

## MOTION

Defense Distributed is a non-profit organization operated to facilitate the global access to and the production of information and knowledge related to the printing of 3D guns. It has created computer files that can be used to create firearms and firearm parts; based on these computer files, people can produce their own 3D weapons and weapon parts.

Beginning in 2012, Defense Distributed posted online, for free download by anyone in the world, a number of computer files teaching people how to print 3D weapons and weapon parts. In 2013, the State Department sent Defense Distributed a cease and desist letter, stating that the sharing of this information violated the Arms Export Control Act. Defense Distributed complied with the request. Subsequently, Defense Distributed and the Second Amendment Foundation sued the State Department seeking to enjoin it from enforcing the regulations as an unconstitutional prior restraint of First Amendment protected speech (Defense Distributed et al. v. United States Dep't of State, No. 1-15-CV-372 RP (W.D. Tex.)). They sought a preliminary injunction against the State Department; that motion was denied by the District Court, which concluded that they were unlikely to succeed on the merits of their claim. They appealed this decision; the Fifth Circuit Court of Appeals affirmed the District Court's decision.

Subsequently, and surprisingly, the State Department then settled the case. The settlement allowed Defense Distributed to post its computer files on its website. Upon announcement of the State Department's intention to settle the case, a number of non-profit organizations, including Giffords, The Brady Campaign to Prevent Gun Violence, and Everytown for Gun Safety Action Fund filed a motion to intervene in the lawsuit and a motion for temporary restraining order to prevent Defense Distributed from posting its computer files on the internet. In support of the actions of the proposed intervenors, the City Attorney's Office sent a letter to the Court advising the Court that it would like to intervene as well. The Court ultimately denied the motion to intervene as well as the motion for a temporary restraining order.

On July 29, 2018, Defense Distributed and the Second Amendment Foundation filed a lawsuit against Gurbir Grewal, the Attorney General of New Jersey, and City Attorney Feuer (in both his individual and official capacity). That lawsuit was served on Mr. Feuer on August 30, 2018. The lawsuit alleges that the letter sent by the City Attorney's Office to the Court in the State Department case expressing an intent to intervene in that case violates: (1) defendants' first amendment rights; (2) the dormant commerce clause; (3) the Second Amendment (through 42. U.S.C. section 1983); and (4) the supremacy clause (any action that might be taken by the City is preempted by federal law). Defendants also assert two tort claims for tortious interference with contracts (actual and prospective). Defense Distributed also alleges that it has taken steps to prevent the distribution of files in Los Angeles out of fear that the City Attorney's Office might take action against it.

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ORIGINAL



The law firm of Akin Gump Strauss Hauer & Feld ("the Firm"), which has an office in Texas, has agreed to represent the City Attorney in the lawsuit, captioned Defense Distributed and Second Amendment Foundation v. Grewal et al., USDC Case No. 1:18-CV-637 (W.D. Tex.), currently pending in the United States District Court for the Western District of Texas.

Given the City's limited resources, and the public significance of the issues at stake, and given the matter was filed in Texas, the Firm has offered its services for this purpose free of charge.

I FURTHERMOVE that the City Attorney's Office be authorized to negotiate and execute a pro bono contract with the law firm of Akin Gump Strauss Hauer & Feld to assist in representing City Attorney Feuer in this lawsuit arising out of the scope of the City Attorney's official duties, captioned Defense Distributed and Second Amendment Foundation v. Grewal et al., USDC Case No. 1:18-CV-637 (W.D. Tex.), and to process and execute any documentation as may be needed in this matter.

Presented by:



PAUL KREKORIAN  
Councilmember, 2<sup>nd</sup> District

Seconded by:

