

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SECOND DIVISION**

Sheila Cole, *et al.*,
Plaintiffs,

vs.

The State of Arkansas, *et al.*,
Defendants.

Case No. CV 2008-14284

**MOTION FOR FOR LEAVE TO
APPEAR PRO HAC VICE FOR
BYRON J. BABIONE**

FILED 01/16/2009 16:31:15
Pat O'Brien Pulaski Circuit Clerk
CR1 By _____

The Intervenors, Family Council Action Committee and Jerry Cox, by their attorney, Martha Adcock, move this Court pursuant to Bar Admis. R. XIV, Practice by Comity, to grant Byron J. Babione leave to appear *pro hac vice* in the above-captioned matter in order to represent the proposed intervenors, Family Council Action Committee and Jerry Cox, and for grounds state:

1. I am a member in good standing with the Bar of the State of Arkansas and will serve as local counsel.

2. Attorney Byron J. Babione is a lawyer residing outside the State of Arkansas. (See attached Exhibit A, Affidavit of Byron J. Babione.)

3. Attorney Byron J. Babione has expertise in the matters before this Court in the above-captioned case.

4. Attorney Byron J. Babione is in good standing with the Bars of which he is a member and has had no disciplinary action against him. Mr. Babione is admitted to the New York State Supreme Court, Appellate Division, Fourth Department (Reg. No. 2714780, admitted February 1996), the Supreme Court of Virginia (Bar No. 36061, admitted October 1993) and the

Supreme Court of Arizona (Bar No. 024320, admitted April 2007). He is also admitted and in good standing in the following federal courts:

- District Court for the Eastern District of Virginia April 29, 1994
- District Court for the Northern District of New York January 9, 1998
- District Court for the Western District of New York May 6, 2002
- District Court for the Eastern District of Michigan January 12, 2007
- District Court of Arizona April 30, 2007
- United States Court of Appeals for the 4th Circuit..... November 2, 1993
- United States Court of Appeals for the 2nd Circuit..... April 11, 2003
- United States Court of Appeals for the 9th Circuit..... February 8, 2005
- United States Court of Appeals for the 6th Circuit..... March 7, 2007
- United States Court of Appeals for the 10th Circuit..... April 1, 2008

5. Byron J. Babione is an attorney for the Alliance Defense Fund. His contact information is as follows: Byron J. Babione, Alliance Defense Fund, 15100 N. 90th Street, Scottsdale, Arizona 85260, (480) 444-0020, (480) 444-0028 facsimile.

6. Byron J. Babione is a resident of the State of Arizona which offers similar comity and courtesy to Arkansas attorneys under Rule 38(a) of the Rules of the Supreme Court of Arizona, Admission Pro Hac Vice.

7. Byron J. Babione submits to all disciplinary procedures applicable to Arkansas lawyers.

8. I certify the information contained in this application is true, that I have read and understand the requirements, and that I will serve as designated local counsel in this particular case.

WHEREFORE, Intervenor respectfully request this Court to allow Byron J. Babione to be admitted *pro hac vice* in the above-captioned matter for the reasons set forth above.

Respectfully submitted this the 16th day of January, 2009.

By: Martha M. Adcock
Martha Adcock, AR Bar No. 83002
Family Council
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(501) 375 7000
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Local Counsel

Benjamin W. Bull, AZ Bar No. 009940 (*Of Counsel*)
Brian W. Raum, NY Bar No. 2856102 (*Of Counsel*)
Byron J. Babione, AZ Bar No. 024320
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*Attorneys for Intervenor
Family Council Action Committee and Jerry Cox*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by U.S. Mail, First Class, postage prepaid on the following:

Dustin McDaniel
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New York, NY 10004

Attorneys for Plaintiffs

on this the 16th day of January, 2009.



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Local Counsel

EXHIBIT A

Benjamin W. Bull, AZ Bar No. 009940 (*Of Counsel*)
Brian W. Raum, NY Bar No. 2856102 (*Of Counsel*)
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Local Counsel

*Attorneys for Intervenor
Family Council Action Committee*

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AFFIDAVIT OF BYRON J. BABIONE

STATE OF ARIZONA)
)
COUNTY OF MARICOPA) ss.

I, Byron J. Babione, first duly sworn, do state and aver the following to be true to the best of my knowledge:

1. I am over the age of 18 and I have personal knowledge of the matters set forth below.

2. My full name is Byron Jeffords Babione. My residence address is 902 N. Cobblestone Street, Gilbert, AZ 85234. My office address is Alliance Defense Fund, 15100 N. 90th Street, Scottsdale, AZ 85260. I am in good standing with the Bars of which I am a member and have had no disciplinary action against me. I am admitted to the New York State Supreme Court, Appellate Division, Fourth Department (Reg. No. 2714780, admitted February 1996), the Supreme Court of Virginia (Bar No. 36061, admitted October 1993) and the Supreme Court of Arizona (Bar No. 024320, admitted April 2007). I am also admitted and in good standing in the following federal courts:

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United States Court of Appeals for the 10th Circuit..... April 1, 2008

3. My client, Family Council Action Committee, has moved this Court for my admission *pro hac vice*, for the limited purposes of intervening and participating in the case styled *Cole, et al. v. State of Arkansas, et al.*, as counsel to the Family Council Action Committee in the above-referenced case.

4. I am a resident of the State of Arizona which offers similar comity and courtesy to Arkansas attorneys under Rule 38 of the Rules of the Supreme Court of Arizona, Admission Pro Hac Vice.

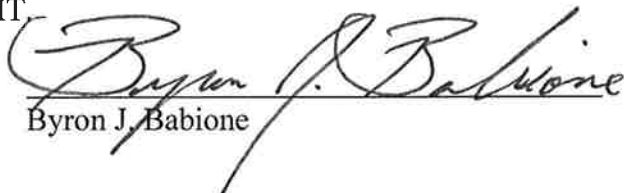
5. I submit to all disciplinary procedures applicable to Arkansas lawyers.

6. I am associated with local counsel whose contact information is: Martha Adcock, Arkansas Family Council, 414 S. Pulaski, Suite 2, Little Rock, AR 72201, (501) 375 7000, (501) 375-7040 facsimile.

7. I certify the information contained in this affidavit is true.

FURTHER, AFFIANT SAYETH NAUGHT

Dated: January 14, 2009


Byron J. Babione

SUBSCRIBED AND SWORN TO before me this 14th day of January 2009, by Byron J.

Babione.



MARIA SIFERT
Notary Public - Arizona
Maricopa County
Expires 02/28/2011


Notary Public

My commission expires: 02/28/2011

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[PROPOSED] ORDER

Good cause appearing, the Court grants the motion for admission pro hac vice of Byron J. Babione in the above referenced case.

IT IS SO ORDERED.

Dated: _____

Circuit Court Judge