

ENDORSED
FILED
San Francisco County Superior Court

FEB 03 2006

GORDON PARK-LI, Clerk

BY: MARYANN MORAN
Deputy Clerk

1 Bruce Colodny S. B. N. 107125
2 LAW OFFICES OF BRUCE COLODNY
3 1881 Business Center Dr., Suite 8B
4 San Bernardino, CA 92408
5 Telephone: (909) 862-3113
6 Facsimile: (909) 864-5243

7 Attorneys for Amicus
8 American Entertainment Armorers Association

COPY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 UNLIMITED JURISDICTION

12 PAULA FISCAL et al.,

13 Plaintiffs and Petitioners,

14 vs.

15 CITY AND COUNTY OF SAN
16 FRANCISCO et al.,

17 Defendants and Respondents.

) CASE NO. CPF-05-505960

) AMERICAN ENTERTAINMENT
) ARMORERS ASSOCIATION AMICUS
) BRIEF IN SUPPORT OF PLAINTIFFS
) AND PETITIONERS [PROPOSED]

) Hearing Date: February 15, 2006
) Hearing Judge: Warren
) Time: 9:30 a.m.
) Location: Dept. 301

) Date Action Filed: December 29, 2005
) Trial Date: None scheduled

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INTERESTS OF THE AMICUS

The American Entertainment Armorers Association (“AEAA”), represents entertainment prop houses, armorers, prop masters, and related professionals and businesses that service the entertainment industry. AEAA members (as federally and state licensed firearms dealers, importers, or manufacturers) provide film, television, and stage production companies with “prop” (i.e., typically real and regulated, but rigged to fire only blanks) handguns, rifles, shotguns, as well as more heavily regulated “assault weapons,” 50 BMG rifles, machine guns, “destructive devices,” “short barreled” weapons, and custom built firearms and related devices used in productions. AEAA members often provide production companies and actors with dozens, or *hundreds* of firearms for any given production.

While the entertainment industry struggles to keep productions in the United States, and cities like Los Angeles and New York are actively courting film production business, Proposition H appears to reflect the carelessness of certain San Francisco politicians who, in their desire to make a political statement, did not carefully study the existing regulatory scheme, consult with impacted parties, or consider the effect of the ordinance on the entertainment industry.

MEMORANDUM OF POINTS & AUTHORITIES

I. THE ORDINANCE CONTRAVENES GOVERNMENT CODE SECTION 53071

Petitioners correctly assert that the ordinance intrudes on areas of firearm regulation which state law occupies. Government Code section 53071 renders state licensing laws exclusive, i.e., it bans local regulation which creates a local licensing scheme or interferes with a state licensing scheme. This would include the creation of local licenses, or the refusal to recognize state licenses locally.

The concept of licensing in Government Code section 53071 encompasses two distinct forms. The narrower and secondary type of licensing law provides for the issuing of a piece of paper called a license (or permit or certificate.) For example, Penal Code section 12081, which creates the Entertainment Armorers Permit system. The broader type of license law is any law which expressly authorizes or permits acquisition, possession, or use of a firearm by certain people or under certain

1 circumstances.¹ This broader use of the term “license” is the usage preferred in both general and legal
2 dictionaries.² More important, this broader usage of “license” is the one discussed and approved in
3 relation to firearm licensing in *Galvan v. Superior Court* (1969) 70 Cal.2d 851, 856 [76 Cal.Rptr. 642]
4 defining “license” as “permission or authority to do a particular thing or exercise a particular
5 privilege.” Government Code section 53071 was passed in response to the *Galvan* decision, and
6 section 53071 was meant to adopt the broader meaning of the word “license” as expressed by the
7 *Galvan* court.

8 As set out below, numerous state laws “license” prop managers, actors, and others involved in
9 theatrical productions or performance art to do things that the ordinance prohibits. Proposition H
10 illegally invalidates those licenses. The state laws permitting, allowing, and “licensing” film,
11 theatrical, and performance art involving firearms laws preempt and voids the ordinance.

12 II. BACKGROUND ON THE USE OF FIREARMS IN THEATRICAL PRODUCTIONS

13 A. Typically Real Firearms Are Used

14 Although in some productions or scenes non-firing replica “firearms” can be used, the
15 feasibility of using imitation firearms in productions is limited. For the most part, the firearms used in
16 film, television, and theatrical productions are real, but temporarily modified to fire only blank
17 ammunition. This is the only way to provide the semblance of realism that is essential to a successful
18 production. Using real firearms firing blanks makes the simulation look and sound real. The real
19 blank firing gun helps give the Director a normal acting reaction, as opposed to “shooting” a fake gun
20 with no noise and recoil. Toy or fake guns with sound cues don’t work, due to timing issues which
21

22 ¹ Example of a licensing statute of the broader type include the statutory allowances (i.e.
23 licenses) to carry concealed handguns *without* a formal license to carry a concealed
24 weapon (CCW) (i.e., a CCW issued pursuant to Penal Code section 12050) contained in
25 Penal Code sections 12026, 12026.1, 12026.2, 12027, and 12027.1.

26 ² Compare Black’s Law Dict. (5th ed. 1979) at p. 829 defining “license” as *either* “[t]he
27 permission by competent authority to do an act which, without such permission, would be
28 illegal, a trespass or a tort. [Or a c]ertificate or the document itself which gives
29 permission.” to Webster’s Encyclopedic Unabridged Dictionary Of The English
30 Language (1989); defining “License” as: “1. permission to do or not to do something. 2.
31 Formal permission from a constituted authority to do something. [Or] 3. a certificate of
32 such permission; an official permit”

1 need to be under the direct control of the performer. Using a real gun also saves editing time and
2 money. It is very expensive to add the sound and "flash" after the fact.

