

BY FAX

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Superior Court Of California,  
Sacramento  
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tcrowher  
By \_\_\_\_\_, Deputy  
Case Number:  
34-2013-80001667

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6  
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF SACRAMENTO

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

12 Plaintiffs and Petitioners,

13 v.

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

18 Defendants and Respondents.

Case No. 34-2013-80001667

**DECLARATION OF SEAN A. BRADY IN  
SUPPORT OF MOTION FOR  
ATTORNEYS' FEES**

(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 Alexander A. Frank, Declaration  
of Scott M. Franklin, Declaration of Albert E.  
Peacock, III, 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

1 **DECLARATION OF SEAN A. BRADY**

2 I, Sean A. Brady, declare as follows:

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

7 **Plaintiffs’ Counsel’s Experience**

8 2. I began my full-time legal career in August 2008 as a law clerk at Trutanich- Michel,  
9 LLP. In January 2009, I became an associate attorney for Trutanich-Michel, LLP, which soon  
10 thereafter became MAPC. In 2018, I became special counsel at MAPC. In 2019, I became a partner  
11 at MAPC.

12 3. My practice for the past 12 years has been primarily dedicated to matters involving  
13 California and federal firearm laws. In that capacity, I have advised individuals, businesses, and  
14 governments on how to comply with complicated firearm regulation schemes, provided analyses of  
15 proposed state and local firearm and ammunition related legislation, as well as potential legal  
16 challenges thereto, and drafted numerous legal memoranda concerning firearm laws.

17 4. I have also drafted or assisted in drafting various amicus curiae briefs in important  
18 firearm-related cases throughout the country. And I have litigated or assisted in litigating civil rights  
19 lawsuits concerning Second Amendment and other constitutional rights violations in various phases  
20 of both trial and appellate proceedings in state and federal courts, including petitions to the United  
21 States Supreme Court. In doing so, I have personally argued before the Ninth Circuit Court of  
22 Appeal and the California Court of Appeal.

23 5. I was trial counsel in *Peruta v. Cty. of San Diego*, 824 F.3d 919 (9th Cir. 2016), a  
24 challenge to the County of San Diego’s concealed firearm carry permit issuance requirements that  
25 prevailed before a 3-judge panel of the Ninth Circuit before being overturned en banc. It also drew a  
26 dissent from Justice Thomas when the Supreme Court declined to review it. I was primarily  
27 responsible for litigating the matter in the trial court, heavily involved in both the appeal before a 3-  
28 judge panel of the Ninth Circuit and *en banc* rehearing and assisted in preparing the petition for writ

1 of certiorari to the Supreme Court.

2 6. Most recently, I am lead counsel for plaintiffs in a case involving a challenge to  
3 ammunition sales restrictions adopted by California voters in 2016. The court, in a 120-page  
4 decision, granted plaintiffs’ request for a preliminary injunction, finding that the plaintiffs were  
5 likely to succeed on their claims that the state’s ammunition background check system and ban on  
6 out-of-state purchases violated the Second Amendment and the Dormant Commerce Clause. *Rhode*  
7 *v. Becerra*, No. 18-cv-802, 2020 U.S. Dist. LEXIS 71893, \*108 (S.D. Cal. April 23, 2020). That  
8 case is on appeal before the Ninth Circuit.

9 7. A matter I recently was deeply involved with, *B & L Prods. v. 22nd Dist. Agric.*  
10 *Ass’n*, No. 3:19-CV-134-CAB-AHG, 2020 U.S. Dist. LEXIS 73950 (S.D. Cal. Apr. 27, 2020),  
11 involved a First Amendment focused challenge on behalf of Second Amendment oriented plaintiffs  
12 in response to the 22<sup>nd</sup> Agricultural District of California’s efforts to terminate the 30+ year  
13 tradition of gun shows at the Del Mar Fairgrounds in San Diego. I participated in briefing the matter  
14 and arguing it. My efforts in the matter helped secure a preliminary injunction in favor of my  
15 clients.

16 8. Over the years, I have been invited to speak to other lawyers and the media about  
17 constitutional issues involving firearm laws countless times, including teaching MCLE courses. I  
18 have been guest lecturer on constitutional law at Westwood College, South Bay Campus on  
19 occasion.

