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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RHONDA EZELL, et al.,
Plaintiffs,
v.

Case No. 1:10-cv-05135
Chicago, Illinois
August 23, 2010
Emergency Motion for TRO

CITY OF CHICAGO,
Defendant.

VOLUME 1-A
TRANSCRIPT OF EMERGENCY MOTION FOR TRO
BEFORE THE HONORABLE VIRGINIA M. KENDALL
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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09:29:50 1 (Commenced at 9:29 a.m.)

09:29:50 2 THE CLERK: Case number 10C5135, Eze11, et al. versus

09:29:55 3 City of Chicago.

09:30:02 4 MR. WORSECK: Good morning, your Honor. Andrew

09:30:04 5 Worseck for the City of Chicago.

09:30:05 6 THE COURT: Good morning.

09:30:06 7 MR. AGUIAR: Good morning. William Aguiar, City of

09:30:09 8 Chicago as well.

09:30:09 9 THE COURT: What was your last name?

09:30:12 10 MR. AGUIAR: Aguiar, A-g-u-i-a-r.

09:30:13 11 THE COURT: Okay. Good morning.

09:30:14 12 MR. SIGALE: Good morning, your Honor. David Sigale,

09:30:16 13 S-i-g-a-l-e, on behalf of the plaintiffs.

09:30:18 14 THE COURT: Good morning.

09:30:19 15 MR. SIGALE: Good morning.

09:30:20 16 MR. GURA: Good morning, your Honor. Alan Gura,

09:30:22 17 G-u-r-a, on behalf of the plaintiffs.

09:30:23 18 THE COURT: Okay. Good morning.

09:30:24 19 Well, I had -- you had motioned up and I had reviewed

09:30:27 20 the motion for preliminary injunction that was scheduled for

09:30:30 21 this morning, and then apparently last night slightly before

09:30:34 22 midnight you sent me an ex parte motion for temporary

09:30:39 23 restraining order.

09:30:39 24 Did you folks get that?

09:30:40 25 MR. WORSECK: Judge, we just received that this

09:30:42 1 morning.

09:30:42 2 THE COURT: All right.

09:30:42 3 MR. WORSECK: We did not obviously see it come in at
09:30:45 4 11:30 last night.

09:30:47 5 THE COURT: Right. Well, I was here this morning,
09:30:48 6 but we didn't pull down the motions from last night until
09:30:51 7 right before the call, so I haven't read the TRO yet.

09:30:55 8 So I was going to give you a position on the
09:30:59 9 preliminary injunction, so let's address that. But if it's
09:31:02 10 the same thing, you can let me know, but we're not going to do
09:31:05 11 this TRO immediately.

09:31:06 12 MR. GURA: Sure.

09:31:06 13 THE COURT: I have to read it.

09:31:08 14 All right. So let me hear from the plaintiffs.

09:31:09 15 MR. GURA: Well, your Honor, we believe that there is
09:31:12 16 irreparable harm here. People are being denied Second and
09:31:17 17 First Amendment rights. And we would like to have --

09:31:18 18 THE COURT: Okay. So, first of all, are you
09:31:20 19 addressing your TRO or your preliminary injunction?

09:31:22 20 MR. GURA: The preliminary injunction, your Honor.

09:31:23 21 THE COURT: Okay. All right.

09:31:23 22 MR. GURA: I guess -- I guess I would ask the Court
09:31:26 23 to clarify. I thought that the object of the presentment was
09:31:29 24 for us to obtain, perhaps, a scheduling order. I would have
09:31:32 25 expected the City might have wanted to brief in opposition --

09:31:36 1 THE COURT: To the TRO.

09:31:37 2 MR. GURA: -- to the preliminary injunction.

09:31:37 3 THE COURT: All right. Well, that's -- the way that
09:31:39 4 it was scheduled, that would be normal. That's exactly what
09:31:42 5 we would do.

09:31:42 6 MR. GURA: Sure.

09:31:43 7 THE COURT: I would listen to your position orally,
09:31:46 8 your position orally, and then I would give you a briefing
09:31:48 9 schedule, because in the preliminary injunction context you
09:31:52 10 can give me all the case law. But now that you've filed this,
09:31:55 11 we'll address this after we do this. Okay.

