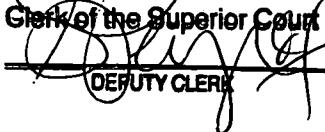


1 JOHN C. BEIERS, COUNTY COUNSEL (SBN 144282)
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5 Attorneys for Defendant
COUNTY OF SAN MATEO
6
7

FILED
SAN MATEO COUNTY

JUL 10 2012

Clerk of the Superior Court
By 
DEPUTY CLERK

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN MATEO**

10
11 CALGUNS FOUNDATION, INC., et al.,

12 Plaintiffs,

13 vs.

14 COUNTY OF SAN MATEO,

15 Defendant.
16

Case No. 509185

**DECLARATION OF DAVID SILBERMAN
IN COMPLIANCE WITH RULE 3.1312**

Hearing:

Date: July 2, 2012
Time: 9:00 a.m.
Dept: Law and Motion

17
18 I, DAVID A. SILBERMAN, declare:

19 1. I am an attorney duly licensed to practice before this Court and a Deputy County Counsel
20 for the County of San Mateo. I am an attorney of record for the San Mateo County defendants in the
21 civil action Calguns Foundation, Inc., et al. v. County of San Mateo, No. 509185. I make this declaration
22 of my own personal knowledge, except as to those matters that I indicate are based on information and
23 belief, and if called to testify to the matters set forth herein, I would and could competently do so.

24 2. I circulated a draft of the Order and the Judgment presented to Judge Swope, pursuant to
25 California Rule of Court 3.1312, to Plaintiff's counsel on July 2, 2012. Plaintiff requested a number of
26 changes, which have been incorporated.

27 3. However, one change has not been incorporated. Paragraph 1 reads:

28 The Court GRANTS Defendant County of San Mateo's request for the Court to

1 take judicial notice of: (a) Section 3.68.080 of the San Mateo County Ordinance
2 Code; (b) Santa Clara County Ordinance Section Sec. B14-31.1. - Firearms and
3 Weapons; (c) Los Angeles County Ordinance Code 17.04.620 Firearms and other
4 weapons; (d) Daly City Ordinance Code 12.36.050 - Prohibited Acts; and San
5 Mateo County Ordinance 415 (1934), each of which is attached to the County's
6 Request for Judicial Notice and filed on December 15, 2011;

7 As Plaintiff's counsel correctly observes, the Court did not rule on this request in the tentative. However,
8 I did not believe it would be appropriate to seek a hearing solely to ask for a ruling on a request for
9 judicial notice when the request was not opposed by Plaintiff and the material (legislative materials) is
10 clearly the proper subject of judicial notice (as Plaintiff observes). Nor do I prefer, as Plaintiff suggests
11 in his email (a true and correct version of which is attached hereto as Exhibit A), to renew the request
12 before the Court of Appeal or file a motion to amend. Both options would/will be an unnecessary waste
13 of Court and public resources.

14 I declare that the foregoing is true and correct of my own knowledge under penalty of perjury
15 under the law of the State of California, and that this declaration was executed on July 5, 2012 at
16 Redwood City, California.

17 
18 DAVID A. SILBERMAN



EXHIBIT

A



EXHIBIT

From: "Don Kilmer" <don@dclawoffice.com>
To: "David Silberman" <DSilberman@smcgov.org>
CC: "Christina Joy Kilmer" <christina@dclawoffice.com>
Date: 7/3/2012 12:20 PM
Subject: Calguns v. San Mateo

David: I have reviewed your proposed revisions of the order and judgment.

The caption of the case needs to conform to the April 16, 2012 order. According to that stipulation and order, the case is to be titled: The Calguns Foundation, Inc., and Gene Hoffman v. County of San Mateo. If you want to shorten it to Calguns Foundation, Inc., et al., v. County of San Mateo if have no objection.

I still cannot agree to any language regarding evidentiary rulings. (i.e., your request for judicial notice) This was a demurrer. The way to achieve what you want is to file a motion to amend or modify the order. And since, as I already stated, what you want retroactively admitted is judicially noticeable in the Court of Appeal anyway, I don't see the point.

My reasons for the objection is to have the written order conform exactly with the tentative ruling. After all, I waived my right to attend the hearing on the basis of reading that tentative ruling. I don't want extraneous material inserted after the fact.

Besides, the Court did not appear to rely upon your request for judicial notice in its ruling, that should be enough.

The rest of your proposed revisions are acceptable.

Donald E. J. Kilmer, Jr.

Attorney at Law (SBN: 179986)

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