UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DR. GENNARO POLVERINO and JESSE SIEGFRIED

Plaintiffs,

v.

TOWN OF BRIGHTON, NEW YORK; and WILLIAM W. MOEHLE, Brighton Town Supervisor, sued in his official capacity,

Defendants.

Civil Action No. 6:26-cv-6740-EAW

DEMAND FOR JURY TRIAL

FIRST AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES

Plaintiffs Dr. Gennaro Polverino ("Dr. Polverino") and Jesse Siegfried ("Mr. Siegfried"), by and through counsel, bring this Complaint for relief against the Town of Brighton, New York, and William W. Moehle, Brighton Town Supervisor, sued in his official capacity (collectively "Defendants"), and allege as follows:

I. INTRODUCTION

1. This is a civil rights action brought under 42 U.S.C. § 1983 challenging Defendants' repeated and intentional refusal to allow Plaintiffs to erect a privately sponsored display during holiday seasons in the Twelve Corners town square in Brighton, New York (the "Square")—a square that the Town has opened to other private holiday displays, most prominently an annual Menorah sponsored by Chabad Lubavitch and a Ramadan Banner.

2. Despite the Town's well-documented practice of permitting private religious displays in the Square during various holidays, Defendants have, for more than two years, ignored,

evaded, and effectively denied Dr. Polverino's repeated, good-faith requests to erect a Nativity scene celebrating the Christian origins of Christmas, as well as Mr. Siegfried's repeated requests to erect an Easter banner declaring "Happy Easter, He Is Risen."

3. Having opened the Square as a public forum to private religious expression—as evidenced by the prominent annual display of a Menorah, complete with a sign disclaiming government sponsorship—the Town may not deny Plaintiffs' requests to erect similar displays reflecting their own religious viewpoint.

4. Town officials have engaged in an intentional practice of denying privately sponsored displays that do not align with the Town's desired and preferred values, and have denied both Plaintiffs' requests by repeatedly refusing to meaningfully engage with them.

5. The Town has repeatedly and intentionally failed to return phone calls, failed to act on a certified letter, avoided an in-person meeting, ignored email communications, and refused to provide any written criteria, application, or defined process by which Dr. Polverino and Mr. Siegfried could seek approval for their religious displays.

6. The Town's sustained pattern of non-response, spanning multiple Christmas seasons and the Easter 2026 season, constitutes a de facto denial of Dr. Polverino's and Mr. Siegfried's constitutional rights to free speech, free exercise of religion, and equal protection of the law.

7. On June 12, 2026, counsel for Dr. Polverino sent Defendants a written demand letter detailing these violations and requesting written assurances, no later than June 22, 2026, that Dr. Polverino would be permitted to erect his Nativity display in the Square during the 2026 Christmas season.

8. Defendants failed to provide the requested assurances or to otherwise substantively respond until after Dr. Polverino initiated this lawsuit. Even then, the Town has yet to respond to the allegations in the original Complaint filed on July 21, 2026.

9. Plaintiffs bring this action to vindicate their constitutional rights and to ensure that they, like the sponsors of the Menorah and the Ramadan Banner before them, may erect their religious displays in the Square in time for the upcoming 2026 Christmas season and 2027 Easter season.

II. PARTIES

10. Plaintiff Dr. Gennaro Polverino is an adult resident of the Town of Brighton, Monroe County, New York.

11. Plaintiff Jesse Siegfried is currently, and has been, an adult resident of the Town of Brighton, Monroe County, New York for more than thirteen (13) years.

12. Defendant Town of Brighton, New York ("Town") is a municipal corporation organized under the laws of the State of New York, located in Monroe County, New York. Acting through its Town Board, Town Supervisor, and other officials and employees, the Town owns, controls, and regulates the use of the Square, including decisions regarding private displays erected there.

13. Defendant William W. Moehle is the Town Supervisor of Brighton, New York. As Town Supervisor, Defendant Moehle is the Town's chief executive officer and is responsible for overseeing Town operations and personnel, including decisions and practices regarding access to and use of Town property such as the Square. Defendant Moehle is sued in his official capacity only.

14. As Town Supervisor, Defendant Moehle also serves as one of the five members of the Town Board and presides over all meetings of the Town Board.

