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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

SHERIFF CLAY PARKER, TEHAMA COUNTY SHERIFF; HERB BAUER SPORTING GOODS; CALIFORNIA RIFLE AND PISTOL ASSOCIATION FOUNDATION; ABLE'S SPORTING, INC.; RTG SPORTING COLLECTIBLES, LLC; AND STEVEN STONECIPHER, Plaintiffs and Petitioners, vs. THE STATE OF CALIFORNIA; KAMALA D. HARRIS, in her official capacity as Attorney General for the State of California; THE CALIFORNIA DEPARTMENT OF JUSTICE; and DOES 1-25, Defendants and Respondents.	CASE NO. 10CECG02116 **PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO NOTICE OF MOTION AND MOTION FOR ATTORNEYS FEES** Date: August 31, 2011 Time: 3:30 p.m. Location: Dept. 402 Judge: Hon. Jeffrey Y. Hamilton Action Filed: June 17, 2010

I. PLAINTIFFS ARE ENTITLED TO AN AWARD OF ATTORNEYS' FEES

A. Plaintiffs' Action Defended the Essential Constitutional Right to Due Process

Plaintiffs' lawsuit successfully struck down the Challenged Provisions on Fourteenth Amendment grounds, promoting the right of all persons to be free from vague criminal laws that promote arbitrary and discriminatory enforcement and prevent those subject to the law from knowing what conduct is regulated. That success alone is sufficient to establish the requirement that Plaintiffs' lawsuit enforce important rights affecting the public interest. (Pls.' Mot., p. 6:16-23.) Defendants do not attempt to dispute this fact. Instead, they ignore it and attack only Plaintiffs' Second Amendment grounds for fee recovery. (Defs.' Mot., p. 3:22-4:7.) This response is insufficient to overcome Plaintiffs' entitlement to a fee award.

B. Plaintiffs Have Established the Financial Burden of this Litigation Outweighs Any Personal Pecuniary Interest in the Outcome

1. The Shipper Plaintiffs Have No *Direct* Pecuniary Interest, and Any *Indirect* Interest Is Insufficient to Defeat Their Entitlement to Fees

When balancing the costs and benefits of litigation for fee shifting purposes, the pecuniary benefit must be quantified, then discounted by the likelihood of success and weighed against the actual cost of litigation. (*L.A. Protective League v. City of Los Angeles* (1986) 188 Cal.App.3d 1, 9-10.) An award is proper unless the monetary value of Plaintiffs' interest in the litigation exceeds the actual costs "by a substantial margin." (*Id.* at p. 10.)

In *Galante Vineyards v. Monterey Peninsula Water Management District* (1997) 60 Cal.App.4th 1109, 1127, the court upheld a fee award even though the claimants were "probably the greatest beneficiaries" of the underlying action. The court reasoned that, because they reaped no "*direct* pecuniary benefit" and any future monetary benefit was speculative, "the question of whether the cost of petitioners' legal victory transcend[ed] their personal interests" was "a close one." (*Id.* at pp. 1127-1128, citing *Citizens Against Rent Control v. City of Berkeley* (1986) 181 Cal.App.3d 213, 230-231 [indicating a speculative, future monetary gain *favors* a fee award].)

Here, the ammunition shipper plaintiffs realized no *direct* pecuniary gain. Damages were neither sought nor awarded, and any advantage tied to Plaintiffs' profits from sales to California is entirely speculative. There is no way for Plaintiffs to quantify the revenues this suit protected

because there is no way of knowing how many customers would have been exempt from the face-to-face transaction requirement, or how long the law would have remained in effect. And there is no way to predict the manner in which other market factors would impact their profits. (Giles Decl., ¶ 5 [describing outside factors that impact ammunition sales and profits].) As such, it is impossible to properly quantify any financial interest Plaintiffs may have, let alone determine that such an interest *substantially* outweighs the costs of litigation.

