

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

MARYLAND SHALL ISSUE, INC., <i>et al.</i>	*	
Plaintiffs,	*	
v.	*	Civil Action No.: 1:22-cv-00865-SAG
ANNE ARUNDEL COUNTY, MD	*	
Defendant.	*	

\* \* \* \* \*

**RULE 56(d) DECLARATION OF COUNSEL**

Pursuant to Fed. R. Civ. P. 56(d), I hereby declare as follows:

1. I am over the age of eighteen, have personal knowledge of and am competent to testify to the matters set forth herein.

2. I am the Deputy County Attorney for Anne Arundel County, Maryland (the “County”) and I am counsel for the County in the above-captioned matter.

3. In this case, I have reviewed the Complaint (ECF 1) and the Declarations of Plaintiffs (ECF 6-1 – 6-5). Upon review of said pleadings, discovery is needed to address alleged facts that are essential to the County’s opposition to Plaintiffs’ Motion for Summary Judgment. These alleged facts that reasonably require additional discovery include, but are not limited to, the following:

A. “Each of MSI’s members who do business at Anne Arundel County firearms dealers are injured by the forced display and receipt of the County literature when they exercise their Second Amendment right to purchase firearms or ammunition from Anne Arundel County dealers.” ECF No. 1, ¶ 9.

B. “The display and distribution requirements of Bill 108-21 have no purpose other than to commandeer dealers and other sellers of ammunition into acting as conduits for the opinions and messages adopted by the County.” ECF No. 1, ¶ 20.

C. “Bill 108-21 also violates the First Amendment rights of customers of dealers, including MSI members, because customers are chilled in the exercise of

their own First Amendment rights by the forced distribution of the County's literature to such customers." ECF No. 1, ¶ 22.

D. "...recipients of such official communications from the County will objectively be less willing to articulate their own views 'relating to gun safety, gun training, suicide prevention, mental health, and conflict resolution,' especially where, as here, the dealer is the distributor and thus may be reasonably understood to endorse the views of the literature that Bill 108-21 compels the dealer to distribute and display." *Id.*

E. "This chilling effect is sufficient injury..." *Id.*

F. "Cindy's Hot Shots, Inc., has complied only in order to avoid the fines that may be inflicted under Bill 108-21 for non-compliance. But for Bill 108-21, Cindy's Hot Shots, Inc., would not display or distribute the literature distributed to it by Anne Arundel County." ECF No. 6-3.

4. The County should be permitted to engage in discovery to have an opportunity to fully explore the factual allegations of Plaintiffs in this case. *See Dave & Buster's, Inc. v. White Flint Mall, LLLP*, 616 Fed. App. 552, 561 (4th Cir. 2015). *See also Mercer v. Arc of Prince George's County, Inc.*, 532 Fed. Appx. 392 (4th Cir. 2013).

5. Denying a party's request for discovery is appropriate where "the administrative record and other evidence appended to the parties' briefs provide a sufficient factual foundation" for summary judgment and "additional discovery would not change the factual landscape in the case." *AJS Petroleum v. United States*, 2012 WL 683538, \*4 (D. Md. 2012). In the case *sub judice*, there are insufficient facts in the record for a summary judgment finding and the factual landscape of this case will change with discovery. The County requires discovery to develop a factual record to oppose Plaintiffs' Motion for Summary Judgment.

I declare under penalty of perjury that the foregoing are true and correct.

*Hamilton F. Tyler*

Hamilton F. Tyler, Bar No. 9423  
Deputy County Attorney

Date: May 5, 2022