15. At all relevant times, Defendant Moehle possessed final decision-making authority, or meaningful authority to direct Town personnel, regarding requests for use of Town property and access to the Square.

16. The actions and omissions described herein were undertaken pursuant to the Town's policies, practices, customs, or decisions of officials possessing final policymaking authority for the Town.

III. JURISDICTION AND VENUE

17. This civil rights action raises federal questions under the United States Constitution, particularly the First and Fourteenth Amendments, enforceable under the Civil Rights Act, 42 U.S.C. § 1983.

18. This Court has original jurisdiction over these federal claims pursuant to 28 U.S.C. §§ 1331 and 1343.

19. This Court has the authority to award the requested damages pursuant to 28 U.S.C. § 1343; the requested declaratory relief under 28 U.S.C. §§ 2201 and 2202; the requested injunctive relief under 28 U.S.C. § 1343 and Fed. R. Civ. P. 65; and costs and attorneys' fees under 42 U.S.C. § 1988.

20. Under 28 U.S.C. § 1391, venue is proper in this district because the events described herein occurred in this district and/or Defendants reside in this district.

IV. FACTUAL BACKGROUND

A. The Twelve Corners Town Square Is a Forum for Private Holiday Displays

21. The Square is a public forum located in Brighton, New York, owned, maintained, and operated by the Town.

22. For many years, the Town has permitted private organizations to erect unattended holiday displays in the Square during the winter holiday season.

23. Each December, an organization erects a Menorah in the Square to celebrate Hanukkah.

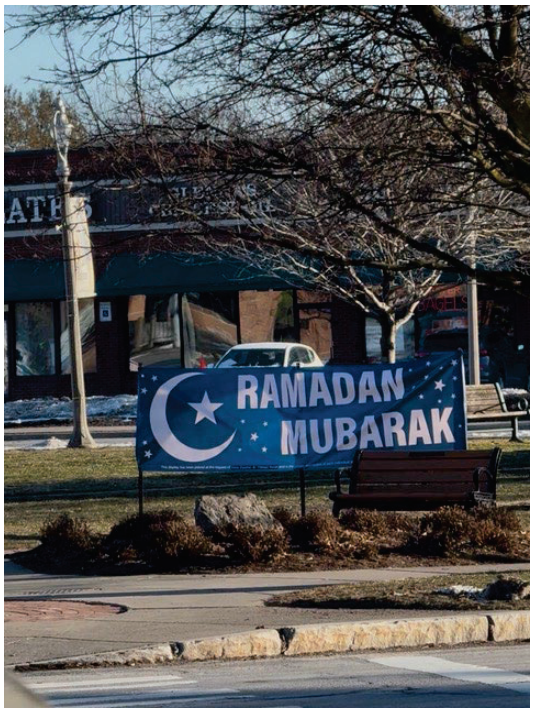
24. The Menorah display includes a sign expressly disclaiming government sponsorship, stating "Happy Chanukah From Chabad," and further stating that "[t]he display of this Menorah is fully sponsored by Chabad Lubavitch. The Town of Brighton has not sponsored or assisted in this display." An image of said sign follows:

25. The Town's longstanding practice of permitting this privately sponsored religious display in the Square has been documented in numerous news stories, including video coverage in which a rabbi discusses the Menorah display and in which Defendant Moehle himself appears speaking at a Menorah lighting event. The following image is from a Facebook post by Defendant Moehle, available at https://www.facebook.com/photo/?fbid=10159409105567274&set=pcb.10159409108197274:

26. By permitting the Menorah's annual erection—an unattended, privately sponsored religious display—in the Square, the Town has opened the Square as a forum for private religious expression during the winter holiday season.

27. Defendants have never informed Dr. Polverino that his proposed display differed from the Menorah display in any material respect relating to public safety, space limitations, duration, aesthetics, or administrative concerns.

28. Plaintiffs Dr. Polverino and Mr. Siegfried have observed other religious displays in the Square as well, such as a banner displayed in observance of Ramadan. An image of that banner follows:



29. The Town has historically permitted members of the public and private organizations to use the Square for civic, cultural, and holiday-related expression.

30. The Square is, at minimum, a designated public forum for such private holiday displays.

31. Given its character as a public square historically associated with public assembly, the Square is also a traditional public forum.

