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United States District Court, Indiana Northern

(Fort Wayne)

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**Case Number:** 1:10cv192**Date Filed:** 06/16/2010**Assigned To:** Judge Robert L Miller, Jr**Referred To:** Magistrate Judge Roger B Cosbey**Nature of Suit:** Other Civil Rights (440)**Cause:** Petition for Removal- Civil Rights Act**Lead Docket:** None**Other Docket:** Allen Superior Court, 02D01-1005-PL-182**Jurisdiction:** Federal Question**Class Code:** Closed**Closed:** 03/04/2011**Statute:** 28:1441**Jury Demand:** None**Demand Amount:** \$0**NOS Description:** Other Civil Rights

## ▼Participants

**Litigants**

Fort Wayne Women's Health  
on its own behalf and on behalf of its patients |  
**Plaintiff**

**Attorneys**

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Suzanne Novak PHV

**Dr Ulrich G Klopfer**

on his own behalf and on behalf of his patients |

**Plaintiff**

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Health Commissioner

Fort Wayne-Allen County Department of Health; (substituted by defendant Allen County Board of Commissioners 7/26/10) | [Terminated: 07/26/2010]

[Terminated: 07/26/2010]

**Defendant**

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Commissioners 7/26/10 |  
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**Defendant**

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## ▼Proceedings

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<input type="checkbox"/>	<a href="#">Free</a>	1	05/27/2010	COMPLAINT against Fort Wayne-Allen County Department of Health, Health Commissioner filed by Dr Ulrich G Klopfer, Fort Wayne Women's Health in Allen Superior Court, Cause No. 02D01-1005-PL-182.(cer) (Entered: 06/16/2010)	
		2	05/27/2010	MOTION for Preliminary Injunction by Plaintiffs Fort Wayne Women's Health, Dr Ulrich G Klopfer filed in Allen Superior Court, Cause No. 02D01-1005-PL-182. (cer) (Entered: 06/16/2010)	
		3	06/07/2010	STIPULATION of the Parties Concerning Enforcement of Challenged Ordinance by Fort Wayne Women's Health, Fort Wayne-Allen County Department of Health, Health	

