



# ISSUE ANALYSIS

## Hostility to Religion: The Growing Threat to Religious Liberty in the United States

Many of the first European settlers on American shores sought freedom from religious persecution. Decades later, the Founding Fathers considered religious liberty to be a paramount principle in the new United States. Religious liberty is our “first freedom,” not only because it is listed first in the Bill of Rights but because without it, all other freedoms are impossible: The Founders affirmed that allegiance to God precedes allegiance to the state, and that our rights come from our Creator, not the government. This is the essential assumption upon which our entire system of government has been built. Religious liberty was so important to the Framers of the new United States Constitution that they included it in the First Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . .”

Fast forward three hundred years, and hostility to religious expression in the public square is reaching levels unprecedented in the history of the United States. Militant atheists target long-existing crosses and historical markers of America’s religious heritage in public places. Teachers tell young school-children they can’t read their Bible in school. Private citizens and the government alike are attacking religious expression by other citizens. Whether it’s a media backlash to merely expressing a faith position on sexuality, or the use of nondiscrimination laws to punish religious business owners for their decisions, threats to free speech and free exercise are heating up both in the courts and the public square.

This publication contains a list of documented accounts of hostility toward faith in the United States today, broken down in the following four definable types of incidents: Section I: Suppression of Religious Expression in the Public Square; Section II: Suppression of Religious Expression in Schools and Universities; Section III: Censure of Religious Viewpoints Regarding Sexuality; and Section IV: Suppression of Religious Expression on Sexuality Using Nondiscrimination Laws.

Most of the documented accounts here have occurred within the past several years. This, in and of itself, is troubling. But in some areas, particularly with regard to statements and positions on sexuality (many of which are documented in Sections III and IV below), hostility toward religion has increased at an exponential rate. This trend should cause any freedom-loving individual to be truly alarmed.

Americans urgently need to be aware of the suppression of religion in this regard. Yet this should not just concern those whose rights are most immediately affected, for the principles underlying suppression of rights in this area will very quickly and easily lead to the restriction and suppression of free inquiry and critical thinking. All should be concerned that suppression

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July 2014  
Issue Analysis IS14G01

of rights, particularly as outlined in Sections III and IV of this publication, is the product of more insidious forces which ultimately will erode liberties for all Americans, regardless of viewpoint or level of concern with these immediate issues.

As Americans' awareness grows, we can focus our attention on the public debate and the state of the law. Liberty does not maintain itself, and in a democracy, many voices are constantly clamoring for desired protections and privileges to be enshrined in law. As we become more fully aware of and engaged on the issue of hostility toward religion, we can more effectively defend civil liberties and restore religious liberty to its proper place in American society.

# Section I: Attacks on Religious Expression in the Public Square

Attacks on the expression of religion in the “public square” of government and public property, land, and buildings are not recent. For many years, those opposed to crosses and monuments in public places have attempted to use the courts to have these displays declared unconstitutional, often under Establishment Clause grounds. However, zealous atheist groups increasingly have focused their hostility on private religious expression which is only very tenuously connected to government. They have continued to harass small towns and localities which merely maintain the traditions handed to them involving years of public prayer, displays of religious history on public buildings, or crosses on veterans’ memorials.

Often, not knowing any better and lacking proper counsel, localities capitulate to the demands of those hostile to any public expression of faith. However, capitulation is not necessary, as attorneys and advocates are ready to help. Following are documented incidents of hostility to religious expression in the public square.

## **Girl Barred from Singing “Kumbaya” Because It Was a “Religious” Song - August 11, 2000\***

Samantha Schulz, an eight-year-old girl from Port Charlotte, Florida, was barred from singing “Kumbaya” at a Boys & Girls Club talent show because the song included the words “Oh, Lord.” Bill Sadlo, the club’s Director of Operations, “worried parents would complain if children went home and said they heard a religious song at the nonsectarian camp.” He said, “[w]e don’t want to take the chance of a child offending another child’s religion.” Randy Bouck, the club’s local director, chimed in: “We just can’t allow any religious songs. . . . You have to check your religion at the door.” Samantha’s parents were livid at not being given notice that their daughter’s song would be barred. Her mother said, “I learned that song in Girl Scouts, not in church. . . . It’s a campfire song, for goodness’ sake.” Mr. Sadlo agreed the club should have notified the girl’s parents earlier that the song would not be allowed, and apologized to the family.<sup>1</sup>

## **Seniors Banned from Singing Christmas Carols in Their Homes - December 2005\***

Seniors living in facilities owned by the Housing Resource Development Corporation were told they could not sing Christmas carols. Following an attorney’s demand letter, the facility reversed its decision.<sup>2</sup>

## **Voluntary After-Prison Rehab Center Closed Because of Its Faith-Based Technique - May 2007\***

The Bristol County, Massachusetts, sheriff’s department funded a rehabilitation program to help recently released prisoners deal with drug addiction and reintegrate into society. Americans United for Separation of Church and State threatened legal action against the county for funding a faith-based organization. The sheriff gave in to the pressure and expelled the group from the facility.<sup>3</sup>

### **ACLU Works to Stop Tourism Grant from Going to Christian Concert – November 20, 2008\***

Hernando County, Florida, makes grants available for events that will bring tourists into the county in order to spur economic development and promote the county as a tourist destination. The Tourist Development Council approved a grant for the Freedom Fest, a Christian music festival held on the Fourth of July weekend. Despite the secular purpose of the grant and the neutral manner in which it is granted, the American Civil Liberties Union (ACLU) complained about the funds going to a religious festival. In response to the complaints, the festival was forced to change its name from the “God and Country” festival to the “Family, Freedom, and Country” festival, and the grant had to be given directly to vendors instead of the organization promoting the festival. The ACLU still warned that any “overt religious overtones” at the event would cause “trouble” for the county.<sup>4</sup>

### **Freedom from Religion Foundation Threatens Technical Colleges in Wisconsin for Having Good Friday Holiday – January 2009\***

The Freedom from Religion Foundation (FFRF) sent letters to technical colleges in Wisconsin claiming that having Good Friday as a holiday was unconstitutional. Several of the technical colleges indicated that they would eliminate their celebration of the holiday.<sup>5</sup>

### **All Christmas Displays Banned from Washington State Capitol Building after Complaint from Freedom from Religion Foundation – October 30, 2009\***

After receiving a complaint from the Freedom from Religion Foundation, the state of Washington banned all holiday displays other than the “holiday tree” inside its capitol building.<sup>6</sup>

### **Freedom from Religion Foundation Attacks Mother Teresa Stamp – January 2010\***

The United States Postal Service (USPS) honored Mother Teresa, a Noble Peace Prize recipient, with a memorial stamp for her humanitarian relief. The Freedom from Religion Foundation criticized the stamp as a violation of USPS regulations by honoring a religious figure and called on its members to boycott the stamp and begin a letter-campaign to expose the “darker side” of Mother Teresa.<sup>7</sup>

### **Federal Reserve Board Demands Bank Remove Religious Christmas Decorations – December 2010\***

An Oklahoma bank was forced to remove Bible verses from its website, crosses from teller stations, and buttons that carried a Christian Christmas message for a day after a visit from Federal Reserve employees. The Federal Reserve Board ruled that banks may not make any religious statement as doing so might discourage people from applying for loans. The Federal Reserve employees checking the bank to make sure it complied with regulations cited the religious material and demanded its removal. After the president of the bank challenged the Federal Reserve, the religious items were restored while the Federal Reserve made a more thorough investigation of the issue.<sup>8</sup>

### **Freedom from Religion Foundation Threatens Commissioner for Having a Cross and Nativity Scene in His Personal Office – December 2010\***

The Freedom from Religion Foundation sent a letter to Dennis Lennox, a county drain commissioner, threatening a lawsuit if he would not remove a cross and Nativity scene from his

personal office. FFRF claimed the display is a violation of the Establishment Clause. Lennox commented, "This is my private office in my private area, I'm not trying to force my faith down anybody's throat[;] I'm just saying I celebrate Christmas."<sup>9</sup>

#### **Obama Administration Tries to Keep Prayer off World War II Memorial – November 2011\***

The Obama Administration opposed the World War II Memorial Prayer Act of 2011, which would have put a copy of Franklin D. Roosevelt's D-Day prayer on the World War II Memorial in Washington, D.C. The Administration claims that, under the Commemorative Works Act, it is prohibited to put anything on a memorial that will hide part of it. Senator Rob Portman renewed efforts to have the prayer placed at the memorial in May of 2013.<sup>10</sup>

#### **City Threatened for Renting Amphitheater to Christian Musician – April 5, 2012\***

A resident of Draper, Utah, threatened to sue the city if it did not cancel a Michael W. Smith concert because the city rented the city's amphitheater to the Christian musician and facilitated ticket sales through the city's website. The city refused to cancel the concert and noted that it treated the Michael W. Smith concert in the same manner that it treats all groups that desire to perform at the amphitheater.<sup>11</sup>

#### **Atheist Group Bullies Santa Clara, California to Remove Historical Marker – April 5, 2012\***

The Freedom from Religion Foundation demanded that Santa Clara, California, remove a granite cross from Memorial Cross Park. The Santa Clara Lions Club had donated the cross for the park as a historical marker to mark the location of a mission built in 1779.<sup>12</sup>

#### **Steakhouse Threatened for "Church Member Appreciation Day" – June 11, 2012\***

The Western Sizzlin' Steakhouse in Wiggins, Mississippi, developed promotional offers to attract customers. One such offer was the "church member appreciation day," during which church members could get a discount at the steakhouse. The Freedom from Religion Foundation threatened the steakhouse for offering this discount, asserting that this promotion violated the Civil Rights Act. The restaurant responded by stating that it would "discontinue including churches in [its] discount promotions and programs moving forward and will only offer them to other local businesses and companies that are not religious in nature."<sup>13</sup>

#### **Government Bans Prayer at Homeless Shelter – July 2012\***

The United Caring Shelter (UCS) in Evansville, Illinois, allowed prayer before a free meal provided by the shelter. The prayers were open to all and were not mandatory. The U.S. Department of Agriculture, however, demanded that UCS stop the prayers or stop accepting federal assistance to feed the homeless. The UCS now permits only a moment of silence before meals.<sup>14</sup>

#### **Seniors Threatened with Removal of Christmas Tree – December 6, 2012**

Senior citizens in Los Angeles, California, were threatened with the removal of a Christmas tree from the communal area of their assisted living apartment complex. Initially, the company running the complex planned to remove all religious holiday items from the apartment complex's communal areas. After residents strongly protested, the company reversed course and claimed it never intended to prohibit the celebration of the holidays, and that the planned removal of the Christmas tree was due to a misunderstanding.<sup>15</sup>

### **Atheist Group Demands Vietnam Veterans Memorial Be Removed - February 7, 2013\***

The Freedom from Religion Foundation sent a letter to Coos Bay, Oregon, demanding that the city remove its Vietnam Veterans' Memorial because the memorial includes a cross. Since the FFRF sent its letter, the cross has been vandalized and a bomb was placed on the cross near a playground. City officials, however, are not backing down and have refused to remove the cross.<sup>16</sup>

### **Atheists Target Nativity Scene - December 6, 2013**

The Freedom from Religion Foundation (FFRF) wrote a letter to local officials in Chipley, Florida and demanded that the city remove a nativity scene from the grounds surrounding its City Hall, alleging that the crèche represented a violation of the separation of church and state.

