

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

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<b>DONALD L. CREATORE; AND KNIGHTS OF COLUMBUS COUNCIL NO. 2961,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>V.</b>	)	<b>CIV. NO.</b>
	)	
	)	
<b>THE TOWN OF TRUMBULL, CONNECTICUT; and DAVID A. WILSON, TRUMBULL FIRST SELECTMAN</b>	)	
	)	
<b>Defendants.</b>	)	

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**COMPLAINT**

Come now Donald L. Creatore, and the members of Knights of Columbus Council No. 2691, through their attorneys, and for their Complaint state as follows:

**NATURE OF ACTION**

1. This suit seeks relief from the clear and purposeful deprivation of the constitutional rights of Donald L. Creatore ("Creatore") and the members of Knights of Columbus Council No. 2691 ("the Knights") by the Town of Trumbull, through its officers and agents, and by First Selectman of the Town of Trumbull, David A. Wilson, acting under color of law. The case centers on the efforts of Creatore and the Knights to erect a nativity display on the public Green located next to the Trumbull town hall.

2. This public green is a traditional public forum. It has been used often in

the past for both religious and nonreligious expression by various private groups and individuals. For example, the Green is the site of an annual arts fair, an international food festival, and memorial services on Memorial Day and Veterans Day.

3. During the Holiday Season, the Green has traditionally be used by both the town and by private groups to erect various religious and secular seasonal symbols. For example, for many years a Menorah was erected on the Green by a private group in celebration of Hanukkah. A lighted and decorated Christmas Tree is also erected annually on the Green.

4. In November, 1993, Createore and the Knights requested the permission of First Selectman Wilson to erect a creche on the Green during last year's holiday season. First Selectman Wilson prohibited Createore and the Knights from erecting the creche, despite the fact that a Menorah and a Christmas tree were allowed on the Green.

5. In early 1994, Createore and the Knights again sought permission to place a creche on the Green for the 1994 holiday season. On May 9, 1994, First Selectman Wilson sent a letter to Createore granting approval for the creche. The creche was scheduled to be erected on Saturday December 17, 1994.

6. On Wednesday December 14, 1994 -- just three days before the creche was to be erected -- Createore was contacted by First Selectman Wilson. Wilson informed Createore that he had changed his mind, and the First Selectman revoked the permission for the creche that he had granted over seven months ago.

7. First Selectman Wilson informed Createore that he did not want to have a religious display on the public Green. This action taken by the First Selectman acting under color of law on behalf of the town of Trumbull clearly violates the free speech and free exercise rights of Createore and the Knights, guaranteed by the First Amendment to the United States

Constitution, and is actionable pursuant to 42 U.S.C. § 1983.

### **PARTIES**

8. Donald Creatore is a resident of Trumbull and a member of the Knights of Columbus Council No. 2961. Creatore applied to the First Selectman on behalf of the Knights for permission to place a creche on the town hall Green. This permission was granted over seven months ago by First Selectman Wilson, but was revoked two days ago.

9. Knights of Columbus Council No. 2691 is a Local Chapter of a Roman Catholic Fraternal Organization engaged in charitable work. Its members sought to erect a creche on the public Green.

10. David Wilson is the First Selectman of the Town of Trumbull. He is fully authorized to grant permission for use of the Town Hall Green by various individuals and/or groups. Trumbull is a Connecticut town in this judicial district.

### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over all claims in this Complaint, including claims for relief arising under 42 U.S.C. § 1983 and the United States Constitution, pursuant to 28 U.S.C. § 1331.

12. Venue lies in this district pursuant to 28 U.S.C. § 1391. First Selectman Wilson resides and works in this district and the Town of Trumbull is located in this district. This cause of action arose in this district and all of the events giving rise to this claim occurred in this district.

## STATEMENT OF FACTS

13. The Green adjacent to the Trumbull town hall is a traditional forum for various forms of public expression, both religious and secular. Over the years it has been the site of many different activities including an annual art fair, an international food festival, a pet show, and band concerts.

14. The public Green has also been used for Veteran's Day and Memorial Day Commemorations led by the American legion and sometimes involving representatives of Trumbull's religious community.

15. In addition, many private organizations -- including the Boy Scouts and various athletic groups -- use the parking lot immediately adjacent to the Green to conduct car washes to raise money for their respective groups.

