

In the District Court
of
Shawnee County, Kansas

Mark Bunner,
Coraleen Bunner,

Plaintiffs,

v.

Mike Beam, in his official capacity as
Secretary of the Kansas Department of
Agriculture,

Defendant.

Civil Action No.

Verified Petition for Declaratory Judgment,
Preliminary and Permanent Prospective
Injunctive Relief, Attorney Fees and Costs of
Suit

**Verified Petition for Declaratory Judgment,
Preliminary and Permanent Prospective Injunctive Relief,
Attorney Fees and Costs of Suit**

Plaintiffs Mark Bunner and Coraleen Bunner file this Verified Petition for Declaratory Judgment against Defendant Mike Beam in his official capacity as Secretary of the Kansas Department of Agriculture.

Introduction

1. This lawsuit seeks to vindicate Mark Bunner and Coraleen Bunner's right to promote a lawful product: raw, unpasteurized milk and raw milk products. In Kansas, selling raw milk directly to consumers is perfectly legal. Advertising the sale of raw milk is not. Plaintiffs cannot advertise away from their farm. That means the Bunnors cannot post a flyer at a local food co-op, post bulletins at their church, or even tell their family and friends they have raw milk for sale, away from the farm. They cannot advertise the sale of raw milk on their website. This ban on truthful speech not only harms the Bunnors but also consumers. Consumers are denied access to truthful information about

products in the marketplace. The First Amendment to the United States Constitution and Section Eleven of the Kansas Constitution Bill of Rights does not tolerate government bans on truthful speech concerning lawful products. This Court should declare Kansas' ban on raw milk advertisements unconstitutional and permanently enjoin its enforcement so that Kansas dairy farmers are free to talk about the products they offer.

Parties

2. Mark Bunner is a dairy farmer near Pfeifer, Kansas.
3. Coraleen Bunner is also dairy farmer near Pfeifer, Kansas.
4. Mark and Coraleen Bunner operate Shepherd's Gate Dairy, LLC near Pfeifer, Kansas.
5. Defendant Mike Beam is Secretary of Agriculture and is sued in his official capacity.
6. Defendant Secretary Beam is charged with the enforcement of KSA § 65-771, et seq. KSA § 65-772.
7. Further, Defendant Secretary Beam:
 - a. May examine books and records which are kept by persons subjected to KSA § 65-771, et seq. KSA § 65-774.
 - b. May examine under oath, any person whom the secretary may believe has knowledge concerning the unlawful operation of any business or place where milk, milk products, or dairy products are produced, sold or stored contrary to the provisions of KSA § 65-771, et seq. KSA § 65-774.
 - c. May issue subpoenas requiring the appearance of witnesses and the production of books, papers, reports and records and to administer oaths under KSA § 65-771, et seq.
 - d. May issue and enforce "stop sale" or "stop use" orders when he determines there is a violation of any provision of the act or violation of the regulations adopted. KSA § 65-785.

- e. May issue emergency cease and desist orders if he determines that a person has engaged in or is engaging in any act or practice constituting a violation of 65-771, et seq. KSA § 65-786.
 - f. May impose civil penalties for violations of KSA § 65-771, et seq. KSA § 65-788.
- 8. The Secretary of the Kansas Department of Agriculture is located in Topeka, Kansas. KSA § 74-505.
 - 9. The Attorney General will be served with a copy of the proceedings pursuant to KSA § 75-764.

Jurisdiction and Venue

- 10. Plaintiffs seek to vindicate their rights under the First and Fourteenth Amendments to the United States Constitution, pursuant to the 42 U.S.C. § 1983, Section 11 of the Kansas Constitution Bill of Rights, the Kansas Declaratory Judgment Act, KSA § 60-1701, et seq. and the Kansas Injunctive Relief Act, KSA § 60-901, et seq.
- 11. Plaintiffs seek declaratory and injunctive relief from Kansas' ban against off-premises advertising, which is set forth in KSA § 65-771(cc). Specifically, as more fully developed later, Plaintiffs seek a judgment declaring KSA § 65-771(cc)'s ban on off-premise advertising unconstitutional and a permanent injunction preventing the enforcement of KSA § 65-771(cc).
- 12. This Court has jurisdiction pursuant to 42 U.S.C. § 1983, K.S.A. § 60-1701, et seq., and KSA § 60-901 et seq., the First and Fourteenth Amendments to the United States Constitution and Section 11 of the Kansas Constitution Bill of Rights.
- 13. Venue is proper because the acts occurred in Kansas.

