

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
EASTERN DIVISION
No. 3:19-cv-11

<p>CORY SESSLER, an individual,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>CITY OF DAVENPORT, IOWA; GREG BEHNING, in his individual capacity acting as a police officer for the CITY OF DAVENPORT, IOWA; JASON SMITH, in his individual capacity acting as a police officer for the CITY OF DAVENPORT, IOWA; and J. A. ALCALA, in his individual capacity acting as a police officer for the CITY OF DAVENPORT, IOWA,</p> <p style="text-align: right;">Defendants.</p>	<p style="text-align: center;"><u>PLAINTIFF'S VERIFIED COMPLAINT</u></p> <p style="text-align: center;">DEMAND FOR JURY TRIAL</p> <p style="text-align: center;">CIVIL RIGHTS ACTION 42 U.S.C. § 1983</p> <p style="text-align: center;">DECLARATORY RELIEF, INJUNCTIVE RELIEF AND DAMAGES</p>
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PLAINTIFF'S VERIFIED COMPLAINT

COMES NOW Plaintiff, CORY SESSLER, an individual (hereinafter "Plaintiff"), by and through his counsel, and as his cause of action against the Defendants herein, avers as follows:

INTRODUCTION

1. Plaintiff brings this action seeking declaratory and injunctive relief and damages to redress deprivations by Defendants, CITY OF DAVENPORT, IOWA (the "City"); GREG BEHNING, in his individual capacity acting as a police officer for the CITY OF DAVENPORT, IOWA; JASON SMITH, in his individual capacity acting as a police officer for the CITY OF DAVENPORT, IOWA; and J. A. ALCALA, in his individual capacity acting as a police officer for the CITY OF DAVENPORT, IOWA (hereinafter "Defendants"), of certain rights secured to Plaintiff and others as alleged herein under the United States Constitution.

2. This action challenges the interpretation and enforcement (as-applied challenge)

of the City's Special Events Policy (hereinafter "Policy").

PARTIES

3. Plaintiff, CORY SESSLER, is an adult citizen and resident of Iowa and brings this action in his personal capacity.

4. Defendant, CITY OF DAVENPORT, IOWA, is a body politic and corporate located within the State of Iowa and has the ability to sue and be sued. Defendant City has the right, power, privilege, and authority to adopt and enforce the City's Policy and other regulations and to do and perform all of the acts pertaining to its local affairs. At all material times, Defendant City acted toward Plaintiff under color of the statutes, ordinances, customs, and usage of the State of Iowa and Defendant City. Defendant City knew of the unlawful enforcement of the City's Policy alleged herein, and had the power and authority to remedy the unlawful enforcement, but failed to do so. Defendant City, by both its acts and failure to act, has ratified the unlawful enforcement of the City's Policy.

5. Defendant, GREG BEHNING, in his individual capacity acting as a police officer for the CITY OF DAVENPORT, IOWA (hereinafter "Behning"), is employed as a police officer for the CITY OF DAVENPORT, IOWA's Police Department. Behning enforced the City's Policy under color of state law and is sued in his individual capacity.

6. Defendant, JASON SMITH, in his individual capacity acting as a police officer for the CITY OF DAVENPORT, IOWA (hereinafter "Smith"), is employed as a police officer for the CITY OF DAVENPORT, IOWA's Police Department. Smith enforced the City's Policy under color of state law and is sued in his individual capacity.

7. Defendant, J. A. ALCALA, in his individual capacity acting as a police officer for the CITY OF DAVENPORT, IOWA (hereinafter "Alcala"), is employed as a police officer for

the CITY OF DAVENPORT, IOWA's Police Department. Alcalá enforced the City's Policy under color of state law and is sued in his individual capacity.

JURISDICTION AND VENUE

8. Plaintiff brings this action seeking injunctive relief, nominal and/or compensatory and/or special and/or exemplary damages to redress deprivations by Defendants, acting under color of state law, of certain rights secured to Plaintiff and others as alleged herein under the United States Constitution as brought pursuant to 42 U.S.C. § 1983.

9. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1343(a)(3) and 1343(a)(4), which provide for original jurisdiction in this Court of all suits brought pursuant to 42 U.S.C. § 1983.

10. Jurisdiction is also conferred on this Court by 28 U.S.C. § 1331 because the cause of action arises under the Constitution and laws of the United States.

11. This Court is authorized to grant Declaratory Judgment under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, implemented through Rule 57 of the Federal Rules of Civil Procedure, and to issue the Preliminary and Permanent Injunctive relief requested by Plaintiffs under Rule 65 of the Federal Rules of Civil Procedure.

12. This Court is authorized to grant Plaintiff's prayer for relief and to award Plaintiff's costs in this action for violations of Plaintiff's constitutional rights, including a reasonable attorney's fee and costs pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1988, Rule 54, and 28 U.S.C. § 1920.

13. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendants reside and/or do business in the Southern District of Iowa and may be found and served in the Southern District of Iowa.

14. Venue is proper in the Southern District of Iowa as all of the events giving rise to the claims herein occurred in this District.

FACTS

15. Plaintiff is an individual acting to spread awareness of his views regarding religious, political, and social topics.

16. Among Plaintiff's purposes is the belief in a mandate to exercise his rights to freedom of speech and to further his religious, political, and social beliefs.

17. Plaintiff brings this action to vindicate and protect his rights to Freedom of Speech and Free Exercise of Religion in the City by ensuring that Defendants are restrained from acting prospectively in violation of those rights.

18. The public parks, public streets, public sidewalks, and public rights-of-way within the jurisdiction of the City (hereinafter "Public Spaces") are traditional public fora.

19. Plaintiff, citizens, and members of the public utilize the Public Spaces for various activities, including communication and the exchange of ideas.

The City Adopts the Policy

20. The City adopted the Policy.

21. The Policy states in part: "This document sets forth the guidelines for the implementation of a Special Events Policy by the City of Davenport. It defines, categorizes, and sets a fee structure for all Special Events."

22. The Policy states in part: "It is the purpose of this policy to regulate special outdoor events conducted in the City of Davenport so that such events can be held with the safety and health of participants in mind, the protection of public property considered, and the impact of the event on non-participating citizens minimized."

23. The Policy states in part:

Special Event refers to outdoor events that include, but are not limited to, the following: fair, carnival, circus, parade, concert, walk or run, graduation, block sponsor or other festival, ceremony, rally, procession, or mass gathering or any other gathering deemed a special event by the City Council. A Special Event may also involve selling, advertising, and/or promoting.

24. The Policy states in part: “The City shall be charged with the responsibility of determining whether a particular sponsor shall be entitled to conduct an outdoor special event.”

25. The Policy states in part: “Sponsors who wish to make a request for a special event shall submit an online application located on the City’s website.”

Plaintiff’s planned activities

26. Plaintiff has shared his religious, political, and social speech with people in the City.

27. Plaintiff’s message is one of hope and salvation that Christianity offers.

28. Plaintiff has not harassed, encouraged violence, or expressed himself in any way other than in a peaceful manner.

29. Plaintiff desires to continue his peaceful activities without being incarcerated or cited.

30. Plaintiff shares his faith in various ways.

31. Plaintiff distributes free literature and carries portable signs.

32. Plaintiff records public events for commentary and distribution.

33. Plaintiff engages others in respectful, one-on-one discussions about Jesus Christ and the Christian faith. Plaintiff also engages in amplified open-air preaching as permitted.

34. Plaintiff has a religious mandate to go to Public Spaces in the City.

35. On upcoming days – including but not limited to days in November 2018 through

December 2022 – Plaintiff has concrete plans to engage in his constitutionally-protected activities by peacefully expressing religious, political, and social speech within the City’s Public Spaces.

36. As a direct and proximate result of Defendants’ prior enforcement of the Policy, Plaintiff is forfeiting his constitutionally-protected activities due to fear of arrest, incarceration, and fines.

