

Curriculum Vitae of Edward McGlynn Gaffney, Jr.

Personal: Married to Áine O'Healy; three daughters: Mairéad, Elizabeth, Déirdre

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Education: Harvard Law School, LL.M. (1976; Diss.: "Justice Brennan and the Fourth Amendment"); Catholic University of America, M.A. in History (1975), J.D. (1974); Gregorian University (Rome), 1967, S.T.L., 1965, S.T.B.; St. Patrick's College (Menlo Park, CA), 1963, B.A. (Philosophy major).

Bar Memberships: California Supreme Court, District of Columbia Court of Appeals, United States Supreme Court; U.S. Court of Appeals for the D.C. Cir., 2d Cir., 5th Cir., 6th Cir., 7th Cir., 9th Cir., and 11th Cir.; United States District Courts: N.D. Ind., S.D. Ind., C.D. Calif.

Employment History: 1990-present: Professor of Law, Valparaiso University School of Law (Dean, 1990-97); 2000-01: Director of Content, National Constitution Center, Philadelphia; 2000-01: Adjunct Professor, University of Pennsylvania Law School; 2002-03: Straus Distinguished Visiting Professor, Pepperdine University School of Law; 1997-98: Visiting Scholar, Pepperdine University School of Law; 1989-90: Visiting Scholar, Stanford Law School; 1983-89: Associate Professor of Law, Loyola Law School, Los Angeles; 1977-83: Assoc. Dir., and Dir., Center for Constitutional Studies, Notre Dame Law School; 1976-77: Office of Policy and Planning (Attorneys General Edward Levi and Griffin Bell), U.S. Department of Justice.

Courses taught: Appellate Advocacy, Ethics (1Ls), Constitutional History, Constitutional Law, Communications Law, Comparative Law (English Legal Institutions), Criminal Law and Procedure, International Law and the Use of Force, International Humanitarian Law and Genocide, Jurisprudence, Legal History, Legal Profession, Media Law, Religious Freedom, Remedies, School Law.

Public Service: 1993-2000: Columnist, *Commonweal*; 1992-2008: Catholic Worker House of Hospitality, Los Angeles; 1992-98: Board of Directors, Christian Legal Society; 1982-2001: Board of Editors and Book Review Editor, *Journal of Law and Religion*; 1979-2001; Chair, AALS Section on Law and Education; 1979-81: Chair, AALS Section on Law and Religion, 1979-1981; 1980-2001: Scholars' Group, Center for Church-State Studies, De Paul University College of Law; Fellow, International Academy of Church-State Scholars; served on Ph.D. Committees, Graduate Theological Union, Berkeley, and Notre Dame University; extensive *pro bono* involvement (see litigation experience); advisory panel, National Association of College and University Attorneys.

Honors: Spring 1999: Visiting Scholar, Marquette Law School; Spring 1998: Rockefeller Foundation Fellow, Villa Serbelloni, Bellagio, Italy; October 1995, keynote speaker to first conference of Bishops and Chancellors (legal counsel) of the United Methodist Church; October 1994, Indiana State Bar Association, Award for Leadership Role in Celebration of 100 Years of Women in the Law; November 1993, invited by President Clinton to White House for signing of Religious Freedom Restoration Act; November 1993, delivered the Tenth Annual Seton-Neumann Lecture sponsored by the United States Catholic Conference; December 1990, received "Champion of Justice Award" from the American Forum for Jewish-Christian Cooperation for *pro bono* work protecting religious freedom; June 1988, Education consultant and signer, Williamsburg Charter on Religion and Public Life in America; 1988, Order of the Coif, Loyola Law School; elected to American Law Institute in 1980.

Work in Progress:

SHOULD CHURCHES BE TAXED? THE EXEMPTION AND REGULATION OF RELIGIOUS BODIES IN AMERICA (contract with Oxford University Press, six chapters complete)

WAR AND PEACE: HISTORY, MORAL REASONING, AND INTERNATIONAL LAW ON THE USE OF FORCE (co-editor with Gerard Powers) (for submission to Foundation Press, University Casebook Series; and Aspen Press)

THE STRANGER AND THE NEIGHBOR: BIBLICAL NARRATIVES ON ALIENATION, MIGRATION, AND HOSPITALITY
(for submission to Oxford University Press)

Published Books:

RELIGIOUS ORGANIZATIONS IN THE UNITED STATES: A STUDY OF LIBERTY, IDENTITY, AND THE LAW (Carolina Academic Press, 2006) (co-editor and contributor)

