

LARIMER COUNTY DISTRICT COURT
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Fort Collins, CO 80521-2761
970-498-6100

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THE ROCKY MOUNTAIN GUN OWNERS, INC.,
P.O. Box 27, Windsor, CO 80550;

STUDENTS FOR CONCEALED CARRY ON CAMPUS AT CSU,

113 Lory Student Center, 8033 Campus Delivery,
Fort Collins, CO 80523;

D. RAY HICKMAN,
P.O. Box 27, Windsor, CO 80550;

C.J. WORTH,
P.O. Box 27, Windsor, CO 80550;

SETH STERN,
P.O. Box 50, Granby, CO 80446;

PLAINTIFFS.

v.

COLORADO STATE UNIVERSITY,
Fort Collins, CO 80523;

ANTHONY A. FRANK, COLORADO STATE UNIVERSITY PRESIDENT,
108 Administration Building
Fort Collins, CO 80523;

THE BOARD OF GOVERNORS OF COLORADO STATE UNIVERSITY,
410 17th Street, Suite 2440
Denver, CO 80202;

PATRICK MCCONATHY, Chairman of the Board of Governors of Colorado State University,
410 17th Street, Suite 2440
Denver, CO 80202;

ED HASELDEN, Member and Vice Chairman of the Board of Governors of Colorado State University
410 17th Street, Suite 2440
Denver, CO 80202;

▲ COURT USE ONLY ▲

Case Number:

Division: Courtroom:

MARGUERITE SALAZAR, Member and Treasurer of the Board of Governors of Colorado State University,
410 17th Street, Suite 2440
Denver, CO 80202;

BONIFACIO A. COSYLEON, Member and Secretary of the Board of Governors of Colorado State University,
410 17th Street, Suite 2440
Denver, CO 80202;

TOM FARLEY, Member of the Board of Governors of Colorado State University,
410 17th Street, Suite 2440
Denver, CO 80202;

JOHN IKARD, Member of the Board of Governors of Colorado State University,
410 17th Street, Suite 2440
Denver, CO 80202;

SCOTT C. JOHNSON, Member of the Board of Governors of Colorado State University,
410 17th Street, Suite 2440
Denver, CO 80202;

MARY LOU MAKEPEACE, Member of the Board of Governors of Colorado State University,
410 17th Street, Suite 2440
Denver, CO 80202;

JOSEPH C. ZIMLICH, Member of the Board of Governors of Colorado State University,
410 17th Street, Suite 2440
Denver, CO 80202;

DEFENDANTS.

Counsel for Plaintiffs:

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COMPLAINT

NOW COME the plaintiffs, and for their Complaint against defendants state as follows:

I. INTRODUCTION

1. This suit seeks declaratory and injunctive relief against defendants which seek to prohibit the free exercise of the People's rights to keep and bear arms including the concealed carry of firearms by persons duly licensed to do so on the campuses of the Colorado State University (hereinafter, "CSU"). Defendants have endeavored to deny such rights by adopting restrictive policies that forbid concealed carry of firearms even by persons licensed to do so, the possession of firearms in vehicles as permitted by Colorado law and the legal possession of firearms on the CSU campus (hereinafter the "Weapons Policy").
2. This Court has jurisdiction over Plaintiffs' claims for relief pursuant to article VI, § 9 of the Colorado Constitution and Colorado's laws governing the concealed carry of firearms. Additionally, the Court may enter declaratory judgment pursuant to Colorado's Declaratory Judgment Act, CRS 13-51-101, *et seq.* Venue is proper because defendants reside in or have their principle place of business in Larimer County, Colorado.
3. Plaintiff Rocky Mountain Gun Owners (hereinafter, "RMGO") is a Colorado nonprofit corporation which actively promotes the protection of rights secured by the Second Amendment to the United States Constitution (the right to keep and bear arms). RMGO has its principle place of business in Larimer County, Colorado.
4. Plaintiff Students for Concealed Carry on Campus at CSU ("SCCC"), is an unincorporated association properly organized and sanctioned by CSU. SCCC has its principal place of business in Ft. Collins, Colorado and its president is Tim Campbell who has a valid concealed carry permit. The purposes of SCCC include securing through education, outreach, and litigation the constitutional and statutory right to privately own, possess, and

carry firearms within Colorado. SCCC brings this action on behalf of itself and its members.

