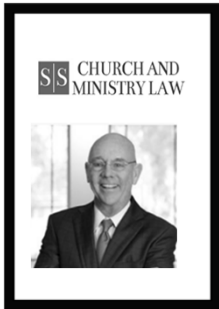


2022 LEGAL UPDATE

Robert Erven Brown



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“GOOD NEWS!”



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UNIVERSAL EMPOWERMENT SCHOLARSHIP ACCOUNT

•“ESA”

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\$7,000 PER CHILD

- Private School Tuition
- Home-school cost



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AZED.GOV.ESA



Do you have an active ADEConnect account to access the ESA Portal?

Yes - Take me to the Login screen »

No - Create my account »

6

[HTTPS://WWW.AZED.GOV/ESA/FREQUENTLY-ASKED-QUESTIONS](https://www.azed.gov/esa/frequently-asked-questions)

- Cannot have both STO \$\$ and ESA
- Can choose differently per child
- Check with your STO provider for details

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QUARTERLY SYSTEM

- Q1: July 1 - September 30
- Q2: October 1 - December 31
- Q3: January 1 - March 31
- Q4: April 1 - June 30

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DEADLINE

- 1st Quarter deadline has passed
- If you sign the contract from October 1 - December 31, you'll receive Q2 funding, etc.



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PROCESSING

Applications can take up to 30 days to process (from the date a completed application is submitted)

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HELP?

ESA Support Line at 602-364-1969.

Website at ESA Allowable Items.

Specific expense questions, Help Desk.

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NOVEMBER 2022

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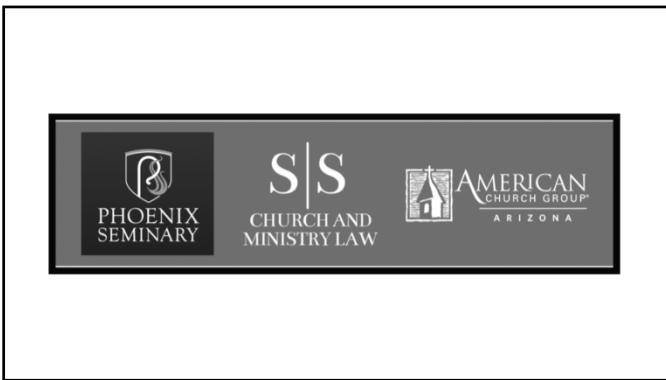


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GRANDDAUGHTERS

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**KEYNOTE
SPEAKER**

**MinistrySafe Cofounder
and
Sexual Abuse Trial
Attorney Kimberlee
Norris.**

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VIDEO LIBRARY

- Register now
- Attend in Person
- Attend Online AND/OR
- **Watch with Staff later**

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**RACHEL MITCHEL,
ESQ.**


- Maricopa County
Attorney
- Inside Scoop on
Mandatory
Reporting




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SBC MANAGEMENT TEAM

- Checklist
- Forms
- Policies








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CHRIST CHURCH OF THE VALLEY

- RE-INTEGRATING PAST OFFENDERS
- Panel includes retired probation officer and CCV Security Team Leader



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Dr. Steve Tracy

BREAKOUT SESSION

DR. STEVEN TRACY

Treatment of Sexual Abuse--Developing a Model of Care for Abuse Survivors

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Gordon C. James
PUBLIC RELATIONS

**HANDLING SOCIAL
MEDIA, THE PRESS &
CONGREGATIONAL
COMMUNICATION**

•Lisa James

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INSIDER INSURANCE TIPS

LUNCH SESSION:

BOB WILD &

KEVIN NORTON

**FROM BROTHERHOOD
INSURANCE**



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GRANDDAUGHTERS

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Culture War Correspondent: News From the Frontlines

**MICHAEL F.
EDGEELL, ESQ.**

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NEW SALVOS IN THE CULTURE WARS

Gender
Dysphoria
Under the ADA

Ministerial
Exception –
Update

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GENDER DYSPHORIA - DISABILITY

Protections Under the ADA:

- Discrimination
- Harassment
- Retaliation
- Requires Interactive Process

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GENDER DYSPHORIA - DISABILITY

Kesha Williams v. Stacey Kincaid, et al., (4th Cir. 2022)

- Transgender woman jailed – six months
- Placed in men's housing
- Delayed in receiving medical treatment
- Suffered harassment

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GENDER DYSPHORIA - DISABILITY

DSM-5 – Gender Dysphoria

- Clinically significant distress
- Felt by someone experiencing incongruence between gender identity and birth sex

Symptoms

- Intense anxiety
- Depression
- Suicidal ideation



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GENDER DYSPHORIA - DISABILITY

ADA Definition of Disability:

A physical or mental impairment that substantially limits one or more major life activities.

