
IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Charles Nichols,

Plaintiff-Appellant

v.

Edmund Brown, Jr., in his official capacity as the Governor of California
and
Kamala Harris in her official capacity as the Attorney General of California

Defendants-Appellees.

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
[DC 2:11-cv-09916-SJO-SS]

PLAINTIFF-APPELLANT NICHOLS'
EXCERPTS OF RECORD
VOLUME 2

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TABLE OF CONTENTS

| | <u>Page:</u> |
|---|---------------------|
| 05/27/2014 [Dkt. No. 168] Notice of Appeal..... | 148 |
| 11/08/2013 [Dkt. No. 136] Statement of Uncontroverted Facts..... | 164 |
| 11/08/2013 [Dkt. No. 133] Declaration of Charles Nichols..... | 205 |
| 08/05/2013 [Dkt. No. 125] Voluntary Dismissal of City Defendants..... | 211 |
| 04/10/2013 [Dkt. No. 87] Declaration of Charles Nichols..... | 212 |
| 03/29/2013 [Dkt. No. 83] Second Amended Complaint..... | 216 |
| 07/16/2012 [Dkt. No. 66] AG Opinion No. 68-175 1968 October 3, 1968..... | 257 |
| 05/07/2012 [Dkt. No. 45] District Court Judge Order Denying Hearing..... | 262 |
| 04/17/2012 [Dkt. No. 42] Plaintiff Nichols' MPA..... | 263 |
| 03/12/2012 [Dkt. No. 37] Declaration of Charles Nichols..... | 267 |
| 03/12/2012 [Dkt. No. 36] Plaintiff Nichols' MPA..... | 270 |
| 03/08/2012 [Dkt. No. 34-1] Defendant Governor Brown's MPA..... | 271 |
| 02/08/2012 [Dkt. No. 21] Declaration of Charles Nichols..... | 272 |
| 02/02/2012 [Dkt. No. 16] Declination to Proceed Before Magistrate Judge..... | 275 |
| 01/19/2012 [Dkt. No. 11] Order Denying Application to Submit Document Under Seal..... | 276 |
| 01/17/2012 [Dkt. No. 10] Application to Submit Document Under Seal..... | 277 |
| 08/30/2016 Docket Sheet..... | 280 |

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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

BY 

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United States District Court
Central District of California

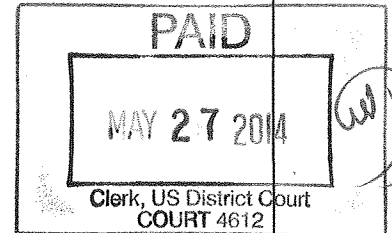
CHARLES NICHOLS,
Plaintiff,
v.

Case No.: CV-11-9916 SJO (SS)
NOTICE OF APPEAL

EDMUND G. BROWN JR., in his
official capacity as Governor of
California, KAMALA D. HARRIS, in
her official capacity as Attorney
General of California

Defendants

NOTICE OF APPEAL



NOTICE IS HEREBY GIVEN that Plaintiff Charles Nichols, pro se plaintiff
in the above named case, hereby appeals to the United States Court of Appeals for
the Ninth Circuit from the order and judgment denying plaintiff's motion for
partial summary judgment and granting Defendant Kamala D. Harris' motion for
judgment on the pleadings entered in this action on May 1, 2014 (Dkt. Nos. 166,
167) and all interlocutory orders including, but not limited to, those that gave rise

1 to the district court's judgment including, but not limited to, the order dismissing
2 with prejudice Defendant Edmund G. Brown Jr. in his official capacity as
3 Governor of California and dismissing with prejudice Plaintiff Nichols' claims
4 under the California Constitution and state law (Dkt. No. 46).

5
6 Dkt. No. 166 is attached as "Exhibit A." Dkt. No. 167 is attached as "Exhibit B."
7 and Dkt. No. 46 is attached as "Exhibit C."

8
9 Pursuant to CIRCUIT RULE 3-2(a) no FRAP 12(b) Representation
10 Statement is required.

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21
22 Dated: May 27, 2014

Respectfully submitted,

23
24 

25 By: Charles Nichols
26 PLAINTIFF in Pro Per
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///

EXHIBIT A
Case No.: CV-11-9916 SJO (SS)

ER150

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 CHARLES NICHOLS,

12 Plaintiff,

13 v.

14 KAMALA D. HARRIS, in her
15 official capacity as Attorney
General of California,

16 Defendant.
17
18

Case No. CV 11-9916 SJO (SS)

ORDER ACCEPTING FINDINGS,

CONCLUSIONS AND

RECOMMENDATIONS OF

UNITED STATES MAGISTRATE JUDGE

19 Pursuant to 28 U.S.C. § 636, the Court has reviewed the
20 Second Amended Complaint, all the records and files herein, the
21 Report and Recommendation of the United States Magistrate Judge,
22 Plaintiff's Objections, and Defendant's Response to Plaintiff's
23 Objections. After having made a de novo determination of the
24 portions of the Report and Recommendation to which Objections
25 were directed, the Court concurs with and accepts the findings
26 and conclusions of the Magistrate Judge. In addition, the Court
27 will address certain arguments raised by Plaintiff in his
28 Objections.

1 Plaintiff asserts that the Ninth Circuit's recent decision
2 in Peruta v. County of San Diego, 742 F.3d 1144 (9th Cir. 2014),
3 has been "stayed" and is neither binding on this Court nor
4 relevant to his claims. (Obj. at 8). Plaintiff is mistaken.

5
6 On February 28, 2014, the Ninth Circuit stayed the issuance
7 of the mandate in Peruta pending briefing and a decision on a
8 motion for rehearing en banc. See Peruta v. County of San Diego,
9 9th Cir. Case No. 10-56971 (Dkt. No. 126, entered Feb. 28, 2014)
10 (order extending time for filing petition for rehearing en banc
11 and staying mandate). However, entry of the mandate is merely a
12 "ministerial act," White v. Klitzkie, 281 F.3d 920, 924 n.4 (9th
13 Cir. 2002), that "formally marks the end of appellate
14 jurisdiction." Northern California Power Agency v. Nuclear
15 Regulatory Com'n, 393 F.3d 223, 224 (D.C. Cir. 2004) (internal
16 quotation marks omitted). A panel decision of the Ninth Circuit
17 is binding on lower courts as soon as it is published, even
18 before the mandate issues, and remains binding authority until
19 the decision is withdrawn or reversed by the Supreme Court or an
20 en banc court. See, e.g., Gonzalez v. Arizona, 677 F.3d 383, 389
21 n.4 (9th Cir. 2012) (en banc) ("[A] published decision of this
22 court constitutes binding authority which 'must be followed
23 unless and until overruled by a body competent to do so.'")
24 (quoting Hart v. Massanari, 266 F.3d 1155, 1170 (9th Cir. 2001));
25 United States v. Gomez-Lopez, 62 F.3d 304, 306 (9th Cir. 1995)
26 ("The government first urges us to ignore Armstrong since we have
27 stayed the mandate to allow filing of a petition for certiorari;
28 this we will not do, as Armstrong is the law of this circuit.");

1 Castillo v. Clark, 610 F. Supp. 2d 1084, 1122 n.17 (C.D. Cal.
2 2009) ("Although the Ninth Circuit has granted a stay of the
3 mandate in Butler, the panel decision remains the law of the
4 Circuit."). Indeed, three weeks after the stay in Peruta issued,
5 the Ninth Circuit vacated a district court decision in another
6 matter and remanded the case "for further proceedings consistent
7 with Peruta." See Baker v. Kealoha, __ Fed. Appx. __, 2014 WL
8 1087765 at *1 (9th Cir. Mar. 20, 2014). As of the date of this
9 Order, Peruta remains binding precedent on this Court.

10
11 Plaintiff further appears to misinterpret the import of the
12 Peruta court's clarification in footnote 19 that it was not
13 "ruling on the constitutionality of California statutes." (Obj.
14 at 2) (quoting Peruta, 742 F.3d at 1173 n.19). This footnote is
15 part of the discussion in which the Ninth Circuit explained that
16 because the Second Amendment does not protect any particular mode
17 of carry, a claim that a state must permit a specific form of
18 carry, such as open carry, fails as a matter of law. See id. at
19 1172-73 ("As the California legislature has limited its
20 permitting scheme to concealed carry -- and has thus expressed a
21 preference for that manner of arms-bearing -- a narrow challenge
22 to the San Diego County regulations on concealed carry, rather
23 than a broad challenge to the state-wide ban on open carry, is
24 permissible."). Accordingly, Peruta did not rule on the overall

1
2 constitutionality of California statutes because it accepted the
3 lawfulness of California's firearms regime, including the state's
4 preference for concealed carry over open carry. Id. at 1172.

5
6 Plaintiff suggests that the Ninth Circuit's recent decision
7 in Jackson v. City and County of San Francisco, __ F.3d __, 2014
8 WL 1193434 (9th Cir. Mar. 25, 2014), is helpful to his case as he
9 opens his Objections with a lengthy quotation from that decision.
10 (See Obj. at 1-2) (quoting Jackson, 2014 WL 1193434 at *4-5).
11 However, Plaintiff does not explain why the passages he quotes
12 support his claims. The Jackson court found that two San
13 Francisco Police Code regulations that prohibit the unsecured
14 storage of handguns in residences and the sale of "hollow point"
15 ammunition passed constitutional muster. Id. at *1. In the
16 passages quoted by Plaintiff, the court determined that the
17 plaintiff could bring a facial challenge to section 4512, which
18 requires that handguns in residences be stored in a locked
19 container, disabled with an approved trigger lock, or carried on
20 the person over the age of 18, despite the Jackson plaintiff's
21 concession that locked storage is appropriate in some
22 circumstances. Id. at *5. Again, as Plaintiff has failed to
23 articulate in his Objections why he believes Jackson changes the
24 outcome here, the Objections do not alter the Court's ultimate
25 resolution of Plaintiff's claims.

26 \\

27 \\

28

1 Finally, Plaintiff asserts that he does in fact have
2 standing to assert an equal protection challenge to California
3 Penal Code Section 25850 due to its allegedly racist origin and
4 application because contrary to the criminal complaint on which
5 the Magistrate Judge relied, he is not white but of "mixed race"
6 heritage. (Obj. at 16). Plaintiff's equal protection claim
7 still fails, however, because as the Magistrate Judge observed,
8 Plaintiff did not squarely raise a race-based challenge to
9 Section 25850 against the Attorney General. (Report and
10 Recommendation at 26-27).

11
12 To state an equal protection claim under section 1983, a
13 plaintiff typically must allege that "'defendants acted with an
14 intent or purpose to discriminate against the plaintiff based
15 upon membership in a protected class.'" Furnace v. Sullivan, 705
16 F.3d 1021, 1030 (9th Cir. 2013) (quoting Barren v. Harrington,
17 152 F.3d 1193, 1194 (9th Cir. 1998) (emphasis added)). Even
18 liberally construed, the Second Amended Complaint fails to make
19 any connection between Plaintiff's race and the allegedly racist
20 design motivating the passage of the facially race-neutral
21 predecessor to Section 25850. Indeed, the record in this case,
22 including Plaintiff's Second Amended Complaint and Plaintiff's
23 Motion for Partial Summary Judgment, is devoid of any allegation
24 that Plaintiff is a member of a racial minority whose members
25 were the intended target of the legislature's alleged racial
26 animus in enacting the predecessor to Section 25850. Despite
27 three opportunities to state his claims, Plaintiff simply did not
28 raise a race-based Fourteenth Amendment claim in this action.

1 Assertion of a new claim on summary judgment is improper.
2 Coleman v. Quaker Oats Co., 232 F.3d 1271, 1294 (9th Cir. 2000).
3 Accordingly, even if Plaintiff is of "mixed race" heritage, he
4 may not raise new claims at this late stage of the litigation.

5
6 **IT IS ORDERED** that Plaintiff's Motion for Partial Summary
7 Judgment is DENIED.

8
9 **IT IS FURTHER ORDERED** that Defendant's Motion for Judgment
10 on the Pleadings is GRANTED and that Judgment be entered in favor
11 of Defendant Kamala D. Harris.

12
13 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

14
15 DATED: May 1, 2014.

S. James Otero

16 S. JAMES OTERO
17 UNITED STATES DISTRICT JUDGE
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EXHIBIT B

Case No.: CV-11-9916 SJO (SS)

ER157

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 CHARLES NICHOLS,

12 Plaintiff,

13 v.

14 KAMALA D. HARRIS, in her
15 official capacity as Attorney
General of California,

16 Defendant.
17

Case No. CV 11-9916 SJO (SS)

JUDGMENT

18 Pursuant to the Court's Order Accepting Findings,
19 Conclusions and Recommendations of United States Magistrate
20 Judge,
21

22 IT IS HEREBY ADJUDGED that the above-captioned action is
23 dismissed with prejudice.
24

25 DATED: May 1, 2014.

S. James Otero
26 S. JAMES OTERO
27 UNITED STATES DISTRICT JUDGE
28

EXHIBIT C
Case No.: CV-11-9916 SJO (SS)
ER159

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 CHARLES NICHOLS,) NO. CV 11-09916 SJO (SS)
12)
12 Plaintiff,)
13)
13 v.) ORDER ACCEPTING FINDINGS,
14) CONCLUSIONS AND RECOMMENDATIONS
14 EDMUND G. BROWN, in his official) OF UNITED STATES MAGISTRATE JUDGE
15 capacity as Governor of)
15 California, et al.,)
16)
16 Defendants.)
17

18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint
19 in the above-captioned matter, Plaintiff's Motion for Review of
20 Magistrate Judge's Report and Recommendation, which the Court construes
21 as Objections, Plaintiff's Notice of Errata, the Response of Defendants
22 Gov. Edmund G. Brown, Jr. and Atty. Gen. Kamala D. Harris to Plaintiff's
23 Objections, all the records and files herein, and the Report and
24 Recommendation of the United States Magistrate Judge. After having made
25 a de novo determination of the portions of the Report and Recommendation
26 to which Objections were directed, the Court accepts and adopts the
27 findings, conclusions and recommendations of the Magistrate Judge,
28 excluding the citation to Oklevueha Native American Church of Hawai'i,

1 Inc. v. Holder, 719 F. Supp. 2d 1217 (D. Hawaii 2010) on page 15, lines
2 15-23.

3
4 Accordingly, IT IS ORDERED THAT:

5
6 1. Plaintiff's claims against Attorney General Kamala D. Harris
7 are DISMISSED WITH LEAVE TO AMEND for lack of subject matter
8 jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1).

9
10 2. Plaintiff's claims against Governor Edmund G. Brown, Jr. are
11 DISMISSED WITH PREJUDICE for lack of subject matter jurisdiction
12 pursuant to Rule 12(b)(1) and the Eleventh Amendment.

13
14 3. Plaintiff's claims against the City of Redondo Beach and City
15 of Redondo Beach Police Chief Leonardi are DISMISSED WITH LEAVE TO AMEND
16 for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) and
17 for failure to state a claim pursuant to Rule 12(b)(6).

18
19 4. Plaintiff's claims against City of Redondo Beach Police
20 Department are DISMISSED WITH PREJUDICE for lack of subject matter
21 jurisdiction pursuant to Rule 12(b)(1) and for failure to state a claim
22 pursuant to Rule 12(b)(6).

23
24 5. Plaintiff's Seventh Claim for Relief alleging a violation of
25 state constitutional law is DISMISSED WITH PREJUDICE pursuant to the
26 Eleventh Amendment.

1 6. If Plaintiff desires to proceed with his claims against
2 Attorney General Harris, City of Redondo Beach, and Police Chief
3 Leonardi, Plaintiff shall file a First Amended Complaint within thirty
4 (30) days of the date of this Order.

5
6 The Clerk shall serve copies of this Order by United States mail on
7 Plaintiff and on counsel for Defendants.

8
9 DATED: May 7, 2012.

S. James Otero

10
11 S. JAMES OTERO
12 UNITED STATES DISTRICT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of plaintiff's **NOTICE OF APPEAL** was served via United States Mail, postage prepaid, on this 27, day of May, 2014 on the following:

Jonathan Michael Eisenberg
Office of the California Attorney General
Government Law Section
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
213-897-6505
213-897-5775 (fax)
jonathan.eisenberg@doj.ca.gov
Assigned: 01/30/2012
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Representing Kamala D Harris (Defendant) and Edmund G Brown, Jr (Defendant)

Executed this the 27th Day of May, 2014 in Los Angeles County by:



Charles Nichols
Plaintiff, In Pro Per
Case No. CV-11-9916 SJO (SS)

I. STATEMENT OF UNCONTROVERTED FACTS

| <u>Undisputed Fact</u> | <u>Support for Undisputed Fact</u> |
|--|---|
| <p>1. California law bans the Open Carry of loaded firearms in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.</p> <p>In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on the person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.</p> <p>There is no enumerated exemption within this statute.</p> | <p>1. Cal. Penal Code § 25850.</p> <p>Exhibit A - Brief Of Respondent California Attorney General Kamala D. Harris – Nichols v. Brown 9th Circuit Court of Appeals No. 13-56203 – Appellate Dkt #13. pg 3.</p> <p>Dkt., #96 pg 1, lines 22-23.</p> |
| <p>2. California law bans the Open Carry of unloaded handguns in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited</p> | <p>2. Cal. Penal Code § 26350.</p> <p>Exhibit B - Brief Of Respondent California Attorney General Kamala D. Harris – Nichols v. Brown 9th Circuit Court of Appeals No. 13-56203 –</p> |

1 area of unincorporated territory. There
 2 is no enumerated exemption within this
 3 statute. A violation of subparagraph
 4 (A) of paragraph (1) of
 5 subdivision (a) is punishable by
 6 imprisonment in a county jail not
 7 exceeding one year, or by a fine not to
 8 exceed one thousand dollars (\$1,000),
 9 or by both that fine and imprisonment,
 10 if both of the following conditions
 11 exist:

12 (A) The handgun and unexpended
 13 ammunition capable of being
 14 discharged from that handgun are in
 15 the immediate possession of that
 16 person.

17 (B) The person is not in lawful
 18 possession of that handgun.
 19 Otherwise, a violation of this
 20 section is a misdemeanor.

Appellate Dkt #13. pg 5.

Dkt., #96 pg 1, lines 22-23.

21 3. California law bans the Open Carry
 22 of unloaded firearms, other than
 23 handguns, in any public place or on
 24 any public street in an incorporated city
 25 outside a vehicle while in the
 26 incorporated city or city and county. A
 27 violation is punishable by
 28 imprisonment in a county jail not

3. Cal. Penal Code § 26400.

Exhibit B - Brief Of Respondent
 California Attorney General Kamala D.
 Harris – Nichols v. Brown 9th Circuit
 Court of Appeals No. 13-56203 –
 Appellate Dkt #13. pg 5.

1 exceeding one year, or by a fine not to
 2 exceed one thousand dollars (\$1,000),
 3 or by both that fine and imprisonment,
 4 if the firearm and unexpended
 5 ammunition capable of being
 6 discharged from that firearm are in the
 7 immediate possession of the person
 8 and the person is not in lawful
 9 possession of that firearm. Otherwise,
 10 a violation of this section is a
 11 misdemeanor. There is no enumerated
 12 exemption within this statute.

13 4. California law bans the carrying of
 14 concealed firearms. There is no
 15 enumerated exemption within this
 16 statute.

17 5. California law theoretically
 18 provides for the entirely discretionary
 19 issuance of a license to carry loaded
 20 and exposed in only that county a
 21 pistol, revolver, or other firearm
 22 capable of being concealed upon the
 23 person where the population of the
 24 county is less than 200,000 persons
 25 according to the most recent federal
 26 decennial census.

27 6. California law theoretically
 28 provides for the entirely discretionary

4. Cal. Penal Code § 25400.

5. Cal. Penal Code § 26150 through
 26225, inclusive.

6. Cal. Penal Code § 26150 through
 26225, inclusive.

1 issuance of a license to carry a pistol,
 2 revolver, or other firearm capable of
 3 being concealed upon the person,
 4 loaded or unloaded. A person must be
 5 a resident of the city, city and county,
 6 or county unless the applicant's
 7 principal place of employment or
 8 business is in the county or a city
 9 within the county and the applicant
 10 spends a substantial period of time in
 11 that place of employment or business.

12 7. Absent permission, California law
 13 generally prohibits the possession of
 14 firearms within 1,000 feet of a K-12
 15 public or private school or on the
 16 grounds of a college or university.

7. Cal. Penal Code § 626.9

17 8. Absent permission, California law
 18 generally prohibits the possession of
 19 firearms within the State Capitol or
 20 grounds of the Governor's mansion.

8. Cal. Penal Code § 171c, 171d.

21 9. California law generally prohibits
 22 the possession of firearms within the
 23 sterile area of an airport or a passenger
 24 vessel terminal.

9. Cal. Penal Code § 171.5

25 10. Absent permission, California law
 26 generally prohibits the possession of
 27 firearms within any state or local
 28 public building or at any meeting

10. Cal. Penal Code § 171b.

1 required to be open to the public
 2 pursuant to Chapter 9 (commencing
 3 with Section 54950) of Part 1 of
 4 Division 2 of Title 5 of, or Article 9
 5 (commencing with Section 11120) of
 6 Chapter 1 of Part 1 of Division 3 of
 7 Title 2 of, the Government Code. This
 8 includes court houses and persons
 9 otherwise exempt if they are a party to
 10 an action pending before the court.

11 11. A firearm shall be deemed loaded
 12 for the purposes of Sections 171c and
 13 171d whenever both the firearm and
 14 unexpended ammunition capable of
 15 being discharged from such firearm are
 16 in the immediate possession of the
 17 same person.

18 12. California law generally prohibits
 19 the possession of firearms within the
 20 sterile area of a public transit facility.

21 13. An act or omission that is
 22 punishable in different ways by
 23 different provisions of law shall be
 24 punished under the provision that
 25 provides for the longest potential term
 26 of imprisonment, but in no case shall
 27 the act or omission be punished under
 28 more than one provision. An acquittal

11. Cal. Penal Code § 171e.

12. Cal. Penal Code § 171.7

13. Cal. Penal Code § 654

| | | |
|----|--|-----------------------------|
| 1 | or conviction and sentence under any | |
| 2 | one bars a prosecution for the same act | |
| 3 | or omission under any other. | |
| 4 | 14. California law generally prohibits | 14. Cal. Penal Code § 24510 |
| 5 | the possession of firearms not | |
| 6 | immediately recognizable as a firearm. | |
| 7 | 15. California law generally prohibits | 15. Cal. Penal Code § 24610 |
| 8 | the possession of any undetectable | |
| 9 | firearm. | |
| 10 | 16. A license to Carry A Pistol, | 16. Cal. Penal Code § 26195 |
| 11 | Revolver, or Other Firearm Capable of | |
| 12 | Being Concealed Upon the Person | |
| 13 | shall not be issued if the Department of | |
| 14 | Justice determines that the person is | |
| 15 | prohibited by state or federal law from | |
| 16 | possessing, receiving, owning, or | |
| 17 | purchasing a firearm. | |
| 18 | 17. A license to carry loaded and | 17. Cal. Penal Code § 26210 |
| 19 | exposed a pistol, revolver, or other | |
| 20 | firearm capable of being concealed | |
| 21 | upon the person is revoked | |
| 22 | immediately upon a change of the | |
| 23 | licensee's place of residence to another | |
| 24 | county. | |
| 25 | 18. California Penal Code section | 18. Cal. Penal Code § 26405 |
| 26 | 26400 does not apply to, or affect, the | |
| 27 | carrying of an unloaded firearm that is | |
| 28 | not a handgun when the firearm is | |

1 either in a locked container or encased
 2 and it is being transported directly
 3 between places where a person is not
 4 prohibited from possessing that firearm
 5 and the course of travel shall include
 6 only those deviations between
 7 authorized locations as are reasonably
 8 necessary under the circumstances.

9 19. A minor shall not possess a pistol,
 10 revolver, or other firearm capable of
 11 being concealed upon the person.

19. Cal. Penal Code § 29610

12 20. The Attorney General maintains an
 13 online database known as the
 14 Prohibited Armed Persons File. The
 15 purpose of the file is to cross-reference
 16 persons who have ownership or
 17 possession of a firearm on or after
 18 January 1, 1991, as indicated by a
 19 record in the Consolidated Firearms
 20 Information System, and who,
 21 subsequent to the date of that
 22 ownership or possession of a firearm,
 23 fall within a class of persons who are
 24 prohibited from owning or possessing a
 25 firearm.

20. Cal. Penal Code § 30000

26 21. California law generally prohibits
 27 the possession of "assault weapons"
 28 and .50 BMG rifles.

21. Cal. Penal Code § 30605

| | | |
|----|--|-------------------------------------|
| 1 | 22. California law generally prohibits | 22. Cal. Penal Code § 32625 |
| 2 | the possession of machineguns. | |
| 3 | 23. California prohibits prisoners from | 23. Cal. Penal Code § 4502 |
| 4 | possessing firearms. | |
| 5 | 24. The California Attorney General's | 24. Exhibit C. |
| 6 | Department of Justice publication titled | |
| 7 | "FIREARMS PROHIBITING | |
| 8 | CATEGORIES" lists many categories | |
| 9 | of persons prohibited from possessing | |
| 10 | a firearm under state and Federal law | |
| 11 | including convicted felons and many | |
| 12 | categories of misdemeanor convictions. | |
| 13 | 25. California law generally prohibits | 25. Cal. Penal Code § 25300 |
| 14 | possession of a firearm when the | |
| 15 | person carries a firearm in a public | |
| 16 | place or on any public street while | |
| 17 | masked so as to hide the person's | |
| 18 | identity. | |
| 19 | 26. California Penal Code section | 26. Cal. Penal Code § 25640 & 25610 |
| 20 | 25400 does not apply to, or affect, | |
| 21 | licensed hunters or fishermen carrying | |
| 22 | pistols, revolvers, or other firearms | |
| 23 | capable of being concealed upon the | |
| 24 | person while engaged in hunting or | |
| 25 | fishing, or transporting those firearms | |
| 26 | unloaded when going to or returning | |
| 27 | from the hunting or fishing expedition. | |
| 28 | However, the firearm must be within a | |

1 motor vehicle and locked in the
 2 vehicle's trunk or in a locked container
 3 in the vehicle or the firearm is carried
 4 by the person directly to or from any
 5 motor vehicle for any lawful purpose
 6 and, while carrying the firearm, the
 7 firearm is contained within a locked
 8 container.

9 27. California Penal Code section
 10 26350 does not apply to, or affect, the
 11 open carrying of an unloaded handgun
 12 by a licensed hunter while engaged in
 13 hunting or while transporting that
 14 handgun when going to or returning
 15 from that hunting expedition.

27. Cal. Penal Code § 26366

16 28. According to California Penal
 17 Code section 26040, nothing in
 18 California Penal Code section 25850
 19 shall prevent any person from carrying
 20 a loaded firearm in an area within an
 21 incorporated city while engaged in
 22 hunting, provided that the hunting at
 23 that place and time is not prohibited by
 24 the city council. PC 26040 does not
 25 require that one be a licensed hunter.

28. Cal. Penal Code § 26040

26 29. Nothing in California Penal Code
 27 section 25850 shall prevent any person
 28 from storing aboard any vessel or

29. Cal. Penal Code § 26060

1 aircraft any loaded or unloaded rocket,
 2 rocket propelled projectile launcher, or
 3 similar device designed primarily for
 4 emergency or distress signaling
 5 purposes, or from possessing that type
 6 of a device while in a permitted
 7 hunting area or traveling to or from a
 8 permitted hunting area and carrying a
 9 valid California permit or license to
 10 hunt.

11 30. The text of California Penal Code
 12 sections 25850, 26350, 26400, 26150,
 13 26165, 26155, 26160, 26175, 26180,
 14 26185, 26190, 26200, 26202, 26205,
 15 26210, 26215, 26220, 17030, were
 16 filed in this case.

17 31. The first page of California Senate
 18 Bill 1080 "Deadly Weapons
 19 Recodification Act of 2010" states "SB
 20 1080, Committee on Public Safety.
 21 Deadly weapons. Existing law
 22 generally regulates deadly weapons.
 23 This bill would reorganize without
 24 substantive change the provisions of
 25 the Penal Code relating to deadly
 26 weapons, to be operative January 1,
 27 2012.

28 32. A judicial decision determining the

30. Dkt #88, Exhibits 1-18.

31. Dkt #88, Exhibit 19-1

32. Cal. Penal Code § 16025(a)

1 constitutionality of a previously
 2 existing provision is relevant in
 3 determining the constitutionality of any
 4 provision of this part, of Title 2
 5 (commencing with Section 12001) of
 6 Part 4, or any other provision of the
 7 Deadly Weapons Recodification Act of
 8 2010, which restates and continues that
 9 previously existing provision.

10 33. In enacting the Deadly Weapons
 11 Recodification Act of 2010, the
 12 Legislature has not evaluated the
 13 constitutionality of any provision
 14 affected by the act, or the correctness
 15 of any judicial decision determining
 16 the constitutionality of any provision
 17 affected by the act.

33. Cal. Penal Code § 16025(b)

18 34. The Deadly Weapons
 19 Recodification Act of 2010 is not
 20 intended to, and does not, reflect any
 21 determination of the constitutionality
 22 of any provision affected by the act.

34. Cal. Penal Code § 16025(c)

23 35. Every person who carries a loaded
 24 or unloaded firearm on his or her
 25 person, or in a vehicle, during the
 26 commission or attempted commission
 27 of any street gang crimes described in
 28 subdivision (a) or (b) of Section 86.22,

35. Cal. Penal Code § 12021.5(a)

1 shall, upon conviction of the felony or
 2 attempted felony, be punished by an
 3 additional term of imprisonment in the
 4 state prison for one, two, or three years
 5 in the court's discretion. The court shall
 6 impose the middle term unless there
 7 are circumstances in aggravation or
 8 mitigation. The court shall state the
 9 reasons for its enhancement choice on
 10 the record at the time of sentence.

11 36. Every person who carries a loaded
 12 or unloaded firearm together
 13 with a detachable shotgun magazine, a
 14 detachable pistol magazine, a
 15 detachable magazine, or a belt-feeding
 16 device on his or her person, or in a
 17 vehicle, during the commission or
 18 attempted commission of any street
 19 gang crimes described in subdivision
 20 (a) or (b) of Section 186.22, shall, upon
 21 conviction of the felony or attempted
 22 felony, be punished by an additional
 23 term of imprisonment in the state
 24 prison for two, three, or four years in
 25 the court's discretion. The court
 26 shall impose the middle term unless
 27 there are circumstances in aggravation
 28 or mitigation. The court shall state the

36. Cal. Penal Code § 12021.5(b)

1 reasons for its enhancement choice on
2 the record at the time of sentence.

3 37. Unless it is with the written
4 permission of the school district
5 superintendent, the superintendent's
6 designee, or equivalent school
7 authority, no person shall carry
8 ammunition or reloaded ammunition
9 onto school grounds, except sworn law
10 enforcement officers acting within the
11 scope of their duties or persons
12 exempted under Section 25450.

37. Cal. Penal Code § 30310(a).

13 38. California Assembly Bill 144
14 (Effective date 1/1/2012) is filed in this
15 case.

38. Dkt #88 – Exhibit 20

16 39. California Assembly Bill 1527
17 (Effective date 1/1/2013) is filed in this
18 case.

39. Dkt #88 – Exhibit 21

19 40. California Attorney General's
20 Opinions Volume 51 – 1968 pgs 197-
21 201 is filed in this case.

