County Court, City and County of Denver, Colorado 1437 Bannock Street Denver, CO 80202	
People of the City of Denver vs. Defendants: David Baird; Paul Bame; Sharon Braun; Jordon Garcia; Ellen Klaver; Elizabieta Kosmicki; Hanne Leschly; Mackenzie Liman; Paul D. Lopez; Alicia Lucero; Judith Lujan; Ciam Mail; Anna Mansouri; Ruba Mansouri; Martinique Marron; Stephanie Martinez; Magalina Martinez; Jennifer Martinez-Moore; Morgan Matter; Kasey McQueen; Mary Kay Meintzer; Inocencio Mendoza; Brianna Mestas; Allison Miller; Ross Miller; Timothy Moen; Henrika Monnet; Zeke Moreland; Jennifer Murphy; Laura Naranjo; Christopher Nelson; Lindsay Nerad; Victoria Nevarez; Erin Odonnell; Dennis Ortega; Jay Ottenstein; Mae Pagett; Theresa Panian; Lauren Parks; Val Phillips; Sabin Portillo; Robert Prior; Stacey Proctor; Devin Razavi-Shearer; Junior Reinatoc; Chris Riederer; Ruby Sanchez; Yvonne Sandoval; Mark Sass; Mark Schneider; Andrew Scott; Eileen Shendo; Danielle Short; Kristina Sickles; Maxine Sigala; Scott Silber; Elizabeth Simmons; Sarah Slater; Ashley Spicer; Mathew Thompson; Peter Tierney; Adam Tinnel; Patricia Torres; Adrienne Tsikewa; Kevin Tucker; Trevor Uberuaga; Chris Ulrich; Aubrey Valencia; Carla Vialpondo; Deborah Watt; Rena Weber; Jessica Weirich; Karyn Wells; Benjamin Whitmer; Tanya Wollerman; Shirley Worthel; Amber Zamora	▲ COURT USE ONLY ▲

	Case Numbers: 04GS441286; 04GS441294; 04GS789923; 04GS441593; 04GS441280; 04GS769914; 04GS441552; 04GS441256; 04GS789918; 04GS789917; 04GS771342; 04GS471296; 04GS441527; 04GS441528; 04GS441504; 04GS441270; 04GS441575; 04GS441558; 04GS441278; 04GS441282; 04GS441553; 04GS441573; 04GS441560; 04GS441265; 04GS441283; 04GS441250; 04GS789919; 04GS441258; 04GS441253; 04GS769912; 04GS441279; 04GS441257; 04GS441584; 04GS789921; 04GS441583; 04GS441547; 04GS441269; 04GS441281; 04GS441273; 04GS441255; 04GS441299; 04GS769907; 04GS441512; 04GS441538; 04GS441550; 04GS441266; 04GS441557; 04GS789924; 04GS769906; 04GS441263; 04GS441531; 04GS441580; 04GS441276; 04GS441551; 04GS441571; 04GS441511; 04GS441271; 04GS441272; 04GS441525; 04GS441521; 04GS441293; 04GS441292; 04GS441568; 04GS441588; 04GS441555; 04GS441519; 04GS441534; 04GS789914; 04GS441592; 04GS441264; 04GS441515; 04GS441522; 04GS441585; 04GS441518; 04GS441563; 04GS441556; 04GS441251 Ctrm: **117M**
ATTORNEY FOR DEFENDANTS: Karen R. Breslin, #35657 P.O. Box 280884 Lakewood, CO 80228 (303) 232-8073	

ENTRY OF APPEARANCE AND MOTION TO DISMISS DUE TO UNCONSTITUTIONALITY OF MUNICIPAL ORDINANCES

The above Defendants, by and through undersigned counsel, hereby move this court to dismiss the charges against them. As grounds for this motion, the Defendants state as follows:

I. INTRODUCTION

1. All of the above Defendants were arrested on October 9, 2004, while protesting Denver's Columbus Day parade. No one was injured nor was any property damaged during this peaceful protest.

2. Defendants were charged with violating Denver's municipal loitering ordinance and with failure to obey a lawful order. The loitering ordinance is unconstitutionally vague and overbroad on its face and as applied, and constitutes an unreasonable time, place and manner restriction on free speech. The failure to obey ordinance is also unconstitutionally overbroad and vague.

II. ARGUMENT

A. APPLICATION OF LOITERING ORDINANCE TO HALT DEFENDANTS' POLITICAL SPEECH VIOLATES CONSTITUTIONAL PROTECTIONS FOR FREE SPEECH AND ASSEMBLY.

