

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

CAMPION, BARROW & ASSOCIATES)	
OF ILLINIOS, INC., an Illinois)	
Corporation, and MICHAEL A.)	
CAMPION,)	Case No. 07-3935 (JNE-SRN)
)	
Plaintiffs,)	
)	
v.)	
)	
CITY OF MINNEAPOLIS,)	
MINNESOTA, MAYOR R.T. RYBAK, <i>in</i>)	Jury Trial Demanded
<i>his individual capacity and official capacity,</i>)	
)	
Defendants.)	
)	

**VERIFIED COMPLAINT FOR
DECLARATORY RELIEF AND DAMAGES**

1. This is a civil rights action brought pursuant to 42 U.S.C. § 1983 asserting claims for violations of Plaintiff’s First Amendment rights of freedom of association, free speech, and breach of contract. At all times relevant to this complaint, Defendants acted under color of state law.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(3),(4) whichs confer original jurisdiction on federal district courts in suits to redress the deprivation of rights, privileges and immunities as stated in paragraph 1 above. The Court may provide declaratory relief requested pursuant to 28 U.S.C. § 2201

and 2202. The Court has supplemental jurisdiction over the state law claim pursuant to 28 U.S.C. § 1367.

3. Venue is proper in the District of Minnesota pursuant to 28 U.S.C. § 1391(b) because the claims arose in this district.

IDENTIFICATION OF PARTIES

4. Plaintiff Campion, Barrow & Associates of Illinois, Inc. (“CBA”) is an Illinois corporation that provides a comprehensive set of psychological services throughout the nation, directly and through strategic alliances, including consultation to approximately 100 police departments.

5. Plaintiff Michael A. Campion is a citizen of the United States and a resident of Illinois. He holds a Ph.D. in counseling psychology and is a licensed clinical psychologist in Illinois, Minnesota, and Indiana, and is registered with the Association of State and Provincial Psychological Boards, which facilitates his receiving a license in a number of states, as well as Canada. Dr. Campion is Chairman of the Illinois Chiefs of Police Psychologists and participates on the International Association of Chiefs of Police Committee on Psychology. He was formerly an associate professor at the College of Medicine at the University of Illinois for eighteen years, and has lectured and made presentations in the area of public safety at the state and national levels, as well as worked with the Federal Bureau of Investigation and the United States Department of Justice on three research projects. Dr. Campion is CEO and Senior Psychologist for CBA.

6. Defendant City of Minneapolis, Minnesota (“City”) is a political

subdivision existing under the laws and Constitution of the State of Minnesota, and is an entity capable of suing and being sued. The City operates and maintains the Minneapolis Police Department (“MPD”).

7. Defendant Mayor R.T. Rybak at all times relevant to this action was and is the Mayor of the City of Minneapolis, Minnesota. Mayor Rybak is sued in his official and individual capacities.

ALLEGATIONS OF FACT

8. Plaintiff Dr. Michael Campion is a highly experienced, well-respected clinical psychologist who has had a successful professional relationship with approximately 100 police departments, all of which hired him and his corporation based on their superior qualifications and expertise.

9. Dr. Campion enjoyed a successful professional relationship with the City of Minneapolis beginning in early 2005 until his services, and those of his corporation, were terminated in the fall of 2006.

10. As independent contractors, plaintiffs Dr. Campion and CBA provided pre-employment, post-offer assessments, and fitness for duty testing for the Minneapolis Police Department.

11. At no time during Plaintiffs’ professional relationship with the City of Minneapolis did any representative of the City raise any concerns with Plaintiffs about the results of psychological testing or express a view that perhaps testing results reflected a bias.

12. On August 19, 2004, an article in the *Illinois Times* criticized CBA in

connection with psychological test results involving an African-American candidate for the Springfield Fire Department. Dusty Rhodes, the author of the *Times* article, referred to Plaintiff Dr. Champion's membership on the board of the Illinois Family Institute ("IFI"), and implied there may have been bias. The title of the article was: "Partial disclosure: Psychologist who screens firefighters is leader with anti-choice, anti-gay group." There has never been any evidence Dr. Champion engaged in any form of discrimination in connection with his psychological testing.

