

CIVIL CASE INFORMATION STATEMENT		Court of Appeal Case Number (if known)
COURT OF APPEAL, <u>FIFTH</u> APPELLATE DISTRICT, DIVISION _____		F062490
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Peter A. Krause, Cal. Bar No. 185098 Office of the Attorney General, California Department of Justice 1300 I Street, Suite 125, P. O. Box 944255 Sacramento, CA 94244-2550 TELEPHONE NO.: (916) 324-5328 FAX NO. (Optional): (916) 324-8835 E-MAIL ADDRESS (Optional): peter.krause@doj.ca.gov ATTORNEY FOR (Name): Defendant and Appellant		FOR COURT USE ONLY
APPELLANT: The State of California, et al. RESPONDENT: Sheriff Clay Parker, et al.		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <u>Fresno</u> STREET ADDRESS: 1130 O Street MAILING ADDRESS: 1130 O Street CITY AND ZIP CODE: Fresno, California 93721-2220 BRANCH NAME: B.F. Sisk Courthouse		
JUDGES (all who participated in case): Hon. Jeffrey Hamilton, Jr.		Superior Court Case Number: 10CECG02116
NOTE TO APPELLANT: You must file this form with the clerk of the Court of Appeal within 10 days after the clerk mails you a notice that this form must be filed. You must attach to this form (1) a copy of the judgment or order being appealed that shows the date it was entered (see Cal. Rules of Court, rule 8.104 for definition of "entered"); and (2) proof of service of this form on all parties to the appeal. (CAUTION: An appeal in a limited civil case (Code Civ. Proc., § 85) may be taken ONLY to the appellate division of the superior court (Code Civ. Proc., § 904.2) or to the superior court (Code Civ. Proc., § 116.710 [small claims cases]).		

PART I – APPEAL INFORMATION**A. APPEALABILITY**

1. Appeal is from:

- ☐ Judgment after jury trial
☐ Judgment after court trial
☐ Default judgment
☒ Judgment after an order granting a summary judgment motion
☐ Judgment of dismissal under Code Civ. Proc., § 581d, 583.250, 583.360, or 583.430
☐ Judgment of dismissal after an order sustaining a demurrer
☐ An order after judgment under Code Civ. Proc., § 904.1(a)(2)
☐ An order or judgment under Code Civ. Proc., § 904.1(a)(3)–(13)
☐ Other (describe and specify code section that authorizes this appeal):

2. Does the judgment appealed from dispose of all causes of action, including all cross-actions between the parties?

☒ Yes ☐ No (If no, please explain why the judgment is appealable):

B. TIMELINESS OF APPEAL (Provide all applicable dates.)

1. Date of entry of judgment or order appealed from: 02 / 22 / 11
2. Date that notice of entry of judgment or a copy of the judgment was served by the clerk or by a party under California Rules of Court, rule 8.104: 03 / 02 / 11
3. Was a motion for new trial, for judgment notwithstanding the verdict, for reconsideration, or to vacate the judgment made and denied? ☐ Yes ☒ No (If yes, please specify the type of motion):
- Date notice of intention to move for new trial (if any) filed: ____/____/____
- Date motion filed: ____/____/____ Date motion denied: ____/____/____ Date denial served: ____/____/____
4. Date notice of ☒ appeal or ☐ cross-appeal filed: 04 / 28 / 11

C. BANKRUPTCY OR OTHER STAY

Is there a related bankruptcy case or a court-ordered stay that affects this appeal? ☐ Yes ☒ No (If yes, please attach a copy of the bankruptcy petition [without attachments] and any stay order.)

APPELLATE CASE TITLE: Sheriff Clay Parker, et al. v. The State of California, et al.	APPELLATE COURT CASE NUMBER: F062490
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D. APPELLATE CASE HISTORY *(Provide additional information, if necessary, on attachment I.D.)*

Is there now, or has there previously been, any appeal, writ, or other proceeding related to this case pending in any California appellate court? ☐ Yes ☒ No *(If yes, insert name of appellate court):*

Appellate court case no.:

Title of case:

Name of trial court:

Trial court case no.:

E. SERVICE REQUIREMENTS

Is service of documents in this matter, including a notice of appeal, petition, or brief, required on the Attorney General or other nonparty public officer or agency under California Rules of Court, rule 8.29 or a statute? Yes ☐ No ☒ *(If yes, please indicate the rule or statute that applies):*

