IN THE SUPREME COURT OF VIRGINIA

IN RE:

***Santolla et al. v. Katz et al.*, No. CL26001139-00 (Washington County)**
***Crump et al. v. Katz et. al.*, No. CL26000201-00 (Lancaster County)**
***Curtis et al. v. Katz et. al.*, No. CL26002454-00 (Spotsylvania County)**
***Black et al. v. Hook*, No. CL26000241-00 (Fauquier County)**

CRUMP PLAINTIFFS' OPPOSITION TO APPLICATION FOR APPOINTMENT OF CIRCUIT COURT PANEL AND ORDER TO TRANSFER PURSUANT TO VA. CODE § 8.01-267.4

INTRODUCTION

Following the November 2025 general election, Virginia's new Governor and General Assembly made disenfranchisement[1] and disarmament[2] of the electorate their top priorities. To that end, SB749 and SB727 collectively enact or amend various gun control laws prohibiting the importation, sale, manufacture, purchase, barter, transfer, and public carry of widely popular but pejoratively named "assault firearms" and "large capacity ammunition feeding devices" after July 1, 2026. *See* Va. Code §§ 18.2-287.4:1, 18.2-308.09(1), 18.2-308.1:9, 18.2-308.2:1, 18.2-308.2:2(A), 18.2-308.2:3, 18.2-308.2:2(F)(4)(1)-(7), 18.2-308.2:5(E), 18.2-287.4, 18.2-309.1, and 19.2-386.28 (collectively, the "Challenged Statutes").

Unsurprisingly, this ban on Virginians' most commonly owned firearms and ammunition magazines drew immediate legal challenges. Four lawsuits have been filed in Virginia's state courts, each challenging various and differing aspects of the Challenged Statutes under diverse legal theories, raising different causes of action. *See* Complaint, *Crump v. Katz*, No. CL26-201 (Lancaster Cir. Ct. May 15, 2026) (Exhibit A); Complaint, *Santolla v. Katz*, No. CL26-1139

[1] *See Scott v. McDougle*, 2026 Va. LEXIS 35 (May 8, 2026).
[2] *See* Markus Schmidt, *Virginia Senate Panel Advances Gun Safety Bills Once Vetoed by Youngkin*, Va. Mercury (Jan. 27, 2026), https://tinyurl.com/4zhxnk8j.

(Washington Cir. Ct. May 15, 2026) (Exhibit B); Complaint, *Curtis v. Katz*, No. CL26-2454 (Spotsylvania Cir. Ct. May 19, 2026) (Exhibit C); Complaint, *Black v. Hook*, No. CL26-241 (Fauquier Cir. Ct. May 15, 2026) (Exhibit D) (collectively, the "Challenges"). As individuals and advocacy groups of finite means and "masters" of their respective complaints, the plaintiffs in these Challenges exercised their right to be heard in the venues where their constitutional injuries imminently will occur – not where their transgressors would prefer the Challenges be heard.

But now, Goliath wishes to dictate to David the rules of engagement. Invoking Applicants' own alleged convenience in defending their unconstitutional laws, Applicants request that this Court convene a panel to "transfer[] the above-captioned matters collectively to a singular Circuit Court" purportedly "centrally located" in Virginia, such as in Lancaster or Spotsylvania Counties. Application for Appointment of Circuit Court Panel and Order to Transfer Pursuant to Va. Code § 8.01-267.4 ("Application") at 1, 7. This transfer and consolidation, Applicants claim, will obviate the need for themselves and their attorneys to "travel hundreds of miles to courts displaced across the Commonwealth" – thereby transferring that burden to the various plaintiffs (and other defendants who have not joined the Application). *Id.* at 7.

This Court should deny Applicants' request to even appoint a panel, because the Challenges on their face cannot meet the Va. Code § 8.01-267.4 standards for transfer. If Applicants wish to enforce their infringements statewide, they should be willing to defend those infringements statewide.

