

342-350424-24

CAUSE NO. \_\_\_\_\_

**KEN PAXTON, ATTORNEY  
GENERAL OF TEXAS,  
*Plaintiff,***

v.

**MEOW WOLF DALLAS, LLC,  
D/B/A MEOW WOLF GRAPEVINE  
*Defendant.***

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**IN THE DISTRICT COURT OF**

**TARRANT COUNTY, TEXAS**

**\_\_\_\_ JUDICIAL DISTRICT**

**PLAINTIFF'S ORIGINAL PETITION FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF**

TO THE HONORABLE COURT:

COMES NOW Ken Paxton, Attorney General of Texas, and files this Original Petition seeking penalties under Tex. Code Crim. P. art. 2.1305 and injunctive relief. In support thereof, the Attorney General would respectfully show the Court as follows:

**I. DISCOVERY CONTROL PLAN**

1.1 In accordance with Tex. R. Civ. P. 190.1, discovery in this case is intended to be conducted under Level 2 of the discovery control plan provided by Tex. R. Civ. P. 190.3.

**II. JURISDICTION AND VENUE**

2.1 Plaintiff seeks monetary relief of \$250,000 or less and non-monetary relief. *See*, Tex. R. Civ. P. 47(c). The relief sought is within the jurisdiction of this court. Tex. Const. art. V, § 8, Tex. Gov't Code Ann. §§ 24.007 and 24.008, and Tex. Civ. Prac. & Rem. Code Ann. § 65.021(a).

2.2 Venue is proper in Tarrant County, Texas as the events and omissions

that give rise to plaintiff's claims and request for relief occurred in Tarrant County. Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a)(1). Venue is also proper in Tarrant County as this is where the defendant is conducting its business. *See gen.*, Tex. Civ. Prac. & Rem. Code Ann. § 65.023.

### **III. PARTIES**

3.1 Plaintiff Ken Paxton, the Attorney General of Texas, is authorized to enforce Tex. Code Crim. Proc. art. 2.1305. Tex. Code Crim. Proc. art. 2.1305(c).

3.2 Defendant Meow Wolf Dallas, LLC d/b/a Meow Wolf Grapevine ("Meow Wolf") is a foreign limited liability company. (Defendant was organized and incorporated in Delaware and has its principal office in New Mexico.) Defendant may be served with process by serving its registered agent, United Corporate Services, Inc., 815 Brazos St., Suite 560, Austin, Texas 78701.

### **IV. CAUSE OF ACTION**

4.1 Tex. Code Crim. Proc. Ann. art. 2.1305 prohibits certain establishments serving the public from restricting a peace officer from carrying a weapon the officer is otherwise authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying a weapon.

4.2 Meow Wolf Grapevine is located in the Grapevine Mills Mall at 3000 Grapevine Mills Parkway, Suite 253, Grapevine, Tarrant County, Texas 76051. Meow Wolf is an establishment of explorable immersive art.

4.3 Since September 1, 2017, Tex. Code Crim. Proc. Ann. art. 2.1305 has provided that a place of public accommodation, amusement or convenience, to which

the general public is regularly invited, may not prohibit or restrict a peace officer from carrying on the establishment's premises a weapon that the peace officer is authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying the weapon.

4.4 Meow Wolf is an "establishment serving the public" as defined by Tex. Code Crim. Proc. Ann. art. 2.1305, because it is a place where food is offered for sale to the public; a retail business or other commercial establishment to which the public is invited; or a place of public accommodation, amusement, or convenience to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

4.5 An establishment serving the public that violates art. 2.1305, is subject to a civil penalty in the amount of \$1,000 for each violation. Tex. Code Crim. Proc. Ann. art. 2.1305(c).

4.6 From at least July 2023 to the present, the defendant has prohibited and restricted off duty peace officers from entering its establishment with a weapon that such peace officers were authorized to carry.

4.7 On July 14, 2023, off duty peace officer Daniel Harris (SWAT team Sergeant with the Dallas Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment. This occurred even though Sergeant Harris told the defendant's Director of Security Tony Perkins, about Tex. Code of Crim. Proc. Ann. art. 2.1305.

4.8 On July 17, 2023, off duty peace officer Eric Perkins (Deputy Chief of

Police River Oaks Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment. This occurred even though Deputy Chief Perkins told the defendant's Safety and Security Manager, Niketa Watson about the law allowing him to carry. Ms. Watson said she was familiar with the law and that only on duty officers were allowed to carry a weapon into Meow Wolf.

