

1 KAMALA D. HARRIS  
Attorney General of California  
2 TAMAR PACHTER, State Bar No. 146083  
Supervising Deputy Attorney General  
3 ANTHONY R. HAKL, State Bar No. 197335  
Deputy Attorney General  
4 1300 I Street, Suite 125  
P.O. Box 944255  
5 Sacramento, CA 94244-2550  
Telephone: (916) 322-9041  
6 Fax: (916) 324-8835  
E-mail: Anthony.Hakl@doj.ca.gov  
7 *Attorneys for Defendant Stephen Lindley*

8  
9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 EASTERN DISTRICT OF CALIFORNIA  
12

13 **IVAN PEÑA, ROY VARGAS, DOÑA**  
14 **CROSTON, BRETT THOMAS, SECOND**  
15 **AMENDMENT FOUNDATION, INC. and**  
16 **THE CALGUNS FOUNDATION, INC.,**

17 Plaintiffs,

18 v.

19 **STEPHEN LINDLEY,**

20 Defendant.  
21  
22  
23  
24  
25  
26  
27  
28

Case No. 2:09-CV-01185-KJM-CKD

**DECLARATION OF ANTHONY R.  
HAKL IN SUPPORT OF DEFENDANT  
STEPHEN LINDLEY'S MOTION FOR  
SUMMARY JUDGMENT, OR IN THE  
ALTERNATIVE SUMMARY  
ADJUDICATION**

Date: November 22, 2013  
Time: 10:00 a.m.  
Dept.: Courtroom 3, 15th floor  
Judge: The Honorable Kimberly J.  
Mueller  
Trial Date: None at this time  
Action Filed: May 1, 2009

**DECLARATION OF ANTHONY R. HAKL**

1  
2 1. I am a Deputy Attorney General for the Office of the Attorney General in the  
3 California Department of Justice located in Sacramento, California. I am the attorney of record  
4 for Stephen Lindley ("Defendant"). I make this declaration in support of Defendant's Motion for  
5 Summary Judgment. I have personal knowledge of the facts stated in this declaration, and if  
6 called as a witness, I could and would competently testify to them.

7 2. Attached hereto as Exhibit A is a true and correct copy of Plaintiff Brett Thomas's  
8 ~~Response to Defendant Stephen Lindley's First Set of Requests for Admissions.~~

9 3. Attached hereto as Exhibit B is a true and correct copy of Plaintiff Brett Thomas's  
10 Response to Defendant Stephen Lindley's First Set of Interrogatories.

11 4. Attached hereto as Exhibit C is a true and correct copy of Plaintiff Ivan Peña's  
12 Response to Defendant Stephen Lindley's First Set of Requests for Admissions.

13 5. Attached hereto as Exhibit D is a true and correct copy of Plaintiff Ivan Peña's  
14 Response to Defendant Stephen Lindley's First Set of Interrogatories.

15 6. Attached hereto as Exhibit E is a true and correct copy of Plaintiff Roy Vargas's  
16 Response to Defendant Stephen Lindley's First Set of Requests for Admissions.

17 7. Attached hereto as Exhibit F is a true and correct copy of Plaintiff Roy Vargas's  
18 Response to Defendant Stephen Lindley's First Set of Interrogatories.

19 8. Attached hereto as Exhibit G is a true and correct copy of Plaintiff Doña Croston's  
20 Response to Defendant Stephen Lindley's First Set of Requests for Admissions.

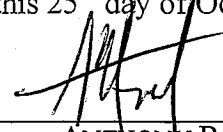
21 9. Attached hereto as Exhibit H is a true and correct copy of Plaintiff Doña Croston's  
22 Response to Defendant Stephen Lindley's First Set of Interrogatories.

23 10. Attached hereto as Exhibit I is a true and correct copy of Defendant Stephen  
24 Lindley's Response To Interrogatories, Set One.

25 11. Attached hereto as Exhibit J is a true and correct copy of Defendant Stephen  
26 Lindley's Response To Requests For Admission, Set One.

27 12. Attached hereto as Exhibit K is a true and correct copy of Defendant Stephen  
28 Lindley's Response to Interrogatories, Set Two.

1 I declare under penalty of perjury under the laws of the State of California and the United  
2 States of America that the foregoing is true and correct of my own personal knowledge, and that  
3 this declaration is executed in Sacramento, California, this 25<sup>th</sup> day of October, 2013.



4  
5 ANTHONY R. HAKL  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT A**

1 Alan Gura (Calif. Bar No. 178,221)  
2 Gura & Possessky, PLLC  
3 101 N. Columbus St. Suite 405  
4 Alexandria VA, 22314  
703.835.9085/Fax 703.997.7665

5 Donald E.J. Kilmer, Jr. (Calif. Bar No. 179986)  
6 Law Office of Donald Kilmer, A.P.C.  
7 1645 Willow Street, Suite 150  
San Jose, CA 95125  
408.364.84889/Fax 408.264.8487

8 Jason A. Davis (Calif. Bar No. 224250)  
9 Davis & Associates  
10 27201 Puerta Real, Suite 300  
Mission Viejo, CA 92691  
11 Tel 949.436.GUNS/Fax 949.288.6894

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
14

15 IVAN PENA, ROY VARGAS, DONA  
16 CROSTON, BRETT THOMAS, SECOND  
17 AMENDMENT FOUNDATION, INC.  
18 AND THE CALGUNS FOUNDATION,  
INC.

19 Plaintiffs,

20 vs.

21 STEPHEN LINDLEY,

22 Defendant.  
23  
24  
25  
26  
27  
28

Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF BRETT THOMAS'S  
RESPONSE TO DEFENDANT  
STEPHEN LINDLEY'S FIRST SET OF  
REQUESTS FOR ADMISSIONS**

1 TO THE DEFENDANT HEREIN AND TO ITS ATTORNEYS OF RECORD:  
2 PLAINTIFFS, by their attorney of record, hereby respond to the Request for Admissions  
3 served on them, by Defendant, as follows:  
4

5 **RESPONSES TO REQUESTS FOR ADMISSION**

6 **REQUEST FOR ADMISSION NO. 1**

7 Admit that you own at least one operable handgun that is suitable for self-defense.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 1**

9 OBJECTION: Plaintiff objects on grounds that the request does not seek information  
10 that is either relevant or calculated to lead to the discovery of relevant evidence.

11 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds: I admit  
12 that I have at least one fully functional handgun, as defined in Penal Code section 16640, which  
13 may be suitable for self-defense purposes in certain circumstances, but may not be suitable for  
14 self-defense purposes in other circumstances.  
15

16 **REQUEST FOR ADMISSION NO. 2**

17 Admit that you are able to purchase an operable handgun that is suitable for self-defense.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 2**

19 OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive  
20 as to the meaning of "suitable for self-defense." Moreover, Plaintiff would have to speculate as  
21 to the meaning of the phrase "suitable for self-defense." Firearms are tools. While one firearm  
22 may be suitable for self-defense in one scenario, it may not be suitable for self-defense in another  
23 scenario. As such, the term "suitable for self-defense" is too vague and ambiguous to properly  
24 respond to.

25 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds:  
26 Admit.

27 ///

28 ///

1 **REQUEST FOR ADMISSION NO. 3**

2 Admit that you are able to obtain a High Standard Buntline style revolver through a  
3 private-party transfer under California Penal code section 32210(a).

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 3**

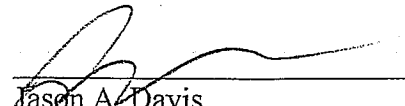
5 OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive  
6 as to the meaning of "able to obtain." Does this term, in the context of the request, mean  
7 physically able, financially able, legally able, or logistically able? Moreover, Plaintiff would  
8 have to speculate as to the meaning of the phrase "able to obtain."

9 OBJECTION: This request seeks an admission pertaining to statements of law. Such  
10 matters are outside the scope of information permitted by the applicable court rules governing  
11 Requests for Admissions.

12 RESPONSE: Subject to the foregoing objections without waiving same, Denied.  
13 Plaintiff is unaware of any private parties with a California Driver License, California  
14 Identification Card or Military identification card who possess such a firearm in an unaltered  
15 factory manufactured condition. Nor is Plaintiff aware of any private parties with a California  
16 Driver License, California Identification Card or Military identification card who are willing to  
17 sell said firearm in an unaltered factory manufactured condition. And, such a firearm is not on  
18 the list of handguns approved for a California licensed dealer direct sale in California.

19  
20 Date: December 11, 2012

21 WITH RESPECT TO OBJECTIONS ONLY  
22 Respectfully submitted,  
23 Davis & Associates

24   
25 Jason A. Davis  
26 Jason@CalGunLawyers.com  
27 Attorneys for plaintiffs  
28

**EXHIBIT B**



1 Alan Gura (Calif. Bar No. 178,221)  
2 Gura & Possessky, PLLC  
101 N. Columbus St. Suite 405  
3 Alexandria VA, 22314  
703.835.9085/Fax 703.997.7665  
4

5 Donald E.J. Kilmer, Jr. (Calif. Bar No. 179986)  
Law Office of Donald Kilmer, A.P.C.  
6 1645 Willow Street, Suite 150  
San Jose, CA 95125  
7 408.364.84889/Fax 408.264.8487

8 Jason A. Davis (Calif. Bar No. 224250)  
9 Davis & Associates  
27201 Puerta Real, Suite 300  
10 Mission Viejo, CA 92691  
Tel 949.436.GUNS/Fax 949.288.6894  
11

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
14

15 IVAN PENA, ROY VARGAS, DONA  
16 CROSTON, BRETT THOMAS, SECOND  
17 AMENDMENT FOUNDATION, INC.  
18 AND THE CALGUNS FOUNDATION,  
INC.

19 Plaintiffs,

20 vs.

21 STEPHEN LINDLEY,

22 Defendant.  
23  
24  
25  
26  
27  
28

Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF BRETT THOMAS'S  
RESPONSE TO DEFENDANT  
STEPHEN LINDLEY'S FIRST SET OF  
INTERROGATORIES**

PROPOUNDING PARTY: Defendant Stephen Lindley

RESPONDING PARTY: Plaintiff Brett Thomas

SET NUMBER: One (1)

## RESPONSES TO INTERROGATORIES

### INTERROGATORY NO. 1

State the name, relationship to you, business address and telephone number, employer and title or position of the "willing seller" identified in Paragraph 50 of the amended complaint filed May 11, 2009.

### RESPONSE TO INTERROGATORY NO. 1

RESPONSE:

Name: PRK Arms

Relationship: California Licensed Dealer

Business Address: 5530 East Lamona Ave., Suite 103, Fresno CA 93727

Telephone Number: 559-283-8666

Employer: PRK Arms

Title or Position: California Licensed Dealer

### INTERROGATORY NO. 2

State the caliber, barrel length, serial number, condition (i.e. new or used), current owner and location (i.e. address) of the firearm identified in Paragraph 50.

### RESPONSE TO INTERROGATORY NO. 2

OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive as to the meaning of "Paragraph 50," which was not defined in the request. Moreover, Plaintiff would have to speculate as to the meaning of the term "Paragraph 45" in order to properly respond to this request.

RESPONSE: Without waiving the aforementioned objections, Plaintiff responds:

Caliber: .22LR

1 Barrel Length: 9.5"

2 Serial Number: 2244513

3 Condition (New or Used): Used

4 Current Owner : Robert Dawson

5 Address: 415 Dyches Drive, Savannah, GA 31406

6  
7 **INTERROGATORY NO. 3**

8 Do you contend that the "willing seller" identified in Paragraph 50 is able to legally sell  
9 you the firearm identified in that paragraph? If so, state each fact and identify each document  
10 which you believe supports your contention.

