

THOMAS C. BERG

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Academic Positions

Full-Time Positions

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 (survey course, copyright, international and comparative IP); law and religion, First Amendment religious liberty; director, [Religious Liberty Appellate Clinic](#)
- * Co-Director, Murphy Institute for Catholic Thought, Law, and Public Policy, 2004–09
- * Professor of the Year, 2023 (vote of the graduating class)
- * Dean’s Award for Outstanding Teaching (2020), Scholarship (2016)
- * Mission Awards: Scholarly Engagement (2003), Service and Community (2013)

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

Other Law Teaching

May 2019 Visiting Professor, Faculty of Law and Political Science, Peter Pazmany University, Budapest, Hungary (comparative US and European intellectual property law)

Spring 2007 Visiting Professor, Faculty of Law and Political Science, University of Aix-Marseilles, Aix-en-Provence, France (constitutional law, freedom of religion)

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

Education

1991–92 UNIVERSITY OF CHICAGO DIVINITY SCHOOL (M.A., 1992)
* Concentration: Social ethics and American religion

- 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 Scholarship; M.A., 1992; B.A., first-class honors, philosophy and politics, 1984)
- 1978–82 NORTHWESTERN UNIVERSITY (B.S., journalism, highest distinction, 1978)

Legal Employment

- 1988–92 ASSOCIATE, MAYER, BROWN & PLATT (CHICAGO)
 * Practice: appellate and commercial litigation, nonprofit institutions
- 1991–92 CENTERPIECE PROJECT COORDINATOR, DEPAUL UNIVERSITY
 CENTER FOR CHURCH-STATE STUDIES
- 1987–88 LAW CLERK, HON. ALVIN B. RUBIN, U.S. COURT OF APPEALS FOR THE
 FIFTH CIRCUIT (BATON ROUGE, LA)

Publications

Books (Written or Edited)

- RELIGIOUS LIBERTY IN A POLARIZED AGE (Eerdmans Publishing 2023)
 * Religious Liberty Scholarship Award 2024, Notre Dame Religious Liberty Initiative
 * Religious Freedom Scholar’s Award 2024, Seventh-Day Adventist Church
 * Award of Merit (2nd-place), [2024 Christianity Today Book Awards](#), Politics & Public Life category
- RELIGION AND THE CONSTITUTION (Aspen Publishing, 5th ed. 2022, 1st ed. 2002) (with Michael McConnell and Christopher Lund)
 * Alpha Sigma Nu Book Award for Professional Studies, 2004, from the Association of Jesuit Colleges and Universities
 * Quoted/cited in more than 200 court decisions, journal articles, and other sources, including *Espinoza v. Montana Dept. of Revenue*, 140 S. Ct. 2246 (2020)
- TEACHERS’ MANUAL TO RELIGION AND THE CONSTITUTION (Aspen Publishing, 5th ed. 2022, 1st ed. 2002) (with McConnell and Lund)
- PATENTS ON LIFE: RELIGIOUS, MORAL, AND SOCIAL JUSTICE ASPECTS OF BIOTECHNOLOGY AND INTELLECTUAL PROPERTY (edited with Roman Cholij and Simon Ravenscroft) (Cambridge University Press 2019)

THE STATE AND RELIGION IN A NUTSHELL (West Academic, 3d ed. 2016, 1st ed. 1998)

[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)

Book Chapters

“Niebuhr’s Christian Realism on Religion, Politics, and Today’s Crises,” in THE PALGRAVE HANDBOOK OF RELIGION AND STATE IN THE WESTERN HEMISPHERE, vol. 1 (Shannon Holzer ed., Palgrave/McMillan 2023)

[“Christian Bigots’ and ‘Muslim Terrorists’: Religious Liberty in a Polarized Age.”](#) in LAW, RELIGION, AND FREEDOM: CONCEPTUALIZING A COMMON RIGHT 164 (W. Cole Durham, Jr., Javier Martínez-Torrón, and Donlu Thayer eds., Routledge 2021)

[“Life Patents, Religion, and Justice: A Summary of Themes.”](#) in PATENTS ON LIFE, *supra*

“Antonin Scalia: Devout Christian; Worldly Judge?,” in CHRISTIANITY AND AMERICAN JURISTS Daniel Dreisbach and Mark Hall eds., Cambridge University Press 2019)

[“Freedom to Serve: Religious Organizational Freedom, LGBT Rights, and the Common Good.”](#) in RELIGIOUS FREEDOM, LGBT RIGHTS, AND THE PROSPECTS FOR COMMON GROUND 307 (William Eskridge, Jr. and Robin Fretwell Wilson eds., Cambridge University Press 2018)

[“Agape, Gift, and Intellectual Property.”](#) in AGAPE, JUSTICE, AND LAW: HOW MIGHT CHRISTIAN LOVE SHAPE LAW? (Robert Cochran and Zachary Calo eds., Cambridge University Press 2017)

(with Douglas Laycock) “Protecting Same-Sex Marriage *and* Religious Liberty,” in RELIGION AND EQUALITY: LAW IN CONFLICT 167 (W. Cole Durham, Jr. and Donlu Thayer eds., Routledge 2016)

“Intellectual Property,” in AMERICAN LAW FROM A CATHOLIC PERSPECTIVE: THROUGH A CLEARER LENS (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

Can First Amendment "History and Tradition" Protect Contending Sides in Polarized America?, Chi.-Kent. L. Rev. (forthcoming 2025)

[*Defining Neutrality, Combating Polarization: Laycock's Essential Contributions*](#), J. Law and Relig. (forthcoming 2025) (Douglas Laycock festschrift issue)

[*The Irony of American Religious-Freedom Disputes*](#), 70 Wayne L. Rev. 1 (2024)

[*The Respect for Marriage Act: Living Together Despite Our Deepest Differences*](#), 2024 U. Illinois L. Rev. 511 (with Douglas Laycock, Carl Esbeck, and Robin Fretwell Wilson)

[*Religious Liberty Apologetics*](#), 25 Federalist Soc'y Rev. 158 (2024)

[*Free Exercise Revival and Conditions on Government Benefits*](#), 98 Notre Dame L. Rev. Reflection S20 (2023)

[*Freedom in Serving Others: Arguments and Sources for Religious Institutional Freedom*](#), 19 U. St. Thomas L.J. 33 (2023)

[*Religious Freedom Amid the Tumult*](#), 17 U. St. Thomas L.J. 735 (2022)

