

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF FRESNO

EDWARD W. HUNT, in his)
official capacity as District)
Attorney of Fresno County,)
and in his personal capacity)
as a citizen and taxpayer,)
et al.,)

Plaintiffs,)

vs.)

STATE OF CALIFORNIA; WILLIAM)
LOCKYER, Attorney General of)
the State of California;)
CALIFORNIA DEPARTMENT OF)
JUSTICE; DOES 1-100;)

Defendants.)

CERTIFIED COPY

Case No. 01CECG03182

DEPOSITION OF CRIS ABAD

Long Beach, California

Wednesday, April 16, 2008

10:15 A.M. - 12:30 P.M.

Reported by:
Warren Jones,
CSR No. 2961
File No. 21699

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Reported by:
Warren Jones,
CSR No. 8679

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CALIFORNIA DEPARTMENT OF)
JUSTICE; DOES 1-100;)
Defendants.)
-----)

Deposition of CRIS ABAD, taken by and on
behalf of the Plaintiffs at 180 E. Ocean
Boulevard, Suite 200, Long Beach, California,
commencing at 10:15 a.m., Wednesday, April 16,
2008, before Warren Jones, Certified Shorthand
Reporter No. 8679, pursuant to Notice of Taking
Deposition.

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I N D E X

DEPONENT	EXAMINATION BY	PAGE
Cris Abad	Mr. Davis	5, 77
	Mr. Beckington	76

E X H I B I T S

LETTER	DESCRIPTION	IDENTIFIED
A	Three-page resume of Cris Abad.	79

I N F O R M A T I O N R E Q U E S T E D :

P A G E L I N E

[None]

Q U E S T I O N S W I T N E S S I N S T R U C T E D N O T T O A N S W E R :

P A G E L I N E

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1 Long Beach, California, Wednesday, April 16, 2008

2 10:15 a.m.

3 -ooOoo-

4 CRIS ABAD,

5 the deponent herein,

6 having been first duly sworn by the

7 certified shorthand reporter, was

8 examined and testified as follows:

9

10 EXAMINATION

10:15:00 11 BY MR. DAVIS:

10:15:00 12 Q. How are you doing?

10:15:02 13 A. Pretty good, sir.

10:15:03 14 Q. Can you please state your name for the
10:15:04 15 record?

10:15:06 16 A. Cris Abad.

10:15:07 17 Q. Please spell it.

10:15:08 18 A. C-r-i-s A-b-a-d.

10:15:10 19 Q. Do you understand that you just took the
10:15:11 20 oath?

10:15:12 21 A. Yes, sir.

10:15:12 22 Q. And that that oath holds the same weight as
23 in a court of law?

10:15:16 24 A. Yes, sir.

10:15:17 25 Q. Do you understand that the court reporter

10:15:18 1 is writing everything down as we speak?

10:15:20 2 A. Yes, sir.

10:15:20 3 Q. And if we can speak one at a time and
10:15:22 4 slowly so that he'll have the opportunity to write
10:15:25 5 everything down, I would appreciate it.

10:15:27 6 A. Yes, sir.

10:15:27 7 Q. If you don't understand a question, could
10:15:28 8 you ask me to rephrase it?

10:15:30 9 A. Yes, sir.

10:15:31 10 Q. You'll have a chance to review the
10:15:32 11 transcript after the deposition. If you do, counsel
10:15:34 12 may comment to the jury about the corrections at the
10:15:36 13 time of trial. Do you understand that?

10:15:38 14 A. Yes, sir.

10:15:39 15 Q. Have you taken any drugs or medication in
10:15:41 16 the last 24 hours that may affect your ability to
10:15:44 17 testify?

10:15:45 18 A. No.

10:15:45 19 Q. Is there any physical reason why you
10:15:46 20 wouldn't be able to give your best testimony today,
10:15:50 21 such as a migraine or lack of sleep or anything?

10:15:52 22 A. No.

10:15:55 23 Q. Did you bring any documents with you today?

10:15:57 24 A. No, sir.

10:16:02 25 Q. I handed you a copy of the Notice of Taking

10:16:04 1 Deposition of Expert Cris Abad and Production of
10:16:07 2 Documents and Tangible Things. Have you had an
10:16:10 3 opportunity to look at that?
10:16:12 4 A. Yes, sir, I have.
10:16:14 5 Q. Under Documents To Be Produced, item 1, it
10:16:19 6 says "All documents and writings that reflect or
10:16:21 7 refer in any way to opinions the deponent intends to
10:16:24 8 give at trial."
10:16:28 9 Do you have any documents?
10:16:28 10 A. No, sir, I do not.
10:16:30 11 Q. Not just with you here, but at all?
10:16:32 12 A. Correct, sir, I do not.
10:16:33 13 Q. With regard to No. 2, "All notes,
10:16:35 14 memoranda, workpapers, documents and other writings
10:16:38 15 prepared by, at the direction of or under the
10:16:41 16 supervision of the deponent in connection with
10:16:43 17 deponent's engagement to testify as an expert on
10:16:46 18 behalf of the defendants in this action," do you
10:16:47 19 have any documents responsive to that request?
10:16:50 20 A. No, sir, I do not.
10:16:52 21 Q. Do you have any documents responsive to
10:16:54 22 request No. 3?
10:17:01 23 A. No, sir, I do not.
10:17:02 24 Q. Do you have any documents responsive to
10:17:04 25 request No. 4?

10:17:09 1 A. No, sir.

10:17:10 2 Q. Do you have any documents -- and

10:17:14 3 "documents" includes any e-mails, any electronic

10:17:18 4 correspondence as well. You are aware of that;

10:17:19 5 correct?

10:17:20 6 A. Yes, sir.

10:17:20 7 Q. Do you have any documents in response to

10:17:22 8 request No. 5?

10:17:31 9 A. No, sir, I do not. I had spoken to Deputy

10:17:37 10 Attorney General Mark Beckington regarding I had I

10:17:42 11 believe three articles that were published in the

10:17:44 12 California Narcotic Officers Association Magazine,

10:17:47 13 but I do not have copies of them, and they were

10:17:51 14 articles that pertained to narcotic cases that we

10:17:56 15 had worked at that time.

10:17:58 16 Q. Did they relate to firearms in any way?

10:18:00 17 A. No, sir, not that I recall.

10:18:02 18 Q. Do you have any documents responsive to

10:18:04 19 request No. 6?

10:18:08 20 A. No, sir, I do not.

10:18:11 21 MR. BECKINGTON: Within a year including

10:18:13 22 his deposition transcript in this case?

10:18:15 23 MR. DAVIS: Correct.

10:18:16 24 MR. BECKINGTON: Okay.

10:18:17 25 ///

10:18:17 1 BY MR. DAVIS:

10:18:17 2 Q. Do you have documents responsive to request

10:18:18 3 No. 7?

10:18:19 4 A. No, sir, I do not.

10:18:20 5 Q. Do you have any documents responsive to

10:18:22 6 request No. 8?

10:18:32 7 A. No, sir, I do not have a list of all cases.

10:18:39 8 Q. Do you have a list of any cases?

10:18:44 9 A. No, sir.

10:18:50 10 Q. Do you have any documents responsive to

10:18:52 11 request No. 9?

10:19:05 12 A. The California Penal Code, sir.

10:19:17 13 Q. Anything other than the California Penal

10:19:24 14 Code?

10:19:26 15 A. No, sir.

10:19:30 16 Q. Do you have any responsive documents to

10:19:31 17 request No. 10?

10:19:40 18 MR. BECKINGTON: Before you answer, give me

10:19:42 19 a chance to read through it. I'm going to state an

10:19:49 20 objection to the extent that any of the document

10:19:53 21 demands, including this one, are making an

10:19:55 22 assumption as to what type of expert the witness is.

10:19:58 23 As I think I explained to you, both in writing and

10:20:01 24 in correspondence, Mr. Abad obviously is an employee

10:20:04 25 of the Department of Justice. He hasn't been

10:20:05 1 retained as an expert, and as I think you'll find
10:20:09 2 out, he hasn't been specifically asked to render
10:20:13 3 specific opinions. He's been designated for the
10:20:14 4 purpose of allowing him to be questioned about
10:20:17 5 matters in his area of expertise. To the extent the
10:20:20 6 court would require a prior designation in order to
10:20:23 7 allow him to testify.

10:20:24 8 So there's an assumption I think built into
10:20:26 9 your document demands. These all appear to be
10:20:30 10 relating to someone who is an outside consultant who
10:20:33 11 is retained specifically to render specific
10:20:36 12 opinions. To the extent that's an assumption, I'll
10:20:41 13 object to that, but the witness can answer if he has
10:20:48 14 a response to that question.

10:20:49 15 Do you need the question read back?

10:20:51 16 BY MR. DAVIS:

10:20:51 17 Q. No. 10, do you have any documents?

10:20:52 18 A. I'm just rereading it just to make sure I
10:20:56 19 understand it fully.

10:20:57 20 Would that include the transcripts from my
10:21:04 21 prior depositions?

10:21:07 22 Q. Sir, you can tell us the transcripts from
10:21:12 23 the prior depositions. Any other transcripts?

10:21:17 24 A. No. Volume I and II of my transcripts when
10:21:21 25 you deposed me back in December and again in

10:21:23 1 January.

10:21:25 2 Q. And those are the only documents which

10:21:28 3 you've consulted regarding the issues in this case?

10:21:31 4 A. And the Penal Code, sir.

10:21:32 5 Q. And the Penal Code.

10:21:35 6 A. Yes, sir.

10:21:41 7 Q. Code of Regulations at all?

10:21:45 8 A. As it pertains to the Penal Code, yes, sir.

10:21:49 9 Q. Which regulations?

10:21:54 10 A. I think it's under Chapter 12.

10:21:59 11 Q. Is that Regulation 11?

10:22:00 12 A. Or, I'm sorry, Title 11, yes, sir.

10:22:06 13 Q. Relating to the definition of flash

14 suppressor?

10:22:09 15 A. I'm sorry?

10:22:10 16 Q. Relating to the definition of flash

17 suppressor only?

10:22:10 18 A. And detachable magazine.

10:22:12 19 Q. And detachable magazine.

10:22:14 20 A. Yes, sir.

10:22:16 21 Q. Would you take a look at No. 11? Do you

10:22:18 22 have any documents responsive to request No. 11?

10:22:28 23 A. No, sir, I do not.

10:22:31 24 Q. Do you have any documents responsive to

10:22:33 25 request No. 12?

10:22:57 1 A. No, sir.

10:22:58 2 Q. Do you have any documents responsive to
10:23:00 3 request No. 13?

10:23:03 4 MR. BECKINGTON: Jason, here I'm going to
10:23:05 5 assert an objection to the extent this is requesting
10:23:08 6 confidential case reports and matters on case laws.
10:23:10 7 I'm going to object on that basis.

10:23:27 8 BY MR. DAVIS:

10:23:27 9 Q. With regard to request No. 13, are you
10:23:29 10 relying on any documents that fall under request
10:23:32 11 No. 13 for your testimony or your opinions in this
10:23:37 12 matter?

10:23:37 13 A. No, sir, I am not.

10:23:44 14 Q. Take a look at request No. 14.

10:23:47 15 MR. BECKINGTON: And as to No. 14 we would
10:23:49 16 have the same objection as to confidentiality of any
10:23:53 17 reports or case files.

10:23:58 18 BY MR. DAVIS:

10:23:58 19 Q. Actually, going back to No. 13, do you have
10:24:00 20 any responsive documents? I understand you're
10:24:03 21 objecting. Correct me if I'm wrong, you're
10:24:07 22 objecting to the production of these documents;
10:24:09 23 correct?

10:24:10 24 MR. BECKINGTON: Correct.

10:24:11 25 MR. DAVIS: Not as to whether or not they

10:24:12 1 exist.

10:24:12 2 MR. BECKINGTON: Right. I'm not stating

10:24:14 3 whether there's any responsive document or response,

10:24:16 4 either. I'm objecting, stating a confidentiality

10:24:19 5 objection.

10:24:20 6 BY MR. DAVIS:

10:24:20 7 Q. Do you have any responsive documents to

10:24:24 8 request No. 13?

10:24:25 9 A. No, sir, not that I recall.

10:24:26 10 Q. Do you know if there are any responsive

10:24:28 11 documents to request No. 14?

10:24:31 12 A. No, sir.

10:24:33 13 Q. Do you have responsive documents to request

10:24:34 14 No. 15?

10:24:36 15 MR. BECKINGTON: I'll state an objection

10:24:38 16 here on grounds of privacy and the Police Officers

10:24:45 17 Bill of Rights as to the deponent's specific

10:24:53 18 residence.

10:24:53 19 MR. DAVIS: Okay. So you're refusing to

10:24:54 20 produce a resume for an expert in your --

10:24:58 21 MR. BECKINGTON: Well, why don't you ask

10:24:59 22 him a question about what he might have in terms of

10:25:02 23 a resume.

10:25:03 24 BY MR. DAVIS:

10:25:03 25 Q. What do you have in terms of a resume?

