



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street, 3rd Floor
New York, New York 10007*

April 26, 2021

BY ECF

Honorable Gregory H. Woods
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

*Re: City of Syracuse, et al. v. Bureau of Alcohol, Tobacco, Firearms
and Explosives, et al., 20-CV-06885-GHW*

Dear Judge Woods:

This Office represents the Government Defendants in the above-captioned action. We write on behalf of Plaintiffs and the Government Defendants to request a temporary stay of this matter. Alternatively, if the Court does not grant this stay request, then Plaintiffs and the Government Defendants respectfully request a one-week extension of time to file their responses to Polymer80's summary judgment motion, which are currently due on May 5. This is Plaintiffs' and the Government Defendants' first request for an extension of this date. Polymer80 does not consent to these requests.

As the Court is aware, this case involves the Government's regulation of unfinished frames and receivers (colloquially referred to as "ghost guns") and whether those devices must be regulated as firearms pursuant to the Gun Control Act ("GCA"). Plaintiffs and the Government Defendants have cross-moved for summary judgment and the briefing for those motions was completed on March 19, 2021. Also on March 19, the Court permitted Polymer80, an entity that produces some of the devices at issue in this litigation, to intervene. *See* Dkt. No. 113. On March 27, 2021, the Court adopted the parties' proposed briefing schedule as to Polymer80's summary judgment motion. *See* Dkt. No. 117. Pursuant to that schedule, Polymer80 filed its summary judgment motion on April 15, 2021. *See* Dkt. No. 118. According to the Court's scheduling order, Plaintiffs must oppose that summary judgment motion by May 5, 2021, and, to the extent the Government Defendants wish to be heard on Polymer80's summary judgment motion, they must also make any submission by May 5.

On April 8, 2021, President Biden indicated that he would be directing the Department of Justice to engage in new rulemaking with respect to the regulation of ghost guns. The President set a goal of issuing a new proposed rule within 30 days. In light of these developments, the Plaintiffs and the Government Defendants respectfully submit that a stay of this action (including the pending briefing deadlines for Polymer80's summary judgment motion) is appropriate. The

Plaintiffs and the Government Defendants propose providing the Court with a status update on May 14, 2021, at which point Plaintiffs hope that they will have seen and evaluated the new proposed rule, and all parties will be in a better position to determine how to proceed as to the issues raised in this litigation.¹ Polymer80, which opposes these requests, has informed the Government that it does not believe a stay (or the alternative request for an extension) should be considered until after a new proposed rule has been issued and the parties have had the opportunity to evaluate the proposed rule.

We thank the Court for its attention to this matter.

Respectfully,

AUDREY STRAUSS
United States Attorney for the
Southern District of New York

By: /s/ Talia Kraemer
ALEXANDER J. HOGAN
TALIA KRAEMER
Assistant United States Attorneys
86 Chambers Street, Third Floor
New York, New York 10007
Tel.: (212) 637-2799/2822
Fax.: (212) 637-2686/2702
E-mail: alexander.hogan@usdoj.gov
talia.kraemer@usdoj.gov

¹ There is a similar action pending in the Northern District of California. *See State of California, et. al. v. Bureau of Alcohol Tobacco and Firearms, et al.*, No. 20-cv-6761 (EMC) (N.D. Cal. 2020). On April 9, 2021, that court, *sua sponte*, stayed that action “[i]n light of recent developments regarding ATF’s regulation of products at issue in this case,” and set a case management conference for May 27, 2021. *See* Dkt. No. 83.