

**NO.: 19-14387**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

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CITY OF TAMPA,

*Defendant-Appellant,*

v.

ROBERT L. VAZZO and SOLI DEO GLORIA INTERNATIONAL, INC.  
d/b/a NEW HEARTS OUTREACH TAMPA BAY,

*Plaintiffs-Appellees*

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**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION  
CASE NO.: 8:17-cv-02896-T-02AAS**

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**DEFENDANT-APPELLANT'S MOTION FOR DISMISSAL AND  
CANCELLATION OF ORAL ARGUMENT**

GINA GRIMES, CITY ATTORNEY

David E. Harvey  
Assistant City Attorney  
[David.Harvey@tampagov.net](mailto:David.Harvey@tampagov.net)  
FBN: 0610046  
315 E. Kennedy Boulevard  
5th Floor  
Tampa, Florida 33602  
(813) 274-7599  
Attorney for Appellant, City of Tampa

**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 and 28-1(b), Defendant-Appellant City of Tampa hereby states that the following individuals and entities are known to have an interest in the outcome of this case:

Judge William Jung, United States District Court Judge for the Middle District of Florida, Tampa Division

Magistrate Judge Amanda Sansone, United States District Court, Middle District of Florida, Tampa Division

City of Tampa, Appellant

Robert L. Vazzo, Appellee

Soli Deo Gloria International, Inc. d/b/a New Hearts Outreach Tampa Bay, Appellee

Equality Florida Institute, Inc., Amicus Curiae

David E. Harvey, Counsel for Appellant

Liberty Counsel, Inc., Counsel for Appellee

Horatio Mihet, Counsel for Appellees

Roger Gannam, Counsel for Appellees

Daniel Schmid, Counsel for Appellees

Matthew Staver, Counsel for Appellees

National Center for Lesbian Rights, Counsel for Amicus Curiae Equality Florida

Shannon Minter, Counsel for Amicus Curiae Equality Florida

Chris Stoll, Counsel for Amicus Curiae Equality Florida

Carlton Fields, Counsel for Amicus Curiae Equality Florida

Sylvia H. Walbolt, Counsel for Amicus Curiae Equality Florida

Brian C. Porter, Counsel for Amicus Curiae Equality Florida

Southern Poverty Law Center, Counsel for Amicus Curiae Equality Florida

Scott D. McCoy, Counsel for Amicus Curiae Equality Florida

David C. Dinielli, Counsel for Amicus Curiae Equality Florida

J. Tyler Clemons, Amicus Curiae Equality Florida

Family Foundations Counseling, PLLC, Amicus Curiae

Christopher P. Schandavel, Counsel for Amicus Curiae Family Foundations  
Counseling, PLLC

John J. Bursch, Counsel for Amicus Curiae Family Foundations Counseling, PLLC

The Alliance for Therapeutic Choice and Scientific Integrity, Amicus Curiae

Max R. Price, Counsel for Amicus Curiae The Alliance for Therapeutic Choice  
and Scientific Integrity

Freedom of Conscience Defense Fund, Amicus Curiae

Charles S. LiMandri, counsel for Amicus Curiae Freedom of Conscience Defense  
Fund

J. Michael Lindell, counsel for Amicus Curiae Freedom of Conscience Defense  
Fund

Florida State Senators/Representatives, Amicus Curiae:

- a. Ben Albritton
- b. Dennis Baxley
- c. Doug Broxson
- d. Kelli Stargel
- e. Byron Donalds

- f. Brett Hage
- g. Stan McClain
- h. Scott Plakon
- i. Spencer Roach
- j. Anthony Sabatini
- k. Clay Yarborough

Stephen M. Crampton, counsel for Amicus Curiae State Senators/Representatives

Mary E. McAlister, counsel for Amicus Curiae State Senators/Representatives

Local governments within the State of Florida that have enacted an ordinance prohibiting conversion therapy, including:

- a. City of Boca Raton
- b. City of Boynton Beach
- c. City of Delray Beach
- d. City of Greenacres
- e. City of Key West
- f. City of Lake Worth
- g. City of Miami
- h. City of Miami Beach
- i. City of North Bay Village
- j. City of Oakland Park
- k. Palm Beach County
- l. City of Riviera Beach
- m. Town of Bay Harbor Islands
- n. Village of El Portal
- o. Village of Wellington
- p. City of West Palm Beach
- q. City of Wilton Manors

No publicly-traded company or corporation has an interest in the outcome of this case.