Yet many locals supported the crèche's presence. Resident Anne Chenault said she enjoyed the nativity scene and that those who disliked it were not forced to embrace its sentiment. "We think it represents the majority of the beliefs of the people that live here," she said. Many Chipley residents showed up to a city council meeting to show their support for the crèche and to fight back against attempts to have it removed from the Chipley City Hall grounds.

A local reporter unwittingly put the Freedom from Religion Foundation on notice of the crèche when he contacted the organization to learn if the nativity's presence is constitutional. He then published an apology, explaining that he had contacted the organization, among others, out of curiosity and did not intend to spark controversy over the nativity. The newspaper clarified that it did not desire the removal of the crèche. Council members have so far pledged to keep the nativity in place.<sup>17</sup>

## Section II: Attacks on Religious Expression in Schools and Universities

Religious expression in our public schools has been a source of conflict and controversy for some time. Yet student rights and the rights of school employees are often subjected to Establishment Clause concerns. Some of the same atheist groups opposed to religious expression in the public square have also targeted our schools, and by extension, our children in those schools. Local communities across the nation have, historically, successfully determined how their children are to be educated – as parents, their children, and local administrators and teachers come together and participate in a microcosm of democracy. Yet outside groups hostile to faith often interject themselves to these local communities, threatening legal action if the communities do not capitulate to their demands. As is often the case in other situations, local governments do not know better, lack proper counsel, and therefore give in to these groups' wishes. Yet capitulation within the academic arena is not necessary. Attorneys and advocates are ready to help these communities protect religious expression in their schools and educate their children as they see fit. Following are documented incidents of hostility to religious expression in our schools.

### **Elementary Student Told She Cannot Read Religious Book as Her Favorite Book about Christmas Traditions – December 2001\***

A second-grade teacher at Northwest Elementary School in Massachusetts, as part of a class project, asked students to bring books to class about their Christmas traditions. Laura Greska, a second-grader, brought a book called *The First Christmas*, but her teacher stopped her from reading it because it was religious. A lawsuit was filed against the school district for violating Laura's First Amendment rights.<sup>18</sup>

### **Teacher Prevents Kindergarten Student from Praying before Snacks – April 2002\***

Kindergartner Kayla Broadus prayed, "God is good. God is great. Thank you, God, for my food," with two classmates at her school in Saratoga Springs, New York, at the snack table before they ate their snack. Her teacher silenced the prayer, scolded Kayla, and informed the school's lawyer. A lawsuit ensued over the child's prayer.<sup>19</sup>

### **Students Told They May Paint Panels at the School So Long As None Reference God or Jesus – May 2002\***

When students at the Boca Raton School District in Florida were permitted to paint panels around the high school, members of the Fellowship of Christian Athletes were told that they could not paint messages with references to God or Jesus. The members and their parents filed a lawsuit against the school to stop the discrimination.<sup>20</sup>

### **Muslim Student Suspended for Wearing Head Covering – October 2003\***

Nashala Hearn, an eleven-year-old Muslim girl in the Muskogee Public School District, was suspended twice for wearing a head covering, since the school district's dress code did not allow "hats, caps, bandannas, plastic caps, and hoods on jackets." After a lawsuit was filed

criticizing the dress code as unconstitutional, the school district changed the code to allow for religious exceptions.<sup>21</sup>

#### **Student Threatened with Suspension for Posting Flyers of the Ten Commandments - June 2004\***

High school junior Jason Farr wanted to see the Ten Commandments posted in his school and other schools in his district. So he posted flyers of the Ten Commandments, which resulted in a threat of a five-day suspension. Additionally, Farr was informed that the Bible was not suitable material for the silent reading period, despite the fact that it fulfilled the school's page and genre requirements for reading material.<sup>22</sup>

#### **Middle School Students Stopped from Praying at the Flagpole - October 2005\***

Three students at a middle school in Barnegat, New Jersey, met at the flagpole and started to pray. A school administrator stopped the students, telling them that they could not participate in "See You at the Pole," that their prayers were creating a "disturbance," and they must stop mixing school and religion. Upon being threatened with a lawsuit, the school reversed its decision and allowed a "do-over" prayer meeting.<sup>23</sup>

#### **University Denies Funding to Student Group That is "Too Religious" - 2006\***

The University of Wisconsin-Madison Roman Catholic Foundation was denied funds from the student activity fee funding on the grounds that the organization was "too religious." The Foundation appealed to the Student Judiciary. The Freedom from Religion Foundation pressured the Student Judiciary to withhold funding, but the Student Judiciary reversed the university's decision and granted the funding.<sup>24</sup>

#### **High School Cancels "Diversity Day" Instead of Including Christians - March 8, 2006\***

The Viroqua High School planned a "diversity day" in order to showcase the viewpoints of various religious groups, sexual orientations, and nationalities, but stated that Christian groups and former homosexuals would be excluded. After a legal organization intervened on behalf of the excluded groups, the school district cancelled the event entirely rather than include them.<sup>25</sup>

#### **College Student Penalized for Choosing to Write about Religious Poem - July 24, 2008\***

Bethany Roden, a student at Tarrant County College in Texas, was assigned to write a response paper on two poems of her choice for an English composition class. Roden chose poems with religious themes and incorporated her religious beliefs into her essay. Her professors penalized her for including religious themes in her essay. Upon receiving a demand letter, the college changed Roden's grade from a B to an A.<sup>26</sup>

#### **Student Penalized for Mentioning Jesus in a Christmas Poem - December 3, 2008\***

An eleven-year-old student in Hattiesburg, Mississippi, was penalized for mentioning Jesus in a Christmas poetry assignment. His teacher asked him to submit a rewrite of the poem. Upon being overruled by the principal, the teacher then refused to display the students' poems as promised.<sup>27</sup>

**Principal and Athletic Director Criminally Charged for Praying over a Meal - January 28, 2009\***

Principal Frank Lay and Athletic Director Robert Freeman were charged with criminal contempt because they prayed over a meal. The ACLU had received an injunction prohibiting school employees from promoting religion at school events. Lay and Freeman were found not guilty of violating the injunction.<sup>28</sup>

**Oregon School Bans Christmas Trees, Santa Claus, and Dreidels - December 8, 2009\***

An elementary school in Ashland, Oregon, banned Christmas trees, Santa Claus figures, and dreidels following a complaint from a parent. The school decided that the only acceptable decorations are wreaths, snowflakes, snowmen, candles, and candy canes. The school's Christmas tree, which had no religious decorations, was replaced with a large snowman.<sup>29</sup>

**Virginia School Bans Students from Posting the Ten Commandments on Their Lockers - February 23, 2011\***

The Floyd County High School administration banned students from posting religious material in the school. This censorship resulted when students who are members of the Fellowship of Christian Athletes placed copies of the Ten Commandments on the fronts of their lockers. The administration removed these copies of the Ten Commandments from each locker that displayed them.<sup>30</sup>

**High School Class President Threatened with Arrest for Praying at Graduation - May 24, 2011\***

The class president of Hampton High School Hampton, Tennessee wanted to pray at her graduation. The principal of the school, however, said that any students who attempt to pray would be stopped, escorted from the building by police, and arrested. After receiving a demand letter, the school reversed its policy.<sup>31</sup>

**Student Suspended for Identifying As a Christian and Stating Views on Homosexuality - September 2011\***

Dakota Ary, an honors student in Fort Worth, Texas, mentioned to a friend during German class that he is a Christian and that he believes homosexuality is wrong. The comment was a result of the German teacher's discussion of homosexuality with the class and the teacher's displaying of a picture showing two men kissing. The teacher overheard Ary's comment and became irate. The teacher then sent Ary to the principal, who suspended Ary for three days. After the school was confronted with its discrimination against Ary's Christian beliefs, it rescinded his punishment.<sup>32</sup>

**Residents and Teachers Prohibited from Praying at School Flagpole - November 2011\***

Freedom from Religion Foundation complained to a Jacksonville, Florida, school about privately-organized, weekly prayers around its flagpole before school begins, which had occurred for the previous twelve years. In response, the county school board requested the prayers stop. When the prayers continued, the school district's attorney said it would use whatever legal means necessary to remove Ron Baker, the minister leading the prayers, from the grounds. The school district only stopped its action against the prayers after Mr. Baker promised to only lead prayers off school grounds.<sup>33</sup>

### **Group Demands School Band Stop Playing “God Bless America” – August 2012\***

The Freedom from Religion Foundation demanded that the Wayland High School band in Wayland, Massachusetts, stop playing “God Bless America” on Pearl Harbor Day and Memorial Day. The FFRF’s letter to the school stated that playing “God Bless America” on a repetitive basis “sends a message to students that the school is endorsing and compelling belief in a god.” The school did not acquiesce to the group’s demands.<sup>34</sup>

### **Atheist Group Threatens School for Teaching Two Songs that Mention God in Music Class – August 6, 2012\***

The Freedom from Religion Foundation threatened the Shenendehowa Central Schools of Clifton Park, New York, because the school district’s music class includes two songs that mention God in their lyrics. The school district refused to change its curriculum, noting that the songs “were used appropriately to teach specific musical concepts, and as the basis for secular classroom activities.” FFRF did not follow through on its threats against the school district.<sup>35</sup>

### **Oklahoma School Bullied into Replacing Christmas Songs with “Secular Winter-Themed Songs” – December 2012\***

The Freedom from Religion Foundation threatened Sulphur Elementary School in Sulphur, Oklahoma, for including Christmas songs referencing the historical reason for Christmas in the school’s December play. FFRF claimed that references to “a baby boy” as the “reason for the season” are “divisive” and the Christmas songs should be replaced with generic “secular winter-themed songs.” The school submitted to the FFRF’s demand.<sup>36</sup>

### **Atheist Opposition to “Merry Christmas, Charlie Brown” Cancels School Field Trip – December 2012\***

Students in Little Rock, Arkansas, were planning to take a field trip to see *Merry Christmas, Charlie Brown*, a stage adaptation of the classic *A Charlie Brown Christmas*. The school explained to parents that the play “would enhance [their] child’s creative imagination in the area of dramatic arts.” The school also provided notice that the play contained religious themes. As a result of the opposition to the students’ being allowed to see the play, the play was canceled due to safety concerns.<sup>37</sup>

