Cas	e 2:10-cv-08377-RGK -JEM Document 1	Filèd 11/04/10 Page 1 of 10 Page ID #:1
1 2 3 4 5 6 7 8	JONATHAN W. BIRDT – SBN 183908 18252 Bermuda Street Porter Ranch, CA 91326 Telephone: (818) 400-4485 Facsimile: (818) 428-1384 jon@jonbirdt.com Plaintiff UNITED STATI CENTRAL DISTI	CHERK U.S. DISTRICT COURT CENTRAL DISTRICT COURT LOS ANGELES ES DISTRICT COURT RICT OF CALIFORNIA
9		
10 11	JONATHAN BIRDT,	CASE NO. CV10 8377-RGM
12	Plaintiff,) COMPLAINT (TEM
13	vs.)) 42 U.S.C. 1983 & 1988
14 15 16	CHARLIE BECK, LEE BACA, THE LOS ANGELES POLICE DEPARTMENT and THE LOS ANGELES COUNTY SHERIFFS DEPARTMENT, DOES 1 to 50,)))))
17 18 mism	Defendants.)))
20	COMES NOW Plaintiff, Jonathan Bird	t who seeks a declaration that the definition of "good"
21		by the Los Angeles Police and Sheriffs' Departments
22	is unconstitutional as applied to his application	for a CCW permit. This is a Section 1983 action
23	based upon defendants definition of "good Caus	se" as a specific threat. Constitutional mandates
24	establish self defense as "good cause" which sh	ould be applied to Plaintiffs application.
25		
26		DDUCTION
27		o has applied for and been denied a permit to carry a
28	identify an imminent threat.	olice and Sheriffs' Departments because he failed to

COMPLAINT - 1

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- 2. Plaintiff has appealed the LAPD denial, knowing the LASD appeal would be futile.
- 3. Plaintiff is an attorney licensed to practice law in California and Nevada and admitted to practice before the 9th Circuit, the District of Nevada and the Central, Northern, Southern and Eastern Districts of California.
- 4. Plaintiff is licensed by the States of Nevada and Utah to carry a concealed weapon, by virtue of reciprocity and States that follow the US constitution, he is permitted to carry a concealed weapon in more than 40 States, but not in his State of residence, California.
- 5. Plaintiff is an avid outdoorsman who belongs to several firearm related organizations including CRPA and the NRA (Life Member). Plaintiff is also a member at a local shooting club and competes monthly in said activities.
- 6. Plaintiff has actively litigated cases in Nevada (currently inactive, but last trial was a one week wrongful death case in Clark County District Court in January 2010).
- 7. Under the laws of the State of California, Plaintiff is prohibited from publicly carrying a loaded firearm and despite repeated requests, City and County officials have refused to issue a CCW permit plaintiff is entitled to receive.

THE PARTIES

- 8. Plaintiff is a natural person and citizen of the United States who resides in Los Angeles.

 The States of Nevada and California and each Federal Court therein have found Plaintiff to possess good moral character sufficient to engage in the practice of law and the States of Utah and Nevada (where plaintiff frequently travels) have found that plaintiff has met all the qualifications for and have issued him permits to carry concealed weapons.
- 9. Defendant Charlie Beck is the Chief of the Los Angeles Police Department and the individual responsible for issuing CCW permits and deciding the procedure to be followed when determining "good cause" to justify the issuance of a permit and made the decision to deny Plaintiffs' application for a CCW permit because plaintiff did not demonstrate "good cause" consisting of an imminent threat.
- 10. The Los Angeles Police Department is a municipal entity organized under the laws of the State of California.
- 11. Defendant Lee Baca is the Sheriff of Los Angeles County and the individual responsible for issuing CCW permits and deciding the procedure to be followed when determining "good COMPLAINT 2

- cause" to justify the issuance of a permit and made the decision to deny Plaintiffs' application for a CCW permit because plaintiff did not demonstrate "good cause" consisting of an imminent threat.
- 12. The Los Angeles Sheriffs Department is a municipal entity organized under the laws of the State of California.

JURISDICTION & VENUE

- 13. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, 2201, 2202 and 42 U.S.C. § 1983.
- 14. Venue lies in this Court pursuant to 28 U.S.C. § 1391.

