

THE HONORABLE BENJAMIN H. SETTLE

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 NORTHWEST SCHOOL OF SAFETY, a
Washington sole proprietorship, PUGET
9 SOUND SECURITY, INC., a Washington
corporation, PACIFIC NORTHWEST
10 ASSOCIATION OF INVESTIGATORS, INC.,
a Washington corporation, FIREARMS
11 ACADEMY OF SEATTLE, INC., a
Washington corporation, DARRYL LEE, XEE
12 DEL REAL, JOE WALDRON, GENE
HOFFMAN, ANDREW GOTTLIEB, ALAN
13 GOTTLIEB, GOTTLIEB FAMILY
REVOCABLE LIVING TRUST, a Washington
14 trust, and SECOND AMENDMENT
FOUNDATION, a non-profit organization,
15 Plaintiffs,

16 v.

17 BOB FERGUSON, Attorney General of
Washington (in his official capacity),
18 WASHINGTON ATTORNEY GENERAL'S
OFFICE, and JOHN R. BATISTE, Chief of the
19 Washington State Patrol (in his official
capacity), and DOES I-V,
20 Defendants,

21 and

22 CHERYL STUMBO, WASHINGTON
ALLIANCE FOR GUN RESPOSIBILITY
23 AND EVERYTOWN FOR GUN SAFETY
ACTION FUND FOR I-594,
24 Intervenor-Defendants.

Case No. 3:14-cv-06026 BHS

JOINT STATUS REPORT

25
JOINT STATUS REPORT - 1
Case No. 3:14-cv-6026 BHS

CORR CRONIN MICHELSON
BAUMGARDNER FOGG & MOORE LLP
1001 Fourth Avenue, Suite 3900
Seattle, Washington 98154-1051
Tel (206) 625-8600
Fax (206) 625-0900

1 Pursuant to the Court's Order dated January 5, 2015, the parties hereby submit this
2 combined Joint Status Report and Discovery Plan.

3 **I. Brief Statement of the Nature and Complexity of the Case**

4 This case involves a constitutional challenge to a Washington state law under 42 U.S.C.
5 § 1983 and the Second and Fourteenth Amendments to the Federal Constitution. The case is
6 predominated by legal issues and should not present a complex case.

7 **II. Proposed Deadline for Joining Additional Parties**

8 The parties propose June 1, 2015 as a deadline for joining additional parties.

9 **III. Consent to Magistrate Judge**

10 The parties do not consent to the use of a full-time magistrate judge to conduct all
11 proceedings, up to, and including entry of judgment.

12 **IV. Discovery Plan**

13 **a. Initial Disclosures**

14 The parties anticipate exchanging initial disclosures pursuant to Rule 26(a)(1) on or
15 before April 28, 2015.

16 **b. Subjects, Timing, and Potential Phasing of Discovery**

17 The parties anticipate that discovery will be conducted on Defendants' enforcement
18 actions and interpretations of I-594. Plaintiffs further anticipate that discovery will be taken as
19 to the drafting of the initiative. The State Defendants and Intervener-Defendants do not agree
20 that discovery of the drafting of the initiative is appropriate. The parties do not anticipate the
21 need to phase discovery.

22 **c. Electronically Stored Information**

23 The parties anticipate that discovery will be taken on electronically stored information
24 ("ESI").

1 **d. Privilege Issues**

2 The parties anticipate that discovery will be requested on documents that are protected
3 by the attorney/client or work product privilege and anticipate exchanging privilege logs.

4 **e. Proposed Limitations on Discovery**

5 At this time, the parties do not anticipate the need for limitations on discovery.

6 **f. The Need (if any) for Discovery Related Orders**

7 The parties do not anticipate the need for a protective order.

8 **V. Parties' Views on all Items in Rule 26(f)(1)**

9 **a. Prompt Case Resolution**

10 Counsel for the parties have discussed settlement and have determined that the case is
11 not amenable to settlement at this time.

12 **b. ADR**

13 The parties do not anticipate they will be able to engage in ADR given the constitutional
14 nature of the claims.

15 **c. Related Cases**

16 The parties are not aware of any related cases.

17 **d. Discovery Management**

18 The parties anticipate the ability to manage discovery on their own and do not at this time
19 anticipate the need for formal discovery management. The discovery in this case is anticipated
20 to be minimal.

