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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 RANDY WRIGHT  
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

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1       7. Based on my review of Able's annual profits, I estimate that Able's will generate  
2 approximately \$12,240 in net profits between January 1, 2017, and December 31, 2017. It is,  
3 however, impossible to determine with complete accuracy what those net profits will be because  
4 there is no way to accurately predict what the cost of doing business may be due to, among other  
5 things, fluctuations in the costs of shipping, replacing merchandise lost or damaged in transit,  
6 legislative compliance, and day-to-day operations, as well as the cost and supply of and demand for  
7 ammunition.

8       8. Able's will no longer sell and ship ammunition to directly to unlicensed California residents  
9 on or after January 1, 2018, due to recently passed legislation that prohibits the company from  
10 doing so.

11       9. Despite the difficulties at the outset of this litigation in determining any indirect pecuniary  
12 benefit, I estimate that the total financial benefit that Able's has and will experience because of its  
13 victory in this action is approximately \$97,920, resulting from continued ammunition sales to  
14 California customers. I base that estimate on the net profits Able's has received from California  
15 sales between February 1, 2011, and December 31, 2016, as well as the approximately \$12,240 in  
16 net profits that I estimate the company will generate from California sales in 2017.

17       10. Able's has not received any other financial benefit, nor does it anticipate receiving any  
18 other financial benefit resulting from its success in this action.

19       11. Any pecuniary interest reaped by Able's is substantially outweighed by the costs of  
20 bringing this litigation.

21       12. The necessity of pursuing this lawsuit placed a burden on Able's that was out of  
22 proportion to any financial stake in this case.

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

26       14. Considering the relative difficulty of succeeding in constitutional vagueness challenges,  
27 the political environment in California, the controversial nature of the challenged laws, the fact that  
28 then-recent successful vagueness challenges had been depublished, as well as input received from

1 my attorneys, I believed there to be a 10% chance of success in this litigation at the time the vital  
2 litigation decisions were being made.

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

6 16. Because Able's' total approximate financial benefit from this lawsuit is \$97,920, Able's  
7 would need to realize a pecuniary gain *at least seven times that amount* to realize a financial gain  
8 that would exceed the costs of this litigation. Further, that number does not consider the fact that, at  
9 the time Able's chose to participate in this suit, Able's expected a very low probability of success.


10 17. At the time the vital litigation decisions were being made, I understood that any potential  
11 future pecuniary interest Able's might gain because of my continuing ability to sell ammunition to  
12 California would likely be negated, in whole or in part, by subsequent legislation.

13 18. At the time the vital litigation decisions were being made, I understood that subsequent  
14 legislation would very likely be adopted that would restrict Able's' ability to transact in all, or  
15 certain, ammunition within California. I am aware the such legislation was signed into law in 2017,  
16 which prohibits ammunition shipments to California residents beginning January 1, 2018.

17 19. At the time the vital litigation decisions were being made, I believed the potential for any  
18 financial gain for Able's through this litigation, to the extent there was any, would not outweigh the  
19 costs of bringing this litigation. Rather, the financial burdens of this litigation far outweigh Able's'  
20 perceived and actual pecuniary benefits from this litigation.

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

23 Dated: March 23, 2017.

  
24 RANDY WRIGHT  
25 Declarant  
26  
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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  
the age of eighteen (18) years and am not a party to the within action. My business address is 180  
5 East Ocean Boulevard, Suite 200, Long Beach, CA 90802.

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

7 **DECLARATION OF RANDY WRIGHT IN SUPPORT OF  
PLAINTIFFS' MOTION FOR ATTORNEYS' FEES ON APPEAL**

8 on the interested parties in this action by placing

9 ☐ the original  
☒ a true and correct copy  
thereof enclosed in a sealed envelope(s) addressed as follows:

10 George Waters  
11 Deputy Attorney General  
12 1300 I Street, Suite 125  
P.O. Box 944255  
13 Sacramento, CA 94244-2550

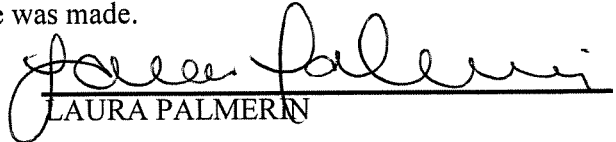
P. Patty Li  
Deputy Attorney General  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102

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

18 — (VIA OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of  
19 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  
20 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  
21 in accordance with ordinary business practices.

22 X (STATE) I declare under penalty of perjury under the laws of the State of California that  
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   
LAURA PALMERIN