

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

GARY L. PETERLIN,	)	
Plaintiff,	)	
v.	)	Case No. 11-CV-8922
WILL COUNTY SHERIFF'S OFFICE;	)	<b>CLASS ACTION COMPLAINT</b>
WILL COUNTY SHERIFF PAUL	)	
KAUPAS, Individually and in His	)	
Official Capacity; and WILL COUNTY	)	
BAR ASSOCIATION,	)	
Defendants.	)	
	)	

**CLASS ACTION COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiff, Gary L. Peterlin, individually and on behalf of all similarly situated persons, by and through his attorneys, The Law Offices of Peter F. Ferracuti, P.C., for his Class Action Complaint, alleges upon personal knowledge as to himself and his own acts, and upon information and belief based upon the due investigation of his counsel as to all other matters, as follows:

**NATURE OF THE ACTION**

1. For several years, lawyers gained admission to the Will County Courthouse without being subject to security search procedures by displaying a card issued by the Attorney Registration and Disciplinary Commission (ARDC) and a state issued photographic identification to the deputies of the Will County Sheriff's Office who were charged with the task of ensuring courthouse security.

2. Currently, the Will County Sheriff's Office and Sheriff Paul Kaupas require attorneys not possessing a Will County Bar Association membership card, the disfavored group, to wait in long, time-consuming security lines with the general public and pass through metal detection equipment subjecting the attorneys to a search of their person and belongings.

3. Will County Bar Association members, the favored group, who present a Will County Bar Association membership card have the freedom and privilege to access the courthouse through a separate, exclusive entrance and bypass security for no other reason than they have paid expensive membership dues, a mandatory legal aid assessment, and an optional bar association identification card fee.

4. Several attorneys of the disfavored group have been forced to purchase membership in the Will County Bar Association, an organization they would not otherwise join, to their expense and financial detriment just for the privilege of bypassing the security procedures of the Will County Courthouse and to become a member of the favored group.

5. The distinctions between the two groups of lawyers bear no rational relationship to promoting and securing courthouse safety or any other legitimate governmental purpose, leading the policies and procedures of the Defendants to violate the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. Such policies and procedures must be permanently enjoined and declared invalid.

6. This action is brought pursuant to 42 U.S.C. § 1983 for violations of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution

and 42 U.S.C. § 1985 for conspiracy. The defendants conspired to act under color of law and proximately cause the deprivation of federally protected rights, including those rights guaranteed by the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

7. Plaintiff seeks declaratory and permanent injunctive relief, pursuant to 28 U.S.C. §§ 2201, 2202, and Fed. R. Civ. P. 57; other equitable relief, including restitution and disgorgement, pursuant to the Court's equitable powers; nominal damages, pursuant to 42 U.S.C. § 1983; and attorneys' fees pursuant to 42 U.S.C. § 1988.

#### **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343.

9. Venue lies in this Court pursuant to 28 U.S.C. § 1391(b).

#### **THE PARTIES**

10. Petitioner Attorney Gary L. Peterlin is a duly licensed attorney in the State of Illinois. Mr. Peterlin performs the general practice of law and maintains his law office in LaSalle County, Illinois. From time to time, Mr. Peterlin's work requires him to practice law within the Will County Courthouse before the Will County, Illinois judiciary or the Illinois Workers' Compensation Commission, Arbitration Division.

11. Defendant Will County Sheriff's Office is a county agency organized under the Constitution and laws of the State of Illinois and the laws of Will County, Illinois tasked with the duties of enforcing the laws, ensuring order, and providing security at the Will County Courthouse.

12. Defendant Paul Kaupas is the Sheriff of Will County, and as such, is responsible for enforcing all applicable laws, customs, practices, and policies. In that capacity, Mr. Kaupas is presently enforcing the laws, customs, practices, and policies complained of in this action, and is subject to this suit both in his individual and official capacities.

13. Defendant Will County Bar Association (WCBA) is a professional association for attorneys with its principal place of business located in Joliet, Will County, Illinois.

#### **CLASS ACTION**

14. Plaintiff brings this action as a Class Action pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

15. Plaintiff Gary Peterlin, as an Illinois licensed attorney having business at the Will County Courthouse, is representative of the class, as defined by Rule 23 of the Federal Rules of Civil Procedure, and brings this action on behalf of himself and the class.

16. The class consists of two subclasses, including:

- a. All duly licensed Illinois attorneys having business within the confines of the Will County Courthouse in Will County, Illinois who have been forced to wait in line and subjected to a security search while others possessing a WCBA card pass through without security detection; and
- b. Those duly licensed Illinois attorneys who have joined the Will County Bar Association for the purpose of bypassing security and would have not otherwise joined the organization but for the discriminatory practice.

