

FREDERICK MARK GEDICKS

Guy Anderson Chair & Professor of Law
504 J. Reuben Clark Law School
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EXPERIENCE

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

2007-08 Teaching Assignments

Constitutional Law (Introductory & 14th Amendment courses) and Broker-Dealer Regulation.

Past Teaching Assignments

Advanced Corporation Law, Business Associations, Church and State, Comparative Church and State, Constitutional Interpretation, Constitutional Law (1st Amendment), Corporation Finance, Jurisprudence, Law and Literature, Law and Religion, Public Interest Law, Religion, Securities Regulation, Telecommunications, Torts.

Honors and Awards

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

Conferences Organized

"Church Autonomy," Feb. 6-7, 2004, *papers published at 2004 BYU Law Review 1093-631; 2004 BYU Law Review 1663-997.*

"A Religious Equality Amendment?," Feb. 12, 1996, *papers published at 1996 BYU Law Review 561-688.*

"New Directions in Religious Liberty," Jan. 22-23, 1993, *papers published at 1993 BYU Law Review 1-341.*

Current Committee Assignments

External Speakers & Workshops (Chair)
Judicial Clerkships (Chair)
Summer Research Grants
Faculty Advisor, BYU Chapter of American Constitution Society for Law and Policy

Selected Past Committee Assignments

Admissions
Appointments, Promotions & Tenure (Chair)
Curriculum (Chair)

Of Counsel, Snow, Christensen & Martineau, Salt Lake City, UT, 1997 to present.

Draft complaints, memoranda, motions, and appellate briefs and petitions in matters relating to constitutional, corporation, criminal, and securities law in state and federal court.

Visiting Professor of Law, University of Utah College of Law, Salt Lake City, UT, Summer Terms 2007 & 2001 and Fall Semester 2004.

Taught Constitutional Law (1st & 14th Amendments) and seminar on free exercise exemptions.

Visiting Professor of Law, International Summer School in Law and Religion, Università degli Studi di Siena, Siena, Italy, August 28 to September 4, 2005.

Taught seminar and conducted panels and discussions on church-state issues in the United States and Europe.

Visiting Professor of Law, University of North Carolina School of Law, Chapel Hill, NC, Fall Semester, 2003.

Taught Church and State, and Telecommunications.

Visiting Associate Professor of Law, University of Denver College of Law, Denver, CO, 1989-90.

Taught Corporations, Torts, and Law and Religion.

Associate Professor of Law, 1988-90, Assistant Professor of Law, 1986-88, Visiting Assistant Professor of Law, 1985-86, Mercer University School of Law, Macon, GA.

Taught Business Associations, Constitutional Law (Introduction, & 1st & 14th Amendments), Law and Religion, and Securities Regulation.

Innovative Teaching Award, 1987.

Associate, O'Connor, Cavanagh, Anderson, Westover, Killingsworth & Beshears, Phoenix, AZ, 1981-85.

Drafted disclosure and supporting documents for public and private securities transactions.

Law Clerk, Hon. Ozell M. Trask, United States Court of Appeals for the Ninth Circuit, 1980-81.

PUBLICATIONS

Books

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

Reviewed by

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

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

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

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

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

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

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

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

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

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

Excerpted in

Stone, Seidman, Sunstein, Tushnet & Karlan, *Constitutional Law* 1546 (New York: Aspen, 5th ed. 2005).

Stone, Seidman, Sunstein, Tushnet & Karlan, *The First Amendment* 586-87 (New York: Aspen, 2nd ed. 2003).

Cited by

Griffin v. Coughlin, 649 N.Y.S.2d 903, 920, 922 (N.Y. 1996) (Bellacosa, J., dissenting).

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

Reviewed by

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

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

Briefly Noted, *First Things*, Feb. 1992, at 61.

Articles, Essays, Book Chapters, and Monographs

"An Originalist Defense of Substantive Due Process: Magna Carta, Higher-Law Constitutionalism, and the Fifth Amendment" (working draft completed).

