

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. **08-cv-**\_\_\_\_-\_\_\_\_-\_\_\_\_

AMERICAN CIVIL LIBERTIES UNION OF COLORADO, a Colorado  
non-profit corporation;  
AMERICAN FRIENDS SERVICE COMMITTEE, a Pennsylvania non-  
profit corporation;  
AMERICAN INDIAN MOVEMENT OF COLORADO, a Colorado  
unincorporated association;  
AMERICANS FOR SAFE ACCESS, a California non-profit corporation;  
CODEPINK, a California non-profit corporation;  
ESCUELA TLATELOLCO CENTRO DE ESTUDIOS, a Colorado non-  
profit corporation;  
LARRY HALES, a Colorado citizen in his capacity as a representative of  
TROOPS OUT NOW COALITION, a New York unincorporated  
association  
GLENN MORRIS, a Colorado citizen, in his capacity as a representative of  
unincorporated association THE AMERICAN INDIAN  
MOVEMENT OF COLORADO  
RECREATE 68, a Colorado non-profit corporation;  
ROCKY MOUNTAIN PEACE & JUSTICE CENTER, a Colorado non-  
profit corporation;  
DAMIAN SEDNEY, a Vermont citizen, in his capacity as a representative  
of the unincorporated association CITIZENS FOR OBAMA;  
TENT STATE UNIVERSITY, a Colorado non-profit incorporation;  
TROOPS OUT NOW COALITION, a New York unincorporated  
association, and,  
UNITED FOR PEACE & JUSTICE, a New York non-profit corporation,  
**Plaintiffs,**

**v.**

THE CITY AND COUNTY OF DENVER, COLORADO, a political  
subdivision of the State of Colorado;  
MICHAEL BATTISTA, in his official capacity as the Deputy Chief of  
Operations for the Denver Police Department, an agency of the City  
and County of Denver, Colorado;  
THE UNITED STATES SECRET SERVICE; and,  
MARK SULLIVAN, in his official capacity as the Director of the United  
States Secret Service,  
**Defendants.**

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**COMPLAINT FOR INJUNCTIVE RELIEF**

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## **INTRODUCTION**

In this lawsuit, Plaintiffs, who are various advocacy groups and individuals, seek to vindicate their rights to engage in free speech and assembly in connection with the Democratic National Convention in Denver, Colorado, August 25-28 of this year. During that time, the Plaintiffs intend to conduct marches on city streets that run alongside and up to the site of the Convention (the Pepsi Center) and other symbolically significant buildings (e.g., the federal courthouse, the State Capitol, the United States Mint, among others). The Plaintiffs also intend to conduct rallies and demonstrations in which they and others will express their views on a variety of political, social, and economic issues to the Delegates attending the Convention, many of whom are elected officials, and all of whom will determine the national platform of the Democratic Party and nominate that party's candidate for the Presidency of the United States. As one court has observed, "Few events in this country's national political life are more significant than the quadrennial conventions of the two major political parties." *SEIU, Local 660 v. City of Los Angeles*, 114 F. Supp. 2d 966, 972 (C. D. Cal. 2000). Therefore, that Court concluded, "the speech activities at issue in the case and the proposed location of those activities rest at the very core of the First Amendment." *Id.*

Now, however, less than 120 days before that national Convention is to be convened, the Plaintiffs are unable to organize and plan their free speech and assembly activities at or near the Pepsi Center in connection with that event. Despite numerous requests and urgings from the Plaintiffs over the past several months, the City and County of Denver has refused even to begin the process of issuing permits needed to conduct "parades" (political protest marches) along the public thoroughfares that from time immemorial have been reserved for such expressive use by

The People. The Revised Municipal Code of the City and County of Denver makes it unlawful (and a criminal violation) to conduct a march or parade on any City street without a valid permit; thus, the City's failure even to begin processing permit requests poses the risk that the system of prior restraints will not be accompanied by the opportunity for prompt judicial review, as required by the Constitution.

In addition, the City also has failed to disclose its plans for allowing other non-parade peaceful demonstrations within sight and sound of the Convention delegates and attendees, again making it impossible for Plaintiffs to organize rallies, protests, and other demonstrations at the site of the national Convention.

As a result of all of these refusals, these Plaintiffs' constitutional rights are currently being infringed, without any substantial justification by the Defendants.

This lawsuit also challenges what are anticipated to be unreasonably restrictive (and therefore unconstitutional) limitations on the exercise of free speech and assembly rights of the Plaintiffs during the upcoming Democratic National Convention. The Plaintiffs are not currently able to directly challenge those restrictions and limitations, however, because the City has refused to disclose them. The Plaintiffs anticipate that the City's undisclosed plans for the "parade route(s)" for which it will issue permits will unconstitutionally burden protected speech, and thus be subject to challenge. The Plaintiffs also anticipate that the City's undisclosed plans for the so-called "demonstration zone" adjacent to the Convention site – purportedly not yet made public because the Secret Service has not yet disclosed necessary preliminary information to the City – will also unconstitutionally burden protected speech, and thus be subject to challenge. When the contours of the Defendants' various unconstitutional restrictions on speech

and assembly are disclosed, the Plaintiffs expect to ask this Court to review them and fashion a remedy that complies with the First Amendment while accommodating legitimate security concerns. Notably, when courts have had a sufficient opportunity in the past to evaluate restrictions imposed on expressive activities in connection with past national political conventions, the courts have disagreed with law enforcement's view of the appropriate balance between security concerns and First Amendment rights.

But, time is of the essence.

Unless the City and County of Denver is compelled by Court Order to disclose the expected regulations of free speech activities in the *immediate future*, the Court may well be deprived of an adequate opportunity to evaluate the anticipated restrictions. This was precisely the experience just four years ago in Boston, where the United States District Court described the “overall impression created by the [Demonstration Zone]” erected near the site of the Democratic National Convention in that city, as “that of an internment camp,” an affront to all civilized notions of freedom of speech and assembly. *See Coalition to Protest the Democratic Nat’l Convention v. City of Boston*, 378 F. Supp. 2d 61, 74 & 76 (D. Mass.), *aff’d sub nom. Bl(a)ck Tea Soc’y v. City of Boston*, 378 F.3d 8 (1st Cir. 2004). Nevertheless, that court was compelled to deny the emergency injunctive relief sought by the demonstrators because there was insufficient time, on the eve of the convention, to effectuate a remedy. Affirming that decision, which the appellate court expressly grounded in part on “the *temporal constraints* under which the district court labored,” *Bl(a)ck Tea Society*, 378 F.3d at 15, one of the judges on the First Circuit panel provided clear direction to those in Plaintiffs’ current position:

In the future, if the representatives of demonstrators ask the courts to modify security measures developed over many months of planning for an event of this magnitude, ***they should come to court when there is enough time for the courts to assess fully the impact that modifications will have on the security concerns advanced.*** . . . for an event of this magnitude, taking place at a time of heightened national security, there is an inescapable need for firm, documented understandings ***well in advance of the event*** about arrangements to accommodate demonstrations. If the parties cannot reach satisfactory agreements, ***there must be adequate time to seek recourse in the courts. Adequate time means months*** or at least weeks to address the issues.

