IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MATTHEW GRACE and PINK PISTOLS,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 15-2234 (RJL)
DISTRICT OF COLUMBIA and CATHY LANIER, in her official capacity as Chief of Police for the Metropolitan Police Department,	)	
Defendants.	)	

REPLY MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR ENTRY OF A SCHEDULING ORDER

On May 17, 2016, this Court preliminarily enjoined the District of Columbia's "good reason" requirement for obtaining a license to carry a firearm outside the home. The Court held that Plaintiffs had established irreparable harm because they "are likely to succeed in showing their Second Amendment rights are being infringed each and every day the District continues to enforce the 'good reason' requirement . . . ." *Grace v. District of Columbia*, --F. Supp. 3d --, 2016 WL 2908407, at *16 (D.D.C. May 17, 2016). Because the Court of Appeals stayed the injunction, however, Plaintiffs' rights continue to be infringed on a daily basis. And if the preliminary injunction is not reinstated following the appeal, Plaintiffs' rights will continue to be infringed until the "good reason" requirement is finally struck down. Plaintiffs thus seek the entry of a scheduling order that will allow this Court to promptly and efficiently reach the merits, and the District's objection that there is no "practical reason" to start discovery now is meritless,

see Defs.' Opp'n to Pls.' Mot. for a Scheduling Order at 3–4 (Dec. 23, 2016), Doc. 55 ("Opp'n").

The District also objects that there is "at least one practical reason not to proceed"—the possibility that the Court of Appeals will "effectively decide the merits." *Id*. at 4 (alteration omitted). Plaintiffs, of course, believe that the Court of Appeals should affirm this Court's preliminary injunction order in a way that makes clear that the "good reason" requirement is unconstitutional regardless of what evidence the District could muster to support it. But in the event that the appeal instead results in a remand for further proceedings, this Court will be better positioned to address the merits promptly if discovery commences now.

Furthermore, the District cannot complain of prejudice from any discovery efforts that ultimately prove unnecessary. This Court stopped short of entering a permanent injunction to allow the District "to develop the facts supporting their argument that the 'good reason' requirement survives means-end scrutiny." *Grace*, 2016 WL 2908407, at *17. The task for the District, then, is to produce expert and other evidence that it purports supports the "good reason" requirement. But the District has already collected and produced this evidence in *Wrenn v. District of Columbia*, No. 15-0162-CKK, for it admits in its response that discovery in that case was scheduled to conclude on December 23. *See* Opp'n at 5. While the District states that it is only "possible that [it] will elect to rely upon the same experts it has identified" in *Wrenn*, *id*., it provides no rational reason why it would unnecessarily consume taxpayer dollars to engage new experts to produce duplicative evidence in support of the same law that is being challenged in *Wrenn*.

The District also objects to the timing of our motion. But while we did not seek entry of a discovery schedule immediately upon the District's appeal, now that three months have passed

since argument without a decision and now that discovery has concluded in *Wrenn*, we believe it prudent to start discovery promptly to avoid any unnecessary delay once the D.C. Circuit does issue its judgment in the appeal. And, as we have explained, the conclusion of discovery in *Wrenn* effectively eliminates any potential prejudice to the District.

The District's invocation of the seven months allocated for discovery in *Wrenn* fails for similar reasons—now that discovery in that case is complete, the District should be well-positioned to produce its evidence in this case in short order. To be sure, the original schedule proposed by Plaintiffs is now moot in light of the fact that the District took a full fourteen days to respond to Plaintiffs' four-page motion. But the substance of Plaintiffs' proposal can be sustained by entry of the following schedule, which commences with expert reports fourteen days after an order granting Plaintiffs' motion and allows the same amount of time between that date and the conclusion of summary judgment briefing as Plaintiffs' initial proposal:

a) Expert disclosures and reports – 14 days after entry of order granting Plaintiffs' motion;

b) Rebuttal expert disclosures and reports – 28 days later;

c) Discovery closes – 28 days later;

d) Defendants' motion for summary judgment – 21 days later;

e) Plaintiffs' response and cross-motion for summary judgment – 21 days later;

f) Defendants' reply and response to Plaintiffs' motion – 21 days later;

g) Plaintiffs' reply – 14 days later.

This schedule for discovery and summary judgment briefing is eminently reasonable, particularly in light of the extensive briefing that already has been done in this case. And, of course, this Court may alter the proposed schedule in any way it deems appropriate.

CONCLUSION

For these reasons, Plaintiffs' motion for entry of a scheduling order should be granted.

Dated: December 29, 2016

Respectfully submitted,

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