21 **e. Anticipated Discovery Sought**

22 The parties plan on taking discovery related to the enforcement and interpretation of I-
23 594.

1 **f. Phasing Motions**

2 The parties anticipate that, if the currently pending motion to dismiss is denied, the State
3 Defendants will bring a motion asking this Court to certify questions of interpretation of the
4 underlying state law to the Washington Supreme Court. Following a response from the state
5 court to the certified questions, one or more motions for summary judgment are likely to resolve
6 the case.

7 **g. Preservation of Discoverable Information**

8 Counsel for the parties have notified the parties regarding their respective duty to
9 preserve discoverable information.

10 **h. Privilege Issues**

11 The parties do not believe that there are any unusual privilege issues. The parties
12 anticipate stipulating to an ER 502 agreement.

13 **i. Model Protocol for Discovery of ESI**

14 The parties anticipate entering into a discovery protocol based, in part, on the Model
15 Protocol for Discovery of ESI.

16 **j. Alternatives to the Model Protocol**

17 The parties plan to cooperate regarding the discovery of ESI.

18 **VI. The Date by Which Discovery Can Be Completed**

19 The parties believe that discovery may be completed by July 3, 2015.

20 **VII. Bifurcation**

21 The parties do not believe bifurcation of the trial is necessary.

22 **VIII. Need for Pre-Trial Statements Called for by LR 16(e), (h), (i), and (k)**

23 The parties do not agree to dispense with Pre-trial Statements as set forth in the local
24 rules.

1 **IX. Views on Local Rules 39.1 (Individualized Trial) and 39.2 (ADR)**

2 The parties do not consent to the Individualized Trial Program.

3 **X. Suggestions for Shortening or Simplifying Case**

4 The parties do not have any suggestions for shortening or simplifying the case.

5 **XI. Proposed Date Case Will be Ready to Trial**

6 The parties are currently unable to predict a date by which the case will be ready for trial
7 due to the anticipated motion to certify questions regarding the interpretation of state law to the
8 Washington Supreme Court. The parties anticipate that the case can likely be resolved on
9 summary judgment.

10 **XII. Jury or Non-Jury Trial**

11 No party has demanded a trial by jury.

12 **XIII. Number of Trial Days**

13 The parties anticipate needing 1-2 days for trial.

14 **XIV. Names Addresses, and Phone of all Trial Counsel**

Trial counsel for Plaintiffs	Steven Fogg, WSBA No. 23528 David B. Edwards, WSBA No. 44680 1001 Fourth Avenue, Suite 3900 Seattle, Washington 98154-1051 (206) 625-8600
Trial counsel for the Defendants	Noah G. Purcell, WSBA No. 43492 <i>Solicitor General</i> R. July Simpson, WSBA No. 45869 <i>Assistant Attorney General</i> Jeffrey T. Even, WSBA No. 20367 <i>Deputy Solicitor General</i> Rebecca R. Glasgow, WSBA No. 32886 <i>Deputy Solicitor General</i> Office of the Attorney General 1125 Washington St. SE P.O. Box 40100

	Olympia, WA 98504-0100 (360) 753-6200
Trial counsel for the Intervenor-Defendants:	Gregory J. Wong, WSBA No. 39329 Paul J. Lawrence, WSBA No. 13557 Sarah S. Washburn, WSBA No. 44418 Pacifica Law Group, LLP 1191 Second Avenue, Suite 2000 Seattle Washington 98101-3404 (206) 245-1700

XV. Dates Trial Counsel Have Scheduling Difficulties

Plaintiffs’ and the State Defendants’ Counsel do not have any other trials currently scheduled in the second half of 2015 that would pose a scheduling problem for a trial of the length anticipated here. Intervenor-Defendants’ Counsel is unavailable the following dates in the second half of 2015: September 18th-21st, September 28th-October 9th, and November 23rd-December 4th.

XVI. Status of Service

The defendants have been served. No other parties are awaiting service.