[*Conscience Rights and the Taking of Life in the United States*](#), Revista General de Derecho Canónico y Derecho Eclesiástico del Estado (2021) (with Carolyn McDonnell and Christian Matozzo)

[*Protecting Free Exercise Under Smith and After Smith*](#), 2020-21 Cato Sup. Ct. Rev. 33 (with Douglas Laycock)

[*Giving Our Better Angels a Chance: A Dialogue on Religious Liberty and Equality*](#), 21 J. Appellate Practice and Process 325 (2021) (with Alan Brownstein)

[*Espinoza, Government Funding, and Religious Choice*](#), 35 J. Law and Religion 161 (2020) (with

Douglas Laycock)

[*Credentials Not Required: Why an Employee's Significant Religious Functions Should Suffice to Trigger the Ministerial Exception*](#), 20 *Federalist Soc'y Rev.* 182 (2020) (with Nathaniel Fouch and Erik Money)

[*Religious Freedom and the Common Good: A Summary of Arguments and Issues*](#), 15 *U. St. Thomas L.J.* 517 (2019) (symposium introductory article)

[*Religious Freedom and Nondiscrimination*](#), 50 *Loyola U. Chi. L. Rev.* 181 (2018) (invited symposium contribution)

[*Masterpiece Cakeshop: A Romer for Religious Objectors?*](#), 2017-18 *Cato Sup. Ct. Rev.* 139 (invited symposium contribution)

[*Religious Exemptions and Third-Party Harms*](#), 17 *Federalist Soc'y Rev.* (Issue 3) 50 (2016)

[*Partly Acculturated Religious Activity: A Case for Accommodating Religious Nonprofits*](#), 91 *Notre Dame L. Rev.* 1341 (2016) (invited symposium contribution)

[*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*](#) 1 (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)

[*Christianity and the Secular in Modern Public Life*](#), 2 U. St. Thomas L.J. 425 (2005)

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

[*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) (with Douglas Laycock)

* Quoted in *Arizona Christian School Tuition Org. v. Winn*, 563 U.S. 125 (2011)

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 (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 *Burwell v. Hobby Lobby Stores*, 573 U.S. 682 (2014) (Ginsburg, J., dissenting)

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

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.

(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)

Other Publications

(Interview with Steve West) [*Religious Liberty in 2024: Healing Our Deep Divides*](#), World, Jan. 24, 2023

[*Religious Liberty Doesn't Have to Make Polarization Worse*](#), Christianity Today, August 3, 2023

[*The Protection of Religious Liberty*](#), Eerdword, June 27, 2023

[*Why the Respect for Marriage Act Preserves Religious Liberty*](#), Church Law and Tax Report, December 15, 2022

[*Letter Supporting the Respect for Marriage Act*](#), November 16, 2022 (with Douglas Laycock, Carl Esbeck, and Robin Fretwell Wilson) (supporting congressional legislation requiring full faith and credit for same-sex marriages entered into in other states)

* Quoted in [2022 Congressional Record S6839-42](#) (Nov. 29, 2022) (statements of Sens. Portman and Collins)

[More Q&A About the Respect for Marriage Act](#), First Amendment Partnership (supporting the Act and defending its religious-liberty protections)

[Introduction: Two Essays on Intellectual Property and Social Justice](#), 18 U. St. Thomas L.J. (2022) (symposium introduction)

[Protecting Free Exercise under Smith and after Smith](#), SCOTUS Blog, June 19, 2021 (with Douglas Laycock) ([reprinted at](#) 17 Christian Lawyer 3 (Fall 2021))

Policy Report, [America's International Religious Freedom Policy Must Account for Competing Local Definitions of Religion and the Common Good](#), Religious Freedom Institute, Freedom of Religious Institutions in Society Project (May 2021) (with Chad Bauman, Robert Hefner, and Timur Khan)

Masterpiece Cakeshop *and Its Implications*, 45 U. Dayton L. Rev. 289 (2020) (published panel presentation, with Gerard Bradley and Louise Melling)

[Espinoza, Funding of Religious Service Providers, and Religious Freedom](#), SCOTUS Blog, July 2, 2020 (with Douglas Laycock)

[Religious Freedom Lessons from COVID-19 Disputes](#), Christianity Today, June 15, 2020 (with Shawna Kosel)

[Institutional Religious Freedom Includes Freedom in Serving Others](#), Cornerstone Forum, Religious Freedom Institute, April 17, 2020

[Religious Freedom and Polarization: A Cause—and a Cure?](#), Berkley Forum (Berkley Center, Georgetown University), February 14, 2020

[4 Ways Muslims' Religious Freedom Fight Now Sounds Familiar to Evangelicals](#), Christianity Today, Sept. 9, 2019

[The Cross Case and Religious Liberty and Equality](#), Berkley Forum, August 23, 2019

[“Human dignity is at the core of Catholic legal education”: Conversation with Thomas C. Berg](#), Mandiner (Budapest, Hungary), June 5, 2019

[Book Review](#), Modern Theology (2019) (reviewing LUTHERAN THEOLOGY AND SECULAR LAW (Marie Failinger and Ronald Duty eds., Routledge 2018))

[There is religious bigotry behind Trump's travel ban](#), America, June 28, 2018

[Masterpiece Cakeshop and Protecting Both Sides](#), Take Care Blog, June 15, 2018 (with Douglas

Laycock)

[Here's what you missed in the Supreme Court ruling in the same-sex wedding cake case](#), Dallas Morning News, June 14, 2018 (with Douglas Laycock)

[Masterpiece Cakeshop—not as narrow as may first appear](#), SCOTUS Blog, June 5, 2018 (with Douglas Laycock)

Treating Religion Differently, 32 J. Law and Religion 493 (Nov. 2017) (reviewing Kathleen A. Brady, *THE DISTINCTIVENESS OF RELIGION IN AMERICAN LAW* (2015))

[We're lawyers who support same-sex marriage. We also support the Masterpiece Cakeshop baker](#), Vox, Dec. 6, 2017 (with Douglas Laycock)

[How to slice the Masterpiece Cakeshop case: The narrow ruling that will preserve religious liberty without overreaching](#), N.Y. Daily News, Dec. 5, 2017 (with Douglas Laycock)

[Masterpiece Cakeshop and Protecting Both Sides](#), Berkley Forum (Berkley Center, Georgetown University), Dec. 4, 2017 (with Douglas Laycock)

[Religious Freedom and the Law](#), Conversation Podcast (with Leith Anderson), Nov. 15, 2017

