

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FREEDOM FROM RELIGION FOUNDATION, INC., DOE 4, by Doe 4's next friend and parent DOE 5, who also sues on Doe 5's own behalf.	:	Civil Action No. _____
	:	
Plaintiffs,	:	
vs.	:	
	:	
CONNELLSVILLE AREA SCHOOL DISTRICT,	:	
	:	
Defendant.	:	
	:	
	:	
	:	

COMPLAINT

AND NOW, TO WIT, this 27th day of September, 2012, Freedom From Religion Foundation; Doe 4, by Doe 4's next friend and parent, Doe 5; and Doe 5, Plaintiffs, by and through their attorneys Marcus B. Schneider and STEELE SCHNEIDER, file the within Complaint against the Connellsville Area School District, Defendant, and in support thereof avers as follows:

Introduction

1. Since 1957, the Connellsville Area School District ("District") has maintained a monument of the Ten Commandments in front of one of its schools in violation of the First Amendment to the United States Constitution. District students come into contact with the monument while attending or visiting Connellsville Area Junior High School. The Plaintiffs seek a declaration that the District practice of displaying the Ten Commandments in front of its public school is unconstitutional, an injunction requiring the Ten Commandments to be moved away from public school property, nominal damages, and attorneys' fees and costs.

Jurisdiction and Venue

2. This action arises under the Constitution of the United States and 42 U.S.C. § 1983.

3. This Court has federal question jurisdiction pursuant to Article III of the United States Constitution and 28 U.S.C. § 1331. In addition, this Court has jurisdiction pursuant to 28 U.S.C. § 1343(a)(3) and (4).

4. The Court is authorized to award the declaratory relief requested by Plaintiffs pursuant to 28 U.S.C. §§ 2201 and 2202.

5. Pursuant to 28 U.S.C. § 1391 and LCvR 3, venue is proper in the Pittsburgh Division of the Western District of Pennsylvania. The Defendant is a corporate body located in the Western District of Pennsylvania and Fayette County. The events complained of occurred in Fayette County.

Parties

6. Plaintiff Freedom From Religion Foundation (“FFRF”) is a national non-profit IRC 501(c)(3) educational charity and a Wisconsin non-stock corporation. FFRF works to defend the constitutional principle of separation between state and church, as well as to educate the public about the views of non-theists.

7. FFRF has more than 18,500 members nationwide, including at least 673 members in the state of Pennsylvania. FFRF represents and advocates on behalf of its members throughout the United States.

8. Plaintiff Doe 5 is the parent and guardian of Doe 4.

9. Doe 5 is a resident and taxpayer of the District and the City of Connellsville. Doe 5 is a member of FFRF.

10. Doe 4 is a minor attending Connellsville Area Junior High School.
11. Doe 4 and Doe 5 use pseudonyms to protect themselves from injury.¹
12. Defendant Connellsville Area School District (the “District”) is a municipal corporate body that maintains control of public schools within the limits of the city of Connellsville.

Facts

13. An approximately five to six foot tall tombstone-like stone monument of the Ten Commandments stands in front of Connellsville Area Junior High School (“Junior High”). Photos of the monument are attached as Exhibit 1 and Exhibit 2.

14. The Junior High school building was formerly used as the District’s high school.

15. The monument is situated near the main entrance by the Junior High auditorium and is within view of students boarding or exiting school buses and participating in outdoor gym classes.

16. The monument reads:

the Ten Commandments
I AM the LORD thy God.

- I. Thou shalt have no other gods before me.*
- II. Thou shalt not take the Name of the Lord thy God in vain.*
- III. Remember the Sabbath day, to keep it holy.*
- IV. Honor thy father and thy mother, that thy days may be long upon the land which the Lord thy God giveth thee.*
- V. Thou shalt not kill.*
- VI. Thou shalt not commit adultery.*
- VII. Thou shalt not steal.*
- VIII. Thou shalt not bear false witness against thy neighbor.*
- IX. Thou shalt not covet thy neighbor’s house.*

¹ A motion for leave to proceed pseudonymously will be filed with this Honorable Court. These pseudonyms were chosen because a suit brought on behalf of Doe 1, Doe 2, and Doe 3 was recently filed in this Honorable Court against the New Kensington-Arnold School District. For use in pleadings and briefing, Doe 4 and Doe 5 will be referred to by use of female pronouns.

