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December 14, 2012

Clerk
Ninth Circuit Court of Appeals
James R. Browning U.S. Courthouse
95 Seventh Street
San Francisco, CA 94103

Re: *Richards v. Prieto, et al.*
Ninth Circuit Case No.: 11-16255
Oral Argument Date: December 6, 2012
FRAP Rule 28(j) & Circuit Rule 28-6 Supp. Authority Response

Dear Clerk:

Appellees respond to Appellants' reliance on *Moore v. Madigan*, 2012 U.S. App. LEXIS 25264 (7th Cir.), which deems unconstitutional Illinois' general ban on public property handgun carry with no provision for a concealed weapon permit:

Since Appellees do not contend the Second Amendment applies solely inside one's home, the *Moore* majority's historical analysis criticism of *Kachalsky v. County of Westchester* fails to advance Appellants' position. Indeed, Appellees agree with *Moore*'s contrast of the right to carry in colonial era travel across wilderness areas (lands not privately or publicly owned), versus in England. And *Moore*'s majority and dissent agree modern public and private property owners can bar others from carrying on their lands. (*23–24, 44–46.)

More telling is *Moore*'s express distinction of *Kachalsky* as involving less restrictive laws than Illinois' (*24–26):

> The New York gun law upheld in *Kachalsky*, although one of the nation's most restrictive such laws (under the law's "proper cause" standard, an applicant for a gun permit must demonstrate a need for self-defense greater than that of the general public, such as

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> being the target of personal threats [citation]), is less restrictive than Illinois's law.

Since, like California, New York allows concealed carry permits where the applicant shows good cause, *Moore* cannot be read to even inferentially support Appellants' position here. Indeed, *Moore* stressed Illinois has "the most restrictive gun law of any of the 50 states" (*26–27) and concluded "though we need not speculate on the limits that Illinois may in the interest of public safety constitutionally impose on the carrying of guns in public; it is enough that the limits it has imposed go too far." (*27–28.) Similarly, as Illinois does not recognize an imminent need for self-defense exception to the criminal act of public carry (in contrast to California), *Moore*'s discussion of the potential deterrence of criminals by public carry fails to translate over to this suit. (See *23 ["{e}ven jurisdictions like New York State, where officials have broad discretion to deny applications for gun permits, recognize that the interest in self-defense extends outside the home"].)

Very truly yours,

ANGELO, KILDAY & KILDUFF, LLP

/s/ John A. Whitesides

By: JOHN A. WHITESIDES

JAW/hrb

The body of this letter contains 346 words.

cc: All Counsel of Record (via CM/ECF)