

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

Civil Action No. 08-cv-____-____-____

AMERICAN CIVIL LIBERTIES UNION OF COLORADO, et al.
Plaintiffs,

v.

THE CITY AND COUNTY OF DENVER, COLORADO, et al.,
Defendants.

DECLARATION OF BETTY BALL

I, Betty Ball, declare under penalty of perjury of the laws of the United States of America and the State of Colorado, as follows:

1. I am over the age of 18. I am competent to give testimony in this matter. The statements contained herein are based upon my personal knowledge. This declaration is being given in connection with Plaintiffs' First Motion For Preliminary Injunction and the proceedings related thereto.

2. I am a paid staff person for the Rocky Mountain Peace and Justice Center ("RMPJC"). RMPJC is a duly incorporated not-for-profit entity under the laws of the State of Colorado, and headquartered in Boulder, Colorado.

3. Founded in 1983, RMPJC, rooted in the spirit of unconditional nonviolence, is dedicated to progressive personal and social change. As a multi-issue organization, RMPJC works to restore and protect earth and human rights. We educate, organize, act, and build community in order to create a culture of justice and peace.

4. RMPJC has a long history of engaging in peaceable assembly in Colorado. RMPJC has organized, sponsored and/or participated in dozens, if not hundreds, of expressive assemblies such as parades, marches, demonstrations, displays, rallies, vigils, and teach-ins.

5. RMPJC maintains a website accessible to anyone in Colorado, the United States and the world where it informs the public about issues related to RMPJC's mission. The website contains information about issues such as nuclear disarmament, global warming, the War in Iraq, the potential conflict with Iran, local environmental issues, and other issues by posting articles, publications, news releases, information on national campaigns, and action alerts.

6. RMPJC advertises upcoming events via our website calendar. RMPJC also advertises events using an email listserve, press releases, public service announcements on local radio stations, calendar postings in newspapers, and through other formal and informal communications with allied organizations, individuals, the media and the general public. Currently, approximately 2,000 people are on the RMPJC email listserve, and we reach even more with postings to the state-wide peace and justice listserve.

7. RMPJC has been working extremely hard to influence delegates who will be inside the Democratic National Convention (the "Convention"). Since January of this year, RMPJC members and supporters have been attending Democratic Party functions in Colorado almost weekly in order to speak with and influence potential Convention delegates. RMPJC members have been talking with potential delegates and giving them handbills, flyers and other written information on issues such as the Iraq war, the potential for war with Iran, and the Israel and Palestine conflict.

8. RMPJC intends to assemble peaceably and deliver our message within sight and

sound of the Pepsi Center and the Convention delegates at any “demonstration zone” and other public forums at or near the Pepsi Center.

9. RMPJC’s peaceable assembly at demonstrations, rallies and other expressive activities to be held in the “demonstration zone” and at other public forums at or near the Pepsi Center and the message delivered during those events are intended to reach the audience of decision-makers within the Democratic Party including, but not limited to, Convention delegates and others who will be attending the Convention at the Pepsi Center.

10. RMPJC and our members and supporters believe that it is especially important to be able to be able to talk with, and give handbills and flyers to, the delegates during the Convention in order to encourage the delegates to advocate for party platforms aligned with RMPJC’s position on foreign policy and civil liberties. It is RMPJC’s belief that the overwhelming majority of the democratic base wants to end the Iraq war, and that the actions and positions that the delegates take at the Convention could be pivotal to ending the war.

11. In addition, RMPJC has relationships with persons who hope to be candidates to the Convention, although the final choice of delegates will not be made until the state Democratic Convention in Colorado Springs on May 17, 2008. These potential delegates have communicated that they want to be able to view and attend RMPJC’s peaceable assemblies at or near the Pepsi Center, and to receive RMPJC messages and information at the Convention.

12. In furtherance of delivering our message at the “demonstration zone” and at other public forums at or near the Pepsi Center, RMPJC intends to lead, organize and participate in peaceable assembly at demonstrations, rallies and other expressive events at those locations, recruit allied groups and individuals to assemble peaceably at those events, advertise those

events to the general public and encourage their attendance, advertise those events to the media, generate general public and media interest in the events and the message being delivered at those events, and recruit and invite speakers and other distinguished persons to help deliver the message of RMPJC and raise public and media awareness about the events and the message being delivered at those events.

13. For example, RMPJC plans on distributing handbills, leaflets and other printed materials to delegates, displaying banners and signs to communicate messages to delegates, and performing street theatre for the delegates in cooperation with the San Francisco Mime Troop.

