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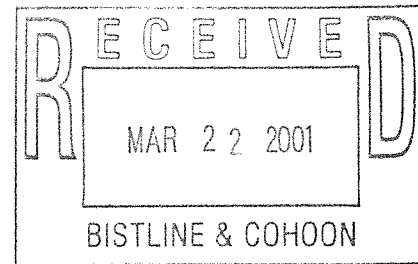
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13 SUPERIOR COURT OF CALIFORNIA

14 COUNTY OF SAN DIEGO

15 Coordination Proceeding Special Title (Rule 1550(b))) JUDICIAL COUNCIL COORDINATION
	) PROCEEDING NO. 4095
16 FIREARM CASE	) San Francisco Superior Court No. 303753
	) Los Angeles Superior Court No. BC210894
17 Including actions:	) Los Angeles Superior Court No. BC214794
18 <i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>	) PLAINTIFFS' RESPONSE AND
19 <i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>	) OPPOSITION TO THE
20 <i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>	) MANUFACTURING DEFENDANTS'
21 <i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>	) EX PARTE APPLICATION TO COMPEL
22 <i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>	) PLAINTIFFS' DISCLOSURE OF FACTS
	) AND DOCUMENTS RELATING TO THE
	) ACQUISITIONAL HISTORY OF
	) FIREARMS RECOVERED BY
	) PLAINTIFFS

Date: March 20, 2001
Time: 8:30 a.m.
Dept: 65
Hon. Vincent P. DiFiglia



1 **I. INTRODUCTION**

2 Defendants' *ex parte* application completely misstates plaintiffs' position with regard to
3 discovery regarding firearm "incidents." The reality is that plaintiffs have already produced (and are
4 continuing to produce) documents responsive to Sturm, Ruger Requests for Production Nos. 1, 3 and
5 4. However, prior to gathering additional responsive documents, plaintiffs sought assurances from
6 defendants regarding the scope of the anticipated production. Although defendants initially agreed
7 to limitations on the scope of this discovery, at the eleventh hour, liaison counsel for the
8 manufacturing defendants refused to place their agreement in writing and claimed that they could
9 not bind their co-defendants. Since the parties were unable to reach a written agreement, plaintiffs
10 urge the Court to "assume an active role", as permitted under Rule 1541(b) of the California Rules
11 of Court, in resolving these outstanding discovery issues. Defendants' need for certain discovery and
12 plaintiffs' desire to reduce the burden of responding to that discovery can both be accommodated by
13 the Court.

14 **II. ARGUMENT**

15 Defendants imply that plaintiffs have been less than forthcoming with discovery. Any such
16 assertion would be incorrect. Plaintiffs have provided defendants with specific firearm data
17 regarding *all* the firearms seized in plaintiffs' jurisdictions between 1996-1999. This is very
18 comprehensive and specific data which identifies the make, model and serial number of the firearm
19 involved – as well as data regarding the type of incident. For each prosecuting entity, plaintiffs
20 provided defendants with this data in an electronic format that allows defendants to sort and actively
21 make use of this data.

22 Thereafter, defendants demanded follow-up discovery relating to this data. Essentially,
23 defendants seek discovery regarding every incident in which a gun was seized or recovered by the
24 prosecuting entities. Specifically, defendants seek incident (*i.e.*, arrest) reports for each gun
25 identified by plaintiffs in response to discovery produced to-date and investigation reports, if any,
26 related to the seized guns. The burden to produce these materials is overwhelming – and yet the vast
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1 majority of plaintiffs are willing to produce this data.¹ However, plaintiffs want to ensure that
2 defendants will not reverse field after receiving this discovery and broaden their requests, forcing
3 plaintiffs to engage in a second search for additional materials – especially since plaintiffs thought
4 these issues had, for the most part, been resolved. This concept is the sole dispute between the
5 parties.

6 Plaintiffs' request is simple. Plaintiffs want to know whether defendants are willing to limit
7 their requests to "incidents" identified by plaintiffs in their original discovery responses. In their
8 negotiations with plaintiffs, the manufacturing defendants proposed this limitation – but then refused
9 to put that agreement in writing. Similarly, defendants indicated that they would not seek discovery
10 relating to prosecutions arising from these incidents – but refused to document that agreement. *See,*
11 *e.g.,* Sturm, Ruger Request for Production Nos. 6, 7; Letter from Jonah Goldstein to Lawrence J.
12 Kouns and James B. Vogts, attached as Exhibit 13 to Defendants' Notice of Lodgment. Plaintiffs
13 want to ensure that defendants' position is not subject to change. Plaintiffs' concern is that thousands
14 of hours will be spent retrieving, assembling, reviewing and redacting responsive information and,
15 thereafter, defendants will seek other additional materials relating to the same or related incidents.
16 The door cannot be left open for defendants to press other, related – through not necessarily relevant
17 – discovery requests at some later date. Defendants should, within reason, identify the scope of their
18 requests before plaintiffs gather responsive materials. Otherwise, plaintiffs will challenge
19 defendants' discovery requests as unduly burdensome and not reasonably calculated to lead to the
20 discovery of admissible evidence.

21 Therefore, plaintiffs ask that the Court set limits on the ability of all defendants (not just the
22 manufacturing defendants) to seek additional "incident" discovery. This issue should be resolved
23 now to allow plaintiffs to avoid the duplication of effort that will be inherent in responding to this
24 type of discovery twice.

27 ¹Three of the twelve plaintiffs, the City of Los Angeles, County of Los Angeles and West
28 Hollywood, asked defendants to consider accepting a statistical sampling of their records due to the
enormous volume of gun "incidents" in those localities. Defendants appeared willing to meet-and-
confer regarding this potential compromise. Their current position is unknown.

1 **III. CONCLUSION**

2 Defendants' *ex parte* application should be denied. In the alternative, plaintiffs seek leave
3 to further address this issue with a briefing schedule consistent with a motion to compel.
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5 DATED: March 16, 2001

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(*People, et al. v. Arcadia Machine & Tool, Inc., et al.*)
 San Francisco Superior Court No. 303753
 Los Angeles Superior Court No. BC210894
 Los Angeles Superior Court No. BC214794

1. That I am and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interest in the within action; that my business address is 600 West Broadway, Suite 1800, San Diego, California 92101.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 16th day of March, 2001, at San Diego, California.

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