APPEAL NO. 12-16258

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHRISTOPHER BAKER, Plaintiff/Appellant, vs. LOUIS KEALOHA, as an individual and in his official capacity as Honolulu Chief of Police, et al., Defendants/Appellees.	Appeal from the United States District court for the District of Hawai‘i The Honorable Alan C. Kay, District Judge USDC No. CV11-00528 ACK/KSC Ninth Circuit Memorandum Disposition filed March 20, 2014 Before O’SCANNLAIN, THOMAS, and CALLAHAN, Circuit Judges

COUNTY OF HAWAI‘I’S MOTION FOR LEAVE TO JOIN AMICUS CURIAE BRIEF OF THE STATE OF HAWAI‘I IN SUPPORT OF HONOLULU COUNTY’S PETITION FOR REHEARING OR REHEARING EN BANC OF THE OPINION IN BAKER v. KEALOHA FILED APRIL 28, 2014

ADDENDUM

CERTIFICATE OF SERVICE

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COUNTY OF HAWAI'I'S MOTION FOR LEAVE TO JOIN AMICUS CURIAE BRIEF OF THE STATE OF HAWAI'I IN SUPPORT OF HONOLULU COUNTY'S PETITION FOR REHEARING OR REHEARING EN BANC OF THE OPINION IN BAKER v. KEALOHA FILED APRIL 28, 2014

Amicus Curiae is the County of Hawai'i, a municipal corporation organized and existing under the laws of the State of Hawai'i. The County of Hawai'i respectfully requests leave to join in the Amicus Curiae Brief filed by the State of Hawai'i supporting the City and County of Honolulu's Petition for Rehearing or Rehearing en banc, pursuant to Federal Rules of Appellate Procedure Rule 29(b) and Ninth Circuit Rule 29-2(b).

The County of Hawai'i has secured the consent of the City and County of Honolulu to the filing of this Amicus Brief. Plaintiff has not consented to the filing of this Amicus Brief.

Plaintiff-Appellant Christopher Baker challenged, in part, Hawai'i Revised Statues ("HRS") § 134-9, which provides in part:

> **Licenses to Carry**. (a) In an exceptional case, where an applicant shows reason to fear injury to the applicant's person or property, the chief of police of the appropriate county may grant a license to an applicant…to carry a pistol or revolver and ammunition therefor concealed on the person……. Where the urgency or the need has been sufficiently indicated, the respective chief of police may grant to an applicant of good moral character.…is engaged in the protection of life and property, and is not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry a pistol or revolver and ammunition therefor unconcealed on the person…

The County of Hawai‘i, Mayor William Kenoi and the Chief of Police Harry S. Kubojiri are named as defendants in an ongoing case currently on appeal to the Ninth Circuit Court of Appeals in *George Young, Jr. v. State of Hawai‘i, et.al.* No. 12-17808, D.C. No.:1:12-cv-00336-HG-BMK. The issues before the Court in *George Young, Jr. v. State of Hawai‘i, et al*. are similar to and related to the issues decided by this Court in *Baker v. Kealoha*, challenging the constitutionality of § 134-9, HRS.

Joinder in the amicus brief filed by the State of Hawai‘i is a desirable method to support the continuing validity of § 134-9, HRS, as well as to reconcile *Baker v. Kealoha*, *Peruta v. San Diego*, 742 F.3d 1144 (9th Cir.2014) and inconsistent rulings by a separate panel of judges from this Circuit in *U.S. v. Chovan*, 735 F.3d 1127 (9th Cir.2013), recognizing historical restrictions on the right to carry firearms.

A consistent approach to issues dealing with Second Amendment questions arising within the Ninth Circuit will provide meaningful direction to the Courts of this Circuit and insure uniformity in dealing with the constitutional challenges presented with respect to the Second Amendment and to conform these rulings with the decision in *District of Columbia v. Heller*, 554 U.S. 570, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008).

CONCLUSION

The County of Hawai‘i respectfully urges this Court to permit leave to join in the Amicus Brief filed by the State of Hawai‘i by filing the attached letter adopting the factual and legal arguments urging rehearing or rehearing en banc in *Baker v Kealoha*.

Dated: Hilo, Hawai‘i, April 28, 2014.

Respectfully submitted,

By /s/ Michael J. Udovic
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April 28, 2014

Office of the Clerk
James R. Browning Courthouse
U.S. Court of Appeals
P.O. Box 193939
San Francisco, CA 94119-3939

Re: **Christopher Baker v. Louis Kealoha**
No. 12-16258

Dear Clerk of the Court:

The County of Hawai'i joins in the factual statements and arguments of the State of Hawai'i in the Amicus Curiae Brief filed in support of the City and County of Honolulu's Petition for Rehearing or Rehearing en banc in the case of *Baker v. Kealoha,* No. 12-6258, filed April 28, 2014.

Yours truly,

/s/ Michael J. Udovic
MICHAEL J. UDOVIC
Deputy Corporation Counsel

MJU:jen

ADDENDUM

9th Circuit Case Number(s) 12-16258

NOTE: To secure your input, you should print the filled-in form to PDF (File > Print > *PDF Printer/Creator*).

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CERTIFICATE OF SERVICE
When All Case Participants are Registered for the Appellate CM/ECF System

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 (date) April 28, 2014 .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format) /s/ Michael J. Udovic

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I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

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