UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 25-cv-21827-MD

KAREN HUNTER JACKSON,
Plaintiff,

v.

CITY OF MIAMI GARDENS, et al
Defendants.

RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS

Plaintiff, Karen Hunter Jackson, files her response to Defendants' *Motion to Dismiss* (ECF No. 18), and alleges:

Relevant Allegations

Plaintiff Karen Hunter Jackson is a resident of the City of Miami Gardens. (Am. Compl. ¶ 1). The City of Miami Gardens ("City") is a municipal entity organized under Florida law, governed by a Mayor and six councilmembers as provided in its Charter. *Id*. at ¶ 2. The City Council functions as the legislative body, and the Mayor serves as the presiding officer during Council Meetings when present. *Id*.

Defendant Rodney Harris is the duly elected Mayor of the City of Miami Gardens and is sued in his individual capacity. *Id*. at ¶ 3. Defendants Richard Robinson, Ivette Richardson, and Emmanuel Jeanty are police officers with the City. Robinson was acting as the sergeant-at-arms during the events at issue. *Id*. at ¶¶ 4–6. All are sued in their individual capacities. *Id*. At all relevant times, Defendants acted under color of state law. *Id*. at ¶ 7.

Miami Gardens and Its Public Participation Policy

The City of Miami Gardens, located in northwestern Miami-Dade County and officially incorporated in 2003, was formed to provide local control over zoning, policing, and community

development. *Id*. at ¶ 11. Its Charter established a mayor–council–manager form of government, granting the City control over municipal services and legislative processes. *Id*.

The City's Charter and ordinances also outline the Mayor's role, the framework for public participation, and the standards of decorum applicable to council meetings. *Id*. at ¶ 12. The Mayor, as the presiding officer, serves as the final policymaker at Council Meetings and holds sole authority to enforce rules of decorum, regulate who may speak, and maintain order. *Id*. at ¶ 13; *see also* City of Miami Gardens Charter § 2.1(A); Ordinance No. 2003-07, § 2-50(a); Ordinance No. 2023-004-460, § 2-60(a), (f), (g)). These decisions are non-reviewable, even by other Councilmembers. *Id*.

During the public comment period, citizens are given two minutes to speak on permissible topics, and the Mayor may grant additional time at their discretion. *Id*. at ¶ 14. The City Charter and ordinances establish that any interested person may address the Council regarding issues within the City's jurisdiction, with narrow exceptions not applicable here. *Id*. at ¶ 15.

The ordinances dictate that speakers must use the podium, identify themselves, and clarify whom they represent. *Id*. at ¶ 16; Ordinance § 2-60(e)(1)–(2). They also prohibit direct personal remarks to councilmembers, mandating that all comments be directed to the Council as a body. *Id*. Further, speakers are forbidden from making personal, irrelevant, or abusive remarks, and may be removed for violating these decorum rules. *Id*. at ¶ 17; Ordinance § 2-60(f)(1). The sergeant-at-arms, designated by the Chief of Police, enforces decorum at the Mayor's direction. *Id*. at ¶ 18; Ordinance § 2-60(g).

Incident Involving Plaintiff and Councilmember Wilson

Karen Hunter Jackson, a longtime resident and civic activist, spoke out on March 26, 2025, during a council meeting against a proposed resolution to increase term limits, which had been introduced by Councilmember Katrina Wilson. *Id*. at ¶ 19. In response, Councilmember Wilson

publicly disparaged Ms. Hunter Jackson, referring to her dismissively by her first name, calling her a "big girl," and accusing her of engaging in "dirty politics." Ms. Hunter Jackson was not given an opportunity to respond. *Id*. at ¶ 20. Councilwoman Wilson's conduct disrupted the meeting, prompting its adjournment, and she continued her verbal attacks outside the chamber. *Id*. at ¶ 21.

Violation of First Amendment Rights

At the next Council Meeting on April 9, 2025, Ms. Hunter Jackson sought to address the issue of decorum during the public comment period. *Id*. at ¶ 22. The Mayor had the Clerk read the rules from the speaker registration card which included the decorum rules. *Id*. Ms. Hunter Jackson began her remarks by identifying herself and stating she was speaking on her own behalf. *Id*. at ¶ 25. She attempted to raise concerns about the inconsistent enforcement of decorum rules, citing Councilmember Wilson's prior conduct. *Id*.

