

MILBERG WEISS BERSHAD
HYNES & LERACH LLP
WILLIAM S. LERACH (68581)
FRANK J. JANECEK, JR. (156306)
MICHAEL J. DOWD (135628)
STEPHEN P. POLAPINK (177489)
JONAH H. GOLDSTEIN (193777)
600 West Broadway, Suite 1800
San Diego, CA 92101
Telephone: 619/231-1058

- and -

PATRICK J. COUGHLIN (111070)
EX KANO S. SAMS II (192936)
100 Pine Street, Suite 2600
San Francisco, CA 94111
Telephone: 415/288-4545

LIEFF, CABRASER, HEIMANN
& BERNSTEIN, LLP
ROBERT J. NELSON (132797)
RICHARD M. FRANCO (170970)
JENNIE LEE ANDERSON (203586)
275 Battery Street, 30th Floor
San Francisco, CA 94111-9333
Telephone: 415/956-1000

Attorneys for The People of the State of California, et al.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

Coordination Proceeding Special Title (Rule
1550(b))

FIREARM CASE

Including actions:

*People, et al. v. Arcadia Machine & Tool, Inc.,
et al.*

*People, et al. v. Arcadia Machine & Tool, Inc.,
et al.*

*People, et al. v. Arcadia Machine & Tool, Inc.,
et al.*

) JUDICIAL COUNCIL COORDINATION
) PROCEEDING NO. 4095
)

) DECLARATION OF STEPHEN P. POLAPINK IN
) SUPPORT OF PLAINTIFFS' OBJECTION AND
) OPPOSITION TO DEFENDANTS' EX PARTE
) MOTION FOR ORDER COMPELLING
) PLAINTIFFS TO DISCLOSE (1) ACCIDENTAL
) DISCHARGE AND SUICIDE INCIDENTS AND (2)
) PLAINTIFFS' APPROVAL AND USE OF SPECIFIC
) FIREARMS
)

) San Francisco Superior Court No. 303753
) Los Angeles Superior Court No. BC210894
) Los Angeles Superior Court No. BC214794
)

) DATE: December 19, 2000
) TIME: 8:30 a.m.
) DEPT: 65
)

) Hon. Vincent P. DiFiglia

1 I, STEPHEN P. POLAPINK, declare as follows:

2 1. I am an attorney duly licensed to practice before all of the courts of the State of
3 California. I am an associate with the law firm of Milberg Weiss Bershad Hynes & Lerach LLP, one
4 of the counsel of record for plaintiff in the above-entitled action. I have personal knowledge of the
5 matters stated herein and, if called upon, I could and would competently testify thereto.

6 2. Attached are true and correct copies of the following exhibits:

7 Exhibit 1: Dept. 65 Policies and Procedures; and

8 Exhibit 2: December 8, 2000 letter from Lawrence J. Kouns.

9 I declare under penalty of perjury under the laws of the State of California that the foregoing
10 is true and correct. Executed this 15th day of December, 2000, at San Diego, California.

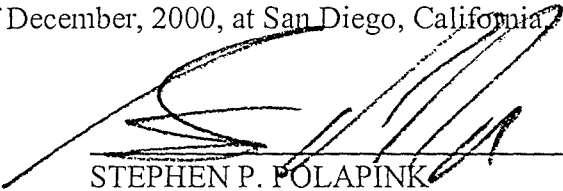
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12 
13 STEPHEN P. POLAPINK
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EXHIBIT 1



Superior Court

San Diego County, State of California

Business

Superior Court of California

County of San Diego

Department 65 Policies and Procedures

[effective 12/1/98]

Honorable Vincent P. Di Figlia, Presiding

Department 65 Staff

Bailiff: Jack Ching

Court Clerk: Paula Frank

Calendar Clerk: Scott Seyler

Research Attorney: Lisa Ferrari

Reporter: Pat Lux

Phone Numbers: Courtroom 685-6025

Calendar 685-6018

General. Counsel are expected to be on time for all scheduled hearings. If, for any reason, you find you will be late for an appearance, please contact this department at **685-6025**.

