

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<hr/>		)	
DICK ANTHONY HELLER, <i>et al.</i>	)	)	
	)	)	
Plaintiffs,	)	)	
	)	)	
v.	)	)	Civil Action No.08-01289 (RMU)
	)	)	
DISTRICT OF COLUMBIA, <i>et al.</i> ,	)	)	
	)	)	
Defendants.	)	)	
<hr/>		)	

DEFENDANTS' MOTION TO ENLARGE TIME TO RESPOND

Pursuant to Fed. R. Civ. P. 6(b)(1) and 7(b), defendants (collectively, "the District") hereby move this Honorable Court to enlarge the time for the District to respond to the First Amended Complaint from August 21, 2008 to October 3, 2008. The District's Memorandum of Points and Authorities in support hereof is attached hereto and incorporated by reference herein. A proposed Order also is attached hereto.

Pursuant to LCvR 7(m), the undersigned counsel discussed the instant motion with opposing counsel, who declined to consent to the full relief requested herein, but consented to an enlargement to August 28, 2008.

WHEREFORE, the District respectfully requests that this Honorable Court:

- A. Grant the District's Motion to Enlarge Time to Respond to October 3, 2008, and
- B. Grant the District such other and further relief as the nature of its cause may require.

DATE: August 12, 2008

Respectfully submitted,

PETER J. NICKLES  
Acting Attorney General for the District of Columbia

GEORGE C. VALENTINE  
Deputy Attorney General, Civil Litigation Division

/s/ Ellen A. Efros

ELLEN A. EFROS, D.C. Bar No. 250746  
Chief, Equity Section I  
441 Fourth Street, N.W., 6<sup>th</sup> Floor South  
Washington, D.C. 20001  
Telephone: (202) 442-9886  
Facsimile: (202) 727-0431

/s/ Andrew J. Saindon

ANDREW J. SAINDON, D.C. Bar No. 456987  
Assistant Attorney General  
Equity I Section  
441 Fourth Street, N.W., 6<sup>th</sup> Floor South  
Washington, D.C. 20001  
Telephone: (202) 724-6643  
Facsimile: (202) 727-0431  
andy.saindon@dc.gov

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<hr/>		)	
DICK ANTHONY HELLER, <i>et al.</i>	)	)	
	)	)	
Plaintiffs,	)	)	
	)	)	
v.	)	)	Civil Action No.08-01289 (RMU)
	)	)	
DISTRICT OF COLUMBIA, <i>et al.</i> ,	)	)	
	)	)	
Defendants.	)	)	
<hr/>		)	

MEMORANDUM OF POINTS AND AUTHORITIES  
IN SUPPORT OF  
THE DISTRICT’S MOTION TO ENLARGE TIME TO RESPOND

Defendants the District of Columbia and the Honorable Adrian M. Fenty (collectively “the District”), by and through undersigned counsel, respectfully submits this Memorandum of Points and Authorities in Support of their Motion to Enlarge Time to Respond, pursuant to Fed. R. Civ. P. 6(b)(1) and 7(b). A proposed Order is attached hereto.

In support of the instant motion, and for its good cause shown, the District states as follows:

1. On or about August 1, 2008, plaintiffs served on the Mayor their First Amended Complaint, challenging D.C. Act 17-422, the “Firearms Control Emergency Amendment Act of 2008,” and the Emergency Rulemaking of the Chief of the Metropolitan Police Department, “To Set Qualifications and Procedures for Registering Firearms for Self-defense in the Home and for obtaining a License to Sell such Firearms,” 55 D.C. Reg. 8177 *et seq.* (July 25, 2008).

2. Pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i), the District’s answer or other response is due on or before August 21, 2008.

3. For its good cause shown, the District states that imminent events may materially alter the posture of this matter.

4. Specifically, H.R. 6691, “the Second Amendment Enforcement Act” was introduced in the U.S. House of Representatives on July 31, 2008. *See* <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:h.r.06691>: (as of August 12, 2008). One stated purpose of the legislation is “to correct the District of Columbia’s law in order to restore the fundamental rights of its citizens under the Second Amendment to the United States Constitution and thereby enhance public safety.” *Id.*, §2(7). If the legislation is enacted, it would materially alter (if not entirely supplant) the District’s firearms-registration law. *See, generally, Bliley v. Kelly*, 23 F.3d 507, 508 (D.C. Cir. 1994) (Article I, section 8, clause 17 of the Constitution empowers Congress to exercise exclusive legislative authority over the District of Columbia.).

