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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)	DECLARATION OF CLINTON
AND PISTOL ASSOCIATION)	B. MONFORT IN SUPPORT OF
FOUNDATION; ABLE'S SPORTING,)	PLAINTIFFS' MOTION FOR
INC.; RTG SPORTING COLLECTIBLES,)	ATTORNEYS FEES; EXHIBITS 1 – M
LLC; AND STEVEN STONECIPHER,)	
)	
)	Date: July 7, 2011
Plaintiffs and Petitioners,)	Time: 3:30 p.m.
)	Location: Dept. 402
vs.)	Judge: Hon. Jeffrey Y. Hamilton
)	Action Filed: June 17, 2010

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.

DECLARATION OF CLINTON B. MONFORT

I, Clinton B. Monfort, declare as follows:

1. I am an attorney licensed to practice law before the courts of the State of California. I am also licensed to practice before the Ninth Circuit Court of Appeals and the United States District Courts for the Central, Southern, Eastern and Northern Districts of California. I am an attorney at 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.

Plaintiffs' Counsel's Experience

2. I began my post-graduate legal career as a contract clerk for the Law Offices of J.R. Givens in 2006, following my graduation from California Western School of Law in 2005 where I was awarded the Dean's Merit Scholarship. During my studies at California Western School of Law, I organized the First Annual Southern California Intellectual Property Conference and served as law clerk for the Space and Naval Warfare Systems Center in San Diego where I participated in multi-million dollar military weapons and technology contract litigation. In 2003, I was selected as a finalist in California Western's Oral Appellate Advocacy Competition,

3. I began my full-time legal career in January of 2007 as a law clerk for Trutanich-Michel, LLP (now Michel and Associates, P.C.). As a full time law clerk at Trutanich-Michel, LLP, I became heavily involved in the firm's firearm and civil rights practice, assisting in analyzing and drafting legislation, drafting legal memoranda and pleadings, and providing assistance in various phases of both trial and appellate proceedings. In 2008 I became an associate attorney for Trutanich-Michel, LLP, which became Michel and Associates, P.C. in 2009.

4. Our firm's main practice areas are firearms law and civil rights litigation, making our firm uniquely qualified to handle this action, insofar as the firm has considerable experience litigating civil rights cases and constitutional issues in the context of firearms and ammunition. For example, our firm represents numerous firearms and ammunition retailers and manufacturers, and regularly represents the interests of these businesses and firearm owners in state and federal litigation, and in both civil and criminal actions.

5. My experience includes civil litigation defense efforts on behalf of firearm retailers, prosecution of civil actions on behalf of individuals and firearms-related businesses and organizations against state and municipal governments, analysis of proposed municipal and statewide legislation, drafting proposed state and municipal legislation, and multiple speaking appearances at governmental proceedings on behalf organizations whose goals include protecting the constitutional rights of United States citizens to keep and bear arms.

6. I have significant and varied experience handling all aspects of civil rights litigation, having litigated multiple cases from initial case preparation through final judgment, and having drafted both appellant/appellee and amicus appellate briefs. My experience includes litigation assistance in a constitutional due process vagueness challenge to California's Assault Weapons Control Act, and preparing and filing one of several high-profile cases aimed at securing a ruling that the Second Amendment is incorporated via the 14th Amendment to apply to both state and municipal government actors, in the wake of the landmark Supreme Court decision, *Heller v. District of Columbia* – ultimately achieving a favorable settlement in that litigation. I am currently litigating multiple civil rights cases of constitutional importance that may determine the applicable constitutional standard of review for various alleged Second Amendment infringements.

7. As a result of my accomplishments in the field of civil rights litigation and firearms law, and due to my contributions to Michel and Associates, P.C.'s firearms and civil rights practice, I currently serve as case manager for the firm's firearm and civil rights litigation team.

8. My main area of practice is civil litigation and business compliance counseling, with an emphasis in firearms law and civil rights litigation. My \$ 325 hourly rate is well within the hourly rates charged by specialized firearms and civil rights law firms for attorneys of similar skill, experience, and expertise.

Authentication of Exhibits

9. Attached as Exhibit I is a true and correct copy of Michel & Associates, P.C.,’s 2011 hourly rate schedule. These rates are consistent with the rates charged by comparable attorneys in the Southern California area. In fact, they are lower than the rates charged at many Southern California

1 law firms.

2 10. Attached as Exhibit J, is a chart reflecting the total hours billed, broken down by billing
3 professional and project reference. The chart also indicates the title and billing rate of each
4 professional, the total number of hours billed, and the total fees billed. Exhibit J is a true and correct
5 compendium of the hours billed as reflected in the extensive daily time records kept by Plaintiffs'
6 counsel over the course of the litigation.

7 11. Attached as Exhibit K is a true and correct copy of the California State Bar Attorney
8 Profile of Defendants' attorney, Peter A. Krause, printed from the Bar's website on or about May 12,
9 2011.

10 12. Attached as Exhibit L is a true and correct copy of the California State Bar Attorney
11 Profile of Defendants' attorney, Zackery Morazzini, printed from the Bar's website on or about May
12 12, 2011.

13 13. Attached as Exhibit M is a true and correct copy of the California State Bar Attorney
14 Profile of DOJ attorney Kimberly Graham printed from the Bar's website on or about May 12, 2011.

15
16 **Factual and Procedural History of the Case**

17 14. Assembly Bill 962 (2009), which implemented California Penal Code Sections 12060,
18 12061, and 12318 (the "Challenged Provisions"), was signed into law by Governor Arnold
19 Schwarzenegger in or about October of 2009. The Challenged Provisions required that "handgun
20 ammunition" be stored out of the reach of customers, required registration of "handgun ammunition"
21 sales, and essentially prohibited internet and mail order sales of "handgun ammunition." Subsequent
22 to Assembly Bill 962's passage, several clients of Michel and Associates, P.C. inquired about the
23 details of the Challenged Provisions, including inquiries as to how best comply with the new laws,
24 which created substantial confusion among both retailers and consumers. These inquiries came from
25 individuals, ammunition retailers and shippers, and second amendment civil rights organizations,
26 including Plaintiffs in this litigation.

27 15. In or about December of 2009, our office recognized the vagueness problems inherent
28 in the Challenged Provisions. Upon reviewing and analyzing the Challenged Provisions on behalf of

1 our clients, including Plaintiffs, it became apparent that the Challenged Provisions fail to provide
2 notice as to what ammunition is regulated as “handgun ammunition” because it is impossible to
3 determine whether ammunition is “principally for use in” or used more often in, a handgun as opposed
4 to a rifle.

5 16. In or about January of 2010, our office advised our client, including Plaintiff the
6 California Rifle and Pistol Association Foundation (“CRPA Foundation”), that the Challenged
7 Provisions failed to provide adequate notice of what conduct is proscribed by law, such that the
8 Challenged Provisions were likely unconstitutionally vague in violation of Due Process. Upon learning
9 this, our clients requested our firm thoroughly research the issue and draft a comprehensive
10 memorandum analyzing this issue and all other possible theories under which the Challenged
11 Provisions may be unconstitutional. Our office spent the next few months thoroughly researching,
12 analyzing, and evaluating the impacts that the Second Amendment, the Commerce Clause, and the
13 Due Process Clause each have on the constitutionality of the challenged provisions. Our office drafted
14 comprehensive memoranda addressing these issues, and advised our clients of the merits of these
15 claims.

