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10 LOS ANGELES COUNTY SHERIFF'S DEPARTMENT & LEE BACA

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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

JONATHAN BIRDT,  
Plaintiff,

v.

CHARLIE BECK, LEE BACA, THE  
LOS ANGELES POLICE  
DEPARTMENT and THE LOS  
ANGELES COUNTY SHERIFF'S  
DEPARTMENT, and DOES 1 through  
50,  
Defendants.

CASE NO. CV 10-08377 JAK (JEMx)

**LASD DEFENDANTS'  
OBJECTIONS TO PLAINTIFF'S  
EVIDENCE IN SUPPORT OF  
MOTION FOR SUMMARY  
JUDGMENT AND IN OPPOSITION  
TO THE LASD DEFENDANTS'  
MOTION FOR SUMMARY  
JUDGMENT**

MSJ Date; **May 16, 2011**  
Time: **9:00 a.m.**  
Dept. **850**

Action Filed: **November 4, 2010**  
Trial Date: **October 4, 2011**

Defendants Los Angeles County Sheriff's Department and Sheriff Lee Baca ("the LASD Defendants") submit the following objections in response to Plaintiff's evidence in support of reply to Plaintiff's motion for summary judgment, and Opposition to Defendants' motion.

1           **Declaration of Lawrence Mudgett**

2           Initially, Plaintiff offers the declaration of Lawrence Mudgett, a retired  
3 Chief Firearms Instructor from the Los Angeles Police Department, to opine  
4 regarding nationwide public policy and statistics regarding CCW permit possession  
5 and violence. Defendants object that Mr. Mudgett is not qualified to provide such  
6 testimony. Mr. Mudgett's credentials and curriculum vitae do not indicate that he  
7 has any expertise in nationwide public policy matters related to firearms.

8           1.       **Paragraph 3:** The need to Carry concealed is due only to the decision  
9 of the California legislature to make that the only method of permissible carry  
10 having, otherwise banned the possession of a loaded firearm by law abiding  
11 citizens and further, even the possession of an unloaded weapon within 1000 feet  
12 of a school, which in Southern California would make travel nearly an impossible  
13 task."

14                   ***Objection:*** Hearsay, Lacks foundation, Improper Expert Opinion,  
15 Calls for a Legal Conclusion not within Declarant's Expertise. FRE 402, 602,  
16 701, 702, 802.

17           2.       **Paragraph 4:** "For instance, according to studies armed citizens kill  
18 more criminals in self-defense than our Nations police officers by about 2 to 1.  
19 Police officers have about 5 times as many "mistake of fact shootings" as armed  
20 citizens."

21                   ***Objection:*** Hearsay, Lacks Foundation, Improper Expert Opinion,  
22 Calls for a Legal Conclusion not Within Declarant's Expertise. FRE 402, 602,  
23 701, 702, 802.

24           3.       **Paragraph 5:** "It is my opinion, based upon my education, training,  
25 and experience that Law enforcement relies upon FBI Uniform Crime Statistics,  
26 which, over the last thirty years have shown a distinct and significant drop in  
27 violent crime each year."

28                   ***Objection:*** Hearsay, Lacks Foundation, Improper Expert Opinion, Calls for

1 a Legal Conclusion not Within Declarant's Expertise; Best Evidence Rule. FRE  
2 402, 602, 701, 702, 802.

3 4. **Paragraph 6:** "When considering the success that other state have  
4 had with the "shall issue system," we must wonder why LE officials do not  
5 believe that the same result would occur in CA. One can only conclude that LE  
6 officials must believe that California residents are somehow different than the  
7 residents of other states. California residents must be deemed less trustworthy,  
8 less restrained, more violent, more prone to commit crimes, etc."

9 ***Objection:*** Hearsay, Lacks Foundation, Improper Expert Opinion,  
10 Calls for a Legal Conclusion not Within Declarant's Expertise. FRE 402, 602,  
11 701, 702, 802.

12 5. **Paragraph 7:**

13 a) "It is my opinion, based upon my education, training, experience, and  
14 being intimately familiar with firearms research, regulation, publications, and  
15 studies, that there is no correlation between the issuance of CCW permits and  
16 violence."

17 b) "...CCW permit holders are not in any way likely to increase crime or  
18 violence, and among the gun owning population are safer and more likely to  
19 reduce the accident rate because of their increased training and awareness. What  
20 facts I am aware of indicate that armed and trained citizens reduce crime by their  
21 very existence, as criminals do not know which citizens are in fact armed."

22 c) Citation to the Lott-Mustard Report and other published articles and  
23 reports.

24 ***Objection:*** Hearsay, Speculation, Lacks Foundation, Improper  
25 Expert Opinion, Calls for a Legal Conclusion not Within Declarant's Expertise.  
26 FRE 402, 602, 701, 702, 802.

27 6. **Paragraph 8:** "The declaration of Franklin Zimring is not consistent  
28 with my knowledge, training, or experience. Mr. Zimring expresses theories

1 which are not related to CCW permits and are not consistent with any peer  
2 reviewed statistics. By way of example, one of the undisputed facts used by  
3 Zimring was the so called fact that 39 percent of people who commit murder had  
4 at the time no disqualifying convictions. My first thought is that these are  
5 juveniles who commit a good percentage of the crime in Los Angeles. Their  
6 juvenile arrests may not be used against them as adults and they may comprise a  
7 portion of this supposed 39 percent. The second factor is people who are arrested  
8 for serious crimes in LA are often allowed to plea the case down to a far lesser  
9 crime and the minor crime is the one they are actually convicted of. These are  
10 weaknesses in the criminal justice system that should not be used to deny you the  
11 right of self-defense. I find the statistics suspicious in any case."

12 **Objection:** Hearsay, Speculation, Lacks Foundation, Improper  
13 Expert Opinion, Calls for a Legal Conclusion not Within Declarant's Expertise.  
14 FRE 402, 602, 701, 702, 802.

15 **Declaration of Jonathan Birdt (as to LASD)**

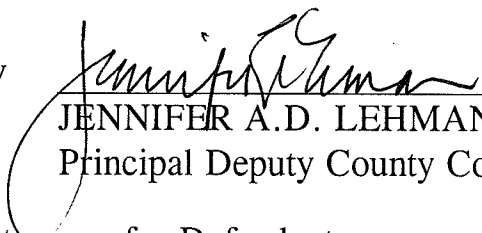
16 7. Paragraph 2: "As a Judge, Advocate, GAL and High Profile  
17 litigation attorney, is exposed to a greater risk of harm."

18 **Objection:** Speculation, Lacks Foundation.

19 DATED: May 2, 2011

Respectfully submitted,

20 ANDREA SHERIDAN ORDIN  
21 County Counsel

22  
23 By   
24 JENNIFER A.D. LEHMAN  
25 Principal Deputy County Counsel

26 Attorneys for Defendants  
27 LOS ANGELES COUNTY SHERIFF'S  
28 DEPARTMENT & LEE BACA