Plaintiff is Threatened with Arrest Under the City’s Policy

37. On July 28, 2018, the Street Fest festival was located on the City’s sidewalks and streets.

38. On July 28, 2018, the Street Fest festival did not require the general public to purchase tickets to enter the festival area.

39. On July 28, 2018, the general public was not restricted or limited from using the City’s sidewalks and streets in the Street Fest festival area, during the Street Fest festival.

40. On July 28, 2018, the City interpreted and enforced the Policy by granting the Street Fest festival organizers proprietary control over speech on some parts of the City’s sidewalks and streets in the Street Fest festival area, during the Street Fest festival.

41. On July 28, 2018, the City allowed the general public, the Street Fest festival organizers, and vendors to express messages on the City’s sidewalks and streets in the Street Fest festival area, in the same area Plaintiff was banned from expressing his message, during the Street Fest festival.

42. On July 28, 2018, Plaintiff was peacefully sharing his religious, political, and social message on the City’s sidewalks and streets in the festival area during the Street Fest festival.

43. On July 28, 2018, Smith stated that the festival area was “private ground.”

44. On July 28, 2018, Smith stated that the festival area was “under rent.”

45. On July 28, 2018, when Plaintiff stated that he had the right to free speech in the festival area, Behning stated “there’s some debate over that.”

46. On July 28, 2018, Behning, referring to the Street Fest festival organizer’s use of the public property, stated “they have control over it, they’re responsible for it.”

47. On July 28, 2018, Smith stated “the organizer of the event is willing to give you some area back here,” indicating an area away from the public sidewalk where Plaintiff was standing.

48. On July 28, 2018, Smith stated “the event has leased this property from the City to use this . . . so therefore they have the right to trespass and not trespass and allow who they want to be in here.”

49. On July 28, 2018, when Plaintiff asked what would happen if he refused to leave, Smith stated “I would ask you to leave, but at some point you’d be trespassing . . . this is a private event.”

50. On July 28, 2018, Behning stated “the law says . . . the event coordinator has control of this area.”

51. On July 28, 2018, in order to avoid arrest, Plaintiff moved from the sidewalk area where he was standing, and was led by Alcalá to a courtyard area.

52. On July 28, 2018, Alcalá told Plaintiff he could not be in the courtyard area either because of the presence of vendors.

53. On July 28, 2018, Plaintiff complied with Alcalá’s demands, in order to avoid arrest, and relocated to an area at the back of the festival area.

54. On July 28, 2018, after Plaintiff moved to the back of the festival area, Behning told Plaintiff he had to leave the festival area.

55. On July 28, 2018, Behning stated that the reason Plaintiff had to leave the festival area was that there were complaints from festival attendees and vendors who had “taken offense” to Plaintiff’s speech.

56. On July 28, 2018, Behning stated that Plaintiff’s speech had “created some conflict.”

57. On July 28, 2018, Behning stated that Plaintiff’s speech had resulted in some “aggravated people.”

58. On July 28, 2018, Behning stated that the festival organizer did not want Plaintiff in the festival area “because he doesn’t want that kind of an atmosphere.”

59. On July 28, 2018, Behning stated that the festival organizer was asking Plaintiff “to leave their grounds.”

60. On July 28, 2018, Behning stated that the festival organizer did not want Plaintiff “on their grounds.”

61. On July 28, 2018, Behning stated that the festival area was “not public.”

62. On July 28, 2018, Behning stated: “because the organizer here has got a permit, he’s got it leased, he’s responsible for it, he controls it.”

63. On July 28, 2018, Behning told Plaintiff that if he did not leave the festival area, he would be subject to arrest.

64. On July 28, 2018, Defendants forced Plaintiff to leave Public Spaces in the City because of the content of his speech.

65. On July 28, 2018, Defendants forced Plaintiff to leave Public Spaces in the City

because people had “taken offense” at his speech.

66. On July 28, 2018, Defendants forced Plaintiff to leave Public Spaces in the City because his speech “created some conflict.”

67. On July 28, 2018, Defendants forced Plaintiff to leave Public Spaces in the City because his speech “aggravated people.”

