

## Firearms Trade Association, Manufacturers' Institute Seek to Invalidate Unworkable Microstamping Law

Released by National Shooting Sports Foundation

NEWTOWN, Conn. -- The National Shooting Sports Foundation (NSSF) and the Sporting Arms and Ammunition Manufacturers' Institute (SAAMI) today, January 9, 2014, filed a lawsuit on behalf of their members against the State of California in Fresno Superior Court challenging the state's microstamping law. NSSF and SAAMI seek to invalidate and enjoin enforcement of provisions of state law enacted in 2007, but not made effective until May 2013, requiring that all semiautomatic pistols sold in the state not already on the California approved handgun roster contain unproven and unreliable microstamping technology.

Under this law, firearms manufacturers would have to micro laser-engrave a gun's make, model and serial number on two distinct parts of each gun, including the firing pin so that, in theory, this information would be imprinted on the cartridge casing when the pistol is fired.

"There is no existing microstamping technology that will reliably, consistently

and legibly imprint the required identifying information by a semiautomatic handgun on the ammunition it fires. The holder of the patent for this technology himself has written that there are problems with it and that further study is warranted before it is mandated. A National Academy of Science review, forensic firearms examiners and a University of California at Davis study reached the same conclusion and the technical experts in the firearms industry agree," said Lawrence G. Keane, NSSF senior vice president and general counsel. "Manufacturers can not comply with a law the provisions of which are invalid, that cannot be enforced and that will not contribute to improving public safety. As a result, we are seeking both declaratory and injunctive relief against this back-door attempt to prevent the sale of new semiautomatic handguns to law-abiding citizens in California."

In 2007, California Assembly Bill 1471 was passed and signed into law requiring microstamping on internal parts of new

semiautomatic pistols. The legislation provided that this requirement would only become effective if the California Department of Justice certified that the microstamping technology is available to more than one manufacturer unencumbered by patent restrictions. The California legislature subsequently reorganized certain statutes concerning the regulation of firearms, including the microstamping law in 2010. On May 17, 2013, Attorney General Kamala D. Harris provided such certification.

**Editor's Note:** Gun Owners of California is committed to supporting this lawsuit in coordination with our friends at NSSF and SAAMI.



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- Regular newsletters informing members of pending legislation and issues affecting gun rights.
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## Second Amendment Rights Affirmed by the Ninth Circuit Court of Appeals... WHAT?

By Sam Paredes - Executive Director

Remember Thursday, February 13, 2014. It was a very bad day for folks like San Diego County Sheriff William D. Gore, Senator Darrell Steinberg, former Assemblyman Anthony Portantino, Governor Jerry Brown and those lovers of the constitution... the Brady Campaign.

Instead of trying to be glib and pithy (I will do that later...) let me just cut to the chase and share with you the concluding paragraphs from the 9th Circuit Court of Appeals opinion in the case of *Peruta v. San Diego*:

*We are well aware that, in the judgment of many governments, the safest sort of firearm-carrying regime is one which restricts the privilege to law enforcement with only narrow exceptions. Nonetheless, "the enshrinement of constitutional rights necessarily takes certain policy choices off the table. . . . Undoubtedly some think that the Second Amendment is outmoded in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem. That is perhaps debatable, but what is not debatable is that it is not the role of this Court [or ours] to pronounce the Second Amendment extinct." Id. at 636. Nor may we relegate the bearing of arms to a "second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees that we have held to be incorporated into the Due Process Clause." McDonald, 130 S. Ct. at 3044.*

*The district court erred in denying the*

*applicant's motion for summary judgment on the Second Amendment claim because San Diego County's "good cause" permitting requirement impermissibly infringes on the Second Amendment right to bear arms in lawful self-defense.*

### REVERSED and REMANDED.

Here's the Reader's Digest version: a law-abiding citizen cannot be denied a Carry Concealed Weapon (CCW) Permit because the citizen's reason showing "good cause" isn't good enough. The court is saying a desire for personal protection IS good enough. This will remove the arbitrary nature in which many Chiefs and Sheriffs issue CCWs. The District Court is ordered by the Court of Appeals to grant summary judgment against San Diego County and to direct the Sheriff that he must accept "personal protection or self defense" as "good cause" when issuing CCWs.