3 Generally, to modify a real firearm for use as a stage "prop," the front of the interior of the
4 barrel of the firearm is threaded to accept a screw that blocks the barrel when inserted, but with a small
5 hole drilled through it to allow gas to escape out the end of the barrel when a firearm goes off.
6 However, each firearm model must be independently evaluated for the proper method of creating a
7 blank firing gun. In some cases, modifications to the gun are substantial to the point where restoration
8 of the gun to a live firing weapon would be extremely difficult, and would take a well trained armorer
9 to accomplish the restoration. For some guns so modified, simply removing the screw from the barrel
10 is all that is essentially required to make the firearm again capable of firing a real bullet. (Note: even if
11 there is only a blank cartridge in the gun caution must be used because if it is pointed at a person and
12 fired at close range the discharge from the blank can still cause a fatal injury.)

13
14 **B. Propmasters and Armorers Are Heavily Regulated and "Licensed"
By Federal and State Law**

15 The "prop master" is responsible for the acquisition, transportation, safe keeping, transfer, and
16 safe use of the firearm(s) being used on a production. Different types of prop firearms are regulated to
17 different degrees, and different parts of the process of transferring and using firearms in a production
18 are covered by different statutes - - from which exceptions for prop masters and other AEAA members
19 are carefully crafted by the legislature. These statutory allowances are discussed below.

20 In addition to being "licensed" (i.e., having permission to conduct business) through various
21 statutory exceptions, to conduct business supplying ordinary firearms a prop master must have a
22 federal firearm license (FFL) to transfer or rent basic type firearms such as handguns, rifles, shotguns,
23 period pieces, etc. to production companies. Prop masters need to be issued a California Department
24 of Justice "Entertainment Firearms Permit" (EFP) pursuant to Penal Code section 12081. (See
25 application form and Department of Justice bulletin about the EFP are posted on the Department of
26 Justice Firearms Division website at: <http://ag.ca.gov/firearms/epp.htm>).

27 In addition to the above, to rent or transfer "assault weapons," "short-barreled" firearms,
28 "destructive devices," machineguns, .50 BMG rifles, and similar more heavily regulated firearms, the

1 prop master must have additional federal and state licenses. These include, at the federal level (in
2 addition to the requisite FFL) the payment of a special occupational tax (SOT) to deal, manufacture or
3 import machine guns, destructive devices, silencers and other special weapons with ATF approval.

4 At the state level, a prop master or armorer must have a "dangerous weapons" license, meeting
5 the requirements for separate state issued permits and licenses for "assault weapons," "destructive
6 devices," "machine guns," "short barreled rifles" and "short barreled shotguns." See DOJ regulations
7 and bulletins posted at <http://ag.cagov/firearms/regs/dwregsfinal.pdf>.

8 **C. The Process of Providing Firearms to Theatrical Productions is Heavily Regulated**

9 Once a production company contacts a prop master to supply firearms for a production,
10 typically the prop master goes to a firearm prop house or entertainment industry "armory" and fills out
11 paperwork (the necessary federal and state transfer forms) to get the firearms released to the prop
12 master to transport to the location or "set" of the production where the actors can use the firearms.
13 Each step of this process (acquisition of firearms from armorer, transportation of firearms to set,
14 distribution of firearms to actors on set, use of firearms by actors, collection of prop firearms from the
15 set, transportation back to the armory, and transfer back into the armory's inventory) is regulated by
16 federal and state law, and or exempted from those regulations.

17 Prior to the prop master assigning firearms to actors and/or stunt persons, he has a mandatory
18 safety meeting with all involved, including the Director of the production. The prop master then
19 assigns the firearms to actors or stuntmen for use in multiple rehearsals. After the rehearsals, the prop
20 master loads the firearms with blanks. Whenever the firearms are out of the prop master's hands, the
21 prop master must be aware of exactly where they are. Depending on the number of firearms used on
22 the set, the locations being used, and the type of firearms being provided, the main prop master may
23 assign licensed assistant prop masters to assist in tracking the firearms on the set.

24 When providing productions with "machine guns," "destructive devices," "short barreled rifles,"
25 "short barreled shotguns" and other more heavily regulated firearms, there are two different methods
26 the prop house or propmaster may employ to provide the firearms to an entertainment production. The
27 first method involves the transfer of the weapon to another licensed person on the set. With ATF pre-
28 approval, the armorer/propmaster providing the firearm may transfer it via an ATF Form 3 to an on-set

1 armorer/propmaster who is also a federal firearms licensee and special occupational taxpayer. The
2 transferee armorer must also be properly licensed under both state and federal laws for this method to
3 be utilized. Using the second method, the prop house/armory may send an employee or officer of the
4 armory to directly supervise the use of the firearms on the set. This method requires the employee or
5 officer of the prop house/armory to be on the set, directly supervising the use of the firearm(s) during
6 the production, and maintaining control and possession of the firearm(s) at all times.

7
8 **III. THE INDUSTRY IS HEAVILY "LICENSED" WITHIN THE MEANING OF
GOVERNMENT CODE SECTION 53071**

9 In addition to the conventional type "licenses" or permits issued to prop masters and armorers, the
10 industry also enjoys statutory permission to engage in certain activities (i.e., "licenses") through
11 overlapping statutory exceptions creating exemptions to state firearm statutes and regulations. These
12 include:

13 Penal Code section 12026.2(a)(1), which exempts "the possession of a firearm by an authorized
14 participant in a motion picture, television, or video production or entertainment event when the
15 participant lawfully uses the firearm as part of that production or event or while going directly to or
16 coming directly from the event" from the prohibition on carrying a concealed handgun.

17 Penal Code section 12026.2(a)(8), which exempts "the transportation of a firearm by an
18 authorized employee or agent of a supplier of firearms when going directly to, or coming directly from,
19 a motion picture, television, or video production or entertainment event for the purpose of providing
20 that firearm to an authorized participant to lawfully use as part of that production or event" from the
21 prohibition on carrying a concealed handgun.

