

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 9:18-cv-80771-ROSENBERG/REINHART**

ROBERT W. OTTO, PH.D., LMFT,  
individually and on behalf of his patients, and  
JULIE H. HAMILTON, PH.D., LMFT,  
individually and on behalf of her patients,

Plaintiffs,

v.

CITY OF BOCA RATON, FLORIDA, and  
COUNTY OF PALM BEACH, FLORIDA,

Defendants,

**EQUALITY FLORIDA'S MOTION TO APPEAR AS *AMICUS*  
AND MEMORANDUM OF LAW IN SUPPORT**

Equality Florida Institute, Inc., the largest civil rights organization in the State of Florida that advocates on behalf of Florida's lesbian, gay, bisexual, transgender, and questioning (LGBTQ) residents, respectfully requests that this Court permit it to appear as an *amicus* in support of the challenged ordinances enacted by defendants.

Its 302,000 members include some of the residents in Boca Raton and Palm Beach County who are most in need of the protections the Ordinance provides, including LGBTQ children at risk of being subjected to conversion therapy and their parents.

Equality Florida's appearance as *amicus* in this action would not expand the issues before the Court, prejudice any party, or cause any delay in the existing case schedule. Instead, Equality Florida's unique position as the largest organization advocating on behalf of LGBTQ residents in Florida, along with its deep understanding of the scientific and medical consensus rejecting the

prohibited and injurious practices, would assist the Court in efficiently adjudicating the existing parties' rights.

Although Equality Florida is only seeking to appear in this case as *amicus*, organizations such as Equality Florida have been permitted to intervene as parties in similar lawsuits because they provide “a helpful, alternative viewpoint from the vantage of some persons who have undergone [conversion therapy] or are potential patients of treatment that will aid the court in resolving plaintiffs' claims fully and fairly.” *King v. Christie*, 981 F. Supp. 2d 296, 310 (D.N.J. 2013) (quoting *Pickup v. Brown*, 2:12-cv-02497, 2012 WL 6024387, at \*4 (E.D. Cal. Dec. 4, 2012) (internal quotation marks omitted)) (permitting intervention by statewide LGBTQ rights advocacy organization to defend conversion therapy ban), *aff'd*, 767 F.3d 216, 246 (3d Cir. 2014).

Furthermore, in a currently pending action challenging a similar ordinance enacted by the City of Tampa, Equality Florida was permitted to appear as *amicus*. See *Vazzo v. City of Tampa*, No. 8:17-cv-2896-T-36AAS, 2018 WL 1629216, at \*6 (M.D. Fla. Mar. 15, 2018); see also *Vazzo*, No. 8:17-cv-2896-T-36AAS, 2018 WL 162090 (M.D. Fla. April 4, 2018).

## **ARGUMENT**

As part of Equality Florida's mission of combatting harassment and discrimination against LGBTQ Floridians, Equality Florida has supported the enactment of LGBTQ civil rights laws at the state, county, and municipal levels.

As a threshold matter, Equality Florida's motion to appear as *amicus* is timely, addresses the same issues raised in the underlying action, and will not cause delay or prejudice the rights of the litigants.

This Court has the inherent authority to allow an *amicus curiae* to participate and assist the Court. *In re. Bayshore Ford Trucks Sales, Inc.*, 411 F. 3d 1233, 1249 n.34 (11<sup>th</sup> Cir. 2006); *Resort Timeshare Resales, Inc. v. Stuart*, 764 F. Supp. 1495, 1500-01 (S.D. Fla. 1991). Furthermore, the Middle District of Florida recently allowed Equality Florida to file a brief, in defense of substantially the same ordinance enacted by the City of Tampa, so that it could provide a “helpful alternative viewpoint” on conversion therapy. *See Vazzo*, 2018 WL 1629216, at \*6; *see also Vazzo*, 2018 WL 162090.

This same logic undergirded the courts’ decisions to permit intervention by Equality Florida’s sister organizations in previous conversion therapy ban challenges in other states. *See King*, 981 F. Supp. 2d at 309 (permitting intervention by Garden State Equality); *Pickup*, 2012 WL 6024387, at \*4 (permitting intervention by Equality California). All the more reason Equality Florida should be allowed to appear as *amicus*, especially as the Court has not yet taken any significant action in this case. Doing so would aid the Court’s adjudication of this case for at least three reasons.

First, Equality Florida has a direct interest in this litigation as the largest LGBTQ civil rights organization in Florida. Its mission includes efforts to enact laws that protect LGBTQ youth from harmful and discriminatory treatment. Equality Florida therefore has a substantial and unique interest in the enforcement of the Ordinance that distinguishes it from the general public. *See Pickup*, 2012 WL 6024387, at \*1–2 (noting that a ruling that conversion therapy ban was unconstitutional “would undercut [organization’s] mission of protecting LGBT youth from harmful therapies.”).

Second, Equality Florida will significantly contribute to the development of the record in this case and aid in the fair, efficient adjudication of the issues before the Court. *See King*, 981 F.

Supp. at 310 (quoting *Pickup*, 2012 WL 6024387, at \*4) (noting that New Jersey LGBTQ advocacy organization's information about harms of conversion therapy would "provide a helpful, alternative viewpoint" to Plaintiffs' view that they are effective and safe).

Finally, Equality Florida and its undersigned counsel are participating concurrently in the *Vazzo* action pending in the Middle District of Florida (Tampa Division) with respect to a similar ordinance enacted by the City of Tampa. As such, they will be able to bring perspectives from that case to this Court.

### **CONCLUSION**

For these reasons, Equality Florida respectfully requests that the Court permit it to appear as an amici, and permit it to file an amicus curiae brief in support of Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction.

### **LOCAL RULE 7.1 CERTIFICATE OF GOOD FAITH**

In accordance with Local Rule 7.1, Counsel for Equality Florida certifies that the undersigned conferred with Counsel for Plaintiffs and Counsel for Defendants concerning this motion. Counsel for Plaintiffs represent that Plaintiffs oppose the motion and intend to file a written opposition in due course. Counsel for Defendants represent that Defendants do not oppose the motion.

Dated August 28, 2018

Respectfully submitted,

*/s/ Jennifer A. Yasko*

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on August 28, 2018, the foregoing was electronically filed with the Clerk of Court by using the CM/ECF system, which will also send a notice of electronic filing to all counsel of record.

*/s/ Jennifer A. Yasko*  
Jennifer A. Yasko

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