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October 29, 2012

Clerk
Ninth Circuit Court of Appeals
James R. Browning U.S. Courthouse
95 Seventh Street
San Francisco, CA 94103

Re: *Richards v. Prieto, et al.*
Ninth Circuit Case No.: 11-16255
Oral Argument Date: December 6, 2012 (Courtroom 1)
FRAP Rule 28(j) & Circuit Rule 28-6 Supp. Authorities

Dear Clerk:

Appellees Ed Prieto and County of Yolo request the panel take notice of the following relevant decisions issued after filing of their brief:

Hightower v. City of Boston, 2012 U.S. App. Lexis 18445 (1st Cir. 2012) held (a) the revocation of a concealed weapon carry permit did not burden a core Second Amendment right and was thus presumptively lawful (at *21–23) and (b) First Amendment “prior restraint” analysis does not apply to Second Amendment challenges (at *34–38). It pertains to Appellees’ brief at pp. 18–19 and 31.

Piszczatoski v. Filko, 840 F.Supp.2d 813 (D. N.J. 2012) considered the denial of public weapon carry permits for lack of specific threat of attack and (a) found no constitutional right to public carry (at 821–829), and (b) even if a right to public carry exists, the discretionary permit laws are not subject to prior restraint analysis and withstand intermediate scrutiny (at 831–837 [citing both *Peruta* and *Richards*]). It pertains to Appellees’ brief at pp. 18–19, 31 and 33–34.

Moore v. Madigan, 842 F.Supp.2d 1092 (C.D. Ill. 2012) addressed a law criminalizing public carrying of loaded handguns. It (a) found no Second Amendment right to public carry (at

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1100–1106) and (b) ruled that, regardless, the law would withstand intermediate scrutiny (at 1106–1109). It pertains to Appellees’ brief at pp. 18–19 and 33–34.

Peterson v. McCabe, 783 F.Supp.2d 1167 (D. Colo. 2012) granted summary judgment against a suit based on rejection of a concealed weapon carry permit. The court assumed, without deciding, that the combined effect of state restrictions on concealed weapons and local prohibitions on open carry infringed on Second Amendment rights and found that the laws withstood intermediate scrutiny (at 1176–78). It pertains to Appellees’ brief at pp. 33– 34.

People v. Mitchell, 208 Cal.App.4th 1213, 1222–29 (2012) addressed a conviction for concealed public carry of a knife. Applying intermediate scrutiny to the statute, the court deemed it constitutional because it did not prohibit defense of the home. It pertains to Appellees’ brief at pp. 33–34.

Very truly yours,

ANGELO, KILDAY & KILDUFF, LLP

/s/ *John A. Whitesides*

By: JOHN A. WHITESIDES

JAW/hrb

cc: All Counsel of Record (via CM/ECF)