40. Dkt #88 – Exhibit 25

22 41. Excerpts from the California State
23 Archives legislative file of Assembly
24 Bill 1591 ("The Mulford Act of 1967")
25 are filed in this case.

41. Dkt #88 – Exhibits 26-1 through
26-76.

26 42. California Penal Code section
27 25850(a) was formerly codified as PC
28 12031(a)(1).

42. Cal. Penal Code § 25850(a)
Former Cal. Penal Code §
12031(a)(1)

| | | |
|----|--|--|
| 1 | 43. California Penal Code section | 43. Cal. Penal Code § 25850(b) |
| 2 | 25850(b) was formerly codified as PC | Former Cal. Penal Code § |
| 3 | 12031(e). | 12031(e) |
| 4 | 44. California Penal Code section | 44. Cal. Penal Code § 25850(c)(6) |
| 5 | 25850(c)(6) was formerly codified as | Former Cal. Penal Code § |
| 6 | PC 12031 (a)(2)(F). | (a)(2)(F) |
| 7 | 45. In 2011, 80.8 percent of homicide | 45. Exhibit D – Homicide in |
| 8 | victims were male, 19.2 percent were | California 2011 - Attorney General – |
| 9 | female. | Department of Justice Publication – pg |
| 10 | | 1 and Table 5 on pg 10. |
| 11 | 46. In 2011, over half (54.5 percent) of | 46. Exhibit D – Homicide in |
| 12 | white victims were aged “40 and over.” | California 2011 - Attorney General – |
| 13 | | Department of Justice Publication – pg |
| 14 | | 1 and Table 9 on pg 12. |
| 15 | 47. In 2011, of the homicides where | 47. Exhibit D – Homicide in |
| 16 | location was reported, 35.3 percent | California 2011 - Attorney General – |
| 17 | occurred on the street or sidewalk; 24.1 | Department of Justice Publication – pg |
| 18 | percent in the victim’s residence, and | 1 and Table 19 on pg 25. |
| 19 | 13.5 percent in a residence other than | |
| 20 | the victim’s. | |
| 21 | 48. In 2011, the largest proportion of | 48. Exhibit D – Homicide in |
| 22 | male victims (40.4 percent) were killed | California 2011 - Attorney General – |
| 23 | on the street or sidewalk. | Department of Justice Publication – pg |
| 24 | | 1 and Table 19 on pg 25. |
| 25 | 49. From 2002 to 2011, the | 49. Exhibit D – Homicide in |
| 26 | overwhelming majority of homicide | California 2011 - Attorney General – |
| 27 | arrestees and victims were male. | Department of Justice Publication – pg |
| 28 | | 2. |

50. In 2011, there were 136 justifiable homicides reported. Of these, 101 were committed by a peace officer and 35 were committed by a private citizen.

50. Exhibit D – Homicide in California 2011 - Attorney General – Department of Justice Publication – pg 2 and Table 39 on pg 43.

51. Prior to January 1, 2000, existing law generally provided that carrying a concealed or loaded firearm was punishable as a misdemeanor and, under certain circumstances, a felony. However, the Legislature determined that carrying a concealed or loaded firearm without being listed with the Department of Justice (DOJ) as the registered owner of the firearm is a serious crime and should be treated as such. Assembly Bill (AB) 491 (Scott, 1999) amended both Penal Code (PC) sections 12025 (carrying a concealed firearm) and 12031 (carrying a loaded firearm) to increase the number of circumstances when an offense could be charged. The following additional circumstances may be charged as either felonies or misdemeanors:

■ When a person has both a firearm and unexpended ammunition in their immediate possession and that person is not listed with the DOJ as the

51. Exhibit E – Concealable Firearms Charges in California 2000-2003 - Attorney General – Department of Justice Publication – Introduction - pg 1.

1 registered owner of the firearm (former
2 Penal Code section 12025).

3 ■ When a person carries a loaded
4 firearm on his/her person or in a
5 vehicle on any public street and that
6 person is not listed with the DOJ as the
7 registered owner of the firearm (former
8 Penal Code section 12031).

9 52. AB 491 also amended PC sections
10 12025 and 12031 to require district
11 attorneys to report specified
12 information to the Attorney General
13 about individuals charged with
14 carrying a concealed or loaded firearm.
15 This information includes the gender,
16 race/ethnic group, and age of any
17 person charged with a felony or
18 misdemeanor under either PC sections
19 12025 or 12031 and any other offense
20 charged in the same complaint or
21 indictment. In addition, the Attorney
22 General is required to compile these
23 data and submit an annual report to the
24 Legislature. In response to AB 491, the
25 DOJ developed the Concealable
26 Weapons Statistical System to meet the
27 new data collection and reporting
28 requirements.

52. Exhibit E – Concealable Firearms
Charges in California 2000-2003 -
Attorney General – Department of
Justice Publication – Introduction - pg
1.

1 Data collection and reporting began in
 2 2000 after all district attorneys were
 3 notified by the DOJ of the reporting
 4 requirement.¹ District attorneys submit
 5 data in either electronic format, via the
 6 Legal Net, or in manual format.

7 53. Prior to January 1, 2000, existing
 8 law generally provided that carrying a
 9 loaded firearm was punishable as a
 10 misdemeanor and, under certain
 11 circumstances, a felony. In 1999, PC
 12 section 12031 was amended to increase
 13 the number of circumstances when an
 14 offense could be charged. The
 15 following additional circumstance
 16 may be charged as either a felony or a
 17 misdemeanor:

18 ■ When a person carries a loaded
 19 firearm on his/her person or in a
 20 vehicle on any public street and that
 21 person is not listed with the DOJ as the
 22 registered owner of the firearm.

23 Comparing 2000 to 2003:

24 ■ The proportion of total charges for
 25 PC section 12031 resulting in felony-
 26 level filings increased 6.4 percentage
 27 points (from 55.1 percent to 61.5
 28 percent); misdemeanor-level filings

53. Exhibit E – Concealable Firearms
 Charges in California 2003 - Attorney
 General – Department of Justice
 Publication – pg 14.

| | | |
|----|--|---------------------------------------|
| 1 | decreased identically. | |
| 2 | 54. The proportion of total charges for | 54. Exhibit E – Concealable Firearms |
| 3 | PC section 12031 resulting in | Charges in California 2003 - Attorney |
| 4 | felony-level filings increased each | General – Department of Justice |
| 5 | year since 2000. | Publication – pg 14. |
| 6 | 55. Comparing 2000 to 2003: | 55. Exhibit E – Concealable Firearms |
| 7 | ■ The proportion of males charged | Charges in California 2003 - Attorney |
| 8 | with PC section 12031 resulting in | General – Department of Justice |
| 9 | felony-level filings increased 6.7 | Publication – pg 15. |
| 10 | percentage points (from 55.6 percent to | |
| 11 | 62.3 percent); misdemeanor-level | |
| 12 | filings for males decreased identically. | |
| 13 | ■ The proportion of females charged | |
| 14 | with PC section 12031 resulting in | |
| 15 | felony-level filings decreased 2.5 | |
| 16 | percentage points (from 45.7 percent to | |
| 17 | 43.2 percent); misdemeanor-level | |
| 18 | filings for females increased | |
| 19 | identically. | |
| 20 | 56. From 2000 through 2003, the vast | 56. Exhibit E – Concealable Firearms |
| 21 | majority of persons charged with | Charges in California 2003 - Attorney |
| 22 | PC section 12031 were male, and | General – Department of Justice |
| 23 | males were proportionately more | Publication – pg 15. |
| 24 | likely to be filed on at the felony | |
| 25 | level than females. | |
| 26 | 57. When charged with PC section | 57. Exhibit E – Concealable Firearms |
| 27 | 12031, blacks were proportionately | Charges in California 2003 - Attorney |
| 28 | most likely to be filed on at the felony | General – Department of Justice |

| | | |
|--|---|--|
| 1 2 3 4 | level, followed by Hispanics, other race/ethnic groups, and whites. This pattern exists throughout the period shown. | Publication – pg 16. |
| 5 6 7 8 9 10 | 58. In 2003: Whites accounted for 488 of the 1,973 arrests for violation of PC 12031, 190 of the 1,213 felony arrests for violation of PC 12031 and 288 of the 760 misdemeanor arrests for violation of PC 12031. | 58. Exhibit E – Concealable Firearms Charges in California 2003 - Attorney General – Department of Justice Publication – pg 16, Table N-9. |
| 11 12 13 14 15 | 59. From 2011 to 2012, assaults against law enforcement officers decreased 4.0 percent, and the number of assaults in 2012 was the lowest in 5 years. | 59. Exhibit F – Crime In California 2012 - Attorney General – Department of Justice Publication – pg 1. |
| 16 17 18 19 20 21 22 | 60. In 2012, there were 20,521 felony weapons arrests in California. 19,049 were male (92.8%), 1,472 were female (7.2%). 5,160 were White (25.1%). 10,182 were Hispanic (49.6%). 4,143 were Black (20.2%). 1,036 were “Other” (5.0%). | 60. Exhibit F – Crime In California 2012 - Attorney General – Department of Justice Publication – Table 31. |
| 23 24 25 26 27 28 | 61. In 2012, there were 5,676 misdemeanor weapons arrests in California. 5,136 were male (90.5%), 540 were female (9.5%). 1,933 were White (34.1%). 2,489 were Hispanic (43.9%). 885 were Black (15.6%). | 61. Exhibit F – Crime In California 2012 - Attorney General – Department of Justice Publication – Table 35. |

| | | |
|----|---|--------------------------------------|
| 1 | 369 were "Other" (6.5%). | |
| 2 | 62. In 2012, there were 157,634 | 62. Exhibit F – Crime In California |
| 3 | Domestic Violence Related Calls for | 2012 - Attorney General – Department |
| 4 | Assistance. 804 involved firearms. | of Justice Publication – Table 47. |
| 5 | 63. In April 2002, law enforcement | 63. Exhibit F – Crime In California |
| 6 | agencies were instructed to report | 2012 - Attorney General – Department |
| 7 | personal weapons (hands, fists, or feet) | of Justice Publication – pg 65. |
| 8 | only if the assault resulted in an injury | |
| 9 | (aggravated assault). This instruction | |
| 10 | resulted in a notable decrease in the | |
| 11 | number of personal weapons reported. | |
| 12 | 64. Felony level arrest offences in | 64. Exhibit F – Crime In California |
| 13 | Exhibit F are: 171b(a)(1), 171b(a)(2), | 2012 - Attorney General – Department |
| 14 | 171b(a)(3), 171b(a)(4), 171b(a)(5), | of Justice Publication – pg 69, 71. |
| 15 | 171b(a)(6)*, 171c, 171d(a)*, 171d(b)*, | |
| 16 | 186.28(a), 626.9(b)*, 626.9(d), 26.9(h), | |
| 17 | 626.9(i), 626.95(a)*, 626.10(a)(1)*, | |
| 18 | 626.10(b)*, 4502(a), 4502(b), 8101(a) | |
| 19 | WI, 8101(b) WI, 8103(a)(1) WI, | |
| 20 | 8103(f)(1) WI, 12761 HS*, 18710(a)*, | |
| 21 | 18720, 19200(a)*, 20310*, 20410*, | |
| 22 | 20510*, 20610*, 20710*, 20910*, | |
| 23 | 21110*, 21310*, 21810*, 22010*, | |
| 24 | 22210*, 22410*, 23900, 24310*, | |
| 25 | 24410*, 24510*, 24610*, 24710*, | |
| 26 | 25100(a), 25300(a), 25400(a)(1)*, | |
| 27 | 25400(a)(2)*, 25400(a)(3)*, | |
| 28 | 25400(c)(1), 25400(c)(2), 25400(c)(3), | |

1 25400(c)(4), 25400(c)(5)*,
 2 25400(c)(6)*, 25800(a)*, 25850(c)(1),
 3 25850(c)(2), 25850(c)(3), 25850(c)(4),
 4 25850(c)(5)*, 25850(c)(6)*,
 5 26100(b)*, 26100(c), 26100(d)*,
 6 27500(a), 27500(b)*, 27505(a)*,
 7 27515*, 27520*, 27545*,
 8 28210(a)(1)*, 29650*, 29800(a)(1),
 9 29800(b), 29805*, 29815(a)*,
 10 29820(b)*, 29825(a)*, 29900(a)(1),
 11 29900(b)(1), 30210(a)*, 30210(b)*,
 12 30305(a)(1)*, 30600(a), 30605(a)*,
 13 31500*, 32310*, 32900*, 33210,
 14 33215*, 33410, 33600*

15 Notes: These codes are valid for 2012
 16 data and may not be applicable for
 17 prior years. "All Other Felony
 18 Offenses" also includes sections in the
 19 Election Code and Water Code.

20 "All Other Misdemeanor Offenses"
 21 also includes sections in the California
 22 Code of Regulations, City or County
 23 Ordinances, Civil Procedure Code,
 24 Election Code, Public Utilities Code,
 25 Uniform Fire Code, and Water Code.

26 *These code sections can be either a
 27 felony or a misdemeanor.

28 65. Misdemeanor level arrest offences

65. Exhibit F – Crime In California

1 in Exhibit F are: 136.2(a)(7)(b)2,
 2 171b(a)(6)*, 171d(a)*, 171d(b)*,
 3 171.5(c)(1), 171.5(c)(2), 171.5(c)(3),
 4 171.5(c)(4), 171.5(c)(5), 171.5(c)(6),
 5 171.5(c)(7), 171.5(c)(8), 171.5(c)(9),
 6 171.5(c)(10), 171.5(c)(11),
 7 171.5(c)(12), 468, 626.10(a)(1)*,
 8 626.10(a)(2), 626.10(b)*, 626.10(i),
 9 626.9(b)*, 626.95(a)*, 653k, 12761
 10 HS*, 17500, 17510(a)(1), 17510(a)(2),
 11 17510(a)(3), 17512, 18710(a)*,
 12 19200(a)*, 19910, 19915, 20010,
 13 20150(a), 20155, 20310*, 20410*,
 14 20510*, 20610*, 20710*, 20810(a),
 15 20910*, 21110*, 21310*, 21510(a),
 16 21510(b), 21510(c), 21710, 21810*,
 17 22010*, 22210*, 22410*, 22610(a),
 18 22610(b), 22610(c)(1), 22610(d),
 19 22615(a), 22615(b), 22900, 23920,
 20 24310*, 24410*, 24510*, 24610*,
 21 24710*, 25100(b), 25200(a),
 22 25200(b)(3), 25400(a)(1)*,
 23 25400(a)(2)*, 25400(a)(3)*,
 24 25400(c)(5)*, 25400(c)(6)*,
 25 25800(a)*, 25850(a), 25850(c)(5)*,
 26 25850(c)(6)*, 26100(a), 26100(b)*,
 27 26100(d)*, 26180(a), 26350(a)(2),
 28 26500(a), 27500(b)*, 27505(a)*,

2012 - Attorney General – Department
 of Justice Publication – pg 70, 71.

| | | |
|----|--|---|
| 1 | 27515*, 27520*, 27545*, 28050, | |
| 2 | 28210(a)(1)*, 29650*, 29805*, | |
| 3 | 29815(a)*, 29820(b)*, 29825(a)*, | |
| 4 | 29825(b), 30210(a)*, 30210(b)*, | |
| 5 | 30305(a)(1)*, 30605(a)*, 30610(a), | |
| 6 | 31500*, 32310*, 32900*, 33215*, | |
| 7 | 33600* | |
| 8 | 66. The vast majority of persons | 66. Exhibit E – Concealable Firearms |
| 9 | charged with either former PC section | Charges in California 2003 - Attorney |
| 10 | 12025 or former PC section 12031 | General – Department of Justice |
| 11 | were male. | Publication – pg 2. |
| 12 | 67. When charged with either PC | 67. Exhibit E – Concealable Firearms |
| 13 | section 12025 or PC section 12031, | Charges in California 2003 - Attorney |
| 14 | blacks were proportionately the most | General – Department of Justice |
| 15 | likely race/ethnic group to be filed on | Publication – pg 2. |
| 16 | at the felony level; whites were | |
| 17 | proportionately the least likely | |
| 18 | race/ethnic group to be filed on at the | |
| 19 | felony level. | |
| 20 | 68. When charged with PC section | 68. . Exhibit E – Concealable |
| 21 | 12025, blacks were proportionately | Firearms Charges in California 2003 - |
| 22 | most likely to be filed on at the felony | Attorney General – Department of |
| 23 | level, followed by Hispanics, other | Justice Publication – pg 6. |
| 24 | race/ethnic groups, and whites. This | |
| 25 | pattern exists throughout the period | |
| 26 | shown. | |
| 27 | 69. In 2012, 39.4% of the estimated | 69. United States Census Bureau -> |
| 28 | population of California is White (not | http://quickfacts.census.gov/qfd/states/ |

Hispanic or Latino), 13.9% is Asian and 6.6% is Black or African-American and 3.6% is two or more races.

06000.html

70. As of the 2010 US Census, the following counties in California had a population of fewer than 200,000 people with a combined population of 2,040,530:

Alpine, Sierra, Modoc, Trinity, Mono, Mariposa, Inyo, Plumas, Colusa, Glenn, Del Norte, Lassen, Amador, Siskiyou, Calaveras, San Benito, Tuolumne, Tehama, Lake, Yuba, Mendocino, Sutter, Nevada, Humboldt, Napa, Madera, Kings, Imperial, Shasta, El Dorado

70. Exhibit G. US Census Bureau - Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2012

71. As of the 2010 US Census, the following counties in California had a population of 200,000 or more people with a combined population of 35,213,426: Yolo, Butte, Marin, Merced, Santa Cruz, San Luis Obispo, Placer, Solano, Monterey, Santa Barbara, Tulare, Sonoma, Stanislaus, San Joaquin, San Mateo, San Francisco, Ventura, Kern, Fresno, Contra Costa, Sacramento, Alameda,

71. Exhibit G. US Census Bureau - Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2012

1 Santa Clara, San Bernardino,
2 Riverside, Orange, San Diego
3 Los Angeles.

4 72. California counties with a
5 population of fewer than 200,000
6 people are predominantly White in
7 race:
8 White Population/Total Population:
9 Alpine County 881 / 1,175
10 Amador County 33,149 / 38,091
11 Calaveras County 40,522 / 45,578
12 Colusa County 13,854 / 21,419
13 Del Norte County 21,098 / 28,610
14 Glenn County 19,990 / 28,122
15 Humboldt County 109,920 / 134,623
16 Imperial County 102,553 / 174,528
17 Inyo County 13,741 / 18,546
18 Kings County 83,027 / 152,982
19 Lake County 52,033 / 64,665
20 Lassen County 25,532 / 34,895
21 Madera County 94,456 / 150,865
22 Mariposa County 16,103 / 18,251
23 Mendocino County 67,218 / 87,841
24 Modoc County 8,084 / 9,686
25 Mono County 9,686 / 14,202
26 Napa County 97,525 / 136,484
27 Nevada County 90,233 / 98,764
28 Plumas County 17,797 / 20,007

72. California Department of Finance
– 2010 Census Detailed Age by
Race/Hispanic Origin by Gender -
[http://www.dof.ca.gov/research/demog
raphic/state_census_data_center/census
_2010/documents/2010SF1_STCO_Ag
eRaceSex-Web.zip](http://www.dof.ca.gov/research/demographic/state_census_data_center/census_2010/documents/2010SF1_STCO_AgeRaceSex-Web.zip)

1 San Benito County 35,181 / 55,269
 2 Shasta County 153,726 / 177,223
 3 Sierra County 3,022 / 3,240
 4 Siskiyou County 38,030 / 44,900
 5 Sutter County 57,749 / 94,737
 6 Tehama County 51,721 / 63,463
 7 Trinity County 12,033 / 13,786
 8 Tuolumne County 48,274 / 55,365
 9 Yuba County 49,332 / 72,155

10 73. Population of Counties by
 11 Decennial Census: 1900 to 1990

73. US Bureau of the Census -
<http://www.census.gov/population/cencounts/ca190090.txt>

13 74. The Attorney General admits that
 14 Nichols is a natural person, i.e., a
 15 human being.

74. Answer to Scnd. Am. Complaint ¶
 3.

16 75. The Attorney General admits that,
 17 since January 3, 2011, she has been
 18 (and presently is) the Attorney General
 19 of the State of California, and further
 20 that she must comply with her legal
 21 obligations as the Attorney General of
 22 the State of California, which legal
 23 obligations are found in various
 24 sources, including the U.S.
 25 Constitution, the California
 26 Constitution, statutes, and case law,
 27 which sources speak for themselves.

75. Answer to Scnd. Am. Complaint ¶
 4.

28 76. The Attorney General admits that

76. Answer to Scnd. Am. Complaint ¶

1 the U.S. Supreme Court issued the
 2 decision known as *District of*
 3 *Columbia v. Heller*, 554 U.S. 470
 4 (2008), which decision speaks for
 5 itself.

7.

6 77. The Attorney General admits that
 7 Nichols is not challenging the
 8 constitutionality of, or the
 9 constitutionality of enforcement of,
 10 certain state or federal laws

77. Answer to Scnd. Am. Complaint ¶
 8.

11 78. The Attorney General admits to
 12 instructing all issuing authorities in
 13 California not to issue a license to
 14 openly carry a handgun to PLAINTIFF
 15 and similarly situated individuals on
 16 page 1 of her "STANDARD
 17 APPLICATION FOR LICENSE TO
 18 CARRY A CONCEALED WEAPON
 19 (CCW)" prepared by the Attorney
 20 General pursuant to California Penal
 21 Code section 26175 which also
 22 provides for her to revise the
 23 application form. DEFENDANT
 24 HARRIS has refused to either create or
 25 revise the application form to
 26 accommodate PLAINTIFF'S and
 27 similarly situated individuals Second
 28 Amendment right to openly carry a

78. Answer to Scnd. Am. Complaint ¶
 12.

1 loaded firearm in public for the
2 purpose of self-defense and other
3 lawful purposes.

4 79. The Attorney General admits that
5 California Penal Code sections: 25850,
6 26350, 26400, 26150, 26155, 26160,
7 26165, 26175, 26180, 26185, 26190,
8 26200, 26202, 26205, 26210, 26215,
9 26220, 17030 speak for themselves.

79. Answer to Scnd. Am. Complaint
¶¶ 15-32.

10 80. The Attorney General admits that
11 the City of Redondo Beach local
12 ordinances 4-35.01, 4-35.06, 4-35.20,
13 5-8.01(a)(1) speak for themselves.

80. Answer to Scnd. Am. Complaint
¶¶ 33-34.

14 81. The Attorney General admits that
15 the Office of the Attorney General
16 publishes California crime statistics
17 information, including a publication by
18 the State of California's Office of
19 Attorney General titled
20 "CONCEALABLE FIREARMS
21 CHARGES IN CALIFORNIA 2000-
22 2003" and "Crime In California 2010"
23 which publications she says speak for
24 themselves.

81. Answer to Scnd. Am. Complaint ¶
39.

25 82. The Attorney General admits that
26 the California Department of Justice
27 has one database or more containing
28 information about arrests made for

82. Answer to Scnd. Am. Complaint ¶
40.

| | | |
|----|---|-------------------------------------|
| 1 | weapons offenses. | |
| 2 | 83. The Attorney General has admitted | 83. Answer to Scnd. Am. Complaint |
| 3 | to enforcement of the laws enumerated | ¶¶ 41-42, 47. |
| 4 | in Plaintiff's operative complaint, | |
| 5 | Second Amended Complaint (SAC), as | |
| 6 | well as to laws unspecified by code | |
| 7 | section in the SAC. | |
| 8 | 84. The Attorney General admits that | 84. Answer to Scnd. Am. Complaint ¶ |
| 9 | Nichols obtained a Law Enforcement | 48. |
| 10 | Gun Release letter from the Attorney | |
| 11 | General's California Department of | |
| 12 | Justice as required by California law. | |
| 13 | 85. Any person who claims title to any | 85. Cal. Penal Code § 33850. |
| 14 | firearm that is in the custody or control | |
| 15 | of a court or law enforcement agency | |
| 16 | and who wishes to have the firearm | |
| 17 | returned shall make application for a | |
| 18 | determination by the Department of | |
| 19 | Justice as to whether the applicant is | |
| 20 | eligible to possess a firearm. | |
| 21 | 86. When the Department of Justice | 86. Cal. Penal Code § 33865. |
| 22 | receives a completed application for a | |
| 23 | Law Enforcement Gun Release Letter | |
| 24 | pursuant to Section 33850 | |
| 25 | accompanied by the fee required | |
| 26 | pursuant to Section 33860, it shall | |
| 27 | conduct an eligibility check of the | |
| 28 | applicant to determine whether the | |

1 applicant is eligible to possess a
2 firearm.

3 87. If the Department of Justice
4 determines that the applicant is eligible
5 to possess the firearm, the department
6 shall provide the applicant with
7 written notification that includes the
8 following:

9 (1) The identity of the applicant.

10 (2) A statement that the applicant is
11 eligible to possess a firearm.

87. Cal. Penal Code § 33865.

12 88. The Attorney General has issued a
13 letter stating that Plaintiff Nichols is
14 eligible to possess a firearm.

88. Answer to Scnd. Am. Complaint ¶
48.

15 89. The “good cause” requirement of
16 the Los Angeles Sheriff’s Department
17 is intended to dramatically restrict the
18 number of persons who are secretly
19 armed within the county. In 2011,
20 there was an average of approximately
21 400 existing concealed weapons
22 permits that were issued by the LASD
23 in a county of some 10 million people.

89. Exhibit H. Decl., of Los Angeles
County Under Sheriff Paul Tanaka –
Thomson v. Torrance Police
Department and the Los Angeles
County Sheriff’s Department – Dkt
#37-1, Case # CV 11-06154 (SJO)
(JCx), Judge Otero Presiding - ¶¶10-11

25 90. The Los Angeles County Sheriff’s
26 Department Concealed Weapon’s
27 Licensing Policy, and Standard
28 Application to Carry a Concealed

90.
[http://file.lacounty.gov/lasd/cms1_181
452.pdf](http://file.lacounty.gov/lasd/cms1_181452.pdf)

| | | |
|----|---|------------------------|
| 1 | Weapon is online at the LASD website. | |
| 2 | 91. Plaintiff Nichols is a resident of | 91. Nichols Decl., ¶ 1 |
| 3 | Los Angeles County. | |
| 4 | 92. Plaintiff Nichols resides in an | 92. Nichols Decl., ¶ 2 |
| 5 | incorporated city within Los Angeles | |
| 6 | County which does not have a chief of | |
| 7 | police. | |
| 8 | 93. The front yard fence to Plaintiff | 93. Nichols Decl., ¶ 3 |
| 9 | Nichols' single-family residence facing | |
| 10 | the street is less than 3.5 feet in height. | |
| 11 | 94. Plaintiff Nichols is a male. | 94. Nichols Decl., ¶ 4 |
| 12 | 95. Plaintiff Nichols is 53 years of age. | 95. Nichols Decl., ¶ 5 |
| 13 | 96. Since this action was first filed on | 96. Nichols Decl., ¶ 6 |
| 14 | November 30, 2011, Defendant Harris | |
| 15 | has issued to Plaintiff Nichols two Law | |
| 16 | Enforcement Gun Release letters | |
| 17 | authorizing the release of his single- | |
| 18 | shot shotgun then held by the City of | |
| 19 | Redondo Beach. | |
| 20 | 97. Such letters authorizing the release | 97. Nichols Decl., ¶ 7 |
| 21 | of a firearm can only be issued to | |
| 22 | persons who are not prohibited from | |
| 23 | possessing a firearm. | |
| 24 | 98. Plaintiff Nichols is not prohibited | 98. Nichols Decl., ¶ 8 |
| 25 | under either California State or Federal | |
| 26 | law from purchasing or possessing a | |
| 27 | firearm. | |
| 28 | 99. Plaintiff Nichols seeks to exercise | 99. Nichols Decl., ¶ 9 |

1 his Second Amendment right to openly
 2 carry handguns for the purpose of self-
 3 defense and for other lawful purposes,
 4 such handguns to be openly carried,
 5 not encased, both loaded and unloaded,
 6 in non-sensitive public places within
 7 incorporated cities and in non-sensitive
 8 places of unincorporated county
 9 territory where the Open Carry of
 10 handguns, both loaded and unloaded, is
 11 prohibited.

12 100. Plaintiff Nichols seeks to exercise
 13 his Second Amendment right to openly
 14 carry long guns for the purpose of self-
 15 defense and for other lawful purposes,
 16 such long guns to be openly carried,
 17 not encased, both loaded and unloaded,
 18 in non-sensitive public places within
 19 incorporated cities and in non-sensitive
 20 places of unincorporated county
 21 territory where the Open Carry of
 22 handguns, both loaded and unloaded, is
 23 prohibited.

24 101. Plaintiff Nichols seek to exercise
 25 his Second Amendment right to openly
 26 carry firearms for the purpose of self-
 27 defense and for other lawful purposes,
 28 such firearms to be openly carried, not

100. Nichols Decl., ¶ 10

101. Nichols Decl., ¶ 11

1 encased, both loaded and unloaded, in,
 2 within and on his motor vehicles,
 3 attached camper or trailer in non-
 4 sensitive public places within
 5 incorporated cities and in non-sensitive
 6 places of unincorporated county
 7 territory where the Open Carry of
 8 firearms, both loaded and unloaded, is
 9 prohibited in, within and on his motor
 10 vehicles, in non-sensitive public places
 11 within incorporated cities and in non-
 12 sensitive places of unincorporated
 13 counties.

14 102. Plaintiff Nichols seeks to be free
 15 from warrantless searches and seizures
 16 of his person and property and to be
 17 free to refuse to voluntarily consent to
 18 unlawful searches and seizures of his
 19 person and property pursuant to the
 20 Fourth Amendment of the United
 21 States Constitution when in non-
 22 sensitive public places.

102. Nichols Decl., ¶ 12

23 103. Plaintiff Nichols seek to exercise
 24 his Second Amendment right to openly
 25 carry firearms for the purpose of self-
 26 defense and for other lawful purposes,
 27 such firearms to be openly carried, not
 28 encased, both loaded and unloaded,

103. Nichols Decl., ¶ 13

1 within the curtilage of his home.

2 104. Plaintiff Nichols seeks to be free
3 from warrantless searches and seizures
4 of his person and property and to be
5 free to refuse to voluntarily consent to
6 unlawful searches and seizures of his
7 person and property pursuant to the
8 Fourth Amendment of the United
9 States Constitution within the curtilage
10 of his home.

104. Nichols Decl., ¶ 14

11 105. It takes several minutes to load a
12 muzzle-loading revolver: to measure
13 the charge, pour it into the chamber of
14 the cylinder, properly seat the ball, ram
15 the ball into the chamber, rotate the
16 cylinder, repeat the process for each
17 cylinder, seal each chamber with
18 grease and cap each chamber.

105. Nichols Decl., ¶ 15

19 106. It takes many seconds to load a
20 muzzle-loading long gun.

106. Nichols Decl., ¶ 16

21 107. It takes several seconds to load a
22 modern semi-automatic firearm that
23 uses metallic cartridges contained in a
24 magazine.

107. Nichols Decl., ¶ 17

25 108. It takes many seconds to load a
26 modern single action revolver that uses
27 metallic cartridges.

