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December 12, 2012

Molly C. Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119
VIA E-FILING

**Re: Mehl v. Blanas, Case No. 08-15773
Amicus' Citation of Supplemental Authority
Pursuant to Rule 28(j)**

Dear Ms. Dwyer:

Amicus CRPA Foundation maintains that there are no sufficiently definite Second Amendment claims currently before this Panel that would allow it to confirm the justiciability of those claims or determine the proper analysis for their review. Should this Panel nevertheless reach the merits, Amicus alerts it to an instructive decision rendered yesterday in *Moore v. Madigan* and *Shepard v. Madigan*, Nos. 12-1269, -1788 (7th Cir.) (attached), holding unconstitutional Illinois' near-total ban on publicly carrying loaded firearms.

The Seventh Circuit concluded that "[t]o confine the right to be armed to the home is to divorce the Second Amendment from the right of self-defense described in *Heller* and *McDonald*." Op.8. It further found "[t]he Supreme Court

has decided that the amendment confers a right to bear arms for self-defense, which is as important outside the home as inside,” and that courts “are bound by the . . . historical analysis” that led the Court to that conclusion “because it was central to the Court’s holding in *Heller*.” Op.7, 20.

The Court also questioned the Second Circuit’s decision in *Kachalsky v. County of Westchester*, Nos. 11-3642, -3962, to uphold a scheme requiring applicants show a need for a carry license and disputed its “suggestion that the Second Amendment should have much greater scope inside the home than outside,” concluding that “the interest in self-protection is as great outside as inside the home.” Op.18.

The Court further rejected Illinois’ assertion its ban furthers public safety, explaining “[i]f the mere possibility that allowing guns to be carried in public would increase the crime or death rates sufficed to justify a ban, *Heller* would have been decided the other way.” Op.13. The Court’s “analysis [wa]s not based on degrees of scrutiny, but on Illinois’s failure to justify” its scheme. Op.14, 19.

If this Panel reaches the merits, it should likewise find that requiring law-abiding, competent adults to prove a need beyond self-defense to obtain the license required to publicly carry arms, whether a license to carry openly or concealed, as California provides for either (Penal Code section 26150(b)), violates the Second Amendment.

Date: December 12, 2012

Respectfully submitted,

/s/ C. D. Michel
C. D. Michel
Attorney for *Amicus Curiae*

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2012, an electronic PDF of Appellants Citation of Supplemental Authority Rule 28(j) letter was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

/s/ C. D. Michel
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