11 **RESPONSE TO INTERROGATORY NO. 3**

12 OBJECTION: Contention interrogatories asking for each and every fact, or application of  
13 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
14 and unduly burdensome. [IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD 316,  
15 321 – providing "every fact" could require "laborious, time-consuming analysis, search and  
16 description of incidental, secondary, and perhaps irrelevant and trivial details."]

17 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds: No.  
18 Plaintiff is not prohibited from acquiring and possessing firearms and the "willing seller" is, to  
19 the best of Plaintiff's knowledge, lawfully entitled to transfer firearms in accordance with United  
20 States firearm laws, including but not limited to 18 U.S.C. §921 et seq. and the regulations issued  
21 thereto, California firearm laws, including Part 6 of the California Penal Code, and the  
22 regulations issued thereto, and local laws. However, the firearm at issue became illegal for the  
23 "willing seller" to sell or transfer to Plaintiff, as a California resident, upon the passage and  
24 implementation of the Unsafe Handgun Act.

25  
26 **INTERROGATORY NO. 4**

27 Do you contend that but for the firearm identified in Paragraph 50 not being listed on  
28 California's Roster of Handguns Certified for Sale you are otherwise eligible under all applicable

1 state and federal laws to purchase and possess that firearm? If so, state each fact and identify  
2 each document which you believe supports your contention.

3 **RESPONSE TO INTERROGATORY NO. 4**

4 OBJECTION: Contention interrogatories asking for each and every fact, or application of  
5 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
6 and unduly burdensome. [IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD 316,  
7 321 – providing “every fact” could require “laborious, time-consuming analysis, search and  
8 description of incidental, secondary, and perhaps irrelevant and trivial details.”]

9 RESPONSE: Yes. I am a law abiding, responsible citizen and not prohibited from  
10 purchasing or possessing firearms under any state, federal or local law of which I am aware, but  
11 for the provisions challenged in this litigation.

12  
13 **INTERROGATORY NO. 5**

14 State each fact and identify each document which you believe supports your contention in  
15 Paragraph 50 that the firearm referenced there “is not, cannot, and will not be placed on the  
16 California Handgun Roster by Defendant.”

17 **RESPONSE TO INTERROGATORY NO. 5**

18 RESPONSE: The firearm is not and has never been identified on the California Roster of  
19 Handguns Certified for Sale in California. A review of the California Roster of Handguns  
20 Certified for Sale in California available at <http://certguns.doj.ca.gov/> evidences the lack of the  
21 particular firearm from the list. The California Department of Justice publishes a list of firearms  
22 that have been removed from California’s Handgun Roster. The Department of Justice identifies  
23 this list as the “Department of Justice Bureau of Firearms De-Certified Handgun Models.” This  
24 list is available at: <http://oag.ca.gov/sites/oag.ca.gov/files/pdfs/firearms/removed.pdf>. The  
25 California Department of Justice describes this as a list of “Handgun models whose certification  
26 has expired or otherwise removed from the Roster. These models may no longer be sold, offered  
27 for sale, or manufactured in California.” The High Standard Buntline style revolver does not  
28 appear on that list. Thus, if the High Standard Buntline style revolver is not on the California

1 Roster of Handguns Certified for Sale in California, and it is not identified in the Department of  
2 Justice Bureau of Firearms De-Certified Handgun Models, it has never been listed.

3 Moreover, the firearm was manufactured domestically, and neither the manufacturer of  
4 the firearm, nor a legal successor in interest, exists. As such, the firearm cannot be submitted for  
5 testing under the Unsafe Handgun Act and the regulations issued thereto which limits the  
6 submission of handguns for testing to a manufacturer of domestically produced handguns or, if  
7 one exists, a legal successor in interest or another person with the consent of the manufacturer;  
8 and/or a federally licensed importer of foreign manufactured handguns.

9 Plaintiff identifies the following documents: Each "Department of Justice Bureau of  
10 Firearms De-Certification Handgun Models" list published since December 31, 2005; each  
11 Department of Justice Bureau of Firearms Newly Added Handgun Models list; each California  
12 Department of Justice Roster of Handguns Certified for Sale published.

13  
14 **INTERROGATORY NO. 6**

15 If in response to Request for Admission 1 you deny that you own at least one operable  
16 handgun that is suitable for self-defense, state each fact on which you base your denial.

17 **RESPONSE TO INTERROGATORY NO. 6**

18 Not Applicable.

19  
20 **INTERROGATORY NO. 7**

21 If in response to Request for Admission 2 you deny that you are able to purchase an  
22 operable handgun that is suitable for self-defense, state each fact on which you base your denial.

23 **RESPONSE TO INTERROGATORY NO. 7**

24 Not Applicable.

25  
26 **INTERROGATORY NO. 8**

27 If in response to Request for Admission 3 you deny that you are able to obtain a High  
28 Standard Buntline style revolver through a private-party transfer under California Penal Code

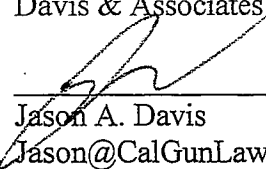
1 section 32110(a), state each fact on which you base your denial.

2 **RESPONSE TO INTERROGATORY NO. 8**

3 RESPONSE: Plaintiff is unaware of any private parties with a California Driver License,  
4 California Identification Card or Military identification card who possess such a firearm in an  
5 unaltered factory manufactured condition. Nor is Plaintiff aware of any private parties with a  
6 California Driver License, California Identification Card or Military identification card who are  
7 willing to sell said firearm in an unaltered factory manufactured condition. And, such a firearm  
8 is not on the list of handguns approved for a California licensed dealer direct sale in California.

9  
10 Date: December 11, 2012

11 WITH RESPECT TO OBJECTIONS ONLY  
12 Davis & Associates

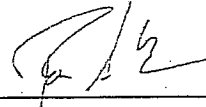
13   
14 Jason A. Davis  
15 Jason@CalGunLawyers.com  
16 Attorneys for plaintiffs  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

VERIFICATION

BRETT THOMAS declares:

1. I am a plaintiff in the above-captioned action;
2. I have read the foregoing "PLAINTIFF BRETT THOMAS'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES" ("The Response") and know its contents. I am informed and believed that the matters set forth in the Response are true and accurate, and on that ground I allege, to the best of my knowledge and information, that the matters therein stated are true and accurate.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Verification was executed on December 11, 2012, at SAN CARLOS, California.



BRETT THOMAS

**EXHIBIT C**



1 Alan Gura (Calif. Bar No. 178,221)  
2 Gura & Possessky, PLCC  
3 101 N. Columbus St. Suite 405  
4 Alexandria VA, 22314  
703.835.9085/Fax 703.997.7665

5 Donald E.J. Kilmer, Jr. (Calif. Bar No. 179986)  
6 Law Office of Donald Kilmer, A.P.C.  
7 1645 Willow Street, Suite 150  
8 San Jose, CA 95125  
408.364.84889/Fax 408.264.8487

9 Jason A. Davis (Calif. Bar No. 224250)  
10 Davis & Associates  
11 27201 Puerta Real, Suite 300  
Mission Viejo, CA 92691  
Tel 949.436.GUNS/Fax 949.288.6894

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

15 IVAN PENA, ROY VARGAS, DONA  
16 CROSTON, BRETT THOMAS, SECOND  
17 AMENDMENT FOUNDATION, INC.  
18 AND THE CALGUNS FOUNDATION,  
INC.

19 Plaintiffs,

20 vs.

21 STEPHEN LINDLEY,

22 Defendant.

Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF IVAN PENA'S RESPONSE  
TO DEFENDANT STEPHEN  
LINDLEY'S FIRST SET OF  
REQUESTS FOR ADMISSIONS**

1 TO THE DEFENDANT HEREIN AND TO ITS ATTORNEYS OF RECORD:  
2 PLAINTIFFS, by their attorney of record, hereby respond to the Request for Admissions  
3 served on them, by Defendant, as follows:  
4

5 **RESPONSES TO REQUESTS FOR ADMISSION**

6 **REQUEST FOR ADMISSION NO. 1**

7 Admit that you own at least one operable handgun that is suitable for self-defense.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 1**

9 OBJECTION: Plaintiff objects on grounds that the request does not seek information  
10 that is either relevant or calculated to lead to the discovery of relevant evidence.

11 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds: I admit  
12 that I have at least one fully functional handgun, as defined in Penal Code section 16640, which  
13 may be suitable for self-defense purposes in certain circumstances, but may not be suitable for  
14 self-defense purposes in other circumstances.  
15

16 **REQUEST FOR ADMISSION NO. 2**

17 Admit that you are able to purchase an operable handgun that is suitable for self-defense.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 2**

19 OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive  
20 as to the meaning of "suitable for self-defense." Moreover, Plaintiff would have to speculate as  
21 to the meaning of the phrase "suitable for self-defense." Firearms are tools. While one firearm  
22 may be suitable for self-defense in one scenario, it may not be suitable for self-defense in another  
23 scenario. As such, the term "suitable for self-defense" is too vague and ambiguous to properly  
24 respond to.

25 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds:  
26 Admit.

27 ///

28 ///

1 **REQUEST FOR ADMISSION NO. 3**

2 Admit that you are able to obtain a Para USA (Para Ordinance) P1345SR/Stainless Steel  
3 .45 ACP 4.25" through a private-party transfer under California Penal Code section 32210(a).

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 3**

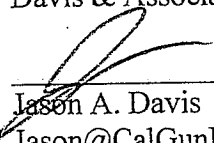
5 OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive  
6 as to the meaning of "able to obtain." Does this term, in the context of the request, mean  
7 physically able, financially able, legally able, or logistically able? Moreover, Plaintiff would  
8 have to speculate as to the meaning of the phrase "able to obtain."

9 OBJECTION: This request seeks an admission pertaining to statements of law. Such  
10 matters are outside the scope of information permitted by the applicable court rules governing  
11 Requests for Admissions.

12 RESPONSE: Subject to the foregoing objections without waiving same, Denied.  
13 Plaintiff is unaware of any private parties with a California Driver License, California  
14 Identification Card or Military identification card who possess such a firearm in an unaltered  
15 factory manufactured condition. Nor is Plaintiff aware of any private parties with a California  
16 Driver License, California Identification Card or Military identification card who are willing to  
17 sell said firearm in an unaltered factory manufactured condition. And, such a firearm is not on  
18 the list of handguns approved for a California licensed dealer direct sale in California.

19 Date: December 11, 2012

20 WITH RESPECT TO OBJECTIONS ONLY  
21 Respectfully submitted,  
22 Davis & Associates

23   
24 Jason A. Davis  
25 Jason@CalGunLawyers.com  
26 Attorneys for plaintiffs  
27  
28

**EXHIBIT D**

D00001

1 Alan Gura (Calif. Bar No. 178,221)  
2 Gura & Possessky, PLLC  
101 N. Columbus St. Suite 405  
3 Alexandria VA, 22314  
703.835.9085/Fax 703.997.7665  
4

5 Donald E.J. Kilmer, Jr. (Calif. Bar No. 179986)  
Law Office of Donald Kilmer, A.P.C.  
6 1645 Willow Street, Suite 150  
San Jose, CA 95125  
7 408.364.84889/Fax 408.264.8487  
8

9 Jason A. Davis (Calif. Bar No. 224250)  
Davis & Associates  
10 27201 Puerta Real, Suite 300  
Mission Viejo, CA 92691  
11 Tel 949.436.GUNS/Fax 949.288.6894  
12

13 **IN THE UNITED STATES DISTRICT COURT**  
14 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
15

16 IVAN PENA, ROY VARGAS, DONA  
CROSTON, BRETT THOMAS, SECOND  
17 AMENDMENT FOUNDATION, INC.  
AND THE CALGUNS FOUNDATION,  
18 INC.

19 Plaintiffs,

20 vs.

