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EXPERIENCE

Guy Anderson Chair, 2005 to present, Professor of Law, 1990 to present (with tenure 1991 to present), J. Reuben Clark Law School, Brigham Young University, Provo, UT.

CURRENT TEACHING ASSIGNMENTS

14th Amendment, Freedom of Religion, Jurisprudence.

HONORS & AWARDS

SBA Second/Third Year Professor of the Year, 2006-07.
American Constitution Society "Spirit of Brennan" Award, BYU Chapter, 2003.
Federalist Society "John Stuart Mill" Award, BYU Chapter, 1996.
Public Interest Law Society Award, 1992.
BYU Education & Law Journal Award, 1992.

VISITING APPOINTMENTS

Research Fellow, ReligioWest Project, European University Institute, San Domenico di Fiesole, Italy, November to December, 2012.
Università degli Studi di Milano, Milan, Italy, May 2009.
Notre Dame Law School, South Bend, IN, Spring Semester 2009.
University of Utah College of Law, Salt Lake City, UT, Fall Semester 2004 & Summer Terms 2000, 2007 & 2009.
University of North Carolina School of Law, Chapel Hill, NC, Fall Semester 2003.
University of Denver College of Law, Denver, CO, 1989-90.

U.S. SUPREME COURT AMICUS BRIEFS

Burwell v. Hobby Lobby Stores, Inc. (2014) (counsel of record & principal author) (for self & 20 other church-state scholars).
Agostini v. Felton (1997) (principal author) (for Sen. Robert F. Bennett, R-Utah).
City of Boerne v. Flores (1997) (co-author) (for The Church of Jesus Christ of Latter-day Saints).

OTHER EXPERIENCE

Associate Professor of Law, 1988-90, Assistant Professor of Law, 1986-88, Visiting Assistant Professor of Law, 1985-86, Mercer University School of Law, Macon, GA.
Associate, O'Connor, Cavanagh, Anderson, Westover, Killingsworth & Beshears, Phoenix, AZ, 1981-85.
Law Clerk, Hon. Ozell M. Trask, United States Court of Appeals for the Ninth Circuit, 1980-81.

PUBLICATIONS

BOOKS

Religious Liberty and Secular Government: Cases and Materials (West Academic, forthcoming Fall 2017) (with Robert Tuttle, Micah Schwartzman & Nelson Tebbe).

The Rhetoric of Church and State: A Critical Analysis of Religion Clause Jurisprudence (Duke University Press, 1995).

Reviewed by

D. Heath Bailey, "Deconstructing Deconstruction," 1999 *Brigham Young University Law Review* 823.

Thomas C. Berg, "Religion Clause Anti-Theories," 72 *Notre Dame Law Review* 693, 721-24, 737-42 (1997).

Jason C. Bivins, "'Religions' and Religions in Legal Theory," 29 *Religious Studies Review* 137 (2003).

Booknotes, 21 *Law and Social Inquiry* 216 (1996).

George W. Dent, Jr., 46 *Journal of Legal Education* 130 (1996).

Stanley Fish, "Mission Impossible: Settling the Just Bounds between Church and State," 97 *Columbia Law Review* 2255, 2313-15 (1997).

Kent Greenawalt, *N.Y.L.J.*, Jan. 23, 1996.

Samuel J. Levine, "The Challenges of Religious Neutrality," 13 *Journal of Law & Religion* 531 (1998-99).

Stephen V. Monsma, 90 *American Political Science Review* 907 (1996).

Richard John Neuhaus, "The Public Square," *First Things*, Jan. 1997, at 61.

Discussed in

Kent Greenawalt, 2 *Religion and the Constitution* 434-39 (2008).

Leslie C. Griffin, *Law and Religion* 757-58 (2nd ed. 2010).

Cited in

Colorado Christian University v. Weaver, 534 F.3d 1245, 1267 (10th Cir. 2008).

Quoted in

Stone, Seidman, Sunstein, Tushnet & Karlan, *The First Amendment* 616 (5th ed. 2016).

Choosing the Dream: The Future of Religion in American Public Life (Greenwood, 1991) (with Roger Hendrix).

Reviewed by

Daniel O. Conkle, 35 *Journal of Church and State* 156 (1992).

David L. Gregory, "The Religious, the Ethical, the Communal, and the Future," 41 *Catholic University Law Review* 651 (1992).

First Things, Feb. 1992, at 61.

SELECTED ARTICLES & ESSAYS

“Substantial’ Burdens: How Courts May (and Why They Must) Judge Burdens on Religion under RFRA” (Feb. 20, 2016) (under submission), <http://ssrn.com/abstract=2657733>.

