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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
NORTHERN DIVISION**

UTAH ANIMAL RIGHTS COALITION,
INC., a Utah non-profit corporation;
JEREMY BECKHAM; and ALEXIS
LEVITT

Plaintiffs,

v.

FARMINGTON CITY, UTAH, a
Municipal Corporation; TROY
RAWLINGS, Davis County Attorney;
JIM TALBOT, Farmington City Mayor,
WAYNE D. HANSEN, Farmington City
Chief of Police; DAVE MILHEIM,
Farmington City Manager; HEIDI
BOUCK, Deputy Farmington City
Recorder, and JOHN DOES I-X,
Farmington City Police Officers,

Defendants.

COMPLAINT

Case No. 2:15-CV-00642 TS

JUDGE TED STEWART

PLAINTIFFS, UTAH ANIMAL RIGHTS COALITION, INC., JEREMY
BECKHAM, and ALEXIS LEVITT by and through counsel, STEWART GOLLAN, of

the UTAH LEGAL CLINIC as cooperating attorney for the UTAH CIVIL RIGHTS & LIBERTIES FOUNDATION, and JOHN MEJIA and LEAH FARRELL of the AMERICAN CIVIL LIBERTIES UNION of UTAH FOUNDATION, INC., as a Complaint and as causes of action against the Defendants state and allege as follows:

PRELIMINARY STATEMENT

1. This 42 U.S.C. § 1983 action seeks declaratory, equitable and injunctive relief for improper interference with the constitutional rights of Plaintiffs. Plaintiffs further seek nominal monetary damages from the Defendants as well as an award of attorney fees and costs pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988.

JURISDICTION & VENUE

2. Jurisdiction is proper in this Court under 42 U.S.C. § 1983 and § 1988 as well as 28 U.S.C. §§ 1331 and 1343, and arises to enforce provisions of the United States Constitution.

3. Declaratory relief is authorized by 28 U.S.C. § 2201 and § 2202 and Rule 57 of the Federal Rules of Civil Procedure.

4. Injunctive relief is authorized by Rule 65 of the Federal Rules of Civil Procedure.

5. This Court has supplemental jurisdiction to hear Plaintiffs' state constitutional claims arising from the same factual situation pursuant to 28 U.S.C. § 1367.

6. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(b) as the claims herein arose in the Northern District of Utah, the Defendants conduct business in

the Northern District of Utah and Defendants are subject to personal jurisdiction within this district.

PARTIES

7. UTAH ANIMAL RIGHTS COALITION (“UARC”) is a Utah non-profit corporation headquartered in Salt Lake City, Utah. UARC is an animal rights organization dedicated to establishing and protecting the rights of all animals. UARC works through public education, special events and public demonstrations to accomplish its goals. UARC provides information and educates people with regard to the ethical treatment of animals; among other methods it does so through the distribution of flyers and literature and public demonstrations and educational events. UARC brings this lawsuit on its own behalf and on behalf of its members and supporters.

8. JEREMY BECKHAM is an adult citizen and resident of Salt Lake County and the State of Utah. He is and has long been an animal activist and advocate. He has been a member of the Salt Lake Animal Advocacy Movement (“SLAAM”). For more than ten (10) years, he has participated in public education, free expression, protest and outreach activities in support of animal rights. He plans to continue to do so in the future.

9. ALEXIS LEVITT is an adult citizen and resident of Salt Lake County and the State of Utah. She is and has long been an animal activist and advocate. She has participated in public education, free expression, protest and outreach activities in support of animal rights. She plans to continue to do so in the future.

10. FARMINGTON CITY, UTAH (the “City”) is a municipal corporation in the State of Utah, which can sue and be sued in its own name. The City is a government entity created pursuant to Utah statute that governs the geographic area known as

Farmington City, Utah. The City is a governmental subdivision of the State of Utah. The City is the principal and/or employer of the individual defendants. The City has delegated to the individual defendants administrative and/or executive power to enforce ordinances regulating free speech activities within the City.

