

1 Anna M. Barvir, SBN 268728
2 MICHEL & ASSOCIATES, P.C.
3 180 East Ocean Blvd., Suite 200
4 Long Beach, CA 90802
5 Telephone: (562) 216-4444
6 Fax: (562) 216-4445
7 Email: abarvir@michellawyers.com
8 Attorney for Plaintiffs and Petitioners

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

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

19 Plaintiffs and Petitioners,

20 vs.

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

26 Defendants and Respondents.

Case No. 10CECG02116

**DECLARATION OF RAY T. GILES IN
SUPPORT OF PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES ON APPEAL**

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

Action Filed: June 17, 2010

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3
4
5
6

7
8
9
10

11
12
13
14
15
16
17
18

19
20
21
22

23
24
25

26

1 records, RTG Sporting Collectibles generated approximately \$17,760 in profits, before taxes, from
2 ammunition sales to California between February 1, 2011, and December 31, 2016.

3 7. Based on my review of RTG Sporting Collectibles' annual profits and its UPS shipping
4 records, I estimate that RTG Sporting Collectibles will generate approximately \$2960 in profits,
5 before taxes, between January 1, 2017, and December 31, 2017.

6 8. RTG Sporting Collectibles will no longer sell and ship ammunition to California residents
7 on or after January 1, 2018, due to recently passed legislation that prohibits the company from
8 doing so.

9 9. Despite the difficulties at the outset of this litigation in determining any indirect pecuniary
10 benefit, I estimate that the total financial benefit that RTG Sporting Collectibles has and will
11 experience because of its victory in this action is approximately \$17,760—before taxes—resulting
12 from continued ammunition sales to California customers. I base that estimate on the amount of
13 profits RTG Sporting Collectibles has received from California sales between February 1, 2011,
14 and December 31, 2016, as well as the approximately \$2960 in profits that I estimate the Company
15 will generate from California sales in 2017.

16 10. RTG Sporting Collectibles has not received any other financial benefit, nor does it
17 anticipate receiving any other financial benefit resulting from its success in this action.

18 11. Any pecuniary interest reaped by RTG Sporting Collectibles is substantially outweighed
19 by the costs of bringing this litigation.

20 12. The necessity of pursuing this lawsuit placed a burden on RTG Sporting Collectibles that
21 was out of proportion to any financial stake in this case.

22 13. If I believed that the benefit to be gained from this litigation was financial in nature, as
23 opposed to the protection of constitutional rights, RTG Sporting Collectibles would not have
24 pursued this litigation in light of anticipated litigation costs.

25 14. Based on the difficulty of succeeding in constitutional vagueness challenges, the
26 political environment in California, the controversial nature of the statutes at issue in this litigation,
27 and given that recent case law supporting vagueness challenges was depublished, and in light of
28

1 legal counsel I received from my attorneys, I believed there to be less than a ten percent chance of
2 success in this litigation at the time the vital litigation decisions were being made.

3 15. At the time the vital litigation decisions were being made, I anticipated this
4 litigation would result in hundreds of thousands of dollars in legal costs. I understand the total costs
5 of this litigation have exceeded \$700,000.

6 16. Because RTG Sporting Collectibles' total approximate financial benefit from this
7 lawsuit is \$17,760, RTG Sporting Collectibles would need to realize a pecuniary gain *at least 40*
8 *times that amount* to realize a financial gain that would exceed the costs of this litigation. Further,
9 that number does not take into account the assumption that there would be a mere 10% probability
10 of prevailing.

11 17. At the time the vital litigation decisions were being made, I understood that any potential
12 future pecuniary interest RTG Sporting Collectibles might gain as a result of my continuing ability
13 to sell ammunition to California would likely be negated, in whole or in part, by subsequent
14 legislation. Accordingly, my interest in this litigation was not in realizing any future financial
15 benefit for RTG Sporting Collectibles, but in protecting the constitutional right to be free from
16 arbitrary and discriminatory enforcement of the unconstitutionally vague challenged provisions.

17 18. At the time the vital litigation decisions were being made, I understood that subsequent
18 legislation would very likely be adopted that would restrict RTG Sporting Collectibles' ability to
19 transact in all, or certain, ammunition within California. I am aware the such legislation was signed
20 into law in 2017, which prohibits ammunition shipments to California residents beginning January
21 1, 2018.

22 19. At the time the vital litigation decisions were being made, I believed the potential for any
23 financial gain for RTG Sporting Collectibles through this litigation, to the extent there was any, did
24 not outweigh the costs of bringing this litigation. Rather, the financial burdens of this litigation far
25 outweigh RTG Sporting Collectibles' perceived and actual pecuniary benefits from this litigation.

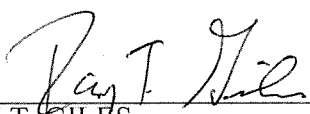
26 ///

27 ///

1 ///

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

4
5 Dated: March 3, 2017.

6 
7 RAY T. GILES
8 Declarant
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 RAY T. GILES IN SUPPORT OF**
9 **PLAINTIFFS' MOTION FOR ATTORNEYS' FEES ON APPEAL**

10 on the interested parties in this action by placing

11 ☐ the original
12 ☒ 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

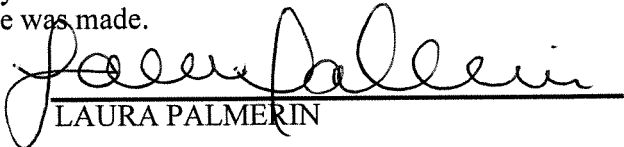
19 P. Patty Li
20 Deputy Attorney General
21 455 Golden Gate Ave., Suite 11000
22 San Francisco, CA 94102

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.

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

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

25 
26 LAURA PALMERIN
27
28