



PEPPERDINE
UNIVERSITY
School of Law

THE COMPETING
CLAIMS OF
LAW AND
RELIGION

WHO SHOULD INFLUENCE WHOM?

A RELIGIOUS LEGAL THEORY CONFERENCE

*Sponsored by the Nootbaar Institute on Law, Religion, and Ethics
and the Glazer Institute for Jewish Studies*



February 23—25, 2012

Pepperdine University
Malibu, California

THE COMPETING CLAIMS OF

Dear Friends,

The conference will address a host of sub-questions all at the forefront of contemporary debates over the respective roles of law and religion. Among them:

- *What constitutional restraints, if any, should be placed on the influence of religion on law?*
- *What constitutional restraints, if any, should be placed on the influence of law on religion?*
- *If religious faiths do not assert influence on law, will they be dominated by religious or secular traditions that are willing to do so?*
- *If religious faiths do not assert influence on law, will injustice reign?*
- *If religious faiths do assert influence on law, will injustice reign?*
- *Should the goal be autonomy within religious communities, or will that undermine the creation of an integrated and just society?*

In many parts of the world, questions like this will engender not only controversy, but also outright hostility and aggression. At this conference, we look forward to a spirited, engaged, and thoughtful conversation that will explore numerous aspects of all of them.

LAW AND RELIGION

Some speakers will address these issues as a matter of constitutional law, some as a matter of good citizenship, and some as a matter of religious faith. Speakers from a broad range of religious and secular traditions will address how their traditions might influence law—and vice versa.

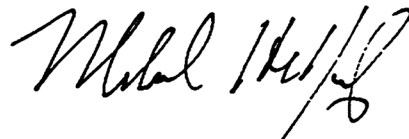
We were overwhelmed with the quantity and quality of responses to our call for papers for this conference. In the end, we chose those papers which engage each other in conversations we think are important to the legal and religious communities. As the schedule shows, we have many fantastic speakers, any one of whom could anchor a conversation. We look forward to having all of them together.

We hope that you can join us and be part of the conversation.

All our best,



ROBERT F. COCHRAN, JR.
Louis D. Brandeis Professor of Law and
Director, Herbert and Elinor Nootbaar Institute on Law,
Religion, and Ethics
Pepperdine University School of Law



MICHAEL HELFAND
Associate Professor of Law
Pepperdine University School of Law
Associate Director, Diane and Guilford Glazer
Institute for Jewish Studies
Pepperdine University

PLENARY PRESENTERS



ABDULLAHI AHMED AN-NA'IM, *Charles Howard Candler Professor of Law, Emory School of Law* is a graduate of the University of Khartoum, LLB, University of Cambridge, LLB, and University of Edinburgh, PhD. He is author of *Islam and the Secular State* (Harvard University Press, 2008) and an internationally recognized scholar of Islam and human rights. His research projects focus on advocacy strategies for reform and include the Fellowship Program in Islam and Human Rights, Women and Land in Africa, and Islamic Family Law.



JAMES DAVISON HUNTER, *Labrosse-Levinson Distinguished Professor of Religion, Culture, and Social Theory, and Executive Director of the Institute for Advanced Studies in Culture, University of Virginia* is a graduate of Gordon College, BA, Rutgers University, MA, PhD. He has published a wide range of works regarding the problem of meaning and moral order in a time of political and cultural change in American life. His books include *To Change the World: The Irony, Tragedy, and Possibility of Christianity in the Late Modern World* (Oxford University Press, 2010).



ANDREW KOPPELMAN, *John Paul Stevens Professor of Law, Northwestern University School of Law* is a graduate of the University of Chicago, AB, Yale University, JD, PhD. His scholarship focuses on issues at the intersection of law and political philosophy. He is author of *Religious Neutrality in American Law: An Analysis and Defense* (Harvard University Press, forthcoming) and four other books.



MICHAEL STOKES PAULSEN, *Distinguished University Chair and Professor of Law, University of St. Thomas* is a graduate of Northwestern University, BA, Yale Divinity School, MA, and Yale Law School, JD. His publications include "How to Interpret the Constitution (and How Not To)" (*Yale Law Journal*, 2006), and "It's a Girl" (*Public Discourse*, 2011), an essay on sex-selection. Professor Paulsen is a leading scholar of constitutional interpretation and previously taught at the University of Minnesota.



AYELET SHACHAR, *Professor of Law and Canada Research Chair in Citizenship and Multiculturalism, University of Toronto Faculty of Law* is a graduate of Tel Aviv University, BA, LLB, and Yale Law School, LLM, JSD. She is also Canada Research Chair in Citizenship and Multiculturalism. The Archbishop of Canterbury and the Supreme Court of Canada have cited her work in reconciling gender equality and religious diversity. She is author of *The Birthright Lottery: Citizenship and Global Inequality* (Harvard University Press, 2009), which has interested policymakers and academics alike in regard to innovative institutional designs to promote global justice.



STEVEN D. SMITH, *Class of 1975 Endowed Professor of Law, University of San Diego School of Law* is a graduate of Brigham Young University, BA, and Yale University, JD, and has taught at Notre Dame and the University of Virginia. Among his many scholarly works, his publications include *The Disenchantment of Secular Discourse* (Harvard University Press, 2010) and "Discourse in the Dusk: The Twilight of Religious Freedom" (*Harvard Law Review*, 2009).



