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4

5 Attorneys for Defendants National Shooting Sports Foundation, Inc. (NSSF), Sporting Arms and  
Ammunition Manufacturers' Institute, Inc. (SAAMI), and American Shooting Sports Council, Inc.  
6 (ASSC)  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO**  
10

11 Coordination Proceeding  
Special Title (Rule 1550(b))

12 FIREARM CASES

13  
14 Coordinated Actions:  
15

JUDICIAL COUNCIL  
COORDINATION PROCEEDING NO.  
4095

**OPPOSITION TO PLAINTIFFS'  
SEPARATE STATEMENT IN  
SUPPORT OF MOTION TO COMPEL  
FURTHER JURISDICTIONAL  
DISCOVERY**

[Filed concurrently herein with Sporting  
Arms and Ammunition Manufacturers'  
Institute Inc.'s Opposition to Plaintiffs'  
Motion to Compel; Declaration of Susan  
L. Caldwell]

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17  
18 PEOPLE OF THE STATE OF  
19 CALIFORNIA v. ARCADIA MACHINE  
& TOOL, INC. et al.

San Francisco Superior Court Case  
Number 303 753

20 PEOPLE OF THE STATE OF  
21 CALIFORNIA v. ARCADIA MACHINE  
& TOOL, INC. et al.

Los Angeles Superior Court Case  
Number BC 210894

22  
23 PEOPLE OF THE STATE OF  
24 CALIFORNIA v. ARCADIA MACHINE  
& TOOL, INC. et al.

Los Angeles Superior Court Case  
Number BC 214794

**Date: October 13, 2000  
Time: 1:30 p.m.  
Dept. 65**

25 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**  
26

27 Defendant SPORTING ARMS AND AMMUNITION MANUFACTURERS' INSTITUTE,  
28

1 INC. ("SAAMI") hereby opposes plaintiffs' separate statement in support of motion to compel.

2 Deposition of Robert T. Delfay

3 QUESTION NO. 1:

4 Mr. Delfay, do you understand that you are being produced today as the person most  
5 knowledgeable regarding the National Shooting Sports Foundation, Inc., and the Sporting Arms -  
6 I'm going to get the name wrong -- Sporting Arms and Ammunition Manufacturers' Institute Inc's  
7 most knowledgeable person?

8 ANSWER TO QUESTION NO. 1:

9 I do. Delfay Depo., at 11:2-8.

10 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

11 Not applicable.

12 QUESTION NO. 2:

13 Did you have meetings with anyone to prepare for this deposition?

14 ANSWER TO QUESTION NO. 2:

15 Not in any substantive way, no. Delfay Depo. at 12:20-22.

16 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

17 Had SAAMI adequately prepared Mr. Delfay for his deposition, it could have discovered that  
18 Mr. Delfay lacked sufficient knowledge of many of the requested subject matters. Instead, as Mr.  
19 Delfay acknowledges, he had no substantive meetings with anyone prior to his deposition and, as a  
20 result, was unable to answer numerous questions which were central to the issue of jurisdiction.

21 Although plaintiffs have found no published California case which has specifically addressed  
22 the issue of a corporation's failure to provide a knowledgeable corporate designee, California court  
23 may refer to federal discovery law in the absence of California authority. *Liberty Mut. Ins. Co. v.*  
24 *Superior Court*, 10 Cal.App.4th 1282, 1288 (1992); *Nagle v. Superior Court*, 28 Cal.App.4th 1465,  
25 1468 (1984). Numerous federal courts have unequivocally declared that entities "must not only  
26 produce such number of persons as will satisfy the request, but more importantly, prepare them so  
27 that they may give complete, knowledgeable and binding answers on behalf of the corporation."  
28

1 *Starlight Int'l Inc. v. Herlihy*, 186 F.R.D. 626, 638 (D. Kan. 1999); *Audiotext Communs. Network,*  
2 *Inc. v. US Telecom, Inc.*, No. Civ. A. 94-2395-GTV, 1995 U.S. Dist. LEXIS 15416, (D. Kan. Oct.  
3 5, 1995); *Marker v. Union Fidelity Life Ins. Co.*, 125 F.R.D. 121, 126 (M.D.N.C. 1989).

4 Since by Mr. Delfay's own admission SAAMI did not adequately prepare him for his  
5 deposition, SAAMI should be compelled to produce a knowledgeable designee who is adequately  
6 prepared to testify on behalf of the organization.

7 OPPOSITION TO PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

8 Plaintiffs have confused the concept of the "person most knowledgeable" with the concept of  
9 the "all knowing witness." California Code of Civil Procedure §2025(d)(6) cannot reasonably be  
10 construed as requiring a witness to memorize detailed information of the type which plaintiffs  
11 complain of in their motion. California Code of Civil Procedure §2025(d)(6). Nor does it require a  
12 corporate entity to bring a parade of witnesses to testify on detailed factual matters that no management  
13 person could reasonably be expected to testify on from memory. Id.

14 SAAMI's professional support staff consists of Mr. Delfay, James Chambers, hired as  
15 Executive Director in late 1998, Kenneth Green, Technical Director, and Nancy Coburn, Assistant  
16 Secretary and Treasurer.<sup>1</sup> As President of SAAMI and CEO of SAAMI since 1986, Robert Delfay is  
17 clearly the most knowledgeable person on SAAMI's small staff. None of these employees subordinate  
18 to Mr. Delfay could reasonably be expected to have as much knowledge as Mr. Delfay on the matters  
19 identified by plaintiffs to substantiate good cause to compel additional depositions. Liberty Mutual  
20 Insur. Co. v. Sup. Ct. (1992) 10 Cal.App.4th 1282, 13 Cal.Rptr.2d 363.<sup>2</sup> Thus, Mr. Delfay is the most  
21 qualified person at SAAMI to testify with respect to California related activities and members and was  
22

23  
24 <sup>1</sup> Delfay Depo. At 28:3-20; 123:22; 124:1-5 as Exhibit S to the Declaration of Susan L. Caldwell.

25 <sup>2</sup> Although involving depositions of "highest level" corporate management, the Liberty court held a  
26 plaintiff must show good cause that a proposed corporate deponent has "unique or superior  
27 knowledge of discoverable information" prior to deposition or that discovery could not have been  
28 obtained through alternative channels. Herein, Mr. Delfay is the most knowledgeable at SAAMI,  
and plaintiffs have failed to identify information that has not already been produced for good  
cause.

1 produced accordingly.<sup>3</sup>

2 Further depositions would not adduce factual information that would assist the Court in  
3 deciding the pending motions to quash. Except for the date Weatherby joined SAAMI, *which was*  
4 *never previously request by plaintiffs*, SAAMI has provided plaintiffs all available information on the  
5 topics on which they seek additional depositions. Equally important, with the possible exception of the  
6 distribution of SAAMI publications in California, the subjects of Plaintiffs' motion are irrelevant to  
7 jurisdiction.

