

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

NATIONAL ASSOCIATION FOR GUN)	
RIGHTS, INC., ET AL.,)	
)	Case No. 4:23-cv-00830-O
Plaintiffs,)	
v.)	
)	
MERRICK GARLAND,)	
IN HIS OFFICIAL CAPACITY AS)	
ATTORNEY GENERAL)	
OF THE UNITED STATES, ET AL,)	
)	
Defendants.)	
_____)	

PLAINTIFFS’ NOTICE OF NON-COMPLIANCE

Plaintiffs write to provide the Court a Notice of Non-Compliance in connection with the Government’s ongoing efforts to enforce their regulation purporting to ban forced reset triggers (“FRTs”).

On October 7, 2023, this Court entered a preliminary injunction that prohibited the ATF from, among other things,

- “Initiating or pursuing criminal prosecutions for possession of FRTs;”
- “Initiating or pursuing civil proceedings for possessing, selling, or manufacturing FRTs based on the claim that FRTs are machineguns;”
- “Sending Notice Letters or other similar communications stating that FRTs are machineguns;”
- “Requesting voluntarily surrender of FRTs to the government based on the claim that FRTs are machineguns;”
- “Otherwise interfering in the possession, sale, manufacture, transfer, or exchange of FRTs based on the claim that FRTs are machineguns.”

ECF No. 53 at 42-43. Despite these prohibitions, ATF has continued to aggressively enforce its regulation of forced-reset triggers. Indeed, Plaintiffs' counsel have been made aware of more than 25 instances where ATF has contacted members of Plaintiff National Association for Gun Rights ("NAGR") regarding their ownership of FRTs. These have violated one, or more, or all of the above court-ordered prohibitions. On each occasion, once we have learned of the improper contact, rather than seek to involve the Court in the first instance, we reached out to defense counsel and obtained their representation that ATF had been instructed to cease its contacts with the member in question.

Recently, however, after defense counsel represented to us on June 6, 2024, that the issue of ATF contacting a particular NAGR member "ha[d] been addressed,"¹ the ATF agent who supposedly had been instructed to cease and desist in his efforts to intimidate that member into surrendering his FRT contacted the member a second time.² Given the clear notice that was given to ATF, this appears to have constituted a violation by ATF of the Court's preliminary injunction. ATF attempts to excuse this violation as the result of confusion caused by the high volume of instructions to their agents to stop harassing NAGR members regarding their ownership of FRTs. *See* Exhibit C, a redacted copy of communication from defense counsel.

In addition, the ATF has sought to apply its erroneous interpretation of the law to other individuals in Texas. To wit, the ATF recently refused to grant a Federal Firearms License ("FFL") to Lawrence DeMonico—a resident of Texas and one of the defendants in the New York civil fraud case—who has sought summary judgment asking this Court to provide limited relief (that is, relief that would avoid intervening in the New York fraud case) to protect him

¹ Attached as Exhibit A is a redacted copy of the communication with and from defense counsel.

² Attached as Exhibit B is a redacted copy of the second violative communication from ATF to the NAGR member.

from additional adverse governmental action (outside of the New York fraud case) based on the ATF's continued, errant claims that FRTs are machineguns.

Specifically, on or about May 24, 2024, ATF's Director of Industry Operations denied Mr. DeMonico's application for an FFL based on its finding that Rare Breed Firearms, LLC ("RBF") and its president and sole responsible person, Lawrence DeMonico, "willfully violated the provisions of the GCA and/or regulations thereunder," including purported violations of 18 U.S.C. § 922(o) (making illegal the possession or transfer of machineguns) and 18 U.S.C. § 922(a)(4) (making illegal the transportation of machineguns across state lines). While the Court's October 7 preliminary injunction expressly exempted RBF and Mr. DeMonico, ATF's actions in this regard make clear that absent relief from this Court it will continue to use every avenue available to it to persecute Mr. DeMonico and the other Rare Breed Parties based on what this Court has correctly recognized is an unwarranted misreading of the relevant statutes.

