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7 Andrews Sporting Goods, Inc., dba Turners Outdoorsman
8 and S.G. Distributing, Inc.

9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN DIEGO

11	Judicial Council Coordination)	JUDICIAL COUNCIL COORDINATION
12	Proceeding Special Title (Rule)	PROCEEDINGS NO. 4095
13	1550(b)))	
14	FIREARM CASES)	Superior Court of California
15	Coordinated actions:)	City & County of San Francisco
16		No. 303753
17		Superior Court of California
18	THE PEOPLE OF THE STATE OF)	County of Los Angeles No.
19	CALIFORNIA, ex rel. the County)	BC210894
20	of Los Angeles, et. al.,)	
21	v.)	Superior Court of California
22		County of Los Angeles No.
23	ARCADIA MACHINE & TOOL, et.)	BC214794
24	al.,)	
25		DECLARATION OF FOREST G. WEBB
26		IN SUPPORT OF DEFENDANT ANDREWS
27	THE PEOPLE OF THE STATE OF)	SPORTING GOODS' MOTION IN
28	CALIFORNIA, by and through)	LIMINE NUMBER ONE TO EXCLUDE
	JAMES K. HAHN, City Attorney)	ANTICIPATED TRIAL TESTIMONY OF
	of the City of Los Angeles,)	PLAINTIFFS' GUN TRACE WITNESSES
	et. al.,)	GERALD A. NUNZIATO AND JOSEPH
	v.)	J. VINCE, JR. AND REQUEST FOR
		KELLY HEARING
	ARCADIA MACHINE & TOOL, et.)	
	al.,)	Date:
		Time:
		Dept: 65
	THE PEOPLE OF THE STATE OF)	Judge: Vincent DiFiglia
	CALIFORNIA, by and through San)	
	Francisco City Attorney Louise)	
	H. Renne,)	
	v.)	
	ARCADIA MACHINE & TOOL, et.)	
	al.)	

1 I, Forest G. Webb, declare as follows:

2 1. I have personal knowledge of the matters set forth
3 herein and if called to testify could and would testify hereto.

4 2. I was a Federal law enforcement officer for
5 approximately 31 years serving five and one half years as an
6 uniformed officer in the United States Secret Service. I served
7 25 years with the Bureau of Alcohol, Tobacco and Firearms (ATF)
8 as a special agent and during that time I conducted
9 investigations into violations of all jurisdictions under ATF to
10 include; firearms, explosive, alcohol, tobacco. I served in
11 management positions in Trenton, New Jersey, Philadelphia,
12 Pennsylvania, Washington, DC, New York, New York, and Falling
13 Waters, West Virginia. While serving in ATF's Bureau
14 Headquarters, I established a computerized ballistic
15 identification system by placing computer automated analysis
16 systems in all ATF laboratories and with state and local law
17 enforcement. This system has now grown to a Nationwide Ballistic
18 Identification System utilized by local, state, Federal, and
19 foreign law enforcement agencies. In New York I served as the
20 Assistant Special Agent in Charge and in this position I
21 supervised criminal investigations in all areas of ATF
22 jurisdiction. I supervised numerous firearms trafficking cases.

23 3. From September 30, 1978 to April 1, 2001 I served as the
24 Special Agent in Charge of ATF's National Tracing Center. I held
25 that position until the time I retired in 2001. During my
26 tenure, the National Tracing Center and the Crime Gun Analysis
27 Branch were joined in what is now the National Tracing Center
28 Division.

1 4. My duties as Special Agent in Charge of the National
2 Tracing Center Division included supervision and coordinating the
3 processing of firearms trace requests submitted by Federal,
4 State, and local law enforcement officials and law enforcement
5 officials from other countries. My duties also included the
6 maintenance of records of Federal firearms licensees who have
7 permanently discontinued business, records of multiple sales of
8 handguns submitted by licensees, and records of thefts or losses
9 of firearms from licensees and interstate carriers. My duties
10 also included ensuring that federal firearms licensees (FFLs)
11 respond promptly and completely to ATF's requests to provide
12 firearms trace information and referring unresponsive or
13 uncooperative licensees to ATF field offices for appropriate
14 action. I supervised the process of placing Federal Firearms
15 Dealers under demand to provide the National Tracing Center with
16 information from their business records. I also worked closely
17 with ATF upper management, legal counsel, and the Treasury
18 Department in determining what information to make publicly
19 available and the time frame within which to make it so.