[Masterpiece Cakeshop and Reading Smith Carefully: A Reply to Jim Oleske](#), Take Care Blog, October 30, 2017 (with Douglas Laycock)

Religious Freedom and Human Flourishing, in [RELIGIOUS FREEDOM AND THE COMMON GOOD](#) (Berkley Center, Georgetown University, 2017) (remarks, with co-panelists Byron Johnson, Rebecca Shah, Brad Wilcox, and Robert Woodberry)

[Gorsuch, A Likely Echo of Scalia](#), Berkley Forum (Berkley Center, Georgetown University), April 5, 2017

[Free Exercise Exemptions and the Original Understanding](#), Law and Religion Forum, Nov. 2, 2016

[What Do Religion's Social Contributions Have to Do with Religious Freedom?](#), Berkley Forum (Berkley Center, Georgetown University), September 27, 2016

[Does This New Bill Threaten California Christian Colleges' Religious Freedom?](#), Christianity Today, July 5, 2016

Entries in *THE ENCYCLOPEDIA OF CHRISTIANITY IN AMERICA* (forthcoming 2016): entries on “Public School Issues” and “Religious Influences on Legislation”

[Antonin Scalia: Devout Christian, Worldly Justice](#), Christianity Today, Feb. 17, 2016

[Playing God? Moral Arguments on Patents on Life](#), St. Thomas Lawyer, Winter 2015

[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

[Tragedy, Irony, and Religious Freedom](#), Mirror of Justice (June 23, 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) (July 12, 2010), reprinted at Whole Life Blog (June 3, 2016)

[*Foreword: Two Symposia: Judicial Responsibility and Christian Realism*](#), 7 U. St. Thomas L.J. vii (2010)

[*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 (November 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

Major Professional and Academic Awards

Religious Liberty Scholarship Award, Notre Dame Religious Liberty Initiative, 2024

Religious Freedom Scholar Award, Seventh-Day Adventist Church, 2024

Christianity Today Book Award, 2024 (Award of Merit (2nd place), Politics and Public Life), for *Religious Liberty in a Polarized Age*

National Advocate of the Year Award, 2017 (shared), Immigrant Law Center of Minnesota (for participation, through Religious Liberty Clinic, in team representation of Somali girl reunited with family in the early days of Trump's first travel ban)

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

Presentations, Lectures, Testimony, Consultations

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

“Religious Liberty in a Polarized Age,” Religious Freedom Interfaith Breakfast, Minneapolis, April 22, 2025

Panelist, “Trump II: The First 100 Days,” University of St. Thomas School of Law, April 15, 2025

“Can ‘History and Tradition’ Protect Both Sides in Polarized America?,” Religious Freedom Law Clinics Symposium Series (Yale Law School, organizer), April 11, 2025

Panelist, [“The Roots, Application, and Trajectory of the Church Autonomy Doctrine,”](#) Federalist Society, March 25, 2025

“Can First Amendment ‘History and Tradition’ Protect Contending Sides in Polarized America?,” Symposium, In Search of Common Ground: Religion and Secularism in a Liberal Democratic Society, Chicago-Kent Law School, Illinois Tech, February 21, 2025

“AI Content and Copyright Law,” Artificial Intelligence and Philosophy Series, University of St. Thomas, November 26, 2024

“The Holy Spirit the Paraclete: Advocate, Counselor,” Weekly Manna, University of St. Thomas School of Law, November 13, 2024

Lecture Series, “The Supreme Court 2024,” Selim Center for Lifelong Learning, University of St. Thomas, October 16, 23, and 30, 2024

“The First Amendment and Public Protests at Events,” Minnesota Festival and Events Association, October 9, 2024

“Defining Neutrality, Combating Polarization: Laycock’s Essential Contributions,” Festschrift for Douglas Laycock, University of Texas Law School, September 27, 2024

Plenary Address, “Religious Freedom and Religious Universities in a Polarized Age,” Council of

Christian Colleges and Universities, Law and Public Policy Conference (West Palm Beach FL), September 16, 2024

Religious Liberty Clinics Summit, Brigham Young University Law School (Provo UT), August 15, 2024

“Copyright, AI, Human Distinctiveness, and Religion,” South East Association of Law Schools Annual Meeting (Ft. Lauderdale), July 25, 2024

[“Developments in Free Exercise of Religion,”](#) National Association of Appellate Court Attorneys Annual Conference (Chicago), July 12, 2024

Opening Remarks, “Religious Liberty in a Polarized Age,” Notre Dame Religious Liberty Summit (“Depolarizing Religious Liberty”), July 11, 2024

“Free Exercise Renewal and Conditions on Government Benefits,” Notre Dame Religious Liberty Summit, July 9, 2024

“Explaining Religious Liberty,” Religious Freedom Scholar’s Award Remarks, Seventh-Day Adventists Annual Religious Freedom Dinner, April 30, 2024

“Justice and Love of Neighbor in Islam and Christianity,” Iftar Dinner and Program, Muslim Law Students Association, University of St. Thomas School of Law, March 20, 2024

[“Exploring Religious Freedom in a Polarized Age,”](#) University of Toledo, Institute for American Constitutional Thought and Leadership, February 7, 2024 | [video](#)

“Free Exercise Issues re Religious Charter Schools,” McGee Civil Rights Competition CLE, Mitchell-Hamline Law School. January 23, 2024

“Religious Liberty in a Polarized Age,” Federalist Society, Columbia SC, January 10, 2024

“Religious Liberty in a Polarized Age,” Federalist Society, Charleston School of Law, January 9, 2024

“A Conversation with Nadine Strossen,” University of St. Thomas School of Law (*Journal of Law and Public Policy*), November 17, 2023

“Religious Liberty 2023: Religious Liberty Decisions in a Polarized Age,” Minnesota CLE, Nov. 13, 2023

“The Irony of American Religious-Freedom Disputes,” Religion Clause Symposium, Wayne State University Law School, Oct. 13, 2023

[“Tom Berg on Religious Liberty in a Polarized Age,”](#) Legal Spirits Podcast, Center for Law and Religion, St. John’s University Law School, Sept. 29, 2023

Book Launch, “Religious Liberty in a Polarized Age,” Murphy Institute, University of St. Thomas, Sept. 28, 2023 (with Andrew Koppelman and Asma Uddin)

“Religious Liberty in a Polarized Age,” Bob Dutko Show, WMUZ Radio (Detroit), Sept. 26, 2023

