

Exhibit A

From: [James M. Mullins, Jr., Esq.](mailto:James.M.Mullins.Jr.,Esq.)
To: "Kin Sayre"
Subject: RE: WVCDL v. City of Martinsburg, answer and abstention order
Date: Tuesday, September 13, 2011 6:27:00 PM
Attachments: [Mr James M Mullins Jr 4.vcf](#)

Mr. Sayre:

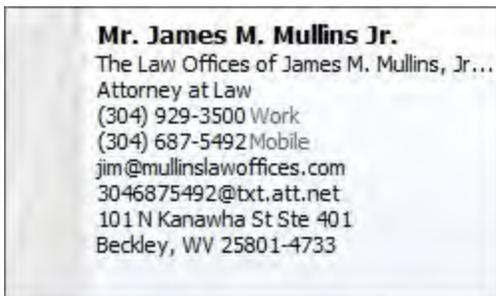
I request the favor of a reply to my prior e-mail (below).

James M. "Jim" Mullins, Jr., Esq. *
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* Admitted to practice law in West Virginia and Florida.

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From: James M. Mullins, Jr., Esq. [mailto:jim@mullinslawoffices.com]
Sent: Sunday, September 11, 2011 4:45 PM
To: 'Kin Sayre'
Subject: RE: WVCDL v. City of Martinsburg, answer and abstention order

Mr. Sayre:

First, I want to thank you for responding to my requests for clarification.

Second, based upon the clarifications you have provided, the immediate need for the prior FOIA request has dissipated and said request is accordingly withdrawn.

Third, based upon the information you communicated to me on Wednesday, I request that you file an amended answer to the First Amended Complaint that fully states these three clarifications in the record. While it is obviously between you and your clients to decide the precise phrasing, I suggest the following amended answers to the allegations in Paragraphs 33, 34, and 45 of the First Amended Complaint:

33. The Defendants admit that Martinsburg City Code § 545.14 prohibits the possession or carrying of firearms in not only city office buildings, but also many other buildings such as rest facilities in city parks, city-owned housing, and other public buildings that are not used primarily for performing the official business of the City of Martinsburg. However, the Defendants deny Plaintiff's characterization of any such buildings as "non-sensitive."

34. The Defendants admit the allegations in Paragraph 34 of the First Amended Complaint with respect to all buildings owned, leased, or controlled by the City of Martinsburg other than Martinsburg City Hall, 232 North Queen Street. The Defendants deny the allegations in Paragraph 34 of the First Amended Complaint with respect to Martinsburg City Hall on the grounds that, since [insert date], security policies, practices, and procedures including mandatory metal detector screenings of all individuals other than law-enforcement officers who attempt to enter the building have been maintained at Martinsburg City Hall.

45. The Defendants admit the allegations in Paragraph 45 of the First Amended Complaint with respect only to the nonexistence of ordinances dealing directly with the possession or carrying of firearms or other weapons in public buildings owned, leased, or controlled by the City of Martinsburg, as of June 1, 1999, in accord with the Defendants' answer in the preceding paragraph to the allegations in Paragraph 44 of the First Amended Complaint. However, the Defendants deny any remaining allegations in Paragraph 45 of the First Amended Complaint on the grounds that the City of Martinsburg has maintained a variety of other ordinances predating June 1, 1999, relating to firearms and other weapons, none of which deal directly with the possession or carrying of firearms or other weapons in public buildings owned, leased, or controlled by the City of Martinsburg.

An amended answer is necessary to ensure that your clients' initial denials of these three paragraphs "fairly respond to the substance of the allegation." Fed. R. Civ. P. 8(b)(2). "A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest." Fed. R. Civ. P. 8(b)(4). "By presenting to the court a pleading, written motion, or other paper — whether by signing, filing, submitting, or later advocating it — an attorney . . . certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances . . . the denials of factual contentions are warranted on the evidence . . ." Fed. R. Civ. P. 11(b)(4).

