

IN THE IOWA DISTRICT COURT FOR MONROE COUNTY

<p>MONROE COUNTY, IOWA, Plaintiff/Counterclaim Defendant, v. IOWA FIREARMS COALITION, INC., J.D. THOMPSON, Defendants/Counterclaim Plaintiffs, DENNIS AMOSS, JOHN HUGHES, MICHAEL BEARY, AMANDA HARLAN, and DANIEL JOHNSON, Third-Party Defendants</p>	<p>No. CVEQ009563 ANSWER, COUNTERCLAIM, AND THIRD-PARTY PETITION (JURY TRIAL DEMANDED)</p>
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ANSWER

1. Admitted.

2. Admitted.

3. Admitted.

4. Admit that Thompson is an individual, a resident of Monroe County,

Iowa, and the owner of a firearm. The remaining information included in this paragraph is prohibited from release by Iowa Code § 724.23(2).

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admit that the Chief Justice entered the described supervisory order.

Deny due to lack of information whether the county is in compliance with the order.

11. Admitted.

12. Admitted.

13. Denied.

14. The paragraph states a legal conclusion. To the extent that it makes an allegation in support of the claims against defendants it is denied.

15. Denied.

16. Denied.

17. The answers to the described paragraphs are reasserted.

18. The paragraph recites a provision of law. To the extent that it makes an allegation in support of the claims against defendants it is denied.

19. The paragraph recites a provision of law. To the extent that it makes an allegation in support of the claims against defendants it is denied.

20. The paragraph recites a provision of law. To the extent that it makes an allegation in support of the claims against defendants it is denied.

21. The paragraph recites a provision of law. To the extent that it makes an allegation in support of the claims against defendants it is denied.

22. Denied.

23. Admit that HF2502 (2020 Iowa Acts Ch. 1099) is not an appropriations measure. To the extent that the paragraph makes an allegation in support of the claims against defendants it is denied.

24. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Admit that the defendants engaged in constitutionally protected activities to petition the government for redress of grievances and to promote and defend the right protected under the U.S. and Iowa Constitutions for law-abiding citizens to possess arms and ammunition for defense of themselves, their families, and their communities. To the extent that the paragraph makes an allegation in support of the claims against defendants it is denied.

31. No response is required.

32. Denied.

33. Denied.

Defendants respectfully request the Court deny the Petition and award them their costs, attorney fees, and all other relief as is supported by the proof.

COUNTERCLAIM/THIRD-PARTY PETITION

Division I – Parties, Jurisdiction, Venue

1. The Iowa Firearms Coalition, Inc. (IFC) is a grassroots organization of Iowans who have gathered together to promote and defend the right of law-abiding citizens to possess firearms and ammunition for self-defense, sport, hunting, and all other lawful purposes. It has members in all counties in Iowa and is regularly engaged with policymakers at the state and local level in Iowa. The IFC and its members are adversely affected by the enforcement of regulations concerning firearms and ammunition by political subdivisions of the State of Iowa that are contrary to various preemptions of those regulations by Iowa law. The civic, associational, speech, and petition activities of the IFC are protected by the U.S. and Iowa Constitutions.

2. J.D. Thompson is a resident of Monroe County, Iowa. As a citizen of Iowa and the United States he has the right, protected under the U.S. and Iowa Constitutions, to engage in civic, associational, speech, and petition activities and to possess firearms and ammunition for self-defense, sport, hunting, and all other lawful purposes. Thompson is adversely affected by the enforcement of regulations concerning firearms and ammunition by political subdivisions of the State of Iowa that are contrary to various preemptions of those regulations by Iowa law.

3. Third-party defendants Dennis Amoss, John Hughes, and Michael Beary are the elected county supervisors for Monroe County, Iowa. They are sued in their

official and individual capacities. Third-party defendant Amanda Harlan is the elected auditor for Monroe County, Iowa. She is sued in her official capacity only. Third-party defendant Daniel Johnson is the elected county sheriff for Monroe County, Iowa. He is sued in his official capacity only.

4. The acts of the counterclaim and third-party defendants complained of in this action all occurred within Monroe County, Iowa.

Division II – Factual and Legal Background

5. The Monroe County Courthouse contains various county offices as well as facilities devoted to Iowa judicial branch functions.