09:31:56 12 MR. GURA: Sure.

09:31:57 13 THE COURT: But if it's the same exact issues --

09:31:59 14 MR. GURA: The issues are the same. It's on the same
09:32:02 15 grounds.

09:32:02 16 THE COURT: Okay. And so what became the need for
09:32:07 17 the TRO last night at 11:30?

09:32:08 18 MR. GURA: Okay.

09:32:08 19 THE COURT: What happened to change the
09:32:10 20 circumstances?

09:32:11 21 MR. GURA: Sure, sure.

09:32:12 22 The memorandum we submitted with the TRO spells out
09:32:14 23 what happened. And basically what happened was that on Friday
09:32:17 24 I received a phone call from the City's attorneys, and they
09:32:21 25 had determined that they wanted to present a motion before

09:32:24 1 Judge Guzman, who has a case called Benson versus City of
09:32:28 2 Chicago, and they're trying to get the case -- this case
09:32:30 3 reassigned to Judge Guzman on grounds of relatedness.

09:32:33 4 We would oppose that motion. We would not begrudge
09:32:37 5 the City in its ability to hear it and it's all fine and well
09:32:41 6 if they want to go ahead and present that. What concerned us
09:32:44 7 and what triggered the TRO were the statements by the City's
09:32:48 8 attorneys that the fact of their motion for a judicial
09:32:51 9 reassignment would be invoked as a means of indefinitely
09:32:54 10 delaying our motion for preliminary injunction.

09:32:58 11 They wanted to basically have the process work its
09:33:03 12 way out with Judge Guzman before the preliminary injunction
09:33:06 13 was considered by your Honor. That is not something that's
09:33:10 14 acceptable to us, because we believe we have irreparable harm.

09:33:13 15 And while we could have asked for a TRO on Monday of
09:33:17 16 last week, I chose -- because it's my style to give notice and
09:33:22 17 try to get the City onboard with an ability to respond.
09:33:27 18 However, the minute that they present the Court with a vehicle
09:33:30 19 for indefinitely delaying the injunctive relief, then we felt
09:33:34 20 that we should present the Court with a vehicle that we could
09:33:37 21 have submitted last week for actually resolving the case and
09:33:40 22 getting it over with.

09:33:43 23 And so that's why --

09:33:44 24 THE COURT: Well, what is the Benson case in front of
09:33:46 25 Judge Guzman?

09:33:47 1 MR. GURA: Well, the Benson case actually is very
09:33:50 2 distantly, if at all, related to this case. The Benson case,
09:33:54 3 first of all, your Honor, has not been answered.

09:33:55 4 I asked the City's attorneys when they might be at
09:33:58 5 issue. They said, In due time. They won't commit to any
09:34:01 6 particular time in which to answer it.

09:34:02 7 There is a third case called --

09:34:05 8 THE COURT: Well, the Federal Rules of Civil
09:34:07 9 Procedure tell them when they have to do that.

09:34:09 10 MR. GURA: That's right. But apparently they have
09:34:11 11 some kind of agreement, to which I am not privy, that they
09:34:14 12 have it sounds like an indefinite extension to respond. I was
09:34:16 13 told that the --

09:34:17 14 THE COURT: From whom?

09:34:18 15 MR. GURA: I suppose that this is something they
09:34:20 16 worked out with the plaintiffs in Benson. I guess defendant's
09:34:23 17 counsel could speak more to the details of their agreement.
09:34:26 18 But when I asked -- obviously I asked, When do you expect to
09:34:29 19 respond to Benson, I would not get a date certain. I was
09:34:32 20 told, In due time.

09:34:34 21 It should be noted, your Honor, that relating cases
09:34:37 22 should only occur if it, as the rules state, conserves
09:34:41 23 judicial resources. Here, relating the case or at least
09:34:44 24 delaying the progress of this case in order to hear the
09:34:47 25 relatedness motion would waste judicial resources, because

09:34:50 1 this case --

09:34:51 2 THE COURT: But you haven't answered my question
09:34:53 3 first, which is what is the Benson case?

