

Shepard Broad College of Law  
NOVA SOUTHEASTERN UNIVERSITY

**NSU**  
Florida

2018





# NOVA LAW REVIEW SYMPOSIUM

PROGRESSION 2018

FRIDAY, OCTOBER 5, 2018  
8 AM - 4 PM  
NSU LAW LIBRARY, 3RD FLOOR

Using Law to Facilitate an Efficacious Innovative Economy

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#NLRSymposium2018

## Welcome from the Nova Law Review

On behalf of the Executive Board of the Nova Law Review, welcome to the 2018 Nova Law Review Symposium, *Progression: Using Innovation Law to Facilitate an Efficacious Innovative Economy*. This Symposium provides an opportunity for scholars to discuss the many changes facing the global economy, including medical data, smart connected devices, autonomous vehicles, artificial intelligence, regulation, privacy, and security concerns brought on by the developments in technology and the legal regimes that govern these sectors.

Topics of discussion will include: Medical data capture, storage and use; technological advances in autonomous vehicles; drone legal developments; data-centric technologies; practical application to responses to cyber threats; legal framework of mobile payments; and ownership of artificial intelligence for the creators of the innovation economy.

Attendees will have the unique opportunity to learn from distinguished attorneys and law professors from across the U.S. including representatives from UNLV William S. Boyd School of Law, Texas Tech University School of Law, California Western College of Law, Georgia State University School of Law, among many others. Overall, the goal of this Symposium is to provoke conversation and awareness about important new health, technological, privacy, and entrepreneurial issues presently affecting our global and regulatory economy.

We sincerely thank you for attending and hope you enjoy the presentations.



**Bryan C. Siddique,**  
Juris Doctor Candidate | 2019  
Nova Law Review | Editor-in-Chief, Vol. 43  
Nova Southeastern University | Shepard Broad College of Law

**#NLRSymposium2018**



**Bryan C. Siddique**  
Nova Law Review  
Editor-in-Chief, Vol. 43

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Florida

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College of Law  
**NOVA SOUTHEASTERN  
UNIVERSITY**

2018 Nova Law Review Symposium  
Progression 2018: Using Law to Facilitate an Efficacious Innovation Economy  
Friday, October 5, 2018 | Shepard Broad College of Law

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8:00 – 8:45 am **Continental Breakfast**

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8:45 – 9:00 am **Welcome & Introductions**

**Jon Garon**, Dean of NSU College of Law

**Bryan Siddique**, Nova Law Review Editor-in-Chief

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9:00 – 10:30 am **PANEL1: Medical Data Capture, Storage and Use**

**Moderators:**

**Kathy Cerminara**, NSU Law Professor  
**Marilyn Uzdavines**, NSU Law Professor

**Speakers on Panel:**

**Professor Stacey A. Tovino**, Mobile Application-Mediated Research: Privacy and Security Challenges and Opportunities  
**Niya T. McCray**, Putting a Finger on the Problem: An Update on U.S. Biometric Privacy Law  
**Steven W. Tepler**, Ransomware Attacks – Cyber-security Vulnerabilities Facing the Health Care Infrastructure.

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10:30 – 10:45 am **Break**

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10:45 – 12:15 pm **PANEL2: Technology and the Law**

**Moderator:**

**Vicenç F. Feliú**, NSU Law Associate Dean for Library Services & Professor of Law

**Speakers on Panel:**

**Professor Tracy H. Pearl**, Compensation at the Crossroads: Autonomous Vehicles and Alternative Victim Compensation Schemes  
**Professor Timothy M. Ravich**, Collision Course: Of Drones and Decision-Makers  
**Professor Tabrez Y. Ebrahim**, Data-Centric Technologies: Patent and Copyright Doctrinal Disruptions

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12:15 – 1:15 pm **Lunch**

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1:15 – 2:45 pm

**PANEL3: Consumer Protection  
and Entrepreneurship**

**Moderator:**

**Jon Garon**, Dean of NSU College of Law

**Speakers on Panel:**

**Kevin D. Rosen**, Best Practices to Respond to Cyber Threats  
**Professor Mark E. Budnitz**, The Legal Framework of Mobile Payments: Gaps, Ambiguities and Overlap  
**Richard C. Balough**, Who Owns the Work Product of Artificial Intelligence Machines?

