

**EXHIBIT D**

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16 **IN THE UNITED STATES DISTRICT COURT**  
17 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

18 IVAN PENA, ROY VARGAS, DONA  
19 CROSTON, BRETT THOMAS, SECOND  
20 AMENDMENT FOUNDATION, INC.  
21 AND THE CALGUNS FOUNDATION,  
22 INC.

23 Plaintiffs,

24 vs.

25 STEPHEN LINDLEY,

26 Defendant.

Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF IVAN PENA'S RESPONSE  
TO DEFENDANT STEPHEN  
LINDLEY'S FIRST SET OF  
INTERROGATORIES**

1 PROPOUNDING PARTY: Defendant Stephen Lindley

2 RESPONDING PARTY: Plaintiff Ivan Pena

3 SET NUMBER: One (1)

4  
5 **RESPONSES TO INTERROGATORIES**

6 **INTERROGATORY NO. 1**

7 State the name, relationship to you, business address and telephone number, employer  
8 and title or position of the "willing seller" identified in Paragraph 37 of the amended complaint  
9 filed May 11, 2009.

10 **RESPONSE TO INTERROGATORY NO. 1**

11 **RESPONSE:**

12 Name: PRK Arms

13 Relationship: California Licensed Dealer

14 Business Address: 5530 East Lamona Ave., Suite 103, Fresno CA 93727

15 Telephone Number: 559-283-8666

16 Employer: PRK Arms

17 Title or Position: California Licensed Dealer

18  
19 **INTERROGATORY NO. 2**

20 State the caliber, barrel length, serial number, condition (i.e. new or used), current owner  
21 and location (i.e. address) of the firearm identified in Paragraph 37.

22 **RESPONSE TO INTERROGATORY NO. 2**

23 **OBJECTION:** This request is so vague or ambiguous as to be burdensome or oppressive  
24 as to the meaning of "Paragraph 37," which was not defined in the request. Moreover, Plaintiff  
25 would have to speculate as to the meaning of the term "Paragraph 37" in order to properly  
26 respond to this request.

27 **RESPONSE:** Without waiving the aforementioned objections, Plaintiff responds:

28 Caliber: .45

1 Barrel Length: 4.25"

2 Serial Number: QG2283

3 Condition (New or Used): Used.

4 Current Owner : Grey Peterson

5 Address: 17802 38<sup>th</sup> Pl. W. Lynnwood, WA 98037

6  
7 **INTERROGATORY NO. 3**

8 Do you contend that the "willing seller" identified in Paragraph 37 is able to legally sell  
9 you the firearm identified in that paragraph? If so, state each fact and identify each document  
10 which you believe supports your contention.

11 **RESPONSE TO INTERROGATORY NO. 3**

12 OBJECTION: Contention interrogatories asking for each and every fact, or application  
13 of law to fact, that supports particular allegations in an opposing pleading may be held overly  
14 broad and unduly burdensome. IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD  
15 316, 321 – providing "every fact" could require "laborious, time-consuming analysis, search and  
16 description of incidental, secondary, and perhaps irrelevant and trivial details."]

17 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds:  
18 No. Plaintiff is not prohibited from acquiring and possessing firearms, and the "willing seller"  
19 is, to the best of Plaintiff's knowledge, lawfully entitled to transfer firearms in accordance with  
20 United States firearm laws, including but not limited to 18 U.S.C. §921 et seq., and the  
21 regulations issued thereto, California firearm laws, including Part 6 of the California Penal Code,  
22 and the regulations issued thereto, and local laws. However, the firearm at issue became illegal  
23 for the "willing seller" to sell or transfer to Plaintiff, as a California resident, upon the passage  
24 and implementation of the Unsafe Handgun Act.

25  
26 **INTERROGATORY NO. 4**

27 Do you contend that but for the firearm identified in Paragraph 37 not being listed on  
28 California's Roster of Handguns Certified for Sale you are otherwise eligible under all applicable

1 state and federal laws to purchase and possess that firearm? If so, state each fact and identify  
2 each document which you believe supports your contention.

3 **RESPONSE TO INTERROGATORY NO. 4**

4 OBJECTION: Contention interrogatories asking for each and every fact, or application of  
5 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
6 and unduly burdensome. [IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD 316,  
7 321 – providing “every fact” could require “laborious, time-consuming analysis, search and  
8 description of incidental, secondary, and perhaps irrelevant and trivial details.”]

