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1 STEPHEN H. SILVER  
California State Bar No. 38241  
2 DEAN WEINREICH  
California State Bar No. 169255  
3 SILVER, HADDEN & SILVER  
1428 Second Street  
4 P.O. Box 2161  
Santa Monica, CA 90407-2161  
5 (310) 393-1486  
6 Attorneys for Plaintiff/Petitioner Robert Reza

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER  
JUL 11 2005  
ALAN SLATER, Clerk of the Court  
BY: ENRIQUE VELOZ, DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF ORANGE

O.K. TO ISSUE SUMMONS

11 ROBERT REZA, an individual,  
12 Plaintiff/Petitioner,  
13 vs.  
14 STATE OF CALIFORNIA; STATE  
15 DEPARTMENT OF JUSTICE; PATRICK  
16 LUNNEY individually and in his official  
17 capacity; WILFREDO CID individually and  
18 in his official capacity; RICK OULES  
19 individually and in his official capacity;  
20 JOHN M. GAINES individually and in his  
21 official capacity; and DOES 1 through 100,  
22 inclusive,  
23 Defendants/Respondents.

Case No. 05CC08053

VERIFIED COMPLAINT FOR  
DAMAGES [42 U.S.C. §1983],  
DECLARATORY RELIEF [C.C.P.  
§1060], INJUNCTION [C.C.P. §525]  
AND PETITION FOR WRIT OF  
MANDATE [C.C.P. §1085]

JUDGE COREY S. CRAMIN  
DEPT. C8

21 Plaintiff/Petitioner alleges as follows:

22 PARTIES

23 1. Plaintiff/Petitioner Robert Reza (hereinafter referred to as "Plaintiff/Petitioner"),  
24 is, and at all times herein mentioned was, an honorably retired peace officer, employed by  
25 Defendants/Respondents in the capacity of Special Agent until his retirement on or about March  
26 3, 2004. As a Special Agent, Plaintiff/Petitioner was authorized to carry a concealed firearm  
27 both on and off duty, and derived his authority to act as a peace officer in all respects from Penal  
28 Code Section 830.1.

1           2.     Defendant/Respondent State Department of Justice ("DOJ") is, and at all relevant  
2 times hereto was, a government department of the Defendant/Respondent State of California.

3           3.     Defendant/Respondent Patrick Lunney ("Defendant Lunney") is, and at all times  
4 relevant hereto was, a policy-making official of Defendants/Respondents DOJ and the State of  
5 California, holding the rank and title of Director of the Division of Law Enforcement of the  
6 Department of Justice of the State of California. Defendant Lunney is sued herein in both his  
7 individual and official capacities.

8           4.     Defendant/Respondent Wilfredo Cid ("Defendant Cid") is, and at all times  
9 relevant hereto was, a policy-making official of Defendants DOJ and the State of California,  
10 holding the rank and title of Assistant Director of the Division of Law Enforcement of the  
11 Department of Justice of the State of California. Defendant Cid is sued herein in both his  
12 individual and official capacities.

13          5.     Defendant/Respondent Rick Oules ("Defendant Oules") is, and at all times  
14 relevant hereto was, a policy-making official of Defendants DOJ and the State of California,  
15 holding the rank and title of Deputy Director of the Division of Law Enforcement of the  
16 Department of Justice of the State of California. Defendant Oules is sued herein in both his  
17 individual and official capacities.

18          6.     Defendant/Respondent John M. Gaines ("Defendant Gaines") is, and at all times  
19 relevant hereto was, a policy-making official of Defendants DOJ and the State of California,  
20 holding the rank and title of Chief, Bureau of Narcotics Enforcement, Division of Law  
21 Enforcement of the Department of Justice of the State of California. Defendant Gaines is sued  
22 herein in both his individual and official capacities.

23          7.     Defendants Lunney, Cid, Oules and Gaines will be hereinafter referred to  
24 collectively as the Individual Defendants.

25          8.     Plaintiff/Petitioner is unaware of the true names and capacities, whether corporate,  
26 associate, individual, or otherwise, of Defendants/Respondents named as DOES 1 through 100,  
27 inclusive. Pursuant to California Code of Civil Procedure Section 474, Plaintiff/Petitioner will  
28 seek leave of Court to amend this complaint to state said Defendants/Respondents' true names

1 and capacities when the same have been ascertained. Plaintiff/Petitioner is informed and  
2 believes and, based on such information and belief, alleges that said fictitiously named  
3 Defendants/Respondents are responsible in some manner for the injury and damages to  
4 Plaintiff/Petitioner as further hereinafter alleged.

5 9. Defendants/Respondents State of California and DOJ and the Individual  
6 Defendants and DOES 1 through 100 will be hereinafter referred to collectively as the  
7 Defendants.

