

RESUME OF MARIE A. FAILINGER

Judge Edward J. Devitt Professor of Law
Mitchell Hamline School of Law
875 Summit Avenue
St. Paul, MN 55105
651-695-7658
marie.failinger@mitchellhamline.edu

EDUCATION:

Visiting Fellow, University of Chicago Divinity School, spring semester, 1990

LL.M., Yale Law School, May 1983

J.D., Valparaiso University School of Law, May 1976 First in class, graduated with high distinction; Executive Editor, Valparaiso University Law Review

B.A., Valparaiso University, 1973

Graduated with high distinction; Christ College Scholar. Humanities and German majors.

LEGAL EXPERIENCE:

Legal Services Organization of Indiana, Inc., 1977-82 (Staff Attorney; Managing Attorney, Evansville office; Unit Head, Income Maintenance Unit, Indianapolis office; and Director of Special Services)

Law Clerk, Naval Sea Systems Command, U.S. Department of Defense, 1976

LAW TEACHING EXPERIENCE:

Mitchell Hamline School of Law, Professor of Law, 2016-present

Hamline University School of Law, Professor of Law 1983-2015 (appointed Full Professor in 1988); Interim Dean (April-December 2015); Associate Dean (1990-93, 2008-10)

Recent Courses: Criminal Law; Property; Constitutional Liberties, Seminar in Law and Religion; Constitutional Powers; Family Law; Feminist Jurisprudence; Equal Justice Applied Research.

Courses Previously Taught: Civil Rights; Consumer Protection, Social Welfare Law, Corrections and Prisoners' Rights, Professional Responsibility, Public Interest Advocacy

June, 2019

Clinic, Religious Perspectives on Biomedical Ethics (co-taught 1996, 1998, Jerusalem); Law, Religion and Ethics in a Multi-cultural Setting (co-taught, 1996, 1998 Jerusalem); Seminar in Legal Ethics; Seminar in Gender, Childhood and the Constitution; Seminar in Discrimination Law; Seminar in First Amendment Law;

Valparaiso University School of Law, Teaching Associate, Clinical Program, 1976-1977.

PROFESSIONAL and COMMUNITY ACTIVITIES

Current Professional and Community Activities:

AALS Section on Women in Legal Education Oral History Task Force, 2014-present (founder and chair, collecting over 40 oral histories of women law professors; presenter to 2019 Annual Meeting WILE Section program on oral histories)

ALS Section on Professional Responsibility, 2005-present (Section chair 2005; Executive Committee member 2004-07, 2016-2020; Fred Zacharias prize committee, 2017-present and co-chair 2017-18; program selected paper committee, 2019)

AALS Section on Poverty Law, 1984-present (founder and Section Chair, 1984-1988; Executive Committee member, 1984-92, 2002-09, 2011-12; treasurer 2006-07)

AALS Section on Law and Religion, 1992-present (Executive Committee, 1992-94, 2006-07, 2009-10; Nominating Committee chair 2018-19; Program Committee, 2017-18; Berman award committee member, 2017-19)

Council on American-Islamic Relations-Minnesota Chapter Advisory Committee, 2010-present

Council on Religion and Law (CORAL) Board of Directors, 2014-present (formerly, Journal of Law and Religion Editorial Board)

The Infinity Project, 2007-present (co-founder and 2012 president, currently on Executive Committee)

Karamah: Muslim Women Lawyers for Human Rights Advisory Committee member, 2001-present

Minnesota Women Lawyers, 1988-present (Advisory Board, Equal Justice Award Selection Committee, judicial subcommittees, past Board of Directors, past Nominating Committee member)

June, 2019

National Equal Justice Library, 1989-present (co-founder and Secretary, 2001-present)

World Without Genocide Board of Directors, 2017-present (vice-chair, 2019-)

Yale University admissions interviewer

Past professional and community boards and committees

AALS Section on Clinical Legal Education Program Committee, 1986

AALS Section on Women in Legal Education New Teacher's Conference Committee, 1986

American Indian Policy Center Board of Directors, 1992-2014 (founding member, treasurer, past fundraising chair)

Central Minnesota Legal Services Board of Directors, 1993-2019 (Past President, former President, Vice-President, Audit Committee, Nominating Committee chair)

Church Innovations Institute Board of Directors, 1993-2017 (co-founder, secretary, vice-chair and interim executive director)

Crossroads Adoption Services Board of Directors (secretary), 1986-96

Guild of St. Thomas More — Twin Cities chapter 2006-present

Hennepin County Bar Association Judicial Fair Response Committee, 2006-08

Journal of Law and Religion Editor-in-Chief and member of the Editorial Board, 1989-2013

Journal of Lutheran Ethics Editorial Council, 2001-2016

Law Teachers for Legal Services Founder and co-chair, 1985-89

Legal Advice Clinic's Family Law Committee, 1984

Loan Repayment Assistance Project Board, 2009-2012

Lutheran Innovations (co-founder, secretary, 1997-2000)

Lyngblomsten Health Care Center, past member of the Ethical Concerns Committee, congregational representative 2006-present

Midwest Center for Arts, Entertainment, Literature and Law Board of Directors, (founding member and president), 1991-95