- | | |
|--|--|
| <input type="checkbox"/> Rule 8.29 (e.g., constitutional challenge; state or county party) | <input type="checkbox"/> Code Civ. Proc., § 1355 (Escheat) |
| <input type="checkbox"/> Bus. & Prof. Code, § 16750.2 (Antitrust) | <input type="checkbox"/> Gov. Code, § 946.6(d) (Actions against public entities) |
| <input type="checkbox"/> Bus. & Prof. Code, § 17209 (Unfair Competition Act) | <input type="checkbox"/> Gov. Code, § 4461 (Disabled access to public buildings) |
| <input type="checkbox"/> Bus. & Prof. Code, § 17536.5 (False advertising) | <input type="checkbox"/> Gov. Code, § 12656(a) (False Claims Act) |
| <input type="checkbox"/> Civ. Code, § 51.1 (Unruh, Ralph, or Bane Civil Rights Acts; antiboycott cause of action; sexual harassment in business or professional relations; civil rights action by district attorney) | <input type="checkbox"/> Health & Saf. Code, § 19954.5 (Accessible seating and accommodations) |
| <input type="checkbox"/> Civ. Code, § 55.2 (Disabled access to public conveyances, accommodations, and housing) | <input type="checkbox"/> Health & Saf. Code, § 19959.5 (Disabled access to privately funded public accommodations) |
| | <input type="checkbox"/> Pub. Resources Code, § 21167.7 (CEQA) |
| | <input type="checkbox"/> Other <i>(specify statute):</i> |

NOTE: The rule and statutory provisions listed above require service of a copy of a party's notice of appeal, petition, or brief on the Attorney General or other public officer or agency. Other statutes requiring service on the Attorney General or other public officers or agencies may also apply.

PART II – NATURE OF ACTION**A. Nature of action** *(check all that apply):*

1. ☐ Conservatorship
2. ☐ Contract
3. ☐ Eminent domain
4. ☒ Equitable action a. ☒ Declaratory relief b. ☐ Other *(describe):*
5. ☐ Family law
6. ☐ Guardianship
7. ☐ Probate
8. ☐ Real property rights a. ☐ Title of real property b. ☐ Other *(describe):*
9. ☐ Tort
 - a. ☐ Medical malpractice
 - b. ☐ Product liability
 - c. ☐ Other personal injury
 - d. ☐ Personal property
 - e. ☐ Other tort *(describe):*
10. ☐ Trust proceedings
11. ☐ Writ proceedings in superior court
 - a. ☐ Mandate (Code Civ. Proc., § 1085)
 - b. ☐ Administrative mandate (Code Civ. Proc., § 1094.5)
 - c. ☐ Prohibition (Code Civ. Proc., § 1102)
 - d. ☐ Other *(describe):*
12. ☐ Other action *(describe):*

B. ☐ This appeal is entitled to calendar preference/priority on appeal *(cite authority):*

APPELLATE CASE TITLE: Sheriff Clay Parker, et al. v. The State of California, et al.	APPELLATE COURT CASE NUMBER: F062490
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PART III – PARTY AND ATTORNEY INFORMATION

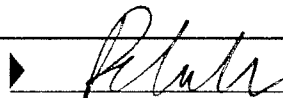
In the spaces below or on a separate page or pages, list all the parties and all their attorneys of record who will participate in the appeal. For each party, provide all of the information requested on the left side of the page. On the right side of the page, if a party is self-represented please check the appropriate box and provide the party's mailing address, telephone number, fax number, and e-mail address. If a party is represented by an attorney, on the right side of the page, check the appropriate box and provide all of the requested information about that party's attorney.