11. TROY RAWLINGS is the Davis County Attorney charged, *inter alia*, with prosecuting criminal actions arising out of events that occur within Farmington City.

12. JIM TALBOT is the duly elected Mayor of Farmington City. He has executive authority over those persons within the City government who issue permits pursuant to Farmington City Code § 7-8-10 as well as the chief and officers of the Farmington City Police Department.

13. WAYNE D. HANSEN is the Farmington City Chief of Police. He is charged, *inter alia*, with enforcing the Farmington City criminal code.

14. DAVE MILHEIM is the Farmington City Manager. Upon information and belief, Mr. Milheim oversees the issuance of permits pursuant to Farmington City Code § 7-8-10.

15. HEIDI BOUCK is the Deputy Recorder for Farmington City. Upon information and belief, she serves as the Farmington City Permit Coordinator.

16. JOHN DOES I-X, are Farmington City Police Officers charged with enforcing the Farmington City criminal code. The full, true and correct names of these defendants are currently unknown to Plaintiffs at this time. When Plaintiffs discover the full true and correct name of these defendants, they shall seek leave to amend this Complaint.

17. The individual Defendants are sued both personally as well as in their official capacity for declaratory, equitable and injunctive relief. The individual Defendants are sued personally for nominal monetary damages of \$1 each for each violation.

18. At all times pertinent to this action, Defendants were acting under color of state law, with powers vested in them by the State of Utah and within the scope of their authority granted by Utah State law, policies and practices.

FACTS

19. The Farmington City Council has enacted a code governing “Free Expression Activities” conducted within the geographical boundaries of the City. Farmington City Code § 7-8-10, *et seq.*, Free Expression Activities (the “Ordinance”). A copy of the Ordinance is attached hereto and marked as Exhibit “A.”

20. The Ordinance purports to regulate and control any “Free Expression Activity” conducted within Farmington City. “Free Expression Activity” is broadly defined in the Ordinance as “any formation, procession or assembly upon any public street, park, or other public way or other traditional public forum or nonpublic forum on government property in a manner which does not comply with normal or usual regulations or controls and which claims that it has the purpose of engaging in constitutionally protected speech or assembly.”

21. The Ordinance applies to all “Free Expression Activities” conducted within the City of Farmington regardless of size or the number of participants.

22. The Ordinance requires persons to pay a fee and obtain permission and a permit from Farmington City prior to engaging any “Free Expression Activity”

23. The Ordinance provides criminal penalties, including imprisonment for up to six (6) months, for people who fail to comply with its requirements. Farmington City Code § 7-8-190.

24. On or about the morning of July 16, 2015 Plaintiff Jeremy Beckham gathered with three (3) other persons. They discussed the condition of the facilities provided for animals housed at the Lagoon amusement park in Farmington Utah, which they believed were inadequate and cruel. They decided to publicly express their concerns by gathering on a public sidewalk in front of the Lagoon corporate office at 653 North Main Street in Farmington, Utah.

25. Shortly after arriving at the Lagoon corporate offices at 653 North Main Street in Farmington, Mr. Beckham and his three (3) fellow activists began to express their concerns to passersby on the sidewalk about the poor facilities and conditions to which the animals at Lagoon are subjected. They did so verbally and by holding small signs.

26. At no time did the July 16, 2015 gathering of the four (4) activists on the public sidewalk in front of the Lagoon corporate offices obstruct or threaten to obstruct pedestrian access or travel along the sidewalk.

27. At no time did the gathering of the four (4) activists on the public sidewalk in front of the Lagoon corporate offices require city services or support.

28. After participating in the small, spontaneous, four (4) person gathering of July 16, 2015 Mr. Beckham was criminally charged by Defendant Troy Rawlings for

allegedly violating the Ordinance. A copy of the Information filed in that action is attached to the Declaration of Jeremy Beckham filed herein and marked as Exhibit "AA" thereto.