Includes:

- Major depressive disorder
- Emotional or mental illness
- Anxiety disorders

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GENDER DYSPHORIA - DISABILITY

Interactive Process:

The employer must communicate with the applicant or employee to determine if there is a reasonable accommodation the employer can provide, absent undue hardship, to overcome those limitations.

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GENDER DYSPHORIA - DISABILITY

Takeaways:

1. Evaluate if the diagnosis meets the definition of disability
2. Engage in the interactive process – evaluate requested accommodation
3. Consider application of ministerial exception
4. Consider application of the ecclesiastical abstention doctrine

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MINISTERIAL EXCEPTION NEWS UPDATE

Starkey v. Roman Catholic Archdiocese of Indianapolis (7th Cir. 2022)

- Co-Director of Guidance
- Catholic School
- Contract was not renewed after school learned of same-sex marriage

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MINISTERIAL EXCEPTION NEWS UPDATE

Ministerial Exception:

Primary duties:

- Engaging in church governance,
- Supervising a religious order, or
- Conducting religious ritual, worship, or instruction.

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MINISTERIAL EXCEPTION NEWS UPDATE

Ministerial Exception:

"This does not mean that religious institutions enjoy a general immunity from secular laws, but it does protect their autonomy with respect to internal management decisions that are essential to the institution's central mission. And a component of this autonomy is the selection of the individuals who play certain key roles."

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MINISTERIAL EXCEPTION NEWS UPDATE

Courts Examine:

1. Purpose of the institution
2. Roles, duties, and responsibilities of position articulated by employer
3. Actual roles, duties, and responsibilities of position

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MINISTERIAL EXCEPTION NEWS UPDATE

Purpose of Institution:

- Operating under the Archdiocese
- Goal is to form Christian leaders in body, mind, and spirit
- Further mission of the Archdiocese

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MINISTERIAL EXCEPTION NEWS UPDATE

Stated Roles, Duties, and Responsibilities:

- Contract required relationships consistent with traditional view of marriage
- Agreement with doctrinal statement
- Communicate the faith
- Pray with students
- Teach and celebrate Catholic traditions
- Model Jesus Christ
- Religious Instruction

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MINISTERIAL EXCEPTION NEWS UPDATE

Actual Roles, Duties, and Responsibilities:

- Attended monthly mass
- Directed staff re preparing students for liturgy
- Attended "Days of Reflection"
- Leadership role included guiding spiritual life of the school
- Lead prayer
- Counselors pray with students

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MINISTERIAL EXCEPTION NEWS UPDATE

Takeaways:

- Document religious purpose of organization
- Document religious roles, duties, and responsibilities of positions
 - Job descriptions
 - Contracts
 - Handbook codes of conduct
- Require agreement with doctrine
- Require religious activities outside of normal duties

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ECCLESIASTICAL ABSTENTION DOCTRINE UPDATE

Doe v. Catholic Relief Services (D. Md. Aug. 3, 2022).

- Employee's spousal (same sex) health benefits terminated
- Employee was data analyst
- Violated Title VII – Sex discrimination
- Did not require inquiry into matters of Catholic faith and doctrine, or involve organization's spiritual or ministerial functions

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ECCLESIASTICAL ABSTENTION DOCTRINE UPDATE

Takeaways:

- Generally applicable handbook policies – code of conduct
- Require agreement with doctrine
- Require participation in religious activities
- Include code of conduct and doctrinal references in employment contracts
- Include code of conduct references in job descriptions

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THE MINISTERIAL EXCEPTION AND THE ADA

- Ministerial exception applies to the ADA
- Autonomy to remove ministerial employees who threaten a lawsuit
- In *Hosana-Tabor*, school was not required to engage in the interactive process

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1. FORCED ARBITRATION IN SEXUAL HARASSMENT CASES ENDED.

- Employee may choose to invalidate arbitration/dispute resolution agreement in sexual harassment claim.
- Review contracts or policy; exclude or make alternative for sexual harassment claims.
- Utilization of Christian Conciliation Terms.

