

undue burden upon protected core political speech by, *inter alia*, restricting and unconstitutionally limiting the size and number of signs that a resident or taxpayer of the CITY OF MADEIRA, including DOUG OPPENHEIMER, could display on his or her property.

3. Despite the recent affirmation by the United States Supreme Court that “First Amendment freedoms need breathing space to survive,” *Citizens United v. Federal Elections Commission*, ___ U.S. ___ (2010), 175 S. Ct. 753, 775, the effect and impact of the *Sign Regulations* of the CITY OF MADEIRA has been to restrict and infringe upon the free speech rights of DOUG OPPENHEIMER, and others similarly situated, in violation of the First Amendment and Fourteenth Amendments to the United States Constitution, and Article I, Section 11 of the Ohio Constitution.

4. Recently, DAVID SCHAEFER and JOHN DOE No. 1, in implementing and enforcing the policy, practice or custom of the CITY OF MADEIRA contained within the *Sign Regulations*, notified DOUG OPPENHEIMER that his display of two yard signs at his residence violated the zoning regulations of the CITY OF MADEIRA and, in particular, a zoning restriction on the size of permissible political signs and the number of permissible political signs; DAVID SCHAEFER and JOHN DOE No. 1 further threatened DOUG OPPENHEIMER that if he did not remove forthwith the two yard signs at his residence, then formal enforcement proceedings would be brought against him.

5. In light of the direct and unequivocal threat to DOUG OPPENHEIMER by DAVID SCHAEFER and JOHN DOE No. 1 that unless the two yard signs at his residence in violation of the zoning regulations were removed forthwith, then he would be cited and prosecuted for the alleged violation of the zoning regulation concerning the maximum size of political signs, DOUG OPPENHEIMER faced the real and imminent threat of prosecution if the two yard signs were not

removed.

6. In order to avoid the costs and inconvenience of defending against an alleged violation of the zoning regulations concerning the placement of political signs, as well as in light of the direct and unequivocal threat to DOUG OPPENHEIMER by DAVID SCHAEFER and JOHN DOE No. 1 to remove the two yards signs less he face being cited and prosecuted, DOUG OPPENHEIMER forewent the full and robust exercise of his First Amendment rights, electing to remove the two yard signs less he face such prosecution notwithstanding the fact that DOUG OPPENHEIMER desired to exercise his First Amendment rights through the posting of the subject yard signs during the time he removed such signs under the threat of prosecution.

7. Thus, DOUG OPPENHEIMER was forced or compelled to censor his speech by removing the two yard signs at his residence in order to comply with the *Sign Regulations* of the CITY OF MADEIRA. DOUG OPPENHEIMER also censored his speech for fear of further enforcement action by the CITY OF MADEIRA and its officials arising from the mere act of participating in public debate – something that is long part of our culture and law, and at the heart of our republic.

8. Accordingly, DOUG OPPENHEIMER seeks declaratory judgment, injunctive relief, and damages arising from the *Sign Regulations* of the CITY OF MADEIRA, both facially and as applied to DOUG OPPENHEIMER's political speech, as well as from the enforcement or threatened enforcement of such *Sign Regulations* against him personally, because the *Sign Regulations* unequivocally violated: (i) the First Amendment to the United States Constitution (made applicable to the Defendants by the Fourteenth Amendment to the United States Constitution); (ii) the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution; and (iii) Article I, Section 11 of the Ohio Constitution.

9. Action by this Court, including enjoining the offending *Sign Regulations* of the CITY OF MADEIRA, as well as awarding damages against the CITY OF MADEIRA, DAVID SCHAEFER, JOHN DOE No. 1 and JOHN DOE No. 2 due to DOUG OPPENHEIMER losing the full and robust exercise of his First Amendment rights of DOUG OPPENHEIMER, will ensure that core political speech on matters of public issues in the CITY OF MADEIRA will occupy the highest rung of First Amendment protection.

JURISDICTION & VENUE

10. This Court has jurisdiction pursuant to 28 U.S.C. § 1331.

11. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b), as the Defendants reside within this District, Defendants transact business within this District and the conduct complained of occurred within this District.

PARTIES

12. Plaintiff DOUG OPPENHEIMER, who is also known as PHILIP DOUGLAS OPPENHEIMER, is a citizen of the State of Ohio and is a resident within the corporate limits of the CITY OF MADEIRA, located within this District.

