

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

NAPLES PRIDE,

Plaintiff,

Case No. 2:25-cv-291

v.

CITY OF NAPLES; NAPLES CITY
COUNCIL; TERESA HEITMANN,
TERRY HUTCHISON, RAYMOND
CHRISTMAN, BETH PETRUNOFF, BILL
KRAMER, LINDA PENNIMAN, and
BERNE BARTON, in their official capacities
as City Council members; NAPLES POLICE
DEPARTMENT; and CIRO
DOMINGUEZ, in his official capacity as
Naples Chief of Police,

Defendants.

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FIRST AMENDED COMPLAINT
Permanent Injunctive and Declaratory Relief Requested

Plaintiff Naples Pride brings this action against Defendants: the City of Naples (“Naples” or the “City”); the Naples City Council (the “City Council”); each member of the City Council in their official capacity (Teresa Heitmann, Terry Hutchison, Raymond Christman, Beth Petrunoff, Bill Kramer, Linda Penniman, and Berne Barton); the Naples Police Department; and the Naples Chief of Police, Ciro Dominguez, in his official capacity (the “Chief of Police”), for violations of the First Amendment to the United States Constitution.

INTRODUCTION

1. Naples Pride brings this lawsuit because Defendants have violated and will continue to violate its First Amendment rights.

2. Each year, Naples Pride hosts its annual Pridefest celebration at Cambier Park, Naples' premier public park. Pridefest celebrates the LGBTQ+¹ community and expresses a message that greater-Naples LGBTQ+ residents should live openly and without fear. It does so in part by hosting a drag performance, which as explained further below, expresses a viewpoint about gender identity and gender roles.

3. This year, Pridefest occurred on June 7, 2025 at Cambier Park. Local news outlets covered the jubilant celebration.²

4. There was no violence or attempted violence. Pridefest's attendees and activities posed no threat to public safety or order of any kind. The only arguable disruption was the arrest of a single protester, unaffiliated with Pridefest and opposed to its viewpoint, outside of the festival area.

5. But despite the sunny weather, a cloud hung over Pridefest due to Defendants' unnecessary and unconstitutional restrictions on Naples Pride's speech.

¹ "LGBTQ+" is an acronym referring to people who are lesbian, gay, bisexual, transgender, or queer, or who otherwise differ from traditional expectations in their sexual orientation or gender identity.

² Madison M. Adams, *Naples Pride Fest drew thousands amid court ruling, protests; Celebration continues*, GULF COAST NEWS (Jun. 8, 2025), <https://www.gulfcoastnewsnow.com/article/naples-pride-fest-celebration/65000763>, Eddie Stewart, *Indoor drag show limits audience watching Naples Pride event, but the show still goes on*, WGCU (Jun. 9, 2025), <https://www.wgcu.org/human-interest/2025-06-09/inside-drag-show-limits-audience-watching-naples-pride-event-but-the-show-still-went-on>.

6. As discussed below, Defendants forced Naples Pride’s family-friendly drag performance into the Norris Center—a small indoor venue that is several minutes’ walk from Pridefest and outside its secured zone. Defendants also prohibited anyone under eighteen from attending the drag performance, even if accompanied by their parents.

7. Drag is a type of performance art in which the performers caricature or challenge gender stereotypes by adopting dress or mannerisms stereotypical of a different gender. As courts across the country have recognized, drag is “indisputably protected speech” for First Amendment purposes. *See S. Utah Drag Stars v. City of St. George*, 677 F. Supp. 3d 1252, 1286 (D. Utah 2023). These courts have also concluded that drag expresses a viewpoint on gender identity, and thus, that restrictions targeting drag performances constitute viewpoint discrimination. *See Woodlands Pride, Inc. v. Paxton*, 694 F. Supp. 3d 820, 847 (S.D. Tex. 2023).

8. Like all performance art, drag *can* involve risqué elements, but Pridefest’s drag performances do not: from Pridefest’s inception to the present, Naples Pride has ensured that Pridefest’s drag performances are family-friendly.

9. Since Pridefest began in 2017, and through 2022, Pridefest’s drag performances took place on Cambier Park’s outdoor mainstage without issue.

10. However, in 2022, a sudden wave of anti-drag sentiment spread across the United States, including Florida. In Naples, a group of anti-drag activists campaigned to ban Pridefest’s drag performance, falsely claiming that the show’s content and viewpoint posed a threat to children.

11. Urged on by City Council members who shared their anti-drag views, these activists attended City Council meetings to oppose Naples Pride’s permit applications. At those meetings, the activists and certain City Council members falsely accused LGBTQ+ people and drag performers of “pedophilic behavior” and “grooming” children (*i.e.*, training them to be targets for sexual abuse).

12. Defendants caved to these activists’ pressure. Starting in 2023, Defendants made clear that Naples Pride’s permit application would be rejected if it sought to use Cambier Park’s outdoor mainstage for a drag performance, citing their constituents’ opposition to drag and perceived threats from outside actors opposed to drag’s content and viewpoint.

13. As a result, Naples Pride was forced to alter its 2023 and 2024 Pridefest plans (and permits) to hold these drag performances in small indoor venues removed from Pridefest that accommodate only a fraction of the performance’s typical audience.

14. Forcing these performances indoors—as if they were something shameful—undermined the performance’s intended message of acceptance and living as an LGBTQ+ person openly and without fear, and interfered with Naples Pride’s ability to convey its viewpoint about gender identity and expression. Moreover, in 2023 and 2024, the reduced ticket sales caused a serious blow to Naples Pride’s fundraising and its ability to attract top tier performing talent.

15. For 2025, Naples Pride sought to return Pridefest’s drag performance to the Cambier Park outdoor mainstage. Defendants, however, rejected Naples Pride’s

request. Instead, they once again restricted its speech because of the viewpoint that it expressed—*i.e.*, one supportive of gender identity or expression that differs from an individual’s sex assigned at birth. *See Otto v. City of Boca Raton*, 981 F.3d 854, 864 (11th Cir. 2020) (concluding that restrictions are “[v]iewpoint-based” where they target views on gender identity).

16. In addition to rejecting Naples Pride’s request to hold Pridefest’s drag performance outside, Defendants went even further in burdening Naples Pride’s protected speech.

17. First, as a condition of granting a permit, Defendants insisted that Naples Pride prohibit anyone under age 18 from attending the family-friendly drag performance—even if accompanied by a parent or guardian. To justify this restriction, Defendants cited opposition to the viewpoint that drag expresses—*i.e.*, its celebration of gender nonconformity—and the content of the performances—*i.e.*, gender-atypical costumes and mannerisms. Defendants also cited the hypothetical possibility that outside actors hostile to the content and viewpoint of the planned drag performance might commit violence if it were allowed to take place outdoors or if minors were permitted to attend.

18. Second, Defendants refused to approve Naples Pride’s permit application at all unless it agreed to pay more than \$30,000 in purported “security fees.” Subsequently, Defendants (and their security subcontractor, the Collier County Sheriff’s Office) billed Naples Pride a total of \$33,628.07 for security services associated with the event. Naples Pride—a small nonprofit—cannot pay this

exorbitant fee without jeopardizing its charitable mission and its ongoing viability as an organization.

19. This fee is grossly disproportionate to what Defendants charged in prior years for the same event and to what other Florida cities have charged for similar Pride festivals featuring drag performances, including outdoor shows.

20. The fee is also grossly disproportionate to the size and inherent logistical complexity of the Pridefest event itself. Indeed, it is commensurate with the fees that Defendants have charged for other events that are much larger and more complex and disruptive, but do not feature drag performances.

21. Defendants explicitly justified the amount of this fee by pointing to the “controversial” nature of drag performances, and the consequent “need” to provide heightened security against disapproving “outside actors.” But any such threat was purely hypothetical and unsubstantiated. And more importantly, even if such a threat existed, it was not created by Pridefest or its drag performance: it was created by *others* who threatened to break the law if the performance were permitted to take place.

22. These restrictions on Naples Pride’s drag performance violated the First Amendment, which forbids Defendants from burdening the protected speech of Naples Pride—and the ability of its willing audience to receive that speech—because some members of the Naples community disapprove of its content or viewpoint.

23. The First Amendment also prohibits Defendants from imposing restrictions or costs on Naples Pride’s speech due to the anticipated reaction of “hostile counter demonstrators” or other outside observers who oppose that speech’s content

or viewpoint. The law on these points is clear and well-settled. *See, e.g., Forsyth Cnty., Ga. v. Nationalist Movement*, 505 U.S. 123, 134-35 (1992); *Cent. Fla. Nuclear Freeze Campaign v. Walsh*, 774 F.2d 1515, 1525 (11th Cir. 1985).

24. To stop the unconstitutional restrictions on 2025's Pridefest in advance, Naples Pride filed suit on April 10, 2025. Naples Pride moved for a preliminary injunction on April 12. ECF Nos. 1, 12. The Court entered a preliminary injunction on May 12, 2025, permitting Naples Pride to hold its drag performance outdoors, on Cambier Park's mainstage, for all ages—just as it had done in prior years. ECF No. 67.

25. In the accompanying opinion and order, the Court explained that Cambier Park, the relevant forum, was a traditional public forum. ECF No. 66 at 26-30. The Court explicitly found that the "City's requirement of an indoor location for the drag performance, even if a good faith attempt to mitigate risk, is clearly viewpoint and content based. It is the perceived expressive conduct of the drag performance, and the potential hostile reaction it may engender in others, that caused the City to restrict the drag performance." ECF No. 66 at 33.

26. While the Court also found that "Naples Pride is substantially likely to show that a portion of the security fee estimate is viewpoint and content based," it declined to grant a preliminary injunction as to the fee amount until after the final invoices for 2025 Pridefest were issued. *Id.* at 37.

27. Ten days later, on May 22, 2025, Defendants noticed an appeal and moved this Court for a stay of the preliminary injunction. ECF Nos. 76, 77. On May

27, 2025, this Court denied Defendants' motion to stay the preliminary injunction. ECF No. 85.

28. On June 6, 2025, less than 24 hours before Pridefest, a divided Eleventh Circuit panel stayed this Court's preliminary injunction pending Defendants' appeal.

29. The panel majority concluded, on the preliminary record before it, that Defendants' restrictions on Pridefest's drag performance were unlikely to be found viewpoint-based, and that the relevant forum was likely to be found a limited public forum, not a traditional public forum. The panel majority also concluded that the interim relief of a preliminary injunction was likely to be found inappropriate because Naples Pride could have sued earlier.

