IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BAY AREA UNITARIAN UNIVERSALIST CHURCH; DRINK HOUSTON BETTER, LLC d/b/a ANTIDOTE COFFEE; and PERK YOU LATER, LLC, *Plaintiffs*, v. KEN PAXTON, Attorney General for the State of Texas, in his official capacity; KIM OGG, District Attorney for Harris County, in her official capacity; CHRISTIAN MENEFEE, County Attorney for Harris County, in his official capacity; ED GONZALEZ, County Sheriff for Harris County, in his official capacity; PETE BACON, Acting Chief of Police for the Webster Police Department, in his official capacity; TROY FINNER, Chief of the Houston Police Department, in his official capacity; KIM LEMAUX, Presiding Officer for the Texas Commission on Law Enforcement, in her official capacity, *Defendants.*	CIVIL ACTION NO. 4:20-cv-03081

PLAINTIFFS' MOTION TO MODIFY SCHEDULING ORDER
AND FOR LEAVE TO AMEND COMPLAINT

INTRODUCTION

Plaintiffs Bay Area Unitarian Universalist Church, Drink Houston Better, LLC d/b/a Antidote Coffee, and Perk You Later, LLC respectfully move this Court pursuant to Fed. R. Civ. P. 15(a)(2) and 16(b)(4) to modify a previously entered scheduling order, and to grant leave for Plaintiffs to file the attached proposed amended complaint against Defendants KIM OGG, District Attorney for Harris County, in her official capacity; ED GONZALEZ, County Sheriff for Harris County, in his official capacity; PETE BACON, Chief of Police for the Webster Police Department, in his official capacity, and TROY FINNER, Chief of the Houston Police Department, in his official capacity (jointly, the "Defendants"). The Defendants oppose this motion.

This is Plaintiffs' first motion to amend their complaint. It is filed in response to this Court's recent order granting Defendant Finner's Rule 12(c) Motion for Judgment on the Pleadings and dismissing Plaintiffs' claims against Defendant Finner, without prejudice. *See* Corrected Mem. and Order at 13, Sept. 29, 2022 (the "September 29th Order"), ECF No. 147. When a plaintiff seeks leave to file an amended complaint after the deadline in a scheduling order has passed, the court first considers whether there is good cause under Rule 16(b)(4) to modify the scheduling order to allow the amendment. *Sw. Bell Tel. Co. v. City of El Paso*, 346 F.3d 541, 546 (5th Cir. 2003). If good cause exists, then the court applies the "more liberal standard" of Rule 15(a) to determine whether leave to amend shall be granted. *S&W Enters., LLC v. SouthTrust Bank of Ala., NA*, 315 F.3d 533, 536 (5th Cir. 2003).

Here, good cause exists to modify the scheduling order, which set December 15, 2021, as the deadline to file amended pleadings. ECF No. 108. Up until the September 29th Order, the holding of this Court was that the Plaintiffs had sufficiently pleaded standing against each of the Defendants. The Defendants' motions to dismiss had been denied in relevant part, discovery had

concluded, and summary judgment briefing was to commence shortly. However, the September 29th Order vacated the previous findings of the Court with respect to standing, held that the Plaintiffs did not have standing to sue Defendant Finner, and raised additional questions with respect to the nature of Plaintiffs' injury. Thus, Plaintiffs now have reason to amend their complaint to address the Court's holdings with respect to standing by alleging additional facts to establish a concrete and particularized injury that is traceable to each of the Defendants and is likely to be redressed by a favorable decision. That is good cause.

For similar reasons, this Court should grant leave to amend under Rule 15(a)(2). This rule "evinces a bias in favor of granting leave to amend," and such leave "shall be freely granted." *Herrmann Holdings Ltd. v. Lucent Techs. Inc.*, 302 F.3d 552, 566 (5th Cir. 2002) (citations omitted). None of the factors typically found to warrant denial, such as undue delay, bad faith, undue prejudice, or futility are applicable here. And even if such reason to deny leave did exist, courts in this circuit are instructed to "consider prejudice to the movant, as well as judicial economy, in determining whether justice requires granting leave." *Jamieson ex rel. Jamieson v. Shaw*, 772 F.2d 1205, 1208 (5th Cir. 1985).

