

Honorable Marsha J. Pechman

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OCT 14 2011

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

BY

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

PAUL ASCHERL,

Plaintiff,

vs.

CITY OF ISSAQUAH,

Defendant.

Case No. 2:11-cv-01298

CONSENT ORDER

Final Resolution of this matter and controversy has been settled by and between the parties, and accepted by the Court, as reflected herein.

IT IS on this 14 day of October, 2011, ORDERED AND ADJUDGED AS FOLLOWS:

1. This Court hereby declares that Issaquah City Code § 5.40.040 was unconstitutionally applied to Paul Ascherl so as to prevent his expressive activities on October 2, 2010.



11-CV-01298-ORD

PARTIES' CONSENT ORDER-1
(Case No. 2:11-cv-01298-MJP)

Alliance Defense Fund
699 Oakleaf Ofc. Ln., Suite 107
Memphis, TN 38117
Tel. 901-684-5485


1 2. This Court hereby enjoins Defendant and its agents from applying Issaquah City
2 Code § 5.40.040 so as to prevent Paul Ascherl and other third-party speakers from engaging in
3 literature distribution in traditional public fora during future Salmon Days Festivals.

4 3. Defendant shall pay Plaintiff the amount of \$1.00 as nominal damages within 30
5 days of the date this Order is signed. Defendant shall also pay reasonable attorney fees and
6 litigation costs to Plaintiff's attorneys. The parties will attempt to negotiate the exact figure
7 which the Defendant will pay Plaintiff's attorneys for their fees and costs. However, if the parties
8 are unable to come to an agreement regarding fees and costs, Plaintiff will have up to 30 days
9 after the date this Order is signed in which to petition the Court for attorney fees and costs, and
10 the Court will determine the amount of reasonable attorney fees and costs to be awarded to
11 Plaintiff's attorneys according to 42 U.S.C. §1988 and Federal Rule of Civil Procedure 54.
12

13 4. Upon payment of the amounts set forth above, all remaining claims are dismissed
14 with prejudice, provided that the Court retains jurisdiction of this case solely to enforce the terms
15 of this consent judgment.
16

17 SO ORDERED this 14 day of Oct., 2011.

18
19 BY THE COURT:

20
21 
22 MARSHA J. PECHMAN
23 United States District Judge

1 WE HEREBY CONSENT TO THE FORM
 2 AND ENTRY OF THE ABOVE ORDER:

3 Respectfully submitted this 11th day of October, 2011.

<p>4 s/ <u>Nathan W. Kellum</u> 5 NATHAN W. KELLUM 6 TN BAR #13482; MS BAR # 8813 7 JONATHAN SCRUGGS 8 TN BAR # 025679 9 Alliance Defense Fund 699 Oakleaf Office Lane, Suite 107 Memphis, TN 38117 Ph. 901-684-5485 Fax: 901-684-5499 10 nkellum@telladf.org 11 jscruggs@telladf.org</p> <p>12 s/<u>Nathan M. Manni</u> 13 NATHAN M. MANNI 14 WSBN 35373 15 Cohen, Manni, Theune & Manni, LLP 16 520 E Whidbey Ave., Suite 201 P.O. Box 889 Oak Harbor, WA 98277 Ph. 360-675-9088 Fax: 360-679-6599 17 amanda@cmtlaw.net Attorneys for Plaintiffs</p>	<p>s/ <u>Wayne D. Tanaka</u> WAYNE D. TANAKA WSBN# 6303 Ogden Murphy Wallace, PLLC 1601 Fifth Ave., Suite 2100 Seattle, WA 98101-1686 Ph. 206-447-7000 Fax-206-447-0215 wtanaka@omwlaw.com</p> <p>s/ <u>Michael Charles Walter</u> MICHAEL CHARLES WALTER WSBN# 15044 Keating, Bucklin & McCormack, Inc. P.S. 800 Fifth Ave., Suite 4141 Seattle, WA 98104-3175 Ph. 206-623-8861 Fax: 206-223-9423 mwalter@kbmlawyers.com</p> <p>Attorneys for Defendant</p>
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18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on October 11th, 2011, I electronically filed the foregoing with the
 20 Clerk of the Court using the CM/ECF system which will send notification of such filing to the
 21 following: Wayne D. Tanaka, Michael Charles Walter and Gary C. Bergan

22 and I hereby certify that I have mailed by United States Postal Service the document to the
 23 following non CM/ECF participants: none.

24 s/ Nathan W. Kellum