

CURRICULUM VITAE

GARY E. MARCHANT

Professor of Law
Arizona State University College of Law
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Current Positions

Professor of Law, Arizona State University College of Law (Associate Professor from Aug. 1999 - July 2003; Professor from July 2003 to present)

Professor of Life Sciences, School of Life Sciences, Arizona State University (July 2004 - present)

Executive Director, Center for the Study of Law, Science and Technology, Arizona State University College of Law (July 2001- present)

Lincoln Professor of Emerging Technologies, Law & Ethics, Arizona State University (July 2005 - present)

Courses Taught

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|---|--|---|--------------------------------------|
| ! | Environmental Law | ! | Biotechnology: Law, Science & Policy |
| ! | Law, Science and Technology | ! | Genetics and the Law |
| ! | Applied Research in Law, Science & Technology | ! | Environmental Justice |
| ! | FDA Regulation of Drugs, Devices & Biologicals | ! | Environmental Litigation |

Awards and Accomplishments

- ! Principal Investigator, "Genetic Susceptibility and Environmental Regulation," R01 Grant from the National Human Genome Research Institute and the National Institute of Environmental Health Sciences, May 2003 - February 2005.
- ! Member, National Research Council Committee on State Practices in Setting Mobile Source Emission Standards, 2004-2005
- ! Member, National Research Council Committee on Applications of Toxicogenomic Technologies to Predictive Technologies, 2005-2006
- ! Law Professor of the Year, 2003, awarded by the Maricopa County Bar Association

- ! Harvard Law School Sears Prize, 1988 (awarded to top two students in first year class)
- ! Harvard Law School, Fay Diploma, 1990 (awarded to top student in graduating class)

Legal Education

J.D., magna cum laude, Harvard Law School, 1990 (Class rank 1/540).

Activities: ! Editor-in-Chief, Harvard Journal of Law & Technology
 ! Editor, Harvard Environmental Law Review
 ! Vice-President, Harvard Law & Technology Society

Other Education

Master of Public Policy, John F. Kennedy School of Government, Harvard University, 1990.

Ph.D. (Genetics), Department of Zoology, University of British Columbia, 1986.

B.Sc., University of British Columbia, 1980; Dean's Honor List.

Legal Practice

Kirkland & Ellis, Washington, D.C., Sept. 1990-June 1999, elected Partner in September 1995.

Practice Areas: Environmental, occupational safety & health, and administrative law. Represented clients in cases before the U.S. Supreme Court, the U.S. Court of Appeals for the D.C., First, Second, Fifth and Sixth Circuits, and several federal district courts and state courts. Represented clients in numerous administrative proceedings before the U.S. Environmental Protection Agency, Occupational Safety & Health Administration, Food & Drug Administration, National Toxicology Program, Consumer Product & Safety Commission, National Highway Traffic Safety Administration, and the Federal Trade Commission. Also represented clients in product liability and toxic tort litigation.

Memberships and Affiliations

Nonlinearity in Biology, Toxicology and Medicine (CRC Press), Associate Editor (2003-present)
State Bar of Arizona, Executive Council of Environmental & Natural Resources Law Section, Elected Member 2004-2006
American Bar Association, Member
Environmental Law Institute, Member
Air & Waste Management Association, Member
American Association for the Advancement of Science, Member
Society for Risk Analysis, Member
New York Academy of Sciences, Member
Maricopa County Bar Association, Member
Society of Toxicology, Member

Publications

Books

Gary E. Marchant and Kenneth L. Mossman, *ARBITRARY & CAPRICIOUS: THE PRECAUTIONARY PRINCIPLE IN THE EUROPEAN UNION COURTS* (Washington, D.C.: AEI Press, 2004).

George M. Gray, William G. Jeffrey and Gary E. Marchant, *RISK ASSESSMENT AND RISK MANAGEMENT OF NON-FERROUS METALS: REALIZING THE BENEFITS AND MANAGING THE RISKS* (ICME, 1997).

Book Chapters

Gary E. Marchant, *Law, Science & Technology*, in: *ENCYCLOPEDIA OF SCIENCE, TECHNOLOGY, AND ETHICS* (ed. Carl Mitcham). Detroit: Macmillan Reference, 2005.

Gary E. Marchant, *Genetics and the Future of Environmental Policy*, in *ENVIRONMENTALISM AND THE TECHNOLOGIES OF TOMORROW* (eds. Robert Olsen & David Rejeski) (Washington, D.C.: Island Press 2004).