21 STEPHEN LINDLEY,

22 Defendant.  
23  
24  
25  
26  
27  
28

Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF IVAN PENA'S RESPONSE  
TO DEFENDANT STEPHEN  
LINDLEY'S FIRST SET OF  
INTERROGATORIES**

1 PROPOUNDING PARTY: Defendant Stephen Lindley

2 RESPONDING PARTY: Plaintiff Ivan Pena

3 SET NUMBER: One (1)

4  
5 **RESPONSES TO INTERROGATORIES**

6 **INTERROGATORY NO. 1**

7 State the name, relationship to you, business address and telephone number, employer  
8 and title or position of the "willing seller" identified in Paragraph 37 of the amended complaint  
9 filed May 11, 2009.

10 **RESPONSE TO INTERROGATORY NO. 1**

11 **RESPONSE:**

12 Name: PRK Arms

13 Relationship: California Licensed Dealer

14 Business Address: 5530 East Lamona Ave., Suite 103, Fresno CA 93727

15 Telephone Number: 559-283-8666

16 Employer: PRK Arms

17 Title or Position: California Licensed Dealer

18  
19 **INTERROGATORY NO. 2**

20 State the caliber, barrel length, serial number, condition (i.e. new or used), current owner  
21 and location (i.e. address) of the firearm identified in Paragraph 37.

22 **RESPONSE TO INTERROGATORY NO. 2**

23 **OBJECTION:** This request is so vague or ambiguous as to be burdensome or oppressive  
24 as to the meaning of "Paragraph 37," which was not defined in the request. Moreover, Plaintiff  
25 would have to speculate as to the meaning of the term "Paragraph 37" in order to properly  
26 respond to this request.

27 **RESPONSE:** Without waiving the aforementioned objections, Plaintiff responds:

28 Caliber: .45

1 Barrel Length: 4.25"

2 Serial Number: QG2283

3 Condition (New or Used): Used.

4 Current Owner : Grey Peterson

5 Address: 17802 38<sup>th</sup> Pl. W. Lynnwood, WA 98037

6  
7 **INTERROGATORY NO. 3**

8 Do you contend that the "willing seller" identified in Paragraph 37 is able to legally sell  
9 you the firearm identified in that paragraph? If so, state each fact and identify each document  
10 which you believe supports your contention.

11 **RESPONSE TO INTERROGATORY NO. 3**

12 OBJECTION: Contention interrogatories asking for each and every fact, or application  
13 of law to fact, that supports particular allegations in an opposing pleading may be held overly  
14 broad and unduly burdensome. IIPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD  
15 316, 321 – providing "every fact" could require "laborious, time-consuming analysis, search and  
16 description of incidental, secondary, and perhaps irrelevant and trivial details."]

17 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds:  
18 No. Plaintiff is not prohibited from acquiring and possessing firearms, and the "willing seller"  
19 is, to the best of Plaintiff's knowledge, lawfully entitled to transfer firearms in accordance with  
20 United States firearm laws, including but not limited to 18 U.S.C. §921 et seq., and the  
21 regulations issued thereto, California firearm laws, including Part 6 of the California Penal Code,  
22 and the regulations issued thereto, and local laws. However, the firearm at issue became illegal  
23 for the "willing seller" to sell or transfer to Plaintiff, as a California resident, upon the passage  
24 and implementation of the Unsafe Handgun Act.

25  
26 **INTERROGATORY NO. 4**

27 Do you contend that but for the firearm identified in Paragraph 37 not being listed on  
28 California's Roster of Handguns Certified for Sale you are otherwise eligible under all applicable

1 state and federal laws to purchase and possess that firearm? If so, state each fact and identify  
2 each document which you believe supports your contention.

3 **RESPONSE TO INTERROGATORY NO. 4**

4 OBJECTION: Contention interrogatories asking for each and every fact, or application of  
5 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
6 and unduly burdensome. [IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD 316,  
7 321 – providing “every fact” could require “laborious, time-consuming analysis, search and  
8 description of incidental, secondary, and perhaps irrelevant and trivial details.”]

9 RESPONSE: Yes. I am a law abiding, responsible citizen and not prohibited from  
10 purchasing or possessing firearms under any state, federal or local law of which I am aware, but  
11 for the provisions challenged in this litigation.

12  
13 **INTERROGATORY NO. 5**

14 State each fact and identify each document which you believe supports your contention in  
15 Paragraph 38 of the amended complaint that the firearm referenced there “was listed on  
16 California’s Handgun Roster until December 31, 2005, when it was discontinued and its listing  
17 not renewed.”

18 **RESPONSE TO INTERROGATORY NO. 5**

19 RESPONSE: The California Department of Justice publishes a list of firearms that have  
20 been removed from California’s Handgun Roster. The Department of Justice identifies this list  
21 as the “Department of Justice Bureau of Firearms De-Certified Handgun Models.” This list is  
22 available at: <http://oag.ca.gov/sites/oag.ca.gov/files/pdfs/firearms/removed.pdf>. The California  
23 Department of Justice describes this as a list of “Handgun models whose certification has expired  
24 or otherwise removed from the Roster. These models may no longer be sold, offered for sale, or  
25 manufactured in California.” On Page 15 of 24 of the list, as published November 15, 2012, it  
26 identifies the following as a firearm that was listed but is now de-certified:

27 Para USA (Para Ordnance) P1345SR / Stainless Steel .45 ACP Pistol 4.25" 12/31/2005.”

28 Moreover, other documentation that supports this contention includes each “Department



1 of Justice Bureau of Firearms De-Certification Handgun Models" list published since December  
2 31, 2005; each Department of Justice Bureau of Firearms Newly Added Handgun Models list;  
3 each California Department of Justice Roster of Handguns Certified For Sale published; as well  
4 as the Para USA (Para Ordnance) P1345SR / Stainless Steel .45 ACP Pistol 4.25" application  
5 materials submitted to the Department of Justice on behalf of Para Ordnance.  
6

7 **INTERROGATORY NO. 6**

8 If in response to Request for Admission 1 you deny that you own at least one operable  
9 handgun that is suitable for self-defense, state each fact on which you base your denial.

10 **RESPONSE TO INTERROGATORY NO. 6**

11 Not Applicable.  
12

13 **INTERROGATORY NO. 7**

14 If in response to Request for Admission 2 you deny that you are able to purchase an  
15 operable handgun that is suitable for self-defense, state each fact on which you base your denial.

16 **RESPONSE TO INTERROGATORY NO. 7**

17 Not Applicable.  
18

19 **INTERROGATORY NO. 8**

20 If in response to Request for Admission 3 you deny that you are able to obtain a Para  
21 USA (Para Ordnance) P1345SR/Stainless Steel .45 ACP 4.25" through a private-party transfer  
22 under California Penal Code section 32110(a), state each fact on which you base your denial.

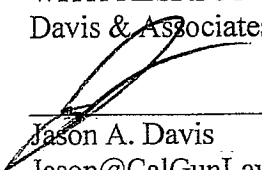
23 **RESPONSE TO INTERROGATORY NO. 8**

24 RESPONSE: Plaintiff is unaware of any private parties with a California Driver License,  
25 California Identification Card or Military identification card who possess such a firearm in an  
26 unaltered factory manufactured condition. Nor is Plaintiff aware of any private parties with a  
27 California Driver License, California Identification Card or Military identification card who are  
28 willing to sell said firearm in an unaltered factory manufactured condition. And, such a firearm

1 is not on the list of handguns approved for a California licensed dealer direct sale in California.  
2

3  
4 Date: December 11, 2012

5 WITH RESPECT TO OBJECTIONS ONLY  
6 Davis & Associates

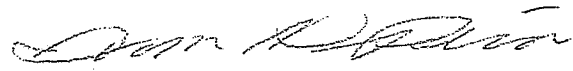
7   
8 Jason A. Davis  
9 Jason@CalGunLawyers.com  
10 Attorneys for plaintiffs  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

VERIFICATION

IVAN PENA declares:

1. I am a plaintiff in the above-captioned action;
2. I have read the foregoing "PLAINTIFF IVAN PENA'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES" ("The Response") and know its contents. I am informed and believed that the matters set forth in the Response are true and accurate, and on that ground I allege, to the best of my knowledge and information, that the matters therein stated are true and accurate.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Verification was executed on December 11, 2012, at Marina, California.



IVAN PENA

**EXHIBIT E**

1 Alan Gura (Calif. Bar No. 178,221)  
2 Gura & Possessky, PLLC  
101 N. Columbus St. Suite 405  
3 Alexandria VA, 22314  
703.835.9085/Fax 703.997.7665  
4

5 Donald E.J. Kilmer, Jr. (Calif. Bar No. 179986)  
Law Office of Donald Kilmer, A.P.C.  
6 1645 Willow Street, Suite 150  
San Jose, CA 95125  
7 408.364.84889/Fax 408.264.8487  
8

9 Jason A. Davis (Calif. Bar No. 224250)  
Davis & Associates  
10 27201 Puerta Real, Suite 300  
Mission Viejo, CA 92691  
11 Tel 949.436.GUNS/Fax 949.288.6894  
12

13 **IN THE UNITED STATES DISTRICT COURT**  
14 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
15

16 IVAN PENA, ROY VARGAS, DONA  
17 CROSTON, BRETT THOMAS, SECOND  
18 AMENDMENT FOUNDATION, INC.  
AND THE CALGUNS FOUNDATION,  
INC.

19 Plaintiffs,

20 vs.

21 STEPHEN LINDLEY,

22 Defendant.  
23  
24  
25  
26  
27  
28

Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF ROY VARGAS'S  
RESPONSE TO DEFENDANT  
STEPHEN LINDLEY'S FIRST SET OF  
REQUESTS FOR ADMISSIONS**

1 TO THE DEFENDANT HEREIN AND TO ITS ATTORNEYS OF RECORD:

2 PLAINTIFFS, by their attorney of record, hereby respond to the Request for Admissions  
3 served on them, by Defendant, as follows:

4  
5 **RESPONSES TO REQUESTS FOR ADMISSION**

6 **REQUEST FOR ADMISSION NO. 1**

7 Admit that you own at least one operable handgun that is suitable for self-defense.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 1**

9 OBJECTION: Plaintiff objects on grounds that the request does not seek information  
10 that is either relevant or calculated to lead to the discovery of relevant evidence.

11 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds: I admit  
12 that I have at least one fully functional handgun, as defined in Penal Code section 16640, which  
13 may be suitable for self-defense purposes in certain circumstances, but may not be suitable for  
14 self-defense purposes in other circumstances.

15  
16 **REQUEST FOR ADMISSION NO. 2**

17 Admit that you are able to purchase an operable handgun that is suitable for self-defense.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 2**

19 OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive  
20 as to the meaning of "suitable for self-defense." Moreover, Plaintiff would have to speculate as  
21 to the meaning of the phrase "suitable for self-defense." Firearms are tools. While one firearm  
22 may be suitable for self-defense in one scenario, it may not be suitable for self-defense in another  
23 scenario. As such, the term "suitable for self-defense" is too vague and ambiguous to properly  
24 respond to.

25 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds:

26 Admit.

27 ///

28 ///

1 **REQUEST FOR ADMISSION NO. 3**

2 Admit that you are able to obtain a Glock 21SF with an ambidextrous magazine release  
3 through a private-party transfer under California Penal code section 32210(a).

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 3**

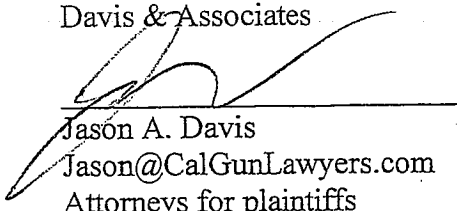
5 OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive  
6 as to the meaning of "able to obtain." Does this term, in the context of the request, mean  
7 physically able, financially able, legally able, or logistically able? Moreover, Plaintiff would  
8 have to speculate as to the meaning of the phrase "able to obtain."