13. At that time, Dr. Champion served on the board of IFI, a statewide organization that educates the public on matters of public interest and advocates for pro-family public policy initiatives. While structurally independent, the IFI maintains working relationships with Focus on the Family and the Family Research Council, both nationwide organizations involved in pro-family advocacy.

14. Supporters of the IFI are predominantly Christian; Dr. Champion is also a Christian.

15. On May 19, 2005, Dusty Rhodes wrote another article in the *Illinois Times*, titled "Last Straw," in which she stated the August 2004 *Times* article "revealed that Champion leads a group of conservative activists called Illinois Family Institute. The group advocates for religious freedom and opposes abortion, stem cell research, gay marriage, gambling, and decriminalization of any illegal drugs, needle exchanges, and civil rights protection for homosexuals."

16. In the late summer or early fall of 2006, members of the Police Community Relations Counsel ("PCRC") became aware of the articles in the *Illinois Times*, and

complained to Minneapolis City officials including Mayor Rybak and Police Chief Dolan about the City's using Dr. Champion to conduct pre-hire and fitness for duty screenings because of his association with the Illinois Family Institute and because of Dr. Champion's perceived religious convictions and statements.

17. Members of the PCRC also complained to City Council member Scott Benson about the City using Dr. Champion because of his association with the Illinois Family Institute and because of his perceived religious convictions.

18. In response in the summer of 2006 the City of Minneapolis, under pressure from the PCRC and other city officials including Mayor Rybak, suspended the Plaintiffs from performing any work for the City, pending a review of the Plaintiffs' work to determine if there was any evidence of bias. Upon information and belief Mayor Rybak was personally involved in the decision to suspend Plaintiffs.

19. The City requested that DRI Consulting ("DRI"), an independent psychological testing company, evaluate the Plaintiffs' assessments and recommendations for hire that were performed for the City. The Plaintiffs' work was evaluated to determine whether there was evidence of past racial or sexual orientation bias in selecting applicants to hire and candidates to promote as officers for the MPD, and whether the Plaintiffs' process for evaluating applicants and candidates was inherently flawed or biased. Specifically, DRI evaluated the Plaintiffs' evaluation of 23 applicants for hire.

20. In July of 2006 DRI submitted its report to the City, which found no evidence of bias and found the Plaintiffs' processes to be consistent with or beyond

expectations for good psychological and statistical practice. Of the 23 candidates, the Plaintiffs had recommended only 3 not be hired. DRI concluded “Dr. Campion conducted a very good and fair evaluation process on this group of 23 candidates, and is clearly an expert in this line of work. The 3 not passed by Dr. Campion (nor by Martin-McAllister in a second round) were not passed at this time for good reasons, in our opinion.” Dr. Fennig, president of DRI Consulting, also stated that Dr. Campion’s “procedure is scientifically sound, his process fair, his spirit inclusive and his commitment to the client exceptional.”

21. The results of DRI’s evaluation were distributed to members of the PCRC in July of 2006 to alleviate their concerns that the Plaintiffs conducted biased reviews of candidates for hire. Subsequently, the PCRC demanded that the City review the Plaintiffs’ work for sexual orientation bias as well.

22. The members of the PCRC requested that Dr. Campion personally come to a PCRC meeting and answer their questions. On or about August 22, 2006, Dr. Campion met with PCRC members. The PCRC expressed to Dr. Campion that the members were upset the MPD did not check with them first before hiring him. PCRC members also asked Dr. Campion about his beliefs and the beliefs of the Illinois Family Institute, and what effect those beliefs had on his hiring recommendations.

23. Dr. Campion affirmed that his personal religious and/or political beliefs did not have a bearing on his recommendations as to who qualifies as the best hires for the MPD, and that his hiring decisions were based on neutral, objective criteria and tests that meet the highest professional standards.

