

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 14-cv-00809

DEBRA BROWNE,
MARY JANE SANCHEZ,
CYNTHIA STEWART,
STEVE KILCREASE,
HUMANISTS DOING GOOD, and
ERIC NIEDERKRUGER,

Plaintiffs,

v.

CITY OF GRAND JUNCTION, COLORADO,

Defendant.

COMPLAINT

INTRODUCTION

1. On February 19, 2014, the City of Grand Junction (“the City”) adopted Ordinance No. 4618 (“Ordinance”),¹ an ill-advised law regulating solicitation that effects a broad suppression of First Amendment rights on all public property within the city limits. The Ordinance takes effect on March 23, 2014.

2. While the City’s stated goal in passing the Ordinance was to protect public safety by prohibiting aggressive panhandling and dangerous solicitation of motorists, Grand Junction has chosen to ban a wide swath of solicitation speech that is courteous, polite, nonthreatening,

¹ See Ex. 1, Ordinance No. 4618 “An Ordinance Prohibiting Activities Relating to Panhandling,” (adopted February 19, 2014, adding sections 9.05.010 through 9.05.070 to the Grand Junction Municipal Code).

nonaggressive, does not pose a risk to public safety, and is squarely protected by the First Amendment.

3. In this facial challenge, Plaintiffs seek preliminary and permanent injunctive relief, as well as a declaratory judgment that the challenged provisions of the Ordinance cannot be enforced.

4. In this facial challenge, Plaintiffs ask this Court for an emergency temporary restraining order to preserve their right, and the right of others, to peacefully and respectfully engage in expressive and communicative activity in the public areas of Grand Junction. Plaintiffs also seek a preliminary and permanent injunction, as well as declaratory relief.

JURISDICTION AND VENUE

5. This action arises under the Constitution and laws of the United States, including 42 U.S.C. § 1983. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343.

6. This action also includes claims for relief that are based on the Colorado Constitution. These claims are based on the same nucleus of operative facts and are so related to the federal-law claims that they form part of the same case or controversy. This Court has jurisdiction over the supplemental state-law claims pursuant to 28 U.S.C. § 1367.

7. This Court has jurisdiction to issue the declaratory relief requested pursuant to the Declaratory Relief Act, 28 U.S.C. §§ 2201, 2202.

8. Venue is proper in the District of Colorado pursuant to 28 U.S.C. § 1391(b). The Defendant resides within the District of Colorado, and all relevant events occurred and will occur in the District of Colorado.

PARTIES

Plaintiffs

9. Plaintiff Debra Browne is a resident of Palisade, Colorado who is needy and engages in peaceful, nonthreatening solicitation in Grand Junction in a manner and in situations that violate the Ordinance.

10. Plaintiff Mary Jane Sanchez is a resident of Grand Junction who is needy and engages in peaceful, nonthreatening solicitation in Grand Junction in a manner and in situations that violate the Ordinance.

11. Plaintiff Cynthia Stewart is a resident of Grand Junction who is needy and engages in peaceful, nonthreatening solicitation in Grand Junction in a manner and in situations that violate the Ordinance.

12. Plaintiff Steve Kilcrease is a street musician who plays his music on the sidewalk in the evening in Grand Junction while soliciting tips. He believes that his peaceful, nonthreatening solicitation violates the text of the Ordinance.

13. Plaintiff Humanists Doing Good is a non-profit corporation that carries out peaceful, nonthreatening fundraising activities in Grand Junction in a manner and in situations that violate the Ordinance.

14. Plaintiff Eric Niederkruger is a resident of Grand Junction. He qualifies as an “at risk” person under the terms of the Ordinance. He wishes to continue receiving requests for assistance from needy persons in Grand Junction, but the Ordinance forbids the needy persons from making those requests to him.

Defendant

15. Defendant City of Grand Junction is a municipal corporation incorporated in the State of Colorado. It has adopted and plans to enforce the anti-panhandling ordinance that is challenged in this case.

