

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

ARABIC CHRISTIAN PERSPECTIVE; and
GEORGE SAIEG,

Plaintiffs,

v.

CITY OF DEARBORN; and RONALD
HADDAD, in his official capacity as Chief of
Police, City of Dearborn Police Department,

Defendants.

COMPLAINT

Demand for Jury Trial

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Counsel for Plaintiffs

Plaintiffs Arabic Christian Perspective (hereinafter “ACP”) and George Saieg, by and through their undersigned counsel, bring this Complaint against the above-named Defendants, their employees, agents, and successors in office, and in support thereof allege the following upon information and belief:

INTRODUCTION

1. This case seeks to protect and vindicate fundamental constitutional rights. It is a civil rights action brought under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983, challenging Defendants' policy, practice, custom, and/or procedure of restricting Plaintiffs' right to engage in religious speech activity in a traditional public forum in the City of Dearborn during the 14th Annual Dearborn Arab International Festival (hereinafter "Free Speech Restriction").

2. The United States Supreme Court has long recognized that all public streets are properly considered traditional public fora. Public streets have immemorially been held in trust for the use of the public, and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. The Supreme Court has emphasized that the streets are natural and proper places for the dissemination of information and opinion; and one is not to have the exercise of his liberty of expression in appropriate places abridged on the plea that it may be exercised in some other place. The public streets in the City of Dearborn are no exception.

3. Plaintiffs seek a declaration that Defendants violated their clearly established constitutional rights as set forth in this Complaint; a declaration that Defendants' Free Speech Restriction violates the United States Constitution and 42 U.S.C. § 1983 as set forth in this Complaint; a declaration that through the enforcement and attempted enforcement of Defendants' Free Speech Restriction, Defendants have substantially burdened and unlawfully infringed upon Plaintiffs' rights to religious exercise, religious expression, and expressive association in violation of the United States Constitutions and 42 U.S.C. § 1983; a temporary

restraining order, preliminary injunction, and permanent injunction enjoining the enforcement of Defendants' Free Speech Restriction as set forth in this Complaint; and nominal and compensatory damages for the harm caused by Defendants. Plaintiffs also seek an award of reasonable costs of litigation, including attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988 and other applicable law.

JURISDICTION AND VENUE

4. This action arises under the Constitution and laws of the United States. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343.

5. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general legal and equitable powers of this Court. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district.

PLAINTIFFS

6. Plaintiff ACP is a non-profit corporation recognized by the Internal Revenue Service as a 501(c)(3) organization. ACP is incorporated under the laws of the State of California.

7. ACP is a national ministry established for the purpose of proclaiming the Holy Gospel of Jesus Christ to Muslims. As part of its outreach efforts, ACP travels around the country attending and distributing Christian literature at Muslim festivals and mosques. ACP members and volunteers are drawn from various church affiliations, cities, and backgrounds. The members and volunteers of ACP have the desire to practice their religious freedom and to

follow their religious duty based on the Great Commission.

8. Plaintiff George Saieg is an adult resident of California and the founder and director of ACP. He is a Christian pastor with a deeply-held religious conviction to evangelize to non-Christians. Evangelizing and handing out religious literature and materials are important aspects of Plaintiff Saieg's religious beliefs and vocation.

DEFENDANTS

9. Defendant City of Dearborn (hereinafter "City") is a municipal entity organized and existing under the laws of the State of Michigan. It is a municipal corporation with the right to sue and be sued. The City and its officials are responsible for creating, adopting, and enforcing the rules, regulations, ordinances, laws, policies, practices, procedures, and/or customs of the City, including the Free Speech Restriction and others related to the 14th Annual Dearborn Arab International Festival.

10. Defendant Ronald Haddad is the chief of police for the City of Dearborn Police Department. As the chief of police, he is responsible for creating, adopting, and enforcing the rules, regulations, ordinances, laws, policies, practices, procedures, and/or customs of the City, including the Free Speech Restriction and others related to the 14th Annual Dearborn Arab International Festival. Defendant Haddad is sued in his official capacity only.

STATEMENT OF FACTS

11. The City is one of the most densely populated Muslim communities in the United States. It is estimated that out of 98,000 inhabitants, nearly 30,000 are Muslims. Consequently, the City is an important place for ACP's outreach efforts.