RELIGIOUS FREEDOM: HISTORY, CASES AND OTHER MATERIALS ON THE INTERACTION OF RELIGION AND GOVERNMENT (co-authored with John T. Noonan, Jr.; Foundation Press, 2001 and Supp. 2004; 2d ed. 2009)

Biblical Law, Jewish Law, and Jewish Ethics and Political Theory Special issue: 17 J. L. & RELIG. 1-459 (2002);

Religion and Public Life in America Guest Editor of Special Issue: 16 J. LAW AND RELIG. (2001)

Islamic Law, Co-Guest Editor of Special Issue: 15 J. LAW AND RELIG. (2001)

The Williamsburg Charter and Religion in Public Life, Guest Editor of Special Issue : 10 J. LAW & RELIG. (1990)

ASCENDING LIABILITY IN RELIGIOUS AND OTHER NONPROFIT ORGANIZATION (Mercer University Press, 1984) (co-author with Philip C. Sorensen)

STATE AND CAMPUS: STATE REGULATION OF RELIGIOUSLY AFFILIATED HIGHER EDUCATION (University of Notre Dame Press, 1984) (co-author with Fernand N. Dutile)

GOVERNMENT AND CAMPUS: FEDERAL REGULATION OF RELIGIOUSLY AFFILIATED HIGHER EDUCATION (University of Notre Dame Press, 1984) (co-author with Philip R. Moots)

PRIVATE SCHOOLS AND THE PUBLIC GOOD: POLICY ALTERNATIVES FOR THE EIGHTIES (University of Notre Dame Press, 1981) (editor)

CHURCH AND CAMPUS: LEGAL ISSUES IN RELIGIOUSLY AFFILIATED HIGHER EDUCATION (University of Notre Dame Press, 1979) (co-author with Philip R. Moots)

Documentary Films:

Holy Land: Common Ground (92 min., 2007) (Producer/Director; Alicia Dwyer, Co-Director/Editor); Israelis and Palestinians who refuse to be enemies of the other and who engage in extraordinary acts of compassion for the other.

Empty Boxcars: Murder and Rescue of Bulgaria's Jews in World War II (56 minutes, 2008) (Producer/Director); the 1943 rescue of over 50,000 Bulgarian Jews from deportation to the Nazi killing center in Treblinka, and the Bulgarian roundup and transportation of 11,353 Jews from Bulgarian-occupied territories of Thrace and Macedonia to Treblinka.

Invited Lectures:

“Let there be darkness – and it was dark’: International Humanitarian Law, Civil Society, and the Dedevelopment of Gaza,” Conference on Poverty and the Law, Valparaiso Univ. School of Law (April 2-3, 2008)

“The Stranger and the Neighbor: Biblical reflections on the Duty of Hospitality,” Conference on Hospitality, Univ, of Notre Dame (April 2006)

“Dual Narratives and Tribal Narratives: To Teach Contempt or Cooperation?” International Conference for Education for Peace and Democracy, Tantur Ecumenical Institute (Jerusalem, January. 2-6, 2008) sponsored by the Israeli-Palestinian Center for Research and Information; Al-Yamama College (Riyadh, KSA) (March 12, 2008)

“Learning from Others about Respect for Others,” International Conference for Education for Peace and Democracy Antalya, Turkey (November 19-23, 2006) sponsored by the Israeli-Palestinian Center for research and Information

“Homes and Homelands: Destruction and Construction of Peace in Israel and Palestine,” Sabeel Conferences, Berkeley, CA (August 2007); Kansas City, KS (October, 2006), Portland, OR (August, 2006)

“On Gaining the Whole World: The Difference between Moral and Fiscal Bankruptcy,” (Seton Hall University Law School, November 2005)

“The Abuse of Clio: The Difference between Toleration and Full and Free Exercise of Religion,” (University of Pennsylvania Law School, March, 2005)

“I Am Joseph, Your Brother’: Roncalli and Christian Hatred and Love for Jews,” (Pope John XXIII Lecture) Catholic University of America Law School (April, 2004)

Articles and Chapters in Books:

Several articles on distinguished American judges in *ENCYCLOPEDIA JUDAICA* (Michael Berenbaum ed.; 2d ed. 2007)

“On Giants and Shepherds,” 41 *VAL. U. L. REV.* 1043 (2007)

