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APPENDICES

APPENDIX A: COURT-CLERGY OUTREACH

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During my involvement with Court–Clergy Outreach and Conferences, I have been quietly approached by several trial judges and appellate justices who said they believed we could not as judges ethically or morally involve ourselves in such matters. I explained to them why I believed our involvement was not only acceptable, but essential. But that the work must be done with discretion and a full knowledge and complete understanding of the process, keeping in mind, and abiding by, judicial ethics.

There is also an honest division of opinion among judges who engage in court–clergy outreach—and court–community outreach, for that matter—about the proper content and scope of either form of outreach. Is it ethically proper for judges to educate only about the courts and court functions? Or may judges ethically go further than that and help bring diverse community groups together, even contending ones, in neutral settings and

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facilitate, directly or indirectly, pro and con instruction on difficult, even controversial issues, by distinguished faculty, and encourage give and take discussions between disputants?

As we ponder these matters, we might keep in mind the judicial reticence, our own and that of others, shown to addressing these matters in any public way. Presiding Judge Vance Raye¹ was similarly reticent. We have been friends and colleagues for almost a half-century. I invited him to address Sacramento's first Court–Clergy Conference in 2014. After considerable thought, he accepted my invitation and decided to address the conference and to introduce our main speaker, Father Rodney Davis.

Justice Raye began:

Let me confess at the outset, when I was first approached . . . about this conference and my possible role in it, I had decidedly mixed emotions. Judges are naturally cautious about generally everything and, particularly, about anything that suggests governmental involvement in religion. The Establishment Clause of the First Amendment stands as both a legal and a psychological barrier to discussions about religion by state officials.

But on reflection I realized there is nothing that prevents us as judges from recognizing that religion plays an immense role in the lives of the American people—and so, to the extent that our cases seek to influence their lives for the better, we need to understand the factors that may impinge on our decisions. Values—whether religious or secular—are quite important in shaping behavior. As judges, human behavior is central to our mission. So, our decision-making must take values, including religious values, into account.²

Following that introduction, Father Rodney spoke. He has a unique voice. His father was a state legislator

1. Court of Appeal, Third Appellate District, State of California.

2. Hon. Vance W. Raye, *Introducing Father Rod Davis*, SACRAMENTO LAW., May–June 2015, at 16; see also Hon. Kathleen Butz, *Justice Vance W. Raye: The SCBA's Judge of the Year 2014*, SACRAMENTO LAW., Sept.–Oct. 2014, at 18.

who died in office, leaving Father Rod's mother and children, including little Rodney, to fend for themselves. His mother was promptly elected to her husband's former office and held it for many years. She was highly respected by both sides of the political aisle.³ Father Rod became a lawyer and worked for several years in the California Department of Justice, before becoming, in order, a municipal court judge, a superior court judge, and a court of appeal justice. While in the latter role, he attended divinity school at night and, in time, graduated. After he retired, he was ordained as an Episcopal deacon and, later, as a priest.

Nearing the end of his presentation, Father Rod noted wistfully, "Looking back on my judicial career, I now believe I would have been a better judge had I been more informed about my religious tradition, more involved with clergy about the conundrums I faced, more discerning in assessing how my beliefs might be influencing my discretionary decision-making."⁴ His talk was infused with the importance of humility for judges and for clergy. He urged clergy to reach out to judges they know and to recognize that judges are conditioned to keep things to themselves. His final words were, "[Judges] need an invitation. When offered, I hope judges will accept the invitation and then begin and continue the conversation."⁵

Judge Kermit V. Lipez, United States Court of Appeals, First Circuit, now in senior status, wrote at about

3. Tina Cannon Leahy, *A Tribute to California's "First Lady of Water,"* CAL. WATERBLOG (Oct. 7, 2014), <https://californiawaterblog.com/2014/10/07/a-tribute-to-californias-first-lady-of-water/>.

