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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
Amendment Foundation, Inc., and)
11 The Calguns Foundation, Inc.,) SECOND AMENDED
) COMPLAINT
12 Plaintiffs,)
) 42 U.S.C. §§ 1983, 1988
13 v.)
)
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.
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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 20. Plaintiff Richards subsequently applied to Davis Police Chief Lanny Black for a
2 permit to carry a handgun. On April 1, 2009, Police Chief Black denied Plaintiff Richards'
3 application for a permit to carry a handgun, stating in writing:

4 An evaluation and comparison of our current services to available resources has forced us
5 to discontinue processing and issuing CCW (Carry Concealed Weapon) licenses. I
apologize for the inconvenience this action will cause you.

6 Chief Black suggested Plaintiff Richards apply to Defendant Prieto for a permit.

7 21. But for the lack of a permit to carry a handgun, Plaintiff Richards would carry an
8 operational handgun in public for self-defense.

9 22. On or about March 17, 2010, Plaintiff Brett Stewart, a law-abiding citizen who
10 wishes to exercise his right to keep and bear arms, applied to Davis Police Chief Lanny Black for
11 a permit to carry a handgun. On March 18, 2010, Police Chief Black denied Plaintiff Stewart's
12 application for a permit to carry a handgun, stating in writing:

13 An evaluation and comparison of our current services to available resources has forced us
14 to discontinue processing and issuing CCW (Carry Concealed Weapon) licenses. I
apologize for the inconvenience this action will cause you.

15 Chief Black suggested Plaintiff Richards apply to Defendant Prieto for a permit.

16 23. On or about March 23, 2010, Plaintiff Stewart applied to Defendant Prieto for a
17 permit to carry a handgun. On April 27, 2010, Stewart was informed that his application was
18 denied, because "the reasons listed in your application do not meet the criteria in our policy."

19 **FIRST CLAIM FOR RELIEF**
20 **U.S. CONST., AMEND. II, 42 U.S.C. § 1983**
AGAINST ALL DEFENDANTS

21 24. Paragraphs 1 through 23 are incorporated as though fully stated herein.

22 25. Plaintiffs are law abiding individuals, competent in the safe handling and
23 operation of handguns. Accordingly, there exists no reason to deny Plaintiffs permits to carry a
24 handgun under California Penal Code § 12050.

25 26. By maintaining and enforcing a set of customs, practices, and policies depriving
26 Plaintiffs of permits to carry handguns, including but not limited to requiring subjective "good
27 cause" beyond the interest in self-defense, Defendants are propagating customs, policies, and
28 practices that violate the Second and Fourteenth Amendments to the United States Constitution,

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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