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SAMPLE CONFLICT RESOLUTION PROVISION IN CONTRACT

The parties accept the Holy Bible as the inspired Word of God. They believe that God desires that they resolve their disputes with one another amongst themselves as believers. To this end, the parties adopt this provision to enable them to work together to be reconciled in their relationships in accordance with the principles stated in 1 Corinthians 6:1-8, Matthew 5:23-24, Matthew 18:15-20 and other pertinent scripture. Accordingly, the parties hereby agree that, if any dispute or controversy arising out of or related to this Agreement and any modifications hereof, or its performance, is not resolved in private meetings between the parties pursuant to Matthew 5:23-24 and 18:15, then the dispute or controversy must be resolved as provided herein.

Any claim or dispute arising from or related to this Agreement shall be settled by mediation and, if necessary, legally binding arbitration in accordance with the Rules of Procedure for Christian Conciliation of the Christian Conciliation Service, a division of Relational Wisdom 360 (complete text of the Rules is available at: <https://rw360.org/rules-procedure-christian-conciliation/>). If the parties are unable to decide on an arbitrator, both parties will appoint an arbitrator who jointly will decide on a third-party arbitrator. Judgment upon an arbitration decision may be entered in any court otherwise having jurisdiction. The parties understand that these methods shall be the sole remedy for any controversy or claim arising out of this Agreement and expressly waive their right to file a lawsuit in any civil court against one another for such disputes, except to enforce an arbitration decision.

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2. CONTRIBUTIONS OF CRYPTOCURRENCY.



- Cryptocurrency has value.
- High value makes it attractive for Donor.
- Where Next Gen Donors Live (& NFTs).
- Treat as if receiving a gift of property (e.g. land). Not cash or financial transaction (thought handling comparisons to stock).
- Trading Platforms are available (e.g. Coinbase).
- Update Gift Acceptance Policy.

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3. TITLE IX AND TAX-EXEMPT STATUS.

- Concordia Preparatory School (MD).
- Valley Christian Academy (CA).
- Tax Exemption and Federal Funding.
- How to Respond.

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4. STATE ATTORNEY GENERAL & STATE CHARITY OFFICIALS: REVIEW COMPLAINTS.

1. What is the charitable purpose of the organization?
2. How and from whom are they getting their donations or funds to operate?
3. Are there any restrictions on assets? And,
4. Did the board of directors fulfill their judiciary obligations?

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5. CHARITABLE DEDUCTIONS & CONTEMPORARY WRITTEN ACKNOWLEDGMENT REQUIREMENT.

- 26 I.R.C. Sec. 170(f)(8) = requires CWA with:
 - (1) the amount of cash and a description (but not value) of any property other than cash contributed; and
 - (2) whether the donee org. provided any goods or services in consideration, in whole or in part, for [donated property].
- 26 I.R.C. Sec. 170(f)(18) requires CWA include:
 - A deduction for any contribution to a donor advised fund (DAF).. Only be allowed if taxpayer obtains a CWA (determined similar to (f)(8) from sponsoring organization... of such DAF that such organization has exclusive legal control over the assets contributed.
- *Kevin M. Keeler et al. v. United States, US. Dist Ct. North Texas.*
- *IRS Publication 1771*

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6. FUNDRAISING CHALLENGES

GENERAL CHALLENGES:

- Board of Directors/Management (Primarily Volunteers.
 - Great majority are not onboarded properly.
 - Great majority are not financially "sophisticated."
- Staffing
 - Generally no adequately staffed handle compliance and financial issues.
- Inadequate – Minimal Internal Controls

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6. FUNDRAISING CHALLENGES GENERAL CHALLENGES: (CONT)

- Financial Challenges.
 - Very tough "contributions environment" for most nonprofits
 - Sometimes "push envelope" in attempt to generate alternative revenue streams.
 - Working with parameters of very tight budgets.
 - Very focused on programmatic expenditures (hesitant to make "management & general" expenditures).

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6. FUNDRAISING CHALLENGES PLATFORM FUNDRAISING CHALLENGES:

- Limited Engagement with Donors.
 - Potentially dealing with many donors of small amounts.
 - More difficult to cultivate annual donors for the long-term
- Compliance.
 - Timely issuing charitable contribution acknowledgements to donors when applicable.
 - Satisfying state charitable solicitation requirements.
- Accounting.
 - Challenges accurately accounting for the receipt of platform donations.
 - Public Support Test.
- Financial.
 - Fees paid to the platform operator.
- Upcoming State Regulation of Platform Fundraising.

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7. VOLUNTEERS AND COPYRIGHT CHALLENGES.

- Work for Hire Doctrine.
- Utilize Volunteer Agreement
