

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

APPLE OF HIS EYE, INC., )  
 STEVE COHEN, in his individual )  
 capacity, and ALAN )  
 BUTTERWORTH, in his )  
 individual capacity, )  
 )  
 Plaintiffs, )  
 vs. )  
 )  
 CITY OF ST. LOUIS, MISSOURI, )  
 a political subdivision )  
 of the state of Missouri, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**Case No.: 4:08-cv-00592-HEA**

**STIPULATION FOR VOLUNTARY DISMISSAL**

COME NOW the parties, APPLE OF HIS EYE, INC., STEVE COHEN and ALAN BUTTERWORTH (hereinafter “Plaintiffs”) and CITY OF ST. LOUIS, MISSOURI, (hereinafter “Defendant”), by and through their undersigned counsel, and file this Stipulation for Voluntary Dismissal, and in support thereof state as follows:

1. On April 28, 2008, Plaintiffs filed their Verified Complaint and Motion for Preliminary Injunction (DE # 1 and # 4).
2. On June 24, 2008, this Court entered a Preliminary Injunction (DE # 18) enjoining Defendant’s enforcement of the City of St. Louis’s Code § 22.16.100, R.C.St.L. (1994), and that portion of the City of St. Louis’s Code § 11.18.170, R.C.St.L. (1994), which requires the distributor of handbills to be responsible for the proper

disposal of discarded handbills or samples within a one hundred foot radius of the distribution.

3. On June 11, 2009, this Court entered an Order converting the Preliminary Injunction into a Permanent Injunction (DE # 29).
4. The parties then engaged in settlement negotiations to resolve the damages, attorneys' fees and costs related to this litigation.
5. The City of St. Louis agreed to pay the total sum of \$80,000.00 to satisfy all damages, attorneys' fees and costs related to this litigation.
6. On October 20, 2009, the parties finalized the settlement of this litigation.

**WHEREFORE**, the parties respectfully submit their Stipulation for Voluntary Dismissal of this case with prejudice.

Respectfully submitted this 21<sup>th</sup> day of October, 2009.

s/Daniel J. Emerson

Daniel J. Emerson #505625

Assistant City Counselor

Mark Lawson #20618

Associate City Counselor

City Hall, Room 314

Saint Louis, MO 63103

(314) 622-3361 - voice

(314) 622- 4956 - facsimile

[EmersonD@stlouiscity.com](mailto:EmersonD@stlouiscity.com)

[LawsonM@stlouiscity.com](mailto:LawsonM@stlouiscity.com)

Attorneys for Defendant City of Saint Louis

s/Frederick H. Nelson

Frederick H. Nelson, Esq.

Florida Bar No. 0990523

**AMERICAN LIBERTIES INSTITUTE**

P.O. Box 547503

Orlando, FL 32854-7503

(407) 786-7007 - voice

(407) 786-2978 - facsimile

[Rick@ALI-USA.org](mailto:Rick@ALI-USA.org)

Lead Trial Counsel for Plaintiffs

s/Kevin H. Theriot

Kevin H. Theriot, Esq.

Missouri Bar No. 55735

Joel Oster, Esq.

Missouri Bar No. 50513

**ADF KANSAS CITY REGIONAL SERVICE  
CENTER**

15192 Rosewood

Leawood, Kansas 66224

(913) 685-8000 - voice

(913) 685-8001 - facsimile

[ktheriot@telladf.org](mailto:ktheriot@telladf.org)

[joster@telladf.org](mailto:joster@telladf.org)

Co-Counsel for Plaintiffs

**PROOF OF SERVICE**

I HEREBY CERTIFY that on this 21st day of October, 2009, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system. I further certify that I either mailed the foregoing document and the Notice of Electronic Filing by first class mail to any non CM/ECF participants and/or the foregoing document was served via transmission of Notice of Electronic Filing generated by CM/ECF to any and all active CM/ECF participants.

Daniel J. Emerson #505625  
Assistant City Counselor  
Mark Lawson #20618  
Associate City Counselor  
City Hall, Room 314  
Saint Louis, MO 63103  
(314) 622-3361 - voice  
(314) 622- 4956 - facsimile  
[EmersonD@stlouiscity.com](mailto:EmersonD@stlouiscity.com)  
[LawsonM@stlouiscity.com](mailto:LawsonM@stlouiscity.com)  
Attorneys for Defendant City of Saint Louis

Kevin H. Theriot, Esq.  
Missouri Bar No. 55735  
Joel Oster, Esq.  
Missouri Bar No. 50513  
**ADF KANSAS CITY REGIONAL SERVICE  
CENTER**  
15192 Rosewood  
Leawood, Kansas 66224  
(913) 685-8000 - voice  
(913) 685-8001 - facsimile  
[ktheriot@telladf.org](mailto:ktheriot@telladf.org)  
[joster@telladf.org](mailto:joster@telladf.org)  
Co-Counsel for Plaintiffs

s/Frederick H. Nelson  
Frederick H. Nelson, Esq.  
Florida Bar No. 0990523  
**AMERICAN LIBERTIES INSTITUTE**  
P.O. Box 547503  
Orlando, FL 32854-7503  
(407) 786-7007 - voice  
(407) 786-2978 - facsimile  
[Rick@ALI-USA.org](mailto:Rick@ALI-USA.org)  
Lead Trial Counsel for Plaintiffs

**SERVICE LIST**

Apple of His Eye, Inc., *et al.* v. City of St. Louis, Missouri

U.S. District Court, Eastern District of Missouri, Eastern Division  
Case No. 4:08-cv-00592-HEA

Counsel for City of St. Louis, Missouri  
Daniel J. Emerson #505625  
Assistant City Counselor  
Mark Lawson #20618  
Associate City Counselor  
City Hall, Room 314  
Saint Louis, MO 63103  
(314) 622-3361 - voice  
(314) 622- 4956 - facsimile  
[EmersonD@stlouiscity.com](mailto:EmersonD@stlouiscity.com)  
[LawsonM@stlouiscity.com](mailto:LawsonM@stlouiscity.com)  
(service by CM/ECF)

Counsel for Plaintiffs Apple of His Eye, Inc.,  
Steve Cohen and Alan Butterworth  
Frederick H. Nelson, Esq.  
Florida Bar No. 0990523  
**AMERICAN LIBERTIES INSTITUTE**  
P.O. Box 547503  
Orlando, FL 32854-7503  
(407) 786-7007 - voice  
(407) 786-2978 - facsimile  
[Rick@ALI-USA.org](mailto:Rick@ALI-USA.org)  
Lead Trial Counsel  
(service by CM/ECF)

Kevin H. Theriot, Esq.  
Missouri Bar No. 55735  
Joel Oster, Esq.  
Missouri Bar No. 50513  
**ADF KANSAS CITY REGIONAL SERVICE  
CENTER**  
15192 Rosewood  
Leawood, Kansas 66224  
(913) 685-8000 - voice  
(913) 685-8001 - facsimile  
[ktheriot@telladf.org](mailto:ktheriot@telladf.org)  
[joster@telladf.org](mailto:joster@telladf.org)  
Co-Counsel for Plaintiffs  
(service by CM/ECF)