

THOMAS C. BERG

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Legal Employment

2002- JAMES L. OBERSTAR PROFESSOR OF LAW & PUBLIC POLICY, UNIVERSITY OF ST. THOMAS SCHOOL OF LAW (MINNESOTA)

* Associate Dean for Academic Affairs, 2009-11

* St. Ives Professor, 2007-10; Professor, 2002-07

* Teaching: constitutional law; intellectual property (copyright, international IP); law and religion, religious liberty (seminar and appellate clinic); federal courts

* Research: First Amendment; intellectual property; law and religion

* Co-Director, Terrence J. Murphy Institute for Catholic Thought, Law, and Public Policy, 2004-09

1992-2002 PROFESSOR, CUMBERLAND LAW SCHOOL, SAMFORD UNIVERSITY (ASSOCIATE PROFESSOR 1994-97; ASSISTANT PROFESSOR 1992-94)

1991-92 CENTERPIECE PROJECT COORDINATOR, DEPAUL UNIVERSITY CENTER FOR CHURCH-STATE STUDIES

1988-91 ASSOCIATE, MAYER, BROWN & PLATT (CHICAGO)

* Practice: appellate and commercial litigation, nonprofit institutions

1987-88 LAW CLERK, HON. ALVIN B. RUBIN, U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT (BATON ROUGE, LA)

Education

1991-92 UNIVERSITY OF CHICAGO DIVINITY SCHOOL (M.A., 1992)

* Concentration in social ethics and American religion

* Entering Fellowship (full tuition, merit-based)

1984-87 UNIVERSITY OF CHICAGO LAW SCHOOL (J.D., CUM LAUDE, 1987)

* Executive editor, University of Chicago Law Review, volume 54

* Bustin Prize, 1987 (best student journal note)

* Beale Prize, 1985 (best work in first-year writing course)

1982-84 LINCOLN COLLEGE, OXFORD UNIVERSITY (RHODES SCHOLAR; M.A.,

1992; B.A., FIRST-CLASS HONORS, 1984)

* Degree in philosophy and politics

1978-82 NORTHWESTERN UNIVERSITY (B.S., JOURNALISM, WITH HIGHEST DISTINCTION, 1978)

Other Teaching Experience

Visiting Professor, Faculty of Law and Political Science, University of Aix-Marseilles, Aix-en-Provence, France, March-April 2007

Faculty Member, International Summer School in Law and Religion, University of Siena, Italy, August 2006

Publications

Books (Written or Edited)

RELIGION AND THE CONSTITUTION (Aspen Publishing, 4th ed. forthcoming 2016; 3d ed. 2011, 2d ed. 2006, 1st ed. 2002) (with Michael McConnell and John Garvey)

* Winner of 2004 Alpha Sigma Nu Book Award for Professional Studies from the Association of Jesuit Colleges and Universities

TEACHERS' MANUAL TO RELIGION AND THE CONSTITUTION (Aspen Publishing 2d ed. 2006; 1st ed. 2002) (with McConnell and Garvey)

[Editor] THE FREE EXERCISE OF RELIGION CLAUSE: ITS CONSTITUTIONAL HISTORY AND THE CONTEMPORARY DEBATE (Prometheus Books 2007)

[Co-editor] RELIGIOUS ORGANIZATIONS IN THE UNITED STATES: A STUDY OF IDENTITY, LIBERTY, AND THE LAW (Carolina Academic Press 2006) (edited with James Serritella, Cole Durham, Edward Gaffney, and Craig Mousin)

THE STATE AND RELIGION IN A NUTSHELL (West Publishing, 3d ed. forthcoming 2016; 2d ed. 2004 1st ed. 1998)

Book Chapters

(with Douglas Laycock) "Protecting Same-Sex Marriage and Religious Liberty," in RELIGION, DEMOCRACY, AND EQUALITY (Cole Durham et al. eds., Ashgate Publishers forthcoming 2015)

"Religious Voluntarism," in BLACKWELL'S COMPANION TO RELIGIOUS PLURALISM (Kevin Schilbrack ed., Blackwell's Publishers forthcoming 2016)

["Agape, Gift, and Intellectual Property,"](#) in AGAPE AND LAW (Robert Cochran and Zachary Calo

eds., Cambridge University Press forthcoming 2016)

“Intellectual Property,” in *THROUGH A CLEARER LENS: AMERICAN LAW FROM A CATHOLIC PERSPECTIVE* (Ronald Rychlak ed., Rowman and Littlefield 2015)

“Disestablishment from *Blaine to Everson*: Federalism, School Wars, and the Emerging Modern State,” in *NO ESTABLISHMENT OF RELIGION: AMERICA’S CONTRIBUTION TO RELIGIOUS FREEDOM* (John Witte Jr. and T. Jeremy Gunn eds., Oxford Univ. Press 2012)

[“The Story of the School Prayer Cases: Civil Religion under Assault,”](#) in *FIRST AMENDMENT STORIES* (Richard Garnett and Andrew Koppelman eds., Foundation Press 2011)

[“*Lemon v. Kurtzman*: The Parochial-School Crisis and the Establishment Clause,”](#) in *LAW AND RELIGION CASES IN CONTEXT* (Leslie Griffin ed., Aspen Publishers 2010)

“The Federal Constitution,” in *RELIGIOUS ORGANIZATIONS IN THE UNITED STATES* (James A. Serritella et al. eds., Carolina Academic Press 2006)

“Religiously Affiliated Education,” in *RELIGIOUS ORGANIZATIONS IN THE UNITED STATES* (James A. Serritella et al. eds., Carolina Academic Press 2006)

“Too Good to Be True: The New Era Philanthropy Scandal and Its Implications,” in *MORE MONEY, MORE MINISTRY: THE FINANCING OF AMERICAN EVANGELICAL RELIGION* (Larry Eskridge and Mark Noll eds., Eerdmans Publishing 2000)

Full-Length Articles

Partly Acculturated Religious Activity and Religious Freedom, Notre Dame L. Rev. (2016) (forthcoming)

[“*Religious Accommodation and the Welfare State*,”](#) 38 Harvard J. L. & Gender 103 (2015) (invited symposium contribution)

Are the Welfare State and Religious Freedom Incompatible?, 8 U. St. Thomas J.L. & Pub. Pol’y 171 (2014)

[“*Foreword: Intellectual Property and Religious Thought*,”](#) 10 U. St. Thomas L.J. 573 (2013) (symposium introductory article)

[“*Protecting Same-Sex Marriage and Religious Liberty*,”](#) 99 [Va. L. Rev. Online](#) (2013) (with Douglas Laycock)

[“*Progressive Arguments for Religious Organizational Freedom: Reflections on the HHS Mandate*,”](#) 21 J. L. & Contemp. Issues 279 (2013) (invited symposium contribution)

[“*Secular Purpose, Accommodations, and Why Religion Is Special \(Enough\)*,”](#) 80 [U. Chi. L. Rev.](#)

[Dialogue](#) 24 (2013) (invited response to Micah Schwartzman, *Why Religion Is Not Special*)

[Can State-Sponsored Religious Symbols Promote Religious Liberty?](#), 52 J. Cath. Leg. Stud. 23 (2013) (invited symposium contribution)

[Religious Freedom, Church-State Separation, and the Ministerial Exception](#), 106 Northwestern U. L. Rev. Colloquy (2011) (with Kimberlee Colby, Carl Esbeck, and Richard Garnett)

Laycock's Legacy, 89 Texas L. Rev. 901 (2011) (invited symposium contribution)

[The Power of Rigor: James Madison as Persuasive Writer](#), 8 Legal Comm. & Rhetoric: JALWD 38 (2011) (with Julie A. Oseid and Joseph A. Orrino)

[What Same-Sex-Marriage and Religious-Liberty Claims Have in Common](#), 5 Northwestern J.L. & Social Policy 206 (2010) (invited symposium keynote address)

[Religious Displays and the Voluntary Approach to Church-State Relations](#), 63 Oklahoma L. Rev. 47 (2010) (invited symposium featured address)

[Religious Organizational Freedom and Conditions on Government Benefits](#), 7 Georgetown J. L. & Public Policy 165 (2009) (invited symposium contribution)