Gary E. Marchant, *Environmental Legal Liabilities: Prevention and Control*, in *ENVIRONMENTAL STRATEGIES HANDBOOK* (McGraw Hill, 1994).

Susan Proctor, Gary Marchant & Michael Baram, *Evaluation of Risk Assessment as Evidence for Risk Decision-Making*, in *RISK ANALYSIS: PROSPECTS AND OPPORTUNITIES at 655* (ed. C. Zervos, 1991).

Gary Marchant, *Genetic Disease and the Right to Procreate*, in *SCIENCE IN SOCIETY: ITS FREEDOM AND REGULATION* (1982), pp. 123-137.

Articles in Academic Journals

Gary E. Marchant, *Property Rights and Benefit-Sharing for DNA Donors?*, 45 JURIMETRICS 153-178 (2005)

Cary Coglianese and Gary E. Marchant, *The EPA's Risky Reasoning*, 27(2) REGULATION 16-23 (Summer 2004)

Cary Coglianese and Gary E. Marchant, *Shifting Sands: The Limits of Science in Setting Risk Standards*, 152 PENN. L. REV. 1255-1360 (2004).

Gary E. Marchant and Andrew Askland, *GM Foods: Potential Public Consultation and Participation Mechanisms*, 44 JURIMETRICS 99-137 (2003).

Gary E. Marchant, *Introduction: Confidence-Building Measures for Genetically Modified Foods*, 44 JURIMETRICS 1-4 (2003).

Gary E. Marchant, *From General Policy to Legal Rule: The Aspirations and Limitations of the Precautionary Principle*, 111 ENVTL. HEALTH PERSPECT. 1799-1803 (2003).

Gary Marchant, *Genomics and Toxic Substances: Part II - Toxicogenetics*, 33 ENVTL. LAW REP. 10641-10667 (2003).

Carol J. Henry, Gary Marchant, et al., *Use of Genomics in Toxicology and Epidemiology: Findings and Recommendations of a Workshop*, 110 ENVTL. HEALTH PERSPECT. 1047-1050 (2002)

Gary Marchant, *Genomics and Toxic Substances: Part I - Toxicogenomics*, 33 ENVTL. LAW REP. 10071-10093 (2003)

Gary E. Marchant, *The Genome Cometh*, CHEMISTRY BUSINESS, July/Aug. 2002, at 12-16.

Gary E. Marchant, *Toxicogenomics and Toxic Torts*, 20 TRENDS IN BIOTECH. 329-332 (2002)

Gary Marchant, *Biotechnology and the Precautionary Principle: Right Question, Wrong Answer*, 4 INT. J. BIOTECHNOLOGY 34-45 (2002)

Gary E. Marchant, *Legal Criteria and Judicial Precedents Relevant to Incorporation of Hormesis into Regulatory Decision-Making*, 288 THE SCIENCE OF THE TOTAL ENVIRONMENT 141-153 (2002)

Gary Marchant et al., *A Synthetic Vitreous Fiber (SVF) Occupational Exposure Database: Implementing the SVF Health and Safety Partnership Program*, 17 APPLIED OCCUPATIONAL AND ENVIRONMENTAL HYGIENE 276-285 (2002)

Kenneth L. Mossman & Gary E. Marchant, *The Precautionary Principle and Radiation Protection*, RISK: HEALTH, SAFETY & ENVIRONMENT 137-149 (2002)

Gary Marchant, *Genetics and Toxic Torts*, 31 SETON HALL L. REV. 949-982 (2001).

Edward J. Calabrese and Gary Marchant, *Editorial: Recognizing and Incorporating Health Benefits of Pollutants in Risk Assessment*, 7 HUMAN & ECOL. RISK ASSESS. 639-640 (2001)

Gary E. Marchant, *A Regulatory Precedent for Hormesis*, 20 HUMAN & EXPERIMENTAL TOXICOLOGY 143 (2001)

Gary E. Marchant, *The Precautionary Principle: An 'Unprincipled' Approach to Biotechnology Regulation*, 4 J. OF RISK RESEARCH 143-157 (2001).

Gary E. Marchant, *Book Review: Human Germline Gene Therapy: Scientific, Moral and Political Issues*, 20 POLITICS & LIFE SCIENCES 91-92 (2001)

Gary E. Marchant, *Genetic Susceptibility And Biomarkers in Toxic Injury Litigation*, 41 JURIMETRICS 67-109 (2000).

