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13 Attorney for Plaintiff The Second Amendment Foundation

14 **IN THE UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**  
16 **WESTERN DIVISION**

17 CALIFORNIA RIFLE & PISTOL  
ASSOCIATION, INCORPORATED;  
18 THE SECOND AMENDMENT  
FOUNDATION; GUN OWNERS OF  
19 CALIFORNIA, INC.,

20 Plaintiffs,

21 v.

22 CITY OF GLENDALE; GLENDALE  
CHIEF OF POLICE CARL  
23 POVILAITIS, in his official capacity;  
GLENDALE CITY CLERK SUZIE  
24 ABAJIAN, in her official capacity;  
and DOES 1-10,

25 Defendants.  
26  
27  
28

**CASE NO: 2:22-CV-07346-SB-JC**

**JOINT REQUEST FOR STATUS  
CONFERENCE**

Complaint Served: October 18, 2022

Hon. Stanley Blumenfeld Jr.

1 Per this Court's order at the January 6, 2023 mandatory scheduling  
2 conference and the accompanying minute order (Dkt. No. 40), the Parties jointly  
3 request a status conference to discuss (1) the parties' efforts to reach agreement, (2)  
4 the remaining areas of dispute, and (3) the parties' proposed procedure for  
5 adjudicating those disputes, including their positions on the Court's possible  
6 appointment of an expert to assist in identifying relevant historical laws and  
7 regulations. The Court stated that it expects to set a status conference and/or  
8 provide further instructions upon review of the parties' filing. The Parties'  
9 respective positions on each topic are presented here.

10 **1. Efforts to Reach an Agreement**

11 Plaintiffs' Position

12 Counsel for the Plaintiffs (Mr. Moros) has been in regular communication  
13 with counsel for the City of Glendale (Mr. Kang) both before and after the January  
14 6, 2023 scheduling conference. On December 9, 2022, Mr. Moros sent Mr. Kang a  
15 list of the various categories of City Property and conceded some places that  
16 Plaintiffs would not challenge either because they were plainly "sensitive places",  
17 or because there was likely no standing. These include City Hall, schools,  
18 courthouses, police stations, and more.

19 After the January 6 hearing, because Plaintiffs were aware the City Council  
20 was in recess until January 10, Plaintiffs allowed the City some time to decide  
21 whether it concedes any sensitive places. Mr. Moros checked in on January 19,  
22 having heard nothing from the City by that point. Mr. Kang replied that he'd have a  
23 response soon. On January 24, he confirmed that the City would concede that city-  
24 owned parking lots and structures are not sensitive places, and also would concede  
25 that "open spaces" are not sensitive, though with the qualifier that private property  
26 owners could still choose to ban firearms on their property.<sup>1</sup> (Plaintiffs do not

27 <sup>1</sup> The City also acknowledged that City Buses are not contested because of the fact  
28 that they do not fall within the Ordinance's scope anyway. After reviewing the  
Ordinance again, Plaintiffs agree that public transportation is not within its

1 dispute that private property owners may of course post signs barring carry on their  
2 premises if they would like to.)

3 The City would *not* concede parks, playgrounds, libraries, the civic center,  
4 and youth centers, and noted as to a few other places that Plaintiffs may lack  
5 standing.

6 Counsel for the Parties discussed their positions further in a phone call on  
7 January 26, in which Plaintiffs confirmed they would not be challenging the  
8 prohibition on carrying in youth centers due to the lack of standing, except insofar  
9 as the City classifies any parks as “youth centers”. Further, Plaintiffs do not object  
10 to barring carry at the civic center when there is a security checkpoint at the door  
11 with a metal detector. Finally, while Plaintiffs challenge the prohibition on carrying  
12 in libraries generally, they do not challenge the Pacific Park Library specifically,  
13 both because the City’s counsel represented that it functions as a school’s library  
14 for a next-door elementary school, and because its proximity to that school likely  
15 means it falls under the federal Gun Free School Zones Act anyway.