Minnesota Council of Churches Renewing the Public Church Task Force, 1997

Minnesota Fair Housing Center Advisory Committee, 2000-2001

Minnesota State Bar Association Section on Legal Assistance to the Disadvantaged Law School Initiatives Subcommittee, 2010-2012 (chair 2010-11)

MSBA/Attorney General's Joint Task Force on Delivery of Legal Services to Rural Areas (alternate), 1985

War on Poverty Anniversary Law School Network, founder and coordinator, 2014-15

Other past professional and community service:

American Bar Association law school site inspection teams

Evangelical Lutheran Church in America, Div. For Church in Society:
Project on Educational Choice, 1993-95; Project on Church-State Studies,
1996-98, Consultation on a Social Statement Concerning Justice for Women,
2012

Feminist Legal Theory Collaborative Program for Law and Society
Association meeting, May 2014

Interfaith Advisory Committee, Minnesota Department of Children, Families, and Learning, 1999-2000

Lawyers for Good Government (L4GG) Mitchell Hamline chapter, 2017

Legal Services Corporation, Federal Litigation Training Trainer

Lutheran Peace Fellowship Dialogue on Ministry to the Military
National Council on Negro Women, St. Paul Chapter, 1992-1997

Res Ipsa Loquitur ethics group participant

SALT Workshop: Teaching Race, Gender and Other Diversity in the Law School Classroom,
Organizer/Moderator, Professional Responsibility workshops, 1994

June, 2019

Assisted with the formation of the Children's Law Center of Minnesota (incorporated 1993)

Winona State University, Distinguished Visitor 2000.

Pro bono legal assistance on cases challenging Minnesota's conceal and carry law (2004) and Minnesota's welfare reform bill (1997); and amicus briefs in *Washington v. Glucksberg* (U.S Supreme Court) (1996), *Bear Lodge Multiple Use Assn. v. Babbitt* (appeal from the federal District of Wyoming), *Holmberg v. Holmberg* (appeal to the Minnesota Supreme Court (1998) Professional pro bono work on protections for sanctuary churches

Recognitions:

Elizabeth Hurlock Beckman Award, 2015

Hamline Law School Outstanding Service Award, 1995-96

Hamline SBA Award, 1993-94

Hamline University Wesley Faculty Award, 2014

Journal of Law and Religion Achievement Award, 2013

Minnesota Justice Foundation, 2006 Law School Professor Award

Minnesota Lawyer Attorney of the Year 2013 (co-recipient for Infinity Project)

Minnesota Women Lawyers Service to MWL Award co-recipient, 2001 and 2005

Minnesota Women Lawyers Myra Bradwell Award, 2011

Mitchell Hamline School of Law Judge Edward J. Devitt Professorship, 2016-

United Methodist Church Exemplary Teacher award for Hamline, 2009

Valparaiso University School of Law Honorary Doctor of Laws, 2014

MITCHELL HAMLIN LAW SCHOOL ACTIVITIES (2016-)

Law School Committees: MHSL Admissions Committee (past chair), MHSL History Center Committee (co-chair), MHSL Strategic Initiatives Committee (2016-17), MHSL Emergency

June, 2019

Response Committee (2016-17), MHSL Tenure Committee faculty subcommittee.

Programs Organized or Co-organized

MHSL History Center Committee on Near v. Minnesota event, April 2019

David Cobin Lecture, Professor Sanford Levinson, March 2019

MHSL History Center, Edward J. Devitt and Practical Justice, September 2017

Angela McCaffrey Public interest CLE and benefit, September 2016

Why We Need Diversity in the Judiciary, September 2016 (with the Infinity Project)

Journal of Law and Religion Retrospective: Violence, Social Justice and Human Rights at the Intersection of Law and Religion, October 2017 (United Theological Seminary);

HAMLIN LAW SCHOOL ACTIVITIES (1983-2015)

Hamline Hebrew University Program in Law, Religion and Ethics
Interim director, summer 2000; faculty member, summer 1998

Symposium on Law, Religion and Ethics
Program Chair, 1996, 1998, 1999, 2004-2012, 2015

Public Interest Law Community convener, 2006-08, 2010-2014

Past Advisor to the Women's Legal Caucus, Minnesota Justice Foundation, Public Law Group, Christian Legal Society, Native American Law Society, American Constitution Society

Organizer of numerous programs and events at AALS, the law school and with community organizations on such issues as law and religion; legal history; hunger, politics and law; first year orientation; Jurist in Residence and Bush distinguished visitor programs; American Indian policy; censorship; girls and girlhood; diversity in the judiciary; and public interest law.

Sexual Harassment Mediator, 1988-90, 1993-96

Director and co-founder, Hamline Crossroads Center, 1993-97

June, 2019

Administrative work has included program planning; grant-writing, grants administration and development work; materials for admissions, public and alumni relations; budgets; service as interim Director for the Hamline-Hebrew University summer program (1999-2000); student academic counseling; administration of the Code of Conduct; curriculum development; faculty and staff hiring and personnel issues; strategic planning; enrollments; retreat planning; evaluation; liaison work with other universities; faculty seminar coordination.

