



AMERICAN  
BANKRUPTCY  
INSTITUTE

# 2022 Alexander L. Paskay Memorial Bankruptcy Seminar

## The Future of Technology and the Practice of Law

### **Hon. Lori V. Vaughan, Moderator**

U.S. Bankruptcy Court (M.D. Fla.) | Orlando

### **Nicole DiBlasi**

IST Management Services, Inc. | Tampa

### **R. Scott Shuker**

Shuker & Dorris, P.A. | Orlando

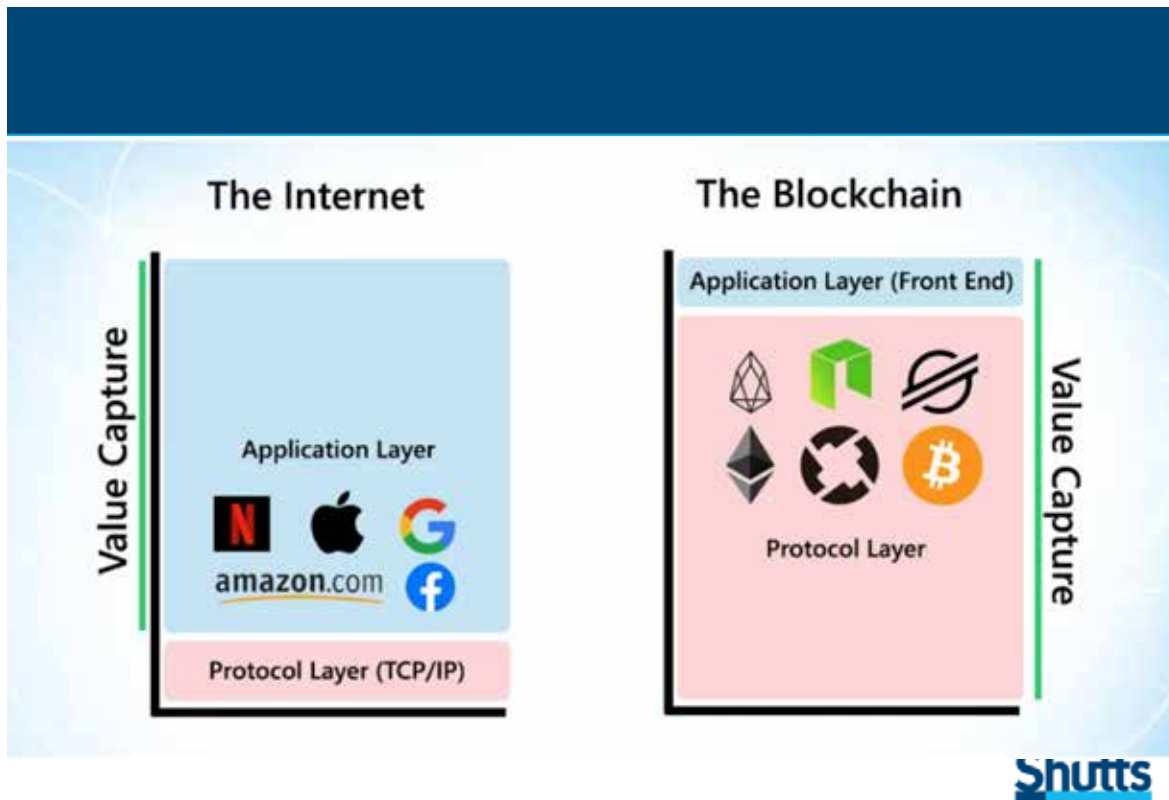
### **Daniel Stabile**

Shutts & Bowen LLP | Miami

### **Prof. Marcia Narine Weldon**

University of Miami School of Law | Miami

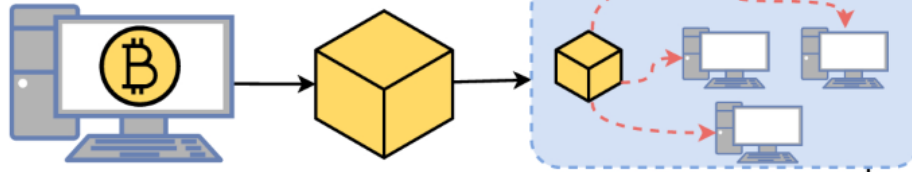




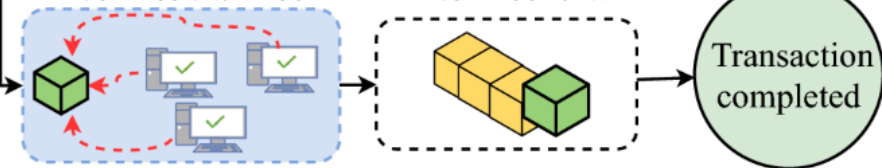
## Blockchain

- A “digital ledger” (think database) that:
  - Distributed across a network of devices
  - Growing list of data records that are:
    - Protected by cryptography and digitally verified
- Very fancy and safe Excel spreadsheet that keeps growing!