8 *SAAMI agreed, and made multiple offers, to provide further information with respect to specific*  
9 *questions asked of Mr. Delfay at time of deposition.*<sup>4</sup> *Plaintiffs failed to provide any category of*  
10 *jurisdictional discovery, or even one question, where Mr. Delfay did not sufficiently respond and*  
11 *documents were not provided.* Without any supporting contention or rationale, and without a showing  
12 of good cause, plaintiffs simply demand more depositions of less informed individuals irrelevant to  
13 jurisdictional discovery.

14 QUESTION NO. 3:

15 Did you make any notes in preparation for today's deposition?

16 ANSWER TO QUESTION NO. 3:

17 I did not. Delfay Depo. At 14:3-5.

18 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

19 Had SAAMI adequately prepared Mr. Delfay for his deposition, it could have discovered that  
20 Mr. Delfay lacked sufficient knowledge of many of the requested subject matters. Instead, as Mr.  
21 Delfay acknowledges, he had no substantive meetings with anyone prior to his deposition and, as a  
22 result, was unable to answer numerous questions which were central to the issue of jurisdiction.

23  
24  
25 Further depositions of subordinate support staff will not only prove a fruitless fishing expedition, but  
26 are overly burdensome and harassing. California Code of Civil Procedure §2019(b).

27 <sup>4</sup> Letters of April 6, 2000, April 13, 2000, June 14, 2000 and August 3, 2000, Exhibits H, I, K, and Q  
28 to the Declaration of Susan L. Caldwell.

1 Although plaintiffs have found no published California case which has specifically addressed  
2 the issue of a corporation's failure to provide a knowledgeable corporate designee, California courts  
3 may refer to federal discovery law in the absence of California authority. *Liberty Mut. Ins. Co. v.*  
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7 that they may give complete, knowledgeable and binding answers on behalf of the corporation."  
8 *Starlight Int'l, Inc. v. Herlihy*, 186 F.R.D 626, 638 (D. Kan. 1999); *Audiotext Communs. Network,*  
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11 Since by Mr. Delfay's own admission SAAMI did not adequately prepare him for his  
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13 prepared to testify on behalf of the organization.

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16 the "all knowing witness." California Code of Civil Procedure §2025(d)(6) cannot reasonably be  
17 construed as requiring a witness to memorize detailed information of the type which plaintiffs  
18 complain of in their motion. California Code of Civil Procedure §2025(d)(6). Nor does it require a  
19 corporate entity to bring a parade of witnesses to testify on detailed factual matters that no management  
20 person could reasonably be expected to testify on from memory. Id.

21 SAAMI's professional support staff consists of Mr. Delfay, James Chambers, hired as  
22 Executive Director in late 1998, Kenneth Green, Technical Director, and Nancy Coburn, Assistant  
23 Secretary and Treasurer.<sup>5</sup> As President of SAAMI and CEO of SAAMI since 1986, Robert Delfay is  
24 clearly the most knowledgeable person on SAAMI's small staff. None of these employees subordinate  
25 to Mr. Delfay could reasonably be expected to have as much knowledge as Mr. Delfay on the matters

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27 <sup>5</sup> Delfay Depo. At 28:3-20; 123:22; 124:1-5 as Exhibit S to the Declaration of Susan L. Caldwell.  
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1 identified by plaintiffs to substantiate good cause to compel additional depositions. Liberty Mutual  
2 Insur. Co. v. Sup. Ct. (1992) 10 Cal.App.4th 1282, 13 Cal.Rptr.2d 363.<sup>6</sup> Thus, Mr. Delfay is the most  
3 qualified person at SAAMI to testify with respect to California related activities and members and was  
4 produced accordingly.<sup>7</sup>

5 Further depositions would not adduce factual information that would assist the Court in  
6 deciding the pending motions to quash. Except for the date Weatherby joined SAAMI, *which was*  
7 *never previously request by plaintiffs*, SAAMI has provided plaintiffs all available information on the  
8 topics on which they seek additional depositions. Equally important, with the possible exception of the  
9 distribution of SAAMI publications in California, the subjects of Plaintiffs' motion are irrelevant to  
10 jurisdiction.

11 *SAAMI agreed, and made multiple offers, to provide further information with respect to specific*  
12 *questions asked of Mr. Delfay at time of deposition.*<sup>8</sup> *Plaintiffs failed to provide any category of*  
13 *jurisdictional discovery, or even one question, where Mr. Delfay did not sufficiently respond and*  
14 *documents were not provided.* Without any supporting contention or rationale, and without a showing  
15 of good cause, plaintiffs simply demand more depositions of less informed individuals irrelevant to  
16 jurisdictional discovery.

17 QUESTION NO. 4:

18 Do you know when Weatherby joined as a member of SAAMI?

19 ANSWER TO QUESTION NO. 4:

20 I don't, no. Delfay Depo. at 122:15-17.

21

22 <sup>6</sup>Although involving depositions of "highest level" corporate management, the Liberty court held a plaintiff must  
23 show good cause that a proposed corporate deponent has "unique or superior knowledge of discoverable information" prior  
24 to deposition or that discovery could not have been obtained through alternative channels. Herein, Mr. Delfay is the most  
knowledgeable at SAAMI, and plaintiffs have failed to identify information that has not already been produced for good  
cause.

25 ~~2. Further depositions of subordinate support staff will not only prove a fruitless fishing expedition, but~~  
26 ~~are overly burdensome and harassing. California Code of Civil Procedure §2019(b).~~

27 <sup>8</sup> Letters of April 6, 2000, April 13, 2000, June 14, 2000 and August 3, 2000, Exhibits H, I, K, and Q  
28 to the Declaration of Susan L. Caldwell.

1 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

2 Weatherby is a company located in Atascadero, California, which sells Mark-V Rifles, semi-  
3 automatic shotguns, magnum ammunition, and other gun-related products. Since Weatherby is  
4 located in the state, any contacts which SAAMI had with Weatherby, particularly business dealings,  
5 could serve as the basis for the exercise of jurisdiction over SAAMI. Since Mr. Delfay, however,  
6 lacked knowledge relating to SAAMI's relationship with Weatherby, plaintiffs were unable to  
7 explore this area of inquiry to determine whether SAAMI maintained a long-standing business  
8 relationship with Weatherby. Accordingly, SAAMI should be compelled to designate an individual  
9 knowledgeable about this and other contacts which SAAMI maintained in California.

