

FILED
STEPHEN THUNBERG
Clerk of the Superior Court
AUG 30 2000
By: M. MASES, Deputy

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

Coordination Proceeding Special Title (Rule 1550 (b))) JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4095
FIREARMS CASE) San Francisco Superior Court No. 303753
Including actions:) Los Angeles Superior Court No. BC210894
) Los Angeles Superior Court No. BC214794
People, et. al. v. Arcadia Machine & Tool, Inc., et. al.) CASE MANAGEMENT ORDER NO. 1
People, et. al. v. Arcadia Machine & Tool, Inc., et. al.) Date: July 14, 2000
People, et. al. v. Arcadia Machine & Tool, Inc., et. al.) Time: 10:30 a.m.
) Dept.: 65
) Honorable Vincent P. DiFiglia

This Order shall apply to the Plaintiffs and to all Defendants who have appeared in this action and who may hereafter appear. This Order may be modified upon motion of any party (i.e., any Plaintiff and any Defendant) for good cause shown.

1. LIAISON COUNSEL

A. The Plaintiffs' Liaison Counsel

Liaison Counsel for the Plaintiffs shall be: Robert Nelson or his designee at Lieff, Cabraser, Heimann & Bernstein, LLP, San Francisco and Michael Dowd or his designee at Milberg Weiss Bershard Hynes & Lerach LLP, San Diego.

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8/30/2000

1 **B. Defendants' Liaison Counsel**

- 2 1. Liaison Counsel for the Defendant Manufacturers shall be: Lawrence Kouns
3 or his designee at Luce, Forward, Hamilton & Scripps, LLP, San Diego, and
4 James Vogts, or his designee at Wildman, Harrold, Allen & Dixon, Chicago.
5 2. Liaison Counsel for the Defendant Distributors shall be: Diane Gorczyca or
6 her designee at Sedgwick, Detert, Moran & Arnold, San Francisco.
7 3. Liaison Counsel for the Defendant Trade Associations shall be: Susan
8 Caldwell at Koletsky, Mancini, Feldman & Morrow, Los Angeles, or her
9 designee.

10 **C. Responsibilities of Liaison Counsel**

11 The responsibilities of Liaison Counsel shall include: (1) communication with the
12 Court as to the scheduling of hearings on motions; (2) coordination of dates, times and places for
13 depositions; and (3) the signing of Court documents and pleadings on behalf of co-parties, but only
14 upon authority of the co-parties.

15 **D. Service on Liaison Counsel**

16 Service of pleadings, notices, motions, etc., shall be made upon Liaison Counsel by
17 hand delivery or facsimile; provided, however, that such service shall not constitute service upon any
18 other party for any purpose. Regardless of the method of service used, any period of notice and any
19 right or duty to do any act or make any response within any period or on a date certain after such
20 service shall be extended five (5) court days. Service of pleadings, notices, motions, etc. shall be
21 made on all other parties by regular mail.

22 **2. SERVICE LIST**

23 Liaison Counsel for the Plaintiffs and Defendants shall prepare jointly, and update as
24 necessary, a service list of counsel for all parties and shall file the list with the Clerk of this Court and
25 serve it on the parties represented by Liaison Counsel no later than July 21, 2000.

26 **3. SCHEDULE FOR DEMURRERS AND MOTIONS TO STRIKE**

27 August 4, 2000

28 Deadline for Defendant Manufacturers to file consolidated
demurrers and motions to strike complaints in coordinated

1 case. Supporting memorandum of law not to exceed 35
2 pages.^{1/}

3 Deadline for Defendant Distributors to file separate
4 memorandum of law in support of demurrers/motions to
5 strike not to exceed 10 pages.

6 August 25, 2000

7 Deadline for Plaintiffs to file opposition to consolidated
8 demurrers and motions to strike. Supporting memorandum of
9 law not to exceed 35 pages.

10 If the Defendant Distributors file a separate memorandum of
11 law, Plaintiffs may file a separate opposition thereto not to
12 exceed 10 pages.

13 September 8, 2000

14 Deadline for Defendant Manufacturers to file reply to
15 Plaintiffs' opposition to consolidated demurrers and motions to
16 strike. Supporting memorandum of law not to exceed 15
17 pages.

18 September 15, 2000
19 1:30 p.m.

20 Court to hear and rule on demurrers and motions to strike filed
21 by Defendant Manufacturers (and joined in by others) and by
22 Trader Sports, Inc.^{2/}

23 **4. SCHEDULE FOR OTHER MOTIONS AND DISCOVERY**

24 **A. Jurisdictional Issues**

25 Defendant Trade Associations have raised jurisdictional defenses. Those Defendants
26 are to meet and confer with Plaintiffs regarding discovery and motions that may be necessary to
27 resolve the jurisdictional issues. By August 11, 2000, motions to compel further discovery regarding
28 jurisdictional issues, if necessary, will be filed. If discovery motions are not filed by August 11, 2000,
or subsequent to compliance with the Court's ruling, if any, pertaining to jurisdictional discovery,
within a reasonable time thereafter, the Plaintiffs and Trade Associations will establish and file a

