

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHRISTOPHER DAVIS, *et al.*

Plaintiffs,

v.

RICHARD C. GRIMES, in his official
capacity as Chief of the Weymouth Police
Department, *et al.*,

Defendants.

Civil Action No.
1:13-cv-10246-FDS

**ASSENTED-TO MOTION OF THE COMMONWEALTH OF MASSACHUSETTS TO
FURTHER ENLARGE ITS TIME TO FILE SUPPLEMENTAL MEMORANDUM**

Pursuant to Fed. R. Civ. P. 6(b), the defendant-intervenor Commonwealth of Massachusetts moves to further enlarge its time to file the supplemental memorandum requested by this Court in its Memorandum and Order on Motions for Summary Judgment (Doc. 71) by an additional 10 days to, and including, May 15, 2014.

As grounds, the Commonwealth states:

1. On June 25, 2013, the Court granted the Commonwealth leave to intervene in this action pursuant to 28 U.S.C. § 2403(b) and Fed. R. Civ. P. 24(a)(1) to defend the constitutionality of Mass. Gen. L. c. 140, § 131, which plaintiffs have drawn into question.

2. On March 26, 2014, the Court issued a Memorandum and Order on Motions for Summary Judgment in which it directed the parties to file supplemental memoranda no later than April 25, 2014, addressed to certain issues specified in the Order. Among other things, the Court's memorandum raised important questions about the construction of Mass. G.L. c. 140, §131, and whether abstention or certification under SJC Rule 1:03 are appropriate in this case.

3. On April 23, 2014, the Court granted the Commonwealth's motion to enlarge the time to file its supplemental memorandum to, and including, May 5, 2014, and set the same deadline for the defendant Police Chiefs' memorandum . (Doc. 73). The Commonwealth now respectfully requests an additional ten (10) days to file its supplemental memorandum (to, and including, May 15, 2014).

4. Counsel for all parties assent to the allowance of this motion.

5. Undersigned counsel seeks this enlargement of time because of the press of other matters for which he is responsible in the Office of the Massachusetts Attorney General. As Chief of the Administrative Law Division, undersigned counsel has supervisory responsibility for a large number of civil actions against Massachusetts officials and agencies, including challenges to state statutes, regulations, programs, and administrative agency decisions. Among many others, the following case, in which the plaintiffs seek highly expedited proceedings, has recently required substantial supervisory time and attention: *Zogenix, Inc. v. Deval Patrick, et al.*, U.S.D.C. no. 1:14-cv-11689 (challenge to emergency regulations on prescribing guidelines for high-dose, extended release opioid medication, Zohydro ER). Because of the press of these and other matters, undersigned counsel has not had adequate time to complete the Commonwealth's supplemental memorandum.

6. Finally, the Court has raised a number of questions about the construction of certain provisions of the Massachusetts firearms licensing law, Mass. G.L. c. 140, §131. These questions are of substantial public importance in the Commonwealth, and have ramifications well beyond the parties to this case. Accordingly, before the Commonwealth's supplemental memorandum is final, it must be reviewed and approved within the Office of the Attorney General and circulated to state officials who are responsible for administration of the gun licensing laws. One of the key personnel involved in this review is out of the office for medical reasons until May 7, 2014. The Commonwealth requests this enlargement of time to accommodate this additional internal review of the memorandum.

7. The Plaintiffs and the defendant Police Chiefs timely filed their supplemental memoranda on April 25, and May 2, respectively. Having reviewed these memoranda, the Commonwealth now anticipates taking positions substantially different from those of the other parties and, respectfully, submits that its additional perspectives will be of value and help fully inform the Court in these proceedings.

WHEREFORE, the Commonwealth respectfully requests that the time within which it must file and serve its supplemental memorandum be enlarged to, and including, May 15, 2014.

Respectfully submitted,

MARTHA COAKLEY
ATTORNEY GENERAL OF MASSACHUSETTS

/s/ William W. Porter

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May 5, 2014

Certification of Compliance With L.R. 7.1(A)(2)

The undersigned counsel for the Commonwealth certifies that he contacted counsel for all parties by e-mail on May 5, 2014, and all counsel assent to the allowance of this motion.

Certificate of Service

I hereby certify that this document was filed through the Electronic Case Filing (ECF) system and thus copies will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF); paper copies will be sent to those indicated on the NEF as non registered participants on or before April 22, 2013.

/s/ William W. Porter

William W. Porter, AAG