

SETTLEMENT AGREEMENT

This Settlement Agreement (hereinafter “Agreement”) is entered into by and between ARIE VAN NIEUWENHUYZEN, an individual (“Van Nieuwenhuyzen”), THE CALGUNS FOUNDATION, FIREARMS POLICY COALITION, FIREARMS POLICY FOUNDATION, SECOND AMENDMENT FOUNDATION, and MADISON SOCIETY FOUNDATION (collectively, “Plaintiffs”) on the one hand, and CHAD BIANCO, sued in the action described below as STANLEY SNIFF, in his capacity as Sheriff of the County of Riverside (“Sheriff”), RIVERSIDE COUNTY SHERIFF’S DEPARTMENT, a public entity (“Department”), and COUNTY OF RIVERSIDE, CALIFORNIA, (“County”) (collectively, “Defendants”) on the other hand. Collectively, all of the parties entering into this Agreement shall be referred to herein as the “Parties.”

RECITALS

This Agreement is made and entered into with the following facts taken into consideration:

- A. Plaintiff Arie Van Nieuwenhuyzen, a resident of the County of Riverside, is a Lawful Permanent Resident, but not a citizen, of the United States. On or about September 21, 2018, Plaintiff Van Nieuwenhuyzen legally purchased a handgun and took possession of it on or about October 1, 2018.
- B. Plaintiff Van Nieuwenhuyzen alleges that on or about October 9, 2018, he inquired of the Department regarding his desire to apply for a permit to carry a concealed weapon (CCW) after reviewing the procedures that were as then described on the Department’s website. At the time, the

Department's CCW policy stated that any "full time resident within the County of Riverside" may apply, but further required all applicants to provide a "[c]opy of your birth certificate and/or naturalization papers."

- C. Plaintiff Van Nieuwenhuyzen alleges that on or about October 9, 2018, he was advised by a Deputy of the Department, via email that he could not apply for a CCW with the County, due to the Department's policy prohibiting CCW permits to regarding non-U.S. citizens. Specifically, plaintiff Van Nieuwenhuyzen alleges he was advised that he must be a U.S. Citizen, either born in the U.S. or naturalized, in order to apply for a CCW permit with the Department. Plaintiff Van Nieuwenhuyzen alleges that he was thus dissuaded and discouraged from submitting his CCW application.
- D. On October 19, 2018, all Plaintiffs herein filed an action in the United States District Court, Central District of California, entitled *Van Nieuwenhuyzen, et al. v. Sniff, et al.*, Case No. 5:18-cv-2225-DDP-SHK ("Action"). In the Action, Plaintiffs made claims pursuant to 42 U.S.C. § 1983 for the alleged deprivation of civil rights under color of law, challenging Defendants' purported policies, customs, and practices that prohibited otherwise qualified non-U.S. citizens from both applying for and obtaining a CCW license, and which prevented Plaintiff Van Nieuwenhuyzen from exercising his right to keep and bear arms for self-defense outside his home, in violation of the Equal Protection Clause of Fourteenth Amendment, and the Second Amendment to the United States Constitution. The Complaint in the Action alleged that Defendants had a

long-standing policy, practice and custom of dissuading, discouraging, and preventing non-United States citizens from applying for a CCW license by having a posted, written policy and by telling them when they inquire that only United States citizens may apply for such permits. Plaintiffs' Complaint sought declaratory and injunctive relief, and attorneys' fees pursuant to 42 U.S.C. § 1988.

- E. On October 24, 2018, Plaintiffs filed a Motion for Issuance of Preliminary Injunction ("Motion"), in which Plaintiffs sought to enjoin Defendants from enforcing, and continuing to enforce, implement or abide by their CCW policy to the extent that it prohibits non-U.S. citizens who are otherwise qualified, lawful permanent residents, not prohibited from owning firearms, from applying or obtaining a permit to carry a concealed weapon under state law, Cal. Pen. Code § 26150, et seq.
- F. Defendants were served with the summons and complaint in the Action, and the Motion on October 25 and 26, 2018.
- G. Defendant Stanley Sniff was sued herein and named in his capacity as Sheriff of the County of Riverside. On November 6, 2018, Sheriff Chad Bianco won the election for Sheriff of the County of Riverside. Sheriff Bianco was sworn into office on or about January 8, 2019, replacing former Sheriff and named Defendant Sniff. Defendants have not yet filed an answer or responsive pleading in the Action, and have not opposed the Motion for Preliminary Injunction.
- H. Without admitting or acknowledging the validity of the Plaintiffs' claims, and by mutual agreement to resolve their differences, the Parties now

desire to resolve this dispute between them and agree to settle all claims asserted in the Action by and through the terms set forth herein.