“Religious Liberty in a Polarized Age,” Civil Rights Complementarity class, University of Illinois College of Law, Sept. 14, 2023

[“Religious Liberty in a Polarized Age.”](#) Notre Dame Law School Religious Liberty Initiative, September 7, 2023 | [summary](#)

“Religious Liberty in a Polarized Age,” Faithful Politics Podcast, September 1, 2023

[“Religious Liberty in a Polarized Age,”](#) Cross and Gavel Podcast, August 29, 2023

“Religious Liberty in a Polarized Age,” Liberty Magazine, August 17, 2023

Annual Law and Religion Roundtable, University of Virginia Law School. June 22-23, 2023

“Religious Liberty in a Polarized Age,” Stanford Law School Constitutional Conversations (Constitutional Law Center), February 1, 2023 ([summary](#) | [video](#))

“Government Benefits and the Free Exercise Revival,” Notre Dame Law School, October 24, 2022

Lecture Series, [“The Supreme Court’s Monumental Term, and What Might Come Next,”](#) Selim Center for Lifelong Learning, University of St. Thomas, October 13–November 3, 2022

“Conscience Rights and the Taking of Life in the United States,” International Center for Law and Religion Studies Global Conference, Cordoba, Spain, September 20, 2022

“The Rise of Free Exercise,” Federal Judges’ Seminar (D-MN and D-ND), May 17, 2022

“Religious Freedom and Lincoln’s ‘Charity for All,’” Federalist Society Midwest Lawyers’ Chapter, Lincoln Presidential Museum and Library, Springfield, IL, April 23, 2022

Panel on *Ramirez v. Collier*, American Constitution Society and Federalist Society, University of St. Thomas School of Law, April 21, 2022

“The Irony of American Religious-Freedom Disputes,” Conference on Religious Freedom at a Crossroads, Loyola University Chicago Law School. April 8, 2022

“Civic Division, Civic Allegiance, and America’s Religious Freedom Tradition,” University of St. Thomas School of Law Works in Progress, hop, March 28, 2022

“The Free Exercise Clause,” Religious Liberty Scholars’ Summit, Alexandria, VA, March 10–12,

2022

“Religious Liberty in a Polarized Age: Overview,” Consultation on Cultural Challenges to Liberalism, Institute for Humane Studies, November 19, 2021

“Religious Liberty after *Fulton v. City of Philadelphia*,” Federalist Society National Lawyers Conference, November 11, 2021

“Religious Freedom—A Look at the Hottest Cases and Issues from 2021,” Minnesota Continuing Legal Education, November 9, 2021

“Lessons from a Religious Liberty Appellate Amicus Clinic,” Religious Liberty Summit, Notre Dame Law School, June 28–29, 2021

Moderator/Discussant, “Pandemic Policies and Religious Liberty,” University of St. Thomas Law Journal Symposium, April 22, 2021 (with John Inazu and Robin Fretwell Wilson)

Moderator/Discussant, “Patents on Life: Law and Social Ethics,” Terrence J. Murphy Institute, University of St. Thomas, April 12, 2021 (with Margo Bagley and Joshua Sarnoff)

Roundtable, “Religious Liberty at the Crossroads,” Institute for Humane Studies, April 10–11, 2021

Webinar Lectures, [“Religious Freedom in a Polarized Age.”](#) Burke, McKay, Warren & Serritella, Chicago, October 28, November 18, 2020

[Religious Freedom Plenary Workshop](#), Christian Legal Society Annual Conference, October 16, 2020

Panelist, [“Abortion Distortion and Its Impact in *June Medical Services v. Russo*.”](#) Democrats for Life of America, October 13, 2020 (with State Sen. Katrina Jackson (D-LA) and Catherine Glenn Foster (Americans United For Life))

“Refocusing the Establishment Clause,” ABA Section on Civil Rights and Social Justice, October 8, 2020

“Polarization, Religious Liberty, and the Courts,” American Political Science Association Annual Convention, September 12, 2020

Roundtable, “The Politics of Vulnerability,” Institute for Humane Studies, September 8, 2020

[“Religious Freedom Amid the Tumult.”](#) Murphy Institute, University of St. Thomas, August 6, 2020

[“The Religion Clauses.”](#) In Lieu of Fun Webinar, July 8, 2020 (with Ben Wittes, Kate Klonick, and Marty Lederman)

[“The COVID-19 Crisis and Restrictions on Religious Gatherings.”](#) Berkley Center for Religion, Peace & World Affairs, Georgetown University, May 8, 2020

“The Freedom of Religious Institutions in Society,” Consultation, Religious Freedom Institute, March 30–31, 2020

“Patents on Life: Law, Social Ethics, and Religion,” for Patents on Life: Law and Social Ethics (book launch), Kilburn & Strode LLP, London, March 12, 2020

Project Consultation for the Religious Freedom Institute, “The Freedom of Religious Institutions in Society,” Washington, DC, May 28–29, 2019

“Religious Liberty in a Polarized America: Recent Supreme Court Decisions,” Peter Pazmany University Faculty of Law, Budapest, Hungary, May 17, 2019

“Trademarks, Deceptive Advertising, and Some Social Issues: Recent U.S. Developments,” Unfair Commercial Practices Conference, Peter Pazmany University Faculty of Law, Budapest, May 10, 2019

“Religious Freedom, Polarization, and Allegiance,” Northwestern University Public Law Colloquium, Chicago, February 4, 2019

[“Masterpiece Cakeshop and Its Implications.”](#) Federalist Society National Convention, November 15, 2018

“Religious Liberty in a Polarized Age,” St. Olaf College Lecture Series, November 8, 2018

“Religious Liberty in Our Polarized Age,” Transform Minnesota, September 21, 2018

“*Masterpiece Cakeshop*: A *Romer* for Religious Objectors?,” Cato Institute Supreme Court Review, Washington DC, September 16, 2018

“Religious Liberty Trends Affecting Faith-Based Social Services,” Catholic Charities’ Directors Annual Convention, Buffalo, NY, September 13, 2018

“*Masterpiece Cakeshop* and Protecting Both Sides,” ABA Annual Meeting, Chicago, August 3, 2018

“Religious Freedom 101,” Religious Freedom Annual Review, International Center for Law and Religion Studies, Brigham Young University Law School, June 21, 2018

“The *Masterpiece* Ruling and Protecting Both Sides,” Religious Freedom Annual Review, International Center for Law and Religious Studies, Brigham Young University Law School, June 21, 2018