4. Rod Davis, *Religion's Place in Judicial Decision-Making*, SACRAMENTO LAW., May–June 2015, at 18, 22.

5. *Id.* For more on humility, see DAVID J. BOBB, *HUMILITY: AN UNLIKELY BIOGRAPHY OF AMERICA'S GREATEST VIRTUE* (2013); Thomas B. Griffith, *Civic Charity and the Constitution*, 43 HARV. J.L. & PUB. POL'Y 633, 633–44 (2020); Michael W. McConnell, *The Importance of Humility in Judicial Review: A Comment on Ronald Dworkin's "Moral Reading" of the Constitution*, 65 FORDHAM L. REV. 1269, 1292–93 (1997).

the same time as Father Rod spoke.⁶ Judge Lipez ended his commentary with this:

In closing, and in summary, I must take issue one last time with Justice Frankfurter. He wrote in his *Barnette* dissent that “as judges we are neither Jew nor Gentile, neither Catholic nor agnostic.” He was wrong. Judges do not lose their religious identity when they become judges, any more than Justice Sotomayor lost her identity as a Latina woman when she became a judge. We remain the sum of all our parts. Those parts inescapably influence our work as judges. What matters is our awareness of those influences, how we use them, and, at times, explain them. We should accept the truth that a judge’s religion affects judicial decision-making and engage in an ongoing discussion about it.⁷

Court–clergy outreach allows judges to address the matters Father Rodney and Judge Lipez touch upon, among others. A description of Court–Clergy Outreach in California, primarily in Sacramento, appears below with links to several related articles. Any judge—state, tribal, or federal—who is interested in a “how-to-do”-related outreach need only read Judge Richard L. Fruin, Jr.’s groundbreaking work,⁸ review the following descriptions, and read the short, linked articles posted below to get a practical, working knowledge of how to begin or how to enhance existing court–clergy outreach. From personal experience, I strongly suggest court–clergy outreach is a hands-on matter for judges. I am willing to talk with any interested judge in the country about this and to refer any judge to other judges, lawyers, and scholars who may be helpful.

6. Hon. Kermit V. Lipez, *Is There a Place for Religion in Judicial Decision-Making?*, 31 *TOURO L. REV.* 133 (2015).

7. *Id.* at 148 (footnotes omitted).

8. See sources cited *infra* note 10.

I. COURT-CLERGY CONFERENCES

Court-Clergy Conferences were born in North Carolina more than a quarter-century ago. The idea came to Judge Adam Grant during a friend's funeral. Judge Grant was then chief district court judge in North Carolina's Carrabus County. His friend had been killed by a drunk driver. According to Judge Grant, "The preacher, in remembering my friend from the pulpit, criticized the courts for their handling of drunk driver cases and revealed—at least to me—just how misinformed he was. But that made me realize that pastors were a particularly influential group in informing the public about the courts."⁹

Judge Fruin was so impressed with Judge Grant's work that he brought Court-Clergy Conferences to Los Angeles roughly twenty years ago. Since then, he and his Los Angeles Superior Court colleague, Judge Paul A. Bacigalupo,¹⁰ periodically conduct Court-Clergy Conferences. More recently, Court-Clergy Conferences have been replicated by superior court judges in five other California counties, including Judge Franklin Bondonno (Santa Clara), Judge Laura W. Halgren (San Diego), Judge Francisco F. Firmat (Ret.) (Orange County), Judge

9. Richard L. Fruin, Jr., *Judicial Outreach to Religious Leaders*, JUDGES J., Spring 2003, at 34; Jean Guccione, *Helping Clergy Help Their Parishioners*, JUDGES J., Spring 2003, at 37, <https://www.latimes.com/archives/la-xpm-2003-apr-04-me-onthelaw4-story.html>.

Judge Fruin has several other articles on this topic, including Richard L. Fruin, Jr., *Judicial Outreach Will Emerge Stronger After the Pandemic*, DAILY J. (Oct. 2, 2020), <https://www.dailyjournal.com/articles/359815-judicial-outreach-will-emerge-stronger-after-the-pandemic>; Richard L. Fruin, Jr. et al., *California Judges Announce an Award for Judicial Outreach Programs*, DAILY J. (Feb. 11, 2021), <https://www.dailyjournal.com/articles/361456-california-judges-announce-an-award-for-judicial-outreach-programs>; Richard L. Fruin, Jr., *Searching for the Future*, JUDGES J., Fall 2019, at 8, 9; Richard L. Fruin, *Searching for the Future*, A.B.A. (Dec. 19, 2019), https://www.americanbar.org/groups/judicial/publications/judges_journal/2019/fall/searching-the-future/ (this special issue contains other related articles and Judge Fruin is honored as "a pioneer of outreach for decades"); Richard L. Fruin, Jr., *Successful Community Outreach: Court-Clergy Conferences*, BENCH, 2017, at 26.

