

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DEFENSE DISTRIBUTED and SECOND
AMENDMENT FOUNDATION, INC.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, et al.,

Defendants.

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1:15-CV-372-RP

ORDER

On April 29, 2015, Plaintiffs Defense Distributed and the Second Amendment Foundation (“SAF”) (collectively, “Plaintiffs”) filed this action against the United States Department of State, Secretary of State Rex Tillerson, the Directorate of Defense Trade Controls (“DDTC”), and employees of the DDTC in their official and individual capacities. Plaintiffs assert that the imposition by Defendants of a prepublication approval requirement for “technical data” related to “defense articles” constitutes: (1) an ultra vires government action; (2) a violation of Plaintiffs’ rights to free speech under the First Amendment; (3) a violation of Plaintiffs’ right to keep and bear arms under the Second Amendment; and (4) a violation of Plaintiffs right to due process of law under the Fifth Amendment. Plaintiffs also contend these alleged violations of their constitutional rights entitle them to monetary damages.

Plaintiffs filed a Motion for Preliminary Injunction on May 11, 2015. (Dkt. 7). After conducting a hearing, the Court denied Plaintiffs’ motion. (Dkt. 43). Plaintiffs appealed, and the Court granted their Motion to Stay Proceedings. (Dkt. 66). In that Order, the Court specified that the action was stayed “during the pendency of Plaintiffs’ interlocutory appeal” and that “[a]ll pending matters and settings [were abated] pending further order from this Court.” (*Id.* at 2). On

September 20, 2016, a divided panel of the U.S. Court of Appeals for the Fifth Circuit affirmed this Court's denial of Plaintiffs' Motion for Preliminary Injunction. *Defense Distributed, et al. v. U.S. Dep't of State, et al.*, 838 F.3d 451 (5th Cir. 2016). On March 15, 2017, the Fifth Circuit denied Plaintiffs' petition for rehearing en banc. (*Defense Distributed*, No. 15-50759, Doc. 513913565). The Fifth Circuit's mandate issued on April 4, 2017. (Dkt. 68). On January 8, 2018, the United States Supreme Court denied Plaintiffs' petition for a writ of certiorari.

The Order imposing the stay made clear that this action would remain stayed "during the pendency of Plaintiffs' interlocutory appeal" and until further order from this Court. (Order, Dkt. 66, at 2). As Plaintiffs' interlocutory appeal is no longer pending, **IT IS ORDERED** that the stay is **LIFTED. IT IS FURTHER ORDERED** that the Clerk of Court **RE-OPEN** the case.¹ **IT IS FINALLY ORDERED** that the parties file a revised joint proposed scheduling order on or before January 31, 2018.

SIGNED on January 12, 2018.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE

¹ The case was administratively closed until the termination of appeal proceedings in an Order dated October 1, 2015. (Dkt. 66).