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NRA-CRPA CALIFORNIA CLOSED LEGAL MATTERS REPORT Updated April 2015

I. PAST LITIGATION EFFORTS

Fiscal v. City and County of San Francisco – Lawsuit successfully striking down San Francisco's citywide ban on handgun possession as preempted by California law, resulting in an appellate court opinion bolstering the preemption doctrine for use against future anti-gun ordinances and a payment of \$380,000 to the NRA to reimburse it for its attorneys' fees.

Doe v. San Francisco Housing Authority – Lawsuit successfully prompting repeal of San Francisco's ban on possessing firearms in public housing. The possession ban was rescinded and the NRA negotiated a formal settlement agreement to prevent adoption of similar restrictions in the future. This case has recently been used to help NRA lawyers in Washington, D.C. and Delaware, where similar bans existed.

Mehl v. Blanas – The NRA's lawyers filed an amicus brief and participated in oral arguments in Ninth Circuit when it reviewed this ill-conceived case brought by a well-intentioned, but poorly prepared, attorney challenging existing CCW policies. The brief explained the procedural defects in the case and argued that other cases were more appropriate vehicles for resolving the carry issue. This potentially dangerous case could have created bad case law that would have impacted other CCW cases. Perhaps due to these efforts, the Court disposed of the case in an unpublished decision that avoided reaching the substantive legal questions, leaving those important questions to be decided favorably in *Peruta*.

Nichols v. Harris – The NRA's lawyers filed an amicus brief in Ninth Circuit that convinced the Court to temporarily stay this lawsuit. The case was filed by a well-intentioned but misguided non-attorney, and threatened the future of the right to carry for all Californians. The stay allowed other cases involving the right to bear arms to be decided first, and provided experienced litigators with a better opportunity to evaluate the case to determine whether assisting the plaintiff was the right course of action.

SFVPOA v. City and County of San Francisco – (Northern District California, United States District Court) Sister case to *Fyock v. Sunnyvale*, challenging San Francisco's recently enacted ban on the possession of so-called "large capacity magazines." The lawsuit was temporarily dismissed by the Plaintiffs while the *Fyock* case is on appeal. Should the *Fyock* case result in a victory, this case will immediately be re-filed in San Francisco.

Calguns Foundation v. San Mateo County – In 2014, NRA filed an amicus brief with the California Court of Appeals in this case challenging a local ban on the possession of firearms in county parks on state preemption

grounds. The NRA's legal team sought to bolster the plaintiffs' argument, but also to fully inform the Court of other preemption arguments that were not raised in the plaintiffs' briefs. The Court of Appeals ruled against the plaintiffs. The NRA's lawyers submitted a letter to the California Supreme Court supporting plaintiffs' petition for review and requesting depublication of the opinion. Unfortunately, those requests were denied and the Calguns Foundation decision stands, potentially limiting the future usefulness of the preemption doctrine in California.

CBD v. BLM – NRA successfully intervened on behalf of hunters in an Arizona lawsuit brought by anti-hunting environmental groups, led by the Center for Biological Diversity (CBD). The lawsuit sought to prohibit the use of lead ammunition in the Arizona Strip, a classic hunting area. CBD argued, among other things, that the Bureau of Land Management violated the National Environmental Policy Act by adopting certain land management plans without adequately considering the alleged environmental impact of hunters' use of lead-based ammunition. In response to summary judgment briefs filed by the NRA and the Bureau, the court dismissed the lawsuit, holding that CBD's claims were without merit. The Plaintiffs did not appeal the dismissal, meaning this case is now final and persuasive precedent.

Pizzo v. Newsom – Filed amicus brief convincing court to dismiss ill-conceived and poorly prepared copy cat claims threatening to undermine efforts in *Jackson v. San Francisco* on standing grounds. While finding no standing, the Court nevertheless adopted the favorable standing analysis secured by NRA attorneys in *Jackson* and disregarded the watered-down standing argument pushed for by the City.

Nichols v. Harris – Filed an amicus brief in Ninth Circuit Court of Appeals that convinced the Court to temporarily stay this lawsuit. Case was filed by a well-intentioned but incompetent non-attorney. The case threatened the future of the right to bear arms for all Californians. The stay allowed other cases involving the right to bear arms to be decided first, and provided experienced litigators a better opportunity to evaluate the case to determine whether assisting the plaintiff made sense, but the case has since been dismissed by the Court as moot (although it appears it is not over yet).

People v. Delacy – Co-authored petition for writ of certiorari to the United States Supreme Court in a case used as vehicle to address courts' varying interpretations of *Heller's* "presumptively lawful" language and whether discriminatory classifications that affect the fundamental right to keep and bear arms are subject merely to rational basis scrutiny.

People v. Nguyen – The law challenged in this case imposes liability for a person who possesses parts that could be assembled to make an illegal "assault weapon," and who intends to assemble the parts to make an unregistered "assault weapon." Under the law, an individual can be convicted of attempted illegal "assault weapon" manufacturing and attempted illegal "assault weapon" possession. In 2014, The NRA's lawyers filed a request for depublication with California Supreme Court to prevent having this potentially dangerous appellate court decision from being used as precedent in future cases against firearm owners. Unfortunately, that request was denied

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III. LOCAL ORDINANCES

Azusa – Successfully opposed an ordinance that would have placed onerous and unnecessary zoning and operation restrictions on licensed firearm dealers by way of a [demand letter](#).