16 17. In or about February of 2010, our clients, the CRPA Foundation, elected to prepare and
17 file a lawsuit seeking to invalidate and enjoin the Challenged Provisions on Due Process grounds, and
18 to contact its members to determine who was interested in participating in the suit.

19 18. Between approximately the months of February 2010 and May of 2010, our office
20 responded to inquiries from individuals and businesses interested in joining the CRPA Foundation as
21 plaintiffs in this litigation. Our office conducted interviews, responded to CRPA and NRA member
22 inquiries, continued to research and evaluate the many issues underlying Plaintiffs’ due process
23 vagueness challenge, and discussed these issues with firearms and ammunition experts. Ultimately, our
24 office coordinated the lawsuit on behalf of each of the Plaintiffs and researched and drafted Plaintiffs’
25 Complaint for Injunctive and Declaratory Relief.

26 19. On or about June 17, 2010, Plaintiffs’, through our office as attorneys of record, filed
27 their Complaint for Injunctive and Declaratory Relief.

28 20. In or about July of 2010, counsel for Defendants contacted our office and requested a

1 30 day extension to file a responsive pleading. Out of professional courtesy, Plaintiffs granted the
2 extension request.

3 21. In or about August 2010, upon learning that Defendants would likely forego any
4 preliminary motions such as a Demurrer and file an Answer to Plaintiffs' Complaint, our office
5 suggested the parties move forward with cross-motions for summary judgment, believing that the
6 pertinent issue in this case was largely a question of law.

7 22. On or about August 4, 2010, Defendants filed an answer to Plaintiffs' Complaint.

8 23. In or about August 2010, Defendants' counsel informed our office that Defendants
9 would not stipulate to any shortened briefing schedule for cross-motions for summary judgment.
10 Defendants counsel also informed our office that Defendants would not be able to proceed with a
11 motion addressing plaintiffs' claims on the merits, because they would need to conduct depositions
12 first. Defendants' counsel also suggested that Defendants may attempt to moot Plaintiffs' claims by
13 amending Assembly Bill 2358 (2010) to include a list of regulated ammunition prior to the close of the
14 2010 legislative session.

15 24. In or about August of 2010, our office informed Defendants' counsel that Plaintiffs
16 would likely proceed with a Motion for Preliminary Injunction due to the pending effective date of the
17 majority of the Challenged Provisions, and because Plaintiffs Able's Ammunition, Inc.'s and RTG
18 Sporting Collectibles, LLC's business operation decisions (with respect to inventory orders and
19 computer programming changes) in the months prior to the effective date of the Challenged Provisions
20 hinged on the resolution of Plaintiffs' vagueness challenge. At or about this time, Defendants' counsel,
21 Peter Krause, informed Plaintiffs of his pending vacation plans from the end of August through Labor
22 Day of 2010, and out of professional courtesy, Plaintiffs agreed not to file any motions during times
23 which would impact Mr. Krauses's vacation.

24 25. On or about August 24, 2010, the author of the Challenged Provisions and Assembly
25 Bill 2358, Senator Kevin de León, amended Assembly Bill 2358 to alter the definition of handgun
26 ammunition applicable to the Challenged Provisions. Assembly Bill 2358 was subsequently amended
27 to include a revised list of ammunition that would be deemed handgun ammunition under the
28 Challenged Provisions.

1 26. Between approximately August 18, 2010 and August 31, 2010, our office reviewed,
2 analyzed and tracked assembly Bill 2358 to determine the potential impacts passage of this legislation
3 would have on Plaintiffs' legal challenge in this case. During this time our office provided analytical
4 support for Plaintiffs and conferred on multiple occasions with Plaintiffs' expert witness, Steven
5 Helsley.

6 27. On or about August 31, 2010, Assembly Bill 2358 died on the Senate Floor, thus failing
7 to pass.

8 28. Plaintiffs' counsel reasonably anticipated that any Motion for Summary Judgment filed
9 by Plaintiffs would likely face delays from Defendants, such that Plaintiffs' claims would not be
10 resolved on the merits at any significant time prior to the Challenged Provisions' effective date, or
11 even by the February 1 effective date itself. Plaintiffs' counsel based this conclusion on the extensions
12 and continuances requested by Defendants up to that point, Defendants' refusal to proceed with a
13 shortened briefing schedule for cross-motions for summary judgment, Defendants' statements that
14 depositions of Plaintiffs and/or their witnesses would be required, and the fact that Defendants had not
15 noticed any depositions to that point – despite Plaintiffs' repeated offers to make potential declarants
16 available for deposition (Plaintiffs' provided Defendants' counsel with draft declarations of their
17 experts prior to filing any motions in an attempt to expeditiously and efficiently litigate Plaintiffs
18 claims).

19 29. Plaintiffs' counsel further reasonably anticipated that litigation of Plaintiffs' claims on
20 the merits would face delays in light of Defendants' efforts to work with Assemblyman de León to
21 amend Assembly Bill 2358, which inevitably resulted in delay to Plaintiffs' claims, and Defendants'
22 decision to decline Plaintiffs' subsequent request to move forward with shortened briefing schedules
23 for cross-motions for summary judgment following the failure of Assembly Bill 2358.

24 30. Finally, Plaintiffs' counsel reasonably anticipated that, even if Plaintiffs' claims could
25 be heard prior to the February 1, 2011 effective date of the majority of the Challenged Provisions, the
26 Court might take Plaintiffs' claims under submission for an indefinite and potentially lengthy period of
27 time given the magnitude of the issues at stake in this litigation and the extraordinary relief sought, i.e.,
28 the repeal of three statewide controversial ammunition statutes.

1 31. For each of the reasons set forth in the preceding paragraphs, because Plaintiffs' filing
2 of a preliminary injunction motion afforded Plaintiffs the opportunity to receive valuable input from
3 the Court regarding issues in this litigation, and because Plaintiffs instructed our office to proceed
4 accordingly, Plaintiffs filed their Motion for Preliminary Injunction and supporting documents on
5 September 7, 2010, following Defendants' counsel's return from vacation. Plaintiffs' counsel
6 consulted with outside counsel who concurred with Plaintiffs' litigation strategy at this juncture.

7 32. On or about September 9, 2010, Defendants moved the Court for a continuance of
8 Plaintiffs' Motion for Preliminary Injunction, and the parties engaged in dialogue with the Court's
9 assistance to negotiate a briefing schedule and hearing date. Defendants filed their Opposition to
10 Plaintiffs' Motion for Preliminary Injunction on or about September 30, 2010, and Plaintiffs' Reply
11 brief was filed on or about October 7, 2010. Plaintiffs' Motion for Preliminary Injunction was
12 eventually rescheduled for hearing on November 18, 2010, pursuant to the Court's own motion.

13 33. On or about October 7, 2010, Plaintiffs propounded written discovery on Defendants,
14 seeking responses to several form interrogatories, specially prepared interrogatories, requests for
15 admission, and requests for production of documents. Defendants were expected to respond to those
16 requests on or before November 11, 2010, but Defendants requested an extension of time to respond.
17 Plaintiffs granted Defendants' request out of professional courtesy.

18 34. On approximately October 19, 2010, our office began outlining, researching, and
19 drafting Plaintiffs' Motion for Summary Judgment. Plaintiffs' analysis, research, and argument
20 necessarily and reasonably focused on defenses raised in Defendants' Opposition to Plaintiffs' Motion
21 for Preliminary Injunction regarding Plaintiffs' likelihood of success on the merits.