68. On July 28, 2018, Plaintiff moved and forfeited his constitutional rights under threat of arrest or citation.

69. On July 28, 2018, Behning, Smith, and Alcalá enforced the City’s Policy against Plaintiff in cooperation with and with the consent and approval of the City.

Plaintiff’s Attempt to Avoid Litigation

70. On August 15, 2018, Plaintiff contacted the office of the City Attorney to discuss the conduct of Behning, Smith, and Alcalá on July 28, 2018, at the Street Fest festival.

71. On August 15, 2018, the office of the City Attorney told Plaintiff that it had reviewed the incident, and that Behning’s, Smith’s, and Alcalá’s actions were lawful.

72. On August 15, 2018, the office of the City Attorney told Plaintiff that when the City rents out a City street to an event, the street becomes private property, even if the event is not ticketed.

73. On August 15, 2018, the office of the City Attorney told Plaintiff that the City stands by the conduct of its officers, Behning, Smith, and Alcalá, on July 28, 2018, at the Street Fest festival.

GENERAL ALLEGATIONS

74. The Policy, as applied to Plaintiff on July 28, 2018, is content-based.

75. As a direct and proximate result of Defendants’ enforcement of the Policy on July

28, 2018, Plaintiff was unconstitutionally denied the right to exercise his Freedom of Speech.

76. As a direct and proximate result of Defendants' enforcement of the Policy on July 28, 2018, Plaintiff was unconstitutionally denied the right to exercise his Free Exercise of Religion.

77. As a direct and proximate result of Defendants' enforcement of the Policy on July 28, 2018, Plaintiff was threatened, humiliated, and embarrassed.

78. Defendants' enforcement of the Policy on July 28, 2018, under color of state law, has deprived, and continues to deprive, Plaintiff of his constitutional rights.

79. As a direct and proximate result of Defendants' enforcement of the Policy on July 28, 2018, under color of state law, Plaintiff has forfeited and lost opportunities to exercise his constitutional rights.

80. As a direct and proximate result of Defendants' enforcement of the Policy on July 28, 2018, under color of state law, Plaintiff is uncertain and unsure of his ability to exercise his constitutional rights, and as a result Plaintiff has forfeited and lost opportunities to exercise his constitutional rights such that his rights are chilled and irreparably lost.

81. Plaintiff has been damaged by the deprivation of his rights guaranteed by the United States Constitution.

82. As interpreted and enforced by Defendants, Plaintiff's manner of expressing his constitutional rights is prohibited by the Policy.

83. Plaintiff is uncertain whether he will be cited and/or arrested under the Policy in the future while attempting to exercise his constitutional rights within the City.

84. The threat of future citation and/or arrest is both great and immediate.

85. The future chilling of Plaintiff's rights is an absolute certainty unless and until

this Court grants the declaratory and injunctive relief requested herein.

86. Defendants have chilled Plaintiff's constitutional rights to the point that Plaintiff fears future adverse action while exercising his constitutional and civil rights.

87. Plaintiff wishes to continue exercising his constitutional rights, and has specific and concrete intentions to continue engaging in the exercise of his constitutional rights including activities prohibited by the Policy, as interpreted and enforced by Defendants, but he is fearful of being cited and/or arrested for exercising his constitutional and civil rights.

88. The violations of Plaintiff's constitutional rights alleged herein have caused, and will continue to cause, Plaintiff to suffer actual and impending extreme hardship, irreparable injury, and damage.

89. Plaintiff currently suffers from the denial of rights guaranteed by the United States Constitution because of Defendants' actions taken under color of law.

90. There is a substantial likelihood that Plaintiff will prevail on the merits in this case because Defendants' enforcement of the Policy, and their actions under color of state law, constitute an abridgement of Plaintiff's constitutional rights.

91. The harm to Plaintiff outweighs any subjective harm to Defendants.

92. The public interest is benefited when constitutional and civil rights are protected by the Courts.

93. Defendants' enforcement of the Policy, and their customs, policies, practices, and actions under color of state law, deprived Plaintiff of his right to Freedom of Speech and Freedom of Religious Expression protected under the United States Constitution.