3. The United States Constitution and the Colorado Constitution protect the right of citizens to freedom of speech and assembly. The First Amendment of the United States Constitution provides that "Congress shall make no law. . .abridging the freedom of speech. . .or the right of the people peaceably to assemble and to petition the government for a redress of grievances." Article II, Section 10 of the Colorado Constitution further provides that: "No law shall be passed impairing the freedom of speech, every person shall be free to speak, write or publish whatever he will on any subject. . ."

4. Political speech in particular holds a "high rank" in the "constellation of freedoms guaranteed by both the United States Constitution and our state Constitution." Bock v. Westminster Mall Co., 819 P.2d 55, 57 (Colo. 1991). The Colorado Supreme Court noted in Bock that:

> The United States Supreme Court and this court have been extraordinarily diligent in protecting the right to speak and publish freely. Whether this is because free speech has been conceived as a means to the preservation of a free government

> or as an end to itself, the results have been the same. Free political speech. . .occupies a preferred position in this country and this state.

Id., at 57 (emph. added).

5. The Colorado Constitution provides a broader protection for free speech than does the U.S. Constitution. Bock, 819 P.2d at 58-60. Article II, Section 10 of the Colorado Constitution contains "an affirmative acknowledgement of the liberty of speech, and therefore [is] of greater scope than that guaranteed by the First Amendment." Id., at 59.

6. In the instant case, Defendants were arrested for violating the city of Denver's loitering ordinance when they stepped into the street at the intersection of 19th and Blake Streets to confront a parade honoring Christopher Columbus. Columbus is responsible for the enslavement and mass murder of indigenous peoples of Hispaniola (present day Haiti and the Dominican Republic) by individuals under his direction and by his successors that reduced the native population from an estimated eight million to 28,000 in twenty years. KIRKPATRICK SALE, THE CONQUEST OF PARADISE, 161 (1990).

7. At the time of their arrest at 19th and Blake streets, Defendants were expressing a perspective on a political issue (whether it is appropriate to honor a genocidal slavetrader) in a traditional public forum. Streets and parks "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." Hague v.Committee for Indus.Org., 59 S.Ct. 496, 516, 59 S.Ct. 954, 964 (1939).

8. At the time of their arrests, Defendants were not loitering. Their presence on the street was purposeful. In Morales v. City of Chicago, 527 U.S. 41, 119 S.Ct. 1849 (1999), the U.S. Supreme Court held that a Chicago loitering ordinance intended to control gang activity was unconstitutionally vague, but three of the justices rejected the view that the ordinance was overbroad, finding that it did not regulate speech.

> We agree with the city's submission that the law does not have a sufficiently substantial impact on conduct protected by the First Amendment to render it unconstitutional. The ordinance does not prohibit speech. Because the term "loiter" is defined as remaining in one place "with no apparent purpose," it is also clear that it does not prohibit any form of conduct that is apparently intended to convey a message. By its terms, the ordinance is inapplicable to assemblies that are designed to demonstrate a group's support of, or opposition to, a particular point of view.

Id., 53, 1857. Denver's ordinance defines loitering similarly: "Loitering shall mean remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and shall also include the colloquial expression `hanging around.' " Denver, Colo. Rev. Muni. Code Sec. 38-86. Defendants were not simply "hanging around." As the U.S. Court of Appeals for the Fourth Circuit observed in invalidating a Virginia loitering ordinance on vagueness grounds: "Loitering is aimless. Social protest is by definition purposeful." Lytle v. Doyle, 326 F. 3d 463, 469 (4th Cir. 2003). The Fourth Circuit held that the arrests for loitering of anti-abortion protesters demonstrating across an overpass were unconstitutional because "no reasonable person would know that protesting and loitering were one and the same activity and that an anti-loitering statute would attach criminal sanctions to the classic political expression" of the protesters. Id., at 469.

9. Defendants' arrest under the loitering ordinance violated their free speech rights under the U.S. Constitution and the Colorado Constitution because their conduct did not match the statutory definition of loitering and the city lacked any other justification for the arrests. In Ware v. City and County of Denver, 511 P.2d 475,476 (Colo. 1973), the court overturned the conviction of a defendant who said 'fuck you' and was charged with disturbing the peace or using language calculated to disturb the peace. The conviction was overturned because "there was no breach of peace or anything to indicate that defendant calculated to provoke a breach of the peace. . ." Id. Similarly, in Flores v. City and County of Denver, 220 P.2d 373, 376 (Colo. 1950), the court found that protesters chanting outside the Governor's residence did not cause a breach of peace but were engaging in constitutionally protected speech.

