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

**DECLARATION OF MANUEL  
MONTEIRO 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, 14<sup>th</sup> Floor  
501 "T" Street  
Sacramento, CA 95814  
Judge: Hon. John A. Mendez

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22 I, MANUEL MONTEIRO, declare as follows:

- 23 1. I am a Plaintiff in the above-entitled case.  
24 2. I am a resident of California.  
25 3. I plead no contest (and/or guilty) in Santa Clara County Superior Court to a  
26 misdemeanor charge of California Penal Code § 273.5 on May 27, 1992.  
27 4. I was not prohibited from exercising any other civil right (voting, holding  
28 public office, and/or serving jury duty) as a consequence of my conviction.

1 5. In 1993 the California Legislature amended Penal Code § 12021 and added  
2 Penal Code § 273.5 to the list of misdemeanors which prohibit a person from  
3 acquiring/possessing a firearm for 10 years after the date of conviction.

4 6. On September 13, 1994, Congress passed the Violence Against Women Act,  
5 and in 1996 Congress amended the act to impose a lifetime ban on the  
6 acquisition/possession of firearms by misdemeanants convicted of Domestic  
7 Violence. 18 U.S.C. §§ 921 and 922 et seq.

8 7. On or about September 1, 1995 I requested relief under Penal Code § 1203.4.

9 8. On October 3, 1995 the Superior Court of Santa Clara County granted my  
10 request for relief under Penal Code § 1203.4. My plea was withdrawn, a plea  
11 of not guilty was entered and the court dismissed the case.

12 9. On or about July 14, 2011, I was denied a firearm purchase. In a letter of  
13 explanation from the California Department of Justice, I was informed that  
14 the denial was based on the Federal Brady Act.

15 10. As of December 14, 2011, I am permitted to acquire and possess firearms  
16 under the laws of the State of California.

17 11. As of December 14, 2011, I am prohibited from acquiring and possessing  
18 firearms due to threat of criminal prosecution under federal law.

19 12. But for Defendants' wrongful interpretation of the federal laws regulating  
20 firearm possession and purchase by domestic violence misdemeanants, I  
21 would acquire, keep and bear arms for, among other lawful purposes, self-  
22 defense in my home.

23 13. Attached are true and correct copies<sup>1</sup> of the following documents:

24 a. Correspondence from the California Department of Justice  
25 documenting the reasons for denying my purchase of firearms.

26 b. My pleadings and order under PC § 1203.4.

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27 <sup>1</sup> These documents were provided to the Defendants as part of Plaintiffs'  
28 FRCP 26 Disclosures.

1 I declare under penalty of perjury under the laws of the State of California  
2 and the laws of the United States that the forgoing is true and correct and that this  
3 declaration was executed in the State of California.

4 /s/ Manuel Monteiro

5 MANUEL MONTEIRO, Plaintiff  
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8 ATTESTATION FOR COMPLIANCE WITH GENERAL ORDER 45  
9 AND LOCAL RULE VIII.B.

10 I, Donald Kilmer, declare under penalty of perjury under the laws of  
11 California and the United States that I have in my possession e-mail  
12 correspondence from my client MANUEL MONTEIRO that the content of this  
13 document is acceptable to all persons required to sign the document. I declare that  
14 this document was signed in San Jose, CA on December 14, 2011.

15 /s/ Donald Kilmer

16 Donald Kilmer, for Plaintiffs  
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