



500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEM

Date: November 11, 2021

To: Honorable Mayor and City Council Members

From: Lori Grigg Bluhm, City Attorney
Nicole F. MacMillan, Assistant City Attorney

Subject: Ryan Johnson v. Troy Police Department



On November 10, 2021, the City was served with the attached lawsuit filed by Ryan Johnson. Mr. Johnson, representing himself, filed this civil suit against the Troy Police Department, alleging a violation of MCL 752.11 (a criminal statute). This lawsuit stems from Mr. Johnson's disagreement with Troy School's mask policy, which is mandated by the Oakland County Health Department. Mr. Johnson's son is a third grader at Schroeder Elementary School, and was not permitted to attend class in-person, without a mask. Mr. Johnson alleges that the Troy Police Department has failed to uphold the law by not preventing Troy Schools from enforcing the mask mandate.

The case was filed in 52-4 District Court, and was assigned to Judge Maureen McGinnis. A copy of the complaint is attached.

A proposed resolution authorizing our office to defend this action is attached for your consideration. Please let us know if you have any questions or concerns.

Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN

JUDICIAL DISTRICT
JUDICIAL CIRCUIT
COUNTY PROBATE

SUMMONS

CASE NO.

21-CO2746 GC
Judge McGinnis

Court address

OAKLAND COUNTY 52-4 DISTRICT COURT 520 W. BIG BEAVER RD, TROY MI 48064 248-528-046

Court telephone no.

Plaintiff's name(s), address(es), and telephone no(s).

RYAN O. JOHNSON
PRO PER
4968 FLOWER HILL DR, TROY 48098
810-625-3000 GORETAIL@GMAIL.COM

Plaintiff's attorney, bar no., address, and telephone no.

PLAINTIFF IS PRO PER

Defendant's name(s), address(es), and telephone no(s).

TROY POLICE DEPARTMENT
500 W. BIG BEAVER RD
TROY, MI 48064
248-524-3477

21 NOV 10 AM 11:34

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- ☒ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. Attached is a completed case inventory (form MC 21) listing those cases.
- ☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in ☐ this court, ☐ _____ Court, where

it was given case number _____ and assigned to Judge _____

The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date 10-27-21 Expiration date* 1-26-22 Court clerk [Signature]

*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

State of Michigan	[]	Case No.
52-4 District Court	[Complaint]

Court Address	Court Telephone No.
520 W. Big Beaver Road, Troy MI 48084	248-528-0400

RYAN O. JOHNSON,
Plaintiff

Case No.
Hon.

Versus

CITY OF TROY POLICE DEPARTMENT
Defendant/

Verified
Compliant

Ryan O. Johnson
Pro Per
4968 Flower Hill Dr
Troy, MI 48098
Tel (810) 625-3000
gobretail@gmail.com

City of Troy Police Department
500 W. Big Beaver Rd
Troy, MI 48084
Tel (248) 524-3477

52-4 DISTRICT COURT
2021 SEP 22 PM 3:32
RECEIVED FOR FILING

VERIFIED COMPLAINT

Ryan O. Johnson, as father and a parental guardian of Maximus Johnson, per MCR 2.201 brings this
Verified Complaint against the City of Troy Police Department and alleges as follows:

STATEMENT OF FACTS

- 1) On or about August 23rd, 2021 the Troy School District announced a decision to implement a mandatory mask mandate for K-12 students and school personnel. On August 24th, The Health Officer of Oakland County Health Division issued order 2021-01 creating a mandatory mask order for K-12 students and school personnel (See Exhibit A: MDHHS Order).

