

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PULLMAN ARMS INC.; GUNS and GEAR, LLC;
PAPER CITY FIREARMS, LLC; GRRR! GEAR,
INC.; and NATIONAL SHOOTING SPORTS
FOUNDATION, INC.,

Plaintiffs,

v.

MAURA HEALEY, as ATTORNEY GENERAL
FOR THE COMMONWEALTH OF
MASSACHUSETTS,

Defendant.

CIVIL ACTION NO.
4:16-cv-40136-TJH

DEFENDANT'S MOTION FOR LEAVE TO FILE REPLY MEMORANDUM
IN SUPPORT OF MOTION TO DISMISS

Pursuant to Local Rule 7.1(b)(3), the defendant Maura Healey, as Attorney General of the Commonwealth of Massachusetts, respectfully moves for leave to file a reply memorandum in further support of her motion to dismiss the amended complaint. As grounds, the Attorney General states:

1. The plaintiffs filed an amended complaint on December 13, 2017. The Amended Complaint is 24 pages and contains 102 paragraphs. It asserts five claims against the Attorney General that seek to challenge the Enforcement Notice her office issued in July 2016 interpreting the Massachusetts Assault Weapons Ban, G.L. c. 140, §§ 121, 131M.

2. On January 10, 2017, the Attorney General moved to dismiss all of the plaintiffs' claims pursuant to Fed. R. Civ. P. 12(b)(1) and (6). In particular, the Attorney General contends:

(1) that the plaintiffs' three state-law claims are barred by the Eleventh Amendment to the United States Constitution, and, in any event, that each fails as a matter of law; (2) that the plaintiffs' vagueness claim is not cognizable, and, in any event, fails on the merits; and (3) that the plaintiffs' contingent Second Amendment claim is not justiciable and fails as a matter of law.

3. On January 24, 2017, the plaintiffs filed a 33-page opposition to the Attorney General's motion to dismiss raising a number of arguments about the scope of Eleventh Amendment immunity and the justiciability of their due process and Second Amendment claims. The proposed 12-page reply seeks to respond to these issues as succinctly as possible. The Attorney General respectfully submits that the proposed reply will assist the Court in resolving a potentially dispositive motion in this important case.

4. The plaintiffs will not be prejudiced by the filing of a reply. The hearing on the Attorney General's motion to dismiss is April 7, 2017, which affords them ample time to review and consider its content.

For the foregoing reasons, the Attorney General respectfully requests that the Court grant her leave to file the attached Reply Memorandum.

Respectfully submitted,

MAURA HEALEY
ATTORNEY GENERAL

/s/ William W. Porter
William W. Porter, BBO #542207
Gary Klein, BBO #560769
Julia E. Kobick, BBO #680194
Assistant Attorneys General
Office of the Attorney General
One Ashburton Place, 20th Floor
Boston, Massachusetts 02108
(617) 963-2976
bill.porter@state.ma.us

Date: February 21, 2017

CERTIFICATE PURSUANT TO LOCAL RULE 7.1(a)(2)

I certify that, on February 17, 2017, I conferred with David Kerrigan, counsel for the plaintiffs, and attempted in good faith to reach agreement on this motion, but was unable to reach a resolution.

/s/ William W. Porter
William W. Porter
Assistant Attorney General

CERTIFICATE OF SERVICE

I certify that this document filed through the CM/ECF system will be sent electronically to registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 21, 2017.

/s/ William W. Porter
William W. Porter
Assistant Attorney General