



# MOUNTAIN STATES LEGAL FOUNDATION

May 4, 2022

VIA ECF

Catherine O'Hagan Wolfe  
Clerk of the Court  
U.S. Court of Appeals for the Second Circuit  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

**Re: *Everytown for Gun Safety Support Fund, et al. v. Zachary Fort, et al.*, No. 21-191 –  
Order dated April 20, 2022**

Dear Ms. Wolfe:

I write as counsel for Intervenor-Appellants (“Appellants”) and submit this letter on behalf of Appellants and Plaintiffs-Appellees (collectively, “the Parties”) pursuant to Federal Rule of Appellate Procedure 28(j) and this Court’s April 20, 2022 Order requiring the Parties to “jointly provide this Court with an update on the status of the district court proceedings within five days of the submission of a status report to the district court made pursuant to the district court’s April 14, 2022 order.” ECF No. 94.

On April 29, 2022, the Government Defendants in the district court litigation filed a letter on behalf of the parties below providing the district court with an update as to the Defendant Bureau of Alcohol, Tobacco, Firearms, and Explosives’ (“ATF”) rulemaking process. *City of Syracuse, et al. v. Bureau of Alcohol, Tobacco, Firearms and Explosives, et al.*, 20-CV-6885-GHW, ECF No. 135 (S.D.N.Y.) (“District Court Docket”). The parties below noted that the ATF’s Final Rule has an effective date of August 24, 2022,<sup>1</sup> and that the parties “will be in a better position to know whether further proceedings in this matter are necessary after the effective date of the rule. Specifically, before making further decisions with respect to this action, Plaintiffs want to ensure that the rule does indeed take effect.” *Id.* at 1.

The parties below jointly proposed the following:

[T]he parties respectfully propose that the court administratively close this case without prejudice to reopening by September 15, 2022. An administrative closure “has no effect on the rights of the parties” and has the same effect “as a stay, except that it affects the count of active cases on the court’s docket.” *See Abreu v. Thomas*,

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<sup>1</sup> The ATF’s Final Rule was published in the Federal Register on April 26, 2022. *Definition of “Frame or Receiver” and Identification of Firearms*, 87 Fed. Reg. 24,652 (Apr. 26, 2022), <https://www.federalregister.gov/documents/2022/04/26/2022-08026/definition-of-frame-or-receiver-and-identification-of-firearms>.



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No. 17 Civ. 1312 (DNH), 2019 WL 11157245 (N.D.N.Y. July 19, 2019 (internal quotations and citations omitted); *see also United States v. Savoy*, No. 19 Civ. 11853 (PMH), 2021 WL 4803777 (S.D.N.Y. Oct. 14, 2021) (same). Alternatively, the parties respectfully request a continuation of the stay until September 15, 2022, with a status update due to the Court on that date.

*Id.* at 1–2. The district court has yet to rule on their request.

Accordingly, the Parties propose that they jointly provide this Court with an update on the status of the district court proceedings within five days of the district court ruling upon the parties' April 29, 2022 Letter, District Court Docket No. 135.

We thank the Court for its attention to this matter.

Sincerely,

/s/ Cody J. Wisniewski

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cc: All Counsel of Record (via ECF)