30. As the dissenting Eleventh Circuit judge recognized, both of these findings were incorrect on the law and the facts.

31. In any event, they do not bind this Court. Like any order issuing a stay, the Eleventh Circuit's order was explicitly preliminary, serving only to maintain the purported *status quo* pending the resolution of Defendants' interlocutory appeal, which Defendants later voluntarily dismissed. An "order of a motions panel of [an appeals] court" granting or denying a stay pending appeal "does not constitute the law of the case." *Belbacha v. Bush*, 520 F.3d 452, 458 (D.C. Cir. 2008).

32. The Eleventh Circuit's order was also preliminary because Defendants' interlocutory appeal concerned a *preliminary injunction*, not a final judgment. Even if that appeal had run its full course, and the Eleventh Circuit had reversed this Court's order granting a preliminary injunction, an appellate decision concerning the grant of

a preliminary injunction “does not affect the law of the case on the merits.” *Long v. Benson*, 383 F. App’x 930, 931 (11th Cir. 2010).

33. As alleged below, and as discovery and trial will demonstrate, the panel majority’s preliminary view of the case was incorrect, and the dissenting judge’s view was right. The indoors-only and adults-only restrictions were both viewpoint- and content-based, and Cambier Park (and its mainstage) is a traditional public forum.

34. Moreover, even if Cambier Park and its mainstage were somehow separable, the mainstage would be a designated public forum because the City by policy and practice opens it up for indiscriminate use by any event organizer. *See Texas A&M Queer Empowerment Council v. Mahomes*, 772 F. Supp. 3d 792, 804 (S.D. Tex. 2025).

35. And even if Cambier Park (and its mainstage) were a limited public forum, and not a traditional one, as a factual matter, Defendants’ purported exclusionary policy is pretextual and fails the governing reasonableness test. *See Moms for Liberty v. Brevard Pub. Schs.*, 118 F.4th 1324, 1334 (11th Cir. 2024) (“Restrictions that bar offensive or otherwise unwelcome speech are impermissible, regardless of the forum in which the government seeks to impose them.”).

36. Finally, because this Court did not grant preliminary relief concerning Defendants’ “security fee,” that issue was not before the Eleventh Circuit. Thus, the last word on the matter remains this Court’s conclusion that “Naples Pride is substantially likely to show that a portion of the security fee estimate is viewpoint and content based,” and thus unconstitutional. ECF No. 66. at 37.

PARTIES

Plaintiff

37. Plaintiff Naples Pride is a volunteer-based, grassroots 501(c)(3) nonprofit that provides social services to the greater Naples LGBTQ+ community, including counseling and support groups, housing and legal assistance, and healthcare like STI/HIV screening. Naples Pride is a small organization, with just one full-time staff member, its Executive Director. It is based in Naples, Florida and is incorporated under Florida law.

Defendants

38. Defendant City of Naples is an incorporated city in the State of Florida.

39. Defendant Naples City Council is the official governing body of the City of Naples.

40. Defendants Teresa Heitmann, Terry Hutchison, Raymond Christman, Beth Petrunoff, Bill Kramer, Linda Penniman, and Berne Barton are the members of the Naples City Council and are sued in their official capacities.

41. Defendant Naples Police Department is the primary law enforcement agency of the City of Naples.

42. Defendant Ciro Dominguez is the Naples Chief of Police and is sued in his official capacity.

Relevant Third Parties

43. Third Party Collier County Sheriff's Office ("CCSO") is a law enforcement agency operating across Collier County, Florida.

44. For purposes of Pridefest, CCSO is a subcontractor and/or agent of the Naples Police Department that provided additional security services for the 2025 event at the Naples Police Department's request and instruction.

JURISDICTION AND VENUE

45. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343 and 42 U.S.C. § 1983.

46. This Court has personal jurisdiction over Defendant City of Naples, as it is a municipality located and incorporated in the State of Florida. This Court has personal jurisdiction over Defendant Naples City Council, as it is the official governing body of that municipality, and over Defendant Naples Police Department, which is an agency of that municipality.

47. This Court has personal jurisdiction over Defendants Teresa Heitmann, Terry Hutchison, Raymond Christman, Beth Petrunoff, Bill Kramer, Linda Penniman, and Berne Barton, sued in their official capacities as members of the Naples City Council, and over Defendant Ciro Dominguez, sued in his official capacity as Naples Chief of Police, since they are all citizens of Florida who reside and perform their official duties in the City of Naples.

48. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. § 1391(b) because all parties are located in this judicial district and division, and a substantial part of the events that gave rise to Naples Pride's claims occurred within this judicial district and division.

FACTUAL BACKGROUND

I. Naples Pride’s Annual Pridefest

49. Since 2017, Naples Pride has hosted an annual “Pridefest” celebration—usually in June, which is known as LGBTQ+ Pride Month.³ Pridefest celebrates the LGBTQ+ community and encourages LGBTQ+ individuals to express themselves openly and without fear. The event also raises money for Naples Pride to carry out its mission: providing social services to the greater Naples LGBTQ+ community. Pridefest is Naples Pride’s largest fundraising event, providing about 30-50% of its annual budget.

50. For the first four years Pridefest took place, it was held entirely outdoors in Cambier Park, the most prominent public space in downtown Naples.

51. Unlike other, larger events hosted in Cambier Park, Pridefest lasts five hours on a single day.

52. In its permit applications, Naples Pride has sought minimal street closures for the event: one block of one street, so that attendees could more safely cross the street to the park.

53. The Naples Police Department, members of its Parks and Recreation Department, the City Manager, and members of the City Council have all praised Naples Pride for how well-organized and well-run Pridefest is. Notably, at the time

³ Pridefest did not take place in 2020 or 2021 due to COVID-19.

this lawsuit was filed, there had been no security incidents—save for a single arrest in 2022 of an individual unaffiliated with the event, for disorderly conduct.⁴

54. Since it began, Pridefest’s centerpiece has been a family-friendly drag performance, lasting between two and two-and-a-half hours. For the festival’s first four years (2017-2019 and 2022), this performance took place on the outdoor mainstage of Cambier Park.

55. Holding these performances outdoors, in a prominent public space, has symbolic and expressive importance to Naples Pride, whose mission emphasizes bringing the Naples LGBTQ+ community “out of the closet” and into the public square. It also reinforces Pridefest’s similar message of acceptance and living openly and without fear as an LGBTQ+ person.

56. The drag performance itself expresses a viewpoint on gender identity and gender expression. This viewpoint includes, without limitation, the perspective that living or presenting as a gender inconsistent with one’s sex assigned at birth should be accepted and openly celebrated.

57. The drag performance’s outdoor location is also key to Naples Pride’s fundraising efforts for its charitable mission. The drag performance is the main draw for Pridefest attendees, and holding it outdoors in Cambier Park allows 5,000 or more paying ticketholders to attend.

⁴ As noted above and discussed below, a protester was also arrested in 2025 outside the Pridefest perimeter.

58. Naples Prides takes steps to ensure that the drag performances remain family-friendly. For example, Naples Pride forbids performers from incorporating any nudity or obscene content into their performances. Naples Pride expressly makes performers aware of these requirements when they are booked and reminds them of these requirements up until moments before their performances.

59. In 2022, citizen complaints triggered a Naples Police Department investigation into Naples Pride’s drag performances. After that thorough investigation—which included a review of videos of the drag performances—the Naples Police Department concluded that these complaints were unfounded, that the drag performances were not lewd or sexual, and that the “way the [performers] were dressed was no more revealing than being in a bathing suit at a public pool or beach.”

II. Background on Drag Performances

60. As noted above, drag is a type of performance art where performers caricature or challenge gender stereotypes by adopting dress or mannerisms stereotypical of a different gender.

61. Like any form of stage performance, drag *can* include risqué elements; however, it is not *inherently* sexual or explicit, and is a popular form of entertainment for all ages.

62. Drag allows marginalized individuals to express pride in their identities, and combat shame and social stigma, by challenging societal gender norms and expectations.

63. Drag performances “express a litany of emotions and purposes, from humor and pure entertainment to social commentary on gender roles.” *Woodlands Pride*, 694 F. Supp. 3d at 843.

64. Drag performances, LGBTQ+ Pride celebrations (*e.g.*, festivals and parades), and the expressive message that these events send are all closely connected. Pride festivals, including Pridefest, typically occur during LGBTQ+ Pride Month in June to commemorate the June 1969 Stonewall Uprising, a critical moment in the LGBTQ+ rights movement. Drag performers played a crucial role in the Stonewall Uprising and continue to play a prominent role in the LGBTQ+ community.⁵

65. Given drag’s expressive message, courts across the country have held that drag performances are “indisputably protected speech” for purposes of the First Amendment. *HM Fla.-ORL, LLC v. Griffin*, 679 F. Supp. 3d 1332, 1342-44 (M.D. Fla. 2023) (“*HM*”), *aff’d sub nom. HM Florida-ORL, LLC v. Gov. of Fla.*, 137 F.4th 1207 (11th Cir. 2025), *pet. for rehearing filed*; *see also S. Utah Drag Stars*, 677 F. Supp. 3d at 1286; *Woodlands Pride*, 694 F. Supp. 3d at 843-44; *Imperial Sovereign Ct. of Mont. v. Knudsen*, 684 F. Supp. 3d 1095, 1107 (D. Mont. 2023); *Texas A&M Queer Empowerment Council*, 772 F. Supp. 3d at 803. Defendants have also conceded in this proceeding that drag performance enjoys full First Amendment protection. *See* ECF No. 52 at 37:11-38:12.

⁵ *See* Smithsonian, *Marsha Johnson, Sylvia Rivera, and the History of Pride Month*, SMITHSONIAN STORY (June 7, 2021), <https://www.si.edu/stories/marsha-johnson-sylvia-rivera-and-history-pride-month>; *see also* Erin Blakemore, *What was the Stonewall Uprising?*, NAT’L GEOGRAPHIC (Jun. 1, 2023), <https://www.nationalgeographic.com/history/article/stonewall-uprising-ignited-modern-lgbtq-rights-movement>.

66. Courts across the country have also held that drag performances express a viewpoint, and thus, that restrictions targeting these performances constitute viewpoint discrimination. *See, e.g., Woodlands Pride*, 694 F. Supp. 3d at 847; *S. Utah Drag Stars*, 677 F. Supp. 3d at 1289; *Imperial Sovereign Ct. of Mont.*, 684 F. Supp. 3d at 1105; *Texas A&M Queer Empowerment Council*, 772 F. Supp. 3d at 804-08.