AGREEMENT

With the above facts taken into consideration, and for good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, and in consideration of the mutual terms, provisions, covenants, conditions, understandings, and agreements set forth herein, the Parties hereby agree as follows:

1. **Incorporation of Recitals.** Paragraphs A through H inclusive of the above Recitals are fully incorporated herein. These Recitals are intended and shall be deemed and construed to be a material and integral portion of this Agreement.
2. **Stipulation to Injunctive Relief.** Defendants agree and shall stipulate to the issuance of injunctive relief against them as sought by and through the Plaintiffs' Motion, and shall forthwith file a Statement of Non-Opposition to the Motion, indicating that they do not oppose the relief sought therein. Defendants further agree to the issuance of permanent injunctive relief by agreeing to the form of STIPULATION TO PERMANENT INJUNCTION attached hereto as **Exhibit A**, which relief shall be filed and requested by Plaintiffs for the District Court's endorsement. Defendants waive the issuance or requirement of any bond by Plaintiffs.
3. **Revision of CCW Policy.** Defendants agree that they shall draft and adopt a new policy affecting the issuance of CCW permits, in accordance with Cal. Penal Code § 26150 et seq., which new policy shall neither prohibit, prevent nor discourage non-U.S. citizens who are otherwise qualified, lawful permanent residents, and who are not otherwise prohibited from owning firearms, from applying or obtaining a permit to

carry a concealed weapon under state law. Any such former policies that did prohibit, prevent or discourage non-U.S. citizens who are otherwise qualified lawful permanent residents from applying or obtaining a permit to carry a concealed weapon under state law shall be rescinded, and all indicia of a former citizenship requirement for CCW issuance shall be removed from the official policy appearing on the Department's website. Defendants shall have thirty (30) days from the date this Agreement is made to finalize all changes to their CCW policy pursuant to this paragraph.

4. **CCW Application of Plaintiff Van Nieuwenhuyzen.** Plaintiff Arie Van Nieuwenhuyzen, as a resident of the County of Riverside, shall be permitted to apply to the Riverside County Sheriff's Department for issuance of a CCW pursuant to the provisions of Pen. Code § 26150, et seq. His status as a non-U.S. citizen, but lawful permanent resident of the United States, shall not operate as a bar to his application or approval of such application.

5. **Attorneys' Fees.** In full release of plaintiffs' claim for attorneys' fees and costs pursuant to 42 U.S.C. § 1988, Defendant County of Riverside shall pay to plaintiffs and their attorneys the sum of **\$14,142.83**, within thirty (30) days from the date this Agreement is made. Such payment shall be made payable to: Seiler Epstein Ziegler & Applegate LLP, or to its assignee(s), if any, and sent to: George M. Lee, Seiler Epstein Ziegler & Applegate LLP, 601 Montgomery Street, Suite 2000, San Francisco, CA 94111. Except as provided for herein, all Parties shall bear their own costs and fees incurred in the Action.

6. **Judgment.** As set forth in the Stipulation for Permanent Injunction described in paragraph 2 above (and attached as Exhibit A), and the District Court's approval of such stipulation, the Plaintiffs shall present said Stipulation to the Court, and

shall request that judgment be entered thereon. The Court shall retain jurisdiction to enforce the terms of the Stipulation, and any other terms of this Agreement.

7. **Compromise; No Admission of Liability.** The Parties hereto understand and agree that this Agreement is entered into by the Parties solely for the purpose of compromising and settling the matters in dispute. The Parties hereto further understand and agree that this Agreement does not constitute, nor shall it be construed as or represented to any person as an admission of liability, nor shall any form of consideration for the execution of this Agreement constitute or be construed or represented to any person as an admission of any liability whatsoever.

8. **Release by Plaintiffs.** In exchange for the consideration described herein, Plaintiffs, on their own behalves, and on behalf of each organizational Plaintiff's officers, directors, successors and assignees, do hereby fully release, acquit, and discharge Defendants and their principals, predecessors, successors, employees, agents and assignees, from any and all claims, rights, relief including those at law or in equity, liabilities and causes of action, whether known or unknown, of every kind, nature and character, which Plaintiffs have or ever had against Defendants which concern or pertain to the U.S. citizenship requirement for the application and issuance of CCWs with the County of Riverside, as it has been maintained and administered by the Riverside County Sheriff's Department. Except as set forth in this Agreement, the Plaintiffs hereby release and waive any claims for damages, or other amounts due and owing, including: consequential damages, compensatory damages, general, special, or actual damages, exemplary, punitive and/or statutory damages or civil penalties, attorney's fees (not otherwise provided for herein), expert fees, costs of suit, prejudgment interest, or any other legal or equitable relief of any kind, type or nature arising from any prior policy of

the Defendants requiring U.S. Citizenship for the application and/or issuance of CCWs in the County of Riverside.