- ① Requests Transaction
- ② Transaction is packed into a Block
- ③ Broadcasts Block to nodes in Blockchain



- ④ Validates and verifies the Block
- ⑤ Appends new Block into Blockchain
- ⑥ Transaction completed



Shutts

## What is an NFT?



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## MEATAVERSE

**Word Mark** MEATAVERSE

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Online retail services featuring virtual goods; virtual food products; downloadable multimedia files containing artwork, text, images, audio and video files, and non-fungible tokens; software for downloadable virtual goods, namely, crypto-collectibles and non-fungible tokens (nfts); downloadable computer software in the nature of crypto-collectibles and non-fungible tokens (nfts); downloadable digital art images authenticated by non-fungible tokens (nfts); downloadable software for viewing crypto-collectibles, nonfungible tokens and other application tokens; downloadable software for use in trading, storing, sending, receiving, accepting and transmitting crypto-collectibles, non-fungible tokens and other application tokens; downloadable virtual goods, namely, digital collectibles using blockchain-based software technology and smart contracts; providing online non-downloadable virtual goods, namely, digital art, photographs, videos, or audio recordings; downloadable software for engaging in social networking and interacting with online communities, accessing and streaming multimedia entertainment content, and for providing access to an online virtual environment; downloadable computer software for the creation, production and modification of digital animated and non-animated designs and characters, avatars, digital overlays and skins for access and use in online environments, virtual online environments, and extended reality virtual environments

IC 041. US 100 101 107. G & S: Providing an interactive website for virtual reality game services; entertainment services, namely, providing online, non-downloadable virtual food products, digital animated and non-animated designs and characters, avatars, digital overlays, and skins for use in virtual environments, virtual reality and interactive game services provided online from a global computer network and through various wireless networks and electronic devices; entertainment services, namely, online video games; entertainment services, namely, providing virtual environments in which users can interact for recreational, leisure, or entertainment purposes; entertainment services, namely, providing an online environment featuring streaming of entertainment content and live streaming of entertainment events; entertainment services in the nature of organizing, arranging, and hosting virtual performances and social entertainment events; entertainment services, namely, providing a metaverse for people to browse, accumulate, buy, sell, and trade virtual food products

IC 042. US 100 101. G & S: Creating an online community for digital assets, non-fungible tokens, and metaverses and online worlds; hosting an online community website featuring digital assets, non-fungible tokens, and metaverses and online worlds; providing non-downloadable computer software in the nature of crypto-collectibles and non-fungible tokens; software platforms for providing access to crypto-collectibles, non-fungible tokens and other application tokens

**Standard Characters Claimed****Mark**

**Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 97288930

**Filing Date** March 1, 2022

**Current Basis** 1B

**Original Filing Basis** 1B

**Owner** (APPLICANT) CONAGRA G&S SUB 1, LLC LIMITED LIABILITY COMPANY DELAWARE 222 W Merchandise Mart Plaza, Suite 1300 Chicago ILLINOIS 60654

**Attorney of Record** Jasmine R. Davis

**Type of Mark** TRADEMARK, SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE



# Cybersecurity, Technology, and Lawyers

Marcia Narine Weldon  
University of Miami School of Law

New  
technologies  
Ethical Rules  
Competence;  
Confidentiality



# Technology

In 2012, the ABA amended Comment 8 to Rule 1.1 to read (emphasis added):

To maintain the requisite knowledge and skill, a lawyer shall keep abreast of changes in the law and its practice, **including the benefits and risks associated with relevant technology.**



## Hot Topics:

Do you understand the IP, tax, money laundering, bankruptcy, and other legal implications?





