

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

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**MEDIATION QUESTIONNAIRE**

This form is available in a fillable version at [http://cdn.ca9.uscourts.gov/datastore/uploads/forms/Mediation\\_Questionnaire.pdf](http://cdn.ca9.uscourts.gov/datastore/uploads/forms/Mediation_Questionnaire.pdf).

The purpose of this questionnaire is to help the court’s mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are *not* confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	15-15449	
District Court/Agency Case Number(s):	2:09-CV-01185-KJM-CKD	
District Court/Agency Location:	Eastern Dist. of California	
Case Name:	Pena, et al.	v. Lindley
If District Court, docket entry number(s) of order(s) appealed from:	94, 95	
Name of party/parties submitting this form:	Ivan Pena, Dona Croston, Roy Vargas, Brett Thomas, Second Amendment Foundation, Inc., Calguns Foundation, Inc.	

Briefly describe the dispute that gave rise to this lawsuit.

California prohibits most law-abiding, responsible citizens from acquiring many handguns that are in common use for traditional lawful purposes. Cal. Penal Code § 31900, et seq. Plaintiffs-Appellants challenge this prohibition as a violation of their Second and Fourteenth Amendment rights.

Briefly describe the result below and the main issues on appeal.

On cross-motions for summary judgment, the District Court upheld the Act’s constitutionality. The main issues on appeal are whether the state may prohibit handguns that are in common use for traditional lawful purposes because it prefers that handguns have particular features, some of which are impractical or non-existent; prohibit handguns for arbitrary, non-safety related reasons; and enforce arbitrary classifications as to who may acquire particular handguns whose acquisition and possession are secured by the Second Amendment.

*(Continue to next page)*

Describe any proceedings remaining below or any related proceedings in other tribunals.

None.

Provide any other thoughts you would like to bring to the attention of the mediator.

This case is not capable of being mediated, as California will not concede that its laws are unconstitutional.

*Any party may provide additional information **in confidence** directly to the Circuit Mediation Office at [ca09\\_mediation@ca9.uscourts.gov](mailto:ca09_mediation@ca9.uscourts.gov). Provide the case name and Ninth Circuit case number in your message. Additional information might include level of interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.*

**CERTIFICATION OF COUNSEL**

I certify that:

a current service list with telephone and fax numbers and email addresses is attached (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list may result in sanctions, including dismissal of the appeal.

Signature

s/ Alan Gura

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Appellants

***How to File:*** Complete the form and then convert the filled-in form to a static PDF (File > Print > PDF Printer or any PDF Creator). To file, log into Appellate ECF and select File Mediation Questionnaire. (*Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system.*)

## SERVICE LIST

### Plaintiffs-Appellants:

Ivan Peña, Doña Croston, Roy Vargas, Brett Thomas,  
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Calguns Foundation, Inc.

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### Defendant-Appellee:

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## CERTIFICATE OF SERVICE

On this, the 18<sup>th</sup> day of March, 2015, 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 CM/ECF system. Participants in this appeal are registered CM/ECF users who will be served by the CM/ECF system on March 18, 2015.

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

Executed this the 18<sup>th</sup> day of March, 2015.

/s/ Alan Gura

Alan Gura