

1 ROCKARD J. DELGADILLO, Los Angeles City Attorney (State Bar No. 125465)
2 DON KASS, Deputy City Attorney (State Bar No. 103607)
200 N. Main Street, 1600 City Hall East
Los Angeles, California 90012
3 Telephone: (213) 485-4515
4 Facsimile: (213) 847-3014

Attorneys for Plaintiffs
5 THE PEOPLE OF THE STATE OF CALIFORNIA

6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO
10

11 THE PEOPLE OF THE STATE OF CALIFORNIA,
by and through ROCKARD J. DELGADILLO, City
12 Attorney of the City of Los Angeles, CHARLES E.
DICKERSON III, City Attorney of the City of
13 Inglewood, MICHAEL JENKINS, City Attorney of
the City of West Hollywood, and LEGRAND H.
14 CLEGG II, City Attorney of the City of Compton,
and THE GENERAL PUBLIC by and through
15 LEGRAND H. CLEGG II, City Attorney of the City
of Compton, ROOSEVELT DORN, Mayor of the
16 City of Inglewood and JOHN HEILMAN, Mayor of
the City of West Hollywood,

17 Plaintiffs,

18 v.
19

20 ARCADIA MACHINE & TOOL, BRYCO ARMS,
INC., DAVIS INDUSTRIES, INC., LORCIN
ENGINEERING CO., INC., PHOENIX ARMS,
21 SUNDANCE INDUSTRIES, INC., EXCEL
INDUSTRIES, INC. A/K/A ACCU-TEK,
22 BERETTA U.S.A. CORP., PIETRO BERETTA
S.p.A, BROWNING ARMS CO., CARL
23 WALTHER GmbH, CHARTER ARMS, INC.,
COLT'S MANUFACTURING CO., INC., FORJAS
24 TAURUS, S.A., GLOCK, INC., GLOCK GmbH,
H&R 1871, INC., HECKLER & KOCH, INC., MKS
25 SUPPLY, INC. D/B/A HI-POINT FIREARMS,
KEL-TEC CNC INDUSTRIES, INC., CHINA
26 NORTH INDUSTRIES A/K/A NORINCO,
NAVEGAR, INC. D/B/A INTRATEC U.S.A., INC.,
27 NORTH AMERICAN ARMS, INC., SIGARMS,
INC., SMITH & WESSON CORP., STURM,
28 RUGER & COMPANY, INC., S.W. DANIEL, INC.,

Judicial Council Coordination
Proceeding, No. 4095

Superior Court of California, County
of Los Angeles, No. BC 210894

**SECOND AMENDED
COMPLAINT FOR
MAINTAINING A PUBLIC
NUISANCE AND FOR UNFAIR,
UNLAWFUL AND FRAUDULENT
BUSINESS PRACTICES IN
VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200**

Judge: The Hon. Vincent D. DiFiglia
Dept: 65

1 A/A/A COBRAY FIREARMS, INC., TAURUS
2 INTERNATIONAL MANUFACTURING, INC.,
3 AMERICAN SHOOTING SPORTS COUNCIL,
4 INC., NATIONAL SHOOTING SPORTS
5 FOUNDATION, INC., SPORTING ARMS AND
6 AMMUNITION MANUFACTURERS'
7 INSTITUTE, INC., B.L. JENNINGS, ELLET
8 BROTHERS, INTERNATIONAL ARMAMENT
CORP. D/B/A INTERARMS INDUSTRIES, INC.,
RSR WHOLESALE GUNS, INC., SOUTHERN
OHIO GUN DISTRIBUTORS, B&B GROUP, INC.,
ANDREWS SPORTING GOODS, INC.,
NATIONAL GUNS SALES, INC., S.G.
DISTRIBUTING, INC., HAWTHORNE
DISTRIBUTORS, INC., and DOES 1-300 ,

9 Defendants.

10 Attorneys for Plaintiffs

11 THE PEOPLE OF THE STATE OF CALIFORNIA and THE GENERAL PUBLIC

12
13 ROCKARD J. DELGADILLO, Los Angeles City Attorney (State Bar No. 125465)
14 DON KASS, Deputy City Attorney (State Bar No. 103607)
200 N. Main Street, 1600 City Hall East
Los Angeles, California 90012
Telephone: (213) 485-4515
15 Facsimile: (213) 847-3014

16
17 LEGRAND H. CLEGG II, Compton City Attorney (State Bar No. 56740)
18 W.A.M. Al-Haqq, Deputy City Attorney (State Bar No. 189683)
P.O. Box 5118
205 South Willowbrook Avenue
Compton, CA 90220
19 Telephone: (310) 605-5582
Facsimile: (310) 763-0895

20
21 CHARLES E. DICKERSON III, Inglewood City Attorney (State Bar No. 92590)
One Manchester Blvd., Suite 860
Inglewood, CA 903021
22 Telephone: (310) 412-5372
Facsimile: (310) 412-8865

23
24 MICHAEL JENKINS (State Bar No. 81997)
City Attorney
City of West Hollywood

1 RICHARDS, WATSON & GERSHON
2 A Professional Corporation
3 Sayre Weaver (State Bar No. 116957)
4 P.O. Box 1059
5 Brea, CA 92822-1059
6 Telephone: (714) 990-0901
7 Facsimile: (714) 990-6230

8 MILBERG WEISS BERSHAD HYNES & LERACH LLP
9 Patrick J. Coughlin (State Bar No. 111070)
10 Frank J. Janecek, Jr. (State Bar No. 156306)
11 Michael J. Dowd (State Bar No. 135628)
12 600 West Broadway, Suite 1800
13 San Diego, CA 92101
14 Telephone: (619) 231-1058
15 Facsimile: (619) 231-7423

16 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
17 Robert J. Nelson (State Bar No. 132797)
18 Richard M. Franco (State Bar No. 170970)
19 275 Battery Street, 30th Floor
20 San Francisco, CA 94111-3339
21 Telephone: (415) 956-1000
22 Facsimile: (415) 956-1008

23 BRADY CENTER TO PREVENT GUN VIOLENCE
24 Dennis A. Henigan
25 Brian J. Siebel
26 Jonathan E. Lowy
27 Legal Action Project
28 1250 Eye Street, N.W., Suite 802
Washington, D.C. 20005
Telephone: (202) 289-7319
Facsimile: (202) 898-0059

BUSHNELL, CAPLAN & FIELDING, LLP
Alan M. Caplan (State Bar No. 49315)
Philip Neumark, of Counsel (State Bar No. 45008)
Paul R. Hoeber, of Counsel (State Bar No. 48019)
221 Pine Street, Suite 600
San Francisco, CA 94104-2715
Telephone: (415) 217-3800
Facsimile: (415) 217-3820

McCUE & McCUE
Jonathan D. McCue (State Bar No. 128896)
Charles McCue (State Bar No. 155417)
600 West Broadway, Suite 930
San Diego, CA 92101
Telephone: (619) 338-8136
Facsimile: (619) 338-0322

1 thereby resulting in the unsafe storage, possession and use of handguns.

2 5. Defendants' pattern of unfair, unlawful and fraudulent business acts and
3 practices have undermined federal, state and local gun laws and the public policies embodied in
4 those laws. Defendants, and each of them, have unjustly enriched themselves through these
5 unfair, unlawful and fraudulent business acts and practices, and have shifted the burden and
6 responsibility of the foreseeable ultimate costs of Defendants' products to the victims of gun
7 violence and to the taxpayers. The resulting levels of shooting deaths and injuries in California
8 and the entire nation exceed those in almost every other area of the world, impose enormous
9 economic costs, and unreasonably interfere with the safety, health, well-being and quality of life
10 of the People of the State of California.

11 6. As a result of the unfair, unlawful and fraudulent business acts and
12 practices of Defendants, thousands of California residents have died, suffered serious bodily
13 injury, and been exposed to increased criminal activity involving handguns.

14 7. In the City of Los Angeles, in 1997 there were 676 firearms deaths caused
15 by handguns. Additionally, in 1997 there were 1,252 hospitalizations for non-fatal injuries.

16 8. In Compton, a city with a population of approximately 95,000, in 1997
17 there were 74 firearms deaths, and 163 non-fatal hospitalizations, and in West Hollywood, a city
18 with a population of approximately 37,000, there were 15 residents killed by handguns, and 10
19 hospitalizations for non-fatal firearms injuries.

20 9. In Inglewood, a city with a population of approximately 120,000, in 1997
21 there were 37 firearms deaths and 54 non-fatal hospitalizations.

22 10. Young people throughout the State and in cities, including Los Angeles,
23 Compton, Inglewood and West Hollywood, are particularly vulnerable to gun violence.
24 Handguns are the leading cause of death for young people ages 1-19 in California. 669 young
25 people between the ages of 0-19 died as a result of firearms in 1996. Of these, 520 were
26 homicides; 107 were suicides; 35 resulted from unintentional shootings, and in 7 cases the reason
27 for the killing could not be determined.

28 11. In Los Angeles, 136 young people aged 19 or younger were killed in 1997

1 and an additional 413 were hospitalized for firearms-related injuries.

2 12. In Compton, 16 young people aged 19 or younger were killed in 1997 and
3 an additional 48 were hospitalized for firearms-related injuries.

4 13. In Inglewood, 9 young people under the age of 19 were killed with
5 firearms and 17 were hospitalized with non-fatal gun-related injuries.

6 14. In West Hollywood, 2 young people aged 19 or younger were hospitalized
7 in 1997 for firearms-related injuries.

8 15. Homicides committed with handguns are the leading cause of firearms
9 related injuries and death in California. In 1997 alone, there were 1,835 homicides committed
10 with a firearm in California and over 25,000 firearms-related injuries. The vast majority of these
11 deaths and injuries are attributable to handguns.

12 16. In Los Angeles, in 1997 there were 481 homicides committed with
13 firearms and 1,119 non-fatal hospitalizations related to homicide attempts involving firearms.

14 17. In Compton, in 1997, there were 66 homicides committed with firearms
15 and 151 non-fatal hospitalizations related to homicide attempts involving firearms.

16 18. In Inglewood, in 1997, there were 27 homicides committed with firearms
17 and 48 non-fatal hospitalizations related to homicide attempts involving firearms.

18 19. In West Hollywood, in 1997, there were 8 homicides committed with
19 firearms and 9 non-fatal hospitalizations related to homicide attempts involving firearms.

20 20. In addition to homicides, handguns are also used in a significant number of
21 other crimes. In 1998, for example, in Los Angeles there were more than 13,000 crimes,
22 including over 5,000 aggravated assaults committed with firearms, most of which were handguns
23 that were obtained or possessed illegally.

24 21. The above stated statistics demonstrate the magnitude of the problem
25 caused by Defendants' unfair, unlawful and fraudulent business acts and practices.

26 22. In order to reduce the succession of handgun-related tragedies, Plaintiffs
27 bring this action to enjoin the unfair, unlawful and fraudulent business acts and practices of
28 Defendants, to obtain disgorgement of Defendants' wrongfully-obtained monies, to collect civil

1 penalties, and abate the nuisance caused by Defendants' conduct explained herein.