## Ethical Use of Artificial Intelligence

Due diligence

Prediction technology

Legal analytics

Document automation

Intellectual property

Electronic billing

Prediction of bankruptcy



Remote Practice:  
Confidentiality; Diligence; Communication; Supervision;  
Competence

## ABA Ethics Opinions: December 2020/March 2021

**Opinion 495  
Addresses  
Unauthorized  
Practice of Law and  
Working Remotely**

**Opinion 498  
Discusses Ethics  
Rules Most Likely to  
Be Violated by  
Remote Practice**



### ABA Formal Opinion 495 (2020)

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[I]awyers may remotely practice the law of the jurisdictions in which they are licensed while physically present in a jurisdiction in which they are not admitted if:

- the local jurisdiction has not determined that the conduct is the unlicensed or unauthorized practice of law
- they do not hold themselves out as being licensed to practice in the local jurisdiction,
- do not advertise or otherwise hold out as having an office in the local jurisdiction, and
- do not provide or offer to provide legal services in the local jurisdiction.



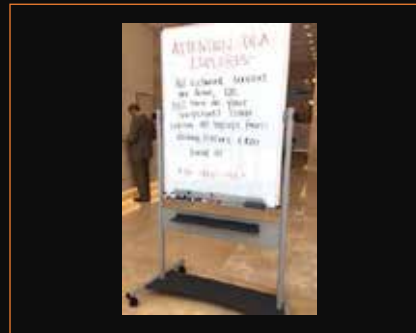
## ABA Formal Opinion 483 (2018)

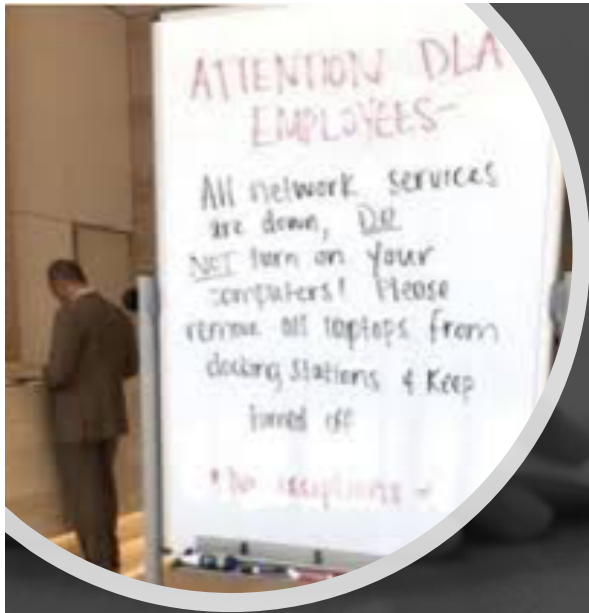
When a breach of protected client information is either suspected or detected, Rule 1.1 requires that the lawyer act reasonably and promptly to stop the breach and mitigate damage resulting from the breach.

"How a lawyer does so in any particular circumstance is beyond the scope of this opinion. As a matter of preparation and best practices, however, **lawyers should consider proactively developing an incident response plan with specific plans and procedures for responding to a data breach. The decision whether to adopt a plan, the content of any plan and actions taken to train and prepare for implementation of the plan should be made before a lawyer is swept up in an actual breach.**"

## Preservation of Confidential Information

- Ensure TLS email encryption on all communications
- Avoid use of unsecure WiFi systems when accessing or transmitting confidential client information
- Screen protection
- Use virtual private networks that encrypt information and shield online activity from third parties
  - Multi-factor authentication to access firm information and firm networks.





## Protecting Client Data

- Ensure all digital devices used for client matters are password protected so that third parties will not have access to confidential information.
- Set aside a private area of the home for client matters and take steps to ensure that others present cannot listen to conversations held there.
- Be careful with messaging apps and voice-activated devices
- Check terms of service with cloud services providers and others with access to confidential data



## Protect Client Data and Your Firm

- Cyberinsurance
- Vendor contracts
- Table top exercises
- Data mapping
- Document retention and destruction protocol



60% of small businesses close  
within 6 months of a hack or  
data breach

Small businesses in the EU are  
stockpiling bitcoin to pay  
ransomware



Questions?