Now specifically, it is important to give credit where credit is due. Gun Owners of California wants to thank San Diego Sheriff William D. Gore for his refusal to change his unconstitutional conditions for the issuance of CCWs. Had he relented and instituted a constitutionally friendly approach to issuing CCWs, this ruling may never had occurred and every law-abiding citizen who resides in Alaska,

Arizona, California, Hawaii, Idaho, Montana, Nevada, Washington, Guam and the Northern Mariana Islands would not have been informed by the courts that the 2nd Amendment protects their right to "bear arms" outside their home (either open or concealed or both). Yes, we know that this court's ruling was issued by a three judge panel including Justices O'Scannlain, Callahan and Thomas. And yes, we know that it was a 2 to 1 decision where Justice Thomas dissented concluding that:

*A careful examination of the narrow questions before us can only lead to the conclusion that San Diego County's "good cause" policy falls squarely within the Supreme Court's definition of "presumptively lawful regulatory measures." Heller, 554 U.S. at 626, 627*

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n.26, 636. There is no need to reach any other issue presented in the case. In dealing a needless, sweeping judicial blow to the public safety discretion invested in local law enforcement officers and to California's carefully constructed firearm regulatory scheme, the majority opinion conflicts with Supreme Court authority, the decisions of our sister circuits, and our own circuit precedent. . . .

Our interpretation of Justice Thomas' dissent: You can't do that, it screws up California's complicated and confusing gun control laws and prevents Chiefs and Sheriffs from being arbitrary and capricious in the manner in which they grant CCWs.

To Senator Darrell Steinberg (D-Sacramento), your admitted hate of the 2nd Amendment and what it means, as opposed to what you WISH it meant (remember we heard you in committee saying "I wish I could change the 2nd Amendment so that it would only allow certain guns. . ."), fuels the anti-gun fervor in the legislature encouraging your Democrat members to overreach and blindly fight for more gun control. We hope your protégé' Senator Kevin de Leon (D-Los Angeles), who has also felt the sting of defeat in the courts regarding his unconstitutional efforts for more gun control, will take heed when he is again informed that his proposals will end up in the court room shredder. (It's a shame that taxpayer's hard-earned dollars are continuously wasted defending losing battles in the courts. The loss of the Peruta case is estimated to cost the taxpayers of San Diego County upwards of a million dollars and will climb with every appeal. Those are the costs that the county will have to pay to cover OUR attorney's fees. . .)

To former Assemblyman Anthony Portantino (D-Pasadena) . . . who you ask? Remember him? He was the guy who sponsored AB 144 in 2011 to ban *open carry* of handguns and AB 1527 in 2012 to ban *open carry* of long guns. He was the one who ignored warnings that his bills, if signed into law, would end up being the mechanism that would force even our left leaning courts to make California, for all intents

and purposes, a "Shall Issue" state on CCWs. Heck, I was even quoted in the L.A Times September 28, 2012 making that prediction:

*Sam Paredes, executive director of the advocacy group Gun Owners of California, said the ban could lead, paradoxically, to more carrying of handguns. Courts, he reasoned, could now force the state's police to distribute more concealed-weapon permits to allow citizens to exercise their rights. "This situation will be a catalyst to unite all of the gun community in lawsuits," Paredes said. "The probable outcome is you will have far more people carrying concealed loaded guns as opposed to openly carrying unloaded guns."*

Whoa . . .

To Governor Jerry Brown, who as candidate Jerry Brown promised fidelity to hunters and shooters saying he was good on guns, and who said he listened to law enforcement when he signed the bans on open carry . . . maybe he should start listening to the United States Constitution first. . .

To the Brady Campaign, what will you come up with next . . . oh yeah, ban 3D printed guns. . .

Well that's enough fun. Now it's time to get really serious and there are things that all pro-gunners need to know.

We are not to the finish line yet, but it's looking pretty good so far. On Friday, February 21st, San Diego County Sheriff Gore informed the County Board of Supervisors of his intention not to seek en banc review in the matter Peruta. . . An en banc hearing of the case by 11 members of the 9th Circuit instead of just the three judge panel, can now only be called for by one of the member judges of the appellate court. Finally, either party can ask for an appeal to the U.S. Supreme Court. When and how the ruling goes into effect depends on what happens next.

We have gotten to this stage because of collaboration and communication amongst the defenders of the 2nd Amendment community in California. Unprecedented unity forced by a realization that we are faced with an implacable opposition. It's a very good thing.

Gun Owners of California, the National Rifle

Association and several other groups all supported the lawsuit led by the California Rifle and Pistol Association Foundation with amicus curiae (friend of the court) briefs that helped develop a case so strong that even the 9th Circuit Court of Appeals could only conclude that our 2nd Amendment rights are absolutely being infringed in California.