Facts

Kansas' Raw Milk Advertising Ban

- 14. Like the majority of states in the nation, Kansas allows the sale of "raw" milk and "raw" milk products. Raw milk is simply milk that has not been pasteurized.
- 15. Selling raw milk or raw milk products is perfectly legal.

16. Promoting the sale of raw milk or raw milk products off the farm is not currently legal. (“Advertising ban” or “Raw Milk Advertising Ban”).
17. Specifically, Kansas allows for the “on-farm retail sales of milk or milk products” ... “by the producer from the production of the dairy herd to the final consumer” KSA § 65-771(cc), but only if:
 - a. the “person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm.” KSA § 65-771(cc). (“Raw Milk Advertising Ban” or “Advertising Ban”).
18. The term “promote” is not defined. Milk includes goat milk. KSA § 65-771(m).
19. A farmer who advertises raw milk or milk products shall be guilty of an unclassified misdemeanor. KSA §§ 65-789, 790.
20. The website for the Kansas Department of Agriculture highlights the Raw Milk Advertising Ban:

Raw Milk

Many consumers have questions about consuming raw (unpasteurized) milk. In Kansas, dairies may only sell raw milk on the farm. The transaction must be on the farm and it must be between the dairyman and the consumer. Advertising raw milk sales is prohibited except on the farm premises. The milk container must be labeled as "raw" or "unpasteurized-ungraded" milk.

<https://agriculture.ks.gov/divisions-programs/dairy-inspection/dairy-consumers>



(last accessed on October 22, 2019)

21. The website also addresses the Raw Milk Advertising Ban on the Kansas Department of Agriculture’s frequently asked questions section:
<https://agriculture.ks.gov/faqs/ld-faq> (last accessed on October 22, 2019).



22. The website advises consumers not to consume raw milk. “The Kansas Department of Agriculture advises consumers not to consume raw milk and dairy products[.]”
<https://agriculture.ks.gov/divisions-programs/dairy-inspection/dairy-consumers>
(last accessed October 22, 2019).

23. The government publishes a brochure in English and Spanish instructing consumers not to drink raw milk:

	
<ul style="list-style-type: none"> Do not consume raw, unpasteurized milk or milk products. 	<ul style="list-style-type: none"> Evite consumir leche no pasteurizada o los productos de leche no pasteurizada.
<p>https://agriculture.ks.gov/docs/default-source/rc-dairy/englishmilkbrochure.pdf?sfvrsn=8e4fdf0e_2 (Last accessed October 22, 2019).</p>	<p>https://agriculture.ks.gov/docs/default-source/rc-dairy/spanishmilkbrochure.pdf?sfvrsn=e46260dd_2 (Last accessed October 22, 2019).</p>

24. Defendant at all times was acting under color of state law.
25. Among other ways, Defendant Beam enforces the Raw Milk Advertising Ban through his department’s website, as stated in the preceding paragraphs.

Mark and Coraleen Bunner

26. Mark and Coraleen Bunner run Shepherd’s Gate Dairy, LLC near Pfeifer, Kansas.
27. Shepherd’s Gate is a limited liability company and is organized and in good standing under the laws of Kansas.
28. The Bunnars started the dairy about 25 years ago with just one goat.
29. Eventually, as the herd grew, the Bunnars built a milking parlor. The parlor was designed as a “Grade A” dairy, the highest graded facility in the state. “Grade A” dairies are used to pasteurize milk.
30. The Bunnars’ milking parlor is air conditioned for the summers and has heated floors for the winters. The parlor is equipped with a separate commercial-grade kitchen.
31. Even though the Bunnars built their dairy to “Grade A” specifications, they preferred raw milk to pasteurized milk. So did their neighbors and customers. For some, raw

milk tastes better. For others, they prefer the potential health benefits. Either way, the Bunnners' preferences and the marketplace steered them toward raw milk instead of the pasteurized version produced in "Grade A" facilities. They've been selling raw milk and raw cheese ever since.

