



2015 BRADLEY PRIZES

NOMINATION FORM

Deadline for Submission:
February 6, 2015

Submitted by:

Name: Michael W. McConnell

Organization: Stanford Law School

Title: Professor

Address: 559 Nathan Abbott Way

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City, State, Zip: Stanford, CA 94305

Facsimile: 650-725-0253

E-mail: mcconnell@law.stanford.edu

Submitted to:

Michael W. Grebe

President and CEO

The Lynde and Harry Bradley Foundation, Inc.

1241 North Franklin Place

Milwaukee, WI 53202-2901

Nominations may be e-mailed to
rkrebs@bradleyfdn.org, provided all
information requested on this form is included.

For additional information about the Bradley Prizes nominations contact Dianne Sehler at The Lynde and Harry Bradley Foundation. Mrs. Sehler can be reached at 414.291.9915 or via e-mail at dsehler@bradleyfdn.org.

NOMINEE INFORMATION:

Name: Douglas Laycock

Title: Professor

Department: Law

Organization: University of Virginia Law School

Address: 580 Massie Road

City, State, Zip: Charlottesville, VA 22903

Phone: 434-243-8546

Facsimile: 434-982-6682

E-mail: dlaycock@virginia.edu

NOMINEE'S AREA OF EXPERTISE

Select from the following list:

- ☒ Academia
- ☐ Civic Renewal & Responsibility
- ☐ Civil Rights & Society
- ☐ Conservative Thought
- ☐ Culture
- ☐ Defense & National Security
- ☐ Economics
- ☐ Education Reform
- ☐ Family Values
- ☐ Foreign Affairs
- ☐ Human Rights
- ☐ Journalism
- ☒ Law
- ☐ Philanthropy
- ☐ Religion & Society
- ☐ Social Security Reform
- ☐ Tax Reform
- ☐ Welfare Reform

PLEASE ATTACH A STATEMENT OF NOMINATION SUMMARIZING THE NOMINEE'S CREDENTIALS IN 250 WORDS OR LESS, limiting your additional supporting documentation to a CV, resume or biographical sketch.

REFERENCES: Each nomination must be accompanied by two references able to speak on behalf of the nominee's credentials and background, if necessary. Please provide contact information here.

Name: Eric Rassbach

Title: Deputy General Counsel

Organization: Becket Fund for Religious Liberty

Address: 1200 New Hampshire Ave.

City, State, Zip: Washington, DC 20036

Phone: 202-955-0095

Facsimile: 202-955-0090

E-mail: erassbach@becketfund.org

Name: Richard Garnett

Title: Professor

Organization: Notre Dame Law School

Address: 3164 Eck Hall of Law

City, State, Zip: Notre Dame, IN 46556

Phone: 574-631-6981

Facsimile: 574-631-8078

E-mail: rgarnett@nd.edu

TO: Michael W. Grebe
President and CEO
The Lynde and Harry Bradley Foundation, Inc.

FROM: Michael W. McConnell

DATE: January 30, 2015

RE: Statement of Nomination - Professor Douglas Laycock

Professor Douglas Laycock is one of the nation's leading scholars and advocates for religious liberty. In the United States Supreme Court, he argued and won three of the most important recent cases vindicating the rights of religious individuals or institutions to exercise their religion without hindrance from governmental regulation. In *Holt v Hobbs*, decided January 20, 2015, the Court unanimously accepted Laycock's argument that a Muslim prisoner must be allowed to wear a half-inch beard, as his religion demands. In *EEOC v Hosanna-Tabor*, the Court accepted his argument that churches have an absolute right to choose, hire, and fire persons who perform a religious function within the institution, even where anti-discrimination laws purport to interfere. In *Church of the Lukumi Babalu Aye v City of Hialeah*, the Court accepted his argument that an ordinance with many exceptions demands strict scrutiny under the Free Exercise Clause. Any scholar or practitioner will identify these three decisions as among the half dozen most important triumphs for religious liberty in recent decades (when there have been more losses than victories).

He has also lead efforts by academics to support state-level protections for religious liberty, which of late have been successfully opposed by advocates of abortion and same-sex marriage.

In addition, Laycock is universally regarded as an outstanding teacher and scholar. He is a leading figure in the law of remedies as well as the First Amendment.

The values of religious liberty championed by Laycock lie at the heart of our constitutional system, and are under increasing threat by militant secularists and other progressives.

CURRICULUM VITAE

DOUGLAS LAYCOCK

University of Virginia Law School
580 Massie Road
Charlottesville, VA 22903
434-243-8546
dlaycock@virginia.edu

1910 Carr's Hill Road
Charlottesville, VA 22903
434-295-1537

Born: April 15, 1948

Robert E. Scott Distinguished Professor of Law
Class of 1963 Research Professor of Law in Honor of Graham C. Lilly and Peter W. Low
Professor of Religious Studies
University of Virginia

Alice McKean Young Regents Chair in Law Emeritus
University of Texas at Austin

J.D. cum laude, University of Chicago, 1973
B.A. with high honor, Michigan State University, The Honors College, 1970

Scholarly Interests

Research: Remedies, Religious Liberty, Constitutional Law.