16. All actions and inactions of the Defendant described herein are carried out under color of state law.

THE CHALLENGED ORDINANCE

17. The challenged Ordinance has two parts. First, in Section 9.05.040, titled “General panhandling and solicitation,” it lays out twelve specific prohibitions of “panhandling” applicable throughout the City of Grand Junction. Second, in Section 9.05.050, it addresses solicitation directed to motorists and bars all solicitation on and adjacent to federal and state highways running through Grand Junction.

18. The Ordinance sets out a broad definition of “panhandle/panhandling” that applies to the entire city of Grand Junction. Pursuant to the Ordinance “panhandle/panhandling” is defined as “to knowingly approach, accost or stop another person in a public place and solicit that person, whether by spoken words, bodily gestures, written signs or other means, for money, employment or other thing of value.” Ordinance, Section 9.05.020, Definitions.

19. Twelve prohibitions on panhandling follow. The Ordinance makes it unlawful to panhandle in any of the multiple situations described in subsections (a) through (l):

9.05.040 General panhandling and solicitation

It shall be unlawful for any person to panhandle

(a) One-half (1/2) hour after sunset to one-half (1/2) hour before sunrise;

(b) If the person panhandling knowingly engages in conduct toward the person solicited that is intimidating, threatening, coercive or obscene and that causes the person solicited to reasonably fear for his or her safety;

- (c) If the person panhandling directs fighting words to the person solicited that are likely to create an imminent breach of the peace;
- (d) If the person panhandling knowingly touches or grabs the person solicited;
- (e) If the person panhandling knowingly continues to request the person solicited for money or other thing of value after the person solicited has refused the panhandler's initial request;
- (f) If the person panhandling knowingly solicits an at-risk person;²
- (g) In such a manner that the person panhandling obstructs a sidewalk, doorway, entryway, or other passage way in a public place used by pedestrians or obstructs the passage of the person solicited or requires the person solicited to take evasive action to avoid physical contact with the person panhandling or with any other person;
- (h) Within one hundred (100) feet of an automatic teller machine or of a bus stop;
- (i) On a public bus;
- (j) In a parking garage, parking lot or other parking facility;
- (k) When the person solicited is present within the patio or sidewalk serving area of a retail business establishment that serves food and/or drink, or waiting in line to enter a building, an event, a retail business establishment, or a theater;
- (l) On or within one hundred (100) feet of any school or school grounds.

² The ordinance defines an "at risk person" as follows:

[A] natural person who is over seventy (70) or under sixteen (16) years of age, or who is a person with a disability. A person with a disability shall mean, for purposes of the definition of "at-risk" person, a natural person of any age who suffers from one or more substantial physical or mental impairment that renders the person significantly less able to defend against criminal acts directed toward such person than he or she would be without such physical or mental impairment(s). A substantial physical or mental impairment shall be deemed to include, without limitation, the loss of, or the loss of use of, a hand, foot or limb; loss of, or severe diminishment of, eyesight; loss of, or severe diminishment of, hearing; loss of, or severe diminishment in, the ability to walk; any developmental disability, psychological disorder, mental illness or neurological condition that substantially impairs a person's ability to function physically or that substantially impairs a person's judgment or capacity to recognize reality or to control behavior.

Ordinance, Section 9.05.020 Definitions.

Ordinance, Section 9.05.040, General panhandling and solicitation. Plaintiffs challenge subsections (a), (e), (f), and (h) through (l) of Section 9.05.030. Plaintiffs do not challenge subsections (b), (c), (d), or (g).

20. The Ordinance also regulates solicitation directed at motorists. Subsections (a) and (b) of Section 9.05.050 forbid panhandling and solicitation of “employment, business contributions or sales of any kind” when the solicitor enters a street or highway to “complete the transaction” or when the solicitor is “located such that vehicles cannot move into a legal parking area to safely complete the transaction.” Plaintiffs do not challenge subsections (a) or (b) of Section 9.05.050.