4.9 The Attorney General wrote to the Meow Wolf Grapevine, Director of Security Tony Perkins, in an effort to secure a commitment to comply with the law. The responsive email from Tony Perkins on behalf of the defendant was received on July 25, 2023, thanking the Attorney General's Office for its letter, and referencing that the defendant had updated its policies.

4.10 Despite this, on November 18, 2023, off duty peace officer Scott Vance (Corporal with the Sherman Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment. This occurred even though Corporal Vance produced photo identification and his peace officer credentials and requested that they contact the Sherman Police Department to verify that he was an officer.

## **V. PENALTIES AND PERMANENT INJUNCTIVE RELIEF**

5.1 Tex. Code Crim. Proc. Ann. art. 2.1305(c) states that an establishment serving the public that violates art. 2.1305 is subject to a civil penalty in the amount of \$1,000 for each violation and that money collected by the attorney general is to be deposited in the state treasury to the credit of the general revenue fund.

5.2 Due to nonsubstantive revisions of certain provisions in the Texas Code of Criminal Procedure during the 88<sup>th</sup> Legislative Session, Tex. Code Crim. Proc. Ann. art. 2.1305 will be repealed effective January 1, 2025, and will thereafter be known as Tex. Code Crim. Proc. Ann. art. 2A.052.

5.3 Plaintiff has a statutory right to an award of penalties. Defendant has shown a continued disregard for state law, which is prejudicial to the state's interest in protecting the public from criminal activity and harm. Irreparable injury to Texas citizens, persons and property is threatened, irrespective of the imposition of penalties against this defendant. Under the principles of equity, after an evidentiary hearing or trial and upon the entry of a judgment, the court should permanently enjoin the defendant from continuing to violate the Tex. Code Crim. Proc. Ann. art. 2.1305. *See*, Tex. Civ. Prac. & Rem. Code § 65.001 and Tex. R. Civ. P. 693.

## **VI. ATTORNEY'S FEES**

6.1 Pursuant to Texas Government Code section 402.006(c), the Attorney General is entitled to, and hereby requests, reasonable attorney's fees and court costs.

## **VII. PRAYER**

WHEREFORE, plaintiff requests that he be awarded penalties, investigative costs, witness fees, court costs, reasonable attorney's fees in prosecuting this case through trial and, if necessary, through appeal, and that upon final trial, judgment against the defendant for full permanent injunctive relief issue, and for such other

and further relief, at law or in equity, to which the plaintiff may show himself justly entitled.

Respectfully, submitted,

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

JAMES LLOYD  
Deputy Attorney General for Civil Litigation

ERNEST C. GARCIA  
Chief, Administrative Law Division

*/s/Ernest C. Garcia*


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ATTORNEYS FOR PLAINTIFF

UNSWORN DECLARATION / JURAT

My name is Roger Mason Richmond, and I am an employee / investigator of the following governmental agency: Office of the Attorney General, Administrative Law Division, located at 300 W. 15<sup>th</sup> Street, Austin, Texas 78701. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing factual statements in the Petition are true and correct.

Executed in Travis County, Texas on this the 21<sup>st</sup> day of February, 2024.

  
\_\_\_\_\_  
Roger Mason Richmond  
Declarant

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Associated Case Party: Ken Paxton

Name	BarNumber	Email	TimestampSubmitted	Status
Ernest Garcia		ernest.garcia@oag.texas.gov	2/21/2024 4:47:58 PM	SENT
Austin Havens		Austin.Havens@oag.texas.gov	2/21/2024 4:47:58 PM	SENT
Paul Pruneda		paul.pruneda@oag.texas.gov	2/21/2024 4:47:58 PM	SENT



CAUSE NO. \_\_\_\_\_

**KEN PAXTON, ATTORNEY  
GENERAL OF TEXAS,  
*Plaintiff,***

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**IN THE DISTRICT COURT OF**

v.

**BEXAR COUNTY, TEXAS**

**LE BAJEC LE, LLC d/b/a  
THE LUCKY DUCK,  
*Defendant.***

**\_\_\_\_ JUDICIAL DISTRICT**

**PLAINTIFF’S ORIGINAL PETITION FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF**

TO THE HONORABLE COURT:

COMES NOW Ken Paxton, Attorney General of Texas, and files this Original Petition seeking penalties under Tex. Code Crim. Proc. Ann. art. 2.1305 and injunctive relief. In support thereof, the Attorney General would respectfully show the Court as follows:

**I. DISCOVERY CONTROL PLAN**

1.1 In accordance with Tex. R. Civ. P. 190.1, discovery in this case is intended to be conducted under Level 2 of the discovery control plan provided by Tex. R. Civ. P. 190.3.

