

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 18-cv-02867-NYW

FORT COLLINS MENNONITE FELLOWSHIP, a Colorado nonprofit corporation, and
STEVE RAMER,
Plaintiffs,

v.

THE CITY OF FORT COLLINS, a home rule municipality,
THE CITY OF FORT COLLINS CITY COUNCIL, and
LAURIE DAVIS,
ROBERT DAVIS,
MARY RAY,
H. STUART MACMILLAN,
HOLLY JOHNSON,
LAURA PETRICK,
DAVE PETRICK,
KATHERINE ACOTT,
WALTER HICKMAN,
PATRICIA DIEHL,
LISA EATON,
FERAH AZIZ,
TARA MCCORMAC,
JENNIFER PETRIK,
PAMELA REFREM,
NICK MATTHEWS,
DENNIS BOOKSTABER,
BELL GOULD LINDER & SCOTT, P.C.
TOM HALL, and
STEVE ACKERMAN, in their individual capacities.
Defendants.

**STATUS REPORT AND PARTIALLY UNOPPOSED
MOTION TO STAY PROCEEDINGS**

Plaintiffs Fort Collins Mennonite Fellowship (the "Fellowship"), and Steve Ramer ("Ramer" and collectively with the Fellowship, "Plaintiffs"), by and through their undersigned counsel, submit the following status report and hereby move to stay all proceedings in this action through February 5, 2019, while settlement discussions continue. The stay would affect the

Scheduling/Planning Conference scheduled for January 8, 2019, the Magistrate Consent Form due on or before December 26, 2018, the Proposed Scheduling Order due on or before January 2, 2019, and the Status Conference set for January 2, 2019. As grounds for this motion, Plaintiffs state as follows:

1. Certificate of Conferral. Undersigned counsel has conferred with counsel for Defendants, the City of Fort Collins and the Fort Collins City Council (collectively, "City Defendants") concerning the relief requested herein and is authorized to state that City Defendants do not oppose this Motion. The remaining Defendants (collectively, "Individual Defendants"), which are parties hereto pursuant to Colo. R. Civ. P. 106(a)(4), have not been served with the Complaint and no counsel representing the Individual Defendants has entered an appearance in this case. Undersigned counsel was thus unable to confer with the Individual Defendants.

2. On November 6, 2018, Plaintiffs filed, but did not serve, their Complaint in this matter. To date, Plaintiffs have not served their Complaint on any Defendant.

3. The City Defendants are defendants as to all claims in the Complaint, while the Individual Defendants are defendants solely as to Plaintiffs' claim pursuant to Colo. R. Civ. P. 106(a)(4). Because Individual Defendants brought the underlying appeal to City Council, applicable Colorado case law indicates that they must be joined in this action only as it relates to Plaintiffs' claim pursuant to Colo. R. Civ. P. 106(a)(4).

4. On November 14, 2018, the Court issued an Order Setting Scheduling/Planning Conference for January 8, 2019. That Order requires the parties to submit a Proposed Scheduling Order on or before January 2, 2019, and further required the parties to submit a Consent/Non-Consent to United States Magistrate Judge Jurisdiction form on or before December 26, 2018.

5. On December 28, 2018, the Court issued an Order requiring the parties or their counsel to appear in person for a Status Conference on January 2, 2019 to sign a Consent/Non-Consent to United States Magistrate Judge Jurisdiction form.

6. None of the Defendants have been served with a copy of the Complaint, nor have they received copies of the Consent/Non-Consent to United States Magistrate Judge Jurisdiction form; therefore, the parties were unable to file such form on December 26, 2018.

7. Since the filing of the Complaint, Plaintiffs and the City Defendants have been actively engaged in settlement discussions that, if successful, will result in dismissal of all claims against all Defendants.

8. A stay of this action, including vacation of the January 8, 2019 Scheduling/Planning Conference, the January 2, 2019 deadline for the Proposed Scheduling Order, the January 2, 2019 Status Conference, and the deadline for filing of the Consent/Non-Consent to United States Magistrate Judge Jurisdiction form, would allow those settlement discussions to continue, promote judicial economy, and protect the Court and parties from expending time and monetary resources that may prove unnecessary. In the event that the settlement discussions do not result in dismissal of this action, a stay of this action would afford Plaintiffs the opportunity to serve their Complaint upon all Defendants, such that all Defendants would have an opportunity to participate in the above-referenced proceedings.

9. This Court has the authority and broad discretion to stay these proceedings. *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *see also Clinton v. Jones*, 520 U.S. 681, 706 (1997) (“The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket.”).

10. For all the reasons stated above, Plaintiffs respectfully request that the Court enter an order (a) vacating the January 2, 2019 Status Conference; (b) staying all proceedings in this action—including the Scheduling/Planning Conference scheduled for January 8, 2019, and the Proposed Scheduling Order due on or before January 2, 2019—up to and including February 5, 2019; and (c) resetting deadlines for the Scheduling/Planning Conference, the Consent/Non-Consent to United States Magistrate Judge Jurisdiction form, and the Proposed Scheduling Order to dates after February 5, 2019 that are convenient for the Court.

WHEREFORE, the parties hereto pray that the Court enter an order vacating the January 2, 2019 Status Conference; staying all proceedings in this action up to and including February 5, 2019; and resetting the Scheduling/Planning Conference and associated deadlines for the filing of the Consent/Non-Consent to United States Magistrate Judge Jurisdiction form and Proposed Scheduling Order accordingly.

Respectfully submitted this 28th day of December, 2018.

/s/Brian J. Connolly

Brian J. Connolly
Thomas Macdonald
Andrew L.W. Peters
David A. Brewster
Otten, Johnson, Robinson, Neff
& Ragonetti, P.C.
950 Seventeenth Street, Suite 1600
Denver, Colorado 80202
Telephone: 303 825 8400
Facsimile: 303 825 6525
E-mail: bconnolly@ottenjohnson.com
E-mail: mac@ottenjohnson.com
E-mail: apeters@ottenjohnson.com
E-mail: dbrewster@ottenjohnson.com

Attorneys for Plaintiffs FORT COLLINS
MENNONITE FELLOWSHIP, a Colorado
nonprofit corporation, and STEVE RAMER

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of December, 2018, a true and correct copy of the foregoing **STATUS REPORT AND PARTIALLY UNOPPOSED MOTION TO STAY PROCEEDINGS** was emailed to counsel for the City Defendants, who have not yet entered appearances in this case, and a copy of the same will be served upon the Individual Defendants at such time as the Complaint is served upon them.

/s/ Margo Brown

Margo Brown