[Religious-School Financing and Educational Pluralism in the American Tradition](#) (2009) (invited lecture, Antonianum, Rome, Italy)

[Religious Choice and Exclusions of Religion](#), 157 U. Pa. L. Rev. PENNumbra (2008) (invited)

[Intellectual Property and the Preferential Option for the Poor](#), 5 J. Cath. Social Thought 123 (2008) (symposium contribution)

[Can Religious Liberty Be Protected as Equality?](#), 85 Texas L. Rev. 1185 (2007) (invited) (reviewing Christopher Eisgruber and Lawrence Sager, RELIGIOUS FREEDOM AND THE CONSTITUTION (2007))

[John Courtney Murray and Reinhold Niebuhr: Natural Law and Christian Realism](#), 4 J. Cath. Social Thought 3 (2007) (symposium contribution)

[What's Right and Wrong with "No Endorsement of Religion,"](#) 21 Wash. U. J. L. & Pol. 307 (2006) (invited symposium contribution)

[The Permissible Scope of Limitations on Freedom of Religion and Belief in the United States](#), 19 Emory Internat. L. Rev. 1277 (2005) (invited symposium contribution)

[Foreword: Pro-Life Progressivism and the Fourth Option in American Public Life](#), 2 U. St. Thomas L. J. 235 (2005) (symposium introductory article)

Minority Religions and the Religion Clauses, 82 Wash. U. L.Q. 919 (2004)

(with Douglas Laycock) The Mistakes in *Locke v. Davey* and the Future of State Payments for Services Provided by Religious Institutions, 40 Tulsa L. Rev. 227 (2004) (invited lead symposium article)

The Voluntary Principle and Church Autonomy, Then and Now, 2004 B.Y.U. L. Rev. 1593 (invited symposium contribution)

Vouchers and Religious Schools: The New Constitutional Questions, 72 U. Cincinnati L. Rev. 151 (2003)¹

Copying for Religious Reasons: A Comment on Principles of Copyright and Religious Freedom, 21 Cardozo Arts & Entertainment L. J. 287 (2003) (invited symposium contribution)

Why a State Exclusion of Religious Schools from School Choice Programs is Unconstitutional, 2 First Amendment L. Rev. 22 (2003) (invited symposium contribution)

The Pledge of Allegiance and the Limited State, 8 Tex. Rev. L. & Politics 41 (2003) (invited)²

Faith Under Democracy: What Have Believers Lost, What Have They Gained?, 2 Georgetown J. L. & Public Policy 44 (2003) (invited; comments on panel on Protestantism)

Race Relations and Modern Church-State Relations, 43 Boston College L. Rev. 1009 (forthcoming 2002) (invited symposium contribution)

Religious Liberty in America at the End of the Century, 16 J. Law & Relig. 187 (2001) (invited)

Anti-Catholicism and Modern Church-State Relations, 33 Loyola U. Chi. L. J. 121 (2001) (invited symposium contribution)

Religious Conservatives and the Death Penalty, 9 Wm. & Mary Bill Rts. J. 31 (2000) (symposium contribution)

The Alabama Religious Freedom Amendment: An Interpretive Guide, 31 Cumberland L. Rev. 47 (2000)

The New Attacks on Religious Freedom Legislation and Why They Are Wrong, 21 Cardozo L. Rev. 415 (1999) (invited symposium contribution)

* Quoted in Justice Ginsburg's dissent in *Burwell v. Hobby Lobby*, 134 S. Ct. 2751 (2014)

¹ Excerpts reprinted in Alan Brownstein, ed., THE ESTABLISHMENT OF RELIGION CLAUSE: ITS CONSTITUTIONAL HISTORY AND THE CONTEMPORARY DEBATE 208-15 (Prometheus Books 2008).

² Excerpts reprinted in Brownstein, *id.* at 314-23.

State Religious Freedom Statutes in Public and Private Education, 32 U. Cal. Davis L. Rev. 531 (1999) (invited symposium contribution)

Religious Speech in the Workplace: Harassment or Protected Speech?, 22 Harvard J. L. & Public Policy 959 (1999)

Some Religiously Devout Justices: Historical Notes and Comments, 81 Marquette L. Rev. 383 (1998) (invited featured symposium contribution, with William G. Ross)

The Constitutional Future of Religious Freedom Legislation, 20 U. Ark. Little Rock L. Rev. 715 (1998) (invited symposium contribution)

Religious Freedom After Boerne, 2 Nexus: A Journal of Opinion 91 (1997) (invited symposium contribution)

Religion Clause Anti-Theories, 72 Notre Dame L. Rev. 693 (1997)

Civility, Politics, and Civil Society: Response to Anthony Kronman, 26 Cumberland L. Rev. 871 (1996) (part of 1996 Rushton Lecture Symposium at Cumberland)

Religion, Race, Segregation, and Districting: Comparing Kiryas Joel with Shaw/Miller, 26 Cumberland L. Rev. 365 (1996) (part of 1995 voting rights symposium at Cumberland)

Slouching Toward Secularism: A Comment on Kiryas Joel School District v. Grumet, 44 Emory L. J. 433 (1995)

Church-State Relations and the Social Ethics of Reinhold Niebuhr, 73 North Carolina L. Rev. 1567 (1995)

Proclaiming Together? Convergence and Divergence in Protestant Evangelism, 1945-67, 5 Relig. & Amer. Culture 49 (Winter 1995)

What Hath Congress Wrought? An Interpretive Guide to the Religious Freedom Restoration Act, 39 Villanova L. Rev. 1 (1994)

Comment, *The Guarantee of Republican Government: Proposals for Judicial Review*, 54 U. Chicago L. Rev. 208 (1987) (winner of 1987 Bustin Prize at University of Chicago Law School)

Shorter Publications

Entries in THE ENCYCLOPEDIA OF CHRISTIANITY IN AMERICA (forthcoming 2015): entries on “Public School Issues” and “Religious Influences on Legislation”

[Religious Liberty Concerns After Supreme Court’s Call on Same-Sex Marriage](#), America, June 26, 2015

[Protecting Same-Sex Families and Religious Dissenters after Obergefell](#), Cornerstone Blog, Berkley Center, Georgetown University (July 2, 2015)

[At the Supreme Court: The Meaning \(and the Meaningfulness\) of Pregnancy Non-Discrimination](#), Mirror of Justice (Dec. 5, 2014)

[Defending the Workplace Baby Bump](#), Christianity Today, Dec. 3, 2014

[RFRA Worked in Hobby Lobby; What's Next?](#), Cornerstone Blog, Berkeley Center, Georgetown University (July 3, 2014)

[Hobby Lobby, A Decision Both Broad and Narrow](#), America Magazine, July 1, 2014

[The Supreme Court Decision and Pro-Life Speech: "An Outstretched Hand," Not "A Strained Voice,"](#) Whole Life Democrat, June 28, 2014

[Hobby Lobby: Kennedy, the Perennial Swing Vote, and the Likelihood of a Narrow Ruling](#), Cornerstone Blog, Berkley Center, Georgetown University (June 10, 2014)

[The Executioner's Return](#), The Christian Century, Jan. 8, 2014, at 36 (reviewing EVAN J. MANDERY, *WILD JUSTICE: THE DEATH AND RESURRECTION OF CAPITAL PUNISHMENT IN AMERICA* (2013))

[Gay Marriage Bill Should Be Passed after More Religious Liberty Protections Are Included](#), Testimony to the Hawaii Legislature (Oct. 28, 2013) (with Douglas Laycock, Bruce Ledewitz, Christopher Lund, and Michael Perry)

[Constraining IP Rights Advances the Common Good](#), St. Thomas Lawyer, Summer 2013, at 14 (Point/Counterpoint with Andrew Pieper on "Safeguarding IP Rights")

[Why I am a Pro-Life Democrat](#), Democrats for Life Panel, Democratic National Convention (Sept. 4, 2012)

[Taking Religious Liberty Seriously, For All](#), 2 Exemplars (Fall 2012)

[Back Religious Liberty, and We Will All Benefit](#), Minneapolis Star-Tribune, May 30, 2012

