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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

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

Plaintiffs and Petitioners,

vs.

THE STATE OF CALIFORNIA; XAVIER BECERRA, in his official capacity as Attorney General for the State of California; THE CALIFORNIA DEPARTMENT OF JUSTICE; and DOES 1-25,

Defendants and Respondents.

Case No. 10CECG02116

PLAINTIFFS' REPLY TO OPPOSITION TO MOTION FOR ATTORNEYS' FEES ON APPEAL

Judge: Jeffrey Y. Hamilton
Dept.: 402
Date: June 22, 2017
Time: 3:30 p.m.

I. PLAINTIFFS HAVE SHOWN THAT THE COST OF LITIGATING THIS CASE FAR OUTWEIGHED ANY POTENTIAL PECUNIARY INTEREST

Fees are recoverable "when the cost of the claimant's legal victory transcends his personal interest, that is, when the necessity for pursuing the lawsuit placed a burden on the plaintiff out of proportion to his individual stake in the matter." (*Woodland Hills Residents Assn., Inc. v. City Council of L.A.* (1979) 23 Cal.3d 917, 941, quotation omitted.) A fee award is proper unless "the expected value of the litigant's own monetary award [, discounted by the likelihood of success,] *exceeds by a substantial margin* the actual litigation costs." (*L.A. Police Prot. League v. City of Los Angeles* (1986) 188 Cal.App.3d 1, 10, italics added; see also *In re Conservatorship of Whitley* (2010) 50 Cal.4th 1206, 1215-1216.) Plaintiffs' have established that no plaintiff's personal interest came anywhere close to the costs of litigating this complex constitutional challenge.

Defendants' response is full of flimsy insinuation that Plaintiffs are misrepresenting their financial interest in this lawsuit. (Oppn., pp. 9-14.) It makes repeated reference to funding by third-party civil rights organizations. (*Id.*, pp. 10-11, 13-14, 19.) And it includes pages of argument that, at least some of the plaintiffs, harbored a business interest in this case. (*Id.*, pp. 10-14.) What it *lacks* is any discussion of relevant case law regarding what constitutes a disqualifying pecuniary interest under section 1021.5. (*Id.*, pp. 8-14.) That is, Defendants' opposition never argues that any plaintiffs' financial interest substantially outweighed the cost of litigation.

A. Defendants' Repeated References to Third-Party Funding Are Irrelevant

Defendants repeatedly remind the Court that Plaintiffs did not personally bear the financial cost of litigation. (Oppn., pp. 10-11, 13-14, 19.) They provide no authority indicating that this fact is relevant. (*Ibid.*) And for good reason. It isn't. That a party has not directly borne the financial burden of litigation does "not warrant denying him [section 1021.5] fees" because the law "does not specifically require a plaintiff to bear his own fees." (*Otto v. L.A. Unified Sch. Dist*. (2003) 106 Cal.App.4th 328, 333; *Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 316 [affirming 1021.5 fee award to plaintiffs represented by a nonprofit legal services corporation without charge].)

B. Herb Bauer Sporting Goods

Barry Bauer provided a *sworn declaration* that Herb Bauer Sporting Goods did not realize a pecuniary interest exceeding its financial stake in this lawsuit. (Bauer Decl., ¶¶ 5, 10-11.) Bauer

declares that while annual record-keeping costs would have been about $2,000 under the Challenged Provisions, decreased competition from ammunition shippers would have resulted in an increase of $4,000 in ammunition profits annually. (*Id.*, ¶ 5.) Defendants' only response is that, in 2010, Bauer declared that compliance with the record-keeping requirements would be "costly and burdensome." (Oppn., pp. 10-11, quoting Bauer Decl. ISO Summ. J., ¶¶ 6-7.) Defendants depict Bauer's testimony as contradictory, but his statements are not mutually exclusive.

Indeed, Bauer declared simply that he believed compliance with the record-keeping requirements would be "burdensome" and "costly." (Bauer Decl. ISO Summ. J., ¶ 7.) That belief says nothing about how profitable his business would have been had the Challenged Provisions taken effect. Bauer never estimated the anticipated cost of record-keeping in his 2010 declaration. (*Id.*, ¶¶ 6-7.) Nor did he expand on what he meant by "costly and burdensome." (*Ibid*.) Surely, it's not "insignificant" to ask a small business to spend $2,000 more per year on record-keeping or to create and store those records for five years. (Pen. Code, § 30355.) That does *not* mean that the cost of compliance would have exceeded the cost of litigation "by a substantial margin." *L.A. Police Prot. League*, *supra*, 188 Cal.App.3d at p. 10.

