

Battle Over San Diego War Cross Rages On

The American Center for Law and Justice has filed a critical amicus brief urging a federal district court in California on behalf of 18 members of Congress to permit a private group to obtain the Mt. Soledad Veterans Memorial in San Diego. This proposed remedy is an alternative to the plaintiffs' request for a court order requiring that the memorial's commemorative cross be removed.

A federal appeals court in 2011 declared that it was unconstitutional for the federal government to operate the memorial. Then, in 2012, the U.S. Supreme Court refused to take the case and now legal efforts have focused on whether the cross must be removed.

While the ACLJ contends that the decision by the appeals court is legally flawed, we believe there's an appropriate solution that would not mandate that the commemorative cross to be removed—a solution that would continue to honor our military veterans. We're urging the court to permit a private organization to obtain and operate the war memorial—a remedy that would remove any constitutional questions and protect this longstanding tribute to our men and women in uniform.

The ACLJ, which has supported legal efforts to keep the cross in place for years, filed an amicus brief Wednesday, posted here, on behalf of 18 members of Congress, including Rep. Randy Forbes who heads up the Congressional Prayer Caucus, and Rep. Duncan Hunter, who represents the San Diego area where the memorial is located.

Here's the complete listing of the 18 members of Congress represented in the brief: United States Representatives Randy Forbes, Duncan Hunter, Robert Aderholt, Michael Conaway, Jeff

Duncan, Stephen Fincher, Scott Garrett, Louie Gohmert, Vicky Hartzler, Bill Johnson, Walter Jones, Mike Kelly, James Lankford, Robert Latta, Billy Long, Jeff Miller, Matt Salmon, and Lynn Westmoreland – all currently serving in the 113th Congress.

The friend-of-the-court brief advocates putting the memorial in the hands of a private group: “Amici strongly disagree with the decision of the United States Court of Appeals for the Ninth Circuit holding that the federal government’s operation of the Mount Soledad Veterans Memorial violates the Establishment Clause due to the presence of its commemorative cross. At this juncture, however, Amici believe that the best course of action, in keeping with the goal of maintaining the Memorial as a longstanding tribute to our men and women in uniform, is to allow a private organization to continue to maintain the property as a veterans’ memorial, via a sale or land transfer.”

The brief contends such a move would resolve any remaining constitutional questions: “A sale or transfer of the Memorial to a private organization would remedy any perceived governmental endorsement of religion.”

Our brief notes that the Mount Soledad Memorial Association, which has worked tirelessly to improve and preserve the memorial for many years, “should be given the first opportunity” to acquire and maintain the memorial.