

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION**

MICHAEL MATWYUK and  
DAVID DEVARTI,

Plaintiffs,

Case No. 2:13-cv-284

vs.

HON. GORDON J. QUIST

RUTH JOHNSON, in her official  
capacity as Michigan's Secretary of  
State, and MICHAEL FILDEY, in his  
individual capacity,

Defendants.

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**CONSENT JUDGMENT**

Based on the agreement of the parties, a final judgment and permanent injunction is hereby entered against Defendant Ruth Johnson, in her official capacity as Michigan's Secretary of State (hereinafter "Defendant"), on the following terms:

1. On May 23, 2014, this Court denied Defendants' motion to dismiss, holding that M.C.L. § 257.803b(1)'s "offensive to good taste and decency" restriction governing Michigan's personalized license plates is unconstitutionally overbroad and vague. As a result of that Order, the parties agree to these terms.
2. Defendant is enjoined from enforcing the "offensive to good taste and decency" restriction of M.C.L. § 257.803b(1). This judgment does not affect the validity or enforceability of any other provisions of § 257.803b(1).
3. Upon proper application for a personalized license plate with the configuration "WAR SUX" and payment of all appropriate fees, Defendant shall cause the "WAR SUX" personalized plate

requested by Plaintiff David DeVarti to be issued to him forthwith.

4. Defendant shall cause Plaintiffs' counsel to be paid \$21,500.00 in full satisfaction of Plaintiffs' claims for costs and attorneys' fees under 42 U.S.C. § 1988 and Fed. R. Civ. P. 54(d). Payment shall be tendered to the American Civil Liberties Union Fund of Michigan.
5. This judgment shall not be read as either authorizing or prohibiting the development or use of new policies or guidelines that regulate the content of personalized license plate configurations, provided that any such policies or guidelines:
  - a. are published on Defendant's website, as an administrative rule, or as a statute, and are provided in writing to anyone who applies for a personalized license;
  - b. are reasonable and viewpoint-neutral; and
  - c. are clearly and objectively defined such that (1) a person of ordinary intelligence can readily identify the applicable standard for inclusion and exclusion, and (2) officials are not authorized to reject a personalized license plate application for subjective reasons.

The provisions in this paragraph shall not be construed as limiting Defendant's ability to restrict speech that falls outside the protections of the First Amendment.

6. Under the current authority given to the Department of State by M.C.L. § 257.803b to prescribe the letter and number configurations on a personalized plate, in administering the personalized license plate program, Defendant shall not prohibit the word "sucks" and its variations such as "SUX" and "SUKS" on grounds that the word is sexual in nature, profane, vulgar or otherwise inappropriate when, in context, the word is being used as the slang term meaning "is objectionable or inadequate."
7. Pursuant to Fed. R. Civ. P. 41(a)(2), Plaintiff Michael Matwyuk's claim against Defendant Michael Fildey is dismissed with prejudice and without costs or fees.

This is a final judgment that resolves all pending claims and closes the case.

So ordered.

Dated: Sept. 3, 2014

/s/ Gordon J. Quist  
GORDON J. QUIST  
UNITED STATES DISTRICT JUDGE

The parties consent to the filing of this order:

/s/ Daniel S. Korobkin  
Daniel S. Korobkin (P72842)  
Michael J. Steinberg (P43085)  
ACLU Fund of Michigan  
2966 Woodward Ave.  
Detroit, MI 48201  
(313) 578-6824  
[dkorobkin@aclumich.org](mailto:dkorobkin@aclumich.org)  
[msteinberg@aclumich.org](mailto:msteinberg@aclumich.org)

Attorneys for Plaintiffs

Dated: August 28, 2014

/s/ with consent of Gary P. Gordon  
Gary P. Gordon (P26290)  
Special Assistant Attorney General  
DYKEMA GOSSETT PLLC  
201 Townsend St., Ste. 900  
Lansing, MI 48933  
(517) 374-9133  
[ggordon@dykema.com](mailto:ggordon@dykema.com)

Attorney for Defendants

Dated: August 28, 2014