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

15 EDWARD PERUTA,
16 Plaintiff,

17 v.

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

) CASE NO: 09-CV-2371 IEG (BGS)
) [PROPOSED] JOINT DISCOVERY
) PLAN (REPORTING OF PARTIES'
) PLANNING MEETING)

22 Plaintiffs Edward Peruta, Dr. Leslie Buncher, California Rifle and Pistol
23 Association Foundation, Michelle Laxson, Mark Cleary, and James Dodd ("Plaintiffs")
24 and Defendant William D. Gore lodge herewith their proposed Discovery Plan,
25 pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and this Court's Order
26 Following Early Neutral Evaluation Conference, Setting Rule 26 Compliance and
27 Notice of Case Management Conference. In preparing this [Proposed] Discovery Plan,
28 the parties complied with Local Rules 26.1 and 83.4.a.1.f .

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I. INTRODUCTION

Pursuant to Fed. R. Civ. Proc. 26(f)(1), a meeting was held on Wednesday, July 7, 2010, via conference call, for the planning of discovery. The meeting was attended by Sean A. Brady on behalf of Plaintiffs and James M. Chapin on behalf of Defendant. The below [Proposed] Discovery Plan is the product of that conference.

II. DISCOVERY PLAN

The parties jointly propose to the Court the following discovery plan pursuant to Fed. R. Civ. Proc. 26(f):

A. Fed. R. Civ. Proc. 26(a)(1) – Initial Disclosures

The parties propose no changes to the timing, form, or requirements for disclosures under Fed. R. Civ. Proc. 26(a)(1) and intend to complete their disclosures on or before July 23, 2010.

B. Fed. R. Civ. Proc. 26(a)(2) –Disclosure of Expert Testimony

Disclosure of the identities of experts that each party may use at trial to present evidence, including the experts' written reports required under Fed. R. Civ. Proc. 26(a)(2)(B), will be exchanged on or before October 22, 2010. The supplemental expert exchange will occur on or before November 12, 2010.

C. Subjects on Which Discovery May Be Needed

1. Plaintiffs

- (i) The policies of the San Diego County Sheriff's Department in issuing permits to carry a concealed weapon ("CCW");
- (ii) The practices of the San Diego County Sheriff's Department in issuing a CCW;
- (iii) The documentary proof of good cause and residency provided by some individual CCW holders;
- (iv) The reasons Plaintiffs were denied a CCW.

2. Defendant

- (i) The basis for allegations specific to each plaintiff.

1 **D. Specific Documents or Categories of Documents that Counsel Wants**
2 **Produced During Discovery**

3 1. Plaintiffs

- 4 (i) Documents concerning Defendants' CCW-issuing policy;
5 (ii) Documents concerning Defendants' CCW files;
6 (iii) Copies of CCW license cards issued by Defendant Gore;
7 (iv) Correspondence between Defendant Gore and persons to whom he
8 has issued a CCW;
9 (v) Files concerning applicants who were denied a CCW by Defendant
10 Gore;
11 (vi) Documents showing identities of all persons who attended the
12 initial interview portion of Defendants' CCW application process
13 since January 1, 2006;
14 (vii) Files concerning persons who attended the initial interview portion
15 of Defendants' CCW application process from January 1, 2006, to
16 the present;
17 (viii) Communications between Defendant Gore and the San Diego
18 Honorary Sheriff's Deputy Association and/or any of its members
19 relating to the issuance of CCWs.

20 2. Defendant – Unknown at this time.

21 **E. Types of Discovery**

- 22 1. **Interrogatories** – Pursuant to Fed. R. Civ. Proc. 33 and Local Rule 33.1,
23 a maximum of 25 interrogatories by each party to any other
24 party. (Responses due 30 days after service.)
25 2. **Requests for Admission** – Pursuant to Local Rule 36.1, a maximum of
26 25 requests for admissions by each party to any other party. (Responses
27 due 30 days after service.)

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3. **Requests for Production of Documents** – Unlimited, per Fed. R. Civ. Proc. 34.

4. **Written Depositions** – A maximum of 5 written depositions by Plaintiffs and 5 written depositions by Defendant. Each written deposition shall be limited to a maximum of twenty-five questions, unless extended by agreement of parties.

5. **Oral Depositions** – A maximum of 10 oral depositions by Plaintiffs and 10 oral depositions by Defendant. Each oral deposition shall be limited to a maximum of seven hours in a one-day period, unless extended by agreement of parties.