**II. JURISDICTION AND VENUE**

2.1 Plaintiff seeks monetary relief of \$250,000 or less and non-monetary relief. *See*, Tex. R. Civ. P. 47(c). The relief sought is within the jurisdiction of this court. Tex. Const. art. V, § 8, Tex. Gov’t Code Ann. §§ 24.007 and 24.008, and Tex. Civ. Prac. & Rem. Code Ann. § 65.021(a).

2.2 Venue is proper in Bexar County, Texas as the events and omissions

that give rise to plaintiff's claims and request for relief occurred in Bexar County. Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a)(1). Venue is also proper in Bexar County as this is where the defendant is conducting its business. *See gen.*, Tex. Civ. Prac. & Rem. Code Ann. § 65.023.

### **III. PARTIES**

3.1 Plaintiff Ken Paxton, the Attorney General of Texas, is authorized to enforce Tex. Code Crim. Proc. Ann. art. 2.1305. Tex. Code Crim. Proc. Ann. art. 2.1305(c).

3.2 Defendant Le Bajec Le, LLC d/b/a The Lucky Duck ("The Lucky Duck") is a domestic limited liability company. Defendant may be served with process by serving its registered agent, ZenBusiness, Inc., 5511 Parkcrest Dr., Suite 103, Austin, Texas 78731, and/or its president, director, and principal owner Michael Bajec, 302 Esperanza Drive, Buda, Texas 78610.

### **IV. CAUSE OF ACTION**

4.1 Tex. Code Crim. Proc. Ann. art. 2.1305 prohibits certain establishments serving the public from restricting a peace officer from carrying a weapon the officer is otherwise authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying a weapon.

4.2 The Lucky Duck is located at 810 North Alamo Street, San Antonio, Bexar County, Texas 78215. The Lucky Duck claims that it stands for community and good fortune, is curated for the enjoyment of everyone, with craft cocktails for diverse day and nighttime activities, live music, and karaoke.

4.3 Since September 1, 2017, Tex. Code Crim. Proc. Ann. art. 2.1305 has provided that a place of public accommodation, amusement or convenience, to which the general public is regularly invited, may not prohibit or restrict a peace officer from carrying on the establishment's premises a weapon that the peace officer is authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying the weapon.

4.4 The Lucky Duck is an "establishment serving the public" as defined by Tex. Code Crim. Proc. Ann. art. 2.1305, because it is a place where food is offered for sale to the public on some occasions; a retail business or other commercial establishment to which the public is invited; or a place of public accommodation, amusement, or convenience to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

4.5 An establishment serving the public that violates art. 2.1305, is subject to a civil penalty in the amount of \$1,000 for each violation. Tex. Code Crim. Proc. Ann. art. 2.1305(c).

4.6 From at least 2022 to the present, the defendant has prohibited and restricted off duty peace officers from entering its establishment with a weapon that such peace officers were authorized to carry.

4.7 On July 10, 2022, off duty peace officer Joel Zulaica (of the San Antonio Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment. This occurred even though officer Zulaica showed them the text of Tex. Code Crim. Proc. Ann. art. 2.1305.

4.8 The Attorney General wrote to Le Bajec Le, LLC c/o owner Michael Bajec, 302 Esperanza Drive, Buda, Texas 78610, in an effort to secure a commitment to comply with the law. Defendant's responsive email, received on February 22, 2023, stated "[a]ll our staff is aware of the rules regarding this issue, and we have reaffirmed that training since receiving this letter. We have always and will always comply with these rules."

4.9 Despite this, on December 31, 2023, off duty peace officer Eric Kaiser (Chief of Police of the Jourdanton Police Department) was prohibited by the defendant's manager from carrying his authorized weapon into the defendant's establishment. Officer Kaiser had paid the defendant \$300 to attend a New Year's Eve event (with his spouse and another couple) at The Lucky Duck, was denied entry, and was told that he had forfeited the \$300 he had pre-paid for their reservation.

## **V. PENALTIES AND PERMANENT INJUNCTIVE RELIEF**

5.1 Tex. Code Crim. Proc. Ann. art. 2.1305(c) states that an establishment serving the public that violates art. 2.1305 is subject to a civil penalty in the amount of \$1,000 for each violation and that money collected by the attorney general is to be deposited in the state treasury to the credit of the general revenue fund.

5.2 Due to nonsubstantive revisions of certain provisions in the Texas Code of Criminal Procedure during the 88<sup>th</sup> Legislative Session, Tex. Code Crim. Proc. Ann.

art. 2.1305 will be repealed effective January 1, 2025, and will thereafter be known as Tex. Code Crim. Proc. Ann. art. 2A.052.