Ex Parte. Ex parte appearances are by reservation only on Tuesday, Wednesday, and Thursday at 8:30am. Check-in time is 8:15am. **Personal appearance is mandatory.** Counsel may obtain reservations by contacting the Calendar Clerk at **685-6018**. If you find that you will not be appearing after reserving your date, please contact the department to cancel. Parties must provide a written proposed order with every ex parte application.

Law and Motion. Noticed motion hearings are by reservation only, Friday at 8:30am. Counsel may obtain a reservation, in accordance with Local Rule, Division II, 6.1, by contacting the Calendar Clerk for this department at **685-6018**. Local Rule 6.18 re: telephonic ruling does not apply in this department.

This department may issue tentative rulings for law and motion matters. Counsel may obtain tentative rulings by calling **531-3690** after 4:00pm on the day immediately preceding the noticed hearing date. If neither party appears on the date and at the time noticed for the hearing, the tentative ruling shall be adopted as the final ruling of the court. Parties wishing to argue before the court must appear on the date and at the time noticed.

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Parties wishing to argue before the court must appear on the date and at the time noticed for the hearing. Oral Argument is limited to issues not addressed in the papers submitted. Failure to file a timely motion and/or opposition papers may constitute a waiver of the right to orally argue. The Court may, in its discretion, designate NO ORAL ARGUMENT in ruling upon any law and motion matter.

Discovery Motions. Prior to the filing of ANY discovery motion, the moving party is required to appear ex parte in this Department to seek leave to file such motion.

Case Management Conferences. Case management conferences are held on Friday mornings as designated by the court. Each party shall prepare and file a Case Management Conference Questionnaire at this hearing.

Trial Readiness Conference. Trial Readiness Conferences are heard Friday at 10:00am, unless otherwise designated by the court. Counsel are required to be present; compliance with local Rule 5.16 is required by the court.

Trial Call. Trial calls are heard Friday, at 9:00am, unless the Court designates otherwise. Trial counsel are to be present. The Court will advise counsel when they may be expected to begin trial.

Court trial hours are Monday through Thursday, 9:00am to 12:00 noon and 1:30pm to 4:30pm. Unless otherwise ordered.

Special Settlement Conferences. Parties can reserve a Special Settlement Conference by calling the Calendar Clerk at **685-6018**. Counsel are to file a Special Settlement Conference Statement (Sup. Ct. Form 347) in accordance with Local Rule 9.10. Settlement briefs are to be NO MORE THAN 3 pages and received by the court FIVE days prior to the settlement conference.

Telephonic Appearance. To request a telephonic appearance, counsel are to submit a written request no later than five days prior to the hearing requested. Counsel are to file a new request each time they wish to appear telephonically. Requests for appearance by phone shall only pertain to Case Management Conferences, Certificate Hearings and Follow Up Conferences. Upon review of the request, the Court may, in its discretion deny the request.

Failure of the Parties or their counsel to comply with any portion of the policies and procedures in Department 65 may result in sanctions. Policies established by this department shall not be modified or avoided by stipulation, without leave of court.



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EXHIBIT 2

LUCHE, FORWARD, HAMILTON & SCRIPPS LLP

600 WEST BROADWAY, SUITE 2600
SAN DIEGO, CALIFORNIA 92101-3391
(619) 236-1414
FACSIMILE (619) 232-8311

FACSIMILE DOCUMENT

DATE: December 8, 2000

TO: Michael J. Dowd
FIRM: Milberg Weiss Bershad Hynes & Lerach LLP
CITY, STATE: San Diego, California
FAX TELEPHONE NUMBER: (619) 231-7423
CONFIRMING NUMBER: (619) 231-1058

