

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

**SHERIFF CLAY PARKER, TEHAMA COUNTY
SHERIFF; HERB BAUER SPORTING GOODS;
CALIFORNIA RIFLE AND PISTOL
ASSOCIATION; ABLE'S SPORTING, INC.; RTG
SPORTING COLLECTIBLES, LLC; AND
STEVEN STONECIPHER,**

Plaintiffs and Respondents,

v.

**THE STATE OF CALIFORNIA; KAMALA D.
HARRIS, in her official capacity as Attorney
General for the State of California; AND THE
CALIFORNIA DEPARTMENT OF JUSTICE,**

Defendants and Appellants.

Case No. F062490

COURT OF APPEAL
FIFTH APPELLATE DISTRICT
FILED

MAY 02 2012

By _____ Deputy

Fresno County Superior Court, Case No. 10CECG02116
The Honorable Jeffrey Y. Hamilton, Judge

**REQUEST AND STIPULATION FOR SECOND EXTENSION OF TIME TO
FILE RESPONDENTS' BRIEF;
DECLARATION OF CLINTON B. MONFORT IN SUPPORT; ORDER**

C. D. Michel - S.B.N. 144258
Clinton B. Monfort - S.B.N. 255609
Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
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Facsimile: 562-216-4445
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Attorneys for Plaintiffs/Respondents

Plaintiffs and Respondents Sheriff Clay Parker, Tehama County Sheriff, Herb Bauer Sporting Goods, California Rifle and Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles, LLC., and Steven Stonecipher ("Respondents"), through their attorneys of record, and Defendants and Appellants the State of California, Kamala Harris in her official capacity as Attorney General of California, and the California Department of Justice ("Appellants"), through their attorney of record, hereby request and stipulate for an extension of time for Respondents to file Respondents' Brief pursuant to California Rules of Court, Rule 8.212(b)(3), which provides that good cause must be shown for an extension after the parties have stipulated for an initial 60-day extension. This application is based on this stipulation of the parties and the declaration of Clinton B. Monfort, attached hereto.

Respondents' Brief is presently scheduled to be filed on or before May 22, 2012, following one extension of time by stipulation for sixty (60) days. (Monfort Decl., ¶¶ 2, 5.) The Court has not sent a Rule 8.220 Notice to Respondents in this matter. (Monfort Decl., ¶ 2.) Appellants and respondents hereby stipulate that Respondents may have an additional sixty (60) days to file Respondents' Brief, and request that this Court grant an order to that effect. If approved by the Court, Respondents' Brief shall be due on or before July 23, 2012.

Good cause for this additional extension exists for the reasons summarized here and attested to in the declaration of Clinton B. Monfort attached hereto:

First, Respondents' counsel has for the last thirty days been working nearly full-time on a dispositive motion in a complex constitutional challenge in federal court under set deadlines for the filing and hearing of all pre-trial motions. (Monfort Decl., ¶ 7(a).)

Respondents' counsel, in his multiple roles as litigator, legislative analyst, and regulatory compliance expert, has also been and will continue to be extensively involved in state legislative and regulatory matters with pending deadlines. (Monfort Decl., ¶ 7(b),(c),(e).) For instance, counsel is currently involved in ongoing negotiations with a state agency regarding the revision of more than a dozen regulations subject to agency deadlines. (Monfort Decl., ¶ 7(c).) Counsel is also preparing a legal challenge to those regulations presenting multiple complex state preemption issues and novel constitutional claims, as necessary to facilitate the regulatory amendment process. (Monfort Decl., ¶ 7(c).)

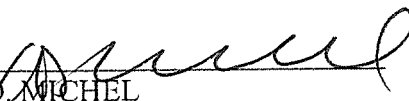
Finally, Respondents' counsel is under deadlines to prepare *Parker v. California* (No. F064510), the related fee motion appeal in this case. (Monfort Decl., ¶ 7(d).) Respondents' counsel has prepared and filed a number of pre-appeal documents, and Appellants' Opening Brief is tentatively due on June 16, 2012. (Monfort Decl., ¶ 7(d).) While the parties are jointly seeking to stay that appeal pending the outcome of this one, if that application is denied, Respondents' counsel will be simultaneously drafting Respondents' Brief and preparing the record and opening brief in Case No. F064510. (Monfort Decl., ¶ 7(d).)

will serve the policy favoring adequate time to prepare briefs “that fully advance the parties’ interests,” and are “accurate, clear, concise, and complete submissions that assist the courts.” (Cal. Rules of Court, rule 8.63(a)(2).).

IT IS SO STIPULATED.

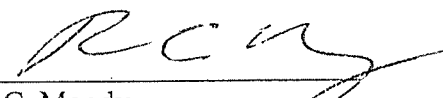
Dated: April 30, 2012

MICHEL & ASSOCIATES, P.C.

