

No. 24-10897

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

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JOSIAH COLON; BRANDON KLING; ERIC MELE; WILLIAM MARTIN; and 2ND  
AMENDMENT ARMORY, a Florida profit corporation;

Plaintiffs-Appellees,

v.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES; DIRECTOR,  
BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES; UNITED  
STATES DEPARTMENT OF JUSTICE; and U.S. ATTORNEY GENERAL,

Defendants-Appellants.

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On Appeal from the United States District Court  
for the Middle District of Florida

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**MOTION TO POSTPONE ORAL ARGUMENT  
AND HOLD APPEAL IN ABEYANCE**

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BRETT A. SHUMATE  
*Acting Assistant Attorney General*

ABBY C. WRIGHT  
SEAN R. JANDA  
BEN LEWIS

*Attorneys, Appellate Staff  
Civil Division, Room 7260  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530  
(202) 514-3388*

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**CERTIFICATE OF INTERESTED PERSONS AND  
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Eleventh Circuit Rule 26.1-1, counsel for defendants-appellants certify that, to the best of their knowledge, the following constitutes a complete list of trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this particular case or appeal:

2nd Amendment Armory, *Plaintiff-Appellee*

Bowen, Brigham J., *Attorney for Defendants-Appellants*

Boynton, Brian M., *Attorney for Defendants-Appellants*

Colon, Josiah, *Plaintiff-Appellee*

Dettelbach, Steven M., Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Defendant-Appellant*

Drezner, Michael, *Attorney for Defendants-Appellants*

Garland, Merrick B., United States Attorney General, *Defendant-Appellant*

Janda, Sean R., *Attorney for Defendants-Appellants*

Kling, Brandon, *Plaintiff-Appellee*

Larosiere, Matthew, *Attorney for Plaintiffs-Appellees*

Lewis, Benjamin R., *Attorney for Defendants-Appellants*

Lowenstein, Jody D., *Attorney for Defendants-Appellants*

Lowry, Faith E., *Attorney for Defendants-Appellants*

Martin, William, *Plaintiff-Appellee*

Mele, Eric, *Plaintiff-Appellee*

Pitz, Taylor, *Attorney for Defendants-Appellants*

Scriven, Mary S., *District Judge for the Middle District of Florida*

Shumate, Brett A., *Attorney for Defendants-Appellants*

Wright, Abby C., *Attorney for Defendants-Appellants*

Zermay, Zachary Z., *Attorney for Plaintiffs-Appellees*

Pursuant to Federal Rule of Appellate Procedure 27, the federal government respectfully moves to postpone the oral argument scheduled for March 5, 2025, and to hold this appeal in abeyance. This motion is opposed.

1. In January 2023, the Bureau of Alcohol, Tobacco, Firearms, and Explosives issued a rule describing how the agency will determine whether firearms with stabilizing braces attached are short-barreled rifles subject to the restrictions of the National Firearms Act. *See* Factoring Criteria for Firearms with Attached “Stabilizing Braces,” 88 Fed. Reg. 6478, 6525 (Jan. 31, 2023). Plaintiffs challenged that rule, and the district court entered a preliminary injunction prohibiting the government from enforcing the rule against plaintiffs and others. *See* Dkt. No. 47, at 51. The government appealed, and this Court has set oral argument for March 5, 2025.

2. Following a change in administration, on February 7, 2025, President Trump issued an Executive Order titled *Protecting Second Amendment Rights*. *See* President Donald J. Trump, *Presidential Actions: Protecting Second Amendment Rights* (Feb. 7, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/protecting-second-amendment-rights>. Among other things, the Order directs the Attorney General to “examine” various “actions of executive departments and agencies” to “assess any ongoing infringements of the Second Amendment rights of our citizens, and present a proposed plan of action to the President, through the Domestic Policy Advisory, to protect the Second Amendment rights of all Americans.” *Id.* § 2(a). And the Order specifically directs the Attorney General, as part of that process, to review all “[r]ules

promulgated by the Department of Justice, including by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, from January 2021 through January 2025 pertaining to firearms and/or Federal firearms licenses.” *Id.* § 2(b)(ii).

3. In light of that development, the government respectfully moves to postpone the March 5 oral argument and to hold this case in abeyance pending review of the challenged rule. An abeyance will conserve party and judicial resources and promote the efficient and orderly disposition of this appeal, including by ensuring that litigation is focused on enduring agency action and informed by the views of current agency leadership. The government respectfully proposes to update the Court with status reports every 60 days.

4. Plaintiffs oppose the relief requested in this motion.

BRETT A. SHUMATE  
*Acting Assistant Attorney General*

ABBY C. WRIGHT  
SEAN R. JANDA

*s/ Sean R. Janda*  
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SEAN R. JANDA  
BEN LEWIS  
*Attorneys, Appellate Staff  
Civil Division, Room 7260  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530  
(202) 514-3388*

FEBRUARY 2025

**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because it contains 367 words, according to the count of Microsoft Word.

/s/ Sean R. Janda  
Sean R. Janda