

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

KIMBERLY BILLUPS, MICHAEL)
WARFIELD AND MICHAEL NOLAN,)
)
 PLAINTIFFS,)
)
 vs.)
)
 CITY OF CHARLESTON, SOUTH)
 CAROLINA,)
)
 DEFENDANT.)
 _____)

C.A. NO. 2:16-CV-00264-DCN

**DEFENDANT CITY OF
CHARLESTON’S MOTION TO
DISMISS PLAINTIFFS’ COMPLAINT**

Defendant City of Charleston, South Carolina (hereinafter “the City” or “Charleston” or “Defendant”), by and through its undersigned counsel, hereby submits this Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. The City’s Motion to dismiss is based on the ground that Plaintiffs’ Complaint fails to state a claim upon which relief can be granted against the City. Defendant’s Motion is further based on the following grounds:

- I. Plaintiffs’ First Amendment Claim Fails as a Matter of Law Because the City Ordinance Does Not License or Regulate Speech, But Regulates Business Under the City’s Police Powers.
- II. To the Extent the Ordinance Regulates Speech, It Is Content Neutral and Survives Intermediate Scrutiny.

Defendant’s Motion is also based on the arguments and citation of authority contained in the Memorandum in Support of Defendant’s Motion to Dismiss filed herewith.

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