UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO.

CLARENCE RICHTER,

Plaintiff,

vs.

PALM BEACH COUNTY,
a political subdivision of the
State of Florida,

Defendant.
_____/

MOTION FOR PRELIMINARY INJUNCTION AND SUPPORTING MEMORANDUM OF LAW

Plaintiff, Clarence Richter, by and through undersigned counsel, hereby moves for a preliminary injunction enjoining the Defendant, Palm Beach County, from enforcing the Solicitation and Display provisions of Palm Beach County Ordinance, Sections 18-7(e)(1) and (2) (hereinafter "Ordinance"). In support of this motion, Plaintiff states the following.

INTRODUCTION

In unincorporated Palm Beach County, it is a crime for a person to stand on or be upon any road and solicit for contributions or business. PALM BEACH COUNTY ORDINANCE 2015-025, § 18-7(e)(2). It has been aggressively enforced almost exclusively against poor and homeless people asking for donations. However, someone soliciting for something other than contributions or business at the same location—such as a politician asking for votes, a person asking others to join their church, or a person asking for directions—may do so freely. By singling out the solicitation of contributions and business for differential treatment, Section 18-

7(e)(2) is content-based and is subject to strict scrutiny. Because it is not narrowly tailored to any compelling government interest, nor is it the least restrictive means of advancing any interest, Section 18-7(e)(2) is an unconstitutional restriction of free speech in violation of the First Amendment.

Moreover, under a separate section of the Ordinance, it is unlawful for a person to display information of any kind on any road within unincorporated Palm Beach County. *Id.* § 18-7(e)(1). This broad and expansive provision prohibits people from engaging in fundamental First Amendment conduct such as holding a sign on *every* road and median in unincorporated Palm Beach County. Sections 18-7(e)(1) is unconstitutional because it is not a reasonable time, place, and manner restriction, in that it is not narrowly tailored to serve a significant governmental interest and does not leave open ample alternative channels of communication.

Plaintiff Clarence Richter solicits for contributions in unincorporated Palm Beach County by standing on medians and holding a sign. He has been arrested and harassed by County Sheriff's deputies for doing so. He wishes to continue to solicit donations and needs to do so to contribute to his survival, but fears arrest for doing so. Plaintiff therefore seeks preliminary injunctive relief enjoining enforcement of the Ordinance so that he can engage in constitutionally protected speech. Plaintiff also seeks a declaration that the Ordinance is unconstitutional on behalf of others not before the Court who undoubtedly avoid exercising their free speech rights because they fear arrest and prosecution.

STATEMENT OF FACTS

A. County Ordinance Section 18-7

The Ordinance was enacted by the Palm Beach County Commission on June 23, 2015, and provides, in pertinent part, in §§ 18-7(e)(1) and (2) that:

> 1) No person shall be upon or go upon any Road[1] for the purpose of displaying information of any kind; and
>
> 2) No person shall be upon or go upon any Road for the purpose of distributing materials or goods or soliciting business or charitable contributions of any kind.

See Ordinance, Exhibit 1.

Unincorporated Palm Beach County includes a vast portion of the roads within the County's boundaries. Under §18-7(f), the "provisions of this section shall embrace all public roads that are open to motor vehicle traffic within the unincorporated area of Palm Beach County, including State roads, interstate ramps and County roads and to all municipalities within Palm Beach County that elect to have the provisions of this section apply within their respective jurisdictions."

A violation of this Ordinance is punishable under § 18-7(g) by a fine not to exceed five hundred dollars ($500.00), imprisonment for a term not to exceed sixty (60) days, or both. *Id.*

B. Enforcement of the Ordinance

Section 18-7 of the Palm Beach County Code has been enforced primarily against people who were soliciting donations on medians and roads. Since the beginning of 2020, at least 141 people were either arrested and taken to jail or cited with a notice to appear in court for a violation of the Ordinance, and the predominant reason for their arrests or citations was solicitation of contributions. *See* Verified Complaint ¶ 15; Arrest/Citation forms, Exhibit 2.

