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Attorneys for Defendants,
Andrews Sporting Goods, Inc. dba
Turners Outdoorsman, and S.G. Distributing, Inc.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

Judicial Council Coordination Proceeding
Special Title (Rule 1550(b))

FIREARM CASES

Coordinated actions:

THE PEOPLE OF THE STATE OF
CALIFORNIA, ex rel. the County of Los
Angeles, et. al.,

v.

ARCADIA MACHINE & TOOL, et. al.,

THE PEOPLE OF THE STATE OF
CALIFORNIA, by and through JAMES K.
HAHN, City Attorney of the City of Los
Angeles, et. al.,

v.

ARCADIA MACHINE & TOOL, et. al.,

THE PEOPLE OF THE STATE OF
CALIFORNIA, by and through San
Francisco City Attorney Louise H. Renne,

v.

ARCADIA MACHINE & TOOL, et. al.

JUDICIAL COUNCIL COORDINATION
PROCEEDINGS NO. 4095

Superior Court of California City & County of
San Francisco No. 303753

Superior Court of California County of Los
Angeles No. BC210894

Superior Court of California County of Los
Angeles No. BC214794

**DECLARATION OF C.D. MICHEL IN
SUPPORT OF DEFENDANTS ANDREWS
SPORTING GOODS' AND S. G.
DISTRIBUTING'S SPECIAL MOTION
TO STRIKE PURSUANT TO CIVIL
CODE SECTION 416.25**

Date: March 7, 2003

Time: 8:30 a.m.

Dept. 65

Hon. Vincent. P. DiFiglia

1/3/2002

1 I, C.D. Michel, declare as follows:

2 1. I am counsel for Defendant Andrews Sporting Goods, Inc. dba Turners
3 Outdoorsman (hereinafter referred to as "ASG") and S.G. Distributing, Inc.
4 (hereinafter referred to as "SGD").

5 2. I have personal knowledge of the facts contained in this declaration and could, if
6 called upon to do so, testify competently there to. This declaration is offered in
7 support of Defendant ASG and SGD's Motion for Summary Judgment or in the
8 Alternative Summary Adjudication.

9 ✓ 3. Attached as Exhibit A is a true and correct copy of ASG and SGD's first set of
10 form interrogatories.

11 ✓ 4. Attached as Exhibit B is Plaintiffs' responses to ASG and SGD's first set of form
12 interrogatories.

13 ○ 5. ✓ Attached as Exhibit C is a true and correct copy of ASG and SGD's First set of
14 Requests for Admissions.

15 ✓ 6. Attached as Exhibit D is a true and correct copy of Plaintiffs' responses to ASG
16 and SGD's first set of Requests for admissions.

17 ✓ 7. Attached as Exhibit E is a true and correct copy of ASG First Set of Special
18 Interrogatories.

19 ✓ 8. Attached as Exhibit F is a true and correct copy of Plaintiff's Response to ASG's
20 first set of Special Interrogatories.

21 ○ 9. ✓ Attached as Exhibit G is a September 12, 2002 meet and confer letter regarding
22 outstanding discovery to Plaintiffs Counsel Jason T. Baker, in which I stated:

23 With specific reference to your advertising claims, Andrew's Sporting Goods
24 Special Interrogatories No. 50 and 52 requested a list of all firearms advertised by
25 defendant in violation of Federal, State or Local laws. Special Interrogatories 53
26 and 55 requested identification of facts and a description of documents that
27 Andrews made deceptive statements in their advertisements. Special Interrogatory
28 No. 54 requested identification of expert witnesses that support your contention
that Defendant Andrews made deceptive statements. Turner's produced over 800
advertisements months ago. Yet you have failed to identify or produce a single
document that you allege is in violation of the Business and Professions Code, as
alleged in your Complaint.

10. Plaintiffs have not produced or identified a single ASG or SGD advertisement that they contend is false, fraudulent or misleading.

PLAINTIFFS DO NOT KNOW WHAT TYPE OF INJUNCTIVE RELIEF THEY SEEK

11. Plaintiffs have failed to identify what specific relief they seek from retailers and/or wholesaler/distributors.

12. Attached as Exhibit H is a June 21, 2001 letter written, for the purposes of evaluating a possible settlement, in which I inquired as to what Plaintiffs would “be seeking... [retailers and wholesaler/distributors] to change about the way it practices as a storefront operator” or “about the way it conducts business as a wholesaler/distributor.”

13. Attached as Exhibit I is a July 11, 2001 response from Plaintiffs’ Attorney Jonah H. Goldstein in which they admitted that they do not know what specific relief they seek, stating that:

Plaintiffs seek preliminary and permanent injunctive relief requiring defendants ... to cease and desist from continuing to engage in practices that constitute a public nuisance. Plaintiffs also seek to enjoin defendants from engaging in unlawful and unfair business practices as set forth in the respective complaints brought by the City of Los Angeles, County of Los Angeles and City of San Francisco. The precise nature of the injunctive relief will be determined by Judge DiFiglia once the evidence has been presented. As this case is still in the discovery phase and no evidence has been presented to the court, it would be premature for plaintiffs to attempt to determine the precise nature of the injunctive relief to be fashioned by the Court.

14. Attached as Exhibit J is the July 19, 2001 response to Plaintiffs July 11, 2001 reply stating:

My June 21st letter was, and this letter is, an attempt to narrow the issues of dispute between the parties, if possible. To further that goal I am now attempting to determine what specific injunctive relief the Plaintiffs seek. Though your letter points out “that the precise nature of the injunctive relieve will be determined by Judge DiFiglia once the evidence has been presented” this, of course, ignores the obvious reality that Judge DiFiglia will be asking Plaintiffs, should they prevail, what injunctive relief they recommend or seek...The manner in which you responded to this letter leads me to the inevitable conclusion that the Plaintiffs do not know what specific injunctive relief they seek...

15. Plaintiffs did not respond to the June 19, 2001 letter asking for clarification as to what specific relief they seek.

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16. ✓ Attached as Exhibit K is a true and correct copy of the August 4, 2000
Memorandum of Points and Authorities In Support of Defendants Consolidated
Demurrers and Motion to Strike Plaintiffs Complaint.

I declare under penalty of perjury under the laws of the state of California that the foregoing
is true and correct.

DATED: January 3, 2002 BY: /s/ C.D. Michel
C.D. Michel
Counsel for Defendants