16 Defendant’s Position

17 Although Plaintiffs description of the meet and confer efforts between the  
18 parties is largely accurate, Defendants would like to add that with respect to the  
19 parties’ discussion regarding libraries, Defendants brought up additional factors for  
20 Plaintiffs’ consideration that Plaintiffs agreed to consider. Specifically, Glendale  
21 libraries work closely with the Glendale Unified School District (“GUSD”) and  
22 provide numerous school programs and after school programs to GUSD students.  
23 Indeed, classroom visits to various libraries within the City happen regularly as part  
24 of this close relationship. Glendale libraries also provide numerous pre-school  
25 activities during the day. Glendale libraries are also promoted as after-school safe  
26 spaces meaning a large number of students are present at Glendale libraries after  
27 school has ended. Given that Plaintiffs have conceded that schools are “sensitive  
28 definition of “City Property”, which is limited to real property.

1 locations”, this close relationship should be considered despite a library not  
2 technically being a school.

3 Defendants have yet to hear back from Plaintiffs regarding their position on  
4 this. Defendants thus request that this issue be further discussed at the status  
5 conference.

## 6 **2. The Remaining Areas of Dispute**

### 7 Plaintiffs’ Position

8 As noted above, the remaining areas of dispute are parks, playgrounds,  
9 libraries, and the civic center (except for when events there provide security at the  
10 door).

### 11 Defendant’s Position

12 Defendants agree that the only remaining areas in dispute are parks,  
13 playgrounds, the Civic Center (with Plaintiffs’ caveat) and libraries.

## 14 **3. Procedure for Adjudicating the Remaining Disputes**

### 15 Plaintiffs’ Position

16 Given that just a small handful of disputed areas for which there is standing  
17 remain, Plaintiffs believe this matter can be decided upon their renewed motion for  
18 preliminary injunction under the standard page limitations. If the Court confirms it  
19 would like to proceed that way, Plaintiffs will be ready to file their renewed motion  
20 for preliminary injunction almost immediately. A short briefing schedule would be  
21 ideal. Further, if there is no dispute as to the facts, and Plaintiffs do not believe  
22 there is, this Court should consider treating the renewed motion for preliminary  
23 injunction as a motion for summary judgment in the alternative.

24 Plaintiffs oppose the appointment of an expert to identify relevant historical  
25 laws and regulations. *Bruen* emphatically clarified that the government shoulders  
26 the burden of justifying a restriction on Second Amendment rights by proving that a  
27 longstanding American regulatory tradition supports that restriction. Indeed, the  
28 Court said so repeatedly:

- 1           ▪ “[T]he government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. \_\_\_, 142 S. Ct. 2111, 2126 (2022) (“*Bruen*”).
- 2
- 3
- 4           ▪ “[T]he government must affirmatively prove that its firearms regulation is part of the historical tradition.” *Id.* at 2127.
- 5
- 6           ▪ “The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 2130.
- 7
- 8           ▪ “[A]nalogical reasoning requires ... that the government identify a well-established and representative historical analogue.” *Id.* at 2133.
- 9
- 10          ▪ “[A]gain, the burden rests with the government to establish the relevant tradition of regulation.” *Id.* at 2149, n.25.
- 11
- 12          ▪ “Of course, we are not obliged to sift the historical materials for evidence to sustain New York’s statute. That is respondent’s burden.” *Id.* at 2150.
- 13
- 14          ▪ “[W]e conclude that respondents have not met their burden to identify an American tradition justifying the State’s proper-cause requirement.” *Id.* at 2156.
- 15

16           The *Bruen* case itself had no discovery in the district court proceedings when  
 17 it was decided. *Id.* at 2164. (Breyer, J., dissenting). The Court analyzed the variety  
 18 of historic state laws New York had presented, which is all the analysis requires.  
 19 The record compiled by the parties is sufficient because “ ‘[i]n our adversarial  
 20 system of adjudication, we follow the principle of party presentation.’ [citation  
 21 omitted] Courts are thus entitled to decide a case based on the historical record  
 22 compiled by the parties.” *Bruen*, 142 S. Ct. at 2130 n.6 (quoting *United*  
 23 *States v. Sineneng-Smith*, 140 S. Ct. 1575, 1579 (2020)).