32. Goat farming is a passion for the Bunnners.
33. Mr. Bunner wrote articles for the Dairy Goat Journal, a bi-monthly magazine featuring articles, information, and ideas for anyone connected with dairy goats.
34. Mrs. Bunner teaches goat milking and loves her goats so much she has a "GoatMom" license plate.
35. The Bunnners follow the American Dairy Goat Association breeding standards. Their goats are award-winning.
36. Raising goats is time consuming and expensive. A new goat costs between \$300-\$500 but sometimes as much as \$1,500.
37. The Bunnners feed their goats alfalfa and grain concentrate, the price of which have both increased.
38. The Bunnners carefully follow a milking protocol. They make sure the teats are clean, the milk is stripped, and the goats are checked for mastitis or other issues. Only then do the Bunnners begin milking.
39. The Bunnners milk their goats twice a day, once at 5:30 a.m. and once at 5:30 p.m.
40. The goats yield about 4 ½ gallons of raw milk a day.
41. Because they cannot advertise away from the farm, the Bunnners are forced to throw away about half the milk. They simply cannot sell or get rid of the milk fast enough.
42. Their herd has decreased over the years from as many as 25 milking goats to six milking goats.
43. The Raw Milk Advertising Ban hurts the Bunnners more than most. Shepherd's Gate is located on a dead-end road in rural Kansas. Their dairy is bounded by the Smoky Hill River to the north and west. The Bunnners do not have potential customers driving past their property like other dairy farms might.
44. The Raw Milk Advertising Ban has silenced the Bunnners' speech.

45. But for the Raw Milk Advertising Ban, the Bunnars would post prices for the milk on their website and post pictures of their raw cheese.
46. Because of the Raw Milk Advertising Ban, the Bunnars have been unable to advertise their raw milk and raw milk products in other ways – for example, by posting information on their website, posting flyers, promoting the milk or cheese at fairs, posting on Facebook, responding to questions about raw milk, and talking to friends about raw milk and raw milk products sales.
47. But for the Raw Milk Advertising Ban, the Bunnars would have engaged in such speech. They would promote their raw milk and raw milk products off the farm through their website, Facebook, at fairs, and other locations away from the farm.
48. Because of the Raw Milk Advertising Ban, the Bunnars have refrained from promoting their excess raw milk and raw cheese.
49. The Bunnars have wanted, and continue to want, to promote their excess milk and raw cheese through emails, Facebook, and their website, both to existing and potential customers.
50. Because of the Raw Milk Advertising Ban, the Bunnars have dumped milk. This has resulted in lost income for the Bunnars.
51. It is important to the Bunnars to be able to promote their care and affection for their goats, as well as their milking practices, as these things are responsible for the quality of their milk. Promoting these things is an important way for the Bunnars to distinguish their dairy from other dairies.
52. It is also important that consumers be able to receive truthful information about how the Bunnars care for their goats, as well as their milking practices. This kind of information is an effective means of communication to differentiate between milk from the Bunnars' goats and milk from other sources.
53. Because of the Raw Milk Advertising Ban, consumers have been denied this truthful information.
54. But for the Raw Milk Advertising Ban, the Bunnars would engage in speech on their website promoting their care for their goats and their milking practices.

55. Because of the Raw Milk Advertising Ban, the Bunnars speech has been chilled. Even if they do not believe their speech is advertising, they have had to second-guess themselves before engaging, or declining to engage, in it.
56. Because the term “promote” as used in the KSA § 65-771(cc) is not defined, the Bunnars have had to guess at its meaning and application to certain speech.
57. The Bunnars have suffered substantially because of the Raw Milk Advertising Ban. In addition to infringing on their ability to speak freely about their product, it has resulted in lost income to the Bunnars.
58. Consumers have likewise suffered substantially because of the Raw Milk Advertising Ban, as they have been denied access to truthful information about products in the marketplace and have been kept in the dark about the availability of such lawful products.
59. The Bunnars have been and continue to be injured by the Raw Milk Advertising Ban. They cannot promote the sale of raw milk or raw milk products on their website, Facebook, or offer for sale at farmers markets or other places away from their farm.
60. The Bunnars fear criminal, civil, and administrative prosecution if they were to promote their raw milk off the farm.
61. The Bunnars will advertise and promote the sale of raw milk and raw milk products off the farm the same day the prohibition is nullified, or as soon as is reasonably possible, by:
 - a. Posting pictures of their raw milk and raw milk products to their website;
 - b. Posting prices of their raw milk and raw milk products to their website;
 - c. Posting information about their raw milk and raw milk products to their website;
 - d. Posting pictures about their raw milk and raw milk products to Facebook;
 - e. Posting prices of their raw milk and raw milk products to Facebook;
 - f. Posting information about their raw milk and raw milk products to Facebook;
 - g. Sending information and prices about their raw milk and raw milk products to their existing customers;

