

# **James M. Oleske, Jr.**

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## **ACADEMIC POSITIONS**

### **Lewis & Clark Law School, Portland, OR**

*Professor, 2018-; Associate Professor with Tenure, 2016-2018; Associate Professor, 2014-2016; Assistant Professor, 2012-2014; Visiting Professor, 2011-2012*

Courses: Administrative Law, Constitutional Law I, Constitutional Law II,  
Law & Religion, Torts

Recipient of the 2014 Leo Levenson Award for Excellence in Teaching

### **Cardiff University, Centre for Law and Religion, Cardiff, Wales, United Kingdom**

*Fulbright Scholar, January-June 2019*

### **The Ohio State University, Moritz College of Law, Columbus, OH**

*Visiting Lecturer & Director of Moot Court, 1999-2000*

Courses: Law & Religion, Advanced Appellate Advocacy

## **OTHER EMPLOYMENT**

### **The White House, Washington, DC**

*Chief of Staff, Office of Legislative Affairs, January 2009-February 2011*

Served as senior advisor to the Director of White House Legislative Affairs and managed operations in the President's legislative affairs office during the first two years of the Obama Administration.

### **Oregon Senate, Salem, OR**

*Chief of Staff, Senate Majority Office, October 2006-April 2008*

*Communications Director, Senate Majority Office, January 2006-September 2006*

Served as senior advisor to the Majority Leader and lead staffer for the 18-member Democratic Caucus. Oversaw all policy, communications, and administrative services provided to the caucus.

### **United States Senate, Washington, DC**

*Counsel, Office of Senate Democratic Leader Tom Daschle, 2004*

### **National Labor Relations Board, Washington, DC**

*Appellate Attorney, August 2000-January 2004*

Argued 11 cases in the federal courts of appeals.

### **Mayer, Brown & Platt, Washington, DC**

*Associate, 1998-1999*

### **The Honorable Samuel A. Alito, Jr., U.S. Court of Appeals for the Third Circuit, Newark, NJ**

*Law Clerk, 1997-1998*

## EDUCATION

### **Georgetown University Law Center, Washington, DC**

*Juris Doctor, summa cum laude, May 1997*

Graduated First in Class

John F. Kennedy Labor Law Award

Associate Editor, GEORGETOWN LAW JOURNAL

Member, Georgetown Appellate Litigation Clinic

Best Advocate, Beaudry Cup Moot Court Competition

### **Middlebury College, Middlebury, VT**

*Bachelor of Arts, cum laude, May 1994*

Honors in Major (English)

Editor in Chief, THE MIDDLEBURY CAMPUS (student newspaper)

## SCHOLARSHIP

### Articles and Essays

*Coronavirus, Fulton, and Free Exercise Doctrine at a Crossroads* (work in progress)

*In the Court of Koppelman: Motion for Reconsideration*  
2020 BYU LAW REVIEW (forthcoming) (invited essay)

*The 'Mere Civility' of Equality Law and Compelled-Speech Quandaries*  
9 OXFORD JOURNAL OF LAW AND RELIGION \_\_ (advance version published online June 27, 2020)

*Free Exercise (Dis)Honesty*  
2019 WISCONSIN LAW REVIEW 689

*A Regrettable Invitation to "Constitutional Resistance," Renewed Confusion Over Religious Exemptions, and the Future of Free Exercise*  
20 LEWIS & CLARK LAW REVIEW 1317 (2017)

*Grand Theory or Discrete Proposal? Religious Accommodations and Health Related Harms*  
73 WASHINGTON & LEE LAW REVIEW ONLINE 387 (2016) (invited essay)

*"State Inaction," Equal Protection, and Religious Resistance to LGBT Rights*  
87 UNIVERSITY OF COLORADO LAW REVIEW 1 (2016)

*Doric Columns Are Not Falling: Wedding Cakes, the Ministerial Exception, and the Public-Private Distinction*  
75 MARYLAND LAW REVIEW 142 (2015) (invited essay)

*The Evolution of Accommodation: Comparing the Unequal Treatment of Religious Objections to Interracial and Same-Sex Marriages*

50 HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW 99 (2015)

Selected by UCLA's Williams Institute for a 2016 Dukeminier Award (the Stu Walter Prize), which recognizes the best recent legal scholarship on sexual orientation and gender identity

*The Born-Again Champion of Conscience*

128 HARVARD LAW REVIEW FORUM 75 (2015) (invited book review)

*The Public Meaning of RFRA versus Legislators' Understanding of RLPA*

67 VANDERBILT LAW REVIEW *EN BANC* 125 (2014) (invited essay)

*Obamacare, RFRA, and the Perils of Legislative History*

67 VANDERBILT LAW REVIEW *EN BANC* 77 (2014) (invited essay)

*Lukumi at Twenty: A Legacy of Uncertainty for Religious Liberty and Animal Welfare Laws*

19 ANIMAL LAW 295 (2013)

*Federalism, Free Exercise, and Title VII: Reconsidering Reasonable Accommodation,*

