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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JAN 29 2009

FILED _____
DOCKETED _____ DATE _____ INITIAL _____

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(RETIRED)

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SHIRI KLIMA
DIANA H. VARAT
KATRINA C. GONZALES

January 28, 2009

VIA FEDERAL EXPRESS

Molly C. Dwyer, Clerk
United States Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, California 94103

Re: *Nordyke, et al., v. King, et al.*,
(Case No. 07-15763)

Dear Ms. Dwyer:

On January 26, 2009, Appellants in the above-entitled case filed what appears to be a supplemental letter brief, dated January 20, 2009. Though Appellants fail to provide any authority for the supplemental letter brief, the format and request of the letter indicate it was filed pursuant to F.R.App.P. 28(j). There is no other federal rule of appellate procedure authorizing the post-oral argument filing of a document such as the document filed by Appellants on January 26, 2009.

Appellees object to this post-briefing letter because it far exceeds the 350-word limit set forth in Rule 28(j), and does not introduce any “pertinent or significant authorities” that came to Appellants’ attention after the January 15, 2009, oral argument in this matter, as required by that Rule.

Appellants’ letter cites no pertinent or significant authorities that were unavailable at oral argument. Appellants’ letter simply seeks to rebut arguments made by Appellees at the hearing, which Appellants have

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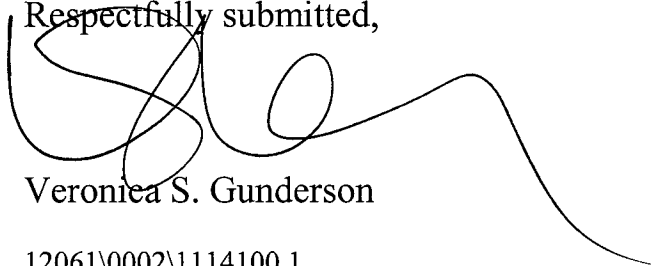
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since concluded they did not rebut adequately. Appellants' letter cites *only* to the Joint Statement of Undisputed Facts and the Penal Code, all available on the date of argument. Appellants do not even assert that the cited evidence and authorities were not available on January 15, 2009. Additionally, Appellants' letter attaches "exhibits," which are documents already in the Record, and which are not permitted by F.R.App.P. 28(j).

Accordingly, Appellees object to the letter and "exhibits" and request the Clerk and the Court disregard them in their entirety. If the Court chooses to consider Appellants' letter brief, Appellees request that the Court also consider the following: As the Record reflects, the letters of County Counsel Richard Winnie on which Appellants rely to argue that the exception in subsection (f)(4) of the Ordinance is not available to their event, were all written prior September 28, 1999, the date when subsection (f)(4) was adopted at second reading of the Ordinance. Joint Statement of Undisputed Facts, No. 6. Additionally, Appellants have submitted no written plan to the Fair Association to show how they would conduct a gun show consistent with the Ordinance, as adopted.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "V. Gunderson", with a long, sweeping horizontal line extending to the right.

Veronica S. Gunderson

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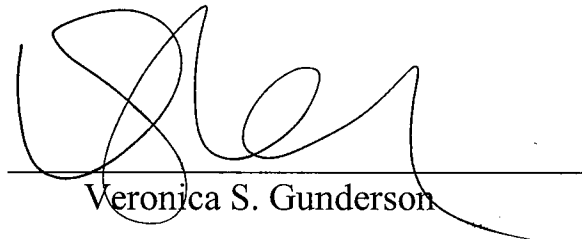
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CERTIFICATE OF COMPLIANCE

Appellees, pursuant to Federal Rules of Appellate Procedure, Rule 28(j) and Ninth Circuit Rule 28-6, submit this Certificate of Compliance. The 350-word limitation of Rule 28(j) has not been exceeded inasmuch as the body of the letter, excluding the address, salutation, header, and closing, contains 350 words.

Dated: January 28, 2009



Veronica S. Gunderson

PROOF OF SERVICE

I, Stella L. Wagner, declare that I am employed in the City of Los Angeles, County of Los Angeles, State of California. I am over the age of 18 years and not a party to this action; my business address is 355 South Grand Avenue, 40th Floor, Los Angeles, California 90071-3101.

On January 28, 2009, I served the following document:

**LETTER OBJECTING TO APPELLANTS'
POST-BRIEFING LETTER DATED JANUARY 20, 2009**

on the following interested parties in this action:

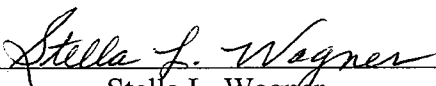
Donald J. Kilmer, Jr.
Law Offices of Donald Kilmer
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San Jose, California 95125

Don B. Kates, Esq.
Attorney at Law
22608 N.E. 269th Street
Battleground, Washington 98604

Richard E. Winnie
County Counsel
333 Hegenberger, Suite 400
Oakland, California 94621

By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice for collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in this affidavit.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on January 28, 2009, at Los Angeles, California.


Stella L. Wagner