10:25:04 1 A. I have a resume that essentially captures
10:25:08 2 my employment history with the Department of
10:25:10 3 Justice, including all of the different assignments
10:25:14 4 that I've had throughout the years, including
10:25:19 5 narcotics, violence suppression, my assignment to
10:25:24 6 the United States Marshal Service as a Special
10:25:27 7 Deputy U.S. Marshal targeting the top 100 fugitives
10:25:33 8 in the Central District, different assignments
10:25:35 9 within the Bureau of Narcotic Enforcement, including
10:25:39 10 Surveillance Team, which is the allied state and
10:25:41 11 local team, the Buy/Bust Team, Special Operations
10:25:45 12 Unit, and the Money-Laundering Unit, and also my
10:25:49 13 assignment with the Drug Enforcement Administration
10:25:53 14 as a Task Force Officer for the Southern California
10:25:58 15 drug trafficking area.

10:25:59 16 Q. Do any of those relate to assault weapons?
10:26:02 17 Anything in your current resume?

10:26:05 18 A. Yes -- well, with regards to training, yes,
10:26:08 19 sir. Violence suppression, and also my firearms
10:26:14 20 instructor training as a rangemaster.

10:26:17 21 Q. And could you produce a redacted copy?

10:26:20 22 MR. BECKINGTON: That's something I might
10:26:21 23 consider doing. My concern here is there may be
10:26:24 24 some things because his resume is somewhat detailed
10:26:28 25 and things in there that are confidential that would

10:26:31 1 need to be redacted.

10:26:32 2 MR. DAVIS: Okay. You have a copy of that
10:26:33 3 with you today that you can redact?

10:26:35 4 MR. BECKINGTON: Well, I think it would
10:26:36 5 take a little time to go through it. What I would
10:26:36 6 be willing to do --

10:26:38 7 MR. DAVIS: I have a Sharpie and a copier
10:26:40 8 if you're ready.

10:26:40 9 MR. BECKINGTON: I'll consider it. Let me
10:26:42 10 consider it. Why don't you go forward with your
10:26:44 11 deposition and we'll consider it. Either I'll do it
10:26:48 12 here or I may consider it by sending you a copy. My
10:26:50 13 concern is whether there might be something in there
10:26:56 14 that's confidential particularly as it relates to
10:27:00 15 the public. I haven't prevented you from asking
10:27:02 16 questions about his background in the prior depo.
10:27:07 17 We're here, he's given you information, so I'm not
10:27:07 18 trying to prevent from knowing what his expertise or
10:27:10 19 knowledge or background is. I'm just concerned that
10:27:12 20 the document itself may have things that are
10:27:15 21 confidential in it.

10:27:15 22 MR. DAVIS: My concern is ending the
10:27:17 23 deposition with then getting the document after the
10:27:19 24 fact, so as long as you're okay with me not ending
10:27:22 25 the deposition today and having an opportunity to

10:27:24 1 come back if there's any questions relating to
2 information on the resume.

10:27:28 3 MR. BECKINGTON: Why don't we go forward
10:27:29 4 with the deposition and when we have a break, I can
10:27:37 5 talk to the witness.

10:27:37 6 MR. DAVIS: Okay.

10:27:42 7 BY MR. DAVIS:

10:27:42 8 Q. Would you take a look at No. 16?

10:27:44 9 A. Yes, sir.

10:27:46 10 Q. Do you have any documents responsive to
10:27:48 11 that request?

10:27:50 12 A. No, sir, I do not.

10:27:52 13 Q. Would you take a look at No. 17?

10:27:58 14 A. Yes, sir.

10:27:59 15 Q. Do you have any documents responsive to
10:28:01 16 that request?

10:28:03 17 A. No, sir. I'm going to go back again to my
10:28:10 18 transcripts from the prior depositions. That's the
10:28:13 19 only thing I can think of that has anything to do
10:28:18 20 with the drawings since we had at that time covered
10:28:21 21 a couple of different times of latch suppressors.

10:28:24 22 Q. Are you considering all your prior training
10:28:26 23 and experience as far as firearms training and
10:28:31 24 firearms demonstration materials, any materials that
10:28:33 25 you've received as a result of your education that

10:28:37 1 you currently have that's responsive --

10:28:44 2 MR. BECKINGTON: I'll object to the extent

10:28:44 3 that that exceeds the scope of the demand.

10:28:55 4 BY MR. DAVIS:

10:28:55 5 Q. -- that you rely upon in this case?

10:28:59 6 A. No, sir, I do not.

10:29:03 7 Q. Could you take a look at request No. 18?

10:29:06 8 A. Yes, sir.

10:29:07 9 Q. Do you have any documents that are

10:29:09 10 responsive to that request?

10:29:15 11 A. No, sir, I do not.

10:29:24 12 Q. I'll give you a copy of the definition of

10:29:28 13 "flash suppressor" from the California Code of

10:29:29 14 Regulations, Title 11. Do you have that copy in

10:29:35 15 front of you?

10:29:36 16 A. Yes, sir, I do.

10:29:39 17 Q. Section 5469?

10:29:49 18 A. Yes, sir.

10:29:50 19 Q. Do you intend on providing any expert

10:29:52 20 testimony relating to the definition of flash

10:30:00 21 suppressor?

10:30:04 22 MR. BECKINGTON: I'll object to the extent

10:30:05 23 the question is vague and ambiguous as to the intent

10:30:12 24 of the witness.

10:30:12 25 THE DEPONENT: I don't know how to answer

10:30:13 1 that question, sir, other than if I were called upon
10:30:17 2 to testify as to my opinions pertaining to flash
10:30:22 3 suppressors.

10:30:24 4 BY MR. DAVIS:

10:30:24 5 Q. Are you familiar with the definition of
10:30:26 6 flash suppressor?

10:30:27 7 A. Yes, sir.

10:30:28 8 Q. Are you familiar that part of the
10:30:30 9 definition applies to devices that function to
10:30:34 10 perceptively reduce or redirect muzzle flash from
10:30:37 11 the shooter's field of vision?

10:30:40 12 A. Yes, sir.

10:30:42 13 Q. In your opinion is it possible to determine
10:30:44 14 whether a device functions to reduce or redirect
10:30:48 15 muzzle flash from the shooter's field of vision?

10:30:53 16 A. In what context, sir? Would that be from a
10:30:59 17 scientific lab environment or out in the field
10:31:02 18 or --? I'm not quite sure.

10:31:07 19 Q. I mean, generally, is it possible right off
10:31:10 20 the bat?

10:31:11 21 A. Yes, sir, to make a visual determination
10:31:13 22 it's possible to, at least for the purposes of
10:31:16 23 determining further whether or not it is a flash
10:31:20 24 suppressor, yes.

10:31:22 25 Q. What do you mean, "to make a visual

10:31:24 1 determination"?

10:31:25 2 A. By that I mean if I was to contact an
10:31:28 3 individual and I suspected that the rifle, just for
10:31:34 4 the sake of argument, it was located inside the
10:31:39 5 trunk of his vehicle and he consented to a search,
10:31:42 6 and it appeared to be a flash suppressor, I would go
10:31:46 7 ahead and complete a property receipt, seize the
10:31:52 8 firearm and have it tested to determine whether or
10:31:54 9 not it is a flash suppressor.

10:31:59 10 Q. Now, you said if you found it in the trunk
10:32:01 11 and you thought it might be a flash suppressor, what
10:32:04 12 would make you think it's a flash suppressor if you
10:32:07 13 found a device? What would you look for on the
10:32:09 14 device?

10:32:09 15 A. If it appeared to be a bird cage type of
10:32:12 16 flash suppressor, which is typical of the M-16s and
10:32:18 17 the AR-15s, that would be one method that I would
10:32:24 18 utilize.

10:32:29 19 Q. So based upon inspection of the device, if
10:32:31 20 it looked like another device that you personally
10:32:33 21 know to be a flash suppressor?

10:32:35 22 A. Yes, sir.

10:32:37 23 Q. You said the M-16 flash suppressor in
10:32:39 24 particular?

10:32:39 25 A. Yes.

10:32:41 1 Q. Do you know if that device has ever been
10:32:43 2 tested to see if it functions to reduce flash or
10:32:45 3 reverse flash from the shooter's field of vision?

10:32:48 4 A. That I do not know, sir.

10:32:50 5 Q. Do you know if any bird cage device has
10:32:53 6 been tested to see if it functions to perceptively
10:32:57 7 reduce or redirect flash from the shooter's field of
10:33:01 8 vision?

10:33:01 9 A. I do not know, sir.

10:33:03 10 Q. But you would compare it to those devices?

10:33:05 11 A. Correct.

10:33:21 12 Q. Is there any other way in which you can in
10:33:25 13 your opinion determine whether a device functions to
10:33:27 14 reduce or redirect muzzle flash from the shooter's
10:33:31 15 field of vision without actually testing the device?

10:33:39 16 A. No, sir.

10:33:46 17 Q. So the only way to determine whether or not
10:33:49 18 a device functions to reduce or redirect flash
10:33:53 19 perceptively from the shooter's field of vision is
10:33:56 20 to compare it to other devices that you believe are
10:33:58 21 flash suppressors upon inspection?

10:34:01 22 A. No, sir. I would compare it with the
10:34:05 23 firearm minus the device attached, and then with the
10:34:09 24 device attached, and make a determination as to
10:34:11 25 whether or not it perceptively reduces or directs

10:34:15 1 muzzle flash.

10:34:16 2 Q. So you would test it.

10:34:18 3 A. Yes.

10:34:18 4 Q. But outside of testing, the only other way
10:34:20 5 in your opinion is to compare it to the existing
10:34:22 6 devices that you believe personally to be a flash
10:34:26 7 suppressor.

10:34:27 8 A. Yes, sir.

10:34:28 9 MR. BECKINGTON: Object to the question as
10:34:29 10 vague and ambiguous.

10:34:31 11 BY MR. DAVIS:

10:34:31 12 Q. Now, you said you would compare it with or
10:34:33 13 without the device?

10:34:35 14 A. I'm sorry, sir?

10:34:36 15 Q. You said you could also test a firearm with
10:34:39 16 the device and then take the device off and test it
10:34:41 17 without the device?

10:34:42 18 A. Correct.

10:34:45 19 Q. How would you test that?

10:34:48 20 A. I would take it to our lab and have them do
10:34:53 21 the test.

10:34:54 22 Q. What lab?

10:34:54 23 A. Bureau of Forensic Services which is the
10:35:00 24 California Department of Justice Laboratory.

10:35:09 25 Q. Do they have a testing standard?

10:35:11 1 A. I do not know, sir.

10:35:15 2 Q. Have you ever taken a device there to see
10:35:18 3 if it's a flash suppressor?

10:35:20 4 A. No, sir, I have not.

10:35:43 5 Q. Are the services of the Bureau of Forensic
10:35:45 6 Services available to the general public?

10:35:49 7 A. No, sir, not that I'm aware of. It's only
10:35:51 8 to the law enforcement agencies.

10:35:58 9 Q. How would a layperson determine whether or
10:36:02 10 not their device functions to reduce or redirect
10:36:05 11 flash --

10:36:05 12 MR. BECKINGTON: Objection; incomplete
10:36:05 13 hypothetical.

10:36:06 14 BY MR. DAVIS:

10:36:06 15 Q. -- in your opinion?

10:36:11 16 A. To go through a testing phase, sir? Is
10:36:15 17 that what you mean?

10:36:17 18 Q. I have a device on my gun and I want to
10:36:20 19 find out whether or not it's a flash suppressor.
10:36:22 20 How would I determine whether or not it functions to
10:36:25 21 reduce or redirect flash?

10:36:26 22 MR. BECKINGTON: I'll object to the
10:36:27 23 question as compound. I don't want to interfere
10:36:28 24 here but are you asking him whether how does someone
10:36:32 25 go about testing to determine what its actual

10:36:34 1 function is or whether it an actual flash suppressor
10:36:39 2 in terms of like how it's marketed and sold?

10:36:40 3 MR. DAVIS: I'm focusing solely on the
10:36:43 4 function at this point, not the design and not the
10:36:45 5 intent of the device.

10:36:45 6 THE DEPONENT: And not the marketing and
10:36:48 7 how it's being sold?

10:36:48 8 MR. DAVIS: Not the marketing.

10:36:49 9 THE DEPONENT: In order to perform that
10:36:53 10 test, in my opinion, once again, I test the firearm
10:37:02 11 without the device, and if I had access to a lab or
10:37:06 12 facility that could be regulated as far as lighting,
10:37:11 13 temperature, there's a lot of variables involved,
10:37:15 14 the type of powder being utilized, the charge of the
10:37:19 15 cartridge could cause the muzzle flash to vary.

10:37:25 16 But given the same set of circumstances,
10:37:28 17 same ammunition, same standards, testing it without
10:37:35 18 the device, and then testing it with the device, if
10:37:38 19 I could utilize maybe time-lapse photography and see
10:37:41 20 if there's a reduction or a redirection in the
10:37:43 21 muzzle flash, then that would be the way that I
10:37:46 22 would personally do it as a layperson.

10:37:50 23 BY MR. DAVIS:

10:37:50 24 Q. Same standards as what?

10:37:52 25 A. I'm sorry?

10:37:53 1 Q. You said using the "same standards." Same
10:37:55 2 standards as what?

10:38:01 3 A. I don't recall the context I utilized that
10:38:03 4 statement in.

10:38:04 5 Q. You were talking about using the same
10:38:07 6 ammunition standards, using the same settings,
10:38:09 7 standards, all these different factors are
10:38:12 8 variables. But wouldn't that be consistent or
10:38:15 9 inconsistent -- strike that.