"The Free Exercise Clause," in *THE HERITAGE GUIDE TO THE CONSTITUTION* (2d ed. 2012; 1st ed. 2005) (reprinted as [Faith, Freedom, and the First Amendment: The Guarantee of Religious Liberty](#) (Heritage Foundation, Mar. 29, 2012))

[Other People's Freedom \(Why Religious Progressives Should Support Exemptions for Beliefs They Reject\)](#), The Christian Century (Dec. 19, 2011)

SCOTUS Blog, [Community Discussion, Hosanna-Tabor School v. EEOC](#), Oct. 12, 2011

[Same-Sex Marriage and Religious Liberty](#), SCOTUS Blog Online Symposium (Aug. 16, 2011)

[Reinhold Niebuhr on Human Nature, Sin, and Justice](#), 1 Journal of Christian Legal Thought 9 (Spring 2011)

[Lawmakers Should Tackle Issue of Religious Liberty](#), Des Moines Register, [Mar. 1, 2011](#)

“Creativity and Justice,” online database on Intellectual Property, Justice, and Religious Thought (launched 2011)

[Abortion and Key Provisions of the Patient Protection Act and Affordable Care Act \(PPACA\)](#) (2010), for Democrats for Life of America

[Intellectual Property and Religious Thought](#), 10:2 Perspectives (Dec. 2009) (with Ruth Okediji)

[Gay Marriage: A Threat to Religious Liberty?](#), The Christian Century, [June 30, 2009](#)

“*Church of Lukumi Babalu Aye v. Hialeah*,” in ENCYCLOPEDIA OF THE SUPREME COURT (David S. Tanenhaus ed., Gale Publishing 2008)

[The 95-10 Initiative](#), for Democrats for Life of America (2008)

Diversity and Devotion, St. Thomas Lawyer, Summer 2008, at 20

[Ministers, Minimum Wages, and Church Autonomy](#), 9 Engage 135 (June 2008)

[Christian Politics, Old and New](#), Commonweal, July 18, 2008, at 22 (reviewing E.J. DIONNE, SOULED OUT (2007); MARK TOULOUSE, GOD IN PUBLIC (2007); and GARRY WILLS, HEAD AND HEART: AMERICAN CHRISTIANITIES (2007))

[Testimony on H.R. 2015, the Employment Non-Discrimination Act of 2007](#), House Education and Labor Committee, Subcommittee on Health, Employment, Labor and Pensions, Sept. 5, 2007

“*Bd. of Ed., Kiryas Joel School Dist. v. Grumet*,” “Establishment Clause Doctrine,” “No Coercion Test,” and “State Religious Freedom Statutes,” in THE ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES 157, 533, 1101, 1548 (Paul Finkelman ed., Routledge Press 2006)

“Religion,” in THE OXFORD COMPANION TO THE SUPREME COURT (Kermit Hall ed., Oxford Univ. Press 2005)

Ritual Tea and Religious Freedom, The Christian Century, Nov. 1, 2005

[How Wide the Divide?](#), Christianity Today.com, Sept. 12, 2005 (reviewing Noah Feldman, DIVIDED BY GOD: AMERICA’S CHURCH-STATE PROBLEM AND HOW TO SOLVE IT (2004))

[*Religious Freedom in the Catacombs*](#), America, June 7-14, 2004, at 17

[*Order in the Court*](#), The Christian Century, Dec. 27, 2003, at 26

Life With Others, The Christian Century, Nov. 22, 2003 (reviewing WILLIAM R. HUTCHISON, RELIGIOUS PLURALISM IN AMERICA: THE CONTENTIOUS HISTORY OF A FOUNDING IDEAL (2003))

Entry on “Land Use Restrictions” (with Douglas Laycock) in THE ENCYCLOPEDIA OF RELIGIOUS FREEDOM (Berkshire Publishing, 2003)

Chief Drafter, [*Joint Statement of Law Professors on School Vouchers and the Constitution*](#), Pew Forum on Religion and Public Life (2002)

[*Book Review, The Time It Happened Here*](#), Books on Law: Jurist, April 2001 (reviewing SHAWN FRANCIS PETERS, JUDGING JEHOVAH’S WITNESSES: RELIGIOUS PERSECUTION AND THE DAWN OF THE RIGHTS REVOLUTION (2000))

“Religious Liberty” and “*Lee v. Weisman*,” in THE ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (Leonard Levy and Kenneth Karst eds., Macmillan Co. 2000)

Entries in LAW AND RELIGION: AN ENCYCLOPEDIA (Garland Press, Paul Finkelman ed., 2000). Entries include the “coercion” test in Establishment Clause cases, the church-state opinions of Chief Justice Rehnquist, the *Kiryas Joel v. Grumet* decision, the abortion funding decision (*Harris v. McRae*), and the *Presbyterian Church v. Hull Church* decision.

The Alabama Religious Freedom Amendment: A Lawyer’s Guide, 60 Ala. Lawyer 396 (November 1999) (with Frank Myers)

Book Review, *Outlawing Illegal Acts*, Books and Culture, October-November 1999, at 22 (reviewing JAMES JACOBS AND KIMBERLY POTTER, HATE CRIMES: CRIMINAL LAW AND IDENTITY POLITICS (1999))

“Leo Pfeffer,” 17 THE OXFORD AMERICAN NATIONAL BIOGRAPHY 419 (Oxford Univ. Press, 1999) (on noted church-state litigator and scholar)

Finally, A Sound Ruling in Prayer Case, Birmingham News, July 18, 1999, at C1

Is There a Right to Jury Trial in Copyright Infringement Suits Seeking Statutory Damages?, 1997-98 (American Bar Association) Preview of U.S. Supreme Court Cases 155

Excluding a Candidate from a Debate on a State-Owned Television Station: Editorial Judgment or Suppression of Free Speech?, 1997-98 Preview of U.S. Supreme Court Cases 40

Is “Integrity” Empty, or Worse?, 27 Cumberland L. Rev. 653 (1997) (reviewing STEPHEN L. CARTER, INTEGRITY (1996))

Confusion About Fusion: Can a State Refuse to Allow a Candidate to Be the Nominee of More than One Political Party?, 1996-97 Preview of U.S. Supreme Court Cases 146

Confronting the Court: Is the Constitution Just What the Judges Say It Is?, Books and Culture, October 1996

Booze Wars II, The Sequel: May States Prohibit Advertising the Price of Liquor?, 1995-96 Preview of U.S. Supreme Court Cases 76

“No News Is Good Booze”: *Can the Government Prohibit Statements of Alcohol Content on Beer Labels?*, 1994-95 Preview of U.S. Supreme Court Cases 126

Supreme Court Religious Ruling Misconstrues First Amendment, Birmingham News, July 22, 1994, at 9A

“Make the Law Go Away: When a Case is Settled on Appeal, Should the Court of Appeals Vacate the Trial Court Judgment?, 1993-94 Preview of U.S. Supreme Court Cases 110

Religious Freedom Implications in 1993, 14:3 Christian Legal Society Quarterly 10 (Fall 1993)

Drug Conspiracies: When a Drug Courier is Unconstitutionally Searched, May the ‘Kingpin’ Object?, 1992-93 Preview of U.S. Supreme Court Cases 294

Letters to *The New York Times*, October 1998, October 1995

Presentations, Testimony, Consultations

(By invitation unless starred (then by accepted proposal))

Panelist, “Peaceful Coexistence? When Religious Freedom Crashes into Other Laws and Values,” [American Judicial Education Institute \(AJEI\) Summit](#), Washington, DC, November 15, 2015

[“Partly Acculturated Religion and Religious Freedom,”](#) at Conference on Law, Religion, and Politics: Challenges to Traditional Borders, in Global and Comparative Perspectives, Yale Law School and Yale Divinity School, November 7, 2015

“Partly Acculturated Religion and Religious Freedom,” at *Notre Dame Law Review* Symposium on Religious Freedom 50 Years after *Dignitatis Humanae*, Notre Dame Law School, November 6, 2015

[“Patents on Human Life: The Limits of Private Property,”](#) UST Pro-Life Center, November 3 2015

Plenary and Workshop Speaker, “Progressive Arguments for Religious Liberty” and [“Getting to Purple: Religious Freedom Arguments to Reach the Persuadable Middle,”](#) Christian Legal Society National Conference, Scholars’ Forum, New Orleans, October 2-3, 2015

