

**BEAZLEY INSTITUTE FOR HEALTH LAW AND POLICY**  
*and*  
**ANNALS OF HEALTH LAW**  
*present*

**The Second Annual Beazley Symposium  
on Access to Health Care**

**PERSPECTIVES ON PATENTS AND PATIENTS:  
CAN THEY COEXIST?**



NOVEMBER 14, 2008  
8:45 AM - 3:30 PM

RUBLOFF AUDITORIUM  
LOYOLA LAW CENTER  
25 E. PEARSON STREET

CHICAGO, ILLINOIS

LOYOLA UNIVERSITY CHICAGO  
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**The Second Annual Beazley Symposium on Access to Health Care**

**PERSPECTIVES ON PATENTS AND PATIENTS: CAN THEY COEXIST?**

*Symposium Agenda*

**8:45 am – 9:15 am**

**Registration and Breakfast**

*Rubloff Auditorium*

**9:15 am – 9:30 am**

**Welcome and Introduction**

***Professor Cynthia Ho***

*Clifford E. Vickrey Research Professor*

*Director, Intellectual Property and Technology Program*

***Dr. Ann Weilbaecher***

*Editor-in-Chief, Annals of Health Law*

**9:30 am – 10:15 am**

**Panel #1: Past and Present Perspectives**

*Rubloff Auditorium*

***Moderator: Dr. Alice O. Martin***

*Partner, Barnes & Thornburg LLP & Co-Chair, Life Sciences Practice Group*

***Professor Tina Piper ~ Past Controversies, Present Debates: How Intellectual Property's Role in Access to Healthcare Reflects Historical Preoccupations***

*Assistant Professor of Law & Research Director of the Centre for Intellectual Property Policy, McGill University*

***Professor Scott Stern ~ Patents, Papers, and Secrecy: Disclosure and Access to Scientific and Commercial Knowledge***

*Associate Professor of Management and Strategy, Kellogg School of Management, Northwestern University*

*Research Associate, National Bureau of Economic Research*

**10:15 am – 10:30 am**

**Break**

**The Second Annual Beazley Symposium on Access to Health Care**

**PERSPECTIVES ON PATENTS AND PATIENTS: CAN THEY COEXIST?**

*Symposium Agenda continued*

**10:30 am – 11:15 am**

**Panel #1 (continued)**

*Dr. Michael Tomasson ~ Medical Genetics in the 21<sup>st</sup> Century: Search and Seizure of Genetic Property*

*Associate Professor of Medicine and Genetics, Washington University, St. Louis*

*Professor Colleen Chien ~ Patents: Friend or Foe of Neglected Disease Research?*

*Assistant Professor of Law, Santa Clara University Law School*

**11:15 am – 11:45 am**

**Panel Question & Answer**

**12:00 pm – 1:15 pm**

**Luncheon**

*Kasbeer Hall*

**Opening Remarks**

**Professor Lawrence E. Singer**

*Director, Beazley Institute for Health Law and Policy*

**Featured Speaker**

**Mr. James Love ~ The Use of Prizes to Stimulate Innovation**

*Director of Knowledge Ecology International & Chair of Essential Inventions,  
Trans-Atlantic Consumer Dialogue Working Group on Intellectual Property*

**1:30 pm – 3:00 pm**

**Panel #2: Present and Future Perspectives**

*Rubloff Auditorium*

**Moderator: Professor Cynthia Ho**

*Clifford E. Vickrey Research Professor*

*Director, Intellectual Property and Technology Program*

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*Symposium Agenda continued*

***Dr. Jorge Goldstein ~ Exploring the Impact of Gene Patents on Health Care:  
Personalized Medicine and Diagnostic Gene Patents***

*Director, Sterne, Kessler, Goldstein & Fox P.L.L.C.*

***Professor Matthew Herder ~ Of Stem Cells, Biomarkers & Cancer Research:  
Why Personalized Medicine and Population Health Won't Meet***

*Visiting Professor of Law, Loyola University Chicago School of Law*

***Professor Victoria Espinel ~ Pharmaceutical Data Protections: A New Approach***

*Visiting Assistant Professor, George Mason University School of Law*

***Professor Frank Pasquale ~ One Debate or Three? Reflections on Distributive Justice  
for LDC's in the Context of Pharmaceutical Patents, "Brain Drain" Emigration,  
and Human Subjects Research***

*Loftus Professor of Law & Associate Director for the Gibbons Institute of Law, Science  
and Technology, Seton Hall Law School*

**3:00 pm – 3:30 pm**

**Panel Question & Answer**



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#### ***Speaker Biographies***

**Colleen Chien, JD** is an Assistant Professor of Law at Santa Clara University Law School. Professor Chien's research offers an international perspective on patent law and intellectual property law with an emphasis on empirical research. Her public health scholarship focuses on compulsory licensing and the behavior of brand and generic firms in supplying AIDS medicines. Prior to becoming an Assistant Professor, Professor Chien worked as an associate and Special Counsel at Fenwick & West LLP in San Francisco and as a Fellow at the Center for Law and the Biosciences at Stanford Law School. She also previously served as an advisor to the School of Social Medicine at Harvard Medical School.