21. In its final sentence, Section 9.05.050 goes on to establish a complete ban on solicitations directed at motorists traveling on particular roadways, by making it unlawful:

for any person to panhandle or to solicit or attempt to solicit employment, business, or contributions of any kind directly from the occupant of any vehicle on any highway included in the interstate or state highway system, including any entrance to or exit from such highway.

Ordinance, Section 9.05.050, titled “Panhandling and solicitation on or near public streets and highways.” Plaintiffs challenge the prohibitions in this final sentence of Section 9.05.050.

22. The Ordinance makes any violation a misdemeanor and subjects the violator to a fine of up to \$1,000 and/or up to one year in jail or any combination thereof.

23. The challenged provisions of the Ordinance rely on content to distinguish between prohibited expression and expression that is not regulated. Anyone remains free to sit on a downtown sidewalk in the evening with a sign that says “reelect the mayor,” but a person violates the ordinance by sitting with a sign that seeks a contribution. Anyone is free to stop a person walking near a bus stop to ask for directions, but if the requester instead asks for a

donation, the Ordinance is violated. Nonprofit organizations are free to distribute literature about their work at bus stops, but distributing that literature is forbidden if it includes a pitch for donations. Evangelicals are free to stop passersby 99 feet from an ATM to ask if they are saved, but not to ask for a donation to a church or charity. Petition circulators seeking to put an education measure on the ballot can stop a parent on the sidewalk outside her child's school to ask for a signature, but they violate the ordinance if they ask for help in financing the ballot measure. The prohibitions of the Ordinance discriminate on the basis of content.

24. Even if the challenged provisions of the Ordinance were content-neutral, and they are not, the Ordinance is not narrowly tailored to advance the City's legitimate interests.

25. The challenged provisions of Section 9.05.040 are not narrowly tailored to advance the City's interest in protecting citizens from coercive or threatening panhandling. They fail to distinguish between willing and unwilling listeners. They prohibit peaceful, nonthreatening, nonintrusive solicitations.

26. The final sentences of Section 9.05.050 are not narrowly tailored to advance the City's interest in traffic safety.

27. The prohibitions of the Ordinance fail to leave open adequate and ample alternative means of communication.

FACTUAL ALLEGATIONS

28. Plaintiff Debra Browne is a resident of Palisade, Colorado who is needy, unable to work and often asks for assistance from people in Grand Junction in order to meet her monthly expenses and pay for her medication. Since 2007, when she became unable to work due to medical issues, Ms. Browne began traveling by bus to Grand Junction in order to politely ask for assistance from others on Main Street.

29. Ms. Browne suffers from medical issues which make it very painful for her to walk more than a few blocks, so after getting off the bus, she often sits near the bus stop while she crochets or does craftwork and solicits passersby for assistance. Ms. Browne generally solicits donations silently by setting a sign next to her that says “Please Help Me.” Ms. Browne sometimes exchanges her crafts and artwork for donations. One of the locations where Ms. Browne often panhandles is in front of the Wells Fargo on Main Street within 100 feet of the bank’s ATM and a nearby bus stop. Ms. Browne also seeks and accepts donations from people who are elderly and/or people with disabilities.

30. Following is photograph of Debra Browne.



31. Ms. Browne wants to be free to continue engaging in these peaceful and nonthreatening communicative activities, but they are forbidden by the challenged Ordinance.

32. Plaintiff Mary Jane Sanchez is a resident of Grand Junction who has been homeless off and on over the last several years. Although Ms. Sanchez is employed, she sometimes does not have enough money to pay her monthly expenses. In order to pay her bills

and to pay for gas to and from work, Ms. Sanchez will fly a sign seeking assistance. Her signs say things like, “Need gas for work. God Bless.” or “Anything helps. Even a smile.”