Defendants do not dispute that this is the test for a disqualifying pecuniary interest or suggest that HBSG's modest financial interest comes anywhere near the cost of litigating this case—let alone substantially outweighs it. (Oppn., pp. 10-11.)

C. Able's Sporting, Inc., and RTG Sporting Collectibles, Inc.

Defendants make similar (unsubstantiated) attacks on the sworn declarations of ammunition-shipper plaintiffs, Able's and RTG. These arguments are equally unavailing.

First, Defendants suggest that the ammunition shippers' sworn testimony regarding their total profits since 2011 cannot be trusted because, in the Verified Complaint, the shipper plaintiffs alleged the Challenged Provisions would cause "a significant decrease in sales and lost profits." (Oppn., p. 11, quoting Compl., ¶ 77.) And because they repeated similar statements in support of Plaintiffs' Motion for Preliminary Injunction. (*Ibid.*, quoting Wright Decl. ISO Prelim. Inj.; *id.*, p. 12, quoting Giles Decl. ISO Prelim. Inj.) If asked today, they'd likely say the same thing. But nothing about these general statements casts doubt on current estimates of the profits these

businesses made off California ammunition sales since 2011. Indeed, a "significant" loss of profits is a relative term. Just because Wright or Giles can now state that they made just $97,920 and $17,760 in profits from California over the last six years, respectively, does not mean that forgoing those profits would not have been a "significant" loss for their businesses.

Next, Defendants attempt to discredit the RTG and Able's declarations because their eight-month profit estimates for 2011 extrapolated out over six years are greater than the actual profits realized since Plaintiffs' victory in 2011. (Oppn., pp. 11-13.) The challenge is incredibly weak. Notably, Defendants choose to focus on each declarant's mid-year review of incomplete sales records providing broad estimates *for eight months of sales* rather than their estimates of future annual profits gleaned from years of historical sales records. (*Id.*, p. 12.) Then they misrepresent the evidence, claiming that Wright estimated that Able's annual profits would be $47,000, and that Giles estimated that RTG's would be $4,500. (*Ibid.*) Neither shipper made such statements. Wright estimated that Able's California ammunition profits would be about $35,000 annually (or $210,000 over six years). (9/21/11 Wright Decl., ¶ 6.) And Giles estimated that RTG's would be $2,200 (or $13,200 total). (9/21/11 Giles Decl., ¶ 7.)

Plaintiffs recognize that neither RTG nor Able's ultimately realized profits equal to their 2011 projections. But the declarations they filed in support of both fee motions explain why that variation was to be expected. In 2011, for instance, both Wright and Giles explained that "factors such as the economy, the political climate, shipping costs, and fluctuations in the cost of ammunition impact" their annual profits. (9/21/11 Giles Decl., ¶¶ 6-7; 9/21/11Wright Decl., ¶¶ 5-6.) Both made similar statements in support of the present fee motion. (3/27/17 Giles Decl., ¶ 3 [adding that "legislative compliance and operating costs" are also factors]; 3/27/17 Wright Decl., ¶ 4 [same].) The difference between the shippers' 2011 projections and their actual profits is thus not, as Defendants claim, attributable to declarants' dishonesty. Instead, because both stated in 2011 that it was extremely difficult to assess the actual value of any indirect, future benefit, the variation is hardly noteworthy. (9/21/11 Giles Decl., ¶¶ 6-7; 9/21/11 Wright Decl., ¶¶ 5-6.)

In any event, like much of their opposition, Defendants' entire discussion of RTG and Able's pecuniary interest is devoid of any reference to relevant case law. Again, even assuming

their financial interests came close to the cost of litigation, an award of section 1021.5 fees would *still* be proper. (Mot., pp. 8-10.) For, like the abortion providers in *Planned Parenthood v. Aakhus*, ammunition shippers share a "mutual and inseparable" interest in the right to transact in constitutionally protected goods and services with the public. (*Id.*, pp. 8-9, citing (1993) 14 Cal.App.4th 162, 167-169, 173.) As such, even *if* they had sufficient business motives to sue, this is simply not a case of a "self-serving, private dispute commenced by [Plaintiffs] to protect [their] pocketbook[s]"—and a fee award is appropriate. (*Aakhus, supra,* 14 Cal.App.4th at p. 173.)