20 **Authentication of Billing**

21 9. Plaintiffs’ billing records, attached to the Declaration of Haydee Villegas filed  
22 simultaneously herewith, include true and accurate copies of my billing records for which fee  
23 recovery is sought in this matter. *See* Ex. A (attached to the Declaration of Haydee Villegas filed  
24 simultaneously herewith). The records include detailed descriptions of the work I performed on this  
25 matter and the time spent on each task between May 2013 and October 2021. *Id.*

26 10. In the regular course and scope of my daily business activities, I prepared the  
27 descriptions in each billing record that shows my name as the “Timekeeper,” and I did so at or near  
28 the time of the occurrence of the work that I performed on this matter.

1 11. The descriptions contained within my billing records are a fair and accurate  
2 description of the work I performed on this matter and time spent on each task. In my professional  
3 judgment, the amount of time indicated for each task described in my billing records is a reasonable  
4 amount of time for me to have spent on the type of work described therein.

5 12. Attached hereto as **Exhibit B** is a true and correct copy of MAPC’s hourly rate  
6 schedule for this civil matter. These rates are consistent with rates charged by comparable attorneys  
7 in or around Los Angeles, California.

8 13. Attached hereto as **Exhibit C**, is a true and correct chart reflecting the total hours  
9 billed, broken down by billing professional and project reference. The chart also indicates the title  
10 and billing rate of each professional, the total number of hours billed, the total fees billed, and the  
11 total fees waived. This chart was created to assist the Court in assessing the reasonableness of  
12 plaintiffs’ fee request, using the final billing report generated by my office manager, Haydee  
13 Villegas, and attached to her declaration as Exhibit A.

14 **Reasonableness of Time Spent and Fees Requested**

15 14. Plaintiffs’ fee claim is based on sworn declarations that describe every activity for  
16 which compensation is claimed and on the actual billing “slips” created for this matter. Ex. A.

17 15. I am familiar with the way MAPC professionals record their time and prepare client  
18 invoices in the normal course and scope of business. These billing records are initially prepared at  
19 or around the time of the billing event and recorded under specific numbers assigned to each client  
20 and matter. As the MAPC attorney designated as “Responsible Attorney” in this matter, I directed  
21 my staff to set up a unique billing matter number to accurately capture time spent on this case. The  
22 fees sought in this case were recorded under that matter number to capture only time at issue in this  
23 case.

24 16. Each month, as the attorney directly responsible for the management of this case and  
25 most knowledgeable about the work performed in furtherance of it, I personally reviewed every  
26 entry that was billed on this matter since MAPC began work on this case, and I verified that the  
27 time was correctly billed to this matter. I also personally reviewed the records of all time billed to  
28 this matter and made reductions (or “no charged”) for:

- 1 a. Work that might be considered duplicative or excessive;
- 2 b. Secretarial work and mixed secretarial/paralegal work, no matter who
- 3 performed it;
- 4 c. Public relations activity related to the case and its subject matter; and
- 5 d. Entries that were vague or unclear as to the task performed.

6 In short, I approached the task as if I were preparing a bill for a paying client, recognizing that in  
7 this case the paying client is ultimately the taxpayer. As such, the activities for which recovery is  
8 sought reflect considerable professional “billing judgment.” Ultimately, our office does not seek  
9 attorneys’ fees for 727.1 hours expended by MAPC attorneys, law clerks, and paralegals assigned to  
10 this case.

11 17. During the period for which Plaintiffs seek fees, I was categorized by MAPC briefly  
12 as “Associate 5,” then “Associate 6+,” and shortly thereafter as “Partner.” *See* Ex. B. My \$250  
13 hourly rate is well within the hourly rates charged by highly specialized firms for attorneys of  
14 similar skill, experience, and expertise in Southern California.

15 18. I was assigned the role of “Responsible Attorney” in this matter, responsible for the  
16 management of this case and supervision of all professionals billing to this case since its inception  
17 in May 2013.

18 19. As the Responsible Attorney in this matter, I determined, directed, and advanced the  
19 strategy pursued by plaintiffs; I supervised the legal analysis and writing performed; I directed  
20 communications with plaintiffs and opposing counsel, and I directed my team regarding settlement  
21 negotiations on behalf of plaintiffs.

