

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

10 RING PRECISION, INC.,)	
)	
Plaintiff,)	Case No. 5:11-cv-00663-XR
)	
v.)	
)	
KENNETH MELSON, Acting)	
Director, Bureau of Alcohol,)	
Tobacco, Firearms & Explosives,)	
in his official capacity,)	
)	
Defendant.)	
_____)	

**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION TO EXTEND TIME TO FILE
PLAINTIFF’S OPPOSITION TO DEFENDANT’S MOTION TO TRANSFER VENUE
OR, IN THE ALTERNATIVE, FOR A STAY OF PROCEEDINGS**

Ordinarily, Defendant would not object to an opposing party’s request for a reasonable time extension to respond to a motion. But this is no ordinary situation. Counsel for Plaintiff has informed Defendant’s counsel that Plaintiff plans to move for a preliminary injunction in this case, and intends to do so either late in the week of August 22, or early in the week of August 29. Because such motions are sometimes heard on an expedited basis, it is entirely likely that, if Plaintiff’s motion for a time extension were granted, briefing on the preliminary injunction motion could be completed – and the Court could rule on that motion – before briefing on Defendant’s motion to transfer venue or to stay proceedings would be completed. This would essentially eviscerate the relief sought in Defendant’s motion to transfer venue or stay proceedings. On the other hand, if the Court were to grant Defendant’s motion to transfer venue or stay proceedings, it would completely obviate the need for the Court to hear Plaintiff’s motion for a preliminary injunction.

As explained in Defendant's motion to transfer venue, counsel for Plaintiff has filed three identical lawsuits against Defendant in three different districts and has indicated an intent to move for preliminary injunctive relief in each case within the same week. See ECF Doc. No. 6 at 1-2. Additionally, since the filing of Defendant's motion, the District Court for the District of Columbia consolidated the two pending actions in that district challenging the same actions by Defendant that Plaintiff challenges here. See Order Consolidating Cases [Doc. No. 10], Nat'l Shooting Sports Found. v. Melson, Case No. 1:11-cv-01401-RMC (District of Columbia) (Aug. 18, 2011). Counsel for the other plaintiff in that consolidated action has informed Defendant that it plans to file a motion for preliminary injunction on Monday, August 22, 2011.

Despite counsel's busy schedule, as set forth in Plaintiff's motion for an extension, Plaintiff's counsel has decided to devote his limited resources to preparing and filing three separate preliminary injunction motions in three different districts instead of responding to Defendant's pending motion to transfer, in accordance with the timetable set forth by the Local Rules. Given these circumstances, counsel for Defendant informed Plaintiff's counsel that they would consent to Plaintiff's motion for an extension of time, provided that Plaintiff would agree to defer the filing of its preliminary injunction motion until after the Court ruled on Defendant's motion to transfer venue or to stay proceedings. Counsel for Plaintiff refused this offer.

Defendant will be prejudiced if the Court grants Plaintiff's motion for a time extension without staying consideration of any preliminary injunction motion that Plaintiff files. Accordingly, Defendant respectfully requests that the Court deny Plaintiff's motion unless it conditions its granting of that motion on staying any consideration of any preliminary injunction motion until after the Court rules on the pending motion to transfer venue.

Dated: August 19, 2011

Respectfully submitted,

