



December 24, 2013

The Honorable Eric K. Shinseki
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420
Fax: (202) 495-5463
Eric.Shineski@va.gov
Via certified mail RRR and email

Jeffery L. Milligan
Director, VA North Texas Health System
4500 S. Lancaster Rd.
Dallas, TX 75216
Fax: 214-857-1171
Jeffery.Milligan@va.gov

Re: Unlawful Viewpoint Discrimination in Denying School Children's Christmas Cards to Veterans

Dear Secretary Shinseki and Mr. Milligan:

Susan Chapman retained Liberty Institute in connection with the unlawful viewpoint discrimination in the denial by your representatives of school children's Christmas cards to veterans at VA facilities based upon the policies of and enforced by the Department of Veterans Affairs (the "Department") and the Dallas VA Medical Center, Dallas, Texas (the "Medical Center"). The purpose of this letter is to inform the Department and the Medical Center of the relevant law and provide them the opportunity to immediately take the necessary steps to avoid litigation. Please direct any further communications regarding this matter to me.

Mrs. Chapman is a teacher at Grace Academy of North Texas in Prosper, Texas, and the wife of a military veteran. For the 2013 Christmas season, she and her students created Christmas cards to give to bedridden veterans at the Medical Center. Predictably, most or all of the cards included the phrase "Merry Christmas." On Monday, December 23, 2013, however, the Medical Center refused to accept the cards. Mrs. Chapman was told by the Medical Center that it would not accept holiday cards that contained the phrase "Merry Christmas," "God Bless You," or any other religious references. A spokesman for the Department later reported that under the official policy of the Department such cards are subjected to a government-sanctioned censorship process, while cards with "secular" messages are freely distributed to all VA patients.

The messages on the cards clearly are the private speech of Mrs. Chapman and her students. *See Johanns v. Livestock Mktg. Ass'n*, 544 U.S. 550 (2005); *Pounds v. Katy Indep. Sch. Dist.*, 730 F. Supp. 2d 636 (S.D. Tex. 2010).. Such viewpoint discrimination is unlawful even in non-public forums for speech. *See Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U.S. 788 (1985).. By refusing to accept the cards offered by Mrs. Chapman and her students the Department and the Medical Center committed unlawful viewpoint discrimination in violation of the First Amendment to the U.S. Constitution. Likewise, the holiday card policies of the Department of Veterans Affairs and the Medical Center constitute unlawful religious viewpoint discrimination in violation of the First Amendment to the U.S. Constitution. The actions and

policies of the Department and the Medical Center were and are also violations of the Religious Freedom Restoration Act.

These events are particularly troubling considering the September 22, 2011 consent decree signed by U.S. District Court Judge Lynn Hughes in *Rainey v. U.S. Dept. of Veterans Affairs*, No. 4:11-cv-01992 (S.D. Tex. Oct. 19, 2011). That consent decree ordered the Department “not to ban religious speech or words, such as ‘God’ and ‘Jesus,’ in condolence cards or similar documents given by non-VAVS volunteer[s].” It also ordered the Department “not to ban, regulate, or otherwise interfere with the giving of gifts, including gifts that contain a religious message or viewpoint.” The consent decree remains in full force and effect until the year 2026.

Mrs. Chapman respectfully requests that the Department and the Medical Center immediately rescind its discriminatory policy and allow her and her students (as well as others) to distribute holiday cards that contain the phrase “Merry Christmas,” “God Bless You,” or that contain other religious references to veterans at the Medical Center and all other VA hospitals and medical centers, and that the Department and the Medical Center bring their holiday card policies in line with applicable law by removing from them all aspects of unlawful religious viewpoint discrimination. Please advise me in writing by noon on Friday, December 27 that Mrs. Chapman and her students may distribute cards that contain the phrase “Merry Christmas,” “God Bless You,” or that contain other religious references to veterans at the Medical Center and at all other VA hospitals, and that the holiday card policies of the Department and the Medical Center have brought in line with applicable law.

While we are confident that these violations can and will be remedied without resorting to litigation, unless I hear from you by the above time Liberty Institute will be forced to seek redress in federal court. This will include the recovery of attorney’s fees, court costs and other reasonable expenses incurred in bringing the action. Liberty Institute will pursue all legal remedies, to include seeking permanent injunctive relief and suing any government officials in their individual capacities.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Mateer', with a long horizontal flourish extending to the right.

Jeff Mateer
General Counsel