Grants written at Hamline included Minnesota Historical Society (contributed to 2 grants, totaling \$13,600); Otto Bremer Foundation grant for a consultant for an American Indian program (\$74,000/2 years); Deubener-Juenemann Foundation grant for an endowment for the Crossroads Center (\$108,000)

ACADEMIC/PROFESSIONAL PRESENTATIONS

Panelist, Federal Reserve Board--MN, *Gender, Equity, the Workplace and You* December 11, 2018

The Section on Women in Legal Education Oral History Project—History and Reasons, AALS Annual Meeting Section on Women and Legal Education panel, January 5, 2019 (video presentation)

Commentator on Kollaru, *The Pursuit of Justice and Hindu Dharma: Can A Hindu Lawyer Serve The Guilty?* Conference on Religious Lawyering at Twenty, Fordham Law School, New York, September 14, 2018

Presenter, *What Might Have Been: The Bumpy History of Gender Equality Under the Constitution*, Minnesota Law Library May Day presentation, May 1, 2017

Organizer and Moderator, *AALS Academy Program - Still Victims: Continuing the Trauma of Victims of Military Sexual Assault*, January 5, 2017.

Presenter, *Charting the Past, Projecting the Future: New Directions in Poverty Law Works in Progress*, AALS Section on Poverty Law, January 5, 2017.

Conference organizer and Presenter, Lutheran Interpretations of Contemporary Legal Issues: So Much Good Fruit, presentation on *Lutheran Perspectives on Family Law*, October 28, 2016.

The Legacy of the Reformation for Families: Legal Perspectives, Association of Teaching Theologians Convocation, August 1, 2016

June, 2019

Presenter, *Women and the Free Exercise Clause: Some Thoughts about a Feminist Reading*, Florida International University Law Review symposium, Florida International University School of Law, October 23, 2015

Respondent, ART and Parentage, Feminist Legal Theory Collaborative Research Network, Law and Society Association Annual Meeting, May 29, 2014.

Speaker and conference co-planner, *Conversations in Feminism, Law and Religion*, University of St. Thomas, March 20-21, 2014

Speaker and conference co-planner, *So Much Great Fruit*, Valparaiso University School of Law Chicago campus, March 27-28, 2014

Speaker (*Jefferson v. Hackney*) and conference co-planner, *Poverty Law: Cases, Teaching, and Scholarship*, American University, Washington College of Law, Oct. 26, 2013

Speaker, *The Current State of Constitutional Law after Roe v. Wade*, Gustavus Adolphus Mayday Conference on Roe v. Wade, May 2, 2013

Keynote Speaker, *Twenty-five Years of Law and Religion Scholarship: Some Reflections*, Religious Legal Theory Conference, Touro Law Center, April 11, 2012

Panelist, *International Human Rights and Adoption and Lutheran Views of Adoption*, Intercountry Adoption: Orphan Rescue or Child Trafficking? Conference, Pepperdine Law School, February 9, 2013

Is Adoption Obsolete? Sustaining Families: Global and Local Perspectives, International Society of Family Law North American Regional Conference, University of Iowa, June 2012

Panelist, *Gender Diversity on the Bench and its Effects on Gender Bias, Bias in the Legal Profession: What Bias?* Federalist Society, June 2012.

Moderator, Conference of Religiously Affiliated Law Schools, Touro Law School, May 2012

Two Theories of Religious Accommodation panel, Third Annual Religious Legal Theory Conference, Pepperdine Law School, 2012

Feminism, Law and Religion: Promise, Problems, and (Critical) Perspectives, Feminist Legal Theory Collaborative Research Network, 2012

June, 2019

Law and Religion Journals, International Consortium of Law and Religion Studies (ICLARS) conference, Santiago Chile, 2011

Finding a Voice of Challenge: The State Responds to Religious Women and Their Communities, University of Colorado Law School Summer Workshop on Law, Religion and Culture, 2011

Confronting Madness: A Difficult Paradox for Law, Beyond Rights: Vulnerability and Justice Workshop, Smith College, 2010

Ophelia with Child, Family Values: Law and the Modern American Family, Journal of Law and Inequality, University of Minnesota, 2010

Part-time Programming, ABA Associate Dean's conference, 2010

Bias in the Legal Profession: What Bias? Federalist Society 2009

Pluralism, Democracy and the Christian Citizen, Lumen Christi 2009

Levinas and Law Schools, Conference on Law, Poverty and Inequality, *Legal Education panel*, Valparaiso University School of Law, 2008

Rights, Religion, Revolution: Theories of Advocacy for the Poor, AALS Section on Poverty Law panel, 2008.

Workplace Restructuring to Accommodate Family Life, University of St. Thomas Law Journal Symposium, , March 2007

Presenter, Fordham Urban Law Journal symposium on *Teaching Poverty Law in the Law School Curriculum*, March 2007

Presenter, *Feminist Jurisprudence: A Lutheran Approach*, Lumen Christi Christian Law Professors meeting, January 2007

Totality and U.S. Immigration Law: Recovering the Face to Face, Levinas and Law Centennial Conference, McGill University, 2006

Faculty Colloquium, University of St. Thomas Law School, 2006

Faith and Freedom: The Fortieth Anniversary of Vatican II and the Declaration on Religious Liberty, Fordham University, October 2005

June, 2019

The Supreme Court as Rhetor or Symbol-maker, University of Pennsylvania Journal of Constitutional Law Symposium, 2005

, *Integrating Faculty Who Do not Share the Institution's Religious Tradition into Advancing the Tradition*, Notre Dame Law School, 2004

Panelist, *Bias in the Legal Profession: What Bias?* sponsored by Northstar Legal Center and the Federalist Society, 2004.