### **EEOC Investigates Firing of Teacher for Giving a Bible to a Student – January 14, 2013\***

Walt Tutka, a substitute teacher in New Jersey, was fired by the Phillipsburg School District for handing a Bible to a student who asked for one. When the student was the last to enter through a door, Mr. Tutka said, “The first shall be last, and the last shall be first.” The student repeatedly inquired about the origin of the phrase. Eventually, Mr. Tutka found the quote in a pocket New Testament and showed it to the student. The student then commented that he did not own a Bible, so Mr. Tutka offered the pocket Bible to the student. The school district then fired Mr. Tutka. With help from Liberty Institute, Mr. Tutka filed a charge of discrimination against the school district with the U.S. Equal Employment Opportunity Commission (EEOC). Without conducting the required review, the EEOC dismissed Mr. Tutka’s complaint. After Liberty Institute pressured the EEOC to perform the required investigation and discovered evidence that the school district fired Mr. Tutka because of his membership in The Gideons International,

the EEOC reopened its investigation and requested that Mr. Tutka and the school district enter mediation.<sup>38</sup>

### **School Bans Teachers from Mentioning Religion in Personal Biographies – January 22, 2013\***

The Jackson-Madison County School District in Jackson, Tennessee, asked its teachers for biographical information for the district’s website. As would be expected in a diverse selection of teachers, some of the teachers found religion important to their lives and incorporated this into their biographies. The Freedom from Religion Foundation accused these teachers of “push[ing] religion on a captive audience” and demanded that the “religious messages be scrubbed” from the biographies. The school district responded by requiring all teachers to remove any religious elements from their personal biographies.<sup>39</sup>

### **Pennsylvania School District Denies Equal Access to Religious Club – February 2013\***

When the Good News Club, a Christian student club, wanted to start an after-school program at Foose Elementary School in Harrisburg, Pennsylvania, the school responded that the club would have to pay a \$1,200 annual fee to use the school’s facilities because the club is religious. Other nonprofit organizations are granted free use of the school facilities after school. The Good News Club filed a lawsuit against the school district to be treated fairly.<sup>40</sup>

### **Florida College Student Suspended for Refusing to “Stomp on Jesus” – March 2013\***

A professor at Florida Atlantic University required the students in his class to write “Jesus” on a piece of paper and then stomp on the paper. Ryan Rotela, a Mormon student in the class, refused to stomp on the paper because of his religious beliefs. Rotela then reported the incident to university officials. Instead of protecting Mr. Rotela’s religious liberty rights, however, the university officials brought academic charges against Rotela and suspended him. Following a legal demand from Liberty Institute, the university reversed its decision, apologized to Rotela, expunged the academic charges, and agreed to allow Mr. Rotela to take the class from a different professor.<sup>41</sup>

### **Valedictorian Silenced during Speech for Sharing His Faith – June 2013\***

Remington Reimer, valedictorian of Joshua High School in Joshua, Texas, planned to give his valedictorian address and, upon graduation, attend the U.S. Naval Academy. When Reimer began to speak about his faith during his valedictorian address, however, that was all put at risk. Texas law prohibits schools from editing valedictorian addresses, but as soon as Reimer began to speak about liberty and his faith, school officials cut his microphone. Furthermore, the principal of Joshua High School threatened to send a letter to the U.S. Naval Academy to ruin Reimer’s reputation in retaliation for Reimer’s speaking about his faith. Following a demand letter from Liberty Institute, school officials apologized to Reimer and provided assurances that no further discrimination against student religious speech will occur in the future.<sup>42</sup>

### **College Student Ordered to Hide Cross Necklace – June 27, 2013\***

Audrey Jarvis, a student at Sonoma State University, was working at a student orientation fair when her supervisor told her to hide her cross necklace because it “might offend others” and “might make incoming students feel unwelcome.” Jarvis, a devout Catholic, was so upset by the incident that she left the student fair. Liberty Institute assisted Ms. Jarvis in seeking a religious

accommodation from Sonoma State University, and the university is now investigating the religious discrimination.<sup>43</sup>

### **School Bans Religious Christmas Carols, Even without the Words - November 19, 2013**

A band director at a South Carolina public charter school recently prohibited students from performing "Joy to the World" and "O Come All Ye Faithful." The carols were banned, even though the words to the songs were not going to be sung. The school claimed it received a communique from the ACLU or "another group" after the students began rehearsing, and the school responded by banning the songs. Yet the students had chosen these songs, and contrary to the school's belief, it did not have to play songs from other religions in order to comply with the Constitution. Alliance Defending Freedom sent a letter to the school informing the school that the songs were constitutional.<sup>44</sup> After receiving the letter, the school removed its ban on the music.<sup>45</sup>

### **Kindergartner Told by Teacher to Stop Praying during School Lunch Time - March 2014**

At Carillon Elementary School in Oviedo, Florida, when Marcos Perez's daughter bowed her head to pray, a teacher interrupted her and said, "You're not allowed to do that." The five-year-old looked surprised and responded, "But it's good to pray" – to which the teacher replied, "It's not good." The little girl tried to pray again but was stopped. When she got home and explained what happened, Marcos and his wife were furious. "My five-year old should not feel conflicted about prayer with respect to trying to follow rules or authority. We remain speechless that our daughter had to experience [that] from an individual with an agenda." They contacted the school, demanding to know why their five-year-old would be prohibiting from exercising her religious rights. The principal promised to investigate, but when she quizzed school employees, no teacher remembered the incident. Either way, she assured the Perez parents that she took the matter seriously. "Please know that students are permitted to pray during school. I will remind all staff members of this." A spokesman at Florida's Seminole County Public Schools echoed the policy, which allows prayer as long as it isn't disruptive.<sup>46</sup>

### **Student Told to Stop Bringing Bible to School for Reading Time - April 2014**

In Cypress, Texas, parents were furious to hear that a teacher told their second-grader to stop bringing her Bible to school for the class's silent reading time. The teacher apparently informed the young female student that the Bible is "inappropriate reading material" and that she should not bring it back to school again. The girl's parents, who were afraid to go public with the story, turned to Liberty Institute for help. When its attorneys raised the concerns with school officials, a spokesman released a statement distancing itself from the teacher's intolerance and explaining that as long as students can any book that they can read, understand, and is deemed appropriate by the school. "As such, religious material, including the Bible, that meets these guidelines would be permissible for a classroom assignment and/or independent reading."<sup>47</sup>

### **Wrestling Team Harassed for Wearing T-Shirts with Bible Verses - April 2014**

The Freedom from Religion Foundation is targeting a West Virginia wrestling team for posting a Bible verse on the school's athletic page, and for wearing t-shirts (paid for by the students) with a Bible verse printed on them. The verse, "I can do all things through Him that strengthens me," has been the team's motto for months. Now, fearing an expensive and time-consuming lawsuit, the local superintendent is ordering the high school to delete Philippians 4:13 from the

website. While the wrestlers complied with this request, they draw the line at the shirts they had made for the team. "It's not part of the official uniform," said an attorney representing one of the kids. "If a student athlete doesn't want to wear that shirt, they don't have to. It's not a requirement." And these students are willing to go to court to prove it. "It's frustrating for the parents," said lawyer Bill Merriman, "because they see a lot of other t-shirts being worn by students that are certainly not religious – but they are offensive. Nobody is saying they can't wear those shirts."<sup>48</sup>

#### **Teacher Confiscates Student's Bible during Reading Time - April 8, 2014**

In Broward County, Florida, teacher Swornia Thomas ordered one of her fifth graders – Giovanni Rubeo – to hand over his Bible that he was reading during the class's free reading time. Giovanni asked Swornia to call his parents, which she did. In a voicemail left for Giovanni's father Rubeo, she said, "I noticed that he [Giovanni] has a book – a religious book – in the classroom. He's not permitted to read those books in my classroom." Rubeo subsequently contacted the school's principal, Orinthia Dias, who brought in the school's legal department. But none of them were willing to acknowledge that Giovanni has a constitutional right to read the Bible. Facing a hostile school administration, Rubeo retained Liberty Institute as his counsel.

As Liberty Institute pointed out to the school, students are well within their rights to read Scripture. "Banning religious books like the Bible violates Giovanni's civil rights to religious free speech and free exercise," said Hiram Sasser, Liberty Institute Director of Litigation. "The school's actions exemplify the hostility to religion that the U.S. Supreme Court has condemned." Faced with a lawsuit from the child's parents, Broward County reconsidered. In a victory for religious liberty and common sense, school district officials say they will "allow the Bible as part of the Accelerated Reader Program."<sup>49</sup>

## **Section III: Censure of Religious Viewpoints Regarding Sexuality**

In one of the more alarming and fastest growing trends demonstrating an increase in hostility to religious expression, private citizens increasingly are finding themselves subject to censure and hostility when they simply make a statement or take a public stance on sexuality for no other reason than it is in accord with their religious convictions.

Consistent with a variety of religious faiths as they concern marriage and sexuality, many Americans simply cannot approve of a willful embrace of sexual practices contrary to their religious teachings and conscience – whether homosexuality or another sexual practice. They do not want to be forced to do so by law, and have a right to not be forced to do so. This is a matter of serious conviction, conscience, and deeply held religious beliefs, and affects the ability to speak freely and the freedom to live and act according to one’s beliefs. Yet many are ridiculed and shamed in the court of public opinion for simply having a viewpoint based on religion. Indeed, individuals have not even had to make a statement to be subject to such hatred; a simple donation to a political group years previous is enough to draw hostility for this “unacceptable” viewpoint.

While much of this censure occurs outside the realm of government action (and the protection of the First Amendment), it is not wholly unrelated. For law follows culture and if civil discourse and public debate devolve to the point where opposing (and religious) views are no longer heard or even tolerated, court decisions and laws will not be long behind. Due to rapidly growing hostility to religious viewpoints regarding marriage and sexuality, many of these incidents have occurred quite recently. The following are documented incidents of hostility toward religious viewpoints and speech on the topic of sexuality.

