

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

KATHRYN CHRISTIAN, JILL HAVENS, JEFF BASINGER, CLARE BOULANGER,
SARAH SWEDBERG, AMERICAN CIVIL LIBERTIES UNION OF COLORADO, INC.,

Plaintiffs,

v.

CITY OF GRAND JUNCTION, a home-rule municipal corporation of the State of Colorado,

Defendant.

COMPLAINT

Plaintiffs Kathryn Christian, Jill Havens, Jeff Basinger, Clare Boulanger, Sarah Swedberg, and American Civil Liberties Union of Colorado, Inc. (“ACLU of Colorado”), by and through counsel, for their Complaint against the above-named Defendants, allege as follows:

INTRODUCTION

1. Plaintiffs, through their attorneys, Jay Baker of Bjork, Lindley, Danielson & Baker, P.C., Mark Silverstein of the American Civil Liberties Union Foundation of Colorado, and Neville Woodruff, have brought this action against the City of Grand Junction (“City”) because of its use of public property to communicate a clear governmental endorsement of religion by displaying a granite tablet of the Ten Commandments near the main entrance of the City Hall. The City’s display of the Ten Commandments monument violates the Establishment Clause of the First Amendment to the United States Constitution.

PARTIES

1. Plaintiff Kathryn Christian is an adult resident of Grand Junction, Colorado.
2. Plaintiff Jill Havens is an adult resident of Grand Junction, Colorado.
3. Plaintiff Jeff Basinger is an adult resident of Grand Junction, Colorado, and a member of the ACLU of Colorado.

4. Plaintiff Clare Boulanger is an adult resident of Grand Junction, Colorado.

5. Plaintiff Sarah Swedberg is an adult resident of Grand Junction, Colorado.

6. Plaintiff ACLU of Colorado is a voluntary not-for-profit membership organization incorporated under the laws of Colorado. The ACLU of Colorado is dedicated to the principles of liberty enshrined in the United States Constitution and the Bill of Rights, and it seeks to preserve and to protect the civil liberties and constitutional rights of all Colorado residents. The organization is particularly devoted to the principle, which is embodied in the Establishment Clause of the First Amendment, that church and state should be separate.

7. Defendant City of Grand Junction is a home-rule municipal corporation of the State of Colorado.

JURISDICTION

8. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331, because this action arises under the Constitution and laws of the United States.

9. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the U.S. Constitution.

10. Declaratory relief is authorized pursuant to Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.

11. Injunctive relief is authorized pursuant to Rule 65 of the Federal Rules of Civil Procedure.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

GENERAL ALLEGATIONS

13. In August 2000, the City of Grand Junction (“City”) inaugurated its new City Hall. The City Hall is built on public property owned by the City.

14. A granite monument approximately three to four feet high and two feet wide, bearing an inscription of the Ten Commandments, is situated prominently beside the “City Hall” sign and immediately adjacent to the sidewalk that leads into the main entrance of the new City Hall, located a short distance away.

15. Inscribed in the center of the monument in large, easy to read letters, are the following words:

**THE TEN COMMANDMENTS
I AM the LORD thy GOD**

**Thou shalt have no other gods before me.
Thou shalt not make to thyself any graven images.
Thou shalt not take the name of the Lord thy God in Vain.
Remember the Sabbath day to keep it holy.
Honor thy father and thy mother that thy days may be long upon the
land which the Lord thy God giveth thee.
Thou shalt not kill.
Thou shalt not commit adultery.
Thou shalt not steal.
Thou shalt not bear false witness against thy neighbor.
Thou shalt not covet thy neighbors' house.
Thou shalt not covet thy neighbor's wife, nor his manservant, nor his
maidservant, nor his cattle, nor anything that is thy neighbor's.**

16. In addition to the Ten Commandments, the monument contains inscriptions of various other items including Phoenician letters, an eye within a triangle similar to that depicted on the U.S. one-dollar bill, an American eagle grasping an American flag, two stars of David, two superimposed Greek letters, Chi and Rho, which form a symbol of the name "Jesus Christ," and a scroll recognizing the dedication of the monument by the Fraternal Order of Eagles of Colorado.

17. The monument does not stand with any other monuments or artworks that present textual messages of historic or patriotic significance, nor does the monument stand near symbols of historic, patriotic or moral significance.

18. With the exception of a fountain in front of the main entrance to the City Hall, no other artwork is on display on the grounds immediately surrounding the City Hall.

19. In an article published on September 6, 2000, the Grand Junction Sentinel provided some history of the monument. It quoted then-Mayor Gene Kinsey as saying that the City chapter of the Fraternal Order of Eagles had presented the granite monument to the City in 1958, and the City has displayed the monument ever since on public property, except when the new City Hall was under construction.

