

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 )  
behalf of his patients, and SOLI DEO )  
GLORIA INTERNATIONAL, INC. )  
d/b/a NEW HEARTS OUTREACH )  
TAMPA BAY, individually and on behalf )  
of its members, constituents and clients, )  
)  
Plaintiffs, )

Civil Action No. 8:17-cv-02896-CEH-AAS

**INJUNCTIVE RELIEF SOUGHT**

v. )  
)

CITY OF TAMPA, FLORIDA, and )  
SAL RUGGIERO, in his official capacity )  
as Manager of the City of Tampa )  
Neighborhood Enhancement Division, )  
)  
Defendants )

**PLAINTIFFS’ NOTICE REGARDING SCHEDULING AND  
NATURE OF THE PRELIMINARY INJUNCTION HEARING**

Plaintiffs understood the Court’s Order (dkt. 88) to require a joint response from the parties regarding the scheduling and nature of the preliminary injunction hearing. (*Id.* at 2 (“the parties must submit a notice ...”; “in **the** notice, the parties must ...” (emphasis added))). Plaintiffs conferred with Defendants (and, through Defendants, with their amicus), and offered to prepare and submit a joint response. Defendants, however, insisted on filing separate responses, and filed theirs separately. (Dkt. 90).

Accordingly, Plaintiffs now submit their response to the Court’s inquiry:

1) Plaintiffs hope that a non-evidentiary<sup>1</sup> hearing will be sufficient. However, Plaintiffs cannot definitively commit to a non-evidentiary hearing until their preliminary injunction motion is fully briefed, because Plaintiffs do not yet know what Defendants and Amicus will say in opposition; or whether any factual assertions made in opposition to the preliminary injunction motion will need to be rebutted; or whether any credibility issues on disputed facts be resolved. Plaintiffs note that on their previous preliminary injunction motion, they had the benefit of full briefing before they were required to commit to a non-evidentiary hearing. Plaintiffs request the same opportunity here. Accordingly, Plaintiffs respectfully request that the Court would permit them to indicate whether an evidentiary hearing is necessary with the filing of Plaintiffs' preliminary injunction reply, on or before August 10, 2018.

2) Irrespective of whether the hearing is evidentiary or non-evidentiary, Plaintiffs believe that the hearing can and should be scheduled now. This is because even if some live evidence is required, Plaintiffs expect it to be limited, and Plaintiffs expect the hearing to be completed in at most one day or, hopefully, substantially less.

3) With respect to the hearing date, Plaintiffs request the Court to schedule the hearing on any of September 21, September 20, September 24, September 25, August 29 or August 22 (in that order of preference). In support, Plaintiffs show the Court the following:

a) The Court generously provided the parties 13 days from which to choose a hearing date. (Dkt. 88 at 2).

b) Defendants and their amicus eliminated **all but three** of those days,

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<sup>1</sup> As used herein, "non-evidentiary" means that the parties would not seek to solicit live testimony at the hearing, but would rely upon any evidence already in the record, such as the sworn allegations in Plaintiffs' Verified Amended Complaint and any discovery responses or deposition transcripts.

providing only September 5, 7 and 18. (Dkt. 90).

c) Plaintiffs' counsel have a previously-scheduled evidentiary criminal proceeding in San Francisco Superior Court between September 10 and 18, preparation and travel for which will also occupy them most of the previous week (September 5-9).

d) Plaintiffs' counsel asked Defendants and their amicus to open up at least one more date from the thirteen alternatives, beyond the three they had chosen.

e) Plaintiffs' counsel specifically asked Defendants' lead outside counsel, attorney Williams, whether he was available on September 21 or 20. Mr. Williams indicated that he was available, but that either his co-counsel or counsel for amicus were not available for a reason he could not recall.

f) Plaintiffs respectfully point out that Defendants' amicus is represented by no fewer than **seven** attorneys from **three** separate law firms. Plaintiffs hope that one of them and Mr. Williams could be available on September 21 or 20, or any of the other dates mentioned above, such that the hearing could be scheduled without delay.

Respectfully submitted,

/s/ Horatio Mihet  
Mathew D. Staver  
Horatio G. Mihet  
Roger K. Gannam  
Daniel J. Schmid\*  
LIBERTY COUNSEL  
P.O. Box 540774  
Orlando, FL 32854  
Phone: (407) 875-1776  
Fax: (407) 875-0770  
Email: dschmid@lc.org

*Attorneys for Plaintiffs*

\*Admitted *pro hac vice*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of July 2018, I caused a true and correct copy of the foregoing to be filed electronically with this Court. Service will be effectuated on all counsel of record via this Court's ECF/electronic service system.

/s/ Horatio Mihet  
Horatio G. Mihet  
Attorney for Plaintiffs