On November 16, 2021, in *State of Florida v. Edward McPhee*, Palm Beach County Court Judge Sherri Collins held that the solicitation provision in § 18-7(e)(2) was

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[1] "Road" is defined as "roads, streets, roadbeds, ramps, medians, traffic islands and all other ways open to travel by operators of motorized vehicles within unincorporated Palm Beach County. This definition excludes private roads and roads that are not open to motor vehicle travel." §18-7(c).

unconstitutional both on its face and as applied in violation of the First Amendment, finding that the provision was content-based and not narrowly tailored. *See* McPhee Order, Exhibit 3. Notwithstanding the Court's Order, arrests and prosecution of persons soliciting for donations on medians and roads have continued. Since November 16, 2021, at least fifteen (15) persons who were alleged to be soliciting for donations have been either arrested or cited for a violation of the Ordinance. *See* Recent Arrests/Citations, Exhibit 4.

C. Plaintiff Clarence Richter

Plaintiff Clarence Richter is a 59-year-old homeless resident of Palm Beach County. *See* Verified Complaint ¶ 16. Mr. Richter has peacefully engaged in soliciting contributions to meet his basic survival needs. *Id.* ¶¶ 17-18. At various locations in unincorporated Palm Beach County, he stands on medians and roads, holds a sign, and panhandles. *Id.* Since February 2019, Mr. Richter has been cited eight (8) times for a violation of § 18-7. *See* Richter Probable Cause Affidavits, Exhibit 5. Recently, because of persistent police harassment, Mr. Richter was forced to leave the area where he had been soliciting. *Id.* ¶¶ 22-23. He has been harassed by police officers while panhandling in unincorporated Palm Beach County and would like to seek donations more frequently than he does but has limited his panhandling activities because he fears arrest. *Id.* The constant threat of arrest and the actions of the officers has been humiliating and taxing, causing Mr. Richter to suffer emotional and mental distress. *Id.* ¶¶ 23-25.

MEMORANDUM OF LAW

Plaintiff is entitled to a preliminary injunction enjoining the enforcement of Sections §§ 18-7(e)(1) and (2). A district court may issue preliminary injunctive relief when the plaintiff demonstrates that: (1) there is "a substantial likelihood that [the plaintiff] will succeed later on

the merits"; (2) the plaintiff "will suffer an irreparable injury absent preliminary relief"; (3) the plaintiff's injury likely "outweighs any harm that its opponent will suffer as a result of an injunction"; and (4) preliminary relief would not "disserve the public interest." *Scott v. Roberts*, 612 F.2d 1279, 1290 (11th Cir. 2010).

I. There is a Substantial Likelihood that Plaintiff Will Succeed on the Merits of His First Amendment Claims.

A. Soliciting for Contributions (Panhandling) is Protected Speech

It is firmly established that the "solicitation of charitable contributions is protected speech" under the First Amendment to the United States Constitution. *Riley v. National Federation of the Blind*, 487 U.S. 781, 789 (1988). *See also Smith v. City of Fort Lauderdale*, 177 F.3d 954, 956 (11th Cir. 1999) ("Like other charitable solicitation, begging is speech entitled to First Amendment protection."); *Village of Schaumberg v. Citizens for a Better Environment*, 444 U.S. 620, 632 (1980) ("charitable appeals for funds, on the street or door to door, involve a variety of speech interests—communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes—that are within the protection of the First Amendment.").

B. Streets, Roads, and Medians are Public Fora

The speech regulated by the Ordinance occurs within a public forum—the County's streets, roads, and medians. The United States Supreme Court "long ago recognized that members of the public retain strong free speech rights when they venture into public streets and parks, 'which 'have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions.'" *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460 (2009)

(quoting *Perry Ed. Assn. v. Perry Local Educator's Assn.*, 460 U.S. 37, 45 (1983)). *See also Bell v. Winter Park, Fla.*, 745 F.3d 1318, 1324, n. 10 (11th Cir. 2014); *Bloedorn v. Grube*, 631 F.3d 1218, 1231 (11th Cir. 2011). Public streets and sidewalks are "the archetype of a traditional public forum." *Frisby* v. *Schultz*, 487 U.S. 474, 480–481 (1988). In fact, "all public streets," *as a class*, "are properly considered traditional public fora"— "[n]o particularized inquiry into the precise nature of any street is necessary." *Id.*at 481.