B. Dr. Polverino's Repeated, Good-Faith Efforts to Obtain Permission for a Nativity Display

32. Dr. Polverino wishes to erect a privately sponsored, life-size Nativity scene in the Square during the Christmas season, on the same basis that the Town has permitted the Menorah. This display would be unobtrusive and not obstruct any other activities in the Square.

33. On December 22, 2023, Dr. Polverino left a voicemail message for Bridgette Monroe, Assistant to the Supervisor, inquiring about the process for obtaining permission to erect

a Nativity display in the Square. Neither Defendant Moehle nor anyone else responded to his voicemail.

34. On December 29, 2023, Dr. Polverino visited the Town offices in person and spoke with two different Town employees or officials about setting up a Nativity scene during the Christmas holiday. The first was a female employee named Tracy; the second was then-Commissioner of Public Works, Evert Garcia.

35. During his conversation with Tracy on December 29, 2023, Tracy confirmed that the Town owns the Square and that the Menorah was a private display.

36. Dr. Polverino then inquired of Tracy how he would go about obtaining permission to set up a Nativity scene. Tracy indicated she was unsure of the process.

37. During their conversation, Evert Garcia, Commissioner of Public Works, entered the room, and Dr. Polverino asked Commissioner Garcia how he should go about obtaining permission to set up a Nativity scene.

38. Commissioner Garcia then informed Dr. Polverino that any such request would need to be submitted to the Town Supervisor and indicated that he would speak with Defendant Moehle and get back to Dr. Polverino. Dr. Polverino left his name and contact information.

39. Dr. Polverino never heard back from Commissioner Garcia or anyone else employed by or representing the Town.

40. Throughout 2024, Dr. Polverino made numerous additional attempts to reach Defendant Moehle and other Town officials and employees to obtain clarification on the process for erecting a temporary Nativity display, including by leaving voicemails with Commissioner Garcia, Matt Beeman, Superintendent of Parks, and Bridgette Monroe, Assistant to the Town Supervisor.

41. On January 5, 2024, Dr. Polverino left voicemails for Commissioner Garcia and Matt Beeman. They did not return his calls.

42. On January 23, 2024, at approximately 2:30 p.m., Dr. Polverino called the Town Supervisor's office and spoke with Ms. Monroe and requested a meeting with Defendant Moehle to discuss setting up a Nativity display. Ms. Monroe promised to look into the matter and contact Dr. Polverino the following day. Ms. Monroe never contacted him as promised.

43. On May 31, 2024, at approximately 11:00 a.m., Dr. Polverino called and left a voicemail with Ms. Monroe requesting an appointment with Defendant Moehle. Once again, Dr. Polverino's call was ignored, and no one returned it.

44. On or about August 17, 2024, Dr. Polverino sent a certified letter to Defendant Moehle requesting a meeting to discuss his request. Once again, Dr. Polverino was ignored, and neither Defendant Moehle nor anyone else acting on behalf of the Town responded to the letter.

45. On August 26, 2024, Dr. Polverino visited Defendant Moehle's office in person during normal business hours in an effort to discuss his request. Rather than meet with Dr. Polverino, Defendant Moehle went into his office and instructed Ms. Monroe to speak with Dr. Polverino in his stead.

46. During his August 26, 2024, visit to Defendant Moehle's office, Dr. Polverino saw his certified letter to Defendant Moehle sitting face-up on Ms. Monroe's desk. Ms. Monroe informed Dr. Polverino that Defendant Moehle would be the one to give final approval on setting up the Nativity, but that she did not have any information to provide on the matter.

47. Approximately one month later, on or about September 27, 2024, Ms. Monroe called Dr. Polverino to inform him that his request would be reviewed and would be responded to within two months' time. Once again, no one from the Town ever followed up with him.

48. Another Christmas season passed without any response from the Town regarding Dr. Polverino's request.

49. On or about September 10, 2025, Dr. Polverino prepared a detailed packet of information regarding his request and personally delivered the packet to the Town's office with the request that it be delivered to Mr. Mancuso, Town Attorney, since Defendant Moehle had refused to respond to all prior requests. A Town employee, Margaret Lull, accepted the packet of information, date-stamped it, and promised to deliver it to Mr. Mancuso.