Finally, Defendants never conduct the proper valuation of the shippers' pecuniary interest as laid out in *L.A. Police Protective League*. (Oppn., pp. 11-13.) That is, they fail to discount the estimated financial benefit by the likelihood of success and balance the result against the cost of litigation. (See *L.A. Prot. League, supra,* 188 Cal.App.3d at p. 10.) For if they had, Defendants would have to admit that neither RTG nor Able's harbor a disqualifying pecuniary interest—even when generously assuming Plaintiffs initially had a 50% chance of success and accepting as true the improperly inflated profits Defendants reference in their opposition.[1]

D. CRPA Foundation

Failing to cite any legal authority, Defendants claim that because CRPA Foundation's "motive here was, *at least in part,* to represent and protect the financial interests of its members who are 'in the business of shipping ammunition," they must have a disqualifying pecuniary interest. (Oppn., pp. 13-14, italics added.) But this is not the test. Rather, an associational plaintiff's pecuniary interest is only equal to that of its corporate supporters to the extent the organization relies on the financial viability of those businesses or when its primary objective is the protection of its members' economic interests. (*Cal. Lic. Foresters Assn. v. State Bd. of Forestry* (1994) 30 Cal.App.4th 562, 570, 573 (*CLFA*).)

First, the CRPA Foundation does not represent the economic interests of ammunition retailers—or anyone. (Dember Decl., ¶¶ 5-6; 12/28/11 Montanarella Decl., ¶¶ 5-6, 11.) It is a non-

[1] Defendants wrongly attribute $282,000 in profits to Able's and $27,000 to RTG. (Oppn., p. 12.) Even assuming a 50% chance of success, Able's interest would be $141,000, and RTG's just $13,500. Each pale in comparison to the $800,000+ cost of litigation. (Monfort Decl., ¶ 20.)

profit civil rights organization formed to protect and preserve the Second Amendment. It *primarily* represents the *tens of thousands of individual firearm owners* who are CRPA Foundation supporters or CRPA members by fighting for their constitutional rights—including the right to purchase ammunition without fear of criminal prosecution under vague laws. (Dember Decl., ¶¶ 5, 13; 12/28/11 Montanarella Decl., ¶¶ 5-6, 11.) While the CRPA Foundation and CRPA have a (very) limited number of ammunition-shipper supporters (Dember Decl., ¶ 11; 12/28/11 Montanarella Decl., ¶¶ 8-9, 18), protection of their economic interests was never the foundation's *primary* reason for challenging AB 962 (Dember Decl., ¶ 12; 12/28/11 Montanarella Decl., ¶¶ 11). Defendants largely ignore this evidence—as well as *CLFA*'s guidance on this point.

Instead, Defendants complain that Plaintiffs have not detailed how much business members pay in CRPA membership fees. (Oppn., p. 14.) To the extent membership records of CRPA—a wholly separate legal entity—are even relevant to whether CRPA Foundation relies on the financial vitality of its ammunition-shipper supporters and thus shares their pecuniary interest, the record clearly shows that CRPA's corporate support is negligible. In 2011, CRPA representatives explained that only 56 of CRPA's 30,000 plus members were engaged in the sale of ammunition, that of that number, *only three were engaged in the business of shipping ammunition through the mail*, and that they each paid $35 in annual dues. (12/28/11 Montanarella Decl., ¶¶ 9-10; 12/28/11 Fields Decl., ¶¶ 9-10.) They further declared that contributions to CRPA from brick-and-mortar retailers accounted for *less than one tenth of one percent* of its total contributions. (Fields Decl., ¶¶ 18-19.) And shippers made up *less than one fiftieth of one percent*. (*Ibid.*) Dember provides similar testimony that corporate supporters of both CRPA and CRPA Foundation do not account for a considerable portion of the organizations' funds. (Dember Decl., ¶¶ 7-8.) Thus, unlike the plaintiff in *CLFA*, which had an interest *equal* to its members (30 Cal.App.4th at p. 573), it cannot be credibly argued that CRPA Foundation relies on the viability of its few shipper supporters. And the Foundation has insufficient pecuniary interest to defeat its entitlement to fees.