20. The September 6, 2000 article also stated that Vern Roark, the current president of the City chapter of the Fraternal Order of Eagles, said the monument honors America's

Christian roots. Mr. Roark said that, although the monument favors Christianity and Judaism, “Even if they’re not your religion, you’re probably falling within your religion if you live by them.”

21. The Ten Commandments are derived from the Old Testament, Exodus 20: 2-17 and Deuteronomy 5: 6-21.

22. Jewish tradition believes that the Ten Commandments were given by God to Moses on Mount Sinai, and are therefore deemed to be sacred to many Jews.

23. The Ten Commandments are widely recognized as a traditional sectarian religious symbol of the Christian faith and a sacred religious document to many Christians.

24. The first part of the Ten Commandments are purely religious, commanding followers to worship the Lord God alone, to avoid idolatry, to refrain from using the Lord’s name in vain, and to observe the Sabbath Day.

25. The individual plaintiffs are subjected to the religious message of the Ten Commandments regularly, whenever they enter the Grand Junction City Hall for various business and legal purposes, including participation as citizens of Grand Junction in municipal government activities. As a result of these activities, the individual plaintiffs come into frequent, direct and unwelcome contact with the Ten Commandments monument during the course of their normal routines.

26. For the individual plaintiffs to be subjected to the clear message from the City of Grand Junction that it endorses religious beliefs, and excludes from the political process non-believers and believers of non-Judeo-Christian faiths, imposes an undue burden and deters them from exercising their rights freely as citizens of Grand Junction.

27. Kathryn Christian is a citizen of Grand Junction and a member of ACLU of Colorado, and is a frequent visitor of the City Hall. Ms. Christian avoids entering City Hall through the main entrance because she does not want to be confronted by the Ten Commandments monument.

28. She strongly objects to the City’s display of the Ten Commandments because she believes it sends a message to non-believers, to members of minority religious groups, and to others who do not wish to see their government entangled with religion, that they are outsiders in the City’s political community. She believes the monument constitutes government action respecting the establishment of religion by the City.

29. She is forced either to come into frequent, direct and unwelcome contact with the monument in the course of exercising her rights as a citizen of Grand Junction, or to go out of her way to avoid the monument.

30. To alter her access to City Hall, in order to avoid viewing the Ten Commandments monument, causes her undue burden.

31. Jill Havens is a citizen of Grand Junction and a member of ACLU of Colorado. She frequently travels past the City Hall. Because Grand Junction is a small town, she often walks or drives past the monument when visiting her bank, the post office, and the stores and restaurants downtown.

32. She strongly objects to the posting of the Ten Commandments because she believes it represents the establishment of religion by the City. She believes that the City's prominent placement of a sacred religious text next to the main entrance to City Hall communicates to non-believers, like her, that they are outsiders in the City's political community.

33. She is forced either to come into frequent, direct and unwelcome contact with the monument in the course of exercising her rights as a citizen of Grand Junction, or to go out of her way to avoid the monument.

34. To alter her routine to avoid viewing the monument would cause her undue burden.

35. Jeff Basinger is a citizen of Grand Junction and a member of ACLU of Colorado, is a frequent visitor of the City Hall and travels past the area where the monument is located. In addition, he observes the monument clearly every day from his office window located across the street from the City Hall.

36. He strongly objects to the posting of the Ten Commandments on City Hall grounds because he believes it violates the separation of church and state under the Establishment Clause. He believes that the Ten Commandments monument communicates a preference of Judeo-Christian citizens over those of other religious creeds, and over those who do not believe in formal religion. As a person who does not follow any orthodox religion, but has a spiritual belief system, the City's endorsement of Judeo-Christian religions by displaying the Ten Commandments makes Mr. Basinger feel that his opinions are not valued by the City.

37. He is forced to come into frequent, direct and unwelcome contact with the monument in the course of exercising his rights as a citizen of Grand Junction and in carrying out his daily activities.

38. To alter his everyday activities to avoid viewing the monument would cause him undue burden.

39. Clare Boulanger is a citizen of Grand Junction and a member of ACLU of Colorado, who has driven past City Hall and seen the Ten Commandments monument on a number of occasions.

40. She strongly objects to the placement of the Ten Commandments on municipal government property in front of the City Hall. She believes that at the City Hall, a building that must serve an increasingly diverse population, there should be no display that can reasonably be interpreted as an endorsement of religion on the part of the government.

41. She is forced either to come into frequent, direct and unwelcome contact with the monument in the course of exercising her rights as a citizen of Grand Junction, or to go out of her way to avoid the monument.

42. To alter her routine to avoid viewing the monument would cause her undue burden.

43. Sarah Swedberg is a citizen of Grand Junction and a member of ACLU of Colorado. Ms. Swedberg frequently drives and walks downtown to shop for groceries, eat at restaurants, visit the post office, and attend meetings. She therefore regularly travels past the City Hall and sees the monument containing the Ten Commandments.