And contrary to Defendants' hyperbolic claim that Plaintiffs "gained hundreds of thousands, perhaps millions, of dollars," neither shipper realizes profits from ammunition sales to California anywhere near $50,000, let alone the $435,596.45 in litigation costs.[1] (Defs.' Opp., p. 6:10-12; Giles Decl., ¶ 4; see Brady Suppl. Decl., ¶8.) For instance, RTG's sales amounted to only about $2,190 in 2010. (Giles Decl., ¶ 4.) Even if it were accepted that Plaintiffs initially had a 50% chance of success, RTG's properly valued interest would barely exceed $1,000.[2]

Citing *Beach Colony*, Defendants claim that Plaintiffs' financial interests overcome their right to fees because any public benefit was merely coincidental to the achievement of personal gains. (Defs.' Opp., p. 6:17-24.) *Beach Colony*, however, is distinguishable. There, the record was dotted with admissions that, absent victory, the plaintiff would have suffered a loss of $300,000, dwarfing the $50,550 fee claim. (*Beach Colony* (1985) 166 Cal.App.3d 106, 109, 114 [hereafter *Beach Colony*].) And the only benefit flowing to the public was the theoretical interest in rulings that "compel a governmental body to follow the law." (*Id.* at p. 113.) The court thus recognized the case as self-serving, inuring *solely* to plaintiff's economic benefit.[3]

Here, the respective pecuniary interests of Able's Sporting and RTG Collectibles come

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[1] Despite diligent efforts, Plaintiffs' counsel were unable to acquire a verified declaration for Able's Sporting, Inc., before Plaintiffs' Reply deadline. To the extent the Court finds Able's' profit figures are necessary to Plaintiffs' claim, counsel is prepared to submit evidence at or before the hearing. (Brady Suppl. Decl., ¶¶ 8-9.)

[2] Under the *L.A. Police Protective League* method, RTG's interest is about $1,095 ($2,190 ÷ 2).

[3] Quoting *Beach Colony*, Defendants peculiarly highlight the most important distinguishing characteristic of this case – that *only* plaintiff reaped the substantial economic benefit of the underlying action. (Defs.' Opp., p. 6:20-23.) Here, countless non-party shippers will reap the exact financial benefit Plaintiffs have gained.

nowhere near the cost of this litigation. They certainly do not exceed it by a *substantial* margin. What's more, the public interest promoted here – the direct enforcement of the civil rights of all ammunition buyers, retailers, shippers and their employees – is far loftier than the peripheral interest enforced in *Beach Colony*. It simply cannot be said that Plaintiffs' business interests were central to this lawsuit and the public benefit was merely "coincidental."

2. The Litigation Ran *Counter* to the Pecuniary Interests of Ammunition Retailer Plaintiff Herb Bauer's Sporting Goods

Herb Bauer's Sporting Goods' primary interest in this litigation was an altruistic interest the protection of the constitutional rights of its employees and customers. Nowhere does Herb Bauer's Sporting Goods allege the laws' enforcement would have resulted in "lost profits," yet Defendants improperly ascribe this consequence to it. (Defs.' Opp., p. 6:12-15.) To the contrary, in terms of financial interests, Herb Bauer's Sporting Goods stood to *lose* much more than it gained. The Challenged Provisions' face-to-face purchase requirement largely restricted mail-order ammunition purchases, crippling that market and directing buyers to brick-and-mortar stores, *like the one operated by Herb Bauer's Sporting Goods*. Enforcement of the law would have thus *increased* Herb Bauer's Sporting Goods' ammunition sales and profits. And any costs associated with the creation and retention of records would have been offset by those increased profits. Even if Defendants could somehow prove this is not the case, any costs avoided are eclipsed by the hundreds of thousands of dollars in expenses incurred in prosecuting this action.

3. CRPA Foundation Has *No* Pecuniary Interest in the Outcome

CRPA Foundation brought this action on behalf of the "tens of thousands of its supporters" who sought only to purchase ammunition free of the requirements of the Challenged Provisions. (Compl., ¶ 13.) It is ultimately the non-pecuniary interests of these individuals that CRPA Foundation sought to promote through this litigation. And Defendants' reliance on *California Licensed Foresters Assn. v. State Board of Forestry* (1994) 30 Cal.App.4th 562, to impute a pecuniary interest to CRPA Foundation is unavailing. (See Defs.' Opp., p. 5:23-24.)

The plaintiff in *California Licensed Foresters* was an organization of foresters and "professionals providing services to the timber industry" whose livelihood relied heavily upon the outcome of the underlying litigation. (*Cal. Lic. Foresters*, *supra*, 30 Cal.App.4th at pp. 570-572.)

