

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**WEST VIRGINIA CITIZENS DEFENSE
LEAGUE, INC., et al.**

Plaintiffs,

v.

Case No.: 2:11-0048

CITY OF CHARLESTON, et al,

Defendants.

**MOTION OF THE SOUTH CHARLESTON DEFENDANTS TO DISMISS
THE PLAINTIFFS' FIRST AMENDED COMPLAINT**

Now come the Defendants City of South Charleston, Frank A. Mullens, in his official capacity as the Mayor of the City of South Charleston and Brad L. Rinehart, in his official capacity as the Chief of Police of the City of South Charleston (collectively "South Charleston Defendants" or "Defendants"), by counsel, and pursuant to Rule 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, hereby move for dismissal of Counts 35, 36 and 37 of the Plaintiffs' First Amended Complaint. In support of their Motion to Dismiss, the South Charleston Defendants rely upon the Memorandum of Law filed contemporaneously herewith.

WHEREFORE, Defendants move, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) for dismissal of the Counts 35, 36 and 37 of the Plaintiffs' First Amended Complaint.

**CITY OF SOUTH CHARLESTON
FRANK A. MULLENS, MAYOR, and
BRAD L. RINEHART, CHIEF
OF POLICE**
By counsel,

/s/ W. Michael Moore
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CERTIFICATE OF SERVICE

I, W. Michael Moore, hereby affirm that April 15, 2011, I caused the foregoing MOTION OF THE SOUTH CHARLESTON DEFENDANTS TO DISMISS THE PLAINTIFFS' FIRST AMENDED COMPLAINT and accompanying MEMORANDUM OF LAW to be served on the following attorneys with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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