### **Ohio Library Prohibits Christian Group from Meeting to Discuss Traditional Marriage Unless Advocates of Homosexual Marriage Also Present – May 2005\***

A Christian group requested access to a community room in the Newton Falls Library in Youngstown, Ohio, for a meeting about the biblical perspective of traditional marriage. The library director denied the request because the library’s policy required that any time a “controversial subject” was discussed, the opposing viewpoint must also be presented. The policy was revised only after a lawsuit was filed.<sup>50</sup>

### **Employee Fired after Column on Homosexuality – February 2006**

In 2005, Matt Barber was fired by Allstate Insurance Company for allegedly using a company laptop to write a column against homosexuality (which violated Allstate’s “diversity” standards). Barber sued Allstate and ultimately settled the case. Barber is now a popular conservative writer and is associate dean of the Liberty University School of Law, as well as vice president of Liberty Counsel Action.<sup>51</sup>

### **Employee Fired for Religious and Political Message Written on His Car – October 2006\***

Luis Padilla, a Cargill Foods employee, was fired over the display of a sign on his private vehicle. The sign said, "Please vote for marriage on Nov. 7." The statement reflected the employee's religious conviction that marriage should remain a union of one man and one woman. The company requested that Mr. Padilla remove the sign, and he did. Mr. Padilla restored the message before returning to work the next day. In an attempt to avoid further conflict with his employers, he even parked on what he believed to be a public street, but it was in fact also company property. Cargill subsequently fired Mr. Padilla, and a statement from the company's attorney said he was dismissed because of insubordination, for ignoring orders to remove a sign that could be "reasonably construed as a show of hostility and intolerance toward homosexuals." After others spoke out on his behalf, and after he met with Cargill management, the company restored his employment with full back pay and benefits, and said the incident would be erased from Mr. Padilla's employment record.<sup>52</sup>

### **San Diego Fire-Fighters Forced to Participate in Gay Pride Parade – July 2007\***

San Diego, California, hosted a "Gay Pride Parade" and demanded that its firefighters participate in their official capacities or face retaliation. Four of those firefighters were Christians who objected to attending the parade because of their religious beliefs. The city threatened the firefighters with disciplinary action if they refused to participate. During the parade, the firefighters were subject to verbal abuse and sexual gestures. The firefighters sued the city and were awarded approximately \$30,000.<sup>53</sup>

### **Counselor Fired for Refusing to Assist in Counseling Gay Relationships – August 21, 2007\***

A Christian counselor for the Computer Sciences Corporation, Marcia Walden, was fired because she refused to lie about why she was referring clients with same-sex relationship problems to other counselors. Walden told a homosexual client from the Center for Disease Control (CDC) that her personal values would interfere with the client/therapist relationship, never mentioning her religious objections. In response, the client complained to the CDC that Walden was homophobic. Walden reiterated to her supervisors that she had no problem counseling homosexual individuals, but her religious beliefs prevented her from conducting relationship counseling for those in homosexual relationships. Her supervisors suggested that she lie to homosexual clients and tell them she did not have much experience with relationship counseling. Walden refused to lie about why she was referring clients and was ultimately fired for not "altering her approach." The Eleventh Circuit rejected claims that Walden's free exercise rights were violated under the First Amendment, affirming the district court's summary judgment ruling against her.<sup>54</sup>

### **Employee Fired for Column on Homosexual Rights – May 12, 2008**

Crystal Dixon, a University of Toledo human resources employee, was fired in 2008 after writing a column critical of "homosexual rights." A black Christian, she argued that those choosing to embrace a homosexual lifestyle are not "civil rights victims." Ms. Dixon's editorial letter in the *Toledo Free Press* objected to the idea that "those choosing the homosexual lifestyle are 'civil rights victims'" because they "violate God's divine order." She identified herself in the letter as Associate Vice President for Human Resources at the University of Toledo. The university proceeded to terminate her employment on the grounds that her free expression violated her responsibility to uphold the university's nondiscrimination statement, which

includes sexual orientation. She sued, and in December 2012 the Sixth Circuit Court of Appeals ruled that the university had legitimate grounds to fire her. She appealed further, but unfortunately, the U.S. Supreme Court has declined to take the case.<sup>55</sup>

### **Graduate Student Expelled from Program Based on Nondiscrimination Policy after She Refused to Compromise Her Religious Beliefs - January 2009**

Julea Ward was enrolled as a student in a graduate counseling program at Eastern Michigan University (EMU). As part of a practicum course, Ward was assigned a potential client seeking assistance for a same-sex relationship. Ward knew that she could not affirm the client's relationship without violating her religious beliefs about extramarital sexual relationships, so she asked her supervisor how to handle the matter. Consistent with ethical and professional standards regarding counselor referrals, Ward's supervisor advised her to refer the potential client to a different counselor. Ward followed that advice. The client was not in the least negatively impacted and indeed never knew of the referral.

Shortly thereafter, EMU informed Ward that her referral of the potential client violated the American Psychological Association's (APA) nondiscrimination policy, which mirrors many nondiscrimination laws enacted across the country. EMU also told Ward that the only way she could stay in the counseling program would be if she agreed to undergo a "remediation" program, the purpose of which was to help her "see the error of her ways" and change her "belief system" as it related to providing counseling for same-sex relationships. Ward was unwilling to violate or change her religious beliefs as a condition of getting her degree, and therefore she refused "remediation."

At a subsequent disciplinary hearing, EMU faculty denigrated Ward's Christian views and asked several uncomfortably intrusive questions about her religious beliefs. Among other things, one EMU faculty member asked Ward whether she viewed her "brand" of Christianity as superior to that of other Christians, and another engaged Ward in a "theological bout" designed to show her the error of her religious thinking. Following this hearing, in March 2009, EMU formally expelled Ward from the program, basing its decision on the APA's nondiscrimination policy. At that time, Ward had been enrolled in the counseling program for three years and was only 13 quarter hours away from graduation.

Ward filed suit against EMU officials. After the trial court dismissed her claims, Ward won a unanimous victory from the Sixth Circuit Court of Appeals. When ruling in Ward's favor, that court noted that "[t]olerance is a two-way street," for if it were otherwise, nondiscrimination measures would "mandate[] orthodoxy, not anti-discrimination." After being sent back down to the district court, the case settled. The abuse of religious liberty in the name of "tolerance" that the Sixth Circuit diagnosed is the same abuse that other American citizens regularly suffer, all over this country. It is visited upon them by the very nondiscrimination laws that, ironically enough, purport to protect the religious from discrimination.<sup>56</sup>

### **Pageant Contestant Ridiculed for Views on Marriage - May 12, 2009**

Carrie Prejean, Miss California USA, was ambushed by pageant judge Perez Hilton during the final round of the contest. Hilton asked Prejean for her opinion of same-sex marriage. Her respectful and historically "normal" response, in which she stated, "I believe that marriage

should be between a man and a woman, no offense to anybody out there, but that's how I was raised and I believe that it should be between a man and a woman," was considered so outrageous that the evangelical Christian contestant was widely mocked and ridiculed.<sup>57</sup>

### **Minister's Invitation to National Prayer Luncheon Revoked because of His Comments on Homosexuality in the Military – February 2010\***

An ordained minister and Marine Corps veteran was punished for speaking out on a topic unrelated to his planned comments at the National Prayer Luncheon at Andrews Air Force Base outside of Washington, D.C. The minister criticized President Obama's call to end the military's "don't ask, don't tell" policy, resulting in his invitation to speak at the National Prayer Luncheon being rescinded. The minister criticized the action as "black-listing" to suppress unwanted viewpoints.<sup>58</sup>

### **Professor Fired for Teaching Catholic View of Homosexuality in "Introduction to Catholicism" Class – May 28, 2010\***

Dr. Kenneth J. Howell, an adjunct professor at the University of Illinois, was fired from his position after a lecture on the Catholic view of homosexuality set off a firestorm of "insensitivity" complaints on campus. Although Dr. Howell had given the same lecture for nearly ten years to his Introduction to Catholicism class this was the first time it had sparked such debate. After Dr. Howell's attorneys sent a letter to the University threatening legal action if Dr. Howell's First Amendment rights were not respected, the university agreed to reinstate him as a member of the faculty.<sup>59</sup>

### **Counseling Student Forced to Approve of Homosexuality to Complete Degree – July 22, 2010**

Jennifer Keeton, a former counseling student at Augusta State University (ASU), was ordered by her school to complete remedial training after expressing her views concerning homosexuality. Faculty members told Jennifer she couldn't complete the degree program if she did not complete a remediation plan, which included attending diversity workshops, reading articles about counseling lesbian, gay, bisexual and transgender students, and submitting monthly writing assignments.<sup>60</sup> Jennifer filed a lawsuit in federal court alleging constitutional violations, but her claims were dismissed.<sup>61</sup>

### **Student and Mother Bullied by Professor for Her Views on Sexuality – October 2010**

Ms. Gillian John-Charles was a single mom, mathematics teacher, and African American who had been enrolled in Roosevelt University's Ed.D. program since 2009. In October 2010, in a class discussion led by a liberal professor, John-Charles said she does not believe homosexuals are born "gay." As the professor's mistreatment against her escalated, she describes in a legal complaint how he bullied her by falsely accusing her of having a "negative and disparaging" view of gay people – though she stated clearly in class that, as a teacher, she treats all her students with the same respect without regard to "sexual orientation." Within a year of the initial classroom incident, John-Charles was expelled from the doctoral program, citing unsatisfactory academic performance (despite her 3.51 GPA). John-Charles may be contemplating legal action.<sup>62</sup>

### **Company Subjected to Hostility for Religious Values – June 2011**

When Access Printed Media received a request to print advertisements for the opening of a new gay bar in the Seattle area, it objected to the job out of moral convictions. Mike Reis and his partner, Mark Hurst, placed a 2,500-flier order with Kent-based company Access Printed Media, which advertises “business and promotional printing you can rely on.” The flyers advertised the grand opening of Diesel, a new gay bar. An employee responded to the print request with the following email: “Not that we’re against homosexuals at all, but because knowing that our printed products will be advertising and promoting **the kind of lifestyle that goes against our morals** [emphasis original] is something that [the owner] can’t bring himself to do...”

The employee reiterated that the decision was “nothing against homosexuals themselves. We’re just not morally able to promote that kind of a lifestyle.” While the company has no written document that outlines the business’s moral-related printing policy, it also refused to print an advertisement for a tarot reader. “We’re a small business owned by a small conservative Christian family. I’m sorry but we have values and we can print whatever we want.” The ACLU of Washington jumped in and indicated it “would be glad to hear from the bar owner and provide assistance if he wishes to pursue the matter.” Nevertheless, the bar was able to fulfill their flyer order elsewhere.<sup>63</sup>

### **CEO Draws Fire for Views on Marriage – July 2012**

The fact that Chick-fil-A CEO Dan Cathy opposed same-sex marriage and donated to traditional values groups prompted “gay” activists to call for protests and a national boycott, with Chicago Mayor Rahm Emanuel and Boston Mayor Thomas M. Menino attempting to ban Chick-fil-A from the city and several universities barring Chick-fil-A from their campuses. Although the boycott effort backfired in the short term, when “Chick-fil-A Appreciation Day” and grassroots goodwill resulted in a dramatic increase in the chain’s income, over the longer term, the intimidation had its desired effect: Dan Cathy now says he made a “mistake” and has become “wiser.”<sup>64</sup>

### **Attempted Murder of Family Research Council Employees because of Organization’s Stance on Homosexuality – August 15, 2012\***

A man planned to engage in mass-murder of the employees of four religious organizations and then smear Chick-fil-A sandwiches on the employees’ faces because of their opposition to homosexual marriage. After shooting a security guard at the Family Research Council, however, the man was subdued by Family Research Council (FRC) employee Leo Johnson, who prevented loss of life through his actions.<sup>65</sup>

### **Chief Diversity Officer Suspended for Signing Petition on Marriage – October 2012**

In October 2012, Gallaudet University suspended its chief diversity officer Angela McCaskill for signing a petition calling for Maryland’s same-sex marriage law being put to a referendum vote instead of being implemented by lawmakers. When the names on the petition became public, a Gallaudet faculty member confronted McCaskill and then alerted university leaders in a formal letter. McCaskill and another faculty member who reportedly signed the letter were referred to during a press conference as “extremist faculty” and “a few rotten apples.” Despite the fact that she never publicly stated her position on gay marriage, and has said that she supports all students, regardless of their race or sexual orientation, McCaskill was still put on paid

administrative leave after refusing to issue an apology for signing the petition. Yet opponents and proponents of same-sex marriage have both criticized the University for disciplining McCaskill for signing the petition. Since then, the Internet has erupted with support for McCaskill and calls for her to be reinstated by Gallaudet, which is a university for the deaf and hard of hearing.

