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First Amendment Battle Continues as City of Salina Tries to Squash Speech of Iconic Burger Joint

Oral Arguments at Federal Appeals Court After Lower Court Vindicated The Cozy Inn's Rights Last Year

Denver, Colorado – After the City of Salina appealed their loss in district court last year, Steve Howard, the owner of The Cozy Inn in Salina, KS, continued his First Amendment battle with oral argument at the U.S. Tenth Circuit Court of Appeals today in Denver. Today's arguments are the latest development in a 34-month-long battle that Steve Howard and the Kansas Justice Institute have fought to preserve a UFO-themed mural in a city full of colorful murals.

The [lawsuit](#) began after Mr. Howard, owner of the iconic burger joint, began painting a whimsical mural on the side of The Cozy, depicting burger-esque UFOs attacking The Cozy with blasts of ketchup and mustard. The Cozy has been a Salina institution for over a century, serving hamburgers from its small storefront since 1922. Salina officials, however, told Mr. Howard he couldn't finish the mural since 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.

Mr. Howard sued, arguing that Salina violated his free speech rights under the First Amendment. "Salina is my hometown, I love it here," says Mr. Howard. "The reason I love this community, this town, is because of all of the support everyone has given me. Thank you for standing behind me and supporting me through this," Howard continued.

"Salina's code would have allowed Steve to paint a mural depicting flying pizza slices, but not burger-esque UFOs, just because The Cozy sells sliders," says Sam MacRoberts, KJI litigation director. "That's not just unfair, it's unconstitutional," MacRoberts continued. "It's textbook content-based discrimination, and the First Amendment doesn't allow that," MacRoberts said. "We've been consistent since day one, Salina's code—and the way it was enforced—was unconstitutional," MacRoberts continued.

U.S. District Court Judge Toby Crouse previously ruled in November 2025 that Salina's code violated the First Amendment. The [opinion](#) held that "Salina cannot make any determination as to whether a display is a mural or sign without violating the First Amendment."

Salina has asked the Tenth Circuit to overturn the lower court and hold that there is no First Amendment violation when the City distinguishes between unregulated murals and regulated signs. Kansas Justice Institute defended The Cozy's victory below, noting that the City had failed to produce any evidence justifying its actions and would fail any form of constitutional review.

"The District Court's ruling is clear, to the point, and correct. Salina's officials don't get to play art critic, picking and choosing which murals stay, and which go. The right to free speech doesn't work that way and never has. At the end of the day though, because of Steve and The Cozy, Salina's mural-scene just got a little bit better," MacRoberts continued.

The Court is expected to post audio of the argument on the Court's [website](#) within 48 hours.

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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