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2/7/2018 3:40 PM  
FRESNO COUNTY SUPERIOR COURT  
By: I. Herrera, 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; XAVIER  
BECERRA, in his 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

**PLAINTIFFS' NOTICE OF MOTION  
AND MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL EVIDENCE IN  
SUPPORT OF MOTION FOR  
ATTORNEYS' FEES ON APPEAL;  
MEMORANDUM OF POINTS &  
AUTHORITIES; DECLARATION OF  
MATTHEW D. CUBEIRO**

Judge: Jeffrey Y. Hamilton  
Dept.: 402  
Date: March 27, 2018  
Time: 3:30 p.m.

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lawsuit because they had not established that they had personally borne the costs of litigation. (Tent. Order at pp. 5-8, Sept. 13, 2017.) While the record shows that the CRPA Foundation did fund the litigation, the Court indicated it would deny fees because the organization (or its members) stood to gain financially from successfully striking the ammunition restrictions at issue in this case. (*Id.* at pp. 9-10.) After the hearing, where Plaintiffs presented argument and drew the Court’s attention to record evidence establishing that the CRPA Foundation did *not* have sufficient financial support from business entities to justify denying fees, the Court took the motion under submission. (Law & Mot. Min. Order, Sept. 14, 2017.)

On November 29, 2017, the Court issued an Order After Hearing, partially granting Plaintiffs’ fee motion, awarding fees for “the sum of money [The CRPA Foundation] contributed to the attorney’s fees for this case.” (Order After Hrg. at pp. 1, 9, Nov. 29, 2017 [also ordering Plaintiffs to submit evidence of the amounts paid by the CRPA Foundation by December 5, 2017].)<sup>1</sup> The Court’s Order After Hearing also held, however, that any amount paid by the NRA (which is not a party to this case) would be unrecoverable because unlike the CRPA Foundation, the Court assumed, the NRA does have significant firearm business support. (*Id.* at p. 9.)

In response to the Court’s order for further evidence, Plaintiffs submitted evidence of the CRPA Foundation’s relevant credits and debits, as well as copies of CPRA Foundation payments made to plaintiffs’ counsel. (Decl. Haydee Villegas Suppl. Decl. Supp. Pls.’ Mot. Attys.’ Fees on App. (Villegas Suppl. Decl.”), ¶¶ 6-8, Exs. B & C.). To address the Court’s concerns about the NRA’s firearms business supporters, Plaintiffs also submitted a copy of the NRA’s 2015 IRS 990. (Decl. Anna M. Barvir Suppl. Decl. Supp. Pls.’ Mot. Attys.’ Fees on App. (Barvir Suppl. Decl.”), ¶ 2, Ex. A.) At the time of that filing—December 8, 2017—the 2015 record was the most recent NRA Form 990 widely available. (Barvir Suppl. Decl., ¶ 2; Decl. of Matthew D. Cubeiro Supp. Pls.’ Mot. Leave File Suppl. Evid. (“Cubeiro Decl.”), ¶ 3.)

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<sup>1</sup> As Plaintiffs’ counsel has previously declared, Plaintiffs did not receive notice or a copy of the Court’s November 29 Order After Hearing until the late afternoon of December 5, 2017. (Pls.’ Ntc. of Untimely Receipt of Order After Hrg. & Late Filing at pp. 1-2, Dec. 5, 2017; Decl. of Anna M. Barvir at ¶¶ 3, 6, Dec. 5, 2017; Decl. of Haydee Villegas at ¶¶ 4-5, Dec. 5, 2017.)

1 In the time since Plaintiffs submitted the NRA's 2015 IRS Form 990, however, the  
2 organization's 2016 Form 990 was released for public viewing. (Cubeiro Decl., ¶ 4.) Like the 2015  
3 form previously submitted, the 2016 Form 990 again shows that the NRA receives a majority of its  
4 revenue from individuals and only 5% of its annual revenue is attributed to "companies and  
5 executive in the firearms, hunting, and shooting sports industries." (Decl. of Matthew D. Cubeiro  
6 Supp. Pls.' Mot. Attys.' Fees on App., Ex. D, Schedule O, p. 2.)

7 It is proper that Plaintiffs submit this updated information to the Court, so that the Court  
8 may have at its disposal and weigh the most up-to-date evidence relevant to Plaintiffs' pending fee  
9 motion. Plaintiffs respect and appreciate the Court's schedule and time, and they desire to prevent  
10 the waste of the Court's and the parties' resources that may arise if this evidence were brought in a  
11 motion for reconsideration or other relief. As such, they request leave to submit the NRA's 2016  
12 IRS Form 990 in good faith, believing that it will likely to assist the Court in ruling on the  
13 Plaintiffs' Motion for Attorneys' Fees on Appeal.

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15 Date: February 7, 2018

Respectfully submitted,  
MICHEL & ASSOCIATES, P.C.

17 s/ Anna M. Barvir  
18 Anna M. Barvir  
19 Attorney for Plaintiffs  
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**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 February 7, 2018, I served the foregoing document(s) described as:

**PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL EVIDENCE IN SUPPORT OF MOTION FOR ATTORNEYS' FEES  
ON APPEAL; MEMORANDUM OF POINTS & AUTHORITIES; DECLARATION OF  
MATTHEW D. CUBEIRO**

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 (BY ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic transmission through One Legal. Said transmission was reported and completed without error.

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.

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

Executed on February 7, 2018, at Long Beach, California

  
LAURA PALMERIN