Date: June 20, 2024

Respectfully submitted,

/s/ Whitney A. Davis

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Josiah Contarino (Dhillon Law)

From: Josiah Contarino (Dhillon Law)
Sent: Thursday, June 13, 2024 12:06 PM
To: Resar, Alexander W. (CIV); Clendenen, Michael P. (CIV); Bakst, Laura B. (CIV)
Cc: David Warrington (Dhillon Law); Michael Columbo (Dhillon Law); Jonathan Shaw (Dhillon Law); Gary Lawkowski (Dhillon Law)
Subject: RE: Continuing violations of the Preliminary Injunction by ATF
Attachments: [REDACTED] Email.pdf

Counsel:

On June 5, 2024, we requested that ATF (including Agent Joshua Szondy) cease and desist further contact with NAGR member [REDACTED]. On June 6, Michael P. Clendenen responded that the matter “ha[d] been addressed.” Despite this assurance, on June 12, Agent Szondy has again contacted Mr. [REDACTED], asking him to complete an affidavit and possibly meet in person (email attached). Please detail what steps were taken to ensure Agent Szondy’s compliance with the court’s October 7, 2023, preliminary injunction (“PI”), and explain why he violated the PI.

As before, Plaintiffs reserve all rights.

Josiah Contarino

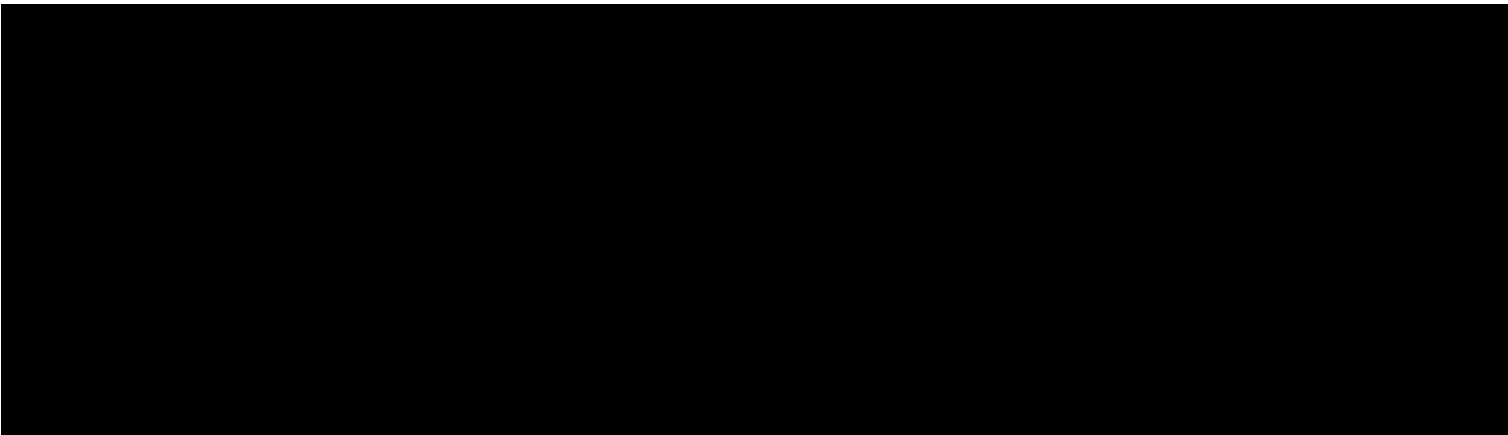
Dhillon Law Group Inc.
50 Park Place, Suite 1105
Newark, NJ 07102