22 35. On or about November 18, 2010, at the hearing on Plaintiffs' Motion for Preliminary
23 Injunction, the Court instructed the parties that the Court had concerns with evidence of irreparable
24 injury that would be suffered by Plaintiffs. The Court and the parties ultimately agreed that any
25 potential irreparable harm could be avoided by moving forward with a shortened briefing schedule on
26 Plaintiffs' Motion for Summary Judgment, which would also serve as a trial by brief to the extent the
27 Court determined any triable issues of fact remained at that time.

28 36. The Court then assisted the parties in negotiating an expedited briefing schedule

1 whereby Plaintiffs and Defendants would submit briefing on an expedited schedule, and complete any
2 necessary depositions of witnesses by approximately mid-December. With the Court's input at
3 hearing, Defendants agreed to a shortened briefing schedule on Plaintiffs' Motion for Summary
4 Judgment. Subsequent to the hearing, Defendants began noticing depositions for the first time in the
5 prior five-month span during which Plaintiffs began requesting the parties move forward with cross-
6 motions for summary judgment and any necessary depositions.

7 37. In light of the Courts' concerns and input, and Plaintiffs' ability to secure a ruling on
8 the merits prior to February 1, 2010, Plaintiffs' withdrew their Motion for Preliminary Injunction.

9 38. On or about November 23, 2010, Defendants responded to Plaintiffs' written discovery.
10 Defendants' written discovery requests were verified by Defendants' expert witness, Blake Graham,
11 wherein Defendants' asserted for the first time during the litigation that there was a "common
12 understanding" that the Challenged Provisions apply to nine calibers of ammunition (which includes
13 hundreds of different cartridges). Defendants' Opposition to Plaintiffs' Motion for Preliminary
14 Injunction did not assert a "common understanding" defense to counter Plaintiffs' facial vagueness
15 challenge.

16 39. Upon learning of Defendants' assertions that there was a "common understanding" as
17 to which ammunition the Challenged Provisions regulate, Plaintiffs reasonably and necessarily
18 conducted additional research and analysis, and examined new arguments and issues based on this
19 newly asserted defense in continuing to prepare Plaintiffs' Motion for Summary Judgment or in the
20 Alternative for Summary Adjudication / Trial. For example, Plaintiffs undertook extensive research
21 and engaged Plaintiffs' expert witness to determine the uses of the extensive varieties of ammunition
22 falling within each caliber class identified by Defendants as handgun ammunition. Plaintiffs' counsel
23 further researched the propriety of the mechanisms by which Defendants' expert determined that the
24 identified calibers were "handgun ammunition" under the Challenged Provisions. As well, our office
25 conducted substantial legal research regarding the propriety of a "common understanding" defense to
26 due process challenges in similar contexts.

27 40. Upon reviewing Defendants' written discovery requests, Plaintiffs' counsel
28 immediately began preparing to take the Deposition of Defendants' Expert Witness, Blake Graham.

1 Defendants' new and surprising testimony concerning the definition of "handgun ammunition" under
2 the Challenged Provisions alerted Plaintiffs' counsel to numerous issues further evidencing the
3 vagueness of the Challenged Provisions and the confusion surrounding their application.

4 41. Plaintiffs subsequently noticed the deposition of Blake Graham for December 1, 2010.

5 42. On or about December 1 and 2, 2010 our office took the deposition of Defendants'
6 Expert Witness, Blake Graham, telephonically. I attended the deposition along with Joshua R. Dale
7 and Sean A. Brady of Michel and Associates, P.C. I deposed Mr. Graham on December 1, 2010, and
8 Mr. Dale continued the deposition on December 2, 2010.

9 43. Immediately upon concluding Mr. Graham's deposition, wherein Mr. Graham provided
10 further new and surprising testimony, Plaintiffs' counsel immediately reviewed Mr. Graham's
11 testimony to analyze and address further issues evidencing the vagueness of the Challenged
12 Provisions. For example, Defendants, via Mr. Graham's testimony, asserted for the first time during
13 the course of the litigation, that out of thousands of varieties of ammunition, the Challenged Provisions
14 apply to just sixteen of them. Plaintiffs' counsel analyzed and researched the propriety of Defendants'
15 position, and consulted with Plaintiffs' expert witness to adequately address Defendants' varying
16 defenses and the most recent interpretation of the definition of "handgun ammunition" which Plaintiff
17 learned of just days before Plaintiffs' Motion for Summary Judgment was required to be filed.

18 44. On or about December 7, 2010, Plaintiffs filed their Motion for Summary Judgment or
19 in the Alternative for Summary Adjudication / Trial Brief and all supporting documents, and
20 subsequently lodged relevant deposition transcripts in support thereof. Included in support of
21 Plaintiffs' Motion were exhibits submitted for the purpose of educating the Court regarding the
22 technical underlying subject matter of this litigation, and in support of the Declaration of Stephen
23 Helsley, which addressed the testimony provided by Defendants' expert witness and which, taken
24 together, support Plaintiffs' vagueness allegations. Plaintiffs believe their efforts to provide the court
25 with underlying factual background was reasonable and justified given the technical subject matter of
26 this litigation, notwithstanding the fact that Plaintiffs' counsel anticipated the underlying issues in this
27 case were largely legal questions. Plaintiffs' counsel consulted with outside counsel who concurred
28 with Plaintiffs' litigation strategy on this issue.

1 45. Between approximately December 7, 2010 and December 22, 2010, Defendants noticed
2 and took the depositions of Plaintiffs' Expert Witness Steven Helsley, as well as Plaintiffs Stephen
3 Stonecipher, Barry Bauer, Bauer Sporting Goods' Person Most Knowledgeable, and Sheriff Clay
4 Parker.

5 46. On or about January 3, 2011, Defendants' filed their Opposition to Plaintiffs' Motion
6 for Summary Judgment / Trial Brief and supporting documents, and subsequently lodged relevant
7 deposition transcripts in support thereof.

8 47. On or about January 3, 2011, Defendants filed their objections to Plaintiffs' Evidence
9 submitted in support of Plaintiffs' Motion for Summary Judgment / Trial Brief.

10 48. On or about January 7, 2011, Plaintiffs filed their Reply to Defendants' Opposition to
11 Plaintiffs' Motion for Summary Judgment / Trial Brief and all supporting documents, and
12 subsequently lodged relevant deposition transcripts in support thereof for those depositions which took
13 place after Plaintiffs' Motion for Summary Judgment or in the Alternative for Summary Adjudication /
14 Trial Brief was filed.

15 49. On or about January 7, 2011, Plaintiffs filed their objections to Defendants' Evidence
16 submitted in support of Defendants' Opposition to Plaintiffs' Motion for Summary Judgment / Trial
17 Brief.

18 50. On or about January 18, 2011, Plaintiffs' Motion for Summary Judgment was heard,
19 wherein the Court issued a ruling from the bench denying Plaintiffs' Motion for Summary Judgment,
20 Denying Plaintiffs' Motion for Summary Adjudication as to the Second and Third Causes of Action,
21 but granting Plaintiffs' Motion for Summary Adjudication as to the First Cause of Action (Facial
22 Vagueness). The court instructed the parties to file a Proposed Order of Permanent Injunction
23 prohibiting enforcement of the Challenged Provisions.

24 51. Between January 18 and 20, 2011, our office worked with Defendants' counsel to draft
25 a mutually agreeable Proposed Order of Permanent Injunction prohibiting Defendants from
26 implementing, enforcing, or otherwise giving effect to the Challenged Provisions. Plaintiffs filed the
27 Proposed Order on or about January 20, 2011. On or about January 21, 2011, the Court signed and
28 filed the Order of Permanent Injunction.

