

No. 05-10341-II

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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JEFFREY MICHAEL SELMAN *et al.*,  
Plaintiffs-Appellees

vs.

COBB COUNTY SCHOOL DISTRICT, COBB COUNTY BOARD OF  
EDUCATION, and JOSEPH REDDEN, Superintendent,  
Defendants-Appellants.

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On Appeal from the United States District Court for the  
Northern District of Georgia, Atlanta Division

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**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

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**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE  
DISCLOSURE STATEMENT**

Pursuant to Fed. R. App. P. 26.1, 11th Cir. Rules 26.1-1 through 26.1-3, and 11th Cir. R. 27-1(9), undersigned counsel hereby certifies that *Amicus Curiae* Foundation for Moral Law, Inc., is a designated IRS Code 501(c)(3) non-profit corporation that has no parent corporations, and that no publicly held company owns ten percent or more of *Amicus*. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Moreover, and pursuant to the aforementioned appellate rules, undersigned counsel also certifies that the following persons or entities have or may have an interest in the outcome of this case:

1. Alliance Defense Fund (Counsel for Intervenors below)
2. American Civil Liberties Union Foundation (Counsel for Appellees Chapman, Silver, Mason, and Jackson)
3. American Civil Liberties Union Foundation of Georgia, Inc. (ACLUG)
4. Biologists and Scientists (*Amicus Curiae* below)
5. Bondurant, Mixson & Elmore, LLP (Counsel for Appellee Selman)
6. Brackett, David G. H. (Appellate attorney for Plaintiffs-Appellees)
7. Bramlett, Jeffrey O. (Appellate attorney for Plaintiffs-Appellees)
8. Brock, Clay & Calhoun, P.C. (Counsel for Appellants)

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9. Callaway, Carol A. (Appellate attorney listed for Defendants-Appellants)
10. Chapman, Kathleen (Plaintiff-Appellee)
11. Cobb County Board of Education (Defendant-Appellant)
12. Cobb County School District (Defendant-Appellant)
13. Cooper, Honorable Clarence (Trial Judge)
14. Fant, Lynn Gitlin (Attorney representing *Amicus* Parents for Truth in Education)
15. Garrett, Margaret Fletcher (ACLUFG Attorney representing Plaintiffs-Appellees)
16. Gunn, Ernest Linwood IV (Attorney representing Defendants-Appellants)
17. Hardage, Allen (Intervenor below)
18. Hollberg & Weaver (Counsel for Intervenors and *Amicus* below)
19. Jackson, Terry (Plaintiff-Appellee)
20. Meazell, Emily Hammond (Appellate attorney representing Plaintiff-Appellee Jeffrey Michael Selman)
21. Manely, Michael Eric (Attorney representing Plaintiffs-Appellees)
22. Mason, Paul (Plaintiff-Appellee)

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23. McMurry, Kevin Thomas (Attorney representing intervenors Hardage and Taylor)
24. Parents for Truth in Education (*Amicus Curiae* below)
25. Power, Debra Anne (Former plaintiff; terminated from case September 20, 2004)
26. Redden, Joseph (Defendant-Appellant)
27. Selman, Jeffrey Michael (Plaintiff-Appellee)
28. Silver, Jeff (Plaintiff-Appellee)
29. Taylor, Larry (Intervenor below)
30. Theriot, Kevin Hayden (Attorney representing intervenors Hardage and Taylor)
31. Weaver, George M. (Attorney representing *Amicus* Biologists and Scientists and intervenors Hardage and Taylor)
32. Weber, Gerald R. (ACLUFG Attorney representing Plaintiffs-Appellees)

  
Benjamin D. DuPré

COMES NOW the Foundation for Moral Law, Inc. (“the Foundation”), and pursuant to Fed. R. App. P. 29(a)-(b) and 11th Cir. Rule 29-1, hereby files this motion for leave to file an *amicus curiae* brief in the above-styled case.

**I. MOVANT’S INTEREST IN THIS CASE**

The Foundation for Moral Law exists to defend religious liberty, including the right to acknowledge God, and to encourage a return in our judiciary and throughout our country to a historic and original understanding of the United States Constitution. The Foundation claims an interest in this case because, in addition to the misuse of prior precedent, the district court below rendered an interpretation of the Establishment Clause of the First Amendment of the United States Constitution that the Foundation believes is antithetical to the text and original meaning of the First Amendment. Moreover, the district court, by prohibiting the School District of Cobb County, Georgia from placing a sticker on science textbooks that calls evolution “a theory, not a fact,” has demonstrated hostility toward religion and its adherents by banning the stickers solely because certain “religiously-motivated individuals” might agree with the words thereon. The Foundation seeks to persuade this Court that the lower court’s opinion contradicts the text of the United States Constitution and encourages animus toward religion, ironically in a case where a government entity has done nothing concerning religion.

Furthermore, the Foundation currently represents Barrow County, Georgia, in litigation concerning a display of the Ten Commandments in a Barrow County building, to-wit, *Doe v. Barrow County, Georgia*, in the United States District Court for the Northern District of Georgia. The *Barrow County* case is currently stayed at the pretrial stage pending the outcome of two cases currently being considered by the United States Supreme Court concerning the public display of the Ten Commandments: *Van Orden v. Perry* and *McCreary County, Ky. v. ACLU of Ky.* The plaintiff in *Barrow County*, like the Plaintiffs-Appellants in the instant case, alleges that the government act at issue violates the Establishment Clause of the First Amendment and the Georgia Constitution, including Article I, Section II, Paragraph VII. Thus, the Foundation claims an interest in this case because the legal analysis and conclusions as to both the federal and state constitutions may have a direct influence upon the future litigation and potential appeals in the *Barrow County* case.

**II. THE PROPOSED *AMICUS CURIAE* BRIEF IS DESIRABLE AND RELEVANT.**

The accompanying *amicus* brief is warranted because it presents a legal theory that bears directly on the outcome of this appeal but is different from those already expressed by the parties, thus avoiding arguments and legal authorities that simply echo those raised by the parties. The parties in this case argued and will argue their positions primarily based upon the prior precedent of other courts'

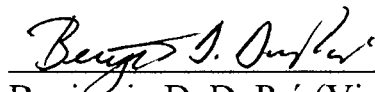
opinions (e.g., *Lemon v. Kurtzman*). The Foundation, however, proposes in its *amicus* brief that this Court and all others are oath-bound to follow the *text* of the relevant constitutional provisions: in this case, the Establishment Clause of the U.S. Constitution's First Amendment and the Constitution of Georgia, Article I, Section II, Paragraph VII. The matters asserted in the proposed brief are therefore relevant to the proper legal disposition of this case, as well as the judicial philosophy reflected in the decision this Court renders.

### III. CONCLUSION

Therefore, the Foundation for Moral Law respectfully requests that the Court grant this motion for leave to file and accept the proposed *amicus curiae* brief which accompanies this motion.

**RESPECTFULLY SUBMITTED** this 18th day of April, 2005.

*Amicus Curiae*: Foundation for Moral Law, Inc.



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**CERTIFICATE OF SERVICE**


The undersigned hereby certifies that true and correct copies of this Motion for Leave to File *Amicus Curiae* Brief have been served on counsel for each party (listed below), by certified mail, and that the original and one (1) copy of the same have been dispatched to the Clerk of the United States Court of Appeals for the 11th Circuit, by first-class U.S. Mail, on this 18th day of April, 2005.

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