10:38:17 10 What standards are you referring to?

10:38:20 11 A. I'm talking about the comparison between
10:38:23 12 testing the firearm with and testing it without. It
10:38:27 13 has to be -- if I can keep the variables to a bare
10:38:32 14 minimum where I'm doing the test within five minutes
10:38:34 15 of each other in the same ideal surroundings and
10:38:38 16 settings, and using photography, if I had access to
10:38:44 17 that, then that would be the way I would go about
10:38:47 18 testing it.

10:38:53 19 Q. How would you standardize lighting for
10:38:56 20 testing?

10:38:58 21 A. I wouldn't change it. It's in a controlled
10:39:02 22 indoor range. If the light is turned on full
10:39:04 23 bright, I would leave it as such and not change
10:39:08 24 that, unless there's a glitch in the power or some
10:39:11 25 other factor that changes the lighting at some point

10:39:14 1 during my test, and if I conduct the test within a
10:39:17 2 few minutes of each other, the conditions should be
10:39:20 3 pretty identical, in my opinion.

10:39:22 4 Q. So if I test a firearm in a shooting range
10:39:27 5 with the device, I take the device off, the lights
10:39:29 6 are on under regular conditions, I take the device
10:39:33 7 off and shoot it and from my perception it appears
10:39:38 8 the same, it's not a flash suppressor; correct?

10:39:42 9 A. Yes, sir, there's no change, there's no
10:39:43 10 reduction or redirection in muzzle flash, yes, sir.

10:39:45 11 Q. If you were to turn the lights off in that
10:39:47 12 same room, would the muzzle flash appear
10:39:51 13 differently?

10:39:51 14 A. Yes, it would.

10:39:52 15 Q. Why would that appear differently?

10:39:55 16 A. Because now you're in darkness and it will
10:39:59 17 be a lot more pronounced as opposed to bright
10:40:02 18 lighting.

10:40:03 19 Q. Is there a standard of luminance it has for
10:40:08 20 you?

10:40:08 21 A. No, sir.

10:40:09 22 Q. California has no standards for testing?

10:40:12 23 MR. BECKINGTON: Objection; vague and
10:40:13 24 ambiguous as to "California."

10:40:14 25 ///

10:40:14 1 BY MR. DAVIS:

10:40:14 2 Q. Does the Department of Justice Bureau of
10:40:17 3 Firearms have any standards other than what's
10:40:20 4 written in the regulations?

10:40:22 5 A. No, sir, not that I'm aware of.

10:40:40 6 Q. In your opinion could an ordinary gun owner
10:40:43 7 determine whether a device functions to reduce or
10:40:46 8 redirect muzzle flash from the shooter's field of
10:40:48 9 vision based solely upon inspection of the device?

10:40:56 10 A. Well, the first gauge of that would be how
10:40:59 11 it's marketed. As a hypothetical, if I happen to be
10:41:06 12 at a gun show and I purchased a device that was
10:41:10 13 marketed as a muzzle brake --

10:41:13 14 Q. I'm going to stop you there. The
10:41:16 15 hypothetical stated that it was based solely upon
10:41:17 16 the inspection of the device. I'm not dealing with
10:41:19 17 the intent or the design of the device, just whether
10:41:23 18 or not the device functions to reduce or redirect
10:41:25 19 flash from the shooter's field of vision.

10:41:29 20 MR. BECKINGTON: Can you restate your
10:41:30 21 question?

10:41:30 22 BY MR. DAVIS:

10:41:30 23 Q. Sure. In your opinion could an ordinary
10:41:33 24 gun owner determine whether a device functions to
10:41:36 25 reduce or redirect muzzle flash from the shooter's

10:41:38 1 field of vision based solely upon inspection of the
10:41:40 2 device?

10:41:41 3 A. Just from a visual, sir?

10:41:44 4 Q. Correct.

10:41:45 5 A. With no identifying verbiage on the device
10:41:48 6 itself as to whether or not it's a muzzle brake or a
10:41:53 7 compensator or anything at all, no indicia
10:41:56 8 whatsoever as far as what the device is?

10:42:00 9 Q. Correct.

10:42:07 10 A. Not the ordinary person, I don't believe,
10:42:12 11 sir.

10:42:13 12 Q. There are muzzle brakes out there that are
10:42:16 13 marketed and designed as muzzle brakes that also
10:42:20 14 reduce or redirect flash; correct?

10:42:24 15 A. Not having actually tested it, sir, I do
10:42:28 16 not know, but I would imagine, yes.

10:42:37 17 Q. Without testing a device, how certain would
10:42:40 18 you be of a determination that a device functions to
10:42:43 19 reduce or redirect flash from the shooter's field of
10:42:46 20 vision if that determination is based solely upon a
10:42:48 21 visual inspection of the device?

10:42:51 22 MR. BECKINGTON: Can I have the question
10:42:52 23 read back, please?

10:42:54 24 BY MR. DAVIS:

10:42:54 25 Q. How certain would you be of a determination

10:42:56 1 that a device functions to reduce or redirect flash
10:42:59 2 from a shooter's field of vision if that
10:43:01 3 determination is based solely upon having a visual
10:43:03 4 inspection of the device and not being tested?

10:43:08 5 A. If I may use an analogy, it would be much
10:43:13 6 like somebody who I suspect of transporting
10:43:16 7 narcotics across the border, it would go into the
10:43:19 8 secondary area for secondary inspection, in this
10:43:21 9 case, an actual test, sir, but at least it would get
10:43:24 10 to that level just based upon the visual.

10:43:42 11 Q. Would you rely upon a visual determination
10:43:45 12 if being wrong meant you were committing a
10:43:48 13 misdemeanor?

10:43:49 14 MR. BECKINGTON: I'm sorry, I didn't hear
15 that.

10:43:50 16 BY MR. DAVIS:

10:43:50 17 Q. Would you rely upon a visual determination
10:43:52 18 of a device designed or -- excuse me.

10:43:57 19 Going back to the previous hypothetical, a
10:43:59 20 visual determination that a device is not a flash
10:44:02 21 suppressor, based solely on the visual, not design,
10:44:05 22 not intent, if there's a determination made that the
10:44:10 23 device is not a flash suppressor, would you rely on
10:44:13 24 that if being wrong meant you were committing a
10:44:15 25 misdemeanor? This is you, personally.

10:44:17 1 MR. BECKINGTON: I'll object to the
10:44:18 2 question as vague and ambiguous.
10:44:20 3 BY MR. DAVIS:
10:44:20 4 Q. Do you understand the question?
10:44:23 5 A. Not really, sir.
10:44:27 6 Q. If a device was determined to not be a
10:44:29 7 flash suppressor based solely upon a visual
10:44:34 8 inspection of the device, with no testing, no
10:44:36 9 indication of intent or design, would you rely upon
10:44:44 10 that if being wrong meant you were subject to a
10:44:47 11 misdemeanor violation?
10:44:48 12 MR. BECKINGTON: I'll object as an
10:44:50 13 incomplete hypothetical.
10:44:52 14 THE DEPONENT: I don't think I have an
10:44:53 15 answer to that question, sir.
10:44:56 16 BY MR. DAVIS:
10:44:56 17 Q. What do you mean you don't have an answer
10:44:57 18 for it?
10:44:59 19 A. I don't know.
10:45:01 20 Q. What if being wrong meant you were subject
10:45:05 21 to a felony prosecution?
10:45:07 22 MR. BECKINGTON: Object to the question as
10:45:07 23 vague. Is your hypothetical meaning if he were a
10:45:11 24 possessor, an owner of the device?
10:45:12 25 MR. DAVIS: Yes, hypothetically.

10:45:15 1 MR. BECKINGTON: Yeah.

10:45:16 2 BY MR. DAVIS:

10:45:16 3 Q. I've got a device in front of me. All I
10:45:18 4 have is the device. I look at the device and I say,
10:45:21 5 "This doesn't appear to reduce or redirect flash in
10:45:24 6 my opinion based upon the design because it doesn't
10:45:27 7 look like anything I know to be a flash suppressor."
10:45:30 8 Would you rely upon my determination as a layman
10:45:34 9 that that device is not a flash suppressor and
10:45:38 10 install it on your firearm and carry your firearm
10:45:40 11 publicly if you knew that my being wrong was subject
10:45:43 12 to a misdemeanor?

10:45:45 13 A. No, sir, I would not, and the reason being
10:45:51 14 is that that's your subjective opinion. Another
10:45:54 15 officer or somebody else from law enforcement may
10:45:57 16 have a different view, and if there was any question
10:46:00 17 at all, I would not, just because of the potential
10:46:05 18 exposure that I would have to be charged with, at
10:46:11 19 best, a misdemeanor, at worst, a felony.

10:46:14 20 Q. So in essence would you say that visual
10:46:18 21 inspection is a guess? A determination based on
10:46:28 22 following a visual inspection of the device?

10:46:31 23 A. Yes, sir, without further testing to
10:46:33 24 determine whether or not it perceptively reduces or
10:46:37 25 redirects, yes, sir.

10:46:44 1 Q. Would you say that in the absence of
10:46:46 2 information relating to design and intent of a
10:46:48 3 device, gun owners are less to take their chances as
10:46:51 4 to whether a device functions to perceptively reduce
10:46:54 5 or redirect flash from a shooter's field of vision?

10:46:57 6 MR. BECKINGTON: Objection; vague and
10:46:58 7 ambiguous.

10:47:03 8 THE DEPONENT: And that's absent any
10:47:05 9 markings whatsoever on the device, and I don't know
10:47:11 10 if --

10:47:13 11 BY MR. DAVIS:

10:47:13 12 Q. This is dealing solely with the functions
10:47:15 13 aspect.

10:47:16 14 A. Yes, sir. I don't know if I'm assuming
10:47:18 15 this correctly, but you're talking about a device
10:47:21 16 that's stand-alone. It's not part of a weapons
10:47:25 17 system that's being sold at the time in question.

10:47:30 18 Q. Let's do it both ways. Stand-alone.

10:47:33 19 A. Stand-alone? I forgot the question. Could
10:47:35 20 you repeat it?

10:47:36 21 Q. Sure. In the absence of information
10:47:38 22 relating to the design and intent of a device, are
10:47:41 23 gun owners left to take their chances as to whether
10:47:44 24 a device functions to perceptively reduce or
10:47:46 25 redirect muzzle flash from a shooter's field of

10:47:49 1 vision?

10:47:50 2 A. Yes, sir. In that first scenario, yes.

10:47:52 3 Q. And in the second scenario, which was, can
10:47:54 4 you describe the second scenario?

10:47:56 5 A. The second scenario is if it's marketed
10:47:58 6 along with a specific rifle per se and the way it's
10:48:05 7 being marketed is that it's a muzzle braker or
10:48:09 8 compensator, then I would rely upon the
10:48:12 9 manufacturer's knowledge, which would be a lot more
10:48:14 10 technical than the layperson, to know what kind of
10:48:18 11 device they have attached to their firearm.

10:48:20 12 Q. Do manufacturers test their devices to see
10:48:22 13 if they function to perceptively reduce or redirect
10:48:25 14 flash from the shooter's field of vision?

10:48:29 15 A. That, I do not know. I can qualify that
10:48:32 16 response by saying I believe that Browning does with
10:48:36 17 their BOSS, but other than that, I'm not sure, sir.

10:48:40 18 Q. And, again, on that opinion or in that
10:48:50 19 second scenario, your opinion as to whether or not
10:48:50 20 gun owners are left to take their chances was what?

10:48:53 21 A. If it was marketed as part of an entire
10:48:58 22 firearm, then I would rely on the manufacturer to
10:49:02 23 basically know what that device is and I would go
10:49:07 24 with what they're calling it. If it's a muzzle
10:49:10 25 braker or compensator, then I would feel confident

10:49:14 1 in purchasing that firearm if that is what it is.

10:49:16 2 Q. It's possible, though, correct me if I'm
10:49:17 3 wrong, that a muzzle brake or compensator, even
10:49:21 4 though it's marketed as a muzzle brake or
10:49:23 5 compensator or designed as a muzzle brake or
10:49:26 6 compensator, could actually function to reduce or
10:49:29 7 redirect flash from the shooter's field of vision;
10:49:31 8 correct?

10:49:31 9 A. Yes, sir, absolutely.

10:49:33 10 Q. So in that situation, though, you would
10:49:37 11 determine that to not be a flash suppressor?

10:49:42 12 MR. BECKINGTON: Object to the question as
10:49:42 13 vague and ambiguous. Can you clarify what you mean,
10:49:44 14 "that situation"?

10:49:45 15 BY MR. DAVIS:

10:49:46 16 Q. In a situation in which the device was
10:49:47 17 marketed as a compensator or muzzle brake but also
10:49:50 18 happened to reduce flash from the shooter's field of
10:49:55 19 vision or redirect flash from the shooter's field of
10:49:59 20 vision, that firearm or that device would be a flash
10:50:03 21 suppressor or would not be a flash suppressor in
10:50:05 22 your opinion?

10:50:09 23 A. If I were to go, just based on regulations,
10:50:12 24 then it would be a flash suppressor, but clearly the
10:50:18 25 intent, during the design, was to reduce

10:50:25 1 felt-recoil. I --

10:50:27 2 Q. Does that matter as far as whether or not
10:50:29 3 the device is a flash suppressor?