B. APPLICATION OF THE LOITERING ORDINANCE TO DEFENDANTS DEMONSTRATES THAT THE ORDINANCE IS OVERBROAD FACIALLY AND AS APPLIED.

10. Denver's loitering ordinance is overbroad because it criminalized Defendants' free speech in violation of the U.S. and Colorado constitutions. The city's loitering ordinance states:

> a. In this section, the following words and phrases shall have the meanings respectively ascribed to them:
>
> 1) Loitering shall mean remaining idle in essentially one (1) location and shall include the concept of spending time idly, to be dilatory; to linger, stay around, to saunter, to delay, to stand around and shall also include the colloquial expression "hanging around". . .

> b. It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone or in consort with others in a public place in such a manner as to:
>
> 1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic, or pedestrians. . .

Denver, Colo. Rev. Muni. Code Sec. 38-86. "A statute is facially overbroad if, in addition to proscribing conduct that is not constitutionally protected, its proscriptions sweep in a substantial amount of activity that is constitutionally protected." People v. Shepard, 983 P.2d 1, 3 (Colo. 1999). The overbreadth must be "real and substantial," when compared against the conduct that the statute legitimately targets. Id. An overbroad statute will not be invalidated simply because of a "slight risk" that it will be applied in an unconstitutional manner. People v. Hickman, 988 P.2d 628, 635.

11. At the time of their arrest, Defendants were engaged in political speech, demonstrating that the statute poses more than a "slight risk" to protected activity. The statute was undoubtedly intended to target presumed social harms associated with indivduals aimlessly "hanging out." However, the statute lacks any mens rea requirement or other restricting language that would target behavior that is aimless, purposeless or harmful. Consequently, any individual who takes to the streets to engage in political speech quite probably would "gather," "stand," "delay," "saunter," or "hang around." They would also impede vehicle traffic or pedestrians and would therefore, like Defendants, be vulnerable to prosecution under Denver's loitering statute.

12. Defendants' case is readily distinguishable from People in the Interest of J.M., 768 P.2d 219, (Colo. 1989) in which the court was presented with an overbreadth challenge to a Pueblo loitering/curfew ordinance directed a juveniles. The court determined that the juvenile lacked standing to assert the claim because he failed to demonstrate any harm to his protected rights or a "realistic danger" that other minors' rights were at risk. In contrast, Defendants' free speech was restrained by their arrest under Denver's loitering statute. For this reason, the statute poses a "realistic danger" to protected rights.

13. The broad language of the statute and its use against Defendants engaged in political speech, as well as against Columbus Day protesters from prior years, leaves no reasonable doubt that the statute is overbroad. The party challenging the constitutionality of a statute much demonstrate its defect "beyond a reasonable doubt." Hickman, 988 P.2d at 634.

14. Denver's loitering ordinance should be invalidated because it regulates a substantial amount of protected speech but may be saved if the court can construe the statute in a more limited way or narrow the statute to ensure its constitutionality. "If a person engaged in protected speech is prosecuted under the statute, the court should deem the particular prosecution invalid, not invalidate the entire statute." Id., at 635

15. Defendants' prosecution for loitering demonstrates that the ordinance either a) encompasses the constitutionally protected activity of the Defendants and therefore has a "real and substantial" effect, rather than a merely hypothetical effect on free speech, or b) the statute as applied in this case should be limited by the court on a case-by-case basis, as urged by the Hickman court.

> [I]f the statute extends to protected communications, the court must determine whether the statute extends to a "substantial" amount of protected communication such that the statute is unconstitutional, or whether unconstitutional applications of the statute should be cured on a case-by-case basis. A court has the responsibility to apply a limiting construction or partial invalidation if doing so will preserve the statute's constitutionality.

Id., at 636. Either way, the charges against the defendants should be dismissed.

C. APPLICATION OF THE LOITERING ORDINANCE TO DEFENDANTS VIOLATES THEIR DUE PROCESS RIGHTS UNDER THE FOURTEENTH AMENDMENT BECAUSE THE ORDINANCE IS VAGUE FACIALLY AND AS APPLIED.