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2:45 – 3:30 pm

**Question & Answer Session**

**Bryan Siddique**, Nova Law Review Editor-in-Chief  
**Thomas Sternberg**, Nova Law Review Goodwin Alumni Editor

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3:30 – 4:30 pm

**Closing Remarks and Reception**

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**The Florida Bar Certificate of  
Accreditation  
for Continuing Legal Education**

Reference No.: 1806687N  
Title: Nova Law Review Symposium  
Level: Intermediate  
Approval Period: 10/05/18 – 04/05/2020  
CLE Credits: General 7.0  
Technology 7.0

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## PANEL 1: MEDICAL DATA CAPTURE, STORAGE AND USE



### Professor Stacey A. Tovino

Stacey A. Tovino currently serves as the Judge Jack and Lulu Lehman Professor of Law at the UNLV William S. Boyd School of Law. Professor Tovino is a leading expert in health law, bioethics, and the medical humanities. She has particular expertise in the regulatory, operational, and financial aspects of health law, and she frequently explores issues that lie at the intersection of health law and information law, including those involving the HIPAA Privacy Rule, the EU GDPR, and state privacy, security, and breach notification laws. Educated as both an attorney and a medical humanist, Professor Tovino publishes her interdisciplinary work in textbooks, casebooks, edited readers, law reviews, medical and science journals, and ethics and humanities journals. Recent law review publications include articles in the *Iowa Law Review* (forthcoming 2018), *Alabama Law Review* (forthcoming 2018), *Washington and Lee Law Review* (2017), *Minnesota Law Review* (2016), *Boston College Law Review* (2016), *Washington Law Review* (2016), *Washington and Lee Law Review* (2015), and *Tulane Law Review* (2014). Professor Tovino founded the UNLV Health Law Program and served as its Director from 2013-2018.

Professor Tovino's 2018-2019 research projects involve state innovation in data privacy, security, and breach notification; the privacy and security issues raised by mobile research applications; federal enforcement of the HIPAA Administrative Simplification Rules; public and private health insurance coverage of skilled care and cognitive rehabilitation; and the legal and ethical issues raised by grateful patient fundraising.

Professor Tovino is a frequent speaker on the local, national, and international level. She has been invited to guest lecture and present papers on a range of health law, bioethics and medical humanities topics at schools of law, medicine, public health, pharmacy, life sciences, health sciences and public policy, as well as undergraduate and graduate departments of neuroscience, biology, psychology, sociology, philosophy, and humanities across the country.

Prior to joining the faculty at Boyd, Professor Tovino served as Founding Director of the Health Law and Policy Center and Associate Professor of Law at Drake University Law School (2008-10); Assistant Professor of Law at Hamline University School of Law (2006-08); Visiting Assistant Professor, Research Professor, and Adjunct Professor at the University of Houston Law Center (2003-06); attorney at the Law Office of Stacey Tovino (2003-06); and attorney in the Health Industries Group of the Houston office of the international law firm Vinson & Elkins (1997-2003). She has more than two decades of law practice experience representing physicians, scientists, allied health professionals, general and special hospitals, academic medical centers, organ procurement organizations, blood banks, AIDS clinics, and nonprofit health care organizations in regulatory, civil, operational, financial matters. She also represents patients and families in pro bono and advocacy matters.



### Niya T. McCray

Niya McCray is a Certified Information Privacy Professional in United States private sector law. Nina is currently practicing labor and employment, and data privacy in the Atlanta office of Kabat, Chapman & Ozmer LLP. Nina has written several articles, in national publications, focusing on the ever-changing legal landscape of biometric privacy, as well as considerations for government contractors subject to NIST/DFARS regulations. Currently, she holds a position on Law360's inaugural Editorial Advisory Board for Data Privacy and Cybersecurity matters. Nina received both her undergraduate degree and law degree from Vanderbilt University, where she received several accolades for her scholarship.



### Steven W. Teppler

Steven W. Teppler chairs the Cybersecurity and Privacy Practice at Mandelbaum Salsburg, and is an adjunct professor at Nova Southeastern University College of Law, where he teaches Electronic Discovery and Information Governance. He is the co-chair of the Information Security Committee of the American Bar Association's Science and Technology Section, and founding past co-chair of the ABA's Internet of Things Committee. Steven is a contributing co-author of the ANSI X9F4 financial industry trusted timestamp standard and holds six patents for the generation of



trusted data objects. Steven's recent publications include: Florida Business Litigation Manual (chapter co-author), 10th Edition (Exp. Spring 2019); The Two Faces of Innovation: From Safe and Dumb to Vulnerable Smart Products and Infrastructure, ISSA Journal, February 2018; A Practitioner's Guide to Electronic Discovery Under the Florida Rules of Civil Procedure, and Testable Reliability: A Modernized Approach to Digital Evidence Admissibility (Ave Maria L. Rev., Fall 2014).