29. Mr. Beckham wishes to continue his activism in Farmington City by participating in small free expression activities but fears that if he does so without first paying fees to and obtaining permission from Farmington City, he may be subject to unconstitutional arrest, detention and the imposition of criminal penalties simply because he elected to exercise his protected First Amendment Rights. This fear has a real and chilling effect.

30. On or about July 18, 2015 Plaintiff Alexis Levitt gathered with other animal activists in a group of approximately twenty (20) persons in a public right-of-way near the Lagoon amusement park in Farmington, Utah. The activists wished to publicly express their concerns about the housing and other conditions to which the animals kept at the amusement park are subjected.

31. The small group stood well off the road and within the public right-of-way chanting and holding signs. They wished to communicate their concerns to patrons of Lagoon and other passersby. The area where they gathered is well off the highway and is not open to nor suitable for vehicular travel.

32. At no time did the July 18, 2015 gathering obstruct or threaten to obstruct pedestrian travel.

33. At no time did the July 18, 2015 gathering require city services.

34. After participating in the small, approximately twenty (~20) person, gathering of July 18, 2015 Ms. Levitt was criminally charged by Defendant Troy

Rawlings for failing to receive the permission of and a permit from Farmington City, allegedly in violation of the Ordinance. A copy of the Summons served upon Ms. Levitt is attached to the Declaration of Alexis Levitt filed herein and marked as Exhibit “AAAA” thereto.

35. Ms. Levitt wishes to continue her activism in Farmington City by participating in free expression activities but fears that if she does so without first paying fees to and obtaining permission from Farmington City that she may be subject to unconstitutional arrest, detention and the imposition of criminal penalties simply because she elected to exercise her constitutionally protected rights. This fear has a real and chilling effect.

36. Plaintiffs Beckham and Levitt have been told by numerous other activists that they will not participate in any future small free expression events near the Lagoon amusement park absent permission and a permit from Farmington City because they fear unconstitutional arrest, detention and the imposition of criminal penalties.

37. UARC and its members wish to organize and conduct small free expression events in Farmington City near the Lagoon amusement park but fears that if they does so without first paying fees to and obtaining permission from Farmington City, they may be subject to unconstitutional arrest, detention and the imposition of criminal penalties simply because they elected to exercise their protected First Amendment Rights.

38. Some members of UARC have expressed fear that if they participate in small free expression events sponsored or organized by UARC absent a permit that they may be subject to criminal penalties including fines or jail. This fear is having a chilling

effect on the ability of UARC to conduct constitutionally protected free expression activities.

39. Upon information and belief, the Defendants have only enforced the Ordinance against persons engaging in free expression critical of the Lagoon amusement park.

40. The Lagoon amusement park ceases operations for the 2015 season on October 30, 2015.

41. Plaintiffs desire to engage in additional free speech and expressive activities near the Lagoon amusement park prior to the close of the 2015 season.

FIRST CAUSE OF ACTION
(First Amendment Right to Free Expression – Narrow Tailoring)

42. Plaintiffs re-allege Paragraphs one through forty-one (¶¶ 1-41) as though fully set forth here.

43. On its face, the Ordinance (Farmington City Code § 7-8-10, *et seq.*) violates Plaintiffs' rights to free expression guaranteed by the First Amendment to the United States Constitution in that it is not a valid time, place and manner restriction because it is not narrowly tailored to serve a significant government interest.

44. The Ordinance includes a broad definition of "Free Expression Activity" that essentially covers any and all public expression. Farmington City Code § 7-8-20.

45. The Ordinance purports to serve government interests by protecting "public health, safety and welfare" and "maximizing the safety of participants, minimizing the inconvenience to the general public and disruption of public services and, providing for cost recovery of City services." Farmington City Code § 7-8-10.

46. On its face, the Ordinance applies to all free expression activities regardless of size or the number of participants. On its face, it applies even to an orderly gathering of just two (2) persons on a public sidewalk if those persons wish to make a public expression of any sort and it applies in myriad cases where imposition of the permit and fee requirements burdens free expression but serves no significant or legitimate government interest and does nothing to promote the public health, safety or welfare.

