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October 25, 2024

VIA E-FILING
Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: Fed. R. App. P. 28(j): Notice of Supplemental Authority;
May, et al. v. Bonta, Case No. 23-4356
(Heard with *Carralero, et. al. v. Bonta*, Case No. 23-4354, and *Wolford et al. v. Lopez*, Case No. 23-16164)

Dear Ms. Dwyer:

The *May* Appellees write to notify the Court of the Second Circuit's revised ruling in *Antonyuk v. James*, No. 22-2908(L), slip. op. (2nd Cir. Oct. 24, 2024). The panel's prior ruling was vacated by the Supreme Court in light of *United States v. Rahimi*, 602 U.S. --, 144 S. Ct. 1889 (2024). *See Antonyuk v. Chiumento*, 89 F.4th 271, 283 (2d Cir. 2023), *cert. granted, judgment vacated sub nom. Antonyuk v. James*, 144 S. Ct. 2709 (2024).

On remand, the Second Circuit has reaffirmed its prior conclusions. Appellees disagree with most of its analysis, for the reasons already covered in their briefing. However, they do agree with the Second Circuit's analysis as to the restriction against carrying firearms in places of public accommodation without an express invitation by the business owner, which Appellees have dubbed the "Vampire Rule."

The Second Circuit reexamined several historical laws that New York presented, including the very same 1771 New Jersey law and the 1865 Louisiana law this Court relied on to uphold Hawaii's version of the Vampire Rule. It

concluded that "the State's analogues demonstrate a well-established and representative tradition of creating a presumption against carriage on enclosed private lands, i.e., private land closed to the public. But we do not agree that these laws support the broader tradition the State urges." *Antonyuk*, No. 22-2908(L), slip. op. at 239.

The Second Circuit also expressly disagreed with this Court's ruling, noting that it was "unable to agree with the Ninth Circuit . . . that any of these statutes 'applied to all private property,' regardless of whether the property was open to the public, so as to be a sufficient analog for the provision at issue here." *Id*. at 242 n.123.

The Second Circuit's analysis may be helpful to this Court as it considers the pending en banc petitions in this matter.

Sincerely,
Michel & Associates, P.C.

Konstadinos T. Moros

cc: All counsel of record (by ACMS)