

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

West Virginia Citizens Defense League, Inc.,
et al.,

Civil Action No.: 2:11-cv-48

Plaintiffs,

(Copenhaver, J.)

v.

City of Charleston, *et al.*,

Defendants

MOTION TO EXTEND PAGE LIMIT AND TIME TO RESPOND FOR PLAINTIFF'S
RESPONSE TO THE CHARLESTON DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS' FIRST AMENDED COMPLAINT

Come now the Plaintiffs, West Virginia Citizens Defense League, Inc., Keith T. Morgan, Elizabeth L. Morgan, Jereomy W. Schulz, Benjamin L. Ellis, and Masada Enterprises, LLC, by and through their undersigned counsel, and move this Honorable Court for a *nunc pro tunc* order adjusting their time to respond to the pre-answer motion to dismiss filed on March 28, 2011, by the City of Charleston, Danny Jones, and Brent Webster, to May 5, 2011, and granting leave to submit an oversized memoranda of law in response to the pending motions to dismiss.

I. INTRODUCTION.

On January 24, 2011, this action was commenced. On March 16, 2010, Plaintiffs filed a First Amended Complaint. [Doc. 13]. On March 22, 2010, counsel for Plaintiffs and the "South Charleston Defendants" and the "Dunbar Defendants" entered into a stipulation extending the time for the South Charleston Defendants and Dunbar Defendants to file their responsive

pleadings or Rule 12 motions. [Doc. 15]. On March 28, 2011, the “Charleston Defendants” filed a pre-answer motion to dismiss. [Doc. 16]. On April 15, 2011, the South Charleston and Dunbar Defendants filed pre-answer motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and (6), alleging lack of standing by Plaintiffs and failure to state a claim upon which relief may be granted and memoranda of law in support of said motions. [Docs. 18-19, 21-22]. On April 15, 2011, the Brady Center to Prevent Gun Violence filed a Motion for Leave to File an Amicus Brief in Support of Defendants. [Doc. 20].

II. REQUESTS FOR EXTENSIONS.

L.R. Civ. P. 7.1(a)(2), in general, limits the length of memoranda of law to 20 pages without a showing of good cause for an extension. L.R. Civ. P. 7.1(a)(7) provides, in pertinent part:

Memoranda and other materials in response to motions shall be filed and served on opposing counsel and unrepresented parties within 14 days from the date of service of the motion. Any reply memoranda shall be filed and served on opposing counsel and unrepresented parties within 7 days from the date of service of the memorandum in response to the motion. . . . These times for serving memoranda may be modified by the judicial officer to whom the motion is addressed.

In order to deal with the common questions of law and fact raised in the several pending motions to dismiss, to promote the interests of substantial justice, and to accommodate unforeseen technical difficulties and delays affecting counsel, Plaintiffs respectfully request that:

1. The Charleston Defendants’ Motion to Exclude Any Response by Plaintiffs to the Charleston Defendants’ Motion to Dismiss Plaintiffs’ First Amended Complaint [Doc. 28] be denied;
2. Their deadline to respond to the pre-answer motion to dismiss by the Charleston Defendants [Doc. 16] be extended *nunc pro tunc* to May 5, 2011;

3. The page limitation of L.R. Civ. P. 7.1(a)(2) be extended for Plaintiffs' responses to the pending motions to dismiss, [Docs. 16, 19, and 21];
4. The court accept Plaintiff's memorandum of law in response and opposition to the Charleston Defendants' pre-answer motion to dismiss, [Doc. 29], and the memorandum of law previously submitted in response and opposition to the motion to dismiss by the South Charleston Defendants, [Doc. 26].

Dated this 5th day of May, 2011,

s/ James M. Mullins, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2011, I electronically filed the foregoing document with the Clerk of the Court, which will send electronic notification of such filing to the following CM/ECF participants:

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