09:34:55 4 MR. GURA: Oh, the Benson case. Sorry.

09:34:56 5 The Benson case is a very broad challenge by a
09:34:59 6 variety of plaintiffs to various aspects of the Chicago gun
09:35:03 7 ordinance.

09:35:04 8 THE COURT: Does it include the firing ranges?

09:35:06 9 MR. GURA: It includes a statement that the Benson
09:35:08 10 plaintiffs desire to open gun ranges. That's it. That's all
09:35:12 11 it has in it with respect to gun ranges.

09:35:15 12 And while I suppose I'm happy that they desire to
09:35:18 13 engage in that business, the fact is that case also includes a
09:35:21 14 challenge to the definition, I guess, of a home, where guns
09:35:25 15 can be carried. It challenges the way in which guns are to be
09:35:29 16 kept, according to the ordinance. It challenges rules
09:35:33 17 regarding the transportation of firearms. It's a very broad
09:35:36 18 case that has --

09:35:37 19 THE COURT: Do you know the case number?

09:35:38 20 MR. GURA: Yes. The case number is -- I believe we
09:35:40 21 referenced it in our papers. It's --

09:35:42 22 THE COURT: In the TRO?

09:35:43 23 MR. GURA: Yes.

09:35:46 24 THE COURT: That was filed last night before
09:35:48 25 midnight.

09:35:49 1 MR. GURA: It's ...

09:35:55 2 MR. SIGALE: Your Honor, it's 10-cv-4184.

09:36:03 3 THE COURT: And who are the plaintiffs in that case?

09:36:04 4 MR. SIGALE: It's some individuals. I believe the
09:36:08 5 National Rifle Association. It's the NRA case.

09:36:11 6 THE COURT: Okay.

09:36:11 7 MR. GURA: They're sponsoring it. I don't know if
09:36:14 8 they are a party to it.

09:36:15 9 THE COURT: And you are not a party to it?

09:36:16 10 MR. GURA: We are not a party to it. We have no
09:36:18 11 desire to be involved with it. We do not challenge the bulk
09:36:21 12 of what they're complaining about. And I should say that
09:36:24 13 there's a great deal of difference even with respect to the
09:36:27 14 range ban challenge, because we have a First Amendment
09:36:30 15 argument, which is a very big part of our case. They do not.

09:36:33 16 We assert that some of our plaintiffs and our
09:36:36 17 organizational clients' members and supporters are going to
09:36:39 18 lose their ability to register firearms, if they don't have
09:36:42 19 access to gun ranges in time for the City's deadlines that are
09:36:46 20 going to kick in very soon. They have no such allegation at
09:36:49 21 all.

09:36:49 22 There's no allegation in Benson that anyone is unable
09:36:52 23 to register firearms for lack of range training. And, of
09:36:56 24 course, we also have in our case one plaintiff, the Illinois
09:37:04 25 State Rifle Association, which does, in fact, operate a gun

09:37:07 1 range not that far from here, but far enough, and they will
09:37:10 2 want to come into Chicago.

09:37:11 3 We have another plaintiff, Action Target, which is
09:37:14 4 actually in the business of constructing and operating gun
09:37:19 5 ranges in the City of Chicago, and we also have plaintiffs who
09:37:21 6 are set to bring in a mobile range facility. It's contained
09:37:26 7 in a tractor-trailer that can be parked here, and we have a
09:37:29 8 parking spot for it in the City of Chicago. So we can
09:37:32 9 immediately bring in a gun range and have people trained.

09:37:34 10 THE COURT: Now, that I want to see how could you
09:37:37 11 shoot a gun in a mobile truck.

09:37:41 12 MR. GURA: It's usually used for law enforcement
09:37:43 13 purposes.

09:37:44 14 THE COURT: Okay.

09:37:44 15 MR. GURA: What happens is they have a
09:37:45 16 tractor-trailer, and inside of it they have a -- I believe
09:37:49 17 they have three target positions. And the usual application
09:37:53 18 for these things is they either bring them to police
09:37:57 19 departments where they don't have an easy range accessible, so
09:38:02 20 instead of having all the officers drive to some distant
09:38:05 21 range, the range comes to them. And, also, I believe these
09:38:08 22 things are sometimes used in different trade shows.