6 UNIVERSITY OF PENNSYLVANIA JOURNAL OF CONSTITUTIONAL LAW 525 (2004)

*Undue Burdens and the Free Exercise of Religion: Reworking a "Jurisprudence of Doubt,"*

85 GEORGETOWN LAW JOURNAL 751 (1997) (student note)

### **Amicus Brief**

Brief of Amici Curiae Public Accommodation Law Scholars in Support of Respondents, *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission* (Oct. 30, 2017) (with Samuel Bagenstos, Nan D. Hunter, Elizabeth Sepper, and Joseph William Singer)

### **In-Depth Legal Blog Posts**

*Justice Gorsuch, Kippahs, and False Analogies in Masterpiece Cakeshop*, TAKE CARE (6/19/2017)

*Doubling Down on a Deeply Troubling Argument in Masterpiece Cakeshop*, TAKE CARE (11/14/2017)

*One Notable Cost of Fidelity to Smith*, TAKE CARE (9/28/2017)

*Masterpiece Cakeshop and the Effort To Rewrite Smith and its Progeny*, TAKE CARE (9/21/2017)

*Animus Revisited: DOJ Fails To Explain Change in Position on Relevance of Campaign Statements*, TAKE CARE (6/23/2017)

*Anti-Catholic Animus, Blaine Amendments, and the Trump Travel Ban*, TAKE CARE (6/15/2017)

*Robert George, Constitutional Exemption Rights, RFRA, and the Harvard Law Review*, MEDIUM (7/1/2016)

## SELECTED PRESENTATIONS

*Coronavirus, Fulton, and Free Exercise Doctrine at a Crossroads*

Annual Law & Religion Roundtable, June 2020, via Zoom

*Religious Accommodation on Both Sides of the Pond: Different Paths to a Common Norm?*

Oxford Brookes Law School (UK), May 2019

York Law School (UK), April 2019

Edinburgh Law School (UK), March 2019

*Religion, Law, and the US Supreme Court*

Cardiff Univ. Canon Law Program (UK), March 2019

*Can a Law Right a Wrong?*

Panel Discussion on the Experience of Japanese Americans during World War II, the Redress Movement, and Lessons for Today, Lewis & Clark Law School, Portland, OR, September 2018 (provided an overview of the Supreme Court's WWII-era decisions and then moderated a discussion with attorneys who represented Gordon Hirabayashi, Fred Korematsu, and Minoru Yasui in litigation seeking to overturn their convictions)

*Masterpiece Cakeshop v. Colorado*

Debate with Ilya Shapiro of the Cato Institute, Joint ACS/Federalist Society Event, Willamette Law School, Salem, Oregon, February 2018

*Gun Laws and the Second Amendment*

Panelist, League of Women Voters of Portland, Portland, OR, March 2017

*Animal Law and the First Amendment*

24th Annual Animal Law Conference, New York, NY, October 2016

*Religious Exemptions and LGBT Rights*

Washington State Judges Conference, Spokane, WA, September 2016

*State Inaction, Equal Protection, and Religious Resistance to LGBT Rights*

Rocky Mountain Lecture Series, Boulder, CO, March 2016

*Religious Exemptions and LGBT Rights*

Panelist, Washington State Attorney General's Office Conference, Lakewood, WA, October 2015

*State Inaction and the Public-Private Distinction*

Maryland Constitutional Law Schmooze, Baltimore, MD, February 2015

*State Inaction, Equal Protection, and Religious Resistance to LGBT Rights*

Fifth Annual Law & Religion Roundtable, St. Louis, MO, June 2014

International Consortium for Law and Religion Studies, Richmond, VA, August 2013

*Note:* The paper presented at these conferences was later split into two separate articles, with the first one being *The Evolution of Accommodation: Comparing the Unequal Treatment of Religious Objections to Interracial and Same-Sex Marriages*.

*Lukumi at Twenty: A Legacy of Uncertainty for Religious Liberty and Animal Welfare Laws*  
Animal Law Review Symposium, Portland, OR (October 2012)

## **SELECTED LAW SCHOOL SERVICE**

Budget Committee (2019-Present, 2012-2017)

Cornelius Selection Committee (2020, 2018)

Faculty Appointments Committee (2018)

Planning Committee, Annual Lewis & Clark College Free Speech Symposium (2017-2018)

Organizer, *Lewis & Clark Law Review* Paper Symposium: “Law & Religion in an Increasingly Polarized America” (2016-2017)

Public Interest Law Project Stipend Board (2016-2017)

Alumni Board, Faculty Representative (2015-2016)

Judicial Clerkship Workgroup (2013-2015)

Minta Hicks Newell Memorial Scholarship Selection Committee (2014)

Admissions Strategy Committee (2013-2014)

PILP Advisory Board (2012-2014)

Long Term Planning Committee (2012-2013)

Gantenbein Scholarship Selection Committee (2013)