108. Nichols Decl., ¶ 18

28 109. It takes many seconds to retrieve

109. Nichols Decl., ¶ 19

| | |
|--|--------------------------|
| 1 and load an unloaded modern firearm | |
| 2 from a fully enclosed container. It | |
| 3 takes many more seconds to unlock the | |
| 4 container. | |
| 5 110. Depending upon the distance one | 110. Nichols Decl., ¶ 20 |
| 6 has ventured from his motor vehicle, | |
| 7 retrieving a firearm from the motor | |
| 8 vehicle trunk, assuming the motor | |
| 9 vehicle has a trunk, can take a | |
| 10 substantial amount of time. | |
| 11 111. An unloaded long gun, inside of a | 111. Nichols Decl., ¶ 21 |
| 12 motor vehicle, substantially burdens | |
| 13 Plaintiff Nichols' right to self-defense. | |
| 14 112. Plaintiff Nichols' motor vehicle | 112. Nichols Decl., ¶ 22 |
| 15 does not have a trunk. | |
| 16 113. An unloaded firearm, fully | 113. Nichols Decl., ¶ 23 |
| 17 encased, in a locked or unlocked | |
| 18 container, substantially burdens | |
| 19 Plaintiff Nichols' right to self-defense. | |
| 20 114. Prior to the enactment of the | 114. Nichols Decl., ¶ 24 |
| 21 Mulford Act of 1967 which enacted, in | |
| 22 part, former California Penal Code | |
| 23 section 12031 which is now codified, | |
| 24 in part, as California Penal Code | |
| 25 section 25850 a firearm was considered | |
| 26 to be loaded only if it had a live round | |
| 27 in the firing chamber, or in the case of | |
| 28 muzzle-loading firearms, if the firing | |

| | | |
|----|--|--------------------------|
| 1 | chamber was uncapped or unprimed. | |
| 2 | 115. Firearms, which do not have | 115. Nichols Decl., ¶ 25 |
| 3 | mechanical safeties preventing the | |
| 4 | accidental discharge of a firearm, are | |
| 5 | best carried with the firing chamber | |
| 6 | empty and with live rounds in the | |
| 7 | cylinder or magazine. | |
| 8 | 116. Plaintiff Nichols owns firearms | 116. Nichols Decl., ¶ 26 |
| 9 | which do not have firing pin safeties | |
| 10 | and seek to carry them with an | |
| 11 | unloaded firing chamber. | |
| 12 | 117. Plaintiff Nichols seeks to openly | 117. Nichols Decl., ¶ 27 |
| 13 | carry modern firing reproductions of | |
| 14 | muzzle loading firearms, both loaded | |
| 15 | and unloaded, in the curtilage of his | |
| 16 | home, in non-sensitive public places of | |
| 17 | incorporated cities and in non-sensitive | |
| 18 | unincorporated county territory where | |
| 19 | it is prohibited, in and on his motor | |
| 20 | vehicles and in and on attached | |
| 21 | campers and trailers for the purpose of | |
| 22 | self-defense and for other lawful | |
| 23 | purposes. | |
| 24 | 118. Plaintiff Nichols received a death | 118. Nichols Decl., ¶ 28 |
| 25 | threat via email which was reported to | |
| 26 | both the Attorney General and the Los | |
| 27 | Angeles Sheriff's department. | |
| 28 | 119. Plaintiff Nichols attempted to file | 119. Nichols Decl., ¶ 29 |

1 the police report (Dkt. # 10) which was
2 rejected by this court (Dkt. # 11).

3 120. Plaintiff Nichols requested both
4 an application and license from the
5 Redondo Beach Chief of Police
6 through his then attorney, the Redondo
7 Beach City Attorney, to openly carry a
8 loaded handgun.

120. Nichols Decl., ¶ 30, FAC

9 121. The license was refused in an
10 email from the City Attorney citing
11 California law which precludes the
12 issuance of a license to persons in
13 counties with a population of 200,000
14 or more people.

121. Nichols Decl., ¶ 31, FAC

15 122. Los Angeles County has a
16 population of more than 200,000
17 people.

122. Nichols Decl., ¶ 32

18 123. The conclusion of the Los
19 Angeles Sheriff's Department Sergeant
20 Inge was that someone who threatened
21 to shoot Plaintiff Nichols and called
22 upon others to track him down and do
23 the same was not committing a
24 criminal offense because the email did
25 not use the word "kill."

123. Nichols Decl., ¶ 33

26 124. The Attorney General refused to
27 prosecute.

124. Nichols Decl., ¶ 34

28 125. Plaintiff Nichols fears arrest,

125. Nichols Decl., ¶ 35

1 prosecution, fine and imprisonment
 2 were Plaintiff Nichols to openly carry a
 3 firearm outside of his home. Plaintiff
 4 Nichols refrains from doing so but has
 5 not completely abstained from doing
 6 so.

7 126. Beginning in January of 2015,
 8 Plaintiff Nichols plans on traveling
 9 through the state and to visit every
 10 incorporated city and every County
 11 within the State of California and to
 12 openly carry firearms, loaded and
 13 unloaded, in non-sensitive public
 14 places in those incorporated cities
 15 (including the city and county of San
 16 Francisco) and unincorporated county
 17 territory and to carry them in and on
 18 his motor vehicle and in and on an
 19 attached camper or trailer.

126. Nichols Decl., ¶ 36

20 127. Beginning in January of 2015,
 21 Plaintiff Nichols plans on openly
 22 carrying firearms, loaded and
 23 unloaded, in non-sensitive public
 24 places in non-sensitive unincorporated
 25 county territory (including the city and
 26 county of San Francisco) and to carry
 27 them in and on his motor vehicle and in
 28 and on an attached camper or trailer.

127. Nichols Decl., ¶ 37

1 128. Plaintiff Nichols plans on
 2 carrying loaded and unloaded firearms
 3 within the curtilage of his home for the
 4 purpose of self-defense and for other
 5 lawful purposes. It is impossible to
 6 predict when such a need will arise and
 7 therefore impossible to articulate a
 8 concrete plan.

128. Nichols Decl., ¶ 38

9 129. To Plaintiff Nichols' knowledge,
 10 there are no permits or licenses
 11 available to him to carry a loaded or
 12 unloaded firearm for the purpose of
 13 self-defense and police chiefs and
 14 county sheriffs are prevented by state
 15 law from issuing licenses to private
 16 citizens to openly carry a loaded or
 17 unloaded firearm in counties with a
 18 population of 200,000 or more persons
 19 and such licenses are only theoretically
 20 available for handguns and only in
 21 those counties with a population of
 22 fewer than 200,000 people and are only
 23 available in those counties to residents
 24 of those counties and are invalid
 25 outside of the county of issuance.

129. Nichols Decl., ¶ 39

26 130. To Plaintiff Nichols' knowledge,
 27 cities and counties are free to enact
 28 local regulations restricting where and

130. Nichols Decl., ¶ 40

1 when persons with a CCW license may
 2 carry a weapon pursuant to the license
 3 even if there is no restriction placed on
 4 the license by the county sheriff or
 5 police chief that issued the license.

6 131. It is Plaintiff Nichols'
 7 understanding that except for certain
 8 exceptions, such as travelers while on a
 9 journey, carrying a concealed weapon
 10 falls outside the scope of the Second
 11 Amendment.

131. Nichols Decl., ¶ 41

12 132. It is Plaintiff Nichols'
 13 understanding that Plaintiff Nichols
 14 does not satisfy the Los Angeles
 15 Sheriff's Department "good cause"
 16 requirement for being issued a license
 17 to carry a loaded, concealable firearm
 18 and concealed carry substantially
 19 burdens Plaintiff Nichols' ability to
 20 defend himself even if he had a
 21 concealed carry license.

132. Nichols Decl., ¶ 42

22 133. Defendant Harris has never
 23 promised to not enforce the laws at
 24 issue.

133. Nichols Decl., ¶ 43
 Dkt. #82, pg 6, lines 2-5.

25 134. Justifiable Homicide: Self-
 26 Defense or Defense of Another. ("[A
 27 defendant is not required to retreat. He
 28 or she is entitled to stand his or her

134. CALCRIM 505

1 ground and defend himself or herself
 2 and, if reasonably necessary, to pursue
 3 an assailant until the danger of
 4 (death/great bodily injury/ {insert
 5 forcible and atrocious crime}) has
 6 passed. This is so even if safety could
 7 have been achieved by retreating.]”)


8 135. Right to Self-Defense or Defense
 9 of Another (Non-Homicide). (“[A
 10 defendant is not required to retreat. He
 11 or she is entitled to stand his or her
 12 ground and defend himself or herself
 13 and, if reasonably necessary, to pursue
 14 an assailant until the danger of
 15 (death/bodily injury/ {insert crime})
 16 has passed. This is so even if safety
 17 could have been achieved by
 18 retreating.]”)

135. CALCRIM 3470

19 136. 74% of homicides of White males
 20 occur outside of the victim’s residence.

136. Exhibit D – Homicide in
 California 2011 - Attorney General –
 Department of Justice Publication – pg
 Table 19 on pg 25.

FILED

2013 NOV -8 PM 3:05
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY: 

1 Charles Nichols
2 PO Box 1302
3 Redondo Beach, CA 90278
4 Voice: (424) 634-7381
5 E-Mail: CharlesNichols@Pykrete.info
6 In Pro Per
7
8
9
10

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
17
18 Defendant.
19
20

Case No.: CV-11-9916 SJO (SS)

**DECLARATION OF PLAINTIFF
CHARLES NICHOLS IN SUPPORT
OF HIS MOTION FOR PARTIAL
SUMMARY JUDGMENT**

21
22 I, Plaintiff In Pro Per Charles Nichols, declare as follows based on my
23 personal knowledge:
24

- 25 1. I am a resident of Los Angeles County.
26 2. I reside in an incorporated city within Los Angeles County which does
27 not have a chief of police.
28

1 3. The front yard fence to my single-family residence facing the street is
2 less than 3.5 feet in height.

3 4. I am a male.

4 5. I am 53 years of age.

5 6. Since this action was first filed on November 30, 2011, Defendant Harris
6 has issued to me two Law Enforcement Gun Release letters authorizing the release
7 of my single-shot shotgun then held by the City of Redondo Beach.

8 7. Such letters authorizing the release of a firearm can only be issued to
9 persons who are not prohibited from possessing a firearm.

10 8. I am not prohibited under either California State or Federal law from
11 purchasing or possessing a firearm.

12 9. I seek to exercise my Second Amendment right to openly carry handguns
13 for the purpose of self-defense and for other lawful purposes, such handguns to be
14 openly carried, not encased, both loaded and unloaded, in non-sensitive public
15 places within incorporated cities and in non-sensitive places of unincorporated
16 county territory where the Open Carry of handguns, both loaded and unloaded, is
17 prohibited.

18 10. I seek to exercise my Second Amendment right to openly carry long
19 guns for the purpose of self-defense and for other lawful purposes, such long guns
20 to be openly carried, not encased, both loaded and unloaded, in non-sensitive
21 public places within incorporated cities and in non-sensitive places of
22 unincorporated county territory where the Open Carry of handguns, both loaded
23 and unloaded, is prohibited.

24 11. I seek to exercise my Second Amendment right to openly carry
25 firearms for the purpose of self-defense and for other lawful purposes, such
26 firearms to be openly carried, not encased, both loaded and unloaded, in, within
27 and on my motor vehicles, attached camper or trailer in non-sensitive public places
28 within incorporated cities and in non-sensitive places of unincorporated county

1 territory where the Open Carry of firearms, both loaded and unloaded, is prohibited
2 in, within and on my motor vehicles, in non-sensitive public places within
3 incorporated cities and in non-sensitive places of unincorporated county.

4 12. I seek to be free from warrantless searches and seizures of my person
5 and property and to be free to refuse to voluntarily consent to unlawful searches
6 and seizures of my person and property pursuant to the Fourth Amendment of the
7 United States Constitution when in a non-sensitive public place.

8 13. I seek to exercise my Second Amendment right to openly carry firearms
9 for the purpose of self-defense and for other lawful purposes, such firearms to be
10 openly carried, not encased, both loaded and unloaded, within the curtilage of my
11 home.

12 14. I seek to be free from warrantless searches and seizures of my person
13 and property and to be free to refuse to voluntarily consent to unlawful searches
14 and seizures of my person and property pursuant to the Fourth Amendment of the
15 United States Constitution within the curtilage of my home.

16 15. It takes several minutes to load a muzzle-loading revolver: to measure
17 the charge, pour it into the chamber of the cylinder, properly seat the ball, ram the
18 ball into the chamber, rotate the cylinder, repeat the process for each cylinder, seal
19 each chamber with grease and cap each chamber.

20 16. It takes many seconds to load a muzzle-loading long gun.

21 17. It takes several seconds to load a modern semi-automatic firearm that
22 uses metallic cartridges contained in a magazine.

23 18. It takes many seconds to load a modern single action revolver that uses
24 metallic cartridges.

25 19. It takes many seconds to retrieve and load an unloaded modern firearm
26 from a fully enclosed container. It takes many more seconds to unlock the
27 container.
28

1 20. Depending upon the distance one has ventured from his motor vehicle,
2 retrieving a firearm from the motor vehicle trunk, assuming the motor vehicle has a
3 trunk, can take a substantial amount of time.

4 21. An unloaded long gun, inside of a motor vehicle, substantially burdens
5 my right to self-defense.

6 22. My motor vehicle does not have a trunk.

7 23. An unloaded firearm, fully encased, in a locked or unlocked container,
8 substantially burdens my right to self-defense.

9 24. Prior to the enactment of the Mulford Act of 1967 which enacted, in
10 part, former California Penal Code section 12031 which is now codified, in part, as
11 California Penal Code section 25850 a firearm was considered to be loaded only if
12 it had a live round in the firing chamber, or in the case of muzzle-loading firearms,
13 if the firing chamber was uncapped or unprimed.

14 25. Firearms, which do not have mechanical safeties preventing the
15 accidental discharge of a firearm, are best carried with the firing chamber empty
16 and with live rounds in the cylinder or magazine.

17 26. I own firearms which do not have firing pin safeties and seek to carry
18 them with an unloaded firing chamber.

19 27. I seek to openly carry modern firing reproductions of muzzle loading
20 firearms, both loaded and unloaded, in the curtilage of my home, in non-sensitive
21 public places of incorporated cities and in non-sensitive unincorporated county
22 territory where it is prohibited, in and on my motor vehicles and in and on attached
23 campers and trailers for the purpose of self-defense and for other lawful purposes.

24 28. I received a death threat via email which was reported to both the
25 Attorney General and the Los Angeles Sheriff's department.

26 29. I attempted to file the police report (Dkt. # 10) which was rejected by
27 this court (Dkt. # 11).
28

1 30. I requested both an application and license from the Redondo Beach
2 Chief of Police through his then attorney, the Redondo Beach City Attorney, to
3 openly carry a loaded handgun.

4 31. The license was refused in an email from the City Attorney citing
5 California law which precludes the issuance of a license to openly carry in counties
6 with a population of 200,000 or more people.

7 32. Los Angeles County has a population of more than 200,000 people.

8 33. The conclusion of the Los Angeles Sheriff's Department Sergeant Inge
9 was that someone who threatened to shoot me and called upon others to track me
10 down and do the same was not committing a criminal offense because the email
11 did not use the word "kill."

12 34. The Attorney General refused to prosecute.

13 35. I fear arrest, prosecution, fine and imprisonment were I to openly carry a
14 firearm outside of my home. I refrain from doing so but have not completely
15 abstained from doing so.

16 36. Beginning in January of 2015, I plan on traveling through the state and
17 to visit every incorporated city and every County within the State of California and
18 to openly carry firearms, loaded and unloaded, in non-sensitive public places in
19 those incorporated cities (including the city and county of San Francisco) and
20 unincorporated county territory and to carry them in and on my motor vehicle and
21 in and on an attached camper or trailer.

22 37. Beginning in January of 2015, I plan on openly carrying firearms,
23 loaded and unloaded, in non-sensitive public places in non-sensitive
24 unincorporated county territory (including the city and county of San Francisco)
25 and to carry them in and on my motor vehicle and in and on an attached camper or
26 trailer.

27 38. I plan on carrying loaded and unloaded firearms within the curtilage of
28 my home for the purpose of self-defense and for other lawful purposes. It is

1 impossible to predict when such a need will arise and therefore impossible to
2 articulate a concrete plan.

3 39. To my knowledge, there are no permits or licenses available to me to
4 carry a loaded or unloaded firearm for the purpose of self-defense and police chiefs
5 and county sheriffs are prevented by state law from issuing licenses to private
6 citizens to openly carry a loaded or unloaded firearm in counties with a population
7 of 200,000 or more persons and such licenses are only theoretically available for
8 handguns and only in those counties with a population of fewer than 200,000
9 people and are only available in those counties to residents of those counties and
10 are invalid outside of the county of issuance.

11 40. To my knowledge, cities and counties are free to enact local regulations
12 restricting where and when persons with a CCW license may carry a weapon
13 pursuant to the license even if there is no restriction placed on the license by the
14 county sheriff or police chief that issued the license.

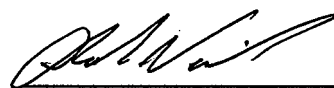
15 41. It is my understanding that except for certain exceptions, such as
16 travelers while on a journey, carrying a concealed weapon falls outside the scope
17 of the Second Amendment.

18 42. It is my understanding that I do not satisfy the Los Angeles Sheriff's
19 Department "good cause" requirement for being issued a license to carry a loaded,
20 concealable firearm and concealed carry substantially burdens my ability to defend
21 myself even if I had a concealed carry license.

22 43. Defendant Harris has never promised to not enforce the laws at issue.

23
24 I declare under penalty of perjury that the foregoing is true and correct.

25 Executed this 8th day of November, 2013.

26
27 

28 Charles Nichols

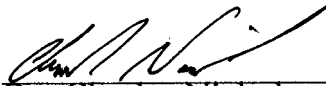
1 Pursuant to Fed.R.Civ.P. 41(a)(1)(A)(i) Plaintiff, In Pro Per, Charles
2 Nichols voluntarily dismisses his action, without prejudice, against Defendant
3 CITY OF REDONDO BEACH and Does 1 to 10.

4
5 Neither Defendant CITY OF REDONDO BEACH nor Does 1 to 10 has
6 served either an Answer or a motion for summary judgment.

7
8 Accordingly, Plaintiff Nichols, In Pro Per, is free to refile his claims against
9 CITY OF REDONDO BEACH and Does 1 to 10 at any time.

10
11
12
13
14 Dated: August 5, 2013

Respectfully submitted,

15
16
17
18 
19 By: Charles Nichols
20 PLAINTIFF in Pro Per
21 PO Box 1302
22 Redondo Beach, CA 90278
23 Voice: (424) 634-7381
24 E-Mail:
25 CharlesNichols@Pykrete.info

26 ///

27 ///

28 ///

///

///

///

DECLARATION OF CHARLES NICHOLS

I, Charles Nichols, submit this declaration in support of Plaintiff's Motion for a Preliminary Injunction. I make this declaration of my own personal knowledge and if called as a witness I could and would testify competently to the truth of the matters set forth herein.

1. I am a resident of Los Angeles County and a natural born citizen of the United States and I am fifty-three years of age.

2. I am not prohibited under Federal or California law from receiving or possessing firearms.

3. I have violated the laws at issue in the past and have articulated a concrete plan to violate them in the future.

4. I am presently being prosecuted for openly carrying a firearm in violation of a City of Redondo Beach municipal ordinance even though I was openly carrying the firearm in the beach zone of the city which is exempt from the ordinance (all coastal parklands are exempt by the city's own municipal ordinances) and despite the findings of Magistrate Judge Suzanne Segal and Federal District Court Judge Samuel James Otero that the State of California had preempted local regulations concerning the carrying of firearms. According to the City Attorney whose City Prosecutor reports to him, the city's ban applies to all weapons in all public places of the city.

5. On October 24, 2012 California Superior Court judge David Sotelo denied my demurrer to the criminal charge stating "Given the uniqueness of the

1 City of Redondo Beach as (sic) beach community immediately west of cities such
2 as Los Angeles, Compton and Carson, its' (sic) parks on the Pacific Ocean
3 shoreline draw visitors not just (sic) these cities but every county, city and
4 neighborhood."

5
6 6. The black population of the City of Redondo Beach is 2.8%. Only
7 25.9% of Compton is white. Only 23.8% of Carson is white. The portions of the
8 City of Los Angeles immediate east of Redondo Beach are similarly predominantly
9 minority. The Cities of Torrance and Lomita which were not mentioned by judge
10 Sotelo are also immediately to the east of the City of Redondo Beach. Torrance
11 has a black population of 2.7%. Lomita has a black population of 5.3%. These
12 figures were obtained from the U.S. Census website reflecting the 2010 Census.

13
14 7. On May 21, 2011 I was stopped against my will by Redondo Beach
15 police officers who took my long gun against my clear and vocal refusal to consent
16 to the search. Redondo Beach Police Officer Todd Heywood performed a
17 "chamber check" to see if the firearm was unloaded pursuant to California Penal
18 Code section 25850 and then subsequently confiscated my firearm, carrying case,
19 padlock and key thereby depriving me of my only means of self-defense even
20 though the City of Redondo Beach has been aware since at least December 6, 2011
21 that I have a documented death threat against me. The unloaded firearm was also
22 seized during the course of a peaceful protest. The protest was coordinated with
23 the Redondo Beach City Attorney and Police Chief in advance.

24
25 8. I sustained a severe back injury in a riding accident in August of 2002
26 leaving me partially disabled. I am not physically able to defend myself other than
27 with a firearm. Current California law prevents me from openly carrying a firearm
28

1 in case of confrontation for the purpose of self-defense. This includes self-defense
2 with a less-lethal Taser which California defines as a "firearm."

3
4 9. This leaves under California law the only means of self-defense; a
5 knife openly carried. However, some California cities such as the City of Redondo
6 Beach and the City of Los Angeles have made it a crime to openly carry a knife
7 which leaves me completely defenseless in those communities even if I were
8 physically able to defend myself with a knife.

9
10 10. California law prohibits the issuance of licenses to openly carry a
11 handgun to counties with a population of fewer than 200,000 people. These
12 licenses are only theoretically available to residents of those counties and are only
13 valid within the county within which they are issued.

14
15 11. I asked for an application and license to openly carry a loaded
16 handgun from the Redondo Beach police chief who denied my request citing
17 California Penal Code section 26155 through his then attorney, the City Attorney
18 for Redondo Beach.

19
20 12. My public defender has stated in open court that he cannot provide me
21 with a competent defense. The presiding judge, "Chet" Taylor did not replace my
22 public defender.

23
24 13. The only motion to dismiss the criminal case against me filed by my
25 public defender referenced but a single sentence from Assembly Bill 1527, a 15
26 page bill which made it a crime to openly carry an unloaded long gun in
27 incorporated cities. The motion is based on state preemption.

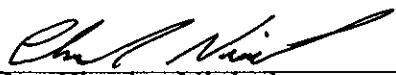
1 14. The sections of the California Penal code alone regulating the
2 possession, use and carrying of weapons is over 200 pages long. Given that the
3 municipal ordinance I am being charged with violating bans all weapons, a proper
4 preemption motion would have been significantly longer.

5
6 15. My public defender has thus far refused to file a motion based on the
7 First and Second Amendments to the US Constitution saying that he and his office
8 (the Los Angeles County Public Defenders Office) does not believe that the
9 Second Amendment is a fundamental right despite the U.S. Supreme Court,
10 Federal Courts and California's own state courts saying that the Second
11 Amendment is a fundamental right. And despite the fact that prior to the Heller
12 decision, the California Supreme court had recognized the carrying of firearms as a
13 fundamental right, albeit one subject to rational review, since 1924.

14
15 16. My own personal experience has proven that California police,
16 prosecutors and judges do not obey their own laws. I cannot receive a fair trial.
17 My only recourse is through the Federal courts.

18
19 17. To the best of my knowledge, the exhibits are true and correct.


20 Executed in the United States on April 8, 2013,
21

22
23 
24 By: Charles Nichols
25 PLAINTIFF in Pro Per
26 PO Box 1302
27 Redondo Beach, CA 90278
28 Voice: (424) 634-7381
E-Mail:
CharlesNichols@Pykrete.info

///

ORIGINAL

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In Pro Per

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LOS ANGELES
BY: 

FILED

United States District Court
Central District of California

Charles Nichols,

PLAINTIFF,

VS.

KAMALA D. HARRIS, Attorney
General, in her official capacity as
Attorney General of California, CITY
OF REDONDO BEACH and DOES 1
to 10,

Defendants.

Case No.:
CV-11-9916 SJO (SS)

SECOND AMENDED COMPLAINT

**COMPLAINT FOR
DECLARATORY AND/OR
PROSPECTIVE INJUNCTIVE
RELIEF**

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

42 U.S.C. §§ 1983, 1985, 1986, 1988

FIRST AMENDMENT

SECOND AMENDMENT

FOURTH AMENDMENT

FOURTEENTH AMENDMENT

JURISDICTION AND VENUE

1
2 1. This Court has subject matter jurisdiction over this action pursuant to 28
3 U.S.C. §§ 1331, 1343, 2201, 2202 and 42 U.S.C. §§ 1983, 1985, 1986, 1988.

4
5 2. Venue lies in this District pursuant to 28 U.S.C. § 1391(b).

6
7 **PARTIES**

8 3. PLAINTIFF CHARLES NICHOLS is a natural person and citizen of the
9 United States and of the State of California and was at all material times a resident
10 of Los Angeles County.

11
12 4. At all relevant times, DEFENDANT KAMALA HARRIS (KAMALA
13 HARRIS, HARRIS) was, and currently is, the Attorney General of the State of
14 California and she is obligated to supervise her agency and comply with all
15 statutory duties under California Law. She is charged with enforcing and
16 interpreting California Statutes including, but not limited to, California Penal Code
17 Sections 25850, 26350, 26400, 26150, 26155, 26165, 26175, 26180, 26185, 26190,
18 26200, 26202, 26205, 26210, and 26215. KAMALA HARRIS has concurrent
19 prosecutorial jurisdiction with the state's 58 District Attorneys, and she is bound
20 by a duty to seek substantial justice and avoid the filing of criminal charges in
21 which she knows (or should know) are not supported by probable cause. HARRIS
22 also has an independent duty to disclose information beneficial to the accused and
23 by extension she has a duty to prevent wrongful arrests in the first place when she
24 has the power to do so. When she deems it advisable or necessary in the public
25 interest, or when directed to do so by the Governor, she shall assist any district
26 attorney in the discharge of his duties, and may, where she deems it necessary, take
27 full charge of any investigation or prosecution of violations of law of which the
28 superior court has jurisdiction. In this respect she has all the powers of a district

1 attorney, including the power to issue or cause to be issued subpoenas or other
 2 process. See Article 5, Section 13 of the California Constitution and Cal. Gov't
 3 Code §§ 12510, 12511 & 12550. She is being sued solely in her official capacity
 4 and solely for Declarative and/or prospective injunctive relief.

5
 6 5. At all relevant times, DEFENDANT CITY OF REDONDO BEACH
 7 ("CITY") is and was a duly organized public entity, form unknown, existing under
 8 the laws of the State of California. At all relevant times, CITY was the employer
 9 of the police officers, prosecutors and DOE defendants who injured PLAINTIFF.

10
 11 6. PLAINTIFF is uncertain of the exact identity of any additional individual
 12 defendants who participated in the violation of his constitutionally protected rights.
 13 PLAINTIFF therefore names these individuals as DOE Defendants and reserves
 14 the right to amend this complaint when their true names are ascertained.
 15 Furthermore, if/when additional persons and entities are discovered to have
 16 assisted and/or lent support to the wrongful conduct of the DEFENDANTS named
 17 herein, PLAINTIFF reserves the right to amend this complaint to add those persons
 18 and/or entities as Defendants.

19 20 **BACKGROUND ALLEGATIONS**

21 7. The United States Supreme Court in its landmark decision on the Second
 22 Amendment, *District of Columbia v. Heller*, 128 S. Ct. 2783, 2809 (2008),
 23 broadly confirmed the rights of Americans to keep and bear arms. While the
 24 opinion recognizes some limits to this right (i.e., prohibitions on concealed
 25 weapons in public, prohibitions on dangerous and unusual weapons, limitations on
 26 the possession of firearms by felons and the mentally ill, and laws forbidding
 27 carrying firearms in sensitive locations like schools and public buildings), the right
 28 itself is broad and occupies an important place in our constitutional history. The

1 right to keep and bear arms is implicit in our understanding of ordered liberty and
 2 is deeply rooted in the traditions of our country. The Second Amendment right is
 3 not the only provision in the Bill of Rights that has controversial public safety
 4 implications. The provisions of the Bill of Rights have governed law enforcement
 5 practices, the prosecution of cases including criminal cases and the punishment of
 6 offenders. All of these have disputed public safety implications. Despite this, self-
 7 defense is the central component of the Second Amendment right and is enshrined
 8 in Article I, Section 1 our own State Constitution. The core lawful purpose of self-
 9 defense does not disappear the moment a private citizen steps outside his home.
 10 *Heller* has provided for a number of presumptively lawful regulatory measures
 11 noted above such as prohibitions on the carrying of concealed firearms in public,
 12 but neither the state nor local governments can prohibit private citizens from
 13 carrying firearms openly, except in sensitive places. *Heller* tells us “This [Open
 14 Carry] is the right guaranteed by the Constitution of the United States...”

15
 16 8. This case involves an important constitutional principle, that neither the state
 17 nor local governments may prohibit PLAINTIFF or similarly situated individuals
 18 from openly carrying a fully functional firearm (loaded and unloaded) for the
 19 purpose of self-defense (or for other lawful purposes) in non-sensitive public
 20 places such as public streets, sidewalks, parking lots, open public spaces, his
 21 residential property, within his motor vehicle including any attached camper or
 22 trailer regardless of whether or not the motor vehicle or attached camper or trailer
 23 is used as a primary or temporary residence or no residence at all. Places which
 24 are not sensitive places where the carrying of loaded firearms can be prohibited;
 25 such as in schools and government buildings and where there exists a State or
 26 Federal law which constitutionally prohibits the carrying of a loaded firearm in
 27 those sensitive places are not at issue. PLAINTIFF similarly does not challenge
 28 any state or Federal prohibition on the carrying of weapons concealed or in the

1 licensing of the carrying of a weapon concealed in a public place or any of the
2 other presumptively lawful prohibitions stated in the *Heller* decision.

