

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GUN OWNERS OF AMERICA, INC., et al.,)	
Plaintiffs,)	
)	No. 1:18-cv-1429
-v-)	
)	Honorable Paul L. Maloney
MATTHEW WHITAKER, et al.,)	
Defendants.)	
_____)	

**ORDER DENYING MOTION FOR TELEPHONE CONFERENCE and
RESCHEDULING DATE FOR HEARING**

Plaintiffs filed a motion for a telephone conference. (ECF No. 31.) Plaintiffs identify four issues they would like to discuss: (1) "the Court's understanding of the impact on the pending Motion for a Preliminary Injunction hearing date if a government shutdown resumes on February 15;" (2) Plaintiffs' interest in a timely decision on their motion, so that an appeal would still be possible before the date that the regulation takes effect; (3) Plaintiffs' desire for a "live fire field inspection and test" prior to the hearing; and (4) joinder of another party plaintiff under Rule 20.

Plaintiffs' motion (ECF No. 31) is **DENIED**.

(1) Clarification of the current schedule and hearing. The Court issued the current scheduling order during the last shutdown. Given the looming deadline identified in the Federal Register for individuals to turn in or otherwise dispose of their bump stocks, the Court intends to enforce the existing scheduling order and hold the hearing.

(2) Field Test. Plaintiffs indicate a desire to instruct the Court, under Rule 34(a), through a live-fire field inspection and test of a bumpstock. Generally, the Court is reluctant

to issue advisory opinions, and Plaintiffs have not filed a discovery motion, they have merely indicated a desire to file a discovery motion. Nevertheless, the Court will decline the invitation. Assuming Plaintiffs could find some authority indicating that field demonstrations to instruct the Court are appropriate under the discovery rules—a questionable proposition—the Court will leave it to Plaintiffs find some other means by which to inform the Court of how a bumpstock is used.

(3) Permissive Joinder. Here, Plaintiffs write, in total "Leave for permissive joinder of Gun Owners of California, under Rule 20." Again, the Court is generally reluctant to issue advisory opinions and will not do so here. Gun Owners of California have not filed a motion under Rule 20.

(4) Timely Decision. Plaintiffs' sense of urgency for the decision, and the possibility that they might need time to file an appeal before the regulation take effect, is well founded. To ease Plaintiffs' concern, the Court will reschedule the hearing on Plaintiffs' motion for a preliminary injunction to an earlier date.

Accordingly, the parties shall TAKE NOTICE that the HEARING on Plaintiffs' motion for a preliminary injunction is RESCHEDULED to Wednesday, March 6, 2019, at 9:00 a.m. The hearing will occur at the Federal Courthouse in Kalamazoo, Michigan, 410 W. Michigan Avenue, Room 174.

IT IS SO ORDERED.

Date: February 5, 2019

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge