

No. 08-1026

IN THE UNITED STATES COURT OF APPEALS FOR THE FOURTH
CIRCUIT

ALBERT SNYDER,
Plaintiff/Appellee

vs.

WESTBORO BAPTIST CHURCH, INC., et al.,
Defendants/Appellants

Appeal from the District of Maryland
Trial Court Judge: Honorable Robert D. Bennett
District Court Docket Number 06-CV-1389

**APPELLEE'S MOTION TO STRIKE RESPONSE BRIEF FILED
JULY 22, 2008, AND FOR LEAVE TO FILE CORRECTED BRIEF TO
INCLUDE RESPONSE TO APPELLANTS AND TO AMICI CURIAE**

Appellee, Albert Snyder, by and through counsel, respectfully requests that your Honorable Court grant him leave to file a corrected response brief to include a response to Appellants' opening brief and a response to the amici curiae briefs filed by Thomas Jefferson Center for the Protection of Free Expression and American Civil Liberties Union and ACLU of Maryland, and in support thereof states as follows:

1. Appellants filed their opening brief on June 16, 2008.

2. The Thomas Jefferson Center for the Protection of Free Expression filed an amicus curiae brief on June 18, 2008, in support of Appellants seeking reversal.

3. The American Civil Liberties Union and ACLU of Maryland filed an amicus brief on June 25, 2008, in support of Appellants.

4. On July 22, 2008, Appellee filed his response brief to Appellants' opening brief.

5. On July 28, 2008, Appellee filed a motion seeking an extension of time within which to respond to the amici curiae briefs.

6. By Order dated July 30, 2008, your Honorable Court denied Appellee's motion for an extension of time without prejudice to the filing of a motion to strike the response brief and to file a corrected response brief to address arguments made by both appellants and amici curiae.

7. Appellee hereby requests that your Honorable Court strike the brief filed July 22, 2008, and grant him leave to file a corrected response brief, such brief to be filed by August 11, 2008.

8. Pursuant to FRAP 32(a)(7), Appellee's brief is limited to 30 pages or 14,000 words. Since Appellee is responding to three separate arguments, Appellee

is requesting leave to file a corrected response brief in excess of the limits proscribed by Rule 32(a)(7).¹

9. On July 30, 2008, Jeffrey I. Shulman, an Associate Professor at the Georgetown University Law Center, Washington, D.C., filed an amicus brief in support of Appellee.

10. Appellee has no objection to an extension of time within which Appellants may respond to Appellee's Corrected Brief and to Professor Shulman's amicus brief.

11. Appellants previously consented to reciprocal requests for an extension of time to respond and reply, respectively. However, Appellee will seek Appellants concurrence once again and will notify the Court if concurrence is received.

12. Counsel for Appellants and for Amici have been informed of Appellee's intention to file this motion. As of this time, no response has been received, and the position of counsel is unknown.

13. Appellee believes and therefore avers that neither Appellants nor Amici will be prejudiced by the grant of the relief requested herein.

¹ At this time, Appellee does not know if he will exceed the limits but is requesting this relief in advance rather than burden the Court with a separate motion.

WHEREFORE, Appellee, Albert Snyder, respectfully requests that your Honorable Court strike the brief filed July 22, 2008, and grant him leave to file a corrected response brief to address arguments made by both Appellants and by Amici Curiae; and, Appellee, Albert Snyder, respectfully requests that your Honorable Court grant him permission to exceed the page and or word limits dictated by FRAP 32(a)(7).

BARLEY SNYDER LLC

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CERTIFICATE OF SERVICE

I hereby certify that on this date Plaintiff/Appellee's Motion is being served in the following manner:

Via EM/ECF System

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Date: August 1, 2008