Finally, even though this Court dismissed the claims against Defendant Finner, Plaintiffs may amend the complaint against him, with leave of the Court, since the September 29th Order dismissed the claims against him without prejudice and did not terminate the entire action. *See Whitaker v. City of Houston*, 963 F.2d 831, 835 (5th Cir. 1992) (adopting the rule that a plaintiff may amend a complaint pursuant to Rule 15(a) with permission of the court when a complaint has been dismissed if the dismissal did not constitute a termination of the entire action). It is well established that "[w]hen an action involves multiple parties, [a] decision that adjudicates the

liability of fewer than all of the parties does not terminate the action." *Askanase v. Livingwell, Inc.*, 981 F.2d 807, 810 (5th Cir. 1993).

For these reasons, Plaintiffs seek the Court's leave to file their First Amended Complaint. Due to a protective order previously entered in this case, a redacted, public version of the proposed amended complaint is filed herewith as **Exhibit 1**, and an unredacted version is filed under seal as **Exhibit 2**. For the Court's reference, a redline showing the changes from the original complaint to the proposed amended complaint is filed under seal as **Exhibit 3**.[1]

NATURE AND STAGE OF THE PROCEEDING

This action challenging the constitutionality of certain provisions of sections 30.06 and 30.07 of the Texas Penal Code was commenced on September 2, 2020. ECF No. 1. It alleges that Texas property owners who wish to keep guns off their property must post large, text-heavy, government-scripted signs in order to exercise the longest-established and most fundamental of their property rights: the right to exclude. *Id.* at 1-2. By contrast, property owners who wish to exclude others for any other reason do not face these same burdens. *Id*. Plaintiffs allege that by singling out and burdening a disfavored viewpoint, the Texas statutes unconstitutionally force them to choose between their First Amendment rights and their fundamental property rights, as vindicated by the criminal law of trespass. *Id.* ¶¶ 99-113.

Plaintiffs' original complaint named a number of state and local officials and alleged that each of them are charged with enforcing the statutes. *See id.* ¶¶ 7-13. Between November 2020 and January 2021, all the Defendants filed motions to dismiss the complaint. ECF Nos. 28, 38, 42, 52. On August 27, 2021, this Court entered an order granting in part and denying in part each of the motions to dismiss. ECF No. 68. The Court held, in relevant part, that Plaintiffs had standing

[1] Plaintiffs are concurrently filing a motion to permanently seal Exhibits 2 and 3.

to assert as-applied First Amendment claims against each of the Defendants because the Plaintiffs were injured by the statutes' burdensome notice requirements and the Defendants are responsible for enforcing the statutes. *Id.* at 10-17.

On September 27, 2021, the two state Defendants—Ken Paxton and Kim Lemaux—were voluntarily dismissed with prejudice. ECF No. 82. On September 29, 2021, Defendant Troy Finner, along with Defendant Bacon, moved to certify the motion-to-dismiss order for interlocutory appeal, arguing that the Plaintiffs had no standing to sue them. ECF No. 84. They were later joined by the Harris County defendants. ECF No. 86. On November 2, 2021, the motions to certify were summarily denied. ECF No. 99. Thereafter, on November 8, 2021, the remaining Defendants answered the original complaint. ECF Nos. 103-105.

On December 7, 2021, the Court entered an amended scheduling order which, among other things, set December 15, 2021, as the deadline to amend the pleadings. ECF No. 108. On December 9, 2021, this case was reassigned to Judge Ewing Werlein, due to the previous judge's retirement. ECF No. 109. Two weeks later, on December 23, 2021, Defendant Finner moved pursuant to Rule 12(c) for judgment on the pleadings, raising—for the third time—the standing arguments that had been rejected in both the motion to dismiss and the motion to certify. ECF No. 115. Meanwhile, pursuant to the scheduling order, the parties, including Chief Finner, engaged in discovery, which concluded on September 1, 2022. *See* ECF No. 108.

On September 29, 2022, this Court granted Chief Finner's motion, dismissing all claims against him without prejudice. September 29th Order at 13. In its order, this Court held that the Plaintiffs had "failed to meet their burden to allege a plausible set of facts establishing 'a concrete and particularized,' and 'actual or imminent,' injury in fact for which the Houston Chief is responsible." *Id.* at 12. Thus, the Court held that Plaintiffs had not established standing with respect

to Defendant Finner. *Id*. The Court vacated previous findings by this Court which established that Plaintiffs' injuries arise from each of the Defendants' enforcement of the statutes. *Id.* at 11 n.4 (vacating portion of previous order that found that "property owners forfeit their rights to police protection and criminal prosecution if they do not comply with the Acts' heightened notice requirements").