III. Naples' Permitting Scheme

67. Pursuant to Naples' laws and regulations governing public special events (the "Permitting Scheme"), Naples Pride must apply for a permit to hold its annual Pridefest.

68. Any permit must be approved by a City Council resolution "incorporating reference to the [City of Naples] Special Events Manual" (hereinafter, the "Manual"). *See* Naples Ordinance No. 2023-15181. According to city ordinances, the City Council may impose "[a]ny event specific conditions" that it desires "as conditions of approval," including, but not limited to, "hours of operation, operational controls, site plans, *etc.*" *Id.* (emphases added).

69. No statute, ordinance, or other source of law limits the nature or scope of these conditions or provides any binding procedure or guidelines for determining when they should be imposed.

70. After an organization applies for a permit, the Special Events Committee, which includes representatives from various city departments including Parks, Police, and Fire, reviews the application and makes a recommendation to the City Council "based on the guidelines/policies/ordinances in place, and the impact on the

community.” Manual at 3. No standards set forth how this consideration is to take place or what is meant by the “impact on the community.”

71. The City Council then meets and decides whether to deny the permit, approve the permit, or to approve it subject to any special conditions of their choosing. *Id.*; Naples Ordinance No. 2023-15181.

72. Separate and apart from the City Council’s authority to approve or deny the permit, the Manual grants the City Manager authority to approve or deny a permit based on, *inter alia*, whether “[t]he event is generally compatible with the character of the city.” Manual at 9. No standards set forth what this phrase means or how this determination is to be made.

73. The Naples Municipal Code provides a fee schedule for use of the city’s parks, including Cambier Park. Naples, FL., Mun. Code, App’x A § 28-32 (available at: <https://bit.ly/46rgr1h>). Relevant here, Naples charges \$900 a day for hosting a large event in a park, and \$80 an hour to use Cambier Park’s bandshell. *Id.* § 28-32(2)(l) & (7)(a).

74. Regarding permits to host events in public parks like Cambier Park, the Manual states explicitly that “Parks . . . are public spaces and will remain open to the public during the event.” Manual at 5.

75. The Naples Municipal Code also allows the City Council to assess additional fees on event organizers for using city parks. Naples, FL., Mun. Code § 28-32(a) (available at: <https://bit.ly/46Bhjk5>). Through that authority, the City Council

adopted additional fee requirements in the Manual. *See* Naples Ordinance No. 2023-15181; Manual at 4, 10.

76. The Manual sets forth certain fixed fees for event permits, including a \$150 non-refundable processing fee and a \$500 refundable damage deposit. *Id.* It also provides that the “City may require Police, Fire, . . . barricades, etc.,” with the cost of “all services provided for the event [to] be paid for by the [event organizer].” *Id.*

77. By its terms, the Manual provides the City Council with unbounded discretion to determine what services should be provided—and charged to the event organizer—to “ensure the safety of participants, minimize the inconvenience to residents and reduce the liability exposure to the City.” *Id.* Neither the Manual, nor any code provision, ordinance, or City Council resolution sets forth the criteria that the City Council should use for determining the amount of “necessary” additional services, or how these costs should be determined. *Id.* at 12.

78. Regarding security fees, the Manual states that, for events “deemed to have specific safety requirements, the hiring of law enforcement officers may be required.” *Id.* at 6. The Manual delegates all security-related authority to the Naples Police Department, stating that “[t]he organizer must comply and resolve all safety concerns of the Naples Police Department,” who “are the primary subject matter experts on the safety and security for all events in the City of Naples.” *Id.*

79. The Manual does not provide criteria for assessing or calculating security costs. Instead, the Chief of Police retains complete discretion to impose whatever security fee he sees fit, even if (as here) it amounts to tens of thousands of dollars. The

Chief of Police is not required to rely on or provide any objective justification for the amount imposed. The Chief of Police may also, in his discretion (and as occurred here), subcontract with the CCSO to retain additional law enforcement officers, at a permit applicant's expense.

80. In a January 14, 2025 email from the Chief of Police to the City Council, he described the six criteria he used to “staff personnel” at special events: (1) “Risk/Threat Assessments,” (2) “Real time intelligence/current events in the country/world,” (3) “Venue size, location, and capability/capacity,” (4) “*Potential for conflict or protests (political/controversial issues)*,” (5) “Expected attendee crowd size,” and (6) “Event particulars (i.e. night/day, alcohol involved, street closures etc.)” (emphasis added).

IV. Cambier Park and its Mainstage

81. Cambier Park—the location of Pridefest—is a 12-acre public space that first opened in the 1940s. Today, Cambier Park includes ample gathering and recreation space for the public, including a playground, tennis courts, walkways, benches, a grassy field, and the mainstage (sometimes referred to as the “bandshell”), an outdoor stage surrounded on three sides with stone walls. Prior to the mainstage's 2001 renovation, an amphitheater was located in the same corner of Cambier Park.

82. Pictured below is a satellite view of Cambier Park, with the mainstage demarcated by a red pin and an image of the mainstage when not in use.



83. When vendors set up tents on the grass field between Cambier Park’s playground and mainstage, as they do during Pridefest, the mainstage (and any performance taking place there) is not visible from the Cambier Park playground. The image below shows the perspective from the playground, facing the mainstage. Only the decorations above the stage and sun shield are visible.



84. Cambier Park and its mainstage have a long history of serving as the venue for events sponsored and hosted by local organizations.

85. As noted above, the City’s Special Events Manual states explicitly that “[p]arks” including Cambier Park “are public spaces and will remain open to the public during [permitted] event[s]” hosted by private parties. Manual at 5.

86. With the City’s permission, private, non-government-affiliated groups have hosted a wide variety of events, including events with political and religious themes; events that some might view as “controversial,” and that accordingly might draw protesters; and events requiring paid tickets for entry.

87. The City’s practice is—and at all relevant times has been—that permits for events in Cambier Park and on its outdoor mainstage are open to all comers, including those expressing particular viewpoints. For example:

- a. In 2012, then-presidential candidate Newt Gingrich—a controversial public figure—received “the rock star treatment at an evening event at Cambier Park,” during which he spoke to approximately 6,000 people from the mainstage.⁶ Below is an image of Former Speaker Gingrich and his wife at the event.

⁶ Gerhard Peters & John T. Woolley, *Newt Gingrich, Gingrich Campaign Press Release - Gingrich Draws Thousands in Florida; Romney, Santorum Draw Just Hundreds*, THE AMERICAN PRESIDENCY PROJECT (Jan. 24, 2012), <https://www.presidency.ucsb.edu/node/299909>.



- b. Supporters of gun control exercised their First Amendment rights at Cambier Park and its mainstage as part of the “March for Our Lives” movement, which arose in response to the Parkland, Florida school shootings in 2018. Below is an image showing a speaker at the event presenting from the mainstage.



c. The Collier County Branch of the NAACP hosts an annual Martin Luther King Day celebration in Cambier Park, where bands, dancers, and speakers present from the mainstage after a parade through downtown Naples. Pictured below are mainstage presentations, as well as local cheerleaders taking part in the parade.⁷



⁷ Jonah Hinebaugh, *Collier County NAACP hosts Martin Luther King Jr. parade and celebration in downtown Naples*, NAPLES DAILY NEWS (Jan. 20, 2025), <https://www.naplesnews.com/picture-gallery/news/local/2025/01/20/collier-county-naacp-hosts-martin-luther-king-jr-celebration-in-naples/77840184007/>; *27th Annual MLK Parade & Celebration*, NAACP COLLIER COUNTY BRANCH (Dec. 22, 2023), <https://naacpcolliercounty.org/27th-annual-mlk-parade-celebration/>; Naples Daily News, *"Naples 2025 MLK Day Celebration"*, YOUTUBE, (Jan. 20, 2025), https://youtu.be/Hbf6vB3T_mI?si=fSzhHCSom3xcfVV.



- d. Celebration Community Beach Church holds Sunday religious services every week at Cambier Park’s mainstage.
- e. Naples Artcrafters hosts a fine arts and crafts show in front of the mainstage each month from November through April.
- f. Naples Big Band holds concerts on the mainstage, during which it collects donations to fund its music education program.
- g. Gulf Coast Big Band also hosts concerts on the mainstage several times per year, which raise money for local youth jazz scholarships and lessons.
- h. Naples Concert Band performs on the mainstage at Cambier Park regularly. Below on the left is a flyer for last year’s winter holiday concert; on the right is an image of a 2018 concert on the mainstage.



- i. Opera Naples hosted its fifth annual “Festival Under the Stars,” a two-week outdoor opera festival, on the mainstage—including performances of operatic works like *The Magic Flute*, *La Bohème*, and *The Mikado*. Attendance was open only to ticketholders. Though there has never been an age restriction on Opera Naples’ performances, they have in the past featured performers in drag, and nudity. *The Mikado*, for example, tells the story of a young Japanese man who flees home *disguised in drag* to escape marrying an older woman. In recent times, it has also stirred controversy for what many perceive as offensive stereotypes of Japanese people and culture.
- j. “Nash to Naples” is hosting its fifth annual “Songwriter Fest”—a paid, ticketed event—on Cambier Park’s mainstage in January 2026. Attendance is open only to ticketholders. A flyer for the

2025 Songwriter Fest, featuring live musical performances on the mainstage, is copied below.



88. As these examples reflect, permits to conduct events in Cambier Park and on its outdoor mainstage are—and at all relevant times have been—open to anyone, with any viewpoint. The City has never had a policy (let alone a clear, objective, and consistently enforced policy) of restricting permits to use Cambier Park or its mainstage to a particular, defined class of events, speakers, or topics. Nor has the City ever had a policy (let alone a clear, objective, and consistently enforced policy) of denying or restricting such permits because an event is “controversial” or likely to draw protesters. Indeed, several of the events described above could be described as

controversial or offensive to segments of the Naples community, yet the City permitted the organizers to use Cambier Park and its mainstage for the events nonetheless.

89. On information and belief, in the entire history of Cambier Park and its mainstage, the City has *never* required an event organizer other than Naples Pride to hold any part of their event indoors, or to categorically prohibit minors from attending any portion of their event, for any reason. This includes public opposition to the content or viewpoint of that event or the perception that outside actors opposed to the event’s content or viewpoint could cause violence. Only Naples Pride has been singled out in this manner.

V. Anti-Drag Sentiment Impacts Pridefest in 2023 and 2024

90. Although drag performances have taken place for centuries, in the last few years, this art form has been subjected to sudden and intense backlash.

91. Beginning in 2022, many states, including Florida, enacted laws to restrict drag performances, often deeming them categorically “lewd” or “sexual,” regardless of their actual content.