50. The packet of information prepared by Dr. Polverino included the following: (1) a letter from Dr. Polverino to Mr. Mancuso dated September 10, 2025 (attached hereto as Exhibit A); (2) another copy of Dr. Polverino's August 17, 2024, letter to Defendant Moehle (attached hereto as Exhibit B); (3) a log of Dr. Polverino's prior attempts to contact Town officials, including Defendant Moehle, to obtain permission to set up a Nativity on the Square during the Christmas season; and (4) a FAQ information sheet prepared by the American Center for Law & Justice outlining the law regarding private displays on public property.

51. Upon delivering the packet, Dr. Polverino requested to meet with Mr. Mancuso, or, in the alternative, Ms. Monroe. Ms. Lull informed Dr. Polverino that neither was present in the Town's office but promised to deliver the packet of information directly to Mr. Mancuso at the Town meeting scheduled for that evening.

52. Once again, the Town ignored Dr. Polverino's request.

53. On or about October 20, 2025, at approximately 2:54 p.m., Dr. Polverino telephoned Mr. Mancuso and left a voicemail requesting a decision on his Nativity display for the 2025 holiday season.

54. Once again, the Town ignored his request.

55. On March 12, 2026, Dr. Polverino again called Mr. Mancuso. He was again transferred to Ms. Monroe, who again promised to follow up with Defendant Moehle and Mr. Mancuso.

56. Also on March 12, 2026, and following his telephone conversation with Ms. Monroe, Dr. Polverino followed up with an email to Ms. Monroe and copied Defendant Moehle, Sara Krusenstjerna (Chief of Staff), Town Attorney Mancuso, and David Dollinger (Deputy Town Attorney), referencing his attempts over more than two years to obtain a decision from the Town regarding his request to set up a Nativity display. Dr. Polverino attached copies of his August 17, 2024, letter to Defendant Moehle and his September 10, 2025, letter to Town Attorney Mancuso. A true and accurate copy of the March 12, 2026, email is attached hereto as Exhibit C.

57. As with every prior attempt, Dr. Polverino's email and request were ignored. No Town official ever followed up.

58. In total, over a period of more than two years and across at least two Christmas seasons, Dr. Polverino made repeated, persistent, good-faith efforts—by phone, in person, and by certified mail—to obtain the Town's permission to erect a Nativity display in the Square.

59. At every turn, Defendant Moehle and other Town officials either ignored him outright or passed him from one official to another without ever providing a response.

60. At no point did any Town official provide Dr. Polverino with an application form, written policy, permitting procedure, submission deadline, decision-making criteria, or other mechanism by which his request could be formally considered. Nor did any Town official identify any additional information necessary to evaluate his request.

61. The Town has never provided Dr. Polverino with a denial of his request, an approval of his request, or even an acknowledgment of any defined process by which his request would be considered.

62. Because Defendants failed to identify any procedure through which Dr. Polverino could obtain a decision, and because Town officials repeatedly ignored or deflected his requests over a period spanning multiple Christmas seasons, any further efforts to secure approval outside judicial intervention would have been futile.

C. The Town's De Facto Denial and the June 2026 Demand Letter

63. On June 12, 2026, counsel for Dr. Polverino sent a written demand letter to Defendant Moehle, detailing the Town's more than two years of unconstitutional inaction. The letter demanded written assurances, by June 22, 2026, that Dr. Polverino would be permitted to erect a Nativity display in the Square for the 2026 Christmas season.

64. Defendants did not provide the requested assurances or otherwise substantively respond to the demand letter before Dr. Polverino commenced this action.

65. The Town's persistent refusal to engage with Dr. Polverino and respond to formal legal requests constitutes a de facto denial of his request to erect a Nativity display on the same terms as the Menorah.

66. Unless restrained, Defendants will continue to violate Dr. Polverino's constitutional rights and deny him the opportunity to erect his Nativity display during the upcoming 2026 Christmas season, causing him irreparable harm for which there is no adequate remedy at law.

D. Mr. Siegfried's Repeated, Good-Faith Efforts to Obtain Permission for an Easter Banner

67. In February 2026, and Mr. Siegfried saw a large banner in the Square reading "Ramadan Mubarak," which was erected in February 2026 that remained throughout the Ramadan

season.

