

IN CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

ST. LOUIS COUNTY, MISSOURI,)
 et al.,)
)
 Plaintiffs,)
)
 v.) Case No. 04CV323913
)
STATE OF MISSOURI,)
)
 Defendant.)

**State’s Suggestions in Opposition to Plaintiffs’
Motion for Summary Judgment**

Plaintiffs’ Motion for Summary Judgment fails to establish that Plaintiffs are entitled to judgment as a matter of law, and therefore their motion must be denied. *ITT Comm. Fin. Corp. v. Mid-America Marine Supp. Corp.*, 854 S.W.2d 381, 380 (Mo. banc 1993). Plaintiffs motion, and their suggestions in support thereof, raise no issues that were not addressed in the State’s Motion for Summary Judgment and Suggestion in Support, filed August 9, 2004. Accordingly, in response to Plaintiffs’ motion, the State incorporates as if fully set forth herein those suggestions, a copy of which is attached hereto for the Court’s convenience.

In addition, though the fact is immaterial, it should be noted the Plaintiffs’ assertion of the effective date of Section 571.101, RSMo (Cum. Supp. 2003), in Paragraph 1 of their Statements of Material Facts (dated August 9) is incorrect. The law did not become effective on September 11, 2003, as they allege. On September 11, 2003,

a super-majority of the General Assembly overrode a gubernatorial veto of the bills¹ that were later codified, in part, at §571.101; the bills did not contain an explicit effective date. Therefore, by operation of Mo. Const. art. III, §32, and §21.250, RSMo (Cum. Supp. 2003), the law was to go into effect 30 days after the override – on October 11, 2003. Of course, by then, the implementation and enforcement of the law had been enjoined by the St. Louis City Circuit Court, which injunction was not dissolved until the Supreme Court’s decision in *Brooks v. State of Missouri*, 128 S.W.3d 844 (Mo. banc Feb. 26, 2004), in which the Court upheld the constitutionality of the concealed weapons act, and removed all impediments to its implementation and enforcement.

WHEREFORE the defendant State of Missouri asks this Court to deny Plaintiffs’ motion for summary judgment, and to enter such other orders as this Court deems just and proper.

Respectfully submitted,

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¹ House Bills 349, 120, 136, and 328.

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Certificate of Service

The undersigned hereby certifies that a copy of the foregoing was mailed, postage prepaid, on this _____ day of September, 2004, to:

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