- 2) On Thursday, August 26th, 2021, Plaintiff mailed via certified mail a Cease and Desist demand to four persons in the Troy School District alleging the mandatory mask mandate, both as issued by the Troy School District and by MDHHS was a violation of MCL 380.1307 thru MCL 380.1307h. The Cease and Desists were sent to Dr Richard M. Machesky, Superintendent of Troy Schools, Karl D. Schmidt, School Board President, Brain Canfield, Principle of Schroeder Elementary and Mrs. Allore, Maximus Johnson scheduled 3rd grade teacher.
- 3) On Tuesday, August 31st, 2021, Maximus Johnson attempted to attend his first day of school at Schroeder Elementary for the 2021-22 school year as per his right under the Michigan Constitution of 1963, Article VIII § 2. Maximus Johnson did so without wearing a mask, per his parents wishes. After 20 minutes or so, Maximus was removed from his class for not wearing a mask.
- 4) Upon removal from his class, Plaintiff called the Troy Police Department to report the violation of law under MCL 380.1307 thru MCL 380.1307h. Officer B. Jones responded. Upon his arrival Plaintiff explained the situation to Officer Jones and asked Officer Jones to uphold the Michigan constitution under Article VIII § 2 and parental rights under MCL 380.10 and require Maximus Johnson to be returned to his classroom. Plaintiff had print outs of the relevant laws to go over with Officer Jones. Officer Jones told Plaintiff that this was purely a civil matter and he should seek civil suit as a remedy. Plaintiff insisted upon filling out an Incident Report.
- 5) On Wednesday September 1st and Thursday September 2nd, 2021 the near same sequence of events transpired. Maximum Johnson attempted to attend school and was removed from class. Plaintiff called the Troy Police Department to report the violation of Maximus Johnson's rights and asked the officers to uphold the law. Neither officer was interested in reviewing the relevant Michigan laws on these days and both instructed Plaintiff they regarded this as a civil matter.
- 6) On Tuesday, September 7th, 2021, Maximum Johnson once more attempted to attend school and once more was removed from class. Plaintiff once more called the Troy Police Department. This time the

Superintendent of schools was present and was belligerent about the situation. He threatened Plaintiff that if Maximus attempted to attend school one more time without a mask that Maximus would be expelled from school and that Plaintiff would be trespassed. Plaintiff informed him that such a suspension was not legal according to the Michigan School Code governing suspensions (MCL 380.1311) and further, that attempting to force Maximus to comply with the unlawful mask mandate constituted a criminal violation of MCL 750.462a(b)(i) "Coercion". Plaintiff once more addressed these violations of law with the Troy PD officer who responded that day, and once more the officer said they were merely civil infractions and declined to uphold the law.

7) After filling out the incident report on the morning of September 7th, 2021, Plaintiff went to the Troy Police Department headquarters and requested to speak with a supervisor. He spoke with Lieutenant Gobler. The two sat down and went over the relevant Michigan statutes and Plaintiff showed Lieutenant Gobler the myriad of ways the mask mandate was in violation of Michigan law, from the Michigan Constitution Article VIII § 2, MCL 380.1307 thru MCL 380.1307h, MCL 750.136b, MCL 750.462a(b)(i), MCL 380.10, and MCL 333.20201. Plus potential violations of the US Constitution under the 1st Amendment, 14th Amendment and the right to due process, which are currently being litigated in several federal cases. Finally Plaintiff showed Lieutenant Gobler that MCL 333.24339(f) clearly showed that the Oakland County Health Department lacked statutory authority to issue any order which required any health or mitigation mandate that was prohibited by existing law.

8) Lieutenant Gobler asked Plaintiff to write those violations of law in an additional incident report and stated he would investigate. Up to this date, September 21th, 2021, Maximus Johnson has attempted to attend school each and every day and has been removed from class each day. Plaintiff has e-mailed a daily update, as requested by Lieutenant Gobler each day as Maximus Johnson's right to attend school has been violated. On Friday, September 17th, after witnessing two additional weeks where the Troy PD refused to uphold the Michigan Constitution and Michigan law, Plaintiff returned to calling the Troy PD for non-

emergency dispatch to report the crime committed that day. Troy dispatch refused to send an officer, citing once more an apparent department policy to regard the matter purely as a civil matter and refused to uphold the law. On September 21st, 2021, Lieutenant Gobler called Plaintiff and informed him that he had submitted his complaint to the county prosecutor, who had declined to issue charges. Lieutenant Gobler informed Plaintiff the Troy Police Department considered the matter closed, without once attempting to uphold the Michigan constitution or the Michigan statutes being violated daily.

JURISDICTION AND VENUE

- 9) This court has subject matter jurisdiction over this matter pursuant to MCL 600.8301(1) as the amount in controversy is less than \$25,000 and MCL 600.8301(2) the complaint is a civil action.
- 10) This court has personal jurisdiction over the Defendant because Defendant is the City of Troy Police Department and is located in the City of Troy. The 52-4 district court covers the cities of Troy and Clawson, MI.
- 11) Venue is proper as Maximus Johnson is enrolled in Schroeder Elementary, a public school within the Troy School District, the events have all transpired at Schoeder Elementary and within the jurisdiction that the Troy Police Department is responsible for law enforcement therein.

