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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 STEVEN H.
DEMBER 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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I, Steven H. Dember, declare as follows:

1. I am a Trustee for The CRPA Foundation, a non-profit entity classified under section 501(c)(3) of the Internal Revenue Code and incorporated under California law, with its headquarters in Fullerton, California.

2. I am also a Director and the Treasurer of California Rifle and Pistol Association, Incorporated (“CRPA”), a non-profit membership organization classified under section 501(c)(4) of the Internal Revenue Code and incorporated under the laws of California, with headquarters in Fullerton, California.

3. In my capacity as Trustee of The CRPA Foundation, I review the foundation's ledgers and financial records, as well as its other organizing documents. I am also responsible, along with other trustees, for determining the organizational goals and tracking the overall financial health of The CRPA Foundation.

4. Similarly, in my capacity as Director and Treasurer of CRPA, I maintain the organization's ledgers and financial records, and regularly review its other organizing documents. I am also responsible, along with other directors, for determining the organizational goals and tracking the overall financial health of CRPA.

5. I have reviewed The CRPA Foundation’s charter and bylaws. These documents indicate that The CRPA Foundation was established to further the interests of its donors and the approximately 30,000 members of California Rifle & Pistol Association, Incorporated (“CRPA”), by promoting the interests of firearms enthusiasts, Second Amendment civil rights activists, and sportsmen through use of donations for, among other things, litigation efforts. The CRPA Foundation is not devoted to, nor does it represent, the financial interests of ammunition shippers or retailers.

6. I have also reviewed CRPA's charter and bylaws. These documents provide that CRPA was established to serve the interests of its members, by promoting the interests of firearms

enthusiasts, Second Amendment civil rights activists, and sportsmen. CRPA is not devoted to, nor does it represent, the financial interests of ammunition shippers or retailers.

7. While The CRPA Foundation seeks to serve the interests of both its donors and the members of CRPA, The CRPA Foundation and CRPA are separate corporate entities. CRPA is funded by membership fees and donations, while the CRPA Foundation has no membership fees because it is not a membership organization. It is funded entirely by donations.

8. The CRPA Foundation is not, however, dependent on the financial contributions of anyone engaged in the retail sale of ammunition. The financial vitality of businesses engaged in the retail sale of ammunition does not impact the existence of The CRPA Foundation, or its business or litigation decisions.

9. In reviewing The CRPA Foundation's donation records, I have identified only \$1,280 in contributions from retail businesses of any kind between 2000 and the present. This makes up just 0.075% of all donations to the foundation during that period. What's more, *zero percent* of The CRPA Foundation's total contributions during that time came from businesses engaged in the business of selling and shipping ammunition to customers through the mail. I am not aware of any increase in donations to The CRPA Foundation as result of this lawsuit as compared with previous months or years.

10. CRPA is not dependent on the financial contributions of anyone engaged in the retail sale of ammunition. The financial vitality of businesses engaged in the retail sale of ammunition does not impact the existence of CRPA, or its business or litigation decisions.

11. In reviewing CRPA's membership and donation records, I have identified only 65 retail businesses of any kind that were paid members of CRPA at any time during the pendency of this lawsuit and the resulting appeals—i.e., between June 2010 and December 2016. About 54 of those business memberships lapsed at some point during this suit. While seven other businesses only became paid members of CRPA in the last year. At any given time, the total number of retail business memberships remains only a fraction of a percentage of the more than 30,000 paid CRPA members.

12. The CRPA Foundation pursued this lawsuit on behalf of all its supporters and CRPA's 30,000 plus members, seeking to protect them from criminal prosecution under the unconstitutionally vague laws at issue in this case. It did not participate in this suit to further its—or any entity's or individual's—financial interests. Indeed, it did not file this lawsuit intending to receive any direct or indirect financial gain.

13. The CRPA Foundation does not sell ammunition for profit, nor does it receive income as the result of increased or decreased sales of ammunition within California or anywhere else.

14. The CRPA Foundation does not share with its donors or the members of CRPA any financial stake in pursuing this lawsuit.

15. When the vital litigation decisions in this case were being made, The CRPA Foundation did not anticipate that it would receive any financial gain from this lawsuit, nor did it anticipate that CRPA members would receive any financial gain.

16. The CRPA Foundation has not, in fact, realized any financial gain because of this case. Any conceivable financial benefit would be far outweighed by the costs of litigating this case.

17. The necessity of pursuing this lawsuit placed a burden on The CRPA Foundation that was out of proportion to The CPRA Foundation's financial stake in this case, which was zero.

18. Considering the relative difficulty of succeeding in constitutional vagueness challenges, the political environment in California, the controversial nature of the challenged laws, the fact that then-recent successful vagueness challenges had been depublished, as well as input received from my attorneys, I believed there to be a 10% chance of success in this litigation at the time the vital litigation decisions were being made.

19. At the time the vital litigation decisions were being made, I anticipated this litigation would result in hundreds of thousands of dollars in legal costs. I understand the costs of this litigation have, in fact, exceeded \$700,000. Accordingly, I estimate that to realize a financial interest substantially greater than the costs of this litigation, adjusted for the likelihood of success

1 in this litigation (i.e., 10%), The CRPA Foundation would need to realize a pecuniary gain of at
2 least \$7,000,000.00.

3 20. At the time the vital litigation decisions were being made, I believed the potential
4 for any financial gain for The CRPA Foundation through this litigation, to the extent there was any,
5 would not outweigh the costs of bringing this litigation. Rather, I estimate that the financial
6 burdens of this litigation far outweigh The CRPA Foundation's pecuniary interests in this litigation.

7 I declare under penalty of perjury under the laws of the State of California that the forgoing
8 is true and correct. Executed March 22, 2017.

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11 Steven H. Dember
12 Declarant
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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
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 STEVEN H. DEMBER 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

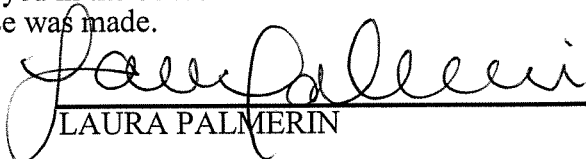
19 P. Patty Li
20 Deputy Attorney General
21 455 Golden Gate Ave., Suite 11000
22 San Francisco, CA 94102

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, CA

— (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