8 10. Plaintiff/Petitioner is informed and believes and, based on such information and  
9 belief, alleges that Defendants, and each of them, at all times herein mentioned, were the agents,  
10 employees, servants, joint venturers, and/or co-conspirators of the remaining Defendants.  
11 Further, Plaintiff/Petitioner alleges that Defendants, and each of them, were acting within the  
12 course and scope of such agency, employment, joint venture, and/or conspiracy; and that  
13 Defendants, and each of them, were the actual and/or ostensible agents of the remaining  
14 Defendants and were acting within the course and scope of said agency; and/or that said  
15 Defendants approved, supported, participated in, authorized, and/or ratified the acts and/or  
16 omissions of said employees, agents, servants, conspirators, and/or joint venturers.

17 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

18 11. Plaintiff/Petitioner began his employment with DOJ as a sworn peace officer in  
19 January, 1990, in the position of Special Agent. Prior thereto, Plaintiff/Petitioner served as a  
20 police officer with the California Highway Patrol for a total of seven years. Altogether,  
21 Plaintiff/Petitioner has served as a duly appointed peace officer for the State of California for a  
22 total of twenty-one years. Plaintiff/Petitioner honorably retired from his position as Special Agent  
23 on or about March 3, 2004. Shortly thereafter, DOJ issued to Plaintiff/Petitioner a retirement  
24 credential, certifying that Plaintiff/Petitioner was honorably retired from the DOJ in the position  
25 of Special Agent. On or about March 4, 2004, Plaintiff/Petitioner submitted a written request to  
26 the DOJ, for a license to carry a concealed weapon ("a CCW permit") pursuant to California  
27 Penal Code §12027.1. By letter dated June 17, 2004, Defendants, by and through Defendant  
28 Gaines, denied Plaintiff/Petitioner's request for a CCW permit.

1           12.     At all times mentioned herein, subsection (a)(1)(A)(i) of Section 12027.1 of the  
2 California Penal Code provided, and now provides, in relevant part:

3                     Any peace officer employed by an agency and listed in Section  
4                     830.1 . . . who retired after January 1, 1981, shall have an  
5                     endorsement on the identification certificate stating that the issuing  
6                     agency approves the officer's carrying of a concealed and loaded  
7                     firearm.

8           13.     At all times mentioned herein, subsection (a)(1)(B) of Section 12027.1 of the  
9 California Penal Code provided, and now provides, in relevant part:

10                    An identification certificate authorizing the officer to carry a  
11                    concealed and loaded firearm or an endorsement on the certificate  
12                    may be . . . denied by the issuing agency only upon a showing of  
13                    good cause. Good cause shall be determined at a hearing, as  
14                    specified in subdivision (d).

15           14.     On June 30, 2004, pursuant to Penal Code Section 12027.1(a)(1)(B), quoted  
16 above, CAUSE Statewide Law Enforcement Association (hereinafter, "CAUSE"), an employee  
17 organization recognized by the State of California as the exclusive bargaining representative for  
18 non-supervisory public safety employees of the State of California, including Special Agents, and  
19 of which Plaintiff/Petitioner is a member, sent a letter to Defendants requesting a hearing on  
20 Defendants' denial of Plaintiff/Petitioner's request for a CCW permit, and seeking an  
21 explanation for the denial. On or about July 22, 2004, not having received any response from  
22 Defendants, CAUSE sent another letter to Defendants on Plaintiff/Petitioner's behalf, requesting  
23 that Defendants explain their denial of Plaintiff/Petitioner's request for a CCW permit.

24           15.     By letter dated August 6, 2004, Defendant Gaines, in concert with and on behalf  
25 of Defendants, stated that Defendants' denial of Plaintiff/Petitioner's request for a CCW permit  
26 was purportedly based on good cause due to an alleged "history of derogatory incidents and  
27 mishandling of state-issued equipment." This letter did not provide any evidence or explanation  
28 regarding what constituted the alleged derogatory incidents or mishandling of equipment.

1           16.     In his over fourteen years of service as a Special Agent employed by Defendants,  
2 Plaintiff/Petitioner demonstrated himself to be an exemplary employee. During nine of his  
3 fourteen years as a Special Agent, Plaintiff/Petitioner worked in a specialized unit known as the  
4 Violence Suppression Unit, which targeted hard core criminals, gang members and federal  
5 fugitives. In this position, Plaintiff/Petitioner risked his life to protect the citizens of the State of  
6 California, and was awarded the distinguished Meritorious Service Award. Plaintiff/Petitioner  
7 devoted a great deal of his time as a Special Agent investigating the notorious Vagos Outlaw  
8 Motorcycle Gang (hereinafter, "the Vagos Gang"), some of whose members have stood trial and  
9 been convicted on the basis of evidence that was adduced by Plaintiff/Petitioner.  
10 Plaintiff/Petitioner was subpoenaed to appear as a witness and has testified in trials of members  
11 of the Vagos Gang, and may be called to so testify in the future.