TO: Robert J. Nelson
FIRM: Lieff, Casbraser, Heimann & Bernstein LLP
CITY, STATE: San Francisco, California
FAX TELEPHONE NUMBER: (415) 956-1008
CONFIRMING NUMBER: (415) 956-1000

FROM: Lawrence J. KounsDIRECT DIAL: (619) 699-2437DIRECT FAX: (619) 645-5359TRANSMITTING: 3 PAGES (including cover page)

ADDITIONAL COMMENTS OR INSTRUCTIONS: _____

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TIME/DATE TRANSMITTED BY OPERATOR: December 8, 2000 atA 416

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FROM: Lawrence J. KounsDATE: December 8, 2000TIME: 416

71498 / 27536-00001
(USER NO./CLIENT/MATTER NO.)

OPERATOR: APAGES TRANSMITTED: 3

DEC 8 2000 PM 4:00

#306

Exhibit 2

LUCE, FORWARD, HAMILTON & SCRIPPS LLP
ATTORNEYS AT LAW • FOUNDED 1873

LAWRENCE J. KOUNS, PARTNER
DIRECT DIAL NUMBER (619) 699-2437

December 8, 2000

Via Facsimile

Michael J. Dowd
Milberg Weiss Bershad Hynes & Lerach LLP
600 West Broadway, Suite 1800
San Diego, CA 92101

Robert J. Nelson
Lieff, Cabraser, Heimann & Bernstein, LLP
275 Battery Street, 38th Floor
San Francisco, California 94111-9339

Re: California Firearms Litigation

Dear Messrs. Dowd and Nelson:

The "core" discovery propounded to the plaintiffs by the defendant manufacturers included interrogatories and requests for documents concerning specific accidental discharge and suicide incidents that have occurred within the plaintiffs' communities, as well as the subject of plaintiffs' own approval and use of firearms. Jim Vogts sent you a letter on October 25, 2000 identifying the specific interrogatories and document requests, and proposing to meet and confer regarding plaintiffs' objections. He proposed a telephone conference on October 31, 2000.

By letter dated October 27, 2000, Mr. Dowd stated that October 31, 2000 was too soon. He proposed that the conference take place during the week of November 6, 2000. That week has come and gone without the desired conference.

At Captain Miller's deposition on November 17, 2000 plaintiffs' attorney Jennie Anderson told Mr. Vogts that by December 11, 2000, plaintiffs would produce documents pertaining to firearms located in their criminal property rooms from 1996 through 1999. Mr. Vogts confirmed this by letter dated November 20, 2000. We look forward to receiving those documents.

However, plaintiffs have still not informed defendants whether they intend to stand on their objections with regard to specific incidents of accidental discharges and suicides occurring in their communities, and firearms authorized, approved and used by plaintiffs. I sent you a letter on December 5, 2000 regarding this. I telephoned Mr. Dowd yesterday and again today to discuss it. I did not reach him. Today, during the noon hour, Mr. Polapink of Mr. Dowd's office left me a voicemail message. His message proposed that we discuss this after next week's production because it may resolve some of the issues. We hope it does, but doubt it will. Plaintiffs know what information we are looking for. Yet, they have never committed to providing it. This process has gone on for months. If we wait until next

LUCE, FORWARD, HAMILTON & SCRIPPS LLP
ATTORNEYS AT LAW • FOUNDED 1873

Robert J. Nelson
Michael J. Dowd, Esq.
December 8, 2000
Page 2

week to start the discussion, we will lose the opportunity to bring the matter before Judge DiFiglia until January.

Unless plaintiffs commit to provide complete responses to this discovery, defendants will have no choice but to file a motion to compel. Judge DiFiglia's court rules require an *ex parte* hearing before a discovery motion can be calendared. We are scheduling an *ex parte* hearing for December 19, 2000 at 8:30 a.m. at which time we will request an order compelling plaintiffs to provide this discovery or, alternatively, a hearing date for our motion. Under Case Management Order No. 1, we must file our *ex parte* papers by Tuesday, December 12, 2000. Obviously, we will not do so if before December 12, plaintiffs will commit to providing the requested discovery.

