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DATE: 12-18-02
RE: Declaration

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Attorneys for Defendant
Andrews Sporting Goods, Inc., dba Turners Outdoorsman

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

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

JUDICIAL COUNCIL COORDINATION
PROCEEDINGS NO. 4095

FIREARM CASES

Coordinated actions:

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

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

Superior Court of California County of Los
Angeles No. BC210894

Superior Court of California County of Los
Angeles No. BC214794

v.

ARCADIA MACHINE & TOOL, et. al.,

DECLARATION OF ABIGAIL KOHN,
PH. D. IN SUPPORT OF DEFENDANT
ANDREW'S SPORTING GOODS, DBA
TURNERS OUTDOORSMAN'S MOTION
FOR SUMMARY JUDGMENT

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

Date:

Time:

Dept:

Judge:

65

Hon. Vincent P. Difiglia

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.

ABIGAIL KOHN, PH. D.

1 I, Abigail Kohn Ph.D., declare that if called as a witness I would testify as follows:

2 1. I am an anthropologist and ethnographer with a specialty in the study of firearms
3 ownership in the United States. Currently I am in residence as a post-doctoral fellow at the
4 University of Sydney in Australia. One of my current activities is preparing my doctoral thesis for
5 publication in 2003 or early 2004 by Oxford University Press under the title SHOOTERS:
6 MYTHS AND REALITIES OF AMERICA'S GUN CULTURES.

7 2. The research my book will report sought to investigate the phenomena of gun ownership
8 for sport and defense in the U.S. I conducted an 18 month anthropological study of gun
9 enthusiasts living in Northern California. These gun enthusiasts, who call themselves "shooters,"
10 own and use guns for mostly recreational purposes. I asked them the questions that lie at the heart
11 of the divisive and polemical gun debate. Why do these shooters feel so strongly about their gun
12 ownership? What do guns symbolize for them? What does owning a gun mean to them? The
13 result describes the worldview and experiences of these particular gun enthusiasts.

14
15 [BACKGROUND RESEARCH]

16 3. Neither my book nor my doctoral thesis were intended to address the truth or falsity of
17 gun owners' beliefs about guns or other questions at the heart of the gun debate. Nevertheless in
18 preparation for writing my thesis and book, I immersed myself in the available social scientific
19 literature on firearms ownership and use in the U.S., and on firearms ownership in other nations.

20
21 [MY OWN VIEWS]

22 4. As a result of that immersion I have developed certain opinions that appear relevant to the
23 issues involved in this case. First, the incidence of serious violent crime by people having no prior
24 criminal history who own firearms is negligible. It is simply untrue that just buying a handgun
25 turns ordinary responsible adults into people who are at risk of shooting their mates and other
26 occupants of their homes. Homicide by people with no history of prior criminal behavior,
27 substance abuse or psychopathology is very rare. (Nor is the availability of a handgun the relevant
28 issue. Absent a handgun, the impecunious nephew who murders his wealthy aunt in hopes of more

1 rapid access to her fortune would kill her in some other way. Absent a handgun, the "crime of
2 passion" killer would prove equally or more deadly with a shotgun. In any event, "crime of
3 passion" killers almost always have criminal histories.)

4 5. Also, the incidence of self-defense usage of handguns far exceeds the negligible incidence
5 of murder by handgun owners who have no prior criminal history. Admittedly, incidents in which
6 civilian handgun owners use their weapons to defend themselves or others are comparatively very
7 rare. But such incidents certainly do occur. The best evidence indicates that there are at least
8 750,000 such incidents in the U.S. each year (and at most, as many as 2.5 million incidents
9 annually). No matter where the right figure is along that continuum, it turns out that handguns are
10 used for self-defense by only a small fraction of owners annually. But the defensive use of
11 handguns is nevertheless much more frequent than their use in murder -- even in the murders
12 committed by real criminals, much less the virtually non-existent phenomenon of murder by
13 ordinary, responsible people who have no history of prior criminal behavior.

