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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10 EUGENE EVAN BAKER,

11 Plaintiff,

12 vs.

13 ERIC H. HOLDER, JR., in his official
14 capacity as ATTORNEY GENERAL
OF THE UNITED STATES;
15 KAMALA D. HARRIS, in her capacity
as ATTORNEY GENERAL FOR THE
16 STATE OF CALIFORNIA; THE
STATE OF CALIFORNIA
17 DEPARTMENT OF JUSTICE; and
DOES 1 through 100, Inclusive,

18
19 Defendants.

CASE NO. CV 10-3996-SVW(AJWx)

**STIPULATION BY ALL PARTIES
RE 30 DAY EXTENSION TO FILE
SIMULTANEOUS OPENING AND
RESPONDING BRIEFS AND
RESETTING OF HEARING;
DECLARATION OF C.D. MICHEL
IN SUPPORT**

20 **I. INTRODUCTION**

21 To the Honorable Court:

22 The Stipulating parties, identified below, through their attorneys of record,
23 enter into, and request that the Court approve, this Stipulation by All Parties re 30
24 Day Extension to File the Simultaneous Opening and Responding Briefs and
25 Resetting of Hearing (this “Stipulation”) by entering the accompanying Order
26 Approving the Stipulation of All Parties re 30 Day Extension to File the
27 Simultaneous Opening and Responding Briefs and Resetting of Hearing (the
28 “Order”).

1 **II. PARTIES**

2 The term “Stipulating Parties” means:

- 3 1. Plaintiff Eugene Baker;
- 4 2. Defendant Eric H. Holder, Jr., in his official capacity as Attorney
5 General of the United States;
- 6 3. Defendant Kamala D. Harris, in her capacity as Attorney General for
7 the State of California; and
- 8 4. Defendant The State of California Department of Justice.

9 **III. RECITALS**

10 The Stipulating Parties enter into this Stipulation based on the following
11 facts:

- 12 1. A status conference was held on October 15, 2012 at 1:30 p.m.
13 Tamara Rider appeared on behalf of Plaintiff Eugene Baker and
14 counsel David A. DeJute appeared on behalf of Defendant Eric H.
15 Holder, Jr. Plaintiff’s First Amended Complaint was discussed and
16 Plaintiff informed the Court that Defendant Kamala Harris and the
17 State of California Department of Justice were added as Defendants.
- 18 2. At the status conference Plaintiff was ordered to effectuate service of
19 the First Amended Complaint within twenty days of the hearing.
20 Additionally this Court determined it would be prudent to resolve
21 several issues which relate to Plaintiff’s First Amended Complaint,
22 including, but not limited to, the effect of recent Second Amendment
23 jurisprudence which declared that the right to keep and bear arms as a
24 fundamental right, the effect of the federal law which provides a
25 lifetime ban against firearm possession to those convicted of a
26 misdemeanor crime of domestic violence, and the effect of having
27 California’s 10-year ban against firearm possession as a result of such
28 conviction removed after having the conviction set aside under

California Penal Code section 1204.3.

3. Accordingly, the following briefing schedule was entered by the Court:

- a. Plaintiff and Defendant Eric H. Holder, Jr. were ordered to file simultaneous Opening Briefs no later than December 6, 2012
- b. Plaintiff and Defendant Eric H. Holder, Jr., were ordered to file simultaneous Responding Briefs by December 17, 2012
- c. A hearing was scheduled to proceed on January 7, 2013 at 1:30 p.m.

4. Plaintiff has effectuated service on all Defendants.

5. Due to the extensive workload of Plaintiff's counsel, it will not be feasible for Plaintiff to adequately prepare and file its Opening Brief by December 6, 2012 and Responding Brief by December 17, 2012. (Declaration of C.D. Michel, at ¶ 4.) The current workload for Plaintiff's counsel includes, but is not limited to:

- a. Filing of Appellants' Opening Brief and Excerpts of Record in *Dorothy McKay, et al. v. Sheriff Hutchens, et al.*, Case No. 12-57049.
- b. Preparation for oral argument in the U.S. Ninth Circuit Court of Appeals to be held on December 6, 2012 in *Edward Peruta, et al. v. County of San Diego, et al.*, Case No. 10-56971.
- c. Preparation for oral argument in the U.S. Ninth Circuit Court of Appeals in *David Mehl, et al. v. Lou Blanas, et al.*, Case No. 08-15773.

(Michel Decl., at ¶ 4.)

6. A request for extension of time has not been requested by any party in

1 this action to date.

- 2 5. All Defendants' counsel were contacted on November 28, 2012
3 regarding such extension, and none of the Defendants objected to such
4 stipulation.