Current Teaching: Remedies, Religious Liberty, Survey of Civil Liberties.

Past courses: Restitution, Secured Credit, Commercial Transactions, Representing a Major Religious Denomination, Governmental Immunities, Civil Procedure, Conflict of Laws, Employment Discrimination, Legal Research & Writing, Mini-course on Net Present Value.

Selected Honors and Awards

Fellow, American Academy of Arts and Sciences (1997-present).

Second Vice President of the American Law Institute (2008-present); Member of Council (2001-present).

Roger and Madeleine Traynor Faculty Achievement Award, University of Virginia (2013).

International Religious Liberty Award, J. Reuben Clark Law Society (2012)

National First Freedom Award, Center for America's First Freedom (2009).

The Civitatis Award (for a career of "dedicated and meritorious service to the University above and beyond the regular expectations of teaching, research, and writing"), University of Texas at Austin (2005).

ACLU of Texas Civil Libertarian of the Year (2000).

Central Texas Chapter of ACLU, Civil Libertarian of the Year (1995).

Scribes Book Award (1991) (for *The Death of the Irreparable Injury Rule* (1991)).

Selected Lectures

Dunn Scholar in Residence, William & Mary University (to be delivered March 2015).

Annual Lecture, Boston University Department of Religion (to be delivered February 2015).
 Jefferson's Statute for Religious Freedom Lecture, University of Mary Washington (to be delivered January 2015).
 Davis, Markert, Nickerson Lecture on Academic and Intellectual Freedom, University of Michigan (2014).
 G. Rollie White Public Interest Scholar in Residence, University of Texas (2014)
 Keynote Address, Symposium on the 20th Anniversary of the Religious Freedom Restoration Act (Washington, D.C., 2013).
 Robert E. Scott Distinguished Chair Lecture, University of Virginia Law School (2013).
 David C. Baum Memorial Lecture on Civil Liberties and Civil Rights, University of Illinois Law School (2013).
 Constitution Day Lecture, Mercer University Law School (2012).
 Supreme Court Historical Society Lecture, in the Supreme Court courtroom (2011).
 Philip J. McElroy Lecture on Law and Religion, University of Detroit Mercy School of Law (2011).
 Robert T. Miller Professorship Distinguished Lecture, Baylor University (2009).
 Inaugural Donald C. Clark Program-on-Law-and-Religion Lecture, Rutgers-Camden Law School (2009).
 Alpheus T. Mason Lecture, James Madison Program in American Ideals and Institutions, Princeton University (2008)
 Keynote Address, Conference on The Religion Clauses in the 21st Century, West Virginia University College of Law (2007)
 Lives in the Law Visitor, Pepperdine University Law School (2006).
 Sesquicentennial Faculty Lecture, Michigan State University Law School (2005).
 Howard H. Rolapp Legal Theory Scholar, University of Utah Law School (2005).
 Dermot S. McGlinchey Lecture on Federal Litigation, Tulane University Law School (2003).
 Supreme Court Historical Society Lecture, in the courtroom of the Supreme Court (1999).
 Constitutional Law Center Distinguished Speaker Series, Drake University Law School (1999).
 Donald A. Gianella Memorial Lecture, Villanova University Law School (1998).
 Robert T. Miller Professorship Distinguished Lecture, Baylor University (1998).
 Enlund Distinguished Scholar in Residence, DePaul University College of Law (1997).
 George Wythe Lecture, College of William & Mary School of Law (1995).
 William B. Lockhart Lecture, University of Minnesota Law School (1994).
 Sixth Annual Lecture of the Center for Church/State Studies, DePaul University (1990).
 22d Annual Will E. Orgain Lecture, University of Texas School of Law (1989).
 Numerous conference papers and informal presentations omitted.

Employment History

University of Virginia, 2010-present.

Robert E. Scott Distinguished Professor of Law, 2011-present.

Class of 1963 Research Professor in Honor of Graham C. Lilly and Peter W. Low, 2014-present.

Professor of Religious Studies, 2010-present.

Horace W. Goldsmith Research Professor of Law, 2010-13.

Armistead M. Dobie Professor of Law, 2010-11.

University of Michigan, 1990, 2006-10.

Yale Kamisar Collegiate Professor of Law, 2006-10.

Visiting Professor of Law, 1990.

University of Texas at Austin, 1981-present.

Alice McKean Young Regents Chair in Law Emeritus, 2006-present.

Alice McKean Young Regents Chair in Law, 1988–2006.

A. Dalton Cross Professor at Law, 1987–88.

Fulbright & Jaworski Professor of Law, 1984–87.

Thomas Watt Gregory Professor of Law, 1983–84.

Liddell, Sapp, Zivley, Brown & LaBoon Professor of Banking, Financial, Commercial & Corporate Law, 1983–84.