Very truly yours,



Lawrence J. Kouns
of
Luce, Forward, Hamilton & Scripps LLP

LJK/vmc

Enclosures

cc (by telecopier): Jim Vogts
Wayne Wolff
Susan Caldwell

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is 600 West Broadway, Suite 1800, San Diego, California 92101.

2. That on December 15, 2000, declarant served the **DECLARATION OF STEPHEN P. POLAPINK IN SUPPORT OF PLAINTIFFS' OBJECTION AND OPPOSITION TO DEFENDANTS' EX PARTE MOTION FOR ORDER COMPELLING PLAINTIFFS TO DISCLOSE (1) ACCIDENTAL DISCHARGE AND SUICIDE INCIDENTS AND (2) PLAINTIFFS' APPROVAL AND USE OF SPECIFIC FIREARMS** by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 15th day of December, 2000, at San Diego, California.


VERONICA RIVERA

COUNSEL FOR PLAINTIFF(S)

Alan M. Caplan
Philip Neumark
Paul R. Hoeber
BUSHNELL, CAPLAN & FIELDING,
LLP
221 Pine Street, Suite 600
San Francisco, CA 94104-2715
415/217-3800
415/217-3820 (fax)

Patrick J. Coughlin
Ex Kano S. Sams II
MILBERG WEISS BERSHAD HYNES &
LERACH LLP
100 Pine Street, Suite 2600
San Francisco, CA 94111
415/288-4545
415/288-4534 (fax)

Louise H. Renne
D. Cameron Baker
Owen J. Clements
CITY AND COUNTY OF SAN
FRANCISCO
Fox Plaza, 6th Floor
1390 Market Street
San Francisco, CA 94102-5408
415/554-3932
415/554-3837 (fax)

Dennis S. Henigan
Jonathan E. Lowy
Brian J. Siebel
CENTER TO PREVENT HANDGUN
VIOLENCE (LEGAL ACTION PROJECT)
1250 Eye St., N.W., Suite 802
Washington, DC 20005
202/289-7319
202/408-9748 (fax)

Charles E. Dickerson III
CITY ATTORNEYS OFFICE
One Manchester Blvd., Suite 860
Inglewood, CA 90301
310/412-5372
310/412-8865 (fax)

Jonathan D. McCue
Charles McCue
MCCUE & MCCUE
600 West Broadway, Suite 930
San Diego, CA 92101
619/338-8136
619/338-0322 (fax)

Jonathan Selbin
Paulina do Amaral
LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP
780 Third Avenue, 48th Floor
New York, NY 10017-2024
212/355-9500
212/355-9592 (fax)

James K. Hahn
Carmel Sella
Don Kass
CITY ATTORNEYS OFFICE
200 N. Main Street
1600 City Hall East
Los Angeles, CA 90012
213/485-4515
213/847-3014 (fax)

Legrand H. Clegg II
Celia Francisco
CITY ATTORNEYS OFFICE
205 South Willowbrook Avenue
Compton, CA 90220
310/605-5582
310/763-0895 (fax)

Michael Jenkins
CITY ATTORNEYS OFFICE (WEST
HOLLYWOOD)
333 South Hope Street
38th Floor
Los Angeles, CA 90071
213/626-8484
213/626-0078 (fax)

COUNSEL FOR PLAINTIFF(S)

Sayre Weaver
RICHARDS, WATSON & GERSHON
P.O. Box 1059
Brea, CA 92822-1059
714/990-0901
714/990-6230 (fax)

Samuel L. Jackson
Deborah Schulte
Shana Faber
CITY ATTORNEYS OFFICE
980 9th Street, 10th Floor
Sacramento, CA 95814
916/264-5346
916/264-7455 (fax)