1 52. On January 31, 2011, the Court issued its written Order Denying Plaintiffs' Motion for
2 Summary Judgment and Granting in Part and Denying in Part Plaintiffs' Motion for Summary
3 Adjudication.

4 53. Between February 10 and 22, 2011, our office worked with Defendants' counsel to
5 draft a mutually agreeable Proposed Judgment. Plaintiffs filed the Proposed Judgment, signed by the
6 attorneys for both parties, on or about February 22, 2011. On or about February 23, 2011, judgment as
7 to the first cause of action was entered in Plaintiffs' favor.

8 54. On or about March 2, 2011, Plaintiffs served the Notice of Entry of Judgment.

9 55. On or about March 11, 2011, Plaintiffs filed their Memorandum of Costs, seeking
10 reimbursement for filing fees, deposition costs, service of process, court reporter fees, and travel
11 expenses related to the hearings on Plaintiffs' motions.

12 56. Throughout March and April, 2011, the attorneys for both parties attempted to negotiate
13 an agreement whereby Defendants would waive their right to appeal in turn for Plaintiffs' acceptance
14 of limited attorneys fees. The parties were ultimately unable to reach a settlement on this and
15 Plaintiffs' counsel continued working on their motion for a full award of attorneys fees.

16 57. On or about April 1, 2011, Defendants filed a Motion to Tax Costs and supporting
17 documents. On or about April 20, 2011, Plaintiffs filed their Opposition to Defendants' Motion to Tax
18 Costs and all supporting documents, including the declarations of Clinton B. Monfort and C.D.
19 Michel. On or about April 26, 2011, Defendants filed their Reply to Plaintiffs' Opposition to
20 Defendants' Motion to Tax Costs.

21 58. On or about April 28, 2011, Defendants filed a Notice of Appeal to the Fifth District
22 Court of Appeal.

23 **Reasonableness of Time Spent and Fees Requested**

24 59. Plaintiffs' fee claim is based on sworn declarations that describe every activity for
25 which compensation is claimed. These limited activities for which recovery is sought reflect
26 considerable "billing judgment." Our office has reviewed the time records and made substantial
27 reductions (or "no charged") for: (1) work that appeared duplicative or excessive (e.x. travel and
28 appearance fees for Sean A. Brady to attend depositions); (2) secretarial work and mixed

1 secretarial/paralegal work, regardless of who performed it; (3) lobbying and public relations activity
2 related to the case and its subject matter; and (4) entries that were vague or unclear as to the task
3 performed. In short, I approached the task as if I were preparing a bill for a paying client, recognizing
4 that in this case the paying client is ultimately the taxpayer. Ultimately, our office does not seek
5 attorneys fees for 626.2 hours expended by the four attorneys, one law clerk, and one paralegal,
6 totaling approximately \$114,019.00.

7 60. Plaintiffs' attorneys effectively and efficiently litigated Plaintiffs' claims, while also
8 appropriately ensuring all tasks were thoroughly performed, as should be the case in litigation of such
9 constitutional importance. As the person most familiar with the case and issues, I handled the bulk of
10 the legal research and writing, and made court appearances with C. D. Michel and Sean A. Brady.
11 Plaintiffs' attorney representation at hearing and deposition was reasonably given the magnitude of this
12 litigation, and given that Defendants' sent three very experienced Department of Justice attorneys to
13 Plaintiffs's Motion for Preliminary Injunction hearing, and two, along with Defendant's expert witness
14 to Plaintiffs' Motion for Summary Judgment or in the Alternative Summary Adjudication /Trial
15 hearing.

16 61. I was assisted significantly in this case by Sean A. Brady, a firearms law attorney and
17 civil rights litigator. Mr. Brady's qualifications and significance to the representation in this case are
18 set forth in the Declaration of Sean A. Brady filed concurrently herewith, as well as in the descriptions
19 of the tasks performed by Mr. Brady in support of Plaintiffs' Motions for Preliminary Injunction and
20 Summary Judgment. Mr. Brady's \$250 hourly rate is well within the hourly rates charged by highly
21 specialized firms for attorneys of similar skill, experience, and expertise.

22 62. I was also assisted during depositions and in preparing Plaintiffs' Motion for Summary
23 Judgment by Joshua R. Dale. Mr. Dale's extensive civil litigation and discovery experience, as well as
24 his availability as an extra hand on deck, was invaluable. This is particularly true in light of the
25 shortened briefing schedule negotiated by the parties with the Court's guidance. Mr. Dales'
26 qualifications, experience and importance to this litigation are set forth in the Declaration of Joshua R.
27 Dale filed concurrently herewith. Mr. Dale's \$375 hourly rate is well within the hourly rates charged
28 by specialized firms for attorneys of similar skill, experience, and expertise, particularly in light of Mr.

1 Dale's contributions to this case during depositions, and given that Mr. Dale has taken and/or defended
2 hundreds of depositions to date.

3 63. I was also assisted extensively throughout this litigation by my law clerk, Anna Barvir.
4 Ms. Barvir is an exceptionally talented researcher, writer, and editor. In 2005, she graduated summa
5 cum laude from College of Notre Dame of Maryland. In 2009, Ms. Barvir graduated magna cum laude
6 from Whittier Law School, where she earned the Dean's Citation Award for Outstanding Leadership
7 and Service to the Law School Community and served as Executive Editor to the Whittier Law
8 Review. Ms. Barvir also received a Certificate in Legal Research and Writing. While in law school,
9 Ms. Barvir authored *When Hysteria and Good Intentions Collide: Constitutional Considerations of*
10 *California's Sexual Predator Punishment and Control Act*, 29 Whittier L. Rev. 679 (2008). Her article
11 has thrice been cited by the California Court of Appeal. Prior to joining Michel & Associates, P.C.,
12 Ms. Barvir served as an extern to the Honorable Judge William M. Monroe of the Orange County
13 Superior Court, where she routinely drafted rulings on various evidentiary motions. Since July 2010,
14 Ms. Barvir has worked as a law clerk for Michel & Associates, P.C., where her primary focus has been
15 firearms-related litigation and regulatory matters and constitutional law. She is a member of the
16 California State Bar, and has been licensed to practice law since January 2010. Ms. Barvir's rate of
17 \$100 hourly is well within the hourly rates charged by specialized firms for post-graduate, licensed
18 attorney/law clerks of similar experience, skill and expertise.

19 64. Finally, I was assisted by my paralegal, Claudia Ayala, who has over nine years of
20 experience as a legal secretary and paralegal. Ms. Ayala's rate of \$85 hourly is well within the rates
21 charged by firms for paralegals of similar skill and experience.

22 **Breakdown of Time Spent and Description of Tasks Performed**

23 65. For the Courts' convenience, Plaintiffs' Counsel's time incurred preparing and
24 litigating this case has been broken down into six categories, and has been further broken down by the
25 number of hours billed by each attorney, law clerk, and paralegal for whom fee recovery is sought.
26 Detailed descriptions are provided below, describing the tasks performed for each category of time
27 spent, and for each individual who billed time during that phase of the litigation. In the interests of
28 efficiency and judicial economy, and because submission of a detailed declaration attesting to the work

1 performed for which fee recovery is sought is appropriate, Plaintiffs have not attached individual
2 billing entries. Should the Court wish to review the extensive daily time records Plaintiffs' counsel
3 kept over the course of the litigation, Plaintiffs would be willing to submit those records for in camera
4 review, as they contain a great deal of information that is protected by the attorney-client and work
5 product privileges.