10:50:33 4 A. I'm sorry, sir, I don't understand that
10:50:35 5 question.

10:50:35 6 Q. If the intent was to reduce recoil but it
10:50:38 7 actually functions to reduce or redirect flash from
10:50:41 8 the shooter's field of vision, does that change your
10:50:43 9 opinion that that device is a flash suppressor?

10:50:48 10 A. Based on statute, yes, sir.

10:50:49 11 Q. It does change your opinion?

10:50:51 12 A. Yes, sir.

10:50:52 13 Q. And it makes it so that it is or is not a
10:50:54 14 flash suppressor?

10:50:55 15 A. At that point it would be a flash
10:50:56 16 suppressor.

10:51:28 17 Q. You mentioned earlier testing a device to
10:51:31 18 determine whether or not it's a flash suppressor.

10:51:33 19 A. Yes, sir.

10:51:35 20 Q. Do you know of any devices that have been
10:51:37 21 tested to determine whether or not they're flash
10:51:39 22 suppressors?

10:51:41 23 A. Other than the BOSS, and I'm not even sure
10:51:43 24 about that, that I had alluded to earlier, I don't
10:51:46 25 know, sir.

10:52:05 1 Q. As a layman, if I were to take my gun into
10:52:08 2 a shooting range, my rifle, it's an automatic
10:52:15 3 center-fire rifle with the capacity to accept a
10:52:16 4 detachable magazine, and put my device on my gun to
10:52:22 5 test it -- or strike that.

10:52:25 6 I test it without a device on the end of
10:52:28 7 the gun at the shooting range, and I would have some
10:52:34 8 time-lapse photography set up so it would take a
10:52:37 9 picture of the blast as it comes out. I then put a
10:52:43 10 device on the end to test it and it does reduce
10:52:45 11 flash when I compare it to the picture taken five
10:52:49 12 minutes later, like you stated earlier. Am I
10:52:51 13 currently in possession of an assault weapon at that
10:52:55 14 time?

10:52:56 15 A. And you would have it actually attached to
10:52:58 16 the rifle?

10:52:58 17 Q. Don't you have to attach it to test it?

10:53:01 18 A. Yes, sir. And it reduces or redirects
10:53:06 19 flash from your field of vision, being the shooter?

10:53:11 20 Q. Mm-hmm.

10:53:13 21 A. Yes, sir, technically.

10:53:15 22 Q. So in order for me to test it, if the
10:53:19 23 device does actually reduce flash, it could
10:53:21 24 potentially make me in possession of an assault
10:53:28 25 weapon?

10:53:29 1 A. Yes.

10:53:33 2 Q. What does the law require me to do if I

10:53:35 3 find myself in possession of an assault weapon?

10:53:36 4 A. Unregistered assault weapon?

10:53:38 5 Q. Yes.

10:53:39 6 A. Surrender it to law enforcement as one of

10:53:42 7 the avenues that is available to the general public.

10:53:46 8 Q. So I would be required to turn my gun in at

10:53:48 9 that point to law enforcement?

10:53:50 10 MR. BECKINGTON: Objection; calls for a

10:53:51 11 legal conclusion.

10:53:53 12 BY MR. DAVIS:

10:53:53 13 Q. In your opinion?

10:53:56 14 A. No. You would just attach the device to

10:54:00 15 your rifle, and you were doing it for testing

10:54:03 16 purposes, sir?

10:54:10 17 Q. (Nods head up and down.)

10:54:12 18 A. I don't know. That would be for the

10:54:16 19 district attorney to make that determination.

10:54:18 20 Q. So in order to test it, the gun owner is

10:54:25 21 taking their chances for testing as well; correct?

10:54:28 22 MR. BECKINGTON: Objection; vague and

10:54:29 23 ambiguous as to "taking their chances."

10:54:33 24 BY MR. DAVIS:

10:54:33 25 Q. For being prosecuted.

10:54:35 1 A. Possibly, sir, yes.

10:54:39 2 Q. Now, hypothetically if I'm at the shooting
10:54:42 3 range and I test the device and I find that under
10:54:47 4 the lighting conditions, the standards that I tested
10:54:51 5 my device under, it does not reduce flash
10:54:54 6 perceptively from my field of vision, and you see
10:54:58 7 the device in the car, the trunk of my car after you
10:55:01 8 pull me over, you said earlier that you seize them
10:55:05 9 if it appears to be a flash suppressor; correct?

10:55:08 10 A. Correct.

10:55:09 11 Q. And you send it to test for testing at the
10:55:12 12 lab.

10:55:12 13 A. Yes, sir.

10:55:14 14 Q. Is the lab required to test it in the same
10:55:16 15 method that I tested it at the shooting range?

10:55:19 16 A. I would imagine not, sir. I don't think it
10:55:23 17 could be replicated just because of the conditions,
10:55:31 18 the place. There's variables involved and, no, it
10:55:37 19 could not be replicated in its entirety. Also, by
10:55:43 20 the time it gets tested, whether or not there's
10:55:46 21 ammunition that was seized along with the rifle,
10:55:51 22 that could be another factor that would have to be
10:55:53 23 taken into consideration as well.

10:56:02 24 Q. So even if I test it, there's no certainty
10:56:04 25 that my testing will be a final determination as to

10:56:14 1 whether or not the device is not a flash suppressor?

10:56:23 2 A. The reason I hesitate is because I'm
10:56:25 3 looking at a device without any markings, not being
10:56:32 4 marketed as specifically a muzzle brake or a
10:56:35 5 compensator, just basically an attachment, an
10:56:41 6 unknown device at this point in time that you've
10:56:43 7 actually tested. And what was your question again,
10:56:47 8 sir? I'm sorry. I kind of got wrapped up on that.

10:56:54 9 Q. My determination at the shooting range when
10:56:56 10 I test it is not conclusory as to whether or not the
10:57:01 11 device is a flash suppressor. The testing lab for
10:57:04 12 the DoJ could have a different opinion; correct?

10:57:06 13 A. Yes, sir, they could.

10:57:07 14 Q. And district attorneys throughout
10:57:11 15 California have different labs that can do testing;
10:57:16 16 correct?

10:57:16 17 A. Yes, sir.

10:57:16 18 Q. And they can all have differing
10:57:18 19 conclusions; correct?

10:57:20 20 A. I would imagine, yes, sir.

10:57:22 21 Q. And there are 58 different D.A.s that can
10:57:26 22 have different opinions regarding the same device;
10:57:28 23 correct?

10:57:30 24 A. That's a possibility, yes, sir.

10:57:32 25 Q. And if there was a regulation that had set

10:57:34 1 standards in place, then that could potentially
10:57:39 2 reduce or eliminate any variations?

10:57:45 3 MR. BECKINGTON: Object; incomplete
10:57:47 4 hypothetical.

10:57:47 5 THE DEPONENT: That's beyond my scope, sir,
10:57:51 6 as far as, you know, scientific tests and everything
10:57:54 7 else. I really can't answer that question.

10:57:58 8 BY MR. DAVIS:

10:57:58 9 Q. There's no one place I can send my device
10:58:00 10 to to have it determined whether or not it's a flash
10:58:03 11 suppressor; correct?

10:58:05 12 A. You're talking about currently, sir?

10:58:07 13 Q. Correct.

10:58:08 14 A. Not that I'm aware of.

10:58:08 15 Q. You said "currently." Are there plans to
10:58:11 16 have a standardized testing method?

10:58:13 17 A. I don't know, sir. I can't see into the
10:58:17 18 future.

10:58:17 19 Q. Have you had any discussions regarding
10:58:19 20 plans?

10:58:20 21 A. Not involving myself, no, sir.

10:58:25 22 Q. Do you know of any discussions?

10:58:27 23 A. No, sir.

10:58:34 24 Q. Are you familiar with the Springfield M1A
10:58:39 25 muzzle brake?

10:58:41 1 A. Yes, sir.

10:58:42 2 Q. Do you intend to provide expert testimony
10:58:44 3 relating to the Springfield M1A muzzle brake?

10:58:49 4 A. If called upon to do so, yes, sir.

10:58:52 5 Q. In your opinion is the Springfield M1A
10:58:56 6 muzzle brake a flash suppressor, as defined by
10:58:58 7 Section 5469 of Title 11 of the California Code of
10:59:01 8 Regulations?

10:59:06 9 A. Not based on how it's marketed sir, no.

10:59:10 10 Q. In your opinion does the Springfield M1A
10:59:12 11 muzzle brake function to perceptively reduce or
10:59:15 12 redirect flash from the shooter's field of vision?

10:59:18 13 A. Not having tested it, sir, I don't know.

10:59:30 14 Q. Upon which facts do you base your opinion
10:59:32 15 that the Springfield M1A muzzle brake does not
10:59:35 16 function to perceptively reduce or redirect flash
10:59:37 17 from the shooter's field of vision?

10:59:41 18 MR. BECKINGTON: I believe that misstates
10:59:42 19 his testimony.

10:59:43 20 BY MR. DAVIS:

10:59:43 21 Q. Is the Springfield M1A muzzle brake a flash
10:59:46 22 suppressor under DoJ's interpretation?

10:59:50 23 A. Not based on how it's marketed, sir, no.

10:59:53 24 Q. Solely based on how it's marketed.

10:59:59 25 A. Primarily, sir, yes.

11:00:01 1 Q. You say "primarily." What else is it based
11:00:03 2 on?

11:00:09 3 A. Without looking at the device, I can't
11:00:12 4 really tell you right now. Just on how it's
11:00:19 5 marketed.

11:00:20 6 Q. Based on how it's marketed?

11:00:21 7 A. Yes.

11:00:22 8 Q. So it could function to reduce or redirect
11:00:24 9 flash from the shooter's field of vision?

11:00:26 10 A. Yes, sir, it could.

11:00:27 11 Q. How can you be certain that it does not?

11:00:31 12 MR. BECKINGTON: Object; vague and
11:00:31 13 ambiguous as to the term "certain."

11:00:41 14 THE DEPONENT: By testing it, sir.

11:00:49 15 BY MR. DAVIS:

11:00:49 16 Q. But, again, testing it may not be
11:00:52 17 conclusory because it can vary from county to
11:00:54 18 county, D.A. to D.A.; correct?

11:00:59 19 MR. BECKINGTON: Objection; incomplete
11:01:01 20 hypothetical.

11:01:04 21 THE DEPONENT: Yes, sir, it could be.

11:01:19 22 BY MR. DAVIS:

11:01:19 23 Q. Can you state with 100 percent certainty
11:01:20 24 that the Springfield M1A does not function to
11:01:24 25 perceptively reduce or redirect flash from the

11:01:28 1 shooter's field of vision?

11:01:29 2 A. No, sir, I cannot.

11:01:30 3 Q. How sure are you that the Springfield
11:01:33 4 Armory M1A is not a flash suppressor then?

11:01:39 5 A. I'm only certain to the extent that it's
11:01:41 6 marketed by Springfield as such, and being a major
11:01:45 7 manufacturer of firearms, I would rely upon them to
11:01:52 8 make that determination.

11:01:55 9 Q. So it's the manufacturer's duty, in your
11:01:59 10 opinion, to determine whether or not the device
11:02:03 11 reduces or redirects flash from the shooter's field
11:02:05 12 of vision?

11:02:06 13 A. Yes, sir.

11:02:07 14 Q. And how would they do that?

11:02:10 15 A. I would imagine with testing, a testing
11:02:15 16 program.

11:02:18 17 Q. Based on what standards?

11:02:21 18 A. That, I don't know, sir. Whatever
11:02:23 19 standards they set to make that determination. I'm
11:02:31 20 not -- I can't answer that other than with what I've
11:02:35 21 stated.

11:02:50 22 Q. And if they use the standards that they
11:02:52 23 set, they run the risk of the device being
11:02:54 24 interpreted as a flash suppressor in any one of the
11:02:57 25 58 counties?

11:02:59 1 MR. BECKINGTON: Objection; vague and
11:03:00 2 ambiguous as to "they." Who are you referring to?
11:03:03 3 MR. DAVIS: Springfield Armory.
11:03:06 4 THE DEPONENT: Yes, sir, potentially.
11:03:13 5 BY MR. DAVIS:
11:03:13 6 Q. Are you familiar with the Browning BOSS?
11:03:17 7 A. Slightly, sir.
11:03:18 8 Q. Slightly?
11:03:19 9 A. Yes.
11:03:20 10 Q. Do you intend to provide expert testimony
11:03:23 11 regarding the Browning BOSS?
11:03:32 12 A. Yes, sir, if called upon to do so.
11:03:35 13 Q. In your opinion is the Browning BOSS a
11:03:37 14 flash suppressor as defined by Section 5469 of Title
11:03:41 15 11 of the California Code of Regulations?
11:03:44 16 A. Not based on the intent and the way it's
11:03:47 17 marketed, sir.
11:03:54 18 Q. Have you tested or examined the Browning
11:03:56 19 BOSS to see if it functions to perceptively reduce
11:03:59 20 or redirect flash from the shooter's field of
11:04:01 21 vision?
11:04:02 22 A. No, sir, I have not.
11:04:07 23 Q. Can you state with 100 percent certainty
11:04:09 24 that the Browning BOSS does not function to
11:04:12 25 perceptively reduce or redirect flash from the

11:04:14 1 shooter's field of vision?

11:04:15 2 A. No, sir, I cannot.

