

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

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**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MARYLAND**

CLEARY  
AT BALT. MD  
BY \_\_\_\_\_

**Bruce A. Hake and Cornelius M. Ridgely,**

Case No. \_\_\_\_\_

**WDQ13CV1312**

*Plaintiffs,*

v.

**Carroll County, Maryland,** by its Board of |  
County Commissioners, consisting of its chair, |  
Doug Howard, and Robin B. Frazier, Richard S. |  
Rothschild, David H. Roush, and Haven N. |  
Shoemaker, Jr.,

*Defendants.*

**VERIFIED COMPLAINT**

Seeking to protect their individual civil liberties and constitutional rights, the plaintiffs identified above (collectively, the "Plaintiffs"), as their complaint against Carroll County, Maryland (the "County"), by its Board of Commissioners (the "Board") (consisting of its chair, Doug Howard ("Mr. Howard"), and Robin B. Frazier ("Ms. Frazier"), Richard S. Rothschild "Mr. Rothschild"), David H. Roush ("Mr. Roush"), and Haven N. Shoemaker, Jr. ("Mr. Shoemaker"), each herein referred to herein as a "Commissioner") (collectively, the "Defendants"), allege as follows:

**NATURE OF THE CLAIMS**

1. This action arises out of the County's practice of regularly opening the public meetings of its Board with official Commissioner-delivered sectarian prayers (the "Sectarian Prayers") that violate the

separation of church and state required by the Establishment Clause of the First Amendment of the United States Constitution, as applied to Maryland by the Fourteenth Amendment thereof.

2. The Plaintiffs seek injunctive and declaratory relief and damages under 42 U.S.C. §1983 against Defendants to redress these Establishment Clause violations, together with recovery of attorney's fees and costs under 42 U.S.C. §1988(b).

### **JURISDICTION AND VENUE**

3. This case arises under the First Amendment to the Constitution of the United States and presents a federal question within this court's jurisdiction pursuant to 28 U.S.C. §§1331 and 1343(a)(3). The court has the authority to issue a declaratory judgment under 28 U.S.C. §2201 and to provide injunctive relief and award damages under 28 U.S.C. §1343 and Fed. R. Civ. P. 65.

4. Venue is proper within this judicial district pursuant to 28 U.S.C. §1391(b)(2) because the events giving rise to the Plaintiffs' claims occurred in Carroll County, Maryland.

### **PARTIES**

5. Each of the Plaintiffs is a resident of the County who has attended and viewed one or more Board meetings and had unwelcome contact with the Sectarian Prayers. The Plaintiffs have also watched the recordings of Board meetings, including the Sectarian Prayers, posted on the County's website.

6. The Plaintiffs' consider the Sectarian Prayers divisive and exclusionary, leaving them to conclude that they are unwelcome at Board meetings and political outsiders in their own community. The Plaintiffs do not wish to encounter the actions of their local government to affiliate itself with, prefer and promote a particular religion.

7. In addition, Plaintiff Bruce A. Hake objects to the Sectarian Prayers on religious grounds. He is a religious Roman Catholic, and he believes the Sectarian Prayers violate his First Amendment rights to religious liberty by advancing a version of Christianity that is historically anti-Catholic. In addition, he believes that the Sectarian Prayers violate principles set forth clearly in the Christian Bible, and thus violate his religious liberties by forcing him either to avoid Board meetings or be forced to participate in proceedings that violate his religious faith. In addition, Mr. Hake is the owner of a business in Carroll County (a small law firm), and he believes that the Sectarian Prayers create a hostile environment that is potentially harmful to his business.

8. The County is a political subdivision of the State of Maryland. The Board is the County's legislative body and is composed of the elected Commissioners.

9. Each of the Commissioners is sued in his or her official capacity.

### **FACTS**

10. The facts alleged as to the parties stated above are incorporated herein by reference.

11. The Board meets in open session on average more than once per week. Its meetings are open to the public and are a primary means for County citizens to observe and participate in the business of local government.