Professor of Law, 1981–83.

Associate Dean for Research, 1991–2006 (mentoring scholarship, especially for junior faculty).

Associate Dean for Academic Affairs, 1985–86.

University of Chicago, 1976–81.

Professor of Law, 1980–81.

Assistant Professor of Law, 1976–80.

Private practice, 1974–76. Solo general practice in Austin, Texas, including complex civil litigation in association with attorneys in Chicago, Illinois.

Law Clerk, Judge Walter Cummings, United States Court of Appeals for Seventh Circuit, 1973–74.

Scholarly Publications

Remedies

Books

Modern American Remedies: Cases and Materials (Concise 4th ed., Aspen 2012) (4th ed., Aspen 2010) (3d ed., Aspen 2002) (2d ed., Little Brown 1994), (1st ed., Little Brown 1985) (with Teacher's Manuals and annual Supplements or Teachers' Updates).

The Death of the Irreparable Injury Rule (Oxford Univ. Press) (1991).

Articles and Review Essays

Restoring Restitution to the Canon, 110 Mich. L. Rev. 929 (2012) (reviewing Restatement (Third) of Restitution and Unjust Enrichment).

The Neglected Defense of Undue Hardship (and the Doctrinal Train Wreck in Boomer v. Atlantic Cement), 4 J. of Tort Law, Issue 3, Article 3 (2012) (symposium), available on Westlaw or at <http://www.degruyter.com/view/j/jtl.2011.4.issue-3/issue-files/jtl.2011.4.issue-3.xml>.

How Remedies Became a Field: A History, 27 Rev. Litigation 161 (2008) (symposium).

Introduction, to Symposium, Remedies: The Bottom Line of Justice, 27 Rev. Litigation 1 (2007).

Choosing Remedies: The Misleading Irreparable Injury Rule, 32 The Advocate 7 (Fall 2005) (symposium).

Due Process of Law in Trilateral Disputes, 77 Iowa L. Rev. 1011 (1993) (symposium).

The Triumph of Equity, 56 L. & Contemp. Probs. No. 3, at 53 (Summer 1993) (symposium).

The Death of the Irreparable Injury Rule, 103 Harv. L. Rev. 687 (1990).
The Remedies Issues: Compensatory Damages, Specific Performance, Punitive Damages, Supersedeas Bonds, and Abstention, 9 Rev. Litigation 473 (1990) (symposium).
The Scope and Significance of Restitution, 67 Tex. L. Rev. 1277 (1989).
Consent Decrees Without Consent: The Rights of Nonconsenting Third Parties, 1987 U. Chi. Legal F. 103 (symposium).
Continuing Violations, Disparate Impact in Compensation, and Other Title VII Issues, 49 L. & Contemp. Probs. No. 4, at 53 (Aut. 1986) (symposium).
Injunctions and the Irreparable Injury Rule, 57 Tex. L. Rev. 1065 (1979) (reviewing Owen M. Fiss, *The Civil Rights Injunction*).
Federal Interference with State Prosecutions: The Cases Dombrowski Forgot, 46 U. Chi. L. Rev. 636 (1979).
Federal Interference with State Prosecutions: The Need for Prospective Relief, 1977 Sup. Ct. Rev. 193.
Civil Rights and Civil Liberties, 54 Chi.-Kent L. Rev. 390 (1977) (parts I and II) (symposium).

Report

Preliminary Report on a Restatement 2d of Restitution: A Report to the Director of the American Law Institute (1987).

Book Review

Review of Edward Yorio, *Contract Enforcement: Specific Performance and Injunctions*, 45 Bus. Lawyer 1377 (1990).

Chapter

Remedies, in 5 Oxford International Encyclopedia of Legal History 125 (Stanley N. Katz ed. 2009).

Religious Liberty

Books

Religious Liberty: Volume I—Overviews and History (Wm. B. Eerdmans 2010).
Religious Liberty: Volume II—The Free Exercise Clause (Wm. B. Eerdmans 2011).
Religious Liberty: Volume III—Religious Liberty Legislation (Wm. B. Eerdmans) (in preparation).
Religious Liberty: Volume IV—The Free Speech and Establishment Clauses (Wm. B. Eerdmans) (in preparation).
Same-Sex Marriage and Religious Liberty: Emerging Conflicts (Rowman & Littlefield 2008) (edited, with Anthony M. Picarello and Robin Fretwell Wilson).

Articles and Review Essays

Religious Liberty and the Culture Wars, 2014 U. Ill. L. Rev. 839 (Baum Lecture).
Imaginary Contradictions: A Reply to Professor Oleske, 67 Vand. L. Rev. En Banc 89 (2014).
Protecting Same-Sex Marriage and Religious Liberty, 99 Va. L. Rev. Online 1 (2013) (with Thomas C. Berg).
Edward Schempp and His Family, 38 J. Sup. Ct. History 63 (2013) (Supreme Court History Lecture).
RLUIPA: Necessary, Modest, and Under-Enforced, 39 Fordham Urb. L.J. 1021 (2012) (with Luke Goodrich) (symposium).