10. Judge Bacigalupo was president of the California Judges Association in 2019 during which court-clergy outreach was his major theme.

John Pacheco and Judge Cynthia Ann Ludvigsen (Ret.) (San Bernardino), and Judge James Mize (Sacramento).¹¹

Judge Mize has been particularly creative and collaborative in countless ways with Court–Clergy Outreach that may be of interest to and, perhaps, replicable by judges everywhere in America.¹²

Judge Mize utilizes a Court–Clergy Lawyers Auxiliary, comprised of representatives of four faith-based bar associations—Muslim, Jewish, Catholic, and Mormon—to assist him and his steering committee with planning and conducting annual Sacramento conferences. The Auxiliary was conceived and organized by presidents of the associations.

Cooperation and occasional collaboration come from the Law Enforcement Chaplaincy Sacramento, the Sacramento Police Chief, his department’s Cops & Clergy program and its Ministers’ Academies, the Interfaith Service Council of Greater Sacramento and Elk Grove, and the Center for Interfaith Studies in America (CISA).¹³

Among the purposes of Court–Clergy Conferences is the exchange of ideas and experiences. Indisputably, there are powerful differences in matters of faith, as with most serious matters. Knowledge and understanding of those differences are beneficial to everyone, especially ourselves. What better way to acquire that knowledge than to reach across and communicate with pertinent professions and organizations, public and private, secular and religious.

11. The California Judges Foundation sponsors the Court–Clergy Conferences in all six counties and each of the six county superior courts sponsors its own local conference.

12. Stuart Greenbaum, a public relations expert and a retired education and law enforcement movie producer, interviewed Judge Mize in 2017 about Court–Clergy Outreach. Stuart Greenbaum, *Have a Little Faith, In the Law*, GREENBAUM PUB. RELS. (Aug. 29, 2017), <http://greenbaum-pr.com/little-faith-law/>.

13. CTR. FOR INTERFAITH STUD., <https://cisainterfaith.org> (last accessed June 25, 2021). The Center publishes a *Journal*, <https://cisainterfaith.org/journal> (last accessed June 25, 2021).

Even if judges may be unwilling and unable due to judicial ethics to address specific cases or answer questions about specific issues, especially matters that may come before them the bench and in public settings, perhaps they may attend and even help plan and conduct court-clergy conferences during which distinguished legal scholars present rational, balanced, pro and con arguments on matters judges do not wish to, or cannot personally, address.

Another purpose of Court-Clergy Conferences, as suggested by North Carolina Judge Adam Grant, is the introduction of the administration of justice to members of the clergy.¹⁴ Anyone of any faith at any point in his or her life may be compelled to deal with a court. Anyone may commit a traffic infraction or a crime or be a victim of crime. Any of those experiences can be mystifying, even terrifying, in part, because there are so many courts. Most people do not know what to do when they either need a court or must go to court. To some people, subpoenas to be a witness or calls to jury duty may be intimidating. Might something be done to mitigate the potentially troubling impact of needing a court or being compelled to go to court?

Many religious congregations have lawyers in them. If those lawyers and their religious leaders talk about these matters, they may be able to conceive and devise plans to advise and assist members of their congregations who learn they must go to court. Such advice and assistance may entail no more than suggestions on what steps may be required immediately, but temporarily, to maintain the status quo or how timely to find a qualified, sympathetic lawyer. While some of that advice and assistance may be forthcoming already in some congregations, it is certainly not universally so. Is this something religious leaders should anticipate and for which they and "their lawyers" and "their judges" should ponder and prepare? On the other hand, should lawyers and judges in each congregation independently initiate educational

14. *Supra* note 9, *Successful Community Outreach*, at 34.

outreach for their religious leaders with pertinent inquiries, suggestions, or offers to help? One way for judges and lawyers to help may be invitation of clergy to attend Court–Clergy Conferences with them.

Another purpose of Court–Clergy Conferences is measured discussion of overlapping matters of faith, philosophy, and jurisprudence. Mercy and justice are such matters. What is mercy? What is justice? What are the confluences of mercy and justice?