5. In addition, the Council of the District of Columbia has scheduled a public hearing on the Firearms Control Amendment Act of 2008 (the permanent version of the emergency legislation challenged by plaintiffs) for September 18, 2008, at 11 a.m. *See* Notice of Public Hearing, 55 D.C. Reg. 8317 (Aug. 1, 2008). Subsequent Council action may also materially alter the legislation, notwithstanding any action of Congress.

6. Fed. R. Civ. P. 6(b)(1) permits an enlargement of time, such as that requested herein, “if a request is made, before the original time or its extension expires . . .” for good cause.

7. The District avers that imminent potential action by either Congress or the Council may materially alter the status of the instant matter. In any event, the brief enlargement sought by the District (to October 3, 2008) is in line with that afforded the United States as a defendant, *see* Fed. R. Civ. P. 12(a)(2), and will allow the parties (and the Court) some clarity in determining the continuing viability and bearing of plaintiffs’ claims.

8. This enlargement is not sought for any improper purpose, but to insure that the actions challenged by plaintiffs here are not overtaken by subsequent events. No party will be prejudiced, and the brief extension requested here will have no effect on any other deadlines.

9. Based on the above, the District respectfully requests that this Honorable Court enter an order pursuant to Fed. R. Civ. P. 6(b)(1), to amend the schedule such that the District's response to the First Amended Complaint is due on or before October 3, 2008.

DATE: August 12, 2008

Respectfully submitted,

PETER J. NICKLES  
Acting Attorney General for the District of Columbia

GEORGE C. VALENTINE  
Deputy Attorney General, Civil Litigation Division

/s/ Ellen A. Efros  
ELLEN A. EFROS, D.C. Bar No. 250746  
Chief, Equity Section I  
441 Fourth Street, N.W., 6<sup>th</sup> Floor South  
Washington, D.C. 20001  
Telephone: (202) 442-9886  
Facsimile: (202) 727-0431

/s/ Andrew J. Saindon  
ANDREW J. SAINDON, D.C. Bar No. 456987  
Assistant Attorney General  
Equity I Section  
441 Fourth Street, N.W., 6<sup>th</sup> Floor South  
Washington, D.C. 20001  
Telephone: (202) 724-6643  
Facsimile: (202) 727-0431  
andy.saindon@dc.gov

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<hr/>		)	
DICK ANTHONY HELLER, <i>et al.</i>	)	)	
	)	)	
Plaintiffs,	)	)	
	)	)	
v.	)	)	Civil Action No.08-01289 (RMU)
	)	)	
DISTRICT OF COLUMBIA, <i>et al.</i> ,	)	)	
	)	)	
Defendants.	)	)	
<hr/>		)	

ORDER

Upon consideration of the defendants' Motion to Enlarge Time to Respond, the Memorandum of Points and Authorities in Support thereof, any opposition thereto, the entire record herein, and it appearing that the relief should be granted, it is hereby:

ORDERED, that the District's Motion to Enlarge Time to Respond be, and hereby is, GRANTED, and it is

FURTHER ORDERED, that the District's response to the First Amended Complaint is due on or before October 3, 2008

SO ORDERED.

DATE: \_\_\_\_\_

\_\_\_\_\_  
RICARDO M. URBINA  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<hr/>		)	
DICK ANTHONY HELLER, <i>et al.</i>		)	
		)	
Plaintiffs,		)	
		)	
v.		)	Civil Action No.08-01289 (RMU)
		)	
DISTRICT OF COLUMBIA, <i>et al.</i> ,		)	
		)	
Defendants.		)	
<hr/>		)	

ORDER

Upon consideration of the defendants' Motion to Enlarge Time to Respond, the Memorandum of Points and Authorities in Support thereof, any opposition thereto, the entire record herein, and it appearing that the relief should be granted, it is hereby:

ORDERED, that the District's Motion to Enlarge Time to Respond be, and hereby is, GRANTED, and it is

FURTHER ORDERED, that the District's response to the First Amended Complaint is due on or before October 3, 2008

SO ORDERED.

DATE: \_\_\_\_\_

\_\_\_\_\_  
RICARDO M. URBINA  
United States District Judge