22 Penal Code section 12070(b)(17), which exempts "the loan of an unloaded firearm or the loan
23 of a firearm loaded with blank cartridges for use solely as a prop for a motion picture, television, or
24 video production or entertainment of theatrical event" from being subject to section 12071(a)'s
25 licensing restrictions.

26 Penal Code section 12078(p)(2)(B) and (C), and (p)(3)(A) and (B), which exempts the movie
27 industry from Penal Code section 12072(a)(3)'s prohibition on transferring handguns to minors.

28 Penal Code section 12078(s)(1), which exempts "the infrequent loan of an unloaded firearm by

1 a person who is neither a dealer as defined in Section 12071 nor a federal firearms licensee pursuant to
2 Chapter 44 of Title 18 of the United States Code, to a person 18 years of age or older for use solely as
3 a prop in a motion picture, television, video, theatrical, or other entertainment production or event”
4 from the 12072(d) requirement that all gun transfers be conducted through a licensed firearm dealer,
5 and from the 12081(b) requirement that a transferee of a handgun must have been issued a “handgun
6 safety certificate” (i.e., a “license” to be able to acquire a handgun).

7 Penal Code section 12078(s)(2), which provides that “Subdivision (d), and paragraph (1) of
8 subdivision (f), of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of
9 an unloaded firearm by a person who is not a dealer as defined in Section 12071 but who is a federal
10 firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a person who
11 possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a
12 prop in a motion picture, television, video, theatrical, or other entertainment production or event. The
13 person loaning the firearm pursuant to this paragraph shall retain a photocopy of the entertainment
14 firearms permit as proof of compliance with this requirement.”

15 Penal Code section 12078(s)(3) which provides that: “Subdivision (b) of Section 12071,
16 subdivision (c) of, and paragraph (1) of subdivision (f) of, Section 12072, and subdivision (b) of
17 Section 12801 shall not apply to the loan of an unloaded firearm by a dealer as defined in Section
18 12071, to a person who possesses a valid entertainment firearms permit issued pursuant to Section
19 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment
20 production or event. The dealer shall retain a photocopy of the entertainment firearms permit as proof
21 of compliance with this requirement.”

22 Penal Code section 12081, which creates the Entertainment Armorers Permit system. This
23 section allows any person who is at least 21 years old to apply for an entertainment firearms permit
24 from the California Department of Justice. The permit authorizes the holder to “possess firearms
25 loaned to him or her for use solely as a prop in a motion picture, television, video, theatrical, or other
26 entertainment production or event.”

27 ///

28 ///

1 IV. PROPOSITION H REVOKES THE LICENSES UNDER WHICH PROP HOUSES,
2 ARMORERS, AND PROP MASTERS OPERATE

3 Section two of Proposition H outlaws “the sale, distribution, transfer and manufacture of all
4 firearms and ammunition . . .” *There are no exceptions to this section.*

5 Firearms are routinely transferred and distributed between and amongst armories, prop masters,
6 production assistants, stage hands, and actors during film, television, and theatrical productions. So
7 any such production involving a real firearm, even if it has been temporarily modified to fire only
8 blanks, is prohibited in San Francisco under Proposition H, despite the licenses created by the state
9 statutory scheme. And unlike state laws which exempt antique firearms from most regulation (See
10 Penal Code Section 12001(e)), Proposition H’s bans on handgun possession, and on the transfer of all
11 firearms, even applies to antique guns.

12 Besides the section two firearms transfer ban, section three of Proposition H provides that “. . .
13 no resident of the City and County of San Francisco shall possess any handgun unless required for
14 professional purposes, *as enumerated herein.*” This limited exception for “professional purposes” is
15 only for a city, state, or federal employee “*carrying out the functions of his or her government*
16 *employment, including but not limited to police and animal control officers . . .*” and for active duty
17 military.

18 So section three bans the possession of handguns by all San Francisco residents, including it
19 seems off duty (and even on-duty) police, even in their own homes. And there is no exception
20 whatsoever for entertainment productions or the movie industry, and no acknowledgment of the state
21 statutory scheme under which the entertainment industry is granted permission to operate. Under
22 section three, actors, prop masters, and other industry professionals who reside in San Francisco are
23 prohibited from possessing handguns while shooting a film or television production there. They are
24 ineligible to work in a production involving handguns in their own city.³

25
26 ³ The existence of the section three exemption bars the courts from either broadening that
27 exemption or from implying any exemption at all into section two. A statute's mention of
28 some exceptions excludes the existence of unmentioned ones. (*Lake v. Reed* (1997) 16
Cal.4th 448, 466 [65 Cal.Rptr.2d 860].) (“The expression of some things in a statute
necessarily means the exclusion of other things not expressed.”) and cases there cited.

1 To illustrate this point, consider that given the sweeping strictures of section two of Proposition
2 H, unless reworked to use unrealistic plastic non-firing replicas instead of regulated firearms, certain
3 operas are now illegal to be staged in San Francisco. These include: *Tosca*, *Carmen*, *The Girl of the*
4 *Golden West*, *Candide*, *The HMS Pinafore*, *The Death of Klinghoffer*, *Lady Macbeth of Mzensk*,
5 *Eugene Onegin*, and *Der Freischutz*.

6 Theater that can't be staged under Proposition H includes Chekhov's *Uncle Vanya*, Harold
7 Pinter's *The Dumb Waiter* and others by notable playwrights such as Eugene O'Neill, Sean O'Casey,
8 Lillian Hellman, Arthur Miller, Sam Shepard, Albert Camus, Aaron Sorkin and Tennessee Williams,
9 even *The Nutcracker* has need of a firearm.

10 Many, perhaps most, films and television productions made today also involve firearms. As a
11 result films and television shows like *Dirty Harry*, *Magnum Force*, *James Bond: A View To A Kill*,
12 *The Presidio*, *Bullit*, *48 Hours*, *The Rock*, *Basic Instinct*, and *The Streets of San Francisco* can no
13 longer be made.