16. A statute or ordinance may be invalidated for vagueness "when it fails to provide the kind of notice that will enable ordinary people to understand what conduct it prohibits," or when the statute or ordinance "may authorize and even encourage arbitrary and discriminatory enforcement," Morales, 527 U.S. at 59, 119 S.Ct. at 1859.

17. Denver's loitering ordinance is facially vague because it fails to provide adequate notice of the conduct it prohibits and is vulnerable to discriminatory enforcement. The ordinance targets individuals who "delay," "remain idle," "linger," "saunter," with the effect of hindering "the free and uninterrupted passage of vehicles, traffic, or pedestrians" on any public street, highway or sidewalk. Denver, Colo. Rev. Muni. Code Sec. 38-86. The ordinance is silent as to how much delay triggers its provisions, or what constitutes illegal lingering or sauntering. It is also silent about what constitutes "hindering" of "free and uninterrupted" pedestrian and vehicle traffic. A mother who window shops, pushing a stroller with small children in tow, may hinder pedestrian traffic and could be cited for violating the city's loitering ordinance. Because the ordinance is vague enough to encompass such "innocent" behavior, it invites discriminatory enforcement.

18. Denver's loitering ordinance contains some of the same defects as the loitering ordinance struck down by the U.S. Supreme Court in Morales v. Chicago. The Chicago anti-loitering ordinance instructed police to order anyone the officer "reasonably believes" to be a gang member who is loitering

with one or more persons to disperse. Morales, 527 U.S. at 60, 119 S.Ct. at 1861. Under the statute loitering meant "to remain in any one place with no apparent purpose." Id., at 61, 1861. The Supreme Court said the statute reached a "substantial amount of innocent conduct." Id., at 60, 1861.

> It matters not whether the reason that a gang member and his father, for example, might loiter near Wrigley Field is to rob an unsuspecting fan or just to get a glimpse of Sammy Sosa leaving the ballpark; in either event, if their purpose is not apparent to a nearby police officer, she may—indeed, she "shall" – order them to disperse. . .

Moreover, the court concluded that the "no apparent purpose" language conferred "vast discretion" that was not cured by language targeting loitering by gang members or by language requiring an officer to order an individual to disperse before issuing a citation. Id., at 62, 1862.

19. In a similar way, Denver's ordinance penalizes individuals who delay or remain idle for unspecified periods, creating the same ambiguity and excessive discretion found in Chicago's "no apparent purpose" language. Unlike the Chicago ordinance, Denver identifies an effect – "hindering" the "uninterrupted passage" of traffic and pedestrians – but it is unclear what behavior causes sufficient hindering to prompt a citation for loitering. An individual's mere presence on a street or a sidewalk can hinder foot and vehicle traffic. As the Fourth Circuit observed when it struck down a Virginia loitering ordinance on vagueness grounds, "the vagueness that dooms this ordinance is not the product of uncertainty about the normal meaning of `loitering,' but rather about what specific conduct is covered by the statute and what is not." Lytle, 326 F3.d at 469.

20. Denver's loitering ordinance is vague as applied to these defendants because these defendants did not have fair warning that exercising their free speech rights could subject them to prosecution for loitering. Rickstrew v. People, 822 P.2d 505 (Colo.1991). As the Fourth Circuit observed in Lytle, "No reasonable person would know that protesting and loitering were one and the same activity and that an anti-loitering statute would attach criminal sanctions to the classic political expression undertaken by the Lytles." 326 F3.d at 469. Although satisfying due process requirements does not require "mathematical exactitude in legislative draftmanship," the statute must be sufficiently specific to give fair warning of the proscribed conduct. People v. Castro, 657 P.2d 932, 939 (Colo.1983). Greater specificity is also required "where a statute's literal scope, unaided by a narrowing state court interpretation, is capable of reaching expression sheltered by the First Amendment," Smith v. Goguen, 94 S.Ct. 1242. Such specificity is not present in Denver's statute and the statute clearly has reached protected expression. Therefore, charges against Defendants should be dismissed.

D. APPLICATION OF CITY'S LOITERING ORDINANCE TO DEFENDANTS CONSTITUTES AN UNREASONABLE TIME, PLACE AND MANNER RESTRICTION ON DEFENDANTS' FIRST AMENDMENT RIGHTS.

21. Defendants' arrest for loitering while engaged in political speech in a traditional public forum constitutes an unreasonable restriction on their First Amendment rights because the restriction left no alternative channels of communication available to them.

> [E]ven in a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions `are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.'