"Uncivil Religion: Judeo-Christianity and the Ten Commandments," 110 *West Virginia Law Review* (forthcoming Fall 2007), <http://ssrn.com/abstract=934851>.

"Fundamentalism, Spirituality, and Church-State Relations in the United States," in *Multiculturalisms: Different Meanings and Perspectives of Multiculturalism in a Global World* (Bern, Switzerland: Verlag, Barbara Pozzo ed. forthcoming 2007).

"Religions, Fragmentations, and Doctrinal Limits," 15 *William & Mary Bill of Rights Journal* 25-41 (2007).

"The Permissible Scope of Legal Limitations on the Freedom of Religion or Belief in the United States," 19 *Emory International Law Journal* 1187-275 (2006), <http://ssrn.com/abstract=934848>.

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

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

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

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

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

"Reconstructing the Blaine Amendments," 2 *First Amendment Law Review* 85-106 (2004), www.ssrn/id=419221.

"The 'Embarrassing' Section 134," 2003 *Brigham Young University Law Review* 959-72.

"Restorative Justice and the Two-Track Establishment Clause," 2003 *Utah Law Review* 523-32.

"Church Discipline and the Regulation of Membership in the Mormon Church," 7 *Ecclesiastical Law Journal* 31-47 (2003).

"A Two-Track Theory of the Establishment Clause," 43 *Boston College Law Review* 1071-109 (2002), www.ssrn/id=318859.

Cited & quoted by Hofer v. Montana Dept. of Public Health & Human Services, 124 P.3d 1098, 1112, 1113, 1114 (Mont. 2005).

"Neutrality in Establishment Clause Interpretation: Its Past and Future," in *Church-State Relations in Crisis: Debating Neutrality* 191-210 (Oxford: Rowman & Littlefield, Stephen V. Monsma ed. 2002).

"Towards a Defensible Free Exercise Doctrine," 68 *George Washington Law Review* 925-52 (2001).

"Towards an LDS Understanding of Church Autonomy," in *Church Autonomy* 251-66 (Frankfurt, Germany: Peter Lang, Gerhard Robbers ed. 2001).

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

Cited by State v. Holm, 137 P.3d 726, 770 n.18 (Utah 2006) (Durham, C.J., concurring in part & dissenting in part).

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

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

Cited by State v. Holm, 137 P.3d 726, 770 n.18 (Utah 2006) (Durham, C.J., concurring in part & dissenting in part).

"The Improbability of Religion Clause Theory," 27 *Seton Hall Law Review* 1233-58 (1997).

"Conservatives, Liberals, Romantics: The Persistent Quest for Certainty in Constitutional Interpretation," 50 *Vanderbilt Law Review* 613-46 (1997).

"Perception versus Reality: Postmodernism, Interpretation, and Truth in Religion and Law," *BYU Clark Memorandum* 8-17 (Fall 1996).

"Introduction: An Ambivalent View of the Religious Equality Amendment," 1996 *Brigham Young University Law Review* 561-68.

"RFRA and the Possibility of Justice," 56 *Montana Law Review* 95-117 (1995).

"The Ironic State of Religious Liberty in America," 46 *Mercer Law Review* 1157-66 (1995).

"The Great American Paradox," *Liberty Magazine*, Sept./Oct. 1994, at 10-13.

Book Review, 44 *Journal of Legal Education* 283-87 (1994) (reviewing Harold J. Berman, *Faith and Order* (1993)); "Comments in Reply to Professor Berman," 44 *Journal of Legal Education* 605 (1994).

"The Poverty of Academic Rhetoric," 44 *Mercer Law Review* 543-51 (1993).

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

"Public Life and Hostility to Religion," 78 *Virginia Law Review* 671-96 (1992).

Reprinted in

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

Cited by

Griffin v. Coughlin, 649 N.Y.S.2d 903, 921 (N.Y. 1996) (Bellacosa, J., dissenting).