Thomas F. Casey III
Brenda B. Carlson
OFFICE OF THE COUNTY COUNSEL
400 County Center
Redwood City, CA 94063
650/363-4760
650/363-4034 (fax)

R. Manuel Fortes
DEPUTY CITY ATTORNEYS
One Frank Ogawa Plaza, 6th Floor
Oakland, CA 94612
510/238-3601
510/238-6500 (fax)

Lloyd W. Pellman
Lawrence Lee Hafetz
Judy Whitehurst
LOS ANGELES COUNTY COUNSEL
500 West Temple Street
Suite 648
Los Angeles, CA 90012
213/974-1876
213/626-2105 (fax)

David Kairys
LAW OFFICE OF DAVID KAIRYS
1719 North Broad Street
Philadelphia, PA 19122
215/204-8959
215/248-6282 (fax)

Manuela Albuquerque
Matthew J. Orebic
CITY ATTORNEYS OFFICE
1947 Center Street, 1st Floor
Berkeley, CA 94704
510/644-6380
510/644-8641 (fax)

Richard E. Winnie
Kristen J. Thorsness
OFFICE OF ALAMEDA COUNTY
COUNSEL
1221 Oak Street, Room 463
Oakland, CA 94612-4296
510/272-6700
510/272-5020 (fax)

Michael S. Lawson
East Palo Alto City Attorney
THOMPSON, LAWSON LLP
1600 Broadway, Suite 250
Oakland, CA 94612
510/835-1600
510/835-2077 (fax)

Frank J. Janeczek, Jr.
Michael J. Dowd
Stephen P. Polapink
MILBERG WEISS BERSHAD HYNES &
LERACH LLP
600 West Broadway, Suite 1800
San Diego, CA 92101-5050
619/231-1058
619/231-7423 (fax)

COUNSEL FOR PLAINTIFF(S)

Richard S. Lewis
Joseph M. Sellers
COHEN, MILSTEIN, HAUSFELD &
TOLL, P.L.L.C.
1100 New York Ave., N.W.
Suite 500
Washington, DC 20005-3964
202/408-4600
202/408-4699 (fax)

Richard M. Heimann
Robert J. Nelson
LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP
275 Battery Street, 30th Floor
San Francisco, CA 94111-3339
415/956-1000
415/956-1008 (fax)

COUNSEL FOR DEFENDANTS

Jeff Nelson
SHOOK, HARDY & BACON, L.L.P.
1200 Main Street, 27th Floor
Kansas City, MO 64105-2118
816/474-6550
816/421-5547 (fax)

* Wayne A. Wolff
SEDGWICK, DETERT, MORAN &
ARNOLD
One Embarcadero Center
16th Floor
San Francisco, CA 94111-3765
415/781-7900
415/781-2635 (fax)

Edwin W. Green
Kimberly A. Donlon
ALLEN, MATKINS, LECK, GAMBLE &
MALLORY, LLP
515 South Figueroa Street
7th Floor
Los Angeles, CA 90071-3398
213/622-5555
213/620-8816 (fax)

Michael John Bonesteel
Steven L. Hoch
Carolyn Trokey
HAIGHT BROWN & BONESTEEL LLP
1620 - 26th Street
Suite 4000 North
Santa Monica, CA 90404
310/449-6000
310/829-5117 (fax)

William M. Griffin III
FRIDAY, ELDREDGE & CLARK
2000 First Commercial Bldg.
400 West Capitol
Little Rock, AR 72201
501/376-2011
501/376-2147 (fax)

James P. Dorr
* James B. Vogts
WILDMAN, HARROLD, ALLEN & DIXON
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229
312/201-2000
312/201-2555 (fax)

COUNSEL FOR DEFENDANTS

R. Dewitt Kirwan
Robert N. Tafoya
AKIN, GUMP, STRAUSS, HAUER &
FELD, LLP
2029 Century Park East
Suite 2600
Los Angeles, CA 90067
310/229-1000
310/229-1001 (fax)