### **Moderator: Kathy Cerminara**

Professor Kathy Cerminara bridges the medical n the end-of-life decision-making arena. She co-authors the nationally known treatise, *The Right to Die: The Law of End-of-Life Decisionmaking*, and is a reviewer for several medical and medical-legal journals. Her scholarship most recently has focused on the intersection between end-of-life care, palliative care, and health care coverage policy. At the Nova Southeastern University Shepard Broad College of Law, she is a full professor and serves as Director of Faculty Development.

Professor Cerminara teaches Torts, Health Policy, Bioethics & Quality of Care, Administrative Law, Civil Procedure, and other health-law-related courses. She also created and was the initial director of the online Master of Science in Health Law program for graduate students.

Since 2012, she has been a member of the International Scientific Committee for the International Academy of Law & Mental Health, based in Montreal, Canada. In that position, she has co-organized the stream of therapeutic jurisprudence presentations for two of the Academy's bi-annual Congresses: one in Amsterdam in 2013 and one in Vienna in 2015.

Prior to joining the College of Law faculty, Professor Cerminara taught at St. Thomas University School of Law and the University of Miami School of Law, clerked in the Western District of Pennsylvania and the United States Court of Appeals for the Third Circuit, and practiced law with Reed Smith Shaw & McClay in Pittsburgh, Pennsylvania.

Professor Cerminara received her J.D. magna cum laude from the University of Pittsburgh and her LL.M. and J.S.D. from Columbia University. She is an affiliate member of the Health Law and Tort Trial and Insurance sections of The Florida Bar, a retired member of the Pennsylvania Bar, and a member of organizations such as the American Bar



Association; the American Society of Law, Medicine & Ethics; the American Health Lawyers Association; and the Florida Bioethics Network.

### **Moderator: Marilyn Uzdavines**



Professor Marilyn Uzdavines is a Professor of Law at Nova Southeastern University Shepard Broad College of Law. She primarily teaches in the area of health care practice and regulation. She teaches J.D. courses in Health Care Compliance, Health Care Organizations, Regulations, and Access, Real Estate Transactions, and other health-related courses. She also teaches Pharmaceutical Law, Legal Perspectives in Health Care Ethics, and Regulatory Compliance in the Nova Southeastern University online Master of Science in Health Law program. Her scholarship explores the regulation of developing areas of medical practice.

Professor Uzdavines has spoken at numerous national academic conferences throughout the United States, including the Society of American Law Teacher's Conference and the Health Law Professors Conference.

Professor Uzdavines graduated magna cum laude with a bachelor's degree in political science from the University of Florida and magna cum laude with her law degree from the University of Florida Levin College of Law. In law school, she served as Symposium Editor on the Florida Law Review, and was named a member of the Order of the Coif. She also served as a judicial extern to the Honorable Judge Susan Bucklew in the Middle District of Florida. After law school, she joined the international firm of Holland & Knight, LLC in Tampa, Florida where she practiced corporate law. She later opened the firm, Uzdavines Law Group, P.A. in Clearwater, Florida where she practiced transactional law.

Prior to joining the Nova Southeastern University Shepard Broad College of Law faculty, Professor Uzdavines spent one year as a visiting professor at Stetson College of Law. At Nova Southeastern University Shepard Broad College of Law, she has served as faculty co-advisor for the Hispanic Law Student Association and the PULSE! Health Law Student Association.

Additionally, she served on the Masters of Science Online Curriculum Task Force and the College of Law's

Governance Committee. She is a member of the Florida Bar and a member of the Florida Bar Committee on Diversity and Inclusion.

## PANEL 2: TECHNOLOGY AND THE LAW

### Professor Tracy H. Pearl

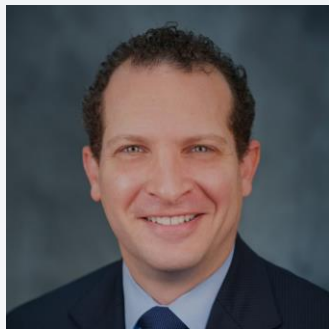


Professor Pearl is a nationally recognized scholar on emerging technology and the law with Texas Tech University School of Law. She researches and writes about risk, regulation, and tort law in the areas of driverless vehicles, the Internet of Things, and other new forms of technology. Her scholarship also explores whether and how procedural rules impact due process and how courts treat novel societal issues.