LEGAL BACKGROUND

- 15. California Penal Code 12050 is the only mechanism in California by which a non-law enforcement official can carry a loaded firearm. Pursuant to the statutory system the California attorney general has created a form Application for residents of the State of California to use when applying for a permit thereunder.
- 16. The Los Angeles Police Department openly refuses to comply with State Law and well as prior judicial decrees and settlements. The LAPD does not accept the does not accept the standard CCW application, nor does it readily make available a CCW application. Plaintiff spent several hours on the phone over several months calling various departments just trying to get a CCW application from the LAPD. Plaintiff was then required to make an appointment and bring the form in for an interview. Plaintiff did this in early 2010. Thereafter Plaintiff received a letter stating that his request for a permit had been denied because he had not identified a specific threat justifying the issuance of a permit. Plaintiff immediately responded requesting an appeal, but to date, the LAPD has not responded.
- 17. Following the advice of the LAPD gun detail, Plaintiff then submitted his application to the LASD who summarily denied the request for the same reason, failure to identify a specific threat.
- 18. Plaintiff alleges that the definition of Section 12050's requirements of (1) "good cause" beyond the interests of self-defense violate the Second and Fourteenth Amendments to the U.S. Constitution and results in an unequal treatment of similarly situated individuals, and therefore violates the Eighth Amendment of the U.S. Constitution.

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- 19. Plaintiff does not dispute the validity of the statute, or the right of the State to regulate the possession of loaded weapons, in fact, the State legislature has made clear its' intent to create the only mechanism by which law abiding citizens can and should posses loaded firearms in the state by creating a statutory scheme for regulating such conduct. 12050(a)(1) provides, in pertinent part:
 - (A) The sheriff of a county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying satisfies any one of the conditions specified in subparagraph (D) and has completed a course of training as described in subparagraph (E), may issue to that person a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person in either one of the following formats:
 - (i) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.
- 20. Applicants seeking a license to carry a handgun must pass a criminal background check, Penal Code §12052, and successfully complete a course of training in the proper use of handguns. Penal Code § 12050(a)(1)(E). Plaintiff is ready and willing to submit the criminal background check and represents that he has no criminal history. Plaintiff also is ready, willing and able to submit to any reasonable training requirements set forth by either department.

FIRST CAUSE OF ACTION

42 U.S.C. 1983, 1988

- 21. Defendants interpretation of Section 12050's requirements of (1) "good cause" beyond the interests of self-defense violates the Second and Fourteenth Amendments.
- 22. The United States Supreme Court has now made it clear that the Second Amendment guarantees "the individual right to possess and carry weapons in case of confrontation." Heller at 128 S. Ct. at 2797.
- 23. When a fundamental right is recognized, substantive due process forbids infringement of that right "at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." Flores, 507 U.S. at 301-02 (citations omitted)

24. Defendants policies in interpreting Section 12050 infringe upon Plaintiff's Second Amendment right "to possess and carry weapons in case of confrontation." See Heller, 128 S. Ct. at 2797. The Supreme Court has explained that the natural meaning of "bear arms" is to "wear, bear, or carry ... upon the person or in a pocket, for the purpose ... of being armed and ready for offensive or defensive action in a case of conflict with another person." Id. at 2793

SECOND CAUSE OF ACTION

EQUAL PROTECTION

- 25. The Equal Protection Clause of the Fourteenth Amendment provides that no State shall deny to any person within its jurisdiction the equal protection of the laws, which is "essentially a direction that all persons similarly situated should be treated alike." City of Cleburne v. Cleburne Living Ctr.,473 U.S. 432, 439 (1985) (citation omitted). "The general rule is that legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest." Id. at 440 (citations omitted).
- 26. Plaintiff is licensed to practice law in both California and Nevada. Plaintiff has also been issued a permit to carry a concealed weapon in the State of Nevada; however, plaintiff is unable to freely exercise this right because the moment he passes the border from Nevada in to California he would be violating California law if he were in possession of a loaded and concealed firearm.

PRAYER FOR RELIEF

27. Plaintiff request that judgment be entered in his favor and against Defendants requiring defendants to immediately issue a CCW permit to Plaintiff and thereafter renew such permit, absent permission to the contrary from the pourt.