*Id.* at 16 (Lipez, J., concurring) (emphasis added).

Thus, Plaintiffs ask this Court to invoke its equitable power and its statutory authority to issue injunctions “in aid of its jurisdiction” under the All Writs Act and for the preservation of constitutional rights under the Civil Rights Act. Plaintiffs ask the Court to order the Secret Service to share with the City the information the City says it needs in order to process the Plaintiffs’ pending requests for parade permits. Similarly, Plaintiffs ask the Court to order the Secret Service to disclose to the City the information the City says it needs in order to announce its plans for disclosing parade routes, the number and times that parades will be permitted, and the contours of, and procedures connected to, the “demonstration zone” adjacent to the Pepsi Center. Ordering such disclosure now is necessary to preserve this Court’s opportunity to meaningfully adjudicate whether those planned restrictions on the Plaintiffs’ free speech and assembly rights pass constitutional muster, and if they do not, to fashion a remedy that fully vindicates those fundamental rights while accommodating any legitimate government concerns regarding security.

## **Parties**

### **A. Plaintiffs**

1. The American Civil Liberties Union of Colorado (“ACLU”) is a nonprofit and nonpartisan statewide organization based in Denver with over 10,000 members working together to defend, protect and extend the civil rights and civil liberties of all people in Colorado. The ACLU is an affiliate of the national American Civil Liberties Union, which has affiliates in almost every state, as well as the District of Columbia and Puerto Rico, and has more than 500,000 members and supporters. The ACLU has a longstanding interest in promoting and defending the right of association, the right of free expression, and the right to petition the government for redress of grievances.

2. The American Friends Service Committee (“AFSC”), headquartered in Philadelphia, Pennsylvania, is a nonprofit organization that carries out service, development, social justice, and peace programs throughout the world. Founded by Quakers in 1917, AFSC’s work attracts the support and partnership of people of many races, religions, and cultures. AFSC’s work is based on the Quaker belief in the worth of every person and faith in the power of love to overcome violence and injustice. AFSC has 56 offices throughout the United States and internationally, including an office in Denver, Colorado.

3. Americans for Safe Access (“ASA”) is a California nonprofit corporation with its headquarters in Oakland, California, and offices elsewhere in California, Colorado, and Washington, D.C. ASA is the largest national member-based organization of patients, medical professionals, scientists and concerned citizens promoting safe and legal access to cannabis for therapeutic uses and research. ASA works in partnership with state, local and national legislators

to overcome barriers and create policies that improve access to cannabis for patients and researchers. ASA has more than 40,000 active members, with chapters and affiliates in more than 40 states.

4. CODEPINK is California non-profit corporation with regional offices in New York, Washington, D.C., Los Angeles, and San Francisco, and has over 250 active local groups around the world, including a chapter in Denver. CODEPINK is a worldwide, women-initiated, grassroots peace and social justice movement that works to end the war in Iraq, stop new wars, and redirect resources into healthcare, education and other life-affirming activities. CODEPINK calls for policies based on compassion, kindness and a commitment to international law. With an emphasis on joy and humor, CODEPINK women and men seek to activate, amplify and inspire a community of peacemakers through creative campaigns and a commitment to non-violence.

5. Escuela Tlatelolco Centro De Estudios (“Escuela Tlatelolco”) is a Colorado non-profit corporation. Escuela Tlatelolco is a community-based private school in Denver, Colorado, founded in the late 1960's to provide an alternative education for young Chicanos, Mexicanos and Raza Indigena. Escuela Tlatelolco offers a comprehensive K-12 education, a dual-language preschool Montessori, adult continuing education, daycare, family service work, a health office, and indigenous music and dance education. In addition to its these programs, Escuela Tlatelolco has long played an active and prominent role in Colorado regarding issues affecting immigrant and indigenous communities.

6. Larry Hales is a Colorado citizen, and is an organizer and member of the Troops Out Now Coalition (“TONC”), which is an unincorporated association headquartered in New York City, New York. TONC is a national grassroots coalition of antiwar activists, trade

unionists, solidarity activists and community organizers. TONC is committed to advocating for the immediate withdrawal of all United States armed forces from Iraq, Afghanistan and from all foreign bases. TONC also advocates for the United States to cease funding oppressive regimes around the world and for using the monies and resources currently devoted to wage war to address the pressing needs of local communities here in the United States.

7. Glenn Morris is a Colorado citizen, and is a member of The Leadership Council of the American Indian Movement of Colorado (“Colorado AIM”). Colorado AIM was founded in 1971 to provide a voice for American Indian people who have been forced from their traditional homelands and have found themselves in Colorado; Colorado AIM is committed to building a community among and between American Indians for the purpose of promoting their rights, religious freedoms, educational opportunities, and to hold governmental officials accountable.

8. Recreate 68, is a Colorado non-profit corporation. Recreate 68 was formed in early 2007 by a group of Denver activists when it became apparent that the city would be selected to host the 2008 Democratic National Convention. Recreate 68 recognized that many groups and individuals, both local and national, would see the Convention as a unique opportunity to present their views to the delegates and elected officials who would be attending the convention. Recreate 68 was formed as an umbrella organization to support the nonviolent participation of a broad range of groups in the marches, rallies and demonstrations that have been a feature of all past conventions, and that Recreate 68 considers as integral a part of the political process as the Convention itself.



9. Rocky Mountain Peace & Justice Center (“RMPJC”), is a Colorado non-profit corporation. RMPJC was founded in 1983 in Boulder, Colorado, and is rooted in the spirit of unconditional nonviolence. RMPJC is dedicated to progressive personal and social change. As a multi-issue organization, RMPJC works to restore and protect earth and human rights. RMPJC educates, organizes, acts, and builds community in order to create a culture of justice and peace. RMPJC reaches more than 2,000 people with its email updates and is a member of a statewide peace and justice coalition.

10. Damian Sedney is a Vermont citizen and is a leader of an unincorporated organization called “Citizens for Obama” that filed a request with the City and County of Denver to conduct a march that comes within sight and sound of the Convention site and Delegates. If awarded a “parade” permit, Citizens for Obama intends to conduct a mass march to and rally at the Democratic National Convention in support of Senator Barrack Obama’s nomination as the Democratic Party’s candidate for President.