9 OBJECTION: This request seeks an admission pertaining to statements of law. Such  
10 matters are outside the scope of information permitted by the applicable court rules governing  
11 Requests for Admissions.

12 RESPONSE: Subject to the foregoing objections without waiving same, Denied.  
13 Plaintiff is unaware of any private parties with a California Driver License, California  
14 Identification Card or Military identification card who possess such a firearm in an unaltered  
15 factory manufactured condition. Nor is Plaintiff aware of any private parties with a California  
16 Driver License, California Identification Card or Military identification card who are willing to  
17 sell said firearm in an unaltered factory manufactured condition. And, such a firearm is not on  
18 the list of handguns approved for a California licensed dealer direct sale in California.

19  
20  
21 Date: December 11, 2012

22 WITH RESPECT TO OBJECTIONS ONLY  
23 Respectfully submitted,  
24 Davis & Associates

25   
26 Jason A. Davis  
27 Jason@CalGunLawyers.com  
28 Attorneys for plaintiffs

**EXHIBIT F**



1 Alan Gura (Calif. Bar No. 178,221)  
2 Gura & Possessky, PLLC  
3 101 N. Columbus St. Suite 405  
4 Alexandria VA, 22314  
703.835.9085/Fax 703.997.7665

5 Donald E.J. Kilmer, Jr. (Calif. Bar No. 179986)  
6 Law Office of Donald Kilmer, A.P.C.  
7 1645 Willow Street, Suite 150  
San Jose, CA 95125  
408.364.84889/Fax 408.264.8487

8 Jason A. Davis (Calif. Bar No. 224250)  
9 Davis & Associates  
10 27201 Puerta Real, Suite 300  
Mission Viejo, CA 92691  
11 Tel 949.436.GUNS/Fax 949.288.6894

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

14  
15 IVEN PENA, ROY VARGAS, DONA  
16 CROSTON, BRETT THOMAS, SECOND  
17 AMENDMENT FOUNDATION, INC.  
18 AND THE CALGUNS FOUNDATION,  
INC.

19 Plaintiffs,

20 vs.

21 STEPHEN LINDLEY,

22 Defendant.

Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF ROY VARGAS'S  
RESPONSE TO DEFENDANT  
STEPHEN LINDLEY'S FIRST SET OF  
INTERROGATORIES**

1 PROPOUNDING PARTY: Defendant Stephen Lindley  
2 RESPONDING PARTY: Plaintiff Roy Vargas  
3 SET NUMBER: One (1)  
4

5 **RESPONSES TO INTERROGATORIES**

6 **INTERROGATORY NO. 1**

7 State the name, relationship to you, business address and telephone number, employer  
8 and title or position of the "willing seller" identified in Paragraph 39 of the amended complaint  
9 filed May 11, 2009.

10 **RESPONSE TO INTERROGATORY NO. 1**

11 **RESPONSE:**

12 Name: PRK Arms

13 Relationship: California Licensed Dealer

14 Business Address: 5530 East Lamona Ave., Suite 103, Fresno CA 93727

15 Telephone Number: 559-283-8666

16 Employer: PRK Arms

17 Title or Position: California Licensed Dealer  
18

19 **INTERROGATORY NO. 2**

20 State the caliber, barrel length, serial number, condition (i.e. new or used), current owner  
21 and location (i.e. address) of the firearm identified in Paragraph 39.

22 **RESPONSE TO INTERROGATORY NO. 2**

23 **OBJECTION:** This request is so vague or ambiguous as to be burdensome or oppressive  
24 as to the meaning of "Paragraph 39," which was not defined in the request. Moreover, Plaintiff  
25 would have to speculate as to the meaning of the term "Paragraph 39" in order to properly  
26 respond to this request.

27 **RESPONSE:** Without waiving the aforementioned objections, Plaintiff responds:

28 Caliber: .45 Cal.

1 Barrel Length: 4.6"

2 Serial Number: To Be Determined

3 Condition (New or Used): New

4 Current Owner: To Be Determined

5 Address: To Be Determined

6 To clarify, PRK Arms has identified their distributors that stock and distribute the firearm in  
7 question. PRK stands ready to sell said firearm to Plaintiff should Plaintiff qualify for one of the  
8 exemptions or should the law change.

9  
10 **INTERROGATORY NO. 3**

11 Do you contend that the "willing seller" identified in Paragraph 39 is able to legally sell  
12 you the firearm identified in that paragraph? If so state each fact and identify each document  
13 which you believe supports your contention.

14 **RESPONSE TO INTERROGATORY NO. 3**

15 OBJECTION: Contention interrogatories asking for each and every fact, or application of  
16 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
17 and unduly burdensome. [*IPV, Inc. v. Mercantile Bank of Topeka* (D KS 1998) 179 FRD 316,  
18 321 – providing "every fact" could require "laborious, time-consuming analysis, search and  
19 description of incidental, secondary, and perhaps irrelevant and trivial details."]

20 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds: No.  
21 Plaintiff is not prohibited from acquiring and possessing firearms and the "willing seller" is, to  
22 the best of Plaintiff's knowledge, lawfully entitled to transfer firearms in accordance with United  
23 States firearm laws, including but not limited to 18 U.S.C. §921 *et seq.*, and the regulations issued  
24 thereto, California firearm laws, including Part 6 of the California Penal Code, and the  
25 regulations issued thereto, and local laws. However, the firearm at issue became illegal for the  
26 "willing seller" to sell or transfer to Plaintiff, as a California resident, upon the passage and  
27 implementation of the Unsafe Handgun Act.

1 **INTERROGATORY NO. 4**

2 Do you contend that but for the firearm identified in Paragraph 39 not being listed on  
3 California's Roster of Handguns Certified for Sale you are otherwise eligible under all applicable  
4 state and federal laws to purchase and possess that firearm? If so, state each fact and identify  
5 each document which you believe supports your contention.

6 **RESPONSE TO INTERROGATORY NO. 4**

7 **OBJECTION:** Contention interrogatories asking for each and every fact, or application of  
8 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
9 and unduly burdensome. [IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD 316,  
10 321 – providing “every fact” could require “laborious, time-consuming analysis, search and  
11 description of incidental, secondary, and perhaps irrelevant and trivial details.”]

12 **RESPONSE:** Yes. I am a law abiding, responsible citizen and not prohibited from  
13 purchasing or possessing firearms under any state, federal or local law of which I am aware, but  
14 for the provisions challenged in this litigation.

15  
16 **INTERROGATORY NO. 5**

17 State each fact and identify each document which you believe supports your contention in  
18 Paragraph 44 that “Defendant permits Glock customers to have their SF21-STD handguns fitted  
19 with an ambidextrous release at the Glock factory. In other words, California permits the sale of  
20 a Glock 21SF-STD, and the alteration of that handgun by Glock to add an ambidextrous  
21 magazine release, but will not allow your customers to purchase a new Glock 21SF's with an  
22 ambidextrous magazine release.”

23 **RESPONSE TO INTERROGATORY NO. 5**

24 **RESPONSE:** California lists the subject firearm on its current Roster of Handguns  
25 Certified for sale, stating: GLOCK 21SF-STD / Steel, Polymer Pistol 4.6" .45 ACP 6/14/2013.  
26 The ambidextrous magazine release is a non-cosmetic functional alteration to the existing model.  
27 Glock proposed to alter the magazine catch on its models so that the catch grabs the magazine  
28 from the middle, rather than from the side, of the magazine. In order to do so, part of the frame

1 must be cut to allow for a new magazine release button. The modification to the magazine  
2 release is a physical change to the firearm. Physical changes to handguns do not qualify as  
3 exempt changes pursuant to Penal Code section 32030 (a), which states a firearm shall be  
4 deemed to satisfy the requirements of subdivision (a) of Section 32015 if another firearm made  
5 by the same manufacturer is already listed and the unlisted firearm differs from the listed firearm  
6 only in one or more of the following features:

7 (1) Finish, including, but not limited to, bluing, chrome-plating, oiling, or engraving.

8 (2) The material from which the grips are made.

9 (3) The shape or texture of the grips, so long as the difference in grip shape or texture  
10 does not in any way alter the dimensions, material, linkage, or functioning of the  
11 magazine well, the barrel, the chamber, or any of the components of the firing  
12 mechanism of the firearm.

13 (4) Any other purely cosmetic feature that does not in any way alter the dimensions,  
14 material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of  
15 the components of the firing mechanism of the firearm.

16 As such, the firearm must be tested prior to being listed on the Roster of Handguns  
17 Certified for Sale in California. Yet, it cannot be added to the Roster of Handguns Certified for  
18 Sale in California because the firearm does not meet the requirements of Penal Code section  
19 32010(d).

20 Moreover, a California owner of a Glock handgun model with a standard magazine  
21 release who wishes to have his or her handgun retrofitted with an ambidextrous magazine release  
22 by sending it to Glock may do so. Glock could then retrofit the handgun and return it to its  
23 owner. No further testing of the retrofitted handgun would be required. Plaintiff identifies the  
24 following documents: Exhibit H in Support of Plaintiff's Motion for Summary Judgment,  
25 including a letter dated January 12, 2007 from Deputy Attorney General to Carlos Guevara,  
26 General Counsel for Glock, Inc.; e-mail dated November 20, 2006, from Carlos Guevara to  
27 Justin Phillips; and a letter to Alison Merrilees from Carlos Guevara dated January 12, 2007.  
28

1 **INTERROGATORY NO. 6**

2 If in response to Request for Admission 1 you deny that you own at least one operable  
3 handgun that is suitable for self-defense, state each fact on which you base your denial.

4 **RESPONSE TO INTERROGATORY NO. 6**

5 Not Applicable.  
6

7 **INTERROGATORY NO. 7**

8 If in response to Request for Admission 2 you deny that you are able to purchase an  
9 operable handgun that is suitable for self-defense, state each fact on which you base your denial.

10 **RESPONSE TO INTERROGATORY NO. 7**

11 Not Applicable.  
12

13 **INTERROGATORY NO. 8**

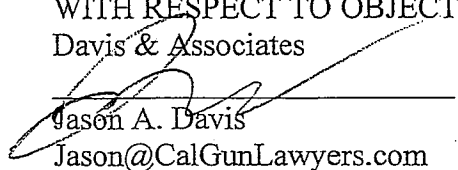
14 If in response to Request for Admission 3 you deny that you are able to obtain a Glock  
15 21SF with an ambidextrous magazine release through a private-party transfer under California  
16 Penal Code section 32110(a), state each fact on which you base your denial.

17 **RESPONSE TO INTERROGATORY NO. 8**

18 RESPONSE: Plaintiff is unaware of any private parties with a California Driver License,  
19 California Identification Card or Military identification card who possess such a firearm in an  
20 unaltered factory manufactured condition. Nor is Plaintiff aware of any private parties with a  
21 California Driver License, California Identification Card or Military identification card who are  
22 willing to sell said firearm in an unaltered factory manufactured condition. And, such a firearm  
23 is not on the list of handguns approved for a California licensed dealer direct sale in California.

24 Date: December 11, 2012  
25

26 WITH RESPECT TO OBJECTIONS ONLY  
27 Davis & Associates

28   
Jason A. Davis  
Jason@CalGunLawyers.com  
Attorneys for plaintiffs

1 VERIFICATION

2 ROY VARGAS declares:

- 3 1. I am a plaintiff in the above-captioned action;
- 4 2. I have read the foregoing "PLAINTIFF ROY VARGAS'S RESPONSE TO
- 5 DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES" ("The
- 6 Response") and know its contents. I am informed and believed that the matters set forth
- 7 in the Response are true and accurate, and on that ground I allege, to the best of my
- 8 knowledge and information, that the matters therein stated are true and accurate.

