

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**FREEDOM FROM RELIGION  
FOUNDATION, INC.,  
STEPHEN MEHOLIC, DAVID SIMPSON,  
JOHN BERRY, AND CANDACE WINKLER,**

*Plaintiffs,*

vs.

**CIVIL ACTION NO.:**

**PLAINTIFFS' ORIGINAL  
COMPLAINT FOR DECLATORY  
JUDGMENT, INJUNCTIVE RELIEF,  
AND NOMINAL DAMAGES**

**THE COUNTY OF LEHIGH,**

*Defendant.*

**INTRODUCTION**

1. A prominent Latin cross is centrally displayed on Lehigh County's seal and flag. The Plaintiffs—four local residents and a membership association of freethinkers (atheists, agnostics, and other nonbelievers) that works to promote the separation of state and church—object to the Latin cross representing the county government. Displaying the Latin cross on the county seal and county flag endorses Christianity, which violates the Establishment Clause of the First Amendment. The Plaintiffs seek appropriate declaratory and injunctive relief, as well as nominal damages.

**JURISDICTION AND VENUE**

2. This action arises under the First and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. § 1983.

3. This Court has jurisdiction under Article III of the United States Constitution, 28

U.S.C. § 1331, and 28 U.S.C. § 1343(a)(3)-(4).

4. The Court is authorized to award declaratory relief under 28 U.S.C. §§ 2201 and 2202.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because the events giving rise to this Complaint arose in the district and Defendant is located within the district.

### **THE PARTIES**

6. Plaintiff Freedom From Religion Foundation (“FFRF”) is a nonprofit corporation incorporated in Wisconsin that advocates for the separation of state and church and educates on matters of non-theism. FFRF has over 24,000 members nationwide, including more than 750 members in Pennsylvania.

7. FFRF brings this action to assert the First Amendment rights of its members. FFRF has more than 20 members who are residents of Lehigh County.

8. Plaintiff Stephen Meholic is a resident of Lehigh County. Mr. Meholic is a member of FFRF.

9. Plaintiff David Simpson is a resident of Lehigh County. Mr. Simpson is a member of FFRF.

10. Plaintiff John Berry is a resident of Lehigh County. Mr. Berry is a member of FFRF.

11. Plaintiff Candace Winkler is a resident of Lehigh County. Ms. Winkler is a member of FFRF.

12. Defendant, the County of Lehigh, is a governmental unit existing under the laws of the Commonwealth of Pennsylvania and located within the Eastern District of Pennsylvania.

13. Defendant has used and displayed and continues to substantially use and display a county seal featuring a Latin cross.

14. Defendant was acting by and through its employees, staff, and elected officials, all of whom were acting within the course and scope of their employment, for and on behalf of the Defendant.

### FACTS

#### **Lehigh County's use of the seal and flag**

15. A Latin cross is located in the center of the Lehigh County seal.

16. A depiction of the Old Lehigh County Courthouse is superimposed onto the lower portion of the Latin cross.

17. Defendant uses the seal in the day-to-day operations of county government and displays it in numerous settings.

18. The following are depictions of the Lehigh County seal:





19. The Latin cross is a Christian symbol.
20. The Latin cross is commonly viewed as a representation of the crucifixion of Jesus.
21. The Board of Commissioners of Lehigh County adopted an “Official Shield and Coat of Arms” on December 28, 1944. The Official Shield and Coat of Arms form the basis for the design of the Lehigh County seal and flag.
22. The Lehigh County seal is used by the county on county documents and letterhead.
23. Lehigh County has included the seal on county documents used by citizens and local organizations, including: right-to-know requests, American Heroes Grant applications, Quality of Life Program Grant applications, Tourism Development Grant applications, cremation authorizations for the Office of the Coroner, and Veterans Affairs pension applications.
24. Lehigh County uses the seal on official informational reports and documents. This has included documents related to Green Future Fund guidelines, the Community Development Block Grant program, outpatient mental health services, the Bureau of Parks and Recreation hunting policy, the Office of the Controller audits, and Lehigh County budget documents.

25. A sign identifying the Lehigh County Government Center, which is located at 17 S. Seventh Street in Allentown, includes two stone inscriptions of the seal.

26. The Lehigh County Board of Commissioners hold meetings in the Public Hearing Room of the Lehigh County Government Center. In the Public Hearing Room, a representation of the seal measuring several feet in diameter faces the audience and is displayed directly behind the commissioners' seating area.

27. Given its location, persons attending Board of Commissioners meetings view the County seal, including the Latin cross.

28. Lehigh County displays the seal on its website, [www.lehighcounty.org](http://www.lehighcounty.org). The seal appears as a banner at the top of each webpage available on the website.

