

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

KILOTON TACTICAL, LLC, ERIC)
HANLEY, and FIREARMS FOR LIBERTY))
("FFL") COALITION,))
) Case No. 3:23-cv-23985-MCR-ZCB
Plaintiffs,)
)
)
 v.)
)
)
BUREAU OF ALCOHOL, TOBACCO,)
FIREARMS AND EXPLOSIVES; UNITED)
STATES DEPARTMENT OF JUSTICE;)
STEVEN M. DETTELBACH in his official)
capacity as THE DIRECTOR OF ATF, and)
AARON R. GERBER, in his official)
capacity as THE DIRECTOR OF)
INDUSTRY OPERATIONS FOR THE)
TAMPA FIELD DIVISION OF THE ATF,)
)
Defendants.)
_____)

**PLAINTIFFS' MOTION FOR
PRELIMINARY AND/OR PERMANENT INJUNCTION**

The Plaintiffs, by and through counsel, and hereby request, pursuant to Fed. R. Civ. P. 65(a), that this Court issue a Preliminary and/or Permanent Injunction enjoining Defendants from further implementing or enforcing a Department of Justice ("DOJ") "zero tolerance" policy implemented in the ATF Administrative

Action Policy (“AAP”), the internal ATF document that states its purpose as to “provide[] fair and consistent guidelines for administrative remedies for violations disclosed relative to inspections of Federal firearm licensees (FFLs).” In doing so, the Plaintiff’s would state:

1. Unless enjoined, the Plaintiffs will be irreparably harmed, as explained in the *Plaintiff’s Memorandum in Support of Their Motion for Preliminary and/or Permanent Injunction* which is being contemporaneously filed with this motion.

2. The Plaintiffs are likely to succeed in establishing that Defendants have violated, *inter alia*, the Administrative Procedures Act in implementing the new “zero tolerance” policy, which is in excess of ATF’s statutory authority, in direct and open defiance of statutory text, and additionally that the APA violates the Second Amendment to the United States Constitution.

3. This Court should issue a preliminary injunction to preserve the status quo pending a resolution of this matter on the merits.

4. As explained at greater length in the accompanying Memorandum, the balance of equities and the public interest favor granting an injunction. Because a preliminary injunction presents no monetary risk to Defendants, the Plaintiffs request that the bond be set at \$1 or altogether waived. Fed. R. Civ. P. 65(c).

5. The undersigned counsel for the Plaintiffs conferred with the counsel for the Defendants who have advised the undersigned counsel that they oppose this motion.

6. The Plaintiffs request that the Court issue an Order enjoining Defendants' current enforcement of this new Administrative Action Policy until such time as the Court can rule on the merits of Plaintiffs' Complaint for Declaratory and Injunctive Relief. The Plaintiffs additionally request oral argument on the *Plaintiff's Motion for Temporary and/or Permanent Injunction*.

Respectfully submitted this 26th of September 2023,

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CERTIFICATE OF SERVICE

I, Stephen D. Stamboulieh, hereby certify that on the 26th of September 2023, I have caused the foregoing document or pleading to be mailed by United States Postal Service first-class mail, postage pre-paid, to the following non-ECF participants:

Department of Justice
Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530

US Attorneys' Office for the Northern District of Florida
CIVIL PROCESS CLERK
111 North Adams Street
4th Floor US Courthouse
Tallahassee, FL 32301

Aaron R. Gerber
400 North Tampa Street, Suite 2100
Tampa, FL 33602

ATF Director Dettelbach
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE
Washington, DC 20226

And by electronic mail to the following counsel who are believed to represent the above-named Defendants in this action:

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By: Stephen D. Stamboulieh
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