09:38:10 23 But, in any event, it's fully EPA certified. It is a
09:38:14 24 safe and effective gun range, and we have --

09:38:17 25 THE COURT: So what is the back of the truck made of

09:38:19 1 so that you can shoot?

09:38:21 2 MR. GURA: I believe it's -- it's inside the trailer.
09:38:23 3 I believe they have a bullet trap in it. These things have
09:38:26 4 been around for some time and we have actually -- we have a
09:38:30 5 contract. We have a lease to park it, and we can bring it in
09:38:35 6 and we can have people trained. And then they would be in
09:38:39 7 compliance with the Chicago gun ordinance.

09:38:41 8 THE COURT: Okay.

09:38:42 9 MR. GURA: So we are ready to go. The Benson
09:38:44 10 plaintiffs, they have a desire. I respect that. But it's not
09:38:48 11 a case that's ripe for decision by any means, and our case is.
09:38:52 12 So judicial resources would be advanced by resolving this
09:38:58 13 case. You know, we really have an ongoing injury here, and
09:39:03 14 we'd like to have it addressed.

09:39:07 15 THE COURT: I'm looking at the motion for relatedness
09:39:10 16 that was filed, not in any surprise, on Friday night, but
09:39:14 17 actually on the 20th citing to your case. And, of course,
09:39:20 18 it's filed before Judge Guzman, because he has the lower
09:39:26 19 numbered case.

09:39:28 20 All right. Let's hear from the City and what your
09:39:31 21 position is on all of this.

09:39:32 22 MR. WORSECK: Sure. Thank you, your Honor.

09:39:33 23 As Mr. Gura's submission has made eminently clear
09:39:38 24 this morning, his beef is with the reassignment motion that
09:39:43 25 the City filed. He thinks this case is different than Benson.

09:39:46 1 We disagree.

09:39:47 2 Both lawsuits challenge the constitutionality of the
09:39:51 3 City's recently enacted gun ordinance and the exact same
09:39:54 4 provision. The sole provision that's at issue in Mr. Gura's
09:39:59 5 lawsuit, the ban on gun ranges, is also a part of the Benson
09:40:02 6 case on all fours.

09:40:04 7 The Benson case also presents plaintiffs, as does
09:40:07 8 this case, who seek not only to operate a gun range, but seek
09:40:11 9 to patronize a gun range to train in the use of firearms.
09:40:18 10 That is the only thing that has changed since last Monday when
09:40:21 11 the motion for the preliminary injunction was filed.

09:40:25 12 We think it makes eminent sense for Mr. Guzman --
09:40:29 13 excuse me -- for Judge Guzman, with respect to your Honor, of
09:40:32 14 course, to address all of these issues at once in a single
09:40:38 15 judicial forum. That's what the rules provide for in the
09:40:42 16 local -- in the Northern District.

09:40:45 17 If Mr. Gura thinks that there are differences between
09:40:47 18 his case and Benson, Judge Guzman is perfectly qualified to
09:40:51 19 entertain those. If this case presents some greater need for
09:40:56 20 judicial action than does Benson, Judge Guzman is perfectly
09:41:00 21 capable of granting that.

09:41:02 22 On that issue, your Honor, we think that there is
09:41:04 23 clearly no irreparable harm presented in this case.

09:41:08 24 What the plaintiffs are really complaining about is
09:41:11 25 having to travel out to the suburbs to attain their training

09:41:15 1 and not being able to get that training in Chicago. That is
09:41:18 2 simply an issue of time and expense, and that is the kind of
09:41:21 3 issue that's compensable via damages after trial, should
09:41:25 4 plaintiffs prevail.

