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7 *Attorneys for Defendants and Respondents*  
8 *State of California, Kamala Harris, DOJ*

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF FRESNO

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14 **SHERIFF CLAY PARKER, et al.,**

15 Plaintiffs and Petitioners,

16 v.

17 **THE STATE OF CALIFORNIA, et al.,**

18 Defendants and Respondents.  
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Case No. 10CECG02116

**(1) THE STATE'S OBJECTIONS TO  
THE DECLARATION OF  
CLINTON MONFORT  
SUBMITTED IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES;**

**(2) [PROPOSED] ORDER  
THEREON**

**[BY FAX]**

Date: July 26, 2011  
Time: 3:30 p.m.  
Dept: Dept. 402  
Judge: The Honorable Jeff  
Hamilton  
Action Filed: June 17, 2010

23 Defendants and respondents the State of California, Kamala Harris, and the California  
24 Department of Justice (collectively, the "State") make the following objections to the Declaration  
25 of Clinton B. Monfort in Support of Plaintiffs' Motion for Attorneys' Fees and to certain exhibits  
26 offered by Monfort in support of the Motion for Attorneys' Fees.  
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The State respectfully requests that the Court rule on each of the following objections prior to ruling on Plaintiffs' motion.

EVIDENCE OBJECTED TO	GROUND'S FOR OBJECTION	COURT'S RULING
<b>OBJECTIONS TO DECLARATION OF CLINTON B. MONFORT IN SUPPORT OF MOTION FOR ATTORNEYS' FEES</b>		
<b>Paragraph 69 (16:22-27):</b> Sean A. Brady billed approximately 68.1 hours during this pre-litigation phase, during which time Mr. Brady conducted legal research and helped draft and review memoranda addressing all possible theories regarding the unconstitutionality of the Challenged Provisions, helped draft and revise the Complaint, communicated with Plaintiffs and potential plaintiffs regarding participation in this litigation, and engaged in discussions with myself, C.D. Michel, outside counsel, and firearms and ammunition experts.	<b>1. Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Brady actually performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled
	<b>2. Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled
<b>Paragraph 70 (15-16: 28-2):</b> 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.	<b>3. Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Michel actually performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled
	<b>4. Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled

<p><b>Paragraph 72 (16:15-17):</b> 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, research and reviewing relevant history and hearings, and contacting Plaintiffs' expert witness.</p>	<p>5. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Ms. Ayala actually performed the work described and has not satisfied any of the exceptions to section 403(a).</p>	Sustained Overruled
	<p>6. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.</p>	Sustained Overruled
<p><b>Paragraph 73 (16:18-19):</b> Of the 15.2 hours spent researching, tracking, and analyzing Assembly Bill 2358, 0.6 hours were billed by my law clerk, Anna Barvir.</p>	<p>7. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Ms. Barvir performed the work described and has not satisfied any of the exceptions to section 403 (a).</p>	Sustained Overruled
	<p>8. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.</p>	Sustained Overruled
<p><b>Paragraph 74 (16:20-22):</b> 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 witnesses.</p>	<p>9. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Brady actually performed the work described and has not satisfied any of the exceptions to section</p>	Sustained Overruled

	403(a).	
	10. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled
<b>Paragraph 75 (16:23-24):</b> Of the 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.	11. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Michel actually performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled
	12. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled
<b>Paragraph 79 (18:1-3):</b> Claudia Ayala spent approximately 1.6 hours formatting Plaintiffs' documents for filing and preparing tables, evidence, and exhibits submitted in support of Plaintiffs' Motion for Preliminary Injunction.	13. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Ms. Ayala performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled
	14. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled

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<p><b>Paragraph 80 (18:4-16):</b> My law clerk, Anna Barvir, spent approximately 134.0 hours researching, drafting, and otherwise preparing Plaintiffs' Motion for Preliminary Injunction. Of this time: Ms. Barvir spent approximately 84.3 hours researching and drafting rough drafts of Plaintiffs' Motion for Preliminary Injunction, as well as drafting and revising Plaintiffs' Reply memorandum. Ms. Barvir spent approximately 0.3 hours drafting e-mails to me regarding the preparation of this Motion, and approximately 3.6 hours meeting with Mr. Brady, Mr. Michel and I regarding litigation strategy relating to Plaintiffs' Motion for Preliminary Injunction. Ms. Barvir spent approximately 3.0 hours preparing, assembling, and reviewing supporting documents and evidence filed in support of this motion, and approximately 0.4 hours participating in telephone conferences co-counsel. Ms. Barvir spent approximately 2.5 hours analyzing issues arising under Plaintiffs' Motion for Preliminary Injunction, and analyzing Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction. Ms. Barvir spent 39.9 hours reviewing, revising, cite checking, and proofreading all documents filed by Plaintiffs' in support of Plaintiffs' Motion for Preliminary Injunction.</p>	<p><b>15. Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Ms. Barvir actually performed the work described and has not satisfied any of the exceptions to section 403(a).</p>	<p>Sustained Overruled</p>
	<p><b>16. Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions</p>	<p>Sustained Overruled</p>