LEGAL STANDARD

Under Va. Code § 8.01-267.4(A), a panel of circuit court judges designated by the Supreme Court of Virginia may order the transfer and consolidation of cases only "upon making the findings

required by § 8.01-267.1...." To that end, Va. Code § 8.01-267.1 requires three factors be met by the party seeking transfer:

> 1. Separate civil actions brought by six or more plaintiffs involve common questions of law or fact and arise out of the same transaction, occurrence or series of transactions or occurrences;
>
> 2. The common questions of law or fact predominate and are significant to the actions; and
>
> 3. The order (i) will promote the ends of justice and the just and efficient conduct and disposition of the actions, and (ii) is consistent with each party's right to due process of law, and (iii) does not prejudice each individual party's right to a fair and impartial resolution of each action. [Va. Code § 8.01-267.1.]

In analyzing these requirements, a court must consider, at minimum, the following factors:

> (i) the nature of the common questions of law or fact;
> (ii) the convenience of the parties, witnesses and counsel;
> (iii) the relative stages of the actions and the work of counsel;
> (iv) the efficient utilization of judicial facilities and personnel;
> (v) the calendar of the courts;
> (vi) the likelihood and disadvantages of duplicative and inconsistent rulings, orders or judgments;
> (vii) the likelihood of prompt settlement of the actions without the entry of the order; and
> (viii) as to joint trials by jury, the likelihood of prejudice or confusion. [Va. Code § 8.01-267.1.]

ARGUMENT

I. The *Crump*, *Santolla*, *Curtis*, and *Black* Challenges Raise Different Questions of Law and Fact.

The Application is conspicuously sparse, devoid of any discussion of the particular and unique factual allegations, legal theories, alleged injuries, and scope of each of the four individual cases. Nor does the Application attach each underlying complaint to permit this Court to independently evaluate whether the Application is meritorious as a threshold matter. Indeed, each of the circuit court Challenges raises different questions of law and fact, causing the Application to fail at the threshold. No convening of a panel is needed to make this determination on the face

of the various complaints. To be sure, as Applicants note, each case "arise[s] from the same Act of the General Assembly banning assault firearms and large capacity magazines" – at least in part – and each raises at least one of its claims under Article I, Section 13 of the Virginia Constitution. Application at 5. But that is where the similarities end.

Consider *Crump v. Katz*, the Challenge filed in Lancaster County. Unique among the Challenges, the *Crump* plaintiffs seek declaratory judgments to clarify certain permissible conduct under the Challenged Statutes, "irrespective of [their] unconstitutionality." *See* Exhibit A, *Crump* Compl. Prayer for Relief ¶3. No other Challenge presents these questions of statutory interpretation, as only Plaintiff Crump has pleaded specific facts about the ambiguities of the Challenged Statutes' coverage of "multicaliber magazines," the manufacture of new "large capacity ammunition feeding devices," and semiautomatic shotguns with more than "one of" the Challenge Statutes' prohibited characteristics. *See id.*; *cf. Rejuvenation Clinic, LLC v. Dang*, 113 Va. Cir. 532, 540 (Fairfax Cir. Ct. 2024) (ordering consolidation where "Plaintiffs' claims are identical and based on the same facts").[3]

Similarly, only *Crump* and *Santolla* challenge Va. Code § 287.4 which, independent of SB749, bans the public carry of "assault firearms" as opposed to merely their importation, manufacture, and transfer. *See* Exhibit A, *Crump* Compl. ¶1(v); Exhibit B, *Santolla* Compl. at 2. These cases therefore call for some (but not all) of the Applicants to collect and analyze additional historical evidence, if any, to support restrictions on the "bear[ing]" (as opposed to acquisition or

[3] *See also Branch v. Purdue Pharma, L.P.*, 64 Va. Cir. 159, 160 (City of Richmond 2004) (emphasis added) ("[T]he Act was enacted for the limited purpose of allowing multiple plaintiffs involved in the same transaction or occurrence, such as a plane crash or hospital fire, or perhaps a builder of a defective condominium project to proceed jointly against the tortfeasor(s). Such is not the case in the case at bar. *Instead, in this case, we have multiple plaintiffs with differing factual circumstances leading to their alleged injury*.").

disposition) of arms. *See N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 70 (2022) (surveying "the Anglo-American history of public carry").