Should WVCDL choose to file a motion for reconsideration or appeal the court's Order of Abstention, the factual clarifications you provided on Wednesday (which I request you include in an amended answer) would be highly relevant to any such motion or appeal. Fed. R. Civ. P. 15(a)(1)(A) permits you to file an amended answer as a matter of right within 21 days after serving the original answer. Therefore, I request that you promptly file an amended answer to comply with Fed. R. Civ. P. 8(b)(2) and (4) and avoid the need for further motion practice that might result from a failure to amend.

Again, I thank you for clarifying the basis of your clients' denials of the allegations in Paragraphs 33, 34, and 45 of the First Amended Complaint and look forward to the filing of an amended answer that clarifies the record on these matters.

James M. "Jim" Mullins, Jr., Esq. *

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From: Kin Sayre [mailto:ksayre@bowlesrice.com]

Sent: Wednesday, September 07, 2011 4:13 PM

To: James M. Mullins, Jr., Esq.

Subject: RE: WVCDL v. City of Martinsburg, answer and abstention order

As it pertains to Paragraph 33, was your clients' denial based solely on the characterization of some city buildings as "non-sensitive," or do your clients maintain that all buildings covered by the ordinance are used primarily for performing the official business of the City of Martinsburg?

THE BASIS OF THE DENIAL WAS THE CHARACTERIZATION AS "NON-SENSITIVE".

As it pertains to Paragraph 34, it is my understanding that no city buildings have metal detectors or other similar security screenings in place. Is this an accurate statement? If so, what was the basis of your clients' denial of this paragraph?

CITY HALL HAS A METAL DETECTOR.

As it pertains to Paragraph 45, it is my understanding that Martinsburg City Code § 545.14 was originally enacted in 2005 (I do not have the precise month and date and request that information) as Ordinance 2005-02 and amended into its current form on August 14, 2008 (I do not have the ordinance number and request that information), which appears to be confirmed by your clients' admission of Paragraph 44. Please explain your clients' admission of Paragraph 44 and denial of Paragraph 45.

THE CITY HAS ORDINANCES IN ITS CRIMINAL CODE. THESE DO NOT DEAL DIRECTLY WITH CITY OWNED BUILDING.

As for the FOIA request you will need to mail the request:

GENA LONG
CITY RECORDER
PH: 304-264-2131 EXT 273
232 N. QUEEN STREET
MARTINSBURG, WV 25401

SHE IS THE KEEPER OF THE RECORDS.



Floyd M. Sayre, III
Bowles Rice McDavid Graff & Love LLP
Post Office Drawer 1419
Martinsburg, West Virginia 25402-1419
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Facsimile: (304) 267-3822
ksayre@bowlesrice.com

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From: James M. Mullins, Jr., Esq. [<mailto:jim@mullinslawoffices.com>]

Sent: Wednesday, September 07, 2011 3:28 PM

To: Kin Sayre

Subject: RE: WVCDL v. City of Martinsburg, answer and abstention order

Mr. Sayre:

WVCDL is presently evaluating its options in response to Judge Bailey's order yesterday abstaining from adjudication of WVCDL's state law claims. Prior to that order's entry, I did review your clients' answer to the First Amended Complaint and noted two allegations that your clients denied for which I seek clarification.

Your clients denied the allegations in Paragraphs 33, 34, and 45 of the FAC:

33. Martinsburg City Code § 545.14 prohibits the possession or carrying of firearms in not only city office buildings, but also many non-sensitive buildings such as rest facilities in city parks, city-owned housing, and other public buildings that are not used primarily for performing the official business of the City of Martinsburg.

34. The Defendants do not maintain any laws, customs, practices, or policies providing for the security of any city-owned buildings to which Martinsburg City Code § 545.14 is applicable, under which individuals who enter buildings where Martinsburg City Code § 545.14 prohibits carrying deadly weapons are required to submit to security screenings and adequate security measures are maintained to detect and interdict the unlawful conveyance of deadly weapons into those premises. Consequently, the laws, customs, practices, and policies of the Defendants challenged in this action provide no actual protection of any individuals present in city-owned buildings to which Martinsburg City Code § 545.14 is applicable, as there are no adequate security measures in place to reliably detect and apprehend individuals violating the ordinance.