Webinar, [“The Travel Ban at the Supreme Court: A Briefing on *Trump v. Hawaii*,”](#) American Constitution Society, April 19, 2018

Tolerance Means Dialogue, [“Religious Liberty and the Culture War over LGBT Rights: Can University Students Make a Difference?”](#) University of St. Thomas School of Law, April 4, 2018 (with Shannon Minter and Robin Fretwell Wilson)

“Religious Freedom and the Common Good: A Summary of Arguments and Questions,” Symposium on Religious Freedom and the Common Good, *University of St. Thomas Law Journal*, March 23, 2018

“Religious Freedom and Nondiscrimination,” Conference on The Question of Religious Freedom, Loyola University (Chicago), March 13, 2018

“Religious Freedom for Muslims (and for All People),” National Association of Evangelicals, Understanding Islam in America, March 7, 2018

[“Is the ‘Parsonage Allowance’ Allowed?”](#) Federalist Society Teleforum, January 12, 2018

“Irony and Today’s Religious Freedom Controversies,” Notre Dame Center for Ethics and Culture Fall Conference, November 11, 2017 *

[“Religious Freedom and the Law,”](#) Today’s Conversation Podcast (National Association of Evangelicals), October 17, 2017

Veninga Lecture on Religion and Society, [“Religious Freedom for All in a Polarized Age,”](#) University of Wisconsin-Marathon, October 12–13, 2017

Lin Lecture on Justice and Social Concerns, [“Religious Freedom in an Era of Polarization,”](#) St. Mary’s University Law School, San Antonio, TX, September 28, 2017

Speaker, [“And Justice for All? The Promise of Religious Liberty in a Pluralistic World,”](#) Fordham Center on Religion and Culture, Fordham University, May 16, 2017 (with co-panelists Sr. Carol Keehan, Asma Uddin, and Ani Sarkissian) ([video](#))

Featured Guest, [“Pastors Frequently Preach Politics. But the IRS Rarely Goes After Them,”](#) Quick to Listen Podcast, Christianity Today, May 12, 2017

“Antonin Scalia: Devout Christian; Worldly Judge?,” Faculty Colloquium, University of St. Thomas School of Law, March 27, 2017

[“Religious Discrimination Issues in President Trump’s Immigration Executive Orders,”](#) Murphy Institute, University of St. Thomas, February 27, 2017

Panelist, Religious Liberty Summit, Ethics and Religious Liberty Commission (ERLC), Washington, DC, January 24, 2017

[“The Future of Religious Liberties under the New Administration,”](#) Federalist Society Teleforum, December 13, 2016

“Religious Freedom and the Common Good,” at [Religious Freedom and the Common Good: A Symposium of the Religious Freedom Project](#), Berkley Institute for Religion, Peace and World Affairs, Washington, DC, November 15, 2016

Participant, “Fairness for All,” Religious Freedom Consultation, Trinity International University (IL), November 11, 2016

Panelist, Mid-Day Dialogue: After the Election, University of St. Thomas School of Law, November 9, 2016

Response to Stefan Heuser, “The Contribution of Law to the Secularization of Politics,” Conference on Religion and Law Symposium on Lutheran Interpretations of Contemporary Legal Issues, United Theological Seminary of Twin Cities, October 28, 2016

Panelist, “Freedom of/for/from/in Religion: Differing Dimensions of a Common Right?,” Conference of International Consortium for Law and Religion Studies, St. Hugh’s College, Oxford University, September 10, 2016

[“Church Playgrounds & Blaine Amendments,”](#) Federalist Society Teleforum on *Trinity Lutheran Church v. Pauley*, August 16, 2016

[“Freedom to Serve Others,”](#) Contribution to [“Five Minutes of Religious Freedom”](#) Video Series, Religious Freedom Center, The Newseum, Washington DC (July 2016)

“How Broad is Religious Freedom? Constitutional and Legislative Protections,” Annual Religious Freedom Review, International Center for Law and Religion Studies, BYU Law School, July 7, 2016

“‘Christian Bigots’ and ‘Muslim Terrorists’: Religious Liberty in a Polarized Age,” Annual Religious Freedom Review, International Center for Law and Religion Studies, BYU Law School, July 7, 2016

Working Group Member, Summit on Religious Liberty, Ethics and Religious Liberty Commission, Southern Baptist Convention, May 23–24, 2016

Scholars’ Roundtable on Kathleen Brady’s *The Distinctiveness of Religion in American Law*, Notre Dame Law School, April 15, 2016

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

“Patents on Life: A Summary,” Patents on Life Conference, St. Edmund’s College, Cambridge University (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 RFRAs,” 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, January 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. 2015, 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,” Thrower 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*,” 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

Significant Litigation

Filed briefs as either primary or a primary author in (* = counsel of record; ** = through St. Thomas [Religious Liberty Appellate Clinic](#)):

U.S. Supreme Court

Merits Briefs

[Catholic Charities Bureau v. Wisconsin Industry & Labor Comm.](#), No 24-154 (2025) (for amici religious student and social-services organizations) **

[Groff v. Dejoy](#), 143 S. Ct. 2279 (2023) (for amici Christian and Muslim organizations, arguing to overrule unprotective standard for religious-accommodation claims and demonstrating the standard’s disproportionate effect on minority religions) * **

[Ramirez v. Collier](#), 142 S. Ct. 1264 (2022) (for amici; successfully supporting death prisoner’s claim to have clergy pray aloud and touch him at execution) **

[Carson v. Makin](#), 142 S. Ct. 1987 (2022) (for amici; successfully supporting religious-school parents’ claim not to be excluded from tuition aid)

[Fulton v. Philadelphia](#), 141 S. Ct. 1868 (2021) (for amici, arguing to overrule *Employment Division v. Smith*) (with Douglas Laycock)

[*Tanzin v. Tanvir*](#), 141 S. Ct. 486 (2020) (for amici; brief's reasoning significantly adopted in opinion upholding Muslim-Americans' ability to sue federal agents for damages under Religious Freedom Restoration Act) (with Douglas Laycock) **

[*Espinoza v. Montana Department of Revenue*](#), 140 S. Ct. 2246 (2020) (for amici; with Douglas Laycock)

[*Our Lady of Guadalupe School v. Morrissey-Berru and St. James School v. Biel*](#), 140 S. Ct. 2049 (2020) (for amici) **

