

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Reverend Tim Christopher, Sarah Cade
Hauptman, and the Minnesota Gun Owners
Caucus,

Court File No. 62-CV-21-4223

Plaintiffs,

v.

Ramsey County, Bob Fletcher, in his official
capacity as Ramsey County Sheriff, and the
State Agricultural Society,

Defendants.

**PLAINTIFFS’
MEMORANDUM OF LAW
IN SUPPORT OF
TEMPORARY INJUNCTION**

INTRODUCTION

Reverend Tim Christopher, Sarah Cade Hauptman, and the Minnesota Gun Owners Caucus (“MGOC”) (collectively, the “Plaintiffs”) are Minnesota citizens and an association of citizen gun owners. The State Agricultural Society (“Agricultural Society”) is a government entity responsible for organizing and facilitating the annual Minnesota State Fair (“State Fair”) and Ramsey County Sheriff Bob Fletcher is Ramsey County’s instrumentality for policing.

The upcoming 2021 State Fair begins on August 26th and ends on September 6th. During the State Fair, the Agricultural Society will prohibit firearms of any kind. This prohibition includes personal pistols. Under the Minnesota Citizens’ Personal Protection Act of 2003, however, amongst other firearms, personal pistols are permissible for citizens to conceal and carry. The Minnesota legislature further mandates that governmental subdivisions are not allowed to enact or enforce an order regulating personal firearms. As a governmental subdivision, the State

Agricultural Society is unable to enact an order banning personal firearms. And as Ramsey County's instrumentality, Ramsey County Sheriff Fletcher is unable to enforce such an order. To allow them to do so would deprive Minnesota citizens of their constitutional right to bear arms as statutorily protected in the Minnesota Citizens' Personal Protection Act.

To ensure Defendants do not breach Minnesota citizens' constitutional right while this lawsuit is pending, Plaintiffs ask the Court to temporarily enjoin them, their officers, and their agents from excluding, ejecting, removing, or citing any person who has a permit to carry a pistol from the State Fair on August 26, 2021 through September 6, 2021 on the basis that such person possesses a firearm.

Without a temporary injunction, Plaintiffs and other Minnesota citizens will be irreparably harmed by the Defendants unlawful actions. A temporary injunction will restore the status quo during litigation and prevent Defendants from taking action that would unlawfully deprive Plaintiffs and other citizens of their constitutional rights.

FACTUAL BACKGROUND

A. The Minnesota Citizens' Personal Protection Act of 2003

The Minnesota legislature enacted the Citizens' Personal Protection Act to regulate citizens' ability to possess firearms, subject to state permits and various conditions. The purpose of the Act was to codify the legislatures' recognition and declaration that "the second amendment of the United States Constitution guarantees the right to keep and bear arms." Minn. Stat. § 624.714, subd. 22.

The Act requires a person who carries a pistol publicly—whether openly or concealed—to have a permit to carry. Minn. Stat. § 624.714, subd. 1a. *Accord State v. Hatch*, No. A20-0176 (Minn. Aug. 4, 2021) (upholding § 624.714, subd. 1a against constitutional challenge).

This Act supersedes any local regulation on the carrying or possessing of firearms. Minn. Stat. § 624.717. Moreover, the legislature explicitly preempts *all authority* of counties and other governmental subdivisions from regulating firearms. Minn. Stat. § 471.633 (emphasis added). Any order, ordinance, or regulation by such parties are completely excluded. *Id.* Any inconsistent local regulation is void. *Id.*

B. The 2021 Minnesota State Fair Purported Firearm Ban and Joint Governmental Enforcement

The Minnesota State Fair is organized and run by the State Agricultural Society. The Agricultural Society's website purports to prohibit all firearms. *See Allowed and Prohibited Items*, <https://www.mnstatefair.org/faq/allowed-and-prohibited-items/> (last visited July 29, 2021). In response to MGOC's data-practices act request, the Agricultural Society identified only its website and identified no other bylaws, ordinances, or rules. (Boyle Decl. Ex. B.)

