

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

PALMETTO, PROPERTIES, INC., an Illinois )  
corporation; and GREGORY A. SCHIRMER, )

Plaintiffs, )

vs. )

COUNTY OF DuPAGE, a body politic and )  
corporate, FOREST PRESERVE DISTRICT )  
OF DuPAGE COUNTY, a body politic and )  
corporate; JOSEPH E. BIRKETT, in his official )  
capacity as DuPage County State's Attorney; )  
and JIM E. RYAN, in his official capacity as )  
Illinois Attorney General, )

Defendant. )

Case No. 99 C 2980

Judge Coar

**PLAINTIFFS' MOTION  
FOR LEAVE TO CITE UPDATED AUTHORITY**

NOW COME the Plaintiffs in the above-captioned case, Palmetto Properties, Inc. and Gregory A. Schirmer, by and through their attorneys, J. D. Obenberger and Associates, and respectfully request that this Court grant them leave to file their Second Supplemental Memorandum in Opposition to Defendants' Motion for Summary Judgment (tendered herewith) *instanter*. In support of the foregoing motion, the Plaintiffs state as follows:

1. On August 1, 2000, the Defendants County of DuPage and Joseph E. Birkett filed their reply brief in support of their motion for summary judgment. In that memorandum, they cited *Ranch House, Inc. v. Amerson*, 22 F. Supp. 2d 1296 (N.D. Ala. 1998), as a case which upheld the constitutionality of a statewide statute governing the location of businesses which disseminate sexually oriented expression. (Def. Reply at 10).

2. On January 17, 2001, the United States Court of Appeals for the Eleventh Circuit reversed that decision. In the tendered Second Supplemental Memorandum, the Plaintiffs seek to bring this new authority to attention of this Court, provide this Court and the Defendants with a copy of the slip opinion, and comment briefly on the significance of the new authority to the issues before this Court. *Ranch House, Inc. v. Amerson*, Docket No. 98-6857 (Jan. 17, 2001).

3. This Court permitted the filing of short supplemental memoranda in response to other decisions entered after the parties completed briefing in this case in August 2000.

4. The Plaintiffs have no objection to this Court affording the Defendants a brief time in which to file a short response if they so desire.

WHEREFORE, for the foregoing reasons, the Plaintiffs respectfully request that this Court grant them leave to file their Second Supplemental Memorandum in Opposition to Defendants' Motion for Summary Judgment, attached hereto, *instanter*, and permit the Defendants a brief period in which to file a short response if they so desire.

Respectfully submitted,  
Palmetto Properties, Inc.  
and Gregory A. Schirmer,

By: \_\_\_\_\_  
Reed Lee, Esq.

Of Counsel:

J. D. Obenberger and Associates  
Three First National Plaza  
70 West Madison Street  
Suite 3700  
Chicago, Illinois 60602

(312) 558-6420

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
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PALMETTO, PROPERTIES, INC., *et al.* )  
)  
Plaintiffs, )  
) Case No. 99 C 2980  
vs. )  
) Judge Coar  
COUNTY OF DuPAGE, *et al.* )  
)  
Defendant. )

**Notice of Filing and Notice of Motion**

To: Anthony Hayman, Esq. Mary Dickson, Esq.  
Assistant State's Attorney Bond, Mork & Dickson, P.C.  
County of DuPage 203 East Liberty Drive  
505 North County Farm Road Wheaton, Illinois 60187  
Third Floor  
Wheaton, Illinois 60187

PLEASE TAKE NOTICE that, on Friday, February 2, 2001, we filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, the following Plaintiffs' Motion for Leave to Cite Updated Authority, a copy of which is herewith served upon you for your records.

PLEASE TAKE FURTHER NOTICE that on Wednesday February 14, 2001, at 9:15 a.m., or as soon thereafter as we may be heard, we shall appear before the Hon. David Coar, or any other judge sitting in his place and stead, in Courtroom 1419 at the Dirksen Federal Court-house located at 217 South Dearborn Street in Chicago, Illinois, and then and there present the attached Plaintiffs' Motion for Leave to Cite Updated Authority, at which time and place you may appear and be heard if you so desire.

J. D. Obenberger and Associates  
Three First National Plaza  
70 West Madison Street  
Suite 3700  
Chicago, Illinois 60602

(312) 558-6420

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Reed Lee, Esq.

**Certificate of Service**

I certify that on Friday, February 2, 2001, I served a true and correct copy of the foregoing Plaintiffs' Motion for Leave to Cite Updated Authority, together with its attachments, upon each of the following-named attorneys for the respective Defendants by depositing the same in the United States Postal Service mailbox located at 70 West Madison Street in Chicago, Illinois, in sealed envelopes, with proper first class postage affixed and addressed as indicated below.

Anthony Hayman, Esq.  
Assistant State's Attorney  
County of DuPage  
505 North County Farm Road  
Third Floor  
Wheaton, Illinois 60187

Mary Dickson, Esq.  
Bond, Mork & Dickson, P.C.  
203 East Liberty Drive  
Wheaton, Illinois 60187

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Reed Lee