3
4 9. California law has expanded its ban on carrying a firearm in public to such a
5 great extent that PLAINTIFF, and tens of millions of similarly situated persons in
6 California, violate the ban by merely stepping outside the door of his home onto
7 his own residential property. In particular, California courts have construed the
8 ban on carrying firearms in a public place to include private residential property.
9 California courts have also construed that a loaded handgun, inside of a chest of
10 drawers, inside of a trailer towed behind a motor vehicle is a public place even
11 though the trailer was being used as a primary residence by the defendant. The
12 California legislature has enacted two recent bans on the open carry of unloaded
13 firearms in public. Assembly Bill 144 made it a crime to openly carry an unloaded
14 handgun in a public place and Assembly Bill 1527 made it a crime to openly carry
15 an unloaded firearm in a public place which is not a handgun (e.g., rifle shotgun) in
16 an incorporated city or city and county. Neither bill provides for a self-defense
17 exception. Both bills prohibit transport of an unloaded firearm except for directly
18 between two places where it is legal to possess a firearm. Prior to the enactment of
19 these two bills it was possible to openly carry an unloaded firearm in public places
20 with ammunition at the ready and to load the firearm should one find himself in
21 "grave, immediate danger," with an exception within 1,000 feet of a K-12 public or
22 private school, where handguns had to be carried unloaded in a fully enclosed,
23 locked container unless one had permission from the school (see Penal Code
24 section 626.9). This prohibition did not apply to the Open Carry of unloaded long
25 guns. However, the California courts are split on what constitutes a "loaded"
26 firearm. One appellate court held (correctly) that a firearm is not loaded unless
27 there is a live round in the firing chamber while another held that an unloaded
28

1 firearm is "loaded" if it simply has a magazine or clip containing ammunition
2 attached to the firearm and there is no ammunition in the firing chamber.
3

4 10. The theoretical ability to secure a license to openly carry a loaded firearm is
5 meaningless in light of Penal Code sections 26150 and 26155 which prevent
6 anyone living in a county with 200,000 or more people from securing a license to
7 openly carry a loaded gun. Virtually everyone in the state of California lives in a
8 place where state law prohibits the issuance of a license to openly carry a loaded
9 firearm (i.e., anyone who lives in a county with 200,000 people or more people)
10 including PLAINTIFF who lives in the County of Los Angeles.
11

12 11. Aside from the population limitation, an individual seeking a license to carry
13 a loaded and exposed weapon or a concealed weapon is required to apply for a
14 license from either the head of a municipal police department or county sheriff.
15 PLAINTIFF'S city of residence does not have a police chief and the custom and
16 policy of the Sheriff of Los Angeles County is to not issue permits absent showing
17 of an extraordinary need which as a practical matter means almost no one can carry
18 a loaded gun in Los Angeles County.
19

20 12. Indeed DEFENDANT HARRIS has instructed all issuing authorities in
21 California not to issue a license to openly carry a handgun to PLAINTIFF and
22 similarly situated individuals on page 1 of her "STANDARD APPLICATION
23 FOR LICENSE TO CARRY A CONCEALED WEAPON (CCW)" prepared by
24 the Attorney General pursuant to California Penal Code section 26175 which also
25 provides for her to revise the application form. DEFENDANT HARRIS has
26 refused to either create or revise the application form to accommodate
27 PLAINTIFF'S and similarly situated individuals Second Amendment right to
28 openly carry a loaded firearm in public for the purpose of self-defense and other

1 lawful purposes. Given the above, the constitutional right to bear arms as
2 enshrined in the Second Amendment and as recently interpreted by the Supreme
3 Court is being violated on a daily basis in California.

4
5 13. This case involves a second important constitutional principle that neither
6 the state nor its local governments can deny a license to PLAINTIFF or similarly
7 situated persons to openly carry a loaded firearm in non-sensitive public places
8 based on the population of the county in which a person who is not prohibited from
9 possessing a firearm resides or because he resides in a city or county within the
10 state in which state law does not provide for the issuance of a license to openly
11 carry a loaded firearm in non-sensitive public places.

12 13 **STATE LAWS AND CITY ORDINANCES**

14 14. All of the above paragraphs are re-alleged and incorporated herein by
15 reference with the same force and effect as if fully set forth herein.

16
17 15. Section 25850 states in pertinent part:

18 25850. (a) A person is guilty of carrying a loaded firearm when the person
19 carries a loaded firearm on the person or in a vehicle while in any public place or
20 on any public street in an incorporated city or in any public place or on any public
21 street in a prohibited area of unincorporated territory.

22 (b) In order to determine whether or not a firearm is loaded for the purpose of
23 enforcing this section, peace officers are authorized to examine any firearm carried
24 by anyone on the person or in a vehicle while in any public place or on any public
25 street in an incorporated city or prohibited area of an unincorporated territory.

26 Refusal to allow a peace officer to inspect a firearm pursuant to this section
27 constitutes probable cause for arrest for violation of this section. (Note that
28

1 California Penal Code **section 25850** does not contain a self-defense exception as
2 did prior section 12031.)

3
4 16. California Penal Code **section 26350** states in pertinent part:

5 26350. (a) (1) A person is guilty of openly carrying an unloaded handgun
6 when that person carries upon his or her person an exposed and unloaded handgun
7 outside a vehicle while in or on any of the following:

8 (A) A public place or public street in an incorporated city or city and county.

9 (B) A public street in a prohibited area of an unincorporated area of a county or
10 city and county.

11 (C) A public place in a prohibited area of a county or city and county.

12 (2) A person is guilty of openly carrying an unloaded handgun when that person
13 carries an exposed and unloaded handgun inside or on a vehicle, whether or not on
14 his or her person, while in or on any of the following:

15 (A) A public place or public street in an incorporated city or city and county.

16 (B) A public street in a prohibited area of an unincorporated area of a county or
17 city and county.

18 (C) A public place in a prohibited area of a county or city and county.

19
20 17. California Penal Code **section 26400** states in pertinent part:

21 26400. (a) A person is guilty of carrying an unloaded firearm that is not a
22 handgun in an incorporated city or city and county when that person carries upon
23 his or her person an unloaded firearm that is not a handgun outside a vehicle while
24 in the incorporated city or city and county.

25
26 18. California Penal Code **section 26150** states in pertinent part:
27
28

1 26150. (a) When a person applies for a license to carry a pistol, revolver, or
2 other firearm capable of being concealed upon the person, the sheriff of a county
3 may issue a license to that person upon proof of all of the following:

4 (1) The applicant is of good moral character.

5 (2) Good cause exists for issuance of the license.

6 (3) The applicant is a resident of the county or a city within the
7 county, or the applicant's principal place of employment or business is in the
8 county or a city within the county and the applicant spends a substantial period of
9 time in that place of employment or business.

10 (4) The applicant has completed a course of training as described in Section
11 26165.

12 (b) The sheriff may issue a license under subdivision (a) in either of the
13 following formats:

14 (1) A license to carry concealed a pistol, revolver, or other firearm capable of
15 being concealed upon the person.

16 (2) Where the population of the county is less than 200,000 persons according to
17 the most recent federal decennial census, a license to carry loaded and exposed in
18 only that county a pistol, revolver, or other firearm capable of being concealed
19 upon the person.

20
21 19. California Penal Code **section 26155** is substantially identical to section
22 26150 except that "the chief or other head of a municipal police department
23 of any city or city and county" is substituted for "the sheriff of a county"
24 and:

25 (c) Nothing in this chapter shall preclude the chief or other head of a municipal
26 police department of any city from entering an agreement with the sheriff of the
27 county in which the city is located for the sheriff to process all applications for
28

1 licenses, renewals of licenses, and amendments to licenses, pursuant to this
2 chapter.

3
4 20. California Penal Code **section 26160** states in pertinent part:

5 26160. Each licensing authority shall publish and make available a written
6 policy summarizing the provisions of Section 26150 and subdivisions (a) and (b)
7 of Section 26155.

8
9 21. California Penal Code **section 26165** requires a course of training of up to
10 24 hours before a license may be issued.

11
12 22. California Penal Code **section 26175** states in pertinent part:

13 26175. (a) (1) Applications for licenses, applications for amendments to
14 licenses, amendments to licenses, and licenses under this article shall be uniform
15 throughout the state, upon forms to be prescribed by the Attorney General.

16 (2) The Attorney General shall convene a committee composed of one
17 representative of the California State Sheriffs' Association, one representative of
18 the California Police Chiefs Association, and one representative of the Department
19 of Justice to review, and as deemed appropriate, revise the standard application
20 form for licenses. The committee shall meet for this purpose if two of the
21 committee's members deem that necessary.

22 (c) The standard application form for licenses described in subdivision (a) shall
23 require information from the applicant, including, but not limited to, the name,
24 occupation, residence, and business address of the applicant, the applicant's age,
25 height, weight, color of eyes and hair, and reason for desiring a license to carry the
26 weapon.

27 (i) Any license issued upon the application shall set forth the licensee's name,
28 occupation, residence and business address, the licensee's age, height, weight, color

1 of eyes and hair, and the reason for desiring a license to carry the weapon, and
2 shall, in addition, contain a description of the weapon or weapons authorized to be
3 carried, giving the name of the manufacturer, the serial number, and the caliber.
4

5 23. California Penal Code **section 26180** states in pertinent part:

6 26180. (a) Any person who files an application required by Section 26175
7 knowing that any statement contained therein is false is guilty of a misdemeanor.
8

9 24. California Penal Code **section 26185** states in pertinent part:

10 26185. (a) (1) The fingerprints of each applicant shall be taken and two
11 copies on forms prescribed by the Department of Justice shall be forwarded to the
12 department.

13 (2) Upon receipt of the fingerprints and the fee as prescribed in Section 26190,
14 the department shall promptly furnish the forwarding licensing authority a report of
15 all data and information pertaining to any applicant of which there is a record in its
16 office, including information as to whether the person is prohibited by state or
17 federal law from possessing, receiving, owning, or purchasing a firearm.

18 (3) No license shall be issued by any licensing authority until after receipt of the
19 report from the department.

20 (b) Notwithstanding subdivision (a), if the license applicant has previously
21 applied to the same licensing authority for a license to carry firearms pursuant to
22 this article and the applicant's fingerprints and fee have been previously forwarded
23 to the Department of Justice, as provided by this section, the licensing authority
24 shall note the previous identification numbers and other data that would provide
25 positive identification in the files of the Department of Justice on the copy of any
26 subsequent license submitted to the department in conformance with Section
27 26225 and no additional application form or fingerprints shall be required.
28

1 (c) If the license applicant has a license issued pursuant to this article and the
2 applicant's fingerprints have been previously forwarded to the Department of
3 Justice, as provided in this section, the licensing authority shall note the previous
4 identification numbers and other data that would provide positive identification in
5 the files of the Department of Justice on the copy of any subsequent license
6 submitted to the department in conformance with Section 26225 and no additional
7 fingerprints shall be required.

8
9 25. California Penal Code **section 26190** requires fees and provides for
10 additional testing costing applicant up to \$150 in addition to the required fees.

11
12 26. California Penal Code **section 26200** states in pertinent part:

13 26200. (a) A license issued pursuant to this article may include any
14 reasonable restrictions or conditions that the issuing authority deems warranted,
15 including restrictions as to the time, place, manner, and circumstances under which
16 the licensee may carry a pistol, revolver, or other firearm capable of being
17 concealed upon the person.

18
19 27. California Penal Code **section 26202** states in pertinent part:

20 26202. Upon making the determination of good cause pursuant to Section
21 26150 or 26155, the licensing authority shall give written notice to the applicant of
22 the licensing authority's determination. If the licensing authority determines that
23 good cause exists, the notice shall inform the applicants to proceed with the
24 training requirements specified in Section 26165. If the licensing authority
25 determines that good cause does not exist, the notice shall inform the applicant that
26 the request for a license has been denied and shall state the reason from the
27 department's published policy, described in Section 26160, as to why the
28 determination was made.

1 28. California Penal Code **section 26205** states in pertinent part:

2 26205. The licensing authority shall give written notice to the applicant
3 indicating if the license under this article is approved or denied. The licensing
4 authority shall give this notice within 90 days of the initial application for a new
5 license or a license renewal, or 30 days after receipt of the applicant's criminal
6 background check from the Department of Justice, whichever is later. If the license
7 is denied, the notice shall state which requirement was not satisfied.

8
9 29. California Penal Code **section 26210** states in pertinent part:

10 (d) Notwithstanding subdivision (c), if a licensee's place of residence was the
11 basis for issuance of a license, any license issued pursuant to Section 26150 or
12 26155 shall expire 90 days after the licensee moves from the county of issuance.

13 (e) If the license is one to carry loaded and exposed a pistol, revolver, or other
14 firearm capable of being concealed upon the person, the license shall be revoked
15 immediately upon a change of the licensee's place of residence to another county.

16
17 30. California Penal Code **section 26215** states in pertinent part:

18 26215. (a) A person issued a license pursuant to this article may apply to the
19 licensing authority for an amendment to the license to do one or more of the
20 following:

21 (1) Add or delete authority to carry a particular pistol, revolver, or other firearm
22 capable of being concealed upon the person.

23 (2) Authorize the licensee to carry concealed a pistol, revolver, or other firearm
24 capable of being concealed upon the person.

25 (3) If the population of the county is less than 200,000 persons according to the
26 most recent federal decennial census, authorize the licensee to carry loaded and
27 exposed in only that county a pistol, revolver, or other firearm capable of being
28 concealed upon the person.

1 (4) Change any restrictions or conditions on the license, including restrictions as
2 to the time, place, manner, and circumstances under which the person may carry a
3 pistol, revolver, or other firearm capable of being concealed upon the person.
4

5 31. California Penal Code **section 26220** states in pertinent part:

6 26220. (a) Except as otherwise provided in this section and in subdivision
7 (c) of Section 26210, a license issued pursuant to Section 26150 or 26155 is valid
8 for any period of time not to exceed two years from the date of the license.

9 (b) If the licensee's place of employment or business was the basis for issuance of
10 a license pursuant to Section 26150, the license is valid for any period of time not
11 to exceed 90 days from the date of the license. The license shall be valid only in
12 the county in which the license was originally issued. The licensee shall give a
13 copy of this license to the licensing authority of the city, county, or city and county
14 in which the licensee resides. The licensing authority that originally issued the
15 license shall inform the licensee verbally and in writing in at least 16-point type of
16 this obligation to give a copy of the license to the licensing authority of the city,
17 county, or city and county of residence. Any application to renew or extend the
18 validity of, or reissue, the license may be granted only upon the concurrence of the
19 licensing authority that originally issued the license and the licensing authority of
20 the city, county, or city and county in which the licensee resides.

21 (c) A license issued pursuant to Section 26150 or 26155 is valid for any period of
22 time not to exceed three years from the date of the license if the license is issued to
23 any of the following individuals:

24 (1) A judge of a California court of record.

25 (2) A full-time court commissioner of a California court of record.

26 (3) A judge of a federal court.

27 (4) A magistrate of a federal court.

28 (d) A license issued pursuant to Section 26150 or 26155 is valid

1 for any period of time not to exceed four years from the date of the license if the
 2 license is issued to a custodial officer who is an employee of the sheriff as
 3 provided in Section 831.5, except that the license shall be invalid upon the
 4 conclusion of the person's employment pursuant to Section 831.5 if the four-year
 5 period has not otherwise expired or any other condition imposed pursuant to this
 6 article does not limit the validity of the license to a shorter time period.

7 (e) A license issued pursuant to Section 26170 to a peace officer appointed
 8 pursuant to Section 830.6 is valid for any period of time not to exceed four years
 9 from the date of the license, except that the license shall be invalid upon the
 10 conclusion of the person's appointment pursuant to Section 830.6 if the four-year
 11 period has not otherwise expired or any other condition imposed pursuant to this
 12 article does not limit the validity of the license to a shorter time period.

13
 14 32. California Penal Code **section 17030** states in full:

15 17030. As used in this part, "prohibited area" means any place where it is
 16 unlawful to discharge a weapon.

17
 18 33. Defendant CITY OF REDONDO BEACH broadly defines "Park" to include
 19 all "open space." The Redondo Beach City ordinances state in pertinent part:

20 **4-35.01 Definitions.**

21 "Park" shall mean any publicly owned or leased property established, designated,
 22 maintained, or otherwise provided by the City for recreational use or enjoyment,
 23 including, but not limited to, any public areas located within or directly adjacent to
 24 such property such as picnic areas, playgrounds, sports fields, athletic fields, sports
 25 courts, trails, walkways, pathways, gardens, parking lots, parkettes, aquatic centers,
 26 skateboard parks, community centers, senior centers, land designated by the City
 27 as parkland or open space, landscaped or planted areas, and other buildings or
 28

1 structures. The term “park” shall not include the beach as defined in Section 5-
 2 8.01(a)(1) of this Code.” Emphasis added.

3
 4 **4-35.06 Vehicles in parks.**

5 No person shall drive any motorized vehicle within any portion of any park,
 6 excluding park parking lots. This section shall not apply to service vehicles used to
 7 maintain or operate the park, or to police or emergency vehicles. (§ 1, Ord. 3051
 8 c.s., eff. June 18, 2010)

9
 10 **4-35.20 Weapons and explosives in parks.**

11 (a) It shall be unlawful for any person to use, carry, fire or discharge any firearm,
 12 air gun, paint gun, BB gun, slingshot, archery device of any kind, or any other
 13 form of weapon across, in or into a park. This subsection shall not apply to law
 14 enforcement officers.

15
 16 34. Redondo Beach municipal ordinance 5-8.01(a)(1) states:

17 “Beach” means the public beach or shoreline area bordering the Pacific Ocean,
 18 owned, managed or controlled by the State of California, County of Los Angeles or
 19 the City of Redondo Beach or that is open to the general public and located within
 20 the City of Redondo Beach. For the purposes of this section, the beach shall
 21 include all indoor and outdoor areas of the land in the City that extends 1,000 feet
 22 seaward from the low mean tide line and landward to the following described lines:
 23 to the top of the seaward face of the coastal bluffs west of the Esplanade from the
 24 City’s southerly border to the southerly edge of the first residential private property
 25 on the west side of the Esplanade and to the westerly edge of the private properties
 26 on the west side of the Esplanade from Avenue A to Ainsworth Court at George
 27 Freeth Way; to the westerly edge of the public sidewalk from Ainsworth Court to
 28 the extended line of the southerly edge of the Redondo Beach Pier; to the westerly

1 foundation under the Pier from the southerly edge of the Pier to the southerly edge
 2 of the Harbor entrance break wall; from the westerly edge of the road, parking lot
 3 or buildings bordering the sandy area from the northerly edge of the Galveston
 4 Wall to the City's northern border.

5 6 FACTS

7 35. All of the above paragraphs are re-alleged and incorporated herein by
 8 reference with the same force and effect as if fully set forth herein.

9
 10 36. California law and local City Of Redondo Beach ordinances prohibit
 11 PLAINTIFF and similarly situated individuals from openly carrying a firearm in
 12 non-sensitive public places which is a violation of the United States Constitution
 13 and the fundamental right to openly carry a loaded firearm for the purpose of self-
 14 defense and for other lawful purposes. California statutes require that PLAINTIFF
 15 and individuals similarly situated "voluntarily" give permission to an
 16 unconstitutional search and seizure of his property and person in order to exercise a
 17 fundamental constitutional right to openly carry a firearm in non-sensitive public
 18 places or risk arrest, prosecution, fine and imprisonment. Defendant City of
 19 Redondo Beach ordinances unconstitutionally prohibit the carrying of all weapons
 20 in all open spaces. Defendant City of Redondo Beach has interpreted its local
 21 ordinance, 4-35.20 to apply to all public, open spaces within the city including the
 22 costal parklands and public coastal property not zoned as parkland to which the
 23 prohibitions in 4-35.20 are statutorily excluded from its own city ordinances: 4-
 24 35.01, 4-35.06, and 5-8.01(a)(1). DEFENDANT HARRIS has taken no steps to
 25 correct the unlawful behavior of the CITY or to intervene PLAINTIFF'S behalf in
 26 his criminal prosecution. DEFENDANT HARRIS has done nothing to stop the
 27 unlawful conduct of the CITY.
 28

1 37. Redondo Beach City ordinances prohibit PLAINTIFF and similarly situated
2 individuals from openly carrying a firearm; loaded and unloaded, openly or
3 concealed and even unloaded within a fully enclosed locked container. Unloaded
4 and in a fully enclosed locked container is the lawful manner of transporting a
5 handgun through areas, such as school zones, where openly carrying a firearm is
6 prohibited. DEFENDANT HARRIS has taken no steps to correct the unlawful
7 behavior of the CITY or to intervene on PLAINTIFF'S behalf in his criminal
8 prosecution.

9
10 38. The State of California has preempted local governments from enacting and
11 enforcing local ordinances regulating the carrying of firearms, loaded and
12 unloaded, openly or concealed. Local governments are prohibited from issuing or
13 denying licenses to openly carry loaded firearms except where provided by state
14 law. DEFENDANT HARRIS has done nothing to stop the unlawful conduct of the
15 CITY.

16
17 39. A publication by the State of California's Office of Attorney General titled
18 "CONCEALABLE FIREARMS CHARGES IN CALIFORNIA 2000-2003" on
19 page 14 in Table N-17 indicates that there were 7,775 charged offenses for
20 violation of California Penal Code Section 12031 during that time period. This
21 number does not reflect arrests which were not charged or searches conducted
22 pursuant to the statute. The most recent publication by DEFENDANT HARRIS
23 titled "Crime In California 2010" indicates that there were 22,216 felony arrests
24 and 5,800 misdemeanor arrests for weapons violations on pages 34 and 43
25 respectively. The documents also contain breakdowns of arrests by race which
26 shows that racial minorities are disproportionately arrested. Effective January 1,
27 2012 California Penal Code Section 12031 was renumbered. Former Penal Code
28 Section 12031(a)(1) is now Penal Code Section 25850(a) and former section

1 12031(e) is now 25850(b). The text of these two subsections was left unchanged
2 when they were renumbered.

3
4 40. The Office of the Attorney General has one or more databases containing
5 arrests made for violations of California Penal Code Section 25850 (formerly
6 PC12031) and other weapons offenses from 1979 to the present.

7
8 41. Pursuant to California Penal Code Section 25850 et al the State of California
9 has clearly and unequivocally set forth an unconstitutional policy of prohibiting
10 firearms (loaded and unloaded) from being openly carried in non-sensitive public
11 places for the purpose of self-defense and other lawful purposes in all incorporated
12 cities and unincorporated county territory where the discharge of firearms is
13 prohibited. DEFENDANT HARRIS has participated in its enforcement.

14
15 42. Pursuant to California Penal Code Sections 25850, 26350, 26150, 26155 et
16 al, the State of California has clearly and unequivocally set forth an
17 unconstitutional policy of rationing licenses to openly carry a loaded and unloaded
18 handgun for the purpose of self-defense and for other lawful purposes. In addition
19 to limiting the exercise of PLAINTIFF'S and similarly situated individuals Second
20 Amendment right, the California licensing and prohibition on openly carrying
21 loaded and unloaded firearms in public places is designed and intended to deny
22 persons of color their Second Amendment right. DEFENDANT HARRIS has
23 participated in their enforcement, promulgates the prohibitions, prepares the forms,
24 conducts the background checks and a license may not be issued without her
25 approval.

26
27 43. The intent of the California Legislature when it enacted California Penal
28 Code Section 12031 (now PC 25850 in part) in July of 1967 was that it apply to

1 openly carried firearms, which the legislative history clearly states. The
 2 Legislature did not intend for it to apply to the concealed carry of firearms. The
 3 legislation was intended to disarm members of the Black Panther Party for Self-
 4 Defense while providing for the Open Carry of a loaded firearm when one
 5 reasonably believed himself to be in danger or while hunting within the city limits
 6 of an incorporated city, town or village. The self-defense threshold was raised to a
 7 grave and immediate danger in 1981. Under California case law, convicted felons
 8 and other prohibited persons still fall under the pre-1981 "reasonable fear"
 9 threshold whereas PLAINTIFF and all others who fall within the scope of the
 10 Second Amendment are subject to the much higher "grave, immediate danger"
 11 self-defense threshold.

12
 13 44. In 1969, the California courts held that the statute (PC 12031 now
 14 renumbered in part as 25850(a) & (b)) could be applied as a separate offense to
 15 carrying a concealed firearm in public. In 2012, the California Supreme Court held
 16 that a person may not be punished for violating more than one law for the same act
 17 pursuant to Penal Code section 654. For example, a person may not presently be
 18 punished for both unlawfully carrying a concealed handgun and for a violation of
 19 PC 25850 for the same act.

20
 21 45. California Penal Code Section 25850 and Redondo Beach City ordinances 4-
 22 35.01 and 4-35.20 were enforced on PLAINTIFF on May 21, 2012 when Redondo
 23 Beach police officer Heywood enforced subsection (b) of PC 25850 on
 24 PLAINTIFF by taking PLAINTIFF'S firearm over PLAINTIFF'S clearly
 25 communicated refusal to comply with subsection (b) of PC 25850. Officer
 26 Heywood then inspected the firearm to determine whether or not it was loaded
 27 pursuant to subsection (b) of PC 25850 which he referred to as a "Chamber
 28 Check." City of Redondo Beach Police Officer Heywood then seized

1 PLAINTIFF'S openly carried firearm and other property and an unidentified
2 Redondo Beach police officer informed PLAINTIFF that his firearm was being
3 seized for violating the city ordinances. PLAINTIFF was then informed by this
4 police officer that PLAINTIFF'S violation of the city ordinances had been referred
5 to the Redondo Beach City Attorney and City Prosecutor for criminal prosecution.
6 This police officer stated that PLAINTIFF was neither being cited nor arrested and
7 that he did not have a warrant. PLAINTIFF submits that his person and property
8 were unlawfully seized and searched against his will and that PLAINTIFF was
9 unlawfully arrested and/or detained against his will while engaged in peaceful
10 protest and openly carrying an unloaded firearm as part of his protest and as the
11 only means then not prohibited by state law to defend PLAINTIFF with a firearm
12 in public. PLAINTIFF'S protest of May 21, 2012 for which he was arrested and
13 prosecuted was conducted entirely within the "Beach" zone to which the local
14 ordinance he was charged with violating does not apply according to CITY'S own
15 municipal code. At the time of his arrest, PLAINTIFF posed no threat, imminent
16 or otherwise, of death, personal injury (serious or otherwise) to any police officer
17 or to any other person. PLAINTIFF was arrested, searched and his property seized
18 on a street with a posted 5MPH speed limit open to the public and posted as
19 "PRIVATE PROPERTY." PLAINTIFF and fellow Open Carry activists were
20 threatened with prosecution of Redondo Beach City ordinance 4-35.20 on August
21 7, 2010 at an Open Carry event which PLAINTIFF had scheduled in advance of
22 the date with the CITY but was prohibited from taking place by CITY police
23 officers at the direction of the CITY in retaliation for a member of the South Bay
24 Open Carry movement not wanting to postpone the event until the following
25 month. PLAINTIFF was injured and suffers an ongoing injury. PLAINTIFF'S
26 constitutional rights were violated. PLAINTIFF suffered a personal injury as well.
27 PLAINTIFF was prosecuted for his subsequent protest which was held and then
28 broken up by CITY police officers on May 21, 2012. DEFENDANT HARRIS has

1 not intervened in his prosecution which is her duty to do so. DEFENDANT
2 HARRIS has done nothing to stop the unlawful conduct of the CITY.

3
4 46. PLAINTIFF asked CITY OF REDONDO BEACH Police Chief Joseph
5 Leonardi through his then attorney and through Redondo Beach Captain Jeff Hink
6 for an application and a license to openly carry a loaded handgun on May 17, 2012.
7 Captain Jeff Hink referred PLAINTIFF'S request for an application and a license
8 to openly carry a loaded firearm to the City Attorney and informed PLAINTIFF of
9 this via email.

10
11 47. On May 21, 2012 after both California Penal Code Section 25850 and the
12 Redondo Beach city ordinances 4-35.20 and 4-35.01 had been enforced on
13 PLAINTIFF and his firearm seized, the Redondo Beach Police Chief through his
14 attorney, the Redondo Beach City Attorney, denied PLAINTIFF both an
15 application and a license to openly carry a loaded firearm citing California Penal
16 Code section 26155(b)(2) prohibiting the issuance of licenses in counties with a
17 population of 200,000 or more people and California Penal Code section
18 26155(a)(3) limiting the issuance of licenses only to residents of the city.
19 PLAINTIFF resides in a city adjacent to the City of Redondo Beach and receives
20 his mail from a post office box in the City of Redondo Beach. The City of
21 Redondo Beach is also where PLAINTIFF shops, travels through and frequents on
22 a regular basis. There is no administrative appeal available for PLAINTIFF to
23 appeal the denial of an application for a license to openly carry a loaded handgun
24 in public. DEFENDANT HARRIS has told every police chief and county sheriff
25 in the state that PLAINTIFF and similarly situated individuals may not be issued a
26 license to openly carry a loaded firearm in the state. It is futile for PLAINTIFF to
27 apply for a license to openly carry a loaded handgun from any issuing authority in
28 the State of California.

1 48. PLAINTIFF obtained a Law Enforcement Gun Release Letter from
2 DEFENDANT HARRIS' California Department of Justice and demanded the
3 return of his firearm and other property seized by CITY as required by California
4 law. PLAINTIFF'S property was not returned by CITY. PLAINTIFF has no other
5 appeal or administrative remedy for return of his firearm and other property.
6 DEFENDANT HARRIS has done nothing to stop the unlawful conduct of the
7 CITY.

8
9 49. PLAINTIFF has frequently and countless times violated California Penal
10 Code Section 25850, the Redondo Beach City Ordinances and other California
11 statutes prohibiting firearms from being carried in non-sensitive public places.
12 PLAINTIFF continues to violate California Penal Code Section 25850, the
13 Redondo Beach City Ordinances and other California statutes prohibiting firearms
14 from being carried in public places and will continue to violate California Penal
15 Code Section 25850, the Redondo Beach City Ordinances and other California
16 statutes prohibiting firearms from being carried in public places on the 7th day of
17 every month by carrying a firearm (a holstered handgun, rifle or shotgun of a type
18 in common use by the public) in a public place. PLAINTIFF will violate
19 California Penal Code Sections 25850, 26350, 26400 and the Redondo Beach City
20 Ordinances and other California statutes prohibiting firearms from being carried in
21 public places on August 7, 2013 in the same location in the City of Redondo Beach
22 where he was prevented from openly carrying a firearm under threat of arrest on
23 August 7, 2010 and where California Penal Code Section 25850 and the Redondo
24 Beach City Ordinances 4-35.20 and 4-35.01 prohibiting the carrying of firearms in
25 public places were enforced against PLAINTIFF on May 21, 2012. PLAINTIFF
26 will then proceed from the Redondo Beach Pier and environs to the South Bay
27 Shopping Center in the City of Redondo Beach to do some shopping. PLAINTIFF
28 will then travel outside of the City of Redondo Beach to visit relatives in Torrance,

1 California where he will openly carry firearms along the public streets and on
2 public sidewalks and on his relatives' residential property. PLAINTIFF will openly
3 carry a loaded holstered handgun, loaded rifle and loaded shotgun of a type in
4 common use by the public. PLAINTIFF will openly carry an unloaded holstered
5 handgun, unloaded rifle and unloaded shotgun of a type in common use by the
6 public. PLAINTIFF will openly carry, loaded and unloaded, a holstered handgun,
7 rifle and shotgun of a type in common use by the public while travelling within the
8 state of California within and without a motor vehicle. PLAINTIFF will openly
9 carry a firearm when confronted by aggressors, it is impossible to know when such
10 occasions will arise, if it were, PLAINTIFF would avoid them even though there is
11 no "duty to retreat" in the State of California. At all times, PLAINTIFF will refuse
12 to consent to the inspection of his firearm to see if it is loaded in violation of
13 California Penal Code Section 25850.

