



In response to increasing intrusions by government in the realm of the church, the LCMS launched this "Free to be Faithful" campaign in September 2012 to educate and move people to take informed action to protect religious freedom and all the cultural issues that pertain to it: confessing the faith in the public square, marriage, defending the sanctity of human life and related issues affecting religious liberty.

Update

Fall 2016

SYNOD JOINS COURT BRIEF FOR JUDGE UNDER FIRE FOR MARRIAGE VIEW:

Wyoming State Supreme Court rejects it!

by Roger Drinnon



Neely

The Wyoming State Supreme Court recently rejected several amicus briefs, including one the LCMS joined in earlier this year, in the ongoing case of a Wyoming judge whom state officials seek to remove from her judiciary duties for her faith-based beliefs about marriage.

The state court reportedly rejected amicus briefs offered by current and former Wyoming lawmakers as well as national religious organizations in favor of Judge Ruth Neely, a member of Our Savior Lutheran Church — an LCMS congregation in Pinedale, Wyo. The court purportedly accepted one brief in favor of Neely that was filed by Pinedale's mayor on behalf of the town.

It all began when Neely indicated to a local reporter in 2014 that her judiciary duties do not involve solemnizing marriages and that she holds the biblical view of marriage as between one man and one woman.

Neely is represented by Alliance Defending Freedom (ADF). ADF's publicized case summary notes, "In December 2014, a reporter in Pinedale who suspected that Judge Neely's religious beliefs prevented her from serving as a celebrant for same-sex marriages asked her whether she was

'excited' to perform same-sex weddings. A few days later, an article appeared in the *Sublette Examiner* quoting Judge Neely as saying that, because of her religious beliefs, she would 'not be able to do' same-sex marriages and that she had not 'been asked to perform' one."

Not long after the article was published, state officials began an investigation followed by the ongoing proceedings to remove Neely from her vocation as a local judge. She has served in Pinedale as a municipal judge for more than 21 years and as part-time circuit court magistrate there for over 14 years.

The ongoing case brings to light public concerns over whether LGBT advocacy has become a de facto litmus test for those seeking to hold public office, obtain professional licensing and certifications for a variety of other vocations as well as for the accreditation of academic institutions.

Also a concern for faith communities is a statement made by a member of the state's commission seeking to remove Neely. In a transcript of hearings held in December 2015, one of the state attorneys on the commission is quoted as saying the LCMS position on marriage is "repugnant."

Critics of the state's position, including some religious-freedom advocacy groups, reportedly have stated that the commission's proceedings violate the state's constitution while also being unconstitutional on a national level.

The LCMS has participated in amicus briefs for this case and other cases pertaining to religious liberty. To read more about each case, visit lcms.org/board/amicusbriefs.

What's at stake?

- The freedom to live according to one's faith and to honor God in one's work
- Preventing the government from driving people from public office because of their religious beliefs
- The freedom to communicate one's religious beliefs about marriage without fear of government punishment

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Trinity Lutheran Church (LCMS) of Columbia, Mo. v. Pauley

What's at stake:

Can a state prohibit churches and church-run organizations from participating in state programs solely because the groups are religious?

- Trinity Preschool was deemed ineligible for a state grant program that provides recycled tire products to surface children's playgrounds solely because the preschool is operated by a church. The Missouri Department of Natural Resources decided Trinity's learning center was ineligible for the program — a determination purportedly made on an interpretation of a state-constitution provision prohibiting government aid to religion.
- While the LCMS is not a party to the ongoing litigation, Alliance Defending Freedom (ADF) attorneys are representing Trinity Lutheran Church in Columbia, Mo.

See the case details at: adfflegal.org/detailspages/case-details/trinity-lutheran-church-of-columbia-v-pauley

Iowa's "Sorry We Got Caught" brochure HIDES LAW THAT THREATENS CHURCHES

by Christiana Holcomb,
Alliance Defending Freedom (ADF)

Some have asked why ADF did not drop its lawsuit and declare victory after the Iowa Civil Rights Commission changed its controversial brochure applying a state speech ban and restroom law to churches. We didn't drop the lawsuit, because changing the brochure did not make the unconstitutional state law constitutional.

The brochure itself was appalling. For the first time in our nation's history, a state openly applied its sexual orientation and gender identity (SOGI) law to churches. According to the state's own words, Iowa churches that welcome the public to their church services must censor their teaching on human sexuality and open their restrooms, changing facilities, and other sensitive areas to members of the opposite biological sex. Failure to comply is punished with crippling fines.