**Victoria A. Espinel, JD, LLM** is a Visiting Assistant Professor at George Mason University School of Law. She is the Former Assistant USTR for Intellectual Property and Innovation at the Office of the United States Trade Representative. In that role she served as the chief U.S. trade negotiator for intellectual property and innovation, leading negotiations at the WTO, in U.S. free trade agreements and in bilateral discussions worldwide. In addition, she was the chief policy advisor to the USTR and the Administration agencies on intellectual property, innovation and trade issues including the intersection between intellectual property and competition policy. She has published several articles on international copyright issues.

**Jorge Goldstein, JD, PhD** currently practices law as a Director at Sterne, Kessler, Goldstein & Fox P.L.L.C. in Washington, D.C. where he focuses on biotechnology, patent interferences, technology transfer, and pharmaceuticals. Dr. Goldstein's PhD in Chemistry from Harvard and his strong knowledge of the pharmaceuticals and biopharmaceutical industry aid him in his law practice where he prepares and prosecutes patent applications, counsels clients on intellectual property strategy and trade secrets, and leads the firm's interference practice and Inventorship Dispute Resolution Service. His current interests include human gene patents, genetic diagnostics and patent pools, and patents for research tools, including drug discovery tools and drug screening software. In 2008, Dr. Goldstein was named as one of the Best Lawyers in America.

**Matthew Herder, LLB, LLM, JSM** is currently a Visiting Professor of Law at Loyola University Chicago School of Law. In 2007 Professor Herder earned a Master of the Science of the Law from Stanford University after earning LLM and LLB degrees from Dalhousie University. He now serves as an Advisor to the Innovation

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#### ***Speaker Biographies continued***

Partnership with researchers at McGill University and as a regular consultant to Canada's Department of Health on intellectual property-related issues. His research interests center around intellectual property and benefit-sharing in the context of health related research. He recently completed a study commissioned by Health Canada of technology transfer practices with respect to genetic inventions at Canadian and American academic institutions. In addition Professor Herder authored a book chapter commissioned by the Organization for Economic Co-operation and Development examining how intellectual property issues may impact any future bioeconomy.

**Cynthia Ho, JD** is the Clifford E. Vickrey Research Professor of Law and the Director of the Intellectual Property Program at Loyola University Chicago School of Law. She teaches courses in Intellectual Property, Patent Law, Comparative Patent Law, Policy and Health Care, as well as Civil Procedure. Professor Ho's research interests include international intellectual property as well as patent issues involving biotechnology and health policy. She has served as a consultant to the United Nations Convention on Biological Diversity (CBD) and has provided consultation to the National Institutes of Health (NIH). Prior to joining the faculty at Loyola, Professor Ho was an associate at Fish & Neave (now the Fish & Neave IP group of Ropes & Gray) where she handled a variety of matters including litigating high-technology cases involving patents, trade secrets and unfair competition.

**James Love** is the Director of Knowledge Ecology International and Chair of Essential Inventions, the Trans-Atlantic Consumer Dialogue (TACD) Working Group on Intellectual Property, and a member of the MSF Working Group on Intellectual Property and the UNITAID Expert Group on Patent Pools. He advises a number of UN agencies, national governments, international and regional intergovernmental organizations and public health NGOs, and is the author of a number of articles and monographs on innovation and intellectual property rights. In 2006, Knowledge Ecology International received a MacArthur Award for Creative and Effective Institutions. Mr. Love was previously Senior Economist for the Frank Russell Company, a lecturer at Rutgers University, and a researcher on international finance at Princeton University. He holds a Masters of Public Administration from Harvard University's Kennedy School of Government and a Masters in Public Affairs from Princeton's Woodrow Wilson School of Public and International Affairs.

