

Why the Rule of Law and Judicial Independence Matter for In-house Counsel

Compliance and Ethics

Government



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Key Takeaways from a Virtual Conversation with Former Article III Judges
Hosted by the Association of Corporate Counsel – Jan. 21, 2026

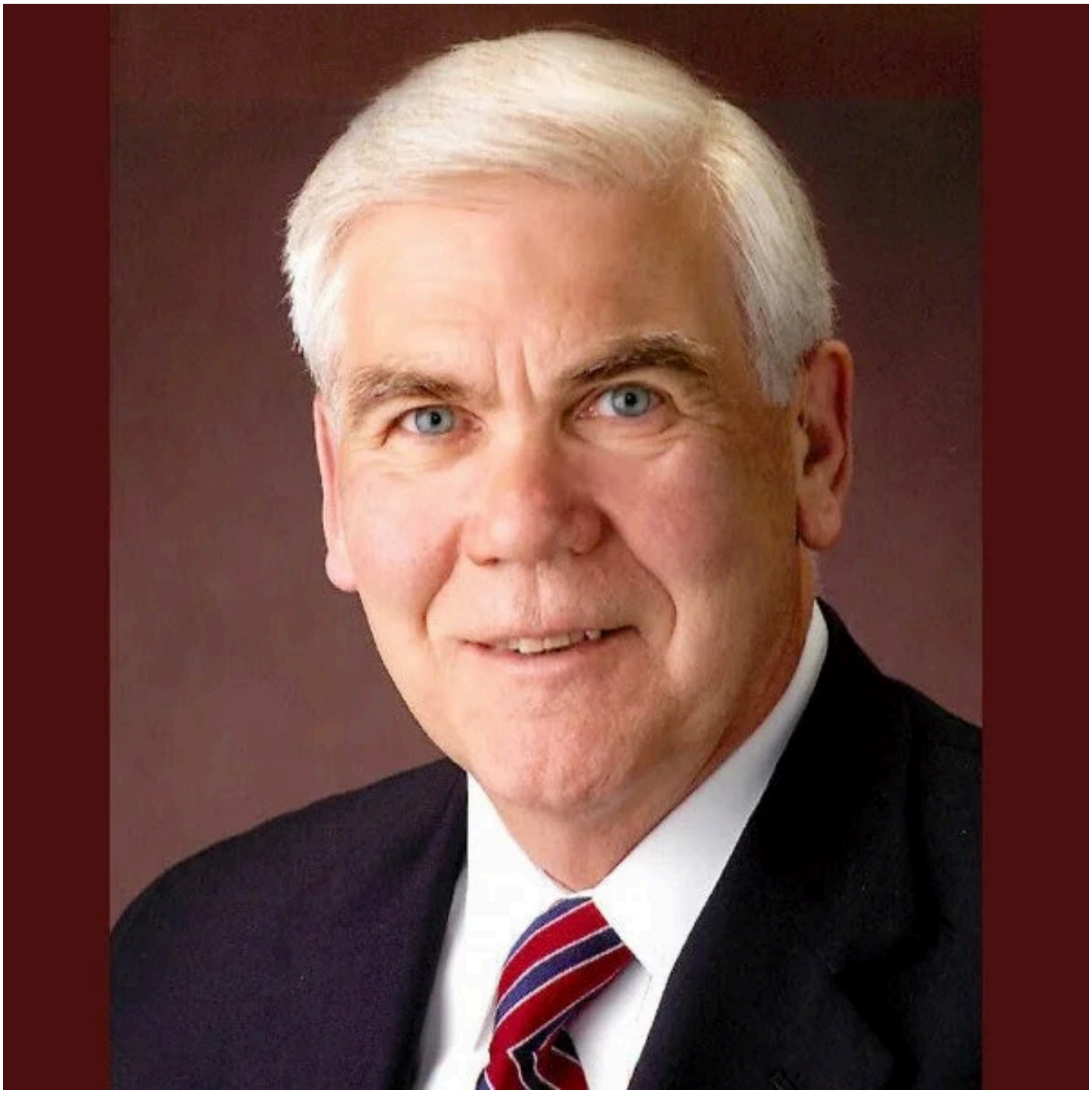
In a moment of heightened strain on democratic institutions in the United States, the Association of Corporate Counsel convened a timely and candid virtual discussion on the rule of law and judicial independence, featuring three distinguished former federal judges.

The program, moderated by Justin A. Connor, ACC's Director of International Chief Legal Officer Engagement, reflected a deep and growing concern among in-house lawyers about the stability of the legal system on which business, markets, and civil society depend.

