

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30212  
LANSING, MICHIGAN 48909

MIKE COX  
ATTORNEY GENERAL

April 1, 2010

William K. Suter, Clerk  
United States Supreme Court  
One First Street, N.E.  
Washington, D.C. 20543

Re: *Cardinal v. Metrish* (No. 09-109)

Dear Mr. Suter:

In response to a request from the United States Supreme Court, the United States Solicitor General filed an amicus brief in the above case on March 18, 2010. On the same day, in the related case of *Sossamon v. Texas* (No. 08-1438), the U.S. Solicitor General also filed an amicus brief. The State of Michigan has coordinated with the State of Texas regarding these petitions. Because the State of Texas has provided analysis on the reasons that the Court should deny both petitions in its supplemental brief, for the convenience of the Court the State of Michigan has elected not to duplicate this legal analysis. The State of Michigan concurs in the arguments presented by the State of Texas.

In specific, the U.S. Solicitor General contends in her first claim that the issue whether the States are subject to compensatory damages by receiving federal funds under the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) is governed by 42 U.S.C. § 2000d-7 of the Civil Rights Remedies Equalization Act of 1986 (CRREA). U.S. Br. 8-14. In *Cardinal*, this issue was not raised in the U.S. Court Appeals for the Sixth Circuit, was not advanced by Petitioner here in his petition, and was not addressed by the Sixth Circuit. Thus, this case does not present a good vehicle for reviewing this issue.

Moreover, as contended in Michigan's brief in opposition, see Res. Br. 4-5, 8-9, there is not a deep and mature conflict regarding whether the language in RLUIPA of "appropriate relief" is sufficient to place the State on notice regarding damages. And on this claim, as noted by the dissent in the Sixth Circuit, *Cardinal* is "not a suitable case" for resolving the RLUIPA issue, where the factual record below was "woefully underdeveloped." *Cardinal v. Metrish*, 564 F.3d 794, 803, 804 (6th Cir. 2009) (Clay, J., dissenting) (declining to reach the RLUIPA issue where "this record offers very little to support Cardinal's RLUIPA claim").

This Court should deny this petition for certiorari.

Sincerely yours,

A handwritten signature in black ink that reads "B. Eric Restuccia".

B. Eric Restuccia  
Michigan Solicitor General  
P.O. Box 30212  
Lansing, Michigan 48909  
(517) 373-1124  
[restucciae@michigan.gov](mailto:restucciae@michigan.gov)

cc: Kevin Russell, attorney for Petitioners  
Sarah Harrington, Assistant United States Solicitor General  
James Ho, Solicitor General for the State of Texas

No. 09-109

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In the  
**Supreme Court of the United States**

GERALD WILLIAM CARDINAL,  
*Petitioner,*

*v.*

LINDA METRISH, WARDEN,  
*Respondent.*

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ON PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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**PROOF OF SERVICE**

The undersigned certifies that on April 1, 2010, she served the letter concurring in the supplemental briefing from the State of Texas by mailing same in an envelope bearing postage fully prepaid, plainly addressed as follows:

KEVIN K. RUSSELL  
HOWE & RUSSELL, P.C.  
SUITE 300  
7272 WISCONSIN AVENUE  
BETHESDA MD 20814

ELENA KAGAN SOLICITOR GENERAL  
UNITED STATES DEPARTMENT OF JUSTICE  
950 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, DC 20530-0001

JAMES HO  
SOLICITOR GENERAL FOR THE STATE OF TEXAS  
OFFICE OF THE ATTORNEY GENERAL  
PO BOX 12548  
AUSTIN, TX 78711-2548

  
Holly Gustafson