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In Pro Per

July 2, 2017
by cm/ecf

Ms. Molly C. Dwyer
Clerk, United States Court of Appeals
for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103

RE: *Charles Nichols v. Edmund Brown, Jr., et al* 9th Cir. No.: 14-55873;
Rule 28(j) letter

Dear Ms. Dwyer:

Plaintiff-Appellant Nichols submits *Bauer v. Becerra*, No.: 15-15428 (9th Cir. June 1, 2017) as supplemental authority under FRAP Rule 28(j).

"In accord with many of our sister circuits, "we have discerned from *Heller's* approach a two-step Second Amendment inquiry." *Jackson v. City & Cty. of S.F.*, 746 F.3d 953, 960 (9th Cir. 2014) (citing *United States v. Chovan*, 735 F.3d 1127, 1136-37 (9th Cir. 2013)); see also, e.g., *United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010); *United States v. Reese*, 627 F.3d 792, 800 (10th Cir. 2010); *United States v. Marzzarella*, 614 F.3d 85, 89 (3d Cir. 2010). This two-step inquiry "(1) asks whether the challenged law burdens conduct protected by the Second Amendment and (2) if so, directs courts to apply an appropriate level of scrutiny." *Jackson*, 746 F.3d at 960 (citing *Chovan*, 735 F.3d at 1136). In determining whether a given regulation falls within the scope of the Second Amendment under the first step of this inquiry, "we ask whether the regulation is one of the 'presumptively lawful regulatory measures' identified in *Heller*, or whether the record includes persuasive historical evidence establishing that the regulation at issue imposes prohibitions that fall outside the historical scope of the Second

Amendment." *Id.* (first quoting *Heller*, 554 U.S. at 627 n.26; then citing *Chovan*, 735 F.3d at 1137)" *Bauer* Slip Op. pgs 8-9.

"*Heller* was an in-depth examination of the Second Amendment right which it said was perfectly captured by "[A] right to carry arms openly: "This is the right guaranteed by the Constitution of the United States..." *Heller* at 2809." Opening brief pg 37.

"[*Nichols*] seeks to carry his firearms in a manner which is noble (openly) in defense of himself *Id* [*Heller*] at 2809, in case of confrontation *Id* at 2797" Opening brief pg 57.

There is no doubt that the challenged bans burden conduct protected by the Second Amendment and that they fail under step-two.

Bauer's citations prove that protected conduct bans fail under intermediate scrutiny.

The body of this letter contains 350 words.

Sincerely,

/s/ Charles Nichols

Charles Nichols
Plaintiff-Appellant in Pro Per

cc: counsel of record (by cm/ecf)