☐ Responses to Part III are attached instead of below

Name of Party: Sheriff Clay Parker Appellate court designation: <input type="checkbox"/> Appellant <input checked="" type="checkbox"/> Respondent Trial court designation: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input checked="" type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: Carl Dawson Michel, Esq. State Bar no: 144258 Firm name: Michel & Associates, PC Mailing address: 180 East Ocean Blvd., Ste. 200 Long Beach, CA 90802 Telephone no.: (562) 216-4444 Fax no: (562) 216-4445 E-Mail address: cmichel@michelandassociates.com
Name of Party: Able's Sporting, Inc. Appellate court designation: <input type="checkbox"/> Appellant <input checked="" type="checkbox"/> Respondent Trial court designation: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input checked="" type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: Carl Dawson Michel, Esq. State Bar no: 144258 Firm name: Michel & Associates, PC Mailing address: 180 East Ocean Blvd., Ste. 200 Long Beach, CA 90802 Telephone no.: (562) 216-4444 Fax no: (562) 216-4445 E-Mail address: cmichel@michelandassociates.com
Name of Party: Herb Bauer Sporting Goods Appellate court designation: <input type="checkbox"/> Appellant <input checked="" type="checkbox"/> Respondent Trial court designation: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input checked="" type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: Carl Dawson Michel, Esq. State Bar no: 144258 Firm name: Michel & Associates, PC Mailing address: 180 East Ocean Blvd., Ste. 200 Long Beach, CA 90802 Telephone no.: (562) 216-4444 Fax no: (562) 216-4445 E-Mail address: cmichel@michelandassociates.com
Name of Party: California Rifle and Pistol Association Appellate court designation: <input type="checkbox"/> Appellant <input checked="" type="checkbox"/> Respondent Trial court designation: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input checked="" type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: Carl Dawson Michel, Esq. State Bar no: 144258 Firm name: Michel & Associates, PC Mailing address: 180 East Ocean Blvd., Ste. 200 Long Beach, CA 90802 Telephone no.: (562) 216-4444 Fax no: (562) 216-4445 E-Mail address: cmichel@michelandassociates.com

☒ Additional pages attached
 Date: **05/26/11**

This statement is prepared and submitted by:



(SIGNATURE OF ATTORNEY OR SELF-REPRESENTED PARTY)

APPELLATE CASE TITLE: Sheriff Clay Parker, et al. v. The State of California, et al.
APPELLATE COURT CASE NUMBER: F062490

CIVIL CASE INFORMATION STATEMENT (Appellate)
Part III - Supplemental Party and Attorney Information

Name of Party: RTG SPORTING COLLECTIBLES LLC
Appellate court designation: Plaintiff and Respondent
Represented by: Carl Dawson Michel, Esq.
State Bar no.: 144258
Firm name: Michel & Associates, PC
Mailing address: 180 East Ocean Blvd., Ste. 200, Long Beach, CA 90802
Telephone no.: (562) 216-4444
Fax no.: (562) 216-4445
E-Mail address: cmichel@michelandassociates.com

Name of Party: STONECIPHER, STEVEN
Appellate court designation: Plaintiff and Respondent
Represented by: Carl Dawson Michel, Esq.
State Bar no.: 144258
Firm name: Michel & Associates, PC
Mailing address: 180 East Ocean Blvd., Ste. 200, Long Beach, CA 90802
Telephone no.: (562) 216-4444
Fax no.: (562) 216-4445
E-Mail address: cmichel@michelandassociates.com

Name of Party: THE STATE OF CALIFORNIA
Appellate court designation: Defendant and Appellant
Represented by: Peter Andrew Krause
State Bar no.: 185098
Firm name: Office of the Attorney General, California Department of Justice
Mailing address: 1300 I Street, Suite 125, P. O. Box 944255, Sacramento, CA 94244-2550
Telephone no.: (916) 324-5328
Fax no.: (916) 324-8835
E-Mail address: Peter.Krause@doj.ca.gov

Name of Party: HARRIS, KAMALA D.
Appellate court designation: Defendant and Appellant
Represented by: Peter Andrew Krause
State Bar no.: 185098
Firm name: Office of the Attorney General, California Department of Justice
Mailing address: 1300 I Street, Suite 125, P. O. Box 944255, Sacramento, CA 94244-2550
Telephone no.: (916) 324-5328
Fax no.: (916) 324-8835
E-Mail address: Peter.Krause@doj.ca.gov

Name of Party: CALIFORNIA DEPARTMENT OF JUSTICE
Appellate court designation: Defendant and Appellant
Represented by: Peter Andrew Krause
State Bar no.: 185098
Firm name: Office of the Attorney General, California Department of Justice
Mailing address: 1300 I Street, Suite 125, P. O. Box 944255, Sacramento, CA 94244-2550
Telephone no.: (916) 324-5328
Fax no.: (916) 324-8835
E-Mail address: Peter.Krause@doj.ca.gov

