

In the United States Court of Appeals
for the Seventh Circuit

Rhonda Ezell, et al.,) Nos. 14-3312, 14-3322
)
 Plaintiffs-Appellees/)
 Cross-Appellants,)
)
 v.)
)
City of Chicago,)
)
 Defendant-Appellant/)
 Cross-Appellee.)

)

MOTION TO EXTEND TIME TO FILE APPELLEES' BRIEF

Come now Appellees/Cross-Appellants Rhonda Ezell, Joseph I. Brown, William Hesper, Action Target, Inc., Second Amendment Foundation, Inc., and Illinois State Rifle Association, Appellees, by and through undersigned counsel, and move this Honorable Court, to extend the time in which to file the Appellees/Cross-Appellants' Brief from February 2, 2015 to March 16, 2015, and in support thereof submit the attached declaration.

Dated: January 6, 2015

Respectfully submitted,

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Declaration

I, Alan Gura, counsel of record for the Appellees/Cross-Appellants, declare the following based on my personal knowledge.

1. The Appellees/Cross-Appellants' Brief is due February 2, 2015. This is Appellees/Cross-Appellants' first request for an extension of time to file their opening brief.
2. I am counsel for the Appellants in *Dearth v. Holder*, D.C. Circuit No. 12-5305. That case was first argued September 13, 2013. On January 10, 2014, the D.C. Circuit ordered a round of supplemental briefing, which was completed March 13, 2014.
3. On December 22, 2014, the *Dearth* panel ordered a second round of comprehensive supplemental briefing, due January 30, 2015, and set the case for reargument on March 5, 2015. Owing to the short time frame between the supplemental briefing and the date already set for reargument, and the fact that the case has already been argued once, the D.C. Circuit is unlikely to be receptive to any motions altering the January 30 deadline in *Dearth*.
4. I am also counsel of record for the Appellants/Cross-Appellees in *Moore v. Madigan*, Nos. 14-3717, pending in this Court.¹ On December 30, 2014, this Court ordered the parties to mediate the case, also on January 30, 2015, and ordered that the opening brief be filed March 2, 2015.
5. I am also lead counsel for the plaintiffs in *Mance v. Holder*, N.D. Tex. No. 14-539. On December 17, 2014, the Court in *Mance* scheduled an argument in that case, by previous

¹The cross-appeal has been noticed below, but not yet docketed in this Court.

order set for one hour, in Ft. Worth, Texas, on January 20, 2015. (The case had originally been set for argument December 30, 2014, but owing to the holiday season, none of the four attorneys in the case could appear in court that day.)

6. I am also counsel for the Appellee/Cross-Appellant in *Binderup v. Holder*, Third Cir. Nos. 14-4549/14-4550. The Government's opening brief in that case is currently due January 20, 2015. Consequently, the Appellee/Cross-Appellant's' brief for which I am responsible would apparently be due February 23, 2015.
7. This is by no means a complete recitation of my professional obligations and filing deadlines in the coming weeks. However, with both a D.C. Circuit brief due on, and a Seventh Circuit mediation scheduled for, January 30, and a significant argument set for January 20, it would be difficult, at best, to complete and file the Appellees/Cross-Appellants' brief in this case by February 2, 2015.
8. My co-counsel, David Sigale, will participate in the preparation of our opening brief. Among other obligations, Mr. Sigale is lead counsel for the Plaintiffs in *Radich v. Deleon Guerrero*, D. N.M.I. No. 1:14-CV-20, and must travel to the Northern Mariana Islands for a summary judgment hearing to be held March 12. I am reliably informed that he will be departing Chicago for the Islands on March 9. We will likely be unable to communicate until after the *Radich* hearing is concluded.
9. Considering that I have a Third Circuit brief due February 23, another brief in this circuit due March 2 (on which Mr.

Sigale will also collaborate),² a D.C. Circuit re-argument set for March 5, 2015, and Mr. Sigale's unavailability March 9-12, Appellees/ Cross-Appellants respectfully request that the deadline for filing their brief in this case be reset for March 16, 2015.

10. I contacted counsel for the Appellant/Cross-Appellee City of Chicago, Suzanne Loose, who indicated that she does not oppose this motion.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 6th day of January, 2015.

/s/ Alan Gura
Alan Gura

²Of course Appellants will participate fully at the mediation in *Moore*. However, both sides are appealing from an award of attorney fees. Our opponents have refused to negotiate, adhering to the view they presented below that we did not prevail. *Contra Moore v. Madigan*, 702 F.3d 931 (7th Cir. 2012). Accordingly, I am not optimistic about mediation resolving the March 2 briefing deadline.

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Alan Gura

Alan Gura