

## ALERTS

### Government Services Alert - Supreme Court Rules On Prayer In Town Meetings

May 27, 2014 | [Atlanta](#) | [Chicago](#) | [Columbus](#) | [Delaware](#) | [Elkhart](#) | [Fort Wayne](#) | [Grand Rapids](#) | [Indianapolis](#) | [Los Angeles](#) | [Minneapolis](#) | [South Bend](#)

On May 5, 2014, the U.S. Supreme Court decided the case of *Town of Greece, New York v. Galloway*. The court dealt with the key issue of whether the town imposed an unconstitutional establishment of religion by using opening prayers at monthly town board meetings. In a split decision, the court held that the opening prayers did not violate the Constitution.

Citizens of the town of Greece, New York, brought suit against the town, alleging a violation of the First Amendment's Establishment Clause, because town board meetings are traditionally opened with a prayer. Though the town did not limit the prayer to any one creed, most local congregations were Christian, so the majority of the prayers were led by Christian clergy members. However, the town leaders insisted that the prayer service was open to any minister or layperson of any creed.

Relying heavily on history, tradition and the practices of the Founding Fathers, the court also declined to create a new legal test or formula for determining whether there exists a violation of the Establishment Clause. Explaining its reasoning, the court said, "A test that would sweep away what has so long been settled would create new controversy and . . . divisions along religious lines that the Establishment Clause seeks to prevent."

The court cited an earlier 1983 decision, supporting the notion that legislative prayer "has long been understood as compatible with the Establishment Clause." The court also noted that the First Congress appointed and paid an official chaplain, a practice which has continued through today, and it did so shortly after approving the language at issue in the First Amendment.

The town citizens did not argue for the complete end to prayer in public meetings, but rather they argued that the prayer must be nonsectarian (i.e. not affiliated with any one religion), and it must not invoke the specifics of Christianity. The court disagreed, relying on its precedent set by previous cases, and noting the difficulty of defining "nonsectarian speech" and determining whether a reference is to a "generic God." In other words, "[G]overnment may not seek to define permissible categories of religious speech. Once it invites prayer into the public sphere, government must permit a prayer giver to address his or her own God or gods as conscience dictates . . . ."

The court did recognize that some constraints on the use of prayer may be necessary to ensure its constitutionality. For example, prayer that is "solemn and respectful in tone" and that invites officials to "reflect upon shared ideals" will more likely conform with U.S. tradition than prayer that "denigrates nonbelievers or religious minorities . . . or preach[es]

## RELATED PEOPLE



### Hillary J. Close

Partner  
Indianapolis

P 317-231-7785  
F 317-231-7433  
[hillary.close@btlaw.com](mailto:hillary.close@btlaw.com)



### Nicholas K. Kile

Partner  
Indianapolis

P 317-231-7768  
F 317-231-7433  
[nicholas.kile@btlaw.com](mailto:nicholas.kile@btlaw.com)

## RELATED INDUSTRIES

Government Services

conversion . . . .” The decision also noted that the outcome may have been different if the town board members had directed members of the public to participate in the prayer or asked them to remain in the room during the prayer.

For more information, contact the Barnes & Thornburg attorney with whom you work or one of the following attorneys: Hillary Close at 317-231-7785 or [hillary.close@btlaw.com](mailto:hillary.close@btlaw.com) or Nick Kile at 317-231-7768 or [nicholas.kile@btlaw.com](mailto:nicholas.kile@btlaw.com).

You can also visit us online at [www.btlaw.com](http://www.btlaw.com).

*©2014 Barnes & Thornburg LLP. All Rights Reserved. This page, and all information on it, is proprietary and the property of Barnes & Thornburg LLP. It may not be reproduced, in any form, without the express written consent of Barnes & Thornburg LLP.*

*This Barnes & Thornburg LLP publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.*