5.3 Plaintiff has a statutory right to an award of penalties. Defendant has shown a continued disregard for state law, which is prejudicial to the state's interest in protecting the public from criminal activity and harm. Irreparable injury to Texas citizens, persons and property is threatened, irrespective of the imposition of penalties against this defendant. Under the principles of equity, after an evidentiary hearing or trial and upon the entry of a judgment, the court should permanently enjoin the defendant from continuing to violate the Tex. Code Crim. Proc. Ann. art. 2.1305. *See*, Tex. Civ. Prac. & Rem. Code Ann. § 65.001 and Tex. R. Civ. P. 693.

#### **VI. ATTORNEY'S FEES**

6.1 Pursuant to Texas Government Code section 402.006(c), the Attorney General is entitled to, and hereby requests, reasonable attorney's fees and court costs.

#### **VII. PRAYER**

WHEREFORE, plaintiff requests that he be awarded penalties, investigative costs, witness fees, court costs, reasonable attorney's fees in prosecuting this case through trial and, if necessary, through appeal, and that upon final trial, judgment against the defendant for full permanent injunctive relief issue, and for such other

and further relief, at law or in equity, to which the plaintiff may show himself justly entitled.

Respectfully, submitted,

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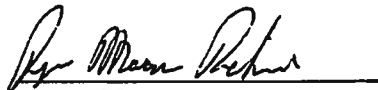
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ATTORNEYS FOR PLAINTIFF

UNSWORN DECLARATION / JURAT

My name is Roger Mason Richmond, and I am an employee / investigator of the following governmental agency: Office of the Attorney General, Administrative Law Division, located at 300 W. 15<sup>th</sup> Street, Austin, Texas 78701. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing factual statements in the Petition are true and correct.

Executed in Travis County, Texas on this the 21<sup>st</sup> day of February, 2024.

  
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Roger Mason Richmond  
Declarant

CAUSE NO. \_\_\_\_\_

**KEN PAXTON, ATTORNEY  
GENERAL OF TEXAS,  
*Plaintiff,***

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**IN THE DISTRICT COURT OF**

v.

**DALLAS COUNTY, TEXAS**

**ANSCHUTZ TEXAS, L.P. d/b/a  
TEXAS TRUST CU THEATRE  
AT GRAND PRAIRIE,  
*Defendant.***

**\_\_\_\_ JUDICIAL DISTRICT**

**PLAINTIFF’S ORIGINAL PETITION FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF**

TO THE HONORABLE COURT:

COMES NOW Ken Paxton, Attorney General of Texas, and files this suit seeking penalties under Tex. Code Crim. Proc. Ann. art. 2.1305 and injunctive relief. In support thereof, the Attorney General and would respectfully show the Court as follows:

**I. DISCOVERY CONTROL PLAN**

1.1 In accordance with Tex. R. Civ. P. 190.1, discovery in this case is intended to be conducted under Level 2 of the discovery control plan provided by Tex. R. Civ. P. 190.3.

**II. JURISDICTION AND VENUE**

2.1 Plaintiff seeks monetary relief of \$250,000 or less and non-monetary relief. *See*, Tex. R. Civ. P. 47(c). The relief sought is within the jurisdiction of this court. Tex. Const. art. V, § 8, Tex. Gov’t Code Ann. §§ 24.007 and 24.008, Tex. Civ. Prac. & Rem. Code Ann. § 65.021(a).

2.2 Venue is proper in Dallas County as the events and omissions that give



rise to plaintiff's claims and request for relief occurred in Dallas County. Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a)(1). Venue is also proper in Dallas County as this is where the defendant is conducting its business. *See gen.*, Tex. Civ. Prac. & Rem. Code Ann. § 65.023.

### **III. PARTIES**

3.1 Plaintiff Ken Paxton, the Attorney General of Texas, is authorized to enforce Tex. Code Crim. Proc. Ann. art. 2.1305. Tex. Code Crim. Proc. Ann. art. 2.1305(c).

3.2 Defendant Anschutz Texas, L.P. d/b/a Texas Trust CU Theatre ("Texas Trust") is a domestic limited partnership. Defendant may be served with process by serving its registered agent, CT Corporation, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

### **IV. CAUSE OF ACTION**

4.1 Tex. Code Crim. Proc. Ann. art. 2.1305 prohibits certain establishments serving the public from restricting a peace officer from carrying a weapon the officer is otherwise authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying a weapon.

4.2 Texas Trust CU Theatre at Grand Prairie, is located at 1001 Texas Trust Way (a/k/a 1001 Performance Place), Grand Prairie, Texas 75050. Texas Trust is a concert, theatre, sports, and events venue, which can accommodate up to 6350 individuals.