Medians are likewise traditional public fora. *Brewer v. City of Albuquerque*, 18 F.4th 1205, 1211, 1220 (10th Cir. 2021) (restriction on pedestrian presence on medians less than six feet "impact[s] traditional public fora"); *McCraw v. City of Oklahoma City*, 973 F.3d 1057, 1063, 1067-68 (10th Cir. 2020) (medians next to streets with a forty mile speed limit are public fora; "Objectively, medians share fundamental characteristics with public streets, sidewalks, and parks, which are quintessential public fora."); *Cutting v. City of Portland, Me.*, 802 F.3d 79, 82 (1st Cir. 2015) (median strips used for expressive purposes were public fora); *Reynolds v. Middleton*, 779 F.3d 222, 225 (4th Cir. 2015) ("there is no question that public streets and medians qualify as traditional public fora"); *Satawa v. Macomb County Road Commission*, 689 F.3d 506, 520 (6th Cir. 2012) (median "in the middle of a busy eight-lane road, with a fifty mile per-hour speed limit ... [o]n balance, ... [was] a traditional public forum").

C. The Solicitation and Display Sections Violate the First Amendment

The Solicitation and Display sections of the Ordinance violate the First Amendment both on their face and as applied to Plaintiff. First, § 18-7(e)(2) bars Plaintiff from "soliciting business or charitable contribution of any kind" on every road and median in unincorporated Palm Beach County. And second, §18-7(e)(1) prohibits Plaintiff from "displaying information

of any kind" (holding his sign) while soliciting on every road and median. Both provisions fail to survive constitutional scrutiny.

1. The bar on solicitation of businesses and charitable contributions is a content-based restriction on speech and fails to survive strict scrutiny.

Laws are content based where, as here, they single out certain subject matter for different treatment than other subject matter, and where they favor certain types of speakers over other types of speakers. *Reed v. Town of Gilbert, Ariz.*,576 U.S. 155, 155 (2015) (a law is content based if it "applies to particular speech because of the topic discussed or the idea or message expressed"). The Supreme Court made clear that "a speech regulation targeted at specific subject matter is content-based even if it does not discriminate among viewpoints within that subject matter." *Id.* at 156. In other words, treating different categories of speech differently renders a law content-based, even if the law permits all viewpoints within that category.

Section 18-7(e)(2) is content based because it penalizes only certain categories of speech based upon the message being conveyed. The ordinance imposes a criminal penalty *only* on those who are "soliciting business or charitable contributions of any kind," to the exclusion of other topics of speech. Indeed, the Ordinance imposes no penalty on a candidate for public office standing on a median or along the road asking for votes in an upcoming election; the church member who vocally solicits support for his religious cause ("Join God's Army in War against Satan!"); the political activist who asks for people to turn to solar power to fight climate change; or even the tourist who asks a motorist for directions to a County attraction. But, if a homeless person in Palm Beach County stands on a median and asks for a "charitable contribution," they are subject to either arrest and/or a fine. Whether the criminal penalty

applies depends entirely on the expressed message (*i.e.*, "soliciting business or charitable contributions of any kind").

The analytical framework adopted in *Reed* has resulted in courts concluding that ordinances similar to § 18-7(e)(2) are content based. *See Blitch v. City of Slidell*, 260 F.Supp.3d 656, 666 (E.D. La. 2017) (*Reed* "worked a sea change in First Amendment law."). As the Court noted in *Thayer v. City of Worchester*, 144 F.Supp.3d 218, 233, n. 2. (D. Mass. 2015):

> As to Ordinance 9-16 [the panhandling ordinance], a protracted discussion of this issue is not warranted as substantially all of the Courts which have addressed similar laws since *Reed* have found them to be content based and therefore, subject to strict scrutiny. Simply put, *Reed* mandates a finding that Ordinance 9-16 is content based because it targets anyone seeking to engage in a specific type of speech, *i.e.*, solicitation of donations.

Most recently, a Court in this District found a similar Fort Lauderdale Ordinance to be content based, ultimately striking it down. *Messina v. City of Fort Lauderdale*, 546 F. Supp. 3d 1227, 1241 (S.D. Fla. June 23, 2021) ("As long as the speaker doesn't say something to the effect of 'I'm poor, please help' or 'Do you have some spare change?' he may … utter any *other* message.") (emphasis in original). *See also Fernandez v. St. Louis County., Mo.*, 461 F. Supp. 3d 894, 898 (E.D. Mo. 2020) (finding that a law banning people from "stand[ing] in a roadway for the purpose of soliciting a ride, employment, charitable contribution or business from the occupant of any vehicle" was content based); *Rodgers v. Bryant*, 301 F.Supp.3d 928, 934 (E.D. Ark. 2017) (statute was a content-based restriction, since it singled out those creating traffic problems by asking for charity, while not affecting those creating a traffic impediment by asking for votes for a candidate); *Homeless Helping Homeless, Inc. v. City of Tampa*, 2016 WL 4162882, at *4–5 (M.D. Fla. 2016); *McLaughlin v. City of Lowell*, 140 F.Supp.3d 177 (D. Mass.