Mayor Harris repeatedly interrupted Ms. Hunter Jackson, and when she mentioned Councilmember Wilson by name, he ordered officers to "Stop her." *Id*. Sergeant Robinson seized her microphone and cut off her audio. *Id*. at ¶ 26. Officers Richardson and Jeanty then removed her from the chamber, despite the fact that she had not yet used her full two minutes. *Id*. Councilwoman Wilson returned to the dais afterward. *Id*. at ¶ 27.

Arbitrary and Unconstitutional Policy Enforcement

Plaintiff alleges the City's Public Participation Policy is facially unconstitutional because it prohibits citizens from naming councilmembers, uses vague terms like "personal" or "abusive" speech without definition, and enables content- and viewpoint-based censorship of dissenting voices. *Id*. at ¶¶ 28–32. The policy burdens political speech at the heart of First Amendment protections. *Id*. at ¶ 32.

As applied to Ms. Hunter Jackson, the policy was enforced arbitrarily. *Id*. at ¶ 33. She was silenced solely for referring to Councilmember Wilson by name. *Id*. Meanwhile, other speakers

who named councilmembers to express praise—including Vice Mayor Stephens, Councilmembers Powell, Wilson, Baskin, and Julian—were permitted to speak uninterrupted. *Id*. at ¶¶ 34, 35.

Defendants also allowed criticism of Councilmember Wilson's conduct by other residents so long as they avoided naming her, further demonstrating selective and discriminatory enforcement. *Id*. at ¶ 36. These other speakers, including Christine Malcolm, Dr. James Davis, and Brenda Martin Providence, were not interrupted or removed. *Id*. at ¶¶ 36–37.

As a result, Ms. Hunter Jackson suffered emotional distress and now fears exercising her First Amendment rights in similar forums. *Id*. at ¶ 38.

Standard of Review

On a motion to dismiss for failure to state a claim, a court must limit its consideration to the complaint and the attached exhibits. *See Thaeter v. Palm Beach Cnty. Sheriff's Office*, 449 F. 3d 1342, 1352 (11th Cir. 2006). In determining the merits of the motion, a court must "accept all factual allegations in the complaint as true." *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 323 (2007). A court begins by "identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth." *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009). The court must next determine whether the well-pled facts "'state a claim to relief that is plausible on its face.'" *Id*. at 1949-50. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id*. at 1949. "Determining whether a complaint states a plausible claim for relief will . . . be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id*. at 1950.

Argument

1. Constitutional Violation[1]

Ms. Hunter Jackson has stated a claim for unlawful restraint in violation of the First Amendment. "To establish a claim under 42 U.S.C. § 1983, a plaintiff must prove (1) a violation of a constitutional right, and (2) that the alleged violation was committed by a person acting under color of state law." *Holmes v. Crosby*, 418 F. 3d 1256, 1258 (11th Cir. 2005). Defendants challenge only the first element. However, the allegations demonstrate that Defendants violated Ms. Hunter Jackson's First Amendment rights.

The Free Speech Clause of the First Amendment prohibits the government from restricting speech. *See* U.S. CONST. amend. I; *see also Manhattan Cmty. Access Corp. v. Halleck*, 587 U.S. 802, 139 S. Ct. 1921, 1928 (2019) ("[T]he Fourteenth Amendment makes the First Amendment's Free Speech Clause applicable against the States[.]").

While the First Amendment does not guarantee the right to speak "at all times or in any manner that may be desired," *Heffron v. Int'l Soc'y for Krishna Consciousness*, 452 U.S. 640, 647 (1981), it does impose limits on the government's ability to restrict speech based on the forum in which the speech occurs. *McDonough v. Garcia*, 116 F. 4th 1319, 1331 (11th Cir. 2024). Thus, courts apply the public forum doctrine to assess the constitutionality of speech restrictions on government property. *Barrett v. Walker Cnty. Sch. Dist.*, 872 F.3d 1209, 1223–24 (11th Cir. 2017).

The Supreme Court has identified four types of speech forums. *See McDonough*, 116 F.4th at 1322 ("The Supreme Court has recognized four types: the traditional public forum, the designated public forum, the limited public forum, and the nonpublic forum."). They are:

[1] The first prong of the qualified immunity analysis asks whether a constitutional violation occurred—an essential element of any § 1983 claim. *See Saucier v. Katz*, 533 U. S. 194, 201 (2001); *Holmes v. Crosby*, 418 F. 3d at 1258. Because a plaintiff must establish a constitutional violation both as part of the underlying claim and in response to a qualified immunity defense, Plaintiff addresses that issue here.