2 **THE PARTIES**

3 **PLAINTIFFS**

4 23. This action is being brought on behalf of the People of the State of
5 California by Rockard J. Delgadillo, City Attorney of Los Angeles, Charles E. Dickerson III, City
6 Attorney of Inglewood, Michael Jenkins, City Attorney of West Hollywood, and Legrand H.
7 Clegg II, City Attorney of Compton, pursuant to Business & Professions Code section 17204 and
8 Code of Civil Procedure section 731. The Los Angeles District Attorney has consented to the city
9 attorneys of Inglewood, West Hollywood and Compton, bringing the Business & Professions
10 Code claim on behalf of the People of the State of California.

11 24. The action is being brought on behalf of the General Public by Legrand H.
12 Clegg II, City Attorney of the City of Compton; Roosevelt Dorn, Mayor of the City of Inglewood
13 and John Heilman, Mayor of the City of West Hollywood, pursuant to Business & Professions
14 Code section 17204.

15 **DEFENDANTS**

16 25. Defendants, and each of them, design, manufacture, market, distribute,
17 advertise, promote, supply and sell handguns.

18 26. Defendants, and each of them, are sued individually as a primary violator
19 and as an aider and abettor. In acting to aid and abet the commission of the unfair, unlawful and
20 fraudulent business acts and practices complained of herein, each Defendant acted with the actual
21 or constructive awareness of the wrongfulness of such acts and practices and nonetheless
22 rendered substantial assistance or encouragement to accomplishment of the wrongful acts and
23 practices and was aware of the overall contribution to the common course of wrongful acts and
24 practices alleged herein.

25 27. Each Defendant was the agent and employee of each remaining Defendant.
26 and was acting within the scope of such agency and employment in performing the acts herein
27 alleged.

28 28. Whenever in this Complaint reference is made to any act or omission of a

1 corporate Defendant, such allegation refers to the officers, directors, employees and agents of the
2 corporate Defendant who did or do authorize such act or omission while actively engaged in the
3 management, direction, operation or control of the affairs of the corporate Defendant, and while
4 acting in the course and scope of their agency and employment.

5 29. The following Defendants, and each of them, design and manufacture
6 handguns that are or were designed, manufactured, marketed, distributed, advertised, promoted,
7 supplied and sold in California (hereinafter referred to as the "Defendant Manufacturers").

8 30. Defendant Arcadia Machine & Tool ("AMT") is a corporation organized
9 and existing under the laws of the State of California with its principal place of business in
10 California.

11 31. Defendant Bryco Arms, Inc. ("Bryco") is a corporation organized and
12 existing under the laws of the State of Nevada with its principal place of business in California.

13 32. Defendant Davis Industries, Inc. ("Davis") is a corporation organized and
14 existing under the laws of the State of California with its principal place of business in California.

15 33. Defendant Lorcin Engineering Co., Inc. ("Lorcin") is a corporation
16 organized and existing under the laws of the State of California with its principal place of
17 business in California.

18 34. Defendant Phoenix Arms ("Phoenix") is a corporation organized and
19 existing under the laws of the State of California with its principal place of business in California.

20 35. Defendant Sundance Industries, Inc. ("Sundance") is a corporation
21 organized and existing under the laws of the State of California with its principal place of
22 business in California.

23 36. Defendant Excel Industries, Inc. a/k/a Accu-tek ("Accu-tek") is a
24 corporation organized and existing under the laws of the State of California with its principal
25 place of business in California.

26 37. Defendant Beretta U.S.A. Corp. ("Beretta U.S.A.") is a corporation
27 organized and existing under the laws of the State of Maryland with its principal place of business
28 in Maryland, and imports handguns manufactured by defendant Pietro Beretta S.p.A., a

1 corporation organized and existing under the laws of Italy with its principal place of business in
2 Italy.

3 38. Defendant Pietro Beretta S.p.A. ("Pietro Beretta") is a corporation
4 organized and existing under the laws of Italy with its principal place of business in Italy.

5 39. Defendant Browning Arms Co. ("Browning") is a corporation organized
6 and existing under the laws of the State of Utah with its principal place of business in Utah.

7 40. Defendant Carl Walther GmbH ("Carl Walther") is a corporation organized
8 and existing under the laws of the Federal Republic of Germany with its principal place of
9 business in the Federal Republic of Germany.

10 41. Defendant Charter Arms, Inc. ("Charter Arms") is a corporation organized
11 and existing under the laws of the State of Connecticut, with its principal place of business in
12 New Jersey.

13 42. Defendant Colt's Manufacturing Company, Inc. ("Colt") is a corporation
14 organized and existing under the laws of the State of Delaware with its principal place of business
15 in Connecticut.

16 43. Defendant Forjas Taurus, S.A. ("Forjas Taurus") is a corporation organized
17 and existing under the laws of Brazil with its principal place of business in Brazil.

18 44. Defendant Glock, Inc. is a corporation organized and existing under the
19 laws of the State of Georgia with its principal place of business in Georgia, and imports handguns
20 manufactured by defendant Glock GmbH, an Austrian corporation with its principal place of
21 business in Austria.

22 45. Defendant Glock GmbH is a corporation organized and existing under the
23 laws of Austria with its principal place of business in Austria.

24 46. Defendant H&R 1871, Inc. ("H&R") is a corporation organized and
25 existing under the laws of the State of Massachusetts with its principal place of business in
26 Massachusetts.

27 47. Defendant Heckler & Koch, Inc. ("Heckler & Koch") is the United States
28 subsidiary of Heckler & Koch, GmbH, organized in the Federal Republic of Germany, with its

1 principal place of business in Virginia.

2 48. Defendant MKS Supply Inc. d/b/a Hi-Point Firearms ("Hi-Point") is a
3 corporation organized and existing under the laws of the State of Ohio, with its principal place of
4 business in Ohio.

5 49. Defendant Kel-Tec CNC Industries, Inc. ("Kel-Tec") is a corporation
6 organized and existing under the laws of the State of Florida, with its principal place of business
7 in Florida.

8 50. Defendant China North Industries a/k/a Norinco ("Norinco") is a
9 corporation organized and existing under the laws of the State of California with its principal
10 place of business in California.

11 51. Defendant Navegar, Inc. d/b/a Intratec U.S.A., Inc. ("Navegar") is a
12 corporation organized and existing under the laws of the State of Florida with its principal place
13 of business in Florida.

14 52. Defendant North American Arms, Inc. is a corporation organized and
15 existing under the laws of the State of Utah with its principal place of business in Utah.

16 53. Defendant Sigarms, Inc. ("Sigarms") is a corporation organized in the State
17 of New Hampshire, with its principal place of business in New Hampshire.

18 54. Defendant Smith & Wesson Corp. ("Smith & Wesson") is a corporation
19 organized and existing under the laws of the State of Delaware with its principal place of business
20 in Massachusetts.

21 55. Defendant Sturm, Ruger & Company, Inc. ("Sturm Ruger") is a
22 corporation organized and existing under the laws of the State of Delaware with its principal
23 place of business in Connecticut.

24 56. Defendant S.W. Daniel, Inc. a/k/a Cobray Firearms, Inc. ("Cobray") is a
25 corporation organized and existing under the laws of the State of Georgia, with its principal place
26 of business in Georgia.

27 57. Defendant Taurus International Manufacturing, Inc. ("Taurus") is a
28 corporation organized and existing under the laws of the State of California with its principal

1 place of business in California, and imports handguns manufactured by defendant Forjas Taurus,
2 S.A., a Brazilian corporation with its principal place of business in Brazil.

3 58. At all times relevant herein, DOES 1-100, inclusive were business entities,
4 the status of which are currently unknown. DOES 1-100 designed and manufactured handguns
5 that are or were marketed, distributed, advertised, promoted, supplied and sold within the
6 jurisdictional limits of California (hereinafter referred to as part of the "Defendant
7 Manufacturers").

8 59. The following Defendants are industry trade associations (hereinafter
9 referred to as the "Defendant Trade Associations") that are composed of handguns manufacturers,
10 distributors, and sellers, including some or all of the Defendant Manufacturers.

11 60. Defendant American Shooting Sports Council, Inc. (hereinafter referred to
12 as the "ASSC") is a tax exempt business league under section 501(c)(6) of the Internal Revenue
13 Code organized and existing under the laws of the State of Georgia with its principal office in
14 Georgia. ASSC is an industry trade association composed of handgun manufacturers and sellers,
15 including some or all of the Defendant Manufacturers.

16 61. Defendant National Shooting Sports Foundation, Inc. (hereinafter referred
17 to as the "NSSF") is a tax exempt business league under section 501(c)(6) of the Internal Revenue
18 Code organized and existing under the laws of the State of Connecticut with its principal office in
19 Connecticut. NSSF is an industry trade association composed of firearm manufacturers and
20 sellers, including some or all of the Defendant Manufacturers.

21 62. Defendant Sporting Arms and Ammunition Manufacturers' Institute, Inc.
22 (hereinafter referred to as the "SAAMI") is a tax exempt business league under section 501(c)(6)
23 of the Internal Revenue Code organized and existing under the laws of the State of Connecticut
24 with its principal office in Connecticut. SAAMI is an industry trade association composed of
25 handgun manufacturers and sellers, including some or all of the Defendant Manufacturers.

26 63. At all times relevant herein, DOES 101-125, inclusive were business
27 entities, the status of which are currently unknown. DOES 101-125 are industry trade
28 associations (hereinafter referred to as part of the "Defendant Trade Associations"), which are

1 composed of handgun manufacturers, distributors, and sellers, including some or all of the
2 Defendant Manufacturers.

3 64. The following Defendants, and each of them, marketed, distributed,
4 advertised, promoted, supplied and sold handguns that are or were found within the jurisdictional
5 limits of California (hereinafter referred to as the "Defendant Distributors").

6 65. Defendant B.L. Jennings is a corporation organized and existing under the
7 laws of the State of Nevada with its principal place of business in Nevada. B.L. Jennings
8 distributes guns made by Defendant Manufacturer Bryco in California.

9 66. Defendant Ellett Brothers is a corporation organized and existing under the
10 laws of the State of South Carolina with its principal place of business in South Carolina. Ellett
11 Brothers telemarkets handguns nationwide, including in California.

12 67. Defendant International Armament Corp. d/b/a Interarms Industries, Inc.
13 ("Interarms") is a corporation organized and existing under the laws of the State of Delaware with
14 its principal place of business in Virginia. Interarms imports and/or distributes handguns made by
15 several different manufacturers, including defendant Carl Walther GmbH. Interarms distributes
16 its products to at least 46 California dealers, which are identified on its Internet site.

17 68. RSR Wholesale Guns, Inc. is a corporation organized and existing under
18 the laws of the State of New York with its principal place of business in New York. Based on
19 information and belief, RSR Wholesale Guns, Inc., distributes firearms in California, including
20 guns manufactured by defendant Taurus International Manufacturing, Inc.

21 69. Southern Ohio Gun Distributors is a corporation organized and existing
22 under the laws of the State of Ohio with its principal place of business in Ohio. Based on
23 information and belief, Southern Ohio Gun Distributors distributes firearms in California.

24 70. At all times relevant herein, DOES 126-200, inclusive were business
25 entities, the status of which are currently unknown. DOES 126-200 marketed, distributed,
26 advertised, promoted, supplied and sold handguns that are or were found within California
27 (hereinafter referred to as part of the "Defendant Distributors").

