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IN THE COURT OF COMMON PLEAS OF THE 12TH JUDICIAL DISTRICT
DAUPHIN COUNTY, PENNSYLVANIA

U.S. Law Shield of Pennsylvania,	: 2015-cv-255
Ex rel. Todd Hoover; and Justin J. McShane,	:
Plaintiffs	: Civil Action – Equity
v.	:
City of Harrisburg; Mayor Eric Papenfuse;	: Jury Trial Demanded
Wanda Williams, Sandra Reid,	:
Brad Koplinski, Ben Alatt, Jeff Baltimore,	:
Susan Wilson, Shamaine Daniels,	:
Harrisburg City Council Members; and	:
Chief of Police Thomas Carter,	:
Defendants	:

Defendants' Answer to Plaintiffs' Motion for a Preliminary Injunction

All Defendants ask this Court to deny Plaintiffs' request for a preliminary injunction:

1. Denied. As explained in the simultaneously filed Brief:
 - a. Harrisburg's ordinances have not injured Plaintiffs in any way over the last sixty-four years.
 - b. The ordinances do not infringe any of Plaintiffs' rights.
 - c. The uninjured Plaintiffs have no common law standing to sue.
 - d. The statute conferring standing, Act 192 of 2014, violates the Constitution because the standing provision was

added to an unrelated bill on theft of minerals in contravention of the single subject and original purpose rules.

- e. Act 192 also unconstitutionally gives standing to uninjured plaintiffs.
- f. Harrisburg has statutory authority to regulate firearms as a Third Class City.
- g. Harrisburg only regulates the lawful possession of firearms.
- h. None of the individual Defendants enacted any ordinance regulating the possession of firearms.
- i. The individual Defendants—the Mayor, City Council, and Chief of Police—are immune from suit as high officials.

This list is not meant to be exhaustive as Defendants reserve the right to raise other defenses in response to the Complaint. Defense counsel could not meet with their clients for the first time until last night (City Council) and this afternoon (Mayor and Chief of Police). The time constraints force defense counsel to prepare this response and brief in short order, possibly missing additional defenses that are available.

- 2. It is admitted that Plaintiffs filed their Complaint.
- 3. Denied for the same reasons as Paragraph 1 and detailed in our Brief.
- 4. It is admitted only that Plaintiffs seek declaratory and injunctive relief.
- 5. Defendants admit that the ordinance still have legal effect.

6. Defendants admit that they have not repealed the ordinances. Defendants deny that they need to for the reasons expressed in Paragraph 1 and detailed in our Brief.

7. Denied. Plaintiffs will lose and badly for the reasons expressed in Paragraph 1 and detailed in our Brief. Plaintiffs have no rights at stake anyway. Plaintiffs cite no judicial authority for their position that the right to bear arms prevents any regulation of firearms because there is none. Notably, the Supreme Court in the landmark case of *D.C. v. Heller*, 554 U.S. 570, 633-34 (2008), cited Philadelphia's longstanding prohibition on the discharge of firearms as an example of reasonableness.

The other ordinances do not affect the right to bear arms either. Even if Plaintiffs were children, they would have no right to carry a gun without an adult present. Even if Plaintiffs wanted to go target practicing in the streets and parks of Harrisburg, they would have no right to do so. Harrisburg has enacted abundantly reasonable ordinances that have been on the books for five to sixty-four years. Plaintiffs bring this lawsuit now because an unconstitutional piece of legislation, Act 192 of 2014, has allowed litigation-prone members of this Commonwealth to seek attorney fees even without an injury of any sort. Indeed, the fact that Plaintiffs even challenge an ordinance that requires firearm owners to report a stolen gun shows how little they care about the safety of the public. Harrisburg and its citizens obviously have an interest in knowing if people are running around stealing guns. Plaintiffs show their unreasonableness in opposing such an ordinance.

8. Denied for the reasons explained in Paragraphs 1 and 7 and detailed in our Brief. By way of further response, Plaintiffs do not mention any way that the ordinances have affected them. Nor can they.

9. Denied for the reasons explained in Paragraphs 1 and 7 and detailed in our Brief.

10. Denied for the reasons detailed in our Brief. By way of further answer, the ordinances regulating possession of firearms *are the status quo*. These ordinances are anywhere from twenty-three to sixty-four years old.

11. Denied for the reasons that Plaintiffs have any rights at issue for the reasons explained in Paragraphs 1 and 7 and detailed in our Brief. Defendants deny as well that Plaintiffs have no adequate remedy at law. In fact, Plaintiffs have *no* remedy at law, which Defendants consider quite adequate.

12. Denied for the reasons that Plaintiffs have any rights at issue for the reasons explained in Paragraphs 1 and 7 and detailed in our Brief. By way of further answer, the immediate repeal of these ordinances will work a detriment on the people of Harrisburg. These ordinances are meant to protect the public, and are worth defending even if Plaintiffs threaten the City with a “serious financial hit.”¹

¹ “Major financial hit' looming for Harrisburg, says legal defense group suing over firearm ordinances,” Patriot News, Jan. 13, 2015 (Motion to Disqualify Ex. A & at www.pennlive.com/midstate/index.ssf/2015/01/harrisburg_sued_gun_ordinances.html) (emphasis added).

For these reasons, Defendants respectfully request this Honorable Court deny Plaintiffs' request for a preliminary injunction.

Respectfully submitted,

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Certificate of Service

I certify that on February 5, 2015, I served a true and correct copy of this filing via U.S. First Class mail, postage prepaid, and by e-mail addressed as follows:

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