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MILBERG WEISS BERSHAD
HYNES & LERACH LLP
WILLIAM S. LERACH (68581)
FRANK J. JANECEK, JR. (156306)
MICHAEL J. DOWD (135628)
STEPHEN P. POLAPINK (177489)
JONAH H. GOLDSTEIN (193777)
600 West Broadway, Suite 1800
San Diego, CA 92101
Telephone: 619/231-1058

- and -
PATRICK J. COUGHLIN (111070)
EX KANO S. SAMS II (192936)
100 Pine Street, Suite 2600
San Francisco, CA 94111
Telephone: 415/288-4545

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

PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO COMPEL THE PRODUCTION OF A KNOWLEDGEABLE CORPORATE DESIGNEE AND DOCUMENTS FROM DEFENDANT SPORTING ARMS AND AMMUNITION MANUFACTURERS' INSTITUTE, INC.

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1 **I. Introduction**

2 Characterizing plaintiffs' discovery requests as "border[ing] on the trivial" and plaintiffs'
3 attempts to obtain information responsive to these requests as "inane," the Sporting Arms and
4 Ammunition Manufacturers' Institute, Inc. ("SAAMI") continues to refuse to provide information
5 relevant to the issue of personal jurisdiction. Although there are numerous deficiencies in SAAMI's
6 responses to plaintiffs' discovery requests, plaintiffs have brought only the three most egregious
7 before this court: (1) SAAMI's failure to produce a knowledgeable corporate designee; (2) SAAMI's
8 failure to provide existing documents responsive to plaintiffs' Second Set of Requests of Production
9 of Documents, Request Number 23; and (3) SAAMI's failure to provide existing documents
10 responsive to plaintiffs' Second Set of Requests of Production of Documents, Request Number 34.¹
11 SAAMI admits that its corporate designee, Robert Delfay, lacked information crucial to the issue
12 of jurisdiction and yet maintains that such lack of knowledge does not require the production of an
13 individual with knowledge of such information. Additionally, SAAMI acknowledges that it has
14 maintained contacts with manufacturers and a law firm in California for a previous lawsuit in the
15 state and yet mistakenly contends that activities "in California related to Proposition 65 lead
16 warnings are unrelated to plaintiffs' cause of action" and are therefore unrelated to the issue of
17 jurisdiction. SAAMI's Opposition to Motion to Compel ("SAAMI's Opp."), at 9. As a result,
18 SAAMI refused to produce such information to the two document requests which are the subject of
19 this motion to compel. SAAMI fails to realize, however, that if its contacts with California are
20 substantial, continuous and systematic, "it is not necessary that the specific cause of action alleged
21 be connected with the defendant's business relationship to the forum." *Vons Companies, Inc. v.*
22 *Seabest Foods, Inc.*, 14 Cal. 4th 434, 445-46 (1996) (citation omitted). Because SAAMI's refusal
23 to provide a more knowledgeable corporate designee and existing information responsive to
24 plaintiffs' two document requests is unjustified, SAAMI should be compelled to provide such
25 information.

26 _____
27 ¹ As noted above, plaintiffs move on only two requests: Numbers 23 and 34 from plaintiffs'
28 Second Set of Requests. In its response to these two requests, SAAMI incorporated responses it
made to other requests and, in fairness to SAAMI, plaintiffs included those responses to fully
incorporate SAAMI's response to those two requests.

1 **II. Argument**

2 **A. SAAMI Has Failed to Produce a Knowledgeable Corporate Designee**

3 Despite SAAMI's contention that plaintiffs move to compel regarding only a few areas of
4 inquiry for which Mr. Delfay lacked knowledge, there are actually numerous instances for which he
5 lacked information relevant to the issue of jurisdiction:

- 6 • when SAAMI's California members became members;
- 7 • whether SAAMI's pamphlets were sent to, or sold in, California;
- 8 • the approximate number of SAAMI pamphlets that were sent to, or sold in, California;
- 9 • whether SAAMI placed advertisements in publications distributed in California;
- 10 • information regarding SAAMI's past California membership;
- 11 • whether SAAMI's videotapes were sent to, or sold in, California; and
- 12 • whether SAAMI's standards apply to manufacturers – including those in California – who

13 are not members of SAAMI.

