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APPEARANCES

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(Appeared telephonically)

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1	Declaration of Clay Parker, Tehama County Sheriff, in Support of Motion of Summary Judgment or, in the alternative, for Summary Adjudication and Trial, three pages.	39
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1 A Well, I imagine if you have some calibers you  
2 want to run by me, maybe I can do that and see if I think  
3 they would be used more in a handgun rather than a long  
4 gun.

5 Q All right. What about .45 caliber?

6 MR. DALE: I'm going to object. Vague and  
7 ambiguous as to ".45 caliber." Talking about all  
8 cartridges in the .45 caliber?

9 MR. KRAUSE: I just asked a question. If he  
10 understands the question, he can respond. You've made  
11 your objection.

12 THE WITNESS: Again, I think if you get down to  
13 .45 Long Colts, that's both handgun, rifle; .45 ACP,  
14 handgun and rifle. It's -- like I said, it's not clearcut  
15 for me.

16 Q BY MR. KRAUSE: Apart from the .45 Thompson  
17 submachine gun you said you fired, can you identify any  
18 other .45-caliber long guns?

19 A I've shot the .45 Long Colt in a long gun. That  
20 may be the only -- only other.

21 Q So despite knowing of only one long gun that can  
22 chamber, well, a .45 ACP round, do you disagree that this  
23 round of ammunition is handgun ammunition?

24 MR. DALE: Objection. Vague and ambiguous as to  
25 "handgun ammunition."

1 THE WITNESS: Well, as far as I'm concerned, it's  
2 also long gun ammunition.

3 Q BY MR. KRAUSE: The .45 ACP cartridge?

4 A That is correct.

5 Q But would you agree that it's used more often in  
6 handguns than in long guns?

7 MR. DALE: Objection. Vague and ambiguous as to  
8 "more often."

9 THE WITNESS: I guess you'd have to narrow it  
10 down. Are you speaking strictly Tehama County? In the  
11 nation? In the world?

12 Q BY MR. KRAUSE: California.

13 A In what era?

14 Q Today in California.

15 A Today in California, I would say the .45 ACP is  
16 probably shot in more handguns than a long gun.

17 Q Have you ever heard of a .45 Glock action pistol  
18 cartridge?

19 A I have recently.

20 Q Are you familiar with the cartridge or you've  
21 just heard it in passing reference?

22 A I've never touched one.

23 Q Okay. So you don't have any basis for knowing  
24 whether it's used more often in handguns than in long  
25 guns?

1 A No, I don't.

2 Q Okay. The 9mm Luger cartridge, also known as 9mm  
3 Parabellum or 9x19, based on your experience, would you  
4 agree that the 9mm Luger cartridge is handgun ammunition?

5 MR. DALE: Objection. Vague and ambiguous as to  
6 "handgun ammunition."

7 THE WITNESS: My response would be I couldn't  
8 determine that because I've fired more 9mm rounds through  
9 a rifle or a long gun than I have a handgun.

10 Q BY MR. KRAUSE: Putting aside your personal  
11 experience, based on your training, your law enforcement  
12 career and your -- just your general understanding of the  
13 9mm Luger cartridge, would you agree that it's used more  
14 often in handguns than in long guns?

15 MR. DALE: I'm going to object. That calls for  
16 an expert opinion. It also calls for an improper lay  
17 opinion. You just asked him to put aside his personal  
18 experience, so I don't know that he has any foundation to  
19 testify.

20 Q BY MR. KRAUSE: Go ahead and answer if you can,  
21 Sheriff.

22 A Again, a 9mm is one of those rounds that are used  
23 extensively in a rifle also, so that's one of those  
24 questions I have.

25 Q When you say it's used extensively in rifles, can



1 you identify all rifles you're aware of that can chamber a  
2 9mm Luger cartridge?

3 A Well, specifically, the HK MP5.

4 Q Okay. Who in California has access to the HK  
5 MP5?

6 MR. DALE: Objection. Calls for speculation.

7 THE WITNESS: Well, I know a lot of law  
8 enforcement and military have them.

9 Q BY MR. KRAUSE: Can private citizens obtain an  
10 MP5?

11 A I don't believe so, unless they were purchased  
12 before a certain date and registered.

13 Q Okay. So putting aside law enforcement use of  
14 the MP5, would you agree that the 9mm Luger cartridge is  
15 used in more handguns than long guns in California?

16 MR. DALE: Objection. Vague and ambiguous as to  
17 "used more often in." Again, it also calls for improper  
18 lay opinion.

