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United States District Court
Central District of California

11 Charles Nichols,

12 PLAINTIFF,

13 vs.

14 KAMALA D. HARRIS, Attorney

15 General, in her official capacity as

16 Attorney General of California, CITY

17 OF REDONDO BEACH, CITY OF

18 REDONDO BEACH POLICE CHIEF

19 JOSEPH LEONARDI, OFFICER

20 TODD HEYWOOD and DOES 1 to 10,

21 Defendants.
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Case No.:

CV-11-9916 SJO (SS)

NOTICE OF RELATED CASE

[Local Rule 83-1.3(b)]

Date: N/A

Time: N/A

Courtroom: 23 – 3rd Flr.

Judge: Hon. Suzanne H. Segal

Trial Date: Not Set

Action Filed: Nov. 30, 2011

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD

In accordance with Local Rule Local Rule 83-1.3(b) Plaintiff Charles Nichols, pro se, reluctantly files this instant Notice of Related Case. The following case calls for a determination of substantially identical questions of law. Plaintiff does not want for the two cases to be related but believes he is required by Local Rule 83-1.3(b) to file this instant notice.

Dorothy McKay et al v. Sheriff Sandra Hutchens et al., United States District Court Central District of California Case No. 8:2012cv01458. Hereinafter referred to as McKay.

It has just come to Plaintiff's attention that on December 10, 2012 a NOTICE OF POTENTIAL CLAIM OF UNCONSTITUTIONALITY was filed by the Plaintiff's in McKay [docket #35] stating in part:

"Plaintiffs-Appellants Dorothy McKay, Diana Kilgore, Phillip Willms, Fred Kogen, David Weiss, and the CRPA Foundation (hereinafter "Plaintiffs"), by and through their counsel of record, hereby provide notice that the above-entitled action may potentially draw into question the constitutionality of **California Penal Code section 26150(a)(2).**"

Plaintiff Charles Nichols, pro se, challenges the constitutionality of a substantially identical state statute in its entirety – California Penal Code section 26155. Plaintiffs in both cases have been denied a handgun carry license.

**THESE CASES SHOULD NOT BE RELATED FOR THE FOLLOWING
REASONS**

- 1
2 1. Although both PC 26150 & PC 26155 are substantially identical and
3 applications received by a county sheriff (PC 26150) or a police chief
4 (PC 26155) are sent to the Attorney General for approval before a license
5 can be issued; a municipal police chief is not a state official and therefore
6 cannot stand in stead of the Attorney General when the constitutionality
7 of a state statute is at issue.
- 8 2. McKay "potentially" calls into question a single clause of PC 26150.
9 Plaintiff Nichols unequivocally challenges the constitutionality of the
10 entire similar state statute – PC 26155.
- 11 3. The California Rifle and Pistol Association (CRPA) is the state
12 organization of the National Rifle Association (NRA). The CRPA has
13 argued these past two and a half years in District Court Edward Peruta, et
14 al v. County of San Diego, et al Case Number: 3:2009cv02371 and in the
15 Court of Appeals for the same case (Case Number: 10-56971 argued and
16 submitted December 6, 2012) to uphold California's 1967 ban on openly
17 carrying a loaded firearm in public (former section PC 12031, now
18 substantially PC 25850). Plaintiff Nichols, pro se, unlike the CRPA (a
19 named Plaintiff in both Peruta and McKay) does challenge the
20 constitutionality of PC 25850 (formerly PC 12031).
- 21 4. Although the CRPA, as an Amicus, filed a Citation of Supplemental
22 Authority Pursuant to Rule 28(j) in Mehl v. Blanas, Case No. 08-15773
23 (9th Circuit Court of Appeals, argued and submitted December 10, 2012)
24 citing Moore v. Madigan and Shepard v. Madigan, Nos. 12-1269, -1788
25 (7th Cir.) stating that PC 26150(b) provides for the issuance of licenses to
26 carry openly or concealed; the CRPA neglected to mention the
27 population and residency restrictions of PC 26150 for licenses to openly
28 carry a loaded handgun (restrictions identical to PC 26155). Nor did the

1 CRPA note that PC 26150 (and PC 26155) applies only to concealable
2 firearms and not long guns.


3 5. Plaintiff's case and McKay are otherwise unrelated pursuant to 83-1.3(a),
4 (c) and (d).

5 6. On December 20, 2012 presiding Judge James V. Selna issued a stay
6 [docket #37] in the district court proceedings pending the 9th Circuit
7 ruling on the appeal of McKay's Preliminary Motion.

8 7. Most importantly, McKay seeks to make permits to carry loaded
9 handguns **concealed** "shall-issue" whereas Plaintiff Nichols, pro se, seeks
10 to **openly carry** loaded firearms with the very narrow exception of
11 optionally carrying a concealed, loaded handgun as a traveler, while on a
12 journey. McKay's is a Concealed Carry case. Plaintiff Nichols case is,
13 has always been, and will always be an Open Carry case. McKay's case
14 may, at a later time, morph into an Open Carry case but until then it
15 would be premature to consider combining these two cases. Combining
16 these two cases would NOT be in the interests of judicial economy.
17 Therefore Plaintiff Nichols, pro se, respectfully requests that this court
18 simply take notice of a "potentially" related case.

19 Dated: December 22, 2012

20 Respectfully submitted,

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22 
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **NOTICE OF RELATED CASE [Local Rule 83-1.3(b)]** was served via United States Mail, postage prepaid, on this 23, day of December, 2012; on the following:

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Charles Nichols
Plaintiff, In Pro Per