Ward v. Rock Against Racism, 491 U.S. 781, 791, 109 S.Ct. 2746, 2754 (1989). Here, Defendants were removed from the street before they were able to peacefully confront the parade, which they dubbed "the convey of conquest." Confronting the parade was a symbolic statement against the injurious presence of a parade honoring an individual who perpetrated mass murder and slavery upon indigenous peoples. Just as burning a flag conveys a message or messages that cannot be replicated any other way, confronting the parade would have conveyed a powerful statement of resistance against racist speech and history that cannot be conveyed through any other means of communication.

22. Defendants' free exercise rights were violated when they were removed from the street before they had the opportunity to communicate with participants in the parade. The right to free speech includes the right to express unpopular opinions and the right to persuade others to change their views. That right may be limited by the extent to which listeners are "unwilling." Hill v. Colorado, 530 U.S. 703, 120 S.Ct. 2480 (2000). In Hill, the U.S. Supreme Court upheld a regulation prohibiting protesters from approaching within eight feet of individuals entering health care facilities. "The right to free speech, of course, includes the right to attempt to persuade others to change their views. . ." Id., at 716, 2489. However, that protection may not protect offensive speech "that is so intrusive that the unwilling audience cannot avoid it." Id. The eight feet zone left ample opportunity for protesters to communicate with individuals entering the clinic because, as the court noted, eight feet is within a "normal conversational zone." Id. at 726, 2495. Unlike the protesters in Hill, Defendants had no opportunity to communicate with those they sought to persuade. Defendants were arrested when the parade participants were approximately two blocks away.

23. Defendants' arrests for loitering constitute an unreasonable restriction on free speech because the restriction was not narrowly tailored to serve a compelling government interest. "Because a principal purpose of traditional public fora is the free

exchange of ideas, speakers can be excluded from a public forum only when the exclusion is necessary to serve a compelling state interest and the exclusion is narrowly drawn to achieve that interest. Cornelius v. NAACP Legal Defense and Educational Fund, 1473 U.S. 788, 800, 105 S.Ct. 3439, 3448 (1985). Safety, crowd control and pedestrian movement are "signficant government interests" that justify restricting free speech. Lewis v. Colorado Rockies Baseball Club, Ltd., 941 P.2d 266, 276. Such restrictions are narrowly tailored when the restriction "`promotes a substantial government interest that would be achieved less effectively absent the regulation,'" the court said citing Ward v. Rock Against Racism. 491 U.S. 781, 109 S.Ct. 2746.

24. The city could have accomplished its goal of ensuring passage of the "convey of conquest" without violating the free speech rights of Defendants. The city could have ensured passage of the parade just as effectively by allowing the Defendants to confront the parade and communicate with parade participants and then, if necessary, effectuate arrests. Unlike individuals seeking health care services, Columbus parade participants engaged in free speech activities in a quintessential public forum for the free exchange of ideas. Unlike individuals seeking health care and attending to entirely personal matters, parade participants could and should expect a public exchange of ideas on the city's streets. The city's overreaction precluded such an exchange and violated defendants' rights. Consequently, the use of the city's loitering ordinance to terminate the demonstration against the Columbus Day parade was not narrowly tailored and therefore was an unreasonable time, place and manner restriction.

E. CITY'S FAILURE TO OBEY ORDINANCE IS VAGUE AND OVERBROAD ON ITS FACE AND AS APPLIED; DEFENDANTS' ARREST FOR FAILURE TO OBEY IS A VIOLATION OF THEIR FIRST AMENDMENT RIGHTS.

25. Denver's "failure to obey" ordinance states that "[i]t shall be unlawful for any person to fail to obey a lawful order of a police officer if such failure interferes with or hinders such police officer in the discharge of his official duties." Denver, Colo. Rev. Muni. Code Sec. 38-31(c).

26. At the time of their arrest, Defendants were engaged in political speech in a traditional public forum. They were not loitering. Therefore, orders by officers to leave the street violated Defendants' First Amendment rights and were therefore unlawful. Defendants consequently did not disobey a lawful order and charges against them should be dismissed.

27. Denver's statute is vague because it does not provide fair warning regarding what conduct triggers its sanctions. The failure to obey ordinance criminalizes failure to obey a lawful order if such failure "interferes with or hinders" an officer in the performance of his duties. Id. What conduct constitutes hindering or interfering is subjective, raising the specter of standardless and discriminatory enforcement.