SUZANNE LAST STONE, *University Professor of Jewish Law and Contemporary Civilization, Professor of Law, and Director of the Center for Jewish Law and Contemporary Civilization, Cardozo School of Law at Yeshiva University* is a graduate of Princeton University, BA, and Columbia University, JD. Her publications include "In Pursuit of the Counter-Text: The Turn to the Jewish Legal Model in Contemporary American Legal Theory" (*Harvard Law Review*, 1993). She is also coeditor in chief of *Diné Israel*, a peer review journal of Jewish law coedited with Tel Aviv Law School, and on the editorial boards for *Jewish Quarterly Review* and *Hebraic Political Studies*.





THE COMPETING CLAIMS OF LAW AND RELIGION

WHO SHOULD INFLUENCE WHOM?



CONFERENCE SCHEDULE

THURSDAY, FEBRUARY 23

3:30—4:30 PM ▶ Registration

4:30—4:35 PM ▶ Welcome, Robert F. Cochran, Jr.

4:35—6:15 PM ▶ Plenary Session I

THE MEANING OF THE RELIGION CLAUSES: A HIGH WALL? NEUTRALITY?

There is little consensus among commentators and Supreme Court justices on Religion Clause jurisprudence. The one point of agreement seems to be that it is an inconsistent mess. This panel will explore two possible standards for addressing religion/law conflicts: a "wall of separation" and "neutrality."

- Michael Stokes Paulsen, with response by Eugene Volokh
- Andrew Koppelman, with response by Richard Garnett, Chad Flanders
- Moderated by Deanell R. Tacha

8:30—10:15 AM ▶ Plenary Session II

COMPETING OR COMPLEMENTARY? CLAIMS OF LAW AND RELIGION: ISLAMIC AND JEWISH PERSPECTIVES

Drawing on the conference theme, this session will focus on the compatibility of the claims of law and the claims of religion. It will approach this question from the perspectives of Judaism and Islam and, in turn, provide opportunity for comparison and contrast between these and other faith traditions.

- Abdullahi Ahmed An-Na'im, with response by Mohammad Fadel
- Suzanne Last Stone, with response by David Flatto
- Moderated by Douglas Kmiec

10:30 AM—12 noon ▶ Breakout Sessions I

ACCOMMODATING RELIGION AND RELIGIOUS VIEWS?

- Alan Brownstein, *Intended and Incidental Consequences of Constitutional Doctrine on Expressive Interactions Between Church and State*
- Bruce N. Cameron, *Conflict in Standards of Religious Accommodation in the Workplace*
- Kristen Carpenter, *Limiting Principles and Practices in American Indian Religious Freedoms Jurisprudence*
- Barry McDonald, *Getting Beyond Religion as Science: Unstifling Worldview Formation in American Public Education*
- Frank Ravitch, *Symbolism and Constitutional Boundaries*

INTERNATIONAL AND COMPARATIVE PERSPECTIVES, PART I

- Robert John Araujo, *"Render unto Mao What Is Mao's": Conflict of Authority in the People's Republic of China and the Holy See*
- Eoin Carolan, *Catholic Constitutionalism: Lessons from the Irish Experience*
- Austin Dacey, *Blasphemy, Religious Hatred, and the Poverty of Human Rights Discourse*
- Mark D. Rosen, *Is a Non-Neutral Liberal State an Oxymoron? The Examples of Israel and France*
- Stijn Smet, *Freedom of Religion Versus Freedom from Religion in the Jurisprudence of the European Court of Human Rights*

FAMILIES, RELIGIOUS COMMUNITIES, AND THE LAW

- Helen Alvaré, *"Sexualityism" Is a Failure: The State Needs Competition with Its Ideas About Sex*
- Frederick Mark Gedicks, *Polygamy, Child-Rearing, and Fundamental Rights*
- Shelley Ross Saxer, *Civil Unions for All: Preserving Religious Autonomy*
- Maimon Schwarzschild, *How Much Autonomy Do You Want?*
- William Wagner, *At Risk: The Fundamental Right of Parents to Direct the Upbringing of Their Children*

12 noon—1:30 PM ▶ Lunch

1:30—2:45 PM ▶ Breakout Sessions II

GOVERNMENT INSTITUTIONS, RELIGIOUS AFFAIRS, AND THE FIRST AMENDMENT

- Mark O. DeGirolami, *The Method of Tragedy and History Applied*
- Michael Helfand, *Litigating Religion*
- Raymond Pierce, *The First Amendment "Under God": Reviewing the Coercion Test in Establishment of Religion Claims*
- Mark Strasser, *The Endorsement Test Is Alive and Well: A Cause for Celebration and Sorrow*

RELIGION, LAW, AND CULTURE

- Henry L. Chambers, Jr., *The Reconstruction Amendments: Abolishing the Law and Fulfilling the Law?*
- Sherman J. Clark, *To Teach and Persuade*
- Chaim Saiman, *Using Legal Doctrine to Teach Ethical Behavior*
- Jack L. Sammons, *Listening to Law*

WHO SHOULD INFLUENCE WHOM?

- Perry Dane, *The Anxiety of Influence: Legal Values and the Life of Faith*
- David Flatto, *Reflections on the Relationship Between Law and Power in Jewish, Islamic, Christian, and Western Jurisprudence*
- David W. Opderbeck, *Theology, Property, and Metaphysics*
- Zoë Robinson, *Privatization of Religion*

THE BIBLE AND THE LAW

- Barbara Armacost, *Justice and the Prophets*
- Tremper Longman III, *The Mosaic Law*
- David VanDrunen, *Creation, Fall, and the Patriarchs*
- Dallas Willard, *Jesus and the Law*
- Robert F. Cochran, Jr., *The Relevance of the Bible for the Law*

TWO THEORIES OF RELIGIOUS ACCOMMODATION

This session will focus on the clash of religious accommodation, gender equality, and individual identity. In so doing, the session will highlight the interaction between religious and secular sources of identity and authority in regulating the family.