14 *See* Plaintiffs' Separate Statement in Support of Motion to Compel.

15 These issues are vital to the area of personal jurisdiction. *See Sims v. Nat'l Eng'g Co.*, 221
16 Cal. App. 2d 511, 514 (1963) (holding that sales which occur in the forum state can serve as the
17 basis for the exercise of jurisdiction); *A.R. Indus., Inc. v. Superior Court*, 268 Cal. App. 2d 328, 336
18 (1968) (holding that the dissemination of advertisements can serve as a basis for the exercise of
19 jurisdiction); *Jeter v. Austin Trailer Equip. Co.*, 122 Cal. App. 2d 376, 389 (1953) (holding that an
20 entity is subject to the jurisdiction of California courts if it conducts systematic solicitation in the
21 state). SAAMI's continued refusal to provide a corporate designee with knowledge of these areas
22 of inquiry relevant to jurisdiction is unjustified.

23 SAAMI repeatedly contends that it should not be compelled to produce another deponent
24 because it does not have an "all knowing witness." Plaintiffs, however, are merely seeking to depose
25 an individual with knowledge of information relevant to jurisdiction. If Mr. Delfay does not have
26 knowledge of such information, then SAAMI is required to produce someone who does. *McKesson*

1 *Corp. v. Islamic Republic of Iran*, 185 F.R.D. 70, 79 (D.D.C. 1999).² For instance, someone within
2 the organization must know whether certain SAAMI publications and videotapes were sent to
3 California and, if so, the approximate numbers that were sent. Presumably, if SAAMI sold these
4 publications and videotapes, then SAAMI would have purchase or sale orders available to which a
5 SAAMI employee could refer. Similarly, someone within the organization must know about the
6 publications in which SAAMI placed advertisements. If Mr. Delfay was not involved with SAAMI's
7 advertisements or the distribution of SAAMI's publications to California, then SAAMI should be
8 required to produce whoever was responsible for these tasks. *In re Air Crash Disaster at Detroit*
9 *Metro. Airport*, 130 F.R.D. 627 (E.D. Mich. 1989).

10 Moreover, SAAMI failed to respond to plaintiffs' contention that SAAMI cannot substitute
11 its obligation to produce a knowledgeable corporate designee with written discovery. As one court
12 aptly noted with respect to F.R.C.P. 30(b)(6) depositions:

13 Defendant suggests that it was sufficient to supply the information [sought
14 during the deposition] in its written answer to interrogatory no. 30. Nothing in the
15 Federal Rules of Civil Procedure gives a party the right to not respond or
16 inadequately respond to a Rule 30(b)(6) deposition notice or subpoena request and
17 elect to supply the answers in a written response to an interrogatory. An attempt to
18 so limit a Rule 30(b)(6) deposition is not warranted. Because of its nature, the
deposition process provides a means to obtain more complete information and is,
therefore, favored. Even if the Court were to consider approving such a procedure,
defendant must first obtain a protective order pursuant to Rule 26(c), Fed. R. Civ. P.,
which it has not done. Nothing in the instant case convinces the Court that
defendant's actions in this case were justified.

19 *Marker v. Union Fidelity Life Ins. Co.*, 125 F.R.D. 121, 126 (M.D.N.C. 1989).

20 Finally, despite SAAMI's assertion, it has not provided all the information plaintiffs seek
21 through this motion.³ Plaintiffs specifically enumerated the categories of information sought within
22 their deposition notice. *See Declaration of Ex Kano S. Sams II in Support of Plaintiffs' Motion to*
23 *Compel ("Sams Decl.")*, Ex. 2. Additionally, despite SAAMI's claim, these categories were indeed

24 ² California courts have held that "[b]ecause of the similarity of California and federal
25 discovery law, federal decisions have historically been considered persuasive absent contrary
California decisions." *Liberty Mut. Ins. Co. v. Superior Court*, 10 Cal. App. 4th 1282, 1288 (1992).