X. Thou shalt not covet thy neighbor's wife, nor his manservant, nor his maidservant, nor his cattle, nor anything that is thy neighbor's.

17. This version of the Ten Commandments is consistent with a traditional Roman Catholic version by numbering and by the omission of the prohibition of making graven images.

18. The bottom of the monument says:

*PRESENTED TO
CONNELLSVILLE JOINT HIGH SCHOOL
BY CONNELLSVILLE AERIE NO. 493
FRATERNAL ORDER OF THE EAGLES
MAY 13, 1957*

19. The bottom of the monument also contains a Christian Chi-Rho symbol and two inscriptions of the Star of David.

20. Upon information and belief, District maintenance staff maintain the area adjacent to the monument by, among other things, mowing the lawn surrounding the monument.

21. Doe 4, during the course of the school day, regularly observed the Ten Commandments in front of school during the beginning of this and past school years.

22. Doe 5, the parent of Doe 4, regularly observed the Ten Commandments in front of school during the beginning of this and past school years when having necessary business at the school.

23. Doe 5 identifies as an atheist and views the monument as contrary to her and her family's personally held non-religious views. Doe 4 identifies as non-religious. The Does do not subscribe to the religious statements that are inscribed on the monument.

24. To the plaintiffs, the monument excludes them and others, both members of the community and visitors to the District, who do not follow the particular religion or god that the monument endorses.

25. The feeling of exclusion effectuated by the monument's presence on school property has been stressful on both Doe 4 and Doe 5.

26. The Plaintiffs perceive the Ten Commandments monument as an endorsement by the District of the religious principles set forth on the monument.

27. The Plaintiffs perceive the monument as evidencing a favored religious view within the District.

28. The monument places coercive pressure on Doe 4 to adopt the District's favored religious views.

29. Doe 5 believes that the religious or non-religious upbringing of her child is her own personal right and responsibility, not the right or responsibility of the District. The display of the Ten Commandments usurps the parental authority of Doe 5 over the religious or non-religious education of her child.

30. FFRF and Doe 5 contend that a public school district has no right to instruct its captive audience of impressionable students on which god to have, how many gods to have, or whether to have any gods at all.

31. Plaintiffs' undersigned counsel sent a demand letter dated August 29, 2012, to Superintendent Dan Lujetic requesting that the monument be removed and indicating that plaintiffs would file a lawsuit if they did not receive notice that the monument would be removed.

32. In the days following receipt of the letter, District officials planned to remove the monument by September 7, 2012.

33. In the days following receipt of the letter, the text of the Ten Commandments monument was covered by plastic.

34. Vandals tore away the plastic on several occasions.
35. On September 6, 2012, the District's solicitor, Chris Stern, stated that removal of the monument would be pushed back to the week of September 9 to September 15.
36. On or about September 6, 2012, District employees covered the text of the monument with plywood.
37. Vandals removed the plywood on multiple occasions.
38. On September 9, 2012, the text of the Ten Commandments monument was uncovered and three American flags were placed at the base of the monument.
39. On the evening of September 10, 2012, the Ten Commandments text was again uncovered. On this evening, area pastors organized a rally at the Ten Commandments monument and took turns expressing their support for keeping the monument in front of the school.
40. Upon information and belief, the District received or solicited an offer from Connellsville Church of God to accept the monument and display it next to Connellsville Area Senior High School.
41. Upon information and belief, the proposed arrangements with Connellsville Church of God would place the Ten Commandments monument on the edge of the Church of God property, which borders the high school and one of its athletic fields.
42. Upon information and belief, the District rents and uses an athletic field owned by the Connellsville Church of God. The church field borders a Connellsville Area Senior High School athletic field.

43. Upon information and belief, Connellsville Church of God intends to prominently light and display the Ten Commandments monument for viewing by District students should the District move it there.

44. Upon information and belief, these proposed arrangements are intended by the District to continue to bring District students in contact with the Ten Commandments monument.

45. Doe 4 will attend Connellsville Area Senior High School upon completion of her studies at the Junior High. If the monument is moved to the athletic fields, it is assured that she will continue to view the monument.

46. On the evening of September 12, 2012, community members and students held a second rally at the Ten Commandments monument. Demonstrators held religious signs in support of the monument and religious signs were affixed to the plywood that covered the Ten Commandments.

