

/O=MONTANA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENT

From: VanDyke, Lawrence
Sent: Thursday, May 01, 2014 10:07 AM
To: Fox, Tim; Mattioli, Mark
Cc: Bennion, Jon; Barnes, John
Subject: FW: Second Amendment Amicus Brief in Nojay, et al., v. Cuomo
Attachments: NY Amicus Brief--circulation.pdf; 140 - Decision Order 12 31 13.pdf; Appellants' Brief.pdf

Tim – Alabama is soliciting joins for its 2nd Circuit amicus brief arguing that New York’s ban on semiautomatic firearms is unconstitutional. The brief argues that such guns are “arms” protected by the Second Amendment because they are commonly possessed by law-abiding citizens for lawful purposes. Thus, strict scrutiny should be applied to NY’s ban.

I recommend that we **DO JOIN** this brief. The deadline for joins is 3 pm our time on Tuesday, May 6.

Thanks.

From: Brasher, Andrew [<mailto:ABrasher@ago.state.al.us>]
Sent: Wednesday, April 30, 2014 4:31 PM
To:
Cc: cutle@ago.state.ms.us; Myers, Emily; Schweitzer, Dan; Killough, Lindsey
Subject: Second Amendment Amicus Brief in Nojay, et al., v. Cuomo

All,

This email is to let you know that Alabama intends to file an amicus brief in the Second Circuit supporting the plaintiffs-appellants in *Nojay, et al., v. Cuomo*, in which the district court applied intermediate scrutiny to uphold the constitutionality of a New York law that bans semiautomatic firearms. (Note that the New York AG’s Office is representing the defendants on the other side of this case.)

Alabama’s brief contends that New York’s gun ban is unconstitutional under the Second Amendment. Semiautomatic firearms are among the “arms” protected by the Second Amendment because they are commonly possessed by law-abiding citizens for lawful purposes. For this reason, strict rather than intermediate scrutiny should apply under Second Circuit case law. New York’s ban of these firearms cannot pass muster under strict scrutiny because such bans have little effect on gun violence and public safety, and a categorical ban is not the least restrictive means to serve the state’s interests in public safety and crime prevention.

The party we are supporting, the district court’s decision, and the draft amicus brief are all attached to this email.

The deadline to join this brief is 4:00 central time on **May 6, 2014**.

To join, please contact:

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