12           17.     The Vagos Gang has demonstrated that they have no compunctions against  
13 murdering persons who oppose them. Plaintiff/Petitioner is the father of three sons. When  
14 Plaintiff/Petitioner appears in court to perform his civic duty to testify against his erstwhile  
15 enemies, the prosecuting authorities are putting Plaintiff/Petitioner and members of his family in  
16 a position of severe peril. By arbitrarily denying Plaintiff/Petitioner, an honorably retired and  
17 decorated law enforcement officer, the privilege to carry a concealed weapon, Defendants have  
18 exposed Plaintiff/Petitioner and his innocent family members to the risk of serious bodily harm  
19 or death. This denial is indefensible and unconscionable. At the time of Plaintiff/Petitioner's  
20 retirement, he was not subject to discipline or investigation for any alleged performance  
21 deficiencies. Plaintiff/Petitioner retired honorably with over twenty-one years of law  
22 enforcement experience, with no pending investigations or discipline, and having qualified with  
23 his firearm.

24           18.     On or about August 12, 2004, CAUSE sent a letter to Defendants, designating  
25 Dale Ferranto, Deputy Director of the Division of Firearms of the DOJ, as Plaintiff/Petitioner's  
26 appointee to the hearing panel to determine whether good cause existed for Defendants' denial of  
27 a CCW permit to Plaintiff/Petitioner. To date, Defendants have failed and/or refused to establish  
28 a hearing panel to determine whether good cause exists for the denial of a CCW permit to

1 Plaintiff/Petitioner, as required by subsections (a)(1)(B), (b)(3) and (d) of Penal Code Section  
2 12027.1.

3 19. On July 22, 2004, the President of the United States signed H.R. 218, the Law  
4 Enforcement Officers Safety Act of 2004 (hereinafter, "the Act"), into law. The Act is now  
5 codified as 18 U.S.C. §926B and C. The Act provides, in relevant part, as follows:

6 § 926C. Carrying of concealed firearms by qualified retired law  
7 enforcement officers

8 (a) Notwithstanding any other provision of the law of any State  
9 or any political subdivision thereof, an individual who is a  
10 qualified retired law enforcement officer and who is  
11 carrying the identification required by subsection (d) may  
12 carry a concealed firearm that has been shipped or  
13 transported in interstate or foreign commerce, subject to  
14 subsection (b).

15 (b) This section shall not be construed to supersede or limit the  
16 laws of any State that--

17 (1) permit private persons or entities to prohibit or  
18 restrict the possession of concealed firearms on their  
19 property; or

20 (2) prohibit or restrict the possession of firearms on any  
21 State or local government property, installation,  
22 building, base, or park.

23 (c) As used in this section, the term "qualified retired law  
24 enforcement officer" means an individual who--

25 (1) retired in good standing from service with a public  
26 agency as a law enforcement officer, other than for  
27 reasons of mental instability;

28 ///

- 1 (2) before such retirement, was authorized by law to  
2 engage in or supervise the prevention, detection,  
3 investigation, or prosecution of, or the incarceration  
4 of any person for, any violation of law, and had  
5 statutory powers of arrest;
- 6 (3) (A) before such retirement, was regularly employed  
7 as a law enforcement officer for an aggregate of 15  
8 years or more; or  
9 (B) retired from service with such agency, after  
10 completing any applicable probationary period of  
11 such service, due to a service-connected disability,  
12 as determined by such agency;
- 13 (4) has a nonforfeitable right to benefits under the  
14 retirement plan of the agency;
- 15 (5) during the most recent 12-month period, has met, at  
16 the expense of the individual, the State's standards  
17 for training and qualification for active law  
18 enforcement officers to carry firearms;
- 19 (6) is not under the influence of alcohol or another  
20 intoxicating or hallucinatory drug or substance; and  
21 (7) is not prohibited by Federal law from receiving a  
22 firearm.

23 (d) The identification required by this subsection is--

- 24 (1) a photographic identification issued by the agency  
25 from which the individual retired from service as a  
26 law enforcement officer that indicates that the  
27 individual has, not less recently than one year before  
28 the date the individual is carrying the concealed

1 firearm, been tested or otherwise found by the  
2 agency to meet the standards established by the  
3 agency for training and qualification for active law  
4 enforcement officers to carry a firearm of the same  
5 type as the concealed firearm; or

- 6 (2) (A) a photographic identification issued by the  
7 agency from which the individual retired from  
8 service as a law enforcement officer; and  
9 (B) a certification issued by the State in which the  
10 individual resides that indicates that the individual  
11 has, not less recently than one year before the date  
12 the individual is carrying the concealed firearm,  
13 been tested or otherwise found by the State to meet  
14 the standards established by the State for training  
15 and qualification for active law enforcement officers  
16 to carry a firearm of the same type as the concealed  
17 firearm.