Voices Protesting and Affirming: Engaging the Culture of Law, University of St. Thomas Law Journal, 2003

The Reflective Lawyer: Raising the Bar on Ethics, College of St. Catherine, 2002

Symposium: The Theology of the Practice of Law, Mercer Law School, 2002

Hamline University Law, Religion and Ethics Symposia (moderator or panelist), 1989-1993, 1996, 1998-99

Minnesota Women Lawyers Annual Career Seminar, 1998

The Work of H. Jefferson Powell, Notre Dame Law School, 1996

Hannah Arendt's Philosophy and Law: A Reconsideration, American Society of Legal History Annual Meeting, 1994

Law School and Legal Services: Challenges Ahead, AALS Annual Meeting, 1985

Ethics seminar for business law teachers, University of St. Thomas, 1992

Welfare Rights in the 1990's (debate with Lawrence Mead) Loyola Law School, 1991

Nomos and Narrative, American Academy of Religion Annual Meeting. 1988

The Case of Sanctuary, Valparaiso University Christ College Symposium (1987)

COMMUNITY SPEECHES AND PRESENTATIONS:

Media: Have appeared on a number of radio and TV news broadcasts discussing Supreme Court Cases on marriage, affirmative action, religion and public life, the First Amendment and religious liberty, and work and vocation, including most recently the PBS

June, 2019

Series, *America from Scratch* (May 2018), as well as contributing to newspaper articles on current events.

Community Speeches and Panels:

Moderator, Ramsey County Judicial Candidates' forum, September 27, 2018

Moderator, American Bar Foundation Fellows program, *Special Counsels, Independent Counsels and Special Prosecutors*, July 31, 2018

Panelist, MN Lavender Bar Association CLE on Masterpiece Cakeshop, June 27, 2018

Panelist, MHSL Alumni CLE on Masterpiece Cakeshop, June 20, 2018

The Supreme Court Term 2015-16 Human Rights Cases, American Association of Visually Impaired Attorneys, July 3, 2016

Race and the Constitution: A History, Adath Jeshurun, Facing Racism: A Jewish Response, April 3, 2016

Lutheran Principles for the Appointment of Justices, University of St. Thomas Law School, Wednesday, February 17, 2016

Jiggery-Pokery and Applesauce? The Impact and Legacy of Justice Antonin Scalia Center for Justice and Law, Hamline University, February 23, 2016

Women and American Law: How Feminist Legal Theories Changed the Landscape, and How They Didn't, Steele County Women Lawyers Organization and Steele County Bar Association, July 22, 2015

Women and the Law, Evangelical Lutheran Church in America Task Force on Women and Justice, February 28, 2015

The Supreme Court 2013 Term, Washington County Bar Association, August 27, 2014; Dakota County Bar Association CLE, December 18, 2014.

New Law: Gender Diversity on the Bench, Minnesota CLE webcast, September 20, 2013

Three Constitutional Dilemmas about Power: Voting Rights, Same-Sex Marriage, and Affirmative Action, University of Minnesota-Rochester Constitution Day, September 17, 2013.

Hate Speech and Human Rights, Sisters of Carondelet, St. Paul, MN, January 10, 2013

June, 2019

Periakto Productions, *Thurgood Marshall is Coming Ethics panel*
(taped for CLE), January 18, 2013

The Minnesota Marriage Amendment, Richfield Community Center and North Hennepin
Community College, October 9 and 24, 2012

Proposed Minnesota constitutional amendments, Lutheran Church of the Redeemer,
October 7, 2012

Racial Profiling, St. Paul Synod (ELCA) Anti-Racism Task Force event, October 23, 2012

The Trial of Osama Bin Laden, Humphrey Institute, 2006

Religious Freedom in Norway, Sons of Norway regional organization, 2005

Civil Rights, Minnesota Young DFL conference, 2004

The Supremacists: The Tyranny of Judges and How to Stop It, Federalist Society, (with Phyllis
Schlafly, Mary Jane Morrison) 2004

Free Speech in the Twenty-First Century, Central Lakes College, 2004.

Republican Party v. White, Minnesota Women Lawyers Voter Outreach Project, 2002.

Faith and the Practice of Law, Evangelical Lutheran Church in America, 2002

Lawyering and Spirituality, Kairos, 2002

Does Religion Belong in the Public Schools? Stillwater Area Schools, 2000

Does Religion Belong in Public? Hamline Association of Alumni, 1999

The Religious Freedom Amendment. . . Freedom for Whom? Interfaith
Alliance, 1998

Christians in the Midst of Public Ethical Dilemmas, Wayzata Community Church, 1999

Death and Dying: Legal and Ethical Issues, Lutheran Church of the Redeemer, 1998

Church Worker Malpractice, ELCA Triennial Conference on Social Ministry, 1993

June, 2019

Storytelling and Censorship, Omaha Organization for the Purpose of Storytelling, 1993

PUBLICATIONS:

Books and Book Chapters

Co-editor and contributor, **LUTHERAN THEOLOGY AND SECULAR LAW: THE WORK OF THE MODERN STATE** (ed. Marie A. Failinger and Ron Duty, Routledge Press, April 2018)

