

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDWARD PERUTA, et. al.,

*Plaintiffs-Appellants,*

v.

COUNTY OF SAN DIEGO, et. al.,

*Defendants-Appellees.*

No. 10-56971

D.C. No. 3:09-cv-02371-IEG-BGS  
U.S. District Court for Southern  
California, San Diego

**APPELLANTS' UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE OPENING BRIEF**

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C. D. Michel (S.B.N. 144258)  
Sean A. Brady (S.B.N. 262007)  
Bobbie K. Ross (S.B.N. 273983)  
MICHEL & ASSOCIATES, P.C.  
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**Counsel for Plaintiffs-Appellants**

**TO THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

In accordance with Federal Rule of Appellate Procedure 26(b) and Ninth Circuit Rule 31-2.2(b), Plaintiffs-Appellants Edward Peruta, Dr. Leslie Buncher, Mark Cleary, James Dodd, Michelle Laxson, and California Rifle and Pistol Association Foundation (collectively “Appellants”) hereby request a 60-day extension to file their Opening Brief from March 24, 2011 to and including May 23, 2011.

This *unopposed* motion is made on the grounds that due to the press of business, Appellants’ counsel require more time to complete the Opening Brief. It is also made on the grounds that this case has garnered significant interest by parties wishing to file *amici* briefs, and additional time is needed to coordinate with those parties.

**Press of Business**

Appellants’ attorneys from Michel & Associates, P.C., are currently involved in *Jackson v. San Francisco*, No. 09-02143 (N.D. Cal. filed May 15, 2009), litigation with the City and County of San Francisco over the locality’s regulations related to the storage of firearms. An opposition to a motion to

dismiss that is due on March 21, 2011. The Firm's lawyers have also been tied up on numerous other matters, including *Parker v. California*, No. 10CECG02116 (Super. Ct. Fresno, filed June 17, 2010), a recently successful challenge to various ammunition regulations set forth in the California Penal Code. In *Parker*, oral arguments were held just in late January and attorneys' fees are now being sought by Appellants' counsel via noticed motion. Preparations for a pending appeal are also currently underway. (Michel Decl. at ¶¶ 6-8; Declaration of Sean A. Brady at ¶¶ 4-6.). The Firm's attorneys are also involved in *Center for Biological Diversity, et al. v. Jackson, et al.*, No. 10-02007 (D.D.C. filed Nov. 10, 2010), a suit dealing with an attempted ban on traditional lead ammunition. (Michel Decl. ¶ 9.)

This litigation has consumed a great deal of time (and will continue to consume a great deal of time) on the part of C. D. Michel, the senior partner of Michel & Associates.

#### ***Amici Curiae Briefs***

The *Peruta v. San Diego* matter has generated significant interest, and Appellants have been contacted by various civil rights groups wishing to file *amici* briefs in support of their position. However, these parties have expressed concern

regarding their ability to have their *amici* briefs completed by March 31st.<sup>1</sup>

(Michel Decl. at ¶ 10.)

### **Appellees Do Not Oppose This Motion**

On February 24, 2011, Mr. Brady contacted Appellees' counsel, James Chapin, to determine whether Appellees would oppose this motion. On February 24, 2011, Mr. Chapin confirmed that Appellees would not oppose the motion. (Brady Decl. at ¶ 8.) Therefore, Appellants and Appellees agree that a 60-day extension for Appellants to file their Opening Brief would be sufficient. Upon the granting of this motion, Appellants' Opening Brief would be due on or before May 23, 2011.

Appellants' counsel has exercised diligence in attempting to prepare the Opening Brief in a timely manner and will have the Opening Brief filed on or before the May 23, 2011 deadline sought in this request. (Michel Decl. at ¶ 11; Brady Decl. at ¶ 9.)

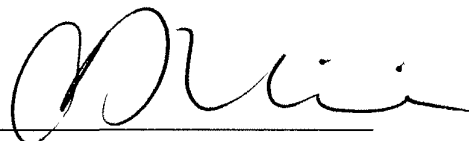
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<sup>1</sup> Under the Time Schedule Order in this case, Appellants' opening brief is due on or before March 24, 2011. Fed. R. App. P. 29(e) provides that the brief of an *amicus curiae* is due within seven (7) days of the principal brief of the party whose position the *amicus curiae* supports, which would be March 31, 2011.

To Appellants' knowledge, the court reporter is not currently in default with regard to any designated transcripts. (Michel Decl. at ¶ 14; Brady Decl. at ¶ 10)

Date: March 3, 2011

MICHEL & ASSOCIATES, P.C.

A handwritten signature in black ink, appearing to read "Michel", written over a horizontal line.

C. D. Michel

Attorneys for *Plaintiffs-Appellants*

10-56971
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# CERTIFICATE OF SERVICE

## When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) March 2, 2011:

March 3, 2011

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

s/ C. D. Michel

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# CERTIFICATE OF SERVICE

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No. 10-56971

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U.S. District Court for Southern  
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**DECLARATION OF C. D. MICHEL  
IN SUPPORT OF APPELLANTS' UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE OPENING BRIEF**

---

C. D. Michel (S.B.N. 144258)  
Sean A. Brady (S.B.N. 262007)  
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Fax No: (562) 216-4445  
e-mail: cmichel@michellawyers.com

**Counsel for Plaintiffs-Appellants**

**DECLARATION OF C. D. MICHEL**

I, C. D. Michel, declare as follows:

1. I am an attorney at law duly licensed to practice in the State of California and before the Ninth Circuit Court of Appeals. I am Senior Partner at Michel & Associates, P.C., attorneys of record for Plaintiffs-Appellants. I am familiar with the facts and pleadings herein. The following is within my personal knowledge and if called and sworn as a witness, I could and would competently testify thereto.