26 ³ It is important to note that SAAMI contends that, with the exception of the date Weatherby,
27 Inc. joined as a member of SAAMI, "SAAMI has provided plaintiffs all available information on
28 the topics on which they seek additional depositions." SAAMI's Opp., at 4. This statement – which
is incorrect – directly undermines its contention that plaintiffs purportedly refused its offer to provide
such information through written discovery.

1 referenced in numerous lengthy meet-and-confer letters.⁴ Because SAAMI's refusal to provide a
2 deponent with knowledge of this relevant information is unjustified, plaintiffs' motion to compel a
3 more knowledgeable corporate designee should be granted.⁵

4 **B. SAAMI Has Failed to Produce Existing Documents Demonstrating its**
5 **Contacts with the State of California**

6 Although SAAMI acknowledges that it communicated and maintained contacts with gun
7 manufacturers and other entities in California as an agent for the manufacturers in previous
8 California litigation, it contends that such information is unrelated to the issue of jurisdiction.
9 SAAMI asserts that "[a]ctivities in California related to Proposition 65 lead warnings are unrelated
10 to plaintiffs' cause of action and, hence, could not be the basis for specific jurisdiction." SAAMI's
11 Opp., at 9. SAAMI fails to acknowledge that personal jurisdiction may be either general or specific
12 and, in the case of general jurisdiction, "it is not necessary that the specific cause of action alleged
13 be connected with the defendant's business relationship to the forum." *Vons*, 14 Cal. 4th at 445
14 (citation omitted). Thus, if SAAMI has maintained substantial, continuous and systematic
15 relationships with the gun manufacturers and other entities in California with which it dealt in the

16 ⁴ See Sams Decl., Ex. 7 ("Mr. Delfay, however had little knowledge, if any, about various
17 topics encompassed in our deposition notice, including, but not limited to, the following topics: *Shot*
18 *Business*; The relationship with or information from Peterson Publishing and Reed Exhibition; The
19 relationship with other entities in California with which the NSSF or SAAMI has conducted
20 business; NSSF and SAAMI publications that were distributed in California including who received
such publications and the number of copies distributed in California; California membership;
California website hits"). See also Sams Decl., Ex. 9 and 14.

21 ⁵ SAAMI misunderstands the importance of Weatherby, Inc.'s membership in SAAMI as an
22 issue relevant to jurisdiction. SAAMI contends that since Weatherby, Inc. produces long-guns rather
23 than handguns and since Weatherby, Inc. is not named as a defendant, information regarding
24 Weatherby, Inc. is not relevant to the issue of jurisdiction. The fact that Weatherby, Inc. may
25 produce semi-automatic shotguns rather than handguns is of no importance for the issue of
26 determining jurisdiction – any contacts which SAAMI maintained with Weatherby, Inc., as an entity
27 located in California, can serve as the basis for the exercise of personal jurisdiction over SAAMI.
28 *Vons*, 14 Cal. 4th at 445. Additionally, the fact that Weatherby, Inc. is not named as a defendant is
also of no significance for purposes of jurisdiction. If SAAMI's position were correct, then any
plaintiff seeking to assert jurisdiction over a foreign corporation would have to name as defendants
every person and entity with whom the corporation may have done business before the plaintiffs
would be entitled to jurisdictional discovery relating to such persons and entities. Such is not the
case. Finally, information relating to when Weatherby, Inc. became a member of SAAMI is
important for jurisdiction since a court is more likely to find jurisdiction over corporations with long-
standing business relationships with entities in the forum state than those with only recent
relationships, as long-standing relationships are more likely to be deemed "substantial ... continuous
and systematic." *Id.* (citation omitted).