1. **Traditional Public Forum**: Public spaces like streets and parks historically used for assembly and debate. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45, (1983).
2. **Designated Public Forum**: Government property intentionally opened for public expression. *Christian Legal Soc'y v. Martinez*, 130 S. Ct. 2971, 2984 n.11 (2010).
3. **Limited Public Forum**: Spaces opened for specific groups or topics. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).
4. **Nonpublic Forum**: Government property not intended for public discourse, such as military bases, polling places, or airport terminals. *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876, 1886 (2018); *Perry*, 460 U.S. at 46.

The Eleventh Circuit has held that public comment periods at city council meetings are limited public forums. *See McDonough*, 116 F.4th at 1329 (11th Cir. 2024) ("The City of Homestead has opened its city council meetings to public comment limited to a specific subject matter. That makes these meetings limited public forums.").

In limited public forums, the government may impose content-neutral, reasonable restrictions aligned with the forum's purpose but may not engage in viewpoint discrimination. *Id*. However, once the government creates a limited forum, it must adhere to its own rules. *Rosenberger*, 515 U.S. at 829. Here, Defendants' restraint on Ms. Hunter-Jackson's speech was unconstitutional because it was neither content-neutral nor reasonable.

a. Content Neutral

Defendants' restraint of Ms. Hunter-Jackson's speech was not content-neutral. A regulation is content-based if it restricts speech based on its topic or message. *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015).

The City's Charter and ordinance define the permissible subjects for public comment. The Charter provides: "So far as the orderly conduct of public business permits, any interested person has the right to appear before the City Council or City agency, board, or department for the presentation, adjustment, or determination of an issue, request, or controversy within the jurisdiction of the City." *City of Miami Gardens Charter*, Preamble, § (A)(5) (2003). At council meetings, citizens have the right to speak on matters within the Council's jurisdiction, subject only to narrow exceptions not relevant here. *City of Miami Gardens, Fla., Ordinance No. 2023-004-460*, § 2-60(a) (2023). Additionally, the Charter grants citizens the right to initiate recall proceedings to remove elected officials for specific reasons such as malfeasance or misfeasance, as provided under Florida law. *City of Miami Gardens Charter*, § 2-7 (2003); *Fla. Stat.* § 100.361(2)(d)(1)-(2).

Mayor Harris ordered officers to "Stop her" only after Ms. Hunter Jackson directly criticized Councilwoman Wilson by name, stating: "Councilwoman Wilson... if you cannot handle respectful criticisms, you should step down," and describing her conduct as "bullying" and "egregious". Am. Compl. ¶ 25. These statements plainly expressed disapproval of an elected official's behavior—a topic squarely within the City's jurisdiction and permissible under its public comment policy. *Id*. at ¶¶ 14–15.

Ms. Hunter Jackson was not disruptive, profane, or off-topic. *Id*. at ¶ 25. She was silenced mid-sentence during protected speech addressing governmental misconduct—precisely the type of political expression the First Amendment is designed to protect. *Id*. at ¶¶ 25–26. The trigger for Mayor Harris's intervention was not Ms. Jackson's tone or conduct, but the content of her message and the fact that she named a sitting councilmember in her criticism. *Id*. at ¶ 56.

In contrast, the City permitted other speakers to name officials when offering praise—for example, thanking Councilwoman Powell and Vice Mayor Stephens—without interruption or sanction. *Id*. at ¶ 34. This selective enforcement, based on the viewpoint of the speaker, demonstrates unconstitutional discrimination in violation of the First Amendment. *Id*. at ¶¶ 33–37.

Because Ms. Hunter Jackson was silenced solely for criticizing a councilmember by name and expressing disapproval of her conduct, the restraint on her speech was content-based and unconstitutional under *Reed*.

b. Reasonableness

Even if the Court finds the restriction as alleged in the complaint was content neutral, the restriction was unreasonable. A plaintiff can demonstrate that a restriction is unreasonable by showing that the government's restriction on speech was based on either (1) the viewpoint of the speaker, or (2) that it was arbitrary or haphazard. *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass'n, Inc.,* 942 F. 3d 1215, 1240 (11th Cir. 2019).

Defendants' restraint on Ms. Hunter Jackson's speech fails under both prongs of this test.

i. Viewpoint Discrimination

Defendants engaged in unconstitutional viewpoint discrimination by silencing Ms. Hunter Jackson based on the critical nature of her speech during a public comment period at the council meeting.