14 8. In short, insofar as firearms industry advertisements have asserted that handgun
15 ownership is useful for self-defense they did not mislead readers because there is strong empirical
16 evidence that that is true. Nor was there any reason for industry advertisements to warn ordinary
17 responsible, law abiding adults that buying a handgun for self-defense would put them at serious
18 risk for lawlessly killing others -- because any such warning would be false.

19 9. My beliefs about the self-defense value of guns are based on the best available
20 criminological studies such as Gary Kleck & Don B. Kates, ARMED: NEW PERSPECTIVES
21 ON GUN CONTROL (Prometheus 2001), Gary Kleck and Marc Gertz, "Armed Resistance to
22 Crime: The Prevalence and Nature of Self-Defense with a Gun", 86 J. OF CRIM. L. &
23 CRIMINOL. 150 (1995), Marvin E. Wolfgang, "A Tribute to a View I Have Opposed", 86 J.
24 CRIM. L. & CRIMINOL. 188 (1995), Gary Kleck, POINT BLANK: GUNS AND VIOLENCE IN
25 AMERICA (N.Y., Aldine, 1991), Don B. Kates, "The Value of Civilian Arms Possession as
26 Deterrent to Crime or Defense Against Crime", 18 AMERICAN JOURNAL OF CRIMINAL
27 LAW 113 (1991) and Kleck, "Crime Control Through the Use of Force in the Private Sector", 35
28 SOCIAL PROBLEMS 1 (1988).

[GUN OWNERS' BELIEFS]

10. Another problem with plaintiffs' claims in this case is that even if it were true that buying a handgun put ordinary, responsible law abiding people at risk for murdering their mates etc., there is no need for the gun industry to inform prospective buyers of that. Anyone having even slight acquaintance with guns and the gun control debate in the U.S. is aware of the anti-gun lobby's claims "that most murders are committed by previously law abiding citizens where the killer and the victim are related or acquainted." That particular quote comes from an anti-gun pamphlet entitled "A Shooting Gallery Called America" which first appeared in the early 1970s and epitomizes the anti-gun lobby argument then and as it has been replicated (and the pamphlet republished) over the past three decades. The gun owners to whom I spoke in doing my research were aware of anti-gun lobby claims that buying a handgun puts ordinary, responsible law abiding people at risk for murdering their mates etc. They did not buy handguns in ignorance of such claims, but rather in disregard of them because they do not believe them to be true.

11. Likewise, my gun owners were aware that the anti-gun lobby claims handguns are not needed or valuable for self-defense. Gun owners don't believe that either. One reason for this is that it contradicts their own experience and-or the experience of others they know. A substantial number of shooters I interviewed said they had been victimized by crime, and had used their guns to defend themselves during the incident. Nine shooters in total, seven men and two women, said they had been physically threatened, almost mugged or robbed, or confronted in some way by someone apparently intending to hurt them. How serious each of these incidents was varied with the situation, as does the length of time that has passed since the events occurred. Several shooters reported incidents that occurred as long as twenty or even thirty years ago, and others reported incidents that had occurred in the last several years.

12. Because I was not trying to measure the extent to which victimization occurred amongst this population, the efficacy of armed response, or even whether their experiences "transformed" them into gun enthusiasts, I did not press shooters to describe these situations or their feelings about them. Shooters mentioned these events spontaneously (I did not specifically ask if shooters had ever used a gun for defense, only if they kept guns for defensive purposes); they were only

1 asked to elaborate if they mentioned that they had used a gun defensively, and-or if they felt
2 comfortable talking about it.

3 13. Interestingly, during only one of these events did the shooter actually fire the gun he was
4 using for self-defense. In almost all of the incidents mentioned, brandishing or verbally
5 threatening to fire the weapon was enough to ward off aggressors and/or end the attack. This is
6 consistent with what criminologists have repeatedly documented in studies of self-defensive gun
7 use. See Kleck, *supra*, TARGETING GUNS, pp. 147-190, for a summary of this research. The
8 one shooter who did fire his weapon claimed he did so to fend off an acquaintance who was
9 threatening him with a meat-cleaver. This incident took place at a party during which an
10 acquaintance who was on drugs at the time threatened him with the meat-cleaver. The shooter
11 shot this man with a .22, and the individual survived the shooting. The shooter was not
12 prosecuted for the incident. Some of the shooters stated that they felt their lives had been
13 endangered, while others stated they were preventing themselves from being mugged or robbed.

