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C.D. Michel - SBN 144258
Joseph A. Silvoso, III - SBN 248502
Sean A. Brady - SBN 262007
Anna M. Barvir - SBN 268728
MICHEL & ASSOCIATES, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
Telephone: (562) 216-4444
Facsimile: (562) 216-4445
Email: cmichel@michellawyers.com

Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO

KIM BELEMJIAN; JONATHAN
FAIRFIELD; T.J. JOHNSTON; MATTHEW
PIMENTEL; STANLEY ROY; FFLGUARD,
INC.; CALIFORNIA RIFLE AND PISTOL
ASSOCIATION;

Plaintiffs,

vs.

KAMALA D. HARRIS, in her official
capacity as Attorney General for the State of
California; STEPHEN LINDLEY, in his
official capacity as CHIEF OF THE
CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF FIREARMS; CALIFORNIA
DEPARTMENT OF JUSTICE; and DOES 1 -
10;

Defendants.

CASE NO. 15-CE-CG-00029

**DECLARATION OF JOSEPH A.
SILVOSO, III IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES; EXHIBIT C**

Date: December 16, 2015
Time: 3:30 pm
Dept.: 503
Judge: Honorable Alan M. Simpson

Action Filed: January 6, 2015

FILED

AUG 25 2015

FRESNO COUNTY SUPERIOR COURT

By _____ LP-DEPUTY

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DECLARATION OF JOSEPH A. SILVOSO, III

I, Joseph A. Silvos, III declare as follows:

1. I am an attorney at the law firm Michel & Associates, P.C., attorneys of record for Plaintiffs in this action. I am an attorney licensed to practice law before the courts of the State of California. I am also licensed to practice before the United States District Courts for the Central, Southern, and Eastern Districts of California. I have personal knowledge of the facts set forth herein and, if called and sworn as a witness, could and would testify competently thereto.

Plaintiffs’ Counsel’s Background and Experience

2. I am an attorney at Michel & Associates, P.C. (formerly Trutanich-Michel, LLC) and have worked in that capacity since 2007. Prior to receiving an attorney position, I worked at Trutanich-Michel as a law clerk.

3. My practice includes work relating to firearm regulatory compliance, criminal defense, and other firearm-related matters. Examples of the work I do include advising individuals and businesses on how to comply with complicated gun regulation schemes, providing criminal defense representation, advising individuals on firearm-rights restoration, and providing analysis of proposed firearm- and ammunition-related bills in the legislature.

4. Prior to taking an attorney position at Trutanich-Michel., I worked as a certified law clerk at the Orange County District Attorney's Office in the Hardcore Gang Unit.

Authentication of Billing

5. Plaintiffs’ billing records, attached to the Declaration of Haydee Villegas filed simultaneously herewith, include true and accurate copies of my billing records for which fee recovery is sought in this matter. The records include detailed descriptions of the work I performed on this case and the time spent on each task between December 1, 2014, and June 1, 2015.

6. In the regular course and scope of my daily business activities, I prepared the descriptions contained in each billing record that shows my name as the “Timekeeper,” and I did so at or near the time of the occurrence of the work that I performed on this matter.

1 administration of the FSC Program and safe-handling demonstrations. (Ex. I, attached to the
2 Declaration of Anna M. Barvir filed simultaneously herewith.)

3 10. On or about October 14, 2014, my office sent the California Attorney General's
4 Office a request for documents pursuant to the California Public Records Act. This letter
5 specifically requested, among other things: "[e]ach and every Writing or Government Record
6 drafted, created after January 1, 2011, as a California Code of Regulations provision regarding the
7 FSC program's implementation, requirements, and enforcement." (Ex. J, attached to the
8 Declaration of Anna M. Barvir filed simultaneously herewith.)

