

Liberty Counsel Files Final Brief in Homosexual Adoption Case

On Monday Liberty Counsel filed a Reply Brief at the Florida Supreme Court, in which it argued that The Florida Bar should remain neutral in the homosexual adoption controversy. In addition to Liberty Counsel, the Petitioners include Anita Staver, President of Liberty Counsel, and Scott Dixon, affiliate attorney for Liberty Counsel. Liberty Counsel represents the interests of its staff and affiliate attorneys who are licensed by the Bar.

Liberty Counsel filed a Petition at the Florida Supreme Court on February 27; the Bar filed its Response and on March 23 Liberty Counsel filed its Reply. In its Response, the Bar admits that it is prohibited from taking sides on this or any other issue that has the potential of causing deep philosophical or emotional division among a substantial segment of the Bar. The Bar argues that the Family Law Section, membership in which is voluntary, is filing the brief, not the Bar itself, and that having only one law firm and two attorneys object does not make an issue divisive among a substantial segment of the Bar.

But the Bar creates and controls the sections. The Bar Standing Rules (a)(3) and (a)(3) state that a section may not lobby or file an amicus brief on an issue that "carries the potential of deep philosophical or emotional division among a substantial segment of the membership of the bar." In 2004 and 2005, the Bar voted to prohibit the same Family Law Section from lobbying against the same 1977 homosexual adoption law, because to do so would violate Standing Rule (a)(3). In 2004 under Standing rule , the Bar Executive Committee denied the Elder Law Section from filing an amicus brief in the Terri

Schiavo case on the right to privacy issue.

Liberty Counsel's brief argues that the Florida Supreme Court, in another case, has already rejected the Bar's argument that nine objecting attorneys out of 45,156 Bar members was insufficient to show divisiveness. Liberty Counsel adds that it represents many members who are affiliate attorneys. Liberty Counsel also points to an amicus brief representing 118 attorneys filed last Friday, asking the court to make the Bar neutral on this issue. Finally, Liberty Counsel quotes the minutes of a meeting of the Family Law Section, where one member said this issue would be like "walking into a flame thrower."

Mathew D. Staver, Founder of Liberty Counsel and Dean of Liberty University School of Law, commented: "The Florida Bar must remain neutral on matters that do not relate to the regulation of attorneys. The wisdom of the neutrality rule is obvious. The Bar is authorized to require compulsory membership for the limited purpose of regulating lawyers and advancing the science of jurisprudence. It may not become an advocate or a referee on politically divisive issues."