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

12	Adam Richards, et al.,	)	Case No. 2:09-cv-01235-MCE-KJM
		)	
13	Plaintiffs,	)	MEMORANDUM OF POINTS AND
		)	AUTHORITIES IN SUPPORT OF
14	v.	)	MOTION TO AMEND COMPLAINT
		)	[Fed. R. Civ. Proc. 15, 21]
15	Ed Prieto, et al.,	)	
		)	
16	Defendants.	)	Date: Dec. 16, 2010
		)	Time: 2:00 p.m.
17		)	Dept: 7, 14 <sup>th</sup> Floor
		)	Judge: Morrison C. England, Jr.
18		)	Trial Date: None
		)	Action Filed: May 5, 2009

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20 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
21 MOTION TO AMEND COMPLAINT

22 PRELIMINARY STATEMENT

23 On May 5, 2009, Plaintiffs Deana Sykes, Andrew Witham, Second Amendment  
24 Foundation, Inc., and The Calguns Foundation, Inc., initiated this action against Defendants  
25 Sacramento and Yolo Counties and their respective Sheriffs, John McGinness and Ed Prieto.  
26 Plaintiffs challenged the constitutionality of California's "may issue" provision with respect to  
27  
28

1 permits to carry handguns for self-defense, facially and as-applied by Defendants. A First  
2 Amended Complaint, with technical improvements and corrections, was filed shortly  
3 thereafter.  
4

5 The Court ordered that this action be held in abeyance for sixty days following the  
6 Supreme Court's decision in *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010), which  
7 was handed down on June 28, 2010. During this period, Plaintiffs and Defendants Sacramento  
8 County and McGinness were able to resolve their dispute. An appropriate stipulation of  
9 dismissal covering the dispute with the Sacramento defendants is filed separately.  
10

11 However, the claims against Defendants Yolo County and Prieto by Plaintiffs  
12 Richards, Second Amendment Foundation and Calguns Foundation remain unresolved.  
13 Additionally, another individual, Brett Stewart, would also like to join the litigation owing to  
14 Defendants' denial of his application for a permit to carry a handgun for self-defense.  
15

16 By this motion, Plaintiffs seek leave to file a second amended complaint, attached  
17 hereto as Exhibit A, which (1) deletes Plaintiffs Sykes and Witham, and Defendants  
18 Sacramento County and John McGinness; (2) deletes the claims specific to the Sacramento  
19 defendants; (3) adds Plaintiff Brett Stewart, and (4) makes technical and conforming changes.  
20 The basic claims and theories against Defendants, and the nature of the relief sought, remain  
21 unchanged. Defendants have consented to this motion.  
22

#### 23 ARGUMENT

24 Rule 15's provision that leave to amend "shall be freely given when justice so  
25 requires" establishes a "strong policy permitting amendment . . . subject to the qualification  
26 that the amendment not cause undue prejudice to the defendant, is not sought in bad faith, and  
27 is not futile." *Bowles v. Reade*, 198 F.3d 752, 757 (9<sup>th</sup> Cir. 1999) (citations omitted).  
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1 By this standard, the motion should be granted. Defendants Yolo and Prieto have only  
2 answered the previous complaint but otherwise no litigation activity has occurred among the  
3 remaining parties,, and no new legal theories are set out by the proposed amendment. The  
4 amendment is not sought in bad faith, would cause no prejudice, and is not futile, as the Court  
5 has not addressed the litigation's merits. The amendment would, however, save Plaintiff  
6 Stewart from filing a separate complaint, which would then be related to this case, achieving  
7 the same end result. Not surprisingly, Defendants consent to this technical motion.  
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10 CONCLUSION

11 Plaintiffs respectfully pray that the motion be granted and that their Second Amended  
12 Complaint be deemed filed.

13 Dated: October 22, 2010

Respectfully submitted,

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20 Attorneys for Plaintiffs  
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