- Ayelet Shachar, with response by Marie Failinger, Paul Horwitz, Robin Fretwell Wilson
- Moderated by Michael Helfand

6 PM ▶ Conference Dinner Friday, February 24

8:30—10:15 AM ▶ Plenary Session IV

LAW, RELIGION, AND THE COMMON GOOD: REFLECTIONS ON THE CHALLENGES OF LATE MODERNITY

This panel will address the descriptive and the prescriptive. Are Western culture and law taking a secular or a sacred turn? Should religious communities seek to transform culture and law, or merely seek what James Davison Hunter has called "faithful presence"? Panelists are likely to disagree over each question

James Davison Hunter, with response by Patrick Brennan, Zachary R. Calo

- Steven D. Smith, with response by Edward J. Larson
- Moderated by Barbara Armacost

10:30 am—12 noon ▶ Breakout Sessions III

CONSCIENCE CLAUSES AND MEDICAL CARE PROVIDERS

- Matthew S. Bowman, *Access and Privacy*
- Caroline B. Newcombe, *Administrative Law and Conscience Clauses*
- Bettina B. Plevan, *Employers*
- Robin Fretwell Wilson, *Empowering Private Conscience*

IS RELIGION SPECIAL?

- Nathan Chapman, *Disentangling Conscience and Religion*
- Bruce Ledewitz, *Does the Evolution of Religion Undermine Religious Legal Theory or Fulfill It?*
- Micah Schwartzmann, *What If Religion Isn't Special?*
- Nelson Tebbe, *Secular Nonendorsement*

LEGISLATIVE PRAYER: SPEAKING WHOSE TRUTH TO WHICH POWER—THOUGHTS ON *Forsyth County, North Carolina v. Joyner*

- Scott W. Gaylord, J. Michael Johnson, Christopher C. Lund, Robert Luther III, Jeremy G. Mallory

THE MINISTERIAL EXCEPTION

- Ian Bartrum, *Race and Religion: The Ministerial Exception Reexamined*
- Caroline Mala Corbin, *The Irony of Hosanna-Tabor*
- Paul Horwitz, *The Ministerial Exception and the Civic Duties of Institutions and Citizens*
- Michael P. Moreland, *Freedom of the Church and the Origins of Liberalism*
- Nora O'Callaghan, *Creative Minorities in a Naked Public Square: Challenges to Religious Institutions*

INFLUENCE ON LAWYERS, JUDGES, LITIGANTS, AND LAW PROFESSORS

- John M. Breen and Lee J. Strang, *History of Catholic Legal Education*
- Howard Kislowicz, *Narratives of Religious Freedom Litigation: The Interaction of Law and Religion in Canada*
- Robert K. Vischer, *Love and Justice: Martin Luther King, Jr.'s Lessons for Lawyers*
- Kevin Walsh, *Roman Catholics on the Roberts and Rehnquist Courts*

INTERNATIONAL & COMPARATIVE PERSPECTIVES, PART 2

- Dia Dabby, *Children Stuck in the Middle: Competing Claims of Law and Religion in Canada*
- Kuk-Woon (Kuyper) Lee, *Christian Jurisprudence in Multireligious and Rapidly Modernizing Society*
- Santiago Legarre, *The Virgin Mary in the Temple of Justice: How U.S. Jurisprudence Is Messing up Argentine Constitutional Principles*
- Mark L. Movsesian, *Crosses and Culture: Public Religious Symbols in the U.S. and Europe*
- Kyriaki Topidi, *Religious Diversity and Education in Multicultural Societies: Possibilities and Impossibilities in the European Union*

RIGHTS AND RESPONSIBILITIES OF RELIGIOUS GROUPS ON CAMPUS

- Mary Jean Dolan, *The Reasonableness of a Religious Oath for Student Group Membership at a Public University*
- Richard Garnett, *Religious Freedom, Discrimination, and Pluralism*
- Lisa Shaw Roy, *Evangelicals and the First Amendment: Free Speech and Free Exercise*
- Timothy J. Tracey, *Demise of Equal Access and Christian Response*

COMMERCIAL LAW

- Lyman Johnson, *Debarring Faithless Fiduciaries in Bankruptcy*
- Barak D. Richman, *Saving the First Amendment from Itself: Relief from the Sherman Act Against Rabbinic Cartels*
- Mark Scarberry, *Religion and Bankruptcy: Debt Forgiveness and the Common Good*
- Susan Stabile, *Catholic Universities and Mandatory Collective Bargaining*

SECULARIZATION

- Patrick Brown, *Law, Religion, and the Dialectic of Secularization*
- Steven K. Green, *"Good Fences Make Good Neighbors"—Distinguishing Interference and Influence*
- John Hill, *John Stuart Mill and the "Final Inexplicability" of the Self, or Why Liberals Need the Soul*
- Mark C. Modak-Truran, *A Post-Secular Pluralistic Legitimation of Law*

PLENARY RESPONDENTS AND MODERATORS

BARBARA ARMACOST, *Professor of Law, University of Virginia*, is a graduate of the University of Virginia, BS, JD, and Regent College of the University of British Columbia, MTS. She is the author of "Organizational Culture and Police Misconduct" (*George Washington Law Review*, 2004).

PATRICK BRENNAN, *Associate Dean of Academic Affairs, John F. Scarpa Chair in Catholic Legal Studies, and Professor of Law, Villanova University School of Law* is a graduate of Yale College, University of Toronto, MA, and UC Berkeley School of Law, JD. He is author of *Christian Legal Thought: Cases and Materials* (with William Brewbaker III, Foundation Press, forthcoming).