AT CONTROVERSY

- 12) In 2020 the CDC issued guidance and assorted State agencies used emergency powers to create mask mandates as an attempt at remediation against the spread of SARS-Covid19. At the time of those actions little was known about the effectiveness of face masks for the intended task, and while studies existed regarding the physiological dangers inherent in wearing such masks, they were little known and

so the mandates became common. A year and a half later, much more is known about both and the volume of studies and research on both is more bountiful and many, including the federal agency of the NIH, now show that wearing face masks by students to be extremely dangerous to their health while offering minimal protection from SARS-Covid19. See (**Exhibit B: NIH 129 Study Review**), (**Exhibit C: NIH 15 Minute OSHA Safety Limit Study**), (**Exhibit D: Gainesville Mask Test**), (**Exhibit E: Hypoxemia**), (**Exhibit F: Carbon Dioxide**), (**Exhibit G: Chalazion Eye Infections**), (**Exhibit H: More Bad News For Facemask Wearers**), (**Exhibit I: Science Daily: Cloth Masks: Dangerous to your Health?**), (**Exhibit J: Study Ineffectiveness of Masks**)

- 13) Plaintiff has shared extensive volumes of information with the 4 afore mentioned recipients of the Cease and Desist letters, plus Lieutenant Gobler of the Troy PD. These included a comprehensive review by the NIH over 129 mask studies which showed a high degree of danger to wearer upon multiple facets and another NIH study illustrating that masks were only “safe” at the upper limit of OSHA acceptable standards for CO2 levels at 5,000 parts per million for a maximum of 15 minutes, but negative health effects start to occur at just 1,000 parts per million, which no masks operate under for any length of time. Plaintiff shared links to dozens of other studies warning of the dangers of face masks, plus a link in the NIH review to “low blood-oxygen levels” which is otherwise known as Hypoxemia, which can cause heart and brain damage or even death.
- 14) Given the newfound volume of health concerns with regards to mask mandates on students, plaintiff has illustrated to all parties involved how such mandates become a violation of MCL 380.1307b.
- 15) The health concerns from mask wearing, given the extreme dangers, and given they violate OSHA safety standards, would violate MCL 750.136b, Child Abuse in the 4th degree.
- 16) That any attempt to segregate, punish, kick out, expel or otherwise intimidate a student or their legal guardians to force compliance with the mask mandate would constitute a violation of MCL 750.462a(b)(i) “Coercion”.

- 17) That a mask mandate, given the health concerns, violates the “safe environment” requirement under MCL 380.10 as well as the parental right to be involved in such decisions.
- 18) That a mask mandate, given the health concerns and its claim to be an emergency use provision to preserve health in the face of a pandemic, would constitute a violation of a patient or resident’s rights under MCL 333.20201 section 2f, 2g, 2h, 2j, 2i and 2m.
- 19) All responses from the Troy Police Department have thus far shown a pre-determined conclusion that masks are not dangerous and therefore do not violate any of the above laws. That any violation of MCL 380.1307b is purely a civil complaint, despite the removal from schools remaining a violation of the Michigan Constitution under Article VIII § 2. Plaintiff has been offered no theory of law on why these have not constituted violations of MCL 750.136b , 750.462a(b)(i) , MCL 380.10 or MCL MCL 333.20201 section 2f, 2g, 2h, 2j, 2i and 2m or why the Troy Police Department felt empowered to ignore their duty to uphold these laws under MCL 752.11.

IMPACT ON THE PLAINTIFF

- 20) When presented with the choice of sending Maximus Johnson to in person school for the 2020-21 school year while under mask mandates, Plaintiff and his wife (Max’s parents) chose to avoid the health risks of face masks and opted for the virtual classroom options presented. Maximus thus had spent the remnant of his 1st grade year in virtual learning and ALL of his 2nd grade year in virtual learning and now is being forced to spend parts of his 3rd grade year learning from home as well.
- 21) Plaintiff and his wife had come to realize that for a child at Maximus’s age (currently 8), an important part of education for his age is learning and experiencing social interactions with other children. Something that virtual learning fails to deliver (adequately, if at all).
- 22) The school removing Maximum from class each day and the police department failure to protect his

rights under the Michigan constitution and enforce the law with regards to the above cited violations, means Maximum continues to lack social development learning for a 3rd straight year.