10 OPPOSITION TO PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

11 Mr. Delfay was as definitive as could reasonably be expected in testifying that Weatherby is the  
12 only California member that SAAMI has had in its 75-year history.<sup>9</sup> Further, in a response to a  
13 specific request from plaintiffs' counsel, SAAMI confirmed that it had no record of any California  
14 member other than Weatherby.<sup>10</sup>

15 Nor should Mr. Delfay be faulted for not having memorized the dates on which each of  
16 SAAMI's 28 members nationwide joined SAAMI. SAAMI did not construe plaintiffs' meet and  
17 confer letters as requesting information on the date which Weatherby joined SAAMI as it was neither  
18 requested expressly nor by implication. Had SAAMI known that plaintiffs' desired that information, it  
19 would have been provided earlier. The date is June 4, 1985.<sup>11</sup>

20 Regardless, the date Weatherby joined SAAMI is irrelevant to the pending motion to quash. As  
21 noted by plaintiffs (Separate Statement at 3), Weatherby is a producer of high-end longarms – shotguns  
22

23  
24 <sup>9</sup> Q: Historically have there been any other members from SAAMI from California that you are  
aware of?

25 A: I am not aware of any. I would doubt it. Delfay Depo. at 121:22, 122:1-2 as Exhibit S to the  
Declaration of Susan L. Caldwell.

26 <sup>10</sup> Exhibit F, P, and Y to the Declaration of Susan L. Caldwell.

27 <sup>11</sup> Exhibit T to the Declaration of Susan L. Caldwell.  
28

1 and rifles -- and accessories. It does not produce handguns at issue in the action herein. And it is not a  
2 defendant in the California suits.

3 QUESTION NO. 5:

4 Do you know how many copies of that pamphlet have been distributed in California,  
5 approximately?

6 ANSWER TO QUESTION NO. 5:

7 I would have no way of knowing. Delfay Depo. at 141:2-4.

8 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

9 Information relating to SAAMI's distribution of materials to residents of California is critical  
10 for the purposes of jurisdiction. For instance, SAAMI publishes studies and pamphlets such as  
11 "Lead Mobility on Shooting Ranges," which it has sold to dealers and members of the public, which  
12 presumably includes residents of California. If SAAMI is making money from the sale of such  
13 materials from purchasers in California, such information would definitely establish that SAAMI is  
14 conducting business within the state to warrant the exercise of jurisdiction. *Sims v. Nat'l Eng'g Co.*,  
15 221 Cal.App.2d 511, 514 (1963). Plaintiffs were unable to make this determination, however, since  
16 Mr. Delfay had no idea about the nature and scope of SAAMI's sale or distribution of materials to  
17 California residents. Because of Mr. Delfay's lack of knowledge, SAAMI should be compelled to  
18 produce a knowledgeable person for deposition on its behalf.

19 OPPOSITION TO PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

20 Plaintiffs' concern that Mr. Delfay could not state whether specific SAAMI publications were  
21 sent to, and at the request of, California residents was cited in plaintiffs' meet and confer letters.  
22 However, plaintiffs' assumption that Mr. Delfay or any other staff member of SAAMI, even a  
23 mailroom clerk, would memorize specific shipments of nationally available publications and their  
24 California recipients, over a number of years, is inane.

25 SAAMI has produced all information necessary for plaintiffs to make this determination.  
26 Plaintiffs have the computer printout of mailroom records of shipments to California of SAAMI and  
27 NSSF literature from 1992 through October, 1999. (Bates Nos. N109-233.) Plaintiffs' counsel has  
28



1 been further provided with SAAMI and NSSF literature lists in this and other cases.<sup>12</sup> As explained in  
2 SAAMI's supplemental discovery responses of August 7, 2000, the lists produced by SAAMI, and the  
3 mailroom records, identify what SAAMI publications were sent to California residents.

4 Taking as an example the video "Sporting Ammunition and the Firefighter"(Item #250), cited  
5 by plaintiffs in their motion (Pl. Separate Statement at 6-7), and the literature shipment records  
6 produced to plaintiffs for the period July, 1998 to December, 1998,<sup>13</sup> no California resident received  
7 that video. During that period, over 400 copies of the common sense booklet on firearms safety  
8 "Firearms Safety Depends Upon You" (Item #81), distributed by both SAAMI and NSSF, were  
9 ordered by and sent to California residents during the same period. Thus, SAAMI has already  
10 produced requested information which Mr. Delfay could not be expected to memorize.

11 QUESTION NO. 6:

12 BY MR. SELBIN: (Resuming)

13 Q: I'll ask you, is this one of the pamphlets that SAAMI produces?

14 A: Yes, it is.

15 Q: Is this pamphlet distributed in California?

16 ANSWER TO QUESTION NO. 6:

17 A: I cannot say for certain.

18 Delfay Depo. at 142:12-16.

19 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

20 Information relating to SAAMI's distribution of materials to residents of California is critical  
21 for the purposes of jurisdiction. For instance, SAAMI publishes studies and pamphlets such as  
22 "Lead Mobility on Shooting Ranges," which it has sold to dealers and members of the public, which  
23 presumably includes residents of California. If SAAMI is making money from the sale of such  
24 materials from purchasers in California, such information would definitely establish that SAAMI is

25 \_\_\_\_\_  
26 <sup>12</sup> Exhibit U to the Declaration of Susan L. Caldwell.

27 <sup>13</sup> Bates Nos. N122-28 as Exhibit V to the Declaration of Susan L. Caldwell.  
28

conducting business within the state to warrant the exercise of jurisdiction. *Sims v. Nat'l Eng'g Co.*, 221 Cal.App.2d 511, 514 (1963). Plaintiffs were unable to make this determination, however, since Mr. Delfay had no idea about the nature and scope of SAAMI's sale or distribution of materials to California residents. Because of Mr. Delfay's lack of knowledge, SAAMI should be compelled to produce a knowledgeable person for deposition on its behalf.

OPPOSITION TO PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

Plaintiffs' concern that Mr. Delfay could not state whether specific SAAMI publications were sent to, and at the request of, California residents was cited in plaintiffs' meet and confer letters. However, plaintiffs' assumption that Mr. Delfay or any other staff member of SAAMI, even a mailroom clerk, would memorize specific shipments of nationally available publications and their California recipients, over a number of years, is inane.

SAAMI has produced all information necessary for plaintiffs to make this determination. Plaintiffs have the computer printout of mailroom records of shipments to California of SAAMI and NSSF literature from 1992 through October, 1999. (Bates Nos. N109-233.) Plaintiffs' counsel has been further provided with SAAMI and NSSF literature lists in this and other cases.<sup>14</sup> As explained in SAAMI's supplemental discovery responses of August 7, 2000, the lists produced by SAAMI, and the mailroom records, identify what SAAMI publications were sent to California residents.

Taking as an example the video "Sporting Ammunition and the Firefighter"(Item #250), cited by plaintiffs in their motion (Pl. Separate Statement at 6-7), and the literature shipment records produced to plaintiffs for the period July, 1998 to December, 1998,<sup>15</sup> no California resident received that video. During that period, over 400 copies of the common sense booklet on firearms safety "Firearms Safety Depends Upon You" (Item #81), distributed by both SAAMI and NSSF, were ordered by and sent to California residents during the same period. Thus, SAAMI has already produced requested information which Mr. Delfay could not be expected to memorize.

<sup>14</sup> Exhibit U to the Declaration of Susan L. Caldwell.