11:04:18 3 Q. Do you know if any portion of the Browning

11:04:23 4 BOSS' flash is redirected away from the shooter's

11:04:25 5 field of vision?

11:04:34 6 A. Well, sir, if I recall, I believe the

11:04:39 7 device is adjustable, so at some point, depending on

11:04:43 8 how it's adjusted, it could redirect flash away from

11:04:47 9 the shooter's field of vision.

11:04:52 10 Q. Perceptively?

11:04:55 11 A. Yes, sir.

11:04:58 12 Q. Do you know if the DoJ considers that a

11:05:02 13 flash suppressor?

11:05:03 14 A. Not that I'm aware of, sir.

11:05:07 15 Q. Do you know if they do not consider it a

11:05:09 16 flash suppressor? Is it the DoJ's opinion to your

11:05:19 17 knowledge that the Browning BOSS is not a flash

11:05:22 18 suppressor?

11:05:22 19 A. Yes, sir, to my knowledge.

11:05:24 20 Q. How certain are you that the Browning BOSS

11:05:26 21 is not a flash suppressor as defined by Section 5469

11:05:29 22 of Title 11 of the California Code of Regulations?

11:05:32 23 A. I'm not any more certain than the other

11:05:34 24 devices, sir, we have discussed.

11:05:40 25 Q. Would you say that it is a flash suppressor

11:05:44 1 since you have said that it does redirect
11:05:47 2 perceptively some flash away from the shooter's
11:05:49 3 field of vision?

11:05:50 4 MR. BECKINGTON: Well, objection, misstates
11:05:52 5 the testimony.

11:05:53 6 BY MR. DAVIS:

11:05:53 7 Q. Did you state that the flash is
11:05:57 8 perceptively redirected away from the shooter's
11:05:59 9 field of vision with regard to the Browning BOSS?

11:06:01 10 A. Yes, sir, because it's an adjustable
11:06:05 11 device. Conceivably a flash could be perceptively
11:06:09 12 reduced or redirected from the shooter's field of
11:06:12 13 vision, that's a possibility, sir.

11:06:15 14 Q. It's a possibility that it's a flash
11:06:17 15 suppressor or it's a possibility that it can be
11:06:18 16 redirected away from the shooter's field of vision?

11:06:21 17 A. That it can be redirected away from the
11:06:23 18 shooter's field of vision, and not having actually
11:06:27 19 tested it, I don't know.

11:06:28 20 Q. And if that is the case, would that be a
11:06:29 21 flash suppressor at that point?

11:06:33 22 A. Yes, sir, if it does perceptively reduce or
11:06:36 23 redirect, based on statute, once again.

11:06:49 24 Q. Are you familiar with the definition of
11:06:51 25 "large-capacity magazine"?

11:06:52 1 A. Yes, sir.

11:06:53 2 Q. Do you intend to provide any expert
11:06:54 3 testimony relating to the meaning of permanently
11:06:57 4 altered or -- relating to the -- strike that.

11:07:04 5 Are you familiar with the permanently alter
11:07:07 6 exception within the definition of "large-capacity
11:07:08 7 magazine"?

11:07:17 8 A. As it pertains to detachable magazines,
11:07:20 9 sir?

11:07:21 10 Q. No. As it pertains to permanently altering
11:07:23 11 a magazine so that it no longer has the capacity to
11:07:26 12 accept more than ten rounds.

11:07:29 13 A. I believe we had covered this during my
11:07:31 14 prior deposition and I'm not sure exactly how it was
11:07:40 15 covered then.

11:07:43 16 Q. Are you familiar with the "permanently
11:07:45 17 altered" language within the statute? I can get the
11:07:48 18 statute for you if you would like to take a look at
11:07:50 19 it.

11:07:50 20 A. Yes, sir, if I may.

11:07:52 21 MR. DAVIS: Take a quick break?

11:07:53 22 MR. BECKINGTON: Sure.

23 (Whereupon, a recess was taken.)

11:09:39 24 BY MR. DAVIS:

11:09:39 25 Q. Do you have the statute in front of you?

11:09:40 1 A. Yes, sir, I do.

11:09:42 2 MR. BECKINGTON: For the record you're
11:09:43 3 showing him Penal Code Section 12020, (C) (25), and
11:09:48 4 it's subsection?

11:09:49 5 MR. DAVIS: (A).

11:09:50 6 MR. BECKINGTON: All right.

11:09:55 7 BY MR. DAVIS:

11:09:55 8 Q. Right before we went on the record, you
11:09:56 9 stated that it doesn't cover the meaning of
11:09:58 10 "permanently altered"? Is that what you just
11:10:01 11 stated?

11:10:01 12 A. Yes, sir.

11:10:06 13 Q. In your opinion what does "permanently
11:10:08 14 altered" mean as it's used in that section?

11:10:13 15 MR. BECKINGTON: I'll object to the extent
11:10:13 16 that it calls for a legal conclusion.

11:10:29 17 THE DEPONENT: I don't know, sir.

11:10:34 18 BY MR. DAVIS:

11:10:34 19 Q. In your opinion would it mean
11:10:35 20 "irreversible"?

11:10:38 21 MR. BECKINGTON: Objection; vague and
11:10:38 22 ambiguous to the term "irreversible." You're asking
11:10:58 23 whether "permanently altered" means irreversible?

11:11:02 24 MR. DAVIS: Correct. As it's used in that
11:11:03 25 section.

11:11:03 1 MR. BECKINGTON: Okay. I'll object again
11:11:08 2 as calling for a legal conclusion and vague and
11:11:10 3 ambiguous.
11:11:11 4 BY MR. DAVIS:
11:11:11 5 Q. Do you understand the question?
11:11:12 6 A. Yes, sir, I do.
11:11:12 7 Q. Can you answer it?
11:11:15 8 A. I don't know.
11:11:23 9 Q. Can you give me an example of what you
11:11:24 10 would consider "permanent" in that context, a
11:11:30 11 permanent alteration?
11:11:31 12 MR. BECKINGTON: I'll just object to the
11:11:32 13 question to the extent that it was asked and
11:11:34 14 answered rather extensively in his last deposition,
11:11:39 15 but the witness can respond further.
11:11:46 16 THE DEPONENT: Yes, sir. If a plug is
11:11:51 17 inserted to reduce the capacity to ten rounds or
11:11:56 18 less and the magazine is welded, that would be, in
11:12:09 19 my opinion, permanent.
11:12:11 20 BY MR. DAVIS:
11:12:11 21 Q. Just to clarify, correct me if I'm
11:12:14 22 misinterpreting this, taking off the base of the
11:12:16 23 magazine --
11:12:16 24 A. Yes, sir.
11:12:17 25 Q. -- sticking in a plug somehow that would

11:12:20 1 stop the follower from going down far enough so that
11:12:23 2 it can accept more than ten rounds, putting the base
11:12:26 3 back on and welding the base back on?

11:12:28 4 A. Yes, sir.

11:12:29 5 Q. Is that what you're referring to?

11:12:34 6 A. Yes, sir.

11:12:34 7 Q. Is that reversible?

11:12:37 8 MR. BECKINGTON: Objection; vague and
11:12:37 9 ambiguous as to the term "reversible."

11:12:43 10 BY MR. DAVIS:

11:12:43 11 Q. Can you restore the magazine so that it can
11:12:46 12 accept more than ten rounds?

11:12:48 13 A. It would take a lot of work and expertise
11:12:52 14 with regard to removing the weld, but I suppose
11:12:57 15 anything can be reversed.

11:12:58 16 Q. Couldn't I just take the magazine to a
11:13:01 17 grinder, grind off the weld, take the follow-out
11:13:07 18 magazine base off, pull the plug out, put the base
11:13:11 19 back on and then affix it somehow?

11:13:15 20 A. It would depend on the manner in which it's
11:13:17 21 welded. If it's tack-welded on, yes, sir, they can
11:13:24 22 do that. If the manner in which it's welded, and
11:13:26 23 I'm not a welder, so I don't know the actual
11:13:30 24 terminology with regards to welding itself, but if
11:13:34 25 it's welded all the way around, it would be pretty

11:13:40 1 difficult to do.

11:13:43 2 Q. Could you explain to me why this is
11:13:45 3 considered a permanent alteration in your opinion?

11:13:48 4 MR. BECKINGTON: Objection; vague and
11:13:49 5 ambiguous as to the word "this."

11:13:52 6 BY MR. DAVIS:

11:13:52 7 Q. "This" being the modification he's been
11:13:54 8 discussing, putting a plug in it and welding the
11:13:57 9 base.

11:14:05 10 A. Because it's intended to last.

11:14:14 11 Q. So in your opinion any alteration that
11:14:20 12 would be intended to last would be a permanent
11:14:24 13 alteration in your opinion?

11:14:27 14 A. Yes, sir.

11:14:36 15 Q. So if the base was held together with a
11:14:39 16 screw but locked tight was used on the screw, would
11:14:43 17 that be a permanent alteration if you removed the
11:14:45 18 base, put a plug in it and put the base back on and
11:14:49 19 used Loctite?

11:14:52 20 A. There's different grades of Loctite. Red
11:14:57 21 Loctite is the one that I recall that's permanent in
11:15:07 22 nature, if you can call it that, so that it would
11:15:11 23 depend upon the type of Loctite that was utilized.

11:15:13 24 Q. What other kinds of Loctite are there?

11:15:16 25 A. I believe there's a Green and Blue Loctite

11:15:19 1 and I'm not sure what other types have come out.

11:15:24 2 Q. What if I did that same modification with
11:15:27 3 the magazine that I had that was a 20-round
11:15:30 4 magazine, took the base off, put a plug in there so
11:15:34 5 that it prevented the follower from going more than
11:15:38 6 ten rounds, put the base back on, used Blue Loctite,
11:15:43 7 but I never intended to reverse it, I intended it to
11:15:48 8 last when I put it together, is that a permanent
11:15:50 9 alteration?

11:15:55 10 MR. BECKINGTON: Can I have that read back,
11:15:56 11 please?

12 (Whereupon, the pending question was read.)

11:16:33 13 THE DEPONENT: Subjectively I guess in your
11:16:35 14 opinion it would be permanent, but to somebody else,
11:16:38 15 it may not.

11:16:40 16 BY MR. DAVIS:

11:16:40 17 Q. And your opinion?

11:16:43 18 A. Due to the fact that you can still remove
11:16:50 19 the baseplate, there's a possibility of doing so, it
11:17:06 20 could be reversible.

11:17:08 21 Q. In your opinion would that be a permanent
11:17:10 22 alteration?

11:17:24 23 A. Yes, sir.

11:17:26 24 Q. That would be a permanent, with the Blue
11:17:27 25 Loctite?

11:17:28 1 A. Yes, sir, with your intent, it would be a
11:17:35 2 permanent alteration.

11:17:40 3 Q. Now, hypothetically, if I just took the
11:17:43 4 base off of a magazine, put the plug in there, and
11:17:46 5 put the base back on, didn't use any welding, didn't
11:17:50 6 use any Blue or Green Loctite or Red Loctite, I just
11:17:55 7 put the base back on, but I intended to never remove
11:17:57 8 it again, would that be a permanent alteration,
11:18:03 9 having intended that modification to last?

11:18:05 10 A. No, sir.

11:18:06 11 Q. Why not?

11:18:07 12 A. Because it's readily restorable.

11:18:09 13 Q. Was the other one restorable, the
11:18:14 14 hypothetical with the blue Loctite?

11:18:15 15 A. Yes, sir, but it would take time and effort
11:18:24 16 to put it back to where you were able to remove the
11:18:28 17 plug and configure it to be a high-capacity
11:18:31 18 magazine.

11:18:31 19 Q. How much time would you deem to be
11:18:34 20 sufficient for it to be a permanent alteration? How
11:18:38 21 much time to reverse the modification is necessary
11:18:44 22 for you to deem that a permanent alteration?

11:18:56 23 A. I don't know, sir. I don't think I can
11:18:58 24 answer that question. I can't gauge it by time.

11:19:07 25 Q. How much effort is necessary in order for

11:19:09 1 it to be considered a permanent alteration?

11:19:14 2 MR. BECKINGTON: Objection; vague and
11:19:14 3 ambiguous as to the term "effort."

11:19:18 4 BY MR. DAVIS:

11:19:18 5 Q. That was your term; correct? "Time and
11:19:20 6 effort"?

11:19:21 7 A. Yes, and I can't answer that, either.

11:19:23 8 Q. What do you mean by "effort"?

11:19:28 9 A. Effort, meaning using tools and manpower to
11:19:43 10 remove that baseplate.

11:19:52 11 Q. So there's a certain amount of time, using
11:19:56 12 a certain amount of tools and manpower, that's
11:20:00 13 necessary in order for an alteration to be
11:20:02 14 considered permanent in your view?

11:20:08 15 A. Yes, sir.

11:20:09 16 Q. And the time would vary depending upon the
11:20:11 17 tools that you have; correct?

11:20:14 18 A. Yes, sir.

11:20:14 19 Q. And in your view are these any tools or
11:20:18 20 household tools?

11:20:21 21 A. Any tools that would facilitate the removal
11:20:25 22 of the Loctite and allow you to remove the baseplate
11:20:33 23 and take the plug out and reassemble the magazine.

11:20:37 24 Q. Would you say a machine shop could quickly
11:20:45 25 reverse the alteration regarding the Blue Loctite?