22 20. My work was supervised by the firm’s principal, C.D. Michel, a firearms law  
23 attorney and civil rights litigator with over 30 years of experience. Mr. Michel’s qualifications and  
24 significance to the representation of this case are set forth more fully in the Declaration of C.D.  
25 Michel, filed concurrently herewith. Mr. Michel’s \$650 hourly rate is well within the hourly rates  
26 charged by highly specialized firms for attorneys of similar skill, experience, and expertise in  
27 Southern California.

28 21. Throughout all phases of this litigation, I was assisted heavily by Scott M. Franklin,

1 an experienced civil litigator and Of Counsel at MAPC. His contributions were vital to Plaintiffs'  
2 success in this matter. Mr. Franklin's qualifications and significance to the representation of this  
3 case are set forth more fully in the Declaration of Scott M. Franklin, filed concurrently herewith.  
4 Mr. Franklin's \$375 hourly rate is well within the hourly rates charged by highly specialized firms  
5 for attorneys of similar skill, experience, and expertise in Southern California.

6 22. I was also assisted by Glenn McRoberts, an experienced civil litigator with over 20  
7 years' experience and Special Counsel at MAPC. His contributions were vital to Plaintiffs' success  
8 in this matter early in the case. Sadly, Mr. McRoberts passed away in 2015, so Plaintiffs are unable  
9 to provide a declaration personally attesting to Mr. McRoberts' qualifications and significance to  
10 the representation of this case. Mr. McRoberts' \$400 hourly rate is well within the hourly rates  
11 charged by highly specialized firms for attorneys of similar skill and experience in Southern  
12 California.

13 23. I was also assisted by Anna M. Barvir, a firearms law attorney and Partner at MAPC.  
14 Ms. Barvir's qualifications and significance to the representation of this case are set forth more fully  
15 in the Declaration of Anna M. Barvir, filed concurrently herewith. Ms. Barvir's \$475 hourly rate is  
16 well within the hourly rates charged by highly specialized firms for attorneys of similar skill and  
17 experience in Southern California.

18 24. I was also assisted by Alexander A. Frank, a civil litigator and associate at MAPC.  
19 Mr. Frank's qualifications and significance to the representation of this case are set forth more fully  
20 in the Declaration of Alexander A. Frank, filed concurrently herewith. Mr. Frank's \$350 hourly rate  
21 is well within the hourly rates charged by highly specialized firms for attorneys of similar skill and  
22 experience in Southern California.

23 25. I was also assisted extensively by several former law clerks, Mr. Richard Bourne-  
24 Vanneck, Mr. Imran Khundkar, Ms. Margaret Leidy, Ms. Lisa Mahlum, and Mr. Sean O'Neil. At  
25 MAPC, the law clerk position is temporary, and clerks come and go at will. Generally, only one or  
26 two law clerks were assigned to this matter at any given time. Law clerks were primarily  
27 responsible for assisting with legal research, preparing research memoranda and case briefs for use  
28 in drafting the pleadings and motions, as well as drafting supporting documents and marshalling

1 evidence. Plaintiffs are not seeking recovery for their work in this case, even though all law clerks  
2 were licensed to practice law and their work was legal work for which recovery is appropriate.

3 26. Finally, I was assisted by my paralegals, Claudia Nunez, Laura Palmerin, and Laura  
4 Quesada, all of whom have significant experience as legal secretaries and paralegals. MAPC  
5 regularly bills its paralegals at an hourly rate of \$170. This rate, in my professional experience, is  
6 well within the rates charged by private firms for paralegals of similar skill and experience.

7 27. To assist the Court in weighing the reasonableness of Plaintiffs' fee request, all  
8 recoverable time incurred preparing and litigating this lawsuit has been broken down into seven  
9 categories. It is further broken down by the number of hours billed by each billing professional for  
10 whom recovery is sought. Detailed descriptions are provided below, describing the tasks performed  
11 for each category of time spent and for everyone who billed time during that phase of litigation.

#### 12 **Case Management and Litigation Strategy**

13 28. Our office spent at least **105.6** hours engaged in case management activities  
14 throughout the course of this lawsuit. During this phase of litigation, Plaintiffs' counsel: (1) met  
15 regularly to discuss case strategies, theories, arguments, deadlines, and division of tasks; (2)  
16 corresponded by phone and email to strategize and brainstorm case theories and arguments; (3)  
17 communicated with Plaintiffs as needed to apprise them of case status and discuss case goals and  
18 strategies; and (4) prepared motions affecting the briefing schedule. Ex. C; see also Villegas Decl.,  
19 Ex. A.