ZACHARY R. CALO, *Associate Professor of Law, Valparaiso University* is a graduate of Johns Hopkins University, BA, MA, University of Virginia School of Law, JD, PhD, and the University of Pennsylvania, PhD. His articles include "Catholicism, Liberalism, and Human Rights" (*Journal of Christian Legal Thought*, 2011).

MOHAMMAD FADEL, *Associate Professor of Law, University of Toronto Faculty of Law* is a graduate of the University of Virginia, the University of Chicago, PhD, and the University of Virginia School of Law, JD. His publications include "The True, the Good, and the Reasonable: The Theological and Ethical Roots of Public Reason in Islamic Law" (*Canadian Journal of Law and Jurisprudence*, 2008).

MARIE FAILINGER, *Professor of Law, Hamline University School of Law* is a graduate of Valparaiso University, BA, JD, and Yale University Law School, LL.M. She is the editor for the *Journal of Law and Religion* and her publications include "Levinas, Law Schools, and the Poor: They Stand over Us" (*Oklahoma City University Law Review*, 2010).

CHAD FLANDERS, *Assistant Professor of Law, St. Louis University School of Law* is a graduate of Hillsdale College, the University of Chicago, MA, PhD, and Yale Law School, JD. His publications include "The Mutability of Public Reason" (*Ratio Juris*, forthcoming).

DAVID FLATTO, *Assistant Professor of Law, Pennsylvania State University Dickinson School of Law* is a graduate of Yeshiva University, Columbia University, JD, and Harvard University, PhD. His publications include *Justice Unbound: Hebraic Jurists, and the Early Separation of Law from Power* (Harvard University Press, forthcoming).

RICHARD GARNETT, *Professor of Law and Associate Dean for Faculty Research, University of Notre Dame Law School* is a graduate of Duke University and Yale Law School, JD. He is author of *Two There Are: Understanding the Separation of Church and State* (Cambridge University Press, forthcoming).

MICHAEL HELFAND, *Associate Professor and Associate Director, Diane and Guilford Glazer Institute for Jewish Studies, Pepperdine University School of Law* is a graduate of Yeshiva University, BA, Yale University, JD, and Yale University, PhD. His publications include "Religious Arbitration and the New Multiculturalism: Negotiating Conflicting Legal Orders" (*New York University Law Review*, 2011).

PAUL HORWITZ, *Gordon Rosen Professor of Law, University of Alabama School of Law* is a graduate of McGill University, Columbia University, MS, University of Toronto, LL.B, and Columbia Law School, LL.M. He is author of *The Agnostic Age* (Oxford University Press, 2011).

DOUGLAS KMIEC, *Caruso Family Chair in Constitutional Law, Pepperdine University School of Law* is a graduate of Northwestern University, BA, and University of Southern California, JD. He is author of *Can a Catholic Support Him? Asking the Big Question About Barak Obama* (Overlook, 2008) and a former ambassador of the United States to Malta.

EDWARD J. LARSON, *University Professor of History and Hugh and Hazel Darling Chair in Law, Pepperdine University School of Law* is a graduate of Williams College, BA, University of Wisconsin, MA, PhD, and Harvard University, JD. He is author of *Summer for the Gods: The Scopes Trial and America's Continuing Debate over Science and Religion* (Basic Books 1997), for which he received the Pulitzer Prize.

DEANELL R. TACHA, *Duane and Kelly Roberts Dean and Professor of Law, Pepperdine University School of Law* is a graduate of University of Kansas, BA, and the University of Michigan School of Law, JD. She served as chief judge (2001-2007) and as circuit judge (since 1986) on the United States Court of Appeals for the 10th Circuit.

EUGENE VOLOKH, *Gary T. Schwartz Professor of Law, University of California, Los Angeles School of Law* is a graduate of University of California, Los Angeles, BS, JD. He is the author of *The Religion Clauses and Related Statutes* (Foundation Press, 2005).

ROBIN FRETWELL WILSON, *Class of 1958 Law Alumni Professor of Law and Law Alumni Faculty Fellow, Washington and Lee University School of Law* is a graduate of the University of Virginia School of Law, BA, JD. She is editor of *Same-Sex Marriage and Religious Liberty: Emerging Conflicts* (Rowman & Littlefield Publishers, Inc., 2008).

BREAKOUT PANELISTS

HELEN ALVARÉ, *Associate Professor of Law, George Mason University School of Law* is a graduate of Villanova University, the Catholic University of America, MA (systematic theology), and Cornell University, JD. Her publications include "Beyond the Sex-Ed Wars: Addressing Disadvantaged Single Mothers' Search for Community" (*Akron Law Review*, 2011).

REV. ROBERT JOHN ARAUJO, *University Professor, Loyola University of Chicago School of Law* is a graduate of Georgetown University, BA, JD, Weston School of Theology, MDiv, STL, St. Michael's Institute, PhD, Oxford University, BCL, and Columbia University LL.M., JSD. He is author of *Papal Diplomacy and the Quest for Peace at the United Nations - From Pius XII to Paul VI* (with John Lucal, SJ, St. Joseph's University Press, 2010).

IAN BARTRUM, *Associate Professor, University of Nevada, Las Vegas William S. Boyd School of Law* is a graduate of Hamilton College, Vermont Law School, JD, and Yale Law School, LL.M. His articles include "The Constitutional Canon as Argumentative Metonymy" (*William and Mary Bill of Rights Journal*, 2009).

