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Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**

14 TRACY RIFLE AND PISTOL LLC;
15 MICHAEL BARYLA; TEN PERCENT
16 FIREARMS; WESLEY MORRIS;
17 SACRAMENTO BLACK RIFLE, INC.;
18 ROBERT ADAMS; PRK ARMS, INC.; and
19 JEFFREY MULLEN,

Plaintiffs,

v.

20 KAMALA D. HARRIS, in her official capacity
21 as Attorney General of California; and
22 STEPHEN J. LINDLEY, in his official capacity
23 as Chief of the California Department of Justice
24 Bureau of Firearms,

Defendants.

Case No.: 2:14-cv-02626-TLN-DAD

**DECLARATION OF WESLEY MORRIS
IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION**

Hearing Date: January 29, 2015

Hearing Time: 2:00 p.m.

Judge: Hon. Troy L. Nunley

Courtroom 2, 15th Floor

Action Filed: Nov. 10, 2014

1 I, Wesley Morris, declare:

2 1. I have personal knowledge of the matters set forth in this declaration, and would be
3 able to testify competently to these facts if called as a witness.

4 2. I am an owner of Ten Percent Firearms, a firearms dealership in Taft, California.
5 Ten Percent Firearms is listed as a firearms dealer in the California Department of Justice's
6 Centralized List of Firearms Dealers, and I am an individual licensee associated with the
7 dealership.

8 3. Dean Rowden and I founded Ten Percent Firearms in 2005 in a town that needed a
9 firearms store. The store is a family business that takes pride in providing excellent customer
10 service to the citizens of Taft, and through our website, all of California. Ten Percent Firearms has
11 always sought to provide the customer what they want and we fight to be on the cutting edge of
12 product lines and availability.

13 4. On or about February 23, 2010, the DOJ Bureau of Firearms inspected Ten Percent
14 Firearms. Displayed in the dealership's parking lot was a metal sign shaped like a revolver. The
15 DOJ inspector informed the dealership that the sign violated the handgun advertising restriction,
16 and that Ten Percent Firearms could be "shut down" for it. One of our employees immediately
17 removed the sign while the inspector was still on the premises. Nevertheless, the Bureau of
18 Firearms issued a "Notification of Inspection Findings" citing me and the dealership for violating
19 the handgun advertising ban. A picture of the sign is attached as Exhibit 1 and a copy of the
20 Notification is attached as Exhibit 2.

21 5. By requiring Ten Percent Firearms to remove the sign, our First Amendment rights
22 have been directly infringed by the enforcement of the handgun advertising ban, and our speech
23 continues to be chilled by the statute. But for Section 26820, we would display additional truthful,
24 nonmisleading material advertising the sale of handguns at the dealership.

25 6. The essence of providing this service to our community is we must be able to
26 advertise and advertise effectively. We cannot openly advertise our diverse line of handguns along
27 one of the busiest traffic corridors in the west side of the county because of the restrictive
28 prohibition of openly advertising handguns found in the California Penal Code. This obviously

1 harms our ability to attract customers.

2 I declare under penalty of perjury under the laws of the State of California that the
3 foregoing is true and correct. Executed November 11, 2014 in California.

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5 _____
6 WESLEY MORRIS
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PROOF OF SERVICE
Case No. 2:14-cv-02626-TLN-DAD

The undersigned hereby certifies as follows:

I am an employee of the law firm of Benbrook Law Group, PC, 400 Capitol Mall, Suite 1610, Sacramento, California. I am over 18 years of age and am not a party to the within action.

On November 17, 2014 I served a true copy of the following document:

**DECLARATION OF WESLEY MORRIS IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION**

on the party(ies) in this action by placing a true copy thereof in a sealed envelope(s), addressed as follows:

Kamala D. Harris Attorney General of California 1300 I Street Sacramento, CA 95814	Stephen J. Lindley California Department of Justice Bureau of Firearms 1300 I Street Sacramento, CA 95814
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_____(BY OVERNIGHT DELIVERY) I placed each such sealed envelope, with delivery fees provided for, for collection and overnight delivery at Benbrook Law Group, PC, Sacramento, California following ordinary business practices. I am readily familiar with the practice of Benbrook Law Group, PC for collection and processing of correspondence for overnight delivery, said practice being that in the ordinary course of business, correspondence is deposited in the facility regularly maintained by the express services carrier the same day as it is placed for collection.

XX (BY MAIL) I placed such sealed envelope, with postage fully prepaid for first-class mail, for collection and mailing at Benbrook Law Group, PC, Sacramento, California following ordinary business practices. I am readily familiar with the practice of Benbrook Law Group, PC for collection and processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for collection.

_____(PERSONAL SERVICE) by sending a true copy thereof in an envelope addressed as indicated above, and by then sealing said envelope(s) and giving the same to a messenger for personal delivery.

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

Dated: November 17, 2014

/s/ Kelly McConnen
Kelly McConnen

EXHIBIT 1



Outlets
Controls

GUNS
AMMO
LICENSES


RECYCLING
1277 KERN ST.
765-6752

GUNS
AMMO
LICENSES



EXHIBIT 2



Ps 102

State of California
Department of Justice
Bureau of Firearms

P.O. Box 160487 Sacramento, CA 95816-0487
Telephone: (916) 263-4887 Fax: (916) 274-5992



FIREARMS DEALER NOTIFICATION OF INSPECTION FINDINGS

Business Name: TEN PERCENT FIREARMS	City: TAFT	CC: 15	Field Representative: BOB BERTHOLD	Date: FEB 23, 2010
Licensee(s): WESLEY MURRIS	CFD#: 21064	Inspection# 2 Follow-up: _____	Contact Person(s): WESLEY MURRIS/BECKY SHARP	Follow-up Required: YES

NO VIOLATIONS WERE REVEALED AT INSPECTION - NO FURTHER ACTION IS NECESSARY BY THE FIREARMS DEALERSHIP

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING VIOLATION(S) AND ACTION NECESSARY TO COMPLY WITH STATE LAW(S):

THIS IS A WARNING. Violation(s) of California Penal Code sections have been revealed. This notification is issued to you in an effort to secure your cooperation in future compliance and to ensure public safety. The Department of Justice Bureau of Firearms believes that a firearms dealer will comply with these laws when notified of the importance of strict compliance.

FUTURE FAILURE OF COMPLIANCE MAY RESULT IN ADMINISTRATIVE AND/OR CRIMINAL ACTION.

VIOLATION (PC Section)	SUMMARY OF VIOLATION	CORRECTIVE ACTION TO BE TAKEN	DATE TO BE COMPLETED
	FYI: PLAZARD OF REVOLVER WAS DISPLAYED WHEN INSPECTION BEGAN. TAKEN DOWN DURING INSPECTION. PER 12091(b)(4)		
	HANDGUN OR AD CANNOT BE DISPLAYED SEEN FROM OUTSIDE.		

Redacted

COMMENTS: _____

ALL VIOLATIONS NOTED ABOVE WERE DISCUSSED. I HAVE RECEIVED A COPY OF THIS REPORT AND WILL TAKE STEPS TO COMPLY WITH THE ABOVE PENAL CODE SECTIONS WITHIN 30 DAYS UNLESS OTHERWISE INDICATED.

LICENSEE/MGR/EMPLOYEE: _____ (SIGNATURE) _____ 2/23/10 (DATE) INSPECTED BY: _____ (DEPARTMENT OF JUSTICE FIELD REPRESENTATIVE) _____ 02/23/10 (DATE)

DISTRIBUTION: ORIGINAL-Department of Justice YELLOW-Firearms Dealership