After receiving an A.B. in Public Policy Studies from Duke University and a M.Sc. from Oxford University in Comparative Social Policy, Professor Pearl received her Juris Doctorate from Boston College Law School where she served as Senior Executive Editor of the Boston College International & Comparative Law Review and was awarded the Frederick N. Halstrom Oral Advocacy Award and membership in the Order of the Coif.

Following law school, Professor Pearl served as a law clerk to the Honorable Stephanie K. Seymour of the United States Court of Appeals for the Tenth Circuit and to the Honorable Richard L. Williams of the United States District Court for the Eastern District of Virginia. Upon completion of her clerkships, she worked as a litigation associate at Hogan Lovells LLP in Washington, DC, where she litigated a wide variety of cases at both the trial and appellate levels.

### Timothy Ravitch



Timothy M. Ravich is an assistant professor at the University of Central Florida. His scholarship focuses on issues related to aviation, administrative law, and the regulation of technology. His research has appeared in leading law journals such as the Columbia Business Law Review and he recently authored "Commercial Drone Law" for the American Bar Association. His treatise on aviation law is scheduled for publication with West Academic in 2019.

Ravich also serves as the Principle Investigator on various projects sponsored by the National Academies of



Sciences, Engineering, and Medicine, and he has offered expert commentary for outlets such as the Christian Science Monitor, China Central Television, HUFFPost, Mercatus Center at George Mason University, National Public Radio, the Atlantic, and NTV (Russia). Before entering academia, he practiced with AmLaw 100 law firms as a commercial litigator and Board-Certified Aviation Lawyer. He was the President of the Dade County Bar Association.

### **Professor Tabrez Y. Ebrahim**

Tabrez Ebrahim is an Assistant Professor at California Western School of Law, where he writes, teaches, and consults in the areas of patent law, entrepreneurship, and innovation. He is the Director of the Intellectual Property Area of Concentration, and serves as the Faculty Adviser for Trademark Clinic with the U.S. Patent & Trademark Office (USPTO) and the Student Intellectual Property Law Association. He is the recipient of a 2018-2019 Core Fulbright U.S. Scholar Program award for teaching and research in patent law and technology entrepreneurship with King Fahd University of Petroleum and Minerals in Saudi Arabia. He is also a recipient of the 2019 Thomas Edison Innovation Fellowship from the Center for the Protection of Intellectual Property at Antonin Scalia Law School at George Mason University. Professor Ebrahim graduated with a B.S. degree in mechanical engineering (Univ. of Texas at Austin, with High Honors), a M.S. degree in mechanical engineering (Stanford Univ.), JD and MBA degrees (Northwestern University), and a LLM degree (Univ. of Houston Law Center). He is an inventor on a U.S. patent, and is a licensed attorney in Texas and registered with the USPTO.



### **Associate Dean Vicenç F. Feliú**

Dean Feliú was most recently the Associate Dean for Library Services and Professor of Law at Villanova University's Charles Widger School of Law in Pennsylvania where he taught Advanced Intellectual Property/Cyber Law and Copyright Law. Before that Dean Feliú was Director of the Law Library and Professor of Law at the University of the District of Columbia David A. Clarke School of Law, where he also taught International Human Rights and Advanced Legal Research.

Dean Feliú teaches Intellectual Property and Trademarks and Unfair Competition Law. Prior to entering academia, Dean Feliú served as a Major in the United States Marine Corps and as a Special Agent with the Federal Bureau of Investigation.

Dean Feliú received a B.A. in Linguistics from California State University, Fullerton, both a J.D. and LL.M. in Intellectual Property, Commerce & Technology from the Franklin Pierce Law Center, and a M.L.I.S., with a Law Librarianship Certificate, from the University of Washington.

### **PANEL3: CONSUMER PROTECTION & ENTREPRENEURSHIP**



#### **Kevin D. Rosen**

Kevin D. Rosen is a partner in the West Palm Beach office of Shutts & Bowen, where he is a member of the Financial Services Practice Group and the Cybersecurity and Data Privacy Taskforce. Kevin focuses his practice on cybersecurity, privacy, data security, virtual currency, securities regulation, and financial regulation.

Kevin previously served as Senior Regional Counsel in the Department of Enforcement at the Financial Industry Regulatory Authority (FINRA), Associate Regional Director with FINRA Dispute Resolution, and Senior Attorney with the Florida Department of Banking and Finance.

At FINRA, Kevin was at the frontline of cybersecurity regulation, having served nationally as FINRA's Regulatory Specialist on FINRA's Cybersecurity and Information Technology Disposition Group. He evaluated FINRA's cybersecurity examinations, findings, recommendations, and disciplinary actions, with respect to U.S. securities broker/dealers. As a lead FINRA enforcement lawyer, Kevin also directed many significant enforcement investigations and disciplinary actions related to anti-money laundering compliance, supervision and sales practice violations, providing him with years of direct experience with FINRA's enforcement processes.