<sup>15</sup> Bates Nos. N122-28 as Exhibit V to the Declaration of Susan L. Caldwell.

1 QUESTION NO. 7:

2 - Does any SAAMI information that would look like an ad, but for the fact that it's not paid  
3 for, appear in any NSSF publication?

4 MR. KLIEVER: Objection as to form.

5 ANSWER TO QUESTION NO. 7:

6 THE WITNESS: It could, but I'm not certain.  
7 Delfay Depo. at 146:15-19.

8 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

9 Information relating to SAAMI's advertisements is also vital to the issue of jurisdiction.  
10 California courts have determined that the dissemination of advertisements can serve as a basis for  
11 the exercise of jurisdiction. *A.R. Indust. V. Superior Court*, 268 Cal.App.2d 328, 336 (1968).  
12 Since Mr. Delfay lacked sufficient knowledge about SAAMI's advertisements, SAAMI should be  
13 compelled to produce a knowledgeable deponent.

14 OPPOSITION TO PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

15 SAAMI advertisements in National Shooting Sports Foundation, Inc. (NSSF) publications were  
16 never referenced in plaintiffs' meet and confer letters. Once again, this issue is first raised in plaintiffs'  
17 motion to compel. However, Mr. Delfay testified that SAAMI never placed paid advertising in NSSF  
18 periodicals.<sup>16</sup> There is no documentation reflecting any SAAMI unpaid advertising in NSSF  
19 periodicals other than the periodicals themselves. NSSF produced all of its periodicals, over a  
20 significant period of time (Bates Nos. BN40-10,464, 6324-6599, 10330-10491). There is no basis for  
21 an argument that SAAMI's placement of public service ads in one or more of NSSF's national  
22 publications, even if it occurred, is relevant to personal jurisdiction. *Boaz v. Boyle & Co.* (1995) 40  
23 Cal.App.4th 700, 717, 46 Cal.Rptr2d 888, citing to *Helicopteros Nacionales de Columbia, S.A. v. Hall*

24  
25  
26 <sup>16</sup> Q: Mr. Delfay, does SAAMI advertise in any NSSF publications?

27 A: If by advertising, you mean paid for the placement of advertising, no.

28 Delfay Depo. 146:11-14. Exhibit S to the Declaration of Susan L. Caldwell.

(1984) 466 U.S.408, 416, Circus, Circus Hotels, Inc. v. Sup. Ct. (1981) 120 Cal.App.3d 546, 174 Cal.Rptr. 885.

QUESTION NO. 8:

Have any such ads appeared in any NSSF publications, again, noting the fact they were not paid for?

ANSWER TO QUESTION NO. 8:

THE WITNESS. Yeah, asked and answered. SAAMI has public service print advertisements. Whether those have ever run in Shot Business or the Range Report or the Gun Club Advisor, I don't know. Delfay Depo. at 146:21-147:7.

PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

Information relating to SAAMI's advertisements is also vital to the issue of jurisdiction. California courts have determined that the dissemination of advertisements can serve as a basis for the exercise of jurisdiction. *A.R. Indust. v. Superior Court*, 268 Cal.App.2d 328, 336 (1968). Since Mr. Delfay lacked sufficient knowledge about SAAMI's advertisements, SAAMI should be compelled to produce a knowledgeable deponent.

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2 (1984) 466 U.S.408, 416, Circus, Circus Hotels, Inc. v. Sup. Ct. (1981) 120 Cal.App.3d 546, 174  
3 Cal.Rptr. 885.

4 QUESTION NO. 9:

5 Earlier we were speaking about the SAAMI membership, and we made the note that the  
6 listing of members we have is current. And I asked you if you knew of any previous members from  
7 California, if there were any previous members from California. Do you know, does SAAMI have  
8 any records of past memberships?

9 MR. KLIEVER: Objection, asked and answered.

10 ANSWER TO QUESTION NO. 9:

11 THE WITNESS: I'm not certain what records or what files would show about past  
12 membership. Delfay Depo. at 149:8-16.

13 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

14 Other than current membership information, SAAMI has not produced information regarding  
15 its California membership and Mr. Delfay had no knowledge of such past membership. Such  
16 information is important for the purposes of jurisdiction since most, if not all, of SAAMI's members  
17 could have been located in California last year, yet plaintiffs would have no way of knowing since  
18 SAAMI produced a deponent who lacked such knowledge. Because SAAMI's past membership  
19 information for California is relevant to the issue of jurisdiction, SAAMI should produce another  
20 deponent with knowledge of this information.

21 OPPOSITION TO PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

22 Mr. Delfay was as definitive as could reasonably be expected in testifying that Weatherby is the  
23 only California member that SAAMI has had in its 75-year history.<sup>18</sup> Further, in a response to a  
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26 <sup>18</sup> Q: Historically have there been any other members from SAAMI from California that you are  
aware of?

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1 specific request from plaintiffs' counsel, SAAMI confirmed that it had no record of any California  
2 member other than Weatherby.<sup>19</sup>

3 Nor should Mr. Delfay be faulted for not having memorized the dates on which each of  
4 SAAMI's 28 members nationwide joined SAAMI. SAAMI did not construe plaintiffs' meet and  
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6 requested expressly nor by implication. Had SAAMI known that plaintiffs' desired that information, it  
7 would have been provided earlier. The date is June 4, 1985.<sup>20</sup>

8 Regardless, the date Weatherby joined SAAMI is irrelevant to the pending motion to quash. As  
9 noted by plaintiffs (Separate Statement at 3), Weatherby is a producer of high-end longarms -- shotguns  
10 and rifles -- and accessories. It does not produce handguns at issue in the action herein. And it is not a  
11 defendant in the California suits.

12 QUESTION NO. 10:

13 Q. Okay. Does SAAMI sell any videos -- sell or distribute, rather -- any videos?

14 A. Yes.

15 Q. Okay. How many?

16 A. One I believe.

17 Q. Okay. And what's the title of that video?

18 A. I believe the title is -- I guess it may be Sporting Ammunition and the Fire Fighter.

19 Q. Can you describe for me generally what the video is about?

20 A. Yes. It's a video that was prepared to assist fire departments -- not assist so much as  
21 to familiarize fire departments with the behavior with sporting ammunition in a fire.

22 Q. Do you know, has that video been distributed at all in California.

23 / / /

24 / / /

25

26 <sup>19</sup> Exhibit F, P, and Y to the Declaration of Susan L. Caldwell.

27 <sup>20</sup> Exhibit T to the Declaration of Susan L. Caldwell.

28

1 ANSWER TO QUESTION NO. 10:

2 - A. I wouldn't know. Delfay Depo. at 161:8-162:7.