92. Florida’s statute targeting drag performances (“Florida’s Drag Law”) was enacted in May 2023. The law authorized the State to revoke or suspend the operating and liquor licenses of any establishment that “knowingly admit[s] a child”

to certain types of drag performances. It also made doing so a crime punishable by up to one year in prison or a \$1,000 fine. Fla. Stat. §§ 827.11, 775.082, 775.083.⁸

93. Florida’s Drag Law was expressly motivated by anti-drag and anti-LGBTQ+ sentiment. For example, Randy Fine, the bill’s sponsor in the Florida Senate, described the law as seeking to “protect our children by ending the gateway propaganda to this evil—‘Drag Queen Story Time.’” And Florida House Speaker Paul Renner commented that Florida’s Drag Law was “a response to . . . a regrettable effort, by adults, in this case drag queens, who seem to be obsessed with pushing their lifestyle on children.”⁹

94. On June 23, 2023, a judge of this Court enjoined Florida’s Drag Law, concluding that it likely violated the First Amendment. *HM*, 679 F. Supp. 3d at 1342. The Eleventh Circuit Court of Appeals affirmed the injunction, and the Supreme Court declined to stay that decision. *See HM Fla.-Orl, LLC v. Governor of Fla.*, No. 23-12160, 2023 WL 6785071 (11th Cir. Oct. 11, 2023); *Griffin v. HM Fla.-ORL, LLC*, 144 S. Ct. 1 (2023). More recently, on May 13, 2025, the Eleventh Circuit affirmed the

⁸ Florida’s Drag Law is relevant to this action only in that it provides context for the political climate and restrictions placed on Naples Pride. Florida’s Drag Law does not apply to Naples Pride’s drag performances, and this action in no way depends on the effect or status of Florida’s Drag Law.

⁹ Danielle J. Brown, *Drag Queens Defend Their Livelihood While Lawmakers Try to Define “Adult Live Performances,”* FLA. PHOENIX (Mar. 24, 2023), <https://floridaphoenix.com/2023/03/24/drag-queens-defend-their-livelihood-while-lawmakers-try-to-define-adult-live-performances/>.

universal nature of the injunction against the law’s enforcement. *See HM Fla.-ORL, LLC*, 137 F.4th at 1247-48 (distinguishing nationwide injunctions).

95. Anti-drag sentiment also surged in Naples itself. For example, Defendant Terry Hutchison, who serves on the City Council and votes on Naples Pride’s permit applications, helped organize several local anti-drag protests. Hutchison also spoke at a town hall meeting on behalf of an organization called “Stop Naples Drag,” and alerted anti-drag activists when Naples Pride’s permit applications would be on the City Council’s agenda, encouraging them to attend to protest their approval.

96. Former City Council member and mayoral candidate Ted Blankenship also encouraged activists to appear at City Council meetings to protest Naples Pride’s events. Blankenship told local news media that he was “running for mayor to make sure that drag shows aren’t held publicly in the City of Naples.”¹⁰

97. In 2023, Naples Pride applied for a permit including an outdoor drag performance for Pridefest—just as in prior years. But this time, Naples Pride faced unprecedented scrutiny from the City Council during the application process, including demands that it specify every vendor that it planned to use at Pridefest, and that its application explicitly identify the type of entertainment it planned to offer as “drag,” rather than just live music and performances, as in the past. City staff and

¹⁰ *Naples mayoral candidate aims to limit public drag shows*, GULF COAST NEWS (Oct. 23, 2023), <https://www.gulfcoastnewsnow.com/article/naples-mayoral-candidate-aims-to-limit-public-drag-shows/45959863>.

City Council members also recommended that Naples Pride provide a presentation to the City Council to explain the work of Naples Pride, Pridefest, and drag performances. Other permit applications did not receive this exacting level of scrutiny.

98. The City Council initially voted 5-2 to approve Naples Pride’s 2023 permit application. However, after the vote, public backlash to Pridefest’s drag performance intensified—urged on in part by members of the City Council themselves. Members of Stop Naples Drag attended public City Council meetings in February and March 2023 to protest the decision, stating that Pridefest’s drag performance was a form of “grooming” children for child abuse by “exposing [them] to sexualized content at a young age” and that “[t]his has to do with . . . filth being displayed openly.”¹¹

99. Thereafter, certain City Council members, the Chief of Police, and the City Manager scheduled a conference call with Naples Pride, during which City officials (including Council Member Beth Petrunoff) explained that, in light of increased opposition to the drag performance, Naples Pride must either move the drag performance indoors or the event would be cancelled. Officials on the call stated that, because of increased public opposition to drag, they were concerned about attacks—such as another “Charlottesville” or “Orlando Pulse Nightclub”—if the performance moved forward as planned. However, they cited no evidence that such an attack was even remotely likely, and on information and belief, there was none.

¹¹ Kaitlyn Snook, *Naples Pride Moves Drag Show Indoors as Opposition Grows*, WGCU (Apr. 29, 2023), <https://news.wgcu.org/section/democracywatch/2023-04-29/naples-pride-moves-drag-show-indoors-as-opposition-grows>.

100. Naples Pride was left with an impossible decision: move the drag performance indoors, thus curtailing the expressive message and decimating its fundraising potential, or have no Pridefest at all.

101. Naples Pride's Board of Directors initially rejected the City's requirements, as the requirements would fundamentally alter Naples Pride's speech. However, Naples Pride eventually gave in to the City's demand to preserve its ability to host Pridefest at all, including any drag performance.

102. As a small organization with a limited budget, Naples Pride never imagined that filing a lawsuit against the government to protect its constitutional rights was a viable option. Further, Naples Pride never understood that a forced decision to bend to Defendants' pressure tactics could eventually be held against it in an attempt to tie its hands forever.

103. Ultimately, Naples Pride acceded to Defendants' threats and agreed to modify its 2023 Pridefest permit application by both moving the drag performance indoors and restricting attendance to adults only.

104. As a result, the 2023 Pridefest drag performance took place in the small, 200-seat Norris Center, adjacent to Cambier Park.

105. In 2024, Naples Pride again hosted Pridefest's drag performance indoors and only for adults. Naples Pride agreed to do so because it understood that Defendants would only approve its permit application under those conditions.

106. Furthermore, while Florida's Drag Law did not apply to Naples Pride's planned drag performance, the statute is drafted broadly and vaguely. *See HM Fla.-*

ORL, LLC, 137 F.4th at 1225.¹² Some of Florida’s Drag Law’s sponsors and would-be enforcers also publicized sweeping views of its application. *See Id.* at 1218-19. While such statements have no legal effect, the statements from enforcement authorities were especially concerning to Naples Pride, given its limited practical ability to fight back against unconstitutional government conduct. Naples Pride further understood that others had filed statewide challenges to the law, and thus its constitutionality would soon be determined by the courts. For this reason, too, Naples Pride reasonably would not have filed a lawsuit at the time.

107. The 2024 Pridefest drag performance took place at the Naples Woman’s Club, which holds only 180 people. Only 200 people attended the drag performance in 2024 (even with Naples Pride running the performance multiple times).

108. Pridefest attendees reported to Naples Pride that it was inconvenient or impossible for them to attend the drag performance because it would force them to be separated from their children and friends.

109. Overall attendance at Pridefest also declined sharply, from approximately 5,000 people in 2022 (when the drag performance was last held outside) to just 2,400 in 2024. This decline was due in large part to the limited capacity of these

¹² Brandon Girod, *What is Florida's new drag show law, SB 1438? Breaking Down the Law's Impact*, PENSACOLA NEWS JOURNAL, May 23, 2023, <https://www.pnj.com/story/news/politics/2023/05/23/what-is-florida-anti-drag-law-impact-2023/70246575007/> (stating that “Florida’s new anti-drag show bill was expanded to include vague language that can be used to attack drag shows and performances”).

indoor venues and the inability of parents to attend the drag performances with their children.

110. Because of decreased Pridefest attendance, and the subsequent impact on fundraising, Naples Pride saw an approximately 46% decrease in its annual budget from 2022 to 2024. As a result, Naples Pride could not afford to provide certain social services it had planned for 2025, including an additional case manager, an after-school program, and a food and clothing pantry.

111. Moreover, in addition to their impact on attendance and fundraising, Defendants' restrictions on the Pridefest drag performance have adversely affected Naples Pride's speech by limiting its ability to express support of all gender identities and expressions, and by limiting the audience who can hear its message.

112. Typically, Naples Pride retains well-known drag entertainers from outside of Southwest Florida, who bring additional perspectives on drag and renown to Pridefest. But Naples Pride has been unable to attract the same caliber of nationally recognized entertainers in the smaller, indoor venues like the Norris Center.

113. Further, forcing the family-friendly drag performance to take place indoors and out of public view—as if it were something shameful, explicit and lewd—undermines the performance's intended symbolic message of celebrating LGBTQ+ identities and coming “out of the closet” without fear. Instead, it forces Naples Pride to send an undesired message that drag performance, LGBTQ+ identities, and gender nonconformity are shameful and should be hidden out of sight.

VI. In 2025, Defendants Again Unconstitutionally Restrict Naples Pride’s Speech—and Impose Exorbitant Permit Fees

114. For the 2025 Pridefest, which took place on June 7, 2025, Naples Pride again sought to host its Pridefest drag performance outdoors and open it to all ages. In response, Defendants imposed a series of burdensome and unlawful restrictions on Naples Pride’s permit: an indoors-only restriction, an adults-only restriction, and an exorbitant “security fee.”

A. The Indoors-Only and Adults-Only Restrictions

115. In November and December 2024, City staff and City Council members explained to Naples Pride via email and telephone calls that, due to public opposition to drag performance, its 2025 Pridefest permit application would not be approved at all if Naples Pride sought to hold the drag performance outdoors.

116. In a December 2024 meeting with Naples Pride, Chad Merritt, Director of the Naples Parks Department, said that the City Council would probably impose an “indoors only” condition on Naples Pride’s permit, regardless of what was requested in its application. Merritt pointed to the Manual as authority for the City Council to impose any conditions on a permit it sees fit.

117. At a January 2025 public meeting, the City Council officially considered Naples Pride’s permit application for 2025 Pridefest.

118. The meeting, which lasted multiple days, overflowed with anti-drag and anti-LGBTQ+ sentiment—much of it from members of Stop Naples Drag, whom Defendant Hutchinson had alerted in advance that Naples Pride’s permit would be on

the agenda. Several attendees accused LGBTQ+ people of “grooming” children and opposed Pride events altogether. Other speakers falsely equated drag with exotic dancing and accused drag performers of “pedophilic behavior.”

