

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

Robert Bevis, et al.,

Plaintiff,

v.

CITY OF NAPERVILLE, ILLINOIS, a  
municipal corporation;

Defendant.

Case No. 1:22-cv-04775

Honorable Virginia M. Kendall

**CITY OF NAPERVILLE’S MOTION TO CLARIFY THE COURT’S REQUEST FOR  
SUPPLEMENTAL BRIEFING AND TO ENTER THE PARTIES’ PROPOSED  
BRIEFING SCHEDULE FOR PLAINTIFFS’ PRELIMINARY INJUNCTION MOTION**

In light of the Court’s Order staying Defendant City of Naperville, Illinois’ (“Naperville”) enforcement of the Ordinance and permitting the Parties to submit an agreed briefing schedule for Plaintiffs’ preliminary injunction motion (Dkt. 29), Naperville respectfully requests the Court clarify its Order asking for supplemental briefing related to Plaintiffs’ preliminary injunction motion (Dkt. 30). Additionally, Naperville hereby requests the Court enter the Parties’ proposed briefing schedule for Plaintiffs’ preliminary injunction motion.<sup>1</sup> In further support of this motion, Naperville states as follows:

1. Plaintiffs seek to enjoin Naperville from enforcing the Ordinance banning the commercial sale of certain assault rifles within city limits. The Parties have agreed to a stipulation staying the enforcement of the Ordinance, which was to take effect January 1, 2023, pending a ruling on Plaintiffs’ preliminary injunction motion. *See* Dkt. 29.

2. Naperville submits that the development of a more complete record is necessary to rule on Plaintiffs’ motion and for a reviewing court to hear any appeal.

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<sup>1</sup> Naperville’s counsel conferred with Plaintiffs’ counsel and Plaintiffs do not oppose the proposed briefing schedule.

3. The Parties propose the following briefing schedule for Plaintiffs' motion:

**a. Naperville's opposition brief to Plaintiffs' Motion for Preliminary Injunction due February 21, 2023.**

**b. Plaintiffs' reply brief due March 23, 2023.**

4. This schedule will allow the Parties to retain experts, if they wish, and to present their affidavits for the Court's consideration. Among other potential experts, Naperville anticipates retaining historians to address the Court's questions raised in its Orders of November 23, 2022 and December 9, 2022. *See* Dkt. 15, 30. Other federal cases addressing *Bruen* issues have likewise involved expert historians and the development of an extensive factual record. *See, e.g.,* Order, *Miller v. Bonta*, No. 3:19-cv-01537 (S. D. Cal. October 13, 2022), ECF Nos. 136, 137 (voluminous supplemental briefing on two *Bruen* questions with multiple expert declarations); *see also U.S. v. Bullock*, Case 3:18-cr-00165 at Dkt. 65 (S.D. Miss. Oct. 27, 2022) (asking the parties "whether [the court] should appoint a historian to serve as a consulting expert" on founding-era firearms restrictions to address *Bruen* issues).

5. A similar procedure has been established in two cases pending in this District involving broader municipal bans of assault weapons in Illinois: Order, *Viramontes v. Cook County*, No. 1:21-cv-04595 (N. D. Ill. Oct. 12, 2022), ECF No. 46; Order, *Goldman et al. v. City of Highland Park, Illinois*, No. 1:22-cv-04774 (N. D. Ill. Oct. 11, 2022), ECF No. 22.

6. As the Court is aware, this case involves a narrower question of whether a municipality can limit the sale of assault rifles. The Ordinance does not curtail the possession or ownership of these weapons.

7. The Parties' proposed briefing schedule would replace the December 14, 2022 and December 19, 2022 dates ordered by the court on December 9, 2022. *See* Dkt. 30.

8. The agreed relief would stay in effect while the Court considered the Parties' experts' positions, eliminating the need for an interim ruling on either the TRO or preliminary injunction.

9. The Parties are available for a status hearing should the Court need additional clarification.

**WHEREFORE**, Naperville respectfully requests the Court clarify its December 9, 2022 minute entry ordering supplemental briefing related to Plaintiffs' motion for preliminary injunction, and enter the briefing schedule proposed by the Parties. Under the proposal, Naperville would have until February 21, 2023 to file its opposition to Plaintiffs' motion for preliminary injunction; Plaintiffs would have until March 23, 2023 to file their reply.

By: /s/ Christopher B. Wilson  
One of Naperville's Attorneys

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Dated: December 12, 2022

**CERTIFICATE OF SERVICE**

I, Christopher B. Wilson, certify that on December 12, 2022 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record. I also certify that I served the foregoing by email to the following attorneys:

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Attorneys for Plaintiffs

I certify under penalty of perjury that the foregoing is true and correct.

DATED this 12th day of December.

*s/ Christopher B. Wilson*

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