Hosanna-Tabor and the Ministerial Exception, 35 Harv. J.L. & Pub. Pol'y 839 (2012) (symposium).

Sex, Atheism, and the Free Exercise of Religion, 88 U. Det. Mercy L. Rev. 407 (2011) (McElroy Lecture).

Government-Sponsored Religious Displays: Transparent Rationalizations and Expedient Post-Modernism, 61 Case W. Res. L. Rev. 1211 (2011) (symposium).

Reviews of a Lifetime, 89 Tex. L. Rev. 949 (2011) (symposium).

Conference Introduction: American Religious Liberty, French Laïcité, and the Veil, 49 J. Cath. Legal Stud. 21 (2010) (symposium).

A Conscripted Prophet's Guesses about the Future of Religious Liberty in America, 2010 Fides et Libertas 62 (symposium) (reprinted in 2011 Conscience and Liberty 25).

The Religious Exemptions Debate, 11 Rutgers J.L. & Religion 139 (2009), available on Westlaw and at http://lawandreligion.com/sites/lawandreligion.com/files/Douglas%20Laycock_1.pdf (Clark Lecture).

Church Autonomy Revisited, 7 Geo. J.L. & Pub Pol'y 253 (2009) (symposium).

Why the Supreme Court Changed Its Mind About Government Aid to Religious Institutions: It's a Lot More Than Just Republican Appointments, 2008 BYU L. Rev. 275 (symposium).

High-Value Speech and the Basic Educational Mission of a Public School: Some Preliminary Thoughts, 12 Lewis & Clark L. Rev. 111 (2008) (symposium).

Substantive Neutrality Revisited, 110 W. Va. L. Rev. 51 (2007) (keynote address).

God vs. the Gavel: A Brief Rejoinder, 105 Mich. L. Rev. 1545 (2007).

A Syllabus of Errors, 105 Mich. L. Rev. 1169 (2007) (reviewing Marci Hamilton, *God vs. the Gavel*).

Regulatory Exemptions of Religious Behavior and the Original Understanding of the Establishment Clause, 81 Notre Dame L. Rev. 1793 (2006) (symposium).

Church and State in the United States: Competing Conceptions and Historic Changes, 13 Ind. J. Global Legal Stud. 503 (2006) (symposium).

Religious Liberty in America: A Rapid-Fire Overview, 33 Human Rights 3 (No. 3, Summer 2006) (symposium).

Roundtable Discussion: Religious Organizations Filing for Bankruptcy, 13 Am. Bankr. Inst. L. Rev. 25 (2005) (with others).

Theology Scholarships, The Pledge of Allegiance, and Religious Liberty: Avoiding the Extremes but Missing the Liberty, 118 Harv. L. Rev. 156 (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) (with Thomas C. Berg) (symposium).

The Many Meanings of Separation, 70 U. Chi. L. Rev. 1667 (2003) (reviewing Philip Hamburger, *Separation of Church and State*).

Religion in the Workplace: Proceedings of the 2000 Annual Meeting of the Association of American Law Schools Section on Law and Religion, 4 Employee Rights & Employment Pol'y J. 87 (2000) (with others).

The Supreme Court and Religious Liberty, 40 Cath. Law. 25 (2000).

Debate 2: Should the Government Provide Financial Support for Religious Institutions That Offer Faith-Based Social Services, 1 Rutgers J.L. & Religion No. 1 (2000), available at <http://lawandreligion.com/sites/lawandreligion.com/files/Pollacketal.pdf> (with others).

State RFRAs and Land Use Regulation, 32 U.C. Davis L. Rev. 755 (1999) (symposium) (reprinted in Deborah Mans, ed., *2000 Zoning and Planning Law Handbook* 655 (West 2000)).

Conceptual Gulfs in City of Boerne v. Flores, 39 Wm. & Mary L. Rev. 743 (1998) (symposium) (derived from Wythe Lecture).

Religious Freedom and International Human Rights in the United States Today, 12 Emory Int'l L. Rev. 951 (1998) (symposium).

Round Table Discussion on International Human Rights Standards in the United States: The Case of Religion or Belief, 12 Emory Int'l L. Rev. 973 (1998) (with others).

The Underlying Unity of Separation and Neutrality, 46 Emory L.J. 43 (1997) (symposium).

Religious Liberty as Liberty, 7 J. Contemp. Legal Issues 313 (1996) (symposium).

Freedom of Speech That Is Both Religious and Political, 29 U.C. Davis L. Rev. 793 (1996) (symposium).

Continuity and Change in the Threat to Religious Liberty: The Reformation Model in the Late Twentieth Century, 80 Minn. L. Rev. 1047 (1996) (Lockhart Lecture).

Academic Freedom, Religious Commitment, and Religious Integrity, 78 Marquette L. Rev. 297 (1995) (symposium).

