

## From the Editor

The State Bar of Michigan's 37 practice-oriented sections are provided the opportunity for their particular field of practice to be featured as a theme issue and to provide the content for that issue. The members of the Michigan Bar Journal Committee assigned to the issue, together with the *Journal's* professional staff, provide editorial assistance, including editing for clarity and citation accuracy, but do not influence content or make alterations in the point of view of the articles submitted by the section. To the extent that any theme issue content from a section is controversial, the *Michigan Bar Journal* values the ability to share the opposing views of members.

**Mike Eidelbes**  
**Managing Editor**  
*Michigan Bar Journal*

## Readers respond to Religious Liberty Law issue

### To the Editor:

The April 2021 issue presents various articles favoring theocracy. The problems for theocratic governance were sown in the protestant Christian notions of the early settlers [which] emphasized personal access to religious truth without mediation by a priesthood. It prompted schisms over which religious doctrines would guide public policy (e.g., Roger Williams and Massachusetts). The problems have multiplied as more citizens hold other Christian and non-Christian religions. As the population holding religious beliefs has shrunk, the variety of those beliefs has multiplied. Public policy must recognize that variety of beliefs, all constitutionally protected. We cannot choose one as the foundation for legal rights.

Mr. Denney's article on Elliott-Larsen Act amendments advocates a religious-beliefs exception to anti-discrimination principles. We have heard this before when civil rights laws were debated. Some argued that property rights or religious beliefs should allow them to decide whom to serve and whom to turn away. The principle that prevailed was that if you're engaged in a business serving the public, you must serve the public without discrimination. It is a sound principle. People who cannot serve the public generally should be involved in an endeavor that does not require it. That will protect their religious scruples and protect the public against invidious discrimination.

When I was in public elementary school, our day began by reciting the Pledge of Allegiance and the Lord's Prayer. We all mumbled our way through them except for my Jewish friend, who was allowed not to pray. Not until adulthood did I understand how that deeply offended my friend. We live in a better world when we leave religious practices to the private sphere.

**Chris Campbell**  
**Traverse City**

### To the Editor:

As a long-time toiler in the vineyards of the law, I know that my holy book is the Constitution of the United States. The First Amendment enshrines, first, the principal

that "Congress shall make no law respecting an establishment of religion," and then, "or prohibiting the free exercise thereof..." Plainly, the free exercise clause does not exist without the anti-establishment clause. But you wouldn't know that reading the April issue of the *Michigan Bar Journal*.

As the journal of an organization devoted to the rule of law, the April edition is deeply disturbing. The place of honor for the issue's theme is given over to "religious liberty," where assertion of the primacy of moral absolutism over what is contemptuously dismissed as moral relativism goes unchallenged by any defense of the rule of law. "Religious liberty" is a false front for religious tyranny, fascism with clerical sanction. Is sharia law only repugnant to us because Muslims picked the wrong deity? Who says?

What divine source will we go to for declaration of our moral absolutes? Yahweh, Allah, the Hindu pantheon? Which self-proclaimed prophet shall tell us what his deity demands of us, beyond the reach of independent and transparent verification of such claims? What shall we tell the followers of other faith traditions, or of none? That we have abandoned the rule of law in favor of a state religion that is not theirs?

The *Bar Journal* piously intones in every issue, "No organization of lawyers can long survive which has not for its primary object the protection of the public." Who shall protect us from religious tyranny if the Bar takes its part?

**Robert Fine**  
**Bradenton, Florida**

### To the Editor:

The editorial decisions and controls related to William Wagner's Religious Liberty Law section articles were woefully insufficient. You were duped and our profession has been indelibly tarnished by the narrow-minded agenda of the Great Lakes Justice Center. I don't know how you correct this, but you should try.