5. Plaintiff D. Ray Hickman is a resident of Colorado who does business with CSU and, in the course of that business, is often on the CSU campus in Ft. Collins. Mr. Hickman has a valid concealed carry permit and carries a weapon for personal protection. When the CSU Weapons Policy becomes effective, his right to carry a weapon on the CSU campus will be infringed.
6. Plaintiff C.J. Worth is a student at CSU who is licensed to carry a concealed weapon in accordance with Colorado law.
7. Plaintiff Seth Jacob Stern is a student at CSU who is licensed to carry a concealed weapon in accordance with Colorado law.
8. Defendant Colorado State University is an institution of higher education organized under the Constitution and laws of the State of Colorado and has campuses in Ft. Collins, Colorado and Pueblo, Colorado.
9. Defendant CSU Board of Governors (hereinafter, "BOG") is a group of appointed officials deriving their authority under CRS 23-30-102. The BOG is authorized by law to raise revenues for the operation of CSU, to acquire and hold property and to hire and fire the president of CSU.
10. Defendant Anthony A. Frank is the president of CSU. Mr. Frank maintains an office on the campus of CSU in Fort Collins, Colorado.
11. Defendant, Patrick McConathy is a member of and Chairman of the CSU Board of Governors ("BOG"). Mr. McConathy was appointed to his position by the Governor of the State of Colorado and is sued in his official capacity.

12. Defendant, Ed Haselden is a member of and Vice-Chairman of the BOG. Mr. Haselden was appointed to his position by the Governor of the State of Colorado and is sued in his official capacity.
13. Defendant, Marguerite Salazar is a member of and Treasurer of the BOG. Ms. Salazar was appointed to her position by the Governor of the State of Colorado and is sued in her official capacity
14. Defendant, Bonifacio A. Cosyleon, is a member of and Secretary of the BOG. Mr. Cosyleon was appointed to his position by the Governor of the State of Colorado and is sued in his official capacity.
15. Defendant, Tom Farley, is a member of the BOG. Mr. Farley was appointed to his position by the Governor of the State of Colorado and is sued in his official capacity
16. Defendant John Ikard is a member of the BOG. Mr. Ikard was appointed to his position by the Governor of the State of Colorado and is sued in his official capacity
17. Defendant, Scott C. Johnson, is a member of the BOG. Mr. Johnson was appointed to his position by the Governor of the State of Colorado and is sued in his official capacity
18. Defendant, Mary Lou Makepeace, is a member of the BOG. Ms. Makepeace was appointed to her position by the Governor of the State of Colorado and is sued in her official capacity
19. Defendant Joseph C. Zimlich is a member of the BOG. Mr. Zimlich was appointed to his position by the Governor of the State of Colorado and is sued in his official capacity.

II. FACTUAL BACKGROUND

20. On December 4, 2009, the BOG ordered President Frank to draft a policy prohibiting the possession or carrying of firearms on the CSU campus.
21. President Frank did as he was told and on January 20, 2010 promulgated a draft Weapons Policy which bans the concealed carry of any gun on the CSU campus, bans vehicular carry of weapons and bans possession of a gun by anyone (with exceptions for law enforcement and a few others) on campus (copy of the Weapons Policy attached as Exhibit 1).
22. On February 23, 2010, the BOG adopted the draft Weapons Policy essentially as proposed and directed President Frank to implement the policy on August 1, 2010.
23. On August 1, 2010, the CSU Weapons Policy will deny right of plaintiffs possessing properly issued concealed carry permits from carrying a concealed weapon on the CSU campuses. The Weapons Policy also obviates the right of plaintiffs and virtually every other Colorado resident to carry a weapon in their vehicles for personal protection while traveling. The Weapons Policy also prohibits the open carry of firearms on campus, an act which is not prohibited by existing Colorado law.

III. COUNT I

(The BOG's Weapons Policy is preempted.)

