

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JANE DOE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:12-cv-918
	)	
FRANKLIN COUNTY, MISSOURI, a county	)	
and political subdivision of the State of	)	
Missouri,	)	
	)	
JOHN GRIESHEIMER, individually and in	)	
his official capacity as Commissioner for	)	
Franklin County, Missouri,	)	
	)	
TERRY O. WILSON, in his official capacity	)	
as Commissioner for Franklin County,	)	
Missouri, and	)	
	)	
ANN SCHROEDER, in her official capacity	)	
as Commissioner for Franklin County,	)	
Missouri,	)	
	)	
Defendants.	)	

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**COMPLAINT**

COMES NOW Plaintiff, JANE DOE, and alleges as follows:

**INTRODUCTION**

1. This case is brought pursuant to 42 U.S.C. § 1983 to challenge the constitutionality of Franklin County's practice of leading and sponsoring sectarian prayer at its Board of Commissioners' meetings. Plaintiff brings this lawsuit to vindicate her rights under the First and Fourteenth Amendments to the United States Constitution and Article I, §§ 6 and 7 of the Constitution of 1945 of the State of Missouri.
  
2. Pursuant to 42 U.S.C. § 1983, Plaintiff seeks a declaration that Defendants'

policies, practices, and customs of leading and sponsoring sectarian prayer at meetings of the Board of Commissioners are unconstitutional; appropriate prospective injunctive relief to prevent further violations on the federal and state constitutions; and nominal damages for past deprivation of Plaintiff's constitutional rights.

### **JURISDICTION AND VENUE**

3. This case is brought pursuant to 42 U.S.C. § 1983, and this Court has jurisdiction over Plaintiff's federal claims pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

4. This Court has supplemental jurisdiction over the state constitutional claims pursuant to 28 U.S.C. § 1367(a).

5. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b)(1) and E.D. Mo. L.R. 2.07(A)(1), (B)(2) because all defendants reside in Franklin County, Missouri, and the claim for relief arose in Franklin County, Missouri.

### **PARTIES**

6. Plaintiff, Jane Doe, is a resident of Franklin County, Missouri.

7. Defendant Franklin County, Missouri, is a county of the first class and political subdivision of the State of Missouri, which exercises its authority as a county through its elected Franklin County Commission.

8. The Franklin County Commission is the executive body of Franklin County, Missouri.

9. The Franklin County Commission is made up of three commissioners: a Presiding Commissioner, First District Commissioner, and Second District Commissioner.

10. The Franklin County Commission establishes the policies and procedures of

Franklin County, Missouri.

11. Defendant John Griesheimer is the presiding commissioner for Franklin County, Missouri. He is sued in his individual and official capacities.

12. Defendant Terry O. Wilson is a commissioner for Franklin County, Missouri. He is sued in his official capacity only.

13. Defendant Ann Schroeder is a commissioner for Franklin County, Missouri. She is sued in her official capacity only.

14. At all times relevant to this complaint, Defendants acted under the color of state law.

#### **FACTUAL ALLEGATIONS**

15. The Franklin County Commission holds its regular meetings every Tuesday morning at the Commission Chambers in Union, Missouri.

16. The regular meetings of the Franklin County Commission are open to the public.

17. The Franklin County Commission has long opened its meetings with a moment of silence.

18. Beginning in or about early 2011, the Franklin County Commission commenced the practice of beginning meetings with sectarian prayer led by a commissioner.

19. For example, on or about November 29, 2011, Defendant Griesheimer opened the meeting of the Franklin County Commission with the following prayer:

Dear Lord, we thank you for all the great things you have  
given us. We thank you for the very nice weather and

incredible rain that we've had. We hope everybody... We hope... We thank you for all the great things that we're thankful for for Thanksgiving and for getting us together with our family and friends. We would ask you to watch over those who in the Armed Forces, who are either here or away from here in harm's way. We ask you to watch over them and protect them. In Jesus' name we pray. Amen.

20. As another example, on or about December 6, 2011, Defendant Griesheimer opened the meeting of the Franklin County Commission with the following prayer:

Dear Lord, we thank you for all the great things you've done for us. We thank you for the weather that we've had and hope you watch over us this [unintelligible]. We ask that, dear Lord, please deliver all those who were killed in the attack [on Pearl Harbor]. We will commemorate tomorrow the [attack on] Pearl Harbor. We ask that we never forget those who not only died that day but also those who survived. Dear Lord, we ask you to watch over our [unintelligible] who are serving in the Armed Forces. [unintelligible]. We ask of you that they be [unintelligible]. Amen.

