

NO. 19-50723

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

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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*

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

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**APPELLEE KATHLEEN JENNING’S UNOPPOSED MOTION FOR  
PARTIAL DISMISSAL OF APPEAL**

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Appellee Kathleen Jennings, who has been sued in her official capacity as Attorney General of the State of Delaware (the “Delaware Appellee”)<sup>1</sup>, files her *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 Delaware Appellee and various other state and municipal public officials from New Jersey, New York, Pennsylvania and Los Angeles, California. ROA.123-.157. 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 Delaware Appellee. 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.

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<sup>1</sup> Appellant’s September 17, 2018 Amended Complaint in District Court named Matthew Denn, in his official capacity as the State of Delaware’s Attorney General, as defendant. On January 1, 2019, Kathleen Jennings was sworn in as Delaware’s Attorney General. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure and Rule 43(c)(2) of the Federal Rules of Appellate Procedure, Attorney General Jennings, as Matthew Denn’s successor-in-office, is to be automatically substituted as a party.

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’ [sic] 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 Delaware Appellee.

## **II.** **REQUESTED RELIEF**

Because Appellants seek no appellate relief from the Final Judgment as it pertains the Delaware Appellee, the Delaware Appellee moves the Court for an order dismissing her from this appeal. The Delaware Appellee has conferred with counsel for Appellants, who are unopposed to the relief sought.

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

Dated: December 13, 2019

Respectfully submitted,

DELAWARE DEPARTMENT OF JUSTICE

By: /s/ Jessica M. Willey

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ATTORNEYS FOR THE DELAWARE

APPELLEE

**CERTIFICATE OF CONFERENCE**

I certify that on December 13, 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/ Jessica M. Willey  
Jessica M. Willey

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this computer-generated Motion for Partial Dismissal of Appeal contains 418 words and complies with the length, typeface and typestyle requirements of FED. R. APP. P. 27 & 32.

/s/ Jessica M. Willey  
Jessica M. Willey

**CERTIFICATE OF SERVICE**

I hereby certify that on December 13, 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/ Jessica M. Willey  
Jessica M. Willey