

District Court, Larimer County, Colorado 201 LaPorte Ave. Fort Collins, CO 80521	□ COURT USE ONLY □
Appeal from the Fort Collins Municipal Court The Honorable Kathleen M. Lane Case No. 2018-0240752-MD	
PEOPLE OF CITY OF FORT COLLINS, Plaintiff-Appellee, v. Adam Wiemold, Defendant-Appellant	
Adam Frank, #38979 FRANK & SALAHUDDIN LLC 1133 N Pennsylvania St. Denver, CO 80203 Phone: (303) 974-1084 Fax: (303) 974-1085 E-mail: adam@fas-law.com In cooperation with the American Civil Liberties Union Foundation of Colorado Mark Silverstein, #26979 Rebecca Wallace, #39606 ACLU Foundation of Colorado 303 E. 17 th Ave., Suite 350 Denver, CO 80203 Phone: (303) 777-5482 Fax: (303) 777-1773 Email: msilverstein@aclu-co.org rtwallace@aclu-co.org	Case No. 2019 CV 30889
NOTICE OF SUPPLEMENTAL AUTHORITY	

Pursuant to Colorado Appellate Rule 28(i), Mr. Wiemold provides the Court with the following supplemental authority:

Blake v. City of Grants Pass, No. 1:18-cv-01823-CL, 2020 U.S. Dist. LEXIS 129494 (D. Or. July 22, 2020). This decision is a ruling on cross-motions for summary judgment in a class action lawsuit brought by homeless plaintiffs alleging that the City of Grants Pass, OR enacted a set of ordinances that punished people based on their status of being involuntarily homeless. *Blake* ruled in favor of the homeless plaintiffs.

Blake held that, under *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019), it violates the Eighth Amendment to enforce a “no camping” ordinance against people experiencing homelessness when a shelter bed in the city is not available. *Id.* at *17-*27. This is the central issue on appeal.

Blake also addresses the City’s argument (Answer Brief, p. 11, 29) that Mr. Wiemold could simply leave Fort Collins to comply with the City’s ordinance. At pages *23-*24, the *Blake* court wrote, “[The City of] Grants Pass argues that [the homeless] Plaintiffs have alternative ‘realistically available’ shelter outside the City on federal BLM land, Josephine County land, or state rest stops. This remarkable argument not only fails under *Martin*, but it also sheds light on the City’s attitude towards its homeless citizens. Essentially, Grants Pass argues that it should be permitted to continue to punish its homeless population because Plaintiffs have the option to just leave the City. The City’s suggestion that because it is geographically smaller than Boise or other cities, it should be allowed to drive its homeless population onto ‘nearby’ federal, state, or Josephine County land, is not supported by *Martin*.” Mr. Wiemold made a similar argument in his reply (Reply Brief, p. 4).

Finally, *Blake* made no inquiry into whether the individual homeless plaintiffs had the means to purchase shelter on any particular night. *Blake* is thus relevant to the parties’ arguments on that topic. Opening Brief, p. 13-15; Answer Brief, p. 12 & 28-33; Reply Brief, p. 15-20.



Adam Frank, #38979
Frank & Salahuddin LLC
In cooperation with the ACLU Foundation of Colorado
Dated: July 29, 2020



Mark Silverstein, #26979
ACLU Foundation of Colorado
Dated: July 29, 2020

A handwritten signature in black ink that reads "Rebecca Wallace". The signature is written in a cursive style and is contained within a thin black rectangular border.

Rebecca Wallace, #39606
ACLU Foundation of Colorado
Dated: July 29, 2020

Certificate of Service

I hereby certify that on July 29, 2020, I served a true and correct copy of the foregoing electronically via the CCE e-filing system upon the following individuals, either through CCE:

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