

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

**SCOTT REEDER and
the ILLINOIS POLICY INSTITUTE (D/B/A
ILLINOIS NEWS NETWORK), an Illinois
not-for-profit corporation,**

No. 14-3041

Equitable relief is sought.

Plaintiffs,

v.

**MICHAEL J. MADIGAN, Speaker of the
Illinois House of Representatives;
JOHN CULLERTON, President of the Illinois
Senate;
STEVE BROWN, Press Secretary to the
Speaker of the Illinois House of Representatives;
RIKEESHA PHELON, Press Secretary to the
President of the Illinois Senate, all
in their official capacities,**

Defendants.

VERIFIED COMPLAINT

Plaintiffs Scott Reeder and the Illinois Policy Institute (d/b/a Illinois News Network), by their attorney, Jacob H. Huebert of the Liberty Justice Center, for their Verified Complaint against Defendants state as follows:

INTRODUCTION

1. This civil rights lawsuit challenges Defendants' arbitrary, unreasonable exclusion of Plaintiff Scott Reeder from the press facilities of the Illinois House of Representatives and Illinois Senate. Mr. Reeder has been a full-time professional journalist for nearly 26 years, and his reporting and commentary on state news are published in newspapers across the state,

reaching hundreds of thousands of readers. Defendants' exclusion of Mr. Reeder from the House and Senate serves no compelling governmental interest and violates his right to freedom of the press under the First and Fourteenth Amendments, as well as his Fourteenth Amendment rights to due process and equal protection under the law.

JURISDICTION AND VENUE

2. Plaintiffs bring this suit under 42 U.S.C. §§ 1983 and 1988 to seek relief for state violations of their constitutional rights. This Court therefore has jurisdiction under 28 U.S.C. §§ 1331, 1343 (a)(3) and (4), 2201 and 2202.

3. Venue is proper under 28 U.S.C. § 1391(b).

PARTIES

4. Plaintiff Scott Reeder is a resident of Sangamon County, Illinois, and a journalist for the Illinois News Network, a project of the Illinois Policy Institute.

5. Plaintiff Illinois Policy Institute is a 501(c)(3) not-for-profit corporation with offices in Springfield, Illinois and Chicago, Illinois. The Illinois Policy Institute is a non-partisan public-policy research and education organization that promotes personal and economic freedom in Illinois.

6. Defendant Michael J. Madigan is Speaker of the Illinois House of Representatives, whose office decides whether a journalist will receive House media credentials.

7. Defendant John Cullerton is President of the Illinois Senate, whose office decides whether a journalist will receive Senate media credentials.

8. Defendant Steve Brown is Press Secretary to Speaker Madigan and, on information and belief, is responsible for reviewing applications for House media credentials, deciding whether press credentials will be granted, and issuing press credentials.

9. Defendant Rikeesha Phelon is Press Secretary to President Cullerton and, on information and belief, is responsible for reviewing applications for Senate media credentials, deciding whether press credentials will be granted, and issuing press credentials.

FACTS

Press Facilities in the Illinois House and Senate

10. The Illinois House of Representatives (“House”) and Illinois Senate (“Senate”) both have press boxes on their respective chambers’ floors.

11. Access to these press boxes gives journalists certain advantages they would not otherwise have. For example, access to the press box allows a journalist to:

- a. Participate in impromptu press conferences often held by lawmakers at the front of the press boxes during each legislative day;
- b. Use seats and desks that allow them to take notes;
- c. Take photographs from an advantageous position;
- d. Receive press releases, transcripts of speeches, and staff analyses of bills that are routinely distributed to journalists in the press boxes;
- e. Use the services of pages who can deliver interview requests to legislators on the floor; and
- f. Have a guaranteed seat in the legislative chambers on days when the public galleries are full.

12. House and Senate committee rooms also have press tables that give journalists a place to sit and take notes, receive drafts and staff analyses of legislation, and use audio jacks that provide broadcast-quality audio of the committee proceedings.

13. Defendants routinely give press access to journalists from a wide range of media outlets, including newspapers, television and radio stations, news services, and websites.