12. Board meetings are broadcast on local television and video recordings are posted on the Board's website.

13. A review of the recordings of its meetings shows that it is the Board's practice to open every public general session Board meeting by leading the audience in an official prayer, delivered by a Commissioner. Each Commissioner does so on a rotating basis.

14. The prayers delivered by the Commissioners are frequently Christian in nature, making express sectarian references, such as to Jesus Christ.

15. A review of the video recordings of Board meetings during 2011 and 2012 reveals that on at least 54 separate occasions, Sectarian Prayers were delivered containing the Christian references identified in the following list on the dates identified: 1/4/2011 (“Jesus”); 1/18/2011 (“Jesus”); 1/19/2012 (the Lord’s Prayer); 1/25/2011 (“Savior”); 1/27/2011 (“Jesus”); 2/8/2011 (“Jesus”); 2/15/2011 (“Jesus”); 2/22/2011 (“Jesus”); 3/3/2011 (“Jesus”); 3/22/2011 (“Jesus”); 3/29/2011 (“Jesus”); 3/31/2011 (“Jesus”); 4/14/2011 (“Jesus”); 4/26/2011 (“Jesus”); 5/3/2011 (“Jesus”); 5/12/2011 (“Jesus”); 5/19/2011 (“Jesus”); 6/16/2011 (“Jesus”); 7/21/2011 (“Jesus”); 7/28/2011 (“Savior”); 8/9/2011 (“Jesus”); 9/1/2011 (“Jesus”); 9/29/2011 (“Jesus”); 10/6/2011 (“Jesus”); 10/31/2011 (“in Jesus, my Savior’s name, I pray”); 11/3/2011 (“Savior”); 12/8/2011 (“Jesus”); 12/13/2011 (“Savior”); 1/11/2012 (“Savior”); 1/24/2012 (“Jesus”); 2/9/2012 (“Jesus”); 2/16/2012 (“Savior”); 3/1/2012 (“Savior”); 3/21/2012 (“Jesus”); 4/5/2012 (“Savior”); 4/16/2012 (“Jesus”); 4/24/2012 (“Savior”); 5/29/2012 (“Savior”); 6/7/2012 (“Jesus”); 6/28/2012 (“Jesus”); 7/5/2012 (“Jesus”); 7/19/2012 (“Jesus”); 8/14/2012 (“Jesus”); 8/28/2012 (“Jesus”); 9/1/2011 (“Jesus”); 9/4/2012 (“Jesus”); 9/13/2012 (“Jesus”); 9/20/2012 (“Savior”); 10/4/2012 (“Jesus”); 10/11/2012 (“Savior”); 10/25/2012 (“Savior”); 11/13/2012 (“Savior”); 11/29/2012 (“Jesus”); and 12/6/2012 (“Savior”).

16. During this two year period, none of the official prayers delivered by the Commissioners mentioned non-Christian deities or used non-Christian language.

17. On March 7, 2012, the American Humanist Association (“AHA”) sent a letter (the “AHA Letter”) to the Board following a complaint received by AHA about the Sectarian Prayers, informing the Commissioners that their sectarian prayer practice was unconstitutional.

18. Following receipt of the AHA letter, which clearly explained to the Commissioners the Fourth Circuit's cases expressly holding that sectarian legislative prayers are unconstitutional, the Commissioners continued to willfully violate the Establishment Clause.

19. On March 31, 2011, Mr. Shoemaker led the Board's prayer. In his conclusion, he said "in Jesus' name I pray, in my individual capacity on behalf of no one else unless they wish to join." Afterwards, Mr. Howard responded, amidst laughter among the Commissioners, by saying: "It's as good of fine print as I've ever seen. [Responding to another commissioner] You did [miss something]. You missed an excellent opportunity to celebrate our constitutional right."

20. In 2011 and 2012, Ms. Frazier led the Board's prayers on at least 23 occasions, and every such occasion made reference to Jesus.

