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NACL Joins Amicus Brief Defending Arkansas Ten Commandments Monument

Brief urges Eighth Circuit to reverse lower court and apply the Supreme Court's history-and-tradition standard

LITTLE ROCK, AR — The National Association of Christian Lawmakers, Inc. announced today that Liberty Counsel has filed an amicus curiae brief in *Cave v. Jester*, urging the United States Court of Appeals for the Eighth Circuit to uphold Arkansas's Ten Commandments Monument Display Act and allow the monument to remain on the Arkansas State Capitol grounds.

Liberty Counsel filed the brief on behalf of NACL and the American History and Heritage Foundation, Inc., the organization that donated the Ten Commandments monument to the State of Arkansas.

In March, the federal district court ruled that the monument violated the Establishment Clause and ordered its removal. That order has been stayed while the case is on appeal, allowing the monument to remain in place as the litigation proceeds.

The amicus brief argues that the district court relied on outdated Establishment Clause precedent rooted in the now-abandoned *Lemon v. Kurtzman* test. In a series of decisions culminating in *Kennedy v. Bremerton School District*, the United States Supreme Court rejected that abstract framework and instructed courts to evaluate Establishment Clause claims by reference to history, tradition, and the founding-era understanding of a religious establishment.

As the brief explains, Arkansas’s law bears none of the historic hallmarks of an establishment of religion. The State does not compel worship, require religious observance, punish dissent, establish a church, or force citizens to financially support a religion. Instead, the monument passively commemorates the Ten Commandments’ historic influence on American law and government.

“I have been involved with this issue from the beginning, sponsoring the Ten Commandments Monument Display Act in 2015, helping see the monument placed on the Capitol grounds, and remaining engaged throughout the years of litigation that followed,” said Jason Rapert, Founder and President of NACL and former Arkansas State Senator. “This case is about much more than one monument. It is about whether our government may truthfully acknowledge the historic and moral foundations of American law without being accused of establishing a religion. The Constitution does not require Arkansas to erase its history, and NACL will continue standing with the State until this monument is secure.”

The brief emphasizes that permanent monuments constitute government speech and that Arkansas is entitled to select the historical messages it wishes to commemorate on its own Capitol grounds. It also notes that the Ten Commandments are displayed in prominent governmental and judicial buildings throughout the United States, including the United States Supreme Court, the Department of Justice, and the National Archives.

“The district court applied a legal framework that the Supreme Court has abandoned,” said Bob Ballinger, Chief Legal Officer for NACL and a former member of the Arkansas General Assembly. “Under current law, the proper inquiry focuses on history, tradition, and coercion. A passive monument that compels no worship, imposes no religious observance, and punishes no dissent bears none of the hallmarks of a religious establishment. I believe this case will almost certainly result in a victory for Arkansas and for the freedom to acknowledge, preserve, and express our history and heritage.”

The brief summarizes the Supreme Court’s retreat from the *Lemon* framework with the words: “American Legion was strike one. Shurtleff was strike two. Kennedy was strike three.” It argues that Arkansas’s monument is constitutional because the State placed it on the Capitol grounds for commemorative purposes and because the monument does not coerce anyone to participate in religion.

Cave v. Jester is one of two major Arkansas Ten Commandments cases currently before the Eighth Circuit. The other, *Stinson v. Arkansas*, concerns Act 573 of 2025, which provides for displays of the Ten Commandments in public-school classrooms and libraries. NACL and Liberty Counsel have also participated as amici in that litigation.

NACL will continue supporting Arkansas officials and lawmakers as they defend the constitutional right to recognize the religious, moral, and historical influences that helped shape American law and government.

About the National Association of Christian Lawmakers (NACL):

The National Association of Christian Lawmakers (NACL) brings together federal, state, and local lawmakers committed to advancing biblical principles in public policy and governance. Through regular meetings and collaboration, NACL members develop model statutes, ordinances, resolutions, and public policy initiatives that address significant issues from a biblical worldview. Since its founding in 2020, NACL has established 42 state chairs, built a network of members and supporters in all 50 states and Puerto Rico, and adopted 75 model laws, resolutions, policies, and ordinances. NACL is the first formal national association of Christian lawmakers in the history of the United States.

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