Co-editor and contributor, **ON SECULAR GOVERNANCE: LUTHERAN PERSPECTIVES ON CONTEMPORARY LEGAL ISSUES** (ed. Ronald Duty and Marie A. Failinger, Wm. B. Eerdmans, March 2016)

Co-editor and contributor, **THE POVERTY LAW CANON** (ed. Marie A. Failinger and Ezra Rosser, University of Michigan Press, August 2016) (*chapter author: Jefferson v Hackney*)

Editor, Case Supplement to **The Poverty Law Canon**
(published as Supplemental Materials on the University of Michigan Press website, URL: https://www.press.umich.edu/7280887/poverty_law_canon/?s=look_inside)

Contributor, *On the Other Hand: God's Care for the Creation and its Dilemmas*, in **GIFT AND PROMISE: A THEOLOGY YOU CAN LIVE WITH** (edited Ronald Neustadt et al, Augsburg Fortress Press, August 2016)

Contributor, *Co-creating Families in an Interdependent World. A Lutheran Perspective on Intercountry Adoption Law* in **THE INTERCOUNTRY ADOPTION DEBATE: DIALOGUES ACROSS DISCIPLINES** (R.L. Ballard, N.H. Goodno, R.F. Cochran, Jr., and J.A. Milbrandt, eds, Cambridge Scholars Publishing, January 2015)

Co-editor and contributor, **FEMINISM, LAW AND RELIGION** (Ashgate Press, 2013)
(*chapter author: Co-Creating the Family: A Lutheran View of Marriage and Divorce Law*)

United States v. Ballard, in **LAW AND RELIGION CASES IN CONTEXT** (Aspen Press, Leslie Griffin, ed., 2010)

The Lesser Violence Than Murder and the Face-to-Face: "Illegal" Immigrants Stand Over American Law, in **ESSAYS ON LEVINAS AND LAW: A MOSAIC** (Palgrave MacMillan Press, 2009, ed. Desmond Manderson)

June, 2019

Conscience and Commitment: A Problem for the Modern Church, in **GOSPEL BLAZES IN THE DARK: A FESTIVAL OF WRITING SPARKED IN HONOR OF EDWARD HENRY SCHROEDER** (Crossings Publishing, 2006)

We Must Spare No Diligence: The State and Childhood Education, in **CHURCH AND STATE: LUTHERAN PERSPECTIVES** (John Stumme, Robert Tuttle, eds., Augsburg Fortress Press 2003)

Making our Home in the Works of God, with Patrick R. Keifert in **CHRISTIAN PERSPECTIVES ON LAW** (MCCONNELL, COCHRAN, CARMELLA, EDS YALE PRESS 2001)

Wondering After Babel: Power, Freedom and Ideology in U.S. Supreme Court Interpretations of the Religion Clauses in **LAW AND RELIGION** (Dartmouth/Ashgate Press 2001) (Rex Ahdar, editor)

Jocasta Undone: Constitutional Courts in the Midst of Life and Death in **CONSTITUTIONAL STUPIDITIES AND CONSTITUTIONAL TRAGEDIES** (ed. Sanford Levinson and William Eskridge) (1998)

TWO ESSAYS ON EDUCATIONAL CHOICE: LUTHERAN PERSPECTIVES (with Louis L. Almen) (Division for Church in Society and the Division for Higher Education and Schools of the Evangelical Lutheran Church in America) (1996)

Law Review/Theology Journal Articles

Islam in the Mind of American State Courts—1960 to 2001, 28 **S. Cal. Rev. Law & Soc. Justice** 21 (2019)

Searching the Legacy of the Reformation for Lutheran Responses to Modern Family Law, 4 **Concordia L. Rev.** 147 (2019)

The Lutheran Lawyer: Some Reflections on the Ethics Contributions of Susan Martyn, 47 **Toledo L. Rev.** 63 (2015) (published Feb. 2016)

Women and the Free Exercise Clause: Some Thoughts About a (Religious) Feminist Reading, 11 **FIU L. Rev.** 47 (2015) (published April 2016)

Pilgrim Finally at Rest: The Journey of Robert E. Rodes, Jr., 90 **Notre Dame L. Rev.** 1983 (2015)

Twenty-five Years of Law and Religion Scholarship: Some Reflections, 30 **Touro Law Rev.** 9 (2014)

Moving Toward Human Rights Principles for Intercountry Adoption, 39 **N.C. J. Int'l L. & Comm. Reg.** 523 (2014)

June, 2019

Parallel Justice: Creating Causes of Action for Mandatory Mediation, 47 **U. Mich. J. of Law Reform** 359 (2014) (scheduled for reprinting in the Romanian Judges Forum, April 2015)

Co-Creating Adoption Law: A Lutheran Perspective, 51 **dialog: A Journal of Theology** 266 (Winter 2012)

Talking Chalk: Defacing the First Amendment in the Public Forum, 115 **W. Va. L. Rev.** 755 (2012)

The Paradox in Madness: Vulnerability Confronts the Law, 1 **Mental Health L. & Pol'y J.** 1 (2012)

Yick Wo at 125: Four Simple Lessons for the Contemporary Supreme Court, 17 **Mich. J. Race & the Law** 2167 (2012)