14 **V. THE ORDINANCE'S LIMITED GRANT OF POWER TO AMEND DOES NOT**
15 **SOLVE THIS PROBLEM.**

16 Proposition H provides that "By a two-thirds vote and upon making findings, the Board of
17 Supervisors may amend this ordinance *in the furtherance of reducing handgun violence*."

18 Supporters may argue that all these problems can be fixed by amendments if two-thirds of the
19 Board of Supervisors so votes. But the concerns of AEAA cannot be addressed by amendment
20 because the amendment must be one that is "in the furtherance of reducing handgun violence." It
21 would not be possible to amend the Proposition H ordinance to allow film, television or theatrical
22 productions, nor for that matter museum exhibits, military burials, or civil war and similar
23 reenactments because allowing these things to take place has nothing to do with "reducing handgun
24

25
26 *(Los Angeles Department v. Superior Court (2001) 84 Cal.App.4th 1161, 1166 [101*
27 *Cal.Rptr.2d 364]): "[T]he statement of limited exceptions excludes others, and therefore*
28 *the judiciary has no power to add additional exceptions; the enumeration of specific*
exemptions precludes implying others." This principle is routinely applied in gun law
cases. (*People v. Walker (2000) 85 Cal.App.4th 969, 973 [102 Cal.Rptr.2d 637]* and
cases there cited.)

1 violence.”

2 Moreover, any attempt to amend the ordinance to create exemptions for the industry would
3 only serve to create a local licensing scheme prohibited by Government Code section 53071.

4 **VI. THE ORDINANCE’S PRECLUSION OF FILMS, PLAYS, OPERAS AND COGNATE**
5 **PRESENTATIONS INVOLVING FIREARMS IS A CONTENT-BASED VIOLATION**
6 **OF FREE EXPRESSION.**

7 The ordinance’s effect is that certain types of movies, historical enactments, and TV programs
8 can no longer be produced or presented in San Francisco, nor may operas, ballets, color guard
9 ceremonies involving firearms. Yet it is well settled that such activities lie within the protection of the
10 federal and California free expression guarantees. (See, e.g., *Freedman v. Maryland* (1965) 380 U.S.
11 51.)

12 Moreover the ordinance’s effect on movies, etc. is not content neutral. It applies only to
13 performances in which firearms are involved, especially to “action” films and TV shows. Yet it is
14 clear that free expression may not be precluded or suppressed because of its content. (*City of Fresno v.*
15 *Press Communications, Inc.* (1994) 31 Cal.App.4th 32, 41 [36 Cal.Rptr.2d 456].) The test is that
16 “content-based discrimination is permissible [only] when ‘the nature of the content discrimination is
17 such that there is *no realistic possibility* that official suppression of ideas is afoot.” (*R.A.V. v. City of*
18 *St. Paul* (1992) 505 U.S. 377, 390 (emphasis added).)⁴

19 The ordinance cannot meet this test. It is notoriously the case that there are many people who
20 loathe “action” films because of their content and feel that the public would be a better if such
21 productions no longer occurred. Thus it is a more than “realistic possibility” that a reason for the
22 ordinance’s lack of an exception for actions films, TV shows, etc. was to hinder or suppress such
23 productions because of their glamorized depictions of violence, or a positive depiction of guns and
24 self-defense.

25 ⁴ *R.A.V.* applied this test to a content-based ban on expression that enjoys far less
26 protection than does commercial speech, much less pure speech. (*City of Fresno, supra*,
27 31 Cal.App. 4th at 41.) *R.A.V.* overturned a ban on cross-burning that occurred without
28 permission on the land of the person whom the cross-burning was intended to threaten. In
overturning this ban *R.A.V.* recognized that threats and fighting words may be regulated.
But it also held that content-based regulation of threats and fighting words must be based
on a showing of “no realistic possibility” that its motive is “official suppression of ideas.”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONCLUSION

For the foregoing reasons it is respectfully submitted that petitioners are correct in urging the ordinance is invalid and should be struck down by this court. The ordinance should be invalidated and a writ should issue.

Date: January 31, 2006

Respectfully Submitted,

LAW OFFICE OF BRUCE COLODNY



Bruce Colodny
Attorney for Amici

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

I, Bruce Colodny, am employed in the City of San Bernardino, San Bernardino County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 1881 Business Center Drive, Suite 8B, San Bernardino, California, 92408.

On February 1, 2006, I served the foregoing document(s) described as

**AMERICAN ENTERTAINMENT ARMORERS ASSOCIATION
AND AMICUS BRIEF IN SUPPORT OF PLAINTIFFS AND PETITIONERS**

on the interested parties in this action by placing

the original
 a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

C. D. Michel
TRUTANICH - MICHEL, LLP
180 East Ocean Blvd.
Suite 200
Long Beach, CA 90802
(Attorney for Petitioners)

Vicne Chhabria
OFFICE OF THE CITY ATTORNEY
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102
(Attorney for Respondents)

X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Bernardino, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.

Executed on February 1, 2006, at San Bernardino, California.

— (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant to Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the transmission, copies of which is attached to this declaration.

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

Executed on February 1, 2006, at San Bernardino, 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 of this court at whose direction the service was made.



BRUCE COLODNY

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF LOS ANGELES

4 I, David Speakman, am employed in the City of San Jose, Santa Clara County, California. I am
5 over the age eighteen (18) years and am not a party to the within action. My business address is 1261
Lincoln Ave., Suite 108, San Jose, California.