1		apply.	
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4	<b>Paragraph 81 (18:17-26):</b> Sean A.	<b>17. Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not	Sustained
5	Brady spent approximately 75.5	proffered any preliminary	Overruled
6	hours assisting in the preparation of	evidence to establish personal	
7	Plaintiffs' Motion for Preliminary	knowledge or to lay the	
8	Injunction. Of that time, Mr. Brady	foundation that Mr. Brady	
9	spent a significant amount of time	actually performed the work	
10	assembling, coordinating, and	described and has not satisfied	
11	facilitating the filing of all	any of the exceptions to section	
12	declarations submitted in support of	403(a).	
13	Plaintiffs' Motion for Preliminary		
14	Injunction. Mr. Brady also devoted		
15	significant hours to proofreading and		
16	revising Plaintiffs' Motion and		
17	Reply, and research and assembling		
18	supporting exhibits. Mr. Brady also		
19	provided crucial litigation strategy		
20	support for Ms. Barvir and I		
21	regarding practical firearms and		
22	ammunition related questions,		
23	including issues regarding		
24	ammunition function, appearance,		
25	labeling, packaging, and non-		
26	technical layman and firearm		
27	enthusiast nomenclature. Mr. Brady		
28	also provided valuable analysis		
	relating to an examination of all		
	possible scenarios under which		
	Defendants might claim the		
	Challenged Provisions provide a		
	valid application.		
		<b>18. Hearsay (Evid. Code, § 1200):</b> The statement	Sustained
		summarizes what another person	Overruled
		claims to have billed in the case	
		and none of the exceptions	
		apply.	
	<b>Paragraph 87 (20:4-6):</b>	<b>19. Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not	Sustained
	Approximately 26.2 hours were	proffered any preliminary	Overruled
	spent by my law clerk, Anna Barvir,	evidence to establish personal	
	proofreading and revising discovery	knowledge or to lay the	
	requests and responses, assisting in	foundation that Ms. Barvir	
	deposition preparation, and		
	analyzing deposition testimony.		

	actually performed the work described and has not satisfied any of the exceptions to section 403(a).	
	20. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled
<b>Paragraph 88 (20:7-10):</b> Approximately 51.7 hours were spent by Sean A. Brady analyzing discovery responses, preparing discovery responses to Defendants' request for production of documents, assisting in preparation of the deposition of Defendants' expert witness, assisting in preparation for depositions noticed by Defendants, and analyzing and reviewing deposition testimony.	21. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Brady actually performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled
	22. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled
<b>Paragraph 89 (20: 11-16):</b> Approximately 61.2 hours were spent by Joshua Dale traveling to and defending the depositions of Steven Helsley and Barry Bauer/Bauer Sporting Goods/Steven Stonecipher that were noticed by Defendants to occur in Sacramento and Fresno California respectively, taking the deposition of Defendants' expert witness, and defending the deposition of Sheriff Clay Parker, analyzing and reviewing deposition testimony, and assisting in preparation of Defendants' extensive requests for production of documents.	23. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Dale actually performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled
	24. <b>Hearsay (Evid. Code, § 1200):</b> The statement	Sustained Overruled

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	summarizes what another person claims to have billed in the case and none of the exceptions apply.	
<b>Paragraph 94 (22:6-23):</b> My law clerk, Anna Barvir, spent approximately 176.7 hours preparing for Plaintiffs' Motion for Summary Judgment or in the Alternative for Summary Adjudication/Trial. The time Ms. Barvir spent preparing for this motion and trial is broken down as follows: Ms. Barvir spent approximately 87.9 hours drafting Plaintiffs' Motion and supporting documents (of this 87.9 hours she spent approximately 47.5 hours drafting Plaintiffs' Notice of Motion and Motion and Plaintiff's supporting memorandum of points and authorities, she spent approximately 28.4 hours drafting Plaintiff's supporting Reply memorandum, she spent approximately 8.2 hours drafting Plaintiffs' supporting Separate Statements of Undisputed Facts, and approximately 3.5 hours drafting additional supporting documents, including supporting declarations and objections to evidence); Ms. Barvir spent approximately 0.2 hours drafting e-mails to co-counsel; Ms. Barvir spent approximately 49.5 hours conducting legal research and other research in support of Plaintiffs' claims and to address Defendants' various legal and factual defenses and claims; Ms. Barvir spent approximately 8.1 hours meeting with co-counsel discussing litigation strategy, revisions to filings, and legal and evidentiary issues; Ms. Barvir spent approximately 4.9 hours preparing, assembling, and reviewing exhibits and declarations, and supporting	<b>25. Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Ms. Barvir actually performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled



