

**IN THE 45th JUDICIAL CIRCUIT COURT
LINCOLN COUNTY
STATE OF MISSOURI**

STATE OF MISSOURI, <i>ex rel.</i>)	
Attorney General ERIC S. SCHMITT,)	
)	
Petitioner,)	
)	
v.)	Case No.
)	
CITY OF MOSCOW MILLS,)	
MISSOURI)	
)	
Respondent.)	

PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF

Petitioner, State of Missouri, at the relation of Attorney General Eric S. Schmitt, brings this Petition and upon information and belief states as follows:

Nature of the Action

1. The era of “taxation by citation” ended in the State of Missouri with the passage of Senate Bill 5 in 2015, Senate Bill 572 in 2016, and Senate Bill 765 in 2016. Before these laws, various municipalities were treating citizens as nothing more than ATMs. Among other things, these laws began the process of reestablishing trust in municipal courts by prohibiting municipalities from setting traffic ticket quotas for the purpose of generating revenue and supporting bloated governments. The laws protect Missouri citizens—especially our least fortunate citizens—from oppressive ticketing practices and nefarious revenue-generating tactics. The Attorney General of Missouri has received credible information that the City of Moscow Mills, Missouri, and its Chief of Police, Terry Foster, are flagrantly violating these prohibitions. On

information and belief, the City of Moscow Mills and its Chief of Police are encouraging their police officers to write a minimum number of tickets every month for the purpose of generating additional municipal revenue. The Attorney General seeks immediate declaratory and injunctive relief to put an end to this unlawful practice.

Parties

2. Eric S. Schmitt is the Attorney General of the State of Missouri and brings this action in his official capacity pursuant to Chapter 27, RSMo. Section 27.060, RSMo, provides that the “attorney general shall institute, in the name and on behalf of the state, all civil suits and other proceedings at law or equity requisite or necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary[.]”

3. As the Supreme Court of Missouri has explained, “The attorney general has the authority ‘to seek enforcement of the legislature’s statutory purpose.’” *State ex rel. Hawley v. Pilot Travel Centers, LLC*, 558 S.W.3d 22, 30 (Mo. banc 2018), quoting *Fogle v. State*, 295 S.W.3d 504, 510 (Mo. App. W.D. 2009).

4. The “Attorney General, both because of his statutory and common law powers, is a proper party to bring an action for the state ... which would prevent injury to the general welfare.” *State ex. rel. Taylor v. Wade*, 231 S.W.2d 179, 182 (Mo. banc 1950).

5. In addition, the Attorney General has common law authority to seek equitable relief and enforce the provisions and statutory purposes of §§ 304.125 and 575.320, RSMo. “If there were no other remedy for a great wrong, and public justice and individual rights were likely to suffer for want of a prosecutor capable of pursuing the wrongdoer and redressing the wrong, the courts would ... find authority for the attorney general to intervene in the name of the people.” *State ex rel. Nixon v. Am. Tobacco Co.*, 34 S.W.3d 122, 135 (Mo. banc 2000), quoting *State ex. rel. McKittrick v. Missouri Public Service Comm’n*, 175 S.W.2d 857, 864–65 (Mo banc 1943).

6. Respondent City of Moscow Mills, Missouri (herein, “City of Moscow Mills”) is a municipal corporation located in Lincoln County, Missouri.

Jurisdiction and Venue

7. This Court has subject matter and personal jurisdiction over this action under Art. V, § 14 of the Missouri Constitution and § 506.500, RSMo.

8. Venue is proper in this Court pursuant to § 508.050, RSMo.

9. This court may grant declaratory relief pursuant to § 527.010, RSMo, and injunctive relief pursuant to § 526.010, RSMo.

Senate Bill 765 and Misconduct in the Administration of Justice

10. In 2016, the Missouri General Assembly passed Senate Bill 765, which enacted § 304.125, RSMo, and amended § 575.320, RSMo.

11. Section 304.125, RSMo, provides in relevant part: “No political subdivision or law enforcement agency shall have a policy requiring or encouraging

an employee to issue a certain number of citations for traffic violations on a daily, weekly, monthly, quarterly, yearly, or other quota basis.”

12. Section 575.320.1, RSMo, provides in pertinent part:

A public servant, in his or her public capacity or under color of his or her office or employment, commits the offense of misconduct in administration of justice if he or she ... (6) Orders or suggests to an employee of a political subdivision that such employee shall issue a certain number of traffic citations on a daily, weekly, monthly, quarterly, yearly, or other quota basis or that such employee shall increase the number of traffic citations that he or she is currently issuing.

13. In passing Senate Bill 765, the General Assembly intended to limit the ability of municipalities to finance their operations by issuing traffic citations and to hold municipalities and their employees accountable when they establish policies that encourage “taxation by citation.”

Allegations of Official Misconduct

14. In 2021, the Office of the Missouri Attorney General obtained credible information of violations of Missouri law committed by Respondent from whistleblowers familiar with the police department’s internal operations.

The Traffic Ticket Quota Scheme

15. On information and belief, the City of Moscow Mills and the Moscow Mills Police Department created a new “traffic enforcement officer” position in 2013.

16. On information and belief, the new traffic enforcement officer position was first created as a volunteer position and later added as a part-time position under the assumption that it would pay for its own salary with ticket citation revenue.

17. On information and belief, Chief of Police Terry Foster, on behalf of the City of Moscow Mills, has given instructions to the traffic enforcement officer to write at least ten (10) citations per day, while remaining officers have been given instructions to write a minimum of five (5) citations per month. At all times relevant in this Petition, the Chief of Police was acting on behalf of the City of Moscow Mills and the Moscow Mills Police Department.