Closing Talk, “Patents on Life” Conference, St. Edmund’s College, Cambridge (UK), September 4-5, 2015

“The Rising Challenges to Religious Freedom,” International Ministerial Fellowship National Meeting, Excelsior, MN, July 15, 2015

“Partly Acculturated Religions and Religious Accommodation,” Annual Law and Religion Roundtable, Washington DC, June 25, 2015

“Can Gay Marriage and Religious Liberty Co-Exist?,” UST Law School, Out!Law and Christian Legal Society, April 27, 2015

“Protestantism and Catholic Legal Theory,” Scarpa Conference, Villanova Law School, April 24, 2015

“Pregnancy Discrimination and *Young v. United Parcel Service*,” Murphy Institute, UST Law School, January 29, 2015

“Reducing Abortions Under Current Law: How Pro-Life and Liberal Groups Can (Sometimes) Work Together,” UST Law Lex Vitae, November 17, 2014

“Religious Freedom in the U.S.: Recent Developments,” National Law University, Jodhpur, India, October 17, 2014; Indian Law Institute, Delhi, October 14, 2014; Jindal Global Law School, Sonapat, India, October 13, 2014

“The U.S. Supreme Court and the Patent System: Coming to the Rescue?,” Amity Law School, Delhi, India, October 14, 2014

“Intellectual Property, Gift, and Social Justice,” Amity Law School Conference on International Law, October 12, 2014 *

“The Past, Present, and Future of RFRA’s,” Conference on Religious Liberty in a Secular Age, Brigham Young University Law School, July 7-8, 2014

Senior Scholar Respondent, Federalist Society Junior Scholars’ Colloquium, Warrenton, VA, June 13-14, 2014

Response, “Patent Trolls: Curbing the Bully Beneath the Bridge,” UST Law Federalist Society and Student IP Law Association (SIPLA), April 16, 2014

“Religious Accommodation and the Welfare State,” Conference on Accommodation in the Age of Civil Rights, Harvard Law School, April 5, 2014

Debate, “What Should Progressives Think About Religious Freedom?,” Murphy Institute Hot Topics, University of St. Thomas School of Law, March 14, 2014 (with Laura Underkuffler, Cornell Law School)

“Love, Law, and Intellectual Property,” Pepperdine University Law School Conference on Agape Love and the Law, February 7, 2014 *

“Can the Welfare State and Religious Freedom Co-Exist?,” University of St. Thomas Journal of Law and Public Policy Symposium, January 31, 2014

“Religious Freedom and Cooperation with Evil,” Association of American Law Schools (AALS) Annual Meeting, Law and Religion Section, New York City, January 4, 2014

“Getting the Basics Right,” Panel on the Thought of Jean Bethke Elshtain, Lumen Christi/Christian Legal Scholarship Conference, New York City, January 3, 2014

[“Podcast: The Debate Over Public Prayer Hits the Supreme Court.”](#) National Constitution Center Podcast, November 8, 2013 (with Jeffrey Rosen, Marci Hamilton, and Steven Smith)

“Unpacking the Interviews: Pope Francis’s Message to the World,” Murphy Institute for Catholic Thought, Law, and Public Policy, October 29, 2013

“Protecting Same-Sex Marriage and Religious Liberty,” Stanford Conference on Marriage Equality, Stanford Law School, October 12, 2013

“Progressive Arguments for Religious Organizational Freedom,” Annual Law and Religion Roundtable, Stanford Law School, June 27, 2013

“Religious Expression in Public and Governmental Spaces,” Minnesota State Bar Association (Public Law Section) CLE, May 17, 2013

“The Levels of *Heller*: Gun Regulation and the Second Amendment,” Warren Burger Inn of Court CLE, St. Paul, May 15, 2013

Panel of Legal Experts, Commission on Accountability and Policy for Religious Organizations, Washington, DC, April 24, 2013

Oberstar Professorship Inaugural Lecture, “Can Religious Liberty and Political Progressivism Coexist?,” UST Law, April 18, 2013

Kamm Memorial Lecture, “Can Religious Liberty and Political Progressivism Coexist?,” Wheaton College, April 11, 2013

“Religious Freedom and Conscience Exemptions in American Politics,” American Academy of Religion Annual Conference (Chicago), November 18, 2012

“How Will the Election Affect Faith-Based Services?,” Institutional Religious Freedom Alliance Briefing, November 16, 2012

“*Hosanna-Tabor* and the Ministerial Exception,” Gray Plant Mooty, Employment Law Group, November 15, 2012

“Religious Non-Profits, and the HHS Mandate,” Conference on The Freedom of the Church in the Modern Era, University of San Diego Law School, October 12-13, 2012

“Why I am a Pro-Life Democrat,” Democrats for Life of America, Democratic National Convention Panel (Charlotte, NC), September 4, 2012

Panel on “*Engel v. Vitale* at 50,” South Eastern Association of Law Schools Annual Conference (Amelia Island FL), July 31, 2012

“Can State-Sponsored Religious Displays Promote Religious Liberty?,” Conference on State-Sponsored Religious Displays in the US and Europe, St. John’s University Center for Law and Religion (Rome), June 22, 2012

“Why Progressives Should Support Religious Accommodations,” Panel on Conscience in the Public Square, American Constitution Society National Convention (Washington DC), June 15, 2012

“Does Mandatory Contraception Coverage Violate Religious Freedom?,” Murphy Institute (St. Thomas) Hot Topic/Cool Talk Series, April 2, 2012

“A Historical Introduction to *Citizens United*,” University of St. Thomas Journal of Law & Public Policy Symposium, March 30, 2012

Panel of Legal Experts, National Commission on Accountability and Policy for Religious Organizations, Washington, DC, Jan, 25, 2012

Panel of Legal Experts, National Commission on Accountability and Policy for Religious Organizations, Washington, DC, Oct. 26, 2011

Summer Workshop on Law, Culture, and Religion, University of Colorado Law School, July 21-22, 2011 (participant)

Annual Law and Religion Roundtable, Northwestern University Law School, June 23-24, 2011 (participant)

Keynote Address, “What Same-Sex-Marriage and Religious-Liberty Claims Have in Common,” National Diocesan Attorneys’ Association Annual Meeting (Chicago), May 1, 2011

Roundtable on Andrew Koppelman’s *Religious Neutrality in American Law*, Emory Law School,

March 25-26, 2011

“The Establishment Clause and Harms to Religion,” University of Michigan Legal Theory Workshop, October 14, 2010

“The Scopes Trial: Its Legacy in Constitutional Law,” Warren Burger Inn of Court, May 19, 2010 (with Tom Mengler)

Featured Address, “Religious Displays and the Voluntary Approach to Church-State Relations,” Symposium on Signs of the Times: The First Amendment and Religious Symbolism, University of Oklahoma Law School, February 12, 2010

Debate on Same-Sex Marriage and Religious Liberty (with Nan Hunter), Drake Law School, November 17, 2009

Keynote Address, “What Same-Sex-Marriage and Religious-Liberty Claims Have in Common,” Conference on Same-Sex Marriage and Religious Accommodations: Determining the Role of the Legislature, Northwestern University Law School, November 12, 2009

Respondent, “A Christian Realist Response to the Economic Crisis,” Symposium on Law, the Global Economic Crisis, and the Religious Traditions, Journal of Law and Religion, Hamline University, October 16, 2009

“Church Autonomy and Church-State Separation,” Conference on Religious Autonomy: Comparative Perspectives, Central European University, Budapest, Hungary, May 29, 2009

“Reducing Abortions Within the Current Legal Framework,” University of St. Thomas Law Democrats, April 21, 2009

“RFRA and Native American Sacred-Land Claims,” Federal Bar Association, National Indian Law Conference, Santa Fe, NM, April 2, 2009

“Funding of Catholic Schools in the United States,” Conference on State Financing of Catholic Schools, Acton Institute and Pontifical University Antonianum, Rome, Italy, February 16, 2009

“Religious Liberty, the Supreme Court, and Faith Today,” Minnesota Family Institute, Continuing Legal Education, January 31, 2009

Panelist, “Civil Rights, Social Justice, and the 2008 Elections,” University of St. Thomas School of Law Community Justice Project, October 24, 2008