47. By enforcing and/or threatening to enforce the Ordinance, Defendants, personally and through their agents and officers, deprived and continue to deprive Plaintiffs and others of rights guaranteed by the First Amendment of the United States Constitution. Defendants committed and continue to commit these unconstitutional acts under color and authority of law.

48. Because an actual controversy exists with respect to whether the Ordinance is narrowly tailored, Plaintiffs are entitled to a declaratory judgment that the Defendants' enforcement of the Ordinance is a violation of Plaintiffs' rights as protected by the First Amendment to the United States Constitution.

49. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights and the First Amendment rights of others, Plaintiffs are entitled to immediate and continuing injunctive relief barring Defendants from enforcing the Ordinance themselves or through their officers, agents and employees.

50. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights, Plaintiffs are entitled to an award of monetary damages (at least

nominal) to compensate them for the harm suffered as a result of Defendants' previous enforcement and threatened enforcement of the Ordinance against them.

51. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights, Plaintiffs are entitled to an award of attorneys fees and costs incurred in bringing this action to vindicate and protect the constitutionally protected rights of Plaintiffs.

SECOND CAUSE OF ACTION

(First Amendment Right to Free Expression – Unconstitutionally Overbroad)

52. Plaintiffs re-allege Paragraphs one through fifty-one (¶¶ 1-51) as though fully set forth here.

53. The Ordinance is unconstitutionally overbroad in that it punishes a substantial amount of constitutionally protected speech, judged in relation to any legitimate sweep it may have.

54. The Ordinance imposes a fee and permit requirements in myriad cases, such as small gatherings of persons in traditional public fora, including spontaneous gatherings, where the imposition of the permit and fee requirements burdens free expression but serves no legitimate government interest and does nothing to promote public health, safety or welfare and is therefore not narrowly tailored.

55. This unconstitutional overbreadth chills the Plaintiffs' free expression rights as well the rights of many persons not parties to this action.

56. By enforcing and/or threatening to enforce the Ordinance, Defendants, personally and through their agents and officers, deprived and continue to deprive Plaintiffs and others of rights guaranteed by the First Amendment of the United States

Constitution. Defendants committed and continue to commit these unconstitutional acts under color and authority of law.

57. Because an actual controversy exists with respect to whether the Ordinance is unconstitutionally overbroad, Plaintiffs are entitled to a declaratory judgment that the Defendants' enforcement of the Ordinance is a violation of Plaintiffs' and others rights as protected by the First Amendment to the United States Constitution.

58. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights and the First Amendment rights of others, Plaintiffs are entitled to immediate and continuing injunctive relief barring Defendants from enforcing the Ordinance themselves or through their officers, agents and employees.

59. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights, Plaintiffs are entitled to an award of monetary damages (at least nominal) to compensate them for the harm suffered as a result of Defendants' previous enforcement and threatened enforcement of the Ordinance against them.

60. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights, Plaintiffs are entitled to an award of attorneys fees and costs incurred in bringing this action to vindicate and protect the constitutionally protected rights of Plaintiffs.

THIRD CAUSE OF ACTION

(First Amendment Right to Free Expression – Unconstitutionally Vague)

61. Plaintiffs re-allege Paragraphs one through sixty (¶¶ 1-60) as though fully set forth here.

62. The Ordinance purports to apply to impose requirements upon “any formation, procession or assembly upon any public street, park, or other public way or

other traditional public forum or nonpublic forum on government property in a manner which does not comply with normal or usual regulations or controls and which claims that it has the purpose of engaging in constitutionally protected speech or assembly.”

63. The Ordinance does not define or provide guidance of any sort with respect to what it means to assemble or gather in “a manner which does not comply with normal or usual regulations or controls.”