11:20:50 1 A. Yes, sir.

11:20:52 2 Q. So that wouldn't take much time or effort

11:20:53 3 for a machine shop to reverse that alteration;

11:20:57 4 correct?

11:20:57 5 A. Yes, sir. Correct.

11:20:59 6 Q. But you would still consider that a

11:21:04 7 permanent alteration?

11:21:07 8 A. From an individual perspective, yes, sir.

11:21:09 9 Q. What do you mean, "from an individual

11:21:11 10 perspective"?

11:21:12 11 A. From you, as the user, the individual who

11:21:18 12 is in possession of that device.

11:21:20 13 Q. So an individual in possession of the

11:21:24 14 device, who's an attorney like me, that would be

11:21:26 15 fine; correct? That would be a permanent

11:21:28 16 alteration?

11:21:29 17 MR. BECKINGTON: Objection; vague and

11:21:30 18 ambiguous; incomplete hypothetical.

11:21:32 19 BY MR. DAVIS:

11:21:32 20 Q. Do you understand?

11:21:33 21 A. Yes, sir, I understand, but I don't know

11:21:35 22 that I can actually answer that.

11:21:38 23 Q. Well, the original hypothetical was if I

11:21:43 24 have the magazine and I modify it with a plug, and

11:21:47 25 the way I affix the magazine is with Blue Loctite,

11:21:50 1 you stated earlier that that was a permanent
11:21:52 2 alteration because of my intent; correct?
11:21:56 3 A. Correct.
11:21:57 4 Q. Now, what if I told you I owned the machine
11:22:00 5 shop as well, does that change your opinion?
11:22:05 6 A. No, sir, because unless if you had the
11:22:10 7 machine shop with you, you would have to go to the
11:22:12 8 machine shop and perform the work to be able to
11:22:16 9 restore it back to greater than ten rounds in a
11:22:22 10 high-capacity magazine.
11:22:24 11 Q. So whether or not a device is permanently
11:22:27 12 altered depends on the location of where the device
11:22:32 13 is at?
11:22:33 14 MR. BECKINGTON: Objection; calls for a
11:22:34 15 legal conclusion.
11:22:36 16 THE DEPONENT: I can't answer that.
11:22:38 17 MR. BECKINGTON: Also misstates prior
11:22:41 18 testimony.
11:22:41 19 THE DEPONENT: I can't answer that. I
11:22:42 20 don't know.
11:22:48 21 BY MR. DAVIS:
11:22:48 22 Q. But whether or not that Blue Loctite
11:22:50 23 modification is permanent, as used in the phrase
11:22:57 24 "permanently altered," depends on how it's
11:23:02 25 possessed, or where it's possessed, I should say?

11:23:06 1 MR. BECKINGTON: Well, objection; vague and
11:23:08 2 ambiguous; also calls for a legal conclusion.
11:23:11 3 THE DEPONENT: I don't know, sir. I can't
11:23:13 4 answer that, either.
11:23:20 5 BY MR. DAVIS:
11:23:20 6 Q. Would the alteration involving the Blue
11:23:22 7 Loctite that we've been discussing in your view
11:23:26 8 always be considered a permanent alteration
11:23:30 9 regardless of who owns it and where it's located?
11:23:40 10 A. Possibly, sir.
11:23:41 11 Q. Possibly?
11:23:42 12 A. Yes, sir.
11:23:49 13 Q. So our discussion about the time and tools
11:23:54 14 and manpower necessary, those factors really don't
11:23:58 15 go into whether or not the device is permanently
11:24:00 16 altered?
11:24:01 17 A. Well, it does, sir.
11:24:02 18 Q. But you stated earlier that if I had a
11:24:04 19 machine shop, that I could readily restore that
11:24:10 20 device or that alteration; correct?
11:24:14 21 A. Yes, sir.
11:24:14 22 MR. BECKINGTON: You're limiting your
11:24:15 23 question to the Blue Loctite?
11:24:17 24 MR. DAVIS: Yes.
11:24:19 25 MR. BECKINGTON: Okay.

11:24:19 1 THE DEPONENT: Yes, sir.

11:24:20 2 BY MR. DAVIS:

11:24:20 3 Q. And at that point, if I remember correctly,
11:24:23 4 you stated that that would not be a permanent
11:24:24 5 alteration because of the tools at the time and the
11:24:31 6 time, is that correct, necessary to reverse the
11:24:35 7 alteration?

11:24:35 8 A. If you had it at a machine shop, sir?

11:24:37 9 Q. If you had it at the machine shop.

11:24:41 10 MR. BECKINGTON: I guess I'm losing track
11:24:42 11 of your question. What is your question now?

11:24:45 12 BY MR. DAVIS:

11:24:45 13 Q. The whole permanent alteration revolves
11:24:49 14 around whether or not the device is permanently
11:24:51 15 altered. Whether or not it's in a machine shop or
11:24:53 16 not is irrelevant as far as -- I mean, I'm going off
11:24:58 17 on a legal argument.

11:24:59 18 MR. BECKINGTON: Mm-hmm.

11:25:06 19 MR. DAVIS: I'm trying to figure out what
11:25:07 20 factors are necessary to consider when permanently
11:25:10 21 altering a magazine, and the factors, it sounds
11:25:14 22 like, correct me if I'm wrong, are changing. That
23 was the question.

11:25:18 24 MR. BECKINGTON: Well, Jason, I'll object
11:25:20 25 that that misstates his testimony. I'm also

11:25:26 1 objecting that your question, and a lot of your
11:25:27 2 questions, are really asking him to give you legal
11:25:31 3 opinions as to whether you use it as an objective or
11:25:35 4 a subjective task in determining whether it's
11:25:39 5 permanently altered.

11:25:40 6 MR. DAVIS: I'm asking his opinions as to
11:25:42 7 whether or not the device had been permanently --

11:25:43 8 MR. BECKINGTON: I appreciate that, but the
11:25:44 9 witness has not been designated as a legal expert --

11:25:46 10 MR. DAVIS: I understand.

11:25:47 11 MR. BECKINGTON: -- and he's not a lawyer,
11:25:48 12 and again, I'm not instructing him not to answer
11:25:50 13 your question, but I'm objecting to your question to
11:25:52 14 the extent that what you're really doing is asking
11:25:57 15 him to express legal opinions on how a court might
11:26:00 16 apply things in different scenarios, as you said,
11:26:04 17 the difference between relevance versus legal
11:26:05 18 conclusion.

11:26:06 19 MR. DAVIS: Actually, I had been asking him
11:26:08 20 his opinion as to whether or not the device is
11:26:11 21 permanently altered, and we can look in the record
11:26:14 22 for that.

11:26:14 23 MR. BECKINGTON: Fair enough. But my
11:26:15 24 objection stands. So we have a clear record, maybe
11:26:18 25 you can restate whatever question it is that you

11:26:20 1 think you have pending.

11:26:32 2 BY MR. DAVIS:

11:26:32 3 Q. What factors do you consider in determining
11:26:35 4 whether or not a magazine is permanently altered so
11:26:40 5 that it no longer has the capacity to accept more
11:26:43 6 than ten rounds?

11:26:51 7 A. Once again, going back to the permanent
11:26:55 8 feature, it is intended to last, and a magazine that
11:27:00 9 you're able to disassemble out in the field and
11:27:04 10 restore back to its high-capacity feature is not, in
11:27:11 11 my opinion, intended to last, and utilizing tools in
11:27:16 12 a machine shop is markedly different from being out
11:27:19 13 in the field and being able to put it back together
11:27:24 14 into a high-capacity magazine.

11:27:27 15 Q. When you say "in the field," what do you
11:27:29 16 mean?

11:27:32 17 A. Out in the shooting range or wherever,
11:27:36 18 hunting, if it's being utilized for hunting
11:27:38 19 purposes; I do not know; a shooting event.

11:27:44 20 Q. Why do you make the differentiation between
11:27:47 21 being in the field and the machine shop?

11:27:54 22 A. With accessibility to tools in a machine
11:27:57 23 shop, it's a lot easier to restore the magazine back
11:28:01 24 to high-capacity function.

11:28:59 25 Q. So would you say that "permanently altered"

11:29:02 1 means an alteration that cannot be restored readily
11:29:05 2 without the use of tools being required?

11:29:15 3 A. Yes, sir, a portion of that would.

11:29:18 4 Q. When you say "a portion," what do you mean
11:29:20 5 by that?

11:29:22 6 A. Well, what I mean by that is if you have
11:29:26 7 screws to affix to the baseplate that you can
11:29:31 8 remove, then in my opinion that's not permanently
11:29:34 9 altered.

11:29:37 10 Q. So an alteration that requires the use of
11:29:47 11 certain kinds of tools to restore.

11:29:55 12 A. Well, I can't really answer that, sir,
11:29:58 13 because I'm going back into the -- now we're getting
11:30:00 14 into the detachable magazine feature with the use of
11:30:03 15 a tool.

11:30:05 16 Q. Actually, we're still talking about the
11:30:07 17 permanent alteration. I'm just giving you a
11:30:09 18 hypothetical as to whether or not that's what you're
11:30:12 19 getting at as far as your interpretation of the term
11:30:16 20 "permanently altered."

11:30:18 21 A. I don't know, sir.

11:30:24 22 Q. But if you can't restore it in the field,
11:30:27 23 you would consider that alteration permanent?

11:30:31 24 MR. BECKINGTON: Objection; incomplete
11:30:33 25 hypothetical.

11:30:34 1 BY MR. DAVIS:

11:30:34 2 Q. If there was an alteration to a magazine so
11:30:35 3 that it can no longer accept more than ten rounds,
11:30:41 4 but can only be restored in a machine shop and
11:30:43 5 cannot be restored in the field, you would consider
11:30:48 6 that a permanent alteration; correct?

11:30:50 7 A. Yes, sir.

11:31:08 8 Q. Is the phrase "permanently altered" in your
11:31:09 9 opinion subject to multiple interpretations?

11:31:14 10 A. Yes, sir. I do want to add that obviously
11:31:18 11 the legislature had a specific intent because they
11:31:26 12 had included that verbiage in the regulations and
11:31:31 13 the statutes to where it states "permanently
11:31:34 14 altered." They could have just left it minus that
11:31:37 15 verbiage and it would have been completely
11:31:39 16 different, but they had an intent. I don't know
11:31:42 17 what that intent was. I wasn't present at the time
11:31:45 18 the regulations were formulated, but there was an
11:31:48 19 intent by the legislature to include those two words
11:31:53 20 to mean something.

11:32:01 21 Q. And what do you think it means?

11:32:02 22 MR. BECKINGTON: Objection; asked and
11:32:03 23 answered.

11:32:05 24 THE DEPONENT: Once again, I go back to my
11:32:08 25 previous response, "intended to last."

11:32:19 1 BY MR. DAVIS:

11:32:19 2 Q. Do you know what the word "irreversible"

11:32:23 3 means?

11:32:26 4 A. Yes, sir. It cannot be reversed.

11:32:29 5 Q. In your opinion is that what that meant?

11:32:33 6 MR. BECKINGTON: Objection; vague and

11:32:34 7 ambiguous. Are you asking him to express an opinion

11:32:37 8 as to what the legislature meant?

11:32:39 9 MR. DAVIS: I'm asking him in his opinion

11:32:41 10 is that what "permanently altered" means.

11:32:47 11 MR. BECKINGTON: Objection. The question

11:32:48 12 is vague and ambiguous.

11:32:48 13 THE DEPONENT: I don't think they have the

11:32:50 14 same meaning, sir. Different words. I don't

11:32:54 15 believe they're synonymous.

11:33:06 16 BY MR. DAVIS:

11:33:06 17 Q. Do you think "intended to last" provides

11:33:10 18 more clarity than "permanently altered"?

11:33:15 19 A. No, sir. That's just my interpretation of

11:33:18 20 what "permanent" means.

11:33:43 21 Q. Intended by who?

11:33:47 22 MR. BECKINGTON: Objection; vague and

11:33:48 23 ambiguous.

11:33:49 24 BY MR. DAVIS:

11:33:49 25 Q. You said "intended to last"?

11:33:51 1 A. Yes.

11:33:51 2 Q. Intended by whom to last?

11:33:55 3 A. I would go back to the legislature, because

11:33:57 4 they had included those two words in the statute. I

11:34:01 5 would suppose that that was their intent but I do

11:34:04 6 not know that for a fact.

11:34:06 7 Q. In your opinion, intended by whom?

11:34:08 8 A. Intended by the legislature, sir.

11:34:10 9 Q. So a device that's intended by the

11:34:13 10 legislature to last or an alteration that's intended

11:34:15 11 by the legislature to last is how you interpret

11:34:17 12 that?

11:34:18 13 MR. BECKINGTON: Object. The question is

11:34:19 14 vague and ambiguous and I believe you're misstating

11:34:24 15 or misunderstanding the testimony.

11:34:26 16 BY MR. DAVIS:

11:34:26 17 Q. "Permanent" means "intended to last" in

11:34:29 18 your opinion; correct?

11:34:30 19 A. Yes, sir.

11:34:31 20 Q. Intended to last by who? Who has the

11:34:32 21 intent, according to your opinion? For the

11:34:34 22 alteration to last, who has to have the intent?

