



CITY COUNCIL AGENDA ITEM

Date: April 14, 2011

To: Troy City Council Members

From: Lori Grigg Bluhm, City Attorney *LG*
Allan T. Motzny, Assistant City Attorney *ATM*

Subject: Michael Joseph Burns v City of Troy

Plaintiff Michael Joseph Burns filed the attached claim and delivery lawsuit against the City of Troy and the Troy Police Department. It has been filed in the 52-4 District Court and assigned to Judge Bolle. The Plaintiff is seeking return of a pistol that was turned over to the Troy Police Department by Plaintiff's wife, Debra Burns, who asked the Police Department to hold the gun until after the divorce proceedings are final. According to Ms. Burns, she was very concerned about her safety when the gun was in the house.

City Administration will continue to facilitate an arrangement, where the gun can be returned to Michael Burns, but pro-active measures are taken to protect Ms. Burns. This can be resolved in a claim and delivery lawsuit. There is a motion scheduled for April 21, 2011, so it is very possible that this matter will be resolved by that date. In the interim, the proposed resolution authorizes our office to represent the City's interests in this matter.

ATM/Litigation/file

Proposed Resolution:

RESOLVED, that the City Attorney's Office is hereby **DIRECTED** to defend the Troy Police Department in the *Michael Joseph Burns v. Troy Police Department* lawsuit, and is **AUTHORIZED** to pay reasonable and necessary costs and fees in the defense of the action.

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT <i>Judge Valle</i>	CASE NO. # 11 001157 G CO 30
Court address		Court telephone no.

Plaintiff's name(s), address(es), and telephone no(s).
 MICHAEL JOSEPH BUENT v
 2439 Red MAPLE EX
 TROY, MI 48098 248 875 8757

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

Defendant's name(s), address(es), and telephone no(s).
 TROY POLICE DEPT.
 500 W. BILBARGER
 TROY MI 48067

APR 06 2011 PM 03:09

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 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). (MCR 2.111(C))
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.

Issued 4-6-11	This summons expires 4-6-11	Court clerk <i>MO</i>
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*This summons is invalid unless served on or before its expiration date.
 This document must be sealed by the seal of the court.

COMPLAINT Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

Family Division Cases

There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases

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 _____ Court.

The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village) Troy	Defendant(s) residence (include city, township, or village) Troy
Place where action arose or business conducted Troy	

Date 4-6-11
 Signature of attorney/plaintiff *[Signature]*

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.

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	MOTION FOR POSSESSION PENDING JUDGMENT Claim and Delivery	CASE NO. 11CO11576CO
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Court address

Court telephone no.

Plaintiff name(s) and address(es)
 MICHAEL JOSEPH BURR
 2439 RED MAPLE DR
 TROY, MI 48098
 248 703 8757

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

Defendant name(s) and address(es)
 TROY Police Dept.
 500 W Big BEAVER
 TROY, MI 48068

APR 06 2011 10:03:08

MOTION

1. Plaintiff is lawfully entitled to possession of the following described property:

S & W #4 mm. 627 REVOLVER

2. The property may be damaged, destroyed, concealed, disposed of or used so as to substantially impair its value before final judgment, unless the property is taken into custody by court order, because: State facts

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2011 APR -6 P 2:50
52-4 JUDICIAL DISTRICT COURT
TROY, MI

3. Plaintiff moves for possession of the described property pending final judgment.

I declare that the statements above are true to the best of my information, knowledge, and belief.

4-6-11
Date

[Signature]
Plaintiff/Attorney

RESTRAINING ORDER AND ORDER TO APPEAR

TO THE DEFENDANT(S): IT IS ORDERED:

1. You shall refrain from damaging, destroying, concealing, disposing of or using so as to substantially impair its value, the property described above, until further order of the court.

2. You shall appear in court at the above address at _____

for a hearing on the motion on 4-21-11 at 9 AM to answer the motion.
Date Time

If you do not appear at the hearing the property may be taken from you.

4-6-11
Date

[Signature]
Judge Bar no.

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	COMPLAINT Claim and Delivery	CASE NO.
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Court address _____ Court telephone no. _____

Plaintiff(s)	Defendant(s)
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COMPLAINT

1. Plaintiff is lawfully entitled to possession of the following described property, with an estimated value of \$ 939. Describe property. SMITH & WESSON 94 MAGNUM MODEL 629

2. Property claimed is an independent piece of property; and/or a portion of divisible property of uniform kind, quality and value.
3. Plaintiff's basis and reason for claim is:

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2011 APR - 6 PM 2:10
52-4 DISTRICT COURT
TROY, MI

SUPPLEMENTAL COMPLAINT (if applicable)

4. This action is based upon a security agreement debt. Plaintiff claims the balance due of \$ _____ .
A copy of the security agreement is attached.

5. Plaintiff claims the following damages because of the defendant's unlawful taking or detention:

6. Plaintiff claims a judgment for the return of the described property, or for the value of the property, and also for damages in the amount of \$ _____ .

I declare that the statements above are true to the best of my information, knowledge, and belief.

4-6-11
Date

[Signature]
Signature of attorney/plaintiff

Bar no.

Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN
JUDICIAL DISTRICT
JUDICIAL CIRCUIT

Amended
COMPLAINT
Claim and Delivery

CASE NO.

11C01157GCO1

Court address

Court telephone no.

Plaintiff(s)	Defendant(s)
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COMPLAINT

1. Plaintiff is lawfully entitled to possession of the following described property, with an estimated value of \$ 489. Describe property: SMITH & WESSON GA. INTERUM

Model 629

ON 3/31 I PLANNED TO TAKE MY GUNS TO MY FATHERS WHO IS A RETIRED POLICE OFFICER FOR SAFEKEEPING. MY HANDGUN WAS MISSING, SO I TOOK MY SHOTGUN TO MY FATHERS. I FOUND OUT MY WIFE TOOK MY GUN AND WOULD NOT RETURN IT OR TELL ME WHERE IT WAS. I FILED A POLICE REPORT. MY WIFE

2. Property claimed is an independent piece of property; and/or a portion of divisible property of uniform kind, quality and value. TROY R.O.

3. Plaintiff's basis and reason for claim is:

62-4 DISTRICT COURT
TROY, MI
2011 APR -6 P 2:28
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APR 06 2011 11:09:09

SUPPLEMENTAL COMPLAINT (if applicable)

4. This action is based upon a security agreement debt. Plaintiff claims the balance due of \$ _____
A copy of the security agreement is attached.

5. Plaintiff claims the following damages because of the defendant's unlawful taking or detention:

6. Plaintiff claims a judgment for the return of the described property, or for the value of the property, and also for damages in the amount of \$ _____

I declare that the statements above are true to the best of my impression, knowledge, and belief.

4-6-11
Date

[Signature]
Signature of attorney/plaintiff Bar no.