9 11. On or about November 10, 2014, during a telephone conference I had with Deputy
10 Attorney General Kimberly Granger—then counsel for the Department of Justice Bureau of
11 Firearms—regarding my October 14 request for public records, Ms. Granger admitted that the
12 Department was not in the process of drafting, considering, or adopting permanent or emergency
13 regulations in compliance with the Administrative Procedure Act. Later in the conversation, when
14 discussing a similar request for records regarding formal regulations for the FSC Program, Ms.
15 Granger responded "you mean the ones we aren't writing?"

16 12. On December 18, 2014, Defendants sent a letter addressed to "DOJ Certified
17 Instructors" stating, again, that effective January 1, 2015, the existing Handgun Safety Certificate
18 ("HSC") Program would be changed to the FSC Program. And, again, it described several
19 requirements for the implementation and administration of the newly enacted FSC Program and
20 long-gun safe-handling demonstrations. My office obtained a copy of Defendants' December 18,
21 2014 letter when we received further inquiries from Michel & Associates, P.C. clients regarding
22 the content of that letter. (Ex. K, attached to the Declaration of Anna M. Barvir filed
23 simultaneously herewith.)

24 13. On or around December 22, 2014, it became fully apparent to me and my
25 colleagues that Defendants would not—and, in fact, did not have the statutorily mandated time
26 available to—formally adopt permanent or emergency regulations compliant with the
27 Administrative Procedure Act by the January 1, 2015 effective date of SB 683. Instead,

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1 Defendants' December 18, 2014 letter was clear that it was Defendants' intention to enforce the
2 illegal, underground regulations they had first announced by way of their October 2, 2014 letter.

3 14. On December 29, 2014, my office submitted a petition to the Office of
4 Administrative Law ("OAL") on behalf of Plaintiff *FFLGuard*, Inc., complaining of Defendants'
5 failure to adhere to the Administrative Procedure Act when adopting the implementing regulations
6 laid out in letters sent by Defendants to firearm dealers and Department-certified instructors on
7 October 6 and December 18, 2014. On behalf of Plaintiff *FFLGuard*, we simultaneously
8 submitted a copy of the OAL complaint to Defendants Harris and Lindley. (Ex. L, attached to the
9 Declaration of Anna M. Barvir filed simultaneously herewith.)

10 15. Defendants did not respond to *FFLGuard*'s OAL petition; they instead began
11 enforcing the challenged rules on January 1, 2015, when the FSC Program took effect.

12 16. On December 30, 2014, I sent an email to Ms. Granger, informing her that my
13 clients would be filing a lawsuit and immediately seeking an ex parte order to show cause and
14 temporary restraining order ("TRO/OSC") on January 5, 2015. On the same day, Ms. Granger
15 responded asking for copies of the papers Plaintiffs intended to file. I replied that I would try to
16 have the papers to her by January 2, 2015. Attached hereto as Exhibit C is a true and correct copy
17 of the email chain with Defendants' counsel regarding Plaintiffs' forthcoming lawsuit.

18 17. On January 2, 2015, Ms. Granger informed me via email that Mr. Jeffrey A. Rich
19 was assigned to handle the case. (Ex. C.) I responded later that day, informing Ms. Granger and
20 Mr. Rich that Ms. Anna M. Barvir and Mr. Sean A. Brady, two attorneys from my office, would
21 be taking over the representation of Plaintiffs in this matter. I copied Ms. Barvir and Mr. Brady on
22 this communication. (Ex. C.)

23 18. On January 2, 2015, I was copied on an email from Mr. Brady, primarily addressed
24 to Mr. Rich and Ms. Granger, wherein he asked whether it was Defendants' position that Plaintiffs
25 must provide the TRO/OSC papers they intended to file before the hearing. He also informed
26 them that our office was working diligently to complete the draft complaint and writ of mandate
27 that afternoon, but could not guarantee that Plaintiffs' TRO/OSC papers would be available until
28

1 the day of the hearing. (Ex. D, attached to the Declaration of Sean A. Brady filed simultaneously
2 herewith.)