II. DEFENDANTS HAVE NOT SHOWN THAT PLAINTIFFS' HOURS ARE UNREASONABLE

Plaintiffs presented the Court with comprehensive evidence supporting their fee request, including the detailed billing records of every professional for whom fees are sought, an attorney's

declaration summarizing all hours worked, a chart synthesizing the fee claim, and attorney declarations affirming the reasonableness of Plaintiffs' fee claim. The burden thus shifted to the fee opponent to *present specific evidence* that the hours claimed are unreasonable. (See *Hadley v. Krepel* (1985) 167 Cal.App.3d 677, 682.) General allegations of "excessiveness" or "duplication" are insufficient. (*Premier Med. Mgmt. Sys., Inc. v. Cal. Ins. Guarantee Assn.* (2008) 163 Cal.App.4th 550, 563) [emphasizing that fee opponent "submitted no *evidence* to contradict the declarations and billing records submitted by respondents," italics added].)

Defendants ask this Court to slash Plaintiffs' reasonable fee by a staggering 50%. (Oppn., p. 16.) But they make *no effort* to relate the 50% figure to any flawed billing entry. Instead, they make broad, unsubstantiated claims that the number of timekeepers made duplication unavoidable and that the mere number of hours claimed, without more, establish that counsel was inefficient. Any reduction of hours on these unsupported grounds would be improper. (*Mountjoy v. Bank of America, N.A.* (2016) 245 Cal.App.4th 266, 282 ["An across-the-board reduction in hours [made] . . . without respect to the number of hours . . . included in the flawed entries, is not a legitimate basis for determining a *reasonable* attorney fee award."].) Defendants' request should be denied.

A. Defendants' Argument that Duplication Was Unavoidable Is Meritless

Defendants want the Court to assume, as they have, that just because multiple professionals worked on this matter, their efforts were duplicative. (Oppn., p. 15.) But the practice of dividing tasks is common in a law firm. It is not automatic grounds for the wholesale reduction of a fee claim. (See, e.g., *Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 700 & fn. 17.) Rather, Defendants must point to *specific* records that indicate a duplication of effort. (*Jones v. Union Bank* (2005) 127 Cal.App.4th 542, 550.)

Defendants simply argue that the number of timekeepers made "duplication unavoidable." (Oppn., p. 15.) But Plaintiffs' nine timekeepers were not *all* working on the case at *all* stages of the three-year long appeal. In fact, only *three* timekeepers—two attorneys and one paralegal—invested hours at every stage. (Exs. A, C.) And only *two* invested hours in all stages of the appeal and fee motion. (*Ibid.*) Further, four timekeepers were temporary law clerks, and no more than two were assigned to this case at any given time. (Monfort Decl., ¶ 18.) Defendants provide no authority that

it was *necessarily* duplicative for two attorneys to handle the bulk of the appeal, supported by one paralegal and one or two law clerks. (Oppn., pp. 15-16.)

Defendants do not analyze *any* specific entry; instead, they attack *three entire categories* of work based on misrepresentations of not the bills themselves, but broad summaries of work performed. (Oppn., p. 16, citing Monfort Decl., ¶¶ 34-37, 39, 41-47, 54-57.) For instance, Defendants baldly assert that Plaintiffs' counsel unreasonably devoted a little more than 2½ weeks of law clerk time to legal research during the Respondents' Brief phase. But the appeal of this case, *to a much greater extent than the summary judgment motion*, involved analyzing the complex issue of the appropriate test for Due Process facial vagueness challenges in the Second Amendment context. (Compare Req. Jud. Not., Ex. H (Plaintiffs-Respondents' appellate brief), with Pls. Reply to Mot. Summ. J, pp. 4-5.) Plaintiffs had to research, analyze, and synthesize countless (often conflicting) authorities to provide the court with a helpful analysis of the proper standards for facial challenges, vagueness challenges, and facial vagueness challenges. (Monfort Decl., ¶ 40.) That compendium of facial vagueness case law formed the basis for the court's ultimate ruling. (*Parker v. California* (2013) 221 Cal.App.4th 346.) The hours spent were not only reasonable, they were critical to Plaintiffs' success on appeal. Defendants point to no evidence suggesting otherwise.