Interpretive Essay on "Religion" in *The Oxford Companion to the United States Supreme Court* (New York: Oxford University Press, 1992).

"The Rise and Fall of the Religion Clauses," 6 *BYU Journal of Public Law* 499-512 (1992).

"Arrogance Cloaked as Neutrality," 65 *St. John's University Law Review* 1235-70 (1992) (review essay on Laurence Tribe & Michael Dorf, *On Reading the Constitution* (1991)).

"The Religious, the Secular, and the Antithetical," 20 *Capital University Law Review* 113-45 (1991).

"Some Political Implications of Religious Belief," 4 *Notre Dame Journal of Law, Ethics, and Public Policy* 419-449 (1990).

"Toward a Constitutional Jurisprudence of Religious Group Rights," 1989 *Wisconsin Law Review* 99-169.

Cited by

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

Geraci v. Eckankar, 526 N.W.2d 391, 400 (Minn. App. 1995).

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

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

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

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

Cited by

Jackson State Bank v. Homar, 837 P.2d 1081, 1086 (Wyo. 1992).
Village of Cairo v. Bodine Contracting Co., 685 S.W.2d 253, 261 (Mo. App. 1985).

Foreign Language Publications

“La religione civile negli Stati Uniti e l’Europa,” 2006 *Diritto Pubblico Comparato ed Europeo* (forthcoming fall 2007).

“Exemptions religieuses, neutralité et laïcité” in *La conception américaine de la laïcité* (Paris: Dalloz, Élisabeth Zoller ed. 2005), reprinted as “Religious Exemptions, Neutrality, and Laïcité,” 12 *Indiana Journal of Global Legal Studies* 473-92 (2006).

Translation from Italian, Michał Peitrzak, “Church and State in Poland,” in *Law and Religion in Post-Communist Europe* 215-38 (Leuven, The Netherlands: Peeters, Silvio Ferrari & W. Cole Durham, Jr. ed. 2003).

“Essere Mormone,” 1 *Daimon: Annuario di diritto comparato delle religioni* 71-89 (2001).

“Federalismo e Libertà Religiosa negli Stati Uniti,” in *Confessioni Religiose e Federalismo* 259-68 (Bologna, Italy: Il Mulino, 2000).

Op-ed Essays

“Voting Right Act Still Important 40 Years Later,” *Provo Daily Herald*, June 5, 2006, at A6.

“Utah GOP is the party out of touch,” *Deseret News*, February 22, 2000, at 7A.

“Graham is right to not to join same-sex brief,” *Deseret News*, May 21, 1998, at A26; *Salt Lake Tribune*, May 19, 1998, at A7.

“Religious Conservatives Misjudged the Court,” *Christian Science Monitor*, July 18, 1991, at 19, cols. 1-5, reprinted in *BYU Clark Memorandum* 20-23 (Fall 1991).

“Mormons Right to Support Religious Freedom Restoration Act,” *Provo Daily Herald*, July 21, 1991, at F3.

“Don’t Curb Free Exercise of Religion,” *Deseret News*, July 29, 1991, at 7A (recipient of American Freedom Foundation Award).

Guest Blogging

Balkinization, (May 1, 2007), <http://balkin.blogspot.com>.

Times and Seasons (June 28 to July 12, 2004),
<http://www.timesandseasons.org/index.php?author=21&poststart=1>.

LECTURES, WORKSHOPS, AND CONFERENCE PRESENTATIONS

Endowed Lectures

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

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

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

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

Lectures in Italian

“The History and Juridical Structure of the Mormon Church,” L’Università Italiana della Svizzera, Facoltà di Teologia, Lugano, Switzerland, December 16, 2006.

“Civil Religion in the United States and Europe,” Le Università degli Studi di Milano and Torino, Italy, December 11 & 12, 2006.

“Towards an LDS Understanding of Church Autonomy,” L’Università degli Studi di Milano, Italy, December 2, 1999.

