

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KENNETH and VIRGINIA FROCK,)

Plaintiffs,)

v.)

BOROUGH OF LITTLESTOWN,)

Defendant.)

Case No. 1:CV-08-0465

Judge Rambo

CONSENT ORDER

WHEREAS Plaintiffs Kenneth and Virginia Frock filed this 42 U.S.C. § 1983 action on March 12, 2008 alleging facial and as applied violations of their First Amendment speech rights by the Borough of Littlestown's Zoning Ordinance Sections 701 and 902.7; and

WHEREAS Plaintiffs have also filed a Motion for Temporary Restraining Order and/or Preliminary Injunction seeking to enjoin enforcement of Littlestown's sign ordinance; and

WHEREAS the Court scheduled a hearing on Plaintiffs' Motion for a Preliminary Injunction for March 20, 2008; and

WHEREAS the parties have reached an agreement to resolve the case,

It is, on this 24th day of April, 2008, hereby **ORDERED, ADJUDGED** and **DECREED** as follows:

1. This Order is entered based on a negotiated settlement between the parties and is not to be construed as an admission of liability by any parties.
2. This agreement commences immediately and will remain in full force and effect until and unless the United States Supreme Court changes, in a material way, its interpretation of the First Amendment to the United States Constitution as applied to political signs on private residential property.
3. Defendant Borough of Littlestown and its employees, agents and assigns shall immediately cease and desist enforcement of Littlestown's Zoning Ordinance Sections 701 and 902.7 insofar as they regulate political and non-commercial signs on residential property.
4. Defendant Borough of Littlestown shall refrain from prohibiting Plaintiffs and all other Littlestown residents from displaying signs on their own property with political and/or non-commercial messages, and requiring a permit for such displays, so long as such signs are of a size equal to or less than the largest sign permitted in the relevant zoning district, and Littlestown has identified no specific and articulated safety

reason for limitation of a particular sign. If a specific and articulated safety reason is identified, relocation of the sign shall be an available remedy.

5. Defendant shall, within ninety (90) days of this Order, amend Littlestown's Zoning Ordinance, Sections 701 and 902.7 in the following ways:
 - a) To eliminate content-based time, place and manner restrictions on political and non-commercial signs.
 - b) To eliminate all temporal restrictions on political signs.
 - c) To eliminate the permit requirement for all political signs.
6. Defendant shall, within thirty (30) days of the entry of this Order, pay Plaintiffs' attorney fees in the amount of \$15,512 and costs in the amount of \$432 (total \$15,944).
7. This Consent Order resolves completely Plaintiffs' Motion for Temporary Restraining Order and/or Preliminary Injunction. That motion is, accordingly, hereby dismissed as moot.
8. This Consent order also resolves Plaintiffs' claims for injunctive and declaratory relief, damages and attorney fees.

9. This Court shall retain jurisdiction to enforce this Order, including any relief the Court deems appropriate, should either party breach the terms hereof.

/s/ John R. White

John R. White
Borough of Littlestown Solicitor
112 Baltimore Street
Gettysburg, PA 17325

Attorney for Defendant

/s/ Mary Catherine Roper

Mary Catherine Roper (PA 71107)
AMERICAN CIVIL LIBERTIES
FOUNDATION OF PA
P.O. Box 40008
Philadelphia, PA 19106

/s/ Valerie A. Burch

Valerie A. Burch (PA 92873)
AMERICAN CIVIL LIBERTIES
FOUNDATION OF PA
105 N. Front Street, Suite 225
Harrisburg, PA 17101

Attorneys for Plaintiffs

IT IS SO ORDERED, this 24th day of April, 2008.

S/Sylvia H. Rambo

United States District Judge