20 29. I spent about **39.3** hours during this phase of litigation. That time breaks down as  
21 follows: (1) about 17.9 hours were spent in case-management meetings with the attorneys and other  
22 billing professionals assigned to litigate this case; (2) about 7.2 hours were spent communicating  
23 with my litigation team via telephone or email to discuss case strategy, deadlines, assignments, and  
24 the like; (3) about 8.6 hours were spent reviewing and analyzing materials, including legal  
25 memoranda, court orders, and legal research, regarding legal or procedural issues related to the  
26 management of the case; and (4) about 5.6 hours were spent drafting or reviewing correspondence  
27 related to this matter. Ex. C; see also Villegas Decl., Ex. A.

28 30. Based on my personal review of the billing records and my role as Responsible

1 Attorney overseeing the work of all MAPC professionals in this matter, I am aware that Paralegals  
2 spent about **5.7** hours engaged in case management activities. This time breaks down as follows: (1)  
3 about 2.6 hours was spent in litigation team communications, including meetings, emails, and  
4 telephone conferences; and (2) about 3.1 hours were spent on legal research, document preparation,  
5 or document review to assist the attorneys in the initial preparation of this matter. Ex. C; see also  
6 Villegas Decl., Ex. A.

### 7 **Preparing the Case and Complaint**

8 31. Based on my personal review of the billing records in this matter and my role as  
9 Responsible Attorney overseeing the work of all MAPC professionals in this matter, I am aware  
10 that Plaintiffs' counsel spent at least **166.2** hours during the "Complaint" phase of the litigation. Ex.  
11 C; see also Villegas Decl., Ex. A.

12 32. I spent about **91.9** hours during this phase of litigation. That time breaks down as  
13 follows: (1) about 5.2 hours were devoted to email communications and correspondence regarding  
14 the complaint drafting and review process; (2) about 9.0 hours were spent in meetings during the  
15 complaint drafting process; (3) about 59.7 hours were spent drafting, reviewing, and revising the  
16 complaint; (4) about 2.3 hours were spent in telephone conferences regarding the complaint  
17 drafting; and (5) about 15.7 hours were spent researching and analyzing the factual background and  
18 legal claims giving rise to the suit to better draft the complaint. Ex. C; see also Villegas Decl., Ex.  
19 A.

20 33. Based on my personal review of Mr. McRoberts' billing records and my role as  
21 Responsible Attorney overseeing the work of all MAPC professionals in this matter, I am aware  
22 that Mr. McRoberts spent about **38.5** hours on this phase of the litigation. (1) about 3.3 hours were  
23 devoted to email communications and correspondence regarding the complaint drafting and review  
24 process; (2) about 1.3 hours were spent in meetings during the complaint drafting process; (3) about  
25 22.5 hours were spent drafting, reviewing, and revising the complaint; (4) about 3.1 hours were  
26 spent in telephone conferences regarding the complaint drafting; and (5) about 8.3 hours were spent  
27 researching and analyzing the factual background and legal claims giving rise to the suit to better  
28 draft the complaint. Ex. C; see also Villegas Decl., Ex. A.





1 received in response to our requests in the firm's electronic filing system to be used as evidence,  
2 and distributing the documents to the appropriate attorneys; (2) about 6.8 hours were devoted to  
3 conducting research related to our discovery, including deadline confirmation and calendaring those  
4 deadlines, bookmarking documents for further attorney research, and maintaining firm databases  
5 related to the discovery process; and (3) the remainder of paralegal time (17.5 hours) was spent in  
6 litigation team communications, including meetings, emails, and telephone conferences;. Ex. C; see  
7 also Villegas Decl., Ex. A.

### 8 **Motion Practice**

9 38. Based on my personal review of the billing records in this matter and my role as  
10 Responsible Attorney overseeing the work of all MAPC professionals in this matter, I am aware  
11 that Plaintiffs spent at least **229.0** hours engaged in motion practice in this matter. Ex. C; see also  
12 Villegas Decl., Ex. A.

