

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROBERT L. VAZZO, LMFT, individually
and on behalf of his patients, DAVID H.
PICKUP, LMFT, individually and on
behalf of his patients,

CASE NO. 8:17-cv-02896-CEH-AAS

Plaintiffs,

v.

CITY OF TAMPA, FLORIDA,

Defendant.

DEFENDANT, CITY OF TAMPA'S, MOTION, AND SUPPORTING
MEMORANDUM OF LAW, FOR LEAVE TO FILE WITH THE CLERK OF COURT
- AND REQUEST THAT THIS COURT TAKE JUDICIAL NOTICE OF - A TRUE
AND CORRECT COPY OF DIGITAL VIDEO DISKETTES ("DVDs") OF CITY
COUNCIL MEETINGS HELD ON FEBRUARY 16, 2017, MARCH 2, 2017, MARCH
16, 2017, AND APRIL 6, 2017

Defendant, City of Tampa ("City"), hereby moves that this Court grant leave to the City to file with the Clerk of Court - and that this Court take judicial notice of - a true and correct copy of the DVDs of the City Council meetings held on February 16, 2017, March 2, 2017, March 16, 2017, and April 4, 2017. In support thereof, the City alleges as follows.

Background

1. On April 6, 2017, City Council passed Ordinance No. 2017-47 relating to conversion therapy on patients who are minors ("the Ordinance") and, on April 10, 2017, Mayor Buckhorn approved the Ordinance.

2. The Ordinance is the subject of the within lawsuit.

3. At the March 16, 2017 City Council meeting, when the Ordinance was being presented for first reading, and at the April 6, 2017 City Council meeting when the Ordinance was being presented for second reading and adoption, a number of individuals offered public comment on the subject of the Ordinance. In addition, on February 16, 2017 and March 2, 2017, there was also public comment at the City Council meetings concerning the subject matter of the Ordinance.

4. The City seeks to electronically upload the DVDs of the aforesaid City Council meetings, however, due to the large size of the information on the DVDs the City understands that it would be extremely difficult to do so. Accordingly, the City seeks leave of Court to file a true and correct copy of the DVDs with the Clerk of Court.

5. The City also requests that the Court take judicial notice of the DVDs of the aforesaid City Council meetings.

Argument

Due to the large size of the information on the DVDs, the City seeks leave of Court to file a true and correct of the DVDs with the Clerk of Court. It is within the discretion of the Court to permit the City to do so.

The City also requests that the Court take judicial notice of the DVDs. Pursuant to Federal Rule of Evidence 201(b), the Court “may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” In this instance, the DVDs of the City Council meetings are the best evidence of what transpired at the City Council meetings on February 16, 2017,

March 2, 2017, March 16, 2017 and April 4, 2017. See e.g., *Primesite Consulting Group, Inc. v. City of Tampa, FL*, 1999 WL 33743963, at *5 n.2 (M.D. Fla. 1999) (recognizing parties' agreement that "the videotapes of the hearing are the 'best evidence' of the hearing before the City Council "). Moreover, the authenticity of the DVDs should not be subject to dispute as the City is prepared to file an affidavit with the DVDs attesting that that the DVDs represent a true and correct copy of the proceedings before City Council.

Conclusion

For all of the aforesaid reasons, it is respectfully requested that: (1) this Honorable Court grant the within Motion, (2) the City be granted leave to file with the Clerk of Court the DVDs of the City Council meetings held on February 16, 2017, March 2, 2017, March 16, 2017, and April 6, 2017, and (3) this Honorable Court take judicial notice of said DVDs.

Consultation with Plaintiffs' Counsel

In accordance with Local Rule 3.01(g), the City's counsel has conferred with Plaintiffs' counsel concerning the relief requested herein and counsel for Plaintiffs object to the relief requested herein.

/s/ Jerry M. Gewirtz

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 12, 2018 the foregoing was electronically filed with the Clerk of Court and a copy is being furnished by email to the following: Roger K. Gannam, Esquire at rgannam@lc.org; Horatio G. Mihet, Esquire at hmihet@lc.org; Mathew D. Staver, Esquire at mat@lc.org and court@lc.org; and Daniel J. Schmid, Esquire at dschmid@lc.org (Liberty Counsel, P.O. Box 540774, Orlando, FL 32854).

By: /s/ Jerry M. Gewirtz
Jerry M. Gewirtz, Esquire