No.

## In The Supreme Court of the United States

DAVID BENOIT MECH, d/b/a THE HAPPY/FUN MATH TUTOR,

Petitioner,

v.

SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA,

Respondent.

**On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit** 

\_\_\_\_**\**\_\_\_\_

#### PETITION FOR WRIT OF CERTIORARI

JAMES K. GREEN, ESQ. Counsel of Record JAMES K. GREEN, P.A. 222 Lakeview Avenue Suite 1650, Esperante West Palm Beach, Florida 33401 Facsimile: 407.774.6151 Telephone: 561.695.2029 Facsimile: 561.655.1357 jkg@jameskgreenlaw.com

LAWRENCE G. WALTERS, ESQ. WALTERS LAW GROUP 195 West Pine Avenue Longwood, Florida 32750 Telephone: 407.975.9150 larry@firstamendment.com

Attorneys for Petitioner

COCKLE LEGAL BRIEFS (800) 225-6964 WWW.COCKLELEGALBRIEFS.COM

Find authenticated court documents without watermarks at docketalarm.com.

### **QUESTION PRESENTED FOR REVIEW**

Does the decision in *Walker v. Texas Division, Sons* of *Confederate Veterans, Inc.*, \_\_\_\_ U.S. \_\_\_, 135 S. Ct. 2239 (2015), allow the government to place an imprimatur on private advertising and thereby render the advertisement government speech, stripping it of all First Amendment protection?

### PARTIES TO PROCEEDINGS BELOW AND CORPORATE DISCLOSURE STATEMENT

All parties to the proceedings are listed below:

David Benoit Mech, d/b/a The Happy/Fun Math Tutor, *Petitioner*.

The School Board of Palm Beach County, Florida, *Respondent*.

The ACLU of Florida, amicus below, is a nonprofit corporation and has no stock. There is no parent or publicly held company owning 10% or more of the corporation's stock.

### TABLE OF CONTENTS

Page
------

	U
Question Presented for Review	i
Parties to Proceedings Below and Corporate Dis- closure Statement	ii
Table of Contents	iii
Table of Authorities	v
Introduction	1
Citations to Opinions Below	2
Basis of Jurisdiction	2
Constitutional Provisions	2
Statement of Case and Proceedings	3
Reasons for Granting the Writ	7
I. The Decision Below Presents The Impor- tant Unanswered Question Posed By The Four Dissenters In Walker v. Texas Division, Sons of Confederate Veterans, Inc., U.S. , 135 S. Ct. 2239 (2015)	7
<ul> <li>II. The Decision Below Conflicts with Walker and In re Tam, 808 F.3d 1321 (Fed. Cir. 2015), petition for cert. filed sub nom. in Lee v. Tam, (April 20, 2016) (No. 15-1293) which limit the applicability of the government speech doctrine</li> </ul>	12
Conclusion	14

### TABLE OF CONTENTS – Continued

iv

### Page

### APPENDIX

Order of the United States Court of Appeals issued by the Eleventh Circuit on November 23, 2015
Judgment of the United States Court of Appeals issued by the Eleventh Circuit on November 23, 2015 App. 19
Order on Motion to Amend Judgment issued by the United States District Court for the Southern District of Florida on February 24, 2015App. 21
Order on Motion for Summary Judgment issued by the United States District Court for the Southern District of Florida on October 27, 2014
Order on Petition for Rehearing and Rehearing <i>En Banc</i> issued by the United States Court of Appeals for the Eleventh Circuit on January 19, 2016
Amended Complaint Under the Civil Rights Act, 42 U.S.C. §§ 1983, for Damages, Injunc- tive, and Declaratory Relief on February 13, 2014
Petition for Rehearing and Rehearing <i>En Banc</i> App. 68

# DOCKET A L A R M



# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

# **Real-Time Litigation Alerts**



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

# **Advanced Docket Research**



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

# **Analytics At Your Fingertips**



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

### API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

### LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

### FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

### E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.