“Church and State Since the Williamsburg Charter of 1988,” Conference on the Williamsburg Charter’s 20th Anniversary, William and Mary Law School, April 18, 2008

“Conscience Claims by Professionals,” Inn of Court, St. Paul, MN, April 16, 2008

[“Religious Organizational Freedom and Conditions on Government Benefits,”](#) Conference on Church Autonomy: “The Things that Are and Are Not Caesar’s,” Georgetown Law School, March 14, 2008

“Religious Multiculturalism and Its Traps,” Conference on Religion, Multiculturalism, and Citizenship, Harvard Law School, February 29-March 1, 2008

“The Complexities of Religious Pluralism,” Faculty Colloquium, Notre Dame Law School, January 15, 2008

“The Bill of Rights: Background, Birth, Development,” Bill of Rights Institute Seminar, Minneapolis, Nov. 8, 2007

“Does the First Amendment Have Anything to Say About School Vouchers?,” Conference on Educational Choice: Emerging Legal and Policy Issues, Brigham Young University Law School, Oct. 22, 2007

“The Complexities of Religious Pluralism,” Faculty Colloquium, University of St. Thomas School of Law, October 15, 2007

[Testimony on H.R. 2155, the Employment Non-Discrimination Act of 2007,](#) House Education and Labor Committee, Subcommittee on Health, Employment, Labor and Pensions, Sept. 5, 2007

“Social Justice, Religious Integrity, and Modern-Church State Relations,” Faculty Colloquium, St. Louis University Law School, April 25, 2007

Panelist, “Whither Religious Pluralism in America?,” Midwest Political Science Association Annual Conference, Chicago, April 12, 2007

“Constitutional Judicial Review in the United States,” Faculte de Droit et de Science Politique, University of Aix-Marseilles, Aix-en-Provence, France, March 21, 2007

“Religion and the State in the United States,” Faculte de Droit et de Science Politique, Aix-en-Provence, France, March 15, 2007

“Intellectual Property and the Preferential Option for the Poor,” Conference on the Preferential Option for the Poor, Villanova Law School, Oct. 27, 2006 *

Keynote Address, “State Governments and the Political Divisiveness of Religion,” Conference on Religion and State Governments, Indiana University-Indianapolis School of Law, Sept. 29, 2006

“Constitutional Rules and the Free Religious Market,” Law and Religion Summer School, University of Siena, Italy, August 30, 2006

“Religion and the New Court,” Federalist Society, University of Kentucky Law School, Feb. 22, 2006

“Federalism and Religious Freedom,” Throter Symposium on Federalism, Emory University Law School, February 16, 2006

“The Consistent Ethic of Life,” Mayflower United Church of Christ, Minneapolis, MN, Jan. 30, 2006

“What’s Right and Wrong with ‘No Endorsement of Religion,’” Conference on the Rehnquist Court and the First Amendment, Washington University (St. Louis) Law School, Nov. 18, 2005

Speaker, Debate on Ten Commandments Displays, Cumberland Law School, Oct. 13, 2005 (with co-panelists Jay Sekulow, Marci Hamilton, and Ronald Sider)

Panelist on Abortion: Current Legal Issues, Macalester College NARAL Pro-Choice Chapter, St. Paul, MN, Sept. 30, 2005

“John Courtney Murray and Reinhold Niebuhr: Natural Law and Christian Realism,” Conference on the Legacy of John Courtney Murray for American Law and Politics, Villanova Law School, Sept. 16, 2005 *

“Christianity and the Secular in Modern Public Life,” Law and Culture Lecture Series, John Paul II Cultural Center, Washington DC, November 4, 2004

“The Pledge of Allegiance and the Limited State,” Minnesota Attorney General’s Continuing Legal Education Program, St. Paul, MN, June 11, 2004

Featured scholar, First Amendment Theory Seminar, Prof. Steven Shiffrin, Cornell Law School, April 15, 2004

“The Voluntary Principle and Church Autonomy, Then and Now,” Conference on Church Autonomy, Brigham Young University Law School, February 6-7, 2004

“The Pledge of Allegiance and the Limited State,” Annual Meeting, Association of American Law Schools (AALS), Section on Law and Religion, January 3, 2004

“Freedom of Religion and Belief in the U.S.,” for Conference on Freedom of Religion and Belief, European-American Consortium on Church-State Relations, Budapest, Hungary, December 5-7, 2003

“Comments on *Lawrence v. Texas*,” to Minnesota Lavender Bar Association, October 15, 2003

“Why a State Exclusion of Religious Schools from School Choice Programs is Unconstitutional,” at Conference on Separating Church and the States: The Blaine Amendments, University of North Carolina Law School, March 29, 2003

“Stewardship, Creativity, and Intellectual Property,” for Roundtable at Christian Legal Scholars’ Symposium, Savannah, GA, November 2, 2002 *

“School Vouchers: The Next Round of Questions,” for Loop Breakfast Forum, Center for Church-State Studies, DePaul Law School, October 29, 2002

“Freedom of Religion and Belief in the U.S.,” for Conference on Freedom of Religion and Belief, European-American Consortium on Church-State Relations, Emory Law School, September 19-21, 2002

“Copying for Religious Reasons,” for Conference on Copyright: Engine of Free Expression or Tool of Private Suppression?, Cardozo Law School, April 15, 2002

“Race Relations and Modern Church-State Relations,” for Conference on Shifting into Neutral: The Decline of Church-State Separationism, Boston College Law School, April 5, 2002

“Secular Theology, Mainline Protestantism, and Church-State Relations,” for Federalist Society Conference on Religion and Democracy in America, Ann Arbor, Michigan, March 22, 2002

“Anti-Catholicism and Modern Church-State Relations,” for Conference on Church and State, Loyola Law School (Chicago), February 3, 2001

“Stewardship, Creativity, and Intellectual Property,” for Christian Law Professors’ Fellowship Conference, San Francisco, January 6, 2001

Panelist, “Legal Issues Stemming from the Scopes Trial,” for Natchez Literary Celebration, Natchez, Mississippi, June 2, 2000

“Religious Conservatives and the Death Penalty,” for Conference on Religion’s Role in the Administration of the Death Penalty, Institute for Bill of Rights Studies, William and Mary College of Law, April 7, 2000 (invitation based on paper proposal)

Briefing on the Religious Liberty Protection Act, for U.S. Senate staff, April 6, 2000

Speaker, AALS Annual Meeting, Joint Program of Sections on Law and Religion and Gay and Lesbian Legal Issues, January 2000

“Developments in the Law of Religious Freedom,” Cumberland Law School Year-Ed Continuing Legal Education Program, December 29-30, 1999

Discussion Leader, Judicial Seminar on the Founding of the Republic, sponsored by Liberty Fund, in San Diego, California, June 22-27, 1999

Participant, Colloquium on Religious Liberty in Early Nineteenth-Century America, sponsored by Liberty Fund, in Richmond, Virginia, March 18-21, 1999

“The New Attacks on Religious Freedom Legislation,” for Conference on Religious Freedom Legislation: Is It Wise? Is It Constitutional?, Cardozo Law School, February 8, 1999

“Religious Freedom in Public and Private Schools,” for Conference on Restoring Religious Freedom in the States, sponsored by Council on Religious Freedom, at Georgetown Law School, January 28-29, 1999

Keynote Address, “Too Good to Be True: The New Era Philanthropy Scandal and Its Implications,” for Conference on The Financing of American Evangelical Religion, at Wheaton College (Illinois), December 5, 1998

“Religious Speech in the Workplace,” for American Bar Association, Individual Rights Section, at ABA Annual Conference, Toronto, August 3, 1998

“The Religious Liberty Protection Act of 1998,” Testimony to the House Judiciary Committee, Subcommittee on the Constitution, June 16, 1998

Roundtable Participant and Invited Witness, for Symposium on International Human Rights Standards and the United States: The Case of Religious Belief, Emory Law School, January 29, 1998 (including invited testimony to U.N. Special Rapporteur for Religious Freedom)

“Religious Freedom after *Boerne*,” at University of Arkansas-Little Rock Law School Symposium on *City of Boerne v. Flores*, Sept. 19-20, 1997