3 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

4 Mr. Delfay was unable to answer the most important question in this series of questions –  
5 whether the videotapes sold or distributed by SAAMI were distributed in California. Mr. Delfay's  
6 general recollection regarding the videotapes is meaningless since plaintiffs are unable to specifically  
7 determine whether SAAMI has sold or distributed such videotapes in California. Such information  
8 is crucial since facts demonstrating that SAAMI is generating money from the sale of videotapes in  
9 California would indicate that SAAMI is conducting business within the state, thereby subjecting it  
10 to the jurisdiction of California courts. *See Jeter v. Austin Trailer Equip. Co.*, 122 Cal.App.2d 376,  
11 389 (1953) (holding that an entity is subject to the jurisdiction of California courts if it conducts  
12 systematic solicitation in the state). Thus, SAAMI should produce a more knowledgeable corporate  
13 deponent.

14 OPPOSITION TO PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

15 Plaintiffs' concern that Mr. Delfay could not state whether specific SAAMI publications were  
16 sent to, and at the request of, California residents was cited in plaintiffs' meet and confer letters.  
17 However, plaintiffs' assumption that Mr. Delfay or any other staff member of SAAMI, even a  
18 mailroom clerk, would memorize specific shipments of nationally available publications and their  
19 California recipients, over a number of years, is inane.

20 SAAMI has produced all information necessary for plaintiffs to make this determination.  
21 Plaintiffs have the computer printout of mailroom records of shipments to California of SAAMI and  
22 NSSF literature from 1992 through October, 1999. (Bates Nos. N109-233.) Plaintiffs' counsel has  
23 been further provided with SAAMI and NSSF literature lists in this and other cases.<sup>21</sup> As explained in  
24 SAAMI's supplemental discovery responses of August 7, 2000, the lists produced by SAAMI, and the  
25 mailroom records, identify what SAAMI publications were sent to California residents.

26 \_\_\_\_\_  
27 <sup>21</sup> Exhibit U to the Declaration of Susan L. Caldwell.  
28

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1 Taking as an example the video "Sporting Ammunition and the Firefighter"(Item #250), cited  
2 by plaintiffs in their motion (Pl. Separate Statement at 6-7), and the literature shipment records  
3 produced to plaintiffs for the period July, 1998 to December, 1998,<sup>22</sup> no California resident received  
4 that video. During that period, over 400 copies of the common sense booklet on firearms safety  
5 "Firearms Safety Depends Upon You" (Item #81), distributed by both SAAMI and NSSF, were  
6 ordered by and sent to California residents during the same period. Thus, SAAMI has already  
7 produced requested information which Mr. Delfay could not be expected to memorize.

8 QUESTION NO. 11:

9 Would SAAMI have records of whether that video had been distributed into California?

10 ANSWER TO QUESTION NO. 11:

11 I wouldn't know. I will say the video has had limited distribution. It is distributed to fire  
12 departments. Delfay Depo. at 162:3-7.

13 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

14 Not only did Mr. Delfay lack personal knowledge of this important jurisdiction question, but  
15 he also was unable to testify about whether SAAMI maintains records which would determine its  
16 contacts with California. Mr. Delfay's general recollection regarding the videotapes is meaningless  
17 since plaintiffs are unable to specifically determine whether SAAMI has sold or distributed such  
18 videotapes in California. Such information is crucial since facts demonstrating that SAAMI is  
19 generating money from the sale or videotapes in California would indicate that SAAMI is conducting  
20 business within the state, thereby subjecting it to the jurisdiction of California courts. *See Jeter v.*  
21 *Austin Trailer Equip. Co.*, 122 Cal.App.2d 376, 389 (1953) (holding that an entity is subject to the  
22 jurisdiction of California courts if it conducts systematic solicitation in the state).  
23 Thus, SAAMI should produce a more knowledgeable corporate deponent.

24 / / /

25 / / /

26 \_\_\_\_\_  
27 <sup>22</sup> Bates Nos. N122-28 as Exhibit V to the Declaration of Susan L. Caldwell.  
28



OPPOSITION TO PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

Plaintiffs' concern that Mr. Delfay could not state whether specific SAAMI publications were sent to, and at the request of, California residents was cited in plaintiffs' meet and confer letters. However, plaintiffs' assumption that Mr. Delfay or any other staff member of SAAMI, even a mailroom clerk, would memorize specific shipments of nationally available publications and their California recipients, over a number of years, is inane.

SAAMI has produced all information necessary for plaintiffs to make this determination. Plaintiffs have the computer printout of mailroom records of shipments to California of SAAMI and NSSF literature from 1992 through October, 1999. (Bates Nos. N109-233.) Plaintiffs' counsel has been further provided with SAAMI and NSSF literature lists in this and other cases.<sup>23</sup> As explained in SAAMI's supplemental discovery responses of August 7, 2000, the lists produced by SAAMI, and the mailroom records, identify what SAAMI publications were sent to California residents.

Taking as an example the video "Sporting Ammunition and the Firefighter"(Item #250), cited by plaintiffs in their motion (Pl. Separate Statement at 6-7), and the literature shipment records produced to plaintiffs for the period July, 1998 to December, 1998,<sup>24</sup> no California resident received that video. During that period, over 400 copies of the common sense booklet on firearms safety "Firearms Safety Depends Upon You" (Item #81), distributed by both SAAMI and NSSF, were ordered by and sent to California residents during the same period. Thus, SAAMI has already produced requested information which Mr. Delfay could not be expected to memorize.

QUESTION NO. 12:

Mr. Delfay, we were talking earlier about the SAAMI standards that are promulgated with ANSI. Is it SAAMI's intent that those standards apply just to its members as opposed to other entities or manufacturers that are nonmembers of SAAMI?

MR. KLIEVER: Objection as to form.

<sup>23</sup> Exhibit U to the Declaration of Susan L. Caldwell.

<sup>24</sup> Bates Nos. N122-28 as Exhibit V to the Declaration of Susan L. Caldwell.

1 BY MR. SELBIN: (Resuming)

2 Do you understand the question?

3 ANSWER TO QUESTION NO. 12:

4 Yes, I understand the question.

5 I don't know. SAAMI produces the standards in cooperation with the American National  
6 Standards Institute, and publishes them, makes them available to other manufacturers. And they can  
7 follow them if they wish.

8 PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

9 This question is important to the issue of jurisdiction since it relates to SAAMI's contacts  
10 with firearms manufacturers, many of which are located in California. If SAAMI has regular  
11 business dealings with California gun manufacturers regarding the standards it produces, such  
12 dealings would support the exercise of jurisdiction. *Sims v. Nat'l Eng'g Co.*, 221 Cal.App.2d 511,  
13 514 (1963). Mr. Delfay, however, did to know the scope of the application of SAAMI's standards,  
14 which would include whether or not such standards applied to California gun manufacturers.  
15 Accordingly, SAAMI should be compelled to produce a knowledgeable corporate designee.