By: 
C. D. MICHEL
Attorney for Respondents Sheriff Clay Parker,
Tehama County Sheriff, Herb Bauer Sporting
Goods, California Rifle And Pistol Association,
Able’s Sporting, Inc., RTG Sporting
Collectibles, LLC., and Steven Stonecipher

Dated: April 30, 2012,

KAMALA D. HARRIS
Attorney General of California

By: 
Ross C. Moody
Deputy Attorney General
Attorneys for Appellants State of California,
Kamala Harris, and the California Department
of Justice

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 an associate attorney of the law firm Michel & Associates, P.C., appellate counsel for Respondents Sheriff Clay Parker, Herb Bauer Sporting Goods, California Rifle And Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles, LLC., and Steven Stonecipher ("Respondents"). I have personal knowledge of each fact stated in this declaration.
2. Respondents' Brief in this appeal is currently due May 22, 2012. No Rule 8.220 Notice has been sent to Respondents by the Court.
3. The last brief to be filed by any party to this appeal was Appellants' Opening Brief, submitted on February 23, 2012.
4. The record on appeal consists of a fifteen-volume Joint Appendix (approximately 4,314 pages) and two hearing transcripts. Appellants filed the Joint Appendix on February 23, 2012.
5. The parties have stipulated to, and Respondents were granted, one prior extension of time to file Respondents' Brief for 60 days.
6. I hereby request another 60-day extension of time to file Respondents' Brief. My client approves of this request. On or about April 24, 2012, I contacted Ross C. Moody,

attorney of record for Appellants, via e-mail to request a 60-day extension to file Respondents' Brief. Mr. Moody responded that his client would so stipulate.

7. Good cause exists for this extension for the reasons described below:

a. I have for the last thirty days been working nearly full-time on a dispositive motion in a complex constitutional challenge in federal court under set deadlines for the filing and hearing of all pre-trial motions.

b. The current deadline to file Respondent's Brief coincides strongly with the height of the California state legislative session. I have been working (and will continue to work for the next three to four months) extensively on state legislative matters in my role as legislative analyst for my firm's civil rights clients in California.

c. I am also currently involved in ongoing negotiations with the California Department of Fish & Game regarding the revision of more than a dozen regulations pursuant to agency deadlines for regulatory revision. I have also been preparing for litigation against the Department, involving a number of complex constitutional challenges, including multiple state preemption issues and novel Second Amendment claims.

d. I am also under deadlines to prepare *Parker v. California* (No. F064510), the related fee motion appeal in this case. My office has diligently prepared and filed a number of pre-appeal documents, the Reporter's Transcript in that case is

currently due on May 17, 2012, and Appellants' Opening Brief is tentatively due on June 16, 2012. While the parties are jointly seeking to stay that appeal pending the outcome of this one, in the case that application is denied, I will be simultaneously drafting Respondents' Brief and preparing the record and opening brief in Case No. F064510.

e. Finally, I am facing a number of strict agency deadlines, many of which fall within the next 30 days, in the ongoing representation of my multiple firearms licensing and regulatory compliance clients.

f. All of the above have greatly limited and will continue to so limit my ability to review and analyze the record on appeal and research and prepare Respondents' Brief by the current deadline without impairing its quality.

8. This application and stipulation is made in good faith for the reasons of actual need set forth herein and not merely for the purpose of delay. To my knowledge, the requested extension will not prejudice any party. (Cal. Rules of Court, rule 8.63(b)(1).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 26th day of April, 2012, at Long Beach, California.



Clinton B. Monfort
Declarant

ORDER

GOOD CAUSE APPEARING, it is ORDERED that Respondents Sheriff Clay Parker, Herb Bauer Sporting Goods, California Rifle And Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles, LLC., and Steven Stonecipher shall have an extension of time to file Respondents' Brief. Respondents' Brief is now due on or before July 23, 2012. This order is without prejudice to any party seeking further extensions of time pursuant to the California Rules of Court.

Dated: MAY 02 2012

HILL, P.J.

Presiding Justice

NO FURTHER EXTENSIONS OF TIME
WILL BE GRANTED, ABSENT PROOF
OF EXCEPTIONAL CIRCUMSTANCES

CERTIFICATION OF DELIVERY TO CLIENTS

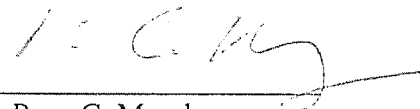
I, C. D. Michel, attorney at law, certify that I have caused a copy of this Request and Stipulation to be served upon my clients Sheriff Clay Parker, Tehama County Sheriff, Herb Bauer Sporting Goods, California Rifle And Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles, LLC., and Steven Stonecipher.

Dated: April 30, 2012

By: 
C. D. Michel

I, Ross C. Moody, Deputy Attorney General, certify that I have caused a copy of this Request and Stipulation to be served upon my clients the State of California, Kamala Harris in her official capacity as Attorney General of California, and the California Department of Justice.