24. In September of 2006, Chief Dolan wrote to Mayor Rybak and the City Council clearing the Plaintiffs of any charge of racial or sexual bias, noting that the Plaintiffs “received high marks for their process.” The Chief noted that the City did not have a long-term contract with any psychological provider for hiring or fitness for duty, and that he was initiating an immediate Request for Proposal (“RFP”)/contract process for future work. The City distributes RFPs to solicit contract proposals for qualified City contractors.

25. In a meeting between Dr. Champion and Chief Dolan, Chief Dolan told Dr. Champion the reason for his suspension was the pressure placed on the City by the PCRC, and that the only basis for the charges was the above referenced newspaper article in the *Illinois Times*.

26. John Fennig, president of DRI, communicated to the MPD that his organization did not have the experience or the skill to handle MPD’s new hire screening without consultation from Dr. Champion. Dr. Fennig stated the Plaintiffs were the experts in pre-employment screening, and in his view were the best choice for the job.

27. The Plaintiffs had been scheduled to conduct 62 pre-hire screening tests for the City in October of 2006. However, although the Plaintiffs had been cleared of all bias in their testing, the City rescinded its agreement to hire the Plaintiffs to conduct the 62 tests. The City instead contracted DRI Consulting to perform the October 2006 pre-employment psychological evaluations. DRI Consulting charged \$650 per evaluation. The Plaintiffs had agreed to charge \$395 per evaluation.

28. Even though DRI Consulting was significantly more expensive, and by its

own admission, less qualified to conduct pre-employment psychological evaluations, the City hired DRI Consulting over the Plaintiffs because of Dr. Champion's religious beliefs and because of his affiliation with the Illinois Family Institute.

29. DRI Consulting required Plaintiffs' assistance and expertise to complete the October 2006 pre-employment evaluations.

30. Dr. Champion made several requests to participate in the MPD RFP process. In early 2007 the City distributed its RFP, to which Plaintiffs timely responded with a detailed contract proposal.

31. Plaintiffs received a letter from Deputy Chief of Police Scott Gerlicher dated June 6, 2007, informing them that their RFP proposal was not accepted. No reason for the City's rejection of CBA was given.

32. Upon information and belief, Defendants awarded the contract to DRI. Although the firm certainly has expertise as a consulting psychologist, they are more expensive and are less qualified than CBA in the areas of pre-employment, post-offer assessment and fitness for duty testing.

33. The Defendants terminated Plaintiffs' services and rejected their RFP based on Dr. Champion's association with IFI and his perceived political and religious views and statements. Upon information and belief, the PCRC members refused to accept the Plaintiffs' proposal to conduct pre-employment psychological evaluations for the City because of Dr. Champion's association with the Illinois Family Institute and because of his religious and political beliefs and statements.

34. Even though the Plaintiffs were the most qualified, the most experienced,

and least expensive, Defendants refused to accept the Plaintiffs' proposal because of Dr. Champion's association with the Illinois Family Institute and because of his religious beliefs and statements, even though, after thorough examination, no bias whatsoever was found in the Plaintiffs' work. No evidence of bias on Plaintiffs' part existed at the time the professional contract was terminated, nor does it currently exist.

35. Defendants' termination of Plaintiffs' services and discriminatory rejection of their proposal violates Plaintiffs' First Amendment rights of freedom of association and freedom of speech. Moreover, such action was taken in retaliation against Plaintiff Dr. Champion for exercising his constitutional right to freedom of association. This action was accompanied by stigmatizing statements by PCRC members and some City officials calculated to seriously damage Dr. Champion's standing in his profession.

36. As a result of Defendants' unconstitutional actions, Plaintiffs have suffered serious past and prospective financial loss and damage to reputation and professional standing.

ALLEGATIONS OF LAW

37. All of the acts of Defendants, their officers, agents, servants, and employees, as alleged herein, were conducted by the Defendants, as individuals, and under color and pretense of the statutes, ordinances, regulations, customs, and usages of the City of Minneapolis.