Finding a Voice of Challenge: The State Responds to Religious Women and Their Communities, 21 **S. Cal. Rev. Law and Soc. Justice** 137 (2012)

Islam in the Mind of American Courts: 1800-1960, XXXII **B.C. J. of Law and Soc. Justice** 1 (2012)

Lutheran and Yet Not Lutheran: A Church School Tests the Dilemma of Church and State, LXXXVI **The Cresset** 19 (Lent 2012)

Ophelia with Child: A Restorative Approach to Legal Decision-making by Teen Mothers, 28 **Law & Inequality** 255 (2010)

Levinas, Law Schools and the Poor: They Stand Over Us, 35 **Okla. City Univ. L. Rev.** 115 (2010)

Sex and the Statehouse: The Law and the American Same-Sex Marriage Debate, 48 **dialog: A Journal of Theology** 19 (Spring 2009)

A Truly Good Work: Turning to Restorative Justice for Answers to the Welfare-to-Work Dilemma, 15 **Geo. J. Pov. L. & Pol'y** 209 (2008)

Women's Work: A Lutheran Feminist Critique 4 **Univ. of St. Thomas L. J.** 405 (2008)

A Home of Its Own: The Role of Poverty Law in Furthering Law Schools' Missions, 24 **Fordham Urban L. J.** 1173 (2007)

Recovering the Face-to-Face in American Immigration Law, 16 **S. Cal. Rev. Law & Soc. Just.** 319 (2007) reprinted in 28 **Immigration & Nationality Law Review** 113 (2007)

Pondering Conscience: Civil Disobedience in American Law and Same-Sex Dissent in the ELCA, LXX **The Cresset** 28 (2007)

June, 2019

"No More Deaths": On Conscience, Civil Disobedience, and a New Role for Truth Commissions, 75 **U.M.K.C L. Rev** 401 (2007)

Lessons Unlearned: Women Offenders, the Ethics of Care, and the Promise of Restorative Justice, 23 **Fordham Urb. L. J.** 487 (2006)

In Praise of Contextuality—Justice O'Connor and the Establishment Clause, 29 **Hamline L. Rev.** 7 (2006)

Against Idols: The Court as Symbol-maker or Rhetor? 8 **U.Pa. Cons. L. J.** 367 (2006)

Can Good Judges Be Good Politicians? A Virtue Approach, 70 **Missouri L. J.** 433 (2005)

Pilgrimage or Exodus: Responding to Faculty Faith Diversity at Religious Law Schools, 81 **Detroit Mercy L. Rev.** 719 (2004)

Virtuous Judges and Electoral Politics: A Contradiction?, 67 **Albany Law Review** 769 (2004)

"Too Cheap Work for Any But Us:" Toward a Theory and Practice of Good Child Labor, 35 **Rutgers Law Journal** 1035 (2004)

Voices Protesting and Affirming: Engaging the Culture of Law, 1 **St. Thomas L. J.** 307 (2004)

A Peace Proposal for the Same-Sex Marriage Wars: Restoring the Household to its Proper Place 10 **Wm. and Mary J. of Women and the Law** 195 (2004)

Not Mere Rhetoric: On Wasting or Claiming your Legacy, Justice Scalia, 34 **U. of Toledo L. Rev.** 425 (2003)

A Word and Flesh Profession and accompanying roundtable, 53 **Mercer L. Rev.** 1035 (2002)

Is Tom Shaffer a Covenantal Lawyer? 77 **Notre Dame L. Rev.** 705 (2002)

Remembering Mrs. Murphy: A Remedies Approach to the Conflict Between Gay/Lesbian Renters and Religious Landlords, 29 **Cap. L. Rev.** 383 (2001)

Gender, Justice and the Left Hand of God: A Lutheran Perspective, 9 **South. Cal. Rev. of Law and Women's Studies** 45 (2000)

The Justice Who Wouldn't be Lutheran: Toward Borrowing the Wisdom of Faith Traditions, 46 **Cleveland State L. Rev.** 643 (2000)

June, 2019

Searching for the Crown of Feathers: An Essay on Psychology, Ethics and Truth in Constitutional Litigation, 9 **South. Cal. Interdisciplinary L. J.** 381 (2000)

Unmasking the Stranger: American Welfare Residency Rules and the Encounter with the Other, 5 **Law/Text/Culture** 223 (2000) (University of Sydney law school)

Keeping Faith: An Essay on the Right to Travel, the Poor and the Ethical Demands of Constitutional Stare Decisis, 5 **Loyola Pov. L. J.** 27 (1999)

Face-ing the Other: An Ethics of Encounter and Solidarity in Legal Services Practice, 67 **Fordham L. Rev.** 2071 (April 1999)

Five Modern Notions in Search of an Author: The Ideology of Public and Private in Constitutional Speech Law, 30 **Univ. Toledo L. Rev.** 251 (1999)

Necessary Legends: The National Equal Justice Library and the Importance of Poverty Lawyers' History, XVII **St. Louis University Public Law Review** 265 (1998)

New Wine, New Bottles: Private Property Metaphors and Public Forum Speech, 71 **St. John's L. Rev.** 217 (1997)

Participant, *H. Jefferson Powell on the American Constitutional Tradition: A Conversation*, 72 **Notre Dame L. Rev.** 11 (1996)

Can Wrongs Be Rights? Why a Conservative Might Support Legal Protections for Gay and Lesbian People, XIV **Word & World** 270 (1994)

Gentleman as Hero: Atticus Finch and the Lonely Path, X **J. Law & Relig.** 303 (1993-94)

Contract, Gift or Covenant? A Review of the Law of Overpayments, 36 **Loyola L. Rev.** 89 (1991).

