**MCGEE CIVIL RIGHTS MOOT COURT**

**2023-2024 PROBLEM**

***Presented by Mitchell Hamline School of Law***

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*LENORE MAXWELL* and *THE ALLIANCE FOR A SECULAR STATE*,

Plaintiffs,

v.

*THE MCGEE STATE BOARD OF EDUCATION*, *THE ETERNALIST EDUCATIONAL AND OUTREACH FOUNDATION, INC.*, and *THE BOARD OF DIRECTORS OF BAUDOLINO COMMUNITY SCHOOL*,

Defendants.

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You are counsel arguing *Maxwell v. McGee State Board of Education*, a civil lawsuit filed in federal district court in the District of McGee. The plaintiffs are Lenore Maxwell (a state of McGee resident), and the Alliance for a Secular State (a McGee non-profit corporation, referred to herein as “the Alliance”). The defendants are the McGee State Board of Education, the Eternalist Educational and Outreach Foundation (a McGee religious non-profit corporation, referred to herein as “the Foundation”) and Baudolino Community School (a charter school operated by the Foundation in McGee City). The claims in this appeal have been consolidated pursuant to the McGee rules of court which authorize consolidation of claims that involve related facts.

The Alliance alleges that the State Board of Education violated state law when it agreed to sponsor Baudolino Community School as a charter school operated by the Foundation. The Alliance cites a provision in state law which prohibits the State Board from sponsoring a charter school which is “operated by a religious organization which intends to provide religious instruction in the charter school.” The defendants argue this provision of state law violates the Free Exercise Clause of the First Amendment and is therefore unconstitutional and unenforceable.

Maxwell alleges that her rights under the Equal Protection Clause and Section 1983 of Title 42 of the United States Code were violated when the school rescinded its employment offer to her. She alleges that the school engaged in unlawful discrimination when it did so. The defendants argue that employment decisions made by the school are not state action implicating the Equal Protection Clause or Section 1983 liability.

The issues presented for you to argue are as follows:

1) A provision of McGee state law prohibits a charter school from being “operated by a religious organization which intends to provide religious instruction in the charter school.” Does this provision of state law violate the Free Exercise Clause of the First Amendment to the United States Constitution?

2) Is an employment decision by the charter school “state action” for purposes of liability under 42 U.S.C. Section 1983?

Each team must argue both issues. Briefing and arguments must be limited to these two issues. The parties should not argue other issues outside the identified issues (meaning, the parties should not argue the issue of whether the school’s employment decision actually violates the Equal Protection Clause or section 1983, if it is state action).

The materials you should use to develop your arguments are enclosed: a stipulation of facts agreed to by the parties, and provisions of the McGee State Constitution and state law. Of course, developing your argument will also require you to rely significantly on case law. This proceeding takes place in federal court in the federal District of McGee, which is part of the fictional Fourteenth Circuit. Therefore, decisions of the United States Supreme Court are, of course, binding precedent, while decisions of other federal and state courts are not binding, though they may be persuasive.

The religious denomination in this problem is fictional and is not intended to describe or represent any existing religion or denomination. Any similarity between the name of the denomination in this problem and any existing denomination is unintended and coincidental.