45. As of June 1, 1999, the City of Martinsburg had no ordinances restricting or prohibiting the carrying of firearms on any city-owned, lea[s]ed, or otherwise controlled property.

I am seeking the following clarifications because one of the options for WVCDL is to refile its state law claims in Berkeley County Circuit Court (of course, WVCDL also has the option of appealing the abstention order as well as other options I need not list here). If WVCDL elects that option and it is possible to make these allegations more precise, I would like to do so. Accordingly, I request that you clarify the basis on which your clients denied the three allegations above.

As it pertains to Paragraph 33, was your clients' denial based solely on the characterization of some city buildings as "non-sensitive," or do your clients maintain that all buildings covered by the ordinance are used primarily for performing the official business of the City of Martinsburg?

As it pertains to Paragraph 34, it is my understanding that no city buildings have metal detectors or other similar security screenings in place. Is this an accurate statement? If so, what was the basis of your clients' denial of this paragraph?

As it pertains to Paragraph 45, it is my understanding that Martinsburg City Code § 545.14 was originally enacted in 2005 (I do not have the precise month and date and request that information) as Ordinance 2005-02 and amended into its current form on August 14, 2008 (I do not have the ordinance number and request that information), which appears to be confirmed by your clients' admission of Paragraph 44. Please explain your clients' admission of Paragraph 44 and denial of Paragraph 45.

Pursuant to the West Virginia Freedom of Information Act, W.Va. Code §§ 29B-1-1 *et seq.*, I request on behalf of WVCDL (1) copies of each ordinance adopted by the Martinsburg City Council enacting or amending Martinsburg City Code § 545.14, (2) copies of all ordinances upon which your clients base their denial of the allegations in Paragraph 45, and (3) copies of all documentation proving the dates on which each such ordinance was adopted, including, but not limited to, copies of all minutes—proposed, draft, or final—and all notes from any meetings of the Martinsburg City Council or any committee thereof at which any ordinance described in this FOIA request was proposed, discussed, amended, or adopted. If the requested documentation can be produced in electronic form, you may e-mail it to me.

I look forward to your responses to the above matters.

James M. "Jim" Mullins, Jr., Esq. *

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From: Kin Sayre [mailto:ksayre@bowlesrice.com]

Sent: Tuesday, September 06, 2011 9:44 AM

To: James M. Mullins, Jr., Esq.

Subject: RE: WVCDL v. City of Martinsburg, proposed answer

Thanks, it was late and I was getting frustrated with the cm/ecf.



Floyd M. Sayre, III

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From: James M. Mullins, Jr., Esq. [mailto:jim@mullinslawoffices.com]

Sent: Tuesday, September 06, 2011 12:30 AM

To: Kin Sayre

Subject: RE: WVCDL v. City of Martinsburg, proposed answer

Mr. Sayre:

I have received your clients' proposed answer. Without waiving any objections to its filing at this time, I can vouch for the fact that CM/ECF sometimes fails us at the most inopportune times. However, after giving your proposed answer a cursory review, I highly suggest additional proofreading and correction of some serious clerical errors before you formally file it this morning.

James M. "Jim" Mullins, Jr., Esq. *

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From: Kin Sayre [mailto:ksayre@bowlesrice.com]

Sent: Monday, September 05, 2011 11:26 PM

To: James M. Mullins, Jr., Esq.

Subject: FW: 3921033_1

Attached is the answer I tried to file today. I am going to have to contact the court in the morning to file with the cm/ecf.

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From: Kin Sayre

Sent: Monday, September 05, 2011 11:14 PM

To: Kin Sayre

Subject: 3921033_1

Kin Sayre
(304) 264-4226