13. Defendant CITY OF MADEIRA is a municipal corporation under the laws of the State of Ohio and, pursuant to Ohio Rev. Code § 715.01, may sue and be sued.

14. DAVID SCHAEFER is an employee of the CITY OF MADEIRA who undertook the actions set forth herein to enforce against DOUG OPPENHEIMER the unconstitutional *Sign Regulations*, infringing the full and robust exercise of First Amendment rights by DOUG OPPENHEIMER.

15. JOHN DOE No. 1 is an employee of the CITY OF MADEIRA whose identity is presently unknown but who undertook the actions set forth herein to enforce against DOUG

OPPENHEIMER the unconstitutional *Sign Regulations*, infringing the full and robust exercise of First Amendment rights by DOUG OPPENHEIMER.

16. JOHN DOE No. 2 is an employee of the CITY OF MADEIRA whose identity is presently unknown but is the official with the CITY OF MADERIA responsible for enforcement of the zoning regulations of the CITY OF MADEIRA concerning the placement of political signs and, based upon information and belief, directed and/or authorized DAVID SCHAEFER and/or JOHN DOE No. 1 to undertake the actions set forth herein to enforce against DOUG OPPENHEIMER the unconstitutional *Sign Regulations*, infringing upon the full and robust exercise of First Amendment rights by DOUG OPPENHEIMER.

17. All actions taken by the CITY OF MADEIRA, DAVID SCHAEFER, JOHN DOE No. 1 and JOHN DOE No. 2 were undertaken under color and authority of state law, and/or as a result of a policy statement, ordinance, regulation or decision officially adopted or promulgated by the CITY OF MADEIRA.

STATEMENT OF FACTS
The City's Sign Regulations

18. In September 2019, the CITY OF MADEIRA regulated the posting of signs within its geographic jurisdiction in accordance with Chapter 159 of the Codified Ordinances of the City of Madeira (the "*Sign Regulations*").

19. In September 2019, the *Sign Regulations* comprehensively regulated all signs within the City.

20. A true and accurate copy of the *Sign Regulations* as they existed in September 2019 and as published on the website of the CITY OF MADEIRA (<https://www.madeiracity.com/Document%20Center/Code%20of%20Ordinances/Title%20XV%20Land%20Use%20Zoning%20Code%202017.pdf>), is attached hereto as Exhibit A.

21. In September 2019, Section 159.03 of the Codified Ordinances of the City of Madeira defined a “sign” as:

Any writing, word, number, pictorial, illustration, decoration, emblem, symbol, trademark, flag, banner, pennant insignia, flashing light, beacon or other device which is placed in a manner that the communication, announcement, message, attraction, advertisement or promotion inherent to the device is visible or appears to be intended to be visible to persons on adjoining property or nearby public rights-of-way.

22. In September 2019, Section 159.03 of the Codified Ordinances of the City of Madeira defined a “temporary sign” as:

- (1) A sign which has either or both of the following characteristics:
 - (a) The primary purpose of the sign will be completed by the occurrence of an event which is likely to take place within a period of a few days to a few months such as an election or sale of real estate; and/or
 - (b) The material of which the sign is made or the manner in which the sign is affixed to the ground or a structure are of such nature as not to be suitable for permanent display because exposure to the elements will unreasonably deface the message, discolor or tear the material or loosen the methods by which such a sign is anchored.
- (2) Examples of TEMPORARY SIGNS include but are not limited to political signs, “For Sale” signs, garage sale signs, sale signs and some project signs.

23. In September 2019, Section 159.03 of the Codified Ordinances of the City of Madeira specifically defined a “political sign” as:

A sign indicating support or disapproval of a public issue or political candidate.

24. In September 2019, Section 159.19 of the Codified Ordinances of the City of Madeira further clarified and regulated the posting of “temporary signs”. Specifically, Section 159.19 of the Codified Ordinances of the City of Madeira provided that “[t]emporary signs may only display one of the following messages:” (i) political messages; (ii) real estate message; (iii) garage sale signs; (iv) commercial messages; (v) charitable messages; (vi) personal messages; and (vii) project messages.

