

STATE OF MICHIGAN
IN THE KENT COUNTY CIRCUIT COURT

MICHIGAN OPEN CARRY, INC., and
MICHIGAN GUN OWNERS, INC.,

Plaintiffs,

v

GRAND RAPIDS-KENT COUNTY
CONVENTION ARENA AUTHORITY, and
SMG HOLDINGS, INC.,

Defendants.

No. 2016-06073-CZ

Hon. George S. Buth

REC'D & FILED

AUG 09 2016

Dean G. Greenblatt (P54139)
DEAN G. GREENBLATT, PLC
Attorney for Michigan Open Carry, Inc.
4190 Telegraph Road, Suite 3500
Bloomfield Hills, Michigan 48302
248.644.7520
dgg@mnsi.net

Steven E. Sundeen (P69315)
LAW OFFICES OF STEVEN E. SUNDEEN
Attorney for Michigan Gun Owners, Inc.
163 South Main Street
P.O. Box 491
Leslie, Michigan 49251
517.927.6642
steven.sundeen@gmail.com

John J. Bursch (P57679) KENT COUNTY
BURSCH LAW PLLC CIRCUIT COURT
9339 Cherry Valley Ave. SE, #78
Caledonia, Michigan 49316
616.450.4235
jlbursch@burschlaw.com

Matthew T. Nelson (P64768)
WARNER NORCROSS & JUDD LLP
900 Fifth Third Center
111 Lyon Street, N.W.
Grand Rapids, Michigan 49503-2487
616.752.2000
mnelson@wnj.com

Attorneys for Defendants

**DEFENDANTS' ANSWER TO VERIFIED COMPLAINT
FOR DECLARATORY RELIEF AND AFFIRMATIVE DEFENSES**

PARTIES, JURISDICTION, VENUE

1. Plaintiff Michigan Open Carry, Inc. [hereinafter “MOC”] is a Michigan not-for-profit advocacy organization created under the Nonprofit Corporation Act of 1982 that supports the lawful carry of handguns. MOC provides written material for the use of its members, municipalities, and law enforcement that outlines the laws associated with open carrying of handguns, and offers seminars on the topic. MOC has a presence in Kent County, and represents the interests of its member(s) having an actual case or controversy and interest in preventing reoccurrence of the same issue as raised in this complaint.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations and therefore deny them.

2. Plaintiff Michigan Gun Owners, Inc. [hereinafter “MGO”] is a Michigan nonprofit organization created under the Michigan Nonprofit Corporation Act (Act 162 of 1982). MGO’s goals include educating the public on safe responsible gun ownership and preserving and defending the right to keep and bear arms as guaranteed by the Bill of Rights and Article I, section 6 of Michigan’s Constitution. MGO has a presence in Kent County and represents the interests of its member(s) having a case or controversy and interests in preventing reoccurrence.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations and therefore deny them.

3. Defendant Grand Rapids-Kent County Convention/Arena Authority [hereinafter “CAA”] is the seven-member board that administers Van Andel Arena, DeVos Place and DeVos Performance Hall; all located within Kent County.

ANSWER: Admitted.

4. The CAA was established on March 29, 2000 by the City of Grand Rapids and County of Kent under the Convention Facility Authority Act, Act 203 of the Public Acts of Michigan of 1999; a local unit of government pursuant to MCL 123.1101(a); MCL 169.209(7), and other statutes.

ANSWER: Defendants admit that the CAA was established on March 29, 2000, by the City of Grand Rapids and County of Kent under the Convention Facility Authority Act, Act 203 of the Public Acts of Michigan of 1999. The balance of the allegations state a legal conclusion which Defendants neither admit nor deny.

5. Defendant SMG Holdings, Inc. [hereinafter "SMG"] is a public facility management corporation employed by CAA to manage CAA's facilities including DeVos Place, DeVos Performance Hall and Van Andel Arena.

ANSWER: Admitted.

6. This action arises out of an incident occurring at the DeVos Place facility on or about Friday, March 11, 2016.

ANSWER: Admitted.

7. Venue is proper in Kent County.

ANSWER: Admitted.

8. This Court has jurisdiction pursuant to MCR 2.605(A)(2).

ANSWER: This allegation states a legal conclusion which Defendants neither admit nor deny.

9. An actual and justiciable controversy exists between the parties.

ANSWER: This allegation states a legal conclusion which Defendants neither admit nor deny.

