

FIREARMS LITIGATION REPORT

March 2016

Prepared By:



NRA/CRPA California and Ninth Circuit Litigation Matters

Issue of Case	Case Name	Status of Case	Timeline
CA CCW "good cause" requirement	<u>Peruta v. San Diego</u>	Oral arguments took place before an 11-judge "en banc" panel of the 9th Circuit Court of Appeals in June 2015.	A decision from the court is expected anytime.
Orange County Sheriff CCW Issuance Policies	<u>McKay v. Hutchens</u>	The case has been stayed pending the resolution of <i>Peruta</i> .	Unknown.
10+ Round Magazine Possession Ban	<u>Fyock v. Sunnyvale</u>	In March 2015, the 9th Circuit Court of Appeals upheld the lower court's denial of plaintiff's request for an order prohibiting enforcement of the ordinance while the case was pending.	The case is currently stayed pending the resolution of <i>Peruta v. San Diego</i> .
DROS Fees	<u>Bauer v. Harris</u>	In March 2015, the district court issued an opinion upholding California's use of DROS fees to fund APPS and other law enforcement activities. Plaintiffs have appealed. The case has been fully briefed and is awaiting oral arguments.	Oral arguments will likely be scheduled in the later half of 2016. A decision can be expected anywhere from 3-9 months following oral arguments.
Use of DROS surplus to fund APPS	<u>Gentry v. Harris</u>	An amended complaint alleging the DROS fee is an invalid property tax was filed with the district court in November 2015. The case is currently in the discovery process.	Unknown.

NRA/CRPA California and Ninth Circuit Litigation Matters (cont.)

Issue of Case	Case Name	Status of Case	Timeline
Vagueness challenge to "handgun ammunition" sale registration requirement and mail order ban	Parker v. California	The case is currently awaiting oral arguments before the California Supreme Court.	Oral arguments are expected to take place sometime in 2016. Following oral arguments, a decision can come at any time.
Challenges CA DOJ's underground regulations regarding the Firearm Safety Certificate Program	Belemjian v. Harris	This case forced DOJ to finally begin the process of enacting regulations for the FSC program in February 2015. As a result, the case was dismissed in June 2015. Plaintiffs are now seeking attorney fees to cover the cost of litigation. A hearing on Plaintiff's request for attorney's fees was held on February 18, 2016.	A decision on Plaintiff's request for attorney's fees can come at any time.
Challenges firearm prohibition due to misdemeanor conviction for domestic violation	Baker v. Lynch	In July 2013, the district court granted then Attorney General Eric Holder's motion to dismiss the case. This decision has been appealed to the 9th Circuit Court of Appeals. Plaintiffs filed their opening brief on February 17, 2016.	The Attorney General's opening brief is due March 18, 2016. Once the case is fully briefed, a date for oral arguments will be set, likely at the end of 2016 or early 2017.
Challenges to the City's improper denial of plaintiff's application for a use permit to operate his firearms retail and repair business.	Settergren v. Daly City	The case was filed on January 15, 2016. On February 18, 2016, Daly City filed an answer. The case is now in the discovery process.	Unknown.
Preemption challenge to LA ordinance that bans possession of 10+ Round Magazines	Bosenko v. City of Los Angeles	This case is currently being litigated in the federal district court.	A hearing on Plaintiffs motion for summary judgment will take place in mid to late 2016.

NRA and CRPA regularly provide consulting advice and prepare amicus curiae or “friend of the court” briefs in a number of other firearm related cases. The following cases are those that NRA and CRPA have recently supported or will be supporting in the near future.