25. In September 2019, Section 159.19 of the Codified Ordinances of the City of Madeira defined a “political message” in the context of a temporary sign as involving “signs with a message endorsing candidates for public office (local, state or federal), endorsement of political issues (whether on a ballot or not) and such other messages as set forth a statement regarding a public issue”.

***Sections 159.20 and 159.26 of the Codified Ordinances of the CITY OF MADEIRA:
Regulation of the Size of Political Signs***

26. In September 2019, Section 159.20 of the Codified Ordinances of the City of Madeira regulated the placement of temporary signs on private property in residential district within the CITY OF MADEIRA.

27. In September 2019, Section 159.20 of the Codified Ordinances of the City of Madeira regulated and restricted the size of political signs placed on private property in a residential district within the CITY OF MADEIRA.

28. In September 2019, Section 159.20(A) of the Codified Ordinances of the City of Madeira provided that, with respect to the placement of temporary signs on private property in a residential district within the CITY OF MADEIRA.

No temporary sign shall be larger than six square feet in area except as provided in division (G)(4) below.

29. In September 2019, Section 159.20(G) of the Codified Ordinances of the City of Madeira provided that:

Each temporary sign which displays a message concerning or related to an event shall be removed no later than five days, or such lesser period if specified below, after the event has occurred and the message, therefore, no longer serves its intended purpose. These event oriented signs shall include but not be limited to the following examples:...

(4) Signs which announce charitable, institutional or civic events such as church bazaars, charitable fund raising events and similar announcements shall not

exceed 50 square feet in area nor be more than eight feet high and must be removed within 24 hours of the conclusion of the event.

30. Thus, in September 2019, pursuant to Section 159.20 of the Codified Ordinances of the City of Madeira, with respect to temporary signs on private property in residential district within the CITY OF MADEIRA, political signs were restricted to being six square feet in area while signs announcing charitable, institutional or civic events could be up to 50 square feet in area.

31. In September 2019, and in addition to regulating political signs through Section 159.20 of the Codified Ordinances of the City of Madeira, the CITY OF MADEIRA also imposed regulations and restrictions on political signs through Section 159.26 of the Codified Ordinances of the City of Madeira.

32. In September 2019, Section 159.26(B) of the Codified Ordinances of the City of Madeira introduced and defined the phrase “free speech message” as meaning:

any message that is not intended to convey a commercial message. Free speech messages include but are not limited to religious, political, economic, social and philosophical messages.

33. In September 2019, Section 159.26(B) of the Codified Ordinances of the City of Madeira also introduced and defined the phrase “commercial message” as meaning:

any message intended to call attention to a business or promote the sale of any goods or services.

34. In September 2019, similar to the size restriction contained in Section 159.20(A) of the Codified Ordinances of the City of Madeira, Section 159.26(D) of the Codified Ordinances of the City of Madeira similar restricted the size of political signs:

Each side of the sign [containing a *free speech message*] shall not exceed six square feet in area.

35. Thus, in September 2019, the *Sign Regulations* limit the size of all political signs to six square feet but signs announcing charitable, institutional or civic events could be up to 50 square

feet in area.

36. In summary, in September 2019, and pursuant to the *Sign Regulations*, the size of yards signs permitted on private property in a residential district within the CITY OF MADEIRA was dependent upon the content of the message on the sign.

***Sections 159.20 and 159.26 of the Codified Ordinances of the CITY OF MADEIRA:
Regulation of the Number of Political Signs***

37. In addition to regulating the size of political signs placed on private property in residential district, in September 2019, Section 159.20 of the Codified Ordinances of the City of Madeira also regulated and restricted the number of political signs placed on private property in a residential district within the CITY OF MADEIRA.

38. In September 2019, Section 159.20(C) of the Codified Ordinances of the City of Madeira provided that, with respect to the placement of temporary signs on private property in a residential district within the CITY OF MADEIRA:

No more than one temporary sign per lot may be displayed at any one time, except for the following:

- (1) One temporary sign for each street on which a lot fronts shall be permitted. Thus corner lots and through lots may have more than one sign displayed; and
- (2) One single or double sided political sign per individual candidate and individual issue shall be permitted, except as to corner lots or through lots on which there may be placed one such sign facing or adjacent to each street abutting said lot.