[*Masterpiece Cakeshop v. Colorado Civil Rights Commission*](#), 138 S. Ct. 1319 (2018) (for amici; brief's reasoning significantly adopted in majority opinion finding commission's actions non-neutral toward religion) (with Douglas Laycock)

[*Trinity Lutheran Church v. Comer*](#), 137 S. Ct. 2012 (2017) (for amici) **

[*Obergefell v. Hodges*](#), 576 U.S. 644 (2015) (for amici; successfully supporting same-sex marriage rights along with religious-liberty rights) (with Douglas Laycock)

[*Reed v. Town of Gilbert*](#), 576 U.S. 155 (2015) (for amici) **

[*Young v. United Parcel Service*](#), 575 U.S. 206 (2015) (for amici, 23 pro-life organizations; successfully supporting pregnancy-discrimination plaintiff Young)

[*Burwell v. Hobby Lobby Stores Inc.*](#), 573 U.S. 682 (2014) (for amici Democrats for Life of America and Bart Stupak) *

[*McCullen v. Coakley*](#), 573 U.S. 464 (2014) (for amici Democrats for Life of America and Clergy for Better Choices) *

[*Hollingsworth v. Perry and United States v. Windsor*](#), 570 U.S. 744 (2013) (for amicus American Jewish Committee) (with Douglas Laycock)

[*Hosanna-Tabor Lutheran School v. EEOC*](#), 565 U.S. 171 (2012) (for amici) *

[*Arizona Christian School Tuition Organization v. Winn*](#), 563 U.S. 125 (2011) (for amici) *

[*Christian Legal Society Chater v. Martinez*](#), 561 U.S. 661 (2010) (for amici) *

Gonzales v. O Centro Espirita Beneficiente Uniao do Vegetal, 546 U.S. 418 (2006) (for amici)

[*Locke v. Davey*](#), 540 U.S. 712 (2004) (for amici)

Board of Regents v. Southworth, 529 U.S. 217 (2000) (for amici)

Agostini v. Felton, 521 U.S. 203 (1997) (for amici)

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

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

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

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)

Certiorari-Stage Briefs

[*Apache Stronghold v. United States*](#), No. 24-291 (Oct. 16, 2024) (supporting cert petition of Native Americans challenging government destruction of sacred sites on government land) * **

[*Landor v. Louisiana Dept. of Corrections*](#), No. 23-1197 (June 6, 2024) (supporting cert petition on availability of damages suits against individual officials under RLUIPA) **

[*National Religious Broadcasters Copyright Licensing Committee v. Copyright Royalty Board*](#), 144 S. Ct. 2682 (2024) (supporting cert petition supporting challenge to severely disparate statutory royalty rates for religious webcasters versus public-radio webcasters) **

[*Carson v. Makin*](#), No. 20-1088 (cert. granted July 2, 2021) (amici religious and civil liberties organizations, successfully supporting cert petition challenging exclusion of religious schools from tuition-benefits program) **

[*Dalberiste v. GLE Associates*](#), cert. denied, 141 S. Ct. 2463 (2021) (amici religious and civil liberties organizations, supporting cert petition on Title VII requirement to accommodate religious-minority employees in conflicts with employer rules) **

[*Small v. Memphis Light, Gas & Water Co.*](#), cert. denied, 141 S. Ct. 1227 (2021) (same) **

[*Archdiocese of Washington v. Washington Metro Area Transit Authority*](#), cert. denied, 140 S. Ct. 1198 (2020) (amici religious and civil liberties organizations, supporting cert petition challenging viewpoint discrimination concerning ads on metro-area buses) **

[*Patterson v. Walgreen Co.*](#), cert. denied, 140 S. Ct. 685 (2020) (amici Christian and Muslim organizations, supporting cert petition for Seventh-Day Adventist employee denied accommodation of Sabbath observance based on future predicted harms) **

[*Our Lady of Guadalupe v. Morrissey-Berru*](#), cert. granted, 140 S. Ct. 679 (2019) (amici religious and educational groups, supporting cert petition seeking to apply ministerial exception to teachers with significant religious responsibilities) **

[*Espinoza v. Montana Dept. of Revenue*](#), cert. granted, 139 S. Ct. 2777 (2019) (amici religious, education, and civil liberty groups, successfully supporting certiorari; see merits brief above) **

[*First Resort, LLC v. Becerra*](#), cert. denied, 138 S. Ct. 2709 (2018) (amici Democrats for Life of America and religious/social-service organizations, supporting certiorari petition claiming that provider of free pregnancy-care services is not engaged in commercial speech) **

[*Sterling v. United States*](#), cert. denied, 137 S. Ct. 2212 (2017) (amici, supporting certiorari petition on application of RFRA in the military) **

[*Douglas County School Bd. et al. v. Taxpayers for Public Education*](#), cert. granted, vacated, and remanded, 137 S. Ct. 2327 (2017) (amici, supporting certiorari petition in school tuition-voucher case) **

[*Stormans, Inc. v. Wiesman*](#), cert. denied, 136 S. Ct. 2433 (2016) (amici, supporting certiorari petition in pharmacists' challenge to regulations requiring disbursing of potential embryo-destructive medications) **

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)

Lower Federal Courts

[*Owens v. Schuette*](#), No. 24-2003 (6th Cir. 2025) (amici religious-liberty scholars, supporting en banc petition asserting availability of damages against officials under RLUIPA) * **

[*Apache Stronghold v. United States*](#), 95 F.4th 608 (9th Cir. en banc 2024) (amici religious-liberty scholars, supporting Apaches' claim against federal action destroying sacred sites) **

[Full En-Banc Court Brief for Religious Liberty Scholars](#)

[*Billard v. Diocese of Charlotte*](#), No. 22-1440 (4th Cir. pending) ((amici, supporting applicability of Religious Freedom Restoration Act to private-party suits) **

[*Starkey v. Archdiocese of Indianapolis*](#), 41 F.4th 931 (7th Cir. 2022) (same) **

[*Maxon v. Fuller*](#), 2021 WL 5882035 (9th Cir. 2021) (amici religious colleges, schools, and

associations, arguing for interpreting Title IX religious exemption broadly so as to avoid denominational discrimination) **

[*Demkovich v. St. Andrew the Apostle Parish*](#), 3 F.4th 968 (7th Cir. 2021) (en banc) (amici religious denominations, successfully supporting application of ministerial exception to hostile-work-environment claims) **