October 28, 2010

Jonathan W. Birdt



UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge R. Gary Klausner and the assigned discovery Magistrate Judge is John E. McDermott.

The case number on all documents filed with the Court should read as follows:

CV10- 8377 RGK (JEMx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

l discovery related motions should be noticed on the calendar of the Magistrate Judge	

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Failure to file at the proper location will result in your documents being returned to you.

Case 2:10-cv-08377-RGK -JEM Document 1	Filed 11/04/10 Page 8 of 10 Page ID #:8
Name & Address:	
Jonathan Birdt	
18252 Bermuda Street	
Northridge, CA 91326	
jon@jonbirdt.com	
818-400-4485	
TINVERD COLUMN	
CENTRAL DISTRIC	DISTRICT COURT CT OF CALIFORNIA
Jonathan Birdt	CASE NUMBER
TV A DIFFERMAN	F 0110 0777 . //
PLAINTIFF(S) V.	CLICATION BY 77-RGK (TEM)
·	TE HSE UNEP TO COLUMN
CHARLIE BECK, LEE BACA, THE LOS AND LES	OL 00-
POLICE DEPARTMENT and THE LOS ANGELES	
COUNTY SHERIFFS DEPARTMENT, DOES 1 to 50	SUMMONS
DEFENDANT(S).	
must serve on the plaintiff an answer to the attached ♥ c □ counterclaim □ cross-claim or a motion under Rule 12	as on you (not counting the day you received it), you complaint amended complaint 2 of the Federal Rules of Civil Procedure. The answer
or motion must be served on the plaintiff's attorney, Jon 18252 Bermuda Street, Porter Ranch, CA 91326	If you fail to do so
judgment by default will be entered against you for the reyour answer or motion with the court.	elief demanded in the catallant. You also must file
	Clerk, U.S. District Court
Dated: 4 Nov 2010	OFAL SAUC
Daice.	By: MARILYN UNIVIS Deputy Clerk
	(Seal of the Court)
	(included and company)
[Use 60 days if the defendant is the United States or a United States 60 days by Rule 12(a)(3)].	agency, or is an officer or employee of the United States. Allowed
CV-01A (12/07) SUMM	ONS

