

1 C. D. Michel - SBN 144258
Clinton B. Monfort - SBN 255609
2 Sean A. Brady - SBN 262007
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6 Attorneys for Plaintiffs/Petitioners

7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO
10

11 SHERIFF CLAY PARKER, TEHAMA) CASE NO. 10CECG02116
COUNTY SHERIFF; HERB BAUER)
12 SPORTING GOODS; CALIFORNIA RIFLE) **DECLARATION OF JASON A. DAVIS**
AND PISTOL ASSOCIATION) **IN SUPPORT OF PLAINTIFFS' MOTION**
13 FOUNDATION; ABLE'S SPORTING,) **FOR ATTORNEYS FEES**
INC.; RTG SPORTING COLLECTIBLES,)
14 LLC; AND STEVEN STONECIPHER,)

15 Plaintiffs and Petitioners,

16 vs.
17

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)

22 Defendants and Respondents.
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) Date: July 7, 2011
) Time: 3:30 p.m.
) Location: Dept. 402
) Judge: Hon. Jeffrey Y. Hamilton
) Action Filed: June 17, 2010

DECLARATION OF JASON A. DAVIS

I, Jason A. Davis, declare as follows:

1. I am currently the owner of Davis & Associates, located in Mission Viejo, California. I am an attorney admitted to the practice of law before the courts of the State of California. I have personal knowledge of the facts contained in this declaration and, if called as a witness, am competent to testify to those facts.

2. I graduated from Loyola Law School with a J.D. in 2002 and was admitted to the Bar of California in January 2003. I established Davis & Associates in 2009, since which time I have been involved in litigating, negotiating, and supervising attorneys in litigating firearms civil rights lawsuits. I have extensive history and involvement in the firearms industry, including over a decade of experience in designing and manufacturing firearms two of the largest firearm manufacturers in the United States. Additionally, I have approximately ten years of legal experience in the firearms industry, on issues ranging from civil and criminal litigation and appeals, legislative analysis, drafting, and lobbying activities, regulatory compliance and consultation. A true and correct copy of my resume, which further details my relevant legal experience, is attached hereto as Exhibit A.

3. As a result of my background in firearms civil rights law and my work on attorneys' fee matters, I am familiar with the prevailing market rates for skilled and competent attorneys in the Southern California legal community for trial work and, specifically, constitutional law and civil rights litigation. I consider firearms civil rights litigation, like Parker, to be particularly important and demanding work, and I am familiar with the great skill required to successfully litigate such cases.

4. Attached hereto as Exhibit B is a true and correct copy of my firm's 2011 billing 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 law firms, as I am myself an advocate for gun rights.

5. My firm's billing rates are charged to and paid by fee-paying clients of our firms and by defendants through court awards and settlements. They are paid by the hour on a regular basis. They are also the rates my firm claims in fee applications in fee-shifting cases.

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1 6. I am aware of the nature of this case and have reviewed the hourly rates being charged
2 by all of Plaintiffs' attorneys and their respective experience levels. In my opinion, these rates are quite
3 reasonable and within the market range for comparably qualified and experienced attorneys handling
4 comparable litigation in Southern California.

5 7. C.D. Michel's rate of \$450 is particularly justified because he has practiced law for 21
6 years, he is the managing attorney at one of the largest firearms law practices in the nation, and has
7 litigated other due process claims in the Second Amendment context. I am personally familiar with
8 Mr. Michel. He is a highly respected attorney in civil litigation and is an acknowledged expert in
9 firearms civil rights law. It is thus my opinion that Mr. Michel's hourly rate is reasonable for an
10 attorney of his reputation, experience and background, practicing in Southern California in the highly
11 technical and specialized legal field of firearms law and litigation

12 8. Joshua R. Dale's rate of \$375 is particularly justified because he has practiced law for
13 ten years, generates a substantial book of legal business, and has successfully argued and tried cases
14 before both state and federal trial courts and courts of appeal. It is thus my opinion that Mr. Dale's
15 hourly rate is reasonable for an attorney of his experience and background, practicing in Southern
16 California.

17 9. Clinton B. Monfort's rate of \$325 is particularly justified because he is in his fourth
18 year of practice as a licensed attorney, and he has significantly assisted in the firearms law practice at
19 Michel & Associates, P.C., formerly Trutanich-Michel, LLP, since January of 2007. Mr. Monfort's
20 rate is further justified as, due to his experience and legal accomplishments to date in the field of
21 firearms law and civil rights litigation, Mr. Monfort currently serves as the head of the firm's firearms
22 litigation team. I am personally familiar with Mr. Monfort's skills and work product, and it is my
23 opinion that his hourly rate is reasonable for an attorney of his experience and background, practicing
24 in Southern California in the highly technical and specialized legal field of firearms law and litigation.

