

1 ANDRÉ BIROTTE JR.
United States Attorney
2 LEON W. WEIDMAN
Assistant United States Attorney
3 Chief, Civil Division
DAVID A. DeJUTE
4 Assistant United States Attorney
California Bar No. 153527
5 Room 7516, Federal Building
300 North Los Angeles Street
6 Los Angeles, California 90012
Telephone: (213) 894-2443
7 Facsimile: (213) 894-7819
email: david.dejute@usdoj.gov

8 Attorneys for Federal Defendant
9

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14 EUGENE EVAN BAKER,)	NO. CV 10-3996 SVW (AJWx)
)	
15 Plaintiff,)	
)	
16 v.)	ANSWER
)	
17 ERIC H. HOLDER, JR.,)	
Attorney General of the)	
18 United States, <i>et al</i> ,)	
)	
19 Defendants.)	Hon. Stephen V. Wilson
_____)	

20
21
22
23 Federal Defendant Eric H. Holder, Jr., sued in his official
24 capacity as the Attorney General of the United States, hereby
25 answers Plaintiff's Complaint and admits, denies and avers as
26 follows:
27
28

PRELIMINARY STATEMENT

1
2 1. The allegations contained in paragraph 1 constitute
3 plaintiff's characterization of his case or conclusions of law to
4 which no response is required; to the extent that they may be
5 deemed allegations of fact, they are denied.

6 2. The allegations contained in paragraph 2 constitute
7 facts about which the Defendant lacks sufficient knowledge or
8 information to form a belief as to their truth and, on that
9 basis, are denied.

10 3. The allegations contained in paragraph 3 constitute
11 plaintiff's characterization of his case or conclusions of law to
12 which no response is required; to the extent that they may be
13 deemed allegations of fact, they are denied.

14 4. Defendant admits that the California Department of
15 Justice is a "Point of Contact" for the United States Department
16 of Justice. All other allegations contained in paragraph 4 are
17 denied.

18 5. The allegations contained in paragraph 5 are denied.

JURISDICTION AND VENUE

19
20 6. The allegations contained in paragraph 6 constitute
21 plaintiff's characterization of his case or conclusions of law to
22 which no response is required; to the extent that they may be
23 deemed allegations of fact, they are denied.

24 7. The allegations contained in paragraph 7 constitute
25 plaintiff's characterization of his case or conclusions of law to
26 which no response is required; to the extent that they may be
27 deemed allegations of fact, they are denied.

28 ///

1 8. The allegations contained in paragraph 8 constitute
2 plaintiff's characterization of his case or conclusions of law to
3 which no response is required; to the extent that they may be
4 deemed allegations of fact, they are denied.

5 **PARTIES**

6 9. The allegations contained in paragraph 9 constitute
7 facts about which the Defendant lacks sufficient knowledge or
8 information to form a belief as to their truth and, on that
9 basis, are denied.

10 10. Defendant admits that named defendant Eric H. Holder,
11 Jr. is the Attorney General of the United States. All other
12 allegations contained in paragraph 10 are denied.

13 11. Defendant admits that named defendant Kamala D. Harris
14 is the Attorney General of the State of California. All other
15 allegations contained in paragraph 11 are denied.

16 12. Defendant admits that the California Department of
17 Justice is a political subdivision of the State of California and
18 that the California Department of Justice is a "Point of Contact"
19 for the United States Department of Justice. All other
20 allegations contained in paragraph 12 are denied.

21 13. The allegations contained in paragraph 13 constitute
22 facts about which the Defendant lacks sufficient knowledge or
23 information to form a belief as to their truth and, on that
24 basis, are denied.

25 **FACTS APPLICABLE TO ALL CLAIMS**

26 14. The allegations contained in paragraph 14 constitute
27 facts about which the Defendant lacks sufficient knowledge or

28 ///

1 information to form a belief as to their truth and, on that
2 basis, are denied.

3 15. The allegations contained in paragraph 15 constitute
4 facts about which the Defendant lacks sufficient knowledge or
5 information to form a belief as to their truth and, on that
6 basis, are denied

7 16. The allegations contained in paragraph 16 constitute
8 facts about which the Defendant lacks sufficient knowledge or
9 information to form a belief as to their truth and, on that
10 basis, are denied

11 17. The allegations contained in paragraph 17 constitute
12 facts about which the Defendant lacks sufficient knowledge or
13 information to form a belief as to their truth and, on that
14 basis, are denied.

15 18. The allegations contained in paragraph 18 constitute
16 facts about which the Defendant lacks sufficient knowledge or
17 information to form a belief as to their truth and, on that
18 basis, are denied.

19 19. The allegations contained in paragraph 19 constitute
20 facts about which the Defendant lacks sufficient knowledge or
21 information to form a belief as to their truth and, on that
22 basis, are denied.

23 20. The allegations contained in paragraph 20 constitute
24 facts about which the Defendant lacks sufficient knowledge or
25 information to form a belief as to their truth and, on that
26 basis, are denied.