				Commissioner, Dr Ulrich G Klopfer filed in Allen Superior Court, Cause No. 02D01-1005-PL-182. (cer) (Entered: 06/16/2010)	
<input type="checkbox"/>	<a href="#">Free</a>	4	06/16/2010	NOTICE OF REMOVAL by Health Commissioner, Fort Wayne-Allen County Department of Health from Allen Superior Court, Cause No. 02D01-1005-PL-182 (Filing Fee: \$350.00; Receipt #158869) filed by Health Commissioner, Fort Wayne-Allen County Department of Health. (Attachments: # 1 Civil Cover Sheet).(cer) (Entered: 06/16/2010)	
		5	06/16/2010	NOTICE of Appearance by Laura L Maser on behalf of Fort Wayne-Allen County Department of Health, Health Commissioner. (cer) (Entered: 06/16/2010)	
		6	06/17/2010	APPLICATION for Attorney Matthew S Bowman to Appear Pro Hac Vice on behalf of Defendants Fort Wayne-Allen County Department of Health, Health Commissioner; Receipt #158877. (cer) (Entered: 06/17/2010)	
		7	06/17/2010	APPLICATION for Attorney Steven Aden to Appear Pro Hac Vice on behalf of Defendants Fort Wayne-Allen County Department of Health, Health Commissioner; Receipt #158877. (cer) (Entered: 06/17/2010)	
		8	06/17/2010	ORDER GRANTING 6 APPLICATION to Appear Pro Hac Vice of Attorney Matthew S Bowman PHV for Defendants Fort Wayne-Allen County Department of Health, Health Commissioner. Signed by Magistrate Judge Roger B Cosbey on 6/17/10. (cer) (Entered: 06/18/2010)	
		9	06/17/2010	ORDER GRANTING 7 APPLICATION to Appear Pro Hac Vice of Attorney Steven H Aden PHV on behalf of Defendants Fort Wayne-Allen County Department of Health, Health Commissioner. Signed by Magistrate Judge Roger B Cosbey on 6/17/10. (cer) (Entered: 06/18/2010)	
		10	06/18/2010	APPLICATION for Attorney Suzanne Novak to Appear Pro Hac Vice on behalf of Plaintiffs Fort Wayne Women's Health and Dr Ulrich G Klopfer; Receipt #158884. (cer) (Entered: 06/18/2010)	
		11	06/21/2010	MEMORANDUM in Support of 2 MOTION for Preliminary Injunction filed by Fort Wayne Women's Health, Dr Ulrich G Klopfer. (Falk, Kenneth) (Entered: 06/21/2010)	
		12	06/21/2010	ORDER GRANTING 10 APPLICATION to Appear Pro Hac Vice of Attorney Suzanne Novak PHV on behalf of Plaintiffs Fort Wayne Women's Health, Dr Ulrich G Klopfer. Signed by Magistrate Judge Roger B Cosbey on 6/21/10. (cer) (Entered: 06/21/2010)	
		13	06/22/2010	REFILED AS DE 14 TO CORRECT COUNSEL. NOTICE of Appearance by Laura L Maser on behalf of All Defendants (Maser, Laura) Modified on 6/22/2010 (jcp). (Entered: 06/22/2010)	
		14	06/22/2010	NOTICE of Appearance by G William Fishing on behalf of All Defendants (Fishing, G) (Entered: 06/22/2010)	
		15	06/22/2010	ORDER FOR JUDGE THERESA L SPRINGMANN. The Court SETS a Telephonic Status Conference for 6/24/2010 at 03:00 PM (Fort Wayne time) before Judge Theresa L Springmann. The Court will initiate the call. (jw) (Entered: 06/22/2010)	
		16	06/24/2010	TELEPHONE STATUS CONFERENCE held before Judge Theresa L Springmann. Pla appeared by attys Kenneth Falk, Suzanne Novak. Dft appeared by attys William Fishing, Steven Aden, Matthew Bowman. Parties advise no anticipated need for evidentiary hrg at present. Dft advises of potential amendments to subject ordinance. Court discusses scheduling matters and inquires re potential witnesses. Court SETS a Telephonic Status Conference for 7/1/2010 at 10:00 AM (Fort Wayne time) before Judge Theresa L Springmann. The Court will initiate the call. (Tape #17 FTR Gold.) (jw) (Entered: 06/24/2010)	
		17	06/30/2010	NOTICE of Appearance by Suzanne Novak PHV on behalf of Fort Wayne Women's Health, Dr Ulrich G Klopfer (Novak PHV, Suzanne) (Entered: 06/30/2010)	
		18	07/01/2010	TELEPHONE STATUS CONFERENCE held before Judge Theresa L Springmann. Plas appeared by attys Kenneth Falk,	

