

CAUSE NO. _____

STATE OF TEXAS,
Plaintiff,

v.

CITY OF DALLAS
Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

____ JUDICIAL DISTRICT

STATE OF TEXAS' ORIGINAL PETITION FOR CIVIL PENALTIES

TO THE HONORABLE COURT:

COMES NOW the State of Texas, by and through Ken Paxton, Attorney General of Texas, and files this Original Petition seeking civil penalties, attorney fees, and costs against the City of Dallas for the wrongful exclusion of license holders carrying handguns into The Majestic Theatre, in violation of Tex. Gov't Code § 411.209. In support thereof, Plaintiff would respectfully show the Court as follows:

I. DISCOVERY CONTROL PLAN

1.1 In accordance with Tex. R. Civ. P. 190.1, discovery in this case is intended to be conducted under Level 3 of the discovery control plan provided by Tex. R. Civ. P. 190.4.

II. JURISDICTION AND VENUE

2.1 Plaintiff, the State of Texas, seeks relief under Tex. Gov't Code § 411.209. Plaintiff anticipates it will seek monetary relief over \$1,000,000. *See*, Tex.

R. Civ. P. 47(c). The relief sought is within the jurisdiction of this court. Tex. Const. art. V, § 8, Tex. Gov't Code §§ 24.007, 24.008, and Tex. R. Civ. P. 47(b).

2.2 Venue is proper in Travis County. Tex. Gov't Code § 411.209(g), Tex. Civ. Prac. & Rem. Code Ann. § 15.016. *See also*, Tex. Civ. Prac. & Rem. Code § 15.001(b)(1).

III. PARTIES

3.1 Plaintiff, the State of Texas, by and through Ken Paxton, the Attorney General of Texas, is authorized to enforce Tex. Gov't Code § 411.209. Tex. Gov't Code § 411.209(g). The Attorney General is also authorized to prosecute all actions in which the state is interested before the courts of appeals and the Supreme Court. Tex. Gov't Code § 402.021.

3.2 Defendant City of Dallas is a political subdivision of the State of Texas and owns The Majestic Theatre building located at 1925 Elm St., Dallas, Texas 75201. Defendant may be served with process by serving its City Manager, Kimberly Bizzor Tolbert, c/o Dallas City Hall, 1500 Marilla Street, Room 4EN, Dallas, Texas 75201.

3.3

IV. GENERAL FACTUAL BACKGROUND

4.1 The Majestic, a/k/a The Majestic Theatre, located at 1925 Elm St., Dallas, Texas 75201, is a historic performing arts center owned by the City of Dallas, used in part by promoters to present performing arts events, concerts, and comedy shows, as well as for corporate meetings, nonprofit fundraisers, and private functions.

4.2 The City of Dallas Office of Cultural Affairs manages The Majestic Theatre. (The Majestic website states, “The Majestic Theatre is a division of the City of Dallas Office of Arts and Culture.”) The Dallas Office of Arts and Culture website and the dallascityhall.com/departments/art-culture/pages/FAQs.aspx webpage state that the Office of Cultural Affairs is a division of the City Manager’s Office. The Dallas City Hall webpage also states that the Office of Cultural Affairs Administrative Offices are located at The Majestic Theatre, 1925 Elm Street, Suite 400, Dallas, Texas 75201.

V. CAUSE OF ACTION
VIOLATION OF TEXAS GOVERNMENT CODE § 411.209

5.1 Tex. Penal Code § 46.03(a) specifies places where weapons are prohibited, and The Majestic does not fall within the description of places where weapons are prohibited. No other laws prohibit a license holder (LTC holder) who is carrying a handgun under the authority of Texas Government Code, Chapter 411, Subchapter H, License to Carry a Handgun, from entering or remaining in The Majestic.

5.2 Texas Government Code, Title 4, Subtitle B Law Enforcement and Public Protection, Chapter 411, Subchapter H License to Carry a Handgun at Tex. Gov’t Code § 411.209(a) prohibits state agencies and political subdivisions of the state (such as the City of Dallas) from taking any action, including the act of providing notice by a communication described by Tex. Penal Code §§ 30.06 or 30.07, that states or implies that a license holder who is carrying a handgun under the authority of subchapter H (License to Carry a Handgun) is prohibited from entering or remaining

on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Tex. Penal Code Ann. § 46.03 or other law.