18. On information and belief, the Chief of Police has given instructions to the traffic enforcement officer to write at least 160 citations per month – excluding December and January – in order to secure \$160,000 in court citation revenue per year.

19. On information and belief, the Chief of Police assumed each citation would average \$100.

20. The City of Moscow Mills, Missouri 2021 Budget, Ordinance No. 928, included a line item of \$160,000 for “Court Fine Revenue.” *See Exhibit 1.*

21. On information and belief, the Chief of Police has told employees that they are behind on their citation count and need to issue more citations.

22. On information and belief, the Chief of Police discourages the practice of giving warnings for traffic violations instead of citations. He has stated, “warnings don’t help us.”

23. On information and belief, the Chief of Police has informed department officers that failure to produce sufficient citation revenue would result in layoffs and lost jobs.

24. On information and belief, the Chief of Police has reprimanded, and even threatened to fire, officers for failure to produce more traffic citations.

25. On information and belief, the Chief of Police is motivated not by a concern for public safety, but rather to generate revenue for the City of Moscow Mills.

26. Through this conduct, the Chief of the Police and the City of Moscow Mills' conduct required or encouraged City of Moscow Mills' employees to issue a certain number of traffic citations on a quota basis in violation of the law.

Disregard for the Law

27. On information and belief, shortly after the passage of SB 5, SB 572, and SB 765, an officer employed by the Moscow Mills Police Department notified the Chief of Police that it was illegal to require or suggest an officer issue a certain number of traffic citations within a certain period of time.

28. On information and belief, Section 500.3 of the Moscow Mills Policy Department Policy Manual provides in pertinent part: "This department does not establish ticket quotas and the number of traffic citations issued by any officer shall not be used as criterion for evaluating officer overall performance. No officer shall be asked to increase their issuance of traffic citations or meet a quota (§ 575.320, RSMo; §304.125, RSMo)."

29. On information and belief, the Chief of Police intentionally violates the Moscow Mills Department Policy Manual by instituting a ticket quota.

30. On information and belief, the Chief of Police pressures senior officers to coach newer officers to issue a certain number of traffic citations to provide him

potential legal defenses if his quota scheme were ever to be exposed because he believes Missouri law precludes him from encouraging such action himself.

31. On information and belief, the Chief of Police has discussed with the City of Moscow Mills the implications of violating §§ 575.320 and 304.125, RSMo, and has been reassured that there will be no employment repercussions for him if he is found to have violated such laws.

32. On information and belief, the Chief of Police knows and understands that ticket quotas are illegal under Missouri law.

33. On information and belief, the Chief of Police continues to encourage officers to issue a certain number of traffic citations.

Efforts to Silence Whistleblowers

34. On information of belief, an officer employed by the Moscow Mills Police Department approached Mayor Patrick Flannigan of the City of Moscow Mills to discuss concerns about the ticket quota scheme.

35. On information and belief, when the Chief of Police learned that this officer met with the Mayor, he responded, “one way or another, [this officer] is [explicative] gone.”

36. On information and belief, two weeks later, the Chief of Police terminated this officer’s employment.

Count I – Request for Declaratory Judgment

37. Petitioner incorporates by reference all preceding paragraphs.

38. On information and belief, the City of Moscow Mills, Missouri, has engaged and continues to engage in methods, acts, uses, or practices that violate §§ 304.125 and 575.320, RSMo, by establishing a policy requiring or encouraging employees to issue a certain number of traffic citations.

39. Accordingly, Petitioner is entitled to an order pursuant to §§ 527.010 and 527.020, RSMo, declaring that the City of Moscow Mills is in violation of §§ 304.125 and 575.320, RSMo, because the people of Missouri's rights, status, and legal relations are affected by Respondent's non-compliance with Missouri statutes, and the legislative purpose in enacting those provisions has been frustrated by Respondent's unlawful conduct.

WHEREFORE, Petitioner State of Missouri ex rel. Attorney General Eric S. Schmitt, prays this Court for an Order declaring that the City of Moscow Mills, Missouri, has violated and is continuing to violate §§ 304.125 and 575.320, RSMo. The Attorney General further requests an award of the costs and reasonable attorneys' fees incurred to bring this action, plus such additional relief as this court deems just and proper under these circumstances.

Count II – Request for Injunctive Relief

40. Petitioner incorporates by reference all preceding paragraphs.

41. On information and belief, the City of Moscow Mills, Missouri, has engaged and continues to engage in methods, acts, uses, or practices that violate §§ 304.125 and 575.320, RSMo, by establishing a policy requiring or encouraging employees to issue a certain number of traffic citations.

42. Accordingly, Petitioner is entitled to injunctive relief pursuant to § 526.010, RSMo, prohibiting the City of Moscow Mills from its continued violations of §§ 304.125 and 575.320, RSMo, because the people of Missouri's rights are threatened, an adequate remedy cannot be afforded by an action for damages, the legislative purpose in enacting these provisions has been frustrated by Respondent's unlawful conduct, and Petitioner and the people of Missouri will be irreparably harmed in the absence of injunctive relief.

WHEREFORE, Petitioner State of Missouri ex rel. Attorney General Eric S. Schmitt, prays this Court for a preliminary and permanent injunction prohibiting the City of Moscow Mills, Missouri, from continued violation of §§ 304.125 and 575.320, RSMo. The Attorney General further requests an award of the costs and reasonable attorneys' fees incurred to bring this action, plus such additional relief as this court deems just and proper under these circumstances.

Respectfully submitted,

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