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## Other Information

Ed Brayton also blogs at [Positive Liberty](#) and [The Panda's Thumb](#)

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### Ed's Audio and Video

[Declaring Independence podcast feed](#)

[YearlyKos 2007](#)

[Video of speech on Dover and the Future of the Anti-Evolution Movement](#)

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## Briefs Available for CLS v Martinez

Posted on: March 22, 2010 9:02 AM, by [Ed Brayton](#)

The Supreme Court is set to hear oral argument on April 19 in *Christian Legal Society v Martinez*, a case that involves the

question of whether universities can refuse to recognize student groups that want to set their own membership criteria. As I've written many times, I'm on the side of the CLS on this one and think all student groups should be allowed to discriminate as long as all students are free to start their own groups (which they are).


I had an interesting debate on this case with Barry Lynn, executive director of Americans United for Separation of Church and State, on my radio show recently. Though he is a friend and I am a staunch supporter of his organization, we disagree on that case. And now that the briefs filed with the Supreme Court are [available online](#), you can see that this is an issue that makes for strange bedfellows.

It isn't just the religious right groups on the side of the Christian Legal Society here. Also on their side is the CATO Institute, the American Islamic Congress, the National Council of Young Israel, and the Sikh American Legal Defense and Education Fund. Obviously, other religious groups want to be allowed to control their own membership and require that those who join believe in the same religion they do.

The Foundation for Individual Rights in Education is also on their side, as is an organization called Gays and Lesbians for Individual Liberty.

On the other side you have the ACLU -- which would ordinarily be aligned with Cato and FIRE in most legal cases -- and the Center for Inquiry, another organization I belong to and work with a great deal. The American Jewish Committee and the Anti-Defamation League are also on the law school's side.

All in all, this issue clearly cuts across political and ideological lines. I find myself in disagreement with groups I ordinarily agree with and in agreement with groups I ordinarily disagree with.

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## Comments

1

Slight OT but perhaps Mr. Brayton might be interested in a Church/State case currently being litigated in Arlington, Va.

<http://www.washingtonpost.com/wp-dyn/content/article/2010/03/20/AR2010032003068.html>

Posted by: SLC | [March 22, 2010 9:45 AM](#)

2

I'll preface my remarks by stating that I do not know UCal's policies regarding campus organizations, and recognition by the administration and student government.

I believe the issue here is whether a student group can bear the official stamp of "recognition," which would then allow them to, among other things, petition the university for funds to conduct some of their activities. ANY group of students may form an organization, based on whatever issue they deem appropriate, draft a charter, bylaws and constitution, publish ads in the local media, post flyers on university property, and hold events in university venues. The issue is purely one of "official" university recognition, and the right to apply for funds from fees collected from students. Having in the past formed my own student organization, I read the university rules on founding an organization, and the nondiscrimination clauses are stated prominently, several times.

So it seems to me that the CLS is free to form an organization

Posted by: TGAP Dad | [March 22, 2010 9:46 AM](#)

3

When you wrote on this issue in the past my first thought was that it would be unfair for a university to fund a discriminatory group because it would leave some students paying through their fees for an organisation they cannot join. However if all