But unlike the Agricultural Society's colorfully informal, public website, there appears to exist real, formal rules. (Boyle Decl. Ex. E.)¹ These rules, titled "Minnesota State Agricultural Society Rules Chapter 37" (hereinafter, the "Real Rules") and dated January 2021, are not prominently linked-to from the colorful website, but they are publicly accessible as a PDF.

The Real Rules self-describe as the "Rules governing the management and control of the Minnesota State Fairgrounds and the Minnesota State Fair." (Boyle Decl. Ex. E p. 2.) The first paragraph of the first numbered chapter of these rules provides that they "are promulgated pursuant to authority granted the Minnesota State Agricultural Society by Minn. Stat. § 37.16." *Id.* p. 2 ¶ 1.01. The Real Rules further explain that "The Minnesota State Agricultural Society is not an agency of statewide jurisdiction, therefore, rules adopted by the Minnesota State Agricultural

¹ <https://assets.mnstatefair.org/pdf/competition/21-rules-regs.pdf> (last visited Aug. 6, 2021).

Society have not been promulgated pursuant to Minn. Stat. Ch. 14 and will not be found in the bound volume of Minnesota rules.” *Id.*

The Real Rules are divided into three chapters. Chapter 1 includes general rules. *Id.* Chapter 2 includes commercial-space rules. *Id.* And Chapter 3 includes the competitive-exhibits rules. *Id.*

The Real Rules comprehensively cover the State Fair. They regulate entry to the fair and provide for gate control. *Id.* ¶¶ 1.03-1.05. The Real Rules regulate vehicles and pedestrians. *Id.* ¶¶ 1.07-1.08. They regulate bicycles (banned except for commercial display), picketing or protesting (banned absent a permit requested 30 days in advance), roaming leafletting (banned), advertising trucks (banned, subject to exceptions), dogs and other pets (largely banned, except for service animals), roller skates (banned except by authorized agreement), roller blades (same), skateboards (same), digging up buried treasure (banned), among other things. *Id.* ¶¶ 1.08-1.23.

Not banned: firearms. *Id.*

The 23-page set of Real Rules have the look and feel of like a municipal-code-like enactment that is contemplated by Minn. Stat. § 37.16.

1. The State Agricultural Society

The Agricultural Society is a public corporation enacted in accordance with land in Ramsey County which serves as the State Fair fairgrounds. Minn. Stat. § 37.01. The Agricultural Society holds a fair annually. Minn. Stat. § 37.15.

Also, it is indemnified by the State of Minnesota. Minn. Stat. § 3.723. As a public corporation, they may enact ordinances and rules consistent with law that are necessary for the protection, health, safety, and comfort of the public on the fairgrounds. Minn. Stat. § 37.16. These ordinances and rules are effective when filed with the secretary of the Society and violation of any of these rules is a misdemeanor. *Id.* The only indication of Agricultural Society rules are found on

the website, but the Agricultural Society admits it does not have formal documentation showing any present bylaws, ordinances, or rules filed with the Agricultural Society's secretary. *See* discussion *infra* p. 6.

Further, the secretary or president of the Agricultural Society may appoint peace officers necessary to arrest persons violating state law or Society rules. Minn. Stat. § 37.20. Notably, the Society voluntarily relinquished its policing power in 2021 in order to outsource security. (Boyle Decl. Ex. N); *See* State Fair policing issue, <https://www.twincities.com/2021/07/26/state-fair-policing-issue-could-be-settled-tuesday-ramsey-county-board-to-consider-contracts/> (last visited July 29, 2021). They disbanded their internal police department and on July 27, 2021 entered into a Joint Powers Agreement with the Ramsey County on behalf of the Ramsey County sheriff's office.

2. The Ramsey County Sheriff's Department, New State Fair Enforcement

Once again, according to the State Fair's website, their security program includes walk-through metal detectors and all bags will be subject to search. *See Allowed and Prohibited Items*, <https://www.mnstatefair.org/faq/allowed-and-prohibited-items/> (last visited July 29, 2021). As noted above, the Society outsourced its policing power and authority pursuant to a Joint Powers Agreement. Defendant Ramsey County, through Defendant Sheriff Fletcher's office, agreed to provide law enforcement services for the Agricultural Society and patrolling the fairgrounds at the 2021 State Fair. (Strawser Decl. Ex. 1.)