14
15 50. Although both the state statutes (California Penal Code Section 25850 &
16 26155) and Redondo Beach City Ordinances (4-35.20 and 4-35.01) have already
17 been enforced against PLAINTIFF and others. Each and every year, there are over
18 1,000 arrests for violating California Penal Code Section 25850 alone and
19 Defendant HARRIS continues to prosecute the upholding of criminal convictions
20 for violation of the statute which are appealed. PLAINTIFF personally knows two
21 persons who are members of his California non-profit association of which he is
22 the President (California Right To Carry – An Open Carry advocacy group) who
23 were prosecuted for having a "loaded" handgun in their vehicles even though the
24 handgun was unloaded. Charges in both cases were eventually dismissed after a
25 year of prosecution. A third member was arrested for lawfully transporting an
26 unloaded handgun in a fully enclosed locked container but not prosecuted.
27 DEFENDANT HARRIS had been made aware of the first two cases by
28 PLAINTIFF and yet she refused to exercise her authority under California law to

1 end those prosecutions and prevent current and future unconstitutional
2 prosecutions of the statute. Neither has DEFENDANT HARRIS instructed the
3 Redondo Beach Defendants that their city ordinances prohibiting the carrying of
4 firearms in public places are preempted by state law and is unconstitutional under
5 Federal law nor has she intervened on behalf of PLAINTIFF in the criminal
6 prosecution by the DEFENDANT CITY OF REDONDO BEACH or in the two
7 prosecutions mentioned previously despite her duty to do so. Given the history of
8 zealous enforcement of California's laws prohibiting the carrying of firearms in
9 non-sensitive public places by HARRIS and others including by members of her
10 own Department of Justice, with arrests, prosecutions and imprisonments
11 numbering in the tens of thousands; future enforcement of the statute on
12 PLAINTIFF is far more than likely - It is a certainty. The active enforcement by
13 CITY against PLAINTIFF and enforcement by others on similarly situated parties
14 constitutes a real threat of enforcement against PLAINTIFF as both members of
15 PLAINTIFF'S non-profit were openly carrying an unloaded handgun at the time of
16 their arrest which is the manner PLAINTIFF usually carried a firearm in non-
17 sensitive public places unless he reasonably believed he was in danger; an
18 inadvertent violation of former penal code section 12031(a)(1). PLAINTIFF was
19 not even aware that the threshold for carrying a loaded firearm had been raised to
20 grave, immediate danger until relatively recently. There is no knowledge
21 requirement to the statutes. PLAINTIFF'S ignorance of the change in the law
22 would not have prevented his arrest, prosecution fine and imprisonment.
23 DEFENDANT HARRIS has done nothing to stop the unlawful conduct of the
24 CITY, or of law enforcement officers, prosecutors and judges.

25
26 51. When officer Todd Heywood enforced California Penal Code Section 25850
27 against PLAINTIFF against his will and seized PLAINTIFF'S firearm and
28 property against his will a definite and concrete dispute regarding the lawfulness of

1 that search and enforcement of that statute came into existence. Officer Heywood
 2 is an employee of CITY. DEFENDANT HARRIS has done nothing to stop the
 3 unlawful conduct of the CITY and its employees.

4
 5 52. When officer Todd Heywood and others enforced Redondo Beach City
 6 ordinances 4-35.01 and 4-35.20 against PLAINTIFF and seized PLAINTIFF'S
 7 firearm and property against his will a definite and concrete dispute regarding the
 8 lawfulness of that seizure and enforcement of those city ordinances came into
 9 existence. DEFENDANT HARRIS has done nothing to stop the unlawful conduct
 10 of the CITY and its employees.

11
 12 53. The Federal Bureau of Investigation (FBI) has a National Instant Criminal
 13 Background Check System (NICS) which has been operational since 1998. The
 14 NICS Section is accessible via a toll-free telephone number or electronically on the
 15 Internet through the NICS E-Check System to request a background check with the
 16 descriptive information provided on the ATF Form 4473. NICS is customarily
 17 available 17 hours a day, seven days a week, including holidays (except for
 18 Christmas). The NICS can be used to instantly determine whether a prospective
 19 buyer is eligible to buy firearms.

20
 21 54. In this case, injuries to PLAINTIFF have already occurred and are ongoing,
 22 thereby eliminating any concerns that PLAINTIFF'S fear of enforcement is purely
 23 speculative. PLAINTIFF'S injury is ongoing.

24
 25 **FIRST CLAIM FOR RELIEF:**

26 **SECOND AMENDMENT, FOURTH AMENDMENT, FOURTEENTH**

27 **AMENDMENT UNITED STATES CONSTITUTION**

28 **42 USC § 1983, 1988 - INJUNCTIVE/DECLARATORY RELIEF**

PLAINTIFF vs DEFENDANT KAMALA HARRIS

55. All of the above paragraphs are re-alleged and incorporated herein by reference with the same force and effect as if fully set forth herein.

56. The Second Amendment “guarantee[s] the individual right to possess and carry weapons in case of confrontation.” District of Columbia v. Heller, 554 U.S. 570, 592 (2008) and was applied to all state and local governments in McDonald v. Chicago, 561 U.S. 3025 (2010).

57. California Penal Code Section 25850 is unconstitutional on its face and as applied to firearms openly carried in non-sensitive public places. Mere possession or carrying of a loaded firearm, (i.e., exercising a fundamental right) when otherwise lawful under law cannot support the unlawful detention, arrest, prosecution, imprisonment or search of a person and seizure of a firearm when openly carried in non-sensitive public places (25850(a)). Mere possession of a firearm, (i.e., exercising a fundamental right) when otherwise lawful, cannot support a finding of probable cause to believe a crime has been committed, such that the Fourth Amendment’s warrant requirement can be legislatively disregarded (25850(b)). Openly carrying a loaded firearm in non-sensitive public places such as public streets, sidewalks, shopping centers, parking lots, piers, open spaces; of a type in common use for the purpose of self-defense or for other lawful purposes is a right guaranteed by the Second Amendment of the United States Constitution and is a fundamental right which cannot be denied to PLAINTIFF or the People under the Second and Fourteenth Amendments because PLAINTIFF happens to be in a non-sensitive public place in ALL incorporated cities or in ANY unincorporated county territory where the discharge of a firearm is prohibited. PC25850 should be construed as a Loaded Open Carry ban, which is what the legislature intended and is clear in the legislative history.

58. PLAINTIFF requests declaratory and/or prospective injunctive relief under 42 U.S.C. § 1983 against DEFENDANT HARRIS to prevent future violations of his constitutional right to be free from unreasonable search and seizure under the Fourth Amendment to the United States Constitution while he is exercising his Second Amendment right to openly carry a loaded firearm in non-sensitive places for the purpose of self-defense and for other lawful purposes. PLAINTIFF desires to exercise his Second Amendment right. PLAINTIFF desires a judicial declaration of his rights and DEFENDANT'S duties namely, that California Penal Code Section 25850 infringes on PLAINTIFF'S Second, Fourth and Fourteenth Amendment rights to openly carry a loaded firearm in non-sensitive public places and/or prospective injunctive relief under 42 U.S.C. § 1983.

59. The Second Amendment invalidates California Statutes to the extent they prevent private citizens who are not otherwise barred from exercising their Second Amendment Right (examples of prohibited persons include convicted felons, mentally ill, etc) from openly carrying firearms in non-sensitive public places, loaded and unloaded, for the purpose of self-defense and for other lawful purposes.

60. California Penal Code Section 25850 is invalid as applied to prohibit, or infringe, a private citizen who is otherwise eligible to possess firearms from openly carrying a loaded and operable firearm in non-sensitive public places for the purpose of self-defense and for other lawful purposes.

61. California Penal Code Section 25850 is unconstitutionally vague. A reasonable person would not conclude that either his private residential property or the inside of his motor vehicle is a public place. Neither would a reasonable person conclude that an unloaded firearm is loaded simply by having a magazine or clip attached to his firearm unless there was also a live round in the firing

1 chamber of the firearm. Prior to July of 1967 when former Penal Code section
2 12031 went into effect a revolver was considered to be unloaded if it did not have a
3 live round in the firing chamber even though it had live rounds in the cylinder.

4 The exceptions and numerous subsections to former Penal Code section 12031, of
5 which PC 25850 is a part, have been scattered throughout the California Penal
6 code to such an extent that PC 25850 is unconstitutionally vague. It subjects the
7 exercise of the right of bear arms to an unascertainable standard, and
8 unconstitutionally broad because it authorizes the punishment of constitutionally
9 protected conduct. PC 25850 is also unconstitutionally vague because a reasonable
10 person would have to spend days searching through the California statutes and case
11 law and still be uncertain as to whether or not a particular act, or being in a
12 particular place, is in violation of PC 25850. Most of the subsections of former
13 Penal Code section 12031 are now to be found in 16750(b), 16840(b), 17030,
14 25850-26025 (inclusive), 26030(a)-(c), 26035-26055 (inclusive).

15
16 62. California Penal Code Section 26350 is facially invalid and as applied to
17 prohibit, or infringe, PLAINTIFF and private citizens who are otherwise eligible to
18 possess a firearm from openly carrying an unloaded and operable handgun for the
19 purpose of self-defense in non-sensitive public places. Mere possession of
20 matching ammunition cannot make an unloaded handgun "loaded."

21
22 63. California Penal Code Section 26400 is facially invalid and as applied to
23 prohibit, or infringe, a private citizen who is otherwise eligible to possess an
24 unloaded firearm that is not a handgun from openly carrying an unloaded and
25 operable firearm that is not a handgun for the purpose of self-defense in non-
26 sensitive public places. Mere possession of matching ammunition cannot make an
27 unloaded firearm "loaded."

64. California Penal Code Sections 26150, 26155, 26160, 26165, 26175, 26180, 26185, 26190, 26200, 26202, 26205, 26210, 26215, 26220, are facially invalid and as applied to prohibit, or infringe, PLAINTIFF and private citizens who are otherwise eligible to possess a firearm from openly carrying a loaded and operable handgun for the purpose of self-defense in non-sensitive public places.

65. California Penal Code Sections 26150, 26155, 26160, 26165, 26175, 26180, 26185, 26190, 26200, 26202, 26205, 26210, 26215, 26220 are unconstitutional on their face and as applied in this case to the extent that they restrict licenses to openly carry a loaded handgun only to persons within counties of a population of fewer than 200,000 persons which is valid only in those counties, to only those residents who reside within those counties and leaves the issuance of such licenses solely to the discretion of the issuing authority and prohibiting the issuing authority from issuing a license to other than a resident of the city, county or city and county thereby prohibiting PLAINTIFF from obtaining a license to openly carry a loaded handgun for the purpose of self-defense in non-sensitive public places afforded to similarly situated persons which is a violation of PLAINTIFF'S rights under the Second and Fourteenth Amendments.

66. The invalidities of the aforesaid statutes, and Defendants' application of same, infringe PLAINTIFF'S Second, Fourth and Fourteenth Amendments right and damage PLAINTIFF in violation of 42 U.S.C. § 1983.

67. PLAINTIFF is proceeding pro-se. None of his challenges should be construed as challenging any California statute as it pertains to the carrying of a weapon concealed on one's person in a public place. For example, "good cause," "good moral character," "training," "fingerprinting," "residency," and the requirement for a license itself, etc., are only at issue in this case as they pertain to

1 licenses to carry firearms openly in non-sensitive public places and those places
 2 which PLAINTIFF submits are not public places, sensitive or otherwise, such as
 3 the curtilage of his home, within his motor vehicle including within any attached
 4 campers or trailers regardless of whether or not they are being used as a residence.

5
 6 68. PLAINTIFF'S injuries are irreparable because PLAINTIFF is entitled to
 7 enjoy his Constitutional rights in fact.

8
 9 69. PLAINTIFF requests declaratory and/or prospective injunctive relief under
 10 42 U.S.C. § 1983 against DEFENDANT HARRIS to prevent future violations of
 11 his Second Amendment right to openly carry a loaded firearm in non-sensitive
 12 public places for the purpose of self-defense and for other lawful purposes, his
 13 Fourth Amendment Right, and his Fourteenth Amendment rights to equal
 14 protection under the law and to due process. PLAINTIFF submits that no license
 15 is required to openly carry a firearm for the purpose of self-defense but if a license
 16 is required then PLAINTIFF and persons not prohibited from possessing a firearm
 17 have a liberty and/or property interest in a license and must be issued one. It is
 18 futile for PLAINTIFF and similarly situated individuals to apply for a license from
 19 any and all police chiefs, county sheriffs or other issuing authorities. ALL of the
 20 laws at issue in this case fail to survive even rational review. There is no rational
 21 basis to uphold them even absent the Constitution. Similarly, they cannot survive
 22 facial, as applied, and vagueness challenges and PLAINTIFF makes these
 23 challenges against all laws at issue in this complaint.

24
 25 **SECOND CLAIM FOR RELIEF:**

26 **UNREASONABLE SEARCH AND SEIZURE AND DUE PROCESS AND**
 27 **FIRST, SECOND, FOURTH, FOURTEENTH AMENDMENT -**
 28 **MUNICIPAL LIABILITY FOR UNCONSTITUTIONAL CUSTOM OR**

POLICY PLAINTIFF vs DEFENDANT CITY OF REDONDO BEACH &**DOES 1-8**

70. All of the above paragraphs are re-alleged and incorporated herein by reference with the same force and effect as if fully set forth herein. PLAINTIFF realizes that this court has indicated that this count will likely be dismissed pursuant to the Younger Abstention just as his count against the CITY ordinances were but given that the condition for the Younger Abstention may be lifted, PLAINTIFF is keeping this claim in for now but is not seeking to move it forward until the Abstention is lifted.

71. DEFENDANT CITY OF REDONDO BEACH ongoing and unjustified violation of PLAINTIFF'S First, Second, Fourth and Fourteenth Amendment rights deprived PLAINTIFF of his right to peaceful protest and assembly under the First Amendment, his right to openly carry a firearm under the Second Amendment, his right against unreasonable search and seizure as guaranteed by the Fourth Amendment, all applied to states, local governments, state actors and agents of the states by the Fourteenth Amendment and his right to due process. The deprivation began on August 7, 2010 and continues to the present date. PLAINTIFF brought his initial suit on November 30, 2011 and amended his suit for damages on May 30, 2012 (within the statute of limitations). The criminal prosecution of his injuries sustained on May 21, 2012 has tolled the statute of limitations for that part of his damages claim.

72. As a result of the conduct of the CITY and DOE DEFENDANTS 1-8, PLAINTIFF suffered and is suffering extreme pain and suffering and loss of earning either because they were integral participants or failed to intervene to prevent these violations. They acted with gross negligence and with reckless and deliberate indifference to the rights and liberties of the public in general, and of

1 PLAINTIFF, and of persons in their class, situation and comparable position in
 2 particular, knowingly maintained, enforced, and applied an official recognized
 3 custom policy and practice of:

4 (a) Employing and retaining as police officers and other personnel who at
 5 all times material herein knew or reasonably should have known had
 6 dangerous propensities for abusing their authority and for mistreating
 7 citizens by failing to follow Federal law, state law, and CITY's own
 8 municipal ordinances and policies.

9 (b) Of inadequately supervising, training, controlling, assigning, and
 10 disciplining CITY police officers and other personnel including
 11 DEFENDANTS DOES 1-8 who CITY knew or in the exercise of reasonable
 12 care should have known had the mentioned propensities and character traits.

13 (c) By maintaining grossly inadequate procedures for reporting,
 14 supervising, investigating, reviewing, disciplining and controlling the
 15 intentional misconduct by DEFENDANTS DOES 1-8.

16 (d) By failing to discipline CITY police officers' conduct, including but
 17 not limited to unlawful detention, arrest, search and seizure of
 18 PLAINTIFF'S person and property.

19 (e) By ratifying the intentional misconduct of police officers of CITY.

20 (f) By having and maintaining an unconstitutional policy, custom, and
 21 practice of detaining and/or arresting individuals without probable cause or
 22 reasonable suspicion which also is demonstrated by inadequate training
 23 regarding these subjects. The policies, customs and practices of DOES 1-8,
 24 were done with a deliberate indifference to individuals' rights.

25
 26 73. DEFENDANT CITY and DOES 1-8, together with various other officials
 27 whether named or unnamed, had either actual knowledge or constructive
 28 knowledge of the deficient policies, practices and customs alleged. Despite having

1 knowledge as stated these defendants condoned, tolerated and through actions and
2 inactions thereby ratified such policies. Said defendants also acted with deliberate
3 indifference to the foreseeable effects and consequences of these policies with
4 respect to the Constitutional rights of PLAINTIFF and other individuals similarly
5 situated.

6
7 74. By perpetrating, sanctioning, tolerating and ratifying the outrageous conduct
8 and other wrongful acts, CITY and DOES 1-8 acted with an intentional, reckless,
9 and callous disregard for the safety, life and Constitutional rights of PLAINTIFF.
10 Each of their actions was willful, wanton, oppressive, malicious, fraudulent, and
11 extremely offensive and unconscionable to any person of normal sensibilities.

12
13 75. Furthermore, the policies, customs and practices implemented and maintained
14 and still tolerated by CITY and DOES 1-7, were affirmatively applied to and were
15 a significantly influential force behind the injuries of PLAINTIFF.

16
17 76. By reason of the mentioned acts and omissions of CITY and DOES 1-8,
18 PLAINTIFF was caused to incur legal expenses, loss of earning and health
19 problems.

20
21 77. Accordingly, CITY and DOES 1-8 are each liable for to PLAINTIFF for
22 compensatory damages under 42 U.S.C. 1983.

23
24 78. The conduct of CITY and DOE DEFENDANTS 1-8 was willful, wanton,
25 malicious, oppressive and done with reckless disregard for the rights and safety of
26 PLAINTIFF and thereby warrants the imposition of exemplary and punitive
27 damages as to DEFENDANT CITY OF REDONDO BEACH and DOE
28 DEFENDANTS 1-8.

79. PLAINTIFF seeks damages against the DEFENDANT CITY OF REDONDO BEACH and DOE DEFENDANTS 1-8 in an amount according to proof for losses incurred as a result of their ongoing violations of PLAINTIFF'S rights since August 7, 2010, for the warrantless search of PLAINTIFF'S firearm, his detention, seizure, search and the subsequent illegal seizure of his valuable property (firearm, firearm's case, padlock and key) on May 21, 2012 and for expenditures (fees/costs) associated with the defense of criminal charges due to its officially promulgated policy, custom and/or persistent practice and/or deliberately indifferent training.

THIRD CLAIM FOR RELIEF:

FIRST AMENDMENT, SECOND AMENDMENT, FOURTH AMENDMENT, FOURTEENTH AMENDMENT UNITED STATES

CONSTITUTION

42 USC § 1983, 1988 - INJUNCTIVE/DECLARATORY RELIEF

PLAINTIFF vs DEFENDANT CITY OF REDONDO BEACH

80. All of the above paragraphs are re-alleged and incorporated herein by reference with the same force and effect as if fully set forth herein. PLAINTIFF realizes that this count has been temporarily dismissed but given that the condition for the Younger Abstention may be lifted, PLAINTIFF is keeping the claim in for now but is not seeking to move it forward until the Abstention is lifted.

81. Redondo Beach City ordinances 4-35.01 AND 4-35.20 are unconstitutional on their face, and as applied in this case. Mere possession or carrying of a firearm, (i.e., exercising a fundamental right) when otherwise lawful cannot support the unlawful detention, search, arrest, prosecution, and seizure of a firearm and other property which is lawfully possessed and carried under both state and Federal law. California law preempts local governments from regulating the possession and

1 carrying of firearms. The Second Amendment guarantees the right to carry a
 2 firearm for the purpose of self-defense and for other lawful purposes. The First
 3 Amendment guarantees the right to engage in peaceful protest with an unloaded
 4 firearm. The Fourth Amendment guarantees PLAINTIFF the right to be secure
 5 from unreasonable searches and seizures. CITY'S ongoing and unjustified
 6 violation of PLAINTIFF'S First, Second, Fourth and Fourteenth Amendment
 7 rights deprived PLAINTIFF of his right to peaceful protest and assembly under the
 8 First Amendment, his right to openly carry a firearm under the Second
 9 Amendment, his right against unreasonable search and seizure as guaranteed by the
 10 Fourth Amendment, all applied to states, local governments, state actors and agents
 11 of the states by the Fourteenth Amendment and his right to due process. The
 12 deprivation began on August 7, 2010 and continues to the present date.

13
 14 82. PLAINTIFF requests declaratory and/or prospective injunctive relief under
 15 42 U.S.C. § 1983 that Redondo Beach City ordinances 4-35.01 AND 4-35.20 are
 16 unconstitutional on their face and as applied in this case and are a violation of his
 17 Second Amendment Right to Openly Carry a firearm for the purpose of self-
 18 defense and for other lawful purposes, a violation of Plaintiff's Fourth Amendment
 19 rights from unlawful search and seizure and Plaintiff's Fourteenth Amendment
 20 right to equal protection due to DEFENDANT'S officially promulgated policy,
 21 custom and/or persistent practice and/or deliberately indifferent training..

22 23 **SCOPE OF REQUESTED INJUNCTIVE RELIEF**

24 83. All of the above paragraphs are re-alleged and incorporated herein by
 25 reference with the same force and effect as if fully set forth herein.

26
 27 84. An injunction against California Penal Code Sections 25850, 26350 and
 28 26400 would enable PLAINTIFF and persons not prohibited from possessing

1 firearms to openly carry a firearm, loaded and unloaded, in places not otherwise
 2 prohibited by state or Federal law. For example, an injunction against 25850 would
 3 enable Plaintiff and similarly situated individuals to openly carry a loaded firearm
 4 in many places where it is now legal to openly carry a sheath knife with the notable
 5 exception of within 1,000 feet of a K-12 public or private school (see Penal Code
 6 section 626.9) wherein firearms must be unloaded and handguns unloaded and in a
 7 fully enclosed lock container (other than the vehicle's glove compartment). An
 8 injunction against 26350 & 26400 would restore the status quo which existed when
 9 this action was first filed (Nov. 30, 2011).

10
 11 85. An injunction against California Penal Code Sections 26150, 26155, 26160,
 12 26165, 26175, 26180, 26185, 26190, 26200, 26202, 26205, 26210, 26215, 26220
 13 would enable PLAINTIFF and persons not prohibited from possessing firearms to
 14 obtain a license to openly carry a loaded handgun in the same places in which a
 15 person with an unrestricted license can carry a loaded handgun concealed. Unlike
 16 the numerous and burdensome licensing provisions for licenses to carry a
 17 concealed handgun, PLAINTIFF and persons not prohibited from possessing
 18 firearms would not have to provide any identifying information beyond that which
 19 is required to undergo a background check through the FBI National Instant
 20 Criminal Background Check System (NICS). The issuance of a license is
 21 PLAINTIFF'S alternate position. PLAINTIFF submits that no license is required
 22 for a private citizen to exercise his Second Amendment right to self-defense.

23 24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, PLAINTIFF prays for the following relief:

26 A. Declaratory judgment that Penal Code section 25850 is invalid in that
 27 and to the extent that it is applied to prohibit private citizens who are
 28 otherwise qualified to possess firearms from openly carrying loaded firearms

1 for the purpose of self-defense on their own property, in their vehicles and in
2 non-sensitive public places;

3 B. Injunctive relief restraining Defendants and their officers, agents,
4 servants, employees, and all persons in concert or participation with them
5 who receive notice of this injunction, from enforcing PC 25850 against
6 private citizens who are otherwise qualified to possess firearms from openly
7 carrying loaded firearms for the purpose of self-defense on their own
8 property, in their vehicles and in non-sensitive public places;

9 C. Declaratory judgment that Penal Code section 26350 is invalid in that
10 and to the extent that it is applied to prohibit private citizens who are
11 otherwise qualified to possess firearms from openly carrying unloaded
12 handguns for the purpose of self-defense on their own property, in their
13 vehicles and in non-sensitive public places;

14 D. Injunctive relief restraining Defendants and their officers, agents,
15 servants, employees, and all persons in concert or participation with them
16 who receive notice of this injunction, from enforcing PC 26350 against
17 private citizens who are otherwise qualified to possess firearms from openly
18 carrying unloaded firearms for the purpose of self-defense on their own
19 property, in their vehicles and in non-sensitive public places;

20 E. Declaratory judgment that Penal Code section 26400 is invalid in that
21 and to the extent that it is applied to prohibit private citizens who are
22 otherwise qualified to possess firearms from openly carrying unloaded
23 firearms that are not handguns for the purpose of self-defense on their own
24 property, in their vehicles and in non-sensitive public places;

25 F. Injunctive relief restraining Defendants and their officers, agents,
26 servants, employees, and all persons in concert or participation with them
27 who receive notice of this injunction, from enforcing PC 26400 against
28 private citizens who are otherwise qualified to possess firearms from openly

1 carrying firearms for the purpose of self-defense on their own property, in
2 their vehicles and in non-sensitive public places;

3 G. Declaratory judgment that Penal Code sections 26150, 26155, 26165,
4 26175, 26180, 26185, 26190, 26200, 26202, 26205, 26210, 26215, and
5 26220 are invalid in that and to the extent that it is applied to prohibit or
6 infringe private citizens, beyond that which is required to conduct an FBI
7 instant background check, who are otherwise qualified to possess firearms,
8 from being issued a license to openly carry firearms, loaded and unloaded,
9 for the purpose of self-defense on their own property, in their vehicles and in
10 non-sensitive public places;

11 H. Injunctive relief restraining Defendants and their officers, agents,
12 servants, employees, and all persons in concert or participation with them
13 who receive notice of this injunction, from enforcing Penal Code sections
14 26150, 26155, 26165, 26175, 26180, 26185, 26190, 26200, 26202, 26205,
15 26210, 26215, and 26220 to the extent that it is applied to prohibit or
16 infringe private citizens, beyond that which is required to conduct an FBI
17 instant background check, who are otherwise qualified to possess firearms,
18 from being issued a license to openly carry firearms, loaded and unloaded,
19 for the purpose of self-defense on their own property, in their vehicles and in
20 non-sensitive public places;

21 I. General damages in the amount to be proven at trial (excluding
22 DEFENDANT HARRIS);

23 J. Special damages according to proof; including medical expenses and
24 loss of earnings (excluding DEFENDANT HARRIS);

25 K. For punitive damages against the individual defendants (excluding
26 DEFENDANT HARRIS) in an amount to be proven at trial;

27 L. For interest (excluding DEFENDANT HARRIS);

28 M. Award costs of this action to PLAINTIFF;

1 N. Award reasonable attorney fees and costs to the PLAINTIFF on all
2 Claims of the complaint, including but not limited to fee/cost awards under
3 42 USC § 1983, 1988 and California Code of Civil Procedure § 1021.5;

4 O. Compel the immediate return of PLAINTIFF'S property;

5 P. A Declaration that Open Carry is the right guaranteed by the
6 Constitution in non-sensitive public-places;

7 Q. A Declaration that firearms openly carried which do not have live
8 ammunition in the firing chamber are unloaded and that possession of
9 matching ammunition with an openly carried unloaded firearm does not
10 make the firearm "loaded" regardless of whether or not the ammunition is
11 attached in any way to the firearm;

12 R. A Declaration that no license is required to openly carry a firearm for
13 the purpose of self-defense;

14 S. A Declaration that private residential property is not a public place
15 regardless of whether or not it is fully enclosed by a fence or barrier.

16 T. A Declaration that a private motor vehicle and any attached campers
17 or trailers are not public places and firearms may be carried therein.

18 U. Damages and/or Declaratory relief under 28 USC §§ 2201, 2202;

19 V. Declaratory judgment that Redondo Beach Municipal Code section 4-
20 35.20 is invalid in that and to the extent that it is applied to prohibit private
21 citizens who are otherwise qualified to possess weapons from openly
22 carrying weapons for the purpose of self-defense;

23 W. Injunctive relief restraining Defendants and their officers, agents,
24 servants, employees, and all persons in concert or participation with them
25 who receive notice of this injunction, from enforcing Redondo Beach
26 Municipal Code section 4-35.20 against private citizens who are otherwise
27 qualified to possess weapons for the purpose of self-defense;

28 X. Such other and further relief as this Court may deem appropriate.

DEMAND FOR JURY TRIAL

PLAINTIFF hereby requests a jury trial on all issues raised in this complaint.

Dated: March 12, 2013

Respectfully submitted,



By: Charles Nichols
PLAINTIFF in Pro Per
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Voice: (424) 634-7381
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OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA

Opinion No. 68-175

1968 Cal. AG LEXIS 59; 51 Ops. Cal. Atty. Gen. 197

October 3, 1968

SYLLABUS:

[*1]

FIREARMS -- The term "firearm" includes rifles and shotguns; firearms may be carried in areas where no regulations exist; "every public road or highway" is a "prohibited area"; "public street" is not synonymous with "public road or highway"; and "safety zone" is a "prohibited area" only when it coincides with a "public place."

REQUESTBY:

DIRECTOR, DEPARTMENT OF FISH AND GAME

QUESTION:

The Honorable Walter T. Shannon, Director, Department of Fish and Game, has requested an opinion on the following questions:

1. Does the term "firearm" as used in Penal Code section 12031\$= > include rifles and shotguns?
2. Does Penal Code section 12031 prohibit the carrying of a rifle or shotgun with unexpended shells or cartridges in the magazine on a public road in an unincorporated area where there are no local ordinances or other laws or regulations prohibiting the discharge of firearms?
3. Does Penal Code section 374c make every "public road or highway" a "prohibited area," as defined in section 12031?
4. Is the term "public street" as used in section 12031 synonymous with "public road or highway" as used [*2] in Penal Code section 374c?
5. Would the "safety zone" described in Fish and Game Code section 3004 be considered a "prohibited area" as defined in section 12031(d)?

The conclusions are:

1. The term "firearm" as used in Penal Code section 12031 includes rifles and shotguns.

1968 Cal. AG LEXIS 59, *2; 51 Ops. Cal. Atty. Gen. 197, **

2. Penal Code section 12031 does not prohibit the carrying of a rifle or shotgun with unexpended shells or cartridges in the magazine on a public road in an unincorporated area where there are no local ordinances or other laws or regulations prohibiting the discharge of firearms.

3. Penal Code section 374c does make every "public road or highway" a "prohibited area" as defined in section 12031.

4. The term "public street" as used in section 12031 is not synonymous with "public road or highway" as used in Penal Code section 374c.

5. The "safety zone" described in Fish and Game Code section 3004 is a "prohibited area" as defined in section 12031, but carrying [*3] of loaded weapons is proscribed therein only when it coincides with a "public place."

OPINIONBY:

THOMAS C. LYNCH, Attorney General; Edward W. Bergtholdt, Deputy

OPINION:

[**198] ANALYSIS

Penal Code section 12031 was enacted by the 1967 Legislature as an urgency measure and provides in part as follows:

"(a) . . . every person who carries a loaded firearm on his person or in a vehicle while in any public place or on any public street in an incorporated city or *in any public place or on any public street in a prohibited area of unincorporated territory* is guilty of a misdemeanor.

. . .

"(d) As used in this section *prohibited area*' means any place where it is unlawful to discharge a weapon.

"(e) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and [*4] ball or shot in the barrel or cylinder." (Emphasis added.)

In order to respond properly to the questions raised, it is necessary to look at the circumstances surrounding the enactment of section 12031 and the attitude of the Legislature to these circumstances.

In April 1967 Assembly Bill 1591 was introduced and included the addition of 1 section 12031 to the Penal Code. At this time it prohibited the carrying of a loaded firearm on a public street or in a public place in an incorporated city. On May 2, 1967, members of the Black Panther organization entered the Assembly Chambers armed with "pistols, rifles and at least one sawed-off shotgun," all to the great alarm of the members of the Assembly. The Sacramento Bee, May 2, 1967, at 1. A.B. 1591 was then made an urgency measure. The provisions of the proposed section 12031 were expanded to extend the application of the section to certain parts of unincorporated areas. The revised bill also proposed the addition of sections 171c, 171d, and 171e to the Penal Code. These sections prohibited the carrying of loaded firearms at the State Capitol, at public schools, [*5] including state colleges and the University of California, and at the Governor's Mansion or residence of any elected state officials.

1968 Cal. AG LEXIS 59, *5; 51 Ops. Cal. Atty. Gen. 197, **198

The urgency clause first appended to A.B. 1591 referred to organized bands of men "armed with loaded firearms" entering the Assembly Chambers. This was a clear reference to the appearance of members of the Black Panther organization referred to above. A.B. 1591 was subsequently enacted into law (Stats. 1967, ch. 960, p. 2459) as an urgency measure. The urgency clause of the bill as enacted reads as follows:

"The State of California has witnessed, in recent years, the increasing [**199] incidence of organized groups and individuals publicly arming themselves for purposes inimical to the peace and safety of the people of California.

