

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION

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PETER BORMUTH,

Plaintiff,  
v.

COUNTY OF JACKSON,

Defendant.

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Case No. 2:13-cv-13726

Honorable Marianne O. Battani

**DEFENDANT’S ANSWER AND  
AFFIRMATIVE DEFENSES**

Peter Bormuth, Plaintiff  
In Pro Per  
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**DEFENDANT COUNTY OF JACKSON’S ANSWER TO COMPLAINT**

Defendant, County of Jackson, by and through its attorneys, COHL, STOKER & TOSKEY, P.C., submits the following as its answer to Plaintiff’s Complaint:

Due to the absence of numbered paragraphs setting forth the allegations, Defendant has broken down the statements contained in the section of Plaintiff’s Complaint, titled “Statement of Case”, and answers as follows:

1. Defendant admits that the County Commissioner meeting on July 23, 2013 began with a prayer led by a County Commissioner which referenced Jesus.
2. Defendant admits that the County of Jackson Policy Manual currently contains no reference to invocation or prayer.
3. The allegation by Plaintiff that the invocation/prayer is a violation of the

First Amendment Establishment Clause is a legal conclusion to which no response is required.

4. The allegation by Plaintiff that this Court has the authority to review the legitimacy and legality of these prayers under both the Establishment Clause of the First Amendment as applied to the States under the Fourteenth Amendment and under Article 2, Section 3 of the Constitution since the clear intent of our Government is expressed in the Treaty of Tripoli, Article 11 which was debated and ratified by the U.S. Senate and signed into law by President John Adams in 1797 is a legal conclusion to which no response is required.

5. The allegation by Plaintiff that the United States Supreme Court has consistently held that the Christian religion cannot be established in this county [sic] and that sectarian legislative prayer in the name of Jesus Christ is forbidden by law is a legal conclusion to which no response is required; but if an allegation of fact, such allegation is denied..

6. To the extent the remainder of Plaintiff's Complaint, pages 2 through 21, contains additional allegations not directly answered above, Defendant states that it is without sufficient knowledge or information upon which to form a belief as to the truth of said allegations and, therefore, neither admit nor deny same, but leave Plaintiff to his proofs.

7. To the extent the remainder of Plaintiff's Complaint, pages 2 through 21, contains legal conclusions, no response is required.

**WHEREFORE**, Defendant respectfully requests that this Honorable Court dismiss Plaintiff's Complaint, and grant Defendant such other and further relief as may

be required, including an award of costs and attorney fees incurred.

Respectfully submitted,  
COHL, STOKER & TOSKEY, P.C.

Date: November 5, 2013

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### **AFFIRMATIVE DEFENSES**

Defendant, County of Jackson, by and through its attorneys, COHL, STOKER & TOSKEY, P.C., submit the following affirmative defenses to Plaintiff's Complaint:

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff has failed to present a case or controversy, thus lacks standing and this Court lacks subject matter jurisdiction.
3. Plaintiff's claim is barred by the First Amendment to the United States Constitution as it relates to free exercise of religion.
4. Plaintiff's claim is barred by the First Amendment to the United States Constitution as it relates to freedom of speech.
5. Plaintiff's claim is barred by governmental immunity, whether it be statutory, common law, absolute, or qualified immunity.
6. Defendant currently does not have a policy or rule requiring prayer at any county function, including but not limited to a meeting of the Board of Commissioners.
7. Defendant does not have a policy or rule prohibiting prayer at any county function, including but not limited to a meeting of the Board of Commissioners.

8. Defendant did not require Plaintiff to participate in the prayer at the County Commissioner meeting on July 23, 2013.

9. Plaintiff's Complaint fails to state a custom, policy, practice or procedure of the Defendant sufficient to violate the constitutional rights of the Plaintiff.

10. Defendant has acted in conformity with all applicable statutes, regulations, ordinances, common law, and the United States Constitution.

11. Defendant is entitled to good faith immunity in that no action was taken with malice or in violation of state or federal law.

12. The single instance alleged by Plaintiff is insufficient to constitute "impermissible motive" to "proselytize to advance one or disparage any other faith." "Infrequent references to specific deities standing alone, do not make out a constitutional case."

13. Defendant reserves the right to raise additional affirmative defenses as may become known during the course of discovery or otherwise.

**WHEREFORE**, Defendant respectfully requests that this Honorable Court dismiss Plaintiff's Complaint, and grant Defendant such other and further relief as may be required, including an award of costs and attorney fees incurred.

Respectfully submitted,  
COHL, STOKER & TOSKEY, P.C.

Date: November 5, 2013

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