Superior Court Of California, Sacramento 10/12/2021 C.D. Michel - S.B.N. 144258 terowther Sean A. Brady – S.B.N. 262007 MICHEL & ASSOCIATES, P.C. Case Number: 180 East Ocean Blvd., Suite 200 34-2013-80001667 Long Beach, CA 90802 Telephone: (562) 216-4444 Facsimile: (562) 216-4445 Email: sbrady@michellawyers.com 5 Attorneys for Plaintiffs 6 7 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA 9 FOR THE COUNTY OF SACRAMENTO 10 DAVID GENTRY, JAMES PARKER, Case No. 34-2013-80001667 MARK MIDLAM, JAMES BASS, and 11 CALGUNS SHOOTING SPORTS DECLARATION OF ANNA M. BARVIR IN ASSOCIATION. SUPPORT OF PLAINTIFFS' MOTION FOR 12 ATTORNEYS' FEES Plaintiffs and Petitioners. 13 (Filed concurrently with Notice of Motion & Motion, Memorandum of Points & Authorities in V. 14 Support, Request for Judicial Notice, Proposed XAVIER BECERRA, in His Official Order, Declaration of Sean A. Brady, Declaration of 15 Capacity as Attorney General For the State Alexander A. Frank, Declaration of Scott M. of California; STEPHEN LINDLEY, in Franklin, Declaration of C.D. Michel, Declaration 16 His Official Capacity as Acting Chief for of Albert E. Peacock, III, and Haydee Villegas, the California Department of Justice, Exhibits A-I) 17 BETTY T. YEE, in Her Official Capacity as State Controller, and DOES 1 - 10, Hearing Date: January 14, 2022 18 Hearing Time: 10:00 a.m. Defendants and Respondents. Department: 19 Judge: Hon. Shelleyanne W.L. Chang 20 Trial Date: August 24, 2018 Action Filed: October 16, 2013 21 22 23 24 25 26 27 28

## DECLARATION OF ANNA M. BARVIR

I, Anna M. Barvir, declare as follows:

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1. I am an attorney licensed to practice law in the state of California and before the United States District Court for the Central District of California. I am an attorney and Partner at the law firm Michel & Associates, P.C. ("MAPC"), attorneys of record for Plaintiffs in this action. I have personal knowledge of the facts set forth herein and, if called and sworn as a witness, could and would testify competently thereto.

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## Plaintiffs' Counsel's Experience

In 2009, In I graduated magna cum laude from Whittier Law School, earning my

I have been admitted to practice law before the courts of California since January

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Juris Doctor and a Certificate in Legal Research and Writing. During law school, I served as Executive Editor of the Whittier Law Review and my student-written article, *When Hysteria and* 

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Good Intentions Collide: Constitutional Considerations of California's Sexual Predator

Punishment and Control Act, 29 Whittier L. Rev. 679 (2008), was selected for publication. Upon

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graduation, I received the Whittier Law School Dean's Citation Award for Outstanding Leadership

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and Service to the Law School Community.

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2010. I am also currently licensed to practice before the Supreme Court of the United States, the

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United States Court of Appeals for the D.C., Fourth, Ninth, and Tenth Circuits, and the United

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States District Courts for the Northern, Southern, Eastern, and Central Districts of California.

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4. I began my full-time legal career in the summer of 2010 as an attorney law clerk for MAPC. In February 2012, I took an associate position with MAPC. And in 2019, I was named

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Special Counsel for and, shortly thereafter, Partner at MAPC.

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5. My practice for the past 10 years has focused primarily on matters involving local,

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state, and federal firearm laws. I regularly advise individuals and firearm businesses regarding

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statutory and regulatory compliance matters, provide legal analyses of proposed firearm-related

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legislation to local government officials, and litigate legal challenges to firearm laws that offend the

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First and Second Amendments, violate due process and equal protection, or are preempted by state

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or federal law. I also have significant experience bring attorneys' fee motions in state and federal

court, under Cal. Code Civ. Proc., § 1021.5 and 42 U.S.C. § 1988(b), and regularly prepare fee motions for the attorneys at Michel & Associates, P.C.

- 6. I also focus much of my practice on appellate matters, having briefed several appeals before the federal courts of appeals, the California Court of Appeal and California Supreme Court. I have prepared emergency filings for the California Court of Appeal, the Ninth Circuit, and the U.S. Supreme Court. I have assisted with the drafting of several petitions for certiorari. I have also argued before the Ninth and D.C. Circuits, as well as the Washington State Court of Appeals.
- 7. Recently, I served as lead trial counsel in *Duncan v. Becerra*, S.D. Cal. Case No. 17-cv-01017, a successful Second Amendment and Takings Clause challenge to California's ban on ammunition magazines over ten rounds. As lead counsel, I was primarily responsible for all case management and litigation strategy, I took or defended six expert witness depositions, I handled all aspects of propounding and responding to written discovery, and I handled plaintiffs' successful motions for preliminary injunction and summary judgment. The trial court decision granting summary judgment in plaintiffs' favor is considered by some to be among the most influential Second Amendment decisions since *McDonald v. City of Chicago*, 561 U.S. 742 (2010).
- 8. I am also lead counsel in *Wright v. Beck*, C.D. Cal. Case No. 15-cv-05805 & 9th Cir. Case No. 19-55084. That case involves Fourth and Fourteenth Amendment challenges to the permanent seizure and destruction of about half-a-million dollars' worth of personal firearm property and the refusal to return about \$1,000 in cash by the Los Angeles Police Department and Los Angeles City Attorney's Office. The trial court initially threw out the case on the City's motion to dismiss. But on appeal, which I briefed and argued, a panel of the Ninth Circuit unanimously reversed the dismissal. On remand, the trial court granted summary judgment in the City's favor, and Plaintiff Wright again appealed to the Ninth Circuit. I was again primarily responsible for litigating the appeal on Mr. Wright's behalf. In December 2020, a panel of the Ninth Circuit *again* ruled in Mr. Wright's favor.
- 9. As a first- and second-year attorney, I was integral to the success of *Parker v*. *California*, Fresno Super. Ct. Case No. 10CECG02116, Cal. Ct. App. 5th Dist. Case Nos. F062480 & F062709, & Cal. Sup. Ct. Case No. S215265, a constitutional vagueness challenge to A.B. 962's

