

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

JEFFERSON WAYNE SCHRADER and )  
SECOND AMENDMENT FOUNDATION, INC., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
ERIC HOLDER, Attorney General, and )  
FEDERAL BUREAU OF INVESTIGATION, )  
 )  
Defendants. )  
\_\_\_\_\_ )

Civil Action No. 10-1736 (RMC)

**DEFENDANTS’ CONSENT MOTION FOR EXTENSION OF TIME TO  
RESPOND TO COMPLAINT AND TO ESTABLISH BRIEFING SCHEDULE**

Defendants Eric Holder, Attorney General of the United States, and the Federal Bureau of Investigation, respectfully move the Court pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure for an extension of time to respond to the Complaint. Specifically, defendants request that the deadline be extended from December 20, 2010 through January 27, 2011. The grounds for this motion are set forth below. Plaintiffs, through their counsel, consent to this relief, and counsel for the parties have conferred regarding dates to propose to the Court for briefing defendants’ currently anticipated motion to dismiss.

Plaintiffs filed this action on October 13, 2010, and they challenge Justice Department’s enforcement of 18 U.S.C. § 922(g)(1) under the Second Amendment for individuals convicted of misdemeanor offenses. *See* Complaint, Second Claim for Relief. In addition, Plaintiff Schrader seeks removal of his firearms disability from the National Instant Criminal Background Check system. *See* Complaint, First Claim for Relief. As noted above, Defendants currently anticipate filing an initial dispositive motion in this case.

Plaintiff served the U.S. Attorney's Office with a summons and copy of the Complaint on October 20, 2010. Accordingly, defendants' initial response to the complaint is currently due on December 20, 2010. *See* Fed. R. Civ. P. 12(a)(2). The Department of Justice, however, did not notify the U.S. Attorney's Office until the week of December 13, 2010 that the U.S. Attorney's Office was being delegated full responsibility for this case. So although the Assistant United States Attorney with daily responsibility for this matter had promptly consulted with the FBI and begun working on a dispositive motion in mid-November, defendants' response to the Complaint is not yet complete because the AUSA, also an Assistant Appellate Counsel, handles a full docket of active cases both in this Court and in the D.C. Circuit, as well as supervisory duties in civil appellate cases. Among other things since October 20, 2010, the AUSA has been spending significant time managing a range of issues in a large Freedom of Information Act case, *Kellogg, Brown & Root v. Dep't of Defense*, Civil Action No. 10-818 (JDB), filing a brief in *Olson v. Clinton*, No. 09-5295, and briefing a dispositive motion in *Yaman v. Department of State*, Civil Action No. 10-818 (JDB). Consequently, although counsel has begun working on a motion to dismiss in this case, she will be unable to complete it and have it reviewed internally within the current deadline. The issues presented in this case are also not typical in the AUSA's practice.

Allowing defendants' counsel a some additional time to analyze the constitutional issues raised by the complaint and to present them to the Court consistent with undersigned counsel's high standards is reasonable under the circumstances. This extension is sought in good faith and granting a reasonable amount of additional time will neither unduly delay resolution of this matter nor unfairly prejudice Plaintiffs. The Court has not set any other deadlines in this case. A

thorough and comprehensive response to the complaint will assist the parties and the Court by joining the issues clearly and should ultimately streamline these proceedings.

Based on the currently known deadlines of counsel for both parties in other matters, counsel for the parties respectfully request that the Court enter the following schedule:

Defendants' motion to dismiss:	January 27, 2011;
Plaintiffs' opposition:	March 11, 2011; and
Defendants' reply:	April 7, 2011.

WHEREFORE, defendants respectfully request that the time for responding to the complaint be extended to and including January 27, 2011, and that the Court enter the remainder of the dates above.

Dated: December 17, 2010.

Respectfully submitted,

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United States Attorney

RUDOLPH CONTRERAS, D.C. BAR # 434122  
Civil Chief

By: /s/ Jane M. Lyons  
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