6. The courthouse doors bear signage prohibiting individuals other than law enforcement officers from possession of firearms inside the courthouse. The signage makes no distinction between spaces in the courthouse devoted to judicial branch functions and the remaining spaces in the building. The signage prohibiting the possession of firearms within the courthouse reflects the policy of Monroe County as determined by its board of supervisors and as administered by its auditor.

7. The courthouse does not have arrangements to screen persons for firearms or other dangerous weapons and there are no armed security personnel on a regular basis inside the courthouse.

8. The county sheriff is the issuing officer for permits to acquire and carry weapons in Monroe County and is the official, personally and through his deputies, who would be called upon to enforce the county's firearm policy.

9. Iowa Code § 724.28 contains a preemption of local regulation of, among other things, the possession of firearms. The code section has an exception, in that a county may prohibit the carrying, possession, and transportation of firearms in the buildings or physical structures on county property when "adequate arrangements are made by the political subdivision to screen persons for firearms or other dangerous weapons and the political subdivision provides armed security personnel inside the building or physical structure where the restriction is to be in effect." Because these conditions are not met at the Monroe County Courthouse, the exception to the general preemption of county regulation of the possession of firearms does not apply.

10. The order of the Chief Justice of the Iowa Supreme Court dated December 19, 2017, does not purport to order counties to prohibit the possession of firearms in areas of county buildings not devoted to judicial branch functions. Iowa Code § 724.32 makes unenforceable any court order regarding the possession of firearms in public buildings unless the order applies only to a courtroom or a court office or a courthouse used only for judicial branch functions. Iowa Code §§ 724.28 and 724.32, as applied to the Monroe County Courthouse, forbid the county from

prohibiting the possession, carrying, or transportation of firearms within the courthouse.

11. There is no Iowa statute that requires Monroe County to prohibit firearms from the courthouse, to screen persons for firearms or other dangerous weapons upon entry to the courthouse, or to provide armed security at the courthouse. As such, Iowa Code Chapter 25B simply does not apply.

12. On or about mid-November 2020, Thompson contacted the Monroe County Board of Supervisors to express his concern that the courthouse firearm policy of Monroe County was contrary to Iowa Code §§ 724.28 and § 724.32. Thompson cited information provided by the IFC to its membership about the effect of these statutes to preempt local regulation of firearm possession. Thompson wrote a letter expressing his concerns which he also provided to the local newspaper. This letter was published on or about December 17, 2020 in the Albia newspaper.

13. On or about December 23, 2020, the Monroe County Attorney wrote to Thompson to inform him of the county's view that its policy was valid.

14. At the February 9, 2021, regular meeting of the board of supervisors the board went into closed session to discuss pending litigation. Immediately after returning to open session a motion was made to direct the county attorney to prepare a petition for declaratory judgment "concerning House File 2502 and Iowa Code Chapter 25B with regards to firearms in the courthouse." The motion carried 3-0.

15. At the February 16, 2021, regular meeting of the Board of Supervisors, Hughes made a motion, seconded by Beary, to approve the filing of a petition for declaratory judgment. The motion carried with Hughes, Beary, and Amoss voting in the affirmative. This lawsuit against Thompson and the IFC resulted.

Count I – Petition for Declaratory Judgment, Damages, and Injunctive Relief

16. Thompson and the IFC request the Court find and declare that the courthouse firearm policy of Monroe County, Iowa is preempted by the provisions of Iowa Code § 724.28.

17. Thompson and the IFC request that the Court grant injunctive relief against all counterclaim and third-party defendants in the following particulars:

- a) That the counterclaim and third-party defendants shall not enforce any policy, practice, ordinance, or resolution contrary to the terms of Iowa Code § 724.28;
- b) That the counterclaim and third-party defendants shall not erect, or permit to remain, any signage on the courthouse or its surroundings that would purport to express a policy contrary to the provisions of Iowa Code § 724.28;
- c) That the injunction to the counterclaim and third-party defendants shall apply to Monroe County, Iowa, its officers, employees, and any third party under its control.

18. Thompson and the IFC request the Court order the counterclaim and third-party defendants to pay all damages attributable to the described violation of law as provided by Iowa Code § 724.28(3).

19. Thompson and the IFC further request the Court award its reasonable attorney fees and court costs.

Count II – Release of Confidential Information

20. Paragraph 4 of the Petition alleges that Thompson is a “firearm owner and holds valid permit(s) issued by the Monroe Iowa County Sheriff.” Upon information and belief, this information was supplied by the sheriff.

