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FRESNO COUNTY SUPERIOR COURT  
By: C. Cogburn, Deputy

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF FRESNO**

10 SHERIFF CLAY PARKER, TEHAMA  
COUNTY SHERIFF; HERB BAUER  
11 SPORTING GOODS; CALIFORNIA RIFLE  
AND PISTOL ASSOCIATION  
12 FOUNDATION; ABLE'S SPORTING, INC.;  
RTG SPORTING COLLECTIBLES, LLC;  
13 AND STEVEN STONECIPHER,

14 Plaintiffs and Petitioners,

15 vs.

16 THE STATE OF CALIFORNIA; KAMALA D.  
HARRIS, in her official capacity as Attorney  
17 General for the State of California; THE  
CALIFORNIA DEPARTMENT OF JUSTICE;  
18 and DOES 1-25,

19 Defendants and Respondents.  
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Case No. 10CECG02116

**DECLARATION OF ANNA M. BARVIR  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR ATTORNEYS' FEES ON APPEAL;  
EXHIBITS B-C**

Judge: Jeffrey Y. Hamilton  
Dept.: 402  
Date: May 31, 2017  
Time: 3:30 PM

Action Filed: June 17, 2010

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1 and having argued before the Ninth and D.C. Circuits.

2 7. I assumed the role of “Responsible Attorney” in this matter, responsible for the  
3 management of this case and supervision of all professionals billing to this case, in February 2017.

4 **Authentication of Billing**

5 8. Plaintiffs’ billing records, attached to the Declaration of Haydee Villegas filed  
6 simultaneously herewith, include true and accurate copies of my billing records for which fee  
7 recovery is sought in this matter. The records include detailed descriptions of the work I performed  
8 on this appeal and the time spent on each task between May 2011, and December 2013, as well  
9 work I performed on Plaintiffs’ fee motion through March 22, 2017.

10 9. In the regular course and scope of my daily business activities, I prepared the  
11 descriptions contained in each billing record that shows my name as the “Timekeeper,” and I did so  
12 at or near the time of the occurrence of the work that I performed on this matter.

13 10. The descriptions contained within my billing records are a fair and accurate  
14 description of the work I performed on this matter and time spent on each task. In my professional  
15 judgment, the amount of time indicated for each task described in my billing records is a  
16 reasonable amount of time for me to have spent on the type of work described therein.

17 11. Attached hereto as Exhibit B is a true and correct copy of Michel & Associates,  
18 P.C.’s hourly rate schedule for civil matters like this one. These rates are consistent with, if not  
19 lower than, rates charged by comparable attorneys in or around Los Angeles, California.

20 12. Attached hereto as Exhibit C, is a true and correct chart reflecting the total hours  
21 billed, broken down by billing professional and project reference. The chart also indicates the title  
22 and billing rate of each professional, the total number of hours billed, the total fees billed, and the  
23 total fees waived. I created this chart to assist the Court in assessing the reasonableness of  
24 plaintiffs’ fee request, using the final billing report generated by my office manager, Haydee  
25 Villegas, and attached to her declaration. (See Ex. A.)

26 **Reasonableness of Time Spent and Fees Requested**

27 13. I am familiar with the way Michel & Associates professionals record their time and  
28 prepare client invoices in the normal course and scope of business. These billing records are

1 initially prepared at or around the time of the billing event and recorded under specific numbers  
2 assigned to each client and matter. The fees sought in this case were recorded under a specific  
3 matter number to capture only that time at issue in this case. In preparing this fee motion, I  
4 personally reviewed every entry that was billed on this matter since Michel & Associates began  
5 work on this case, and I verified that the time was correctly billed to this matter.

6 14. In January and February 2017, as the attorney now directly responsible for the  
7 management of this case and for preparing plaintiffs' fee motion, I personally reviewed the records  
8 of all time billed to this matter and made reductions (or "no charged") for:

- 9 a. Work that appeared duplicative or excessive;
- 10 b. Secretarial work and mixed secretarial/paralegal work, no matter who performed it;
- 11 c. Public relations activity related to the case and its subject matter; and
- 12 d. Entries that were vague or unclear as to the task performed.