Specifically, how may a judge parse mercy and justice when presiding in a criminal case involving a sixteen-year-old gang member who murders a young child and the parents and grandparents of the gang member and the parents and grandparents of the deceased child appear at sentencing? In such a case, how may the judge faithfully apply the sage advice of Justice Benjamin Cardozo: “But justice, though due the accused, is due the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.”¹⁵

II. ROLE OF FAITH IN DECISION-MAKING

There is one subject that is rarely discussed by judges and lawyers: “What is the role of faith in judicial and legal decision-making?” Until Father Rod Davis’s presentation during the first Court-Clergy Conference in Sacramento in 2014 and other judicial presentations in subsequent conferences, few, if any, lawyers or judges ever attended a conference during which “faith and judicial or legal decision-making” was a major subject discussed. I suspect most lawyers and judges have yet to attend an official judicial or legal education conference during which “faith and judicial-decision-making” or

15. *Snyder v. Massachusetts*, 291 U.S. 97, 122 (1934). See also George Nicholson, *Victims’ Rights, Remedies, and Resources: A Maturing Presence in American Jurisprudence*, 23 PAC. L.J. 815 (1992); JAMES A. ARDAIZ, *HANDS THROUGH STONE: HOW CLARENCE RAY ALLEN MASTERMINDED MURDER FROM BEHIND FOLSOM’S PRISON WALLS* (2012).

“faith and legal-decision-making” is the central or even secondary theme.

Here are the views of two pastor/appellate judges on this topic:

- Father Rodney Davis, an Episcopalian priest and former appellate justice;¹⁶ and
- Wendell L. Griffin, a member of the Arkansas Court of Appeals and a Baptist pastor.¹⁷

A third appellate jurist, Justice Richard D. Fybel,¹⁸ recently began reminding America and the world of the immense grief that arises when men and women of faith and of the law lose their way. He often speaks on a subject that bears on faith and judicial decision-making, although it is rarely, if ever, discussed in that specific sense. He has spoken several times recently on the Holocaust and how Germany’s judges failed the German people.¹⁹

16. *Supra* note 4, at 18.

17. Wendell L. Griffin, *The Case for Religious Values in Judicial Decision-Making*, 81 MARQ. L. REV. 513 (1998).

18. Court of Appeal, Fourth District, Division Three (Santa Ana), State of California.

19. In July 2015, he gave the keynote address in Courtroom 600, Nuremberg’s Palace of Justice, in observance of the seventieth anniversary of the Nuremberg trials, most notably, *United States v. Josef Altstoetter, et al.*—known as “The Justice Case.” Mackenna Waterhouse, *Fowler School of Law Joins Nuremberg Trial Commemoration*, CHAPMAN UNIV. (Sept. 15, 2015), <https://blogs.chapman.edu/law/2015/09/15/fowler-school-of-law-joins-nuremberg-trial-commemoration/>.

Presiding Justice Manuel A. Ramirez, Court of Appeal, Fourth Appellate District, Division Two (Riverside), and his colleagues hosted the fourth Justice John G. Gabbert Historic Oral Argument and Lecture Series in June 2016. The commemoration of the Nuremberg trials featured lectures and presentations from legal, historical, and personal perspectives, along with historical and artistic displays. Following Justice Ramirez’ opening comments, Justice Fybel gave an overview of the Nazi legal system. Ben Schatz, *4/2 Commemorates the Nuremberg War Crimes Trials*, S. CAL. APP. NEWS (June 2, 2016), <http://social-appellate.blogspot.com/2016/06/42-commemorates-nuremberg-war-crimes.html>. Justice Fybel also spoke in October 2014 at the opening of an exhibit created by the German Federal Bar. The exhibit was entitled “Lawyers Without Rights—Jewish Lawyers in Germany Under the Third Reich,” at both Southwestern University and Chapman University Schools of Law. Mary Platt, *Fowler School of Law Presents “Lawyers Without Rights” Exhibit and Speaker*, CHAPMAN UNIV. (Oct. 2, 2014), <https://news.chapman.edu/2014/10/02/fowler-school-of-law-presents-lawyers-without-rights-exhibit-and-speaker/>; see LAWS. WITHOUT RTS.,

Justice Fybel writes, “the dagger of the assassin was concealed beneath the robe of the jurist,” quoting Telford Taylor, prosecutor of Nazi judges on trial in Nuremberg post-World War II, to open his own article.²⁰

It is sobering and inspiring to hear Justice Fybel speak so thoughtfully and eloquently on these matters. It helps to be familiar with Dame Laura Knight’s evocative painting *The Dock*²¹ when reading or listening to him. It also helps to watch or re-watch the movie, *Judgment at Nuremberg*, which won the Academy Award for Best Movie in 1961.²²

Other than the foregoing, there is a small body of academic literature addressing faith and judicial decision-making but is not well known and certainly not discussed widely or taught in judicial or legal education programs. Professor Scott Idleman, Marquette University School of Law, has been a key figure.²³

<https://lawyerswithoutrights.com/travelingexhibit.html> (last visited Apr. 21, 2021).

