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(D.C., CA ONLY)ROBERT J. OLSON  
(VA, D.C.)

March 23, 2019

Ms. Deborah S. Hunt  
Clerk, United States Court of Appeals for the Sixth Circuit  
540 Potter Stewart U.S. Courthouse  
100 E. Fifth Street  
Cincinnati, Ohio 45202-3988

Re: Gun Owners of America, Inc., *et al.*, v. Barr, *et al.*, No. 19-1298  
NOTICE OF SUPPLEMENTAL AUTHORITY

Dear Ms. Hunt:

Pursuant to Federal Rule of Appellate Procedure 28(j), Appellants Gun Owners of America, Inc., *et al.*, hereby submit additional information to the Court regarding a *per curiam* order by the U.S. Court of Appeals for the D.C. Circuit, in the bump stock cases pending before it. Guedes v. ATF (Docket No. 19-5042) and Codrea v. ATF (Docket No. 19-5044), Doc. # 1779025 (D.C. Cir. March 23, 2019).

This evening, the D.C. Circuit became the second court to issue a stay halting enforcement of the ATF's final rule banning bump stocks. *See also* Aposhian v. Barr, 19-4036, Doc. # 010110142381 (10<sup>th</sup> Cir. March 21, 2019). In fact, both circuit courts to have decided the matter have issued stays.

However, the Tenth Circuit's decision applies "only as to Mr. Aposhian..." Likewise, the D.C. Circuit's decision applies "only as to the named Appellants" in the two cases.<sup>1</sup>

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<sup>1</sup> The D.C. Circuit also noted, but did not address that, at oral argument on Friday, March 22, the government fundamentally changed its defense of the Final Rule, from being a legislative rulemaking (*i.e.*, bump stocks become machineguns on March 26), to now being an

Neither court explained the rationale by which it decided to depart from the nationwide relief sought, and instead elected to narrowly protect a chosen few bump stock owners, while letting the Final Rule take effect with hundreds of thousands of others.

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Respectfully submitted,

/s/ Robert J. Olson

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interpretive ruling with a concurrent exercise of prosecutorial discretion (not to prosecute people until March 26).

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**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the foregoing letter, was made, this 23st day of March 2019, by the Court's Case Management/Electronic Case Files system upon all parties or their counsel of record.

/s/ Robert J. Olson  
Robert J. Olson  
Counsel for Appellants

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 19-5042**

**September Term, 2018**

**1:18-cv-02988-DLF**

**1:18-cv-03086-DLF**

**Filed On: March 23, 2019**

Damien Guedes, et al.,

Appellants

Firearms Policy Coalition, Inc., CA 18-3083,

Appellee

v.

Bureau of Alcohol, Tobacco, Firearms and  
Explosives, et al.,

Appellees

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Consolidated with 19-5043, 19-5044

**BEFORE:** Henderson, Millett, and Srinivasan, Circuit Judges

**ORDER**

Plaintiffs in these three consolidated cases challenge a final agency rule banning Bump-Stock-Type Devices, 83 Fed. Reg. 66514 (Dec. 26, 2018) (“Bump-Stock Rule”), which is scheduled to take effect on March 26, 2019. On February 25, 2019, the district court denied the plaintiffs’ joint request for a preliminary injunction staying the Bump-Stock Rule’s effective date. On March 1, 2019, this court granted the Appellants’ joint motion for expedition of this case, in which they sought resolution of the appeal on a highly expedited basis before the March 26, 2019, effective date. Under that expedited schedule, this case was argued on March 22, 2019. At oral argument, counsel for the government explained that it was now its position that the Bump Stock Rule’s March 26, 2019 effective date should be viewed as the date when the government will cease exercising its prosecutorial discretion not to enforce federal law against those who possess or trade in bump-stock-devices covered by the Bump-Stock Rule. Oral Arg. 49:00-51:55. Following oral argument,

**United States Court of Appeals**  
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the Firearms Policy Coalition, Inc. filed a voluntary motion to dismiss its appeal, or in the alternative to stay its appeal, and advised that the government opposes the motion to dismiss. In light of these representations, it is

**ORDERED** that the motion of the Firearms Policy Coalition, Inc., to dismiss its appeal, No. 19-5043, be granted. Appeal No. 19-5043 is hereby dismissed. It is

**FURTHER ORDERED**, on the court's own motion, that the effective date of the Bump-Stock Rule, 83 Fed. Reg. 66514 (Dec. 26, 2018), be administratively stayed in its application only as to the named Appellants in appeals Nos. 19-5042 and 19-5044, pending further order of this Court. The purpose of this stay is exclusively to give the Court sufficient opportunity to consider the disposition of this highly expedited appeal, and should not be construed in any way as a ruling on the merits of the appeal. See D.C. Circuit Handbook of Practice and Internal Procedures 33 (2018).

The Clerk is directed to issue the mandate forthwith in No. 19-5043 only.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Michael C. McGrail  
Deputy Clerk