39. Similar to the restriction on the number of signs contained in Section 159.20(C) of the Codified Ordinances of the City of Madeira, in September 2019, Section 159.26(D)(1) of the Codified Ordinances of the City of Madeira similarly restricted the number of political signs:

Every parcel in all zoning districts shall be permitted to display one two-sided or one one-sided sign containing any free speech message.

40. In September 2019, Section 159.26(D)(2) of the Codified Ordinances of the City of

Madeira then expanded the number of permissible signs containing *free speech messages*, but specifically tied the permissible additional number of signs to the content of the additional sign:

At any time that the County Board of Elections has identified a candidate or issue that will be placed on the ballot at the next general or special election, one additional sign may be erected for each candidate or issue that the occupant wishes to support or oppose. Such political signs shall still be subject to the dimensional regulations set forth in division (D)(1) of this section.

41. Thus, in September 2019, and pursuant to Section 159.26(D)(2) of the Codified Ordinances of the City of Madeira, more than one additional sign containing a *free speech message* could be posted in a residential district provided that any additional sign expresses support or opposition to a candidate or issued identified by the Hamilton County Board of Elections for placement on the ballot; otherwise, only one sign containing a *free speech message* could be posted.

42. In summary, in September 2019, the number of yards signs permitted on private property in a residential district within the CITY OF MADEIRA was dependent upon the content of the message on the sign.

***The CITY OF MADEIRA and its officials threaten
and violate the robust exercise First Amendment rights***

43. DOUG OPPENHEIMER has been a resident in the City of Madeira since 1970.

44. DOUG OPPENHEIMER has been involved in the community in the City of Madeira.

45. For several years, DOUG OPPENHEIMER has been a governmental watchdog over his local government in the CITY OF MADEIRA.

46. For several years, DOUG OPPENHEIMER has been highly critical of the current administration in the CITY OF MADEIRA.

47. Thus, in September 2019, and in order to express and publicize his criticism of the

Madeira City Council, DOUG OPPENHEIMER posted in the yard at his residence in the CITY OF MADEIRA a sign calling upon the removal of the “Clowns on City Council”:



48. Additionally, in September 2019, and in light of a general election being held on November 5, 2019, wherein elections for seats on the Madeira City Council will be on the ballot, DOUG OPPENHEIMER posted in the yard at his residence in the CITY OF MADEIRA a sign calling for the election of the “Rerformers” to the City Council (adding an extra “r” to “Reformers” so as to promote additional discussion about the sign):



49. Each of the foregoing signs which DOUG OPPENHEIMER posted in the yard at his

residence in the CITY OF MADEIRA were sixteen square feet in area.

50. DOUG OPPENHEIMER posted both signs side-by-side in the yard at his residence within the CITY OF MADEIRA:



51. Because both signs did not “announce charitable, institutional or civic events such as church bazaars, charitable fund raising events and similar announcements”, both signs violated Section 159.20(A) and Section 159.26(D) of the Codified Ordinances of the City of Madeira.

52. Had both signs “announce[d] charitable, institutional or civic events such as church bazaars, charitable fund raising events and similar announcements”, then both signs would have been permitted pursuant to Section 159.20(D) of the Codified Ordinances of the City of Madeira.

53. Because, in September 2019, DOUG OPPENHEIMER posted more than one sign in the yard at his residence within the CITY OF MADEIRA and neither sign supported or opposed a specific candidate identified by the Hamilton County Board of Elections for placement on the ballot at the general election that was being held in November 2019, the presence of a second sign in the yard violated Section 159.20(D) and Section 159.26(D)(1) of the Codified Ordinances of the City of Madeira.

54. Lacking a full-time zoning staff, the CITY OF MADEIRA regularly utilizes officers with the Madeira Police Department, including DAVID SCHAEFER and JOHN DOE No. 1, to undertake actions to enforce the Zoning Code, including the *Sign Regulations*. Such actions

undertaken by officers with the Madeira Police Department, including DAVID SCHAEFER and JOHN DOE No. 1, include notifying residents of violations of the Zoning Code and serving notices to residents.

55. Upon posting the two foregoing signs in his yard within the CITY OF MADEIRA, DOUG OPPENHEIMER was contacted by DAVID SCHAEFER on September 9, 2019, apprising him that the two signs in his yard were violated the *Sign Regulations* and needed to be taken down.

