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11  
12 **UNITED STATES DISTRICT COURT**  
13 **SOUTHERN DISTRICT OF CALIFORNIA**  
14

15 EDWARD PERUTA, MICHELLE  
LAXSON, JAMES DODD, DR.  
16 LESLIE BUNCHER, MARK  
CLEARY, and CALIFORNIA RIFLE )  
17 AND PISTOL ASSOCIATION  
FOUNDATION )

18 Plaintiffs,

19 v.

20 COUNTY OF SAN DIEGO,  
21 WILLIAM D. GORE,  
INDIVIDUALLY AND IN HIS  
22 CAPACITY AS SHERIFF,

23 Defendants.  
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**CASE NO: 09-CV-2371 IEG (BGS)**  
**DECLARATION OF MARK CLEARY**  
**IN SUPPORT OF PLAINTIFFS'**  
**MOTION FOR PARTIAL SUMMARY**  
**JUDGMENT**

Date: November 1, 2010  
Time: 10:30 a.m.  
Location: Courtroom 1  
Judge: Hon. Irma E. Gonzalez  
Date Action Filed: October 23, 2009

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**DECLARATION OF MARK CLEARY**

I, Mark Cleary, declare as follows:

1. I am a resident of San Diego County and a United States Citizen over 21 years of age.

2. I originally submitted a completed official Department of Justice application form for a permit to carry a concealed handgun to the San Diego County Sheriff’s License Division on or about February 24, 2005. Exhibit “K” is a true and accurate copy of the relevant pages of that completed application.

3. In my original application, I provided as my “good cause” the fact that I worked as a Registered Nurse on a psychiatric evaluation team for several years, and that during that time I worked with depressed and psychotic, mentally ill patients, some of whom have threatened to harm me and/or assaulted me. I also provided three police reports documenting specific incidents of threats to my person by patients I cared for. *See Exhibit “K.”*

4. On or about April 8, 2005, I went to the Sheriff’s Department, located at 9621 Ridgehaven Court, San Diego, California, to meet with Jerry Quinlin, Tom Morton, and Edna Jaquez. They asked me about my “need” for a permit to carry a concealed handgun. I explained to them what I had provided in my “good cause” statement. Tom Morton explained to me that the Sheriff’s Department is “pretty strict” in issuing permit to carry a concealed handgun. They then told me I could withdraw my application, and if I did not withdraw it, I would have a denial on my record with the Department of Justice. *See Exhibit “L” (Interdepartmental correspondence from Edna Jaquez explaining the details of this meeting).*

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1           5. My February 24, 2005 application for a permit to carry a concealed  
2 handgun was denied on or about July 25, 2005. The letter stated “although you  
3 claim you are a target of repeated threats and provide some documentation, they do  
4 not rise to the level to establish good cause for issuance.” Exhibit “M” is a true and  
5 accurate copy of the letter I received from the San Diego County Sheriff’s License  
6 Division.

7           6. I became a member of the Honorary Deputy Sheriff’s Association  
8 (“HDSA”) in or around August of 2005. I asked a friend of mine, who is a San  
9 Diego County Sheriff’s deputy, to nominate me to be a member of the HDSA. I  
10 received an application packet from HDSA inquiring into my assets and any  
11 characteristics I possess that could be useful to the organization. I submitted the  
12 membership application, and received a letter accepting me into the HDSA. I paid  
13 the required \$175 fee to obtain the rank of Deputy in the HDSA. I attended a  
14 meeting where the Sheriff Kolender was present and handed out honorary badges  
15 to those HDSA members in attendance.

16           7. My reason for becoming a member was I had heard rumors that a member  
17 is more likely to receive a permit to carry a concealed handgun from the San Diego  
18 County Sheriff’s License Division than is a non-member. These rumors were  
19 confirmed in my conversations with HDSA members and others. Based on these  
20 conversations, I discovered it was common knowledge among everyone who had  
21 any relation to the San Diego County Sheriff’s process for issuing permits to carry  
22 a concealed handgun that certain people, including HDSA members, received  
23 preferential treatment when applying for a permit to carry a concealed handgun.

24           8. On or about September 2, 2005, I submitted a formal request for review of  
25 the denial of my February 24, 2005 application to the San Diego County Sheriff’s  
26 License Division. Exhibit “N” is a true and accurate copy of the letter I sent to the  
27 San Diego County Sheriff’s License Division.

