



## What You Need to Know About the Constitutionality of Municipal Holiday Displays

By Jack J. Lah, Esq. of Weltman, Weinberg & Reis Co., LPA. Reprinted with permission.

With a number of year-end holidays approaching, tis the season ... to start questioning whether your municipal holiday displays will prompt a lawsuit. Everyone is entitled to celebrate the holiday season according to his or her own personal religious beliefs. One of the treasures of our country is that Americans have always celebrated the holidays in a variety of entertaining and creative ways. Sometimes, however, those celebrations are hindered by the question of what is and is not permitted under the law, with an eye on the separation of "church" and "state".

Municipalities have an obligation to properly manage the "public forum". The government has historically allowed individuals and organizations to use public property to erect holiday-themed displays. In general, there is nothing wrong with this. However, the legal scrutiny applicable to the message the government permits in the "public forum" de-

pends on which of the three types of public property is being used:

1. the traditional public forum
2. the open public forum; or
3. the non-public forum.<sup>1</sup>

Government properties such as streets, sidewalks and parks are presumed to be *traditional public fora*. When a traditional public forum is involved, the government must act in a "viewpoint-neutral" manner. Additionally, other areas that "the state has opened for use by the public as a place for expressive activity" are considered *open fora*. Such areas include, but are not limited to, government buildings, community centers and other state-owned facilities. When such property is involved, the government cannot prohibit

### Inside this issue:

<b>Municipal Holiday Displays</b>	<b>1</b>
<b>Tech Tip: National Consumer Law Center</b>	<b>2</b>
<b>Free CLE</b>	<b>3</b>
<b>Subscriber Renewals</b>	<b>5</b>
<b>You and the Legal System 2014</b>	<b>6</b>
<b>Consumer Credit Resources</b>	<b>7</b>

### Hamilton County Law Library

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[www.http://www.hamilton-co.org/cinlawlib/](http://www.hamilton-co.org/cinlawlib/)

(Continued on page 4)

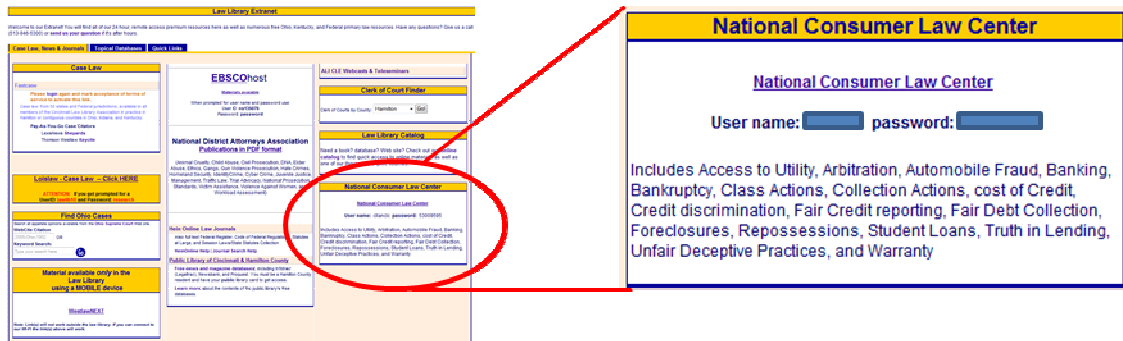
# Tech Tip: Consumer Law Materials from National Consumer Law Center

Julie Koehne, Systems Librarian

Our solo attorneys and full firm subscribers have remote access to our ebook collection from the National Consumer Law Center.

*(Note: if you have an individual subscription you may access this material only at the library.)*

Once you login to the law library remote access database, connect to the National Consumer Law Center via this link.



The following titles are available to our subscribers and county officials.