68. Mr. Siegfried contacted the Town by telephone on or about March 9, 2026, to ask for permission to erect a similarly sized banner that would read "Happy Easter, He Is Risen" (hereinafter "Easter Banner"), featuring a graphic of an empty tomb and a cross.

69. During the March 9, 2026, telephone call, Mr. Siegfried spoke with Smarlin Espino, an employee of the Town's Building and Planning Department, and explained that he planned to partner with his local church to sponsor the Easter Banner.

70. Ms. Espino instructed Mr. Siegfried to email a description of the Easter Banner; Mr. Siegfried emailed her the requested description that same day.

71. A few days later, Ms. Espino responded to Mr. Siegfried's email and requested the exact dimensions of the banner, a map of the Square indicating where exactly he wished to erect the Easter Banner, and a picture of the proposed graphic. Within an hour of receiving Ms. Espino's email, Mr. Siegfried responded with all of the requested information.

72. More than two weeks passed, and Mr. Siegfried received no communication from the Town.

73. Accordingly, in late March 2026, Mr. Siegfried drove to the Town offices, which are temporarily located on Westfall Road, to inquire about the status of the request.

74. Mr. Siegfried spoke in person with Ms. Espino, who informed him that his request was still in the approval process.

75. Two other women seated at desks behind Ms. Espino witnessed this meeting, and one of the women then responded, "Yes, that has to go through an approval process by a committee which Supervisor Moehle sits on. It has to be reviewed to make sure it aligns with the Town's values."

76. During this in-person conversation, Mr. Siegfried asked whether the same process he was being required to follow to erect his privately sponsored Easter Banner had been applied to the group or individual who had erected the Ramadan Banner.

77. The same woman who had instructed Mr. Siegfried that his request would be reviewed subject to the Town's values snickered at Mr. Siegfried and turned away without answering.

78. Mr. Siegfried concluded his meeting with Ms. Espino and the other two Town employees by thanking them for their time and indicating that he would look forward to an update.

79. At this point in time, Mr. Siegfried felt that he was being singled out for disfavored treatment because his private expression did not align with the Town's values, and that he was purposefully being ignored and kept in the dark about the approval process and criteria for erecting a private display.

80. Approximately one week before Easter 2026, and having received no response whatsoever from the Town regarding his Easter Banner, Mr. Siegfried emailed Defendant Moehle directly, copied Ms. Espino, and explained his request to erect an Easter Banner.

81. Mr. Siegfried specifically mentioned in his email that he enjoyed seeing the other private displays in the Square and simply wished to add his own to share and celebrate the holiday with fellow Brighton residents of the Christian faith.

82. Once again, and just as in Dr. Polverino's case, Mr. Siegfried's request was ignored. He received no response from Defendant Moehle or Ms. Espino.

83. Easter, April 5, 2026, passed without any communication from the Town.

84. Mr. Siegfried still has not received any response or communication from the Town.

85. Even after Dr. Polverino filed the original Complaint in this matter and the Town

was on notice of religious requests to place additional displays in this public forum, it *still* provided no response to Mr. Siegfried's requests.

V. CAUSES OF ACTION

Count I
Violation of the First Amendment Right to Freedom of Speech – Viewpoint Discrimination
(U.S. Const. amend. I; 42 U.S.C. § 1983)

86. Plaintiffs repeat, reallege, and incorporate by reference all preceding paragraphs as if fully set forth herein.

87. Pursuant to 42 U.S.C. § 1983, Plaintiffs bring this claim against Defendants for acting under color of state law to deprive them of their First Amendment right to freedom of speech.

88. The Square is open and accessible to the public and serves as a central gathering place within the Town.

89. The Town has historically permitted members of the public and private organizations to use the Square for civic, cultural, and holiday-related expression.

90. The Town has not limited use of the Square to government speech or government-sponsored displays.

91. Through its longstanding practice of permitting privately sponsored holiday displays, including religious displays accompanied by disclaimers expressly disavowing government sponsorship, the Town has opened the Square for private expressive activity and religious expression.

92. The Square is a public forum.

93. At minimum, it is a designated public forum that the Town has opened for private religious and secular expression, including unattended holiday displays such as the Menorah and Ramadan Banner.