Participant, in Consultation on “Religion and the Public Schools,” sponsored by Lilly Endowment and DePaul University Center for Church-State Studies, August 2-3, 1997

“Religious Freedom After *City of Boerne v. Flores*,” Testimony to the House Judiciary Committee, Subcommittee on the Constitution, July 14, 1997

“The Third Disestablishment of Religion: Church and State in American Society from 1945 to 1975,” at Cumberland Colloquium on Law, Religion, and Culture, May 2, 1997

“Some Religiously Devout Justices: Historical Notes and Comments” (with William Ross), at Symposium on Religion and the Judicial Process, Marquette Law School, April 8, 1997 (invited featured presentation)

“Religious Pragmatism and Legal Thought,” at Faculty Workshop, St. Mary’s Law School, March 29, 1996

The Religion of Supreme Court Justices: Preliminary Enquiries and Assessments” (with William Ross), at Cumberland Colloquium on Law, Religion, and Culture, March 15, 1996

“Civility, Politics, and Civil Society,” at Cumberland Law School Rushton Distinguished Lecturer Series (response to Anthony Kronman), February 29, 1996

“The Federal Constitution” and “Religiously Affiliated Education,” at Conference on Legal Structures and Religious Institutions, DePaul University College of Law, April 2-3, 1995

“The Voluntary Principle and the Incorporation of the Establishment Clause,” at Cumberland Distinguished Lecturer Series (response to Akhil Amar), March 2, 1995

“Church-State Relations and the Social Ethics of Reinhold Niebuhr,” at Cumberland Colloquium on Law, Religion, and Culture, April 6, 1994

Major Professional and Academic Awards

John Courtney Murray Award, DePaul University Center for Church-State Studies, 2006

Alpha Sigma Nu Book Award, Association of Jesuit Colleges and Universities, 2004, for Religion and the Constitution (with Michael McConnell and John Garvey)

Religious Liberty Defender of the Year, Christian Legal Society, 1996

Significant Litigation

Filed briefs as either primary or a primary author in (* = counsel of record):

U.S. Supreme Court

[*Obergefell v. Hodges*](#), 135 S. Ct. 2584 (2015) (amici religious-liberty scholars, on the merits, supporting same-sex marriage and religious-liberty rights) (with Douglas Laycock)

[*Young v. United Parcel Service*](#), 135 S. Ct. 1338 (2015) (amici 23 pro-life organizations, on the merits, supporting pregnancy-discrimination plaintiff Young)

[*Reed v. Town of Gilbert*](#), 135 S. Ct. 2218 (2015) (amici, on the merits, supporting church’s Free Speech/Assembly challenge to ordinance restricting event-directional signs)

[*Burwell v. Hobby Lobby Stores Inc.*](#), 134 S. Ct. 2751 (2014) (amicus Democrats for Life of America and Bart Stupak, on the merits) *

[*McCullen v. Coakley*](#), 134 S. Ct. 2518 (2013) (amicus Democrats for Life of America and Clergy for Better Choices, on the merits) *

[*Hollingsworth v. Perry and United States v. Windsor*](#), 133 S. Ct. 2675 (2013) (amicus American Jewish Committee, on the merits)

[*Hosanna-Tabor Lutheran School v. EEOC*](#), 132 S. Ct. 694 (2012) (amici, on the merits) *

[*Arizona Christian School Tuition Organization v. Winn*](#), 131 S. Ct. 1436 (2011) (amici, on the merits) *

[*Christian Legal Society Chapter v. Martinez*](#), 130 S. Ct. 2971 (2010) (amici, on the merits) *

Gonzales v. O Centro Espirita Beneficiente Uniao do Vegetal, 546 U.S. 418 (2006) (amici curiae, on the merits)

Locke v. Davey, 540 U.S. 712 (2004) (amici, on the merits)

Board of Regents v. Southworth, 529 U.S. 217 (2000) (amici, on the merits)

Agostini v. Felton, 521 U.S. 203 (1997) (amici, on the merits)

Capitol Square Review Board v. Pinette, 515 U.S. 557 (1995) (amici, on the merits)

Board of Education, Kiryas Joel School District v. Grumet, 512 U.S. 687 (1994) (amici, on the merits)

Lamb's Chapel v. Center Moriches School District, 508 U.S. 384 (1993) (amici, on the merits)

International Society for Krishna Consciousness v. George, cert. denied, 499 U.S. 914 (1991), stay granted, 494 U.S. 1075 (1990) (certiorari petition and successful stay application, for petitioner Hare Krishnas)

Board of Education v. Mergens, 496 U.S. 226 (1990) (amici, on the merits)

Stormans v. Wiesman (2016) (amici, supporting certiorari petition in pharmacists' challenge to regulations requiring disbursing of potential embryo-destructive medications)

Douglas County School Bd. et al. v. Taxpayers for Public Education (2015) (amici, supporting certiorari petition in school tuition-voucher case)

Andrews v. Vermont Dept. of Education, cert. denied, 528 U.S. 1066 (1999) (amici, supporting certiorari petition in school tuition-voucher case)

Russian Orthodox Church Outside Russia v. Church of Holy Resurrection, cert. denied, 513 U.S. 1121 (1995) (amici, supporting certiorari petition in church property case)

Bishop v. Delchamps, cert. denied, 505 U.S. 1218 (1992) (amici, supporting certiorari petition asserting free speech rights of college professor)

Munn v. Algee, cert. denied, 502 U.S. 900 (1991) (certiorari petition, for petitioner, a Jehovah's Witness, asserting right to refuse blood transfusion)

State and Lower Federal Courts

[*Steingartz v. Sebelius*](#), No. 13-1092 (6th Cir. 2013) (amici, former Rep. Bart Stupak and Democrats for Life of America, supporting religious-freedom right of business and owners to object to mandatory insurance coverage of possible abortifacients)

[*Conestoga Wood Specialities Corp. v. Sebelius*](#), 724 F.3d 377 (3d Cir. 2013) (same)

[*Newland v. Sebelius*](#), 542 Fed. Appx. 706 (10th Cir. 2013) (same)

Colorado Christian University v. Weaver, 534 F.3d 1245 (10th Cir. 2008) (amici, several religious and public policy groups, successfully challenging exclusion of students at religious college from generally available state scholarships)

Village of Bensenville et al. v. FAA, 497 F.3d 520 (D.C. Cir. 2006) (amici, several religious and civil liberties groups, supporting challenge to desecration of cemetery planned pursuant to O'Hare Airport expansion)

Uniao do Vegetal v. Ashcroft, 389 F.3d 1073 (10th Cir. 2004) (en banc) (amici, several religious and civil liberties groups, successfully defending right of small religious group under Religious Freedom Restoration Act to ingest tea with hallucinogenic substance at worship service)

Kong v. Scully, 341 F.3d 1132 (9th Cir. 2003) (amici, several religious and civil liberties organizations, successfully defending constitutionality of Medicare accommodations for persons religiously opposed to medical treatment)

University of Great Falls v. N.L.R.B., 278 F.3d 1335 (D.C. Cir. 2002) (amici, numerous religious colleges, successfully defending college's autonomy under NLRA)

Chandler v. Siegelman, 230 F.3d 1313 (11th Cir. 2000) (amicus, Center for Law and Religious Freedom, successfully defending student-initiated speech at public school events)

Children's Healthcare Is A Legal Duty v. Min de Parle, 212 F.3d 1084 (8th Cir. 2000) (amici, several religious and civil liberties organizations, successfully defending constitutionality of Medicare accommodations for persons religiously opposed to medical treatment)

In re Young, 141 F.3d 854 (8th Cir. 1998) (amicus, Coalition for the Free Exercise of Religion, successfully defending validity of Religious Freedom Restoration Act as applied to federal law)

Siegel v. Truett-McConnell College, 73 F.3d 1108 (11th Cir. 1995) (amici, approximately 100 colleges, successfully asserting right of religious college to consider religion in hiring)

Pope v. East Brunswick Board of Education, 12 F.3d 1244 (3d Cir. 1993) (amicus, successfully defending high school student religious group meetings under Equal Access Act)

Hedges v. Wauconda School District, 9 F.3d 1295 (7th Cir. 1993) (amicus, successfully

defending student meetings under Equal Access Act)