Meanwhile, *Black* uniquely raises an independent challenge under the federal Second Amendment, a claim not repeated in any of the other Challenges. *See* Exhibit D, *Black* Compl. Prayer for Relief ¶A. Indeed, the *Crump* plaintiffs expressly disclaim bringing such a challenge. *See* Exhibit A, *Crump* Compl. ¶5. That federal cause of action arguably renders *Black* removable to federal court, and Applicants do not explain why the *Crump* plaintiffs should see their case joined at the hip with a case that may be on an entirely different federal trajectory.

Similarly, *Black* raises claims under Article XI, Section 4 of the Virginia Constitution (right to hunt) which, again, is not repeated in any other case. *See* Exhibit D, *Black* Compl. Prayer for Relief ¶C. *Black* also raises Fourteenth Amendment and Virginia Constitution Article I, Section 11 vagueness claims, but only as to the Challenged Statutes' catchall definition of "assault firearm." *See* Exhibit D, *Black* Compl. Prayer for Relief ¶¶D, E; *id.*, Compl. ¶84. Meanwhile, *Crump*, the only other Challenge to bring a vagueness claim, challenges specific subsections of the definition of "assault firearm," pleading entirely different facts than *Black*. *See* Exhibit A, *Crump* Compl. ¶¶80-82.

Next, in contrast to each of the other Challenges, *Curtis* proceeds primarily under Article I, Section 13's *militia* clause,[4] with little overlap of legal claims between it and the other cases. *See* Exhibit C, *Curtis* Compl. Counts I & II. Thus, Applicants are not even correct that Article I, Section 13 is the common thread tying all of the Challenges together, or that all Challenges "necessarily require the same legal analysis and rely on the same alleged historical tradition

[4] *See* Va. Const. art. I, § 13 ("That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state....").

regarding firearms regulation." Application at 5. To the contrary, they require distinctly different legal analyses. *Curtis*'s central theory plainly, for example, does not require the same focus on the textual and historical analysis of Article I, Section 13's operative clause[5] that each of the other Challenges will require.

Finally, *Santolla*, *Curtis*, and *Black* each include various firearm businesses as plaintiffs that allege financial harms attributable to the Challenged Statutes – further distinguishing these Challenges from *Crump*. *See* Exhibit B, *Santolla* Compl. ¶15; Exhibit C, *Curtis* Compl. ¶3; Exhibit D, *Black* Compl. ¶13. All told, the Challenges raise unique and disparate questions of law and fact.

II. To the Extent There Are Common Questions, They Do Not Predominate.

Applicants next claim that the Challenges "address[] the same questions of law and fact," which they claim "predominate." Application at 6, 5. But each of the Challenges presents *different* questions of law and fact, as discussed in Section I, *supra*. And, aside from Applicants' bald assertion that the Challenges "relat[e] to the same or similar firearms" (Application at 6), the plaintiffs have proposed varying courses of conduct. The Application therefore fails on this ground, too.

For instance, Plaintiff Crump has alleged with specificity the precise makes and models of each category of "assault firearm" he wishes to acquire. *See* Exhibit A, *Crump* Compl. ¶¶62-74. In contrast, the *Santolla* plaintiffs alleged a broader desire to acquire "assault firearms," without specifying. *See* Exhibit B, *Santolla* Compl. ¶¶12-20. The same is true for the *Black* and *Curtis* plaintiffs. *See generally* Exhibit D, *Black* Compl.; Exhibit C, *Curtis* Compl. Thus, to the extent

[5] *See* Va. Const. art. I, § 13 ("[T]herefore, the right of the people to keep and bear arms shall not be infringed....").

the circuit courts hearing these Challenges grant only as-applied relief, the factual distinctions between these plaintiffs' desired firearms and magazines may produce entirely different outcomes. By definition, then, these *uncommon* questions cannot "predominate." *See Branch v. Purdue Pharma, L.P.*, 64 Va. Cir. 159, 160 (Richmond Cir. Ct. 2004) (emphasis added) (denying consolidation where "we have multiple plaintiffs with *differing factual circumstances* leading to their alleged injury") (emphasis added). Simply put, the plaintiffs in the respective Challenges allege materially different proposed courses of action and differing harms. They are not all, for example, passengers on the same plane that crashed – they are, at best, the separate victims of different accidents with different causes, even if the same company made each plane.