17. The class is so numerous, including thousands of licensed attorneys in Illinois, and geographically so widely dispersed, extending over 57,000 miles, that joinder of all members is impracticable.

18. There exist questions of law and fact common to the class, namely the constitutionality of discriminating against attorneys not possessing a Will County Bar Association membership card and causing the favored group to pay money to avoid discrimination.

19. Plaintiff's claims are typical of the claims of the class that he represents as Plaintiff was forced to wait in long lines to pass through Will County Courthouse security checkpoints before paying a large sum of money to the Will County Bar Association just for the privilege of bypassing security when entering the Courthouse.

20. As an Illinois attorney, Plaintiff possesses the same interest and has suffered the same injury as the other class members.

21. Plaintiff will fairly and adequately protect the interests of the proposed class as his claims are in alignment with those of the other class members.

22. Each person in the class is, has been, or will be subject to the Will County Courthouse security procedures or has purchased membership in the WCBA for the purpose of avoiding security lines.

23. Defendants have acted or refused to act on grounds generally applicable to the class, and final injunctive relief and corresponding declaratory relief is appropriate respecting the class as a whole.

## STATEMENT OF FACTS

24. Mr. Peterlin, while periodically practicing law in Will County, does not maintain an office in Will County.

25. Mr. Peterlin has appeared at the Will County Courthouse as an attorney representing several clients before the Will County judiciary and the Illinois Workers' Compensation Commission.

26. For several years, Mr. Peterlin displayed a card issued by the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois, a card issued to every attorney duly licensed within the State of Illinois, and a state issued photographic identification to the deputies of the Will County Sheriff's Office. Once the sheriff's deputies verified the identification of Mr. Peterlin as an Officer of the Court, he gained the privilege of entering the courthouse without having his person or belongings searched and without having to pass through metal detection equipment.

27. Within recent years, the admittance policy of the Will County Courthouse changed. Deputies of the Will County Sheriff's Office, monitoring entry of all persons into the Will County Courthouse, no longer permit attorneys showing a valid ARDC card and appropriate photographic identification entry into the courthouse without passing through the security checkpoint and succumbing to the attendant search procedures.

28. Mr. Peterlin observed several attorneys known to him to be members of the WCBA enter the courthouse upon demonstrating their WCBA card through a separate, special, and privileged passageway not accessible to non-WCBA members, allowing the WCBA members to enter the courthouse expeditiously without having to submit their person or belongings for inspection through the detection equipment.

29. When Mr. Peterlin was not a member of the WCBA, he stood in a long public line and proceeded deliberately, as with other members of the general public, through the security checkpoint to enter the courthouse.

30. The procedure consumed Mr. Peterlin's time and reflected upon the trustworthiness of Mr. Peterlin as compared to those attorneys belonging to the WCBA who enjoyed swift entry to the courthouse through a special, private, exterior door proceeding along a private passageway, bypassing the security checkpoint.

31. Upon proceeding through the security line in order to engage in business within the Will County Courthouse, Mr. Peterlin asked a sheriff's employee who was performing security checks about whether there was a way for lawyers to gain access to the courthouse without having to enter security. The sheriff's employee responded, "You can get through that door [pointing to the special entrance] if you're a Will County Bar Association member. They want to get your dues."

32. Mr. Peterlin, like other non-member attorneys, was forced to stand in long public lines for extended periods of time before clearing the security checkpoint and being subjected to a search of his person and belongings. On one occasion, Mr. Peterlin waited in an excessively long line, reached the security checkpoint, and was forced to return to his car because he had a mobile phone that contained a camera component. Upon his return, he proceeded in the security line all over again.

33. On October 28, 2011, Mr. Peterlin, having business in Will County, applied to the WCBA and paid \$195.00 that he would have not otherwise paid for membership in the WCBA and to possess a Will County Bar Association card for swift entry into the Courthouse.

34. Upon joining the WCBA, Mr. Peterlin underwent no background check or other security measure to verify that he was less dangerous than those attorneys not possessing a WCBA membership card.

35. The WCBA advised Mr. Peterlin upon his joining that he could benefit from other privileges not conferred upon the disfavored group of attorneys, including the ability to bring recording devices, cell phones, and cameras into the courthouse.

36. The only distinction between attorneys bypassing security and those not bypassing security is the amount of money paid to the WCBA.

37. The WCBA charges between \$90.00 and \$140.00 for annual membership dues in addition to assessing a \$40.00 legal aid fee with an optional \$15.00 charge for members to purchase a Will County Bar Association identification card.

### **EQUAL PROTECTION VIOLATIONS**

#### **Count One**

38. Paragraphs 1 through 37 are incorporated as fully stated herein.

39. Sheriff Paul Kaupas and the Will County Sheriff's Department acted under color of state law while engaging in class-based discrimination.