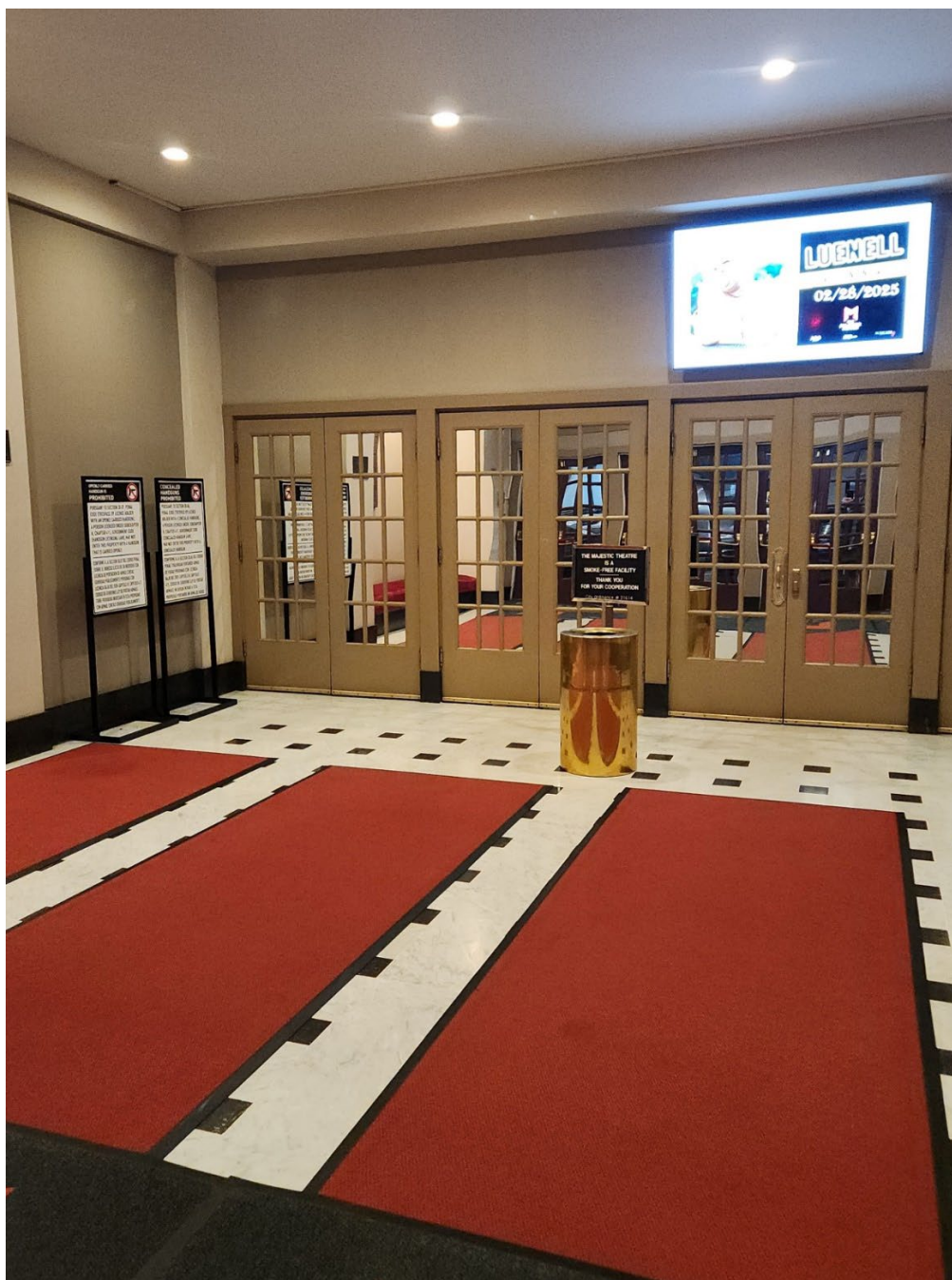
5.3 On Thursday, February 16, 2023, Mr. Grant Walsh, a resident/person licensed to carry a handgun, was carrying a concealed weapon as he entered The Majestic to attend a show. Mr. Walsh was searched by a security officer, and the officer directed Mr. Walsh to a uniformed Dallas Police Officer. Mr. Walsh showed his Texas-issued License to Carry a Handgun to the police officer, and the officer told Mr. Walsh he could not bring the handgun into The Majestic. Mr. Walsh noted that Tex. Penal Code §§ 30.06 and 30.07 signage was displayed in the foyer of The Majestic.

5.4 A year later, on Saturday, February 17, 2024, Mr. Walsh again went to The Majestic and once again observed that Tex. Penal Code §§ 30.06 and 30.07 signage was displayed in the foyer. Patrons, upon entry, were being searched by wand, and a uniformed Dallas Police Officer was also present.

5.5 On September 21, 2024, Mr. Walsh emailed the Dallas Interim City Manager and the Dallas City Attorney to notify them that under Tex. Gov't Code § 411.209(d) Mr. Walsh was placing them on notice that the City of Dallas was violating Tex. Gov't Code § 411.209, by having Tex. Penal Code §§ 30.06 and 30.07 signage in the foyer of The Majestic. Walsh's notice gave the City of Dallas three days to cure its violation, after which he stated that he would submit a complaint to the Office of the Attorney General ("OAG") for it to investigate.