11. Tent State University (“Tent State”) is a Colorado non-profit corporation. Tent State was launched in 2003 as a project of the Community Empowerment Project at Rutgers University in New Jersey. Its initial purpose was to stop drastic state budget cuts to higher education that were pending in the wake of the wars in Afghanistan and Iraq. Tent State organized a coalition of over 50 student groups, faculty, and staff unions that came together, and built and occupied, for five days, a tent city symbolizing the displacement of higher education. Since 2003 and up to the present, Tent State University has continued to rally throughout the country at various “Tent States” against the war in Iraq, and it has also been instrumental in raising awareness of other campus issues, such as fair pay for university employees and

universities' unethical contracting policies.

12. United For Peace & Justice ("UFPJ") is a non-profit New York corporation.

UFPJ is a international coalition of local and national grassroots organizations committed to non-violence, working to end the Iraq war and prevent new wars of aggression. Founded in October 2002, UFPJ now includes nearly 1700 groups and organizations, and new groups join monthly. Headquartered in New York City, UFPJ counts membership organizations in every state and in countries all over the world.

13. As set forth below, various of the Plaintiffs, both individually and collectively, intend to take part in multifaceted expressive activities and peaceable assemblies during the Democratic National Convention in Denver, by participating in marches and demonstrations within sight and sound of the Convention site and the Delegates themselves. These Plaintiffs intend to speak directly to Delegates and other attendees at the Convention concerning the Plaintiffs' various issues, to distribute their pamphlets, brochures, petition cards, and other materials to the Delegates and other attendees, and to engage in lively, entertaining, meaningful political speech in not just the symbolic shadow but the literal shadow of the Pepsi Center, for all the world to see.

14. In addition, as to the various Plaintiffs who are membership organizations, these entities also seek judicial relief in this case on behalf of their various members, representing the associational and speech interests of these members in this lawsuit. For the Plaintiffs who are membership organizations, the purposes of these organizations are germane to the interests asserted in this lawsuit. Moreover, the individual members of these membership organizations

would have standing to pursue this lawsuit in their own right, and the participation of individual members is not necessary for the claims asserted and the relief requested.

B. Defendants

15. The City and County of Denver (“the City”) is a municipal corporation, a political subdivision of the State of Colorado, and a Home Rule City and County authorized and created by Article XX of the Colorado Constitution. The City has final authority and responsibility for the Denver Police Department and its employees, including Defendant Battista.

16. Michael Battista is an employee and agent of the City and County of Denver. He is the Deputy Chief of Operations for the Denver Police Department. He is responsible for all of the Denver Police Department’s operational preparations and deployment in connection with the Democratic National Convention. (The City and Deputy Chief Batista collectively are referred to herein as “the Municipal Defendants.”)

17. At all times relevant to this Complaint, the actions or inactions of the Municipal Defendants occurred under color of state law.

18. The United States Secret Service (“the Secret Service”) is an agency of the United States within the Department of Homeland Security. Pursuant to an executive order issued by the President of the United States, the Secret Service has ultimate authority for security arrangements at events designated as National Special Security Events. The 2008 Democratic Convention, like all political conventions of the major political parties in recent years, has been designated as a National Special Security Event.

19. Mark Sullivan is the Director of the United States Secret Service. (The Secret Service and Director Sullivan collectively are referred to herein as “the Federal Defendants.”).

### **Jurisdiction and Venue**

20. This Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1331, because Plaintiffs' claims arise under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. This Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, to address the Plaintiffs' claim arising under the Colorado Constitution.

21. Venue is proper in this Judicial District under 28 U.S.C. § 1391(b) as the Defendants City and County of Denver and Deputy Chief Batista are located in this District and virtually all of the events giving rise to the Plaintiffs' claims have occurred in this District.

### **Factual Allegations**

#### **I. Plaintiff's Efforts to Confer with Defendants to Forge a Plan for Accommodating Both Security Concerns and Free Speech and Assembly at the DNC**

##### **A. Early Meetings with the City**

22. On or about January 11, 2007, the Democratic National Committee announced that the 2008 Democratic National Convention (hereinafter “the Convention”) would be held in Denver, Colorado. The dates of the Convention were announced to be August 25 - 28, 2008.

23. In the Spring of 2007, representatives of Recreate 68 and the ACLU initiated a series of meetings with Deputy Chief Battista and other representatives of the City to discuss arrangements for free speech and assembly activities during the time of the Convention.

24. The first meeting was held on May 23, 2007. In addition to Deputy Chief Battista and representatives from Recreate 68 and the ACLU, the meeting also was attended by a representative from the National Lawyers Guild. Also present from the City were representatives from the Mayor's Office and representatives from the Office of the Manager of Safety for the City. The meeting was followed by three additional meetings in the summer of 2007 between the ACLU, Recreate 68, Deputy Chief Battista, representatives from the Mayor's Office, and other City officials, on July 26, August 19, and September 27, 2007.

25. At these meetings, Deputy Chief Battista and other representatives of the City indicated that the Secret Service would determine a "hard-security perimeter" around the site of the Pepsi Center. The area inside that perimeter would be under the jurisdiction of, and controlled by, the Secret Service. Chief Battista said that the area outside the "hard security perimeter" would remain under the jurisdiction of the Denver Police Department. He also confirmed the continued validity of the City's policy that in areas under Police Department's jurisdiction, there would be no need for permits for marches in such areas as the 16<sup>th</sup> Street Mall as long as participants stayed on the sidewalks and obeyed traffic signals.

26. Plaintiffs understand, based on past practices at other national political conventions, as well as the standard procedures of the Secret Service at various other "National Special Security Events," that in addition to the hard-security perimeter at the Convention site, there will also be a the "soft-security perimeter" that delineates the boundary beyond which members of the general public cannot go in seeking to convey their messages to convention Delegates, *i.e.*, outside of any "demonstration zone."

27. At the meetings between Recreate 68/ACLU and the City, Deputy Chief Battista confirmed that the City intends to set up a “free speech zone” or “demonstration zone” that would be close to, but outside of, the Secret Service’s “security perimeter.” Deputy Chief Battista indicated that the location of the “demonstration zone” would not be determined until the Secret Service determined the boundary of the “hard-security zone.” He stated that the “demonstration zone” would be “within sight and sound” of the Convention site, but he did not then, nor has any City official since then, made any commitment that the “demonstration zone” would be within “sight and sound” of Delegates or other attendees at the Convention, or that the “demonstration zone” would be situated in a manner that would facilitate direct communication with Delegates and others who wish to hear the messages of citizens gathered at the “demonstration zone.”