The plaintiff's "very existence" in turn relied *entirely* on the economic vitality of its members. (*Id.* at p. 570.) The court thus found the plaintiff had a financial stake equal to that of its members, and held the plaintiff's primary objective was to protect its members' economic interests. (*Id.* at 573.)

The CRPA Foundation, however, is *not* an organization devoted to the interests of ammunition shippers or to anyone's financial interests. It is, primarily, an organization representing *individual firearm owners* for the purpose of preserving the Second Amendment liberties. (Compl., ¶ 13.) These individual supporters, like the individual plaintiffs, have *no* pecuniary interest in this litigation – a point which Defendants do not dispute. Because the vast majority of its supporters are financially uninterested individuals, the livelihood of the CRPA Foundation does not depend on the few of its supporters who also happen to be ammunition shippers. For that reason, CRPA Foundation does not share a with its members a financial stake in pursuing this matter and it thus has insufficient personal interest to defeat its entitlement to fees.

Even if CRPA Foundation did share a financial interest with its business entity supporters, it is more accurately that of brick-and-mortar retailers – who stood to *gain* financially from the laws' enforcement – because common sense dictates that far more in-state *retailers* would support the California-based CRPA Foundation than would out-of-state *shippers* or the few in-state shippers who ship within California. Regarding any shipper supporters of the CRPA Foundation, there is no way to determine whether they had an interest *substantially* greater than the cost of prosecuting this suit, the amount of profits at stake in this action being entirely speculative. (See explanation of *Citizens Against Rent Control*, *supra.*)

II. PLAINTIFFS ARE ENTITLED TO RECOVER FEES INCURRED PURSUING THE MOTION FOR PRELIMINARY INJUNCTION AND TRACKING AB 2358

A. Plaintiffs' Attorneys Reasonably Pursued Preliminary Injunction to Protect Their Clients' Interests and Are Entitled to Recover the Fees Incurred

Defendants make the same unsupported argument they pursued in their Motion to Tax Costs – that Plaintiffs' Motion for Preliminary Injunction was not "necessary" to the litigation so fees should be denied. (Defs.' Opp., p. 8:20-22.) They further suggest the motion's "complete lack of success" supports denial of all fees incurred in bringing the motion. But an individual motion's degree of success is not the standard by which recovery of fees is measured. Instead, a successful

attorney is entitled to compensation for "every item of service which, *at the time rendered*, would have been undertaken by a reasonable and prudent lawyer" to protect his client's interest. (*Moore v. Jas. H. Matthews & Co.* (9th Cir. 1982) 682 F.2d 830, 839.)

In their fee motion, Plaintiffs never argue "the State forced Plaintiffs to file" the Motion for Preliminary Injunction. (Defs.' Opp., p. 8:5-11.) Rather, Plaintiffs describe the *several* considerations informing their decision to move for temporary relief, establishing that a reasonable attorney would have sought preliminary injunction. This included, but was not limited to, founded concerns that a summary judgment motion would face delays from Defendants, such that their claims would not be decided before the Challenged Provisions' effective date, exposing Plaintiffs to criminal liability every minute they remained unable to comply with the vague laws. (Pls.' Mot., p. 3:3-15.) The motion also provided an opportunity to receive potential input from the Court on the issues, and Plaintiffs instructed counsel to proceed. It was a *combination* of justifications that made Plaintiffs' attorneys actions reasonable. And Defendants do not argue, let alone provide evidence, that a reasonable attorney would not have acted accordingly.

The fact that Plaintiffs ultimately withdrew their motion is of no consequence. To reiterate, it is not important whether, in hindsight, the motion was successful. What matters is that, *when the services were rendered*, Plaintiffs' attorneys acted as a reasonably prudent attorney would have. In any event, Plaintiffs' motion ultimately resulted in an expedited briefing schedule, with hearing and decision assured before the Challenged Provisions took effect.

Based on the foregoing, it was wholly reasonable for Plaintiffs' attorneys to pursue preliminary injunction while the case proceeded on its merits, and Plaintiffs are entitled to recovery of attorneys fees incurred in pursuing this relief.