6 Preliminary Research, Case Preparation, and Complaint:

7 66. Our office spent approximately 153.6 hours in pre-litigation research, analysis, and
8 preparation efforts prior to filing Plaintiffs' Complaint for Injunctive and Declaratory Relief. (See Ex.
9 J.)

10 67. Of these hours, my paralegal, Claudia Ayala, billed approximately 1.8 hours preparing
11 and formatting documents for filing, coordinating communications with Plaintiffs, and filing
12 Plaintiff's Complaint and supporting exhibits.

13 68. I billed approximately 70.4 hours during this pre-litigation phase, conducting legal
14 research and drafting memoranda regarding all possible theories addressing the unconstitutionality of
15 the Challenged Provisions, drafting and revising the Complaint, communicating with Plaintiffs and
16 potential plaintiffs regarding participation in this litigation, and engaging in litigation strategy
17 discussions with Sean A. Brady, C. D. Michel, outside counsel, and firearms and ammunition
18 experts. My research included determining the strength and merits of Plaintiffs' Constitutional Due
19 Process Vagueness challenges, both facial and as applied, the merits of seeking the requested
20 injunctive and/or writ relief sought by my clients to prevent enforcement of the Challenged Provisions,
21 and research and analysis regarding jurisdictional and venue issues.

22 69. Sean A. Brady billed approximately 68.1 hours during this pre-litigation phase, during
23 which time Mr. Brady conducted legal research and helped draft and review memoranda addressing all
24 possible theories regarding the unconstitutionality of the Challenged Provisions, helped draft and
25 revise the Complaint, communicated with Plaintiffs and potential plaintiffs regarding participation in
26 this litigation, and engaged in discussions with myself, C. D. Michel, outside counsel, and firearms and
27 ammunition experts.

28 70. C. D. Michel spent approximately 13.3 hours reviewing and revising the Complaint,

analyzing the merits of Plaintiffs' claims, and coordinating litigation efforts among existing clients and additional Plaintiffs.

Analysis and Tracking of Assembly Bill 2358 and Determination of Impact on Litigation

71. Subsequent to the filing of Plaintiffs' Complaint, Defendants, rather than negotiate a briefing schedule for cross-motions for summary judgment, worked with the author of the Challenged Provisions and Assembly Bill 2358 in an effort to moot, or at least hamper, Plaintiffs' constitutional vagueness challenges in this case. As a result of amendments to Assembly Bill 2358 during the 2010 Legislative Session to include a list of calibers that would be deemed "handgun ammunition" under the Challenged Provisions, Plaintiffs' necessarily and reasonably billed time towards this litigation dedicated to tracking and analyzing Assembly Bill 2358's potential affect on Plaintiffs' claims.

Plaintiffs spent a total of 15.2 hours tracking, reviewing, and analyzing the bill, as well as engaging in discussions with Plaintiffs' expert witness, Stephen Helsley. Our office also engaged in discussions 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. (See Ex. J.)

72. Of the 15.2 hours spent researching, tracking, and analyzing Assembly Bill 2358, 4.0 hours were billed by my paralegal, Claudia Ayala, tracking the bill's progress and status, researching and reviewing relevant history and hearings, and contacting Plaintiffs' expert witness.

73. Of the 15.2 hours spent researching, tracking, and analyzing Assembly Bill 2358, 0.6 hours were billed by my law clerk, Anna Barvir.

74. Of the 15.2 hours spent researching, tracking, and analyzing Assembly Bill 2358, 4.7 hours were billed by Sean A. Brady, who also engaged in communications with Plaintiffs and Plaintiffs' expert witness.

75. Of the 15.2 hours spent researching, tracking, and analyzing Assembly Bill 2358, 1.5 hours were billed by C. D. Michel, who also engaged in communications with Plaintiffs.

76. Of the 15.2 hours spent researching, tracking, and analyzing Assembly Bill 2358, I billed approximately 4.4 hours, which time also included communications with Plaintiffs and Plaintiffs' expert witness.

Motion for Preliminary Injunction:

1 77. Plaintiffs spent 364.0 hours researching, drafting, and preparing Plaintiffs' Motion for
2 Preliminary Injunction. Although Plaintiffs' decision to proceed with a Motion for Preliminary
3 Injunction was more than reasonable under the circumstances, Plaintiffs, from the outset, and at every
4 appropriate phase of the litigation, attempted to resolve Plaintiffs' claims on the merits via cross-
5 motions for summary judgments, and thereby obviate the need to file a Motion for Preliminary
6 Injunction. (See paragraphs 28 through 31, supra, for a detailed account of Plaintiffs' counsel's
7 decision to prepare and file Plaintiffs' Motion for Preliminary Injunction; see also Ex. J.)

8 78. I spent approximately 152.2 hours researching, drafting, and otherwise preparing
9 Plaintiffs' Motion for Preliminary Injunction. Of this time, I spent approximately 25.0 hours analyzing
10 pertinent legal and factual issues, analyzing and reviewing rough drafts of Plaintiffs' motion prepared
11 by Anna Barvir, research assembled by Anna Barvir, and Defendants' Opposition to Plaintiffs' Motion
12 for Preliminary Injunction. I spent approximately 1.4 hours appearing at the hearing on Plaintiffs'
13 Motion for Preliminary Injunction, and 1.3 hours corresponding with co-counsel, Plaintiffs' expert
14 witness, and Plaintiffs. I spent approximately 78.6 hours researching and drafting multiple drafts of
15 Plaintiffs' Motion for Preliminary Injunction, Plaintiffs' Reply Brief in its entirety, and other
16 documents filed in support of Plaintiffs' Motion for Preliminary Injunction. I spent approximately 0.7
17 hours reading and responding to e-mails from co-counsel and Plaintiffs' expert witness, Stephen
18 Helsley. I spent approximately 5.2 hours meeting with Sean Brady, Anna Barvir, and C. D. Michel
19 regarding litigation strategy relating to Plaintiffs' Motion for Preliminary Injunction, and 18.5 hours
20 researching, reviewing, and preparing evidence and documents to be filed in support of Plaintiffs'
21 Motion for Preliminary Injunction, to address any potential factual concerns that may be of importance
22 to properly educate the Court regarding the technical underlying subject matter of this litigation. I
23 spent approximately 9.2 hours reviewing and revising Plaintiffs' pleadings filed in support of the
24 Motion for Preliminary Injunction, and I spent approximately 8.7 hours traveling to and from the
25 hearing on Plaintiffs' Motion. I billed approximately 3.6 hours participating in telephone conferences
26 with Plaintiffs, supporting declarants, Plaintiffs' expert witness, and Sean Brady regarding issues
27 central to Plaintiffs' Motion for Preliminary Injunction, including but not limited to issues regarding
28 appropriate evidentiary support establishing irreparable harm.

1 79. Claudia Ayala spent approximately 1.6 hours formatting Plaintiffs' documents for filing
2 and preparing tables, evidence, and exhibits submitted in support of Plaintiffs' Motion for Preliminary
3 Injunction.

