

**NO. SC01-2206**

**IN THE SUPREME COURT OF FLORIDA**

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RICHARD WARNER, et al.  
Plaintiffs-Appellants,

vs.

CITY OF BOCA RATON, FLORIDA  
Defendant-Appellee.

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On Certification from the United States  
Court of Appeals for the Eleventh Circuit

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**AMICUS BRIEF OF LIBERTY COUNSEL IN SUPPORT  
OF PLAINTIFFS-APPELLANTS**

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## **INTEREST OF AMICUS**

Liberty Counsel is particularly interested in the case before this Court as it involves the interpretation of Florida's Religious Freedom Restoration Act. Mathew D. Staver, President and General Counsel of Liberty Counsel, personally researched and drafted the Florida Religious Freedom Restoration Act. Mr. Staver and the staff and volunteers of Liberty Counsel also actively obtained sponsors in the Florida Senate and House, lobbied for the legislation, and attended staff and committee meetings to educate about the Florida Religious Freedom Restoration Act. Liberty Counsel was also part of a broad-based coalition consisting of interested groups from different political and religious spectrums in support of this law. The question at issue, whether Florida's Religious Freedom Restoration Act broadens the definition of religiously-motivated conduct, was specifically addressed in the Act by Attorney Staver and the coalition as a result of concerns that some courts had rigidly confined a person's religious belief to officially sanctioned or institutionally-held beliefs, and thus drafted the legislation with this concern in mind.

This Brief is filed with the consent of all parties and letters of consent are attached to this Brief as an Appendix.

## **SUMMARY OF ARGUMENT**

The Florida Religious Freedom Restoration Act was meant to apply to an individual's free exercise of religion as long as it was motivated substantially by a religious belief. This is clear from the plain language as well as the history surrounding the Act. The plain language bears this out by specifically not requiring the belief to be central to a larger system of institutional beliefs. Additionally the Act was drafted with the intent of not mooring the Act to restrictive federal definitions of religious beliefs.

The United States Supreme Court has specifically and consistently held that government may not prefer one religion over another and the test adopted by the District Court does specifically that and thus violates the Establishment Clause of the United States Constitution.

Finally, the United States Constitution mandates that an individuals' religious beliefs may not be limited only to institutionally or denominationally approved religious beliefs. Therefore, the test adopted by the District Court flies in the face of the expansive definition of religious beliefs consistently adhered to by the United States Supreme Court and as required by the United States Constitution. For these reasons, the certified questions should be answered in the affirmative.

## **ARGUMENT**



## I.

### **THE LEGISLATIVE INTENT AND THE CLEAR LANGUAGE OF THE FLORIDA RELIGIOUS FREEDOM RESTORATION ACT IS TO RECOGNIZE A PERSON'S FREE EXERCISE OF RELIGION SO LONG AS THE INDIVIDUAL PERSON'S ACTIONS ARE SUBSTANTIALLY MOTIVATED BY A RELIGIOUS BELIEF, IRRESPECTIVE OF WHETHER THE RELIGIOUS EXERCISE IS COMPULSORY OR CENTRAL TO A LARGER SYSTEM OF RELIGIOUS OR INSTITUTIONAL BELIEFS**

The certified questions before this Court are of particular interest to Amici. As a judicial officer of this Court, Attorney Mathew D. Staver represents to this court that he was the author and drafter of the Florida Religious Freedom Restoration Act (hereafter "FRFRA"). *See Fla. Stat. §761.01 et seq.* Prior to the adoption of FRFRA, Attorney Staver and Liberty Counsel participated in a broad-based, nationwide coalition of politically and religiously diverse groups in support of the federal statute known as the Religious Freedom Restoration Act (hereafter "RFRA"). *See 42 U.S.C. §§2000bb et seq.* The coalition on the national level consisted of Republicans, Democrats and Independents. It consisted of Christian and Jewish organizations, including grassroots lobbying and public interest law firms, such as the American Civil Liberties Union. Although there are many things that these politically and religiously diverse groups may not agree upon, all agreed in a consensus that the federal statute

should protect religious free exercise.