13 In short, I approached the task as if I were preparing a bill for a paying client, recognizing that in  
14 this case the paying client is ultimately the taxpayer. Ultimately, our office does not seek attorneys'  
15 fees for 384.1 hours expended by the attorneys, law clerks, and paralegal assigned to this case,  
16 totaling approximately \$85,947.50. These reductions are in addition to any reductions Clinton B.  
17 Monfort, the former Responsible Attorney in this matter, made during his monthly review of this  
18 case's billing records. As such, the limited activities for which recovery is sought reflect  
19 considerable professional "billing judgment."

20 15. During the appeal for which plaintiffs seek fees, I was categorized by Michel &  
21 Associates as an "Associate 1" (see Ex. B), and I was primarily responsible for assisting the  
22 Attorney General's office with the preparation of the Joint Appendix, drafting the Respondents'  
23 Brief, supervising and conducting necessary legal research, preparing Mr. Monfort for oral  
24 argument, and determining and directing the strategy for responding to the State's Petition for  
25 Review. My \$225 hourly rate is well within the hourly rates charged by highly specialized firms for  
26 attorneys of similar skill, experience, and expertise in Southern California.

27 ///

28 ///

**Role in the Appeal**

16. Throughout the course of the appeal, I assisted Mr. Monfort with the management of the case, preparing first and final drafts of Plaintiffs-Respondents' Opening Brief, analyzing Defendants-Appellants' briefs and brainstorming strategy and arguments in response, and supervising the work of law clerks and other office staff throughout the course of the appeal. In my professional judgment, every hour for I seek compensation is reasonable.

17. During the appeal, I spent 17.1 hours engaged in case management and strategy work not associated with any specific case project. That time breaks down as follows: 11.9 hours researching, drafting, reviewing, and revising documents impacting the briefing schedule; 1.2 hours communicating via e-mail with co-counsel and opposing counsel regarding stipulations and amicus curiae participation; 2.6 hours conducting legal research and drafting legal memoranda regarding the issues on appeal; 1.4 hours participating in meetings with co-counsel to discuss litigation status and strategies, the impact of pending legislation on the appeal, deadlines, case deadlines, and review of the State's reply brief. (Ex. A; Ex. C.)

18. During the Joint Appendix phase, I billed at least 20.8 hours. I spent approximately 20.8 hours preparing Respondents' Designation of the Record and assisting the Attorney General's office with the preparation of the Joint Appendix. That time breaks down as follows: 2.9 analyzing the trial court record, cross-referencing the docket with documents in the State's proposed appendix to determine which documents to prepare for designation of the record; 2.9 hours communicating via e-mail with me regarding research memoranda on Respondents' designation of record on appeal, and communicating via e-mail with co-counsel and opposing counsel regarding the status and preparation of the Joint Appendix; 2.5 hours conducting legal research regarding Respondents' designation of record on appeal; 1.5 hours participating in meetings with my team; 10.4 hours preparing and finalizing the Joint Appendix; 0.6 communicating with Ms. Nunez via telephone regarding the preparation of the Joint Appendix. (Ex. A; Ex. C.)

19. During the Respondents' Brief phase, I billed at least 198.3 hours. That time breaks down as follows: 9.3 hours conducting legal research on applicable standards of review in facial vagueness challenges to synthesize the test used in California; 9.8 hours analyzing and reviewing

1 the record on appeal and the State's Opening Brief to formulate strategies to use in Respondents'  
2 Opening Brief; 15.3 hours participating in meetings, or corresponding via telephone, with me, Mr.  
3 Brady, Ms. Nunez, or the law clerks regarding litigation strategies, legal research findings, and  
4 revisions to Respondents' brief; and, as the attorney primarily responsible for preparing Plaintiffs'  
5 brief on appeal, 163.9 hours drafting, reviewing, and revising Respondents' Brief. (Ex. A; Ex. C.)