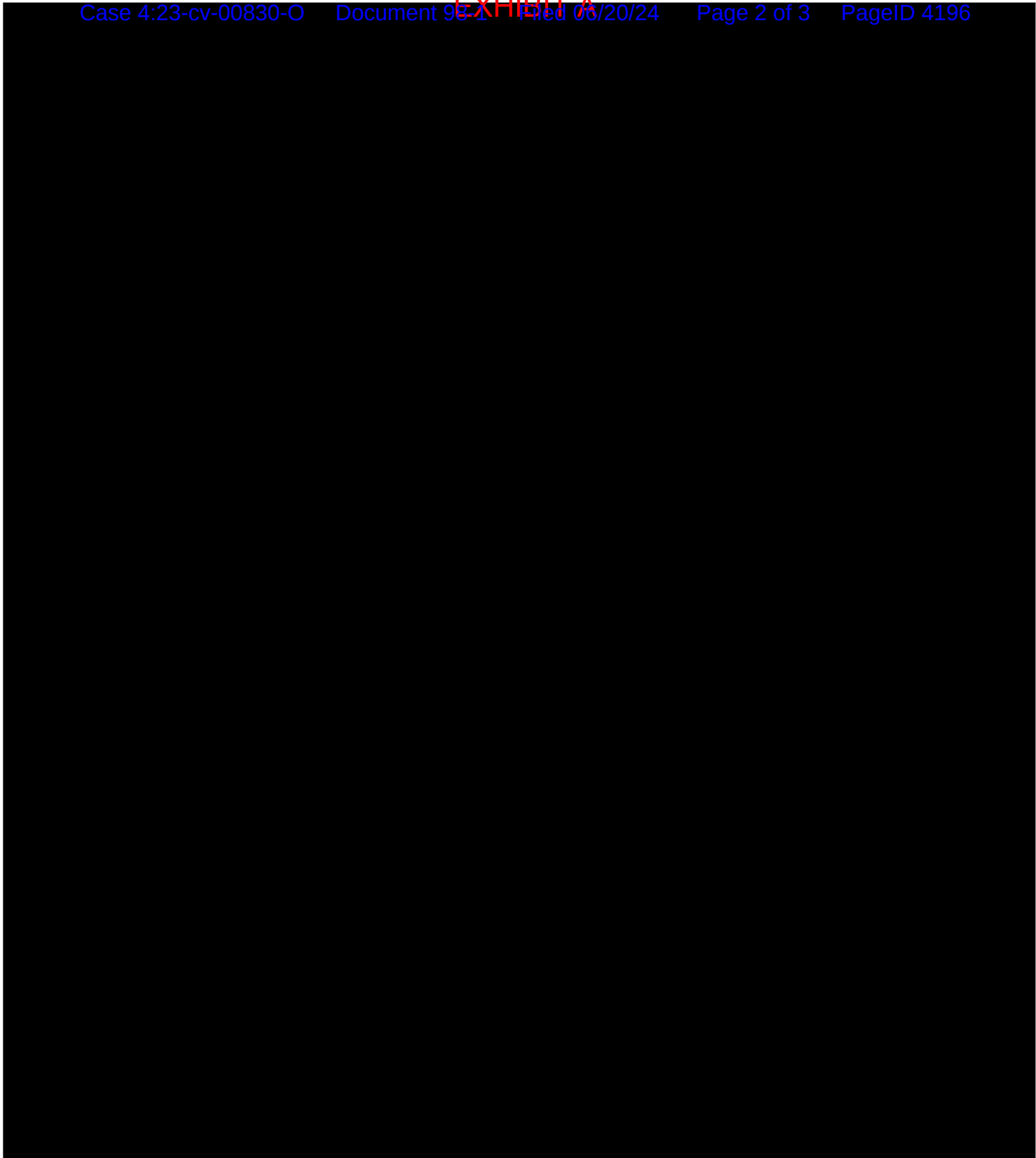


www.dhillonlaw.com

Admitted in New York and New Jersey

This email may be an attorney client privileged communication. If you received it in error, please destroy it and inform the sender.





From: Clendenen, Michael P. (CIV) [Redacted]

Sent: Thursday, June 6, 2024 11:14 AM

To: Josiah Contarino (Dhillon Law) [Redacted] Resar, Alexander W. (CIV)

[Redacted] Bakst, Laura B. (CIV) [Redacted]

Cc: David Warrington (Dhillon Law) [Redacted] Michael Columbo (Dhillon Law)
[Redacted] Jonathan Shaw (Dhillon Law) [Redacted] Gary Lawkowski (Dhillon Law)

Subject: RE: Continuing violations of the Preliminary Injunction by ATF

External Email

Good morning,

This has been addressed.