28. The failure to obey ordinance is overbroad on its face because the ordinance is capable of restraining protected conduct. City of Englewood v. Hammes, 671 P.2d 947, 950-51 (1983). The ordinance at issue in Hammes "prohibited any interference with police officers whether through words or action." Id. The Supreme Court, relying on lower court interpretations of the statute, held that the ordinance was capable of "chilling the First Amendment rights" of individuals. Id. The court said there were "myriad" ways in which citizens, "in the exercise of expressive or associational rights, might interfere unintentionally with police action." Id. The court cited specifically the possibility that political demonstrators "might hinder the flow of traffic" and interfere with police vehicles. Id.

29. A statue that is overbroad on its face may still be valid if courts can supply a limiting construction. Id. In Hammes, the Supreme Court said the Englewood ordinance was not substantially overbroad because it was susceptible to a limiting construction. Id. That limiting construction required Defendants to "intentionally" hinder police action. Here, Defendants did not intend to hinder police action, but sought only to engage in their constitutionally protected rights to free speech. If any hindering occurred it was exactly of the unintentional variety that the Hammes court warned might accompany political demonstrations. There is some question about whether Defendants actually heard instructions from police to leave the street. Such instructions were apparently not provided to each individual Defendant. Moreover, Defendants did not resist their arrest. As it became obvious that they were being arrested, Defendants cooperated in their removal to the awaiting buses. For the foregoing reasons, the failure to obey charges should be dismissed against all Defendants.

CONCLUSION

30. The actions of defendants on October 9, 2004, constituted classical political speech afforded broad protection under the U.S. Constitution and Article II, Secton 10 of the Colorado Constitution. Because Denver's loitering ordinance was construed to suppress constitutionally protected political speech, it is unconstitutionally vague and overbroad, on its face and as applied. Use of the loitering statute to suppress protected political speech also constitutes an unreasonable time, place and manner restriction on such speech because the restriction was not narrowly tailored and left available no alternative channels of communication. For these reasons, the loitering charges should be dismissed against all Defendants. Failure to obey charges against Defendants should likewise be dismissed. The ordinance is vague and substantially overbroad because it reaches a significant amount of protected conduct, as Defendants' arrests demonstrate. Or, the court should provide a limiting construction requiring an intent to hinder police actions, and dismiss the charges because such intent was lacking.

WHEREFORE, the Defendants respectfully move this court to enter an order dismissing all charges against Defendants because the ordinances are unconstitutional on their face and as applied.

Dated this __ day of December, 2004

RESPECTFULLY SUBMITTED,

KAREN R. BRESLIN, #35657
Attorney for Defendants
P.O. Box 280884
Lakewood, CO 80228
(303) 232-8073

ATTORNEYS FOR DEFENDANTS

David A. Lane, #16422
Marcel Krzystek, #33285
Julie Sheker, #35746
Killmer, Lane & Newman, LLP
1543 Champa St, Suite 400
Denver, CO 80202
Phone: 303-571-1000
Fax: 303-571-1001

David H. Miller, #8405
King & Greisen, LLP
1670 York St
Denver CO 80206
Phone: 303-298-9878
Fax: 303-298-9879

Jessica L. West, # 30169
Smith & West, LLC
1860 Blake St, Suite 420
Denver, CO 80202
Phone: 303-391-0100

Adrienne H. Benavidez, #20717
P.O. Box 12469
Denver CO 80212
Phone: 303-871-6569
Fax: 303-871-4108

Mark Brandes, #18720
1750 High St.
Denver CO 80218
Phone: 303-333-5502
Fax: 303-329-9447

Henry Feldman, #8966
2001 York St
Denver CO 80205
Phone: 303-321-9089

Susan Kaufman, #13637
Susan Robins Kaufman, PC
8400 East Prentice Ave Suite 100
Greenwood Village CO 80111
Phone: 303-792-0290
Fax: 303-799-8156

Cheri Deatsch, #26011
2514 Washington St
Denver CO 80205
Phone: 303-831-1021
Fax: 303-831-1025

Karen R. Breslin, #35657
P.O. Box 280884
Lakewood, CO 80228
Phone: 303-232-8073

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Entry of Appearrance and **Motion to Dismiss Based on the Unconstitutionality of Municipal Ordinances** was sent via U.S. Mail, postage prepaid this ___ day of December, 2004, addressed to the following:

Denver City Attorney's Office
1437 Bannock Street, Room 393
Denver, CO 80202

Date: December, ___ 2004

_____

3307304_1.DOC