In a flagrant misrepresentation of Plaintiffs' fee claim, Defendants partially describe the activities performed by various billing professionals at the Oral Argument and Fee Motion phases. (Oppn., p. 16.) For instance, Defendants describe Barvir's 136.4 hours on this motion as "meetings to strategize, discuss arguments and evidence, and assign tasks." (*Ibid.*, citing Monfort Decl., ¶ 57.) But Defendants conveniently omit that those hours *also* (primarily) included "researching, drafting, and preparing Plaintiffs' Motion . . . and all necessary supporting documents," and "a significant amount of time" devoted to "reviewing and analyzing counsel's voluminous billing records." (Monfort Decl., ¶ 57. See also Ex. A.) They make similar misrepresentations about Monfort's work on this motion. (Compare Oppn., p. 16, with Monfort Decl., ¶ 55 & Ex. A.)[2]

Defendants' argument is rife with these sorts of misrepresentations and general complaints

[2] Plaintiffs seek *no* recovery for time spent on this reply or the fee hearing, making their request for reimbursement for this motion even more reasonable.

about Plaintiffs' fee claim. (Oppn., p. 16.) But even if Defendants had not distorted the record, surely *every* hour Plaintiffs billed on these projects was not duplicative. Because Defendants fail to "attack any particular billing as unnecessary or unreasonable," their challenge to Plaintiffs' well-documented claim must be rejected. (*Jones, supra*, 127 Cal.App.4th at p. 550. See also *Hensley v. Eckerhart* (1983) 461 U.S. 424, 439 fn. 15 [generalized statements not entitled to much weight].)

B. Defendants Provide *No* Evidence that Plaintiffs' Claimed Hours Are Excessive

In *Premier Medical Management*, the fee opponent complained that a great deal of the hours claimed "must have been [for] duplicative and unnecessary" work. *Premier Med., supra*, 163 Cal.App.4th at p. 563.) They provided no *evidence* contradicting the declarations and billing records submitted by the fee claimant—an error the court suggested was avoidable by simply presenting evidence the claim was unreasonable or a declaration from an attorney "with expertise in the procedural and substantive law" illustrating the same. (*Id.* at pp. 563-564.)

Here, Defendants make the same fatal mistake. They provide no evidence, *as they must*, that the hours Plaintiffs' counsel spent litigating this case were excessive. (See *Premier Med., supra*, 163 Cal.App.3d at p. 563-564.) They provide no declaration from an attorney "with expertise in the procedural and substantive law" illustrating the unreasonableness of the claim. (*Ibid.*) Nor do they even claim that Plaintiffs billed an excessive amount when compared to their own hours. Because Defendants have not raised a sufficient objection to Plaintiffs' claim, supported by evidence, the Court should deny their request to reduce Plaintiffs' fee request by half.

III. PLAINTIFFS ARE ENTITLED TO HOME MARKET RATES

When a fee applicant shows that it would have been impracticable to bring litigation with local counsel alone, counsel should be awarded fees based on their "home market rate." (*Ctr. For Biological Diversity v. County of San Bernardino* (2010) 188 Cal.App.4th 603, 618-619 (*CBD*); *Horsford v. Bd. of Trustees of Cal. State Univ.* (2005) 132 Cal.App.4th 359, 397-399.) A showing of impracticability "is not onerous." (*CBD, supra*, 188 Cal.App.4th at pp. 618-619 [trial court abused its discretion by denying request for home market rates based on a declaration that out-of-town counsel had substantial expertise in relevant, specialized field].) Plaintiffs easily establish that it would have been both impractical and imprudent to retain local counsel on appeal.

Plaintiffs' attorneys were originally retained because of their substantial expertise in the specialized field of firearms and constitutional law. (See Michel Decl., ¶¶ 2-18; Monfort Decl., ¶ 4.) No attorney in the Fresno community practices civil rights law in the highly-specialized context of firearms and the Second Amendment. Indeed, Michel & Associates, P.C., is one of only a handful of such practices in the entire state. (Michel Decl., ¶¶ 13-14.) Because of the technical nature of the subject matter, it was reasonably necessary to hire Michel & Associates at the outset. And when Defendants appealed, it was logical and prudent for the firm to remain counsel. For Plaintiffs' attorneys have experience in civil appeals regarding vagueness and firearms laws (Michel Decl., ¶ 18), as well as experience and success with this very case. They could thus immediately gain an understanding of the complex issues on appeal and their application to the technical nature of ammunition. Even if Plaintiffs could have found local appellate counsel—something Defendants have provided no evidence of (see *Rey v. Madera Unified Sch. Dist.* (2012) 203 Cal.App.4th 1223, 1241)—new attorneys would have increased the number of hours necessary for adequate appellate representation just to get up to speed. Simply put, it was impracticable for Plaintiffs to hire local counsel for the appeal. Michel & Associates' home market rates control.