20. Richard D. Fybel, *Assassins in Judicial Robes*, GAVEL TO GAVEL: L.A. SUP. CT. JUD. MAG., Spring 2013.

21. Philippe Sands, *Laura Knight’s “The Nuremberg Trial,”* ART UK (May 25, 2016), <https://artuk.org/discover/stories/laura-knights-the-nuremberg-trial>. As distinguished Sacramento lawyer and artist Terry Flanigan explained it to me, art may aid those of us who have not experienced unimaginable human suffering imposed by, for example, the Holocaust, to understand, empathize, and reflect more deeply than by merely reading words, however eloquent. Dame Laura Knight of England did such a painting, “The Dock, Nuremberg 1946.” The English artist said she did the painting because, “In that ruined city death and destruction are ever present. They had to come into the picture, without them, it would not be the Nuremberg as it now is during the trial, when the death of millions and utter devastation are the sole topics of conversation wherever one goes—whatever one is doing.”

22. JUDGMENT AT NUREMBERG (Roxlom Films, Amber Entertainment 1961).

23. Scott C. Idleman, *The Role of Religious Values in Judicial Decision Making*, 68 IND. L. J. 433 (1992–93). Professor Idleman later planned and conducted a related conference, *Religion and Judicial Process: Legal, Ethical, and Empirical Dimensions*, at Marquette University School of Law on April 4–5, 1997; roughly two dozen judges and scholars spoke and later wrote for a *Marquette Law Review* symposium issue entitled, *Religion and the Judicial Process: Legal, Ethical, and Empirical Dimensions*. 81 MARQUETTE L. REV. 1 (1998).

More generally, the study of faith and the law appears to be growing.²⁴ Professor Idleman and Professor John Witte, Jr., Director, Center for the Study of Law and Religion at Emory Law School, have been key figures. More generally, William Kilpatrick and Jessi LeClear Vachta prompt us to contemplate whether or not the secular needs the sacred and whether they may co-exist peacefully.²⁵

Perhaps, California's several court-clergy outreach and conferences may become catalysts for an increase in judicial literature and official judicial and legal education programs dealing with court-clergy outreach and faith and judicial decision-making, in California, and elsewhere.

III. PRACTICAL COURT-COMMUNITY OUTREACH

Court-community outreach and court-clergy outreach are useful mechanisms by which judges may contribute to public education in a variety of ways and places. Preparing for using those mechanisms compels us to reflect deeply on how we can help sustain constitutional governance and the rule of law in our increasingly troubled era.

In a conversation with Judge Richard L. Fruin, Superior Court, County of Los Angeles, and Justice William J. Murray, Jr., my former Third Appellate District colleague, they suggested to me why this work is important. They believe court-community outreach, including court-clergy outreach, are "multiplier programs." They conclude, "Multiplier programs leverage the judicial branch's scarcest resource: the time of its judges. These programs identify audiences that have both a need for

24. John Witte Jr., *The Study of Law and Religion in the United States: An Interim Report*, 14 ECCLESIASTICAL L.J. 327 (2012).

25. WILLIAM KIRK KILPATRICK, *THE EMPEROR'S NEW CLOTHES* (1985) (Chapter 5); Jessi LeClear Vachta, *Mending the So-Called Sacred/Secular Divide: Discovering and Strengthening a Shared Space of Dialogue Between the Religious and Non-Religious* (2014) (M.A. Thesis, Luther Seminary), https://digitalcommons.luthersem.edu/cgi/viewcontent.cgi?article=1000&context=ma_theses.

information about the justice system and an incentive to convey that information to their own constituencies.” Judge Fruin and Justice Murray’s sage message suggests to judges the utility of leveraging their limited time, by reaching out to audiences outside the legal profession, particularly teachers and clergy, who are highly educated, eloquent and articulate speakers, and possessed of permanently and regularly associated constituencies of their own.