Following the adoption of the Federal RFRA, some courts took a restrictive view of what constituted an exercise of religion, while other courts took a less restrictive approach. *See Mack v. O'Leary*, 80 F.3d 1175, 1178 (7<sup>th</sup> Cir. 1996), *judgment vacated*, 118 S. Ct. 36 (1997) (collecting cases).

The Eleventh Circuit Court of Appeals was one court that took a more restrictive view, namely that a person's free exercise of religion would be substantially burdened only if the person was prevented from engaging in a religiously-mandated activity, or required to participate in an activity prohibited by the person's religion. *See Cheffer v. Reno*, 55 F.3d 1517, 1522 (11<sup>th</sup> Cir. 1995). The *Cheffer* Case concluded that there was no substantial burden place on Myrna Cheffer's free exercise of religion because there was no evidence that her religion required her to express herself in a particular manner. Attorney Staver was the attorney representing Myrna Cheffer in her appeal to the Eleventh Circuit Court of Appeals. Thus, Attorney Staver had first-hand experience with a court that applied a more restrictive view of the free exercise of religion.

Drawing from this background in the national coalition in support of the Federal RFRA, and in the application of the Federal RFRA in the *Cheffer* case, Attorney Staver began researching the various circuit courts of appeal and drafting legislation

in Florida that would address and reject the more restrictive view of the free exercise of religion. In so drafting the legislation, Attorney Staver was aware of the split in the circuit courts which followed a less restrictive view, such as the case of *Werner v. McCotter*, 49 F.3d 1476, 1480 (10<sup>th</sup> Cir. 1995), which focused on the individual's personal belief as opposed to an institutionally-mandated belief. The FRFRA was drafted so as to avoid a restrictive application of the free exercise of religion to a given case. The concern of a restrictive application of the FRFRA or any other religious free exercise claim is that it requires courts to delve into a religious institution's dogma in order to interpret institutional practices.

The other concern behind the drafting of the FRFRA was that of requiring courts to delve into institutional beliefs of longstanding duration. Such an approach, it was felt, could create numerous constitutional quandaries. Believing that such an inquiry would in fact establish a religion by requiring the courts to interpret the dogma of an institutionally-held belief, and would discriminate upon religions based upon the historicity of the belief, the FRFRA was drafted to avoid these pitfalls. The FRFRA was further drafted to avoid requiring a court to delve into the very problematic determination of whether a person's belief is central to a larger system of religious belief.

The FRFRA is both like and unlike the Federal RFRA in two important ways.

First, the FRFRA patterned much of its language after the Federal RFRA in an attempt to restore the compelling interest test to situations in which the government substantially burdened a person's exercise of religion, even if the burden resulted from a rule of general applicability. However, the FRFRA is unlike the Federal RFRA, in that it was drafted specifically to avoid a restrictive application of a person's free exercise of religion. Thus, the FRFRA defines the "exercise of religion" as "an act or refusal to act that is substantially motivated by a religious belief, **whether or not the religious exercise is compulsory or central to a larger system of religious belief.**" See Fla. Stat. §761.02(3) (emphasis added). In applying the FRFRA, the court in *Warner v. City of Boca Raton*, 64 F. Supp.2d 1272, 1283 (S.D. Fla. 1999), completely misunderstood the import of the definition section of the statute. The *Warner* decision actually created a more restrictive view, even in the most restrictive court application of the Federal RFRA. *Warner* limited a person's free exercise of religion in a way profoundly in opposition to the legislative intent and the clear language of the FRFRA. *Warner* stated the following:

[A] court should consider whether the practice: (1) is asserted or implied in relatively unambiguous terms by an **authoritative sacred text**; (2) is clearly and consistently affirmed in **classical formulations of doctrine and practice**; (3) has been **observed continuously**, or nearly so, throughout the **history of the tradition**; and (4) is **consistently observed in the tradition** as we needed in recent times. If a practice

meets all four of these criteria, it can be considered central to the religious tradition. If the practice meets one or more of these criteria, it can be considered a tenet, custom, or practice of the religious tradition. If a practice meets none of these criteria, it can be considered a matter of purely personal reference regarding religious exercise.

*Id.* at 1285.