Restrictions on Access to Press Facilities

14. Defendants do not, however, give all journalists access. Some, such as Plaintiff Scott Reeder, are excluded by Defendants' application of the Illinois Lobbyist Registration Act ("LRA"), the House and Senate Rules, and the Senate Media Guidelines for the 98th General Assembly.

15. The LRA requires individuals and organizations that directly or indirectly lobby the state government to register with the Illinois Secretary of State. 25 ILCS 170/3(a).

16. The LRA exempts certain news organizations from this registration requirement – specifically, “[p]ersons or entities who own, publish, or are employed by a newspaper or other regularly published periodical, or who own or are employed by a radio station, television station, or other bona fide news medium that in the ordinary case of business disseminates news, editorial or other comment, or paid advertisements that directly urge the passage or defeat of legislation.” 25 ILCS 170/3(a)(2).

17. The LRA, however, also excludes certain organizations and journalists from this exemption – specifically, any individual who “receives additional compensation or expenses from some source other than the bona fide news medium for the purpose of influencing executive, legislative, or administrative action” and any “newspapers or periodicals owned or

published by trade associations and not-for-profit corporations engaged primarily in endeavors other than dissemination of news.” 25 ILCS 170/3(a)(2).

18. The House Rules, in turn, prohibit anyone who is required to register as a lobbyist under the LRA from having access to the House floor when the House is in session. *See* House Rule 30(d) (attached as Exhibit 1).

19. The Senate Rules likewise prohibit individuals required to register under the LRA from having access to the Senate floor. *See* Senate Rule 4-3(d) (attached as Exhibit 2).

20. Thus, the LRA and the House and Senate Rules operate together to bar certain journalists from the House and Senate floors and thus from the House and Senate press boxes – i.e., they exclude journalists who are employed by “not-for-profit corporations engaged primarily in endeavors other than dissemination of news” that are classified as lobbying organizations and required to register as such.

21. On the other hand, journalists employed by for-profit news organizations that lobby – or non-profit organizations that lobby but “primarily” disseminate news – are *not* barred by the House and Senate Rules from the House and Senate floors and press facilities.

22. For example, *Chicago Tribune* reporters have had access to the House and Senate press facilities even in years when the *Tribune*’s owner, the Tribune Company, was registered as a lobbying entity (as it was in 2000) or hired a firm to lobby state government on its behalf (as it did in 2002 and 2003). *See* Exhibit 3 (Secretary of State records for Tribune Company lobbying).

23. In addition, the Senate Media Guidelines (attached as Exhibit 4) further restrict which journalists may receive Senate media credentials and thus have access to the Senate press facilities.

24. Paragraph 3 of the Senate Media Guidelines requires that the news organization employing a journalist “be owned and operated independently of any industry, institution, association, or lobbying organization” and that the journalist “operate independently of any industry, or institution” and not engage in any lobbying.

Plaintiff Scott Reeder and the Illinois News Network

25. Plaintiff Scott Reeder is a journalist for the Illinois News Network, a news service that provides news articles and commentary related to issues of state government and public policy to newspapers across the state.

26. In a typical month, 60 to 80 newspapers across the state publish news articles and columns by Mr. Reeder or other Illinois News Network journalists.

27. On information and belief, in the past year alone the Illinois News Network served 109 newspapers with an aggregate circulation of more than one million.

28. In fact, many of these newspapers lack statehouse reporters of their own and rely on the Illinois News Network for news reporting on state government.

29. Mr. Reeder also writes a weekly “Reeder Report” e-newsletter, which contains additional news and commentary on Illinois government and public policy.

30. The Illinois News Network is a project of the Illinois Policy Institute (“IPI”), which is a non-partisan 501(c)(3) non-profit organization that advocates public policies to advance personal and economic liberty in Illinois. IPI’s work apart from the Illinois News Network primarily involves conducting and publishing research related to public-policy issues affecting Illinois.

31. Mr. Reeder writes his news commentary from a perspective that favors free markets and limited government – a perspective that he, the Illinois News Network, and IPI believe is underrepresented in the Illinois media.

32. Mr. Reeder's work for the Illinois News Network, which began in 2012, is only the latest chapter in a journalism career that has spanned nearly 26 years.