33. Ms. Sanchez has panhandled on the public sidewalk bordering Horizon Drive at the I-70 off ramp, at a spot where it is safe for motorists to stop and give her a donation. She has also panhandled on the public sidewalks throughout Grand Junction, some of which are very near ATMs and bus stops. Many of the people who have responded to her requests for assistance have been people with disabilities and/or elderly people. Ms. Sanchez has also found it necessary to panhandle very early in the morning – when it is still dark – in order to make sure that she had enough money to pay for gas to get to work in the morning.

34. Following is a photograph of Mary Jane Sanchez.



35. Ms. Sanchez wants to be free to continue engaging in these peaceful and nonthreatening communicative activities, but they are forbidden by the challenged Ordinance.

36. Plaintiff Cynthia Stewart is a disabled resident of Grand Junction who is needy and often asks for assistance from people in Grand Junction. Ms. Stewart has been unemployed since 2010 and seeks the assistance of others in order to keep a roof over her head and pay her bills. Ms. Stewart has panhandled by flying a sign on the sidewalk in front of Walmart on North

Avenue (Highway 6) and often politely uses her voice to ask for donations at or near bus stops. Ms. Stewart chooses to panhandle on North Avenue because it has the most passersby and it has many places to easily, safely and legally pull out of traffic and park. Ms. Stewart has received donations from elderly people and people with disabilities while she is panhandling.

37. Ms. Stewart wants to be free to continue engaging in these peaceful and nonthreatening communicative activities, but they are forbidden by the challenged Ordinance.

38. Plaintiff Steve Kilcrease is a street musician who regularly plays music on public property in Grand Junction, generally setting up around the 400-500 blocks of Main Street.

39. Mr. Kilcrease plays his guitar and places the guitar case open in front of him as an invitation to the public to donate money. Mr. Kilcrease receives the most donations while busking at night for the bar crowd on Main Street in Grand Junction. Mr. Kilcrease silently solicits and accepts donations from elderly people who are likely over the age of 70. Mr. Kilcrease has performed for donations in front of Quincy's, which is a bar that has an ATM located inside.

40. Following is a photograph of Steve Kilcrease.



41. Mr. Kilcrease wants to be free to continue engaging in these peaceful and nonthreatening communicative activities without violating the law. Based on his reading of the Ordinance, his busking falls under the definition of panhandling. Mr. Kilcrease is not willing to risk having the Ordinance enforced against him by a police officer exercising discretion in enforcement. Unless and until this Court intervenes and clarifies that the Ordinance does not apply or cannot constitutionally be applied to his busking, Mr. Kilcrease is chilled and will continued to be chilled from exercising his constitutional right to solicit donations for his music in the evening hours on the public sidewalks of Grand Junction.

42. Plaintiff Humanists Doing Good is a non-profit corporation based in Grand Junction whose mission is to do good deeds, establish a sense of fellowship and community, and promote secular education and activism.

43. Each summer, from mid-June through mid-September, Grand Junction holds a Farmer's Market in the heart of the downtown tourism district on Main Street, where Plaintiff Humanists Doing Good solicits donations. Volunteers for Humanists Doing Good place a plastic container at their booth that says "Support us by making a donation." Volunteers also sometimes verbally solicit donations from passersby and encourage individuals to become a member, which requires a \$30 donation for individuals or a \$50 donation for families.

44. Following is a photograph of Humanists Doing Good donation center.



45. The volunteers have solicited from people over the age of 70 and from people with disabilities. At the Farmer's Market, the volunteers sometimes do not close up the booth until 9:00 p.m., which means that they have also solicited more than a half-hour after sunset. The organization's booth has been located near the Wells Fargo on Main Street, which has an ATM and is very near a bus stop, and near Quincy's Bar, which also has an ATM.