28 71. The following defendants, and each of them, market , distribute, advertise,

1 promote, supply and sell handguns that are or were found within the jurisdictional limits of
2 California (hereinafter referred to as "Defendant Dealers").

3 72. Defendant B & B Group, Inc., is a corporation organized and existing
4 under the laws of the State of California with its principal place of business in California.

5 73. Defendant Andrews Sporting Goods, Inc., is a corporation organized and
6 existing under the laws of the State of California with its principal place of business in California.

7 74. Defendant National Gun Sales, Inc., is a corporation organized and existing
8 under the laws of the State of Florida with its principal place of business in California.

9 75. Defendant S. G. Distributing, Inc., is a corporation organized and existing
10 under the laws of the State of California with its principal place of business in California.

11 76. Defendant Hawthorne Distributors, Inc., is a corporation organized and
12 existing under the laws of the State of California with its principal place of business in California.

13 77. At all times relevant herein, DOES 201-300, inclusive were business
14 entities, the status of which are currently unknown. DOES 201-300 market, distribute, advertise,
15 promote, supply and sell handguns that are or were found within California (hereinafter referred
16 to as part of the "Defendant Dealers").

17 78. Plaintiff is ignorant of the true names and capacities of Defendants sued
18 herein as DOES 1-300. Plaintiff alleges that each of the fictitiously named Defendants is
19 responsible in some manner for the violations herein alleged. Plaintiff will seek leave to amend
20 this complaint to allege such names and capacities when such have been ascertained. All of the
21 above-named Defendants, DOES 1-300, and the agents and employees of those Defendants, were
22 responsible in some manner for the obligations, liabilities and violations herein mentioned, which
23 were legally caused by the aforementioned Defendants and DOES 1-300.

24 **JURISDICTION AND VENUE**

25 79. Defendants, and each of them, are subject to the jurisdiction of the Courts
26 of the State of California by virtue of their business dealings and transactions in California, by
27 causing an injurious effect in California through their acts or omissions, and/or by their violation
28 of California Business and Professions Code Section 17200, California Civil Code Sections 3479

1 and 3480 and California Penal Code Section 370.

2 80. Venue is proper in this court because the violations of law herein alleged
3 and the resulting injuries have been committed within the cities of Los Angeles, Compton,
4 Inglewood, West Hollywood, and elsewhere throughout California. Defendants, and each of
5 them, at all times mentioned in this Complaint have transacted business within the cities of Los
6 Angeles, Compton, Inglewood, West Hollywood and elsewhere throughout California.

7 **GENERAL ALLEGATIONS**

8 **I. HANDGUN-RELATED CRIME IS A NATIONAL PROBLEM THAT**
9 **VICTIMIZES THOUSANDS OF CALIFORNIANS**

10 81. The widespread availability and misuse of firearms by minors, convicted
11 criminals and other unauthorized users is one of the most serious problems facing this nation. In
12 1996, the most recent year for which final nationwide statistics are available, more than 34,000
13 people were killed with firearms. Of these, more than 14,300 were homicides and about 18,100
14 were suicides, with more than 1,100 deaths from accidental shootings. In addition, based on 1992
15 data, approximately 99,000 individuals are treated annually in hospital emergency rooms for non-
16 fatal firearm injuries, with about one-fifth of these for accidental shootings. Handguns cause
17 most of these injuries and deaths. By comparison, in other industrialized nations, no more than a
18 few hundred people are killed each year by handguns.

19 82. Statewide statistics for California reveal similar patterns of handgun
20 violence. In 1997 alone, there were 1,835 homicides committed with firearms, the majority of
21 which are handguns. In 1997, firearms were the predominant means of committing homicide,
22 constituting 72.3% of total homicides. Handguns alone represented over 64% of the total
23 homicides and 89% of firearm homicides. During the five-year period 1992 through 1997,
24 handguns were used in over 62% of the total homicides. In addition, in 1997, there were over
25 25,000 incidents in California in which a victim suffered serious injuries from a firearm.

26 83. As set forth below, this pattern of handgun violence is repeated in Los
27 Angeles, Compton, Inglewood and West Hollywood as well.

28 84. For each of these fatal shootings, there are roughly three non-fatal

1 shootings that require emergency room care.

2 85. These deaths and injuries are devastating for the individuals involved, for
3 their families and communities, and for the State of California. Moreover, the pervasive threat of
4 handgun violence affects the tenor and quality of everyday life, even for those who are not direct
5 victims.

6 **II. THE HIGH LEVELS OF FIREARM CRIME IN CALIFORNIA IS FUELED BY**
7 **THE EASY AVAILABILITY OF HANDGUNS TO ILLEGITIMATE USERS**

8 86. Defendants, and each of them, employ a two-tier distribution system to
9 market handguns to the public. Through a two-tier distribution system, handguns flow from the
10 manufacturer to distributor to dealer to purchaser. This distribution system facilitates, and, in
11 fact, is designed to facilitate, handgun acquisition by persons not authorized or intended to use,
12 sell or possess handguns (through what is hereinafter referred to as the “illegitimate secondary
13 market”), such as criminals and minors. It is inappropriate to market a lethal product such as a
14 handgun in an unsafe and uncontrolled manner as it results in the distribution of handguns to the
15 broadest market possible without employing safeguards against the illegal sale, possession and
16 use of handguns by illegitimate users.

17 87. A substantial percentage of the handguns used to inflict harm and injury on
18 California residents is obtained through the illegitimate secondary market created and promoted
19 by the unfair, unlawful and fraudulent business acts and practices of Defendants. The fact that
20 the Defendants’ acts and omissions have created and promoted the illegitimate secondary market
21 is a matter of common knowledge to Defendants, as is demonstrated by the following sworn
22 statement of Robert Haas, the former Senior Vice-President of Marketing and Sales for defendant
23 Smith & Wesson:

24 “The company [Smith & Wesson] and the industry as a whole are
25 fully aware of the extent of the criminal misuse of handguns. The
26 company and the industry are also aware that the black market in
27 handguns is not simply the result of stolen guns but is due to the
28 seepage of guns into the illicit market from multiple thousands of
unsupervised federal handgun licensees. In spite of their
knowledge, however, the industry’s position has consistently been
to take no independent action to insure responsible distribution
practices, to maintain that the present minimal federal regulation of
federal handgun licensees is adequate and to call for greater

1 criminal enforcement of those who commit crimes with guns as the
2 solution to the firearm crime problem . . . I am familiar with the
3 distribution and marketing practices of the [sic] all of the principal
4 U.S. handgun manufacturers and wholesale distributors and none of
5 them, to my knowledge, take additional steps, beyond determining
6 the possession of a federal handgun license, to investigate, screen or
7 supervise the wholesale distributors and retail outlets that sell their
8 products to insure that their products are distributed responsibly.”

9 88. National surveys demonstrate that handguns are easily available to minors
10 and convicted criminals through the illegitimate secondary market. For example, a recent survey
11 showed that approximately 29% of 10th grade boys and 23% of 7th grade boys have at one time
12 carried a concealed handgun. Another survey showed that 70% of all prisoners felt that they
13 could easily obtain a firearm upon their release. Similarly, a recent study of 27 cities by the
14 federal Bureau of Alcohol, Tobacco and Firearms (“ATF”), which analyzed more than 75,000
15 firearm trace requests, reported that more than 11% of firearms picked up in crime in major urban
16 centers throughout the United States were possessed by juveniles under age 18. In Los Angeles,
17 the percentage of crime guns seized from juveniles was higher, at 13.4%. The same ATF study
18 indicated that in the United States another 15% of crime guns were seized from persons 18-20
19 years old, more than from any other three-year age group, adult or juvenile. Moreover, ATF
20 tracing of trafficked crime guns found that more than 45% of the weapons seized were illegally
21 possessed by convicted felons. Large percentages of these guns have been used in assaults,
22 robberies, homicides, and other violent crimes. More than 80% of the firearms seized in crime
23 are handguns.

24 89. Despite these statistics, Defendants have not taken reasonable steps to keep
25 handguns out of the hands of minors. To the contrary, Defendants market their products in such a
26 way that they appeal to minors. For example, one of the gun industry’s leading trade
27 associations, Defendant National Shooting Sports Foundation (NSSF), announced in 1992 a “new
28 focus on women and youngsters.” NSSF started a “Youth Education Program” in a search for
new customers and expansion of the gun market. The September/October 1992 issue of NSSF’s
magazine S. H. O. T. Business carried a column by a noted celebrity in the industry, Grits
Gresham, in which he said:

1 “There’s a way to help insure that new faces and pocketbooks will
2 continue to patronize your business: Use the schools . . . [I]t’s
3 time to make your pitch for young minds, as well as for the adult
4 ones.”

5 90. The ease with which handguns are moved into the illegitimate marketplace
6 is also demonstrated by the short time between retail sale and criminal misuse for a significant
7 percentage of firearms. ATF tracing data indicates that as many as 43% of firearms traced to
8 crime in cities across America have been bought from retail dealers less than three years earlier,
9 which according to ATF is a strong indication that the firearm has been trafficked. An ATF study
10 of Southern California crime guns, including those picked up in Los Angeles, found that 31% of
11 the guns traced had been purchased from a licensed dealer less than one year earlier. This same
12 study noted that handguns were especially prone to quick turnaround; a third of the crime guns
13 that were handguns were seized within one year of being purchased, and more than half were
14 seized within two years.

15 **III. DEFENDANTS HAVE CREATED A DISTRIBUTION SYSTEM THAT**
16 **FACILITATES AND SUPPLIES AN ILLEGITIMATE SECONDARY MARKET**
17 **OF HANDGUNS**

18 91. Defendants, and each of them, employ marketing and distribution policies
19 and practices that facilitate, promote and yield high volume sales, widespread availability and
20 easy access without any meaningful attention to or concern for their consequences.

21 92. Defendants, and each of them, knew, or should have known, for at least
22 four years prior to the filing of this Complaint, that a substantial percentage of the handguns they
23 design, manufacture, market, distribute, advertise, promote, supply and sell are purchased by
24 unauthorized persons, including minors and convicted criminals. Many of the guns illegally sold
25 in this market are subsequently used in the commission of crime. Defendants, and each of them,
26 knew, or should have known, that their manufacturing, marketing, distributing, advertising,
27 promotional, supplying and sale acts and practices would facilitate and encourage their handguns
28 to flow into an illegitimate secondary market and be purchased, possessed and used by
unauthorized persons. Further, it was foreseeable that defendants’ manufacturing, marketing,
distributing, advertising, promotional, supplying and sales acts and practices would facilitate

1 handguns to flow into an illegitimate secondary market and be purchased possessed and used by
2 unauthorized persons.

3 **A. Defendants' Over-Saturate the Legitimate Market**

4 93. Defendants, and each of them, produce, market and distribute substantially
5 more handguns than they reasonably expect to sell to legal purchasers. There are approximately
6 65 million handguns in the United States, and about 2.5 million more are added each year. A
7 substantial percentage of these sales are diverted to an illegitimate secondary market. By
8 deliberately producing, marketing and distributing more handguns than they can reasonably
9 expect to sell to legal purchasers, defendants, and each of them, knowingly participate in and
10 facilitate the illegitimate secondary market for handguns.