1 documents and pleadings for filing, 2 and assisting me in preparation for 3 hearing; Ms. Barvir spent 4 approximately 15.3 hours reviewing 5 and revising documents filed in 6 support of Plaintiffs' Motion, and 7 she spent approximately .8 hours 8 participating in telephone 9 conferences with co-counsel, 10 Plaintiffs, and Plaintiffs' expert 11 witness.		
	26. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled
11 <b>Paragraph 95 (22-23:24-13):</b> Sean 12 Brady spent approximately 161.5 13 hours preparing for Plaintiffs' 14 Motion for Summary Judgment or in 15 the Alternative for Summary 16 Adjudication/Trial. The time Mr. 17 Brady spent preparing this motion 18 and for trial is broken down as 19 follows: Mr. Brady spent 65.8 hours 20 analyzing and developing litigation 21 strategies, analyzing deposition 22 testimony and evidence, and 23 analyzing Defendants' Opposition 24 brief in supporting evidence: Mr. 25 Brady spent approximately 25.2 26 hours drafting Plaintiffs' portions of 27 Plaintiffs' Motion for Summary 28 Judgment and supporting documents; Mr. Brady spent approximately 1.0 hour drafting e- mails to co-counsel, Plaintiffs, and Plaintiffs' expert witness: Mr. Brady spent approximately 6.5 hours conducting legal research and other research in support of Plaintiffs' claims and to address Defendants' various legal and factual defenses and claims; Mr. Brady spent approximately 8.0 hours meeting with co-counsel discussing litigation	27. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Brady actually performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled

strategy, revisions to filings, and legal evidentiary issues; Mr. Brady spent approximately 28.2 hours preparing, assembling, and reviewing exhibits, declarations, and supporting documents and pleadings for filings and preparing for hearing and trial; Mr. Brady spent approximately 12.2 hours reviewing and revising documents filed in support of Plaintiffs' Motion; Mr. Brady spent approximately 3.3 hours participating in telephone conferences with co-counsel, Plaintiffs, and Plaintiffs' expert witness, Mr. Brady spent approximately 9.0 traveling to hearing on Plaintiffs' Motion; and Mr. Brady billed approximately 2.3 hours while appearing at the hearing on Plaintiffs' Motion.

28. **Hearsay (Evid. Code, § 1200):** The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.

Sustained  
Overruled

**Paragraph 96 (23:14-27):** Joshua Dale spent approximately 52.2 hours assisting in preparation for Plaintiffs' Motion for summary Judgment. Mr. Dale's assistance was required to ensure timely and effective preparation and filing of Plaintiffs' motion and supporting documents in light of the extremely expedited briefing scheduled agreed upon by the parties following Defendants' prior decisions to decline plaintiffs' request to stipulate to an expedited briefing schedule. Mr. Dale's litigation assistance under these circumstances was reasonable and reflects competent case management in litigating cases

29. **Lacks Foundation (§ 403) and Personal Knowledge (§ 702):** The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Dale actually performed the work described and has not satisfied any of the exceptions to section 403(a).

Sustained  
Overruled

such as this, of widespread consequence, given Mr. Dales' extensive civil litigation experience. The hours billed by Mr. Dale in support of Plaintiffs' Motion for Summary Judgment or in the Alternative for Summary Adjudication/Trial were spent analyzing, reviewing, and lodging relevant deposition testimony, providing consulting and litigation support with regard to litigation strategies and case management under severe time constraints, analyzing and reviewing evidence submitted in support of Defendants' Opposition, Drafting Objections to Defendants' Evidence, drafting and revising Plaintiffs' Separate Statements of Undisputed Facts, and reviewing and revising documents filed in support of Plaintiffs' Motion.