19 Go ahead and answer if you can, Sheriff.

20 THE WITNESS: Yeah, I -- even on the 9, I can't  
21 say that's specifically handgun ammunition.

22 Q BY MR. KRAUSE: Because of its use in MP5s?

23 MR. DALE: Objection. Misstates prior testimony.

24 MR. KRAUSE: That's why I'm asking.

25 Q Is your conclusion that you can't identify it as

1 handgun ammunition based on its use in MP5s in California?

2 A Yes.

3 Q Based on your experience, would you agree that  
4 the 10mm auto cartridge is handgun ammunition?

5 MR. DALE: Object. Vague and ambiguous as to  
6 "handgun ammunition."

7 MR. KRAUSE: We defined it at the beginning of  
8 the deposition, Josh.

9 Q But if you can answer, go ahead, please.

10 A I don't think I've specifically dealt with a  
11 10mm. I haven't.

12 Q You don't know whether it's used in handguns or  
13 long guns?

14 A Again, I have not dealt with a 10mm at all.

15 Q Okay. Based on your experience, is .40-caliber  
16 ammunition used more often in handguns than long guns?

17 MR. DALE: Objection. Vague and ambiguous as to  
18 "used more often in."

19 THE WITNESS: Well, again, I know that .40s can  
20 be fired in long guns, but the majority of dealings I've  
21 had with any .40s have been in a handgun.

22 Q BY MR. KRAUSE: So in your view, it's handgun  
23 caliber?

24 MR. DALE: I'm going to object. Vague and  
25 ambiguous as to "handgun caliber."



1 Q BY MR. KRAUSE: You can answer.

2 A I would say it could be used in either the  
3 handgun or a long gun -- or -- yes.

4 Q Well, regardless of whether it can be used in  
5 either one, in your -- based on your experience, which is  
6 it -- which is -- strike that.

7 Based on your experience, would you agree that  
8 the .40-caliber cartridge is used more often in handguns  
9 or long guns?

10 MR. DALE: Objection. Vague and ambiguous as to  
11 "used more often in."

12 Q BY MR. KRAUSE: Do you understand what I mean by  
13 "used more often in"? Chambered more often in?

14 MR. DALE: Objection. Vague and ambiguous as to  
15 "chambered more often in."

16 Q BY MR. KRAUSE: Sheriff?

17 A Yes, I'm here.

18 Q You can answer.

19 A He was breaking up. I didn't hear a lot of that,  
20 but, again, what -- we're on .40 calibers?

21 Q Yes.

22 A And the last question was...

23 Q Whether the .40 caliber is used more often,  
24 chambered more often, in a handgun or a long gun.

25 MR. DALE: Same objection.



1 THE WITNESS: Yeah, that I don't know.

2 Q BY MR. KRAUSE: How many long guns are you aware  
3 of that can chamber a .40-caliber cartridge?

4 A You know, I'm thinking to what I've run across.  
5 I don't think I've shot a .40-caliber long gun, but I know  
6 it can be chambered and can, in fact, be shot out of a  
7 long gun.

8 Q And what is that understanding based on?

9 A Well, again, I think at one time, and I can't  
10 remember what company, they wanted to trade us our MP5s  
11 for .40-caliber assault weapons, but I can't remember the  
12 brand or the company.

13 Q Okay. What handguns can chamber a .40-caliber  
14 cartridge?

15 A Let's see. A Smith & Wesson, Sig, probably  
16 Glock.

17 Q Sig Sauer?

18 A Yeah, I mentioned Sig.

19 Q HK?

20 A HK.

21 Q Springfield Arms?

22 A Yeah. On my experience, then, what I've seen and  
23 dealt with, I've definitely seen a .40 more in a handgun  
24 than a long gun.

25 Q So would you agree, based on what you've seen,

1 that the .40-caliber cartridge is chambered more often in  
2 a handgun?

3 MR. DALE: Objection. Vague and ambiguous as to  
4 "chambered more often in."

5 THE WITNESS: Just in my personal experience,  
6 that would be a correct statement, that .40 caliber would  
7 be used more often in a handgun than a long gun.

8 Q BY MR. KRAUSE: Based on your experience, would  
9 you agree that the .25 automatic Colt pistol cartridge is  
10 handgun ammunition?

11 MR. DALE: Objection. Vague and ambiguous as to  
12 "handgun ammunition."

13 THE WITNESS: I've seen it shot in both the long  
14 gun and handgun, but more often in a handgun.

15 Q BY MR. KRAUSE: Same question as to .32 automatic  
16 Colt pistol ammunition.

17 Based on your experience, would you agree that  
18 that cartridge is handgun ammunition?

19 MR. DALE: Same objection.

20 THE WITNESS: Yeah, and basically the same  
21 answer. I believe that there is a .32 long gun, but I've  
22 specifically fired .32 ammunition in a handgun.