11 **B. Defendants' Over-Saturate Weak Gun Control Jurisdictions**

12 94. Handguns move from jurisdictions with relatively weak gun control laws to
13 jurisdictions with stronger gun control laws. Defendants, and each of them, knew of, or should
14 have known of, for at least four years from the filing of this Complaint, this illegal trafficking
15 movement, yet did nothing to control or monitor sales in weak gun control jurisdictions to restrict
16 illegal trafficking of guns from those jurisdictions into more heavily regulated jurisdictions. To
17 the contrary, Defendants, and each of them, eagerly sell as many handguns as are necessary to
18 meet the demands of the illegitimate secondary market in weak gun control jurisdictions. As an
19 example of this problem, Arizona and Nevada both border California and have weaker gun
20 control laws than this State. According to ATF statistics, approximately 30% of the firearms
21 traced in Southern California were originally sold at retail locations outside of California,
22 principally Nevada and Arizona. Although this movement of handguns across state lines
23 contravenes federal law as well as reduces the efficacy of California and local law, Defendants,
24 and each of them, continue to facilitate and encourage this movement of handguns.

25 **C. Defendants' Distribute Handguns Without Exercising Adequate Control**

26 95. Defendants' employment of two-tier distribution system maximizes their
27 sales without any check or precaution, and without placing effective controls on their distributors
28 or dealers, which include disreputable gun shops, pawnshops, gun shows, and telemarketers.

1 Although Defendants' distribution practices increase sales volumes and hence profits, they
2 minimize contacts between Defendant Manufacturers, Defendant Distributors and Defendant
3 Dealers, thereby precluding any meaningful monitoring of compliance with federal, state and
4 local laws.

5 96. Defendant Manufacturers, and each of them, do not monitor or supervise
6 their distributors or dealers, except in ways aimed at maximizing profits. Certain Defendants
7 have distribution agreements that provide for the right of termination, and on occasion, have
8 terminated or warned distributors or dealers. The reasons contemplated for termination are not
9 maintaining minimum prices, advertising the price that the distributor pays to the manufacturer,
10 or, in some instances, selling to law enforcement or making foreign sales. However, engaging in
11 a dangerous sales practice that makes handguns easily available for potential criminal use has not
12 been the basis for termination and is not included in the terms of the distribution agreements.
13 There is no sanction, such as termination, specified within the distribution agreements for the act
14 of selling to or facilitating the illegitimate secondary market.

15 97. Defendant Manufacturers, and each of them, do not require that their
16 dealers and retailers be trained or instructed to: (1) detect illegal and straw purchasers;
17 (2) educate or require any training or instruction of purchasers about the safe and proper
18 possession, use and storage of handguns; or (3) inquire or investigate purchasers' level of
19 knowledge or skill or purposes for buying handguns. Defendant Manufacturers, and each of
20 them, do not train, monitor or supervise their distributors and dealers to insure that handguns are
21 sold to authorized users, and possessed, used and stored in a safe manner.

22 98. Defendant Manufacturers, and each of them, purposely avoid any
23 connection to or vertical integration with the distributors and dealers that sell their products.
24 They offer high volume monetary incentives and generally refuse to accept returns, and they
25 contractually attempt to shift all liability and responsibility for the harm done by their products to
26 the distributors and dealers.

27 99. Defendants, and each of them, do not use available computerized inventory
28 and sales tracking systems that are commonly and inexpensively used throughout American

1 industry, particular in industries that produce dangerous or harmful products. Such systems are
2 utilized, in part, for the purpose of limiting and screening customers.

3 100. Unlike other manufacturers of dangerous or harmful products, including
4 manufacturers of chemicals and paints, Defendants Manufacturers, and each of them, have
5 completely failed and refused to adopt any limits in the distribution of their handguns or to
6 engage in even minimum monitoring or supervision of their distributors and dealers, to avoid the
7 known and foreseeable detrimental consequences arising from the possession, use and storage of
8 handguns.

9 **D. Defendants' Practices Facilitate "Straw Purchases" and Multiple Sales**

10 101. Defendants Manufacturers, and each of them, do not require or encourage
11 their distributors and dealers to limit the number, purpose or frequency of handgun purchases, nor
12 do they monitor or supervise their distributors or dealers to encourage practices or policies that
13 limit access to handguns for criminal purposes. As a direct, foreseeable and known result of
14 defendants' aforesaid conduct, a large number of handguns are regularly diverted to the
15 illegitimate secondary market through "straw purchases."

16 102. A "straw purchase" occurs where the lawful purchaser of the handgun, as
17 reflected in the governmental application forms, is a "dummy" purchaser for someone else, most
18 often a person who is not qualified to purchase the handgun under the applicable federal, state and
19 local laws. In some situations, the real purchaser will be present during the sale of the handgun.
20 He or she may select the handgun, handle it and even provide the cash for the purchase. In other
21 situations, for example in a straw purchase for gang members, the straw purchaser will purchase a
22 number of handguns within a short period of time. In this situation, a straw purchaser may
23 engage in repeated multiple handgun purchases.

24 103. Straw purchases account for a substantial percentage of handguns diverted
25 into the illegitimate secondary market. According to a recent study, more than one-half of the
26 firearms subjected to firearm trafficking investigations were initially acquired as part of a straw
27 purchase. Another study, this one involving firearms seized by law enforcement officials in
28 Southern California, revealed that more than 80% of the guns retrieved by law enforcement were

1 in the possession of a person other than the original purchaser.

2 104. Similarly, the level of multiple sales in California is substantial. One
3 recent law enforcement study of Southern California analyzed 5,743 instances of multiple sales
4 over a nine-month period involving the purchase of 13,181 guns. A significant percentage of
5 these transactions involve the purchase of three or more guns at a time. The report concluded that
6 “[m]ultiple purchases seem relatively common in California, where there has been no set limit to
7 the number of guns that a private person can purchase.” More recent data indicates that as many
8 as 22% of all handguns purchased in California in 1998 were part of multiple sales.

9 105. Although straw purchases often occur under circumstances that indicate, or
10 should indicate, that a straw purchase is being made, Defendants, and each of them, take no steps
11 to prevent these straw purchases from occurring or to limit the number of straw purchases that
12 occur. For example, Defendants Manufacturers, and each of them, offer no training or guidance
13 to enable a retail store clerk to recognize when a straw purchase is occurring. Similarly,
14 Defendants, and each of them, undertake no remedial actions to prevent a known straw purchaser
15 from continuing to make purchases. Defendant Manufacturers, and each of them, fail to
16 adequately supervise and monitor both their distributors and dealers with respect to straw
17 purchases. Additionally, Defendant Manufacturers, and each of them, do not investigate their
18 distributors and dealers or review their records to determine whether straw purchases are
19 occurring or the extent to which they are. Finally, Defendant Manufacturers, and each of them,
20 fail to impose any sanctions against distributors and dealers, including possible termination of the
21 relationship, upon learning that a straw purchase or a series of straw purchases has occurred.

22 **E. Defendants Allow Sales to “Kitchen Table” Dealers Which Supply the**
23 **Criminal Market**

24 106. “Kitchen table” dealers are handgun dealers who do not sell handguns from
25 an established retail store but rather sell handguns in informal settings, including, but not limited
26 to, a house, car, flea market, gun show, or even on the street. Many of these kitchen table dealers
27 operate illegally, in violation of state and local licensing and zoning laws. Many of these dealers
28 also engage in other corrupt practices, including, but not limited to, selling handguns without

1 completing the appropriate and necessary background checks on the purchaser, failing to report
2 sales, failing to keep records of sales falsifying records of sales, obliterating serial numbers on
3 firearms, and falsely claiming that sold guns were stolen.

4 107. Defendants, and each of them, knew, or should have known, about the
5 practices of kitchen table dealers set forth herein. Defendants, and each of them, have
6 nevertheless marketed, distributed and sold thousands of guns to kitchen table dealers, without
7 taking appropriate steps to prevent unlawful sales of handguns by such dealers. Such steps
8 include, but are not limited to, supervising and monitoring such dealers, tracking crime gun trace
9 requests relating to such dealers reviewing dealer records for inaccuracies and falsified
10 information, requiring distributors to sell guns only to dealers with a permanent store location,
11 and requiring all dealers to maintain a permanent store location.

12 **F. Defendants Design Weapons Without Features to Discourage Unauthorized**
13 **Use**

14 108. Handgun trafficking depends upon the ability of unauthorized users to
15 operate weapons obtained from traffickers and the inability to trace handguns. Designs and
16 features that promote these factors, such as those that prevent unauthorized use or facilitate
17 tracking of handguns, would discourage trafficking and reduce the flow of weapons to the
18 illegitimate secondary market. Notwithstanding the availability and feasibility of incorporating
19 such designs and features into handguns, Defendants, and each of them, have continued to
20 manufacture, distribute and sell handguns that do not include a design or feature preventing
21 unauthorized use.

22 109. Thousands of handguns diverted to crime also have had their serial
23 numbers obliterated to prevent tracing of the firearm by law enforcement. Such handguns are
24 more useful to criminals who seek to eliminate the tracks of their crimes. Defendants, and each
25 of them, are aware of this problem, and the ease with which serial numbers can be obliterated, but
26 have taken no initiative to make their serial numbers tamper-proof. The recent ATF study of 27
27 cities found, on average, that more than 11% of the guns traced to crime had obliterated serial
28 numbers. In Los Angeles, another study identified a single corrupt dealer in Southern California

1 who obliterated the serial numbers on a major portion of 1,200 guns the dealer diverted to the
2 criminal marketplace.

3 **IV. DEFENDANTS HAVE DESIGNED HANDGUNS TO APPEAL TO CRIMINALS**
4 **AND HAVE INCREASED PRODUCTION TO MEET DEMAND FROM THE**
5 **ILLEGAL MARKET**

6 110. Over the last 20 years, Defendants, and each of them, have changed certain
7 design features of handguns to appeal to the illegitimate secondary market. Previously, most
8 handguns produced were revolvers, with six bullets stored in a rotating cylinder that could not be
9 reloaded quickly. Now most handguns are semi-automatic with bullets stored in magazines.
10 These handguns fire at a faster rate, and their magazines typically can be detached and replaced
11 very quickly, allowing for sustained firing against multiple targets.

12 111. Handguns, currently manufactured, are increasingly smaller, easier to
13 conceal, more powerful and, hence more lethal and rapid-firing. Many are also considerably
14 cheaper than in the past. All of these factors make contemporary handguns appealing to the
15 criminal.

16 112. The production of cheap handguns has been especially prevalent among
17 Defendants AMT, Lorcin, Bryco, Davis, Phoenix Arms, and Sundance. This group of California
18 manufacturers are all within 45 miles of the City of Los Angeles and has been dubbed by a well-
19 known researcher as the "Ring of Fire." Older, established companies, such as Defendants Smith
20 & Wesson, Sturm, Ruger & Co., and Colt, have followed the lead of the "Ring of Fire"
21 companies, producing lines of similar inexpensive handguns.

22 113. Defendants Manufacturers, and each of them, have increased the
23 production of particular handguns that are popular for use by criminals. For example, over the
24 past decade, Defendants, and each of them, increased their production of 9-millimeter handguns
25 although their own market research showed that the market for 9 millimeters handguns among
26 law-abiding purchasers was already saturated. Nine-millimeter handguns are popular in the illicit
27 drug trade and, according to most national studies, are among the handguns used most frequently
28 in crime. A recent study concluded that 9-millimeter handguns are the weapons of choice for
criminals, accounting for almost a third of all homicides.