18 \* \* \*

19 20. Plaintiff/Petitioner satisfies all of the criteria of subsection (c) of the Act, and is  
20 therefore a qualified retired law enforcement officer within the meaning of the Act. Accordingly,  
21 pursuant to subsection (a) of the Act, Plaintiff/Petitioner is authorized to carry a concealed  
22 firearm "[n]otwithstanding any other provision of the law of any State or any political  
23 subdivision thereof."

24 21. On or about February 9, 2005, Plaintiff/Petitioner's retirement credential was  
25 stolen out of his vehicle. On or about March 4, 2005, Defendants issued to Plaintiff/Petitioner a  
26 replacement retirement credential. The replacement credential contained the following  
27 endorsement in red uppercase letters: "Not authorized to carry a weapon." No such language had  
28 been inscribed on Plaintiff/Petitioner's original retirement credential. Other than



1 Plaintiff/Petitioner's retirement credential, Defendants have not issued any documentation to  
2 Plaintiff/Petitioner manifesting his status as a qualified retired law enforcement officer, and thus  
3 evidencing his entitlement to carry a concealed firearm pursuant to the provisions of the Act. By  
4 stating on Plaintiff/Petitioner's retirement credential that Plaintiff/Petitioner was "not authorized  
5 to carry a weapon," Defendants implied and are continuing to imply that Plaintiff/Petitioner has  
6 not met the criteria set forth in the Act to qualify him to carry a concealed weapon.  
7 Plaintiff/Petitioner has in fact fulfilled the criteria set forth in the Act, particularly subsection (c)  
8 thereof.

9         22. By virtue of the Act, the federal government has occupied the field regarding the  
10 right of a qualified retired law enforcement officer to carry a concealed weapon, and preempts  
11 any attempt by the Defendants to restrict such right. By representing on Plaintiff/Petitioner's  
12 retirement credential that Plaintiff/Petitioner is not authorized to carry a weapon, Defendants  
13 have exceeded their powers, and have deprived Plaintiff/Petitioner of a right that has been  
14 secured to him by enactment of the Act.

15         23. Pursuant to the Act, Plaintiff/Petitioner is entitled to carry a concealed firearm  
16 notwithstanding the statement on his retirement credential that he is not authorized to do so, and  
17 "[n]otwithstanding any other provision of the law of any State or any political subdivision  
18 thereof." However, as a practical matter, the statement on his retirement credential prevents him  
19 from exercising his federal statutory right to do so because subsection (a)(2) of Section 12025 of  
20 the Penal Code provides that anyone who "[c]arries concealed upon his . . . person any pistol,  
21 revolver, or other firearm capable of being concealed upon the person" is guilty of the crime of  
22 carrying a concealed firearm.

23         24. Should Plaintiff/Petitioner exercise his right to carry a concealed weapon on his  
24 person in a public place, and should an occasion arise whereupon it becomes necessary for  
25 Plaintiff/Petitioner to use his weapon or to disclose to a law enforcement officer that he is  
26 carrying a concealed weapon, it will be incumbent upon that law enforcement officer to demand  
27 to inspect Plaintiff/Petitioner's CCW permit or his retirement credential demonstrating that  
28 Plaintiff/Petitioner has the right to carry such weapon. Upon presenting to the law enforcement

1 officer his credential containing the disclaimer that he is "not authorized to carry a weapon," the  
2 law enforcement officer will have no choice but to assume that Plaintiff/Petitioner is carrying the  
3 weapon in violation of Penal Code Section 12025(a), and will, in all likelihood, take  
4 Plaintiff/Petitioner into custody, place him in jail, and file a criminal report, charging  
5 Plaintiff/Petitioner with the commission of a crime. Plaintiff/Petitioner will then have to incur the  
6 expense and humiliation of hiring an attorney and possibly defending himself in court, and  
7 suffering damage to his reputation. Because the consequences of exercising the right extended to  
8 him under the Act to carry a concealed weapon are so severe, Plaintiff/Petitioner is, for all intents  
9 and purposes, deprived of exercising this right.

10 25. Prior to Defendants' issuance of the offending retirement credential to  
11 Plaintiff/Petitioner, CAUSE sent a letter to Defendants, enclosing a legal opinion they had  
12 procured regarding the impact which the Act had on California state laws restricting the right to  
13 carry concealed weapons by retired law enforcement officers. This legal opinion concluded that  
14 the Act confers the right on all "qualified retired law enforcement officers" such as  
15 Plaintiff/Petitioner (subject to the limitations of subsection (b), and so long as he is carrying the  
16 identification described in subsection (d)) to carry a concealed firearm anywhere in the United  
17 States, notwithstanding the laws of any State or subdivision thereof. Accordingly, Defendants  
18 were aware of the fact that Plaintiff/Petitioner had a right under federal law to carry a concealed  
19 weapon when they issued to Plaintiff/Petitioner a retirement credential that falsely stated that  
20 Plaintiff/Petitioner was not authorized to carry a weapon.