119. At the meeting, two members of the Naples Police Department—Chief Dominguez and Lieutenant Michael O’Reilly—testified publicly about the Department’s safety plans for the Pridefest event. This testimony made clear to the City Council that the Naples Police Department could keep the peace at Pridefest, even if it included an outdoor drag performance.

120. Specifically, neither Chief Dominguez nor Lieutenant O’Reilly expressed a preference for an indoor versus outdoor drag performance, and both stated that the Department could ensure safety for 2025 Pridefest even with an outdoor performance. Chief Dominguez explained: “[W]e’re going to have a park and an open air event. We’re going to use all the resources that we have available . . . to help make sure that place is safe.” Lieutenant O’Reilly agreed: “If we have the stage show [on the mainstage], as is being proposed [by Naples Pride], we can accommodate that.” The Naples Police Department had considered “all contingencies,” including “bad actors,” and “incorporated [them] into [its] security plan.”

121. Neither Chief Dominguez nor Lieutenant O’Reilly suggested that an *age* restriction on Pridefest’s drag performance was relevant (let alone necessary) to protect Pridefest from perceived or anticipated hostile actors.

122. Immediately before the permit was put to a vote, each City Council member offered their position on Naples Pride’s permit. The overriding justification

that the council members offered for their votes was opposition to drag and the viewpoint expressed by Naples Pride’s drag performance—either their own personal opposition, or that of their constituents. While some council members also cited purported security concerns, none of those security concerns had anything to do with Pridefest or the drag performance *itself*. Rather, they related entirely to the speculative possibility that *others* unaffiliated with Pridefest, who oppose the viewpoint and content of Pridefest’s drag performance, might commit unlawful conduct.

123. Defendant Terry Hutchison opposed Pridefest’s permit application altogether. In explaining his vote to deny Naples Pride’s permit outright, Defendant Hutchison commented that an outdoor drag performance would equate to “targeting children,” falsely claimed that Naples Pride “intentionally placed the border of their event a mere two feet from the children’s playground,” characterized “family friendly” as “the new woke label for drag shows around children,” and asserted that an outdoor drag performance would force unwilling members of the public to “acknowledge this lewdness.”

124. Defendant Raymond Christman explained that “the right answer is to approve this permit with the requirement that the drag show be held inside” because “drag shows are offensive to many people in this community,” and an outdoor drag show would pose a safety risk due to the possibility that outside actors hostile to the performance’s content and viewpoint might cause violence. Specifically, Christman explained that “the kind of comments I’ve heard from too many of the people in this

room and who were in this room earlier today and on Monday makes me even more fearful for the safety of people attending this event.”

125. Defendant Berne Barton justified his vote to restrict Naples Pride’s permit by citing concerns about outside actors causing violence, stating that the Naples Police Department has “made it quite clear, and frankly, the pricing has made it quite clear that it’s going to be a lot easier for them to maintain public safety if it’s held indoors versus outdoors.” Council member Barton did not state that the Naples Police Department would be unable to provide adequate security for an outdoor event; nor did he explain why an *age* restriction was necessary in his view to “maintain public safety.”

126. Defendant Bill Kramer justified his vote to restrict Naples Pride’s permit by stating that “the people I represent, the vast, vast majority, more than ten to one do not want a drag show in Cambier Park,” and that a “drag show in Cambier Park is not small town feel and charm. For that reason, I cannot support this.” Kramer also expressed concern that “bad actors” unaffiliated with the event might cause violence. Finally, Kramer suggested that if Naples Pride returned to request a permit with an outdoor drag performance again, he was “not going to support it all just because [he] think[s] it’s disingenuous.”

127. Defendant Linda Penniman justified her vote to restrict Naples Pride’s permit because she had received hundreds of emails from people urging her to “just move the drag show inside,” because they “don’t care for that particular part” of Pridefest.

128. Defendant Beth Petrunoff justified her vote to restrict Naples Pride’s permit because of opposition from the community. Specifically, she explained that the previous “solution to move it indoors” was a compromise she supported where “people in the opposing group ... were okay with it because it solved 95 percent of the issues and took it away from children seeing it. [Naples Pride] wasn’t 100 percent [happy] because they wanted it outdoors, and that is usually the sign of a good negotiation when both parties leave a little bit unhappy.” Petrunoff continued that in line with the prior two years, she “would be okay with it as long as it was indoors,” and “if we do this the way that I want to do this, we would just do it to satisfy what the residents want.”

129. Defendant Teresa Heitmann, also the mayor of Naples, made clear that the overarching justification for her vote to restrict Naples Pride’s permit was public opposition to the outdoor drag performance. Specifically, she stated she “was quite shocked at the number of people that—voters that were concerned about the drag queen show being in the park outside . . . it was loud and clear that our constituents didn’t want the drag queen show outside in the Cambier Park. So health and safety, obviously, is what we are responsible for in protecting our community. I support freedom of speech and support the Pride event taking place. But however, that drag queen show in the public park without the support of our constituents is not okay.”

130. In sum, the overarching justification for the City Council’s indoors and age restrictions on Naples Pride’s 2025 permit was public opposition to drag and the viewpoint that Naples Pride’s drag performances promotes: that gender identity or

expression that differs from an individual's sex assigned at birth is acceptable and should be celebrated without shame.

131. Moreover, Defendants' safety justification was itself viewpoint- and content-based. Any supposed threat to safety was not caused by Pridefest itself. There are no inherently dangerous aspects to Pridefest or its drag performance, like pyrotechnics. To the extent the City Council cited safety concerns, these concerns all related to the possibility of outside actors opposed to Pridefest engaging in unlawful violence. Naples Pride's protected speech may not be restricted "because of the [hypothesized] violent reaction of offended listeners" as an "expedient alternative to containing or snuffing out lawless behavior." *Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 252 (6th Cir. 2015) (en banc).

132. Significantly, Defendants never explained how their indoors-only and 18+ restrictions could make Pridefest safer, other than placating anti-drag activists opposed to the content and viewpoint of Naples Pride's drag performance who might otherwise break the law. Moreover, as discussed below, Defendants' requirement that the drag performance be held in an indoor venue separate from the Pridefest festival area only succeeded in exposing Pridefest attendees to the very outside protesters that the City Council was supposedly worried about protecting them from.

133. Despite the Naples Police Department's assurances that an outdoor drag performance could be secured, and the lack of any suggestion whatsoever that an age restriction would make the event more secure, the City Council ultimately voted 5-2 to issue the permit only on the conditions that (1) the drag performance take place

indoors at the Norris Center; and (2) no one under 18 be admitted to the drag performance, even if accompanied by an adult parent or guardian.

134. As alleged above and below, being forced to host the drag performance indoors and to exclude all persons under 18 severely limited the number of people to whom Naples Pride could communicate its expressive message, substantially inhibited Naples Pride's desired speech, and adversely impacted Naples Pride's ability to fundraise through ticket sales.

B. Security Fee Estimate

135. During the 2025 permit application process, the Naples Police Department told Naples Pride that it would have to pay \$30,697.50 in security fees alone—on top of other permit fees—to hold Pridefest with a drag performance indoors, and \$44,160.00 in security fees to hold the event with a drag performance outdoors (if the City Council ultimately permitted an outdoor performance). The additional \$13,462.50 charged for an outdoor drag performance would cover three additional “Event Officers” from the Naples Police Department, two “CCSO Supervisors,” and eight “CCSO ERT Team” members, each working for 7.5 hours at rates between \$135 and \$155 per hour.

136. The indoor fee alone—\$30,697.50—represents approximately two-thirds of the total proceeds that Pridefest generated in 2024. The proposed fee for an outdoor performance is approximately equal to the total amount raised through Pridefest in 2024.

137. These quoted security fees represent a sharp increase from the security fees Naples Pride was previously charged in connection with Pridefest:

- In 2017, Naples Pride was charged \$1,125.00 in security fees.
- In 2018, Naples Pride was charged \$1,942.50 in security fees.
- In 2019, Naples Pride was charged \$1,627.50 in security fees.
- In 2022, Naples Pride was charged \$3,867.00 in security fees.
- In 2023, Naples Pride was charged \$4,963.75 in security fees.
- In 2024, Naples Pride was charged \$15,520.00 in security fees.

138. Because 2025 was the first time that Naples Pride was charged such an exorbitant security fee, it was also the first time that Naples Pride could have filed suit alleging that such a fee violated its First Amendment rights.

139. These increased fees are commensurate to what the City of Naples charges other public events that are larger, more disruptive, and/or pose greater inherent risks.

140. For example, the City of Naples hosts an annual car show, which is the “the largest annual one-day event in Naples.”¹³ It closes many local streets and fills them with hundreds of luxury vehicles, which pose a significant risk of theft or property damage. The event attracts over 20,000 people (more than eight times Pridefest’s 2024 attendance). Despite these clear differences, in 2024, the car show’s

¹³ *Cars on Fifth*, FIFTH AVENUE SOUTH, <https://www.fifthavenuesouth.com/cars-on-5th/#:~:text=As%20the%20largest%20annual%20one,South%20for%20your%20viewing%20pleasure.>

organizers paid \$16,276.25 in security fees and are estimated to pay \$33,070.00 in 2025.

141. Likewise, Naples' Fifth Avenue Tree Lighting and Christmas Walk attracts a crowd of 10,000 to 15,000 people (which is four to six times Pridefest's 2024 attendance), takes place over two days, and requires major street closures. Yet in 2024, its organizers were required to pay \$18,000 in security fees.

142. Finally, Naples Art Institute's New Years Art Festival, a multi-day event with approximately 20,000 attendees (more than eight times Pridefest's 2024 attendance), was charged \$12,970 in 2024.

143. In addition, the security fee of more than \$30,000 quoted to Naples Pride is grossly disproportionate to what other cities charge for comparable Pride events. For example, Cape Coral, Florida—about an hour away from Naples—charged just \$7,682.59 in security fees for its own 2024 pride festival, which had more than 3,000 attendees and featured an outdoor drag performance. On information and belief, that event took place safely, with no violence or attempted violence.

144. To justify the sudden increase in fees to Naples Pride, the Naples Police Department explicitly cited what it claimed were increased safety concerns due to political opposition to drag—a viewpoint- and content-based rationale. The Naples Police Department also explained that the 46% increase in their fee quotation as between the indoor and outdoor scenarios was due to their prediction that anti-drag protesters would be more likely to show up if the performance were held outdoors.

