

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>**MEDIATION QUESTIONNAIRE**

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are *not* confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s): 12-57049

District Court/Agency Case Number(s): CV12-1458 JVS (JPRx)

District Court/Agency Location: United States District Court, Central District of California

Case Name: Dorothy McKay, et al. v. Sheriff Sandra Hutchens, et al.

If District Court, docket entry number(s)
of order(s) appealed from: 21

Name of party/parties submitting this form: All Plaintiffs/Appellants

Please briefly describe the dispute that gave rise to this lawsuit.

Sheriff Hutchens adheres to an official policy for the issuance of permits to carry a concealed firearm ("CCW") that requires CCW applicants to establish "good cause," defined by Sheriff Hutchens in the self-defense context as something beyond "general concerns about personal safety." Four of the individual plaintiffs have applied to Sheriff Hutchens to obtain a CCW, asserting a desire for general self-defense as their "good cause." Sheriff Hutchens denied their applications, citing each plaintiff's failure to meet the "good cause" requirement. The remaining individual plaintiffs and the organizational plaintiff's members have refrained from applying to Sheriff Hutchens for a CCW because they do not meet her "good cause" standard. Plaintiffs-Appellants contend Sheriff Hutchens' policy violates the Second Amendment right to bear arms for self-defense purposes and the Equal Protection clause of the Fourteenth Amendment. Sheriff Hutchens denies and disputes this contention.

Briefly describe the result below and the main issues on appeal.

The district court denied Plaintiffs' Motion for Preliminary Injunction in its entirety.

The main issues on appeal are: (1) Does Sheriff Hutchens' CCW policy, rejecting Plaintiffs-Appellants' general desire for self-defense as sufficient "good cause" for the issuance of a CCW, violate the Second Amendment to the United States Constitution? (2) Alternatively, does the "good cause" requirement of Penal Code section 26150(a)(2) violate the Second Amendment on its face? (3) Do the classifications created by Sheriff Hutchens' CCW issuance policy violate the Equal Protection clause of the Fourteenth Amendment to the United States Constitution? (4) Alternatively, does the "good cause" requirement of Penal Code section 26150(a)(2) violate the Equal Protection clause on its face?

(Please continue to next page)

Describe any proceedings remaining below or any related proceedings in other tribunals.

Plaintiffs are filing for interlocutory appeal following the district court's denial of Plaintiff's Motion for Preliminary Injunction, and the remainder of the case is pending before the United States District Court in the Central District of California. The parties are currently considering whether to jointly seek a stay of further proceedings in the district court pending the resolution of this appeal. Currently, there are no proceedings related to this matter in other tribunals.

Provide any other thoughts you would like to bring to the attention of the mediator.

This is a case of first impression in the Ninth Circuit, and it involves critical constitutional issues that, once clarified, will further inform the scope of the right to bear arms and possibly the analytical framework or standard of review for addressing Second Amendment claims. The parties agree it is not suitable for mediation.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

☒ a current service list with telephone and fax numbers and email addresses is attached (see 9th Circuit Rule 3-2).

☒ I understand that failure to provide the Court with a completed form and service list may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **File this document electronically** in Appellate ECF by choosing Forms/Notices/Disclosure > File a Mediation Questionnaire.

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

DOROTHY McKAY, DIANA
KILGORE, PHILLIP WILLMS,
FRED KOGEN, DAVID WEISS, and
THE CRPA FOUNDATION,

Plaintiffs,

v.

SHERIFF SANDRA HUTCHENS,
individually and in her official
capacity as Sheriff of Orange County,
California, ORANGE COUNTY
SHERIFF-CORONER
DEPARTMENT, and DOES 1-10,

Defendants.

CASE NO.: SACV 12-1458JVS (JPRx)

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 E. Ocean Blvd., Suite 200, Long Beach, California, 90802.

I am not a party to the above-entitled action. I have caused service of

MEDIATION QUESTIONNAIRE

on the following party by electronically filing the foregoing with the Clerk of the U. S. D.C. using its CM/ECF System, which electronically notifies them.

"SEE SERVICE LIST"

I declare under penalty of perjury that the foregoing is true and correct.
Executed on November 16, 2012.

/s/ C. D. Michel
C. D. Michel
Attorneys for Plaintiffs

SERVICE LIST

Dorothy McKay, et al. v. Sheriff Sandra Hutchens, et. al.
District Court No.: SACV 12-1458JVS (JPRx)
Appellate Court No. 12-57049

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Defendants-Appellees
Sheriff Sandra Hutchens, individually
and in her official capacity as Sheriff of
Orange County, California, and Orange
County Sheriff-Coroner Department