- 23) The hardship of attempting to bring Maximum to school each day so he may exercise his rights under the Michigan constitution, only to be kicked out, means Maximus must attempt to keep up with his studies at home or risk falling behind kids at his same grade level. This has proven challenging with both parents self-employed and running a small business along with the additional time to fight against the ongoing abuses of law and the need to seek out alternative social opportunities for Maximus's development.
- 24) The emotional tole on both Maximum, Plaintiff and his wife has been challenging and immeasurable.

CAUSES OF ACTION

25) COUNT I: Failure to Uphold the Law under MCL 752.11

Under MCL 28.602 Section 2(A) a law enforcement agent is defined as "*An individual authorized by law, including common law, to prevent and detect crime and enforce the general criminal laws of this state.*". A person so authorized by law to be a law enforcement officer is required to prevent crime to the extent possible. A failure to prevent a crime when prevention is readily possible is a clear instance of failure to uphold the law.

- 26) In the above cited chain of events, the Troy Police Department was made aware of the Michigan laws being violated. They were dispatched to the scene of the crime and had a statutory requirement to prevent those crimes as they were happening. The series of events show that it was not just the failure of a single officer to prevent these crimes and to uphold the law, but the policy of the Troy Police Department to turn a blind eye to them and dismiss the victim by telling them it was merely a "civil" matter and to seek civil remedy.

- 27) The Monell Doctrine protects cities, police departments and other local government agencies with a form of immunity, but only when the event in controversy is the act of individual officers or personnel who have deviated from official policy or doctrine. In this case, the Monell Doctrine does not apply as all officers involved were following a policy set forth by the Troy Police Department with regards to criminal complaints stemming from the mandatory mask policy. As such, the immunity that might otherwise be provided under the Monell Doctrine does not apply and the Troy Police Department may be sued civilly for its failure to uphold the law under MCL 752.11

REQUEST FOR RELIEF

Wherefore, Plaintiff respectfully requests that this court:

- a) Declare a determination of law on the legal interpretations in controversy. Once case is assigned to a judge, Plaintiff plans to motion for a request for a "Determination of Finding of Law" on said controversies of law cited in this complaint, accompanied with supporting brief and affidavits.
- b) Order the Troy Police Department to uphold the laws in controversy in this complaint on any future violations of Maximus Johnson's right to attend public school or Plaintiff's rights as a parent.
- c) Enter a reward of \$1 in damages in favor of the Plaintiff.
- d) Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

Ryan Johnson

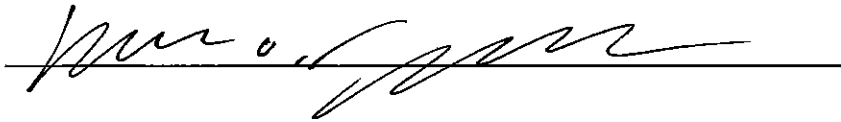
By:/s/ Ryan Johnson

4968 Flower Hill Dr

Troy, MI 48098

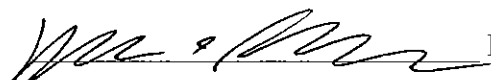
Plaintiff, in Pro Per

Dated: __9__/_22__/_2021__

A handwritten signature in black ink, appearing to read "Ryan Johnson", is written over a horizontal line.

VERIFICATION

I, Ryan Johnson, declare under the penalties of perjury that the statements in the above Verified Complaint have been examined by me and that its contents are true to the best of my information, knowledge, and belief.

 Ryan Johnson

Dated: September 22, 2021

EXHIBITS LIST

Exhibit A: MDHHS Order

Exhibit B: NIH 129 Study Review

Exhibit C: NIH 15 Minute OSHA Safety Limit Study

Exhibit D: Gainesville Mask Test

Exhibit E: Hypoxemia

Exhibit F: Carbon Dioxide

Exhibit G: Chalazion Eye Infections

~~**Exhibit H: [REDACTED]**~~

Exhibit I: Science Daily: Cloth Masks: Dangerous to your Health?

Exhibit J: Study Ineffectiveness of Masks