2015); *Browne v. City of Grand Junction*, 136 F.Supp.3d 1276 (D. Colo. 2015); *Toombs v. State of Florida*, 25 Fla. L. Weekly Supp. 505a, No. 15-220 AC (Fla. 11th Jud. Cir. 2017).

Content-based restrictions on speech are presumed unconstitutional and can survive only if they satisfy strict scrutiny, which requires the government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest by the least restrictive means. *Reed*, 156 U.S. at 171.

Here, the County's stated rationale for the restriction on solicitation for business and contributions is traffic safety.[2] But traffic safety is not a compelling government interest. *See Solantic, LLC v. City of Neptune Beach*, 410 F.3d 1250, 1267 (11th Cir. 2005) (for purpose of challenge to content-based restriction on speech, traffic safety was not a compelling interest); *Beaulieu v. City of Alabaster*, 454 F.3d 1219, 1233-1234 (11th Cir. 2006) (in challenge to content-based restriction on speech, traffic safety was substantial but not compelling interest). *Cf. Reed*, 156 U.S. at 171 (Court assumed for sake of argument, without deciding, that traffic safety was a compelling government interest). The Solicitation provision of the Ordinance fails strict scrutiny for this reason alone.

But even assuming traffic safety is a compelling interest, the provision at issue is not the least restrictive means of advancing it, chiefly because Section 18-7(e)(2) is overinclusive: it bars those who solicit for business and contributions on *all* roadways and medians in unincorporated Palm Beach County, regardless of the location or traffic volume, and is thus out of any proportion to the traffic hazards the County seeks to prevent. *See Cutting v. City of Portland,*

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[2] Section 18-7(b) states: "[T]he intent of this section to protect the health, safety and general welfare of the citizens of Palm Beach County, to assure the free, orderly, undisrupted movement of motorized vehicles on public roads within unincorporated Palm Beach County and to provide for safety in the interest of pedestrians and occupants of motorized vehicles located on public

Maine, 802 F.3d 79, 82, 90 (1st Cir. 2015) (ordinance prohibiting standing on a median, which city enforced against panhandlers, was not narrowly tailored because it affected every median in the city regardless of traffic and pedestrian patterns and was thus "geographically overinclusive"). *See also Reynolds v. Middleton,* 779 F.3d 222, 231 (4th Cir. 2015) (ordinance prohibiting roadside solicitation, even where those activities would not be dangerous, failed narrow tailoring); *Messina*, 546 F. Supp. 3d 127at 1250 (ordinance prohibiting solicitation along roadway was "over-inclusive because it penalizes panhandlers whose conduct is not dangerous" and thus failed narrow tailoring); *Rodgers v. Stachey*, 382 F.Supp.3d 869, 884 (W.D. Ark. 2019) (analyzed under intermediate scrutiny, ordinance banning physical interaction between pedestrians and motorists was not narrowly tailored where there was "no evidence showing that all City streets and roadways are equally dangerous. Without such evidence, the Court cannot assume the restriction is reasonably necessary to achieve the stated purpose of the Ordinance."); *Petrello v. City of Manchester*, No. 16–cv–008–LM, 2017 WL 3972477 at *20 (D. N.H., Sept. 7, 2017) (striking down ordinance because it "prohibits a panhandler on the sidewalk from accepting money from a motorist at a red light, even though the interaction does not obstruct traffic or endanger the public").

