

COMMONWEALTH OF KENTUCKY  
SUPREME COURT  
CASE NO. 2008-SC-00253

**FILED**  
MAY 15 2009  
SUPREME COURT CLERK

UNIVERSITY OF THE CUMBERLANDS, ET AL.

APPELLANTS

V. **BRIEF FOR APPELLEES KENTUCKY STATE SENATORS MCGAHA, TAPP,  
WESTWOOD, GIBSON, THAYER, HARRIS, ROEDING, and REPRESENTATIVES  
FORD, FISCHER, HARMON, KERR, RADER, WUCHNER**

REV. ALBERT M. PENNYBACKER, ET AL.

APPELLEES

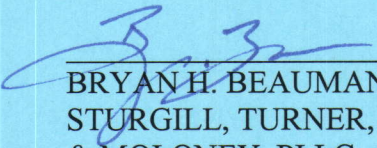
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ON APPEAL FROM THE FRANKLIN CIRCUIT COURT  
HONORABLE ROGER L. CRITTENDEN  
CIVIL ACTION NO. 06-CI-00554  
[COURT OF APPEALS CASE NO. 2008-CA-000643]

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Respectfully submitted,

  
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**CERTIFICATE OF SERVICE**

This is to certify that a copy of this Brief has been served upon the following by U.S. Mail on this the 14<sup>th</sup> day of May, 2009 to: David Tachau, TACHAU, MADDOX, HOVIOUS & DICKENS, 2400 National City Tower, 101 S. Fifth Street, Louisville, KY 40202; General Counsel, Office of the Governor State Capitol, Room 101, 700 Capitol Ave. Frankfort, KY 40601; Mark R. Overstreet, STITES & HARBISON, 421 West Main Street, P.O. Box 634 Frankfort, Kentucky 40602-0634; James P. Guenther, James D. Jordan, GUENTHER, JORDAN & PRICE, 1150 Vanderbilt Plaza, 2100 West End Avenue, Nashville, TN 37203; Timothy Tracey, Gregory S. Baylor, CENTER FOR LAW & RELIGIOUS FREEDOM, 8001 Braddock Rd., Suite 300, Springfield, VA 22151; Clerk, Court of Appeals, 360 Democrat Drive, Frankfort, Kentucky 40601; and the Honorable Roger Crittenden, Franklin County Courthouse, P.O. Box 678, Frankfort, Kentucky, 40602. I further certify that the record on appeal was not withdrawn from the Clerk's office.

  
ATTORNEY FOR APPELLEES



**STATEMENT CONCERNING ORAL ARGUMENT**

These Appellees request oral argument before the Court given the importance of the constitutional questions raised in this case.

**STATEMENT OF POINTS AND AUTHORITIES**

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**STATEMENT OF THE CASE**

This appeal derives from the same original action as another case before this Court, 2008-SC-00285. These Appellees, Kentucky State Senator Vernie McGaha, Senator Gary Tapp, Senator Jack Westwood, Senator Carroll Gibson, Senator Damon Thayer, Senator Ernie Harris, Senator Dick Roeding, Representative Danny Ford, Representative Joe Fischer, Representative Mike Harmon, Representative Tom Kerr, Representative Marie Rader and Representative Addia Wuchner, in their official capacities as members of the Kentucky General Assembly, agree with this Appellant’s Statement of the Case and further incorporate their Statement of the Case filed in their brief in case no. 2008-SC-285.

**ARGUMENT**

These Appellees incorporate and adopt the Argument of the Appellant in this action and their Argument from their brief in case no. 2008-SC-285.

CONCLUSION

For the foregoing reasons, these Appellees join the University and request that the trial court Judgment and Order be reversed and that judgment be entered in favor of the original defendants and intervening defendants.

Respectfully submitted,



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