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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

DAVID GENTRY, JAMES PARKER,
MARK MIDLAM, JAMES BASS, and
CALGUNS SHOOTING SPORTS
ASSOCIATION,

Plaintiffs and Petitioners,

v.

XAVIER BECERRA, in His Official
Capacity as Attorney General For the State
of California; STEPHEN LINDLEY, in
His Official Capacity as Acting Chief for
the California Department of Justice,
BETTY T. YEE, in Her Official Capacity
as State Controller, and DOES 1 - 10,

Defendants and Respondents.

Case No. 34-2013-80001667

**DECLARATION OF ALBERT E. PEACOCK
III IN SUPPORT OF PLAINTIFFS' MOTION
FOR ATTORNEY FEE AWARD UNDER
CODE OF CIVIL PROCEDURE SECTION
1021.5**

(Filed concurrently with Notice of Motion &
Motion, Memorandum of Points & Authorities in
Support, Request for Judicial Notice, Proposed
Order, Declaration of Anna M. Barvir, Declaration
of Sean A. Brady, Declaration of Alexander A.
Frank, Declaration of Scott M. Franklin,
Declaration of C.D. Michel, and Haydee Villegas,
Exhibits A-I)

Hearing Date: January 14, 2022
Hearing Time: 10:00 a.m.
Department: 21
Judge: Hon. Shelleyanne W.L. Chang

Trial Date: August 24, 2018
Action Filed: October 16, 2013

FILED
Superior Court Of California,
Sacramento
10/12/2021
tcrowther
By _____, Deputy
Case Number:
34-2013-80001667

1 **DECLARATION OF ALBERT E. PEACOCK, III**

2 I, Albert E. Peacock III, declare as follows:

3 1. I am a partner at Peacock Piper Tong & Voss, LLP, located in Long Beach,
4 California. Before that I was a shareholder partner at Keesal, Young & Logan in Long Beach,
5 California. I am an attorney admitted to practice law before the courts of the State of California. I
6 have personal knowledge of the facts contained in this declaration and, if called as a witness, am
7 competent to testify to those facts.

8 2. In 1983, I graduated from the University of Southern California Law Center with a
9 J.D. degree.

10 3. In 1983, I passed the Hawaii Bar Exam and began practicing law with Hamilton,
11 Gibson, Nichelsen, Rush & Moore in Honolulu, Hawaii. There, I focused primarily on civil
12 litigation including personal injury claims (e.g., automobile, aviation, premises liability, and
13 products liability) and commercial disputes such as breach of contract claims.

14 4. In 1988, I passed the California Bar Exam and began practicing with Keesal,
15 Young & Logan in Long Beach, California. I continued to focus primarily on civil litigation
16 including personal injury claims and commercial disputes.

17 5. In 1994, I passed the Alaska Bar Exam and opened Keesal, Young & Logan's
18 Anchorage, Alaska office. While in Alaska, I focused primarily on maritime law matters including
19 litigation and casualty investigations.

20 6. In 1998, I returned to the Keesal, Young & Logan's Long Beach, California office,
21 where I practiced for another 20 years. While there, my practice focused on civil litigation,
22 including personal injury and commercial litigation. I also handled many complex engineering and
23 construction cases in California, Missouri, Colorado, Nevada and Illinois.

24 7. In 2017, while at Keesal, Young & Logan, my normal hourly billing rate as an
25 attorney with over 35 years of experience was between \$545 and \$640 per hour for non-maritime
26 cases. More junior shareholders were billed at \$459 to \$540 and associates between \$265 and \$530
27 per hour for non-maritime cases depending on their level of experience and the complexity of the
28 case. In my professional opinion, as an attorney practicing in Southern California for over 35

1 years, these rates are consistent with the rates charged by comparable attorneys in the Southern
2 California community.

3 8. In 2018, I became a founding Partner of Peacock Piper Tong + Voss, LLP a law
4 firm based in Long Beach, California. Peacock Piper is a boutique law firm similar in size to
5 Michel & Associates, P.C.

6 9. Piper Peacock employs trial, corporate, and transactional attorneys who provide a
7 wide range of legal services from emergency on-scene casualty investigations, pre-trial litigation,
8 trial, and appeals. We also have experience with regulatory compliance, licensing and enforcement
9 actions, corporate transactions, corporate governance, outside general counsel services, real estate,
10 and intellectual property protection.

11 10. At Piper Peacock, my current, non-maritime billing rate as an attorney with over
12 35 years of experience is \$585. Other partners, including more junior partners, are billed between
13 \$500 and \$600 for non-maritime/non-environmental cases. Associates bill between \$400 and \$450
14 for non-maritime cases depending on their level of experience and the complexity of the case.