1 previous litigation, such business relationships can serve as the basis for the exercise of personal
2 jurisdiction. *Buckeye Broiler Co. v. Superior Court*, 71 Cal. 2d 893, 904 (1969). Moreover, since
3 SAMMI served as an agent for gun manufacturers in the previous litigation, California courts also
4 could conceivably exercise specific jurisdiction over SAMMI if the violations alleged in the previous
5 action relate to the violations which plaintiffs allege in this action. Because SAAMI has failed to
6 produce such documents, however, plaintiffs are unable to make this determination. Accordingly,
7 SAAMI should be compelled to provide such information since it is responsive to plaintiffs' requests
8 and relevant to the issue of personal jurisdiction.

9 **III. Conclusion**

10 For the foregoing reasons, the Court should grant plaintiffs' motion in its entirety.

11 DATED: October 6, 2000


LOUISE H. RENNE
San Francisco City Attorney
OWEN J. CLEMENTS
Chief of Special Litigation
D. CAMERON BAKER
INGRID M. EVANS
Deputy City Attorneys
1390 Market Street, 6th Floor
San Francisco, CA 94102-5408
Telephone: 415/554-3800

JAMES K. HAHN
City Attorney
CARMEL SELLA
Special Asst. City Attorney
DON KASS
Deputy City Attorney
MARK FRANCIS BURTON
Deputy City Attorney
200 N. Main Street
1600 City Hall East
Los Angeles, CA 90012
Telephone: 213/485-4515

LLOYD W. PELLMAN
Los Angeles County Counsel
LAWRENCE LEE HAFETZ
Senior Deputy County Counsel
500 West Temple Street, Suite 648
Los Angeles, CA 90012
Telephone: 213/974-1876

1 MILBERG WEISS BERSHAD
2 HYNES & LERACH LLP
3 WILLIAM S. LERACH
4 FRANK J. JANECEK, JR.
5 MICHAEL J. DOWD
6 STEPHEN P. POLAPINK
7 JONAH H. GOLDSTEIN
8 600 West Broadway, Suite 1800
9 San Diego, CA 92101
10 Telephone: 619/231-1058

11 MILBERG WEISS BERSHAD
12 HYNES & LERACH LLP
13 PATRICK J. COUGHLIN
14 EX KANO S. SAMS II

15 
16 EX KANO S. SAMS

17 100 Pine Street, Suite 2600
18 San Francisco, CA 94111
19 Telephone: 415/288-4545

20 LIEFF, CABRASER, HEIMANN
21 & BERNSTEIN, LLP
22 RICHARD M. HEIMANN
23 ROBERT J. NELSON
24 BARRY R. HIMMELSTEIN
25 PIERCE GORE
26 MICHAEL W. SOBOL
27 275 Battery Street, 30th Floor
28 San Francisco, CA 94111-9333
Telephone: 415/956-1000

SAMUEL L. JACKSON
Sacramento City Attorney
GLORIA ZARCO
Deputy City Attorney
980 9th Street, 10th Floor
Sacramento, CA 95814
Telephone: 916/264-5346

MANUEL ALBUQUERQUE
Berkeley City Attorney
MATTHEW J. OREBIC
Deputy City Attorney
1947 Center Street, 1st Floor
Berkeley, CA 94704

1
2
3
4
5
6
7
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9
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11
12
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21
22
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25
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27
28

THOMAS F. CASEY, III
San Mateo County Counsel
BRENDA B. CARLSON
Deputy County Counsel
Office of the County Counsel
400 County Center
Redwood City, CA 94063
Telephone: 650/363-4760

RICHARD E. WINNIE
Alameda County Counsel
KRISTEN J. THORSNESS
Deputy County Counsel
Office of Alameda County Counsel
1221 Oak Street, Room 463
Oakland, CA 94612-4296
Telephone: 510/272-6700

JAYNE W. WILLIAMS
Oakland City Attorney
RANDOLPH W. HALL
Assistant City Attorney
JOYCE M. HICKS
R. MANUEL FORTES
J. PATRICK TANG
Deputy City Attorneys
One Frank Ogawa Plaza, 6th Floor
Oakland, CA 94612
Telephone: 510/238-3601