“One Cheer for *Hobby Lobby*: Improbable Alternatives, Truly Strict Scrutiny, and Third-Party Employee Burdens,” 38 *Harvard Journal of Law & Gender* 153-76 (2015), <http://ssrn.com/abstract=2497915>.

“RFRA Exemptions from the Contraception Mandate: An Unconstitutional Accommodation of Religion” (with Rebecca Van Tassell), 49 *Harvard Civil Rights-Civil Liberties Law Review* 343-84 (2014), <http://ssrn.com/id=2328516>.

“Cross, Crucifix, Culture: An Approach to the Constitutional Meaning of Confessional Symbols” (with Pasquale Annicchino), 13 *First Amendment Law Review* 71-139 (2014), <http://ssrn.com/abstract=2361260>.

“Narrative Pluralism and Doctrinal Incoherence in *Hosanna-Tabor*,” 64 *Mercer Law Review* 405-35 (2013), <http://ssrn.com/id=2154528>.

“Establishment Clause Incorporation: A Logical, Textual, and Historical Defense,” 88 *Indiana Law Journal* 669-722 (2013), <http://papers.ssrn.com/id=556661>.

“Truth and Consequences: Mitt Romney, Proposition 8, and Public Reason,” 61 *Alabama Law Review* 337-71 (2010), <http://www.ssrn.com/id=1354175>.

“An Originalist Defense of Substantive Due Process: Magna Carta, Higher-Law Constitutionalism, and the Fifth Amendment,” 58 *Emory Law Journal* 585-673 (2009), <http://www.ssrn.com/id=1072284>.

Quoted in

McDonald v. City of Chicago, 561 U.S. 742 S.Ct. 3020, 862 n.5 (2010) (Stevens, J., dissenting).

“Three Questions about Hybrid Rights and Religious Groups,” 117 *Yale Law Journal Online* 192 (2008), <http://yalelawjournal.org/the-yale-law-journal-pocket-part/civil-rights/three-questions-about-hybrid-rights-and-religious-groups/>, <http://www.ssrn.com/id=1090427>.

“Suitability Claims and Unrecommended Securities Purchases: An Agency Theory of Broker-Dealer Liability,” 37 *Arizona State Law Journal* 535-88 (2005), <http://www.ssrn.com/id=607322>.

"Spirituality, Fundamentalism, Liberty: Religion at the End of Modernity," 54 *DePaul Law Review* 1193-231 (2005), <http://www.ssrn.com/id=634262>.

"Religious Experience in the Age of Digital Reproduction," 79 *St. John's Law Review* 127-60 (2005) (with Roger Hendrix), <http://www.ssrn.com/id=556661>.

Discussed in

Martin E. Marty, "Holy and digital," *Christian Century* (Nov. 1, 2005).

"The Permissible Scope of Legal Limitations on the Freedom of Religion or Belief in the United States," 19 *Emory International Law Review* 1187-276 (2005).

Cited in

Awad v. Ziriax, 670 F.3d 1111, 1127 n.12 (10th Cir. 2012).

"'No Man's Land': The Place of Latter-day Saints in the Culture War" (Bloomington, Ind.: The Poynter Center for the Study of Ethics and American Institutions, 1999), <http://ssrn.com/abstract=1085443>, reprinted in 38 *BYU Studies* 145-62 (1999).

"Conservatives, Liberals, Romantics: The Persistent Quest for Certainty in Constitutional Interpretation," 50 *Vanderbilt Law Review* 613-46 (1997), <http://www.ssrn.com/id=1157960>.

"Public Life and Hostility to Religion," 78 *Virginia Law Review* 671-96 (1992), <http://www.ssrn.com/id=1158643>.

Reprinted in

John Garvey & Frederick Schauer, *The First Amendment: A Reader* (West/Thomson, 2nd ed. 1995).

"Toward a Constitutional Jurisprudence of Religious Group Rights," 1989 *Wisconsin Law Review* 99-169), <http://www.ssrn.com/id=1085466>.

Cited in

Salvation Army v. Dept. of Community Affairs, 919 F.2d 183, 198 (3rd Cir. 1990).

"Justice or Mercy?--A Personal Note on Defending the Guilty," 13 *Journal of the Legal Profession* 139-48 (1988).

"Democracy, Autonomy, and Values: Some Thoughts on Religion and Law in Modern America," 60 *Southern California Law Review* 1579-619 (1987) (with Roger Hendrix).

"Motivation, Rationality, and Secular Purpose in Establishment Clause Review," 1985 *Arizona State Law Journal* 677-726.