13 39. During this phase of litigation, Plaintiffs' counsel strategized, researched, drafted,  
14 and prepared Plaintiffs' motion for leave to amend the complaint, as well as all supporting  
15 documents and evidence. Plaintiffs also opposed the State's motion for judgment on the pleadings  
16 and filed various stipulations. Plaintiffs' counsel also prepared for, traveled to, and attended the  
17 hearing on those motions. Ex. C; see also Villegas Decl., Ex. A.

18 40. I spent about **23.0** hours during this phase of litigation. That time breaks down as  
19 follows: The bulk of my time (15.1 hours) was spent drafting, reviewing, and revising Plaintiffs'  
20 motion-related memoranda and supporting documents, as well as conducting legal research  
21 necessary to that effort. The remainder of my time during this phase of litigation breaks down as  
22 follows: (1) about 7.3 hours were spent in meetings regarding all aspects of the filings from  
23 discussing points of law to assigning tasks; (2) about 0.6 hours were spent on motion-related email  
24 and telephone communications with my litigation team, opposing counsel, and my clients. Ex. C;  
25 see also Villegas Decl., Ex. A.

26 41. Based on my personal review of the billing records and my role as Responsible  
27 Attorney overseeing the work of all MAPC professionals in this matter in this matter, I am aware  
28 that Paralegals spent about **14.5** hours during the motions phase. This time breaks down as follows:

1 (1) about 10.3 hours were spent on reviewing and preparing documents relevant to the motion phase  
2 of the litigation, including preparing initial drafts of supporting motion documents for attorney  
3 review, profiling the documents in the firm’s electronic filing system to be used as evidence, and  
4 distributing the documents to the appropriate attorneys; (2) about 0.7 hours were devoted to  
5 conducting research related to our motions; and (3) the remainder of paralegal time (3.5 hours) was  
6 spent in litigation team communications, including meetings, emails, and telephone conferences;.  
7 Ex. C; see also Villegas Decl., Ex. A

8 **Motion for Summary Adjudication (Claims 5 and 9)**

9 42. Based on my personal review of the billing records in this matter and my role as  
10 Responsible Attorney overseeing the work of all MAPC professionals in this matter, I am aware  
11 that Plaintiffs’ Counsel spent at least **128.0** hours in handling the motion for summary adjudication  
12 and related work on the Fifth and Ninth Causes of Action. Ex. C; see also Villegas Decl., Ex. A.

13 43. I spent about **3.8** hours during this phase of litigation. That time breaks down as  
14 follows: The bulk of my time (2.4 hours) was spent reviewing and revising Plaintiffs’ brief seeking  
15 adjudication of two causes of action. The remainder of my time during this phase of litigation  
16 breaks down as follows: (1) about 0.2 hours were spent in meetings with my colleagues regarding  
17 the summary adjudication; (2) about 1.2 hours were spent on motion-related email and  
18 correspondence. Ex. C; see also Villegas Decl., Ex. A.

19 44. Based on my personal review of the billing records and my role as Responsible  
20 Attorney overseeing the work of all MAPC professionals in this matter, I am aware that Paralegals  
21 spent about **14.3** hours during the motion for summary adjudication phase. This time breaks down  
22 as follows: (1) about 9.8 hours were spent on reviewing and preparing documents relevant to this  
23 motion phase of the litigation, including preparing initial drafts of supporting motion documents for  
24 attorney review, profiling the documents in the firm’s electronic filing system to be used as  
25 evidence, and distributing the documents to the appropriate attorneys; (2) about 0.9 hours were  
26 devoted to conducting research related to our motion for summary adjudication; and (3) the  
27 remainder of paralegal time (3.6 hours) was spent in litigation team communications, including  
28 meetings, emails, and telephone conferences; Ex. C; see also Villegas Decl., Ex. A

1 **Bench Trial on Remaining Claims**

2 45. Based on my personal review of the billing records in this matter and my role as  
3 Responsible Attorney overseeing the work of all MAPC professionals in this matter, I am aware  
4 that Plaintiffs’ Counsel spent at least **171.2** hours in handling the motion for summary adjudication  
5 and related work on the Fifth and Ninth Causes of Action. Ex. C; see also Villegas Decl., Ex. A.