	30. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled
	31. <b>Ambiguous:</b> The declarant's statement is unclear about how much time Dale devoted to each task, thereby making it difficult for the State to assess how much duplicative and excessive work Dale supposedly did.	Sustained Overruled
<b>Paragraph 97 (23-24:28-4):</b> C.D. Michel spent approximately 25.2 hours reviewing and revising Plaintiffs' Memorandum of Points and Authorities filed in support of Plaintiffs' Motion, Plaintiffs' Reply memorandum filed in support of Plaintiffs' Motion, analyzing, discussing, and coordinating litigation strategies, consulting with clients, co-counsel, and outside	32. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Michel actually performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled

1	counsel, traveling to hearing on		
2	Plaintiffs' Motion, and appearing at		
3	hearing on Plaintiffs' Motion.		
4		33. <b>Hearsay (Evid. Code, § 1200):</b> The statement	Sustained
5		summarizes what another person	Overruled
6		claims to have billed in the case	
7		and none of the exceptions	
8		apply.	
9		34. <b>Ambiguous:</b> The	Sustained
10		declarant's statement is unclear	Overruled
11		about how much time Michel	
12		devoted to each task, thereby	
13		making it difficult for the State	
14		to assess how much duplicative	
15		and excessive work Michel	
16		supposedly did.	
17	<b>Paragraph 99 (24:14-26):</b> My law	35. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not	Sustained
18	clerk, Anna Barvir, spent	proffered any preliminary	Overruled
19	approximately 103.9 hours on post-	evidence to establish personal	
20	hearing work. Broken down, she	knowledge or to lay the	
21	spent 7.2 hours drafting, revising,	foundation that Ms. Barvir	
22	editing the [Proposed] Order of	actually performed the work	
23	Permanent Injunction, and analyzing	described and has not satisfied	
24	and incorporating the revisions	any of the exceptions to section	
25	proposed by opposing counsel; 4.8	403(a).	
26	hours drafting, revising, and editing		
27	the [Proposed] Judgment, and		
28	analyzing and incorporating the		
	revisions proposed by opposing		
	counsel; 3.1 hours researching,		
	drafting, and revising Plaintiffs'		
	Memorandum of Costs; 20.7 hours		
	analyzing Defendants' Motion to		
	Tax Costs, conducting legal research		
	and drafting, revising, and editing		
	Plaintiffs' Opposition to		
	Defendants' Motion to Tax Costs,		
	and reviewing Defendants' Reply;		
	and 67.8 hours conducting legal		
	research on the attorneys fee issue		
	and the private attorney general		
	doctrine, drafting, revising, and		
	editing Plaintiffs' Motion for		
	Attorneys Fees, reviewing Plaintiffs'		
	counsel's extensive billing records		

1 and compiling evidence to support 2 the fee motion, researching 3 reasonable billing rates in Southern 4 California, and contacting local 5 attorneys regarding the same, 6 drafting, revising, and editing all 7 documents in support of the fee 8 motion, and overseeing filing efforts.		
	36. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled
9 <b>Paragraph 103 (25:10-12):</b> C.D. 10 Michel billed 14.0 hours of post- 11 hearing activity, including reviewing 12 and revising all post-hearing filings, 13 evaluating the merits of an appeal, 14 and communicating with co-counsel 15 and clients.	37. <b>Lacks Foundation (§ 403) and Personal Knowledge (§ 702):</b> The declarant has not proffered any preliminary evidence to establish personal knowledge or to lay the foundation that Mr. Michel actually performed the work described and has not satisfied any of the exceptions to section 403(a).	Sustained Overruled
	38. <b>Hearsay (Evid. Code, § 1200):</b> The statement summarizes what another person claims to have billed in the case and none of the exceptions apply.	Sustained Overruled

Dated: July 13, 2011

Respectfully Submitted,

KAMALA D. HARRIS  
Attorney General of California  
PETER A. KRAUSE  
Supervising Deputy Attorney General



PETER A. KRAUSE  
Supervising Deputy Attorney General  
*Attorneys for Defendants and Respondents  
State of California*

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**DECLARATION OF SERVICE BY OVERNIGHT COURIER**

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

No.: **10CECG02116**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On July 13, 2011, I served the attached

(1) THE STATE'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO PLAINTIFFS' MOTION FOR ATTORNEYS' FEES; and (2) DECLARATION OF PETER A. KRAUSE

(1) THE STATE'S OBJECTIONS TO THE DECLARATION OF CLINTON MONFORT SUBMITTED IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES;  
(2) [PROPOSED] ORDER THEREON

THE STATE'S NOTICE OF LODGING FEDERAL AUTHORITIES AND NON-CALIFORNIA AUTHORITIES CITED IN THE STATE'S OPPOSITION TO PLAINTIFFS' MOTION FOR ATTORNEYS' FEES

by placing a true copy thereof enclosed in a sealed envelope with the Golden State Overnight courier service, addressed as follows:

C.D. Michel  
Michel & Associates, P.C.  
180 E. Ocean Boulevard, Suite 200  
Long Beach, CA 90802

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 13, 2011, at Sacramento, California.

Brenda Apodaca  
Declarant

  
Signature