22 ^{1/} Trader Sports Inc.'s demurrer and motion to strike (San Francisco Superior Court
23 No. 303753), Plaintiffs' opposition thereto, and all related pleadings, are deemed filed in
24 the coordinated case. All other demurrers and motions to strike previously filed in the
25 separate actions shall be superseded by the forthcoming consolidated demurrers and
26 motions to strike to be filed by the Defendant Manufacturers. Other defendants who have
been served with the summons and complaint may file joinders in the forthcoming
consolidated demurrers and motions to strike by August 14, 2000. Such joinders shall be
deemed a sufficient response to the complaint until after the Court's ruling on the
demurrers/motions to strike.

27 ^{2/} The hearing on Trader Sports' demurrer and motion to strike was previously scheduled for
28 August 18, 2000. However, at an *ex parte* hearing on August 15, the hearing date was
continued to September 15, 2000.

1 briefing schedule with respect to motions to quash. Discovery is limited to issues of jurisdiction until
2 adjudication by the Court of the motions to quash that are currently pending.

3 Specially Appearing Defendant Carl Walther GmbH has also raised a jurisdictional
4 defense by filing a motion to quash. Other Defendants may also file motions to quash. The Plaintiffs
5 shall meet and confer with Specially Appearing Defendant Carl Walther GmbH regarding
6 jurisdictional discovery and provide the Court with a briefing schedule.

7 **B. Non-Jurisdictional Discovery**

8 The parties are ordered to meet and confer regarding other (non-jurisdictional)
9 discovery. Until the demurrers and motions to strike are adjudicated, there will be either (i) a
10 complete stay of all discovery or (ii) limited discovery.

11 By August 11, 2000, the parties are to meet and confer to discuss the production
12 of limited discovery pending resolution of the demurrers/motions to strike. Absent agreement of the
13 parties on the production of limited discovery, discovery shall be stayed until the demurrers/motions
14 to strike are adjudicated.

15 Whether or not limited discovery goes forward, the parties shall not engage in
16 any non-jurisdictional discovery related motion practice during the pendency of Defendants' demurrers
17 and motions to strike.

18 **C. Other Pre-Trial Events**

19 At this time, the Court will not set any deadlines for the disclosure of percipient
20 or expert witnesses, nor for the completion of written discovery, depositions or motions for summary
21 judgment.

22 Four matters shall be discussed and agreed to by the parties or submitted to the
23 Court for decision by August 11, 2000:

24 August 11, 2000

25 Deadline for briefing schedule on either (i) motion to compel
jurisdictional discovery or (ii) motion to quash for lack of
jurisdiction by Defendant Trade Associations.

26 Deadline for the parties to submit a stipulated protective order
27 or, if agreement cannot be reached, to submit alternative
proposed orders to the Court. See Section 6(F).

28 Deadline for the parties to report to the Court regarding

1 whether the limited discovery discussed in Section 3 is
2 agreeable.

3 Deadline for the parties to report to the Court regarding a
4 central depository. See Section 7.

5 **5. EX PARTE MATTERS**

6 Ex parte matters will be heard on the first and third Tuesday of each month at 8:30 a.m. Absent
7 agreement of the parties (through Liaison Counsel) to shorten time, all parties and the Court shall be
8 given at least seven (7) court days notice of any ex parte matter. Telephonic notice to Liaison Counsel
9 followed by a telecopied confirmation within two (2) hours is sufficient. The notice and confirmation
10 shall set forth the purpose of the ex parte hearing and the relief to be requested.

11 All supporting papers and proposed orders shall be served by facsimile or hand delivery and
12 filed by noon five (5) court days before any ex parte hearing. Opposition papers shall be served by
13 facsimile or hand delivery by 5:00 p.m. and filed two (2) court days before the hearing. Liaison
14 Counsel, or their designees, shall attend ex parte hearings in person. Other interested counsel may
15 participate telephonically.

16 **6. OTHER CASE MANAGEMENT PROVISIONS**

17 **A. Rules Governing Depositions**

18 All parties shall give at least 10 business days notice for the taking of any deposition,
19 unless a shorter period of time is agreed to by the parties or ordered by the Court for good cause
20 shown. No deposition shall be taken unless the liaison counsel for the parties have consulted with
21 each other regarding a mutually convenient date and location. If a party refuses to promptly
22 communicate or cooperate in the scheduling of depositions, the deposition shall be set by notice.
23 Unless otherwise ordered by the Court or on agreement of the parties, depositions of party employees
24 shall be taken in the county and/or state of the witness' residence.

25 The parties are to meet and confer regarding the ground rules for the taking of
26 depositions (e.g., the numbers of attorneys who may attend, the number of attorneys who may speak,
27 the length of the depositions and whether attendance and participation by telephone is permissible.)
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1 Depositions shall be taken in strict compliance with the provisions of § 2025(m) of the
2 California Code of Civil Procedure.