6 46. I spent about **19.4** hours during this phase of litigation. That time breaks down as  
7 follows: (1) about 1.1 hours were devoted to email communications and correspondence regarding  
8 trial preparation; (2) about 2.5 hours were spent in meetings preparing for trial; (3) about 10.7 hours  
9 were spent drafting, reviewing, and revising our trial brief; (4) about 1.0 hour was spent in  
10 telephone conferences regarding trial preparation; and (5) about 4.1 hours were spent researching  
11 and analyzing issues relevant to our trial brief and trial preparation. Ex. C; see also Villegas Decl.,  
12 Ex. A.

13 47. Based on my personal review of the billing records and my role as Responsible  
14 Attorney overseeing the work of all MAPC professionals in this matter, I am aware that Paralegals  
15 spent about **14.5** hours during the bench trial phase. This time breaks down as follows: (1) about  
16 10.0 hours were spent on drafting, reviewing, preparing, and serving documents relevant to this trial  
17 phase of the litigation, including preparing trial-related documents for attorney review and  
18 distributing the documents to the appropriate attorneys; (2) about 1.4 hours were devoted to  
19 conducting research related to the trial; and (3) the remainder of paralegal time (3.1 hours) was  
20 spent in litigation team communications, including meetings, emails, and telephone conferences;.  
21 Ex. C; see also Villegas Decl., Ex. A

22 **Post-Judgment**

23 48. Based on my personal review of the billing records and my role as Responsible  
24 Attorney overseeing the work of all MAPC professionals in this matter in this matter, I am aware  
25 that Plaintiffs’ counsel spent at least **125.0** hours on activities necessary to bringing this fee motion  
26 and the application to tax costs through October 12, 2021. This does not account for hours not yet  
27 billed on replying to Defendants’ anticipated opposition and preparing for and participating in any  
28 hearing on this motion. Ex. C; see also Villegas Decl., Ex. A.



1           52.     Rather than adopt that regulation, however, California adopted Senate Bill 819 (“SB  
2 819”) in 2011, to allow the Department to use DROS Fee funds for additional purposes;  
3 specifically, on regulating “possession” of firearms. The Department interpreted this as allowing it  
4 to use DROS Fees for anything relating to “possession” of firearms and began using substantial  
5 sums to fund all aspects of its Armed & Prohibited Persons Program (“APPS”).

6           53.     To that end, on May 1, 2013, the Legislature enacted Senate Bill 140 (“SB 140”),  
7 “urgency” appropriation legislation providing the Department access to \$24,000,000 of DROS Fund  
8 money to address “the backlog in [APPS] and the illegal possession of firearms by those prohibited  
9 persons.” (Pen. Code, § 30015(a).)

10          54.     Neither SB 819 nor SB 140 passed with two-thirds of legislative votes.

11          55.     In response, Plaintiffs filed their initial complaint on October 16, 2013. Plaintiffs  
12 alleged that by changing what the DROS Fee could be used for to include covering regulatory and  
13 enforcement costs associated with mere firearm “possession,” SB 819 violated Article XIII A,  
14 Section 3, of the California Constitution (“Proposition 26”).

15          56.     Plaintiffs’ complaint further alleged that the Department had a ministerial duty to  
16 periodically review its costs in establishing the proper amount of the DROS Fee to make sure it is  
17 not excessive, rather than just charge the statutory cap, as the Department had always done.  
18 Plaintiffs also alleged that the Department used DROS Fee monies to fund activities beyond what is  
19 statutorily authorized.

20          57.     On July 20, 2015, the court granted the Department’s motion for judgment on the  
21 pleadings against Plaintiffs’ Proposition 26 argument.

22          58.     On December 11, 2015, the trial court granted Appellants leave to amend their  
23 complaint to add several new causes of action alleging that SB 819 converts the DROS Fee, at least  
24 partially, into an unconstitutional tax under other legal theories not dependent on Proposition 26;  
25 specifically, under Article XIII, Sections 1(b), 2, and 3(m) of the California constitution.

26          59.     On the trial court’s suggestion, the parties agreed to bifurcate the action into two  
27 phases: (1) the (Fifth and Ninth) claims about whether Penal Code section 28225 imposes a duty on  
28 the Department to periodically review its costs in establishing the proper amount of the DROS Fee

1 and whether the Department was using DROS Fee monies to fund activities it not statutorily  
2 authorized to spend them on—specifically, APPS enforcement activities; and (2) the remaining  
3 unconstitutional tax claims.