The Ramsey County Sheriff's Department will be responsible for enforcing the Society's rules, including their ban of personal firearms. Notably, under the Joint Powers Agreement, the Agricultural Society and Ramsey County agreed to be "a single governmental unit" determining total liability for damages under Minn. Stat. § 471.59, subd. 1a(b).

C. June 2021 Request for Data

On June 28, 2021, Plaintiffs requested data from the Society pursuant to the Minnesota Government Data Practices Act. (Boyle Decl. Ex. A.) Plaintiffs requested copies of bylaws, ordinances, and rules filed with the Society's secretary relating to firearms. (*Id.*). The Society responded stating they had no responsive documentation except for their website. (Boyle Decl. Ex. B.).

ARGUMENT

I. THE COURT SHOULD ISSUE TEMPORARY INJUNCTION

Whether to grant or deny injunctive relief is within the Court's discretion. *DSCC v. Simon*, 950 N.W.2d 280, 286-87 (Minn. 2020). The purpose of a temporary injunction is to preserve the status quo pending a determination of the action on the merits. *Sanborn Mfg. Co. v. Currie*, 500 N.W.2d 161, 164 (Minn. App. 1993). A temporary injunction is appropriate when the rights of the party will be irreparably injured before a trial on the merits or where the relief sought in the main action will be ineffectual or impossible to grant. *Id.* A district courts weighs five factors to determine whether the parties' rights will be irreparably injured:

1. the relationship between the parties preexisting the dispute giving rise to the request for relief;
2. balancing the harm to plaintiffs if the temporary restraint is denied against harm to defendant if the injunction issues pending trial;
3. the likelihood of success on the merits;
4. aspects of the fact situation, if any, which permit or require consideration of public policy expressed in the statutes, State and Federal;
5. administrative burdens involved in judicial supervision and enforcement of the injunction.

Id. These five factors determine the showing of irreparable harm. *See Miller v. Foley*, 317 N.W.2d 710, 712 (Minn. 1982) (stating that "five factors [are] to be considered in making [the] determination" that "the rights of a party will be irreparably injured before a trial on the merits is held").

As detailed below, each of these factors support Plaintiffs' request for a temporary injunction pending a decision on the merits.

A. Individual Citizens and Governmental Entities

The first factor evaluates the status quo, i.e., nature and background of the relationship between the parties, preexisting the dispute at hand. *Simon*, 950 N.W.2d at 286-87 (Minn. 2020).

Before the 2021 State Fair, the Agricultural Society had its own police, and yet did not prohibit lawful concealed carrying. (Doar Decl. ¶ 3.) Metal detectors are new this year, according to Sheriff Fletcher:

Officials say the budget for this year's fair is \$4.3 million, which is up from \$2.4 million in 2019, but Fletcher says there will be a lot of changes.

"The addition of the State Patrol at the gates, metal detectors at the gates, private security at the gates, ambassadors on the ground, they've enhanced their camera system 10-fold," Fletcher said. "It's going to be much better for us in terms of surveillance and a larger contingent of law enforcement officers."

For most of the expected two million State Fair visitors, the metal detectors and extra security at the gates will be the most noticeable change, and as a result, will likely take longer to get through the gates.

(Boyle Decl. Ex. L.)

The use of metal detectors, which will inevitably detect pistols of those lawfully carrying them, is new this year. (Boyle Decl. Ex. M.)

Here, the Plaintiffs are, and represent, Minnesota citizens who are law-abiding and to whom the state has issued permits to carry pistols. (See Christopher Decl. ¶¶ 2-5; Hauptman Decl. ¶¶ 2-6.) The Agricultural Society is a "public corporation organized for the sole purpose of discharging a governmental function." *Lane v. Minn. State Agricultural Soc.*, 64 N.W. 382, 382 (Minn. 1895). Further, Sheriff Fletcher is Ramsey County's top peace officer. See generally Minn. Stat. ch. 387. All three defendants are governmental entities acting for the benefit of Minnesota citizens. However, private citizens must be protected from governmental overreach. Therefore, the

nature of the relationship between Plaintiffs and Defendants weighs in favor of protecting Plaintiffs while the claims are adjudicated by granting Plaintiffs injunctive relief.