Steven A. Silver
LAW OFFICES OF STEVEN A. SILVER
1077 West Morton Avenue, Suite C
Porterville, CA 93257
559/782-1552
559/782-0364 (fax)

Charles L. Coleman
HOLLAND & KNIGHT LLP
44 Montgomery Street, Suite 4050
San Francisco, CA 94104-4801
415/743-6900
415/743-6910 (fax)

Robert M. Anderson
WILSON ELSEER MOSKOWITZ EDELMAN
& DICKER, LLP
1055 West 7th Street, Suite 2700
Los Angeles, CA 90017
213/624-3044
213/624-8060 (fax)

James R. Branit
BOLERO & CARTON, CHTD.
200 N. La Salle Street
Suite 2500
Chicago, IL 60601
312/831-1000
312/831-0647 (fax)

Robert C. Gebhardt
Craig A. Livingston
SCHNADER, HARRISON, SEGAL &
LEWIS LLP
601 California St., Suite 1200
San Francisco, CA 94108
415/364-6700
415/364-6785 (fax)

Timothy A. Bumann
BUDD LARNER GROSS ROSENBAUM
GREENBERG & SADE
127 Peachtree Street, N.E.
Suite 715
Atlanta, GA 30303
404/688-3000
404/688-0888 (fax)

John F. Renzulli
John J. McCarthy
RENUZZI & RUTHERFORD, LLP
300 East 42nd Street
New York, NY 10017
212/599-5533
212/599-5162 (fax)

E. Gordon Haesloop
BARTLETT MCDONOUGH BASTONE &
MONAGHAN
300 Old Country Road
Mineola, NY 11501
516/877-2900
516/877-0732 (fax)

David R. Gross
BUDD LARNER GROSS ROSENBAUM
GREENBERG & SADE, P.C.
150 JFK Parkway
Short Hills, NJ 07078
973/379-4800
973/379-7734 (fax)

COUNSEL FOR DEFENDANTS

Scott L. Braum
Thomas P. Whelley, II
CHERNESKY, HEYMAN & KRESS,
P.L.L.
10 Courthouse Plaza S.W.
Suite 1100
Dayton, OH 45401-2849
937/449-2849
937/449-2836 (fax)

Burton C. Jacobson
LAW OFFICE OF BURTON C.
JACOBSON
424 South Beverly Drive
Beverly Hills, CA 90212-4414
310/553-8533
310/286-2819 (fax)

Ray Koletsky
* Susan L. Caldwell
KOLETSKY, MANCINI, FELDMAN &
MORROW
3460 Wilshire Blvd., 8th Floor
Los Angeles, CA 90010
213/427-2350
213/427-2366 (fax)

Bradley T. Beckman
BECKMAN & ASSOCIATES
1601 Market Street, Suite 2330
Philadelphia, PA 19103
215/569-3096
215/569-8769 (fax)

Carmen Trutanich
Timothy Lignoul
TRUTANICH - MICHEL, LLP
Port of Los Angeles
407 N. Harbor Blvd.
San Pedro, CA 90731
310/548-3816
310/548-4813 (fax)

Timothy G. Atwood
LAW OFFICE OF TIMOTHY ATWOOD
273 Canal Street
Shelton, CT 06484
203/924-4464
203/924-1359 (fax)

Wendy E. Schultz
Norman J. Watkins
LYNBERG & WATKINS, P.C.
888 S. Figueroa Street
16th Floor
Los Angeles, CA 90017
213/624-8700
213/892-2763 (fax)

Lawrence S. Greenwald
GORDON FEINBLATT ROTHMAN
HOFFBERGER & HOLLANDER, LLC
223 East Redwood Street
Baltimore, MD 21202
410/576-4000
410/576-4246 (fax)

Timothy Gorry
Frank Sandelmann
GORRY & MEYER
2029 Century Park East
Suite 400
Los Angeles, CA 90067
310/277-5967
310/277-5968 (fax)