23 Q BY MR. KRAUSE: And would you agree that it's  
24 handgun ammunition for purposes of the challenged  
25 provisions?

1 MR. DALE: Same objection.

2 THE WITNESS: Yeah. .32, I would say, is  
3 definitely used more in a handgun than a long gun.

4 Maybe we can come up with a list out of all this,  
5 right?

6 Q BY MR. KRAUSE: Dare to dream.

7 .357 ammunition. Would you agree that .357 is  
8 chambered more often in handguns or long guns?

9 MR. DALE: Objection. Vague and ambiguous as to  
10 "chambered more often in."

11 THE WITNESS: .357 Magnum obviously is made for  
12 the long gun and the handgun, but I've definitely shot  
13 more rounds of .357 Magnum out of a handgun than a long  
14 gun.

15 Q BY MR. KRAUSE: So in your experience, it would  
16 be considered handgun ammunition?

17 MR. DALE: Objection. Vague and ambiguous as to  
18 "handgun ammunition."

19 THE WITNESS: That's another one of those on the  
20 "which way do you go" type thing. I personally own a .357  
21 Magnum rifle.

22 Q BY MR. KRAUSE: What long guns, to your  
23 knowledge, can chamber a .357 cartridge?

24 A Well, the one I own is a Ruger.

25 Q Are you aware of any other rifles that can



1 chamber the .357 cartridge?

2 A Not that I have in my possession, no.

3 Q What about that you've seen or read about?

4 A I believe I've read about some others, but again,  
5 off the top of my head, I couldn't mention them.

6 Q And so what additional information might you need  
7 to make the determination whether the .357 Magnum  
8 cartridge is handgun ammunition?

9 MR. DALE: Objection. Calls for speculation.

10 THE WITNESS: Again, I think it would be a group  
11 of people getting together and getting the legislation  
12 amended so that it specifically lists calibers. If you  
13 want to include .357, if everybody can agree, then that's  
14 fine with me.

15 Q BY MR. KRAUSE: Based on your experience, is  
16 .44-caliber ammunition handgun ammunition?

17 MR. DALE: Objection. Vague and ambiguous as to  
18 "handgun ammunition." Also vague and ambiguous as to  
19 ".44-caliber."

20 THE WITNESS: Again .44 calibers, .44 Magnums,  
21 they're made for both handguns and long guns and, again,  
22 that's probably another one that I think we'd need to  
23 really discuss.

24 Q BY MR. KRAUSE: Well, how many rifles or long  
25 guns are you aware of that chamber that round?



1 A Again, off the top of my head, nothing's jumping  
2 out.

3 Q So despite knowing of no long guns that can  
4 chamber the round, do you disagree that this round of  
5 ammunition is handgun ammunition?

6 MR. DALE: Objection. Argumentative and  
7 misstates the prior testimony.

8 THE WITNESS: Yeah. Again, I know there's long  
9 guns out there. Off the top of my head, as for brands, I  
10 can't think of them right now.

11 Q BY MR. KRAUSE: So why are you reluctant to say  
12 that it -- that that round is a handgun round?

13 MR. DALE: Objection. Vague and ambiguous as to  
14 "handgun round." It also is argumentative and misstates  
15 his prior testimony.

16 THE WITNESS: It's mainly, again, down to the  
17 rifles because I know pig hunters like using the .44 and  
18 .44 Magnum in the long gun.

19 Q BY MR. KRAUSE: What handguns are you aware of  
20 that can chamber a .44-caliber cartridge?

21 A I know Smith & Wesson makes .44s. Colt. Again,  
22 off the top of my head, that's what I'm coming up with.

23 Q And you're unable to say whether the .44-caliber  
24 cartridge is used more often in a handgun or a long gun?

25 MR. DALE: Objection. Asked and answered. Also

1 vague and ambiguous as to "used more often in."

2 THE WITNESS: Yeah. Again, that's another one of  
3 the calibers I would need to get a little more  
4 clarification on.

5 Q BY MR. KRAUSE: All right. Based on your  
6 experience, would you agree that the .380 revolver  
7 cartridge is handgun ammunition?