25 10. Sean A. Brady's rate of \$250 is a reasonable rate for Southern California associate
26 attorneys in their third year of practice. And his particular interest and expertise in firearms and
27 ammunition made him particularly well-suited to litigate this matter.

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11 It is my understanding that Plaintiffs' counsel's full reimbursement for the time spent
litigating this case was contingent on winning this action and collecting an award of statutory attorneys
fees. Given that fact, in the legal marketplace, our firm and others would expect that a substantial
enhancement would be applied to the lodestar, making the fee comparable to the fees recovered in
other contingent litigation. Without a lodestar enhancement for risk, counsel would receive only the
fee that would have been paid by a fee-paying client win or lose; such a fee would be considered
madequate by most attorneys in the legal marketplace.

12 By obtaining complete success and enforcing the due process rights of Plaintiffs and those similarly situated, Plaintiffs and their attorneys have performed a great public service. In my opinion, the fee award should recognize the important and broader consequences of Plaintiffs attorneys work, just as the private legal market place would recognize it.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of May, 2011, at Mission Viejo, California.

Jason A. Davis
Declarant

EXHIBIT A



The Law Offices of
DAVIS & ASSOCIATES

27281 Las Ramblas, Ste 200, Mission Viejo, California 92691
Direct (949) 310-0817/Fax (949) 288-6894 Jason@CalGunLawyers.com
www.CalGunLawyers.com

ATTORNEY PROFILE - JASON ANDREW DAVIS

EDUCATION & CERTIFICATIONS

JD, Loyola Law School, Los Angeles, CA - 2002

- Emphasis in Tax
- Treasurer of the Corporate and Business Law Society.
- Member Phi Alpha Delta Law Fraternity.

BA, University of California, Riverside, CA - 1999

- Double Major in Economics and History, Cum Laude.
- Economics emphasis in econometrical analysis and international trade.
- History emphasis in U.S. history and Chinese history.
- Multiple Chancellors Honors Awards; Multiple Deans Honors.
- Member of Golden Key National Honor Society and Omicron Delta Epsilon International Honor Society in Economics.

California Bar Association; also admitted to the Ninth Circuit Court of Appeals, Southern, Central, Eastern, and Northern Districts.

SELECTED ACCOMPLISHMENTS

- Achieved status as one of the nation's foremost authorities on dangerous weapons & sporting goods laws and regulations. Managed clients such as national and state sporting goods businesses and associations in litigation and regulatory matters relating to dangerous weapons and sporting goods (i.e. firearms - a \$2 billion/yr sector of the dangerous weapons & sporting goods industry).
- Prevailed in lawsuit against San Fernando, recovering \$43,500.00 and new policies for false arrest in violation of the Law Enforcement Officer Safety Act.
- Prevailed in lawsuit against San Diego, recovering \$35,000 for 2 hour long false arrest of open carry activist.
- Received special recognition by the State of California - Law Revision Commission in their 2009 Report to the California State Legislature for my participation in a substantial revision and reorganization of California's complex and voluminous weapon laws that were enacted into law in 2010.
- Along with Donald Kilmer submitted an Amicus Brief to the United States Supreme Court on behalf of Plaintiffs in *Nordyke v. King* in the matter of *McDonald v. Chicago*, which determined that the Second Amendment is incorporated into the United States Constitution and applies to states and local government entities?
- Along with David Kopel and C. D. Michel, submitted an Amicus Brief to the United States Supreme Court on behalf a twenty-nine California District Attorneys and other law enforcement associations in the matter of *District of Columbia v. Heller*. The United States Supreme Court cited and discussed the brief in their historic opinion that determined that Second Amendment provides a fundamental and individual right to bear arms.
- Designated a Southern California Rising Stars by Super Lawyers Magazine in 2007, 2008, 2009, 2010, and 2011.
- Facilitated the defeat of regulations proposed by the California Department of Justice that would have subjected thousands of firearm owners to criminal punishment for their possession of firearms previously approved as legal by the agency's own Firearms Bureau.
- Represented plaintiff in wrongful death lawsuit on behalf of the plaintiff's resulting in \$148,000,000.00 judgment against defendants.

