

1 BRUCE A. KILDAY, ESQ., SBN 066415
Email: bkilday@akk-law.com
2 SERENA M. SANDERS, ESQ., SBN 264799
3 Email: ssanders@akk-law.com
4 **ANGELO, KILDAY & KILDUFF**
Attorneys at Law
601 University Avenue, Suite 150
5 Sacramento, CA 95825
6 Telephone: (916) 564-6100
Telecopier: (916) 564-6263

7 Attorneys for Defendants
8 YOLO COUNTY and SHERIFF ED PRIETO

9
10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 ADAM RICHARDS, BRETT STEWART,) Case No.: 2:09-CV-01235-MCE-KJM
13 SECOND AMENDMENT FOUNDATION,)
14 INC., and THE CALGUNS FOUNDATION,)
INC.,) **DEFENDANTS' ANSWER TO SECOND**
15) **AMENDED COMPLAINT**
16 Plaintiffs,)
17 vs.)
18 ED PRIETO and COUNTY OF YOLO)
19 Defendants.)
20 _____)

21 COMES NOW, Defendants Ed Prieto and the County of Yolo to hereby answer the
22 Second Amended Complaint as follows:

23 **I. ANSWER**

24 1. Defendants lack sufficient information upon which to admit or deny the
25 allegations contained in paragraphs 1, 2, 3, and 4 of the Second Amended Complaint, and on that
26 basis, those allegations are hereby denied.

27 2. Defendants admit the allegations contained in paragraph 5 of the First Amended
28 Complaint.

1 3. Defendants admit the allegation in paragraph 6 of the Second Amended
2 Complaint that Defendant Ed Prieto is the elected Sheriff for the County of Yolo and has the
3 duties and responsibilities of an elected Sheriff in California. However, Defendants deny the
4 balance of the allegations contained in paragraph 6.

5 4. Plaintiffs lack standing and none of Plaintiffs' claims are ripe for adjudication.
6 Therefore, Defendants deny that subject matter jurisdiction is proper as Plaintiffs allege in
7 paragraph 7 of the Second Amended Complaint.

8 5. Defendants admit that if subject matter jurisdiction exists, venue would be proper
9 in this Court as alleged in paragraph 8 of the Second Amended Complaint.

10 6. Paragraphs 9, 10, 11, 12, and 13 of the Second Amended Complaint do not state
11 factual allegations which are subject to admission or denial. These paragraphs contain
12 exclusively legal arguments. Defendants deny those arguments.

13 7. Defendants lack sufficient information to admit or deny the allegations contained
14 in paragraph 14 of the Second Amended Complaint, and on that basis, those allegations are
15 hereby denied.

16 8. Paragraphs 15, 16, 17, and 18 state only legal conclusions and do not allege any
17 facts as they simply purport to interpret the meaning and effect of California Penal Code sections
18 regarding firearm carrying permits. To the extent that there are allegations concerning how some
19 municipalities interpret those laws, Defendants lack sufficient information or belief to admit or
20 deny such allegations, and on that basis, those allegations are denied.

21 9. Defendants lack sufficient information or belief upon which to admit or deny the
22 allegations contained in paragraphs 19, 20, and 21 of the Second Amended Complaint, and on
23 that basis, those allegations are hereby denied.

24 10. Defendant's lack sufficient information or belief upon which to admit or deny the
25 allegations contained in paragraphs 22 and 23 of the Second Amended Complaint, and on that
26 basis, those allegations are hereby denied.

27 11. Defendant's lack sufficient information or belief upon which to admit or deny the
28 allegations contained in paragraphs 25, 26, and 28 of the Second Amended Complaint, and on

1 that basis, those allegations are hereby denied.

2 12. Answering paragraphs 24 and 27, these Defendants incorporate the previous
3 responses to the paragraphs cited therein.

4 **II. AFFIRMATIVE DEFENSES**

5 As and for separate and distinct affirmative defenses, Defendants allege as follows:

6 **FIRST AFFIRMATIVE DEFENSE**

7 **(Failure to State Sufficient Facts to Constitute a Claim)**

8 Plaintiffs' First Amended Complaint fails to state sufficient facts upon which a claim for
9 declaratory, injunctive, or other relief may be stated as against Defendants.

10 **SECOND AFFIRMATIVE DEFENSE**

11 **(Standing)**

12 As and for a separate and distinct affirmative defense, Defendants allege that this Court is
13 without jurisdiction pursuant to Article III of the United States Constitution in that Plaintiffs do
14 not have standing to prosecute an actual case of controversy against Defendants, and that the
15 Plaintiffs are further barred under prudential standing principles from prosecuting this lawsuit.

16 **THIRD AFFIRMATIVE DEFENSE**

17 **(Ripeness)**

18 As and for a separate and distinct affirmative defense, Defendants allege that none of the
19 claims are ripe for adjudication because Plaintiff Richards has never applied for and been denied
20 a weapons carrying permit by Defendants and it is not alleged that Plaintiff Stewart, nor any
21 member of the organization Plaintiffs, has completed the required firearm safety and training
22 course and passed the criminal background check necessary to obtain a concealed weapons
23 license.

24 WHEREFORE, Defendants pray relief as follows:

- 25 1. That judgment be entered in their favor, and that the action be dismissed with
26 prejudice;
- 27 2. That no injunctive, declaratory, or other relief be entered in favor of Plaintiffs as
28 against Defendants;

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- 3. For costs of suit, including reasonable attorneys' fees; and
- 4. For such further relief as the Court may deem just and proper.

Dated: November 18, 2010

ANGELO, KILDAY & KILDUFF

/s/ Serena M. Sanders

By: _____

SERENA M. SANDERS
Attorneys for Defendants YOLO
COUNTY and SHERIFF ED PRIETO

DEMAND FOR JURY TRIAL

Defendants reserve the right to demand a jury trial should the complaint be amended to add any claims that could appropriately be brought before a jury.

Dated: November 18, 2010

ANGELO, KILDAY & KILDUFF

/s/ Serena M. Sanders

By: _____

SERENA M. SANDERS
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