B. Plaintiffs Will Suffer Irreparable Harm if the Court Denies Relief and the Balance of Harms Tips in their Favor.

The balance of harms tips in Plaintiffs' favor. This factor compares the harm to be suffered by Plaintiffs if the temporary restraint is denied with any potential harm to Defendants should the injunction be issued pending trial. *Simon*, 950 N.W.2d at 286-87 (Minn. 2020).

It is well established that “the denial of a constitutional right is a cognizable injury and an irreparable harm.” *Pavek v. Simon*, 467 F. Supp. 3d 718, 754 (D. Minn. 2020). Here, should temporary restraint be denied, citizens will be estopped from practicing their constitutional and Minnesotan statutory right to bear arms. As a non-economic, rights-based harm, it cannot be remedied by money damages. *Elrod v. Burns*, 427 U.S. 347, 373-74 (1976) (noting same in context of First Amendment); *see also McDonald v. City of Chicago*, 561 U.S. 742, 759 (2010) (applying First Amendment incorporation analysis to Second Amendment).

The right to carry a pistol outside the home for self-defense is a fundamental, albeit not absolute, right under federal law. *McDonald*, 561 U.S. at 768. State law likewise “recognizes and declares that the second amendment of the United States Constitution guarantees the fundamental, individual right to keep and bear arms.” Minn. Stat. § 624.714, subd. 22.

The constitutional violations alone are enough to satisfy the irreparable harm factor, but the circumstances here make the irreparable harm unmistakable. Because the State Fair, and its unlawful prohibition on citizens' rights to carry, begins in less than a month, the immediate need to “preserve the status quo pending a determination of the action on the merits”—the fundamental purpose of a preliminary injunction—is particularly strong. *Currie*, 500 N.W.2d at 164; (Doar Decl. ¶ 3.) Finally, the right to bear arms is not only a constitutional right, but one that is protected for

the most essential purpose—defense of a person’s life against harm. *See District of Columbia v. Heller*, 554 U.S. 570, 595 (2008). The irreparable harm could hardly be clearer.

On the contrary, there is no harm to Defendants. The state “cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required to avoid constitutional concerns.” *Pavek*, 467 F. Supp. 3d at 762.

Possession, not discharge, is the issue here. The risk of harm from firearms discharge is not implicated by the injunction sought. Defendants remain free to “regulate the discharge of firearms.” Minn. Stat. § 471.633. So, to the extent that Defendants are concerned about the relative harms of firearms discharge, they remain free to regulate such discharge.

C. Plaintiffs Are Likely to Succeed on the Merits

The third factor, the likelihood the party will prevail on the merits, weighs in favor of Plaintiffs.

1. Ramsey County’s and its Sherriff’s authority to regulate firearms is preempted by Minn. Stat. § 471.633.

The state firearms preemption statute is short and clear:

The legislature preempts all authority of a home rule charter or statutory city including a city of the first class, county, town, municipal corporation, or other governmental subdivision, or any of their instrumentalities, to regulate firearms, ammunition, or their respective components to the complete exclusion of any order, ordinance or regulation by them except that:

- (a) a governmental subdivision may regulate the discharge of firearms; and
- (b) a governmental subdivision may adopt regulations identical to state law.

Local regulation inconsistent with this section is void.

Minn. Stat. § 471.633.

Ramsey County is a “county” and therefore “all authority” it possesses to regulate firearms is preempted. *Id.* Sheriff Fletcher, as Ramsey County’s sheriff, is an instrumentality of Ramsey

County, *see, e.g.*, Minn. Stat. §§ 378.04, 378.07, and his authority is likewise preempted. No sheriff may interfere with the exercise of a permit to carry. Minn. Stat. § 624.714, subd. 23.

