

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

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**FREEDOM FROM RELIGION  
FOUNDATION, INC.; ANNIE LAURIE GAYLOR;  
and DAN BARKER,**

**Plaintiffs,**

**v.**

**Case No. 09-CV-439**

**STEPHEN AYERS,  
ACTING ARCHITECT OF  
THE CAPITOL,**

**Defendant.**

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**COMPLAINT**

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1. The plaintiffs seek a declaration that Congress' directive to the Architect of the Capitol to engrave the motto "In God We Trust" and the Pledge of Allegiance in prominent places in the Capitol Visitor Center violates the Establishment Clause of the First Amendment to the United States Constitution. The plaintiffs also request the Court to enjoin said action.

2. This court has federal question jurisdiction pursuant to 28 U.S.C. § 1331.

3. Venue is appropriate in the District Court for the Western District of Wisconsin pursuant to 28 U.S.C. § 1391(e).

4. The plaintiff, Freedom From Religion Foundation, Inc. ("FFRF"), is a Wisconsin non-stock corporation whose principal office is in Madison, Wisconsin; FFRF is a membership organization working for the separation of church and state and to educate on matters of nontheism.

5. FFRF has more than 13,500 members, including members in every state of the United States and the District of Columbia, who are opposed to government endorsement of religion in violation of the Establishment Clause of the First Amendment to the United States Constitution.

6. FFRF's purposes are to promote the fundamental constitutional principle of separation of church and state and to educate on matters relating to nontheism; FFRF, in its representational capacity, is opposed to government actions that support or give the appearance of endorsement of religion, including by using federal tax appropriations in violation of the Establishment Clause of the First Amendment to the United States Constitution; FFRF carries out its purpose, in part, by representing and advocating on behalf of its members.

7. The plaintiff, Annie Laurie Gaylor, resides in Madison, Wisconsin, and she is a lifetime member, co-president, and co-founder of FFRF, and she is the executive editor of FFRF's periodical "Freethought Today," and she is a non-believer who is opposed to governmental endorsement of religion; Ms. Gaylor also is a United States taxpayer and she is opposed to the use of Congressional appropriations in support of religion in violation of the United States Constitution.

8. The plaintiff, Dan Barker, also resides in Madison, Wisconsin, and he is a lifetime member of and co-president of FFRF, and he is Public Relations Director of FFRF, and he is a non-believer who is opposed to governmental endorsement of religion; Mr. Barker also is a United States taxpayer and he is opposed to the use of Congressional tax appropriations in support of religion in violation of the United States Constitution.

9. The defendant, Stephen Ayers, is the acting Architect of the Capitol; he is sued in his official capacity; the office of the defendant, Architect of the Capitol, is located in the Ford House Office Building, H2-205, 2nd and D Street, SW, Washington, DC 20515.

10. The defendant is responsible to the United States Congress for the maintenance, operation, development, and preservation of the United States Capitol Complex, which includes the Capitol, the Congressional office buildings, the Library of Congress buildings, the Supreme Court building, the U.S. Botanic Garden, the Capitol Power Plant, and other facilities, including the Capitol Visitor Center.

11. The defendant is an official of the legislative branch of the Federal Government; he is an officer and agent of Congress.

12. Projects under the responsibility of the defendant include design, construction and operation of the Capitol Visitor Center.

13. The Capitol Visitor Center was completed under the direction of the defendant on or about December 2, 2008.

14. The Capitol Visitor Center was designed as an extension of the Capitol rather than a stand-alone facility; the Capitol Visitor Center is intended to be and is the sole point of entry to the seat of American Government.

15. Congress authorized and funded with taxpayer appropriations the design and construction of the Capitol Visitor Center, which the defendant completed on or about December 2, 2008.

16. The Office of the Architect of the Capitol, under the direction of the defendant, is funded by United States taxpayer appropriations.

17. In making appropriations for the Capitol Visitor Center, Congress recently and expressly directed the defendant, Architect of the Capitol, to engrave "In God We Trust" and the Pledge of Allegiance in prominent places in the Capitol Visitor Center, which is the entrance for

the thousands of tourists who visit the Capitol everyday; the Senate approved this resolution on July 6, 2009 as part of an express appropriation bill, while the House of Representatives passed an identical resolution, H. Con. Res. 131, on July 9, 2009.