THOMPSON, LAWSON LLP
MICHAEL S. LAWSON
East Palo Alto City Attorney
1600 Broadway, Suite 250
Oakland, CA 94612
Telephone: 510/835-1600

LEGRAND H. CLEGG II
Compton City Attorney
CELIA FRANCISCO
Deputy City Attorney
P.O. Box 5118
205 South Willowbrook Avenue
Compton, CA 90200
Telephone: 310/605-5582

CHARLES E. DICKERSON III
Inglewood City Attorney
One Manchester Blvd., Suite 860
Inglewood, CA 90301
Telephone: 310/412-5372

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2
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MICHAEL JENKINS, ESQ.
City Attorney
City of West Hollywood
333 South Hope Street, 38th Floor
Los Angeles, CA 90071
Telephone: 213/626-8484

RICHARDS, WATSON & GERSHON
SAYRE WEAVER
Deputy City Attorney
City of West Hollywood
P.O. Box 1059
Brea, CA 92822-0901
Telephone: 714/990-0901

CENTER TO PREVENT HANDGUN VIOLENCE
DENNIS A. HENIGAN
BRIAN J. SIEBEL
JONATHAN E. LOWY
Legal Action Project
1250 Eye Street, N.W., Suite 802
Washington, DC 20005
Telephone: 202/289-7319

BUSHNELL, CAPLAN & FIELDING, LLP
ALAN M. CAPLAN
PHILIP NEUMARK
PAUL R. HOEBER
221 Pine Street, Suite 600
San Francisco, CA 94104-2715
Telephone: 415/217-3800

McCUE & McCUE
JONATHAN D. McCUE
CHARLES T. McCUE
600 West Broadway, Suite 930
San Diego, CA 92101
Telephone: 619/338-8136

COHEN, MILSTEIN, HAUSFELD
& TOLL, P.L.L.C.
RICHARD S. LEWIS
JOSEPH M. SELLERS
1100 New York Avenue, N.W.
West Tower, Suite 500
Washington, DC 20005-3964
Telephone: 202/408-4600

1 DAVID KAIRYS, ESQ.
2 1719 North Broad Street
3 Philadelphia, PA 19122
4 Telephone: 215/204-8959

5 Attorneys for The People of the State of California,
6 et al.
7
8
9
10
11
12
13
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25
26
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COUNSEL FOR PLAINTIFF(S)

Alan M. Caplan
Philip Neumark
Paul R. Hoeber
BUSHNELL, CAPLAN & FIELDING,
LLP
221 Pine Street, Suite 600
San Francisco, CA 94104-2715
415/217-3800
415/217-3820 (fax)

Patrick J. Coughlin
Ex Kano S. Sams II
MILBERG WEISS BERSHAD HYNES &
LERACH LLP
100 Pine Street, Suite 2600
San Francisco, CA 94111
415/288-4545
415/288-4534 (fax)

Louise H. Renne
D. Cameron Baker
Owen J. Clements
CITY AND COUNTY OF SAN
FRANCISCO
Fox Plaza, 6th Floor
1390 Market Street
San Francisco, CA 94102-5408
415/554-3932
415/554-3837 (fax)

Dennis S. Henigan
Jonathan E. Lowy
Brian J. Siebel
CENTER TO PREVENT HANDGUN
VIOLENCE (LEGAL ACTION PROJECT)
1250 Eye St., N.W., Suite 802
Washington, DC 20005
202/289-7319
202/408-9748 (fax)

Charles E. Dickerson III
CITY ATTORNEYS OFFICE
One Manchester Blvd., Suite 860
Inglewood, CA 90301
310/412-5372
310/412-8865 (fax)

Jonathan D. McCue
Charles McCue
MCCUE & MCCUE
600 West Broadway, Suite 930
San Diego, CA 92101
619/338-8136
619/338-0322 (fax)

Jonathan Selbin
Paulina do Amaral
LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP
780 Third Avenue, 48th Floor
New York, NY 10017-2024
212/355-9500
212/355-9592 (fax)