4 80. My law clerk, Anna Barvir, spent approximately 134.0 hours researching, drafting, and
5 otherwise preparing Plaintiffs' Motion for Preliminary Injunction. Of this time: Ms. Barvir spent
6 approximately 84.3 hours researching and drafting rough drafts of Plaintiffs' Motion for Preliminary
7 Injunction, as well as drafting and revising Plaintiffs' Reply memorandum. Ms. Barvir spent
8 approximately 0.3 hours drafting e-mails to me regarding the preparation of this Motion, and
9 approximately 3.6 hours meeting with Mr. Brady, Mr. Michel and I regarding litigation strategy
10 relating to Plaintiffs' Motion for Preliminary Injunction. Ms. Barvir spent approximately 3.0 hours
11 preparing, assembling, and reviewing supporting documents and evidence filed in support of this
12 motion, and approximately 0.4 hours participating in telephone conferences co-counsel. Ms. Barvir
13 spent approximately 2.5 hours analyzing issues arising under Plaintiffs' Motion for Preliminary
14 Injunction, and analyzing Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction. Ms.
15 Barvir spent 39.9 hours reviewing, revising, cite checking, and proofreading all documents filed by
16 Plaintiffs in support of Plaintiffs' Motion for Preliminary Injunction.

17 81. Sean A. Brady spent approximately 75.5 hours assisting in the preparation of Plaintiffs'
18 Motion for Preliminary Injunction. Of that time, Mr. Brady spent a significant amount of time
19 assembling, coordinating, and facilitating the filing of all declarations submitted in support of
20 Plaintiffs' Motion for Preliminary Injunction. Mr. Brady also devoted significant hours to
21 proofreading and revising Plaintiffs' Motion and Reply, and researching and assembling supporting
22 exhibits. Mr. Brady also provided crucial litigation strategy support for Ms. Barvir and I regarding
23 practical firearms and ammunition related questions, including issues regarding ammunition function,
24 appearance, labeling, packaging, and non-technical layman and firearm enthusiast nomenclature. Mr.
25 Brady also provided valuable analysis relating to an examination of all possible scenarios under which
26 Defendants might claim the Challenged Provisions provide a valid application.

27 82. C. D. Michel spent approximately 0.7 hours reviewing and revising Plaintiffs' Motion
28 for Preliminary Injunction, and discussing litigation strategies.

1 Discovery:

2 83. Our office spent and seeks recovery of approximately 228.5 hours analyzing, drafting,
3 and propounding specially-prepared interrogatories, form interrogatories, requests for production of
4 documents, and requests for admissions in order to determine what ammunition is “handgun
5 ammunition” in light of Defendants’ statements that the Challenged Provisions provide notice as to
6 what ammunition is regulated in all but a few cases, and to ascertain the merits of Defendants’ asserted
7 defense that Plaintiffs are not being harmed because the Challenged Provisions will not be enforced.
8 (See Ex. J.)

9 84. Plaintiffs also expended efforts during the discovery phase of this litigation preparing for
10 two expert depositions, taking one expert deposition, traveling to and defending Plaintiffs’ expert
11 witness deposition in Sacramento, California, analyzing discovery responses, preparing for and
12 defending four lay-witness depositions noticed by Defendants, traveling to Fresno, California to
13 defend two lay-witness depositions noticed by Defendants, reviewing extensive documents and
14 communications in response to Defendants’ Request for Production of Documents, responding to
15 Defendants’ Request for Production of Documents, and analyzing and reviewing deposition testimony
16 from the sole deposition noticed by Plaintiffs and the five depositions noticed by Defendants.

17 85. In light of Defendants’ written discovery responses verified by Blake Graham, wherein Mr.
18 Graham asserted there was a common understanding that the Challenged Provisions apply to nine
19 calibers of ammunition, and that such common understanding is based on incomplete information that
20 is not known by the public, Plaintiffs’ counsel’s decision to take the deposition of the State’s expert
21 witness was more than reasonable. Plaintiffs consulted with experienced outside counsel on this issue
22 who concurred with Plaintiffs’ litigation strategy at this juncture. Defendants had two attorneys present
23 at the depositions of Experts Blake Graham and Steven Helsley, and Blake Graham attended the
24 depositions of Barry Bauer, Steven Stonecipher, and Bauer Sporting Goods’ Person Most
25 Knowledgeable. Plaintiffs exercised considerable billing judgment, seeking recovery only for my time
26 and that of Joshua Dale at these depositions, and Plaintiffs did not require the presence or telephonic
27 availability of its expert at the depositions of Barry Bauer, Bauer Sporting Goods’ Person Most
28 Knowledgeable, Steven Stonecipher, and Sheriff Clay Parker.

1 86. Of the time spent by Plaintiffs' counsel on reasonable and necessary discovery efforts, 1.4
2 hours were billed by my paralegal, Claudia Ayala, revising discovery requests and responses and
3 noticing the deposition of Steven Helsley.

4 87. Approximately 26.2 hours were spent by my law clerk, Anna Barvir, proofreading and
5 revising discovery requests and responses, assisting in deposition preparation, and analyzing
6 deposition testimony.

7 88. Approximately 51.7 hours were spent by Sean A. Brady analyzing discovery responses,
8 preparing discovery responses to Defendants' request for production of documents, assisting in
9 preparation for the deposition of Defendants' expert witness, assisting in preparation for depositions
10 noticed by Defendants, and analyzing and reviewing deposition testimony.

11 89. Approximately 61.2 hours were spent by Joshua Dale traveling to and defending the
12 depositions of Steven Helsley and Barry Bauer/Bauer Sporting Goods/Steven Stonecipher that were
13 noticed by Defendants to occur in Sacramento and Fresno, California, respectively, taking the
14 deposition of Defendants' expert witness, defending the deposition of Sheriff Clay Parker, analyzing
15 and reviewing deposition testimony, and assisting in preparation of Defendants' extensive requests for
16 production of documents.

17 90. C. D. Michel spent approximately 0.4 hours analyzing and discussing deposition testimony
18 with myself, Joshua R. Dale, and Sean A. Brady.

19 91. I spent approximately 87.6 hours traveling to and attending the depositions of Steven
20 Helsley and Barry Bauer/Bauer Sporting Goods/Steven Stonecipher that were noticed by Defendants to
21 occur in Sacramento and Fresno, CA, respectively, taking the deposition of Defendants' expert
22 witness, attending the telephonic deposition of Sheriff Clay Parker, analyzing and reviewing
23 deposition testimony, and assisting in preparation of Defendants' extensive request for production of
24 documents, drafting and propounding discovery, analyzing discovery responses, assisting in
25 preparation for the deposition of Defendants' expert witness, and assisting in preparation for
26 depositions noticed by Defendants.

27 Motion for Summary Judgment or in the Alternative for Summary Adjudication / Trial

28 92. Between the dates of approximately October 20, 2010 and January 18, 2011, Plaintiffs'

1 counsel spent approximately 802.7 hours researching, drafting, and preparing for Plaintiffs' Motion for
2 Summary Judgment or in the Alternative for Summary Adjudication and Trial. Plaintiffs' time was
3 spent conducting legal research, drafting Plaintiffs' supporting memorandum of points and authorities,
4 drafting Plaintiffs' Notice of Motion and Motion, drafting Plaintiffs' Reply brief, analyzing
5 Defendants' opposition and supporting papers, drafting Plaintiffs' Separate Statement of Undisputed
6 Facts, drafting Plaintiffs' supplemental statement of undisputed facts, researching and drafting
7 subsequent drafts of plaintiffs supporting memoranda in light of defendants new "common
8 understanding" defense, preparing and drafting supporting pleadings and evidence, analyzing and
9 developing litigation strategies, consulting with our clients' national counsel, consulting with
10 Plaintiffs, consulting with co-counsel and outside counsel, consulting with Plaintiffs' expert witness,
11 reviewing, highlighting, and lodging relevant deposition transcripts, and preparing for, traveling to,
12 and attending hearing. (See Ex. J.)