Michael Baram, Ellen Flannery, Patricia Davis & Gary Marchant, *Symposium: Regulatory and Liability Considerations*, 6 BOSTON U. J. SCI. & TECH. L. 5 (2000)

Gary E. Marchant, *Turning Two Blind Eyes: The EPA's Failure to Consider Costs and Health Disbenefits in Revising the Ozone Standard*, 11 TULANE ENVTL. L.J. 261 (1998).

Edward W. Warren & Gary E. Marchant, *More Good than Harm: A First Principle for Environmental Agencies and Reviewing Courts*, 20 ECOLOGY L. Q. 379 (1993).

Gary E. Marchant, *Freezing CO2 Emissions: An Offset Policy for Slowing Global Warming*, 22 ENVIRONMENTAL LAW 623 (1992).

Gary E. Marchant & Michael Baram, *The Use of Risk Assessment Evidence to Prove Increased Risk and Alternative Causation in Toxic Tort Litigation*, FEDERATION OF INSURANCE & CORPORATE COUNSEL QUART., June 1990, at 95.

Gary E. Marchant & Dawn P. Danzeisen, *'Acceptable' Risk for Hazardous Air Pollutants*, 13 Harv. Envtl. L. Rev. 535 (1989).

Gary E. Marchant, *Modified Rules for Modified Bugs: Balancing Safety and Efficiency in the Regulation of Deliberate Release of Genetically Engineered Microorganisms*, 1 HARV.J. LAW & TECHNOLOGY 163 (1988).

Gary Marchant. & David Holm, *Genetic Analysis of the Heterochromatin of Chromosome 3 in Drosophila melanogaster. I. Products of Compound-Autosome Detachment*, 120 GENETICS 503 (1988).

Gary Marchant & David Holm, *Genetic Analysis of the Heterochromatin of Chromosome 3 in Drosophila melanogaster. II. Vital Loci Identified Through EMS Mutagenesis*, 120 GENETICS 519 (1988).

Other Publications

Michael E. Berens & Gary E. Marchant, *Genetic Samples and Genetic Philanthropy*, VIRTUAL MENTOR (American Medical Association), November 2004. [HTTP://www.ama-assn.org/ama/pub/category/13193.html](http://www.ama-assn.org/ama/pub/category/13193.html)

Gary Marchant, *Book Review: Precaution, Environmental Science, and Preventive Public Policy*, 111 ENVTL. HEALTH PERSPECT. A 492 (2003).

Edward W. Warren, Timothy Hardy & Gary E. Marchant, *Appeals Court Ruling Overturning EPA Asbestos Ban: Taking the Rust Off the Toxic Substances Control Act*, "CHEM REG. REP. (BNA), July 10, 1992, at 716.

Michael Baram & Gary Marchant, *TRANSNATIONAL CORPORATIONS AND INDUSTRIAL HAZARDS DISCLOSURE* (United Nations Centre on Transnational Corporations, 1991).

F. William Brownell, Norman Fichthorn & Gary Marchant, *Vinyl Chloride: An Opportunity for Rational Decision Making*, 4 NATURAL RESOURCES & ENVIRONMENT (ABA) 26 (Spring 1989).

Presentations

Toxic Torts: How Genetics Can Shape the Debate Regarding Proximate cause and Damages, National Association of Women Judges Genome Justice Pilot Project, Phoenix, April 9, 2005.

Genetics and Toxic Torts, Sciences for Judges V, Brooklyn Law School, New York, NY, April 1, 2005.

Transnational Models for Regulating Nanotechnology, Conference on Nanoethics, University of South Carolina, Columbia SC, March 4, 2005

Labeling of GM Foods – A “No Brainer” Or Not?, Western Regional Bioethics Conference, Tempe, AZ, Feb. 26, 2005

Applications of Toxicogenomics to Environmental Regulation, Workshop on Genomics and Environmental Regulation, ASU College of Law, January 13-14, 2004

Incorporating Genetic Susceptibility Data Into Air Quality Standards, Workshop on Genomics and Environmental Regulation, ASU College of Law, January 13-14, 2004

Risk Analysis: As Others See Us, Plenary Session Respondent, Society for Risk Analysis Annual Conference, Palm Springs, CA, Dec. 7, 2004.

Incorporating Genomics into Risk Assessment and Regulation, Society for Risk Analysis Annual Conference, Palm Springs, CA, Dec. 7, 2004.