B. Plaintiffs' Counsel Acted Reasonably in Tracking AB 2358 to Further Their Clients' Interests and Are Entitled to Recover Fees Incurred in Doing So

Narrowly focused political activity fostering the litigation goals of one's clients is compensable. (*Davis v. City and County of San Francisco* (9th Cir. 1992) 976 F.2d 1536, 1545, modified on other grounds (9th Cir. 1993) 984 F.2d 345.) Plaintiffs seek compensation only for those hours devoted to "tracking, reviewing, and analyzing the bill, as well as engaging in discussions with Plaintiffs' expert witness, . . . [and] with co-counsel, outside counsel, and

Plaintiffs *regarding the implications of Assembly Bill 2358 relative to Plaintiffs' litigation strategy and the merits of Plaintiffs' claims*." (Monfort Decl., ¶ 71, emphasis added.) Any hours Plaintiffs' counsel devoted to direct political lobbying activities and which were not reasonably spent furthering Plaintiffs' litigation goals were excluded. Ultimately, these activities are not of the type generally expected of attorneys in the normal course of following advancements in the law – which attorneys generally do at their own expense. These hours instead represent political activity narrowly focused on achieving Plaintiffs' particular goals. Specifically, counsel engaged in activity necessary to assess the potential impact of the bill's passage on this very litigation.[4] The mere fact that the bill ultimately failed does not make these activities any less reasonable when they were performed.

III. PLAINTIFFS ARE ENTITLED TO HOME MARKET RATES AS NO ATTORNEY IN THE AREA PRACTICES SECOND AMENDMENT LAW AND ANY ATTEMPT TO SECURE SUFFICIENT LOCAL COUNSEL WOULD HAVE BEEN FUTILE

In this case, it was not merely "impracticable" for Plaintiffs to hire local counsel "sufficient to the cause," it was impossible. (See *Horsford v. Bd. of Trustees of Cal. State U.* (2005) 132 Cal.App.4th 389, 399.) No attorneys in Fresno, or the immediately surrounding area, practice civil rights law in the highly specialized context of firearms and the Second Amendment; as pointed out in Mr. Michel's declaration, Michel & Associates, P.C., is one of only a handful of such practices in the entire state. (Michel Decl., ¶¶ 16-17.) And the importance of hiring counsel with firearms litigation experience and knowledge of firearms and ammunition cannot be overstated.[5] Any effort to find sufficiently experienced local counsel would have thus been futile. Additionally, Plaintiff

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[4] This time would not have been billed at all if Defendants had not themselves worked with the bill's author to amend AB 2358 in response to and in an attempt to moot Plaintiffs' meritorious lawsuit. (Monfort Decl., ¶ 23.) Defendants thus take an indefensible position that Plaintiffs should not be entitled to recovery of fees incurred as a direct result of their tactics.

[5] The technical nature of ammunition, the underlying subject matter of this case, was illustrated often throughout this litigation. For instance, Defendants took a several-hour deposition of Plaintiffs' expert, pursuing a long line of questioning on the types and uses of ammunition. Plaintiffs themselves deposed Defendants' expert over two days, covering similar subject matter. (Monfort Decl., ¶ 42.) Defendants apparently found these depositions reasonably necessary, as from the outset and before any evidence had even been filed, they indicated their need to depose Plaintiffs' witnesses – something Defendants never dispute. (Monfort. Decl., ¶ 23.)

CRPA Foundation has relied on Mr. Michel's services for many years – retaining new counsel for this matter alone would have been unreasonable and impractical. (Michel Decl., ¶ 17.)

Finally, Defendants challenge only Plaintiffs' *entitlement* to their home market rate. They provide no evidence that the rates sought by Plaintiffs within their community are improper. Should the Court agree Plaintiffs have established the practical impossibility of securing local counsel, the uncontested home market rates claimed by Plaintiffs are presumed reasonable and should be awarded. (See *U. Steelwrkrs. v. Phelps Dodge Corp.* (9th Cir. 1990) 896 F.2d 403, 407.)

IV. PLAINTIFFS' FEE REQUEST IS REASONABLE

A. Attorney Monfort's Signed Declaration Is Competent Evidence

Mr. Monfort served as case manager on this matter throughout the course of this litigation. (Monfort Decl, ¶ 7.) As is common for attorneys in this role, he met regularly with, assigned tasks to, set deadlines for, and directly supervised the work of each professional who billed time to this matter. And, most importantly, he was personally responsible for reviewing the billing records and for making reductions for excessive or duplicative billing. (*Id.* at ¶ 59.) In light of all of this, he has personal knowledge of the hours each person billed, the amount of time each spent completing their assigned tasks, and the number of hours ultimately deducted.

