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11 Attorneys for Plaintiffs

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA

14	Sykes, et al.,)	Case No. 2:09-cv-01235-MCE-KJM
15)	
16	Plaintiffs,)	STIPULATION and ORDER
17)	FOR FILING
18	v.)	SECOND AMENDED COMPLAINT
19)	
20	McGinness, et al.,)	
21)	
22	Defendants.)	
23)	

24 The Defendants COUNTY OF SACRAMENTO and Sheriff McGINNESS have been
25 dismissed by a prior filing.

26 IT IS HEREBY STIPULATED by and between the parties hereto through their
27 respective attorneys of record that the Plaintiffs may file a Second Amended Complaint, a
28 copy of which is attached hereto.

IT IS FURTHER STIPULATED by and between the parties hereto through their
respective attorneys of record that the Plaintiffs may electronically file the Second Amended
Complaint.

1 IT IS FURTHER STIPULATED by and between the parties that Defendants reserve all
2 defenses.

3 IT IS FURTHER STIPULATED by and between the parties that Plaintiffs' Motion to
4 Amend, currently set for December 16, 2010 at 2:00 p.m. is vacated.
5

6 **SO STIPULATED.**

7 Dated: October 27, 2010

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13 By: _____ /s/
14 Donald E.J. Kilmer, Jr.
Attorney for Plaintiffs

By: _____ /s/
Alan Gura
Attorney for Plaintiffs

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20 By: _____ /s/ (As authorized on Oct. 27, 2010)
21 Serena M. Sanders
22 Angelo, Kilday & Kilduff
Attorney(s) for Defendants - Yolo County

23 **IT IS SO ORDERED.**

24 Date:

25
26
27 _____
MORRISON C. ENGLAND, JR.
28 UNITED STATES DISTRICT JUDGE

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10	Adam Richards, Brett Stewart, Second)	Case No. 2:09-cv-01235-MCE-KJM
11	Amendment Foundation, Inc., and)	
	The Calguns Foundation, Inc.,)	SECOND AMENDED
12	Plaintiffs,)	COMPLAINT
13	v.)	42 U.S.C. §§ 1983, 1988
14	Ed Prieto and County of Yolo,)	
15	Defendants.)	

16 **COMPLAINT**

17 COME NOW the Plaintiffs, Adam Richards, Brett Stewart, Second Amendment
18 Foundation, Inc. (“SAF”), and The Calguns Foundation, Inc. (“CGF”), by and through
19 undersigned counsel, and complain of Defendants as follows:

20 **THE PARTIES**

21 1. Plaintiff Adam Richards is a natural person and a citizen of the United States and
22 of the State of California, residing in Yolo County, California. Plaintiff Richards is a member of
23 SAF and a supporter of and participant in CGF activities.

24 2. Plaintiff Brett Stewart is a natural person and a citizen of the United States and of
25 the State of California, residing in Yolo County, California. Plaintiff Stewart is a member of SAF
26 and a supporter of and participant in CGF activities.

STATEMENT OF FACTS

Background

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3 9. The Second Amendment to the United States Constitution provides: “A well
4 regulated Militia being necessary to the security of a free State, the right of the people to keep
5 and bear Arms shall not be infringed.”

6 10. The Second Amendment is incorporated as against the states through the
7 Fourteenth Amendment, such that Defendants cannot, under color of law, deprive Plaintiffs of
8 their right to keep and bear arms.

9 11. The Second Amendment guarantees the right of law-abiding individuals to
10 publicly carry operational handguns for self-defense.

11 12. States retain the ability to regulate the manner of carrying handguns, prohibit the
12 carrying of handguns in specific, narrowly defined sensitive places, prohibit the carrying of arms
13 that are not within the scope of Second Amendment protection, and disqualify specific,
14 particularly dangerous individuals from carrying handguns.

15 13. States may not completely ban the carrying of handguns for self-defense, deny
16 individuals the right to carry handguns in non-sensitive places, deprive individuals of the right to
17 carry handguns in an arbitrary and capricious manner, or impose regulations on the right to carry
18 handguns that are inconsistent with the Second Amendment.

19 14. Almost all states basically respect the Second Amendment rights to carry a
20 handgun for self-defense, in that the right to carry a handgun is either unregulated, or regulated to
21 the extent that individuals passing a background check and completing a gun safety course are, as
22 a matter of course, licensed to carry handguns. In some of these states, a license to carry a
23 handgun is required only if the handgun is concealed.

24 15. California law generally bans the carrying of concealed firearms. California Penal
25 Code § 12025. With very few exceptions, California generally prohibits the open, public carrying
26 of loaded handguns for self-defense in incorporated cities and many unincorporated areas, Penal
27 Code § 12031.

1 damaging Plaintiffs in violation of 42 U.S.C. § 1983. Plaintiffs are therefore entitled to
2 permanent injunctive relief against such customs, policies, and practices.

3 **SECOND CLAIM FOR RELIEF**
4 **U.S. CONST., AMEND. XIV – EQUAL PROTECTION, 42 U.S.C. § 1983**
5 **AGAINST ALL DEFENDANTS**

6 27. Paragraphs 1 through 26 are incorporated as though fully stated herein.

7 28. By maintaining and enforcing a set of customs, practices, and policies arbitrarily
8 denying Plaintiffs permits to carry handguns based on a subjective determination of their “good
9 cause” for the permit, and by denying some individuals the right to bear arms for self-defense
10 while allowing others access to that right, Defendants are propagating customs, policies, and
11 practices that violate Plaintiffs’ rights to equal protection of the laws under the Fourteenth
12 Amendment to the United States Constitution, by improperly classifying them relative to those
13 who are allowed to enjoy their fundamental right to bear arms, damaging Plaintiffs in violation of
14 42 U.S.C. § 1983. Plaintiffs are therefore entitled to permanent injunctive relief against such
15 customs, policies, and practices.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs request that judgment be entered in their favor and against
18 Defendants as follows:

19 1. An order permanently enjoining Defendants, their officers, agents, servants,
20 employees, and all persons in active concert or participation with them who receive actual notice
21 of the injunction, from enforcing the “good moral character” and “good cause” requirements of
22 California Penal Code § 12050 against handgun carry permit applicants who seek the permit for
23 self-defense and are otherwise qualified to obtain a handgun carry permit under that section;

24 2. Declaratory relief that the “good moral character” and “good cause” provisions of
25 California Penal Code § 12050 are unconstitutional either on their face and/or as applied to bar
26 applicants who are otherwise legally qualified to possess firearms and who assert self-defense as
27 their “good cause” for seeking a handgun carry permit;

28 3. Costs of suit, including attorney fees and costs pursuant to 42 U.S.C. § 1988;

4. Any other further relief as the Court deems just and appropriate.

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Dated: October 22, 2010

Respectfully submitted,

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By: /s/ Alan Gura
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