- h. Sending information and prices about their raw milk and raw milk products to new potential customers;
62. In the immediate future, once the Raw Milk Advertising Ban is nullified, the Bunners will:
- a. Post fliers at local businesses regarding their raw milk and raw milk products;
 - b. Promote their raw milk and raw milk products at fairs orally;
 - c. Promote their raw milk and raw milk products at businesses orally;
 - d. Promote their raw milk and raw milk to friends and family, orally, away from the farm.
63. As a long-term goal, once the Raw Milk Advertising Ban is nullified, the Bunners will immediately begin taking all reasonable steps to promote the sale of raw milk and raw milk products off the farm through radio advertising.
64. The Raw Milk Advertising Ban is ongoing, as is the violation of federal and state law.
65. The Raw Milk Advertising Ban is an ongoing, continuous violation of the Bunners' rights under the United States and Kansas Constitutions.

Constitutional Violations

Claim One: Violation of the First Amendment's Free Speech Clause

66. Plaintiffs reallege and incorporate by reference all the preceding paragraphs.
67. The First Amendment to the United States Constitution provides, in relevant part, that "Congress shall make no law ... abridging the freedom of speech."
68. The First Amendment is incorporated against the State of Kansas through the Fourteenth Amendment to the United States Constitution.
69. By prohibiting the advertisement of raw milk and raw milk products, KSA § 65-771(cc) abridges the freedom of speech of Mark and Coraleen Bunner, and farmers like them, by preventing them from engaging in truthful speech about their lawful products. The ban not only results in a silencing of their speech, but also in lost business, lost opportunity, and lost income.

70. The Raw Milk Advertising Ban harms consumers by denying them access to truthful information about lawful products in the marketplace. The ban keeps consumers in the dark not only about how and where to access raw milk and raw milk products, but also about what distinguishes one farm's milk and products from those of another's farm.
71. The Raw Milk Advertising Ban in KSA § 65-771(cc) is a content and speaker-based regulation of speech; it prohibits speech about raw milk and raw milk products only, and only speech by farmers producing such milk and products.
72. The Raw Milk Advertising Ban in KSA § 65-771(cc) effects a complete suppression of truthful speech about a lawful product and activity off the farm.
73. The Raw Milk Advertising Ban is not appropriately tailored to any sufficiently important governmental interest.
74. The Raw Milk Advertising Ban does not directly or materially advance any sufficiently important government interest.
75. On its face and as applied, the Raw Milk Advertising Ban in KSA § 65-771(cc) violates the First Amendment to the United States Constitution.
76. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.
77. Unless the Raw Milk Advertising Ban set forth in KSA § 65-771(cc) is declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

Claim Two: Overbreadth

78. Plaintiffs reallege and incorporate by reference all the preceding paragraphs.
79. The First Amendment to the United States Constitution, as incorporated through the Fourteenth Amendment, prohibits overbroad laws.
80. The Raw Milk Advertising Ban as set forth in KSA § 65-771(cc), on its face and as applied, is unconstitutionally overbroad.

81. Judged in relation to any legitimate sweep that the Raw Milk Advertising Ban in KSA § 65-771(cc) may have, the statute restricts and punishes a substantial amount of protected speech.
82. The overbreadth of the Raw Milk Advertising Ban in KSA § 65-771(cc) results in the chilling and silencing of speech by Plaintiffs and other farmers and farms' consumers in turn, are denied truthful information about raw milk.
83. On its face and as applied, the Raw Milk Advertising Ban in KSA § 65-771(cc) violates the First Amendment to the United States Constitution.
84. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.
85. Unless the Raw Milk Advertising Ban set forth in KSA § 65-771(cc) is declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

