

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

- (1) ROBERT DRAPER;**
- (2) ARIEL WEISBERG;**
- (3) DONNA MAJOR;**
- (4) ERIC NOTKIN;**
- (5) ROBERT BOUDRIE;**
- (6) BRENT CARLTON,**
collectively, the
"CONSUMER PLAINTIFFS", and
- (7) CONCORD ARMORY, LLC;**
- (8) PRECISION POINT FIREARMS, LLC;**
collectively, the
"DEALER PLAINTIFFS", and
- (9) SECOND AMENDMENT
FOUNDATION, INC.,**
- (10) COMMONWEALTH SECOND
AMENDMENT, INC.**

collectively, the
"ORGANIZATIONS", and

Plaintiffs

v.

MARTHA COAKLEY,
in her official capacity as
**ATTORNEY GENERAL OF
MASSACHUSETTS**

Defendant

Civil Action No.
1:14-CV-12471-NMG

**PLAINTIFFS' ASSENTED-TO
MOTION FOR LEAVE OF
COURT TO FILE A
SUR-REPLY
TO THE DEFENDANT
ATTORNEY GENERAL'S
REPLY MEMORANDUM**

1 The CONSUMER PLAINTIFFS, DEALER PLAINTIFFS and ORGANIZATIONS (collectively
2 hereafter "PLAINTIFFS"), by and through their attorney of record, hereby move this Honorable
3 Court pursuant to Local Rule 7.1(b)(3), for leave of court to file a sur-reply memorandum in support
4 of their Opposition to the defendant ATTORNEY GENERAL's Motion to Dismiss and reply
5 memorandum.

6 The defendant ATTORNEY GENERAL's Reply to the Plaintiffs' Opposition misstates the
7 PLAINTIFFS' Opposition arguments and misapplies legal authorities to those reformulated
8 arguments. The PLAINTIFFS believe in good faith that it is necessary to respond to the defendant
9 ATTORNEY GENERAL's Reply Memorandum to clarify the issues raised and created by the Reply
10 Memorandum. Specifically, the PLAINTIFFS intend to address:

- 11 1. the FRCP Rule 8 pleading standard implicated by the Reply Memorandum's continued attack
12 on the standing of the ORGANIZATIONS (plaintiffs Commonwealth Second Amendment and the
13 Second Amendment Foundation);
- 14 2. the *actual* vagueness allegations attacked by the Complaint and not the vagueness allegations
15 the defendant ATTORNEY GENERAL alleges the Complaint attacks, and the application of the
16 appropriate legal standards to the facial and as-applied challenges of the Complaint;
- 17 3. the CONSUMER PLAINTIFFS' *correct* Second Amendment claim and not the claim the defendant
18 ATTORNEY GENERAL alleges the CONSUMER PLAINTIFFS make, and
19 4. the defendant ATTORNEY GENERAL's mischaracterization of the PLAINTIFFS' argument
20 regarding the relationship between the statute (Chapter 93A of the Massachusetts General
21 Laws) that the REGULATION implements and its federal root.
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25 The PLAINTIFFS' counsel has contacted the defendant ATTORNEY GENERAL's counsel
26 regarding this request, and counsel for the defendant ATTORNEY GENERAL has courteously
27 assented to this Motion for Leave of Court to File a Sur-Reply Memorandum.
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1 PLAINTIFFS further respectfully ask this Court to grant them sufficient time to prepare and
2 file their Sur-Reply Memorandum. The PLAINTIFFS' counsel is a religiously-observant Orthodox
3 Jew who observes the Jewish religious holidays (and the Jewish Sabbath) in all of their details and
4 strictures. Religious observance on such days prohibits all forms of work, including the use of
5 computer equipment, telephones, driving, etc.; there are no religious exceptions for such activities.
6 The remaining Jewish High Holy Days in the immediate future during which the PLAINTIFFS'
7 counsel will not be available are as follows:

Sukkoth (first two days)	Evening of Wednesday, 8 October 2014 – Evening of Friday, 10 October 2014 ¹
Shmini Atzeret	Evening of Wednesday, 15 October 2014 – Evening of Thursday, 16 October 2014 ²
Simchat Torah	Evening of Thursday, 16 October 2014 – Evening of Friday, 17 October 2014 ³

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13 Additionally, there is a substantial amount of preparation for the Holy Days of Sukkot which
14 effectively takes away the entire day of Wednesday, 8 October 2014.

15 Based on the foregoing, PLAINTIFFS respectfully ask that this Court allow them until 24
16 October 2014 to file their Sur-Reply Memorandum.

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25 ¹ There is no break between the end of the second High Holy Day of Sukkoth and the beginning of Simchat
26 Torah the Jewish Sabbath on 11 October 2014; in other words, the first two days of Sukkoth and the Sabbath will
form a contiguous three days this year.

27 ² There is no break between Shmini Atzeret and Simchat Torah.

28 ³ There is no break between Simchat Torah and the beginning of the Jewish Sabbath on 18 October 2014; in
other words, Shmini Atzeret, Simchat Torah and the Sabbath will form a contiguous three days this year.

1 Respectfully submitted,

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3 Dated: 7 October 2014.

**ROBERT DRAPER; ARIEL WEISBERG; DONNA
MAJOR; ERIC NOTKIN; ROBERTY BOUDRIE;
BRENT CARLTON; CONCORD ARMORY, LLC;
PRECISION POINT ARMORY, LLC; SECOND
AMENDMENT FOUNDATION, INC. and
COMMONWEALTH SECOND AMENDMENT, INC.**

6 By and through their attorney of record

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8 **/s/ Alexander A. Flig**

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CERTIFICATE OF SERVICE

16 I hereby certify that this document was filed through the Electronic Case Filing (ECF) system
17 and thus copies will be sent electronically to the registered participants as identified on the Notice
18 of Electronic Filing (NEF); paper copies will be sent to those indicated on the NEF as non-registered
19 participants on or before 1 July 2014.

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21 **/s/ Alexander A. Flig**
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