pursuing cases that seek to protect consumers' privacy and well-being against social media companies and online service providers. Nelson's practice includes representing people who suffered emotional and physical harms allegedly caused by social media platforms such as Meta Platforms, Instagram, Snap and TikTok that are accused of encouraging addictive behavior to maximize screen time. In a rapidly changing legal landscape, he works on new case development related to digital privacy, deepfakes, cryptocurrencies, broadband and other emerging technologies.

Prior to his tech and media work, Nelson worked on the firm's team representing dozens of states, counties, cities, towns, and townships in litigation targeting the alleged deceptive marketing and over-distribution of highly addictive opioid drugs, a contended cause of the nationwide opioid crisis. He also represented a government entity in litigation against e-cigarette manufacturer JUUL, alleging unfair and deceptive marketing and sales practices. Additionally, Nelson worked on multiple drug pricing investigations on behalf of public clients.

Before joining Motley Rice, Nelson worked as a summer associate at a business law firm in Savannah, Ga., where he assisted with civil litigation relating to real property disputes. He analyzed developments in the scope of non-competition clauses and the applicability of federal trade secret regulations in employment contracts. He also was a trademark protection manager for the National Grange of the Order of the Patrons on Husbandry in Washington, D.C., where he drafted license agreements, performed trademark infringement analysis, and conducted quality control operations to manage trademark infringement violations.

# ABOUT THE SPEAKERS



**Diane Holland,**  
President,  
Federal Communications  
Bar Association  
Partner, Wiley Rein LLP

Diane advises clients on broadband, media and consumer protection issues, with a focus on broadband affordability, equal employment opportunity (EEO) requirements, broadcast licensing, and robocall enforcement. She is experienced in drafting advocacy, communication, and research materials to support clients' goals. She has served as lead counsel for regulatory proceedings on net neutrality, broadband infrastructure deployment, internet protocol (IP) transitions, and enforcement reform.

She has deep expertise navigating the Federal Communications Commission (FCC) and senior-level experience advising Commissioners. She has over 20 years of experience working in the federal government, and prior to joining Wiley, Diane was the Deputy Chief and Special Advisor for the Wireline Competition Bureau at the FCC.

# ABOUT THE SPEAKERS: PANEL 3



**Dayna Bowen  
Matthew**  
Dean,  
The George Washington  
University Law School

Dayna Bowen Matthew, JD, PhD, is the Dean and Harold H. Greene Professor of Law at the George Washington University Law School. A leader in public health and civil rights law who focuses on disparities in health, health care, and the social determinants of health, Dean Matthew joined GW Law in 2020. She is the author of the bestselling book *Just Medicine: A Cure for Racial Inequality in American Health Care* and the newly released *Just Health: Treating Structural Racism to Heal America*.

She also is a member of the American Law Institute and currently serves on several public health boards including the CDC's Advisory Committee on Immunization Practices' COVID-19 Vaccine Working Group, the American Society of Law, Medicine, and Ethics, and the Scientific Advisory Council of the Foundation for Opioid Response Efforts. Dean Matthew graduated with an AB in economics from Harvard-Radcliffe, obtained a JD from the University of Virginia, and received a PhD in health and behavioral sciences from the University of Colorado at Denver.

# ABOUT THE SPEAKERS: PANEL 3



**Kirk Nahra,**  
Partner, Wilmer Hale

Kirk Nahra has been a leading authority on privacy and cybersecurity matters for more than two decades. He co-chairs the firm’s Cybersecurity and Privacy Practice as well as the Artificial Intelligence Practice. In recognition of his professional work in these areas, he was named the winner of the 2021 Vanguard Award from the International Association of Privacy Professionals (IAPP)—one of the most prestigious in the privacy field—which recognizes one IAPP member each year who demonstrates exceptional leadership, knowledge and creativity in privacy and data protection.

Mr. Nahra counsels clients across industries, from Fortune 500 companies to startups, on implementing the requirements of privacy and data security laws across the country and internationally, and he advocates for clients experiencing privacy and security breaches. Mr. Nahra also represents clients in contract and transactional matters, enforcement actions, litigation and investigations related to a wide range of issues before the Federal Trade Commission (FTC), the US Department of Health and Human Services (HHS) Office for Civil Rights, and other state and federal privacy and security regulators. He also represents a wide range of companies across industries on the growing array of complicated legal issues involved in artificial intelligence, including issues involving governance, data rights, data integrity and a wide range of investigation and compliance issues.

Mr. Nahra is best known for his work with health insurers, hospitals, service providers, pharmaceutical manufacturers and other healthcare industry participants. He has a deep understanding of the privacy and security issues healthcare companies face relating to HIPAA rules, state and federal legislation, enforcement activities, internal investigations, international principles, due diligence in transactions, data breach risk assessments, and the key lines between regulated and unregulated data, including the new categories of laws at the state and federal level regulating particular kinds of health data or “health-like” data. He advises companies across the healthcare industry on artificial intelligence and algorithmic discrimination issues, including assessments of how data can be used and analyzed to improve the overall operation of the healthcare system.