94. In a designated or traditional public forum, the government may not exclude speech based on viewpoint absent a compelling interest, and may impose only reasonable content-neutral time, place, and manner restrictions.

95. Religious displays, including Nativity scenes and Easter Banners, constitute protected private speech under the Free Speech Clause when displayed in a public forum on the same terms as other private speech.

96. By permitting the Chabad-sponsored Menorah to be erected in the Square each year while refusing, ignoring, and failing ever to act on Dr. Polverino's repeated requests to erect a Nativity display, Defendants have intentionally discriminated against Dr. Polverino's protected speech on the basis of its religious viewpoint.

97. Similarly, Defendants have intentionally discriminated against Mr. Siegfried's protected speech on the basis of religious viewpoint by permitting the Menorah and Ramadan Banner while refusing, ignoring, and failing to act on his request to display his Easter Banner.

98. A Town employee further stated that requests for private displays are reviewed by a committee on which Defendant Moehle sits to determine whether the proposed display "aligns with the Town's values." This expressly viewpoint-based criterion, coupled with the Town's approval of the Ramadan Banner and nonresponse to Mr. Siegfried's Christian Easter Banner, demonstrates that Defendants conditioned access to the Square on conformity with the Town's preferred viewpoints.

99. Defendants have no compelling interest that justifies this pattern and practice of viewpoint-based exclusion.

100. Defendants' conduct constitutes a pattern and practice of unconstitutional viewpoint discrimination prohibited by the Free Speech Clause of the First Amendment, as incorporated against the states through the Fourteenth Amendment.

101. Defendants' conduct also does not constitute a reasonable time, place, and manner restriction.

102. As a direct and proximate result of Defendants' viewpoint discrimination, Plaintiffs have suffered, and will continue to suffer, irreparable injury for which there is no adequate remedy at law, as well as damages in an amount to be determined by the evidence and this Court.

103. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to declaratory relief, injunctive relief, monetary damages, and reasonable attorneys' fees and costs.

Count II
Violation of the First Amendment Right to Free Exercise of Religion
(U.S. Const. amend. I; 42 U.S.C. § 1983)

104. Plaintiffs repeat, reallege, and incorporate by reference all preceding paragraphs as if fully set forth herein.

105. Pursuant to 42 U.S.C. § 1983, Plaintiffs bring this claim against Defendants for acting under color of state law to deprive them of their First Amendment right to free exercise of religion.

106. Dr. Polverino sincerely believes that publicly displaying a Nativity scene depicting the birth of Jesus Christ is an expression of his Christian faith and a religious exercise central to his observance of the Christmas season.

107. Mr. Siegfried sincerely believes that a public display of an Easter Banner celebrating Jesus's resurrection from the dead is an expression of his Christian faith and an important religious exercise central to his observance of Easter.

108. The First Amendment prohibits government action that is not neutral and generally applicable toward religious conduct.

109. Defendants' conduct is neither neutral nor generally applicable. The Town permits an annual, privately sponsored religious display celebrating Hanukkah and another celebrating Ramadan, yet has refused for more than two years to act on Dr. Polverino's materially similar request to erect a privately sponsored religious display celebrating Christmas and, more recently, Mr. Siegfried's request to display an Easter Banner.

110. The Town's requirement that proposed religious displays "align[] with the Town's values" is neither neutral toward religion nor generally applicable but instead invites individualized assessment of the religious message expressed.

111. This disparate treatment of Christian private religious displays in favor of others, without any legitimate, let alone compelling, interest, substantially burdens Plaintiffs' sincerely held religious beliefs and their ability to express them in the same public forum the Town has opened to other faiths.

112. Defendants have no compelling interest that justifies this burden on Plaintiffs' religious exercise, and even if they did, their inaction and selective treatment of religious displays are not narrowly tailored to serve any such interest.

113. Defendants' conduct violates the Free Exercise Clause of the First Amendment, as incorporated against the states through the Fourteenth Amendment.

114. As a direct and proximate result, Plaintiffs have suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law, as well as damages in an amount to be determined by the evidence and this Court.

115. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to declaratory relief, injunctive relief, monetary damages, and reasonable attorneys' fees and costs.