33. Mr. Reeder earned a bachelor's degree in journalism and mass communications from Iowa State University in 1987 and a master's degree in public-affairs reporting from Sangamon State University (now the University of Illinois at Springfield) in 1988.

34. In 1988, Mr. Reeder was hired as a reporter for the *Galveston (Texas) Daily News*; he later moved to the *Quad-City Times* of Davenport, Iowa, and then became a senior reporter for the *Las Vegas Sun*.

35. From 1999 to 2009, Mr. Reeder was Statehouse Bureau Chief for SNG newspapers, a group of four mid-sized newspapers in Illinois, and reported on Illinois state government.

36. From 2009 to 2012, Mr. Reeder was National Statehouse Managing Editor for the Franklin Center for Government and Public Integrity, where he continued to report on Illinois state government, oversaw 14 full-time reporters and editors in 10 states, and spearheaded the creation of a national service that provided news content to 135 daily newspapers, more than 100 radio stations, and 14 television broadcasters in seven states.

37. Mr. Reeder continues to work for the Franklin Center as an independent contractor, and his writing on Illinois state government frequently appears on the Franklin Center's website, Watchdog.org.

Defendants' Denials of Press Credentials

38. For each year from 1999 through 2012, Mr. Reeder was granted access to the House and Senate press facilities so he could cover the proceedings of the Illinois General Assembly.

39. In late 2012 or January 2013, Mr. Reeder requested media credentials from the Illinois House and Senate for 2013.

40. In March 2013, he received a letter from Defendant Rikeesha Phelon, Press Secretary for the Office of the Senate President, denying his request for Senate credentials, a copy of which is attached as Exhibit 5.

41. To justify her denial of Mr. Reeder's application, Ms. Phelon observed that IPI was registered as an Illinois lobbying entity for 2013 and cited the above-referenced provisions of the LRA, Senate Rule 4-3(d), and the Senate Media Guidelines for the 98th General Assembly.

42. Mr. Reeder never received a written response to his 2013 request for House media credentials.

43. Defendant Steve Brown, Press Secretary to the Office of the Speaker of the House, informed Mr. Reeder verbally that the House would not grant him media credentials for 2013 because he was employed by IPI.

44. In January 2014, Mr. Reeder again applied for media credentials from the House and Senate.

45. In letters to Defendants Brown and Phelon (attached as Exhibit 6), Mr. Reeder's counsel explained that IPI had not registered and would not register as a lobbying organization in 2014, so that purported basis for denying Mr. Reeder's 2013 applications no longer applied.

46. Nonetheless, on January 16, 2014, Defendant Cullerton's counsel, Eric Madiar, sent Mr. Reeder a letter (attached as Exhibit 7) denying his Senate application based on Mr. Madiar's belief that IPI was still required to register as a lobbying organization, citing the LRA, Senate Rule 4-3(d), and Senate Media Guidelines Paragraph 3.

47. On February 3, 2014, Defendant Madigan's counsel, Heather Wier Vaught, sent Mr. Reeder's counsel a letter (attached as Exhibit 8) stating two purported bases for denying his 2014 application.

48. The first basis was that Mr. Reeder is not a "representative of the press" because IPI "is neither a press nor a media organization." The letter identified no law or rule, however, defining "press" and "media organization" and cited no standard it applies in making this determination.

49. The second basis was Ms. Vaught's belief that IPI is a lobbying organization even though it had not registered under the LRA.

50. Mr. Reeder has never engaged in any lobbying for IPI or any other organization.

51. Defendants have never accused Mr. Reeder of personally lobbying legislators or other state officials.

52. Mr. Reeder is and always has been a journalist, not a lobbyist.

53. Although Defendants have refused to grant Mr. Reeder press credentials, other governmental bodies have granted him credentials.

54. In January 2014, for example, Mr. Reeder received press credentials from the Illinois Secretary of State, which allow him access to areas of the Illinois statehouse other than the House and Senate floors, and from the United States Supreme Court.

COUNT I

**(First and Fourteenth Amendments – Freedom of the Press –
Defendants Madigan and Brown)**

55. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 54 as if fully set forth herein.