“Exemption of Religious Organizations from Federal Taxation,” in *RELIGIOUS ORGANIZATIONS IN THE UNITED STATES: A STUDY OF LIBERTY, IDENTITY, AND THE LAW*, edited by James Serritella, Thomas Berg, Cole Durham, Edward Gaffney, and Craig Mousin (Carolina Academic Press, 2006)

“Exemption of Religious Organizations from State and Local Taxation,” in *RELIGIOUS ORGANIZATIONS IN THE UNITED STATES: A STUDY OF LIBERTY, IDENTITY, AND THE LAW*, edited by James Serritella, Thomas Berg, Cole Durham, Edward Gaffney, and Craig Mousin (Carolina Acad. Press, 2006)

“Full and Free Exercise of Religion,” in *RELIGIOUS ORGANIZATIONS IN THE UNITED STATES: A STUDY OF LIBERTY, IDENTITY, AND THE LAW*, edited by James Serritella, Thomas Berg, Cole Durham, Edward Gaffney, and Craig Mousin (Carolina Acad. Press, 2006)

“In Praise of a Valiant Woman,” 19 *J. LAW & RELIG.*(2004)

“Curious Chiasma: Rising and Falling Protection of Religious Freedom and Gender Equality,” 4 *U. PA. J. CONST. L.* 394 (2002)

“*Pierce* and Parental Liberty as a Core Value in Educational Policy,” 78 *U. DETROIT MERCY L. REV.* 491 (2001)

“Religious Autonomy and the Exemption of Religious Organizations from Federal Taxation in the United States,” in Gerhard Robbers, ed., *CHURCH AUTONOMY: A COMPARATIVE SURVEY* 179-249 (Frankfurt: Peter Lang, 2001)

“Bulgaria and the Holocaust,” in *THE HOLOCAUST AND THE CHRISTIAN WORLD: REFLECTIONS ON THE PAST, CHALLENGES FOR THE FUTURE*, edited by Carol Rittner, Stephen D. Smith, and Irena Steinfeldt (London: Kuperard, 2000)

“Tales of Two Cities: Canon Law and Constitutional Law at the Crossroads,” 25 *J. COLLEGE. & UNIV. L.* 801 (1999)

“Free Exercise of Religion,” in *ENCYCLOPEDIA OF THE CONSTITUTION*, edited by Roger K. Newman (Macmillan, 1998)

“The Principled Resignation of Thomas More,” 31 *LOYOLA OF L.A. L. REV.* 63 (1997)

“Foreword: On Ending the War on Drugs,” 31 *VALPARAISO UNIV. L. REV.* v (1997)

“Quietism and Pacifism in American Public Policy: The Triumph of Secular Pacifism in the Religious State,” in WAR AND ITS DISCONTENTS, edited by J. Patout Burns (Georgetown University Press, 1996)

“The Challenge of Peace in an Age of Desert Storm Troopers,” in RADICAL CHRISTIAN AND EXEMPLARY LAWYER: HONORING WILLIAM STRINGFELLOW, edited by Andrew McThenia (Eerdmans, 1995)

“The Waco Tragedy: Constitutional Concerns and Policy Perspectives,” in ARMAGEDDON IN WACO: CRITICAL PERSPECTIVES ON THE BRANCH DAVIDIAN CONFLICT, edited by Stuart Wright (University of Chicago Press, 1995)

“The Importance of Dissent and the Imperative of Judicial Civility,” 28 VALPARAISO UNIV. L. REV. 583 (1994)

“In Praise of a Gentle Soul,” 10 J. LAW & RELIG. 279 (1994)

“Charles R. Gromley, In Memoriam,” 27 VALPARAISO UNIV. L. REV. xii (1993)

“The Religion Clause: A Double Guarantee of Religious Liberty,” 1993 BRIGHAM YOUNG UNIV. L. REV. 189

“Hostility to Religion, American Style,” 42 DEPAUL L. REV. 263 (1992)

“Foreword: The Bill of Rights Yesterday and Today,” 26 VALPARAISO UNIV. L. REV. i (1991)

“Governmental Definition of Religion: The Rise and Fall of the IRS Regulations on an `Integrated Auxiliary of a Church,’” 25 VALPARAISO UNIV. L. REV. 203 (1991)

“On Not Rendering to Caesar: The Unconstitutionality of Tax Regulation of Activities of Religious Organizations Relating to Politics,” 40 DEPAUL L. REV. 1 (1990)