56. In response to the indication DAVID SCHAEFER that the two signs in his yard were violating the *Sign Regulations* and needed to be taken down, DOUG OPPENHEIMER inquired of DAVID SCHAEFER as to the specific provisions of the *Sign Regulations* which were supposedly being violated. In response, DAVID SCHAEFER indicated something would be delivered to DOUG OPPENHEIMER later that day.

57. The foregoing conduct and statements of DAVID SCHAEFER was part of and in furtherance of the policy, practice and custom of the CITY OF MADEIRA.

58. Later that same day, *i.e.*, September 9, 2019, JOHN DOE No. 1 delivered to DOUG OPPENHEIMER at his residence a copy of Section 159.26 and Section 159.99 of the Codified Ordinances of the City of Madeira and, while so doing, indicated that the two signs needed to be taken down by the morning otherwise DOUG OPPENHEIMER would be cited for violating the *Sign Regulations*. Based upon information and belief, the foregoing conduct and actions of JOHN DOE No. 1 was undertaken at the direction or behest of either DAVID SCHAEFER or JOHN DOE No. 2.

59. The foregoing conduct and statements of JOHN DOE No. 1 was part of and in furtherance of the policy, practice and custom of the CITY OF MADEIRA.

60. Based upon information and belief, the foregoing conduct and actions of JOHN DOE

No. 1 was undertaken at the direction or behest of either DAVID SCHAEFER or JOHN DOE No. 2.

61. In response to the immediate and threatened enforcement of the *Sign Regulations* against him by DAVID SCHAEFER and/or JOHN DOE No. 1, DOUG OPPENHEIMER removed on September 9, 2019, the two signs posted at his residence less he be subjected to the time, inconvenience and potential penalties associated with violating the *Sign Regulations*.

62. At the time he removed the two yard signs and during the time he did not post the signs after removing them, DOUG OPPENHEIMER desired to have continually posted the two signs in the yard at his residence within the CITY OF MADEIRA that he had posted but removed upon the threat of being cited for violation of the *Sign Regulations*

63. In September 2019, DOUG OPPENHEIMER desired to post additional signs in yard concerning political matters, including supporting or opposing specific candidates for Madeira City Council, and to post more than one such sign in support or opposition to such candidates but did not do so in light of the threatened enforcement of the *Sign Regulations* against him, including enforcement of the limitation on the number of *political signs* or signs with *free speech messages*.

64. On September 23, 2019, the Madeira City Council passed Ordinance No. 19-04 which repealed, *inter alia*, the *Sign Regulations*.

65. However, either before, when, or after passing Ordinance No. 19-04, the CITY OF MADEIRA, through the Madeira City Council or otherwise, has never acknowledged that the *Sign Regulations* violated the First Amendment, applicable to the CITY OF MADEIRA and its officials and employees through the Fourteenth Amendment.

66. In passing Ordinance No. 19-04, the CITY OF MADEIRA, through the Madeira City Council, equivocated about the constitutionality of the *Sign Regulations*, declaring, *inter alia*, case

law “may impact” the constitutionality of the *Sign Regulations* and that, as a result, “uncertainty surrounding the enforceability:” of the *Sign Regulations* existed.

67. In passing Ordinance No. 19-04, the CITY OF MADEIRA, through the Madeira City Council, simply declared its desire “to study, deliberate, and determine” how it was going to proceed with sign regulation in the CITY OF MADEIRA.

68. And as of December 23, 2019, the CITY OF MADEIRA continues to publish on its website the *Sign Regulations*, *i.e.*, Exhibit A, with no indication or mention of Ordinance No. 19-04. Thus, the CITY OF MADEIRA continues to present and communicate to the general public that the *Sign Regulations* are part of the Zoning Code.

69. At no time – either before, when, or after passing Ordinance No. 19-04 – has the CITY OF MADEIRA, through the Madeira City Council or otherwise, disavowed the *Sign Regulations* and provided a clear and unequivocal declaration that any ensuing regulation of signs enacted by the Madeira City Council will not unconstitutionally regulate signs similar to the *Sign Regulations*.

FIRST CAUSE OF ACTION
(Declaratory Judgment / Injunctive Relief, 28 U.S.C. § 2201 et seq.)