56. Where the state makes press facilities available to journalists, the First Amendment prohibits the state from excluding some journalists on the basis of arbitrary or unreasonable criteria, the journalists' point of view, or the content of those journalists' publications.

57. Under the First Amendment, a law, rule, policy, or official action that denies certain journalists equal access to news must serve a compelling governmental interest and be the least restrictive means of serving that purpose.

58. The Lobbyist Registration Act and House Rules' exclusion of journalists employed by "not-for-profit corporations engaged primarily in endeavors other than the dissemination of news" from House press facilities is not the least restrictive means of serving a compelling governmental interest and therefore violates the right to freedom of the press under the First and Fourteenth Amendments on its face and as applied to Plaintiff Scott Reeder.

59. Defendants Madigan and Brown's denial of Plaintiff Scott Reeder's 2014 request for press credentials on the basis that IPI is "neither a press nor a media organization" was

arbitrary and unreasonable and violated his First and Fourteenth Amendment right to freedom of the press.

60. Defendants Madigan and Brown's denials of Plaintiff Scott Reeder's applications for press credentials in 2013 and 2014 were arbitrary, unreasonable, and not based on criteria that are the least restrictive means of serving a compelling governmental interest and therefore violated Mr. Reeder's right to freedom of the press under the First and Fourteenth Amendments.

COUNT II

(First and Fourteenth Amendments – Freedom of the Press – Defendants Cullerton and Phelon)

61. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 60 as if fully set forth herein.

62. The Lobbyist Registration Act and Senate Rules' exclusion of journalists employed by "not-for-profit corporations engaged primarily in endeavors other than the dissemination of news" from Senate press facilities is not the least restrictive means of serving a compelling governmental interest and therefore violates the right to freedom of the press under the First and Fourteenth Amendments on its face and as applied to Plaintiff Scott Reeder.

63. In addition, the Senate Media Guidelines' rule denying media credentials to journalists whose employers are not "owned and operated independently of any industry, institution, association, or lobbying organization" is not the least restrictive means of serving a compelling governmental interest and therefore violates the right to freedom of the press under the First and Fourteenth Amendment on its face and as applied to Plaintiff Scott Reeder.

64. In addition, the Senate Media Guidelines' requirement that journalists seeking media credentials "operate independently of any industry, or institution" is not the least

restrictive means of serving a compelling governmental interest and therefore violates the First Amendment on its face and as applied to Plaintiff Scott Reeder.

65. In addition, the requirements referenced in Paragraphs 63 and 64 violate the First Amendment because they are vague and arbitrary.

66. Defendants Cullerton and Phelon's denials of Plaintiff Scott Reeder's applications for press credentials in 2013 and 2014 were arbitrary, unreasonable, and not based on criteria that are not the least restrictive means of serving a compelling governmental interest and therefore violated Mr. Reeder's right to freedom of the press under the First and Fourteenth Amendments.

COUNT III

(Fourteenth Amendment – Due Process – Defendants Madigan and Brown)

67. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 66 as if fully set forth herein.

68. Defendants Madigan and Brown's failure to provide the factual and legal basis for their denial of Mr. Reeder's 2013 application for media credentials in writing violated his right to due process of law.

69. Defendants Madigan and Brown's denial of Mr. Reeder's 2014 application for media credentials on the basis that IPI "is neither a press nor a media organization" – in the absence of any statute or rule defining "press organization" or "media organization" – violated his right to due process of law.

70. Defendants Madigan and Brown's failure to provide any means of impartial review of their denial of Mr. Reeder's applications for press credentials violated his right to due process of law.

COUNT IV

(Fourteenth Amendment – Due Process – Defendants Cullerton and Phelon)

71. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 70 as if fully set forth herein.

72. The Senate Media Guidelines' vague and arbitrary criteria violate due process of law on their face and as applied to Plaintiff Scott Reeder.

73. Defendants Cullerton and Phelon's failure to provide any means of impartial review of their denial of Mr. Reeder's applications for press credentials violated his right to due process of law.

COUNT V

(Fourteenth Amendment – Equal Protection – All Defendants)

74. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 73 as if fully set forth herein.

75. On information and belief, Defendants have provided and continue to provide media credentials to organizations that directly or indirectly lobby state government officials.