Viewpoint discrimination is "an egregious form of content discrimination" that is especially offensive to the First Amendment. *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995). It occurs when the government targets not merely the subject matter of speech, but "particular views taken by speakers on a subject"—a violation the Supreme Court has deemed "all the more blatant." *Id.* at 828–29. As the Eleventh Circuit explained, a viewpoint-based

restriction "goes beyond mere content-based discrimination and regulates speech based upon agreement or disagreement with the particular position the speaker wishes to express." *Cambridge Christian Sch., Inc. v. Fla. High Sch. Athletic Ass'n*, 942 F. 3d 1215, 1241 (11th Cir. 2019) (cleaned up). Such discrimination is presumptively unconstitutional because it suppresses ideas simply based on the message conveyed. *Rosenberger*, 515 U.S. at 829 ("Discrimination against speech because of its message is presumed to be unconstitutional.").

The complaint alleges that Ms. Hunter Jackson was silenced not for violating decorum rules in substance or tone, but specifically because of the viewpoint she expressed: a direct criticism of Councilwoman Wilson. Mayor Harris did not interrupt her when she began her remarks; he only ordered her to be stopped after she described Wilson's conduct as "bullying" and "egregious" and suggested Wilson should step down if she could not handle criticism. Am. Compl. ¶25, ¶56. This shows the restriction was triggered by the content of her message, not disruptive behavior.

In contrast, other residents were allowed to speak uninterrupted while praising councilmembers by name—e.g., "Councilwoman Powell," "Vice Mayor Stephens," and "Councilwoman Wilson"—without being silenced or reprimanded. *Id*. at ¶34, ¶58. Likewise, speakers who criticized Wilson's conduct, but avoided naming her, were also permitted to finish their remarks. *Id*. at ¶36, ¶58. Thus, the government permitted direct favorable speech and indirect critical speech**,** but censored direct critical speech—a classic example of viewpoint discrimination. *See L.M. v. Town of Middleborough*, 145 S. Ct. 1489, 1493 (2025) ("[A]bove all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.") (internal cites omitted).

Because Ms. Hunter Jackson was silenced solely for expressing a disfavored viewpoint—while identical conduct was permitted when the viewpoint was positive or indirect, the City engaged in unconstitutional viewpoint discrimination in violation of the First Amendment. *See Arizona Life Coalition Inc. v. Stanton*, 515 F. 3d 956 (9th Cir. 2008) ("once the government has chosen to permit discussion of certain subject matters, it may not then silence speakers who address those subject matters from a particular perspective.").

ii. Arbitrary and Haphazard Enforcement

Defendants' arbitrary and haphazard enforcement of the City's decorum rules violated the First Amendment.

The First Amendment prohibits the enforcement of speech regulations in a haphazard or arbitrary manner. *Cambridge*, 942 F. 3d at 1240. Even when a regulation is facially valid, the government must "articulate some sensible basis for distinguishing what may come in from what must stay out." *Mansky*, 585 U.S. 1, 16. Restrictions on speech are unconstitutional if they lack "narrowly drawn, reasonable and definite standards for the officials to follow." *Niemotko v. Maryland*, 340 U.S. 268, 271 (1951). A restriction is invalid where "no standards appear anywhere; no narrowly drawn limitations; no circumscribing of this absolute power." *Id.*; *see also Burk v. Augusta-Richmond County*, 365 F.3d 1247, 1256 (11th Cir. 2004) ("Even a facially content-neutral time, place, and manner regulation may not vest public officials with unbridled discretion over permitting decisions.").

The enforcement of the City's decorum policy by Mayor Harris and Officers Robinson, Richardson, and Jeanty violated Ms. Hunter Jackson's First Amendment rights due to its arbitrary, discretionary, and discriminatory application. The ordinance's vague terms—such as "personal" or "abusive" remarks—are undefined, leaving officials with broad and unchecked discretion. But

it is not merely the vagueness that renders the enforcement unconstitutional; it is the way Defendants applied the policy to silence disfavored viewpoints while permitting similar or more favorable speech. Am. Compl. ¶¶ 29–31, 50.