/s/ David E. Harvey  
David E. Harvey  
*Attorney for Defendant-Appellant*

**DEFENDANT-APPELLANT’S MOTION FOR DISMISSAL OF APPEAL  
AND CANCELLATION OF ORAL ARGUMENT**

Defendant-Appellant City of Tampa (“City”), pursuant to Fed. R. App. P. 42 and 11th Cir. R. 42-1, moves this Court to allow the City to dismiss its appeal in this matter and remand the case to the district court for determination of Plaintiff-Appellee’s motion for fees. In support, the City states as follows:

1. On October 17, 2019, the Middle District of Florida entered its Order Granting Plaintiffs’ Motion for Summary Judgment. (Doc. 213). The sole basis for the district court’s decision was its view that the City’s ordinance banning sexual orientation change efforts (“SOCE”) was impliedly preempted by the State of Florida.
2. On November 1, 2019, Plaintiffs-Appellees filed in the district court their Motion for Attorney’s Fees and Nontaxable Expenses (Doc. 221), along with supporting documents (Doc. 222-223).
3. On November 8, 2019, the district court entered an endorsed order holding in abeyance Plaintiffs-Appellees’ fee motion until the conclusion of the entire case, including all appellate matters. (Doc. 224).
4. On December 23, 2019, the City filed its appeal to this Court, in which the City argued that the trial court erred in striking the subject ordinance under the implied preemption doctrine.
5. Oral argument before this Court has been scheduled for December 15, 2020.

6. On November 20, 2020, this Court entered an order in the case of *Otto et al v. City of Boca Raton, et. al.* (Case No. 19-10604). Therein, this Court ruled that local ordinances that are essentially identical to the City ordinance at issue here violate the First Amendment.
7. The City recognizes that its appeal has been mooted by this Court's decision in the *Otto* case, that oral argument should be cancelled, and that dismissal of the City's appeal is appropriate.
8. The City needs additional time to evaluate and respond to Plaintiffs-Appellees' fee motion and documents in support thereof. Additionally, the City recognizes that Plaintiffs-Appellees will likely seek fees and/or costs in connection with the City's appeal to this Court, and the City will need time to review and respond to such request and supporting documentation. However, given the City's recognition herein that continuation of its appeal would be futile and that dismissal of its appeal is thus appropriate, it is the City's position that any further substantive work (and any corresponding fees/costs) by Plaintiffs-Appellees' counsel is unnecessary.
9. Prior to the filing of this Motion, undersigned counsel conferred with counsel for Plaintiffs-Appellees, who advised that Plaintiffs-Appellees oppose this Motion.

WHEREFORE, the City respectfully requests that this Court enter an order dismissing the City's appeal in this matter, cancelling oral argument, and remanding to the district court for determination of Plaintiffs-Appellees' motion for fees.

Dated this 25th day of November 2020.

GINA K. GRIMES  
CITY ATTORNEY

/s/ David E. Harvey  
David E. Harvey  
Assistant City Attorney  
315 E. Kennedy Blvd., 5<sup>th</sup> Floor  
Tampa, FL 33602  
Phone: (813) 274-7599  
David.Harvey@tampagov.net

*Attorney for Defendant-Appellant*

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,  
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

1. This document complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A). Not counting the items excluded from the length by Fed. R. App. P. 32(f), this document contains 443 words.

2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6). This document has been prepared using Microsoft Word in 14-point Times New Roman font.

/s/ David E. Harvey  
David E. Harvey  
*Attorney for Defendant-Appellant*

**CERTIFICATE OF SERVICE**

I, hereby certify that, on the 25th day of November, 2020, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notice of electronic filing to all counsel of record, and that the foregoing was also sent via electronic mail to each of the following:

Liberty Counsel  
Mathew D. Staver, Esq.  
[mat@lc.org](mailto:mat@lc.org)  
Horatio G. Mihet, Esq.  
[hmihet@lc.org](mailto:hmihet@lc.org)  
Daniel Schmid, Esq.  
[dschmid@lc.org](mailto:dschmid@lc.org)  
Roger K. Gannam, Esq.  
[rgannam@lc.org](mailto:rgannam@lc.org)  
*Counsel for Plaintiff-Appellees*

/s/ David E. Harvey  
David E. Harvey  
*Attorney for Defendant-Appellant*