94. Defendants acted without reasonable cause and without due care in causing the deprivation of Plaintiff's rights to Freedom of Speech and Freedom of Religious Expression

protected under the United States Constitution.

95. As a direct and proximate result of Defendants' actions and omissions under color of state law, Plaintiff suffered the loss of his Freedom of Speech and Freedom of Religious Expression rights protected under the United States Constitution.

96. Defendants' actions and omissions were performed with malice, or oppression, or callous or deliberate indifference, or a conscious disregard of Plaintiff's rights to Freedom of Speech and Freedom of Religious Expression protected under the United States Constitution.

97. Defendants' enforcement of the Policy, and their customs and practices, enforced under color of state law, are the moving force behind the violation of Plaintiff's rights to Freedom of Speech and Freedom of Religious Expression protected under the United States Constitution.

98. Defendants' enforcement of the Policy, and their customs and practices, enforced under color of state law, operate to unconstitutionally limit, ban, and censor Plaintiff's rights to Freedom of Speech and Freedom of Religious Expression protected under the United States Constitution.

99. Plaintiff has satisfied all conditions precedent to bringing this action.

100. Plaintiff is entitled to recover reasonable attorneys' fees and costs from Defendants pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1988, Rule 54, and 28 U.S.C. § 1920.

AS AND FOR A FIRST CAUSE OF ACTION:

THE POLICY AND DEFENDANTS' ACTIONS
VIOLATE THE FREEDOM OF SPEECH CLAUSE UNDER
THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

101. The averments of paragraphs 1-100 are repeated and alleged in full force and effect as if repeated in their entirety herein.

102. The First Amendment to the United States Constitution, applied to the States through the Fourteenth Amendment, prohibits unconstitutionally abridging the Freedom of Speech.

103. The Policy, as applied by Defendants, and Defendants' actions, policies, and practices impede Plaintiff's right to Freedom of Speech because of unlawful enforcement and by granting unfettered discretion to Defendants and their officials, agents, and employees to deny Plaintiff's right to Freedom of Speech and satisfies no rational, substantial, or compelling government interest in the least restrictive means possible.

104. The Policy, as applied by Defendants, and Defendants' actions, policies, and practices impede Plaintiff's right to Freedom of Speech because of content-based restrictions devoid of a compelling government interest.

105. As interpreted and enforced by Defendants, the Policy prohibits Plaintiff's manner of Freedom of Speech.

106. Behning's, Smith's, and Alcalá's actions were performed under color of state law in that they claimed to be performing an official duty, but their acts were outside the limits of lawful authority and abusive in manner, and they further acted in a way that misused their power and were able to do so only because of their position as City officials.

107. Behning's, Smith's, and Alcalá's actions were done with malice or reckless indifference to Plaintiff's right to Freedom of Speech.

108. Plaintiff sought, and continues to seek, to discuss issues, to distribute literature, to display signs, and to engage in speech on political, social, and religious topics.

109. The Policy, as applied by Defendants, and Defendants' actions, policies, and practices, require Plaintiff to censor his speech.

110. Plaintiff was deprived of his right under the First Amendment to engage in Freedom of Speech activities prohibited by the Policy, as interpreted and enforced by Defendants.

111. Plaintiff has been, and continues to be, deprived of his right under the First Amendment to engage in Freedom of Speech.

112. Plaintiff has suffered injuries and damages as a result of Defendants' deprivation of his rights, including but not limited to mental and emotional distress, impairment of reputation, personal humiliation, and other tangible and intangible harms that would not exist but for Defendants' actions, and these harms are reasonably certain to be experienced into the future.

WHEREFORE, Plaintiff respectfully requests that this Court grant the relief requested hereinafter in the Prayer for Relief and any further relief this Court deems just under the circumstances.

AS AND FOR A SECOND CAUSE OF ACTION:

THE POLICY AND DEFENDANTS' ACTIONS
VIOLATE THE FREE EXERCISE CLAUSE UNDER
THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

113. The averments of paragraphs 1-100 are repeated and alleged in full force and effect as if repeated in their entirety herein.