1 114. Defendants, and each of them, knew, or should have known, that they
2 manufacture, market and design handguns which emphasize concealability, lethality, and other
3 design features that make these handguns attractive to criminals. Defendants' emphasis on
4 concealability is particularly problematic in California, where state law bans possession of a
5 concealed weapon without a concealed-carry permit, of which few have been issued.

6 **V. DEFENDANTS' CONDUCT UNDERMINES THE PUBLIC POLICY EMBODIED**
7 **IN LOCAL, STATE AND FEDERAL LAWS**

8 115. Federal, state and local firearm laws have been enacted in an effort to curb
9 the abuses of gun violence and to protect the general public's health and safety. Despite the fact
10 that all levels of government have implemented statutes and ordinances to lessen the incidences
11 of gun violence, Defendants, and each of them, have manufactured, designed, distributed,
12 marketed and sold handguns in ways that undermine and impede the public policies embodied in
13 both state and local law. The conduct and practices of Defendants, as set forth herein, have
14 undermined and impeded the restrictions, prohibitions, and public policies set forth in local, state
15 and federal laws and regulations including, but not limited to: Title 18, United States Code
16 Sections 921-930 *et seq.* (Chapter 44 - Firearms); California Penal Code Sections 12020-12040 *et*
17 *seq.* (Chap. 1, Article 2 - Unlawful Carrying and Possession of Weapons); 12050-12054 *et seq.*
18 (Chap. 1, Article 3 - Licenses to Carry Pistols and Revolvers); 12070-12085 *et seq.* (Chap. 1,
19 Article 4 - Licenses to Sell Firearms); 12200-12250 *et seq.* (Chap. 2 - Machine Guns); 12270-
20 12290 *et seq.* (Roberti-Roos Assault Weapons Control Act of 1989); 12100 *et seq.* (Chap. 1,
21 Article 7 - Juveniles - Prohibition of Sale or Transfer of Concealable Firearm to Minors); 12500-
22 12520 *et seq.* (Chap. 5, Articles 1 and 2 - Unlawful Possession of Firearm Silencers/Misc.);
23 12800-12809 *et seq.* (Chap. 6, Article 8 - Basic Firearms Safety Instruction and Certificate); Los
24 Angeles Municipal Code ("LAMC") Chapter V, Section 45.01 (Prohibition of Sale to Minors);
25 LAMC Chapter V, Section 55.00 (Guns - Permits); LAMC Chapter V, Section 55.01 (Concealed
26 Weapons - Permit); LAMC Chapter V, Section 55.05 (Assault Weapons - Sale or Possession
27 Prohibited); LAMC Chapter V, Section 55.13(a) (Prohibition on Sale of Large Ammunition
28 Magazines); LAMC Section 103.314(o) (Requirement of Sale of Trigger Locks with Sale of a

1 Firearm); LAMC Section 55.14 (Limitation of Purchase of a Handgun to One within a 30-day
2 period); Compton Municipal Code Section 7-4.4 (Prohibition on Sale to Minors); Compton
3 Municipal Code Section 7-4.5 (Prohibition of Possession of Firearms by Minors); Inglewood
4 Municipal Code Section 5-19.1 (Prohibition on Sale of Firearms to Minors); Inglewood
5 Municipal Code Section 5-19.2 (Prohibition of Possession of Firearms by Minors); Inglewood
6 Municipal Code Section 5-19.4.1 (Ban on Large Ammunition Magazines); Inglewood Municipal
7 Code Section 5-19.4.2 (Requirement of Sale of a Trigger Lock with Sale of a Firearm). West
8 Hollywood Municipal Code Section 4123(a) (Prohibition on Sale of Large Ammunition
9 Magazines); West Hollywood Municipal Code Section 4124 (Limitation of Purchase of
10 Handguns to One within a 30 day period).

11 116. For example, the California Roberti-Roos Assault Weapons Control Act of
12 1989, California Penal Code sections 12275-12290, and the United States 1968 Gun Control Act,
13 as amended, 18 U.S.C. 925 *et seq.*, ban the importation, manufacture, sale, and possession of
14 “assault weapons,” including handguns. As the California legislature found and declared, this
15 ban is based on the conclusion that such assault weapons “are particularly dangerous in the hands
16 of criminals and serve no necessary hunting or sporting purpose for honest citizens.” The ban
17 enacted by the California legislature explicitly applies to both listed weapons and “any other
18 models which are only variations of those weapons with minor differences, regardless of
19 manufacturer.”

20 117. Despite the enactment of the California Roberti-Roos Assault Weapons
21 Control Act of 1989, Defendant Navegar has marketed and sold in California assault weapon
22 handguns substantially similar to or identical to the one banned by the statutes. In fact, Defendant
23 Navegar has made only minor modifications to the banned assault weapon handguns or renamed
24 the ones enumerated in the above-referenced statutes in order to avoid these laws. For example,
25 after the California legislature banned the TEC-9 assault weapon, Defendant Navegar continued
26 to distribute and sell the identical assault weapon handgun in California under the name “TEC-
27 DC9.” Navegar later distributed and sold a handgun under the name “TEC-DC9” that was the
28 same design as the banned TEC-9, with only cosmetic modifications. At all relevant times,

1 Defendant Navegar has been on notice of the lethal consequences of this practice. Navegar's
2 assault weapon handguns have frequently been used in multiple homicides, including the 101
3 California Street massacre in which a gunman killed eight and injured six law firm employees at a
4 San Francisco office building.

5 118. Additionally, numerous local ordinances prohibit the sale of "junk guns" or
6 "Saturday Night Specials," including but not limited to ordinances adopted by the City of Los
7 Angeles, Los Angeles Municipal Code Chapter X, Article 3, Section 103.314, Compton
8 Municipal Code Section 7-4.8, Inglewood Municipal Code Section 5-19.5, and West Hollywood
9 Municipal Code Section 4122. The "Saturday Night Special" ("SNS") ordinances enacted in over
10 40 jurisdictions throughout California were designed to protect the public from poorly made,
11 easily concealable handguns. These handguns have been, and continue to be, frequently used in
12 the commission of crimes. Notwithstanding these ordinances, certain Defendants unlawfully
13 market, distribute or sell prohibited "Saturday Night Specials" adjacent to jurisdictions banning
14 such sales.

15 **VI. DEFENDANTS HAVE FAILED TO INCORPORATE FEASIBLE AND EXISTING**
16 **SAFETY TECHNOLOGY INTO THE DESIGN AND DISTRIBUTION OF**
17 **FIREARMS**

18 **A. Adequate Warning and Safety Features Would Prevent Many Unintentional**
19 **Shootings**

20 119. Defendants, and each of them, contribute to the serious harm inflicted on
21 residents of Los Angeles, Compton, Inglewood, and West Hollywood and citizens throughout the
22 State, by failing to adequately warn users and to incorporate feasible and existing safety
23 technology into the design of handguns, that would prevent shootings and their unauthorized
24 possession and use. Defendants, and each of them, have designed, manufactured, made or sold
25 handguns that are unreasonably dangerous because they lack basic safety features and contain
26 inadequate warnings, all of which results in unintentional shootings. Defendants, and each of
27 them, over-promote the purported self-defense and home protection benefits of their guns, in a
28 manner that undercuts any warnings or instructions regarding safe storage of guns, and results,
not only in irresponsible people possessing guns, but in the irresponsible storage and handling of

1 guns. Defendants, and each of them, market and promote their handguns in a manner that ignores
2 or understates the risks that such handguns pose to their owners and to other members of the
3 household. Defendants' marketing and promotional practices encourage unsafe storage practices
4 and unsafe use of their products.

5 120. Defendants, and each of them, knew, or should have known, that
6 approximately half of California residents who keep a firearm at home, a substantial percentage
7 that includes children, store their guns in an unsafe manner, and yet continued to distribute their
8 handguns without adequate warnings and instructions that inform the users of the risks of guns,
9 including proper storage and use of the weapons.

10 121. Defendants, and each of them, manufacture, distribute and sell handguns
11 that are unreasonably dangerous in that their design lacks safety features or contains inadequate
12 safety features. Defendants, and each of them, knew, or should have known, that users of semi-
13 automatic handguns would not understand or appreciate that an undetectable round of
14 ammunition may be housed in the firing chamber of a semi-automatic gun even though the
15 ammunition magazine had been removed or emptied. Consequently, it was, and continues to be,
16 reasonably foreseeable that this hazardous design would result in preventable, unintentional
17 shootings. This hazardous design could be easily corrected through the use of a "magazine-
18 disconnect safety" that would prevent the gun from firing with the magazine removed. These
19 tragic, foreseeable shootings could also be prevented by use of "chamber loaded indicator" that
20 would warn a user when a bullet was in the firing chamber. Defendant Manufacturers, and each
21 of them, have failed to incorporate such devices into their firearms.

22 122. Defendants' failure to incorporate adequate warnings and feasible safety
23 designs into firearms results in 1,400-1,500 unintentional shooting deaths and over 18,000 non-
24 fatal injuries from unintentional shootings every year. The U.S. General Accounting Office
25 estimates that each year, 23% of the unintentional shooting deaths occur because the user of the
26 gun was not aware that a round of ammunition had been loaded into the gun's firing chamber.
27 This results in as many as 320 to 345 deaths nationwide each year. For each of these deaths, there
28 are countless other unintentional shooting injuries that are not fatal.

1 123. Unintentional shootings with Defendants' unsafe handguns often involve
2 adolescents. Adolescents are foreseeably attracted to guns and typically do not understand the
3 risks associated with handling a handgun. According to the U.S. General Accounting Office,
4 approximately 35% of all unintentional shooting deaths involve users of guns who were between
5 the ages of 13 and 16. Many such shootings have occurred in the State of California.

6 124. A number of these preventable shootings have occurred in Los Angeles.

7 For example:

- 8 • August 1998 – A 23-year-old man in Pacoima was shot and killed by his
9 4-year-old neighbor who found the gun under a bed and thought it was a
10 toy.
- 11 • February 1998 – A 12-year-old girl in Wilmington committed suicide with
12 a handgun she obtained from an unknown source.
- 13 • July 1997 – A 3-year-old boy in Southwest Los Angeles accidentally shot
14 himself with a handgun he found in his home.
- 15 • December 1995 – A 13-year-old Rowland Heights girl was severely
16 injured by her 14-year-old brother when accidentally shot with a handgun
17 he was playing with.
- 18 • September 1994 – A 14-year-old was shot in the head by a 12-year-old
19 friend in Van Nuys. The shooter found the .38 caliber revolver and
20 believed the gun to be unloaded when he fired it.
- 21 • January 1993 – A 15-year-old student at Fairfax High School was playing
22 with a gun in his backpack when it fired, injuring one classmate and killing
23 another. The gun was taken from the shooter's home where his grandfather
24 kept it for protection.
- 25 • January 1990 – A 15-year-old Pacoima boy accidentally shot and killed his
26 neighbor while handling a 9mm semi-automatic pistol he believed to be
27 unloaded.