18. The Congressional directive to the defendant came in response to criticism of the Capitol Visitor Center by religious organizations for failing to emphasize the alleged role of religion as the basis for the authority and legitimacy of the United States government.

19. Representative Dan Lungren, Republican from California, sponsored the resolution in the House of Representatives, for the express purpose of emphasizing the role of religion in the United States government.

20. Senator Jim DeMint, Republican from South Carolina, sponsored the Senate measure, after threatening to delay the opening of the Capitol Visitor Center in December 2008, ostensibly because the Capitol Visitor Center fails to recognize the purportedly integral role of religion in our federal government; Senator DeMint has stated that the Capitol Visitor Center supposedly gives the impression that the federal government is the answer to all of society's problems, without emphasizing the integration of religion into government as being critical.

21. According to Senator DeMint, the cost to complete the mandated engraving is "worth the trouble" to correct the supposed historical whitewash of the original design and to welcome God back into the Capitol Visitor Center by highlighting the "all important relationship between faith and freedom in America."

22. The Congressional directive to the defendant to engrave "In God We Trust" and the Pledge of Allegiance in prominent places in the Capitol Visitor Center was intended to and does

give the appearance of preferring a purported "Judeo-Christian" heritage as the only relevant basis of the authority and foundational premise of the United States federal government.

23. Senator DeMint further complained that the Capitol Visitor Center failed to acknowledge that the rights of Americans are endowed by their Creator and stem only from reliance in the first instance on the protection of "Divine Providence."

24. Representative Steve King of Iowa, and other members of Congress, also complained that the Capitol Visitor Center allegedly portrays the role of religion as less central than they believe is appropriate.

25. According to Representative King, the Capitol Visitor Center, without the engraving of "In God We Trust" and the Pledge of Allegiance, supposedly reflects an effort "to scrub references to America's Christian heritage" and to eradicate "the role of Christianity in America."

26. The stated purpose of the Capitol Visitor Center, however, is to provide a welcoming and educational environment for visitors to learn about the unique characteristics of the United States House of Representatives and the United States Senate and the legislative process, as well as the history and development of the architecture and art of the United States Capitol.

27. The Congressional directive to prominently include religious engravings in the Capitol Visitor Center is intended to and does give the appearance of linking the legislative process to the purported religious beliefs of the members of Congress.

28. Representative King, for example, stated prior to passage of the Congressional directive that "our Judeo-Christian heritage is an essential foundation stone" of the United States government.

29. The directive to the defendant to engrave religious messages in prominent places in the Capitol Visitor Center will cost approximately \$100,000 - 150,000, to be funded from U.S. taxpayer appropriations made by Congress, which expenditure as mandated has no secular purpose.

30. The specific engravings mandated by Congress evidence a primary and direct effect of advancing religion.

31. The engravings demanded by Congress also were intended to endorse religion.

32. "In God We Trust," in fact, has not been a United States motto during most of this country's history; America's original motto was purely secular, i.e., "E Pluribus Unum" ("from many come one"), which motto was chosen by Thomas Jefferson, John Adams, and Benjamin Franklin.

33. "In God We Trust" was not recognized by Congress until 1956 and the motto did not appear upon paper currency until 1957.

34. The history of the motto "In God We Trust" evidences no secular purpose; on the contrary, the motto was first adopted during the Cold War as a reaction to the purported "Godlessness" of Communism.

35. "In God We Trust" has no secular purpose; the phrase was adopted precisely to emphasize and endorse a supposed link between the United States federal government and Christian religious belief.

36. The effect of "In God We Trust" is primarily and directly to endorse and promote religion, which endorsement would be unmistakably perceived by a reasonable observer familiar with the history and context of the phrase.

37. "In God We Trust" is intended to and does convey the message that the United States supposedly is a Christian nation.

38. The United States Constitution, however, is not premised on a religious or Christian foundation; the Constitution was very purposefully and deliberately written without such a basis.

39. The phrase "In God We Trust" ultimately was adopted as the result of a religious campaign during the McCarthy-era Congress, intended to create a symbolic unity of "God" with the federal government.

