

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-CV-00265-H

MICHAEL BATEMAN, VIRGIL GREEN,)
FORREST MINGES, JR., GRNC/FFE, INC.,)
and SECOND AMENDMENT FOUNDATION,)
INC.,)

)
)
Plaintiffs,)

v.)

BEVERLY PERDUE, REUBEN F. YOUNG,)
STOKES COUNTY, and CITY OF KING,)

)
)
Defendants.)

**MOTION FOR ENLARGEMENT OF
PAGE LIMITATION**

NOW COME Defendants Beverly Perdue and Reuben F. Young (collectively “the State Defendants”), through counsel and with the consent of Plaintiffs, and seek an enlargement of the applicable page limit for the reply brief in support of their Motion for Summary Judgment and show unto the Court as follows:

1. Plaintiff filed this action challenging the constitutionality of portions of five statutes contained in the North Carolina General Statutes pertaining to the establishment of restrictions on the possession of firearms during declared states of emergency pursuant to the Second Amendment to the United States Constitution;

2. In connection with the dispositive motions that have been filed by both Plaintiffs and Defendants in this action, the parties have submitted several briefs attempting to analyze the legal issues relating to the constitutionality of the above-referenced statutes in light of the United States Supreme Court’s decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008) despite the absence

of any substantive ruling from the Fourth Circuit applying *Heller* and addressing key questions left unanswered by the Supreme Court in that case.

3. However, on December 30, 2010, the Fourth Circuit issued a decision in *United States v. Chester*, ___ F.3d ___, 2010 U.S. App. LEXIS 26508 (4th Cir. December 30, 2010), which contains the most definitive pronouncement from the Fourth Circuit regarding how Second Amendment challenges are to be applied in this Circuit post-*Heller*. Among other important aspects of the Fourth Circuit's ruling, *Chester* – for the first time – sets out the analytical framework under which Second Amendment challenges are to be reviewed by courts within this Circuit.

4. On January 10, 2011, Plaintiffs filed a memorandum in opposition to the State Defendants' Motion for Summary Judgment (hereafter "Response Memorandum"). In this Response Memorandum, Plaintiffs were able to discuss the decision in *Chester* and assert legal arguments based on the Fourth Circuit's rulings in that case.

5. The present lawsuit is a case of first impression nationally, and the issues raised herein are of considerable importance to the State of North Carolina. Attached hereto as Exhibit A is a reply brief in support of the State Defendants' Motion for Summary Judgment that represents the State Defendants' first, and only, opportunity to assert legal arguments in this Court based on the Fourth Circuit's holding in *Chester*. Despite his best efforts, the undersigned counsel for the State Defendants has been unable to contain said arguments within the presumptive ten page limit for reply briefs pursuant to this Court's Local Rules of Practice and Procedure. The State Defendants respectfully submit that allowing them to submit the reply brief attached hereto as Exhibit A will assist the Court in its decisional process in analyzing the issues that are currently before it.

6. Counsel for Plaintiffs has informed counsel for the State Defendants that Plaintiffs consent to the State Defendants filing a reply brief in excess of the presumptive ten page limit.

WHEREFORE, the State Defendants respectfully request that this Court allow them to file the reply brief in support of their Motion for Summary Judgment attached hereto as Exhibit A..

Respectfully submitted, this the 31st day of January, 2011.

ROY COOPER
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CERTIFICATE OF SERVICE

I hereby certify that on this day, January 31, 2011, I electronically filed the foregoing **MOTION FOR EXTENSION OF PAGE LIMITATION** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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