14. In the fall of 2008, RMPJC made numerous contacts with Colorado State Representative Alice Madden and State Senator Ron Tupa with the hopes that they would give RMPJC information about the restrictions, limitations and plans for public forums at or near the Pepsi Center. Rep. Madden and Tupa provided no information on the plans for public forums at or near the Pepsi Center.

15. As of the date of this declaration, RMPJC does not know any of the restrictions, limitations or plans for the “demonstration zone” and other public forums at or near the Pepsi Center that may affect the ability of RMPJC to assemble peaceably and deliver our message within sight and sound of the Pepsi Center and the Convention delegates. For example, RMPJC does not know the size or location of the “demonstration zone,” what sound amplification will be allowed or permitted at that site, whether access to the “demonstration zone” will be limited and, if so, how that access will be allotted or regulated, any physical attributes of the “demonstration zone” such as netting, fencing or plexi-glass that may restrict or prevent RMPJC from delivering our message to Convention delegates orally or by distributing printed material to Convention

attendees, what restrictions or searches may be conducted upon ingress and egress to the “demonstration zone,” what public forums at or near the Pepsi Center may be closed because of the security perimeter, or how access to public forums at or near the Pepsi Center may be restricted or regulated.

16. Furthermore, neither the City nor the United States Secret Service has given any certain date or timeframe for when the public will know any of the information discussed in the paragraph above. RMPJC believes that without a court’s intervention, that information may not be made public until the very last minute.

17. I understand that at the 2004 Convention in Boston, people wishing to exercise their First Amendment rights were forced to be in a caged area covered by barbed wire and netting. RMPJC is deeply concerned that the same restrictions or similar restrictions will be put into place in Denver, and that concern is shared by RMPJC’s members, supporters and allied organizations. I know that the court examining the Boston “Free Speech Zone” expressed serious concerns with those restrictions, but that the court said it did not have time to order any relief. RMPJC wants to ensure there is ample time for a court to review any planned restrictions and alter them if they unduly restrict RMPJC’s free speech rights.

18. Because neither the City nor the United States Secret Service has informed RMPJC of any of the restrictions, limitations or other plans for the “demonstration zone” or other public forums at or near the Pepsi Center that may be closed or restricted, the ability of RMPJC to plan for peaceable assembly at those intended events, and the ability of RMPJC to effectively deliver and generate public interest in our intended message, is and will continue to be significantly and dramatically impaired.

19. For example, RMPJC cannot recruit members and supporters to attend events until the restrictions, limitations and plans for public forums at or near the Pepsi Center are known. Especially in light of the “cages” in Boston in 2004, many people are unable or unwilling to commit to our planned peaceable assembly in the absence of knowledge about what those plans will be.

20. In addition, RMPJC is working in cooperation with several other groups to secure venues for evening events during the Convention in churches at or near the Pepsi Center. RMPJC is aware that at past Conventions, the United States Secret Service has established “hard” and “soft” security zones that prevent or restrict access to normally available public forums. Because the City and the United States Secret Service has repeatedly declined to disclose the parameters of the security zones, RMPJC cannot effectively plan any events at churches near the Pepsi Center without knowing the parameters of the security zone, because access to those churches might ultimately be denied or restricted if they fall within any security zone.


21. Many members and supporters of RMPJC, and persons who would participate in peaceable assemblies organized by RMPJC, utilize wheelchairs or have limited mobility. It is especially important for these members and supporters, who have every right to peaceably assemble within sight and sound of the delegates, to know the plans for public forums at or near the Pepsi Center, and to be able to plan in advance for any special transportation needs. If plans for the “demonstration zone” and other public forums at or near the Pepsi Center do not include adequate accommodations for limited-mobility persons to access and exercise their First Amendment rights, RMPJC needs adequate time for advance disclosure, negotiations, and if

necessary, judicial review.

22. In order to effectively and adequately be able to peaceably assemble and deliver our intended message at the "demonstration zone" and other public forums at or near the Pepsi Center, RMPJC needs to know immediately what the restrictions, limitations or other plans will be for the "demonstration zone," and other public forums at or near the Pepsi Center. RMPJC must have adequate time for advance disclosure, negotiations with Defendants and/or judicial review of those restrictions, limitations or other plans if they unduly restrict the expressive rights of RMPJC as guaranteed by the First Amendment and Article II Section 10 of the Colorado Constitution.

23. The foregoing is true and correct, to the best of my recollection.

Executed this 28 day of April, 2008.

By: 
Betty Ball
Staff Person
Rocky Mountain Peace and Justice Center