6       20.     During the oral argument phase, I billed at least 71.5 hours. That time breaks down  
7 as follows: 2.3 hours reviewing, analyzing, and corresponding via e-mail with co-counsel and  
8 opposing counsel regarding filing the notice of unavailability of oral argument, as well as  
9 corresponding with me via e-mail regarding legal research findings on the scienter and common  
10 usage issues in vagueness cases; 58.8 hours preparing me for oral argument by conducting moot  
11 court rounds and producing study notebooks and binders that included relevant record excerpts, and  
12 charts on relevant case briefs, case holding summaries, and statutory authority; and 10.4 hours  
13 traveling to and from and appearing with me at oral argument. (Ex. A; Ex. C.)

14       21.     During the post-hearing phase, I billed at least 5.4 hours. That time breaks down as  
15 follows: 0.7 hours meeting with co-counsel regarding strategies for opposing the State's petition for  
16 review; 1.0 hour drafting correspondence to opposing counsel regarding new timelines for fee  
17 appeal and proposed stipulation seeking further stay of fee appeal and stay of motion for attorneys'  
18 fees on appeal in light of State's Petition for Review of merits appeal; 2.1 hours drafting Request  
19 for Extension to File Answer to Petition; and 1.6 hours communicating via e-mail with co-counsel  
20 regarding the State's Petition for review, with the court clerk regarding status of appeal, and with  
21 opposing counsel to discuss remittitur issues and final resolution of the merits. (Ex. A; Ex. C.)

22       22.     During the appellate fee motion phase, I billed at least 136.4 hours, researching,  
23 drafting, and preparing Plaintiffs' Motion for Attorneys' Fees on Appeal and all supporting  
24 documents. This also includes time in meetings to strategize, discuss arguments and evidence, and  
25 assign tasks. A significant amount of my time, as the attorney now responsible for reviewing bills  
26 in this matter, was also necessarily spent reviewing and analyzing counsel's voluminous billing  
27 records to properly account for the fees requested in Plaintiffs' fee motion. (Ex. A; Ex. C.)

28     ///

1 I declare under penalty of perjury under the laws of the State of California that the forgoing  
2 is true and correct.

3 Dated: March 23, 2017.

  
ANNA M. BARVIR  
Declarant

# **EXHIBIT B**





## ATTORNEY FEE / RATE SCHEDULE

Timekeeper	Hourly Rate
Partner	\$ 450
Of Counsel	\$ 400
Special Counsel	\$ 375
Associate 6	\$ 350
Associate 5	\$ 325
Associate 4	\$ 300
Associate 3	\$ 275
Associate 2	\$ 250
Associate 1	\$ 225
Senior Paralegal	\$ 140
Paralegal	\$ 125
Law Clerk	\$ 125
Legal Asst.	\$ 95

**Partner in Charge:** C.D. Michel

**Responsible Attorney:** Clinton B. Monfort

# **EXHIBIT C**

### SUMMARY OF PLAINTIFFS' FEE CLAIM\*

TIMEKEEPER	RATE	MGMT	JA	RB	ORAL	POST	TOTAL HRS	TOTAL FEES	FEE MOT	FEE MOT FEES
BARCENILLA	\$ 125.00	0.0	0.0	40.7	0.0	0.0	40.7	\$ 5,087.50	0.0	\$ -
BARVIR	\$ 225.00	17.1	20.8	198.3	71.5	5.4	313.1	\$ 70,447.50	136.4	\$ 30,690.00
BRADY	\$ 250.00	1.1	0.0	10.5	36.0	0.1	47.7	\$ 11,925.00	0.0	\$ -
KLAPPER	\$ 125.00	0.0	0.0	0.0	16.9	0.0	16.9	\$ 2,112.50	0.0	\$ -
MICHEL	\$ 450.00	4.0	0.0	0.0	5.8	0.5	10.3	\$ 4,635.00	0.2	\$ 90.00
MONFORT	\$ 325.00	34.2	5.4	82.0	97.9	10.5	230.0	\$ 74,750.00	33.2	\$ 10,790.00
NUNEZ	\$ 125.00	9.3	19.6	14.9	27.1	3.4	74.3	\$ 9,287.50	0.0	\$ -
POTEET	\$ 125.00	3.9	0.0	76.5	0.0	0.0	80.4	\$ 10,050.00	0.0	\$ -
ZAJAC	\$ 125.00	6.0	0.0	0.0	56.5	0.0	62.5	\$ 7,812.50	0.0	\$ -
<b>TOTALS</b>		<b>75.6</b>	<b>45.8</b>	<b>422.9</b>	<b>311.7</b>	<b>19.9</b>	<b>875.9</b>	<b>\$ 196,107.50</b>	<b>169.8</b>	<b>\$ 41,570.00</b>

