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Attorneys for Richard Celata

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

**MODEL 1911, .45 CALIBER PISTOL,
UNKNOWN MANUFACTURER,
SERIAL NUMBER KTO 03041002;
MODEL AR15, .223 CALIBER
FIREARM, UNKNOWN
MANUFACTURER, NO SERIAL
NUMBER; MODEL 1911, .45 CALIBER
PISTOL, UNKNOWN
MANUFACTURER, SERIAL NUMBER
03041001; and
RIFLE, NO CALIBER, UNKNOWN
MANUFACTURER, NO SERIAL
NUMBER,**

Defendants.

Cause No. CV 06-85-BU-SEH

MOTION FOR RELIEF FROM ORDER

COMES NOW Claimant of Defendant firearms, Richard Celata, by and through counsel of record, and pursuant to Rules 59(e) and/or 60(b), Fed.R.Civ.P., requests relief from the final order entered on February 8, 2007, dismissing this case without prejudice. Celata requests the following relief, in the alternative:

1. Reinstatement of the case for disposition on the merits; or
2. Dismissal of the case to be designated with prejudice; and/or
3. An order awarding attorney fees and costs and directing return of the Defendant firearms to Defendant Celata.

In compliance with Local Rule 7.1(j), counsel for Celata has been contacted to seek consent to the motion, which was respectfully declined. Pursuant to Local Rule 7.1(c), a brief in support of the motion will be filed within five business days.

DATED this 15th day of February, 2007.

Respectfully submitted,
SULLIVAN, TABARACCI & RHOADES, P.C.

By: /s/ Quentin M. Rhoades
Quentin M. Rhoades
Attorneys for Richard Celata

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of February, 2007, a copy of the foregoing document was served on the following persons by the following means:

<u> 1 </u>	CM/ECF
_____	Hand Delivery
_____	Mail
_____	Overnight Delivery Service
_____	Fax
_____	E-Mail

1. Paulette L. Stewart
Assistant U.S. Attorney
U.S. Attorney's Office
901 Front Street, Suite 1100
Helena, MT 59626

_____/s/ Quentin M. Rhoades_____