James K. Hahn
Carmel Sella
Don Kass
CITY ATTORNEYS OFFICE
200 N. Main Street
1600 City Hall East
Los Angeles, CA 90012
213/485-4515
213/847-3014 (fax)

Legrand H. Clegg II
Celia Francisco
CITY ATTORNEYS OFFICE
205 South Willowbrook Avenue
Compton, CA 90220
310/605-5582
310/763-0895 (fax)

Michael Jenkins
CITY ATTORNEYS OFFICE (WEST
HOLLYWOOD)
333 South Hope Street
38th Floor
Los Angeles, CA 90071
213/626-8484
213/626-0078 (fax)

COUNSEL FOR PLAINTIFF(S)

Sayre Weaver
RICHARDS, WATSON & GERSHON
P.O. Box 1059
Brea, CA 92822-1059
714/990-0901
714/990-6230 (fax)

Samuel L. Jackson
Shana Faber
CITY ATTORNEYS OFFICE
980 9th Street, 10th Floor
Sacramento, CA 95814
916/264-5346
916/264-7455 (fax)

Thomas F. Casey III
Brenda B. Carlson
OFFICE OF THE COUNTY COUNSEL
400 County Center
Redwood City, CA 94063
650/363-4760
650/363-4034 (fax)

R. Manuel Fortes
DEPUTY CITY ATTORNEYS
One Frank Ogawa Plaza, 6th Floor
Oakland, CA 94612
510/238-3601
510/238-6500 (fax)

Lloyd W. Pellman
Lawrence Lee Hafetz
Judy Whitehurst
LOS ANGELES COUNTY COUNSEL
500 West Temple Street
Suite 648
Los Angeles, CA 90012
213/974-1876
213/626-2105 (fax)

Richard S. Lewis
Joseph M. Sellers
COHEN, MILSTEIN, HAUSFELD &
TOLL, P.L.L.C.
1100 New York Ave., N.W.
Suite 500
Washington, DC 20005-3964
202/408-4600
202/408-4699 (fax)

David Kairys
LAW OFFICE OF DAVID KAIRYS
1719 North Broad Street
Philadelphia, PA 19122
215/204-8959
215/248-6282 (fax)

Manuela Albuquerque
Matthew J. Orebic
CITY ATTORNEYS OFFICE
1947 Center Street, 1st Floor
Berkeley, CA 94704
510/644-6380
510/644-8641 (fax)

Richard E. Winnie
Kristen J. Thorsness
OFFICE OF ALAMEDA COUNTY
COUNSEL
1221 Oak Street, Room 463
Oakland, CA 94612-4296
510/272-6700
510/272-5020 (fax)

Michael S. Lawson
East Palo Alto City Attorney
THOMPSON, LAWSON LLP
1600 Broadway, Suite 250
Oakland, CA 94612
510/835-1600
510/835-2077 (fax)

Frank J. Janecek, Jr.
Michael J. Dowd
Stephen P. Polapink
MILBERG WEISS BERSHAD HYNES &
LERACH LLP
600 West Broadway, Suite 1800
San Diego, CA 92101-5050
619/231-1058
619/231-7423 (fax)

Richard M. Heimann
Robert J. Nelson
LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP
275 Battery Street, 30th Floor
San Francisco, CA 94111-3339
415/956-1000
415/956-1008 (fax)

COUNSEL FOR DEFENDANTS

Jeff Nelson
SHOOK, HARDY & BACON, L.L.P.
1200 Main Street, 27th Floor
Kansas City, MO 64105-2118
816/474-6550
816/421-5547 (fax)

Douglas Kliever
CLEARY GOTTLIEB STEEN &
HAMILTON
2000 Pennsylvania Avenue, N.W.
9th Floor
Washington, DC 20036
202/974-1500
202/974-1999 (fax)

Michael John Bonesteel
Steven L. Hoch
Carolyn Trokey
HAIGHT BROWN & BONESTEEL LLP
1620 - 26th Street
Suite 4000 North
Santa Monica, CA 90404
310/449-6000
310/829-5117 (fax)