Subsequently, the president of Gallaudet University has said that McCaskill is welcome to return to the university. Yet an attorney representing McCaskill said that would likely only happen if the university compensates her for the emotional distress she endured, along with the damage to her reputation. There are also calls for university trustees to examine the situation. "I am dismayed that Gallaudet University is still a university of intolerance, a university that manages by intimidation, a university that allows bullying among faculty, staff and students," McCaskill is reported as saying at a press conference regarding her situation, with the assistance of an interpreter. Unfortunately, the lawsuit McCaskill had filed in federal court was dismissed in April 2014 in part due to interpretations of what "political activity" is protected by DC law.<sup>66</sup>

#### **Consultant's Contract Terminated because of Views on Marriage - August 2013\***

Frank Turek had served as leadership consultant to the Cisco Corporation for a number of years, and ran training seminars for the company. A student in one of Turek's classes, on which he had always received excellent feedback, went on the Internet and read about his views pertaining to natural marriage. The student then complained to an HR professional. Turek's contract was summarily terminated for failure to abide by "inclusion and antidiscrimination policies." Notably (and obviously), he was not "included" precisely because of his beliefs. This all occurred despite the fact that Turek had never expressed this view at work, but only through a book he authored. And Turek was fired without having been addressed about the issue or given opportunity to speak, and despite high regard from other employees and managers.<sup>67</sup>

#### **Broadcaster Fired when Past Statement on Marriage Was Unearthed - September 2013**

Football star Craig James (now an FRC employee) was fired by Fox Sports Southwest after a GOP debate tape showing him expressing Christian beliefs in opposition to homosexual "marriage" came to light. Previously, during a 2012 Republican primary debate for a U.S. Senate seat in Texas, then-candidate James was asked about his views on marriage, to which he responded that he believed marriage exclusively to be one man with one woman. The existence of that debate video apparently was enough to get James fired within days of being hired by Fox Sports Southwest as a college football analyst. A Fox spokesman told the *Dallas Morning News*, "We just asked ourselves how Craig's statements would play in our human resources department. . . . He couldn't say those things here." James says he was fired over his religious beliefs, and filed a complaint with the Texas Workforce Commission.

The Texas Workforce Commission subsequently launched an investigation into whether James suffered from religious discrimination when he was fired. The state agency, which has authority over such employment matters in Texas, issued a "charge" document against Fox Sports Southwest and began an investigation. Fox Sports President Eric Shanks has admitted in a deposition that a senior vice president at the network anonymously told the media that James was fired for his religious views. Shanks denied that this was actually the reason. Yet internal e-mails show that James' remarks about traditional marriage were a topic of conversation

immediately before he was fired. “The Texas Workforce Commission issuing a charge of discrimination against Fox Sports Southwest and conducting an investigation is a serious step toward holding Fox Sports accountable for violating the law and religious liberty on Craig James,” said Hiram Sasser, the Liberty Institute’s Managing Director for Strategic Litigation. At time of publication, the parties were engaged in mediation as requested by the Texas Workforce Commission and the matter remained ongoing.<sup>68</sup>

#### **Air Force Ethics Advisor Subjected to Smear Campaign for Views on Sexuality - November 2013**

Mike Rosebush is a former Focus on the Family employee who subsequently was employed as a research analyst for the Air Force Academy’s Center of Character and Leadership Development. While employed for the Academy, Mr. Rosebush was a positive influence among the students, working in the ethics program that guides young cadets. Nevertheless, he became the object of a vicious attack and subject of a nationwide smear campaign to remove him from the Academy, all for his private views on faith, marriage, and homosexuality. Citing a paper he wrote in 2009, “Sanctification Coaching: Sexual Purity and Peace for Christian Men with Same-Sex Attractions,” those opposed to his views have irrationally fanned the flames of hatred against him. And while an academy spokesperson noted that Mr. Rosebush “does not and will not counsel cadets,” homosexual activists have held up his religious views as an example of “intolerance” that should no longer be condoned by the Academy.<sup>69</sup>

#### **Popular Media Figure Subjected to Hatred for Views on Sexuality - December 2013**

In an interview with *GQ Magazine*, Duck Dynasty star and Robertson family patriarch Phil Robertson expressed the view that he believed the Bible and that it stated that homosexuality was sinful. Phil stated his support for natural marriage and used the book of Corinthians to explain it: “Don’t be deceived,” he said. “Neither the adulterers, the idolaters, the male prostitutes, the homosexual offenders, the greedy, the drunkards, the slanderers, the swindlers – they won’t inherit the kingdom of God. Don’t deceive yourself. It’s not right.”

The gay rights lobby reacted harshly, demanding the immediate censorship of or end to the Robertson’s show, and A&E reacted by dropping Phil from the show. “His personal views in no way reflect those of A&E Networks, who have always been strong supporters and champions of the LGBT community. The network has placed Phil under hiatus from filming indefinitely.” Yet the outpouring of support for Phil was widespread, and A&E reversed course and reunited with the Robertsons shortly thereafter. Despite all the criticism, Phil has been unbending. “My mission today is to go forth and tell people about why I follow Christ and also what the Bible teaches, and part of that teaching is that women and men are meant to be together.”<sup>70</sup>

#### **Accomplished Tech Entrepreneur Hounded out of His Job Due to Views on Sexuality - April 2014**

It was recently “uncovered” that Mozilla co-founder Brendan Eich had donated money to the 2008 Prop 8 campaign run in California in support of natural marriage. One would think Mr. Eich had just been convicted of a felony when he was then subjected to protests on Twitter as employees demanded he step down for committing this “crime,” the “crime” of thinking differently. Those opposed to Mr. Eich’s views demanded that he be removed from his position. There was no evidence that Mr. Eich had ever acted in a discriminatory manner at Mozilla, and

he even stated his support for company policies. Nevertheless, three Mozilla board members quit in protest. Even dating site OKCupid “opposed” Mr. Eich. Ultimately, Mr. Eich “chose” to resign.

However, even people who disagree with Mr. Eich’s position on this issue recognized the importance of protecting freedom of speech and expression for all, regardless of viewpoint. Andrew Sullivan, a gay writer and same-sex marriage supporter, wrote: “The whole episode disgusts me – as it should disgust anyone interested in a tolerant and diverse society.”<sup>71</sup>

#### **Public Health Director Placed on Leave for Views on Sexuality – May 1, 2014**

Dr. Eric Walsh, the Public Health Director for Pasadena, California, was placed on administrative leave for expressing views consistent with his Christian faith in the private context of several sermons. Despite the fact that these views were expressed privately (Walsh has actually expressed support for “diversity” in the context of his employment), the mayor directed an “inquiry” into Walsh’s statements. Moreover, “AIDS Healthcare Foundation President Michael Weinstein denounced Walsh’s comments Thursday, saying he did not think Walsh could realistically separate his religious views from his actions as a public official.”<sup>72</sup>

#### **Real Estate Media Personalities Had TV Show Cut off for Views on Sexuality – May 8, 2014**

As sons of a preacher, David and Jason Benham have never shied away from their beliefs, which led them to back the North Carolina marriage amendment – a stance the brothers seem now to be paying for, thanks to radical activists in organizations like GLAAD.

“If faith costs us a TV show, so be it,” they told reporters. “Anyone who suggests that we hate homosexuals or people of other faiths is either misinformed or lying. Over the last decade, we’ve sold thousands of homes with the guiding principle of producing value and breathing life into each family that has crossed our path – and we do not, nor will we ever discriminate against people who do not share our views.”

Nevertheless, the outpouring of fury against the brothers for merely expressing a tenet of their faith was loud and widespread. In addition, SunTrust Bank, which partnered with the brothers, announced it would drop them as financial partners due to their position on marriage. But soon after, Beth McKenna, a SunTrust spokesperson, said only that the bank “clarified” its policies with a “vendor” and reinstated the brothers’ property partnership. “SunTrust supports the rights of all Americans to fully exercise their freedoms granted under the Constitution, including those with respect to free speech and freedom of religion.”<sup>73</sup>

#### **Two Men Threatened by Government Union for Supporting Duck Dynasty – June 2014**

The American Government Employees Union told two senior-management-level federal employees at Eglin Air Force base that they were being fired for putting Duck Dynasty stickers on their trucks. The union said that the men had great influence over a diverse workforce because of their high positions and should not be allowed to remain in them because they might be unfair in their dealings with or promotions of those they supervised, particularly homosexuals and African-Americans. The union official said that “it’s definitely 100 percent inappropriate for an organization that espouses a zero tolerance policy.” The whole debate stemmed from the controversial comments made by Phil Robertson to *GQ* magazine in 2013.

The men were condemned in an email that went out to several hundred employees. "I see the email that went out accusing me and my boss of being racist," one of the accused men said. "That couldn't be farther from the truth. I'm pro-family. I'm pro-life. I don't have a problem with anybody who doesn't agree with me." Thankfully, the Air Force correctly determined that the two men had the right to display the stickers on their trucks.<sup>74</sup>

## Section IV: Suppression of Religious Viewpoints on Sexuality Using Nondiscrimination Laws

In another alarming trend, people of faith are increasingly find themselves subject to legal action (along with censure and hostility) when their religious convictions prevent them from offering services that would legitimize or promote actions they believe to be against their religion. Though the exercise of faith can be minimized and curtailed by any number of alleged governmental justifications or rationales, many of the threats to free exercise, free speech, and free expression today come in the form of laws or policies prohibiting discrimination on the basis of sexual orientation. Thus, the fourth and final broad category of this publication documenting hostility to religion lies at the intersection of religious expression and nondiscrimination laws.

