

Attorneys Return to Courtroom to Defend Prayer Before Government Meetings

Wednesday, attorneys representing the Jackson County, Michigan, commissioners argued to protect their right to pray before their meetings in front of the Sixth Circuit Court of Appeals in Cincinnati, Ohio.

The team of First Liberty Institute attorneys, led by senior counsel Ken Klukowski, the tradition of legislative invocations has been in place in America since the nation's earliest days, and the Supreme Court has also upheld the practice in two important cases:

- Marsh v. Chambers (1983), which upheld invocations by a chaplain who was an officer of the legislature and paid with public funds, and
- Town of Greece v. Galloway (2014), which upheld the ability of the town of Greece, New York, to open its town board meetings with an invocation offered by clergy.

"Legislatures at the federal, state and local levels nationwide have opened their sessions with invocations for more than two centuries, as the Supreme Court has twice recognized in upholding this widely accepted practice," Klukowski said. "Jackson County's invocations are fully consistent with the Constitution and the Supreme Court's guidance on this issue."

The Jackson County Board of Commissioners opens its meetings each month with an invocation offered by one the commissioners, which First Liberty Institute attorneys say "falls squarely within the American historical tradition of legislative invocations." The commissioners who offer

invocations choose voluntarily to do so, and offer them on a rotating basis. They are free to act according to their own consciences, whether that means delivering an invocation or offering a moment of silence.

In 2013, local activist Peter Bormuth, who had attended some of the commission's meetings, sued Jackson County. Bormuth's lawsuit argued that the legislative invocations violated the Establishment Clause of the First Amendment to the U.S. Constitution. A federal district judge ruled in the commissioners' favor, but a three-judge panel of the Sixth Circuit Court of Appeals reversed the lower court's decision.

Now, the full 15-judge panel wants to review the case *en banc*. In a similar case, First Liberty also represents the commissioners of Rowan County, N.C., which was heard in March before the Fourth Circuit Court of Appeals. If the courts issue contradictory decisions, it could lead to the Supreme Court taking up the cases. {eo}