16. The traditional use of the Green as a public forum has continued during the Holiday Season. For many years now, a private religious group has been allowed to display a Menorah on the Green during Hanukkah. Further, a lighted and decorated Christmas tree has been displayed on the Green. For example, United Home Health Care, a local private group, has participated in a Christmas tree lighting ceremony on the Green.

17. In November, 1993, Donald Creatore applied to Trumbull First Selectman Wilson for permission to place a creche on the public Green during the 1993 Holiday Season. As First Selectman, Wilson has the authority to grant private individuals and groups permission to use the Green. Creatore applied for permission on behalf of himself and the other members of Knights of Columbus Council No. 2961.

18. During the 1993 Holiday Season, a private religious group was allowed to display a Menorah on the Green in celebration of Hanukkah. Further, a Christmas tree was

erected on the Green. However, Selectman Wilson denied Creator and the Knights permission to erect a creche.

19. One of the reasons First Selectman Wilson gave for his refusal to allow the creche in 1993 was that Creator's application for permission was made too late. Creator sent Wilson a letter of protest, alleging that the decision constituted a denial of his free speech and free exercise rights, based solely on the content of his proposed expression.

20. Creator and the Knights renewed their request to place a nativity display on the Green for the 1994 holiday season. This time, the request was made early in the year.

21. On May 9, 1994, Creator received a letter from First Selectman Wilson, granting permission to erect a creche: "I wish to acknowledge your recent letter concerning the placement of a creche on town hall Green in conjunction with our Annual Green Lighting Programs. I have no objection to your plans . . ." First Selectman Wilson requested only that Creator submit a set of plans to the town Building Official for approval.

22. The plans for the creche were submitted to the Building Official, who approved them on August 18, 1994.

23. Creator and the Knights made plans to place the creche on the Green on Saturday, December 17, 1994.

24. On Wednesday, December 14, -- just three days before the creche was to be placed on the Green and over seven months since First Selectman Wilson had granted permission for the display -- First Selectman Wilson phoned Creator to revoke his permission for the display.

25. The sole basis for the First Selectman's eleventh-hour decision to revoke his permission was the specific religious content of the creche display. He told Creator that he

had reconsidered and would not allow the creche to be displayed on the public Green because it was a symbol that communicated a religious message. The First Selectman also told Creatore that he was concerned that other individuals might oppose the display because of its specific content. Nevertheless, a lighted Christmas tree has been erected on the Green this year.

26. Creatore and the Knights have deeply-held religious beliefs which have motivated them to seek permission to place the creche on the public Green. For Creatore and the Knights, the symbol of the creche is an expression and communication of these deeply held religious beliefs. They intend to sponsor such a display every year as part of the various annual holiday displays placed on the Green by other private groups.

## **COUNT 1**

### **42 U.S.C. § 1983 - Violation of Civil Rights.**

27. Paragraphs 1 through 26 are incorporated by reference as if set forth fully herein.

28. Defendants First Selectman David Wilson, and the Town of Trumbull through its officers and agents acting under color of law, deprived Plaintiffs of their rights to free speech and free exercise of religion, as secured by the First Amendment to the United States Constitution, in violation of 42 U.S.C. § 1983.

29. Defendants the Town of Trumbull, through its officers and agents; and Trumbull First Selectman David Wilson acting under color of law deprived Plaintiffs of their First Amendment rights in at least the following ways:

(a) By revoking a permit, which had been granted for over seven months to display a creche on the public Green, a traditional public forum, only days before the creche was

to be erected.

(b) By now refusing to allow plaintiffs to express and exercise their deeply held religious beliefs, based solely on the content of that expression and those beliefs.

WHEREFORE, plaintiffs respectfully request that this Court grant the following relief:

(a) An injunction preventing the defendants from further deprivation of the free speech and free exercise rights of plaintiffs;

(b) An order requiring the defendants to allow plaintiffs to display their creche on the public Green during the Holiday season;

(c) An award of full damages to the plaintiffs for defendants violation of the plaintiffs' civil rights in an amount to be determined at trial;

(d) An award to the plaintiffs of full costs and reasonable attorney's fees arising out of this litigation;

(e) Trial by jury on all claims for which a jury is available; and

(f) Such other and further relief that this Court may deem just and appropriate.

Respectfully submitted,

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