4 60. On August 9, 2017, after receiving briefing and hearing argument on the first phase  
5 of the case, the trial court granted Plaintiffs’ motion for adjudication as to the two causes of action.

6 61. On January 18, 2019, the Court heard oral argument on the second phase of the case,  
7 Plaintiffs’ First Amended Petition for Writ and Complaint. (Order on Pls.’ First Amend. Petit. Writ  
8 & Compl., p. 1.) While the trial court confirmed that Plaintiffs had prevailed on the first phase, it  
9 ruled against Plaintiffs on their additional claims at issue in the second phase, and judgment was  
10 entered to that effect on April 10, 2019.

11 62. Before the trial court had issued that ruling, just after oral argument, on February 22,  
12 2019, the legislature introduced AB 1669—a bill drafted and sponsored by the Department itself.  
13 AB 1669 addressed and fixed all aspects of the lawsuit that the Department tried to defend with  
14 limited success in the trial court and was facing appeal over.

15 63. Specifically, AB 1669 lowers the existing DROS Fee to \$1 and significantly limits  
16 what its funds can be used for. The Department can no longer use DROS Fee fund for regulating  
17 any type of firearm “possession,” let alone any APPS costs, which was the thrust of Plaintiffs’  
18 complaint. Doing so gave Plaintiffs effectively all the relief they sought with respect to Section  
19 28225. AB 1669’s legislative history itself referenced this lawsuit and Plaintiffs’ arguments. (See  
20 Senate Rule Committee Floor Analysis of AB 1669 at p. 73.)

21 64. The Department successfully argued on appeal that Plaintiffs’ claims were moot  
22 because the DROS Fee from Section 28225 no longer exists. The appellate court also accepted the  
23 Department’s position that Plaintiffs could not attack AB 1669 on appeal because it is a completely  
24 different statutory provision than Section 28225.

25 65. The Department fought this litigation for over six years without ever expressing an  
26 interest in settlement talks to Plaintiffs nor mentioning that an amendment to Section 28225 would  
27 be forthcoming.

28 I declare under penalty of perjury under the laws of the state of California that the foregoing

1 is true and correct. Executed this 12th day of October, at Long Beach, CA.

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Sean A. Brady  
Declarant



# **EXHIBIT B**



## ATTORNEY FEE/RATE SCHEDULE

| <b>Timekeeper</b> | <b>Hourly Rate</b> |
|-------------------|--------------------|
| Senior Partner    | \$ 650             |
| Partner           | \$ 475             |
| Special Counsel   | \$ 400             |
| Of Counsel        | \$ 400             |
| Associate 6+      | \$ 350             |
| Associate 5       | \$ 325             |
| Associate 4       | \$ 300             |
| Associate 3       | \$ 275             |
| Associate 2       | \$ 250             |
| Associate 1       | \$ 250             |
| Senior Paralegal  | \$ 200             |
| Paralegal         | \$ 170             |
| Law Clerk         | \$ 170             |
| Legal Asst.       | \$ 100             |