3 19. On January 2, 2015, I e-mailed Mr. Rich and Ms. Granger, with Mr. Brady and
4 others copied. (Ex. C.) In that communication, I asked whether Defendants intended to appear and
5 oppose the TRO/OSC on January 5, 2015. (Ex. C.) Later that day, Mr. Rich responded, wherein he
6 informed my office for the first time that he believed my December 30, 2014 e-mail did not
7 comply with the required notice contents for an ex parte application. Mr. Rich also stated that he
8 intended to object to the TRO/OSC on both procedural and substantive grounds, though he did not
9 indicate what those substantive grounds might be. (Ex. D, attached to the Declaration of Sean A.
10 Brady filed simultaneously herewith.)

11 **Role in Litigation**

12 20. During the pre-litigation phase, I conducted legal research and analyzed legal
13 research memoranda regarding the validity of Defendants' enforcement of the FSC Program and
14 safe-handling regulations. I also drafted, reviewed, and revised Plaintiff *FFLGuard*'s petition to
15 OAL, Plaintiffs' notice to Defendants, and early drafts of Plaintiffs' Verified Complaint. Finally, I
16 communicated with Plaintiffs, co-counsel, law clerks, and opposing counsel via email, and
17 engaged in litigation strategy and status discussions with Mr. Brady and Ms. Barvir.

18 21. During the Motion for Preliminary Injunction phase, I met with Ms. Barvir to
19 discuss litigation strategies relating to and preparing evidence in support of Plaintiffs' anticipated
20 Motion for Preliminary Injunction.

21 22. During the emergency regulations phase, I conducted research regarding the status
22 of the FSC emergency regulations and corresponded with Ms. Barvir regarding the same.

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

25 Executed August 24, 2015 at Long Beach, California.

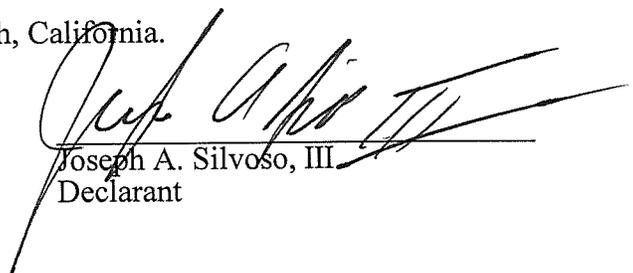
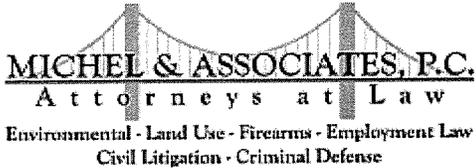
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28 Joseph A. Silvos, III
Declarant

EXHIBIT C

Joseph Silviso

From: Joseph Silviso
Sent: Friday, January 02, 2015 1:33 PM
To: Kimberly Granger; Jeffrey Rich
Cc: Anna M. Barvir; Sean Brady
Subject: RE: TRO for FSC and Long Gun Safe Handling requirements

Does DOJ plan on appearing and opposing the TRO?

<p>Joseph Silviso Attorney</p>  <p>MICHEL & ASSOCIATES, P.C. Attorneys at Law Environmental - Land Use - Firearms - Employment Law Civil Litigation - Criminal Defense</p>	<p>Direct: (562) 216-4461 Main: (562) 216-4444 Fax: (562) 216-4445 Email: jsilviso@michellawyers.com Web: www.michellawyers.com</p> <p>180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802</p>
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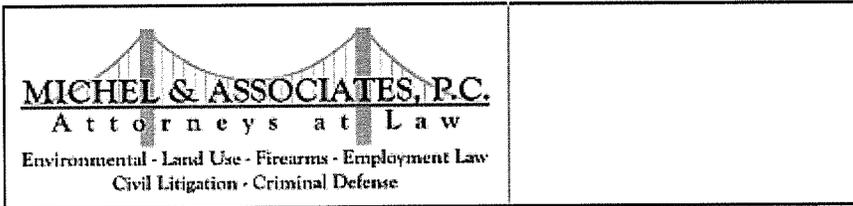
From: Sean Brady
Sent: Friday, January 02, 2015 12:37 PM
To: Kimberly Granger; Jeffrey Rich
Cc: Anna M. Barvir; Joseph Silviso
Subject: RE: TRO for FSC and Long Gun Safe Handling requirements