21. As another example, on or about December 13, 2011, Defendant Griesheimer opened the meeting of the Franklin County Commission with the following prayer:

Dear Lord, we thank you for all the great things that you do for us. We thank you for the [unintelligible] and we also thank you for the [unintelligible] rain that we are receiving now. I ask you to pray for the soul of Norman [unintelligible] from Washington, who was a tireless advocate for senior citizens and for [unintelligible]. We also ask of you Lord to as we are in the middle of the Christmas season to please remind us every day that Jesus is the reasons for the season, not just celebration of the holidays. Please help us keep that in mind: to celebrate and remember the birth of your son. We ask of you Lord to bless and watch over the Armed Forces who are in harm's way and we thank them for their service. In Jesus' name, we pray. Amen.

22. As another example, on or about December 20, 2012, Defendant Griesheimer opened the meeting with the following prayer:

Dear Lord, we thank you for all the great things that you do for us that you have done for us. We thank you Lord for the wonder year that we've had, and we hope for a better 2012. We ask you dear Lord to help us remember why we celebrate Christmastime to celebrate the birth of your son. Also, as it is a good time to get together with family and friends in fellowship and remembrances. We ask dear Lord to bless all those in the military, especially [unintelligible] area resident

Harry [unintelligible], who was injured in Afghanistan and is currently here back here in Franklin County recovering from his wounds. We ask you to [unintelligible] him in his prayers and help him heal and get back to normal. We also ask you dear Lord to watch out for all those all the men and women serving in the Armed Forces and protect them, especially those who are overseas in harm's way and to help console their families at this time of year as they are deployed and away from their families and to help them to come together when they do come home. And was also ask for [unintelligible]. In Jesus' name we pray. Amen.

23. At the commencement of each prayer, Defendant Griesheimer instructs persons attending the meetings to bow their heads.

24. Persons in the room often respond to the prayers with a chorus of "amen."

25. Persons in the room sometimes respond to parts of the prayers orally or by raising their arms toward the ceiling.

26. Although the agenda and minutes for these, and other, meetings reflect a "moment of silence," a commissioner offered a prayer instead.

27. Upon information and belief, Defendants maintain their practices with respect to prayer without any written policy.

28. Plaintiff attended meetings of the Franklin County Commission on November 29, 2011; December 6, 2011; December 13, 2011; December 20, 2011; and on other prior and subsequent dates.

29. Plaintiff has attended meeting of the Franklin County Commission because she is interested in the Commission's discussions and decisions on matters on the agenda.

30. On March 21, 2011, the American Civil Liberties Union of Eastern Missouri wrote to Defendants Griesheimer, Wilson, and Schroeder to demand that they cease sponsoring sectarian prayer and cease having prayers offered by commissioners or other employees of Franklin County.

31. In addition, because the Franklin County Commission is a representative body of all of the residents of Franklin County—Christians, Jews, Muslim, nonbelievers, and others—the ACLU urged the commissioners to cease the practice of prayers at Franklin County Commission meetings altogether so that all members of the community will feel equally welcome and represented.

32. In its demand letter, the ACLU instructed Defendants to advise its legal director of their plans by March 29, 2012.

33. No defendant, nor anyone on behalf of any defendant, made any response or attempt to contact the ACLU.

34. Upon information and belief, subsequent to receipt of the March 21, 2012, letter from the ACLU, Defendants adopted a practice of having residents lead sectarian prayers during meetings of the Franklin County Commission.

35. Defendants, through both their actions and inactions, have in the past sponsored sectarian prayers at meetings of the Franklin County Commission.

36. Defendants, through both their actions and inactions, currently sponsor sectarian prayers at meetings of the Franklin County Commission.

37. Defendant Griesheimer regularly led sectarian prayers at meetings of the

Franklin County Commission, including on November 29, 2011; December 6, 2011; December 13, 2011; and December 20, 2011.

38. In January 2011, it was clearly established that it is unconstitutional for a member of the Franklin County Commission to lead a sectarian prayer during a meeting of the Franklin County Commission.

