



Equality Florida was one of the primary organizational sponsors of the Ordinance. Its 302,000 members include some of the very Tampa residents who are most in need of the protections the Ordinance provides, including LGBTQ children at risk of being subjected to conversion therapy and their parents.

The Court should permit Equality Florida to intervene. Equality Florida's timely intervention as a party in this action would not expand the issues before the Court, prejudice any party, or cause any delay in the existing case schedule. Instead, Equality Florida's unique position as a primary sponsor of the challenged law and its deep understanding of the scientific and medical consensus rejecting the prohibited and injurious practices would assist the Court in efficiently adjudicating the existing parties' rights.

Intervention is thus appropriate because Equality Florida will provide "a helpful, alternative viewpoint from the vantage of some persons who have undergone [conversion therapy] or are potential patients of treatment that will aid the court in resolving plaintiffs' claims fully and fairly." *King v. Christie*, 981 F. Supp. 2d 296, 310 (D.N.J. 2013) (quoting *Pickup v. Brown*, 2:12-cv-02497, 2012 WL 6024387, at \*4 (E.D. Cal. Dec. 4, 2012) (internal quotation marks omitted)) (permitting intervention by statewide LGBTQ rights advocacy organization to defend conversion therapy ban), *aff'd*, 767 F.3d 216, 246 (3d Cir. 2014).

## **FACTUAL BACKGROUND**

### **A. The Challenged Ordinance**

The Ordinance prohibits "any person who is licensed by the State of Florida to provide professional counseling . . . including but not limited to, medical practitioners, osteopathic practitioners, psychologists, psychotherapists, social workers, marriage and family therapists, and licensed counselors" from "practic[ing] conversion therapy efforts on any individual who is

a minor.” Tampa, Fla. Code of Ordinances §§ 14-311, -312. The

concurrently herewith ¶¶ 2–3. Equality Florida was actively involved in the enactment of the Ordinance.

More specifically, Equality Florida drafted the Ordinance. *Id.* ¶ 5. Equality Florida’s Development Director and other members testified in person before the City Council in favor of the Ordinance. *Id.*

### **C. Plaintiffs’ Challenge to the Ordinance**

Plaintiffs include one Florida licensed marriage and family therapist (LMFT) and one individual whose Florida LMFT application is still pending, both of whom wish to practice conversion therapy with minors. Dkt. 1 at ¶¶ 14–15. Plaintiffs’ Complaint alleges that the Ordinance violates their constitutional rights as well as those of their minor clients and their clients’ parents. *Id.* at ¶¶ 4–10. Plaintiffs therefore seek to enjoin Tampa from enforcing the Ordinance permanently; they also seek a declaratory judgment that the Ordinance is unconstitutional under both the United States and Florida constitutions; and they seek actual and nominal damages. *Id.* at 34–37.

Plaintiffs filed a motion for a preliminary injunction concurrently with the filing of their Complaint. Dkt. 3. On December 18, 2017, the Court granted the City an extension to file its responses to the Complaint and Motion for Preliminary Injunction, which are now due on January 12, 2018. Dkt. 19. In keeping with this schedule, proposed Intervenor-Defendant Equality Florida is filing its proposed Motion To Dismiss and its proposed Opposition to Plaintiffs’ Motion for Preliminary Injunction concurrently with this motion.

## **ARGUMENT**

As explained below, Equality Florida satisfies the threshold requirements for permissive intervention. Rule 24(b) of the Federal Rules of Civil Procedure permits intervention by any

party so long as (1) its motion is timely; (2) it has a claim or defense that shares a common question of law or fact with the main action; and (3) its intervention will not cause undue delay or prejudice the rights of the original parties. Fed. R. Civ. P. 24(b); *Chiles v. Thornburgh*, 865 F.2d 1197, 1213 (11th Cir. 1989).

Because these conditions are met, this Court has broad discretion to permit intervention. *Chiles*, 865 F.2d at 1213 (citing *Sellers v. United States*, 709 F.2d 1469, 1471 (11th Cir. 1983)). As also explained below, there are compelling reasons for the Court to permit Equality Florida to intervene.

**I. EQUALITY FLORIDA SATISFIES THE THRESHOLD REQUIREMENTS FOR PERMISSIVE INTERVENTION**

As a threshold matter, Equality Florida’s motion for intervention is timely, addresses the same issues raised in the underlying action, and will not cause delay or prejudice the rights of Plaintiffs or the City.

**a. Equality Florida’s Motion Is Timely**

The Eleventh Circuit has articulated four factors to evaluate the timeliness of a motion to intervene: (1) the length of time the putative intervenor knew (or should have known) of the interest in the case; (2) the prejudice to the existing parties due to the intervenor’s failure to move for intervention immediately; (3) the prejudice to the intervenor if the motion is denied; and (4) any unusual circumstances that militate for or against a timeliness determination.

*Georgia v. U.S. Army Corps of Engineers*, 307 F.3d 1424, 1425 (11th Cir. 2002) (quoting *ITU*, 268 F.2d 700 (5th Cir. 1959)).









**RULE 3.01(g) CERTIFICATION**

In accordance with Local Rule 3.01(g), Counsel for Intervenor-Defendant Equality Florida certifies that on January 11, 2018, the undersigned conferred with Counsel for Plaintiffs and Counsel for Defendant concerning this Motion to Intervene. Counsel for Plaintiffs represents that Plaintiffs oppose the motion. Counsel for Defendant represents that Defendant does not oppose the motion.

Respectfully submitted,

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