47. Following the rally, demonstrators marched to the Connellsville Area School District Board of Education meeting.

48. The Connellsville Area School District Board of Education (“Board”) held a public meeting at 7:00 p.m. on September 12, 2012. Local clergy and community members spoke for approximately 2 hours in support of keeping the Ten Commandments.

49. The Board declined to remove the monument. Instead, it voted to approve an agenda item from the Buildings and Grounds Department that said:

Request approval to delay any further action concerning moving the monument from its current location at Connellsville Junior High until further notice and pending further legal action.

50. In response to the Board’s vote to keep the Ten Commandments monument, the room of more than 100 people erupted into a standing ovation.

51. The decision by the Board and the religious fervor demonstrated by community members in attendance at the Board meeting on September 12, 2012, in attendance at prayer vigils and other gatherings near the Ten Commandments monument, and in other public comments made since the Plaintiffs sent the letter on August 29, 2012, further signal to Plaintiffs that they are outsiders in the District and that the District favors the religious beliefs endorsed by the Ten Commandments monument.

52. On the evening of September 12, 2012, the plywood was again torn from the monument.

53. On or about September 14, 2012, a large wooden box was placed over the Ten Commandments monument. It is unclear how long the District intends to keep the wooden box over the Ten Commandments Monument.

54. Although the Ten Commandments monument has been covered, the District's decision to keep the monument on school grounds sends the continuing message that the religion and religious messages endorsed by the Ten Commandments monument continue to be supported and endorsed by the District.

55. Based upon the events following the receipt of Plaintiffs' August 29, 2012 letter, there is no secular basis for the District's decision to indefinitely cover rather than remove the Ten Commandments monument.

COUNT ONE I

42 U.S.C. § 1983 - Deprivation of Plaintiffs' Constitutional Rights by Defendant

56. The foregoing averments of this Complaint are incorporated by reference.

57. By erecting, displaying, and maintaining the Ten Commandments monument, the Defendant has deprived the Plaintiffs of rights secured by the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

58. The District's practice of erecting, maintaining, and continuing to host the Ten Commandments in front of Connellsville Area Junior High School lacks any secular purpose.

59. "The pre-eminent purpose for posting the Ten Commandments on school[] walls is plainly religious in nature. The Ten Commandments are undeniably a sacred text in the Jewish and Christian faiths, and no legislative recitation of a supposed secular purpose can blind us to that fact. The Commandments do not confine themselves to arguably secular matters, such as honoring one's parents, killing or murder, adultery, stealing, false witness, and covetousness. See Exodus 20: 12-17; Deuteronomy 5: 16-21. Rather, the first part of the Commandments concerns the religious duties of believers: worshipping the Lord God alone, avoiding idolatry, not using the Lord's name in vain, and observing the Sabbath Day. See Exodus 20: 1-11; Deuteronomy 5: 6-15." *Stone v. Graham*, 449 U.S. 39, 41-42 (1980).

60. Arrangements to move the Ten Commandments monument to the Connellsville Church of God so that it is in direct view of District students lack a secular purpose.

61. The continued presence of the Ten Commandments on District property has the primary effect of both advancing religion generally and advancing the tenets of a specific faith in particular.

62. The continued presence of the Ten Commandments on District property also impermissibly coerces students to suppress their personal religious beliefs or non-religious views and adopt the favored religious views of the District.

63. The indefinite covering of the highly conspicuous Ten Commandments monument has neither remedied the impermissible coercion that Plaintiffs previously endured nor has it had the effect of squelching the message of religious endorsement that the District continues to send.

64. Arrangements to move the Ten Commandments monument to the Connellsville Church of God so that it is in direct view of District students, including students who cannot avoid it when playing on athletic fields, would have the primary effect of advancing religion.

65. The continued presence of the Ten Commandments monument at Connellsville Area Junior High School constitutes an endorsement of religion by the District.

WHEREFORE, Plaintiffs respectfully request the following relief from this Honorable Court:

A. A declaration that the Defendants' maintenance, display, and presence of the Ten Commandments monument on District property is unconstitutional;

B. A permanent injunction directing the District to remove the Ten Commandments and requiring that the Ten Commandments monument not be relocated near District property, including Connellsville Area Junior High School, Connellsville Senior High School, and other property utilized by the District;

C. Nominal damages to compensate the Plaintiffs for the injury to their constitutional rights;

D. Reasonable costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and

E. Such other relief as this Honorable Court deems just and proper.

Respectfully submitted,

/s/ Marcus B. Schneider, Esquire

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