

IN CIRCUIT COURT OF MONTEAU COUNTY  
STATE OF MISSOURI

RICHARD N. BARRY, )  
 )  
 Plaintiff, )  
 )  
 v. ) Case No. CV704-29CC  
 )  
 STATE OF MISSOURI, et al., )  
 )  
 Defendants. )

**Answer of Defendant State of Missouri to Plaintiff’s “Petition”**

The defendant State of Missouri answers the allegations contained in the Petition as follows:

1. The State lacks sufficient information to admit or deny the allegations contained in paragraph 1, and therefore denies them.
2. The State denies the allegations contained in paragraph 2.
3. The State admits the allegations contained in paragraph 3.
4. The State admits the allegations contained in paragraph 4.
5. With regard to the allegations contained in paragraph 5, the provisions of Mo. Const. art. X, sections 16 through 23 speak for themselves, and the State denies all allegations inconsistent therewith.
6. The State admits the allegations contained in paragraph 6.
7. The State lacks sufficient information to admit or deny the allegations contained in paragraph 7, and therefore denies them.

8. The allegations contained in paragraph 8, including subparts (a)-(e), are legal conclusions, and no answer is required. If an answer is required, the State denies the allegations contained in paragraph 8, including subparts (a)-(e).

9. The allegations contained in paragraph 9 are legal conclusions, and no answer is required. If an answer is required, the State denies the allegations contained in paragraph 9. Further, the State pleads that it has not sought to compel, or in any way threatened to seek to compel, Moniteau County to implement the permit application and approval process of the Concealed Carry Act.

WHEREFORE, the State denies all allegations that it has not specifically admitted.

WHEREFORE, the State denies that plaintiff is entitled to the relief that he requests, and asks that plaintiff's claims be dismissed, and for the entry of such other orders as are proper.

### **Affirmative Defenses**

Without prejudice to its previous denials, the State makes the following affirmative defenses:

1. Plaintiff has failed to state a claim on which relief can be granted.
2. The State of Missouri has not sought to compel, or in any way threatened to seek to compel, Moniteau County to implement the permit application and approval process of the Concealed Carry Act against any local government in Missouri.

Accordingly, this matter is not ripe for adjudication and thus this Court lacks subject matter jurisdiction to hear and determine plaintiff's claims.

3. The State's sovereign immunity precludes plaintiff's request for attorney fees.

4. The State reserves the right to plead such other affirmative defenses as may become known to it.

WHEREFORE, the State denies that plaintiff is entitled to the relief requested and asks that plaintiff's claims be dismissed, and for the entry of such other orders as are proper.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON  
Attorney General

PAUL C. WILSON  
Missouri Bar No. 40804  
Deputy Chief of Staff

ALANA M. BARRAGÁN-SCOTT  
Missouri Bar No. 38104  
Chief Counsel  
Assistant Attorneys General

Broadway State Office Building  
221 West High Street, 8th Floor  
Jefferson City, Missouri 65102  
(573) 751-3321  
(573) 751-8796 (facsimile)

ATTORNEYS FOR DEFENDANT STATE  
OF MISSOURI

## Certificate of Service

The undersigned hereby certifies that a copy of the foregoing was mailed, postage prepaid, on this 26<sup>TH</sup> day of April, 2004, to:

Burton Newman  
Lacks & Newman  
130 S. Bemiston, 8<sup>th</sup> Floor  
St. Louis, MO 63105  
Attorney for Plaintiff Barry

Richard C. Miller  
Monsees, Miller, Mayer, Presley & Amick, P.C.  
4717 Grand Avenue, Suite 820  
Kansas City, MO 64112  
Attorney for Plaintiff Barry

John T. Kay  
405 N. High St.  
California, MO 65018  
Attorney for Defendants Moniteau County and Sheriff Kenny Jones

Michael B. Minton  
Richard P. Cassetta  
Jason A. Wheeler  
Thompson Coburn LLP  
One U.S. Bank Plaza  
St. Louis, MO 63101  
Attorneys for Intervenor Larry Crawford

---

Assistant Attorney General