

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-01308-RBJ-KLM

FREE THE NIPPLE – FORT COLLINS,
BRITTIANY HOAGLAND,
SAMANTHA SIX,

Plaintiffs,

v.

CITY OF FORT COLLINS, COLORADO,

Defendant.

**DEFENDANT’S UNOPPOSED MOTION FOR LEAVE TO FILE
MOTION TO DISMISS AND RESPONSE TO MOTION FOR PRELIMINARY
INJUNCTION IN EXCESS OF THE COURT’S PAGE LIMITATION**

Defendant City of Fort Collins, Colorado (“the City”), by its attorneys, Andrew D. Ringel, Esq., Gillian Dale, Esq., and Christina S. Gunn, Esq., of Hall & Evans, LLC hereby submits this Unopposed Motion for Leave to File Motion to Dismiss and Response to Motion for Preliminary Injunction in Excess of the Court’s Page Limitation, as follows:

1. Certificate of Conferral: Pursuant to D.C.COLO.LCivR 7.1(A), the undersigned counsel contacted counsel of record the Plaintiffs, and is authorized to state Plaintiffs do not oppose this Motion.
2. This Court’s Practice Standards state counsel should limit motion and responses to fifteen (15) pages, or fewer if possible. [Practice Standards, p. 2.]

3. The City's Response to Plaintiffs' Complaint and Response to Plaintiff's Motion for Preliminary Injunction are due on August 2, 2016.

4. Plaintiffs' Complaint contains three claims for relief, alleging violations of their First Amendment Constitutional rights, the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and the Equal Rights Amendment to the Colorado Constitution. In support of Plaintiffs claims, the Complaint contains citations to numerous cases, websites and municipal code ordinances.

5. Contemporaneously with this Motion, the City is filing a Motion to Dismiss Plaintiffs' Complaint in its entirety. Because of the nature of Plaintiffs' constitutional claims, the City must present the Court with the analytical framework as well as a survey of relevant national caselaw related to analogous public nudity claims. Additionally, the City must respond, as necessary, to the citations contained in the Complaint.

6. Plaintiffs' Motion for Preliminary Injunction is eighteen (18) pages in length and outlines both the elements and arguments for preliminary injunctions generally, as well as fact-specific arguments and citations in support of Plaintiffs' constitutional claims.

7. The City is also filing Response to Plaintiffs' Motion for Preliminary Injunction contemporaneously with this Motion, which presents the relevant background to the City's public nudity ordinance and Plaintiff's complaints, in addition to relevant caselaw and responses to Plaintiffs' arguments. Additionally, Plaintiffs' Motion for Preliminary Injunction did not contain a statement of facts, but merely adopted those facts alleged in the Complaint. The City's Response, then, appears longer by comparison because the City must include its presentation of relevant facts.

8. The City has worked diligently to complete its Motion to Dismiss and Response to Motion for Preliminary Injunction within the Court's page limitation. Despite best efforts, the City's Motions exceed the Court's page limitations.

9. Due to the complexity and length of Plaintiff's constitutional claims in this matter, the City requests leave to file briefs that exceed the Court's page limitations. The Motion to Dismiss is twenty-two (22) pages and the Response to Motion for Preliminary Judgment is approximately thirty-one (31) pages.

WHEREFORE, Defendant the City of Fort Collins, Colorado respectfully requests this Court issue an Order granting it leave to file its Motion to Dismiss in Excess of the Court's Page Limitation by seven (7) pages and Response to Motion for Preliminary Injunction in Excess of the Court's Page Limitation by sixteen (16) pages.

Respectfully submitted this 2nd day of August, 2016.

/s/ Christina S. Gunn

Andrew D. Ringel, Esq.

Gillian Dale, Esq.

Christina S. Gunn

HALL & EVANS, L.L.C.

1001 Seventeenth Street, Suite 300

Denver, CO 80202-2052

Phone: 303-628-3300

Fax: 303-628-3368

ringela@hallevans.com

daleg@hallevans.com

gunnc@hallevans.com

**ATTORNEYS FOR DEFENDANT CITY OF
FORT COLLINS, COLORADO**

CERTIFICATE OF SERVICE (CM/ECF)

I HEREBY CERTIFY that on the 2nd day of August, 2016, I electronically filed the foregoing **Defendant's Unopposed Motion for Leave to File Motion to Dismiss and Response to Motion for Preliminary Injunction in Excess of the Court's Page Limitation** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

David A. Lane, Esq.
dlane@kln-law.com

Andy McNulty, Esq.
amcnulty@kln-law.com

Jessica K. Peck, Esq.
jessica@jpdenver.com

Carrie M. Dagget, Esq.
cdaggett@fcgov.com

/s/ Nicole Marion, Legal Assistant to
Christina Gunn
Hall & Evans, L.L.C.
Attorneys for Defendants
1001 Seventeenth Street, Suite 300
Denver, CO 80202-2052
Phone: 303-628-3300
Fax: 303-628-3368
gunnc@hallevans.com