MATTHEW S. BOWMAN, *Legal Counsel, Alliance Defense Fund (ADF)* is a graduate of Ave Maria School of Law, JD, clerked at the Third Circuit and the District of Arizona, and is a member of the Life Litigation Project at ADF. He has litigated Conscience Clause cases around the United States.

JOHN M. BREEN, *Professor of Law, Loyola University of Chicago School of Law* is a graduate of the University of Notre Dame and Harvard University, JD. His publications include "The Road Not Taken: Catholic Legal Education at the Middle of the 20th Century" (with Lee Strang, *American Journal of Legal History*, 2011).

PATRICK BROWN, *Visiting Assistant Professor of Law, Seattle University School of Law* is a graduate of Boston College, BA, MA, PhD, and the University of Washington School of Law, JD. His publications include "The Task of 'Aiming Excessively High and Far': The Early Lonergan and the Challenge of Theory in Catholic Social Thought" (*Theological Studies*, 2011).

ALAN BROWNSTEIN, *Professor of Law and Boochever and Byrd Chair for the Study and Teaching of Freedom and Equality, University of California Davis School of Law* is a graduate of Antioch College and Harvard University, JD. He is author of "Gays, Jews, and Other Strangers in a Strange Land: The Case for Reciprocal Accommodation of Religious Liberty and the Right of Same-Sex Couples to Marry" (*University of San Francisco Law Review*, 2010).

BRUCE N. CAMERON, *Reed Larson Professor of Labor Law, Regent University School of Law* is a graduate of Andrews University and Emory University School of Law, JD. He is the author of a number of publications as well as www.GoBible.org's online weekly Bible studies.

EOIN CAROLAN, *Barrister and Lecturer in Law, University College Dublin School of Law* is a graduate of Trinity College, LL.B., PhD, and the University of Cambridge, LL.M. He is author of *The New Separation of Powers: A Theory for the Modern State* (Oxford University Press, 2009).

KRISTEN CARPENTER, *Associate Dean for Faculty Development and Associate Professor of Law, University of Colorado Law School* is a graduate of Dartmouth College and Harvard Law School, JD. She is author of *The Indian Civil Rights Act at 40* (M. Fletcher and A. Riley, eds., UCLA American Indian Studies Center, 2011).

HENRY L. CHAMBERS, JR., *Professor of Law, University of Richmond School of Law* is a graduate of the University of Virginia and the University of Virginia School of Law, JD. His publications include "Much Ado About Nothing Much: Protestant Episcopal Church in the Diocese of Virginia v. Truro Church" (with Isaac McBeth, *University of Richmond Law Review*, 2010).

NATHAN CHAPMAN, *Executive Director at the Stanford Constitutional Law Center, Stanford Law School* is a graduate of Belmont University, Duke Divinity School, and Duke University School of Law. His publications include "Law Asks for Trust" (Religious Legal Theory Symposium, *St. John's Law Review*, 2011).

TREY CHILDRESS, *Associate Professor of Law, Pepperdine University School of Law* is a graduate of the University of Virginia, BA, Oxford Brookes University, MA, and Duke University, JD, LL.M. His publications include "The Alien Tort Statute, Federalism, and the Next Wave of International Law Litigation" (*Georgetown Law Journal*, 2012).

SHERMAN J. CLARK, *Kirkland & Ellis Professor of Law, University of Michigan Law School* is a graduate of Towson State University and Harvard Law School, JD. His publications include "Neoclassical Public Virtues: Towards an Aretaic Theory of Law-Making (and Law Teaching)" in *Virtue in the Law* (Hart Publishing, forthcoming).

ROBERT F. COCHRAN, JR., *Louis D. Brandeis Professor of Law and Director, Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics, Pepperdine University School of Law* is a graduate of Carson-Newman College, BA, and the University of Virginia, JD. He is the editor of Social Science Research Network's (SSRN) *Law and Religion eJournal* and coeditor of *Christian Perspectives on Legal Thought* (with Michael McConnell and Angela Carmella, Yale, 2001).

CAROLINE MALA CORBIN, *Associate Professor, University of Miami School of Law* is a graduate of Harvard University, and Columbia Law School, JD. Her publications include "Nonbelievers and Government Religious Speech" (*Iowa Law Review*, forthcoming).

DIA DABBY, *Doctoral Candidate (DCL), McGill University* is a graduate of McGill University, BA, and the Université de Montréal, LLB, LL.M. She is affiliated with the McGill Centre for Human Rights and Legal Pluralism and the Institute of Comparative Law.

AUSTIN DACEY, *Representative to the United Nations for the International Humanist and Ethical Union*, is a graduate of Bowling Green State University, PhD. He is the creator of the Impossible Music Sessions, a New York City forum for banned music from around the world.

PERRY DANE, *Professor of Law, Rutgers School of Law - Camden* is a graduate of Yale College and Yale Law School, JD. His publications include "A Holy Secular Institution" (*Emory Law Journal*, 2009).

MARC O. DEGIROLAMI, *Assistant Professor of Law, St. John's University School of Law* is a graduate of Duke University, Harvard University, MA, Boston University School of Law, JD, and Columbia University School of Law, LL.M, JSD. He is author of *Tragedy and History: The Quality of Religious Liberty* (Harvard University Press, forthcoming).

MARY JEAN DOLAN, *Assistant Professor of Law, John Marshall School of Law* is a graduate of the University of Notre Dame and Northwestern University School of Law, JD. Her publications include "The Cross National Memorial: At the Intersection of Speech and Religion" (*Case Western Reserve Law Review*, 2011).

SCOTT W. GAYLORD, *Associate Professor of Law, Elon University School of Law* is a graduate of Colgate University and University of Notre Dame Law School, JD. His publications include "When the Exception Becomes the Rule: *Marsh* and Sectarian Legislative Prayer Post-Summum" (*University of Cincinnati Law Review*, 2011).