Claim Three: Vagueness

86. Plaintiffs reallege and incorporate by reference all the preceding paragraphs.
87. The First Amendment to the United States Constitution, as incorporated through the Fourteenth Amendment, prohibits vague laws.
88. Because Kansas does not define the term "promote" as used in the Raw Milk Advertising Ban contained in KSA § 65-771(cc), the Raw Milk Advertising Ban is vague, on its face and as applied.
89. Because Kansas does not define the term "promote" as used in the Raw Milk Advertising Ban contained in KSA § 65-771(cc), persons of common intelligence must necessarily guess at the meaning of the ban set forth in the statute and differ as to its application. Because Plaintiffs and other farmers and farms must engage in such guessing and face fines, penalties, and / or jail time if they guess wrong, their speech is necessarily chilled or ultimately foregone.
90. The lack of clarity leaves Plaintiffs and other farmers and farms at risk of arbitrary, discriminatory and ad hoc enforcement by Defendant and / or Defendant's agents.

91. The vagueness of the Raw Milk Advertising Ban set forth in KSA § 65-771(cc) results in the chilling and silencing of speech by Plaintiffs and other farmers and farms; consumers in turn are denied truthful information about raw milk.
92. On its face and as applied, the Raw Milk Advertising Ban in KSA § 65-771(cc) violates the First Amendment and Due Process Clause of the Fourteenth Amendment to the United States Constitution.
93. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.
94. Unless the Raw Milk Advertising Ban set forth in KSA § 65-771(cc) is declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

Claim Four: Violation of the Kansas Free Speech Clause

95. Plaintiffs reallege and incorporate by reference all the preceding paragraphs.
96. The Kansas Constitution Bill of Rights § 11 states: “The liberty of the press shall be inviolate; and all persons may freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such rights; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libelous matter was published for justifiable ends, the accused party shall be acquitted.”
97. The Raw Milk Advertising Ban contained in KSA § 65-771(cc) abridges the freedom of speech of Mark and Coraleen Bunner, and farmers like them, by preventing them from engaging in truthful speech about their lawful products. The ban not only results in a silencing of their speech, but also in lost business, lost opportunity, and lost income.
98. The Raw Milk Advertising Ban harms consumers by denying them access to truthful information about lawful products in the marketplace. The ban keeps consumers in the dark not only about how and where to access raw milk and raw milk products, but also about what distinguishes one farm’s milk and products from those of another farm.

99. The Raw Milk Advertising Ban in KSA § 65-771(cc) is a content and speaker-based regulation of speech; it prohibits speech about raw milk and raw milk products only, and only speech by farmers producing such milk and products.
100. The Raw Milk Advertising Ban in KSA § 65-771(cc) effects a complete suppression of truthful speech about a lawful product and activity off the farm.
101. The Raw Milk Advertising Ban is not appropriately tailored to any sufficiently important governmental interest.
102. The Raw Milk Advertising Ban does not directly or materially advance any sufficiently important government interest.
103. On its face and as applied, the Raw Milk Advertising Ban in KSA § 65-771(cc) violates the Section 11 of the Kansas Constitution Bill of Rights.
104. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.
105. Unless the Raw Milk Advertising Ban set forth in KSA § 65-771(cc) is declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

Claim Five: Overbreadth in Violation of the Kansas Free Speech Clause

106. Plaintiffs reallege and incorporate by reference all the preceding paragraphs.
107. Section 11 of the Kansas Constitution Bill of Rights, prohibits overbroad laws.
108. The Raw Milk Advertising Ban as set forth in KSA § 65-771(cc), on its face and as applied, is unconstitutionally overbroad.
109. Judged in relation to any legitimate sweep that the Raw Milk Advertising Ban in KSA § 65-771(cc) may have, the statute restricts and punishes a substantial amount of protected speech.
110. The overbreadth of the Raw Milk Advertising Ban in KSA § 65-771(cc) results in the chilling and silencing of speech by Plaintiffs and other farmers and farms' consumers in turn, are denied truthful information about raw milk.