39. Defendants do not have a policy that discourages or prohibits sectarian prayers at meetings of the Franklin County Commission.

40. Plaintiff intends to attend future meetings of the Franklin County Commission.

41. Plaintiff objects to and is offended by sectarian prayers at meetings of the Franklin County Commission because they endorse a particular religion and are an attempt by Franklin County and its officials to prefer one religious faith over others.

42. Plaintiff objects to and is offended by prayers led by Defendant Griesheimer because such prayers endorse a particular religion and are an attempt by Defendant Griesheimer and Franklin County to prefer one religious faith over others.

43. Plaintiff objects to and is offended by Defendants Griesheimer's instruction to those persons present for Franklin County Commission meeting to bow their heads for prayer because such instruction is coercive.

## **COUNT I**

### *Establishment Clause*

44. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this complaint as if fully set forth herein.

45. Defendants' current and past provision and sponsorship of sectarian prayers



constitutes an official policy, practice, or custom for purposes of 42 U.S.C. § 1983.

46. The sectarian prayers provided by Defendant Griesheimer at meetings of the Franklin County Commission violated the First and Fourteenth Amendments to the United States Constitution because they have the effect of affiliating Franklin County with one specific faith or belief.

47. The sectarian prayers provided by Defendant Griesheimer at meetings of the Franklin County Commission violated the First and Fourteenth Amendments to the United States Constitution because they prefer one religion over others.

48. The sectarian prayers provided by Defendant Griesheimer at meetings of the Franklin County Commission violated the First and Fourteenth Amendments to the United States Constitution because they have no secular purpose.

49. The sectarian prayers provided by Defendant Griesheimer and sponsored by all Defendants at meetings of the Franklin County Commission together with Defendant Griesheimer's instruction to attendees to bow their heads violated the First and Fourteenth Amendments to the United States Constitution because they coerced participation in the sectarian prayer.

50. All sectarian prayers sponsored by Defendants at meetings of the Franklin County Commission violated the First and Fourteenth Amendments to the United States Constitution because they have the effect of affiliating Franklin County with one specific faith or belief.

51. All sectarian prayers sponsored by Defendants at meetings of the Franklin County Commission violate the First and Fourteenth Amendments to the United States Constitution because they prefer one religion over other religion.

52. All sectarian prayers sponsored by Defendants at meetings of the Franklin County Commission violate the First and Fourteenth Amendments to the United States Constitution because they serve no secular purpose.

## COUNT II

### *Article I, § 6 of the Constitution of 1945 of the State of Missouri*

53. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this complaint as if fully set forth herein.

54. The sectarian prayers of Defendants violate Article I, § 6 of the Constitution of 1945 of the State of Missouri in that Defendants' official policies, practices, and customs compel residents to support a system of worship or attend any place of worship.

## COUNT III

### *Article I, § 7 of the Constitution of 1945 of the State of Missouri*

55. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this complaint as if fully set forth herein.

56. The sectarian prayers of Defendants violate Article I, § 7 of the Constitution of 1945 of the State of Missouri in that Defendants' official policies, practices, and customs give preference to a church, sect, or creed of religion.

57. In addition or in the alternative, the sectarian prayers of Defendants violate Article I, § 7 of the Constitution of 1945 of the State of Missouri in that Defendants' official policies, practices, and customs give preference to a form of religious faith or worship.

58. In addition or in the alternative, the sectarian prayers of Defendants violate Article I, § 7 of the Constitution of 1945 of the State of Missouri in that Defendants'

official policies, practices, and customs cause money to be taken from the public treasury, directly or indirectly, in aid of a church, sect, or denomination of religion.

WHEREFORE, Plaintiff prays this Court award Plaintiff:

- A. A declaratory judgment pursuant to 42 U.S.C. § 1983 finding that the Defendants' acts, policies, practices, and customs at issue are unconstitutional;
- B. A permanent injunction enjoining Defendants from continuing to enforce or implement the unconstitutional policies, practices, and customs;
- C. Nominal damages of \$1.00 for deprivation of Plaintiff's constitutional rights for Defendants' past violations;
- D. Costs, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988; and
- E. Such other and further relief as is just and equitable.

Respectfully submitted,

/s/ Anthony E. Rothert

ANTHONY E. ROTHERT, #44827MO

GRANT R. DOTY, #60788MO

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