

Government Charges Farmers With Discrimination Fines for Refusing to Host Gay Wedding

Alliance Defending Freedom and one of its allied attorneys filed their opening brief Thursday in an appeal of a New York State Division of Human Rights decision against the owners of an upstate farm.

The agency ruled that Cynthia and Robert Gifford were guilty of “sexual orientation discrimination” for declining to host and coordinate a same-sex ceremony on their property. As punishment, the government fined them \$10,000 plus \$3,000 in damages and ordered them to implement staff re-education training classes that teach the state’s viewpoint on marriage.

“All Americans should be free to live and work according to their beliefs,” said ADF Senior Counsel Byron Babione. “Our government was formed to be freedom’s greatest protector, not its greatest threat. In this case, however, the government is coming after both this couple’s freedom and their ability to make a living.”

The brief filed in *Gifford v. Erwin* argues, in part, that the government did not consider Robert and Cynthia’s constitutional freedoms and religious beliefs. During the proceedings, neither the administrative law judge nor the Division of Human Rights addressed the Giffords’ First Amendment rights.

“The government demonstrated astonishing disregard for the Giffords’ First Amendment freedoms, which were never even considered,” explained lead counsel James Trainor, one of more than 2,500 private attorneys allied with ADF. “The judge’s order forces the Giffords to host same-sex ceremonies or to host no wedding ceremonies at all. The government is

essentially saying to the Giffords, give up your faith, or give up your livelihood.”

As the opening brief states, “In this case, the New York State Division of Human Rights ... , in the name of human rights, has mandated religious discrimination by requiring a family to host and participate in a marriage ceremony that violates their faith, and by imposing a heavy fine on them because they are unwilling to do so. New York law does not require this result, and in fact, the state and federal Constitutions forbid it.”

The Giffords’ farm has been in their family for many years. The Giffords live in a barn they built on the farm and occasionally host and coordinate weddings on the first floor and the surrounding backyard area.

On Sept. 25, 2012, Melisa McCarthy called Cynthia Gifford, inquiring about the use of the farm for her upcoming same-sex ceremony. Because of her Christian faith’s teachings on marriage, Cynthia politely told McCarthy that she and her husband don’t host and coordinate same-sex ceremonies but left open the invitation to visit the farm to consider it as a potential reception site. Instead, McCarthy and her partner filed a complaint with the Division of Human Rights.

The Giffords appealed that decision to the New York Supreme Court in Rensselaer County, which transferred the case to the New York Supreme Court Appellate Division, Third Department, in Albany.