9 I declare under penalty of perjury under the laws of the United States of America that the

10 foregoing is true and correct and that this Verification was executed on December 11, 2012, at

11 Monterey Park, California.

12 

13

14 ROY VARGAS

**EXHIBIT G**



1 Alan Gura (Calif. Bar No. 178,221)  
2 Gura & Possessky, PLCC  
101 N. Columbus St. Suite 405  
3 Alexandria VA, 22314  
703.835.9085/Fax 703.997.7665  
4

5 Donald E.J. Kilmer, Jr. (Calif. Bar No. 179986)  
Law Office of Donald Kilmer, A.P.C.  
6 1645 Willow Street, Suite 150  
San Jose, CA 95125  
7 408.364.84889/Fax 408.264.8487  
8

9 Jason A. Davis (Calif. Bar No. 224250)  
Davis & Associates  
10 27201 Puerta Real, Suite 300  
Mission Viejo, CA 92691  
11 Tel 949.436.GUNS/Fax 949.288.6894  
12

13 **IN THE UNITED STATES DISTRICT COURT**  
14 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
15

16 IVAN PENA, ROY VARGAS, DONA  
17 CROSTON, BRETT THOMAS, SECOND  
18 AMENDMENT FOUNDATION, INC.  
AND THE CALGUNS FOUNDATION,  
INC.

19 Plaintiffs,

20 vs.

21 STEPHEN LINDLEY,

22 Defendant.  
23  
24  
25  
26  
27  
28

Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF DONA CROSTON'S  
RESPONSE TO DEFENDANT  
STEPHEN LINDLEY'S FIRST SET OF  
REQUESTS FOR ADMISSIONS**

1 TO THE DEFENDANT HEREIN AND TO ITS ATTORNEYS OF RECORD:

2 PLAINTIFFS, by their attorney of record, hereby respond to the Request for Admissions  
3 served on them, by Defendant, as follows:

4  
5 **RESPONSES TO REQUESTS FOR ADMISSION**

6 **REQUEST FOR ADMISSION NO. 1**

7 Admit that you own at least one operable handgun that is suitable for self-defense.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 1**

9 OBJECTION: Plaintiff objects on grounds that the request does not seek information  
10 that is either relevant or calculated to lead to the discovery of relevant evidence.

11 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds: I admit  
12 that I have at least one fully functional handgun, as defined in Penal Code section 16640, which  
13 may be suitable for self-defense purposes in certain circumstances, but may not be suitable for  
14 self-defense purposes in other circumstances.

15  
16 **REQUEST FOR ADMISSION NO. 2**

17 Admit that you are able to purchase an operable handgun that is suitable for self-defense.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 2**

19 OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive  
20 as to the meaning of "suitable for self-defense." Moreover, Plaintiff would have to speculate as  
21 to the meaning of the phrase "suitable for self-defense." Firearms are tools. While one firearm  
22 may be suitable for self-defense in one scenario, it may not be suitable for self-defense in another  
23 scenario. As such, the term "suitable for self-defense" is too vague and ambiguous to properly  
24 respond to.

25 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds:  
26 Admit.

27 ///

28 ///

1 **REQUEST FOR ADMISSION NO. 3**

2 Admit that you are able to obtain a Springfield Armory XD-45 Tactical 5" Bi-Tone  
3 stainless steel/black handgun in .45 ACP, model number XD9623, through a private-party  
4 transfer under California Penal Code section 32210(a).

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 3**

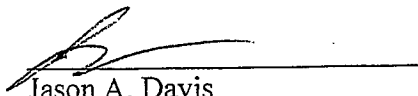
6 OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive  
7 as to the meaning of "able to obtain." Does this term, in the context of the request, mean  
8 physically able, financially able, legally able, or logistically able? Moreover, Plaintiff would  
9 have to speculate as to the meaning of the phrase "able to obtain."

10 OBJECTION: This request seeks an admission pertaining to statements of law. Such  
11 matters are outside the scope of information permitted by the applicable court rules governing  
12 Requests for Admissions.

13 RESPONSE: Subject to the foregoing objections without waiving same, Denied.  
14 Plaintiff is unaware of any private parties with a California Driver License, California  
15 Identification Card or Military identification card who possess such a firearm in an unaltered  
16 factory manufactured condition. Nor is Plaintiff aware of any private parties with a California  
17 Driver License, California Identification Card or Military identification card who are willing to  
18 sell said firearm in an unaltered factory manufactured condition. And, such a firearm is not on  
19 the list of handguns approved for a California licensed dealer direct sale in California.

20  
21  
22 Date: December 16, 2012

23 WITH RESPECT TO OBJECTIONS ONLY  
24 Respectfully submitted,  
25 Davis & Associates

26   
27 Jason A. Davis  
28 Jason@CalGunLawyers.com  
Attorneys for plaintiffs

**EXHIBIT H**

1 Alan Gura (Calif. Bar No. 178,221)  
2 Gura & Possessky, PLLC  
3 101 N. Columbus St. Suite 405  
4 Alexandria VA, 22314  
703.835.9085/Fax 703.997.7665

5 Donald E.J. Kilmer, Jr. (Calif. Bar No. 179986)  
6 Law Office of Donald Kilmer, A.P.C.  
1645 Willow Street, Suite 150  
7 San Jose, CA 95125  
408.364.84889/Fax 408.264.8487

8 Jason A. Davis (Calif. Bar No. 224250)  
9 Davis & Associates  
10 27201 Puerta Real, Suite 300  
Mission Viejo, CA 92691  
11 Tel 949.436.GUNS/Fax 949.288.6894

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
14

15 IVAN PENA, ROY VARGAS, DONA  
16 CROSTON, BRETT THOMAS, SECOND  
17 AMENDMENT FOUNDATION, INC.  
18 AND THE CALGUNS FOUNDATION,  
INC.

19 Plaintiffs,

20 vs.

21 STEPHEN LINDLEY,

22 Defendant.  
23  
24  
25  
26  
27  
28

Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF DONA CROSTON'S  
RESPONSE TO DEFENDANT  
STEPHEN LINDLEY'S FIRST SET OF  
INTERROGATORIES**

1 PROPOUNDING PARTY: Defendant Stephen Lindley

2 RESPONDING PARTY: Plaintiff Dona Croston

3 SET NUMBER: One (1)

4  
5 **RESPONSES TO INTERROGATORIES**

6 **INTERROGATORY NO. 1**

7 State the name, relationship to you, business address and telephone number, employer  
8 and title or position of the "willing seller" identified in Paragraph 45 of the amended complaint  
9 filed May 11, 2009.

10 **RESPONSE TO INTERROGATORY NO. 1**

11 **RESPONSE:**

12 Name: PRK Arms

13 Relationship: California Licensed Dealer

14 Business Address: 5530 East Lamona Ave., Suite 103, Fresno CA 93727

15 Telephone Number: 559-283-8666

16 Employer: PRK Arms

17 Title or Position: California Licensed Dealer

18 To clarify, PRK Arms has identified their distributors that stock and distribute the firearm in  
19 question. PRK stands ready to sell said firearm to Plaintiff should Plaintiff qualify for one of the  
20 exemptions or should the law change.

21  
22 **INTERROGATORY NO. 2**

23 State the caliber, barrel length, serial number, condition (i.e. new or used), current owner  
24 and location (i.e. address) of the firearm identified in Paragraph 45.

25 **RESPONSE TO INTERROGATORY NO. 2**

26 **OBJECTION:** This request is so vague or ambiguous as to be burdensome or oppressive  
27 as to the meaning of "Paragraph 45," which was not defined in the request. Moreover, Plaintiff  
28 would have to speculate as to the meaning of the term "Paragraph 45" in order to properly

1 respond to this request.

2 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds:

3 Caliber: .45 Cal.

4 Barrel Length: 5 inches

5 Serial Number: To Be Determined

6 Condition (New or Used): New

7 Current Owner: To Be Determined

8 Address: To Be Determined

9  
10 **INTERROGATORY NO. 3**

11 Do you contend that the "willing seller" identified in Paragraph 45 is able to legally sell  
12 you the firearm identified in that paragraph? If so, state each fact and identify each document  
13 which you believe supports your contention.

14 **RESPONSE TO INTERROGATORY NO. 3**

15 OBJECTION: Contention interrogatories asking for each and every fact, or application of  
16 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
17 and unduly burdensome. [IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD 316,  
18 321 – providing "every fact" could require "laborious, time-consuming analysis, search and  
19 description of incidental, secondary, and perhaps irrelevant and trivial details."]

20 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds: No.  
21 Plaintiff is not prohibited from acquiring and possessing firearms, and the "willing seller" is, to  
22 the best of Plaintiff's knowledge, lawfully entitled to transfer firearms in accordance with United  
23 States firearm laws, including but not limited to 18 U.S.C. §921 et seq, and the regulations issued  
24 thereto, California firearm laws, including Part 6 of the California Penal Code, and the  
25 regulations issued thereto, and local laws. However, the firearm at issue became illegal for the  
26 "willing seller" to sell or transfer to Plaintiff, as a California resident, upon the passage and  
27 implementation of the Unsafe Handgun Act.  
28

1 **INTERROGATORY NO. 4**

2 Do you contend that but for the firearm identified in Paragraph 45 not being listed on  
3 California's Roster of Handguns Certified for Sale you are otherwise eligible under all applicable  
4 state and federal laws to purchase and possess that firearm? If so, state each fact and identify  
5 each document which you believe supports your contention.

6 **RESPONSE TO INTERROGATORY NO. 4**

7 **OBJECTION:** Contention interrogatories asking for each and every fact, or application of  
8 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
9 and unduly burdensome. [IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD 316,  
10 321 – providing “every fact” could require “laborious, time-consuming analysis, search and  
11 description of incidental, secondary, and perhaps irrelevant and trivial details.”]

12 **RESPONSE:** Yes. I am a law abiding, responsible citizen and not prohibited from  
13 purchasing or possessing firearms under any state, federal or local law of which I am aware, but  
14 for the provisions challenged in this litigation.

15  
16 **INTERROGATORY NO. 5**

17 State each fact and identify each document which you believe supports your contention in  
18 Paragraph 48 that “[w]hile the identical handguns with a different finish were grandfathered,  
19 Springfield Armory could not get the XD-45 in .45 ACP and Bi-Tone finish registered given the  
20 new listing requirements.”

21 **RESPONSE TO INTERROGATORY NO. 5**

22 **RESPONSE:** The Springfield Armory XD-45 Tactical 5” Bi-Tone stainless steel/black  
23 handgun in .45 ACP (model XD9623) is substantially identical to the following firearms that are  
24 listed on the Roster of Handguns Certified for Sale: Springfield Armory XD-45 Tactical 5” .45  
25 ACP in OD Green (model XD9622), Springfield Armory XD-45 Tactical 5” .45 ACP in black  
26 (XD9621), and Springfield Armory XD-45 Tactical 5” .45 in Dark Earth (XD9162). However,  
27 the slide of the firearm is stainless steel as opposed to non-stainless steel. As such, it cannot be  
28 added pursuant to Penal Code section 32030 (a), which states a firearm shall be deemed to



1 satisfy the requirements of subdivision (a) of Section 32015 if another firearm made by the same  
2 manufacturer is already listed and the unlisted firearm differs from the listed firearm only in one  
3 or more of the following features:

4 (1) Finish, including, but not limited to, bluing, chrome-plating, oiling, or engraving.

5 (2) The material from which the grips are made.

6 (3) The shape or texture of the grips, so long as the difference in grip shape or texture  
7 does not in any way alter the dimensions, material, linkage, or functioning of the  
8 magazine well, the barrel, the chamber, or any of the components of the firing  
9 mechanism of the firearm.

10 (4) Any other purely cosmetic feature that does not in any way alter the dimensions,  
11 material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of  
12 the components of the firing mechanism of the firearm.