XVII. Request for Scheduling Conference

The parties do not believe a scheduling conference is necessary.

XVIII. Corporate Disclosure Statements as Provided by FRCP 7.1 and LCR 7.1

Plaintiffs filed their corporate disclosure statement on December 30, 2014 (ECF No. 2). Intervenor-Defendants filed their corporate disclosure statements on February 23, 2015 (ECF Nos. 20 & 21).

//
//
//
//

1 DATED this 15th day of April, 2015.

2 CORR CRONIN MICHELSON
3 BAUMGARDNER FOGG & MOORE
4 LLP

5 /s/ David B. Edwards

6 Steven W. Fogg, WSBA No. 23528
7 David B. Edwards, WSBA No. 44680
8 1001 Fourth Avenue, Suite 3900
9 Seattle, Washington 98154
10 Tel: (206) 625-8600
11 Fax: (206) 625-0900
12 sfogg@corrchronin.com
13 dedwards@corrchronin.com

14 Mikolaj T. Tempksi, WSBA No. 42896
15 Tempksi Law Firm, PS
16 40 Lake Bellevue Dr., Suite 100
17 Bellevue, WA 98005
18 miko@tempskilaw.com

19 *Attorneys for Plaintiffs*

20 PACIFICA LAW GROUP LLP

21 /s/ Gregory J. Wong

22 Gregory J. Wong, WSBA No. 39329
23 Paul J. Lawrence, WSBA No. 13557
24 Sarah S. Washburn, WSBA No. 44418
25 Pacifica Law Group, LLP
1191 Second Avenue, Suite 2000
Seattle Washington 98101-3404
(206) 245-1700
paul.lawrence@pacificallawgroup.com
greg.wong@pacificallawgroup.com
sarah.washburn@pacificallawgroup.com

Attorneys for Intervenor-Defendants

OFFICE OF THE ATTORNEY
GENERAL

/s/ Jeffrey T. Even

Noah G. Purcell, WSBA No. 43492
Solicitor General
noahp@atg.wa.gov
R. July Simpson, WSBA No. 45869
Assistant Attorney General
RJJulyS@atg.wa.gov
Jeffrey T. Even, WSBA No. 20367
Deputy Solicitor General
jeffe@atg.wa.gov
Rebecca R. Glasgow, WSBA No. 32886
Deputy Solicitor General
RebeccaG@atg.wa.gov
Office of the Attorney General
1125 Washington St. SE
P.O. Box 40100
Olympia, WA 98504-0100

Attorneys for Defendants

1 **CERTIFICATE OF SERVICE**

2 The undersigned certifies as follows:

3 1. I am employed at Corr Cronin Michelson Baumgardner Fogg & Moore LLP,
4 attorneys for Plaintiffs herein.

5 2. On April 15, 2015, I filed the foregoing document through the Court's ECF
6 service which will send notification of filing to the following parties indicated below:

7 Noah G. Purcell, WSBA No. 43492

8 *Solicitor General*

9 noahp@atg.wa.gov

10 R. July Simpson, WSBA No. 45869

11 *Assistant Attorney General*

12 RJJulyS@atg.wa.gov

13 Jeffrey T. Even, WSBA No. 20367

14 *Deputy Solicitor General*

15 jeffe@atg.wa.gov

16 Rebecca R. Glasgow, WSBA No. 32886

17 *Deputy Solicitor General*

18 RebeccaG@atg.wa.gov

19 Office of the Attorney General

20 1125 Washington St. SE

21 P.O. Box 40100

22 Olympia, WA 98504-0100

23 *Attorneys for Defendants*

Paul J. Lawrence

Gregory J. Wong

Sarah S. Washburn

Pacifica Law Group LLP

1191 Second Avenue, Ste 2000

Seattle, WA 98101-3404

Paul.lawrence@pacificalawgroup.com

Greg.wong@pacificalawgroup.com

Sarah.washburn@pacificalawgroup.com

24 I declare under penalty of perjury under the laws of the state of Washington that the
25 foregoing is true and correct.

DATED: April 15, 2015, at Seattle, Washington.

/s/ Christy A. Nelson

Christy A. Nelson