Respectfully,

Michael P. Clendenen

Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW, Room 12028
Washington, DC 20005

From: Josiah Contarino (Dhillon Law) [REDACTED]
Sent: Wednesday, June 5, 2024 5:06 PM
To: Resar, Alexander W. (CIV) [REDACTED] Clendenen, Michael P. (CIV) [REDACTED]
[REDACTED] Bakst, Laura B. (CIV) [REDACTED]
Cc: David Warrington (Dhillon Law) [REDACTED] Michael Columbo (Dhillon Law) [REDACTED]
[REDACTED] Jonathan Shaw (Dhillon Law) [REDACTED] Gary Lawkowski (Dhillon Law) [REDACTED]
Subject: [EXTERNAL] RE: Continuing violations of the Preliminary Injunction by ATF

Counsel:

We have been informed that the ATF has contacted NAGR member [REDACTED]. Please direct ATF Agent Travis S. Riddle and Agent Joshua A. Szondy (and any other ATF representative) to cease and desist further contact with this individual. Please provide confirmation that you have so advised Agents Riddle and Szondy.

Thank you.

As before, Plaintiffs reserve all rights.

Josiah Contarino

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Newark, NJ 07102

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Admitted in New York and New Jersey

From: "Szondy, Joshua A. (ATF)" [REDACTED]
Date: June 12, 2024 at 1:20:15 PM CDT
To: [REDACTED]
Subject: Follow-Up

Hey [REDACTED],

Following up from our email communication last week (6/5). Have you had a chance to review/complete the affidavit I sent you? If you would prefer to not send anything over email, I could figure out a time to meet in person with you.

Please let me know if you have any questions.

Thank you.

Joshua A. Szondy
ATF Special Agent/Certified Explosives Specialist
Digital Media Collection Specialist
St. Paul Field Division
St. Paul Group I
Cell: [REDACTED]
Email: [REDACTED]

Josiah Contarino (Dhillon Law)

From: Bakst, Laura B. (CIV) [REDACTED]
Sent: Thursday, June 20, 2024 3:35 PM
To: Josiah Contarino (Dhillon Law)
Cc: Resar, Alexander W. (CIV); Clendenen, Michael P. (CIV); David Warrington (Dhillon Law); Michael Columbo (Dhillon Law); Jonathan Shaw (Dhillon Law); Gary Lawkowski (Dhillon Law)
Subject: Re: [EXTERNAL] RE: Continuing violations of the Preliminary Injunction by ATF

External Email

Counsel,

I am confirming that notice to desist was re-issued early this week, and, as such, contact to Mr. [REDACTED] has been desisted. As to your request for an explanation, please see below:

SAC Riddle, the Special Agent in Charge of the St. Paul Field Division where Agent Szondy works, acknowledged that he received the requested notification to cease contact with NAGR member [REDACTED] on June 6, 2024. However, SAC Riddle had received a notification regarding a different NAGR member the day before on June 5th, and confused Mr. [REDACTED] with the previous NAGR member with whom to cease contact. SAC Riddle has a process in place within the St. Paul Field Division that upon receipt from the Deputy Assistant Director (Central) of a NAGR member, he passes the member name through his division chain of command, to the appropriate supervisor and onto the assigned agent. Once completed and notification has been made to the agent assigned, SAC Riddle responds back acknowledging the receipt of the notification. This was simply a misunderstanding due to multiple NAGR member notifications in the Field Division within less than 24 hours. SAC Riddle will ensure this does not occur in the future.

On Jun 13, 2024, at 12:06 PM, Josiah Contarino (Dhillon Law) [REDACTED] wrote:

Counsel:

On June 5, 2024, we requested that ATF (including Agent Joshua Szondy) cease and desist further contact with NAGR member [REDACTED]. On June 6, Michael P. Clendenen responded that the matter “ha[d] been addressed.” Despite this assurance, on June 12, Agent Szondy has again contacted Mr. [REDACTED], asking him to complete an affidavit and possibly meet in person (email attached). Please detail what steps were taken to ensure Agent Szondy’s compliance with the court’s October 7, 2023, preliminary injunction (“PI”), and explain why he violated the PI.

As before, Plaintiffs reserve all rights.

Josiah Contarino

Dhillon Law Group Inc.