The preemption statute provides no exception to the blanket prohibition for joint-powers agreements. If the legislature had wanted to do so, it could have exempted joint-powers agreements from the blanket preemption.² Indeed, the joint-powers law *immediately* precedes § 471.633 within chapter 471. *See* Minn. Stat. §§ 471.59-471.631. The preemption language is powerfully sweeping: “The legislature preempts all authority ... to regulate firearms ... to the complete exclusion of any order” and “[l]ocal regulation inconsistent with this section is void.” Minn. Stat. § 471.633. The Agricultural Society cannot delegate powers to Ramsey County and its sheriff that state law preempts them from wielding.

2. The Agricultural Society’s authority to regulate firearms is preempted by Minn. Stat. § 471.633.

In addition to cities, towns and counties, any entity that qualifies as an “other governmental subdivision” likewise is preempted from regulating firearms and ammunition. Minn. Stat. § 471.633. Section 471.633 does not explicitly define “other governmental subdivision.” *State v. Edie*, 898 N.W.2d 290, 295-97 (Minn. App. 2017) (concluding that the Metropolitan Airports Commission is not a “governmental subdivision,” reasoning that the MAC is much more like an administrative agency than a local town).

The ordinary meaning of “subdivision” means “a subordinate part of a larger whole.” *E.g.*, <https://www.merriam-webster.com/dictionary/subdivision> (last visited Aug. 5, 2021); *accord Black’s Law Dictionary* 1465 (8th ed. 2004) (“[t]he division of a thing into smaller parts”). The Minnesota supreme court has repeatedly emphasized the Agricultural Society’s character as a

² For example, the legislature could have written “The legislature preempts all authority, except authority delegated by a joint powers agreement under this chapter,”

subdivision of the state. For example, in *Berman v. Minn. State Agricultural Soc.*, 100 N.W. 732, 733 the supreme court referred to the Agricultural Society as “one of the departments of the state....” (Minn. 1904).³ And the supreme court noted that the Agricultural Society may “adopt ordinances and regulations of a legislative character similar to that conferred upon municipalities” and, at the time, the Agricultural Society was to maintain a jail in addition to a police force. *Id.* Later, that same decision referred to the Agricultural Society as “arm or agency of the state....” *Id.* Despite not using the word “subdivision,” *Berman*’s description of the Agricultural Society makes clear that it is a government subdivision of the state.

Though *Berman* is over 100 years old, there is no doubt that the Agricultural Society remains a subdivision of the state today. The State Tort Claims Act, Minn. Stat. ch. 3, explicitly identifies the Agricultural Society as being part of the “state” for tort-claims purposes. *See* Minn. Stat. § 3.723, subd. 1; *accord* Minn. Stat. § 7.736.

The law is clear. No “governmental unit” nor any “person acting under color of law or governmental authority ... may limit the exercise of a permit to carry.” Minn. Stat. § 624.714, subd. 23. The Agricultural Society is bound by state law.

3. Alternatively, Plaintiffs are likely to prove that the Agricultural Society has not legally prohibited firearms at all, despite its intimations to the contrary.

The Agricultural Society’s power to enact criminal bylaws, ordinances, and rules is limited by statute. Minn. Stat. § 37.16. As noted above, the supreme court has characterized this power as “similar to that conferred upon municipalities” in *Berman*. 100 N.W. at 733.

³ *Berman*’s holding regarding the Agricultural Society was left unchanged when that case’s reasoning on sovereign immunity was noted as abrogated by *Nusbaum v. Blue Earth County*, 422 N.W.2d 713, 717 (Minn. 1988).

Specifically, none of the Agricultural Society's bylaws, ordinances, or rules are effective until filed with the secretary of the society. *Id.* Here, in response to the MGOC's data-practices act request, the Agriculture Society did not produce any filing with its secretary. (Boyle Decl. Ex. B.) Instead of any documents, the Agriculture Society referred to its website. (Boyle Decl. Ex. B.) The Agricultural Society produced no documents showing that its website was ever filed with its secretary. From that non-production the Court can and should infer that the Agricultural Society has not validly enacted any bylaw, ordinance, or rule prohibiting pistols.⁴ And no such filing of any bylaw, ordinance, or rule prohibiting pistols appears in any of the Agricultural Society recent annual reports. (Boyle Decl. Exs. G, H, I, J, K.)