California and 9th Circuit Amicus Support

Issue of Case	Case Name	Status of Case	Timeline
Sacramento and Yolo County CCW Issuance Policies	Richards v. Prieto	The case was reheard concurrently with <i>Peruta</i> in June 2015.	A decision from the court is expected anytime.
Hawaii CCW Scheme	Baker v. Kealoha	The case has been stayed pending the resolution of <i>Peruta</i> .	Unknown.
California Handgun Roster	Pena v. Cid	The federal district court held the Roster constitutional on February 25, 2015. Plaintiffs have appealed. The case has been fully briefed and is awaiting oral arguments.	Oral arguments will likely be scheduled in the later half of 2016. A decision can be expected anywhere from 3-9 months following oral arguments.
10-Day Wait as applied to Current Firearm Owners	Silvester v. Harris	Oral arguments took place before a 3-judge panel of the 9th Circuit Court of Appeals on February 9, 2016.	A decision from the court is expected in the next 3-9 months.
1st Amendment challenge to handgun advertisement prohibition	Tracy Rifle and Pistol v. Harris	In July 2015, the district court declined to issue an order prohibiting the enforcement of the ban while the case was pending. This decision was appealed, and oral arguments were heard concurrently with <i>Silvester</i> on February 9, 2016.	A decision from the court is expected in the next 3-9 months.
FFL zoning ordinance	NSSF v. City of Pleasant Hill	The case is pending trial before the Contra Costa Superior Court.	Unknown.
CA DOJ regulation prohibiting sale of more than one handgun in 30 day period to valid certificate of eligibility holders	Doe v. Harris	On January 13, 2016, DOJ filed a motion for summary judgment on the merits of the case. On February 19, 2016, the court held a hearing on DOJ’s motion.	A decision on DOJ’s motion can come at any time. Otherwise, the case is currently scheduled to go to trial on March 21, 2016.

California and 9th Circuit Amicus Support (cont.)

Issue of Case	Case Name	Status of Case	Timeline
This suit challenges a total ban on the possession and carriage of firearms on public and recreational Army Corps' lands.	<u>Nesbitt v. U.S. Army Corps of Engineer</u>	The case has been fully briefed and is awaiting oral arguments before the 9th Circuit Court of Appeals.	Oral arguments are expected to take place in 2016. A decision can be expected anywhere from 3-9 months following oral arguments.
Challenges California's microstamping requirements for Handguns	<u>NSSF v. California</u>	The case is currently being briefed before the California Court of Appeals.	Once the case is fully briefed, a date for oral arguments will be set, likely toward the end of 2016. A decision can be expected anywhere from 3-9 months following oral arguments.

NRA and CRPA also provide assistance in a number of critical Second Amendment cases across the country that could set valuable precedent for future challenges to California gun laws. The following are a few of the mere significant examples of these cases.

National Amicus Support

Issue of Case	Case Name	Status of Case	Timeline
Challenges Maryland's ban on "assault weapons" and "large-capacity" magazines	<u>Kolbe v. O'Malley</u>	On February 4, 2016, the 4th Circuit Court of Appeals issued an opinion over turning the district court's approval of the ban under intermediate scrutiny, and ordering the district court to apply "strict scrutiny" to the laws. The State filed a petition for an "en banc" rehearing of the case by the 4th Circuit.	The court has ordered the plaintiffs to file a response to the State's petition for an "en banc" hearing by February 29, 2016. Following this response, a decision by the 4th Circuit on whether or not to rehear the case "en banc" can come at any time.

National Amicus Support (cont.)

Issue of Case	Case Name	Status of Case	Timeline
<p>Challenges Washington D.C.’s “good reason” requirement for the issuance of a CCW permit</p>	<p><u>Grace v. District of Columbia</u></p>	<p>The plaintiffs filed a motion for an order prohibiting enforcement of the “good reason” requirement while the case is pending. A hearing on this motion was held on February 10, 2016. On February 16, 2016, the plaintiffs filed a motion asking the court to rule the merits of the case.</p>	<p>A decision from the court on the plaintiff’s motions can come at any time.</p>
<p>Challenges Washington D.C.’s excessive firearm registration requirements</p>	<p><u>Heller (III) v. District of Columbia</u></p>	<p>On September 18, 2015, the D.C. Circuit Court of Appeals issued an opinion striking down the majority of Washington D.C.’s firearm registration requirements as a violation of the Second Amendment. On October 19, 2015, D.C. filed a petition for an “en banc” rehearing of the case by a larger panel of the D.C. Circuit. On November 6, 2015, the plaintiffs filed a response to D.C.’s request for an “en banc” rehearing.</p>	<p>A decision as to whether the case will be reheard “en banc” by the D.C. Circuit can come at any time.</p>
<p>Challenges Colorado’s ban on 15+ round magazines</p>	<p><u>Colorado Outfitters v. Hickenlooper</u></p>	<p>Oral arguments took place before a 3-judge panel of the 10th Circuit Court of Appeals on September 28, 2015.</p>	<p>A decision by the D.C. Circuit Court of Appeals on whether or not to rehear the case “en banc” can come at any time.</p>