8 MR. DALE: Objection. Vague and ambiguous as to  
9 "handgun ammunition."

10 THE WITNESS: The only .380s I've shot have been  
11 in a handgun.

12 Q BY MR. KRAUSE: Okay. Do you understand what I  
13 mean by "handgun ammunition," Mr. -- Sheriff Parker?

14 MR. DALE: Objection to the extent it calls for a  
15 legal conclusion.

16 THE WITNESS: Well, again, I think it gets down  
17 to what you read at the beginning of this, and that was  
18 handgun ammunition which is used more often in a handgun;  
19 however, it could also be used in a long gun.

20 Q BY MR. KRAUSE: Okay. Thank you. That is  
21 correct.

22 So you would agree that .380-caliber ammunition  
23 is handgun ammunition?

24 MR. DALE: Objection. Vague and ambiguous as to  
25 "handgun ammunition."

1 Q BY MR. KRAUSE: You can answer.

2 A Again, that's -- the only thing I've known a .380  
3 to be shot out of is a handgun.

4 Q Okay. So you have no reason to believe it's not  
5 handgun ammunition?

6 MR. DALE: Same objection.

7 THE WITNESS: Well, I know it can be used in a  
8 handgun. I'm not sure on a long gun.

9 Q BY MR. KRAUSE: So again, you -- based on your  
10 experience, you would agree that the .380 cartridge is  
11 handgun ammunition?

12 A Again, I would say that if it gets down to one of  
13 those lists, that the .380 could be on there as basically  
14 being used in a handgun much more than a long gun.

15 Q Okay. Based on your experience, would you agree  
16 that the .454 Casull cartridge is handgun ammunition?

17 MR. DALE: Same objection.

18 THE WITNESS: I'm trying to think. I've only  
19 shot one .454 Casull, and that was a handgun. But again,  
20 I know that there are long guns that can fire a .454  
21 Casull.

22 Q BY MR. KRAUSE: How do you know that there are  
23 long guns that shoot the .454 Casull?

24 A I'm sure I've read it.

25 Q Do you remember where you've read it?



1 A No, I don't.

2 Q So you're unable to say whether, based on your  
3 experience, the .454 cartridge is handgun ammunition?

4 MR. DALE: Same objection.

5 THE WITNESS: Yeah, that would be one I'd have to  
6 look into more.

7 Q BY MR. KRAUSE: All right. Based on your  
8 experience, would you agree that the .38 Special cartridge  
9 is handgun ammunition?

10 MR. DALE: Same objection.

11 THE WITNESS: Again, I believe that .38 Special  
12 also can be fired in a long gun; however, I've principally  
13 seen them fired in a handgun.

14 Q BY MR. KRAUSE: What about the .38 Smith & Wesson  
15 cartridge? Would you agree that that cartridge is handgun  
16 ammunition?

17 MR. DALE: Same objection.

18 THE WITNESS: Again, I believe that's -- there's  
19 a long gun out there, but I've principally seen that fired  
20 out of a handgun. In fact, I think I have one.

21 Q BY MR. KRAUSE: All right. What about the .38  
22 automatic cartridge? Would you agree that that's handgun  
23 ammunition?

24 MR. DALE: Same objection.

25 THE WITNESS: I have no knowledge on the .38



1 autos.

2 MR. KRAUSE: Okay. All right. I think that's  
3 all I have. I think you are free to go, as they say.  
4 Thank you for your time today. I appreciate you being  
5 available for deposition on such short notice.

6 Do you, Josh, want to stipulate to relieve the  
7 court reporter of her responsibilities under the code, and  
8 we can have the transcript forwarded directly to the  
9 witness, who can review it in some period of time?  
10 Perhaps seven to ten days.

11 How much time do you need?

12 MR. DALE: Hey, Sheriff, assuming you got the  
13 transcript by the end of this week or early next week, how  
14 long would it take you to review it? And I can tell you  
15 it's probably going to be 60 to -- well, it might be a  
16 hundred pages. It's not going to be very long. How long  
17 would it take you to review it and then let me know if you  
18 have any changes?

19 THE WITNESS: Let me look at my calendar real  
20 quick.

21 THE REPORTER: It is 60 pages.

22 MR. DALE: 160?

23 THE REPORTER: Just 60.

24 MR. KRAUSE: Six, zero.

25 MR. DALE: Oh, wow. You could read that on the

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I have read the foregoing deposition  
transcript and by signing hereafter, approve same.

Dated 122810 .