The problem with the definition of the free exercise of religion in the *Warner* court is that it requires precisely what the FRFRA prohibits. To effectively apply the *Warner* analysis, a court would be required to delve into religious dogma to determine if the dogma was longstanding, continuously practiced, and whether its ancient roots are continually applied today. Any religion associated with an institution will vary over time in terms of the rigorous application, or lack thereof, of a particular doctrine. Individual members of a religious institution may hold to earlier or later beliefs, or a combination of both. Under the *Warner* definition, a court must determine whether the earlier or later belief is religiously motivated, or is a combination of the beliefs to be considered. Must a court call cleric to testify regarding their various religious interpretations, and differences of application, of the institutional dogma? One court may accept one particular religion because of its ancient historicity; while another court may deny free exercise rights to a person either (1) because the belief is institutionally-held but is of more recent origin, or (2) because the belief is ancient but not institutionally-held. The end result is to establish or prefer one religion over another

and to inject the courts precisely where they should not be.

The FRFRA was drafted based upon the history of the application of the Federal RFRA and the restrictive versus less restrictive application of the federal courts applying the federal RFRA, combined with the pitfalls incumbent on a restrictive view of the “exercise of religion”. The FRFRA specifically rejects the notion that a person’s free exercise of religion must be tied to an institution, must be of ancient origin, or must be central to a larger system of religious belief. The FRFRA means exactly what it says, namely that the “exercise of religion” is defined as “an act or refusal to act that is substantially motivated by a religious belief, whether or not the religious exercise is compulsory or central to a larger system of religious belief.” Fla. Stat. §761.02(3). The legislative intent behind the phrase could not be clearer than the language itself. Therefore, both certified questions presented to this Court should be answered in the affirmative.

## II.

### **PREFERRING ONE RELIGION OVER ANOTHER VIOLATES THE ESTABLISHMENT CLAUSE UNDER THE UNITED STATES CONSTITUTION**

Limiting a person’s claim under the FRFRA to beliefs central to a larger system of beliefs or to ancient institutional beliefs would show a preference for one religion over another and therefore violate the Establishment Clause. “The ‘establishment of

religion' clause of the First Amendment means at least this: neither a state nor the federal government can ... pass laws which aid one religion, aid all religions, **or prefer one religion over another.**" *Everson v. Board of Educ.*, 330 U.S. 1, 15 (1947) (emphasis added). "If the purpose or effect of a law is to ... discriminate invidiously between religions, that law is constitutionally invalid even though the burden may be characterized as being only indirect." *Braunfield v. Brown*, 366 U.S. 599, 606 (1960). Because government cannot prefer one religion over another, "any enactment of [the government] which either directly or indirectly discriminates or effects discrimination among religions is unconstitutional." *United States v. Carson*, 282 F. Supp. 261, 268 (E.D. Ark. 1968).

"We repeat and again reaffirm that neither a state nor the federal government can ... constitutionally pass laws or impose requirements which aid all religions as against nonbelievers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs." *Torcaso v. Watkins*, 367 U.S. 488, 495 (1961). "The government must be neutral when it comes to competition between sects. It may not thrust any sect on any one person." *Zorach v. Clauson*, 343 U.S. 306, 314 (1952). The Supreme Court has also stated, "We sponsor an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma."

*Id.* at 313.

Reading the Florida FRFRA as the court did in *Warner v. City of Boca Raton*, 64 F.Supp.2d 1272, 1283 (S.D. Fla. 1999), results in an unconstitutional preference among religions. The *Warner* court's four-part test violates "a principle at the heart of the Establishment Clause, that government should not prefer one religion to another... ." *Board of Educ. of Kiryas Joel Village Sch. Dist. v. Grumet*, 512 U.S. 687, 703 (1994). "Whatever else the Establishment Clause may mean..., it certainly means at the very least that government may not demonstrate a preference for one particular sect or creed (including a preference for Christianity over other religions)." *County of Allegheny v. ACLU*, 492 U.S. 573, 604 (1994). "The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another." *Larson v. Valente*, 456 U.S. 228, 244 (1982). The *Warner* test prefers some religious beliefs, sects or denominations over others and therefore violates the Establishment Clause.