[mweldon@law.miami.edu](mailto:mweldon@law.miami.edu)

(305) 333-9352



## eDiscovery and the Use of ECA for the Collection, Preservation and Searching of Documents

Nicole DiBlasi, Senior Vice President/Partner  
IST Discover-E

### What is Early Case Assessment?

IST Discover-E

- What is Early Case Assessment?
  - ECA is a method used to reduce the amount of documents while increasing relevancy in order to structure a more targeted and cost effective review.
  - ECA typically takes place prior to the review, but can be implemented throughout the course of the review, as well.
  - ECA can begin with the collection and preservation, move into the processing phase, and last throughout the entire review.
  - Processing ECA and collection ECA are used most commonly in bankruptcy matters due to the need for quick analysis and turnaround on a Chapter 11 with larger data volume and compressed timetable.



## Types of ECA

ISTDiscover-E

- Types of ECA
  - Forensic Data Collection
    - Custodian Questionnaires: Where does the data live? Personal devices, company issued devices, where does the relevant data reside?
    - Use of different tools for different devices to target, pull/image, preserve, process, and promote that data.
    - iPhones: image device → preserve original image → run search terms across device → promote data for review (multiple formats available ... RSMF, load file, Cellebrite UFED Reader report, etc).



Custodian Interview Questionnaire

**1. EXPLANATION OF THE LITIGATION AND PURPOSE OF INTERVIEW**

**2. BACKGROUND**  
Please briefly describe your current job duties and responsibilities.

**3. INVOLVEMENT IN FACT SURROUNDING MATTER**

**4. LEGAL HOLD**  
Confirm the custodian received and understands his/her obligations under the legal hold.

**5. EMAIL**  
Do you have email that could be relevant to this litigation?  
If so, would any or all of the email relevant to this case be in a particular folder?  
If so, what is the name of the folder?  
Would there be any relevant email in your office?  
Do you save your PST's to your hard drive?  
If so, is there any email related to this matter on your hard drive?  
Do you use home email for business? If so, what is that account?  
Do you have any email in your home email related to this matter?

2

## Types of ECA

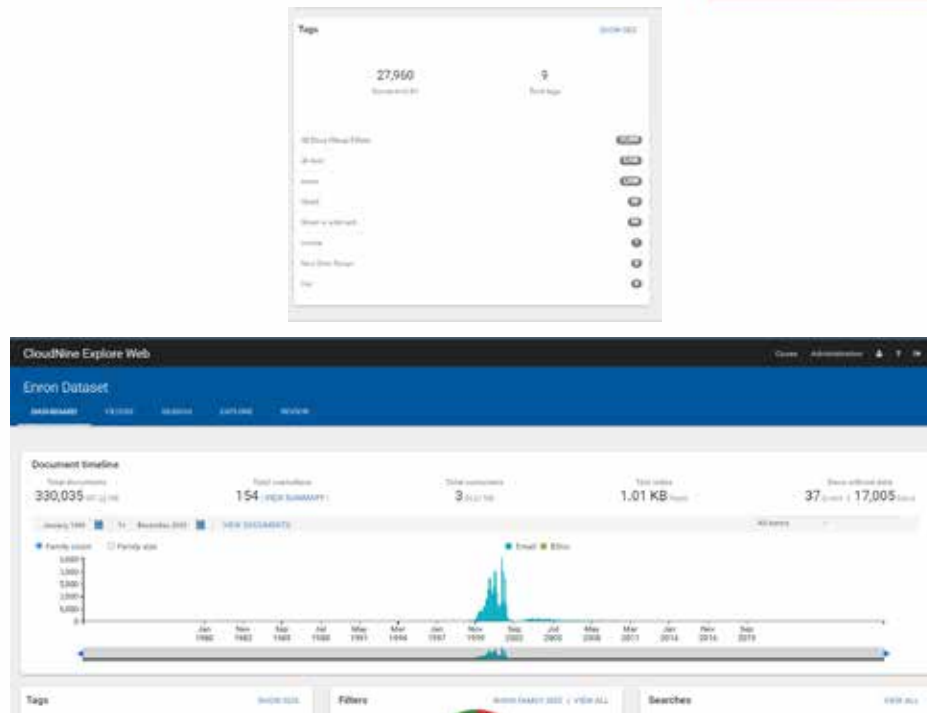
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- Preservation
  - This step is crucial and works hand in hand with collecting data.
  - If data is not preserved, and only the targeted data set is saved, the original image is no longer available and the collection may have to be done again if additional searches arise and need to be run.
  - Always store the original image.