12. For the past five years, ACP members and volunteers, including Plaintiff Saieg, have visited the City to attend the annual Dearborn Arab International Festival (“Festival”). During each of these years, ACP members and volunteers freely roamed the Festival, handing out religious literature and discussing their Christian faith.

13. During prior visits, Plaintiffs have never caused any disruption to the Festival with their peaceful, non-obstructive speech activities. In fact, among the people approached by Plaintiffs at the Festival, approximately eighty to ninety percent of them willingly accept Plaintiffs’ religious materials. ACP members and volunteers have also visited the homes of Dearborn-area Muslims where they are often cordially invited in for tea or dinner.

14. The Festival, which is open to the public, will be held again in the City from Friday, June 19, 2009 through Sunday, June 21, 2009. The Festival boundaries this year are as follows: Warren Avenue between Hartwell and Kingsley Street; Miller Road between Warren Avenue and Blesser Street. Plaintiffs plan to be at the Festival during each of these days to hand out religious literature and materials and to evangelize those who attend. Plaintiffs’ materials do not contain solicitations nor do they contain commercial speech; they contain religious messages.

15. While the roads are closed for vehicle traffic during the Festival, the public sidewalks remain open for pedestrian traffic in the City, including pedestrian traffic not associated with the Festival. For example, local commercial establishments remain open, and pedestrians visit these establishments for commercial purposes while the Festival is being held.

16. Plaintiff Saieg was born and grew up in the Sudan where he never had the basic freedom to share his religious beliefs with others. Plaintiff Saieg praises God for the United States of America and for its Constitution, which guarantees him the right to practice and speak

to others about his religious faith, and to gather with others for that purpose, which is part of the mission of ACP.

17. In early June 2009, Plaintiff Saieg telephoned the Dearborn Police Department and spoke to Sergeant Jeff Mrowka. Plaintiff's purpose for telephoning the Police Department was to introduce himself and his organization, to inform Defendants of Plaintiffs' peaceful intention to visit the Festival once again this year to distribute religious literature and evangelize, and to request information concerning the precise location of the event. Sergeant Mrowka said he would call Plaintiff Saieg back with the requested information.

18. When Plaintiff Saieg did not promptly hear back from Sergeant Mrowka, on June 9, 2009, Plaintiff telephoned him again. During that conversation, Sergeant Mrowka asked Plaintiff Saieg to send him an email with the name of his group, contact information, and details about when Plaintiffs planned to be at the Festival. Sergeant Mrowka advised Plaintiff of the Festival's location and stated that ACP's speech activities would now be restricted to a designated corner on the east side of the Festival. Accordingly, Plaintiffs would be denied the right to use the public sidewalks to hand out its religious materials and to discuss their Christian faith.

19. Upon being told of the Free Speech Restriction, Plaintiff Saieg informed Sergeant Mrowka that this was unacceptable because ACP members and volunteers were expected to number more than ninety people, that Plaintiffs had never experienced any problems during past visits to the City and the Festival, that it would be impractical for so many people to be restricted to a single corner of the Festival, and that to be so restricted would prevent Plaintiffs from reaching their intended audience with their religious message. Plaintiff Saieg told Sergeant

Mrowka that the purpose of Plaintiffs' outreach mission would be frustrated if they were so restricted by City officials.

20. During this conversation with Sergeant Mrowka, Plaintiff Saieg also informed the officer that ACP members and volunteers had attended the Festival for the past five years without incident, and that he instructs them to observe specific rules regulating their activities. Plaintiff Saieg instructs his members and volunteers not to distribute religious materials within the Festival, which occupies the street itself, and to remain on the public sidewalks on either side of the street. He also advises them that they should not block any pedestrian traffic along the sidewalks when they are handing out their materials. Plaintiffs have always complied with these simple rules, and there has never been a problem in the past. Consequently, Plaintiffs' speech activity is peaceful and non-obstructive.

21. Sergeant Mrowka responded to Plaintiff Saieg by stating that political parties and protesters are limited to a specific area. Plaintiff told the officer that ACP and its members and volunteers were neither a political party nor protestors.

22. Following this conversation with Sergeant Mrowka, Plaintiff Saieg tried to contact Defendant Haddad via telephone and was referred to Commander Joe Doulette, Sergeant Mrowka's supervisor. Plaintiff Saieg attempted to contact Commander Doulette, but had to leave him a voicemail message regarding his concerns and objections with the Free Speech Restriction. Commander Doulette did not return Plaintiff's call.

