



Amicus Brief: Klein v. Oregon Bureau of Labor and Industries

Ilya Shapiro

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In 2013, Aaron and Melissa Klein, owners of the Sweetcakes by Melissa bakery, declined to make a custom wedding cake to celebrate a same-sex wedding because doing so would conflict with their religious beliefs. In response, the Oregon Bureau of Labor and Industries imposed a penalty of \$135,000 against the Kleins, leading to the closure of the bakery.

The Kleins appealed their case all the way to the U.S. Supreme Court, where the case was remanded for reconsideration in light of the 2018 *Masterpiece Cakeshop* decision—in which the court held that government actions exhibiting hostility toward religion are invalid. Earlier this year, the Oregon Court of Appeals found that the state agency had indeed acted with anti-religious animus but that this prejudice somehow only affected the damages portion of the case, such that the Oregon Bureau was able to reimpose “only” \$30,000 in penalties.

The Kleins thus again appealed to the U.S. Supreme Court, and the Manhattan Institute, joined by the Committee for Justice and the Cato Institute, filed an amicus brief supporting them. We argue that the Oregon court’s reimposed decision raises two important questions: one about the definition of expression itself, and another about government control over that expression. With this case, the U.S. Supreme Court has an opportunity to clarify that expression like designing a wedding cake is protected by the First Amendment. It also can define the limits of state-compelled speech, when someone is forced to participate in an event that violates their sincerely held beliefs.