"Existing laws are not adequate to protect the people of this state from either the use of such weapons or from violent incidents arising from the mere presence of such armed individuals in public places. Therefore, in order to prevent the potentially tragic consequences of such activities, it is imperative that this statute take effect immediately."

Although this final version of the clause is broader than its earlier [*6] versions, it remains clear that the Legislature did not direct the provisions of section 12031 against all uses of firearms but only at uses of firearms which are "inimical to the peace and safety of the people of California."

Question No. 1 represents an opinion whether the word "firearm" in section 12031 includes rifles and shotguns. *The word "firearm" includes rifles and shotguns.*

The fact that this section is a part of this state's Dangerous Weapons Control Law (Penal Code Part IV, Title 2, Chapter 1, commencing with section 12000), dealing with *concealed* weapons, might suggest its limitation to such weapons. Reading Penal Code section 12031 in its entirety suggests, however, that "firearm" includes rifles and shotguns. Subdivision (b), subparagraph (4) talks of "hunting," an activity which more often involves rifles or shotguns than pistols or revolvers, and subparagraph (8) uses the word "weapon" without any restriction such as "concealed." In subdivisions (d) and (j) the word "weapon" appears again without any restriction.

The inclusion of rifles and shotguns within the definition of "firearm" is also suggested by the circumstances [*7] surrounding its enactment and the wording of the urgency clause. There can, therefore, be little doubt that the word "firearm," as it appears in section 12031, is not limited in meaning to "concealed weapons," as defined in Penal Code section 12001. We must conclude that the word "firearm" as used in section 12031 embraces, among other weapons, rifles and shotguns. n1

n1 For a comprehensive discussion of all the laws of this state relating to firearms see Assem. Int. Comm. on Crim. Proc., *Regulation and Control of Firearms*, 22 Assembly Reports 1963-1965, No. 6 (1965).

Question No. 2 requests an opinion whether section 12031 prohibits the carrying of a loaded firearm on a public road in an unincorporated area. We conclude that section 12031 does not prohibit the carrying of loaded firearms on such public ways. For the reasons set forth in our answer to question No. 4, the term "public streets" in section 12031 (a) must be given a narrow construction. There is a distinction between [*8] "public roads" and "public streets" which is discussed more fully below. The proscriptions of section 12031 are therefore not applicable to "public roads" because they are not "public streets" as that term is used in section 12031. n2

n2 The carrying of a rifle or shotgun in a vehicle with an unexpended round in the chamber is prohibited on "public highways" by Fish and Game Code section 2006, which provides in part:

"It is unlawful to possess a loaded rifle or shotgun in any vehicle . . . which is standing on or along or is being driven on or along any public highway or other way open to the public.

1968 Cal. AG LEXIS 59, *8; 51 Ops. Cal. Atty. Gen. 197, **199

"A rifle or shotgun shall be deemed loaded . . . when there is an unexpended cartridge or shell in the firing chamber but not when the only cartridges or shells are in the magazine."

[**200] Question No. 3 requests an opinion whether Penal Code section 374c n3 makes every "public road" a "prohibited area" as defined by section 12031. Because [*9] the discharge of firearms is prohibited on "public roads and highways," these public ways are by definition "prohibited areas" (section 12031 (d)). This does not, however, alter our conclusion that the proscriptions of section 12031 are not applicable to such public ways because, as set forth in our response to your question No. 4, the term "public road or highway" is not synonymous with the term "public street."

n3 Penal Code section 374c provides: "Every person who shoots any firearm from or upon a *public road or highway* is guilty of a misdemeanor." (Emphasis added.)

Question No. 4 requests an opinion whether the term "public street" in section 12031 is synonymous with the term "public road or highway" used in Penal Code section 374c. Our response is that the terms "public road or highway" are not synonymous with the term "public street."

The discussion above regarding the Legislature's purpose in enacting section 12031 suggests that the [*10] term "public street" is to be given a narrow meaning. The thrust of the section is not against the use of all firearms but only against use "inimical to the peace and safety of the people of California." Further, the application of the section's prohibition to unincorporated areas is modified by the injection of the concept, "prohibited area." It is clear, therefore, that the Legislature intended that there be a recognizable distinction in applying the prohibition of section 12031 as between incorporated areas and unincorporated areas. To make "public streets" synonymous with "public roads and highways" would leave little meaningful difference between incorporated and unincorporated areas.

Additionally, earlier versions of A.B. 1591 would have amended Fish and Game Code section 2006. Such amendment was designed to conform the definition of a loaded rifle or shotgun in Fish and Game Code section 2006 to the definition of a loaded firearm in Penal Code section 12031. Section 2006 applies on all "public highway [s] or other way[s] open to the public." The failure of the [*11] Legislature to enact such an amendment to section 2006 suggests that it did not intend that section 2006 be superseded by section 12031. Had it desired section 2006 to be superseded, it would have either amended its definition of a loaded weapon to conform to section 12031 or repealed it entirely.

For these reasons we must conclude that the Legislature intended the term "public streets" be given a narrow meaning. It is not synonymous, then, with "public roads and highways," but includes only the public ways of towns and villages and not the "open roads" in rural sections of unincorporated areas.

Attention should also be called to the effect of Penal Code section 415 which provides: "Every person who . . . fire[s] any gun or pistol in . . . [an] unincorporated [*201] town . . . is guilty of a misdemeanor" Section 12031 (d) defines a "prohibited area" as "any place where it is unlawful to discharge a weapon." An unincorporated town thereby becomes a "prohibited area." The proscription of section 12031 is applicable to the "public streets" of such towns and to all "public places" therein. We have therefore "public places" and "public streets" [*12] in the narrow sense where the discharge of firearms is prohibited and thus the concurrence of the necessary factors to bring the proscriptions into play.

Question No. 5 requests an opinion whether the term "safety zone" in Fish and Game Code section 3004 n4 is a "prohibited area." The answer is in the affirmative, subject to the qualifications given below.

1968 Cal. AG LEXIS 59, *12; 51 Ops. Cal. Atty. Gen. 197, **201

n4 Fish and Game Code section 3004 states:

"It is unlawful for any person, other than the owner, person in possession of the premises, or a person having the express permission of the owner or person in possession of the premises, to hunt or to discharge while hunting, any firearm . . . within 150 yards of any occupied dwelling house, residence, or other building or any barn or other outbuilding used in connection therewith. The 150-yard area is a safety zone."

The "safety zone" described in Fish and Game Code section 3004 which lies in uninco rporated [*13] areas is a "prohibited area" as that term is defined by section 12031 (d). Again, however, for the proscriptions of section 12031 to be applicable, there must be a concurrence of a "prohibited area" and a "public place." Further, "public places" which do not have a building located thereon (*e.g.*, a park) would not be "prohibited areas" and, thus, the proscription of section 12031 would not be applicable. The same would be true for those areas of "public places" more than 150 yards from any building.

It should also be noted that certain persons are excepted from the operation of Fish and Game Code section 3004. Because this exception is not in conflict with the intent of the Legislature these persons would be exempt in any case from the proscriptions of 12031.

Legal Topics:

For related research and practice materials, see the following legal topics:

Criminal Law & ProcedureCriminal OffensesWeaponsPossessionElementsCriminal Law & ProcedureCriminal OffensesWeaponsUseSimple UseElementsTransportation LawCommercial VehiclesMaintenance & Safety

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

CASE NO.: CV 11-09916 SJO (SS) DATE: May 7, 2012

TITLE: Charles Nichols v. Edmund G Brown Jr et al

=====

PRESENT: THE HONORABLE S. JAMES OTERO, UNITED STATES DISTRICT JUDGE

| | |
|------------------|----------------|
| Victor Paul Cruz | Not Present |
| Courtroom Clerk | Court Reporter |

COUNSEL PRESENT FOR PLAINTIFF(S): **COUNSEL PRESENT FOR DEFENDANT(S):**

| | |
|-------------|-------------|
| Not Present | Not Present |
|-------------|-------------|

=====

PROCEEDINGS: IN CHAMBERS

The Court deems the Plaintiff's MOTION for Review of Magistrate Judges report and recommendation [41] as an objection. Accordingly, the Court takes the hearing off its calendar.

1 North Carolina State Highway Patrol, among other agencies primarily tasked with
2 restoring and maintaining public order during states of emergency. Young is sued
3 in his official and individual capacities."
4

5 Plaintiff Nichols, on the other hand, alleges that Defendant Brown has
6 statutory, and factual, direct supervisory control over his appointees who are
7 actively enforcing the statute at issue, which includes the California Highway
8 Patrol (the California State Police was subsumed into the CHP in 1995). In
9 Plaintiff's memorandum in opposition to Defendant Brown's motion to dismiss he
10 makes it quite clear that Plaintiff's allegations are not based simply on a
11 "...generalized duty to enforce state law or general supervisory power..."
12

13 Her Honor misconstrues the injury caused by Defendant Brown when he
14 signed into law Assembly Bill 144 (AB 144) on October 9, 2011 which bans the
15 Open Carry of unloaded handguns. The "...absolute immunity for the act of
16 signing a bill into law." might be applicable were Plaintiff challenging the
17 constitutionality of AB 144. That statute is not at issue in this case. Plaintiff
18 challenges the constitutionality of a law enacted in July of 1967 which was not
19 signed into law by Defendant Brown.
20

21 Defendant Brown by signing Assembly Bill 144 into law, and enforcement
22 of the statute at issue, set into motion a series of acts by others which he knew, or
23 reasonably should have known, would cause others to inflict the constitutional
24 injuries on Plaintiff. This was explained in one of Plaintiff's three memorandi
25 which leads Plaintiff to believe that her Honor never read them.
26
27
28

1 Unloaded Open Carry of Handguns is not at issue in this case. Plaintiff
2 seeks to openly carry a LOADED firearm, particularly a loaded handgun, in non-
3 sensitive public places for the purpose of self-defense.

4
5 Respectfully, her Honor erred in prematurely recommending a dismissal
6 against Defendant Brown and grievously erred in recommending a dismissal with
7 prejudice against Defendants Brown and the Redondo Beach Police Department.
8 Neither are immune from a 1983 lawsuit, especially not one which doesn't seek
9 any money from any defendant.

10
11 The "requisite enforcement connection" to Brown exists under California
12 law and Plaintiff has had no opportunity to engage in discovery to augment the
13 factual evidence.

14
15 Also, her Honor does not explain how favorable relief against Defendant
16 Harris would prevent Defendant Brown from enforcing the statute against Plaintiff.
17 Under California law, the Office of the Attorney General is subordinate to the
18 Office of the Governor. The law enforcement officers under the direct control and
19 supervision of the Governor are not answerable to the Attorney General.
20 Favorable relief against Defendant Harris would certainly be substantial but it
21 would not be complete.

22 23 **D. Plaintiff's Seventh Claim for Relief**

24
25 In his Complaint, Plaintiff refers to provisions in the California Constitution
26 that parallel the applicable provisions in the United States Constitutions where it is
27 legitimate to do so, e.g., where there is a state-created liberty or property interest at
28 stake. Indeed, the Complaint alleges at ¶ 79 that the statute at issue violates the

1 Equal Protection and Due Process Clauses of the Fourteenth Amendment. This
 2 Seventh Claim for Relief in the Complaint fully incorporated all of the previously
 3 stated Equal Protection and Due Process allegations under the United States
 4 Constitution. See ¶ 83 of the Complaint.

5
 6 None of Plaintiff's claims are retrospective in nature. Every state law claim
 7 (and Federal, for that matter) in the complaint seeks purely declaratory, and/or
 8 prospective injunctive relief. The Complaint makes no demands on the State
 9 Treasury, neither is money sought from any of the Defendants; directly or
 10 indirectly. Neither does the Complaint seek compulsory relief from any of the
 11 Defendants. The relief sought in the Complaint does not ask of any defendant to
 12 do anything. There is no Eleventh Amendment bar.

13
 14 Neither is the Complaint even close to being a purely (or even
 15 predominantly) state law complaint. The lone claim for relief for violation of the
 16 California Constitution arises out of the fully incorporated Federal claims which
 17 included the Second, Fourth and Fourteenth Amendments to the United States
 18 Constitution. See ¶ 83 of the Complaint. Neither would a denial of the Seventh
 19 Claim for Relief under the California Constitution affect the Request for Relief
 20 which Plaintiff seeks as the relief is sought under the Constitution and Laws of the
 21 United States "and/or" Article 1, Sections 1 and 13 of the California Constitution.
 22 See page 24, lines 19-26 of the Complaint. (Emphasis added).

23
 24 Plaintiff's state law claims arise out of the same causes of action as the
 25 Federal claims and are inextricably intertwined with the Federal claims. The state
 26 law claims are neither novel nor complex. The state law claims are not more
 27 important, more complex or more time-consuming to resolve as their Federal
 28 counterparts. Given the nature of the state law claims, they would clearly succeed

1
2 As her Honor did not address any of these arguments made by Plaintiff in
3 his memorandum in opposition to dismiss or the Due Process claims which were
4 fully incorporated in the Seventh Claim for Relief but instead concluded that the
5 claim was made "...based solely on state law.;" all that Plaintiff can do is to
6 observe that her Honor misconstrued the Complaint and the applicable case law.
7

8 **CONCLUSION**
9

10 For any and/or all of the reasons given above, Plaintiff strongly objects to
11 the Report and Recommendation filed By Honorable Suzanne H. Segal, U.S.
12 Magistrate Judge.
13
14
15

16 Dated: April 17, 2012
17

Respectfully Submitted,



By: Charles Nichols
Plaintiff in Pro Per
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90278
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E-Mail:
CharlesNichols@Pykrete
.info

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DECLARATION OF CHARLES NICHOLS

I, Charles Nichols, declare as follows:

1. I am a 52 year old male currently residing in Lawndale California, Los Angeles County, California. I am single and have no children.

2. I am presently self-employed as a writer. I was previously employed as an Engineer in Washington, Oregon and California.

3. While residing in Oregon, I was licensed to carry handguns concealed in both the states of Oregon and Washington. A license to carry a concealed handgun was necessary to be able to Openly Carry a loaded handgun in the few Oregon cities which required openly carried handguns to be unloaded within their city limits.

4. In, or around, August of 2002 I was in a riding accident which left me virtually bedridden with a severe back injury until September of 2007. In the winter of 2008, I suffered another injury to my back. I have never fully recovered and do not expect that I will ever fully recover from the injuries.

5. In the summer of 2002, shortly before my riding accident. I would often go hiking in the Oregon mountains. As I would occasionally pass by a fellow hiker, I carried my handgun concealed, even though I was free to openly carry a loaded handgun without a license. On one occasion, I encountered a cougar while hiking through tall brush. I instinctively went for the gun on my hip, which was not there. I wasted precious seconds retrieving my concealed handgun. Fortunately, the cougar was as surprised as I was and did not attack. I have learned from personal

1 experience that a concealed handgun provides a false sense of security and presents
2 a substantial burden to the bearer in a life or death situation.

3
4 6. I believe that an unloaded rifle or shotgun presents more than a substantial
5 burden to my ability to defend myself. Nor am I able to physically defend myself
6 from other than the weakest of attackers.

7
8 7. As I understand it, California law prevents me from openly carrying a loaded
9 firearm in all incorporated cities and unincorporated areas where the discharge of a
10 firearm is prohibited. As I understand it, the discharge of a firearm is prohibited
11 throughout Los Angeles County except in certain limited locations such as firing
12 ranges and in certain remote areas of the county while hunting.

13
14 8. As I understand it, California law prevents me from openly carrying a
15 handgun, loaded or unloaded, in all incorporated cities and prevents me from
16 openly carrying an unloaded handgun in unincorporated county areas where the
17 discharge of a firearm is prohibited.

18
19 9. I have openly carried an unloaded handgun in incorporated cities and in
20 unincorporated county territory before California law made it a crime to do so.

21
22 10. I have openly carried a loaded handgun in unincorporated county territory
23 where, and when, it was legal.

24
25 11. I would openly carry a loaded handgun for the purpose of self-defense if
26 confronted but would not seek out confrontation and would avoid confrontation if
27 reasonably afforded the opportunity to do so.

1 12. I refrain from openly carry a loaded handgun or long gun in non-sensitive
2 public places because I would in all certainty be arrested, prosecuted, fined and
3 imprisoned for doing so. I will violate the statute at issue, specifically the
4 subsection prohibiting the open carry of a loaded firearm until one is in immediate,
5 grave danger; a point at which it is very likely too late to defend oneself from
6 harm.

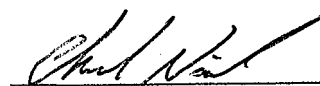
7
8 13. I am certain that I would be arrested, prosecuted and imprisoned for openly
9 carrying a loaded firearm in non-sensitive public places for the purpose of self-
10 defense.

11
12 14. I fear that I would be arrested by Defendant Brown and/or his subordinates
13 and that he, or they, would participate in my arrest and/or prosecution. I fear that
14 Defendant Brown would not employ his authority and power to release me from
15 my certain conviction and imprisonment.

16
17 15. I attempted to submit a document under seal in support of my complaint in
18 this lawsuit. It was rejected because, among other reasons, "Plaintiff is advised
19 that at this stage in the litigation, he is not required to produce evidence in support
20 of his allegations." The document was an Incident Report filed with the Los
21 Angeles County Sheriff's department reporting threats made against my person in
22 violation of California Penal Code section 422 – Criminal Threats.

23
24 I affirm all of the foregoing statements under penalty of perjury under the laws of
25 the United States of America.

26
27 Dated: March 12, 2012



Charles Nichols

1 under his command. Indeed, Defendant Brown's relationship to his officers is
2 more tightly coupled inasmuch as his officers serve at the pleasure of Defendant
3 Brown and can be dismissed by him at will, whereas a ranking police officer, or
4 even the lowest level patrolman; have many protections against dismissal and
5 discipline.

6
7 California Government Code section 12010. "The Governor shall supervise
8 the official conduct of all executive and ministerial officers." and 12011. "The
9 Governor shall see that all offices are filled and their duties performed. If default
10 occurs, he shall apply such remedy as the law allows. If the remedy is imperfect,
11 he shall so advise the Legislature at its next session."

12
13 Under Article 5, Section 13 of the California Constitution even the Attorney
14 General is "Subject to the powers and duties of the Governor."

15
16 Although the Attorney General has all of the powers of a district attorney,
17 has direct supervision of every district attorney in the state and can take over the
18 prosecution of ANY case; the Attorney General has no supervisory role over any
19 of Defendant Brown's officers who enforce the statute at issue in this case. There
20 may be a point in this litigation (e.g., Summary Judgment) where this Court may
21 conclude that a Declaratory Judgment and/or prospective injunctive relief against
22 the Attorney General would redress Plaintiff's alleged injuries caused by
23 Defendant Brown but none of the defendants in this case has made that argument.
24 Defendant Brown certainly has not in his instant motion.

25
26 Plaintiff's Complaint alleges that Defendant Brown's role in the ongoing
27 deprivation of Plaintiff's Federal Rights is more than merely that of supervisory
28 authority over departments. Defendant Brown has direct responsibility for

1 must...threaten or be about to commence civil or criminal proceedings to enforce
2 an unconstitutional act”).

3 In the present case, the Governor has an insufficient connection to the
4 enforcement of Section 25850 -- nothing more than being the Governor of
5 California, which has this law -- and, consequently, has not attempted to enforce
6 that statute. He should be dismissed from this action.

7 **A. The Governor Lacks A Sufficient Connection to Enforcement of**
8 **the Statute in Question**

9 “Claims under [42 U.S.C.] § 1983 are limited by the scope of the Eleventh
10 Amendment.” *Doe v. Lawrence Livermore Nat’l Lab.*, 131 F.3d 836, 839 (9th Cir.
11 1997). “In the absence of a waiver by the state or a valid congressional override,
12 ‘[u]nder the Eleventh Amendment, agencies of the state are immune from private
13 damage actions or suits for injunctive relief brought in federal court.’” *Dittman v.*
14 *California*, 191 F.3d 1020, 1025 (9th Cir. 1999). “The State of California has not
15 waived its Eleventh Amendment immunity with respect to claims brought under §
16 1983 in federal court” and “the Supreme Court has held that § 1983 was not
17 intended to abrogate a State’s Eleventh Amendment immunity.” *Id.* at 1025-1026.

18 This immunity extends to a California state official, such as the Governor,
19 sued in his official capacity: “A suit against a state official in his official capacity
20 is no different from a suit against the State itself.” *Lawrence Livermore*, 131 F.3d
21 at 839.

22 Federal courts have recognized one exception to the general rule treating state
23 officials the same as the State: “When sued for prospective injunctive relief, a state
24 official in his official capacity is considered a ‘person’ for § 1983 purposes” and
25 potentially subject to suit. *Lawrence Livermore*, 131 F.3d at 839. However, “the
26 state officer sued ‘must have some connection with the enforcement of the
27 [allegedly unconstitutional] act.’” *Los Angeles Cty. Bar Assn. v. Eu*, 979 F.2d 697,
28 704 (9th Cir. 1992) (original brackets). Indeed, “this connection must be fairly

DECLARATION OF CHARLES NICHOLS

I, Charles Nichols, declare as follows:

1. I am a 51 year old male currently residing in Lawndale California, Los Angeles County, California. I am single and have no children.

2. I am presently self-employed as a writer. I was previously employed as an Engineer in Washington, Oregon and California.

3. While residing in Oregon, I was licensed to carry handguns concealed in both the states of Oregon and Washington. A license to carry a concealed handgun was necessary to be able to Openly Carry a loaded handgun in the few Oregon cities which required openly carried handguns to be unloaded within their city limits.

4. In, or around, August of 2002 I was in a riding accident which left me virtually bedridden with a severe back injury until September of 2007. In the winter of 2008, I suffered another injury to my back. I have never fully recovered and do not expect that I will ever fully recover.

5. In the summer of 2002, shortly before my riding accident. I would often go hiking in the Oregon mountains. As I would occasionally pass by a fellow hiker, I carried my handgun concealed, even though I was free to openly carry a loaded handgun without a license. On one occasion, I encountered a cougar while hiking through tall brush. I instinctively went for the gun on my hip, which was not there. I wasted precious seconds retrieving my concealed handgun. Fortunately, the cougar was as surprised as I was and did not attack. I have learned from personal

1 experience that a concealed handgun provides a false sense of security and presents
2 a substantial burden to the bearer in a life or death situation.

3
4 6. I believe that an unloaded rifle or shotgun presents more than a substantial
5 burden to my ability to defend myself. Nor am I able to physically defend myself
6 from other than the weakest of aggressors.

7
8 7. As I understand it, California law prevents me from openly carrying a loaded
9 firearm in all incorporated cities and unincorporated areas where the discharge of a
10 firearm is prohibited. As I understand it, the discharge of a firearm is prohibited
11 throughout Los Angeles County except in certain limited locations such as firing
12 ranges and in certain remote areas of the county while hunting.

13
14 8. As I understand it, California law prevents me from openly carrying a
15 handgun, loaded or unloaded, in all incorporated cities and prevents me from
16 openly carrying an unloaded handgun in unincorporated county areas where the
17 discharge of a firearm is prohibited.

18
19 9. I have openly carried an unloaded handgun in incorporated cities and in
20 unincorporated county territory before California law made it a crime to do so.

21
22 10. I have openly carried a loaded handgun in unincorporated county territory
23 where, and when, it was legal.

24
25 11. I would openly carry a loaded handgun for the purpose of self-defense if
26 confronted but would not seek out confrontation and would avoid confrontation if
27 reasonably afforded the opportunity to do so.

1 12. I do not openly carry a loaded handgun or long gun in non-sensitive public
2 places because I would in all certainty be arrested, prosecuted, fined and
3 imprisoned for doing so.

4
5 13. In particular, I am certain that I would be arrested by Redondo Beach police
6 officers as that is where I shop, do my banking and often travel through to visit
7 family and for other reasons.

8
9 14. In particular, I fear that I would be prosecuted by the City of Redondo Beach
10 or by Attorney General Harris, or their subordinates, or that either or both of these
11 parties or their subordinates may participate in my arrest and/or prosecution.
12 Attorney General Harris, or her subordinate, would certainly prosecute the appeal
13 of my conviction as she has done with so many others who have violated the
14 statute at issue in this case.

15
16 15. I attempted to submit a document under seal in support of my complaint in
17 this lawsuit. It was rejected because, among other reasons, "Plaintiff is advised
18 that at this stage in the litigation, he is not required to produce evidence in support
19 of his allegations." The document was an Incident Report filed with the Los
20 Angeles County Sheriff's department reporting threats made against my person in
21 violation of California Penal Code section 422 – Criminal Threats.

22
23 I affirm all of the foregoing statements under penalty of perjury under the laws of
24 the United States of America.

25
26 Dated: February 6, 2012

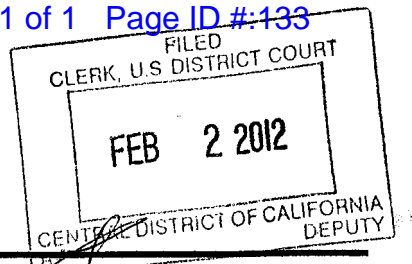


Charles Nichols

NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) OR PRO PER:

Charles Nichols
 PO Box 1302
 Redwood Beach CA 90278
 (424) 634-7381

ATTORNEY(S) FOR:



UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

Charles Nichols

CASE NUMBER:

CV-11-9916 SJO (SS)

Plaintiff(s),

v.

EDMUND G. BROWN, Jr., in his official capacity as
 Governor of California, et al

Defendant(s)

STATEMENT OF CONSENT TO PROCEED BEFORE A
 UNITED STATES MAGISTRATE JUDGE

(For use in Direct Assignment of Civil Cases to Magistrate
 Judges Program only)

**(THIS FORM SHALL BE USED ONLY FOR CASES IN WHICH A MAGISTRATE JUDGE IS INITIALLY
 ASSIGNED PURSUANT TO LOCAL RULE 73-2.)**

In accordance with General Order 11-06 and Local Rule 73-2 the above-captioned civil matter has been randomly assigned to Magistrate Judge Suzanne H. Segal. All parties to the above-captioned civil matter are to select one of the following two options and file this document with the Clerk's Office.

- ☐ The party or parties listed below to the above-captioned civil matter **consent** pursuant to the provisions of 28 U.S.C. § 636(C) and F.R.Civ.P. 73(b), to have the assigned Magistrate Judge conduct all further proceedings in the case, including trial and entry of final judgment.

Any appeal from a judgment of the assigned Magistrate Judge shall be taken to the United States Court of Appeals in the same manner as an appeal from any other judgment of the District Court in accordance with 28 U.S.C. § 636(c)(3).

- ☒ The party or parties listed below to the above-captioned civil matter **do not consent** to proceed before the assigned Magistrate Judge.

The party or parties listed below acknowledge that they are free to withhold consent without adverse substantive consequences.

Name of Counsel (OR Party if Pro Per)

Signature and date

Counsel for (Name of Party or Parties)

Charles Nichols

Jan 30, 2012

In Pro Per

- ☐ Party filing this form shall check this box if all parties have consented to proceed before the assigned Magistrate Judge.

NOTICE TO COUNSEL FROM CLERK:

All parties having consented to proceed before the assigned Magistrate Judge, this case will remain assigned to United States Magistrate Judge _____ for all further proceedings.

ER275

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 11-09916 SJO (SS)

Date: January 19, 2012

Page 1 of 1

Title: Charles Nichols v. Edmund G. Brown, Jr., et al.

DOCKET ENTRY: **ORDER DENYING PLAINTIFF'S EX PARTE APPLICATION TO
SUBMIT DOCUMENT UNDER SEAL AND REQUEST FOR
WAIVER OF NOTICE AND MEMORANDUM PURSUANT TO
L.R. 7-19 (Docket No. 10)**

PRESENT:

HONORABLE SUZANNE H. SEGAL, UNITED STATES MAGISTRATE JUDGE

Jacob Yerke
Deputy Clerk

None
Court Reporter/Recorder

None
Tape No.

ATTORNEYS PRESENT FOR PLAINTIFF:

None Present

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

PROCEEDINGS: (IN CHAMBERS)

On January 17, 2012, Plaintiff in the above-referenced civil rights action filed an Ex Parte Application to Submit Document Under Seal and Request for Waiver of Notice and Memorandum Pursuant to L.R. 7-19 (the "Application"). Plaintiff seeks to "submit" under seal a copy of a Los Angeles County Sheriff's Department Incident Report (the "Report"). Plaintiff's Application is **DENIED**. Plaintiff fails to explain his purpose in filing the Report or provide any compelling reason that would justify filing the Report under seal. There is no pending motion and Defendants have not yet answered the Complaint. Furthermore, the Application fails to comply with the Local Rules governing ex parte applications. See, e.g., L.R. 7-19. Plaintiff is advised that at this stage in the litigation, he is not required to produce evidence in support of his allegations.

The Clerk of the Court is directed to serve a copy of this Order upon Plaintiff at his address of record.

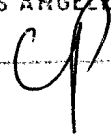
Lodged
Prop. Order

FILED

1 Charles Nichols
2 PO Box 1302
3 Redondo Beach, CA 90278
4 Voice: (424) 634-7381
5 E-Mail: CharlesNichols@Pykrete.info
6 In Pro Per

2012 JAN 17 PM 3:39

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY 

7
8 United States District Court
9 Central District of California

11 Charles Nichols,

12 Plaintiff,

13 vs.

14 EDMUND G. BROWN, Jr., in his
15 official capacity as Governor of
16 California, KAMALA D. HARRIS,
17 Attorney General, in her official
18 capacity as Attorney General of
19 California, CITY OF REDONDO
20 BEACH, CITY OF REDONDO
21 BEACH POLICE DEPARTMENT,
22 CITY OF REDONDO BEACH
23 POLICE CHIEF JOSEPH LEONARDI
24 and DOES 1 to 10,

25 Defendants.

Case No.:

CV-11-9916 SJO (SS)

PLAINTIFF'S EX PARTE
APPLICATION TO SUBMIT
DOCUMENT UNDER SEAL AND
REQUEST FOR WAIVER OF
NOTICE AND MEMORANDUM
PURSUANT TO L.R. 7-19

1 PLEASE TAKE NOTICE that, by submission to the Honorable Suzanne H.
2 Segal of the United States District Court for the Central District of California,
3 Western Division 312 N. Spring St. Rm. G-8 Los Angeles, CA 90012 Plaintiff
4 Charles Nichols hereby applies ex parte to submit a document under seal.
5 Specifically, a copy of an INCIDENT REPORT filed by Plaintiff with the Los
6 Angeles County Sheriff's Department reporting a Criminal Threat (California
7 Penal Code section 422) made against Plaintiff which is referenced in paragraph 15
8 of the Complaint.

9
10 Plaintiff requests that the copy of the INCIDENT REPORT be kept under
11 seal and not be made part of the public record nor be provided to Defendant's, their
12 attorneys, nor to any other persons beyond those the Court deems essential.

13
14 None of the Defendant's are mentioned in the INCIDENT REPORT. This
15 suit does not seek any monetary relief and the only relief requested is
16 equitable relief. Were the contents of this document to become publicly known it
17 would place Plaintiff in even greater danger.

18
19 In the interests of justice, plaintiff requests that memorandum and
20 notice of counsel be waived. Defendant's attorneys are unknown to
21 Plaintiff despite repeated requests. All Defendants were requested to waive
22 service of summons, which was sent to all Defendants on December 3rd, the only
23 reply from any Defendant was a form letter from the Attorney General's Office
24 dated December 16th, with an "X" next to a line which reads "4. Other: Service is
25 improper."