“Politics Without Brackets on Religious Convictions: Michael Perry and Bruce Ackerman on Neutrality,” 64 TULANE L. REV. 1143 (1990)

“The Williamsburg Charter: A Compact for Peace with Diversity,” 8 J. LAW & RELIG. 223 (1990)

“Religion and Public Life: Comments on the Williamsburg Charter Survey,” 8 J. LAW & RELIG. 279 (1990)

“Religious Freedom in America: Reflections by Muslims and Roman Catholics,” 8 J. LAW & RELIG. 319 (1990)

“Biblical Law and the First Year Curriculum of American Legal Education,” 4 J. LAW & RELIG. 63 (1986)

“Of Covenants Ancient and New: The Influence of Secular Law on Biblical Religion,” 2 J. LAW & RELIG. 117 (1984)

“Biblical Religion and American Politics: Some Historical and Theological Reflections,” 1 J. LAW & RELIG. 171 (1983)

“Political Divisiveness Along Religious Lines: The Entanglement of the Court in Sloppy History and Bad Public Policy,” 24 ST. LOUIS UNIV. L. J. 205 (1980)

“Biblical Religion and Constitutional Adjudication in a Secularized Society,” 31 MERCER L. REV. 422 (1980)

“Meek, Wolman, and the `Fear of Imaginable but Totally Implausible Evils’ in the Funding of Nonpublic Education,” in FREEDOM AND EDUCATION: PIERCE V. SOCIETY OF SISTERS RECONSIDERED, edited by Donald P. Kommers and Michael J. Washoke (Notre Dame: Center for Civil Rights, 1979)

“History and Legal Interpretation: The Early Distortion of the Fourteenth Amendment by the Gilded Age Court,” 25 CATH. UNIV. L. REV. 207 (1976)

Book Reviews:

Jimmy Carter, *WE CAN HAVE PEACE IN THE HOLY LAND: A PLAN THAT WILL WORK* (Simon & Schuster, 2006), in *America* (Mar. 2009)

Michel Sabbah *FAITHFUL WITNESS: ON PEACE AND RECONCILIATION IN THE HOLY LAND* (New City Press, 2009), in *America* (Feb. 2009)

Jeff Halper, *AN ISRAELI IN PALESTINE* (Univ. of Michigan Press, 2008) in *Tikkun* (Dec., 2008)

Sandy Tolan, *THE LEMON TREE: AN ARAB, A JEW, AND THE HEART OF THE MIDDLE EAST* (Bloomsbury, 2006); and Richard Crowley, *NO MAN'S LAND: DISPATCHES FROM THE MIDDLE EAST* (Dufour Editions, 2007) in *Tikkun.com* (May 2008).

Michael L. Fitzgerald and John Borelli, *INTERFAITH DIALOGUE: A CATHOLIC VIEW* (Orbis Books, 2006), in *Commonweal*, vol. 137 (Feb. 2007).

Jimmy Carter, *PALESTINE: PEACE NOT APARTHEID* (Simon & Schuster, 2006), in *America* (Jan. 25, 2007)

Munib A. Younan, *WITNESSING TO PEACE: IN JERUSALEM AND THE WORLD* (Fortress Press, 2003), and Mitri Raheb, *BETHLEHEM BESIEGED: STORIES OF HOPE IN TIMES OF TROUBLE* (Fortress Press, 2004), in *Commonweal*, vol. 133 (March 2005)

William W. Bassett, *RELIGIOUS ORGANIZATIONS AND THE LAW* (Clark Boardman Callaghan, 1998) 16 *J. L. & Relig.* (2001)

Robert E. Rodes, *PILGRIM LAW* (University of Notre Dame Press, 1998), 16 *J. L. & Relig.* (2001)

John Witte, Jr., *RELIGION AND THE AMERICAN CONSTITUTIONAL EXPERIMENT: ESSENTIAL RIGHTS AND LIBERTIES* (Westview, 2000) in 16 *J. L. & Relig.* (2001)

Harry James Cargas, ed., *PROBLEMS UNIQUE TO THE HOLOCAUST* (University Press of Kentucky, 1999), in *Commonweal* vol. 127, no. 5 (Mar. 2000)

Edward Humes, *MEAN JUSTICE: A TOWN'S TERROR, A PROSECUTOR'S POWER, A BETRAYAL OF INNOCENCE* (Simon & Schuster, 1999) in *The Christian Science Monitor* (Mar. 5, 1999)

