

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

**REBEKAH JENNINGS, BRENNAN
HARMON, ANDREW PAYNE, and
NATIONAL RIFLE ASSOCIATION
OF AMERICA, INC.,**

Plaintiffs,

vs.

**BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES;
KENNETH E. MELSON, in his official
capacity as Acting Director of the Bureau of
Alcohol, Tobacco, Firearms and Explosives;
and ERIC H. HOLDER, Jr., in his official
capacity as Attorney General of the United
States,**

Defendants.

Case No. 5:10-cv-00140-C

**DEFENDANTS' UNOPPOSED MOTION FOR LEAVE TO FILE RESPONSE TO
PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY**

Pursuant to Local Civil Rule 56.7, Defendants respectfully move the Court for leave to file a response to Plaintiffs' Notice of Supplemental Authority [Doc. No. 55]. In support of this motion, Defendants state as follows:

1. On July 18, 2011, Plaintiffs moved for leave to file a notice of supplemental authority. The substance of the notice complied with Federal Rule of Appellate Procedure 28(j), which requires that the body of such notices "not exceed 350 words," and that "[a]ny response must be made promptly and must be similarly limited."
2. Defendants agreed not to oppose Plaintiffs' motion, and Plaintiffs agreed not to oppose a

motion by Defendants for leave to file a response to Plaintiffs' notice, the body of which did not exceed 350 words.

3. As we explain in the attached response, the recent decision in Ezell v. City of Chicago, No. 10-3525, 2011 WL 2623511 (7th Cir. July 6, 2011), does not affect the arguments advanced by the parties in their prior briefing.

WHEREFORE, Defendants respectfully request that the Court grant their unopposed motion for leave to file a response to Plaintiffs' notice of supplemental authority. A proposed order is attached hereto.

Dated: July 22, 2011

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

Defendants' counsel conferred with Plaintiffs' counsel on July 15, 2011. Plaintiffs' counsel agreed not to oppose a motion by Defendants to file a response to Plaintiffs' notice of supplemental authority of not more than 350 words.

CERTIFICATE OF SERVICE

On July 22, 2011, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Daniel Riess
Daniel Riess