

December 15, 2015

Via: E-File

Clerk of the Court  
U.S. Court of Appeals for the Ninth Circuit  
95 7<sup>th</sup> Street  
San Francisco, California 94103-1526

Re: *Teixeira, et al., v. County of Alameda, et al.*,  
Case No.: 13-17132  
Status: The case was argued and submitted on December 8,  
2015.  
Action: Distribute this Fed. R. App. Proc. Rule 28(j) letter as  
appropriate given the status of the case.

Your Honors:

On the issue (raised by the Court during oral argument) of whether the Second Amendment protects the rights of individuals to *sell* firearms, Appellant's respectfully cite to the case of *Mance, et al, v. Holder, et al.*, 74 F. Supp. 3d 795; 2015 U.S. Dist. LEXIS 16679 (U.S. District Court, Northern District of Texas, Fort Worth Division).

That case managed to reach the stage of cross-motions for summary judgment. In its memorandum opinion and order, the trial court wrote:

Though *Heller* endorsed laws that imposed conditions and qualifications on the commercial sale of firearms, a court must necessarily examine the nature and extent of an imposed condition to analyze its constitutionality. *Marzzarella*, 614 F.3d at 92 n.8. "If there were somehow a categorical exception for these restrictions, it would follow that there would be no

constitutional defect in prohibiting the commercial sale of firearms. Such a result would be untenable under *Heller*." *Id.* (emphasis added). Accordingly, the Court finds that operating a business that provides Second Amendment services is generally protected by the Second Amendment, and prohibitions on firearms sales are subject to similar scrutiny.

*Id.*, at 808, fn. 8.

The *Mance* case along with the reasons set forth in *Illinois Association of Firearm Retailers, et al. v. City of Chicago*, 961 F. Supp. 2d 928; 2014 U.S. Dist. LEXIS 782 (U.S. District Court for the Northern District of Illinois - Eastern Division) [see DktEntry 60] compel a remand of this case to the District Court with an explanation of the evidentiary burdens and quality of proof necessary for a full adjudication of the issues raised in this case.

A true and correct copy of the *Mance, et al, v. Holder, et al.*, decision is attached.

This letter contains 292 words.

Respectfully Submitted,  
/s/  
Donald Kilmer  
Attorney for Appellants

## CERTIFICATE OF SERVICE

On this, December 15, 2015, I served the foregoing NOTICE OF SUPPLEMENTAL AUTHORITY by electronically filing it with the Court's ECF/CM system, which generated a Notice of Filing and effects service upon counsel for all parties in the case.

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

Executed on December 15, 2015.

/s/ Donald Kilmer  
Attorney of Record for Appellants