The deadline for summary judgment motions in this case is currently set for November 1, 2022. ECF No. 145. On October 11 and 12, 2022, Plaintiffs began to confer with counsel for the remaining defendants—Kim Ogg, Ed Gonzalez, and Pete Bacon—to hold the motions deadline in abeyance to allow Plaintiffs to file an amended complaint to address the Court's concerns. *See* ECF No. 148 at 3-4. They did not agree to the proposal. *Id.* On October 19, 2022, Plaintiffs filed a motion to hold the motions deadline in abeyance, or in the alternative, to set a new scheduling order, to allow the Court to first rule on this motion to amend the complaint. *Id.* at 1-4. The abeyance motion is currently pending before the Court.

STATEMENT OF ISSUES

(I) May the Plaintiffs amend their complaint where a motion for judgment on pleadings was granted only after the deadline for amended pleadings had passed and discovery was complete?

"Federal Rule of Civil Procedure 16(b) governs amendment of pleadings once a scheduling order has been issued by the district court." *Sw. Bell Tel. Co.*, 346 F.3d at 546 (citation omitted). Pursuant to Rule 16(b)(4), "[a] schedule may be modified only for good cause and with the judge's consent." If a movant demonstrates good cause to modify the scheduling order, then "the more liberal standard of Rule 15(a) appl[ies] to the district court's decision to grant or deny leave." *S&W Enters.*, 315 F.3d at 536. Pursuant to Rule 15(a)(2), courts "should freely give leave when justice

so requires." The rule "evinces a bias in favor of granting leave to amend," and the court "must have a 'substantial reason' to deny a request for leave to amend." *Herrmann Holdings*, 302 F.3d at 566 (citations omitted).

(II) May Plaintiffs file an amended complaint against Defendant Finner, against whom the original complaint was dismissed without prejudice to refile, where no final judgment has been entered?

In an action where a court dismisses a complaint against a defendant and the plaintiff seeks leave to amend the complaint, "the initial question is whether the dismissal of the complaint was intended to terminate the action." *Whitaker*, 963 F.2d at 835. In *Whitaker*, the Fifth Circuit explained that:

> A district court's order dismissing a complaint constitutes dismissal of the action when it states or clearly indicates that no amendment is possible—e.g., when the complaint is dismissed with prejudice or with express denial of leave to amend—or when circumstances otherwise indicate that no amendment is possible—e.g., when the limitations period has expired. . . . If, on the other hand, the district court's order does not expressly or by clear implication dismiss the action, then . . . such order merely dismisses the complaint. In that case, the plaintiff may amend under Rule 15(a), but only with permission of the court.

Id.

ARGUMENT

In this case, where there was no need for Plaintiffs to amend their complaint prior to this Court's September 29th Order, good cause exists to modify the previously entered scheduling order which set December 15, 2021, as the original deadline to amend the pleadings. And there is no "substantial reason" reason to deny Plaintiffs leave to file an amended complaint under Rule 15(a)(2): there is no undue delay on the part of the Plaintiffs in filing this motion, no undue prejudice to Defendants, and the proposed amendments go to the heart of the issue raised by this Court in its September 29th Order. Simply put, fairness and justice counsel that Plaintiffs should

be permitted to amend their complaint when a previous order of this Court held that Plaintiffs had sufficiently pleaded standing, and a later order—entered after the deadline to amend the pleadings had passed—vacated the previous order. *See* Fed. R. Civ. P. 15(a)(2) ("The court should freely give leave [to amend] when justice so requires.").

I. GOOD CAUSE EXISTS TO MODIFY THE SCHEDULING ORDER

In the context of amending a complaint under Rule 16(b)(4), where a scheduling order has been entered, good cause requires an analysis of four factors: "(1) the explanation for the failure to timely move for leave to amend; (2) the importance of the amendment; (3) potential prejudice in allowing the amendment; and (4) the availability of a continuance to cure such prejudice." *Sw. Bell Tel. Co.*, 346 F.3d at 546 (quoting *S&W Enters.*, 315 F.3d at 536). Here, these factors all weigh in favor of granting leave to amend.