145. For example, in a November 19, 2024, email to Naples Pride’s Executive Director, Lieutenant Michael O’Reilly stated that the fee estimate included “two added officers . . . based on best practices for planned events involving protesters or sensitive topics.” Fees were nearly \$15,000 higher for an outdoor performance because of the purported need for “4 officers detailed to stage security and [additional officers] for protester monitoring and coordination,” given the Naples Police Department’s expectation that there would “likely be an increase in protester activity for a public [*i.e.*, outdoor] performance.” Lieutenant O’Reilly added that “there may be a need for a reserve team of deputies to address crowd control issues in the event of large-scale protests.”

146. Similarly, in an email sent to the City Council preceding its vote on the Pridefest permit, the Chief of Police stated that he determined staffing needs and associated fees for all events, including Pridefest, based on six criteria that expressly include an event’s “controversial” nature and potential “protests”: (1) “Risk/Threat Assessments,” (2) “Real time intelligence/current events in the country/world,” (3) “Venue size, location, and capability/capacity,” (4) “Potential for conflict or protests (political/controversial issues),” (5) “Expected attendee crowd size,” and (6) “Event particulars (*i.e.* night/day, alcohol involved, street closures etc.).”

147. Additionally, at the January 2025 meeting where the City Council considered Naples Pride’s permit application, Defendant Ciro Dominguez stated that, among other factors, the Naples Police Department considers “the potential for conflict” when determining security fees for a public event. At the same meeting,

Lieutenant Michael O'Reilly stated that, "if there was to be a drag performance on stage, we would need an additional contingency, because we anticipate, security wise, there would be a greater threat of outside actors."

148. The City Council justified the exorbitant security fee on similar viewpoint- and content-based grounds. Defendant Christman explained that "not all public events are the same . . . It depends on the type of event they are . . . [which] involves imposing, unfortunately, costs on the sponsors of these events." Christman continued: "whatever the City police say are the fair and reasonable costs of this, Naples Pride has to be willing to pay that, or they can't have the event." Defendant Petrunoff echoed that sentiment, explaining that she would "expect that it would cost more if the drag show were outside because the risk level goes up," comparing Pridefest's family-friendly stage performance (which entails no inherent safety risk) to hosting an explosive fireworks show (which obviously entails a significant one).

149. A week after the City Council vote, when Naples Pride asked about the factors used to justify its fee of more than \$30,000, the Naples Police Department's Assistant Chief Matthew Fletcher and Lieutenant O'Reilly met with two members of Naples Pride and showed them a copy of the City's written cost criteria. However, they prohibited Naples Pride from taking photos or making copies of the document and characterized the meeting as "confidential."

150. The document set out how events would be categorized into various security tiers, with "Tier 1" requiring the most security. The members of Naples Pride who were present at the meeting were informed that Pridefest was a "Tier 1" event,

and they observed that the criteria for placing events in “Tier 1” included the “nature of the event,” including whether it is “controversial.”

151. Although Lieutenant O’Reilly claimed at this meeting that Pridefest was classified as a “Tier 1” event for reasons besides its purported “controversial” nature like size and location, that statement was in direct contrast to the written communications of both Lieutenant O’Reilly and the Chief of Police, and the statements made by Chief Dominguez and Lieutenant O’Reilly on the public record at the January 15, 2025 City Council meeting. It is also belied by the fact that Defendants imposed security fees on Pridefest commensurate with other, much larger and more disruptive events taking place in downtown Naples.

VII. Naples Pride Diligently Investigates and Prepares to File Suit to Enforce Its First Amendment Rights

152. Since November 2024, Naples Pride took numerous steps to try to understand the reasons for the City’s decision.

153. Naples Pride repeatedly asked the Naples Police Department and other City staff to justify this sudden and enormous increase in security fees. Naples Pride sought to understand Defendants’ rationale, and whether there was any basis to challenge the decision.

154. The document containing the Naples Police Department’s official criteria for determining security fees is not public. On January 29, 2025, Naples Pride representatives met in person with members of the Naples Police Department (Lieutenant Michael O’Reilly and Sergeant Matthew Doyle) to view that document

and discuss the criteria that Defendants claim to have used. However, Defendants refused to provide a copy of the written criteria they purportedly used.

155. Meanwhile, Naples Pride submitted numerous public records requests to the City to try to understand why it was being charged so much money, and how the “security” fees being charged to Naples Pride compared to the fees being charged to other event organizers. In total, between December 2024 and April 2025, Naples Pride submitted twelve public records requests trying to learn more about the City’s reasoning for its unconstitutional conduct. It took months for the City to respond to these requests.

156. Only after the City responded to many of these requests did it become clear that Naples Pride was being charged much more in “security” fees than other events that were larger in size, more logistically complex, and more disruptive to the community.

157. Other than through review of the responses to its public records requests, Naples Pride could not have discovered that the fees imposed on Pridefest were disproportionate to those imposed on other events approved by the City Council.

158. After reviewing these public records request responses, Naples Pride contacted several attorneys to seek legal advice about potential litigation options.

159. Naples Pride’s limited financial resources prevented it from obtaining counsel until March 21, 2025, when Patterson Belknap Webb & Tyler LLP and the ACLU Foundation of Florida entered into a *pro bono* legal representation agreement with Naples Pride.

VIII. Naples Pride Files Suit and Receives a Preliminary Injunction, then Defendants Appeal

160. Naples Pride filed this action on April 10, 2025, and then promptly moved for a preliminary injunction.

161. On May 12, 2025, the Court preliminarily enjoined Defendants' restrictions on Naples Pride's speech and expression so that the then-upcoming drag performance could take place outdoors and for all ages. ECF No. 67.

162. In the accompanying opinion and order, the Court concluded that the "City's requirement of an indoor location for the drag performance, even if a good faith attempt to mitigate risk, is clearly viewpoint and content based. It is the perceived expressive conduct of the drag performance, and the potential hostile reaction it may engender in others, that caused the City to restrict the drag performance." ECF No. 66 at 33.

163. As to the age restriction, the Court concluded that a "restriction imposed on speech deemed immoral or scandalous is clearly a viewpoint-based restriction" and rejected the post-hoc rationales proffered by Defendants. *Id.* at 34-35.

164. The Court also concluded that Cambier Park, including its mainstage, is a traditional public forum. *Id.* at 26.

165. As to the security fees, the Court found that "Naples Pride is substantially likely to show that a portion of the security fee estimate is viewpoint and content based." However, it declined to grant a preliminary injunction regarding the fee amount because the issue could be resolved after the final invoices issued. *Id.* at 37.

166. On May 20, 2025, approximately a week after the issuance of the preliminary injunction, a representative of the CCSO contacted Naples Pride regarding Pridefest. As noted above, the Naples Police Department’s fee estimate included CCSO officers in the event the drag performance took place outdoors.

167. CCSO stated to Naples Pride that “[i]n order for CCSO Deputies to assist with the Naples Pride Event on June 7, 2025, a CCSO Special Detail Agreement is needed.” This was the first time since Pridefest’s inception in 2017 that Naples Pride was required to sign any contract with CCSO for Pridefest.

168. Naples Pride inquired whether Pridefest could still occur if it declined to sign the agreement, and how staffing would be determined. CCSO informed Naples Pride that it could not say whether signing the agreement was a requirement to hold Pridefest, as the City, and not CCSO, issued the permit. CCSO also stated that staffing decisions would be made by CCSO and the Naples Police Department together.¹⁴

169. Naples Pride signed the agreement subject to the explicit written condition “that the actual amount due will be determined after the conclusion of [Pridefest] consistent with any subsequent determination by the [Court].”

170. On May 22, 2025—ten days after the Court issued its order—Defendants filed an interlocutory appeal of this Court’s preliminary injunction. ECF No. 67. The same day, Defendants moved this Court on an “emergency” basis to stay its

¹⁴ While Defendants’ counsel was involved in the negotiation of the amended agreement with CCSO, Defendants would not answer, one way or another, whether signing the agreement with CCSO was a necessary condition for Naples Pride to hold Pridefest.

preliminary injunction pending appeal, ECF No. 77, which this Court denied, ECF No. 85.

171. On May 29, 2025, Defendants moved the Eleventh Circuit for a stay of this Court’s preliminary injunction pending appeal.

172. On the afternoon of June 6, 2025 (less than 24 hours before Pridefest was set to start), a divided panel of the Eleventh Circuit stayed this Court’s preliminary injunction, requiring Naples Pride to move the drag performance to the Norris Center and reinstitute the age restriction that the City has never attempted to justify.

173. For the reasons noted above, this decision—made on an expedited basis and without the benefit of a complete record—was both factually and legally erroneous. In any event, an appellate decision concerning the grant of a preliminary injunction “does not affect the law of the case on the merits.” *Long*, 383 F. App’x at 931.

174. Defendants voluntarily dismissed their interlocutory appeal as moot after 2025’s Pridefest occurred on June 7, and this Court’s preliminary injunction expired on its own terms on June 8.

IX. 2025 Pridefest Takes Place Subject to Defendants’ Unconstitutional Restrictions

175. 2025’s Pridefest occurred on June 7, 2025. There was no violence or attempted violence committed by or against Pridefest attendees. There were no riots or civil disturbances. There were some protesters, but with a single exception, they were peaceful and orderly. Indeed, on information and belief, there was only one

arrest: of a single protester outside the festival area. According to local news, the individual was charged with obstructing an officer and resisting arrest.

176. As discussed below, the City’s unconstitutional restrictions inhibited Naples Pride’s speech and message. However, the festival was a success in other respects. Highlights from the mainstage included an impromptu conga line, inspiring speeches by community leaders, and performances by a DJ and a live band. The mainstage also featured a performance by the Calendar Girls, “a Dance Team composed of 36 wild, wacky, wonderful women all over the age of 50.” Their empowering performance—which featured over-the-top costumes, makeup, and wigs—resembled a drag performance in all ways but one: their gender presentation is consistent with their sex assigned at birth.





177. Because of Defendants' unconstitutional restrictions, the festival's drag performance took place at the Norris Center, not the mainstage.

178. The drag artists who performed at the Norris Center also made a (non-performing) appearance on the mainstage to roaring applause, with an activist and performer delivering a powerful message of perseverance in the face of legal impediments to free expression. To be clear, a message concerning legal impediments to free expression was *not* the message that Naples Pride or Pridefest's drag performers wished to express that day.

179. Although these performers were dressed in drag, there was no apparent reaction to their appearance on stage by any outside protesters—let alone any violence, rioting, or other civil unrest.