76. Defendants' discrimination against Mr. Reeder on the basis of their belief that IPI is a lobbying organization – when Defendants grant media credentials to other organizations that directly or indirectly lobby state government officials – does not serve a compelling

governmental interest, lacks any rational basis, and therefore violates Mr. Reeder's right to equal protection under the Fourteenth Amendment.

REQUEST FOR RELIEF

Plaintiff Scott Reeder requests that this Court:

- A. Declare that the House Rules' exclusion of journalists employed by "not-for-profit corporations engaged primarily in endeavors other than the dissemination of news" from the House press facilities violates the right to freedom of the press under the First and Fourteenth Amendments on its face and as applied to Plaintiff Scott Reeder.
- B. Declare that the Senate Rules' exclusion of journalists employed by "not-for-profit corporations engaged primarily in endeavors other than dissemination of news" from the Senate press facilities violates the right to freedom of the press under the First and Fourteenth Amendments on its face as applied to Plaintiff Scott Reeder.
- C. Declare that Defendants Michael Madigan and Steve Brown violated Plaintiff Scott Reeder's right to freedom of the press under the First and Fourteenth Amendments when they denied his applications for House media credentials in 2013 and 2014;
- D. Declare that the Senate Media Guidelines' rule denying media credentials to journalists whose employers are not "owned and operated independently of any industry, institution, association, or lobbying organization" violates the right to

freedom of the press under the First and Fourteenth Amendment on its face and as applied to Plaintiff Scott Reeder.

- E. Declare that the Senate Media Guidelines' requirement that journalists seeking media credentials "operate independently of any industry, or institution" violates the First Amendment on its face and as applied to Plaintiff Scott Reeder;
- F. Declare that Defendants John Cullerton and Rikeesha Phelon violated Plaintiff Scott Reeder's right to freedom of the press under the First and Fourteenth Amendments when they denied his applications for Senate media credentials in 2013 and 2014;
- G. Declare that Defendants Michael Madigan and Steve Brown violated Plaintiff Scott Reeder's right to due process of law when they denied his 2013 application for House media credentials without providing the legal and factual basis for that denial in writing;
- H. Declare that Defendants Michael Madigan and Steve Brown violated Plaintiff Scott Reeder's right to due process of law when they denied his 2014 application for House media credentials on the basis that IPI "is neither a press nor a media organization" without citing any statute or published rule defining the terms "press organization" or "media organization";
- I. Declare that the Senate Media Guidelines' criteria for granting media credentials are vague and arbitrary and therefore violate due process of law on their face and as applied to Plaintiff Scott Reeder;

- J. Declare that Defendants violated Plaintiff Scott Reeder's right to due process by failing to provide any means of impartial review of their denials of his applications for media credentials;
- K. Declare that Defendants' denials of Plaintiff Scott Reeder's applications on the basis of their belief that the Illinois Policy Institute is a lobbying organization violated his right to equal protection under the law;
- L. Preliminarily and permanently enjoin Defendants Michael J. Madigan and Steve Brown from excluding Plaintiff Scott Reeder from the press section of the Illinois House of Representatives during the 98th General Assembly;
- M. Preliminarily and permanently enjoin Defendants John Cullerton and Rikeesha Phelon from excluding him from the press section of the Illinois Senate during the 98th General Assembly;
- N. Award Plaintiff Scott Reeder his attorneys fees, costs, and expenses in this action pursuant to 42 U.S.C. § 1988; and
- O. Grant further relief as this Court deems just and proper.

Dated: February 4, 2014.

Respectfully Submitted,

By: /s/ Jacob H. Huebert
Jacob H. Huebert (#6305339)
Attorney for Plaintiff Scott Reeder

Liberty Justice Center
190 S. LaSalle Street, Suite 1630
Chicago, Illinois 60603
(312) 263-7668
jhuebert@libertyjusticecenter.org

VERIFICATION

I, Scott Reeder, declare under penalty of perjury that the allegations in this Complaint are true and correct to the best of my knowledge, except as to matters stated to be on information and belief, and as to such matters I certify that I verily believe the same to be true.

/s/ Scott Reeder
Scott Reeder

Dated: February 4, 2014