

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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DEFENSE DISTRIBUTED; SECOND AMENDMENT  
FOUNDATION, INCORPORATED,

No. 19-50723

*Plaintiffs-Appellants,*

v.

**Appellee Andrew  
Cuomo's Unopposed  
Motion for Partial  
Dismissal of Appeal**

GURBIR S. GREWAL, Attorney General of New  
Jersey, in his official and individual capacities;  
MICHAEL FEUER, City Attorney for Los Angeles,  
California, in his official and individual capacities;  
ANDREW CUOMO, Governor of New York, in his  
official capacity; KATHLEEN JENNINGS, Attorney  
General of Delaware, in her official capacity,

*Defendants-Appellees.*

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This is an unopposed motion for dismissal from the appeal of Andrew Cuomo, whom plaintiffs-appellants have sued in his official capacity as Governor of the State of New York.

1. Plaintiffs-appellants Defense Distributed and Second Amendment Foundation, Incorporated brought this action against Governor Cuomo and various other state and municipal public officials from New Jersey, Delaware, Pennsylvania, and Los Angeles, California. (Record on Appeal (R.) 123-157.) Each of the public officials filed a motion to dismiss pursuant to Rule 12 of the Federal Rules of Civil Procedure.

2. On January 30, 2019, the District Court granted the motions to dismiss, including the motion of Governor Cuomo. (R. 1737-1751.) Later that day, the District Court entered a final judgment dismissing all claims without prejudice. (R. 1803.) Plaintiffs-appellants subsequently filed a timely notice of appeal from the final judgment. (R. 1808.)

3. On November 22, 2019, plaintiffs-appellants filed their opening brief, which challenges the final judgment only with respect to defendant, Gurbir Grewal, the Attorney General of New Jersey. *See* Appellants' Brief at 2. Their opening brief expressly states that “[i]n the district court, Plaintiffs sued both Grewal and several officials from other states,” but “[o]n appeal, Plaintiffs’ [sic] challenge only the judgment regarding Grewal and not the judgment regarding the other state officials.” *Id.*

4. On December 13, 2019, this Court granted a motion for dismissal from the appeal filed by Pennsylvania Governor Thomas Wolf and Pennsylvania Attorney General Josh Shapiro. Delaware Attorney General Kathleen Jennings and Los Angeles City Attorney Michael Feuer have motions pending for the same relief.

5. Because plaintiffs-appellants seek no appellate relief against Governor Cuomo, this Court should enter an order dismissing Governor Cuomo from this appeal.

6. Counsel for Governor Cuomo has conferred with counsel for plaintiffs-appellants, who has authorized us to state that plaintiffs-appellants do not oppose this request.

7. Accordingly, Governor Cuomo respectfully requests dismissal of this appeal as to Governor Cuomo.

Dated: New York, New York  
December 17, 2019

Respectfully submitted,

LETITIA JAMES  
*Attorney General*  
*State of New York*  
Attorney for Appellee  
Andrew Cuomo

By: /s/ Philip J. Levitz  
PHILIP J. LEVITZ  
Assistant Solicitor General

ANISHA S. DASGUPTA  
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### **CERTIFICATE OF CONFERENCE**

I certify that, on December 16, 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/ Philip J. Levitz  
Philip J. Levitz

### **CERTIFICATE OF COMPLIANCE**

I hereby certify that this computer-generated Motion for Partial Dismissal of Appeal contains 319 words and complies with the length, typeface, and typestyle requirements of Fed. R. App. P. 27 & 32.

/s/ Philip J. Levitz  
Philip J. Levitz

### **CERTIFICATE OF SERVICE**

I hereby certify that, on December 17, 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/ Philip J. Levitz  
Philip J. Levitz