14 14. These incidents beg the question of the efficacy of self-defensive gun use, in the sense
15 that having and brandishing an accessible weapon prevented the intended victim from being
16 further jeopardized. However, for me to assess the actual danger that each individual faced would
17 have been impossible. Not only would I have offended people had I tried, but how does one
18 legitimately assess the objective danger from these subjective experiences? Every individual has a
19 particular take on what constitutes an actual threat, how he or she feels about that threat, what to
20 do about it, and what actually happened from start to finish. But convincing people that they don't
21 "really" need guns to defend themselves, particularly after they have already done so, would have
22 been an exercise in futility. The shooters who had used their guns defensively were quite certain
23 that those guns had prevented their
24 injury or even death.

25
26 [THE INFLUENCE OF "MERE ANECDOTES"]

27 15. Anti-gun advocates may dismiss such defensive incidents as "mere anecdotes." But to
28 those inclined to own guns they are very powerful anecdotes that confirm what they tend to

1 believe. And such anecdotes are very widespread. It is almost impossible to have an extended
2 discussion of armed self-defense with more than a few gun owners without one or more of them
3 bringing forth some such anecdote presented as a personal experience or the experience of a friend
4 or relative.

5 16. Such anecdotes are not just spread by word of mouth. They constantly appear in gun
6 magazines as articles or editorials or in letters to the editor from readers. The NRA magazines
7 actually feature a whole column of such anecdotes each month, and have apparently done so for
8 decades. (As I understand it, until sometime in the last 20 years all NRA members received the
9 AMERICAN RIFLEMAN but now members have the option of receiving one of two others, 1st
10 FREEDOM (which deals more intensively with the gun control debate), and AMERICAN
11 HUNTER (which deals more intensively with hunting). Regardless of which magazine the
12 member opts to receive, the same column of self-defense incidents appears monthly in each
13 magazine.)

14 17. Independent of the deliberate publicization of gun defense incidents by gun owner
15 groups, the news media often report the most newsworthy incidents, i.e., the more serious ones in
16 which a gun owner kills, wounds or captures a criminal. The following example was reported by
17 the Associated Press a couple of months ago:

18
19 **Man Arrested for Attacks on 7 Women**

20 **By Associated Press** October 14, 2002, 9:29 PM EDT

21 **PITTSBURGH --** A man was charged Monday in a string of recent sexual
22 attacks after a woman who was attacked twice within two hours shot him, police said.

23 Daniel Wesley, 27, was charged with two rapes, four counts of attempted
24 rape and three counts each of involuntary deviate sexual intercourse and simple
25 assault, police said.

26 Police said that since Sept. 25, Wesley sexually attacked or tried to attack six
27 women, and was shot after he assaulted a seventh woman twice last week.

28 Wesley was arraigned Monday at a hospital where he was recovering from

1 two gunshot wounds to the torso, said Pittsburgh Police Chief Robert McNeilly Jr.

2 He was shot early Thursday by a 42-year-old woman who said Wesley had
3 assaulted her earlier while she was walking her dog, McNeilly said. The 42-year-old
4 woman reported the incident to police, then left her home again with a handgun she
5 was licensed to carry.

6 There was no indication the woman was searching for her attacker and she
7 won't be charged, McNeilly said.

8 The six other women, ages 13-33, identified Wesley from photo arrays,
9 police said.

10 In my opinion the publication of such an anecdote by the press across the United States does
11 more to promote defensive handgun ownership than all the self-promoting advertising the gun
12 industry is ever likely to sponsor.

13
14 [CAN AN INJUNCTION DISPEL GUN CULTURE BELIEFS?]