40. The Pledge of Allegiance similarly evidences a history and context of religious endorsement.

41. Only in 1954 did Congress first add the words "under God" to the previously secular pledge.

42. The Pledge of Allegiance originally was used as part of Columbus Day festivities in 1892; the recitation at that time simply stated as follows: "I pledge allegiance to my Flag and to the Republic for which it stands: one Nation indivisible, with Liberty and Justice for all."

43. In 1923, the original words "my Flag" were replaced by the phrase "the Flag of the United States," to which the phrase "of America" was added in 1924.

44. The Pledge of Allegiance was officially adopted by Congress in 1942 in the following form: "I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with Liberty and Justice for all."

45. The Pledge of Allegiance, as statutorily recognized in 1942, included no religious reference.

46. In 1954, however, Congress added the words "under God" to the previously secular pledge, as codified in 4 U.S.C. §4.

47. The legislative history of the 1954 Congressional Act clearly evidences the underlying purpose to endorse Christian monotheism, while disapproving of atheism; the Report accompanying the 1954 Act clearly enunciated this purpose: "The inclusion of God in the pledge, therefore, would further acknowledge the dependence of our people and our Government upon the moral directions of the Creator."

48. Congress also intended in 1954 to denigrate atheism, as further stated in the Congressional Report accompanying the legislation: "The inclusion of God in the pledge . . . would serve to deny the atheistic and materialistic concepts of communism."

49. In short, the Congressional directive to the defendant to prominently engrave "In God We Trust" and the Pledge of Allegiance at the entrance to the Capitol Visitor Center, at taxpayer expense, violates the fundamental principle of the separation of church and state by using Congressional taxpayer appropriations, made pursuant to the Taxing and Spending provision of the Constitution, to support activities that endorse religion.

50. The Congressional directive to the defendant, if implemented, will give the appearance of the government's official support for and advocacy of religion.

51. The direct and primary effect of Congress' directive to the defendant gives support to and the appearance of the endorsement of religion.

52. The use by the defendant of Congressional appropriations, made pursuant to Article 1, Section 8, of the United States Constitution gives actual and apparent government endorsement and advancement of religion.

53. "In God We Trust" excludes and treats as outsiders the millions of adult Americans, including as many as 15% of all adults, who are not religious, i.e., atheists, agnostics, skeptics and



freethinkers, none of whom possess a belief in a god; the mandated language diminishes non-believers by making god-belief synonymous with citizenship.

54. A reasonable observer familiar with the history and context of Congress' directive to prominently engrave specific religious displays in the Capitol Visitor Center would understand the government to be endorsing religion, including a Judeo-Christian perspective, while discouraging non-belief.

55. The directive to utilize Congressional taxpayer appropriations to endorse and advance religion violates the Establishment Clause of the First Amendment to the United States Constitution.

56. The Congressional directive to the defendant, if implemented, will be injurious to the interests of the plaintiffs individually, and to FFRF in its representative capacity, because the Congressional directive will compel the plaintiffs to support the establishment, endorsement and advancement of religion, to which they object; the directive conveys a message that secular Americans are second class citizens.

WHEREFORE, the plaintiffs demand judgment as follows:

- (a) For judgment declaring that the Congressional directive to the defendant to engrave "In God We Trust" and the Pledge of Allegiance at the entrance of the Capitol Visitor Center violates the Establishment Clause of the First Amendment to the United States Constitution;
- (b) For an order enjoining the defendant from prominently engraving "In God We Trust" and the Pledge of Allegiance in the Capitol Visitor Center;
- (c) For judgment awarding such further relief as the Court deems just and equitable; and

- (d) For judgment awarding the plaintiffs their reasonable costs, disbursements and attorneys' fees, as allowed by law.

Dated this 14th day of July, 2009.

BOARDMAN, SUHR, CURRY & FIELD LLP  
By

/s/ Richard L. Bolton

Richard L. Bolton  
Wisconsin State Bar No. 1012552  
1 South Pinckney Street, 4th Floor  
P. O. Box 927  
Madison, WI 53701-0927  
Telephone: (608) 257-9521  
Facsimile: (608) 283-1709  
Attorneys for Plaintiffs