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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 CHRISTOPHER ANDERSON,) **CASE NO.**
11 MICHAEL DOZIER, DAVID)
12 MARCINKUS, BORIS KOGAN AND) COMPLAINT FOR SECOND
13 ARI MILLER) AMENDMENT VIOLATION- 42
14) U.S.C. § 1983
15 Plaintiff,)
16) JURY TRIAL DEMANDED
17 vs.)
18) ATTORNEY FEES REQUESTED 42
19) U.S.C. § 1988
20 JOHN SCOTT, CHARLIE BECK &)
21 SCOTT LACHASSE,)
22 Defendants.)
23)

24 COMES NOW Plaintiffs, pursuant to 42 U.S.C. § 1983, who allege violations
25 of their Second Amendment Rights by Defendants.

26 **INTRODUCTION**

- 27 1. The California Legislature has mandated that the only method by which a
28 resident of the State can bear arms for the purpose of self-defense outside the
home is with a permit to carry a concealed weapon.
2. Plaintiffs are residents of Los Angeles County and seek concealed weapon
permits. Defendants refuse to issue permits absent evidence of an imminent
threat to Plaintiffs safety.

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JURISDICTION & VENUE

- 3. This Court has subject matter jurisdiction over this action pursuant to 42 U.S.C. § 1983.
- 4. Venue lies in this Court pursuant to 28 U.S.C. § 1391.

FIRST CAUSE OF ACTION

SECOND AMENDMENT VIOLATION OF 42 U.S.C. § 1983 by all Plaintiffs against John Scott, by Ari Miller and David Marcinkus against Charlie Beck and by Boris Kogan against Scott LaChasse

- 5. The Supreme Court held “Self-defense is a basic right, recognized by many legal systems from ancient times to the present day, and in *Heller*, we held that individual self-defense is ‘the central component’ of the Second Amendment right”. *McDonald v. City of Chicago* (2010) 130 S. Ct. 3020, at 3037.
- 6. Plaintiffs cannot exercise this right without a permit from Defendants.
- 7. Defendants refuse to issue a permit absent evidence of an imminent threat and has refused to make any policy in response to either Supreme Court opinion, or Circuit decision now binding upon them. In fact, Defendants have misrepresented the current status of *Peruta* to applicants advising them that the decision is not final, and thus they have no Constitutional right to a permit when in reality, the Right is not only traced back to the Bill of Rights, but has been affirmed by the Supreme Court twice, and by the 9th Circuit in an opinion binding upon this District (though not necessary for this action): On February 13, 2014, the Ninth Circuit in *Peruta v. County of San Diego*, 742F.3d 1144 (9th Cir. 2014) explicitly ruled that any responsible law abiding citizen has a right under the Second Amendment to carry a gun in public for self-defense, either openly or concealed. *Id.* at 1166. California law bars open carry, Cal. Penal Code § 26350, but will grant a concealed weapon permit if an applicant demonstrates “good moral character,” completes a specified training course and establishes “good cause.” *Id.* at 1147-1148, citing Cal. Penal Code §§

1 26150, 26155. The Ninth Circuit rejected the County of San Diego’s policy
2 that concern for one’s personal safety alone is not considered “good cause.” Id.
3 At 1148.

4 8. Defendants Beck and Scott were each advised of the above and asked to
5 reconsider their position, but each has willfully refused to do refused to do so
6 even after being provided with case citations from the this District Court:

7 Thus, the Supreme Court identified in Heller an unequivocal Second
8 Amendment “individual right to possess and carry weapons in case of
9 confrontation.” 554 U.S. at 592. In *McDonald v. City of Chicago*, 130
10 S.Ct. 3020, 3026 (2010), the Court held that “the Second Amendment
11 right is fully applicable to the States.”

12 Ruling Denying Motion to Dismiss, Case 5:13-cv-00673-VAP-JEM

13 9. Plaintiffs meets all State mandated requirements and are legally entitled to a
14 statutory permit but for Defendants discretionary decision to require proof of
15 an imminent threat before they will allow Plaintiffs to exercise their
16 fundamental Constitutional Rights.

17 10. Defendants’ discretionary decision lacks any rational basis and is a violation of
18 Plaintiffs fundamental Civil Right to possess a firearm outside the home for
19 purposes of self-defense. When a fundamental right is recognized, substantive
20 due process forbids infringement of that right “at all, no matter what process is
21 provided, unless the infringement is narrowly tailored to serve a compelling
22 state interest.” *Reno v. Flores*, 507 U.S. 292 (1993) at 301-02.

23 PRAYER FOR RELIEF

24 11. For an order requiring Defendant to issue a Permit to Plaintiff without delay.

25 12. Costs and Attorneys’ fees pursuant to 42 U.S.C. § 1988.

26 July 6, 2014

27 _____/s/_____
28 Jonathan W. Birdt