28 125. Defendants, and each of them, have failed to take reasonable steps to guard
against foreseeable unintentional shootings. Such reasonable steps include, but are not limited to,
designing their handguns with basic safety features and giving adequate warnings that would
prevent or reduce such unintentional shootings. Defendants, and each of them, were aware of,
and had available to them, devices, features, warnings, and other measures, which would prevent
and decrease the dangers of their products. Defendant Manufacturers, and each of them, have
failed to adequately warn customers of the dangers associated with handguns, failed to inform

1 distributors, dealers and buyers of available devices and measures that could prevent or decrease
2 these dangers, failed to incorporate safety devices and features into their handguns and impeded
3 the development and implementation of safety devices and features into their handguns.

4 Defendant Trade Associations, and each of them, failed to adopt adequate guidelines or standards
5 relating to the development and inclusion of such features in handguns. Defendants, and each of
6 them, knew, or should have known, that as a consequence of their actions, California residents
7 have been, and will continue to be killed or seriously injured.

8 **B. Personalized Safety Technology Would Prevent Access to Firearms by**
9 **Unauthorized Users**

10 126. The unsafe and unreasonably dangerous design of Defendants' handguns
11 results in thousands of shootings each year by persons who are not authorized by law to possess a
12 handgun, or who by reason of immaturity or other disability, do not appreciate the risks involved
13 with handguns. Such shootings often occur when an adolescent or a criminal improperly obtains
14 possession of a handgun.

15 127. Adolescent homicides and suicides are usually committed with a handgun
16 that the adolescent has obtained from his or her home. In California, millions of minors live in
17 homes when handguns are present. Studies have indicated that the odds that potentially suicidal
18 minors will kill themselves double when a gun is kept in the home. Moreover, nationwide for
19 many years, a youth aged 10-19 has committed suicide with a firearm at a rate of about once
20 every six hours. Firearms are used in 65% of male teen suicides and 47% of female teen suicides.
21 Among 15-19 year-olds, firearm-relate suicides have been estimated to account for 81% of the
22 increase in the overall rate of suicide from 1980-1992. In California, in 1996, there were 107
23 suicides of youth aged 19 and below.

24 128. At all pertinent times, it was reasonably foreseeable that Defendants'
25 handguns would fall into the hands of unauthorized users. There are guns in approximately one-
26 half of the homes in this country. One survey reports that 30% of gun-owners who have minors
27 in the home keep their guns loaded. Another survey reports that 36% of gun owners with minors
28 in the home keep their guns unlocked. The Federal Centers for Disease Control and Prevention

1 estimates that 1.2 million elementary-aged, latchkey children have access to guns in their homes.
2 Moreover, nearly 60% of juveniles between the ages of 10 and 19 have responded in surveys that
3 they can acquire a handgun should they want one.

4 129. At all pertinent times, Defendants, and each of them, knew, or should have
5 been known, that when unauthorized users gained access to Defendants' handguns, tragic and
6 preventable shootings would result. Many teen suicides and shootings by minors and other
7 unauthorized users could be prevented had Defendants implemented safer handgun designs,
8 including personalized handgun technology that would prevent an unauthorized user from being
9 able to fire the handgun. Further, Defendants, and each of them, knew, or should have known,
10 that by failing to make and sell handguns with the means to prevent their firing by unauthorized
11 users, it was reasonably foreseeable that handguns stolen from private residences, gun stores and
12 other locations could be employed by unauthorized users in violent criminal acts.

13 130. A study by the Johns Hopkins University School of Hygiene and Public
14 Health's Center for Gun Policy and Research concluded that "[p]ersonalized handguns can
15 eliminate many death and injuries by preventing the unauthorized firing of the firearm. . . . [and]
16 can be especially effective in preventing teenage [deaths], unintentional deaths and injuries of
17 children, and shootings of police officers."

18 131. Defendants' dangerous and unsafe products have repeatedly victimized
19 California residents. At all pertinent times the Defendants manufactured, distributed, marketed,
20 designed, promoted and sold their handguns, Defendants, and each of them, knew, or should have
21 known, of the dangers of their handguns, including those described herein. Defendants, and each
22 of them, knew of, or should have known of, and had available to them, personalized safety
23 features, warnings, and other measures, that would prevent and decrease the dangers of their
24 products. Defendant Manufacturers, and each of them nevertheless failed to remedy the
25 deficiencies in their handguns. Defendant Manufacturers, and each of them, further failed to
26 incorporate personalized safety features into their handguns and impeded the development and
27 implementation of personalized safety features. Defendant Trade Associations, and each of them,
28 similarly failed to adopt adequate guidelines or standards relating to the development and

1 inclusion of such personalized safety features in handguns. Defendants, and each of them, knew,
2 or should have known that, as a consequence of their aforementioned conduct, California
3 residents would be killed or seriously injured.

4 **C. Defendants Have Failed to Compete in the Marketplace to Develop Firearm**
5 **with Personalized Safety Technology**

6 132. A handgun with personalized safety features sufficient to prevent, or
7 significantly reduce, the risk of unauthorized use would have the potential to appeal to a large
8 segment of the legitimate handgun market. Despite this market appeal, Defendant Manufacturers,
9 and each of them, have failed to compete in the marketplace to develop and market handguns
10 with such safety features.

11 133. Defendant Trade Associations, and each of them, have likewise
12 discouraged the development of such safety features. For example, Defendant SAAMI holds
13 itself out to the public as having been, since 1926, “the principal organization in the United States
14 actively engaging in the development and promulgation of product standards for firearms and
15 ammunition.” Although SAAMI has promulgated numerous product standards for the firearms
16 industry, it has failed to develop any standards relating to personalized safety devices.

17 134. Instead of encouraging Defendant Manufacturers to develop safer products
18 and distribution practices, Defendant Trade Associations, and each of them, have sought to
19 discipline industry members who attempted to address safety issues. For example, when
20 Defendant Smith & Wesson was faced in 1976 with a public outcry that might have resulted in a
21 ban of most handguns in Massachusetts, Smith & Wesson announced that, as an alternative, it
22 would support screening and registration of handgun owners. For this breach of industry policy,
23 Smith & Wesson faced censure or ouster from SAAMI. To avoid possible action by SAAMI,
24 Smith & Wesson for a time withdrew from SAAMI, then conformed its proposals and positions
25 to industry policies.

26 **VII. DEFENDANTS’ UNFAIR, FALSE, DECEPTIVE AND MISLEADING**
27 **STATEMENTS UNDERMINE MINIMUM WARNINGS ON PROPER STORAGE**
28 **OF HANDGUNS**

135. For at least four years preceding the filing of this Complaint, and

1 continuing to date, Defendants, and each of them, have misled, deceived and confused members
2 of the general public in California regarding the safety of handguns and the need for handguns
3 within the home. To increase sales and profits, Defendants, and each of them, have falsely and
4 deceptively claimed through advertising and promotion of their handguns that the ownership and
5 possession of handguns in the home increased one's security. For example, certain Defendant
6 Manufacturers have promoted handguns with slogans such as "homeowner's insurance," "tip the
7 odds in your favor," and "your safest choice for personal protection." Research demonstrates
8 that, to the contrary, handguns actually increase the risk and incidence of homicide, suicide and
9 intentional and unintentional injuries to gun owners and their families and friends. Defendants'
10 over-promotional efforts have negated and undercut any warnings they have provided regarding
11 the risks of handguns in the home.

12 136. Defendants, and each of them, have made these false and deceptive
13 statements even though they knew or should have known, that studies and statistics demonstrate
14 that the presence of handguns in the home increase the risk of harm to firearm owners and their
15 families, as set forth in the following statistics:

- 16 a. One out of three handguns is kept loaded and unlocked in the home;
- 17 b. Studies that control for the relevant variables have demonstrated
18 that the homicide of a household member is almost three times more likely in homes with guns
19 than in homes without them, suicide is five times more likely; and for homes with teenagers, a
20 suicide is ten times more likely;
- 21 c. Studies have also shown that a gun in the home is at least 22 times
22 more likely to kill or injure a household member than it is to kill or injure an intruder in self
23 defense;
- 24 d. A firearm is used for protection in fewer than two percent of home
25 invasion crimes;
- 26 e. For every time a gun in the home was used for self-defense or a
27 legally justifiable shooting, there were four unintentional shootings, seven criminal assaults or
28 homicides, and eleven attempted or completed suicides.

1 137. Defendants' advertising and promotion activities deceptively convey the
2 message that possession of a handgun, along with the enhanced lethality of particular handguns,
3 will increase the personal safety of the owner and owner's household. Defendants, and each of
4 them, fail to include any information or warning about the relative risk of keeping a handgun in
5 the home. By failing to disclose such risks, the advertisements and promotions fail to correct a
6 material misrepresentation in the minds of many consumers.

7 138. The U.S Commission on the Causes and Prevention of Violence in a 1968
8 article entitled "Handguns and Violence in American Life," noted an increasing number of
9 firearm deaths and injuries and concluded:

10 [Americans] may seriously overrate the effectiveness of guns in
11 protection of their homes. In our urbanized society the gun is rarely
12 an effective means of protecting the home against either the burglar
13 or the robber. . . . [A gun in the home] provides a measure of
14 comfort to a great many Americans, but, for the homeowner, this
15 comfort is largely an illusion bought at the high price of increased
16 accidents, homicides, and more widespread illegal use of guns. . . .
17 When the number of handguns increases, gun violence increases.
18 (Pages xiii, 139.)

19 139. In California, a substantial number of deaths and injuries have occurred
20 each year because handguns were purchased for home protection but were, thereafter, used in
21 unintentional shootings, teen suicides, domestic disputes and other acts of violence as set forth
22 herein. Defendants, and each of them, choose to disregard these well-known statistics and data in
23 an effort to promote their handguns as security or "insurance" for the home, and to increase their
24 sales and profits.

25 140. Moreover, although Defendants, and each of them, state publicly that they
26 seek to preclude minors and criminals from possessing handguns, they, in fact, are engaging in
27 acts and practices that facilitate the illegal possession of handguns by minors and criminals
28 through the illegitimate secondary market. Defendants then utilize the threat posed by the
criminal misuse of handguns -- a threat that their own practices have helped to create -- to market
and sell more handguns to the "home protection" market.

1 **VIII. DEFENDANTS HAVE PROFITED FROM THEIR UNFAIR, UNLAWFUL OR**
2 **FRAUDULENT BUSINESS PRACTICES AT THE EXPENSE OF CALIFORNIA**
3 **AND ITS RESIDENTS**

4 141. Defendants' unfair, unlawful and fraudulent acts and practices have
5 contributed to the overall success and profit for the \$2-\$3 billion firearm industry. Defendants,
6 and each of them, knew, or should have known, that the thousands of handguns distributed
7 through the illegitimate secondary market cause substantial injury and harm to California
8 residents. Defendants' actions and omissions set forth herein facilitate violations of federal, state
9 and local laws or negate and undermine the public policies established by those laws, contribute
10 to physical harm, fear and inconvenience to California residents, and are injurious to the public
11 health, well-being and safety of California residents, and, in general, contribute to the degradation
12 of the quality of life of communities throughout the State of California. Defendants' conduct, as
13 set forth herein, has directly and indirectly injured and harmed California residents in the form of
14 loss of life, injury, increased criminal activity involving handguns, law enforcement costs,
15 medical costs and emergency response costs. Said conduct has allowed Defendants to profit from
16 their unfair, unlawful and fraudulent business practices, thereby contributing to Defendants'
17 overall financial success and vitality at the expense of California and its residents.

