

UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF WISCONSIN

Edith Milestone	)	
1115 15 <sup>th</sup> Avenue	)	
Monroe, WI 53566	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
The City of Monroe	)	Civil Action No. 09-C-199
City Hall	)	
1110 18th Avenue	)	
Monroe, WI 53566	)	
	)	
Defendant.	)	

Complaint

I make this complaint on behalf of the plaintiff, Edith Milestone.

This complaint arises under the provisions of 42 USC secs. 1983 and 1988, and the 1<sup>st</sup> and 14<sup>th</sup> Amendments to the United States Constitution. By virtue of the provisions of 28 USC sec. 1331 this court has jurisdiction over the plaintiff's claims.

1. Edith Milestone is an adult resident of the City of Monroe, Wisconsin. Her address is 1115 15<sup>th</sup> Avenue, Monroe, Wisconsin 53566. She is 78 years old.
2. The City of Monroe is a Wisconsin political corporation with offices at City Hall, 1110 18<sup>th</sup> Avenue, Monroe, Wisconsin 53562.
3. At all times pertinent to the events outlined in this complaint the City of Monroe owned and operated a public facility called the Behring Senior Center of Monroe, located at 1113 10<sup>th</sup> Street, Monroe, Wisconsin. The Behring Senior Center is available to residents of Monroe and the surrounding area who are 55 or older.
4. At all times pertinent to this complaint the Behring Senior Center offered its visitors: a meal program; various recreational programs including regularly scheduled card games; a variety of classes; a staffed fitness center equipped with a variety of exercise machines; a variety of other programs summarized in the City of Monroe's website, [www.cityofmonroe.org](http://www.cityofmonroe.org).
5. Ms. Milestone visited the Behring Senior Center, for years, and participated in a number of programs there, including the meal program, until October 24, 2008.
6. In June of 2006 the Monroe Senior Citizens Board, whose members oversee the operation of the Behring Senior Center on behalf of the City of Monroe, promulgated a

Senior Center Code of Conduct applicable to visitors to the Behring Senior Center. A copy is attached (as Exhibit A) to this complaint.

7. The Senior Center Code of Conduct does not state what penalties, if any, violations of that Code may trigger. The City of Monroe left the invention and imposition of penalties, on an ad hoc basis, to the discretion of Tammy Derrickson, who at all times pertinent to this Complaint has been employed by the City of Monroe as the director of the Behring Senior Center, and to the discretion of the Monroe Senior Citizens Board.

8. On October 23, 2008, Tammy Derrickson informed the plaintiff that she, the plaintiff, would no longer be permitted to visit the Behring Senior Center or to participate in any activities or programs there.

9. On October 24, 2008, Ms. Derrickson sent the plaintiff a letter repeating the ban. A copy is attached to this complaint as Exhibit B.

10. Ms. Derrickson imposed the ban because, in her opinion, on October 23, 2008, while at the Behring Senior Center, the plaintiff complained so loudly and angrily to Ms. Derrickson on the topic of the scoring of a card game at the Center, that the plaintiff's comments, albeit not profane, violated the Code mandate that Behring Senior Center staff "be treated in a respectful manner."

11. On December 2, 1008, the Monroe Senior Citizens Board held a hearing to review Ms. Derrickson's decision to ban the plaintiff from the Behring Senior Center. The Board affirmed that decision, with one qualification: the Board announced that it "will reconsider a petition for reinstatement by Edith Milestone upon proof of successful completion of an accredited 'Anger Management' program." A copy of the Board's decision is attached to this complaint as Exhibit C.

12. The City of Monroe continues to exclude the plaintiff from the Behring Senior Center and from all programs and activities there.

13. The plaintiff's complaints to Tammy Derrickson constituted speech protected under the First Amendment to the United States Constitution.

14. At all times pertinent to this pleading Tammy Derrickson and the Monroe Senior Center Board acted within the scope of their employment and agency with the City of Monroe, under color of state law.

15. The decisions and actions of Tammy Derrickson and the Monroe Senior Center Board, as described in this complaint and in the appended exhibits, represent the defendant's official custom and policy.

16. The decisions and actions of Ms. Derrickson and the Monroe Senior Center Board have caused the plaintiff great emotional distress.

Causes of Action

17. The defendant's Senior Center Code of conduct is both vague and overbroad, in violation of the First and Fourteenth Amendments to the United States Constitution.

18. The defendant, acting through its employees and agents, violated the plaintiff's right to freedom of expression and to petition government for redress of grievances, protected under the First Amendment to the United States Constitution.

19. The defendant, acting through its employees and agents, violated the plaintiff's right of access to a public forum, protected under the First Amendment to the United States Constitution.

20. The defendant, acting through its employees, deprived the plaintiff of a liberty interest without due process of law, in violation of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, the plaintiff requests the following relief from the court:

1. Compensation for the plaintiff's damages;
2. An Order requiring the defendant to re-admit the plaintiff to the Behring Senior Center;
3. An Order striking the Code of Conduct set forth in Exhibit A to this complaint as unconstitutionally vague and overbroad;
4. An award of actual attorney's fees, costs and disbursements, and of such other relief as the court deems just.

Dated this 3<sup>rd</sup> day of April, 2009

**s/ Raymond G. Clausen**

Lawyer for Plaintiff

Clausen & Severson

4510 Regent Street

Madison, WI 53705

Telephone: (608) 238-2728

Fax: (608) 238-2733

E-mail: [clausen\\_severson@msn.com](mailto:clausen_severson@msn.com)

**The plaintiff demands trial by a seven-person jury.**