21. Iowa Code § 724.23(2)(a) requires the officer issuing a permit to carry weapons to keep confidential personally identifiable information about holders of weapons permits, including the permittee’s name, unless pursuant to court order or the consent of the permittee. The purpose of this provision of law is to allow individuals to exercise their right to carry weapons without fear of facing retaliation, opprobrium, or publicity for their decision to obtain a permit to carry weapons.

22. Iowa Code § 22.7(18) requires Monroe County and its sheriff to keep confidential communications not required by law to be made to the governmental body or to its employees by identified persons outside of government to the extent that the government body receiving those communications from such persons could reasonably

believe that those persons would be discouraged from making them to that government body if they were available for general public examination.

23. Although a person applying for a permit to carry weapons must supply his name, no law requires any individual to apply for such a permit. As such, the information provided in connection with a permit application is information that is not required to be provided to the issuing officer and meets the definition of Iowa Code § 22.7(18).

24. Upon information and belief, neither Monroe County nor Johnson obtained a court order authorizing disclosure that Thompson had a permit to carry weapons. Thompson did not consent to such disclosure. Upon information and belief, counterclaim defendant Monroe County and third-party defendants Hughes, Beary, Amoss, and Johnson participated in the violation of Iowa Code Chapter 22 and Iowa Code § 724.23.

25. Thompson therefore requests the Court order all of the following:

- a) Enjoin the sheriff and Monroe County from further violations under Iowa Code §§ 22.7(18) and 724.23;
- b) Assess against Monroe County, Hughes, Beary, Amoss, and Johnson a penalty of \$2,500 each under Iowa Code § 22.10(3);
- c) Require payment of Thompson's reasonable attorney fees and costs.

Count III – Retaliation for Exercise of Constitutionally Protected Rights

26. Thompson and IFC have rights to engage in civic life that are protected by the U.S. and Iowa Constitutions. These rights include:

- a) The right to free speech protected by Art. I, § 7 of the Iowa Constitution and the First Amendment of the U.S. Constitution as incorporated by the Fourteenth Amendment to the U.S. Constitution; and
- b) The right to association and petition protected by Art. I, § 20 of the Iowa Constitution and the First Amendment of the U.S. Constitution as incorporated by the Fourteenth Amendment to the U.S. Constitution.

27. Counterclaim and third-party defendants Monroe County, Hughes, Beary, and Amoss retaliated against Thompson and the IFC for their exercise of constitutionally protected rights and engaging in constitutionally protected activities by suing them merely because they questioned the policies of Monroe County and sought to engage in a dialogue about the requirements of Iowa law on behalf of Thompson and the IFC and its membership. The counterclaim and third-party defendants also retaliated against Thompson because he wrote a letter to the editor expressing his disagreement with Monroe County's firearm policy. Hughes, Beary, and Amoss caused Monroe County to adopt an official policy or practice of retaliation by authorizing the filing of the Petition.

28. Thompson and the IFC have been damaged by the actions of Monroe County, Hughes, Beary, and Amoss by the cost to defend a meritless lawsuit and the chilling of their exercise of their rights to participate in civic life as protected by law.

29. Thompson and the IFC request that the Court order the following under 42 U.S.C. § 1983:

- a) That Monroe County, Hughes, Beary, and Amoss shall be liable for compensatory damages;
- b) That Monroe County, Hughes, Beary, and Amoss shall be enjoined from further retaliatory acts; and
- c) That Monroe County, Hughes, Beary, and Amoss shall pay the reasonable attorney fees and court costs of Thompson and IFC.

30. Thompson and IFC further request that the Court order the following under the Iowa Constitution:

- a) That Hughes, Beary, and Amoss shall be individually and personally liable for punitive damages;
- b) That Monroe County, Hughes, Beary, and Amoss shall be enjoined from further retaliatory acts; and
- c) That Monroe County, Hughes, Beary, and Amoss shall pay the court costs of Thompson and IFC.

31. Thompson and IFC further request that the Court order the following under the provisions of Iowa Code Chapter 670:

- a) That Monroe County, as the employer of all other counterclaim and third-party defendants, shall be liable for compensatory damages;
- b) That Monroe County shall pay the court costs of Thompson and IFC.

32. Thompson and the IFC demand jury trial on all claims.

Respectfully submitted,

J.D. THOMPSON and IOWA FIREARMS COALITION, INC.

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