16 OPPOSITION TO PLAINTIFFS' REASON TO COMPEL NEW CORPORATE DESIGNEE:

17 SAAMI does not understand the basis for plaintiffs' complaint that Mr. Delfay "did not know  
18 the scope of the application of SAAMI's standards" or "whether or not such standards applied to  
19 California gun manufacturers." (Pl. Separate Statement at 8.) Plaintiffs have failed to identify what  
20 further information, if any, is sought.

21 As Mr. Delfay testified, and as the titles of the standards state,<sup>25</sup> American National Standards  
22 Institute (ANSI) standards are voluntary industry standards. Although Mr. Delfay used the words "I  
23 don't know", he fully answered the questions asked:

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24  
25  
26 <sup>25</sup> E.g., ANSI/SAAMI Z299.5-1996: "American National Standard Voluntary Industry Performance  
27 Standards Criteria for Evaluation of New Firearms Designs Under Conditions of Abusive Mishandling for the  
28 Use of Commercial Manufacturers". Bates Nos. BS144-55 as Exhibit W to the Declaration of Susan L. Caldwell.

1 Q. Mr. Delfay, we were talking earlier about the SAAMI standards that are  
2 promulgated with ANSI. Is it SAAMI's intent that those standards apply  
3 just to its members as opposed to other entities or manufacturers that are  
nonmembers of SAAMI?

MR. KLIEVER: Objection as to form.

BY MR. SELBIN: (Resuming)

5 Q. Do you understand the question?

6 A. Yes, I understand the question. I don't know. SAAMI produces the  
7 standards in cooperation with the American National Standards Institute,  
8 and publishes them, makes them available to other manufacturers. And  
they can follow them if they wish.

9 Q. Does SAAMI, as part of its mission, intend or expect that non-member  
10 manufacturers will comply with those standards, understanding that  
they're voluntary standards?

MR. KLIEVER: Objection as to form.

11 THE WITNESS: We don't have a statement of whether we expect or intend that  
12 non-members would adhere to the SAAMI standards or not. (Delfay Dep. 162:21-22,  
13 163:1-18.)

14 It is clear from the testimony and documents produced that ANSI standards are voluntary, and  
15 may be used by any commercial manufacturer whether located in California or elsewhere. SAAMI has  
16 provided all information relating to ANSI and fails to understand what more plaintiffs want from a  
SAAMI witness.

### 17 REQUESTS FOR PRODUCTION OF DOCUMENTS

#### 18 SECOND REQUEST FOR PRODUCTION NO. 23:

19 ALL DOCUMENTS that CONSTITUTE, REFLECT, REFER to, OR RELATE to ANY  
20 COMMUNICATIONS between YOU and ANY PERSON OR ENTITY who works, resides, OR is  
21 located in the State of California, including, but not limited to, ANY electronic mail, mail,  
22 facsimiles, OR telephone calls.

#### 23 RESPONSE TO SECOND REQUEST FOR PRODUCTION NO. 23:

24 ~~Objection. This Request Seeks Information Outside Of The Court's Ruling Of October 22,~~  
25 1999, Limiting Discovery To Issues Of Jurisdiction, Is Unduly And Unreasonably Burdensome,  
26  
27  
28

1 And Is Duplicative Of First Request For Production Nos. 4,5, 8, 9, Special Interrogatories Nos. 15,  
2 16, 23, 26, 37 And Second Request For Production No. 24. See Responses Thereto.

3 FURTHER RESPONSE TO SECOND REQUEST FOR PRODUCTION NO. 23:

4 Plaintiffs' fail to reference duplicative discovery to which SAAMI provided response and  
5 supplemental jurisdictional discovery responses and production by SAAMI with respect to this  
6 request. See Exhibit R to the Declaration of Susan L. Caldwell filed concurrently herewith.

7 FIRST REQUEST FOR PRODUCTION NO. 4:

8 ALL DOCUMENTS provided to OR received from ANY law enforcement agency,  
9 including, but not limited to, the ATF, the United States Federal Bureau of Investigation, the  
10 Alameda Sheriff's Department, the Berkeley Police Department, the California Highway Patrol, the  
11 East Palo Alto Police Department, the Oakland Police Department, the Oakland Police Service  
12 Agency, the Sacramento Police Department, the San Francisco Police Department, OR the San  
13 Mateo Sheriff's Department, regarding the CRIMINAL USE of ANY FIREARM.

14 RESPONSE TO FIRST REQUEST FOR PRODUCTION NO. 4:

15 Objection. This Request Seeks Information Outside Of The Court's Ruling Of October 22,  
16 1999, Limiting Discovery To Issues Of Jurisdiction, and seeks proprietary/confidential business  
17 information.

18 FURTHER RESPONSE TO FIRST REQUEST FOR PRODUCTION NO. 4:

19 Plaintiffs' fail to reference supplemental jurisdictional discovery responses and production by  
20 SAAMI with respect to this request. See Exhibit R to the Declaration of Susan L. Caldwell filed  
21 concurrently herewith.

22 FIRST REQUEST FOR PRODUCTION NO. 5:

23 ALL DOCUMENTS that CONSTITUTE, REFLECT, REFER to, OR RELATE to  
24 COMMUNICATIONS between YOU and ANY law enforcement agency, including, but not limited  
25 to the ATF, the United States Federal Bureau of Investigation, the Alameda Sheriff's Department,  
26 the Berkeley Police Department, the California Highway Patrol, the East Palo Alto Police  
27 Department, the Oakland Police Department, the Oakland Police Service Agency, the Sacramento  
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1 Police Department, the San Francisco Police Department, OR the San Mateo Sheriff's Department,  
2 regarding the CRIMINAL USE of ANY FIREARM.

3 RESPONSE TO FIRST REQUEST FOR PRODUCTION NO. 5:

4 Objection. This Request Seeks Information Outside Of The Court's Ruling Of October 22,  
5 1999, Limiting Discovery To Issues Of Jurisdiction.

6 FURTHER RESPONSE TO FIRST REQUEST FOR PRODUCTION NO. 5:

7 Plaintiffs' fail to reference supplemental jurisdictional discovery responses and production by  
8 SAAMI with respect to this request. See Exhibit R to the Declaration of Susan L. Caldwell filed  
9 concurrently herewith.

10 FIRST REQUEST FOR PRODUCTION NO. 8:

11 ALL DOCUMENTS that CONSTITUTE, REFLECT, REFER to, OR RELATE to  
12 COMMUNICATIONS between YOU and ANY DISTRIBUTOR, DEALER, RETAILER, OR  
13 SELLER of FIREARMS, including, but not limited to, COMMUNICATIONS regarding ATF  
14 TRACE REQUESTS.

15 RESPONSE TO FIRST REQUEST FOR PRODUCTION NO. 8:

16 Objection. This Request Seeks Information Outside of the Court's Ruling of October 22,  
17 1999, Limiting Discovery to Issues of Jurisdiction.

18 FURTHER RESPONSE TO FIRST REQUEST FOR PRODUCTION NO. 8:

19 Plaintiffs' fail to reference supplemental jurisdictional discovery responses and production by  
20 SAAMI with respect to this request. See Exhibit R to the Declaration of Susan L. Caldwell filed  
21 concurrently herewith.