Page 2

- Lobbied California Department of Justice and Assemblyman Johan Klehs to adopt proposed amendments to text of California Assembly Bill 2728 (2006), which substantially limited Department of Justice's regulatory powers relating to "assault weapons" and provided a civil alternative to technical violations of dangerous weapons laws. Negotiated bill language of same, including Penal Code section 12282.
- Prevailed in license revocation hearing for one of the largest retail sporting goods chain brought by the California Department of Justice -- Bureau of Alcohol, Tobacco, Firearms, and Explosives.
- Authored: "AB50: Possession Prior to Registration Deadline." Very High Power Magazine, May 2005.
- Successfully negotiated with the California Department of Justice & United States Department of Justice in changing state and national policies restricting large retail sporting goods chains from centralizing records.
- Successfully lobbied to defeat City of Long Beach's proposed ban on 50 caliber rifles.
- Represented firearms dealer in litigation and successful settlement in which client agreed conduct business as usual in *In Re Firearms Cases* -- the firearms industry's equivalent to the tobacco litigation cases.

LEGAL EXPERIENCE (2001-PRESENT)

ATTORNEY - LITIGATION, REGULATORY COMPLIANCE, AND LEGISLATIVE SOLUTIONS

Davis & Associates, Mission Viejo, CA -- Law Office

January 2009 -- Present

Start up law firm practicing in the area of civil rights, business and civil litigation, regulatory compliance, and legislative affairs related to dangerous weapons. Manage and maintain all aspects of client development and litigation.

Trutanich Michel, LLP, Long Beach, CA -- Law Office

March 2001 -- January 2009

Manage team of attorneys and staff in client development and representation in lawsuits, regulatory compliance, and legislative affairs related to dangerous weapons, business litigation, entertainment law, and securities litigation. Federal and state experience includes drafting complaints, answers, discovery requests and responses, taking and defending depositions, demurrers, motions for judgment on the pleadings, Rule 12 motions, SLAPP motions, summary judgment motions, settlement agreements, appellate briefs, amicus briefs, lobbying, drafting legislation, and press releases.

DIRECTOR OF LEGAL AFFAIRS

Fifty Caliber Institute, Choctaw, OK -- National Civil Rights Advocacy Group

December 2004 -- Present

Analyze and comment on legislation affecting large caliber rifles. Draft legal opinion and position letters and articles on behalf of organization. Limited time involvement due to specificity of issues of concern.

PROFESSIONAL EXPERIENCE (1991-2001)

CORPORATE REPRESENTATIVE

Republic Arms, Inc., Chino, CA -- August 1998 -- August 1999

Researched and analyzed economic factors between national economy, crime and market sales. Developed database system to catalogue customer warranties.

CORPORATE REPRESENTATIVE / RESEARCH & DESIGN

Davis Industries, Chino, CA --

January 1991 -- August 1995

January 1996 -- July 1998

R & D. Gained experience in both the business and manufacturing environments for products in highly regulated industry. Represented the company at national trade shows.

PROFESSIONAL AFFILIATIONS

Los Angeles Bar Association, Orange County Bar Association, American Bar Association: American Bar Association; C.F.O. Orange County.

EXHIBIT B



The Law Offices of
DAVIS & ASSOCIATES

27281 Las Ramblas, Ste 200, Mission Viejo, California 92691
Direct (949) 310-0817/Fax (949) 288-6894 Jason@CalGunLawyers.com
www.CalGunLawyers.com

Dear client,

Below is our current fee schedule for the year 2011. If you have any questions, please feel free to contact me at the number above.

2011 ATTORNEY FEE/RATE SCHEDULE

<u>Timekeeper</u>	<u>Hourly Rate</u>
Lead Counsel	\$325 - \$600 ¹
Support Counsel	\$250
Paralegal	\$100
Law Clerk	\$75
Legal Asst.	\$50

Let me know if you have any questions or concerns.

Sincerely,

DAVIS & ASSOCIATES

s/ Jason Davis

JASON DAVIS

¹ A rate of \$600/hr is charged for services relating to firearm design & modification to facilitate CA and federal legal requirements.

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 JASON A. DAVIS**
8 **IN SUPPORT OF 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
12 Attorney General of California
13 Zackery P. Morazzini
14 Supervising Deputy Attorney General
15 Peter A. Krause
16 Deputy Attorney General
17 1300 I Street, Suite 125
18 Sacramento, CA 94244-2550

19 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
20 processing correspondence for mailing. Under the practice it would be deposited with the U.S.
21 Postal Service on that same day with postage thereon fully prepaid at Long Beach, California,
22 in the ordinary course of business. I am aware that on motion of the party served, service is
23 presumed invalid if postal cancellation date is more than one day after date of deposit for
24 mailing an affidavit.
25 Executed on May 16, 2011, at Long Beach, California.

26 — (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
27 addressee.
28 Executed on May 16, 2011, at Long Beach, California.

— (VIA OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of
collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the
practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt
on the same day in the ordinary course of business. Such envelope was sealed and placed for
collection and delivery by UPS/FED-EX with delivery fees paid or provided for in accordance
with ordinary business practices.
Executed on May 16, 2011, at Long Beach, California.

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

27 
28 CLAUDIA AYALA