James Leonard Crew
Jack Leavitt
LAW OFFICES
18 Crow Canyon Court, Suite 380
San Ramon, CA 94583-1669
925/831-0834
925/831-8483 (fax)

COUNSEL FOR DEFENDANTS

Robert L. Joyce
WILSON ELSEER MOSKOWITZ EDELMAN
& DICKER, LLP
150 East 42nd Street
New York, NY 19917
212/490-3000
212/490-3038 (fax)

Harold R. Mayberry, Jr.
The American Shooting Sports
Council
MAYBERRY LAW FIRM
2010 Corporate Ridge
Seventh Floor
McLean, VA 22102
703/714-1554
703/783-8532 (fax)

Jeff G. Harmeyer
MCATEE HARMEYER LLP
401 West "A" Street, Suite 1850
San Diego, CA 92101
619/231-9800
619/234-3800 (fax)

Phillip Hudson III
GUNSTER, YOAKLEY, VALDEZ-FAULI
& STEWART
One Biscayne Tower, Suite 3400
2 South Biscayne Blvd.
Miami, FL 33131
305/376-6000
305/376-6010 (fax)

David A. Robinson
Raymond L. Liddy
ENTERPRISE COUNSEL GROUP
Five Park Plaza, Suite 450
Irvine, CA 92614
949/833-8550
949/833-8540 (fax)

Paul K. Schrieffer
Ian R. Feldman
SCHRIEFFER NAKASHIMA & DOWNEY,
LLP
100 N. Barranca Avenue
Suite 1100
West Covina, CA 91791
626/858-2444
626/974-8403 (fax)

Robert C. Tarics
Michael Branisa
Michael J. Zomcik
TARICS & CARRINGTON, P.C.
5005 Riverway Drive, Suite 500
Houston, TX 77056
713/629-4777
713/227-0701 (fax)

Michael C. Hewitt
BRUINSMA & HEWITT
380 Clinton Avenue, Unit C
Costa Mesa, CA 92626
714/755-0194
714/755-0195 (fax)

Terry F. Moritz
Roger Lewis
GOLDBERG, KOHN, BELL, BLACK,
ROSENBLOOM & MORITZ, LTD.
55 East Monroe Street
Suite 3700
Chicago, IL 60603-5802
312/201-4000
312/332-2196 (fax)

Douglas Kliever
ATTORNEY AT LAW
101 D Street, S.E., 2nd Floor
Washington, DC 20003
202/548-0300
202/548-0307 (fax)

COUNSEL FOR DEFENDANTS

Gregory D. Bistline
BISTLINE & COHOON
2500 E. Colorado Blvd.
Suite 340
Pasadena, CA 91107-3766
626/440-0591
626/440-0691 (fax)

Michael P. Verna
Mary P. Sullivan
BOWLES & VERNA
2121 N. California Blvd.
Suite 875
Walnut Creek, CA 94596
925/935-3300
925/935-0371 (fax)

* Lawrence J. Kouns
Christopher J. Healey
LUCE, FORWARD, HAMILTON &
SCRIPPS
600 West Broadway, Suite 2600
San Diego, CA 92101-3391
619/236-1414
619/645-5359 (fax)

Robert Wright
WRIGHT & L'ESTRANGE
701 B Street, Suite 1550
San Diego, CA 92101-8103
619/231-4844
619/231-6710 (fax)

Vernon I. Zvoleff
Alan J. Lazarus
Christopher L. Lebsock
PREUSS, WALKER & SHANAGHER, LLP
225 Bush Street, 15th Floor
San Francisco, CA 94104
415/397-1730
415/397-1735 (fax)

* LIAISON COUNSEL SERVED VIA FACSIMILE & FEDERAL EXPRESS (LAWRENCE J. KOUNS SERVED VIA
HAND-DELIVERY)