As Defendants would have it, no attorney could provide a sufficient declaration because no attorney can accurately recall (from previous months or years), how many hours were billed to any given project. They would thus go about attesting to their hours in the very way Mr. Monfort did – by reviewing the billing records and recounting the tasks described therein. It is unclear why Mr. Monfort would be in any less of a position to truthfully and accurately attest to the contents of those records. He is in fact *better* suited to this task because *he* was responsible for the total hours claimed because *he* himself reviewed and reduced the bills. (Monfort Decl., ¶ 59.)

To the extent the Court is inclined to require further evidence on the issue, Plaintiffs are happy to present it upon request from the Court. This is not a trial or substantive motion lacking evidence, and the Court should not deny the motion in its entirety if additional evidence is available and would justify an award. Plaintiffs have offered to submit their billing records for in camera review, and they remain willing to do so. (Pls.' Mot., p. 10, n.8.)

B. Defendants' Present No Evidence to Support Their Proposed Deductions

As explained above, Plaintiffs' moving papers presented the Court with competent, thorough evidence supporting their fee request, including a detailed declaration of all claimed hours and services provided, a chart summarizing and breaking down the claimed hours, and testimony affirming the reasonableness of the rates sought. The burden thus shifted to the fee opponent to *present specific evidence* the hours claimed are unreasonable. (*Hadley v. Krepel* (1985) 167 Cal.App.3d 677, 682.) General allegations of "excessiveness" or "duplication" are insufficient to support a reduction of hours on those grounds. (*Premier Med. Mgmt. Sys. v. Cal. Ins. Guar. Assn.* (2008) 163 Cal.App.4th 550, 564 [hereafter *Premier Med.*].) Defendants, however, ask the Court to do precisely this – slash large portions of Plaintiffs' fee claim based only on bald assertions the hours claimed by Plaintiffs' attorneys are duplicative and excessive.

In *Premier Medical Management*, the fee opponent was heard to complain that a great deal of the hours claimed "must have been [for] duplicative and unnecessary" work. *Premier Med.*, *supra*, 163 Cal.App.4th at p. 563.) They provided no evidence contradicting the declarations and billing records submitted by the fee claimant – an error the court suggested was avoidable by simply presenting evidence the claim was unreasonable or a declaration from an attorney "with expertise in the procedural and substantive law" illustrating the same. (*Id.* at pp. 563-564.)

Here, instead of providing evidence to support their claims of excessiveness and duplication, Defendants repeatedly blame Plaintiffs for their inability to mount a proper objection. But Defendants had viable options: present evidence the claimed hours were unreasonable (e.g., evidence of the hours Defendants' counsel billed) or present relevant expert testimony from attorneys in the field demonstrating the hours billed were excessive. Defendants did neither.

Defendants do not even claim that Plaintiffs billed an excessive amount when compared to hours the State billed. They offer no evidence that Plaintiffs billed four times, three times, or even twice as much time. But even if Plaintiffs *had* billed far greater hours, such amounts would be justified for several reasons. First, plaintiffs must often bill greater hours than their opponents. To be sure, they generally begin work on a case several months before defendants are even made aware of it, do not have equivalent access to necessary facts, and must conduct original legal

research just to build the case. (See *Ferland v. Conrad Credit Corp.* (9th Cir. 2001) 244 F.3d 1145, 1151.) Additionally, Plaintiffs had to litigate against a team of highly experienced government attorneys. (Pls.' Mot., p. 14:16-23.) And finally, Plaintiffs were the victors – it flows logically that the victorious party will spend more time litigating a case than the opposing party. These important realities underscore Plaintiffs' fee motion and have not been challenged by Defendants. Regardless, it would be appropriate to defer to Plaintiffs' counsel regarding the reasonableness of hours billed. (*See Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112.)

Because Defendants have not raised a sufficient or reasonable objection to Plaintiffs' claim of hours worked, the Court should deny their request to reduce Plaintiffs' fee request by half.[6]

V. A POSITIVE LODESTAR MULTIPLIER SHOULD BE APPLIED

Defendants close with a passing suggestion that the Court apply a negative multiplier for duplication of work. (Defs.' Opp., p. 15:10-13.) Just as Defendants' request that Plaintiffs' hours be reduced for duplication must fail for lack of support, so too must Defendants' request for a negative multiplier made on the same grounds. And when weighed against the strength of *three* factors supporting a positive multiplier, Defendants' further argument that a negative multiplier is justified because payment ultimately falls on the taxpayers is weak.