180. After the event ended, Naples Pride’s Executive Director stayed behind to ensure no litter remained and that Cambier Park was left cleaner than Naples Pride found it (pictured below).



181. Although Pridefest was successful in other respects, Defendants' unconstitutional restrictions burdened the free speech rights of Naples Pride and festival attendees and caused financial harm to Naples Pride.

A. Defendants' Restrictions Burdened Naples Pride's Speech and Pridefest Attendees' Ability to Receive It

182. For starters, Naples Pride's speech rights were directly infringed because it was categorically prohibited from communicating its drag performance's expressive message to anyone under age 18—even if accompanied by an approving parent or guardian.

183. This categorical restriction was imposed even though the performance was not obscene, featured no nudity or lewd acts, and violated no laws. Indeed, the drag performance was tamer than what minors can see on any given day just by turning on the television or scrolling through social media.

184. Defendants' restrictions also prohibited many adult attendees from seeing the drag performance.

185. Many parents attend Pridefest with their children. On information and belief, many of them were unable to attend the drag performance at all because they could not be separated from their children.

186. The physical separation of the Norris Center from the rest of the festival, and its inadequate capacity, also prohibited many adults from attending the performance.

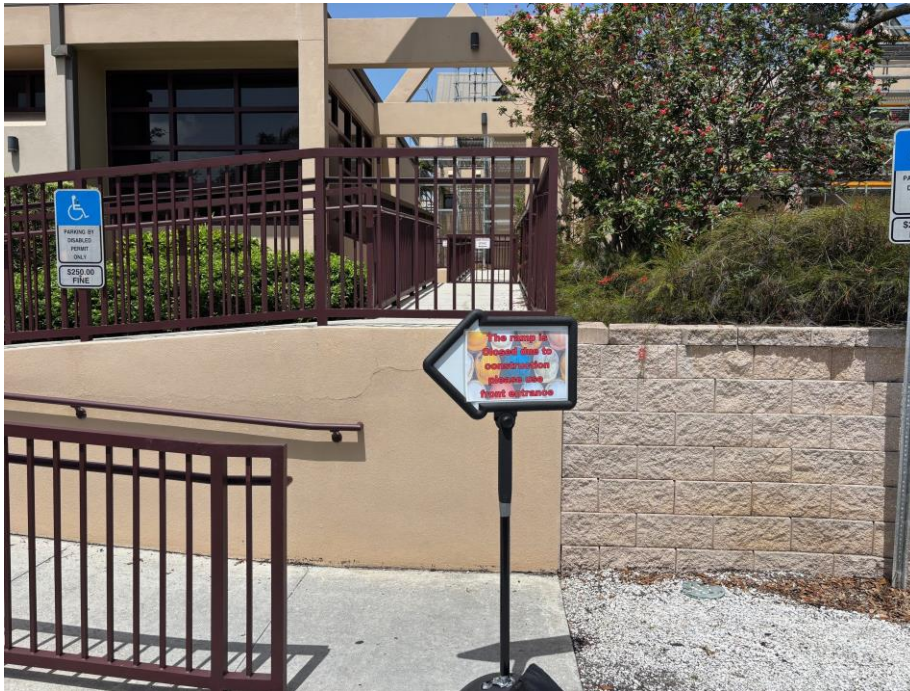
187. As shown in the map below, the Norris Center is an approximately four-minute walk from the entrance to Pridefest—as opposed to the mainstage, which is contiguous with the entrance and the rest of the festival.



188. To see the drag performance, Pridefest attendees had to leave Pridefest altogether and travel down Eighth Street outside the festival perimeter to the Norris Center. To return to the festival after the performance, they had to walk back up Eighth Street and then pass through security a second time.

189. On information and belief, the physical separation of the Norris Center venue from the main festival grounds prevented some Pridefest attendees from viewing

the drag performance, especially those with physical disabilities. Moreover, the only accessible ramp at the Norris Center was closed the day of Pridefest 2025, forcing attendees to use the front stairs.



190. Because the Norris Center holds only 200 people, Naples Pride hosted three separate drag performances to maximize the number of audience members who could attend. However, even with these repeat showings, a maximum of 600 people could possibly attend the performance, and only 500 did. Had the performance been outdoors, thousands of Pridefest attendees could have watched the drag performance together.

191. The first performance—beginning around noon—was sparsely attended because most Pridefest attendees were only just arriving at Cambier Park, or waiting to enter the event.

192. By the end of the first performance, a line of people exceeding the Norris Center’s 200-person capacity had already formed waiting to attend the next performance. At least 200 people were turned away because the performance was at capacity.



193. The third performance proceeded similarly. At least 200 people were turned away at the door because the Norris Center could not accommodate them.

194. Performers were openly disappointed that they could not express themselves to a larger audience that included everyone who wanted to attend.

195. The restrictions imposed by Defendants also changed the drag performance itself, and thus its expressive message. The performers noted the restrictions imposed by Defendants during the shows. They expressed anger and frustration, while still maintaining the viewpoint that drag, and non-traditional expressions of gender more generally, should be accepted and celebrated. The space available to interact with the audience was limited. Rather than an outdoor venue, with a large crowd dancing in front of the stage, audience members were restricted to narrow rows of theatre seats.

196. Moreover, contrary to Defendants' purported safety justification, their restrictions made Pridefest attendees *less* safe: while waiting in line for an extended period to enter the much smaller Norris Center—which was outside Pridefest's security-checked perimeter—those attending the drag performance were forced into closer contact with protesters, without any “target hardening” measures, than they would have been otherwise. Protesters gathered mere feet from attendees waiting exposed outside the Norris Center.

B. Defendants Unconstitutionally Charged Naples Pride “Controversy” Fees

197. On July 10, 2025, the Naples Police Department sent Naples Pride an invoice for a portion of the fees owed for 2025's Pridefest. Exhibit 1. According to the invoice, Naples Pride owes a total of \$27,525.90 to Defendants (not counting

separate amounts purportedly owed to CCSO). Of that amount, the invoice includes three separate line items related to security: (a) 124 police officer-man hours at a rate of \$125 per hour for \$15,500.00; (b) 42.5 police officer-man hours at a rate of \$145 per hour for \$6,162.50; and (c) an additional \$10 per hour for all officer-man hours, totaling \$1,665.00. Together, these security-related fees total \$23,327.50.

198. On information and belief, all or substantially all of these security-related fees were charged not because of any risk inherent to Pridefest or its activities, but because of the anticipated hostile reaction by outsiders unaffiliated with Pridefest to Pridefest's drag performance and the viewpoint it expresses.

199. On July 22, 2025, Naples Pride received CCSO's invoice for the subcontracted security services it provided at Pridefest on behalf, and at the request and direction, of Defendants. Exhibit 2. According to the invoice, Naples Pride owes CCSO \$10,300.57 for CCSO's security services.

200. Naples Pride had no input whatsoever into CCSO's involvement in Pridefest. According to the Naples Police Department's initial estimate, CCSO would only be involved if the drag performance took place outdoors. Defendants nonetheless involved CCSO, even though the performance was held indoors.

201. On information and belief, 100% of CCSO services were requested by the Naples Police Department and provided because of the anticipated hostile reaction to Pridefest's drag performance and the viewpoint it expresses. Moreover, on information and belief, if Pridefest did not include a drag performance, or if there was no anticipated negative public reaction to the drag performance, the Naples Police

Department would not have contracted with CCSO to provide additional security services at Pridefest.

202. The total amount of “security” fees charged by Defendants or at their direction is therefore \$37,826.47. That amount is almost 25% greater than the fee estimate of \$30,697.50 that Naples Pride was previously given for an event with an indoor drag performance, and it is even more exorbitant and disproportionate to the event’s size, its inherent logistical complexity, and the fees charged by other municipalities for similar events than the original estimated fee was.

C. Defendants’ Restrictions Further Harmed Naples Pride Financially

203. Defendants’ unconstitutional restrictions on Naples Pride’s speech also prevented it from maximizing the fundraising for its charitable mission.

204. For starters, as a result of the City’s requirement that the drag performance take place indoors at the Norris Center, Naples Pride was required to pay the City an additional \$1,940.00 to use the Norris Center that it would not otherwise have had to pay.

205. Naples Pride was also required to staff and supply both the Norris Center and the separate area of the park where the mainstage and the rest of Pridefest’s activities are located, at an additional expense. For example, Naples Pride had to pay for multiple “masters of ceremonies” to operate both the outdoor mainstage and the Norris Center stage, when it would otherwise have needed to hire just one. This additional staff cost Naples Pride approximately \$500.

206. Naples Pride’s overall ticket sales at Pridefest were robust this year because attendees expected an outdoor drag performance at the Cambier Park mainstage that all could attend—consistent with this Court’s preliminary injunction order, which was widely publicized in the media. The Eleventh Circuit did not enter its stay until the afternoon before Pridefest, by which time many tickets had already been sold and plans made. On information and belief, most attendees learned that the drag performance had been forced indoors only when they arrived. However, if Pridefest’s drag performance is forced indoors again in future years, and community members expect an indoor performance going into Pridefest, ticket sales will fall dramatically. That is precisely what occurred in prior years, when community members knew in advance that the drag performance would take place in a small, inconvenient indoor venue.

D. The Challenged Restrictions Made Pridefest *Less* Safe, Not More So

207. To date in this lawsuit, Defendants have justified their “indoors only” and “adults only” restrictions as intended to protect Pridefest attendees from the speculative possibility of violence perpetrated by potential outside protesters opposed to Naples Pride’s viewpoint and expression.

208. Ironically, however, the City’s requirement that the drag performance take place indoors at the Norris Center actually made festival attendees *less* safe. Splitting Pridefest into two locations, and requiring attendees to travel between the two locations outside the festival’s security checkpoint, made ensuring safety *more* difficult and resource intensive.

209. For starters, despite the numerous officers assigned to monitor Pridefest, the Naples Police Department refused to check bags or pat down attendees as a condition of entrance into the festival grounds, as Naples Pride had requested of them in advance of the event.

210. Naples Pride therefore spent \$1,500 to hire its own private security, which ensured that nobody brought dangerous items into Pridefest.

211. During Pridefest, the Naples Police Department generally restricted outside protesters to the perimeter of Cambier Park, along Eighth Street.

212. As noted above, to attend the drag performance at the Norris Center, festivalgoers had to exit the mainstage area of Cambier Park—where security screenings had taken place—and walk south along Eighth Street.

213. Moreover, due to the small capacity of the Norris Center, those wishing to see the drag performance had to wait in line on Eighth Avenue’s sidewalk for extended periods of time.