				Suzanne Novak. Dfts appeared by attys William Fishing, Steven Aden. Court inquires re ordinance amendment. Parties advise re procedure going forward. Amended Complaint and Amended Motion for Preliminary Injunction to be filed by 7/7/2010. Dfts' Response to be filed by 7/19/2010. Plas' Reply to be filed by 8/2/2010. Parties jointly stipulate that amended ordinance shall not be enforced until 8/16/2010. Motion Hearing set for 8/9/2010 01:30 PM in Fort Wayne before Judge Theresa L Springmann re preliminary injunction. (Tape #18 FTR Gold.) (jw) (Entered: 07/01/2010)	
		19	07/01/2010	ORDER OF RECUSAL. Judge Theresa L Springmann recused. Case reassigned to Judge Robert L Miller, Jr for all further proceedings. Signed by Judge Theresa L Springmann on 7/1/10. (cer) (Entered: 07/01/2010)	
<input type="checkbox"/>	<a href="#">Free</a>	20	07/07/2010	AMENDED COMPLAINT against Fort Wayne-Allen County Department of Health, Health Commissioner, filed by Dr Ulrich G Klopfer, Fort Wayne Women's Health. (Attachments: # 1 Amended Ordinance)(Falk, Kenneth) (Entered: 07/07/2010)	
		21	07/07/2010	Amended MOTION for Preliminary Injunction by Plaintiffs Fort Wayne Women's Health, Dr Ulrich G Klopfer. (Attachments: # 1 Exhibit Klopfer Affidavit, # 2 Exhibit Klopfer-License, # 3 Exhibit Clinic License)(Falk, Kenneth) (Entered: 07/07/2010)	
		22	07/07/2010	MEMORANDUM in Support of 21 Amended MOTION for Preliminary Injunction filed by Fort Wayne Women's Health, Dr Ulrich G Klopfer. (Falk, Kenneth) (Entered: 07/07/2010)	
		23	07/07/2010	NOTICE of Hearing on Motion in 21 Amended MOTION for Preliminary Injunction : Motion Hearing set for 8/9/2010 01:30 PM in US District Court - South Bend before Judge Robert L Miller Jr.; the deadlines that were previously set by Judge Springmann shall remain unchanged. (arl) (Entered: 07/07/2010)	
		24	07/14/2010	Joint Motion and STIPULATION for Non-Release of Records Subject to Claims of Privacy by Defendants Fort Wayne-Allen County Department of Health, Health Commissioner. (Aden PHV, Steven) (Entered: 07/14/2010)	
		25	07/15/2010	ORDER GRANTING 24 MOTION AND STIPULATION (Joint) for Non-Release of Records Subject to Claims of Privacy by Defendants Fort Wayne-Allen County Department of Health, Health Commissioner. It is ORDERED that until the conclusion of this case, the submission forms received and held by Defendants pursuant to the terms of the Patient Safety Ordinance that became effective June 1, 2010 shall not be made available to the public until such time as the Court issues a decision on Plaintiffs Motion for Preliminary Injunction. Signed by Magistrate Judge Roger B Cosbey on 7/15/10. (cer) (Entered: 07/15/2010)	
		26	07/19/2010	First MOTION to Dismiss Amended Complaint by Defendants Fort Wayne-Allen County Department of Health, Health Commissioner. (Aden PHV, Steven) (Entered: 07/19/2010)	
		27	07/19/2010	MEMORANDUM in Opposition to 21 Amended MOTION for Preliminary Injunction AND memo in support of Defs' Motion to Dismiss 26 , filed by Fort Wayne-Allen County Department of Health, Health Commissioner. (Attachments: # 1 Exhibit Exhibit1_090508transcript, # 2 Exhibit Exhibit2_032610minutes)(Aden PHV, Steven) (Entered: 07/19/2010)	
		28	07/19/2010	Joint MOTION to Amend/Correct Scheduling Order, First MOTION for Leave to File Excess Pages in MPI/MTD Memorandum by Defendants Fort Wayne-Allen County Department of Health, Health Commissioner. (Aden PHV, Steven) (Entered: 07/19/2010)	
		29	07/20/2010	ORDER GRANTING 28 MOTION (Joint) to Amend Scheduling Order; MOTION (First) for Leave to File Excess Pages in MPI/MTD Memorandum by Defendants Fort Wayne-Allen County Department of Health, Health Commissioner. Plaintiff's Response to Motion to Dismiss to be filed by 8/2/2010. Defendant's Reply to be filed by 8/5/2010. Motion Hearing set for 8/9/2010 at 01:30 PM in US District Court - South Bend before Judge Robert L Miller Jr. Defendants are granted an extension to 30 total pages for their Memorandum	