James P. Dorr
James B. Vogts
WILDMAN, HARROLD, ALLEN & DIXON
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229
312/201-2000
312/201-2555 (fax)

Robert C. Gebhardt
Craig A. Livingston
SCHNADER, HARRISON, SEGAL &
LEWIS LLP
601 California St., Suite 1200
San Francisco, CA 94108
415/364-6700
415/364-6785 (fax)

* Diane T. Gorczyca
SEDGWICK, DETERT, MORAN &
ARNOLD
One Embarcadero Center
16th Floor
San Francisco, CA 94111-3765
415/781-7900
415/781-2635 (fax)

Edwin W. Green
Kimberly A. Donlon
ALLEN, MATKINS, LECK, GAMBLE &
MALLORY, LLP
515 South Figueroa Street
7th Floor
Los Angeles, CA 90071-3398
213/622-5555
213/620-8816 (fax)

William M. Griffin III
FRIDAY, ELDREDGE & CLARK
2000 First Commercial Bldg.
400 West Capitol
Little Rock, AR 72201
501/376-2011
501/376-2147 (fax)

R. Dewitt Kirwan
Robert N. Tafoya
AKIN, GUMP, STRAUSS, HAUER &
FELD, LLP
2029 Century Park East
Suite 2600
Los Angeles, CA 90067
310/229-1000
310/229-1001 (fax)

Steven A. Silver
LAW OFFICES OF STEVEN A. SILVER
1077 West Morton Avenue, Suite C
Porterville, CA 93257
559/782-1552
559/782-0364 (fax)

COUNSEL FOR DEFENDANTS

Timothy A. Bumann
BUDD LARNER GROSS ROSENBAUM
GREENBERG & SADE
127 Peachtree Street, N.E.
Suite 715
Atlanta, GA 30303
404/688-3000
404/688-0888 (fax)

John F. Renzulli
John J. McCarthy
RENZULLI & RUTHERFORD, LLP
300 East 42nd Street
New York, NY 10017
212/599-5533
212/599-5162 (fax)

E. Gordon Haesloop
BARTLETT MCDONOUGH BASTONE &
MONAGHAN
300 Old Country Road
Mineola, NY 11501
516/877-2900
516/877-0732 (fax)

David R. Gross
BUDD LARNER GROSS ROSENBAUM
GREENBERG & SADE, P.C.
150 JFK Parkway
Short Hills, NJ 07078
973/379-4800
973/379-7734 (fax)

Timothy G. Atwood
LAW OFFICE OF TIMOTHY ATWOOD
273 Canal Street
Shelton, CT 06484
203/924-4464
203/924-1359 (fax)

Charles L. Coleman
HOLLAND & KNIGHT LLP
44 Montgomery Street, Suite 4050
San Francisco, CA 94104-4801
415/743-6900
415/743-6910 (fax)

Robert M. Anderson
WILSON ELSEER MOSKOWITZ EDELMAN
& DICKER, LLP
1055 West 7th Street, Suite 2700
Los Angeles, CA 90017
213/624-3044
213/624-8060 (fax)

James R. Branit
BOLERO & CARTON, CHTD.
200 N. La Salle Street
Suite 2500
Chicago, IL 60601
312/831-1000
312/831-0647 (fax)

Scott L. Braum
Thomas P. Whelley, II
CHERNESKY, HEYMAN & KRESS,
P.L.L.
1100 Courthouse Plaza S.W.
Suite 1100
Dayton, OH 45401-2849
937/449-2834
937/449-2836 (fax)

Burton C. Jacobson
LAW OFFICE OF BURTON C.
JACOBSON
424 South Beverly Drive
Beverly Hills, CA 90212-4414
310/553-8533
310/286-2819 (fax)

COUNSEL FOR DEFENDANTS

Wendy E. Schultz
Norman J. Watkins
LYNBERG & WATKINS, P.C.
888 S. Figueroa Street
16th Floor
Los Angeles, CA 90017
213/624-8700
213/892-2763 (fax)