- (a) Plaintiffs' counsel intends to depose the following witnesses:
 - (i) Pursuant to Fed. R. Civ. Proc. 30(b)(6), the Persons Most Knowledgeable about Defendant's CCW issuance policies and practices. Plaintiffs wish to depose the Persons Most Knowledgeable about Defendant's CCW issuance policies and practices in order to obtain information on the details thereof, so Plaintiffs can determine whether they are lawful.
 - (ii) Blanca Pelowitz, Manager, License Division, to determine what steps were taken to investigate Plaintiff Peruta, on what basis he was denied a CCW, and her roll therein.
 - (iii) James Cooke, Assistant Sheriff, Law Enforcement Services Bureau, to determine on what basis or bases he denied Plaintiff Peruta's appeal of Defendant's decision to deny him a CCW.
 - (iv) Donna Burns, License Division, to determine details of her interview with Plaintiff Peruta and the bases for her decisions in recommending he not receive a CCW.

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(v) Millie Faiai, Licensing Specialist, License Division, to determine details of her investigation into Plaintiff Peruta and on what basis or bases she came to the conclusions appearing in the March 7, 2009, correspondence from Ms. Faiai to Ms. Blanca Pelowitz discussing Plaintiff Peruta's CCW application.

(vi) Patricia Duke, Commander, Law Enforcement Services Bureau, to determine on what basis or bases she granted Plaintiff Mark Cleary's appeal of Defendant's decision to deny him a CCW.

(vi) Defendant Gore, Sheriff, to determine his involvement with the CCW-issuing process, his relationships with certain CCW holders, and whether those relationships influenced the decision to issue a CCW to any of those persons.

(vii) Certain members of the Honorary Sheriff's Deputy Association and/or contributors to Defendant Gore's political campaign who currently have a CCW, and received it between January 1, 2006, and the present, in order to determine their good cause and residency, and compare it with that of Plaintiffs to see whether they received preferential treatment from Defendant over Plaintiffs in receiving CCWs.

(b) Defendants' counsel intends to depose the following witnesses:

(i) All Plaintiffs to determine the accuracy of the allegations made by each.

F. Discovery Completion Dates

1. **Supplementations** – Supplementations under Fed. R. Civ. Proc. 26(e) are due in a reasonable time after material, relevant facts are learned, or by court order.
2. **Discovery Cut-Off** – All discovery shall be completed by all parties on or before December 17, 2010.

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3. **Pretrial Disclosures** – All pretrial disclosures will be exchanged on or before February 11, 2011.

G. Other Items

- (a) The parties do not request a conference with the court before entry of the scheduling order.
- (b) The parties request a pretrial conference in March 2011.
- (c) No further amendments to the pleadings will occur without leave of court.
- (d) All potentially dispositive motions should be filed by January 14, 2011.
- (f) Being mostly questions of law at issue in this litigation, the parties believe that most, if not all, issues in this lawsuit may be resolved by summary judgment or partial summary judgment.
- (g) Settlement is not likely and no settlement conference is necessary until after a ruling on summary judgment motions.
- (h) Final lists of witnesses and exhibits under Fed. R. Civ. Proc. 26(a)(3) should be due the parties by February 11, 2011.
- (i) There do not appear to be any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be produced.
- (j) Parties should have 30 days after service of final lists of witnesses and exhibits to list objections under Fed. R. Civ. Proc. 26(a)(3).
- (k) The case should be ready for trial by March 2011 (and at this time is expected to take approximately five days).
- (l) The parties plan to use the procedures set forth in Fed. R. Civ. Proc. 26(b)(5) regarding claims of privilege.

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(m) A protective order is needed in this case because the parties believe discovery in this matter will involve the production of documents, material, or information, containing private, confidential information about individuals who are not parties to this action and whose personal information was provided to Defendants with the intention that it remain confidential. A proposed protective order has been filed with this Court and granted.

Dated: July 27, 2010

MICHEL & ASSOCIATES, P.C.



C.D. Michel
Attorney for Plaintiff Edward Peruta

Dated: July 27, 2010

PAUL NEUHARTH, JR., APC



Paul Neuharth, Jr.
Attorney for Plaintiff Edward Peruta

Dated: July 27, 2010

JOHN J. SANSONE, County Counsel

James M. Chapin, Senior Deputy
Attorneys for Defendant Sheriff
William D. Gore