26
27 A request for waiver of service is not "service," neither is it "improper."
28 Defendants were not even formally served with a summons until January 9th. The

1 City of Redondo Beach held a closed session meeting to discuss Plaintiff's lawsuit
2 on December 6th. Defendant Brown received his request for waiver of service on
3 December 5th. Given the press coverage of this lawsuit and their actions,
4 Defendants can hardly claim that they are unaware of the complaint and their
5 attorneys should have contacted Plaintiff who is represented In Pro Per.

6
7 Plaintiff does not know who the counsel for all other parties is pursuant to
8 L.R. 7-19.1 Despite his repeated attempts to ascertain their identities from
9 Defendants. Plaintiff cannot compel Defendants to reveal the identity of their
10 attorneys and therefore a waiver under L.R. 7-19 and submission of the requested
11 document under seal is proper particularly because no harm comes to the
12 Defendants by this Court granting permission to submit the document under seal
13 and to waive notice and memorandum, while at the same time there is potentially
14 great and even deadly harm to the Plaintiff were the contents of the document to
15 become public knowledge.

16 Respectfully submitted this 16th day of January, 2012.

17
18
19
20
21
22 

23 By: Charles Nichols
24 Plaintiff in Pro Per
25 PO Box 1302
26 Redondo Beach, CA
27 90278
28 Voice: (424) 634-7381
E-Mail:
CharlesNichols@Pykrete
.info

**UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF
CALIFORNIA (Western Division – Los Angeles)
CIVIL DOCKET FOR CASE #: 2:11-cv-09916-SJO-SS**

Charles Nichols v. Edmund G Brown Jr et al
Assigned to: Judge S. James Otero
Referred to: Magistrate Judge Suzanne H. Segal
Related Case: 2:14-cv-07411-SJO-SS
Case in other court: 9th CCA, 13-56203
9th CCA, 14-55873
Cause: 42:1983 Civil Rights Act

Date Filed: 11/30/2011
Date Terminated: 05/01/2014
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Charles Nichols

represented by **Charles Nichols**
P O Box 1302
Redondo Beach, CA 90278
424-634-7381
PRO SE

Michael F Sisson
Michael F Sisson Law Offices
3655 Torrance Boulevard 3rd Floor
Torrance, CA 90503
310-318-0970
Fax: 310-318-0948
Email: sissonlaw@aol.com
TERMINATED: 12/21/2012
ATTORNEY TO BE NOTICED

V.

Defendant

Edmund G Brown, Jr
*in his official capacity as Governor of
California*

represented by **Jonathan Michael Eisenberg**
Office of the California Attorney General
Government Law Section
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
213-897-6505
Fax: 213-897-5775
Email: jonathan.eisenberg@doj.ca.gov
LEAD ATTORNEY

Defendant

Kamala D Harris
*Attorney General in her official capacity
as Attorney General of California*

represented by **Jonathan Michael Eisenberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

City of Redondo Beach
TERMINATED: 08/05/2013

represented by **Lisa M Bond**
Richards Watson & Gershon
355 S Grand Ave, 40th Fl
Los Angeles, CA 90071-3101
213-626-8484
Fax: 213-626-0078
Email: lbond@rwglaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael W Webb
 City of Redondo Beach
 415 Diamond Street
 PO Box 270
 Redondo Beach, CA 90277-0270
 310-318-0655
 Fax: 310-372-3886
 Email: michael.webb@redondo.org
TERMINATED: 07/02/2012
ATTORNEY TO BE NOTICED

Thomas Peter Pierce
 Richards Watson and Gershon
 355 S Grand Avenue 40th Floor
 Los Angeles, CA 90071-3101
 213-626-8484
 Fax: 213-626-0078
 Email: ppierce@rwglaw.com
ATTORNEY TO BE NOTICED

Defendant

**City of Redondo Beach Police
 Department**

represented by **Michael W Webb**
 (See above for address)
TERMINATED: 07/02/2012
ATTORNEY TO BE NOTICED

Defendant

Joseph Leonardi
City of Redondo Beach Police Chief

represented by **Lisa M Bond**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael W Webb
 (See above for address)
TERMINATED: 07/02/2012
ATTORNEY TO BE NOTICED

Defendant

Does
1 to 10
TERMINATED: 08/05/2013

Defendant

Officer Todd Heywood

represented by **Lisa M Bond**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|------------|--|
| 07/22/2016 | <u>174</u> | ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>168</u> filed by Charles Nichols. CCA # 14-55873. Appellant's unopposed motion (docket entry 23) to further stay appellate proceedings pending disposition of the petitions for full court rehearing in Peruta v. County of San Diego, case no. 10-56971, and Richards v. Prieto, case no. 11-16255, is granted. This case is stayed until November 17, 2016. [See document for further information] (car) (Entered: 07/26/2016) |
| 04/13/2015 | <u>173</u> | ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>168</u> filed by Charles Nichols. CCA # 14-55873. Appellant's unopposed motion to stay appellate proceedings pending disposition of two en banc |

| | | |
|------------|------------|---|
| | | cases, Peruta v. County of San Diego, case no. 10–56791, and Richards v. Prieto, case no. 11–16255, is granted. [See document for details] (mat) (Entered: 04/14/2015) |
| 01/21/2015 | <u>172</u> | ORDER from 9th CCA filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>168</u> filed by Charles Nichols, CCA # 14–55873. Appellant's motion to file sur–reply in opposition to appellees motion to stay proceedings is granted. Appellees opposed motion to stay proceedings pending the courts ruling whether to grant the petition for en banc review in Richards v. Prieto, No. 11– 16255 is granted. Within 90 days after the date of this order or within 14 daysafter the court rules on the petition for en banc review in Richards, whicheveroccurs first, appellees shall file an appropriate motion addressing the status of thisappeal and requesting a further stay or other relief. Appellant's unopposed motion for an extension to file a shortened opening brief is granted. Order received in this district on 1/21/15. [See document for details] (mat) (Entered: 01/22/2015) |
| 07/03/2014 | <u>171</u> | MANDATE of 9th CCA filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>109</u> , CCA # 13–56203. On May 1, 2014, the district court entered a final order dismissing the underlying action. Consequently, this preliminary injunction appeal is dismissed as moot. Appellant's appeal from the district court's final judgment is proceeding in this court as appeal number 14–55873. Mandate received in this district on 7/3/2014. (car) (Entered: 07/08/2014) |
| 06/10/2014 | <u>170</u> | ORDER from 9th CCA filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>109</u> filed by Charles Nichols CCA # 13–56203. On May 1, 2014, the district court entered a final order dismissing the underlying action. Consequently, this preliminary injunction appeal is dismissed as moot. See SEC v. Mount Vernon Meml Park, 664 F.2d 1358, 1361 (9th Cir. 1982) (district courts entry of final judgment renders pending appeal from preliminary injunction moot). Appellant's appeal from the district court's final judgment is proceeding in this court as appeal number 14–55873. All pending motions are denied as moot. Order received in this district on 6/10/2014. (dmap) (Entered: 06/16/2014) |
| 05/29/2014 | <u>169</u> | NOTIFICATION by Circuit Court of Appellate Docket Number 14–55873, 9th CCA regarding Notice of Appeal to 9th Circuit Court of Appeals <u>168</u> as to Petitioner Charles Nichols. (ja) (Entered: 05/30/2014) |
| 05/27/2014 | <u>168</u> | NOTICE OF APPEAL to the 9th CCA filed by Petitioner Charles Nichols. Appeal of Judgment <u>167</u> Filed On: 5/1/14; Entered On: 5/1/14; Filing fee \$505 PAID, receipt number LA096419. (Attachments: # <u>1</u> Appeal Fee receipt) (mat) (Entered: 05/28/2014) |
| 05/01/2014 | <u>167</u> | JUDGMENT by Judge S. James Otero, Related to: R&R – ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE, <u>166</u> . IT IS HEREBY ADJUDGED that the above–captioned action is dismissed with prejudice. (MD JS–6, Case Terminated). (mr) (Entered: 05/01/2014) |
| 05/01/2014 | <u>166</u> | ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE by Judge S. James Otero. IT IS ORDERED that Plaintiff's Motion for Partial Summary Judgment is DENIED. IT IS FURTHER ORDERED that Defendant's Motion for Judgment on the Pleadings is GRANTED and that Judgment be entered in favor of Defendant Kamala D. Harris. (mr) (Entered: 05/01/2014) |
| 04/14/2014 | <u>164</u> | REPLY TO OBJECTION to Report and Recommendation (Issued) <u>162</u> filed by Defendant Kamala D Harris. (Eisenberg, Jonathan) (Entered: 04/14/2014) |
| 04/11/2014 | <u>165</u> | NOTICE OF DISCREPANCY AND ORDER: by Magistrate Judge Suzanne H. Segal, ORDERING Request for Ruling on Submitted Matter (2) submitted by Plaintiff Charles Nichols received on 4/09/14 is not to be filed but instead rejected. Denial based on: Both parties have not signed the document. (mr) (Entered: 04/16/2014) |
| 03/31/2014 | <u>163</u> | OBJECTION to Report and Recommendation (Issued) <u>162</u> filed by plaintiff Charles Nichols.(mr) (Entered: 04/02/2014) |
| 03/18/2014 | <u>162</u> | REPORT AND RECOMMENDATION issued by Magistrate Judge Suzanne H. Segal. Re Complaint, <u>1</u> , MOTION for Partial Summary Judgment, <u>131</u> , MOTION for |

| | | |
|------------|------------|---|
| | | Judgment on the Pleadings, <u>129</u> . (mr) (Entered: 03/18/2014) |
| 03/18/2014 | <u>161</u> | NOTICE OF FILING REPORT AND RECOMMENDATION by Magistrate Judge Suzanne H. Segal. Objections to R&R due by 4/1/2014. (mr) (Entered: 03/18/2014) |
| 02/05/2014 | <u>160</u> | DECLARATION of Plaintiff Charles Nichols Regarding Notice of Supplemental Authority <u>159</u> filed by Plaintiff Charles Nichols. (es) (Entered: 02/06/2014) |
| 02/05/2014 | <u>159</u> | NOTICE OF SUPPLEMENTAL AUTHORITY <u>131</u> filed by Plaintiff Charles Nichols. (es) (Entered: 02/06/2014) |
| 02/03/2014 | <u>158</u> | Plaintiff's RESPONSE to Defendant Harris' Objection to Plaintiff's Notice of Supplemental Authority <u>157</u> filed by Plaintiff Charles Nichols (es) (Entered: 02/05/2014) |
| 01/28/2014 | <u>157</u> | Objection re: MOTION for Partial Summary Judgment <u>131</u> , MOTION for Judgment on the Pleadings as to Pleadings of <i>Charles Nichols</i> , <u>129</u> <i>Four Supplemental Filings</i> filed by Defendant Kamala D Harris. (Attachments: # <u>1</u> Affidavit of Service)(Eisenberg, Jonathan) (Entered: 01/28/2014) |
| 01/13/2014 | <u>156</u> | DECLARATION re Notice of Supplemental Authority <u>155</u> filed by Plaintiff Charles Nichols. (lmh) (Entered: 01/16/2014) |
| 01/13/2014 | <u>155</u> | NOTICE of Supplemental Authority filed by Plaintiff Charles Nichols. (lmh) (Entered: 01/16/2014) |
| 01/10/2014 | <u>154</u> | DECLARATION re Notice (Other) <u>153</u> filed by Plaintiff Charles Nichols. (lmh) (Entered: 01/13/2014) |
| 01/10/2014 | <u>153</u> | NOTICE of Supplemental Authority filed by Plaintiff Charles Nichols. (lmh) (Entered: 01/13/2014) |
| 01/06/2014 | <u>152</u> | DECLARATION re Notice of Supplemental Authority <u>150</u> filed by Plaintiff Charles Nichols. (lmh) (Entered: 01/09/2014) |
| 01/06/2014 | <u>151</u> | RESPONSE to Objections – non–motion <u>149</u> filed by Plaintiff Charles Nichols. (lmh) (Entered: 01/09/2014) |
| 01/06/2014 | <u>150</u> | NOTICE of Supplemental Authority filed by Plaintiff Charles Nichols. (lmh) (Entered: 01/09/2014) |
| 12/27/2013 | <u>149</u> | OBJECTIONS to <i>Supplemental Filing</i> filed by Defendant Kamala D Harris. (Eisenberg, Jonathan) (Entered: 12/27/2013) |
| 12/13/2013 | <u>148</u> | DECLARATION of Plaintiff Charles Nichols Regarding Notice of Supplemental Authority, <u>147</u> filed by Plaintiff Charles Nichols. (lmh) Modified on 12/16/2013 (mr). (Entered: 12/16/2013) |
| 12/13/2013 | <u>147</u> | NOTICE of Supplemental Authority filed by Plaintiff Charles Nichols. (lmh) (Entered: 12/16/2013) |
| 12/09/2013 | <u>146</u> | Plaintiff's Objections to Declaration of Jonathan M. Eisenberg filed in Opposition to Plaintiff's Motion for Partial Summary Judgment, <u>131</u> . (lmh) Modified on 12/13/2013 (mr). (Entered: 12/12/2013) |
| 12/09/2013 | <u>145</u> | Plaintiff's Objections to Defendant's Notice of Errata filed in Opposition to Plaintiff's Motion for Partial Summary Judgment, <u>131</u> . (lmh) Modified on 12/13/2013 (mr). (Entered: 12/12/2013) |
| 12/09/2013 | <u>144</u> | Reply to Defendant's State of Genuine Disputes re Plaintiff's Motion for Partial Summary Judgment <u>131</u> filed by Plaintiff Charles Nichols. (lmh) Modified on 12/13/2013 (mr). (Entered: 12/12/2013) |
| 12/09/2013 | <u>143</u> | Reply in Support of Plaintiff's Motion for Partial Summary Judgment <u>131</u> filed by Plaintiff Charles Nichols. (lmh) Modified on 12/13/2013 (mr). (Entered: 12/12/2013) |
| 12/03/2013 | <u>142</u> | REPLY in Support of MOTION for Judgment on the Pleadings as to Pleadings of <i>Charles Nichols</i> , <u>129</u> filed by Defendant Kamala D Harris. (Attachments: # <u>1</u> Affidavit of Service)(Eisenberg, Jonathan) (Entered: 12/03/2013) |

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| 12/03/2013 | <u>141</u> | NOTICE OF ERRATA filed by Defendant Kamala D Harris. correcting Objection/Opposition (Motion related) <u>140</u> (Attachments: # <u>1</u> Memorandum of P's and A's in Opp'n to MSJ, # <u>2</u> Affidavit of Service)(Eisenberg, Jonathan) (Entered: 12/03/2013) |
| 12/02/2013 | <u>140</u> | Opposition re: MOTION for Partial Summary Judgment <u>131</u> filed by Defendant Kamala D Harris. (Attachments: # <u>1</u> Appendix of Genuine Disputes, # <u>2</u> Affidavit of Jonathan M. Eisenberg, # <u>3</u> Affidavit of Service)(Eisenberg, Jonathan) (Entered: 12/02/2013) |
| 11/26/2013 | <u>139</u> | Plaintiff's Opposition to Defendant's Motion for Judgment on the Pleadings <u>129</u> filed by Plaintiff Charles Nichols. (mr) (Entered: 12/02/2013) |
| 11/26/2013 | <u>138</u> | Plaintiff Nichols' Objection to Evidence re: MOTION for Judgment on the Pleadings as to Pleadings of <i>Charles Nichols</i> , <u>129</u> filed by Plaintiff Charles Nichols. (mr) (Entered: 12/02/2013) |
| 11/18/2013 | <u>137</u> | MINUTE ORDER IN CHAMBERS by Magistrate Judge Suzanne H. Segal, On November 8, 2013, Plaintiff filed a Motion for Partial Summary Judgment, which was entered on the Courts docket on November 15, 2013. (Dkt. No. 131). The Court sets the following briefing schedule: Defendants Opposition shall be filed within fourteen (14) days of the date of this Order. Plaintiffs Reply, if necessary, shall be filed within seven (7) days of service of the Opposition. Thereafter, the Motion will be taken under submission without a hearing unless otherwise ordered by the Court. Accordingly, the hearing date currently set for December 17, 2013 is VACATED. re: MOTION for Partial Summary Judgment <u>131</u> . (lmh) (Entered: 11/18/2013) |
| 11/13/2013 | <u>130</u> | MINUTE ORDER (IN CHAMBERS) ORDER: (1) SETTING BRIEFING SCHEDULE ON DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS AND (2) VACATING HEARING DATE (Dkt. No. <u>129</u>) by Magistrate Judge Suzanne H. Segal: The Court sets the following briefing schedule: Plaintiff's Opposition shall be filed within fourteen (14) days of the date of this Order. Defendant's Reply, if necessary, shall be filed within seven (7) days of service of the Opposition. Thereafter, the Motion will be taken under submission without a hearing unless otherwise ordered by the Court. Accordingly, the hearing date currently set for December 17, 2013 is VACATED. If Plaintiff does not intend to oppose the Motion, he may request a voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a). A Notice of Dismissal form is attached for Plaintiff's convenience. (Attachments: # <u>1</u> Notice of Dismissal Form) (mr) (Entered: 11/13/2013) |
| 11/12/2013 | <u>129</u> | NOTICE OF MOTION AND MOTION for Judgment on the Pleadings as to Pleadings of <i>Charles Nichols</i> , filed by Defendant Kamala D Harris. Motion set for hearing on 12/17/2013 at 10:00 AM before Magistrate Judge Suzanne H. Segal. (Attachments: # <u>1</u> Memorandum of P's and A's, # <u>2</u> Appendix (RFJN), # <u>3</u> Declaration of Service)(Eisenberg, Jonathan) (Entered: 11/12/2013) |
| 11/08/2013 | <u>136</u> | NOTICE OF LODGING of Proposed Statement of Uncontroverted Facts and Conclusions of Law; Evidence in Support filed by Plaintiff Charles Nichols re MOTION for Partial Summary Judgment <u>131</u> (lmh) (Entered: 11/15/2013) |
| 11/08/2013 | <u>135</u> | NOTICE OF LODGING of Proposed Order filed by Plaintiff Charles Nichols re MOTION for Partial Summary Judgment <u>131</u> (lmh) (Entered: 11/15/2013) |
| 11/08/2013 | <u>134</u> | EXHIBIT A through H to MOTION for Partial Summary Judgment <u>131</u> filed by Plaintiff Charles Nichols. (Attachments: # <u>1</u> Exhibits Part 2)(lmh) (Entered: 11/15/2013) |
| 11/08/2013 | <u>133</u> | DECLARATION of Charles Nichols in Support MOTION for Partial Summary Judgment <u>131</u> filed by Plaintiff Charles Nichols. (lmh) (Entered: 11/15/2013) |
| 11/08/2013 | <u>132</u> | MEMORANDUM in Support of MOTION for Partial Summary Judgment <u>131</u> filed by Plaintiff Charles Nichols. (lmh) (Entered: 11/15/2013) |
| 11/08/2013 | <u>131</u> | NOTICE OF MOTION AND MOTION for Partial Summary Judgment filed by Plaintiff Charles Nichols. Motion set for hearing on 12/17/2013 at 10:00 AM before Magistrate Judge Suzanne H. Segal. (Lodged Proposed Order) (lmh) (Entered: 11/15/2013) |

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| 10/15/2013 | <u>128</u> | ORDER from 9th CCA filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>109</u> filed by Charles Nichols, CCA # 13-56203. The court stays proceedings in this appeal pending this court's decisions in Richards v. Prieto, 11-16255, Peruta v. County of San Diego, 10-56971, and Baker v. Kealoha, 12-16258 (arg. & sub. SF 12/6/12 DFO SRT CMC). Order received in this district on 10/15/13. (car) (Entered: 10/17/2013) |
| 08/08/2013 | <u>126</u> | MINUTE ORDER (IN CHAMBERS) ORDER DENYING CITY OF REDONDO BEACH'S MOTION TO DISMISS THE SECOND AND THIRD CLAIMS IN THE SECOND AMENDED COMPLAINT AS MOOT (Dkt. No. <u>89</u>) by Magistrate Judge Suzanne H. Segal: On August 5, 2013, Plaintiff in the above-referenced pro se civil rights action filed a Notice of Voluntary Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1) dismissing his claims against Defendant City of Redondo Beach and Does 1 to 10 without prejudice. (Dkt. No. <u>125</u>). Accordingly, City of Redondo Beach's pending Motion to Dismiss the Second and Third Claims in the Second Amended Complaint is DENIED as MOOT. (Dkt. No. <u>89</u>). (mr) (Entered: 08/08/2013) |
| 08/07/2013 | <u>127</u> | STATUS REPORT filed by Plaintiff Charles Nichols. (afe) (Entered: 08/08/2013) |
| 08/05/2013 | <u>125</u> | NOTICE OF VOLUNTARY DISMISSAL without prejudice against defendant City of Redondo Beach and Does 1 to 10 pursuant to FRCP 41a(1) filed by plaintiff Charles Nichols. (afe) (Entered: 08/07/2013) |
| 08/02/2013 | <u>124</u> | ORDER from 9th CCA filed, CCA # 13-56203. Appellant's emergency motion to stay district court proceedings pending appeal is denied. Appellant's motion to expedite this preliminary injunction appeal is denied as unnecessary. Order received in this district on 8/2/13. (car) (Entered: 08/05/2013) |
| 07/29/2013 | <u>123</u> | STATUS REPORT filed by Defendant Kamala D Harris. (Eisenberg, Jonathan) (Entered: 07/29/2013) |
| 07/22/2013 | <u>122</u> | STATUS REPORT filed by Defendant City of Redondo Beach. (Pierce, Thomas) (Entered: 07/22/2013) |
| 07/18/2013 | <u>121</u> | MINUTES (IN CHAMBERS) by Judge S. James Otero: ORDER DENYING PLAINTIFF'S EX PARTE APPLICATION FOR STAY PENDING APPEAL <u>116</u> . (lc) (Entered: 07/18/2013) |
| 07/17/2013 | <u>120</u> | Opposition re: EX PARTE APPLICATION to Stay Case pending Pending Appeal <u>116</u> filed by Defendant Kamala D Harris. (Eisenberg, Jonathan) (Entered: 07/17/2013) |
| 07/16/2013 | <u>119</u> | <i>Opposition of Defendant City of Redondo Beach</i> re: EX PARTE APPLICATION to Stay Case pending Pending Appeal <u>116</u> (Pierce, Thomas) (Entered: 07/16/2013) |
| 07/12/2013 | <u>118</u> | MEMORANDUM, Reasons and Points and Authorities in Support Plaintiff's Ex Parte Application to Stay Case Pending Appeal <u>116</u> filed by Plaintiff Charles Nichols. (dmap) (Entered: 07/15/2013) |
| 07/12/2013 | <u>117</u> | PLAINTIFF'S NOTICE OF LODGING (Proposed) Order Staying Further District Court Proceedings filed by plaintiff Charles Nichols re EX PARTE APPLICATION to Stay Case pending Pending Appeal <u>116</u> . (dmap) (Entered: 07/15/2013) |
| 07/12/2013 | <u>116</u> | PLAINTIFF'S EX PARTE APPLICATION to Stay Pending Appeal filed by plaintiff Charles Nichols.(dmap) (Entered: 07/15/2013) |
| 07/12/2013 | <u>115</u> | Plaintiff's Notice Of Potential Partial Mootness Against Defendant City of Redondo Beach filed by plaintiff Charles Nichols. (dmap) (Entered: 07/15/2013) |
| 07/10/2013 | <u>114</u> | NOTICE OF CLERICAL ERROR: Due to clerical error the Order denying the Certificate of Appealability <u>113</u> for CV 12-2558 GAF, Rranklin Ross Knisley was mistakenly docketed into this case. The order will be docketed in the correct case CV 12-2558 GAF. (dmap) (Entered: 07/10/2013) |
| 07/09/2013 | <u>111</u> | NOTIFICATION by Circuit Court of Appellate Docket Number 13-56203 9th CCA regarding Notice of Appeal to 9th Circuit Court of Appeals <u>109</u> as to Plaintiff Charles Nichols. (dmap) (Entered: 07/09/2013) |
| 07/09/2013 | <u>110</u> | FILING FEE LETTER issued as to Plaintiff Charles Nichols re Notice of Appeal to 9th Circuit Court of Appeals <u>109</u> . (dmap) (Entered: 07/09/2013) |

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| 07/08/2013 | <u>112</u> | APPEAL FEE PAID: re Notice of Appeal to 9th Circuit Court of Appeals <u>109</u> as to Plaintiff Charles Nichols; Receipt Number: LA074294 in the amount of \$455. (dmap) (Entered: 07/10/2013) |
| 07/08/2013 | <u>109</u> | PRELIMINARY INJUNCTION NOTICE OF APPEAL to the 9th CCA filed by plaintiff Charles Nichols. Appeal of Order on Motion for Preliminary Injunction <u>108</u> . Filed On: 7/3/2013; Entered On: 7/3/2013; Filing fee \$455.00 billed. (dmap) (Entered: 07/09/2013) |
| 07/06/2013 | <u>113</u> | Order by Judge S. James Otero denying certificate of appealability. (dmap) (Entered: 07/10/2013) |
| 07/03/2013 | <u>108</u> | MINUTES (IN CHAMBERS): ORDER by Judge S. James Otero:ORDER DENYING PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION <u>58</u> . The Court refers this matter to Magistrate Judge Segal for further proceedings. (lc) (Entered: 07/03/2013) |
| 06/12/2013 | <u>107</u> | SCHEDULING ORDER by Magistrate Judge Suzanne H. Segal. This Order governs discovery and pretrial motions. All discovery shall be completed on or before October 31, 2013. All discovery motions shall be filed and served on or before October 31, 2013. All other motions, including but not limited to motions for summary judgment, shall be filed and served on or before November 13, 2013. The deadline for amending pleadings and/or adding parties is June 28, 2013. Each party shall file and serve a Status Report on or before August 12, 2013. (See document for further details). (mr) (Entered: 06/12/2013) |
| 06/03/2013 | <u>106</u> | PLAINTIFF'S REQUEST for Judicial Notice and REPLY to defendant Kamala D. Harris's Evidentiary Objections <u>96</u> to declaration of Charles Nichols filed by plaintiff Charles Nichols. (afe) (Entered: 06/04/2013) |
| 06/03/2013 | <u>105</u> | PLAINTIFF'S REPLY to defendant Kamala D. Harri's Opposition to Plaintiff Charles Nichols's Motion for Preliminary Injunction <u>96</u> filed by Plaintiff Charles Nichols. (afe) (Entered: 06/04/2013) |
| 05/28/2013 | <u>104</u> | Opposition re: MOTION for Preliminary Injunction. Motion <u>85</u> filed by Defendant Kamala D Harris. (Attachments: # <u>1</u> Appendix Request for Judicial Notice, # <u>2</u> Affidavit Jonathan Eisenberg Declaration, # <u>3</u> Exhibit Exh. A, # <u>4</u> Exhibit Exh. B, # <u>5</u> Appendix Evidentiary Objections, # <u>6</u> Declaration Certificate of Service)(Eisenberg, Jonathan) (Entered: 05/28/2013) |
| 05/16/2013 | <u>103</u> | Plaintiff's Reply to Defendant City of Redondo Beach's Evidentiary Objections to Plaintiff's Declaration Submitted in Opposition to Motion to Dismiss <u>99</u> . (mr) (Entered: 05/17/2013) |
| 05/16/2013 | <u>102</u> | MINUTES (IN CHAMBERS) by Judge S. James Otero: ORDER STRIKING DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION <u>96</u> ; STRIKING PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FORPRELIMINARY INJUNCTION <u>100</u> .Defendant shall re-file her Opposition in accordance with this Court's Initial Standing Order on or before May 28, 2013. Plaintiff shall re-file his Reply in accordance with this Court'sInitial Standing Order on or before June 3, 2013. The Court finds this matter suitable for disposition without oral argument <u>85</u> , and thus no appearances are necessary. See Fed. R. Civ. P.78(b). (lc) (Entered: 05/16/2013) |
| 05/07/2013 | <u>101</u> | PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE AND REPLY TO DEFENDANT KAMALA D. HARRIS'S EVIDENTIARY OBJECTIONS TO DECLARATION OF CHARLES NICHOLS filed by plaintiff Charles Nichols. (lc) (Entered: 05/08/2013) |
| 05/07/2013 | <u>100</u> | PLAINTIFF'S REPLY TO DEFENDANT KAMALA D. HARRIS'S OPPOSITION TO PLAINTIFF CHARLES NICHOLS'S MOTION FOR PRELIMINARY INJUNCTION <u>85</u> filed by Plaintiff Charles Nichols. (lc) (Entered: 05/08/2013) |
| 05/07/2013 | <u>99</u> | Evidentiary Objections in support of re: MOTION to Dismiss Case <u>89</u> <i>the Second and Third Claims in the Second Amended Complaint</i> filed by Defendant City of Redondo Beach. (Pierce, Thomas) (Entered: 05/07/2013) |

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| 05/07/2013 | <u>98</u> | REQUEST FOR JUDICIAL NOTICE re MOTION to Dismiss Case <u>89</u> <i>the Second and Third Claims in the Second Amended Complaint; Declaration of T. Peter Pierce in Support</i> filed by Defendant City of Redondo Beach. (Pierce, Thomas) (Entered: 05/07/2013) |
| 05/07/2013 | <u>97</u> | REPLY in support of a motion MOTION to Dismiss Case <u>89</u> <i>the Second and Third Claims in the Second Amended Complaint, or in the Alternative, in Support of Motion for More Definite Statement</i> filed by Defendant City of Redondo Beach. (Pierce, Thomas) (Entered: 05/07/2013) |
| 05/02/2013 | <u>96</u> | Opposition to Preliminary Injunction Motion Opposition to Mtn. for Preliminary Injunction re: MOTION for Preliminary Injunction. Motion <u>85</u> filed by Defendant Kamala D Harris. (Attachments: # <u>1</u> Request for Judicial Notice, # <u>2</u> Declaration of Jonathan M. Eisenberg, # <u>3</u> Exhibit A to JME Decl., # <u>4</u> Exhibit B to JME Decl., # <u>5</u> Evidentiary Objections, # <u>6</u> Proof of Service)(Eisenberg, Jonathan) (Entered: 05/02/2013) |
| 04/30/2013 | <u>95</u> | Plaintiff's Opposition to Motion By Defendant City of Redondo Beach to Dismiss the Second and Third Claims in the Second Amended Complaint or, In the Alternative, Motion for More Definite Statement <u>89</u> , Etc.; Memorandum of Points and Authorities; Declaration of Charles Nichols filed by Plaintiff Charles Nichols. (mr) (Entered: 05/01/2013) |
| 04/19/2013 | <u>94</u> | MINUTE ORDER (IN CHAMBERS) SCHEDULING ORDER RE DEFENDANT CITY OF REDONDO BEACH'S MOTION TO DISMISS (Dkt. No. <u>89</u>) by Magistrate Judge Suzanne H. Segal: On April 15, 2013, Defendant City of Redondo Beach filed a Motion to Dismiss the Second and Third Claims in the Second Amended Complaint. (Dkt. No. <u>89</u>). Plaintiff shall have until May 3, 2013 to file and serve an Opposition to the Motion. Defendant shall have seven (7) days from service of the Opposition to file and serve a Reply, if necessary. Thereafter, the Motion will be deemed submitted without oral argument. Accordingly, IT IS ORDERED that the hearing set for May 21, 2013 be taken off calendar. (See document for further details). (mr) (Entered: 04/19/2013) |
| 04/19/2013 | <u>93</u> | MINUTE ORDER (IN CHAMBERS) ORDER VACATING HEARING DATE ON PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION (Dkt. No. <u>85</u>) by Magistrate Judge Suzanne H. Segal: On April 10, 2013, Plaintiff in the above-referenced pro se civil rights action filed a Motion for Preliminary Injunction. (Dkt. No. <u>85</u>). Plaintiff set May 20, 2013 as the hearing date on the Motion. Pursuant to Local Rule 7-15, the hearing date of May 20, 2013 is VACATED and no appearance is necessary, unless otherwise advised by the Court. (mr) (Entered: 04/19/2013) |
| 04/18/2013 | <u>92</u> | MINUTE ORDER (IN CHAMBERS) SCHEDULING ORDER RE PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION (Dkt. No. <u>85</u>) by Magistrate Judge Suzanne H. Segal: On April 10, 2013, Plaintiff in the above-referenced pro se civil rights action filed a Motion for Preliminary Injunction. Defendants' Opposition, if any, is due fourteen (14) days from the date of this order, i.e., by May 2, 2013. Plaintiff's Reply is due seven (7) days from the date of service of the Opposition. (mr) (Entered: 04/18/2013) |
| 04/16/2013 | <u>91</u> | ANSWER to Amended Complaint <u>83</u> filed by Defendant Kamala D Harris.(Eisenberg, Jonathan) (Entered: 04/16/2013) |
| 04/15/2013 | <u>90</u> | MEMORANDUM in Support of Defendant City of Redondo Beach's Motion to Dismiss the Second and third Claims in the Second Amended Complaint or, in the Alternative, in Support of Motion for More Definite Statement filed by Defendant City of Redondo Beach. (Pierce, Thomas) (Entered: 04/15/2013) |
| 04/15/2013 | <u>89</u> | NOTICE of Motion and Motion by Defendant City of Redondo Beach to Dismiss the Second and Third Claims in the Second Amended Complaint or, in the Alternative, Motion for More Definite Statement filed by Defendant City of Redondo Beach. (Pierce, Thomas) Modified on 4/16/2013 (mr). (Entered: 04/15/2013) |
| 04/10/2013 | <u>88</u> | REQUEST FOR JUDICIAL NOTICE re MOTION for Preliminary Injunction. Motion <u>85</u> filed by plaintiff Charles Nichols. (lc) (Entered: 04/12/2013) |

