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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION**

**JEFF SILVESTER, BRANDON  
COMBS, THE CALGUNS  
FOUNDATION, INC., a non-profit  
organization, and THE SECOND  
AMENDMENT FOUNDATION,  
INC., a non-profit organization,**

**Plaintiffs,**

**v.**

**KAMALA HARRIS, Attorney  
General of California (in her  
official capacity), and DOES 1 to  
20.**

**Defendants.**

Case No. 1:11-cv-02137-AWI-SKO

**REPLY TO DEFENDANT'S  
OPPOSITION TO PLAINTIFF'S  
MOTION IN LIMINE RE  
EXCLUSION OF DOCUMENTS**

1 Plaintiffs hereby responds to Defendant, Kamala Harris, California Attorney  
2 General's (the "AG"), Opposition to Plaintiff's Motion in Limine Re Exclusion of  
3 Documents.

4 The Defendant correctly points out that the Court required the parties to meet  
5 and confer regarding the admissibility of documents and to submit a joint exhibit  
6 list by March 20, 2014. Because the motions in limine were due before the meet  
7 and confer process has taken place, the Plaintiffs filed this motion in an abundance  
8 of caution. Plaintiffs agree that the meet and confer process should take place prior  
9 to the Court making a ruling on the admissibility of each document listed on  
10 Defendant's exhibit list. Accordingly, Plaintiffs request that the Court not address  
11 the issues of admissibility until the Parties can complete the meet and confer  
12 process.

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16 DATED: March 7, 2014

Otten & Joyce, LLP

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19 /s/ Victor Otten

20 Victor J. Otten

21 Attorneys for Plaintiff  
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20.**

**Defendants.**

**Case No. 1:11-cv-02137-AWI-SKO**

**PLAINTIFFS' REPLY TO  
DEFENDANT'S OPPOSITION TO  
MOTION IN LIMINE RE BURDENS  
OF PROOF**

1 Several recent Ninth Circuit decisions have demonstrated that the courts are  
2 finally taking the Second Amendment seriously and treating it like other  
3 Constitutional rights. (See U.S. v. Chovan, No. 11-50107, 2013 WL 6050914 (C.A.  
4 9 (Cal.) Nov. 18, 2013; Peruta v. County of San Diego, 2014 WL 555862 (C.A.9  
5 (Cal.)).

6 On December 6, 2013, this Court issued its Order denying Defendants'  
7 Motion for Summary Judgment ("Order") in its entirety. In doing so, the Court  
8 applied the analysis set forth in U.S. v. Chovan. In Chovan, a two-step framework  
9 in determining the constitutionality of a Second Amendment law was adopted:  
10 "[t]he two-step Second Amendment inquiry we adopt (1) asks whether the  
11 challenged law burdens conduct protected by the Second Amendment and (2) if so,  
12 directs courts to apply an appropriate level of scrutiny." Id. citing U.S. v. Chester,  
13 628 F.3d 673, 680 (4th Cir. 2010), U.S. v. Marzzarella, 614 F.3d 85, 89 (3d Cir.  
14 2010). Accepting the three undisputed facts, the Court determined that "there can  
15 be no question that the actual possession of a firearm is a necessary prerequisite to  
16 exercising the right to keep and bear arms." (Order at 7:22-27). Accordingly,  
17 Plaintiffs are entitled to a ruling that based upon the undisputed facts, the burden to  
18 justify the waiting period laws as challenged shifts to Defendants.

19 DATED: March 7, 2014

20 OTTEN & JOYCE, LLP

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22 /s/ Victor Otten  
23 Victor Otten, Esq.  
24 Attorneys for Plaintiffs  
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