18 **FIRST CAUSE OF ACTION**

19 **PUBLIC NUISANCE**

20 **(By The People of the State of California Against Defendants And DOES 1-300)**

21 142. Paragraphs 1 through 141 are repeated and realleged as if set forth herein.

22 143. The citizens of the Cities of Los Angeles, Compton, Inglewood and West
23 Hollywood have a common right to be free from conduct that creates an unreasonable jeopardy to
24 the public health, welfare and safety and to be free from conduct that creates a disturbance and
25 reasonable apprehension of danger to person and property.

26 144. Defendants' ongoing conduct, as set forth herein, relating to their supply of
27 an illegitimate secondary market for handguns has created and maintained a public nuisance in
28 the Cities of Los Angeles, Compton, Inglewood and West Hollywood and throughout Southern
California, as thousands of handguns that they directly or indirectly supply to the illegitimate

1 secondary market are thereafter used and possessed in connection with criminal activity in the
2 cities of Los Angeles, Compton, Inglewood, and West Hollywood and throughout Southern
3 California. As a result of the continued use of many of these handguns after they enter Cities,
4 residents of Los Angeles, Compton, Inglewood, and West Hollywood have been, and will
5 continue to be, killed and injured by these handguns and residents will continue to fear for their
6 health, safety and welfare and will be subjected to conduct that creates a disturbance and
7 reasonable apprehension of danger to their person and property.

8 145. Defendants' ongoing conduct, as set forth herein, constitutes a public
9 nuisance in the Cities of Los Angeles, Compton, Inglewood and West Hollywood, and throughout
10 Southern California because it is an unreasonable interference with common rights enjoyed by the
11 general public.

12 146. Defendants' ongoing conduct, as set forth herein, is an unreasonable
13 interference with common rights enjoyed by the general public in the Cities of Los Angeles,
14 Compton, Inglewood and West Hollywood, and throughout Southern California because it
15 significantly interferes with the public's health, safety, peace, comfort and convenience.

16 147. Defendants' ongoing conduct, as set forth herein, is an unreasonable
17 interference with common rights enjoyed by the general public in the Cities of Los Angeles,
18 Compton, Inglewood and West Hollywood, and throughout Southern California because
19 Defendants, and each of them, knew or should have known the conduct to be of a continuous and
20 long-lasting nature that produces a permanent and long-lasting significant negative effect on the
21 rights of the public.

22 148. Defendants' ongoing conduct, as set forth herein, produces an ongoing
23 public nuisance, as thousands of handguns that they directly or indirectly supply to the
24 illegitimate secondary market, are thereafter illegally used and possessed in the Cities of Los
25 Angeles, Compton, Inglewood and West Hollywood, and throughout Southern California, will
26 remain in the hands of persons who will continue to use and possess them illegally for many
27 years. As a result of the continued use and possession of many of these handguns, residents of
28 the Cities of Los Angeles, Compton, Inglewood and West Hollywood and throughout Southern

1 California will continue to be killed and injured by these handguns and the public will continue to
2 fear for its health, safety and welfare and will be subjected to conduct that creates a disturbance
3 and reasonable apprehension of danger to person and property. These cities have a clearly
4 ascertainable right to abate conduct that perpetuates this nuisance.

5 149. The presence of illegitimately possessed and used handguns in Los
6 Angeles, Compton, Inglewood, and West Hollywood proximately results in significant costs to
7 the Cities in order to enforce the law, arm its police force and treat the victims of handgun crime.
8 Stemming the flow of handguns into the illegitimate secondary market will help to abate the
9 nuisance, will save lives, prevent injuries and will make the cities of Los Angeles, Compton,
10 Inglewood, and West Hollywood and throughout Southern California a safer place to live.

11 150. Defendants' ongoing conduct, as set forth herein, constitutes a public
12 nuisance in Los Angeles, Compton, Inglewood, and West Hollywood, since it significantly
13 interferes with the public's health, safety, peace, comfort and convenience. Defendants, and each
14 of them, knew, or should have known, the conduct to be of a continuous nature that produces a
15 permanent and significant negative effect on the rights of the public. Defendants' conduct
16 constitutes a public nuisance within the meaning of Civil Code section 3480 and this action is
17 brought under Civil Code section 3490, *et seq.*, and Code of Civil Procedure section 731. These
18 affected cities have a clearly ascertainable right to abate conduct that perpetuates this nuisance.
19 Stemming the flow of handguns into the illegitimate secondary market will help to abate the
20 nuisance, will save lives, prevent injuries and will make Los Angeles, Compton, Inglewood, and
21 West Hollywood a safer place to live.

22 **SECOND CAUSE OF ACTION**

23 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS** 24 **CODE SECTION 17200 ET SEQ. FOR UNFAIR, UNLAWFUL AND** 25 **FRAUDULENT BUSINESS PRACTICES**

26 **(By The People of the State of California and the General Public Against All Defendants)**

27 151. Paragraphs 1 through 150 are hereby incorporated as though fully set forth
28 herein.

152. Within the four years preceding the filing of this Complaint, Defendants,

1 and each of them, individually, and in concert, have engaged in unfair, unlawful and fraudulent
2 business practices (collectively "Unfair Competition") within the meaning of Business and
3 Professions Code Section 17200. These acts of unfair competition have caused handguns to be
4 distributed to an illegal market of users and, additionally, have resulted in intentional and
5 accidental shootings by unauthorized users.

6 153. In particular, these acts of unfair competition include, but are not limited
7 to, the following:

8 154. Defendants, and each of them, have distributed, promoted, advertised, sold
9 and marketed handguns using practices that encourage sales to unauthorized users, including
10 minors and criminals without adequately screening, supervising, monitoring or regulating their
11 employees, distributors and dealers, and without adequately training, instructing, advising or
12 setting standards for distributors and/or dealers of handguns, regarding how to legally and
13 responsibly sell handguns. Defendants, and each of them, have caused, permitted, and allowed
14 their handguns to be promoted, marketed, distributed, and disseminated to unauthorized persons,
15 including criminals and minors, and have failed or refused to take reasonable steps to ensure that
16 their handguns were not acquired by unauthorized persons;

17 155. Defendants, and each of them, knew, or should have known, that their
18 distribution practices were unsafe. Defendant Manufacturers and Distributors, and each of them,
19 have continued to make sales to distributors and dealers, even though they knew, or should have
20 known, that such distributors and dealers had distributed handguns to illegal purchasers and the
21 illegitimate secondary market. Defendants, and each of them, knew, or should have known, that
22 by distributing handguns without adequate supervision, controls and reporting, their distribution
23 practices facilitate the flow of handguns into the illegitimate secondary market. Despite this
24 knowledge, defendants, and each of them have failed to monitor and control the distribution of
25 handguns, failed to change their acts and practices or to adopt procedures that would deter the
26 flow of handguns to the illegitimate secondary market, including but not limited to, Defendants'
27 failure to implement a product marketing plan, an electronic inventory and sales tracking system,
28 and/or customer coverage policies;

1 156. Defendant Manufacturers and Distributors, and each of them, have adopted
2 distribution policies that allow and encourage distributors and dealers to make sales to likely
3 straw purchasers, including sales involving large numbers of handguns in a single transaction.

4 Certain Defendant Manufacturers and Distributors have adopted distribution policies that allow
5 sales to dealers who do not maintain a retail place of business for the sale of their handguns;

6 157. Defendants, and each of them, produce, market and distribute substantially
7 more handguns than they reasonably expect to sell to legitimate purchasers. In particular,
8 Defendants, and each of them, over-saturate markets with handguns in jurisdictions with
9 relatively weak gun control laws to meet the demand of the illegitimate secondary market in
10 jurisdictions with more restrictive gun control laws;

11 158. Defendant Manufacturers and Distributors, and each of them, have
12 distributed handguns to dealers without requiring dealers to ensure that purchasers' identification,
13 documentation and address is accurate;

14 159. Defendants, and each of them, have designed their handguns to appeal to
15 criminals and have increased production to meet this demand;

16 160. Defendant Manufacturers, and each of them, have designed and sold
17 handguns without incorporating feasible safety features and personalized gun technology that
18 would prevent unintentional shootings and unauthorized and unintended users from gaining
19 access to the handguns, have impeded the development and implementation of such features and
20 devices, and have not competed with each other in the marketplace by introducing handguns
21 utilizing such technology. Defendant Manufacturers, and each of them, have designed and sold
22 handguns without incorporating feasible technology that would prevent persons from unlawfully
23 obliterating the serial numbers required by law to be placed on those guns;

24 161. Defendants, and each of them, sell their handguns without providing
25 adequate warnings and instructions regarding the storage or use of their handguns;

26 162. Defendant Manufacturers, and each of them, have over-promoted the
27 purported self-defense and home protection benefits of their handguns in a manner that negates or
28 undercuts any warnings or instructions regarding safe storage of handguns, and have deceived,

1 misled, and confused the citizens of California regarding the safety of handguns by marketing
2 their product in a manner that promotes the belief that the use of handguns will increase home
3 safety and security, without providing to the public the information available to Defendants which
4 demonstrates that handguns possessed in the home actually increase the risk and incidence of
5 homicide, suicide, and unintentional injuries to handgun owners, their families and friends.

6 163. Defendants, and each of them, have undermined the public policies
7 embodied in local, state, and federal laws, including but not limited to California Penal Code
8 section 12020.5, which bans any advertising in California of certain unlawful weapons, including
9 assault weapons;

10 164. Certain Defendants have engaged in unlawful business practices by
11 violating or aiding and abetting the violation of the California Roberti-Roos Assault weapon
12 Control Act of 1989, California Penal Code Sections 12275-12290.

13 165. Within the four years preceding the filing of this Complaint, Defendants,
14 and each of them, individually and in concert, have also engaged in unfair competition within the
15 meaning of Business and Professions Code Section 17200 by unlawfully creating and maintaining
16 public and private nuisances as follows:

17 a. Defendants, and each of them, have unlawfully violated Penal Code
18 section 372 by creating and maintaining a public nuisance as defined by Penal Code section 370;

19 b. Defendants, and each of them, unlawfully created and maintained a
20 public nuisance as defined by Civil Code sections 3479 and 3480;

21 c. Defendants, and each of them, unlawfully created and maintained a
22 private nuisance as defined by Civil Code sections 3479 and 3481.

23 166. Plaintiffs, pursuant to Business and Professions Code Section 17203, seek
24 an order of this Court: (1) enjoining defendants from continuing to undertake these unfair
25 business practices; (2) ordering defendants to undertake a corrective advertising campaign
26 warning consumers of the dangers associated with owning a gun in the home and instruct hand
27 gun owners of the proper way to store handguns in the home; (3) provide restitution to the public
28 for all funds unfairly obtained by defendants as a result of their violation of Business and

1 Professions Code Section 17200 *et seq.*; and (4) disgorge all revenues and profits acquired as a
2 result of their unfair business practices and civil penalties.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for relief and judgment against the Defendants jointly and severally, as follows:

1. On the First Cause of Action for Public Nuisance, for preliminary and permanent injunctive relief, requiring Defendants and their respective successors, agents, servant, officers, directors, employees and all persons acting in concert with them, to cease and desist from engaging in practices that create a public nuisance.

