

# THE LEGAL LIGHT

THE J. REUBEN CLARK LAW SOCIETY  
ORANGE COUNTY CHAPTER



Paul A. Hoffman  
2011-2012 Chair

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## MESSAGE FROM THE CHAIR

By Paul A. Hoffman

### Thank You For Helping To Fulfill The Purposes Of The JRCLS

As Chapter Chair, I am very grateful to each of you, the membership and the leadership of the Orange County Chapter of the J. Reuben Clark Law Society, for all you have done in making our Chapter what it is today. I enjoy visiting with you at our luncheons and meetings. I appreciate each of your kind comments. And I value your suggestions for improvement. I want to thank the past leadership of this Chapter, as well as each and every one of you who continues to renew their membership this year and each year, who support our events, and who are sponsoring our Chapter either financially or by way of donating your facilities, your time, talents, or resources. We simply could not continue the work of the Society without you.

One reason the Church of Jesus Christ of Latter-day Saints actively supports participation by lawyers in the J. Reuben Clark Law Society is because of the purposes of the Society: promotion of fairness, virtue, and the rule of law through professional excellence and public service, guided and motivated by its members' personal religious convictions. The Executive Committee and the Board have sought to be guided by those worthy purposes in planning and carrying out our events and activities during 2012:

For example, in February, we spent a Friday night watching a videotape fireside by Elder Whitney Clayton entitled "Ethical Obligations of a Christian Lawyer". As a litigator, I found his presentation one of the most practical and wise pieces of advice

## INSIDE: 8<sup>TH</sup> ANNUAL SYMPOSIUM AND INSTRUCTION ON FIRST AMENDMENT

### MISSION STATEMENT

*We affirm the strength brought to the law by a lawyer's personal religious conviction. We strive through public service and professional excellence to promote fairness and virtue founded upon the rule of law.*





Some Of The Speakers We Have Been Privileged To Hear From At Recent JRCLS-OC Chapter Events : Elder Whitney L. Clayton, Karen Clemes And Brian Walsh

I have ever heard from a Church Authority on how to act ethically in the competitive and stressful environment of litigation. If you have not taken the time to listen to Elder Clayton's fireside or some of the other past annual JRCLS firesides, they are free and easy to access on most computers. They can be found at [www.jrcls.org/](http://www.jrcls.org/).

In March of this year, as part of our effort to fulfill Elder Oaks' instruction to defend religious liberties, we heard Brian Walsh speak at the annual Religion and Law Symposium on secularism vs. religious liberty. Along the same theme, in April, one of our own, Brent North, taught us practical ways to educate the public and to defend religious liberties in the public square.

In May, Karen Clemes presented us with a detailed view of the Church's legal departments as well as worldwide employment law trends from the perspective of in-house LDS Church counsel.

Finally, we have some great events planned for the remainder of 2012. On June 28, our women Chapter members will enjoy free lunch and networking at the El Torito Mexican Grill, 1910 Main Street, Irvine. On July 19, Joseph Bentley will tell us about his two-year adventure in Israel and provide insights on the legal relationships of the LDS Church there. On September 21, Ninth Circuit Justice J. Clifford Wallace will address us at our annual dinner regarding his experiences as an international ambassador for the rule of law. Finally, in November, Lowell Brown and John Schroeder will speak to us regarding interfaith collaboration on Article 6 of the U.S. Constitution.

We hope that each of you will enjoy the events and opportunities offered by our Society for fellowship, professional development, and service during 2012.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"

First Amendment



## 8<sup>TH</sup> ANNUAL RELIGION & THE LAW SYMPOSIUM SPEAKER URGES CONTINUING VIGILANCE IN DEFENDING THE FUNDAMENTAL RIGHT TO RELIGIOUS FREEDOM

On March 22, 2012, the Orange County Chapter of the J. Reuben Clark Law Society presented its "Eighth Annual Orange County Religion & The Law Symposium", featuring Brian W. Walsh speaking on the subject of "Secularism vs. Religious Liberty: Is Recent U.S. Law and Policy Taking Sides?" The Symposium was held at Chapman University School of Law and was attended by approximately 120 persons.