Laws prohibiting discrimination on the basis of sexual orientation and/or gender identity are increasing in prevalence around the country, and generally compel equal treatment (and thus approval) of a variety of sexual practices. Given Christian orthodoxy as it concerns marriage and sexuality, Christians (and those of other faiths) do not want to be compelled to act in ways by which they must approve of sexual lifestyles their religion teaches to be wrong. Yet these laws have this exact effect, and force those objecting on the basis of religious belief to violate their consciences or face legal action. Because of the recent enactment of numerous such laws, many of the incidents documented below have occurred very recently.<sup>75</sup>

Such “nondiscrimination” is a matter of serious concern, as it forces those of faith to violate their consciences, their convictions, and their deeply held religious beliefs. It consequently affects their ability freely to exercise their religion. When Christian wedding photographers who believe same-sex marriage is wrong are forced to provide their services at a same-sex wedding, under threat of fines imposed by nondiscrimination laws, religious exercise is clearly and seriously imperiled. *Elane Photography v. Willock* is one of the more well known of such cases, but as we document here, many similar situations have arisen as a result of nondiscrimination laws and ordinances. These cases have resulted in adverse outcomes for people of faith whose consciences prevent them from participating in, or promoting, what they regard as wrong according to their religious teachings. As documented below, due to nondiscrimination laws, many of these men and women have been compelled by the government to violate their consciences and act against their religious beliefs.

### **Christian Photographer Forced to Photograph a Same-Sex Wedding – September 2006\*\***

Elaine and Jonathan Huguenin have operated New Mexico-based Elane Photography, which specialized in wedding photographs. Elaine Huguenin, an artist with a degree in photography, has been the lead photographer for the company and employed a photojournalistic style in her work, using her pictures to tell stories for her clients.

In going about their work, both Elaine and Jonathan were ever-mindful about the messages communicated through the photographs Huguenin created. Company policy ensured that they

would never tell a story or convey a message contrary to their belief system. As believing Christians, the Huguenins believed the Bible's teaching that marriage is the union of one man and one woman.

In September 2006, Vanessa Willock asked Elaine Huguenin to create pictures of her same-sex commitment ceremony. Huguenin believed that the pictures she would create at the event would tell a story of marriage at odds with her religious convictions and what she believed to be God's plan for marriage. As a result, she politely declined. Interestingly, Huguenin would have gladly provided other types of photography services to a customer who identified as homosexual. For instance, she would have happily taken a portrait of such a customer, or filmed a graduation ceremony. But what Willock and her partner wanted Huguenin to do was to participate in, and promote, their homosexual marriage. Huguenin was being asked to video-record the entire ceremony and edit and splice it together to tell the 'love story' of their wedding. She would have to pose the couple intimately, gazing romantically and lovingly into one another's eyes, while holding hands and kissing.

Huguenin would have to create the memory of their wedding, portraying it as a joyous event, when Elaine believed it was sinful and saddened God. She was not being asked to merely take a photograph of a person who identifies as homosexual, something she gladly would have done. She was being asked to participate in, and use her talents to create speech that actually promoted an activity she believed was sinful. This was far different than, say, serving someone at a lunch counter. And so she declined to participate. After Huguenin said "no," Willock readily found another photographer eager to help her celebrate her day, and that photographer charged less money than Huguenin had to tell the story of the ceremony.

This was not enough for Willock. Unwilling to let the Huguenins conduct their lives consistent with their religious beliefs, Willock sued the company under the New Mexico Human Rights Act, alleging unlawful discrimination on the basis of sexual orientation. The New Mexico Human Rights Commission used the Act to punish the Huguenins for declining to photograph Willock's ceremony, and ordered them to pay nearly \$7,000 in attorneys' fees to Willock's attorney.

The New Mexico Supreme Court upheld the decision, ruling that the Huguenins' rights to free exercise of religion, guaranteed by the Constitution, must yield to the state's antidiscrimination law. One of the judges wrote that, while he understood that all the Huguenins wanted was to be let alone to live their lives according to their faith, they must surrender their right to freely exercise their religion as "the price of citizenship." On April 7, 2014, the U.S. Supreme Court declined to hear the case, and the ruling of the New Mexico Supreme Court against Elane Photography stands.

The Huguenins spent almost a quarter of their young lives – all while trying to make a living and raise a family – trying to vindicate First Amendment rights that were given pride of place in our nation's founding and still-governing documents. The courts ruled against them, determining that their rights to act according to their faith and be faithful to their understanding of what God wants them to do are not as important as the state antidiscrimination law.<sup>76</sup>

## **B & B Owner Sued for Refusing to Rent Room to Same-Sex Couple in Her Own Home - 2007**

Phyllis Young, a practicing Christian, resides with her husband in their family home in Honolulu, HI. It has 1,926 square feet and 10 ½ rooms—4 bedrooms, 2 ½ bathrooms, a family room, dining room, living room, and kitchen. The Youngs have owned this house for 35 years, having raised their children and been visited by their grandchildren here.

The Youngs also rented out one or more rooms of this family home, where they also resided. Because of her sincerely held religious beliefs, she has not allowed unmarried opposite-sex couples or same-sex couples to rent a room with a single bed together. Young believes that sexual intercourse is only proper in opposite-sex marriage and so it is immoral for opposite-sex, unmarried couples or same-sex couples to engage in sexual behavior. She would not even allow her adult daughter to share a room with her live-in boyfriend when they visited. Young has based her beliefs about sexual morality upon the teachings of the Bible and the Catholic Church.

Young has called her rental business Aloha Bed & Breakfast, but Aloha has no checking account. All payments for rooms in Aloha are made payable to Phyllis. Unlike hotels, Aloha has no employees, no clerk, or office into which members of the public enter. In fact, people may not enter Young's home without her permission. She generally has kept her door locked, like other homeowners. No one has ever knocked on her door and asked to stay in Aloha and "Aloha" is not even listed in the phone book. The residence's listing is under the name of Don and Phyllis Young. When someone phones, Mrs. Young has answered with some variation of, "Hello, this is Phyllis." The Youngs and their guests all share the living space of the house, including the family room, bathrooms and kitchen. Mrs. Young has stored some of her personal belongings in the closet of each room she rents to her guests and also allowed guests to use her personal computer, located in her own bedroom. Because of the intimate living arrangements Young shares with her guests, she is selective in determining who she will welcome into her home and will not allow couples to stay in Aloha if allowing them to do so would violate her religious convictions.

Diane Cervelli and Taeko Bufford, a couple who identify as "lesbian," asked to rent a room with a single bed in the Young's home. She declined because allowing a same-sex couple to share a room with only one bed in her home violates her beliefs. Cervelli and Bufford complained to the Civil Rights Commission, which found probable cause that Young had violated the state nondiscrimination law, which prohibits discrimination on the basis of sexual orientation.

Young appealed that decision to the state trial court. On April 15, 2013, the trial court judge found that Young had engaged in unlawful discrimination when she declined to rent a room—*in her own home*—to a same-sex couple. The case has been appealed to the Hawaii intermediate Court of Appeals. The trial court's ill-considered ruling, if permitted to stand, will prevent Young and others from choosing the people they rent rooms to in their own homes. If Young does not have this freedom, she will be forced to stop renting her property. This will likely prevent her and her husband from meeting their monthly mortgage obligations, thus forcing them to give up the home in which they raised their children.<sup>77</sup>

### **Christian Group Forced to Host Same-Sex Wedding in Its Boardwalk Pavilion – June 2007**

The Ocean Grove Camp Meeting Association was founded in 1869 by a small band of Methodist clergymen on the New Jersey shore. It is a religious association that provides a venue for religious services, including Sunday services, Bible studies, camp meetings, revival gatherings, gospel music programs, religious educational seminars, and other religious events. Upon its incorporation, the Association pledged that it would use its facilities for God's glory and would abstain from using them in any way "inconsistent with the doctrines, discipline, or usages of the Methodist Episcopal Church." As part of its outreach programs to the community, the Association has made regular use of its privately owned, open-air Boardwalk Pavilion overlooking the Atlantic Ocean. Each day throughout the summer, the Association has hosted overtly and exclusively religious events in the Boardwalk Pavilion, events ranging from Bible studies to worship services and revival meetings. Events held in the Boardwalk Pavilion have been consistent with the religious beliefs and doctrines of the Association.

In 1997, the Association began operating a wedding ministry in many of its private places of worship, including the Boardwalk Pavilion. Because this ministry was a means of Christian outreach to the community, the Association permitted members of the public to have their weddings in the Boardwalk Pavilion. In March 2007, Harriet Bernstein asked the Association if she could use the Pavilion for a civil-union ceremony with her same-sex partner, Luisa Paster. The Association believed, based on its interpretation of the Holy Bible and its reading of the Methodist Book of Discipline, that marriage is the uniting of one man and one woman. The Association also believed that homosexual behavior is incompatible with Christian teaching, and thus it does not condone that practice.

Naturally, then, the Association denied the couple's request because the proposed use of the facility violated the Association's religious beliefs. In June 2007, the couple filed a discrimination complaint with the New Jersey Division on Civil Rights, alleging that the Association's denial of their request amounted to unlawful discrimination under the New Jersey Law Against Discrimination. The Division agreed, concluding in October 2012, that the Association had violated the State's nondiscrimination law, despite the fact that the Pavilion was a place of religious worship used by a religious organization. As a result, the Association has stopped renting out the Boardwalk Pavilion for weddings.<sup>78</sup>

The complaining couple neither suffered nor sought any monetary damages. Nor were they left without a suitable venue for their event, as evidenced by the fact that they held their civil-union ceremony on September 30, 2007, on a fishing pier in Ocean Grove. This case, like others discussed, was not about a lack of access to services or facilities. Instead, the couple filed their complaint to compel a religious organization to act in a manner that would violate core tenets of its religious faith. The government permitted the couple to use the nondiscrimination laws to prevent the Association from operating its programs and activities consonant with its religious faith.<sup>79</sup>

### **Cookie Shop Settles Complaint of Discrimination for Refusing to Create Rainbow Cookies and Cake for "Coming Out" Celebration – October 2010**

Just Cookies, a cookie shop owned by David and Lily Stockton and located at the Indianapolis City Market, ignited a firestorm in October 2010 after employees refused to fill a special order of

rainbow cookies and multicolored cupcake for a “coming out” celebration hosted by an Indiana University Purdue University-Indianapolis group. The Stocktons were subsequently accused of discrimination for refusing to sanction the event because it was against their values. Shop owners David and Lily Stockton said they were within their rights to refuse the request and that the shop didn’t have the capacity to fulfill the order. The city investigated whether the shop had violated the city’s anti-discrimination ordinance, but the Stocktons ultimately settled the complaint. Under the agreement, the Stocktons acknowledged they understand the city’s equal opportunity ordinance and agreed to update the Just Cookies website concerning special orders. The city will also post a public notice regarding the anti-discrimination ordinance.<sup>80</sup>

### **Country B & B Sued for Refusing to Host Same-Sex Reception – July 2011**

In the bucolic Vermont countryside, Jim and Mary O’Reilly operate the Wildflower Inn, a family owned bed-and-breakfast. Because Vermont legally recognizes same-sex unions, the O’Reillys, a committed Catholic family, had a well-established business practice when approached by anyone asking the Inn to host an event celebrating a same-sex marriage or civil union: Jim O’Reilly would disclose his deeply held religious conviction that marriage is the union of one man and one woman, while nevertheless maintaining that the Inn would host ceremonies or receptions for same-sex unions because that is what the State’s nondiscrimination law requires. O’Reilly would disclose this information about his religious convictions because he felt compelled to be honest with potential customers. This practice was approved by the Vermont Human Rights Commission in 2005, which concluded that there were “no reasonable grounds to believe that Wildflower illegally discriminated” merely by O’Reilly’s communicating his beliefs to a potential customer who inquired about celebrating a civil union on the property.