**Charles F. Glass**  
**Harbor Springs**

### To the Editor:

As a supporter of religious liberty, I was disappointed that the April 2021 issue of the

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The *Michigan Bar Journal* welcomes letters to the editor. Letters that appear in the *Bar Journal* do not necessarily reflect the official position of the State Bar of Michigan and their publication does not constitute an endorsement of views that may be expressed. Letters should not exceed 250 words. Preference may be given to letters responding to opinions, articles, or columns recently published in the *Bar Journal*. Unsigned letters, letters with profane or defamatory language, or letters promoting products, services, or political candidates will be rejected. Not more than three letters from any individual will be published in a given year. Publication is at the discretion of the editor and letters may be edited for grammar, style, or length. All letters become the property of the *Bar Journal* and may be republished in print or electronic form. Readers are invited to email letters to [BarJournal@michbar.org](mailto:BarJournal@michbar.org) or mail to Mike Eidelbes, Managing Editor, Opinion and Dissent, *Michigan Bar Journal*, State Bar of Michigan, 306 Townsend St., Lansing, MI 48933-2012.

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*Bar Journal* presented such a one-sided and alienating view of that concept. A dominating message throughout was an insistence that religious liberty is threatened by laws that protect the civil rights of LGBTQ people and women. Decades ago, Southern business owners complained that civil rights laws violated their religious belief that the Bible required racial segregation. Courts properly rejected those arguments, recognizing that protecting the civil rights of all is no threat to religious freedom.

Meanwhile, absent from the *Journal* was discussion of minority faiths that are not Christian. For those of us who are Jewish, Muslim, Hindu, Buddhist, or Sikh (just to name a few), above all religious liberty means religious pluralism. Just a few years ago, a presidential candidate called for a “total and complete shutdown of Muslims entering the United States,” leading to a spike in anti-Muslim hate crimes. Talk about a threat to freedom of religion.

Finally, let’s not forget that religious liberty, as enshrined in the First Amendment, includes two complementary protections: the right to religious belief, and a guarantee that government not prefer religion over non-religion. These dual protections work hand in hand, allowing religious practice to thrive and safeguarding both religion and government from the undue influences of the other. I hope this more robust vision will find its way into future pages of the *Journal*.

**Dan Korobkin**

**Legal Director, ACLU of Michigan  
Detroit**

#### To the Editor:

The April 2021 *Michigan Bar Journal* is entitled Religious Liberty Law and features four articles basically written from the same political/religious perspective: religion is good, lack of it bad, and the courts must protect the “unprovable” beliefs of religion over the beliefs of others. The articles encompass 18 pages and thousands and thousands of words. When I wrote and submitted a counterpoint, I was shot down: “Mr. Lauck, reader comments on items appearing in the *Bar Journal* are limited to 250 words as a letter to the editor.”

After 52 years as a lawyer, I cannot stand by and do nothing as the State Bar invites

its readers to ignore separation of church and state and slide down the slippery slope from democracy to theocracy while cutting off the rest of the story. My 250-word limitation means the other side of the story will never be told — after the State Bar bent over backwards to allow the political/religious right to tell their story. The bottom line: the State Bar let one faction fully tell their story but limited the other side of the story to an impossible 250 words.

For the good of the order, I even offered to buy a page or two of advertising space to get the counterpoint published. No answer yet. Stay tuned.

**Fred Lauck  
Milford**

#### To the Editor:

I scarcely know where to begin with my reaction to the April *Michigan Bar Journal*, ostensibly dedicated to religious liberty law. Please allow me to pose two basic questions:

- Were you aware that several of the authors published in this edition are affiliated with the Alliance Defending Freedom, a Southern Poverty Law Center-designated hate group? According to the SPLC website, “the Alliance Defending Freedom is a legal advocacy and training group that has supported the recriminalization of sexual acts between consenting LGBTQ adults in the U.S. and criminalization abroad; has defended state-sanctioned sterilization of trans people abroad; has contended that LGBTQ people are more likely to engage in pedophilia; and claims that a ‘homosexual agenda’ will destroy Christianity and society. ADF also works to develop ‘religious liberty’ legislation and case law that will allow the denial of goods and services to LGBTQ people on the basis of religion.”
- If, indeed, you were aware of this, why on earth would you publish these articles without a disclaimer revealing this designation by the SPLC or, alternatively, allowing “contrary view” columns to run in the same edition?

Lawyers count on the *Bar Journal* to be an accurate, fair, reliable and well-vetted

source of information. The fact that you have provided these hate mongers with such a well-respected platform from which to spew their bile is mind-blowing. What in God’s name were you thinking?