21 26. In the course of his work as a Special Agent in the Violence Suppression Unit of  
22 the Bureau of Narcotics Enforcement of the DOJ, Plaintiff/Petitioner hunted down, investigated,  
23 interrogated, testified against, imprisoned and otherwise prosecuted countless gang members,  
24 drug dealers, murderers and other violent criminals. By doing so, Plaintiff/Petitioner has incurred  
25 the wrath of the most violent and depraved predators of society, who are generally known to  
26 carry grudges, and many of whom, while languishing in prison or otherwise, patiently await the  
27 day that they will be able to exact vengeance against the persons who put them in prison or who  
28 put them out of business. Indeed, Plaintiff/Petitioner has been the recipient of death threats by

1 criminals whom he had helped to apprehend or to prosecute. Plaintiff/Petitioner is concerned  
2 that, without the ability to carry his weapon, he is completely defenseless and vulnerable to any  
3 one of a number of gangsters and criminals who have the desire and the opportunity to retaliate  
4 against him for putting them in jail or otherwise making their lives difficult. By depriving  
5 Plaintiff/Petitioner of his right to carry a concealed weapon, Defendants are not only acting  
6 beyond their powers, but they are also putting Plaintiff/Petitioner and his sons at serious risk of  
7 great bodily harm or death at the hands of these criminals.

8 27. Prior to filing this complaint, Plaintiff/Petitioner, by and through counsel, sent a  
9 letter to Defendants, requesting that, pursuant to the Act, Defendants issue a corrected retirement  
10 credential that did not contain language to the effect that Plaintiff/Petitioner was not authorized  
11 to carry a weapon. Plaintiff/Petitioner never received a response to this request, thus  
12 necessitating the filing of this complaint.

13 **FIRST CAUSE OF ACTION**

14 **Declaratory Relief [C.C.P. §1060] to Enforce**

15 **The Law Enforcement Officers Safety Act – 18 USC §926C**

16 **(By Plaintiff/Petitioner Against All Defendants)**

17 28. Plaintiff/Petitioner hereby realleges and incorporates by reference the allegations  
18 set forth in Paragraphs 1 through 27 above as if set forth herein in full.

19 29. As set forth above, Penal Code Section 12027.1(a)(1)(B) provides, in relevant  
20 part:

21 An identification certificate authorizing the officer to carry a  
22 concealed and loaded firearm or an endorsement on the certificate  
23 may be . . . denied by the issuing agency only upon a showing of  
24 good cause. Good cause shall be determined at a hearing, as  
25 specified in subdivision (d).

26 30. In contrast, subsection (a) of Section 926C of the Act provides:  
27 Notwithstanding any other provision of the law of any State or any  
28 political subdivision thereof, an individual who is a qualified

1 retired law enforcement officer and who is carrying the  
2 identification required by subsection (d) may carry a concealed  
3 firearm that has been shipped or transported in interstate or foreign  
4 commerce, subject to subsection (b).

5 31. Accordingly, Penal Code Section 12027.1(a)(1)(B) is in conflict with the Act.  
6 Whereas Penal Code Section 12027.1(a)(1)(B) permits the employing agency to refuse or revoke  
7 a CCW permit on a showing of good cause, the Act confers no such power on the employing  
8 agency to deprive a qualified retired law enforcement officer of his right to carry a concealed  
9 weapon. Pursuant to the Act, there are no grounds upon which a State or subdivision thereof  
10 may prohibit a retired law enforcement officer from carrying a concealed weapon other than  
11 failing to satisfy those criteria set forth in subsection (c) of the Act (e.g., the officer had not  
12 retired in good standing; had retired for reasons of mental instability; had not met the State's  
13 standards for training and qualification for active law enforcement officers to carry firearms; is  
14 under the influence of alcohol or another intoxicating or hallucinatory drug or substance; etc.).  
15 Nowhere in the list of criteria for disqualifying a retired law enforcement officer from the  
16 exercise of his right to carry a concealed firearm pursuant to the Act is there included the  
17 nebulous factor of "good cause." Neither does the Act's list of disqualifying factors include a  
18 "history of derogatory incidents" or "mis handling of state-issued equipment." Plaintiff/Petitioner  
19 retired from his many years of loyal service as a Special Agent for the Defendants in good  
20 standing, and was even recognized for his outstanding service by Defendants' conferral upon him  
21 of the Meritorious Service Award.