Selected Op-Eds & Symposium Essays

Op-Ed, "Is Religion an Excuse for Breaking the Law?," *Newsweek*, Mar. 12, 2016, <http://www.newsweek.com/are-religious-beliefs-excuse-breaking-law-435664>.

"Adjudicating 'substantial' burdens," SCOTUSBLOG, Dec. 14, 2015, <http://www.scotusblog.com/2015/12/symposium-adjudicating-substantial-burdens/>.

Op-Ed, "Paying for the boss's beliefs," *Washington Post*, Jan. 20, 2014, at A15 col.3 (print edition); "Exemptions from the 'contraception mandate' threaten religious liberty," Jan. 15, 2014 (online edition), http://www.washingtonpost.com/opinions/exemptions-from-the-contraception-mandate-threaten-religious-liberty/2014/01/15/f5cb9bd0-7d79-11e3-93c1-0e888170b723_story.html.

"True Lies: Canossa as Myth," 21 *Journal of Contemporary Legal Problems* 133-44 (2013), <http://ssrn.com/abstract=2242031>.

"Dignity, History, and Religious-Group Rights," 21 *Journal of Contemporary Legal Problems* 273-78 (2013), <http://ssrn.com/abstract=2240954>.

"Undoing Neutrality? From Church-State Separation to Judeo-Christian Tolerance in Establishment Clause Doctrine," 46 *Willamette Law Review* 691-706 (2010), <http://ssrn.com/abstract=1601403>.

"American Civil Religion: An Idea Whose Time Is Past," 41 *George Washington International Law Review* 891-908 (2010), <http://www.ssrn.com/id=1440351>.

"The Recurring Paradox of Groups in the Liberal State," 2010 *Utah Law Review* 47-64, <http://www.ssrn.com/id=1441353>.

"God of Our Fathers, Gods for Ourselves," 18 *William & Mary Bill of Rights Law Journal* 901-14 (2010), <http://www.ssrn.com/id=162584>.

"Uncivil Religion: Judeo-Christianity and the Ten Commandments," 110 *West Virginia Law Review* 274-304 (2007) (with Roger Hendrix), <http://www.ssrn.com/id=934851>.

Excerpted in

Howard Lesnick, *Religion and Legal Thought and Practice* (2009).

"The Establishment Clause Gag Reflex," 2004 *Brigham Young University Law Review* 995-1004, <http://www.ssrn.com/id=606005>.

"A Two-Track Theory of the Establishment Clause," 43 *Boston College Law Review* 1071-

109 (2002), <http://www.ssrn.com/id=318859>.

"Towards a Defensible Free Exercise Doctrine," 68 *George Washington Law Review* 925-52 (2001), <http://www.ssrn.com/id=1161214>.

"The Normalized Free Exercise Clause: Three Abnormalities," 75 *Indiana Law Journal* 77-122 (2000).

Cited in

State v. Holm, 2006 UT 31 ¶ 166, 137 P.3d 726, 770 n.18 (Durham, C.J., dissenting).

"An Unfirm Foundation: The Regrettable Indefensibility of Religious Exemptions," 20 *University of Arkansas - Little Rock Law Review* 555-74 (1998).

Cited in

State v. Holm, 2006 UT 31 ¶ 166, 137 P.3d 726, 770 n.18 (Durham, C.J., dissenting).

"The Integrity of Survival: A Mormon Response to Stanley Hauerwas," 42 *DePaul Law Review* 167-73 (1992).

SELECTED LECTURES & PRESENTATIONS

ENDOWED LECTURES

"Spirituality, Fundamentalism, Liberty: Religion at the End of Modernity," Annual Lecture, Center for Church/State Studies, DePaul University, Chicago, IL, April 22, 2004.

"Religious Experience in the Age of Digital Reproduction," *St. John's Law Review* Distinguished Lecture Series, St. John's University Law School, Jamaica, NY, March 29, 2004.

"'No Man's Land': The Place of Latter-day Saints in the Culture War," The Poynter Center for the Study of Ethics and American Institutions, Indiana University--Bloomington, April 15, 1998.

"The Improbability of Religion Clause Theory," Oliver Wendell Holmes Devise Lecture Symposium, Seton Hall University School of Law, October 29, 1996.

LECTURES, SEMINARS, AND COLLOQUIA IN ITALY

Lecture, "Cross, Crucifix, and Culture: An Approach to the Meaning of Government-Sponsored Religious Symbols," Galante Garrone Lecture Series, l'Università degli Studi d'Alessandria, Dipartimento di Diritto, May 5, 2013 (in Italian).

