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March 14, 2012

VIA E-FILE

Ms. Molly C. Dwyer, Clerk
United States Court of Appeals for the Ninth Circuit
Post Office Box 19339
San Francisco, California 94119-3939

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

Dear Ms. Dwyer:

This letter responds to three of the four Rule 28(j) letters filed by appellants on March 12, 2012 in *Nordyke v. King* (Docket No. 07-15763). The County of Alameda requests that this response be circulated to the *en banc* panel scheduled to hear argument on March 19, 2012.

The first letter (docket entry 246) notifies the Court of exceptions to California's recently-enacted prohibition on openly carrying unloaded handguns. Contrary to appellants' urging, these exceptions provide no basis for this Court to allow appellants to resurrect the state law preemption claim they lost in *Nordyke v. King*, 27 Cal.4th 875 (2002). The California Supreme Court squarely decided that a state law which "merely exempts gun shows from [a] state criminal prohibition" allows local government to treat those shows as exempt from the state prohibition, should it so choose. *Id.* at 884. "It does not *mandate* that local government entities" allow the shows. *Id.* at 884 (*italics original*). Also, the County's Ordinance does not prohibit all gun possession from gun shows. Subdivision (f)(4) of the Ordinance allows possession of unloaded firearms at events conducted on the Fairgrounds so long as the event is conducted in compliance with that subdivision.

The second and third letters (docket entries 248 and 249) call the Court's attention to two District Court decisions observing that the Second Amendment right to bear arms for self-defense is not limited to the home. Each case involved firearms possession for self-defense. Appellants admit firearms are not possessed at their gun shows for self-defense, but instead to make the commercial enterprise profitable. Also, neither

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case involves government-owned property. Thus, these cases do not bear upon the issues before the Court in this appeal.

Very truly yours,

s/ T. Peter Pierce
T. Peter Pierce


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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on March 14, 2012.

I hereby certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.



Clotilde Bigornia