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Seven National Organizations File Briefs Siding with The Cozy Inn in Free Speech Case over UFO-Themed Mural

National groups take Salina to task for violating the First Amendment

Salina, Kansas – Seven national organizations have filed briefs in the U.S. Tenth Circuit Court of Appeals supporting the iconic burger joint, The Cozy Inn, in a free speech dispute with the City of Salina. The case involves the city’s attempt to prohibit The Cozy’s UFO-themed mural.

The dispute began in November 2023 when Salina officials told owner Steve Howard he couldn’t finish the mural. Salina considered the artwork a regulated sign instead of an unregulated mural. That’s because Salina believed the mural’s flying UFOs too-closely resembled hamburgers—The Cozy’s signature item. Howard [filed the lawsuit](#) with help from Kansas Justice Institute in early 2024.

In November 2025, U.S. District Court Judge Toby Crouse [ruled](#) that the City of Salina violated the First Amendment by ordering The Cozy Inn to stop painting its UFO-themed mural, marking a major legal victory for the century-old burger restaurant and free speech advocates.

But now Salina has appealed that ruling to the U.S. Tenth Circuit Court of Appeals.

Seven national organizations filed six separate amicus curiae briefs urging the Tenth Circuit to rule in favor of The Cozy Inn: Institute for Justice, Pacific Legal Foundation, Alliance Defending Freedom, Liberty Justice Center, and National Federation of Independent Business. Goldwater Institute and Manhattan Institute filed a joint brief.

“We are so grateful for this overwhelming support from organizations across the country. Their briefs demonstrate, just as we have said all along, that the First Amendment does not allow the government to pick and choose which murals are allowed, and which are prohibited, because of their content,” Sam MacRoberts, KJI litigation director said.

All of the amicus briefs agree that Salina violated the First Amendment.

Excerpts from the briefs:

“The City’s arbitrary choice to allow murals (indeed, celebrate and highlight them) if they say some things but not others—based on nothing more than the fact that the latter includes some

reference to trade—is unconstitutional. Salina may regulate visual expression only by applying *neutral* time, place, and manner restrictions, not by picking and choosing between what it considers worthy and unworthy forms of expression.” Goldwater Institute and Manhattan Institute [brief](#).

“Even though there are numerous murals in downtown Salina, and even though Salina holds an annual festival to celebrate the paintings and add new murals all over town, Salina contends The Cozy Inn’s ‘sign’ is uniquely harmful. That makes no sense.” Alliance Defending Freedom [brief](#).

“According to Salina, signs implicate safety issues and harm property values but murals do not. This is nonsensical. But for their content, The Cozy Inn’s painting and the numerous murals around downtown Salina ‘are the same thing: paint on a wall.’” Alliance Defending Freedom [brief](#).

“Stephen Howard knows more about hamburgers than almost anyone in Salina. Silencing his mural does not improve the City’s aesthetic landscape—it removes a knowledgeable and passionate voice from it.” Pacific Legal Foundation [brief](#).

“Stephen Howard has dedicated his life to The Cozy Inn, an establishment so beloved, it is described as iconic in Salina. His passion for the subject matter of his work is not diminished by the fact that it has also sustained a livelihood for him and others. If anything, his intimate knowledge of and investment in the hamburger—gained through nearly two decades of work as manager and co-owner—gives him unique insight and authenticity as a patron and commissioner of art celebrating that subject.” Pacific Legal Foundation [brief](#).

“The discovery concession illustrates the absurdity of Salina’s position: a wall-sized replica of Andy Warhol’s *Campbell’s Soup Cans* (1962) would be permissible as fine art, but a hamburger mural painted on behalf of a man who has spent years devoted to delivering award-winning hamburgers becomes regulated ‘signage.’” Pacific Legal Foundation [brief](#).

“The City of Salina has told Stephen Howard that he may not paint a hamburger-esque UFO-themed mural on the side of his building because hamburgers are what he sells. It has told him that were he a stranger to the hamburger—had no passion for it, no investment in it, no livelihood derived from it—he would be free to paint the same image on his property. That inversion of common sense is also an insult to the Constitution.” Pacific Legal Foundation [brief](#).

“The uninhibited discretion granted to Salina government officials through the expansive language of the Salina Code is a dangerous threat to First Amendment protections. Through wholly subjective and arbitrary content-based analysis, Salina officials control which messages and expressions require permits and which do not.” Liberty Justice Center [brief](#).

“Salina could not put forward any evidence showing how the displays it regulates as ‘signs’ implicate its safety and aesthetic interests in any different way than the unregulated ‘murals’ throughout town.” Institute for Justice [brief](#).

“Unfortunately, laws prohibiting murals that reflect commercial activity are not uncommon in American towns. And the burden of complying with such laws falls especially hard on small businesses, who often lack the financial resources and manpower that their larger competitors enjoy.” National Federation of Independent Business [brief](#).

“Navigating the arbitrary distinction that Salina’s sign code makes between an unregulated mural and a regulated sign imposes especially heavy burdens on small businesses and independent artists who lack the sophisticated compliance infrastructure and legal resources available to larger corporations. For many small businesses, the administrative costs associated with compliance and the possibility of liability in the event of *non*-compliance lead them to refrain from speech altogether, even if they believe their speech would be lawful.” National Federation of Independent Business [brief](#).

The Cozy Inn’s appellate brief is available [here](#).

Images related to this case are available for the media’s use and may be accessed [here](#).

[Kansas Justice Institute](#) is a free public interest law firm that fights back against government overreach. This case is part of KJI’s litigation campaign challenging laws that interfere with the right to free speech. It’s also part of KJI’s litigation efforts to fight back against city hall.

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