15 18. Regardless of the actual correctness or incorrectness of anti-gun claims, it will be
16 extremely difficult to use those claims as a basis for dissuading anyone who is inclined to buy a
17 handgun from doing so. People who buy guns, or are inclined to do so, tend to be part of what is
18 often called a "gun culture." Whether or not they actually own guns, those who belong to that
19 culture share attitudes common to that culture and which are reinforced by their mutuality of
20 belief. People holding those gun culture attitudes are deeply resistant to the contrary beliefs of the
21 anti-gun lobby. Persuading such people that the anti-gun lobby is right -- so that they ought not to
22 buy handguns -- is as dubious and difficult an enterprise as it would be to persuade vegetarians to
23 eat meat by publicizing testimonials about how nourishing and delicious meat is, or persuading
24 Orthodox Jews and Muslims to celebrate Sunday as the Sabbath by publicizing the views of
25 Christians on that point.

26 19. Without meaning any disrespect, my opinion is that a court order forbidding gun
27 company advertisements mentioning self-defense would have no substantial effect in reducing
28 handgun sales. Another reason it is so difficult to dent the gun culture belief system as to the value

1 of handgun self-defense has already been mentioned. The gun culture's belief has tended to be
2 substantiated by a number of criminological studies that even I find persuasive though I began my
3 research agnostic on the subject. Those studies are likely to be even more convincing to people
4 who are inclined to buy handguns for self-defense after having been steeped in years of successful
5 gun self-defense anecdotes.

6 20. It is true, of course, that anti-gun attitudes have wide currency among Americans who
7 are opposed to the gun culture. But the anti-gun lobby's propaganda machine is highly ineffective
8 with members of the gun culture. It's efforts are far outstripped by the pro-gun lobby propaganda
9 machine's efforts to inform gun culture members of the criminological studies supporting the
10 efficacy of handguns for self-defense. Indicative of the success of the pro-gun lobby propaganda
11 machine is that people who could not define the difference between a criminologist and a
12 criminalist, are nevertheless familiar with the name and research findings of Professor Gary
13 Kleck.

14 21. I am given to understand that plaintiffs contend that the constitutional guarantees of free
15 expression do not preclude courts from enjoining companies that sell guns from advertising a
16 point of view that has been part of American political discourse for at least a century. As I am not
17 a lawyer I am unable to evaluate that contention. But as a social scientist I have some questions
18 about the effectiveness of so limited an injunction in dissuading people from buying handguns in
19 the belief that handguns are the safest and most effective form of self-defense: My questions all
20 implicate the constitutional authority of courts to restrain expression by persons and groups that
21 do not sell handguns. Can the courts enjoin handgun owners who believe that in a particular
22 incident their guns saved their lives from saying so either privately or publicly? Can the courts
23 enjoin police officers who believe that handguns are the safest and most effective form of self-
24 defense from telling that to civilians either privately or publicly? Can the courts enjoin
25 commentators who believe that from saying so on local, regional, or national talk radio or TV
26 shows, or from interviewing guests who believe and say that handguns are the safest and most
27 effective form of self-defense? Can the courts enjoin those social scientists whose findings
28 support the defensive value of handguns from saying so? Can the courts enjoin them from

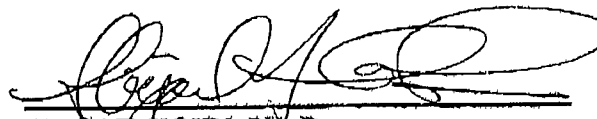
1 publishing their research if it supports the attitudes of the gun culture? Can the courts enjoin the
2 news media from summarizing such research or scholarly journals and university presses from
3 publishing it? Can the courts enjoin the news media from publishing articles of successful
4 handgun self-defense or the gun groups from publicizing and dramatizing such anecdotes or
5 favorable scholarly research?

6 22. If the answer to these questions is in the negative I do not think an injunction against an
7 apparently tiny quantum of gun industry advertising can substantially affect the purchasing of
8 handguns in the belief that they are the safest and most effective form of self-defense.

9 23. I have no connections to the gun industry. I have neither been paid nor promised any
10 payment in connection with this
11 declaration.

12
13 [VERIFICATION]

14 I certify and declare under penalty of perjury under the laws of the State of California that
15 the foregoing is a true and correct statement of my personal knowledge. Executed this 19 day of
16 December, 2002 at the University of Sydney, Sydney, Australia.

17
18 
19 ABIGAIL KOHN, PH. D.
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