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| 04/10/2013 | <u>87</u> | DECLARATION of Charles Nichols in support MOTION for Preliminary Injunction. Motion <u>85</u> filed by Plaintiff Charles Nichols. (lc) (Entered: 04/12/2013) |
| 04/10/2013 | <u>86</u> | MEMORANDUM in Support of MOTION for Preliminary Injunction. Motion <u>85</u> filed by Plaintiff Charles Nichols. (lc) (Entered: 04/12/2013) |
| 04/10/2013 | <u>85</u> | NOTICE OF MOTION AND MOTION for Preliminary Injunction. Motion filed by plaintiff: Charles Nichols. Motion set for hearing on 5/20/2013 at 10:00 AM before Judge S. James Otero. (lc) (Entered: 04/12/2013) |
| 04/02/2013 | <u>84</u> | MINUTE ORDER (IN CHAMBERS) SCHEDULING ORDER RE RESPONSE DEADLINE TO PLAINTIFF'S SECOND AMENDED COMPLAINT (Dkt. No. <u>83</u>) by Magistrate Judge Suzanne H. Segal: On April 1, 2013, Plaintiff in the above-referenced pro se civil rights action filed a Second Amended Complaint. Pursuant to Federal Rule of Civil Procedure 15(a)(3), Defendants shall file a response to the Second Amended Complaint within fourteen (14) days of the date of this Order. (mr) (Entered: 04/02/2013) |
| 03/29/2013 | <u>83</u> | SECOND AMENDED COMPLAINT amending First Amended Complaint <u>47</u> , filed by plaintiff Charles Nichols. (afe) (Entered: 04/01/2013) |
| 03/03/2013 | <u>82</u> | ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE by Judge S. James Otero. The Motion to Dismiss the First Amended Complaint <u>54</u> filed by the Redondo Beach Defendants is GRANTED. The Motion to Dismiss the First Amended Complaint <u>58</u> filed by Attorney General Kamala D. Harris is DENIED. The First Amended Complaint <u>47</u> is DISMISSED with leave to amend. If Plaintiff desires to proceed with his claims against Attorney General Harris and City of Redondo Beach, Plaintiff shall file a Second Amended Complaint within thirty (30) days of the date of this Order. (See Order for details) (afe) (Entered: 03/05/2013) |
| 02/28/2013 | <u>81</u> | NOTICE OF SUPPLEMENTAL AUTHORITY filed by plaintiff Charles Nichols. (afe) (Entered: 03/04/2013) |
| 02/25/2013 | <u>80</u> | NOTICE OF SUPPLEMENTAL AUTHORITY filed by plaintiff Charles Nichols. (afe) (Entered: 02/27/2013) |
| 01/11/2013 | <u>79</u> | NOTICE of Related Case [Local Rule 83-1.3(b)] filed by plaintiff Charles Nichols. (afe) (Entered: 01/11/2013) |
| 01/11/2013 | <u>78</u> | SUPPLEMENTAL AUTHORITY Moore, et al. and Shepard, et al.v. Madigan, Nos 12-1269, 12-1788 Seventh Circuit Court of Appeals filed by Plaintiff Charles Nichols. (afe) (Entered: 01/11/2013) |
| 01/11/2013 | <u>77</u> | SUPPLEMENTAL AUTHORITY filed by Plaintiff Charles Nichols. (afe) (Entered: 01/11/2013) |
| 12/21/2012 | <u>76</u> | ORDER ON REQUEST FOR APPROVAL OF SUBSTITUTION OF ATTORNEY by Magistrate Judge Suzanne H. Segal. granting <u>75</u> Motion to Substitute Attorney. Attorney Michael F Sisson terminated. (afe) (Entered: 12/26/2012) |
| 12/20/2012 | <u>75</u> | Request for Approval of Substitution of Attorney filed by plaintiff Charles Nichols. (jy) (Entered: 12/21/2012) |
| 12/20/2012 | <u>74</u> | NOTICE OF DOCUMENT DISCREPANCIES AND ORDER by Magistrate Judge Suzanne H. Segal ORDERING Request for Approval of Substitution of Attorney submitted by Plaintiff Charles Nichols received on 12/20/12 to be filed and processed; filed date to be the date the document was stamped Received but not Filed with the Clerk. (jy) (Entered: 12/21/2012) |
| 12/17/2012 | <u>73</u> | PLAINTIFF'S RESPONSE to defendant Kamala D. Harris's Objections <u>72</u> to November 20, 2012 Report and Recommendation of United States Magistrate Judge filed by plaintiff Charles Nichols. (afe) (Entered: 12/17/2012) |
| 12/04/2012 | <u>72</u> | OBJECTION to Report and Recommendation (Issued) <u>71</u> filed by Defendant Kamala D Harris.(Eisenberg, Jonathan) (Entered: 12/04/2012) |
| 11/20/2012 | <u>71</u> | REPORT AND RECOMMENDATION issued by Magistrate Judge Suzanne H. Segal. Re MOTION to Dismiss First Amended Complaint <u>54</u> and Second MOTION to |

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| | | Dismiss for Lack of Jurisdiction <u>58</u> (jy) (Entered: 11/20/2012) |
| 11/20/2012 | <u>70</u> | NOTICE OF FILING REPORT AND RECOMMENDATION by Magistrate Judge Suzanne H. Segal. Objections to R&R due by 12/4/2012 (jy) (Entered: 11/20/2012) |
| 07/23/2012 | <u>69</u> | REPLY in Support of Second MOTION to Dismiss for Lack of Jurisdiction <i>per FRCP 12(b)(1)</i> Second MOTION to Dismiss for Lack of Jurisdiction <i>per FRCP 12(b)(1)</i> <u>58</u> filed by Defendant Kamala D Harris. (Attachments: # <u>1</u> Declaration of Service)(Eisenberg, Jonathan) (Entered: 07/23/2012) |
| 07/20/2012 | <u>68</u> | REDONDO BEACH DEFENDANTS' EVIDENTIARY OBJECTIONS AND MOTION TO STRIKE PORTIONS OF NICHOLS DECLARATION FILED IN SUPPORT OF PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS FIRST AMENDED COMPLAINT – IN SUPPORT OF re: MOTION to Dismiss First Amended Complaint , <i>or, in the Alternative, Motion for More Definite Statement</i> <u>54</u> filed by Defendants City of Redondo Beach, Todd Heywood, Joseph Leonardi. (Bond, Lisa) (Entered: 07/20/2012) |
| 07/20/2012 | <u>67</u> | REPLY REDONDO BEACH DEFENDANTS' REPLY IN SUPPORT OF MOTION TO DISMISS FIRST AMENDED COMPLAINT OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT MOTION to Dismiss First Amended Complaint , <i>or, in the Alternative, Motion for More Definite Statement</i> <u>54</u> filed by Defendants City of Redondo Beach, Todd Heywood, Joseph Leonardi. (Bond, Lisa) (Entered: 07/20/2012) |
| 07/16/2012 | <u>66</u> | MEMORANDUM in Opposition to MOTION to Dismiss First Amended Complaint , <i>or, in the Alternative, Motion for More Definite Statement</i> <u>54</u> , Second MOTION to Dismiss for Lack of Jurisdiction <i>per FRCP 12(b)(1)</i> Second MOTION to Dismiss for Lack of Jurisdiction <i>per FRCP 12(b)(1)</i> <u>58</u> Request for Judicial Notice filed by Plaintiff Charles Nichols. (Sisson, Michael) (Entered: 07/16/2012) |
| 07/16/2012 | <u>65</u> | MEMORANDUM in Opposition to Second MOTION to Dismiss for Lack of Jurisdiction <i>per FRCP 12(b)(1)</i> Second MOTION to Dismiss for Lack of Jurisdiction <i>per FRCP 12(b)(1)</i> <u>58</u> by Defendant Kamala Harris filed by Plaintiff Charles Nichols. (Sisson, Michael) (Entered: 07/16/2012) |
| 07/16/2012 | <u>64</u> | MEMORANDUM in Opposition to MOTION to Dismiss First Amended Complaint , <i>or, in the Alternative, Motion for More Definite Statement</i> <u>54</u> by Defendant Redondo Beach et al filed by Plaintiff Charles Nichols. (Sisson, Michael) (Entered: 07/16/2012) |
| 07/13/2012 | <u>63</u> | ORDER by Magistrate Judge Suzanne H. Segal: granting <u>62</u> Request to Substitute Attorney. (jy) (Entered: 07/13/2012) |
| 07/12/2012 | <u>62</u> | REQUEST to Substitute attorney Michael F. Sisson in place of attorney Charles Nichols filed by Attorney Charles Nichols. Request set for hearing on 7/13/2012 at 01:30 PM before Judge S. James Otero. (Sisson, Michael) (Entered: 07/12/2012) |
| 07/05/2012 | <u>61</u> | MINUTE ORDER IN CHAMBERS by Magistrate Judge Suzanne H. Segal: On June 29, 2012, in the above–entitled civil rights action, Motions to Dismiss were filed by Defendants City of Redondo Beach, Joseph Leonardi, Todd Heywood and California Attorney General Kamala D. Harris. Plaintiff shall have until July 16, 2012 to serve and file Oppositions to the Motions. Defendants shall have seven (7) days from service of the Oppositions to serve and file Replies, if necessary. Thereafter, the Motions will be deemed submitted without oral argument. Accordingly, IT IS ORDERED that the hearings set for July 31, 2012 be taken off calendar. See minute order for details. (jy) (Entered: 07/05/2012) |
| 07/02/2012 | <u>60</u> | PLAINTIFF'S OBJECTION to substitution of attorney <u>53</u> filed by Plaintiff Charles Nichols. (afe) (Entered: 07/05/2012) |
| 07/02/2012 | <u>59</u> | ORDER by Magistrate Judge Suzanne H. Segal: granting <u>53</u> Request to Substitute Attorney. Attorney Michael W Webb terminated (jy) (Entered: 07/02/2012) |
| 06/29/2012 | <u>58</u> | NOTICE OF MOTION AND Second MOTION to Dismiss for Lack of Jurisdiction <i>per FRCP 12(b)(1)</i> filed by Defendant Kamala D Harris. Motion set for hearing on 7/31/2012 at 10:00 AM before Magistrate Judge Suzanne H. Segal. (Attachments: # <u>1</u> Memorandum of P's and A's Supporting Dismissal, # <u>2</u> Supplement Request for Judicial Notice)(Eisenberg, Jonathan) (Entered: 06/29/2012) |

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| 06/29/2012 | <u>57</u> | SUPPLEMENT to MOTION to Dismiss First Amended Complaint , <i>or, in the Alternative, Motion for More Definite Statement</i> <u>54</u> ([Proposed] Order) filed by Defendants City of Redondo Beach, Todd Heywood, Joseph Leonardi. (Bond, Lisa) (Entered: 06/29/2012) |
| 06/29/2012 | <u>56</u> | DECLARATION of Lisa Bond in support of MOTION to Dismiss First Amended Complaint , <i>or, in the Alternative, Motion for More Definite Statement</i> <u>54</u> filed by Defendants City of Redondo Beach, Todd Heywood, Joseph Leonardi. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3)(Bond, Lisa) (Entered: 06/29/2012) |
| 06/29/2012 | <u>55</u> | MEMORANDUM in Support of MOTION to Dismiss First Amended Complaint , <i>or, in the Alternative, Motion for More Definite Statement</i> <u>54</u> filed by Defendants City of Redondo Beach, Todd Heywood, Joseph Leonardi. (Bond, Lisa) (Entered: 06/29/2012) |
| 06/29/2012 | <u>54</u> | NOTICE OF MOTION AND MOTION to Dismiss First Amended Complaint , <i>or, in the Alternative, Motion for More Definite Statement</i> filed by Defendants City of Redondo Beach, Todd Heywood, Joseph Leonardi. Motion set for hearing on 7/31/2012 at 10:00 AM before Magistrate Judge Suzanne H. Segal. (Bond, Lisa) (Entered: 06/29/2012) |
| 06/28/2012 | <u>53</u> | REQUEST to Substitute attorney Lisa Bond in place of attorney Michael W. Webb filed by Defendants City of Redondo Beach, Joseph Leonardi. (Attachments: # <u>1</u> Proposed Order Order on Request for Approval of Substitution of Attorney)(Bond, Lisa) (Entered: 06/28/2012) |
| 06/27/2012 | <u>52</u> | MINUTE ORDER IN CHAMBERS by Magistrate Judge Suzanne H. Segal: ORDER CLARIFYING DEADLINE FOR RESPONSE TO FIRST AMENDED COMPLAINT; the Court extends the deadline by one day and ORDERS Harris, Leonardi and City of Redondo Beach to file a response to the First Amended Complaint by Friday, June 29, 2012. See order for further details. (jy) (Entered: 06/27/2012) |
| 06/19/2012 | <u>51</u> | PROOF OF SERVICE filed by plaintiff Charles Nichols, re Summons Issued, Amended Complaint <u>47</u> served on 06/07/12. (afe) (Entered: 06/20/2012) |
| 06/19/2012 | <u>50</u> | PROOF OF SERVICE filed by plaintiff Charles Nichols, re Summons Issued, Amended Complaint <u>47</u> served on 06/07/12. (afe) (Entered: 06/20/2012) |
| 06/19/2012 | <u>49</u> | PROOF OF SERVICE filed by plaintiff Charles Nichols, re Summons Issued, Amended Complaint <u>47</u> served on 06/07/12. (afe) (Entered: 06/20/2012) |
| 06/19/2012 | <u>48</u> | PROOF OF SERVICE filed by plaintiff Charles Nichols, re Summons Issued, Amended Complaint <u>47</u> served on 06/07/12. (afe) (Entered: 06/20/2012) |
| 05/30/2012 | | 60 DAY AMENDED Summons Issued re Amended Complaint <u>47</u> as to defendant City of Redondo Beach, City of Redondo Beach Police Department, Kamala D Harris (Attorney General in her official capacity as Attorney General of California), Officer Todd Heywood. (afe) (Entered: 06/18/2012) |
| 05/30/2012 | <u>47</u> | FIRST AMENDED COMPLAINT amending Complaint <u>1</u> filed by plaintiff Charles Nichols. (jy) (Additional attachment(s): # <u>2</u> Amended Summons) (Entered: 05/30/2012) |
| 05/07/2012 | <u>46</u> | ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE by Judge S. James Otero; Plaintiffs claims against Attorney General Kamala D. Harris are DISMISSED WITH LEAVE TO AMEND for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). See order for further details. (jy) (Entered: 05/08/2012) |
| 05/07/2012 | <u>45</u> | MINUTES (IN CHAMBERS)by Judge S. James Otero: The Court deems the Plaintiff's MOTION for Review of Magistrate Judges report and recommendation <u>41</u> as an objection. Accordingly, the Court takes the hearing off its calendar. (lc) (Entered: 05/07/2012) |
| 05/02/2012 | <u>44</u> | NOTICE OF ERRATA filed by Plaintiff Charles Nichols. correcting MOTION for Review of Magistrate Judges report and recommendation re Report and Recommendation (Issued) <u>40</u> <u>41</u> (jy) (Entered: 05/03/2012) |

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| 05/01/2012 | <u>43</u> | REPLY TO OBJECTION to Report and Recommendation (Issued) <u>40</u> filed by Defendant Edmund G Brown, Jr. <i>and Defendant Kamala D. Harris</i> (Eisenberg, Jonathan) (Entered: 05/01/2012) |
| 04/17/2012 | <u>42</u> | MEMORANDUM in Support of MOTION for Review of Magistrate Judges report and recommendation re Report and Recommendation <u>41</u> filed by Plaintiff Charles Nichols. (lc) (Main Document 42 replaced on 8/8/2014) (tad). (Entered: 04/17/2012) |
| 04/17/2012 | <u>41</u> | NOTICE OF MOTION AND MOTION for Review of Magistrate Judges report and recommendation <u>40</u> filed by plaintiff Charles Nichols. Motion set for hearing on 5/24/2012 at 10:00 AM before Judge S. James Otero. (lc) (Entered: 04/17/2012) |
| 04/05/2012 | <u>40</u> | REPORT AND RECOMMENDATION issued by Magistrate Judge Suzanne H. Segal. Re Complaint <u>1</u> (jy) (Entered: 04/05/2012) |
| 04/05/2012 | <u>39</u> | NOTICE OF FILING REPORT AND RECOMMENDATION by Magistrate Judge Suzanne H. Segal. Objections to R&R due by 4/19/2012 (jy) (Entered: 04/05/2012) |
| 03/19/2012 | <u>38</u> | REPLY in Support of MOTION to Dismiss for Lack of Jurisdiction <u>34</u> filed by Defendant Edmund G Brown, Jr. (Eisenberg, Jonathan) (Entered: 03/19/2012) |
| 03/12/2012 | <u>37</u> | DECLARATION of Charles Nichols re Memorandum of Points and Authorities in Opposition <u>36</u> filed by Plaintiff Charles Nichols. (afe) (Entered: 03/13/2012) |
| 03/12/2012 | <u>36</u> | PLAINTIFF'S MEMORANDUM of Points and Authorities in Opposition to Motion to Dismiss <u>34</u> by defendant Edmund G. Brown, Jr., in his official capacity as governor of California, filed by Plaintiff Charles Nichols. (afe) (Entered: 03/13/2012) |
| 03/09/2012 | <u>35</u> | MINUTE ORDER IN CHAMBERS by Magistrate Judge Suzanne H. Segal re: MOTION to Dismiss for Lack of Jurisdiction <u>34</u> . On March 8, 2012, in the above-entitled civil rights action, a Motion to Dismiss was filed by Defendant Gov. Edmund G. Brown, Jr. Plaintiff shall have until March 23, 2012 to serve and file an Opposition to the Motion. Defendants shall have seven (7) days from service of the Opposition to serve and file a Reply, if necessary. Thereafter, the Motion will be deemed submitted without oral argument. Accordingly, IT IS ORDERED that the hearing set for April 10, 2012 be taken off calendar. See minute order for further details. (jy) (Entered: 03/09/2012) |
| 03/08/2012 | <u>34</u> | NOTICE OF MOTION AND MOTION to Dismiss for Lack of Jurisdiction filed by Defendant Edmund G Brown, Jr. Motion set for hearing on 4/10/2012 at 10:00 AM before Magistrate Judge Suzanne H. Segal. (Attachments: # <u>1</u> Memorandum Points and Authorities in Support of Motion to Dismiss)(Eisenberg, Jonathan) (Entered: 03/08/2012) |
| 02/24/2012 | <u>33</u> | PROOF OF SERVICE filed by Plaintiff Charles Nichols, Complaint – (Referred) <u>1</u> , Notice of Reference to a U S Magistrate Judge (CV–25) <u>3</u> served on 02/16/12. (afe) (Entered: 02/27/2012) |
| 02/21/2012 | <u>32</u> | Reply to Order Directing Plaintiff to File Response Regarding Application for Entry of Default filed by Plaintiff Charles Nichols. (jy) (Entered: 02/21/2012) |
| 02/17/2012 | <u>31</u> | MINUTE ORDER IN CHAMBERS by Magistrate Judge Suzanne H. Segal: DENYING THE REDONDO BEACH DEFENDANTS REQUEST FOR A HEARING (Dkt. Nos. <u>25</u> – <u>26</u>); See minute order for details. (jy) (Entered: 02/17/2012) |
| 02/16/2012 | <u>30</u> | NOTICE of Error in Submission of Application for Default Judgment Against Defendant Brown filed by Plaintiff Charles Nichols. (jy) (Entered: 02/16/2012) |
| 02/15/2012 | <u>29</u> | MINUTE ORDER IN CHAMBERS by Magistrate Judge Suzanne H. Segal: the Court directs Plaintiff to file a response within seven (7) days (February 22, 2012) of the date of this Order stating whether he wishes to withdraw his Application. See minute order for further details. (jy) (Entered: 02/15/2012) |
| 02/14/2012 | <u>28</u> | REPLY Support MOTION to Dismiss for Lack of Jurisdiction <u>13</u> filed by Defendant Kamala D Harris. (Eisenberg, Jonathan) (Entered: 02/14/2012) |
| 02/14/2012 | <u>27</u> | REPLY Reply MOTION to Dismiss Case <u>12</u> Reply filed by Defendants City of Redondo Beach, City of Redondo Beach Police Department, Joseph Leonardi. (Webb, ER291 |

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| | | Michael) (Entered: 02/14/2012) |
| 02/14/2012 | <u>26</u> | Objection Support re: MOTION to Dismiss Case <u>12</u> <i>Objections To Plaintiff's Notice of Lodging</i> filed by Defendants City of Redondo Beach, City of Redondo Beach Police Department, Joseph Leonardi. (Webb, Michael) (Entered: 02/14/2012) |
| 02/14/2012 | <u>25</u> | Objection Support re: MOTION to Dismiss Case <u>12</u> <i>Redondo Beach Defendants' Objections To Plaintiff's Two Requests For Judicial Notice; Request for Hearing</i> filed by Defendants City of Redondo Beach, City of Redondo Beach Police Department, Joseph Leonardi. (Webb, Michael) (Entered: 02/14/2012) |
| 02/13/2012 | <u>23</u> | Application for Entry of Default Opposition re: APPLICATION for Clerk to Enter Default against defendant Edmund G Brown, Jr <u>22</u> filed by Defendant Edmund G Brown, Jr. (Eisenberg, Jonathan) (Entered: 02/13/2012) |
| 02/10/2012 | <u>24</u> | REQUEST FOR JUDICIAL NOTICE of recently decided 9TH CIRCUIT opinion in support of plaintiff's opposition to motions to dismiss by Redondo Beach defendants and Motion to dismiss by defendant Kamala D. Harris, Attorney General in her official capacity as Attorney General of California, re MOTION to Dismiss for Lack of Jurisdiction <u>13</u> , filed by Plaintiff Charles Nichols. (afe) (Entered: 02/14/2012) |
| 02/08/2012 | <u>22</u> | APPLICATION for Entry of Default against defendant Edmund G Brown, Jr filed by plaintiff Charles Nichols. (jy) (Entered: 02/10/2012) |
| 02/08/2012 | <u>21</u> | DECLARATION of Charles Nichols, filed by Plaintiff Charles Nichols. (afe) (Entered: 02/10/2012) |
| 02/08/2012 | <u>20</u> | PLAINTIFF'S NOTICE OF LODGING OF COMPUTER DISC CONTAINING VIDEOS REFERENCED AS EXHIBIT 1-1 TO 1-4 IN PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION TO DISMISS BY REDONDO BEACH DEFENDANTS, filed by plaintiff Charles Nichols. re Memorandum of Points and Authorities in Opposition (non-motion) <u>19</u> (afe) (Entered: 02/10/2012) |
| 02/08/2012 | <u>19</u> | PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION TODISMISS BY REDONDO BEACH DEFENDANTS, filed by Plaintiff Charles Nichols. Re: MOTION to Dismiss Case <u>12</u> (afe) (Entered: 02/10/2012) |
| 02/08/2012 | <u>18</u> | PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANT KAMALA HARRIS' MOTION TO DISMISS, filed by Plaintiff Charles Nichols. Re: MOTION to Dismiss for Lack of Jurisdiction <u>13</u> (afe) (Entered: 02/10/2012) |
| 02/08/2012 | <u>17</u> | REQUEST FOR JUDICIAL NOTICE IN OPPOSITION TO MOTION TO DISMISS BY REDONDO BEACH DEFENDANTS AND MOTION TO DISMISS BY DEFENDANT KAMALA D. HARRIS ATTORNEY GENERAL IN HER OFFICIAL CAPACITY AS ATTORNEY GENERAL OF CALIFORNIA. re MOTION to Dismiss for Lack of Jurisdiction <u>13</u> , filed by plaintiff Charles Nichols.(afe) (Entered: 02/10/2012) |
| 02/02/2012 | <u>16</u> | CONSENT TO PROCEED before a U. S. Magistrate Judge in accordance with Title 28 Section 636(c) and F.R.CIV.P 73(b), consent is hereby DECLINED by Plaintiff Charles Nichols. (jy) (Entered: 02/02/2012) |
| 02/01/2012 | <u>15</u> | NOTICE of Errata filed by Defendant Kamala D Harris. (Eisenberg, Jonathan) (Entered: 02/01/2012) |
| 01/31/2012 | <u>14</u> | MINUTE ORDER IN CHAMBERS by Magistrate Judge Suzanne H. Segal: re: MOTION to Dismiss Case <u>12</u> and MOTION to Dismiss for Lack of Jurisdiction <u>13</u> . On January 30, 2012, in the above-entitled civil rights action, Motions to Dismiss were filed by Defendants City of Redondo Beach and City of Redondo Beach Police Department and by Defendant Kamala D. Harris. Plaintiff shall have until February 14, 2012 to serve and file an Opposition to the Motions. Defendants shall have seven (7) days from service of the Opposition to serve and file a Reply, if necessary. Thereafter, the Motions will be deemed submitted without oral argument. Accordingly, IT IS ORDERED that the hearings set for March 6, 2012 be taken off calendar. (jy) (Entered: 01/31/2012) |

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| 01/30/2012 | <u>13</u> | NOTICE OF MOTION AND MOTION to Dismiss for Lack of Jurisdiction filed by Defendant Kamala D Harris. Motion set for hearing on 3/6/2012 at 10:00 AM before Magistrate Judge Suzanne H. Segal. (Attachments: # <u>1</u> Memorandum Supporting P's and A's)(Eisenberg, Jonathan) (Entered: 01/30/2012) |
| 01/30/2012 | <u>12</u> | NOTICE OF MOTION AND MOTION to Dismiss Case filed by Defendants City of Redondo Beach, City of Redondo Beach Police Department, Joseph Leonardi. Motion set for hearing on 3/6/2012 at 10:00 AM before Magistrate Judge Suzanne H. Segal. (Attachments: # <u>1</u> Memorandum of Points and Authorities, # <u>2</u> Proposed Order)(Webb, Michael) (Entered: 01/30/2012) |
| 01/19/2012 | <u>11</u> | MINUTES (IN CHAMBERS): ORDER by Magistrate Judge Suzanne H. Segal: denying <u>10</u> Ex Parte Application to Seal; Plaintiffs Application is DENIED. Plaintiff fails to explain his purpose in filing the Report or provide any compelling reason that would justify filing the Report under seal. There is no pending motion and Defendants have not yet answered the Complaint. Furthermore, the Application fails to comply with the Local Rules governing ex parte applications. See minute order for further details. (jy) (Entered: 01/19/2012) |
| 01/17/2012 | <u>10</u> | EX PARTE APPLICATION to Submit Document Under Seal and Request for Waiver of Notice filed by plaintiff Charles Nichols.(jy) (Entered: 01/19/2012) |
| 01/12/2012 | <u>9</u> | PROOF OF SERVICE filed by PLAINTIFF Charles Nichols, re Complaint <u>1</u> , Notice of Reference to a U S Magistrate Judge (CV-25) <u>3</u> served on 01/09/12. (afe) (Entered: 01/17/2012) |
| 01/12/2012 | <u>8</u> | PROOF OF SERVICE filed by PLAINTIFF Charles Nichols, Complaint <u>1</u> , Notice of Reference to a U S Magistrate Judge (CV-25) <u>3</u> served on 01/09/12. (afe) (Entered: 01/17/2012) |
| 01/12/2012 | <u>7</u> | PROOF OF SERVICE filed by PLAINTIFF Charles Nichols, re Complaint - <u>1</u> , Notice of Reference to a U S Magistrate Judge (CV-25) <u>3</u> served on 01/09/12. (afe) (Entered: 01/17/2012) |
| 01/12/2012 | <u>6</u> | PROOF OF SERVICE filed by PLAINTIFF Charles Nichols, re Complaint <u>1</u> , Notice of Reference to a U S Magistrate Judge (CV-25) <u>3</u> served on 01/09/12. (afe) (Entered: 01/17/2012) |
| 01/12/2012 | <u>5</u> | PROOF OF SERVICE filed by plaintiff Charles Nichols, re Complaint <u>1</u> , Notice of Reference to a U S Magistrate Judge (CV-25) <u>3</u> served on 01/09/12. (afe) (Entered: 01/17/2012) |
| 12/07/2011 | <u>4</u> | STANDING ORDER GOVERNING PRE-TRIAL PROCEEDINGS BEFORE THE MAGISTRATE JUDGE by Magistrate Judge Suzanne H. Segal, See order for details. (jy) (Entered: 12/07/2011) |
| 11/30/2011 | <u>3</u> | NOTICE OF REFERENCE to United States Magistrate Judge Suzanne H. Segal. (et) (Entered: 12/01/2011) |
| 11/30/2011 | <u>2</u> | CERTIFICATION AND NOTICE of Interested Parties filed by Plaintiff Charles Nichols. (et) (Entered: 12/01/2011) |
| 11/30/2011 | <u>1</u> | COMPLAINT filed against Defendants Edmund G Brown, Jr, City of Redondo Beach, City of Redondo Beach Police Department, Does 1 to 10, Kamala D Harris, Joseph Leonardi. Case assigned to Judge S. James Otero and referred to Magistrate Judge Suzanne H. Segal.(Filing fee\$350 Paid.), filed by Plaintiff Charles Nichols. [Summons not issued on 11/30/2011] (et) (Additional attachment(s) added on 1/10/2012: # <u>1</u> Summons) (afe). (Entered: 12/01/2011) |