Transnational Regulatory Models for Molecular Nanotechnology, 1st Conference on Advanced Technology, Foresight Institute, Arlington, VA, Oct. 24, 2004

Legal and Ethical Issues of Genomics, Spirit of the Senses Lecture, Barrow Neurological Institute, Phoenix, AZ, September 20, 2004

Genetic Testing: How Will It Impact Your Life in the Next Five Years?, Gathering for the Great Minds Awesome Hearts Lecture series, Interfaith Community Care, Sun City West, AZ, Sept. 14, 2004

Regulating Risks from Research on New Technologies, Harrington Department of Bioengineering Seminar Series, Arizona State University, September 10, 2004.

Genomics and Environmental Regulation, presentation to the National Human Genome Research Institute ELSI Genetic Variation Consortium, Rockville, MD, July 12, 2004

Regulatory Incentives and Impediments to Fuel-Celled Vehicles, presentation to the Conference on Legal Issues in Developing Hydrogen Technologies, George Washington University Law School, Washington, D.C., June 11, 2004.

Regulatory Applications and Acceptance of Hormesis, presentation to the American Industrial Hygiene Conference, Expo 2004, Atlanta, Ga, May 13, 2004

An Occupational Exposure Database for Synthetic Vitreous Fibers (SVFs), Society of Toxicology Annual Meeting, Baltimore, MD, March 22, 2004 (Poster presentation)

Property Interests of Genetic Research Donors?, Presentation to the Conference on Human Genetic Sampling: Ethical, Legal, and Social Considerations, ASU College of Law, Tempe, AZ, March 19, 2004.

The Precautionary Principle, Presentation to the Capstone course: Issues in Biotechnology, Arizona State University School of Life Sciences, Tempe, AZ, March 9, 2004.

Genetics and the Law: An Introduction, 2004 Arizona Federal District Court Conference, Phoenix, AZ, Feb. 7, 2004.

Contagion, Risk and Fear: Lessons From SARS, Mad Cow Disease, West Nile Virus and Anthrax, ASU President's Community Enrichment Program, Scottsdale, AZ, Feb. 3, 2004.

Toxicogenomics: Ethical, Legal and Social Issues, National Institute of Environmental Health Sciences (NIEHS), Division of Extramural Research and Training (DERT), Science Retreat, Southern Pines, NC, Dec. 4, 2003.

Risk in the Republic, Greater Phoenix Humanists Association, Tempe, AZ, Oct. 19, 2003.

Risk in the Republic, World Presidents Association, Phoenix, AZ, Oct. 2, 2003.

Risk as Tort Injury? and Genetics and Toxic Torts, Toxic Torts: A Seminar for Federal Judges and Law Professors, Foundation for Research on Economics and the Environment, Big Sky, Montana, Sept. 9-14, 2003.

Genetic Susceptibility and Environmental Exposures, Special Committee on Bioethics, ABA Annual Meeting, San Francisco, CA, August 9, 2003

How Genomics Will Change Environmental Regulation, EPA Region 10, Seattle, WA, July 2, 2003

Hopes and Hypes of the Biomedical Revolution: Genetic Testing, 9th Circuit Judicial Conference, Kaua'i, Hawaii, June 23, 2003

Human Cloning, presented at conference on "What Every Lawyer Should Know About Bioethics Law," Arizona State Bar, Phoenix, AZ, April 11, 2003

Genetics and Toxic Torts, presented at conference on Issues in Biotechnology and Genetics, co-sponsored by Eccles Institute of Human Genetics and FREE, Salt Lake City, UT, March 27, 2003

Genomics and Environmental Regulation, ABA Section of Environment Annual Meeting, Keystone, CO, March 15, 2003.

Ethical and Legal Dilemmas of Genetic Testing, Greater Phoenix Humanist Association, March 9, 2003

The Human Genome and Beyond, State Capital Global Law Firm Group 2003 Midwinter Meeting, Scottsdale, AZ, March 7, 2003.

Genetics and Toxic Torts, Federal Judicial Center, Workshop for Judges of the Ninth Circuit, Santa Barbara, Ca., Jan. 28, 2003.

Genetic Susceptibility: Regulatory Issues, Annual Meeting of the Society for Risk Analysis, New Orleans, Dec. 8, 2002

Potential Public Consultation and Participation Mechanisms, Conference on Confidence Building Measures for Genetically Modified Foods, ASU College of Law, Tempe, AZ, Dec. 6, 2002

Genomics and the Law, presentation to the National Academy of Science's conference entitled "Toxicogenomics: The 'New Biology' Revolution in Environmental Health Sciences," Washington, D.C., Nov. 4, 2002

Genetics and Toxic Torts, Maricopa County Superior Court Judicial Education Day, Phoenix, AZ, Nov. 1, 2002