Berkeley – Served the city with a [pre-litigation letter](#), resulting in the repeal of an ordinance prohibiting possession of semiautomatic-rifles.

Desert Hot Springs – Successfully opposed the adoption of an ordinance that would have banned possession of firearms on almost all public property via a demand letter and lobbying.

El Dorado County – Assisted NRA members in successfully opposing a homeowners' association's proposal to amend its rules to ban discharge of firearms and air-guns in the community.

Emeryville, Fairfield, & Long Beach – Successfully opposed ordinances seeking ammunition-transfer registration via demand letters.

Fresno – Assisted with the drafting of a successful resolution supporting a shall-issue policy with regard to issuance of CCWs within the city.

Glendale – Opposed proposed ordinance banning firearms and ammunition on all city property, targeting the Glendale Gun Show. Submitted pre-litigation demand letters outlining legal arguments against ordinance and attended city council meetings. Ordinance passed despite these efforts and litigation is being considered.

Oakley – Successfully opposed ordinance that would have prohibited gunsmiths from operating in residential areas.

Richmond – Forced the city to repeal its ordinance banning possession of “large-capacity magazines” by sending a [demand letter](#) and draft legal complaint challenging the ordinance on preemption grounds and promising to file if the law remained in effect.

San Diego – Submitted a [letter](#) opposing proposed fee increase for licensed firearm dealers, resulting in the elimination of an illegal fee the city was charging them to conduct employee background checks.

San Jose – Successfully opposed, via [demand letter](http://www.nra.org/legislation/state-legislation/2013/10/california-nra-lawsuit-inevitable-if-san-francisco-adopts-unconstit)<http://www.nra.org/legislation/state-legislation/2013/10/california-nra-lawsuit-inevitable-if-san-francisco-adopts-unconstit>, an ordinance that would have required owners of so-called “assault weapons” to register and store such firearms with the police department and to provide a reasonable explanation of “need” before their firearms could be released.

San Mateo County – Served a [pre-litigation demand letter](#) that prompted the sponsor of several LCAV Model Ordinances to pull consideration of those anti-gun owner ordinances, including a dealer regulation scheme that would make it practically impossible to sell guns in the county.

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South San Francisco – Submitted [opposition](#) to proposal to prohibit the sale of hollow-point ammunition and to require registration of all ammunition sales. Also worked directly with the city attorney, prompting him to recommend the city pull consideration of the ordinance, which it did.

Sunnyvale – Successfully opposed package of gun control ordinances that would have placed draconian restrictions on licensed firearm dealers. The city prepared a [detailed report](#) on the subject, which concluded that firearm shops are not a danger to their surroundings. Also [submitted letter](#) opposing inclusion of an extensive gun control package as a ballot measure and assisted with efforts of local residents to oppose the measure after it qualified for the ballot. Currently, there is litigation challenging its ban on possession of magazines holding more than ten rounds.

Sutter County – Opposed the proposed expansion of a “no-discharge” ordinance and affecting a popular hunting area via correspondence to the Board of Supervisors that resulted in the ordinance being more limited in scope than it was before the proposed expansion.

Twentynine Palms – Submitted letter opposing proposal to restrict target shooting on private land. The city followed our suggestions and adopted San Bernardino County’s less-restrictive regulations.

Miscellaneous – In addition to these efforts, NRA and CRPA have frequently worked behind the scenes with local government agencies to protect and advance the rights of California firearm owners on a number of undisclosed matters.

IV. RANGE ASSISTANCE EFFORTS

NRA, CRPA, and their lawyers work on an ongoing basis to support shooting ranges on the west coast.

Some examples of these past efforts include the following:

Ojai – Helped Ojai Valley Gun Club respond to Ventura County’s attempts to enforce county land-use laws on this concessionaire operating on Forest Service land.

Los Padres National Forest – Consulted with Winchester Canyon Gun Club about the renewal of their operating permits from the U.S. Forest Service.

San Diego – Worked with a consortium of shooting ranges in San Diego County since early 2009 to oppose certain proposed revisions to the San Diego County Code that would impose drastic new limitations on target shooting in the unincorporated portions of San Diego County.

V. OTHER EFFORTS

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Tudesko Expulsion – Successful appealed Gary Tudesko’s expulsion from high school for leaving unloaded shotguns in his truck parked off-campus after early morning duck hunting. Gary was reinstated. The case received national news coverage.

Gun Owner Defense – Assisted countless NRA and CRPA members with firearm-related legal issues and prepared responses explaining California firearm laws.

Member Communications – Provided media-alerts, commentary, and analysis on various past events impacting the California firearm owners.

Seminars / Clinics / Debates – NRA and CRPA attorneys frequently attended and participated in firearm-related educational functions throughout the state to increase knowledge of members and to increase NRA and CRPA membership.

Legal Memoranda – Produced various legal memoranda for public education (most of which can be found at www.calgunlaws.com), including topics such as: legality of firearms /accessories, clarifying ambiguous definitions for firearms /accessories, LEOSA compliance, FFL compliance, CCW compliance, and countless other topics.

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