Doe v. Ottawa Jaycees, 934 F.2d 743 (7th Cir. 1991) (amicus, Anti-Defamation League of B'nai B'rith, successfully attacking government-sponsored religious paintings on public property)

Stapleton v. Advocate Health Care Network et al., No. 1:14-cv-01873 (N.D. Ill. 2014) (amicus the Becket Fund for Religious Liberty)

[*Hart v. State*](#) and [*Richardson v. State*](#), 774 S.E.2d 281 (N.C. 2015) (amici, defending school-choice scholarship program for low-income students)

Bush v. Holmes, 919 So.2d 392 (Fla. 2006) (amici, defending right of families choosing religious schools to be included equally in state voucher program for students in failing public schools)

Jackson v. Benson, 578 N.W.2d 602 (Wis. 1998) (amicus, successfully defending inclusion of religious schools in low-income voucher program in Milwaukee)

Thompson v. Jackson, 546 N.W.2d 140 (Wis. 1996) (same)

Administrative Filings

[Comments of Christian Legal Society et al. on Proposed Montana Revenue Rule Excluding Religious Schools from Tax-Credit Program](#) (November 17, 2015)

[Comments of Democrats for Life of America on HHS Contraception Mandate](#) (June 15, 2012)

Law School Service

University of St. Thomas School of Law

Associate Dean for Academic Affairs (2009-11)

Co-Director, Terrence J. Murphy Institute for Catholic Thought, Law, and Public Policy (2004-09)

Chief drafter, UST Law School Self-Study, for application for ABA provisional accreditation (August 2002)

Committees: AALS Self-Study (2009-11); Accreditation (Co-chair 2002-03, member 2004-06, 2007-08); Curriculum (2009-); Dean Search (Co-Chair 2011-); Executive (2009-11); Faculty Appointments (2002-08, Chair 2003-07); Judicial Clerkships (Chair 2013- , member 2011-13); Promotion and Tenure (Chair 2008-09, member 2009-11); Peer Reputation (Chair 2009-11); Publications Director Search (2002)

Faculty advisor, *University of St. Thomas Law Journal* (2002-09)

Organizer, Conference, “Patents on Life: Through the Lenses of Law, Religious Faith, and Social Justice,” co-sponsored by Murphy Institute and Von Hugel Institute, St. Edmund’s College, Cambridge, September 4-5, 2015

* Confirmed speakers, from Europe and United States, at <http://www.vhi.st-edmunds.cam.ac.uk/events/patents-conference-2015>.

Organizer and Faculty Advisor, *Law Journal*/Murphy Institute Conference, “Intellectual Property and Religious Thought,” April 5, 2013 (papers forthcoming in *Law Journal*)

* Speakers included Margo Bagley (Virginia Law), Audrey Chapman (U. Connecticut Medical School), Marco Fioretti (Eleutherios-A Catholic Approach to Information Technology), Shubha Ghosh (Wisconsin Law), Paul Griffiths (Duke U. Divinity), Roberta Kwall (DePaul Law), David Opderbeck (Seton Hall Law), Bashar Malkawi (U. of Sharjah Law, UAE), Alina Ng (Mississippi College of Law), Kevin Outterson (Boston U. Law), Jeremy Stern (Hebrew U.).

Co-editor, *Law Journal* Symposium, “Islamic Law and Religious Liberty,” April 2010

Co-chair, Murphy Institute Conference, “Realism in Public Theology: Catholic and Protestant Views,” Nov. 20, 2009

* Plenary speakers included Jean Elshtain (U. Chicago Divinity), Robin Lovin (Southern Methodist Theology), David Skeel (Penn Law), Gerard Bradley (Notre Dame Law), William Cavanaugh (St. Thomas Theology), John Carlson (Arizona State Ethics).

Co-chair (with Ruth Okediji, Minnesota), Murphy Institute Roundtable, “Intellectual Property and Religious Thought,” Sept. 11, 2009 (scheduled)

* Participants included Wendy Gordon (Boston U), Frank Pasquale (Seton Hall), Neil Netanel (UCLA), Margo Bagley (Virginia), Bobbie Kwall (DePaul), Mark McKenna (Notre Dame), David Opderbeck (Seton Hall).

Co-chair, Murphy Institute Conference, “Prudential Judgment, Public Policy, and the Catholic Social Tradition,” April 6-8, 2006

* Speakers included John McGreevy (Notre Dame History), Christopher Wolfe (Marquette Political Science), Robert Vischer (UST Law), Michael Baxter (Notre Dame Theology), Charles Clark (St. John’s Economics), David Durenberger (UST), and 20 concurrent panelists. Selected papers published in the *Law Journal*, volume 3 (2006).

Co-chair, Murphy Institute Inaugural Conference, “The Catholic Intellectual Tradition and the Good Society,” April 7-9, 2005

* Speakers included John Finnis (Oxford and Notre Dame), James Gordley (Boalt Hall), John Coughlin (Notre Dame), Lisa Schiltz (UST Law), Paul Griffiths (Illinois-Chicago Philosophy), Mark Sargent (Villanova), and Christopher Wolfe (Marquette Political Science), and 18 concurrent panelists. Selected papers published in the *Law Journal*, volume 2, issue 3 (2005).

Faculty editor, *Law Journal* Symposium, “Catholicism and the Court: The Relevance of Faith

Traditions to Jurisprudence,” November 10, 2006

* Speakers included Hon. Diarmuid O’Scannlain (U.S. Court of Appeals for the Ninth Circuit), Sanford Levinson (Texas), Michael Gerhardt (North Carolina), Peggy Steinfelds (*Commonweal Magazine*), Dennis Coyle (Georgetown), and others. Papers published in the *Law Journal*, volume 4, issue 1 (2007).

Faculty editor, *Law Journal* Symposium, “The Future of Pro-Life Progressivism,” March 11, 2005

* Speakers included Jim Wallis (*Sojourners Magazine*), Sidney Callahan (St. John’s (NY) and Feminists for Life), Helen Alvare (Catholic U.), John Carr (U.S. Conference of Catholic Bishops), Kevin Doyle (NY Capital Defender), Ted Jelen (UNLV Political Science). Papers published in the *Law Journal*, volume 2, issue 2 (Fall 2005).

Co-faculty-editor, *Law Journal* Symposium, “God, the Person, History, and the Law: Themes in the Work of Judge John Noonan,” October 17-18, 2003

* Speakers included Jean Elshtain (University of Chicago Divinity), Hon. Stephen Reinhardt (U.S. Court of Appeals for the Ninth Circuit), John Powell (Ohio State), Sanford Levinson (Texas), Michael Perry (Emory), Steven Smith (San Diego), Alan Brownstein (California-Davis), Richard Helmholz (Chicago), Fr. Charles Curran (SMU Theology), Leslie Griffin (Houston), Ali Khan (Washburn), and approximately 20 others. Papers published in the *Law Journal*, volume 1, issue 1 (Fall 2003).

Cumberland Law School

Organizer and co-chair, conference on “Civil Rights in the New Decade,” co-sponsored by Cumberland Law School and the Birmingham Civil Rights Institute, February 15, 2001

* Speakers included Richard Lazarus (Georgetown), Deborah Ramirez (Northeastern), Eric Yamamoto (Hawaii). Papers published in *Cumberland Law Review*, volume 32 (2001).

Organizer and co-chair, 30th anniversary conference on the Voting Rights Act, “Where Do We Go From Here? The Past, Present, and Future of Voting Rights,” October 8-10, 1995, Birmingham, AL

* Conference co-sponsored by Cumberland Law School, Birmingham Civil Rights Institute, and Miles Law School. I conceived idea for conference, enlisted other sponsors, and organized law-related sessions (including CLE arrangements). Three-day conference involved about 25 speakers, including Pam Karlan (Virginia), Chris Eisgruber (NYU), James Blumstein (Vanderbilt), and former Attorney General Nicholas Katzenbach. Selected papers published in the *Cumberland Law Review*, volume 26, number 2 (including one paper cited extensively in *Bush v. Vera*, 517 U.S. 952 (1996)).