15 11. These rates are charged to and paid by fee paying clients of my firm and by
16 defendants through court awards and settlements. They are also the rates my firm claims in fee
17 applications in fee-shifting cases.

18 12. I am aware of the nature of this case and have reviewed the hourly rates being
19 charged by each of plaintiffs' attorneys and their respective experience levels. In my professional
20 opinion, as an attorney practicing in Southern California for over 35 years, these rates are
21 consistent with the rates charged by comparably qualified and experienced attorneys handling
22 comparable litigation in the Southern California community.

23 13. Anna M. Barvir's hourly billing rate of \$475, in my professional opinion, is
24 reasonable for a Partner with 11 years' experience practicing law in Long Beach, CA, at a
25 boutique firm like Michel & Associates, P.C.

26 14. Sean A. Brady's hourly billing rate of \$350, in my professional opinion, is
27 reasonable for an Associate with between 5- and 11-years' experience practicing law in Long
28 Beach, CA, at a boutique firm like Michel & Associates, P.C. I also understand that Mr. Brady

1 was named Partner at Michel & Associates not long after the trial stage of this case concluded,
2 bolstering my opinion of Mr. Brady's skill and experience, as well as his hourly rate in this case.

3 15. Alexander A. Frank's hourly billing rate of \$350 in my professional opinion, is
4 reasonable for an Associate with 5 years' experience practicing law in Long Beach, CA, at a
5 boutique firm like Michel & Associates, P.C.

6 16. Scott M. Franklin's hourly billing rate of \$375, in my professional opinion, is
7 reasonable. I understand that he was an Associate with over 8 and years' experience early in this
8 case, and that his reasonable hourly billing rate would have then been \$350. I also understand that
9 Mr. Franklin became Of Counsel and that his reasonable hourly billing rate has been \$400 since
10 that time. In my professional opinion, a reasonable blended hourly rate would be \$375 for an
11 attorney with his experience practicing law in Long Beach, CA, at a boutique firm like Michel &
12 Associates, P.C.

13 17. Glenn S. McRoberts' hourly billing rate of \$400, in my professional opinion, is
14 reasonable for Special Counsel with over 20 years' experience practicing law in Long Beach, CA,
15 at a boutique firm like Michel & Associates, P.C.

16 18. C.D. Michel's hourly billing rate of \$650, in my professional opinion, is
17 reasonable for a Senior Partner with over 25 years' experience practicing law in Long Beach, CA,
18 at a boutique firm like Michel & Associates, P.C.

19 19. Michel & Associates' hourly billing rate of \$170 for paralegals, in my professional
20 opinion, is reasonable for comparable boutique law firms in Long Beach, CA.

21 20. Michel & Associates' hourly billing rate of \$170 for law clerks who have taken the
22 Bar Exam, in my professional opinion, is reasonable for comparable boutique law firms in Long
23 Beach, CA.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed October 7, 2021, at Long Beach, California.

26 

27 Albert E. Peacock, III
28 Declarant

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA
3 COUNTY OF SACRAMENTO

4 I, Laura Palmerin, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age of eighteen (18) years and am not a party to the within action. My
6 business address is 180 East Ocean Blvd., Suite 200, Long Beach, CA 90802.

7 On October 12, 2021, the foregoing document described as

8 **DECLARATION OF ALBERT E. PEACOCK III IN SUPPORT OF PLAINTIFFS’
9 MOTION FOR ATTORNEY FEE AWARD UNDER CODE OF CIVIL PROCEDURE
10 SECTION 1021.5**

11 on the interested parties in this action by placing

- 12 the original
13 a true and correct copy

14 thereof enclosed in sealed envelope(s) addressed as follows:

15 Ryan A. Hanley
16 Deputy Attorney General
17 California Department of Justice
18 1300 I Street, Suite 125
19 P.O. Box 944255
20 Sacramento, CA 94244-2550
21 Ryan.Hanley@doj.ca.gov


22 *Attorney for Defendants*

23 (**BY OVERNIGHT MAIL**) As follows: I am “readily familiar” with the firm’s practice of
24 collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the
25 practice it would be deposited with a facility regularly maintained by UPS/FED-EX for
26 receipt on the same day in the ordinary course of business. Such envelope was sealed and
27 placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for in
28 accordance with ordinary business practices.

(**BY MAIL**) As follows: I am “readily familiar” with the firm’s practice of collection and
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,
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
deposit for mailing an affidavit.

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

Executed on October 12, 2021, at Long Beach, California.



Laura Palmerin