

NEW JERSEY COALITION TO END
HOMELESSNESS and JOHN FLEMING,

Plaintiffs,

v.

CITY OF NEW BRUNSWICK,

Defendant.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
GENERAL EQUITY PART
MIDDLESEX COUNTY

DOCKET NO: MID-C-224-14

CONSENT ORDER AND
STIPULATION OF DISMISSAL
WITH PREJUDICE

FILED

MAR 18 2015

Frank M. Ciuffani, JSC

IT IS HEREBY stipulated by and between duly authorized counsel for Plaintiffs and
Defendant as follows:

1. Plaintiffs the New Jersey Coalition To End Homelessness and John Fleming filed a Verified Complaint in this matter on December 18, 2014, alleging that the City of New Brunswick's Ordinances No. 5.32 and No. 9.04.050(A)(6) (the "Ordinances") violate Article 1, Paragraph 6, of the New Jersey Constitution in that they prohibit speech that involves the solicitation of or begging for money or food and violate the right to free expression. The Verified Complaint sought declaratory and injunctive relief, as well as attorneys' fees and costs.
2. Plaintiffs contemporaneously filed an application for an Order To Show Cause and Temporary Restraining Order.
3. At a hearing before this Court on December 22, 2014, Defendant City of New Brunswick consented to the entry of the Order To Show Cause and Temporary Restraining Order, which this Court entered on the same day (the "December 22 Order").

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4. Defendant is currently temporarily enjoined and restrained from enforcing the Ordinances.

5. In an effort to avoid further litigation about this issue, Plaintiffs and Defendant have reached an agreement whereby (a) Defendant, as well as its officers, agents, employees, attorneys, and all persons who are in active concert or participation with it, agree to continue to cease and desist any enforcement of the Ordinances; (b) Defendant shall repeal or amend the Ordinances as soon as possible, but no later than 90 days from the date of this Consent Order to ensure that the City of New Brunswick's Ordinances regarding panhandling and charitable solicitation are consistent with the New Jersey Constitution and applicable case law; (c) Defendant shall pay \$3,000 in attorneys' fees and costs to the law firm of McCarter & English, LLP, within 90 days of entry of this Consent Order, to compensate them for *pro bono* representation of Plaintiffs in this matter; and (d) Defendant shall make a \$4,500 donation to Elijah's Promise, New Brunswick, New Jersey, within 90 days of the entry of this Consent Order.

6. Defendant will issue a press release that includes the following statement that will also be read by the City's Attorney at the next City Council meeting following the date of this Order:

The City has agreed to amend or repeal Ordinances No. 5.32 and No. 9.04.050(A)(6), regarding the solicitation of or begging for food or money, because there are legitimate concerns regarding the constitutionality of the Ordinances. Last year, the City did enforce the Ordinances, but the City will no longer enforce or prosecute the Ordinances.

7. This Consent Order resolves completely the issues raised by the December 22 Order and the relief sought in the Verified Complaint.

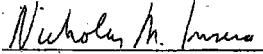
8. This Consent Order also resolves Plaintiffs' claims for injunctive and declaratory relief, damages, and attorneys' fees, as sought in the Verified Complaint.

9. All claims asserted in the Verified Complaint are hereby dismissed with prejudice and without costs for or against any party.

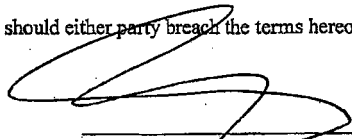
10. For the mutual consideration set forth in this Consent Order, Plaintiffs and Defendant hereby agree to and accept a full and complete mutual release and discharge of any and all claims, duties, demands, obligations, responsibilities, actions, causes of action, agreements, contracts, losses, liabilities, costs incurred, expenditures, and damages, whether in law, equity or otherwise, whether known or unknown, whether asserted or un-asserted, whether suspected or unsuspected, whether past, present or future, related to the currently existing Ordinances, or the enforcement thereof by the City of New Brunswick prior to the date of this Order.

11. Nothing in this Consent Order, including but not limited to the previous paragraph, shall prohibit Plaintiffs from challenging future City ordinances regarding panhandling or solicitation, including any amendment to Ordinance No. 5.32 and/or Ordinance No. 9.04.050(A)(6).

12. This Court shall retain jurisdiction to enforce this Consent Order, including any relief the Court deems appropriate, should either party breach the terms hereof.

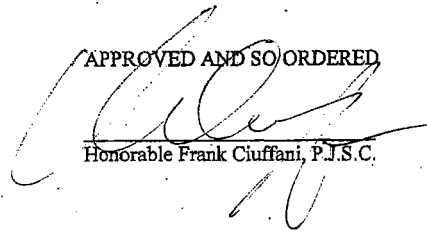


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APPROVED AND SO ORDERED



Honorable Frank Ciuffani, P.J.S.C.

Dated: 3/18/15