114. The First Amendment to the United States Constitution, applied to the States through the Fourteenth Amendment, prohibits unconstitutionally abridging the Free Exercise of Religion.

115. Plaintiff has a personal belief in the Biblical mandate to spread the Gospel of Jesus Christ, and Plaintiff engages in activities for the purpose of spreading the Gospel of Jesus Christ that are prohibited by the Policy, as interpreted and enforced by Defendants.

116. The Bible instructs believers to share the Gospel of Jesus Christ with others, and Plaintiff relies on the Bible to guide his words and actions.

117. Defendants' actions, policies, and practices impede Plaintiff's right to Free Exercise of Religion because of unlawful enforcement and by exercising unfettered discretion to deny Plaintiff's right to Free Exercise of Religion and satisfies no rational, substantial, or compelling government interest in the least restrictive means possible.

118. The Policy, as applied by Defendants, and Defendants' actions, policies, and practices impede Plaintiff's right to Free Exercise of Religion because of content-based restrictions devoid of a compelling government interest.

119. As interpreted and enforced by Defendants, the Policy prohibits Plaintiff's manner of Free Exercise of Religion.

120. Behning's, Smith's, and Alcalá's actions were performed under color of state law in that they claimed to be performing an official duty, but their acts were outside the limits of lawful authority and abusive in manner, and they further acted in a way that misused their power and were able to do so only because of their positions as City officials.

121. Behning's, Smith's, and Alcalá's actions were done with malice or reckless indifference to Plaintiff's right to Free Exercise of Religion.

122. Plaintiff sought, and continues to seek, to discuss issues from a religious perspective, to distribute religious literature, to display signs, and to engage in religious speech through sharing his faith.

123. The Policy, as applied by Defendants, and Defendants' actions, policies, and practices, require Plaintiff to censor his religious speech and imposes a substantial burden on Plaintiff that is not imposed on other individuals.

124. By forcing Plaintiff to choose between abandoning his religious beliefs in order to gain access to speech in the City's Public Spaces, and, alternatively, abiding by his religious beliefs only to be arrested, cited, or fined, Defendants have imposed a substantial burden on Plaintiff's sincerely-held religious beliefs and his religious exercise.

125. Plaintiff was deprived of his right under the First Amendment to the United States Constitution to engage in Free Exercise of Religion activities prohibited by the Policy, as interpreted and enforced by Defendants.

126. Plaintiff has been, and continues to be, deprived of his right under the First Amendment to the United States Constitution to engage in Free Exercise of Religion activities.

127. Plaintiff has suffered injuries and damages as a result of Defendants' deprivation of his rights, including but not limited to mental and emotional distress, impairment of reputation, personal humiliation, and other tangible and intangible harms that would not exist but for Defendants' actions, and these harms are reasonably certain to be experienced into the future.

WHEREFORE, Plaintiff respectfully requests that this Court grant the relief requested hereinafter in the Prayer for Relief and any further relief this Court deems just under the circumstances.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment as follows:

AS TO COUNT I:

1. That this Court assume jurisdiction of this matter; and,
2. That this Court issue a preliminary and permanent injunction restraining and enjoining Defendants, and all persons acting in concert or participating with them, from enforcing the Policy in the manner Defendants enforced it against this Plaintiff; and,

3. That this Court issue the requested injunctive relief without a condition of bond or other security; and,

4. That this Court issue a Declaratory Judgment under the Declaratory Judgment Act to determine the parties' rights and duties regarding enforcing the challenged Policy and prohibiting enforcement in the manner Defendants enforced it against this Plaintiff; and,

5. That this Court enter a judgment and decree declaring that the actions taken by Defendants in prohibiting Plaintiff from expressing his religious views on July 28, 2018, violated Plaintiff's constitutional rights, specifically, his rights to free speech and free exercise of religion; and,

6. That this Court enter a judgment and decree declaring the challenged portions of Defendant City's Policy are unconstitutional as applied to Plaintiff's desired speech because they violate rights guaranteed under the First Amendment to the United States Constitution; and,