Case 2:10-cv-08377-RGK -JEM Document 1 Filed 11/04/10 Page 9 of 10 Page ID #:9 UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself Jonathan Birdt		DEFENDANTS Lee Baca, Charlie Beck, The Los Angeles County Sheriff's Department, The Los Angeles Police Deaprtment.					
(b) Attorneys (Firm Name, Address and Telephone Number. If you are yourself, provide same.) Jonathan Birdt 18252 Bermuda Street	representing	Attorneys (If Known)		*			
Porter Ranch, CA 91326 818-400-4485							····
II. BASIS OF JURISDICTION (Place an X in one box only.)	III. CITIZENS	SHIP OF PRINCIPAL PAR K in one box for plaintiff and of	TIES - For I	Diversity Case	es Only		
☐ 1 U.S. Government Plaintiff ✓ 3 Federal Question (U.S. Government Not a Party)	Citizen of This	PT	F DEF	·	Principal Place	PTF □ 4	DEF □ 4
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Anoth	her State 🔲 2	□2 Inc		d Principal Place	□ 5	□ 5
	Citizen or Subje	ect of a Foreign Country 🛚 3	□3 Fo	reign Nation		□6	□6
Proceeding State Court Appellate Court Re	eopened	Transferred from another di		Dist	rict Jud	peal to I ge from gistrate	1
V. REQUESTED IN COMPLAINT: JURY DEMAND: Ves CLASS ACTION under F.R.C.P. 23: Yes No VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you a 42 U.S.C. 1983 & 1988. Violation of 2nd Amendment Rights.		MONEY DEMANDED IN C	OMPLAINT		tatutes unless div	ersity.)	1
VII. NATURE OF SUIT (Place an X in one box only.)		· · · · · · · · · · · · · · · · · · ·	·				
□ 410 Antitrust □ 430 Banks and Banking □ 450 Commerce/ICC Rates/etc. □ 460 Deportation □ 470 Racketeer Influenced and Corrupt Organizations □ 480 Consumer Credit □ 490 Cable/Sat TV □ 810 Selective Service □ 850 Securities/Commodities/Exchange □ 875 Customer Challenge 12 USC 3410 □ 489 Other Statutory Actions □ 891 Agricultural Act □ 892 Economic Stabilization Act □ 893 Environmental Matters □ 894 Energy Allocation Act □ 895 Freedom of Info. Act □ 990 Appeal of Fee Determination Under Equal Access to Justice □ 950 Constitutionality of State Statutes □ 120 Marine □ 130 □ 130 □ 140 Negotiable Instrument □ 130 ○ Niller Act □ 150 Recovery of □ 151 Medicare Act □ 152 Recovery of Defaulted Student Loan (Excl. □ 152 Recovery of Defaulted Student Loan (Excl. □ 153 Recovery of □ 360 □ 460 □ 245 Contract Product □ 365 □ 362 □ 196 Franchise □ 368 □ 360 □ 3	TORTS ASONAL INJURY Airplane Airplane Product Liability Assault, Libel & Slander Fed. Employers' Liability Marine Marine Product Liability Motor Vehicle Motor Vehicle Product Liability Other Personal Injury Personal Injury Med Malpractice Personal Injury Med Malpractice Personal Injury Product Liability Asbestos Persona Injury Product Liability Asbestos Persona Injury Product Liability Asbestos Persona Injury Asbestos Persona Injury Asbestos Persona Injury Country C	PROPERTY 1 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage Product Liability BANKRUPTCY 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 CIVIL RIGHTS 441 Voting 442 Employment 443 Housing/Accommodations 444 Welfare 445 American with Disabilities - Employment 446 American with Disabilities - Other 441 Other Civil Rights	PETI	ate Sentence leas Corpus leral th Penalty lidamus/ er il Rights on Condition ITTURE / ALTY iculture er Food & g g Related ure of learty 21 USC lor Laws & Truck ine Regs upational ty /Health	☐ 710 Fair La Act ☐ 720 Labor/ Relatio ☐ 730 Labor/ Report	Mgmt. ms Mgmt. ing & sure Act y Labor .abor ion Ret. Inc. y Act Y RIGH ghts .ung (92 DIWW) TAX SU U.S. Pla indant) ird Part	t r Act TY 23) TI JITS aintiff

FOR OFFICE USE ONLY: Case Number: CV10 837

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

Case 2:10-cv-08377-RGK -JEM Document 1 Filed 11/04/10 Page 10 of 10 Page ID #:10 UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? \(\sigma\) No \(\sigma'\) Yes If yes, list case number(s):						
VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? Yes Yes						
(Check all boxes that apply)	Civil cases are deemed related if a previously filed case and the present case: Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or B. Call for determination of the same or substantially related or similar questions of law and fact; or C. For other reasons would entail substantial duplication of labor if heard by different judges; or D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.					
(a) List the County in this Distric	t; California County	outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.				
County in this District:*	, its agencies or empi	oyees is a named plaintiff. If this box is checked, go to item (b). California County outside of this District; State, if other than California; or Foreign Country				
Los Angeles						
(b) List the County in this District Check here if the government	t; California County o	outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides. byees is a named defendant. If this box is checked, go to item (c).				
County in this District:*	- A	California County outside of this District; State, if other than California; or Foreign Country				
(c) List the County in this Distric Note: In land condemnation	t; California County c cases, use the location	utside of this District; State if other than California; or Foreign Country, in which EACH claim arose. on of the tract of land involved.				
County in this District:*		California County outside of this District; State, if other than California; or Foreign Country				
Los Angeles						
* Los Angeles, Orange, San Bern Note: In land condemnation cases,	ardino, Riverside, V use the location of the	entura, Santa Barbara, or San Luis Obispo Counties				
X. SIGNATURE OF ATTORNEY	(OR PRO PER):	Date 10/28/10				
or other papers as required by l but is used by the Clerk of the	aw. This form, approve Court for the purpose	vil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings red by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)				
Key to Statistical codes relating to S						
Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action				
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))				
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)				
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))				
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))				
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.				
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))				