6 On February 1, 2006, foregoing document(s) described as

7 **[PROPOSED] ORDER GRANTING SENATOR H. L. RICHARDSON (RET.),**
8 **GUN OWNERS OF CALIFORNIA, CALIFORNIA RIFLE & PISTOL ASSOCIATION,**
9 **AND THE MADISON SOCIETY PERMISSION TO FILE**
AMICUS BRIEF IN SUPPORT OF PETITIONERS

10 on the interested parties in this action by placing

11 the original
 a true and correct copy

12 thereof enclosed in sealed envelope(s) addressed as follows:

13 C. D. Michel
14 TRUTANICH - MICHEL, LLP
15 180 East Ocean Blvd., Suite 200
16 Long Beach, CA 90802
17 (Attorney for Petitioners)

Vince Chhabria
OFFICE OF THE CITY ATTORNEY
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102
(Attorney for Respondents)

18 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
19 processing correspondence for mailing. Under the practice it would be deposited with the U.S.
20 Postal Service on that same day with postage thereon fully prepaid at San Jose, California, in
21 the ordinary course of business. I am aware that on motion of the party served, service is
22 presumed invalid if postal cancellation date is more than one day after date of deposit for
23 mailing an affidavit.
24 Executed on February 1, 2006, at San Jose, California.

25 — (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies
26 with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant
27 to Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the
28 transmission, copies of which is attached to this declaration.

29 — (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
30 addressee.
31 Executed on February 1, 2006, at San Jose, California.

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

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

36 
37 DAVID SPEAKMAN

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF LOS ANGELES

4 I, David Speakman, am employed in the City of San Jose, Santa Clara County, California. I am
5 over the age eighteen (18) years and am not a party to the within action. My business address is 1261
Lincoln Ave., Suite 108, San Jose, California.

6 On February 1, 2006, foregoing document(s) described as

7 **[PROPOSED] ORDER GRANTING SENATOR H. L. RICHARDSON (RET.),**
8 **GUN OWNERS OF CALIFORNIA, CALIFORNIA RIFLE & PISTOL ASSOCIATION,**
9 **AND THE MADISON SOCIETY PERMISSION TO FILE**
AMICUS BRIEF IN SUPPORT OF PETITIONERS

10 on the interested parties in this action by placing

11 the original

12 a true and correct copy

13 thereof enclosed in sealed envelope(s) addressed as follows:

14 C. D. Michel
15 TRUTANICH - MICHEL, LLP
16 180 East Ocean Blvd., Suite 200
17 Long Beach, CA 90802
18 (Attorney for Petitioners)

Vince Chhabria
OFFICE OF THE CITY ATTORNEY
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102
(Attorney for Respondents)

19 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
20 processing correspondence for mailing. Under the practice it would be deposited with the U.S.
21 Postal Service on that same day with postage thereon fully prepaid at San Jose, California, in
22 the ordinary course of business. I am aware that on motion of the party served, service is
23 presumed invalid if postal cancellation date is more than one day after date of deposit for
24 mailing an affidavit.
25 Executed on February 1, 2006, at San Jose, California.

26 — (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies
27 with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant
28 to Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the
transmission, copies of which is attached to this declaration.

— (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
addressee.
Executed on February 1, 2006, at San Jose, 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 of this
court at whose direction the service was made.

27
28 
DAVID SPEAKMAN

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF LOS ANGELES

4 I, David Speakman, am employed in the City of San Jose, Santa Clara County, California. I am
5 over the age eighteen (18) years and am not a party to the within action. My business address is 1261
Lincoln Ave., Suite 108, San Jose, California.

6 On February 1, 2006, foregoing document(s) described as

7 **[PROPOSED] ORDER GRANTING SENATOR H. L. RICHARDSON (RET.),**
8 **GUN OWNERS OF CALIFORNIA, CALIFORNIA RIFLE & PISTOL ASSOCIATION,**
9 **AND THE MADISON SOCIETY PERMISSION TO FILE**
AMICUS BRIEF IN SUPPORT OF PETITIONERS

10 on the interested parties in this action by placing

the original
 a true and correct copy

11 thereof enclosed in sealed envelope(s) addressed as follows:

12 C. D. Michel
13 TRUTANICH - MICHEL, LLP
180 East Ocean Blvd., Suite 200
14 Long Beach, CA 90802
(Attorney for Petitioners)

Vince Chhabria
OFFICE OF THE CITY ATTORNEY
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102
(Attorney for Respondents)

15 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
16 processing correspondence for mailing. Under the practice it would be deposited with the U.S.
17 Postal Service on that same day with postage thereon fully prepaid at San Jose, California, in
18 the ordinary course of business. I am aware that on motion of the party served, service is
presumed invalid if postal cancellation date is more than one day after date of deposit for
mailing an affidavit.
19 Executed on February 1, 2006, at San Jose, California.

20 — (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies
with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant
21 to Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the
transmission, copies of which is attached to this declaration.

22 — (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
addressee.
23 Executed on February 1, 2006, at San Jose, California.

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

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

27 
28 DAVID SPEAKMAN

1 Bruce Colodny S. B. N. 107125
LAW OFFICES OF BRUCE COLODNY
2 1881 Business Center Dr., Suite 8B
San Bernardino, CA 92408
3 Telephone: (909) 862-3113
Facsimile: (909) 864-5243
4 Attorneys for Amicus
5 American Entertainment Armorers Association

ENDORSED
FILED
San Francisco County Superior Court

FEB 03 2006

GORDON PARK-LI, Clerk
BY: MARYANN MORAN
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO
10 UNLIMITED JURISDICTION

11 PAULA FISCAL et al.,	)	CASE NO. CPF-05-505960
12)	
13 Plaintiffs and Petitioners,	)	UNOPPOSED EX PARTE APPLICATION
14	)	OF THE AMERICAN ENTERTAINMENT
15 vs.	)	ARMORERS ASSOCIATION TO FILE
16	)	AMICUS BRIEF IN SUPPORT OF
17 CITY AND COUNTY OF SAN	)	PLAINTIFFS AND PETITIONERS;
18 FRANCISCO et al.,	)	MEMORANDUM OF POINTS AND
19	)	AUTHORITIES IN SUPPORT THEREOF;
	)	DECLARATION OF BRUCE COLODNY
20)	
21)	
22	)	Hearing Date: February 15, 2006
23	)	Hearing Judge: Warren
24	)	Time: 9:30 a.m.
25	)	Location: Dept. 301
26)	
27	)	Date Action Filed: December 29, 2005
28	)	Trial Date: None scheduled

22 The American Entertainment Armorers Association ("AEAA") respectfully moves this Court,
23 for leave to file the concurrently-submitted brief as *amicus curiae* in support of Plaintiffs and
24 Petitioners.

