

# FIREARMS LITIGATION REPORT

April 2016

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## NRA/CRPA California and Ninth Circuit Litigation Matters

Issue of Case	Case Name	Status of Case	Recent Action/Timeline
CA CCW "good cause" requirement	<a href="#"><u>Peruta v. San Diego</u></a>	Oral arguments took place before an 11-judge "en banc" panel of the 9th Circuit Court of Appeals in June 2015.	A decision from the court is expected anytime.
Orange County Sheriff CCW Issuance Policies	<a href="#"><u>McKay v. Hutchens</u></a>	The case has been stayed pending the resolution of <i>Peruta</i> .	Unknown.
10+ Round Magazine Possession Ban	<a href="#"><u>Fyock v. Sunnyvale</u></a>	In March 2015, the 9th Circuit Court of Appeals upheld the lower court's denial of plaintiff's request for an order prohibiting enforcement of the ordinance while the case was pending.	The case is currently stayed pending the resolution of <i>Peruta v. San Diego</i> .
DROS Fees	<a href="#"><u>Bauer v. Harris</u></a>	In March 2015, the district court issued an opinion upholding California's use of DROS fees to fund APPS and other law enforcement activities. Plaintiffs have appealed. The case has been fully briefed and is awaiting oral arguments.	Oral arguments will likely be scheduled in the later half of 2016. A decision can be expected anywhere from 3-9 months following oral arguments.
Use of DROS surplus to fund APPS	<a href="#"><u>Gentry v. Harris</u></a>	An amended complaint alleging the DROS fee is an invalid property tax was filed with the district court in November 2015. The case is currently in the discovery process.	Unknown.

## NRA/CRPA California and Ninth Circuit Litigation Matters (cont.)

Issue of Case	Case Name	Status of Case	Recent Action/Timeline
Vagueness challenge to "handgun ammunition" sale registration requirement and mail order ban	<a href="#">Parker v. California</a>	The case is currently awaiting oral arguments before the California Supreme Court.	Oral arguments are expected to take place sometime in 2016. Following oral arguments, a decision can come at any time.
Challenges CA DOJ's underground regulations regarding the Firearm Safety Certificate Program	<a href="#">Belemjian v. Harris</a>	This case forced DOJ to finally begin the process of enacting regulations for the FSC program in February 2015. As a result, the case was dismissed in June 2015. Plaintiffs are now seeking attorney fees to cover the cost of litigation. A hearing on Plaintiff's request for attorney's fees was held on February 18, 2016.	Plaintiffs are appealing the court's denial of Plaintiffs' request for attorneys' fees.
Challenges firearm prohibition due to misdemeanor conviction for domestic violation	<a href="#">Baker v. Lynch</a>	In July 2013, the district court granted then Attorney General Eric Holder's motion to dismiss the case. This decision has been appealed to the 9th Circuit Court of Appeals. Plaintiffs filed their opening brief on February 17, 2016.	The Attorney General's opening brief is due April 15, 2016. Once the case is fully briefed, a date for oral arguments will be set, likely at the end of 2016 or early 2017.
Challenges to the City's improper denial of plaintiff's application for a use permit to operate his firearms retail and repair business.	<a href="#">Settergren v. Daly City</a>	The case was filed on January 15, 2016. On February 18, 2016, Daly City filed an answer. The case is now in the discovery process.	Unknown.
Preemption challenge to LA ordinance that bans possession of 10+ Round Magazines	<a href="#">Bosenko v. City of Los Angeles</a>	This case is currently being litigated in the federal district court.	A hearing on Plaintiffs motion for summary judgment will take place in August, 2016.

NRA and CRPA regularly provide consulting advice and prepare amicus curiae or “friend of the court” briefs in a number of other firearm related cases. The following cases are those that NRA and CRPA have recently supported or will be supporting in the near future.