4.3 Since September 1, 2017, Tex. Code Crim. Proc. Ann. art. 2.1305 has

provided that a sports venue as well as a place of public accommodation, amusement or convenience, to which the general public is regularly invited, may not prohibit or restrict a peace officer from carrying on the establishment's premises a weapon that the peace officer is authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying the weapon.

4.4 Texas Trust is an "establishment serving the public" as defined by Tex. Code Crim. Proc. Ann. art. 2.1305, because it is a place where food is offered for sale to the public; a retail business or other commercial establishment to which the public is invited; a sports venue; or a place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

4.5 An establishment serving the public that violates art. 2.1305, is subject to a civil penalty in the amount of \$1,000 for each violation. Tex. Code Crim. Proc. Ann. art. 2.1305(c).

4.6 From at least 2021, to the present the defendant has repeatedly prohibited and restricted numerous off duty peace officers from entering its establishment with a weapon that such peace officers were authorized to carry.

4.7 On April 30, 2022, off duty peace officer Drue Pope (of the Fort Worth Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

4.8 The Attorney General wrote to the City of Grand Prairie, as the owner of the subject property, concerning the need for compliance with Tex. Code Crim.

Proc. Ann. art. 2.1305. The City of Grand Prairie responded by saying that the property was leased by the city and that the city had advised its lessee (the subject defendant by letter dated February 20, 2023) regarding the need to comply with Texas law.

4.9 Despite this, on April 13, 2023, off duty peace officer Clarence Kelly Qualls (of the Dallas Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

4.10 In addition the defendant's website, on its FAQ page<sup>1</sup> upon clicking to expand the + sign in front of "Weapons" expressly states "[g]uests, including law enforcement personnel, not present in an official capacity, are prohibited from bringing weapons into the theatre. . . . Guests found in possession . . . will be asked to remove the item from the theatre or dispose of it. Guests who refuse to comply will be ejected from the theatre and may be subject to arrest." The defendant's FAQ page upon clicking to expand the + sign in front of "Entry Inspections" also states "[a]ll guests entering the theatre during an event will be subject to a metal-detector screening, visual inspection, and a bag inspection conducted by security personnel."

4.11 Plaintiff knows of several peace officers that upon viewing the defendant's website, have concluded that their legal authority to carry their authorized weapon onto the defendant's establishment while off duty, was in fact restricted and/or prohibited. Such officers include but are not limited to: Michael.

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<sup>1</sup> <https://texastrustcutheatre.com/faq/> (most recently viewed on January 25, 2024).

Rowell, Bryon Rush, Jesse Smith, and Hillary Wreay.<sup>2</sup>

## V. PENALTIES AND PERMANENT INJUNCTIVE RELIEF

5.1 Tex. Code Crim. Proc. Ann. art. 2.1305(c) states that an establishment serving the public that violates art. 2.1305 is subject to a civil penalty in the amount of \$1,000 for each violation and that money collected by the attorney general is to be deposited in the state treasury to the credit of the general revenue fund.

5.2 Due to nonsubstantive revisions of certain provisions in the Texas Code of Criminal Procedure during the 88th Legislative Session, Tex. Code Crim. Proc. Ann. art. 2.1305 will be repealed effective January 1, 2025, and will thereafter be known as Tex. Code Crim. Proc. Ann. art. 2A.052.

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<sup>2</sup> Honorably retired peace officer William Harden also viewed the defendant's website and concluded that the defendant was restricting or prohibiting him from carrying a weapon. Retired peace officers are also legally allowed to carry weapons on the defendant's premises. Tex. Penal Code Ann. § 46.15(a)(5) (states that Tex. Penal Code Ann. §§ 46.02 and 46.03 do not apply to honorably retired peace officers)

**VI. ATTORNEY'S FEES**

6.1 Pursuant to Texas Government Code section 402.006(c), the Attorney General is entitled to, and hereby requests, reasonable attorney's fees and court costs.

**VII. PRAYER**

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**KEN PAXTON, ATTORNEY  
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*Plaintiff,***

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**IN THE DISTRICT COURT OF**

v.

**DALLAS COUNTY, TEXAS**

**DEEP ELLUM LIVE, LTD. d/b/a  
THE FACTORY IN DEEP ELLUM,  
*Defendant.***

**\_\_\_\_ JUDICIAL DISTRICT**

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3.1 Plaintiff Ken Paxton, the Attorney General of Texas, is authorized to enforce Tex. Code Crim. Proc. Ann. art. 2.1305. Tex. Code Crim. Proc. Ann. art. 2.1305(c).