The brochure matters

Numerous voices decried the brochure, including Commissioner Peter Kirsanov of the U.S. Commission on Civil Rights. The Iowa commission backpedaled, and just days after ADF announced its lawsuit, pulled the controversial brochure from its website and issued a newly scrubbed version. Nothing, of course, prevents the commission from reissuing the old version at some future point.

But even more concerning, the Iowa Civil Rights Commission used the new

brochure to entrench its position and insist that it can apply the SOGI law to churches when it determines that a church is somehow engaged in a "non-religious" activity. Minor cosmetic changes to one brochure cannot mask the fact that the commission still intends to apply the unconstitutional law to churches.

Vague definitions

The underlying problem is the SOGI law itself. The Iowa law is vague. It vaguely defines where the law applies ("public accommodations") and where it doesn't (institutions with a "bona fide religious purpose"). And who decides? Political appointees sitting on the Iowa commission get to both interpret and enforce the law—and we have already seen them do so in a way that infringes on precious First Amendment freedoms.

No unelected bureaucrat should be given the power to troll through a church's activities and weigh whether those activities have a sufficiently "religious purpose" to merit an exemp-

tion from the law. Everything a church does is informed by its faith. In a culture that is increasingly unable to recognize that faith motivates far more than simply Sunday morning worship, this unchecked bureaucratic power poses a substantial threat to the free exercise of the faithful. If Jefferson's wall of separation between church and state has any true meaning, it is to prevent the state from such intrusions into church affairs.

The law is vague enough for the Commission to continue classifying churches as "public accommodations"—businesses—subject to the SOGI law. While the government has more leeway to regulate businesses, it has no such power over churches. Churches are not, and have never been, public accommodations. They are sacred spaces that the First Amendment explicitly protects from state interference. Churches have the constitutional right to select their beliefs, teach their beliefs and govern their houses of worship consistently with their beliefs, without government interference.

Damocles' sword

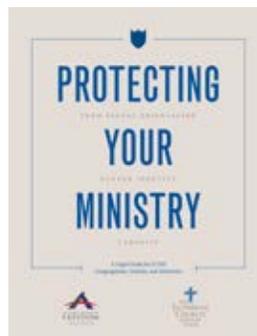
But as it currently stands, Iowa's law hangs like Damocles' sword over Iowa churches. Churches need clarity. They need reassurance that their religious freedoms will be respected by their governing authorities—not subject to bureaucratic whim. No pastor should live in fear that his prayerful exposition of God's Word could land him at the wrong end of a state enforcement proceeding.

NEW LEGAL GUIDE HELPS MINISTRIES PREPARE FOR LAWSUITS

A new concept that sexual liberty trumps religious freedom has begun to impact churches, ministries, faith-based educational institutions and individual Christians across the nation in the form of sexual-orientation, gender-identity ordinances (SOGIs).

In response, The Lutheran Church—Missouri Synod and Alliance Defending Freedom (ADF) have collaborated on a downloadable manual — *Protecting Your Ministry (From Sexual Orientation Gender Identity Lawsuits)* — now available to help LCMS congregations, schools and other ministries hedge against legal intrusions by preparing for issues that may arise in the future.

Protecting Your Ministry offers congregations, schools and ministries guidance on updating their statements of belief on the issues of marriage, human sexuality and gender to include the congregation's belief on same-sex issues.



The manual contains sample language that provides a starting point. Churches and other religious institutions also can ensure facility-usage policies are revised to allow only uses that are consistent with their religious beliefs. The manual provides recommendations for facility-usage policies and more.

"Now is not the time for compromise. It's time once again for a Reformation," said Synod

President Rev. Dr. Matthew C. Harrison in a recent statement announcing the manual's publication. "By holding to our core biblical convictions, fighting for our God-given rights of conscience and fighting against government intrusion into the church and the lives of Christians, we stand firm not only for our church and those who shall follow us; we take a stand for the First Amendment religious liberty for all people."

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NAVY CHAPLAIN'S RELIGIOUS FREEDOM BATTLE ENDS WITH HONORABLE DISCHARGE, MEDAL

Editor's note: Although he is not a Lutheran chaplain, Wes Modder's battle for religious freedom in the military has ramifications for all U.S. military members, including LCMS chaplains and all Missouri Synod Lutherans currently serving in the military at home and abroad.

SAN DIEGO — On Sept. 6, Chaplain Wes Modder received his honorable discharge and a medal of commendation from the U.S. Navy. For the past two years, Modder, a decorated Navy chaplain and former Marine, was at the center of a religious freedom firestorm that caught the attention of national political leaders and media. At his retirement, his 21-year career ended in victory.

"I am so honored and humbled to have had the privilege of serving my country for the past 20 years," Chaplain Wes Modder says. "After such a difficult season, I am grateful to retire from the U.S. Navy with a clear and honorable record."