Ms. Granger and Mr. Rich,

Please correct me if I am wrong, but I do not see anywhere in the rules that require us to provide you the papers we intend on filing prior to the hearing. If the rules do require such, please let me know at your earliest convenience so we can plan accordingly. That being said, we are currently trying to get a draft of our complaint and writ of mandate completed in the next few hours so that we can send it to you today. The actual TRO motion, however, will likely not be available for us to send you until the hearing, but we may send it over the weekend. There is no real mystery here, though. The complaint basically explains what our arguments are. If you have any questions or concerns, please feel free to contact me.

Regards,

<p>Sean Brady Attorney</p>	<p>Direct: (562) 216-4464 Main: (562) 216-4444 Fax: (562) 216-4445 Email: SBrady@michellawyers.com Web: www.michellawyers.com</p> <p>180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802</p>
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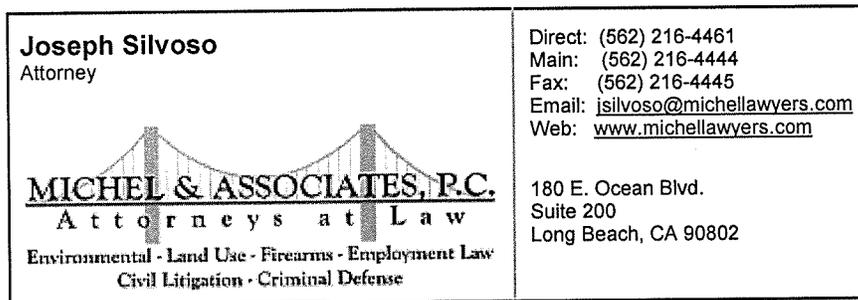


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From: Joseph Silvano
Sent: Friday, January 02, 2015 12:14 PM
To: Kimberly Granger; Jeffrey Rich
Cc: Anna M. Barvir; Sean Brady
Subject: RE: TRO for FSC and Long Gun Safe Handling requirements

Ms. Granger and Mr. Rich,

Anna Barvir and Sean Brady will be handling this matter for our office. They are cc'ed on this e-mail and can be reached by calling our main office number.



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From: Kimberly Granger [<mailto:Kimberly.Granger@doj.ca.gov>]
Sent: Friday, January 02, 2015 11:48 AM
To: Joseph Silvano
Cc: Jeffrey Rich
Subject: RE: TRO for FSC and Long Gun Safe Handling requirements
Importance: High

Mr. Silvano,

Please be advised that Deputy Attorney General Jeffrey Rich has been assigned to handle this case on behalf of the Department of Justice and the Bureau of Firearms. Please send all documents/correspondence regarding the upcoming TRO to Jeff. His contact information is:

Jeffrey Rich, Deputy Attorney General
1300 I Street, Sacramento, CA 95814
Email: Jeffrey.Rich@doj.ca.gov
Phone: (916) 324-5154

Please continue to copy me on emails regarding this case. Also, please provide a time frame from when we can expect to see your papers in support of your TRO request.

Best,

Kimberly

Kimberly Granger
Deputy Attorney General IV
California Department of Justice, Bureau of Firearms
Email: kimberly.granger@doj.ca.gov
Direct phone: 916.227.4003
Fax: 916.324.8835

From: Joseph Silvosio [<mailto:jsilvosio@michellawyers.com>]
Sent: Tuesday, December 30, 2014 7:39 PM
To: Kimberly Granger
Subject: RE: TRO for FSC and Long Gun Safe Handling requirements

We will try to have it to you on Friday. We still need to see the actual requirements implemented Thursday.

