

Courier-Journal

LOUISVILLE, KENTUCKY

TUESDAY, SEPTEMBER 14, 1999 • 50 CENTS

Lawsuit challenges city gay-rights law

Doctor contends Louisville violates his religious rights

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The Courier-Journal

A law firm backed by conservative televangelist Pat Robertson has sued to throw out Louisville's gay-rights ordinance on behalf of a local doctor who says it violates his right to freedom of religion.

The suit was filed yesterday in U.S. District Court in Louisville on behalf of Dr. J. Barrett Hyman by the American Center for Law and Justice, which Robertson founded to fight "anti-God, anti-family groups." The suit is the first legal challenge to the city's Fairness Ordinance, which was enacted in

January and bars discrimination against gays and lesbians in employment.

Hyman, an obstetrician and gynecologist who employs six people in his medical practice, says that as a Christian, he "sincerely believes that acts of homosexuality, bisexuality . . . and other departures from monogamous heterosexual relations are sinful and grievously offensive to God." He also says in the suit that anyone who engages in such acts demonstrates "a serious lack of moral character which renders them unfit for employment in a medical practice."

Frank Manion, the Kentucky counsel for Hyman, said it is a coincidence that the suit was filed just one day before legislation barring discrimination

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Lawsuit challenges gay-rights ordinance in Louisville

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against gays and lesbians is scheduled to be introduced in Jefferson Fiscal Court. "I know nobody will believe that," he said.

Louisville law director Bill Stone said the city hadn't been served with a copy of the suit. But he said it will file an answer and defend the law. Alderman Bill Allison, who voted for the law, said, "I am extremely confident that this ordinance will withstand any and all legal attacks."

MANION, WHO practices in Nelson County, said the law "forces an employer to choose between following the dictates of his conscience and going out of business. The ordinance is not only wrong, it is unconstitutional."

But Dan Farrell, spokesman for the Fairness Campaign, which worked for passage of the law, said freedom of religion "stops when people try to impose their own religious views on others in the workplace."

Manion acknowledged that no federal court has thrown out a local gay-rights measure on the grounds that it violates an employer's right to free exercise of religion. But he cited a recent decision in which the 9th U.S. Circuit Court of Appeals upheld the right of a landlord in Alaska to refuse to rent to an unmarried couple on religious grounds.

Hyman, who practices on South Floyd Street and lives in the Cherokee Triangle, couldn't be reached for comment. Manion said that Hyman hasn't been forced yet to hire or retain a gay or lesbian employee. But in the suit, Hyman says that he feels compelled to "practice his Christian beliefs in all aspects of his life, including his professional activities as an employer."

Hyman is asking that the ordinance, which imposes maximum fines of \$50,000, be declared invalid.

ONLY ONE complaint has been filed under the law, and it is under investigation, said Carolyn Cooper, assistant director of the city-county Human Relations Commission.

Hyman was named humanitarian of the year in 1989 by Right to Life of Louisville in recognition of his anti-abortion efforts and his work to promote adoption.

He is probably best known, however, as the gynecologist for Karen Johnson, who won a \$13.1 million jury verdict last year. The jury found that her insurer — Humana Health Plan Inc. — had acted in bad faith by refusing to pay for a hysterectomy that Hyman said she needed to cure

cervical cancer.

Hyman's lawsuit was assigned to Judge Charles R. Simpson III. It names as defendants the city of Louisville, Mayor Dave Armstrong, the Human Relations Commission and the commission's executive director, Phyllis Atiba-Brown.

Robertson founded the American Center for Law and Justice, a non-profit public-interest law firm based in Virginia Beach, Va., in 1990 "to undo the damage done by almost a century of liberal thinking and activism," according to its Web site.

Robertson has said he named the group so that its initials would be

just one letter different from those of its rival and adversary, the American Civil Liberties Union.

The Robertson-backed group says that in just a few years it has become the nation's leading public-interest law firm "dedicated to defending and advancing religious liberty, the sanctity of human life and the two-parent, marriage-bound family." It has won cases before the U.S. Supreme Court giving religious groups the right to rent public school facilities and protecting the right to protest peacefully against abortion.

Its chief counsel, Jay Alan Sekulow, a Jew who converted to Chris-

tianity, has argued nearly a dozen cases before the high court, most notably on behalf of Hare Krishnas and a Jews for Jesus group seeking to evangelize at airports. Sekulow is a regular guest on Robertson's "700 Club" and has appeared on ABC's "Nightline" and CNN's "Crossfire." He is author of publications that include "Christian Rights in the Workplace."

Manion, the law firm's Midwest counsel, said the Louisville suit wasn't filed to influence the outcome of the county's version of the ordinance. The suit doesn't mention or challenge the far broader county pro-

posals, which would bar discrimination against gays and lesbians in housing and public accommodations as well as employment. The three county commissioners have said they will vote for it, ensuring its passage.

LEXINGTON recently enacted an ordinance similar to the proposed county measure, and such legislation also is being debated in Henderson and Bowling Green.

David Banks, the lawyer for the Louisville Board of Aldermen, said he doesn't consider the lawsuit to be a serious threat to the Louisville ordinance.

"The courts generally haven't been sympathetic to claims based on religion where the law in question is neutral with respect to religion," he said. "This is not a law that is directed at any one religion."

He compared Hyman's claim to those advanced in the 1950s and '60s by employers who said their Biblical beliefs prevented them from hiring blacks.

But Manion said the Supreme Court has recognized protection from racial discrimination as a fundamental right — a protection it hasn't afforded against bias based on sexual orientation.