70. Plaintiff incorporates by reference all of the foregoing paragraphs as if fully restated herein.

71. Through, *inter alia*, the imposition of a limitation in residential districts of 6 square feet on signs with a political message, Section 159.20 of the Codified Ordinances of the City of Madeira imposed a significant and unconstitutional burden on those wishing to post signs with electoral or political messages in residential districts in the CITY OF MADEIRA, including DOUG OPPENHEIMER.

72. Through, *inter alia*, the imposition of a limitation in residential districts of 6 square feet on signs with a political message, Section 159.26 of the Codified Ordinances of the City of Madeira

imposed a significant and unconstitutional burden on those wishing to post signs with electoral or political messages in residential districts in the CITY OF MADEIRA, including DOUG OPPENHEIMER.

73. For example, the message which DOUG OPPENHEIMER desired to disseminate in September 2019, through the posting of the two signs in his yard, was effectively lost if such speech was constrained and limited to be posted on a sign with an area of only 6 square feet.

74. Through, *inter alia*, the imposition of a limitation in residential districts of but a single 6 square feet on signs with a political message, Section 159.20 of the Codified Ordinances of the City of Madeira imposed in September 2019 a significant and unconstitutional burden on those wishing to post signs with electoral or political messages in residential districts in the CITY OF MADEIRA, including DOUG OPPENHEIMER.

75. Through, *inter alia*, the imposition of a limitation in residential districts of but a single 6 square feet on signs with a political message, Section 159.26 of the Codified Ordinances of the City of Madeira imposed in September 2019 a significant and unconstitutional burden on those wishing to post signs with electoral or political messages in residential districts in the CITY OF MADEIRA, including DOUG OPPENHEIMER.

76. For example, the messages which DOUG OPPENHEIMER desired to disseminate in September 2019, through the posting of the two signs in his yard, was effectively lost and precluded based upon the single-sign limitation imposed by the CITY OF MADEIRA.

77. And by jointly and simultaneously imposing both a size limitation and a limitation on the number of signs, Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira further imposed in September 2019 a significant and unconstitutional burden on those wishing to post signs with electoral or political messages in residential districts in the CITY OF MADEIRA,

including DOUG OPPENHEIMER.

78. Additionally and/or alternatively, by allowing signs “which announce charitable, institutional or civic events such as church bazaars, charitable fund raising events and similar announcements” to be posted in residential districts but allowing such signs to be as large as 50 square feet, Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira constituted in September 2019 a restriction or regulation of speech based upon its content.

79. Additionally and/or alternatively, by allowing more than one sign containing a *free speech message* but only if such additional sign indicates support or opposition to a specific candidate or issues that the Hamilton County Board of Elections has identified for placement on the ballot, Section 159.26 of the Codified Ordinances of the City of Madeira constituted in September 2019 a restriction or regulation of speech based upon its content.

80. Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira were, in September 2019, unconstitutionally overbroad and had a substantial chilling effect on the free speech rights of DOUG OPPENHEIMER, as well as others not before the Court.

81. In September 2019, Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira were regulations of speech based upon content, but the provision was not narrowly tailored to serve any compelling governmental interest.

82. Alternatively, in September 2019, Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira imposed a severe burden on the constitutional rights of DOUG OPPENHEIMER, as well as others, but the provisions were not narrowly tailored to serve any compelling governmental interest.

83. Alternatively, in September 2019, Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira imposed a substantial burden on the constitutional rights of

DOUG OPPENHEIMER, as well as others, but the provisions did not serve any substantial governmental interest of the CITY OF MADEIRA and, even if they did, the provisions were not narrowly tailored to further any such interest.

84. As a direct and proximate result of the unconstitutional restrictions on the display of political signs imposed by the CITY OF MADEIRA pursuant to Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira, DOUG OPPENHEIMER suffered and continued to suffer, in September 2019, irreparable harm for which there was and is no adequate remedy at law.

85. In order to prevent further violations of the constitutional rights of DOUG OPPENHEIMER by the CITY OF MADEIRA, it is both appropriate and proper that a declaratory judgment be issued, pursuant to 28 U.S.C. § 2201 and Rule 57 of the Federal Rules of Civil Procedure, declaring any provisions of the *Sign Regulations*, as they existed in September 2019, or any future sign regulation that limits the size of signs posting a political message to 6 square feet unconstitutional on its face or as applied to DOUG OPPENHEIMER or, to the extent that such provisions are not severable, declaring the entire *Sign Regulations* or any future such sign regulation unconstitutional on their face.

