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*(ADMITTED *pro hac vice*)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

RONALD G. LIVINGSTON; MICHAEL J.
BOTELLO; KITIYA M. SHIROMA; JACOB
STEWART; and HAWAII RIFLE
ASSOCIATION,

Plaintiffs,

v.

SUSAN BALLARD, Police Chief of the
City & County of Honolulu; CITY &
COUNTY OF HONOLULU; and CLARE E.
CONNORS, Attorney General of Hawaii,

Defendants.

) Case No. 19-00157JMS-RT
)
) **DECLARATION OF MICHAEL**
) **BOTELLO IN SUPPORT OF**
) **PLAINTIFFS' MOTION FOR**
) **PRELIMINARY INJUNCTION;**
) **EXHIBIT B**

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M Botello ISO MPI DOCX

DECLARATION OF MICHAEL BOTELLO

I, Michael Botello, an adult resident of the State of Hawaii, declare the following based on my personal knowledge:

1. I am a citizen of the United States and a resident of Honolulu, Hawaii.
2. I am 39 years of age.
3. I have never been convicted of a crime.
4. I routinely transport large sums of cash and firearm inventory to and from various firearm retailers, shows, and events. For this reason, I am concerned that both myself and my employees may be targets for criminal activity.
5. I presently desire to carry—and, if authorized, immediately would carry—a handgun outside the home for self-defense.
6. To carry a handgun outside the home for self-defense—whether concealed or openly—Hawaii law generally requires ordinary, law-abiding citizens to obtain a license issued by a county chief of police. H.R.S. §134-9(c).
7. As an ordinary, law-abiding citizen, I am not exempted from Hawaii’s firearms restrictions.
8. Therefore, in order to lawfully carry a handgun in public for self-defense, I must obtain a license.
9. I satisfy all applicable requirements to possess a handgun and obtain a carry license: I am a United States citizen, above 21 years old, have completed

appropriate safety training, have not been disqualified from possession under H.R.S. §134-7, have not been adjudged insane, am not mentally deranged, and am otherwise suitable to possess a firearm.

10. I inquired with the Honolulu Police Department as to what application form, if any, I should use in applying for both an open and/or concealed carry license. I was informed that no form existed for open carry license applications. The application form for concealed carry licenses presented to me was entitled “Application for a License to Carry a Concealed Firearm.”

11. Because no application form existed for open carry licenses, I submitted a cover letter accompanying my application for a concealed carry license. In this cover letter, I requested the Honolulu Police Department treat my application as both an application for a concealed carry and open carry license, while also referencing former Attorney General Suzuki’s opinion letter clarifying the requirements for such licenses.

12. I received a January 4, 2019 letter from Chief of Police Susan Ballard denying my application; a true and correct copy is attached as Exhibit B.

13. Chief Ballard’s letter stated that my application was denied because I did “not sufficiently meet the immediacy, urgency, or need necessary for protection of life and property” as required under Hawaii law.

14. If licensed to carry a handgun concealed or openly, I would

immediately do so to protect myself outside my home.

15. The denial of my request to carry a handgun outside my home in any manner prevents me from defending myself and makes me fear for my safety.

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

Executed on: March 21, 2019

Michael J. Botello
Michael Botello

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET, HONOLULU, HAWAII 96813
TELEPHONE: (808) 527-1111 INTERNET: www.honolulu.gov



DN-TH
Certified Mail 7017 3380 0000 0495 6894

January 4, 2019

Mr Michael Botello
46-063 Emepela Place, Unit R203
Kaneohe, Hawaii 96744

Dear Mr. Botello,

This letter is to officially inform you that your application for a license to carry a open/concealed firearm has been denied

Your application states that you transport large sums of cash and firearm inventory to and from various firearm retailers, shows, and events. During the transport of these firearms and cash you are concerned that you and your employees may be targets for criminal activity. Your application did not indicate any specific or creditable threats to you or your employees or property that substantially exceeds those of other business agents engaged in similar duties


Your application does not sufficiently meet the immediacy, urgency, or need necessary for protection of life and property, as required by Chapter 134-9 of the Hawaii Revised Statutes, for the issuance of a license to carry an open/concealed firearm.

Chapter 134-9 of the Hawaii Revised Statutes deals with firearms and the issuance of licenses to carry a pistol or revolver and ammunition therefor concealed or unconcealed on the person and grants the Chief of Police of the appropriate county the authority to grant such licenses

If you or any of those around you are placed in danger of bodily injury by word or deed, the police department should be contacted immediately so that proper action may be initiated.

Should you have any further questions, you may contact Sergeant Matthew Liana of the Firearms Unit, Records and Identification Division, at 723-3190.

Sincerely,


for SUSAN BALLARD
Chief of Police

Serving and Protecting With Aloha

EXHIBIT B