Lecture, "The Constitution of the United States: History, Structure, and Current Issues," l'Università degli Studi di Salerno, Scuola di Giurisprudenza, May 7, 2013 (in Italian).

Lecture, "American Civil Religion: An Idea Whose Time Is Past," l'Università degli Studi di Milano, May 11, 2009 (in Italian), & l'Università degli Studi di Siena, May 18, 2009 (in Italian).

Lecture, "The History and Juridical Structure of the Mormon Church," l'Università dell'Insubria, Varese Campus, May 15, 2009 (in Italian).

Faculty & Graduate Student Colloquium, "*Pleasant Grove City v. Summum*, Civil Religion, and the Establishment Clause," l'Università degli Studi di Milano, May 14, 2009 (in Italian).

Faculty & Graduate Student Colloquium, "Originalism, Substantive Due Process, and the American Founding," l'Università degli Studi di Torino, May 12, 2009 (in English).

Lecture, "The History and Juridical Structure of the Mormon Church," l'Università Italiana della Svizzera, Facoltà di Teologia, Lugano, Switzerland, December 16, 2006 (in Italian).

Lecture, "Civil Religion in the United States and Europe," le Università degli Studi di Milano & Torino, December 11 & 12, 2006 (in Italian).

Graduate Seminar Leader, International Summer School in Law and Religion, l'Università degli Studi di Siena, August 28 to September 4, 2005 (taught seminar and conducted panels and discussions in English on church-state issues in the United States and Europe).

Lecture, "Towards an LDS Understanding of Church Autonomy," l'Università degli Studi di Milano, December 2, 1999 (in Italian).

Paper Presentation, "The American Constitutional Law of Church and State," l'Università Cattolica del Sacro Cuore, Milan Campus, and le Università degli Studi di Firenze & Milano, November 29-30 & December 1, 1999 (in Italian).

Lecture, "Religious Liberty and American Federalism," l'Università Cattolica del Sacro Cuore, Piacenza Campus, November 14, 1997 (in Italian).

Faculty & Graduate Student Colloquium, "The Proposed Religious Equality Amendment to the United States Constitution," l'Università degli Studi di Milano, November 17, 1996 (in Italian).

Panel Discussion, "The Separation of Church and State in America," l'Università degli Studi di Genova, February 26, 1996 (in Italian).

Lecture, "The American Constitutional Law of Church and State," le Università dell'Insubria, Como Campus, & degli Studi di Firenze & Milano, February 23-25, 1996 (in Italian).

ACADEMIC AND PROFESSIONAL AFFILIATIONS

Board of Editors, *Quaderni del diritto e politica ecclesiastica* (Bologna, Italy: Il Mulino), 2012 to present.

ACLU of Utah, 2010 to present.

International Consortium for Law and Religion Studies (ICLARS), Milan, Italy, 2007 to present.

American Law Institute, Philadelphia, PA, 1999 to present.

Board of Editors, *Daimon: Annuario di diritto comparato delle religioni* (Bologna, Italy: Il Mulino), 1999 to present.

State Department Working Group, Religion and the Conduct of Foreign Policy, Sub-Group on Religion and Conflict Resolution, 2011 to 2012.

Legal Panel, Equality Utah, 2010 to 2012.

Chicago Council on Global Affairs, Task Force on Religion and the Making of American Foreign Policy, 2008-10, Establishment Clause Working Group, 2009-10.

European-American Law and Religion Consortium, 1996-2004.

Advisory Council to The Pew Charitable Trusts Roundtable on Religion and Social Policy, 2002.

Association of American Law Schools, Section on Law and Religion: Chair (1991-92 & 2000-01), Program Chair (1990-91), Secretary (1989-90).

Scholars Advisory Board, Center for Church/State Studies, DePaul University, Chicago, IL, 1993-2003.

Admitted to practice in Arizona (1980) and Utah (1997).

EDUCATION

J.D., UNIVERSITY OF SOUTHERN CALIFORNIA.

Articles Editor, *Southern California Law Review*.

Student Note, "Contractual Agreements to Arbitrate Disputes: Waiver of the Right to Compel Arbitration," 52 *Southern California Law Review* 1513-54 (1979).

Tuition Scholarship.

B.A. (ECONOMICS), MAGNA CUM LAUDE, BRIGHAM YOUNG UNIVERSITY.

Honors Program "High Honors" Designate.

Various Tuition Scholarships.

PERSONAL

Born and attended elementary school in New Jersey; attended junior high and high school in southern California.

Dual citizenship, United States & Canada.

Hobbies are golf, long-distance backpacking & northern Italian cooking.

Fluent in Italian, read French.