

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,)	INJUNCTIVE RELIEF SOUGHT
)	
v.)	
)	
CITY OF TAMPA, FLORIDA,)	
)	
Defendant)	

PLAINTIFFS’ NOTICE REGARDING MEDIATION

As directed by the Court in the Case Management and Scheduling Order (dkt. 63, p. 1, ¶ 1), Plaintiffs, Robert L. Vazzo, LMFT, and David H. Pickup, LMFT, individually and on behalf of their patients (collectively “Plaintiffs”), hereby advise the Court of the following:

1. Plaintiffs have conferred with Defendant, City of Tampa, Florida (“City”), and the parties have agreed on the following mediator from the Court’s approved list of certified mediators: Dennis F. Alvarez, Genders-Alvarez-Diecidue, PA, 2307 West Cleveland Street, Tampa FL 33609, Office: 813-254-4744.

2. The parties are unable to agree on the timing of mediation:

a. The City now believes that mediation should take place on or before December 31, 2018, because the City believes that the pending motion to dismiss (City’s), and motion for preliminary injunction (Plaintiffs’), will be fully decided by this Court by then, and the parties could save resources by settling the case at that time.

b. In accordance with the parties’ prior agreement, the Court’s mediation deadline, and the Court’s recommendation that mediation can take place just after the close of

discovery, Plaintiffs believe that mediation should take place immediately after the close of discovery, between June 1 and June 14 of 2019. Given the fundamental rights and weighty constitutional issues at stake in this litigation, Plaintiffs do not believe that there is a reasonable chance of reaching a mediated settlement prior to developing a full record and receiving guidance from the Eleventh Circuit on Plaintiffs' pending motion for preliminary injunction. The parties have previously indicated that they each intend to take an interlocutory appeal from an adverse ruling on the preliminary injunction motion. (Joint Mot. to Stay Discovery, Dkt. 49, p. 2, ¶ 3). The City quite recently agreed to a May 31, 2019 discovery cut-off, and **a June 14, 2019 mediation deadline**. (Joint Case Management Report, dkt. 62, pp. 2-3). This Court has adopted the parties' proposed mediation deadline, and has **ordered that "[t]he parties shall complete the mediation conference on or before" June 14, 2019**. (Case Management and Scheduling Order, dkt. 63, pp. 3, 10 (emphasis added)). Earlier, this Court had also indicated that parties may conduct mediation "just after discovery deadline." (Dkt. 62, p. 3). Nothing has changed. Plaintiffs believe that requiring the parties to undertake mediation without the benefit of full discovery, a complete record, and guidance from the Eleventh Circuit is likely to be unproductive and unsuccessful, but postponing mediation until just after the close of discovery would maximize the parties' chances of successfully reaching a mediated outcome. Accordingly, Plaintiffs respectfully ask the Court to maintain the mediation deadline and timing previously agreed upon by the parties and the Court, and order that mediation be scheduled at the parties' and the mediator's convenience, between June 1 and 14, 2019.

Respectfully submitted,

/s/ Horatio G. Mihet

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2018, 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