

1 C. D. Michel - SBN 144258  
Clinton B. Monfort - SBN 255609  
2 Sean A. Brady - SBN 262007  
MICHEL & ASSOCIATES, P.C.  
3 180 East Ocean Blvd., Suite 200  
Long Beach, CA 90802  
4 Telephone: (562) 216-4444  
Fax: (562) 216-4445  
5 cmichel@michellawyers.com

6 Attorneys for Plaintiffs/Petitioners

**FILED**  
SEP 07 2010  
FRESNO COUNTY SUPERIOR COURT  
By \_\_\_\_\_  
TLC - DEPUTY

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF FRESNO  
10

11 SHERIFF CLAY PARKER, TEHAMA  
COUNTY SHERIFF; HERB BAUER  
12 SPORTING GOODS; CALIFORNIA RIFLE  
AND PISTOL ASSOCIATION  
13 FOUNDATION; ABLE'S SPORTING,  
INC.; RTG SPORTING COLLECTIBLES,  
14 LLC; AND STEVEN STONECIPHER,

15 Plaintiffs and Petitioners,

16 vs.  
17

18 THE STATE OF CALIFORNIA; JERRY  
BROWN, IN HIS OFFICIAL CAPACITY  
19 AS ATTORNEY GENERAL FOR THE  
STATE OF CALIFORNIA; THE  
20 CALIFORNIA DEPARTMENT OF  
JUSTICE; and DOES 1-25,

21 Defendants and Respondents.  
22

) CASE NO. 10CECG02116

) **DECLARATION OF BARRY BAUER IN**  
) **SUPPORT OF MOTION FOR**  
) **PRELIMINARY INJUNCTION**

) Date: September 29, 2010  
) Time: 3:30 p.m.  
) Location: Dept. 97E  
) Judge: Hon. Jeff Hamilton  
) Date Action Filed: June 17, 2010  
) Trial Date:

**FILED BY FAX**

**DECLARATION OF BARRY BAUER**

I, Barry Bauer, declare as follows:

1. I am the President of Plaintiff Herb Bauer's Sporting Goods, Inc., a California corporation located in Fresno County that sells a variety of ammunition suitable for use in both handguns and rifles.

2. As President, I am responsible for determining the policies and operating procedures of Herb Bauer's Sporting Goods, Inc. In doing so, I am responsible for ensuring Herb Bauer's Sporting Goods, Inc. complies with all applicable federal, state, and local laws, including determining how to comply with California Penal Code sections 12060, 12061, and 12318.

3. I do not know what my obligations are under California Penal Code sections 12060, 12061, and 12318 because I do not know types of ammunition are principally for use in a handgun.

4. I am unaware of any generally accepted definition of "handgun ammunition" nor any commonly understood delineation between "handgun ammunition" and other ammunition used in the firearms industry that equates to the principally for use in a handgun language upon which California Penal Code sections 12060, 12061, and 12318 rely. Accordingly, I do not know which types of ammunition are "handgun ammunition" under these penal code sections.

5. I do not know whether the "principally for use in a" handgun standard means that a particular ammunition caliber will be considered "handgun ammunition" under California Penal Code sections 12060, 12061, and 12318 if that type of ammunition is used more often in a handgun than in a rifle.

6. I do not know, and I am unable to determine, which types of ammunition are used more often in a handgun than in a long-gun.

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7. Because I do not know what my obligations are under California Penal Code sections 12060, 12061, and 12318, I fear that I will be prosecuted for unknowingly violating them. For example, I fear that I may be prosecuted if I display, in a manner accessible to a transferee, any ammunition that law enforcement deems "handgun ammunition" even though I do not know what types of ammunition are "handgun ammunition" or which types of ammunition law enforcement will consider "handgun ammunition."

8 I declare under penalty of perjury that the foregoing is true and correct.

Executed within the United States this 31 day of August, 2010

*Barry Bauer*  
Barry Bauer  
President, Herb Bauer's Sporting  
Goods, Inc.

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County,  
5 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.

6 On September 7, 2010, I served the foregoing document(s) described as

7 **DECLARATION OF BARRY BAUER IN SUPPORT OF MOTION FOR**  
8 **PRELIMINARY INJUNCTION**

9 on the interested parties in this action by placing

10 ☐ the original

☒ a true and correct copy

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

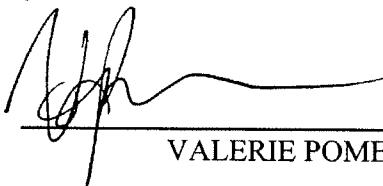
11 Edmund G. Brown, Jr.  
12 Attorney General of California  
13 Zackery P. Morazzini  
14 Supervising Deputy Attorney General  
15 Peter A. Krause  
Deputy Attorney General (185098)  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550

16        (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and  
17 processing correspondence for mailing. Under the practice it would be deposited with the  
18 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,  
19 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 September 7, 2010, at Long Beach, California.

20 X (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the  
21 addressee.  
Executed on September 7, 2010, at Long Beach, California.

22        (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies  
23 with California Rules of Court, Rule 2003, and no error was reported by the machine.  
24 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.  
Executed on September 7, 2010, California.

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

27 

28 VALERIE POMELLA