13 93. I spent approximately 314.3 hours preparing for Plaintiffs' Motion for Summary
14 Judgment or in the Alternative for Summary Adjudication / Trial. The time I spent preparing this
15 motion is broken down as follows: I spent 37.3 hours analyzing and developing litigation strategies,
16 analyzing deposition testimony and evidence, and analyzing Defendants' Opposition brief and
17 supporting evidence; I spent approximately 3.7 hours preparing for and representing Plaintiffs at
18 hearing; I spent approximately 114.3 hours drafting Plaintiffs' Motion for Summary Judgment and
19 supporting documents (of this 114.3 hours I spent approximately 64.7 hours drafting Plaintiffs' Notice
20 of Motion and Motion and Plaintiffs' supporting memorandum of points and authorities, I spent
21 approximately 0.7 hours drafting Plaintiffs' requests for judicial notice, I spent approximately 21.3
22 hours drafting Plaintiffs' supporting Reply memorandum, I spent approximately 10.6 hours drafting
23 Plaintiff's supporting Separate Statements of Undisputed Facts, and approximately 17.0 hours drafting
24 additional supporting documents, including supporting declarations and objections to evidence); I
25 spent approximately 0.2 hours drafting e-mails to clients and co-counsel; I spent approximately 42.9
26 hours conducting legal research and other research in support of Plaintiffs' claims and to address
27 Defendants' various legal and factual defenses and claims; I spent approximately 19.5 hours meeting
28 with co-counsel, Plaintiffs, and Plaintiffs' expert witnesses; I spent approximately 46.1 hours

1 preparing, assembling, and reviewing exhibits, declarations, and supporting documents and pleadings
2 for filing, and preparing for hearing; I spent approximately 40.2 hours reviewing and revising
3 documents filed in support of Plaintiffs' Motion; I spent approximately 1.1 hours participating in
4 telephone conferences with co-counsel, Plaintiffs, and Plaintiffs' expert witness; and I spent
5 approximately 9.0 hours traveling to the hearing on Plaintiffs' Motion.

6 94. My law clerk, Anna Barvir, spent approximately 176.7 hours preparing for Plaintiffs'
7 Motion for Summary Judgment or in the Alternative for Summary Adjudication / Trial. The time Ms.
8 Barvir spent preparing for this motion and trial is broken down as follows: Ms. Barvir spent
9 approximately 87.9 hours drafting Plaintiffs' Motion and supporting documents (of this 87.9 hours she
10 spent approximately 47.5 hours drafting Plaintiffs' Notice of Motion and Motion and Plaintiffs'
11 supporting memorandum of points and authorities, she spent approximately 28.4 hours drafting
12 Plaintiffs' supporting Reply memorandum, she spent approximately 8.2 hours drafting Plaintiffs'
13 supporting Separate Statements of Undisputed Facts, and approximately 3.5 hours drafting additional
14 supporting documents, including supporting declarations and objections to evidence); Ms. Barvir spent
15 approximately 0.2 hours drafting e-mails to co-counsel; Ms. Barvir spent approximately 49.5 hours
16 conducting legal research and other research in support of Plaintiffs' claims and to address
17 Defendants' various legal and factual defenses and claims; Ms. Barvir spent approximately 8.1 hours
18 meeting with co-counsel discussing litigation strategy, revisions to filings, and legal and evidentiary
19 issues; Ms. Barvir spent approximately 4.9 hours preparing, assembling, and reviewing exhibits,
20 declarations, and supporting documents and pleadings for filing, and assisting me in preparation for
21 hearing; Ms. Barvir spent approximately 15.3 hours reviewing and revising documents filed in support
22 of Plaintiffs' Motion, and she spent approximately .8 hours participating in telephone conferences with
23 co-counsel, Plaintiffs, and Plaintiffs' expert witness.

24 95. Sean Brady spent approximately 161.5 hours preparing for Plaintiffs' Motion for
25 Summary Judgment or in the Alternative for Summary Adjudication / Trial. The time Mr. Brady spent
26 preparing this motion and for trial is broken down as follows: Mr. Brady spent 65.8 hours analyzing
27 and developing litigation strategies, analyzing deposition testimony and evidence, and analyzing
28 Defendants' Opposition brief and supporting evidence; Mr. Brady spent approximately 25.2 hours

1 drafting Plaintiffs' portions of Plaintiffs' Motion for Summary Judgment and supporting documents;
2 Mr. Brady spent approximately 1.0 hour drafting e-mails to co-counsel, Plaintiffs, and Plaintiffs'
3 expert witness; Mr. Brady spent approximately 6.5 hours conducting legal research and other research
4 in support of Plaintiffs' claims and to address Defendants' various legal and factual defenses and
5 claims; Mr. Brady spent approximately 8.0 hours meeting with co-counsel discussing litigation
6 strategy, revisions to filings, and legal and evidentiary issues; Mr. Brady spent approximately 28.2
7 hours preparing, assembling, and reviewing exhibits, declarations, and supporting documents and
8 pleadings for filing, and preparing for hearing and trial; Mr. Brady spent approximately 12.2 hours
9 reviewing and revising documents filed in support of Plaintiffs' Motion; Mr. Brady spent
10 approximately 3.3 hours participating in telephone conferences with co-counsel, Plaintiffs, and
11 Plaintiffs' expert witness, Mr. Brady spent approximately 9.0 traveling to hearing on Plaintiffs'
12 Motion; and Mr. Brady billed approximately 2.3 hours while appearing at the hearing on Plaintiffs'
13 Motion.

14 96. Joshua Dale spent approximately 52.2 hours assisting in preparation for Plaintiffs'
15 Motion for Summary Judgment. Mr. Dale's assistance was required to ensure timely and effective
16 preparation and filing of Plaintiffs' motion and supporting documents in light of the extremely
17 expedited briefing schedule agreed upon by the parties following Defendants' prior decisions to
18 decline plaintiffs' request to stipulate to an expedited briefing schedule. Mr. Dale's litigation
19 assistance under these circumstances was reasonable, and reflects competent case management in
20 litigating cases such as this, of widespread consequence, given Mr. Dales' extensive civil litigation
21 experience. The hours billed by Mr. Dale in support of Plaintiffs' Motion for Summary Judgment or
22 in the Alternative for Summary Adjudication / Trial were spent analyzing, reviewing, and lodging
23 relevant deposition testimony, providing consulting and litigation support with regard to litigation
24 strategies and case management under severe time constraints, analyzing and reviewing evidence
25 submitted in support of Defendants' Opposition, Drafting Objections to Defendants' Evidence,
26 drafting and revising Plaintiffs' Separate Statements of Undisputed Facts, and reviewing and revising
27 documents filed in support of Plaintiffs' Motion.

28 97. C. D. Michel spent approximately 25.2 hours reviewing and revising Plaintiffs'

1 Memorandum of Points and Authorities filed in support of Plaintiffs' Motion, Plaintiffs' Reply
2 memorandum filed in support of Plaintiffs' Motion, analyzing, discussing, and coordinating litigation
3 strategies, consulting with clients, co-counsel, and outside counsel, traveling to hearing on Plaintiffs'
4 Motion, and appearing at hearing on Plaintiffs' Motion.