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1           9. In early November of 2005, I spoke with then Undersheriff William D.  
2 Gore in person at his office, located at 9621 Ridgehaven Court, San Diego,  
3 California, and explained to him that my application for a permit to carry a  
4 concealed handgun had been denied, and asked him to reconsider granting my  
5 application. Sheriff Gore (who at the time was Undersheriff) listened to the details  
6 of my case and told me he would see what he could do.

7           10. On or about November 28, 2005, without warning, my first permit to  
8 carry a concealed handgun arrived in the mail. That permit was set to expire on  
9 November 28, 2007.

10           11. The San Diego County Sheriff's Department granted my first renewal  
11 application for a permit to carry a concealed handgun on or about November 26,  
12 2007. That permit was set to expire on November 25, 2009. Exhibit "O" is a true  
13 and accurate copy of that application. At that time, I was working at the same  
14 hospital where I am currently employed, with the same duties, and I remained a  
15 member of the Honorary Deputy Sheriff's Association.

16           12. On or about November 23, 2009, I submitted an application for a  
17 renewal of my November 26, 2007 permit to carry a concealed handgun. Exhibit  
18 "P" is a true and accurate copy of that application.

19           13. On or about December 14, 2010, I spoke with Jerry Quinlin of the San  
20 Diego County Sheriff's Department. He requested additional documentation from  
21 me, including a letter from my supervisor at work. When I explained that I feared  
22 losing my job by making such a request to my supervisor and that such a letter from  
23 my current employer was in my file from my previous application, as well as a  
24 similar letter from my previous employer for my original permit. Mr. Quinlin told  
25 me that I could withdraw my application for a permit to carry a concealed handgun.

26           14. I ceased being a member of the Honorary Deputy Sheriff's Association  
27 in January of 2010 because I was having financial issues and could not afford to  
28 continue paying the \$175-\$250.00 I paid in annually to be a member.

1 15. On or about March 17, 2010, I received a letter from the San Diego  
2 County Sheriff's License Division, signed by Blanca Pelowitz as the Manager of  
3 the License Division, denying my November 23, 2009 application. That letter  
4 stated: "your request and lack of supporting documentation does not establish good  
5 cause for issuance at this time." Exhibit "Q" is a true and accurate copy of that  
6 letter I received from the San Diego County Sheriff's License Division.

7 16. On or about April 28, 2010, a Motion for Leave to Amend Complaint  
8 was filed in this lawsuit adding, among other individuals, me as a plaintiff thereto.

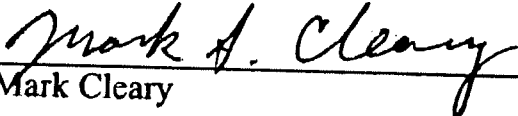
9 17. On or about May 11, 2010, I submitted to Assistant Sheriff R. Ahern a  
10 formal request for review of the San Diego County Sheriff's Department's denial of  
11 my renewal application for a permit to carry a concealed handgun. Exhibit "R" is a  
12 true and accurate copy of my official request for review.

13 18. On or about June 10, 2010, I met with Commander Patricia J. Duke, Law  
14 Enforcement Services Bureau to discuss my formal request for review of the denial  
15 of my renewal application.

16 19. On or about June 14, 2010, I received a letter from the San Diego  
17 County Sheriff's Department, signed by Commander Patricia J. Duke, overturning  
18 the decision to deny my renewal application and issuing me a permit to carry a  
19 concealed handgun. Exhibit "S" is a true and accurate copy of that letter I received  
20 from Commander Patricia J. Duke.

21 I declare under penalty of perjury under the laws of the state of California  
22 that the foregoing is true and correct.

23 Executed in the United States on September 3, 2010.

24  
25   
26 Mark Cleary  
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**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

EDWARD PERUTA,  
MICHELLE LAXSON, JAMES  
DODD, DR. LESLIE  
BUNCHER, MARK CLEARY,  
and CALIFORNIA RIFLE  
AND PISTOL ASSOCIATION  
FOUNDATION

Plaintiff,

v.

COUNTY OF SAN DIEGO,  
WILLIAM D. GORE,  
INDIVIDUALLY AND IN HIS  
CAPACITY AS SHERIFF,

Defendants.

CASE NO. 09-CV-2371 IEG (BGS)

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 E. Ocean Blvd., Suite 200, Long Beach, California, 90802.

I am not a party to the above-entitled action. I have caused service of:

**DECLARATION OF MARK CLEARY IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

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Facsimile: (619) 231-8759  
pneuharth@sbcglobal.net

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on September 3, 2010.

/s/ C.D. Michel  
C. D. Michel  
Attorney for Plaintiffs