3

## Types of ECA

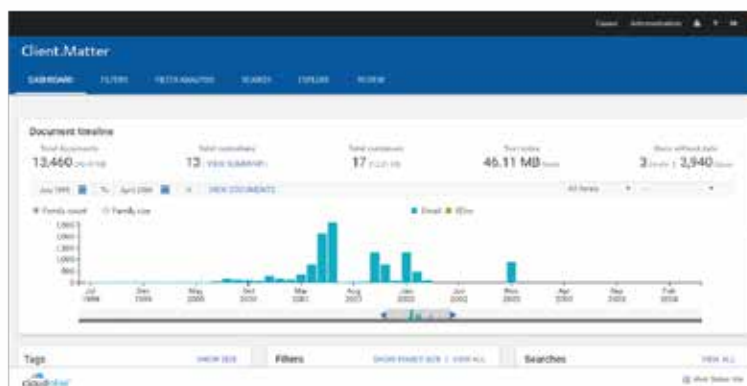
**IST**Discover-E

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## ECA During Processing

**IST**Discover-E

- ECA during Processing
  - Various tools used to implement this pre-culling strategy and different workflows, as well.
  - What does an ECA workflow look like? C9 for example ...



4

## ECA During Review

ISTDiscover-E

- ECA during Review
  - ECA may continue on into the review database through the use of analytics/AI, widgets, and targeted search criteria determined by the review team.
    - Analytics/AI: various ways to further narrow down the scope of data (predictive coding, clustering, email threading, near de-duplication, etc).
    - Widgets



# Faculty

**Nicole DiBlasi** is a senior vice president and partner with IST Management Services Inc., in Tampa, Fla., and is responsible for overseeing its National Sales Team. She collaborates with law firms, including Am Law 100, and large corporations to facilitate the implementation of eDiscovery best practices and processes through utilizing the industry's most innovative software and service solution. Through her interest in technology and law, Ms. DiBlasi has developed extensive knowledge of eDiscovery and litigation workflow, allowing her to work with her clients to develop fully customized and strategic eDiscovery solutions according to their discovery requests and overall litigation support needs. She previously has interned with the U.S. Department of Homeland Security, the House of Representatives and the U.S. Office of Pretrial Services. A Boston native, Ms. DiBlasi is also a classically trained, international prize-winning violinist, who has performed as a soloist with several orchestras. She is an advocate for music education and the importance of the arts in the world. Ms. DiBlasi received her undergraduate degree in communications with a concentration in sociology and violin performance from Boston University.

**R. Scott Shuker** is a bankruptcy partner with Shuker & Dorris, P.A. in Orlando, Fla., and practices primarily in the areas of bankruptcy and creditors' rights. He has represented corporate debtors, secured and unsecured creditors, asset-purchasers and trustees in bankruptcy cases of corporate and individual debtors. Mr. Shuker has also represented several chapter 11 trustees in Ponzi scheme cases and has experience in fraudulent-transfer litigation. Prior to entering law school, Mr. Shuker was a corporate banking officer for Southeast Bank, N.A. He is Board Certified in Business Bankruptcy Law by the American Board of Certification, was named the 2010 Bankruptcy Lawyer of the Year (Orlando) by *The Best Lawyers in America* and ranked as a top bankruptcy attorney by *Chambers USA* for over 10 years. His notable representations include as debtor's attorney in the chapter 11 reorganization cases of Planet Hollywood International, Inc., Transit Group, Celebrity Resorts, Appliance Direct, Hudson's Furniture, FoodFirst Global Restaurants, Inc., DM World Transportation, Inc. and 1069 Restaurant Group, LLC. A Fellow in the Litigation Counsel of America, Mr. Shuker received his B.S. in finance in 1986 with high distinction from Pennsylvania State University and his J.D. with high honors in 1993 from the University of Florida College of Law, where he was a member of the Order of the Coif.

**Daniel Stabile** is a partner in the Miami office of Shutts & Bowen LLP, where he is a member of its Financial Services Practice Group, which has been recognized by *Chambers USA* as a Band 1 banking and financial practice area since its first publication. In the financial services arena, he represents financial institutions in internal and governmental/SRO investigations, enforcement proceedings, civil litigations and arbitrations. Additionally, Mr. Stabile is a leading attorney in the distributed ledger and digital-asset spaces. He has advised banks, brokers, FinTechs and other institutions in regards to their implementation of blockchain technology. Since 2018, Mr. Stabile has taught a popular course on blockchain and digital-asset regulation at the University of Miami Law School. He speaks regularly on digital currency regulation in various forums both domestically and abroad, and he advises government officials and regulators regarding digital-asset technology and regulation. He currently is vice chair of the Miami-Dade County Cryptocurrency Task Force, an appointed position. Additionally, he co-authored *Digital Assets and Blockchain Technology: US Law and Regulation*, a