7. That this Court adjudge, decree, and declare the rights and other legal relations with the subject matter here in controversy, in order that such declaration shall have the force and effect of final judgment; and,

8. That this Court grant Plaintiff an award of nominal and/or compensatory damages against Defendant City in an amount to be determined by the trier of fact; and,

9. That this Court grant Plaintiff an award of nominal and/or compensatory and/or special and/or exemplary and/or punitive damages against Defendant Behning in an amount to be determined by the trier of fact; and,

10. That this Court grant Plaintiff an award of nominal and/or compensatory and/or special and/or exemplary and/or punitive damages against Defendant Smith in an amount to be determined by the trier of fact; and,

11. That this Court grant Plaintiff an award of nominal and/or compensatory and/or special and/or exemplary and/or punitive damages against Defendant Alcala in an amount to be determined by the trier of fact; and,

12. That this Court retain jurisdiction of this matter for the purpose of enforcing any Orders; and,

13. That this Court grant Plaintiff's costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1988, Rule 54, and 28 U.S.C. § 1920, or other applicable law; and,

14. That this Court grant to Plaintiff such other and further relief as may be just and proper.

AS TO COUNT II:

1. That this Court assume jurisdiction of this matter; and,

2. That this Court issue a preliminary and permanent injunction restraining and enjoining Defendants, and all persons acting in concert or participating with them, from enforcing the Policy in the manner Defendants enforced it against this Plaintiff; and,

3. That this Court issue the requested injunctive relief without a condition of bond or other security; and,

4. That this Court issue Declaratory Judgment under the Declaratory Judgment Act to determine the parties' rights and duties regarding enforcing the challenged Policy and prohibiting enforcement in the manner Defendants enforced it against this Plaintiff; and,

5. That this Court enter a judgment and decree declaring that the actions taken by Defendants in prohibiting Plaintiff from expressing his religious views on July 28, 2018, violated Plaintiff's constitutional rights, specifically, his rights to free speech and free exercise of

religion; and,

6. That this Court enter a judgment and decree declaring the challenged portions of Defendant City's Policy are unconstitutional as applied to Plaintiff's desired speech because they violate rights guaranteed under the First Amendment to the United States Constitution; and,

7. That this Court adjudge, decree, and declare the rights and other legal relations with the subject matter here in controversy, in order that such declaration shall have the force and effect of final judgment; and,

8. That this Court grant Plaintiff an award of nominal and/or compensatory damages against Defendant City in an amount to be determined by the trier of fact; and,

9. That this Court grant Plaintiff an award of nominal and/or compensatory and/or special and/or exemplary and/or punitive damages against Defendant Behning in an amount to be determined by the trier of fact; and,

10. That this Court grant Plaintiff an award of nominal and/or compensatory and/or special and/or exemplary and/or punitive damages against Defendant Smith in an amount to be determined by the trier of fact; and,

11. That this Court grant Plaintiff an award of nominal and/or compensatory and/or special and/or exemplary and/or punitive damages against Defendant Alcala in an amount to be determined by the trier of fact; and,

12. That this Court retain jurisdiction of this matter for the purpose of enforcing any Orders; and,

13. That this Court grant Plaintiff's costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1988, Rule 54, and 28 U.S.C. § 1920, or other applicable law; and,

14. That this Court grant to Plaintiff such other and further relief as may be just and proper.

JURY DEMAND

Pursuant to Federal Rules of Civil Procedure 38 and 42 U.S.C. § 1983, Plaintiff demands that a jury be empaneled to decide all issues to a jury in this matter.

Dated: January 31, 2019.

/S/ Jeffrey M. Janssen
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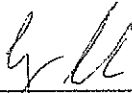
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(Pending Admission *Pro Hac Vice*)

VERIFICATION SUPPORTING COMPLAINT

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that the foregoing facts are true and correct.

Executed this 27 of January 2019, at Wilton, Iowa.

Respectfully submitted,



Cory Sessler