28. In these early meetings, City officials stated that a representative of the Secret Service would be working full-time in Denver beginning in September 2007. A representative of the Secret Service attended the meeting on August 19, 2007, but he stated that the agency had no information to provide that would reveal the location or nature of the “demonstration zone.” At the meeting on September 27, 2007, City officials stated that they still had no information they could provide about the location of the “security perimeter” or the location of the “demonstration zone.” At this meeting, Deputy Chief Battista indicated that it would be “safe to say” that City officials would have sufficient information to be able to discuss the details of the “demonstration zone” about “six months out” from the date of the convention (*i.e.*, in March 2008).

B. The News Media's "Walk-Through"

29. On November 13, 2007, members of the national and local press, as well as the "blogging" community, were provided a "walk-through" of the Pepsi Center by the Democratic National Convention Committee ("DNCC"). In the course of that walk-through, the DNCC distributed detailed maps showing where the media pavilions and satellite transmitting trucks would be stationed in the parking lots surrounding the Pepsi Center. Copies of these diagrams are attached hereto as **Exhibit A**, and incorporated herein as if set forth in full.

30. Additional printed materials provided to the press by the DNCC on November 13, 2007, indicated that, "Ample on-site parking for media will be available across the street from the Pepsi Center at Auraria College from Saturday, August 23 through Thursday, August 28. *This is outside the secured perimeter.*" (emphasis added). A copy of excerpts from the media guide is attached hereto as **Exhibit B**.

31. These materials distributed to the news media indicated that the "City of Denver agrees to expedite the review and approval process for any and all permits, variances, license or other approvals that may be necessary for the construction or installation that may be required at the Convention Site," and that the news media would be given "Unlimited Access" to begin construction of their facilities "[b]eginning at 8 a.m., July 7, 2008."

32. Attendees at the November 13 media "walk-through" were also told that golf carts would be available for use "within the security perimeter."

33. In light of these disclosures to the news media concerning the apparently firm plans for – and actual knowledge of – the "security perimeter" around the Pepsi Center, on December 6, 2007, representatives from the ACLU met with representatives from the City to

discuss, among other things, “the security perimeter now established as noted in the DNCC media walk-through.” A copy of the December 4, 2007 email memorializing the meeting topics is attached as **Exhibit C**. At that meeting, however, the City’s representatives denied that they had any knowledge of the contours or plans for any security perimeter.

C. Correspondence on Proposed Revisions to City’s Permit Ordinances

34. In December 2007, in anticipation of the DNC, the City undertook a comprehensive revision of its ordinances governing permits for city park and parades. The ACLU requested, and the City granted, the opportunity to review and comment upon the proposed revisions.

35. On or about December 21, 2007, the ACLU sent a letter to City Attorney David Fine in which it provided comments and suggestions on the City’s proposed revisions to its parade and park permitting ordinance. A true and correct copy of this letter is attached hereto as **Exhibit D**, and is incorporated herein by reference. That letter expressly noted that the City’s announced intention to have Denver Mayor John W. Hickenlooper declare “an Extraordinary Event” with respect to the DNC did not include any statement identifying the scope of the “hard security zone” around the Pepsi Center. The ACLU’s letter also stated that, “the City provides no information regarding how the City’s permitting decision may be affected by security zone boundaries...The answers to these questions may dramatically impact the operation and constitutionality of the proposed scheme, and should be addressed by the City *immediately*.” (emphasis added).

36. On January 9, 2008, the ACLU sent a letter to City Attorney David Fine, in which the ACLU sought clarification regarding what the City believed would constitute a “conflict” for



purposes of triggering a “lottery” to obtain a parade permit when two or more permit applications were filed for parades to occur on the same date. A true and correct copy of that letter is attached hereto as **Exhibit E**, and is incorporated herein by reference. In that letter, the ACLU expressly urged the City to provide for multiple parades per day and/or to authorize the conduct of simultaneous parades at different areas/routes within the City. *Id.*

37. On January 11, 2008, the ACLU sent a letter to City Attorney David Fine, in which the ACLU confirmed a conversation earlier that same day, at a meeting between ACLU representatives and the City Attorney’s office, at which the City Attorney represented that more than two parades could be allowed per day, but not simultaneous parades. A true and correct copy of that letter is attached hereto as **Exhibit F**, and is incorporated herein by reference. In that letter, the ACLU objected to the City’s announcement that it would only permit a single parade or march at any time during the DNC, stating, “We believe that a large city like Denver can accommodate parades in separate parts of the city at the same time.” *Id.*

38. On January 15, 2008, City Attorney David Fine sent a letter to the ACLU, in which Fine stated, on behalf of the City, that, “We will continue to limit parades to one per time slot. The ordinance does not necessarily limit parades to now [sic] more than two per day anywhere in Denver; however, it does express our policy that no more than one parade should be occurring at any one time within the city.” A true and correct copy of that letter is attached hereto as **Exhibit G**, and is incorporated herein by reference.

D. Further Correspondence on Security Restrictions

39. On February 5, 2008, the ACLU sent a letter to Mayor Hickenlooper’s office (to the attention of Ms. Katherine Archuleta, the mayor’s chief aide on Convention matters) and to

the Denver Police Department (to the attention of Deputy Chief Michael Battista) asking that the City disclose its plans for providing permits for parades and its plans for the “demonstration zone” within sight and sound of the Pepsi Center. It also requested that the City identify which normally-public areas might be closed or have restricted access during the DNC. The letter further requested a meeting to discuss the requested information. A true and correct copy of that letter is attached hereto as **Exhibit H**, and is incorporated herein by reference.

40. On February 18, 2008, the ACLU sent a second, “follow-up” letter to Mayor Hickenlooper’s office (to the attention of Ms. Katherine Archuleta) and to the Denver Police Department (to the attention of Deputy Chief Michael Battista) asking for disclosure of all records (pursuant to Colorado’s Criminal Justice Records Act) that would evidence the City plans for providing permits for parades and for the “demonstration zone” within sight and sound of the Pepsi Center, and, again, requesting a meeting to discuss those plans. A true and correct copy of that letter is attached hereto as **Exhibit I**, and is incorporated herein by reference.

41. On February 21, 2008, Ms. Mary Dulacki, the custodian of the records that the ACLU had requested from the City, sent a response letter to the ACLU, denying the records request and referring the question of a meeting to Deputy Chief Battista. A true and correct copy of that letter is attached hereto as **Exhibit J**, and is incorporated herein by reference.

