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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
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12 **IVAN PEÑA, ROY VARGAS, DOÑA**
13 **CROSTON, BRETT THOMAS, SECOND**
14 **AMENDMENT FOUNDATION, INC. and**
THE CALGUNS FOUNDATION, INC.,

15 Plaintiffs,

16 v.

17 **STEPHEN LINDLEY,¹**

18 Defendant.

Case No. 2:09-CV-01185-KJM-CMK

ANSWER TO AMENDED COMPLAINT

Dept: No. 3 – 15th Floor
Judge Honorable Kimberly J. Mueller
Trial Date: None
Action Filed: April 30, 2009

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27 ¹ Stephen Lindley, in his official capacity as Chief of the California Department of Justice
Bureau of Firearms, has been substituted for defendant Wilfredo Cid. (Minute Order filed Sept.
28 6, 2012.)

1 Defendant Stephen Lindley (“Lindley”) answers plaintiffs Ivan Peña, Roy Vargas, Doña
2 Croston, Brett Thomas, Second Amendment Foundation, Inc., and The Calguns Foundation,
3 Inc.’s amended complaint as follows:

4 **ANSWER TO PLAINTIFFS’ DESCRIPTION OF THE PARTIES**

5 1. Answering paragraphs 1 through 6 of the amended complaint, Lindley lacks sufficient
6 information or knowledge to form a belief about the truth of each and every allegation of these
7 paragraphs and denies them on that basis.

8 2. Answering paragraph 7 of the amended complaint, Lindley denies those allegations.
9 Lindley alleges that he is the current Chief of the California Department of Justice Bureau of
10 Firearms.

11 **ANSWER TO ALLEGATIONS REGARDING JURISDICTION AND VENUE**

12 3. Answering paragraph 8 of the amended complaint, Lindley avers the allegations are
13 conclusions of law to which no response is required. To the extent that a response is required,
14 Lindley denies each and every allegation.

15 4. Answering paragraph 9 of the amended complaint, Lindley admits these allegations.

16 **ANSWER TO PLAINTIFFS’ STATEMENT OF FACTS**

17 5. To the extent the unnumbered italicized headings contained throughout plaintiffs’
18 statement of facts constitute material allegations of fact, Lindley denies the allegations.

19 6. Answering paragraphs 10 through 36 of the amended complaint, Lindley states that the
20 matters asserted in those paragraphs constitute plaintiffs’ arguments regarding the law,
21 particularly the Second Amendment to the United States Constitution, California Penal Code, and
22 California Code of Regulations, as opposed to allegations of fact. Because the Second
23 Amendment, state Penal Code, state regulations, and the legal authorities addressing those
24 provisions speak for themselves, no response to the legal and policy arguments in paragraphs 10
25 through 36 is required. To the extent those paragraphs contain any material allegations of fact,
26 Lindley denies the allegations.

1 12. Answering paragraphs 53 through 57 of the amended complaint, Lindley states that the
2 matters asserted in those paragraphs constitute plaintiffs’ arguments regarding the law,
3 particularly the Second Amendment to the United States Constitution, California Penal Code, and
4 California Code of Regulations, as opposed to allegations of fact. Because the Second
5 Amendment, state Penal Code, state regulations, and the legal authorities addressing those
6 provisions speak for themselves, no response to the legal and policy arguments in paragraphs 53
7 through 57 is required. To the extent those paragraphs contain any material allegations of fact,
8 Lindley denies the allegations.

9 **ANSWER TO SECOND CLAIM FOR RELIEF**

10 13. Answering paragraph 58 of the amended complaint, Lindley incorporates by reference
11 his responses to paragraphs 1 through 57 of the amended complaint to the same extent plaintiffs
12 have incorporated the allegations of those paragraphs into the First Claim For Relief.

13 14. Answering paragraph 59 of the amended complaint, Lindley states that the matters
14 asserted in the paragraph constitutes plaintiffs’ arguments regarding the law, particularly the
15 Second Amendment to the United States Constitution, California Penal Code, and California
16 Code of Regulations, as opposed to allegations of fact. Because the Second Amendment, state
17 Penal Code, state regulations, and the legal authorities addressing those provisions speak for
18 themselves, no response to the legal and policy arguments in paragraph 59 is required. To the
19 extent those paragraphs contain any material allegations of fact, Lindley denies the allegations.

20 **FIRST AFFIRMATIVE DEFENSE**

21 (No Ripe Controversy)

22 The complaint fails to present a case or controversy that is ripe for this Court’s
23 consideration.

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SECOND AFFIRMATIVE DEFENSE

(Lack of Standing)

All of the plaintiffs lack standing to bring this action because there is no injury or credible threat of injury. Second Amendment Foundation, Inc., and The Calguns Foundation, Inc. also lack associational standing.

THIRD AFFIRMATIVE DEFENSE

(Eleventh Amendment Immunity)

Plaintiffs' claims are barred by the Eleventh Amendment.

PRAYER FOR RELIEF

Lindley prays for judgment as follows:

1. That plaintiffs take nothing by way of their complaint;
2. That the Court enter judgment in favor of Lindley on all claims and causes of action alleged in the complaint;
3. For costs incurred in the defense of this action; and
4. For such other and further relief as the Court may deem proper.

Dated: March 26, 2012

Respectfully submitted,

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Supervising Deputy Attorney General

/s/ ANTHONY R. HAKL

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