Dated: April 30, 2012

By: 
Ross C. Moody

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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

On April 30, 2012, I served the foregoing document(s) described as

**REQUEST AND STIPULATION FOR SECOND EXTENSION OF TIME TO
FILE RESPONDENTS' BRIEF;
DECLARATION OF CLINTON B. MONFORT IN SUPPORT; ORDER**

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

SEE ATTACHED "SERVICE LIST"

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

Executed on April 30, 2012, 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.

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CLAUDIA AYALA

SERVICE LIST

SHERIFF CLAY PARKER ET AL. v. STATE OF CALIFORNIA ET AL.
CASE NO. F062490

Kamala D. Harris	Attorney for Defendants/Respondents
Attorney General of California	
Peter A. Krause, Deputy Attorney General	
Ross Moody, Deputy Attorney General	
1300 I Street, Suite 125	
Sacramento, CA 94244-2550	

Hon. Jeffrey Hamilton	Judge of the Superior Court
Fresno County Superior Court	
B.F. Sisk Courthouse	
1130 O Street	
Fresno, CA 93721-2220	
Department 402	

Clerk of the Superior Court	Clerk of the Superior Court
Fresno County Superior Court	
B.F. Sisk Courthouse	
1130 O Street	
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F062490

Carl Dawson Michel Esq.
Trutanich & Michel LLP
180 East Ocean Blvd., Ste. 200
Long Beach, CA 90802

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Fresno County Superior Court, Case No. 10CECG02116
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C. D. Michel - S.B.N. 144258
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Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
Telephone: 562-216-4444
Facsimile: 562-216-4445
Email: CMichel@michellawyers.com

Attorneys for Plaintiffs/Respondents

Plaintiffs and Respondents Sheriff Clay Parker, Tehama County Sheriff, Herb Bauer Sporting Goods, California Rifle and Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles, LLC., and Steven Stonecipher ("Respondents"), through their attorneys of record, and Defendants and Appellants the State of California, Kamala Harris in her official capacity as Attorney General of California, and the California Department of Justice ("Appellants"), through their attorney of record, hereby request and stipulate for an extension of time for Respondents to file Respondents' Brief pursuant to California Rules of Court, Rule 8.212(b)(3), which provides that good cause must be shown for an extension after the parties have stipulated for an initial 60-day extension. This application is based on this stipulation of the parties and the declaration of Clinton B. Monfort, attached hereto.

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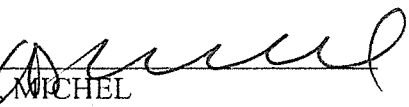
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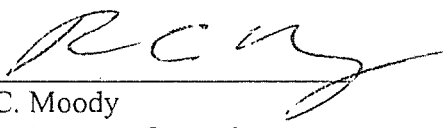
Dated: April 30, 2012

MICHEL & ASSOCIATES, P.C.

By: 
C. D. MICHEL
Attorney for Respondents Sheriff Clay Parker,
Tehama County Sheriff, Herb Bauer Sporting
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Able’s Sporting, Inc., RTG Sporting
Collectibles, LLC., and Steven Stonecipher

Dated: April 30, 2012,

KAMALA D. HARRIS
Attorney General of California

By: 
Ross C. Moody
Deputy Attorney General
Attorneys for Appellants State of California,
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of Justice

DECLARATION OF CLINTON B. MONFORT

I, Clinton B. Monfort, declare as follows:

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Declarant

ORDER

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Dated: _____

Presiding Justice

CERTIFICATION OF DELIVERY TO CLIENTS

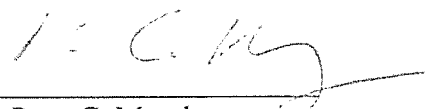
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C. D. Michel

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By: 
Ross C. Moody

PROOF OF SERVICE

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COUNTY OF LOS ANGELES

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on the interested parties in this action by placing

☐ the original

☒ a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

SEE ATTACHED "SERVICE LIST"

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

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CLAUDIA AYALA

SERVICE LIST

SHERIFF CLAY PARKER ET AL. v. STATE OF CALIFORNIA ET AL.
CASE NO. F062490

Kamala D. Harris Attorney General of California Peter A. Krause, Deputy Attorney General Ross Moody, Deputy Attorney General 1300 I Street, Suite 125 Sacramento, CA 94244-2550	Attorney for Defendants/Respondents
--	-------------------------------------

Hon. Jeffrey Hamilton Fresno County Superior Court B.F. Sisk Courthouse 1130 O Street Fresno, CA 93721-2220 Department 402	Judge of the Superior Court
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Clerk of the Superior Court Fresno County Superior Court B.F. Sisk Courthouse 1130 O Street Fresno, CA 93721-2220	Clerk of the Superior Court
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