Ethical and Legal Dilemmas of Genetic Testing, ASU President's Community Enrichment Program, Scottsdale, AZ, Oct. 29, 2002

Non-Linear Dose Response: Legal Standards for the Admission of Novel Scientific Theories in Regulatory Decision-Making, presentation to International Conference on Non-Linear Dose-Response Relationships in Biology, Toxicology and Medicine, University of Massachusetts, Amherst, June 2002

The Role of the Federal Government in Environmental Regulation, Presentation to State Bar of Arizona Environmental and Natural Resources Law Section Conference, *Who Are Your Environmental Regulators?*, Phoenix, AZ, May 9, 2002

Biotechnology and Public Confidence: Legal & Policy Issues, Presentation to Arizona Bioindustry Cluster, Phoenix, AZ, April 29, 2002

Genetic Biomarkers in Civil Litigation, Presentation to the American Bar Association Section of Litigation Annual Meeting, Boston, MA April 26, 2002

Ten Ways Genomics Could Change Environmental Regulation, Presentation to the Seton Hall Law School Faculty Colloquium, March 8, 2002

Ten Ways Genomics Could Change Environmental Regulation, Presentation to the Wilson Center, Washington, D.C., March 7, 2002

Ten Ways Genomics Could Change Environmental Regulation, Presentation to the Environmental Law Institute, Washington, D.C., March 7, 2002

Some Legal Implications of the Beryllium Lymphocyte Proliferation Test (BLPT), Presentation to the Beryllium Lymphocyte Proliferation Test Panel, Menlo Park, CA, Feb. 28, 2002

Risk in the Republic: The Struggle to Define a Rational Risk Policy, ASU's President's Community Enrichments Programs, Feb. 5, 2002

Frankenfoods or Better Foods? The GM Foods Controversy, Presentation to ASU College of Law Alumni, Yuma, AZ, January 16, 2002.

Legal Implications of Toxicogenomics for Environmental Regulation and Toxic Torts, National Institutes of Health/National Institute of Environmental Health Sciences,

Symposium on Gene Expression and Proteomics in Environmental Health Research, Dec. 3-4, 2001, Bethesda, MD.

Legal Aspects of Genetic Testing, Capstone Course in Biotechnology, Arizona State University, November 19, 2001

Bioterrorism: The Threat and Legal Consequences, Arizona State University College of Law, November 15, 2001

Risk in the Republic, Presentation to the Motorola Science Advisory Board, Mesa, Az, Sept. 27, 2001.

Presentations on the precautionary principle, cost-benefit analysis, and genetically modified foods, to Innovations in Environmental Economics & Policy Analysis: A Seminar for Law Professors, Bozeman, MT, July 10-15, 2001 (Foundation for Research on Economics & the Environment).

Economics and Environmental Policy, presentation to Economics 591, ASU, June 11, 2001.

Institutionalizing Science and Economics in the Regulatory Process, Commentator at *The Role of Science and Economics in Setting Environmental Standards*, A Kennedy School Policy Workshop, Washington, D.C., May 31, 2001.

The Precautionary Principle, presentation to the Goldwater Institute, May 18, 2001, Phoenix, AZ.

Risk Is a Four-Letter Word, presentation to the Law Society Dinner, Arizona State University College of Law, Tempe, Az, May 15, 2001

Genetic Biomarkers and Tort Litigation, presentation to the National Institute of Environmental Health Sciences, Research Triangle Park, N.C., May 10, 2001.

Legal Criteria, Obstacles and Precedents for Considering Hormesis in Regulation, Issues and Applications in Toxicology and Risk Assessment, Conference sponsored by the U.S. Environmental Protection Agency, et al., Dayton, Ohio, April 25, 2001.

Risk, Uncertainty and the Precautionary Principle, presentation to the University of Colorado School of Law, Faculty Colloquium, Boulder, Co., April 6, 2001.

Genetic Biomarkers and Toxic Torts, presentation to the American Bar Association, Appellate Judges Seminar, Phoenix, AZ, March 20, 2001

Genetic Biomarkers and Toxic Torts, presentation to the American Association of Law Schools Annual Meeting, Session on "Genetics and the Courtroom," San Francisco, Ca, January 5, 2001.

The Precautionary Principle: The Wrong Answer to the Right Question, presentation to International Conference on Biotechnology in the Global Economy: Science and the Precautionary Principle, Kennedy School of Government, Harvard University, Sept. 22-23, 2000

Biotech Materials and Medical Devices in the New Millennium, The Third Annual Technology Symposium, Boston University School of Law, February 18, 2000