III. Transfer and Consolidation Would Highly Prejudice Plaintiffs, While Benefitting Only Defendant Katz – the Alleged Violator of Plaintiffs' Constitutional Rights.

Applicants next offer two theories as to why transfer and consolidation of the Challenges would satisfy the third prong of Va. Code § 8.01-267.4. First, Applicants claim "[a]voidance of duplicative and inconsistent rulings" would "promote[] the ends of justice" and "efficient[ly] utiliz[e]" judicial resources. Application at 6. But for starters, Applicants have not shown how different rulings on the various Challenges, even if differing in their result, would be "inconsistent" (self-contradictory, incompatible[6]). For example, if one court were to temporarily enjoin enforcement of the Challenged Statutes, and another declined to do so on a preliminary basis, such rulings would not conflict with one another. At worst, Applicants would be temporarily prohibited from enforcing their infringements – no ruling would *require* them to do so.

Nor are Applicants correct that *avoidance* of reasoned judicial opinions – even inconsistent ones – somehow disserves "the ends of justice." As reviewing courts often note, "[a]s cases

[6] *See Inconsistent*, Merriam-Webster, https://tinyurl.com/y7wppd6e (last visited May 29, 2026).

'percolate[]' in th[e] courts, jurists add their 'independent evaluation' of the issues presented, meaning that when [a higher court] eventually is asked to review those issues, it 'has the benefit of the experience of those lower courts.'" *Mitchell v. City of Benton Harbor*, 147 F.4th 663, 675 (6th Cir. 2025) (Readler, J., dissenting from denial of rehearing en banc) (citations omitted). Indeed, "that percolation process, it is well understood, informs the [higher court's] decisionmaking...." *Id.* Permitting – rather than short-circuiting – these separate cases would aid this Court in evaluating any number of issues tied to the Challenged Statutes which are likely to end up before it.

Second, Applicants invoke the "convenience of the parties," suggesting a "more centrally located" venue would obviate the need for Applicants to "travel hundreds of miles to courts displaced across the Commonwealth...." Application at 7. But although Applicants cite their own "convenience" in transfer and consolidation, they offer no analysis as to how their requested relief would affect *the plaintiffs*. *See id.* at 6-7. Yet as the Applicants for transfer and consolidation, they bear the burden to satisfy this Court that such relief "is consistent with *each party's* right to due process of law" and "does not prejudice each *individual party's* right to a fair and impartial resolution of each action." Va. Code § 8.01-267.1 (emphases added). Having entirely neglected consideration of the plaintiffs' "convenience," Applicants should be denied on this ground alone, in addition to the fact that the Superintendent of the Virginia State Police is responsible for a state-wide agency.

IV. The Remaining Factors Militate Against Transfer and Consolidation.

Finally, a number of statutory factors weigh heavily in the plaintiffs' favor.

Convenience of the Parties, Witnesses, and Counsel. Applicants claim that transfer and consolidation will work to "the convenience of the parties...." Application at 7. But it is difficult

to see how that is so. Applicants claim that "Superintendent Katz or his designees/witnesses would be required to travel hundreds of miles to courts displaced across the Commonwealth...." *Id.* But Plaintiffs GOA and VCDL (plaintiffs in the *Crump* Challenge) have sued the Superintendent of the Virginia State Police on multiple occasions,[7] yet *never once* has the Superintendent (or his designee) been deposed, testified, or otherwise been required to be present for any proceeding. Indeed, these constitutional Challenges to recently enacted state statutes involve pure questions of law, along with factual issues to be fleshed out by the plaintiffs and potentially experts – they certainly will not require the Superintendent's personal involvement at distant courthouses.

In contrast, the Application fails to consider the *inconvenience* to the plaintiffs' likeliest witnesses. For example, the *Crump* Challenge will see Plaintiff Crump traveling through Lancaster County this summer, where he wishes to purchase banned firearms and magazines at a local Lancaster gun dealer. *See* Exhibit A, *Crump* Compl. ¶¶59-61. Likewise, the other Challenges plead *local* facts. *See* Exhibit B, *Santolla* Compl. ¶14 ("Plaintiff Middletown Firearms LLC … is a duly licensed firearms retailer located in Middletown, Virginia."); Exhibit C, *Curtis* Compl. ¶3 ("Bob's Gun Shop[] is a Virginia stock company … in the city of Norfolk, Virginia."); Exhibit D, *Black* Compl. ¶12 ("Clark's Gun Shop, Inc. … is a firearms and sporting goods retailer … in Warrenton, Virginia, in Fauquier County."). None of these entities is benefitted by transfer to some distant courthouse. Rather, transfer and consolidation would benefit only *the government*.