IV. THE COURT SHOULD GRANT PLAINTIFFS' MODEST LODESTAR ENHANCEMENT

Plaintiffs demonstrate that a lodestar multiplier of 1.5 is appropriate due to the novelty of the issues and technicality of the subject matter, the exceptional results obtained, the skill displayed by counsel, and the contingent nature of the fee award. (Mot., pp. 13-15.) Without any analysis, Defendants argue not only that these factors do not support a lodestar enhancement, but also that a negative multiplier should be applied. (Oppn., pp. 18-19.) Defendants reasons, however, fall flat.

Novelty of the Issues and Technical Subject Matter: Even if the appeal was focused on the issue of "vagueness law to a settled factual record" (Oppn., p. 18), having specialized knowledge of firearms and ammunition was necessary to succeed on appeal because it was largely the unique characteristics of ammunition that made the legislatively created definition of "handgun ammunition" inherently vague. Without a working knowledge of this technical subject matter, Plaintiffs' counsel may not have been successful—even on appeal. And even if the appeal was divorced from the technical subject matter, it is undisputed that the facial vagueness issues on

appeal were exceedingly novel and complex, a factor that alone supports an upward multiplier.

Exceptional Results: The depublication of the appellate opinion does not undermine the success and exceptional results Plaintiffs achieved in obtaining the extraordinarily rare result of striking down three statewide, restrictive firearm laws as unconstitutionally vague on their face. Further, automatic depublication of the opinion on grant of review does not make it bad law or useless to future attorneys or courts. (See Cal. Rules of Court, rule 8.1115, subd. (e)(2).)

Skill Displayed by Counsel: Defendants *admit* they routinely rigorously defend public safety statutes. (Oppn., pp. 18-19.) This case was no different. Just because that fact may make it no different from many cases brought against the state, does not mean it is no different from the myriad other private attorney general cases brought against other entities. The fact remains: Defendants' representation was vigorous and competent. An upward multiplier is appropriate.

Contingency: That Plaintiffs' appellate fees were partially funded by non-profit organizations has no bearing. It is common for public interest attorneys in civil rights cases to accept representation at rates far below the market value for their professional work. Otherwise, non-profit organizations could rarely afford to bring these actions—especially against governmental entities who can litigate tenaciously with little incentive to keep costs low. Plaintiffs' attorneys took a risk in that, absent success, they would never recover the full value of their work. No attorney pursuing fee-paying work in any other area of law is expected to assume that risk.

Negative Multiplier: Defendants' request for a negative multiplier for duplication should be denied. "Once a trial court has decided a reasonable lodestar, its discretion to reduce the fee award is limited"; negative multipliers are rarely upheld. (Cheng, Noel & Saylor, Calif. Fair Housing and Public Accommodations (2017) Multipliers, § 7:19, subd. (b).)

V. CONCLUSION

Based on the foregoing, Plaintiffs request their motion be granted and Defendants' requests for deductions and a negative multiplier be denied.

Dated: June 15, 2017

MICHEL & ASSOCIATES, P.C.

/s/Anna M. Barvir_____
Anna M. Barvir
Counsel for Plaintiffs and Petitioners

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF FRESNO

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 East Ocean Boulevard, Suite 200, Long Beach, CA 90802.

On June 15, 2017, I served the foregoing document(s) described as:

PLAINTIFFS' REPLY TO OPPOSITION TO MOTION FOR ATTORNEYS' FEES ON APPEAL

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

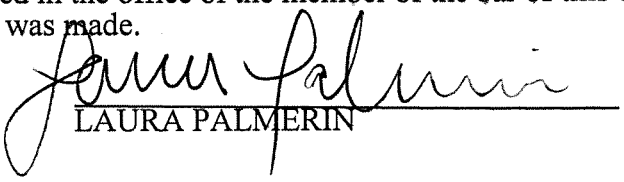
George Waters
Deputy Attorney General
1300 I Street, Suite 125
Sacramento, CA 94244
Counsel for Defendants and Respondents

X (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 firm's 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.

Executed on June 15, 2017, at Long Beach, California

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

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



LAURA PALMERIN