Additionally, Kevin is an Adjunct Professor of Law at Nova Southeastern University and teaches Cyber and Information Crimes. Additionally, Kevin holds a number of appointments and committee memberships on cybersecurity and technology, including the Florida

Department of Law Enforcement's Southeast Regional Domestic Security Task Force, the American Bar Association's Cyberspace Law Committee, the Florida Bar's Committee on Technology, and the Florida International Bankers Association's Operations and Technology Committee.



### **Professor Mark E. Budnitz**

Mark Budnitz is a professor of law emeritus at Georgia State University College of Law. He is the former Bobby Lee Cook Professor of Law. He also taught at Boston University School of Law and Emory University School of Law. Prior to teaching, he was an attorney in legal services programs for the poor, including serving as the executive director of the National Consumer Law Center. He also headed the Bankruptcy Reorganization branch of the Securities and Exchange Commission's southeastern regional office.

Budnitz specializes in consumer protection, with a special interest in electronic payment systems. He has published over 30 articles on this and other topics. In addition, he has written books on consumer credit reporting and bankruptcy. For many years he wrote yearly updates for two other books, Consumer Banking and Payments Law and the Law of Lender Liability.

He is a member of the American Law Institute. He is on the board of directors of the National Consumer Law Center and the Advisory Committee of the Atlanta Legal Aid Society. He was a member of the Federal Reserve Board's Consumer Advisory Council.



### **Richard C. Balough**

Mr. Balough is a founder of Chicago-based Balough Law Offices, LLC, that focuses on internet, cyberspace, intellectual property, and artificial intelligence law. Mr. Balough is co-chair of the Artificial Intelligence and Robotics Subcommittee of the ABA's Business Law Section Cyberspace Law Committee. He served as chair of the Chicago Bar Association's Internet Law Committee and as a board member of the Intellectual Property Law Association of Chicago. He taught at The John Marshall Law School in Chicago, where he also served as associate director of the Information Technology and Privacy Law Center. He lectured at the University of Notre Dame, Indiana University, and numerous legal seminars. He has written for legal publications on copyrights,





technology, internet of things, and privacy issues. He has masters of law degrees in Intellectual Property Law and in Information Technology and Privacy Law.

## Dean Jon M. Garon

Jon M. Garon is Dean of Nova Southeastern University Shepard Broad College of Law. Dean Garon serves as chief academic officer for the law school, providing strategic leadership on programming, curriculum, enrollment management, marketing, and finance. He is a nationally recognized authority on technology law and intellectual property, particularly copyright law, entertainment and information privacy. A Minnesota native, he received his bachelor's degree from the University of Minnesota in 1985 and his juris doctor degree from Columbia University School of Law in 1988.

Prior to joining Nova Southeastern University in 2014, Garon was the inaugural director of the Northern Kentucky University Salmon P. Chase College of Law, Law + Informatics Institute from 2011-2014. The Law + Informatics Institute serves to integrate the specialized programming on technology and information systems as they apply across legal disciplines. A tenured member of the law faculty, Garon taught Information Privacy Law, Cyberspace Law, Copyright Law, Entertainment Law, and related courses.

Garon served as dean and professor of law at Hamline University School of Law in St. Paul, Minnesota. He was professor of law from 2003 to 2011, dean of the Law School from 2003 to 2008 and Interim Dean of the Graduate School of Management from 2005 to 2006. Before Hamline, Garon taught Entertainment Law and Copyright at Franklin Pierce Law Center in Concord, New Hampshire and Western State University College of Law in Orange County, California.

Among his numerous accomplishments, Garon has held key leadership positions as past chair of both the American Bar Association's Law School Administration Committee and the Association of American Law Schools Section on Part-Time Legal Education. His teaching and scholarship often focus on business innovation and structural change to media, education and content-based industries. He is the author of three books and numerous book chapters and articles, including *The Independent Filmmaker's Law & Business Guide to Financing, Shooting, and Distributing Independent and Digital Films* (A Cappella Books, 2d Ed. 2009); *Own It – The Law & Business Guide to Launching a New Business Through Innovation, Exclusivity and Relevance* (Carolina Academic Press 2007); and *Entertainment Law & Practice* (2d Ed. 2014 Carolina Academic Press). Additionally, he has presented at more than 60 forums across the U.S.