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Attorneys for The People of the State of California, et al.

[Additional counsel appear on signature page.]

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

Coordination Proceeding Special Title (Rule 1550(b)))	JUDICIAL COUNCIL COORDINATION
)	PROCEEDING NO. 4095
FIREARM CASE)	
)	
Including actions:)	
)	
<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	San Francisco Superior Court No. 303753
)	
<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	Los Angeles Superior Court No. BC210894
)	
<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	Los Angeles Superior Court No. BC214794
)	
)	DATE: February 6, 2001
)	TIME: 8:30 a.m.
)	DEPT: 65
)	Hon. Vincent P. DiFiglia

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS'
EX PARTE MOTION FOR ORDER COMPELLING DEFENDANT
TRADER SPORTS, INC. TO PRODUCE DOCUMENTS FOR INSPECTION

1 Set of Requests for Admissions on "Plaintiff People, by San Francisco." Counsel for one of the
2 plaintiffs, D. Cameron Baker, responded to Traders' counsel, notifying them that this written
3 discovery was improper under the Court's Order and that plaintiffs would not respond to that
4 discovery. *See* October 31, 2000 letter from Mr. Baker to James Crew and Jack Leavitt, Baker Decl.,
5 Ex. C. At the same time, counsel for plaintiffs requested that Traders provide dates for plaintiffs to
6 inspect documents being produced by Traders. *See id.*

7 By letter dated January 4, 2001, Mr. Baker again raised the issue of inspecting Traders'
8 documents. Traders again responded in writing that it wanted plaintiffs to respond to its First Set
9 of Requests for Admission prior to producing its documents. Following Traders' letter, Mr. Baker
10 had a conference call with one of Traders' counsel, James Crew, who indicated that Traders would
11 make its documents available without regard to whether or not plaintiffs had responded to Traders'
12 requests for admissions. *See* January 17, 2001 letter from Mr. Baker to Jack Leavitt, Baker Decl.,
13 Ex. E. However, in a later telephone discussion, Jack Leavitt, Mr. Crew's co-counsel, indicated that
14 Traders would not produce its documents for inspection until plaintiffs responded to the requests for
15 admissions.

16 On January 29, 2001, Mr. Baker again attempted to resolve the matter by calling Mr. Crew.
17 When Mr. Crew did not respond, Mr. Baker notified Mr. Crew and Mr. Leavitt in writing that
18 plaintiffs would make this *ex parte* application to compel Traders to produce its documents. *See*
19 January 29, 2001 letter from Mr. Baker to Mr. Crew and Mr. Leavitt, Baker Decl., Ex. F.

20 **III. LEGAL DOCUMENT**

21 Traders has agreed to produce for inspection all of the documents at issue. Nonetheless,
22 Traders now refuses to make its production until such time as plaintiffs respond to Traders' First Set
23 of Requests for Admissions. Traders' position lacks merit. First, a party cannot condition its
24 performance of its discovery obligations based upon another party's response to later-served
25 discovery. *See* C.C.P. 2031. Second, even if a party could do so, Traders' discovery was improper
26 as it was served in violation of the October 13, 2000 Written Discovery Stipulation and Order
27 entered by the Court. Third, Traders' justification for refusing to produce its documents is
28 unfounded. Even when the ninety day stay period for the service of written discovery expired,

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I, Veronica Rivera, declare:

2. That on January 31, 2001, I served the **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' EX PARTE MOTION FOR ORDER COMPELLING DEFENDANT TRADER SPORTS, INC. TO PRODUCE DOCUMENTS FOR INSPECTION** by JusticeLink Electronic filing on all persons appearing on the Service List.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 31st day of January, 2001, at San Diego, California.

Veronica Rivera
VERONICA RIVERA