Section 18-7(e)(2) is also fatally underinclusive because it prohibits only requests for contributions with no showing that these forms of speech are any more dangerous than any other form of speech, nor does such an assertion make sense. Asking for a donation is no more distracting than asking for a vote or to join a church. *See Rodgers v. Bryant*, 942 F.3d 451, 457 (8th Cir. 2019) 457 (since state provided "no justification for its decision to single out charitable Right-of-Way [solicitations] from other types of Right-of-Way [solicitations], the anti-loitering

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roads within unincorporated Palm Beach County."

law is underinclusive and, consequently, not narrowly tailored"); *Clatterbuck v. City of Charlottesville,* 92 F. Supp. 3d 478, 487 (W.D. Va. 2015) ("The same public safety issue is presented whether the person stopping (or attempting to stop) the vehicle is seeking an immediate donation of something of value; or a signature on a petition; or a pledge of future donations; or directional information …"); *Messina*, 546 F. Supp. 3d at 1250 (ordinance prohibiting roadway solicitation not narrowly tailored because it was "under-inclusive because it punishes only the panhandler and not the driver."). Even prior to *Reed*, courts struck down similar laws for this reason. *See Kelly v. City of Parkersburg*, 978 F.Supp.2d 624, 630 (S.D. W. Va. 2013) (public safety "does not explain why only particular types of solicitation are prohibited near intersections.").

For these reasons, §18-7(e)(2) of the Ordinance is a content-based restriction on protected speech that cannot withstand strict scrutiny because it is not narrowly tailored to a compelling state interest, nor is it the least restrictive means of furthering that interest.

2. The ban on "displaying information of any kind" in § 18-7(e)(1) is content neutral but does not survive intermediate scrutiny.

The prohibition in § 18-7(e)(1) that no "person shall be upon or go upon any road for the purpose of displaying information of any kind" is content neutral. But content-neutral restrictions—on the time, place, or manner of speech—must still withstand intermediate scrutiny, which requires both that the regulation be narrowly tailored to serve a significant governmental interest and that it "leave open ample alternative channels for communication of the information." *McCullen v. Coakley*, 573 U.S. 464, 477 (2014); *see also Bloedorn*, 631 F.3d at 1231 ("[A] time, place, and manner restriction can be placed on a traditional public forum only if

it is content neutral, narrowly tailored to achieve a significant government interest, and leaves open ample alternative channels of communication.").

To be narrowly tailored, the provision must not "burden more speech than is necessary to further the government's legitimate interests." *Ward v. Rock Against Racism,* 491 U.S. 781, 799 (1989). That is, the "government may not regulate expression in such a manner that a substantial portion of the burden on speech does not serve to advance its goals." *Id.* To satisfy these requirements, the Supreme Court has held that the government "must demonstrate that alternative measures that burden substantially less speech would fail to achieve the government's interests, not simply that the chosen route is easier." *McCullen*, 573 U.S. at 495. That is, the County must show that it "seriously undertook to address the problem with less intrusive tools readily available to it." *Id.* at 486.

The County cannot satisfy this burden. Section 18-7(e)(1) prohibits any person from "displaying information of any kind" while on *any* "Road"—including every street, median, and traffic island—in unincorporated Palm Beach County. This presumably includes a person holding a sign for a candidate running for office, waiving an American flag, holding an advertisement for a quick and low-cost oil change, or like Plaintiff Richter, holding a sign stating, "Please anything will help. Thank you." This wildly overbroad law is not narrowly tailored.

Laws fail the narrow tailoring requirement where they burden substantially more speech than is necessary and are therefore fatally overinclusive. For example, in *McCullen*, the Supreme Court struck down a law imposing speech buffer zones around abortion clinics in part because the law applied statewide instead of targeting the one problematic clinic. *Id.* Similarly, in *Reynolds v. Middleton*, the Fourth Circuit held that a Virginia ordinance barring pedestrians

from soliciting contributions or engaging in other forms of "transactional speech" on highways or medians was not narrowly tailored because, although the ordinance had a "countywide sweep," the government's evidence "established, at most, a problem with road solicitation at busy intersections in the west end of the county." 779 F.3d at 224-25, 230-32. The Court found that given "the absence of evidence of a county-wide problem, the county-wide sweep of the Amended Ordinance burdens more speech than necessary, just as the statute in *McCullen*—a statewide statute aimed at a problem in one location—burdened more speech than necessary." *Id.* at 231. *See also United Food & Com. Workers Union Loc. 442 v. City of Valdosta*, 861 F. Supp. 1570, 1582 (M.D. Ga. 1994) (emphasis in original) (a city's "broad prohibition of *all* picketing in *all* streets, alleys, roads, highways, and driveways predominantly dedicated to the use of vehicular traffic does not serve defendants' interests in the narrow fashion demanded by the First Amendment" was "unconstitutional on its face.").

