

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

AMERICAN FREEDOM DEFENSE  
INITIATIVE; PAMELA GELLER; and  
ROBERT SPENCER,

Plaintiffs,

v.

SUBURBAN MOBILITY AUTHORITY  
for REGIONAL TRANSPORTATION  
("SMART"); GARY L. HENDRICKSON,  
individually and in his official capacity as  
Chief Executive of SMART; JOHN  
HERTEL, individually and in his official  
capacity as General Manager of SMART;  
and BETH GIBBONS, individually and in  
her official capacity as Marketing Program  
Manager of SMART,

Defendants.

2:10-cv-12134-DPH-MJH

**PLAINTIFFS' MOTION TO  
EXPEDITE RULING ON  
MOTION FOR PRELIMINARY  
INJUNCTION**

Hon. Denise Page Hood

Magistrate Judge Hluchaniuk

THOMAS MORE LAW CENTER  
Robert J. Muise, Esq. (P62849)  
Richard Thompson, Esq. (P21410)  
24 Frank Lloyd Wright Drive  
P.O. Box 393  
Ann Arbor, MI 48106  
rmuise@thomasmore.org  
(734) 827-2001  
Fax: (734) 930-7160  
*Co-Counsel for Plaintiffs*

LAW OFFICES OF DAVID YERUSHALMI, P.C.  
David Yerushalmi, Esq. (Ariz. Bar No. 009616;  
DC Bar No. 978179; Cal. Bar No. 132011; NY Bar No. 4632568)  
P.O. Box 6358  
Chandler, AZ 85246  
david.yerushalmi@verizon.net  
(646) 262-0500  
Fax: (801) 760-3901  
*Co-Counsel for Plaintiffs*

SMART  
Avery E. Gordon, Esq. (P41194)  
Anthony Chubb, Esq. (P72608)  
535 Griswold Street, Suite 600  
Detroit, MI 48226  
agordon@smartbus.org  
achubb@smartbus.org  
(313) 223-2100  
Fax: (248) 244-9138  
*Co-Counsel for Defendants SMART,  
Hertel and Gibbons*

On June 16, 2010, Plaintiffs filed their motion for a temporary restraining order and/or preliminary injunction (“Motion”) with this court. (Doc. No. 8). The matter was briefed, and on June 22, 2010, this court denied the motion for a temporary restraining order and set an evidentiary hearing on the Motion’s request for a preliminary injunction for July 13, 2010. (Doc. No. 9).

The matter was fully briefed by the parties, and a hearing was conducted with documentary evidence and witness testimony submitted to the court. (*See* Court’s Minute Entry dated July 13, 2010).

At the conclusion of the hearing, the Honorable Denise Page Hood, the U.S. District Court judge presiding at the hearing, informed the parties that she expected to render her decision by the end of the week (July 16, 2010).

This case involves alleged violations of Plaintiffs’ right to freedom of speech. It is well established that “[t]he loss of First Amendment freedoms, *for even minimal periods of time*, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (emphasis added); *see also Newsome v. Norris*, 888 F.2d 371, 378 (6th Cir. 1989) (“The Supreme Court has unequivocally admonished that even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief.” (citing *Elrod*)). Consequently, Plaintiffs’ injury will continue pending a ruling by this court.

In addition to the loss of her First Amendment freedoms, Plaintiff Geller is also suffering a financial loss in that she paid Defendants’ agent \$4,801.50 to place the advertising at issue on the SMART transit buses. (Geller Decl. at ¶¶ 11 & 15 at Ex. 1 to Motion) (Doc. No. 8-2). These funds have not been returned, and Defendants continue to refuse to run the advertisement.

## CONCLUSION

Based on the foregoing, Plaintiffs respectfully request that this court expedite its ruling on the Motion.

Respectfully submitted,

LAW OFFICES OF DAVID YERUSHALMI, P.C.

/s/ David Yerushalmi  
David Yerushalmi, Esq.

THOMAS MORE LAW CENTER

/s/ Robert J. Muise  
Robert J. Muise, Esq. (P62849)

*Counsel for Plaintiffs*

## **CERTIFICATE OF SERVICE**

I hereby certify that on February 4, 2011, a copy of the foregoing PLAINTIFFS' MOTION TO EXPEDITE RULING ON MOTION FOR PRELIMINARY INJUNCTION was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the court's electronic filing system. Parties may access this filing through the court's system. I further certify that a copy of the foregoing has been served by ordinary U.S. mail upon all parties for whom counsel has not yet entered an appearance electronically: None.

LAW OFFICES OF DAVID YERUSHALMI, P.C.

/s/ David Yerushalmi  
David Yerushalmi, Esq.