2. For injunctive and declaratory relief pursuant to Business and Professions Code Section 17203:

a. Declaring that Defendants have engaged in unlawful, unfair, and fraudulent business acts and practices in violation of Business and Professions Code Section sections 17200 *et seq.*

b. Permanently enjoining Defendants, and each of them, and their respective successors, agents, servants, officers, directors, employees and all persons acting in concert with them directly or indirectly from engaging in conduct in the manner alleged in the first through fourth causes of actions in the Complaint.

3. For pre-judgment and post-judgment interest as provided by law.

4. For civil penalties in the sum of \$2,500 for each separate act in violation of Business and Professions Code section 17200, pursuant to section 17206, according to proof

5. For restitution and/or disgorgement of wrongfully obtained monies pursuant to Business and Professions Code § 17203.

6. For costs of suit as provided by law.

7. For attorneys' fees as provided by law.

8. For such further relief as the Court deems equitable and just.

1 Dated: March 21, 2003

Respectfully submitted,

2
3 ROCKARD J. DELGADILLO,
Los Angeles City Attorney
4 DON KASS,
Deputy City Attorney

5
6 By: /s/ Rockard J. Delgadillo
7 ROCKARD J. DELGADILLO,
Los Angeles City Attorney

8 Attorneys for Plaintiffs
9 THE PEOPLE OF THE STATE OF
CALIFORNIA

10 Additional Attorneys on Behalf of Plaintiffs
11 the People of the State of California and the
General Public:

12 LEGRAND H. CLEGG II, Compton City
13 Attorney (State Bar No. 56740)
W.A.M. Al-Haqq, Deputy City Attorney (State
14 Bar No. 189683)
P.O. Box 5118
15 205 South Willowbrook Avenue
Compton, CA 90220
16 Telephone: (310) 605-5582
Facsimile: (310) 763-0895

17 CHARLES E. DICKERSON III, Inglewood
18 City Attorney (State Bar No. 92590)
One Manchester Blvd., Suite 860
19 Inglewood, CA 903021
Telephone: (310) 412-5372
20 Facsimile: (310) 412-8865

21 MICHAEL JENKINS (State Bar No. 81997)
22 City Attorney
City of West Hollywood

23 LIEFF, CABRASER, HEIMANN &
24 BERNSTEIN, LLP
Robert J. Nelson (State Bar No. 132797)
25 Richard M. Franco (State Bar No. 170970)
27 275 Battery Street, 30th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
28 Facsimile: (415) 956-1008

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MILBERG WEISS BERSHAD HYNES &
LERACH LLP
Patrick J. Coughlin (State Bar No. 111070)
Frank J. Janecek, Jr. (State Bar No. 156306)
Michael J. Dowd (State Bar No.135628)
600 West Broadway, Suite 1800
San Diego, CA 92101
Telephone: (619) 231-1058
Facsimile: (619) 231-7423

BRADY CENTER TO PREVENT GUN
VIOLENCE
Dennis A. Henigan
Brian J. Siebel
Jonathan E. Lowy
Legal Action Project
1250 Eye Street, N.W., Suite 802
Washington, D.C. 20005
Telephone: (202) 289-7319
Facsimile: (202) 898-0059

RICHARDS, WATSON & GERSHON
A Professional Corporation
Sayre Weaver (State Bar No. 116957)
P.O. Box 1059
Brea, CA 92822-1059
Telephone: (714) 990-0901
Facsimile: (714) 990-6230

1 ROCKARD J. DELGADILLO, Los Angeles City Attorney (State Bar No. 125465)
2 DON KASS, Deputy City Attorney (State Bar No. 103607)
200 N. Main Street, 1600 City Hall East
Los Angeles, California 90012
3 Telephone: (213) 485-4515
4 Facsimile: (213) 847-3014

Attorneys for Plaintiffs
5 THE PEOPLE OF THE STATE OF CALIFORNIA

6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO
10

11 THE PEOPLE OF THE STATE OF CALIFORNIA,
by and through ROCKARD J. DELGADILLO, City
12 Attorney of the City of Los Angeles, CHARLES E.
DICKERSON III, City Attorney of the City of
13 Inglewood, MICHAEL JENKINS, City Attorney of
the City of West Hollywood, and LEGRAND H.
14 CLEGG II, City Attorney of the City of Compton,
and THE GENERAL PUBLIC by and through
15 LEGRAND H. CLEGG II, City Attorney of the City
of Compton, ROOSEVELT DORN, Mayor of the
16 City of Inglewood and JOHN HEILMAN, Mayor of
the City of West Hollywood,

17 Plaintiffs,

18 v.
19

20 ARCADIA MACHINE & TOOL, BRYCO ARMS,
INC., DAVIS INDUSTRIES, INC., LORCIN
ENGINEERING CO., INC., PHOENIX ARMS,
21 SUNDANCE INDUSTRIES, INC., EXCEL
INDUSTRIES, INC. A/K/A ACCU-TEK,
22 BERETTA U.S.A. CORP., PIETRO BERETTA
S.p.A, BROWNING ARMS CO., CARL
23 WALTHER GmbH, CHARTER ARMS, INC.,
COLT'S MANUFACTURING CO., INC., FORJAS
24 TAURUS, S.A., GLOCK, INC., GLOCK GmbH,
H&R 1871, INC., HECKLER & KOCH, INC., MKS
25 SUPPLY, INC. D/B/A HI-POINT FIREARMS,
KEL-TEC CNC INDUSTRIES, INC., CHINA
26 NORTH INDUSTRIES A/K/A NORINCO,
NAVEGAR, INC. D/B/A INTRATEC U.S.A., INC.,
27 NORTH AMERICAN ARMS, INC., SIGARMS,
INC., SMITH & WESSON CORP., STURM,
28 RUGER & COMPANY, INC., S.W. DANIEL, INC.,

Judicial Council Coordination
Proceeding, No. 4095

Superior Court of California, County
of Los Angeles, No. BC 210894

**PROOF OF SERVICE BY
ELECTRONIC FILING**

Judge: The Hon. Vincent D. DiFiglia
Dept: 65

1 A/A/A COBRAY FIREARMS, INC., TAURUS
2 INTERNATIONAL MANUFACTURING, INC.,
3 AMERICAN SHOOTING SPORTS COUNCIL,
4 INC., NATIONAL SHOOTING SPORTS
5 FOUNDATION, INC., SPORTING ARMS AND
6 AMMUNITION MANUFACTURERS'
7 INSTITUTE, INC., B.L. JENNINGS, ELLET
8 BROTHERS, INTERNATIONAL ARMAMENT
CORP. D/B/A INTERARMS INDUSTRIES, INC.,
RSR WHOLESALE GUNS, INC., SOUTHERN
OHIO GUN DISTRIBUTORS, B&B GROUP, INC.,
ANDREWS SPORTING GOODS, INC.,
NATIONAL GUNS SALES, INC., S.G.
DISTRIBUTING, INC., HAWTHORNE
DISTRIBUTORS, INC., and DOES 1-300 ,

9 Defendants.

10 Attorneys for Plaintiffs

11 THE PEOPLE OF THE STATE OF CALIFORNIA and THE GENERAL PUBLIC

12
13 ROCKARD J. DELGADILLO, Los Angeles City Attorney (State Bar No. 125465)
14 DON KASS, Deputy City Attorney (State Bar No. 103607)
200 N. Main Street, 1600 City Hall East
Los Angeles, California 90012
Telephone: (213) 485-4515
15 Facsimile: (213) 847-3014

16 LEGRAND H. CLEGG II, Compton City Attorney (State Bar No. 56740)
17 W.A.M. Al-Haqq, Deputy City Attorney (State Bar No. 189683)
P.O. Box 5118
205 South Willowbrook Avenue
18 Compton, CA 90220
Telephone: (310) 605-5582
19 Facsimile: (310) 763-0895

20 CHARLES E. DICKERSON III, Inglewood City Attorney (State Bar No. 92590)
21 One Manchester Blvd., Suite 860
Inglewood, CA 903021
22 Telephone: (310) 412-5372
Facsimile: (310) 412-8865

23 MICHAEL JENKINS (State Bar No. 81997)
24 City Attorney
City of West Hollywood
25
26
27
28

1 RICHARDS, WATSON & GERSHON
2 A Professional Corporation
3 Sayre Weaver (State Bar No. 116957)
4 P.O. Box 1059
5 Brea, CA 92822-1059
6 Telephone: (714) 990-0901
7 Facsimile: (714) 990-6230

8 MILBERG WEISS BERSHAD HYNES & LERACH LLP
9 Patrick J. Coughlin (State Bar No. 111070)
10 Frank J. Janecek, Jr. (State Bar No. 156306)
11 Michael J. Dowd (State Bar No. 135628)
12 600 West Broadway, Suite 1800
13 San Diego, CA 92101
14 Telephone: (619) 231-1058
15 Facsimile: (619) 231-7423

16 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
17 Robert J. Nelson (State Bar No. 132797)
18 Richard M. Franco (State Bar No. 170970)
19 275 Battery Street, 30th Floor
20 San Francisco, CA 94111-3339
21 Telephone: (415) 956-1000
22 Facsimile: (415) 956-1008

23 BRADY CENTER TO PREVENT GUN VIOLENCE
24 Dennis A. Henigan
25 Brian J. Siebel
26 Jonathan E. Lowy
27 Legal Action Project
28 1250 Eye Street, N.W., Suite 802
Washington, D.C. 20005
Telephone: (202) 289-7319
Facsimile: (202) 898-0059

BUSHNELL, CAPLAN & FIELDING, LLP
Alan M. Caplan (State Bar No. 49315)
Philip Neumark, of Counsel (State Bar No. 45008)
Paul R. Hoeber, of Counsel (State Bar No. 48019)
221 Pine Street, Suite 600
San Francisco, CA 94104-2715
Telephone: (415) 217-3800
Facsimile: (415) 217-3820

McCUE & McCUE
Jonathan D. McCue (State Bar No. 128896)
Charles McCue (State Bar No. 155417)
600 West Broadway, Suite 930
San Diego, CA 92101
Telephone: (619) 338-8136
Facsimile: (619) 338-0322

Of Counsel

David Kairys, Esq.
1719 North Broad Street
Philadelphia, PA 19122
Telephone: (215) 204-8959

I am employed at the law firm of Lief, Cabraser, Heimann & Bernstein LLP, whose address is 275 Battery Street, 30th Floor, San Francisco, California 94111-3339. I am readily familiar with the business practices of this office. At the time of transmission I was at least eighteen years of age and not a party to this action.

On March 21, 2003, by electronic transmission via CourtLink, I served a copy of the within document(s):

1. **SECOND AMENDED COMPLAINT FOR MAINTAINING A PUBLIC NUISANCE AND FOR UNFAIR, UNLAWFUL AND FRAUDULENT BUSINESS PRACTICES IN VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200; and**
2. **PROOF OF SERVICE BY ELECTRONIC FILING.**

Service is on all interested parties registered for e-filing in the within action.

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

Executed at San Francisco, California on March 21, 2003.

/s/ Suzanne Powley
Suzanne Powley