

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 11

DANE COUNTY

EX-100 COPY

WISCONSIN CARRY, INC., and
THOMAS WALTZ,

Plaintiffs,

v.

CITY OF MADISON,

Defendant.

Case No.: 14CV0061
Case Type: 30701

14 JAN 27 PM 12:40
CIRCUIT COURT
DANE COUNTY, WI

NOTICE OF MOTION, MOTION TO DISMISS THE COMPLAINT,
AND REQUEST FOR SCHEDULING CONFERENCE

To: John R. Monroe
9640 Coleman Road
Roswell, GA 30075
Attorney for Plaintiffs

PLEASE TAKE NOTICE that the defendant, City of Madison, by their attorneys, City Attorney Michael P. May, Deputy City Attorney Patricia A. Lauten, and Assistant City Attorney John W. Strange, move to dismiss this action pursuant to Wis. Stat. § 802.06(2)(a)1., 2. and 6. This motion will be heard at a time and place to be set by the Court.

The defendant, City of Madison, by their attorneys, City Attorney Michael P. May, Deputy City Attorney Patricia A. Lauten, and Assistant City Attorney John W. Strange, move to dismiss this action pursuant to Wis. Stat. § 802.06(2)(a)1., 2. and 6. on the following grounds:

1. Plaintiff Waltz lacks individual standing to obtain declaratory relief in this case either as an individual or a taxpayer because he has failed to allege facts that create a

justiciable controversy, and, as such, is using the declaratory judgment statute to seek nothing more than an advisory opinion from the Court.

2. Plaintiff Wisconsin Carry, Inc. lacks associational standing to obtain declaratory relief in this case because none of its members have standing to sue and it alleges nothing more than an “interest” in the litigation.

3. Plaintiffs’ Complaint fails to identify an “enacted ordinance or resolution” that is subject to pre-emption under Wis. Stat. § 66.0409 or declaratory judgment under Wis. Stat. § 806.04. As the Complaint alleges, Madison Metro’s no weapons policy is a Madison Metro organizational policy. As such, it is not subject to preemption under Wis. Stat. § 66.0409 or declaratory judgment under Wis. Stat. § 806.04

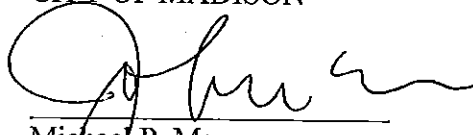
4. Even if Madison Metro’s no weapons policy was the result of an enacted ordinance or resolution, Plaintiffs’ Complaint should be dismissed because it fails to allege that 2011 Act 35 in any way changed a vehicle owner’s right to exclude weapons from that vehicle.

5. Even if Madison Metro’s no weapons policy was the result of an enacted ordinance or resolution, 2011 Act 35 allows local governments to exclude weapons from structures it owns or occupies (e.g., bus shelters and transfer points). Plaintiffs’ Complaint makes no allegation to the contrary.

Defendant requests that the Court set a scheduling conference for further proceedings on this motion.

Dated this 27th day of January, 2014.

CITY OF MADISON



Michael P. May
City Attorney
State Bar # 1011610

Patricia A. Lauten
Deputy City Attorney
State Bar # 1030520

John W. Strange
Assistant City Attorney
State Bar # 1068817

Attorneys for Defendant, City of Madison

Michael P. May
Patricia A. Lauten
John W. Strange
Office of the City Attorney
Room 400, City-County Building
210 Martin Luther King, Jr. Blvd.
Madison, Wisconsin 53703
608-266-4511 (phone)
608-267-8715 (fax)

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 11

DANE COUNTY

WISCONSIN CARRY, INC. and
THOMAS WALTZ,

Plaintiffs,

vs.

Case No. 14CV0061
Case Code: 30701

CITY OF MADISON,

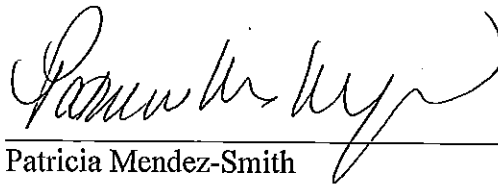
Defendant.

CERTIFICATE OF MAILING

STATE OF WISCONSIN)
) SS
DANE COUNTY)

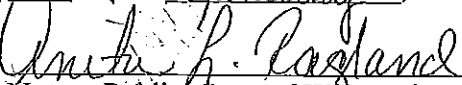
The undersigned, being first duly sworn on oath, states that on January 27, 2014, at Madison, Wisconsin, County of Dane, she mailed and properly enclosed in a post-paid envelope a true and correct copy of Notice of Motion, Motion to Dismiss the Complaint, and Request for Scheduling Conference to the individual(s) listed below:

John R. Monroe
9640 Coleman Road
Roswell, GA 30075
Attorney for Plaintiffs



Patricia Mendez-Smith

Subscribed and sworn to before me this
27th day of January, 2014.



Notary Public, State of Wisconsin
My commission expires: 10-16-16