  
(Signature of Deponent)

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DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SACRAMENTO )

I, Lindsey R. Perry, hereby certify:

I am a duly qualified Certified Shorthand Reporter, in the State of California, holder of Certificate Number CSR 12806 issued by the Court Reporters Board of California and which is in full force and effect. (Bus. & Prof. § 8016)

I am not financially interested in this action and am not a relative or employee of any attorney of the parties, or of any of the parties. (Civ. Proc. § 2025.320(a))

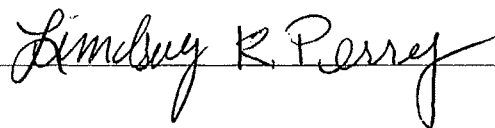
I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b) and prior to being examined, the deponent was first placed under oath or affirmation by me. (Civ. Proc. §§ 2025.320, 2025.540(a))

I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is a true record of the testimony given. (Civ. Proc. § 2025.540(a))

1 I have not, and shall not, offer or provide  
2 any services or products to any party's attorney or  
3 third party who is financing all or part of the action  
4 without first offering same to all parties or their  
5 attorneys attending the deposition and making same  
6 available at the same time to all parties or their  
7 attorneys. (Civ. Proc. § 2025.320(b))

8 I shall not provide any service or product  
9 consisting of the deposition officer's notations or  
10 comments regarding the demeanor of any witness,  
11 attorney, or party present at the deposition to any  
12 party or any party's attorney or third party who is  
13 financing all or part of the action, nor shall I collect  
14 any personal identifying information about the witness  
15 as a service or product to be provided to any party or  
16 third party who is financing all or part of the action.  
17 (Civ. Proc. § 2025.320(c))

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19 Dated: December 23, 2010  
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## **EXHIBIT H**

1 title, like I said earlier, is not going to be a hundred  
2 percent, but it was just dealing with larger issues of,  
3 you know, trends and things like that. It was, I think,  
4 an early class that I took. One of the classes that was  
5 also an elective.

6 Q Okay. In that course, did you study at all  
7 different -- different types of ammunition, different  
8 calibers of ammunition at all?

9 A I don't recall any specific ammunition studies in  
10 that class.

11 Q Do you recall whether or not you studied  
12 ammunition in any of your courses?

13 A I think there may have been some discussion in  
14 the forensics class, but again, I don't -- regarding  
15 specifics about what was taught, I don't recall. I just  
16 remembered there were -- there was some discussion about  
17 ammunition and, you know, crime scene, recovering brass at  
18 a crime scene, things like that.

19 Q Okay. Do you recall whether your studies in your  
20 forensics class ever dealt with determining whether or not  
21 ammunition could be used in a rifle and a handgun?

22 A I don't recall, sir.

23 Q Okay. In that class -- I mean, did you talk  
24 about the calibers of ammunition suitable for use in a  
25 handgun?

1 A It may have been discussed, but I have no  
2 recollection at this time.

3 Q Okay. Any other classes, other than the  
4 forensics and the crime in society, where you might have  
5 discussed ammunition?

6 A Not that I recall at this time, sir.

7 Q Okay. Okay. I'm looking at a copy of your CV.  
8 MR. KRAUSE: Let me get a copy for the court  
9 reporter.

10 MR. MONFORT: Thank you.

11 Can we mark this as Exhibit A for this  
12 deposition?

13 MR. KRAUSE: You want them alphabetic, not  
14 numeric?

15 MR. MONFORT: Doesn't matter.

16 MR. KRAUSE: Okay. Exhibit A.

17 (Whereupon Plaintiffs' Exhibit A was  
18 marked for identification.)

19 Q BY MR. MONFORT: Okay. Mr. Graham, on your CV  
20 under employment history, you identified that you worked  
21 for the California Department of Alcoholic Beverage  
22 Control?

23 A Yes, the Department of Alcoholic Beverage  
24 Control.

25 Q Describe for me your duties in that position.

1 A You broke, sir. Could you repeat the question?

2 Q Can you describe for me your duties in that  
3 position?

4 A Yes, sir. I was an investigator for  
5 approximately five years. Some of the duties included  
6 investigating locations that had liquor licenses. I was  
7 involved in the background process of some of the  
8 applicants that wanted to establish a bar, liquor store,  
9 et cetera. The other side of that was the investigation  
10 of crimes that occurred at or around ABC-licensed  
11 locations. The investigations included undercover buys of  
12 narcotics at these locations, reverse stings involving  
13 stolen property, food stamp fraud, things like that.

14 Q Okay. Did any of your investigations ever relate  
15 to firearms or ammunition?

16 A The investigations did reveal -- we recovered  
17 firearms at -- during the course of some of these  
18 investigations and, you know, as well as ammunition that  
19 was accompanying said firearms.

20 Q Okay. Did any of the crimes you investigated  
21 ever require you to determine the caliber of bullet used  
22 during the crime?