David Cole, *NO EQUAL JUSTICE: RACE AND CLASS IN THE AMERICAN CRIMINAL JUSTICE SYSTEM* (The New Press, 1999), in *The Christian Science Monitor* (Feb. 23, 1999); 88 *Georgetown L. J.* 199 (1999)

Hugo Adam Bedau, ed., *THE DEATH PENALTY IN AMERICA: CURRENT CONTROVERSIES* (Oxford University Press, 1997); James J. Megivern, *THE DEATH PENALTY: AN HISTORICAL AND THEOLOGICAL SURVEY* (Paulist Press, 1997), in *Commonweal*, vol. 126, no. 2 (Jan. 29, 1999), 34-36; 16 *J. Law & Relig.*(2001)

Edward J. Larson, *SUMMER FOR THE GODS: THE SCOPES TRIAL AND AMERICA'S CONTINUING DEBATE OVER SCIENCE AND RELIGION* (Basic Books, 1997) in *Los Angeles Times Book Review* (June, 1998); 16 *J. Law & Relig.* (2001)

Jaroslav Pelikan, *THE ILLUSTRATED JESUS THROUGH THE CENTURIES* (Yale University Press, 1997) in *Los Angeles Times Book Review* (December 21, 1997)

Georges Passelecq and Bernard Suchecky, *THE HIDDEN ENCYCLICAL OF PIUS XI* (Harcourt Brace, 1997) in *Los Angeles Times Book Review* (September 15, 1997)

David Lodge, *THERAPY* (Viking, 1995) in *Cross Currents* (Spring, 1996) 130-33

Cass R. Sunstein, THE PARTIAL CONSTITUTION (Harvard, 1993), in *Commonweal*, vol. 121, no. 8 (Apr. 22, 1994) 23-24

Richard B. Couser, MINISTRY AND THE AMERICAN LEGAL SYSTEM (Fortress, 1993) in *Journal of Church and State* 36 (1994) 395-96

Mark Schwehn, EXILES FROM EDEN: RELIGION AND THE ACADEMIC VOCATION IN AMERICA (Oxford, 1993), in *Commonweal*, vol. 120, no. 7 (Apr. 9, 1993) 26-28;

Robert S. Alley, ed., THE SUPREME COURT ON CHURCH AND STATE (Oxford Univ. Press, 1988); and Robert Miller & Ronald Flowers, eds., TOWARDS BENEVOLENT NEUTRALITY: CASES ON CHURCH AND STATE (Baylor Univ. Press, 1987), in 8 *Journal of Law & Relig.* 403 (1990)

Miep Gies, ANNE FRANK REMEMBERED: THE STORY OF THE WOMAN WHO HELPED TO HIDE THE FRANK FAMILY (Simon & Shuster, 1987), in 6 *Journal of Law & Relig.* 221 (1988)

Dallin H. Oaks, TRUST DOCTRINES IN CHURCH CONTROVERSIES (Mercer Univ. Press, 1983), in 2 *Journal of Law & Relig.* 214 (1984)

Lynn Buzzard, SCHOOLS: THEY HAVEN'T GOT A PRAYER (1982) in 1 *Journal of Law & Relig.* 442 (1983)

William Kaplin, THE LAW OF HIGHER EDUCATION (Jossey-Bass, 1980) 57 *Notre Dame Lawyer* 891 (1982)

Op-Ed Pieces and Columns:

A Country to Be Grateful For, *Fort Wayne Journal-Gazette*, Nov. 25, 2001 (Thanksgiving Day issue)

Critical Thinking Prohibited, *First Things* 112: 20-22 (April 2001)

Northern Ireland: Truth and Reconciliation, *Los Angeles Times*, Sunday Opinion Section (2000)

Time for Truth in Ireland, *Washington Post* (Dec, 2, 1999)

Religion and the Court: Between Expression and Establishment, *Commonweal*, vol. 126, no. 19 (Nov. 5, 1999), 10-11

Protesting Abortion: Free Speech or No? *Commonweal*, vol. 126, No.6 (Mar. 26, 1999), 11-12

Senate Will Go Its Own Way, *Providence Journal*, Jan. 6, 1999

House GOP Sends a Sorry Mess to the Senate, *San Francisco Chronicle*, Jan. 4, 1999

House Action Too Late To be Legitimate, *Fort Wayne Journal-Gazette*, Dec. 20, 1998