Count III
Violation of the Fourteenth Amendment Right to Equal Protection
(U.S. Const. amend. XIV; 42 U.S.C. § 1983)

116. Plaintiffs repeat, reallege, and incorporate by reference all preceding paragraphs as if fully set forth herein.

117. Pursuant to 42 U.S.C. § 1983, Plaintiffs bring this claim against Defendants for acting under color of state law to deprive them of their Fourteenth Amendment right to equal protection of the laws.

118. The Equal Protection Clause prohibits the government from treating similarly situated persons differently without sufficient justification, and applies with particular force where the differential treatment is based on the religious viewpoint of the speaker.

119. Dr. Polverino and the private sponsors of the Menorah are similarly situated in all material respects: both have sought, or seek, to erect an unattended, privately sponsored religious display celebrating a winter holiday in the same public square while disclaiming government sponsorship.

120. Mr. Siegfried and the private sponsor(s) of the Ramadan Banner are similarly situated in all material respects.

121. Despite these similarities, Defendants have permitted the annual Menorah display for years, as well as the Ramadan Banner, while refusing Plaintiffs' repeated requests to erect their Christian displays.

122. This differential treatment is based on the religious identity and viewpoint of Plaintiffs.

123. Indeed, a Town employee expressly stated that the approval committee, on which Defendant Moehle sits, reviews proposed displays to ensure that they "align[] with the Town's values," confirming that Defendants' disparate treatment rests on a nonneutral, viewpoint-based criterion.

124. Defendants have no rational, let alone compelling, basis for treating Dr. Polverino's request differently from the Menorah sponsors' continued use of the Square.

125. Defendants have no rational, let alone compelling, basis for treating Mr. Siegfried's request differently from the Ramadan Banner's sponsors' continued use of the Square.

126. Defendants' conduct violates the Equal Protection Clause of the Fourteenth Amendment.

127. As a direct and proximate result, Plaintiffs have suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law, as well as damages in an amount to be determined by the evidence and this Court.

128. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to declaratory relief, injunctive relief, monetary damages, and reasonable attorneys' fees and costs.

Count IV
Violation of the Establishment Clause of the First Amendment
(U.S. Const. amend. I; 42 U.S.C. § 1983)

129. Plaintiffs repeat, reallege, and incorporate by reference all preceding paragraphs as if fully set forth herein.

130. Pursuant to 42 U.S.C. § 1983, Plaintiffs bring this claim against Defendants for acting under color of state law to deprive them of their First Amendment rights to be free from governmental establishment of religion, as incorporated against the states through the Fourteenth Amendment.

131. Defendants have permitted annual, privately sponsored religious displays in the Square while refusing, ignoring, and failing to act on Plaintiffs' materially similar requests to erect Christian displays.

132. The clearest command of the Establishment Clause is that the government may not officially prefer one religion, religious denomination, or faith tradition over another.

133. By selectively permitting private religious expression celebrating Hanukkah and Ramadan while denying Plaintiffs' religious expression celebrating Christmas and Easter, Defendants have conveyed and effected a governmental preference for certain faith traditions over others.

134. Defendants have used government authority to favor the expression of one religious denomination while excluding the expression of another religious denomination.

135. This differential treatment lacks a constitutionally adequate justification and gives preference to one religious perspective over others.

136. Defendants' preferential treatment of private religious displays in the Square is inconsistent with the Establishment Clause and our Nation's history and traditions of denominational neutrality.

137. Plaintiffs do not seek the removal or exclusion of the Menorah or Ramadan Banner. Rather, Plaintiffs seek neutral and even-handed treatment.

138. As a direct and proximate result, Plaintiffs have suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law, as well as damages in an amount to be determined by the evidence and this Court.

139. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to declaratory relief, injunctive relief, monetary damages, and reasonable attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the following relief:

1. Declare that Defendants' policy, practice, and conduct in refusing to permit Plaintiffs' private displays in the Twelve Corners Town Square violate the First and Fourteenth Amendments to the United States Constitution;
2. Issue injunctive relief ordering Defendants to permit Dr. Polverino to erect a life-size Nativity display in the Twelve Corners Town Square during the Christmas season, and during each Christmas season thereafter, on the same terms applicable to other private religious holiday displays;
3. Issue injunctive relief ordering Defendants to permit Mr. Siegfried to erect his Easter Banner in the Twelve Corners Town Square during the Easter season, and during each Easter season thereafter, on the same terms applicable to other private religious holiday displays;
4. Award Plaintiffs compensatory or, in the alternative, nominal damages for the violation of their constitutional rights;
5. Award Plaintiffs reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and

6. Grant such other and further relief as the Court deems just and proper.

Plaintiffs demand a trial by jury of all issues so triable.