FREDERICK MARK GEDICKS, *Guy Anderson Chair and Professor of Law, Brigham Young University J. Reuben Clark Law School* is a graduate of Brigham Young University and the University of Southern California, JD. His publications include "The Recurring Paradox of Groups in the Public State" (*Utah Law Review*, 2010).

NAOMI GOODNO, *Associate Professor of Law, Pepperdine University School of Law* is a graduate of Princeton University, AB, and UC Berkeley School of Law, JD. She is author of *Global Criminal Prosecutions: Should Criminal Laws Follow U.S. Citizens Overseas?* (forthcoming).

STEVEN K. GREEN, *Fred H. Paulus Professor of Law and Director of the Center for Law, Religion, and Democracy, Willamette University College of Law* is a graduate of Texas Christian University, the University of North Carolina, MA, the University of North Carolina, PhD, and the University of Texas, JD. He is the author of *The Second Disestablishment: Church and State in 19th-Century America* (Oxford University Press, 2010).

JOHN HILL, *Professor of Law, Indiana University Robert H. McKinney School of Law* is a graduate of Northern Illinois University and Georgetown University, JD. He is author of *The Political Centrist* (Vanderbilt University Press, 2009).

J. MICHAEL JOHNSON, *Dean, Louisiana College Judge Paul Pressler School of Law* is a graduate of Louisiana State University and Louisiana State University's Paul M. Herbert Law Center, JD. He is recipient of the "Champions for the Faith" award (2011) and Alliance Defense Fund's Honor Guard award (2003).

LYMAN JOHNSON, *Robert O. Bentley Professor of Law, Washington and Lee University School of Law, and Lejeune Distinguished Chair in Law, University of St. Thomas School of Law* is a graduate of Carleton College and the University of Minnesota, JD. His publications include "Counter-Narrative in Corporate Law: Saints and Sinners, Apostles and Epistles" (*Michigan State Law Review*, 2009).

HOWARD KISLOWICZ, *SJD Student, University of Toronto* is a graduate of McGill University, BA, BCL/LLB, and the University of Toronto, LL.M. His recent publications include "Judging the Rules of Belonging" (*University of British Columbia Law Review*, 2011).

BRUCE LEDEWITZ, *Professor of Law, Duquesne University School of Law* is a graduate of Georgetown University, BSFS, and Yale University, JD. He is author of *Church, State, and the Crisis in American Secularism* (Indiana University Press, 2011).

KUK-WOON (KUYPER) LEE, *Law Professor, Handong Global University, South Korea* is a graduate of Seoul National University, Korea, PhD. He is the editor of *Worldview Magazine*, a magazine which is published in South Korea and addresses issues of Christianity and culture.

SANTIAGO LEGARRE, *Professor of Human Rights, Universidad Católica Argentina* is a graduate of Universidad Católica Argentina, LLB, University of Oxford, MSt, and Universidad de Buenos Aires, PhD. He is currently part of the Global Visiting Faculty for the Paul M. Hebert Law Center at Louisiana State University.

TREMPER LONGMAN III, *Robert H. Gundry Professor of Biblical Studies, Westmont College* is a graduate of Ohio Wesleyan University, Westminster Theological Seminary, MDiv, and Yale University, PhD. His books include *A Biblical History of Israel* (with Iain Provan and Phillip Long, Westminster John Knox, 2003).

CHRISTOPHER C. LUND, *Assistant Professor of Law, Wayne State University Law School* is a graduate of Rice University and University of Texas School of Law, JD. His publications include "The New Victims of the Old Anti-Catholicism" (*Connecticut Law Review*, forthcoming 2012).

ROBERT LUTHER III, *Associate, Knicely and Associates, PC* is a graduate of Hampden-Sydney College and Ohio Northern University's Pettit College of Law, JD. His publications include "Unity Through Division: Religious Liberty and the Virtue of Pluralism in the Context of Legislative Prayer Controversies" (*Creighton Law Review*, 2009).

JEREMY G. MALLORY, *Associate, Kirkland & Ellis LLP* is a graduate of Swathmore College, University of Chicago Divinity School, MA, PhD, and University of Chicago Law School, JD. His publications include "Still Other People's Money: Reconciling Citizens (with Aboud and Beck, *California Western Law Review*, 2010).

BARRY McDONALD, *Professor of Law, Pepperdine University School of Law* is a graduate of Loyola University of Chicago and Northwestern University School of Law, JD. His publications include *The U.S. Constitution: Original Meaning and Subsequent Interpretation*, (West Publishing, forthcoming).

MARK C. MODAK-TRURAN, *J. Will Young Professor of Law, Mississippi College School of Law* is a graduate of Gustavus Adolphus College, BA, the University of Chicago, MA, PhD, and Northwestern University School of Law, JD. His publications include "Beyond Theocracy and Secularism (Part I): Toward a New Paradigm for Law and Religion" (*Mississippi College Law Review*, 2007-2008).

MICHAEL P. MORELAND, *Associate Professor of Law, Villanova University School of Law* is a graduate of the University of Notre Dame, Boston College, MA, PhD, and University of Michigan Law School, JD. His publications include "Institutional Conscience and Religious Freedom" (*Georgetown Journal of Law and Public Policy*, 2009).

MARK L. MOVSESIAN, *Frederick A. Whitney Professor of Contract Law and Director of the Center for Law and Religion, St. John's University School of Law* is a graduate of Harvard University, AB, JD. His publications include "Fiqh and Canons: Reflections on Islamic and Christian Jurisprudence" (*Seton Hall Law Review*, 2010).