24. Plaintiffs incorporate paragraphs 1–23 above as if the same were set forth fully herein.
25. C.R.S. §§ 18-12-201, *et seq.*, create a uniform statewide standard for issuance and use of permits to carry concealed handguns and prohibit local regulations of concealed carry that conflict with the letter and purpose of the statute.

26. C.R.S. § 18-12-201(3) provides that “[a]n action or rule that encumbers the permit process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in [C.R.S. §§ 18-12-201 to -216] or that creates restrictions beyond those specified in (C.R.S. §§ 18-12-201, *et seq.*) is in conflict with the intent of (C.R.S. §§ 18-12-201, *et seq.*) and is prohibited.”
27. C.R.S. § 18-12-204(1)(b) provides that a concealed handgun permit “is effective in all areas of the state, except as otherwise provided in section 18-12-214.”
28. C.R.S. § 18-12-214 authorizes a concealed handgun permittee to carry a concealed handgun “in all areas of the state, except as specifically limited in this section.”
29. Although § 18-12-214 limits a permittee’s authority to carry a concealed handgun on the property of “a public elementary, middle, junior high, or high school,” it does not limit a permittee’s authority to carry on the property of a public university.
30. The adoption by defendants of the Weapons Policy conflicts with existing Colorado law and is, therefore, preempted by the aforementioned Colorado Revised Statutes.
31. The BOG’s Weapons Policy is in direct conflict with the express and implied statutory rights to carry a concealed weapon under Colorado law.
32. The BOG’s Weapons Policy deprives Plaintiffs of rights and privileges guaranteed by C.R.S. §§ 18-12-201, *et seq.*
33. Plaintiffs are therefore entitled to an order holding unlawful and setting aside the BOG’s Weapons Policy and permanent injunctive relief against continued enforcement and maintenance of the BOG’s Weapons Policy.

IV. COUNT II
(The BOG lacks authority.)

34. Plaintiffs incorporate paragraphs 1–33 above as if the same were set forth fully herein.

35. The State of Colorado has enacted a comprehensive statutory scheme to regulate and control the concealed carry of firearms in this state. C.R.S. §§ 18-12-201, *et seq.*
36. The BOG is constituted as a body corporate of the State of Colorado and derives its authority from CRS 23-31-103 which provides that the BOG “has plenary power to adopt all such ordinances, bylaws, and regulations, not in conflict with the law” (emphasis supplied).
37. The BOG’s Weapons Policy directly conflicts with Colorado law and, pursuant to CRS 23-31-103, the BOG is without authority to enact the Weapons Policy.
38. Plaintiffs are therefore entitled to an order holding unlawful and setting aside the BOG’s Weapons Policy and declaratory and permanent injunctive relief against continued enforcement and maintenance of the BOG’s Weapons Policy.

V. COUNT III

(The BOG Weapons Policy is unconstitutional.)

39. Plaintiffs incorporate paragraphs 1–38 above as if the same were set forth fully herein.
40. Both the Colorado Constitution (Article II, § 13) and the Constitution of the United States (Second Amendment) guarantee the rights of the people of Colorado to keep and bear arms.
41. The BOG Weapons Policy seeks to infringe those rights.
42. Accordingly, the BOG Weapons Policy is illegal, unconstitutional and unenforceable.
43. Plaintiffs are therefore entitled to an order holding unlawful and setting aside the BOG Weapons Policy and declaratory and permanent injunctive relief against continued enforcement and maintenance of the BOG’s Weapons Policy.

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Declare that the CSU Weapons Policy violates Colorado Revised Statutes §§ 18-12-201, *et seq*;
2. Declare that the CSU Weapons Policy violates Article II, 13 of the Colorado Constitution and the Second Amendment to the United States Constitution;
3. Issue an order holding unlawful and setting aside the CSU Weapons Policy;
4. Permanently enjoin Defendants from enforcing the CSU Weapons Policy;
5. Award costs and attorney fees in accordance with law; and
6. Award any other further relief the Court deems just and appropriate.

Respectfully submitted,

/s/ Terrance L. Ryan
Terrance L. Ryan (40009)
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