FILED

FEB 22 2011

FRESNO COUNTY SUPERIOR COURT

By _____ DEPT. 402

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

) ~~PROPOSED~~ JUDGMENT

) Date: January 18, 2011

) Time: 8:30 am

) Dept: 402

) Judge: Hon. Jeffery Y. Hamilton

) Trial Date: January 18, 2011

) Action Filed: June 17, 2010

1 JUDGMENT

2 On January 18, 2011, at 8:30 a.m., Plaintiffs' Motion for Summary Judgment or, in the
3 Alternative, for Summary Adjudication came on regularly for hearing in Department 402 of this
4 Court, the Honorable Jeffery Y. Hamilton, judge presiding. C. D. Michel, Clinton Monfort, and
5 Sean Brady appeared on behalf of Plaintiffs, and Peter Krause and Kimberly Graham appeared on
6 behalf of Defendants. At the hearing, Plaintiffs dismissed their second and third causes of action
7 without prejudice, and the Court verbally denied Plaintiffs' motion for summary judgment, and
8 granted in part and denied in part the motion for summary adjudication.

9 An Order Denying Plaintiffs' Motion for Summary Judgment and Granting in Part and
10 Denying in Part Plaintiffs' Motion For Summary Adjudication having been entered on January 31,
11 2011, and an Order of Permanent Injunction having been entered on January 21, 2011:

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

- 13 1. Plaintiffs' second and third causes of action are dismissed without prejudice;
- 14 2. Judgment is entered in favor of Plaintiffs and against Defendants on Plaintiffs' First
15 Cause of Action for Declaratory and Injunctive Relief - Due Process Vagueness - Facial, in
16 accordance with the Order Denying Plaintiffs' Motion for Summary Judgment and Granting in
17 Part and Denying in Part Plaintiffs' Motion For Summary Adjudication, a true and correct copy of
18 which is attached hereto as Exhibit "A" and is incorporated herein by reference;
- 19 3. Defendants the State of California, Kamala D. Harris, in her official capacity as
20 Attorney General of the State of California, and the California Department of Justice, and each of
21 their agents, employees, representatives, successors in office, and all persons or entities acting in
22 concert or in participation with them are permanently prohibited, enjoined, and restrained from
23 taking any action to implement, enforce, or give effect to the versions of California Penal Code
24 sections 12060, 12061, and 12318 in effect as of January 21, 2011, the date of this Court's Order
25 of Permanent Injunction, a true and correct copy of which is attached hereto as Exhibit "B" and is
26 incorporated herein by reference;
- 27 4. Plaintiffs shall recover their costs of suit ^{based on a memo of costs} ~~in the amount of \$ _____~~;
- 28 5. This Court's jurisdiction to determine whether Plaintiffs are entitled to recover

1 attorneys' fees and, if so, in what amount, shall be retained. Entitlement to and the appropriate
2 amount of attorneys' fees will be determined on noticed motion to be submitted to the Court by
3 plaintiffs in accordance with California Rule of Court rule 3.1702 and Code of Civil Procedure
4 section 1021.5.

5 Dated: 2/22, 2011

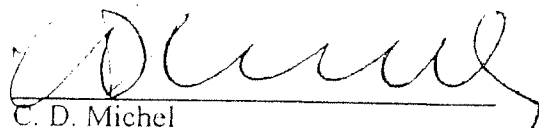
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7 JEFFREY Y. HAMILTON JR.

8 JEFFREY Y. HAMILTON
9 Judge of the Superior Court

10 **APPROVED AS TO FORM:**

11 Dated: February 16, 2011

12 **MICHEL & ASSOCIATES, PC**

13
14 

15 C. D. Michel
16 Attorney for Plaintiffs Sheriff Clay Parker,
17 Herb Bauer Sporting Goods, California Rifle
18 and Pistol Association Foundation, Able's
19 Sporting, Inc., RTG Sporting Collectibles, LLC,
20 and Steven Stonecipher

21 Dated: February __, 2011

22
23 **KAMALA D. HARRIS**
24 Attorney General of California
25 **ZACKERY P. MORAZZINI**
26 Supervising Deputy Attorney General

27
28 PETER A. KRAUSE
Deputy Attorney General
Attorneys for Defendants and Respondents
State of California, Kamala D. Harris, and
the California Department of Justice

