



CENTER FOR THE STUDY OF LAW AND SOCIETY  
BERKELEY LAW

## CSLS SPEAKER SERIES

Monday, January 22, 2018

### TERRY MARONEY

Professor of Law, Professor of Medicine, Health and Society, and  
2017-19 Chancellor Faculty Fellow, Vanderbilt University

#### **“Judicial Emotion: Investigating Its Role in Behavior, Decision-Making, and That Mysterious Thing We Call Temperament”**

What makes a "good judge"? What are the hallmarks of "judicial temperament"? Perhaps surprisingly, emotion is central to both queries. Cultural scripts long dictated that, as articulated by Hobbes in *Leviathan*, the good judge is divested "of all feare, anger, hatred, love, and compassion." The early-Twentieth-Century Legal Realists dented that script but they did not destroy it. Justice Sotomayor succinctly voiced the dominant post-Realist narrative in her 2009 confirmation hearing testimony: while judges are not "robots," they should "recognize" inevitable human emotions and "put them aside." That prescription understates the ubiquity of judicial emotion, overstates the ease of regulating it, and ignores the deleterious consequences of seeking always to neuter it. Emotion research, particularly from the affective sciences, offers a new theory of the "good judge" as one who is emotionally well-regulated.

This construct of the emotionally well-regulated judge addresses both momentary states—that is, discrete emotional experiences—and enduring traits—deep-seated patterns of emotional reactivity and regulation. It is enriched by interview data from U.S. District Judges that demonstrates the ways in which judges respond emotionally to their work, how they seek to manage those emotions, and how patterns of response and management affect decision making, behavior, and longevity on the bench. Such patterns are key to understanding judicial temperament, a vital construct that has for too long been seen as incurably elusive.

The introduction to Professor Maroney's paper is available online at our website and in hard copy at the Center.

PLACE Selznick Seminar Room, 2240 Piedmont Avenue  
TIME **12:45 – 2:00pm**. Coffee and water provided. Bag lunches welcome.  
INFO <https://www.law.berkeley.edu/centers/center-for-the-study-of-law-society/>  
EMAIL [csls@law.berkeley.edu](mailto:csls@law.berkeley.edu)

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