

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG
July 14, 2016

Sent via U.S. Mail and Email: dbowling1@zoomtown.com

Five Star Septic Service and Portable Toilet Rentals
1280 Vallandingham Rd.
Dry Ridge, KY 41035

Re: Last minute denial of service to nonreligious protesters

Dear Five Star Septic and Portable Toilet Rentals:

We are writing on behalf of the Freedom From Religion Foundation and our 24,000 members, including members in your state who were at the July 7 protest of the Ark Encounter, to object to FSS refusing to fulfill its agreement to provide portable toilets. FFRF is a nationwide nonprofit that educates on nontheism and protects the constitutional separation between state and church. I (Dan Barker) was among the protesters at the event who was denied this service.

It is our understanding that on June 30, FSS agreed to deliver one portable toilet to a July 7 event put on by the Tri-State Freethinkers, a group made up of nonbelievers from Kentucky, southern Ohio, and southern Indiana, the area FSS serves. We understand that FSS had toilets available, had TSF's credit card information, and agreed to deliver the toilets between 9–10 a.m. on July 7.¹

On the morning of July 7, your office reportedly called TSF at 9:13 a.m. to get directions to the site. During this conversation, your office asked the TSF representative whether the portable toilets were for the protest. Upon learning that they were, your office refused to fulfill the obligation, and denied service. We understand FSS indicated it refused service partially because it did not want its name associated with the atheists' protest.

With such short notice, TSF very obviously did not have time to make alternative arrangements. Instead, TSF had to hastily organize a shuttle caravan to a nearby gas station for the nearly 200 attendees needing to use toilets. This entailed a major time expense for volunteer organizers and individuals needing the ride, as well as financial outlay for gas and mileage. For some individuals, the inconvenience caused by your breach of contract meant missing parts of the protest.

TSF provided a lot of water for participants. As the day heated up, those of us in the open sun by the highway were drinking copious quantities. The denial of convenient toilets produced inevitable discomfort. To those of us affected, the denial of service felt like a punishment for our views.

¹ We understand that Tri-State Freethinkers contracted with Arwood Waste, Inc., which then sub-contracted with

Please be advised that it is unlawful for legitimate businesses such as FSS, to discriminate on the basis of religion. (Ironically, the gas station did not have public restrooms for non-customers, but portable toilets, provided by FSS.)

We would like you to be aware that the nonreligious population in this country is the fastest growing segment by religious identification, with fully 23% Americans identifying as nonreligious.² That 8 point increase since 2007³ and 15 point jump since 1990 makes the “nones” the fastest growing identification in America.⁴ Nationally, about 35% of millennials—born after 1981—are nonreligious.⁵ Nearly 30% of Americans are non-Christians, either practicing a minority religion or no religion at all, and about 44% of millennials are non-Christian.⁶ That would be a lot of individuals for FSS to refuse to serve on discriminatory grounds.

The Civil Rights Act prohibits discrimination in “places of public accommodation,” and as you are a company that provides commodes, it seems as though that term of art is directed at you.

In addition, TSF detrimentally relied on your promise to deliver a service and you reneged on that promise. At the very least, this is a breach of contract.

Tri-State Freethinkers will be contacting you to discuss an appropriate remedy for this discrimination.

Very truly,



Dan Barker & Annie Laurie Gaylor
Co-Presidents
Freedom From Religion Foundation

Cc:
Arwood Waste
Corporate Office
1004 Eastport Rd
Jacksonville, FL 32218

² *America's Changing Religious Landscape*, Pew Research Center (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

³ “Nones on the Rise: One-in-Five Adults Have No Religious Affiliation,” Pew Research Center, The Pew Forum on Religion & Public Life (October 9, 2012) available at <http://www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx>

⁴ Barry Kosmin, National Religious Identification Survey 1989-1990.

⁵ *America's Changing Religious Landscape*, Pew Research Center (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

⁶ *Id.*