**John H. Macfarlane  
Battle Creek**

#### To the Editor:

I am a long-time member of the State Bar. Often, the *Bar Journal* is dedicated to a particular topic. The most recent one is given to the topic of religion. Lots of articles were included by various writers.

My objection is, where is the other side of the religion issue? This was written as if there is but one side. There is not just one side. When the *Bar Journal* covers an issue, all sides should be able to speak. The *Bar Journal* is not a forum to push one side’s opinion.

I am saddened and offended on this step into this approach to serious public issues. This country is far too divided. It is the responsibility of lawyers to speak opinions, to share opinions, to attempt to persuade others to the validity of their side. It is against our pledge to freedom of speech and freedom of religion not to hear out all sides. Sadly, this issue seems to be propaganda for one’s position.

**Hon. Gail McKnight  
Westland**

#### To the Editor:

Thank you for your April edition! The four authors did a remarkable job. Timothy Denney should be commended for accurately exposing a bait and switch in the misleading Fair and Equal Michigan ballot initiative proposal. Using a deliberate guise of including a provision to protect religious beliefs and thereby superficially attract some voters, the proposal, if passed, would restrict current legal rights to only include beliefs by omitting the central constitutional right to act in accordance with those beliefs, even with religious observances. Any future attempt to use Elliott-Larsen with such a provision added to restrict religious action would absolutely be unconstitutional.

There is some inherent conflict between some civil rights proposals and religious rights; I believe a balance must and can

be struck, but any real balance is nothing more than a mirage in the current pending initiative.

**Thomas North  
Cheboygan**

**To the Editor:**

As the president of a house of worship, I view the liberty to practice one's religion as an essential promise of America. However, when the interpretation of that liberty discriminates, harms, abuses, punishes, and shames other people, that is not the liberty I endorse, but demagoguery. These articles criticized proposed amendments to the Elliott-Larsen Civil Rights Act that would protect sexual orientation, gender identity, and gender expression.

There must be some balance and justice in our society; using religion to discriminate was the purpose of all four articles. When religion becomes oppressive and unbalanced is when it deprives, rather than complements, our freedoms. I thought arguing against our courts making the distinctions of what is religious freedom and what is not and leaving such issues to "natural law" had died out years ago, and that discrimination and persecution in the name of religious beliefs died with it. Apparently not to these purported religionists.

Most strikingly was the challenge in Mr. Wagner's article denigrating and denying the scientifically accepted concepts of Darwinian evolution. How about returning to medieval thinking?

The very worst part of all this was that there was no counter-argument article included. This issue was, in my view, the most backward, anti-intellectual and, quite frankly, the most disgusting issue of the *Bar Journal* I have ever read. You owe it to the rest of us to devote an issue to counter the slanted, so-called religious views of these four.

**Stuart Sinai  
Troy**

**To the Editor:**

I was struck by the tone of the article in the April *Michigan Bar Journal* on the alleged imposition on the religious freedom of the Little Sisters of the Poor. The author clearly takes an advocacy position that any employer must have the right to impose their religious beliefs on employees; that is the unspoken, but direct, result of the Little Sisters and Hobby Lobby cases.

The Little Sisters of the Poor is not a small organization of only nuns; it owns and operates large homes for the elderly in several metropolitan areas and has more than

400 employees. It is not a religious institution serving only Catholics or employing only Catholics and it does not require employees to adhere to the Catholic faith. Photos on its hiring website show female employees helping customers, and the employees appear to be of childbearing age and might choose to avail themselves of birth control services. What the Little Sisters of the Poor does, as does the corporate board of Hobby Lobby, is impose their religious beliefs on birth control onto the lives of their employees. Birth control services would not have been borne by the Little Sisters or Hobby Lobby; the Affordable Care Act made the cost of medical insurance including birth control less expensive than if birth control had been excluded. Hobby Lobby and the Little Sisters apparently could not abide with the idea of allowing their non-Catholic employees access birth control through insurance, so it fought ACA application.

The Little Sisters case is really about an employer imposing religious views on hundreds of employees whether they agree with those views or not. The employees' religious liberty somehow got completely lost in the article and in the decisions.

**Tom Zaremba  
Madison, Wisconsin**

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