## California and 9th Circuit Amicus Support

Issue of Case	Case Name	Status of Case	Recent Action/Timeline
Sacramento and Yolo County CCW Issuance Policies	<a href="#"><u>Richards v. Prieto</u></a>	The case was reheard concurrently with <i>Peruta</i> in June 2015.	A decision from the court is expected anytime.
Hawaii CCW Scheme	<a href="#"><u>Baker v. Kealoha</u></a>	The case has been stayed pending the resolution of <i>Peruta</i> .	Unknown.
California Handgun Roster	<a href="#"><u>Pena v. Cid</u></a>	The federal district court held the Roster constitutional on February 25, 2015. Plaintiffs have appealed. The case has been fully briefed and is awaiting oral arguments.	Oral arguments will likely be scheduled in the later half of 2016. A decision can be expected anywhere from 3-9 months following oral arguments.
10-Day Wait as applied to Current Firearm Owners	<a href="#"><u>Silvester v. Harris</u></a>	Oral arguments took place before a 3-judge panel of the 9th Circuit Court of Appeals on February 9, 2016.	A decision from the court is expected in the next 3-9 months.
1st Amendment challenge to handgun advertisement prohibition	<a href="#"><u>Tracy Rifle and Pistol v. Harris</u></a>	In July 2015, the district court declined to issue an order prohibiting the enforcement of the ban while the case was pending. This decision was appealed, and oral arguments were heard concurrently with <i>Silvester</i> on February 9, 2016.	On February 23, 2016, the 9 <sup>th</sup> Circuit upheld the lower court’s order denying preliminary injunction. The case will now proceed towards resolution on the merits in the district court.
FFL zoning ordinance	<a href="#"><u>NSSF v. City of Pleasant Hill</u></a>	The case is pending trial before the Contra Costa Superior Court.	Unknown.
CA DOJ regulation prohibiting sale of more than one handgun in 30 day period to valid certificate of eligibility holders	<a href="#"><u>Doe v. Harris</u></a>	On January 13, 2016, DOJ filed a motion for summary judgment on the merits of the case. On February 19, 2016, the court held a hearing on DOJ’s motion.	A decision on DOJ’s motion can come at any time.

## California and 9th Circuit Amicus Support (cont.)

Issue of Case	Case Name	Status of Case	Recent Action/Timeline
This suit challenges a total ban on the possession and carriage of firearms on public and recreational Army Corps' lands.	<a href="#"><u>Nesbitt v. U.S. Army Corps of Engineer</u></a>	The case has been fully briefed and is awaiting oral arguments before the 9th Circuit Court of Appeals.	Oral arguments are expected to take place in 2016. A decision can be expected anywhere from 3-9 months following oral arguments.
Challenges California's microstamping requirements for Handguns	<a href="#"><u>NSSF v. California</u></a>	The case is currently being briefed before the California Court of Appeals.	Once the case is fully briefed, a date for oral arguments will be set, likely toward the end of 2016. A decision can be expected anywhere from 3-9 months following oral arguments.

NRA and CRPA also provide assistance in a number of critical Second Amendment cases across the country that could set valuable precedent for future challenges to California gun laws. The following are a few of the more significant examples of these cases.

## National Amicus Support

Issue of Case	Case Name	Status of Case	Recent Action/Timeline
Challenges Maryland's ban on "assault weapons" and "large-capacity" magazines	<a href="#"><u>Kolbe v. O'Malley</u></a>	On February 4, 2016, the 4th Circuit Court of Appeals issued an opinion overturning the district court's approval of the ban under intermediate scrutiny, and ordering the district court to apply "strict scrutiny" to the laws. The State filed a petition for an "en banc" rehearing of the case by the 4th Circuit.	The 4 <sup>th</sup> Circuit granted the petition for "en banc" review. The parties are providing supplemental briefing for the court and oral arguments are set for May 11, 2016.

## National Amicus Support (cont.)

Issue of Case	Case Name	Status of Case	Recent Action / Timeline
<p>Challenges Washington D.C.'s "good reason" requirement for the issuance of a CCW permit</p>	<p><a href="#"><u>Grace v. District of Columbia</u></a></p>	<p>The plaintiffs filed a motion for an order prohibiting enforcement of the "good reason" requirement while the case is pending. A hearing on this motion was held on February 10, 2016. On February 16, 2016, the plaintiffs filed a motion asking the court to rule the merits of the case.</p>	<p>A decision from the court on the plaintiffs' motions can come at any time.</p>
<p>Challenges Washington D.C.'s excessive firearm registration requirements</p>	<p><a href="#"><u>Heller (III) v. District of Columbia</u></a></p>	<p>On September 18, 2015, the D.C. Circuit Court of Appeals issued an opinion striking down the majority of Washington D.C.'s firearm registration requirements as a violation of the Second Amendment. On October 19, 2015, D.C. filed a petition for an "en banc" rehearing of the case by a larger panel of the D.C. Circuit. On November 6, 2015, the plaintiffs filed a response to D.C.'s request for an "en banc" rehearing.</p>	<p>On February 26, 2016, the Court denied the request for "en banc" review.</p>
<p>Challenges Colorado's ban on 15+ round magazines</p>	<p><a href="#"><u>Colorado Outfitters v. Hickenlooper</u></a></p>	<p>Oral arguments took place before a 3-judge panel of the 10th Circuit Court of Appeals on September 28, 2015.</p>	<p>On March 22, 2016, the Court ruled that Plaintiffs did not have standing to bring their claims and ruled against the Plaintiffs' appeal.</p>