First, Plaintiffs are seeking leave to file an amended complaint promptly after this Court dismissed the claims against Defendant Finner without prejudice. At the time Defendant Finner filed his motion for judgment on the pleadings, the deadline for plaintiffs to amend their complaint had already passed. *See* ECF Nos. 108, 115. Additionally, the standing arguments raised by Defendant Finner had already been rejected by the Court. *See* ECF No. 68. As this Court noted in its recent opinion, a successor judge does not "ordinarily" overrule prior decisions of the Court. ECF No. 147, at 11 n.4. Consequently, Plaintiffs had no reason to anticipate the Court's September 29 ruling that standing was insufficiently alleged. Thus, there was no previous need to move to amend.

Second, the proposed amendment is crucial to Plaintiffs' claims against Defendant Finner and the rest of the Defendants. The proposed amendment directly alleges that Plaintiffs are in fact injured by the challenged statutes, and that that injury is traceable to each of the Defendants. *See,*

e.g., Ex. 1 ¶ 37 ("[O]fficers employed by the Law Enforcement Defendants are trained on the specific elements of the Acts, including the notice elements. . . . Officers employed by the Law Enforcement Defendants are trained that if any of [the] statutory requirements is not satisfied, notice by sign under the Acts is not sufficient and probable cause to support an arrest under the Act is lacking."); *id.* ¶ 47 ("Unless Plaintiffs' signs expressing their intent to exclude licensed, concealed firearms conform to the specifications of Section 30.06(c)(3)(B), officers employed by the Law Enforcement Defendants, when called, will not arrest individuals with a license to carry a concealed handgun for criminal trespass where the property owner wishes to exclude the individual on the basis that he or she is carrying a licensed, concealed firearm."); *see also id.* ¶¶ 33-56, 73-85. As this Court recognized in its September 29th Order, these allegations are a key component of Plaintiffs' case. *See* ECF No. 147, at 9-10.[2]

Third, the proposed amendment would present little, if any, prejudice to the Defendants. Plaintiffs are not proposing a change to any of their theories of liability nor seeking to add any causes of action to the complaint. Instead, Plaintiffs' proposed amendments merely incorporate concrete evidence and sworn testimony gleaned from discovery to establish that Plaintiffs have standing to assert the causes of action that they have already pleaded. If amendment is allowed,

[2] The proposed amended complaint also includes edits to reflect the updated statutory scheme for firearm carry and corresponding signage, which went into effect on September 1, 2021, pursuant to H.B. 1927. *See* Ex. 1 ¶¶ 22-24. H.B. 1927 allows certain people to carry firearms without a license and added a new provision to section 30.05 of the Texas Penal Code outlining notice requirements for property owners who wish to keep guns carried by unlicensed individuals off their property. Tex. Penal Code Ann. § 30.05(c). In addition, the proposed amended complaint reflects that H.B. 1927 repealed sections 11.041 and 61.11 of the Texas Alcoholic Beverage Code, which previously required businesses with alcohol permits or licenses that do not derive the majority of their revenue from alcohol to comply with specific signage requirements. The proposed amended complaint does not assert any new claims pertaining to these changes of law but is simply updated to reflect the current statutory requirements.

Plaintiffs will not seek any additional discovery; and since discovery is already complete in this action, the Defendants will be minimally, if at all, prejudiced thereby. Defendant Finner, in particular, suffers no prejudice from this amendment since Plaintiffs are free to refile a new complaint against him pursuant to the Court's September 29th Order. Filing all the claims as part of one lawsuit is simply more efficient and conserves judicial resources. As for the other defendants, this proposed amendment simply conforms the pleadings to the evidence in advance of summary judgment briefing.

Fourth, to the extent there is any minimal prejudice to Defendants, it can be fully alleviated by a continuance. In fact, Plaintiffs already offered Defendants the opportunity to jointly seek an abeyance of the briefing deadlines (which they declined). Plaintiffs have therefore moved to hold the November 1, 2022 motions deadline in abeyance, and they continue to be willing to negotiate a scheduling order that would forgo the need for any new discovery by Plaintiffs and set a briefing schedule for summary judgment that is amenable to Defendants.

For the above reasons, Plaintiffs have shown good cause to modify the previously entered scheduling order to allow for the filing of an amended complaint.

