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December 13, 2012

The Hon. Molly Dwyer  
United States Court of Appeals, Ninth Circuit  
95 Seventh Street  
San Francisco, CA 94103-1518

Re: *Richards v. Prieto*  
U.S. Court of Appeals, Ninth Cir. No. 11-16255  
Argued December 6, 2012

Notice of Supplemental Authority, Fed. R. App. P. 28(j)

Dear Ms. Dwyer:

The Seventh Circuit has struck down Illinois' prohibition of the carrying of firearms for self-defense. *Moore v. Madigan*, Nos. 12-1269, 12-1788, 2012 U.S. App. LEXIS 25264 (7<sup>th</sup> Cir. Dec. 11, 2012).

“*Heller* repeatedly invokes a broader Second Amendment right than the right to have a gun in one’s home...” *Moore*, at \*8. “A right to bear arms...implies a right to carry a loaded gun outside the home.” *Id.*

*Moore* criticized *Kachalsky v. County of Westchester*, No. 11-3642, 2012 U.S. App. LEXIS 24363 (2d Cir. Nov. 27, 2012)—questioning its historical survey, offering that “the historical issues [are] settled by *Heller*,” and rejecting *Kachalsky*’s central premise that the right to bear arms is less important outside the home. *Moore*, at \*26. *Moore*’s holding that the right to bear arms “is as important outside the home as inside,” *id.* at \*29, precludes unbridled discretion in licensing the carrying of handguns—discretion which plainly cannot be used in licensing home handgun possession.

Ms. Dwyer  
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*Moore's* "analysis is not based on degrees of scrutiny," *id.* at \*26, demonstrating that this Court may take a categorical approach to striking down Sheriff Prieto's policy if only because it precludes self-defense as good cause for permit issuance. *See* Appellants' Br. at 45.

Moreover, *Moore* held the right to bear arms benefits "a Chicagoan [who] is a good deal more likely to be attacked on a sidewalk in a rough neighborhood than in his apartment on the 35th floor of the Park Tower," *id.* at \*12, rejecting the notion that the right cannot extend in like manner to public places, or to urban areas. And while Prieto's policy privileges "business owners who carry large sums of cash or valuable items" over "self protection and protection of family (without credible threats of violence)," ER 2-20, 21, *Moore* held that the self-defense interest "is not a property right." *Moore*, at \*12.

Finally, although *Moore* did not employ means-ends scrutiny, it found Illinois "would have to make a stronger showing in this case than [intermediate scrutiny]" to sustain prohibitions impacting "the gun rights of the entire law-abiding adult population of Illinois." *Id.* at \*21.

Sincerely,

/s/ Alan Gura  
Alan Gura

This body of this letter contains 350 words.

cc: Counsel of Record via ECF