46. Plaintiff Humanists Doing Good plan to set up tables at the Grand Junction Farmer's Market in the summer of 2014. The organization wishes to be free to continue engaging in the peaceful and nonthreatening communicative activities described above, but they are forbidden by the challenged Ordinance.

47. Plaintiffs Browne, Sanchez, Stewart, Kilcrease, and Humanists Doing Good have engaged in peaceful nonthreatening communicative activities in Grand Junction that they believe are prohibited by the challenged Ordinance. They wish to be free to continue engaging in those communicative activities and others that they believe the Ordinance prohibits. Without this Court's intervention, they will be forced to choose to either violate the Ordinance or forego their constitutionally-protected communicative activities.

48. Plaintiff Eric Niederkruger is a resident of Grand Junction who suffers from schizoaffective disorder and, therefore, meets the definition of an "at risk person" in the Ordinance. Based on his disability, the Ordinance prohibits anyone from soliciting Mr. Niederkruger for money at any time in a public place throughout the City of Grand Junction. The Ordinance unfairly stigmatizes and isolates people, like Mr. Niederkruger, who have disabilities.

49. Mr. Niederkruger is an activist who works closely with the homeless community in Grand Junction and is often solicited for money, donations, and other kinds of assistance.

Although Mr. Niederkruger is very poor himself, he always talks with the people who ask him for help and tries to learn their story to see if there is something he can do to help. The conversations that he has with local homeless people when they ask him for assistance are important to him. The information that he learns during those interactions help him to stay on top of the issues that the homeless are facing in Grand Junction. Mr. Niederkruger is also sympathetic to homeless and transient people because, although he has a home, he faces many of the same issues they deal with, including being poor and having a mental illness.

50. Following is a photograph of Mr. Niederkruger.



51. Plaintiff Niederkruger wants to continue receiving the messages that the homeless and the needy will be banned from communicating to him under the Ordinance. The Defendant's passage and enforcement of the challenged ordinance poses an imminent threat of interfering with and infringing Plaintiff Niederkruger's right to receive information and ideas.

INJUNCTIVE RELIEF

52. Plaintiffs are entitled to a temporary restraining order, as well as a preliminary and permanent injunction. Defendant is acting and threatening to act under color of state law to deprive Plaintiffs of their constitutional rights. Plaintiffs will suffer irreparable injury and will continue to suffer a real and immediate threat of irreparable injury as a result of the existence,

operation, enforcement, and threat of enforcement of the challenged ordinance. Plaintiffs have no plain, adequate or speedy remedy at law.

DECLARATORY RELIEF

53. An actual and immediate controversy exists between Plaintiffs and Defendant. Plaintiffs contend that the challenged ordinance is unlawful and unconstitutional. Defendant believes the ordinance is lawful.

54. Plaintiffs are therefore entitled to a declaration of rights with respect to this controversy. Without such a declaration, Plaintiffs will be uncertain of their rights and responsibilities under the law.

**FIRST CLAIM FOR RELIEF
(First Amendment)
(Plaintiffs Browne, Stewart, Sanchez, Kilcrease, and Humanists Doing Good)**

55. The allegations of the preceding paragraphs are incorporated as though fully set forth herein.

56. The challenged Ordinance unconstitutionally infringes or imminently threatens to infringe the freedom of Plaintiffs to fully exercise their First Amendment rights, including their rights of freedom of speech and freedom of expression, in violation of the First Amendment.

57. By acting and threatening to act under color of state law to deprive Plaintiffs of rights guaranteed by the Constitution and laws of the United States, Defendant has violated and threatened to continue violating 42 U.S.C. § 1983.

58. Wherefore, Plaintiffs are entitled to a declaratory judgment, interim and permanent injunctive relief, and such other relief as the Court deems just.