II. PLAINTIFFS HAVE MET RULE 15(A)'S LIBERAL STANDARD TO AMEND

Because Plaintiffs have established good cause to modify the scheduling order, the Court should apply the "more liberal standard" of Rule 15(a) to determine whether leave to file the amended complaint should be granted. *Sw. Bell Tel. Co.*, 346 F.3d at 546. "Rule 15(a) requires a trial court to grant leave to amend freely, and the language of the rule evinces a bias in favor of granting leaving to amend." *Marucci Sports, LLC v. NCAA*, 751 F.3d 368, 378 (5th Cir. 2014) (citation omitted). The court "may consider factors such as whether there has been 'undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by

amendments previously allowed, undue prejudice to the opposing party, and futility of amendment.'" *Herrmann Holdings*, 302 F.3d at 566 (citation omitted). "Even if substantial reason to deny leave exists, the court should consider prejudice to the movant, as well as judicial economy, in determining whether justice requires granting leave." *Jamieson*, 772 F.2d at 1208.

Here, Plaintiffs moved promptly to amend the complaint as soon as it first became necessary to do so. Thus, there can be no argument that there has been undue delay, bad faith, dilatory motive, or repeated failure to cure deficiencies by previously allowed amendments. As discussed fully above, there is also no undue prejudice to Defendants, as Plaintiffs do not intend to take additional discovery or assert new causes of action. Finally, the proposed amendments to the complaint are not futile. "When futility is advanced as the reason for denying an amendment to a complaint, the court is usually denying leave because the theory presented in the amendment lacks legal foundation or because the theory has been adequately presented in a prior version of the complaint." *Id.*

In this case, Plaintiffs have spent almost a year in discovery with Defendants. In the course of this discovery, each of the Defendants have conceded that Plaintiffs' allegations are no mere speculation. Each of the Defendants has confirmed that their officers or prosecutors are specifically trained on the notice requirements of the statutes and understand the difference between adequate and inadequate signage; they have further admitted that their officers or prosecutors cannot arrest or prosecute someone for trespass on the basis that the person is carrying a firearm if the complaining property owner does not post the applicable signs. *See* Ex. 1 ¶¶ 37, 38, 45-48, 52-55. Discovery has demonstrated that officers and prosecutors employed by Defendants are carefully trained on these notice requirements because the notice statutes and other Texas gun laws have inspired "Second Amendment Auditors" to enter private property with firearms to test the response

of property owners and law enforcement. *Id.* ¶¶ 41-42, 75. Plaintiffs' proposed amended complaint fills in these and other details and confirms that the challenged statutes work an injury in fact on Plaintiffs, and one that is traceable to Defendants. Plaintiffs' proposed amendment thus addresses the Court's concerns about "conjectural and hypothetical imaginings of what the police [and prosecutors] might do." September 29th Order at 12.

Finally, even if a substantial reason did exist to deny leave, there would be substantial prejudice to Plaintiffs if the motion to amend were denied. Plaintiffs filed this lawsuit more than two years ago, on September 2, 2020, and for the entirety of that period, Plaintiffs have been operating under a statutory scheme that violates their First Amendment rights. Plaintiffs have expended considerable time and resources in prosecuting this case, including in discovery, with the understanding that this Court had already determined that they had standing to bring this action. They now seek to amend their complaint, for the first time, in order to conform the pleadings to the evidence in the record, and to address the Court's September 29th Order. In addition, granting Plaintiffs leave to amend would promote judicial economy, as Plaintiffs would otherwise need to file a new action against Defendant Finner in order to pursue their claim that the Houston Police Department, through Defendant Finner in his official capacity, is violating Plaintiffs' constitutional rights. For all these reasons, this Court should grant Plaintiffs leave to file an amended complaint.

III. THE COMPLAINT MAY BE AMENDED AGAINST DEFENDANT FINNER

As part of the meet-and-confer process for this motion, counsel for Defendant Finner has indicated that she plans to argue that Plaintiffs cannot amend the complaint against Defendant Finner because the claims against him have been dismissed. *See* Email from Melissa Azadeh to Ryan Gerber (Oct. 12, 2022), attached hereto as **Exhibit 4**. But when a complaint is dismissed

against a defendant, it may be amended pursuant to Rule 15(a)—with leave of court—unless the order terminated the action. *Whitaker*, 963 F.2d at 835.