5 **IV. AGREEMENT**

6 The Stipulating Parties, therefore, agree that:

- 7 1. The parties' simultaneous Opening Briefs are due on January 7, 2013.
8 2. The parties' simultaneous Responding Briefs are due on January 16,
9 2013.
10 3. The hearing shall proceed on February 6, 2013 at 1:30 p.m., or at such
11 future date and time ordered by this Court.
12 4. This Stipulation may be signed in counterparts. Any signature on this
13 Stipulation via facsimile or email shall be deemed as original.

14 **V. SIGNATURES**

15 All other signatories listed, and on whose behalf the filing is submitted,
16 concur in the filing's content and have authorized the filing.

17
18 Dated: November 30, 2012

MICHEL & ASSOCIATES, P.C.

19
20 /s/ C.D. Michel
C.D. Michel
21 E-mail: cmichel@michellawyers.com
Attorneys for Plaintiff
22 Eugene Evan Baker

23 Dated: November 30, 2012

24
25 /s/Anthony R. Hakl
26 Anthony R. Hakl
E-mail: Anthony.Hakl@doj.ca.gov
27 Attorneys for Defendants California
Attorney General Kamala D. Harris and
28 California Department of Justice

1 Dated: November 30, 2012
2

3 /s/ David A. DeJute
4 David A. DeJute
5 Email: David.Dejute@usdoj.gov
6 Attorneys for Defendant Eric H.
7 Holder, Jr.
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Declaration of C.D. Michel

I, C.D. Michel, declare as follows:

1. I am an attorney for Plaintiff in *Eugene Baker v. Eric H. Holder, Jr., et al.*, Case No. 2:10-cv-03996. I have personal knowledge of each fact stated in this declaration.

2. This Court issued a scheduling order requiring Plaintiff and Defendant Eric H. Holder, Jr. to file simultaneous Opening Briefs no later than December 6, 2012, to file simultaneous Responding Briefs by December 17, 2012, and to have a hearing on such briefs on January 7, 2013.

3. Some of the issues which are to be addressed in such briefs are the effect of recent Second Amendment jurisprudence which declared that the right to keep and bear arms as a fundamental right, the effect of the federal law which provides a lifetime ban against firearm possession to those convicted of a misdemeanor crime of domestic violence, and the effect of having California's 10-year ban against firearm possession as a result of such conviction removed after having the conviction set aside under California Penal Code section 1204.3.

4. My associate and I are in the process of drafting the Opening Brief for this Court. Due to our extensive workloads, however, it will not be feasible for Plaintiff to adequately prepare and file his Opening Brief by December 6, 2012 and Responding Brief by December 17, 2012. Our current workloads include, but are not limited to:

- a. Preparing Appellants Opening Brief and Excerpts of Record in *Dorothy McKay, et al. v. Sheriff Hutchens, et al.*, Case No. 12-57049 that is being finalized for filing the same date this declaration is being made, but which has occupied the vast majority of our time for the preceding two weeks or so.
- b. Preparation for oral argument before the Ninth Circuit Court of Appeals to be held on December 6, 2012 (the same day

1 Plaintiffs' brief here would be due) in *Edward Peruta, et al. v.*
2 *County of San Diego, et al.*, Case No. 10-56971, attendance at
3 the oral argument, and participating in a moot court the day
4 before on December 5, 2012, which will require my traveling
5 from Long Beach, California to San Francisco, California on or
6 before that same day.

7 c. Preparation for oral argument before the Ninth Circuit Court of
8 Appeals to be held on December 10, 2012 in *David Mehl, et al.*
9 *v. Lou Blanas, et al.*, Case No.08-15773, attendance at the oral
10 argument, and participating in a moot court in the days
11 preceding the oral argument.

12 5. Plaintiff has not previously requested for extension of time in this
13 matter.

14 6. All counsel for Defendants were contacted on November 28, 2012
15 regarding such extension, and none of the Defendants objected to such stipulation.

16 I declare under the penalty of perjury under the laws of the United States that
17 the foregoing is true and correct. If called to testify, I would testify to the above
18 facts.

19 Executed this 30th day of November, 2012, at Long Beach, California

20
21 Dated: November 30, 2012

22
23 /s/C.D. Michel
C.D. Michel, declarant
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PROOF OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, C.D. Michel, 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:

**STIPULATION BY ALL PARTIES RE 30 DAY EXTENSION TO FILE
SIMULTANEOUS OPENING AND RESPONDING BRIEFS AND
RESETTING OF HEARING; DECLARATION OF C.D. MICHEL
IN SUPPORT**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

David A DeJute
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Anthony R Hakl , III
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Office of the Attorney General
1300 I Street, 16th Floor
Sacramento, CA 95814
anthony.hakl@doj.ca.gov

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 30, 2012.

/s/C.D. Michel