Respectfully submitted,

/s/ Nathan J. Moelker
NATHAN J. MOELKER*
(VA Bar No. 98313)
CHRISTINA A. COMPAGNONE*
(DC Bar No. 1657929)
THE AMERICAN CENTER FOR LAW & JUSTICE
201 Maryland Avenue, NE
Washington, D.C. 20002
Telephone: (202) 546-8890
Facsimile: (202) 546-9309
nmoelker@aclj.org
ccompagnone@aclj.org

ABIGAIL SOUTHERLAND*
(TN Bar No. 026608)
AMERICAN CENTER FOR LAW & JUSTICE
625 Bakers Bridge Avenue
Franklin, TN 37067
Telephone: (615) 599-5572
asoutherland@aclj.org

Raymond J. Dague
DAGUE LAW OFFICE
4874 Onondaga Road
Syracuse, New York 13215
Office (315) 422-2052
Fax (315) 474-4334
Raymond@DagueLaw.com

ATTORNEYS FOR PLAINTIFFS

* Admitted pro hac vice

VERIFICATION PURSUANT TO 28 U.S.C. § 1746

Pursuant to 28 U.S.C. § 1746, I, Dr. Gennaro Polverino, declare under penalty of perjury that I have read the foregoing First Amended Verified Complaint, that I am competent to testify in this matter, and that the facts contained therein are true and correct.

Executed on: 9/28/2026

By: Signed by: Gennaro Polverino B2A7EFE6F22240D...

Pursuant to 28 U.S.C. § 1746, I, Jesse Siegfried, declare under penalty of perjury that I have read the foregoing First Amended Verified Complaint, that I am competent to testify in this matter, and that the facts contained therein are true and correct.

Executed on: 9/28/2026

By: Signed by: Jesse Siegfried 7A432552D436434...

Exhibit A

September 10, 2025

John Mancuso, Attorney to the Town
Town of Brighton
680 Westfall Road
Rochester, New York 14620

Gennaro Marc Polverino MD
59 Avalon Dr
Rochester, New York 14518

Dear Mr. Mancuso:

For over a year, I have been attempting to obtain approval from the town to set up a life-sized and tastefully lit Nativity at the 12 Corners central park area along Winton Road during the Christmas season as defined by the Catholic Church. This would be opposite the location of the seasonal Menorah light display.

Most recently on 9/27/24, Bridgette, Assistant Supervisor, called me to update me that the town attorney's office was reviewing my request and that I should hear back in two months. I haven't to date heard back so I decided to contact you directly.

Please see attached the timeline of my contacts with various town departments and a letter from last year to Mr. Moehle. In case it might be helpful, I have also included a number of court rulings outlined by the American Center for Law & Justice that, in my estimation, would allow for my request to be granted.

I look forward to hearing from you soon.

Sincerely,

Gennaro Marc Polverino MD
c. 412-559-9873

Exhibit B

August 17, 2024

Mr. William Moehle, Supervisor
Town of Brighton
2300 Elmwood Av
Rochester New York 14618

Dear Mr. Moehle,

Each Hanukkah I'm uplifted to see the town of Brighton uninhibitedly demonstrating a commitment to freedom of religion and speech by providing a space in the public square for a larger than life menorah at the twelve corners along Monroe Avenue. This is a wonderful beacon of hope that religious expression can be respected in contradiction to what at times seems to be the world's suppression of religion in general.

In this spirit, I would like to honor Jesus by setting up a life-sized tastefully lit Nativity along the Winton Road side of the twelve corners that would be erected and maintained throughout the traditional Christmas season beginning in 2024.

I have made several attempts to work with the town on this but have had no movement in that direction. Please see enclosed log.

I'm asking for a meeting with you in order to gain further guidance on how I would go about setting up a Nativity this fall since I have not heard back from your staff.

Thank you in advance for your support of equality in religious expression in our community.

Sincerely,

Gennaro Polverino MD

c. 412-559-9873