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May 23, 2005

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*VIA ELECTRONIC AND FIRST CLASS MAIL*

**Re: *Kitzmiller v. Dover*, 4:04-CV-2688 (M.D. Pa.)**

Gentlemen:

As you know, we represent the Foundation for Thought and Ethics. Today, along with Mateer & Shaffer, LLP, the Alliance Defense Fund and the Liberty Legal Institute, we will be filing FTE's application to intervene in the above referenced action. Additionally, we will fax Judge Jones the enclosed letter requesting that we be permitted to participate in discovery pending the outcome of our application.

I understand that Thomas More opposes our application and our request to participate in discovery. I have not yet been advised of counsel for plaintiffs' position on our request for concurrence.

Very truly yours,

*/s/ Len Brown*

Leonard G. Brown, III

LGB

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May 23, 2005

The Honorable John E. Jones, III  
U.S. Courthouse & Federal Office Building  
240 West Third Street, Suite 218  
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**VIA FACSIMILE to 570.601.1150**

**Re: *Kitzmilller v. Dover*, 4:04-CV-2688 (M.D. Pa.)**

Dear Judge Jones:

We represent the Foundation for Thought and Ethics ("FTE") with respect to its application to intervene filed today in the above referenced case. We submit this letter in consideration of the Court's instructions at the May 12, 2005, hearing on FTE's motion for a protective order, that discovery issues may be raised with the Court by letter.

FTE has filed an application for intervention. In the course of preparing its application, FTE has learned that the parties are in the process of conducting depositions of experts and fact witnesses. In order to avoid additional depositions upon FTE's successful intervention, FTE requests to participate in depositions already scheduled by the parties. While there may be additional depositions, FTE is aware of depositions on the following dates: May 25, June 1-2, 7-9, and 13-14. Additionally, FTE requests copies of all expert reports. Neither party will be prejudiced by FTE's participation or its review of the expert reports.

Very truly yours,

***COPY***

Leonard G. Brown, III

LGB

cc: Patrick Gillen, Esq. (via electronic mail)  
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