The following is an annotated listing with weblinks for some related initiatives:

- *First Court–Clergy Conference*, Sacramento, October 2014.²⁶
 - Rod Davis, Keynote Address at First Court–Clergy Conference, *Religion’s Place in Judicial Decision-Making* (Oct. 2014); Rod Davis, *Religion’s Place in Judicial Decision-Making*, SACRAMENTO LAW., May–June 2015, at 18, http://issuu.com/milenkovlais/docs/final_saclaw_may_june_2015_web (other related stories begin at 4, 16, 24, 34).
 - Levin, *The Inaugural Sacramento Court/Clergy Conference*, SACRAMENTO LAW., May–June 2015, at 24.
- *Second Court–Clergy Conference*, Sacramento, October 2015.
 - Douglas Potts, *Court–Clergy Conference Addresses Intersection of Religious Liberty*

26. Sacramento’s Judge Mize described to me the “judicial benedictions” utilized to close each Court–Clergy Conference in Sacramento:

Each of the three judges we invite—federal, state, and tribal—speak in ways that reflect our shared reverence for our profession and for the rule of law. Some judges who participate choose to quote famous, inspired, law-related sources such as the Preamble to the Constitution or a passage from Abraham Lincoln’s Second Inaugural Address. Other judges may reminisce a bit on why he or she became a judge or reference comments someone may have told them while encouraging them to become a judge. Finally, others speak of how Atticus Finch, a fictional character, was his or her actual inspiration to become a lawyer.

I will furnish samples to any judge who contacts me and requests them.

- and Civil Rights*, SACRAMENTO LAW., Jan.–Feb. 2016, at 25, https://issuu.com/milenkovlais/docs/saclaw_jan_feb_2016_v4_online.
- *Third Court–Clergy Conference*, Sacramento, October 2016.
 - Douglas Potts, *Religious Conviction and Judicial Decisionmaking: Weighing Justice and Mercy*, SACRAMENTO LAW., Mar.–Apr. 2017, at 10, https://issuu.com/milenkovlais/docs/v2_mb_saclaw_mar-apr_2017_web/10.
 - James A. Sonne, Director, Religious Liberty Clinic, Stanford School of Law, Moderator of Panel: Religion and Appellate Decision-Making (May 2017) (a judicial panel discussion hosted by the California Academy of Appellate Lawyers during its annual conference in Pasadena).
 - Reuven Taff, Rabbi, Moderator, Panel Discussion hosted by the Mosaic Law Congregation: Justice, Faith, and Humility (Aug. 2017).
 - *Fourth Court–Clergy Conference*, Sacramento, October 2017.
 - Douglas Potts, *Court/Clergy Conference Tackles Conflict between Religious Liberty and Civil Rights*, SACRAMENTO LAW., (Jan.–Feb. 2018), at 28, https://issuu.com/milenkovlais/docs/saclaw_janfeb_2018_web.²⁷

27. The gathering was notable for its warm congeniality and shared optimism, but it brought forth no immediate, practical solutions to calming divisions between LGBT and faith communities. Are there any practical solutions? A new book, *Free to Believe: The Battle Over Religious Liberty in America*, may be helpful to contemplate that question. LUKE GOODRICH, *FREE TO BELIEVE* (2019). The most pertinent chapters are chapter 7, *Will Gay Rights Trump Religious Freedom (The Problem)*, and chapter 8, *Will Gay Rights Trump Religious Freedom (The Solution)*. *Id.* at 107, 123.

- *Fifth Court–Clergy Conference*, Sacramento Region, October 2018.
 - Douglas Potts, *Scholars Promote Bridging the Culture Wars at Court/Clergy Conference*, SACRAMENTO LAW., (Jan.–Feb. 2019), at 8, https://issuu.com/milenkovlais/docs/saclaw_jan_feb_2019-v4_web?e=13404642/66846535.
- William N. Eskridge, Jr. and Robin Fretwell Wilson, *Anthony Kennedy Opens New Chapter in American Pluralism*, REALCLEAR RELIGION, (July 18, 2018), https://www.realclearreligion.org/articles/2018/07/18/anthony_kennedy_opens_new_chapter_in_american_pluralism.html. Professors Wilson and Eskridge also co-authored a then-recent book, *Religious Freedom, LGBT Rights, and the Prospects for Common Ground*.²⁸
- Paul Bacigalupo, *The Intersection of Faith and Justice* (Sep. 2019). Panel of judges discussed how religious values and other sources of moral knowledge may serve judicial decision-making. The California Judges Association (CJA) hosted this statewide telecast for the California judiciary at McGeorge School in Sacramento.
- *Sixth Court–Clergy Conference*, Sacramento, October 2019.
 - J. Paul Hoybjerg et al., *Judicial, Civic, and Religious Leaders Meet in Sacramento to Celebrate Differences and Develop Solutions*, SACRAMENTO LAW. (Spring 2020), at 20, https://issuu.com/milenkovlais/docs/sacramento_lawyer_magazine_spring_2020_web?fr=sYzk1NTI2ODMzNw.