CAROLINE B. NEWCOMBE, *Visiting Associate Professor, Southwestern Law School* is a graduate of the University of Virginia School of Law, JD, and the American University College of Law, LL.M. Her publications include "Recent Developments in Education Law" (J. Lubbers, ed., *Developments in Administrative Law and Regulatory Practice*, 2008, 2009, 2010).

NORA O'CALLAGHAN, *Director of the Program in Law and Religion, Loyola University of Chicago* is a graduate of the University of Illinois and Georgetown University Law Center, JD. Her publications include, "Conscience and the Common Good: Implications of Proposed Policy Solution." (*Journal of Catholic Legal Studies*, 2010).

DAVID W. OPDERBECK, *Associate Professor of Law, Seton Hall University School of Law* is a graduate of Gordon College and Seton Law School, JD, and New York University Law School, LL.M. His publications include "A Virtue Ethics Approach to the Biotechnology Commons (or, The Virtuous Penguin)" (*Maine Law Review*, 2007).

RAYMOND PIERCE, *Dean and Professor of Law, North Carolina Central University School of Law* is a graduate of Syracuse University and Case Western Reserve University, JD. His publications include "The First Amendment Under God: The Coercion Test in Establishment of Religion Cases." (*Hamline L. J.*, forthcoming).

BETTINA B. PLEVAN, *Partner in Labor and Employment Law, Proskauer Rose LLP* is a graduate of Wellesley College and Boston University School of Law, JD. She is a former president of the New York City Bar Association and cochair of the Lawyers Committee for Civil Rights.

FRANK RAVITCH, *Professor of Law and Walter H. Stowers Chair of Law and Religion, Michigan State University College of Law* is a graduate of Tulane University, BA, JD, and Georgetown University Law Center, LL.M. He is the author of *Masters of Illusion: The Supreme Court and the Religion Clauses* (NYU Press, 2007).

BARAK D. RICHMAN, *Professor of Law and Business Administration, Duke University School of Law* is a graduate of Brown University, University of California, Berkeley, MA, PhD, and Harvard Law School, JD. His publications include "Who Pays? Who Benefits? Unfairness in American Health Care" (with Clark Havighurst, *Notre Dame Journal of Law, Ethics, and Public Policy*, 2011).

ZOË ROBINSON, *Assistant Professor of Law, DePaul University College of Law* is a graduate of Queensland Conservatorium of Music, BMus, Australian-National University, BA, LLB, and University of Chicago, JD. Her publications include "Rationalizing Religious Exemptions: A Legislative Process Theory of Statutory Exemptions for Religion" (*William and Mary Bill of Rights Journal*, forthcoming).

MARK D. ROSEN, *Professor of Law, IIT Chicago-Kent University* is a graduate of Yale College and Harvard Law School, JD. His publications include "Why (and to what extent) Political Liberalism Should Accommodate Perfectionist Religious Groups" (*Philosophia*, 2011).

LISA SHAW ROY, *Jessie D. Puckett, Jr., Lecturer and Associate Professor of Law, University of Mississippi School of Law* is a graduate of University of California, Riverside and University of Southern California, JD. Her publications include "The Establishment Clause and the Concept of Inclusion" (*Oregon Law Review*, 2004).

CHAIM SAIMAN, *Associate Professor of Law, Villanova University School of Law* is a graduate of Georgia State University and Columbia University, JD. His publications include "Jesus' Legal Theory – A Rabbinic Reading" (*Journal of Law and Religion*, 2007).

JACK L. SAMMONS, *Griffin B. Bell Professor of Law, Mercer University Walter F. George School of Law* is a graduate of Antioch and Duke University, BA, and University of Georgia, JD. His publications include "A Rhetorician's View of Religious Speech in Civic Argument" (*Seattle University Law Review*, 2008).

SHELLEY ROSS SAXER, *Professor of Law and Director, Wm. Matthew Byrne, Jr., Judicial Clerkship Institute, Pepperdine University School of Law* is a graduate of Pepperdine University, BS, and University of California, Los Angeles, JD. She is author of "Faith in Action: Religious Accessory Uses and Land Use Regulation" (*Utah Law Review*, 2008).

MARK S. SCARBERRY, *Professor of Law, Pepperdine School of Law* is a graduate of Occidental College, AB, and UCLA Law School, JD. He is chair of the AALS Section on Constitutional Law and the lead author of *Business Reorganization in Bankruptcy: Cases and Materials* (Thomson West, 4th ed. 2012).

MICAH SCHWARTZMAN, *Associate Professor of Law, University of Virginia School of Law* is a graduate of the University of Virginia, University of Oxford, PhD, and University of Virginia School of Law, JD. His publications include "The Relevance of Locke's Religious Arguments for Toleration" (*Political Theory*, 2005).

MAIMON SCHWARZCHILD, *Professor of Law, University of San Diego School of Law* is a graduate of Columbia University, BA, JD. His publications include "Popular Initiatives and American Federalism" (*Journal of Contemporary Legal Issues*, 2004).

STIJN SMET, *PhD Candidate, Faculty of Law, Ghent University* is a graduate of Universiteit Gent, JD, and University of Venice, LL.M. His publications include "Freedom of Expression and the Right to Reputation: Human Rights in Conflict" (*American University International Law Review*, 2011).

SUSAN STABILE, *Robert and Marion Short Distinguished Chair in Law, University of St. Thomas School of Law* is a graduate of Georgetown University and New York University School of Law, JD. Her works include *Principles of Employment Law* (West 2009).