Mr. Walsh is the Executive Director of the American Religious Freedom Program of the Ethics and Public Policy Center. The EPPC is a think tank headquartered in Washington, D.C., which was formed in 1976, and is comprised of an interreligious group of Protestant, Catholic, and Jewish scholars who address critical issues of public policy from a Judeo-Christian moral perspective.

Consistent with past years, the JRCLS-OC Chapter was not alone in sponsoring this year's Symposium, and co-sponsors included: Chapman University School of Law, the Christian Legal Society of Los Angeles, the Federalist Society: Orange County Lawyers Chapter, the Jewish Federation & Family Services, the Orange County Jewish Bar Association, Pepperdine University School of Law, Pepperdine University's Herbert & Elinor Nootbaar Institute of Law, Religion & Ethics, the University of California, Irvine, School of Law, Western State University College of Law, and Whittier Law School.

Mr. Walsh discussed in some detail the arguments and recent decision of the United States Supreme Court in Hosanna-Tabor Evangelical Lutheran Church And School v. Equal Employment Opportunity Commission, et al. 565 U.S. \_\_\_, 132 S.Ct. 694, 181 L.Ed2d 650 (2012), in which the Court unanimously held that the ministerial exception bars an employment discrimination suit brought on behalf of a minister challenging her church's decision to fire her.

Citing extensively from the transcripts of the oral argument before the Court, Mr. Walsh vividly related the government's arguments that "Congress has not unconstitutionally infringed Petitioner's freedom in this case by making it illegal for it to fire a fourth grade teacher in retaliation for asserting her statutory rights", *i.e.*, to bring her case before a court rather than a religious tribunal as rooted in Lutheran doctrine. In response to the government's argument that the case implicated freedom of association standards rather than a ministerial exception, but that the "basic contours of the inquiry are not different", Mr. Walsh noted that Justice Scalia remarked, "That's extraordinary". (Official Transcript of Oral Argument, October 5, 2011, p. 27-28, Alderson Reporting Company.) Mr. Walsh also cited to Justice Kagan's remarks that she found it "amazing" that the government was essentially arguing that "neither the Free Exercise Clause nor the Establishment Clause has anything to say about church's relationship with its own employees". *Id.*, at 38.

(Continued on page 4.)

"We have said that these two Clauses 'often exert conflicting pressures,' ... and that there can be 'internal tension ... between the Establishment Clause and the Free Exercise Clause,' ... Not so here. Both Religion Clauses bar the government from interfering with the decision of a religious group to fire one of its ministers." -Hosanna-Tabor



While the unanimous Hosanna-Tabor decision is clearly a resounding victory for and encouraging to proponents of religious freedom, Mr. Walsh also noted the government's continuing hostility towards, and assault on, religious liberty, including without limitation, the recent attempt by the government to require "many Catholic and other religious institutions and individual employers, in violation of their religious and moral convictions, to provide insurance policies covering abortion inducing drugs, sterilizations, and contraceptives". Girgis and George, Morals and Mandates, published by Public Discourse: Ethics, Law and the Common Good, February 14, 2012. In the face of what appears to be an ever-increasing assault on religious freedom, Mr. Walsh urged the audience's continuing vigilance in educating others and actively defending the fundamental right to religious freedom as expressly set forth in the First Amendment.