11:34:39 23 A. I don't think it's subjective. I think

11:34:41 24 it's objective. "Intended to last," that would be

11:34:47 25 as far as everybody is concerned. That's my

11:34:51 1 personal opinion with regards to that.

11:34:56 2 Q. How long?

11:34:58 3 A. I don't know, sir.

11:35:00 4 Q. So intended to last but for some vague

11:35:03 5 amount of time?

11:35:05 6 A. Yes, sir.

11:35:22 7 MR. DAVIS: Do you want to take a quick

11:35:23 8 break?

11:35:23 9 MR. BECKINGTON: Sure.

10 (Whereupon, a recess was taken.)

11:38:08 11 BY MR. DAVIS:

11:38:08 12 Q. Did you review any documents before coming

11:38:10 13 to this deposition?

11:38:11 14 A. Just my prior deposition testimony, sir,

11:38:15 15 and the Penal Code, just because we've got cases

11:38:19 16 ongoing that I've had need to review it on a regular

11:38:25 17 basis.

11:38:26 18 Q. You have cases ongoing?

11:38:27 19 A. Yes, sir.

11:38:28 20 Q. Criminal cases?

11:38:30 21 A. Investigations, sir.

11:38:31 22 Q. Investigations?

11:38:32 23 A. Yes, sir.

11:38:33 24 Q. Any of them involving this office, since

11:38:38 25 our last deposition, I'll limit it to, since we

11:38:40 1 already asked that in the previous deposition?

11:38:43 2 MR. BECKINGTON: The last deposition was
11:38:49 3 January 22nd.

11:38:50 4 THE DEPONENT: Yes.

11:38:53 5 BY MR. DAVIS:

11:38:53 6 Q. Any of them involving this office based on
11:38:56 7 features, category 3?

11:39:00 8 A. I'm trying to remember, sir. They're not
11:39:02 9 my cases. I supervise the team, and I believe there
11:39:11 10 is a case that involves features. I don't recall
11:39:17 11 the specifics but I can state that it does not deal
11:39:27 12 with the flash suppressor.

11:39:30 13 Q. You mean involving the sale of high-cap
11:39:35 14 mags?

11:39:36 15 MR. BECKINGTON: I'm going to object. I
11:39:37 16 think at this point we're getting into confidential
11:39:40 17 matters that are not relevant to the case, the
11:39:45 18 current cases he's working on, so I'm going to
11:39:52 19 instruct the witness not to answer that question.

11:39:54 20 BY MR. DAVIS:

11:39:54 21 Q. For the purpose of your testimony did you
11:39:55 22 review any of your prior cases and materials
11:39:59 23 involved in those prior cases?

11:40:04 24 A. No, sir.

11:40:07 25 Q. Are you relying upon any of your prior

11:40:11 1 criminal cases or any information gained from them?

11:40:17 2 A. No, sir.

11:40:23 3 Q. Whom have you talked about this case with?

11:40:26 4 A. Mr. Beckington, and to the extent that I

11:40:35 5 prepared an itinerary, to my Special Agent In

11:40:41 6 Charge, so that he's aware that I'm here, and my

11:40:50 7 Team members are aware that I'm here as well.

11:40:52 8 Q. Did you talk with them about issues related

11:40:54 9 in this case?

11:40:55 10 A. No, sir.

11:40:56 11 Q. Did you talk with Mr. Beckington about

11:40:58 12 issues related in this case?

11:41:00 13 A. Yes, sir.

11:41:04 14 Q. Did you talk with Doug Woods about the

11:41:07 15 issues relating to this case?

11:41:09 16 A. No, sir.

11:41:09 17 Q. So the only person you've talked to about

11:41:12 18 the issues in this case are Mr. Beckington and the

11:41:16 19 Special Agent?

11:41:17 20 A. Yes, sir, Mr. Beckington.

11:41:22 21 Q. How about Alison Merrilees?

11:41:24 22 A. No, sir, I have not spoken with

11:41:28 23 Ms. Merrilees. Since the first deposition I believe

11:41:32 24 was the last time.

11:41:33 25 Q. But you did speak with her about the issues

11:41:35 1 in this case?

11:41:36 2 A. No, sir.

11:41:37 3 Q. Never?

11:41:38 4 A. Not that I recall.

11:41:39 5 Q. Only Mr. Beckington?

11:41:41 6 A. Yes, sir.

11:41:42 7 Q. When was the first time you talked with

11:41:45 8 Mr. Beckington about the issues in this case?

11:41:50 9 A. I'm going to say possibly in September of

11:41:53 10 last year when I first got the notice. I believe it

11:41:59 11 was September. I could be wrong.

11:42:01 12 Q. Prior to that were you aware of this case?

11:42:03 13 A. Yes, sir.

11:42:05 14 Q. When did you become aware of this case?

11:42:08 15 A. It's been ongoing for years and I've just

11:42:11 16 heard through Special Agent Supervisor Ignatius

11:42:16 17 Chinn that it's ongoing and that's about the extent

11:42:18 18 of it.

11:42:19 19 Q. Did you ever talk to Mr. Chinn about the

11:42:21 20 issues in this case?

11:42:23 21 A. Back then?

11:42:26 22 Q. Yeah. Yes.

11:42:28 23 A. We had discussed it briefly as far as flash

11:42:38 24 suppressors.

11:42:40 25 Q. Did you discuss the case with anybody else

11:42:41 1 other than Mr. Beckington, Mr. Chinn, the Special
11:42:47 2 Agent that you just mentioned earlier about the
11:42:51 3 itinerary, and Ms. Merrilees at the deposition? Is
4 there anybody else at all that you've spoken or
11:42:56 5 talked to about what the case is about?

11:42:59 6 A. No, sir.

11:42:59 7 Q. You said the first time you talked with
11:43:01 8 Mr. Beckington was in September?

11:43:03 9 A. Yes, sir.

11:43:03 10 Q. What was that conversation about?

11:43:05 11 MR. BECKINGTON: Objection. It would
11:43:07 12 invade the attorney-client privilege and I'll
11:43:08 13 instruct him not to answer. He's not a retained
11:43:12 14 expert so he's not been asked to give specific
11:43:18 15 opinions which we would be supplying him information
11:43:21 16 to give, so this would not be an expert situation
11:43:26 17 where you're entitled to find out every
11:43:29 18 communication I've had with him, so I'm going to
11:43:30 19 instruct him not to answer the question.

11:43:31 20 BY MR. DAVIS:

11:43:31 21 Q. Has Mr. Beckington provided you with any
11:43:33 22 information that you're going to testify about or
11:43:35 23 intend to testify about?

11:43:46 24 A. Other than the original Notice of
11:43:54 25 Deposition that I recall, along with -- I don't know

11:44:04 1 what was all included in -- it was all-inclusive.
11:44:07 2 It was a lengthy document. I believe it was with a
11:44:10 3 Production of Documents or something to that effect.
11:44:16 4 Q. Did Mr. Beckington instruct you as to what
11:44:22 5 position he wanted you to testify to, positions
11:44:24 6 relating to the flash suppressors?
11:44:30 7 A. Yes, sir.
11:44:31 8 Q. What did he instruct you?
11:44:32 9 MR. BECKINGTON: Well, I'm going to object.
11:44:33 10 It calls for attorney-client privilege and I'm going
11:44:44 11 to have to take a break and ask him about it.
12 (Whereupon, a recess was taken.)
11:45:35 13 MR. BECKINGTON: I'll allow him to answer
11:45:37 14 your question, but I'll do so with the understanding
11:45:39 15 that I'm not waiving the attorney-client privilege
11:45:41 16 that's in your question.
11:45:43 17 MR. DAVIS: All right.
11:45:43 18 THE DEPONENT: It was regarding the flash
11:45:46 19 suppressor issues in this case, sir.
11:45:49 20 BY MR. DAVIS:
11:45:49 21 Q. What did he say?
11:45:50 22 MR. BECKINGTON: Well, I'm going to object
11:45:51 23 to the question the way you phrased it. I'm going
11:45:56 24 to instruct him not to answer the question because
11:45:58 25 that would be attorney-client. Why don't you ask

11:46:00 1 him what his understanding is as to what he was
11:46:01 2 asked to do.

11:46:03 3 BY MR. DAVIS:

11:46:03 4 Q. What's your understanding of what you were
11:46:04 5 asked to do?

11:46:07 6 A. That I was going to be deposed with regards
11:46:10 7 to this case involving Mr. Hunt, and primarily it
11:46:17 8 dealt with flash suppressors.

11:46:23 9 Q. Did he instruct you that you were going to
11:46:24 10 be testifying on the issue as an expert with regard
11:46:27 11 to flash suppressors?

11:46:30 12 A. At that time, sir, no.

11:46:32 13 Q. Subsequently?

11:46:34 14 A. Yes.

11:46:35 15 Q. When was that?

11:46:39 16 A. With the production of, and that's the
11:46:44 17 reason I'm here today, to be deposed, is my
11:46:47 18 understanding.

11:46:47 19 Q. So with the Notice?

11:46:49 20 A. Yes, sir, with the Notice.

11:46:52 21 Q. Did you discuss any of the weaknesses of
11:46:54 22 the case with your lawyer or, excuse me,
11:46:56 23 Mr. Beckington?

11:46:57 24 MR. BECKINGTON: Objection. I'm going to
11:46:58 25 instruct him not to answer. Again, that's

11:47:00 1 attorney-client communication and, again, I'll state
11:47:05 2 for the record, the witness is not a retained
11:47:07 3 expert, and the fact that we've designated him as
11:47:10 4 someone who can be present in court to offer an
11:47:18 5 opinion in the form of expert testimony doesn't mean
11:47:23 6 we waive the attorney-client privilege.

11:47:38 7 BY MR. DAVIS:

11:47:38 8 Q. Did you provide Mr. Beckington with any
11:47:40 9 analysis --

11:47:43 10 A. No.

11:47:43 11 Q. -- or your opinion of the definition of
11:47:45 12 flash suppressor?

11:47:46 13 MR. BECKINGTON: Again, I'm going to
11:47:47 14 object. You're speculating. To answer that
11:47:51 15 question would be attorney-client privilege
11:47:53 16 communication and I'm going to instruct the witness
11:47:55 17 not to answer.

11:47:57 18 BY MR. DAVIS:

11:47:57 19 Q. Did you provide Mr. Beckington with any
11:47:59 20 analysis of your interpretation of the words
11:48:01 21 "permanently altered" as it's used with regard to
11:48:05 22 large-capacity magazines?

11:48:08 23 MR. BECKINGTON: Objection; attorney-client
11:48:09 24 privilege, attorney work product privilege, and I'll
11:48:13 25 instruct the witness not to answer.

11:48:18 1 BY MR. DAVIS:

11:48:18 2 Q. Did you provide Mr. Beckington with any
11:48:21 3 analysis relating to whether or not the Browning
11:48:26 4 BOSS is a flash suppressor?

11:48:28 5 MR. BECKINGTON: Objection; attorney-client
11:48:29 6 privilege and attorney work product privilege, and
11:48:32 7 I'll instruct the witness not to answer.

11:48:36 8 BY MR. DAVIS:

11:48:36 9 Q. Did you provide Mr. Beckington any analysis
11:48:40 10 with regard to whether or not the Springfield M1A is
11:48:43 11 a flash suppressor?

11:48:45 12 MR. BECKINGTON: Same objections,
11:48:48 13 attorney-client and work product privilege.

11:49:11 14 BY MR. DAVIS:

11:49:11 15 Q. Other than your attorney, have you
11:49:12 16 discussed this case with anybody else, and other
11:49:17 17 than with Mr. Chinn as well?

11:49:19 18 A. No.

11:49:32 19 Q. Have any written materials relating to your
11:49:36 20 expert opinion been destroyed or discarded?

11:49:44 21 A. Regarding this case, sir?

11:49:46 22 Q. Yes.

11:49:46 23 A. None.

11:49:50 24 Q. Do you have any written materials regarding
11:49:51 25 this case relating to your expert opinion other than

11:49:58 1 what we've provided you?

11:50:01 2 A. Well, other than the Penal Code book, sir,
11:50:04 3 and the California Code of Regulations, sir, to a
11:50:09 4 certain degree.

11:50:13 5 MR. DAVIS: Have you made a determination
11:50:14 6 on your resume yet?

11:50:16 7 MR. BECKINGTON: Well, let me talk about
11:50:17 8 that, but actually I just wanted to -- are you
11:50:20 9 through?

11:50:20 10 MR. DAVIS: For right now I am.

11:50:21 11 MR. BECKINGTON: Okay. Let me talk to the
11:50:23 12 witness for a second.

13 (Whereupon, a recess was taken.)

12:19:51 14 MR. BECKINGTON: Very well. We've taken a
12:19:52 15 break off the record. I have reviewed the CV of
12:19:57 16 Mr. Abad and I have redacted it to remove
12:20:03 17 descriptive information relating to his duties prior
12:20:06 18 to being a Special Agent Supervisor for the purpose
12:20:12 19 of protecting any confidential information therein,
12:20:15 20 and let the record reflect I'm handing a copy of the
12:20:17 21 redacted resume to counsel.

12:21:28 22 BY MR. DAVIS:

12:21:28 23 Q. If you turn to Page 3 under "Relevant
12:21:31 24 Training," --

12:21:35 25 A. Yes, sir.

12:21:36 1 Q. -- can you identify which of those training
12:21:39 2 courses, seminars, classes that involved training on
12:21:47 3 flash suppressors or related to flash suppressors?