2. Plaintiffs-Appellants' opening brief in this case is currently due on March 24, 2011.

3. Plaintiffs-Appellants respectfully request a sixty-day extension of the time to file their opening brief in this matter, thereby making the brief due on May 23, 2011.

4. Michel & Associates is currently engaged in litigation over the City and County of San Francisco's regulations related to the storage of firearms in the lawsuit, *Jackson v. San Francisco*, No. 09-02143 (N.D. Cal. filed May 15, 2009). This litigation has consumed a great deal of time, and will continue to consume a great deal of time, on my part as I am managing the *Jackson* case.



5. Our opposition to Defendants' motion to dismiss in *Jackson* is due on March 21, 2011.

6. In addition, Sean Brady and I recently completed a successful challenge to various ammunition regulations set forth in the California Penal Code in the lawsuit, *Parker v. California*, No. 10CECG02116 (Super. Ct. Fresno, filed June 17, 2010). This lawsuit consumed the vast majority of my time in late December and for most of January.

7. Oral arguments in *Parker* were held in late January, which both Mr. Brady and I had to prepare for and attend.

8. Michel & Associates is currently seeking attorneys' fees in *Parker* via noticed motion, and preparations for an impending appeal are currently underway.

9. I am also involved in *Center for Biological Diversity, et al. v. Jackson, et al.*, No. 10-02007 (D.D.C. filed Nov. 10, 2010), a suit dealing with an attempted ban on traditional lead ammunition, where I am representing the Defendant-Intervenor and spent a substantial amount of time preparing the motion to intervene on behalf of multiple parties and obtaining supportive declarations.

10. Appellants have been in contact with various civil rights groups wishing to file *amici* briefs in support of their position. However, these parties have expressed concern regarding their ability to have their *amici* briefs completed

by March 31st.

11. Michel & Associates has exercised diligence in pursuing Plaintiffs-Appellants' appeal and will file the opening brief within the time requested.

12. Counsel for Defendants-Appellees does not object to Plaintiffs-Appellants' request for an extension of time to file their opening brief.

13. To my knowledge, the court reporter is not currently in default with regard to any designated transcripts.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 3<sup>rd</sup> day of March, 2011, at San Diego, California.



C. D. Michel

9th Circuit Case Number(s) 10-56971

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### CERTIFICATE OF SERVICE

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U.S. District Court for Southern  
California, San Diego

**DECLARATION OF SEAN A. BRADY  
IN SUPPORT OF APPELLANTS' UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE OPENING BRIEF**

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C. D. Michel (S.B.N. 144258)  
Sean A. Brady (S.B.N. 262007)  
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Fax No: (562) 216-4445  
e-mail: cmichel@michellawyers.com

**Counsel for Plaintiffs-Appellants**

**DECLARATION OF SEAN A. BRADY**

I, Sean A. Brady, declare as follows:

1. I am an attorney at law duly licensed to practice in the State of California and before the Ninth Circuit Court of Appeals. I am an Associate attorney at Michel & Associates, P.C., attorneys of record for Plaintiffs-Appellants. I am familiar with the facts and pleadings herein. The following is within my personal knowledge and if called and sworn as a witness, I could and would competently testify thereto.
2. Plaintiffs-Appellants' opening brief in this case is currently due on March 24, 2011.
3. Plaintiffs-Appellants respectfully request a sixty-day extension of the time to file their opening brief in this matter thereby making the brief due on May 23, 2011.
4. Mr. Michel and I recently completed a successful challenge to various ammunition regulations set forth in the California Penal Code in the lawsuit, *Parker v. California*, No. 10CECG02116 (Super. Ct. Fresno, filed June 17, 2010). This lawsuit consumed the vast majority of my time in late December and for most of January.
5. Oral arguments in *Parker* were held in late January, which both Mr.

Michel and I both had to prepare for and attend.

6. Michel & Associates is currently seeking attorneys' fees in *Parker* via noticed motion, and preparations for an impending appeal are currently underway.

7. In addition, I was out of the office for a week and a half during early February due to severe illness, and time allocated for preparing the Opening Brief in this appeal was lost.

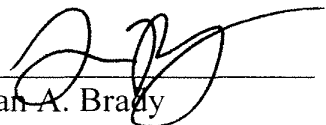
8. I contacted the Defendants-Appellees' attorney James Chapin on February 24, 2011 regarding this extension request via e-mail. That same day, Mr. Chapin responded to my request with e-mail and agreed that Defendants-Appellees would not oppose this motion for extension of time to file.

9. Michel & Associates has exercised diligence in pursuing Plaintiffs-Appellants' appeal and will file the opening brief within the time requested.

10. To my knowledge, the court reporter is not currently in default with regard to any designated transcripts.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 3<sup>rd</sup> day of March, 2011, at Long Beach, California.

  
Sean A. Brady

9th Circuit Case Number(s) 10-56971

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