3.2 Defendant Deep Ellum Live, Ltd. d/b/a The Factory in Deep Ellum ("The Factory") is a domestic limited partnership. Defendant may be served with process by serving its registered agent, Trevor Bert, 2550 Pacific Avenue, Suite 1600, Dallas, Texas 75226.

### **IV. CAUSE OF ACTION**

4.1 Tex. Code Crim. Proc. Ann. art. 2.1305 prohibits certain establishments serving the public from restricting a peace officer from carrying a weapon the officer is otherwise authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying a weapon.

4.2 The Factory in Deep Ellum (f/k/a The Bomb Factory), is located at 2713 Canton Street, Dallas, Texas. The Factory is a concert and event venue, which can accommodate up to 4300 individuals.

4.3 Since September 1, 2017, Tex. Code Crim. Proc. Ann. art. 2.1305 has provided that a place of public accommodation, amusement or convenience, to which



the general public is regularly invited, may not prohibit or restrict a peace officer from carrying on the establishment's premises a weapon that the peace officer is authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying the weapon.

4.4 The Factory is an "establishment serving the public" as defined by Tex. Code Crim. Proc. Ann. art. 2.1305, because it is a place where food is offered for sale at most shows to the public; a retail business or other commercial establishment to which the public is invited; or a place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

4.5 An establishment serving the public that violates art. 2.1305, is subject to a civil penalty in the amount of \$1,000 for each violation. Tex. Code Crim. Proc. Ann. art. 2.1305(c).

4.6 From at least 2021 to the present the defendant has repeatedly prohibited and restricted numerous off duty peace officers from entering its establishment with a weapon that such peace officers were authorized to carry.

4.7 On October 12, 2021, off duty peace officer Austin Sommers (of the Plano Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

4.8 On July 1, 2022, off duty peace officer Brian Williams (of the BNSF Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

4.9 On September 25, 2022, off duty peace officer Jill Galbraith (of the Fort Worth Police Department) was prohibited by the defendant from carrying her authorized weapon into the defendant's establishment.

4.10 On October 12, 2022, off duty peace officer Kevin Roberts (of the Richardson Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

4.11 On October 30, 2022, off duty peace officer Brandon Pooser (of the Sealy Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

4.12 The Attorney General wrote to the representatives of the owner of The Factory, Mr. Clint Barlow and Mr. Whitney Barlow, 11330 Valleydale Drive, Dallas, Texas 75230 and copied the owner's General Partner, Westdale Asset Management / Westdale Entertainment, LLC, at 2550 Pacific Ave., Suite 1600, Dallas, Texas 75226, in an effort to secure their commitment to comply with the law. Defendant's responsive letter to the Attorney General, received on February 27, 2023, communicated that the defendant would cease violating Texas law and permit off duty peace officers to carry authorized weapons onto the defendant's premises.

4.13 Despite this, on May 17, 2023, July 21, 2023<sup>1</sup> and again on September 14, 2023, off duty peace officer Austin Sommers (of the Plano Police Department) was again prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

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<sup>1</sup> On this date the Officer Sommers, sought to enter the defendant's The Studio at the Factory, 2727 Canton Street, Dallas, Texas.

4.14 On September 19, 2023, off duty peace officer Christopher Campbell (of the Houston Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

4.15 On November 15, 2023 and on December 12, 2023, off duty peace officer Dennis Spears (of the Dallas Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

4.16 On December 12, 2023, off duty peace officer Chris Hester (of the Allen Police Department) was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment.

## **V. PENALTIES AND PERMANENT INJUNCTIVE RELIEF**

5.1 Tex. Code Crim. Proc. Ann. art. 2.1305(c) states that an establishment serving the public that violates art. 2.1305 is subject to a civil penalty in the amount of \$1,000 for each violation and that money collected by the attorney general is to be deposited in the state treasury to the credit of the general revenue fund.

5.2 Due to nonsubstantive revisions of certain provisions in the Texas Code of Criminal Procedure during the 88<sup>th</sup> Legislative Session, Tex. Code Crim. Proc. Ann. art. 2.1305 will be repealed effective January 1, 2025, and will thereafter be known as Tex. Code Crim. Proc. Ann. art. 2A.052.

5.3 Plaintiff has a statutory right to an award of penalties. Defendant has shown a continued disregard for state law, which is prejudicial to the state's interest in protecting the public from criminal activity and harm. Irreparable injury to Texas citizens, persons and property is threatened, irrespective of the imposition of

penalties against this defendant. Under the principles of equity, after an evidentiary hearing or trial and upon the entry of a judgment, the court should permanently enjoin the defendant from continuing to violate the Tex. Code Crim. Proc. Ann. art. 2.1305. *See*, Tex. Civ. Prac. & Rem. Code Ann. § 65.001 and Tex. R. Civ. P. 693.