**Matter:** Gentry v. Becerra

**Responsible Attorney:** Sean A. Brady

# **EXHIBIT C**

**SUMMARY OF PLAINTIFFS' FEE CLAIM\***

| TIMEKEEPER    | RATE      | MGMT        | COMP         | MOT          | DISC        | SETTLE       | PRE         | TOTAL HRS    | TOTAL FEES           | POST         | POST FEES           |
|---------------|-----------|-------------|--------------|--------------|-------------|--------------|-------------|--------------|----------------------|--------------|---------------------|
| BARVIR        | \$ 475.00 | 15.6        | 25.8         | 186.9        | 2.6         | 26.5         | 31.9        | 289.3        | \$ 137,417.50        | 63.2         | \$ 30,020.00        |
| BRADY         | \$ 475.00 | 4.1         | 7.7          | 80.4         | 1.2         | 40.7         | 14.7        | 148.8        | \$ 70,680.00         | 1.5          | \$ 712.50           |
| CHEUVRONT     | \$ 325.00 | 5.4         | 63.4         | 82.4         | 1.4         | 0.2          | 5.7         | 158.5        | \$ 51,512.50         | 0.2          | \$ 65.00            |
| DALE          | \$ 550.00 | 1.2         | 0.0          | 0.4          | 0.0         | 3.5          | 5.2         | 10.3         | \$ 5,665.00          | 0.8          | \$ 440.00           |
| FRANK         | \$ 350.00 | 0.2         | 9.3          | 45.3         | 0.0         | 10.8         | 11.3        | 76.9         | \$ 26,915.00         | 33.2         | \$ 11,620.00        |
| KHUNDKAR      | \$ 300.00 | 0.0         | 4.3          | 21.9         | 0.0         | 0.0          | 0.0         | 26.2         | \$ 7,860.00          | 0.0          | \$ -                |
| MICHEL        | \$ 650.00 | 6.3         | 5.6          | 1.4          | 0.3         | 8.5          | 4.6         | 26.7         | \$ 17,355.00         | 0.0          | \$ -                |
| MOROS         | \$ 375.00 | 0.0         | 0.0          | 0.0          | 0.0         | 12.3         | 1.7         | 14.0         | \$ 5,250.00          | 0.5          | \$ 187.50           |
| PALMERIN      | \$ 170.00 | 3.0         | 2.4          | 17.5         | 4.7         | 1.6          | 0.5         | 29.7         | \$ 5,049.00          | 1.8          | \$ 306.00           |
| CLERKS        | \$ 170.00 | 8.7         | 18.4         | 43.0         | 7.7         | 7.6          | 0.0         | 85.4         | \$ 14,518.00         | 9.6          | \$ 1,632.00         |
| <b>TOTALS</b> |           | <b>44.5</b> | <b>136.9</b> | <b>479.2</b> | <b>17.9</b> | <b>111.7</b> | <b>75.6</b> | <b>865.8</b> | <b>\$ 342,222.00</b> | <b>110.8</b> | <b>\$ 44,983.00</b> |

**ABBREVIATIONS**

|               |  |
|---------------|--|
| <b>COMP</b>   | Pre-Litigation Work, Drafting Complaint, Building the Case         |
| <b>MOT</b>    | Motion for Preliminary Injunction; Opposition to Motion to Dismiss |
| <b>DISC</b>   | Discovery  |
| <b>SETTLE</b> | Settlement   |
| <b>PRE</b>    | Pre-Trial and Trial Preparation                                    |
| <b>POST</b>   | Post-Dismissal Activity, Fee Motion & Bill of Costs                |

\* A further breakdown of Plaintiffs' fee claim can be found at paragraphs 36-103 of the Declaration of Anna M. Barvir in Support of Plaintiffs' Motion for Attorneys Fees. Ms. Barvir's task and/or project, and the billing professionals who were

|              |                      |
|--------------|----------------------|
| LODESTAR     | \$ 342,222.00        |
| MULT         | 1.25                 |
| <b>TOTAL</b> | <b>\$ 427,777.50</b> |
| <b>POST</b>  | <b>\$ 44,983.00</b>  |
| <b>GRAND</b> | <b>\$ 472,760.50</b> |

**SUMMARY OF HOURS/FEEES WAIVED**

| TIMEKEEPER | RATE      | HOURS        |
|------------|-----------|--------------|
| BARVIR     | \$ 475.00 | 302.4        |
| BRADY      | \$ 475.00 | 149.1        |
| CHEUVRONT  | \$ 350.00 | 158.7        |
| DALE       | \$ 550.00 | 10.3         |
| MICHEL     | \$ 650.00 | 26.0         |
| PALMERIN   | \$ 140.00 | 30.1         |
| CLERKS     | \$ 140.00 | 50.5         |
|            |           | <b>727.1</b> |

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**PROOF OF SERVICE**

STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO

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 business address is 180 East Ocean Blvd., Suite 200, Long Beach, CA 90802.

On October 12, 2021, the foregoing document described as

**DECLARATION OF SEAN A. BRADY IN SUPPORT OF PLAINTIFFS’ MOTION FOR ATTORNEYS’ FEES**

on the interested parties in this action by placing

- the original
- a true and correct copy

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


Ryan A. Hanley  
Deputy Attorney General  
California Department of Justice  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550  
[Ryan.Hanley@doj.ca.gov](mailto:Ryan.Hanley@doj.ca.gov)

*Attorney for Defendants*

- (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 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.
- (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