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#### ***Speaker Biographies continued***

**Alice O. Martin, JD, PhD** is a partner in the Chicago office of Barnes & Thornburg LLP and is co-chair of the Life Sciences Practice Group. She is also a member of the Intellectual Property Department where she concentrates on patent and trademark litigation and prosecution, opinions and due diligence investigations. In addition, Dr. Martin is a member of the National Institutes of Health Study Sections and has written articles and delivered presentations nationally and internationally on scientific and legal issues. Dr. Martin chairs the Biotechnology Committee of the Intellectual Property Law Association of Chicago and is a member of the BIO (Biotechnology Industry Organization) Amicus, Patenting Working Group and IP Corporate Counsel Committees. Prior to practicing law, Dr. Martin was a professor of Obstetrics and Gynecology at Northwestern University Medical School and Northwestern Memorial Hospital as well as a certified Medical Geneticist and Cytogenetics Laboratory director.

**Frank Pasquale JD, MPhil** is the Loftus Professor of Law and Associate Director for the Gibbons Institute of Law, Science and Technology at Seton Hall Law School. He focuses his scholarship on intellectual property and health law, drawing upon significant insights from economics, philosophy and social science. Professor Pasquale's current research includes work on how "high volume/low margin" pricing schemes should displace "low volume/ high margin" pricing schemes for patented drugs and also explores using tax structures to maximize access, quality and cost-control in health care. Before joining the faculty at Seton Hall, Professor Pasquale practiced law at Arnold & Porter LLP, where he focused his practice on antitrust and intellectual property litigation.

**Tina Piper, LLB, MPhil, DPhil** is an Assistant Professor of Law and Research Director of the Centre for Intellectual Property Policy at McGill University in Montreal Quebec. Professor Piper investigates why people create and innovate science and the arts, and how society can better encourage and disseminate these works using legal mechanisms. She has most recently completed studies on patent pools and the role of law in ensuring access to patented health innovations in Canada. Her doctorate investigated the history of the legislated medical exception from patentability in the U.K. Professor Piper also provides research and support for various NGOs particularly as co-Project Lead of Creative Commons Canada. Before starting her work at McGill, Professor Piper was a Rhodes Scholar and research associate to the Oxford Intellectual Property Research Centre.

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#### ***Speaker Biographies continued***

**Lawrence E. Singer, MHA, JD** is Director of the Beazley Institute for Health Law and Policy, Director of the Center for Catholic Health Care and Sponsorship and Associate Professor of Law at Loyola University Chicago School of Law. The Institute is one of the most respected health law programs in the United States. Larry has taught extensively in the regulatory and transactional areas of health law, focusing particularly in the areas of sale, merger, joint venture and acquisition of health care facilities. His experience in health law has been multifaceted, having served as assistant to the general counsel at the American Hospital Association, a partner in the health law department at McDermott Will & Emery and national practice head of that firm's Catholic health care practice. He has extensive Board experience, including service as the Board Chair of a large, multi-state health care system. He has been recognized numerous times as one of Illinois' "super lawyers" in health law.

**Scott Stern, PhD** is an Associate Professor of Management and Strategy at Northwestern University's Kellogg School of Management and a Research Associate of the National Bureau of Economic Research. He is also a co-organizer of the Innovation Policy and the Economy Program at the National Bureau of Economic Research, a Senior Fellow of the Searle Center at Northwestern Law School and serves as the Academic Director of the Kellogg Biotechnology Program. In 2005, Professor Stern was awarded the first Ewing Marion Kauffman Prize Medal for Distinguished Research in Entrepreneurship. Professor Stern's research explores how innovation differs from traditional economic goods and his research on the pharmaceutical and biotechnology industries is at the intersection between industrial organization and the economics of technical change. Recent research examines the determinants of scientific and commercial research productivity, the impact of incentives and organization design on the process of innovation and the drivers of commercialization strategy for technology entrepreneurs.

**Michael Tomasson, MD** is an Associate Professor of Medicine and Genetics for the Department of Genetics and the Department of Medicine Oncology in the Bone Marrow Transplantation & Leukemia Section and the Stem Cell Biology Section at Washington University in St. Louis. Dr. Tomasson primarily engages in scientific, clinical disease research. His clinical interests include studying the mechanisms underlying disease progression as well as cloning and characterization of chromosomal breakpoints to explore molecular mechanisms of disease. Dr. Tomasson is currently collecting tissue samples from patients with a type of bone marrow cancer and conducting genetic testing

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#### ***Speaker Biographies continued***

for “disease genes.” Dr. Tomasson is the Scientific Director at Siteman Cancer Center Myeloma Program.