09:41:27 5 Ms. Ezell, who has already attained her training, she
09:41:32 6 is one of the three plaintiffs in this case. The other
09:41:34 7 individual plaintiffs in this case -- the other two individual
09:41:36 8 plaintiffs, according to their own affidavits, frequent gun
09:41:42 9 ranges and/or supervise and train at gun ranges on their own
09:41:46 10 free time. If they have chosen to do this in their free time
09:41:49 11 for recreation, certainly it's not an irreparable harm to ask
09:41:54 12 them to go out to these very same ranges that they go to
09:41:58 13 already to attain their one hour of training in order to
09:42:02 14 comply with the Chicago ordinance. So there's clearly no
09:42:05 15 emergency --

09:42:05 16 THE COURT: Well, I'm reading the Benson complaint,
09:42:11 17 and it does challenge by Second Amendment as well as the
09:42:21 18 Fourteenth Amendment the firing range issue as well. So it
09:42:27 19 seems like it's a broader case than your case, which is
09:42:31 20 focused solely on the firing ranges, but there's a few
09:42:35 21 paragraphs challenging the firing range aspect of the statute.

09:42:40 22 MR. GURA: Your Honor, if I may respond?

09:42:42 23 THE COURT: Of course.

09:42:43 24 MR. GURA: Okay. First of all, we have a very
09:42:45 25 crystal clear case of irreparable harm. To tell people that

09:42:49 1 they need to go outside the city to exercise constitutional
09:42:53 2 rights is not a solution. We don't tell these people that
09:42:56 3 they can go to their church outside the city. They can go to
09:42:58 4 the bookstore outside the city, inside the city. We have
09:43:02 5 declared a constitution free zone. The fact is that --

09:43:03 6 THE COURT: Well, we actually do have places where we
09:43:05 7 limit First Amendment and association rights, based upon a
09:43:09 8 balancing of the interests --

09:43:10 9 MR. GURA: That's right.

09:43:11 10 THE COURT: -- so it's not -- it doesn't
09:43:13 11 automatically show an irreparable harm.

09:43:16 12 MR. GURA: That's right. But, your Honor, we would
09:43:17 13 say that if the City wants to draft a law like that, then we
09:43:21 14 could address that kind of case. But we don't have here a
09:43:23 15 question of zoning ordinance or time, place, and manner
09:43:27 16 regulation.

09:43:27 17 We have here in the City that's over 200 square
09:43:30 18 miles, that's home to millions of people, a city that mandates
09:43:33 19 that people train with firearms, because it recognizes how
09:43:38 20 critical that is to public safety, a complete ban on the
09:43:41 21 exercise of Second Amendment rights and also training on First
09:43:44 22 Amendment activity is spelled out in our preliminary
09:43:47 23 injunction motion. So we have here irreparable harm, and this
09:43:49 24 TRO could have been filed a week ago.

09:43:51 25 We believe that under the Seventh Circuit's precedent

09:43:53 1 describing what irreparable harm is, we could have gone for a
09:43:57 2 TRO a week ago. We didn't do so out of professional courtesy
09:44:00 3 to the City, because we wanted to give them an opportunity to
09:44:03 4 respond. And I feel that what we have here is a case of no
09:44:07 5 good deed going unpunished, because instead of taking the time
09:44:10 6 that we've given them to meet the merits of the case, instead
09:44:14 7 they have come out with some kind of an argument for why the
09:44:16 8 case should never be addressed.

09:44:18 9 So respectfully, your Honor, we have irreparable
09:44:20 10 harm. We believe these are very serious allegations. The
09:44:23 11 case is ripe. It's ready for decision.

09:44:25 12 The preliminary injunction might even be suitable
09:44:27 13 under Rule 65 for combining with a trial on the merits. And
09:44:32 14 so we would respectfully request that the Court rule on the
09:44:35 15 issue. We don't really care which judge rules on it, but we
09:44:39 16 do need to have it ruled on soon, because one thing that we do
09:44:43 17 not address are the City's deadlines.

09:44:45 18 The City has deadlines for people to comply with
09:44:48 19 training requirements. And once those deadlines expire,
09:44:52 20 people have lost their rights. They have lost their firearms.
09:44:56 21 And every day that goes by that we don't get relief from this
09:45:00 22 is a day closer to those deadlines. And, you know, it makes a
09:45:05 23 huge difference to our clients whether or not they can do this
09:45:08 24 now as opposed to later.

