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December 12, 2012

The Hon. Patricia S. Connor, Clerk  
U.S. Court of Appeals for the Fourth Circuit  
1100 East Main Street, Suite 501  
Richmond, Virginia 23219-3517

Re: *Woollard v. Gallagher*, No. 12-1437, argued Oct. 24, 2012

Notice of Supplemental Authority, Fed. R. App. P. 28(j)

Dear Ms. Connor:

Yesterday the Seventh Circuit decided *Moore v. Madigan*, No. 12-1269, 2012 U.S. App. LEXIS 25264 (7<sup>th</sup> Cir. Dec. 11, 2012), reversing decisions endorsed by Appellants' Br. at 17, 53.

"*Heller* repeatedly invokes a broader Second Amendment right than the right to have a gun in one's home..." *Moore*, at \*8. "A right to bear arms thus implies a right to carry a loaded gun outside the home...one doesn't have to be a historian to realize that a right to keep and bear arms for personal self-defense in the eighteenth century could not rationally have been limited to the home..." *Id.* at \*8-\*9. "The Supreme Court has decided that the amendment confers a right to bear arms for self-defense, which is as important outside the home as inside." *Id.* at \*29.

Although "our analysis is not based on degrees of scrutiny," *id.* at \*26, *Moore* found Illinois "would have to make a stronger showing in this case than [intermediate scrutiny]" to sustain a prohibition impacting "the gun rights of the entire law-abiding adult population of Illinois." *Id.* at \*21.

*Moore* criticized *Kachalsky v. County of Westchester*, No. 11-3642, 2012 U.S. App. LEXIS 24363 (2d Cir. Nov. 27, 2012). As Appellees noted, *Kachalsky's* historical survey was questionable; moreover, "we

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regard the historical issues as settled by *Heller*.” *Moore*, at \*26. *Moore* also rejected *Kachalsky*’s “suggestion that the Second Amendment should have much greater scope inside the home than outside simply because other provisions of the Constitution have been held to make that distinction.” *Id.* “[T]he interest in self-protection is as great outside as inside the home.” *Id.*

Finally, *Moore* addressed concerns with issuing potentially unnecessary opinions:

Fair enough; but that “vast *terra incognita*” has been opened to judicial exploration by *Heller* and *McDonald*. There is no turning back by the lower federal courts, though we need not speculate on the limits that Illinois may in the interest of public safety constitutionally impose on the carrying of guns in public; it is enough that the limits it *has* imposed go too far.

*Id.* at \*28. The Second Amendment is unavoidable here as well.

Sincerely,

/s/ Alan Gura  
Alan Gura

*Counsel for Appellees*

This body of this letter contains 349 words.

cc: Counsel of Record via ECF