THOMAS J. STIPANOWICH, *William H. Webster Chair in Dispute Resolution, Academic Director, Straus Institute for Dispute Resolution, and Professor of Law, Pepperdine University School of Law* is a graduate of the University of Illinois, BS, JD. His publications include "The Third Arbitration Trilogy: Stolt-Nielsen, Rent-A-Center, Concepcion, and the Future of American Arbitration" (*American Review of International Arbitration*, forthcoming 2012).

LEE J. STRANG, *Professor of Law, University of Toledo College of Law* is a graduate of Loras College, University of Iowa College of Law, JD, and Harvard Law, MA, LL.M. His publications include "The Road Not Taken: Catholic Legal Education at the Middle of the 20th Century" (with John M. Breen, *American Journal of Legal History*, forthcoming 2012).

MARK STRASSER, *Trustees Professor of Law, Capital University Law School* is a graduate of Harvard College, University of Chicago, MA, PhD, and Stanford University, JD. He is author of *Religion, Education, and the State* (Ashgate, 2011).

NELSON TEBBE, *Professor of Law, Brooklyn Law School* is a graduate of Brown University, Yale Law School, JD, and the University of Chicago Divinity School, PhD. His publications include "Nonbelievers" (*Virginia Law Review*, 2011).

KYRIAKI TOPIDI, *Lecturer/Senior Researcher and Professor of Law, University of Lucerne, Switzerland* is a graduate of University of Birmingham, England, MA, and Queen's University, Belfast, PhD. She manages a number of research projects on E.U. enlargement, minority protection, and comparative institutional law.

TIMOTHY J. TRACEY, *Assistant Professor of Law, Ave Maria School of Law* is a graduate of Grove City College and Wake Forest School of Law, JD. He argued the case of *Christian Legal Society v. Martinez* in front of the Ninth Circuit. His publications include "Christian Legal Society v. Martinez: In Hindsight" (*Hawaii Law Review*, 2012).

DAVID VANDRUNEN, *Robert B. Strimple Professor of Systematic Theology and Christian Ethics, Westminster Seminary California* is a graduate of Northwestern University, JD, and Loyola University Chicago, PhD. His books include *Natural Law and the Two Kingdoms: A Study in the Development of Reformed Social Thought* (Eerdmans, 2010).

ROBERT K. VISCHER, *Associate Dean for Academic Affairs and Professor of Law, University of St. Thomas School of Law* is a graduate of University of New Orleans and Harvard Law School, JD. He is author of *Conscience and the Common Good: Reclaiming the Space Between Person and State* (Cambridge University Press, 2010).

WILLIAM WAGNER, *Professor of Law, Thomas M. Cooley School of Law* is a graduate of Western Michigan University and Saint Louis University, JD. His publications include "Physician-Assisted Killing Laws, Constitutional Authority, and the Conscience of a Nation: Two Worldviews" (*T. M. Cooley Law Review*, 2007).

KEVIN WALSH, *Assistant Professor of Law, University of Richmond School of Law* is a graduate of Dartmouth College, the University of Notre Dame, MA, and Harvard School of Law, JD. His publications include "Partial Unconstitutionality" (*New York University Law Review*, 2010).

DALLAS WILLARD, *Professor of Philosophy, University of Southern California* is a graduate of Temple College, BA, Baylor University, BA, and the University of Wisconsin, PhD. His books include *Renovation of the Heart* (2002) and *The Divine Conspiracy* (1998).



FIND COMPLETE CONFERENCE SCHEDULE, LODGING, AND TRAVEL INFORMATION HERE:

LAW.PEPPERDINE.EDU/NOOTBAAR/NEWS-EVENTS/EVENTS/LAW-AND-RELIGION

Registration Closes February 13, 2012.

THE HERBERT AND ELINOR NOOTBAAR INSTITUTE ON LAW, RELIGION AND ETHICS

The Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics was created to explore the nexus between these three disciplines, with particular emphasis on the intersection of faith and law. The purpose of the institute is to bring the redemptive capacity of religious faith and moral insight to law, to find ways in which persons trained in the law can serve "the least of these" throughout the world, and to explore how the practice of law might be a religious calling. The Institute encourages the examination of law and religion from the broad range of Christian, Jewish, and other religious perspectives represented in the law school's students, staff, and faculty. We seek to do so at a theoretical level through seminar, conferences, and scholarship. We also put theory into action, working with governments and human rights organizations to bring peace, justice, and the rule of law around the globe.

LAW.PEPPERDINE.EDU/NOOTBAAR

THE DIANE AND GUILFORD GLAZER INSTITUTE FOR JEWISH STUDIES

The Glazer Institute was established based on the understanding that as a Christian University, Pepperdine's students are especially open to discussions of faith and identity, but are often unacquainted with Christianity's ongoing relationship with Judaism. The Glazer Institute is designed to increase a majority-Christian academic community's exposure to, discussion of, and awareness of Judaism, Jewish Studies, and Israel. The Glazer Institute seeks to provide new avenues for students to explore and connect Jewish and Christian identities through various opportunities—curricular and cocurricular.

WWW.PEPPERDINE.EDU/GLAZER-INSTITUTE

Pepperdine University
School of Law
24255 Pacific Coast Highway
Malibu, California 90263-7994

Nonprofit Org
US Postage
PAID
Pepperdine
University



THE COMPETING
CLAIMS OF
LAW AND
RELIGION
WHO SHOULD INFLUENCE WHOM?

**A RELIGIOUS LEGAL
THEORY CONFERENCE**

*Sponsored by the Nootbaar Institute
on Law, Religion, and Ethics
and the Glazer Institute
for Jewish Studies*

February 23–25, 2012

Pepperdine University
Malibu, California