Ms. Hunter Jackson was removed from the podium immediately after criticizing Councilwoman Wilson, describing her conduct as "bullying" and "unacceptable," and urging her to step down. *Id*. at ¶¶ 25-26, 50. She was not profane, disruptive, or out of time. *Id*. at ¶¶ 25, 48. Mayor Harris offered no content-neutral justification—only the abrupt command to "Stop her" (*Id*. at ¶¶ 25-26, 55)—and the officers complied without citing any specific rule violation (*Id*. at ¶¶ 26, 64).

By contrast, other residents were allowed to speak uninterrupted when praising councilmembers by name or criticizing the same conduct without using Wilson's name. *Id*. at ¶¶ 34, 36. This selective and inconsistent enforcement—permitting positive and indirect speech while silencing direct criticism—demonstrates the arbitrary and haphazard application of the policy. Such enforcement, even under a facially valid rule, is unconstitutional.

c. Defendant's Arguments

Defendants argue that Count III should be dismissed because the Amended Complaint fails to allege that the individual Defendants personally violated Plaintiff's First Amendment rights. This argument misstates both the pleading and the law.

The Amended Complaint alleges detailed facts showing each Defendant's personal involvement in the unconstitutional restraint of Ms. Hunter Jackson's speech. Mayor Harris repeatedly interrupted her and, after she criticized Councilwoman Wilson by name, ordered officers to "Stop her"—a command made without citing any neutral rule violation. Am. Compl. ¶¶ 25–26, 55–56, 63. As the City's final policymaker, his directive constitutes both official policy

and personal misconduct. *See Surita v. Hyde*, 665 F.3d 860, 869–71 (7th Cir. 2011) (held that a mayor may be individually liable under § 1983 where he personally directed a speaker's removal based on her viewpoint); *Dayton v. City of Marco Island*, 2020 U.S. Dist. LEXIS 91417, *8-9 (M.D. Fla. May 26, 2020) (the court denied qualified immunity to mayor where plaintiffs peacefully criticized a councilor but were silenced in violation of meeting rules, plausibly alleging viewpoint discrimination.).

The officers did not act passively. Robinson seized the microphone and disabled Plaintiff's audio (¶ 26), while Richardson and Jeanty physically removed her (¶ 64). Their actions directly suppressed protected speech and support individual liability. *See McDonough v. Mata*, 489 F. Supp. 3d 1347, 1364 (S.D. Fla. 2020) ("Complaint sufficiently alleges that he violated Plaintiff's free speech rights in a traditional public forum by interrupting him and ordering him to leave.").

Even if the officers were acting under orders, that does not shield them from liability. The Eleventh Circuit has held that officers who "knew or should have known" of the constitutional violation may be held liable under § 1983—even when following orders. *Hartsfield v. Lemacks*, 50 F. 3d 950, 956 (11th Cir. 1995); *see also O'Rourke v. Hayes*, 378 F. 3d 1201, 1210 (11th Cir. 2004) ("'just following orders' defense has not occupied a respected position in our jurisprudence, and officers in such cases may be held liable under § 1983 if there is a 'reason why any of them should question the validity of that order.'").

Liability under § 1983 also extends to those who order, assist, or act as integral participants in the unconstitutional conduct. *See Provost v. City of Newburgh*, 262 F. 3d 146, 155 (2d Cir. 2001) (liability includes "ordering or helping others to do the unlawful acts"); *Hopkins v. Bonvicino*, 573 F. 3d 752, 770 (9th Cir. 2009) (liability for "integral participants" even without direct conduct). Moreover, the City's ordinance expressly requires the sergeant-at-arms to comply

only with lawful orders, underscoring that officers have both the authority and responsibility to refuse directives that infringe on constitutional rights.

Defendants' reliance on the council video is misplaced. On a motion to dismiss, courts must accept the well-pleaded allegations as true. The Complaint alleges that Plaintiff spoke on a permissible topic—council decorum—and was silenced mid-sentence, while other speakers were allowed to name officials in praise or criticize Wilson's conduct indirectly. Am. Compl. ¶¶ 25, 34–36, 49. The video confirms that Robinson cut off Ms. Hunter Jackson's speech following Mayor Harris's command, and that Richardson and Jeanty escorted her out—even though most of the removal occurred off-camera.[2]

In sum, the Amended Complaint pleads specific facts showing that each Defendant personally participated in the unconstitutional restraint of Ms. Hunter Jackson's speech. Count III is properly pleaded and should proceed.

