

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF FLORIDA  
Tampa Division

ROBERT L. VAZZO, LMFT, individually )	
and on behalf of his patients, DAVID H. )	
PICKUP, LMFT, individually and on )	Civil Action No.: <u>8:17-cv-02896-CEH-AAS</u>
behalf of his patients, )	
)	
Plaintiffs, )	<b>INJUNCTIVE RELIEF SOUGHT</b>
)	
v. )	
)	
CITY OF TAMPA, FLORIDA, )	
)	
Defendant )	

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**PLAINTIFFS’ RESPONSE IN OPPOSITION TO  
DEFENDANT’S MOTION FOR ENLARGEMENT OF PAGE LIMIT**

Pursuant to M.D. Fla. Local Rule 3.01(b), Plaintiffs, Robert L. Vazzo, LMFT, and David H. Pickup, LMFT, individually and on behalf of their patients (collectively “Plaintiffs”), by and through the undersigned counsel, hereby submit their Response in Opposition to Defendant’s motion for enlargement of the page limit to respond to Plaintiffs’ Motion for Preliminary Injunction. (Dkt. 17). For the reasons that follow, Defendant’s motion should be denied. If this Court does grant Defendant’s motion, Plaintiffs request that this Court concomitantly grant leave for Plaintiffs to file a reply in support of their motion for preliminary injunction.

1. On December 4, 2017, Plaintiffs filed their Verified Complaint (dkt. 1, “Complaint”) and Motion for Preliminary Injunction. (Dkt. 3, “PI Motion”).

2. Defendant was served with Plaintiffs’ Complaint and PI Motion on December 5, 2017. (Dkt.7).

3. On December 18, 2017, Defendant moved for an extension of time to answer Plaintiffs’ Complaint and respond to Plaintiffs’ PI Motion. (Dkt. 14). In that motion, Defendants

requested an extension of time to respond to the PI Motion, to almost triple the amount of response time contemplated by this Court's rules. (*See* Dkt. 16, Plaintiffs' Response in Opposition to Defendant's Motion).

4. In addition to requesting triple the amount of time permitted to respond to Plaintiffs' PI Motion, Defendant now seeks a fifty percent (50%) enlargement of the page limit allotted for such response. (Dkt. 17, ¶ 2).

5. Defendant claims that it will be prejudiced by being forced to comply with this Court's rules. (*Id.* at 2).

6. However, in strict compliance with this Court's rules, Plaintiffs worked diligently to keep their significant constitutional and statutory arguments within the page limitation imposed by this Court's rules. (*See* Dkt. 3). In so doing, Plaintiffs were forced to exclude significant and meritorious grounds, authorities, and arguments which independently merited injunctive relief.

7. M.D. Fla. Local Rule 3.01(b) states that a party must file "a response that includes a memorandum of legal authority in opposition to the request, all of which the respondent **shall include in a document of no more than twenty (20) pages.**" (emphasis added).

8. Forcing Defendant to abide by the same restrictions Plaintiffs had no choice but to comply with cannot and does not impose prejudice on Defendant. Indeed, a party cannot claim prejudice from compliance with procedural rules. *Barnhart v. Am. Home Mort. Servicing, Inc.*, No. 2:11-cv-569-FtM-99SPC, 2012 WL 366930, \*4 (M.D. Fla. Feb. 3, 2012).

9. Quite the contrary, granting Defendant leave to exceed its page limit by fifty percent (50%) while Plaintiffs were forced to exclude merited arguments to comply with their page limit imposes prejudice on **Plaintiffs**, not Defendant. *See, e.g., Audubon Soc'y of Portland v. Zinke*, No. 1:17-cv-00069-CL, 2017 WL 2172439, \* (D. Ore. May 16, 2017) (permitting one party

to exceed the page limit while mandating compliance with strict page limits “necessarily prejudices” the party being restricted).

WHEREFORE, Plaintiffs request that this Court deny Defendant’s motion for enlargement of pages. Instead of piling paper upon Plaintiffs and this Court, and taking an inordinate amount of time to do so while the challenged Ordinance remains effective, Defendant should be required to comply with this Court’s clear rules, in the same way that Plaintiffs have complied. If the Court does grant Defendant’s motion, which it should not do, Plaintiffs respectfully request that this Court grant Plaintiffs leave to file a reply brief.

Respectfully submitted,

/s/ Horatio G. Mihet

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### **CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of December, 2017, I caused a true and correct copy of the foregoing to be filed electronically with this Court. Service will be effectuated upon all counsel and parties of record by the Court’s electronic notification system.

/s/ Horatio G. Mihet  
Attorney for Plaintiffs