



2. Check the boxes applicable to this case.

- Simplified Procedure under C.R.C.P. 16.1 applies to this case because this party does not seek a monetary judgment in excess of \$100,000.00 against another party, including any attorney fees, penalties or punitive damages, but excluding interest and costs, and because this case is not a class action or forcible entry and detainer, Rule 106, Rule 120, or other expedited proceeding.
- Simplified Procedure under C.R.C.P. 16.1, **does not apply** to this case because (check one box below identifying why 16.1 does not apply):
- This is a class action or forcible entry and detainer, Rule 106, Rule 120, or other similar expedited proceeding, **or**
- This party is seeking a monetary judgment for more than \$100,000.00 against another party, including any attorney fees, penalties or punitive damages, but excluding interest and costs (see C.R.C.P. 16.1(c)), **or**
- Another party has previously stated in its cover sheet that C.R.C.P. 16.1 does not apply to this case.

3.  This party makes a **Jury Demand** at this time and pays the requisite fee. See C.R.C.P. 38. (Checking this box is optional.)

Date: June 15, 2009

ES  
Signature of Party or Attorney for Party  
Edward T. Ramey, Reg. No. 6748

NOTICE

- ✓ This cover sheet must be filed in all District Court Civil (CV) Cases. Failure to file this cover sheet is not a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.
- ✓ This cover sheet must be served on all other parties along with the initial pleading of a complaint, counterclaim, cross-claim, or third party complaint.
- ✓ This cover sheet shall not be considered a pleading for purposes of C.R.C.P. 11.

*In accordance with C.R.C.P. 121, §1-26(9), a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the Court upon request.*



First Amendment to the Constitution of the United States, on its face and as applied to Plaintiff Reina, together with entry of a permanent injunction against enforcement of that Charter provision.

### **JURISDICTION AND VENUE**

1. This action is brought pursuant to 42 U.S.C. § 1983 for purposes of redressing a violation and deprivation by the City of Craig, Colorado (the "City"), of rights, privileges, and immunities guaranteed and secured by the Constitution of the United States.

2. This action is further brought pursuant to the Colorado Uniform Declaratory Judgments Law, C.R.S. § 13-51-101, *et seq.*, C.R.C.P. 57, and C.R.C.P. 65.

3. Venue is proper in Moffat County pursuant to C.R.C.P. 98(c)(1) as the Defendant City is located in Moffat County and Plaintiff Reina resides in Moffat County. Further, all of the acts which are the subject of this Complaint took place in Moffat County.

### **PARTIES**

4. Reina is a resident of the City of Craig and resides at 774 Texas Avenue, Craig, Colorado 81625.

5. The City is a home rule municipal corporation under Article XX of the Constitution of the State of Colorado and operating under the provisions of a Home Rule Charter adopted pursuant to Article XX, Section 9, of the Constitution of the State of Colorado.

### **FACTUAL ALLEGATIONS**

6. Paragraphs 1 through 5, above, are incorporated herein by reference.

7. Reina was an unsuccessful candidate for election to the Craig City Council in the general election conducted by the City on April 7, 2009.

8. Pursuant to Article VI, Section 4, of the Home Rule Charter for the City of Craig, the amount expended by any candidate in any city election "shall not exceed five hundred dollars."

9. Pursuant to Article XII, Section 3, of the Home Rule Charter for the City of Craig, "Any violation of this Charter shall be deemed a misdemeanor. Any person convicted of such violation may be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one hundred eighty days, or by both such fine and imprisonment."

10. Reina was not aware of the \$500 city election expenditure limit contained in Article VI, Section 4, of the Home Rule Charter.

11. On or about April 13, 2009, and in compliance with the reporting and disclosure requirements of Article VI, Section 4, of the Home Rule Charter, Reina filed with the City Clerk a Report of Contributions and Expenditures disclosing that he had expended the sum of \$1,512.78 of his own money on his unsuccessful election campaign.

12. Despite publicly reported advice from the Craig City Attorney that the spending limit contained in the Home Rule Charter would be unconstitutional under existing United States Supreme Court precedent, the City Council voted 6-0 to "recommend" that the City Attorney prosecute Reina for violating the Charter's city election spending limit.

13. A Municipal Summons and Complaint was issued to Reina on May 27, 2009.

14. Reina is presently in jeopardy of being fined and imprisoned by the City for spending in excess of \$500 of his own money in his unsuccessful effort to seek election to the Craig City Council.

15. Upon information and belief, the City has determined concurrently not to prosecute a successful City Council candidate at the same April 7, 2009 city election for violating the reporting and disclosure requirements of the same Article VI, Section 4, of the Home Rule Charter.

16. Reina and other non-incumbent eligible candidates for elective city office are being discouraged and chilled from exercising their rights of political speech and seeking elective office by the likely prospect of future and continuing efforts by the City to enforce the electoral spending limits imposed by the Home Rule Charter.

**FIRST CLAIM**  
**(Facial Unconstitutionality)**

17. Paragraphs 1 through 16, above, are incorporated herein by reference.

18. The spending limit provision of Article VI, Section 4, of the Home Rule Charter of the City of Craig violates the guarantees and protections of the First Amendment to Constitution of the United States and is invalid and unconstitutional on its face.

19. Reina is entitled to a declaration that the spending limit provision of Article VI, Section 4, of the Home Rule Charter of the City of Craig is unconstitutional on its face, together with entry of a permanent injunction restraining the City and its agents from enforcing or seeking to enforce such provision now or in the future.

**SECOND CLAIM**  
**(Unconstitutional As Applied)**

20. Paragraphs 1 through 16, above, are incorporated herein by reference.

21. The spending limit provision of Article VI, Section 4, of the Home Rule Charter of the City of Craig violates the guarantees and protections of the First Amendment to Constitution of the United States as applied to Reina.

22. Reina is entitled to a declaration that the spending limit provision of Article VI, Section 4, of the Home Rule Charter of the City of Craig is unconstitutional as applied to him, together with entry of a permanent injunction restraining the City and its agents from enforcing or seeking to enforce such provision against him now or in the future.

**PRAYER FOR RELIEF**

WHEREFORE, Reina prays for judgment as follows:

A. On his First Claim, for a declaration that the spending limit provision of Article VI, Section 4, of the Home Rule Charter of the City of Craig violates the First Amendment to the Constitution of the United States and is unconstitutional on its face, together with entry of a permanent injunction restraining the City and its agents from enforcing or seeking to enforce such provision now or in the future;

B. On his Second Claim, for a declaration that the spending limit provision of Article VI, Section 4, of the Home Rule Charter of the City of Craig violates the First Amendment to the Constitution of the United States and is unconstitutional as applied to him, together with entry of a permanent injunction restraining the City and its agents from enforcing or seeking to enforce such provision against him;

C. For an award of his reasonable attorneys' fees and costs from the City pursuant to 42 U.S.C. § 1988; and

D. For such further relief as the Court may deem just and proper.



## Ed Ramey

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