Lawrence S. Greenwald
GORDON FEINBLATT ROTHMAN
HOFFBERGER & HOLLANDER, LLC
223 East Redwood Street
Baltimore, MD 21202
410/576-4000
410/576-4246 (fax)

Henry N. Jannol
LAW OFFICES OF HENRY N. JANNOL
1875 Century Park East
Suite 1400
Los Angeles, CA 90067
310/552-7500
310/552-7552 (fax)

Carmen Trutanich
Timothy Lignoul
TRUTANICH - MICHEL, LLP
Port of Los Angeles
407 N. Harbor Blvd.
San Pedro, CA 90731
310/548-3816
310/548-4813 (fax)

Robert L. Joyce
WILSON ELSEER MOSKOWITZ EDELMAN
& DICKER, LLP
150 East 42nd Street
New York, NY 19917
212/490-3000
212/490-3038 (fax)

* Ray Koletsky
Susan L. Caldwell
KOLETSKY, MANCINI, FELDMAN &
MORROW
3460 Wilshire Blvd., 8th Floor
Los Angeles, CA 90010
213/427-2350
213/427-2366 (fax)

Bradley T. Beckman
BECKMAN & ASSOCIATES
1601 Market Street, Suite 2330
Philadelphia, PA 19103
215/569-3096
215/569-8769 (fax)

Timothy Gorry
Frank Sandelmann
GORRY & MEYER
2029 Century Park East
Suite 400
Los Angeles, CA 90067
310/277-5967
310/277-5968 (fax)

James Leonard Crew
Jack Leavitt
LAW OFFICES
18 Crow Canyon Court, Suite 380
San Ramon, CA 94583-1669
925/831-0834
925/831-8483 (fax)

Paul K. Schrieffer
Ian R. Feldman
SCHRIEFFER NAKASHIMA & DOWNEY,
LLP
100 N. Barranca Avenue
Suite 1100
West Covina, CA 91791
626/858-2444
626/974-8403 (fax)

COUNSEL FOR DEFENDANTS

Harold R. Mayberry, Jr.
The American Shooting Sports
Council
MAYBERRY LAW FIRM
2010 Corporate Ridge
Seventh Floor
McLean, VA 22102
703/714-1554
703/783-8532 (fax)

Jeff G. Harmeyer
MCATEE HARMEYER LLP
401 West "A" Street, Suite 1850
San Diego, CA 92101
619/231-9800
619/234-3800 (fax)

Phillip Hudson III
GUNSTER, YOAKLEY, VALDEZ-FAULI
& STEWART
One Biscayne Tower, Suite 3400
2 South Biscayne Blvd.
Miami, FL 33131
305/376-6000
305/376-6010 (fax)

Michael P. Verna
Mary P. Sullivan
BOWLES & VERNA
2121 N. California Blvd.
Suite 875
Walnut Creek, CA 94596
925/935-3300
925/935-0371 (fax)

Robert Wright
WRIGHT & L'ESTRANGE
701 B Street, Suite 1550
San Diego, CA 92101-8103
619/231-4844
619/231-6710 (fax)

Michael J. Zomick
TARICS & CARRINGTON, P.C.
5005 Riverway Drive, Suite 500
Houston, TX 77056
713/729-4777
713/227-0701 (fax)

Michael C. Hewitt
BRUINSMA & HEWITT
380 Clinton Avenue, Unit C
Costa Mesa, CA 92626
949/597-1551
949/597-1551 (fax)

Terry F. Moritz
Roger Lewis
GOLDBERG, KOHN, BELL, BLACK,
ROSENBLOOM & MORITZ, LTD.
55 East Monroe Street
Suite 3700
Chicago, IL 60603-5802
312/201-4000
312/332-2196 (fax)

* Christopher J. Healey
Lawrence J. Kouns
LUCE, FORWARD, HAMILTON &
SCRIPPS
600 West Broadway, Suite 2600
San Diego, CA 92101-3391
619/236-1414
619/232-8311 (fax)

* Denotes service by facsimile on Liason Counsel.