

1 to plaintiffs' motion for summary judgment and alterative motion for a preliminary injunction. On
2 May 12, 2022, plaintiffs filed a motion for an emergency hearing on these pending motions. The
3 County did not oppose that motion which this Court granted. A hearing was thereafter set for May
4 24, 2022.

5
6 4. This Court held a hearing on May 24, 2022, at which time this Court made clear that it
7 was prepared to hear argument on the merits of the pending motions and further indicated that it
8 was prepared to issue a written ruling within two weeks after argument. However, at this hearing,
9 the County announced, without prior notice to opposing counsel or to the Court, that the County
10 Council intended to consider an amendment to Bill 109-21, and requested that the hearing be put
11 off, suggesting that this new legislation would moot this case. At that hearing, counsel for the
12 County expressly agreed to July 11, 2022, for such a hearing. Counsel for the County assured the
13 Court and undersigned counsel that this delay would allow the Council sufficient time to consider
14 the proposed legislation. The effective day of Bill 109-21 is August 23, 2022, for existing dealers.
15 The County represented at the May 24, 2022 Hearing that it would hold off enforcing Bill 109-21
16 against existing firearms dealers until October 23, 2022. The rest of Bill 109-21 became fully
17 effective on June 1, 2022. The Court agreed to a delay so as to allow the parties to brief any
18 mootness issue raised by the proposed legislation.

19
20
21 5. On June 21, 2022, almost as full month after the May 24, 2022, Hearing, the proposed
22 legislation cited by County counsel at the May 24, 2022, Hearing was finally filed with the County
23 Council and designated as Bill 70-22. On June 25, 2022, plaintiffs promptly filed with this Court
24 a supplemental memorandum on mootness, as contemplated by the Court's order delaying the
25 hearing. Plaintiffs attached to that supplemental memorandum a copy of the proposed legislation
26 as submitted to the Court on May 24, 2022 (Exh.A), and a copy of Bill 70-22, as actually filed
27
28

1 with the County Council on June 21, 2022 (Exh.B). The May 24, 2022, proposed legislation is
2 substantively identical to Bill 70-22 as actually introduced. Plaintiffs argued that, even assuming
3 *arguendo* that Bill 70-22 were to be actually enacted into law, the case was still not moot as a
4 matter of law. Because the case is not mooted by Bill 70-22 (even assuming it is enacted), plaintiffs
5 urged the Court to promptly consider the merits of the pending motions of the parties. The County
6 has yet to file a response to that supplemental memorandum. The County has not disputed plaintiffs'
7 assertion that the case is not moot.
8

9 6. Instead of filing a response (or ever submitting Bill 70-22 to the Court), the County now
10 has asked, at the last minute, this Court for an indefinite delay, supposedly for the purpose of
11 allowing the County Council to vote on Bill 70-22 on July 18, 2022. According to the County, the
12 July 11, 2022, Hearing is “premature” and that still **another** postponement is necessary “to allow
13 time for the Public Hearing and County Council vote to occur” on July 18, 2022. (County Motion
14 at 2, ¶ 9). The County has not disputed that Bill 70-22 is virtually identical to the proposed draft
15 legislation submitted to the Court on May 24, 2022. The County has not proffered any reason for
16 the delay in actually introducing Bill 70-22.
17

18 7. The County’s motion for **more** delay should be denied. As detailed in plaintiffs’
19 supplemental memorandum on mootness, this case is not moot, regardless of whether Bill 70-22
20 is actually enacted. Certainly, there is no reason to reward the County’s unexplained failure to
21 promptly submit the proposed legislation after the May 24, 2022, Hearing with still more delay.
22 The Council vote can take place on July 18, 2022, regardless of the July 11, 2022, Hearing.
23 Conducting a hearing on July 11, 2022, as scheduled, will thus not in any way preclude the County
24 from having that vote. This Court made clear its intent to render a decision within two weeks of a
25 hearing on the cross-motions of the parties. That is plenty of time for the County Council to enact
26
27
28

1 (or not enact Bill 70-22) on July 18, 2022, as now promised by the County. Should the County
2 **actually** act on July 18, 2022, then counsel for the County could easily advise the Court of such
3 action well prior to any issuance of a decision by the Court. Such notice would be well within the
4 two-week time frame that the Court indicated at the May 24, 2022, Hearing it would take to render
5 a written opinion on the merits. Delaying the hearing indefinitely is thus pointless.
6