25 This application should be granted for the following reasons:

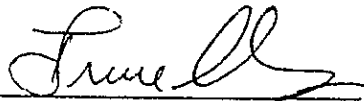
- 26 • It is unopposed by all parties in this case;
- 27 • This Court has already permitted the Legal Community Against Violence to file an
28 overlength *amicus* brief in support of Defendants and Respondents.

1 • The AEAA's *amicus* brief addresses the potential impact of the ordinance on the productions
2 of the entertainment industry within the City of San Francisco. This issue directly affects AEAA's
3 members, and has not been specifically briefed by Petitioners. The Court will benefit from further
4 analysis of this area.

5 This application is based upon this *Ex Parte* Application, the attached Memorandum of Points
6 and Authorities in support thereof, the attached Declaration of Bruce Colodny, and any oral argument
7 heard by the Court, and the entire record in this action.

8 Date: January 31, 2006

LAW OFFICES OF BRUCE COLODNY

9
10 

11 Bruce Colodny
12 Attorney for Amici
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 The American Entertainment Armorers Association ("AEAA"), represents entertainment prop
4 houses, armorers, prop masters, and related professionals and businesses that service the entertainment
5 industry. AEAA members (as federally and state licensed firearms dealers, importers, or
6 manufacturers) provide film, television, and stage production companies with "prop" (i.e., typically
7 real and regulated, but rigged to fire only blanks) handguns, rifles, shotguns, as well as more heavily
8 regulated "assault weapons," 50 BMG rifles, machine guns, "destructive devices," "short barreled"
9 weapons, and custom built firearms and related devices used in productions. AEAA members often
10 provide production companies and actors with dozens, or *hundreds* of firearms for any given
11 production.

12 While the entertainment industry struggles to keep productions in the United States, and cities
13 like Los Angeles and New York are actively courting film production business, Proposition H appears
14 to reflect the carelessness of certain San Francisco politicians who, in their desire to make a political
15 statement, did not carefully study the existing regulatory scheme, consult with impacted parties, or
16 consider the effect of the ordinance on the entertainment industry.

17 The accompanying brief addresses the impact of the ordinance on the entertainment industry,
18 and the manner in which the ordinance would interfere with or negate the existing statutory scheme
19 that regulates that industry. That regulatory scheme was put in place by the State legislature to regulate
20 the use of firearms in the entertainment industry, while simultaneously protecting and sanctioning that
21 unique California industry by creating a express licensing and permitting system, as well as a *de facto*
22 licensing system created through exceptions to statutes that restrict firearms that benefit the industry.

23 More broadly, the application of the exceptions in the State regulatory scheme for the
24 entertainment industry provides a vivid illustration of how the state legislature has recognized the
25 value in allowing certain other businesses or classes to be exempt from various firearm laws. Aside
26 from AEAA, the State legislature has carefully chosen to craft various statutory exemptions from an
27 otherwise comprehensive regulatory scheme to allow police, retired police, military, certain
28 government officials, private security companies, ceremonial activities, and other businesses, persons

1 and activities to continue to possess, use, transfer, or distribute firearms in certain ways – ways which
2 the ordinance does not recognize.

3 This issue directly affects AEAA’s members, and has not been specifically briefed by
4 Petitioners. The Court will benefit from further analysis of this area.

5 **II. ARGUMENT**

6 “With the permission of the court, an amicus curiae may file briefs setting out his or her views
7 and arguments.” 48Cal.Jur.3d Parties §19 (2005) (footnote omitted). The practice of allowing the
8 participation of *amici curiae* is well established in California trial courts. See, e.g., *Marshall v.*
9 *Marshall*, 212 Cal. 736, 738 (1931) (noting that a brief by amici curiae was filed at the trial court’s
10 request); *County of Alameda v. Carleson*, 5 Cal. 3d 730, 735 (1971) (noting that the trial court denied
11 motion to intervene but allowed appearance as *amicus curiae*: In re *Veterans’ Industries, Inc.*, 8 Cal.
12 App.3d 902, 924-25 (1970) (discussing that an *amicus curiae* lacks standing to appeal a superior court
13 judgment against the *amicus curiae*’s position): *Padres Hacia Una Vida Mejor v. Davis*, 96 Cal.App.
14 4th 1123, 1127-28 (2002) (noting that the superior court granted a request to file *amicus curiae* brief in
15 mandamus action): cf. Cal.R. Ct. 105(b) (providing that in the appellate division of the Superior Court,
16 an *amicus curiae* brief “may be filed on permission first obtained from the presiding judge, subject to
17 conditions he or she may prescribe.”)

18 The AEAA’s *amicus* brief will assist provide this Court with a perspective on the ordinance
19 from those within the entertainment industry. This perspective has not been directly and fully
20 addressed in either the Petitioners’ Writ Motion, nor in the City’s Opposition. The Court should
21 therefore grant AEAA’s request for permission to file its *amicus* brief.

22 Date: January 31, 2006

LAW OFFICES OF BRUCE COLODNY

23 

24 Bruce Colodny
25 Attorney for Amici

26
27
28

1 **DECLARATION OF BRUCE COLODNY IN SUPPORT OF *EX PARTE* APPLICATION OF**
2 **AEAA TO FILE *AMICUS* BRIEF IN SUPPORT OF PETITIONERS**

3 I, BRUCE COLODNY, declare as follows:

4 1. I am an attorney at law licensed to practice in the State of California. I have first hand
5 knowledge of the matters set forth below; if called as a witness I could and would testify to the same.