				of Law in Opposition to Plaintiffs Motion for Preliminary Injunction and in Support of Defendants Motion to Dismiss. Signed by Magistrate Judge Roger B Cosbey on 7/20/10. (cer) (Entered: 07/20/2010)	
		30	07/26/2010	Joint MOTION to Amend/Correct Second Amended Complaint for the Sole Purpose of Substituting the Board of Commissioners of Allen County, Indiana, as defendants by Plaintiffs Fort Wayne Women's Health, Dr Ulrich G Klopfer. (Attachments: # 1 Proposed Second Amended Complaint, # 2 Amended Ordinance (Exhibit to complaint))(Falk, Kenneth) (Entered: 07/26/2010)	
<input type="checkbox"/>	<a href="#">Free</a>	31	07/26/2010	ORDER granting 30 Motion to file Second Amended complaint; previously tendered second amended complaint is deemed FILED; the earlier filed Amended Mot for Prelim Injunction (DE 21 ) and Mot to Dismiss (DE 26 ) and all supporting and opposing memoranda and evidentiary materials supporting and opposing those motions are deemed to apply to the Second Amended Complaint without further filings. Signed by Magistrate Judge Roger B Cosbey on 7/26/10. (lrm) (Entered: 07/26/2010)	
<input type="checkbox"/>	<a href="#">Free</a>	32	07/26/2010	SECOND AMENDED COMPLAINT against Allen County Board of Commissioners, filed by Dr Ulrich G Klopfer, Fort Wayne Women's Health. (Attachments: # 1 Exhibit exh 1)(lrm) (Entered: 07/26/2010)	
		33	08/02/2010	RESPONSE in Support re 21 Amended MOTION for Preliminary Injunction and in Opposition to Motion to Dismiss filed by Fort Wayne Women's Health, Dr Ulrich G Klopfer. (Falk, Kenneth) (Entered: 08/02/2010)	
		34	08/05/2010	REPLY to Response to Motion re 26 First MOTION to Dismiss Amended Complaint filed by Allen County Board of Commissioners. (Bowman PHV, Matthew) (Entered: 08/05/2010)	
		35	08/06/2010	WAIVER OF SERVICE Returned Executed by Dr Ulrich G Klopfer, Fort Wayne Women's Health. Allen County Board of Commissioners waiver sent on 7/27/2010, answer due 9/27/2010. (Falk, Kenneth) (Entered: 08/06/2010)	
		36	08/09/2010	PRELIMINARY INJUNCTION HEARING held on 8/9/2010 before Judge Robert L Miller, Jr. Pla appeared by attys Falk & Novak. Dft appeared by attys Bowman & Aden. Court heard argument from counsel re 2 MOTION for Preliminary Injunction filed, 21 Amended MOTION for Preliminary Injunction , and 26 First Motion to Dismiss Amended Complaint. Exhibit List filed separately. 1:31-2:48 (Court Reporter Bonk) (saj) Modified on 8/10/2010 to add 26 . (saj). (Entered: 08/09/2010)	
		37	08/09/2010	Exhibit List from 8/9/2010 Preliminary Injunction Hearing. (saj) (Entered: 08/09/2010)	
<input type="checkbox"/>	<a href="#">Free</a>	38	08/11/2010	OPINION AND ORDER GRANTING IN PART and DENYING IN PART 2 MOTION for Preliminary Injunction and 21 MOTION (Amended) for Preliminary Injunction by Plaintiffs Fort Wayne Women's Health, Dr Ulrich G Klopfer; DENYING 26 MOTION to Dismiss Amended Complaint by Defendants Fort Wayne-Allen County Department of Health, Health Commissioner. It is ORDERED that the County shall not enforce against the Plaintiffs provisions of the Amended Ordinance as outlined in Order. This Order shall remain in effect until final judgment in this case or until the Court enters an order providing for its rescission. No bond is required since no financial harm will accrue to the Board of Commissioners as a result of this Order. Signed by Judge Robert L Miller, Jr on 8/11/10. (cer) (Entered: 08/12/2010)	
		39	08/12/2010	NOTICE OF HEARING: Telephonic Initial Scheduling Conference set for 9/23/2010 10:00 AM in US District Court - Fort Wayne before Magistrate Judge Roger B Cosbey. Court will initiate call. (mr) (Entered: 08/12/2010)	
		40	09/02/2010	MOTION to Amend/Correct 38 Memorandum & Opinion, Terminate Motions,,,,, FRCP 60(a) Motion to Clarify, by Defendant Allen County Board of Commissioners. (Attachments: # 1 Exhibit)(Bowman PHV, Matthew) (Entered: 09/02/2010)	
		41	09/09/2010	ORDER DENYING 40 Motion Clarify Injunction Order by	