SECOND CLAIM FOR RELIEF
(Equal Protection)
(Plaintiffs Browne, Stewart, Sanchez, Kilcrease, and Humanists Doing Good)

59. The allegations of the preceding paragraphs are incorporated as though fully set forth herein.

60. The challenged ordinance forbids communications for the purpose of soliciting money but does not forbid soliciting for any other purpose. For example, the challenged Ordinance does not prohibit any of the Plaintiffs from flying a sign to support a candidate for mayor within 100 feet of an ATM or bus stop, but it does prohibit the Plaintiffs from seeking to fundraise on behalf of the same candidate.

61. The Ordinance establishes classifications that discriminate against Plaintiffs Browne, Stewart, Sanchez, Kilcrease, and Humanists Doing Good solely on the basis of the content of the communications that they wish to direct to the public.

62. The discrimination against Plaintiffs unconstitutionally burdens the exercise of fundamental rights. These rights include the rights of freedom of speech and expression as well as the fundamental right to liberty.

63. The classifications established by the Ordinance deny the equal protection of the laws, in violation of the Fourteenth Amendment to the United States Constitution.

64. By acting and threatening to act under color of state law to deprive Plaintiffs of rights guaranteed by the Constitution and laws of the United States, Defendant has violated and threatens to continue violating 42 U.S.C. § 1983.

65. Wherefore, Plaintiffs are entitled to a declaratory judgment, interim and permanent injunctive relief, and such other relief as the Court deems just.

THIRD CLAIM FOR RELIEF
(Due Process, Void for Vagueness)
(Plaintiffs Browne, Stewart, Sanchez, Kilcrease, and Humanists Doing Good)

66. The allegations of the preceding paragraphs are incorporated as though fully set forth herein.

67. The challenged Ordinance fails to provide adequate notice that would enable the ordinary person to understand what conduct it prohibits

68. The challenged Ordinance fails to establish adequate guidelines to govern law enforcement, and the challenged Ordinance authorizes and encourages arbitrary and discriminatory enforcement.

69. The challenged Ordinance is vague, in violation of the Fourteenth Amendment to the United States Constitution.

70. By acting and threatening to act under color of state law to deprive Plaintiffs of rights guaranteed by the Constitution and laws of the United States, Defendant has violated and threatens to continue violating 42 U.S.C. § 1983.

71. Wherefore, Plaintiffs are entitled to a declaratory judgment, interim and permanent injunctive relief, and such other relief as the Court deems just.

FOURTH CLAIM FOR RELIEF
(First Amendment Right to Receive Information)
(Plaintiff Eric Niederkruger)

72. The allegations of the preceding paragraphs are incorporated as though fully set forth herein.

73. Plaintiff Niederkruger has a right to receive information and ideas that are protected by the First Amendment to the United States Constitution.

74. Plaintiff has a cognizable legal interest in receiving the messages that needy people, street musicians, and non-profit organizations will be prohibited from communicating under the Ordinance.

75. The existence, operation, and enforcement of the Ordinance interfere with the right of Plaintiff Niederkruger to receive these messages and information.

76. By enforcing and threatening to enforce the Ordinance, Defendant has infringed and threatens to infringe the right of Plaintiff Niederkruger to receive information and ideas, in violation of the First Amendment.

77. By acting and threatening to act under color of state law to deprive Plaintiff Niederkruger of rights guaranteed by the Constitution and laws of the United States, Defendant has violated and threatens to continue violating 42 U.S.C. § 1983.

78. Wherefore, Plaintiff Niederkruger is entitled to a declaratory judgment, interim and permanent injunctive relief, and such other relief as the Court deems just.

FIFTH CLAIM FOR RELIEF
(Colorado Const., Art. II, Sec. 10)
(Plaintiffs Browne, Stewart, Sanchez, Kilcrease, and Humanists Doing Good)

79. The allegations of the preceding paragraphs are incorporated as though fully set forth herein.

80. The Ordinance unconstitutionally infringes or imminently threatens to infringe the freedom of Plaintiffs to fully exercise their rights of freedom of speech and freedom of expression, in violation of Article II, Section 10 of the Colorado Constitution.