Home at Last: Poverty Law Returns to the Academy, 34 **Loyola L. Rev.** 265 (1988).

Equality Versus the Right to Choose Associates: A Critique of Hannah Arendt's View of the Supreme Court's Dilemma, 49 **U. Pitt. L. Rev.** 143 (1987).

An Offer She Can't Refuse: When Fundamental Rights & Conditions on Government Benefits Collide, 31 **Villanova L. Rev.** 833 (1986).

Minnesota's Revenue Recapture Act: Little Brother Makes Good? 7 **Hamline J. of Law & Pub. Policy** 1 (1985).

June, 2019

Litigating Against Poverty: Legal Services and Group Representation, 45 **Ohio St. L. J.** 1 (1984).

Online and Brief Print Professional Publications/Book Reviews

The ERA: This Time the Charm? **With Equal Right**, Winter 2019 (magazine of Minnesota Women Lawyers)

Book Review Essay, *The Contested Place of Religion in Family Law* (Cambridge University Press, 2018, ed.) by Robin Fretwell Wilson, 2019 **University of Illinois Law Review Online** 59 (<https://illinoislawreview.org/online/the-contested-place-of-religion-in-family-law/>)

The Poverty Law Canon Case Supplement, <https://www.press.umich.edu/pdf/9780472073153-Supp.pdf> (2017)

Sunday Closing Laws, The Ten Commandments Legal Cases, and Widmar v. Vincent in **Encyclopedia of Christianity in the United States** (Mark Lamport, Ed., 2016)

Book Review, Roberta Kwall, *The Myth of the Cultural Jew: Culture and Law in Jewish Tradition*, 30 **Journal of Law and Religion** 335 (2015)

Book Review, Ira C. Lupu and Robert W. Tuttle, *Secular Government, Religious People*, XXIX **Lutheran Quarterly** 247 (2015)

Changing the Landscape: A Little More Audacity of Hope, Please, **Fordham Urban Law Journal---City Square** (2013)

Finding the Right Metaphor for Our Community, 2010 **Hamline Review** 55 (2010)

A Small Word of Praise for Justice Sotomayor's Wise Latina Woman Comment, **Women Esq** (posted July 14, 2009)

Reprising Brown v. Board of Education: New Hope or More Despair? LXXI **The Cresset** 54 (2008)

Conference Report, *Religious Americans and Political Choices*, 24 **American Journal of Islamic Social Sciences** 154 (2007)

Introduction, *AALS Professional Responsibility Section Essay Contest: Ethics in the Year 2050*, 15 **Widener L. J.** 235 (2006)

Panelist, *Faith & Freedom: The Fortieth Anniversary of Vatican II and the Declaration of Religious Liberty*, Fordham Center on Religion and Culture (October 17, 2005), http://www.fordham.edu/ReligCulture/faith&freedom_transcript_2.htm

June, 2019

Render Unto Caesar, **Journal of Lutheran Ethics** (on-line) (December, 2005)
<http://www.elca.org/scriptlib/dcs/jle/article.asp?aid=613>

Sherbert v. Verner and Viewpoint Discrimination, **Encyclopedia of American Civil Liberties**, 4 vols., ed. Paul Finkelman. New York: Routledge, 2006)

The Judicial Selection Process, 17 **With Equal Right** 8 (Winter 2004) (with Mary Vasaly)

Appointments Take Center Stage, **Bench and Bar** (Aug-Sept. 2003) (with Mary Vasaly)

MWL 'adds value' to endorsement process, **Minnesota Lawyer** S-4 (July 21, 2003)(with Mary Vasaly)

MWL Endorsements Committee Reviews Standards and Steps Up Outreach Efforts, **With Equal Right** (spring 2003)

Indivisible Day and the Pledge of Allegiance: One Nation Under God? **Journal of Lutheran Ethics** (on-line), www.elca.org/jle/articles/contemporary_issues/article.failinger_marie.html (July 10, 2002)

A Foolish Vocation, **Journal of Lutheran Ethics** (online), www.elca.org/jle/articles/vocation/article.failinger_marie.html (June 25, 2002)

Self-Defense? **Journal of Lutheran Ethics** (on-line), http://www.elca.org/jle/articles/contemporary_issues, (September 28, 2001)

Equal Protection, Batson v. Kentucky, and Self-Defense, **THE ENCYCLOPEDIA OF AMERICAN LAW** (David A. Schultz, ed.) (New York: Facts on File, Inc., 2001)

What Kind of Fool am I? A Reflection on the Same-Sex Marriage Debate, **Thursday Theology** for February 20, 2000, www.crossingsorg.

