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8 *Attorneys for Defendant Wilfredo Cid*

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11

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 **WILFREDO CID,**

18 Defendant.
19

2:09-cv-01185-FCD-KJM

**DECLARATION OF ANTHONY R.
HAKL IN SUPPORT OF DEFENDANT
CID'S EX PARTE APPLICATION FOR
ORDER SHORTENING TIME**

Date: To be determined
Time: To be determined
Dept: No. 2, 15th Floor
Judge: Frank C. Damrell, Jr.
Trial Date: None
Action Filed: April 30, 2009

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21 I, Anthony R. Hakl, declare as follows:

22 1. I am counsel of record for Defendant Wilfredo Cid in this matter. I am making this
23 declaration in support of Cid's ex parte application for an order shortening time for briefing and,
24 if necessary, a hearing on his motion for relief under Federal Rule of Civil Procedure 56(f). I am
25 a resident of the State of California and over eighteen years of age. I have personal knowledge of
26 the matters stated in this declaration and if called as a witness I could and would testify
27 competently to such matters.
28

1 2. On July 6, Defendant Cid filed a motion to dismiss, noticing it for hearing on October 2,
2 a date which Defendant selected after conferring with all counsel regarding convenient dates.

3 3. Plaintiffs filed a motion for summary judgment on September 2, noticing it for hearing
4 on the same day as the hearing on Defendant's motion to dismiss.

5 4. On September 4, I contacted Donald Kilmer, counsel of record for Plaintiffs in this case,
6 by e-mail and requested that he stipulate to a shortened briefing schedule, and if necessary a
7 hearing date, to be set by the Court regarding Defendant's Rule 56(f) motion. I informed him that
8 I would be filing a Rule 56(f) motion along with this ex parte application on September 9.

9 5. Mr. Kilmer responded with a telephone call on September 8, at which time he declined
10 to stipulate to an order shortening time and proposed a continuance of the hearings on both
11 Defendant's motion to dismiss and Plaintiffs' motion for summary judgment. I declined Mr.
12 Kilmer's proposal.

13 6. Following the telephone call, Mr. Kilmer re-stated his position to me in an e-mail, to
14 which I also responded. A true and correct copy of our complete e-mail exchange on September
15 4 and 8 is attached as Exhibit A to this declaration.

16 7. Under the Local Rules, Defendant Cid's opposition to Plaintiffs' motion for summary
17 judgment is due no later than September 18, if he personally serves the opposition.

18 8. Given the current hearing date for Plaintiffs' motion for summary judgment, and the due
19 date for Defendant's opposition brief, Defendant does not have sufficient time to regularly notice
20 a Rule 56(f) motion under the Local Rules and obtain resolution of that motion without being
21 prejudiced in otherwise opposing the summary judgment motion.

22 9. As explained more fully in Cid's Rule 56(f) motion, Defendant Cid cannot adequately
23 oppose Plaintiffs' motion for summary judgment due to this case being in its infancy and the
24 absence of discovery in this case involving facial and as-applied challenges to California Unsafe
25 Handgun Act brought by four individual and two organizational plaintiffs. Any summary
26 judgment motion and discovery will also be unnecessary in the event the Court grants Cid's
27 motion to dismiss.

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1 10. Defendant Cid has filed his Rule 56(f) motion at the same time as this application.

2 I declare under penalty of perjury that the foregoing is true and correct. Executed on

3 September 9, 2009.

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/s/ Anthony R. Hakl

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ANTHONY R. HAKL

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