



FACT SHEET ***Pennybacker v. Beshear***

ABOUT Pennybacker v. Beshear

The Kentucky General Assembly nearly unanimously enacted a bill in April 2006 that granted \$10 million to the University of the Cumberlands toward the construction of a pharmacy school building, as well as \$2 million to begin a scholarship fund for the school's students. Later that year in June, several activist groups sued Kentucky Gov. Ernie Fletcher alleging that the university cannot receive public funding because of its unrelated religious-based policies. The University of the Cumberlands was approved to receive the public funding, but activists blocked the money through a lawsuit focusing on the institution's religious beliefs rather than on the non-religious purpose of the funds. Alliance Defense Fund attorneys representing a group of state legislators are appealing the decision. The legislators decided to intervene in the suit to protect their right to enact such legislation. The activist groups filing the suit *Pennybacker v. Fletcher* (now *Pennybacker v. Beshear*) in 2006 received a judgment and order in their favor blocking the funding in March 2008, and ADF attorneys appealed.

CURRENT STATUS OF Pennybacker v. Beshear AS OF 9/23/09

In May 2009, ADF attorneys and ADF-allied attorney Bryan Beauman of Lexington appealed to the Kentucky Supreme Court. ADF Senior Counsel Brian Raum will be present for arguments in defense of the funding at a hearing scheduled for Sept. 24. Attorney Kim Colby of the Christian Legal Society will argue at the hearing for the school.

FOCUS OF HEARING – WHAT IS AT STAKE?

If the lower court's decision is upheld, private academic institutions throughout Kentucky could have their government funding denied based on their religious affiliation and beliefs even though the funding is for entirely non-religious purposes. This would not only violate the right of the legislature to enact such legislation, but it would also contradict established Kentucky case law that has never prohibited funds to private institutions or facilities based solely on their religious affiliation. Students are the ones who will ultimately suffer if the lawsuit is successful.

CONTACT

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ABOUT ADF

ADF is a legal alliance of Christian attorneys and like-minded organizations defending the right of people to freely live out their faith. Launched in 1994, ADF employs a unique combination of [strategy, training, funding, and litigation](#) to protect and preserve religious liberty, the sanctity of life, marriage, and the family.

ABOUT Brian Raum

Brian Raum serves as senior counsel with the Alliance Defense Fund at its headquarters in Scottsdale, Arizona. Having earned his J.D. from the Regent University School of Law, Raum has been practicing law since 1995. He is admitted to the bar in the states of Virginia and New York, along with the federal bars in all the districts of New York, as well as the Central District of Illinois and the U.S. Court of Appeals for the Second, Third, Seventh, Ninth, and Federal Circuits. Before joining ADF in 2006, he engaged in constitutional and civil litigation for 11 years in New York and Virginia.