To friends of Gun Owners of California, we want to thank you. Your support allowed us to retain one of the top legal minds in the country regarding the 2nd Amendment, Attorney Don B. Kates. Our brief allowed us to convince the court that there is no historical evidence that issuing CCWs lead to higher violence, and in fact, criminological studies and evidence from 40+ states shows that just the opposite is true. That is what happens when people are able to exercise their 2nd Amendment rights.

And finally, a very special thanks and a huge debt of gratitude is owed to Chuck Michel of Michel and Associates and his entire team including Sean Brady, Anna Barvir and Glenn McRoberts. Their work was spectacular and they were brilliant enough to get none other than former United States Solicitor General Paul Clement to argue our case before the 9th Circuit Court of Appeals. It was a stroke of genius. . .

Please continue your support because there's a whole lot more collaborating we have to do in the days to come. . .

To read the complete opinion from the 9th Circuit Court of Appeals and all of the amicus curiae briefs submitted regarding Peruta v. San Diego, go to: <http://michellawyers.com/guncasetracker/perutavsandiego/>

Editor's Note: This opinion was so epic that it has been reported that Sheriff Sandra Hutchens of Orange County has followed in Sheriff Gore's footsteps and has changed her CCW policies to accept *personal protection* or *self defense* as "good cause" even before being instructed to by the courts. Look for other counties to follow.

## Return of the Gun Grabbers - SB 808 by Senator Kevin de Leon (D-LA)

Tuesday morning, January 14th, 2014, the Senate Public Safety committee heard SB 808 by Sen. Kevin de Leon, a bill that would require all owners and makers of 80% guns to register with the DOJ, acquire a serial number, have a background check and be subject to inspection of the location where the 80%er was completed.

Gun Owners of California testified that law abiding citizens have been making these personal guns, which are completely legal under federal law as long as the gun manufactured is legal to possess by the owner, and that no crimes have been committed. We pointed out that there are hundreds of thousands if not over a million 80% receivers that have been manufactured into a complete gun. Sam Paredes, GOC Executive Director, also demonstrated how a small block of wood, some duct tape, a small segment of auto antenna tubing, a nail and some rubber bands constitute an 80% receiver and could easily be assembled into a deadly zip gun.

In Committee, Sen. De Leon actually displayed a fine assortment of so-called "ghost guns" that were made with 80% receivers compared to, as he described, "legal firearms" with manufacturers' markings and serial numbers. He tried to make the point that the state government needs to know who has these guns and must insure that the owners are law-abiding citizens. And, the only way to accomplish this was by requiring registration.

Sen. De Leon does not want to believe that criminals cannot be forced to comply with the registration process called for by SB 808, as it would be an unconstitutional violation of their 5th Amendment right against self incrimination.

One last point, Sen. De Leon held up a fully automatic AR style carbine that was built with an 80% receiver, and he claimed that it

was capable of emptying a "30 caliber clip to disperse with 30 bullets within a half a second." Huh? Well, anyway, that would be a cyclic rate of 3,600 rounds per minute. . . . Not likely. . . actually impossible. . .

This brings to mind a certain quote from Mark Twain: "Get your facts first, then you can distort them as you please. . ."

The fight is just beginning. . .

## 2014 Legislative Update

By GOC Staff

For information on active legislation, go to our website at [www.gunownersca.com](http://www.gunownersca.com), then, click on LEGISLATION. We will list all two-year bills as well as any newly introduced bills. The bill introduction deadline was scheduled after press deadline.

Even with all of our victories in the courts, look for the gun controllers to work overtime in the legislative process. We will be ready for them. . .



## 2014 Fundraising Event List

We have great news! Our fundraising events are growing at a fast pace, which means we are changing locations, raising more money, and bringing new friends into the fight! Check out the list below to see if the event in your area has moved or changed from the classic event you know and love! We promise to continually devote our events to raising funds to put towards the political and legal battles ahead. Regardless of the changes, you and your Second Amendment rights are always at the forefront of our mission.

If you are interested in starting a fundraising committee for GOC in your area, we would love to come alongside you to help in every way possible! If you are interested in attending an event or joining your local fundraising committee, please contact our office today!

### REDDING

March 29  
Win River Resort & Casino

### SACRAMENTO/ROCKLIN: CRAB FEED

April 25  
Citrus Heights Community Center

### OROVILLE

June 13  
Southside Community Center

### IONE SPORTING CLAY SHOOT

June 21  
Camanche Hills Hunting Preserve

### TEHAMA

Date & Location TBD

For more information on our events, purchase tickets or help with a committee, contact Mary Barb at 916-984-1400 or [mary@gunownersca.com](mailto:mary@gunownersca.com).