86. In order to prevent further violations of the constitutional rights of DOUG OPPENHEIMER by the CITY OF MADEIRA, it is both appropriate and proper that a declaratory judgment be issued, pursuant to 28 U.S.C. § 2201 and Rule 57 of the Federal Rules of Civil Procedure, declaring any provisions of the *Sign Regulations*, as they existed in September 2019, or any future sign regulation that limits the number of signs posting a political message unconstitutional on its face or as applied to DOUG OPPENHEIMER or, to the extent that such provisions are not severable, declaring the entire *Sign Regulations* or any future such sign

regulation unconstitutional on their face.

87. Furthermore, pursuant to 28 U.S.C. § 2202 and Rule 65 of the Federal Rules of Civil Procedure, it is appropriate and hereby requested that this Court issue a preliminary and permanent injunction enjoining the CITY OF MADEIRA from enforcing the unconstitutional provisions of its *Sign Regulations* or any future sign regulation unconstitutional on their face against DOUG OPPENHEIMER and others.

SECOND CAUSE OF ACTION
(Violation of the First and Fourteenth Amendments to the United States Constitution,
42 U.S.C. § 1983, and Article I, Section 11 of the Ohio Constitution)

88. Plaintiff incorporates by reference all of the foregoing paragraphs as if fully restated herein.

89. The *Sign Regulations* constitute and embody the official policy, practice and custom of the CITY OF MADEIRA.

90. As indicated and declared above, the *Sign Regulations* as they existed in September 2019 were unconstitutional as being in violation of the First Amendment to the United States Constitution.

91. As a direct and proximate result of the unconstitutional restrictions on the display of political signs imposed by the CITY OF MADEIRA pursuant to the *Sign Regulations*, including Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira as they existed in September 2019, together with the enforcement actions and threatened actions of DAVID SCHAEFER, JOHN DOE No. 1 and JOHN DOE No. 2, DOUG OPPENHEIMER did not post for a period of over 2 weeks the yard signs containing messages of core political speech.

92. As a direct and proximate result of the unconstitutional restriction on the display of political signs imposed by the CITY OF MADEIRA pursuant to the *Sign Regulations*, including

Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira as they existed in September 2019, DOUG OPPENHEIMER has suffered and will suffered damages and is entitled to recover damages, including, at a minimum, nominal damages.

93. As a direct and proximate result of the unconstitutional restriction on the display of political signs imposed by the CITY OF MADEIRA pursuant to the *Sign Regulations*, including Sections 159.20 and 159.26 of the Codified Ordinances of the City of Madeira as they existed in September 2019, and the conduct of DAVID SCHAEFER, JOHN DOE No. 1 and JOHN DOE No. 2 to enforce or threaten the enforcement thereof against DOUG OPPENHEIMER in September 2019, DOUG OPPENHEIMER has suffered damages and is entitled to recover damages, including, at a minimum, nominal damages.

WHEREFORE, Plaintiff DOUG OPPENHEIMER prays for judgment as follows:

- A. that this Court render a declaratory judgment declaring that the aforementioned provisions of the *Sign Regulations* of the CITY OF MADEIRA as they existed in September 2019, and to the extent such provisions are not severable, the entire *Sign Regulations* as they existed in September 2019, are invalid both on their face and as applied to the speech of DOUG OPPENHEIMER in September 2019 under the First and Fourteenth Amendments to the United States Constitution, and Article I, Section 11 of the Ohio Constitution;
- B. that this Court issue an injunction restraining the enforcement of the *Sign Regulations* as they existed in September 2019 or any subsequent sign regulation enactment that suffers from the same constitutional infirmities;
- C. that this Court retain jurisdiction of this matter for the purpose of enforcing its Order;

- D. that this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such declarations shall have the force and effect of final judgment;
- E. that this Court award damages of at least nominal damages;
- F. that this Court award Plaintiff's costs and expenses of this action, including a reasonable attorneys' fees award, in accordance with 42 U.S.C. § 1988; and
- G. that this Court grant any other relief to which DOUG OPPENHEIMER is entitled, in law or in equity

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing will be served upon all counsel of record via the Court's ECF system on the date of filing.

/s/ Curt C. Hartman