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**UNITED STATE COURT OF APPEALS
NINTH CIRCUIT**

CHRISTOPHER BAKER,)
)
 Plaintiff,)
)
 vs.)
)
 LOUIS KEALOHA, as an individual and)
 in his official capacity;)
 CITY AND COUNTY OF HONOLULU;)
)
 Defendants.)
)
 _____)
)
 _____)

No. 12-16258
CASE NO. CV 11-00528
RESPONSE TO DEFENDANT'S
NOTICE OF SUPPLEMENTAL
AUTHORITY

Response to Defendant's Notice of Supplemental Authority

COMES NOW THE PLAINTIFF-APPELLANT, Christopher Baker, and submits
this Response to Defendants Notice of Supplemental Authority. Defendants

submitted as supplemental authority the 4th Circuit's recent opinion in *Woollard v. Gallagher*, No. 12-1437. As have all Circuit Court decisions it supports Mr. Baker's position. To demonstrate the overall constitutionality of Maryland's statutory regime the 4th Circuit cited exemptions for transporting "between personal residences and businesses". *Slip op.* at 7. In Hawaii it is a felony to transport a firearm to a friend's house or business as it is not one of the 6 enumerated locations for transport. *See* H.R.S §§ 134-23, 134-24, 134-25 (while not before this Court these laws individually fail any heightened scrutiny as they prohibit transporting a firearm to locations Defendants do not have an important interest in prohibiting transport to many non-enumerated places such as a friend's home). Maryland has written criteria to determine how to issue permits. *Slip Op* at 10. Hawaii gives complete discretion to the Chief and his decision is final. *See* ER 65; *Appellees' Answering Brief* at 36. In nearly two years of litigation Defendants have failed to produce evidence it has issued a single private permit. Clearly, Maryland does as Mr. Woodlard was issued a permit and simply failed to follow the defined guidelines required to renew it. It has admitted that a single government official is given complete discretion to make decisions without any appeal process. If for nothing else *Baker v. Kealoha* stands for the proposition government officials must be held to standards and be made accountable to adhere to them. Our history shows us the societal ills created when this does not occur.

Maryland holds its officials accountable and its system is transparent. It required Mr. Baker taking this matter to our Article III courts to finally shed any light on Hawaii's licensing scheme. Mr. Baker asks this Court to apply intermediate scrutiny just like the 4th Circuit because H.R.S § 134-9 completely fails even the most basic tenets of ordered liberty and under intermediate scrutiny easily fails constitutional muster.

Respectfully submitted this 29th day of March, 2013 San Diego, CA.

s/ Alan Beck

Alan Beck (HI Bar No. 9145)

CERTIFICATE OF SERVICE

On this, the 29th day of March, 2013, I served the foregoing pleading by electronically filing it with the Court's CM/ECF system, which generated a Notice of Filing and effects service upon counsel for all parties in the case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 29th day of March, 2013

s/ Alan Beck

Alan Beck (HI Bar No. 9145)