44. She strongly objects to the public display of the Ten Commandments because she believes it represents the establishment of religion by the City. She believes it provides an emotional barrier to entering City Hall, and is offended that she must feel uncomfortable visiting or passing by City Hall because religious messages are endorsed by the City in such an important public place.

45. She is forced either to come into frequent, direct and unwelcome contact with the monument in the course of exercising her rights as a citizen of Grand Junction, or to go out of her way to avoid the monument.

46. To alter her way of life to avoid viewing the monument would cause her undue burden.

47. The ACLU of Colorado sues in a representative capacity on behalf of its membership. The ACLU of Colorado has members, such as the individual plaintiffs, who otherwise have standing to bring this lawsuit in their own right. The interests the ACLU seeks to protect in this lawsuit are germane to the organization's purpose. Neither the legal claims

asserted, nor the declaratory and/or injunctive relief requested, require the participation of individual ACLU of Colorado members in this lawsuit.

48. The plaintiffs believe that the Ten Commandments monument, prominently displayed near the entrance to City Hall and adjacent to the sign proclaiming “City Hall,” sends a message that the Ten Commandments have been adopted and endorsed as the approved religious text by the City of Grand Junction, and sends a message to citizens of the City of Grand Junction who do not believe in any God, or in the Judeo-Christian God, that they are outsiders in the political community and their voice will not be heard in the same manner as those citizens who believe in the sacred messages depicted on the Ten Commandments monument.

49. The individual plaintiffs and the ACLU of Colorado all suffer injury in fact as a result of the City’s decision to maintain the Ten Commandments monument as described in this Complaint.

50. The injury represents irreparable harm for which there is no adequate remedy at law.

51. The Ten Commandments monument display has no legitimate secular purpose, but, rather, has a dominant religious purpose.

52. The Ten Commandments monument display has a predominantly religious purpose and effect and represents an endorsement of religion by the City of Grand Junction.

53. At all times, Defendant has acted under color of state law.

54. The ACLU of Colorado and the individual plaintiffs have demanded that the City remove the Ten Commandments monument, and have suggested alternative places on private property where the monument could be moved.

55. In February 2001, the City announced that it would make a decision by March 21, 2001, on the fate of the monument, and disclosed publicly that the ACLU and the individual plaintiffs intended to file a lawsuit if the Ten Commandments monument was not moved from City Hall grounds.

56. Public statements in the media and in public meetings of the City Council expressed an overwhelming sentiment to keep the Ten Commandments monument in its current location on City Hall grounds because of the religious message conveyed by the monument.

57. On or about March 19, 2001, the City Council voted to retain the Ten Commandments monument in its current location.

58. City Council also voted to erect a sign in front of the monument which states:

This display is not meant to endorse any particular system of religious belief. As Thomas Jefferson stated, our democracy is premised upon the belief that government should not intrude into matters of religious worship. Still, as a historical precedent, the Ten Commandments represent some of man's earliest efforts to live by the rule of law. Many of these ancient pronouncements survive in our jurisprudence today.

Photographs of the monument before placement of the sign are attached hereto as Exhibit A. City Council's resolution is attached as Exhibit B. A photograph of the monument after placement of the sign is attached as Exhibit C.

59. The sign expressly continues the City's endorsement of religion, although it professes not to endorse "any particular system of religious belief."

60. The City's resolution, issued on the eve of litigation and proclaiming a secular purpose for the monument's presence by recognizing the historical significance of the Ten Commandments, is a sham, and not a sincere expression of a secular purpose.

61. The resolution, and the sign erected on March 19, 2001, following passage of the resolution, were motivated by the threat of imminent litigation, were influenced by statements from the religious majority whose sacred beliefs are etched in the granite monument, and were implemented in the context of sectarian action.

62. The Ten Commandments monument continues to violate the establishment clause of the First Amendment to the U.S. Constitution. The last ditch effort to avoid litigation by erecting a sign purporting to proclaim a secular purpose – in the face of religious outcry to preserve the monument – is not sufficient to avoid a violation of the Establishment Clause.

CLAIM FOR RELIEF

63. The allegations set forth in Paragraphs 1 through 62, above, are incorporated by reference as if fully set forth herein.

64. The Ten Commandments monument displayed on the Grand Junction City Hall grounds violates the Establishment Clause of the First Amendment to the United States Constitution. The Fourteenth Amendment to the United States Constitution makes the First

Amendment applicable to the State of Colorado. As a home rule municipal corporation of the State of Colorado, the City of Grand Junction is liable for actions which violate the First Amendment to the United States Constitution, such as the actions complained of herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask this Court to issue declaratory and injunctive relief, to award costs and attorney's fees pursuant to 42 U.S.C. § 1988, and to enter other relief as the Court deems proper.

DATED: April 16, 2001