Rediscovering the Role of Religion in the Lives of Lawyers and Those They Represent: Moderator Remarks, 26 **Fordham Urban L. J.** 917 (1999)

Passing the Torch of Pro bono Service, 35 **Tennessee Bar Journal** 33 (November 1999)

Op-ed article for **St. Paul Ledger** on Clinton/Lewinsky scandal and restorative justice (October 24, 1998)

Yale Law School Graduates at Work (brief law professor essay), Yale Law School Career Development Office (June 1997)

Book Review, Lugo, Religion, Public Life and the American Polity, 16 **J. Law & Relig.** 897 (2002)

Book Review, Olyan & Nussbaum, Sexual Orientation and Human Rights in American Religious Discourse 16 **J. Law & Relig.** 383 (2002)

June, 2019

Book Review, Powell, The Moral Tradition of American Constitutionalism, 75 **J. Religion** 289 (1995)

Book Review, Bullis and Mazur, Legal Issues and Religious Counseling, **dialog** (spring 1994)

Book Review, Lebacqz, Six Theories of Justice and Justice in an Unjust World, **dialog** (Fall 1988).

Book Review, Goodin, Protecting the Vulnerable, 4 **Adelphia L. J.** 225 (1986); and in **Word & World** (1986)

Book Review, Malory, Neidham, Clergy Malpractice, **dialog** 317 (Fall 1986)

Conference Report, Religious Americans and Political Choices, 24 **American Journal of Islamic Social Sciences** 154 (2007)

Introduction, *AALS Professional Responsibility Section Essay Contest: Ethics in the Year 2050*, 15 **Widener L. J.** 235 (2006)

Panelist, *Faith & Freedom: The Fortieth Anniversary of Vatican II and the Declaration of Religious Liberty*, Fordham Center on Religion and Culture (October 17, 2005),

http://www.fordham.edu/ReligCulture/faith&freedom_transcript_2.htm

Render Unto Caesar, **Journal of Lutheran Ethics** (on-line) (December, 2005)

<http://www.elca.org/scriptlib/dcs/jle/article.asp?aid=613>

Sherbert v. Verner and Viewpoint Discrimination, **Encyclopedia of American Civil Liberties**, 4 vols., ed. Paul Finkelman. New York: Routledge, 2006)

The Judicial Selection Process, 17 **With Equal Right** 8 (Winter 2004) (with Mary Vasaly)

Appointments Take Center Stage, **Bench and Bar** (Aug-Sept. 2003) (with Mary Vasaly)

MWL 'adds value' to endorsement process, **Minnesota Lawyer** S-4 (July 21, 2003)(with Mary Vasaly)

MWL Endorsements Committee Reviews Standards and Steps Up Outreach Efforts, **With Equal Right** (spring 2003)

Indivisible Day and the Pledge of Allegiance: One Nation Under God? **Journal of Lutheran Ethics** (on-line), www.elca.org/jle/articles/contemporary_issues/article.failing_marie.html (July 10, 2002)

A Foolish Vocation, **Journal of Lutheran Ethics** (online), www.elca.org/jle/articles/vocation/article.failing_marie.html (June 25, 2002)

Self-Defense? **Journal of Lutheran Ethics** (on-line), http://www.elca.org/jle/articles/contemporary_issues, (September 28, 2001)

June, 2019

Equal Protection, Batson v. Kentucky, and Self-Defense, **THE ENCYCLOPEDIA OF AMERICAN LAW** (David A. Schultz, ed.)(New York: Facts on File, Inc., 2001)

What Kind of Fool am I? A Reflection on the Same-Sex Marriage Debate, **Thursday Theology** for February 20, 2000, www.crossingsorg.

Rediscovering the Role of Religion in the Lives of Lawyers and Those They Represent: Moderator Remarks, 26 **Fordham Urban L. J.** 917 (1999)

Passing the Torch of Pro bono Service, 35 **Tennessee Bar Journal** 33 (November 1999)

Op-ed article for **St. Paul Ledger** on Clinton/Lewinsky scandal and restorative justice (October 24, 1998)

Yale Law School Graduates at Work (brief law professor essay), Yale Law School Career Development Office (June 1997)

Book Review, Lugo, Religion, Public Life and the American Polity, 16 **J. Law & Relig.** 897 (2002)

Book Review, Olyan & Nussbaum, Sexual Orientation and Human Rights in American Religious Discourse 16 **J. Law & Relig.** 383 (2002)

Book Review, Powell, The Moral Tradition of American Constitutionalism, 75 **J. Religion** 289 (1995)

Book Review, Bullis and Mazur, Legal Issues and Religious Counseling, **dialog** (spring 1994)

Book Review, Lebacqz, Six Theories of Justice and Justice in an Unjust World, **dialog** (Fall 1988).

Book Review, Goodin, Protecting the Vulnerable, 4 **Adelphia L. J.** 225 (1986); and in **Word & World**(1986)

Book Review, Malory, Neidham, Clergy Malpractice, **dialog** 317 (Fall 1986);

Work in Progress

Contributor, *Feminism, Law and Religion* in the **RESEARCH HANDBOOK ON INTERDISCIPLINARY APPROACHES TO LAW AND RELIGION** (ed. Russell Sandberg, Norman Doe, Bronach Kane and Caroline Roberts, Edward Elgar Press, forthcoming)

Book Review, Samuel Levine, Jewish Law and American Law: A Comparative Study (completed, awaiting publication offer)

Commentary, United States v. Reynolds, **Feminist Judgments: Family Law Opinions Rewritten** (Cambridge University Press, 2020, forthcoming)

June, 2019