**Ann Weilbaecher, PsyD** is a third year JD candidate at Loyola University Chicago School of Law and the Editor-in-Chief of the *Annals of Health Law* journal. She is a licensed clinical psychologist and served as the project director of University of Chicago’s Schizophrenia Genetics Research Program and a supervising psychologist at Northwestern University’s research program investigating the mental health needs of incarcerated women.

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#### ***Beazley Institute for Health Law and Policy***

Established in 1984, the Beazley Institute for Health Law and Policy at Loyola University Chicago School of Law has evolved into a nationally recognized resource dedicated to the education of health law leaders and policymakers, and to the study and furtherance of the health law field.

The Beazley Institute offers a specialized Certificate in Health Law for JD candidates and four graduate degree programs in health law and policy: for attorneys, the Master of Laws (LLM) in Health Law and the Doctor of Juridical Sciences (SJD) in Health Law and Policy; and the Master of Jurisprudence (MJ) in Health Law and the Doctor of Laws (DLaw) in Health Law and Policy for health care professionals.

Loyola's health law curriculum boasts over 40 substantive courses focusing on topics such as reimbursement and finance, government regulation and policy, and corporate and transactional health law. Students gain first-hand knowledge of the health care industry by externing at local hospitals and health care entities, participating in "health care boot camps" on discreet subject areas, and regularly interacting with the practicing bar through Loyola's continuing education events and health law mentorship program. Students also benefit by publishing the Institute's law review, the *Annals of Health Law*, preparing the Illinois Association of Healthcare Attorneys' Annual Health Law Update, and serving in the Elder Law Clinic.

With over 1,000 alumni world-wide and a consistent ranking in *US News & World Report* as one of the nation's top health law programs, Loyola's Beazley Institute for Health Law and Policy truly does educate the health law leaders of tomorrow.

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#### *Annals of Health Law*

The Beazley Institute for Health Law and Policy publishes the *Annals of Health Law*, a bi-annual journal, which contains original articles of particular relevance to health care practitioners, policy makers, and scholars. The *Annals* has been published since 1992 and is managed and edited entirely by students. The *Annals* currently publishes two issues per year. The Winter Issue covers general health law topics, while the Summer Issue is chiefly devoted to the Annual Health Law and Policy Symposium topic that varies each year.

Scholarly proceedings from this Symposium will be published in Volume 18, Issue 2 of the *Annals* in the summer of 2009. If you wish to subscribe, please contact us at 312-915-7174 or via email at [annalshl@luc.edu](mailto:annalshl@luc.edu) for more information.

**Submission Deadline:** The *Annals of Health Law* is accepting Articles for Volume 18, Issue 2 until **December 15, 2008**. For further information on article submission, contact Ann Weilbaeher, Editor-in-Chief, at 312.915.6304 or [annalshl@luc.edu](mailto:annalshl@luc.edu).

**Format:** Citations in manuscripts should conform to *The Bluebook: A Uniform System of Citation* (18th ed. 2005), published by Harvard Law Review Association. All citations should be contained in footnotes. The articles can be submitted via email as an attachment or may be submitted through regular mail, containing both a printed copy and MS Word file of the article on a CD-ROM. Please include your name, title, and degrees at the top of the first page and your current resume. We also request an abstract of 250 words or less.

**Submission Address:** Completed articles should be submitted to:

Editor-in-Chief, *Annals of Health Law*, Beazley Institute for Health Law and Policy, Loyola University Chicago School of Law, 25 East Pearson, Chicago, IL 60611

Alternatively, articles can be submitted via email at [annalshl@luc.edu](mailto:annalshl@luc.edu).

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#### ***Advance Directive***

In November 2008, the *Annals of Health Law* will launch a new website including our online journal: *Advance Directive*. An advance directive is a legal document indicating an individual's preferences for future health care. Similarly, the mission of *Advance Directive* the online counterpart to *Annals*, is to create a forum to address current issues as well as future directions within the complex field of health law.

The first issue of *Advance Directive* focuses on technology and health law to complement our Fall 2008 Symposium that explores the increasingly important intersection between patents, access to health care, and innovation.

To continue the discourse generated by the Fall 2008 Symposium, individuals can present their views via *Dialogue*, a blog maintained by *Advance Directive* that encourages comments and feedback by other members of the health law community. The staff of *Annals of Health Law* and *Advance Directive* invites all to contribute their knowledge, insight, and perspectives on emerging and existing health law topics to promote discussion and scholarship.

To view *Advance Directive* or to be a guest contributor to *Dialogue*, please go to: [www.annalshhealthlaw.org](http://www.annalshhealthlaw.org)



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