40. The distinction made by the Defendants between WCBA members and other practicing attorneys is not rationally related to courthouse safety.

41. Mr. Peterlin belongs to a group of attorneys licensed to practice law in the State of Illinois whose rights and obligations as attorneys are similar. Under the Fourteenth Amendment, there exists no rational basis for Defendants to create a distinction among duly licensed attorneys of the State of Illinois to require some to



bypass security detection equipment while others must be subjected to a full security search.

42. The distinction allows attorneys to avoid security checkpoints based upon their membership in the WCBA regardless of their propensity to jeopardize courthouse safety.

43. The policy employed by the Sheriff's Office classifies non-member attorneys as a greater threat to courthouse security than member attorneys.

44. The policy allows member attorneys to bypass the security checkpoint solely on the basis of their WCBA membership.

45. The measure of one's security risk and trustworthiness, as a duly licensed attorney of the State of Illinois and an officer of the Court, cannot be based upon membership of a bar association, much less the Will County Bar Association.

46. Such a discriminatory policy conveys the impression to clients and members of the public that a duly licensed attorney not belonging to the WCBA is less trustworthy or not of the same professional status as those attorneys belonging to the WCBA.

47. This discriminatory policy forced Mr. Peterlin and other attorneys similarly situated, to their financial detriment, to join a bar association they would not have otherwise joined.

48. Such a policy infringes upon the freedom to practice law competitively as a duly licensed attorney of the State of Illinois and reflects upon the personal integrity and trustworthiness of lawyers who may not choose to become members of the WCBA.

49. As a result of the discriminatory procedures, several attorneys, who theretofore did not belong to the WCBA, have joined the organization under the duress of the system and paid expensive bar dues to their economic detriment.

## CONSPIRACY

### Count Two

50. Paragraphs 1 through 49 are incorporated as fully stated herein.

51. The WCBA has conspired with the Sheriff's Office by advocating the aforesaid procedure and intentionally enriching itself in collecting substantial bar association fees.

52. The WCBA has knowingly participated and contributed to this discrimination.

53. The WCBA advocates and encourages the Fourteenth Amendment Equal Protection violations and enriches itself based upon the discrimination with the increased number of bar association fees it collects, higher membership enrollment, and publicity gained by essentially forcing attorneys to join its organization who otherwise would not choose to be members.

54. The WCBA has encouraged, assisted, and helped plan the implementation of the Sheriff's discriminatory policy for its own enrichment.

55. The WCBA has conspired with the Sheriff's Office by requiring Mr. Peterlin and other attorneys to join the WCBA and pay the WCBA's annual fee as a prerequisite to enjoying the privileges of bypassing security as only WCBA members receive. This additional expense burdens the attorneys pressured to join and their clients.

56. The WCBA has conspired with the Sheriff's Office by requiring non-member attorneys, wishing to practice law in the Will County Courthouse, to stand in long public lines for extended periods of time before clearing the security checkpoint and being subjected to a search of their person and belongings. This act leads to economic loss and professional damage as well as jeopardizing their timely appearance before the judiciary and commission.

57. The WCBA has conspired with the Sheriff's Office by requiring non-member attorneys to pass through the security checkpoint of the Will County Courthouse, thereby denigrating the non-member attorneys' professional status in the presence of their clientele while WCBA members are visibly given the privilege of bypassing the security checkpoint without any search.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Issue an order certifying under Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure a class consisting of:
- a. All duly licensed Illinois attorneys having business within the confines of the Will County Courthouse in Will County, Illinois who have been forced to wait in line and subjected to a security search while others possessing a WCBA card pass through without security detection; and
  - b. Those duly licensed Illinois attorneys who have joined the Will County Bar Association for the purpose of bypassing security and would have not otherwise joined the organization but for the discriminatory practice.

B. Enter a declaratory judgment in favor of Plaintiff that the policies and procedures of Defendants violate the rights of Plaintiff to equal protection under the laws in contravention of the Fourteenth Amendment of the United States Constitution;

C. Enter permanent orders enjoining Defendants, their successors, and all those acting in concert with them or at their direction from implementing or enforcing the complained of policies and procedures

D. Award nominal damages;

E. Award Plaintiff's attorneys' fees and costs, pursuant to 42 U.S.C. § 1988;

F. Order the WCBA to return the dues with interest of any member of the WCBA who joined for the privilege of circumventing security at the Will County Courthouse.

G. Grant such other and further relief that may be just.

Dated: December 16, 2011

Respectfully submitted,

Law Offices of Peter F. Ferracuti, P.C.  
Attorneys for Plaintiff

By:  \_\_\_\_\_

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