School Vouchers: Some Testing, Please, *Commonweal*, vol. 126, no. 1 (Jan. 15, 1999), 9-10

A Case for Vouchers, *Washington Post*, June 29, 1998

Northern Ireland: A Vote for Peace, *Commonweal*, vol 125, no. 9 (May 8, 1998), 10

Liberty Interests: They Do Not Include Suicide, *Commonweal*, vol 124, no. 9 (May 9, 1997), 7-8

A Church in Texas: Religious Freedom before the Court, *Commonweal*, vol 124, no. 8 (Apr. 25, 1997), 9-10

The Angelus Still Has Appeal, *U.S. Catholic* (July 1997), 50

Are All Rats Equal?: The Supreme Court Looks at VMI, *Commonweal*, vol. 123, no. 8 (Apr. 19, 1996) 8-9

The Poor Need Lawyers: A Duty of Care, *Commonweal*, vol 122, no. 17 (Oct. 6, 1995)

The Neutering of Religion: Secularism as Orthodoxy, *Commonweal*, vol. 122, no. 15 (Sept. 8, 1995)

The Voice from the Pulpit: Should It be Taxed? *Commonweal*, vol. 122, no. 11 (June 2, 1995) 8-9

Clinton's Green Thumb: Applying the Right Pressure, *Commonweal*, vol. 122, no. 9 (May 5, 1995) 5-6

At Jefferson's University: Freedom from, Not of, Religion? *Commonweal*, vol. 122, no. 8 (April 21, 1995) 6-7

Proposition 187: Immigrant Bashing, *The Christian Century* (March 1, 1995), 228-29

One Troubled Family: Trying to Outlive the Past, *Commonweal*, vol. 121, no. 19 (Nov. 4, 1994) 8-9

Late for His Appointments: On Clinton's Watch, Slow's the Word, *Commonweal*, vol. 121, no. 12 (June 17, 1994) 13-14

One Good Reason Why I'm Catholic, *U.S. Catholic* (May 1994) 22-24

How Free is Religion in America? *U.S. Catholic* (Apr. 1994) 6-13

An Adams Chronicle: Talking about Northern Ireland, *Commonweal*, vol. 121, no. 7 (Apr. 8, 1994), 7-8

Pass the Peyote: The Religious Freedom Restoration Act, *Commonweal*, vol. 121, no. 2 (Jan. 28, 1994) 5-6

Grateful for Our First Freedom, *Baltimore Evening Sun* (Thanksgiving Day Issue, Nov. 1993)

Anti-abortion Racketeers? RICO Goes to the Supreme Court, *Commonweal*, vol. 120, no. 19 (Nov. 5, 1993), 6-7

School Prayer at Graduations, *Newsday* (May 1993)

Enforcing the Law: Consider the Bill of Rights, *Commonweal*, vol. 120, no. 10 (May 21, 1993) 5-6

Pray for It: Religious Freedom in Russia, *Commonweal*, vol. 120, no. 9 (May 7, 1993) 4-5

The Jury's Message: King Verdicts Set Reasonable Limits on Police Conduct, *Los Angeles Daily Journal* (Apr. 27, 1993)

Scripture Does Not Advocate Capital Punishment, 12 *Christian Legal Society Quarterly* (1991), No. 3, 9-12

An Answer to *Smith*: The Religious Freedom Restoration Act, 11 *Christian Legal Society Quarterly* (1990) No. 3, 17 (with Michael McConnell)

How the Court Went Astray on the Peyote Case, *Los Angeles Daily Journal* (May 11, 1990)

Biblical Foundations and Constitutional Order, 10 *Christian Legal Society Quarterly* (1989), No. 3, 14-17

Justices on the Hot Seat: O'Connor Draws Fire for Letter on "Christian America," *Los Angeles Daily Journal* (Mar. 30, 1989)

Was It Brainwashing, or Simply Conversion? A Comment on the Moonie Case, *Los Angeles Daily Journal* (Oct. 26, 1988)

Appellate Advocacy (partial list of cases in which I filed a brief or argued the cause)

Malewicz v. City of Amsterdam, 517 F.Supp.2d 322 (D.D.C. Jun 27, 2007), app. pending, ___ F.3d ___ (D.C. Cir.) (jurisdiction of federal courts over cases of expropriation of Nazi-looted art; amicus brief on behalf of American Jewish Committee, American Jewish Congress, Commission for Art Recovery, The Jewish Community of Vienna, Elie Wiesel and other Holocaust Survivors, Michael Berenbaum and other Holocaust historians, Dr. Jonathan Petropoulos and other art historians)

