

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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

Plaintiffs,

v.

Case 2:10-cv-12134  
HON. DENISE PAGE HOOD

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.

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**DEFENDANTS' APPLICATION TO EXCEED PAGE LIMITATIONS**

VANDEVEER GARZIA P. C.

NOW COME Defendants, SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORTATION, JOHN HERTEL and BETH GIBBONS, by and through their attorneys, VANDEVEER GARZIA, P.C., and for their APPLICATION TO EXCEED PAGE LIMITATIONS, states as follows:

1. This is a complex case arising out of a claim filed by Plaintiffs alleging a First Amendment violation in Defendants' refusal, pursuant to policy to post a political advertisement on the advertising space on its buses. The advertisement was rejected under the Defendant, SMART's, content policy because it was political and because the advertisement was likely to hold adherents to Islam, in their families and communities up to scorn and ridicule.
2. Defendants have filed a Motion for Summary Judgment on August 16, 2013, concurrently with this Application to Exceed Page Limitations.
3. The issues in the Motion for Summary Judgment are numerous, and include, *inter alia*, arguments concerning whether the bus advertising space is a non-public forum, whether Plaintiffs' advertisement was appropriately restricted under the Defendant's content policy, and whether Defendant's content policy is viewpoint neutral. Resolution of these issues requires Constitutional analysis and analysis of applicable case law from the U.S. Supreme Court and the United States Circuit Court for the Sixth Circuit.

4. E.D.Mich LR 7.1(d)(3)(A) restricts, under normal circumstances, the length of any Motion or Response to twenty-five pages.
5. Further, E.D.Mich LR 7.1(b)(2) encourages parties to address all of the issues in the case in a single motion, and requires leave of court to file more than one Motion for Summary Judgment.
6. According to Rule 7.1(d)(3)(A), “[a] person seeking to file a longer brief may apply ex parte in writing setting forth the reasons.” Defendants file this concurrent application for that purpose.
7. Defendant believes that some of the issues raised in the Motion are already decided, both by this Court and by the Sixth Circuit in the prior appeal, and in this regard sought, by email (**Exhibit A**), to narrow the issues that needed to be briefed to this Court. Plaintiffs’ counsel refused to stipulate to any of the issues raised.
8. In addition, on August 12, 2013, the parties held a meet and confer conference wherein Plaintiffs again indicated they would not narrow the issues or concur in any of the relief requested in the Motion for Summary Judgment.
9. As such, each of the issues previously raised in this Court and previously addressed needs to be addressed again in Defendant’s Motion for Summary Judgment filed concurrently herewith.

10. Although Defendants have attempted to be as brief as possible, the Motion and Brief combined consist of 40 pages, inclusive of text, footnotes and signatures. Defendants assert that the Motion and Brief cannot be further reduced without compromising appropriate argument and presentation to this Court.

11. Defendants hereby apply for leave of this Court to exceed the page limitation set forth in E.D.Mich 7.1(d)(3)(A).

WHEREFORE, Defendants respectfully application that this Honorable Court grant Defendant's Application to Exceed Page Limitations and allow and accept Defendants Motion for Summary Judgment filed concurrently herewith.

VANDEVEER GARZIA

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Dated: August 15, 2013

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**BRIEF IN SUPPORT OF APPLICATION TO EXCEED PAGE  
LIMITATIONS**

Defendants rely upon the facts set forth in the attached motion for their application to exceed the page limitation set forth in E.D. Mich LR 7.1 (d)(3).

WHEREFORE, Defendants respectfully application that this Honorable Court grant Defendant's Application to Exceed Page Limitations and allow and accept Defendants Motion for Summary Judgment filed concurrently herewith.

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Detroit, MI 48226

Dated: August 15, 2013

## CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2013, I electronically filed the attached papers, Defendants' Application to Exceed Page Limitations with Brief in Support, with the Clerk of the Court using the Court's ECF system which will send notification of such filing to the following:

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I declare under penalty of perjury that the foregoing is true and correct.

VANDEVEER GARZIA

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