22 32. The Act occupies the field regarding the subject matter of the carrying of  
23 concealed weapons by retired state and local law enforcement officers, in that it explicitly states  
24 that its terms are to take effect "[n]otwithstanding any other provision of the law of any State or  
25 any political subdivision thereof." As such, the Act preempts Penal Code Section 12027.1,  
26 renders this state statute a nullity, and precludes the Defendants from taking any actions in  
27 reliance thereon.

28 ///

1           33.     The supremacy of the federal government is expressed in Article VI of the federal  
2 Constitution: "This Constitution and the laws of the United States which shall be made in  
3 pursuance thereof; and all treaties made, or which shall be made, under the authority of the  
4 United States, shall be the supreme law of the land; and the judges in every state shall be bound  
5 thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

6           34.     An actual controversy exists between Plaintiff/Petitioner and Defendants  
7 regarding the legality and legitimacy of Defendants' conduct described herein.  
8 Plaintiff/Petitioner contends that Defendants violated, and are continuing to violate, the lawful  
9 rights of Plaintiff/Petitioner, a qualified retired law enforcement officer within the meaning of the  
10 Act, in the following ways (1) by failing and refusing to issue to him a CCW permit in reliance  
11 upon a state statute (Penal Code §12027.1) that is preempted by the Act, and (2) by having issued  
12 to Plaintiff/Petitioner a retirement credential which falsely states that Plaintiff/Petitioner is not  
13 authorized to carry a firearm. Both of these acts, individually and in combination with each  
14 other, have the effect of depriving Plaintiff/Petitioner of his right to carry a firearm pursuant to  
15 the Act. Plaintiff/Petitioner is informed and believes and therefore alleges that, on the other  
16 hand, Defendants will assert that Defendants' conduct described herein was legal and did not  
17 violate the rights of Plaintiff/Petitioner or other retired law enforcement officers that are similarly  
18 situated to Plaintiff/Petitioner.

19           35.     Declaratory relief is necessary and appropriate. Plaintiff/Petitioner therefore seeks  
20 a judicial declaration of the rights and duties of the respective parties.

21           36.     There are no administrative remedies available to Plaintiff/Petitioner to compel  
22 the relief sought herein. Therefore, Plaintiff/Petitioner has exhausted all available administrative  
23 remedies.

24           37.     Plaintiff/Petitioner has no plain, speedy or adequate remedy at law.

25           38.     Plaintiff/Petitioner is entitled to an award of attorneys' fees under Section 1021.5  
26 of the California Code of Civil Procedure for the following reasons:

27           (a)     the prosecution of this action, if successful, will result in the enforcement of an  
28 important right affecting the public interest in that (1) the public has an interest in

1 preserving and safeguarding the lives of retired peace officers who, if permitted to  
2 fully exercise their right to carry firearms as the United States Congress intended  
3 when enacting the Law Enforcement Officers Safety Act (18 USC Section 926C),  
4 will be better equipped to protect themselves from harm, and (2) the public has an  
5 interest in preserving and safeguarding the lives and property of innocent citizens  
6 who, when threatened by violent predators, may depend more readily upon the  
7 enhanced availability of retired, trained professional peace officers, such as  
8 Plaintiff/Petitioner and all those persons similarly situated, who will be in a better  
9 position to intervene to protect members of the public if they are allowed to  
10 exercise their right to carry firearms pursuant to the Act;

11 (b) the necessity and financial burden of private enforcement of the rights involved in  
12 this action are such as to make the award appropriate; and

13 (c) attorneys' fees should not, in the interest of justice, be imposed on  
14 Plaintiff/Petitioner or the employee organization of which he is a member, who do  
15 not stand to recover any monetary damages by way of this action.

## 16 SECOND CAUSE OF ACTION

17 **For Injunctive Relief [C.C.P. §525] to Enforce**

18 **The Law Enforcement Officers Safety Act – 18 USC §926C**

19 **(By Plaintiff/Petitioner Against All Defendants)**

20 39. Plaintiff/Petitioner hereby realleges and incorporates by reference the allegations  
21 set forth in Paragraphs 1 through 38 herein.

22 40. Defendants threaten to continue to deprive Plaintiff/Petitioner of his rights under  
23 the Act by (1) refusing to issue him a CCW permit in reliance upon Penal Code Section 12027.1,  
24 which has been preempted by the Act, and (2) continuing to falsely represent on  
25 Plaintiff/Petitioner's retirement credential that he is "not authorized to carry a weapon," although  
26 the Act does expressly authorize him to do so. These actions on the part of Defendants impinge  
27 on Plaintiff/Petitioner's right to carry a concealed firearm, and thus to protect himself from the  
28 possibility of retaliation by violent criminals and ex-convicts whom he antagonized or helped to

1 apprehend and imprison in the course of his career as a law enforcement officer for Defendants.  
2 Defendants' actions also impinge upon Plaintiff/Petitioner's ability to come to the aid of  
3 members of the public should the need to do so arise.