09:45:09 25 We don't -- we will be very happy to argue the

09:45:12 1 Rule 40 motion at the appropriate time whenever that is.
09:45:15 2 Nothing this Court does will deprive Judge Guzman of the
09:45:19 3 ability to rule on that motion. Even if this Court issues
09:45:22 4 some kind of an order on the TRO or the preliminary injunction
09:45:25 5 and one of the parties appeals it to the Seventh Circuit, the
09:45:28 6 District Court would still retain concurrent jurisdiction to
09:45:31 7 entertain the Rule 40 motion.

09:45:33 8 So there's nothing we're doing that prevents them
09:45:36 9 from asking for this relief from Judge Guzman. All we're
09:45:40 10 asking for is that the irreparable harm be addressed at a time
09:45:45 11 when it's meaningful for the Courts to do so.

09:45:46 12 MR. WORSECK: Your Honor, if I may?

09:45:46 13 THE COURT: Sure.

09:45:47 14 MR. WORSECK: If there were an irreparable harm here,
09:45:50 15 Mr. Gura, in looking out for his clients, could simply consent
09:45:53 16 to the City's reassignment motion. In fact, we offered to
09:45:59 17 Mr. Gura to waive our opening brief in support of that motion,
09:46:02 18 give him whatever sort of fast track briefing schedule he
09:46:04 19 wanted, and have Judge Guzman make a ruling as soon as
09:46:09 20 necessary.

09:46:10 21 Further, on this issue of irreparable harm, Mr. Gura
09:46:13 22 likes to invoke the First Amendment principle that the denial
09:46:17 23 of First Amendment rights is irreparable harm. This is a
09:46:21 24 Second Amendment case.

09:46:22 25 Nothing in the City's ordinances prohibit the speech

09:46:26 1 or instruction relating to firearms use. It simply prohibits
09:46:30 2 the discharge at a shooting range or a discharge elsewhere for
09:46:35 3 nonself-defense related purposes. Those are Second Amendment
09:46:38 4 issues.

09:46:40 5 Travel to the suburbs to attain one hour of training
09:46:43 6 is compensable via damages. Should these particular
09:46:47 7 plaintiffs fail to comply with the City's requirement to
09:46:51 8 submit their CFP application by mid-October -- and the only
09:46:55 9 reason they want to do that is so that they can preserve the
09:46:58 10 right to possess the particular firearms that they already
09:47:00 11 have. If they don't get that application on file in time,
09:47:04 12 they would lose the right to possess particular firearms.
09:47:07 13 Again, the loss of particular property is compensable in
09:47:10 14 damages. Nothing prohibits these plaintiffs from exercising
09:47:13 15 what is really at the core of the Second Amendment, which is
09:47:16 16 the possession of arms for self defense in the home. They are
09:47:19 17 free to apply to do that at any time.

09:47:21 18 THE COURT: All right.

09:47:22 19 MR. GURA: Your Honor?

09:47:22 20 THE COURT: No, this is what I am doing. As far as
09:47:25 21 your preliminary injunction is concerned, there will be a
09:47:31 22 two-week response time in writing and a one-week reply.

09:47:35 23 And as far as the temporary restraining order that
09:47:39 24 was filed a few hours ago, I will hear that this afternoon, at
09:47:57 25 3:30 this afternoon. And I will accept any type of written

09:48:02 1 response, if the defendant wants to give me a written
09:48:05 2 response. But I haven't read it, so I am not going to rule on
09:48:08 3 a TRO that I haven't read.

09:48:10 4 MR. GURA: Sure.

09:48:10 5 THE COURT: So I just got it. I will read it, and I
09:48:13 6 have other matters on my call throughout the day, and we'll
09:48:16 7 have the hearing at 3:30.

09:48:17 8 MR. GURA: Sure.

09:48:18 9 MR. WORSECK: Your Honor, on the preliminary
09:48:19 10 injunction schedule that you just set.

09:48:20 11 THE COURT: Yes.