In 2011 the ACLU teamed up with the Vermont Human Rights Commission, the same entity that had blessed the O’Reillys’ conduct just six years before, in a lawsuit against Wildflower. The lawsuit began when a former Wildflower employee falsely claimed that the inn would not allow a same-sex wedding reception. But the ACLU and the government did not merely challenge Wildflower’s alleged unwillingness to host a same-sex reception; they directly attacked the O’Reillys’ approved practice of disclosing their religious beliefs about marriage to potential customers.

The O’Reillys’ expression of their religious beliefs came at great cost. The real-world implications of a protracted legal battle with the government and the ACLU (and the prospect of paying the government’s and the ACLU’s attorneys’ fees) threatened to bankrupt the O’Reillys and shutter the business they had worked so hard to build. Although the Commission agreed that the O’Reillys acted in good-faith reliance on its 2005 ruling, the government and the ACLU demanded that the O’Reillys pay \$10,000 to the Commission as a civil penalty and \$20,000 to a charitable trust set up by the ACLU’s clients. Forced with the prospect of potentially losing their business, the O’Reillys relented and agreed to these terms in August 2012. This case was not about access to services – the ACLU’s clients were easily able to find a venue for their reception, and the Wildflower’s business practice did not deny services to anyone, but merely disclosed the O’Reillys’ relevant religious convictions. What the government and the ACLU really objected to was the O’Reillys’ mere mention of their views about marriage – views that conflict with the prevailing political orthodoxy in Vermont.

For this, the government and ACLU insisted that the O'Reillys be punished. This case demonstrates the threat that nondiscrimination laws present to religious liberty – that those who disagree with the government's views about issues implicating a statutorily protected classification may pay dearly for the exercise of their constitutional rights.<sup>81</sup>

### **Bridal Store Owner Threatened for Declining to Provide a Dress for a Same-Sex Wedding – August 2011**

Donna Saber, owner of Here Comes the Bride in Somers Point, New Jersey, has had callers threatening to burn down her store and throw a brick through the window after she reportedly refused to provide a dress for a same-sex marriage with the understanding that it was “illegal.” For simply staking out her position, Saber's store has been the target of protests and boycotts. Saber says she is simply trying to live peacefully and run her business.<sup>82</sup>

### **Catholic Church Forced to Shut Down Adoption Agencies to Avoid Violating Beliefs – November 2011; March 10, 2006**

The state of Illinois ended its historic relationship with Catholic Charities – which was the first organization to inspire child welfare services in that state – because the organization would not adopt children to homosexual couples. Adoptions by homosexual couples would violate well-established Roman Catholic Church doctrine. Although Catholic Charities was willing to refer homosexual couples to other adoption agencies, the state refused to accommodate them. Ironically, this religious-based discrimination is in response to the Religious Freedom Protection and Civil Unions Act. The Act, when combined with state antidiscrimination laws, requires homosexual civil unions to be treated like marriages, but only provides protection for religious clergy who decline to officiate a civil union. It is estimated that two-thousand children will now have to transition to new agencies.<sup>83</sup> In Massachusetts, the Catholic Church also shut down a successful adoption agency following the state supreme court's imposition of same-sex marriage to avoid being forced to place children in same-sex households.<sup>84</sup> Catholic entities have similarly been discriminated against for their views in the District of Columbia and San Francisco, California, and have chosen to shut down adoption services rather than be forced to violate their conscience by the government.<sup>85</sup>

### **B & B Sued for Stating Intention to Not Host Same-Sex Wedding on Religious Grounds – November 1, 2011**

Jim and Beth Walder owned the Timber Creek Bed and Breakfast in Paxton, Illinois. On February 15, 2011, homosexual activist Todd Wathen – anticipating enactment of Illinois' “civil unions” law – sent them an email stating: “Do you plan on doing same-sex civil unions starting June 1st?” Jim Walder replied: “No. We only do Weddings.” In response, Wathen enlisted the help of the ACLU and filed a complaint with the Illinois Human Rights Commission: “As a result of Respondent's violation of the Act, Complainant has suffered substantial mental and emotional distress as well as the stigmatizing injury and deprivation of personal dignity that accompanies denials of equal access to places of public accommodation.” Wathen seeks monetary damages, attorneys' fees and “an order directing [the Walders] to cease and desist from any violation” of the Human Rights Act.

The Walders fired back, however. “No business owner may be forced to violate his sincerely held religious beliefs merely because someone demands it,” said Steve Amjad, an attorney for

Timber Creek. “Constitutional and state laws guarantee religious freedom for every American, including business owners. These complaints [by Wathen] ignore those fundamental freedoms and are further examples of the threat the homosexual legal agenda poses to every American’s basic rights.”

“TimberCreek does not host civil union ceremonies for same-sex or opposite-sex couples, so the discrimination charge is baseless,” added attorney Bryan Beaman. “TimberCreek has done nothing wrong, and their right to freely exercise their faith should not be threatened.” The answers filed in response to the complaints filed by Mark and Todd Wathen assert that “TimberCreek did not engage in sexual-orientation discrimination under the Illinois Human Rights Act” and that applying specific portions of the act to this situation would actually violate the state’s Religious Freedom Restoration Act, federal law, and the First Amendment to the U.S. Constitution.<sup>86</sup>

### **Cake Cottage under Fire for Refusing to Provide Cake for Same-Sex Wedding - November 10, 2011**

Victoria Childress, owner of Victoria’s Cake Cottage in Des Moines, Iowa, refused to provide a wedding cake for a homosexual couple, and came under fire for her decision. Childress told Trina Vodraska and Janelle Sievers that she could not make the cake they requested because of her “convictions for their lifestyle,” and made sure they understood she was not discriminating against them, but just honoring her “walk with God.” Nevertheless, Vodraska described the encounter as “degrading,” and said she felt like they were “chastised for wanting to do business with her.” According to Sievers, Childress introduced herself and asked if Vodraska was her sister. Seivers replied: “No, this is my partner.” Childress asked them to sit down and said, “We need to talk.” Childress then said, “I’ll tell you I’m a Christian, and I do have convictions. . . . I’m sorry to tell you, but I’m not going to be able to do your cake.” Vodraska then said “that was fine and I appreciated her being honest.”

Childress has maintained that it is her right to refuse to do the cake: “I didn’t do the cake because of my convictions for their lifestyle. It is my right as a business owner. It is my right, and it’s not to discriminate against them. It’s not so much to do with them, it’s to do with me and my walk with God and what I will answer (to) him for.” Childress continued: “They thanked me for being honest with them, and they were very pleasant. I did not belittle them, speak rudely to them. There were no condescending remarks made, nothing.” At time of publication, no legal action appears to have been taken. However, under Iowa law, people like Ms. Childress could be forced to serve causes in violation of their conscience.<sup>87</sup>

### **Print Artist Sued for Refusing to Promote Gay Lifestyle - March 2012**

Blaine Adamson was the managing owner of Hands On Originals, a printing company in Lexington, Kentucky, that specializes in producing promotional materials. Adamson, a practicing Christian who strives to live consistently with Biblical commands, has not distinguished between conduct in his personal life and his actions as a business owner. As a result, he has avoided using his company to design, print, or produce materials that convey messages or promote events or organizations that conflict with his sincerely held religious convictions.

Hands On Originals has served customers that Adamson knew self-identified as homosexual, and it has employed (and, at time of publication, continues to employ) persons who identify as homosexual. But Adamson has not wanted to produce printed materials that promote homosexual *behavior*. Doing so would conflict with his sincerely held religious beliefs about sex and sexuality. In March 2012, the Gay and Lesbian Services Organization (GLSO), an advocacy organization that promotes same-sex relationships and homosexual conduct, asked Adamson and his company to print promotional shirts for the Lexington Pride Festival, which (like GLSO) celebrates same-sex relationships and homosexual conduct. Adamson politely declined the request because he knew that the content of those shirts and the event that they would promote would communicate messages clearly at odds with his religious beliefs. Adamson nevertheless did offer to connect GLSO with another company that would print the shirts for the same price that Hands On Originals would have charged. Yet this courtesy was not enough for the GLSO and its members. They believed that Adamson and his business should be punished for his objection to their messages. As a result, the GLSO filed a discrimination complaint with the Lexington-Fayette Urban County Human Rights Commission, alleging that Hands On Originals unlawfully discriminated on the basis of sexual orientation.

This discrimination complaint had nothing to do with ensuring access to services since soon after filing its nondiscrimination complaint, GLSO filled its shirt order with little trouble when another company offered to print the shirts for free. Nevertheless GLSO continues – to this day – to press its claim against Adamson and his company by not dismissing its complaint. To add injury to insult, upon filing its discrimination complaint, GLSO and its allies began a public campaign against Hands On Originals in the community, which included, among other things, a page on the group’s website and a “Boycott Hands On Originals” Facebook page. As a result of the public pressure created by GLSO, some of Hands On Originals’ large customers – such as the University of Kentucky, the Fayette County Public School System, and the Kentucky Blood Center – have publicly stated that they are placing a hold on further business with Adamson and his company, resulting in a significant loss of business for Hands On Originals. This development has jeopardized the livelihood of Adamson’s many employees and the future of his company.

In November 2012, the Commission found probable cause to believe that Hands On Originals violated the local nondiscrimination ordinance. By simply striving to conduct himself consistently with his faith, Adamson now faces a legal struggle that threatens to approximate in time and pain the one already endured by other citizens (e.g. the Huguenins in New Mexico).<sup>88</sup>

### **Cake Designer Forced to Make Cake for Same-Sex Wedding against His Beliefs – July 2012**

Jack Phillips has used his artistic talents to design and create wedding cakes and baked goods for the last 40 years. Twenty years ago, he started Masterpiece Cakeshop, and since that time he has served thousands of customers in Colorado without regard to race, religion, sexual orientation, or any other status.

