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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

Ivan Peña, et al.,	)	Case No. 2:09-CV-01185-FCD-KJM
	)	
Plaintiffs,	)	PLAINTIFFS' SUPPLEMENTAL BRIEF
	)	RE: STAY OF ACTION
v.	)	
Wilfredo Cid,	)	Date: Oct. 2, 2009
	)	Time: 12:00 p.m.
Defendants.	)	Judge: Frank C. Damrell, Jr.
	)	

On September 28, 2009, this Court ordered the parties to submit supplemental briefs regarding why this action should not be stayed pending the Ninth Circuit's en banc decision in *Nordyke v. King*, No. 07-15763. The Ninth Circuit's action was predicated on the existence of various petitions for certiorari pending in the Supreme Court on the issue of Second Amendment incorporation. *Maloney v. Rice*, No. 08-1592, *National Rifle Ass'n of America, Inc., v. City of Chicago*, No. 08-1497 and *McDonald v. City of Chicago*, 08-1521.

On September 30, 2009, The Supreme Court of the United States granted certiorari in *McDonald v. City of Chicago*, 08-1521.

1 In light of these facts, the Court's proposed remedy of a stay is well taken. Plaintiffs  
2 hereby withdraw their Motion for Summary Judgment (set to be heard on October 30, 2009)  
3 and ask that it be taken off calendar. They reserve the right to re-file the motion after the  
4 incorporation issue is resolved. Defendants' Motion to continue the Summary Judgment  
5 hearing (set to be heard on October 16, 2009) under Fed.R.Civ.P. 56(f) is thus mooted.  
6

7 Plaintiffs hereby request that the Court enter the following orders:

- 8 1. This action, including all currently pending motions, are stayed.  
9  
10 2. Discovery by the parties may proceed, but any discovery motions that may arise and  
11 the deadlines for filing those motions, are extended until the stay is lifted.  
12 3. The Court, on its own motion, or either party may petition the Court to vacate the stay  
13 after the Second Amendment incorporation issue is resolved by the Ninth Circuit  
14 and/or the Supreme Court, which ever occurs first.  
15

16 Dated: October 1, 2009

Respectfully submitted,

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By: /s/Alan Gura/  
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