Access to Utility Service, Automobile Fraud, Collection Actions, Consumer Arbitration Agreements, Consumer Banking and Payments Law, Consumer Bankruptcy Law and Practice, Consumer Class Actions, Consumer Warranty Law, Credit Discrimination, Fair Credit Reporting, Fair Debt Collection, Foreclosures, Repossessions, Student Loan Law, Truth in Lending, and Unfair and Deceptive Acts and Practices

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NCLC eReports

Companion Websites	Records	Date
Consumer Law on the Web	2887	9/3/2013
Consumer Law Pleadings	2289	9/6/2013
Access to Utility Service	170	9/25/2012
Automobile Fraud	282	8/2/2013
Collection Actions	175	8/29/2013
Consumer Arbitration Agreements	406	2/6/2013
Consumer Banking and Payments Law	122	8/2/2013
Consumer Bankruptcy Law and Practice	278	1/17/2013
Consumer Class Actions	339	8/2/2013
Consumer Warranty Law	208	8/2/2013
Credit Discrimination	139	8/2/2013
Fair Credit Reporting	522	1/30/2013
Fair Debt Collection	360	8/29/2013
Foreclosures	555	8/29/2013
Repossessions	130	12/10/2012
Student Loan Law	383	1/10/2013
Truth in Lending	500	1/28/2013
Unfair and Deceptive Acts and Practices	373	2/1/2013

Within these titles, you have access to:

- Agency Forms
- Agency Interpretations, Proceedings
- Consumer Info
- Court Decisions
- Industry Materials
- Legislation, Legislative History
- Litigation / Practice Aids / Sample forms
- Reports, Comments, Affidavits
- Rules, Regulations, Regulatory History
- State by State comparisons

## Free CLE

**Free to subscribers;**

**\$50 for non-subscribers**

To register, call 513.946.5300 or via email  
[reference@cms.hamilton-co.org](mailto:reference@cms.hamilton-co.org)

### **Divorce Law CLE: Restraining Orders, Contempt Actions and Frivolous Conduct**

Presenter: Craig Newburger

December 11, 2013

Noon-1pm

Approved for 1.0 hour of general credit in Ohio and Kentucky.

### **CLE from the American Law Institute: Discounted for Law Library Subscribers and County Staff**

The Ohio CLE deadline is rapidly approaching! Did you know your subscription\* to the Hamilton County Law Library or status as a Hamilton County employee provides you with discounted (25% off) access to live webcasts and telephone seminars from ALI CLE?

To see the available programs, click on Subscriber Login in the upper right corner of the Law Library's website at <http://www.hamilton-co.org/cinlawlib>, and login as usual. Then click on ALI CLE Webcasts & Teleseminars. Use the calendar to learn about upcoming programs. Your 25% discount is applied automatically when you click "add to cart." The program description has a link for the course's MCLE information. It shows each state's approval status for the

course.

The American Law Institute (ALI), founded in 1923, is the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law. ALI CLE (formerly ALI-ABA) produces hundreds of programs of the highest caliber, in numerous areas of practice, each year. Practical and sophisticated, taught by prominent lawyers, judges, and legal academics in the U.S. and abroad, ALI CLE programs are consistently ranked by lawyers among the very best available.

Please ask us if you have questions about this service. If you are a county employee who is not yet signed up for law library privileges, please come in or call and speak with a staff member.

\*Discounted ALI CLE courses are available to county officials and to all of our subscribers at firms of fifty or fewer attorneys.

### **CLE Offerings in 2014**

Thanks to everyone who volunteered time to present CLEs at the Law Library this year! We have tentative plans to offer a number of CLEs in 2014. If anyone is willing to present, please contact Laura Dixon-Caldwell at 946.5300 or [ldixoncaldwell@cms.hamilton-co.org](mailto:ldixoncaldwell@cms.hamilton-co.org)



(Continued from page 1)

religious speakers based upon the viewpoint of the speech unless the government demonstrates a "compelling government interest" for doing so.<sup>2</sup>

Those who object to religious displays often rely upon the general allegation that the Constitution prevents *any* religious display. That's simply not true. The Free Exercise Clause and the Free Speech Clause do not require a municipality to exclude *private* religious speech from the public forum. In fact, a municipal policy of excluding private religious speakers from public places where other speakers are permitted is unconstitutional. The Establishment Clause only forbids *government* speech endorsing religion.<sup>3</sup>

The government's display may include a religious component where that item is part of a larger holiday display in which there are a variety of secular symbols. In this regard, several aspects of a display are examined by the courts to determine whether the display violates the Constitution. As a general rule, so long as the religious elements of the display are part of a larger holiday expression, the display is constitutional. The rationale behind this rule is that the primary effect of the entire display is secular.<sup>4</sup>

Also, the United States Supreme Court specifically stated that it is permissible for the government to display Christmas trees. Those trees would not have to be part of a larger holiday display which includes a variety of secular symbols.[5]

We know that the law in this area is sometimes quite murky. It is difficult to strike the required balance between proper and improper actions during the holiday season. As a leading advisor to municipalities, we are here to help you with any questions you may have on this topic.

