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26 Brady Center to Prevent Gun Violence

27 UNITED STATES DISTRICT COURT
28 SOUTHERN DISTRICT OF CALIFORNIA

21 EDWARD PERUTA, MICHELLE LAXSON,
22 JAMES DODD, DR. LESLIE BUNCHEER,
23 MARK CLEARY, and CALIFORNIA RIFLE
24 AND PISTOL ASSOCIATION FOUNDATION,

25 Plaintiffs,

26 v.

27 COUNTY OF SAN DIEGO, WILLIAM D.
28 GORE, INDIVIDUALLY AND IN HIS
CAPACITY AS SHERIFF,

Defendants.

CASE NO: 09-CV-2371 IEG

**APPLICATION OF BRADY CENTER
TO PREVENT GUN VIOLENCE TO
FILE BRIEF AS *AMICUS CURIAE***

Courtroom: 1
Honorable Irma E. Gonzales

1 Through undersigned counsel, the Brady Center to Prevent Gun Violence applies to the
2 Court for leave to file a brief as *amicus curiae* in this case for the facts and reasons stated below.
3 The proposed brief is attached hereto as Exhibit A for the convenience of the Court and counsel.
4 Defendants consent to the filing of this *amicus* brief. Plaintiffs have indicated that they do not
5 consent to the filing of this *amicus* brief.

6 The Brady Center to Prevent Gun Violence is the nation's largest non-partisan, non-profit
7 organization dedicated to reducing gun violence through education, research, and legal advocacy.
8 Through its Legal Action Project, the Brady Center has filed numerous briefs *amicus curiae* in
9 cases involving both state and federal gun laws.

10 District courts have inherent power to grant third parties leave to file briefs as *amici*
11 *curiae*, particularly regarding "legal issues that have potential ramifications beyond the parties
12 directly involved or if the [*amicus* has] unique information or perspective that can help the court
13 beyond the help that the lawyers for the parties are able to provide." *NGV Gaming, Ltd. v.*
14 *Upstream Point Molate, LLC*, 335 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (internal quotations
15 omitted). Here, *amicus* brings a broad and deep perspective to the issues raised by this case and
16 has a compelling interest in the federal courts' interpretation of Second Amendment issues.
17 *Amicus* thus respectfully submits the attached brief to assist the Court with the constitutional
18 issues in this case, including important matters of first impression under the Second Amendment.

19 The proposed brief provides an overview of recent and longstanding Supreme Court
20 Second Amendment jurisprudence, the policy implications of recognizing a right to carry firearms
21 in public, and addresses an open question that has resulted from this jurisprudence—namely, what
22 the appropriate standard of review for Second Amendment claims should be, and shows how
23 lower courts have answered that question thus far. The brief also discusses the emerging trend in
24 lower courts towards using a two-pronged approach to Second Amendment claims that asks (1)
25 whether the law or regulation at issue implicates protected Second Amendment activity, and if so,
26 (2) whether it passes the appropriate standard of review. The brief then applies this two-pronged
27 approach to Second Amendment issues in the case at hand, employing case law, sociological data,
28

1 and legal commentary to place the permitting process of California Penal Code § 12050 in the
 2 larger context of Second Amendment issues. The brief concludes that (1) California's concealed
 3 weapons permitting process does not implicate protected Second Amendment because the
 4 Supreme Court has only recognized a Second Amendment right to possess and carry guns in the
 5 home, and (2) that even if the permitting process did implicate protected Second Amendment
 6 activity, it would survive the appropriate level of review – the reasonable regulation test that over
 7 forty states have adopted – because it is a valid exercise of the state's police powers to enact
 8 legislation designed to protect public safety. *Amicus*, therefore, respectfully submits the attached
 9 brief to assist the Court in deciding the complex and significant issues raised in this matter.

10 CONCLUSION

11 For the foregoing reasons, amicus *curiae* Brady Center to Prevent Gun Violence
 12 respectfully requests that the Court grant leave to file the attached *amicus* brief.

13 Dated: October 4, 2010

Respectfully submitted,

14 s/Neil O'Hanlon

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PROOF OF SERVICE

I, Marjorie Sener, declare: I am and was at the time of this service working in the County of Los Angeles, California. I am over the age of 18 years and not a party to the within action. My business address is Hogan Lovells US LLP, 1999 Avenue of the Stars, Suite 1400, Los Angeles, CA 90067.

On October 4, 2010, I served the following document:

**Application of Brady Center to Prevent Gun Violence
to File Brief as *Amicus Curiae***

Service was effectuated by electronically filing the documents via the CM/ECF system for the United States District Court for the Southern District of California in the above-identified case, and relying upon the ECF emailing to distribute service to all parties.

I declare that the foregoing is true and correct, and that this declaration was executed on October 4, 2010, in Los Angeles, California.

s/Marjorie Sener