23. After his futile attempts to get Defendants' Free Speech Restriction lifted for Plaintiffs' religious speech, Plaintiff Saieg attempted to get the matter resolved through counsel.

Despite these efforts, Defendants have refused to lift their Free Speech Restriction, thereby denying Plaintiffs access to the public sidewalks in the City for free speech activity.

24. Approximately 300,000 people annually attend the Festival. Unless an injunction is issued, ACP and its members and many volunteers, who will be traveling from around the country at their own expense, will suffer irreparable harm if they are not able to fully participate in ACP's outreach mission. Many of the volunteers have limited financial resources and will be deprived of their opportunity to evangelize at great personal cost.

25. Additionally, Plaintiffs have already invested in Gospel materials for the Festival, including leaflets, DVDs, various booklets, and books, which are packaged into a bundle and ready to be distributed to willing takers. In all, Plaintiffs have prepared 15,000 separate packages at a cost of approximately \$50,000. These packages are to be given away at no cost as part of Plaintiffs' speech activity. Plaintiffs recruited and/or invited ten guest speakers and leaders who will partake in a training program for volunteers prior to the start of the Festival. These individuals act as team leaders during the outreach program. ACP provides these leaders with airfare, lodging, ground transportation, and food at a cost of approximately \$15,000. ACP also incurred a charge of approximately \$2,000 for the rental of a training facility. ACP's outreach program in the City involves more than six months preparation.

26. In light of Plaintiffs' history of attending the Festival for many years without incident, Defendants have no basis for believing or concluding that Plaintiffs' presence on the public sidewalks of the Festival for the purpose of handing out religious materials and discussing their Christian faith poses any public safety or security risks to justify restricting Plaintiffs' expressive activity. Also, the public interest is best served by granting Plaintiffs free access to

the Festival, specifically including free access to the public sidewalks adjacent to the Festival, so that they and those they associate with can exercise their fundamental rights.

27. Defendants' Free Speech Restriction deprives Plaintiffs of their fundamental rights protected by the First and Fourteenth Amendments to the United States Constitution.

FIRST CLAIM FOR RELIEF

Freedom of Speech—First Amendment (42 U.S.C. § 1983)

28. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

29. By reason of the aforementioned Free Speech Restriction, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their right to engage in religious expression in a traditional public forum in violation of the Free Speech Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

30. As a direct and proximate result of Defendants' violation of the Free Speech Clause of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and damages.

SECOND CLAIM FOR RELIEF

Freedom of Expressive Association—First Amendment (42 U.S.C. § 1983)

31. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

32. By reason of the aforementioned Free Speech Restriction, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their right to expressive association guaranteed by the First Amendment as applied to the states and their political

subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

33. As a direct and proximate result of Defendants' violation of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and damages.

THIRD CLAIM FOR RELIEF

**Free Exercise—First Amendment
(42 U.S.C. § 1983)**

34. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

35. By reason of the aforementioned Free Speech Restriction, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their right to religious exercise in violation of the Free Exercise Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

36. As a direct and proximate result of Defendants' violation of the Free Exercise Clause of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and damages.

FOURTH CLAIM FOR RELIEF

**Equal Protection—Fourteenth Amendment
(42 U.S.C. § 1983)**

37. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

38. By reason of the aforementioned Free Speech Restriction, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of the equal protection of

the law guaranteed under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983 by denying Plaintiffs access to a traditional public forum to engage in religious speech activities while permitting others to use this forum for commercial activities, thereby denying the use of this forum to those whose expressive activities Defendants find unacceptable.

39. As a direct and proximate result of Defendants' violation of the Equal Protection Clause, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask this Court:

A) to declare that Defendants' Free Speech Restriction violates the First and Fourteenth Amendments to the United States Constitution as set forth in this Complaint;

B) to permanently enjoin Defendants' Free Speech Restriction and its application to Plaintiffs' speech and activities as set forth in this Complaint;

C) to award Plaintiffs their reasonable attorney fees, costs, and expenses pursuant to 42 U.S.C. § 1988 and other applicable law;

D) to grant such other and further relief as this Court should find just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury of all issues triable of right by a jury.

Respectfully submitted,

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/s/ Robert J. Muise

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