2. Clearly Established Law

Defendants are not entitled to qualified immunity under clearly established case law. To invoke qualified immunity, a defendant must first show they were acting within their discretionary authority by performing a legitimate job-related function through means within their power. *Lee v. Ferraro*, 284 F. 3d 1188, 1194 (11th Cir. 2002); *McCoy v. Webster*, 47 F. 3d 404, 407 (11th Cir. 1995). Once this is established, the burden shifts to the plaintiff to show that the official violated a constitutional right that was clearly established. *Saucier v. Katz*, 533 U.S. 194, 201 (2001); *Hope v. Pelzer*, 536 U.S. 730, 739 (2002). A right is clearly established if (1) a materially similar case gave notice, (2) a broader legal principle clearly governs the conduct, or (3) the conduct is so

[2] Because the video here does not capture all relevant events of Jeanty and Richardson's participation, the Complaint controls.

egregious that no prior case is needed. *Mercado v. City of Orlando*, 407 F.3d 1152, 1159 (11th Cir. 2005). Only decisions from the U.S. Supreme Court, Eleventh Circuit, or the highest state court can clearly establish the law. *Crocker v. Beatty*, 995 F.3d 1232, 1240 (11th Cir. 2021).

The Eleventh Circuit's decision in *Moms for Liberty v. Brevard County School Board*, 92 F.4th 1324 (11th Cir. 2024), clearly established that removing or silencing a speaker in a limited public forum based on the viewpoint of their speech—especially when it involves direct criticism of a government official—violates the First Amendment.

In *Moms for Liberty*, a group of parents sued the Brevard County School Board and its Chairperson on behalf of members who alleged their speech was chilled and silenced during the public comment period at School Board meetings. *Id.* at 1328. The School Board claimed the members were removed for violating its decorum policy, which prohibited speech deemed "abusive," "personally directed," or "obscene." *Id.* The plaintiffs alleged that the School Board engaged in viewpoint discrimination by selectively enforcing the policy—interrupting or removing speakers who directly criticized board members or policies, such as mask mandates, while allowing those who praised board members to speak without interruption. *Id.* at 1331–38. The trial court upheld the constitutionality of the restraints. *Id.* at 1329.

On appeal, the Eleventh Circuit disagreed. The Eleventh Circuit held that the School Board's policies prohibiting "abusive" and "personally directed" speech were facially unconstitutional under the First Amendment. *Moms for Liberty*, 118 F.4th 1324, 1335, 1338. The Eleventh Circuit found that Board Chair enforced the "abusive" speech rule based on her subjective view of what was "unacceptable"—such as labeling ideas "evil" or referencing the "liberal left"—rather than applying any objective or consistently defined standard. *Id.* at 1334–35. This

enforcement constituted impermissible viewpoint discrimination, as it suppressed critical or offensive views while allowing praise. *Id*.

Likewise, the Court ruled that the policy prohibiting "personally directed" speech was enforced in a vague and inconsistent manner, lacking clear definitions or guidelines, and was applied arbitrarily depending on the speaker or topic. *Id*. at 1336–37. Because this policy gave unbridled discretion to the presiding officer and did not reasonably serve the School Board's stated goals, it failed the reasonableness test for limited public forums. *Id*. at 1337–38. Accordingly, the enforcement of both policies were unconstitutional. *Id*. at 1338.

Moms for Liberty is a materially factually similar case that gave Defendants fair warning their conduct was unconstitutional. Like the Plaintiff here, the *Moms for Liberty* plaintiffs were removed or silenced during a public comment period at a government meeting based on the viewpoint of their criticism of public officials and policies. The Eleventh Circuit held that enforcing vague decorum policies—such as bans on "abusive" or "personally directed" speech—without clear standards and in a viewpoint-discriminatory manner violates the First Amendment.

Given the striking factual parallels—including the use of undefined decorum terms (i.e., "abusive" or "personally directed") to silence disfavored criticism, inconsistent application of those rules, and the absence of actual disruption—a reasonable official in Defendants' position would have understood that their actions violated clearly established law. Thus, qualified immunity is inappropriate here.

For the reasons stated herein, Karen Hunter Jackson asks that this Court deny Defendants' motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via CM/ECF to all parties on the attached Service List on July 17, 2025.

Respectfully submitted by,

PIERRE SIMON

Attorneys for Plaintiff
600 Southwest 4th Avenue,
Fort Lauderdale, Florida 33315

By: s/ Faudlin Pierre
Faudlin Pierre, Esq.
FBN. 56770
fplaw08@yahoo.com
(305) 336-9193