64. The Ordinance does not define or provide guidance of any sort with respect to what it means to “claim” that the gathering has “the purpose of engaging in constitutionally protected speech or assembly.”

65. The Ordinance is unconstitutionally vague because its prohibitions are not clearly defined and it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits. Due to its vagueness, the Ordinance encourages arbitrary and discriminatory enforcement.

66. As a result of its vagueness, the Ordinance chills constitutionally protected expression.

67. By enforcing and/or threatening to enforce the Ordinance, Defendants, personally and through their agents and officers, deprived and continue to deprive Plaintiffs and others of rights guaranteed by the First Amendment of the United States Constitution. Defendants committed and continue to commit these unconstitutional acts under color and authority of law.

68. Because an actual controversy exists with respect to whether the Ordinance is unconstitutionally vague, Plaintiffs are entitled to a declaratory judgment

that the Defendants' enforcement of the Ordinance is a violation of Plaintiffs' and others rights as protected by the First Amendment to the United States Constitution.

69. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights and the First Amendment rights of others, Plaintiffs are entitled to immediate and continuing injunctive relief barring Defendants from enforcing the Ordinance themselves or through their officers, agents and employees.

70. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights, Plaintiffs are entitled to an award of monetary damages (nominal, in the case of the individual Defendants) to compensate them for the harm suffered as a result of Defendants' previous enforcement and threatened enforcement of the Ordinance against them.

71. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights, Plaintiffs are entitled to an award of attorneys fees and costs incurred in bringing this action to vindicate and protect the constitutionally protected rights of Plaintiffs.

FOURTH CAUSE OF ACTION
(First Amendment Right to Free Expression – Unconstitutionally Excessive
Discretion)

72. Plaintiffs re-allege Paragraphs one through seventy-one (¶¶ 1-71) as though fully set forth here.

73. On its face, the Ordinance applies to all public expression in Farmington City. Defendants use their discretion to enforce the Ordinance, however, upon only select kinds of expressive activities. Defendants are thus afforded complete discretion to pick and choose what messages shall be regulated under the ordinance.

74. Such unbridled discretion with respect to the imposition of restrictions and/or limitations on speech and expression has resulted in Defendant imposing such restrictions based upon the content of speech or expression, and is substantially likely to allow the same result in the future. This discretion renders the Ordinance unconstitutional.

75. By enforcing and/or threatening to enforce the Ordinance, Defendants, personally and through their agents and officers, deprived and continue to deprive Plaintiffs and others of rights guaranteed by the First Amendment of the United States Constitution. Defendants committed and continue to commit these unconstitutional acts under color and authority of law.

76. Because an actual controversy exists with respect to whether the Ordinance affords unconstitutionally excessive discretion to Defendants, Plaintiffs are entitled to a declaratory judgment that the Defendants' enforcement of the Ordinance is a violation of Plaintiffs' and others rights as protected by the First Amendment to the United States Constitution.

77. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights and the First Amendment rights of others, Plaintiffs are entitled to immediate and continuing injunctive relief barring Defendants from enforcing the Ordinance themselves or through their officers, agents and employees.

78. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights, Plaintiffs are entitled to an award of monetary damages (at least nominal) to compensate them for the harm suffered as a result of Defendants' previous enforcement and threatened enforcement of the Ordinance against them.

79. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights, Plaintiffs are entitled to an award of attorneys fees and costs incurred in bringing this action to vindicate and protect the constitutionally protected rights of Plaintiffs.

FIFTH CAUSE OF ACTION
(Not Narrowly Tailored As Applied to Mr. Beckham)

80. Plaintiffs re-allege Paragraphs one through seventy-nine (¶¶ 1-79) as though fully set forth here.

81. A valid time, place and manner restriction on speech or expression must be narrowly tailored to serve a significant government interest.

82. The Ordinance purports to serve government interests by protecting “public health, safety and welfare” and “maximizing the safety of participants, minimizing the inconvenience to the general public and disruption of public services and providing for cost recovery of City services.” Farmington City Code § 7-8-10.