12:21:59 4 A. The M-16/AR-15 Armorer's School covered
12:22:06 5 flash suppressors. The Armalite Armorer's Training
12:22:23 6 also covered flash suppressors. And it was also
12:22:50 7 covered in the Bureau of Alcohol, Tobacco & Firearms
12:22:53 8 on Illegal Weapons and Gun Investigations to a
12:22:57 9 certain extent.

12:22:59 10 Q. The Colt M-16, AR-15 training --

12:23:03 11 A. Yes, sir.

12:23:04 12 Q. -- the extent of that -- was that the same
12:23:07 13 course that we discussed at the last deposition?

12:23:09 14 A. Yes, sir.

12:23:13 15 Q. And the extent of the flash suppressor
12:23:17 16 discussion was identifying it on a diagram?

12:23:20 17 A. Correct. Nomenclature and disassembly.

12:23:27 18 Q. And the Armalite, same thing?

12:23:29 19 A. Yes, sir.

12:23:31 20 Q. Just identifying it on a diagram was the
12:23:33 21 extent of the training?

12:23:34 22 A. Yes, sir.

12:23:35 23 Q. And what about BATF, what was the extent of
12:23:39 24 the training?

12:23:40 25 A. Same.

12:23:41 1 Q. Same?

12:23:41 2 A. Yes, sir.

12:23:43 3 Q. Did any of those three courses discuss

12:23:48 4 testing a device to determine whether or not it

12:23:50 5 functions to reduce or redirect flash?

12:23:52 6 A. Not at all, sir.

12:23:58 7 Q. Did any of these courses discuss

12:24:04 8 permanently altering magazines so they don't have

12:24:07 9 the capacity to accept more than ten rounds?

12:24:10 10 A. No, sir.

12:24:20 11 Q. Are any of these courses you've taken since

12:24:25 12 January 22nd?

12:24:28 13 A. No, sir. Oh. Let me go back. I don't

12:24:35 14 believe so, but if there was, it would be the sexual

12:24:38 15 harassment discrimination. It's an annual training.

12:24:43 16 Q. Is that it?

12:24:44 17 A. Yes, sir, that I can think of, yes, sir.

12:24:52 18 MR. DAVIS: Did you have some questions?

12:24:52 19 MR. BECKINGTON: Are you through?

12:24:53 20 MR. DAVIS: Yes.

12:24:54 21 MR. BECKINGTON: Okay. I just have a few

12:24:56 22 questions.

23 ///

24 ///

25 ///

EXAMINATION

BY MR. BECKINGTON:

Q. Mr. Abad, do you recall the question that counsel asked you about identifying flash suppressors?

A. Yes, sir.

Q. And I believe, as you had testified in your earlier deposition, flash suppressors can be identified by determining whether a manufacturer has designated the device as a flash suppressor? That is one method for determining; is that correct?

A. Yes, sir.

Q. And then a visual inspection of the device could be made to determine whether it appears to have the same characteristics of a flash suppressor; is that correct?

A. Yes, sir.

Q. And then if those stages do not make a determination of whether something is a flash suppressor, then you can go to the testing stage; is that correct?

A. Yes, sir.

Q. Were you personally involved in any determinations by the Department of Justice to determine whether the Springfield M1A was a muzzle

12:26:15 1 brake or a flash suppressor?

12:26:17 2 A. No, sir.

12:26:17 3 Q. Were you personally involved in any
12:26:19 4 decisions by the Department of Justice to determine
12:26:21 5 whether the Browning BOSS was a muzzle brake or
12:26:24 6 flash suppressor?

12:26:25 7 A. No, sir, I was not.

12:26:37 8 MR. BECKINGTON: I have no further
12:26:43 9 questions.

10

11

REEXAMINATION

12:26:44 12 BY MR. DAVIS:

12:26:44 13 Q. You just stated that visual inspection is
12:26:47 14 one of the methods that you can use to identify
12:26:50 15 whether or not a device is a flash suppressor;
12:26:52 16 correct?

12:26:53 17 A. Yes, sir.

12:27:03 18 Q. Is that the same visual inspection that we
12:27:04 19 discussed earlier in this deposition in which you
12:27:11 20 stated with regard to the hypothetical that if
12:27:13 21 there's no information regarding the manufacturer's
12:27:17 22 intent, that the next step would be to test it?

12:27:23 23 A. Yes, sir.

12:27:23 24 Q. And with regard to testing, it's the same
12:27:27 25 testing that we discussed earlier in which there's

12:27:29 1 no standard?

12:27:31 2 A. Correct.

12:27:31 3 Q. And you stated that you were not involved
12:27:37 4 in the DoJ's determination as to whether or not the
12:27:40 5 Springfield Armory M1A was a flash suppressor or
12:27:43 6 not?

12:27:44 7 A. Correct. I was not.

12:27:46 8 Q. Who was?

12:27:48 9 A. I don't know, sir.

12:27:49 10 Q. And you stated that you were not involved
12:27:50 11 in the determination as to whether or not the BOSS
12:27:56 12 was a flash suppressor or not a flash suppressor;
12:27:58 13 correct?

12:27:59 14 A. Yes, sir.

12:27:59 15 Q. Who was?

12:28:00 16 A. I don't know, sir.

12:28:07 17 MR. DAVIS: That's pretty much it.

12:28:09 18 MR. BECKINGTON: Okay.

12:28:09 19 MR. DAVIS: I'll propose a stipulation that
12:28:10 20 the reporter be relieved of his duties with regard
12:28:13 21 to Mr. Abad and that the original will be forwarded
12:28:15 22 to Mr. Beckington, and that Mr. Abad will have a
12:28:18 23 chance to review and advise of any changes, and that
12:28:21 24 a certified copy can be used at trial, and that you
12:28:23 25 will have, can we give him 15 days, given the length

12:28:26 1 of the trial, to review and notify me of any
12:28:29 2 changes?

12:28:30 3 MR. BECKINGTON: Why don't we go off the
12:28:31 4 record for one second.

12:28:32 5 MR. DAVIS: Sure.
6 (Discussion off the record.)

12:28:55 7 MR. BECKINGTON: Okay. Back on the record.
12:28:56 8 Okay. So stipulated.

12:28:58 9 MR. DAVIS: Thank you. Off the record now?

12:29:00 10 MR. BECKINGTON: Yeah.
11 (Discussion off the record.)

12:30:11 12 MR. DAVIS: Attach his CV as Exhibit A.
13 (Whereupon, the above-referenced document
14 was marked by the certified shorthand reporter
15 as Plaintiffs' Exhibit A, for identification
16 only, a copy of which is attached hereto, and
17 will become a permanent part of this record.)

12:30:17 18 THE REPORTER: Mark, did you want a copy?

12:30:19 19 MR. BECKINGTON: Yeah, please, and that
12:30:19 20 will come with, like, a CD and a condensed?

12:30:23 21 THE REPORTER: Yes.
22 (Whereupon, at 12:30 p.m.,
23 the taking of the deposition of
24 CRIS ABAD was concluded.)
25 -ooOoo-

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DECLARATION UNDER PENALTY OF PERJURY

I, CRIS ABAD, do hereby certify under the penalty of perjury that I have read the foregoing transcript of my deposition taken on April 16, 2008; that I have made such corrections as appear noted herein; that my testimony as contained herein, as corrected, is true and correct.

DATED this ____ day of _____, 2008, at _____, California.

CRIS ABAD

1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF LOS ANGELES)

3

4 I, Warren L. Jones, California Certified
5 Shorthand Reporter, License No. 8679, in and by the
6 State of California, duly empowered to administer
7 oaths, do hereby certify:

8 That, I am the deposition officer that
9 stenographically recorded the testimony in the
10 foregoing transcript;

11 That, prior to being examined, the deponent
12 herein was by me first duly placed under oath;

13 That, the foregoing transcript is a true and
14 correct record of the testimony so given;

15 That, I was relieved of my duties pursuant to
16 the Code of Civil Procedure, Section 2025(q)(1);
17 therefore, any changes made by the deponent or
18 whether or not the deponent signed said transcript
19 are not set forth herein;

20 The dismantling, unsealing, or the unbinding of
21 the original transcript shall render the reporter's
certificates null and void.

22 Executed this 24 day of April, 2008.

23
24 ss: Warren L. Jones
25 California Certified Shorthand Reporter No. 8679

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF LOS ANGELES)

4

5 I, Warren L. Jones, California Certified
6 Shorthand Reporter, License No. 8679, in and by the
7 State of California, duly empowered to administer
8 oaths, do hereby certify:

9

10 That, the foregoing transcript was produced
11 under my direction, supervision, and control.

12

13 Furthermore, that said transcript is a true and
14 correct certified copy of the original transcript of
15 the proceedings so taken before me at the time and
16 place as stated therein.

17

18 Executed this 28 day of April, 2008.

19

20 ss: Warren L. Jones
21 California Certified Shorthand Reporter No. 8679

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-ooOoo-

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DEPONENT'S CHANGES OR CORRECTIONS

Cris Abad, Wednesday, April 16, 2008

Note: If you are adding to your testimony, print the exact words you want to add. If you are deleting from your testimony, print the exact words you want to delete. Specify with "Add" or "Delete" and sign this form.

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Deponent's Signature _____ Date: _____

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Exihbit A

(Continued)

SPECIAL AGENT
California Department of Justice
Bureau of Narcotic Enforcement
LA-71 CrackDown Buy/Bust Team

MARCH 24, 1992 TO SEPTEMBER 2, 1994

Los Angeles Regional Office

Special Agent for the California Department of Justice, Bureau of Narcotic Enforcement, Los Angeles Regional Office, assigned to the LA-71 CrackDown Buy/Bust Team, with the following duties and responsibilities:

SPECIAL AGENT
California Department of Justice
Bureau of Narcotic Enforcement
LA-72 ASaLT Surveillance Team

JANUARY 6, 1992 TO MARCH 20, 1992

Los Angeles Regional Office

Special Agent for the California Department of Justice, Bureau of Narcotic Enforcement, Los Angeles Regional Office, assigned to the LA-72 Allied State and Local Team (ASaLT), with the following duties and responsibilities:

SPECIAL AGENT
California Department of Justice
Bureau of Narcotic Enforcement
Southern California Drug Task Force
Drug Enforcement Administration, Group 5
High Intensity Drug Trafficking Area (HIDTA)

APRIL 10, 1991 TO JANUARY 3, 1992

Los Angeles Regional Office

Special Agent for the California Department of Justice, Bureau of Narcotic Enforcement, Los Angeles Regional Office, cross-designated and sworn as a Federal Task Force Officer assigned to the Drug Enforcement Administration, Group 5, High Intensity Drug Trafficking Area (HIDTA), Southern California Drug Task Force.

SPECIAL AGENT
California Department of Justice
Bureau of Narcotic Enforcement
LA-35 Asset Forfeiture / Money Laundering Unit

JANUARY 7, 1990 TO APRIL 4, 1991

Los Angeles Regional Office

Special Agent for the California Department of Justice, Bureau of Narcotic Enforcement, Los Angeles Regional Office, assigned to the LA-35 Asset Forfeiture / Money Laundering Unit, with the following duties and responsibilities:

Employed with the California Department of Justice since October 1, 1979.

RELEVANT TRAINING

Sergeant / Supervisory Training; California Anti-Terrorism Intelligence Center (CATIC), Organized Crime and Terrorism Training; Armalite Armorer's Training; HK MP-5 / USP Armorer's Training; Glock 18 Operator Training; Alpha GPS Training; Firearms Laws/Update Training; United States Marshals Service, Fugitive Investigation Training; CIMS Training; WordPerfect Training; Colt M-16/ AR-15 Armorer's School, Colt Training Division; Raid Planning and High Risk Warrants Preparation, National Criminal Justice; Assault Rifle Training; Glock Armorer's Course; California Gang Investigators' Association, Gang Investigations and Outlaw Motorcycle Gang Training; Asian Organized Crime Training; Riverside Sheriff's Department: Bombs, Booby Traps and Improvised Explosive Device (IED) Training; California Narcotic Officers Association, Red Flags / Mock Trial, HK Singleton International MP-5 / SMG Instructor Course; Domestic Terrorism; United States Marine Corps, Camp Pendleton, Base RSO (Range Safety Officer) and MAC RSO (MOUT Assault Course) Instructor Training Course; Advanced Gang Conference; Gang and Drug Crime Investigations; Certification to Conduct Wiretap Investigations; 18th International Asian Organized Crime Conference; Outlaw Motorcycle Gangs Training; BATF Illegal Weapons and Gun Investigations; Joint Task Force Six, U.S. Army Special Forces Operational Detachment - Alpha 721, Advanced Police Tactics II; JTF-6, U.S. Army Special Forces Operation Detachment - Alpha 534, Advanced Police Tactics; DEF TEC Grenadier Training; Illegal Weapons and Violence Suppression Training; Defense Language Institute, Spanish School; WSIN and CNOA, Narcotics Investigation; Firearms Instructor Training; Drug Enforcement Administration (DEA), Southern California Drug Task Force / HIDTA Training; MP-5 SMG Training; Drug Asset Forfeiture and Financial Investigation Training; DOJ Microsoft PowerPoint Basic Training; DOJ Sexual Harassment, Discrimination and Retaliation Training.

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