In addition to being a baker, Phillips has been a committed Christian who believes that he should live consistently with what he believes to be true. As a consequence, Phillips has sought to operate his business in accordance with his faith, even when doing so might cost him.

While Phillips served all *people*, because of his faith he chose not serve all *events*. For instance, he has chosen not to bake any Halloween-themed goods, even though Halloween typically provides bakeries increased revenue-making opportunities, because he believes that Christians should not promote Halloween. He has chosen to close his store on Sunday, so his employees might be able to go to church if they so desire.

In July 2012, Charlie Craig and David Mullins asked Phillips to make a wedding cake to celebrate their same-sex ceremony. In an exchange lasting about 30 seconds, Phillips politely declined, explaining that he would gladly make them any other type of baked item they wanted but that he could not make a cake promoting a same-sex ceremony because of his faith. Craig and Mullins, now represented by the American Civil Liberties Union, immediately left the shop and later filed a complaint with the Colorado Civil Rights Division. After the Civil Rights Division found probable cause, the complaint was heard by an administrative law judge, who ruled in favor of Craig and Mullins and against Phillips. Phillips filed an appeal with the Colorado Civil Rights Commission but the Commission upheld the administrative law judge's ruling. At time of publication, Phillips was considering an appeal to the Colorado Court of Appeals.<sup>89</sup>

### **Cake Artist Undergoes "Rehabilitation" for Refusing to Bake Cake for Same-Sex Wedding - January 17, 2013**

Melissa and Aaron Klein owned Sweet Cakes by Melissa, a bakery located in Gresham, Oregon. They declined, because of their religious beliefs, to bake a wedding cake for a same-sex "wedding." The same-sex couple filed a complaint against the Kleins with the Oregon Bureau of Labor and Industries (BOLI). The commissioner of BOLI, Brad Avakian, has been quoted as saying that, "The goal is never to shut down a business. The goal is to rehabilitate."

Nevertheless, BOLI ruled against the Kleins, and issued an administrative decision saying that Sweet Cakes engaged in discrimination against the same-sex couple. Due to threats and fearing for their safety, the Kleins closed Sweet Cakes by Melissa in September 2013. At time of publication, the complaint against the bakery is moving into a period of reconciliation. If the parties cannot reach an agreement, BOLI could file formal civil charges against Sweet Cakes and the Kleins could be exposed to heavy fines.<sup>90</sup>

### **Party Venue Draws Ire for Refusing to Host Same-Sex Wedding - February 2013**

Ben Allen and Justin Hudgins contacted All Occasion Party Place near Fort Worth, Texas, and requested that the All Occasion host their same-sex wedding. All Occasion Party Place refused to do so out of religious objections to same-sex marriage. In a response to Mssrs. Allen and Hudgins, an employee stated: "It is because of God that I will not be a part in your reception, and I know he loves you, but not what you are doing. . . . I simply said I cannot rent to you which is also my right."

Allen said "it doesn't really make sense to me" to be denied this opportunity "simply because you date someone of the same-sex" in "today's day and age." Allen's beliefs obviously conflicted with those of the people who ran All Occasion Party Place, yet the business owners maintained that their consciences and beliefs drive their lives too. All Occasion Party Place is located outside the Fort Worth city limits, and therefore does not fall under the city's anti-

discrimination code. Still, the case has nonetheless sparked the ire of local lesbian, gay, bisexual, and transgender (LGBT) rights advocates.<sup>91</sup>

### **Florist Sued for Refusing to Create Arrangement for Same-Sex Wedding - April 2013**

Sixty-eight-year-old Barronelle Stutzman, the sole owner of Arlene's Flowers in Richland, WA, has for her entire career served and employed people who identify as homosexual. One of her longtime clients, whom she had served for nine years while knowing that he identified as homosexual, asked her to design the floral arrangements for his same-sex "wedding." Ms. Stutzman had always considered him a friend. She responded by telling him that, while he knew she loved him, her religious convictions would not allow her to design floral arrangements that would support same-sex "marriage." He responded by bringing suit against her, as did the State of Washington. Both suits alleged violations of Washington's state nondiscrimination law.

Ms. Stutzman filed a countersuit against the State of Washington, arguing that the nondiscrimination law, as applied to Ms. Stutzman, was unconstitutional because it forced her to act contrary to her religious convictions and also forced her to promote a message that she did not wish to convey. At time of publication, this matter is currently before the Benton County, WA, Superior Court. No matter which side wins in the state superior court, the matter likely will be appealed and the litigation is projected to drag on for years.<sup>92</sup>

### **Cake Shop Taking Heat for Refusing to Provide Cake for Commitment Ceremony - May 2013**

Pam Regentin, owner of Fleur Cakes, objected to providing a wedding cake for a same-sex couples' commitment ceremony. Ms. Regentin objected to providing the cake due to her Christian beliefs, and is now receiving criticism for doing so. Regentin has said she believes she has "the liberty to live by my principles."<sup>93</sup>

### **Family Farm Sued for Refusing to Host Same-Sex Wedding - November 2013**

Liberty Ridge Farm, in Schaghticoke, NY, is the home of the Gifford family. It is a working farm that has been in the family for many years, and the main structure on the property is where the Giffords reside, raise their children, and engage in the private affairs of family life. The Gifford family has chosen to allow people on their property for certain select events on given days at given times. Their home is not opened indiscriminately like a hotel, and although visitors pay for certain events held on the property, the Giffords have determined the types of activities they will or will not allow.

The family holds deeply-held religious beliefs, and one of these is that God created the design for marriage as the union of one man and one woman in a lifelong and exclusive relationship. The Giffords have not denied access to the Farm to any visitor on the basis of race, religion, sex, and other factors including sexual orientation. Everyone has been welcome to attend any scheduled events on their property; the Giffords would even permit a same-sex couple to hold a reception on their property. But they would not allow same-sex a marriage ceremony, because it violated their religious beliefs.

Melissa Erwin and Jennifer McCarthy wanted to hold their wedding at Liberty Ridge Farm. The Giffords declined to allow them to do so because of their religious beliefs and Erwin and McCarthy then filed a complaint with the New York Division of Human Rights. There was an evidentiary hearing in November 2013 before an administrative law judge (ALJ). The ALJ asked both sides for briefs after that hearing; these briefs were submitted on January 7, 2014. Jim Trainor, representing the Giffords, argued in his brief that Liberty Ridge Farm did not fit within the definition of public accommodation, and also that the Farm did not decline provide services because of the sexual orientation of the complainants but rather because of the Giffords' beliefs about marriage. The case is ongoing.<sup>94</sup>

### **Catholic School Sued over Refusal to Hire Individual in Same-Sex Marriage - January 30, 2014**

It looked like Matthew Barrett was going to be hired at the Catholic Fontbonne Academy in Milton, Massachusetts, but then administrators noticed his emergency contact form. On it, Barrett had identified his homosexual "spouse" as the person to call. The Academy called him into the office and rescinded the job offer. The headmaster was polite but resolved. "Fontbonne Academy does not discriminate against anyone based on their sexual orientation," said Assistant Head of School Gregg Chambers. But it is "guided by the religious doctrines and beliefs of the Roman Catholic Church [which] has a very specific belief that marriage between two persons of the same-sex is contrary to the teachings of the Catholic Church and that belief informs policies of how Fontbonne Academy and all Catholic schools are to operate on this issue."<sup>95</sup> That didn't sit well with Barrett, who contacted the local Gay & Lesbian Advocates & Defenders (GLAD) and filed a complaint with the state. "Religiously-affiliated entities do not have a free pass to do as they please in how they treat employees," GLAD insisted. Other liberals piled on, arguing that Barrett wouldn't have been working in the classroom, imposing his agenda on the students. GLAD subsequently filed a complaint with the Massachusetts Commission Against Discrimination (MCAD) against Fontbonne Academy. Fontbonne Academy will now have its religiously motivated views subjected to the scrutinizing eye of the state and the MCAD.<sup>96</sup>

### **Universities Target Christian Groups Using "Anti-Discrimination" Rules - June 2014**

Bowdoin College, along with the California State University public system and several other colleges, is seeking to exclude evangelical groups from official university recognition starting in the Fall 2014 semester. These universities are employing nondiscrimination rules to say that any student must be allowed to be a leader of any student group, no matter his or her religious beliefs. The Bowdoin Christian Fellowship does not agree. "It would compromise our ability to be who we are as Christians if we can't hold our leaders to some sort of doctrinal standard," Bowdoin graduate and former leader of BCF Zackary Suhr told *The New York Times*. Groups like BCF view such liberal university policies as encroachments on their religious liberty and are refusing to agree to such policies. If these groups lose official university recognition, that could mean they are denied access to the university's name, facilities, money, and other important benefits.<sup>97</sup>

# Conclusion

These stories feature real Americans who are trying to live peaceful, faithful lives, but find their conscience and liberty under attack. They are fathers, mothers, sons, and daughters. Many of them look like us and our neighbors.

With little warning, they are attacked and marginalized by those who are seeking to redefine the rights given by God and expressed by our Founders and earlier Americans. The victims in these stories are caught in the center of a larger struggle—as their fellow citizens seek to redefine rights through policy, law, and culture. This narrative pits our historical understanding of the notion of religious liberty—an expansive vision that includes the ability to apply one’s faith to all the details of one’s life—against a more recent understanding of freedoms in which “rights” to a “religion-free” environment or to unfettered sexual expression are crafted into new law and elevated to the level of and even above our foundational constitutional rights of freedom of speech and religion.

While the incidents listed above are troubling, there is still time to address and counter the many current threats to religious liberty. Although most of these accounts have occurred within the past several years, it is important to react—not simply with urgent concern for those whose rights are most immediately affected—but also with prudent, informed advocacy for the principles underlying our religious liberty. The suppression of religious liberty is not entirely disconnected from the restriction and suppression of free inquiry and critical thinking we are observing today. We should be concerned that the suppression of rights, particularly as outlined in Sections III and IV of this publication, is the product of more insidious forces which ultimately will erode civil liberties for all Americans, even if they hold a different viewpoint than our own. Thus all these threats are properly countered by addressing not only the primary religious liberty issues but also the underlying philosophical thinking that leads to such attacks in the first place.

We must first become aware of religious liberty violations. Then we can focus on legal, policy, and cultural responses to these violations. Liberty does not maintain itself. Only as we become more fully aware of and engaged on the issue of hostility toward religion, can we effectively defend civil liberties and restore religious liberty to its proper place in American society.

\* This story has been published in The Liberty Institute and Family Research Council’s joint publication *Undeniable: The Survey of Hostility to Religion in America* and has been reprinted with permission.

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