23 A Well, during the evidence booking process, we  
24 would typically denote what type of, you know, handgun or  
25 rifle or shotgun or whatever it was that we seized,



1 what -- you know, what caliber it was, if there was any  
2 accompanying ammunition, what caliber that ammunition was.

3 Q How did you make the determination as to what  
4 caliber the ammunition was?

5 A Typically by reading the information marked on  
6 the weapon -- or I'm sorry, marked on the -- the brass  
7 casing, visually inspecting it. Sometimes ammunition is  
8 seized in its, you know, factory boxes. That will help  
9 determine the source of the ammunition, the type and  
10 caliber.

11 Q Okay. Did you classify the ammunition as handgun  
12 ammunition?

13 A Did I classify -- I believe I would have noted  
14 that it was ammuni- -- if I recovered ammunition, I would  
15 have denoted that the ammunition came from a handgun, it  
16 came from a shotgun or it was found with a particular type  
17 of weapon. I don't know that I broke it down as -- you  
18 know, any further than that.

19 Q So let me give you an example.

20 If you recovered ammunition at the scene of a  
21 crime but there was no accompanying firearm, when booking  
22 that entry of ammunition into your investigation records,  
23 would you classify it as handgun ammunition?

24 MR. KRAUSE: And I'll remind you, don't guess.  
25 Only provide your best recollection.



1 the crime that we investigated. You know, it was -- most  
2 often than not, it was incidental to the other  
3 investigations we were conducting.

4 Q Okay. So would you say, then, is that correct  
5 that -- you're saying that less -- less than 20 instances,  
6 you had to take in ammunition at an individual  
7 investigation and identify that ammunition?

8 A Yes.

9 Q Okay. Thank you.

10 From 1999 to 2002, your CV provides that you  
11 served as special agent for the California Department of  
12 Justice Bureau of Narcotic Enforcement; is that correct?

13 A Yes, sir.

14 Q Can you describe to me your duties while in that  
15 position?

16 A Yes. As a special agent with the Department of  
17 Justice Bureau of Narcotic Enforcement, I was assigned to  
18 the Violence Suppression Unit. The unit, as I understand  
19 it, no longer exists due to budgetary reasons, but at the  
20 time, the unit was charged with trying to reduce violent  
21 and sometimes gang-related activities of individuals in  
22 California. Many of those cases involved firearms and  
23 their use and illegal possession cases, you know,  
24 parolees, probationers were the types of people that we  
25 would typically target that were re-offending.

1 I was also part of the gun show enforcement  
2 program that, at the time, was under the Bureau of  
3 Narcotic Enforcement. I was one of the first seven agents  
4 in that program, and I was assigned to the San Jose area.  
5 And my duties, specifically, within the Violence  
6 Suppression Unit as the gun show agent was to be in charge  
7 of our unit's investigations at gun shows in the Bay Area.  
8 And there were several counties that I was in charge of  
9 visiting the gun shows and seeing if there were illegal  
10 activities going on at those shows.

11 Q Okay. Can you describe for me -- or would you  
12 say that in your employment, you -- in this employment,  
13 did you also investigate crimes involving firearms and  
14 ammunition?

15 A Yes, sir.

16 Q Can you describe to me the role that ammunition  
17 played in your experience there?

18 MR. KRAUSE: Objection. Vague and ambiguous.

19 MR. MONFORT: Okay. Let me rephrase.

20 Q You know, in -- in your employment at ABC, you  
21 described -- you described your investigations that you  
22 might find a firearm at the scene of a crime and  
23 ammunition, you'd have to classify that ammunition or  
24 label that ammunition as what, you know, caliber of  
25 ammunition it was and you explained to me how you would



1 MR. MONFORT: The way you suggested would be  
2 helpful.

3 THE WITNESS: Okay.

4 MR. KRAUSE: So when you first started at DOJ,  
5 what -- or at the Bureau of Firearms or Division of  
6 Firearms what you were doing, what your title was, when  
7 you became a special agent supervisor.

8 THE WITNESS: Okay. Sure. I'll try to break it  
9 down in that fashion.

10 MR. KRAUSE: To the best of your ability.

11 THE WITNESS: From the fall of 2002 to, let's  
12 see, July of this year, I was special agent with the  
13 firearms division, which then morphed into the Bureau of  
14 Firearms. As I'd said, we investigated people for illegal  
15 possession of weapons, which would include just prohibited  
16 people having guns when they shouldn't, prohibited people  
17 having possession of ammunition when they shouldn't,  
18 assault weapon possession/manufacturing cases, machine gun  
19 possession and manufacturing cases, gun dealers that were  
20 breaking the law, et cetera.