5.6 On September 27, 2024, Mr. Walsh filed a written complaint with the OAG, asserting that the City of Dallas violated Tex. Gov't Code § 411.209. Walsh provided the OAG with a copy of the September 21, 2024, email notice of violation he had provided to the City of Dallas.

5.7 On Sunday, September 29, 2024, Mr. Walsh went to The Majestic and, at that time, took photographs of the Tex. Penal Code §§ 30.06 and 30.07 signage on display, the same signs he had seen in the foyer on his prior visits. The following is a photograph taken by Mr. Walsh of the signage at The Majestic.



5.8 On Monday, September 30, 2024, Mr. Walsh sent another email to the City of Dallas, telling them that he had not received any response to his prior email and that he had personally confirmed the day before that Tex. Penal Code §§ 30.06 and 30.07 signage was still displayed within The Majestic in continuing violation of

Tex. Gov't Code § 411.209. Mr. Walsh also provided the City with a copy of a photo of the signs at the Majestic that he had taken on Sunday, September 29, 2024.

5.9 The OAG, having investigated the § 411.209 complaint regarding The Majestic, determined that legal action was warranted. On September 30, 2024, the OAG gave written notice to the chief administrative officer of the City of Dallas under Tex. Gov't Code § 411.209(f) of the violation of Tex. Gov't Code § 411.209, stated the amount of the proposed penalty for the violation, and gave the City 15 days from receipt of the notice to cure the violation and to avoid penalties.

5.10 On October 15, 2024, the City of Dallas, through its City Attorney Tammy Palomino, provided its written response, wherein the City of Dallas asserted that it had not violated Tex. Gov't Code § 411.209. The City of Dallas based this assertion on several arguments. First, the City of Dallas argued that the Complainant, Grant Walsh, did not articulate an actionable violation because the day he personally observed the (above-photographed) signage was a Sunday, and thus the theatre wasn't open to the public. The City of Dallas went on to state that it removed any signage present in response to OAG's letter. Beyond these arguments, the City asserted that it has no control over private event promoters as "(1) event promoters (sic) determine whether they will prohibit LTCs from bringing firearms into the promoters' (sic) private events at the Majestic; and (2) the promoters (sic) display the signs at issue in the Majestic without any input or involvement of the City."

5.11 Thereafter, Mr. Walsh communicated to the OAG that on Sunday, February 2, 2025, he went to The Majestic and saw the same Tex. Penal Code §§ 30.06

and 30.07 signage on display in the foyer of The Majestic. Patrons, upon entry, were being searched by wand, and several uniformed Dallas Police Officers were also present. The following photographs show images captured by Mr. Walsh on February 2, 2025.





5.12 On Tuesday, March 25, 2025, OAG Investigator Alex Dubeau visited The Majestic, which was closed to the public at that time. The investigator spoke to

a guard at The Majestic, who told the OAG investigator that the §§ 30.06 and 30.07 signs were not currently on display in the foyer but were at the back of the building. The guard, however, confirmed that LTC holders lawfully carrying handguns are not allowed within The Majestic when it is open to the public.

5.13 The State of Texas has standing under Texas Government Code § 411.209. All conditions and statutory precedents were performed or occurred before the filing of this lawsuit.

5.14 Any sovereign immunity the City of Dallas may have is waived and abolished for any liability created under Tex. Gov't Code § 411.209. Tex. Gov't Code § 411.209(h).

5.15 Tex. Gov't Code § 411.209(b) states that a political subdivision of the state that violates Tex. Gov't Code § 411.209(a) is liable for a civil penalty of not less than \$1,000 and not more than \$1,500 for the first violation and not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation. Tex. Gov't Code § 411.209(c) states that each day of a continuing violation of Tex. Gov't Code § 411.209(a) constitutes a separate violation.

5.16 Plaintiff should be awarded \$1,500 in civil penalties for the first day of the City's violation of § 411.209, which occurred or commenced no later than February 16, 2023. In addition, Plaintiff should be awarded civil penalties of \$10,500 per day for each of the days between February 16, 2023, to the present when the City of Dallas has leased The Majestic and allowed any lessee to display the Tex. Penal Code §§ 30.06 and/or 30.07 signs in the foyer of The Majestic.

5.17 Under Tex. Gov't Code § 411.209(g), the Attorney General is also entitled, and hereby requests, to recover reasonable attorney fees, investigative costs and court costs. The Attorney General is also entitled and should be awarded fees under Tex. Gov't Code § 402.006.

VI. PRAYER

WHEREFORE, Plaintiff requests that the Court find that the City of Dallas has violated Tex. Gov't Code § 411.209 and award the State of Texas penalties, reasonable attorney fees, investigative costs, witness fees, deposition costs, court costs and filing fees, and award such other and further relief, at law or in equity, to which the Plaintiff may show itself justly entitled.

Respectfully, submitted,

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