6 2. On Thursday, January 26, 2006, I spoke with C.D. Michel, counsel for Petitioners, and I
7 informed him that I would seek a court order granting permission to file an *amicus* brief in support of
8 Petitioners. Mr. Michel stated Petitioners would not oppose the AEAA's request.

9 3. On Thursday, January 26, 2006, I spoke with Wayne Snodgrass, counsel for
10 Respondents. I informed Mr. Snodgrass that the AEAA intended to seek a court order granting
11 permission to file an *amicus* brief in support of Petitioners. Mr. Snodgrass replied that Respondents
12 would probably not oppose the AEAA's request but that he would have to call me back.

13 4. On Friday, January 27, 2006, at 1:30 p.m. Mr. Snodgrass called back and stated that
14 Respondents would not oppose the AEAA's request for a court order allowing the filing of an *Amicus*
15 brief. I then told Mr. Snodgrass that since I was in Southern California that I anticipated having a
16 Northern California attorney make a special appearance for me, *ex parte*, the following week to seek a
17 court order allowing the filing of the AEAA's *amicus* brief. Mr. Snodgrass reminded me that *ex parte*
18 matters are heard at 11:00 a.m. and require notice by 10:00 a.m. the prior day.

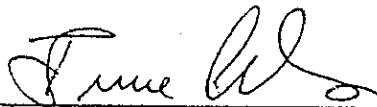
19 5. On Tuesday, January 31, 2006, at 9:30 a.m., I spoke with Mr. Snodgrass and told him
20 that tomorrow, Wednesday, February 1, 2006, I would have a Northern California attorney make a
21 special *ex parte* appearance for me in Department 301 of the San Francisco Superior Court to seek a
22 court order allowing the AEAA to file an *Amicus* brief in support of Petitioners. Mr. Snodgrass replied
23 that yesterday the Respondents had filed a brief statement of non-opposition and at the request of Mr.
24 Snodgrass, I provided my fax number and email for his use in sending me a copy.

25 6. On Tuesday, January 31, 2006, at 9:45 a.m, I spoke with Tom Maciejewski, an
26 associate attorney at Trutanich-Michell, LLP, counsel for Petitioners, and I told him that tomorrow,
27 Wednesday, February 1, 2006, I would have a Northern California attorney make a special *ex parte*
28 appearance for me in Department 301 of the San Francisco Superior Court to seek a court order

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

allowing the AEAA to file an *Amicus* brief in support of Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on January 31, 2006 at San Bernardino, California.


Bruce Colodny

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF LOS ANGELES

4 I, Bruce Colodny, am employed in the City of San Bernardino, San Bernardino County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My business
address is 1881 Business Center Drive, Suite 8B, San Bernardino, California, 92408.

6 On January 31, 2006, I served the foregoing document(s) described as

7 **APPLICATION OF THE AMERICAN ENTERTAINMENT ARMORERS ASSOCIATION TO**
8 **FILE AMICUS BRIEF IN SUPPORT OF PLAINTIFFS AND PETITIONERS**

9 on the interested parties in this action by placing

the original

a true and correct copy

10 thereof enclosed in sealed envelope(s) addressed as follows:

11 C. D. Michel
12 TRUTANICH - MICHEL, LLP
13 180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
(Attorney for Petitioners)

Vicne Chhabria
OFFICE OF THE CITY ATTORNEY
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102
(Attorney for Respondents)

14 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
15 processing correspondence for mailing. Under the practice it would be deposited with the U.S.
16 Postal Service on that same day with postage thereon fully prepaid at San Bernardino,
17 California, in the ordinary course of business. I am aware that on motion of the party served,
service is presumed invalid if postal cancellation date is more than one day after date of deposit
for mailing an affidavit.

18 Executed on January 31, 2006, in San Bernardino, California.

19 X (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies
20 with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant
to Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the
21 transmission, copies of which is attached to this declaration.

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

23 Executed on January 31, 2006, at San Bernardino, California.

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

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

28 
BRUCE COLODNY

1 Bruce Colodny S. B. N. 107125
LAW OFFICES OF BRUCE COLODNY
2 1881 Business Center Dr., Suite 8B
San Bernardino, CA 92408
3 Telephone: (909) 862-3113
Facsimile: (909) 864-5243
4
5 Attorneys for Amicus
American Entertainment Armorers Association

6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO
10 UNLIMITED JURISDICTION

11 PAULA FISCAL et al.,	)	CASE NO. CPF-05-505960
)	
12 Plaintiffs and Petitioners,	)	[PROPOSED] ORDER GRANTING
	)	AMERICAN ENTERTAINMENT
13	)	ARMORERS ASSOCIATION
14 vs.	)	PERMISSION TO FILE <i>AMICUS</i> BRIEF IN
	)	SUPPORT OF PETITIONERS
15)	
16 CITY AND COUNTY OF SAN FRANCISCO et al.,	)	Hearing Date: February 15, 2006
	)	Hearing Judge: Warren
17	)	Time: 9:30 a.m.
18 Defendants and Respondents.	)	Location: Dept. 301
	)	Date Action Filed: December 29, 2005
19	)	Trial Date: None scheduled

20 Having considered the American Entertainment Armorers Association's *Ex Parte* Application,
21 IT IS ORDERED that the American Entertainment Armorers Association is granted permission
22 to file an amicus brief in support of Petitioners.

23
24 DATE: February _____, 2006

25 _____
The Honorable James Warren
26 Judge of the Superior Court
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

I, Bruce Colodny, am employed in the City of San Bernardino, San Bernardino County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 1881 Business Center Drive, Suite 8B, San Bernardino, California, 92408.