3 **B. Document Numbering**

4 Any party producing documents in this case shall mark each page of each document
5 produced with an identifying number using a Bates stamp or computerized label that provides a unique
6 identification number for each page. An explanation of the numbering system, which shall allow
7 identification of which party produced the documents, shall be provided by the producing party.
8 Documents produced by non-parties shall be numbered by the party who sought discovery of the
9 documents with a similar identification system that allows identification of the source of the
10 documents. Each party shall maintain a list reflecting the identification numbers of the documents
11 that party has produced or made available for inspection, the party to whom the documents were
12 produced or made available, and the date(s) the documents were produced or made available. These
13 lists will be made available to any party upon request.

14 **C. Disclosure of Trial Witnesses**

15 The Plaintiffs and Defendants shall identify the fact witnesses they intend to call at trial
16 [by a date to be set later] except for rebuttal witnesses or witnesses to be called solely for purpose of
17 impeachment. Each party shall provide the name, address and telephone number of each witness and
18 a brief statement of the nature of the expected testimony of the witness. Only those persons whom
19 the parties actually then intend to call at trial, rather than those they might call, shall be included.
20 Thereafter, all parties shall be responsible for providing prompt notice of any additional witnesses they
21 intend to call at trial and of any decisions not to call witnesses previously identified. Absent a
22 showing of good cause, fact witnesses not identified in the foregoing manner and by the respective
23 deadlines to be set later may not be called to testify at trial.

24 **D. Assertion of Privilege**

25 If a party withholds from production any responsive documents pursuant to a claim of
26 privilege, the withholding party shall, in its written response, state that documents are being withheld
27 under a claim of privilege. Within three (3) weeks of the date the documents are produced, that party
28 shall produce a privilege log which includes the following information: (1) the date of the document;

(2) the type of document (e.g., letter, memorandum); (3) the identities (by general category such as in-house counsel, outside counsel, company officer, company employee, officer or elected official of municipality, employee of municipality, etc.) of the author, addressees and recipients of the document; (4) the claimed privilege; and (5) the Bates stamp (or comparable) number(s) of the document.

E. Discovery

The Plaintiffs and Defendants agree that limitations on discovery should be imposed. However, no agreement on precise limitations has been reached. The Plaintiffs and Defendants shall continue to meet and confer on appropriate limitations on the number of depositions and discovery requests to which each party shall be entitled.

F. Protective Order

The parties agree that a Protective Order is appropriate. The parties are ordered to meet and confer to see if they can agree on a proposed protective order. If the parties cannot agree on mutually acceptable language, they will submit alternative proposals to the Court by August 11, 2000.

G. Status Conferences

Status Conferences will be held approximately every 60 days.

7. CENTRAL DEPOSITORY

The parties are to meet and confer regarding whether to have a central depository and, if so, the specific details of same.

8. WEBSITE

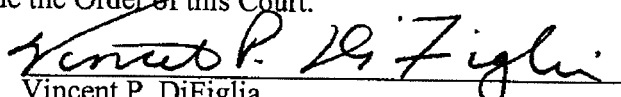
The Court shall establish and maintain a website in these coordinated actions. The website ^{at the court's discretion} should contain (1) the Court's agenda and calendar; (2) ~~any~~ ^{9/29} orders issued in this litigation; (3) minutes of status conferences and hearings; (4) a case list; and (5) a service list. A similar website has been created of the tobacco litigation (JCCP 4042) at www.sandiego.courts.ca.gov/jccp/tobacco.

* * *

ORDER

The foregoing is hereby made the Order of this Court.

Dated: August 30, 2000


Vincent P. DiFiglia
Judge of the Superior Court

1 **APPROVED AS TO FORM AND CONTENT:**

2 LUCE, FORWARD, HAMILTON & SCRIPPS LLP

3 Dated: August 16, 2000

4 By: Lawrence J. Kouns
5 Lawrence J. Kouns
6 Liaison Counsel for Defendant Manufacturers

7 WILDMAN, HARROLD, ALLEN & DIXON

8 Dated: August 16, 2000

9 By: Lawrence J. Kouns for
10 James B. Vogts
11 Liaison Counsel for Defendant Manufacturers

12 SEDGWICK, DETERT, MORAN & ARNOLD

13 Dated: August 16, 2000

14 By: Lawrence J. Kouns for
15 Diane Gorczyca
16 Liaison Counsel for the Defendant Distributors

17 KOLETSKY, MANCINI, FELDMAN & MORROW

18 Dated: August 16, 2000

19 By: Lawrence J. Kouns for
20 Susan Caldwell
21 Liaison Counsel for the Defendant Trade Associations

22 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

23 Dated: August __, 2000

24 By: Robert Nelson for
25 Robert Nelson
26 Liaison Counsel for the Plaintiffs

27 MILBERG WEISS BERSHARD HYNES & LERACH LLP

28 Dated: August __, 2000

By: Michael Dowd for
Michael Dowd
Liaison Counsel for the Plaintiffs