<p>Joseph Silvosio Attorney</p>  <p>MICHEL & ASSOCIATES, P.C. Attorneys at Law</p> <p>Environmental - Land Use - Firearms - Employment Law Civil Litigation - Criminal Defense</p>	<p>Direct: (562) 216-4461 Main: (562) 216-4444 Fax: (562) 216-4445 Email: jsilvosio@michellawyers.com Web: www.michellawyers.com 180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802</p>
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From: Kimberly Granger [<mailto:Kimberly.Granger@doj.ca.gov>]
Sent: Tuesday, December 30, 2014 7:36 PM
To: Joseph Silvosio
Subject: RE: TRO for FSC and Long Gun Safe Handling requirements

When will you provide us with the actual papers that you intend to file?

Kimberly

From: Joseph Silvosio [jsilvosio@michellawyers.com]
Sent: Tuesday, December 30, 2014 7:25 PM
To: Kimberly Granger
Subject: TRO for FSC and Long Gun Safe Handling requirements

Ms. Granger,

This e-mail is sent to provide you and the California Department of Justice (DOJ) notice that on Monday, January, 5 at the Fresno Superior Courthouse located at 1130 O Street Fresno, CA 93721, at approximately 8:30 am, we will seek a Temporary Restraining Order (TRO) against the enforcement of the long gun safe handling requirements located in Penal Code section 26860.

Additionally, we will seek a TRO against the implementation of the requirements specified by the DOJ in the letters dated October 2 and December 18 sent to Firearm dealers and Handgun Safety Certificate Instructors relating to the Firearm Safety Certificate (FSC) program. This TRO will include any further requirements not specified by the Penal Code once the program is in place on January 1, 2015.

This TRO will be filed along with a complaint seeking to enjoin the enforcement of the long gun safe handling demonstration requirements and the requirements set forth by DOJ concerning the FSC program as these requirements constitute "underground regulations." We will also seek a Writ of Mandate requiring DOJ to implement regulations pursuant to the Administrative Procedures Act for the safe handling requirements outlined in Penal Code section 26860(b).

If you have any questions or concerns please call me at the number below.

<p>Joseph Silvano Attorney</p>  <p>MICHEL & ASSOCIATES, P.C. Attorneys at Law</p> <p>Environmental - Land Use - Firearms - Employment Law Civil Litigation - Criminal Defense</p>	<p>Direct: (562) 216-4461 Main: (562) 216-4444 Fax: (562) 216-4445 Email: jsilvano@michellawyers.com Web: www.michellawyers.com 180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802</p>
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PROOF OF SERVICE

I, Laura Quesada, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

On August 25, 2015, I served the foregoing document(s) described as:

DECLARATION OF JOSEPH A. SILVOSO, III IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES; EXHIBIT C

on the interested parties in this action by placing
[] the original
[X] a true and correct copy
thereof enclosed in sealed envelope(s) addressed as follows:

Mr. Jeffrey Rich
Deputy Attorney General
1300 I Street
Sacramento, CA 95814

 (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the addressee.

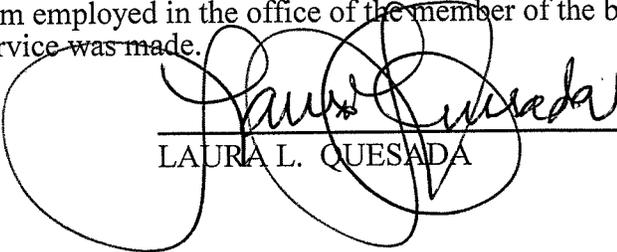
Executed on _____, 2015, at Long Beach, California.

X **(OVERNIGHT MAIL)** As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt on the same day in the ordinary course of business. Such envelope was sealed and placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for in accordance.

Executed on August 25, 2015, at Long Beach, California.

X **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

 (FEDERAL) I declare that I am employed in the office of the member of the bar of this court at whose direction the service was made.



LAURA L. QUESADA