9. **Waiver of Civil Code Section 1542.** Except as provided in this Agreement and subject to any other limitations set forth in this Agreement, the Plaintiffs hereby waive the provisions of California Civil Code § 1542 which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

10. **Representations.** The Parties furthermore represent and agree: (i) that they have executed this Agreement with full knowledge of any rights they may have with respect to the parties being settled and released; (ii) that they have received independent legal advice from their respective attorneys with respect to the matters hereinabove set forth, and the rights and asserted rights arising out of said matters; and (iii) that other than the statements of facts and representations obtained within this Agreement, the Parties have not relied upon any statement of material fact, or omission to state a material fact, by any of the signatories to this Agreement, with respect to the matters covered by this Agreement and the underlying dispute between the Parties.

11. **Entire Agreement.** This Agreement constitutes the entire Agreement made by the Parties hereto pertaining to the subject matter hereof and further supersedes any and all prior or contemporaneous understandings, representations, warranties, and agreements made by the Parties hereto or their representatives pertaining to the subject matter hereof, and may be modified only by a written agreement signed by the Parties hereto.

12. **Authority.** All Parties executing this Agreement, whether on behalf of themselves or on behalf of any legal entity, hereby represent and warrant that they are entitled and authorized to execute this Agreement in full and final settlement of this litigation.

13. **Severability.** The Parties hereby acknowledge and agree that if any part of this Agreement is ever found, ruled or held, by any court to be void or unenforceable or otherwise invalid, the invalid, illegal, or unenforceable provisions shall be deemed not part of this Agreement, but the remaining parts of this Agreement shall continue in full force and effect.

14. **Construction.** In construing this Agreement, the following provisions shall govern: (i) This Agreement shall be construed in accordance with the laws of the State of California; and (ii) this Agreement shall not be construed either favorably or adversely against any party to this Agreement merely because of that party's (or their counsel's) involvement in its preparation.

15. **Modification of Agreement.** No modification of this Agreement shall be effective unless it is in writing, signed by all Parties.

16. **Binding on Successors.** This Agreement is binding upon and shall inure to the benefit of and be binding upon all Parties hereto, and each Party's respective principals, heirs, successors, assigns, transferees, parents, affiliates, divisions, subsidiaries, other controlled entities, agents, servants, employees, directors, representatives, partners and attorneys.

17. **Execution in Counterpart.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. The Parties agree that signatures on this

Agreement transmitted via electronic means, such as by facsimile or email shall be deemed an original, binding signature with the same force and effect as the originals.

18. **Capacity of Parties.** By execution hereof, the Parties acknowledge that this Agreement has been carefully read, its contents are known, its contents are fully understood, and it is freely signed. The Parties further acknowledge that they have received independent legal advice and explanation of the terms and effects of this Agreement from independent counsel selected by that party, all prior to execution of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have approved and executed this Agreement on the dates set forth below.

Dated: _____

Arie Van Nieuwenhuyzen

Dated: _____

Calguns Foundation, Inc.

By: _____

Title: _____

Dated: _____

Firearms Policy Coalition, Inc.

By: _____

Title: _____

Dated: _____

Firearms Policy Foundation

By: _____

Title: _____

Dated: _____

Second Amendment Foundation

By: _____

Title: _____

Dated: _____

Madison Society Foundation

By: _____

Title: _____

Dated: _____

Chad Bianco, in his capacity as Sheriff of the
County of Riverside

Dated: _____

Riverside County Sheriff's Department

By: _____

Title: _____

Dated: _____

County of Riverside, California

By: _____

Title: _____

Approval as to Form by Counsel:

Dated: _____

Seiler Epstein Ziegler & Applegate LLP

George M. Lee
Attorneys for Plaintiffs

Dated: _____

Riverside County Counsel

James E. "Jeb" Brown
Assistant County Counsel

EXHIBIT A

1 George M. Lee (SBN 172982)
2 **SEILER EPSTEIN ZIEGLER & APPEGATE LLP**
3 601 Montgomery Street, Suite 2000
4 San Francisco, CA 94111
5 Phone: (415) 979-0500
6 Fax: (415) 979-0511

7 Attorneys for Plaintiffs
8 **ARIE VAN NIEUWENHUYZEN,**
9 **THE CALGUNS FOUNDATION,**
10 **FIREARMS POLICY COALITION,**
11 **FIREARMS POLICY FOUNDATION,**
12 **SECOND AMENDMENT FOUNDATION, and**
13 **MADISON SOCIETY FOUNDATION**

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16 **EASTERN DIVISION**

17 **ARIE VAN NIEUWENHUYZEN, an**
18 **individual; THE CALGUNS**
19 **FOUNDATION; FIREARMS POLICY**
20 **COALITION; FIREARMS POLICY**
21 **FOUNDATION; SECOND**
22 **AMENDMENT FOUNDATION; and**
23 **MADISON SOCIETY FOUNDATION,**

24 **Plaintiffs,**

25 **vs.**

26 **STANLEY SNIFF, in his capacity as**
27 **Sheriff of the County of Riverside;**
28 **RIVERSIDE COUNTY SHERIFF'S**
DEPARTMENT, COUNTY OF
RIVERSIDE, CALIFORNIA,

Defendants.

