

FREEDOM FROM RELIGION *foundation*

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August 9, 2012

SENT VIA MAIL AND FAX
(414) 476-7712

Ms. Kathy Pratscher
Interim Executive Director
Milwaukee Irish Festivals, Inc.
1532 Wauwatosa Ave.
Milwaukee WI 53213

Re: End Discriminatory Discount for Mass Attendance

Dear Ms. Pratscher:

I am writing on behalf of concerned Irish Fest participants and the Freedom From Religion Foundation (FFRF) regarding Irish Fest's policy of offering free admission to Catholic mass attendees who donate a food item prior to mass. FFRF is a nationwide nonprofit organization with more than 18,500 members including nearly 1,400 in Wisconsin. Our purpose is to educate on matters of nontheism and protect the constitutional principle of separation of church and state.

As in year's past, Irish Fest continues to offer a discriminatory promotion. The Irish Fest website says:

Bring a donation of non-perishable food items **prior** to the Mass at 9:30 a.m. and get into Irish Fest **free** at 11:00 a.m.

The website FAQ page says:

When is MASS?

Mass is held on Sunday at 9:30 AM at the Marcus Amphitheatre. Free entry to grounds at 11 AM with food donation made **PRIOR** to mass.

An Irish Fest webpage dedicated to the Mass says:

Guests who donate nonperishable food items **prior** to the liturgy are admitted to the festival free of charge after the Mass.

The "Festival Hours" page says:

Free Admission with a donation of a non-perishable food items **PRIOR** to the Mass at 9:30 a.m. for admission to the festival free of charge **AFTER** the mass.

In each instance that the mass is mentioned, Irish Fest emphasizes in bold or capital letters that the food items must be brought in prior to the mass, which takes place at 9:30 A.M. Irish Fest activities do not begin until 11:00 a.m. on Sunday. This means that only those

who would conceivably attend or want to attend the Catholic mass can receive this major benefit. Therefore, you are discriminating on the basis of religion.

We wrote to Executive Director Jane Anderson on August 5, 2010, concerning this same discriminatory discount. Please see the enclosed correspondence. Irish Fest declined to change its free admission policy. At the time, our complainant did not wish to further pursue a complaint with the Wisconsin Equal Rights Division. Another FFRF member, who is an annual Irish Fest participant, contacted us this year. Our complainant reports that the Irish Fest mass attendance policy has been bothersome for years. He writes, "It seems to me that this effectively offers Catholics preferential access to the event."

Adding the additional condition of bringing in a food item for donation does not absolve Irish Fest from violations of state and federal civil rights laws.

Under Wisconsin law, it is illegal for a place of public accommodation to discriminate or give preferential treatment to some persons because of religion.

No person may do any of the following:

1. Deny to another or charge another a higher price than the regular rate for the full and equal enjoyment of any public place of accommodation or amusement because of sex, race, color, creed, disability, sexual orientation, national origin or ancestry...

2. Give preferential treatment to some classes of persons in providing services or facilities in any public place of accommodation or amusement because of sex, race, color, creed, sexual orientation, national origin or ancestry.

3. Directly or indirectly publish, circulate, display or mail any written communication which the communicator knows is to the effect that any of the facilities of any public place of accommodation or amusement will be denied to any person by reason of sex, race, color, creed, disability, sexual orientation, national origin or ancestry or that the patronage of a person is unwelcome, objectionable or unacceptable for any of those reasons.

Wis. Stat. 106.52(3)(a). Offering free services to some persons and not others in a protected class violates the statute. *See Novak v. Madison Motel Associates*, 525 N.W.2d 123 (Wis. App. 1994) (A bar's "ladies drink free" night violated statute's prohibition against preferential treatment in provision of services).

Religious attendees of the Irish Fest mass are granted special treatment. Patrons who are nonreligious or not Catholic and do not wish to attend Bishop Malloy's mass are not treated equally and will have to pay \$15. By the terms of the Irish Fest policy and the emphasis on donating "PRIOR" to the mass on the Irish Fest website, Irish Fest is providing a preferential benefit to religious attendees. The limited timing of the promotion is calculated to ensure that only mass attendees receive free entry. The message is heard loud and clear by those who read the Irish Fest website: only those already arriving in time for the Catholic mass are being given the option to turn in a food item in time to qualify for free entry. Limiting a promotion so that it benefits one religion is unacceptable. Irish Fest's discriminatory treatment against the nonreligious and non-Catholics and its preferential treatment given to persons attending Catholic mass violates Wis. Stat. 106.52(3)(a).

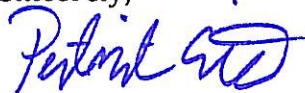
It appears that the additional requirement that mass attendees must donate a food item to receive free entry is merely a scheme to continue to incentivize attendance at the religious observance. Coincidentally, after we complained to Milwaukee Irish Fest in 2010, Oshkosh Irish Fest changed its promotion. Oshkosh Irish Fest was offering free admittance simply for mass attendance but then changed its policy in 2011 to the same promotion as in Milwaukee. The purpose and effect of the policy remain the same— to provide a special discount to mass attendees. Only the means of instituting it has changed. The history and context of these religious promotions in Wisconsin are further evidence that the practice violates the law.

We hoped that former Executive Director Jane Anderson would have resolved this issue two years ago. She failed to make the right call. There is still an opportunity to correct the problem for this year's Irish Fest. As a matter of sound policy, it makes sense. As a legal matter, it is required. FFRF's 1,400 Wisconsin members should not be treated any differently than Catholic festival attendees. Should Irish Fest continue to discriminate this year, our attorneys are committed to assisting injured parties with filing public accommodations complaints with the Wisconsin DWD Equal Rights Division. Under state law, private parties are also able to bring a case to seek injunctive relief, damages, punitive damages, court costs and attorney fees. *See Wis. Stat. 106.52(4)(e)*.

We request that Irish Fest immediately change its discriminatory policy and update its website to reflect those changes. One solution would be for all attendees to be able to donate items for free admittance by 11:00 am, or at any time of entry. This will ensure that Irish Fest is equally welcome to those of all religions and no religion. This will also help the Hunger Task Force have a successful food drive. Your current policy is a disincentive to participate in the food drive to the three-quarters of Wisconsin citizens who are not Catholic.

We ask that you notify us in writing about the steps you are taking to end this discriminatory practice. Thank you for your time and attention to this matter.

Sincerely,



Patrick C. Elliott
Staff Attorney

Enc.

CC: Mr. Patrick Boyle, incoming Executive Director (*Via email*)
Mr. Bernard McCartan, General Counsel (*Via email*)