42. In her letter, Ms. Dulacki stated, “The discussions on the subject of which normally public areas may be closed or have access restricted during the time of the DNC are ongoing. No document on these issues has been finalized at this time as the process is evolving and the discussions between various security agencies continue.” *Id.*

43. On February 22, 2008, counsel for the ACLU sent an email to Mary Dulacki, attaching copy of a *Ms. Magazine* website story that reported the City had removed 14 public parks from the park permitting process and requesting to inspect all records in the city's custody or control regarding that decision. A true and correct copy of that email is attached hereto as **Exhibit K**, and is incorporated herein by reference.

44. Also on February 22, 2008, Ms. Katherine Archuleta sent an e-mail message to representatives of Recreate 68 and the ACLU, responding to a request for another meeting, in which she stated on behalf of the City that city officials had no "new information to share" about "specific details about the security perimeter and related matters." A true and correct copy of that e-mail message is attached hereto as **Exhibit L**, and is incorporated herein by reference.

45. No subsequent meetings with City representatives concerning the impact of security arrangement on free speech activities were ever scheduled by the City.

E. Enactment of Revised Ordinances and Declaration of "Extraordinary Event"

46. On February 4, 2008, the City Council of the City & County of Denver enacted Ordinance Nos. 55-08 and 56-08, which substantially rewrote the City's permit regulations for parades and assemblies in City parks. Those ordinances are now codified at Denver Rev. Mun. Code §§ 39-61, *et seq.*, and 54-357, *et seq.* A true and correct copy of those municipal code provisions is attached hereto as **Exhibit M**, and is incorporated herein by reference.

47. Under Denver's revised permit ordinances, the City is required to process applications for parade permits no less than ten (10) days upon receipt. Denver Rev. Mun. Code § 54-360(d). If there are no conflicting requests for parades, any failure by the City to meet the time frames for review of the permit applications results in automatic approval of the permit

application. If there are conflicting request for parades, then the City must hold a lottery in no less than ten (10) days to allocate the permits. Denver Rev. Mun. Code § 54-361.5(b).

48. Under the revisions to the municipal code, certain provisions may be unilaterally altered or amended via an executive decree that declares a certain time period to be an “extraordinary event.” Pursuant to these revisions, while parade permit applications normally may be submitted 200 days before an event, this timeframe can be altered if the Mayor declares an event to be an “extraordinary event” and a “different time period is specified.” Denver Rev. Mun. Code § 54-361(c). In addition, under normal conditions, when the City receives conflicting parade permit applications, a lottery must be held within 10 days. During an “extraordinary event,” however, “additional or alternative lottery procedures may be provided in the declaration.” Denver. Rev. Mun. Code § 54-361.5(b).

49. On February 28, 2008, Mayor John W. Hickenlooper issued a Declaration of Extraordinary Event in connection with the Convention, altering all parade and park permit procedures for a portion of the city that encompasses the entire downtown core and the Pepsi Center environs from August 15, 2008 to August 31, 2008. A true and correct copy of the City’s publication of that Declaration is attached hereto as **Exhibit O**, and is incorporated herein by reference.

50. Pursuant to this Declaration, the City has suspended procedures that otherwise would apply to parade permits under Denver Rev. Mun. Code §§ 54-357, *et seq.*, First, although the code does not allow it under any circumstances, in the Declaration the Mayor announced that no parade permit applications would be accepted or used by the City during the DNC. Instead of “applications” for parade permits defined and referenced in the code, the Mayor declared that

only “requests” for parades would be accepted. Nowhere in the code is there any provision for suspending the permitting application process and supplanting it with “requests.” The Mayor’s Declaration is silent as to how other provisions of the code that refer to “parade permit applications” will apply, if at all, to the new system of “requests” pronounced for the first time in the Declaration.

51. Second, the code allows the Mayor to alter the 200-day time frame for accepting parade permit applications during an extraordinary event, provided that he “specify” a “different time period” for when the City will accept those applications. In the Declaration, however, the Mayor simply despatched with the 200-day guideline and did not specify any alternative date for accepting or processing requests for parade permits.

52. Third, the code allows the Mayor to create “additional or alternative” lottery procedures during an extraordinary events instead of holding a lottery within ten (10) days of the receipt of conflicting applications, if the Mayor specifies alternate procedures. In the Declaration, however, the Mayor discarded the 10-day requirement and did not specify any designated date certain for when the lottery would be held.

53. In addition, although the City has appropriately processed applications by groups and individuals wishing to assemble peaceably in Denver’s public parks during the DNC, the Declaration warns permit holders that, “Because security planning for the DNC will be ongoing between now and the time of the event, particularly in regard to the area immediately adjacent to the convention site, all permit and licenses will reserve to the city the right to modify or revoke the permit or license if the city deems such modification or revocation necessary in the interest of public safety or security.”

54. In sum, the Declaration provides no guidelines or standards that specify when the City must accept, process or grant or deny parade permits, nor does the Declaration disclose any other restrictions the City intends to impose on speech activities within the downtown area of Denver.

F. ACLU's FOIA Request to the Secret Service

55. On January 21, 2008, counsel for the ACLU sent a letter to the Secret Service, seeking records under the federal Freedom of Information Act ("FOIA") that evidence the date that security perimeters were communicated to state and/or local agencies at past National Special Security Events.

56. On March 7, 2008, the Secret Service responded to the ACLU's request, under the FOIA, to inspect records concerning the security arrangements planned for the DNC, in which the Secret Service asserted that "there are no records or documents pertaining to your requests in Secret Service files." A true and correct copy of that letter is attached hereto as **Exhibit O**, and is incorporated herein by reference.

57. On April 8, 2008, the ACLU filed a formal administrative appeal of the Secret Service's denial of its request to inspect records pursuant to the FOIA, which is currently pending. A true and correct copy of that letter is attached hereto as **Exhibit P**, and is incorporated herein by reference.

G. Summary: Defendant's Withholding of Information

58. The actions of the Defendants, collectively, in refusing to disclose any information concerning their planned restrictions of speech and assembly during the Convention, as described above, fly in the face of congressional testimony in August 2007 by an Assistant

Director of the Secret Service. In that testimony, during a field hearing in Aurora regarding the security plans for the 2008 National Conventions, Timothy Koerner unambiguously declared that the Secret Service's "objective is to provide *timely* information about how security measures will affect individuals *so that no one is unnecessarily inconvenienced*." A true and correct copy of Mr. Koerner's prepared testimony is attached hereto as **Exhibit Q**, and is incorporated herein by reference.

**II. Plaintiffs' Efforts to Obtain Permits to Peaceably Assemble and Engage in Free Speech at the DNC**

59. On March 3, 2008, the City began accepting requests for applications for permits to assemble in public parks, under the revised municipal ordinances, and the Mayor's "Declaration of Extraordinary Event," as described above.