21. On September 20, 2012, Mr. Rothschild delivered a prayer for the Board that included the following language: "I believe that there is a more important lesson that we need to learn on behalf of our Country. And that's that we respect you Lord, we submit to you Lord, and pursue godly ways . . . in the Savior's name I pray, amen."

22. In an e-mail dated April 27, 2012, Pastor Chris A. Brammer wrote to the Commissioners, stating: "I received an e-mail copy of a letter that seems to have been written to you from Appignani Humanist Legal Center, via William J. Burgess. . . . My prayers in Jesus' name are offered for you today." Mr. Rothschild wrote back to him in an e-mail dated April 27, 2012, saying: "Pastor Chris – Thank you for your support. It is important for elected officials to hear from and receive support from Christian Conservatives."

23. In response to a letter from the Freedom From Religion Foundation to the Board, the Commissioners forwarded the letter to attorney Barbra Weller, who responded to the Commissioners in an

e-mail dated April 4, 2011. The e-mail stated in part: “my best legal advice would be for you to just change your commission’s prayer practice to occur before the meeting begins without actually responding to the FFRF letter . . . Prayers in Jesus name were common for 400 years in America’s legislative history . . . I do think that while responding to the FFRF might be fun and interesting, it may not be the wisest thing to do legally.”

24. Mr. Roush wrote a message to the Commissioners in an e-mail dated April 4, 2011, stating: “I like the Board member policy of having the prayer offered before the official business by a Board member. I suggest that we adopt his policy and begin this practice ASAP and not respond to the FFRF letter.”

25. In an e-mail message dated March 16, 2011, Ms. Frazier circulated a draft of a prayer policy for the Board to her fellow Commissioners. The message stated in part: “The Board deems it proper to thank God . . . whose word . . . is found in the Ten Commandments.”

26. At the April 21, 2011 Board meeting, the Commissioners discussed a “[p]roposed policy regarding opening invocations before meetings.” The Commissioners never adopted this proposed policy.

#### **CAUSES OF ACTION**

27. All preceding allegations are incorporated herein by reference.

28. The Defendants’ established practice of permitting Commissioners regularly to deliver official sectarian prayers to the public as part of its Board meetings (the “Sectarian Prayer Practice”) is in violation of the Establishment Clause of the First Amendment to the United States Constitution.

29. The Defendants acted under color of state law in violating the First Amendment as described herein in violation of 42 U.S.C. §1983.

**RELIEF SOUGHT**

The Plaintiffs demand that this court grant the following relief:

1. A declaratory judgment that the Defendants' Sectarian Prayer Practice violates the Establishment Clause of the First Amendment of the United States Constitution and is a violation of the Plaintiffs' constitutional rights under 42 U.S.C. §1983;
2. An injunction enjoining the Defendants, their successors and any person in active concert with the Defendants from knowingly, intentionally, or negligently delivering or allowing to be delivered official sectarian prayers before, during, or after Board meetings;
3. A judgment in the Plaintiffs' favor for nominal damages;
4. An award to the Plaintiffs of their reasonable costs, disbursements and attorneys' fees as allowed by law from Defendants pursuant to 42 U.S.C. §1988; and
5. An award of such other and further relief as the court shall deem just.

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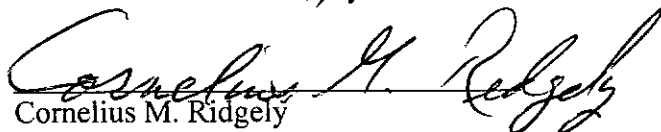
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VERIFICATION

I, the undersigned Plaintiff, have read this Verified Complaint and the same is, by my own knowledge and upon information furnished to me, true. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 10<sup>th</sup> day of April, 2013.

  
Cornelius M. Ridgely

**VERIFICATION**

I, the undersigned Plaintiff, have read this Verified Complaint and the same is, by my own knowledge and upon information furnished to me, true. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 11<sup>th</sup> day of APRIL, 2013.

  
\_\_\_\_\_  
Bruce A. Hake