**VI. ATTORNEY’S FEES**

6.1 Pursuant to Texas Government Code section 402.006(c), the Attorney General is entitled to, and hereby requests, reasonable attorney’s fees and court costs.

**VII. PRAYER**

WHEREFORE, plaintiff requests that he be awarded penalties, investigative costs, witness fees, court costs, reasonable attorney’s fees in prosecuting this case through trial and, if necessary, through appeal, and that upon final trial, judgment against the defendant for full permanent injunctive relief issue, and for such other and further relief, at law or in equity, to which the plaintiff may show himself justly entitled.

Respectfully submitted,

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

JAMES LLOYD  
Deputy Attorney General for Civil Litigation

ERNEST C. GARCIA  
Chief, Administrative Law Division

/s/Ernest C. Garcia  
ERNEST C. GARCIA  
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ATTORNEYS FOR PLAINTIFF

UNSWORN DECLARATION / JURAT

My name is Roger Mason Richmond, and I am an employee / investigator of the following governmental agency: Office of the Attorney General, Administrative Law Division, located at 300 W. 15<sup>th</sup> Street, Austin, Texas 78701. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing factual statements in the Petition are true and correct.

Executed in Travis County, Texas on this the 21st day of February, 2024.



Roger Mason Richmond  
Declarant

CAUSE NO. \_\_\_\_\_

**KEN PAXTON, ATTORNEY  
GENERAL OF TEXAS,  
*Plaintiff,***

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**IN THE DISTRICT COURT OF**

v.

**DALLAS COUNTY, TEXAS**

**STATE FAIR OF TEXAS  
*Defendant.***

**\_\_\_\_ JUDICIAL DISTRICT**

**PLAINTIFF’S ORIGINAL PETITION FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF**

TO THE HONORABLE COURT:

COMES NOW Ken Paxton, Attorney General of Texas, and files this Original Petition seeking penalties under Tex. Code Crim. Proc. Ann. art. 2.1305 and injunctive relief. In support thereof, the Attorney General would respectfully show the Court as follows:

**I. DISCOVERY CONTROL PLAN**

1.1 In accordance with Tex. R. Civ. P. 190.1, discovery in this case is intended to be conducted under Level 2 of the discovery control plan provided by Tex. R. Civ. P. 190.3.

**II. JURISDICTION AND VENUE**

2.1 Plaintiff seeks monetary relief of \$250,000 or less and non-monetary relief. *See*, Tex. R. Civ. P. 47(c). The relief sought is within the jurisdiction of this court. Tex. Const. art. V, § 8, Tex. Gov’t Code Ann. §§ 24.007 and 24.008, and Tex. Civ. Prac. & Rem. Code Ann. § 65.021(a).

2.2 Venue is proper in Dallas County, Texas as the events and omissions that give rise to plaintiff's claims and request for relief occurred in Dallas County. Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a)(1). Venue is also proper in Dallas County as this is where the defendant is conducting its business. *See gen.*, Tex. Civ. Prac. & Rem. Code Ann. § 65.023.

### **III. PARTIES**

3.1 Plaintiff Ken Paxton, the Attorney General of Texas, is authorized to enforce Tex. Code Crim. Proc. Ann. art. 2.1305. Tex. Code Crim. Proc. Ann. art. 2.1305(c).

3.2 Defendant the State Fair of Texas, is a Texas nonprofit corporation. Defendant may be served with process by serving its registered agent, Robert B. Smith, 3838 Oak Lawn Ave., Suite 1000, Dallas, Texas 75219.

### **IV. CAUSE OF ACTION**

4.1 Tex. Code Crim. Proc. Ann. art. 2.1305 prohibits certain establishments serving the public from restricting a peace officer from carrying a weapon the officer is otherwise authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying a weapon.

4.2 Fair Park, at 3809 Grand Avenue, Dallas, Texas is owned by the City of Dallas and managed by Fair Park First, a domestic nonprofit corporation. However, the State Fair of Texas operates the annual State Fair of Texas at Fair Park, in Dallas.

4.3 Since September 1, 2017, Tex. Code Crim. Proc. Ann. art. 2.1305 has

provided that a sports venue or place of public accommodation, amusement or convenience, to which the general public is regularly invited, may not prohibit or restrict a peace officer from carrying on the establishment's premises a weapon that the peace officer is authorized to carry, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying the weapon.