RFRA, Congress, and the Ratchet, 56 Mont. L. Rev. 145 (1995) (symposium).

Interpreting the Religious Freedom Restoration Act, 73 Tex. L. Rev. 209 (1994) (with Oliver Thomas).

Free Exercise and the Religious Freedom Restoration Act, 62 Fordham L. Rev. 883 (1994) (lecture).

The Religious Freedom Restoration Act, 1993 B.Y.U. L. Rev. 221 (symposium).

The Rights of Religious Academic Communities, 20 J. College & Univ. L. 15 (1993) (symposium).

The Benefits of the Establishment Clause, 42 DePaul L. Rev. 373 (1992) (symposium).

Summary and Synthesis: The Crisis in Religious Liberty, 60 Geo. Wash. L. Rev. 841 (1992) (symposium).

"Noncoercive" Support for Religion: Another False Claim About the Establishment Clause, 26 Val. U. L. Rev. 37 (1992) (symposium).

The Remnants of Free Exercise, 1990 Sup. Ct. Rev. 1.

Formal, Substantive, and Disaggregated Neutrality Toward Religion, 39 DePaul L. Rev. 993 (1990) (Center for Church/State Studies Lecture).

Text, Intent, and the Religion Clauses, 4 Notre Dame J.L. Ethics & Pub. Pol'y 683 (1990) (symposium).

The Supreme Court's Assault on Free Exercise, and the Amicus Brief that Was Never Filed, 8 J. L. & Religion 99 (1990) (symposium).

Academic Freedom and the Free Exercise of Religion, 66 Tex. L. Rev. 1455 (1988) (with Susan Waelbroeck) (symposium).

Equal Access and Moments of Silence: The Equal Status of Religious Speech by Private Speakers, 81 Nw. U.L. Rev. 1 (1986) (symposium).

"Nonpreferential" Aid to Religion: A False Claim About Original Intent, 27 Wm. & Mary L. Rev. 875 (1986) (symposium).

A Survey of Religious Liberty in the United States, 47 Ohio St. L.J. 409 (1986) (symposium).

Tax Exemptions for Racially Discriminatory Religious Schools, 60 Tex. L. Rev. 259 (1982).

Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy, 81 Colum. L. Rev. 1373 (1981).

Civil Rights and Civil Liberties, 54 Chi.-Kent L. Rev. 390 (1977) (part III) (symposium).

Report

God Alone Is Lord of the Conscience: Policy Statement and Recommendations Regarding Religious Liberty (Presbyterian Church (U.S.A.)) (1989) (with Committee on Religious Liberty and Church/State Relations) (reprinted in 8 J. L. & Religion 331 (1990)).

Chapters

Same-Sex Marriage and Religious Liberty, in Cole Durham, ed., *Religion and Equality: Law in Conflict* (Ashgate, forthcoming 2014).

Afterword, in Douglas Laycock, Anthony R. Picarello, Jr., and Robin Fretwell Wilson, eds., *Same-Sex Marriage and Religious Liberty: Emerging Conflicts* 189 (Rowman & Littlefield 2008).

Employment in Religious Organizations, in James A. Serritella et al., ed., *Religious Organizations in the United States: A Study of Identity, Liberty, and the Law* 527 (Carolina Academic Press 2006) (with Patrick Schiltz).

La Religion et l'État aux États-Unis: Affrontement des Théories et Changements Historiques, in Elisabeth Zoller, ed., *La Conception Américaine de la Laïcité* (Daloz 2005).

Zoning, in Catharine Cookson, ed., *Encyclopedia of Religious Freedom* (Routledge 2003) (with Thomas C. Berg).

Theories of Interpretation: Free Exercise and Establishment Clause: General in Paul Finkelman, ed., *Religion and American Law: An Encyclopedia* 516 (Garland Publishing, Inc. 2000).

Supreme Court Review, in United States Catholic Conference, *Proceedings of the Thirty-Fourth National Meeting of Diocesan Attorneys* 5 (1998).

Original Intent and the Constitution Today, in James E. Wood, ed., *The First Freedom: Religion and the Bill of Rights* 87 (J.M. Dawson Institute of Church State Studies 1990).

Tort Liability, Spiritual Counseling, and the First Amendment, in Am. Bar Ass'n, *Tort and Religion* 23 (1989).

The Right to Church Autonomy as Part of Free Exercise of Religion, in Dean M. Kelley, ed., *Government Intervention in Religious Affairs II*, at 28 (Pilgrim Press 1986).

Book Reviews

Book Note, 44 Pol. Stud. 1015 (1996) (reviewing Jesse Choper, *Securing Religious Liberty: Principles for Judicial Interpretation of the Religion Clauses*).

Book Note, 31 J. Church & State 303 (1989) (reviewing Mark Tushnet, *Red, White, and Blue: A Critical Analysis of Constitutional Law*).

