

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON**

**WEST VIRGINIA CITIZENS DEFENSE  
LEAGUE, INC., et al.**

**Plaintiffs,**

**v.**

**Case No.: 2:11-0048**

**CITY OF CHARLESTON, et al,**

**Defendants.**

**MOTION OF THE DUNBAR DEFENDANTS TO DISMISS  
THE PLAINTIFFS' FIRST AMENDED COMPLAINT**

Now come the Defendants City of Dunbar, Jack Yeager, in his official capacity as Mayor of the City of Dunbar and Earl Whittington, in his official capacity as Chief of Police of the City of Dunbar, (hereinafter "Dunbar Defendants"), by counsel, and pursuant to Rule 12(b)(1) and 12(b)(6), Federal Rules of Civil Procedure, and they hereby move for dismissal of Counts 38, 39 and 40 of the Plaintiffs' First Amended Complaint. In support of their Motion to Dismiss, the Dunbar Defendants rely upon the Memorandum of Law filed contemporaneously herewith.

WHEREFORE, Defendants move, pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) for dismissal of the Counts 38, 39 and 40 of the Plaintiffs' First Amended Complaint.

**CITY OF DUNBAR  
JACK YEAGER, MAYOR, and  
EARL WHITTINGTON, CHIEF  
OF POLICE,  
By counsel**

/s/ Webster J. Arceneaux, III

Webster J. Arceneaux, III (WV Bar No. 155)

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**CERTIFICATE OF SERVICE**

I, Webster J. Arceneaux, III, hereby affirm that April 15, 2011, I caused the foregoing MOTION OF THE DUNBAR DEFENDANTS TO DISMISS THE PLAINTIFFS' FIRST AMENDED COMPLAINT and accompanying MEMORANDUM OF LAW to be served on the following attorneys 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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/s/ Webster J. Arceneaux, III  
Webster J. Arceneaux, III (WV ID: 155)