	Case	e 2:10-cv	/-02911-JAI	M-EFB	Documen	t 41	Filed 12/1	9/11	Page 1 of 3			
	2 A Pro 1645 3 San 3 7 Telep 4 Facsi	OFFIC ofession Willow Jose, Ca ohone:	Kilmer, Jr. ES OF DO al Corporat Street, Sui lifornia 95 408/264-84 408/264-84 Don@DKL	NALD tion te 150 125 89 87	KILMER							
		ney for	Plaintiffs									
	7											
:	8	UNITED STATES DISTRICT COURT										
1	9		FOR TH	E EAS	STERN DI	STR	RICT OF C	CALI	FORNIA			
10	RIC		ENOS, JE			C	ase No.: 2:	:10-C	V-02911-JAM-EFB			
1	GR		ERCADO, V MANUEL						OF JEFF			
1:		WARD WMAN	ERIKSON	, and V	ERNON	Р		FS' M	SUPPORT OF OTION FOR GMENT			
1			Plaintiff	s.					Civil Procedure 56			
1	5			,		D	Date:	Jan	uary 25, 2012			
1	6 ER		vs. DER, as U			Т	'ime: 'lace:	9:30 Cou 501) a.m. rtroom 6, 14 th Floor "I" Street			
1	MU	JELLEI	eneral, and R, III, as Di	rector	of the	J	udge:		ramento, CA 95814 1. John A. Mendez			
1	ret	ieral Du	ireau of Inv		uon,							
2			Defenda	nts.								
2		FF BAS	TASINI, de	eclare a	as follows:							
22	2 1.	I am a	l Plaintiff i	n the a	bove-entitl	ed ca	ase. I am a	resid	lent of California.			
23	3 2.	On or	about Mare	ch 25, 1	1991, I plea	ad <i>no</i>	olo contend	<i>lre</i> in	a Santa Clara County			
$2 \cdot$	4	Super	ior Court to	o two co	ounts of a 1	misd	emeanor ci	rime	of domestic violence			
2	5	under	Penal Code	e §§ 27	3.5 and 24	2. I	was not rej	prese	nted by counsel.			
2	6 3.	I was	not prohibi	ted from	m exercisii	ng ar	ny other civ	vil rig	ht (voting, holding			
2	7	public	office, and	or serv	ving jury d	uty)	as a consec	queno	ce of my conviction.			
Donald Kilmer Attorney at Law 1645 Willow St. Suite 150	8 4.	In 199	93 Californi	a Legis	slature am	ende	ed Penal Co	ode §	12021 and added Penal			
San Jose, CA 95125 Vc: 408/264-8489 Fx: 408/264-8487	Enos v	v. Holder			Page	e 1 of	f 3	Р	laintiff: Bastasini Decl MSJ			

Case 2:10-cv-02911-JAM-EFB Document 41 Filed 12/19/11 Page 2 of 3

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 quesiton 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 <u>permitted</u> to acquire and possess firearms
25		under the laws of the State of California.
26	13.	As of December 14, 2011, I am <u>prohibited</u> from acquiring and possessing
27		firearms due to threat of criminal prosecution under federal law.
Donald Kilmer Attorney at Law 1645 Willow St.	14.	But for Defendants' wrongful interpretation of the federal laws regulating
Suite 150 San Jose, CA 95125 Vc: 408/264-8489 Fx: 408/264-8487	Enos v	Page 2 of 3 Plaintiff: Bastasini Decl MSJ

Case 2:10-cv-02911-JAM-EFB Document 41 Filed 12/19/11 Page 3 of 3

	1	firearm possession and purchase by domestic violence misdemeanants, I								
	2	would acquire, keep and bear arms for, among other lawful purposes, self-								
	3	defense in my home.								
	4	15. Attached are true and correct copies ¹ of the following documents:								
	5	a. July 18, 2011 letter from the California Department of Justice to a								
	6	California Licensed Gun Dealer stating that I am prohibited from								
	7	acquiring a firearm.								
	8	b. A copy of the ATF Form 4473 that I filled out to purchase the firearm. ²								
	9	c. A copy of the California Dealer Record of Sale that I filled out to								
	10	purchase the firearm.								
	11	d. Copy of my PC § 1203.4 Petition filed on September 20, 2000.								
	12	e. Copy of the Docket Report from my misdemeanor conviction.								
	13	I declare under penalty of perjury under the laws of the State of California								
	14	and the laws of the United States that the forgoing is true and correct and that this								
	15	declaration was executed in the State of California.								
	16	/s/ Jeff Bastasini								
	17	JEFF BASTASINI, Plaintiff								
	18									
	19	ATTESTATION FOR COMPLIANCE WITH GENERAL ORDER 45 AND LOCAL RULE VIII.B.								
	20	I, Donald Kilmer, declare under penalty of perjury under the laws of								
		California and the United States that I have in my possession e-mail correspondence from my client JEFF BASTASINI that the content of this document								
		is acceptable to all persons required to sign the document. I declare that this document was signed in San Jose, CA on December 14, 2011.								
	23	/s/ Donald Kilmer								
	24	Donald Kilmer, for Plaintiffs								
	25									
	26	¹ These documents were provided to the Defendants as part of Plaintiffs'								
		FRCP 26 Disclosures.								
Donald Kilmer Attorney at Law 1645 Willow St. Suite 150	28	² My SSN and CDL are redacted for privacy reasons.								
San Jose, CA 95125 Vc: 408/264-8489 Fx: 408/264-8487		Enos v. Holder Page 3 of 3 Plaintiff: Bastasini Decl MSJ								