²⁸ WILLIAM N. ESKRIDGE JR. & ROBIN FRETWELL WILSON, *RELIGIOUS FREEDOM, LGBT RIGHTS, AND THE PROSPECTS FOR COMMON GROUND* (2019).

- *Kristallnacht*, November 2019: The Mosaic Law Congregation, Sacramento, observed *Kristallnacht* and presented a program attended by several hundred people of many faith traditions. Justice Richard Fybel, Court of Appeal, Fourth Appellate District (Santa Ana) was speaker.²⁹
- *Armenian Genocide*: Sacramento, Fresno, and Los Angeles have substantial populations of Armenian-Americans. Armenian religious leaders preside over annual Armenian Genocide Memorial Services, the first genocide of the twentieth century which began on April 24, 1915, and lasted three years. That day, in 2020, was proclaimed to be a Day of Remembrance of the Armenian Genocide by the governor of California.³⁰

Court-clergy outreach has already catalyzed an attempt at judicial bridge-building between communities of LGBT and faith by some appellate and trial judges in Sacramento. It is still going on. It was tentatively labeled the Court-Clergy Liberty Caucus.³¹ That five-hour, Sacramento “Liberty Caucus” gathering led to the talk of the

29. Richard L. Fybel, *Kristallnacht*, Address at Mosaic Law Congregation (Nov. 2019). “*Kristallnacht*, literally, ‘Night of Crystal,’ is often referred to as the ‘Night of Broken Glass.’ The name refers to the wave of violent anti-Jewish pogroms which took place on November 9 and 10, 1938. This wave of violence took place throughout Germany, annexed Austria, and in areas of the Sudetenland in Czechoslovakia recently occupied by German troops. . . . *Kristallnacht* owes its name to the shards of shattered glass that lined German streets in the wake of the pogrom—broken glass from the windows of synagogues, homes, and Jewish-owned businesses plundered and destroyed during the violence.” HOLOCAUST ENCYCLOPEDIA, *Kristallnacht* (Oct. 18, 2019), <https://encyclopedia.ushmm.org/content/en/article/kristallnacht>.

30. OFF. GOVERNOR GAVIN NEWSOM, *Governor Newsom Issues Proclamation Declaring Day of Remembrance of the Armenian Genocide 4.24.20*, CA.GOV (Apr. 24, 2020), <https://www.gov.ca.gov/2020/04/24/governor-newsom-issues-proclamation-declaring-day-of-remembrance-of-the-armenian-genocide-4-24-20/>.

31. Douglas Potts, *Leading Us Out of the Cultural Divide: Can Court Outreach Inspire the Public to Dialogue with Opposing Factions on Contentious Social Issues? It Did Just That with a Group of Judges and Lawyers in Sacramento*, DAILY J. 1 (Dec. 13, 2017), <https://www.dailyjournal.com/articles/345198-leading-us-out-of-the-cultural-divide>.

specific subject of implicit or unconscious judicial bias regarding religion and people of faith. While other subjects and adherents are covered, this is a largely unplumbed subject in judicial research and education, although implicit or unconscious bias judicial education classes on other subjects is now widespread. Some are mandatory.³²

32. California provides a recent example.

California justices, judges and subordinate judicial officers will be required to take anti-bias and harassment-prevention courses as part of their continuing education, the Judicial Council said Friday. Council members approved amendments to a Rule of Court that will mandate the training starting in 2021. Currently, judges are only encouraged to complete such coursework.

Cheryl Miller, *Judicial Council Mandates Anti-Bias Training for States Judges*, RECORDER (Sept. 25, 2020), <https://www.law.com/therecorder/2020/09/25/judicial-council-mandates-anti-bias-training-for-state-judges/?slreturn=20210321201008>.