first-of-its-kind legal textbook designed for law and other graduate-level students. In the litigation arena, Mr. Stabile concentrates his practice on class-action defense and complex commercial litigation. He has experience handling matters in federal trial and appellate courts in Florida and various forums throughout the country, and he has been published in academic and trade journals on the issue of class action defense. Prior to joining Shutts, Mr. Stabile practiced in the New York office of an international law firm. During law school, he interned at the U.S. Department of Justice. Mr. Stabile was listed as a *Florida Super Lawyers* Rising Star in Business Litigation from 2016-21. He received his B.A. in philosophy in 2005 and his J.D. in 2008 from George Washington University Law School.

**Hon. Lori V. Vaughan** is a U.S. Bankruptcy Judge for the Middle District of Florida in Orlando, sworn in on Feb. 25, 2020. She started her career as a law clerk to Hon. Karen S. Jennemann. Judge Vaughan then practiced bankruptcy law for 21 years at two law firms. Most recently, she was a shareholder at Trenam Law in Tampa, Fla., and before that, she practiced at Foley & Lardner, the last year of which she spent practicing out of its New York office. Judge Vaughan previously served as president of the Tampa Bay Bankruptcy Bar Association, chair of the Bankruptcy/UCC Committee of the Florida Bar's Business Law Section, and board member for the International Women's Insolvency & Restructuring Confederation. She has also sat on the boards of the USF Financing Corp. and USF Property Corp. Before taking the bench, Judge Vaughan was recognized by *Florida Super Lawyers* as being among the top 100 Lawyers in Florida, the top 50 Lawyers in Tampa Bay and the top 50 Women Lawyers in Florida. She also has been recognized by *Chambers USA* and *The Best Lawyers in America*. Judge Vaughan received her B.A. with high honors from Eckerd College in 1995 and her J.D. with honors from the University of Florida, College of Law in 1998.

**Prof. Marcia Narine Weldon** is director of the Transactional Skills Program, faculty coordinator of the Business Compliance & Sustainability Concentration, and lecturer in law at the University of Miami School of Law. She has 30 years of legal experience in a variety of settings and is the founder of Illuminating Wisdom, an executive-coaching, business-strategy and corporate-training firm. She also is general counsel of MDO Partners and of a sustainable startup. Prof. Weldon teaches regulatory compliance, corporate governance and sustainability; business and human rights; transactional skills; and business associations. She has written several law review articles and blogs on compliance and ESG matters for the Business Law Professor Blog. Additionally, she has been interviewed by or featured in the *New York Times*, *Wall Street Journal*, NPR, the *Guardian*, the *Verge*, *Forbes*, *Agenda (Financial Times)* and other news outlets around the world. Prof. Weldon spent several years in-house as the vice president and deputy general counsel, as well as the vice president of Global Compliance and Business Standards and chief privacy officer of Ryder, a publicly traded, multinational Fortune 500 company. She oversaw the company's global compliance, business ethics, privacy, government-relations, environmental compliance, enterprise risk management, corporate responsibility, and labor and employment legal programs. She also served as the head of human resources for one of the company's two divisions before being tasked with developing the compliance, enterprise risk management and privacy programs from scratch. Prior to joining Ryder, Prof. Weldon worked as labor and employment associate at Morgan Lewis in Miami and a commercial litigator at Cleary Gottlieb in New York, and she clerked for the Supreme Court of New Jersey. She currently serves as the co-chair of the governance committee of the Women's Fund of Miami-Dade and as a coach for social entrepreneurs through Radical Partners. In May 2011, she testified before the House Financial Services Committee in Congress on the unintended impact of Dodd-Frank Fi-

nancial Reform on corporate compliance programs. In 2012, the Secretary of Labor appointed her to the Whistleblower Protection Advisory Committee, on which she served for five years. She also served on the Miami-Dade Commission on Ethics and Public Trust from 2014-17. Prof. Weldon has been admitted to the bars of New York, New Jersey, Florida and the U.S. Supreme Court. She received her undergraduate degree *cum laude* in political science and psychology from Columbia University and her J.D. *cum laude* from Harvard Law School.