83. The free expression activity in which Mr. Beckham participated involved only four (4) persons in an orderly assembly on a public sidewalk. It did not risk impeding nor actually impede pedestrian flow. It implicated no public health, safety or welfare concerns, yet Defendants demanded and continue to demand that Mr. Beckham subject himself to the restrictions and requirements imposed by the Ordinance prior to exercising his constitutionally protected rights to free speech and expression.

84. Because there was no significant nor even legitimate government interest implicated by the free expression activity in which Mr. Beckham participated the Ordinance is not narrowly tailored as applied to Mr. Beckham and, consequently, unconstitutional.

85. Moreover, Defendants have selectively enforced the Ordinance against Mr. Beckham, but not against other individuals engaged in free speech activities in Farmington City. Because Defendants enforce the Ordinance in a way that disfavors a particular kind of speech, the Ordinance is not content neutral as applied.

86. By enforcing and/or threatening future enforcement of the Ordinance against Mr. Beckham, Defendants, personally and through their agents and officers, deprived and continue to deprive Mr. Beckham of rights guaranteed by the First Amendment of the United States Constitution. Defendants committed and continue to commit these unconstitutional acts under color and authority of law.

87. Because an actual controversy exists with respect to whether the Ordinance is narrowly tailored as applied to Mr. Beckham, he is entitled to a declaratory judgment that the Defendants' enforcement of the Ordinance is a violation of his rights as protected by the First Amendment to the United States Constitution.

88. Because the Ordinance is an unconstitutional restriction on Mr. Beckham's First Amendment rights, he is entitled to immediate and continuing injunctive relief barring Defendants from enforcing the Ordinance themselves or through their officers, agents and employees.

89. Because the Ordinance is an unconstitutional restriction on Mr. Beckham's First Amendment rights, he is entitled to an award of monetary damages (at least nominal) to compensate him for the harm suffered as a result of Defendants' previous enforcement and threatened future enforcement of the Ordinance against him.

90. Because the Ordinance is an unconstitutional restriction on Mr. Beckham's First Amendment rights, he is entitled to an award of attorneys fees and costs

incurred in bringing this action to vindicate and protect his constitutionally protected rights.

SIXTH CAUSE OF ACTION
(Not Narrowly Tailored As Applied to Ms. Levitt)

91. Plaintiffs re-allege Paragraphs one through ninety (¶¶ 1-90) as though fully set forth here.

92. A valid time, place and manner restriction on speech or expression must be narrowly tailored to serve a significant government interest.

93. The Ordinance purports to serve government interests by protecting “public health, safety and welfare” and “maximizing the safety of participants, minimizing the inconvenience to the general public and disruption of public services and, providing for cost recovery of City services.” Farmington City Code § 7-8-10.

94. The free expression activity in which Ms. Levitt participated involved approximately twenty (20) persons in an orderly assembly in a public right-of-way closed to vehicular traffic. It did not risk impeding nor actually impede pedestrian or traffic flow. It implicated no public health, safety or welfare concerns, yet Defendants demanded and continue to demand that Ms. Levitt subject herself to the restrictions and requirements imposed by the Ordinance prior to exercising her constitutionally protected rights to free speech and expression.

95. Because there was no significant nor even legitimate government interest implicated by the free expression activity in which Ms. Levitt participated the Ordinance is not narrowly tailored as applied to her and, consequently, unconstitutional.

96. Moreover, Defendants have selectively enforced the Ordinance against Ms. Levitt, but not against other individuals engaged in free speech activities in

Farmington City. Because Defendants enforce the Ordinance in a way that disfavors a particular kind of speech, the Ordinance is not content neutral as applied.

97. By enforcing and/or threatening future enforcement of the Ordinance against Ms. Levitt, Defendants, personally and through their agents and officers, deprived and continue to deprive Ms. Levitt of rights guaranteed by the First Amendment of the United States Constitution. Defendants committed and continue to commit these unconstitutional acts under color and authority of law.