Unlike the Agricultural Society's colorfully informal website, there appears to exist real, formal rules. (Boyle Decl. Ex. E.)⁵ The Real Rules, described above, are the type of formal document that one would expect. Those rules do not prohibit firearms, though they prohibit a wide assortment of other things. *See supra* pp. 2-7.

Plaintiffs are likely to succeed on their claims against Defendants for declaratory relief against Defendants' prohibition of lawfully permitted carrying of firearms at the State Fair. This broad prohibition conflicts with the Minnesota Citizens' Personal Protection Act to the detriment of Minnesota citizens with valid permits to carry pistols. As discussed below, the act statutorily precludes any conflicting ordinance enacted by a county or government subdivision. Plaintiffs

⁴ A contrary inference—that the Agricultural Society violated the Minnesota Government Data Practices Act by failing to produce responsive data—should not be drawn. That inference presumes that the Agricultural Society violated the data-practices act. But the law presumes that governmental subdivisions comply with the law. *Wells & Wells, Inc. v. United States*, 269 F.2d 412, 415 (8th Cir. 1959) (“The general rule that in the absence of evidence to the contrary, public officers will be presumed to have properly performed their duties and not to have acted illegally, but regularly and in a lawful manner....”).

⁵ <https://assets.mnstatefair.org/pdf/competition/21-rules-regs.pdf> (last visited Aug. 6, 2021),.

need only show a “likelihood of success on the merits,” not that it would necessarily prevail on its entire case. *Dahlberg Bros. v. Ford Motor Co.*, 137 N.W.2d 314, 323 (Minn. 1965) (affirming temporary injunction issuance although there were “serious obstacles” to permanent relief).

The Minnesota Citizens’ Personal Protection Act of 2003 governs citizens’ permissible possession of pistols. Minn. Stat. § 624.714. The legislature explicitly states Minnesota law preempts any counties or other governmental subdivisions, or any of their instrumentalities, from regulating firearms and ammunition that is inconsistent with state law “to the complete exclusion of any order, ordinance, or regulation,” subject to two exceptions not relevant here. Minn. Stat. § 471.633. Any inconsistent regulation is “void.” *Id.* Governmental subdivision, the Agricultural Society, has prohibited all firearms from the Minnesota State Fair, including pistols, contrary to state law. Sheriff Fletcher, as an instrumentality of Ramsey County, will be the police power enforcing the unlawful firearms prohibition. Plaintiffs seek to enjoin Defendants from enacting and enforcing this ordinance which conflicts with state law and will inflict irreparable harm.

This clear overstep by governmental subdivisions supports a likelihood Plaintiffs will succeed on the merits in their claim the Citizens’ Personal Protection Act precludes the Agricultural Society from prohibiting firearms.

Plaintiffs’ requested injunction merely asks the Court to ensure that Minnesotans who lawfully carry pistols with a permit are not turned away. This is consistent with the Agricultural Society’s own rules regard entry to the fair: “Entry into the State Fair shall be *solely* contingent upon the presentation and surrender of a valid ticket of admission in accordance with the most current schedule of gate prices as established by the board of managers.” (Boyle Decl. Ex. E ¶ 1.03, p. 3 (emphasis added).) Those rules require only the presentation and surrender of a valid ticket; they do not require surrender of lawfully possessed pistols.

The third factor weighs in favor of granting Plaintiffs' temporary injunctive relief until the merits can be fully adjudicated.

D. Upholding Constitutional Rights is Always in the Public's Interest

For similar reasons, granting preliminary injunctive relief before the State Fair begins on August 26, 2021, is plainly in the public interest. Aspects of the fact situation require courts consider public policy expressed in the statutes and both state and federal law. *Simon*, 950 N.W.2d at 286-87 (Minn. 2020).