Co-founder and co-chair, Cumberland Colloquium on Law, Religion, and Culture (interdisciplinary scholarship workshop series), 1994-2001

* With a colleague, I conceived idea for this workshop series and enlisted speakers and organize meetings. Speakers included Kent Greenawalt (Columbia), James Boyd White (Michigan), Michael Perry (Wake Forest), Andrew Koppelman (Northwestern), Phillip

Hamburger (Chicago), William Marshall (Case Western), Steven Smith (Notre Dame), Marci Hamilton (Cardozo), Robert Tuttle (George Washington), Alan Brownstein (California-Davis), Frederick Gedicks (Brigham Young), Mark Janis (Connecticut), David Forte (Cleveland State), Teresa Collett (South Texas), and Cumberland and Samford faculty.

Co-founder and planning committee member, Cumberland Law School Rushton Distinguished Lecturer Series, 1995-98

* With two other colleagues, I conceived idea for this series, enlisted speakers, and organized sessions. Lecturers included Akhil Amar (Yale), Anthony Kronman (Yale), Lawrence Friedman (Stanford), Dan Carter (Emory History Department), Kip Viscusi (Harvard), and Edward Imwinkelreid (California-Davis). Respondents included James Boyd White (Michigan), Sanford Levinson (Texas), Michael Curtis (Wake Forest), Michael Paulsen (Minnesota), Anthony Lewis (New York Times), Nancy King (Vanderbilt), Lucie White (Harvard), Norval Morris (Chicago), William Mayton (Emory), Gary Schwartz (UCLA), Thomas Ulen (Illinois), and several Cumberland faculty.

Organizer, Cumberland Law School faculty brown-bag presentations, 1994-97

Faculty committees: Faculty Recruitment (1993-96, 2000), Curriculum (Chair 1998-2000, overseeing full-scale curriculum reform), Advocacy and Clinical Education (1992-97), Judicial Clerkships (1994-98, 2000, chair 1997-98), External Relations (1994-97), Alumni Relations (1995-97), Strategic Planning and Self-Study (1996-98), Ad Hoc Faculty Grievance Committee (2001)

Faculty sponsor: *Law Review* (1999-2001), Student Speakers' Forum (1993-99), Cumberland Democrats (1995-97)

Coach, National Moot Court Team, 1998; advisor and judge for other moot court teams

Other Academic, Professional, and Community Work and Service

Chair, Law and Religion Section, Association of American Law Schools, 1997 (program chair, 1996; newsletter editor, 1994-95)

* As program chair, organized section's program for the 1997 AALS Annual Conference, featuring Stephen Carter (Yale), Stanley Fish (Duke), and Steven Smith (Colorado).

Contributor, [Mirror of Justice blog](#), 2005-

Guest contributor, [SCOTUS Blog](#), October 2012, August 2011, July 2005

Contributor, [Whole Life Democrat blog](#), 2014- ; [Everyday Life blog](#), 2013-14

Member, Panel of Legal Experts, Commission on Accountability and Policy for Religious

Organizations, Evangelical Council on Financial Accountability, 2011-13

Member, Committee on Religious Liberty, National Council of Churches of Christ, 1998-present

Member, European-American Consortium on Church-State Relations

Member, Legal Advisory Board, Roundtable on Religion and Social Welfare Policy, Pew Forum on Religion and Public Life, 2003-present

Member, Board of Legal Scholars, DePaul University Center for Church-State Studies, 1994-2004

Member, Advisory Committee, Center for Law and Religious Freedom (Annandale, VA), 1999-2009

Board Member and Legal Advisor, [Democrats for Life of America](#), 2011-

Board Member, [Democrats for Life of Minnesota](#), 2005-11

Advisory Board, *Religious Organizations and the Law* treatise (Thomson Reuters)

Advisor to Center for Law and Religious Freedom and to religious organizations, on a variety of matters concerning church and state and religious freedom, including litigation, pending legislation, and policy

Manuscript reviewer: Aspen Publishers, *Journal of Law and Religion*, *University of Chicago Law Review*, Cambridge University Press

Media quotes (among others): *New York Times*, *Time*, *Washington Post*, *U.S. News and World Report*, National Public Radio, PBS, *National Law Journal*, *ABA Journal*, Bloomberg/BNA *U.S. Law Week*, *Education Week*, *Boston Globe*, *Boston Herald*, *Charlotte Observer*, *Minneapolis Star-Tribune*, *New Orleans Times-Picayune*, *Orlando Sentinel*, *Birmingham News*, *Deseret News*, *Christianity Today*, *National Catholic Reporter*, *National Catholic Register*, Vatican Radio, Zenit News Service, *Minnesota Lawyer*, MinnPost, Minnesota Public Radio, multiple local radio stations

Signatory, [Amicus Brief of Law Professors](#) in *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), supporting challengers to town-council-sponsored prayers

Signatory and Counsel of Record, [Amicus Brief of Religious Liberty Scholars in Support of Petition for Certiorari](#), *Big Sky Colony v. Montana Dept. of Labor & Industry* (U.S., cert. denied 2013)

Signatory, Amicus Brief in Support of Petition for Certiorari, *Bronx Household of Faith v. N.Y. Bd. of Ed.*, cert. denied, 132 S. Ct. 816 (2011)

Signatory, Amicus Brief of Religious Liberty Scholars in Support of Petition for Certiorari, *Navajo Nation v. U.S. Forest Service*, No. 08-846 (U.S., cert. denied 2009)

Signatory, letters to [Indiana](#) and [Georgia](#) legislators defending proposed religious freedom restoration acts (RFRAs) in those states

Signatory, *Marriage and the Law: A Statement of Principles* (Institute for American Values)

Associate, Crossroads Center for Faith and Public Policy, 1995-present

Researcher, Park Ridge Center for Faith, Health, and Ethics, 1991-92 (compiling positions of various religious communities on issues of medical ethics and health policy)

Member, Rhodes Scholarship Selection Committees, Louisiana (1988), Wisconsin (1989-90), Alabama (1992-96)

Member: American Bar Association, U.S. Supreme Court Historical Society, Minnesota Supreme Court Historical Society

Admitted to practice: Minnesota (2004), Illinois (1989-2011), U.S. Supreme Court (1993), U.S. Court of Appeals for the Eleventh Circuit (1995)

References

Michael W. McConnell, Stanford University Law School, mccconnell@law.stanford.edu

William P. Marshall, University of North Carolina Law School; (919) 843-7747;
wpmarsha@email.unc.edu

Alan Brownstein, Professor, University of California Davis Law School; (530) 752-2586;
aebrownstein@ucdavis.edu

Andrew R. Klein, Dean, Indiana University Law School-Indianapolis; (317) 274 2099; anrklein@iupui.edu

Stephen J. Ware, Professor, University of Kansas Law School; ware@ku.edu

Personal

Married to Maureen Kane Berg, September 23, 1989

Two sons, Brendan (born 1995) and Aidan (born 1998)

Member, St. Stephens Episcopal Church, Edina, MN (committees: Diocesan Convention Delegate, Rector Search, Strategic Planning, Adult Education)

Gilbert & Sullivan Very Light Opera Company: *H.M.S. Pinafore* (Sir Joseph Porter, summer and spring 2015, Boatswain, summer 2009); *The Pirates of Penzance* (Samuel, summer 2014); *The Grand Duke* (Notary, spring 2014); *The Mikado* (Pish-Tush, summer 2013); *The Yeomen of the Guard* (First Yeoman, spring 2013); *Patience* (spring 2012); *The Pirates of Penzance* (summer 2011, summer 2008); *Mikado* (summer 2010); *Ruddigore* (spring 2009)

Co-composer and arranger: *Got It Made* (musical comedy, with Maureen Kane Berg) (produced in Minneapolis, spring 2011, and by Flower Shop Project, Minneapolis, November 2007); *A House Divided: An Intimate Musical of the Lincoln Presidency* (in progress, with Michael Salmanson and Maureen Kane Berg)

Musical director, Public Offenders all-lawyer comedy troupe, Chicago: *Shark Bites* (1991), *We're Keeping Our Day Jobs (We Hope)* (1992)

Musical director, University of Chicago Law School musical comedy shows: *Oedifice Lex* (1986), *A Class Act* (1987)

Hobbies: Golf, choral singing, musical theatre and light opera, piano, musical composition, travel, photography