22 FIRST REQUEST FOR PRODUCTION NO. 9:

23 ALL DOCUMENTS that CONSTITUTE, REFLECT, REFER to, OR RELATE to ANY  
24 COMMUNICATIONS between YOU and ANY MANUFACTURER, including, but not limited to,  
25 Arcadia Machine & Tool, Inc., Bryco Arms, Inc., Davis Industries, Inc., Excel Industries, Inc.,  
26 Lorcin Engineering Co., Inc., China North Industries, Phoenix Arms, Sundance Industries, Inc.,  
27 Beretta U.S.A. Corp., Pietro Beretta Sp. A., Browning Arms Co., Carl Walther GmbH, Charter  
28

Arms, Inc., Colt's Manufacturing Co., Inc., Forjas Taurus, S.A., Taurus International Manufacturing, Inc., Glock, Inc., Glock GmbH, H&R 1871 Inc., Heckler & Koch, Inc., Kel-Tec CNC Industries, Inc., MKS Supply Inc., Navergar, Inc., North American Arms, Inc., Sigarms, Inc., Smith and Wesson Corp., S.W. Daniels, Inc., OR Sturm Ruger & Company, Inc.

RESPONSE TO FIRST REQUEST FOR PRODUCTION NO. 9:

Objection. This Request Seeks Information Outside of the Ruling of October 22, 1999, Limiting Discovery to Issues of Jurisdiction.

FURTHER RESPONSE TO FIRST REQUEST FOR PRODUCTION NO. 9:

Plaintiffs' fail to reference supplemental jurisdictional discovery responses and production by SAAMI with respect to this request. See Exhibit R to the Declaration of Susan L. Caldwell filed concurrently herewith.

SPECIAL INTERROGATORY NO. 16:

Identify All Persons Or Entities [In California] Who Have Participated In Any Communication With You Concerning The Incorporation Of Firearm Safety Features Into The Design Of Firearms.

RESPONSE TO SPECIAL INTERROGATORY NO. 16:

See Response To Special Interrogatory No. 23.

FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 16:

Plaintiffs' fail to reference duplicative discovery requests to which SAAMI provided response and supplemental jurisdictional discovery responses and production by SAAMI with respect to this request. See Exhibit R to the Declaration of Susan L. Caldwell filed concurrently herewith.

SPECIAL INTERROGATORY NO. 23:

Identify All Communications Between You And Any Firearm Manufacturer, Dealer And/Or Distributor.

RESPONSE TO SPECIAL INTERROGATORY NO. 23:

This Interrogatory Seeks Information Outside Of The Court's Ruling Of October 22, 1999 Limiting Discovery to Jurisdiction Issues, seeks proprietary/confidential business information, and Is

1 Unduly And Unreasonably Burdensome. Without Waiving Objection, Any Such Communications  
2 Which Relate To Magazine Disconnect Safeties, Chamber-Loaded Indicators, Or Personalized Gun  
3 Technology That Would Prevent An Unauthorized User From Being Able To Fire the Gun Are  
4 Produced, None.

5 FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 23:

6 Plaintiffs' fail to reference supplemental jurisdictional discovery responses and production by  
7 SAAMI with respect to this request. See Exhibit R to the Declaration of Susan L. Caldwell filed  
8 concurrently herewith.

9 SPECIAL INTERROGATORY NO. 26:

10 Identify All Communications [In California] Between You And The Hunting And Shooting  
11 Sports Heritage Foundation, Or The American Shooting Sports Council, The Sporting Arms And  
12 Ammunition Manufacturers' Institute And/Or The National Rifle Association, Or Any Of Its  
13 Representatives, Agents Or Assigns.

14 RESPONSE TO SPECIAL INTERROGATORY NO. 26:

15 Objection. This Interrogatory Seeks Information Outside Of The Court's Ruling Of October  
16 22, 1999, Limiting Discovery To Issues Of Jurisdiction. Without Waiver Of Objection, None.

17 FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 26:

18 Plaintiffs' fail to reference supplemental jurisdictional discovery responses and production by  
19 SAAMI with respect to this request. See Exhibit R to the Declaration of Susan L. Caldwell filed  
20 concurrently herewith.

21 SPECIAL INTERROGATORY NO. 37:

22 Identify Any Communication Between Or Among Any Person(S) Or Entities, In Which You  
23 Participated Or Which You Are Or Were Aware, Relating To Compliance Or Non-compliance With  
24 Laws Or Regulations Relating To Firearm Sales, Manufacture, And/Or Distribution [In California].

25 RESPONSE TO SPECIAL INTERROGATORY NO. 37:

26 Objection. This request is vague and ambiguous. Without waiving objection, None.

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1 FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 37:

2 Plaintiffs' fail to reference supplemental jurisdictional discovery responses and production by  
3 SAAMI with respect to this request. See Exhibit R to the Declaration of Susan L. Caldwell filed  
4 concurrently herewith.

5 SECOND REQUEST FOR PRODUCTION NO. 24:

6 ALL DOCUMENTS that CONSTITUTE, REFLECT, REFER to, OR RELATE to ANY  
7 COMMUNICATIONS between YOU and ANY MANUFACTURER, DISTRIBUTER, DEALER,  
8 RETAILER, OR SELLER located OR authorized to conduct business in the State of California,  
9 including, but not limited to, COMMUNICATIONS between YOU AND Andrews Sporting Goods,  
10 Inc., Arcadia Machine & Tool, Inc., B&B Group, Inc., B&E Guns, Bryco Arms, Inc., China North  
11 Industries, Davis Industries, Inc., Excel Industries, Inc. Glock, Inc., Hawthorne Distributors, Inc.,  
12 Lorcin Engineering, Co., Inc. National Gun Sales, Inc., Phoenix, Arms, S.G. Distributors, Inc.,  
13 Smith & Wesson Corp., Sundance Industries, Inc., OR Trader Sports, Inc.

14 RESPONSE TO SECOND REQUEST FOR PRODUCTION NO. 24:

15 Objection. This Request Seeks Information Outside of the Court's Ruling of October 22,  
16 1999, Limiting Discovery to Issues of Jurisdiction, and seeks Proprietary/Confidential Business  
17 Information. Without Waiver of Objection, See Response To Special Interrogatory No. 23.

18 FURTHER RESPONSE TO SECOND REQUEST FOR PRODUCTION NO. 24:

19 Plaintiffs' fail to reference duplicative discovery to which SAAMI provided response and  
20 supplemental jurisdictional discovery responses and production by SAAMI with respect to this  
21 request. See Exhibit R to the Declaration of Susan L. Caldwell filed concurrently herewith.