29. The following is a depiction of the Lehigh County flag:



30. Lehigh County displays the Lehigh County flag in front of the Lehigh County Government Center.

31. The Lehigh County flag is displayed behind the Lehigh County Board of Commissioners in the hearing room during their meetings.

32. The Lehigh County flag is also displayed in front of the Lehigh County Courthouse, located at 455 West Hamilton Street in Allentown.

33. Upon information and belief, Lehigh County displays the Lehigh County flag in numerous other locations.

**FFRF requests a new seal**

34. FFRF sent a letter dated November 5, 2014 to Lehigh County Executive Thomas Muller regarding the Latin cross on the seal. The letter stated that its purpose was to “notify you that the Lehigh County seal violates the Constitution.” The letter “urge[d] the County to immediately discontinue using this seal and to develop a new seal that is both constitutional and representative of all citizens.” The letter is attached as Exhibit 1.

35. After receiving no response, FFRF sent a follow-up letter to Lehigh County on January 16, 2015.

36. In response to the letters from FFRF, the Lehigh County Board of Commissioners met in executive session three times to discuss its options.

37. The Lehigh County Board of Commissioners is responsible for the county’s design of the seal. Under the Lehigh County Home Rule Charter, § 1002, “The Board shall have the power to adopt an official seal for the County.”

38. The Board of Commissioners decided to retain the Lehigh County seal and requested the Solicitor’s Office to draft a response to FFRF’s letters.

39. At the Board of Commissioners meeting on March 25, 2015, Commissioner Brad Osborne read a draft of a response letter to FFRF. The Commissioners agreed to send the letter and change one sentence in the letter to read, “The cross, one of more than a dozen elements, was included to honor the original settlers of Lehigh County who were Christian.” The letter is attached as Exhibit 2.

40. FFRF then filed an open records request with Lehigh County pursuant to the Pennsylvania Right to Know Law (65 P.S. § 66.1, et seq.) requesting records relating to the adoption of the seal, correspondence regarding the seal, and records of the purpose—including claimed historical significance—of the cross on the seal.

41. The responsive records provided by the County did not include any documents contemporaneous to the adoption of the seal that referenced that the cross on the seal was included to honor the original settlers of Lehigh County who were Christian.

42. Members of the public view the Latin cross on the seal as having religious significance.

43. In response to the consideration of the seal by the Board of Commissioners, members of the public contacted the Board to show support for Lehigh County's continued use of the seal, with many messages highlighting the religious significance of the Latin cross.

44. For example, on March 20, 2015, Maryellyn Maher emailed the Board of Commissioners and said, "It's do or die time. Stand up and live our national Motto, 'In God We Trust.'" And, Jesus (*sic*) words 'fear not,' should give you strength to win one for the Cross. The people of the State's prayers are with you. Go with God in your effort to prevail over this clear and present evil."

45. On March 20, 2015, Angel Pacheco emailed the Board of Commissioners and wrote, "Please keep the cross on the government seal! It is a symbol not only of our state, but of a country that serves God. Please maintain this tradition!"

46. On March 21, 2015, Pamela Woods emailed the Board of Commissioners and said in part, "Please do not allow this group of haters to bully you into removing something that stands for freedom. The Cross stands for freedom. Jesus Christ came to give freedom. The God haters of this world are taking those freedoms away."

47. On March 22, 2015, Clark Dougherty emailed the Board of Commissioners:

I would like to encourage you and your office to stand firm on the use of your seal. As I understand it, you've been using this since 1940. A cross is a religious symbol and this country was founded on religious freedom. The absence of religion is not the same thing as religious freedom. If they have no religion, why should they care if your county expresses one? This bullying has to stop. You are doing nothing wrong; you are offending almost no one I'm sure. I pray you keep the symbol as it is.

48. In response to the email from Clark Dougherty, Lehigh County Commissioner Percy Dougherty wrote on March 22, 2015, “Thank you for your input from one Dougherty to another Dougherty. I am in complete agreement with you, and I will fight to preserve the status quo.”

49. A March 27, 2015 email from Louise Brunner said in part, “Please keep our current County seal intact that the FFRF wants us to alter. Our Commonwealth is at least 80% Christian. Many of our families (*sic*) Judeo-Christian roots go back to England and we are proud of our heritage and faith.”

50. An April 4, 2015 email from Willard Dellicker said in part, “Thank you for your commitment to stand against the assault on our Lehigh County heritage and religious beliefs. Your courage to stand against those who are determined to undermine our Nation’s fabric and our Local values is appreciated and needs to be recognized by your constituents.”

#### **Violation of Plaintiffs’ rights**

51. Mr. Meholic does not want his county government to be represented by a Christian symbol or any other religious symbol.

