

14-55873

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CHARLES NICHOLS,

Plaintiff-Appellant,

v.

**EDMUND G. BROWN JR., in his official
capacity as Governor of California, and
KAMALA D. HARRIS, in her official
capacity as Attorney General of
California,**

Defendants-Appellees.

On Appeal from the United States District Court
for the Central District of California,
Case No. 2:11-cv-09916-SJO-SS,
The Honorable S. James Otero, Judge

**MOTION FOR EXTENSION
OF TIME TO FILE BRIEF**

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Attorney General of California*

Under Circuit Rule 31-2.2(b), Defendants-Appellees Edmund G. Brown Jr., Governor of California, and Kamala D. Harris, Attorney General of California (together, “Appellees”), submit the following motion to extend by 60 days the deadline for Appellees to file an answering brief in this appeal adverse to Plaintiff-Appellant Charles Nichols (“Appellant”).

Appellees have three reasons for seeking a 60-day deadline extension for the filing of the opposition brief:

First, this case raises fundamental questions about the scope of the U.S. Constitution’s Second Amendment—e.g., does the Second Amendment confer a right on members of the general public to carry firearms openly in public places, even densely-populated ones, without specified need? Extra time for the briefing would allow the important subject matter of this case, which affects both personal rights and public safety, to be treated with appropriate care.

Second, Appellant has (with the Court’s permission) filed an over-length opening brief of nearly 95 pages and 18,000 words, including discussions of numerous sub-issues and extensive case citations. Appellant poses seven questions in his brief’s statement of issues, and the body of the brief raises myriad other issues (e.g., Appellant’s standing to pursue this

case, not mentioned in the statement of issues). One sentence in the brief has a string cite of 35 cases, all from the 19th century. (See pages 59-60 of Appellant's Opening Brief.) Extra time to respond will allow for a thorough, but appropriately concise, answering brief addressing all the issues and authorities contained in the over-length opening brief.

Third, the current California Attorney General, Kamala D. Harris, will be leaving her post to become a U.S. Senator in January 2017. A transition period will follow her departure as a new California Attorney General assumes that office. This circumstance means that extra time is needed for internal review of the answering brief, within the Office of the California Attorney General, and the briefing schedule should be amended to accommodate that circumstance.

Appellant has indicated that he opposes this motion.

If the Court is inclined to deny this motion, then Appellees respectfully request, alternatively, a deadline extension of 30 days, consonant with the

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relief that would be obtained by a streamlined deadline-extension request under Circuit Rule 31-2.2(a).

Dated: December 16, 2016 Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DOUGLAS J. WOODS
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/s/ Jonathan M. Eisenberg
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Edmund G. Brown, Jr., Governor of
California, and Kamala D. Harris, Attorney
General of California*

**DECLARATION OF JONATHAN M. EISENBERG IN SUPPORT
OF MOTION FOR EXTENSION OF TIME TO FILE BRIEF**

I, Jonathan M. Eisenberg, declare as follows:

1. I have personal knowledge of the following facts, and, if called as a witness in a relevant proceeding, could and would testify competently to the following facts.

2. I am an attorney licensed to practice law in the State of California and before this Court. I am one of the attorneys of record for Defendants-Appellees Edmund G. Brown Jr., Governor of California, and Kamala D. Harris, Attorney General of California (together, “Appellees”), in this appeal adverse to Plaintiff-Appellant Charles Nichols (“Appellant”).

3. Appellees’ brief in this appeal is presently due on December 19, 2016.

4. Appellees’ brief was first due on December 3, 2014.

5. Appellees request a 60-day extension of the current deadline for the brief to be filed. Alternatively, Appellees request a 30-day extension of the current deadline for the brief to be filed.

6. The extension is necessary for the reasons stated in this motion (above). The three reasons, in brief, are that (1) this appeal raises fundamental issues of personal rights; (2) Appellee’s brief is over-length; and (3) the forthcoming transition from one California Attorney General to another will prompt additional internal review of this brief within the Office of the California Attorney General.

7. Appellees have exercised diligence here and the brief will be filed within the time requested.

8. Appellee objects to the requested 60-day extension of the deadline.

9. The court reporter is not in default with regard to any designated transcripts.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I signed this declaration on December 16, 2016, at Los Angeles, California.

Jonathan M. Eisenberg

Jonathan M. Eisenberg

9th Circuit Case Number(s) 14-55873

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CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that 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 appellate CM/ECF system on (date) []

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

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When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that 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 appellate CM/ECF system on (date) []

December 16, 2016

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Charles Nichols
P.O. Box 1302
Redondo Beach, CA 90278

Signature (use "s/" format)

s/Jonathan M. Eisenberg