

REQUEST FOR JUDICIAL NOTICE

Defendant City of Redondo Beach (City) requests that the Court take judicial
notice of the October 24, 2012 ruling ("Demurrer Denied") of the Superior Court of
the State of California, County of Los Angeles, Southwest Judicial District, in Case
No. 2SY05163, captioned "People of the State of California v. Charles Nichols". A
true and correct certified copy of the ruling is attached hereto as Exhibit A.
Declaration of T. Peter Pierce at ¶ 2.

9 Federal courts may "take notice of proceedings in other courts, both within
10 and without the federal judicial system, if those proceedings have a direct relation to
11 the matters at issue." U.S. ex rel Robinson Rancheria Citizens Council v. Borneo,
12 Inc., 971 F.2d 244, 248 (9th Cir. 1992); see also Fed. R. Evid. 201. The attached
13 ruling from a proceeding before the California Superior Court is "directly related" to
14 this case because it reveals the defenses plaintiff has raised in state court.

Dated: May 7, 2013

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RICHARDS, WATSON & GERSHON A Professional Corporation T. PETER PIERCE LISA BOND

By:

T. PETER PIÈRCE Attorneys for Defendant CITY OF REDONDO BEACH

REQUEST FOR JUDICIAL NOTICE BY DEFENDANT CITY OF REDONDO BEACH R6900-1031\1569711v1 doc

DECLARATION OF T. PETER PIERCE

I, T. Peter Pierce, declare:

I am attorney licensed to practice before this Court and all courts of the
 State of California. I am a member of the law firm of Richards, Watson & Gershon,
 counsel of record for defendant City of Redondo Beach and I am one of the attorneys
 in that firm primarily responsible for representing the City in this case. I have
 personal knowledge of the matter set forth below.

8 2. Attached here as Exhibit "A" is a true and correct certified copy of a ruling
9 I obtained from the files of the Superior Court of the State of California, for the
10 County of Los Angeles, on May 6, 2013.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 7, 2013

IRW RICHARDS | WATSON | GERSHON

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EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFRONIA

FOR THE COUNTY OF LOS ANGELES

LOS ANGELES SUPERIOR COURT

OCT 2 4 2012

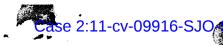
Case No. 2SY05163

DEMURRER DENIED

PEOPLE OF THE STATE OF CALIFORNIA,)
Plaintiff,)
v.)
)
CHARLES NICHOLS,)
Defendant)
)

The City of Redondo Beach ordinance that prohibits a person from carrying a **firearm** "in or into" a Redondo Beach "city park" (R.B.M.C. 4-35.20) is unambiguous and the filed criminal complaint clearly gives defendant Charles Nichols adequate notice of the public offense charged, and that he must defend. The complaint complies with California Penal Code sections 950 and 952. Defendant definitely knows what a firearm is (he staged this event and video-taped himself carrying a shotgun, including his citation by police officers) and he should know what a City of Redondo Beach park is (he selected Veterans Park at the City of Redondo Beach pier and boardwalk for his news-file presentation.). The Motion for Demurrer denied.

Defendant has not met his burden of demonstrating that California general law has preempted the entire field of firearms regulation. "A conflict exists if the local legislation duplicates, contradicts, or enters an area occupied by general law, either expressly or by legislative implication." <u>Great Western Shows, Inc. v. County of Los</u>



Angeles. Local legislation is duplicative of general law when it is coextensive therewith; is contradictory when it is inimical to it; local law enters the area that is fully occupied when the legislature has expressly shown intent to fully occupy the area or has impliedly done so. Since there is no bar to prosecution based on preemption the Motion for Demurrer is denied.

Even though the Second Amendment protects the general right to carry a gun in public, the United States Supreme Court has not recognized that right as stated therein, holding instead--even recently--that the "rightsecured by the Second Amendment is not unlimited." District of Columbia v. Heller (2008) 554 U.S. 570 The Heller court emphasized that "nothing in [its'] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings," Id. at 627 (emphasis added).

Because the prohibition of carrying a firearm "in or into" a Redondo Beach City park is not a substantial burden on defendant's right to bear arms to defend his hearth, home or self, there is no Second Amendment violation. If there ever was a "sensitive place" that the City of Redondo Beach is permitted to regulate the carrying of firearms--it is its' city parks. Given the uniqueness of the City of Redondo Beach as beach community immediately west of Cities such as Los Angeles, Compton and Carson, its' parks on the Pacific Ocean shoreline draw visitors not just these cities but every county, city and neighborhood inland. There is no Second Amendment violation and the Demurrer is denied.

LUD COMPLETE

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October 24, 2012

JOHN A. CLARKE, CLERK SUPERIOR COURT. TORRANCE JUDICIAL DISTRICT TY OF LOS ANGELES, STATE OF CALIFORNIA richelle DEPLITY

THIS IS A TRUE, CORRECT,

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NIOR CO udge David Sotelo

	1	PROOF OF SERVICE
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	3	I, Clotilde Bigornia, declare:
		I am a resident of the state of California and over the age of eighteen years and not a party to the within action. My business address is 355 South Grand Avenue, 40th Floor, Los Angeles, California 90071-3101. On May 7, 2013, I served the within document(s) described as:
	6 7 8 9	REQUEST FOR JUDICIAL NOTICE BY DEFENDANT CITY OF REDONDO BEACH IN SUPPORT OF MOTION TO DISMISS SECOND AND THIRD CLAIMS IN THE SECOND AMENDED COMPLAINT; DECLARATION OF T. PETER PIERCE IN SUPPORT on the interested parties in this action as stated below:
RICHARDS WATSON GERSHON	10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Charles Nichols P.O. Box 1302 Redondo Beach, CA 90278 Tel: (424) 634-7381 Jonathan Michael Eisenberg Office of the California Attorney General Government Law Section 300 South Spring Street, Suite 1702 Los Angeles, CA 90013 Tel: (213) 897-1071 Email: ionathan.eisenbere@doi.ca.gov [X] (BY MAIL) By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth above. I am readily familiar with the firm's practice for collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in this affidavit. I certify that I am employed in the office of a member of the bar of this Court at whose direction the service was made. Executed on May 7, 2013, at Los Angeles, California. I declare under penalty of perjury that the foregoing is true and correct.