Just like in *Reynolds*, Section 18-7(e)(1) violates the First Amendment because it bans displaying information of any kind on all roads in unincorporated Palm Beach County, "without regard to whether [the activity] could be safely conducted there." *Reynolds*, 779 F.3d at 230 (quoting *Weinberg v. City of Chicago*, 310 F.3d 1029, 1040 (7th Cir. 2002)) ("The concerns behind ... the ordinance were to alleviate sidewalk congestion [around the United Center] ... [W]e cannot see how this can justify a restriction which prevents a peddler from selling his wares in large parking lots, less congested walkways, or sidewalks in less proximity to the United Center."). *See also Thayer v. City of Worcester*, 144 F.Supp.3d 218, 237 (D. Mass. 2015) (city ordinance banning a person from standing or sitting on median strip or traffic island and standing or walking upon a roadway for any purpose other than crossing street at marked crosswalk was not narrowly tailored because as such a sweeping ban, it was not targeted at particularly

dangerous locations and because "considerations such as pedestrian and vehicular traffic patterns were not given any weight."); *Cutting v. City of Portland, Maine, supra*; *Messina v. City of Fort Lauderdale*, *supra*.

Thus, under the narrow tailoring test set forth in *McCullen*, the County cannot take a one-size-fits-all approach in §18-7(e)(1) to address the issue of traffic safety along its roads at the expense of needlessly burdening speech. Here, §18-7(e)(1) is overinclusive because it bars all displays of information on all roads in unincorporated Palm Beach County regardless of the volume of traffic or the frequency of accidents and is thus out of proportion to the traffic hazards the County presumably seeks to prevent.

The County has at its disposal other less speech restrictive means to further its interests in pedestrian and motorist safety. The County can enforce existing criminal offenses under both county and state law that prohibit the obstruction of traffic and other conduct that endangers public safety on the County's roadways. The County has not "seriously [undertaken] to address the problem of traffic safety with less intrusive tools readily available to it." *McCullen*, 573 U.S. at 494. Instead, it "sacrific[ed] speech for efficiency," and, in doing so, failed to observe the "close fit between ends and means" that narrow tailoring demands. *Id.* at 486 (internal quotation marks omitted).

Finally, as is apparent from the clear language of the provision which prohibits "displaying information of any kind" on all roads in unincorporated Palm Beach County, the provision does not "leave open ample alternative channels for communication of the information." *McCullen*, 573 U.S. at 477.

Accordingly, § 18(e)(1) cannot withstand intermediate scrutiny because it is not narrowly tailored to a significant state interest and does not leave open ample alternative channels for communication.

II. Plaintiffs Have Established the Remaining Criteria for a Preliminary Injunction

A. Irreparable Injury

"[I]t is well settled that the 'loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitute irreparable injury.'" *KH Outdoor, LLC v. City of Titusville*, 458, F.3d 1261, 1271-72 (11th Cir. 2006) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The penalization of Plaintiffs' First Amendment rights cannot be "cured by the award of monetary damages." *KH Outdoor,* 458 F.3d at 1272. *See also Scott,* 612 F.3d at 1295.

B. Balance of Harms and Public Interest

The third and fourth preliminary injunction criteria are also satisfied. With respect to the balance of harms, "even a temporary infringement of First Amendment rights constitutes a serious and substantial injury." *Scott*, 612 F.3d at 1297. On the other side of the ledger, "the public, when the state is a party asserting harm, has no interest in enforcing an unconstitutional law." *Id.* Enforcing unconstitutional laws also wastes valuable public resources. Finally, because the public has no interest in enforcing an unconstitutional speech restriction, an injunction against enforcement cannot "disserve" the public interest. *Id.* at 1290, 1297.

CONCLUSION

Based on the above argument and authorities, Plaintiff respectfully request that this Court declare that the Display and Solicitation provisions in Sections 18-7(e)(1) and (2) of the Palm Beach County Code of Ordinances are unconstitutional, both facially and as applied to Plaintiff, and immediately enjoin Palm Beach County and its agents from enforcing them.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed today, March 3, 2022, the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all persons registered to receive electronic notifications for this case, including all opposing counsel. Also, on today's date, I sent a copy of this Motion and its attachments via email to: Lori Denise Coffman, dcoffman@pbcgov.org .

By: *s/Sabarish P. Neelakanta*
Florida Bar No.: 26623