Modder, who served as Force Chaplain for Navy Special Warfare Command,

came under fire after a few sailors objected to the biblical views Modder expressed during private counseling sessions. The U.S. Navy threatened Modder in late 2014 with "detachment for cause," removal from the promotion list and a Board of Inquiry after Modder answered questions pertaining to marriage and sexuality according to his religious beliefs and denomination's teachings during the private counseling sessions. The Navy later exonerated Modder, dropping all charges against him and allowing him to continue serving in his full capacity as a chaplain.

First Liberty Institute defended Modder, escalating the case to the highest levels of the U.S. Navy, resulting in the Navy



U.S. Navy Capt. Curt Jones, right, inbound chief of staff of Navy Region Southwest, presents Chaplain Wes Modder with a certificate of appreciation for military service during Modder's retirement ceremony, Sept. 6. Modder also received his honorable discharge and a medal of commendation from the Navy, despite his recent stand for religious liberty in the military.

clearing Modder of all charges and restoring him to full service.

"Chaplain Modder's victory was not just a victory for him, but for everyone who serves in our military," said Kelly Shackelford, president and CEO of First Liberty Institute.

Read more at [FirstLiberty.org/ChaplainModder](https://www.firstliberty.org/ChaplainModder)



UPDATE: COURT STOPS FEDERAL OVERREACH, SAYS SCHOOLS CAN PROTECT STUDENT PRIVACY IN LOCKER ROOMS

The U.S. District Court for the Northern District of Texas, Wichita Falls Division, has found that the federal government failed to follow the public notice and comment process that federal law requires and that the text of Title IX regarding the definition of sex is unambiguous. According to the court, Congress intended it to refer to the "biological differences between male and female students:"

Excerpts from the order of the U.S. District Court for the Northern District of Texas, Wichita Falls Division:

p. 31: "Based on the foregoing authority, the Court concludes § 106.33 is not ambiguous. It cannot be disputed that the plain meaning of the term sex as used in § 106.33 when it was enacted by DOE [Department of Education] following passage of Title IX meant the biological and anatomical differences between male and female students as determined at their birth."

pp. 31-32: "Additionally, it cannot reasonably be disputed that DOE complied with Congressional intent when drawing the distinctions in § 106.33 based on the biological differences between male and female students. As the support identified by Plaintiffs shows, this was the common

understanding of the term when Title IX was enacted, and remained the understanding during the regulatory process that led to the promulgation of § 106.33. This undoubtedly was permitted because the areas identified by the regulations are places where male and female students may have to expose their 'nude or partially nude body, genitalia, and other private parts,' and separation from members of the opposite sex, those whose bodies possessed a different anatomical structure, was needed to ensure personal privacy."

p. 32: "Based on the foregoing, the Court concludes § 106.33 is not ambiguous. Given

this regulation is not ambiguous, Defendants' definition is not entitled to Auer deference, meaning it does not receive controlling weight ... Instead, Defendants' interpretation is entitled to respect, but only to the extent it has the power to persuade."

p. 37 "Further, while this injunction remains in place, Defendants are enjoined from initiating, continuing, or concluding any investigation based on Defendants' interpretation that the definition of sex includes gender identity in Title IX's prohibition against discrimination on the basis of sex."

FREE TO BE FAITHFUL ON WORLDWIDE KFUO.ORG

Listen to KFUO.org interviews with key attorneys and other experts involved in major issues affecting religious liberty as part of the Synod's Free To Be Faithful initiative.

KFUO radio host Kip Allen leads the discussion on KFUO.org 2:30 p.m. Central time on the third Wednesday of each month. Upcoming interviews will focus on religious freedom in the military, growing opposition to the tax-exempt status of churches, updates on important legal cases and more.

Listeners may ask questions by email at publicsquare@kfu.org or telephone at 314-821-0850 or 800-730-2727. Questions may be submitted in advance or during the program.



Previous interviews are available at kfuam.org/category/free-to-be-faithful.



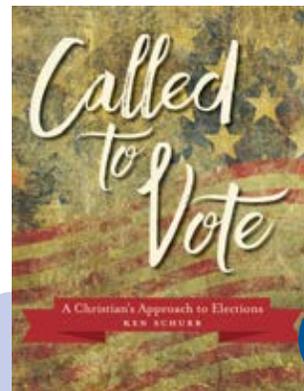
Kip Allen, moderator of Worldwide KFUO's monthly "Free to be Faithful" program, interviews a guest at the 2016 National LCMS Convention.

KFUO Free to be Faithful program targets election issues

What issues in November's election are of interest to The Lutheran Church—Missouri Synod? What are the positions of the presidential candidates

and their parties' platforms on these issues?