21 For the last two years or so, I also assumed some  
22 more administrative duties. Those would include reviewing  
23 handguns that were submitted by manufacturers for  
24 inclusion in the roster of handguns -- handguns certified  
25 for sale, and that involves, you know, sometimes taking

1 the weapons down, breaking them down into their smaller  
2 components, looking at those, comparing them to ones  
3 already on the list, things like that. I also review  
4 safety devices, which would include, you know, gun locks,  
5 gun safes, things like that.

6 Q BY MR. MONFORT: Okay. Thank you. I think  
7 that's sufficient as to describing your duties in your  
8 narrative. Thank you very much for being so thorough.

9 A Sure.

10 MR. KRAUSE: And again, those are just your  
11 general responsibilities. There may be more specific  
12 responsibilities that are revealed through questioning.

13 THE WITNESS: And if I think of something down  
14 the road, I can possibly amend that answer, if it's  
15 necessary.

16 Q BY MR. MONFORT: Okay. Did any of your -- did  
17 your duties in any of the roles you described to me  
18 require you to classify a caliber of ammunition as handgun  
19 ammunition?

20 MR. KRAUSE: I'll object that it's vague and  
21 ambiguous, but if you understand, you can answer.

22 THE WITNESS: Again, I think the same process --  
23 during the course of seizure of guns and ammo while at the  
24 Bureau of Firearms and firearms division, a similar  
25 process would have gone on where we, you know, find guns

1 and ammo. We have to identify it on a property receipt  
2 and in a police report as to what the items seized were to  
3 the best of our ability. Sometimes during the course of  
4 that, we state, you know, make, model, serial number of  
5 the weapon and then we would identify, to the best of our  
6 ability, the type of ammunition found with it, or if it  
7 was just ammunition found by itself, we would do the same.

8 Does that answer your question, sir?

9 Q BY MR. MONFORT: Yes. Did you identify the  
10 ammunition based on caliber? I think you said yes, but I  
11 just want to be clear.

12 A Yeah. Typically ammunition is identified by the  
13 make, the caliber and the quantity of the ammunition  
14 found.

15 Q When you say "make," can you provide me with an  
16 example?

17 A Winchester, Federal, you know, those types of  
18 companies that would manufacture ammunition.

19 Q Okay. Is that -- are you suggesting that you  
20 identify them by cartridge?

21 A Yes.

22 Q Okay. So for example, if you -- well --

23 MR. KRAUSE: I think he said he'd identify them  
24 by manufacturer.

25 MR. MONFORT: Okay. But then he also said he



1 would identify it by cartridge.

2 Q Is that correct?

3 A Yeah, the cartridge being a -- one round of live  
4 ammunition, just so that we're all on the same page.

5 Q Okay. Anything else that you can think of that  
6 you didn't discuss with me already that you think educated  
7 you in ammunition?

8 MR. KRAUSE: Objection. Vague and ambiguous.

9 Q BY MR. MONFORT: Other than in the investigations  
10 you described that (inaudible) -- similar to your job  
11 experiences at ABC and while with the Bureau of Narcotics  
12 Enforcement, were there any other job duties that required  
13 you to, you know, identify particular types of ammunition?

14 A Well, as I've said before, during range  
15 qualification, for example, you have to identify what  
16 rounds are going to go in which guns so you don't have an  
17 accident or just a failure to fire, for example. So  
18 there's a simplistic view of identifying which round goes  
19 in which gun.

20 I've also attended armors courses that basically  
21 deal with the mechanics of certain weapons, the range  
22 master training I've been to that deals with, you know,  
23 teaching people how to fire their weapons in a safe  
24 manner.

25 MR. KRAUSE: Are you asking about his training

1 now or are you just talking strictly about the time -- his  
2 employment with firearms and any education he may have  
3 received --

4 MR. MONFORT: In his employment, I mean, I  
5 understand that he engaged in training. I'll cover those  
6 separately to the extent I feel it's necessary. So he  
7 doesn't have to cover all those. I think just one last  
8 question to wrap up on the employment.

9 Q So your current position, prior to this lawsuit,  
10 were you ever asked to determine whether a particular  
11 caliber of ammunition was principally used in a handgun?

12 A I don't believe so.

13 Q Okay. Prior to your testimony -- or prior to  
14 this lawsuit, during your job duties, were you ever asked  
15 to determine whether a particular caliber of ammunition --

16 A Sir, you cut out there. Could you repeat that  
17 question?

18 Q Yes. I was asking, during your current job  
19 duties, but prior to this lawsuit, were you ever asked to  
20 determine whether a particular caliber of ammunition was  
21 principally used in a rifle?