When challenging government action that affects the exercise of constitutional rights, it is always in the public interest to protect constitutional rights. *Pavek*, 467 F. Supp. 3d at 762. Here, Plaintiffs seek to vindicate their fundamental Second Amendment rights. Not only does the Second Amendment show a clear public interest in protecting the individual right to possess firearms, but the Minnesota legislature does as well. Section 471.633 expressly recognizes and declares that the Second Amendment of the United States Constitution guarantees the fundamental, individual right to keep and bear arms. The Minnesota legislature, while considering the compelling interest a state has in regulating the right to bear arms, enacted the Minnesota Citizens' Personal Protection Act. This Act supersedes any local regulation on the carrying or possessing of firearms. On the public-policy question here, the legislature has conclusively spoken.

Moreover, "all citizens have a stake in upholding the Constitution" and have "concerns [that] are implicated when a constitutional right has been violated." *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005). Thus, not only are Plaintiffs' rights at stake, but so are the rights of all Minnesotans seeking to engage in lawful conduct that is prohibited by the Agricultural Society's ban. The public interest tips sharply in Plaintiffs' favor. *Pavek*, 467 F. Supp. 3d at 762.

Defendants will likely argue public safety is a concern. In *District of Columbia v. Heller*, the Supreme Court made absolutely clear that "the enshrinement of constitutional rights

necessarily takes certain policy choices off the table.” *Heller*, 554 U.S. 570, 636. Moreover, in the Citizens’ Personal Protection Act, the legislature already considered compelling interests for firearm regulation. Minn. Stat. § 624.714, subd. 22. If citizens acting within their rights under the statute were dangerous, Minnesota would have restrictions on any areas of special security importance. Yet, Minnesotans with permits are allowed to possess and carry personal pistols even at the State Capital area. Minn. Stat. § 609.66, subd. 1g (b)(2), (c). Airports have unique security concerns, to be sure. *See Eide*, 898 N.W.2d at 291-92. But the State Capitol—the solemn seat of state government—has stronger safety needs than a fair that provides Pronto Pups, butter sculptures, and horse barrel racing. It strains credulity to suggest that simply letting law-abiding citizens to carry firearms under their state-issued permits will somehow endanger public safety now.

In accordance with the public policy expressed in both federal and state law, the fourth factor weighs in favor of granting plaintiffs temporary injunctive relief.

E. Relief Requested Brings No Serious Administrative Burden

The final factor considers the administrative burdens involved in judicial supervision and enforcement of the temporary degree. *Simon*, 950 N.W.2d at 286-87. Here, little-to-no judicial supervision would be required to enforce the temporary injunction. Under the joint powers agreement, Sherriff Fletcher is effectively in charge. (Strawser Decl. Ex. 1.) Sherriff Fletcher is “[c]ommitted to protecting and serving both the public and the judiciary system with skill and integrity to ensure a safe and just community”⁶, and as a sheriff, he is an officer of the Court. *Vanderhyde v. Dodge Cty.*, 255 N.W.2d 39, 42 (Minn. 1977) (“[T] he Sheriff acts as an officer of the judicial branch of government in addition to his duties as a member of the executive branch.”);

⁶ <https://www.ramseycounty.us/your-government/leadership/sheriffs-office/about-sheriffs-office> (last visited Aug. 6, 2021).

Zillgitt v. Goodhue Cty Bd of Comm'rs, 202 N.W.2d 378, 380 (Minn. 1972) (“The sheriff and his deputies are also officers of the court.”). Sheriff Fletcher, and therefore Ramsey County too, can be trusted to comply with the Court’s injunction without the need for additional judicial supervision. There is no reason to believe that the Agricultural Society would need judicial supervision to comply with an injunction. As a “state department” *Berman*, 100 N.W. at 733, the Agricultural Society will, no doubt, comply with an injunction without oversight and they are represented by a large, well-respected Minneapolis law firm that can assist them in doing so.