20 5. My duties also included the supervision of the Crime Gun
21 Analysis Branch, which conducts analysis of the data collected as
22 a result of tracing firearms. This analysis provides information
23 to ATF and other law enforcement agencies to assist in firearms
24 investigation.

25 6. A trace of a firearm does not automatically equal a
26 crime. Many firearms are traced because they simply come into the
27 possession of the police department. ATF encourages law
28 enforcement agencies to do comprehensive tracing of all recovered

1 firearms. Firearms found at a crime scene that are not part of
2 the violation or used as an instrument in the crime, will and
3 should be traced to provide additional leads and to establish
4 ownership of the firearms. Firearms found during the execution
5 of a search warrant for other than firearms violations are and
6 should be traced. The trace and investigation of the firearms can
7 often lead to additional information, identify additional
8 suspects, etc. Found firearms and firearms turned over to the
9 police for safe keeping or disposal are traced. Firearms
10 purchased as part of a buy back program are traced. Firearms with
11 no involvement in crime will be traced to provide leads or to
12 identify suspects. In addition to providing law enforcement with
13 additional leads and evidence, the trace of a firearm can help to
14 establish that no crime has been committed. Often it can not be
15 determined whether a crime has occurred until after the trace is
16 complete and additional information is obtained as a result of
17 investigation. In many instances firearms are taken into custody
18 but returned to the owner after investigation determines them not
19 to be part of any crime.

20 7. ATF has stated in its Youth Crime Gun Interdiction
21 Initiative report "A crime gun trace alone does not mean that an
22 FFL or firearm purchaser has committed an unlawful act. Crime
23 gun trace information is used in combination with other
24 investigative facts in regulatory and criminal enforcement."

25 8. Firearms are traced as part of the investigative
26 process. A firearm trace can provide additional leads such as
27 identifying suspects and or witnesses. The trace of a firearm
28 discovered by police can provide information on the ownership of

1 the firearm and other firearms purchased and possible leads on
2 other individuals involved in the firearm purchase. An example
3 of this would be a car stop by a law enforcement officer in which
4 a firearm is discovered. A check on the firearm through NCIC and
5 ATF firearms tracing system can verify the legal ownership of the
6 firearm or if a firearm is stolen. Another example would be the
7 execution of a search warrant for an unrelated crime in which
8 firearms are located. Another example would be an investigation
9 to determine the legal ownership of a firearm.

10 9. A vast majority of guns that are traced are listed as
11 being connected to a firearms offense. In order for a firearm to
12 be entered into the ATF Tracing System a crime code must be
13 listed. During my tenure as the Special Agent in Charge those
14 traces submitted without a crime code defaulted to a firearms
15 offense. It is also logical that when submitting a trace if the
16 requester can not determine an appropriate crime code they would
17 use the firearms possession or firearms offense code.

18 10. The number of traces of firearms sold by a dealer does
19 not indicate a bad FFL. The mere fact that firearms are traced is
20 not evidence that a crime has been committed. A large number of
21 the firearms being traced are not used in the commission of a
22 crime. In order to establish a FFL is involved in criminal
23 activity, more information and evidence is needed.

24 11. During my tenure, ATF conducted focused compliance
25 inspections of FFLs based on the number of firearm traces and
26 random selection. These inspections took approximately 60 to 100
27 hours to complete. No significant difference was found between
28 inspections done randomly and those based on the number of

1 traces. In each case the inspections resulted in very few license
2 revocation proceedings.

3 12. The vast majority of FFLs are cooperative with law
4 enforcement and will report any suspicious activity. Often
5 illegal firearms trafficking investigations result from an FFL
6 contacting ATF. This will often result in law enforcement taking
7 firearms into custody and having them traced. FFLs that do a
8 larger volume of business are more likely to have more firearms
9 traced to them.

10 13. Law enforcement agencies trace over 200,000 firearms
11 each year. When a trace is submitted the submitting agency
12 selects a crime code that represents the type of alleged crime
13 being investigated. The information entered into the database to
14 initiate a trace is provided by the requesting agency. ATF does
15 not confirm the validity of the information furnished. It is the
16 responsibility of the requester to confirm the information
17 provided by the trace is correct.

18 14. ATF performs a trace of the firearm and the results are
19 sent to the requesting agency. In order for ATF to determine the
20 firearm was used in a crime ATF would require additional
21 information from the investigating agency. ATF does not receive
22 this information as part of the tracing process. ATF provides the
23 trace as a service to the requesting law enforcement agency and
24 rarely has any other involvement in the investigation.