RECEIVED
FEB 22 2011

SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

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

[PROPOSED] JUDGMENT

Date: January 18, 2011
Time: 8:30 am
Dept: 402
Judge: Hon. Jeffery Y. Hamilton

Trial Date: January 18, 2011
Action Filed: June 17, 2010

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO

SHERIFF CLAY PARKER, TEHAMA)	CASE NO. 10CECG02116
COUNTY SHERIFF; HERB BAUER)	
SPORTING GOODS; CALIFORNIA RIFLE)	
AND PISTOL ASSOCIATION)	[PROPOSED] JUDGMENT
FOUNDATION; ABLE'S SPORTING,)	
INC.; RTG SPORTING COLLECTIBLES,)	
LLC; AND STEVEN STONECIPHER,)	Date: January 18, 2011
)	Time: 8:30 am
)	Dept: 402
Plaintiffs and Petitioners,)	Judge: Hon. Jeffery Y. Hamilton
)	
vs.)	
)	Trial Date: January 18, 2011
THE STATE OF CALIFORNIA; KAMALA)	Action Filed: June 17, 2010
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.)	

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1 attorneys' fees and, if so, in what amount, shall be retained. Entitlement to and the appropriate
2 amount of attorneys' fees will be determined on noticed motion to be submitted to the Court by
3 plaintiffs in accordance with California Rule of Court rule 3.1702 and Code of Civil Procedure
4 section 1021.5.

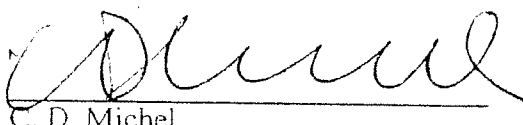
5 Dated: _____, 2011

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8 JEFFREY Y. HAMILTON
Judge of the Superior Court

9
10 **APPROVED AS TO FORM:**

11 Dated: February 18, 2011

MICHEL & ASSOCIATES, PC

12
13 
14 C. D. Michel
15 Attorney for Plaintiffs, Sheriff Clay Parker,
16 Herb Bauer Sporting Goods, California Rifle
17 and Pistol Association Foundation, Able's
Sporting, Inc., RTG Sporting Collectibles, LLC,
and Steven Stonecipher

18 Dated: February __, 2011

19 **KAMALA D. HARRIS**
Attorney General of California
20 **ZACKERY P. MORAZZINI**
Supervising Deputy Attorney General

21
22
23 PETER A. KRAUSE
24 Deputy Attorney General
Attorneys for Defendants and Respondents
25 State of California, Kamala D. Harris, and
26 the California Department of Justice
27
28

1 attorneys' fees and, if so, in what amount, shall be retained. Entitlement to and the appropriate
2 amount of attorneys' fees will be determined on noticed motion to be submitted to the Court by
3 plaintiffs in accordance with California Rule of Court rule 3.1702 and Code of Civil Procedure
4 section 1021.5

5 Dated: _____, 2011

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8 JEFFREY Y. HAMILTON
Judge of the Superior Court

9
10 APPROVED AS TO FORM:

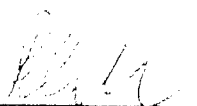
11 Dated: February __, 2011

MICHEL & ASSOCIATES, PC

12
13
14 C. D. Michel
15 Attorney for Plaintiffs Sheriff Clay Parker,
16 Herb Bauer Sporting Goods, California Rifle
17 and Pistol Association Foundation, Able's
Sporting, Inc., RTG Sporting Collectibles, LLC,
and Steven Stonecipher

18 Dated: February 14, 2011

KAMALA D. HARRIS
Attorney General of California
ZACKERY P. MORAZZINI
Supervising Deputy Attorney General

19
20
21
22 
23 PETER A. KRAUSE
24 Deputy Attorney General
25 Attorneys for Defendants and Respondents
26 State of California, Kamala D. Harris, and
27 the California Department of Justice
28

DECLARATION OF SERVICE BY U.S. MAIL

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

Court of Appeal, Fifth Appellate District Case No.: **F062490**

Fresno County Superior Court Case 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. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On May 26, 2011, I served the attached

CIVIL CASE INFORMATION STATEMENT

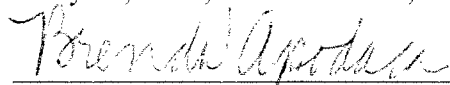
by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

C.D. Michel
Michel & Associates, P.C.
180 E. Ocean Boulevard, 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 May 26, 2011, at Sacramento, California.

Brenda Apodaca

Declarant



Signature