22 A I don't know that I've been asked specifically  
23 that question.

24 Q Okay. And I would assume the same would hold  
25 true for an individual cartridge, that you haven't

1 been asked to -- have you been asked to make the  
2 determination as to whether a particular cartridge of  
3 ammunition was principally used in a handgun prior to this  
4 lawsuit?

5 A I'm trying to recall. I think the only sense  
6 that I've been asked anything close to that would be I've  
7 received -- fielded questions in the past about  
8 armor-piercing ammunition and what that really meant, and  
9 I was able to point the people asking the question to -- I  
10 believe it was the 12323 section that deals with, you  
11 know, what armor-piercing ammunition is and so forth.

12 Does that answer the question sufficiently?

13 Q I think it does. If we have any questions, we  
14 might revisit later, but I think that -- I think that  
15 sufficiently answers it. Thank you.

16 I'm going to move on to your training now you  
17 identified in your CV unless you need to take a break for  
18 any reason before we get into this.

19 A I'm okay. Looks like everyone else here is okay  
20 as well.

21 Q Okay. Thank you.

22 Okay. My associate just let me know he needs to  
23 take a break. He's had too much coffee, apparently, this  
24 morning.

25 Can we break for about five minutes?



1 A No, I'm not familiar with that one as a handgun  
2 round.

3 Q .25-20 single shot?

4 A I'm not familiar with that one either, sir.

5 Q .25-06 Remington?

6 A These sound like cartridges again, possibly from  
7 the rifle side of, you know, the firearm side of things,  
8 so it's not one I'm familiar with as far as a handgun.

9 Q Okay. But you're not sure; is that correct?

10 A Well, I'm looking at the rifles -- I'm sorry, the  
11 Cartridges of the World document that you've been provided  
12 with, and it's not listed here. It's likely, you know --

13 Q I'm not asking you what the book says. I'm  
14 asking you what your opinion is, what your understanding  
15 is.

16 A Well, my understanding is -- the last one you  
17 read to me was .25-20 Winchester; is that right?

18 Q No, .25-06 Remington.

19 A Okay. Yeah, that's -- that's not going to be a  
20 cartridge principally for use in a handgun.

21 Q Is it .25 caliber ammunition?

22 A In a general sense, yes.

23 Q Is .257 -- or I'm sorry, is .25 Winchester .25  
24 caliber ammunition?

25 A .25 -- sorry. .256 Winchester Magnum is a



1 handgun round.

2 Q I'm sorry. I -- I -- that wasn't my question.

3 Let me repeat it.

4 Is .25 Winchester .25 caliber ammunition?

5 A Yes.

6 Q Okay. Thank you.

7 And I -- .25 ACP, that's .25 caliber ammunition  
8 also?

9 MR. KRAUSE: Objection. Asked and answered.

10 THE WITNESS: Yes. .25 ACP is definitely a  
11 handgun round.

12 Q BY MR. MONFORT: And what about .250-3000?

13 A That's not going to be a handgun round.

14 Q Is that .25 caliber ammunition?

15 A I'm not familiar with it, sir, so I don't have an  
16 opinion on it.

17 Q Okay. What about the .25 NAA?

18 A That's a .25 North American Arms round. It's --  
19 to the best of my recollection, it's a handgun round, and  
20 it's -- it was made for handguns by North American Arms.  
21 That was developed for a specific handgun.

22 Q Is that .25 caliber ammunition too?

23 A Yes.

24 Q Okay.

25 Okay. If it's okay on your end, can we break for

1 then, to exclude .32-44?

2 A I don't know that I gave it much thought because  
3 it's a rifle round.

4 Q Okay. And is that .32-44 .32 caliber?

5 A Yeah, it's a variant for the rifle.

6 Q Is .32 Smith & Wesson included in your caliber  
7 list?

8 A Yes.

9 Q Is that also .32 caliber?

10 A Yes.

11 Q How about .32 Ideal? Is that included in your  
12 list?

13 A I couldn't hear the last part.

14 Q The .32 Ideal, is that included in your caliber  
15 list?

16 A I'm not familiar with that caliber, sir.

17 Q Okay. How about the .32 long rim fire?

18 A I'm not familiar with that one either.

19 Q Okay. How about the .32 short rim fire?

20 A Are these .32 short Colts that you're speaking of  
21 right now?

22 Q The ammunition I'm referring to is commonly  
23 referred to as .32 short rim fire.

24 A Well, a .32 short Colt I would include in that,  
25 but I don't know that you're -- I -- I want to make sure