"In this Circuit, when a district court dismisses the complaint, but does not terminate the action altogether, the plaintiff may amend under Rule 15(a) with permission of the district court." *Rosenzweig v. Azurix Corp*., 332 F.3d 854, 864 (5th Cir. 2003); *see also id.* (noting that, on the other hand, "[w]hen a district court dismisses an action and enters a final judgment, . . . a plaintiff may request leave to amend only by either appealing the judgment, or seeking to alter or reopen the judgment under Rule 59 or 60"). A district court's order terminates the action only when it "states or clearly indicates that no amendment is possible—e.g., when the complaint is dismissed with prejudice or with express denial of leave to amend—or when circumstances otherwise indicate that no amendment is possible—e.g., when the limitations period has expired." *Whitaker* 963 F.2d at 835. In a case involving multiple parties, an order that "adjudicates fewer than all the claims . . . of fewer than all the parties does not end the action as to any of the claims or parties," unless expressly stated by the court. Fed. R. Civ. P. 54(b); *see also Askanase*, 981 F.2d at 810 ("When an action involves multiple parties, any decision that adjudicates the liability of fewer than all of the parties does not terminate the action . . . .").

Here, it is clear that the Court's September 29th Order did not terminate the action. First, the claims were dismissed against Defendant Finner without prejudice and without any express denial of leave to amend. Similarly, the statute of limitations has not expired, since Plaintiffs' constitutional injury is ongoing. Moreover, Defendants Ogg, Gonzalez, and Bacon all remain in the case, and thus the action has not been terminated under the requirements of Rule 54(b). Further, the September 29th Order does not use the phrase "final judgment" and does not contain any express finding that final judgment as to one party is necessary, and the Court did not enter a

separate order under Rule 58(a) setting out a final judgment. Thus, there is simply no indication that the Court's September 29th Order prevents Plaintiffs from amending the complaint pursuant to Rule 15(a), with the Court's permission, against Defendant Finner.

And that makes sense. As discussed above, it would not further judicial economy or the orderly resolution of Plaintiffs' claims to deny them the opportunity to amend the complaint against Defendant Finner. Because this Court dismissed Plaintiffs' claims against Defendant Finner without prejudice, Plaintiffs are free to file a new complaint against him. But that would be far less efficient than simply amending the complaint so that Plaintiffs' claims against all Defendants can proceed in a coordinated fashion.

CONCLUSION

For the foregoing reasons, Plaintiffs request the Court grant their motion to modify the scheduling order and for leave to file the amended complaint, submitted herewith as **Exhibit 1** in redacted form, and as **Exhibit 2**, in unredacted form, under seal.

Dated: October 31, 2022

Respectfully submitted,

/s/ William R. Taylor

William R. Taylor
Attorney-in-Charge
TX State Bar No. 24070727
wrtaylor@jonesday.com
JONES DAY
717 Texas
Suite 3300
Houston, Texas 77002
Telephone: +1.832.239.3860
Facsimile: +1.832.239.3600

Peter C. Canfield
Admitted pro hac vice
pcanfield@jonesday.com
JONES DAY
1420 Peachtree Street, N.E.
Suite 800
Atlanta, GA 30309
Telephone: +1.404.521.3939
Facsimile: +1.404.581.8330

Charlotte H. Taylor
Admitted pro hac vice
Lesley Roe
Admitted pro hace vice
ctaylor@jonesday.com
lroe@jonesday.com
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Telephone: +1.202.879.3939
Facsimile: +1.202.626.1700

Calland M. Ferraro
Admitted pro hac vice
JONES DAY
901 Lakeside Ave. E
Cleveland, OH 44114
216-586-7088

Attorneys for Plaintiffs

Alla Lefkowitz
Admitted pro hac vice
Andrew Nellis
Admitted pro hac vice
EVERYTOWN LAW
P.O. Box 14780
Washington, DC 20044
Telephone: (202) 545-3257, ext. 1007
alefkowitz@everytown.org
anellis@everytown.org

Ryan Gerber
Admitted pro hac vice
Laura Keeley
Admitted pro hac vice
EVERYTOWN LAW
450 Lexington Avenue
P.O. Box 4184
New York, NY 10017
Telephone: (646) 324-8198
rgerber@everytown.org
lkeeley@everytown.org

CERTIFICATE OF CONFERENCE

Counsel for Plaintiffs have conferred with counsel for Defendants Pete Bacon, Kim Ogg, Ed Gonzalez, and Troy Finner, who are opposed to this motion.

/s/ William R. Taylor
William R. Taylor

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2022, I electronically filed a true and correct copy of the foregoing document with the Clerk of the District Court of the Southern District of Texas by using the CM/ECF system, which will send notification to all participants in the case who are registered CM/ECF users.

/s/ William R. Taylor
William R. Taylor