

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG

West Virginia Citizens Defense League, Inc.,

Plaintiff,

Civil Action No.: 3:11-cv-5-JPB

v.

(Bailey, C.J.)

City of Martinsburg, *et al.*, Defendants

---

**JOINT MOTION TO EXTEND TIME TO RESPOND TO PROPOSED ABSTENTION**

**OR DEFERRAL OF PROCEEDINGS ON STATE LAW ISSUES**

All parties to this action, by and through their respective undersigned counsel, respectfully move this Honorable Court for an order modifying this Court's Order of June 17, 2011, [Doc. 16], denying Defendants' pre-answer motion to dismiss for lack of subject-matter jurisdiction (standing), and proposing abstaining or deferring action in this case on Plaintiff's state law claims, pending resolution of the state law issues in state court, by granting Plaintiff leave to respond no later than July 14, 2011, granting Defendants leave to respond no later than July 28, 2011, and granting Plaintiff leave to reply, if it so desires, no later than August 10, 2011.

In support of this motion, the parties respectfully submit that:

1. Plaintiff is involved in similar litigation, *West Virginia Citizens Defense League, Inc., et al. v. City of Charleston, et al.*, Civil Action No. 2:11-cv-48 (S.D. W.Va. filed Jan. 24, 2011) (hereinafter "*WVCDL v. Charleston*").
2. Earlier today, the Honorable John T. Copenhaver, Jr., District Judge, issued an order identical to and citing this Court's pending order, requesting supplemental briefing on abstaining or deferring action on the state law claims presented in that action by WVCDL

and other plaintiffs who are not parties to this action, who are represented by the same counsel as appearing herein. *WVCDL v. Charleston*, Memorandum Opinion and Order, [Doc. 36], available at <http://www.wvcdl.org/litigation/Charleston/036.pdf> (S.D. W.Va. July 1, 2011).

3. Today's order by Judge Copenhaver provides a briefing schedule identical to the schedule proposed herein by Plaintiff.
4. Defendants are coordinating their defense with the defenses of the defendants in *WVCDL v. Charleston, supra*.
5. The modified schedule proposed herein is necessary to permit Plaintiff's counsel to prepare a thorough and unified response to the pending orders of this Honorable Court and the United States District Court for the Southern District of West Virginia, so that the interests of Plaintiff in this action and all the plaintiffs in *WVCDL v. Charleston, supra*, will be fully and adequately represented with regard to the separate and distinct issues present in each case that underlie each Court's proposition of abstaining or deferring action on the respective state law claims pending in each case.

For the foregoing reasons, the parties respectfully request that this Court enter an Order modifying this Court's Order of June 17, 2011, [Doc. 16], denying Defendants' pre-answer motion to dismiss for lack of subject-matter jurisdiction (standing), and proposing abstaining or deferring action in this case on Plaintiff's state law claims, pending resolution of the state law issues in state court, by granting Plaintiff leave to respond no later than July 14, 2011, granting Defendants leave to respond no later than July 28, 2011, and granting Plaintiff leave to reply, if it so desires, no later than August 10, 2011.

Respectfully submitted this 1<sup>st</sup> day of July, 2011,

**West Virginia Citizens Defense League, Inc.,**

and

**City of Martinsburg, et al.,**

By Counsel,

s/ James M. Mullins, Jr.

James M. Mullins, Jr. (WV State Bar # 11129)

Attorney for Plaintiff

The Law Offices of James M. Mullins, Jr., PLLC

101 North Kanawha Street, Suite 401

Beckley, WV 25801

Telephone: 304-929-3500 (o)/304-687-5492 (c)

FAX: 304-929-3503

E-mail: jim@mullinslawoffices.com

s/ Floyd M. Sayre, III

Floyd M. Sayre, III (WV State Bar # 4342)

Attorney for All Defendants

Bowles, Rice, McDavid, Graff & Love, LLP

PO Box 1419

Martinsburg, WV 25402

Telephone: 304-264-4226

FAX: 304-267-3822

E-mail: ksayre@bowlesrice.com