4.4 The State Fair of Texas is an "establishment serving the public" as defined by Tex. Code Crim. Proc. Ann. art. 2.1305, because it includes the Cotton Bowl which is an arena, coliseum, stadium, or facility used for sports or athletic events for which a fee is charged for admission to the sports or athletic events and is thus a sports venue. In addition, the State Fair of Texas is an "establishment serving the public" as defined by Tex. Code Crim. Proc. Ann. art. 2.1305, because it is a place where food is offered for sale to the public; a retail business or other commercial establishment to which the general public is invited; or a place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

4.5 An establishment serving the public that violates art. 2.1305, is subject to a civil penalty in the amount of \$1,000 for each violation. Tex. Code Crim. Proc. Ann. art. 2.1305(c).

4.6 From at least October 2022, to the present the defendant has prohibited and restricted off duty peace officers from entering its establishment with a weapon that such peace officers were authorized to carry.



4.7 On October 8, 2022, off duty peace officer Michael Perry (Lieutenant, Abilene Police Department) after showing his credentials, was prohibited by the defendant from carrying his authorized weapon into the State Fair of Texas at Fair Park – Gate 1, on Gurley Street.

4.8 The Attorney General wrote to the City of Dallas on February 8, 2023, in an effort to secure a commitment to comply with the law. The City of Dallas forwarded a copy of the Attorney General letter to the State Fair of Texas. Thereafter, on February 21, 2023, the City of Dallas provided its response as well as the written response from the State Fair of Texas (dated February 13, 2023), wherein it was communicated to the Attorney General that they would comply with state law to allow peace officers to carry at the State Fair of Texas.

4.9 Despite this, on September 30, 2023, off duty peace officer Tommy Jones (Captain with the Ector County Hospital District Police Department), after showing his credentials, was prohibited by the defendant from carrying his authorized weapon into the defendant's establishment. Captain Jones had sought to attend the State Fair Classic 2023 football game between the Prairie View A&M Panthers and the Grambling Tigers.

## **V. PENALTIES AND PERMANENT INJUNCTIVE RELIEF**

5.1 Tex. Code Crim. Proc. Ann. art. 2.1305(c) states that an establishment serving the public that violates art. 2.1305 is subject to a civil penalty in the amount of \$1,000 for each violation and that money collected by the attorney general is to be deposited in the state treasury to the credit of the general revenue fund.

5.2 Due to nonsubstantive revisions of certain provisions in the Texas Code of Criminal Procedure during the 88<sup>th</sup> Legislative Session, Tex. Code Crim. Proc. Ann. art. 2.1305 will be repealed effective January 1, 2025, and will thereafter be known as Tex. Code Crim. Proc. Ann. art. 2A.052.

5.3 Plaintiff has a statutory right to an award of penalties. Defendant has shown a continued disregard for state law, which is prejudicial to the state's interest in protecting the public from criminal activity and harm. Irreparable injury to Texas citizens, persons and property is threatened, irrespective of the imposition of penalties against this defendant. Under the principles of equity, after an evidentiary hearing or trial and upon the entry of a judgment, the court should permanently enjoin the defendant from continuing to violate the Tex. Code Crim. Proc. Ann. art. 2.1305. *See*, Tex. Civ. Prac. & Rem. Code Ann. § 65.001 and Tex. R. Civ. P. 693.

## **VI. ATTORNEY'S FEES**

6.1 Pursuant to Texas Government Code section 402.006(c), the Attorney General is entitled to, and hereby requests, reasonable attorney's fees and court costs.

## **VII. PRAYER**

WHEREFORE, plaintiff requests that he be awarded penalties, investigative costs, witness fees, court costs, reasonable attorney's fees in prosecuting this case through trial and, if necessary, through appeal, and that upon final trial, judgment against the defendant for full permanent injunctive relief issue, and for such other and further relief, at law or in equity, to which the plaintiff may show himself justly entitled.

Respectfully, submitted,

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

JAMES LLOYD  
Deputy Attorney General for Civil Litigation

ERNEST C. GARCIA  
Chief, Administrative Law Division

*/s/Ernest C. Garcia*

ERNEST C. GARCIA

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ATTORNEYS FOR PLAINTIFF

UNSWORN DECLARATION / JURAT

My name is Roger Mason Richmond, and I am an employee / investigator of the following governmental agency: Office of the Attorney General, Administrative Law Division, located at 300 W. 15<sup>th</sup> Street, Austin, Texas 78701. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing factual statements in the Petition are true and correct.

Executed in Travis County, Texas on this the 21st day of February, 2024.

  
\_\_\_\_\_  
Roger Mason Richmond  
Declarant