111. On its face and as applied, the Raw Milk Advertising Ban in KSA § 65-771(cc) violates the Section 11 of the Kansas Constitution Bill of Rights.
112. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.
113. Unless the Raw Milk Advertising Ban set forth in KSA § 65-771(cc) is declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

Claim Six: Vagueness in Violation of the Kansas Free Speech Clause

114. Plaintiffs reallege and incorporate by reference all the preceding paragraphs.
115. Section 11 of the Kansas Constitution Bill of Rights, prohibits vague laws.
116. Because Kansas does not define the term “promote” as used in the Raw Milk Advertising Ban contained in KSA § 65-771(cc), the Raw Milk Advertising Ban is vague, on its face and as applied.
117. Because Kansas does not define the term “promote” as used in the Raw Milk Advertising Ban contained in KSA § 65-771(cc), persons of common intelligence must necessarily guess at the meaning of the ban set forth in the statute and differ as to its application. Because Plaintiffs and other farmers and farms must engage in such guessing and face fines, penalties, and / or jail time if they guess wrong, their speech is necessarily chilled or ultimately foregone.
118. The lack of clarity leaves Plaintiffs and other farmers and farms at risk of arbitrary, discriminatory and ad hoc enforcement by Defendant and / or Defendant’s agents.
119. The vagueness of the Raw Milk Advertising Ban set forth in KSA § 65-771(cc) results in the chilling and silencing of speech by Plaintiffs and other farmers and farms; consumers in turn are denied truthful information about raw milk.
120. On its face and as applied, the Raw Milk Advertising Ban in KSA § 65-771(cc) violates Section 11 of the Kansas Constitution Bill of Rights.
121. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.

122. Unless the Raw Milk Advertising Ban set forth in KSA § 65-771(cc) is declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

Request for Relief

Plaintiffs respectfully request the Court grant the following relief:

123. Declaratory judgment that the Raw Milk Advertising Ban is unconstitutional. Specifically that the phrase “so long as the person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm.” found in KSA § 65-771(cc) violates the First Amendment to the United States Constitution, on its face and as applied to Plaintiffs;
124. Declaratory judgment that the Raw Milk Advertising Ban is unconstitutional. Specifically that the phrase “so long as the person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm.” found in KSA § 65-771(cc) violates Section 11 of the Kansas Constitution Bill of Rights, on its face and as applied to Plaintiffs;
125. Declaratory judgment that the Raw Milk Advertising Ban is unconstitutional. Specifically that the phrase “so long as the person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm.” found in KSA § 65-771(cc) is unconstitutionally overbroad in violation of the First Amendment to the United States Constitution on its face and as applied to Plaintiffs;
126. Declaratory judgment that the Raw Milk Advertising Ban is unconstitutional. Specifically that the phrase “so long as the person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm.” found in KSA § 65-771(cc) is

- unconstitutionally overbroad in violation of Section 11 of the Kansas Constitution Bill of Rights, on its face and as applied to Plaintiffs;
127. Declaratory judgment that the Raw Milk Advertising Ban is unconstitutional. Specifically that the phrase “so long as the person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm.” found in KSA § 65-771(cc) is unconstitutionally vague in violation of the First Amendment and Due Process Clause of the Fourteenth Amendment to the United States Constitution, on its face and as applied to Plaintiffs;
 128. Declaratory judgment that the Raw Milk Advertising Ban is unconstitutional. Specifically that the phrase “so long as the person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm.” found in KSA § 65-771(cc) is unconstitutionally vague in violation of Section 11 of the Kansas Constitution Bill of Rights, on its face and as applied to Plaintiffs;
 129. For entry of a preliminary and permanent prospective injunction enjoining Defendant, his successors, assigns, and all those acting for, with, or in concert with him, any other department or officer of the State of Kansas, from enforcing or directing the enforcement of the Raw Milk Advertising Ban in KSA § 65-771(cc);
 130. For entry of a preliminary and permanent prospective injunction enjoining Defendant, his successors, assigns, and all those acting for, with, or in concert with them, any other department or officer of the State of Kansas, from enforcing or directing the enforcement of any associated or similar regulation or rule, written or oral, formal or informal, in connection with, or related to, or in any manner similar to, the Raw Milk Advertising Ban in KSA § 65-771(cc).
 131. Reasonable costs and attorney’s fees; and
 132. Such other legal or equitable relief as this Court deems appropriate and just.

Kansas Justice Institute
By: Samuel G. MacRoberts, 22781

Dated: October 28, 2019

/s/ Samuel G. MacRoberts
Samuel G. MacRoberts
12980 Metcalf Avenue, Suite 130
Overland Park, Kansas 66213
Sam.MacRoberts@KansasJusticeInstitute.org
(913) 213-5018
Attorneys for Plaintiffs