Case No. 5:18-cv-02225-DDP-SHK

STIPULATION TO PERMANENT
INJUNCTION

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1 In furtherance of a settlement reached by and between all parties, made on
2 March 11, 2019, the parties to this action, plaintiffs Arie Van Nieuwenhuyzen, The
3 Calguns Foundation, Firearms Policy Coalition, Firearms Policy Foundation,
4 Second Amendment Foundation and Madison Society Foundation (“plaintiffs”)
5 and defendants Chad Bianco (sued herein in the name of his predecessor, Stanley
6 Sniff, in his official capacity as the Sheriff of the County of Riverside), the
7 Riverside County Sheriff’s Department, and the County of Riverside, California
8 (“defendants”) hereby agree and stipulate to the issuance of a permanent
9 injunction, and hereby request this Court to enter judgment herein, as follows:

10 1. The Court has jurisdiction over this action pursuant to 28 U.S.C. §
11 1331, 1343, 2201, 2202 and 42 U.S.C. § 1983.

12 2. Venue is proper as to all parties in this District.

13 3. Defendants (and in the case of Sheriff Bianco, his predecessor) were
14 served with the summons and complaint on October 25 and 26, 2018.

15 4. Plaintiffs filed a motion for preliminary injunction on October 24,
16 2018, in which they assert that they demonstrated a likelihood of prevailing on the
17 merits of their claim, insofar as defendants’ policies regarding the issuance of
18 permits to carry concealed weapons (“CCW Policy”) prevented lawful permanent
19 residents, who are otherwise qualified, from applying for CCW permits, that such
20 policies violate the Equal Protection Clause of the 14th Amendment of the United
21 States Constitution, and that such aspect of the CCW Policy is also and otherwise
22 preempted by state law.

23 5. Plaintiffs’ motion for preliminary injunction further alleged that
24 irreparable injury would result in the absence of injunctive relief, due to the
25 deprivation of constitutional rights, and that the balance of relative harms and
26 burdens weighed in favor of granting plaintiffs the injunctive relief requested, and
27 it is in the public interest to prevent the violation of a party’s constitutional rights.
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1 6. Defendants filed a statement of non-opposition to the plaintiff's
2 motion for preliminary injunction on March 12, 2019.

3 7. Without admitting liability or conceding any damage to any of the
4 plaintiffs herein, defendants agree to entry of an order of injunctive relief which
5 would provide as follows:

6 Defendants are now and hereby enjoined from enforcing, and
7 continuing to enforce, implement or abide by any policy regarding the
8 issuance of permits to carry concealed weapons (CCWs) to the extent
9 that such policy prohibited non-U.S. citizens who are otherwise
10 qualified, lawful permanent residents of the County of Riverside, and
11 who are not otherwise prohibited from owning firearms, from
12 applying or obtaining a permit to carry a concealed weapon under
13 state law, Cal. Pen. Code § 26150, et seq.

14 8. Defendants shall have thirty (30) days to finalize all changes to their
15 CCW policy, and eliminate any and all U.S. Citizenship requirements from the
16 Riverside County Sheriff Department's website describing the CCW process, and
17 from its CCW application forms.

18 9. Defendants waive the requirement of a bond for any injunction
19 entered pursuant to this stipulation.

20 10. The issue of plaintiffs' attorneys' fees arising under 42 U.S.C. § 1988
21 has been resolved separately, and to the satisfaction of the parties.

22 11. The parties waive any further finding of facts necessary to enter
23 injunctive relief under Rules 52 and 65 of the Federal Rules of Civil Procedure.

24 12. Plaintiffs shall present this stipulation to the Court, and hereby
25 request that judgment be entered hereon.

26 13. The Court shall retain jurisdiction to enforce the terms of this
27 Stipulation, its injunction, the judgment, and the settlement agreement.

28 SO STIPULATED.

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Dated: March ___, 2019

SEILER EPSTEIN ZIEGLER & APPEGATE LLP

George M. Lee

Attorneys for Plaintiffs

Dated: March ___, 2019

RIVERSIDE COUNTY COUNSEL

James E. Brown

Attorneys for Defendants