“The American Constitutional Law of Church and State,” L’Università Cattolica del Sacro Cuore, Sede di Milano, and l’Università degli Studi di Firenze, Italy, November 29-30 & December 1, 1999.

“Religious Liberty and American Federalism,” L’Università Cattolica del Sacro Cuore, Sede di Piacenza, Italy, November 14, 1997.

“The Proposed Religious Equality Amendment to the United States Constitution,” L’Università degli Studi di Milano, Italy, November 17, 1996.

“The Separation of Church and State in America,” L’Università degli Studi di Genova, Italy, February 26, 1996.

“The American Constitutional Law of Church and State,” Le Università degli Studi di Como, Firenze, and Milano, Italy, February 23-25, 1996.

External Workshops

Florida State University College of Law, Tallahassee, FL, April 16, 2007.

University of Utah College of Law, Salt Lake City, UT, January 9, 2007.

University of Utah College of Law, Salt Lake City, UT, October 26, 2004.

University of North Carolina School of Law, Chapel Hill, NC, November 13, 2003.

William S. Boyd School of Law, University of Nevada--Las Vegas, Las Vegas, NV, February 11, 2000.

Indiana University School of Law, Bloomington, IN, April 15, 1998.

Wake Forest University School of Law, Winston-Salem, NC, October 28, 1997.

University of Utah College of Law, Salt Lake City, UT, March 14, 1997.

Cumberland Law School of Samford University, Birmingham, AL, December 2, 1995.

Conferences, Symposia, and Legislative Testimony

Invited Participant, “Politica senza Religione?,” Il Convegno Internazionale DiReCom III, Facoltà di Teologia di Lugano, Lugano, Switzerland, forthcoming September 9-11, 2007.

Paper & Panelist, "Religion, Multiculturalism, and Citizenship," Harvard Law School, forthcoming Feb. 29 to March 1, 2008.

Paper & Panelist, ACS Constitution in the 21st Century Project, West Virginia University Law School, April 12-13, 2007.

Paper & Panelist, "Establishment and Equality," Tenth Annual Conference, Association of the Study of Law, Culture, and the Humanities, Georgetown University, Washington, D.C., March 23-24, 2007.

Preliminary & Semi-Finals Judge, Inaugural Religious Freedom Moot Court Competition, The George Washington University Law School, Washington, DC, January 25-26, 2007.

Paper, "Fundamentalism and the Rule of Law," Floersheimer Center for Constitutional Democracy, Cardozo Law School, New York, NY, March 13-14, 2006.

Presentation, "Religion in the Public Schools," *The First Amendment Law Review* Symposium, University of North Carolina School of Law, Chapel Hill, NC, February 24, 2006.

Panelist, "Penumbra in Peril in the Supreme Court: Privacy, Property & People," Fifth Annual "And Justice for All" Seminar, Utah Law and Justice Center, Salt Lake City, UT, January 11, 2006.

Paper and Panelist, "Religion, Division, and the Constitution," AALS Annual Meeting, Program of the Section on Law and Religion, January 8, 2006.

Invited Participant, "Universalità dei Diritti Umani fra Cultura e Diritto delle Religioni," Il Convegno Internazionale DiReCom II, Facoltà di Teologia di Lugano, Lugano, Switzerland, September 18-20, 2005.

Lecture and Panelist, "Changes on the Court," Women Lawyers of Utah, Salt Lake City, UT, September 13, 2005.

Legal Briefing, "Prayer in Government Meetings," Government Operations Interim Committee, Utah Legislature, July 20, 2005.

Paper, "La conception américaine de la laïcité," Centre de droit américain, Université Panthéon-Assas, Paris, January 28, 2005.

Paper and Panelist, "One Nation under God? Unity, Diversity, and Neutrality under the Religion Clauses," AALS Annual Meeting, Program of the Section on Law and Religion, Atlanta, GA, January 3, 2004.

