

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
2006 MAR 28 PM 4:40
LORETTA G. WHYTE
CLERK

NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.	*	CIVIL ACTION NO.
	*	
	*	05-4234
SECOND AMENDMENT FOUNDATION, INC.	*	
	*	SECTION "J"
v.	*	
	*	MAGISTRATE 2
C. RAY NAGIN, Mayor of New Orleans	*	
	*	
P. EDWIN COMPASS III, Superintendent Of Police, New Orleans	*	
	*	
JACK STRAIN, JR., Sheriff, St. Tammany Parish	*	
	*	
JOHN DOES I-VI, Sheriff's Deputies, St. Tammany Parish	*	
	*	

**MOTION TO DISMISS, WITHOUT PREJUDICE
DEFENDANTS' RULE 12(b)(1) AND 12(b)(6) MOTION TO DISMISS
FOR LACK OF SUBJECT MATTER JURISDICTION
AND FOR FAILURE TO STATE A VIABLE CLAIM**

NOW INTO COURT, through undersigned counsel, come defendants, C. Ray Nagin and P. Edwin Compass, III, who suggest to the Court as follows:

I.

Defendants herein, C. Ray Nagin and Warren Riley, have filed a Motion to Dismiss alleging lack of subject matter jurisdiction under F.R.C.P. Rule 12 (b)(1), and for plaintiffs' failure to state a claim upon which relief could be granted under F.R.C.P. Rule 12 (b)(6).

II.

This motion was initially set to be heard on March 15, 2006. However, on the day of the hearing the parties initiated discussions to amicably resolve the issues presented in

___	Fee	_____
___	Process	_____
X	Dktd	_____
✓	CtRmDep	_____
___	Doc. No.	_____

this litigation.

III.

Because the parties were negotiating a settlement, the Court agreed to continue the hearing on defendants' Motion for Dismiss until March 29, 2006.

IV.

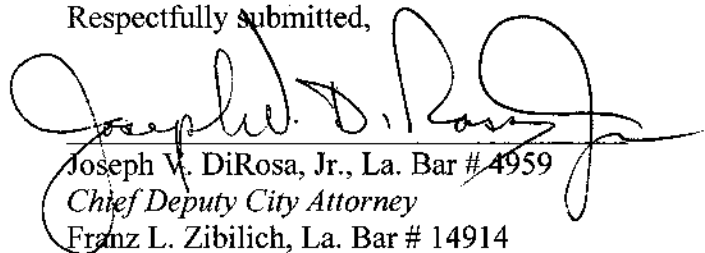
The parties continue to make progress on resolving the issues raised in this litigation.

V.

Mover has reached an agreement with the plaintiffs herein to dismiss all pending motions, without prejudice, to allow for additional time within which the parties may perfect an amicable resolution of all claims in these proceedings.

WHEREFORE defendants, C. Ray Nagin and Warren Riley, move to dismiss, without prejudice, their Motion to Dismiss alleging lack of subject matter jurisdiction under F.R.C.P. Rule 12 (b)(1), and for plaintiffs' failure to state a claim upon which relief could be granted under F.R.C.P. Rule 12 (b)(6).

Respectfully submitted,



Joseph V. DiRosa, Jr., La. Bar # 4959

Chief Deputy City Attorney

Franz L. Zibilich, La. Bar # 14914

Associate City Attorney

Heather M. Valliant, La. Bar # 24680

Assistant City Attorney

1300 Perdido Street, Room 5 E 03

New Orleans, Louisiana 70112

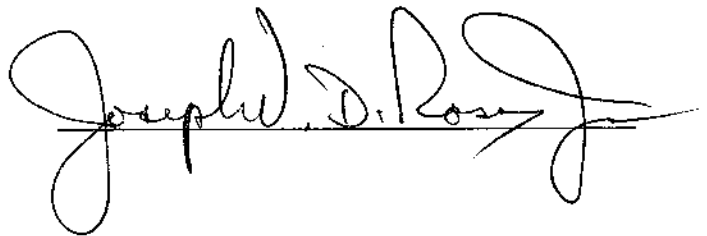
(504) 658-9800

(504) 658-9868 (fax)

Penya Moses-Fields, La. Bar. # 24850
City Attorney

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing motion and supporting memorandum have been sent to counsel of record by depositing same in the United States Mail, postage prepaid and properly addressed, this 28th day of March, 2006.

A handwritten signature in black ink, appearing to read "Joseph W. D. Rose", written over a horizontal line.