24           Furthermore, the City also has the benefit of reviewing similar cases in New  
 25 York and New Jersey that have had extensive briefing (and detailed preliminary  
 26 rulings) on “sensitive places” questions, including the few remaining sensitive  
 27 places still at issue here. *See, e.g., Antonyuk v. Hochul*, No. 1:22-CV-0986

(GTS/CFH), 2022 U.S. Dist. LEXIS 201944 (N.D.N.Y. Nov. 7, 2022)<sup>2</sup>; and *Koons v. Reynolds*, No. 22-7464 (RMB/EAP), 2023 U.S. Dist. LEXIS 3293 (D.N.J. Jan. 9, 2023). In one of those cases, the court explained that “The State Defendants are fully capable of meeting their burden of producing analogues (especially when prodded to do so), and judges appear uniquely qualified at interpreting the meaning of statutes.” *Antonyuk*, 2022 U.S. Dist. LEXIS 201944, at \*121 n.72.

If the City fails to present adequate laws justifying restrictions on carry in places it claims are sensitive, then that isn’t due to the lack of a court-appointed expert. Instead, like New York and New Jersey before it, it is impliedly conceding that analogous sensitive places simply did not exist in our historical tradition.

Nevertheless, if this Court decides to appoint an expert, Plaintiffs believe that the expert’s role should be limited to finding only *state* laws prohibiting carry in particular places, as what *Bruen* commands is that there must be “an enduring American tradition of **state** regulation.” *Bruen*, 142 S. Ct. at 2155 (emphasis added). *Bruen* rejected the notion that ordinances from a few cities are persuasive. *Id.* at 2156.

Further, if an expert is appointed, the City should have to solely bear the cost of that expert. Given *Bruen* is clear that this is the City’s burden to attempt to meet, Plaintiffs should not have to financially assist the City in doing so.

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<sup>2</sup> While the Supreme Court denied emergency relief to lift the Second Circuit’s stay on Judge Suddaby’s ruling in *Antonyuk*, Justices Alito and Thomas referred to that ruling as “thorough” and encouraged the plaintiffs in that matter to file again for emergency relief if the Second Circuit didn’t move reasonably quickly in hearing the appeal. *Antonyuk v. Nigrelli*, 214 L.Ed.2d 381, 381 (U.S. 2023) (Alito, J. and Thomas, J., concurring) (“The District Court found, in a thorough opinion, that the applicants were likely to succeed on a number of their claims, and it issued a preliminary injunction as to twelve provisions of the challenged law...I understand the Court’s denial today to reflect respect for the Second Circuit’s procedures in managing its own docket, rather than expressing any view on the merits of the case. Applicants should not be deterred by today’s order from again seeking relief if the Second Circuit does not, within a reasonable time, provide an explanation for its stay order or expedite consideration of the appeal.”)

Defendant's Position

Defendants would request a normal, not expedited, briefing schedule and opposes treatment of a renewed motion for preliminary injunction as a motion for summary judgment/adjudication in the alternative.

Defendants further believe that a court appointed expert, with the cost of the expert to be equally divided by both parties, would be extremely beneficial to both the parties and the Court in determining the applicability of *Bruen* to the remaining locations in dispute. Due to the Constitutional importance of this issue, getting the issues right and not expediency should be the ultimate goal. A Court appointed expert would certainly help achieve that and would further prevent a historical analogue being missed due to the City lacking the resources or expertise in locating such analogues, which is a goal that both parties should share.

DATED: February 9, 2023

MICHEL & ASSOCIATES, P.C.

By: /s/C.D. Michel

C.D. Michel

Joshua Robert Dale

Konstadinos T. Moros

Attorneys for Plaintiffs California Rifle

& Pistol Association, Incorporated,

Gun Owners of California, Inc., Nelson

Gibbs, and John Leyba

DATED: February 9, 2023

MICHAEL J. GARCIA, CITY ATTORNEY

By: /s/ Edward B. Kang

EDWARD B. KANG

Attorneys for Defendants

**ATTESTATION**

Pursuant to Local Rule 5-4.3.4(a)(2)(i), the filer attests that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.



**CERTIFICATE OF SERVICE**  
IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Case Name: *California Rifle and Pistol Association, v. City of Glendale, et al.*  
Case No.: 2:22-cv-07346-SB-JC

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**JOINT REQUEST FOR STATUS CONFERENCE**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Michael J. Garcia, City Attorney  
Edward B. Kang, Principal Assistant City Attorney  
[ekang@glendaleca.gov](mailto:ekang@glendaleca.gov)  
613 E. Broadway, Suite 220  
Glendale, CA 91206  
*Attorney for Defendants*

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

Executed February 9, 2023.

  
Christina Castron