

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

**MAXWELL HODGKINS and SECOND
AMENDMENT FOUNDATION, INC.,**

Plaintiffs,

v.

ALBERTO GONZALES,

Defendant.

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CIVIL ACTION NO 3:06-CV-2114-B

PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Fed. R. Civ. Proc. 56, Plaintiffs Maxwell Hodgkins and the Second Amendment Foundation, respectfully move the Court for entry of summary judgment in their favor and against Defendant on Plaintiffs' First, Second, Third, Fourth, Sixth, and Seventh Causes of Action.

SUMMARY

1. Plaintiffs are entitled to summary judgment on their first and second causes of action in that 18 U.S.C. §§ 922(a)(9), 922(b)(3) and 27 CFR 478.29a, 478.96, 478.99, and 478.124 violate Plaintiffs' rights under the Second Amendment to the United States Constitution as these are not narrowly tailored reasonable restrictions consistent with the right to keep and bear arms as historically understood in this country.
2. Plaintiffs are entitled to summary judgment on their third and fourth causes of action in that 18 U.S.C. §§ 922(a)(9), 922(b)(3) and 27 CFR 478.29a, 478.96, 478.99, and 478.124

violate Plaintiffs' rights under the Fifth Amendment to the United States Constitution, by depriving Plaintiffs of the equal protection of the law with respect to Plaintiffs' exercise of their Second Amendment right to keep and bear arms, and Fifth Amendment right to international travel. The laws are not narrowly tailored to serve compelling governmental interests with no less restrictive alternatives. The laws also lack any rational basis.

3. Plaintiffs are entitled to summary judgment on their sixth and seventh causes of action in that 18 U.S.C. §§ 922(a)(9), 922(b)(3) and 27 CFR 478.29a, 478.96, 478.99, and 478.124 violate Plaintiffs' right to international travel under the Fifth Amendment to the United States Constitution. The laws are not narrowly tailored to serve compelling governmental interests with no less restrictive alternatives.
4. Plaintiffs are further entitled to summary judgment on their first, second, sixth and seventh causes of action as 18 U.S.C. §§ 922(a)(9), 922(b)(3) and 27 CFR 478.29a, 478.96, 478.99, and 478.124 unconstitutionally condition the exercise of Second and Fifth Amendment rights upon the surrender of the other, thereby violating both rights. Pursuant to Local Rule 56.3(b), each of the required matters set forth in Local Rule 56.3(a)(2) and (3) is set forth in Plaintiffs' brief in support of this motion.

Dated: April 30, 2007

Respectfully Submitted,

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By: /s/ Alan Gura
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served upon all counsel of record, as identified below, on April 30, 2007:

John R. Coleman
United States Dept. of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W., Room 6118
Washington, D.C. 20530

/s/Alan Gura