restrictions on sales of handgun ammunition. Aside from assisting with trial litigation, I handled much of the briefing on appeal to the California Court of Appeal and Supreme Court, as well as the successful motion for attorney's fees on appeal. The case was pending (and fully briefed) before the California Supreme Court when the state legislature amended A.B. 962 and mooted the appeal. The Fresno County Superior Court awarded plaintiffs \$225.00 per hour for appellate work I performed in 2011 and 2012 as an attorney with two years' experience.

- 10. In 2019, I successfully sued the City of Los Angeles in *National Rifle Association v. City of Los Angeles*, C.D. Cal. Case No. 19-cv-03212, a First Amendment challenge to a city ordinance requiring city contractors to disclose any sponsorship of or contract with the National Rifle Association. The court awarded plaintiffs \$425 per hour for the work I performed from 2019-2020 as an attorney with about ten-years' experience.
- 11. As a seasoned constitutional law attorney, I am often invited by nonprofit groups to speak at events in Orange County to explain important constitutional law decisions from the Supreme Court or Ninth Circuit. And as a firearm-law attorney, I also speak to groups about the ins and outs of California's complex web of firearm laws.
- 12. I have been recognized by Southern California Super Lawyers magazine as a "Rising Star" in the field of constitutional law/civil rights every year from 2013 through 2021.
- 13. During this matter, I was categorized by Michel & Associates, P.C., as a "Partner." See Ex. B (attached to declaration of Anna M. Barvir filed simultaneously herewith). My \$475 hourly rate is well within the hourly rates charged by highly specialized firms for attorneys of similar skill, experience, and expertise in Southern California.

## **Authentication of Billing**

14. Plaintiffs' billing records, attached to the Declaration of Haydee Villegas filed simultaneously herewith, include true and accurate copies of my billing records for which fee recovery is sought in this matter. *See* Ex. A (attached to the Declaration of Haydee Villegas filed simultaneously herewith). The records include detailed descriptions of the work I performed on this matter and the time spent on each task between January 2021 and October 2021 for work I performed on this fee motion. *Id*.

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- 15. In the regular course and scope of my daily business activities, I prepared the descriptions in each billing record that shows my name as the "Timekeeper," and I did so at or near the time of the occurrence of the work that I performed on this matter.
- 16. The descriptions contained within my billing records are a fair and accurate description of the work I performed on this matter and time spent on each task. In my professional judgment, the amount of time indicated for each task described in my billing records is a reasonable amount of time for me to have spent on the type of work described therein.

## **Role in the Litigation**

- 17. I spent about **61.7** hours during this phase of litigation. That time breaks down as follows: (1) about 17.0 hours were devoted to a detailed review of the firm's billing to this matter to ensure that only time that is recoverable was included in Plaintiffs' fee request and to "write off" time that might be considered vague, excessive, redundant, or completed by law clerks; (2) about 5.9 hours were spent reviewing and analyzing the record of proceedings in this case at trial and on appeal, as well as the legislative history of AB 1669 to prepare to draft the fee motion; (3) about 34.3 hours were devoted to drafting, reviewing, and revising Plaintiffs' fee motion and conducting related legal research necessary to support the motion, as well as preparing exhibits, declarations, and other supporting documents; (4) about 4.5 hours were spent communicating with my fee motion team, especially Attorney Sean A. Brady, via meetings, telephone calls and videoconferences, and emails to discuss the fee motion, brainstorm arguments, discuss the preparation of billing, and delegate tasks. Villegas Decl., Ex. A; Brady Decl., Ex. C.
- 18. I anticipate spending another 15 hours preparing Plaintiffs' reply to the DOJ's opposition to this motion and another 8-10 hours if the Court orders a hearing, though these hours were not included as part of Plaintiffs' fee request.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed this 12th day of October, at Corona, California.

> Anna M. Barvir Declarant

1 PROOF OF SERVICE 2 STATE OF CALIFORNIA COUNTY OF SACRAMENTO 3 I, Laura Palmerin, am employed in the City of 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 4 business address is 180 East Ocean Blvd., Suite 200, Long Beach, CA 90802. 5 On October 12, 2021, the foregoing document described as 6 DECLARATION OF ANNA M. BARVIR IN SUPPORT OF PLAINTIFFS' MOTION FOR 7 ATTORNEYS' FEES 8 on the interested parties in this action by placing □the original 9 ⊠a true and correct copy thereof enclosed in sealed envelope(s) addressed as follows: 10 Ryan A. Hanley Deputy Attorney General 11 California Department of Justice 1300 I Street, Suite 125 12 P.O. Box 944255 13 Sacramento, CA 94244-2550 Ryan.Hanley@doj.ca.gov 14 Attorney for Defendants 15 16 ⊠ (BY 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 17 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 18 accordance with ordinary business practices. 19 ☐ (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and 20 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 Long Beach, 21 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 date of 22 deposit for mailing an affidavit. 23 I declare under penalty of perjury under the laws of the State of California that the 24 foregoing is true and correct. 25 Executed on October 12, 2021, at Long Beach, California. mfaleur 26 27 28

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	DECLARATION OF ANNA M. BARVIR