81. Wherefore, Plaintiffs are entitled to a declaratory judgment, interim and permanent injunctive relief, and such other relief as the Court deems just.

SIXTH CLAIM FOR RELIEF
(Colo. Const. Art. II, sec. 25 – Equal Protection)
(Plaintiffs Browne, Stewart, Sanchez, Kilcrease, and Humanists Doing Good)

82. The allegations of the preceding paragraphs are incorporated as though fully set forth herein.

83. The challenged Ordinance forbids communications for the purpose of soliciting money but does not forbid soliciting for any other purpose. For example, the challenged ordinance does not prohibit any of the Plaintiffs from flying a sign to support a candidate for mayor within 100 feet of an ATM or bus stop, but it does prohibit the Plaintiffs from seeking to fundraise on behalf of the same candidate.

84. The Ordinance establishes classifications that discriminate against Plaintiffs Browne, Stewart, Sanchez, Kilcrease, and Humanists Doing Good solely on the basis of the content of the communications that they wish to direct to the public.

85. The discrimination against Plaintiffs unconstitutionally burdens the exercise of fundamental rights. These rights include the rights of freedom of speech and expression as well as the fundamental right to liberty.

86. The classifications established by the Ordinance deny the equal protection of the laws, in violation of the equal protection component of Article II, section 25 of the Colorado Constitution.

87. Wherefore, Plaintiffs are entitled to a declaratory judgment, interim and permanent injunctive relief, and such other relief as the Court deems just.

SEVENTH CLAIM FOR RELIEF
(Due Process, Void for Vagueness, Colo. Const. Art. II, Sec. 25)
(Plaintiffs Browne, Stewart, Sanchez, Kilcrease, and Humanists Doing Good)

88. The allegations of the preceding paragraphs are incorporated as though fully set forth herein.

89. The challenged Ordinance fails to provide adequate notice that would enable the ordinary person to understand what conduct it prohibits.

90. The challenged Ordinance fails to establish adequate guidelines to govern law enforcement, and the challenged Ordinance authorizes and encourages arbitrary and discriminatory enforcement.

91. The challenged Ordinance is vague, in violation of the Due Process clause of Article II, section 25 of the Colorado Constitution.

92. Wherefore, Plaintiffs are entitled to a declaratory judgment, interim and permanent injunctive relief, and such other relief as the Court deems just.

EIGHTH CLAIM FOR RELIEF
(Right to Receive Information, Colo. Const. Art. II, Sec. 10)
(Plaintiff Niederkruger)

93. The allegations of the preceding paragraphs are incorporated as though fully set forth herein.

94. Plaintiff has a right to receive information and ideas that are protected by Article II, Section 10 of the Colorado Constitution.

95. Plaintiff has a cognizable legal interest in receiving the messages that needy people, street musicians, and advocacy organizations will be banned from communicating under the Ordinance.

96. The existence, operation, and enforcement of the Ordinance interfere with the right of Plaintiff to receive these messages and information.

97. By enforcing and threatening to enforce the challenged ordinance, Defendant has infringed and threatened to infringe the right of Plaintiff Niederkruger to receive information and ideas, in violation of the Colorado Constitution.

98. Wherefore, Plaintiff Niederkruger is entitled to a declaratory judgment, interim and permanent injunctive relief, and such other relief as the Court deems just.

REQUEST FOR RELIEF

Plaintiffs respectfully request the following relief:

1. A declaratory judgment holding that the challenged provisions of the Ordinance violate the United States Constitution and the Colorado Constitution.
2. A temporary restraining order, preliminary injunction, and permanent injunction prohibiting Defendant from enforcing the challenged provisions of the Ordinance.
3. Award Plaintiffs costs and reasonable attorneys' fees.
4. Award other relief as this Court may deem just and proper.

DATED this 18th day of March, 2014.

s/ Mark Silverstein

Mark Silverstein
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