Responding to the Nonpreferentialists, 4 J. L. & Religion 241 (1986) (reviewing Thomas Curry, *The First Freedoms*, and Leonard Levy, *The Establishment Clause*).

Other Constitutional Law

Articles and Review Essays

Voting with Your Feet Is No Substitute for Constitutional Rights, 32 Harv. J.L. & Pub. Pol'y 29 (2009) (symposium).

The Clear and Present Danger Test, 25 J. Sup. Ct. Hist. Soc'y 161 (2000) (Supreme Court History Lecture).

Federalism as a Structural Threat to Liberty, 23 Harv. J. L. Pub. Pol'y 67 (1999) (symposium).

Individual Liberty and Constitutional Architecture: The Founders' Prompt Correction of Their Own Mistake, 16 Harv. J. L. Pub. Pol'y 75 (1993) (symposium).

Equal Citizens of Equal and Territorial States: The Constitutional Foundations of Choice of Law, 92 Colum. L. Rev. 249 (1992) (Orgain Lecture).
Vicious Stereotypes in Polite Society, 8 Const. Commentary 395 (1991).
Notes on the Role of Judicial Review, the Expansion of Federal Power, and the Structure of Constitutional Rights, 99 Yale L.J. 1711 (1990) (reviewing Robert Nagel, *Constitutional Cultures*).
Equality and the Citizens of Sister States, 15 Fla. St. L. Rev. 431 (1987) (symposium).
Constitutional Theory Matters, 65 Tex. L. Rev. 767 (1987) (symposium).
The Ultimate Unity of Rights and Utilities, 64 Tex. L. Rev. 407 (1985).
Due Process and Separation of Powers: The Effort to Make the Due Process Clauses Nonjusticiable, 60 Tex. L. Rev. 875 (1982).
Taking Constitutions Seriously: A Theory of Judicial Review, 59 Tex. L. Rev. 343 (1981) (reviewing John Hart Ely, *Democracy and Distrust*).

Chapters

Protecting Liberty in a Federal System: The US Experience, in Jörg Fedtke & Basil S. Markesinis, eds., *Patterns of Federalism and Regionalism: Lessons for the UK* 119 (Hart Publishing 2006).

Report

Report of the Task Force on Assembly and Expression (University of Texas at Austin 2003).

Book Review

Review of Robert H. Bork, *The Tempting of America* (1990), 101 Ethics 661 (1991).

Discrimination

Articles

The Broader Case for Affirmative Action: Desegregation, Academic Excellence, and Future Leadership, 78 Tulane L. Rev. 1767 (2004).
Statistical Proof and Theories of Discrimination, 49 L. & Contemp. Probs. No. 4, at 97 (Autumn 1986) (symposium).
The Efficient Use of Group Averages as Nondiscrimination: A Rejoinder to Professor Benston, 50 U. Chi. L. Rev. 222 (1983) (with Lea Brilmayer & Teresa Sullivan).
Sex Discrimination as "Actuarial Equality": A Rejoinder to Kimball, 1981 A.B.F. Res. J. 221 (with Teresa Sullivan).
Sex Discrimination in Employer-Sponsored Insurance Plans: A Legal and Demographic Analysis, 47 U. Chi. L. Rev. 505 (1980) (with Lea Brilmayer, Richard Hekeler, & Teresa A. Sullivan).

Chapters etc.

Desegregation, Affirmative Action, and the Ten-Percent Law, in Richard A. Holland, ed., *The Texas Book: Profiles, History, and Reminiscences of the University* (Univ. of Texas Press 2006).
Introduction, in Kumar Percy, comp., 1 Hopwood v. Texas Litigation Documents, Part 1: Trial in the Federal District Court for the Western District of Texas (1992–1994) xv (William S. Hein & Co. 2002).

Legal Education

Short Articles and Reviews

Introduction: International Litigation Symposium Honoring the Distinguished Career of Professor Russell J. Weintraub, 38 Tex. Int'l L.J. 1 (2003).
Charles Alan Wright and The University of Texas School of Law, 32 Tex. Int'l L.J. 367 (1997) (symposium).
That and Which, 2 Scribes J. Legal Writing 37 (1991).
Why the First-Year Legal Writing Course Cannot Do Much About Bad Legal Writing, 1 Scribes J. Legal Writing 84 (1990).
The Maroonbook v. The Bluebook: A Comparative Review, 1 Scribes J. Legal Writing 181 (1990).
Reflections on Two Themes: Teaching Religious Liberty and Evolutionary Changes in Casebooks, 101 Harv. L. Rev. 1642 (1988) (reviewing John T. Noonan, *Believers and the Powers That Are*).
A Case Study in Pedagogical Neglect, 92 Yale L.J. 188 (1982) (book review).

Civil Procedure

Article

Dispositive Pre-Trial Motions in Illinois—Sections 45, 48, and 57 of the Civil Practice Act, 9 Loy. U. Chi. L.J. 823 (1978).

Other Publications

Numerous short articles, reports, columns, letters, and congressional testimony omitted.