13 Moreover, Penal Code section 32010 prohibits the submission of this firearm for testing  
14 due to the fact that it does not have an approved chamber loaded indicator. Plaintiff also cites e-  
15 mail correspondence between Frank Perdicaro and Brent George, Staff Services Analyst for the  
16 California Department of Justice, dated July 30, 2007 and August 9, 2007 in which the  
17 Department of Justice representative informed Perdicaro that "any handgun submitted for  
18 inclusion on the Roster must now include magazine disconnect and chamber loaded indicators."  
19 Plaintiff also cites correspondence between Debra Else of Springfield Army, Inc. and former  
20 Director of the Firearms Division of the Department of Justice, Randy Rossi, dated February 9,  
21 2007 and October 3, 2007.

22  
23 **INTERROGATORY NO. 6**

24 If in response to Request for Admission 1 you deny that you own at least one operable  
25 handgun that is suitable for self-defense, state each fact on which you base your denial.

26 **RESPONSE TO INTERROGATORY NO. 6**

27 Not Applicable.  
28

1 **INTERROGATORY NO. 7**

2 If in response to Request for Admission 2 you deny that you are able to purchase an  
3 operable handgun that is suitable for self-defense, state each fact on which you base your denial.

4 **RESPONSE TO INTERROGATORY NO. 7**

5 Not Applicable.  
6

7 **INTERROGATORY NO. 8**

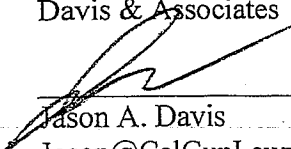
8 If in response to Request for Admission 3 you deny that you are able to obtain a  
9 Springfield Armory XD-45 Tactical 5" Bi-Tone stainless steel/black handgun in .45 ACP, model  
10 number XD9623, through a private-party transfer under California Penal Code section 32110(a),  
11 state each fact on which you base your denial.

12 **RESPONSE TO INTERROGATORY NO. 8**

13 RESPONSE: Plaintiff is unaware of any private parties with a California Driver License,  
14 California Identification Card or Military identification card who possess such a firearm in an  
15 unaltered factory manufactured condition. Nor is Plaintiff aware of any private parties with a  
16 California Driver License, California Identification Card or Military identification card who are  
17 willing to sell said firearm in an unaltered factory manufactured condition. And, such a firearm  
18 is not on the list of handguns approved for a California licensed dealer direct sale in California.

19 Date: December 11, 2012

20 WITH RESPECT TO OBJECTIONS ONLY  
21 Davis & Associates

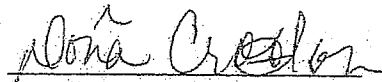
22   
23 Jason A. Davis  
24 Jason@CalGunLawyers.com  
25 Attorneys for plaintiffs  
26  
27  
28

VERIFICATION

DONA CROSTON declares:

1. I am a plaintiff in the above-captioned action;
2. I have read the foregoing "PLAINTIFF DONA CROSTON'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES" ("The Response") and know its contents. I am informed and believe that the matters set forth in the Response are true and accurate, and on that ground I allege, to the best of my knowledge and information, that the matters therein stated are true and accurate.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Verification was executed on December 11, 2012, at SAN FRANCISCO, California.



DONA CROSTON

DECLARATION OF SERVICE BY U.S. MAIL

Court: U.S. District Court, Eastern District of California  
Case Name: *Pena v. Cid*  
Case No: 2:09-CV-01185-KJM-CMK

I declare:

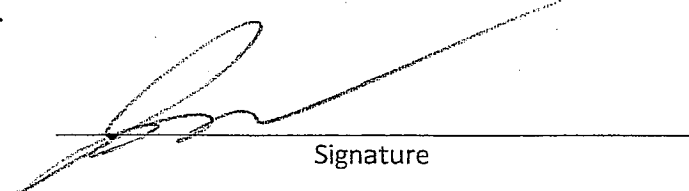
I am employed in the Law Office of Davis & Associates, which is the office of a member of the California State Bar, at which member's discretion this service was made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at Davis & Associates for collection and processing of correspondence for mailing with the U.S. Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at Davis & Associates is deposited with the U.S. Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On December 11, 2012, I served the attached **[1] PLAINTIFF BRETT THOMAS'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF REQUESTS FOR ADMISSION [2] PLAINTIFF BRETT THOMAS'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES [3] PLAINTIFF ROY VARGAS'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF REQUESTS FOR ADMISSIONS [4] PLAINTIFF ROY VARGAS'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES [5] PLAINTIFF DONA CROSTON'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF REQUESTS FOR ADMISSIONS [6] PLAINTIFF DONA CROSTON'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES [7] PLAINTIFF IVAN PENA'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF REQUESTS FOR ADMISSIONS [8] PLAINTIFF IVAN PENA'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES**, by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at Davis & Associates at 27201 Puerta Real, Suite 300, Mission Viejo, CA 92691, addressed as follows:

KAMALA D. HARRIS  
Attorney General of California  
Peter K. Southworth  
Supervising Deputy Attorney General  
Anthony R. Hakl  
Deputy Attorney General  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550

I declare under penalty of perjury under the laws of the laws of the United States of America and the State of California that the foregoing is true and correct and that this declaration was executed on December 11, 2012, at Mission Viejo, California.

\_\_\_\_\_  
Jason Davis  
Declarant

  
\_\_\_\_\_  
Signature

**EXHIBIT I**

KAMALA D. HARRIS  
Attorney General of California  
PETER K. SOUTHWORTH  
Supervising Deputy Attorney General  
ANTHONY R. HAKL, State Bar No. 197335  
Deputy Attorney General  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550  
Telephone: (916) 322-9041  
Fax: (916) 324-8835  
E-mail: Anthony.Hakl@doj.ca.gov  
*Attorneys for Defendant Stephen Lindley*

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

**IVAN PEÑA, ROY VARGAS, DOÑA  
CROSTON, BRETT THOMAS, SECOND  
AMENDMENT FOUNDATION, INC. and  
THE CALGUNS FOUNDATION, INC.,**

Plaintiffs,

v.

**STEPHEN LINDLEY,**

Defendant.

Case No. 2:09-CV-01185-KJM-CMK

**DEFENDANT STEPHEN LINDLEY'S  
RESPONSE TO INTERROGATORIES, SET  
ONE**

**PROPOUNDING PARTY: PLAINTIFFS, IVAN PEÑA, ROY VARGAS,  
DOÑA CROSTON, BRETT THOMAS, THE SECOND  
AMENDMENT FOUNDATION, INC., and THE CALGUNS  
FOUNDATION, INC.**

**RESPONDING PARTY: DEFENDANT STEPHEN LINDLEY**

**SET NO.: ONE**

**RESPONSES TO INTERROGATORIES**

**INTERROGATORY NO. 1:**

Identify each person answering these interrogatories, supplying information, or assisting in any way with the preparation of the answers to these interrogatories.

**RESPONSE TO INTERROGATORY NO. 1:**

Defendant Stephen Lindley; Deputy Attorney General Anthony R. Hakl; and Deputy Attorney General Kimberly Granger.

**INTERROGATORY NO. 2:**

If defendant has not been sued in his correct name, state the correct name.

**RESPONSE TO INTERROGATORY NO. 2:**

Defendant Lindley has been sued in his correct name.

**INTERROGATORY NO. 3:**

Identify every potential party to this lawsuit.

**RESPONSE TO INTERROGATORY NO. 3:**

Objection. The phrase "potential party" is vague.

Notwithstanding this objection, based on his understanding of Plaintiffs' claims, Defendant is not aware of any other potential parties.

**INTERROGATORY NO. 4:**

Identify every person with knowledge of relevant facts (i.e., relating to microstamping) and summarize each person's knowledge and opinions.

**RESPONSE TO INTERROGATORY NO. 4:**

Defendant Stephen Lindley and Special Agent Supervisor Blake Graham have knowledge of facts relevant to the Roster of Handguns Certified for Sale ("roster"), including but not limited to the microstamping requirement.

Assistant Government Program Analyst Leslie McGovern has knowledge of the relevant administrative facts regarding the placement of handguns on the roster.

1 **INTERROGATORY NO. 5:**

2 Identify all persons or entities that have possession, custody, or control of materials  
3 relevant (i.e., relating to microstamping) to this suit and the materials over which they have  
4 possession, custody, or control.

5 **RESPONSE TO INTERROGATORY NO. 5:**

6 The Bureau of Firearms, Defendant Stephen Lindley, Special Agent Supervisor Blake  
7 Graham and Assistant Government Program Analyst Leslie McGovern have possession, custody,  
8 or control over microstamping materials relevant to this action.

9 **INTERROGATORY NO. 6:**

10 Identify Defendant's opinions and contentions about his defenses relating to the facts or  
11 the application of law to the facts (i.e., relating to microstamping) in this case.

12 **RESPONSE TO INTERROGATORY NO. 6:**

13 Objection. This interrogatory is vague and overbroad. The interrogatory fails to identify  
14 any specific opinion or contention relating to any particular fact or application of law to facts.  
15 The interrogatory is not reasonably calculated to narrow or sharpen the issues. Defendant is  
16 under no obligation to state all of his "opinions and contentions" in an interrogatory answer. See,  
17 e.g., *American Civil Liberties Union v. Gonzales*, 237 F.R.D. 120, 124 (E.D. Pa. 2006); *Nestle*  
18 *Foods Corp. v. Aetna CA's. & Sur. Co.*, 135 F.R.D. 101, 111 (D. N.J. 1990); *Hockley v. Zent,*  
19 *Inc.*, 89 F.R.D. 26, 31 (M.D. Pa. 1980).

20 **INTERROGATORY NO. 7:**

21 Identify any steps taken to preserve materials relevant (i.e., relating to microstamping) to  
22 this suit, including any alterations to routine operations of an electronic information system, and  
23 do the following:

- 24 a. Identify whether a specific litigation-hold policy or other similar suspension order was  
25 created.
- 26 b. Identify the person who created the litigation-hold policy.
- 27 c. Specify the date when the litigation-hold policy was created.



1 d. State whether the litigation-hold policy was recorded, regardless of the medium (e.g.,  
2 paper or electronic), and if so, identify the material.

3 e. Identify the persons who received the litigation-hold policy.

4 f. Specify the date when the persons received the litigation-hold policy.

5 g. State whether Defendant will, without a formal request to produce, attach a copy of all  
6 materials described in the answer to this interrogatory.

7 **RESPONSE TO INTERROGATORY NO. 7:**

8 Defendant has complied with his duty to preserve evidence relevant to Plaintiffs'  
9 microstamping claim. Defendant is unaware of any specific litigation-hold policy or other similar  
10 suspension order.

11 **INTERROGATORY NO. 8:**

12 Identify each and every manufacturer of firearms who has applied to have a handgun  
13 placed on the California approved handgun roster from May 17, 2013 to the time this  
14 interrogatory has been answered including but not limited to:

15 a. Name of the company/manufacturer.

16 b. Address of the company/manufacturer.

17 c. Make/model of the firearm submitted for placement on the roster.

18 d. Whether the handgun is eligible for placement on the roster.

19 e. For every handgun not eligible for placement on the roster, each reason barring the  
20 handgun's eligibility for placement on the roster.

21 **RESPONSE TO INTERROGATORY NO. 8:**

22 In response to this interrogatory, Defendant states that from May 17, 2013, to the date of these  
23 interrogatory answers, no company or manufacturer has submitted a firearm for placement on the  
24 California approved handgun roster that satisfies California's microstamping requirement.  
25 Nevertheless, during the time period in question, companies and manufacturers have submitted  
26 numerous handguns for placement on the California handgun roster pursuant to Penal Code section  
27 32030, and Defendant has placed several of those firearms on the roster, thus making additional  
28

1 handguns available to the public for purchase. Defendant is still compiling the additional data  
2 responsive to this interrogatory and will supplement this answer as soon as possible.