Worldwide KFUO's Free to be Faithful moderator Kip Allen and his guest, the Rev. Christopher Thoma of Linden, Mich., addressed these questions in an Aug. 17 broadcast, and the program is now available at kfuam.org/category/free-to-be-faithful.



NEW DOWNLOADABLE CPH STUDY EXAMINES CHRISTIANS' ROLE IN ELECTIONS

Based on key Bible teachings and unbiased in its politics, *Called to Vote: A Christian's Approach to Elections* helps Lutherans think clearly about God's will in government and their responsibilities as voters. The four lessons cover these topics:

- Distinguishing between God's Word and our own human judgments
- Distinguishing, but not separating, God's two modes of ruling
- Repentance and involvement in politics

Each session has an introduction to put the session's topic in context, questions for discussion and a closing prayer. A leader guide and student pages are included.

Order online at cph.org or call (800) 325-3040 (Item 204215pdf).

Legal Guide continued from pg. 2

At the 2016 Synod convention, delegates overwhelmingly adopted Res. 14-10A "To Thank Alliance Defending Freedom" for its ongoing collaborative partnership with the LCMS, which involves protecting religious liberty.

To download Protecting Your Ministry, visit lcms.org/socialissues/freetobefaitful

A copy of the guide has been mailed to every LCMS congregation and school.



PHOTOS: LCMSERIK W. LUNSFORD

Video of the Month: Anderson Presents on Religious Liberty and Traditional Marriage

During a special presentation July 11, 2016, at the 66th Regular Convention of The Lutheran Church—Missouri Synod in Milwaukee, Wis., Dr. Ryan Anderson speaks about the Supreme Court's 2015 decision redefining marriage in all 50 states, what it means for Americans and what it will mean for the free exercise of religion

and the freedom of the Church.

Anderson is a senior research fellow at the Heritage Foundation and author of *Truth Overruled: The Future of Marriage and Religious Freedom*.

View the video at: blogs.lcms.org/2016/anderson-on-religious-liberty-traditional-marriage

PROTECTING TROOPS' RELIGIOUS FREEDOM:

LCMS calls for clear DoD guidance

by Roger Drinnon

In light of the U.S. Department of Defense's (DoD's) recently mandated LGBT Pride Month and its new policies for transgender service members which among other things advocate in-service gender transitions while serving in the military, the LCMS has sent a request to the Secretary of Defense to ensure specific protections for chaplains, service members, medical personnel, DoD civilians and other DoD-affiliated employees.

The Synod's request, signed by LCMS President Rev. Dr. Matthew C. Harrison and Chaplain (U.S. Navy Capt. Ret.) Craig Muehler, director of LCMS Ministry to the Armed Forces, calls for specific protections for expressing personal religious beliefs to be codified in DoD and service-specific guidance, as service members purportedly are experiencing increasing restrictions on living out their faith in their military vocations.

Read more at blogs.lcms.org/2016/lcms-calls-for-clear-dod-guidance



LCMS/Errik M. Lunsford

YOU CAN MAKE A DIFFERENCE

The LCMS is vigorously working to establish a strong voice in Washington, D.C. — one that is able to speak to critical religious liberty issues Missouri Synod Lutherans now face.

The mission of the new Lutheran Center for Religious Liberty (LCRL) is to ignite and fuel a uniquely Lutheran response to increasing intrusions by the government in the realm of the Church by educating, encouraging and equipping LCMS members and organizations to take informed action in support of religious freedom in the public square.

To learn more about the Lutheran Center for Religious Liberty, or to partner with the LCMS in establishing this enduring, faithful Lutheran voice in our nation's capital, please contact:

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LCMS/Errik M. Lunsford

Recruits listen to Cmdr. Charles E. Varsogea, chaplain at the Marine Corps Recruit Depot in San Diego.

Metro D.C.
University of Maryland
Jan. 4-6, 2017

Liberty

NATIONAL LCMS CAMPUS
MINISTRY CONFERENCE

For registration information go to
calendar.lcms.org/event/2017-lcms-campus-ministry-conference/.

lcms.org/lcmsu #Liberty2017 f LCMSU @LCMSU

Start making plans now to attend the 2017 LCMS Life Conference. Join fellow LCMS Lutherans for learning and fellowship at the Westin Arlington Gateway Hotel in Arlington, Va:

2017 LCMS Life Conference
REGISTER TODAY!

Join LCMS Life Ministry as we proclaim God's truth that all life is sacred — from the very beginning until the natural end.

Life 360°

We're taking a 360° look at life!

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WASHINGTON, D.C.
JAN. 27-29, 2017
lcms.org/lifeconference