5 Post-Hearing Work Performed:

6 98. As of May 5, 2011, our office has spent approximately 193.1 hours on "post-hearing
7 work," including time spent drafting the [Proposed] Order of Permanent Injunction, the [Proposed]
8 Judgment, the Notice of Entry of Judgment, the Memorandum of Costs, the Opposition to Defendants'
9 Motion to Tax Costs, post-trial negotiations for fee settlement and waiver of appeal, and the present
10 Motion for Attorneys Fees. Further, a significant amount of time was expended reviewing and
11 analyzing Plaintiffs' counsel's billing records to properly account for the costs and fees requested. In
12 an effort to keep costs down, the bulk of this work was conducted by my law clerk, Anna Barvir. (See
13 Ex. J.)

14 99. My law clerk, Anna Barvir, spent approximately 103.9 hours on post-hearing work.
15 Broken down, she spent 7.2 hours drafting, revising, editing the [Proposed] Order of Permanent
16 Injunction, and analyzing and incorporating the revisions proposed by opposing counsel; 4.8 hours
17 drafting, revising, and editing the [Proposed] Judgment, and analyzing and incorporating the revisions
18 proposed by opposing counsel; 3.1 hours researching, drafting, and revising Plaintiffs' Memorandum
19 of Costs; 20.7 hours analyzing Defendants' Motion to Tax Costs, conducting legal research and
20 drafting, revising, and editing Plaintiffs' Opposition to Defendants' Motion to Tax Costs, and
21 reviewing Defendants' Reply; and 67.8 hours conducting legal research on the attorneys fee issue and
22 the private attorney general doctrine, drafting, revising, and editing Plaintiffs' Motion for Attorneys
23 Fees, reviewing Plaintiffs' counsel's extensive billing records and compiling evidence to support the
24 fee motion, researching reasonable billing rates in Southern California and contacting local attorneys
25 regarding the same, drafting, revising, and editing all documents in support of the fee motion, and
26 overseeing filing efforts.

27 100. I expended about 14.0 hours meeting with Ms. Barvir to discuss strategy, arguments,
28 and status of all post-hearing filings, engaging in post-judgment settlement negotiations with opposing

1 counsel, conducting legal research regarding the attorneys fees issue, drafting, revising and editing all
2 post-hearing filings, and drafting reviewing, and revising Plaintiffs' Motion for Attorneys Fees and
3 supporting documents.

4 101. Sean Brady engaged in 3.4 hours of post-hearing activity, including reviewing and
5 revising the [Proposed] Order of Permanent Injunction and the [Proposed] Judgment, negotiations with
6 opposing counsel regarding the same, engaged in discussions with Mr. Monfort and Mr. Michel
7 regarding possible post-judgment settlement.

8 102. Joshua Dale billed 0.5 hours meeting with Ms. Barvir to discuss recoverable costs and
9 advising on issues of law and procedure.

10 103. C.D. Michel billed 14.0 hours of post-hearing activity, including reviewing and revising
11 all post-hearing filings, evaluating the merits of an appeal, and communicating with co-counsel and
12 clients.

13 I declare under penalty of perjury under the laws of the State of California that the foregoing is
14 true and correct. Executed this 16th day of May, 2011, at Long Beach, California.

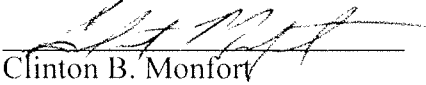
15
16 
17 Clinton B. Monfort
18 Declarant
19
20
21
22
23
24
25
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28

EXHIBIT I

MICHEL & ASSOCIATES, P.C.
A t t o r n e y s a t L a w

ATTORNEY FEE/RATE SCHEDULE

Timekeeper	Hourly Rate
Partner	\$ 450
Of Counsel	\$ 400
Special Counsel	\$ 375
Associate 6	\$ 350
Associate 5	\$ 325
Associate 4	\$ 300
Associate 3	\$ 275
Associate 2	\$ 250
Associate 1	\$ 225
Senior Paralegal	\$ 135
Paralegal	\$ 100
Law Clerk	\$ 125
Legal Asst.	\$ 85

Partner in Charge: C.D. Michel

Case Manager: Clinton B. Monfort

EXHIBIT J

EXHIBIT K

ATTORNEY SEARCH

Peter Andrew Krause - #185098**Current Status: Active**

This member is active and may practice law in California.

See below for more details.

Profile Information

Bar Number	185098		
Address	Office of the Attorney General 1300 I St Ste 125 Sacramento, CA 95814	Phone Number	(916) 324-5328
		Fax Number	Not Available
		e-mail	peter.krause@doj.ca.gov
District	District 2	Undergraduate School	Univ of California Berkeley; Berkeley CA
County	Sacramento	Law School	Loyola Law School; Los Angeles CA
Sections	Litigation		

Status History

Effective Date	Status Change
<i>Present</i>	Active
12/10/1996	Admitted to The State Bar of California

Explanation of member status

Actions Affecting Eligibility to Practice Law

Disciplinary and Related Actions

This member has no public record of discipline.

Administrative Actions

This member has no public record of administrative actions.

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EXHIBIT L

ATTORNEY SEARCH

Zackery Paul Morazzini - #204237**Current Status: Active**

This member is active and may practice law in California.

See below for more details.

Profile Information

Bar Number	204237		
Address	California Attorney General's Office PO Box 944255 Sacramento, CA 94244	Phone Number	(916) 445-8226
		Fax Number	(916) 324-8835
		e-mail	Not Available
District	District 2	Undergraduate School	California St Univ Sacramento; CA
County	Sacramento	Law School	McGeorge SOL Univ of the Pacific; CA
Sections	Litigation		

Status History

Effective Date	Status Change
<i>Present</i>	Active
12/8/1999	Admitted to The State Bar of California

Explanation of member status

Actions Affecting Eligibility to Practice Law

Disciplinary and Related Actions

This member has no public record of discipline.

Administrative Actions

This member has no public record of administrative actions.

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EXHIBIT M

ATTORNEY SEARCH

Kimberly Jean Graham - #204210

Current Status: Active

This member is active and may practice law in California.

See below for more details.

Profile Information

Bar Number	204210		
Address	DOJ-Office of the Attorney General 1300 I St Sacramento, CA 95814	Phone Number	(916) 322-6114
		Fax Number	(916) 324-8835
		e-mail	kimberly.graham@doj.ca.gov
District	District 2	Undergraduate School	California St Univ Sacramento; CA
County	Sacramento	Law School	McGeorge SOL Univ of the Pacific; CA
Sections	Litigation		

Status History

Effective Date	Status Change
<i>Present</i>	Active
12/8/1999	Admitted to The State Bar of California

Explanation of member status

Actions Affecting Eligibility to Practice Law

Disciplinary and Related Actions

This member has no public record of discipline.

Administrative Actions

This member has no public record of administrative actions.

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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 May 16, 2011, I served the foregoing document(s) described as

7 **DECLARATION OF CLINTON B. MONFORT IN SUPPORT OF**
8 **PLAINTIFFS' MOTION FOR ATTORNEYS FEES; EXHIBITS I – M**

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 X (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,
in the ordinary course of business. I am aware that on motion of the party served, service is
18 presumed invalid if postal cancellation date is more than one day after date of deposit for
mailing an affidavit.

Executed on May 16, 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 May 16, 2011, at Long Beach, California.

21 (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
practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt
23 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
24 with ordinary business practices.

Executed on May 16, 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.

27
28 
CLAUDIA AYALA