

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

CHRISTOPHER WAECHTER and GABRIEL  
NOVAK,

Plaintiffs,

vs.

CITY OF SAUGATUCK, a Michigan municipal corporation; KIRK HARRIER, City of Saugatuck City Manager, sued in his official and individual capacities; MICHAEL CLARK, City of Saugatuck Planning Director, sued in his official and individual capacities; and JON BENDER, a Saugatuck-Douglas Police Officer, sued in his individual capacity,

Defendants.

---

Case No. 1:14-cv-01291

Hon. Robert J. Jonker  
U.S. District Judge

**CONSENT JUDGMENT**

Upon stipulation and consent of the parties, by and through their respective attorneys, the Court finds as follows:

- A. Plaintiffs Christopher Waechter and Gabriel Novak wish to play music on the public sidewalks of Saugatuck and accept tips from passersby.
- B. Defendant City of Saugatuck is a municipal corporation in the State of Michigan.
- C. The City of Saugatuck has enacted a Public Entertainment Ordinance, Saugatuck Code §§ 111.25 – 111.99, which regulates public entertainment events conducted in the City of Saugatuck.
- D. The City of Saugatuck has, in the past, applied the Public Entertainment Ordinance, Saugatuck Code §§ 111.25 – 111.99, to Plaintiffs Christopher Waechter and Gabriel

Novak to prohibit them from playing music on the public sidewalks of the City of Saugatuck.

E. Plaintiffs Christopher Waechter and Gabriel Novak filed this suit against the City of Saugatuck and various City officials seeking, among other things, an injunction forbidding Defendants from applying the Public Entertainment Ordinance – including the provision requiring performers to acquire a license before performing – to Plaintiffs and other individual street performers alleging that doing so violates their First Amendment right to free speech and expression and their Fourteenth Amendment right to due process of law.

F. Whereas Plaintiffs wish to protect their constitutional rights and those of other street performers, and whereas the parties wish to avoid further costs, attorney fees and expenses associated with further litigation, the parties have agreed to resolve this matter, except to the extent that attorney's fees are reserved, under the terms of this Consent Judgment.

**THEREFORE**, this Consent Judgment having been presented to the Court pursuant to the stipulation of the parties, and the Court having determined that this proposed Consent Judgment is reasonable and just and being otherwise fully advised in the premises; **IT IS HEREBY ORDERED:**

1. The City of Saugatuck is permanently enjoined from enforcing the Public Entertainment Ordinance, Saugatuck Code §§ 111.25 – 111.99, against Plaintiffs and other individual street performers who wish to perform on the public sidewalks or other public fora in Saugatuck, including against individual street performers who accept tips from passersby.

2. The City of Saugatuck is also permanently enjoined from requiring Plaintiffs or other individual street performers to obtain a permit if they wish to perform on the public sidewalks or other public fora in Saugatuck.

3. Pursuant to Fed. R. Civ. P. 65(d)(2), this injunction is binding on the parties, the

parties' officers, agents, servants, employees, attorneys and other persons who are in active concert or participation with them.

4. Seven Thousand, Five Hundred Dollars (\$7,500.00) shall be paid to Plaintiff Christopher Waechter within 30 days of the entry of this consent judgment on behalf of the Defendant City of Saugatuck.

5. Seven Thousand, Five Hundred Dollars (\$7,500.00) shall be paid to Plaintiff Gabriel Novak within 30 days of the entry of this consent judgment on behalf of the Defendant City of Saugatuck.

6. Plaintiffs' claims against Defendants Kirk Harrier, Michael Clark and Jon Bender are dismissed with prejudice.

7. The amount of attorneys' fees to be paid to Plaintiffs is reserved. If the parties are unable to settle the issue of attorneys' fees, Plaintiffs shall have 60 days from the entry of judgment to file a motion for attorneys' fees.

8. Except for the amount of attorneys' fees, this Consent Judgment hereby resolves all claims which were or could have been brought by the parties in this case arising out of application of the Public Entertainment Ordinance, Saugatuck Code §§ 111.25 against the Plaintiffs.

DATED: March 27, 2015

/s/Robert J. Jonker  
HONORABLE ROBERT J. JONKER  
UNITED STATES DISTRICT JUDGE

For Plaintiffs

Dated: March 26, 2015

/s/ Michael J. Steinberg  
Michael J. Steinberg (P43085)  
AMERICAN CIVIL LIBERTIES UNION  
FUND OF MICHIGAN  
2966 Woodward Avenue  
Detroit, Michigan 48201  
(313) 578-6814  
[msteinberg@aclumich.org](mailto:msteinberg@aclumich.org)

/s/ Miriam J. Aukerman  
MIRIAM J. AUKERMAN (P63165)  
MARC ALLEN (NY Bar # 5230008)  
AMERICAN CIVIL LIBERTIES UNION  
FUND OF MICHIGAN  
1514 Wealthy St. SE, Suite 242  
Grand Rapids, MI 49506  
(616) 301-0930  
[maukerman@aclumich.org](mailto:maukerman@aclumich.org)

For Defendants

Date: March 26, 2015

/s/ Michael S. Bogren  
MICHAEL S. BOGREN (P34835)  
Plunkett Cooney  
950 Trade Centre Way, Suite 310  
Kalamazoo, MI 49002  
(269) 226-8822  
[mbogren@plunkettcooney.com](mailto:mbogren@plunkettcooney.com)

Open.00560.44042.15244110-1