For more information, contact [Jack J. Lah, Esq.](#)

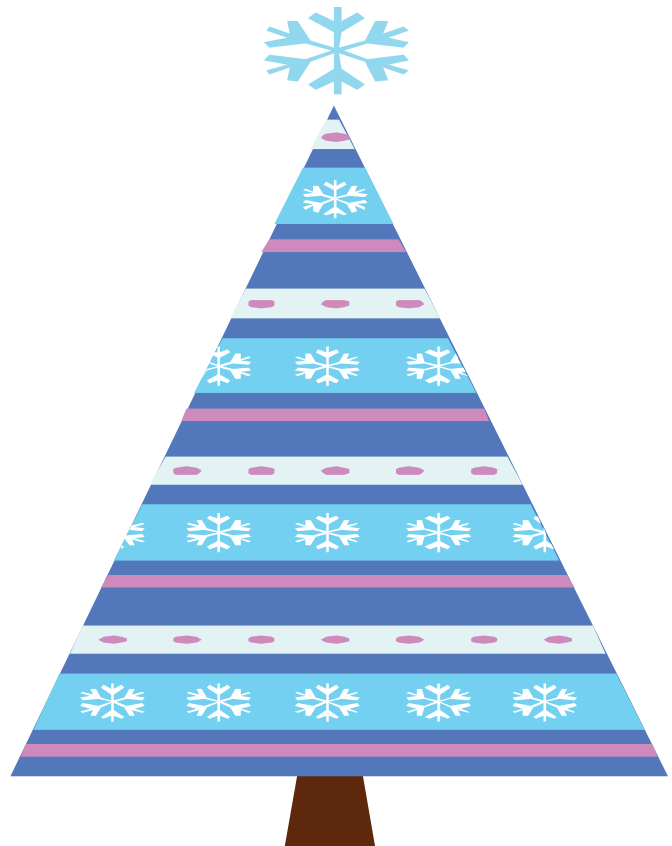
1 Perry Educ. Ass'n v. Perry Local Educators Ass'n, 460 U.S. 37 (1983).

2 Rosenberger v. Rector & Visitors of the Univ. of Virginia, 515 US 819, 888, 115 s.Ct. 2510 (1995).

3 Capitol Square Review & Advisory Bd. V. Pinette, 515 U.S. 753 (1995).

4 Lynch v. Donnelly, 465 U.S. 668 (1984); Salazar v. Buono, 130 S. Ct. 1803 (2010).

5 Lynch, County of Allegheny v. ACLU, 492 U.S. 573 (1989).



## Subscriber Renewals

We will mail invoices in early December for Hamilton County Law Library's 2014 enhanced services for subscribers. We hope that you will renew your subscription because of the many services and resources offered by the Law Library. You are welcome to pay in December or wait until January – your choice.

Library staff appreciate your calls and emails for research support. Our subscribers and county officials may request cases, chapters, Shepard's reports, forms, and more. We will send the items you need quickly via email or fax. This service is available to you at no additional charge. We also offer CLEs and training, video conferencing, meeting room use, loan of books, and low cost photocopying. Our solo attorney and full firm subscribers also get off-site access to a number of legal information databases.

Thanks for your continued use of the Law Library, whether on-site or from the convenience of your home or office. If you have questions about the invoice or about making the most of your investment, please contact library director [Mary Jenkins](#).



## Legal Research Competency

The American Association of Law Libraries is encouraging other organizations in the legal profession to adopt its standards for legal research competency and to share assessment examples and best practices. A new section of the AALL website provides these standards and more information for law firms, legal education providers, bar examiners, law schools, and others. If this is a topic of interest to you or others in your office, please share this link <http://www.aallnet.org/main-menu/Advocacy/legalresearchcompetency> and speak with HCLL law librarian [Mary Jenkins](#).

## Court Rules

The Consortium of Ohio County Law Libraries maintains a list of links to Ohio court rules. Librarians update the list annually and often can acquire copies of rules not otherwise available online. See our website for this trustworthy source for court rules: <http://www.hamilton-co.org/cinlawlib/resources/courtrules.html>.

## Conference Room Use

Subscribers and county officials may reserve the Board Room or any of the Law Library's conference rooms. If you need to arrange meeting room space with capability for web conferencing, video conferencing, or presentations, think of the Hamilton County Law Library. We would be happy to confirm availability or tell you more about use of these spaces.



## Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to 6 weeks at a time

Access to extensive electronic databases from the Law Library, including LexisNexis, Shepards', CCH IntelliConnect tax, business and human resource databases, BNA Tax Management Portfolios, Hein Online Law Journals and Federal Register, and over 70 Aspen /LOISLaw treatises in 20 substantive areas

Wireless network throughout the Law Library

Polycom videoconferencing

5 meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

Inexpensive CLE seminars throughout the year, on legal research and substantive topics

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/LOISLaw treatises and CCH Newsletters.

## You and the Legal System: 2014 Schedule

The *You and the Legal System* series will continue in 2014. Below are the upcoming topics:

February 21: Bankruptcy

March 21: Domestic Relations

April 25: Social Security Disability/SSI

May 16: Landlord Tenant

June 20: Elder Law

We will have more detailed descriptions of the programs as we get closer to the dates.

All programs start at noon and last until 1pm. Please note that these are not CLE events; they are intended for the general public. *You and the Legal System* is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service. For more information, contact Laura Dixon-Caldwell at 946-5300.

## January Meeting of the Law Library's Board

The Hamilton County Law Library Resources Board is scheduled to meet at noon on Thursday, January 9th in the Robert S. Kraft Board Room in the Law Library. Meetings of the board are open to the public. Approved minutes of previous meetings are online at <http://www.hamilton-co.org/cinlawlib/about/trustees.html>

## Consumer Credit Resources

It's holiday shopping time! Check out the Law Library's resources on consumer law. If you have questions about access to any of these resources, contact the Reference staff at 513.946.5300.

Anderson's Ohio Consumer Law  
KFO230 .A29 2013-

Baldwin's Ohio Consumer Law  
KFO230 .O35 2013-

Collection Action: Defending Consumers and their assets\*  
KF1040.Z9 S543 2013-

Consumer arbitration agreements: enforceability and other topics\*  
KF1040.Z9 2012-

Consumer banking and payments law: credit, debit and stored value cards; checks; money orders; e-sign; electronic banking and benefit payments\*  
KF1040.Z9 B83 2013-

Consumer credit regulation: credit cards, payday loans, auto finance, and other non-mortgage credit\*  
KF1040 Z9 C37 2012-

Consumer Law Institute  
KF230 .C66 2011

Consumer law pleadings: pleadings from all NCLC manuals\*  
KF1040 .Z9 C66 2012-

Credit discrimination\*  
KF1040.Z9 C74 2013-  
KF974 .D63 2010

Fair credit reporting\*  
KF1040.Z9 W83 2012-  
Fair debt collection\*  
KF1040.Z9 .H63 2013-

Repossessions\*  
KF1040.Z9 S541 2012-

Truth in lending  
KF1040.Z9 T7 2012-

Unfair and deceptive practices and acts\*  
KF1040.Z9 S34 2012-

\*These books are National Consumer Law Center publications. For info on accessing these titles and more online, see the Tech Tip on page 2.

### Online Resources/Remote Access\*\* **Aspen/Loislaw**

Consumer Finance Forms and Checklists

Dodd-Frank Wall Street reform and Consumer Protection Act: law, explanation and analysis

### **CCH Intelliconnect**

Consumer Credit Guide

Consumer Credit Guide Report Letter

Consumer Credit Legislative Development Charts

Consumer Credit Smart Chars

### **EBSCO**

Credit Repair

How to Repair Your Credit Score Now

Solve Your Money Troubles

\*\*-Remote access is available to subscribers who are solos or firm attorneys whose entire firm has a subscription to the Law Library.

### Links

**Ohio Attorney General Consumer Protection-**

<http://ohioattorneygeneral.gov/About-AG/Organizational-Structure/Consumer-Protection>

**SmartMoney-**<http://www.smart-money.org/pages/HOME.html>

### Upcoming Events:

December 11: Divorce CLE  
December 17: CCH Training

### Law Library Holidays

The Law Library will be closed:  
Wednesday, December 25 in observance of Christmas.  
Wednesday January 1 in observance of New Year's Day.



## December 2013 Law Library Newsletter

### INSIDE THIS MONTH

- Municipal Holiday Displays
- ALI CLE
- Subscriber Renewals
- Court Rules

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