98. Because an actual controversy exists with respect to whether the Ordinance is narrowly tailored as applied to Ms. Levitt, she is entitled to a declaratory judgment that the Defendants' enforcement of the Ordinance is a violation of her rights as protected by the First Amendment to the United States Constitution.

99. Because the Ordinance is an unconstitutional restriction on Ms. Levitt's First Amendment rights, she is entitled to immediate and continuing injunctive relief barring Defendants from enforcing the Ordinance themselves or through their officers, agents and employees.

100. Because the Ordinance is an unconstitutional restriction on Ms. Levitt's First Amendment rights, she is entitled to an award of monetary damages (at least nominal) to compensate her for the harm suffered as a result of Defendants' previous enforcement and threatened future enforcement of the Ordinance against her.

101. Because the Ordinance is an unconstitutional restriction on Ms. Levitt's First Amendment rights, she is entitled to an award of attorneys fees and costs incurred in bringing this action to vindicate and protect her constitutionally protected rights.

SIXTH CAUSE OF ACTION

(Defendants' Free Speech Ordinance Violates Rights to Protest Guaranteed by the Utah Constitution)

102. Plaintiffs re-allege Paragraphs one through one hundred one (¶¶ 1-101) as though fully set forth here.

103. Article I § 1 of the Utah Constitution provides, in relevant part, "All men have the inherent and inalienable right . . . to assemble peaceably, protest against wrongs and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right."

104. The Ordinance imposes an unconstitutional prior restraint and unconstitutional limitations on the right to assemble and protest as guaranteed by Article I § 1 of the Utah Constitution.

105. By enforcing and/or threatening to enforce the Ordinance, Defendants, personally and through their agents and officers, deprived and continue to deprive Plaintiffs and others of rights guaranteed by Article I § 1 of the Utah Constitution. Defendants committed and continue to commit these unconstitutional acts under color and authority of law.

106. Because an actual controversy exists with respect to whether the Ordinance violates of Article I § 1 of the Utah Constitution, Plaintiffs are entitled to a declaratory judgment that the Defendants' enforcement of the Ordinance is a violation of Plaintiffs' and others rights.

107. Because the Ordinance is an unconstitutional restriction on Plaintiffs' rights guaranteed by Article I § 1 of the Utah Constitution and the rights of others,

Plaintiffs are entitled to immediate and continuing injunctive relief barring Defendants from enforcing the Ordinance themselves or through their officers, agents and employees.

108. Because the Ordinance is an unconstitutional restriction on Plaintiffs' rights guaranteed by Article I § 1 of the Utah Constitution, Plaintiffs are entitled to an award of monetary damages (at least nominal) to compensate them for the harm suffered as a result of Defendants' previous enforcement and threatened enforcement of the Ordinance against them.

EIGHTH CAUSE OF ACTION
(The Ordinance Violates Plaintiff's Right to Free Expression Guaranteed by the Utah Constitution)

109. Plaintiffs re-allege Paragraphs one through one hundred eight (¶¶ 1-108) as though fully set forth here.

110. The conduct of Defendants as set forth above constitutes an infringement of Plaintiffs' expressive rights as the Utah Constitution, Art. 1, § 15.

111. By enforcing and/or threatening future enforcement of the Ordinance against Plaintiffs, Defendants, personally and through their agents and officers, deprived and continue to deprive Plaintiffs of rights guaranteed by the Utah Constitution, Art. 1, § 15. Defendants committed and continue to commit these unconstitutional acts under color and authority of law.

112. An actual controversy exists between the parties regarding the constitutionality of the Ordinance as applied to Plaintiffs. Plaintiffs are entitled to declaratory relief that the Ordinance violates the Utah Constitution.

113. Plaintiffs are entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against Defendants

prohibiting them from restricting Plaintiffs' expressive rights under the Utah Constitution as set forth herein.