38. Plaintiffs have suffered, and continue to suffer, irreparable injury to their constitutional rights from the acts of Defendants, as well as compensatory damages, including past and future economic damages (both Plaintiffs), damages to professional

reputation (both Plaintiffs), embarrassment (Michael Campion only), personal humiliation (Michael Campion only), and mental anguish and distress (Michael Campion only). Absent vindication of Plaintiffs' constitutional rights in court, profound economic and irreparable damage will be done to Plaintiffs' professional livelihood, given the potential impact of Defendants' stigmatizing statements on prospective employers around the nation.

39. CBA's and Dr. Campion's reputation have been irrevocably harmed as a result of the unconstitutional termination of their contract, and disparaging statements made in conjunction with their termination, statements reasonably calculated to cause damage their reputation in the psychological community.

**FIRST CAUSE OF ACTION - 42 U.S.C. § 1983
(Freedom of Association)**

40. The preceding paragraphs are incorporated by reference, the same as though pleaded in full.

41. Plaintiffs worked for the City of Minneapolis, a public agency, in a position that does not require a political affiliation, or adherence to any particular viewpoints or associations related to public policy.

42. Plaintiff Dr. Campion maintained an affiliation outside his employment with an organization (the Illinois Family Institute) that advocates particular public policy initiatives and political viewpoints.

43. Plaintiff Campion's affiliation with IFI and its political views and policy initiatives was a substantial or motivating factor in the adverse employment decision

against him and his corporation by the City of Minneapolis.

44. As a direct and proximate cause of Defendants' actions, Plaintiff Dr. Campion was injured in his right to freedom of association as guaranteed by the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth in the prayer for relief.

**SECOND CAUSE OF ACTION - 42 U.S.C. § 1983
(Retaliation for Exercise of First Amendment Rights)**

45. The preceding paragraphs are incorporated by reference, the same as though pleaded in full.

46. Defendants' impermissible actions as heretofore alleged were in retaliation for Plaintiffs' exercise of constitutional rights to freedom of association and freedom of speech.

47. As a direct and proximate cause of Defendants' retaliatory conduct, Plaintiffs were injured in their right to freedom of association and freedom of speech as guaranteed by the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth in the prayer for relief.

**THIRD CAUSE OF ACTION
(Breach of Contract)**

48. The preceding paragraphs are incorporated by reference, the same as though pleaded in full.

49. Plaintiffs had a valid and enforceable contract with the MPD for 62 pre-

employment psychological evaluations in October of 2006.

50. Plaintiffs were ready, willing, and able to fully perform their obligations under the contract.

51. Defendants breached the contract by terminating the contract for constitutionally impermissible reasons.

52. As a direct and proximate cause of Defendants' breach, Plaintiffs suffered, and continue to suffer, economic damages.

JURY DEMAND

53. Plaintiff demands a jury trial on all issues so triable.

WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth in the prayer for relief.

PRAYER FOR RELIEF

Plaintiffs respectfully pray that this Court:

- a. Assume jurisdiction over this action;
- b. Declare that Defendants' actions as herein described violated Plaintiffs' rights under the First and Fourteenth Amendments to the United States Constitution;
- c. Award Plaintiffs compensatory damages against all Defendants for the violation of Plaintiffs' civil, constitutional and contractual rights;
- d. Award Plaintiffs nominal damages for the violation of their First Amendment rights;
- e. Award Plaintiffs their costs of litigation, including reasonable attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988; and,

f. Grant such other and further relief to which Plaintiffs may be entitled, or as this Court deems necessary and proper.

FOR THE PLAINTIFFS,

s/Erick G. Kaardal

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*Motion to be Admitted *Pro Hac Vice* to Be submitted.

+Of counsel, not admitted to practice in this jurisdiction.

VERIFICATION

I, Michael A. Campion, Ph.D, a citizen of the United States and a resident of the State of Illinois, have read the foregoing Verified Complaint for Declaratory Relief and Damages and declare under the penalty of perjury and under the laws of the United States the foregoing is true and correct.

Dated this 5 day of Sept., 2007


Michael A. Campion