10. A present adjudication of the controversy is necessary to guide the Plaintiffs' future conduct and preserve legal rights.

ANSWER: Defendants deny the allegations contained in this paragraph.

11. Declaratory relief will avoid a multiplicity of actions at law and will avoid potential conflicts between the parties.

ANSWER: Defendants deny the allegations contained in this paragraph.

ALLEGATIONS

12. On Friday March 11th, 2016, the 2016 West Michigan Women's Expo was hosted by the DeVos Place.

ANSWER: Admitted.

13. Upon information and belief, Kohler Expos, Inc. leased the DeVos Place from CAA for the event.

ANSWER: Admitted on information and belief.

14. The event was scheduled to be open from Friday, March 11 from 10:00 a.m. to 8:00 p.m.; Saturday, March 12 from 10:00 a.m. to 8:00 p.m., and Sunday, March 13 from 11:00 a.m. to 5:00 p.m.

ANSWER: Admitted on information and belief.

15. MGO and/or MOC reserved and leased an exhibitor's table through Kohler Expos, Inc. who charged a fee and granted a license for MGO and MOC to exhibit during the event.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations and therefore deny them.

16. Representatives of MGO and MOC attended the event on March 11, 2016.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations and therefore deny them.

17. The purpose of the exhibit by MGO and MOC was to inform attendees about options for personal defense.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations and therefore deny them.

18. MGO and MOC exhibitors were demonstrably armed while present at the exhibit with lawfully-possessed and holstered pistols.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations and therefore deny them.

19. After manning the table for half of the first day of the event, a representative of SMG notified the MGO and MOC exhibitors that they were in violation of a policy that forbids possession of all firearms on the premises and that they must be removed from the public facility.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations and therefore deny them. Answering further, Defendants deny having a policy that “forbids possession of all firearms” at the DeVos Place.

20. SMG’s representative threatened the exhibitors with charges of criminal trespass if they didn’t remove their pistols or otherwise immediately leave the premises.

ANSWER: Denied.

21. SMG is an agent of CAA.

ANSWER: This allegation states a legal conclusion which Defendants neither admit nor deny.

22. As a result of the threats of SMG, representatives of MOC and/or MGO were forced to leave the premises or surrender their rights to possess firearms.

ANSWER: Denied.

23. CAA’s websites for its properties now include the following admonishment: “Weapons Prohibited. Weapons include, but are not limited to, the following: firearms, explosives, stun guns, handcuffs, brass knuckles, sticks, clubs, batons, martial arts instruments, pepper spray, tear gas, knives, etc. Guests found in possession of the above-mentioned items will be asked to remove the item from the arena or dispose of it. Guests who refuse to comply will be ejected from the arena and may be subject to arrest.”

ANSWER: Admitted.

24. Plaintiffs were denied use of their license to exhibit at the event with firearms.

ANSWER: Denied.

25. Plaintiffs were in compliance with Michigan Law at all times pertinent.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations and therefore deny them. In addition, this allegation states a legal conclusion which Defendants neither admit nor deny.

26. The threat of criminal trespass and forcible expulsion from the premises was unlawful.

ANSWER: Defendants deny that any threat was made to Plaintiffs. In addition, this allegation states a legal conclusion which Defendants neither admit nor deny.

27. CAA's firearm ban is preempted by State statutes and established case law. MCL 123.1101(a) and MCL 123.1102. See also Capital Area District Library v Michigan Open Carry, Inc., 298 Mich App 220 (2013).

ANSWER: This allegation states a legal conclusion which Defendants neither admit nor deny.

28. Like Plaintiffs, the members of Plaintiffs MGO and MOC are similarly situated.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations and therefore deny them. In addition, this allegation states a legal conclusion which Defendants neither admit nor deny.

Relief Requested

29. WHEREFORE, Defendants respectfully request that the Court:

30. Deny Plaintiffs' request for a declaratory order "that the CAA and/or its agent, SMG, is not allowed to bar lawfully possessed firearms from CAA properties";

31. Deny Plaintiffs' request for a declaratory order "enjoining CAA and SMG from enforcing its valid attempt at firearm legislation/regulation which is preempted by State Law";

32. Deny Plaintiffs' request for an order "compelling a full and complete refund of the exhibitor fees";

33. Deny Plaintiffs' request for "their costs and attorney's fees"; and

34. Deny Plaintiffs' request for "such other equitable relief as the court deems necessary and just."

AFFIRMATIVE DEFENSES

Defendants state the following affirmative defenses to Plaintiffs' Complaint:

1. Plaintiffs may lack standing to assert the causes of action as set forth in the Complaint.

2. Plaintiffs may lack capacity to sue and/or to bring a cause of action as set forth in the Complaint.

3. Plaintiffs' Complaint and the relief sought therein may be barred in whole or in part by the legal and equitable doctrines of waiver, estoppel, unclean hands, and laches.

