

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

**ROBERT L. VAZZO, LMFT, individually  
and on behalf of his patients, et al.**

**Case No. 8:17-cv-02896- CEH-AAS**

**Plaintiffs,**

**v.**

**CITY OF TAMPA, FLORIDA, et al.**

**Defendants**

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**JOINT NOTICE REGARDING PRELIMINARY INJUNCTION HEARING**

In compliance with the court's order dated July 27, 2018 (dkt. 102), the parties submit their joint notice advising the court whether the hearing on the Motion for Preliminary Injunction and Motions to Dismiss will be evidentiary or non-evidentiary. The parties' respective positions are set forth below.

**(a) Plaintiffs' Position:** Whether Plaintiffs will need to put on live evidence at the October 10, 2018 preliminary injunction hearing depends in large part on Plaintiffs' ability to obtain, prior to the hearing, critical discovery that Plaintiffs requested from Defendants two months in advance, on August 9, 2018 (see Doc. 106-1). Plaintiffs believe that conducting the preliminary injunction hearing on a record that includes Defendants' discovery responses and deposition testimony will very likely obviate the need for live witness testimony, and will limit the hearing to argument on the record, thus making it much more efficient for the Court and the parties. This is Plaintiffs' preference and intention. Defendants, however, have moved for an extension of time to respond to the discovery (Doc. 106), to set their written response deadline two months after the hearing, and their document production deadline three months after the hearing. (Doc. 106 at 15.) The Court has set an expedited briefing schedule on Defendants' motion (Doc. 107), requiring

Plaintiffs' response by noon on Monday, August 27. Plaintiffs will address these issues, including the timeliness, reasonableness and need for their pre-hearing discovery, in their Response to Defendants' motion they intend to file by noon on August 27.<sup>1</sup>

**(b) Defendants' Position:** The Defendants' position is that the hearing on the motion for preliminary injunction and motion to dismiss need not be evidentiary. However, if the court determines that an evidentiary hearing is necessary, the City will only submit evidence in rebuttal, if any, as it relates to the Motion for Preliminary Injunction. Of course, no evidence is necessary, much less permitted, to adjudicate the Motions to Dismiss.

*/s/ Horatio G. Mihet*

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*/s/ Robert V. Williams*

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<sup>1</sup> Plaintiffs do not mean to suggest that holding an evidentiary hearing, with live witness testimony, would be an acceptable substitute for the pre-hearing discovery they seek. That would be trial by ambush. This aspect too will be discussed in their forthcoming Response.

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*Attorneys for Defendant, City of Tampa*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of August, 2018, I caused a true and correct copy of the foregoing to be filed electronically with the Clerk of Court. Service will be effectuated on all counsel of record via the Court's ECF/Electronic Service System.

*/s/ Robert V. Williams*