214. Thus, while traveling to and from the drag performance, and while waiting in line to enter the Norris Center, Pridefest attendees had to pass within close proximity of the anti-drag protesters—who, unlike festival attendees within the event perimeter, had *not* been screened for dangerous items.

215. The City’s requirement that the drag performance take place in the Norris Center therefore *increased* the potential for a breach of the peace. Indeed, the sole arrest at Pridefest occurred in the area where attendees and protesters were closest together while hundreds of attendees waited along Eighth Avenue for their turn to see the drag

performance. If the performance had instead been held on Cambier Park's mainstage, this extended close contact with protesters would not have occurred.

216. Contrary to the City's insistence that use of the Norris Center was necessary for "target hardening" purposes, the City's restriction made festivalgoers into more vulnerable targets. Those walking along Eighth Street or waiting to enter the Norris Center were highly exposed to persons on the public streets from many different vantage points. The area around Cambier Park's mainstage, on the other hand, was separated from the rest of the park by metal fencing, protected by the mainstage's stone walls, and visible to outsiders only from a few easily monitored locations.

217. Pictured below on the left is the line outside the Norris Center, fully exposed to the public street and several public buildings on the other side thereof. Pictured below on the right is Cambier Park's mainstage, which is protected on three sides by stone walls. Festival attendees would have been more secure from outside violence had they been permitted to remain at the mainstage, within the secured area of Pridefest, when viewing the drag performance.



218. All of this underscores the fact that the true reason Defendants adopted the indoors- and adults-only restrictions was opposition to the drag performance’s content and viewpoint. Even if Defendants truly believed that forcing the drag performance (and not other Pridefest performances) indoors and prohibiting minors from attending that performance (and not other Pridefest performances) increased security, that rationale could only be based on the assumption that outside actors hostile to the drag performance’s content and viewpoint would break the law and commit violence unless placated by censoring Naples Pride’s speech.

219. All of this also confirms that the challenged restrictions were not narrowly—or even reasonably—tailored to Defendants’ cited goal of “target hardening” or protecting festivalgoers’ safety, since they had the exact opposite result.

X. 2026’s Pridefest Permit Application

220. Naples Pride intends to hold its next Pridefest in April 2026, and to include an outdoor drag performance open to all ages.

221. On July 3, 2025, the City requested that Naples Pride submit its application for 2026 Pridefest.

222. On July 14, 2025, Naples Pride submitted its application for 2026 Pridefest. The application is attached hereto as Exhibit 3.

223. As demonstrated by Defendants' past practice and their vigorous defense of the challenged restrictions, if they are not enjoined from doing so, Defendants will impose the same unconstitutional restrictions on Naples Pride's 2026 Pridefest celebration that they imposed in 2025.

224. As set forth above, those restrictions will violate Naples Pride's First Amendment rights, limit Naples Pride's ability to provide community services in the future, and make festival attendees less safe.

COUNT I
Violation of 42 U.S.C. § 1983
First Amendment: As-Applied Challenge as to Naples Pride's 2025 Permit

225. The allegations in ¶¶ 1-219 set forth above are repeated and incorporated as though fully set forth herein.

226. Defendants unconstitutionally burdened Naples Pride's speech and expression in three independent (but additive) ways: by imposing (1) the indoors-only and (2) adults-only restrictions on Naples Pride's 2025 Pridefest permit, and (3) by requiring Naples Pride to pay purported security fees related to the reaction of outside actors who disagreed with the content and viewpoint of Naples Pride's speech.

227. Cambier Park, the desired location of Naples Pride’s drag performance, is a traditional public forum, where the City Council’s right to limit Naples Pride’s expressive activity is “sharply circumscribed.” *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45 (1983).

228. Defendants’ restrictions on Naples Pride’s speech constitute viewpoint- and content-based restrictions.

229. Defendants imposed viewpoint-based restrictions on the Pridefest drag performance because of their or their constituents’ subjective disapproval of the viewpoints that drag expresses, and their perception that such viewpoints would attract outside protesters that might incite violence.

230. Defendants’ restrictions were content-based because they explicitly target Naples Pride’s drag performance because it is a *drag* performance—that is, because its performers intend to dress and act in a manner that challenges traditional gender roles.

231. The City Council justified the indoors-only and adults-only restrictions, and the need for a large police presence and associated costs, by citing personal opposition to the content and viewpoint of drag performance, opposition to the content and viewpoint of drag performance from members of the community, and purported safety concerns related to the possible presence of demonstrators opposed to the content and viewpoint of drag performance.

232. The First Amendment categorically forbids Defendants’ viewpoint-based restrictions on Naples Pride’s speech. For that reason alone, Defendants have violated and continue to violate Naples Pride’s First Amendment rights.

233. Content-based restrictions on speech in a traditional public forum, like Cambier Park, are presumptively unconstitutional and subject to strict scrutiny. To satisfy strict scrutiny, Defendants must prove that the restrictions are narrowly tailored to serve a compelling government interest. Because Defendants cannot show that the restrictions were narrowly tailored to serve a compelling government interest, their restrictions have violated and continue to violate Naples Pride’s First Amendment rights.

234. Even if Cambier Park or its bandshell were a “limited public forum” (which they are clearly not), Defendants’ restrictions would still be unconstitutional. First, access to a limited public forum must be granted on a viewpoint-neutral basis, and Naples’ restrictions are viewpoint-based. Second, any policy used to govern access to a limited public forum must be “guided by objective, workable standards” and may not be “inconsistent[ly] enforce[d].” *Moms for Liberty*, 118 F.4th at 1332, 1336. Such a policy is “unreasonable” if it “fails to define key terms, lacks any official guidance, [or] vests too much discretion in those charged with its application.” *Id.* Naples’ purported policy—forcing a “controversial” event indoors and limiting it to adults—suffers from all these flaws. It is unwritten, subjective, and has been enforced only against Naples Pride. *Cf. id.* at 1337 (vague, unwritten policy against “offensive” speech violated reasonableness test); *Hopper v. City of Pasco*, 241 F.3d 1067, 1078 (9th Cir. 2001) (same for city’s “policy of non-controversy”).

235. Defendants' restrictions have caused Naples Pride to suffer irreparable harm. Thus, Defendants are liable for depriving Naples Pride of its "rights, privileges, or immunities secured by" the First Amendment. *See* 42 U.S.C. § 1983.

236. Without declaratory and injunctive relief from this Court, Defendants' unconstitutional conduct will continue to irreparably harm Naples Pride.

COUNT II
Violation of 42 U.S.C. § 1983
First Amendment: As-Applied Challenge as to Naples Pride's 2026 Permit

237. The allegations set forth in ¶¶ 1-224 above are repeated and incorporated as though fully set forth herein.

238. Unless they are enjoined, Defendants will unconstitutionally burden Naples Pride's speech and expression at the 2026 Pridefest in the same manner as Naples Pride's speech was burdened in 2025: by imposing (1) an indoors-only and (2) adults-only restriction on Naples Pride's 2026 Pridefest permit, and (3) by requiring Naples Pride to pay purported security fees related to the reaction of outsiders who disagree with Naples Pride's speech and expressive conduct.

239. Defendants' restrictions will cause Naples Pride to suffer irreparable harm. Thus, Defendants are liable for depriving Naples Pride of its "rights, privileges, or immunities secured by" the First Amendment. *See* 42 U.S.C. § 1983. Without declaratory and injunctive relief from this Court, Defendants' unconstitutional conduct will irreparably harm Naples Pride.

COUNT III

Violation of 42 U.S.C. § 1983

First Amendment: Facial Challenge to Naples' Permitting Scheme

240. The allegations in ¶¶ 1-219 above are repeated and incorporated as though fully set forth herein.

241. Permitting schemes for First Amendment-protected activity are facially invalid “in the absence of narrowly drawn, reasonable and definite standards for the officials to follow.” *Bourgeois v. Peters*, 387 F.3d 1303, 1317 (11th Cir. 2004).

242. Far from imposing “narrowly drawn, reasonable and definite standards,” Naples' Permitting Scheme grants city officials unfettered discretion. The City Council can impose “[a]ny event specific conditions” that it desires “as conditions of approval,” including “hours of operation, operational controls, site plans, *etc.*” Naples Ordinance No. 2023-15181 (emphases added). No statute, ordinance, or other source of law limits the nature or scope of these conditions or provides any binding procedure or guidelines for determining when such conditions (*e.g.*, an indoors-only restriction or an adults-only restriction) should be imposed.

243. Regarding security fees in particular, Naples' Permitting Scheme delegates all security-related authority to the Naples Police Department but does not provide any criteria for assessing or calculating security costs. Instead, the Chief of Police retains complete discretion to impose whatever security fee he sees fit, without needing to rely on or provide any objective justification for the amount imposed.

244. Moreover, Naples' Permitting Scheme allows the City Council and the Naples Police Department to impose fees based on the perceived risks posed by hostile

protesters opposed to the message or viewpoint of the permit applicant. Indeed, the list of criteria that the Chief of Police has decided, in his discretion, to rely on includes “Potential for conflict or protests (political/controversial issues).”

245. Such unbridled discretion—including, but not limited to, the discretion to impose a “heckler’s veto” in the form of security fees—poses an unacceptable risk of suppressing a particular point of view and renders Naples’ Permitting Scheme facially unconstitutional.

246. Defendants’ Permitting Scheme has caused, and continues to cause, Naples Pride to suffer irreparable harm. Thus, Defendants are liable for depriving Naples Pride of its “rights, privileges, or immunities secured by” the First Amendment. *See* 42 U.S.C. § 1983. Without declaratory and injunctive relief from this Court, Defendants’ unconstitutional Permitting Scheme will continue to irreparably harm Naples Pride and others subject to the scheme.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Enter a permanent injunction preventing Defendants from unconstitutionally restricting Naples Pride’s Pridefest permits in the future, including for the 2026 Pridefest;
- B. Declare that Defendants’ restrictions on Naples Pride’s 2025 permit violated the First Amendment to the United States Constitution;
- C. Declare that Defendants’ Permitting Scheme facially violates the First Amendment to the United States Constitution;

- D. Declare that Naples Pride need not pay any of the billed “security fees” that correspond to protection against purported security threats posed by outsiders opposed to Naples Pride’s speech;
- E. Award Naples Pride nominal damages;
- F. Award Naples Pride its costs and expenses, including reasonable attorneys’ fees, pursuant to 42 U.S.C. § 1988 or other applicable statutes; and
- G. Award Naples Pride additional relief as the Court deems just and proper.

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Dated: July 29, 2025

Respectfully submitted,

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**Special admission*