Additionally, the *Warner* court's application of the FRFRA violates the Supreme Court's Establishment Clause test set forth in *Lemon v. Kurtzman*, 403 U.S. 602 (1971). This test requires that a statute must have a secular legislative purpose, that its principle or primary effect must be one that neither advances nor inhibits religion, and that the statute must not foster an excessive government entanglement



with religion. *Id.* at 612-13. The *Warner* analysis violates each of the three prongs. First, the *Warner* test does not have a secular legislative purpose because it favors some religious denominations or churches over others. A statute or judicially made test cannot have a secular legislative purpose if, on its face, it distinguishes between particular religions or denominations. The *Warner* test only applies to members of “recognized” religions or religious denominations, and does not apply to any other individuals who may hold a sincerely-held religious belief, even if the belief is held as strongly and as consistent as an ancient institutional religion. The *Warner* test prefers some religious denominations or creeds at the expense of others. Therefore, the *Warner* test violates the first prong of the *Lemon* test.

Additionally, the primary effect of the *Warner* test is to inhibit the religious practices of individuals who have sincerely-held religious beliefs solely because the person is not part of an institution which holds the same belief. The primary effect of the *Warner* test is also to advance those religions that are considered part of recognized historical dogma in violation of the Establishment Clause. Because the *Warner* test aids members of “recognized” religions having longstanding and consistently applied dogma at the expense of individuals (or even less ancient institutions) who hold sincerely-held religious beliefs, the *Warner* test has the primary effect of inhibiting the religious practices of those individuals who are not members of

a recognized, ancient religious denomination. The *Warner* test has a primary effect of inhibiting the religious beliefs of those who are not members of a recognized denomination having the exact same belief in question as the individual claim, and also has the primary effect of advancing recognized ancient religious denominations at the expense of other individuals who have sincere religious beliefs.

Additionally, the *Warner* test fosters an excessive government entanglement with religion. The four-part *Warner* test clearly involves the government to a great degree in religious matters. The first prong requires a court to review “unambiguous terms” of the institution’s “authoritative sacred text.” The court must first discover which text is “authoritative” and then determine whether its teachings are “unambiguous.” To do so, as in the *Warner* case, a court must call so-called experts, some of whom will no doubt disagree on what is “authoritative” and no doubt disagree on what is “unambiguous.” Then the court must decide which view of the religion it must accept.

The second prong requires to the court to determine if the “unambiguous” belief is “clearly and consistently affirmed in classic formulations of doctrine and practice.” Under this test, the court must make further inquiry to determine whether the belief is part of the “classic” formulation of doctrine. Whatever is meant by “classic” as opposed to “non-classic” doctrine is up for grabs. Yet, *Warner* requires a court to

make such doctrinal determinations.

The third prong of *Warner* requires a court to determine if the institution has historically varied from observing this “classic” and “unambiguous” doctrine derived from an “authoritative sacred text.” This determination requires the court to familiarize itself with ancient church history. The fourth prong again requires an historical analysis to determine if the institutional belief has varied in application over the years. The judge must replace the judicial robe with a clerical robe to make these determinations.

“The Supreme Court has frowned upon the government becoming too involved in matters so seemingly mundane as property disputes if they necessitate that the state delve too deeply into questions of religious dogma.” *Sherr v. Northport-East Northport Union Free Sch. Dist.*, 672 F. Supp. 81, 90 (E.D.N.Y. 1987) (citing *Jones v. Wolf*, 443 U.S. 595 (1979); *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1969); *Kreshik v. St. Nicholas Cathedral*, 363 U.S. 190 (1960); *Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church in N. Am.*, 344 U.S. 94 (1952)). Government should not be placed in the position of having to decide matters of religious dogma or theology in order to determine whether to grant protection to a religious belief. The *Warner* test requires such a determination.

By way of illustration, several courts have ruled, in the compulsory vaccination context, that the government may not limit belief to those of a “recognized” religion. This is exactly what the *Warner* court does by requiring the person’s belief to be part of a longstanding institutional belief. For example, in *Davis v. Maryland*, 451 A.2d 107 (Md. 1982), the court struck down a statute that allowed an exemption from immunizations for pupils whose parents are “members or adherents of a recognized church or religious denomination opposing immunization.” *Id.* at 372. The plaintiff “rested his objection on his personal religious views rather than the tenets of any recognized church or religious denomination of which he was a member or adherent.” *Id.* at 374. The court stated that, “If the legislature chooses to provide a religious exemption from compulsory immunization, however, the exemption must not run afoul of the Establishment Clause. ... [I]n creating this exemption, the legislature presumably saw fit to respect the religious beliefs of certain of its citizens but not others.” *Id.* at 112. The court recognized that by limiting the availability of the exemption, the statute had “the effect of respecting the personal religious beliefs and practices of those who happen to be members or adherents of the two faiths that have been recognized while overlooking the religious beliefs and practices of those such as the petitioner. ... As far as the government is concerned, however, such beliefs are entitled to equal respect.” *Id.* Therefore, the court struck down the immunization exemption as

violative of the Establishment Clause.