9 RESPONSE: Yes. I am a law abiding, responsible citizen and not prohibited from  
10 purchasing or possessing firearms under any state, federal or local law of which I am aware, but  
11 for the provisions challenged in this litigation.

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13 **INTERROGATORY NO. 5**

14 State each fact and identify each document which you believe supports your contention in  
15 Paragraph 38 of the amended complaint that the firearm referenced there “was listed on  
16 California’s Handgun Roster until December 31, 2005, when it was discontinued and its listing  
17 not renewed.”

18 **RESPONSE TO INTERROGATORY NO. 5**

19 RESPONSE: The California Department of Justice publishes a list of firearms that have  
20 been removed from California’s Handgun Roster. The Department of Justice identifies this list  
21 as the “Department of Justice Bureau of Firearms De-Certified Handgun Models.” This list is  
22 available at: <http://oag.ca.gov/sites/oag.ca.gov/files/pdfs/firearms/removed.pdf>. The California  
23 Department of Justice describes this as a list of “Handgun models whose certification has expired  
24 or otherwise removed from the Roster. These models may no longer be sold, offered for sale, or  
25 manufactured in California.” On Page 15 of 24 of the list, as published November 15, 2012, it  
26 identifies the following as a firearm that was listed but is now de-certified:

27 Para USA (Para Ordnance) P1345SR / Stainless Steel .45 ACP Pistol 4.25" 12/31/2005.”

28 Moreover, other documentation that supports this contention includes each “Department

1 of Justice Bureau of Firearms De-Certification Handgun Models” list published since December  
2 31, 2005; each Department of Justice Bureau of Firearms Newly Added Handgun Models list;  
3 each California Department of Justice Roster of Handguns Certified For Sale published; as well  
4 as the Para USA (Para Ordnance) P1345SR / Stainless Steel .45 ACP Pistol 4.25” application  
5 materials submitted to the Department of Justice on behalf of Para Ordnance.

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7 **INTERROGATORY NO. 6**

8 If in response to Request for Admission 1 you deny that you own at least one operable  
9 handgun that is suitable for self-defense, state each fact on which you base your denial.

10 **RESPONSE TO INTERROGATORY NO. 6**

11 Not Applicable.

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13 **INTERROGATORY NO. 7**

14 If in response to Request for Admission 2 you deny that you are able to purchase an  
15 operable handgun that is suitable for self-defense, state each fact on which you base your denial.

16 **RESPONSE TO INTERROGATORY NO. 7**

17 Not Applicable.

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19 **INTERROGATORY NO. 8**

20 If in response to Request for Admission 3 you deny that you are able to obtain a Para  
21 USA (Para Ordnance) P1345SR/Stainless Steel .45 ACP 4.25” through a private-party transfer  
22 under California Penal Code section 32110(a), state each fact on which you base your denial.

23 **RESPONSE TO INTERROGATORY NO. 8**

24 RESPONSE: Plaintiff is unaware of any private parties with a California Driver License,  
25 California Identification Card or Military identification card who possess such a firearm in an  
26 unaltered factory manufactured condition. Nor is Plaintiff aware of any private parties with a  
27 California Driver License, California Identification Card or Military identification card who are  
28 willing to sell said firearm in an unaltered factory manufactured condition. And, such a firearm

1 is not on the list of handguns approved for a California licensed dealer direct sale in California.

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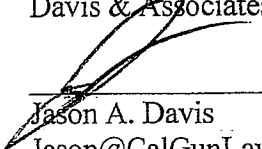
4 Date: December 11, 2012

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WITH RESPECT TO OBJECTIONS ONLY  
Davis & Associates

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Jason A. Davis  
Jason@CalGunLawyers.com  
Attorneys for plaintiffs

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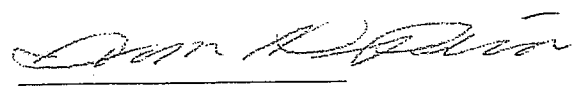
VERIFICATION

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IVAN PENA declares:

- 1. I am a plaintiff in the above-captioned action;
- 2. I have read the foregoing "PLAINTIFF IVAN PENA'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES" ("The Response") and know its contents. I am informed and believed that the matters set forth in the Response are true and accurate, and on that ground I allege, to the best of my knowledge and information, that the matters therein stated are true and accurate.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Verification was executed on December 11, 2012, at San Marcos, California.



IVAN PENA