60. The City proceeded to process the requests for applications it received for public parks permits, and it conducted a "lottery" to allocate parks permits among competing applications for the same park on the same date. The City, however, declined to accept any applications for parade permits. Instead, the City accepted only "requests" for applications to obtain permits to conduct parades/marches on city streets during the dates of the DNC. City officials indicated that they would not accept "applications" for parade permits, and they would not process the requests for applications, until some unspecified and undetermined date in the future.

61. On or about March 8, 2007, Plaintiff Americans for Safe Access, through the auspices of its organizer Richard Eastman, submitted requests to the City for "parade permits" to conduct marches on each day of the DNC. A true and correct copy of the parade permit request

that Americans for Safe Access submitted and that is on file with the City, is attached, and incorporated herein, as **Exhibit R**.

62. Also in early March 2008, Plaintiff Escuela Tlatelolco timely filed two separate requests for applications to obtain parade permits for a march to be held on either of the middle two days (August 26 and 27) of the DNC. A true and correct copy of the parade permit requests that Escuela Tlatelolco submitted and are on file with the City are attached, and incorporated herein, as **Exhibit S**.

63. Plaintiff Escuela Tlatetlolco intends to organize a march on August 26 or 27, entitled the “Somos America” march, that will call upon the delegates to the National Convention to commit to a comprehensive overhaul of our nation’s immigration laws. It will also urge lawmakers attending the Convention to pass “the DREAM Act.” If enacted, that statute would allow all graduates of Colorado state high schools, regardless of their immigration status, to pay in-state tuition at Colorado public colleges and universities.

64. Also in early March 2008, Plaintiff Recreate 68 timely filed five (5) separate requests – through four different members of Recreate 68, all of whom were acting on behalf of Recreate 68 – for applications to obtain parade permits during the four days of, and one day preceding, the DNC. A true and correct copy of the parade permit requests that Recreate 68 submitted and are on file with the City are attached, and incorporated herein, as **Exhibit T**.

65. Plaintiff Recreate 68 intends to conduct parades on each of the five days for which it has sought permits. For each of its marches, Recreate 68 intends to focus on a different theme and have different parade routes. Thus, for example, on August 24, 2008, Recreate 68 plans to conduct an “End the Occupations” march that will protest the continued American



military occupation of, and involvement in, Iraq, by marching from the Capitol of the State of Colorado to Convention site. On another day, whose date is not yet determined because of the City's refusal to go forward with the parade permitting process, Recreate plans to conduct a march to the Federal Courthouse, as a symbol of the federal government, to protest the treatment of prisoners by America's military and intelligence services in places like Guantanamo Bay, Cuba, and elsewhere, and the failure of the American judicial system to protect the human rights of those prisoners. Another march, again, whose date is not yet determined, will protest the domestic and international economic policies of the United States government, under majority control of the Democratic Party, by marching from the Capitol of the State of Colorado to the United States Mint building, as a symbol of the federal government that is responsible for those economic and monetary policies. Various of the marches that are planned to travel to the Convention itself will include floats and symbolic displays to protest the failure of the Democratic Party to heed the voices and needs of the dispossessed in our society. In one such march, Recreate 68 plans to create a gargantuan puppet to be carried and operated by dozens of marchers, with the puppet to arrive at the "demonstration zone" alongside the Convention and to be used as part of Recreate 68's message to Delegates and other attendees there.

66. Also in early March 2008, Plaintiff Damian Sedney, on behalf of "Citizens for Obama," timely filed four separate requests for applications to obtain parade permits, to conduct a march entitled "Ten Million Citizens March for Obama," during the four days of, and one day preceding, the DNC. Citizens for Obama intend to conduct a march to the Convention site in support of the candidacy of Senator Obama, regardless of whether he is the presumptive Democratic Party nominee. A true and correct copy of the parade permit requests that Mr.

Sedney submitted on behalf of Citizens for Obama, that is on file with the City, is attached, and incorporated herein, as **Exhibit U**.

67. Also in early March 2008, Plaintiff Tent State University timely filed a request to obtain a parade permit during the four days of, and one day preceding, the DNC. Plaintiff Tent State University intends to organize a “parade/march” during one of the days of the Convention that will call upon the Delegates immediately to end federal diversion of capital and other resources being spent in the Iraqi military action and to invest those resources instead in U.S.-based higher education. A true and correct copy of the parade permit requests that Tent State University submitted and are on file with the City are attached, and incorporated herein, as **Exhibit V**.

68. Also in early March 2008, Plaintiff Larry Hales, on behalf of Plaintiff Troops Out Now Coalition and through its related organization Denver International Action Center, submitted a request for a parade permit to conduct marches during all four days of the Convention and the day preceding it. A true and correct copy of the parade permit request that Troops Out Now Coalition submitted and is on file with the City are attached, and incorporated herein, as **Exhibit W**.

69. In addition to these various marches, almost all of the Plaintiff organizations (and the individuals representing them) are planning to gather with others in one or more peaceable assemblies, to conduct demonstrations and other expressive activities within sight and sound of the Delegates, the news media, and other attendees to the Democratic National Convention, and also within sight and sound of the Pepsi Center, the symbolic “home” of that Convention, between the dates of August 24 and August 28, 2008. The Plaintiffs intend to communicate their

message directly with the Delegates through signs, banners, chants, speeches, street theater, and through handing the Delegates pamphlets and other written materials. These Plaintiff organizations intend to do so at the so-called “demonstration zone” if the facilities created by the City there are conducive for such expression, but in any event, they intend to conduct these expressive activities as close as possible to the Delegates and the Convention.

70. For certain Plaintiff organizations, however, the prospect of being caged behind wires and fencing, with battalions of riot-clad law enforcement flanked around them, is anathema. In the eyes of these organizations, such militarism and forced confinement in the face of peaceful, humble petitioning is wholly inappropriate, and they will refuse to enter such a “demonstration zone.” Instead, these organizations intend to exercise their constitutional right of peaceful assembly and speech on the public forum spaces, such as sidewalks, walkways, and the like, as close as possible to the Convention. For these Plaintiff organizations, therefore, it is imperative that the City not unconstitutionally close off access to public sidewalks in close proximity to the Convention. For these Plaintiffs, the contours and restrictions of the so-called “soft-security perimeter,” which will be controlled by the Denver Police Department and which will block access to the Convention site further away than the Secret Service’s “hard-security perimeter,” will be crucial.

### **III. The City’s Refusal to Issue Parade Permits or to Disclose a Timetable or Any Other Details About Its Process for Issuing Parade Permits and Its Plans to Allow Free Speech and Assembly at the Pepsi Center Venue**

71. As of this date, the City has not processed any of the parade requests that have been filed by any of the Plaintiffs for an application to obtain a parade permit for the time period of the DNC.

