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8 IN THE 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
17 vs.

18 THE STATE OF CALIFORNIA; KAMALA)
D. HARRIS, in her official capacity as)
Attorney General for the State of California;)
19 THE CALIFORNIA DEPARTMENT OF)
JUSTICE; and DOES 1-25,)
20)
21 Defendants and Respondents.)

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FILED

AUG 24 2011

FRESNO COUNTY SUPERIOR COURT

By _____ DEPUTY

CASE NO. 10CECG02116

**SUPPLEMENTAL DECLARATION OF
SEAN A. BRADY IN SUPPORT OF
PLAINTIFFS' 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

FILED BY FAX

DECLARATION OF SEAN A. BRADY

I, Sean A. Brady, declare as follows:

1. I am an attorney licensed to practice law before the courts of the State of California. I am an associate attorney of the law firm Michel & Associates, P. C., attorneys of record for Plaintiffs in this action. I have personal knowledge of the facts set forth herein and, if called and sworn as a witness, could and would testify competently thereto.

2. On or about August 2, 2011, I contacted the President of Plaintiff Able's Sporting, Inc., Randy Wright, to request information regarding the profit Plaintiff Able's Sporting makes from mail-order sales of ammunition to California in any given year.

3. On or about August 3, 2011, Mr. Wright responded via e-mail with the estimated profits realized in the most recent quarter. At that time, I was interested only in gaining an understanding of Plaintiff Able's Sporting's potential profits and had not yet decided whether our office would need Mr. Wright to submit a declaration in support of Plaintiffs' fee motion.

4. On or about August 16, 2011, I again contacted Mr. Wright to request more specific information regarding the total profits Plaintiff Able's Sporting made from mail-order sales of ammunition to California in the year 2010.

5. On or about August 18, 2011, Mr. Wright forwarded to me e-mail correspondence with an employee at Plaintiff Able's Sporting, Inc., which provided the estimated profit Plaintiff Able's Sporting, Inc., had made from mail-order sales of ammunition to California in the year 2010. I reviewed the contents of the correspondence and concluded it would be appropriate for Mr. Wright to submit a declaration attesting to the profits made from Able's Sporting, Inc.'s sale of ammunition to California.

6. I continued to work with Mr. Wright, through a series of e-mails communications, to confirm the details of his declaration. On or about Friday, August 19, 2011, I finalized Mr. Wright's declaration and sent it to him for approval and signature. Receiving no response by Monday, August 22, 2011, I contacted him via email to discover that he was out-of-town and unavailable until August 29, 2011.


1 7. On or about August 23, 2011, I contacted an employee at Plaintiff Able's Sporting, Inc.,
2 who informed me that the opportunity for Mr. Wright to go out of town arose at the last minute. I then
3 asked the employee to contact Mr. Wright, in a final attempt to have him approve, sign, and return his
4 declaration. Shortly thereafter, I called Mr. Wright on his personal cell phone and left a voicemail
5 message, but I never received a response. The employee confirmed that he too was unsuccessful in
6 contacting Mr. Wright and informed me that Mr. Wright is in a location that likely has no cell phone
7 service.

8 8. As a result, our office was unable to acquire Mr. Wright's signed declaration in support of
9 Plaintiffs' Motion for Attorneys Fees before the filing deadline for Plaintiffs' Reply.

10 9. To the extent the Court finds the annual profits of Plaintiff Able's Sporting, Inc., necessary
11 to the determination of Plaintiffs' entitlement to an award of attorneys fees, Plaintiffs' counsel will be
12 prepared to submit Mr. Wright's verified declaration upon his return. Having seen the profit figures for
13 Plaintiff Able's Sporting, Inc., I believe that Mr. Wright's declaration regarding such would be
14 competent and probative evidence for the Court to consider on this issue.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct.

17 Dated: August 24, 2011

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20 Sean A. Brady
21 Declarant
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Claudia Ayala, am employed in the City of Long Beach, Los Angeles County, California. I
5 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 August 24, 2011, I served the foregoing document(s) described as

7 **SUPPLEMENTAL DECLARATION OF SEAN A. BRADY IN SUPPORT OF**
8 **PLAINTIFFS' MOTION FOR ATTORNEYS FEES**

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 Kamala D. Harris

Attorney General of California

12 Zackery P. Morazzini

Supervising Deputy Attorney General

13 Peter A. Krause

Deputy Attorney General

14 1300 I Street, Suite 125

Sacramento, CA 94244-2550

15 — (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 Long Beach, California,
18 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.

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

Executed on August 24, 2011, at Long Beach, California.

21 X (VIA OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of
22 collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the
23 practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt
24 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.

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

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28 CLAUDIA AYALA