4 41. Unless Defendants are enjoined from refusing to issue to Plaintiff/Petitioner a  
5 CCW permit or some type of identification evidencing his entitlement to carry a concealed  
6 firearm, as contemplated by subsection (d) of the Act, Plaintiff/Petitioner will suffer great and  
7 irreparable injury in that he will be deprived of his rights under the Act to carry a concealed  
8 firearm, thus (a) exposing Plaintiff/Petitioner and members of the public to serious harm or death  
9 should they be confronted with deadly force, without the means to repel such force; (b) exposing  
10 Plaintiff/Petitioner or persons similarly situated to Plaintiff/Petitioner to criminal prosecution  
11 should he or they choose to exercise their right pursuant to the Act to carry a concealed weapon,  
12 and are unable to produce evidence of such right when requested to do so by a duly appointed  
13 peace officer. Accordingly, Defendants' actions are interfering with the federal rights of the  
14 Plaintiff/Petitioner and all persons similarly situated, and are thus frustrating the purposes of the  
15 Act.

16 42. No previous application for the injunctive relief sought herein has been made to  
17 this or any court.

18 43. No plain, adequate or complete remedy at law is available to Plaintiff/Petitioner or  
19 to those who are similarly situated, to redress the wrongs described herein.

20 44. Plaintiff/Petitioner seeks an injunction ordering Defendants (1) to cease and desist  
21 from complying with Penal Code Section 12027.1, (2) to cease and desist from refusing to issue  
22 to Plaintiff/Petitioner a CCW permit or some type of identification document which evidences  
23 his entitlement to carry a concealed weapon pursuant to the Act, and/or (3) to cease and desist  
24 from representing on Plaintiff/Petitioner's retirement credential that Plaintiff/Petitioner is not  
25 authorized to carry a firearm.

26 45. Plaintiff/Petitioner is informed and believes and alleges thereon that if the court  
27 does not grant the injunctive relief sought here, Plaintiff/Petitioner and others who are similarly  
28 situated will be irreparably harmed. Injunctive relief is, therefore, necessary and appropriate.

1           46.     Also, as set forth in greater detail in paragraph 28, above, Plaintiff/Petitioner is  
2 entitled to an award of attorneys' fees pursuant to the provisions of Code of Civil Procedure  
3 Section 1021.5.

4                                   **THIRD CAUSE OF ACTION**

5                   **Damages Under 42 U.S.C. §1983 for Violation of 18 U.S.C. §926 C**

6           **(By Plaintiff/Petitioner Against the Individual Defendants in their Individual Capacities)**

7           47.     Plaintiff/Petitioner hereby realleges and incorporates by reference the allegations  
8 set forth in Paragraphs 1 through 46, above, as if set forth herein in full.

9           48.     The Act creates an enforceable right in Plaintiff/Petitioner and in those persons  
10 who are similarly situated to him, to carry a concealed weapon anywhere in the United States  
11 notwithstanding the laws of any state or any political subdivision thereof. The Act does not  
12 expressly foreclose private enforcement of its provisions under 42 U.S.C. §1983, nor does it  
13 implicitly do so by setting forth its own comprehensive enforcement mechanism. Accordingly,  
14 the Act may be enforced by means of private enforcement through litigation arising under 42  
15 U.S.C. §1983, which provides a right of action to any person deprived of a right, privilege or  
16 immunity secured by the Constitution or laws of the United States when such deprivation is  
17 caused by a person acting under color of state law.

18           49.     By doing the things alleged herein to have been done, the Individual Defendants  
19 acted under color of state law to deprive Plaintiff/Petitioner of his right as a qualified retired law  
20 enforcement officer to carry a concealed weapon pursuant to the Act.

21           50.     As a direct and proximate result of the conduct of Defendants described herein,  
22 Plaintiff/Petitioner has suffered, and continues to suffer, damages, in an amount to be proved at  
23 the trial hereof, in the form of aggravation, mental and emotional distress, embarrassment,  
24 humiliation and reputational injury.

25           51.     Plaintiff/Petitioner is informed and believes and alleges thereon that the Individual  
26 Defendants, sued in their individual capacities, acted with malice, oppression and fraud toward  
27 Plaintiff/Petitioner, and in conscious disregard of Plaintiff/Petitioner's rights and, therefore,  
28 Plaintiff/Petitioner is entitled to an award of punitive damages against said Individual Defendants



1 in an amount to be ascertained at the time of trial.

2 52. Plaintiff/Petitioner is entitled to an award of attorneys' fees pursuant to the  
3 provisions of 42 U.S.C. §1988.