Photos courtesy of John H. Kay

"By forbidding the 'establishment of religion' and guaranteeing the 'free exercise thereof,' the Religion Clauses ensured that the new Federal Government—unlike the English Crown—would have no role in filling ecclesiastical offices. The Establishment clause prevents the Government from appointing ministers, and the Free Exercise Clause prevents it from interfering with the freedom of religious groups to select their own." -Hosanna-Tabor



## 2011-2012

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BRENT NORTH INSTRUCTS ON FIRST AMENDMENT AND  
HOW TO PRESENT SAME

On May 17, 2012, our luncheon speaker was our own Brent North who gave a captivating and highly relevant presentation on the First Amendment and how we can present same to other groups, including religious and school groups.

The presentation was part of the JRCLS's continuing effort to educate ourselves and the public about the First Amendment, the threats to our religious liberties and to encourage the vigorous defense of those liberties.

Brent, through a Power Point presentation, detailed handout and dialog, instructed our members and guests about why the Establishment Clause is important, what it means, and how the courts analyze same. He provided us with background cases, and historical and current views on such subjects as prayer in schools and the public square, religious clubs, religion in public school curriculum, and religious music and symbols in the public square.

While this article cannot do justice to the depth and wealth of information presented at the luncheon, Brent has graciously made available to our membership both his Power Point presentation and handout/outline. You can find the Power Point presentation and the outline by clicking on the following hyperlinks:

<http://dl.dropbox.com/u/51418706/Establishment%20Clause%202012.ppt> and

<http://dl.dropbox.com/u/51418706/Establishment%20Clause%20Lesson%202012.doc>. Please feel free to use these materials in your own presentations and/or to draw from them as we go forward to educate and instruct on, and advocate for, our First Amendment freedoms in our own families, wards and the public square.



Brent North is a founding partner at North, Nash & Aberndroth LLP and is a member of the Constitutional Rights Foundation of Orange County.

"The interest of society in the enforcement of employment discrimination statutes is undoubtedly important. But so too is the interest of religious groups in choosing who will preach their beliefs, teach their faith, and carry out their mission ... the First Amendment has struck the balance for us. The church must be free to choose those who will guide it on its way." -Hosanna-Tabor



## INFORMATION

*All luncheons are held at Knobbe Martens Olson & Bear, LLP, 2040 Main St., 2nd Floor, Irvine. There is free validated parking. Most luncheons and the dinner qualify for MCLE credit. The luncheons are from 12:00 noon to 1:30 p.m.*

*The cost of luncheons are prepaid for the year for Gold and Silver members, \$25 with RSVP for Bronze members, \$30 at the door for Bronze members, and \$35 for all others. Lunches are free to Law Students. The cost of the annual dinner is prepaid with membership for Gold members, \$50 for Silver and Bronze members, \$50 for guests of members, and \$60 for all others. Students are \$25, guests of students \$25.*

*The Legal Light welcomes the input of our Chapter members. If you know of interesting topics or have been involved in a particularly interesting case or activity that you would like to share in The Legal Light, please contact Rick Varner at (949) 724-7906 or rick@shieldslawoffices.com.*

THE EXECUTIVE COMMITTEE WISHES TO RECOGNIZE AND GIVE SPECIAL THANKS TO DEBORAH DICKSON, CPA, CFF & CFFA OF SMITH DICKSON, AN ACCOUNTANCY CORPORATION FOR HER PRO BONO SERVICE AS CHIEF FINANCIAL ADVISOR TO THE JRCLS – OC CHAPTER

Editor  
Rick A. Varner

## UPCOMING EVENTS

July 19, 2012	Luncheon Joseph Bentley	12:00 pm Knobbe Martens Olson & Bear, LLP, 2040 Main St., 2nd Floor, Irvine
September 21, 2012	Annual Dinner J. Clifford Wallace, Ambassador for the Rule of Law, Former Member of the 9 <sup>th</sup> Circuit Court of Appeals	Time TBA Irvine Marriott
November 15, 2012	Luncheon Speakers: Lowell Brown and John Schroder, Interfaith Collaborations on Article 6 Blog	12:00 pm Knobbe Martens Olson & Bear, LLP, 2040 Main St., 2nd Floor, Irvine