Invited Participant, Fourth Meeting of the European-American Law and Religion Consortium, Budapest, Hungary, December 4-8, 2003

Paper, *Zelman v. Simmons-Harris* and the Blaine Amendments, The Pew Forum on Religion and Public Life & *The First Amendment Law Review*, University of North Carolina Law School, Chapel Hill, NC, March 28, 2003.

Invited Participant, Third Meeting of the European-American Law and Religion Consortium, Emory University, September 19-22, 2002

Paper, "Shifting into Neutral: The Future of Separationism," Boston College Law School, April 4, 2002.

Paper and Panelist, "Faith, Crime, and the Constitution," The Utah Restorative Justice Conference, University of Utah College of Law, forthcoming March 21-22, 2001.

Commentator, "Governing Two Cities: Civil Law and Religious Institutions," George Washington University Law School, Washington, D.C., March 2-3, 2000.

Lecture, "Religious Freedom and the First Amendment," Fourth Annual Religion and the Humanities Conference, Utah Valley State College, Orem, Utah, October 14-15, 1999.

Invited Participant, Second Meeting of the European-American Law and Religion Consortium, University of Trier, Germany, May 16-18, 1999.

Paper, "Religious Liberty at the Dawn of the New Millennium," Indiana University--Bloomington Law School, April 8-10, 1999.

Paper, "Le confessioni religiose nella prospettiva di una riforma federale dello Stato," Università Cattolica, Sede di Piacenza, Italy, November 13-15, 1997.

Paper, "The Future of Religious Liberty," University of Arkansas--Little Rock Law School, September 18-20, 1997.

Panelist, "Religion and the Public Good," Fordham University Law School, New York, New York, June 1-3, 1997.

Invited Participant, Second Meeting of the European-American Law and Religion Consortium, Luxembourg & University of Trier, Germany, November 13-15, 1996.

Paper, "The Religious Freedom Restoration Act," University of Montana Law School, Missoula, Montana, September, 1994.

Commentator, "Confronting the Wall of Separation: A New Dialogue Between Law and Religion on the Meaning of the First Amendment," Center for Church/State Studies, DePaul University, Chicago, Illinois, December 11-12, 1991.

Panelist, "God-Talk: Doing It in Public," AALS Annual Meeting, Program of the Section on Law and Religion, Washington, D.C., January 1991.

Paper, "Law, Religion, and the Public Forum," Capital University School of Law, Columbus, Ohio, October 3-4, 1990.

Paper, "Law, Theology, and Ethics," Hamline University College of Law, St. Paul, Minnesota, October 17-19, 1990.

Paper, "The Religion Clauses of the Constitution," Thomas J. White Center on Law & Government, Notre Dame Law School, South Bend, Indiana, April 6-8, 1989.

Chair and Respondent, Session on Church, State and the Humanities I, Southern Conference on the Humanities, Macon, Georgia, March 1989.

Lecture, "Freedom of Association and Religious Groups," Religiously Affiliated Institutions Section, National Association of College and University Attorneys Annual Convention, June 25, 1986.

ACADEMIC AND PROFESSIONAL AFFILIATIONS

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

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

BYU Studies Academy, 2006 to present.

European-American Law and Religion Consortium, 1996 to present.

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

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

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

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

EDUCATION

J.D., University of Southern California, 1980.

Top 15% of Class.

Articles Editor, *Southern California Law Review*.

Half-Tuition Scholarship.

B.A. (Economics), *Cum Laude*, Brigham Young University, 1977.

Honors Program "High Honors" Designate.

Various Full- & Part-Tuition Scholarships.

SERVICE AND POLITICAL ACTIVITIES

Member, Orem City Housing Committee, 2005 to present.

Assistant Counsel to Gore 2000 Utah Primary and General Election Campaign, 1999-2000.

Board of Trustees, Center for Women and Children in Crisis, Provo, UT, 1997-98.

Utah Attorney General Campaign, Jan Graham, 1996.

Utah Congressional Campaign, Jim McConkie, 1995-96.

PERSONAL

Married, four children.

Hobbies are golf, backpacking, and northern Italian cooking.

Speak fluent Italian, read French