3 **INTERROGATORY NO. 9:**

4 Identify each and every academic report and/or study that purports to set forth the public  
5 safety advantages of microstamping. Please include:

- 6 a. Author of the report/study.  
7 b. Source of funding for the report/study.  
8 c. Date of publication of the study/report.  
9 d. Whether or not the study/report was peer reviewed.

10 **RESPONSE TO INTERROGATORY NO. 9:**

11 Defendant is aware of the study titled by "*What Micro Serialized Firing Pins Can Add to*  
12 *Firearm Identification in Forensic Science: How Viable are Micro-Marked Firing Pin*  
13 *Impressions as Evidence?*" (available at <http://forensicscience.ucdavis.edu/pdf/microserial.pdf>).  
14 The authors are David Howitt, Ph. D., Frederic A. Tulleners, and Michael T. Beddow, Forensic  
15 Science Graduate Group, University of California, Davis. The study was funded by the  
16 California Policy Research Center, University of California. Defendant does not know the exact  
17 publication date, but it appears to have been published in 2008. The study indicates it was peer  
18 reviewed.

19 **INTERROGATORY NO. 10:**

20 Identify each and every criminological report and/or study that purports to set forth the  
21 public safety advantages of microstamping. Please include:

- 22 a. Author of the report/study.  
23 b. Source of funding for the report/study.  
24 c. Date of publication of the study/report.  
25 d. Whether or not the study/report was peer reviewed.  
26  
27  
28

1 **RESPONSE TO INTERROGATORY NO. 10:**

2 Defendant is aware of "*Forensic Firearm Identification of Semiautomatic Handguns*  
3 *Using Laser Formed Microstamping Elements*" (available at [http://csgv.org/wp/wp-](http://csgv.org/wp/wp-content/uploads/2013/06/FORENSIC-FIREARM-IDENTIFICATION-OF-SEMI-AUTOMATIC-HANDGUNS-LIZOTTE.pdf)  
4 [content/uploads/2013/06/FORENSIC-FIREARM-IDENTIFICATION-OF-SEMI-AUTOMATIC-](http://csgv.org/wp/wp-content/uploads/2013/06/FORENSIC-FIREARM-IDENTIFICATION-OF-SEMI-AUTOMATIC-HANDGUNS-LIZOTTE.pdf)  
5 [HANDGUNS-LIZOTTE.pdf](http://csgv.org/wp/wp-content/uploads/2013/06/FORENSIC-FIREARM-IDENTIFICATION-OF-SEMI-AUTOMATIC-HANDGUNS-LIZOTTE.pdf)). The authors are Todd E. Lizotte and Orest Ohar, Microstamping  
6 Technology Transfer Center, Pivotal Development Company, Londonderry, NH 03053.

7 Defendant does not know who funded the study or whether it was peer reviewed. The date of the  
8 study appears to be 2008.

9 Defendant is also aware of "*Extracting Ballistic Forensic Intelligence: Microstamped*  
10 *Firearms Deliver Data for Illegal Firearm Traffic Mapping – Technology*" (available at  
11 [http://csgv.org/wp/wp-content/uploads/2013/06/LIZOTTE-RESEARCH-PAPER-AUGUST-](http://csgv.org/wp/wp-content/uploads/2013/06/LIZOTTE-RESEARCH-PAPER-AUGUST-2009.pdf)  
12 [2009.pdf](http://csgv.org/wp/wp-content/uploads/2013/06/LIZOTTE-RESEARCH-PAPER-AUGUST-2009.pdf)). The authors are Orest P. Ohar and Todd E. Lizotte, Pivotal Development, LLC  
13 Hooksett, NH 03106. The date of the study is 2009. Defendant does not know who funded the  
14 study or whether it was peer reviewed.

15 **INTERROGATORY NO. 11:**

16 Identify each and every government report and/or study that purports to set forth the  
17 public safety advantages of microstamping. Please include:

- 18 a. Author of the report/study.  
19 b. Source of funding for the report/study.  
20 c. Date of publication of the study/report.  
21 d. Whether or not the study/report was peer reviewed.

22 **RESPONSE TO INTERROGATORY NO. 11:**

23 Defendant is aware of the book Ballistic Imaging, by Daniel L. Cork, John E. Rolph,  
24 Eugene S. Meieran, and Carol V. Petrie, Editors, Committee to Assess the Feasibility, Accuracy  
25 and Technical Capability of a National Ballistics Database, National Research Council. The date  
26 of publication is 2008. With respect to funding, the book indicates that "it was supported by  
27 contract 2003-IJ-CX-1013 between the National Academy of Sciences and the National Institute  
28

of Justice. The work of the Committee on National Statistics is provided by a consortium of federal agencies through a grant from the National Science Foundation (Number SBR-0112521)." Defendant presumes the book was peer reviewed.

**INTERROGATORY NO. 12:**

Identify each person who would offer testimony in this case supporting your contentions regarding microstamping.

**RESPONSE TO INTERROGATORY NO. 12:**

Defendant Stephen Lindley, Special Agent Supervisor Blake Graham, and Associate Governmental Program Analyst Leslie McGovern.

**INTERROGATORY NO. 13:**

If Request for Admission #1 is denied, set forth each and every fact to support your belief that the Court lacks personal jurisdiction over all the parties to this lawsuit.

**RESPONSE TO INTERROGATORY NO. 13:**

Not applicable.

**INTERROGATORY NO. 14:**

If Request for Admission #2 is denied, set forth each and every fact to support your belief that the Court lacks subject matter jurisdiction over the issues raised in this lawsuit.

**RESPONSE TO INTERROGATORY NO. 14:**

Not applicable.

**INTERROGATORY NO. 15:**

If Request for Admission #3 is denied, set forth each and every fact to support your belief that the Defendant named in the Second Amended Complaint (Doc #53) is not properly named.

**RESPONSE TO INTERROGATORY NO. 15:**

Not applicable.

**INTERROGATORY NO. 16:**

If Request for Admission #4 is denied, describe each handgun, by make and model, that you claim satisfies California's microstamping requirement.

1 **RESPONSE TO INTERROGATORY NO. 16:**

2 Not applicable.

3 **INTERROGATORY NO. 17:**

4 If Request for Admission #5 is denied, describe all plans known to you by any firearms  
5 manufacturer to introduce handguns for sale in the United States that include California compliant  
6 microstamping technology.

7 **RESPONSE TO INTERROGATORY NO. 17:**

8 Not applicable, but Defendant currently does not know of any such plans.

9 **INTERROGATORY NO. 18:**

10 If Request for Admission #6 is denied, describe the basis for your belief that a firearms  
11 manufacturer will, in the foreseeable future, offer handguns for sale in the United States that  
12 incorporate microstamping technology compliant with the requirements of California's handgun  
13 roster law.

14 **RESPONSE TO INTERROGATORY NO. 18:**

15 Not applicable, but Defendant currently does not have such a belief.

16 **INTERROGATORY NO. 19:**

17 If Request for Admission #7 is admitted, describe the additional cost of adding California-  
18 compliant microstamping technology to each firearm.

19 **RESPONSE TO INTERROGATORY NO. 19:**

20 Not applicable, but Defendant does not know of any such additional cost.

21 **INTERROGATORY NO. 20:**

22 If Request for Admission #8 is denied, set forth each and every fact that supports your  
23 belief that the microstamping requirement does not prevent Plaintiff Peña from acquiring the  
24 firearm identified in paragraph 41 of the Second Amended Complaint.

25 **RESPONSE TO INTERROGATORY NO. 20:**

26 Plaintiff could acquire the firearm by way of a private party transaction.  
27  
28

1 **INTERROGATORY NO. 21:**

2 If Request for Admission #9 is denied, set forth each and every fact that supports your  
3 belief that the microstamping requirement does not prevent Plaintiff Vargas from acquiring the  
4 firearm identified in paragraph 43 of the Second Amended Complaint.

5 **RESPONSE TO INTERROGATORY NO. 21:**

6 Plaintiff could acquire the firearm by way of a private party transaction.

7 **INTERROGATORY NO. 22:**

8 If Request for Admission #10 is denied, set forth each and every fact that supports your  
9 belief that the microstamping requirement does not prevent Plaintiff Croston from acquiring the  
10 firearm identified in paragraph 49 of the Second Amended Complaint.

11 **RESPONSE TO INTERROGATORY NO. 22:**

12 Plaintiff could acquire the firearm by way of a private party transaction.

13 **INTERROGATORY NO. 23:**

14 If Request for Admission #11 is denied, set forth each and every fact that supports your  
15 belief that the microstamping requirement does not prevent Plaintiff Thomas from acquiring the  
16 firearm identified in paragraph 54 of the Second Amended Complaint.

17 **RESPONSE TO INTERROGATORY NO. 23:**

18 Plaintiff could acquire the firearm by way of a private party transaction.

19 **INTERROGATORY NO. 24:**

20 Set forth each and every fact that supports your First Affirmative Defense in the Answer  
21 to the Second Amended Complaint (Doc #54) that the Second Amended Complaint (Doc #53)  
22 fails to present a case or controversy that is ripe for the Court's consideration.

23 **RESPONSE TO INTERROGATORY NO. 24:**

24 Plaintiffs have failed to make a meaningful attempt to acquire the handguns in question  
25 and are able to legally acquire the handguns, such as through a private party transaction.  
26  
27  
28

**INTERROGATORY NO. 25:**

Set forth each and every fact that supports your Second Affirmative Defense in the Answer to the Second Amended Complaint (Doc #54) that the individual plaintiffs (Peña, Vargas, Croston and Thomas) lack standing to bring this action.

**RESPONSE TO INTERROGATORY NO. 25:**

Plaintiffs have failed to make a meaningful attempt to acquire the handguns in question and are able to legally acquire the handguns, such as through a private party transaction.

**INTERROGATORY NO. 26:**

Set forth each and every fact that supports your Second Affirmative Defense in the Answer to the Second Amended Complaint (Doc #54) that the individual plaintiffs (Peña, Vargas, Croston and Thomas) have suffered no injuries or credible threat of injuries.

**RESPONSE TO INTERROGATORY NO. 26:**

Plaintiffs have failed to make a meaningful attempt to acquire the handguns in question and are able to legally acquire the handguns, such as through a private party transaction.

**INTERROGATORY NO. 27:**

Set forth each and every fact that supports your Second Affirmative Defense in the Answer to the Second Amended Complaint (Doc #54) that the plaintiff Second Amendment Foundation, Inc., lacks associational standing to bring this action.

**RESPONSE TO INTERROGATORY NO. 27:**

Because the individual Plaintiffs do not have standing to sue, Second Amendment Foundation, Inc. does not have associational standing. An association has standing when "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Washington State Apple Adver. Comm'n*, 432 U.S. 333, 343 (1977).



**INTERROGATORY NO. 28:**

Set forth each and every fact that supports your Second Affirmative Defense in the Answer to the Second Amended Complaint (Doc #54) that plaintiff The Calguns Foundation, Inc., lacks associational standing to bring this action.

**RESPONSE TO INTERROGATORY NO. 28:**

Because the individual Plaintiffs do not have standing to sue, The Calguns Foundation, Inc. does not have associational standing. An association has standing when "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Washington State Apple Adver. Comm'n*, 432 U.S. 333, 343 (1977).

**INTERROGATORY NO. 29:**

Set forth each and every fact that supports your Second Affirmative Defense in the Answer to the Second Amended Complaint (Doc #54) that the institutional plaintiffs (Second Amendment Foundation, Inc., and The Calguns Foundation, Inc.) have suffered no injuries or credible threat of injuries.

**RESPONSE TO INTERROGATORY NO. 29:**

Defendant is simply unaware of any action by him that has resulted in a concrete and demonstrable injury to Second Amendment Foundation, Inc. or The Calguns Foundation, Inc.'s activities.