The panel featured:

- Judge Robert Cindrich, former US District Judge for the Western District of Pennsylvania and former US Attorney, later serving as General Counsel of U.S. Steel and Chief Legal Officer of UPMC
- Judge Allyson Duncan, former Judge of the US Court of Appeals for the Fourth Circuit and the first African American woman to serve on that court
- Judge Deanell Reece Tacha, former Chief Judge of the US Court of Appeals for the Tenth

Circuit and former Dean of Pepperdine University’s Caruso School of Law



Judge Robert Cindrich


Judge Allyson Duncan


Judge Deanell Reece Tacha

All three judges are members of the Article III Coalition (A3C), a nonpartisan civic education initiative of Keep Our Republic, a 501(c)(3) organization dedicated to protecting democratic institutions and constitutional governance. The A3C is composed of more than 50 former federal district and circuit judges — appointed by presidents from both political parties — who have come together to defend judicial independence at a time they describe as unprecedented in modern American history.

Watch the full recording here!

Judicial independence under siege

Early in the conversation, Judge Cindrich offered a stark assessment of the current environment facing federal judges. He explained that while criticism of judicial decisions is a normal and protected feature of a democratic society, today's climate has crossed into something far more dangerous. Judges are increasingly subjected to personal threats, doxing, swatting, and psychological intimidation, often directed not only at them but at their families.

> "What we are talking about now is freedom from all forms of intimidation — physical and psychological. Threats to judges' families are something almost no person could endure, and yet that is what many judges are facing today."
>
> JUdge Robert Cindrich

He emphasized that sitting judges are largely constrained by ethics rules from publicly defending themselves, making the role of former judges, now able to speak freely, especially critical.

Judge Allyson Duncan underscored the human toll of these pressures, drawing on both personal experience and historical memory. She recalled growing up during the Jim Crow era and witnessing the courage of federal judges who enforced desegregation orders despite grave personal risk.

> "A fundamental characteristic of the rule of law is not having to live in fear — fear for yourself or fear for your family — simply because you are doing your job as a judge."
>
> Judge Allyson Duncan

Judge Duncan drew a sharp line between principled criticism and dangerous attack, noting that criticism addresses ideas and reasoning, while attacks are ad hominem and designed to intimidate. She warned that rhetoric from political leaders can have cascading effects, emboldening individuals who are "easily stirred to violence."

Why this matters to business

Throughout the discussion, the judges repeatedly emphasized that the rule of law is not an abstract civic ideal — it is a practical economic necessity. Judge Tacha framed judicial independence as a cornerstone of constitutional design, deliberately insulated from political pressure to protect minority

rights and ensure stability.

> “If that careful balance among the branches gets out of alignment, companies cannot predict what will happen next. Markets depend on accountability, transparency, and an independent judiciary.”
>
> Judge Deanell Reece Tacha

Judge Cindrich reinforced this point from the perspective of boardrooms and general counsel offices. Drawing on his experience as a corporate general counsel, he explained that capital investment, credit markets, contract enforcement, and shareholder fiduciary duties all depend on legal predictability.

Without confidence that courts will apply the law impartially, he warned, businesses will limit investment or not invest.

Lessons from abroad

Judge Duncan and Judge Tacha both brought powerful international perspectives to the conversation. Judge Duncan described her work with foreign judiciaries in countries such as Myanmar and Hong Kong, where erosion of judicial independence quickly led multinational companies to rewrite contracts and relocate arbitration venues.

Judge Tacha shared a vivid anecdote from post-communist Albania, where Swedish engineers — eager to invest in offshore oil drilling — were effectively stranded, waiting not for permits or financing, but for a constitution, courts, and the rule of law.

These examples underscored a central theme: Business follows the rule of law, and when judicial legitimacy erodes, economic activity follows it out the door.

Enforcement, the Justice Department, and institutional trust

The panel also addressed the role of the US Marshals Service, the independence of the Department of Justice, and the enforcement of judicial orders. Judge Tacha noted that while courts issue orders, they ultimately rely on good faith compliance by the executive branch, as the judiciary “has no army.” That mutual respect among branches, she cautioned, cannot be taken for granted.

Judge Cindrich reflected on his service as US Attorney in the post-Watergate era, describing a culture in which independence from political interference was understood as sacrosanct. Erosion of that norm, he warned, threatens not just criminal justice, but the credibility of the entire legal system.

The role of in-house counsel

In closing, the judges offered thoughtful guidance to in-house lawyers navigating these challenges. They acknowledged the real constraints faced by corporate counsel but urged lawyers to take the long view, elevate professional standards, and model principled discourse.

As Judge Duncan put it, lawyers can — and should — defend the rule of law without descending into partisan conflict, by “holding up what warrants admiration and aspiration.”

Moderator Justin Connor closed the program with a reflection that resonated strongly with participants: “What we’ve heard today is that the rule of law doesn’t defend itself. It depends on institutions, norms — and people. And in-house lawyers have a role to play in all three.”

A continuing conversation

The discussion made clear that while the audience may already appreciate the importance of the rule of law, there is a growing need to translate these principles beyond the legal profession, into boardrooms, executive suites, and public discourse.

For ACC members, the program served not only as a sobering assessment of current risks, but also as a reminder of the profession’s enduring responsibility to safeguard the legal foundations on which business and democracy alike depend.

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