114. The conduct of Defendants described above violated Plaintiffs' constitutionally protected rights and Plaintiffs are entitled to monetary damages (nominal against the individual Defendants).

NINTH CAUSE OF ACTION
(The Ordinance Violates Plaintiffs' Right to Assemble Guaranteed by the United States Constitution)

115. Plaintiffs re-allege Paragraphs one through one hundred fourteen (¶¶ 1-114) as though fully set forth here.

116. The conduct of Defendants as set forth above constitutes an infringement of Plaintiffs' right to peacefully assemble as protected by the First Amendment to the United States Constitution.

117. By enforcing and/or threatening future enforcement of the Ordinance against Plaintiffs, Defendants, personally and through their agents and officers, deprived and continue to deprive Plaintiffs of rights guaranteed by the First Amendment to the United States Constitution. Defendants committed and continue to commit these unconstitutional acts under color and authority of law.

118. An actual controversy exists between the parties regarding the constitutionality of the Ordinance as applied to Plaintiffs. Plaintiffs are entitled to declaratory relief that the Ordinance violates the United States Constitution in that it impermissibly burdens the assembly activities of Plaintiffs, who are seeking to engage in assembly activities.

119. Plaintiffs are entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against Defendants prohibiting them from restricting Plaintiffs' right to peacefully assemble guaranteed by the United States Constitution.

120. The conduct of the Defendants described above violated Plaintiffs' constitutionally protected rights and Plaintiffs are entitled to monetary damages (nominal as to the individual Defendants).

121. Because the Ordinance is an unconstitutional restriction on Plaintiffs' First Amendment rights, they are entitled to an award of attorneys' fees and costs incurred in bringing this action to vindicate and protect her constitutionally protected rights.

IMMEDIATE EQUITABLE RELIEF

122. Plaintiffs seek immediate equitable relief in the form of a temporary restraining order and a preliminary injunction.

123. Plaintiffs' request for immediate equitable relief is supported by a separate motion and memorandum of even date as well as Plaintiffs' two (2) declarations and the Declaration of Amy Meyer.

ATTORNEY FEES and COURT COSTS

124. Plaintiffs have incurred attorney fees and court costs in pursuit of this matter.

125. Plaintiffs will incur additional attorney fees and court costs in pursuit of this matter.

126. Plaintiffs are entitled to and seek reimbursement of their attorneys' fees and court costs pursuant to 42 U.S.C. § 1983 and § 1988.

RELIEF REQUESTED

WHEREFORE, Plaintiffs demand the following relief:

1. For a temporary restraining order and a preliminary injunction barring Defendants from enforcing the Ordinance (Farmington City Code § 7-8-10, *et seq.*) and allowing Plaintiffs to engage in the expressive, assembly and free speech activities as described above without first paying fees and seeking the permission of and a permit from Defendants pursuant to the Ordinance.
2. For a permanent injunction barring Defendants from enforcing the Ordinance (Farmington City Code § 7-8-10, *et seq.*) and allowing Plaintiffs to engage in the expressive, assembly and free speech activities as described above without first paying fees and seeking the permission of and a permit from Defendants pursuant to the Ordinance.
3. For declaratory relief that the Ordinance, on its face and as applied to Plaintiffs, violates the constitutional rights of the Plaintiffs as protected by the Utah and United States Constitutions.
4. For an award of monetary damages from each Defendant for each violation they have caused Plaintiffs to date.
5. For an award of attorneys' fees and court costs under 42 U.S.C. § 1983 and § 1988.

6. For such other and further relief as the court deems just and proper.

Respectfully submitted this 8th day of September, 2015,

Stewart Gollan
UTAH LEGAL CLINIC
As Cooperating Attorneys for the Utah Civil
Rights & Liberties Foundation, Inc.

John Mejia
Leah Farrell
AMERICAN CIVIL LIBERTIES UNION
OF UTAH FOUNDATION, INC.

Attorneys for Plaintiff

/s/ Stewart Gollan

by _____
STEWART GOLLAN