

# The Volokh Conspiracy

## ***The Washingtonian on the Cato vs. Koch Conflict***

[Ilya Somin](#) • May 30, 2012 4:01 pm

The *Washingtonian* just published [a detailed article](#) on the Koch brothers lawsuit seeking to take control of the Cato Institute:

Since its founding in 1977, Cato has evolved from a band of roguish scholars to a first-tier Washington think tank that cuts across party lines to further its libertarian agenda....

its work has helped make once-heretical libertarian positions such as legalizing gay marriage and decriminalizing marijuana more credible.

"Cato has made the case that libertarians aren't just a bunch of pot-smoking weirdos," says Martin Wooster, an expert on foundations and a senior fellow at the Capital Research Center. "It has helped make libertarianism a respectable public-policy position...."

Cato staffers were terrified that Koch would turn their beloved think tank into a factory for GOP talking points. "We fear that a Koch takeover would change our mission from one of winning hearts and minds for the libertarian cause over the long run to one of winning elections and legislative battles for the conservative movement in the short run," says Jerry Taylor, a Cato senior fellow.

Crane issued a statement shortly after the lawsuit was filed: "We view Mr. Koch's actions as an attempt at a hostile takeover and intend to fight it vehemently."

The outbreak of civil war at Cato stunned Washington. Libertarian bloggers expressed outrage; Cato staffers pledged to resign.....

Behind the scenes .... the relationship between [Cato President Ed] Crane and Koch had been souring for years. Personal acrimony—over Koch’s management philosophy and Crane’s handling of a conference in Moscow—led in the early 1990s to the breakup of their friendship.

My own view of this dispute is the same as it was [at the very beginning](#):

I completely agree with [co-blogger Jonathan Adler’s](#) comments on the Koch brothers’ lawsuit against the Cato Institute. I don’t know whether the Kochs’ legal rights have been violated or not. If they have, I can understand their frustration. But, for the reasons Jonathan explains, this lawsuit – even if meritorious – can only do damage to the Cato Institute and the broader libertarian cause which the Kochs have supported for many years.

Cato is the nation’s most prominent libertarian think tank. For both public relations and substantive reasons, it is unwise for it to be controlled by members of one family, whether the Kochs or any other. The public relations problem is obvious. The substantive problem is that such a setup increases the chance that the organization will develop blindspots that might have been avoided with more diverse leadership....

Most likely, the Kochs genuinely believe they have been wronged and that they could run the Institute better than its current leaders. But not every well-intentioned action is wise, and this one isn’t.

In later posts, I [explained why it is not inconsistent](#) for libertarians to adopt a position like mine on this dispute, and also suggested [a possible way to reduce the damage caused by the conflict](#).

The information in the *Washingtonian* article largely confirms my view that the Koch lawsuit is likely to do far more harm than good, regardless of its legal merits. If the Kochs prevail, they will acquire an asset that has lost much of its reputation, as well as many of its best scholars. That is unlikely to benefit either Cato or the Kochs. And it certainly doesn’t do anything for the cause of libertarianism.

The legal issues in the case are [complex and disputable](#). It's possible the Kochs are in the right. But there are [there are times when when we should refrain from asserting even a genuine legal right, and this is one such case](#).

I don't agree with everything the *Washingtonian* article says. For example, I'm not convinced that Charles Koch has become a "conservative activist" as opposed to merely believing that current political realities require an alliance between libertarians and conservatives. Libertarians who favor the opposite course of action – a "[liberalitarian](#)" alliance with liberals – do not thereby become liberals themselves. The same point applies to Charles Koch's efforts to build coalitions with conservatives. The Kochs have long supported many causes that most conservatives oppose, and continue to do so.

But even if the Kochs are no less libertarian than Cato's current leadership, their lawsuit is likely to cause more harm than good. I regret that the dispute has dragged on for so long, and hope that it will end soon. It is not too late for the Kochs to drop their lawsuit or accept some sort of compromise that leaves Cato intact.

NOTE: I described my ties to the two sides in the Cato vs. Koch conflict [here](#).