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9 **UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

10 RICHARD ENOS, JEFF BASTASINI,
11 LOUIE MERCADO, WALTER
12 GROVES, MANUEL MONTEIRO,
13 EDWARD ERIKSON, and VERNON
NEWMAN,

14 Plaintiffs,

15 vs.

16 ERIC HOLDER, as United States
17 Attorney General, and ROBERT
18 MUELLER, III, as Director of the
Federal Bureau of Investigation,

19 Defendants.
20

Case No.: 2:10-CV-02911-JAM-EFB

DECLARATION OF JEFF
BASTASINI IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT

Federal Rule of Civil Procedure 56

Date: January 25, 2012
Time: 9:30 a.m.
Place: Courtroom 6, 14th Floor
501 "T" Street
Sacramento, CA 95814
Judge: Hon. John A. Mendez

21 I, JEFF BASTASINI, declare as follows:

- 22 1. I am a Plaintiff in the above-entitled case. I am a resident of California.
- 23 2. On or about March 25, 1991, I plead *nolo contendere* in a Santa Clara County
24 Superior Court to two counts of a misdemeanor crime of domestic violence
25 under Penal Code §§ 273.5 and 242. I was not represented by counsel.
- 26 3. I was not prohibited from exercising any other civil right (voting, holding
27 public office, and/or serving jury duty) as a consequence of my conviction.
- 28 4. In 1993 California Legislature amended Penal Code § 12021 and added Penal

- 1 Code § 273.5 and 242 to the list of misdemeanors which prohibit a person
2 from acquiring/possessing a firearm for 10 years after the date of conviction.
- 3 5. On September 13, 1994, the Congress passed the Violence Against Women
4 Act, and in 1996 Congress amended the act to impose a lifetime prohibition
5 against the acquisition/possession of firearms by misdemeanants convicted of
6 Domestic Violence. See: 18 U.S.C. §§ 921 and 922 *et seq.*
- 7 6. On August 21, 2000, I petitioned for a record clearance under PC § 1203.4.
- 8 7. On or about September 20, 2000, the Superior Court of Santa Clara County
9 granted my petition under Penal Code § 1203.4. My plea was withdrawn, a
10 plea of not guilty was entered and the court dismissed the case.
- 11 8. Subsequent to California's restoration of my right to "keep and bear arms"
12 under the California law, I obtained a firearm permit from the California
13 Bureau of Security and Investigative Services.
- 14 9. On or about February 16, 2006, I was informed that my Firearm Permit was
15 being revoked under the lifetime prohibition imposed by federal law for my
16 conviction on March 25, 1991.
- 17 10. On July 11, 2011, I applied for a firearm purchase at federally licensed
18 firearm dealer. I correctly filled out the ATF Form 4473 (5300.9) and
19 truthfully answered "YES" to question 11.i.
- 20 11. On July 18, 2011, I was denied a firearm purchase. Upon making an inquiry
21 to the California Department of Justice for the reason for the denial, I was
22 informed that federal law prohibited my clearance to purchase the gun and
23 that I should direct my questions to federal authorities.
- 24 12. As of December 14, 2011, I am permitted to acquire and possess firearms
25 under the laws of the State of California.
- 26 13. As of December 14, 2011, I am prohibited from acquiring and possessing
27 firearms due to threat of criminal prosecution under federal law.
- 28 14. But for Defendants' wrongful interpretation of the federal laws regulating