Applicants next claim that "other named Defendants" will benefit from consolidation and transfer. Application at 7. But for starters, only half (five out of ten) of the named defendants have even joined Applicants' filing. Curiously, Attorney General Jay Jones appears as an

[7] *See, e.g.*, *Wilson v. Hanley*, No. CL20-582 (Lynchburg Cir. Ct.); *Widner v. Settle*, No. CL24-668 (Bristol Cir. Ct.).

"Applicant," even though no Challenge has named him as a defendant, nor has he intervened in any of the Challenges. So it is entirely unclear at this time why he has the authority to be *an Applicant* in the Application. Meanwhile, none of the 24 named plaintiffs have agreed to transfer and consolidation. And as for Applicants Barr (Chesterfield), Spicer (Frederick), Reid (York), and Hamel (Chesapeake), there is no challenge filed in their jurisdiction, meaning their case will be heard in a foreign county with or without transfer. Meanwhile, with respect to defendants Cumbow (Washington) and Lilly (Giles), they have raised no objection to being heard in Washington County, while Defendants Mehaffey and Harris (Spotsylvania) unsurprisingly raise no objection to being heard in Spotsylvania County, and Defendant Hook (Fauquier) raises no objection to his Fauquier venue.

Interestingly enough, Applicants seek to have the *Black* case consolidated and transferred with the others, apparently overlooking that *none of the Applicants is even a party* to *Black* – which names only one Fauquier defendant, who has not joined the Application. Nor has Attorney General Jay Jones intervened in the *Black* case. So, again, it is entirely unclear on whose behalf Applicants purport to make a request to consolidate and transfer *Black* to an out-of-circuit venue, *when they are not even parties to the case*. *See* Va. Code § 8.01-267.4(A) (emphasis added) ("any *party* may apply").

In other words, transfer and consolidation *works to the benefit of only one party out of 34* – Applicant Katz. Meanwhile, transfer would serve no purpose for four defendants, and would operate to the detriment of all other parties in these cases. This hardly justifies the broad relief Applicants seek. Indeed, if there are any parties whose convenience should be considered, it is the private individuals, advocacy organizations, and their counsel, who are of inherently limited

resources and seek to protect enumerated constitutional rights against governmental defendants with hundreds of lawyers and infinitely deep pockets.

Efficient Utilization of Judicial Facilities and Personnel. As explained in Section III, *supra*, Virginia's appellate courts will benefit from percolation of the Challenges and the reasoned opinions of multiple circuit court judges to the extent that there are common elements to the Challenges. Indeed, if a consensus among the circuit courts forms, that may incline an appellate court to affirm. Conversely, even a divergence in judicial opinion will benefit appellate review, offering a breadth of analysis to inform Virginia's appellate courts. Rather than disserving the "ends of justice," denying the Application will promote it.

The Calendar of the Courts. Finally, the Lancaster Circuit Court has already scheduled a hearing for the *Crump* Plaintiffs on their Motion for Temporary Restraining Order and Preliminary Injunction on June 12, 2026, ahead of the Challenged Statutes' imminently approaching July 1 effective date. *See* Notice of Hearing, Exhibit E. There is simply no time to waste before the Challenged Statutes will radically restrict the scope of Article I, Section 13 rights in Virginia and dramatically alter the status quo. Should the Challenges be transferred and consolidated, thereby denying the *Crump* plaintiffs their ability to have their scheduled day in court, or delaying the same, then the opportunity to prevent irreparable constitutional harm will be lost.

CONCLUSION

For the foregoing reasons, the Applicants fail to meet any threshold to justify designation of a panel to consider consolidation or transfer, and the Application should be denied.

Respectfully submitted,

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