Other Professional Activities

Religious Liberty

Appellate litigation for religious and civil liberties organizations (see below).
Congressional testimony and other legislative work on religious liberty issues.
Editorial Board, *Ecclesiastical Law Journal*, 2009-present
Board of Advisors, Becket Fund for Religious Liberty, 2003-present.
Fellow, Int'l Academy for Freedom of Religion and Belief, 1991-present.
Editorial Board, *Journal of Church and State*, 1990–present.
Board Member, Foundation for Religious Studies, University of Texas at Austin, 2000–07.
Board of Advisors, *Religious Freedom Reporter*, 1989–2001.
Board of Advisors, J.M. Dawson Institute of Church-State Studies, Baylor Univ., 1990–95.
Advisory Comm. on Religious Liberties and Church-State Relations, Presbyterian Church (U.S.A.), 1983–88.
Executive Board, Center for Church/State Studies, DePaul Univ., 1982–87.

Remedies and General

Board of Trustees, Michigan State University College of Law, 2010-present.
Member, American Law Institute, 1983-present; Council, 2001-present; Exec. Comm. of Council, 2002-present; Program Committee 2013-present; Comm. on Governance, 2007-13; Second Vice President, 2008-present. Preliminary work on Restatement of Remedies; Advisor, Restatement (Second) of Restitution, 1984–85; Adviser, Restatement (Third) of Restitution and Unjust Enrichment, 1997-2011.

Ass'n of American Law Schools, Chair, Planning Committee for Workshop on Remedies, 2006;
Chair, Section on Remedies 1984, 1989; Chair, Section on Constitutional Law 2001.
Consultant on remedies issues to practicing attorneys; occasional appellate litigation.

Selected Litigation

Representing Parties

Holt v. Hobbs, 135 S. Ct. 853 (2015) (representing RLUIPA plaintiff).
Town of Greece v. Galloway, 134 S. Ct. 1811 (2014) (representing Establishment Clause plaintiffs).
Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC, 132 S. Ct. 694 (2012) (representing church).
Santa Fe Independent School District v. Doe, 530 U.S. 290 (2000) (representing Establishment Clause plaintiffs).
City of Boerne v. Flores, 521 U.S. 507 (1997) (representing Archbishop Flores).
Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520 (1993) (representing church).
Warner v. City of Boca Raton, 267 F.3d 1223 (11th Cir. 2001) (representing Florida RFRA plaintiffs).
Hopwood v. Texas, 236 F.3d 256 (5th Cir. 2000), *cert. denied*, 533 U.S. 929 (2001) (representing affirmative-action defendants).
In re Young, 82 F.3d 1407 (8th Cir. 1996), *vacated as Christians v. Crystal Evangelical Free Church*, 521 U.S. 1114 (1997), *on remand*, 141 F.3d 854 (8th Cir.), *cert. denied*, 525 U.S. 811 (1998) (representing church).
Warner v. City of Boca Raton, 887 So.2d 1023 (Fla. 2004) (representing Florida RFRA plaintiffs).
United States Catholic Conference v. Ashby (Tex. 1996) (representing Conference in mandamus proceedings arising out of sexual abuse litigation; no reported orders because plaintiffs abandoned their claims when court granted oral argument).
Cedar Bayou Baptist Church v. Gregory-Edwards, Inc., 987 S.W.2d 156 (Tex. Ct. App. 1999) (representing church).

Representing Amici Curiae

Burwell v. Hobby Lobby Stores, Inc., 134 S. Ct. 2751 (2014) (supporting RFRA plaintiffs).
Petrella v. Metro-Goldwyn-Mayer, Inc., 134 S. Ct. 1962 (2014) (supporting neither side on a laches issue).
United States v. Windsor, 133 S. Ct. 2675 (2013) (supporting same-sex couples and right to religious exemptions after marriage equality established).
Hollingsworth v. Perry, 133 S. Ct. 2652 (2013) (taking same position as in *United States v. Windsor*).
First American Financial Corp. v. Edwards, 132 S. Ct. 2536 (2012) (supporting plaintiff with statutory claim modeled on law of restitution).
Christian Legal Society v. Martinez, 130 S. Ct. 2971 (2010) (supporting CLS).
Salazar v. Buono, 559 U.S. 700 (2010) (supporting Establishment Clause plaintiff).
Morse v. Frederick, 551 U.S. 393 (2007) (supporting Free Speech Clause plaintiff).
Old Stone Corp. v. United States, 549 U.S. 1279 (2007) (supporting restitution plaintiff's petition for certiorari).

