

NO. 19-50723

**In the
United States Court of Appeals
For the Fifth Circuit**

DEFENSE DISTRIBUTED; SECOND AMENDMENT FOUNDATION,
INCORPORATED,

Plaintiffs – Appellants

v.

GURBIR S. GREWAL, Attorney General of New Jersey, in his official and individual capacities; MICHAEL FEURER, City Attorney for Los Angeles, California, in his official and individual capacities; ANDREW CUOMO, Governor of New York, in his official capacity; MATTHEW DENN, Attorney General of Delaware, in his official capacity; JOSH SHAPIRO, Attorney General of Pennsylvania, in his official capacity; THOMAS WOLF, Governor of Pennsylvania, in his official capacity,

Defendants – Appellees

On Appeal from the United States District Court
for the Western District of Texas, Austin Division
Civil Action No. 1:18-cv-637

**APPELLEES THOMAS WOLF AND JOSH SHAPIRO’S UNOPPOSED
MOTION FOR PARTIAL DISMISSAL OF APPEAL**

Appellees Thomas Wolf and Josh Shapiro, who have been sued in their official capacities as Governor and Attorney General of the Commonwealth of Pennsylvania (collectively, the “Pennsylvania Appellees”), file their *Unopposed* Motion for Partial Dismissal of this appeal, and would respectfully show as follows:

I.
BRIEF PROCEDURAL BACKGROUND

In the district court, Defense Distributed and Second Amendment Foundation, Incorporated (collectively, the “Appellants”) sued the Pennsylvania Appellees and various other state and municipal public officials from New Jersey, New York, Delaware and Los Angeles, California. ROA.123-.197. Each of the public official defendants filed a motion to dismiss pursuant to Rule 12 of the Federal Rules of Civil Procedure.

On January 30, 2019, the District Court granted the motions to dismiss filed by each of the public official defendants, including the Pennsylvania Appellees. ROA.1737-.1751. Later that same day, the District Court entered a Final Judgment dismissing all claims without prejudice. ROA.1803. This appeal was taken from the Final Judgment. ROA.1808.

Appellants filed their opening brief on November 22, 2019, wherein they elected to challenge the Final Judgment *only* as it pertains to a single defendant – Gurbir Grewal, the Attorney General of New Jersey. *See* Appellants’ Brief at 2 (“In

the district court, Plaintiffs sued both Grewal and several officials from other states. The district court's judgment dismissed Grewal and the other officials. On appeal, Plaintiffs challenge only the judgment regarding Grewal and not the judgment regarding the other state officials.”).

Appellants do not contest the district court's dismissal of their claims previously asserted against the Pennsylvania Appellees.

II. **REQUESTED RELIEF**

Because Appellants seek no appellate relief from the Final Judgment as it pertains the Pennsylvania Appellees, the Pennsylvania Appellees move the Court for an order dismissing them from this appeal. The Pennsylvania Appellees have conferred with counsel for Appellants, who are unopposed to the relief sought.

Accordingly, the Pennsylvania Appellees respectfully request the Court to grant the relief sought herein, dismiss this appeal as to the Pennsylvania Appellees only, and for such other and further relief to which the Court deems the Pennsylvania Appellees to be justly and equitably entitled.

Dated: December 12, 2019.

Respectfully submitted,

BLANK ROME LLP

By: /s/ Joshua A. Huber

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ATTORNEYS FOR THE PENNSYLVANIA
APPELLEES

CERTIFICATE OF CONFERENCE

I certify that on December 12, 2019 I conferred with counsel for all appellants Defense Distributed and Second Amendment Foundation, Incorporated and appellants are UNOPPOSED to the partial dismissal sought herein.

/s/ Joshua A. Huber
Joshua A. Huber

CERTIFICATE OF COMPLIANCE

I hereby certify that this computer-generated Motion for Partial Dismissal of Appeal contains 348 words and complies with the length, typeface and typestyle requirements of FED. R. APP. P. 27 & 32.

/s/ Joshua A. Huber
Joshua A. Huber

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2019, a true and correct copy of the foregoing motion was filed with the Clerk of Court for the United States Court of Appeals for the Fifth Circuit using the appellate CM/ECF system, and that service will be accomplished on counsel for all parties through the appellate CM/ECF system.

/s/ Joshua A. Huber
Joshua A. Huber