

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

KATIE ANNE PLATTE, ASHLEY BERDEN,
CULLIN STEWART, and SAMUEL
PAUL MANESS,

Plaintiffs,

v.

Case Number 05-10200-BC
Honorable David M. Lawson

THOMAS TOWNSHIP, a Municipal Corporation;
CITY OF MOUNT PLEASANT, a Municipal
Corporation; STANLEY A. DINUS, in his official
capacity as Director 1 Chief of Police of the
Central Michigan University Police Department;
ISABELLA COUNTY, a Municipal Corporation;
JENNIFER M. GRANHOLM, in her Official
Capacity as Governor of the State of Michigan;
COLONEL TADARIAL STURDIVANT, in his
Official Capacity as Director of the Michigan
Department of State Police,

Defendants.

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**ORDER ACCEPTING DEFENDANT ISABELLA COUNTY'S
SECOND REVISED OFFER OF JUDGMENT AND PLAINTIFFS STEWART AND
MANESS' NOTICE OF ACCEPTANCE**

This matter is before the Court on defendant Isabella County's second revised offer of judgment pursuant to Federal Rule of Civil Procedure 68 and plaintiffs Samuel Maness and Cullin Stewart's notice of acceptance of that offer.

Rule 68 provides:

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party for the money or property or to the effect specified in the offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the clerk shall enter judgment. . . .

Under the terms of the offer, defendant Isabella County agrees to pay a judgment in the amount of \$5000 jointly to plaintiffs Maness and Stewart inclusive of all costs and attorneys fees incurred to the present date. Isabella County further agrees to the plaintiffs' request for preliminary injunction, which would prohibit the County from enforcing Mich. Comp. Laws § 436.1703(6) to the extent that it authorizes police officers to force minor, non-drivers to submit to warrantless breathalyzer tests upon penalty of a civil infraction. The injunction would continue until such time as there has been a final judicial determination or declaration as to the constitutionality of the section 436.1703(6). Defendant Isabella County agrees to comply with any and all requirements of the final judicial determination.

The Court has reviewed the offer of judgment and notice of acceptance and finds that it complies with Rule 68. The Court therefore will enter judgment in accordance with the terms of the parties' agreement and Rule 68.

Accordingly, it is **ORDERED** that defendant Isabella County's second revised offer of judgment and plaintiffs Samuel Maness and Cullin Stewart's notice of acceptance is **ACCEPTED**.

It is further **ORDERED** that defendant Isabella County pay the sum of \$5,000 jointly to these plaintiffs as a money judgment in accordance with the terms stated in the offer.

It is further **ORDERED** that defendant Isabella County, its agents, servants, and employees, and all persons in active concert with it, are **RESTRAINED AND ENJOINED** from enforcing Mich. Comp. Laws § 436.1703(6) to the extent that it authorizes police officers to force minor, non-drivers to submit to warrantless breathalyzer tests upon penalty of a civil infraction until such time

as there has been a final judicial determination or declaration as to the constitutionality of the section 436.1703(6).

s/David M. Lawson _____
DAVID M. LAWSON
United States District Judge

Dated: April 12, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 12, 2006.

s/Tracy A. Jacobs _____
TRACY A. JACOBS