On January 31, 2006, foregoing document(s) described as

[PROPOSED] ORDER GRANTING AMERICAN ENTERTAINMENT ARMORERS ASSOCIATION PERMISSION TO FILE *AMICUS* BRIEF IN SUPPORT OF PETITIONERS

on the interested parties in this action by placing

the original

a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

C. D. Michel
TRUTANICH - MICHEL, LLP
180 East Ocean Blvd.
Suite 200
Long Beach, CA 90802
(Attorney for Petitioners)

Vince Chhabria
OFFICE OF THE CITY ATTORNEY
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102
(Attorney for Respondents)

(BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Bernardino, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.

Executed on January 31, 2006, at San Bernardino, California.

(VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant to Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the transmission, copies of which is attached to this declaration.

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

Executed on January 31, 2006, at San Bernardino, California.

(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 of this court at whose direction the service was made.



BRUCE COLODNY

1 Bruce Colodny S. B. N. 107125
LAW OFFICES OF BRUCE COLODNY
2 1881 Business Center Dr., Suite 8B
San Bernardino, CA 92408
3 Telephone: (909) 862-3113
Facsimile: (909) 864-5243
4 Attorneys for Amicus
5 American Entertainment Armorers Association

ENDORSED
FILED
San Francisco County Superior Court

FEB 03 2006

GORDON PARK-LI, Clerk
BY: ERICKA LARNAUTI
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN FRANCISCO

10 UNLIMITED JURISDICTION

11 PAULA FISCAL et al.,)

CASE NO. CPF-05-505960

12 Plaintiffs and Petitioners,)

[PROPOSED] ORDER GRANTING
AMERICAN ENTERTAINMENT
ARMORERS ASSOCIATION
PERMISSION TO FILE *AMICUS* BRIEF IN
SUPPORT OF PETITIONERS

14 vs.)

15 CITY AND COUNTY OF SAN)
16 FRANCISCO et al.,)

Hearing Date: February 15, 2006
Hearing Judge: Warren
Time: 9:30 a.m.
Location: Dept. 301

17 Defendants and Respondents.)

Date Action Filed: December 29, 2005
Trial Date: None scheduled

20 Having considered the American Entertainment Armorers Association's *Ex Parte* Application,
21 IT IS ORDERED that the American Entertainment Armorers Association is granted permission
22 to file an amicus brief in support of Petitioners.

24 DATE: February 3, 2006

JAMES L. WARREN
The Honorable James Warren
Judge of the Superior Court

PROOF OF SERVICE

1 STATE OF CALIFORNIA

2 COUNTY OF LOS ANGELES

3
4 I, Bruce Colodny, am employed in the City of San Bernardino, San Bernardino County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My business
6 address is 1881 Business Center Drive, Suite 8B, San Bernardino, California, 92408.

7 On January 31, 2006, foregoing document(s) described as

8 **[PROPOSED] ORDER GRANTING AMERICAN ENTERTAINMENT ARMORERS**
9 **ASSOCIATION PERMISSION TO FILE *AMICUS* BRIEF IN SUPPORT OF PETITIONERS**

10 on the interested parties in this action by placing

11 [] the original

12 [X] a true and correct copy

13 thereof enclosed in sealed envelope(s) addressed as follows:

14 C. D. Michel
15 TRUTANICH - MICHEL, LLP
16 180 East Ocean Blvd.
17 Suite 200
18 Long Beach, CA 90802
19 (Attorney for Petitioners)

Vince Chhabria
OFFICE OF THE CITY ATTORNEY
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102
(Attorney for Respondents)

20 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
21 processing correspondence for mailing. Under the practice it would be deposited with the U.S.
22 Postal Service on that same day with postage thereon fully prepaid at San Bernardino,
23 California, in the ordinary course of business. I am aware that on motion of the party served,
24 service is presumed invalid if postal cancellation date is more than one day after date of deposit
25 for mailing an affidavit.

26 Executed on January 31, 2006, at San Bernardino, California.

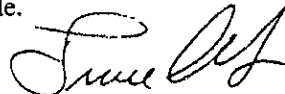
27 X (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies
28 with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant
to Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the
transmission, copies of which is attached to this declaration.

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

Executed on January 31, 2006, at San Bernardino, 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 of this
court at whose direction the service was made.



BRUCE COLODNY

PROOF OF SERVICE

1 STATE OF CALIFORNIA

2 COUNTY OF LOS ANGELES

3
4 I, Bruce Colodny, am employed in the City of San Bernardino, San Bernardino County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My business
6 address is 1881 Business Center Drive, Suite 8B, San Bernardino, California, 92408.

7 On January 31, 2006, foregoing document(s) described as

8 **[PROPOSED] ORDER GRANTING AMERICAN ENTERTAINMENT ARMORERS**
9 **ASSOCIATION PERMISSION TO FILE AMICUS BRIEF IN SUPPORT OF PETITIONERS**

10 on the interested parties in this action by placing

11 the original

12 a true and correct copy

13 thereof enclosed in sealed envelope(s) addressed as follows:

14 C. D. Michel
15 TRUTANICH - MICHEL, LLP
16 180 East Ocean Blvd.
17 Suite 200
18 Long Beach, CA 90802
19 (Attorney for Petitioners)

Vince Chhabria
OFFICE OF THE CITY ATTORNEY
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102
(Attorney for Respondents)

20 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
21 processing correspondence for mailing. Under the practice it would be deposited with the U.S.
22 Postal Service on that same day with postage thereon fully prepaid at San Bernardino,
23 California, in the ordinary course of business. I am aware that on motion of the party served,
24 service is presumed invalid if postal cancellation date is more than one day after date of deposit
25 for mailing an affidavit.

26 Executed on January 31, 2006, at San Bernardino, California.

27 X (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies
28 with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant
to Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the
transmission, copies of which is attached to this declaration.

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

Executed on January 31, 2006, at San Bernardino, 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 of this
court at whose direction the service was made.



BRUCE COLODNY