7 8. The County's latest motion is part of a pattern. The County has sought and obtained
8 delay after delay in litigating this case, even though this Court has expressly ordered the case to
9 be expedited. The County sought and obtained a last-second delay at the May 24, 2022, Hearing
10 on the promise that County just needed a little more time to consider the proposed legislation. Yet,
11 the County unaccountably waited until June 21, 2022, to actually introduce the proposed
12 legislation. Bill 70-22 is a virtual copy of the draft proffered by the County on May 24, 2022. It
13 could have been introduced the same day or the very next day (on May 25, 2022), and yet, for
14 some unexplained reason, it was not. The Court delayed the May 24, 2022, Hearing in order to
15 allow the parties to brief mootness. In reliance on that rationale, plaintiffs promptly briefed
16 mootness, filing their brief on June 25, 2022, a few days after Bill 70-22 was introduced. For
17 undisclosed reasons of its own, the County has not briefed mootness, or even filed Bill 70-22 with
18 the Court. It had plenty of opportunity to do such briefing, as Bill 70-22 is but a carbon copy of
19 the draft submitted by the County to the Court on May 24, 2022. The County should not be allowed
20 to play fast and loose with plaintiffs and the Court in this manner.
21
22
23

24 9. The County represents that the County Council will vote on Bill 70-22 on July 18, 2022,
25 but, given the County's track record of delay in this case, there can be no assurance that it will
26 actually do so. The County has already broken one promise that it would act and the bill does not
27 expire until September 24, 2022. But even if the County Council were to pass Bill 70-22 on July
28

1 18, 2022, Bill 70-22 would not become law until or unless the County Executive were to approve
2 that legislation. See Section 405(i), Anne Arundel County Charter (allowing the County Executive
3 to veto County ordinances). The County proffers no assurance that such signature would be
4 forthcoming, much less promptly. There is nothing stopping the County from demanding still more
5 delay until the County Executive has acted or Bill 70-22, if finally enacted, has gone into effect.
6 Waiting for the County has rapidly become a bad imitation of *Waiting for Godot*.
7

8 10. Additional delay would prejudice plaintiffs and would be inequitable. A mere five days
9 before the scheduled Hearing, the County now wants to put off a hearing indefinitely, much to the
10 inconvenience of undersigned counsel, who has organized his schedule around the July 11, 2022,
11 Hearing. The County could have filed its motion far earlier. The August 23, 2022, enforcement
12 date specified in Bill 109-21 is nearly upon us. The October 23, 2022, enforcement date, informally
13 promised by County counsel (but not enacted into law), likewise grows nearer with each passing
14 day. Each day of delay prejudices plaintiffs' ability to seek appellate relief if such relief should
15 prove necessary after a decision of this Court. Enough is enough. The pending motions in this
16 expedited case have been fully briefed for months. The Court has advised counsel that it is fully
17 prepared to consider the merits. The case is not even arguably moot, regardless of what the County
18 Council does on July 18, 2022. The Court should hold the July 11, 2022, Hearing as scheduled and
19 not countenance the County's delaying tactics.
20
21
22
23
24
25
26
27
28

1 **CONCLUSION**

2 The County’s motion for an indefinite continuance of the July 11, 2022, Hearing should be
3 denied. The Court should grant plaintiffs’ motion for summary judgment or alternative motion for
4 a preliminary injunction, and deny defendant’s motion to dismiss and alternative motion for
5 summary judgment. Although the County has represented that it would not enforce Bill 109-21
6 until October 23, 2022, plaintiffs respectfully reiterate their request that the Court decide all
7 pending motions well prior to August 23, 2022, the effective date for enforcement of Bill 109-21
8 for existing dealers otherwise established by Bill 109-21.
9

10 Respectfully submitted,

11 */s/ Mark W. Pennak*
12 MARK W. PENNAK
13 MARYLAND SHALL ISSUE, INC.
14 9613 Harford Rd
15 Ste C #1015
16 Baltimore, MD 21234-21502
17 mpennak@marylandshallissue.org
18 Phone: (301) 873-3671
19 MD Atty No. 1905150005

20 EDWARD N. HERSHON
21 HERSHON LEGAL, LLC
22 420-I Chinquapin Round Rd.
23 Annapolis, MD 21401
24 ed@hershonlegal.com
25 Phone: (443) 951-3093
26 MD Atty No. 9306230157

27 Dated: July 6, 2022

28 *Counsel for Plaintiffs*