**INTERROGATORY NO. 30:**

Set forth each and every fact that supports your Third Affirmative Defense in the Answer to the Second Amended Complaint (Doc #54) that Plaintiffs' claims are barred by the Eleventh Amendment.

**RESPONSE TO INTERROGATORY NO. 30:**

Defendant contends that the Eleventh Amendment provides immunity against any suit where he is sued for damages in his official capacity. Defendant pled this affirmative defense out

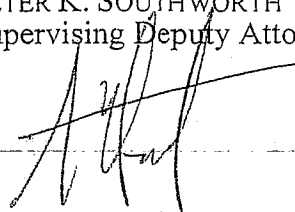


1 of an abundance of caution. Defendant does not contend that the Eleventh Amendment prohibits  
2 Plaintiffs' claims for declaratory or injunctive relief as currently pled.

3 Dated: August 19, 2013

Respectfully submitted,

4 KAMALA D. HARRIS  
Attorney General of California  
5 PETER K. SOUTHWORTH  
Supervising Deputy Attorney General  
6

7  
8   
9 ANTHONY R. HAKL  
Deputy Attorney General  
Attorneys for Defendant Stephen Lindley  
10

11 SA2009310413  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

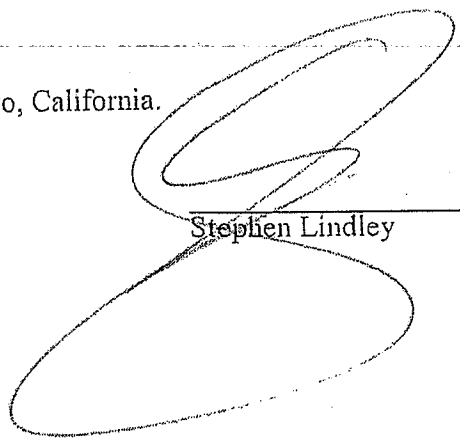
VERIFICATION

I, Stephen Lindley, declare:

I am the Chief of the Bureau of Firearms of the California Department of Justice. I have read Defendant Stephen Lindley's Response To Interrogatories, Set One. I know their contents and the same are true to my knowledge, information and belief.

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

Executed on August 11, 2013 in Sacramento, California.



Stephen Lindley

**DECLARATION OF SERVICE BY U.S. MAIL and E-MAIL**

Case Name: **Ivan Pena, et al. v. Stephen Lindley**  
 No.: **2:09-CV-01185-KJM-CKD**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 19, 2013, I served the attached

- 1. DEFENDANT STEPHEN LINDLEY'S RESPONSE TO INTERROGATORIES, SET ONE**
- 2. DEFENDANT STEPHEN LINDLEY'S RESPONSE TO REQUESTS FOR ADMISSION, SET ONE**

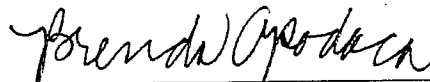
by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Donald E.J. Kilmer, Jr. Attorney at Law Law Offices of Donald Kilmer, A.P.C. 1645 Willow Street, Suite 150 San Jose, CA 95125 E-Mail: <a href="mailto:don@dklawoffice.com">don@dklawoffice.com</a> <i>Co-Counsel for Plaintiffs</i>	Alan Gura Gura & Possessky, PLLC 101 North Columbus Street, Suite 405 Alexandria, VA 22314 E-Mail: <a href="mailto:alan@gurapossessky.com">alan@gurapossessky.com</a> <i>Co-Counsel for Plaintiffs</i>
Jason A. Davis Davis & Associates 30021 Tomas Street, Suite 300 Rancho Santa Margarita, CA 92688 E-Mail: <a href="mailto:Jason@calgunlawyers.com">Jason@calgunlawyers.com</a> <i>Co-Counsel for Plaintiffs</i>	

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 19, 2013, at Sacramento, California.

BRENDA APODACA

Declarant



Signature

**EXHIBIT J**

J00001

KAMALA D. HARRIS  
Attorney General of California  
PETER K. SOUTHWORTH  
Supervising Deputy Attorney General  
ANTHONY R. HAKL, State Bar No. 197335  
Deputy Attorney General  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550  
Telephone: (916) 322-9041  
Fax: (916) 324-8835  
E-mail: Anthony.Hakl@doj.ca.gov  
*Attorneys for Defendant Stephen Lindley*

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

**IVAN PEÑA, ROY VARGAS, DOÑA  
CROSTON, BRETT THOMAS, SECOND  
AMENDMENT FOUNDATION, INC. and  
THE CALGUNS FOUNDATION, INC.,**

Plaintiffs,

v.

**STEPHEN LINDLEY,**

Defendant.

Case No. 2:09-CV-01185-KJM-CMK

**DEFENDANT STEPHEN LINDLEY'S  
RESPONSE TO REQUESTS FOR  
ADMISSION, SET ONE**

**PROPOUNDING PARTY: PLAINTIFFS, IVAN PEÑA, ROY VARGAS,  
DOÑA CROSTON, BRETT THOMAS, THE SECOND  
AMENDMENT FOUNDATION, INC., and THE CALGUNS  
FOUNDATION, INC.**

**RESPONDING PARTY: DEFENDANT STEPHEN LINDLEY**

**SET NO.: ONE**

**RESPONSES TO REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:**

The Court has personal jurisdiction over all parties in the lawsuit.

**RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

Admitted, to the extent Defendant can admit jurisdiction. As the Ninth Circuit has stated: "While '[c]onsent of parties cannot give the courts of the United States jurisdiction, . . . the parties may admit the existence of facts which show jurisdiction, and the courts may act judicially upon such an admission.'" *Verzosa v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 589 F.2d 974, 977 (9th Cir. 1978) (quoting *Railway Co. v. Ramsey*, 89 U.S. [22 Wall] 322, 327).

**REQUEST FOR ADMISSION NO. 2:**

The Court has subject matter jurisdiction over the issues raised in this lawsuit.

**RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

Admitted, to the extent Defendant can admit jurisdiction. As the Ninth Circuit has stated: "While '[c]onsent of parties cannot give the courts of the United States jurisdiction, . . . the parties may admit the existence of facts which show jurisdiction, and the courts may act judicially upon such an admission.'" *Verzosa v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 589 F.2d 974, 977 (9th Cir. 1978) (quoting *Railway Co. v. Ramsey*, 89 U.S. [22 Wall] 322, 327). Additionally, the Court can at any time sua sponte dismiss an action for lack of subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3).

**REQUEST FOR ADMISSION NO. 3:**

Plaintiff properly named the Defendant in the Second Amended Complaint filed on June 10, 2013. (Doc #53).

**RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

Defendant admits that he is properly named in the Second Amended Complaint as a defendant in his official capacity only.

1 **REQUEST FOR ADMISSION NO. 4:**

2 No handguns currently available for sale in the United States have microstamping  
3 technology that satisfies the requirements of California's Handgun Roster Law.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

5 Admitted.

6 **REQUEST FOR ADMISSION NO. 5:**

7 No firearms manufacturer currently has any plans to offer handguns for sale in the United  
8 States that incorporate microstamping technology compliant with the requirements of California's  
9 handgun roster law.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

11 After reasonable inquiry, the information Defendant knows or can readily obtain is  
12 insufficient to enable him to admit or deny this request. Defendant does not have knowledge of  
13 the plans of each and every firearms manufacturer in this regard.

14 **REQUEST FOR ADMISSION NO. 6:**

15 No firearms manufacturer will, in the foreseeable future, offer handguns for sale in the  
16 United States that incorporate microstamping technology compliant with the requirements of  
17 California's handgun roster law.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

19 After reasonable inquiry, the information Defendant knows or can readily obtain is  
20 insufficient to enable him to admit or deny this request. Defendant does not have knowledge of  
21 the plans of each and every firearms manufacturer in this regard.

22 **REQUEST FOR ADMISSION NO. 7:**

23 Adding microstamping technology to a handgun raises the manufacturing cost of the  
24 handgun.

**RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

After reasonable inquiry, the information Defendant knows or can readily obtain is insufficient to enable him to admit or deny this request. Defendant does not have knowledge of the handgun manufacturing costs of each and every firearms manufacturer in this regard.

**REQUEST FOR ADMISSION NO. 8:**

The microstamping requirement prevents Plaintiff Peña from acquiring the firearm identified in paragraph 41 of the Second Amended Complaint.

**RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

Denied.

**REQUEST FOR ADMISSION NO. 9:**

The microstamping requirement prevents Plaintiff Vargas from acquiring the firearm identified in paragraph 43 of the Second Amended Complaint.

**RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

Denied.

**REQUEST FOR ADMISSION NO. 10:**

The microstamping requirement prevents Plaintiff Croston from acquiring the firearm identified in paragraph 49 of the Second Amended Complaint.

**RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

Denied.

**REQUEST FOR ADMISSION NO. 11:**

The microstamping requirement prevents Plaintiff Thomas from acquiring the firearm identified in paragraph 54 of the Second Amended Complaint.

**RESPONSE TO REQUEST FOR ADMISSION NO. 11:**


Denied.



1 Dated: August 19, 2013

Respectfully submitted,

2 KAMALA D. HARRIS  
Attorney General of California  
3 PETER K. SOUTHWORTH  
Supervising Deputy Attorney General

4   
5 ANTHONY R. HAKL  
6 Deputy Attorney General  
7 *Attorneys for Defendant Stephen Lindley*

8 SA2009310413

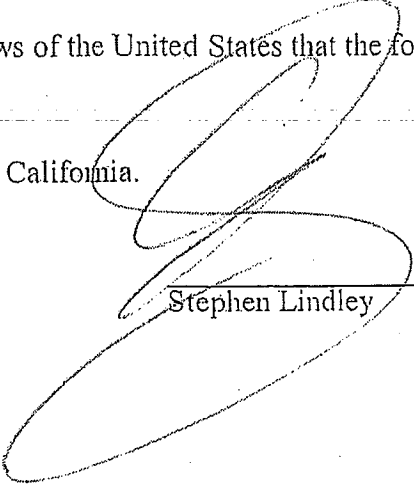
VERIFICATION

I, Stephen Lindley, declare:

I am the Chief of the Bureau of Firearms of the California Department of Justice. I have read Defendant Stephen Lindley's Response To Requests For Admission, Set One. I know their contents and the same are true to my knowledge, information and belief.

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

Executed on August 19, 2013 in Sacramento, California.



Stephen Lindley

**DECLARATION OF SERVICE BY U.S. MAIL and E-MAIL**

Case Name: **Ivan Pena, et al. v. Stephen Lindley**  
 No.: **2:09-CV-01185-KJM-CKD**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 19, 2013, I served the attached

**1. DEFENDANT STEPHEN LINDLEY'S RESPONSE TO INTERROGATORIES, SET ONE**

**2. DEFENDANT STEPHEN LINDLEY'S RESPONSE TO REQUESTS FOR ADMISSION, SET ONE**

by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Donald E.J. Kilmer, Jr. Attorney at Law Law Offices of Donald Kilmer, A.P.C. 1645 Willow Street, Suite 150 San Jose, CA 95125 E-Mail: <a href="mailto:don@dklawoffice.com">don@dklawoffice.com</a> <i>Co-Counsel for Plaintiffs</i>	Alan Gura Gura & Possessky, PLLC 101 North Columbus Street, Suite 405 Alexandria, VA 22314 E-Mail: <a href="mailto:alan@gurapossessky.com">alan@gurapossessky.com</a> <i>Co-Counsel for Plaintiffs</i>
Jason A. Davis Davis & Associates 30021 Tomas Street, Suite 300 Rancho Santa Margarita, CA 92688 E-Mail: <a href="mailto:Jason@calgunlawyers.com">Jason@calgunlawyers.com</a> <i>Co-Counsel for Plaintiffs</i>	

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 19, 2013, at Sacramento, California.

BRENDA APODACA  
 Declarant

  
 Signature