09:48:21 12 MR. WORSECK: We take serious issue with some of the
09:48:23 13 factual allegations and factual submissions in their
09:48:27 14 affidavits. And we would, of course, like to conduct
09:48:30 15 discovery on the matters raised in the preliminary injunction
09:48:33 16 submission, and we would ask the Court's leave to do that on a
09:48:37 17 fast track, so that we can have the proper factual corpus at
09:48:41 18 hand --

09:48:41 19 THE COURT: Can you give me some sense of what that
09:48:44 20 would be, of how many individuals you intend to depose or
09:48:47 21 gather information from, so I have some sense of that for a
09:48:52 22 fast track analysis?

09:48:53 23 MR. WORSECK: I don't know that we would need to
09:48:55 24 spray beyond the plaintiffs to the lawsuit. We would
09:48:57 25 obviously be interested in just how much of a burden it is to

09:49:00 1 travel out to the suburbs, when they are already going out
09:49:03 2 there anyway for gun training. We'd like to take discovery of
09:49:07 3 how many weapons they stand to lose, if they don't get their
09:49:11 4 application on file.

09:49:11 5 THE COURT: And how many plaintiffs do we have? We
09:49:13 6 have five?

09:49:15 7 MR. WORSECK: Your Honor, also the opening of a
09:49:18 8 mobile gun range presents serious zoning issues, environmental
09:49:23 9 issues, licensing issues, public safety issues, and the
09:49:27 10 plaintiffs concede in their papers that those are all valid
09:49:30 11 concerns of the City.

09:49:31 12 We would, therefore, need to take discovery on the
09:49:33 13 nuts and bolts of what this range is, how it would operate,
09:49:38 14 the environmental impacts presented, the safety impacts
09:49:42 15 presented, the security impacts presented, the zoning impacts
09:49:47 16 presented.

09:49:47 17 THE COURT: Okay. As far as the preliminary
09:49:51 18 injunction your motion for discovery is granted. And I will
09:49:56 19 give you a period of discovery 'til September 30th, and then
09:50:03 20 your response to the preliminary injunction will be due
09:50:07 21 October 17th, and a reply October 14th.

09:50:12 22 Of course, the discovery during this period of time
09:50:15 23 should be open between the two of you. It is expedited for
09:50:19 24 purposes of the preliminary injunction. And I will have a
09:50:25 25 hearing on the preliminary injunction, if you want to present

09:50:29 1 oral argument, on October 15th at 1:00 in the afternoon, and
09:50:39 2 that is the preliminary injunction.

09:50:42 3 The TRO is this afternoon at 3:30. Okay?

09:50:46 4 MR. GURA: Thank you, your Honor.

09:50:47 5 THE COURT: Thank you.

09:50:47 6 MR. WORSECK: Thank you.

09:50:48 7 MR. GURA: And just to clarify one thing, your Honor?

09:50:50 8 The grounds for the TRO are the same grounds for the
09:50:53 9 preliminary injunction. The only thing our TRO memorandum
09:50:56 10 did, as your Honor will see, is simply explain why we had
09:50:59 11 decided to move for a TRO. But the grounds that we rely on
09:51:03 12 are the same ones we submitted last week.

09:51:05 13 THE COURT: I understand that. The problem is, is
09:51:08 14 that --

09:51:08 15 MR. GURA: Sure.

09:51:08 16 THE COURT: -- I am not going to just if you're
09:51:11 17 waiting for me to rule on something that I haven't looked at,
09:51:13 18 that's not going to be the case.

09:51:15 19 MR. GURA: Your Honor, I understand.

09:51:15 20 THE COURT: Okay.

09:51:16 21 MR. GURA: I simply wanted to clarify what the Court
09:51:17 22 will expect to see.

09:51:19 23 THE COURT: And I'm not certain whether the notice of
09:51:22 24 a motion for relatedness is -- changes those factors, to the
09:51:28 25 extent that you have. But what you've asserted to me today is

09:51:32 1 that you had a basis for moving for it before as well.

09:51:34 2 MR. GURA: We did.

09:51:35 3 THE COURT: All right. So I'll take a look at it.

09:51:37 4 All right.

09:51:37 5 MR. GURA: Thank you.

09:51:38 6 MR. WORSECK: Thank you, your Honor.

09:51:39 7 MR. AGUIAR: Thank you, your Honor.

09:51:39 8 MR. GURA: Thank you.

09:51:39 9 (Adjourned at 9:51 a.m.)

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