52. Mr. Meholic is an atheist and opposes the inclusion of a Latin cross on the seal and feels excluded from his community by the county’s use of this Christian symbol.

53. As a resident of Lehigh County, Mr. Meholic has been subjected to viewing the seal, which he finds offensive.

54. On May 5, 2015, Mr. Meholic submitted a right-to-know request with Lehigh County regarding another matter. The seal appeared at the top of the required submission form.



55. On October 28, 2015, Mr. Meholic spoke at the Board of Commissioners meeting requesting a redesign of the seal. During the meeting, the Lehigh County seal was prominently on display behind the Commissioners.

56. Mr. Meholic has also encountered the seal at the entrance to the Lehigh Valley International Airport, which is managed by the Lehigh-Northampton Airport Authority. A flag bearing the seal is prominently displayed at the entrance to the airport and Mr. Meholic regularly sees the flag while driving by the airport.

57. Mr. Meholic has also viewed the seal on the Lehigh County website.

58. Mr. Simpson does not want his county government to be represented by a Christian symbol.

59. Mr. Simpson opposes the inclusion of a Latin cross on the seal.

60. Mr. Simpson views the seal as portraying the message that Christians will receive preferential treatment by the Lehigh County government.

61. Mr. Simpson would like Lehigh County to recognize the diversity of the Lehigh County population in the 21<sup>st</sup> Century and remove the Latin cross from the county seal.

62. As a resident of Lehigh County, Mr. Simpson has been subjected to viewing the seal, which he finds offensive.

63. Mr. Simpson has visited the Sheriff's Office, a Department of Lehigh County, at the Lehigh County Courthouse, having necessary business there.

64. Mr. Simpson has visited the Lehigh County Government Center, having necessary business there.

65. Mr. Simpson has viewed the seal on the Lehigh County website, having gone to view information on county services and to request county documents.

66. Mr. Simpson also received a notice of property assessment via U.S. mail which displayed the Lehigh County seal.

67. Mr. Berry does not want his county government to be represented by a Christian symbol.

68. Mr. Berry opposes the inclusion of a Latin cross on the seal and views the inclusion of the Latin cross on the seal as signaling that the county government favors the Christian religion.

69. As a resident of Lehigh County, Mr. Berry has been subjected to viewing the seal, which he finds offensive.

70. Mr. Berry has visited the Lehigh County Government Center, having necessary business there.

71. Mr. Berry viewed the seal when he attended meetings in the Public Hearing Room of the Lehigh County Government Center.

72. Mr. Berry has also viewed the seal on the Lehigh County website.

73. Ms. Winkler does not want her county government to be represented by a Christian symbol.

74. Ms. Winkler opposes the inclusion of a Latin cross on the seal and feels excluded from her community by the county's use of this Christian symbol.

75. Ms. Winkler has viewed the seal on the Lehigh County website.

76. Ms. Winkler has received property tax bills from the county that contain the Lehigh County seal.

77. Ms. Winkler expects to have necessary business with the county and expects to come into contact with the seal.

78. Each of the plaintiffs perceive the seal as an endorsement of Christianity by Lehigh County.

79. As members of the community, Plaintiffs will continue to encounter the County seal in the same ways they have previously and likely others.

80. As a result of the actions and inactions of Lehigh County, each of the plaintiffs are suffering and will suffer irreparable harm for which there is no adequate remedy at law.

**Count I - 42 U.S.C. § 1983 – Deprivation of Plaintiffs’ Constitutional Rights by Defendant**

81. The foregoing averments of this Complaint are incorporated by reference.

82. By adopting and displaying a seal and flag including a Latin cross, Defendant has deprived Plaintiffs of rights secured by the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983.

83. Lehigh County had a religious purpose, rather than a secular purpose, in adopting a seal and flag that prominently feature a Latin cross.

84. The display of the Latin cross by Lehigh County has the primary effect of both advancing religion and expressing Defendant’s preference for Christianity above all other religions and nonreligion.

85. The adoption and display of the Latin cross constitutes an endorsement of religion by Lehigh County.

WHEREFORE, Plaintiffs respectfully request the following relief from this Honorable Court:

- A. A declaration that Defendant’s use of the Latin cross as a part of the Lehigh County seal and flag is unconstitutional;
- B. A permanent injunction enjoining Lehigh County from displaying a county seal and county flag that include a Latin cross;

- C. Nominal damages to compensate the Plaintiffs for the injury to their constitutional rights;
- D. Costs and attorney's fees pursuant to 42 U.S.C. § 1988; and
- E. Such other relief as this Honorable Court deems just and proper.

Respectfully Submitted,

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