



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

PENNY J. NICKERSON,  
  
*Plaintiff,*  
  
v.  
  
TOWN OF MILTON,  
  
*Defendant.*

Civil Action No. \_\_\_\_\_

**MOTION FOR EXPEDITED PROCEEDINGS**

Plaintiff Penny J. Nickerson, by and through her undersigned counsel, hereby moves this Court for an Order in the form attached to expedite proceedings, and in support of this motion respectfully represents as follows:

1. Plaintiff seeks declaratory and injunctive relief to stop the ongoing violation of her free speech rights by Defendant Town of Milton. As set forth the Verified Complaint, Defendant has prevented Plaintiff from displaying signs in the yard of her home because of the content of those signs.
  
2. “Delaware courts are always receptive to expediting any type of litigation in the interests of affording justice to the parties.” *Box v. Box*, 697 A.2d 395, 399 (Del. 1997); *Rohm & Haas Co. v. Dow Chem. Co.*, 2009 WL 445612, at \*2 (Del. Ch. Feb. 6, 2009). To merit expedited proceedings, a party needs only (1) “articulate[] a sufficiently colorable claim,” and (2) “show[] a sufficient possibility

of a threatened irreparable injury.” *Gaines v. Narachi*, 2011 WL 4822551, at \*2 (Del. Ch. Oct. 6, 2011); *In re Ness Techs., Inc. S’holders Litig.*, 2011 WL 3444573, at \*2 (Del. Ch. Aug. 3, 2011) (noting that movant’s “burden is not high”). In deciding a motion to expedite, the Court “traditionally has acted with a certain solicitude for plaintiffs” and “followed the practice of erring on the side of more [expedited] hearings rather than fewer.” *Giammargo v. Snapple Beverage Corp.*, 1994 WL 672698, at \*2 (Del. Ch. Nov. 15, 1994).

3. The Verified Complaint, to which the Court is respectfully referred, shows that Plaintiff’s claims are more than colorable. Establishing a colorable claim “is not an onerous burden for a plaintiff to meet.” *In re K-Sea Transp. Partners L.P.*, 2011 WL 2410395, at \*5 & n.8 (Del. Ch. June 10, 2011); *Reserves Dev. Corp. v. Wilmington Trust Co.*, 2008 WL 4951057, at \*2 (Del. Ch. Nov. 7, 2008) (noting that a colorable claim “is essentially a non-frivolous cause of action”).

4. The facts also show “a sufficient threat of imminent irreparable injury.” *See Cnty. of York Employees Ret. Plan v. Merrill Lynch & Co.*, 2008 WL 4824053, at \*8 (Del. Ch. Oct. 28, 2008). The deprivation of a fundamental constitutional right, even for a moment, constitutes irreparable harm for the purposes of injunctive relief. *See, e.g., Elrod v. Burns*, 427 U.S. 347 (1976) (noting that First Amendment violation imposes irreparable harm on the silenced

speaker). “Even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief.” *Chabad of Southern Ohio & Congregation Lubavitch v. City of Cincinnati*, 363 F.3d 427, 436 (6th Cir. 2004), citing *Newsome v. Norris*, 888 F.2d 371 (6th Cir. 1989).

5. For the foregoing reasons, Plaintiff respectfully requests that the Court enter the attached order to expedite proceedings.

/s/ Richard H. Morse  
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