27 21. The allegations contained in paragraph 21 constitute
28 facts about which the Defendant lacks sufficient knowledge or

1 information to form a belief as to their truth and, on that
2 basis, are denied.

3 **RELEVANT CALIFORNIA PENAL STATUTES**

4 22. The allegations contained in the first sentence of
5 paragraph 18 constitute facts about which the Defendant lacks
6 sufficient knowledge or information to form a belief as to their
7 truth and, on that basis, are denied. The remaining allegations
8 constitute plaintiff's characterization of his case or
9 conclusions of law to which no response is required; to the
10 extent that they may be deemed allegations of fact, they are
11 denied.

12 23. The allegations contained in paragraph 23 constitute
13 plaintiff's characterization of his case or conclusions of law to
14 which no response is required; to the extent that they may be
15 deemed allegations of fact, they are denied.

16 24. The allegations contained in paragraph 24 constitute
17 plaintiff's characterization of his case or conclusions of law to
18 which no response is required; to the extent that they may be
19 deemed allegations of fact, they are denied.

20 25. The allegations contained in paragraph 25 constitute
21 plaintiff's characterization of his case or conclusions of law to
22 which no response is required; to the extent that they may be
23 deemed allegations of fact, they are denied.

24 **RELEVANT FEDERAL & STATE FIREARMS LAWS**

25 26. The allegations contained in paragraph 26 constitute
26 plaintiff's characterization of his case or conclusions of law to
27 which no response is required; to the extent that they may be
28 deemed allegations of fact, they are denied.

1 27. The allegations contained in paragraph 27 constitute
2 plaintiff's characterization of his case or conclusions of law to
3 which no response is required; to the extent that they may be
4 deemed allegations of fact, they are denied.

5 28. The allegations contained in paragraph 28 constitute
6 plaintiff's characterization of his case or conclusions of law to
7 which no response is required; to the extent that they may be
8 deemed allegations of fact, they are denied.

9 29. The allegations contained in paragraph 29 constitute
10 plaintiff's characterization of his case or conclusions of law to
11 which no response is required; to the extent that they may be
12 deemed allegations of fact, they are denied.

13 **FIRST CLAIM**

14 30. The allegations contained in paragraph 30 merely
15 incorporate by reference those matters alleged in paragraphs
16 numbered 1 through 29, to which Defendant incorporates by
17 reference all previous responses.

18 31. The allegations contained in paragraph 31 are denied.

19 32. The allegations contained in paragraph 32 are denied.

20 33. The allegations contained in paragraph 33 are denied.

21 34. The allegations contained in paragraph 34 are denied.

22 35. The allegations contained in paragraph 35 are denied.

23 **SECOND CLAIM**

24 36. The allegations contained in paragraph 36 merely
25 incorporate by reference those matters alleged in paragraphs
26 numbered 1 through 29, to which Defendant incorporates by
27 reference all previous responses.

28 ///

1 37. The allegations contained in paragraph 37 constitute
2 facts about which the Defendant lacks sufficient knowledge or
3 information to form a belief as to their truth and, on that
4 basis, are denied.

5 38. The allegations contained in paragraph 38 are denied.

6 39. The allegations contained in paragraph 39 are denied.

7 40. The allegations contained in paragraph 40 are denied.

8 41. The allegations contained in paragraph 41 are denied.

9 42. The allegations contained in paragraph 42 are denied.

10 43. The allegations contained in paragraph 43 are denied.

11 **PRAYER FOR RELIEF**

12 Defendant further denies that Plaintiff is entitled to the
13 relief set forth in the prayer immediately following paragraph 43
14 or to any relief whatsoever. Defendant further denies each and
15 every allegation not previously admitted.

16 **AFFIRMATIVE DEFENSES**

17 1. The Complaint, and each claim alleged, fails to set
18 forth facts sufficient to state a cause of action.

19 2. Plaintiff lacks standing to assert any claim on behalf
20 of unnamed third-party individuals.

21 3. Plaintiff has failed to set forth facts sufficient to
22 assert a claim under the Second Amendment.

23 4. Plaintiff has failed to set forth facts sufficient to
24 assert a claim under the Equal Protection Clause.

25 5. 18 U.S.C. § 922(g)(9) is presumptively lawful; or, in
26 the alternative, passes constitutional muster under intermediate
27 scrutiny.

28 ///

1 WHEREFORE, the Federal Defendant prays for judgment as set
2 forth below:

3 (1) That Plaintiff's Complaint and each claim contained
4 therein be dismissed with prejudice;

5 (2) That Plaintiff take nothing by his Complaint;

6 (3) That Defendant be awarded the costs incurred herein;
7 and,

8 (4) That the Court order such other and further relief for
9 Defendant as the Court may deem just and proper.

10 DATED: December 13, 2012

ANDRÉ BIROTTE JR.
United States Attorney
LEON W. WEIDMAN
Assistant United States Attorney
Chief, Civil Division

13 /s/ David A. DeJute
14 David A. DeJute
15 Assistant United States Attorney
Attorneys for the Federal Defendant
16
17
18
19
20
21
22
23
24
25
26
27
28