Gonzales v. O Centro Espirita Beneficiente Uniao do Vegetal, 546 U.S. 418 (2006) (supporting church; coordinated all amicus briefs).
Van Orden v. Perry, 545 U.S. 677 (2005) (supporting Establishment Clause plaintiff).
McCreary County v. ACLU, 545 U.S. 844 (2005) (supporting ACLU).
Cutter v. Wilkinson, 544 U.S. 709 (2005) (supporting RLUIPA plaintiffs).
Elk Grove Unified School District v. Newdow, 542 U.S. 1 (2004) (supporting Establishment Clause plaintiff).
Grutter v. Bollinger, 539 U.S. 306 (2003) (supporting affirmative-action defendant).
Good News Club v. Milford Central School District, 533 U.S. 98 (2001) (supporting Free Speech Clause plaintiff).
Rosenberger v. Rector & Visitors of the University of Virginia, 515 U.S. 819 (1995) (supporting Free Speech Clause plaintiffs).
Board of Education v. Grumet, 512 U.S. 687 (1994) (supporting Establishment Clause plaintiffs).
Lee v. Weisman, 505 U.S. 577 (1992) (supporting Establishment Clause plaintiffs).
International Society of Krishna Consciousness v. George, 499 U.S. 914 (1991) (supporting ISKCON).
Board of Education v. Mergens, 496 U.S. 226 (1990) (supporting Equal Access Act plaintiffs).
Jimmy Swaggart Ministries v. Board of Equalization, 493 U.S. 378 (1990) (supporting Ministries).
Ansonia Board of Education v. Philbrook, 479 U.S. 60 (1986) (supporting Title VII plaintiff).

Stormans, Inc. v. Selecky, No. 12-35221 in Ninth Circuit (supporting free-exercise plaintiff).
Adler v. Duval County School Board, 206 F.3d 1070 (11th Cir. 2000), *vacated*, 531 U.S. 81 (2000) (supporting neither side).
Smith v. Travis County Education District, 968 F.2d 453 (5th Cir. 1992) (supporting District).
Mozert v. Hawkins County Public Schools, 827 F.2d 1058 (6th Cir. 1987) (supporting Free Exercise Clause plaintiffs).

Miga v. Jensen, 299 S.W.3d 98 (Tex. 2009) (supporting restitution plaintiff)
Barr v. City of Sinton, 295 S.W.3d 287 (Tex. 2009) (supporting Texas RFRA plaintiff)
DiGiuseppe v. Lawler, 269 S.W.3d 588 (Tex. 2008) (supporting specific-performance plaintiff).
HEB Ministries, Inc. v. Texas Higher Education Coordinating Board, 235 S.W.3d 627 (Tex. 2007) (supporting Ministries).
Southwestern Electric Power Co. v. Burlington Northern R.R., 966 S.W.2d 467 (Tex. 1998) (supporting restitution plaintiff).
Weaver v. Wood, 680 N.E.2d 918 (Mass. 1997) (supporting defendant members of church governing board).
Nally v. Grace Community Church, 763 P.2d 948 (Cal. 1988) (supporting church).
People v. Pinkney, 2009 WL 2032030 (Mich. Ct. App. 2009) (supporting criminal defendant).
Strayhorn v. Ethical Society, 110 S.W.3d 458 (Tex. Ct. App. 2003), *review denied* (Tex. 2004) (supporting Society).

Contributions to briefs principally authored by others omitted.

Selected University Administration

University of Texas

The Civitatis Award (for a career of “dedicated and meritorious service to the University above and beyond the regular expectations of teaching, research, and writing”) (2005).

Member, Presidential Search Committee, 2005.

Chair, Task Force on Assembly and Expression, 2001–03.

Chair, Consultative Committee on Selection of Executive Vice President & Provost, 1993–94.

Chair, Consultative Committee on Selection of Dean of Law School, 1994–95.

Chair, Committee of Counsel on Academic Freedom and Responsibility, 1993–96.

Chair, Faculty Welfare Committee, 1990–92.

Other committee memberships omitted.

University of Texas Law School

Associate Dean for Research, 1991–2006.

Co-chair, Law School Task Force on Needs and Goals, 1999.

Chair, Budget Advisory Committee, 1986–88.

Associate Dean for Academic Affairs, 1985–86.

Chair, Appointments Committee, 1982–83, 1984–85.

Numerous committee memberships at Virginia, Michigan, Texas, and Chicago omitted.

Other

Member, Committee W on the Status of Women in the Academic Profession, American Association of University Professors, 1982–85.

Bar and Practice Activities

Admitted to practice in the Supreme Courts of Illinois, Michigan, Texas, and the United States, and in the United States Courts of Appeals for the Third, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits.

Canons of Judicial Ethics Advisory Committee, Supreme Court of Texas, 2005.

Judicial Speech Advisory Committee, Supreme Court of Texas, 2002.

Faculty Coordinator, The Public Interest Law Internship, 1978–80.

Reporter, Illinois Judicial Conf. Comm. on Motion Practice, 1977–78.

Vice President, Chicago Council of Lawyers, 1977–78.

Selected Community Service

St. Francis School, Austin, Texas: Vice President 1990–92, President 1992–2001, Director 1990-present. Helped lead this independent school through emergency relocation after abrupt cancellation of lease and through ensuing period of rapid growth.