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ACLU of Iowa Defends Free Speech Right of Sibley Resident To Criticize Local Government

Des Moines, Iowa — Today the American Civil Liberties Union (ACLU) of Iowa filed a lawsuit on behalf of Josh Harms of Sibley, Iowa, to block city officials from making legal threats or taking other action to force him to remove or alter the content of a website he created. That website criticizes city officials' inaction in remedying the problem of odors from a local ag processing plant.

"As a web developer, the right to free speech, especially online, is extremely important to me," said Mr. Harms. "Receiving this threat from the city was the first time I've ever felt afraid that what I might write and put online would make me a target of my own government. I want to use my skills as web developer to protest and to help my community. I grew up here. My family lives here. I'm trying to make the lives of myself and the people who live here better."

Mr. Harms points out that it is his fundamental constitutional right to speak out against government officials who he believes are not doing enough to remedy the smell problem. "That is what the First Amendment and free speech are all about."

As Mr. Harms's legal complaint states, he created a website, "Should You Move to Sibley, Iowa? <http://shouldyoumovetosibleyia.com/> to point out city officials' lack of action to address smells put out by a local facility, Iowa Drying and Processing (IDP). According to the *Sioux City Journal*, "IDP's product is a high-protein animal feed supplement made from porcine plasma, for both domestic and companion animals." It also reported that the company received \$150,000 in economic assistance from the Iowa Economic Development Authority.

The lawsuit details that the facility describes itself as a processor of food and food-grade products, though many locals call it simply, "the blood plant." Today's lawsuit also states that when the plant first started operating five years ago, many people were excited to have new jobs in the town of not quite 3,000. But then, Mr. Harms's complaint alleges, it started to produce a smell "like rancid dog food."

Mr. Harms's complaint states that he created the website to protest the smells that the plant produced and the city's lack of action to correct the problem. The website states that at various points, the smell became so overwhelming that he would avoid opening

his windows or even running his air conditioner in the summer to keep the smell from getting inside the house.

Mr. Harms's complaint details how city officials retained a lawyer, who wrote Mr. Harms a letter demanding that he take down his website. Intimidated, Mr. Harms consulted a local lawyer and altered the website to be less critical of the city. Mr. Harms also added things he likes about Sibley, and added various statements indicating that the website represented merely his opinion. His lawsuit states that he even added – at the city's request and from fear of legal action – that the smell is no longer a problem, even though Mr. Harms does indeed believe the smell is still a significant problem.

Other evidence of the city's censorship detailed in the complaint includes Mr. Harms's decision not to put the demand letters he received from the city up on the website. He also decided not to create a form for citizens to submit complaints and log instances of the continuing smell problem. Finally, the lawsuit states that Mr. Harms wanted to create a second website, which he planned to call "sibleystinks.com," but after receiving the city's demands, decided not to out of fear that the city would sue him.

The lawsuit also describes how the City of Sibley then engaged in a bizarre one-sided public relations effort of its own. The complaint details how a local reporter contacted Mr. Harms about the controversy over the website. But Mr. Harms had been told by the city's attorney that he shouldn't comment on the situation to the media. So he didn't do an interview with the reporter because he was worried about further legal action. Meanwhile, city denied to the reporter that it had sent Mr. Harms the letter. That left Mr. Harms feeling that he was unable to tell the media that he had indeed received a letter and could produce it – because the city's attorney had told him not to speak with the media.

Today's lawsuit is asking that the City of Sibley be blocked from further censoring Mr. Harms, so that:

- Mr. Harms can update and restore the content he wants on his website, including the truthful statement that the smell is still a problem.
- He can publish on his website – without intimidation – the threatening letter and other communications from the city.
- He can continue to speak out against government actions on his website, in local papers, and elsewhere without intimidation.

The lawsuit also seeks damages and attorney's fees.

ACLU of Iowa Legal Director Rita Bettis, said, "In this lawsuit, we allege that the City of Sibley has trampled on our client's right to engage in political speech criticizing the city. Sibley may smell sometimes, thanks to the IDP plant, but censorship also stinks. These issues are at the core of the ACLU's mission. Citizens must be free to criticize their government free from retaliatory threats or intimidation aimed at censorship of that criticism. Unfortunately, we see threats to political speech in our country at every level of government. Here in Iowa, we seek to ensure that government – at whatever size or level – does not overstep its authority in a way that suppresses the open and robust exchange of ideas."

Joining the ACLU of Iowa legal director in representing Mr. Harms in this lawsuit are cooperating attorneys Glen Downey and Nathan Mundy of Downey & Mundy, PLLC, of Des Moines. "Sibley's threats of litigation against Mr. Harms for his constitutionally-protected website is the exact type of government action that the First Amendment forbids. Criticism of your local government and local officials, like the kind engaged in here by Mr. Harms, is essential to holding those officials accountable to the people they have been elected to serve," Downey said.

Brief film clips of Mr. Harms and photos of Sibley and the plant are available for media use at:

<https://drive.google.com/drive/folders/1nVoPUgGDPTtjFt1zrAGBG3GWvbWQDQn?usp=sharing>

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