22 SECOND REQUEST FOR PRODUCTION NO. 34:

23 ALL DOCUMENTS that CONSTITUTE, REFLECT, REFER to, OR RELATE to ANY  
24 lawsuit OR complaint, whether formal OR informal, filed against YOU OR ANY of YOUR  
25 EMPLOYEES, AGENTS, OR MEMBERS in the State of California, excluding *The People of the*  
26 *State of California v. Arcadia Machine & Tool, Inc., et al.*, San Francisco Superior Court No.  
27 303753, *The People of the State of California v. Arcadia Machine & Tool, Inc., et al.*, Los Angeles  
28



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1 Superior Court No. BC210894, and *The People of the State of California v. Arcadia Machine &*  
2 *Tool, Inc., et al.*, Los Angeles Superior Court No. BC214794.

3 RESPONSE TO SECOND REQUEST FOR PRODUCTION NO. 34:

4 Objection. This Request Seeks Information Outside Of The Court's Ruling Of October 22,  
5 1999, Limiting Discovery To Issues Of Jurisdiction Insofar As It Relates To Employees, Agents, Or  
6 Members. With Respect To SAAMI, See Response To Special Interrogatory No. 32.

7 FURTHER RESPONSE TO SECOND REQUEST FOR PRODUCTION NO. 34:

8 Plaintiffs' fail to reference duplicative discovery to which SAAMI provided response and  
9 supplemental jurisdictional discovery responses and production by SAAMI with respect to this  
10 request. See Exhibit R to the Declaration of Susan L. Caldwell filed concurrently herewith.

11 SPECIAL INTERROGATORY NO. 32:

12 Identify All Lawsuits That Have Been Filed Against You [In California] Since 1980 Other  
13 than The Present Complaint.

14 RESPONSE TO SPECIAL INTERROGATORY NO. 32:

15 Other Than The Lawsuits Filed In Collusion With Plaintiffs And Referred To In Second  
16 Request For Production No. 34, None.

17 FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 32:

18 Plaintiffs' fail to reference supplemental jurisdictional discovery responses and production by  
19 SAAMI with respect to this request. See Exhibit R to the Declaration of Susan L. Caldwell filed  
20 concurrently herewith.

21 PLAINTIFFS' REASON TO COMPEL PRODUCTION OF DOCUMENTS:

22 Such documents are clearly relevant for jurisdiction to determine whether SAAMI maintained  
23 business relationships with persons or entities in California. *Hall v. LaRonde*, 56 Cal.App.4th 1342,  
24 1347 (1997). Despite the relevance of these documents, SAAMI has refused to produce even the  
25 most basic documents. In fact, plaintiffs' counsel had to spell out those documents which it knows  
26 SAAMI to have, including those related to its coordination of the gun industry's response to *Mateel*  
27 *Env'tl. Justice Found. V. Accu-Tek*, Case No. 752023-5 (Alameda County Sp. Ct.), an action brought  
28

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1 by the California Attorney General's office against many of SAAMI's members. Sams Decl., Ex.  
2 14. SAAMI served as liaison for all the gun manufacturers sued and coordinated the industry's  
3 defense. Plaintiffs know that SAAMI communicated extensively with gun manufacturers about this  
4 action and with the Los Angeles law firm of McKenna & Cuneo. Although plaintiffs' document  
5 requests are reasonably calculated to lead to the discovery of admissible evidence regarding  
6 SAAMI's contacts with California, SAAMI has refused to produce documents related to the *Mateel*  
7 action. Accordingly, SAAMI should be compelled to produce such documents.

8 OPPOSITION TO PLAINTIFFS' REASON TO COMPEL FURTHER DOCUMENTS:

9 Plaintiffs' Separate Statement in support of their motion to compel the production of documents  
10 cites numerous duplicative and overlapping requests for production of documents (as well as  
11 interrogatories). This discovery seeks documents relating to a suit brought against a number of firearms  
12 and ammunition manufacturers quite a few years ago, including some of SAAMI's members, by a  
13 private foundation (which the California Attorney General later joined) for alleged violation of  
14 Proposition 65 for failure to provide adequate warnings about lead exposure – Mateel Environmental  
15 Justice Foundation v. Accu-Tek. (Pl. Separate Statement at 9-14.)

16 SAAMI was not a party to this litigation. Despite this, SAAMI produced documents which  
17 fully describe SAAMI's role and actions in connection with the Consent Judgment entered in that case.  
18 As agent for the defendant manufacturers, SAAMI distributed to California firearms and ammunition  
19 retailers posters with warnings on exposure to lead approved by the Attorney General as complying  
20 with Proposition 65, placed public service ads and provided information to outdoor related publications  
21 on lead exposure, and prepared information on the subject for inclusion in the Attorney General's own  
22 firearms safety manual.<sup>26</sup>

23 Plaintiffs now want documents reflecting SAAMI's communications with the defendant  
24 manufacturers and the defendant manufacturers' litigation counsel, McKenna and Cuneo, during the  
25 negotiation and implementation of the Consent Judgment. Such former communications are irrelevant

26  
27 <sup>26</sup> Bates Nos. S78-87, Exhibit X to the Declaration of Susan L. Caldwell.  
28

1 to jurisdiction and invade third party privacy rights. Roth v. Marguez (9<sup>th</sup> Cir. 1991) 942 F.2d 617, 621,  
2 citing to FDIC v. British-American Ins. Co. (9<sup>th</sup> Cir. 1987) 828 F.2d 1439, 1441. SAAMI's  
3 documented role as a non-profit agent of the manufacturers in the litigation, following the direction  
4 of the Consent Judgment entered into and approved by the Attorney General, could not conceivably be  
5 the basis for general personal jurisdiction. As You Sow v. Crawford Laboratories ( 1996) 50  
6 Cal.App.4th 1859, 1867, 58 Cal.Rptr.2d 654. Activities in California related to Proposition 65 lead  
7 warnings are unrelated to plaintiffs' cause of action and, hence, could not be the basis for specific  
8 jurisdiction. Sonora Diamond Corp. v. Sup. Ct. (2000) 2000 Cal.App.LEXIS 695, 99 Cal.Rptr.2d 894,  
9 citing to AT&T Co. v. Compagnie Bruxelles Lambert (9<sup>th</sup> Cir. 1996) 94 F.3d 586, 588. Further,  
10 production of documents related to such communications do not bear on any other SAAMI activity in  
11 California as it relates to personal jurisdiction and would raise significant issues of privilege.

12 In light of the enormity of jurisdictional discovery propounded by plaintiffs on SAAMI, with  
13 good faith compliance by SAAMI, requests for further documentation *unrelated to personal*  
14 *jurisdiction* are oppressive, overly burdensome, and outside the scope of permissible discovery.  
15 Plaintiffs have entirely failed to establish good cause for production of documents unrelated to personal  
16 jurisdiction. California Code of Civil Procedure §2031.

17 Dated: October 2, 2000

KOLETSKY, MANCINI, FELDMAN & MORROW

18  
19 By: 

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SUSAN L. CALDWELL  
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SHOOTING SPORTS COUNCIL, INC., and  
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