ABBREVIATIONS		
<b>MGMT</b>	Case Management, Litigation Strategy, Extension Motions	LODESTAR \$ 196,107.50
<b>JA</b>	Designation of Record, Joint Appendix	MULT 1.5
<b>RB</b>	Respondents' Brief	TOTAL \$ 294,161.25
<b>ORAL</b>	Oral Argument	FEE MOTION \$ 41,570.00
<b>POST</b>	Post-Hearing Activity, Review of Decision, Petition for Review	<b>GRAND \$ 335,731.25</b>
<b>FEE MOT</b>	Motion for Attorneys' Fees on Appeal	

\*A further breakdown of Plaintiffs' fee claim can be found at paragraphs 23-57 of the Declaration of Clinton B. Monfort in Support of Plaintiffs' Motion for Attorneys Fees. Ms. Barvir's declaration includes a detailed description of the tasks that required counsel's time, the total hours expended on each task and/or project, and the billing professionals who were primarily responsible for each task.

### SUMMARY OF HOURS/FEES WAIVED

T/K	RATE	HOURS	FEES
BARCENILLA	\$ 125.00	5.6	\$ 700.00
BARVIR	\$ 225.00	95.2	\$ 21,420.00
BRADY	\$ 250.00	23.3	\$ 5,825.00
KLAPPER	\$ 125.00	2.2	\$ 275.00
MICHEL	\$ 450.00	6.1	\$ 2,745.00
MONFORT	\$ 325.00	117.6	\$ 38,220.00
NUNEZ	\$ 125.00	95.7	\$ 11,962.50
POTEET	\$ 125.00	9.9	\$ 1,237.50
ZAJAC	\$ 125.00	28.5	\$ 3,562.50
		<b>384.1</b>	<b>\$ 85,947.50</b>

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA  
3 COUNTY OF FRESNO

4 I, Laura Palmerin, am employed in Long Beach, Los Angeles County, California. I am over  
5 the age of eighteen (18) years and am not a party to the within action. My business address is 180  
6 East Ocean Boulevard, Suite 200, Long Beach, CA 90802.

7 On March 27, 2017, I served the foregoing document(s) described as:

8 **DECLARATION OF ANNA M. BARVIR IN SUPPORT OF**  
9 **PLAINTIFFS' MOTION FOR ATTORNEYS' FEES ON APPEAL; EXHIBITS B-C**

10 on the interested parties in this action by placing  
11 [ ] the original  
12 [x] a true and correct copy  
13 thereof enclosed in a sealed envelope(s) addressed as follows:

14 George Waters  
15 Deputy Attorney General  
16 1300 I Street, Suite 125  
17 P.O. Box 944255  
18 Sacramento, CA 94244-2550


19 P. Patty Li  
20 Deputy Attorney General  
21 455 Golden Gate Ave., Suite 11000  
22 San Francisco, CA 94102

23 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and  
24 processing correspondence for mailing. Under the practice it would be deposited with the  
25 U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles,  
26 California, in the ordinary course of business. I am aware that on motion of the party  
27 served, service is presumed invalid if postal cancellation date is more than one day after  
28 date of deposit for mailing an affidavit.  
Executed on March 27, 2017, at Long Beach, California

— (VIA OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of  
collection and processing correspondence for overnight delivery by UPS/FED-EX. Under  
the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for  
receipt on the same day in the ordinary course of business. Such envelope was sealed and  
placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for  
in accordance with ordinary business practices.

29 X (STATE) I declare under penalty of perjury under the laws of the State of California that  
30 the foregoing is true and correct.

31 — (FEDERAL) I declare that I am employed in the office of the member of the bar of this of  
32 this court at whose direction the service was made.

33   
34 LAURA PALMERIN