# ABOUT THE SPEAKERS: PANEL 3



**Melissa Goldstein,**  
Professor, The Milken  
Institute School of  
Public Health at  
George Washington  
University

Melissa M. Goldstein, JD, is an Associate Professor in the Department of Health Policy and Management at the Milken Institute School of Public Health at the George Washington University, where she teaches courses in bioethics (including genomics, reproductive ethics, end-of-life, and research ethics issues), health information technology policy, and public health law and conducts research on health information privacy and the legal and policy aspects of health information technology. Professor Goldstein is a former director of the Markle Foundation's health program, where she managed the policy subcommittee of Connecting for Health and other policy aspects of the foundation's work in health information technology. Ms. Goldstein has also worked as a legal consultant to President Clinton's National Bioethics Advisory Commission, a senior litigation associate at Skadden, Arps, Slate, Meagher, and Flom, LLP, and a White House Fellow and domestic policy advisor to Vice President Al Gore.

Professor Goldstein graduated Phi Beta Kappa from the University of Virginia, received her law degree from Yale Law School, and completed a post-doctoral fellowship in bioethics and health policy at Johns Hopkins and Georgetown Universities. She has served as a member of GW's IRB and hospital ethics committee and speaks frequently on issues in bioethics, health policy, health information privacy, and health information technology. Ms. Goldstein's recent research and writings have focused on privacy and security issues in health information exchange and the use of big data, as well as the effects of health information technology on the physician-patient relationship and patient engagement. During the 2010-2011 academic year, Professor Goldstein served as a senior advisor to the Chief Privacy Officer in the Office of the National Coordinator for Health Information Technology, U.S. Department of Health and Human Services. Most recently, Professor Goldstein served as the Assistant Director for Bioethics and Privacy in the White House Office of Science and Technology Policy during the final year of the Obama Administration.



# ABOUT THE SPEAKERS



**Kathleen A. Kirby,**  
President-Elect,  
Federal Communications  
Bar Association  
Partner, Wiley Rein LLP

Kathy represents media clients, including major radio and television group owners and programming networks, on a host of business and transactional issues as well as regulatory matters before the Federal Communications Commission (FCC). She has additional expertise in newsgathering, content regulation, and First Amendment issues. Regularly rated by Chambers USA as one of Washington, DC’s “Leading Lawyers” in her field, Kathy is commended for “her work on First Amendment and FCC matters” and her “responsiveness and proactive approach” (2013). She is praised for being “highly intelligent, knowledgeable, and articulate,” (2014) and is acknowledged for her “superior subject expertise, commitment to her clients, and great connections within the industry” (2010). Kathy co-chairs the Telecom, Media & Technology Practice, and serves on the firm’s two governance committees, the Executive Committee and the Management Committee.

# ABOUT THE SPEAKERS



**Anna M. Gomez,**  
Commissioner,  
Federal Communications  
Commission

Commissioner Anna M. Gomez is the first Latina-American to be confirmed to the FCC in over two decades. She believes the FCC does best when its work honors the people it serves.

Commissioner Gomez brings over 30 years of public and private sector experience in domestic and international communications law and policy to her position. Commissioner Gomez most recently served as a Senior Advisor for International Information and Communications Policy in the Bureau of Cyberspace and Digital Policy at the Department of State where she led U.S. preparations for the International Telecommunication Union World Radiocommunication Conference 2023 (WRC-23).

She served as the National Telecommunications and Information Administration Deputy Administrator from 2009 to 2013, where she led efforts that resulted in a new \$7 billion public safety broadband network program. She also served for 12 years in various positions at the FCC, including as Deputy Chief of the International Bureau and as Senior Legal Advisor to then-Chairman William E. Kennard. Commissioner Gomez also served briefly as Counsel to the United States Senate Committee on Commerce, Science, and Transportation, Subcommittee on Communication, and as Deputy Chief of Staff of the National Economic Council during the Clinton Administration. Prior to joining the State Department in 2023, Commissioner Gomez worked in private practice focusing on telecommunications law.

Born in Orlando, Florida, Commissioner Gomez spent her childhood in Bogota, Colombia before her family relocated to New Jersey. She now resides in Virginia. Commissioner Gomez earned her B.A. in Pre-Law from Pennsylvania State University and her J.D. from George Washington University Law School.

# SYMPOSIUM LEADERSHIP TEAM



**Alexander Logan,**  
Senior Publications Editor,  
Federal Communications  
Law Journal Vol. 76



**Catherine Ryan**  
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Law Journal Vol. 76



**Madison Decker**  
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Law Journal Vol. 76

**THANK YOU,**

To Ms. Carolyn Harris for all of her endless help  
with this year's FCLJ Symposium.

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# NOTES

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