The New York courts have also declared unconstitutional similar exemption statutes in two different cases. *See Maier v. Besser*, 341 N.Y.S.2d 411 (N.Y.Sup. Ct. 1972); *Sherr v. Northport-East Northport Union Free Sch. Dist.*, 672 F. Supp. 81 (E.D.N.Y. 1987). In *Maier*, the New York court recognized that, “There is no right in a state or an instrumentality thereof to determine that a cause is not a religious one. Such a censorship of religion as the means of determining its right to survive is a denial of liberty protected by the First Amendment and included in the liberty which is within the protection of the Fourteenth Amendment.” *Id.* at 413 (*citing Cantwell v. Connecticut*, 310 U.S. 296 (1940)). “There does not appear to be any rational basis or legitimate purpose in requiring a person to be a registered member of an organized church as opposed to one who can prove that he genuinely practices and lives his religious tenets in order to qualify for this religious exemption. ...Thus, if the legislature desires to exempt for religious grounds a certain class of persons, it must do so on a logical and non-discriminatory basis.” *Id.* at 414. The *Sherr* court likewise invalidated the New York state religious exemption statute that only applied to recognized religious organizations under the Supreme Court’s test in *Lemon*. *See Sherr*, 672 F. Supp. at 89-90.

The Massachusetts Supreme Court held that an exemption from immunization

that only applied to members of a recognized church or religious denomination was unconstitutional. *See Dalli v. Board of Educ.*, 267 N.E.2d 219 (Mass. 1971). “This preferred treatment of one group and discrimination against the other violates the First and Fourteenth Amendments of the United States Constitution... .” *Id.* at 223. “If the beliefs be sincerely held they are entitled to the same protection as those more widely held by others.” *Id.* at 222.

A New Jersey court has also invalidated a similar provision. *See Kolbeck v. Kramer*, 202 A.2d 889 (N.J. Sup. Ct. 1964). The court stated, “The state or any instrumentality thereof cannot, under any circumstances, show a preference of one religion over another. Such favoritism cannot be tolerated and must be disapproved as a clear violation of the Bills of Rights of our Constitutions.” *Id.* at 893.

The Supreme Court of Mississippi invalidated a similar provision to the Arkansas Statute. *See Brown v. Stone*, 378 S.2d 218 (Miss. 1980). In invalidating the exemption that only applied to members of recognized religions, the court stated, “The exception, which would provide for the exemption of children of parents whose religious beliefs conflict with the immunization requirements, would discriminate against the great majority of children whose parents have no such religious convictions.” *Id.* at 223. “Therefore, we hold that the provision providing an exception from the operation of the statute because of religious belief is in violation of

the Fourteenth Amendment to the United States Constitution and therefore is void.”  
*Id.*

Most recently, the Wyoming Supreme Court held that parents could not be forced to go through hearing to determine the sincerity of their religious beliefs. *See LePage v. State*, 18 P.3d 1177 (Wy. 2001). The Department of Health in *LePage* denied an exemption from the Hepatitis B immunization because it did not believe the beliefs held by the parents were religious. *Id.* at 1179. The Wyoming Supreme Court stated that construing the statute to allow the Department of Health to judge the sincerity of religious beliefs and to only grant exemptions to those whose beliefs were “sincere” “raises questions concerning the extent to which the government should be involved in the religious lives of its citizens.” *Id.* at 1181. The court then reversed the Department of Health and granted an exemption from the Hepatitis B immunization.  
*Id.*