[*Gaylor v. Mnuchin*](#), 919 F.3d 420 (7th Cir. 2019) (amici religious organization, successfully defending clergy housing-allowance exclusion against Establishment Clause challenge with Brandeis brief detailing costs of invalidating the exclusion) **

- Brief cited and discussed in CA7 opinion in *Gaylor*, 919 F.3d at 424 n.3

[*Harris v. Escamilla*](#), 736 Fed. Appx. 618 (9th Cir. 2018) (amici, national Muslim organizations, successfully supporting Muslim inmate who credibly alleged that prison intentionally damaged and desecrated his copy of the Qur'an) * **

[*Greater Baltimore Center for Pregnancy Concerns v. Mayor and City Council*](#), 879 F.3d 101 (4th Cir. 2018) (amici, religious and social-service organizations, successfully supporting claim that provider of free pregnancy-care services is not engaged in commercial speech) **

[*Buxton v. Kurtinitis*](#), 862 F.3d 423 (4th Cir. 2017) (amici, religious and civil-liberties organizations, supporting claim that applicant to radiology-technician academic program was discriminated against based on religion) **

- Brief cited and discussed in CA4 opinion in *Buxton*, 862 F.3d at 431

[*Child Evangelism Fellowship v. Cleveland School Dist.*](#), 600 Fed. Appx. (6th Cir. 2015) (amici, supporting organization's challenge to pretextual denial of equal access to school facilities) **

[*Freedom from Religion Foundation v. Lew*](#), 773 F.3d 815 (7th Cir. 2014) (amici, successfully defending ministerial-housing exclusion from federal income tax) **

[*Weingarz 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. Aschroft, 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 Brith, successfully attacking government-sponsored religious paintings on public property)

[*Fellowship of Christian Athletes v. District of Columbia*](#), No. 1:24-cv-1332 (D.D.C. 2024) (amici, various organizations of student religious groups) **

[*InterVarsity Christian Fellowship v. Wayne State University*](#), No. 3:19-cv-10375-RHC-SDD (E.D. Mich. 2020) (amici, various college student religious groups) **

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

State Appellate Courts

[*Mast v. Fillmore County*](#), 993 N.W.2d 895 (Minn. App. 2023) (co-counsel for Amish families)

seeking accommodation from septic-system requirement) * **

[*State v. Arlene's Flowers, Inc.*](#), 389 P.3d 543 (Wash. 2017) (amici, defending florist's right of refusal in context of expressive flower arrangements for same-sex wedding)

[*Hart v. State*](#) and [*Richardson v. State*](#), 774 S.E.2d 281 (N.C. 2015) (amici, successfully 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

[Comment of Religious Liberty Scholars on Proposed Rescission of Education Department Regulation Protecting Student Religious Groups at Public Universities](#) (March 24, 2023) (chief drafter; with Douglas Laycock, Michael McConnell, Richard Garnett, John Inazu, Michael Paulsen, and Asma Uddin)

[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)

Symposia Organized

University of St. Thomas School of Law

["Trump II: The First 100 Days,"](#) presented by University of St. Thomas Law Faculty, April 15, 2024

["Navigating Polarization: The Role of the First Amendment,"](#) March 21, 2024 (*University of St. Thomas Law Journal*)

["Intellectual Property and Liberation"](#) (Kali Murray, Marquette Law School), *Law Journal* Annual Lecture, April 12, 2021 (respondents: Aman Gebru (Duquesne), Cathay Smith (Montana))

["Religious Freedom and the Common Good,"](#) co-sponsored with Baylor Institute for Studies of Religion and Religious Freedom Institute (Washington DC), March 23, 2018 (papers published in *University of St. Thomas Law Journal*)

[“Patents on Life: Through the Lenses of Law, Religious Faith, and Social Justice,”](#) co-sponsored by Murphy Institute (St. Thomas) and Von Hugel Institute, St. Edmund’s College, Cambridge University, September 4–5, 2015 (selected papers published as PATENTS ON LIFE book, *supra*)

[“Intellectual Property and Religious Thought,”](#) April 5, 2013 (papers published in *Law Journal*)

Co-editor, [“Islamic Law and Religious Liberty,”](#) April 2010 (papers published in *Law Journal*)

Murphy Institute Conference, “Realism in Public Theology: Catholic and Protestant Views,” November 20, 2009

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

[“Catholicism and the Court: The Relevance of Faith Traditions to Jurisprudence,”](#) November 10, 2006 (papers published in *Law Journal*)

Murphy Institute Conference, “Prudential Judgment, Public Policy, and the Catholic Social Tradition,” April 6–8, 2006 ([selected papers](#) published in the *Law Journal*)

Murphy Institute Inaugural Conference, “The Catholic Intellectual Tradition and the Good Society,” April 7–9, 2005 ([selected papers](#) published in the *Law Journal*)

[“The Future of Pro-Life Progressivism,”](#) March 11, 2005 (papers published in the *Law Journal*)

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

Cumberland Law School

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

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 (co-sponsored with Civil Rights Institute and Miles Law School)

* Papers published in *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

Co-founder, Cumberland Law School Rushton Distinguished Lecturer Series, 1995-98

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](#); Senior Fellow, 2009–present

Steering Committee, University Institute on AI for the Common Good, 2024–present

Founder and Co-Chair, Law School Working Group on Law and Technology, 2023–present

Founder, Law Faculty Diversity, Equity, Inclusion Discussion Group, 2019–present

Law School Committees: AALS Self-Study (2009–11, 2023–25); Accreditation (Co-Chair and chief drafter 2002–03, member 2004–06, 2007–08); Curriculum (2009–12); Dean Search (Co-Chair 2011–12, member 2023–24); Diversity, Equity, Inclusion (Co-chair, 2019–21, member 2017–21); DEI Faculty Reading Group (founder, 2019–); Executive (2009–11, 2016–19); Faculty Appointments (2002–08, 2019–23, 2024–, Chair 2003–07, 2021–22); Judicial Clerkships (Chair 2013–21, member 2011–13, 2024–); Promotion and Tenure (Chair 2008–09, member 2009–11); Peer Reputation (Chair 2009–11); Publications Director Search (2002)

Intellectual Property (IP) and Tech-Law faculty advisor positions: Student Intellectual Property Law Association (2012–); Trademark Clinic (2017–); IP Competition Teams (advocacy and patent drafting, 2017–); IP/Tech Alumni Committee (2020–)

Other faculty advisor positions: Muslim Law Students Association (2023–); *University of St. Thomas Law Journal* (2002–09)