4. Plaintiffs Complaint fails to state a claim upon which relief can be granted.

5. Plaintiffs' Complaint may be barred by governmental immunity.

6. Plaintiffs' Complaint may be barred in whole or in part by the affirmative defenses set forth in MCR 2.116(C)(7).

7. Plaintiffs' Complaint may be barred because notice of the underlying claims was not filed within the time prescribed by MCL 600.6431.

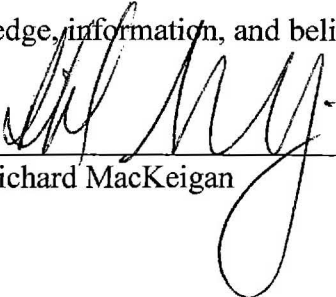
8. Plaintiffs' Complaint may be barred because this Court lacks jurisdiction over the subject matter of Plaintiffs' action, and Defendants' actions relative to Plaintiffs are not subject to judicial review.

9. Plaintiffs' claims may not be cognizable under the laws of the State of Michigan and the United States.

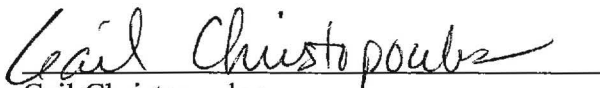
10. Plaintiffs' claims as alleged in the Complaint may not be ripe for judicial determination.

11. Defendants reserve the right to amend their Answer and Affirmative Defenses and to rely on all Affirmative Defenses that may be disclosed by way of further investigation or discovery.

I have reviewed the content of this Answer for accuracy and state that the answers contained herein are accurate to the best of my knowledge, information, and belief.


Richard MacKeigan

Subscribed and sworn to before me
this 9th day of August, 2016.

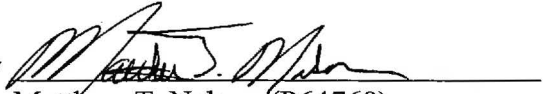

Gail Christopoulos
Notary Public, Kent County, Michigan
Acting in Kent County, Michigan
My commission expires: 8/8/2018

Dated: August 9, 2016

Respectfully submitted,

WARNER NORCROSS & JUDD LLP

By



Matthew T. Nelson (P64768)
900 Fifth Third Center
111 Lyon Street, N.W.
Grand Rapids, Michigan 49503-2487
616.752.2000
mnelson@wnj.com

John J. Bursch (P57679)
BURSCH LAW PLLC
9339 Cherry Valley Ave. SE, #78
Caledonia, Michigan 49316
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jbursch@burschlaw.com

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Dean G. Greenblatt (P54139)
DEAN G. GREENBLATT, PLC
Attorney for Michigan Open Carry, Inc.
4190 Telegraph Road, Suite 3500
Bloomfield Hills, Michigan 48302
248.644.7520
dgg@mnsi.net

Steven E. Sundeen (P69315)
LAW OFFICES OF STEVEN E. SUNDEEN
Attorney for Michigan Gun Owners, Inc.
163 South Main Street
P.O. Box 491
Leslie, Michigan 49251
517.927.6642
steven.sundeen@gmail.com

John J. Bursch (P57679)
BURSCH LAW PLLC
9339 Cherry Valley Ave. SE, #78
Caledonia, Michigan 49316
616.450.4235
jbursch@burschlaw.com

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WARNER NORCROSS & JUDD LLP
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Grand Rapids, Michigan 49503-2487
616.752.2000
mnelson@wnj.com

Attorneys for Defendants

PROOF OF SERVICE

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The undersigned states that she is an employee of Warner Norcross & Judd LLP, and that on August 9, 2016, she served Defendants' Answer to Verified Complaint for Declaratory Relief and Affirmative Answers on the attorneys of record their above-indicated addresses by placing copies of said document so addressed in first-class United States mail, postage thereon pre-paid.


Roxann S. Shier

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