4 **FOURTH CAUSE OF ACTION**

5 **For Peremptory Writ of Mandate [C.C.P. § 1085]**

6 **(By Plaintiff/Petitioner Against All Defendants)**

7 53. Plaintiff/Petitioner hereby realleges and incorporates by reference the allegations  
8 set forth in Paragraphs 1 through 52, above, as if set forth herein in full.

9 54. Defendants have a clear and present legal duty to provide Plaintiff/Petitioner  
10 either a concealed weapons permit or some other documentation evidencing his status as a  
11 qualified retired law enforcement officer and his concomitant right to carry a concealed weapon  
12 pursuant to the Act.

13 55. Defendants have failed, and continue to fail, to issue to Plaintiff/Petitioner the  
14 CCW permit or other documentation evidencing his status as a qualified retired law enforcement  
15 officer to which he is entitled pursuant to the Act.

16 56. Unless Defendants are mandated to issue a CCW permit or similar documentation  
17 to Plaintiff/Petitioner along with a new retirement credential that accurately states that  
18 Plaintiff/Petitioner is authorized to carry a weapon, Plaintiff/Petitioner will be irreparably harmed  
19 in that he will have been deprived of his right to carry a concealed weapon under the Act.  
20 Moreover, unless these wrongs are remedied immediately, Plaintiff/Petitioner and his family  
21 members will remain vulnerable to retaliation by any of the many violent criminals and their  
22 cohorts, whom Plaintiff/Petitioner helped to apprehend and to prosecute during his career as a  
23 Special Agent. It is entirely conceivable that such retaliation could result in great bodily harm or  
24 even death to Plaintiff/Petitioner or members of his family, or members of the public who may be  
25 in the line of fire.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Petitioner prays as follows:

1. For a declaration that Defendants' failure to issue a concealed weapons permit to Plaintiff/Petitioner in reliance upon Penal Code Section 12027.1, is unlawful and violates the rights of Plaintiff/Petitioner in that Penal Code Section 12027.1 is in conflict with, and has been preempted and superseded by, the federal Law Enforcement Officers Safety Act of 2004;

2. For a declaration that Defendants' false representation on Plaintiff/Petitioner's retirement credential, in reliance upon Penal Code Section 12027.1, to the effect that Plaintiff/Petitioner is not authorized to carry a firearm, is unlawful and violates the rights of Plaintiff/Petitioner in that Penal Code Section 12027.1 is in conflict with, and has been preempted and superseded by, the federal Law Enforcement Officers Safety Act of 2004;

3. For appropriate injunctive relief to remedy the violation and to prevent future violations of a like or similar nature, arising from Defendants' obligations under the federal Law Enforcement Officer Safety Act of 2004;

4. For general and compensatory damages, according to proof at trial;

5. For punitive damages against the Individual Defendants, sued in their individual capacities, in an amount to be ascertained according to proof at the time of trial;

6. For all pre and post judgment interest on such damages as are appropriate;

7. For reasonable attorneys' fees pursuant to Title 42 of United States Code Section 1988;

8. Following a duly noticed hearing, this court grant the Motion and Application for Peremptory Writ of Mandate of Plaintiff/Petitioner commanding Defendants to issue to Plaintiff/Petitioner a CCW permit and a retirement credential which omits any statement to the effect that Plaintiff/Petitioner is not authorized to carry a weapon.

9. For reasonable attorneys' fees pursuant to the provisions of Code of Civil Procedure Section 1021.5.

10. For all costs of suit incurred herein; and

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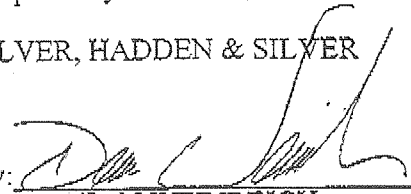
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11. For such other and further relief as the court deems just and proper.

Respectfully submitted,

Dated: July 7, 2005

SILVER, HADDEN & SILVER

By:   
DEAN WEINREICH  
Attorneys for Plaintiff/Petitioner

00403-pld.wpd

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES,

I have read the foregoing **VERIFIED COMPLAINT FOR DAMAGES [42 U.S.C. §1983], DECLARATORY RELIEF [C.C.P. §1060], INJUNCTION [C.C.P. §525] AND PETITION FOR WRIT OF MANDATE [C.C.P. §1085]** and know its contents.

/XX/ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

/ / I am / / an Officer / / a partner of \_\_\_\_\_, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. / / I am informed and believe and on that ground allege that the matters Stated in the foregoing document are true. /XX/ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matter I believe them to be true.

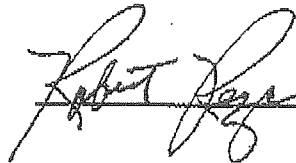
/ / I am one of the attorneys for \*\* a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on JUNE 29, 2005, at IRVINE, California.

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

ROBERT REZA

(TYPE OR PRINT NAME)



<http://www.aele.org/reza-calif.pdf>