				Defendant Allen County Board of Commissioners. Signed by Judge Robert L Miller, Jr on 9/9/2010. (Ins) (Entered: 09/10/2010)	
		42	09/21/2010	REPORT of Rule 26(f) Planning Meeting. (Falk, Kenneth) (Entered: 09/21/2010)	
		43	09/23/2010	RULE 16 TELEPHONIC PRELIMINARY PRETRIAL CONFERENCE held on 9/23/2010 before Magistrate Judge Roger B Cosbey. Pla appeared by attys Kenneth Falk and Susan Novak. Dft appeared by attys William Fishering, Matthew Bowman and Steven Aden. The 42 Report of the Parties Planning Meeting is approved in all respects (except dispositive motions deadline and establishment of a trial date) and is hereby made an ORDER of the Court. The Summary Judgment deadline in Fed.R.Civ.P. 56(c)(1)(A) SHALL NOT control. Any dispositive motion SHALL brief out in accordance with L.R. 56.1. DISCOVERY DEADLINE is 4/25/2011. All further dates and deadlines are to be set by the District Court. The selection of a Mediator is deferred until further ordered. Magistrate Consent forms due by 10/14/2010. (Tape #CD 164.) (mr) (Entered: 09/23/2010)	
<input type="checkbox"/>	<a href="#">Free</a>	44	10/26/2010	Defendant's ANSWER to 32 Amended Complaint by Allen County Board of Commissioners.(Aden PHV, Steven) (Entered: 10/26/2010)	
		45	12/23/2010	Joint MOTION Extend Deadline to Join Parties and Amend Pleadings by Plaintiffs Fort Wayne Women's Health, Dr Ulrich G Klopfer. (Falk, Kenneth) (Entered: 12/23/2010)	
		46	12/27/2010	ORDER GRANTING 45 MOTION (Joint) Extend Deadline to Join Parties and Amend Pleadings by Plaintiffs Fort Wayne Women's Health, Dr Ulrich G Klopfer. Plaintiffs have until 3/1/2011 to join additional parties or to amend the pleadings. Defendants have until 3/31/2011 to join additional parties or to amend the pleadings. Signed by Magistrate Judge Roger B Cosbey on 12/27/10. (cer) (Entered: 12/27/2010)	
		47	03/03/2011	STIPULATION to Dismiss Case With Prejudice by Plaintiffs Dr Ulrich G Klopfer, Fort Wayne Women's Health. (Attachments: # 1 Signature page - Klopfer, # 2 Signature page- Commissioners)(Falk, Kenneth) (Entered: 03/03/2011)	
		48	03/04/2011	ORDER GRANTING 47 STIPULATION to Dismiss Case With Prejudice by Plaintiffs Dr Ulrich G Klopfer, Fort Wayne Women's Health. This case is DISMISSED WITH PREJUDICE. Signed by Judge Robert L Miller, Jr on 3/4/11. (cer) (Entered: 03/04/2011)	
		49	10/08/2013	NOTICE TO PICK UP EXHIBITS (Plaintiff) (dk) (Entered: 10/08/2013)	
		50	11/15/2013	EXHIBIT DESTRUCTION CERTIFICATE (dk) (Entered: 11/15/2013)	

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