II. THE COURT SHOULD WAIVE A BOND.

The party moving for temporary injunction gives security for the payment of costs that may be incurred should the injunction end up being dissolved. Minn. R. Civ. P. 65.03(1). The amount required is “within the trial court’s discretion and may be waived entirely if appropriate.” *Bio-Line, Inc. v. Wilfley*, 366 N.W.2d 662, 665 (Minn. App. 1985). A proper determination of the amount of an injunction bond “must take into account damages specifically suffered as a result of the injunction.” *Carlson v. Mixell*, 412 N.W.2d 771, 773 (Minn. App. 1987) (citing *Hubbard Broad., Inc. v. Loescher*, 291 N.W.2d 216, 219–20 (Minn. 1980)). This is because a bond represents “a prospective view of damages and not a determination of actual damages.” *Eide v. Bierbaum*, 472 N.W.2d 193, 194 (Minn. App. 1991). Accordingly, a bond amount is subject to less scrutiny. *Id.*

Here, the Agricultural Society, Ramsey County, and Ramsey County Sheriff Bob Fletcher have no specific prospective damages from allowing Minnesota citizens, who are compliant with state law, from possessing and carrying their personal pistols at this month’s State Fair. The entire state fair lasts ten days and there are no monetary consequences from lifting their firearms prohibition. See *Webb Pub. Co. v. Fosshage*, 426 N.W.2d 445, 451 (Minn. App. 1988); *Paradata of Minn., Inc. v. Fox*, 356 N.W.2d 852, 855 (Minn. App. 1984).

Although Minn. R. Civ. P. 65.03(a) requires some security, the court should waive that requirement as appropriate. *Bio-Line, Inc.*, 366 N.W.2d at 665. Alternatively, a nominal amount should suffice in protecting Defendants' dignitary interests, say \$250. *See Bio-Line*, 366 N.W.2d at 665 (noting that \$250 was minimum prior to adoption of Rule 65).

III. THIS DISPUTE IS RIPE.

A justiciable controversy exists if the claim "(1) involves definite and concrete assertions of right that emanate from a legal source, (2) involves a genuine conflict in tangible interests between parties with adverse interests, and (3) is capable of specific resolution by judgment rather than presenting hypothetical facts that would form an advisory opinion." *McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 336 (Minn. 2011).

Plaintiffs request declaratory relief to specify Minnesotans rights under the contradicting Minnesota Citizens' Personal Protection Act and the Agricultural Society's ordinance banning personal firearms. Under the Declaratory Judgments Act, courts have the "power to declare rights, status, and other legal relations whether or not further relief is or could be claimed." Minn. Stat. § 555.01. The Declaratory Judgments Act is remedial and liberally construed. *Id.*; *see* Minn. Stat. § 555.12 (stating that the Act "is to be liberally construed and administered"). This specifically allows for declaratory action to test the validity of local ordinance, which Plaintiffs are requesting here. *Id.*

Further, although the State Fair does not start until August 26, 2021, temporary injunctive relief is proper because fairgoers' legal rights will imminently be invaded. *McCaughtry*, 808 N.W.2d at 338-339 (Minn. 2011) (claims are ripe for review if plaintiffs show they are in danger of imminent injury). Ramsey County, Sheriff Fletcher, and the Agricultural Society will impinge on citizens' individual legal right to bear arms, which are specified and regulated by the Citizens' Personal Protection Act, through the enactment and enforcement of an ordinance prohibiting

firearms from the fair ground. This is an identifiable injury involving definite and concrete assertions of a right emanating from both the Constitution and Minnesota state law.

CONCLUSION

Each of the factors weigh in favor of granting Plaintiffs' motion for temporary injunction to prevent immediate and irreparable injury before a decision on the merits of Plaintiffs' claims against the Defendants. Plaintiffs respectfully request that the Court temporarily enjoin Ramsey County, Sherriff Fletcher, and the Agricultural Society from refusing entry to, ejecting, or prosecuting Minnesota citizens who possess pistols under a valid permit at the Minnesota State Fair from August 26, 2021 to September 6, 2021, and at future state fairs.

Dated: August 10, 2021

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