Pappas v. Greek Orthodox Diocese of America, 30 A.D.3d 286, 817 N.Y.S.2d 270 (N.Y.A.D. 1 Dept., June 22, 2006), app. dismissed, 7 N.Y.3d 863, 857 N.E.2d 1138, 824 N.Y.S.2d 607 (N.Y. Oct 19, 2006), leave to appeal denied, 8 N.Y.3d 803, 862 N.E.2d 792, 830 N.Y.S.2d 700 (N.Y. Feb 13, 2007), cert. denied, 128 S.Ct. 86, 169 L.Ed.2d 19, 75 USLW 3637, (Oct. 01, 2007) (religious autonomy: breach of contract by religious body)

Kelley v. Garuda, 36 A.D.3d 593, 827 N.Y.S.2d 293 (N.Y.A.D. 2 Dept., Jan. 9, 2007) (religious autonomy: trespass and usurpation of corporate authority)

Scheidler et al. v. National Organization of Women, 126 S.Ct. 1264 (2006) (Brief Amicus Curiae of Consistent Life, Catholic-Labor Network, Citizens United Against the Death Penalty, the Conference of Major Superiors of Men, Interfaith Worker Justice, The Leadership Conference of Women Religious, People for the Ethical Treatment of Animals, Sojourners, Daniel Berrigan, Will Davis Campbell, Carol Crossed, Thomas Gumbleton, Kathy Kelly, Rachel MacNair, Helen Prejean, Martin Sheen, Howard Zinn, Stephen Zunes, et al.).

The Republic of Austria v. Maria V. Altmann, 541 U.S. 677 (2004) (Brief Amicus Curiae of Michael Berenbaum and other Holocaust historians) (recovery of Nazi-looted art)

Dennis Horien v. City of Rockford, cert. denied, 124 S.Ct. .222 (2003) (Brief Amicus Curiae of Consistent Life Network; Feminists For Life Of America, Sojourners, Witnesses For Reconciliation, Wendell Berry, Abe Bonowitz, Bernard Broussard, Carol Crossed, Will Davis Campbell, Ruth Ereno, Nat Hentoff, Kathy Kelly, Rachel MacNair, Michele Pflaum, Mary S. Rider, Martin Sheen, Howard Zinn, et al.).

Scheidler et al. v. National Organization of Women, 537 U.S. 393 (2003) (Brief Amicus Curiae of Seamless Garment Network, Feminists For Life Of America, The Fund For Animals, Not Dead Yet, Sojourners, Witnesses For Reconciliation, Wendell Berry, Abe Bonowitz, Bernard Broussard, Carol Crossed, Will Davis Campbell, Ruth Ereno, Nat Hentoff, Kathy Kelly, Rachel MacNair, Michele Pflaum, Mary S. Rider, Martin Sheen, Howard Zinn, et al.) ;
267 F. 3d 387 (7th Cir. 2001) (Brief Amicus Curiae of People for the Ethical Treatment of Animals et al.).

Zelman v. Simmons-Harris, 536 U.S. 639 (2002) (Brief Amicus Curiae of Lutheran Education Association, National Catholic Educational Assn., et al.)

Mitchell v. Helms, 530 U.S. 793 (2000) (Brief Amicus Curiae on behalf of Arizona Council for Academic Private Education, et al.)

Dorthea and Joseph Zrnchik et al. v. Amoco Oil Co., cert. denied, 525 U.S. 1049 (1998) (counsel of record for petitioners)

Freiler v. Tangipahoa Parish Board of Education, 185 F. 3d 337 (5th Cir., 1999), reh. en banc denied, 201 F. 3d 602 (2000), cert. denied, 530 U.S. 1251 (2000) (amicus brief on behalf of Christian Legal Society and Union of Orthodox Jewish Congregations of America)

Craig v. State Bar of California, 141 F.3d 1353 (9th Cir. 1998) (counsel of record for appellant)

City of Boerne v. Flores, 521 U.S. 507 (1997) (amicus brief on behalf of Coalition for the Free Exercise of Religion)

Vacco v. Quill, and *Washington v. Glucksberg*, 521 U.S. 793 (1997) (amicus brief on behalf of the Evangelical Lutheran Church in America)

United States Catholic Conference v. Ashby, No. 95-0250 (Supreme Court of Texas) (amicus brief on behalf of a coalition of

Jewish and Protestant religious organizations)

Rosenberger v. Rector and Visitors of the University of Virginia, 515 U.S. 819 (1995) (amicus brief on behalf of Catholic League for Religious and Civil Rights); see *Chron. of Higher Ed.* (Jan. 27, 1995).