72. Indeed, the City has not disclosed even *when* it will begin to process the multiple and competing requests to conduct marches on City streets during the Convention.

73. The City has also not disclosed how many parade permits it will issue for each the days of the Convention.

74. The City has also not disclosed how many different parade routes will be authorized for purposes of conducting marches during the Convention, and what those routes will be. City officials have stated that they will not process the requests for parade permits until it determines at least one “designated parade route.” City officials have said that they cannot determine this parade route until the Secret Service informs the City of the boundaries of the “security perimeter” that will surround the site of the Convention.

75. The City has also not disclosed any other plans or restrictions for the parade routes, such as what ingress and egress will be permitted along the route.

76. As of this date, the City has also not announced its plans for the location, physical layout of a so-called “free speech zone” (“demonstration zone”), or the barriers and restrictions around the zone that it plans to construct within sight and sound of the Pepsi Center, and that may serve as a confined and restricted area for individuals and organizations to congregate and to engage in expressive activities directed at the Delegates and other attendees at the Convention.

77. Nor has the City announced any timetable or any details of the process by which it will allocate time on the stage(s) and use of an amplified sound system within the “demonstration zone”.

78. Nor has the City provided any commitment that the location of the “demonstration zone” will be within “sight and sound” of the Delegates themselves, as opposed

to being only within sight and sound of the Pepsi Center, or that the “demonstration zone” will otherwise be designed and constructed to ensure that citizens have meaningful opportunities to communicate fully with attendees at the Convention.

**IV. Recent Pronouncements by Defendants of Their Plans to Withhold the Announcement of Security Arrangements Until the Eve of the Convention**

79. At a community forum held on April 10, 2008, which was recorded by local public access television, Deputy Chief Battista declared that the Secret Service would have jurisdiction and authority for maintaining security only in the immediate vicinity of the convention venue, within a so-called “hard-security perimeter.” He further stated that the federal agency would have no authority or control over the streets and other areas of Denver outside the “security perimeter” that would surround the Pepsi Center. Instead, Defendant Battista stated, security arrangements outside the perimeter would remain under the exclusive jurisdiction of the Denver Police Department. Video clips from this public forum are available on the internet at <http://video.aol.com/video-detail/denver-police-department-on-dnc-plans/2757542467> and <http://video.aol.com/video-detail/democratic-national-convention-plans/3961861686?icid=acvsv2>.

80. At the community forum on April 10, 2008, Deputy Chief Battista also asserted that the Secret Service had not, as of that date, “set” the hard security perimeter around the Pepsi Center. Even after the Secret Service does so, Deputy Chief Battista stated, the City “might never disclose” information concerning the effects of the security arrangements on the general public or on demonstrators in particular. Instead, the only parts of the security plan that would be disclosed to the public, according to Deputy Chief Battista, would be unspecified information concerning the “free speech zone,” which he stated would not be disclosed “until mid-June.”

The deputy chief, however, made no commitment that such a time-frame for disclosure would be maintained, or that the disclosures would be sufficient to permit the public to evaluate the constitutionality of the full battery of restrictions the City intends to impose on free speech activities.

81. In an interview with the *Denver Business Journal*, published on April 11, 2008, Malcolm Wiley, a spokesperson for the Denver office of the Secret Service, stated that the Secret Service would not disclose its plans for the “security perimeter” around the Pepsi Center during the DNC until some point in time “before the month of August, but [he could not] estimate when exactly that will be.” A true and correct copy of the *Denver Business Journal* article quoting Mr. Wiley is attached, and incorporated herein, as **Exhibit X**. A similar position was attributed to the City in a *Denver Post* column a month earlier, a true and correct copy of which is attached and incorporated herein, as **Exhibit Y**.

**V. The Defendants’ Inaction Is Presently Impairing the Plaintiffs’ Rights of Freedom of Speech and Assembly**

82. Because the City has not yet announced its plans for issuing “parade” permits during the DNC, and has not accepted “applications” for such permits, and has not conducted a “lottery” to allocate permits among competing applicants for the same parade route and time, (and has not informed Plaintiffs *when* it will do so), Plaintiffs are unable to take the steps needed to prepare for and to organize events of tremendous logistical and operational magnitude. Specifically, Plaintiffs are unable, currently, to extend invitations to nationally prominent speakers and other march participants from across the country and to make other arrangements necessary to conduct mass demonstrations and protest marches; several of the Plaintiff groups who have extended such invitations have had them rejected for lack of being able to provide a

date and time for any planned march and an inability to state with any assurance that a permit would be obtained from the City, and thus that participants would not be subject to criminal sanction.

83. Because the City had not yet announced what restrictions and limitations it intends to impose on individuals and groups who will gather at the Convention site (including its plans to construct a “demonstration zone” at the Pepsi Center), and how it will allocate time among competing groups wishing to access the stage area(s) and amplified sound system to communicate with Convention Delegates, and has not disclosed any of the other “time, place and manner” restrictions it plans to impose on demonstrations within sight and sound of the Pepsi Center, Plaintiffs are unable to take the steps necessary to plan and organize events of significant logistical and operational magnitude to engage in peaceable assembly and speech at the Convention site during the Convention. Defendants’ refusal to disclose these planned restrictions and limitations poses a substantial risk of completely depriving Plaintiffs of the ability to seek judicial relief from unconstitutional restrictions of their First Amendment rights.

84. Because the City has not yet announced its plans for the “soft-security perimeter” surrounding the Pepsi Center, beyond which members of the public will not be permitted to enter, Plaintiffs are unable to ask this Court to adjudicate whether such a perimeter is unduly large so as to constitute an unreasonable and unconstitutional restriction on their right to peaceably assemble and to engage in expressive conduct protected by the First and Fourteenth Amendments to the Constitution of the United States.

## **VI. Anticipation of Unconstitutional Restrictions on Free Speech and Peaceful Assembly At and Near the Convention**

85. In light of the experiences of citizens at the last national conventions in Boston,

New York, and Los Angeles, as well as other events that have been designated “National Special Security Events” under the Secret Service’s jurisdiction, the Plaintiffs fully anticipate that the restrictions the Defendants will impose on the public’s right to gather peacefully and speak freely at and near the Convention site will unconstitutionally burden the rights protected by the First Amendment to the United States Constitution and under Article II, section 10 of the Colorado Constitution.

86. In particular, Plaintiffs anticipate that the undisclosed plans for the City’s “parade route,” and the other restrictions that the Municipal Defendants will impose on political marches during the week of the Convention will not be content-neutral, narrowly tailored regulations that directly protect an important government interest and that leave open ample alternative means for the Plaintiffs to conduct meaningful expressive activities on the city streets.