Coach, Religious Liberty Moot Court Competition Team, 2018–20 (two of top four teams, 2019 competition)

Board member, St. Thomas Institute for Catholicism and Citizenship, 2015–20

Cumberland Law School

Founder/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; at-large committee member, 2017–)

Weblog Contributor:

[SCOTUS Blog](#) (multiple symposium contributions), 2005–present

[Mirror of Justice blog](#), 2005–present

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

Media quotes (non-exhaustive list):

National News: National Public Radio, NBC News, *New York Times*, PBS, *The Economist*, *Time*, *USA Today*, *U.S. News and World Report*, *Washington Post*

National Legal: *ABA Journal*, *ABA Student Lawyer*, Bloomberg/BNA, *National Law Journal*, *Law 360*, *U.S. Law Week*

Major Regional and Specialty Media: *Arizona Republic*, Brookings Institution, *Birmingham News*, *Boston Globe*, *Boston Herald*, *Charlotte Observer*, *Chicago Tribune*, *Christian Science Monitor*, *Deseret News*, *Education Week*, *Minneapolis Star-Tribune*, *New Orleans Times-Picayune*, *Orlando Sentinel*; *Minnesota Lawyer*, MinnPost, Minnesota Public Radio; multiple local radio and TV stations

Religion Media: *Christianity Today*, *First Things*, *National Catholic Reporter*, *National Catholic Register*, Vatican Radio, Zenit News Service, *The World*

Board Memberships (governing or advisory):

Editorial Advisory Board, [Church Law and Tax Report](#)

Member, [National Advisory Board](#), Religious Freedom Center of the Newseum Freedom Forum Institute (Washington, DC), 2016–present

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

Board Member and Legal Advisor, [Democrats for Life of America](#), 2011–20 (Board Chair, 2019–20)

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

Member, Panel of Legal Experts, Commission on Accountability and Policy for Religious Organizations, Evangelical Council on Financial Accountability, 2011–13

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, 2003–05

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

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

Advice to numerous religious organizations, on a variety of matters concerning church and state and religious freedom, including litigation, pending legislation, and policy

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

Signatory to:

[Brief of Religious Liberty Scholars](#) in *Mahmoud v. Taylor*, No. 24-297 (SCOTUS filed Mar. 10, 2025)

[Brief of Constitutional Scholars](#) in *Bleya v. Hilarion Kapral*, No. 21-1498 (2d Cir. filed Sep. 2, 2021) (arguing that denials of ministerial exception should be immediately appealable)

Brief of Religious Liberty Scholars in *Roman Catholic Diocese of Albany v. Lacewell*, No. 20-1501 (SCOTUS filed May 28, 2021) (supporting cert petition arguing for overruling *Employment Division v. Smith*)

Brief of Religious Liberty Scholars in *Slockish v. Federal Highway Administration*, No. 21-35220 (9th Cir. filed May 10, 2021) (supporting tribes' argument that government authorization to destroy sacred sites would violate Religious Freedom Restoration Act)

[Brief of Amici Religious Liberty Scholars](#) in *Apache Stronghold v. United States*, No. 21-15295 (9th Cir. Mar. 25, 2021) (also co-organizer) (supporting tribes' argument that government authorization to destroy sacred sites would violate RFRA)

[Letter in Support of Fairness for All Bill, by Leading First Amendment Scholars](#) (Dec. 6,

2019) (with Carl H. Esbeck, Douglas Laycock, and Robin Fretwell Wilson)

[Punta del Este Declaration on Human Dignity for Everyone, Everywhere: Seventy Years after the Universal Declaration on Human Rights](#) (December 2018)

[American Charter on Freedom of Religion and Conscience](#) (November 2018)

Briefs of Constitutional Law Scholars in *International Refugee Assistance Project v. Trump*, [138 S. Ct. 2392 \(2018\)](#), and [857 F.3d 554 \(4th Cir. 2017\)](#) (both arguing that President Trump’s travel ban rested on unconstitutional animus toward Muslims)

[Brief of Constitutional Law Scholars as Amici](#), *Lee v. Sixth Mount Zion Baptist Church*, 903 F.3d 113 (6th Cir. 2018) (successfully supporting application of ministerial exception to minister’s contract claim alleging discharge “without good cause”)

[Brief of Religious Liberty Scholars](#), *Fratello v. Roman Catholic Archdiocese of New York*, 863 F.3d 190 (2d Cir. 2017) (successfully supporting application of ministerial exception to principal at Catholic elementary school)

[An Open Letter from Christian Scholars on Racism in America Today](#), Aug. 25, 2017

[Joint Statement Opposing California SB 1146](#), August 9, 2016 (controversy over gay rights and religious colleges in California)

[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)

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 and Organizer, Amicus Brief of Religious Liberty Scholars in Support of Petition for Certiorari, *Navajo Nation v. U.S. Forest Service*, 2009 WL 318196, cert. denied, 556 U.S. 1281 (2009) (supporting tribes’ RFRA challenge to desecration of lands used for religious rituals)

Letters to [Indiana](#) and [Georgia](#) legislators defending proposed religious freedom restoration acts (RFRA) in those states

[Statement by Rhodes Scholars on Proposed UCU Boycott of Israeli Universities](#) (2007)

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

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 Ninth Circuit (2017), U.S. Court of Appeals for the Eleventh Circuit (1995)

Associate, Crossroads Center for Faith and Public Policy, 1995-2000

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)

References

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

Douglas Laycock, University of Virginia Law School; hdl5c@virginia.edu

Alan Brownstein, University of California Davis Law School;
aebrownstein@ucdavis.edu

Andrew Koppelman, Northwestern University Law School; akoppelman@law.northwestern.edu

Andrew R. Klein, Dean, Indiana University Law School-Indianapolis; anrklein@iupui.edu

Stephen J. Ware, 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)

Musical performer: Gilbert & Sullivan Very Light Opera Company, principal and chorus (2009–present); other community theater productions

Co-composer and arranger: *Got It Made* (musical comedy, with Maureen Kane Berg) (produced around the nation, 2007–present); *A House Divided: An Intimate Musical of the Lincoln Presidency* (with Michael Salmanson and Maureen Kane Berg) (produced around the nation, 2017–present)

Musical director: Public Offenders all-lawyer comedy troupe (1991–92); University of Chicago

Law School musical comedy shows (1986–87)

Hobbies: Golf, choral and gospel singing, musical theatre and light opera performance, musical composition, piano, travel, photography, sports watching