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December 3, 2012

VIA ELECTRONIC FILING

Office of the Clerk
United States Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, California 94103-1526

RE: Case No. 12-55115 *Birdt v. Los Angeles Sheriffs
Department, et al.*

Your Honors:

Pending *Amicus Curiae* the Law Center to Prevent Gun Violence (“the Law Center”) respectfully writes to provide the following supplemental authority related to this matter, pursuant to F.R.A.P. 28(j). On pages 18-21 of its *amicus* brief, the Law Center discussed in detail that federal courts routinely reject Second Amendment challenges to concealed carry firearm statutes that, like California, permit state and local officials to determine whether to issue a concealed carry permit. The Law Center cited to *Kachalsky v. Cacace*, 817 F. Supp. 2d 235, 260 (S.D.N.Y. 2011), as one such example wherein the Federal District Court for the Southern District of New York ruled constitutional a New York licensing law that requires applicants to have proper cause to carry concealed firearms in public. An appeal to *Kachalsky* was pending at the time the Law Center filed its *amicus* brief. The appeal has now been decided. On November 27, 2012, the United States Court of Appeals for the Second Circuit issued its decision and affirmed the lower court ruling under an intermediate scrutiny review. *Kachalsky v. City of Westchester*,

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--- F.3d ----, 2012 WL 5907502 (2d Cir. Nov. 27, 2012) (Case No. 11-3642, Document No. 135-1). The Law Center respectfully submits this additional authority in support of its present request that the Court affirm the holding of the court below.

Respectfully submitted,
Nixon Peabody LLP

/s/ Cameron R. Cloar

Cameron R. Cloar, Esq.
Attorney for *Amicus Curiae*
The Law Center to Prevent Gun
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cc. all counsel

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on December 4, 2012. I certify that all participants in the case are registered CM/ECF users (as shown below) and that service will be accomplished by the appellate CM/ECF system.

/s/ Cameron R. Cloor

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