The Primate and Bishops' Synod of the Russian Orthodox Church outside Russia v. The Russian Orthodox Church of the Holy Resurrection, Inc., et al., No.94-966, cert. denied, 513 U.S. 1121 (1995) (counsel of record for petitioner); also filed amicus brief on behalf of National Council of Churches of Christ in the U.S.A. et al. before the Massachusetts Supreme Judicial Court, 418 Mass., 1101, 636 N.E. 2d 211 (1994).

NOW v. Scheidler et al, No. 92-780, 114 S.Ct. 439 (1994) (amicus brief for People for the Ethical Treatment of Animals, New England Anti-Vivisection Society, et al.); also filed amicus brief in the United States Court of Appeals for the 7th Circuit, on remand

Kamehameha Schools/Bishop Estate v. EEOC, No. 93-171, cert. denied, 114 S.Ct. 439 (Nov. 8, 1993) (amicus brief for Christian Legal Society, Christian College Coalition, University of Notre Dame, and Valparaiso University); see Scott Jaschik, "Hiring at Religious Colleges," *Chronicle of Higher Education* (Nov. 17, 1993).

Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520 (1993) (amicus brief for Baptist Joint Committee on Public Affairs, et al.); 936 F.2d 586 (11th Cir. 1991) (amicus brief for Baptist Joint Committee on Public Affairs, et al.).

Lee v. Weisman, 505 U.S. 577 (1992) (amicus brief for Christian Legal Society, et al.).

International Society for Krishna Consciousness v. Lee, 505 U.S. 672 (1992) (amicus brief for Christian Legal Society, et al.).

International Society for Krishna Consciousness v. George, 262 Cal. Rptr. 217 (Cal. App. 1989) (amicus brief for National Council of Churches of Christ in the U.S.A.); stay granted, 494 U.S. 1075 (1990); cert. granted and vacated, 495 U.S. 928 (1990) (with Michael W. McConnell for Petitioner).

Employment Division v. Smith, 494 U.S. 872 (1990) (organized group of over fifty professors of constitutional law to sign petition for rehearing).

Jimmy Swaggart Ministries v. California Bd. of Equalization, 493 U.S. 378 (1990) (with Michael W. McConnell and Jesse Choper for Appellant).

Garnett v. Renton School District, 865 F. 2d 1121 (9th Cir. 1989) (with Steven McFarland for Appellant); modified, 874 F.2d 608 (9th Cir. 1989); cert. granted & vacated, 496 U.S. 914 (1990) (with Michael McConnell for Petitioner); 987 F. 2d 641 (9th Cir. 1993), cert. denied, 510 U.S. 819 (1993).

United States Catholic Conference v. Abortion Rights Mobilization, Inc., 487 U.S. 72 (1988) (amicus brief for National Council of Churches of Christ in the U.S.A., Synagogue Council of America, et al.); *In Re United States Catholic Conference and National Conference of Catholic Bishops*, 824 F.2d 156 (2d Cir. 1987) (amicus brief with Douglas Laycock for National Council of Churches of Christ in the U.S.A., Synagogue Council of America, et al.).

Corporation of Presiding Bishop v. Amos, 483 U.S. 327 (1987) (amicus brief for the American Association of Presidents of Independent Colleges and Universities et al.).

Richard Mazanec, et al., v. North Judson-San Pierre School Corporation, 798 F.2d 230 (7th Cir. 1986) (argued the cause).

Aguilar v. Felton, 473 U.S. 402 (1985) (amicus brief for Council for American Private Education et al.).

Nartowitz v. Clayton County School Board, 736 F.2d 646 (11th Cir. 1984) (argued the cause for appellant).

Mueller v. Allen, 463 U.S. 388 (1983) (amicus brief for Council for American Private Education et al.).

Widmar v. Vincent, 454 U.S. 263 (1981) (amicus brief with Kenneth F. Ripple for the Center for Constitutional Studies, et al.).

EEOC v. Mississippi College, 626 F.2d 477 (5th Cir. 1980) (amicus brief for Center for Constitutional Studies).