Difficulty of the Questions Presented: The core question as to whether ammunition is "principally for use in a handgun" required far more than a cursory review that could have been handled regardless of one's firearms and ammunition expertise. In fact, it required days of expert deposition, including an extremely detailed deposition noticed by Defendants that delved deep into the complexities of ammunition, as well as the historical, current, and local uses of numerous types

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[6] Defendants also misrepresent Plaintiffs' claim to make it seem both unreasonably duplicative and larger than it actually is. For instance, Defendants claim "Barvir spent 134 hours researching, drafting, and preparing the [preliminary injunction] motion, while attorneys Monfort and Brady spent another 152.5 [sic] and 75.5 hours, respectively, doing the very same thing." (Defs.' Opp., p. 12:11-13.) Mr. Monfort and Mr. Brady, were not, in fact, "doing the very same thing"; their hours include, among other things, significant time devoted to evidence gathering, communications with witnesses, and attending hearings. (Monfort Decl., ¶¶ 78, 81.) Defendants also claim excessive time "was spent by four attorneys assisting in the preparation of one deposition and defending four others." (Defs.' Opp., p. 12:26-27.) Only *three* attorneys prepared for or attended those depositions, and Plaintiffs only seek recovery for *two*.

of ammunition in various firearms. (See fn. 4, *supra*.) Also speaking to the complexity of the underlying subject matter is *Defendants'* decision to have an *ammunition expert* respond to Plaintiffs' discovery that inquired as to what ammunition is covered by the Challenged Provisions. (Monfort Decl., ¶ 38.) The technical nature of the subject matter, coupled with the experience and vigorous opposition of Defendants' counsel and novel questions regarding the scrutiny applied to vagueness claims in the Second Amendment context, warrants a positive multiplier.

Contingency: This factor focuses on the contingent nature of a fee award in civil rights cases, where the outcome is unknown, attorneys fees are not guaranteed, and damages are unavailable. (*Thayer v. Wells Fargo Bank, N.A.* (2001) 92 Cal.App.4 th 819, 835-836.) When public interest attorneys represent clients seeking to defend civil rights against unconstitutional laws, they often do so at rates far below market rates for an attorney's professional work. Otherwise, non-profit organizations could rarely afford to bring these actions – especially against governmental entities who can litigate tenaciously with little incentive to keep costs low. Plaintiffs' attorneys took a substantial risk in that, absent success, they would never recover the full value of their work. No attorney pursuing fee-paying work in any other area of law is expected to assume that risk. Because Plaintiffs' attorneys did, a positive lodestar multiplier is appropriate.

Exceptional Results: Finally, Plaintiffs reiterate that they obtained the extraordinarily rare result of striking down three statewide, restrictive firearms laws as unconstitutionally vague on their face. And they did so without the need for a trial. Unsurprisingly, Defendants do not address this factor, which falls on the side of applying a positive multiplier.

VI. CONCLUSION

Based on the foregoing, Plaintiffs request their motion be granted and Defendants' requests for deductions and a negative multiplier be denied. If the Court requires further evidence, Plaintiffs request leave to so file.

Dated: August 24, 2011

Respectfully Submitted,
MICHEL & ASSOCIATES, P.C.

C. D. Michel
Attorney for Plaintiffs

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF FRESNO

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

On August 24, 2011, I served the foregoing document(s) described as

PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO NOTICE OF MOTION AND MOTION FOR ATTORNEYS FEES

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

Kamala D. Harris
Attorney General of California
Zackery P. Morazzini
Supervising Deputy Attorney General
Peter A. Krause
Deputy Attorney General
1300 I Street, Suite 125
Sacramento, CA 94244-2550

__ (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 Long Beach, 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 August 24, 2011, at Long Beach, California.

__ (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the addressee.
Executed on August 24, 2011, at Long Beach, California.

_X_ (VIA OVERNIGHT MAIL As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt on the same day in the ordinary course of business. Such envelope was sealed and placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for in accordance with ordinary business practices.
Executed on August 24, 2011, at Long Beach, California.

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

CLAUDIA AYALA