25 15. Additional investigation is always required into any
26 suspected wrong doing based on analysis of the trace data.
27 Information released by ATF is not sufficient for analysis and
28 ATF clearly states when information is released. "Since the

1 database is a criminal investigative tool, ATF cannot be
2 responsible for the validity of analysis by Freedom of
3 Information Act requesters conducted for purposes for which the
4 database was not designed."

5 16. Information provided by ATF, which is developed as the
6 result of a trace, is not considered by ATF to be sufficient for
7 presentation in court and ATF advises requesters that information
8 should be validated by the Federal Firearms Licensee. To meet
9 evidentiary requirements to identify a purchaser, fingerprints,
10 hand writing, witness identification, etc. must be used to verify
11 the information provided on the trace response.

12 17. I am familiar with the testimony and expert witness
13 reports of Joseph J. Vince, Jr. Mr. Vince uses the term "crime
14 gun" to describe traced firearms thereby implying that firearm is
15 physically used in the commission of a crime. I do not believe
16 this to be true for reasons previously stated. A vast majority
17 of the firearms traced by ATF are coded as firearms violations in
18 the ATF Firearms Tracing System (FTS). In my opinion most of
19 these were firearms under investigation and may not be involved
20 in a crime. ATF's Crime Gun Trace Reports (2000) states "The
21 General term "Firearms Offenses" can include any offense or crime
22 in which a firearm was involved. It is also commonly used by
23 local law enforcement agencies and the National Tracing Center
24 when more detailed crime information is not available at the time
25 the trace request is submitted to the National Tracing Center."
26 The report details in the year 2000 Stockton, California traced
27 352 firearms of which 171 were listed as firearms offenses; San
28 Jose, California traced 1476 firearms of which 599 were listed as

1 firearms offenses; Anaheim/Long Beach/Santa Ana, California
2 traced 139 firearms of which 77 were listed as firearms
3 violations; Salinas, California traced 327 firearms of which 263
4 were listed as firearms offenses; Oakland, California traced 595
5 firearms of which 520 were listed as firearms offenses; and Los
6 Angeles, California traced 3,877 of which 1,489 were listed as
7 firearms offenses.

8 18. Operation Snap Shot was a random selection of 752 FFLs
9 to be inspected in 1998. In 1999 a random selection of 1700 FFLs
10 were inspected and in 2000 a selection was based on the number of
11 traces resulting in 1020 FFLs being inspected. I have reviewed
12 ATF reports and do not note any significant difference in the
13 findings based on random selection and selection based on the
14 number of traces. These reports detail the effective use of these
15 inspections by ATF in regulating the industry. Each of these

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1 reports detailed results of findings and resulted in the
2 revocation of very few FFLs. The demand process alone resulted
3 in the successful completion of over 18,000 traces of used
4 firearms. ATF published FOLLOWING. THE GUN in June of 2000 which
5 was a review of ATF illegal firearms trafficking investigations
6 from July of 1996 through December of 1998. Page 11 Table 2
7 reports that FFLs were the source of trafficked firearms in 8.7%
8 of the cases. In my opinion 8.7% does not constitute a primary
9 source. Retail dealers are a source of firearms but ATF findings
10 indicate that the vast number of firearms are diverted to
11 criminal use after being sold legally by a FFL. ATF's CRIME GUN
12 TRACE REPORTS (2000) NATIONAL REPORT states on page ix that about
13 88% traced firearms changed hands after being sold by an FFL.

14 I swear under penalty of perjury under the laws of the State of
15 California that the foregoing is true and correct and that this
16 declaration is executed on April 8, 2003 at Martinsburg, West
17 Virginia.

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19 Forest G. Webb
20 Declarant
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PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

I, Haydee Villegas, declare:

That I am employed in the City of San Pedro, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 407 North Harbor Boulevard, San Pedro, California 90731.

On May 7, 2003, I served the foregoing document(s) described as DECLARATION OF FOREST G. WEBB IN SUPPORT OF DEFENDANT ANDREWS SPORTING GOODS' MOTION IN LIMINE NUMBER ONE TO EXCLUDE ANTICIPATED TRIAL TESTIMONY OF PLAINTIFFS' GUN TRACE WITNESSES GERALD A. NUNZIATO AND JOSEPH J. VINCE, JR. AND REQUEST FOR KELLY HEARING on the interested parties in this action by JusticeLink Electronic filing on all persons appearing on JusticeLink's Service List.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 7th day of May, 2003, at San Pedro, California.

Haydee Villegas

Haydee Villegas