87. Similarly, Plaintiffs anticipate that the undisclosed plans and other restrictions that the various Defendants will impose on the so-called “demonstration zone” adjacent to the Convention site will not be content-neutral, narrowly tailored regulations that directly protect an important government interest and that leave open ample alternative means for the Plaintiffs to conduct meaningful expressive activities within the “demonstration zone.”

88. And finally, Plaintiffs anticipate that the undisclosed plans and other restrictions that the Municipal Defendants will impose on the “soft-security” perimeter, past which ordinance citizens will not be permitted to exercise their free speech and assembly rights, will not be content-neutral, narrowly tailored regulations that directly protect an important government interest and that leave open ample alternative means for the Plaintiffs to conduct meaningful expressive activities in close proximity to the Convention site, and other



symbolically meaningful sites.

89. All such restrictions on the Plaintiffs' constitutional rights to speak freely and assemble peacefully at and new the Convention site, and at other symbolically meaningful sites, will cause irreparable injury to them and to the public at large.

90. Plaintiffs have no adequate remedy available at law to ameliorate the irreparable injuries that they will suffer at the hand of the Defendants absent judicial enforcement of measures that vindicate the Plaintiffs' and the public's rights to engage in peaceful expression on the issues that are most central to our nation's civic life.

**FIRST CLAIM FOR RELIEF**  
Against All Defendants  
(42 U.S.C. §1983, Constitution of the United States)

91. The foregoing paragraphs are incorporated herein by reference as if set forth in full.

92. As a result of their actions, as set forth above, the Municipal Defendants, while acting under color of state law, have deprived the Plaintiffs of their rights, privileges and immunities secured to them by the Constitution and laws of the United States, entitling them to relief under 42 U.S.C. § 1983.

93. As a result of their actions, as set forth above, the Federal Defendants, while acting under color of federal law, have deprived the Plaintiffs of their rights, liberties and immunities secured to them by the Constitution and laws of the United States, entitling them to relief under this court's power of equity, its power under 28 U.S.C. § 1651, and this Court's inherent authority to issue injunctions in aid of its jurisdiction.

94. Plaintiffs have no adequate remedy at law to redress fully the Defendants' ongoing deprivation of the rights secured to them by the Constitution and laws of the United States.

95. Unless the Court orders the Defendants immediately to cease their continuing infringement of the Plaintiffs' rights, the Plaintiffs will continue to suffer irreparable harm.

**SECOND CLAIM FOR RELIEF**  
Against Municipal Defendants  
(Article II, Section 10 of the Colorado Constitution)

96. The foregoing paragraphs are incorporated herein by reference as if set forth in full.

97. As a result of their actions, as set forth above, the Municipal Defendants have deprived the Plaintiffs of the rights secured to them by Article II Section 10 of the Colorado Constitution.

98. Plaintiffs have no adequate remedy at law to redress fully the Municipal Defendants' ongoing deprivation of the rights secured to them by Article II Section 10 of the Colorado Constitution.

99. Unless the Court orders the Municipal Defendants immediately to cease their continuing infringement of the Plaintiffs' rights, the Plaintiffs will continue to suffer irreparable harm.

**Prayer for Relief**

WHEREFORE, the Plaintiffs pray that this Court take jurisdiction over this matter and enter Judgment in their favor, and against the Defendants, as follows:

- a. upon granting Plaintiffs' Motion for Preliminary Injunction ("Phase I"), enter an order directing the Federal Defendants immediately to disclose to the Municipal Defendants the Federal Defendants' plans for a "hard-security perimeter" surrounding the Pepsi Center during the Democratic National Convention, and any additional information that the Municipal Defendants may need in order to process requests for parade permits and to announce whatever time, place and manner restrictions they intend to establish to regulate expressive activities within sight and sound of the Pepsi Center and convention Delegates;
- b. upon granting Plaintiffs' First Motion for Preliminary Injunction ("Phase I"), enter an order directing the Municipal Defendants, upon receiving the aforesaid information from the Federal Defendants, to immediately disclose plans and timetables to process the Plaintiffs' timely-filed requests for applications to obtain parade permits, and to conduct a lottery, if necessary, to allocate permits among competing requests for the parade routes and times requested;
- c. upon granting Plaintiffs' First Motion for Preliminary Injunction ("Phase I"), enter an order directing the Municipal Defendants, upon receiving the aforesaid information from the Federal Defendants, to disclose to the public their plans for any "time, place, or manner" restrictions on free expression and assembly within proximity of the Pepsi Center including, but not limited to, (1) the routes, times, and other logistical details connected to parades/marches that will be permitted during the Convention and the day preceding the Convention, (2) the "demonstration zone" within sight and sound of the Convention hall and the

Delegates attending the Convention , and (3) the location of the “soft- security perimeter” and the nature of the restrictions within this perimeter.

- d. following the disclosures and permit issuance set forth above, should any of the planned restrictions be found, after a full evidentiary hearing (“Phase II”), to violate Plaintiffs’ rights under the First Amendment to the Constitution of the United States and/or Article II, Section 10 of the Colorado Constitution, direct the Defendants to alter their announced plans for the issuance of parade permits and plans of parades, for the “soft-security perimeter,” and for the so-called “demonstration zone” and any other public forums space at or near the Pepsi Center, to comply fully with the First Amendment to the Constitution of the United States and Article II, Section 10 of the Colorado Constitution;
- e. enter and order awarding the Plaintiffs their reasonable attorneys fees and costs incurred in connection with this action from the Municipal Defendants pursuant to 42 U.S.C. § 1988 and all other applicable law; and
- f. grant the Plaintiffs such further and different relief as the Court may deem just and proper.

Respectfully submitted this 1<sup>st</sup> day of May, 2008

By: /s Steven D. Zansberg

Steven D. Zansberg  
Christopher P. Beall  
LEVINE SULLIVAN KOCH &  
SCHULZ, L.L.P.  
1888 Sherman Street, Suite 370  
Denver, Colorado 80203  
(303) 376-2400  
In cooperation with the American Civil  
Liberties Union Foundation of Colorado

Mark Silverstein  
Taylor Pendergrass  
ACLU FOUNDATION OF COLORADO  
400 Corona Street  
Denver, Colorado 80218  
(303) 777-5482

Attorneys for Plaintiffs

**American Civil Liberties Union of  
Colorado,  
American Friends Service Committee,  
American Indian Movement of Colorado  
and Glenn Morris,  
Americans for Safe Access,  
Citizens for Obama and Damian Sedney,  
CODEPINK,  
Escuela Tlatelolco Centro De Estudios,  
Recreate 68,  
Rocky Mountain Peace & Justice Center,  
Tent State University,  
Troops Out Now Coalition and Larry  
Hales,  
and  
United For Peace & Justice**