

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Peter A. Krause, Cal. Bar No. 185098 Office of the California Attorney General 1300 I Street, Suite 125 Sacramento, CA 95814 TELEPHONE NO.: (916) 324-5328 FAX NO. (Optional): (916) 324-8835 E-MAIL ADDRESS (Optional): peter.krause@doj.ca.gov ATTORNEY FOR (Name): Defendants State of California, et al.		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO STREET ADDRESS: 2317 Tuolumne Street MAILING ADDRESS: CITY AND ZIP CODE: Fresno, CA 93721 BRANCH NAME: "M" Street Civil Courthouse			
PLAINTIFF/PETITIONER: Sheriff Clay Parker, et al. DEFENDANT/RESPONDENT: State of California, et al.			
CASE MANAGEMENT STATEMENT (Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)		CASE NUMBER: 10CECG02116	
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: November 4, 2010 Time: 3:30 p.m. Dept.: 97A Div.: Room: Address of court (if different from the address above): <input checked="" type="checkbox"/> Notice of Intent to Appear by Telephone, by (name):			

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties** (answer one):
a. ☒ This statement is submitted by party (name): Defendants State of California, et al.
b. ☐ This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint** (to be answered by plaintiffs and cross-complainants only)
a. The complaint was filed on (date): June 17, 2010
b. ☐ The cross-complaint, if any, was filed on (date):
3. **Service** (to be answered by plaintiffs and cross-complainants only)
a. ☐ All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
b. ☐ The following parties named in the complaint or cross-complaint
(1) ☐ have not been served (specify names and explain why not):
(2) ☐ have been served but have not appeared and have not been dismissed (specify names):
(3) ☐ have had a default entered against them (specify names):
c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served):
4. **Description of case**
a. Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):
Action for declaratory, injunctive, and mandamus relief alleging that three Penal Code provisions are void because the definition of "handgun ammunition" is unconstitutionally vague.

PLAINTIFF/PETITIONER: Sheriff Clay Parker, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: State of California, et al.	10CECG02116

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

Plaintiffs allege three causes of action, all of which lack merit. The first is a facial constitutional challenge to the definition of "handgun ammunition" used in Penal Code §§ 12060, 12061, & 12318. Defendants dispute the assertion that the definition is in any way vague. Moreover, plaintiffs admit that the definition they challenge has valid applications, thus defeating their claim of facial invalidity. Plaintiffs' second cause of action – an as-applied vagueness challenge – is not justiciable because it is unripe and seeks an improper advisory opinion. The third purported cause of action for mandamus relief is defective because plaintiffs cannot identify a ministerial duty on the part of any defendant.

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. ☐ The trial has been set for *(date)*:

b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a. ☒ days *(specify number)*: 3

b. ☐ hours *(short causes) (specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

e. Fax number:

f. E-mail address:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative Dispute Resolution (ADR)**

a. Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and has reviewed ADR options with the client.

b. ☒ All parties have agreed to a form of ADR. ADR will be completed by *(date)*: Early 2011

c. ☐ The case has gone to an ADR process *(indicate status)*:

PLAINTIFF/PETITIONER: Sheriff Clay Parker, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: State of California, et al.	10CECG02116

10. d. The party or parties are willing to participate in (check all that apply):

- (1) ☒ Mediation
- (2) ☐ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 3.822)
- (3) ☐ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 3.822)
- (4) ☐ Binding judicial arbitration
- (5) ☐ Binding private arbitration
- (6) ☐ Neutral case evaluation
- (7) ☐ Other (specify):

e. ☐ This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.

f. ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

g. ☒ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court (specify exemption):
CRC Rule 3.811(b)(1), (b)(6). Constitutionality of state statutes at issue.

11. Settlement conference

☐ The party or parties are willing to participate in an early settlement conference (specify when):

12. Insurance

a. ☐ Insurance carrier, if any, for party filing this statement (name):

b. Reservation of rights: ☐ Yes ☐ No

c. ☐ Coverage issues will significantly affect resolution of this case (explain):

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

☐ Bankruptcy ☐ Other (specify):

Status:

14. Related cases, consolidation, and coordination

a. ☐ There are companion, underlying, or related cases.

(1) Name of case:

(2) Name of court:

(3) Case number:

(4) Status:

☐ Additional cases are described in Attachment 14a.

b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (name party):

15. Bifurcation

☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. Other motions

☒ The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

Defendants intend to file a motion for judgment on the pleadings on all causes of action alleged in the Complaint.

PLAINTIFF/PETITIONER: Sheriff Clay Parker, et al.	CASE NUMBER: 10CECG02116
DEFENDANT/RESPONDENT: State of California, et al.	

17. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Defendants	Written Discovery (RFAs, RFPs, Interrogs)	Early 2011
Defendants	Depositions	Early 2011

- c. ☐ The following discovery issues are anticipated (*specify*):

18. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

20. Meet and confer

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):

- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

21. Total number of pages attached (*if any*): 0

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: October 22, 2010

Peter A. Krause

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Sheriff Clay Parker, et al. v. The State of California**

No.: **10CECG02116**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On October 22, 2010, I served the attached

CASE MANAGEMENT STATEMENT

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

C.D. Michel
Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on October 22, 2010, at Sacramento, California.

Brenda Apodaca
Declarant

Brenda Apodaca
Signature