In *United States v. Carson*, 282 F. Supp. 261 (E.D. Ark. 1968), the government had prosecuted Carson for refusing to be inducted into the armed services. Part of the reason Carson refused to be inducted was because his church opposed vaccinations in any form, and he would be required to submit to vaccinations after his induction. *Id.* at 266. The government prosecuted Carson because he merely had an objection to what would happen to him if he were inducted rather than having an

objection to war in general. *Id.* at 267. The court stated that, “Any enactment of Congress which either directly or indirectly discriminates or effects discrimination among religions is unconstitutional.” *Id.* at 268. The court also stated that, “To allow one registrant exemption because of his generally recognized religious opposition to participation in war and not to allow exemption for another registrant who is religiously opposed to service on another ground not so generally recognized would be to discriminate... .” *Id.* at 269. The court then held that Carson was not guilty of refusing to be inducted into the service and dismissed the criminal charges against him. *Id.*

The *Carson* case as well as cases from other states and United States Supreme Court precedent all demonstrate that the government cannot constitutionally distinguish between religions and prefer one religion or religious belief above another religion or religious belief. The government instead must be evenhanded and must act in a neutral manner, thus showing no preference for one religion over another.

### **III.**

#### **A PERSON’S FREE EXERCISE OF RELIGION MAY NOT BE LIMITED TO INSTITUTIONALLY-HELD BELIEFS OF ANCIENT ORIGIN**

The Supreme Court has stated that, “The test of belief in a relation to a Supreme Being is whether a given belief that is sincere and meaningful occupies a



place in a life of its possessor parallel to that filled by the orthodox belief in God.” *United States v. Seeger*, 380 U.S. 163, 156-66 (1965). The Supreme Court has also declared religion to involve the “ultimate concerns” of individuals. *See id.* at 187. The Supreme Court has admonished that, “[R]eligious beliefs need not be acceptable, logical, consistent, or comprehensive to others in order to merit First Amendment protection.” *Thomas v. Review Bd.*, 450 U.S. 707, 714 (1981). Therefore, simply because some individuals may not hold institutional beliefs of ancient origin does not mean that these beliefs are not religious. The *Warner* test requires that a person’s belief be “acceptable, logical, consistent or comprehensive” in order to be accorded protection. This limited, narrow view of religion is what the FRFRA explicitly rejected.

In deciding whether a belief by an individual is a sincere religious belief, the Court should keep in mind that, “It is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of a particular litigant’s interpretation of those creeds.” *Hernandez v. Commissioner*, 490 U.S. 680, 699 (1989). Indeed, it was just such an approach to determining whether a religious belief was sincerely-held that the Supreme Court rejected in *Lyng v. Northwestern Indian Cemetery Protective Association*, 485 U.S. 439, 457 (1988). In response to the dissent’s suggestion that the court adopt a weighing test to determine whether an

individual possessed a sincerely-held religious belief that is central to his faith, the court stated:

The dissent thus offers us the prospect of this court's holding that some sincerely held religious beliefs and practices are not "central" to certain religions, despite protestations to the contrary from the religious objectors who brought the lawsuit. In other words, the dissent's approach would require us to rule that some religious adherents misunderstand their own religious beliefs. We think such an approach cannot be squared with the Constitution or with our precedents, and that it would cast the judiciary in a role that we were never intended to play.

*Id.* at 457. The Supreme Court has thus recognized the limited role the judiciary is to play in determining whether a litigant's religious belief is sincere and central to his or her faith. While it is true that some showing must be made that the individual holds a religious belief sincerely, once that showing is made, the judiciary's scope in questioning the sincerity or centrality of the particular belief is limited. The FRFRA could not be more clear in this respect.

## CONCLUSION

Under the FRFRA, the "exercise of religion" is "an act or refusal to act that is substantially motivated by a religious belief, whether or not the religious exercise is compulsory or central to a larger system of religious belief." Fla. Stat. §761.02(3). The FRFRA explicitly rejected the *Warner* court's narrow view of free exercise and also prohibits a narrow, constitutionally flawed test like the one adopted by the

*Warner* court. This Court should therefore answer both certified questions in the affirmative.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Amicus Brief of Liberty Counsel was sent this 12th day of November, 2001, to the following:

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## **CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that the foregoing Amicus Brief was prepared using Times New Roman font, size 14 and that the Brief meets the requirements of Fla. R. App. P. 9.210.

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